



**WRITTEN TESTIMONY OF DISTRICT ATTORNEY MADELINE SINGAS
BEFORE THE NASSAU COUNTY LEGISLATURE**

**“The Path and Wisdom of Reform: Non-Partisan Measures
to Restore Public Trust in Nassau County Government”**

**Mineola, New York
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Good Afternoon.

I must make clear right at the outset that I am not here as a Democrat or Republican. I am here as your District Attorney.

There is no such thing as partisan crime.

There is no such thing as partisan corruption.

I have never investigated or prosecuted a “Democrat” or “Republican;” I investigate and prosecute people who break the law. It simply does not matter which party’s member betrayed the public’s trust for personal gain – it is ultimately irrelevant. Let me be clear – members of both major political parties have been convicted of crimes relating to abuse of office. The most visible recent example was when the former Assembly Speaker and former Senate Majority Leader fell together, albeit in separate ways. The latter of the pair rocked this county – implicating the highest levels of our government and leaving us to wonder how terms of a multi-

million dollar contract are negotiated in hushed tones at a private funeral, rather than in this chamber or in public documents.

In government, power shifts. The party in control today may not be in control tomorrow. Therefore, none of my suggestions have ever been partisan or shortsighted. Indeed, the government of this county will go on far longer than any one party, and, in making recommendations, I accordingly think of the indefinite term, not the definite one.

There has indeed been some progress with Nassau's procurement and contracting systems. That must be acknowledged. I called for an independent panel to be formed; one was commissioned and made recommendations. I called for universalization of screening protocols and vendor disclosure requirements have broadened. Executive Orders and Legislative actions have produced higher bars and lower thresholds. All of this progress is certainly to be commended, and I do of course thank those in government who have coupled words with actions. But there is more work to be done to ensure that taxpayer dollars are protected.

I am here to make sure that this work continues and to offer my counsel as I have offered it – and given it – in the past.

As I said to open this dialogue – I asked to speak here today because I am the newly- and independently-elected chief law enforcement officer of this county. My office is a constitutional one, with powers further enumerated by state statute. I

represent the People of the State of New York and my district of service is Nassau County. Prior to my election, I served for 24 years as an assistant district attorney – 15 of those years in Queens, 9 in Nassau, 3 as Chief Assistant, and 1 as Acting District Attorney. I have overseen tens of thousands of investigations and prosecutions into virtually every single type and category of criminal case, as well as overseen a multitude of crime prevention initiatives, community outreach programs, and legislative initiatives relative to the criminal justice system.

Accordingly, I would hope and will ask that this body consider my advice on criminal justice issues just as you would listen to a doctor about the severity of an illness or an engineer about the instability of a bridge.

The advice that I have rendered and will now elaborate further upon is based on that experience, duty, and independence. A District Attorney who seeks only to punish, rather than to prevent crime has no place in the 21st century. Indeed, my office has formulated and will continue to innovate crime prevention strategy against heroin, gangs, burglaries, and – yes – corruption. Whether violent crime or white collar crime, there is no abdication of responsibility for a comprehensive prevention effort. And, according to a February poll, it seems that 93% of our public feels that there is corruption in government and we must devise a strategy to combat it. I am here to answer that clear call and I am asking you to put aside partisanship and to

address the disturbing fact that Nassau's public has little confidence in the proper administration of its government.

In short – government corruption is an area of potential criminality; I am the District Attorney; I have a strong and vested interest in administrative and technological reforms that will harden our government spending processes against corruptive influences and fraud.

Background

Last year I commissioned, then issued a special report on the county's contracting process, encapsulating my recommendations and best practices for system-wide improvement. One such recommendation in the July report was the formation of an independent panel to institute reforms. Subsequently, in August 2015, County Executive Edward Mangano commissioned such a panel, appointing prominent members with business, government, and academic experience. In order to aid this panel in the early stages of its review, and upon its request for guidance and input, my office submitted an issue brief, which served to supplement our original report. A copy of this issue brief was provided to this body as well.

