
Public Hearing

before

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

*"Testimony from the State Comptroller, State Inspector General, State Auditor,
and the State Commission on Investigation regarding the operations, roles,
and responsibilities of their respective offices"*

LOCATION: Committee Room 7
State House Annex
Trenton, New Jersey

DATE: February 9, 2009
2:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Chair
Senator Dana Redd, Vice Chair
Senator Jeff Van Drew
Senator Christopher J. Connors
Senator Philip E. Haines



ALSO PRESENT:

Michael F. Feld
Robert C. Rothberg
*Office of Legislative Services
Committee Aides*

Julius Bailey
*Senate Majority
Committee Aide*

Brian Alpert
*Senate Republican
Committee Aide*

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SENATOR RONALD L. RICE (Chair): Good afternoon. (no response)

Let me try again and see if we have some new faces here before our Committee. (laughter) We like kind of a spiritual-type of audience.

Good afternoon.

UNIDENTIFIED SPEAKERS FROM AUDIENCE: Good afternoon.

SENATOR RICE: Take the names. We'll deal with them legislatively. (laughter)

Bob is coming in now, and we'll take the roll call.

Senator Redd is in the building, I believe, and we want to determine where she is.

Today we're not going to try to move any legislation. Today I called this meeting for the education of those of us who have to respond to our residents and our constituency base's complaints, and ask the administration to look into things and kind of assist us.

And so with that, let me just get a roll call first, and welcome Bob here.

MR. ROTHBERG (Committee Aide): My apologies.

SENATOR RICE: It's all right.

MR. ROTHBERG: Senator Haines.

SENATOR HAINES: Here.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Here.

MR. ROTHBERG: Senator Van Drew.

SENATOR VAN DREW: I was on time, Bob. (laughter)

I'm here.

MR. ROTHBERG: You always are, sir. (laughter)

Senator Rice.

SENATOR RICE: Here.

Okay. The purpose of this meeting, once again, is to educate the members. But we also want to try to determine exactly what is the function of each of the entities that we're inviting here today. We know that we have SCI, that's been a very strong investigatory oversight type of agency for a number of years. And I've been here 23 years roughly, and the agency was around before then. They're doing a good job.

Since then, we have actually put in place, through legislation-- Through legislation, we've actually put in place the Inspector General, Comptroller, Auditor, and other kinds of "entities" and generals.

The concern I have goes back over a period of time. As a legislator, I actually represent one of the urban counties, in terms of my leadership, and some of the largest urban cities around, as well as suburban cities.

And so this Committee is charged with the responsibility of kind of overseeing economic development, and housing, and codes, and things of that magnitude. But often times throughout the state -- and our members, individually or collectively -- will get various kinds of complaints relating to the oversight of this Committee.

I know when Senator Len Connors was here, we traveled the state with hearings as it relates to the communities, the common interests, developments, etc. We dealt with the SCI reports and so on -- bad construction and complaints coming in. I can recall sending information to

HMFA and asking their compliance people to go down and meet with people. And they only tell us that, "It's not our role. It should be over here." Then we don't get information back right away when we call people. I do, my colleagues didn't. Because I insisted on it, and I will continue to. I want to make that clear to everybody here. And I thought that was disrespectful. Then, when I do get the information, they tell us, "Well, it doesn't belong in this agency. It belongs over in this agency."

So the bottom line is that we wind up literally going around in circles trying to provide oversight, getting answers to issues raised by our constituency base, as well as by the Committee members. At the end of that, we wind up with improprieties that go unaddressed in many cases for too long. And then by the time it gets addressed, everybody, including the Legislature, looks as though we don't know what we're doing or we are "party to."

And so the intent here--

I'm glad to see Senator Redd come in. Let the record reflect she is present.

The intent is to hear from each of the entities invited. And we'll start with SCI.

We don't know what it is that you do as an agency -- does as an agency, and the relationships. And we'll ask questions about these relationships.

To the members, this is not set up for the members -- and I will shut you down. And you know I'm a nice guy. I'm not trying to be mean. But I can be mean. Mean and me are two different people, okay?

This is not to be asking about any investigations that are ongoing, that are pending, but that may -- we, as members, may have been requesting. It is informational so that you have a good sense, if you don't know already, exactly what the legislation is dictating, as the authorities -- the authority of these individual entities; and how this is supposed to synchronize their efforts -- corroborate, and coordinate, and whatever words you want to use -- to make things happen in a timely fashion on behalf of New Jersey taxpayers, and voters, and the Legislature. That's the intent of this. You'll be allowed to ask questions on anything you want within those parameters, because I think it's important to us.

Things aren't going to get better, I don't believe, with this economic stimulus package coming down, as it relates to unions that sometimes think we're going to rubber stamp their actions as it relates to highway construction and bridges in some of the areas -- beach erosion and trying to backfill. All this is about literally billions of dollars coming into a community with our help here, as well as the Federal government's. And people are going to be complaining -- I can assure you of that -- when things are wrong or they perceive that things are wrong, and they are being treated unfairly. It's going to be our responsibility, representing this Committee as well as our districts -- is to know just where we go to get timely action. And so that's what this is all about.

With that, I'm going to ask that the SCI come up -- Mr. Cary Edwards.

I want to thank you for the work that you've been doing over the years. And I know that there are some folks who wish you would just go away. And there are others who have said that you're very necessary.

I would like thank now-- We invited, in here today, SCI -- right, Bob?

MR. ROTHBERG: Yes.

SENATOR RICE: --the Comptroller, the Auditor, the Public Advocate--

MR. ROTHBERG: No, no, no, the Inspector General.

SENATOR RICE: --the Inspector General.

Didn't we invite the Public Advocate? I told him to be here.

MR. ROTHBERG: Oh, I'm sorry.

SENATOR RICE: Anybody from the Public Advocate's Office here? (no response)

No problem. We'll get them in another time.

We didn't invite-- We did not. I'm sorry, it's another meeting.

So the people that we invited are present.

SCI is here, I know.

Is the Auditor here -- State Auditor? (affirmative response)

MR. ROTHBERG: The Inspector General.

SENATOR RICE: Inspector General. (affirmative response)

And the Comptroller. (affirmative response)

Okay. We're in great shape.

Mr. Edwards, it's your show.

W. CARY EDWARDS: Thank you, Mr. Chairman.

Do I push a button here? Yes. (referring to PA microphone)

SENATOR RICE: Yes.

MR. EDWARDS: I hadn't fully grasped what you were -- what the Committee was attempting to do and what direction you were trying to take this in.

Let me volunteer, on a personal basis, a little bit of my experience and background with reference to my capacity beyond this hearing to help you all go through that.

I was a municipal attorney for 12 years before I came to the Legislature over 30 years ago. I spent 4 years in the Legislature, two terms, then went on to be Counsel to the Governor, then Attorney General. In 1995, I got appointed by the Speaker of the Assembly to head up a Commission to review the existence of the SCI and its role in State government, where it went. We finished that particular report. In 1997, I was appointed, and have been reappointed by two subsequent governors, to the SCI, and by the now sitting Senate President as Chairman.

That history has caused me to have dealt with the State Auditor, the SCI -- in an intimate way, not just a casual way, for over 30 years -- and the entire investigative agencies of the State of New Jersey in various roles. I sat in your role, with your hats, and looked at it; I looked at it from the Governor's viewpoint; being an investigative body, SCI -- as a matter of fact, I think Chris' father would remember, and the Senator would remember a Motor Vehicle inspection mandate that was put on the Kean Administration back in '85.

So I've lived with this investigative role both as a subject, a victim, a participant, a policy maker, and reactor, and then an investigator. So I will be happy, as time goes by -- as you look at what the Senator talked about, or the Legislature, through this Committee -- how we deal with a

better implementation of this investigative world, that can be very confusing, I think, to a lot of people. So I offer, for whatever it's worth, my personal background, and experience, and capacity to assist this Committee in where it goes and what it does.

I have given you a statement, which I would like to read. It's not that long. It will give you the history of the SCI. I think it will do so concisely and precisely. There's annual reports that we put out to the Legislature every year that I will also recommend that you can use back as references.

As I said, I'm the Chair of the New Jersey State Commission on Investigation. On behalf of the full Commission, the three other members, I thank you for this unique opportunity.

For more than 40 years, the SCI has demonstrated its value to the taxpayers of New Jersey as the State's premier independent government watchdog. It has completed, and publicly reported on, well over 100 investigations. It has revealed widespread waste, fraud, and abuse in housing and construction industry, particularly -- and that's recently -- and in many other areas critical to the citizens of this state. It has kept you and the public informed about the scourge of organized crime. It has produced systematic recommendations that have saved tens of millions of dollars in taxpayers' money, and led to extensive statutory and regulatory reforms. All of this, and more, was accomplished by an agency of approximately 50 employees and a current budget of a little less than \$5 million; and over the years, sometimes with far scarcer resources than that. It has caused some problems in the past.

I'll talk in more detail about the SCI's unique strengths, its achievements, and its place as a tested leader among the few -- and let me emphasize the issue -- few sentinels of government. But there are three key points that I would like to focus on right out of the gate.

First, the SCI is independent. And that has been the case since the day it was conceived in 1968. It was designed and structured to function as a nonpartisan, impartial, and objective fact-finding agency. It is governed by four Commissioners, only two of whom may be associated with the same political party. They serve staggered, four-year terms and are appointed by three separate appointing authorities in two branches of government: the Governor, the President of the Senate, and the Speaker of the General Assembly.

This strong and unique structure provides the SCI with the integrity and independent stature necessary to perform its job in a credible fashion. The very fact that the Commission's fact-finding process has withstood every legal challenge ever brought to bear against it is a testament to the soundness of that operating structure, and to the internal judgements and decisions that have been made pursuant to the agency's mission.

Second, the SCI is the only independent investigative and fact-finding agency in the legislative branch of State government. This is critical, and here's why: Although the executive participates in the Commission's appointment process, we are a creature of the Legislature, funded through the Legislature's budget. In that regard, the SCI is a valuable resource for you in terms of investigative fact-finding and, importantly, with regard to substantive raw material for sensitive statutory reforms and sensible statutory reforms.

Chairman Rice, you personally have availed yourself of those resources with your sponsorship of legislation pursuant to the SCI's findings of waste and abuse in new-home construction and inspections. What we found in that investigation was a veritable catalogue of shoddy and deficient construction practices, a lax regulatory oversight, and poor remediation options that largely plunge unsuspecting buyers of new homes into the worst sort of buyer-beware nightmare. To this day, we are still receiving complaints related to these issues from the Commissioners looking for relief and the consumers looking for relief. In each instance, these complaints are evaluated by our staff and referred to the agency most appropriately positioned to provide an answer, primarily the New Jersey Department of Community Affairs.

You should also note that new-home construction inquiry was a prime example of another unique tool in our investigative arsenal, the authority to expand the reach of our probes, as necessary, into the private sector as it bears upon the public's business.

Third, although we spend a good deal of our time investigating corruption, fraud, and abuse of taxpayer dollars, the SCI is the only independent, fact-finding, investigative agency additionally tasked with the responsibility to investigate, evaluate, and report on organized crime -- not as a cop to make arrests, not as a prosecutor to obtain convictions, but as a fact-finder, as an intelligence-gatherer, and as a repository of investigative information and expertise. In other words, the SCI is not just a *gotcha* agency, it's also a *fix-it* agency. We refer our findings to the Legislature and to the Attorney General as appropriate.

Since its inception in 1968, the Commission has conducted cutting-edge investigations into every major aspect of organized crime in New Jersey, highlighting its intrusion into the solid waste, garment and gambling industries, and other legitimate elements of commercial private enterprise. Most recently, the SCI completed the first stage of a comprehensive investigation into the growth, proliferation, and increasing sophistication of organized criminal street gangs just as strongly and professionally organized as traditional organized crime is.

Mr. Chairman, members of the Committee, seven years ago the Legislature and Governor invested their trust and confidence in the future of the SCI by enacting legislation to make it a permanent part of State government. Since then, that trust, we believe, has been fulfilled time and time again.

Besides ranging far and wide with the hard work of the investigative fact-finding, we have become more result-oriented, committing more resources and staff expertise to the development of sensible, practical recommendations to address the sort of broad-based, systematic problems that we regularly identify through our investigations.

And you, the Legislature, and your counterparts in the Executive Branch, have responded repeatedly in salutary ways. To review just a few portions of this record, in addition to the pending legislation to address the SCI's finding with respect to new-home construction and inspection abuse, I would point out the following.

One, in 2003, legislation recommending the SCI -- legislation recommended by the SCI was enacted, revising New Jersey's computer crime laws for the first time in two decades.

In 2004, the Commission's investigation of the flawed E-ZPass electronic toll system set the stage for the enactment of legislation overhauling the State's contract procurement process.

In 2005, the Governor signed an executive order implementing key recommendations stemming from the SCI's probe of new-home construction and inspection abuse. As I indicated earlier, Chairman Rice has taken the initiative, legislatively, in this area to implement the legislative pieces.

In 2006, the SCI's revelations that unregulated lethal handgun ammunition was readily and legally being purchased by known criminals, including gang members, led to the enactment of legislation tightening ammo sales.

In 2007, the Governor signed legislation implementing budgetary accountabilities for public schools, an outgrowth of the SCI's investigation into questionable and hidden compensation of public school administrators. In the same year, the findings of the Commission's investigation into the abuse of charity care programs resulted in the enactment of the new fraud detection laws.

I will also point out that, as we speak here this afternoon, another Committee of this body, the Senate Education Committee, is considering landmark legislation that incorporates key recommendations made by the SCI in 2007 to restore accountability, transparency, and oversight of the governance of public higher education in New Jersey.

Mr. Chairman, in closing, on behalf of the Commission and its staff, I thank you again for the opportunity to describe our mission and the important work we do for the taxpayers. Every week we are contacted by

people from one end of the state to the other who are looking for help in a multitude of areas and who feel they have run out of options with no place to turn. We respond to many of these inquiries.

As to an obvious question in this room this afternoon -- why do we need all three government watchdogs? -- I will say this: I've been in and around State government, as I pointed out before, almost all of my adult life. And if there's one thing I've learned it's that you can never have enough expert eyes and ears to hold government accountable and to look out for the public's best interest.

All of us appearing before you today have important jobs to do in that regard. We talk to each other and we assist each other. Indeed, as the old kid on the block it has been the SCI's position to help these new kids on the block, the Inspector General and the Comptroller, get up and running. That's not a boast, and it isn't bragging. I tell you this because it is emblematic of a cooperative spirit that actually exists and gives us the ability to maximize limited -- and very limited -- public resources to serve the public across this wide spectrum of responsibility.

Believe me, there is more than enough work to go around. If I had to tell you, do we need to look at the functions of these agencies and shrink them down, my answer would be unequivocally the opposite. If anything, New Jersey has been lax. And the history of New Jersey's public record in areas of abuse and corruption are obvious to anyone who wants to look. We don't have enough watchdogs.

Senator Rice -- this is not in the written testimony -- but Senator Rice has pointed out in his opening statements -- and I clearly recognize, and the SCI has clearly recognized -- all the way back in 1993 we

recommended that there be a group of inspector generals established, as exist in the Federal government, in various State agencies. So the concept of an Inspector General and what it does has been a long-standing recommendation of almost everyone I know who has ever looked at this particular issue over the 30 years that I've been involved. The Comptroller and an Auditor in State government -- the role of the Comptroller is a very necessary and positive one, one that's just getting started. You may need to tinker with it. You may need to change it as time goes by. But you have got to give it the time to get itself up and running, and make itself available -- its results available to you to measure how it works, how it could be changed to be made better, and how well it services the public need.

But there's no question in my mind that we are not suffering from too little (*sic*) fact-finding watchdogs, I will call them, in State government. We have too few of them. And I would have many more vehicles available for the public's well-being than those that presently exist.

Having said that, Mr. Chairman, I will be happy to answer any questions that you or the members of the Committee may have.

SENATOR RICE: Mr. Edwards, thank you very much for the presentation.

Let me say that, unfortunately, the 22-plus years I've been here -- being an elected official, and being in any level of government, whether you're appointed or elected, people are always going to make allegations. Some of those are founded, some are unfounded, some are just mean-spirited, some are political. We respect that part of the process. But the reality is that anything that is intentionally and knowingly wrong really

creates tremendous detriment to those of us in government, and the taxpayers, and voters.

Unfortunately, over the years we have seen several of our colleagues wind up on the other side of the law and incarcerated. But yet, it seems to be selective in terms of enforcement and what people look at and what they don't look at. Because coming behind some of those areas in the same locations where we thought we had made a difference -- meaning government, your agencies, and some of the others -- we get allegations that the same things are happening, whether it's in housing, whether it's internally in government, the housing authorities, the independent agencies. And so after a while, you get concerned because if a constituency will send a letter -- and I've had this experience probably more than anybody -- to you, you say, "Well, no problem." You put a complaint letter to this and send it to this agency, this agency, this agency.

The concern is that when you look at the legislation, it appears as though everybody has the same function. I'm trying to see where this line differs. And so I guess the question I'm raising to you is whether or not -- and I'm going to raise it to everybody. Can you explain how your function differs from the kind of agencies that we continue to put in place?

MR. EDWARDS: Yes. We have a very broad charge, where we can do everything that they can do if we choose to, or we can do -- and we have more that we can do. As you put different agencies in place, you put more resources in place to do some of the things that we're charged to do or have the power to do.

I'll go back to the early '90s -- 1995 -- when the SCI was being -- up for reauthorization again. And it had 28 employees. With 28 employees, they can't investigate more than one thing a year.

Sometimes it's a question of resources, Senator, and charges that we have. But the SCI, unlike the other agencies, has the ability and the charge to get involved in criminal activity and organized crime. And as the Comptroller and the Inspector General get more and more involved in the areas that are not related to criminal matters and organized crime, we step back from those. We let them do those. We talk all the time so we don't step on each other's toes. What you should be getting out of this, Senator, is more investigations along those same particular lines.

The Inspector General, particularly, has not much more responsibility than we do, but it able to look at them, and give reports back, and make recommendations with agencies that should change things. The Comptroller may have a little more power in that process. We have no power to enforce anything. We're the only institution that's a representative of the Legislature, number one; number two, we do organized crime; number three, we can investigate the private sector, as we did in the new-home construction area. We really were going after the companies, not the Department. We found the Department deficient, I think, during that process. We're now into gangs and the organization of gangs, and how they function, to try to draw that same picture the SCI did back in the '70s of traditional organized crime. It did result in the downfall of New Jersey being the bedroom of organized crime to just being another market. So it was a very successful effort. We're trying to convert that same effort into gangs, and we're spending probably 50 to 60 percent of our resources now

on the criminal side as opposed to the civil side. Because we know we have the Inspector General there and we know we have the Comptroller there who can do those things.

You might want to take a look at, as time goes by, the recommendations we made back in '93 that did result in legislation to create an Inspector General in five departments of State government, to expand what the Inspector General does, to make them responsible for the enforcement and protection of the constituents that are involved. And we recommended very specifically, in two different investigations we did, that an Inspector General's Office should be formed within the Department of Education, Human Services, Transportation, Community Affairs, Treasury, and Health. If you look at the Federal government, they have an Inspector General operation that works that way. Attorney General Del Tufo, in fact, introduced legislation to do that. It passed the Assembly. I think it wound up getting lost in the Senate. It never became law. We recommended that again in the subsequent investigation about two or three years later.

