

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON OVERSIGHT AND INVESTIGATION

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March 9, 2016

Start: 1:13 p.m.

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HELD AT: Committee Rm - City Hall

B E F O R E: VINCENT J. GENTILE
Chairperson

COUNCIL MEMBERS:

DANIEL DROMM

COSTA G. CONSTANTINIDES

CHAIM M. DEUTSCH

RORY I. LANCOUNCIL MEMBERAN

HELEN K. ROSENTHAL

BILL PERKINS

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

Mark Peters
Commissioner of the Department of Investigations

Ganesh Ramratan
Deputy Commissioner for Operations and Chief
Information Officer

[gavel]

CHAIRPERSON GENTILE: Good afternoon and welcome to the Committee on Oversight Investigation hearing on the Fiscal Year 2018 Preliminary Budget and the Fiscal Year 2017 Preliminary mayor's management report. My name is Councilman Vincent Gentile and the Chair of the Oversight and Investigations Committee. With me today and more to join us as the day goes on, members of the Oversight Investigations Committee currently we have with us Council Member Rory Lancman, thank you for being here and we'll have other members as the afternoon progresses. I would also like to thank my committee staff for all of their hard work; analyst, Sheila Johnson and unit head, Alisha Wright from the finance division, thank you so much, our Committee Counsel Zai Emanuel Haroa [sp?] and my staff; Travis Laprecht, the Chief of Staff and Jonathan Shabshaikhas, the Legislative Director, and Taylor Mills, my Legislative intern. Mandated by the New York City charter the budget process is initiated each January by the mayor presenting the preliminary budget which outlines the city's goals and priorities. The city council holds public hearings

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2 analyses and responds to the mayor's preliminary
3 budget and we're in the process of doing that today.

4 Today's public hearing will examine the preliminary
5 budget for the Department of Investigation and
6 afterwards the mayor will release the executive
7 budget which is an updated proposal based on the
8 council's response to the preliminary budget.

9 Following final negotiations and adjustments the
10 council and the mayor must reach an agreement by July
11 1st which as we know is known as the adopted budget.

12 Every urban student also knows that... is, is always
13 taught that the budget is the plan, not only does it
14 establish objectives through the agency the budget
15 also quantitatively via funding and quantitatively
16 via headcount accounts for the necessary tools to
17 equip the department in achieving their goals. The
18 Oversight Investigations Committee which oversees the
19 Department of Investigation will hear testimony from
20 Commissioner Mark Peters of the Department of
21 Investigation. Today's hearing will discuss
22 highlights of the 41.7 million dollars fiscal 2018
23 expense budget and departmental operations. DOI's
24 major function, functions include investigating and
25 referring for criminal prosecution cases of fraud,

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2 corruption, and unethical conduct by city employees,
3 contractors, and others who receive city money. They
4 are also charged with studying agency procedures to
5 protect against corruption, fraud and, and misconduct
6 to bring an in-depth... to bring an in-depth
7 understanding of city processes and operations. In
8 addition, DOI investigates the backgrounds of persons
9 selected to work in decision making or sensitive city
10 jobs and conducts checks on those who are awarded
11 contracts with the city to determine if they are
12 suited to serve the public trust. The fiscal 2018
13 preliminary budget for DOI totals 41.7 million
14 dollars including city and non-city funds which
15 represents a decrease of 4.9 million from its fiscal
16 2017 adopted budget of 46 million... 46.7 million
17 dollars. The 4.9-million-dollar decrease is due to a
18 decrease in the other than personnel services, the
19 OTPS budget of 5.8 million offset by an increase in
20 the personal services' budget, the PS budget of
21 824,000 dollars. In addition, the fiscal 2018
22 preliminary plan does not contain any new needs.
23 However fiscal 2018 preliminary plan does include 2.8
24 million dollars in other federal funding for the
25 department when compared with the 604,000 dollars at

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2 the fiscal 2017 adopted plan. So, we look forward to
3 hearing from the Department of Investigation on its
4 operations and fiscal 2018 expense budget. Once
5 again, I thank everyone for being here this afternoon
6 and now I turn to Commissioner Mark Peters and his
7 Deputy to be sworn in by our Committee Counsel.

8 COMMITTEE COUNSEL: Do you affirm to tell
9 the truth, the whole truth, and nothing but the truth
10 in your testimony before this committee and to
11 respond honestly to Council Member questions?

12 MARK PETERS: Yes, I do.

13 CHAIRPERSON GENTILE: Commissioner you
14 may begin.

15 MARK PETERS: Thank you. Good afternoon
16 Chair Gentile and members of the Committee on
17 Oversight and Investigations. I'm Mark Peters,
18 Commissioner of the Department of Investigation and
19 I'm joined by Deputy Commissioner for Operations and
20 Chief Information Officer, Ganesh Ramratan. I thank
21 you once again for the opportunity to address the
22 committee concerning DOI's Preliminary Budget for
23 Fiscal Year 2018. I also welcome the opportunity to
24 update this Committee on several key areas of focus
25 for the upcoming year and touch on certain recent

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2 successful investigations we've announced. First,
3 DOI's preliminary expense budget for Fiscal Year 2017
4 is 58.4 million consisting of 31.9 million that
5 supports approximately 422 full-time staff positions,
6 and 26.5 million for Other Than Personnel Services,
7 such as supplies, equipment and space. Included in
8 the 31.9 million for Personnel Services is 5.8
9 million in Intra-City funding, such as the funding
10 for Memoranda of Understanding with nine city
11 agencies that support 94 positions. In addition to
12 the staff comprised in the agency's budget, there are
13 an additional 279 headcount staff members who work
14 for us through various arrangements with other city
15 agencies, including the Office of the Special
16 Commissioner of Investigation for Schools and the
17 Office of the Inspector General for NYCHA. This
18 brings the total staff headcount who report through
19 DOI's chain of command to slightly more than 700. We
20 have deployed, and will continue to deploy, these
21 staff towards our comprehensive strategy of systemic
22 investigations, high impact arrests, preventative
23 controls and operational reforms in a manner designed
24 to ensure that we leverage our resources effectively.
25 Further, we will continue to assist the agencies we

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2 oversee by sharing what we learn about the
3 vulnerabilities we identify during our investigations
4 and though the issuance of comprehensive policy and
5 procedure recommendations. And we continue to follow-
6 up and monitor agency adoption of those
7 recommendations long after our initial investigations
8 have come to a close. Finally, through our public
9 reports, we empower the general public, and governing
10 bodies such as this Council and City Hall, by
11 enhancing transparency and prompting reforms that
12 strengthen public policy. And our high impact arrests
13 and emphasis on complex investigations means we can
14 shut down the most costly and damaging fraud schemes
15 by attacking corruption vulnerabilities at their
16 roots. Through this strategy, we continue to see
17 success in enforcement areas across the board. In
18 2016, DOI investigations uncovered bribery, fraud,
19 theft and life-threatening conditions within the
20 construction industry, demonstrated what DOI has
21 shown again and again, that safety and integrity are
22 directly linked. We exposed serious problems related
23 to the City's Administration for Children Services.
24 We revealed concerns with NYPD compliance with rules
25 governing investigations of political activity and

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2 led... and our work led to a total of another 23
3 arrests connected with the Department of Correction
4 including 13 staff who worked at DOC facilities as we
5 continue our crackdown on illegal conduct at Rikers
6 Island. Allow me to give you concrete examples in
7 each of these four areas. As to construction fraud
8 and safety, just this January, our robust
9 construction integrity squad arrested 37 defendants,
10 including employees from the National Grid Gas and
11 Electricity Company and landlords who were charged
12 with enterprise corruption and other offenses for
13 operating a shadow utility company that illegally
14 installed gas meters. The investigation also showed
15 dangerous conditions including the use of inferior
16 cheap plastic flex piping, that was similar to those
17 present at the fatal gas explosions on the Lower East
18 Side Manhattan. In our oversight of ACS, we've issued
19 two recent critical reports. First, in May of 2016,
20 we released a report that revealed investigatory
21 failures and deficient casework, lax oversight of
22 foster care providers, and a lack of data collection
23 by ACS, making it impossible to identify and track
24 problems, raising serious concerns over whether ACS
25 and its provider agencies missed multiple

opportunities to effectively intervene before a child died or nearly died. Then earlier this year, DOI again exposed some of those same deficiencies, such as sub-par casework, in ACS's handling of the Jaden Jordan case. In that investigation, we determined that ACS workers had access to databases that would have provided the correct address for authorities to find Jaden on the very date they first received the allegations of abuse and neglect, rather than two days later, after he had been beaten into a coma. In addition, DOI found that the Emergency Children's Services unit, the unit that handles cases during the nights, weekends and holidays, lacked proper staffing and training. I am also proud to report on the work our Office of the Inspector General for the NYPD. In the last year, DOI's NYPD IG investigations included two of particular importance: NYPD compliance with the rules governing investigations into political activity and an analysis of all responses to people in mental crisis. Indeed, as to the first of these, a federal court judge relied in substantial part on this report when assessing the fairness of a class action settlement regarding alleged NYPD surveillance of Muslims. As to the second, after our report the