The issuance of these reports did not end the matter, however. Indeed, over the course of our process review, my office identified several matters worthy of long-term evaluation and investigation. This criminal aspect of my office's review will continue, inasmuch as my office will review and investigate any suspected criminality

within Nassau County. In this way, our endeavor is indefinite. As has been demonstrated time and time again, schemes to defraud and corrupt are not unraveled quickly, carelessly, or effortlessly. Indeed, seven years passed between the inception of Nassau's BPA scandal to the initiation of the criminal case—prosecuted jointly by the District Attorney's Office and the United States Attorney's Office. Just as much time passed between inception and conviction in the New Cassel Redevelopment Project scandal—also prosecuted by my office. The 2015 indictment (and ultimate conviction) of Dean Skelos and son, in connection with the Nassau County Ab-Tech contract, was based upon conduct going back three years.

My message: these investigations and prosecutions are onerous. They are time-consuming. They are massive. And regrettably, they have become routine. More regrettably still, beside the taxpayer money that pours into the investigation and prosecution, there was the initial taxpayer investment—or investments—that were corrupted in the first place. While my role as District Attorney is to investigate and prosecute violations of law, I feel that the best possible result for Nassau County is the elimination of corruptive influence. It was with that very tenet in mind that I submitted various recommendations for reform—so that the citizens of Nassau County neither have their taxes wasted nor their trust abused.

This is a problem that will not be solved only with arrests and prosecutions. The highest ranking member of the state legislature – from Nassau County – was just convicted in connection with a massive procurement scandal reaching the highest

levels of Nassau County government – with the loudest volume of publicity.

Everybody in this chamber is aware of this prosecution. If such a case were insufficient to commit this body to reform, then it is clear to me that this is a problem that indeed will never be solved only with arrests and prosecutions and we need comprehensive, best practice, solutions.

The BPA scandal was exposed by this very body asking questions and holding hearings. A dozen or so years later, a new administration; a new unsolicited proposal; a repetition of history. However, on the Ab-Tech scandal, there has not been a hearing, there have been no questions.

Imagine where we will be, as a county, in another dozen years.

Imagine it, or take the opportunity to control it.

The Need for an Independent Inspector General

I have written it, and I say it again: Nassau County needs an independent, dedicated, and staffed Inspector General's Office equipped with a comprehensive vendor, contract, and public official database system.

In 2011, in a stated effort to save approximately one-hundred thousand dollars on an annual basis, the independent office of Commissioner of Investigations was merged with the Department of Human Resources, and thereafter, in 2012, it was merged into the Office of the County Attorney. In 2013, the Department of Investigations—connected in budget appropriations to the Commissioner of Investigations—received an appropriation of \$15,400. In 2014: \$5,400. In 2015:

\$5,500. In the latest 2016 budget: \$5,500. A review of the County Attorney’s budget reveals no perceivable corresponding increase in its annual budget appropriation for subsuming the responsibility of Commissioner of Investigations. However, even if there were, my belief—with no disrespect or derogation whatsoever to the hard-working staff at the County Attorney’s Office—the two roles are incompatible.

Indeed, pursuant to section 1102 of the County Government Law of Nassau County, a substantial part of the County Attorney’s function is to defend the county’s activities, methods, and employees; whereas, pursuant to section 206 of the County Government Law of Nassau County, the substantial part of the Commissioner of Investigations’ function is to investigate the county’s activities, methods, and employees. More on point to the specific issue of procurement and contracting, the County Attorney’s office has numerous administrative responsibilities with the internal contract approval process.

This passage was in my July Report – “...the two positions are fundamentally incompatible. While the commissioner of investigations is charged with being an independent auditor to identify, investigate, and address malfeasance by County government and employees, a substantial part of the county attorney’s charter function is to defend the county’s activities and county’s employees.”

And this passage was from the Zarb Panel’s subsequent report to the County: “We understand that the County has a designated Commissioner of Investigations; however, we are advised that at present this is a role performed by the

County Attorney. We are recommending that a separate, independent individual oversee the internal audit function.”

I want to highlight – emphasize even – that nothing I now say should reflect as a blemish against the present County Attorney’s professionalism. Indeed, the County Attorney’s function to defend county practices has included my office as a county department. The present County Attorney was not even the individual upon whom this arrangement was originally thrust – it was an inherited situation. This has nothing to do with the individual – everything to do with the system. A system that, pursuant to state statute and local law – this legislature has the exclusive power to change.