So I think it's a question of looking at the maturation of these agencies, like the Inspector General, who can do a lot more. We do, when we do investigations -- whether they be on the criminal or civil side, but particularly the civil side. We don't respond to one or two complaints. If it's somebody who was wronged in a community and a school board by a department, by an inspector, we refer that to the Attorney General or to the appropriate State government department that handles that. If we see-- We then test those to see if there's a systemic problem that exists in a broad-based way across the State. And we have such limited resources, and we can only look at the larger systemic problems.

Secondarily, we've taken, in the last six to eight years, a reversal of the roles since we became permanent -- a reversal of our role, or allocations internally of resources. We used to devote 90 percent of our resources to investigating the facts behind an investigation we were involved in. And there was a consensus made about what our recommendations should be, because statutorily we're required to do that.

Now we're spending almost as much resources looking at the answer -- we call it the *fix-it* part of the side of the ledger -- as the *gotcha* side of the ledger. We're not stopping the report or the accuracy of our reports. But we believe, particularly as an arm of the Legislature -- I do -- and it's been since I've been there. Maybe it's my legislative history. But I believe we owe the Legislature detailed and substantive solutions to problems when we finish an investigation. And that's the *fix-it* side of this. And we spent a lot of dollars and resources doing those in new-home construction. And the Legislature has responded. I told the Commissioner, "If you give it to them, you give them answers that are realistic, you're going to get an honest debate. They may not agree with you on all issues, but they will act if you have a good investigation behind it." And you in the Legislature, in both parties, have proven that to be absolutely true.

We are slowly and systematically getting implemented probably two-thirds of every recommendation that we're giving back to you. And that didn't exist before. We used to make recommendations and they'd wind up on the shelf someplace as another report. And that's because they weren't well-founded in fact and they didn't research those recommendations out. We now do that.

But I would tell you, from your constituency problems, Senator, and those that exist to the people-- And we get those same letters. We forward them over to Community Affairs. It's their job, in many instances on the housing side, to enforce those. We still get-- Every day we get calls because of the report we gave. And it's the capacity of Community Affairs to respond to those. It's important. There's a constituency that needs protection out there.

Perhaps a section or an internal operation in the Inspector General's Office, out of the Executive Branch, that's independent and independently structured which-- There's no question that this Inspector General is -- can really focus in on those things and point out why that agency is not functioning, just as we get in the Federal government. We don't hear a lot from the Federal government about the lack of functionality of a department in delivering a product. We hear a lot of that about New Jersey's operations. The Federal government has very systematic and functioning Inspector General operations within departments. And they disagree with the administration that they work for -- or work under -- and do it regularly, because they are independent. And we don't have that part of the watchdog system in place anywhere. There is no one, in any of the agencies we have so far, that's been able to respond or do something about the individual inquiry. If somebody has a problem, it goes to DCA. If it's a criminal issue, we'll send it to the Attorney General to prosecute. If it fails to meet the evidentiary levels necessary to successfully prosecute the matter, it's dropped. It doesn't mean somebody wasn't wronged in the system. It just means there are not enough facts to prosecute somebody.

And you know, Senator, with your background. Those facts and those proofs are-- It's either yes or no. There's no in between that an attorney general has. I know from sitting there and how frustrated I used to be, sitting in that role, when I knew something was wrong. And it was very difficult for me to right that wrong, because I couldn't make a criminal prosecution out of it -- to the person.

Inspector generals can deal with a lot of those issues in a lot of those in between ways by strengthening its role and by focusing it, working with the Comptroller, who has some of the same kinds of responsibilities. That balance, and the expansion of their resources to be able to do that-- I think you could take all of our budgets together, I don't know that we actually spend \$10 million.

Now, how can we do a \$34 billion service business -- be the watchdog for that? That's not realistic. It just isn't. But new resources, some good work by you people who -- and I've sat there. I've gotten the complaints as a legislator. I know what it means. And you get very frustrated. The longer you're in this building and in this business, the more frustrated you get, Senators.

So I think there are answers, and significant answers, as to how one might proceed to enhance that part of the equation that's not being done. I will tell you that you have some of the finest investigators in the three agencies that exist actually looking at, to the extent we have them, and producing credible reports as to what the problem is. We don't have the ability to solve those problems, other people do. And the system needs to add the second piece to that. And there are many other potentials besides the one I just recommended.

SENATOR RICE: Your department, SCI, under the layers of government -- where do you fall? We didn't bring the AG in, intentionally, because we wanted to see where all this lies. Because traditionally it's been sent to the AG, and that's been selective based on relationships with the Federal government and where attorney generals come from -- law firms and things; that those of us who don't have those relationships eventually understand the linkage and (indiscernible) about that. I've been around a long time -- the relationships. And so we can't get the kinds of credible responses in a timely fashion that we want sometimes. And so we look for an independent -- someplace in the system. But the question is: Where are you in this bureaucracy?

MR. EDWARDS: We're in and of the Legislature. We have nothing to do with the Executive or Judicial branch of governance in a very specific way. As I said, two of our four Commissioners -- two of them are appointed by the Legislature -- President of the Senate and Speaker; two are appointed by the Governor.

We are required to respond, through a joint resolution of the Legislature, to do any investigation the Legislature wants done. We respond to legislators or committees.

We have the same problem you do, Senator. Sometimes we get requests from legislators that are politically generated. We have to somehow cull between those that are honest and those that are politically generated, or ones that we don't have the resources to do -- all three of those things.

We do our best to try to respond. A governor can request the Legislature (*sic*) to -- the SCI to do a specific investigation, and we're obligated to do that.

But, again, we're a fact-finder and a recommender of solutions to the problem. If we get in the middle of an investigation and we find a crime has been committed, in our estimation, to our best knowledge -- and we're not naïve in this process. Most of us come from the law enforcement world. We're able to determine that. We present those to either the -- 99 percent of the time to the Attorney General, once in a while to a U.S. attorney if there's some conflict that may exist. That almost never happens.

The Attorney General's criminal division makes an assessment of whether or not to pursue that criminal matter -- yes or no. And they ask us to either stop our investigation if we are now starting to step on their toes, getting in the way of the criminal prosecution, which we will never do. We always step backwards. You may have noticed it two years ago. We did an investigation -- we were doing an investigation on a contracting agent for Taxation that was -- kept getting their contracts renewed without bidding, for like nine years. We found a number of problems. We reported the individuals, both from the government side and the private side, who were involved. The Attorney General's Office asked us to stop our investigation. We stopped it until they completed their investigation and issued a partial report at the end. Because by that point in time, the facts that we had were cold and could not be pursued.

Sometimes we get complaints. But we don't report-- The important part of us, the SCI, is that we don't report to anybody. We have staggered terms. Each Commissioner is appointed for four years. They

can't serve for more than two terms. And one Commissioner is appointed each year, every four years. So we have a continuity in our system. We have a bipartisanship. For 40 years, Senator, no one has ever challenged the integrity of our investigations or the Commissioners who served on the Commission, the quality of the investigation as to its accuracy. Some people may have wanted it to do more than it did. But no one has ever successfully challenged it factually or legally. And no one has ever questioned the independence of the SCI in its activities. And we think it's because of the uniqueness of that structure. We have the capacity to function as an independent agency and have done so very successfully. Some great Commissioners have been before me and are serving presently -- Bob Del Tufo being one of them -- I'll give you an example. But there have been-- John Farmer was a Commissioner for a while. Kathy Flicker is just finishing up her term, who was the Director of the Division of Criminal Justice. We've had some wonderful, wonderful Commissioners over the years. Jimmy Zazzali was on it for 10 years and was the Chairman, one of my good friends and one of New Jersey's best public servants. It has had quality people, who did a quality job to the best of their ability, and this 40-year track record proves that.

To the extent that we can do more-- Should the system be tinkered with or changed? I would add to it. I would add resources to it. And yes, I would probably tinker with it, as time went on, to make it broader in scope and more able to respond to real constituents who have problems, and a lot of them who fall between the cracks and don't get taken care of.

SENATOR RICE: Through the Chair, would you give us some recommendation as to how you see the system, particularly SCI? And also you may be able to respond to this question. I've always questioned the -- and I guess it's because of all the experience as an investigator -- the lack of authority you have in certain areas. And that's okay if the other entities are going to step up to the plate -- what this is supposed to do.

But can you explain again, a little bit more clearly, the internal procedures that you use for selecting the various cases that go from audit agencies to audit agencies, etc.? Because, I mean, it's nice for the Attorney General to say, "Back down. We'll take it from here." I'm kind of questioning, "Where were you before we asked the SCI to get in?" So the question is: What comes first?

And then I don't-- And we want collaboration. I don't like another agency stepping on me. And there were complaints with Peter Harvey -- he got a bad, raw deal -- somebody to deals with gangs. And the U.S. Attorney General said, "We're going to deal with this stuff. We have more resources."

So I have to try to fit this, because I'm not so sure if we can't have independence -- I don't know where we're coming-- I got (indiscernible) from the auditors, "Where are you?" "I'm in Treasury." "Where are you?" "Over here." Maybe the Comptroller should be under the SCI with some type of independence, the Auditor under the SCI with some type of independence, or somebody else, so at least you could say, "Senator Redd is here," without having to go and get somebody else's permission. That's what's bothering me. And then put the human

resources around for the kinds of investigation that is required, and also the financial resources. I don't know.

But can you kind of enlighten -- how do you select and choose? Because it's going to be the same question raised to the other agencies. I mean, if you're the Comptroller, how do you -- who do you give it to? Do you give it to SCI first? Do you go to the AG first? Where do we go?

Because I'm telling you, this is one of the most corrupt states in the country still, one of the most prejudice too, to be quite frank -- and I'll put all this on the record. I don't care. And we keep hitting people and get complaints. And some of the folks that we think are honorable are part of the barriers to us getting from Point A to Point B.

Now, I'm going to say that blanket, okay? And I just need to know how we're going to clean this stuff up.

MR. EDWARDS: One of the strengths of the SCI is that independence. And the four Commissioners meet at least twice a month. I'm here once a week in Trenton. And we decide, as a group -- the four of us -- as to which investigation we pursue and which one we put our resources to. Staff assists us in getting the data. We get citizens' complaints. We hear all of the options that are available. We know about them. We read the newspaper too. We don't need to duplicate efforts that other people are doing. We're looking-- And so we set a set of guidelines. And every group of Commissioners kind of has its own. But we set a-- The general guidelines have been that: we have a legitimate case after a preliminary investigation that's worth investigating, where we know there are things that are wrong; secondarily, that it's systematic. It's not an isolated problem, that I have a -- somebody who is a local official who is

being bribed in a local community. We don't do those. It's just not within our capacity. We only have a limited number of investigators. We refer those immediately to the Attorney General's Office for a criminal investigation. Those are the ones that tend to fall between the cracks if they don't have enough evidence.

We then take the cases and complaints that we see. We test whether or not they exist in regions or all over the state, and it's a systematic problem. Because we only have a limited number of resources. We then make a decision to go forward or not go forward on an individual item. And we're not subject to-- Nobody can politically pressure us, nobody can beat us over the head, nobody makes us do it. We choose those based on our best judgement as to how to best use our resources, which are very limited.

We have five investigative lawyers, and we have a team of people. And our investigations are structured in a very unique way since we're not prosecuting people at the end.

Senator, I can describe it to you. You, as an investigator in the criminal justice system, have a statute. That statute has elements of a crime that you have to prove. And you know what those elements are. You could be an investigator today, and Senator Connors can be an investigator tomorrow, and Senator Van Drew could be an investigator the next day, because the elements are the same. They can take their investigation and run with it.

When we start one, we have no road map. We know that somebody's been wronged in an area somehow. And we have to develop the elements that we want to investigate, do an investigative plan, then

execute that investigative plan. We're a long-term investigative agency, not a short one. You want something in 30 days, we can maybe do it; but it's going to take every resource we have to accomplish it.

So we take a team. I have a lawyer; one, or two, or three investigators, depending on the size; a forensic accountant; and an analyst that work as a team, who start drawing a road map, report to the Commissioners. The four Commissioners use their expertise, along with the Executive Director and Deputy, to formulate that investigative plan. We then begin executing that. Then we let the facts take us where they take us. And as we get to a conclusion on the facts, we start peeling the lawyers off, bring other lawyers in to start looking at, nowadays, the remedies. "We found something that's wrong. We haven't finished the investigation, but we know enough, and we're pretty sure we know what the problem is. What's the answer?" And we start working on the answer. And that may mean going to departments, it may be going to agencies and saying, "Look, we found this problem. We can't tell you what the problem is, because the statute says we can't divulge the facts of our investigation. But you have a problem in this general area," and we're probably going to -- and they know we'll probably call them in to testify. "So what do you think about it? What are you willing to do? What do you think?" And we get other experts, and bring them in under oath, and have them testify before us as to what solutions are. We do it under oath for a lot of reasons. Some we do not do that way.

But we collect enough data to be able to form significant and realistic recommendations back to you, the Legislature, and the Governor for implementation. And new-home construction, again, is the best

example I can use. The Governor, immediately-- The Commissioner of the Department immediately enacted certain modifications in her operations. This was Susan Bass Levin at the time. The Governor, Governor Codey, then executed modifications through administrative regulations and rules, and executive order. And you, Senator, and the Legislature took the balance of those things that were legislative and have been working on those, and enacted some, and are still working on them. We are here to help you walk through that too. And we've testified before you. And we want to continue to be available. But we do that on each of the issues.

We also do something that's a little bit different. And we did this the first time. I did it with the Attorney General's Office on computer crime. We thought technology was getting ahead of the law enforcement world, and the bad guys knew more about how to use computers than we did. And they were beating us day in and day out. So we put a joint hearing together, between the Attorney General's Criminal Division, the Attorney General, and the SCI, and we began a joint investigation on issues involving the use of computers, both internally and by the criminal world out there, to help the criminal world -- the criminal justice world inside. And we had two public hearings with reference to that, ultimately. And major changes happened internally within the -- our capacity in the criminal justice world to do that. So we're willing to do those things also.

We're willing to join with another agency -- to join with them. We have agents placed in the Organized Crime Task Force of the FBI that are looking at gangs, that are looking at traditional organized crime -- the garbage industry, the recycling industry. So we work jointly with all-- We'd work with the department, if they wanted to look at something and

wanted our investigative capacity, if we thought it was systematic and it was real. But that's a judgement of the Commissioners, of the four Commissioners. And we will consider any request. Put that in real quotes, "any request" that's founded in fact, not on politics and not on the personal agenda of some person who is behind it. And we will do the best we can to evaluate it's usefulness, and our resources to help fund it.

Here we go with resources, again, Senator.

SENATOR RICE: Well, you know--

MR. EDWARDS: We know what resources are like today. I hesitate to say that the last people who get the resources in this world are us.

SENATOR RICE: Let me thank you for that.

Let me say this to you: Being a former investigator, and being around and working on the corporate side as part of their think tank for the whole security area of PSEG, the whole state -- including Gloucester County and nuclear plants -- I secured them all.

Facts are not necessarily what you're going to have initially. Facts are things you develop. And that bothers me, because rumors are rumors, and sometimes -- and I know it's a resource thing -- it's best to investigate them and find them unfounded than (indiscernible) they hurt you. But when you have allegations which go beyond rumor, because someone is willing to affix their name with some backup documents -- and maybe they don't understand how substantial that information is. And it may not be as substantial as we may need to establish proper cause and move forward. But there may be some legal things that can happen. But at least those persons should be talked to and looked at.

The question is: When we get these various things -- whether it's housing, private housing, public housing, whether it's city government, whether it's county government, whether it's contractors, whether it's unions -- we have to know where to go to. Because it's a waste of time to have something go on here that's set -- (indiscernible) because of resources, nobody has looked at it. And then when you complain or make an inquiry, they say, "Oh, yes, it should be over here." They already lost 30 days, 40 days. That was the frustration of myself and other colleagues, and particularly Senator Connors. He was sent 50 million letters. Nobody would get back to anybody. And many times it winds up we should be here, versus here. Well, tell us.

So I'm going to end on that for my questioning to you and open it up to any other members who may have questions directly to you. But, once again, I need you to send me recommendations, including the authority. Because I just felt that with all you do, there's need to potentially have a little bit more authority if, in fact, we're not going to get the AG to do but limited things. And they'll squawk about resources too. To me, sometimes, that's an excuse to be selective, given the politics that I've learned to know over the years. And I've been victimized myself, given the politics, so I understand how this works. When you try to tell people, "I'm not the bad guy, that's the bad guy," they intentionally will look at you, to keep from going where they're supposed to go.

So I wanted to make sure we got the right team, the right collaboration, cooperation. And it's not an exercise we're going through, because this one is my recommendation. So as my recommendation, we

have a different relationship than this Senator does, in terms of communication, and inquiries, etc.

I'm being honest about that. Because I don't trust anybody anymore in government. And you know how I feel about the (indiscernible). (laughter) There isn't any use in me lying. Okay?

MR. EDWARDS: I don't know if you ever have, Senator. You've been one of the more skeptical ones I've known over the last 23 years.

SENATOR RICE: Even the legislation I see sometimes -- I question who put it in, why it's being put in. I'm being honest about that. I don't just call names. I'm just being cautious and pay attention.

Members?

Okay. Why don't we start ladies first, if you don't mind, Senator?

Senator Redd, then we'll go to-- The question will go here, come back here. We're going to be fair. This is a fair -- this Committee.

MR. EDWARDS: You always have been, Senator.

SENATOR REDD: Thank you, Chairman Rice.

And there are privileges of being the only female on the Committee. (laughter)

MR. EDWARDS: Yes, there are.

I used to say that about being a Republican on a committee. (laughter)

SENATOR REDD: I want to thank you for coming before us today, Mr. Edwards, and giving such a comprehensive overview of the SCI.

MR. EDWARDS: My pleasure.

SENATOR REDD: Certainly you have great institutional knowledge that is a benefit to your position and for the greater good -- the public good.

I've noted where -- in listening to your presentation this morning -- or this afternoon -- resources. And both Senator Haines and I serve on Budget and Appropriations. And obviously we will be having public hearings and our hearings with the department heads in the very near future.

My question to you, as I look at your written testimony here, you have 50 employees on the current budget of less than \$5 million. And you certainly know the fiscal constraints that this State faces, along with the nation. And my question is: Have you been asked to reduce this year's fiscal budget from what was originally appropriated? And if so, what impact -- your best guess -- what impact will that have to your operations? You seem to have a well-oiled machine, and you know how the moving parts work in terms of dealing with the demands that are placed upon your agency. But I just want to hear, if you will briefly, the cuts that you maybe face, not only with Fiscal Year '09, but also Fiscal Year '10.

MR. EDWARDS: I'd be happy to. I'll give you--

When I became Counsel to the Governor, I took the budgeting process out of the Treasury Department and moved it in -- the budget and accounting into the Governor's Office, under me. I presented four budgets for the State. I clearly understand the budget.

We created OMB back in that era. And I ran the budget. To some people's chagrin and joy (indiscernible) because I wasn't as (indiscernible) as I should be, maybe, and others didn't like the direction I

did. But I understand, believe me. And I was responsible for reducing that budget with the Legislature -- Democratic Legislature, I might say -- for four years, and we did it very successfully.

The answer very specifically to your question: We were called at the end of this budget cycle, in June of last year, and asked to share between the Senate, Assembly, and the Commission's of the Senate and Assembly, a reduction in our operating budget. We had a-- We have a-- We've had a carry-forward surplus for a long time that we use as a pool to hire investigative expertise from time to time. We spent up to \$750,000 from time to time hiring accounting firms, for instance, on very special (indiscernible) accounting issues we have to do.

