



NEWS RELEASE

From New York State Inspector General
Catherine Leahy Scott

FOR IMMEDIATE RELEASE: May 31, 2016
Contact [John Milgrim](mailto:John.Milgrim@ny.gov): 518-474-1010

INSPECTOR GENERAL RELEASES REPORT OF INVESTIGATION INTO THE DISSEMINATION OF CONFIDENTIAL LAW ENFORCEMENT MATERIALS AT BOARD OF ELECTIONS

*State Board of Elections Director of Public Information Admits Providing the Media
“Privileged and Confidential” Enforcement Division Documents*

ALBANY – New York State Inspector General Catherine Leahy Scott today released a [report](#) of her investigation into the dissemination of confidential State Board of Elections (“BOE”) Division of Election Law Enforcement (“Enforcement Division”) documents to the news media. The investigation found the source of the dissemination and determined that disparate testimony from BOE officials regarding policies and procedures for the handling and protection of confidential materials lacked credibility.

The investigation found that BOE Director of Public Information John W. Conklin, in response to an inquiry, emailed “privileged and confidential” investigative documents on April 20, 2016 to a *New York Daily News* reporter. The documents detailed the Enforcement Division’s investigation into alleged improper political contributions made through the Ulster and Putnam Democratic Committees to circumvent limits to campaigns of individual candidates in 2014. The documents formed the basis of a *Daily News* article on Friday, April 22, titled “EXCLUSIVE: De Blasio team skirted campaign donation limits; investigators found 'willful and flagrant' violations 'warranting prosecution'.”

Additionally, the Inspector General’s investigation found that some testimony from BOE’s partisan commissioners and executive staff questioning whether Enforcement Division documents marked “privileged and confidential” actually were privileged and confidential, and whether laws, rules and policies regarding the handling of confidential BOE materials prohibited disclosure of these documents, defied logic and lacked credibility.

The Inspector General’s report includes recommendations that the BOE develop clear regulations and/or procedures for the proper handling of the Enforcement Division’s materials, as well as mandate training across the agency. The investigative findings in the report have also been referred to the State Joint Commission on Public Ethics and the New York County District Attorney for any actions they deem appropriate.

“Documents marked privileged and confidential in the midst of an active investigation not only has the potential to impede or obstruct the investigation, but potentially undermines principles of fundamental fairness,” said Inspector General Leahy Scott. “The lack of a clear understanding among the agency’s top officials of any policies or procedures to maintain confidential records simply belies credibility and must be corrected.”

The Inspector General received a complaint the Monday after the *Daily News* article appeared alleging the improper dissemination of confidential BOE Enforcement Division materials. The investigation into the dissemination commenced immediately and ultimately included the collection of documents, computer records and sworn testimony from more than 25 BOE employees, including the four commissioners, and executive staff.

Conklin, who was represented by private counsel, cooperated with the Inspector General's investigation and admitted he emailed the BOE enforcement division documents to the *Daily News* reporter without seeking approval or advice from anyone else at BOE before sending. All other BOE commissioners and employees denied taking any part in the dissemination of the documents. At the same time, some employees purported uncertainty as to whether the Enforcement Division documents were in fact privileged and confidential. Several BOE employees and commissioners testified that there were no policies regarding what material is confidential, that there was no legal authority to make investigative documents confidential, and that individual partisan commissioners have the prerogative to disclose any information to anyone at any time they choose. Nonetheless, the BOE employee handbook contains provisions regarding the nondisclosure of confidential materials, and the agency's 2014 Annual Report notes that "the existence of particular investigations is held in the strictest confidence." Testimony purporting uncertainty as to whether the Enforcement Division's documents were confidential lacked credibility.

A copy of the Inspector General's investigative report may be obtained by clicking [HERE](#).

###