To illustrate the paradox in a practical sense – when my office issues a subpoena, in connection with a criminal investigation, for County Departmental records, it is the County Attorney’s office that accepts service of process and represents the interests of the subpoenaed official or department. This is not a bizarre arrangement – it is anticipated. However, it belies the import of the inherent conflict – one cannot whole-heartedly assist with an internal investigation when one is tasked, by statute and charter, with potentially defending the subject.

To me, this is as fundamental a precept as the separation of prosecution, defense, and judiciary roles in the criminal justice system, and as fundamental as the separation of the executive, legislative, and judiciary branches of government. It is

clear to me—and the Zarb panel—that we need an independent, sustained, devoted, and insulated central auditor of the procurement and contracting processes.

The Funding and Ambit of the Inspector General

Setting aside the conflicting roles and focusing purely on the charter responsibilities of the commissioner of investigations, section 206 currently provides that:

The Commissioner of Investigations shall have power...to make... examinations as he or she may deem to be for the best interest of the county, of the accounts, methods and activities of each department, institution, office or agency of the county and of the towns and special districts.

This is an onerous responsibility that requires considerable funding.

I must point out something vis-à-vis New York City. New York City is centralized – one police department, one fire department, one department of education, one mayor, and one department of investigations that supervises an entire slate of inspectors general for each department. Though my city colleagues might disagree – New York City is also comparatively well-funded.

Nassau, apart from County government, contains three townships, two cities, 25 independent law enforcement entities, 56 school districts, 64 villages, 71 fire departments, and dozens of special districts. Government oversight here is imminently more difficult due to the lack of centralization. Nassau, unlike the city, is also under the seemingly perpetual oversight of a financial control board. I note that

each governmental entity has its own procurement policies – and there is evidence that issues of procurement are very wide-spread.

So far this year, the NYS Comptroller has released two audits relating to procurement practices of districts in Nassau County. The Comptroller’s audit of the Westbury Water District, released this past January, made the following findings:

- *Regarding Purchase Orders:* in a statistical pull, it was found that purchase orders were not issued in 86% of cases.
- *Regarding Professional Service Contracts:* 89% of professional service contracts were awarded without any competition.
- *Regarding Public Works Contracts:* competitive quotes were not obtained on 63% of public works contracts.

This is a special district, and thus, by charter, under the purview of the Commissioner of Investigations. Just how much time can that department currently devote to remedying this situation?

Additionally, in February, the NYS Comptroller released an audit of the Mineola School District, with the findings that (1) the district did not have written guidelines or procedures for seeking competition for purchases not subject to competitive bidding requirements, and (2) 43% of the 23 highest-paid District vendors received over 47% of payments without the District having obtained competitive quotations.

My point – the County government is not alone – this is an issue that goes across all levels of County government. It is a big job. It is a heavy lift. To merge the Commissioner of Investigations function with any other job – County Attorney or anyone else – is a tremendous mistake.

I am aware, of course, that this County has limited finances and that its moves to create departments and offices are heavily scrutinized. However, the value of an Inspector General can in fact be quantified – and not just by the metrics previously espoused in my July report – but further by the annual reports of other jurisdictions’ Inspectors General:

- *Washington DC*: a jurisdiction smaller in population than Nassau – created an Office of the Inspector General in 1995. It has since reported out hundreds of millions of recoveries, restitution orders, and cost-savings in its annual reports.
- *Indiana*: the IG, in a four year span, cost the taxpayer 4.7 million dollars in operating expenses, while saving and capturing 10.3 million dollars in the same period.
- *New Jersey*: \$45 million protected from being misspent or recouped in its first four years of existence.

The list goes on and on. These institutions are meant to be self-funding, at the departmental level or governmental level. The studies exist and I encourage this body to seek them out.

Nassau is more populous than 10 states and the District of Columbia. According to the Bureau of Justice Statistics, this is the 32nd largest criminal jurisdiction in the country. Accordingly, the notion that we should think like a state (or like New York City) in protecting from government waste should not be dismissed out of hand. The Inspector General concept is not new – it dates back to 1777. I believe one is needed in Nassau – especially in light of our financial situation and our obvious procurement vulnerabilities across layers of government.

