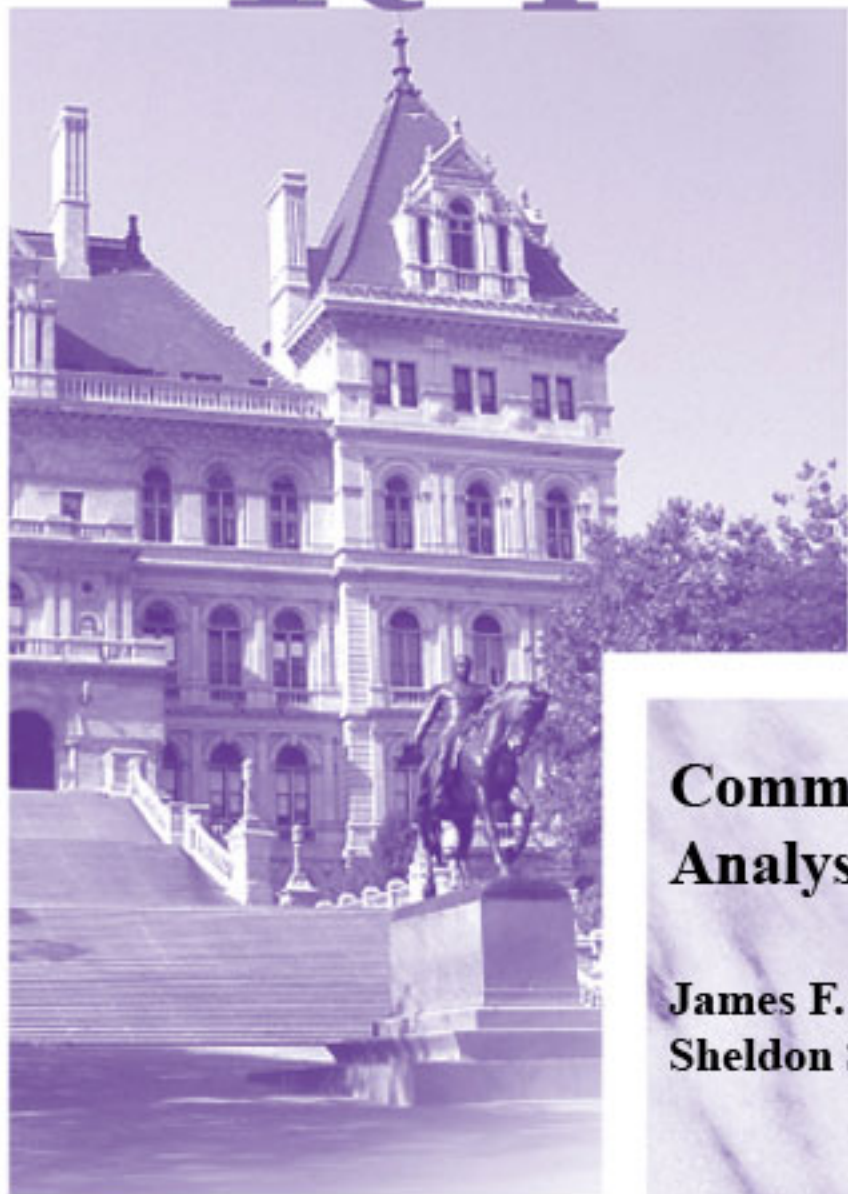


2005

New York State Assembly

# Annual Report



## **Committee on Oversight, Analysis, and Investigation**

**James F. Brennan - Chairman**  
**Sheldon Silver - Speaker**

THE NEW YORK STATE ASSEMBLY

**COMMITTEE ON OVERSIGHT, ANALYSIS  
AND INVESTIGATION**

James F. Brennan,  
Chairman

**THE 2005 ANNUAL REPORT**

**COMMITTEE MEMBERS**

**MAJORITY:**

Ginny Fields  
William B. Magnarelli  
Daniel J. O'Donnell  
Annette Robinson  
Mark J. F. Schroeder

**MINORITY:**

Joe Giglio

**COMMITTEE STAFF:**

Andrea D. Zaretski, Executive Director  
Thomas J. Fox, Chief Counsel  
Mark Hennessey  
Nancy K. Schaefer  
Kathleen Fazio  
Eileen Longo

December 31, 2005

The Honorable Sheldon Silver  
Speaker of the Assembly  
Room 932, Legislative Office Building  
Albany, New York 12248

Dear Speaker Silver:

It is with great pride that I present the 2005 Annual Report of the Assembly Standing Committee on Oversight, Analysis and Investigation. Contained within this report are summaries of the Committee's major projects during 2005, as well as previous project reviews and planned future activities.

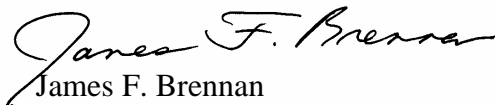
In a time where effective legislative oversight is crucial to an efficient and responsible government, the Oversight Committee acts as the "eyes and ears" of New York's citizens. The Oversight Committee ensures that New York's laws are being followed consistent with legislative intent, while analyzing and investigating whether State agencies are operating efficiently and responsibly.

In addition to Oversight Committee projects continued from previous years, 2005 Committee activities included:

- Hearings on Medicaid Fraud and Abuse, Durable Medical Equipment, Indian Land Claims and the Procurement Stewardship Act;
- Investigating delays in providing Durable Medical Equipment;
- Enacting major laws protecting consumers against identity theft, and improving reporting requirements and report access;
- Reviewing options for financing New York City Schools.

I have been honored to lead this Committee as it fulfilled its mandate to strengthen the accountability and efficiency of New York State while protecting our citizens.

Sincerely,

  
James F. Brennan  
Chair, Assembly Committee on  
Oversight, Analysis and Investigation

## TABLE OF CONTENTS

<b>I. LEGISLATIVE OVERSIGHT .....</b>	<b>1</b>
The Role Of Legislative Oversight .....	1
The Function Of The Oversight, Analysis And Investigation Committee .....	2
<b>II. COMMITTEE PROJECTS.....</b>	<b>3</b>
Introduction.....	3
Identity Theft: Hacker Bill, Chapter 442 .....	3
Procurement .....	4
Report Reduction - Chapter 524 .....	5
Statutory Reports Database.....	5
<b>III. COMMITTEE HEARINGS.....</b>	<b>6</b>
Indian Land Claims.....	6
Firehouse Closing on Staten Island.....	7
Procurement Stewardship Act .....	7
Medicaid Fraud and Abuse .....	8
Durable Medical Equipment.....	9
<b>IV. COMMITTEE REPORTS .....</b>	<b>11</b>
Needle In A Haystack .....	11
Resolution: May As Physical Fitness Month.....	12
The Public Eye: Update On Committee Investigations .....	13
<b>V. OUTLOOK FOR 2006 .....</b>	<b>16</b>
Indian Land Claims, Casinos and Tax Agreements.....	16
Medicaid Fraud .....	16
Durable Medical Equipment .....	16
FOIL – Subject Matter List.....	16
Procurement .....	16
<b>APPENDIX A: COMMITTEE REPORTS.....</b>	<b>i</b>
<b>APPENDIX B: PUBLIC HEARINGS .....</b>	<b>x</b>

## **I. LEGISLATIVE OVERSIGHT**

### **THE ROLE OF LEGISLATIVE OVERSIGHT**

Legislative oversight is the most effective means of enforcing legislative intent, ensuring that a program actually works, and promoting sound policy decisions. Oversight investigations shed light on governmental and non-governmental actions to ensure honesty and efficiency in the administration of laws. The oversight process considers whether programs operate in a manner consistent with the requirements placed upon them and whether funds are effectively spent. By providing key information on program performance and spending, oversight lays the foundation for sound policy judgments.

The power of the New York State Legislature to conduct oversight activities is inherent in Article III of the State Constitution. The Constitution allows the Legislature to appoint Committees to investigate matters relating to the property and affairs of government and the State. The Constitution empowers the Legislature to modify and assign new functions and powers to executive departments.