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2 NYPD has agreed to enact changes to protocols to
3 better respond to New Yorkers in mental distress.
4 Finally, we continue our robust oversight of the
5 City's Correction Department, in particular Rikers
6 Island. This ongoing investigation has already led to
7 the arrest of more than three dozen Correction
8 Officers and other staff on contraband smuggling,
9 assault and other charges, and the improved screening
10 of staff as they enter jail facilities. In 2016, DOI
11 saw positive results from its investigations,
12 including the conviction of eight Correction Officers
13 and supervisors in a gang assault and cover up; the
14 indictment of 17, including two Correction Officers,
15 a Correction Cook and six inmates, in a conspiracy to
16 bring scalpels, narcotics and other contraband into
17 the City's jails in exchange for thousands of
18 dollars; and guilty pleas by a Correction Captain and
19 two Correction Officers to falsifying records in
20 connection with covering up the beating of an inmate.
21 Our ongoing investigations into the issue of sexual
22 assault at Rikers has already yielded a first arrest.
23 In terms of numbers and metrics overall, I continue
24 to caution against too much reliance on any
25 statistic. That said, I can report that in Calendar

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2 Year 2016, DOI had 694 arrests stemming from more
3 than 1,800 investigations, and over 800 referrals for
4 criminal prosecution. This represents a 22 percent
5 increase for arrests year-on-year, and an increase of
6 14 percent for criminal referrals year-on-year. I'd
7 also like to briefly update this Committee on the
8 Office of the Special Commissioner of Investigation
9 for the New York City School District, ably led since
10 July 2002 by former New York City Police Commissioner
11 and former New York State Commissioner of the
12 Division of Criminal Justice, Richard J. Condon. In
13 2016, SCI received a total of 6,336 complaints and
14 opened 772 investigations, including 218 involving an
15 allegation of sexual misconduct. To sum up: our
16 strategy remains ambitious and comprehensive. The
17 current preliminary budget is reflective of current
18 budget realities, and I understand it can be
19 challenging to allocate resources in times of
20 projected budget constraint. As our results continue
21 to show, investing in DOI means greater efficiency,
22 fairness and safety for all New Yorkers. Your
23 continued support in meeting the critical needs of
24 the agency is vital not only to our mission, but to
25

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2 the mission of New York City government. At this
3 time, I would be happy to take your questions.

4 CHAIRPERSON GENTILE: Great, thank you.

5 Thank you for that testimony Commissioner and we have
6 been joined also by Committee Member, Council Member
7 Daniel Dromm, thank you for being here. Great, thank
8 you. Okay, Commissioner so what I'm going to do
9 actually, we're going to integrate the questions that
10 we have with the Preliminary Budget questions, the
11 PMMR questions, related questions that are kind of
12 interrelated and they kind of mesh together because...
13 so we'll be jumping back and forth a little bit
14 during the questioning that... at least that I have,
15 okay?

16 MARK PETERS: Sounds good.

17 CHAIRPERSON GENTILE: Alright. Okay,
18 great. You mentioned in your testimony that the FY
19 '17 Budget after all the amendments and plans was 58
20 point... million dollars now the Fiscal 2018
21 Preliminary Budget for DOI is at 41.7 which includes
22 city and non-city funds which actually if you look at
23 the Fiscal Year '17 adopted represents a decrease of
24 4.9 million dollars in it's Fiscal... from it's Fiscal
25 '17, '17 adopted budget of 46.7, we know there are

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2 going to be adjustments to the plan, so I guess at
3 this point what I want to ask you is that the '18
4 preliminary budget reflects a decrease of 5.6 million
5 in federal funding, if that's so and that is realized
6 how will this impact the departments program areas?

7 MARK PETERS: At this time the... let me be
8 clear, the Preliminary Budget that we are discussing
9 does not contemplate any reduction in head count for
10 the agency or related costs. There was a onetime...
11 and, and I'll get you the... exactly... there was a one
12 time, there was a onetime... I'm looking at my numbers
13 here and I apologize, there was a onetime shift of
14 money... of FAF funding and an additional intercity
15 funding that we put in annually so there was... there
16 were adjustments as things went along but the...
17 [cross-talk]

18 CHAIRPERSON GENTILE: For, for F, for FY
19 '17 you're saying?

20 MARK PETERS: Yes.

21 CHAIRPERSON GENTILE: Okay, great...

22 MARK PETERS: But the Preliminary Budget
23 that's being proposed contemplates that our head
24 count does not go down and the associated costs of
25 that head count do not go down which more than

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2 anything is, is... to be honest when I evaluate our
3 budget I evaluate it based on how many... what is the
4 head count of people in the chain of command of DOI
5 to do this work and the associated funding and that
6 head count is a little over 700, it remains exactly
7 stable at that point. We obviously believe there is
8 some new needs which we have been discussing with OMB
9 and which I'm happy to discuss with the committee at
10 your convenience.

11 CHAIRPERSON GENTILE: Okay, I just want
12 to make mention that we have been joined by Committee
13 Member, Council Member Constantinides from Queens,
14 thank you for joining us. So, Commissioner then if we
15 look at the Fiscal '18 Preliminary of 41.7 are we...
16 it... or are you anticipating that federal funds will
17 be added to that amount and we will be getting those
18 federal funds in the, in the adjusted plan?

19 MARK PETERS: Yes, well also please
20 remember that one thing that is not in the plan but
21 is relevant is federal forfeiture funds and I... so a
22 big chunk of the money that we're talking about are
23 federal forfeiture funds... [cross-talk]

24 CHAIRPERSON GENTILE: ...uh-huh... [cross-
25 talk]

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2 MARK PETERS: ...those were spent last
3 year, they will be spent next year, they are not part
4 of your preliminary budget however because those are
5 not city tax levy funds. So that is money and through
6 the mechanism by which they are spent is that the
7 Department of Investigation collects forfeiture
8 funds, we hold them, when we spend them they are
9 technically transferred to the city and then
10 transferred back to us so that we can spend them,
11 they don't... they are not tax levy funds, they do not
12 really actually sit with the city except you... in some
13 computer as bits of x's and o's for a brief moment so
14 that... you'll see those monies reflected as having
15 been spent. You'll see those monies be... reflect as
16 being spent, they get spent as specific federal
17 forfeiture eligible costs accrue. We expect once
18 again, we have about... we have sufficient federal
19 funds in our forfeiture accounts to pay those bills
20 for the upcoming year... [cross-talk]

21 CHAIRPERSON GENTILE: How, how much is...
22 [cross-talk]

23 MARK PETERS: ...and expect... [cross-talk]

24 CHAIRPERSON GENTILE: ...left?

25 MARK PETERS: Excuse me?

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2 CHAIRPERSON GENTILE: How much is left in
3 the forfeit...

4 MARK PETERS: We have about 13 million
5 dollars available in federal forfeiture funding
6 obviously that number fluctuates because A we spend
7 it and B we take more money in... [cross-talk]

8 CHAIRPERSON GENTILE: ...uh-huh... [cross-
9 talk]

10 MARK PETERS: So we have about 13 million
11 dollars in federal forfeiture funds available now
12 which is more than the amount... more than the
13 difference between... more than the difference between
14 the lower budget number and the higher spending
15 number although I would caution the committee and I,
16 I know we talk about this every year, that there are
17 only a limited number of things for which you may
18 spend federal funds so there, there is not the
19 possibility, tempting though it might be to say well
20 if there's additional federal forfeiture funds beyond
21 what you need for this year can we reduce the budget
22 to save the money and the answer is no because you
23 may not use federal forfeiture funds to substitute
24 for tax levy funding also some of that money we are

25

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2 assuming is going to be necessary for fiscal... for the
3 following Fiscal Year.

4 CHAIRPERSON GENTILE: So what, what... just
5 some examples of what the federal forfeiture money
6 can be used for?

7 MARK PETERS: It can be used for a
8 variety of... it can be used... the two big things it can
9 be used for are equipment, over, overtime and
10 equipment are probably the two biggest things
11 including information technology. So, we, we are
12 able... we use it for information... you know for
13 equipment including information technology equipment
14 and we use it for overtime, those are the two biggest
15 items I would think.

