

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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March 7, 2016

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B E F O R E:

VINCENT J. GENTILE  
Chairperson

COUNCIL MEMBERS:

Inez E. Dickens  
Daniel Dromm  
Costa G. Constantinides  
Chaim M. Deutsch  
Rory I. Lancman  
Helen K. Rosenthal

## A P P E A R A N C E S (CONTINUED)

Mark Peters  
Commissioner  
New York City Department of Investigation

2 [gavel]

3 CHAIRPERSON GENTILE: We ready to go?

4 Okay.

5 Good afternoon and welcome to the  
6 Committee on Oversight and Investigations' hearing on  
7 the Fiscal 2017 Preliminary Budget and Fiscal 2016  
8 Preliminary Mayor's Management Report. Today, as  
9 always, we will hear from Commissioner Mark Peters  
10 about DOI's budget and the PMMR.

11 Before we proceed, I would like to  
12 recognize the members of the Oversight and  
13 Investigations Committee who are with us today. As  
14 of now we have Council Member Helen Rosenthal and  
15 Council Member Rory Lancman; thank you for being  
16 here, and each of you have been given an  
17 organizational chart; the Commissioner was kind  
18 enough to present that organizational chart to us, so  
19 we made copies for each member and you should have  
20 that organizational chart at your desk, okay, for  
21 your perusal.

22 The Department of Investigation promotes  
23 and maintains integrity and efficiency in government  
24 operations. DOI's Fiscal 2017 Preliminary Budget  
25 total \$44.2 million, an increase of approximately

2 \$13.2 million from Fiscal 2016 adoption. DOI's  
3 budget supports 361 staff, which is an increase of  
4 approximately 55 positions from Fiscal 2016. These  
5 new personnel account for \$4.5 million increase in  
6 the DOI's budget.

7 Today I would like to learn more about  
8 those new positions and what that means to DOI's  
9 overall operations. In addition to these new needs  
10 we will discuss the changes to DOI's budget since the  
11 Fiscal 2016 adoption as well as its overall  
12 activities in the year. In discussing the budget we  
13 will discuss how the Fiscal 2016 PMMR reflects the  
14 agency's progress and effectiveness in meeting its  
15 mission.

16 So we welcome you once again,  
17 Commissioner Peters and we thank you for coming and  
18 as soon as we swear you in, you can begin whenever  
19 you're ready.

20 COMMITTEE COUNSEL: Good afternoon  
21 Commissioner; I'm going to swear you in; can you  
22 raise your right hand? Do you affirm to tell the  
23 truth, the whole truth and nothing but the truth in  
24 your testimony before this committee and to respond  
25 honestly to council member questions?

2 MARK PETERS: I do.

3 COMMITTEE COUNSEL: Thank you.

4 CHAIRPERSON GENTILE: You may begin.

5 MARK PETERS: Thank you. Good afternoon  
6 Chair Gentile and members of the Committee on  
7 Oversight and Investigations. I'm Mark Peters,  
8 Commission of the Department of Investigation and I  
9 thank you for the opportunity to address this  
10 committee concerning DOI's Preliminary Budget for  
11 Fiscal Year 2017, as well as the many successes we've  
12 had over the past year.

13 DOI's mandate, as codified within Chapter  
14 34 of the City Charter, which states that the DOI  
15 commissioner is "authorized and empowered to make any  
16 study or investigation in the best interest of the  
17 City, including but not limited to investigations of  
18 the affairs, functions, accounts, methods, personnel  
19 or efficiency of any agency." Indeed, the law as it  
20 is written is proof that a fair and efficient New  
21 York City depends on a strong and fully independent  
22 mechanism of ongoing and proactive monitoring to  
23 ensure that corruption is rooted out at every level,  
24 from the individual wrongdoer to operational failures  
25 that lead to waste and abuse.

2 Today DOI's strategy attacks corruption  
3 comprehensively through systemic investigations that  
4 lead to high impact arrests, preventive controls and  
5 operational reforms that improve the way the City  
6 runs and we've had quite a busy year.

7 I'd like to take this opportunity to  
8 highlight a number of the complex investigations  
9 which have recently come to fruition and which help  
10 demonstrate the wisdom of the Mayor's and this  
11 Council's decision last year to commit additional  
12 resources to DOI. These investigations, among  
13 others, have collectively yielded hundreds of  
14 arrests, criminal referrals to prosecutors and public  
15 reports which contain our investigative findings and  
16 specific and actionable recommendations. And to be  
17 clear, these represent the leading edge results of  
18 our current strategy; that is to say, these  
19 investigations are not strictly closed cases; rather,  
20 we will continue to monitor and evaluate the adoption  
21 of our recommendations, the effectiveness of the  
22 relevant agency's own corruption prevention measures  
23 and we will continue to apprehend wrongdoers when we  
24 find them.

2 Further, the cases I highlight today  
3 exemplify the merits of our strategy, intangible  
4 results we have seen and the change underway as a  
5 result of our work by a number of agencies.

6 For example, we have been very active in  
7 cases involving the construction industry; please  
8 understand, whenever there is a construction-related  
9 fatality or other serious incident, DOI investigators  
10 are on-site immediately, working shoulder to shoulder  
11 with other law enforcement partners to evaluate  
12 whether criminal conduct is involved and concurrently  
13 to determine whether construction professionals were  
14 doing business within the parameters of their  
15 licenses and the law and with due regard for public  
16 safety.

17 Since January 2015 these cases have  
18 resulted in nearly 100 arrests and importantly, have  
19 signaled to the construction industry that we are  
20 actively enforcing the full spectrum of laws intended  
21 to protect public safety. This includes false  
22 filings, a crime which on the surface may appear  
23 victimless but which can have serious and tragic  
24 consequences -- several specific examples.

2 On November 17, 2015, DOI and the  
3 Manhattan District Attorney announced the arrest of  
4 an engineer on a charge of falsely certifying a  
5 safety inspection report for the façade of a  
6 Manhattan building where a piece of terra cotta fell  
7 and killed a 2-year-old girl; on that same day, DOI  
8 released a report outlining the finding from an  
9 investigation in the wake of that tragic death which  
10 exposed fault on the part of the City's Department of  
11 Buildings in its enforcement of basic safety rules  
12 intended to prevent such tragedies. As a result of  
13 our report, hundreds of additional inspections were  
14 conducted and repairs undertaken.

15 As another example, last month, on  
16 February 11th of this year, DOI, again with the  
17 Manhattan District Attorney, announced the indictment  
18 of five individuals in connection with a gas  
19 explosion in the East Village that resulted in two  
20 deaths, scores of injuries and loss of property. The  
21 licensed professionals who signed off on the work  
22 never actually checked it; now people are dead and  
23 the professionals and others are facing prison.

24 We work both with the District Attorney  
25 to prosecute criminal conduct and with regulators to



pull licenses and stop reckless construction professionals from future dangerous jobs. Again, the misconduct that led up to the explosion, including falsified documents and dishonest practices, shows that corrupting the process has real life-threatening consequences.

Further, on August 5th of last year we arrested two supervisors and their respective company in connection with the death of a construction worker, a death that resulted due to those supervisors' actions, despite numerous warnings of dangerous conditions. On the day of the fatality, in this criminal case, the site work was a couple of months behind, a truck was on its way to deliver concrete and there was a rush to finish an excavation; there was no proper shoring of the site, no underpinning and workers were in a trench, where they should not have been; the result, a construction laborer was crushed by thousands of pounds of dirt that should have been held back by shoring. We expect additional criminal cases of this type before the year is out.

Underscoring our commitment in the area of construction safety, DOI had forged dedicated

initiatives with key partners; this includes a citywide construction task force with the Manhattan District Attorney's office, which also includes partners from the MTA, the Port Authority and the City's Business Integrity Commission. In that same spirit we are currently working with both the Brooklyn District Attorney and separately, the Staten Island DA to set up similar task forces that are specifically tailored to each borough's needs and resources.

Next I'd like to highlight the outstanding work of DOI's dedicated NYCHA Inspection General. Our NYCHA unit, with current staffing of approximately 45, is heavily focused on issues of safety. In December of last year, DOI issued a report regarding a memorandum of understanding between NYCHA and the NYPD. Since 1996, the New York City Police Department and the New York City Housing Authority have operated under a joint public safety agreement, requiring the NYPD to inform NYCHA of arrests of NYCHA residents or on NYCHA property so that NYCHA can then take steps to keep dangerous criminals out of public housing. Based on our investigation, DOI found that the NYPD had failed to

2 comply with this agreement and did not routinely  
3 inform NYCHA of arrests, even where they involved  
4 sexual assault, gun possession or narcotics  
5 trafficking. In turn, even when informed of such  
6 arrests, NYCHA failed to take steps to remove such  
7 criminals from public housing and thus protect the  
8 overwhelming majority of law-abiding residents.  
9 These systemic failures, documented by a DOI review  
10 of thousands of files, have contributed to a  
11 disproportionately high violent crime rate at NYCHA,  
12 including a shooting incidence rate that is four  
13 times higher than the city as a whole.

14 I'm pleased to note that after our  
15 report, both NYCHA and the NYPD have begun to  
16 implement a number of procedural improvements to  
17 address these deficiencies. I'm pleased to note that  
18 after our report, both NYCHA and the NYPD have to  
19 begun to implement a number of procedural  
20 improvements; indeed in the aftermath of our report  
21 we watched NYCHA and the NYPD staff hold multiple  
22 meetings to start responding to these issues.

23 In addition to these security concerns,  
24 our work is focused on a number of infrastructure  
25 issues that also threaten safety at NYCHA housing.

2 On May 6th of last year, DOI issued a  
3 report in the wake of the death of a NYCHA worker and  
4 the possible role of garbage hoists in that death.  
5 While our report ultimately did not find the unsafe  
6 hoist caused the fatality, the tragic incident  
7 highlighted a systemic threat to the safety of NYCHA  
8 employees created by the use and condition of these  
9 hoists. Specifically, DOI examined Niche's use and  
10 maintenance of seven of the 66 garbage hoists used by  
11 NYCHA; DOI found an array of unsafe conditions, such  
12 as a lack of safety mechanisms, poor repair and an  
13 absence of worker training on these antiquated  
14 hoists. Following the March 2015 fatality, NYCHA  
15 shut down use of its garbage hoists pending further  
16 investigation. DOI recommended permanently  
17 decommissioning these units and recommends studying  
18 alternatives to transport compacted garbage from  
19 basements to the street.

20 Similarly, in the wake of a more recent  
21 death involving an elevator on NYCHA property, we are  
22 now investigating whether similar systemic threats  
23 involving elevators exist there. We will have more  
24 to say on that investigation at its conclusion.

2 Our NYCHA unit also combats housing fraud  
3 and in 2015 DOI arrested three dozen individuals on  
4 housing fraud charges associated with the theft of  
5 more than \$1.2 million, protecting these valuable  
6 public funds for those who are eligible.

7 Next I wanna touch on another area on  
8 which we've been very aggressive and that's  
9 prevailing wage cases. Prevailing wage cases involve  
10 wage theft from construction workers, often new  
11 immigrants and often among those who are least able  
12 to defend themselves and their rights.

13 In 2015, DOI's probes into wage theft led  
14 to one dozen arrests of contractors and companies and  
15 the return of more than \$720,000 to workers whose  
16 wages were stolen.

17 Our work involving social services fraud  
18 also resulted in a number of arrests and addressed  
19 serious financial fraud vulnerabilities.