Several laws and rules reinforce the Legislature's mandate to conduct oversight. Legislative and Civil Rights laws allow a legislative committee to require the appearance of witnesses at a hearing. The State Finance Law reinforces the Legislature's "power of the purse" by requiring legislative appropriations before any State monies are spent and by limiting the ability of the Executive to move money from within and between agencies.

The Assembly's oversight role was strengthened when its House rules were amended to allow standing committees more time to focus on oversight. Specifically, House Rule IV, §1(c), was revised to require all standing committees to "devote substantial efforts to the oversight and analysis of activities, including but not limited to the implementation and administration of programs, of departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within its jurisdiction."

## **THE FUNCTION OF THE OVERSIGHT, ANALYSIS AND INVESTIGATION COMMITTEE**

The Oversight, Analysis and Investigation Committee plays a number of important roles in furthering the Assembly's oversight activities. The Committee:

### **Reviews implementation and adequacy of laws and programs:**

- The Committee is charged with reviewing the implementation and adequacy of laws and programs to ensure compliance by the public and state governmental agencies. Through its assistance to standing committees and lawmakers and its own investigative activities, the Committee seeks to determine whether programs operate as required and whether program funds are spent effectively, efficiently and in accordance with legislative intent.

### **Conducts program and budget reviews:**

- The Committee conducts targeted program and budget reviews both jointly with other Committees and individually based on suggestions of the Speaker, the Committee Chair, individual members, governmental sources, or the public. Projects can be short-term, involving only a few telephone calls, or in-depth, requiring legislative, financial and historical data collection, field investigations, on-site State agency visits, interviews, and public hearings.

### **Helps create a climate for change:**

- Findings are often compiled in a report or memorandum and are often distributed publicly to generate support and help create a climate for necessary change. Recommendations to put a program back on track may be incorporated in the law-making process through either the budget or legislation, or simply through administrative recommendations to the Executive.

### **Acts as a resource to other Assembly standing committees:**

- The Committee has incorporated oversight activity into the legislative process. With expertise in research and data collection, the Committee acts as a resource to other Assembly standing committees, lawmakers and staff by providing technical assistance and guidance during program reviews. Additionally, each lawmaker is provided with a copy of the Committee's "A Guide to Legislative Oversight", which explains how effective oversight reviews are conducted and sets forth the Assembly's authority to perform oversight activities. The Committee also acts as a repository of other information critical to the Legislature's oversight function: Comptroller's Audits, State agencies 90-day responses and reporting requirements mandated by law.

## **II. COMMITTEE PROJECTS**

### **INTRODUCTION**

The Committee's oversight actions help to ensure government institutions live up to their statutory requirements. Additionally, the Committee may examine areas of commercial, business or other non-governmental activity. A major responsibility of the Legislature is ensuring that programs are executed in accordance with legislative intent. With this goal in mind, the Committee on Oversight, Analysis and Investigation is charged with evaluating programs in New York State. Research, outreach, information gathering and legislative development are all employed to improve the level of accountability, honesty and efficiency of New York State government.

During 2005, the Committee was involved in a number of diverse projects, some of which had begun in earlier years. Investigations were sparked by recent events, the interests of the new Committee Chair and other Assembly members, and some investigations were done in conjunction with other Assembly Standing Committees and Commissions. Legislation was introduced and advanced to address problems identified during these investigations.

### **IDENTITY THEFT: HACKER BILL, CHAPTER 442**

In February 2005 a major data base company, Choicepoint, had been hacked into by computer information thieves. Private, personal information on 140,000 persons was stolen. In the past year, millions of Americans have had private information stolen from computer data bases. However, no law protected New Yorkers by compelling companies to notify persons rapidly if this information is acquired by unauthorized persons.

Over 200,000 New Yorkers now know that they have been exposed to identity theft because of a new law sponsored by the Chair of the Oversight Committee, Assemblymember James Brennan. The new law, the Information Security Breach and Notification Act, took effect on December 7, 2005. Until then, companies that suffered computer break-ins were not required to notify people when customer information was stolen. The new law requires companies to contact people when their private information like Social Security, driver's license, or credit card numbers are exposed.

This new law should lead companies to be more responsible with their information. It also alerts New York residents to monitor their accounts in order to take immediate steps to safeguard themselves from becoming a victim of identity theft. Additionally, to further protect consumers, this law requires public and private organizations to notify customers when their private information has been breached.

Highlights of the Information Breach and Notification Act, Chapter 442 of the Laws of 2005 include:

- requiring governments and businesses to notify victims if their personal information is taken;
- establishing one state law requiring businesses to provide notice of an information hack;
- requiring local laws or policies to protect the information under a local government's control;
- protecting consumers by giving them the information they need to head off identity thieves before they can do more damage; and
- creating a "culture of security" by encouraging data protection techniques.

## **PROCUREMENT**

The Oversight Committee has spent years investigating and uncovering serious problems with procurement practices in New York State. Efforts to improve, recommend and create effective new laws addressing this important and crucial portion of the State's economy were continued in 2005. Procurement legislation was developed and incorporated into landmark budget reform.

Chairman Brennan's A.4256 would enhance the information detailed in the budget regarding state contracts, particularly relating to information technology. Oftentimes, it is very difficult to identify in budget documents a clear picture of what the Governor proposes to spend on major information technology contracts – which often run into the hundreds of millions of dollars. Key to the Legislature's decision-making process is not only how much an obligation will cost the State today, but what will be the entire cost to the State when fully implemented. For the Legislature, the decision to appropriate monies in the first instance should be based on a complete understanding of the fiscal commitment over the anticipated life of the project.

A.4256 became a part of the Assembly's Budget Reform Package (A.1). This legislation would amend the state Constitution and other state laws to bring about a more efficient, transparent, accountable and timely state budget process. This budget reform package passed both houses of the Legislature.

Governor Pataki vetoed this legislation. While the Legislature overrode the Governor's veto, the constitutional amendment upon which this law was predicated was voted down by the voters on Election Day.



## **REPORT REDUCTION - CHAPTER 524**

In 2005, the New York State Assembly and Senate passed A4257A/S5108A. This legislation, "Reporting Requirement Reform Act" was signed by the Governor on August 16, 2005 and became Chapter 524 of the Laws of 2005.

The Legislature often enacts laws which impose reporting requirements on state agencies. These reports can be effective tools for monitoring state agency operations. This new law provides mandate relief by streamlining and tightening state agency reporting requirements, eliminating or changing the frequency of many reports that are no longer needed, and consolidating those that are needed. In a nod to the 21<sup>st</sup> Century and a changing technological environment, state agencies can now submit reports and other government documents to the Legislature online. This bill would also make the Legislative Library a repository for all documents required by statute to be submitted to the Legislature.

The "Reporting Requirement Reform Act" arose from an Oversight Committee project begun several years ago to survey state agencies on their distribution policies for statutorily required reports issued to the "legislature". The Oversight Committee conducted a telephone survey of twenty-three state agencies seeking information about their agency's distribution policies for statutorily required reports issued to the "legislature."

The results of the survey indicated that there was no consistent policy for handling distribution of reports to the "legislature". How an agency interpreted the "legislature" varied among state agencies. To address this finding, the law provides how reports should be transmitted to the Legislature and the State and Legislative Libraries. Additionally, the new law takes a comprehensive approach to agencies' reporting requirements. It provides mandate relief by streamlining and tightening certain reporting requirements, and eliminating or changing the frequency of others.

### **Quarterly Reports – Statutory Reports Database**

As part of the Legislature's ongoing oversight mission to monitor state agency operations, information about vital programs is often required to be reported by agencies to the Legislature pursuant to statute. The Oversight Committee, assisted by the Legislative Bill Drafting Commission, developed customized charts which identify reports that are required by statute, along with the reports' subject, frequency, recipient and due date. The first round of these charts was provided to Committee Chairs in December of 2005. It is anticipated that updates will be continued during the 2006 session. Providing Committee Chairs with a customized list of statutory reports in their particular subject areas will further facilitate their oversight responsibilities: to make sure the reports were issued and that such reports provide the information required under the law.