So, we said, "Our budget has not been increased for the last two years, and it stayed at 4.95. We don't get salary programs through the Legislature like the Executive Branch gets. We don't get that." We were asked this year to give \$500,000 out of our operating budget. The Senate was going to give up \$500,000 and the Assembly was going to give up \$500,000. Our answer to that was, "We'd be happy to do that. We do have the reserves that we can use to make that up. We think it's disproportionate. We're a lot smaller than the Senate and Assembly budgets," but we did it anyway. We understood that issue.

We were just-- The Governor's Office just announced they wanted to take another \$1.5 million out of our reserves. Well, if they take \$1.5 million out of our reserves, next year if you even give us an increase in our budget to back where we were, we're operating in a deficit, and I have to lay people off. That's where we are fiscally.

We think that was a mistake. But we always, as an agency, have submitted our budget proposals both to the Legislature and to Treasury and OMB. And I think they saw the surplus sitting there and said-- They don't understand. We're living on that surplus this year. And if we stay where we are, we'll have eaten it all up by next year without this money. You take this away, and we're in significant difficulty. I'd have to lay people off, and that would be a crime.

SENATOR REDD: And if you have to lay people off -- and I'm sure you've already done the projections -- what would that equate to in terms of personnel?

MR. EDWARDS: Well, those are choices. I haven't made all those choices yet. But we were down-- The Legislature-- The SCI hasn't always been the most popular player in the world. Sometimes we step on very powerful people's toes. And in the early '90s, they reduced the SCI from 59 people to 28 people in four years of budgeting. That led-- That was all tied into this debate, that I wound up heading the Commission, about the continuation of the SCI.

I would have to say that you're crippling the agency, and you're going in the opposite direction. As I said, you have a \$34 billion budget -- service corporation, large one. And the watchdogs that you have out there probably don't total \$15 million of that. That, from a proportionality standpoint, is-- I'm not excusing the Attorney General -- that's an important player. As a former Attorney General, I'm a proud former Attorney General. That office does the best it can with limited resources also. It really does. And I would make a lot of arguments about different

allocations and priorities that exist out there, because it will return dollars to you.

I said in my testimony that we save tens of millions of dollars, and we do. We save the taxpayers, rate payers, tuition payers in higher education, the charity care world. We save a lot more than it costs to fund us. And it's a foolish decision being made to reduce what we do. You may not always like the direction we go in. You may think we should be doing other things. You may disagree with the four Commissioners. But trust me, it's an honest disagreement. There's no politics in this. There are no agendas. And I've been around watching and intimately involved with this agency for over 30 years, and I've never once seen that happen. I've seen us go overboard avoiding that -- the agency. And I think if Jimmy Zazzali were here, he'd say the same thing to you.

Thank you.

SENATOR RICE: Senator Redd, just-- You can continue, but I just want to say this.

I want to be clear on the record to my colleagues. We need to pay attention, or at least we need to have more hearings like this, because too much stuff goes to Appropriations. Things get second referenced Appropriations; but nothing gets second referenced to Appropriations, back to those committees that should be raising questions.

What we have to do in terms of oversight, and legislation, and things that come to us requires us to have certain administrative tools, or arms, of the Committee, as well, such as agencies like this. Because we get those complaints.

I can say this to you: Thank God some of them are not here. There are people who never wanted SCI or any agency with teeth, that has the responsibility of holding people accountable and keeping integrity in the process, to exist. And they won't blankly say, "Get rid of them." They'll demise them slowly with funding, if they're worth their salt, and with authority.

There are some who are still around, and I will say that to you, in both parties. And that's because of their own personal lifestyles. When I say *lifestyles*, it's not doing something wrong, per se, but who they work for, what they represent, etc., or their relationships.

Then you have the pressure of "organized crime." But you also have relationships of law firms and people who represent these big construction companies and developers that we have to look at. So you have this combination of factors that work against where we try to go. And so it's easier to put in legislation by colleagues -- the Governor says, "Well, we want to pass pay to play legislation." You don't need pay to play legislation. You need resources and agencies to enforce the laws that are already on the books that say you can't do that in the first place. And so it becomes a big game, and we fall into it. Some of us fall into it, because we're afraid of our chair people -- whoever we are -- in the State. Some fall into it because we have these relationships, and we're scared we're going to lose the election if we don't just go and rubber stamp stuff because we don't want to be the minority. And some just want to do the right thing -- get confused with the information.

So I want to be clear why we're having this, because I'm not going to have any more of this. Next time I'm going to call them in and

say, "What did you do?" But I want to at least give you something to look at. And I think you're raising the right issue. Do we take it on? But understand now, if you take it on, depending on what county you represent -- if you start taking it on in other committees, you may get a phone call from someone you thought would never give you a phone call that's very close to you. And then you have to back off again if you're not strong enough to address it. And that's why I wanted to make sure that this Committee will at least hear from the agencies so you understand their needs, and they understand our needs, and the need to bring it all under one umbrella with the resources and keep it independent -- their need to say, "Hold it. We're going to make you report to us more, not on the investigations, but how you--"

I don't know, but I know it's important, because my greatest concern is not going to be women and minority participation, and all this stimulus stuff that's coming down, if we rely on the trade unions. I'm being honest about that to my colleagues. It's not going to be fairness.

I also know that there are going to be contracts and things going out. They're going to look legitimate on their faces. And I'm going to tell you that if someone had the opportunity to look at them, they're going to see a thin line between what's correct and improprieties, because we don't have the watchdogs.

And so I'm tired of us being losers when it comes to participation. And by me knowing how systems work and relationships work, I want to make sure that we don't lose any entities that we have with the Inspector General, SCI; that we give them the resources they need, and fight for them -- because they're going to pay for themselves with the

stimulus -- but also make sure they do not step on each others toes and duplicate the functions. And that's why we can't get anything done. And that's why--

Senator Redd, I'm sorry. I'll break in (indiscernible), because I don't have a problem saying what I feel. Some people do, and I respect that. So just let me say it. If you feel a way, and you don't want to say it, just whisper it in my ear. I'll say it for you. (laughter) The record has to be clear why you're here.

SENATOR REDD: Thank you, Mr. Chairman.

And I want to thank you, Mr. Edwards, for responding to my questions relative to the budget, again in anticipation of those deliberations that are soon to commence. And I think the picture that you've painted for us today certainly gives us an idea that the benefits of service that you perform, along with the Commissioners that serve with you on that governing body, far outweigh the cost of what is appropriated to your function. So we look forward to, I'm sure, hearing from you in the future and in other forums.

And with that, Mr. Chairman, I yield to my colleagues.

SENATOR RICE: Senator Haines.

SENATOR HAINES: Thank you, Senator Rice.

Good afternoon, Chairman Edwards.

And thank you, Senator Redd, because this is like a preview for our Budget and Appropriation hearings, which will be coming up; which we won't turn this into, I promise. We'll have enough of that starting March 11, probably.

This is where red means go. (referring to PA microphone)
(laughter)

We're going to hear about tough economic times, and we're all aware of that. And with that in mind, we're going to be looking at everything we can to make sure we maximize State resources and gain the most efficiency from what we do here in the State.

And I just want to thank you, Chairman Edwards, for your career in public service. It adds a lot of credibility, which is not needed, to what you're testimony is today. And I know you have the best interest of the taxpayers and the public at heart.

My concern is -- and I'm sure you have this set forth -- but when we look at the various mission statements of the four agencies -- departments that we have here today -- it looks like there could be duplication. And maybe that's intentionally so, maybe that's good. However, when we're looking at the budget and responding to the public, with this era of cost-savings, and shared services, and so on, we want to avoid unnecessary duplication. And I would just-- This would be my question to all of our witnesses today: How do you do that, but at the same time avoid any gaps in coverage? Do you have any systems in place where you communicate regularly? I'm happy to see on Page 8 of your testimony that you do talk regularly, and you do meet. So with that, how do you avoid duplication?

MR. EDWARDS: I do it-- We do it by regularly communicating back and forth. If we're both looking -- and we bump into each other in an investigation, that's how sometimes we find out what's going on. We can't tell everybody where our investigations are. But we

know if another agency is investigating. And when we do, we call each other and decide which one is going to do it. We don't duplicate.

SENATOR HAINES: Right.

MR. EDWARDS: We just don't duplicate -- it's really that simple -- whether it's the Comptroller, ourselves, or the Inspector General. And I don't think we ever have, and I don't think we ever will. There's just too many things out there for us to do. We don't need to duplicate things.

Some people have asked me, many times, why aren't we investigating EnCap, for instance. And we didn't investigate EnCap because the Inspector General is doing it. There's no need for us to be involved in that. We bumped into issues that were -- the Inspector General or the Comptroller are presently looking at -- items. And we have not duplicated that either. So it requires-- I mean, we start looking at areas where we have uniqueness, that they're not in, and prioritize -- organized crime. They have no capacity, in great substance, to really do the kind of organized crime investigations that we do. If it involves a heavy public sector corporate world that's misusing its corporate powers and hurting the public, you might-- They may have jurisdiction, but clearly we have clear jurisdiction to go after them. So we try to emphasize those items and not the things-- The faster the Comptroller gets up doing things it does, the happier we'll be to be able to move on to that list of a dozen things we don't have the resources to go after.

So I don't think that duplication is real in any real sense. Could it get real into the future? Maybe, but I just don't see it. I see the problem in the other side. And as I said before, it's the implementation side. And it's the one Senator Rice was talking about. It's who takes our

facts and solves the public's problem? That's the issue, I think. That's where the hole exists, not are there-- I would put more resources into all of these three agencies to allow them to cover the spectrum that they're supposed to. That \$34 billion State budget doesn't include county and local governments, which is larger, and none of the independent parties that are out there, and then the whole school board world that's out there. That's an immense world. And if you think that my 50 people, or 20 or 30 in their area, or 50 in theirs -- is going to solve that, we have plenty to do without duplicating. So I think duplication is not an issue that you or the Legislature should be concerned with.

You should be concerned with what happens to the work that we do, and the facts, and who solves that public problem. Because that's the place where the gap exists. That's the hole in the statute. That's the hole in the authorization, I think, that's out there.

The Attorney General tries. I'm not-- That Attorney General's Office really, really puts in manpower and works very hard. I'm sure DCA does, and Health, and Education. But their pressure for resources and where they put them are great too. That's where I think the departmental inspector generals become advocates for the constituencies of the departments. And it's worked at the Federal level. So I would just urge you to look at it. I may be wrong.

I should also tell you that, historically, I was an elected comptroller for many years. No one who is looking at State government says, "Here's a list of things you're responsible for. Are you doing them?" I want to see them get there. They're not there yet. They're in physical stuff. But let the Auditor do the physical stuff, let the Comptroller do the

performance side of that. And I think you've really got something going if you do that. And they're working toward that, I know. We've talked about it internally among the agencies. So I'd be looking at that side of it. The duplication is a red herring.

SENATOR HAINES: That's reassuring, actually.

One final question, Senator Rice, and that is--

Are you one of the Commissioners?

MR. EDWARDS: I'm one of four.

SENATOR HAINES: You're one of four, and you're selected to be the Chair.

MR. EDWARDS: By the Governor. And it was Senator Codey who selected me.

SENATOR HAINES: Thank you.

SENATOR RICE: Senator.

SENATOR VAN DREW: Thank you for being here today.

Just along with Senator Haines' questioning -- not so much duplication, but -- and maybe there is. I guess the point I would want to understand -- two questions. One is, among the Auditor, the State Commission of Investigation, the Inspector General, the Comptroller, and the AG, is there some sort of an internal mechanism that kind of correlates who should be doing what? In other words, I know that you're all doing good work, and we appreciate that. But I know there is more work to be done than there are people to be able to take care of it. But is there a process? I think that's where we're all going a little bit. That's probably where the Chairman was going, and some of the other questions.

Even when we have issues as legislators, or other folks have issues, at times it becomes a little bit of a blur where we should refer somebody to or exactly how it works. And I wonder if it would be of value -- and I'm sure you do it already, but even to do more of it -- to have almost an internal organization process that actually would immediately say, "This should go here." In other words, "This belongs with the Inspector General, it belongs with the Comptroller. We really should be reporting this to the AG."

I assume, Chairman, that was some of what you were speaking about as well.

Second question, just briefly: You did an excellent report on, actually, Sportsbook and organized betting, and so forth. And that's something that's really near and dear to me, and I think that we should legalize Sportsbook in the State of New Jersey. Your investigation actually recommended that at the very least we should give it a very good overview and think about doing it. Is there going to be any more on that, or is that pretty much done? Is there going to be a look back at that again and say, "That's where we were then. That was a number of years ago. Here's where we are now. It's actually gotten worse. We need to do something."

MR. EDWARDS: Well, I can't tell you where I'm going with an investigation.

SENATOR VAN DREW: I don't want to know specifics.

MR. EDWARDS: I know you're not doing that, Senator. Trust me, I really do. I know what you mean. Thank you for the compliment on sports betting. We do believe that it should be looked at

very carefully. Rather than have it go on, why don't we just regulate it and get it--

And we do look back at all of our reports to see where they've been and to see factually. And we continue to get complaints over the (indiscernible), on our hotline -- citizens' complaints, legislative -- your request we would take seriously -- very seriously, and other legislators' requests on those items -- if there's something we think we could add. When we look at it, if things haven't materially changed, then there's no reason for us to do a factual investigation. Our facts are still the same, have the same validity they did then. I think this is one of those issues where they do. But it could be looked at again. If we think it needs it, we'll do that. We've done three occasions on pension reform -- in this State -- pension reform. And we have looked back to those people who brought those to our attention.

With reference to an organized vehicle in which we don't step on each others toes-- If the Comptroller gets up and running -- when they get up and running, and they are intimately involved in a bunch of things and we find ourselves stepping on each others toes, or bumping into each other and fighting over investigations, I would agree with you. And if this system were organized the way it's supposed to be, in my opinion, had the resources it had, then that joint communication vehicle should be formally put in place. It's superfluous at this point. It would be another effort that just isn't necessary yet. That's some time in the future. Trust me, we know what each other is doing, and we talk regularly. There's only three of us. We talk to the Attorney General on a regular basis, and the State Auditor at the legislative branch also. We get their reports all the time, and go back to

them, and we use their reports as a vehicle to do further investigations -- not as much now that the Comptroller is in place.

It wouldn't do any harm to have a meeting every quarter -- every four months, five months. It would probably be a good thing. We kind of do that anyway among ourselves. And there are so many things to do out there that it's just not something -- not high on the list of things I think we should be worrying about now. And it would take up more time and resources doing the formality of that. Right now, because of the budget stuff, I'm looking for ways to conserve those resources and get them into productive ways that result in an investigation, successful prosecution where necessary. There's a lot of things that we do that never get reports. They happen interagency between the U.S. Attorney or the Attorney General's Office.

SENATOR VAN DREW: Through the Chair, for example -- this is purely an example. If there were a problem with authorities and you were going to investigate that, but somebody was in that process -- you would probably just work with them or lead them to do that, because that process is already going on?

MR. EDWARDS: Right now, within each one, there is an authority which we were both investigating. We backed off, and we let the other agency run with it as soon as we found out.

SENATOR VAN DREW: Thank you.

MR. EDWARDS: And they'll do the same thing. I know they will. I know the leaders in those agencies, and they're terrific people, and they're honest brokers in trying to do the best they can to meet their

responsibilities. And we're glad to have them. Really, we're glad to have them there. There's just so much work to do we can't get to it all.

SENATOR RICE: That's it, Senator?

SENATOR VAN DREW: Yes, thank you.

SENATOR RICE: Let me ask you a question. When that occurs, what are the checks and balances to keep the other agency honest?

Let me give you an example. I had an investigation at one time. My partner and I worked the same team. But the way the Newark Police work is that -- "This is my job, that's your job," but we ride together. All of a sudden, I get a complaint about some check missing from the youth employment program. I walk in the place and knew I had a problem when I saw the conditions of the workplace. So I knew-- But it wound up in a big thing with mail fraud, drugs, and people in the state and out of the state. But it was taking me back to a local elected official. I was told I kept missing him. Every time I hit a place I locked up everybody. And as a result of that, I get a call in from the director one day who said, "Well, you know, we're going to send this over to this agency of government," in the same department, that is. Okay? I said, "Why would you do that? It's our job." "We're going to send it over there." I said, "Who is going to watch him?" "Well, we're sending you a partner." "But it's my job." Do you know what I'm saying?

My point is that I don't need something being agreed to for someone else to kind of white wash it and act like nothing really is there. Where's that check and balance? What, if anything-- And maybe someday we have to give you some tools-- But how do you-- The AG says, "Fine, we're going to handle this," or the Inspector General says, "We're going to

handle it,” vice versa when you all come up here. How do you monitor their progress and what they’re doing? Do you monitor it at all or do you just take them on their word?

MR. EDWARDS: Senator, very (indiscernible) we take them on their word. We don’t pass investigations off once we’ve started them. If we’re doing an investigation, we do that investigation. If we find out another agency is doing it, we sit and talk about the investigation. We decide which one of us should go forward. When we get complaints sometimes, and they’re individual, we pass them off to an agency that’s better able to do that. Housing complaints, as I said, go back to DCA. We don’t follow them up and find out if there’s anybody doing anything about them. We don’t. And if I said we did, I’d be misleading. And there’s no vehicle for us to do that, and we don’t have the resources to do that. Because we get hundreds of them every month. And we could never follow all of those back to the agencies to ascertain, “Are they following up on them, or are they not?” We made the determination that it’s not an investigation that fits our priorities of resources or our charter. And then it is-- If this is an individual, like it’s a fraud case against a local official, we’re not going to investigate that. If there are bribes throughout the insurance industry on local officials, as has happened across the state, that might be a different question, but not of one official or one town. Do we follow up with the U.S. Attorney’s office, the Attorney General, to find out if they prosecuted them? No. We have turned all of our facts that we have, any information that we have, over to them, and it’s now their responsibility.

SENATOR RICE: Okay.

With that said, Bob, just make a note that we need to visit that and perhaps--

MR. EDWARDS: And I will think about that a little bit more for you, Senator. I understand the frustration.

SENATOR RICE: Yes, think about it. Because we should at least have legislation that says that once it's turned over to another agency, the agency has to keep the other agency informed in writing. This way, there's some accountability -- they know they're being watched. You laid the foundation, so you kind of know what it should be looking like -- shaping up.

MR. EDWARDS: That is the group of people that fall between the cracks.

SENATOR RICE: Right.

Okay. Senator Connors.

SENATOR CONNORS: Thank you, Mr. Chairman.

Commissioner, thank you very much for being here this afternoon. We wish to applaud you for all the work you've done over your length of tenure in government -- a watchful eye -- over your successes over the years. You've been a wonderful servant to the people of the State of New Jersey.

Your comment with regard to solutions, knowing that the State Commission of Investigation is a fact-finding entity-- The SCI produces reports from time to time, and I've read most of them. But aren't those solutions really the job of each of the cabinet officers in State government themselves, and the follow-up that's involved as well?

MR. EDWARDS: Yes.

SENATOR CONNORS: And so it seems to me that there is a mechanism for the follow-up with many of these issues involving State government, where the SCI has taken the time and the resources to prepare reports and make recommendations. Equally, this Legislature certainly has the opportunity to follow up from time to time to determine whether any legislative initiatives are required by virtue of the recommendations made by the SCI. And in fact, I believe your report on the housing industry is the result of some legislation being introduced, and others which I know my office is looking into because of some of the problems that we've experienced in our district.

