

**Testimony of Inspector General Jeffrey S. Shapiro
Regarding Docket #0645, An Ordinance Establishing
the Office of Inspector General within the City of Boston**

**Before the Boston City Council
May 29, 2024**

Chair Coletta Zapata, Vice Chair Weber and members of the Committee on Government Operations:

Good day.

Thank you for the invitation to testify before your committee today, regarding a proposed ordinance to create an Office of the Inspector General (OIG) within the city of Boston.

I would also like to thank Councilor Mejia and the co-sponsors for bringing this issue forward.

My name is Jeffrey Shapiro, and I am honored to serve as the 5th Inspector General for the Commonwealth of Massachusetts. I am a year and a half into a 5-year term. I may stand for reappointment for one additional term, as the position has a 10-year statutory maximum tenure. The Inspector General is appointed by the Governor, Attorney General and State Auditor. Since my appointment, I have led an independent agency and may only be removed for cause, which requires a public letter and filing.

As a professional, I have over 33 years of public sector experience. I have served in various legal, administrative and fiscal roles, including at the Middlesex District Attorney's Office, the MA Attorney General's Office and in the State Comptroller's Office, most recently serving as the First Deputy Comptroller for three Comptrollers. I have also served in legislative assistant roles on Capitol Hill and on Beacon Hill.

OIG Background

Created in 1981, the Massachusetts Office of the Inspector General is the first statewide inspector general's office in the country. It was created in response to a series of corruption scandals related to public construction, most notably the initial development of the UMass Boston campus, in which public officials were indicted and convicted. In those days, allegations of corruption were addressed by creating "blue ribbon commissions," which were established for the investigation of a single matter and then disbanded. The Ward Commission, in its wisdom, recommended to the state Legislature in the late 1970s that a statewide Office of the Inspector General be established with authority across state and municipal government to always be looking to mitigate and eliminate fraud, waste and abuse.

The MA OIG is an independent oversight agency that promotes good government by preventing and detecting fraud, waste and abuse of public funds and public property. Simply put, we are the public's watchdog over all public funds and assets used in the Commonwealth on the state and

municipal level. In addition to its investigatory and compliance work, for which we are most well-known, the office operates an extensive educational and training effort through its OIG Academy.

We estimate that the OIG has oversight of \$120 billion in municipal and state spending and the work of over 300,000 public employees, plus, the work of contractors, suppliers, vendors and non-profit recipients of public dollars. Currently, the Office has a budget of approximately \$10 million and a staff of about 90 employees.

MA OIG Publicly Reported Work Involving the City of Boston

Our enabling statute – Chapter 12A of the Massachusetts General Laws – gives us broad authority over state and municipal spending, which we would not cede if a city of Boston OIG were created. Some examples of past work the MA OIG has done in or on behalf of the city of Boston include:

- a review of the current BPS school bus transportation contract,
- an investigation into post-retirement earnings violations by a former Boston Public Schools headmaster,
- testifying at the restitution hearing of a former CEO who had been convicted of embezzling funds from a Boston homeless shelter, and
- a review and report on practices at the former Boston Redevelopment Authority, including the very bad deal for the people of Boston with the Boston Red Sox Jersey Street event day easement transaction, to name a few.

The OIG is also often written into legislation to review various real estate transactions within the city and has a role in approving the city's use of the construction management-at-risk method, should it apply to do so.

The MA OIG is a Unique Model

While there are 11 other statewide Inspector General's offices in the country, and many other states have agency-specific IG's offices (like the federal government) or county or jurisdictional IG's offices, Massachusetts is unique in that its IG has jurisdictional authority for all state agencies and all municipal jurisdictions. Conversely, the state IG's offices in NY, IL, VA, PA, LA and GA are generally limited to state-level oversight. And in CA and TX, there are agency specific IG's offices rather than a statewide IG. Baltimore City has a very effective city IG. Other cities like Atlanta, Dallas and Miami-Dade have newer city IG's offices, each of which has had challenges getting established.

Based upon the unique statute and circumstances that created the MA OIG and my statutory responsibilities, I have looked very closely at this proposed ordinance.

MA OIG and Proposed Boston OIG

As strong and results oriented as our team is, I believe there is space for a Boston OIG. As you may know this is a change in position from my predecessor's position when this proposal was last considered in 2019. There are, however, at least two big caveats to that belief. One – that the

authority and mandate of the MA OIG would remain unchanged should this proposal be adopted. Two – the details are critical to avoid duplication and overlapping agencies, which would be a waste of public dollars.

I am concerned about duplication and waste with what already exists in the city infrastructure, and the actual details should an OIG for Boston be created. Before establishing a new entity, the Committee should consider if there are existing agencies in the city that perform a similar function and if they could fill this role.

Boston Finance Commission

In 1909, the Massachusetts Legislature created the Boston Finance Commission.¹ Per its website:

Boston Finance Commission, also known as ‘FinCom,’ is an independent watchdog agency created to monitor ‘any and all business of the City of Boston.’ The purpose of the FinCom is to ensure the taxpayers, residents, business owners, and employees of the City of Boston have an advocate for honest and transparent governmental operations in the city.²

FinCom is ably led by Mr. Matt Cahill, has a five-member board, all Boston residents, who are appointed by the Governor for five-year terms, and had a FY 2023 budget of \$320,641 and a staff of three.

My concern is not about Mr. Cahill’s leadership, the work of the agency or its Commission Members. In fact, quite the contrary, as I believe that Mr. Cahill and his team do an impressive job with the limited resources that are provided to them.