### **III. COMMITTEE HEARINGS**

The Oversight, Analysis and Investigation Committee scheduled hearings throughout New York State to gather information, hear testimony and seek solutions to many of the challenges facing our state. Hearings in 2005 were held to seek public input on the following topics:

March & April:	Proposed Indian Land Claim, Casino Gaming and Tax Agreements
May: (Scheduled)	Fire Services on Staten Island
September:	Procurement Stewardship Act
September:	Medicaid Fraud
July & November:	Durable Medical Equipment

#### **GOVERNOR'S PROPOSED INDIAN LAND CLAIM, CASINO AND TAX AGREEMENTS**

##### **March and April—Syracuse, Albany and Monticello**

In February 2005, Assembly Speaker Sheldon Silver called for public hearings on legislation which Governor Pataki had proposed to settle Indian land claims in New York State and to expand to five the number of gambling casinos authorized for the Catskills. (A5159-A).

The Assembly hearings were jointly chaired by Committee Chairpersons Jim Brennan (Oversight), Helene Weinstein (Judiciary), Joseph Morelle (Tourism, Arts and Sports Development), and J. Gary Pretlow (Racing and Wagering).

The proposal was both complex and controversial. Since each Indian land claims case is unique, some appeared to have more merit than others. Each Indian tribe was partnered with a big corporation, some of whom were more willing than others to share information about their financial arrangements. There were also disturbing conflicts-of-interest between the Governor, some of his political allies and friends, and certain Indian tribes and their corporate partners.

The Committees conducted four days of hearings in March and April in Syracuse, Albany and Monticello.

The hearings examined the legal, governmental, economic and environmental implications of the proposed settlement agreements with the Akwesasne Mohawks, the Stockbridge-Munsee Community Band of Mohican Indians, the Oneida Tribe of Indians of Wisconsin, the Cayuga Indian Nation of New York and the Seneca-Cayuga Tribe of Oklahoma. The hearings were open, public forums for comments from local government officials and representatives of Indian nations, businesses and communities across the state. The information gathered helped to determine whether the Legislature would ratify the agreements. Testimony was received on various aspects of the settlement agreements.

On April 15, the Governor withdrew his proposed legislation for five casinos. On June 16, the Governor proposed a new bill to settle only Mohawk land claims and involving only one casino for the Mohawks. This proposal, with the Mohawk Indian Nation, was a settlement of an authentic land claim with proper regulatory safeguards. The Assembly passed the bill on June 21 and sent it to the Senate. (A.8900). The Senate did not pass the bill.

## **STATEN ISLAND FIREHOUSE INVESTIGATION--HEARING POSTPONED; FIREHOUSE OPENED**

In 2001, the Giuliani Administration began construction of a large, modern firehouse in the Rossville area of Staten Island. The rationale for the new firehouse was the increasing population and need for Fire Department of New York (FDNY) services in the area. The Rossville firehouse would house the first new engine company placed in Staten Island in 30 years. Construction on the firehouse cost about \$10.4 million and was completed in 2003. However, as of April, 2005 the Bloomberg Administration was refusing to place an engine company in the new firehouse, citing cost reasons.

At the request of Assemblymember Michael Cusick (Staten Island), Oversight Chair Brennan and Codes Committee Chair Joseph Lentol initiated an investigation of the adequacy of FDNY services on Staten Island. The Chairs requested FDNY to supply the Committees with detailed data on FDNY response times in the Rossville area. The Chairs also scheduled a hearing for May 13, and requested the appearance of the Fire Commissioner.

The day before the hearing, the Chairs postponed the hearing at the request of FDNY, which had not yet supplied the response time data.

On May 15, the press reported Bloomberg Administration officials saying that the Mayor now agreed to place an engine company in the Rossville firehouse within two weeks. The press also reported that average FDNY response times in the Rossville area were seven minutes, 10 seconds, well above the citywide average of 4:54. The 7:10 Rossville response time was also considerably higher than what the FDNY had described as acceptable for safety during 2004 Assembly hearings.

The Rossville firehouse now has an engine company.

## **EXAMINATION OF THE PROCUREMENT STEWARDSHIP ACT AND PROCUREMENT ISSUES - ALBANY**

In 1995, the Procurement Stewardship Act (State Finance Law, Article 11) was enacted in order to consolidate, codify and update the procurement laws of New York State. Recognizing that the law would need to be periodically reevaluated, the Legislature enacted an original sunset date of 2000 for the law. Following legislative oversight and

review, it was renewed for an additional five years. This year, a one-year extender was enacted in the budget, providing additional time for a reevaluation of New York State's procurement law. When the Stewardship Act was renewed in 2000, a number of significant changes were made to the State Finance Law.

In order to review the effectiveness of the Procurement Stewardship Act, public hearings were held in Albany on September 27, 2005. Sponsoring the hearing were Oversight Committee Chair Brennan, Governmental Operations Chair Destito, Local Governments Chair Sweeney, Small Business Chair Weprin, Environmental Conservation Subcommittee on Oversight Chair Bradley and Government Administration Chair Millman.

The Office of General Services has been the Administration's 'expert' on procurement. While OGS goes through the major procurement process with a particular vendor, other state agencies as well as other eligible entities are allowed to purchase off of these contracts. Eligible entities include local governments, schools and not-for-profit organizations. It expands the State's purchasing power. By increasing the number of entities purchasing items and in turn, increasing the potential number of items purchased, the State is in a better negotiating position to get volume discounts built into the contract price. It saves other state agencies and eligible parties some of the time and effort they would otherwise have to spend in the procurement process.

As the central agent, OGS should be in a position to monitor the State's experience and use this information when negotiating future contracts with these and other vendors for a similar service. Assembly bill 7575 strengthens the oversight and monitoring efforts by ensuring purchases from centralized contracts are tracked. This, in turn, should better ensure the State gets the best price through more accurate volume discounts.

## **MEDICAID FRAUD HEARINGS**

A series of newspaper articles by *The New York Times* in July of '05 revealed serious fraud and abuse of New York's Medicaid system. That prompted an Assembly inquiry into the issue.

On September 19, 2005, the Assembly Health, Codes, Judiciary and Oversight Committees held a hearing on this subject.

Key issues examined by the Committees were:

- The level of coordination among state agencies and the effectiveness of their fraud-prevention efforts. Key players in this are the Departments of Health and Law;
- The numerous information systems that the State has paid for and operates (both directly and under contract with different vendors) to assist in identifying fraudulent activities;
- The adequacy of staffing levels to identify and pursue enforcement efforts against violators;

- Departmental bills proposed by the Department of Law to establish a False Claims Act and a Whistleblower Law.

Following the hearings, the Members requested detailed follow-up information from the Departments of Health and Law. It was not until November that the Committees received requested information from the Attorney General's office and not until December 19 that the first of promised information was received from the Department of Health.

The Committees continue to gather information and review the requested information. The Committees will be continuing their investigation of the issues in preparation for the 2006 Budget and Session.

### **DURABLE MEDICAL EQUIPMENT (DME) HEARINGS**

In February 2005, the Chairs of the Oversight and Health Committees met with Department of Health (DOH) representatives to discuss reasons for the delays in funding for durable medical equipment (DME). The Chairs were assured that DOH was working to resolve the delays. However, significant problems and possible violations of DOH regulations remained.

For that reason, the Assembly scheduled public hearings in an effort to gather more information from the people who suffer because of this problem. The Assembly Committee on Oversight, Analysis and Investigation, the Health Committee and the Task Force on People with Disabilities held two public hearings to investigate the reasons for delays in funding durable medical equipment for people with severe disabilities; one on July 19, 2005 in New York City, and the second hearing was held on November 15, 2005 in Albany.

Medicaid funding of DME requires prior approval by the state Department of Health. The DOH Regional Medicaid Office in New York City, which handled all of the funding requests for New York City and Long Island, was closed in November 2004, with little public notice. Operations were moved to Albany.

DOH admits it did not prepare its staff for this change. As a result, a large backlog of funding requests was amassed. State regulations require that DOH issue a ruling on a request within 21 days. Indications were that DOH had rejected a large volume of applications, and frequently required additional and often unnecessary information in order to stop the 21-day clock by simply asking for more information.

Children and others with severe disabilities faced extraordinary delays in getting Medicaid approval for repairs or replacements for new, worn out or broken wheelchairs. The delays often made it impossible for people to leave their homes and in some cases, caused prolonged pain and damage to their health.