Mr. Chairman, I don't really have any questions of Mr. Edwards. And I don't really see a problem with overlapping with the SCI and other functions of investigatory agencies in State government. I see a very clear and definitive role that the SCI plays, which I think sets it apart from other agencies such as the State Comptroller and Inspector General; which I think the lines become a little -- at least for me -- become a little bit more blurred as an Executive Branch investigatory and oversight agency. I'm not saying that they don't need to be there, but I'm just a little bit more concerned about the potential for duplication and overlap than I am with the SCI or with the State Auditor.

So with that, Mr. Chairman, I'll just hold my questions for testimony.

MR. EDWARDS: Thank you very much, Senator. I appreciate that.

I don't want to tell everybody I watched you grow up (laughter), but I have watched you grow up in government -- and to be quite a public servant yourself.

SENATOR CONNORS: Thank you.

MR. EDWARDS: And I know your father is proud, and I'm proud of you too.

SENATOR CONNORS: Thank you. I appreciate it.

MR. EDWARDS: Senator, I'll add one comment -- two comments. One -- and this is one to what you said: Every time we write a report, we make more enemies. There are corporations, businesses, vested interests who we step on their toes, in government and out of government. And I think that's going to be true for the Comptroller, and is true for the Inspector General.

Be very skeptical, as public policy makers of this State, when that happens. And be very aware and skeptical of the complaints that you get about these agencies. These are good agencies. They may make a mistake -- they may. And I say *may*, and I haven't found any of any substance, that I can point to, that justify those complaints. But I have never found any that justify them. And it's a very difficult thing for us to fight an enemy that's out there that we don't know about or don't hear about. And it has caused, as the Senator has pointed out, some major problems with the SCI historically.

Secondarily, there's a gap. We're an arm of the Legislature. You don't use us enough. The Legislature doesn't use us enough. We feel very constrained to lobby on behalf of our recommendations. There's a large debate that has gone on among the Commissioners for a long time. If

there was a modification to our structure, it is much more of a mandatory responsibility back to OLS, back to the committees of the Legislature, to be not only available but required to point out and monitor what goes on over here so that we give you facts we know about. That's not happening at the level that it should. We're trying now, with the work we're putting into our recommendations, to have them be more profound. We're trying the best we can to monitor what the Legislature and the committees do. But we can help you a lot more than we do without partisanship. This is not a partisan question. This is -- we have facts and reports, and background to those facts, and recommendations that have some sound reasoning behind them now that we would love to give you on a more regular basis. We don't know when and how. We get surprised by hearings. Sometimes after the fact we hear about them when the bill has already been modified and out of committee.

So if there's a modification to the SCI's structure I would make, it would be to mandate some kind of link back to the branch that we are a part of. You are the policy makers of this State, and the Governor is. And we think we should be more involved in telling you what those facts are. And we're very reluctant to do that until we're not perceived as being partisan -- on one side or the other. And so we don't do anything. And I think that's a hole in our particular structure that you can help fix. And it would help us be more responsive to you, and you would understand better what we do in the long haul and how valuable, in fact, we really are to your operations. That goes for partisan staff and OLS at the same level.

We are not partisan that way. We are balanced, and we're always going to be that way. And we've got 40 years of proof as to the

integrity of that statement -- that I stand on the shoulders of dozens of other Commissioners who fought very hard to maintain that. But that's a hole that we have that we think we could be more useful to you. And, ironically, the cabinet or the Governor's Office takes more advantage of us in the SCI than the Legislature does. And this is two or three governors. And we go all the way back to Brendan Byrne, who I know very well. They all have done it much more regularly than the Legislature has.

SENATOR RICE: All right.

Well, Bob, make a note. And that's something -- I need you to have a discussion with SCI as to how we could potentially do that -- at least take a look at, have a discussion on it.

I know McGreevey or somebody wanted to get rid of you all. I had to fight. I forgot which governor it was.

MR. EDWARDS: (indiscernible) (laughter).

SENATOR RICE: But let me just say that you are right, because recommendations coming to us -- I just think that with 120 legislators, we are going to tweak some things. And we have to have some concerns about objectivity statewide. But we do have the facts. What bothers me is when bills don't move when it's clear from the records, as well as the media, that these things, in fact, did take place. In fact, there's one I asked Senator Buono -- to consider getting those SCI bills that should have been out a year ago, before she became Chair of the Committee. So hopefully she'll understand the importance of it. Particularly now, with the recommendations that you've made with all this new "stimulus," which is going to be mostly development stuff. I don't know exactly where, but I'm a little concerned about it. I'm being honest about it.

MR. EDWARDS: I think the Comptroller is a big player in that, Senator, in this stimulus package, and be sure the dollars are spent the right way.

SENATOR RICE: We're getting ready to call the Comptroller up here.

Thank you very much.

MR. EDWARDS: Thank you.

Thank you for the opportunity to be here and see you all again. It's always a pleasure.

SENATOR RICE: Next we're going to call up the Inspector General, Ms. Cooper.

INSPECTOR GENERAL MARY JANE COOPER:
Good afternoon, Chairman Rice, Vice Chair Redd, Senator members of the Committee.

Thank you for the opportunity to answer your questions and to speak to you about the office of the Inspector General.

If I may just divert for a moment, I would like to speak to and about Chairman Cary Edwards and what he said about our Office. When this Office was first created by an executive order, and I was appointed by executive order -- it's almost my four-year anniversary today. It was actually the day after Valentine's Day. One of the first telephone calls I received was from Chairman Edwards asking me what I needed, because there was no office, so there was no staff, there was no office to go to. It was a very small office. And he provided space, computers.

And Governor Codey asked me if I would like to investigate the Schools Construction Corporation which, at the time, had an \$8.6 billion

budget, and hundreds of employees, and also hundreds of vendors. And he provided staff to me on loan, as did the Attorney General. And that enabled us to get off to a great start.

He has been a mentor in a number of ways, and it's very heartwarming to hear someone speak about inspector generals, and who knows what their function is and how important they are to the system. Because not everyone does understand what they do.

I will say that although I am not sure what's in the stimulus package now as it exists, I did hear about a week ago that within that package was the creation of 21 Inspector General offices to make sure that the money was not wasted. And I will say that there are, as he said, inspector general offices within many of the Federal offices who report to the commissioners in those offices. And they are all independent, so they are free to say what it is that they wanted.

After I had served in this Office for six months and had created the first report about the SCC, recommending that the work of the SCC be shut down only in the case that it not be wasteful -- that we wanted projects that were in place not stopped, to the extent that that would be wasteful; but to put a hold on projects so that the money could be -- the spending of the money could be reviewed in a timely way-- You, legislators, in your wisdom, voted unanimously to create the Office by legislation, and I thank you for continuing my Office from that point as well. It was a heartwarming experience for me.

And you may know something about my background, but my 30 years as an attorney -- the first -- little more than nine were spent as a prosecutor, which is essentially an investigative attorney. And for the next

20, except for the last four, were spent in private practice doing independent investigations for businesses and governments. And so when I came into this Office, I felt that I understood what it should be and how it should function, and that was the model that I set up.

We had a very small staff at the time. We had positions for 18, so I hired professionals, lawyers, and CPAs to function in the work. And I did submit a statement to you showing some of the work that we have accomplished using that kind of staff. I can stick to my statement in some regard, but as I've heard you address questions, I would like to vary to the extent that I will say that the Office that you created, in your wisdom, was to make the Office independent, and you have. You've created it with a term of five years, so that the Inspector General can only be removed for cause. And I report to the Governor directly. But my reports go to the President of the Senate, to the Speaker of the Assembly, and they are made public, and they are on our Web site. Part of the idea of the position was that the public should know what we were doing.

Our mission is to receive and investigate complaints concerning allegations of fraud, waste, abuse, or mismanagement of State funds, with the goal of providing increased accountability, integrity, and oversight of all recipients of State funding, including but not limited to State departments and agencies, independent authorities, county and municipal governments, and boards of education. So I think the critical phrase in that statement is that we are responsible for investigating the misuse of State funds. That is the limiting section of that.

I must say too that we are not a criminal investigatory authority. So when you're addressing what complaints should come to us,

we do not have criminal investigatory authority. So if you're concerned, and it immediately looks like a crime has been committed, that should go to the Attorney General's Office.

But very often, at the outset of a concern, it doesn't immediately appear that a crime has been committed, but it certainly appears that there has been a waste or mismanagement of State funds. It appears to me that in that kind of situation, the Attorney General's Office does not have the authority and capability of investigating those allegations. Their investigative arm, through the Division of Criminal Justice, is looking at crimes. And I would say that in many of the cases that we've investigated -- well, all the cases that we've investigated do not appear to be crimes out the outset -- many of them have the appearance of being crimes by the time we complete the case. And when that occurs, we refer them to the Division of Criminal Justice at the end of our case to determine whether or not a criminal investigation is warranted.

If, during the investigation, we -- and it's my experience as a prosecutor, and many of the people who work in my office are former criminal investigators or-- If we figure out that, "Wait a minute. There's a crime here," we will then immediately call the Attorney General's Office and ask them when they want the referral to occur. "Should we keep on--" Because we do not have-- We do have subpoena power, but we do not have wire tap responsibility, and we can't give Miranda warnings and that kind of thing. So what we don't want to do is contaminate the evidence in a criminal case. So at that point we're in contact with criminal agencies, saying, "Is this enough evidence for you to believe that this is a criminal case?"

So we are in contact with the Division of Criminal Justice and Attorney General's Office frequently. And for another reason as well. As you read through our statement, for instance--

Well, let me go back and say that our investigations are often referred to us from the Governor himself. We are the Governor's investigative arm. And obviously the Executive Branch has numerous departments. And it's almost impossible for the Governor himself, the Commissioners, and the various directors and managers within the departments to know what is going on at all levels. But they may have a suspicion that something is being mismanaged, that there is something going awry, and they may say, "Boss, who do I go to? What do I-- Is there a problem here?" Or there may have been an audit. And that is how we actually got the Department of Corrections case. The Department of the Treasury was doing an audit to determine whether the dental contract was working properly. They had complained. And they found that there were definitely problems there. And they asked us, when they went back to the Commission -- and this is all in our report. This is all public information. They realized there was a problem. Corrections, who were the people responsible for monitoring the contract, were very aggressive in their response, telling the auditors from Treasury that they essentially didn't know what they were talking about.

Treasury said to us, "Can you help us here?" So our function was not to do an audit. And as a matter of fact, when you created the Office of the Comptroller, you gave the Comptroller the audit function that we had, which is fine with us. Because with 18 people, we did not have the staff to do an audit. It takes more staff than we had. But we did have very

experienced investigative staff. And we sent two of our very experienced people, a lawyer and a CPA, to corrections and started an investigation of that dental contract and whether they were monitoring it or not.

And it took us a while to do it. And one of the reasons it takes a while is, when you have people who don't want you to find out what happened, they put a lot of roadblocks in the way. And that's to be expected. And so we have to go -- enough sense to go beyond those road blocks and get the documents either from the vendor or from the department itself. And we just have to be persistent.

Even people within the Department were telling us that they're system wasn't working. We only learned last August that, in fact, their system was working and that they were lying to us about that. And we persevered and persevered. We issued our first report about the dental contract. And after that, we received information that the Deputy Commissioner was not only lying to us, but had lied to the former Commissioner and to us.

So what we do that is different, for instance, from what I believe -- and I'll let the Comptroller speak for himself. But it's our responsibility to not only know, for instance, what he would find out -- that there were real problems in the system in how the money is being used -- and to do that; but our responsibility is to go in and find who is responsible for the mismanagement of the contract, who is the cancer in the system, who is accountable. We don't want that Deputy Commissioner to say, "Okay. They found the money, but I'm going to be here." This was a 32-year veteran in the State, a very experienced man, who had the ability to retire and, actually before our report was published, he was being

considered -- although he had been let go -- other State departments were considering to put him in a very high-level management position to handle another contract. And fortunately we heard about it. They contacted us. We said, "Well, don't do anything until you--" I'm able to confidentially speak to people. So he was not put in that position. So this is the kind of work that we can do for the Governor and for his Commissioners -- and to take the cancer out of the situation.

And, Senators, as we are doing this work it's not just, "Wait until the report is written," it's -- we are in constant communication with the Governor's Office, and with the affected entities, and with the Commissioner. Because the Commissioner, himself, was unaware of all of this. He has the largest department, I believe -- or one of the largest within the State. He cannot -- although this was one of the largest contracts within the State -- the inmates' health contract. He was being fooled by a trusted Deputy Commissioner about how this contract was being managed.

So we were in communications with the Commissioner, and with Treasury, with the Governor's Office so people were made aware of what was going on in a real-time basis.

The same was going on with EnCap, Senators. The Governor asked us, "Tell us how we got to where we are today." We did not do an audit. Now, we did not look at the books, we didn't-- That's not our responsibility, and we don't have the function.

But what we did was put together a nine-year history of a mismanaged project, mismanaged largely because the vendors were lying to the State officials, telling them different things: misrepresenting their

abilities, misrepresenting their accounts. And the State departments, unfortunately, were not talking to each other.

And I said to our -- in our report, I said something, and it sounds almost too obvious to say: "Because of our status as State representatives, we treat people honestly. Because of their status as vendors, they operate in a buyer-beware world. And that's how they treat us. They expect us to operate in a buyer-beware world, and we don't. we're State employees. We say to the contractors, "Here is the contract. Here's what we're going to pay you. Here are the etc." And so we have to be very careful about how we deal with these contractors.

There were very important lessons learned. There have been executive orders issued. There is legislation under consideration right now, Senator, which I'm sure you're aware of -- how to rectify the EnCap projects.

So I've digressed from my statement here, but you can see that I think what we do is a very specific kind of work that other agencies don't do. We are, as I say, an investigatory arm of the investigative branch that provides unique services to the Executive Branch, not only rooting out the evils, the cancers that are in there -- which they can sort of sense are there, but they don't know where they are and who is responsible. It's a very difficult process to find out who is the respective -- the responsible party.

For a Commissioner to-- And it was hard for him to accept that his trusted Deputy Director, a 30-year veteran, was responsible for this. And we had to sit down with him and show him the evidence. And he accepted it. I mean, he didn't think that we were lying to him. But it's a

very difficult thing to understand. He certainly would never have been able to do it himself.

And that is part of our process -- is to document the evidence, as you probably know, Senator, from your history with us. But we document all the evidence, we record our interviews. And when we write our reports, our reports are very detailed. So the whole world knows what the evidence is and why our findings are just.

So there may be some other question about what we do. But from having a single complaint about the contract that came into the office, and so forth, we went to global issues of how to rectify the concerns. Because very often in that kind of situation, State employees lose site, and that happened in this case too, of what their responsibilities are. There has to be some retraining, ethics accountability of the employees who are in the department, because he had to undermined the people who were working for him and confuse them about what their responsibilities were. So we made recommendations about how that should be handled. And some of these recommendations are statewide.

So let me see-- Besides the continuous dialogue that we have, I note here that we've gone way over our-- The money that we've recovered or brought back into State government far exceeds the money that is in our budget. And in the Meadowlands Commission, the towns in that area were also being duped by the vendors. And the vendors had talked them into committing future tax dollars into this project. And we have no idea what that would have cost those towns if they had committed their tax dollars to this project and, down the road, the project had failed, and what would

have happened. So fortunately the EnCap project was put to a halt. And as we brought that to the Governor's attention, actions were taken.

So I don't feel that in our -- and I know I'm deviating from my written words -- but I don't feel that in our case we have a problem with a response to what we do. The Commissioners listen to us, the Governor is very responsive to our reports and our actions, and we find that actions are taken in response to our reports.

Now, not everything we do is a major impact. We get constituent -- we handle over 700 complaints that we get through the mail or through e-mail from constituents. Some of them are minor -- most of them. But what we do with those, if we don't investigate them ourselves, is find the appropriate entity to investigate them. And as I listed in my letter to you, we have a process for making sure that the people who write to us do have some authority getting back to them and looking into their concerns as best we can, as best as the State can do. And usually we're covered, unless it's something like Criminal Justice, where they're not allowed to let us know what they do.

I don't feel that there's any duplication of effort, which I think is one of your major concerns. And Chairman Edwards is precisely right. If we get something, we immediately know that there's another agency there. For instance, the State Auditor sends us his -- what he's doing for the year. We're right down the hall from the Comptroller. So if we have any indication that they're looking at something -- or we'll say, "We're going to be looking at this. Are you looking at this?" We just talk to each other constantly. But if we don't know they're there, and somebody says to us -- as happened in Corrections. We heard that the State Auditor was looking

at some things in Corrections. We called them up. We understood that we were-- But it's a huge agency. They were looking at something entirely different from what we were looking at. It didn't end up being a problem at all.

If there's any indication that another agency is looking at something, we have no reason to look at the same things. And we decide among ourselves who is looking at it. As Chairman Edwards said, we meet together, talk about what our cases are. We decide who is going to be looking at something. There's no territorialism among us. As far as I'm concerned, there's just too much to be looking at. And most of our investigations come from direct requests from the Governor, or the Commissioners, or the Executive Branch.

I have had requests from legislators to look at things, and I've done that as I can. And we always do what we can for you and for the Executive Branch. And when a citizen tells us about something, we try to do what has the biggest impact. Occasionally, a small concern for a citizen could be handled very quickly. We'll do that if it's just a matter of a few phone calls, and getting it rectified. That has happened on a number of occasions as well. Right now we have 30 open investigations, some of them are bigger, and some are smaller. But it means if something important comes in, and something can be set aside, we try to manage our caseloads so that the most important things are handled in the way that they are.

I know I've gone away from my statement, but I was trying to address the questions that I heard you asking. So if there is something that I missed, I'm sorry. But please ask questions.

SENATOR RICE: Thank you very much, Inspector General.

The one thing that bothers me, and we've had this conversation -- I've had it with others -- is the authority of our entities, particularly with this Committee. Our job is to really look at code enforcements, and housing issues, etc. And housing in this state, public and private, is very important. And that's where we get hung up. But when you talk about housing authorities throughout the state, traditionally everybody passes it off as being the Federal government.

You're charged, from what I understand, with the responsibility, with varying degrees of oversight, over local government. But yet agencies can say, "Well, that's the Federal government." Where I disagree is, that any entity that is the creation of State government is an entity that we have some degree of responsibility for, whether we choose to exercise it or not.

When the HMFA gives housing authorities throughout the state dollars, or at least developers who work for these, or contractors, professional service, whatever they do -- when we share our State dollars to match and help with Federal, we have a responsibility. And the one area that this Committee has never, to my knowledge -- I've been here quite some time -- really raised issues on and had hearings on -- regardless of the number of complaints we've had -- because, for some reason, we keep sending them up -- is on public housing authorities in the State of New Jersey, from Atlantic County all the way up to Bergen County.

How is your agency-- How does your agency view that? How do you distinguish, without talking about any cases or things -- if we get you some -- how do we distinguish what goes to the AG, what goes to the

Feds, what you actually look in, or do you actually lay the foundation work before you pass it on?

INSPECTOR GENERAL COOPER: Well, typically we respond to an allegation, because there are so many that we don't look for a global issue. And so we have gotten a couple of allegations about housing. One that I am aware of, I did not know that there were Federal funds -- State funds involved.

Now, are you saying that with the housing authorities -- are there-- I knew that there was a limited amount of State funds. Fairly recently we had a concern come to our Office with one of the housing authorities. I did -- because I thought it was a very good case. The *Ledger* had put together quite a bit of evidence. And I thought this sounded like a serious case that really needed looking into. And I would have accepted it.