16 CHAIRPERSON GENTILE: Now did... is it... was
17 it the case that the, that the police IG was
18 originally funded by forfeiture money?

19 MARK PETERS: The police... when the Police
20 Inspector General was created the rent for the space
21 they were using was paid for by forfeiture funds for...
22 there was an agreement, I believe it was three years,
23 we agreed with OMB that for the first three years we
24 would pay the rent for the space being occupied by
25 the Police IG out of forfeiture funds that runs out

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2 this year so going forward for next year that won't...
3 that will not be the case starting next year.

4 CHAIRPERSON GENTILE: I see, okay and
5 forfeiture funds I believe were also used to pay the...
6 to pay the funding... the campaign, the ad campaign
7 that you ran?

8 MARK PETERS: Yes... [cross-talk]

9 CHAIRPERSON GENTILE: Right?

10 MARK PETERS: Absolutely, that's another
11 thing you can use for... forfeiture funds for and we
12 did and we will again this year. There are a lot of
13 things as, as, as you can see from the... and I'm...
14 there's about a... it was about an eight percent
15 increase in the number of complaints we received,
16 increasing the number of complaints that we receive
17 is vital law enforcement function because obviously,
18 the more complaints you receive the, the greater the
19 likelihood that you will get complaints that actually
20 lead someplace. We've done a number of things to
21 increase... to increase the number of complaints
22 obviously, we've taken steps to be more visible in
23 the work that we are doing, we have done larger
24 systemic work which is more visible but another thing
25 we did was the ad campaign that you may have seen in

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2 subways, on buses, on the radio and that we will be
3 doing again in the Spring of this year.

4 CHAIRPERSON GENTILE: So it's fair to say
5 that the ad campaign was effective?

6 MARK PETERS: Yes, yes. Our intern...
7 obviously, it's impossible to know exactly how many
8 people called because they see the ad campaign versus
9 because they learn about what we're doing because
10 we've been more visible but I can tell you that we
11 did see a spike in complaints a... shortly after the ad
12 campaign was running. As I said I can't prove that
13 that's causation or correlation but it strikes me as
14 a good... as a good indication that it was success... it
15 was successful. And as I said to that end we plan to
16 use forfeiture funds again this year to do it again
17 this Spring.

18 CHAIRPERSON GENTILE: So are, are you
19 concerned, are you concerned at all given the climate
20 that we're in about a loss of federal funding?

21 MARK PETERS: Well I think we need to be
22 clear about two things, I mean am I concerned about
23 a... you know am I concerned broadly about a loss of
24 federal funding I, I will leave that to folks at OMB
25 and folks wiser than I am as to where things are with

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2 federal funding. Remember federal forfeiture funds
3 are not tax levy funds of the city but they also are
4 not tax levy funds of the federal government so while
5 obviously, the City of New York receives considerable
6 money from the federal government the federal
7 forfeiture funds are monies that we get when we do a
8 criminal case and we seize the at... we seize assets of
9 a crime so that... those federal forfeiture funds that
10 we receive are not generally contingent on the
11 federal budget process. Now last year there was a
12 brief moment of several... I think several months, it
13 may have been slightly longer in which the federal
14 government stopped paying out forfeiture funds seized
15 from crimes because, because of budget issues, they
16 have now resumed that, I obviously always worried
17 that they might once again seize that but so far,
18 they have not seized the handing out of forfeiture
19 funds and that is... forfeiture funds are not affected
20 by the budget, federal budget or city budget or at
21 least not directly.

22 CHAIRPERSON GENTILE: So... okay, I, I, I
23 hear what you're saying but if you're... if, if, if the
24 forfeiture funds run out on the, on the, on the site
25 where you have the IG, the Police IG... [cross-talk]

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2 MARK PETERS: ...uh-huh... [cross-talk]

3 CHAIRPERSON GENTILE: ...we can anticipate
4 that being a new need in the future?

5 MARK PETERS: Yes, if federal forfeiture
6 funds and this is the reason we are very careful with
7 how we use them, the federal forfeiture funds were to
8 run out then somethings obviously would be new needs
9 and would need to be immediately replaced such as
10 rent and we would work with OMB on that and OMB in
11 Fiscal '18 will be paying the cost of the Police IG's
12 rent. So that particular cost OMB is picking up in
13 the new budget obviously there are certain things
14 that we can do with forfeiture funds such as the ad
15 campaign where if forfeiture funds seized to exist I
16 think there would be a... we would need to have a
17 discussion with OMB, with the council, with the
18 mayor, I mean then... then need to be broader
19 discussion of should we be using tax levy funds for
20 things like that, I would argue that it's an
21 extremely good use of money but unlike rent I'm not...
22 you know we have to pay the rent...

23 CHAIRPERSON GENTILE: Uh-huh... okay, so
24 other than that issue do you anticipate new needs
25 that you, you might submit as... [cross-talk]

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2 MARK PETERS: Yes... [cross-talk]

3 CHAIRPERSON GENTILE: ...early as the
4 executive... the executive... [cross-talk]

5 MARK PETERS: ...yes... [cross-talk]

6 CHAIRPERSON GENTILE: ...budget... [cross-
7 talk]

8 MARK PETERS: ...we, we do anticipate a
9 number of new needs and I will go into them in sort
10 of at a top line level and I want to emphasize that
11 we are talki9ng with OMB about this so it is... it is
12 premature to have a detailed conversation about these
13 new needs until such time as we've had a chance to
14 talk to OMB and until they submit... [cross-talk]

15 CHAIRPERSON GENTILE: ...understood..
16 [cross-talk]

17 MARK PETERS: ...the, the next round of
18 budgets but certainly there are several areas that
19 DOI's been very involved with in which it is clear
20 that we need additional staffing. One is the
21 Administration for Children's Services as I
22 referenced in my testimony and as I suspect you're
23 all aware we are in the middle of a large series of
24 very detailed investigations into ACS. The first of
25 those investigations last year revealed for the first

time that 16 percent of children that ACS itself admits have been abused or neglected; one in... roughly one in six children that ACS itself admits have been abused or neglected, we discovered that within one year those children were re-abused, that means that one out of six children where ACS itself acknowledges abuse or neglect, ACS failed to step in and take adequate steps to prevent them from being re-abused. That is obviously a very, very troubling number, it is one that came out of our investigation, it is one that we are actively following up on. Our investigation earlier this year revealed that the Administration for Children Services hotline that takes... that takes in allegations of abuse or neglect on the weekends and on the evenings, is not fully staffed or trained, it is disturbing that in the year 2017 we are still having to talk about the fact that child protection is a 24 hour a day job. So clearly, we are very involved in these investigations, there is a great deal more work to be done. I look forward to working with the new Commissioner of ACS on this but we also believe that we will be need... we need additional staff to be able to continue those investigations and go into all of the places that we

think we need to do. We think additional staffing there is very important, we have done a great deal of work as you know on Rikers Island, I've referenced some of that. There is a great deal more to be done there. Recently on Rikers Island as a result of the Nunez settlement we now review every class A and most class B use of force allegations, that's 100's of them, the number of complaints that we are now receiving about force and about other things from Rikers Island has gone up and so we have many, many more complaints to investigate about 3,000 a year I think is the number, I can get that for you. In addition as a result of enforcement of, of PREA, the Prison Rape Elimination Act, we have seen a significant increase in the number of complaints that we receive about sexual assault at Rikers, we are looking at that very closely, that investigation has as I mentioned already yielded the first arrest and I expect we'll have a great deal more to say about that but that's... all of these are things that require considerable investigation and we believe will require additional staffing at the same time that we are continuing all the work we've done on contraband smuggling. Another issue that I think we are going to

need to grapple with involves background investigations, as you know when any city... that... city employees in certain categories must get a back... must be submitted for background screening by DOI within 90 days of employment. A... an investigator in our shop can do a little over 100 background investigations a year, the number is, is fluctuated from between 107 to 112 a year, give or take. We receive however between 2,000 and 3,000 that we need to do a year and we have now 16 investigators I believe. We have now 16 investigators so that... we are receiving more investigations in than we can do a year, that number is growing and as a result and you'll see this in the MMR the length of time it takes to complete these background investigations is increasing and my guess is assuming that we stay at current funding levels the number will go up again for the MMR especially because we recently did an audit to see whether in fact agencies were even sending us all of the people who needed background investigations and we did an audit of two of the five... you know reasons that would trigger a background investigation and we found that across the city there were roughly 1,600 staff who should have been sent to us for background

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2 investigations but were not, we've now sent letters
3 to Commissioners about this but that means that in
4 addition to the backlog which is at about 4,000
5 there'll be another 1,600 coming in so we'll be close
6 to 6,000 as a backlog. So that's another, another
7 clear new need if we want to tackle that backlog,
8 there is really no other way to do that other than
9 additional staff to process the investigation more
10 quickly.