20 On December 1st of last year, DOI issued  
21 a report discussing vulnerabilities in four separate  
22 cases which resulted in the theft of \$2.4 million of  
23 public funds. As a result of the theft, we also  
24 arrested two current and two former City employees  
25 and 23 coconspirators. The report made a number of

specific recommendations which were sent to the City's Human Resources Administration and several of which have already led to changes. These investigations began after HRA, which I should note has been a very good partner with DOI, referred suspicious activity to DOI; subsequently, DOI uncovered fraud and corruption that exploited vulnerabilities in HRA's computerized case management system and benefit issuance procedures, allowing the defendants to fraudulently steer cash assistance and supplemental nutritional assistance programs, SNAP benefits, to themselves and to associates who are ineligible to receive them, using electronic benefit transfer, EBT cards. In one instance, over \$120,000 of public assistance funds were used to purchase large quantities of the energy drink Red Bull, which were then sent to smaller retail locations. In another instance, public assistance funds were used to pay for fraudulent rental subsidies to individuals who posed as landlords.

In addition to financial fraud crimes, DOI looks at other aspects of social services corruption, including corruption which threatens the health and safety of those in the city's custody and

the public at large. Today I highlight this work in two areas; one involving vendors for the City focused on juvenile delinquents, and the other involving our ongoing Rikers investigation.

On June 11th of last year, DOI and the Brooklyn District Attorney's office announced the arrest of a youth care worker with Boys Town New York, Inc., a City-contracted vendor that provides non-secure residential placement in Brooklyn and Queens to youths who have been adjudicated as juvenile delinquents and placed in custody of the City Administration for Children Services (ACS). The staff member was responsible for monitoring the teens' whereabouts and verifying their presence by recording it in a daily logbook; he failed to do his job and instead falsified the logbook that stated that the teenage residents he supervised were present in a Park Slope, Brooklyn residence. In fact, those teens were charged in connection with the rape, assault and robbery of a woman in Manhattan during the early hours of June 1 after they escaped the Boys Town home without detention. The arrest is part of a broader investigation that DOI opened with our partners at the Brooklyn District Attorney's office

into ACS' management of the City's juvenile facilities and the potential failure to properly supervise residents placed there by the court and ACS. It is important to understand that ACS is ultimately responsible for these safety issues. I look forward to updating you on the developments of that investigation, including additional arrests in due course.

Additionally, as the Inspector General of the Department of Corrections, we continue our work on Rikers Island; that work involves ensuring that both those in custody and those charged with overseeing their custody are safe. Long an area of focus of DOI, our work as the Charter-mandated Inspector General for Rikers continues to produce results and spur change.

Since 2014, when we began an intensive simultaneous review of several facets of Rikers, 26 DOC staff members have been arrested on an array of charges, including contraband smuggling, inmate assaults and false filings. In addition, nearly two dozen staff members have been disciplined and more than three dozen inmates have been arrested on various charges, including smuggling contraband.



The 26th DOC staff member to be arrested since our investigation began was arrested just last month on charges of rape and promoting prison contraband into the George R. Vierno Center (GRVC) on Rikers Island. DOI's drug-sniffing dog, Gunnar, was positioned at GRVC's front gate during the 5:00 a.m. shift change and alerted on the CO as she entered the front gate of GRVC. The CO was searched and although she did not have contraband on her person, the investigation found she had a package of marijuana at her home intended for an inmate with whom she had a sexual relationship. Under New York State Law, inmates cannot consent to sexual relationships inside jail. Approximately 70 grams of marijuana was found at the defendant's home. This case, involving sex for drugs, is but the most recent example of the dangers of corruption in our city's jail and the connection between the drugs, inappropriate relationships and violence that pervade the system.

In addition to arrests during our 18-month investigation, the Rikers Inspector General has already issued three systemic reports on various issues; most notably the grossly flawed hiring practices that led to more than 30 percent of a

recent CO class having red flags; red flags such as gang affiliations, felony convictions and the failure to pass a basic psychological exam. We have also demonstrated the pervasive problem of contraband smuggling that fuels much of the violence and the past failure to properly administer mental health services. These reports caused concrete reforms, reforms including the form of healthy delivery services at the jail, installing a drug-sniffing dog and improving the recruitment and screening of potential staff; more reforms will come as our work continues.

But let's be clear, the work of reforming Rikers is slow, it is difficult and it is decidedly not glamorous. After many decades of neglect, we must be prepared to accept that progress will be incremental, but we at DOI will press forward and hold steady on that course, because nothing but sustained, committed and continuous work will lead to an effective turnaround at Rikers.

Another area of law enforcement the DOI monitors is the NYPD. Our most recent reports in this area include our review of the NYPD's body-worn camera pilot program which focused on an assessment

2 of activation, policy compliance, access to footage  
3 and retention. We also issued a major report on the  
4 use of force by officers, which examined trends,  
5 reporting, de-escalation and officer training and  
6 discipline as it relates to use of force in the  
7 department. I'm extremely pleased that on the same  
8 day that we issued our use of force report the NYPD  
9 announced that for the very first time it would track  
10 use of force by all officers, a key reform called for  
11 in our report. Not only will this reform give us  
12 better information to evaluate the issue, but the  
13 very act of tracking force sends an important message  
14 about its importance.

15 In the coming year we expect to issue  
16 detailed reports on several other important policing  
17 issues, including but not limited to quality of life  
18 enforcement and surveillance activities related to  
19 political and religious groups. In advance, I  
20 appreciate Commissioner Bratton's cooperation with  
21 all of this work.

22 Further, let me also update this  
23 committee on the Office of the Special Commissioner  
24 of Investigation for the New York City School  
25 District (SCI).

2 The unit was created in June of 1990 with  
3 a mandate to investigate criminal activity and other  
4 wrongdoing within the City's school system. The  
5 special commissioner is a deputy to DOI Commissioner;  
6 independent of the City Department of Education and  
7 the Chancellor, SCI is authorized to investigate and  
8 make recommendations concerning any issue which  
9 impacts the integrity of the City's schools. Richard  
10 A. Condon, a former New York City Police Commissioner  
11 and former New York State Commissioner of the  
12 Division of Criminal Justice has held the position of  
13 Special Commissioner of Investigation since July of  
14 2002 and he continues to do a tremendous job in  
15 service to the City; I thank him.

16 In 2015 SCI received a total of 5,566  
17 complaints and opened 898 investigations, including  
18 217 involving an allegation of sexual misconduct.  
19 SCI also monitored matters being handled by other  
20 agencies, usually the NYPD and opened investigations  
21 into 262 of those cases that had been closed by the  
22 NYPD and other entities without arrest or  
23 disciplinary action.

24 Before going over our budget numbers I  
25 wanna briefly touch on some key statistics from the

past year as they relate to the impact of our current strategy.

You'll recall from my previous testimony before this body that I believe we must approach statistics and particularly arrest statistics with extreme caution. The statistics tell an aspect of the story but far from the complete story. However, I understand and respect your concern as an oversight body and the need to evaluate our performance as an agency; I hear those concerns and I am happy to report that as an indicator of our current strategy success, key metrics are up from last year. In calendar year 2015 DOI had 569 arrests stemming from more than 1,500 investigations and over 700 referrals for criminal prosecution. This represents an increase of 83 percent for arrests year on year and nearly double the number of criminal referrals year on year.

Further, as a testament to the success of our strategy to date, DOI has seen its jurisdiction expand to include, as of December 2015, the Inspector General for the New York City Health and Hospitals Corporation. New York City Health and Hospitals is a public benefit corporation that operates 11

hospitals, 5 skilled nursing facilities, 6 diagnostic treatment centers, and more than 70 community-based clinics in the city which serve over 1.4 million New Yorkers annually. The Corporation has a staff of more than 35,000 employees and a total budget exceeding \$7 billion a year. This expansion was prompted by New York City Health and Hospitals Corporation's Board of Directors and Dr. Ram Raju, who requested that DOI provide independent and transparent oversight. By terms of the agreement, the City of New York and New York City Health and Hospitals Corporation will fund additional resources determined as necessary by DOI in order to expand the existing staff to provide the capacity to handle independent, preventative and systemic investigation. Currently there is a 23-person staff and DOI expects that will more than triple in the next six months. We are close to successfully staffing key positions, including the IG, Deputy IG and key senior investigative positions.

New York City Health and Hospitals will continue to cover expenses of the office, including salaries and benefits of employees. Being a part of DOI means the New York City Health and Hospitals' IG

will now have the benefit of all of DOI's resources and independent status, including the ability to issue subpoenas and make arrests and the ability to conduct systemic investigations that root out corruption and fraud. This new office will proactively monitor New York City's Health and Hospitals Corporation spending and staffing to prevent and refer for prosecution theft and fraud in its many forms.

Finally, our integrity monitor program assists City agencies managing large projects or vendors with integrity issues to ensure red flags are raised early and corruption vulnerabilities caught sooner rather than later; they act as DOI's eyes and ears and report to DOI. Integrity monitors are more often than not paid for by the vendor if they have an integrity issue and are contracted with the City. In proactive cases, such as with ECTP, the City's new 911 system and NYCHA's Bond B, the City will pay for a monitor due to the complexities of the project and the need to monitor it on a daily basis. In the case of proactive monitorship programs, while there may be additional costs to the City on the front end, they almost invariably pay for themselves by creating more

2 cost-efficiency in the long run. We currently have  
3 16 active integrity monitors reporting to us, with  
4 several additional ones in the pipeline.

5 Give the breadth and depth of our work,  
6 DOI is grateful for the support shown through this  
7 Preliminary Budget, which recognizes that additional  
8 resources are necessary to support the larger-scale  
9 investigations we are undertaking, as well as ongoing  
10 improvements in investigative techniques,  
11 particularly in the digital and technical realm.

12 DOI's preliminary expense budget for  
13 Fiscal Year 2017 is \$44.2 million, consisting of \$28  
14 million that supports approximately 361 full-time  
15 staff positions and \$16.2 million for other than  
16 personnel services, such as supplies, equipment and  
17 space. Included in the \$28 million for personnel  
18 services is \$4.5 million intracity funding, such as  
19 the funding for memoranda of understanding with eight  
20 City agencies that support 67 positions. In addition  
21 to the staff comprised in the agency's budget there  
22 are about 261 other staff members who work for us  
23 through various arrangements with other City  
24 agencies, including the Office of Special  
25 Commissioner of Investigation for Schools and the



2 Office of the Inspector General for NYCHA. Many of  
3 these agencies have experienced particular corruption  
4 issues over the years and have given DOI funding for  
5 staff positions to assist in our integrity efforts;  
6 we are grateful for this essential support, the wide-  
7 ranging work that DOI does and that I have reported  
8 to you today could not be accomplished without this  
9 assistance.

10 I'd also like to briefly touch on the  
11 subject and impact of Federal Forfeiture Funds as  
12 well as update you on an important change in the law  
13 in this area.

14 For many years DOI has worked with  
15 prosecutors to ensure that stolen city funds are  
16 returned to the City, federal criminal law also  
17 allows the proceeds of criminal activity to be  
18 forfeited to the federal government and shared with  
19 investigating agencies to support law enforcement  
20 activities. DOI has been a beneficiary of some of  
21 those federally regulated funds and has shared some  
22 of them with other City agencies. These forfeiture  
23 funds, however, are temporary and finite and can only  
24 be used for certain law enforcement related purposes,  
25 they are strictly governed by federal guidelines and

cannot be used to fund salaries for permanent staff positions or otherwise substituted for items the City must fund. These funds have been instrumental in helping DOI improve a number of essential functions not provided for in its budget. In Fiscal 2016 DOI dedicated forfeiture funds to support our newly revamped peace officer training academy, which graduated 23 new DOI peace officers. Our agency-wide training initiative focused on the continuous development of investigators and investing in upgrading our information technology infrastructure. However, in late December 2015, the U.S. Department of Justice announced that effective immediately all new equitable sharing payments to state and local law enforcements agencies through the Federal Asset Forfeiture Program will cease for the foreseeable future. This decision was a result of the passage of the Consolidated Appropriations Act of 2016 which was signed into law on December 18, 2015. The Consolidated Appropriations Act made major rescissions from the Federal Asset Forfeiture Fund to pay for other programs. DOJ has expressed hope that such payments will eventually resume, but has not set a date by when that is anticipated. As a result, for

the foreseeable future a revenue stream that DOI has substantially relied on to fund OTPS items, such as needed renovations, computers and equipment, has run dry.