But the first thing I did -- because I was trying to find out if there was the nexus for our Office. And when I researched it, I was told that there was only a peripheral and small amount of State funds.

The next thing I did was to determine if there was-- Because the same package had been sent to several agencies. So I researched the--

Actually, that referral, Senator, came to us from the Attorney General's Office, not directly from the constituent. The constituent had then sent it to us. I called the-- So I knew the Attorney General's Office wasn't doing anything about it. But then I went down the list to see if there were any of these other agencies that were CC'd on the letter from the constituent -- if they were involved in it. And I was told by the Federal Housing -- by the HUD Inspector General that in that case they were doing an investigation.

I know that they do have limited resources, after talking to that person. I didn't really know what they had. But I offered my resources to them as a sister Inspector General, because they actually had less resources than we did. And I said that-- And I felt that this was a good opportunity for us to function with them, since they're in New Jersey, they're dealing with New Jersey citizens -- there is, at least, a peripheral contact with State funds -- that I would work with them. And so we agreed to continue the conversation.

I sent her the packet that I had from the constituent, because it really did sound like a case that needed investigating. That was how that case was decided.

SENATOR RICE: Right. Does that mean that your agency-- We create, with your permission, a particular entity. In this case, it's the Housing Authority. But there are other independent agencies too, parking authorities, etc. If it doesn't involve a substantial amount of State dollars, then we're saying that if we get allegations at the State level, we don't really look at it.

And the reason I raised that is because the independent local authorities, whether it's an economic improvement authority, whether or not it's NEDC -- that's now, in my area, called the Brick, same thing -- they go out there, and they do all these different things for corporate America and other folks, and they raise revenues. But they're only raising revenues for the sake of taxpayers and things that are happening. So it may not come directly forth, but we gave them the ability.

It seems to me that some place there, through implication, if you will, or interpellation, as the attorneys say, we have a direct

responsibility to at least look at those entities, whether dollars are involved directly or not.

Is that your reading, or do we have to make that clear in law?

INSPECTOR GENERAL COOPER: Well, Senator, let me say there wasn't-- There were some State funds involved in this entity. In this case, what I was trying to do was avoid duplication.

SENATOR RICE: But lets-- Excuse me, I don't mean to cut you off. Let's assume that it was an entity that there were no State funds, but they could only be established under the State statutes that we put in place to give permissive legislation for it -- an MUA -- do you know what I'm saying -- or some other name that they give them. We used to have the Newark Economic Development Authority or something. Do you know what I'm saying? We create it. They generate dollars. This is supposed to-- In some kind of way, there's a nexus between what the city does with ordinances and resolutions to make them function, to create economic development, or whatever -- you know, things like that.

Because of us-- Without us, they could not establish it. But we get a complaint about the improprieties and what have you, or people moving over -- just complaints in general need to be looked at. Are you saying that because if you're not aware of any direct dollars going to them, no one in the State looks at that, from your perspective?

INSPECTOR GENERAL COOPER: Well, Senator, I dare say -- and I'm going out on a limb here, because there may be some agencies within the State -- governmental agencies, or quasi-governmental agencies -- where there are no State moneys, my guess is that if you pulled the thread,

you're going to find State funds in every one of those. So I would say that that would give us jurisdiction.

I'm not going into Pennsylvania.

SENATOR RICE: Sure.

INSPECTOR GENERAL COOPER: I'm not going into Washington, D.C.

SENATOR RICE: Right.

INSPECTOR GENERAL COOPER: But if it's a serious-- If something is wrong there, and I can see it, and it needs my attention, I'll do what I can to start the ball rolling. And my office will start it rolling. I don't know what will happen from there. We'll look at it, and we'll see what's going on.

SENATOR RICE: And the reason I raise that is because the experience has been -- from me and from some of my colleagues in both houses -- has been that oftentimes the State would find -- they pray they can find the rationale not to look into something. When we know there are relationships, they would play it down -- it's not substantial. It's so obvious. It's like passing. And that's why we go around in circles. And I think that's why some of the people in these housing complexes and developments -- whether it's down in the southern part of the state, in Whiting, New Jersey, where we visited; or some place up north -- continue to question the State's integrity on the inside of government versus the ones we're supposed to be taking a look at that they feel have bad integrity. They think we're all in the same bed. That's my point.

With that, I appreciate your presentation. But why don't I go to my colleagues?

Any questions for the Inspector General?

SENATOR VAN DREW: Chairman, one quick one.

SENATOR RICE: Yes, Senator.

SENATOR VAN DREW: Other than finances and financial resources, if there was one thing you could change among the different agencies here, or in your agency, what would it be? Is there anything that you would do differently?

INSPECTOR GENERAL COOPER: Well, I agree with Chairman Edwards. And actually we have started this process on a slight level -- one level -- is, I would-- And I actually had thought that perhaps it could be done under my Office -- although I don't want to seem like I'm self-aggrandizing, but I do think I have some experience that I could share -- was to have more inspector generals within the departments. And what I could share would be the training. And we do have a relationship, for instance, with the school construction department. Our recommendations, after that project, was that they should have a memorandum of understanding with our Office, where we would have two inspector generals dedicated to the Schools Construction authority, which is now the SDA.

The new Chairman, I think -- what was his name? -- the Chairman and the President -- CEO -- of that organization welcomed the idea. We do have on our staff now two independent inspector generals who are devoted entirely to their time. We do not use them on any of our investigations. And they work exclusively within the SDA. And we could do something like that rather than having, within the staff of -- for instance, the human resources department, or Treasury, Transportation -- as Chairman Edwards said -- they have-- And we have an agreement with

Treasury, which as we have been working with them -- they have an MOU with us. We don't have a dedicated person yet. But that's why we have so many cases out of Treasury, where we will have dedicated staff to them. We don't have a dedicated staff.

We've talked about it with a couple of other departments. It hasn't gotten implemented completely yet. But they would have dedicated staff within our Office. They would report to me rather than to the commissioner of that department. We don't want to make them hostile to the commissioner, so that the commissioner can ask that person to do investigations as he needs them done. If he has a problem, he has a concern within his department, he can ask this person. And I work with the person. I oversee the investigations. But those two inspector generals -- assistant inspector generals -- are dedicated to the department. So I think that that would be a great way to implement, at least from the start, Chairman Edwards' concept of having inspector generals within the department.

I know within the SDA it's working very well. We've had several cases investigated. They've made some ethics referrals. At least one of their cases has referred in a conviction. And they're doing global issues, as well as particular complaints. Several people have been let go by the SDA as a result of their investigations. So it's a very nice fix for the problem that they have, with a huge staff of 250 people who are on the road dealing with vendors on a large scale; to how do we fix the problem. And I'm able to give them -- because they're attorneys but not necessarily with the right kind of experience, but they're learning, working in our office. And so they will go away from this job -- or as they're working, they're having the experience of how to do this work.

And one of the very important things that I feel that I offer is the experience. I'm reaching the end of my life.

SENATOR VAN DREW: I hope not. This meeting wasn't that bad, through the Chair. (laughter)

INSPECTOR GENERAL COOPER: My work life. No, no, no, my work life. My term is--

SENATOR VAN DREW: You ought to go to some of the meetings we have to go to. (laughter)

INSPECTOR GENERAL COOPER: I'm trying to adjust. I've enjoyed this job so much, I try to adjust myself to not having it anymore, because my term expires in about 20 months, so I keep saying it over and over again. So I'm kind of getting used to the idea.

But one of the important things that I do is to train the people in my office on how to do the work. And I'm having them out there doing it by themselves on a -- over a course of time, they're learning different things -- and having them stand on their own feet. Because I am involved in every case that goes out of our office on a level-- Sometimes they go to interviews. I talk to them constantly about plans, and investigations, and questions that should be asked, and reviewing the reports, and so forth. So I feel that training is an important part of what I do. So if we can get people out there doing that within the departments -- because it's not that diverse a skill that you can find it out there. It's a very particularized skill that they have. We don't have a judge and a jury listening, just to (indiscernible) for a few minutes. We have to be very, very fair; very, very thorough in what we do. We have to lay out the evidence very carefully and constantly question: What would the adversary say if he were here?

And we always go back to the affected party, if there is an affected party. If it's not just a mismanagement issue or a lack of policies and procedures that need to be put in place, we have to go back to that person and say, "We have heard this. This is what the findings seem to say. What's your answer to that? Are we on the right track? Are we wrong? Is there a response to this?" so that when we find that a person has acted inappropriately and mishandled funds, we're on secure grounds, we're not falsely accusing someone. Someone's livelihood is at stake, someone's future is at stake.

And so this is what I want the people who work in my department to know. And we cannot assume-- We can't leave out that investigative staff. We have to go back, and we have to document the answers. And so that is another reason why our investigations take so long. And the people who work for me understand that. They're learning that. And the responses to those questions are in our reports so that when the Governor gets that report, or a commissioner, or you read about it on our Web site or in the newspaper, you know that the actions that were taken are well substantiated and based on sound reasoning.

So that would be something that I would really like to see happen. And I think it's sort of a beginning step for what the Chairman had recommended, and could happen.

SENATOR VAN DREW: Thank you.

INSPECTOR GENERAL COOPER: Don't ask me questions -- is that the lesson you learned? (laughter)

SENATOR VAN DREW: No, it was a thorough answer.

SENATOR RICE: Senator Haines.

SENATOR HAINES: Thank you, Senator Rice.

Good afternoon, Inspector General. Thank you for your testimony.

One of my questions was: Can you get reappointed?

INSPECTOR GENERAL COOPER: Yes.

SENATOR HAINES: Okay. You're subject to reappointment. So you never know, you might--

INSPECTOR GENERAL COOPER: I can keep my fingers crossed, right?

SENATOR HAINES: You can't count those 20 months any more.

But in regard to your statutory mandate to accept jurisdiction for a case, you did indicate that it appears to be not as clear-cut as you would probably like, but there's a lot of -- a large area of discretion on your part -- or your Office's part -- whether to accept a case--

INSPECTOR GENERAL COOPER: Yes, there is.

SENATOR HAINES: --where there's State funds at risk or a mishandling of funds.

What parameters do you use to open a file and, if it's not a clear case of mishandling funds -- it might be indirect at several levels, or just not as clean cut and tight as you would like -- do you have a litmus test or any kind of guidelines that you follow?

INSPECTOR GENERAL COOPER: Well, there's an allegation, generally. And it's not so much-- If it's clearly not criminal-- I mean, if we clearly know that someone didn't go in with a gun and hold up a bank for instance -- and that's hypothetical. But if it's clearly that there's a concern that State funds have been lost or mismanaged, or an allegation

that there was -- the contract was mishandled or not properly awarded -- that's the basis on which we'll look; not at what level, and not that. I just don't want to intrude on the criminal aspect of it.

And the thing that we would try to look at, if it's important, is either at the level of government at which the mismanagement occurred, for instance-- That's very important -- that it-- We don't want high-level government authorities setting bad examples, misusing the offices, and so forth. And also, we try to -- if it's a significant amount of money that's at risk, if we see that someone may have misused their expense account.

But, you know, the problem is that it's just a question of-- I think a lot of it is experience. But there are often red flags in small amounts of money. So we look at things carefully, and we look at who the person is, what their position is, what their job is, what kinds of responsibilities they have. Is it just some waiter who picked up the change off the table or something? We're looking at the biggest impact for the citizens of New Jersey, whether it's the office that they hold, whether it's the amount of money that's at risk.

For instance, when we looked at the Deputy Commissioner, when we looked at the Assistant Commissioner, it was both. There was a lot of money at stake. It was a high-level State officer in that situation, ethics concerns in that. So we were-- I think that was the idea, to give us discretion.

Another reason is, if a high-level -- a legislator, or a commissioner, or the Governor asks us to look at something, we're going to look at it. If it turns out that we find that there was not any wrong doing, and there wasn't waste and mismanagement, all the better. But we're going

to give those high-level representatives of State government the comfort to know that -- and that they were wrong. And if there was something -- it may not be a big problem, but we will explain to the Governor or the legislator what the problem was; and corrective action can be taken not only at the end of the case, but during the case. So you don't have to wait for months to find out.

SENATOR HAINES: Thank you.

Chairman, I have one further question, Senator Rice, if I may.

SENATOR RICE: Sure, Senator.

SENATOR HAINES: Chairman Edwards brought up a recommendation as far as follow-up -- resolving the problems and following the recommendations that are revealed by his and your offices. Do you have-- And Senator Connors raised this question as well. Do you have a tracking mechanism for whether agencies that you refer matters to follow up, or close a file, or whatever?

INSPECTOR GENERAL COOPER: Yes, we do. We do follow-ups. As a matter of fact, we were in the process of following up, just recently, one of the investigations that we had done. There was an insurance policy that had funds that were available to the State agency. And we had recommended that the agency go to that policy. It was a directors and officers policy. And so we went back on our (indiscernible) to find out whether or not -- what was the status of that case. And we found that it had sort of not been attended to, let's put it that way, when we called. And so we find now that it is being attended to. And with the SDA, they -- all of our recommendations were put on the board of directors' schedule. We attend their board meetings. We keep track of that. So we

do keep track of all of our recommendations to make sure that they are being handled and, if not, why not.

One of the things that we do with our recommendations is to deal with the agency to make sure that they make sense. I mean, I may not know everything there is about building buildings and how-- But we know that there are policies that make sense. And we talk to the agency and say, "This is what we're implementing." If they have a reason to say, at the Department of Corrections, "This is not going to work because--" I will listen to that before I make the recommendation. But if it's not a good reason, unfortunately we're going to make it anyway.

SENATOR HAINES: Thank you.

Thank you, Senator Rice.

SENATOR RICE: Thank you.

Let me thank you for coming. Hopefully, if you have any recommendations for making your entity better and coordinating with the other entities -- that's important.

But I do have a question before you leave: Where do most of your complaints come from?

INSPECTOR GENERAL COOPER: I would say that-- Well, we have a large number of complaints that come from constituents. But they're usually not the ones that are investigated. The ones that are investigated, I would say, are usually from the Executive Branch departments.

SENATOR RICE: So if Joe Citizen, who happens to be an employee, sends a complaint, more than likely, because it's not the Executive Branch, it's not going to be looked at?

INSPECTOR GENERAL COOPER: No, that's--

SENATOR RICE: Let me tell you-- When you said Executive Branch--

Let me give you an example: Let's take my city. It's easier to talk about mine, because I know everything. They just think I don't. There were allegations sent to my office that -- and the Mayor's Office of employment and training, which is the One-Stop labor department, etc. -- moneys were missing. We hear it all the time, money is missing. I sent letters to the State, because I get tired of hearing it. I don't want people to say I didn't do my job. And I ask them to look into it. And one day I saw the Commissioner. I said, "Excuse me. Let me just ask you a question. Did you get my letter?" He said, "Yes, but you know, we've been looking at this. It's not money missing, they spent more money than they had." I said, "Well, that means money is missing."

And the question is: Does anyone call over and say, "Well, Inspector General--" and this question you, Comptroller, can answer too -- and say, "Look, we have this issue here of allegation that money is missing. But, in fact, it's more money spent, the best we can tell. Would you take a look at it?" And because--

The question becomes one of poor management and systems versus malicious intent. Do you see what I'm saying? My point is that, okay, it's missing. But was there some "in-house" scheme to do something wrong, or do we just have faulty computers and someone that just couldn't do their little BlackBerry right and add this stuff up? Do you know what I'm saying?

And so the question is, I guess: Are the departments, commissioners in particular, keeping you and others informed that, "We're going to take a look at this and we'll get back, because here is what we're hearing," because there may be a need? Or are they just going to make a determination -- "Don't say anything to the Inspector General about this one. Even if there's more money spent, etc. We're just going to assume, because we know these people -- we're not trying to hurt anybody, everybody is nice folks -- we're just going to put it back (indiscernible). They're going to be short, and they can move on with their lives" -- only to have it come up again, because we haven't taken anybody out of the system? Because there's always this intent to continue to perpetuate a wrongful action, if you will.

INSPECTOR GENERAL COOPER: Well, do I understand you to say that the commissioners may not be reporting the really significant complaints?

SENATOR RICE: I don't know. My question is: Are they reporting when they go in, or are you the ones going in there to find this stuff? I don't know if they send their own people in -- they have these auditors and people too, whatever that means -- and saying, "Boy, it looks like you spent more money than you should have spent. We have a problem here." Do they come and notify, say, your office, the AG, the Auditor, the Comptroller? I just need to know where the communication is to at least make -- create awareness for your department. Because it may be something you have to look into.

INSPECTOR GENERAL COOPER: We do get a number of anonymous complaints about departments. And actually, the one with the

Human Services -- the Division of Addiction Services -- was an anonymous complaint that was given to the Commissioner, that he gave to our office. We have a couple of anonymous complaints now, of a single department, coming in. We've received an anonymous complaint about another department. I don't want to say now which department it is, because we're looking at it. But people within the department who are dissatisfied with the way things are being handled will often write to our office. And we'll look at those, because people do see things. And we'll look at it. And if it seems to be based on something other than just sour grapes or something, if there seems to be something there-- In each one of those cases we looked at it, we saw that the person seemed to know what they were talking about, and so we took it further.

But I don't know-- As I said, we're 15 investigators, counting myself. So we're doing what we can. And if we get somebody to say that there's something that should be looked at, we'll take it. We don't say no if it's something that appears to have some meat and should be looked at. We don't say no. We try to squeeze it into the caseload, and maybe something can be put aside until what we're looking at--

Because we are looking at some more systemic things -- maybe I should tell you that -- because we had an executive order that directed us to look at the internal controls of all of the State authorities. So it wasn't necessarily an allegation. And that led to a lot of inquiries. So we haven't gotten out of the first four authorities yet, because there were so many things to find. And so we do some global studies, some-- We're looking at-- For instance, for four years now we've looked at the benefits of the authorities and how they differed from the typical State benefits. We gave

you published reports about that. So things like that could be pushed aside for a couple of weeks, or whatever we have to do, to make way for something that's important. So we won't say no if it appears to be something that's significant and has meat to it for that reason.

SENATOR RICE: Okay. I'm going to let you go, because it's getting late, and I want to get the other two up.

INSPECTOR GENERAL COOPER: Sure. Thank you.

SENATOR RICE: But I want to (indiscernible), and we have some more discussions, because you were doing good until you got to the end with the authorities stuff. (laughter) You said systemic, and SCI said we don't hound the local stuff that -- we take the systemic stuff. And I'm saying now, you got bogged down with that for four years and maybe it should have been over there if you only have 15 people.

INSPECTOR GENERAL COOPER: Well, we try.

SENATOR RICE: And so we're going to bring up the Comptroller and the Auditor at the same time. We're going to find out just what it is they do. (laughter) And I'm going to raise the question as to if an agency has problems where they overspent money -- who was aware of that. And then what do we do?

So I want to thank you very much. No more questions for you.

Thank you.

INSPECTOR GENERAL COOPER: Thank you, Senator. Thank you for giving me a chance to speak about the Office. I'm always happy to do that.

SENATOR RICE: The Comptroller and the State Auditor: Why don't the two of you come up at the same time. I think you're all

working with numbers and oversee each other, or oversee numbers. I'm not sure.

Either one of you can determine who wants to go first, given whatever your tiers are. You all coordinate that like a team effort, because you work together anyway.

Who wants to make the first-- We want to know what you do.

MATTHEW BOXER: Mr. Chairman, I don't know that we have tiers here, but mine may be a little shorter, so I volunteered to go first.