11 CHAIRPERSON GENTILE: Now last year... and
12 talking about headcount you testified that the
13 department did add four new staff members to reduce
14 the completing... [cross-talk]

15 MARK PETERS: Yes... [cross-talk]

16 CHAIRPERSON GENTILE: ...the background
17 investigation time but the PMMR still indicates that
18 the average time to complete an investigation is
19 still nearly a years' time... [cross-talk]

20 MARK PETERS: ...Right... [cross-talk]

21 CHAIRPERSON GENTILE: ...and 53 percent are
22 actually completed within 12 months so did those four
23 have any impact on... [cross-talk]

24 MARK PETERS: Yes, it would have been
25 vastly worse without... two things, one is obviously it

would have been worse without those four; two, there are a couple things contributing to this. One is we've actually changed the way in which we measure the amount of time that it takes to complete the investigation, it used to be that it was basically measured from the time the file... somebody started working on the file to the time that it was done, we're now measuring it essentially from the time the thing comes in the door. I think that is a more accurate way to do it because what we really care about is how long has it... does the whole process take but that obviously... in... recalibrated it, it expands the amount of time, I'm fine with that, I would rather have accurate numbers than good looking numbers but second of all there are a, a larger number of investigations coming in, more will be coming in as I said from this audit. Gosh, want to make sure I didn't say something wrong. Oh yeah, the four... and of course the other thing is those four-new people they had to be hired, they had to be trained, so it's not as though they, they started on the first day of the year but those... but those people have in fact helped us make a dent in it and we've been able to process, process more things more quickly. It

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2 would of... the number, the numbers would have gone up
3 even more so if we'd done it differently, if that
4 helps.

5 CHAIRPERSON GENTILE: So, I'm, I'm just
6 unclear why the number of background investigation
7 closed within 12 months has actually decreased but
8 the average time to complete a background
9 investigation has increased, is that due to
10 fluctuations in staffing?

11 MARK PETERS: That's the new measure,
12 that's, that's a pure function of the fact that we
13 changed the way we're measuring it and it... that,
14 that's, that is a statistical anomaly that's the
15 result of the... of changing over the way we measure it
16 but we decided this is a more... what you really want
17 to know is how long is taking to get the thing done?

18 CHAIRPERSON GENTILE: Right so the... so
19 the, the numbers now are an anomaly because of...
20 [cross-talk]

21 MARK PETERS: Correct... [cross-talk]

22 CHAIRPERSON GENTILE: ...because of the
23 change and how you measure it?

24 MARK PETERS: Yes.

25

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2 CHAIRPERSON GENTILE: I see, okay. Let
3 me... and we're on background checks so let me just ask
4 you about the fingerprinting that you do for
5 Department and Health, Mental Hygiene... [cross-talk]

6 MARK PETERS: Correct... [cross-talk]

7 CHAIRPERSON GENTILE: ACS and employees
8 at 40 or more different agencies... [cross-talk]

9 MARK PETERS: ...uh-huh... [cross-talk]

10 CHAIRPERSON GENTILE: ...they... the, the
11 employees are actually charged a fee via a payroll
12 deduction for their background checks?

13 MARK PETERS: Correct, yes. Right. Okay,
14 so there are two groups... there are largely speaking
15 two groups of people who get fingerprinted. There are
16 city employees and then there are employees of for
17 example daycares, you know who have to... right, the
18 daycare employees are not charged... [off-mic] are they
19 charged the 35 dollars?

20 GANESH RAMRATAN: They get charged
21 directly.

22 MARK PETERS: So, if you're a... going to
23 go work at a daycare center and you come in to be
24 fingerprinted you pay us directly because we have to
25 pay DCJS, the state to run the fingerprint check, if

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2 you are a city employee you don't pay us directly
3 instead that's deducted from a future paycheck.

4 CHAIRPERSON GENTILE: And, and... but that,
5 that goes to the agency itself then has to... [cross-
6 talk]

7 MARK PETERS: Yes... [cross-talk]

8 CHAIRPERSON GENTILE: ...transfer to you?

9 MARK PETERS: We... [cross-talk]

10 GANESH RAMRATAN: We're pass through...

11 MARK PETERS: We're pass through, we are
12 essentially a pass through. The state, state DCJS
13 which has the fingerprint bank... we don't keep a bank
14 of fingerprints, state DCJS does, they charge us...
15 they will not... in fact one of the items that we've
16 been dealing with about OMB, DCJS will not run a
17 fingerprint check for employment purposes unless they
18 get their money upfront...

19 CHAIRPERSON GENTILE: ...uh-huh...

20 MARK PETERS: Nice business model...

21 CHAIRPERSON GENTILE: Right...

22 MARK PETERS: They will not run it unless
23 they get their money upfront and so we, we
24 essentially front the money because we would need to
25 get the thing done, we then recoup that money, if

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2 it's a city employee with certain exceptions we then
3 recoup that money because we then say to the relevant
4 agency you need to dock that money from the person's
5 paycheck and send us the money. We have not always
6 done that perfectly and in fact one of the reasons
7 that we've been talking with OMB is that we are
8 essentially fronting money some of which we don't
9 always get paid...

10 CHAIRPERSON GENTILE: You're, you're
11 saying the agencies aren't compliant in... [cross-
12 talk]]

13 MARK PETERS: I am not, I... let, let me be
14 very, very clear... [cross-talk]

15 CHAIRPERSON GENTILE: Okay... [cross-talk]

16 MARK PETERS: I am not suggesting that
17 any agency is non-compliant, I am suggesting that
18 the, the bureaucratic process of our saying to an
19 agency we fingerprinted John or Jane Doe, you need to
20 deduct the fee from this person's paycheck and send
21 it to us does not work 100 percent of the time, I am
22 by no means on this suggesting that... there, there's
23 no suggestion that any agency is saying we won't
24 cooperate, there is a suggestion that paperwork in

25

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2 the city of New York does not operate perfectly at
3 all times.

4 CHAIRPERSON GENTILE: What, what did...
5 [cross-talk]

6 MARK PETERS: I'm sure it will be a shock
7 to everyone sitting in this room.

8 CHAIRPERSON GENTILE: Would, would you
9 support maybe legislation that would mandate transfer
10 of, of those types of funds within a certain period
11 of time?

12 MARK PETERS: I, I will... honestly, I
13 don't... it... this is not a... this is a... this is
14 something where we need to tighten up our operations,
15 other agencies need to tighten up their operations, I
16 don't... to be honest I don't know that this is a
17 legislative matter, this is a functioning of
18 government bureaucracy matter. The only issue we
19 really have with OMB is largely that we need a cash
20 reserve from OMB because we are essentially fronting
21 the money, we do recover most of it, we've actually
22 taken steps to get better at that but we're still
23 fronting the money and so we need a... essentially a, a
24 reserve against that but I, I honestly do not... there
25 is no reason to believe that anybody is not being

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2 cooperative on this particular point nor do I think
3 this is a legislative matter, this is a... this is a
4 matter for bookkeeping and we, we are getting better
5 at it.

6 CHAIRPERSON GENTILE: Great, in house,
7 okay...

8 MARK PETERS: Yes.

9 CHAIRPERSON GENTILE: Let me ask you
10 about some of the intra-city agreements some of them
11 are, are ending but if there should be any shortfall
12 in state funding would any of those intra, intra-city
13 agreements be in jeopardy?

14 MARK PETERS: The biggest one is this, we
15 have a number of intra-city agreements all of... most
16 of them are non-ending, most of our intra-city
17 agreements are sort of roll over agreements so they
18 continue. One issue is that there are certain funds
19 that we get from HRA to pay for investigations that
20 we do, some of that comes from HRA and some of that
21 HRA is essentially a pass through of state federal
22 funds. There's been a reinterpretation of a, I
23 believe it's a federal regulation and therefor HRA
24 has been told that, I think it's about 1.2 million...