Throughout the fall of 2005, Oversight staff continued to monitor the work of a DOH DME Workgroup, created to improve and clarify procedures, develop better

communications between providers, vendors, clients and DOH and to ensure that the most vulnerable individuals receive the help and attention they so desperately require. The DME workgroup is helping establish emergency procedures, but its most important tasks, developing guidelines and streamlining the prior approval process, remain incomplete. Hopefully, the Department of Health will consult with the DME Workgroup to develop more responsive DME rules.

Oversight staff is currently reviewing all of the received testimonies and will continue to explore possible solutions. It is likely that the Committee's findings will be included in a Report to be released during the 2006 Legislative Session.

## **IV. COMMITTEE REPORTS**

### **NEEDLE IN A HAYSTACK**

The Oversight Committee and the Assembly Chair of the Administrative Regulations Review Commission examined state agency compliance with the Subject Matter List provision of the Freedom of Information Law (FOIL). The purpose of this study was to evaluate agency compliance with the statutory and regulatory requirements that each state agency maintain a reasonably detailed and current subject matter list of records in its possession.

Assemblymember Jim Brennan, Chair of the New York State Assembly's Oversight, Analysis and Investigation Committee, and Assemblyman Ruben Diaz, Jr., Assembly Chair of the New York State Assembly's Administrative Regulations Review Commission released a report in August 2005 on this issue. The report exposed state agencies' failures to meet legal minimum standards regarding the Freedom of Information Law's requirement that a FOIL subject matter list must be available to the general public.

Needle in a Haystack examined state agency compliance with FOIL's requirement that an agency maintain a reasonably detailed current list by subject matter of all records in the possession of the agency. Such a list helps those interested in requesting records by identifying what kinds of records are maintained by an agency. This subject matter list serves the same purpose as a store directory in a supermarket. Shoppers don't walk in expecting to see a sign telling them where to find the Macintosh apples or the chicken noodle soup, but shoppers do expect a sign directing them to the produce section or the soup aisle, making it easier to locate the products they want. In the same vein, the Department of Motor Vehicles is not expected to list every record concerning every licensed repair shop, but it does help to know that DMV subject matter lists include entries for the "business address" for the repair shops it regulates.

The most basic of FOIL's requirements regarding subject matter lists is that each agency must have one. Unfortunately, some agencies do not comply with even this basic requirement.

Broad noncompliance was found with other requirements for lists. In a sample taken in 2001-2002, 75% of State agencies did not comply with the subject matter list rules that agencies are to maintain a list that is both "reasonably detailed" and "current." Agency noncompliance included outdated lists, undated lists, lists with little detail, and even an outright failure to maintain any list.

Agencies were contacted again in 2004. They were asked to send the most recent update of their subject matter lists. Unfortunately, there was little improvement with 72% of State agencies not complying with the subject matter list rules.

Although many agencies appear to be making good faith attempts to put together some kind of subject matter list, the most apparent problems in this area are the lack of effective monitoring, accountability and practical guidance.

To that end, legislation to provide general guidance to state agencies on how to develop and maintain a current and reasonably detailed subject matter list of records is in the works. Legislation to require every state agency to post its subject matter list on its website, to post information related to the Freedom of Information Law, and to include a link to the Committee on Open Government's website to acquaint the public with general information about the FOIL process is also being developed.

Regrettably, changing statutory language is probably not enough to ensure that an agency maintains an adequate list, or even maintains any kind of list at all. The most apparent problem is the lack of effective monitoring and accountability. It is unacceptable to allow agencies to choose whether or not they want to comply with any law. Even more troubling, when the public is demanding more accountability from government, agencies choose to ignore a basic requirement to provide open access to government records. Until state agency managers understand and embrace the public's desire for open and accountable government, continued oversight and whistle blowing by legislative and outside organizations will be needed.

Heeding the call to "reform" government, the Oversight Committee is committed to ensuring that laws currently in place which allow citizens access to government information are complied with, enforced and improved.

## **RESOLUTION: MAY AS PHYSICAL FITNESS MONTH**

Childhood obesity is a serious health epidemic. Major health problems are primarily due to lack of physical activity and poor nutrition. Today, there are nearly twice as many overweight children and almost three times as many overweight adolescents as in 1980. Physical fitness and sports activities are so important to building a healthy student population and a healthy and productive society.

A 2003 Oversight Committee report, No Room in the Playground, revealed that outdoor recreational space was often unavailable to school children in New York City, an important factor when trying to encourage children to have an active and healthy lifestyle.

The President's Council on Physical Fitness and Sports designated the month of May 2005 as Physical Fitness and Sports month for the entire nation. In response and support of the country's observance of fitness and sports activities, Chair Brennan and Senator Padavan introduced a resolution in the Assembly and Senate calling on the Governor to proclaim May 2005 as Physical Fitness and Sports Month in New York State.

The resolution, citing the importance of daily physical activity and good nutrition, urges all New Yorkers - with special attention to children - to focus on the observance of this



national effort. The resolution also urges the NYS Board of Regents to encourage schools across the state to reinvigorate their physical fitness programs so that our young people will learn to develop habits of physically fit lifestyles and healthy living.

At a pre-game ceremony on May 25, 2005 at Yankee Stadium in the Bronx, Senator Padavan and Assemblymember Brennan presented the resolution to the New York Yankees Team Captain, Derek Jeter. On May 26, 2005, retired NY Knicks Basketball Champion, John Starks joined with Assemblymember Brennan and Principal Larry Woodbridge at the Secondary School for Law in Brooklyn and spoke to an 8<sup>th</sup> grade gym class about the importance of participating in physical activity throughout their life.

## **THE PUBLIC EYE: UPDATE ON COMMITTEE INVESTIGATIONS**

“The Public Eye”, first released in 2003, is a series of updates intended to keep the public informed of Oversight Committee investigations. Through its monitoring and investigative activities, the Committee seeks to determine whether programs are operating as required and whether allocated funds are spent in accordance with legislative intent. Two Public Eyes were released in 2005 and those summaries follow.

### **PUBLIC EYE #9 (May 2005) Options for Financing New York City School Buildings**

In May 2005, Committee Chair Jim Brennan published a Public Eye explaining options for financing New York City school construction. The widely-disseminated paper was intended to invite discussion on possible funding sources for building new schools and fixing existing ones.

For far too long, many of New York City’s 1,100 schools have been overcrowded and in poor condition. In fact, the State Supreme Court agreed with petitioners that New York City schools are deficient and need more funding to meet the State’s Constitutional right to a sound basic education.

While both the State and City are contributing more money towards fixing New York City schools and building new ones than they had in the past, the Public Eye noted that more must be done now so that all students have the space and tools they need to learn.

In 2004, the City issued a \$13 billion, 5-year capital plan, although some estimated the need was more than double that amount. The plan included building 97 new schools by 2009 and fixing many of the serious problems plaguing schools. The City’s plan presumed the State would contribute half of the money. However, despite Assembly efforts to greatly increase aid to New York City in 2004-05, the State Senate and Governor would not agree. The Assembly managed to push through significant changes in State school building aid the following year (2005-06), which would enable the City to leverage more State aid for school buildings, but this was still not enough.

The Public Eye discussed New York City's debt limit, New York State building aid changes, and possible funding options, including: increasing State funding by: 1) using video lottery terminal (VLT) funds to leverage capital funding; 2) providing State grants for school construction; 3) making more building aid changes to drive more funds to New York City; and, 4) holding another state bond referendum. Other options discussed included increasing City funding or the City's debt limit (or the debt limit of the City's Transitional Finance Authority), as well as the possibility of giving all large city districts fiscal independence from their cities and the possibility of securitizing State building aid for New York City.

The paper noted that a political stalemate between the Assembly and the Governor and Senate would have to be broken to drive any State funding increases to the City for school construction.

In the 2006-2007 State budget, the Assembly was successful in its effort to drive increased school construction funds to New York City and a variety of the options mentioned in the Public Eye were adopted, including:

- Securitizing building aid for New York City;
- Driving additional funds through state grants to the City and other needy districts;
- Increasing the debt limit for the City's Transitional Finance Authority; and
- Providing funding outside of the school aid formula.