SENATOR RICE: And you are the what?

MR. BOXER: I'm the State Comptroller, Mr. Chairman.

SENATOR RICE: Okay. So you are shorter than the Auditor. I know it's a little more calculation on his--

Go ahead.

You're the numbers guy, right?

MR. BOXER: Good afternoon, Mr. Chairman and members of the Committee.

My name is Matthew Boxer.

Thank you for the opportunity to testify here today about the operations, responsibilities, and areas of oversight of the Office of the State Comptroller.

The Office of the Comptroller began operations early last year. The bill creating our Office was passed by the Legislature, as you know, and signed by Governor Corzine with the goal of bringing greater efficiency, transparency, and accountability to government operations in New Jersey.

The bill creating our Office noted that as the size of New Jersey State and local governments has grown in recent years, State oversight in

the area of financial controls and accountability has had difficulty keeping up. The Governor and Legislature thus created a financial oversight office that would be independent in its functions, while reporting its findings directly to the Governor and the Legislature.

Our Office has several areas of responsibility. First and foremost, our Office is empowered to conduct audits of State government entities, local government entities, boards of education, independent State authorities, local authorities, government units of all kinds in the state, as well as public colleges and universities. And that audit authority -- it's worth stating explicitly that that audit authority includes both traditional financial audits, as well as more programmatic evaluations and performance-based reviews. In recent years, New Jersey had fallen behind other states, as well as the Federal government, with regard to reviewing those -- that performance-based review of such publicly funded programs.

All of our audits are carried out in accordance with Generally Accepted Government Auditing Standards that are set forth by the Comptroller General of the United States. To give you a flavor of things, audits we are currently engaged in include several State audits -- State agency audits, such as at the Department of Children and Families. We're reviewing their vehicle usage. We have an audit at the Department of Human Services ongoing, concerning their third-party contracting practices, specifically at the Division of Developmental Disabilities. We have an audit ongoing at Rutgers University. And we have audits ongoing in a series of municipalities including, by way of example, Atlantic City and Washington Borough in Warren County.

In addition to conducting audits, we are also charged by statute with coordinating the internal audit function of State agencies. We work with State agencies to ensure that the audit resources in State government are being marshaled and applied in the most effective way possible. And that includes auditing staff at, for example, the Department of Education and Department of Community Affairs. We act as a traffic cop, so to speak, to ensure that resources are being applied most effectively in the area of audits.

Moreover, in view of the history of problems in the area of public contracting in New Jersey, our Office's enabling legislation, that all of you crafted and approved, also charges us with specific oversight responsibility in the area of reviewing government contracts, specifically. We are charged specifically with reviewing and preclearing the procurement process for any government contract that has a value in excess of \$10 million.

Our review is aimed at determining whether the process the government unit intends to use to select a vendor complies with all public contracting laws. So we don't make policy decisions whether we think it's a good procurement or a bad procurement. We just look at the law, we look at the procurement procedure to be used, and we make sure that nobody's about to do something that's illegal, that's going to cause embarrassment and problems for everybody on the other side.

We're also charged with engaging in an after-the-fact review of government contracts that have a value of more than \$2 million but less than \$10 million.

Lastly, our legislation charges us with giving training and guidance to government entities in areas like internal controls, auditor selection, and other financial best practices. For example, last Summer we released a report giving guidance on the issue specifically of auditor rotation and selection by local government units in the state.

Since the time our Office began operations, the Legislature has passed several additional statutes that expand our audit responsibilities in specific ways. By way of example, we now have specific obligations in overseeing audits concerning the Health Care Stabilization Fund.

In addition, elected officials such as the Governor, members of the Legislature, have periodically asked us to engage in other miscellaneous projects or reviews. For example, at Governor Corzine's request, we recently began looking into setting up an interactive Web site that would detail all State agency expenditures. And work on that is now underway.

So that's a summary, I hope not too lengthy, of what our Office does and our responsibilities.

Thank you, again, for the opportunity to be here. And I'd be happy to answer any questions, and turn it over to Mr. Eells.

SENATOR RICE: We'll let the Auditor speak first before we ask any questions to you. Because it seems as though you may be close to one and the same.

Go ahead, Mr. Auditor.

S T E P H E N M . E E L L S: Okay. My name is Stephen Eells. I'm the Assistant State Auditor.

The State Auditor position, as you are aware, is currently vacant, with Mr. Fair's retirement in June.

Thank you for inviting me here this afternoon.

I'm not going to read from the descriptions I've given you. I'm just going to go through some pieces of it and just point out some of the important things, and then allow you to question if there's something I leave out.

But there is one statement I'd like to make in the beginning, from what I've heard from the other testimony. Our Office is strictly audit. We are an audit function. We do not investigate. If we run into situations of fraud or misappropriation, the law is very clear that we are to refer that to the Governor. Our process for doing that is through the Attorney General and through their Division of Criminal Justice. So that's how we accomplish-- We do not perform any investigations. We need to be very clear when we cut off our audit, so that we don't hinder any investigations that might be done by the Division of Criminal Justice.

The Office of the State Auditor is within the Legislative Branch of government. It was formed back in 1934. The position itself is a constitutional officer. It is appointed by the full Legislature for a term of five years. And we've had a number of statutory amendments dealing with the powers and duties of the State Auditor since that timeframe.

We are positioned within the Office of Legislative Services. That's due to the provision of the Legislative Services Act.

The critical independence for us in the audit function is that we are located within the Legislature. We have responsibilities to audit the Executive and Judicial branches. And that independence of being set up in the Legislature, not in those branches, is critical. Some of the other entities have reporting responsibilities that involve the Governor. We do not have

that. While our reports go to the Governor, we are at the Legislature -- I mean, we report primarily to the Legislature. Our reports go to the Governor, they go to the legislative leadership, and to the Executive Director of the Office of Legislative Services.

We are primarily asked to conduct post audits of all transactions and accounts kept by and for all the departments, offices, and agencies in State government. Our audits consist of financial and performance audits: financial being-- Our primary financial is the State's Comprehensive Annual Financial Report. It's better known as the CAFR. We provide the audit work and the opinion on the State's financials on an annual basis.

The other types of audits that we perform are performance audits. Performance audit objectives are to determine whether the financial transactions are related to an agency's programs. So I think that fills a little bit of the gap that you were concerned about if somebody has overspent money. We primarily go in--

We're not invited guests. We don't go from referrals. We are-- Audits can be established in several ways. The Legislative Services Commission can request us to do an audit; the legislative leadership, the Senate President, and the Speaker can request us to do audits. And then the State Auditor, on their own initiative, can perform audits.

So our audits are all planned. We put out an audit plan on an annual basis. And as those requests come in from those entities, we would perform those audits within the resources.

It's very important that if we get any type of constituent or any type of referral from outside those entities, we have to refer that back to the

Legislative Services Commission. If that's something that they want us to go forward with, again the law is very clear on that. That's where our audits can come from.

If we happen to be -- our audit plan has contained in it an audit that we're doing or in the process of, and we become aware of something from either a constituent or from a legislator, we certainly work with that individual. We're in there doing that work, and so we do address any concern that they would have from an audit perspective, since we are there. But if it's an actual request for an audit of a program that we had not planned or not in at that moment, we do refer that back to the Legislative Services Commission, by law.

Going back to the types of audits: the performance audits. They look at that an agency's programs are reasonable, that they're recorded properly in the State's accounting systems. A type of audit might also-- You've given us legislation, back in 2006, to actually look at performance issues. So economies and efficiencies we are now permitted to look at; prior to that legislation we were not. We were primarily financial issues. But now we can look at that as well.

Some of our audits involve some of the information technology systems that have been employed throughout the State. And we look at that to make sure that information is reliable, valid, and, most importantly, properly safeguarded. There is very critical and personal information in some of those systems throughout the State. And it's very important to make sure that that information is properly safeguarded. And so we do look at those systems while we perform IT audits.

We also have legislation that authorizes us to conduct forensic audits of school districts that have had their general funds fall into a deficit. The legislation has an allowance. There has to be another criteria of the law in place, not just the deficit balance, in order to go into that school district for forensic purposes.

For example, they all have financial audits performed. That financial audit might have been qualified for some reason: an internal control weakness, or severe weakness, that qualified their opinion. That would be another criteria in the law. So with their deficit and that weakness in reporting, we would be authorized to go in and perform a forensic audit.

Concerning follow-ups-- There has been some question about follow-ups on audits. Written into legislation in the last several years, as well, we are required to go back in and follow up, on an annual basis, the recommendations that we've made in our reports. And what we do is, we issue a report -- it's usually in March of each year -- on the prior fiscal year. What we do is, a fiscal year will end. Six months later, January or February, we go in and we follow up on the audit reports we've done and the recommendations we've made in the prior year. And we see how the agency is doing. And we report that to the Legislature. And there are consequences in that legislation for agencies and departments who do not make every attempt to comply. The Budget and Appropriations Committee, in testimony when those agencies come in, can question and actually withhold funds if they deem the department is not making enough progress to follow up on the recommendations that we've made.

A little bit about our Office and our size: We are one of eight units within the Office of Legislative Services. The State Auditor's Office is comprised of 91 professionals and six administrative staff. In order to be an auditor, you must possess a bachelor's degree in accounting or a related field, and a minimum of 24 accounting credits. Fifty-two of our staff members possess professional certifications or advanced degrees.

We complete approximately 35 to 40 audit reports a year. They're an array of State programs, again depending on where we plan to go in. And our plan is developed on a risk-based model. We have extensive experience in all of the timeframes we've been dealing -- in State government. And we use that experience to create the cycles. If we go into a department that has strong internal controls and has a strong financial background, we may not go back to that department for three, or four, or five years. We operate on about a three- to five-year audit cycle, trying to get back to the departments. We try to never make it longer than five years. In three years, we would go back into a department that maybe we had problems with. We would want to get back in there. And again, with our follow-up legislation, with the legislation that was put in, we are going back in, and following up, and making sure that most of our recommendations are being put into place. So we are comfortable that they are complying with that new legislation. We actually have increased-- I would say, 10 years ago our compliance rate might be 60 to 70 percent. It's over 90 percent now with that new legislation in place. So that has had a positive impact.

Our average cost savings and revenue enhancements approximate about \$100 million or better a year. That's looking at -- over

our last three calendar years, with a budget of about \$7.2 million. So, again, the return on investment, as Commissioner Edwards had stated, is very good. These are areas that we feel you need to continue to make an investment in -- your audit watchdogs.

And with that -- that's a summation of who we are and what we're responsible for -- I'll take any questions.

SENATOR RICE: I thank both of you very much.

So, technically, the Auditor is somewhat on the legislative side, and the Comptroller is on the administrative side. Is that what we're really saying?

MR. BOXER: Yes, we are in the Executive Branch. The Comptroller's Office is in the Executive Branch. From the reporting perspective, Mr. Chairman, I report to the Governor.

SENATOR RICE: Okay. So now if we wanted to -- we get complaints from your Office, what you're saying is that you go and do performance and programmatic, if that's requested, through the leadership in the Legislature, of that department. So you could actually be a check and balance of that department. Is that what I hear you saying?

MR. EELS: Technically, I could audit the Comptroller's Office. Is that what you're asking me?

SENATOR RICE: Yes.

MR. EELS: Technically, I could. They're in the Executive Branch.

SENATOR RICE: Okay. Have you figured it out yet? (laughter) I picked up on that real quickly, okay? Legislative versus the (indiscernible), okay?

MR. BOXER: It keeps me up at night, Mr. Chairman.

MR. EELS: We're pretty happy with him so far.

SENATOR RICE: But the question is: Can the Comptroller -- does he have that same ability on -- coming on the legislative side, in terms of the Auditor's Office? Because they address programmatic and performances too, throughout various departments, agencies, I guess outside. They get a whole litany of things they can look at.

MR. EELS: The Comptroller had mentioned the coordination of effort. We're very careful about -- we put out and submit an audit plan on an annual basis. We make sure the Comptroller has that. So we're very careful about coordinating. We meet with them, we meet with their audit staff. The Comptroller had mentioned a Children and Families audit that they're doing. We had some audit work that we were doing regarding cars in that audit. And we sat down. We gave them our concerns, and they're following up on those so that the two of us aren't auditing the same agency. So we're very careful about coordinating our effort to make sure we're not auditing the same things.

SENATOR RICE: But you stay on top of what you give them? In other words, I'm trying to see the tightness of oversight. If you're going to give them your information on something the two of you are doing, are you going to stay on top of it?

MR. EELS: Absolutely.

SENATOR RICE: Because ultimately-- What I'm hearing is that we created this Office -- this is constitutional. So you're not (indiscernible). Ultimately, it seems to me, you have a little bit more

authority to pay attention to those things and details, or more responsibility under the Constitution.

MR. EELS: Yes.

SENATOR RICE: Regardless of what you give them, ultimately you may very well be held accountable for it. I just want to make sure your relationship is such that they understand you're going to oversee if they're going to take the lead.

MR. EELS: They had agreed -- their old director had agreed to come back and brief me so that I could-- I had actually been part of a hearing where we talked about vehicles. And once that work is done, they're going to brief me so that I can brief that entity, that Committee, as well. But yes, they have agreed to keep me up to speed on the results.

SENATOR RICE: All right. Now, what kind of staffing do you have in the Comptroller's Office, personnel wise? Are you just -- Governor got -- has got a job, and you hire all these big law firms, the same ones that get all the work all the time -- none of them are minorities by the way, you know. How do you do all these performance audits, programmatic audits?

MR. BOXER: We do them with our staff, which is of approximately 55 people. We have-- Our staff consists of primarily auditors, and we have some attorneys as well. And the attorneys focus a lot of their efforts on the contract review process I mentioned in my earlier remarks. But we have, to this date, conducted our efforts wholly with our internal staff. We have not contracted out to hire any outside firms to do that work.

SENATOR RICE: Now, your staff was inherited, or your staff came under the legislation we passed to create the Office?

MR. BOXER: We started from scratch. So when we started in January of '08, there was me, basically. And we've staffed up the Office in that time. So we didn't absorb staff from another agency. We've hired our staff over the course of the last year.

SENATOR RICE: Can you send me -- I don't need the names -- but give me a breakdown of the number of women and minorities? In other words, diversify the breakdown: blacks and Latinos, and kind of like geographically, where they come from.

MR. BOXER: Sure.

SENATOR RICE: Because one thing I haven't paid as much attention to as I should have paid in this government over 20-some years-- We bring in these new titles, and I forget they have to hire people. And I think they have three or four people, and I find out they have an army -- but a very necessary army -- then that bothers me, because I start thinking of affirmative action, knowing how government works, and politics. So if you'd just send that to me, I'd appreciate that.

Now, your Office-- So all the audits you've said you've done so far at the Comptroller's Office have really been through your staff. So it's not really been contracted out to the accounting firms and people like that to date, right?

MR. BOXER: Correct. We have not contracted out.

SENATOR RICE: And your area on the Auditor's side-- What's the number of people you work with, in terms of human resources, versus -- are you contracting a lot of stuff?

MR. EELS: No, we do not contract our audit work. We have 91 audit professionals that complete our audits throughout the year. There's nobody who's contracted. They're all legislative employees.

SENATOR RICE: Okay. Since you've been around so long, can you send that information on affirmative action, and breakdown the geographic -- where people are coming from?

MR. EELS: Absolutely.

SENATOR RICE: We don't know anybody -- at least I don't -- who get jobs in State government. Even if we send a recommendation asking for an interview. So I didn't realize we had this many people -- which are necessary there, I understand that. I support what's necessary. But I also support diversity. And now with this stimulus coming, I know that women and minority want to be stimulated too, because they're losing their jobs. There isn't any use in me lying about that. So I figured since I have you here, I might as well raise the question, because I used to raise it when I spent nine years in Appropriations. And I'm not so sure if enough people are raising those to the point where they're giving lip or not. They've got to act like they're angry about it, scare you to death, and things like that -- or come and let me know, then I'll talk to the Governor.

Do I have questions from the rest of the members?

I want to thank you for coming. I have a better idea--

Oh, just, very quickly, you don't have the authority but just to share stuff, right? In other words, once you-- If you go on and think that this is not a true system breakdown because of old, antiquated equipment, or someone who just didn't get the right education, then you automatically

send your stuff to those other agencies we're talking about, from what I know of what you're saying, if you suspect that--

MR. EELS: Our audit reports go to the Legislature. If we suspect wrongdoing, by law I have to refer that to the Governor, which -- the avenue for that is through the Attorney General, because we are strictly an audit arm. We don't do any investigations. I don't have that expertise on my staff.

SENATOR RICE: Well, you work for the Governor. Do you know what I mean? When you said *referred*, you refer it to the agency, right, not to the-- See, I don't trust all governors. There isn't any use in my lying about that. I hope I don't have an agency that says, "Well, there's a problem. Let me give it to the Governor and let him determine who is going to get it, or to the Senate President, or the Speaker." I just don't have the level of trust.

If you go to the AG-- In other words, "Governor, I'm going to the AG." Is that the way it works? "Governor, I'm going to the Inspector General." How does this stuff work, or does the buck stop right there? He makes the determination whether it's going any further.

MR. EELS: It is-- I mean, as a legislative auditor, it is the Legislature -- I am making a referral to the Executive Branch. However, we do follow up on those. So I do follow up with that office to make sure -- to see where prosecutions are going, if they've dropped the case, if they're not going any further.

As you indicated earlier, we don't always hear back from them. I'm usually the one who has to go to them to try to follow up on the cases we've referred. But they use a significant amount of our audit information

in their investigations, and SCI has as well. They just don't have as many auditors available to them. So they use our reports, and they follow up on items that don't seem appropriate, even where we might not have found wrongdoing. If they feel they've got an investigation or something more statewide than just in the department we were in, they'll take an investigation on, and they'll come and ask us about it. They'll review our work papers. SCI has subpoena power. And they're in the Legislature, so we share that with them. We don't make them go through that process. They have the same level of confidentiality that we do. Our records and information are protected from the Open Public Records Act. So the confidentiality of individuals, taxpayers -- information that might be in our work papers -- is protected. But we share that information with those entities to make sure -- and we follow up with them.

SENATOR RICE: Mr. Boxer, from your perspective, when you run into something, do you give it to the entity and let the Governor know that, or do you give it to the Governor and let him do what he wants with it?

MR. BOXER: Our audit reports are delivered to several places. One, we give our audit report to the entity in question that we're auditing; and they are permitted to provide a response, which we then append to our report.

We also, under our enabling legislation, provide all of our reports to the Governor, to the President of the Senate, and Speaker of the Assembly. Our enabling legislation also provides that when we set forth a remediation plan as part of our audit, that the agency in question is required to follow that plan. And we do follow up on every audit we do in

the months to follow, to go back to the entity that we audited and review what our recommendations were, and ensure that those recommendations, in fact, have been implemented.

If there's an instance where we made a bona fide recommendation that has not been implemented, our enabling legislation does provide certain options that we can call on, such as suggesting to the Governor that funding be withheld if there's a program that's not being appropriately administered; or, in an extreme case, if there's a particular individual who's been recalcitrant in responding to an audit, we can recommend that the Governor look into disciplinary action regarding that individual. And then, in addition, if there's something we see that's criminal, for example, we have the ability to forward that to the Attorney General or elsewhere.

SENATOR RICE: Thank you very much.

Questions?

Senator.

SENATOR HAINES: Thank you, Chairman.

Good afternoon, gentlemen, and thank you for your testimony.