25 GANESH RAMRATAN: I think so, yes.

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2 MARK PETERS: About 1.2 million in state
3 federal funds are not going to be paid... are not
4 going... HRA won't be reimbursed for them, HRA is quite
5 correctly said if they're not getting reimbursed for
6 them they have a problem, we have spoken... we and HRA
7 have both spoken with OMB obviously that... the money
8 needs to get paid, the people are doing... you know
9 the, the staff are doing the work, traditionally that
10 1.2 million in staffing costs had been reimbursed HRA
11 isn't getting reimbursed and so OMB has got to figure
12 out how to plug that hole and that is... that is a
13 concern but we are talking with OMB and... you know we
14 and HRA are both talking with OMB about how to plug
15 that hole... [cross-talk]

16 CHAIRPERSON GENTILE: So this... [cross-
17 talk]

18 MARK PETERS: It is a concern... [cross-
19 talk]

20 CHAIRPERSON GENTILE: ...uh-huh... [cross-
21 talk]

22 MARK PETERS: ...but so far nobody has
23 suggested to us that that's not going to get resolved
24 if... I believe if we'll come to the view that it won't
25 get resolved obviously, we would be back.

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2 CHAIRPERSON GENTILE: So that, that is
3 potentially...

4 MARK PETERS: Okay, I, I apologize, the
5 number's not 1.2 million, it's...

6 GANESH RAMRATAN: That's the short fall.

7 MARK PETERS: The short fall is 1.2
8 million, yes.

9 CHAIRPERSON GENTILE: one point... [cross-
10 talk]

11 MARK PETERS: ...okay... [cross-talk]

12 CHAIRPERSON GENTILE: Okay, so
13 potentially if, if that disappears for whatever
14 reason that's a need that you're going to have...
15 [cross-talk]

16 MARK PETERS: Yes... [cross-talk]

17 CHAIRPERSON GENTILE: ...fill?

18 MARK PETERS: You know it is... it is
19 already a need another words the reimbursements have
20 disappeared, it is a new need, we have essentially
21 alerted OMB that H... you know HRA has said to us
22 they're not getting reimbursed this 1.2 million so
23 they don't have the money therefor either OMB has to
24 give an additional 1.2 million dollars to HRA to give
25 to us or give it to us directly.

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2 CHAIRPERSON GENTILE: I see, okay.

3 Alright...

4 MARK PETERS: But some... but that 1.2
5 million is in fact absolutely a new need.

6 CHAIRPERSON GENTILE: I, I have... there's
7 some members that have question, I just want to ask
8 just, just follow with one other thing we... you talked
9 about ACS they issued 141 policy and procedure
10 recommendations to PPR's... [cross-talk]

11 MARK PETERS: ...Uh-huh... [cross-talk]

12 CHAIRPERSON GENTILE: ...since I guess
13 January of 2015...

14 MARK PETERS: Correct...

15 CHAIRPERSON GENTILE: How many of those
16 PPR's did policy and program recommendations have
17 actually been complied with?

18 MARK PETERS: Sure, so that's a great
19 question and there's a two-part answer. The first is
20 how many have ACS said they will agree to and then
21 the second question is how many have they actually
22 complied with. As to the first, the general rate of
23 acceptance is about 75 percent and ACS has not
24 particularly out of... particularly out of line in
25 those numbers. As to the second, which is how many

have they actually complied with, that is an important question and it is one as I said to you we are doing a number of... we're looking at ACS in a number of different ways, one of the things we are presently looking at is of the things that ACS said they would do in response to our reports how many of them have actually been done and that is an ongoing matter which I expect to report both to the public and to this council on when we've completed it.

CHAIRPERSON GENTILE: Okay... [cross-talk]

MARK PETERS: ...It's... but that is... that is both for ACS and for all city agencies an enormously important question and one of the things that we are starting to do... starting to do, we are continuing to do but doing with greater urgency now is that we're having spent the last several years doing some very large systemic work that is resulted in a large number of policy and procedure recommendations, we're now in a position in many different areas; at DOC, at the NYPD, at... in buildings context, at ACS to now go back and look at the last three years' worth of work and say okay let's make sure that the stuff everybody said they were going to do is in fact getting done

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2 and on the... in ACS that's obviously particularly
3 important and we're doing that now.

4 CHAIRPERSON GENTILE: Where... do you know
5 if there are any policy and procedure recommendations
6 that were implemented following the Jaden Jordan
7 report?

8 MARK PETERS: There were a number that
9 ACS... there were some that ACS has said they would
10 implement, I cannot sitting here now speak to whether
11 they have been implemented in fairness to ACS that
12 report is fairly new, roughly a month old also in
13 fairness to ACS as you know there is a new
14 Commissioner, I believe, I believe... I don't believe,
15 I know that this is his first week so I'm, I'm
16 prepared to give him at least some time to review and
17 deal with all of this but as I said one of the things
18 we are taking a very, very hard look at is the extent
19 to which ACS is implementing all the policy and
20 procedure recommendations over the last several years
21 and at the point that that work is done and that that
22 is work that takes a lot of time because you need to
23 actually go in and see not as everybody say it's
24 being done but is it really being done and then you
25 got to look at how it's being done to make sure that

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2 it's actually being implemented, that it really
3 requires you know rolling up your sleeves and getting
4 your hands dirty when we finish with that work we
5 will be issuing a report on it because I think it's
6 incredibly important follow up and I expect to issue
7 a report on that this year.

8 CHAIRPERSON GENTILE: Sometime this year?

9 MARK PETERS: Yes, absolutely.

10 CHAIRPERSON GENTILE: Okay, great.

11 Alright, I'll come back with some more questions but
12 I'll, I'll let my colleagues jump in here at this
13 point. So, I'll throw the questions over to Council
14 Member Lancman.

15 COUNCIL MEMBER LANCOUNCIL MEMBERAN:

16 Thank you very much. Good afternoon.

17 MARK PETERS: Good afternoon.

18 COUNCIL MEMBER LANCOUNCIL MEMBERAN: Two
19 questions, one is I see that you have what you
20 describe as a Construction Integrity Squad... [cross-
21 talk]

22 MARK PETERS: Correct... [cross-talk]

23 COUNCIL MEMBER LANCOUNCIL MEMBERAN:

24 ...that's something that we're very interested in, in
25 the context of making our workplaces in the

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2 construction industry more safe as you know there's
3 been I think 30 fatalities in the last couple of
4 years, there are many bills in the council that would
5 deal with that, can you just tell us what the
6 Construction Integrity Squad is and when it... whether
7 it has any role or bearing on a safe work place?

8 MARK PETERS: The answer to the second
9 question is an unqualified yes. The, the answer to
10 your first question is this, the Department of
11 Investigation has a, has a squad that deals not only
12 with the Department of Buildings and HPD directly but
13 also because we have a series of investigators who
14 have both considerable experience with the building
15 industry and also considerable experience in law
16 enforcement and there's really nothing... nobody else
17 that overlaps those two and so whenever for example
18 there is a fatality or other major incident on a
19 construction site the Department of Investigations is
20 notified at the same time that the... as soon as the
21 Fire Department gets the notification we get the
22 notification at the same time so that we can have our
23 investigators out there to see were there criminal
24 activities, were there people who did not comply with
25 the city's building code, also in some instances we

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2 can look back and see did the Department of Buildings
3 and or HPD and or any other city agency do what they
4 were supposed to do to keep the site safe and so
5 because we got that expertise we go out, we do all of
6 these investigations as a result for example we just
7 arrested 37 people for running a shadow utility at
8 national grid and those are both national grid
9 employees and landlords who were conspiring
10 essentially to get around all of the DOB safety
11 regulations and to avoid all those regulations which
12 is why they... you know you... to do things like putting
13 in cheap plastic flex piping which is easier and
14 cheaper but it can leak gas and result in explosions...
15 [cross-talk]

16 COUNCIL MEMBER LAN COUNCIL MEMBER AN:
17 ...right... [cross-talk]

18 MARK PETERS: ...so that's the kind of work
19 that we're doing in... doing. In addition, recently one
20 of the big issues is anytime people work on a
21 construction site that is more than ten floors high
22 every worker working on that site needs to have an
23 OSHA safety card, which means that they have gone
24 through the required ten hours of OSHA safety
25 training to make sure that they know how to operate

safely, they know to be tied off when they're on scaffolding, they know how to walk on scaffolding without falling and being injured. It is... there is a big problem in the city of fake OSHA cards, we've done a lot of work in this area, we are continuing to do work in this area because it's easier to push workers into getting fake cards than to have the workers go for the ten hours of training, we've seen it as a real safety problem but the other piece of this is that working with the Manhattan District Attorney's Office, Cy Vance and I did a series of buyback programs in which we allowed workers who had fake cards to come in many of whom were from various immigrant communities to come in, we did one of them at the Mexican Consulate for example, they could come in, hand in their fake card no questions asked, get the ten hours of training and then get a real card because if you're going to fight this issue not only do you need to arrest as we've done, people who run construction companies when they run unsafe conditions especially when running the unsafe condition gets people hurt and as you know we've done several of those cases already where we've charged companies and their general contractors and owners

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2 with things like manslaughter for running unsafe
3 sites when people have gotten killed but you also
4 need to make sure that you're making it possible for
5 workers to get the training, get the real cards so
6 that they can operate safely.