To sum up, for some 142 years and counting DOI has been called upon to do what no other single City agency can do alone, through our experience, unique expertise and robust powers afforded to us through the City Charter, we assist agencies in minimizing fraud vulnerabilities while maximizing enforcement when corruption does occur. This strategy remains ambitious and comprehensive, as it leverages DOI's unique jurisdictional powers to address not only individual wrongdoers, but also structural vulnerabilities which threaten to erode New Yorkers' confidence in government. And with this ambition comes the need for additional resources from hiring new talent with specialized expertise to making important purchases in technology and investment in new investigative systems. I am grateful to the members of this committee and other members of the City Council as well as the Mayor for the support shown in making additional resources

2 available to us over the past several years. And at  
3 this time I'd be happy to take your questions.

4 CHAIRPERSON GENTILE: Thank you  
5 Commissioner, that was certainly detailed and a great  
6 number of successes and we congratulate you on that.  
7 I just want to for the record indicate that we were  
8 joined here for a while by Council Member Costa  
9 Constantinides and we have been joined by Council  
10 Member Chaim Deutsch; we thank them. We're also  
11 joined here by my Committee Counsel, Josh Hanshaft  
12 and our Financial Analyst, Ellen Eng and we'll  
13 proceed. And all of us are enjoying the new chairs  
14 that we have in our committee room today, so that's a  
15 new thing.

16 So Commissioner, with all the successes  
17 and advances that you talked about, and they were  
18 very impressive, I do wanna ask you about some of the  
19 budget numbers and inquire about the PMMR also.

20 MARK PETERS: Sure.

21 CHAIRPERSON GENTILE: Okay. So let's  
22 start off with the increase in the head count.  
23 Certainly the 55 positions that are realized, you had  
24 38 positions realized in the baseline November plan  
25 and that head count full year value was \$2.9 million

2 and you placed about 17 investigators into IG's  
3 office and DOB IG and then your preliminary January  
4 request was to baseline 21 new positions in addition  
5 and that was a \$1.6 million full year value cost.  
6 And then if you look at the head counts over the last  
7 couple of fiscal years, those head counts at DOI went  
8 from Fiscal Year 2014 at 155 staff to Fiscal Year  
9 2015 at 262 to Fiscal Year 2016 at 294 and then  
10 Fiscal Year 2017 request at 361. So you're certainly  
11 ramping up, that's for sure, so we're curious I think  
12 about the particular metrics that you used, the  
13 measures that you used that led you to the more than  
14 50 additional positions that take you to 361.

15 MARK PETERS: Sure, I think there are a  
16 number of ways of looking at this. I have always  
17 cautioned, as you know and as I testified last year,  
18 and I've always cautioned against looking at arrests  
19 as a metric because I don't know -- it is important,  
20 but it doesn't fully catch everything, but  
21 nonetheless, it's worth noting that in calendar year  
22 2014 we did 311 arrests; in calendar year 2015 there  
23 were 569, so the number of people we are arresting  
24 has gone up significantly.

2 Another and perhaps more interesting  
3 number; in the past two years, since I took over DOI,  
4 we have issued 25 investigative reports; without  
5 going through all of them, these have included  
6 extraordinarily detailed reports on the Department of  
7 Homeless Services and the condition of homeless  
8 shelters that led to significant changes by the  
9 administration of the way homeless shelters are  
10 handled; it included an incredibly detailed report,  
11 as I discussed in my testimony, about the failure of  
12 the NYPD and NYCHA to communicate with one another  
13 with a result that large numbers of criminals living  
14 on NYCHA property were not being removed from NYCHA  
15 property; the result was a wholesale revamping of  
16 the way in which NYCHA and the NYPD communicate with  
17 one another. We did a lengthy report, as I  
18 referenced in my testimony, about use of force by the  
19 police department with the result that the NYPD, for  
20 the first time in its history, has now announced; the  
21 day of our report they announced it, that they will  
22 begin to track use of force for the first time ever.  
23 We issued three very detailed reports on major issues  
24 at Rikers, which resulted in a large number of  
25 changes there. In total we have issued 25 reports of

2 this type that collectively mean that children will  
3 not live in homeless shelters with decaying rats on  
4 the floor, that we are less likely to have bricks  
5 fall off buildings and kill 2-year-olds, that police  
6 are less likely to use improper force; 25 of those  
7 reports have been issued since I got here two years  
8 ago. By comparison, in the four years prior to that,  
9 twice that time period, DOI issued only 10 reports.  
10 So not only have the number of arrests gone up, but  
11 the number of significant reports that have kept New  
12 Yorkers safer has also gone up dramatically.

13 CHAIRPERSON GENTILE: So other than the  
14 investigative reports, which you have just detailed,  
15 how have the, I guess procedures or the investigative  
16 operations changed, if at all, that would underscore  
17 or justify the increase in staff?

18 MARK PETERS: Certainly. Well first of  
19 all, the number of reports, those reports requires  
20 huge numbers of staff; you know, to give you an  
21 example, the report on NYCHA required multiple staff  
22 to spend huge amounts of time reviewing thousands of  
23 arrest reports; the Rikers report on healthcare  
24 required dozens of staffers to work almost full-time  
25 for months. So one, writing these additional reports

2 requires additional staff; DOI, in the last two  
3 years, instead of being a reactive agency, which  
4 tended to react to complaints and react to tips  
5 coming in, has now become a proactive agency. So  
6 proactive agency -- we are affirmatively saying what  
7 is going wrong with the Department of Homeless  
8 Services; let's go and -- long before any number of  
9 other actors were busy talking about the problems of  
10 homelessness and homeless services, we wrote a  
11 detailed report going into those problems. So...  
12 [interpose]

13 CHAIRPERSON GENTILE: Would that be a  
14 change in procedure; would you call that a change in  
15 procedure...? [crosstalk]

16 MARK PETERS: Yes, I would call that a  
17 change in procedure. We now -- inspectors general  
18 are now expected not merely to respond to complaints,  
19 but to affirmatively, as a procedural matter, be  
20 meeting with commissioners -- my inspectors general  
21 meet with their respective commissioners in many  
22 instances every month, sometimes even more than that  
23 and certainly every quarter, but they are expected  
24 now to be using their staff to be looking  
25 systemically at agencies to see where there are



2 breakdowns and that is a change in the procedures  
3 that we are using. One more thing I would point out  
4 is that of course our jurisdiction has expanded  
5 considerably in the last two years; we now have an  
6 inspector general for the NYPD that hadn't existed  
7 before, we now have an inspector general for the  
8 Health and Hospitals Corporation; that hadn't existed  
9 before.

10 CHAIRPERSON GENTILE: You mentioned the  
11 IG, the NYPD IG and that staff has gone from nothing  
12 to quite a number now; I think it's 55, at least  
13 positions and same with the investigative staff for  
14 Department of Corrections; have all those hires been  
15 made?

16 MARK PETERS: I think the number for the  
17 NYPD IG is actually, even as budgeted, head count was  
18 a little less than 55; I will get you the exact  
19 number; I believe that all of those positions have  
20 been filled; I believe that all the Rikers, the DOC  
21 positions have been filled, although we are talking  
22 with the Department of Corrections about some  
23 additional staff; we also got additional staff for  
24 Department of Buildings; most of those are filled,  
25 but not all of them. We have a number of positions

2 to fill; both the Department of Buildings and Health,  
3 at Hospitals Corporation and various other places, in  
4 addition to the rolling, you know vacancies that  
5 occur all the time.

6 CHAIRPERSON GENTILE: But these are full  
7 year expenses that you've put in for those  
8 positions...? [crosstalk]

9 MARK PETERS: Yeah. Correct.

10 CHAIRPERSON GENTILE: I see. Okay. Now  
11 you also -- some of the baselining went to pay for or  
12 will go to pay for an increased training staff and an  
13 increased training program; how long does it take to  
14 train an investigator?

15 MARK PETERS: The peace officers, which  
16 is the most -- we have a peace officer academy in  
17 order to become a peace officer, and remember, DOI  
18 peace officers, like NYPD officers, are armed, they  
19 have arrest powers, they fulfill all the functions of  
20 an NYPD officer; our training academy is three months  
21 full-time; that includes weapons training, tactics  
22 training, classroom training; that's a three-month  
23 commitment so that ever DOI investigator who becomes  
24 a peace officer and you have to be hired by us as an  
25 investigator before you can become a peace officer;

2 we lose each of those people for three full months so  
3 that they can have all the training necessary before  
4 we're prepared to give them arrest powers and a badge  
5 and most importantly, a side arm.

6 CHAIRPERSON GENTILE: So this increased  
7 training will not speed up that process; it will  
8 still be a three-month process, you... [interpose]

9 MARK PETERS: Yeah. Increased training  
10 means that we can have a bigger peace officer class;  
11 it means we can do more than one class a year at some  
12 point in the future; it means we can do more in-  
13 service training to keep people fresh on all the most  
14 important techniques, but no, the three months it  
15 takes to get somebody into the physical and mental  
16 shape necessary to do this, that's -- you can't  
17 teach... [crosstalk]

18 CHAIRPERSON GENTILE: I see.

19 MARK PETERS: somebody to run five miles  
20 at the required rate, stopping every mile to do  
21 pushups any faster than three months.

22 CHAIRPERSON GENTILE: Right. Okay.  
23 Interesting. I'm curious, in your letter that you  
24 gave us, or you sent to us back in May of last year,  
25 one of the... [crosstalk]

2 MARK PETERS: Yep, have it right here.

3 CHAIRPERSON GENTILE: You do? Good.

4 Okay. One of the new needs request that you said  
5 that you had made was for salary parity, particularly  
6 among the investigators; I'm curious if that salary  
7 parity is now figured into the preliminary budget  
8 numbers that you've made... [crosstalk]

9 MARK PETERS: Yes. Yes.

10 CHAIRPERSON GENTILE: Okay.

11 MARK PETERS: Salary parity is now  
12 figured into the budget numbers being submitted to  
13 you for Fiscal 2017.

14 CHAIRPERSON GENTILE: And just as an  
15 aside; how severe was that disparity?

16 MARK PETERS: The disparity was fairly  
17 severe in various places; I can get you some  
18 breakdown numbers, but in a number of instances we  
19 were paying investigators who had been with the  
20 agency for some time as much as \$10,000 less than  
21 what the City said that a comparable investigator in  
22 our or some other agencies should normally be  
23 starting at. So you know roughly 40,000-50,000 being  
24 the difference; that's a significant disparity that  
25 had to get fixed.

2 CHAIRPERSON GENTILE: So you were doing  
3 comparative numbers with other investigative  
4 agencies?

5 MARK PETERS: Yes.

6 CHAIRPERSON GENTILE: Okay. 'Cause there  
7 are some reports that CCRB had even lower  
8 investigator salaries... [crosstalk]

9 MARK PETERS: Yeah, I would invite you to  
10 chat with Mr. Emery about that, I... [crosstalk]

11 CHAIRPERSON GENTILE: [laugh] Okay.  
12 Great. Let's just turn then -- we're talking about  
13 salaries; let's just turn to the citywide savings  
14 program, because the January Preliminary Budget for  
15 DOI did not include any actions regarding the  
16 citywide savings program; did you present to OMB any  
17 agency efficiencies or savings?