#### **PUBLIC EYE #10 (December 2005) Brennan Law Fights Identity Theft**

In December 2005, Public Eye #10 was issued to inform New Yorkers of a new law Chair Brennan had sponsored that, through its enactment, enabled over 200,000 New Yorkers to learn they had been exposed to identity theft. The new law, the Information Security Breach and Notification Act, took effect on December 7, 2005.

Until then, companies that suffered computer break-ins were **not** required to notify people when customer information was stolen. The new law now requires companies to contact people when their private information like Social Security, driver's license, or credit card numbers are exposed.

The Oversight Committee was active in pursuing companies that suffered serious breaches but did not initially notify customers. One of these was the large data broker Choicepoint. Brennan called for an immediate halt to state contracts with Choicepoint after it was revealed that over 125,000 people, 9,000 of them New Yorkers, were the victims of a security breach at Choicepoint. Over the course of several months, Brennan tracked other notable cases and the results were startling. In just the first six months of 2005, over six million people were exposed to identity theft nationwide due to security breaches at large information brokers or financial institutions.

The new law:

- requires that governments and businesses notify victims if their personal information is taken;
- establishes one state law requiring businesses to provide notice of an information hack;
- requires local laws to protect personal information under a local government's control;
- protects consumers by giving them the information they need to head off identity thieves before they can do more damage; and
- helps to create a "culture of security" by encouraging data protection techniques.

The bill was supported by the Consumer's Union, The Privacy Rights Clearinghouse and the New York Public Interest Research Group (NYPIRG). All saw it as a great first step in preventing identity theft, and it was hailed by both local and international news groups.

## **V. OUTLOOK FOR 2006**

### **Indian Land Claims, Casinos and Tax Agreements**

If proposals are presented during 2006, Oversight will continue to play a role, if needed. Oversight will continue its joint involvement with the Assembly Committees on Judiciary, Tourism and Racing and Wagering in considering legislation, budget initiatives, and continuing any investigative work.

### **Medicaid Fraud**

Oversight will continue joint work with Assembly Committees on Health, Codes and Judiciary in examining state activities related to Medicaid Fraud. Oversight will help develop and pursue passage of a legislative and budget package ensuring fiscally responsible accountability.

### **Durable Medical Equipment**

Oversight will continue joint work with the Assembly Committee on Health and the Task Force on People with Disabilities. Oversight will also finalize and issue the Committees' report on DME hearings. A legislative package to address the problems identified in the report will be developed.

### **FOIL – Subject Matter List**

After the release of Needle in a Haystack in 2005, Oversight will pursue passage of legislative remedies recommended in the report.

### **Procurement**

Oversight will continue to be involved in the oversight of state agency procurement practices. Procurement provisions were incorporated in the Assembly's budget reform package and were included in the final versions passed by both houses in 2004 and 2005. The Governor vetoed this reform legislation and while both houses overrode, the voters rejected the accompanying constitutional amendment needed for its implementation.

**APPENDIX A:**  
**COMMITTEE REPORTS**

**NEEDLE IN A HAYSTACK** - August 2005 (See page 11 of this report)

**UNCHARTERED WATERS: A Study of Compliance with New York laws governing water supply emergency planning** - February 2004

This report was issued after a year-long review by Committee staff on the efforts of water suppliers to comply with Chapter 405 of the Laws of 2002. This law requires water suppliers statewide to update their emergency plans to include an analysis of the threat of terrorism.

**SHOPPING FOR ASTHMA DRUGS: A SURVEY OF PRICES IN NEW YORK CITY** August 2004

This report was issued after Oversight staff visited 148 pharmacies in New York City to find the average "market basket" price of ten asthma drugs. Only 66% of the pharmacies complied with the Drug Price List Law.

**FOR THE SAKE OF SECURITY: An Assessment of New York State Government Cyber Security** - June 2003

The Oversight Committee's release of "For the Sake of Security: An Assessment of New York State Government Cyber Security" detailed the Committee's investigation of New York State government computer security. Government computers store information about the State's critical infrastructures, personal data, infectious diseases, criminal records, financial documents and more. Violations of computer security can cost millions of dollars, can be life threatening and can erode the trust between government and the citizens it serves. This report detailed the Office for Technology's (OFT) failure to release a statutorily required computer inventory and its use of outdated software and standards puts state computers at risk. Release of the report led OFT to replace outdated technology standards with new standards, upgrade to supported software and add Information Security Officers where required.

**NO ROOM IN THE PLAYGROUND: A Report Examining Playground Space in New York City Elementary Schools – September 2003**

Chairman Klein directed the Oversight staff to investigate New York City's compliance with the New York Education Law §2556 (5) which states, in part, that "it shall be unlawful for a schoolhouse to be constructed in the city of New York without an open-air playground attached to or used in connection with same." This report revealed that inadequate outdoor recreation space was available to New York City's elementary school

children, and that State and City agencies failed to consider outside playground space as both a priority and a mandatory requirement for active and healthy children. Temporary Classroom Units (TCUs), used to alleviate overcrowded classrooms, often take up a school's entire playground area and in some instances, remain for as long as eight years. The report recommended that the State Education Department step up its current authority over playground sites, maintain current data, annually review placement of TCUs and expand the Joint Operating Playground program to provide more facilities to schools suffering from insufficient outdoor playground space.

**TIME TO CHANGE THE CHANNEL: Cable Television Prices in New York State –**  
March 2003

In response to rising cable TV prices, the Oversight Committee conducted a survey in 2003 of cable prices throughout New York State. This report set forth specific prices for each of the cable companies, and compared their rates and programming offerings in different parts of the State. Based on the report's recommendations, legislation was introduced in 2004 to require that cable companies supply rate and programming information in plain language and that such information should specify consumer premium and pay-per-view options and rates.

**NYC WATER INFRASTRUCTURE: Is Security Water-Tight --** May 2002

The Oversight Committee began its investigation of compliance with security measures for New York City's water infrastructure system in August 2001. Following the September 11<sup>th</sup> attack, the Committee accelerated its review because of the belief that New York City's water supply could be considered a target for terrorism. As a result of this investigation, the report offered suggestions for upgrading security at water facilities in order to bring them into compliance with State Department of Health and Federal Environmental Protection Agency recommendations.

**ADULT HOMES IN CRISIS: Plan for Reform --** June 2002

The Oversight Committee joined with the Assembly Committees on Health, Mental Health and Aging to investigate the poor conditions and inappropriate health care provided to residents of adult homes. An in-depth investigation included meetings with the State Commission on Quality of Care for the Mentally Disabled, the State agency responsible for investigating complaints regarding quality of care, advocates and State agency officials; detailed information requests to the Departments of Health and Mental Health; and public hearings. Many of these investigative activities, along with proposed reform legislation, were reflected in this report from all four Committee Chairs.

**CONNECTIONS: An Investigation of New York's Statewide Child Welfare Computer System --** March 2001

The Oversight Committee and the Committee on Children and Families released their joint report: *Too Much, Too Little, Too Late. An Assembly Investigation of CONNECTIONS–*

*New York's Statewide Child Welfare Computer System.* This report marked the culmination of a two-year investigation of the flawed computer system, which was supposed to help child welfare workers better track children in foster care.

*Too Much, Too Little, Too Late* details the Committees' findings related to: problems with the CONNECTIONS system and their impacts on children and families; procurement issues; State agency management and administration of the CONNECTIONS contracts; and costs and fiscal impacts. The report also presents administrative, budget, and legislative recommendations. It is hoped that these recommendations will help get the project back on track, strengthen legislative oversight of the project and related costs, and ensure that similar problems do not recur with future large information technology projects. The report won the 2001 Notable Documents Award, in the category of Public Policy, from the National Conference of State Legislatures.

### **Losing Our Children: An Examination of New York's Foster Care System** -- May 1999

The Oversight and Children and Families Committees released "Losing Our Children: An Examination of New York's Foster Care System," a report which detailed the Committees' findings identifying factors that have contributed to the breakdown of the State's foster care system. Specifically cited in the report were issues related to State Oversight, the implementation of State laws, child welfare financing, state agency administration, and the provision of child welfare services. The report won the Notable Documents Award by the New York Library Association.