7 COUNCIL MEMBER LAN COUNCIL MEMBER AN: And
8 that was in Manhattan?

9 MARK PETERS: We did these with the
10 Manhattan... these... the buyback programs were done with
11 the Manhattan DA's office in Manhattan but we are
12 absolutely open to and will... [cross-talk]

13 COUNCIL MEMBER LAN COUNCIL MEMBER AN: Do
14 you have... [cross-talk]

15 MARK PETERS: ...potentially... [cross-talk]

16 COUNCIL MEMBER LAN COUNCIL MEMBER AN: Do
17 you have... [cross-talk]

18 MARK PETERS: ...explore doing it in other
19 boroughs.

20 COUNCIL MEMBER LAN COUNCIL MEMBER AN: Do
21 you have any idea sitting there how, how much that
22 costs like how much do you... you had to allocate to
23 run the program and part... [cross-talk]

24 MARK PETERS: It was... I don't have the
25 exact numbers, I can get them for you but I can tell

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2 you that it is not a very expensive matter, the
3 Manhattan District Attorney's Office and my office I
4 believe we used forfeiture fund... we used... to give you
5 another example of forfeiture funds, I believe we
6 used forfeiture funds and it was not a large amount
7 of money. The, the bigger issue is actually the staff
8 time to organize it, the big issue is the staff time
9 to organize it so that workers know and frankly and
10 this is an issue man... making sure that people
11 understand that they can in fact safely come to
12 these... [cross-talk]

13 COUNCIL MEMBER LAN COUNCIL MEMBER AN: I
14 bet it's a lot harder this... [cross-talk]

15 MARK PETERS: ...does... [cross-talk]

16 COUNCIL MEMBER LAN COUNCIL MEMBER AN:
17 ...than it was last year...

18 MARK PETERS: Excuse me?

19 COUNCIL MEMBER LAN COUNCIL MEMBER AN: I
20 bet it will be a lot harder this year than... [cross-
21 talk]

22 MARK PETERS: ...I will tell... [cross-talk]

23 COUNCIL MEMBER LAN COUNCIL MEMBER AN:
24 ...last year... [cross-talk]

25

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2 MARK PETERS: ...you it is... I will tell
3 you... we depend as a law enforcement agency and I'm...
4 I... in this, in this way I am no different from any
5 other law enforcement agency, we depend on all New
6 Yorkers talking to us and talking to us about what
7 they see and so whenever you do something that makes
8 people afraid to talk to law enforcement you make it
9 harder for law enforcement to do their job.

10 COUNCIL MEMBER LAN COUNCIL MEMBER AN:
11 We're going to follow up on that one afterwards. When
12 you go out to a site where... so, so do you go out...
13 this construction unit, does this... do you only go out
14 to the site when there's a fatality or some level of
15 serious injury, what triggers you sending out an
16 investigator... [cross-talk]

17 MARK PETERS: Right... [cross-talk]

18 COUNCIL MEMBER LAN COUNCIL MEMBER AN: ...to,
19 to a site?

20 MARK PETERS: Generally we will go out
21 whenever there... we will always go out if there is a
22 fatality, now understand in many instances if there's
23 a fatality we go out and there is either no crime or
24 certainly no crime related to skirting city
25 regulations and then it gets handed over to somebody

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2 else. We go out whenever there's a fatality or
3 whenever there is a serious enough accident that for
4 example the fire department is also notified or the
5 police, whenever the fire department's notified, the
6 police departments notified we are on the same
7 notification chain.

8 COUNCIL MEMBER LAN: COUNCIL MEMBER AN: And
9 how many members of this, this unit are there, how
10 many investigators are assigned to that?

11 MARK PETERS: We... I generally do not go
12 into the exact number of staff working on these kinds
13 of criminal justice units in public meetings for what
14 should be obvious reasons but we actually did receive
15 an increase from this council and from the
16 administration over the last two years in funding for
17 this, I, I cannot imagine there is a Commissioner in
18 the world who would sit here and tell you that they
19 have enough and I certainly would never be in a
20 situation of saying that but this is something on
21 which we did receive additional funding and that is
22 a... that's part of the reason we've been able to do as
23 much as we've done including the buyback programs
24 which were new and only... you know which were new late
25 last year. The national gridwork which was a very

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2 large case that arose out of another very large case.
3 There, there are a healthy... there are a healthy
4 number of people who do this.

5 COUNCIL MEMBER LAN: COUNCIL MEMBER AN: I'm,
6 I'm very interested in following up with you on that
7 and I just have one last question. The end of your
8 testimony you were saying 2016 the Special
9 Commissioner of Investigation for the Schools
10 received a total of 6,336 complaints, opened 772
11 investigations including 218 involving an allegation
12 of sexual misconduct, is that more or less than in
13 2015, do you know?

14 MARK PETERS: I will... [cross-talk]

15 COUNCIL MEMBER LAN: COUNCIL MEMBER AN: ...is
16 it going... are we going in the right direction or the
17 wrong direction?

18 MARK PETERS: I will get you that number.

19 COUNCIL MEMBER LAN: COUNCIL MEMBER AN:
20 Okay.

21 MARK PETERS: I don't know the number off
22 the top of my head and I don't want to guess, I will
23 get... we will send you a letter... we will get you that
24 number.

25

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2 COUNCIL MEMBER LAN COUNCIL MEMBER AN:

3 Great, thank you.

4 MARK PETERS: Sure.

5 COUNCIL MEMBER LAN COUNCIL MEMBER AN:

6 Thank you very much Mr. Chairman.

7 CHAIRPERSON GENTILE: Thank you

8 Councilman Lancman and we've also been joined today

9 by Council Member Committee's... Committee Member's,

10 Council Member Rosenthal and Council Member Deutsch,

11 thank you for being here and I believe Council Member

12 Dromm has some questions.

13 COUNCIL MEMBER DROMM: Thank you very

14 much Mr. Chair. Good to see you Commissioner.

15 MARK PETERS: Good to see you.

16 COUNCIL MEMBER DROMM: In terms of

17 following up a question that Council Member Lancman

18 was asking, when Department of Buildings Inspectors

19 have been arrested or convicted of a crime is there

20 any type of remedy that's offered to folks that were

21 either victimized by false inspections or who have a

22 neighboring property who may have been affected also

23 by these false inspections except to sue... [cross-

24 talk]

25 MARK PETERS: ...that... [cross-talk]

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2 COUNCIL MEMBER DROMM: ...for... except to
3 sue the city.

4 MARK PETERS: Right, it's, it's an
5 excellent question and, and there's unfortunately not
6 a great satisfying answer so several things. When we
7 have done investigations that have involved DOB staff
8 taking bribes and falsifying inspections one of the
9 things that we do almost... with limited exceptions
10 even before the arrests occur and things are made
11 public is we will have people go back... we will have
12 DOB people go back, we'll arrange to get them re-
13 inspected so the one... and the reason for this frankly
14 is a matter of public safety. We don't want a
15 situation in which we know that somebody is both
16 falsifying inspections in a dangerous way and then a
17 building falls on somebody's head while we're waiting
18 to take down a wiretap and so we will go to... and in
19 fact we spend no small amount of time trying to make
20 sure that unsafe conditions get looked at a second
21 time. So, part of it is we will go back and do that.
22 In terms of financial recoveries, there certainly are
23 instances where we will do a case and we will convict
24 somebody criminally and we will seize assets those
25 assets then get used in a variety of ways but if you

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2 are... you own a building and somebody does a bad
3 inspection and the building next to you... other than
4 the fact that we'll correct it in the sense that we
5 will make sure that the investigate... you know the
6 proper inspection gets done if there's some other
7 financial harm to you probably you are then stuck
8 with a civil remedy.

9 COUNCIL MEMBER DROMM: And if in fact
10 somebody was a victim of a bad inspection or false
11 inspection that prevented construction would that...
12 would the process be the same?

13 MARK PETERS: Yes but I, I think the
14 thing to remember is that usually the victim... it is
15 rare that somebody is the victim of a bad inspection
16 in the sense that construction had stopped, the
17 bigger problem frankly is the other way around which
18 is I'm the general contractor, I want to keep things
19 moving and so I pay off the building inspector to say
20 everything's fine when in fact it's not as opposed to
21 the case of building inspector shutting me down... you
22 know improperly when I'm doing everything fine. So
23 usually it's, it's, it's the opposite problem so the
24 person doing the construction work frequently when we
25 find building inspectors are taking bribes they're...