18 MARK PETERS: Yeah. Oh, right. Yes we  
19 did; a couple of things; the most notable is that  
20 Federal Forfeiture Funds may be used to pay overtime  
21 for DOI employees, but only for DOI employees. As  
22 you know, right now, although there are or will be  
23 with the new budget, 361 full-time DOI employees;  
24 there are another 261 employees employed by other  
25 agencies but functionally our employees. In other

2 words, OMB doesn't think they work for us, but the  
3 people involved all think they work for us.

4 CHAIRPERSON GENTILE: Uhm-hm.

5 MARK PETERS: If those lines were  
6 formally transferred to DOI, which costs the City  
7 nothing, doesn't really matter whether DOB is paying  
8 their salary or we are, then those people, when they  
9 earn overtime, instead of being paid overtime by the  
10 City, would be paid overtime out of Federal  
11 Forfeiture Funds. So that would be a savings because  
12 the City wouldn't have to pay that overtime in the  
13 budget [sic].

14 CHAIRPERSON GENTILE: But it doesn't seem  
15 to be reflected in the prelim budget.

16 MARK PETERS: That I'd have to -- What  
17 OMB gave to you I can't speak to, I can only speak to  
18 what we gave to OMB.

19 CHAIRPERSON GENTILE: Okay. So that may  
20 be in there, but it wasn't reflected... Okay. We'll  
21 have to check that... [crosstalk]

22 MARK PETERS: Yeah. I mean I can only  
23 tell you what we told OMB; I can't speak to what OMB  
24 chose to tell the Council.

2 CHAIRPERSON GENTILE: Are you  
3 contemplating or planning additional submissions for  
4 the Executive Budget in terms of savings in the  
5 savings program?

6 MARK PETERS: No, we gave OMB that and  
7 one or two others and those are the ones we plan to  
8 submit.

9 CHAIRPERSON GENTILE: Great. Okay.  
10 Let's talk... [interpose]

11 MARK PETERS: I would say for the record,  
12 we run a remarkably lean shop; with a little over 600  
13 staff we are effectively policing a city with a  
14 workforce of over 350,000 people.

15 CHAIRPERSON GENTILE: You mentioned the  
16 forfeiture, the DOJ bringing the asset forfeiture  
17 program to a close; is that reflected in your need  
18 request or...

19 MARK PETERS: It is not reflected in the  
20 need request for this year because it is a moving  
21 target. In other words, we get Federal Forfeiture  
22 Funds; we don't spend them as soon as we have them  
23 and so we have a reserve built up. If the federal  
24 government does not reconstitute the program, this  
25 time next year we will have a problem and this time

2 two years from now we will have a very serious  
3 problem, but because these things have delayed  
4 effect, it isn't something that affects this year's  
5 budget.

6 CHAIRPERSON GENTILE: I see. Okay. I  
7 ask I guess the same type of question with your  
8 oversight now of the Health and Hospitals and the IG;  
9 you indicated as a result of that MOU in 2015 that  
10 you anticipate over the next six months that the  
11 staff will more than triple...

12 MARK PETERS: Uhm-hm.

13 CHAIRPERSON GENTILE: is that reflected  
14 again in the resources that you're asking for?

15 MARK PETERS: That'll be reflected in  
16 HHC's budget, not ours. In other words, there was a  
17 memorandum of agreement entered into by HHC, the City  
18 and DOI in December which allows us to hire up to 70  
19 some odd, I think 78 people for the HHC IG, all of  
20 whom will technically be HHC employees and paid for  
21 by HHC, but with the understanding that we hire them,  
22 we direct them; HHC has no involvement with them  
23 other than paying them every other week.

24 CHAIRPERSON GENTILE: So if... [interpose]  
25



2 MARK PETERS: So it's in HHC's budget;  
3 not in ours.

4 CHAIRPERSON GENTILE: Okay, so who  
5 determines whether the staff is gonna more than  
6 triple?

7 MARK PETERS: We do.

8 CHAIRPERSON GENTILE: You do.

9 MARK PETERS: The agreement essentially  
10 -- right now there are 23 staff; the agreement says  
11 that I, at my sole discretion, can hire up to -- I  
12 believe it's 78 staff, but if I'm off by one or two  
13 we'll send you a note -- at my sole discretion, I may  
14 hire additional staff beyond the 23 up to a total of  
15 78 staff at my sole discretion and HHC will fund  
16 those lines and pay them [sic].

17 CHAIRPERSON GENTILE: So are you then  
18 pushing Health and Hospitals to push for more  
19 resources in your... [interpose]

20 MARK PETERS: Well again, that's  
21 something I will let HHC speak to. HHC is now  
22 obligated to fund up to 78 lines at my discretion; I  
23 am assuming that at some point Dr. Raju will be  
24 before this committee or some parallel committee and  
25 explaining that among other things he needs money to

2 pay for these lines he agreed to give me, but I leave  
3 to him and to his oversight committee.

4 [background comments]

5 CHAIRPERSON GENTILE: Okay. I'll be here  
6 for a while, so I'm gonna let some of my colleagues  
7 ask question, 'cause they may have to leave, so we'll  
8 start with Councilman Deutsch.

9 COUNCIL MEMBER DEUTSCH: Thank you,  
10 Chair. Good afternoon.

11 MARK PETERS: Good afternoon.

12 COUNCIL MEMBER DEUTSCH: The question is;  
13 the employees at HHC; what will their roles be?

14 MARK PETERS: We anticipate that a number  
15 of them will be auditors; right now the entire HHC IG  
16 staff has only a single auditor; obviously you need  
17 dozens of auditors and investigators to be able to  
18 oversee a spending budget of \$7 billion; there will  
19 be auditors, there will be investigators, there will  
20 be some lawyers; you know, lawyers will certainly  
21 have prosecution background so that we have people  
22 who know how to draft up, you know, search warrants,  
23 wire taps, etc. But a lot of it will be auditors;  
24 we're talking about an immense budget and an immense  
25 organization that needs to be audited.

2 COUNCIL MEMBER DEUTSCH: Would this also  
3 be for like malpractice incidents, like we have seen  
4 an alleged incident happen a few months ago?

5 MARK PETERS: Sure. The answer is; we  
6 will not engage in the malpractice defense of HHC;  
7 that is a separate thing; however, we certainly do  
8 have jurisdiction if there is a particular instance  
9 of malpractice that requires criminal investigation  
10 beyond what would normally be done by the various  
11 licensing authorities and by the malpractice bar;  
12 then we have the right to intervene there as well.

13 COUNCIL MEMBER DEUTSCH: Thank you. I  
14 have another question regarding DHS; I appreciate  
15 your investigation reports on homeless services; my  
16 question is; in DHS you have the enforcement part,  
17 you have offices that go out and do warrants and they  
18 do transports, they make arrests and these -- I think  
19 it's like 600, including supervisors throughout DHS  
20 enforcement and currently I don't think that they're  
21 equipped enough to defend themselves; they deal with  
22 a lot of people with mental health issues and there  
23 was a report also in the *New York Post* about  
24 confiscating a number of weapons each and every day,  
25 so currently they don't have what's called a police

2 package, like a light bar on top, 'cause you may find  
3 some light bars on the marked vehicles, but they're  
4 not operable and I don't think they're allowed to --  
5 they don't have the okay for them to work 'cause they  
6 don't fall under the NYPD, like traffic agents,  
7 traffic department, TLC enforcement, they all have  
8 what's called a police package, but DHS enforcement  
9 does not and these are people that go out each and  
10 every day, they put their lives on the line, they  
11 respond to calls, they do warrants, they do  
12 transports, so my question is, if there's any way to  
13 see if we can do like some type of check on that and  
14 to see if these men and women who work for DHS  
15 enforcement are currently... they have ways to protect  
16 themselves as well as if in case they have to go to  
17 emergencies or to show visibility outside a homeless  
18 shelter?

19 MARK PETERS: I take very seriously the  
20 issues of safety and security at DHS shelters and we  
21 are in fact and will be looking at that issue more  
22 closely over the coming year. I would caution that  
23 it is not anywhere near as simple a solution as it  
24 may sound; as I said in response to the Chair's  
25 question, it takes us three months to train a peace

2 off... security people who have guns and badges, those  
3 are peace officers; it takes us three months to train  
4 somebody after considerable background screening and  
5 the like and so before you can rapidly give any group  
6 of people additional weapons, including side arms,  
7 there's a lot of work that needs to be done.  
8 Nevertheless, yes; I take very seriously the issue of  
9 security at the shelters; I'm very much aware of  
10 those issues; we are looking at them and I hope  
11 before the end of the year to have a bit more to say  
12 about it.

13 COUNCIL MEMBER DEUTSCH: So as far as  
14 their vehicles, the reason why they aren't allowed to  
15 have a police package is because they don't fall  
16 under the guidelines of NYPD; that's what I...  
17 [crosstalk]

18 MARK PETERS: Uhm...

19 COUNCIL MEMBER DEUTSCH: that was I was  
20 told.

21 MARK PETERS: That may be. I'm aware of  
22 the reasons that they're not armed; the reason they  
23 don't have lights and sirens I'm less aware of, but I  
24 can look at that and get back to you.

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2 COUNCIL MEMBER DEUTSCH: Okay, great; I  
3 appreciate it. Thank you very much... [crosstalk]

4 MARK PETERS: Sure. Absolutely.

5 COUNCIL MEMBER DEUTSCH: Thanks.

6 CHAIRPERSON GENTILE: Thank you,  
7 Councilman and Councilwoman Rosenthal.

8 COUNCIL MEMBER ROSENTHAL: Thank you so  
9 much, Chair. Nice to see you, Commissioner.

10 MARK PETERS: It's good to be here.

11 COUNCIL MEMBER ROSENTHAL: I have a  
12 couple of just quick questions. What is the value --  
13 how much DOJ revenue was brought in last year?

14 MARK PETERS: The number fluctuates...  
15 [interpose]

16 COUNCIL MEMBER ROSENTHAL: Of course.

17 MARK PETERS: tremendously; for example,  
18 we are still getting a chunk of money and hopefully  
19 won't lose the last part of it, but that's still  
20 under negotiation, based on this new law, but it's  
21 not unheard of for DOI to get \$20 million a year from  
22 this fund... [crosstalk]

23 COUNCIL MEMBER ROSENTHAL: So in the  
24 previous year -- so last year you don't know; you're

25

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2 still negotiating a chunk -- is this working? Is it  
3 me? -- So... [crosstalk]

4 MARK PETERS: Something's hitting...

5 COUNCIL MEMBER ROSENTHAL: the last year  
6 that you got funding -- the last full year's dollar  
7 value then; what was that amount?

8 MARK PETERS: \$12,000? I'm told \$12,000...  
9 \$12 million.

10 COUNCIL MEMBER ROSENTHAL: This year...  
11 [crosstalk]

12 MARK PETERS: 12,000... Okay.

13 COUNCIL MEMBER ROSENTHAL: \$12,000...  
14 [crosstalk]

15 MARK PETERS: Was the last...

16 COUNCIL MEMBER ROSENTHAL: It's okay; I'm  
17 just curious.

18 MARK PETERS: I've got somebody pulling  
19 numbers. I will get you a breakdown of all these  
20 numbers. [background comments] But I can tell you  
21 that -- and this is in the letter we sent to the  
22 Chair at the end of last year's hearing, which was,  
23 two years ago we received \$27 million in Federal  
24 Asset Forfeiture Funds.

25

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2 COUNCIL MEMBER ROSENTHAL: So \$27 million  
3 two years ago, you'll get us the number for last  
4 year...

5 MARK PETERS: Yes.

6 COUNCIL MEMBER ROSENTHAL: and so far in  
7 the door this year is \$9 million?

8 MARK PETERS: This year I don't know  
9 what's in the door -- not a lot is in the door --  
10 this year very little is in the door; we're only in  
11 the first two months. I will get you a breakdown of  
12 the exact numbers.