I have seen that this body has come to odds regarding the proposal to modify section 206 of the County Charter, replacing or enhancing (depending on one’s perspective) the role of the Commissioner of Investigations. I have suggested – and suggest again – the replacement of this office with a County Inspector General, and have ardently recommended that one essential modification to section 206 is the manner of confirmation and removal. The current charter section reads as follows: “The County Executive may from time to time appoint, without confirmation by the County Legislature, a Commissioner of Investigations...” Though it is a short excerpt, there are two things fundamentally wrong here: (1) the language “from time to time” means that the position is fundamentally impermanent, (2) the lack of any confirmation by the County Legislature. The latter concern, I might add, is one of the few exceptions to Legislative confirmation of a county department head.

Mindful, as I stated before, that no one party will last forever, and thoughtful that both will continue to exist in the foreseeable future, I have recommended a

supermajority confirmation (which serves as the stalwart safeguard against a partisan appearance, regardless of the party in power). I am ever-mindful that, with a recent poll showing devastating mistrust in government, the optics of independence is equally as important as independence itself. I do not mean to cast aspersions at any one person or party – that is not my objective. However, a supermajority confirmation will serve as a necessary reminder to the public that its government operations are non-partisan. The individual who is tasked with inspecting records, cutting waste, streamlining the use of the taxpayer dollar – that person must be free of any perceptible allegiance.

The Need for Technology

As outlined in my report, without modern technology to catalogue and cross-check, any contract can appear legitimate on its face. What we must be looking for, in corruption of this process, is pre-existing relationships—financial or personal—which go undetected and are then exploited at the expense of fiduciary duty, the taxpayer, and the public’s trust as a whole.

In order to detect those relationships, information about actors on both sides must be extensively collected, catalogued, reviewed, and cross-referenced. My report revealed that this simply was not being done. Conveniently enough, that same technology could aid an overburdened and slow contract approval process—the subject of an audit of the NYS Comptroller’s Office in 2013. I must note that this audit came at the request of former NIFA member George Marlin who had suspected

that there was “a pattern of vendors being hired to perform non-emergency services without prior legislative or NIFA approval.” The audit results confirmed Mr. Marlin’s suspicions, with over one half of randomly selected contracts having pre-approval performance. As noted in that audit, this is a perilous business practice.

There has already been an expression of accord, several times, on the need for better technology in our contracting and procurements systems. And yet, there has been insignificant movement. This county – governing 1.4 million people – simply cannot operate its daily business on a paper-based system that would have barely served as adequate in the 1960s.

Furthermore, the warehousing of information, to be meaningful, will require converting to electronic collection and cataloguing of public officials’ financial disclosure forms in the same contract database. Currently, as you know, these forms—required by General Municipal Law—are collected mid-year and reflect the prior year’s financial interests. Accordingly, any disclosure is meaningless to the prompt assessment and identification of a current conflict of interest.

To be pro-active, vendor screenings and official screenings must be side-by-side. By confronting data with data, in real time, you are getting to a more transparent view of the contract in front of you. Still, for any such system to work, there needs to be someone independent watching – the Inspector General. Otherwise, it is akin to a video surveillance system that is not actually recording.

The Import of Reform

I am not legally permitted to discuss any aspect of an ongoing investigation. I can say, however, that my office, during its process review, uncovered a substantial amount of matters in need of a much greater and deeper look—sufficient to keep my office busy with investigations for years to come. Just as the prior scandals took years to develop – I am no less thorough in my work. But prosecution is not a panacea. Until and unless the systems are in place to protect taxpayer dollars, scandals will continue to plague our county.

As mentioned before, I look at today as an opportunity for us to collectively embark on crime prevention strategy, not unlike a strategy against human trafficking, heroin, gang violence, or any other category of crime. That it is crime prevention strategy for fraud and corruption, the same principles apply—it must be comprehensive, sustained, and detailed in advance.

I sincerely hope and most ardently recommend that you will create and fund a county Inspector General and fast-track the technological upgrades to this county's procurement and contracting systems. You inherited this obscure, outdated, and outmoded process, but you are not bound by it.

Break free from the chains of partisanship and look at best practices. Let us act now so we don't pay later. Let us move forward with transparency and independence and regain the public's trust and confidence.

Thank you very much for your time and attention.