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2 the bribes are being... they're being paid the bribes
3 by the people doing the construction work who want
4 them to look the other way, it's rare that... I mean we
5 have actually had instances... the one instance where
6 we have seen what you're suggesting is, and we did a
7 case not last year... it... we're now in 2017, time
8 flies, 2015 we did a case in which we arrested some
9 HPD inspectors who were taking bribes from landlords
10 who wanted them to find violations so they could
11 people of their homes so they could then flip the
12 properties. and we've seen a couple of those cases,
13 they are not as prevalent as the other way around
14 fortunately which isn't to say that it's not huge
15 problem when it happens where we catch it obviously
16 if we catch it in time, you know we can immediately
17 have the violations dealt with but otherwise there's
18 not a particular criminal law remedy for the victim
19 there beyond the usual remedies that are available to
20 victims of crimes. I know that's not the answer you
21 were... [cross-talk]

22 COUNCIL MEMBER DROMM: No, no, I, I, I...
23 it's, it's, it's... you know there were... I think you
24 arrested about 15 people in Queens maybe two years
25 ago or so... [cross-talk]

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2 MARK PETERS: Uh-huh... [cross-talk]

3 COUNCIL MEMBER DROMM: And there was an
4 effected property in one of my districts and I'm
5 trying to recall what it... what, what the, what the
6 case is exactly about but what I probably should do
7 is just contact you directly... [cross-talk]

8 MARK PETERS: If, if you... [cross-talk]

9 COUNCIL MEMBER DROMM: ...on it... [cross-
10 talk]

11 MARK PETERS: ...you... I was going to say if
12 there's a specific issue you're thinking of and you
13 reach out to us I'm happy to get the details, talk
14 with you about it... talk to you about it and if
15 there's something we can do to be helpful I'm, I'm
16 happy to do it, yes, it is a concern. Part of the
17 reason we're doing as much work as we're doing on
18 construction fraud is not only is it a real public
19 safety issue, right, I mean it's not just that it's
20 bad that people were bribing Con-Ed workers to get
21 around the safety procedures because bribery is bad
22 though, by the way bribery is bad but it's not just
23 that bribery is bad but bribery is unsafe. If...
24 there's a reason we have all of these safety rules in
25 place and if you need an example of it take a look at

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 54
2 the Lower East Side explosion, we have dead people
3 now because people didn't follow the safety rules.
4 So... but I'm happy to talk with you.

5 COUNCIL MEMBER DROMM: Okay, so I'll
6 probably try to follow up with you on that.

7 MARK PETERS: Excellent, I look forward
8 to it.

9 COUNCIL MEMBER DROMM: Alright, you know
10 I'm also the Chair of the Education Committee and the
11 city council so Council Member Lancman started to
12 just ask you a few questions about SCI and I'm just
13 curious to know the open 772 investigations what did
14 those investigations involve, I... you said 218
15 involved allegations of sexual misconduct but can you
16 give us an example of what other types of allegations
17 were made?

18 MARK PETERS: Sure, sure. So, sexual
19 misconduct is obviously a big issue for all the
20 obvious reasons. There are a number the
21 investigations involve financial misconduct, either
22 people stealing, stealing... directly stealing or
23 indirectly stealing, I would guess those are the two
24 biggest categories are either financial misconduct,
25 you know XYZ...

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2 COUNCIL MEMBER DROMM: Is that of service
3 one of those, the, the non-position of service?

4 MARK PETERS: Yes, the way that usually
5 plays out is either theft of vacation or... another
6 words people not showing up and claiming that they,
7 that they do show up, that's the way that usually
8 manifests itself and we certainly have had those
9 cases as well. In some instances they're harder to
10 deal with than others obviously but yes, that... we
11 have certainly done those cases as well.

12 COUNCIL MEMBER DROMM: So of the others
13 that were referred back were they referred over to
14 OSI or were they just closed?

15 MARK PETERS: It... well it depends, there
16 are several things the... it depends on the case, there
17 are several things that can happen. We look at a
18 case, we then determine... you know every case comes to
19 us, some number of cases are simply not sufficiently
20 severe that there's any reason for us to get involved
21 and we send those back to OSI because they're small
22 enough matters that OSI can and should handle them.
23 Some small number actually have closed because even
24 on the face of it, I mean there are some number of
25

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2 complaints that on the face of it there is no there,
3 there and... [cross-talk]

4 COUNCIL MEMBER DROMM: ...uh-huh... [cross-
5 talk]

6 MARK PETERS: ...enough yet and then some
7 number of the 700 number we keep and we look at and
8 then when we finish those investigations we can do
9 one of several things. We can, at the end of the
10 investigation send it back to SOI because we
11 determined there's something there but it's not that
12 important. We can send it back to the Department of
13 Education for disciplinary action. We can send it
14 over to a District Attorney's Office, we can send it
15 to the Conflict of Interest Board and which of those
16 we take is obviously a... you know... [cross-talk]

17 COUNCIL MEMBER DROMM: So... [cross-talk]

18 MARK PETERS: ...to make that decision,
19 ultimately I approve them although the, the nice
20 thing about having a Commissioner Condon work for you
21 is it takes... he tends to get it right all the time.

22 COUNCIL MEMBER DROMM: Worked with him on
23 a number of things and I find him to be very
24 effective...

25 MARK PETERS: Yes.

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2 COUNCIL MEMBER DROMM: Of the... so would
3 you have any numbers though on the ones that were,
4 were, were pushed back to OSI?

5 MARK PETERS: Numbers as to what OSI then
6 did with them?

7 COUNCIL MEMBER DROMM: On the date you
8 were... might of, of begun to investigate like of the
9 772... [cross-talk]

10 MARK PETERS: Oh how many... [cross-talk]

11 COUNCIL MEMBER DROMM: ...being pushed
12 back... [cross-talk]

13 MARK PETERS: ...of those... [cross-talk]

14 COUNCIL MEMBER DROMM: ...to OSI... [cross-
15 talk]

16 MARK PETERS: ...went back to OSI, I don't
17 sitting here now, I could get you a breakdown of that
18 if you'd like, I don't... sitting here now I do not
19 know the answer. Most things that go to OSI are going
20 to go to OSI before we open them but it's not in,
21 inconceivable that after we open something it'll end
22 up back there because upon further review.

23 COUNCIL MEMBER DROMM: Okay... [cross-talk]

24

25

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2 MARK PETERS: ...but most of them are going
3 to go back initially but I can get you a breakdown of
4 that if you'd... [cross-talk]

5 COUNCIL MEMBER DROMM: ...and say... and I
6 guess the, the last question I have is that of the
7 218 in sexual misconduct or maybe overall, let me
8 just say overall of the 772 how many are
9 substantiated?

10 MARK PETERS: A significant number, I
11 don't know the exact substantiation rate, I could get
12 that... I'd be happy to get that for you, a significant
13 number are and of those some are then sent for... some
14 where there is no crime that has occurred they are
15 sent to the Department of Education for discipline
16 termination and there are steps that can be taken to
17 make sure that person doesn't get to go work for the
18 education system again and some... not... and where we
19 can prove a crime... where we can... we have sufficient
20 admissible evidence to prove a crime then we can send
21 that over to the relevant District Attorney's Office
22 for... you know for them to make a prosecution
23 decision. Those will also get sent for discipline but
24 obviously, you know first things first.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 59

2 COUNCIL MEMBER DROMM: Do you have any
3 number in terms of the numbers of who you do follow
4 up and who actually get charged with a crime?

5 MARK PETERS: Your question is of the
6 ones that were sent... [cross-talk]

7 COUNCIL MEMBER DROMM: ...in... within...
8 [cross-talk]

9 MARK PETERS: ...to a DA how many do the
10 DA's do...

11 COUNCIL MEMBER DROMM: Right, within
12 Richard Condon's office?

13 MARK PETERS: I can get you those
14 numbers, not everything we send to a D... I can tell
15 you now that not everything we send to a DA gets
16 prosecuted and that is probably correct because what
17 happens is if there is a case that is borderline we
18 will send it... you know for example we will send it to
19 several... we can send it to a DA and to the... and as
20 appropriate to the COIB and as appropriate for
21 discipline. I think if anybody ever came to you and
22 said the DA's were taking 100 percent of their
23 referrals you would have cause to suggest that there
24 was a... that the referral system is actually broken,
25 that's... 100 percent is not a sign of our referral

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2 system working, it's a sign of bluntly not being
3 overly cautious.