One way I often hear your Office described, Mr. Boxer, is that it is an independent office. Is that something you can relate to or you can share with me how that -- what is the meaning of an *independent office*?

MR. BOXER: Certainly. Our Office is independent in several respects. First and foremost is the fact that the -- by statute, the State Comptroller has a term of six years, and the Comptroller cannot be removed during that period unless there's particularly good cause. So our Office is independent in one sense in that if there's a change in

administration, for example, a new governor couldn't say, "Well, I don't like that Comptroller. I didn't appoint him or her, and so I'm going to need a new one." There's a six-year term which provides independence in that respect.

In addition, with regard to the specific work that we do, there's a guarantee of independence in that our work is not assigned to us, so to speak, by any particular elected official or elected officials. So unlike in some audit offices in some states, where the audits may be determined by -- the governor decides he or she would like to have an audit conducted of entity *X* or the head of the -- one of the houses of the legislature decides they want an audit done, and they could dispatch the state comptroller to do that. That's not how our Office is set up. We have, under our statute, certain factors that we look to in determining what gets audited and what doesn't. And we try to keep the process as objective as possible. But we can receive requests, as I say, from elected officials. But ultimately we maintain the final word on what projects we undertake and what we find in those projects.

SENATOR HAINES: So you, the Comptroller, makes the final decision as to whether to open an audit or not?

MR. BOXER: Yes, the final decision would rest with -- certainly with my Office. I have a-- We have a panel -- I guess a *committee* would probably be the best word -- internally that vets audit requests that come in. For example, we get tips from members of the public -- some of them anonymous, some of them not anonymous. We get requests from legislators, from the Governor, from others. And we have a group of folks

within our audit division who ultimately make a recommendation as to where our resources can be best applied.

SENATOR HAINES: Okay.

I guess this is a question for either, Mr. Chair, and I thank you for the leeway here.

If the State promulgates regulations which the State has reason to believe are not accurate, and local government relies on those regulations and acts pursuant thereto, and acts to the detriment of local government so that substantial taxpayer dollars would be spent in reliance on that State regulation, which was not accurate to begin with -- is that something that you would look into? Would that be within either of your jurisdictions?

MR. EELS: Yes. If we're looking at a program and we feel implementation of a statute or a reg has some type of a conflict in it, we certainly would report that back to the Legislature. Again, they didn't do anything wrong. They were acting within the statute or the regulation. However, if we feel there's some conflict -- maybe it's not being implemented as intended, we would certainly bring that to the Legislature's attention.

I think -- as Mr. Boxer had said, we do not promulgate policy. We will bring facts to your attention. But the Legislature, in our regard, is the policy makers. So we don't put opinions in there. We just try to state the facts of what's going on, what we've been made aware of in programs.

SENATOR HAINES: Would that also be something within your Office's jurisdiction, Mr. Boxer? I apologize for the hypothetical nature of the question.

MR. BOXER: No. I mean, in general terms, yes. We could be conducting an audit and an issue like that could arise in the -- as part of an audit where that kind of problem with-- There's a policy that was implemented, perhaps, based on a misimpression or a misunderstanding, either at the State or local level, as to what the policy should have been, legally. And that's absolutely, as part of let's say a performance review that we may be engaging in, we may -- among the issues we could look at as part of that audit -- look at how that situation that you described came to be.

SENATOR HAINES: Right.

And, again, I apologize.

With the Chairman's permission, I would be more specific in my questioning. And I have to be frank, it involves the recent COAH numbers, third-round COAH, A-500, Mr. Chairman, just to be totally respectful to you and your position here.

And that's why I asked that question. And I would be delighted to pursue it further. But with your permission I will.

SENATOR RICE: Go ahead, Senator. You can ask the question.

SENATOR HAINES: Thank you, Mr. Chair.

Gentlemen, the recently enacted third-round COAH rules and the A-500 legislation that passed, I believe in November of 2008, spawned a large amount of litigation, proposed legislation from folks in the Legislature, and public comment because it was generally received in shock as to the numbers that were incorporated in those regulations. And for the record, I'm a proponent of affordable housing and have been involved as a

private attorney with affordable housing projects. But my concern is that it be done right, and accurately, and fairly.

But the reason for the question is to see if you'd be interested in pursuing what I'm about to share with you.

That affordable housing matter was brought to the attention of the Rutgers University Bloustein School of Public Policy. The Council on Affordable Housing requested Rutgers to do a study using parcel-based data to improve the accuracy of measuring developable land at the county level. As stated in the report, it was done by Rutgers. It was dated July 9, 2008.

And the report included, just as to one county in New Jersey -- it wasn't a statewide report -- that the land analysis used by the State to calculate each municipality's share of affordable housing was, number one, flawed in that it overestimated the supply of vacant, developable land in that particular county by 15 percent; and that it overestimated the residential build-out capacity by 17 percent. The Rutgers report acknowledged that that particular county used a system called *parcel-based data*, as opposed to aerial photographs that the State had used.

Hundreds of plans were prepared and submitted to comply with COAH regulations, and they were submitted by December 31, 2008. The parcel-based data used by Rutgers is not available statewide, but it may be available in up to 15 counties. I know my county that I represent part of does use that system -- that parcel-based data system.

A recent article in the *Burlington County Times* indicated that -- in an interview with Fair Share Housing of Cherry Hill, which is a housing advocate -- indicated that 70 percent of the affordable housing in Burlington County would be paid for by taxpayers.

So what I'm driving at is, we have a potentially inflated number of housing, maybe up to 17 percent. Seventy percent of that would be paid by taxpayers, which seems to be, if not a waste, an unwise use of taxpayer dollars to pay for that kind of inflated number, which isn't realistic and is flawed in the first place.

Would that be something that either of your offices would look at? Would that be within your jurisdictions?

MR. BOXER: Well, for us, auditing a county government, from a jurisdictional perspective, is certainly within our jurisdiction. I described before the procedures that we use to determine what specific audits to engage in. And I'd be happy to--

SENATOR HAINES: If I could clarify-- And I apologize. It was a long-winded question, I suppose.

But the audit, I don't think, would go to county government, but it would look more at the regulations that were promulgated prior to the enactment of a law so that the law was-- The law was enacted to require these housing obligations. But prior to the enactment, the Rutgers report came out indicating that the numbers were possibly flawed, at least to one county. That's more of what I'm talking about. The numbers from the Council on Affordable Housing were flawed prior to getting to the Legislature. And the Rutgers report came out prior to the Legislature taking it up. So where would the audit go at that point? This is before the counties get involved in it.

MR. BOXER: Well, that's the exact question. I mean, the first thing we would have to look at is what entity we would be auditing. And we'd have to-- For us to conduct the audit, the first question is: Let's

identify the government unit in question that -- where an audit or performance-based review is appropriate. And once you answer that, then -- as I described before -- the process that we use to decide whether to actually undertake that audit.

Now, it may be that-- And there are certain instances where the specific issue is -- becomes something that's more right for a legal review as opposed to an audit review. And so I don't want to prejudge the issue entirely.

SENATOR HAINES: Right.

MR. BOXER: But the first question for us, from my Office's perspective, is: What government entity are we auditing? Because that's where our power extends.

SENATOR RICE: Well, just to indicate, it appears to me that what I'm hearing -- and let's take that example. Rutgers did a study.

SENATOR HAINES: Correct.

SENATOR RICE: That's *A* happening before *B*. So it seems to me that someone would have the ability to say, "Let me take a look at this study, and let me look at the methodology used to reach these conclusions." And then *B* occurred. Someone needs to look at *B* and say, "Okay. Let me figure out, first of all, if I concur with *A*'s methodology and how they got from Point *A* to whatever. Then let me see how it's affecting -- how they get to the conclusion of the impact on *B* that's happening." And then you reconcile those. Because we're talking about not this numerical stuff now. We're talking about programmatic stuff.

I do know a little bit about something.

But anyway, there has to be a chronology to it. Do you understand what I'm saying?

And I guess the question the Senator is asking you is that: In that scenario, if one was to ask it to be looked at, number one, which entity-- See, I understood you loud and clear. Which of you would have the responsibility to look at that? And if so-- If you say, "Well, that's the Comptroller's area," then you already told us that you're discretionary to some degree. So we can't compel you to look at it.

Pretty good, huh? (laughter)

SENATOR HAINES: That's it.

SENATOR RICE: I'm a grass-roots man. (laughter)

SENATOR HAINES: It's like we've been working together for a long time.

SENATOR RICE: So my point is, in a situation like that, how would you get involved if someone wanted you to go back from your area of responsibility, and review the process, and determine whether or not -- as factually as we can -- that the methodology and everything was correct, and those numbers appear, on the surface, to be real; and then take a look at the other end and see how we get to these total conclusions of where this debate is.

How would that happen? Because you've basically said it's your decision. So I guess if you go to court-- Let me put on the other hat. See, the (indiscernible) -- not being an accountant and a lawyer -- you know enough foundation stuff that you can say almost anything, because common sense prevails.

What I'm saying is that you have this discretion, the Comptroller. A lawyer -- since nobody can tell you what to do in the Comptroller's Office -- a lawyer will go to court, and from what I understand -- I'm not an attorney -- they would argue deference, for some help. So my point is, since you have discretion, if a legislator says, "I would like this looked at," and argue a little bit of deference -- in our case, it would be respect for the Legislature -- would you look into it, or would you still say, "Well, I have to take a look. I'm busy. I have discretion. You can't make me do it." (laughter)

MR. BOXER: One thing I could say with confidence, Mr. Chairman, is any time when anyone -- member of the Legislature -- any member of the Legislature has come to my office with an issue of concern, we have given it the most -- the closest of reviews. We have matters that we're looking into based on requests that we've received from elected officials. I think those who have dealt with our Office would tell you -- I think and I hope -- I think they would tell you that when they have come to us and said, "We've got an issue of concern," we've been very deferential in following issues that the elected officials of our State have suggested is appropriate for follow-up.

So I have never told a member of the Legislature -- or I would think probably anybody that's reached out to me, even a member of the public -- I've never said, "Well, you know, I don't have time for that. We don't do that." We search out those kinds of requests. As I started to say before, we got a phone call from a taxpayer one time that led to an audit which we recently completed. I mean, we very much look for those leads.

We don't come at it with sort of a stiff-armed kind of approach, looking to fend those things off. We look to take them on.

SENATOR RICE: Senator, does that help.

SENATOR HAINES: It does. Thank you. I appreciate the latitude.

MR. EELS: If I could weigh in, Mr. Chairman.

SENATOR RICE: Yes, you certainly can.

MR. EELS: I had mentioned to you, one of our methodologies is we have an audit plan that's in place on an annual basis. DCA housing programs are on that plan for 2009. We'll probably be starting those audits in March or April. When we're aware of studies that impact an entities programs, we will certainly take those into account. And if we find issues with that study that may impact the regulations and the filings that communities may have done, based on inaccurate information, that will certainly be part of the scope of the audit and something we would be interested in.

So it's not necessarily a request, because those programs-- I know from our '09 plan they do sit in there, and we are planning to go into DCA in March and April.

SENATOR HAINES: Again, through the Chair, it's only one county. And I don't know whether it's statewide applicability. But I know my county uses that same method as the other county, which would lead me to look further just to-- It's almost a circle, so to speak.

MR. EELS: It's really the study that would key us. If they had some issues with numbers or methodology that was used-- It's all part of the planning of the scope of the audit that we do. We look for reports and

news articles reflecting that audit that we're going into. It's part of the planning that we're required to do under the audit standards to take all those things in account. And that will dictate where we go. To go over areas that you've audited in the past, and they're finding they're clean, that's not what we're looking for. We're looking for the new areas, the problem areas. And that's dictated in some type of a report or study that's been done. And we're obligated to consider that in our audit scope when we determine it.

SENATOR RICE: Anybody else?

Senator Redd, and then--

SENATOR REDD: Thank you.

Through the Chair, I want to thank you both for your presentations this evening. And I think some of my questions may have been answered, which were procedural types of questions, in terms of -- through Mr. Boxer -- how would your functions of your office be engaged by local government units that may need someone to come in and take an independent look at, for instance, the housing authority, the parking authority, or the redevelopment agency, which our local governments are, by State statute, able to create if necessary.

I thought I heard in your presentation where you report to the Governor. But I know there are local governments that you're actively engaged in, Camden being one of them--

MR. BOXER: Yes.

SENATOR REDD: --looking at contracts.

I guess my question is: Individuals who are working on the local level, who want to engage you, they just simply contact your office and ask for yourself? How would that process work, just so that I'm clear.

MR. BOXER: No, that's exactly right, what you said. We've tried to create an environment where local officials feel very comfortable in calling our Office, whether it be-- We get calls, for example, from time to time, from local government units saying, "We've been struggling a little bit financially the last few years. We think we could use some help. Would you mind coming in and looking at our internal controls, and some of our practices, and procedures? And absolutely, they-- Probably the quickest way for that to happen is for the local official in question to give me a call. And the process we typically use is, we take in the information and we do a little due diligence to educate ourselves a bit, and then present the information to our audit division to determine how we could add value. We also, with regard to members of the public-- We have a toll-free hotline that we've established as well for member of the public.

SENATOR REDD: Through the Chair, typically how long does it take for your Office to conduct an audit before the findings are presented back to the requesting entity?

MR. BOXER: It's typically about six to eight months. It's a lengthy process, lengthier than some people would think, to do-- And, again, it depends on the kind of audit, specific kind of audit. But when you're doing a performance-based review of, "How is this program doing? What is being put into the program? What are we, as taxpayers, getting out of the program?" That can be a lengthy process.

I know that the-- I've been told on good source that the New York State Comptroller takes an average of 14 months to do their audits. And so even though I don't love the fact that it's taking us six to eight months, on average, to do an audit, I feel like relative to our competition, so to speak, we're doing okay. But it is a process of that length.

SENATOR REDD: And my final question-- And, again, you answered this with one of the other Senators: in terms of when you complete your audit, your Office makes recommendations to the entity that was audited -- a corrective action plan, if you will. What timeframe do you generally set forth in order for that entity to come into compliance with the corrective action, if you will, that's been recommended through your Office?

MR. BOXER: That's a flexible process, and it really would depend on the nature of the recommendations that we are making.

In a typical case, what we might do is come back a year later to the entity in question and take a look, and say, "Well, okay, let's sit down again, folks, and let's see what we have learned as part of our audit last time around. Let's take a look at what our findings were, what our recommendations were, and let's take a look at where we are now." So it's flexible, but a year is an approximate time period.

SENATOR REDD: Thank you, Mr. Boxer.

Thank you, Mr. Chairman.

SENATOR RICE: Thank you, Senator.

Senator Van Drew.

SENATOR VAN DREW: Thank you, Chairman.

I know it's been a long day, and I just have a couple of brief questions.

First of all, thanks for the good job that you do. And I think you've been(indiscernible) out of the box very strong.

For years -- and I've been involved in government for many years at the local, county, State level. And there's always been this discussion of creating more efficiency. In fact, we even, in our legislative district, have drafted legislation that said, "While we don't like to empower you--" and I don't know if you have the power or not. But it's actually a piece of legislation to work to make the State more efficient at the macro level, at the broad level. And I know this is a huge undertaking for the Comptroller. But to say-- You typically hear, "Gee, the lights are left on in buildings," or, "There's redundancy in certain departments," or there are -- and I'm going to be very blunt -- "There are folks who don't do their jobs or don't work as well as they should," in many different departments. I'm not saying that that's accurate or inaccurate. But at that macro level, do you have knowledge -- has that ever been done in another state? Has it been done in other states? Is that something that you could undertake?

And the frustration that folks, that people have -- real people, constituents have, and even sometimes legislators, quite frankly -- people at every level is, "Gee, how can we do this thing better?" And nobody has quite, at that level -- Republican or Democrat, any administration, I don't think -- has been able to really undertake what is a -- it is a yeoman's task, but it was something that I think would fall under a comptroller's work. How do you feel about that?

MR. BOXER: Well, thank you, first off.

SENATOR VAN DREW: To give you an easy question.
(laughter)

MR. BOXER: You know, my -- if I could start with the general and then get to the specific. My overall reaction to your question, Senator, is that our jurisdiction -- my Office's jurisdiction is a product of legislation that this Legislature put together. And we-- I see our role as responding to the tasks that the elected officials in the State determine are appropriate missions for us to take on. And so--

SENATOR VAN DREW: Through the Chair, just a quick question then. So I'm a Senator. If I said to your Office -- and I know this is something that's not going to be done in one month or six months -- "I believe that this is something that you should take on," that would be something you would respond to?

MR. BOXER: The first question is: Do we have authority and the power, under our current legislation, to take on that kind of project? There have been a series of statutes passed over recent months that have expanded our authority and our jurisdiction, so to speak, with oversight of various funds and other audit responsibilities. And whenever the Legislature and the Governor have deemed to enact that kind of legislation, we have jumped in aggressively and enthusiastically to take on those projects. And we would certainly do the same here.

You mentioned other states, and the-- What I've seen in this regard, if I understand what you're describing -- and I've seen the bill to this effect that you had authored. What other states have been able to do is, they've made progress on this front, but it's been piecemeal and it's been slow-going. The State government -- I'm not saying anything that anyone in this room doesn't know -- State government is a very, very huge enterprise at this point -- just the State government itself. And if you look

at our Office, we have 55 employees at this point. If you compare that to, say, the Pennsylvania Auditor General, they have over 700 employees there. And even if you added up the staff that Mr. Eells has and our staff, that gets you to probably about a little over 100. Compare that to our neighbor to the west, where they have 700; and in New York they have about, I think, 500.

So working toward creating more efficiency in government is exactly what we're doing. I mean, we're doing it -- Human Services with the audit we just wrapped up with on the Governor's Council on Alcoholism and Drug Abuse. Those kinds of efforts of getting to a more efficient government is what all of our efforts are devoted to. To do it in an across-the-board way would be a significant task, one that we've been working to. But if you look at what other states have done, it's one that almost by its nature needs to be done a little bit in a piecemeal fashion, unless, resource-wise, you really get to a point where expense becomes a big factor.

SENATOR VAN DREW: Thank you.

SENATOR RICE: That's it? (affirmative response)

Okay. Let me thank the Inspector General; Mr. Edwards, from the SCI; the Comptroller; and State Auditor for coming in. It's been, to me, enlightening. I think it's also given you an opportunity to hear from the members of this Committee -- number one, see and know what we look like so you can put the face with the name, and even hear some of our concerns, even though some may have been -- two may have been somewhat targeted as a concern. But the others may have come out by way of questioning, so it would be more implication as it relates to this Committee and the function that we have. Other Committees, I'm sure, have a

different take on accountability, possibly, with their functions. But to me, it was enlightening.

I want to thank the members. Today was a 2:00 meeting, so we stayed late today. If it was a morning meeting, we'd stay earlier. We won't pay overtime, but we will wish you a good day. (laughter) Thank you very much. You've been a help.

(HEARING CONCLUDED)

APPENDIX



Statement

W. Cary Edwards

Chair

***New Jersey State Commission of Investigation
Senate Community and Urban Affairs Committee
February 9, 2009***

Good afternoon, Mr. Chairman and members of the Committee.

I'm Cary Edwards, Chair of the New Jersey State Commission of Investigation. On behalf of the full Commission, I thank you for this unique opportunity.

For more than 40 years, the SCI has demonstrated its value to the taxpayers of New Jersey as the state's premier independent government watchdog. It has completed, and publicly reported on, well over 100 investigations. It has revealed widespread waste, fraud and abuse in housing construction and in many other areas critical to the citizens of this State. It has kept you and the public informed about the scourge of organized crime. It has produced systemic recommendations that have

saved tens of millions of taxpayer dollars and led to extensive statutory and regulatory reforms.