### **Who's Minding the Store? Is New York State's Governmental Accountability, Audit and Internal Control Act Working?** -- October 1997

The study was initiated due to the impending sunset of the Act on January 1, 1999. In addition, the years preceding the report had seen large-scale, top-level personnel changes as well as the elimination, consolidation, and downsizing of agencies. The report concentrated its analysis on the 34 agencies considered by the Division of Budget to be at the highest risk. The report studied internal control programs and internal auditing practices for the years 1994, 1995, 1996 and the first half of 1997. The report found that:

- Overall, internal control programs were a low priority and widely neglected.
- Turnover and vacancies in the position of Internal Control Officer (ICO) were widespread.
- Unclear chains of command existed with 65% of ICO's not reporting to an agency head.
- IC officers performed duties conflicting with the responsibility to monitor internal controls.
- Compliance with the Act is declining and certification integrity has been compromised.
- Overall, the internal audit process was inadequate. In many cases, Audit units were not established, directors were not named, and new audit directors were under-qualified.

Of the 34 agencies examined:

- Internal Auditors frequently did not report directly to the agency head. The auditor's role was often compromised by conflicting responsibilities.
- The internal audit staff was undermanned and conducted too few audits.
- Agencies' internal audit programs were not in compliance with the law and professional standards.
- Internal audit recommendations were disregarded by many agencies.

**Putting the Pieces Together...A Report Examining Computer Technology in New York State's Public Schools** -- May 1996

Given substantial expenditures on computers and other technology resources in schools, this report examines the numerous funding streams which support technology. It also begins to assess both schools and the State Education Department's efforts to plan for technology. The report concluded that, for the most part, the computer is not integrated within the curriculum. The causes of this deficiency include: a lack of proper oversight of schools and BOCES Regional Information centers by the State Education Department (SED); 75% of computers are out-dated despite annual increases in computer expenditures; telecommunication costs for rural districts are prohibitively high; deficient infrastructure in many - chiefly urban - schools precludes computer installation; SED does not properly track several State aid funding streams; teacher training/staff development and technical assistance is under-funded; and there is inadequate planning for school technology.

To better realize the goal of computer integration into the education process, the report makes several recommendations. (1) SED should develop a long-range plan to overcome a persistent inequity in resources among schools and the inadequate levels of staff development/teacher training. (2) SED should improve its oversight of and outreach to schools, by creating a widely accessible clearinghouse of education technology resources, and statewide technology standards for schools. (3) The State needs to have a better handle on how technology resources are being utilized. The State should then look to more effective allocation plans, perhaps merging numerous funding streams.

In 1999, A7371/S5318 which put these provisions in place, was passed by the Assembly and the Senate, but vetoed by the Governor. (veto memo.16)

**The Cable Picture -- Assembly Oversight, Analysis and Investigation Committee Staff Report Examining the Industry and Regulators** -- November 1994

Committee staff issued a comprehensive report on the performance and regulation of the cable television industry in New York. The Cable Picture provides in-depth analyses of the past, present and future of the cable industry in New York State, its finances, growth and practices, and the governmental bodies that regulate the cable industry. The report includes numerous recommendations for the State and municipalities to strengthen oversight efforts, and ways for the State to prepare for and regulate the emerging telecommunications industry.



The project began under the chairmanship of Assemblyman Richard Brodsky, and was broadened by Chairman Anthony Genovesi to evaluate those telecommunications issues relating to privacy, and to make recommendations for legislative action, if necessary. The investigation included: detailed surveys of cable companies and municipal officials; on-site visits and discussions with municipal officials and cable operators; interviews with the State Commission on Cable Television (CCTV), other State agency officials, private consultants and telecommunications experts; and, analyses of Federal and State laws and regulations, municipal franchises, and voluminous amounts of data and written material.

**Closing Report on New York City's Attempt to Award a \$1.15 Million Contract Without Competitive Bidding** -- July 1992

This report, a follow up to New York City's Attempt to Award a \$1.15 Million Contract Without Competitive Bidding (October 23, 1991), concludes the Committee's review of New York City's attempt to award a \$1.15 million contract without implementing the competitive bidding process. Based on meetings and information obtained from New York City government, the Committee determined that the City might have been able to follow accepted procurement procedures, instead of evading them, had it acted promptly to issue a request for proposals.

**Required Reports Listing** -- May 1992

This report compiles reporting requirements contained in statute and budget language from 1981 through 1991. The report was distributed to Assembly committee chairmen and staff and serves as another resource in evaluating program performance. The listing includes the legal citation (chapter or section of law, or both), which agency prepares the report, who should receive the report, when and how often the report is to be issued, and a brief summary of the report's subject.

**State Agency Report Filing With the New York State Library** -- March 1992

After several failed attempts to obtain public documents from the New York State Library that were required to have been filed there, the Committee reviewed implementation of the State's document depository program. As of 1986, the State Library had only one third of all State documents, which restricts access for New York State citizens to documents that would help them better understand and follow the operations of State government. Legislation was enacted (Chapter 176, Laws of 1993) resulting from recommendations in this report, to improve government accountability through greater access to State government documents. (The report was awarded the New York Library Association's third annual Notable Documents Award.)

**Investigation into New York City's Attempt to Award a \$1.15 Million Contract Without Competitive Bidding** -- October 1991

This report charges New York City with attempting to award, without legally required competitive bidding, a \$1.15 million contract pursuant to the Safe Streets, Safe City Omnibus Criminal Justice Program. The contract was for a study to assess resource deployment at the New York City Fire Department (NYFD), determine whether the NYFD should assume additional emergency response duties, and to determine where fire houses should be located. Although given clear instruction from the Legislature that the project is subjected to required procurement procedures, the City attempted to award the contract through the Research Foundation of the City University of New York, which is subject to less restrictive competitive bidding requirements than the City.

**Interim Report Examining Certain Art Market Practices** -- June 1991

This report details the findings and recommendations of an 18-month examination of New York's art market practices conducted by former Oversight Committee Chairman Richard Brodsky and former Tourism, Arts & Sports Development Committee Chairman Joseph Pillittere. The joint-Committee examination was initiated after it was learned that Van Gogh's "Iris," which sold for \$53.9 million in 1987, was financed by a major auction house that used the painting as collateral for the loan. This type of financing raised concerns about auction house financing practices as well as high costs and public access to art. Based on hearing testimony and research, the Chairmen determined that certain auction house practices fueled both an increase in the price of art and the transfer of art from public to private hands, as a result of museums selling off, or deaccessioning artwork. The Committee Chairmen identified key issues, some of which Assemblyman Brodsky is pursuing through the legislative process.

**Failed Promises: New York State Agencies' Environmental Record** -- March 1991

This report, issued by former Chairman Richard Brodsky and former Environmental Conservation Committee Chairman Maurice Hinchey, details the findings and recommendations of the Committees' examination of State agencies' environmental violations and the State Department of Environmental Conservation's enforcement of environmental laws against State agencies.

The Committee Chairmen initiated the investigation in response to the magnitude of environmental law violations attributed to State agencies, public authorities and public benefit corporations. The violations were listed in DEC's first annual audit, released in August 1989. The audit, required by Chapter 595 of the Laws of 1988, listed 440 environmental violations at 267 State agency facilities. While most of the agencies' violations were for failure to obtain or renew permits or registrations, other included raw sewage released into drinking water above a sole source aquifer.

## **The Abuse of the Prevailing Wage Law -- February 1991**

The Oversight and Labor Committees released this report after completing a year-long examination of implementation and enforcement of the State's prevailing wage law. The Committees' review was based on complaints about enforcement of the prevailing wage law and included extensive documentation of violations found through on-site field investigations, document reviews and a series of legislative hearings in 1990, at which witnesses from industry, labor and government testified.