13 COUNCIL MEMBER ROSENTHAL: Sorry; two  
14 years ago the number was \$27 million...

15 MARK PETERS: I believe that's correct,  
16 based on this letter, but I will get you the...  
17 [crosstalk]

18 COUNCIL MEMBER ROSENTHAL: last year...

19 MARK PETERS: I will get you a letter  
20 with the exact numbers for the last several years.

21 COUNCIL MEMBER ROSENTHAL: and I  
22 completely understand the desire to leverage that  
23 money as well as possible and I'm assuming OMB did  
24 that previously, but going forward, we can no longer  
25



2 leverage the money; right, 'cause we're not getting  
3 money?

4 MARK PETERS: That's correct. Now what  
5 is important to remember is; the money comes in; it  
6 is not all spent at once, in fact we have a...  
7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: Got it.

9 MARK PETERS: spending plan -- you get  
10 roughly three years to spend the money... [crosstalk]

11 COUNCIL MEMBER ROSENTHAL: Got it.

12 MARK PETERS: So the cutoff in funding  
13 will not have a significant impact on DOI for the  
14 budget that you are considering now...

15 COUNCIL MEMBER ROSENTHAL: Yeah.

16 MARK PETERS: but it will begin...  
17 [interpose]

18 COUNCIL MEMBER ROSENTHAL: This is a  
19 four-year plan and so... [interpose]

20 MARK PETERS: Right.

21 COUNCIL MEMBER ROSENTHAL: that's why I'm  
22 wondering.

23 MARK PETERS: Yes. But it will begin to,  
24 for the next year, and then in two years it will have  
25 a major impact unless Congress and DOJ reverse their

2 position. You should know we are not the only law  
3 enforcement agency affected by this and indeed there  
4 are lots of law enforcement agencies that are very  
5 unhappy about this and law enforcement organizations  
6 around the country... [crosstalk]

7 COUNCIL MEMBER ROSENTHAL: Got it.

8 MARK PETERS: have been complaining.

9 COUNCIL MEMBER ROSENTHAL: At the bottom  
10 of Page 2 of your testimony you talk about a  
11 particular incident that of course was upsetting to  
12 everyone and as a result DOB went about doing a  
13 tremendous amount of additional inspections...

14 MARK PETERS: Uhm-hm.

15 COUNCIL MEMBER ROSENTHAL: Did DOB do  
16 those inspections themselves with their own  
17 inspectors or was there self-certification that  
18 inspections were done?

19 MARK PETERS: No, the inspections were  
20 then -- These inspections that I reference in my  
21 testimony were done by DOB; what happened was, after  
22 the 2-year-old was killed by the falling terra cotta,  
23 we began... and investigations, we do... [crosstalk]

24 COUNCIL MEMBER ROSENTHAL: I'm sort of  
25 getting to a different point.

2 MARK PETERS: Oh.

3 COUNCIL MEMBER ROSENTHAL: so I'm with  
4 you, I got it and I actually understand that  
5 particular case 'cause it was in my district...  
6 [crosstalk]

7 MARK PETERS: DOB did... Yes. So DOB then  
8 **[inaudible]** inspections...

9 COUNCIL MEMBER ROSENTHAL: but I have a  
10 different question.

11 MARK PETERS: Go on, so...

12 COUNCIL MEMBER ROSENTHAL: In your  
13 assessment, what do you think is the systemic  
14 solution to the problem; should DOB not rely on self-  
15 certification, which was at the heart of it, the  
16 problem in this case and hire up more inspectors,  
17 like what was the punch line there?

18 MARK PETERS: Sure.

19 COUNCIL MEMBER ROSENTHAL: Of course they  
20 did the inspection at that juncture, but should they  
21 be doing those inspections every year and hire more  
22 inspectors and not do self-certification?

23 MARK PETERS: Sure. In a perfect world  
24 you'd have no self-certification; I suspect that in...  
25 as a practical matter, it is impossible to get rid of

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2 all the self-certifications 'cause there's just too  
3 many of them, but what DOB does need to do is they  
4 need to do at least a random sample of follow-on...  
5 well there are two things they need to do; first is,  
6 they need to do a random sample of follow-on checks,  
7 in other words, there's no way for them to do it all  
8 themselves, but they should be looking at a random  
9 sample of self-certifications so that the people  
10 doing these self-certifications know someone's  
11 checking on them. But... [interpose]

12 COUNCIL MEMBER ROSENTHAL: And is there a  
13 mechanism in DOB today to do a regular check on, I  
14 don't know, the engineer, the construction company,  
15 the owner of that particular building, since they are  
16 flagging [sic]... [crosstalk]

17 MARK PETERS: They've informed us that  
18 they are hiring additional staff, which should let  
19 them do that... [crosstalk]

20 COUNCIL MEMBER ROSENTHAL: Okay.

21 MARK PETERS: that is not yet in place,  
22 but that's what they've told us... [crosstalk]

23 COUNCIL MEMBER ROSENTHAL: Got it. Sorry  
24 I interrupted you.

25

2 MARK PETERS: No, no; that's okay, that's  
3 what they've told us and we're going to follow up.  
4 But the second piece is this; we found there were  
5 over 1,000 instances in which the building owner had  
6 simply not even filed a certification form saying the  
7 site was safe and another 2,000 instances where they  
8 had filed a form saying the site was affirmatively  
9 not safe; DOB, with minimal effort -- and this they  
10 have said they are going to do and we will be  
11 following up to see if they do it -- DOB, at a  
12 minimum, needs to go to anybody who doesn't file  
13 their certification and say you owe us a  
14 certification, you didn't file it; you've got 30 days  
15 to file it or we will go after you... [interpose]

16 COUNCIL MEMBER ROSENTHAL: Is that a  
17 problem that can be rectified through technology?

18 MARK PETERS: I would think so.

19 COUNCIL MEMBER ROSENTHAL: And how long  
20 did it take your staff to go through all of the, I  
21 guess work permits to identify the 1-2,000 that  
22 didn't follow through?

23 MARK PETERS: Between the thou...  
24 [crosstalk]

2 COUNCIL MEMBER ROSENTHAL: And was it  
3 done manually?

4 MARK PETERS: Between the 1,000 that  
5 didn't and the 2,000 that filed them but admitted  
6 safety problems... [interpose]

7 COUNCIL MEMBER ROSENTHAL: Yeah.

8 MARK PETERS: it took us at least two --  
9 close to two months to do that work, in part because  
10 there was at the time absolutely no cohesive  
11 recordkeeping that would allow you to say print this  
12 out and so we were literally, you know, comparing  
13 this record over here with that record over there to  
14 try to figure it out, there was no... [interpose]

15 COUNCIL MEMBER ROSENTHAL: Did you do it  
16 using their information online or did you get their  
17 files that are stored in New Jersey?

18 MARK PETERS: We did not have to actually  
19 go out to files stored in New Jersey; we did use  
20 their information, but it took quite a bit of time  
21 because they were...

22 COUNCIL MEMBER ROSENTHAL: You're  
23 preaching to the converted **[inaudible]**.

24 MARK PETERS: Right. In other words, in  
25 theory we should be able to call up and say give us a

2 list of everybody who's overdue and they should send  
3 it to us ten minutes later; it took many, many weeks  
4 even to get that far.

5 COUNCIL MEMBER ROSENTHAL: And then  
6 lastly I'd like to ask you about your integrity  
7 monitor program. Are those, I guess -- I don't know  
8 how to refer to them, but are the jobs that they're  
9 working on or the projects they're working on, is  
10 that public information?

11 MARK PETERS: Yes. Yeah.

12 COUNCIL MEMBER ROSENTHAL: Is that on  
13 your website or could you shoot 'em over?

14 MARK PETERS: I don't know if it is; I  
15 know after last year's testimony I sent the Chair a  
16 list of all of the integrity monitors; many of them  
17 are the same, but we'll send you an updated list with  
18 them.

19 COUNCIL MEMBER ROSENTHAL: And I'm sure  
20 he shared it with me and it just got lost in my  
21 47,000 e-mail inbox, but did it... of course I don't  
22 care about the name, I care about the job that  
23 they're looking at; what kind of detail does the  
24 report have on it?

2 MARK PETERS: The one that we have will  
3 tell you which city agency we're talking about from  
4 which you can determine roughly the project; most of  
5 it is construction. For example, nine of them  
6 involve the School Construction Authority, one -- I'm  
7 looking at the list from last year, so last year's  
8 list had nine for the School Construction Authority,  
9 some for DEP, some for Build it Back...

10 COUNCIL MEMBER ROSENTHAL: Okay.

11 MARK PETERS: and again, as I said, we  
12 will send the Chair an updated list...

13 COUNCIL MEMBER ROSENTHAL: Thank you.

14 MARK PETERS: from last year.

15 COUNCIL MEMBER ROSENTHAL: And is that  
16 something where you could say over the last just  
17 three years even, in you know, years one, two and  
18 three what they were working on each year

19 **[inaudible]**... [crosstalk]

20 MARK PETERS: Yeah, I think that that's...  
21 I think it's obvious from the list, but we can make  
22 it even more so.

23 COUNCIL MEMBER ROSENTHAL: And are the  
24 reports that they issue public?



2 MARK PETERS: The reports that they issue  
3 are not always... they sometimes are, but they are not  
4 always public, for a variety of reasons... [interpose]

5 COUNCIL MEMBER ROSENTHAL: Sure.

6 MARK PETERS: some which would be  
7 obvious... [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: Are...

9 MARK PETERS: Certainly when we arrest  
10 people as a result of those reports, that's public.

11 COUNCIL MEMBER ROSENTHAL: And are there  
12 any text integrity monitors today?

13 MARK PETERS: Yes, there is an integrity  
14 monitor on the City's ECTP project.

15 COUNCIL MEMBER ROSENTHAL: Oh of course;  
16 you mentioned that.

17 MARK PETERS: Yes.

18 COUNCIL MEMBER ROSENTHAL: Who pays for  
19 that one?

20 MARK PETERS: The City pays for that.

21 COUNCIL MEMBER ROSENTHAL: Okay and it's  
22 not possible to get the contractor to pay for that or  
23 you wouldn't want it because there are so many?

24 MARK PETERS: Yeah, problem with that one  
25 is it's not a single contractor...

2 COUNCIL MEMBER ROSENTHAL: Yeah.

3 MARK PETERS: and also the basis for  
4 demanding that a contractor pay is that the  
5 contractor has had some problem in the past such that  
6 we can say to the contractor, because you've stolen...  
7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: Yeah.

9 MARK PETERS: money, not paid your taxes;  
10 whatever, in the past, if you wanna keep working for  
11 the City, as a penalty you pay for a monitor --  
12 a. there's not a single ECTP vendor; there are  
13 hundreds, which indeed was part of the problem, and  
14 b. none of them has necessarily done anything wrong;  
15 we're just monitoring it because the City as a whole  
16 -- it's a big complicated project the City as a whole  
17 hasn't done in the past a good job with.

18 COUNCIL MEMBER ROSENTHAL: Do you think  
19 one integrity monitor is sufficient?

20 MARK PETERS: The integrity monitor for  
21 ECTP is KPMG and they have a rather large team..  
22 [crosstalk]

23 COUNCIL MEMBER ROSENTHAL: Oh sorry; got  
24 it. So I get it; I didn't understand that. So you  
25 couldn't, hypothetically, ask each of the 100

2 contractors, you have to chip in one percent for an  
3 integrity monitor because this project is so  
4 complicated?

5 MARK PETERS: I suppose you could; I  
6 suspect what it would -- I suppose you could; whether  
7 you could do so on that particular project, given  
8 that it's already in motion, that would require  
9 renegotiating the contract; I suppose you could; in  
10 some ways that would be a question for Anne Roest of  
11 DoITT, but I rather imagine that at this stage of the  
12 game if you went to them all and said you're gonna  
13 need to pay X dollars; what you're really then doing  
14 is demanding a rebate from them of X dollars as a...