All of this, and more, accomplished by an agency with approximately 50 employees on a current budget of less than \$5 million – and, over the years, sometimes with far scarcer resources than that.

I'll talk in more detail about the SCI's unique strengths, its achievements and its place as a tested leader among the few sentinels of government, but there are three key points that need to be made right out of the gate:

First, the SCI is independent, and that has been the case since the day it was conceived. It was designed and structured to function as a nonpartisan, impartial and objective fact-finding agency. It is governed by four Commissioners, only two of whom may be associated with the same political party. They serve staggered, four-year terms and are appointed by three separate appointing authorities in two branches of government – the Governor, the President of the Senate and the Speaker of the General Assembly.

This strong and unique structure provides the SCI with the integrity and the independent stature necessary to perform its job in a credible

fashion. The very fact that the Commission's fact-finding process has withstood every legal challenge ever brought to bear against it is a testament to the soundness of that operating structure and to the internal judgments and decisions that have been made pursuant to the agency's mission.

Second, the SCI is the only independent investigative and fact-finding agency in the legislative branch of state government. That is critical, and here's why: Although the Executive participates in the Commissioner appointments process, we are a creature of the Legislature, funded through the Legislature's budget. In that regard, the SCI is a valuable resource for you in terms of investigative fact-finding and, importantly, with regard to substantive raw material for sensible statutory reforms.

Chairman Rice, you personally have availed yourself of those resources with your sponsorship of legislation pursuant to the SCI's findings of waste and abuse in new-home construction and inspections. What we found in that investigation was a veritable catalogue of shoddy and deficient construction practices, lax regulatory oversight and poor remediation options that routinely plunge unsuspecting buyers of new homes into the worst sort of buyer-beware nightmare. To this day, we are

still receiving complaints related to these issues from consumers looking for relief. In each instance, these complaints are evaluated by our staff and referred to the agency most appropriately positioned to provide an answer, primarily the New Jersey Department of Community Affairs.

You should also note that the new-home construction inquiry was a prime example of another unique tool in our investigative arsenal – the authority to expand the reach of our probes, as necessary, into the private sector as it bears upon the public's business.

Third, although we spend a good deal of time investigating corruption and waste, fraud and abuse of taxpayer dollars, the SCI is the only independent fact-finding and investigative agency additionally tasked with the responsibility to investigate, evaluate and report upon organized crime. Not as a cop to make arrests. Not as a prosecutor to obtain convictions. But as a fact-finder, as an intelligence-gatherer and as a repository of investigative information and expertise. In other words, the SCI is not a "gotcha" agency; it is a fix-it agency. We refer our findings to the Legislature and to the Attorney General as appropriate.

Since its inception in 1968, the Commission has conducted cutting-edge investigations into every major aspect of organized crime in New

Jersey, highlighting its intrusion into the solid waste, garment and gambling industries and other legitimate elements of commercial private enterprise. Most recently, the SCI completed the first stage of a comprehensive investigation into the growth, proliferation and increasing sophistication of organized criminal street gangs. Our initial focus has been on the deleterious impact of these criminal entities on the state prison system, but rest assured we will have much more to report about the impact of gangs and their organized criminal activities in the communities of our State.

Mr. Chairman, members of the Committee, seven years ago, the Legislature and Governor invested their trust and confidence in the future of the SCI by enacting legislation to make it a permanent part of state government.

Since then, that trust has been fulfilled time and time again.

Besides ranging far and wide with the hard work of investigative fact-finding, we have become more results-oriented, committing more resources and staff expertise to the development of sensible, practical recommendations to address the sort of broad-based, systemic problems that we regularly identify through our investigations.

And you, the Legislature, and your counterpart in the Executive Branch, have responded repeatedly in salutary ways. To review just a portion of this record, in addition to the pending legislation to address the SCI's findings with respect to new-home construction and inspection abuses:

- In 2003, legislation recommended by SCI was enacted revising New Jersey's computer crime law for the first time in two decades.
- In 2004, the Commission's investigation of the flawed E-ZPass electronic toll system set the stage for enactment of legislation overhauling the State's contract procurement process.
- In 2005, the governor signed an Executive Order implementing key recommendations stemming from the SCI's probe of new-home construction and inspection abuses. As I indicated earlier, Chairman Rice has taken the initiative legislatively in this area.
- In 2006, the SCI's revelations that unregulated lethal handgun ammunition was readily and legally being purchased by known

criminals, including gang members, led to the enactment of legislation tightening ammo sales.

- In 2007, the Governor signed legislation implementing a new budget accountability measure for public schools, an outgrowth of the SCI's investigation into questionable and hidden compensation for public school administrators.
- The same year, the findings of the Commission's investigation into the abuse of New Jersey's Charity Care program resulted in the enactment of new fraud-detection laws.

I will also point out that as we speak here this afternoon, another committee of this body, the Senate Education Committee, is considering landmark legislation that incorporates key recommendations made by the SCI in 2007 to restore accountability, transparency and oversight to the governance of public higher education in New Jersey.

Mr. Chairman, in closing, on behalf of the Commission and its staff, I thank you again for the opportunity to describe our mission and the important work we do for the taxpayers. Every week, we are contacted by people from one end of this State to another who are looking for help in a

multitude of areas and who feel they have run out of options with no place else to turn. We respond to their inquiries.

As to an obvious question in this room this afternoon – Why do we need all of these government watchdogs? – I will say this: I've been in and around government all of my adult life, and if there's one thing I've learned, it's that you can never have enough expert eyes and ears to hold government accountable and to look out for the public's best interests.

All of us appearing before you today have important jobs to do in that regard. We talk to each other and we assist each other. Indeed, as the old kid on the block, it was the SCI that helped these new kids, the Inspector General and the Comptroller, get up and running. That's not a boast. I tell you that because it is emblematic of a cooperative spirit that gives us all the ability to maximize limited public resources to serve the public across a wide spectrum of responsibilities.

Believe me, there is more than enough work to go around.

At this time, we'd be happy to address any questions you might have.

Thank you.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE
February 9, 2009

**Opening Statement of
Inspector General Mary Jane Cooper**

Good morning Chairman Rice, Vice Chair Redd and Senators/members of the committee.

Thank you for the opportunity to answer questions you have about the Office of the Inspector General's (OIG) efforts to seek out waste, mismanagement and fraud in government spending and ensure accountability and integrity of all levels of New Jersey government. Pursuant to Chairman Rice's invitation to speak to this committee today, I would like to say a few words about the Office of the Inspector General's operations, responsibilities, areas of oversight and accomplishments in the four years since its creation.

As the Governor's investigatory arm, OIG's charge is unique within the State: it was created to receive and investigate complaints concerning alleged fraud, waste, abuse or mismanagement of State funds, with the goal of providing increased accountability, integrity and oversight of all recipients of State funds including but not limited to State departments and agencies, independent authorities, county and municipal governments and boards of education. In creating this office the Legislature declared, to paraphrase, that it is critically important that public officers and employees discharge their duties and responsibilities in a lawful and ethical manner, while conserving the fiscal resources entrusted to the government's care by the taxpayers.

I believe it is worth saying at the outset that OIG is not a criminal investigatory authority and does not have police powers. Therefore, there often comes a time, when OIG's cases must be turned over to the chief prosecutor in the State, the Attorney General, as OIG does not have the

power to use wiretaps or to offer immunity to witnesses. Also, with the creation of the Office of the Comptroller, our office no longer has auditing authority. OIG, however, is often the only executive branch entity with jurisdiction over many matters that involve allegations of civil and not criminal wrongdoing and that require investigation.

OIG's investigations are multi-dimensional: we not only investigate allegations of wrongdoing, we also investigate the root causes of these failures, whether mismanagement, insufficient internal controls, improper relationships, misrepresentation, or personal enrichment at the expense of the State. These investigations involve document review -- often thousands of pages of documents, witness interviews, and thorough analysis and structuring of the evidence. Further, we make recommendations for reform so that the cause of these problems can be eliminated. Findings are presented to the Governor, President of the Senate, Speaker of the Assembly and the entity or entities at issue.

OIG has identified varied causes that led to operational and programmatic failures at many levels of government. By way of example, we have identified inequities in business relationships between the State and a private party, where the private party did not enter into its agreements with the State in a forthright and fair manner, which put millions of State dollars at risk. We have also identified misrepresentations by a high level official within a State department that caused the department to waive millions of dollars in liquidated damages to which it was entitled; misuse of State funds by a government official in an effort to benefit a nonprofit entity with which she was associated; and failure by a State agency to meet its statutory mandate when disbursing financial compensation to eligible claimants.

These are just a few of our findings, as OIG has a very large caseload that includes requests by the Governor and State entities for specific investigations, including our year-long investigation of the Meadowlands/EnCap remediation and redevelopment project, requests from agencies for analysis and review of their internal controls, and almost 700 contacts filed by constituents. OIG has established a "Constituent Review Process" that is followed for every contact we receive from a constituent. Constituent's concerns are entered into our Constituent Tracking Database, acknowledged and then reviewed by an attorney in our office, who conducts all necessary research, compiles relevant data and materials and makes recommendations. I then review the entire file and the research to determine whether the complaint is appropriate for an investigation by OIG. All determinations are promptly communicated to the constituents in writing and we make ourselves available to them for further discussion and explanation.

OIG's decision to accept a constituent concern for investigation is based on several factors: whether the concern is within our statutory mandate (are state funds at risk?), whether another entity is already investigating the matter, and whether it appears that the outcome of the matter will have a significant impact on the State as a whole.

If we determine to investigate the matter, or if the constituent has provided information about a matter already under OIG investigation, we advise the constituent (if the constituent has made his identity known to OIG) of our decision and that someone from OIG will be in contact with him shortly. The constituent is advised that he will be kept apprised of the matter as necessary, feasible and appropriate so as not to interfere with the ongoing investigation. He is advised that

he can call OIG at any time for an update on the matter, and is notified, to the extent appropriate, when the investigation is concluded.

If OIG determines that it will not investigate a concern and the constituent's identity is known, OIG will, with the constituent's permission, refer the concern to the government agency most likely to be able to resolve the concern. Often, these entities are not investigative bodies but nonetheless possess the ability to respond to the constituent's concerns, such as State departments, Motor Vehicle Commission, United States Postal Service and United States Department of Housing and Urban Development. In that case, we forward the file to the entity along with the constituent's contact information. We ask the government entity to inform us and the constituent of the outcome, as appropriate. The matter remains open until we learn of the outcome.

If the constituent does not wish the matter to be referred to another entity, we advise him in writing of the reason that we are not investigating the concern, and provide him the name and address of a government entity more suited to resolve his concern should he wish to contact the entity on his own.

OIG maintains in regular communication and coordination with other investigatory bodies within the State and with the affected government entities. We ensure that there is no duplication of effort and if, in the course of these investigations, we identify matters that are outside our jurisdiction and within the jurisdiction of other government entities – for instance, the Division of Criminal Justice, the State Ethics Commission—we refer the matter to the appropriate entity,

identify all relevant issues and facts, and remain on call to assist in the subsequent investigation if necessary. We have referred ten completed investigations to the State Ethics Commission, including cases that involved a deputy commissioner, an assistant commissioner, executive director of an authority, and a regional director of the then-Schools Construction Corporation, all of whom no longer hold their government positions. We have referred many of our matters to the Division of Criminal Justice to determine whether criminal action is warranted and are currently working with federal and state entities that have taken up an investigation in response to a referral we made to the Division.

We also ensure that there is a continuous dialogue with the impacted government entities. Several of OIG's investigations have involved matters that continued to evolve even as our investigation was being conducted. As such, throughout our investigations we have regularly communicated, where appropriate, with the management of affected entities to provide them with vital information in order for them to take immediate corrective action. In fact, there have been instances in which we discovered information that government entities should have had but did not; we were able to share this information without compromising our investigation, thus facilitating government operations.

With its limited resources, OIG has also identified conduct and made recommendations to state entities, the Governor, the Senate and Assembly that have resulted in significant savings to the state. We have identified misused or improperly committed funds that far exceed our office's entire annual budget, which for Fiscal Year 2009 is \$1.8 million. Examples of some recent OIG investigations that have resulted in the savings, recoupment or rescue of State funds include:

- **Investigation Concerning the Department of Corrections (DOC) Inmate Dental Health Services Contract:** OIG's investigation revealed an improper agreement between a former Department of Corrections Deputy Commissioner and a Vice President of Correctional Medical Services, Inc. (CMS), the vendor, that resulted in the failure to assess approximately \$4.5 million in liquidated damages against CMS for failure to meet certain contract specifications. OIG further found that the Deputy Commissioner was not forthcoming with his supervisors and manipulated staff who reported to him. At the time of OIG's report, the Deputy Commissioner was poised for a promotion; he is now no longer employed by the Department. OIG's investigation also revealed approximately \$700,000 in overcharges to the State by CMS. The Attorney General's Office, which was unaware of the problems identified by OIG, has recovered some of these funds and is in the process of attempting to recover the rest. OIG is assisting the Attorney General's Office in their effort.

- **Investigation Concerning the Conduct of a Former Division of Addiction Services (DAS) Assistant Commissioner and the Misuse of State Grant Funds:** OIG conducted an unprecedented line-item review to determine almost to the penny how DAS awarded State grant funds and how the recipients spent those funds. OIG sought to determine whether the expenditures were in accord with State and Federal grant requirements. OIG's recommendation resulted in recovery by the Department of Human Services (DHS) of more than \$1.7 million and the rescue of \$2.3 million from misuse. OIG is still working with DHS and the Attorney General's Office to recover funds from the grantee's Directors and Officers Insurance.

- **Meadowlands Remediation and Redevelopment Project:** Governor Corzine requested that OIG conduct an investigation into the history of the Meadowlands project's financing, which was highly complex. OIG reconstructed ten years of the project's history and financing and, early in our investigation, we determined that there was an absence of a comprehensive understanding of the project in its totality among State and local government entities and that the private party with which the State had contracted had behaved in such a manner as to generate a fundamental failure of trust on the part of State entities. Contemporaneously with our investigation, OIG was able to facilitate communication and coordination among the government entities and identify the failures and underpinnings of the State loans, providing valuable lessons learned for public/private partnerships going forward. In fact, OIG was present the first time all of the government stakeholders and the private party met together. The State halted the project and OIG's investigation aided in the protection of approximately \$40 million in State loan funds from being spent. Moreover, in Governor Corzine's Executive Order No. 118, the Governor points to OIG's report, which discusses the integrity of government decisions regarding redevelopment projects and the timing of political contributions by individuals involved in public redevelopment projects. Legislation is currently being considered that would implement recommendations made by OIG in its report on this matter.

- Although OIG's review is ongoing and a final report has not been issued, OIG undertook a review of the Victims of Crime Compensation Agency (VCCA) and identified substantial items that it believed would be of concern to the Attorney General, whose department was about to take responsibility for and now has oversight of VCCA. OIG initiated its review at the request

of the Department of Treasury, which expressed concerns about whether or not VCCA was following sound fiscal policies and procedures. OIG wrote to the Attorney General to detail certain initial findings and concerns that, in sum, VCCA was inappropriately awarding payments to claimants. As a result, the Attorney General assigned an interim Executive Director of VCCA and assigned staff to review the agency's operations and processes to identify possible improper payments. This review has likely resulted in the rescue of thousands of dollars from potential misuse. A new Executive Director has just been appointed.

- New Jersey Schools Development Authority (SDA) (formerly the NJ Schools Construction Corporation): OIG's 2005 initial report detailed the weak internal management and financial controls and lax or nonexistent oversight and accountability in place at SDA, an organization charged with building schools and a budget of \$8.6 billion. In that report, the Inspector General recommended to the then-Governor that a halt on work and spending be put in place at SDA until a series of emergent recommendations for internal controls and appropriate spending were implemented. The then-SDA President acknowledged that millions of dollars in waste was prevented by this halt. Since that time OIG has continued to conduct reviews of SDA and certain vendors that have resulted in various reimbursements of overcharges or incorrect payments to SDA.

While these matters were in some cases referred to other state agencies for follow-up, much of the immediate recoupment of funds, cessation of wasteful conduct, cost savings and identification of lessons learned would not have occurred but for OIG's unique review of the expenditure of state funds with a focus on conserving the state's limited resources.

OIG has attained this success with a very small budget and a very small, yet professional and talented staff. OIG's adjusted budget for FY 09 was \$1.8 million dollars. OIG staff consists of 15 investigators (including the Inspector General and two attorneys dedicated exclusively to the SDA) and 2 administrative staff (the Chief of Staff and Public Information Officer who also functions as the Assistant to the Inspector General). If you take just one of our most recent investigations, DOC, which resulted in a potential cost savings to the state of over \$5 million, compared to the entire annual cost of our office, \$1.8 million, you can immediately see the benefits of our office. Considering that the DOC investigation was primarily conducted by only

two members of our Staff, accounting for approximately 10-15% of OIG's resources, it is also easy to see the impact that the office, as small as it might be, can have throughout state government.

Thank you for this opportunity to speak with you about OIG's work. I look forward to answering any questions you have and to responding to any matters that you believe require investigation.

New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor
Summary of Testimony
Presented to the Senate Community and Urban Affairs Committee
February 9, 2009
Stephen M. Eells, Assistant State Auditor

The Office of the State Auditor, which is in the legislative branch of government, was originally established in 1934. The State Auditor is a constitutional officer appointed by the Legislature for a term of five years and until a successor shall be appointed and qualified. A number of statutory amendments dealing with the powers and duties of the State Auditor have been enacted in the ensuing years. The Office of the State Auditor is within the Office of Legislative Services under the provisions of the Legislative Services Act.

The organization of the office within the legislative branch permits the State Auditor to be independent of the executive and judicial branches of government. This independence is critical in terms of meeting professional standards and in providing fair and objective reviews and audits of governmental operations.

Under the provisions of Article VII, Section I, Paragraph 6 of the State Constitution and N.J.S.A. 52:24-1 et seq., the Office of the State Auditor is required to conduct post-audits of all transactions and accounts kept by or for all departments, offices, and agencies of state government. Reports are submitted to the Legislature, the Governor, and the Executive Director of the Office of Legislative Services.

Audits may be requested by the Legislative Services Commission, Legislative leadership or by the State Auditors own initiative. The office performs financial statement and performance audits. The objective of our financial statement audits is to provide reasonable assurance about whether the financial statements of an audited entity are fairly presented in conformity with generally accepted accounting principles. Our primary financial statement audit is the state's Comprehensive Annual Financial Report (CAFR) which is published by the Department of the Treasury. Performance audit objectives are to determine whether financial transactions are related to an agency's programs, are reasonable, and are recorded properly in the accounting systems. This type of audit may also focus on specific performance issues including economy and efficiency comments. These audits would also include information technology system reviews to ensure that data maintained by a particular computer system is reliable, valid, safeguarded, and recorded properly. The Office is also authorized to conduct forensic audits of the fiscal operations of any school district which has a year-end general fund deficit and meets one other criteria of the act. Legislation requires the State Auditor to conduct follow-up reviews to determine compliance with its recommendations.

The Office of the State Auditor is one of eight units within the Office of Legislative Services. The State Auditor's office is comprised of 91 professional and six support staff positions. All auditors must have a bachelor's degree in accounting or a related field and a minimum of 24 credit hours in accounting. Fifty-two staff members possess professional certifications or advanced degrees.