## **An Investigation of the Public Service Commission's Examination of Wrongdoing in New York Telephone Company's Transactions with Unregulated NYNEX Subsidiaries**

-- September 1990

This report charges the Public Service Commission (PSC) with failing to make full use of its investigatory and regulatory tools while considering a NYTEL rate increase request. Committee staff investigated the matter and found strong evidence indicating NYNEX, NYTEL's sole stockholder, had been using NYTEL as a cash cow. According to credible witnesses, NYNEX had been influencing NYTEL to buy goods and services, such as computers and software, at inflated prices from NYNEX's unregulated subsidiaries. NYTEL is regulated and NYNEX and its subsidiaries are not. Through this report and letters to PSC Chairman Peter Bradford, former Committee Chairman Richard Brodsky urged the PSC twice in 1990 to further investigate allegations of wrongdoing by NYTEL before granting NYTEL's requested rate increases.

The PSC did order an investigation of NYTEL's purchases from NYNEX subsidiaries. After many years of litigation and procedural wrangling, the presiding Administrative Law Judge in 1996 recommended that NYNEX refund \$300 million to consumers. In 1997, the PSC ultimately ordered a refund in the amount of \$83 million to compensate consumers for NYNEX's inflated prices.

## **Structural Defects: A Critical Review of the New York State Uniform Fire and Building Code -- January 1989**

Released by the Assembly Oversight and Governmental Operations Committees, Structural defects detail numerous problems with the enforcement and oversight of the Uniform Fire and Building Code Act by the Division of Housing and Community Renewal (DHCR) and the Department of State (DOS).

The Committees examined DOS and DHCR compliance with a 1981 law establishing a uniform fire and building code for the State. The Code, enacted following the 1980 Stouffer's Hotel fire in Westchester County that killed 26 people, was intended to better protect the public by establishing minimum safety standards throughout the State. DOS administers the Code and DHCR shares responsibility for ensuring compliance.

Through on-site inspections, interviews and a survey of all State municipalities (except New York City which is exempt), the Committees learned most localities adopted the Code and enforced it themselves, although the majority did not have a full-time employee for this function. Many municipalities engaged private contractors for this duty, and, in some cases,

improperly delegated their "public power" function. The Committees' report made specific recommendations dealing with DHCR and the Code Council, and DOS's direct enforcement, handling of private contractors, training, financial assistance, oversight and the boards of review. Many of the Committees' administrative and regulatory recommendations have since been implemented.

**Shots in the Dark: An Evaluation of New York's Target Crime Initiative Program --**  
September 1989

This report, issued by the Oversight and Codes Committees, is based on an extensive examination of the Target Crime Initiative program (TCI), a comprehensive anti-crime package funded by the State to aid localities for the special handling of serious and/or repeat felony offenders. As of late 1989, the State had spent over \$618 million on these programs, including TCI.

Through surveys, site visits, agency files, and interviews with agency and local personnel, staffs of the two Committees found there was nothing very "targeted" about the TCI program in terms of either case type or case management. Localities were, for the most part, free to target any cases, in any manner, they desired. While not the original intent, the TCI program, as implemented, was little more than a mechanism to funnel non-targeted local assistance funding. To refocus the intent of this program, the Committee Chairmen recommended: codification of State-funded criminal justice programs; establishment of meaningful and measurable goals, objectives and priorities applying to each criminal justice component; creation of new reporting systems and steps to eliminate resource gaps; and creation of an intergovernmental working group.

**Engineering Decision-Making Within the New York City Transit Authority --** March 1988

The Oversight Committee and the Subcommittee on Mass Transit Finances and Operations of the Committee on Corporations, Authorities & Commissions (then chaired by Assembly member Brian Murtaugh and Catherine T. Nolan, respectively) examined the engineering and management practices of the New York City Transit Authority (NYCTA). The investigation was spurred by allegations that the safety of passengers was in jeopardy because NYCTA hired unlicensed engineers.

Through hearing testimony, documents and correspondence, the Committees concluded that the NYCTA, at the very least, was lax in its placement of professional engineers in its chain of command. In several instances NYCTA advertised a job requiring a professional engineer, but then hired an unlicensed individual. This situation also raised ethical concerns for licensed engineers, who could have potentially been placed under the supervision of unlicensed personnel.

**Lost in the Maze: New York State's Multiply Disabled --**1988

The Oversight and Mental Health Committees examined the implementation of a 1977 law created to ensure a comprehensive and coordinated approach in serving the needs of the

multiply-disabled. The multiply-disabled population includes those in State psychiatric and developmental centers, under treatment by local providers, or on the streets. From 1981 to 1987, the number of multiply-disabled patients with mental illness and substance abuse problems increased nearly 90 percent and the number of patients suffering from alcohol abuse and mental illness increased 45 percent.

The report documents the specific failures of the Inter-Office Coordinating Council and its four constituent State agencies -- the Offices of Mental Health and Mental Retardation and Developmental Disabilities and the Divisions of Alcoholism and Alcohol Abuses and Substance Abuse Services -- to meet the stated goal of assuring gaps in services to multiply-disabled were eliminated, and traces how the administrative agencies essentially ignored legal mandates. The report's recommendations were aimed at attaining better management.

**Bleak House: Division of Housing and Community Renewal At the Crossroads -- June 1987**

This report documents the Oversight and Housing Committee examination of the State Division of Housing and Community Renewal's (DHCR) administration of rent stabilization and rent control laws. When DHCR assumed responsibility for administration of the system in 1983, it inherited a backlog of 104,000 cases, and some statutory changes created an additional backlog.

Numerous complaints from both landlord and tenant organizations indicated that the agency and the system created to handle the regulations were chaotic and that the agency was systematically violating the rent regulatory statutes. The Committees examined actions DHCR took to reduce its backlog, including rent overcharges and major capital improvement requests, the administrative review process, and DHCR resolution of tenant complaints.

Testimony from over 80 witnesses and thousands of pages of documents and correspondence collected throughout the investigation were compiled into this report. The report also contains recommendations for DHCR to improve its service delivery, many of which have been implemented.

**APPENDIX B:**  
**PUBLIC HEARING TRANSCRIPTS**

**Hearings on Governor's Proposed Indian Land Claim, Casino and Tax Agreements.**

March and April 2005 Syracuse, Albany and Monticello (See page 6 of this report)

**Hearing on Staten Island Firehouse**

May 13, 2005 Staten Island (See page 7 of this report)

**Examination of the Procurement Stewardship Act and Procurement Issues**

September 27, 2005 Albany (See page 7 of this report)

**Medicaid Fraud Hearings**

September 19, 2005 Albany (See page 8 of this report)

**Durable Medical Equipment (DME) Hearings** July 19, 2005 NYC; November 15, 2005 Albany (See page 9 of this report)

**Hearings on Fire House Closings** – (3/4/04 and 4/30/04)

On May 25, 2003, the NYC Fire Department closed six fire companies, ostensibly for budgetary reasons. Assembly hearings were held to investigate the effects of these closings on the affected neighborhoods. Statistical evidence emerged that suggested response time may have increased more than the Fire Department forecast. Actual response times were in excess of city estimates. While the City had predicted that average, citywide response times would rise by 1 second, they actually rose by 11 seconds in the ten-month period following the firehouse closings.

**Statewide Wireless Network** -- (5/04) The Oversight Committee joined with the Assembly Committees on Governmental Operations, Local Governments, Ways and Means, Codes and Corporations, Authorities and Commissions to review the process of the Statewide Wireless Network (SWN) procurement. The Office for Technology (OFT) issued a request for proposal on December 12, 2001. The initial cost estimate from OFT was approximately \$300-\$500 million. On April 30, 2004, OFT announced that a contract was awarded for a reported cost of over \$1 billion. Hearings were held to determine whether \$1 billion is a reasonable and accurate cost estimate, why the disparity between the initial cost estimate and the reported contract award and when can the State expect to have a fully operational SWN. In 2005, published reports revealed the cost of the contract to be in excess of 2 billion dollars.

**There were no public hearings in 2003.**

**Quality of Care in Adult Homes** -- (5/10/2002 and 6/6/2002)

The Oversight Committee joined with the Assembly Committees on Health, Mental Health and Aging to investigate the poor conditions and inappropriate health care provided to residents of adult homes. Hearings were held in New York City and Albany where testimony was presented from government agencies, adult home operators, and advocacy groups representing adult home residents. Hearing testimony revealed the State had minimized fines imposed on adult home operators, halted enforcement actions and dragged its feet in bringing in temporary operators. Findings from the hearings were included in the Oversight Committee's June 2002 report ADULT HOMES IN CRISIS: Plan for Reform.