15 COUNCIL MEMBER ROSENTHAL: I understand.

16 MARK PETERS: as an economics matter.

17 COUNCIL MEMBER ROSENTHAL: What's the  
18 total cost annually of KPMG on that one?

19 MARK PETERS: The annual cost of KPMG --  
20 well the cost over the expected duration of the  
21 project, 2016-2019, is budgeted at \$3 million, over  
22 the course of that entire time period.

23 COUNCIL MEMBER ROSENTHAL: Can you put  
24 the dollar value of the integrity monitors over the  
25

2 course of their contracts on that sheet of paper  
3 you're sending to the Chair?

4 MARK PETERS: I can where it's been  
5 prediscussed like that... [crosstalk]

6 COUNCIL MEMBER ROSENTHAL: Of course.

7 MARK PETERS: I mean **[inaudible]**  
8 obviously hasn't been. Sure.

9 COUNCIL MEMBER ROSENTHAL: Of course;  
10 that's fine. And do you see an end to that project,  
11 the ECTP...? [crosstalk]

12 MARK PETERS: ECTP? DoITT says they  
13 expect it to be completed by 2019 and...

14 COUNCIL MEMBER ROSENTHAL: Oh my god, I  
15 have to get elected again to see how it's gonna be..  
16 [interpose]

17 MARK PETERS: DoITT says -- I believe..  
18 [crosstalk]

19 COUNCIL MEMBER ROSENTHAL: And I only get  
20 two years [sic].

21 MARK PETERS: 2019 is the end date from  
22 DoITT; nothing that our monitors are seeing so far,  
23 although I'm getting briefed again next week, but  
24 nothing that we've seen suggests that that end date  
25 isn't gonna hold.

2 COUNCIL MEMBER ROSENTHAL: So I would  
3 argue -- I mean if it's not until 2019, as you're  
4 thinking about your type of [sic] program, your  
5 random peg, however...

6 MARK PETERS: Uhm-hm.

7 COUNCIL MEMBER ROSENTHAL: you can  
8 possibly get money, I would urge you to look into  
9 renegotiating those contracts to save the City \$3  
10 million; it's an idea... [crosstalk]

11 MARK PETERS: Certainly. We will do  
12 that. We'll consider that.

13 COUNCIL MEMBER ROSENTHAL: It's an idea.  
14 Thank you for your help.

15 MARK PETERS: Thank you.

16 CHAIRPERSON GENTILE: Thank you... Thank  
17 you, Council Member; that was a good suggestion. And  
18 we have joined by Council Member Daniel Dromm from  
19 Queens; thank him for being here. Before we get to  
20 Council Member Lancman, I wanted to ask you; we've  
21 been asking you questions about your head count, but  
22 if an agency increases their head count, does that  
23 affect the number of investigators that you need to  
24 add to your staff?

25 MARK PETERS: Yes.

2 CHAIRPERSON GENTILE: And is that what  
3 we're seeing here in terms of...

4 MARK PETERS: Yes. I'll give you a very  
5 concrete example. The Department of Buildings has  
6 received considerable additional head count over the  
7 last year in light of in fact, any number of problems  
8 at DOB, including some brought to light by our report  
9 on façades, our reports on construction safety; all  
10 of those report have led to DOB quite legitimately  
11 requesting and getting an expanded head count; one  
12 result of that is we said to City Hall, we therefore  
13 need an expanded head count and some of that is  
14 coming from the budget request and some of it is  
15 coming from DOB essentially giving us lines, but in  
16 combination of those two things we think that the  
17 number of additional people looking at DOB may  
18 increase by about 30 because we got -- I think it was  
19 like 350 extra DOB inspectors, all of whom need to be  
20 monitored, so yes, absolutely it works that way.

21 CHAIRPERSON GENTILE: Okay, we'll go to  
22 Council Member Lancman.

23 COUNCIL MEMBER LANCMAN: Good afternoon.

24 MARK PETERS: Good afternoon.  
25

2 COUNCIL MEMBER LANCMAN: So I wanna ask  
3 you about the increase in arrests. At last year's  
4 hearing I think it's fair to say the Council was  
5 concerned that maybe the office was not focusing on  
6 the nuts and bolts so to speak and this year arrests  
7 are up significantly, according to your testimony and  
8 completely agree with you that arrests alone is a  
9 metric that needs to be examined carefully, but can  
10 you tell us how you -- I guess the nuts and bolts of  
11 getting back to the nuts and bolts -- why are arrests  
12 up; what different systems, procedures, directives  
13 have been put in place that accounts for the  
14 significant increase in the number of arrests.

15 MARK PETERS: Well I'd like to quibble a  
16 little if I may with the concept that the decrease in  
17 arrests two years ago represented a failure to look  
18 at the nuts and bolts of what we do or frankly, to  
19 take credit for the increase in arrests being further  
20 focused on the nuts and bolts; I think we've been  
21 pretty well focused on both in each instance. Part  
22 of the increase in arrests is that there were a  
23 number of large systemic operations that we undertook  
24 when I got to DOI that only paid dividends this  
25 calendar year because large cases, especially large

cases that involve surveillance or wiretaps often take well over a year to do, so one is, a lot of the cases that we started, larger cases that we started when I got here in 2014 did not come down until 2015; one result of larger cases coming down is that you in fact get more -- in some instances you get more arrests, although as you acknowledge, I think we need to be careful about that, for example, the work we did on NYCHA and the NYPD resulted in absolutely no arrests, but I think is clearly going to help us keep NYCHA safer and I'm very comfortable with that as a use of resources and comfortable with that being part of the nuts and bolts of doing our job, which is to make sure that the city is safe and that there isn't corruption. But I would say the big difference is that some of the larger cases that we started came to fruition in 2015 with resulting lar... you know there were several cases we did where there were large numbers of arrests; I forget how many -- I think we arrested 30 some odd people in a set of cases involving HRA; those cases got started in 2014; we saw the arrests happen in 2015, but it took a year of investigative work to do those arrests.



COUNCIL MEMBER LANCMAN: Let me quibble with your quibble a little bit. There had been over the last X number of years a steady level of arrests and we saw at last year's hearing, looking at the previous year there had been a significant decrease, so something must be different at the department if the only reason that you're back to a pre de Blasio era arrest level is significant investigations that you've started that have reached fruition. I think our concern last year, or at least my concern, I'm gonna speak for myself, was that the more run of the mill day in, day out corruption cases were getting short shrift compared to the grander investigations that the department was doing, some of which were not geared towards arrests and criminal conclusions at all, like for example the Police Department report that you did, so has there been any shift or recognition in the department about at my concern that there has been -- I don't wanna use the word neglect, but there's been less of an emphasis on the ordinary run of the mill corruption cases that year in year out produced a steady stream of arrests, and again, not arrests for arrest sake, but there's just

2 some level of low-level corruption that goes on in  
3 the city.

4 MARK PETERS: I think, and this is to wax  
5 philosophical about your quibble to my quibble to my  
6 quibble -- at some point they'll throw both of us out  
7 of here for this, but bear with me for a minute --  
8 what you raise is, in all fairness, a sort of deep  
9 philosophical point about the best use of finite  
10 resources, there are 622 people who report to me,  
11 there are a finite number of things that can be done.  
12 So -- and let me use the NYCHA context -- part of it,  
13 by the way, as I said, I think is just that things  
14 come to fruition. For example, we spent a lot of... we  
15 arrested a whole bunch of people for HRA fraud, it  
16 was very basic meat and potatoes corruption cases,  
17 you know, people inside and outside of HRA setting up  
18 schemes to steal millions of dollars in benefits by  
19 creating dummy landlords, dummy recipients, etc.;  
20 those cases -- because I felt that there was a real  
21 need to focus on HRA when I got here, I believe that  
22 I directed my inspector general who is in charge of  
23 those social services issues to begin putting real  
24 time into it and we did; the result was there were  
25 fewer arrests in 2014 because we were putting a lot

of resources into breaking what was a large scheme that stole a lot of money; not \$5,000 here, \$5,000 there, but millions of dollars, but it took a while to bear fruit. So part of it is just a function of timing; when you retool an agency and decide to look at people stealing larger amounts of money, it takes a while to get them. But the other is; you can only do so many cases in NYCHA at any given moment -- fair enough -- and the finite number of people, time and space is finite; I mean, right? So we arrested about 20 people for basic tenant fraud, you know you write down on your application that your income is \$30,000; in fact you're making an extra \$10,000 off the books, you don't report it to NYCHA; therefore, the rent you pay is \$100 less a month or \$50 less a month; that's a crime, you can be arrested for it and we still do some of those cases; I think we arrested about 20 people. But the number of people we arrested went down from my predecessor's tenure; what went up was -- the report that we issued at the end of last year about NYCHA and the NYPD; what went up was the report we did on a place and frankly, the fairly comprehensive report we're about to do about elevator safety at NYCHA. So I think it would be a poor use

2 of resources to only write reports like that and not  
3 arrest anybody because tenant fraud is wrong and we  
4 need to send a message that it's wrong and if you do  
5 it we'll arrest you. But I think it would be  
6 similarly wrong... so to go to one side would be wrong,  
7 but I think similarly, only do those tenant cases,  
8 maybe do 40 of them instead of 20, but never to look  
9 at the problems of worker safety, of elevator safety  
10 and of crime would be similarly to extreme and what  
11 I've tried to do and what I tried to do in my first  
12 year and my second year was to cue to a middle  
13 course, now this is a philosophical question and  
14 there is no doubt that the next DOI commissioner  
15 could come in and say you know what, no more reports,  
16 just arrests, they could also I supposed come back  
17 and say no more arrests, just reports; I think either  
18 of those extremes would not be the best use of  
19 resources in a world of finite resource.

20 COUNCIL MEMBER LANCMAN: So this -- you  
21 do hit the nail on the head and this is the  
22 conversation that you had with the committee last  
23 year and the concern was and my concern at the last  
24 year's hearing was that the pendulum had swung too  
25 far towards the reports and the overarching

2 investigation and that there might become a sense in  
3 the city that people who are committing maybe  
4 individualized low-level fraud or at least not  
5 systemic fraud, the word gets out that DOI is not  
6 interested in that kind of activity anymore; looking  
7 at this year's numbers, it seems like maybe you've  
8 found that sweet spot, right, the report you did on  
9 the NYPD was I thought very, very helpful and we met  
10 and talked about it; I just want to make sure that  
11 you are trying to find that balance; that we don't --  
12 we already have a comptroller, the Council has a  
13 numerable committee, there are plenty of people in  
14 the city government and state government and the U.S.  
15 Attorney's Office doesn't just prosecute people, you  
16 know it has the whole Rikers Island civil  
17 investigation, civil lawsuit going on, we just wanna  
18 make sure that in addition to the reports that you're  
19 doing which are yielding important results that run  
20 of the mill fraud and corruption is not getting lost  
21 in the shuffle. At last year's hearing the arrest  
22 number in and of itself raised those concerns to me  
23 and I think to others; this year less so, so let's  
24 leave it at...

25 MARK PETERS: Good.

2 COUNCIL MEMBER LANCMAN: we hope you  
3 still, you know, are finding that middle ground.

4 MARK PETERS: And I assure you that I  
5 heard and thought care... Let me assure you, as I think  
6 I did in my testimony, I absolutely hear you on that  
7 point; there is absolutely no doubt that there needs  
8 to be a clear message that that kind of fraud will  
9 not be tolerated; we did a lot of arrests last year;  
10 I hope to do a lot more this year. As I said, I  
11 always wanna be careful about using arrests as a  
12 benchmark, but I agree with you and I am mindful of  
13 and I think the increase in arrests shows that I'm  
14 mindful of the fact that yes of course, we absolutely  
15 need to send that message and to be very tough on  
16 that and we will continue to be and we will continue  
17 to be mindful of your concerns, which you know, are  
18 very -- that is a valid, legitimate conversation and  
19 it's one that I have with myself and my staff almost  
20 daily.