My concern is that this agency is charged with many of the same responsibilities that are envisioned by the new city-wide OIG, but, in my view, does not have the funds, tools, or public exposure necessary to do so. Therefore, I believe creating a city-wide OIG will be duplicative of the Boston Finance Commission. With adequate funding and strengthening of its statute, the Boston Finance Committee might be able to fulfil the role contemplated in this proposal. In many ways, they are already doing parts of what this proposal identifies. And it would be less confusing for the public than having similar entities fulfilling similar roles and would be a better allocation of resources.

Boston Office of Police Accountability and Transparency

The problem with creating a city agency without clear guidelines and overlapping with other agencies is illustrated by the Office of Police Accountability and Transparency (OPAT), established by ordinance in 2020. As you know, OPAT’s mission is focused on accountability and

¹ 1909 Mass. Acts, c. 469, § 17.

² www.bostonfincomm.com (last visited May 28, 2024).

transparency in the Boston Police Department. Its role, the role of the Boston Police Department to handle complaints directly, and the interplay with OPAT and the Commonwealth's Peace Officer Standards and Training (POST) Commission are perceived as being confusing at best by many.

OPAT, with about 8 staff and a budget of \$1.4 million, shows on its website dashboard tool 148 complaints; no discipline has been issued.³ My point in raising this is absolutely not to criticize the work of the staff or the members of the three boards, or the newly appointed executive director, Mr. Evandro Carvalho, but rather to illuminate the cautionary tale of creating by ordinance an agency with overlapping jurisdiction with other city and state agencies.

In my role as State Inspector General, I do have concerns about the possibility of wasting resources should a city OIG be created without clarifying the roles of it and FinCom and ensuring that the city and state offices are complimentary and not established to be in conflict.

A Boston City-wide OIG – Details Matter – AIG Model Legislation and City of Baltimore Charter

Furthermore, I have particular concerns about the proposed ordinance's processes for appointment, removal and independence of the Inspector General, and the budget for the OIG, among other issues.

Specifically, the proposal establishes the mayor as the single appointer, the term is coterminous with the mayor and the mayor may solely remove the Inspector General from office. These factors all undermine the independence of the proposed city Inspector General and thus undermine its ability to achieve the stated objective in creating the OIG.

I note that the ordinance includes references to the Association of Inspectors General (AIG) and its professional standards in section 2.16.12; thus, the councilors that drafted this ordinance understand the significant role that the AIG plays in this space. I suggest that the sponsors of the ordinance contact AIG leadership to better understand AIG's model OIG legislation, of which I have provided a copy to the Committee. While I am a member of AIG and hold their Inspector General Certification, I am not here today representing them. I do believe that the AIG and its Governmental Relations Committee is a critical resource to ensure that the proposed ordinance aligns with the standards to warrant being called an Inspector General's Office and its leader an Inspector General.

Additionally, I point you to the City of Baltimore's Inspector General as a good example of strong enabling language that embodies the principles I mentioned. Baltimore has a population of approximately 586,000. The Baltimore IG is funded at \$2.3 million and has a staff of 18. She is charged with investigating fraud, financial waste and abuse in city government and promoting efficiency, accountability and integrity in city government. She serves a 6-year term and is appointed by an advisory board of 11 members. I have also provided a copy of this charter to the committee.

³ [Workbook: OPAT Complaints Dashboard \(boston.gov\)](#) (last visited May 26, 2024).

Key Principles for an IG and an OIG

An inspector general's office should be independent with the ability to follow the facts, wherever they lead. Enabling language must lay out the qualifications for the inspector general and staff. The OIG must have the authority to compel document production, and agency heads must be required to cooperate with the office. Investigations must be kept confidential until completion. The language should also provide whistleblower protections for those who have information that could be pertinent to the OIG's work. And supporting the idea of independence, the inspector general must have a term that is not co-terminus with its appointing authority and may only be removed for cause. These are key principles of a true inspector general's office.

Unfortunately, many jurisdictions seek to create an inspector general's office in name only, without the proper funding or independence and lacking the tools I just mentioned. An inspector general's office must be rooted in transparency and fair dealing. It provides oversight of the government on behalf of the people. Ultimately, having a strong inspector general's office helps to instill confidence in government as a whole.

Training & Education

Should a city OIG be created, it ought not duplicate the extensive, proactive training and educational programs offered by the statewide OIG through its OIG Academy. Though I do think that the city IG would be positioned well to require those it oversees to 1) attend such MA OIG Academy courses, and 2) earn and maintain the certifications offered by the MA OIG Academy. It would likely be duplicative and wasteful to create an overlapping educational and training infrastructure.

In Conclusion

I do not testify before you today in opposition to the potential creation of a city-wide Inspector General. But to me details matter. I do not think this proposal meets the moment.

I have concerns that the proposed ordinance does not create an IG or OIG that meets the requirements of the AIG. I believe that creating an OIG in name only sends the wrong message.

I am concerned that the creation of a city OIG with the existing FinCom could be perceived as wasteful, and time should be spent considering ways to strengthen and better resource the FinCom, first.

I am also wary of creating the OIG first and worrying about the details later, which is a concern that I have with OPAT, Boston Police and POST, with regard to confusion with overlapping jurisdiction over police related complaints.

With the proper statutory framework and the appropriate level of resources, a city OIG can have a positive impact on the way government works. But the city should first take a holistic view of the

agencies that already exist in order to determine if there might be a way to enhance their missions to fulfill this role.

Chair Coletta Zapata – with your permission and consistent with the Committee’s practice, I would be happy to answer any questions that you or members of the Committee may have.

Thank you.