**Charities Hearing** -- (11/7/01)

The September 11, 2001 terrorist attack on the World Trade Center created widespread need for financial assistance. In addition to the injury and deaths of thousands of people, the attack resulted in damage to property, unemployment, physical and emotional stress, loss of housing and business disruptions. As of the end of October, 2001, over \$1 billion had been donated to various charitable organizations in New York State. These organizations were then faced with the task of distributing the donations.

On November 7, 2001, the Assembly held a public hearing in Manhattan to learn about the planned uses and distribution of charitable donations made in response to the attack on the World Trade Center. Oversight Committee Chair Scott Stringer co-chaired the hearing, along with Speaker Sheldon Silver, and the Chairs of the Committees on Governmental Operations, Codes, and Judiciary.

The Speaker and Committee Chairs sought to learn: how much money had been pledged and received; how such contributions are restricted and how they can be used; what needs will be met by federal and State funds and charitable organizations; what unmet needs continue to exist in the community; to what extent are charities coordinating their efforts; how is eligibility for assistance and the amounts of awards determined; will charitable gifts affect eligibility for State and federal benefits and vice versa; how should any leftover money be used; to what extent have there been fraudulent charitable solicitations related to September 11; and what steps should be taken to protect the public and legitimate charities from abuse?

**CONNECTIONS** -- (5/12/2000 and 5/23/2000)

The Committee held joint public hearings on the CONNECTIONS system in New York City on May 12, 2000 and in Albany on May 23, 2000 with the Assembly Children and Families and Governmental Operations Committees. During the course of the hearings the Committees found that: computer equipment was delivered before a contract was signed; the Governor's office had direct involvement over the selection of contractors for the project; the hardware contract was amended 78 times after the contract was signed; providers have been frustrated by CONNECTIONS, referred to as "a costly boondoggle" by one provider; the Office of Children and Family Services had not properly overseen the development of the project; CONNECTIONS does not work as intended; and,

children were potentially at risk because the system has been unable to accurately search for an alleged abuser's prior history of abuse.

**Personal Privacy** -- (5/12/98)

The Committee conducted a joint hearing on how changes in technology are reducing the amount of privacy that people have. Among those testifying were individuals whose privacy had been invaded, private investigators, privacy experts, public interest and consumer groups, the N.Y.S. Committee on Open Government, and representatives of the credit reporting, telecommunications, and information broker industries. The hearing was conducted jointly with the Assembly Committee on Consumer Affairs and Protection and with the Assembly Commission on Science and Technology.

**Foster Care** -- (3/3/98, 3/5/98, and 3/18/98)

Joint hearings on factors that impact children's length of stay in foster care were held with the Assembly Committee on Children and Families. Hearings were held in Syracuse, New York City and Albany. Topics discussed included oversight by State and local agencies; the impact of the State block grant on services and length of stay; agency and family court administration; recently enacted State laws and their effects; staffing issues; existing and developing computer networks used by foster care providers; and federal legislation's potential impact on New York's foster care policies.

**NY Inaugural '95 and NY Transition '95** -- (3/18/96)

A joint hearing was called by the Oversight, Election Law and the Governmental Operations Committees to ask questions pertaining to Governor Pataki's 1995 Inaugural and Transition for-profit organizations. Unfortunately, representatives of the two organizations refused to attend. After the Committee Chairmen presented opening statements the hearings were concluded and legal action was pursued.

**Municipal Competitive Bidding Hearings** -- (10/31/95 and 2/27/96)

As part of its review of the municipal procurement laws, the Committee held public hearings in 1995 and 1996 to examine whether the competitive bidding law is being violated and how compliance can be best assured. Testimony was heard from the State Comptroller's office, the Business Council of New York State, the General Building Contractors of New York State, the N.Y.S. Association of Municipal Purchasing Officials, and other statewide contracting associations, auditing firms, municipal officials, regional associations, and school associations.

**Thruway Authority (TA) Hazardous Waste Site** -- (10/2/92)

Oversight, Analysis and Investigation Committee Chairman Richard Brodsky held a public hearing in October of 1992 in Tarrytown to explore the Thruway Authority's 1986 dumping of hazardous waste at a site under the Tappan Zee Bridge in Westchester County. The questioning focused on a number of issues relating to the site, including the TA's failure to test the area as agreed to with State Department of Environmental Conservation (DEC) in 1988. DEC was also questioned on its failure to issue two statutorily required State agency environmental audit reports due July 1, 1991 and September 1, 1992, respectively.



**Beer Industry** -- (2/7/91)

The Committees on Oversight, Analysis and Investigation and Commerce, Industry & Economic Development held this hearing to examine documents received pursuant to subpoena and to explore whether consumers are well served by the current distribution system for beer in New York State.

**Art Market Practices** -- (1/30/91)

The Committees on Oversight, Analysis and Investigation, and Tourism, Arts and Sports Development held this hearing to receive public comment about a number of issues pertaining to the art market and to explore potential legislative responses.

**Prevailing Wage Legislation** -- (2/28/91, 3/1/91, 3/12/91, 3/14/91)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Labor held these hearings to receive comments on the recommendations contained in the joint-Committee report Abuse of the Prevailing Wage Law, and the legislation proposed in response to the joint-Committee investigation.

**New York State's Beer Industry** -- (5/30/90)

The Committees on Oversight, Analysis and Investigation and Commerce, Industry & Economic Development held this hearing to examine whether consumers are well served by the current distribution system for beer in New York State.

**New York Racing Association** -- (3/23/90)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Racing and Wagering held this hearing to inquire into the financial practices of the New York Racing Association (NYRA) because of forecasts of NYRA's financial position for 1990, which indicated an operating loss.

**State Agency Environmental Audit** -- (3/2/90 and 3/7/90)

The Committees on Oversight, Analysis and Investigation and Environmental Conservation held this hearing to gather additional information from the public on State agency violations of New York's environmental laws; to determine what steps State agencies and the DEC take to ensure agency compliance and whether such steps are adequate; and to examine the Governor's budget process and the degree to which DEC played a role.

**Prevailing Wage** -- (1/18/90; 1/24/90)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Labor held this hearing to examine and highlight the state-wide abuses and violations of the prevailing wage law Article 8 (§22 *et seq*) and consider remedies.

**Proprietary School Roundtable** -- (9/7/89)

The purpose of this roundtable was to elicit comments and opinions on Assembly bill 7517 which was aimed at reforming the system of private vocational education in the State.

**Cable Television** -- (4/19/89)

The Chairman of the Committee on Oversight, Analysis and Investigation held this hearing to determine the effect on consumers of the unavailability of the Madison Square Garden Network on cable systems and to explore appropriate legislative remedies.

**Proprietary Schools** -- (3/2/89)

The Chairmen of the Committees on Oversight, Analysis and Investigation and Higher Education held this hearing to examine the effects of chapters 680 and 681 of the laws of 1986 which revised standards for the State's private proprietary schools. More specifically, Chairmen Brodsky and Sullivan wanted to examine various issues, including the financial and recruiting practices and the educational quality of proprietary schools.

**New York City Transit Authority** -- (8/11/87)

The Assembly Subcommittee on Mass Transit Finances & Operations of the Committee on Corporations, Authorities & Commissions and the Oversight, Analysis and Investigation Committee held this hearing to: consider the practice of engineering and its unique relationship to New York City Transit Authority (NYCTA) activities; determine the roles of the Office of Professional Discipline and the State Board of Engineering with respect to advising and overseeing the NYCTA's hiring, employment and job description practices; and, determine if the current management structure of the NYCTA has resulted in managers who are not licensed professional engineers controlling engineering decisions. The Car Equipment and the Track and Structures Departments were studied as examples.

**Division of Housing and Community Renewal (DHCR)** -- (3/6/87 and 3/13/87)

The Chairpersons of the Committees on Oversight, Analysis and Investigation and Housing held this hearing to examine DHCR's administration of New York State's rent regulation system. The Committees originally planned only one hearing, but received more than 60 requests from landlords, tenants and community groups to testify and added another day.