21 COUNCIL MEMBER LANCMAN: Good. Last  
22 question or genre of questions. Under the office's  
23 cooperation and collaboration with other law  
24 enforcement offices, district attorney's office has  
25 come up in your testimony a few times, there's the

2 federal monitor in the Stop and Frisk case; I saw in  
3 a couple of instances, particularly when you were  
4 talking about DAs, I think a Construction Fraud Task  
5 Force joining investigations with the New York  
6 District Attorney -- I wanna make sure you're getting  
7 outside of Manhattan, right, I noticed the  
8 Construction Fraud Task Force didn't include Queens;  
9 I don't know if that's something you wanna get to, I  
10 don't know if there was resistance in the Queens end,  
11 but we wanna make sure the that these things that  
12 you're doing is not just Manhattan.

13 MARK PETERS: Oh, I could not agree more;  
14 you are absolutely right, they are -- the  
15 Construction Task Force started with Manhattan;  
16 simply because of the matter of economics there's  
17 more large-scale construction going on in Manhattan  
18 and has been historically; that's the reason that it  
19 started with Manhattan; we are expanding that; we  
20 have a number of initiatives with Queens; if I didn't  
21 mention Queens in my testimony, I will offer  
22 apologies now to your home borough; we have a very  
23 good relationship with that DA's office and do a lot  
24 of work with them; I personally spend time meeting  
25 with all the DAs, my staff personally does. We have

a lot of cases with the Brooklyn DA now, we have given Rikers a huge number of cases with the Bronx DA, we have cases with the Queens DA; we have actually a number of cases with the Staten Island DA; there is not a district attorney in the city that we don't have multiple cases with and you know my staff is not talking to practically daily, and if I didn't mention Queens, let me apologize now for the oversight.

COUNCIL MEMBER LANCMAN: And just lastly on that same subject, as the Construction Task Force and Buildings, which I see, as appropriately, an increased focus of the department, in a prior life I was in the Assembly; I chaired a subcommittee on workplace safety and one of our laments was that Manhattan got a lot of the attention on workplace safety issues and it wasn't just the usual Manhattan's the center of the universe; it was because the projects in Manhattan were large, they were sort of the low-hanging fruit whereas you know it could be a challenge to make sure that construction safety is being handled properly in some you know relatively small job that has six guys on it



2 in downtown Flushing and you know nobody speaks  
3 English.

4 MARK PETERS: I completely agree with you  
5 and without going into any further detail, which for  
6 various law enforcement reasons I cannot, I feel  
7 extremely confident in saying that when you and I  
8 have this conversation at next year's budget hearing  
9 among the concerns you will not express to me is  
10 whether we are doing large criminal cases outside of  
11 Manhattan.

12 COUNCIL MEMBER LANCMAN: Okay. Thank you  
13 very much.

14 MARK PETERS: Thank you.

15 CHAIRPERSON GENTILE: And Council Member,  
16 one of the items that the Commissioner and I have  
17 been talking about is doing a methodology hearing  
18 sometime in the future so we could discuss some of  
19 those philosophical issues that were brought up on  
20 how best to go about the job that we do. So thank  
21 you again, Council Member and Council Member Dromm;  
22 did you... do you... no, okay, great.

23 Commissioner, I'm curious, you did  
24 mention several times over that you don't think that  
25 arrests, and I agree, are not a good metric to

2 measure success, but do you consider arrests a  
3 deterrent?

4 MARK PETERS: I absolutely consider some  
5 arrests to be a deterrent; when they are arrests --  
6 so yes, I certainly consider some arrests to be a  
7 deterrent, indeed, and I'm hesitant now to use  
8 another Manhattan example, but -- well Council Member  
9 Lancman's left, so I can use [background comments]  
10 another Manhattan example. When the trench collapsed  
11 on the construction site, crushing a working to death  
12 in downtown Manhattan, District Attorney Vance and I  
13 brought criminal charges against the contracting  
14 companies and their executives; it's I think the  
15 first time in five or six years that such a case had  
16 been brought as opposed to simply taking away  
17 licenses and issuing fines and the reason that we did  
18 that -- and these are hard cases to do -- was we felt  
19 that that arrest, it was important to send a sign to  
20 the construction industry that when you mess around  
21 with safety, when you take shortcuts and things go  
22 wrong; if people get killed, there will be criminal  
23 liability, it's not just this company loses a license  
24 and that company pays a fine. So yes, in some  
25 instances arrests absolutely send a message and at

2 the same time that I've said I don't wanna use the  
3 total number of arrests, I wanna be careful not use  
4 it as a metric; I've never said, nor do I believe  
5 that arrests are not an incredibly important part of  
6 what we do, they are perhaps the biggest deterrent  
7 and that's why, among other things, where we've done  
8 arrests we try to do arrests that make a point and  
9 that can be issued in conjunction -- when we've  
10 issued reports we try to issue them in conjunction  
11 with arrests so that we completely make the point in  
12 an unmistakable way to the relevant city agency or  
13 industry.

14 CHAIRPERSON GENTILE: And I would imagine  
15 that arrests concerning fraud would also serve as  
16 that deterrent?

17 MARK PETERS: Absolutely. And again,  
18 when we go in and arrest 20 some odd people,  
19 including HRA workers for stealing HRA funds, I think  
20 that sends a message. When we arrest 26 DOC staff, I  
21 think that sends a message, especially when those  
22 arrests continue, you know, at a reasonable pace.

23 CHAIRPERSON GENTILE: So in conjunction  
24 with the arrests or apart sometimes from the arrests  
25

2 you do issue these policy and procedure  
3 recommendations to these other city agencies...

4 MARK PETERS: Uhm-hm.

5 CHAIRPERSON GENTILE: and the PMMR  
6 indicates that you actually increased by 18 percent  
7 the number of written policy and procedure  
8 recommendations that you made to other agencies. Can  
9 you highlight some of the major policy recommendation  
10 reports that you've issued?

11 MARK PETERS: Sure. Let's see, we can  
12 start with -- obviously in Rikers we made a number of  
13 recommendations surrounding the use of drug-sniffing  
14 dogs, which had been resisted for years as a result  
15 of our investigation; that resistance has finally  
16 crumbled and we now have drug-sniffing dogs, that  
17 policy and procedure recommendation. We recommended  
18 that there needs to be screening for gang affiliation  
19 before people are hired; that's a recommendation  
20 that's now being put in place. We recommended  
21 additional cameras be put up at Rikers; that's a  
22 recommendation that's now being put in place that's  
23 on the Rikers context. In the HRA context, we made  
24 recommendations in the wake of all of the \$2 million  
25 in theft in the arrests, we made a series of detailed

2 recommendations regarding recordkeeping and the way  
3 certain forms are filled out and then approved; those  
4 recommendations, HRA has taken all of those  
5 recommendations; as a result it's no -- although I'm  
6 not gonna say it's impossible to steal from HRA; it  
7 will, sadly, almost always be possible to steal from  
8 HRA; it's not possible to steal from HRA in the way  
9 that that happened. So those are just two examples;  
10 I can give you more if you want.

11 CHAIRPERSON GENTILE: When you make these  
12 recommendations and policy procedural  
13 recommendations, what -- and you did mention that  
14 these agencies follow through on them, but what if  
15 any authority does DOI have to be sure that they  
16 follow through on them?

17 MARK PETERS: It's a good question and we  
18 track, although -- and this is a confession -- we  
19 have not in the past been as good at tracking  
20 compliance as I would like us to be; we have recently  
21 put a lot of effort into it and we are getting better  
22 at it; right now we are reporting that 71 percent of  
23 PPRs have been implemented; I believe that number is  
24 higher and when we finish our own review of doing a  
25 better of tracking, I think you'll see that that

2 number is higher; there is no legal authority that we  
3 have to force somebody to accept a PPR; however, and  
4 this is something that I don't think we've done as  
5 good a job of in the past and I expect to do a better  
6 job going forward; we'll go back and look and see  
7 what hasn't been implemented and a. obviously I will  
8 tell you that the Mayor has been very aggressive in  
9 certain instances and insisting that agencies adopt  
10 PPRs or have a very good reason for why they can't  
11 and secondly, if you don't adopt a PPR and then the  
12 same corruption hazard comes up again, it's a lot  
13 harder to defend your agency when you got stolen from  
14 a second time or your workers broke the law a second  
15 time after you didn't follow our PPRs and I think  
16 there's an awareness of it. So I think in fact we're  
17 doing pretty well on follow-up.

18 CHAIRPERSON GENTILE: So it's all the  
19 other pressure that causes them to...

20 MARK PETERS: Yes.

21 CHAIRPERSON GENTILE: Yeah. Do you have  
22 either investigators or staff dedicated to following  
23 up on your recommendations?

24 MARK PETERS: Each inspector general is  
25 obligated to follow up on the PPRs for the agencies

2 he or she oversees and as I said, I think that we in  
3 the past have not been as systemic and organized  
4 about it as we should be and we have taken steps over  
5 the last year and are continuing to take steps to get  
6 better at that.

7 CHAIRPERSON GENTILE: And how often do  
8 they check to see if there's compliance?

9 MARK PETERS: It depends on the things  
10 we're talking about; in some instances we make  
11 recommendations that are easily and should be done  
12 quickly, you know, change this policy, do this; in  
13 some instances it can take -- you know, it's not  
14 unreasonable to assume it can take at least six  
15 months or a year to do something, so different  
16 recommendations followed on a different time  
17 schedule. But I meet with my inspectors general  
18 every three weeks for each -- each agency every three  
19 weeks and you know I expect them to know what the  
20 right timeframe is for various PPRs and to be in a  
21 systematic way going back and checking on that and  
22 reporting back and I actually think that number will  
23 go -- that 71 percent number I am fairly confident  
24 when we're here next year, we'll be reporting that  
25 number is actually quite a bit higher.

2 CHAIRPERSON GENTILE: Okay.

3 MARK PETERS: And if you want a metric,  
4 that's a metric worth judging me on.

5 CHAIRPERSON GENTILE: Okay. And we will  
6 write that down, right? I'm curious if you might be  
7 able to share with us any of the corrective action  
8 plans that you've made to the agencies.

9 MARK PETERS: Sure. I think PPRs and  
10 corrective action plans are, if not perfect synonyms  
11 and their close, but again, you know much of the  
12 stuff that I've already talked about, for example,  
13 Rikers, we have said to Rikers, you need drug-  
14 sniffing dogs; they have now agreed to do so; we have  
15 our own drug-sniffing dog; they are also going to  
16 have drug-sniffing dogs; there have been a number of  
17 bumps along the way, but I'm actually fairly pleased  
18 with the progress they're making. We have said to  
19 the NYPD, you must begin tracking force -- a. because  
20 we need to know exactly how much force is being used  
21 and b. because the act of tracking something means  
22 that you take it seriously; after our reports, the  
23 NYPD committed to doing so; I think it will take them  
24 at least six months to put that in place if not  
25 longer; we will be following that and by this time



2 next year when I'm testifying, I think we'll be able  
3 to say either that they're doing it or I'm not happy  
4 that they're not, so that's a corrective action plan.  
5 We have insisted on changes to the way that the  
6 Buildings Department deals with façade law  
7 enforcement; they've agreed to do that; we are  
8 monitoring that to see how far along they get on it,  
9 and I can walk you through, you know... [crosstalk]

10 CHAIRPERSON GENTILE: Well how 'bout  
11 this; would you be able to give us PPRs where the  
12 corrective action is still pending?

13 MARK PETERS: Sure, there would be  
14 literally -- there could literally be hundreds of  
15 them, but I think it's -- my hesitance is only that  
16 there would be a large number of them and collecting  
17 them all in one place into one letter would be an  
18 undertaking that would require some real staff work,  
19 but I'm happy to do it if you... [crosstalk]

20 CHAIRPERSON GENTILE: Okay. Maybe you  
21 can limit them to the major agencies...

22 MARK PETERS: Sure.

23 CHAIRPERSON GENTILE: or major corrective  
24 action recommendations...

25 MARK PETERS: Sure.

2 CHAIRPERSON GENTILE: leave it at...

3 MARK PETERS: We can certainly do that,  
4 yes.

5 CHAIRPERSON GENTILE: Okay; I appreciate  
6 that. Now some of these PPRs may actually trigger a  
7 budget request on the part of those agencies...  
8 [crosstalk]

9 MARK PETERS: I imagine they already  
10 have.

11 CHAIRPERSON GENTILE: Okay. Do you  
12 assist those agencies in either designing or drafting  
13 a request and what it should be?

14 MARK PETERS: We generally do not get  
15 involved with the agency in crafting the budget  
16 request because at some point the agency has an  
17 obligation to handle its own budget; there have been  
18 a couple of exceptions; we assisted DOC with some  
19 budget requests because they were very specific, but  
20 as to the particular specific reason, our general  
21 view is, given the limited size of our agency, there  
22 are only 600 odd of us, and given the number of  
23 budget people on my staff, which is really tiny,  
24 generally my feeling is -- you know we tell an  
25 agency, here is the corrective action plan and they

2 agree to it; working through the budget ramifications  
3 and making a budget request is something they need to  
4 do -- if I had to do that for them, I'd be here  
5 asking for another 30 or 40... [crosstalk]

6 CHAIRPERSON GENTILE: Or at least assist  
7 them; I would expect you to do it for them, but...

8 MARK PETERS: Obviously we provide  
9 assistance in the sense of telling them what needs to  
10 be done, but the assistance in terms of figuring out  
11 you know how many workers and how much that's gonna  
12 cost and asking for that from OMB, that's something  
13 that I think frankly is better done and appropriately  
14 done by the agency in question.

15 CHAIRPERSON GENTILE: Okay, that's great.  
16 Let me just move to some of the groups that are under  
17 your purview that actually release their own reports,  
18 particularly the inspector generals, the commission  
19 to combat police corruption and the special  
20 prosecutor for DOE. You know they release their own  
21 reports, but their statistics are not presented under  
22 the PMMR for the DOI; is there a way that we could  
23 get the most relevant statistics that these special  
24 offices produce and make them or make them somehow  
25

2 into presentable in the data that is in the DOI for  
3 the PMMR?

4 MARK PETERS: Sure. I think -- just  
5 understand this is a historical anomaly, as is much  
6 of government; the most important numbers -- I tried  
7 to present what I thought were the most important  
8 numbers for the Special Commissioner for  
9 Investigation, but I'm happy to go back and I'm happy  
10 to put those and some other numbers in a letter; the  
11 Commission to Combat Police Corruption is a sort of  
12 remarkably **[inaudible]** generous agency, but let me  
13 see what I can put together in a letter to you.

14 CHAIRPERSON GENTILE: We don't get much  
15 on that; could you update us on the Commission to  
16 Combat... [interpose]

17 MARK PETERS: Sure. It's a very... Yeah.  
18 I mean it is a very small agency; there are a number  
19 of entities that look at different aspects of the  
20 NYPD, obviously **[inaudible]** Internal Affairs Bureau,  
21 there is the Inspector General for the Police  
22 Department who reports to me and then there's the  
23 CCRB that is its own separate independent entity.  
24 The Commission to Combat Police Corruption is a very,  
25 very small entity that essentially looks at a random

2 number of IAB investigations and then makes  
3 recommendations directly to the police commissioner,  
4 not through me, as to issues they see with that, but  
5 it's got a tiny staff; I'll get you the exact  
6 numbers.

7 CHAIRPERSON GENTILE: And... [crosstalk]

8 MARK PETERS: Part of the [sic] reason  
9 you don't hear about it is, as compared with the  
10 other police oversight entities, it's really quite  
11 small.

12 CHAIRPERSON GENTILE: And do they work  
13 off of IAB investigations?

14 MARK PETERS: Yes.

15 CHAIRPERSON GENTILE: Okay. And have  
16 they changed their work or improved with the addition  
17 of the NYPD IG?

18 MARK PETERS: Their work has not changed,  
19 NYPD IG is not essentially re-reviewing individual  
20 IAB cases; they are looking at sort of larger  
21 systemic issues; for example, the use of choke holds,  
22 the use of body cameras, the use of force; this  
23 upcoming year, you know the use of surveillance  
24 techniques against religious and political groups.  
25 So that's not the kind of thing the CCPC does, so the

2 two don't tend to intersect a great deal; the CCPC is  
3 looking at individual cases; they will pull five  
4 individual IAB cases and offer comments to the  
5 commissioner, the police commissioner on how they  
6 think the IAB did.

7 CHAIRPERSON GENTILE: Okay. So if you  
8 could find a way to put some more of the data from  
9 those special units into the DOI's PMMR, we'd  
10 appreciate that.

11 MARK PETERS: Sure.

12 CHAIRPERSON GENTILE: Okay.

13 MARK PETERS: Happy to do it.

14 CHAIRPERSON GENTILE: Great. Let's just  
15 talk a little bit about some of the stats you put out  
16 on background investigations; you've actually gone up  
17 in the number of days or the time required to  
18 complete background investigations; I think it went  
19 from 198 or 196 to 234; could you address that issue  
20 and what procedural changes you're making and what is  
21 contributing to that interest [sic].

22 MARK PETERS: So the first part -- what  
23 are we doing. I agree; it has gone up; that is a  
24 concern; we have now added four new staff to the  
25 background unit which I hope will reduce that number.

2 I mean to some extent the number of days it takes to  
3 complete an investigation is driven by the total  
4 number of investigations we have do, the complexity  
5 of those investigations and the number of staff we  
6 have to do. I obviously can't control how many we  
7 get asked to do and I can't control their complexity;  
8 we have requested and the budget will be providing  
9 four new staff for the background unit, so that's  
10 just four more people to do the investigations and my  
11 hope is that will bring the number down.

12 In terms of -- we just had -- there were  
13 more -- the investigations that we had to do for the  
14 past year that was recorded, there were more of them  
15 and more of them that were complex -- there were more  
16 complex investigations than in past years and that  
17 drove the time it takes to go up and so we responded  
18 by adding some staff there to try to get that number  
19 back down.

20 CHAIRPERSON GENTILE: When you say more  
21 complex; you mean in vetting the...

22 MARK PETERS: Correct.

23 CHAIRPERSON GENTILE: individual...

24 MARK PETERS: Sure.

25 CHAIRPERSON GENTILE: or individuals?

2 MARK PETERS: Sure. In several different  
3 ways it can be more complex; one is it depends on  
4 what position you're vetting somebody for; second, it  
5 depends on whether they're coming from prior city  
6 service; somebody who was vetted by us two years ago  
7 and is now moving from one agency to another, that's  
8 an investigation we can do a lot more quickly than  
9 somebody who's never been in government service  
10 before. The person's background, somebody who has  
11 been, you know, worked in the field for 25 years in  
12 multiple places, it's gonna take longer to vet them  
13 than somebody who's a couple of years out of college  
14 and lastly, somebody who has some potential red flags  
15 in their file is obviously gonna take a lot more time  
16 and as we delve into those so that we can give a full  
17 report to the relevant hiring entity who can then  
18 make a decision as to whether based on those red  
19 flags they still wanna go forward, that they'll  
20 clearly need more information **[inaudible]**.

21 CHAIRPERSON GENTILE: So with the  
22 additional staff that you're now requesting, you  
23 anticipate that number in time going down?

24 MARK PETERS: I do.



2 CHAIRPERSON GENTILE: Okay, great. What  
3 is the average in length of an investigation; I know  
4 your stats show that the average time to complete an  
5 investigation went down by 21 days; what is the  
6 average length to complete an investigation?

7 MARK PETERS: To complete and now a  
8 background investigation, but a regular  
9 investigation...? [crosstalk]

10 CHAIRPERSON GENTILE: Right.

11 MARK PETERS: I know it went down; I  
12 don't have the number in front of me; I will tell you  
13 it is a remarkably misleading number for this reason;  
14 it's an average and so what it doesn't take into --  
15 you know there are lots and lots of investigations  
16 that get done very, very quickly because there's not  
17 much substance to them or they're really very, very  
18 simple. For example, at the same time there are  
19 investigations that take us several years and so an  
20 average number is not -- I mean we don't keep the  
21 data in terms of medians I don't even know the -- the  
22 amount of time it would take to keep the data  
23 probably is greater than the value it would provide,  
24 but remember, the problem with averages is that it  
25 gives too much credit to the 10 percent that take

2 several years to do and too much credit to the large  
3 number of investigations that get done very quickly  
4 or that bluntly take a long time because they are  
5 clearly -- on day one it's clear there's no  
6 [inaudible] there and it may take another month to  
7 get it closed because once you know there's no  
8 [inaudible] there, there's less of an urgency and so  
9 it might take another 30 days or 60 days to get it  
10 closed, simply just goes to the bottom of the pile to  
11 things that suggest greater urgency. And the other  
12 reason it's not a great number is that if I open up  
13 an investigation into something that takes a very  
14 long time, I could in theory open multiple  
15 investigations or I could open one and whether I do  
16 that will depend on a bunch of factors having little  
17 to do with the investigation, but that'll also  
18 influence the numbers. So of all the numbers out  
19 there, that is the one that I think is most likely to  
20 fluctuate in a way that doesn't tell us a lot, more  
21 so than arrest; more so than anything else.

22 CHAIRPERSON GENTILE: So that number is  
23 not that useful to us in the PMMR?

24 MARK PETERS: I honestly don't think  
25 that's a super useful number; the PMMR calls for it;

2 therefore -- you know the Mayor's Office and the  
3 Council have requested it in the PMMR; we therefore  
4 track it because we work for you and we work for the  
5 Mayor's Office, but honestly, if you ask me about  
6 numbers that are useful and less useful, this would  
7 fall at the way end of the less useful number scale.

8 CHAIRPERSON GENTILE: I think we have --  
9 I just wanna review some of the responses and some of  
10 the items you had mentioned that you'll get back to  
11 us on...

12 MARK PETERS: Sure.

13 CHAIRPERSON GENTILE: and that's the  
14 breakdown of the DOI revenue -- I'm sorry... I'm sorry;  
15 did I say DOI -- DOJ, DOJ revenue, right the  
16 breakdown of the Department of Justice revenue, the  
17 integrity monitor list that you were gonna add the  
18 amounts to it if you can...

19 MARK PETERS: Sure.

20 CHAIRPERSON GENTILE: and the Corrective  
21 Action Plans for major situations, major agencies and  
22 updated metrics for the specialized units, such as  
23 the Commission on Police Corruption, to combat police  
24 corruption and the SEI for DOE.

25 MARK PETERS: Excellent.

2 CHAIRPERSON GENTILE: Okay. So we have  
3 that together. I think we're approaching about two  
4 hours; that I think wraps up our preliminary hearing;  
5 we'll see you back again for the Executive Budget  
6 round of hearings and we appreciate your time and  
7 thank you for your answers today.

8 MARK PETERS: Thank you, I'm glad to be  
9 here.

10 CHAIRPERSON GENTILE: Okay. [background  
11 comments] Seeing no public wanting to testify, I now  
12 close this hearing.

13 [gavel]

14 Thank you all for coming.

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 4, 2016