4 COUNCIL MEMBER DROMM: Uh-huh, okay,
5 thank you.

6 MARK PETERS: Sure.

7 CHAIRPERSON GENTILE: Thank you Council
8 Member just a, a... two more questions on, on
9 headcount, you mentioned that... in, in your testimony
10 that there were 279 members of... or a headcount of 279
11 at other agencies, would you provide us that
12 breakdown of the... where the 279 are?

13 MARK PETERS: Sure. The... a big chunk of
14 those are... there are several that are... several large
15 chunks of this. The Commissioner Condon Shop, the
16 school IG other than Commissioner Condon himself all
17 of the people who work there are technically DOE
18 employees and not DOI employees, they obviously
19 report up the chain of command to Commissioner Condon
20 who reports to me, they are hired by Commissioner
21 Condon, they are supervised by Commissioner Condon,
22 they work for Commissioner Condon, they report
23 through his chain of command and then through me but
24 they are paid for by the Department of Education. The
25 NYCHA Inspector General similarly the NYCHA IG those

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2 employees other than the NYCHA Inspector General...
3 even the NYCHA Inspector General are technically
4 NYCHA employees but again they report to me, they
5 report through the chain of command to me and finally
6 the Health and Hospitals Corporation Inspector
7 General, those folks are HAC employees. Those three
8 Inspector General's Offices are the vast bulk. It's...
9 oh and the School Construction Authority. So, the
10 School of Construction Authority is 34, Commissioner
11 Condon Shop SCI is 64, NYCHA is 47... oh is 47, HHC is
12 75 that's the bulk of them, there are, there are some
13 others.

14 CHAIRPERSON GENTILE: Okay, well we're,
15 we're going, we're going to send you a letter..
16 [cross-talk]

17 MARK PETERS: Sure... [cross-talk]

18 CHAIRPERSON GENTILE: ...with some follow
19 up if you could put those numbers in, in your
20 response that would, that would be great, okay.
21 Well... another question on headcount, can you give us
22 the update and the size of the Police IG as well as
23 the, the new IG for DOC?

24 MARK PETERS: Okay... [cross-talk]

25 CHAIRPERSON GENTILE: former correction?

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2 MARK PETERS: So... sure, there are as I've
3 said before more than 40... there are slightly more
4 than 40 headcounts for the Police Inspector General...
5 [cross-talk]

6 CHAIRPERSON GENTILE: Uh-huh... [cross-
7 talk]

8 MARK PETERS: The headcount as I've said
9 and I believe the answer to a, a prior question the
10 headcount for DOC IG is not a number that we make
11 public because we are doing large numbers of
12 undercover investigations. There is as you know the
13 Council passed a bill 122... Intro-1228 requesting that
14 the DOC IG like the NYPD IG also report to the
15 council on a series of data analytics and policy
16 matters which we were happy to do. I actually sat in
17 this very seat several months ago and testified that
18 we were... you know we... there's already a DOC IG it...
19 we've arrested and as I've said before we've arrested
20 large numbers of people, we've written, written any
21 number of reports, we are you know fully engaged
22 dealing with contraband smuggling and assault and
23 sexual assault and we will continue to do so and
24 although I believe that additional staff would be
25 helpful then there is the, the work that you, you as

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 63
2 a council requested under 122... Intro-1228 what I said
3 in my testimony was we are happy to do that
4 additional work, there already is a... an Inspector
5 General for DOC, there always has been, we are happy
6 to do that additional policy and data analytics work
7 my assumption based on what it takes to run the data
8 analytics, the Police IG and various other things is
9 that that would require... that to do that if the
10 council wants that would require an additional 25
11 headcount and so there is now the... that is not in the
12 preliminary budget so obviously this council and OMB
13 and the mayor's office are... and this is above my pay
14 grade... [cross-talk]

15 CHAIRPERSON GENTILE: Right... [cross-talk]

16 MARK PETERS: People smarter than me and
17 way above my pay grade meaning the folks on that side
18 of the, of the table will need to sit with other
19 people smarter than me and above my pay grade on the
20 other wing of this building to decide if in fact
21 given all the competing needs of the city of New
22 York, this is something that everybody wants to fund
23 if so we are happy to do the work, we think it would
24 take about 25... [cross-talk]

25

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2 CHAIRPERSON GENTILE: Well I would
3 imagine that would, that would be an anticipating
4 need for the Executive Budget, right?

5 MARK PETERS: And we listed it as a need
6 separately. We believe there is a need for some
7 additional headcount at the DOC IG to do the core
8 criminal justice work that we are doing. In addition,
9 we listed it as an additional new need simply because
10 it had... to... so it could be accounted for the idea
11 that the council has requested that in addition to
12 this criminal justice work there be a set of data
13 analytics and reports produced for the council. I am...
14 we are completely supportive of that goal. Separate
15 and apart from that there is... to do that we then need
16 headcount obviously, we can't do that without hiring
17 the statisticians and the policy people and the
18 report writers and the relevant support staff that...
19 you know an IT staff that make that all go.

20 CHAIRPERSON GENTILE: Now local law makes
21 May 5th the compliance date, then May 5th of this year
22 does that cause you a problem in terms of the funding
23 stream?

24 MARK PETERS: No, the May 5th date does
25 not, the... all the, the bill says that on May 5th we

2 need to do two things. We need to announce who the
3 Inspector General for DOC is, we... Jennifer Sculco is
4 the Inspector General for DOC, she's been the
5 Inspector General for DOC for the... for my entire
6 tenure and she will continue... she is... she does a as
7 you can see from her work product a fantastic job and
8 she will continue to be the Inspector General for
9 DOC. So, the first compliance deadline is that...
10 compliance requirement is naming somebody, I will be
11 sending a letter on May 5th or whatever it is saying
12 that she will continue to be the IG for DOC and
13 you've heard it now. The second issue... the second
14 thing for this May is simply to announce the staffing
15 plan for the additional work and if by the time the
16 letter is due there's been funding then I do... I know
17 what that staffing plan would look like and I'm happy
18 to send it along, if by the time that letter is due
19 there hasn't been any funding then the letter will
20 simply say this is who the DOC IG is, there hasn't
21 been additional funding and therefor there's no... the...
22 you know... [cross-talk]

23 CHAIRPERSON GENTILE: Right... [cross-talk]

24 MARK PETERS: ...there... you know... [cross-
25 talk]

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2 CHAIRPERSON GENTILE: ...no, no... [cross-
3 talk]

4 MARK PETERS: ...there's no plan for no...
5 [cross-talk]

6 CHAIRPERSON GENTILE: ...right... [cross-
7 talk]

8 MARK PETERS: ...people.

9 CHAIRPERSON GENTILE: The budget process
10 usually wraps up in June...

11 MARK PETERS: Correct... [cross-talk]

12 CHAIRPERSON GENTILE: Right... [cross-talk]

13 MARK PETERS: The following year the bill
14 requires a report obviously that report is contingent
15 on whether we... if, if we're funded, we do the work,
16 there is a report, if we don't fund it then it, it's
17 a somewhat short report.

18 CHAIRPERSON GENTILE: I see, okay. I
19 think Council Member Rosenthal has some questions so
20 I'll throw it over there. Oh, Council Member Dromm...
21 [cross-talk]

22 COUNCIL MEMBER DROMM: I'm just... yeah,
23 I'm just curious if and when that legislation was
24 passed generally the council gets a cost estimate as
25

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2 to what the implementation of that is going to cost..
3 [cross-talk]
4 MARK PETERS: ...Uh-huh... [cross-talk]
5 COUNCIL MEMBER DROMM: Would you know or
6 would our chair know if, if, if that was in fact..
7 [cross-talk]
8 MARK PETERS: ...I know... [cross-talk]
9 COUNCIL MEMBER DROMM: ...part of the
10 discussion?
11 MARK PETERS: Sure, I know that when I, I
12 know that in addition to any number of conversations
13 that my staff had with council staff about this I
14 testified about the bill, gosh last year and please
15 don't ask me the exact month that I testified because
16 my dates are merging together on me. I testified at
17 that time that to implement this would require 25
18 headcounts and I believe at the time that I actually
19 broke down headcount means X-dollars but essentially
20 I testified at the time if you want this this is what
21 the... this is what the cost would be... [cross-talk]
22 CHAIRPERSON GENTILE: So, you don't..
23 [cross-talk]
24 MARK PETERS: ...so yes... [cross-talk]
25

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2 CHAIRPERSON GENTILE: ...know that cost
3 right now?

4 MARK PETERS: The 25 head, yes I do. The
5 25 head... we are at... it's this number here, right, 6.8
6 million dollars is what we estimate it would cost
7 between headcount OTPS and, and related things.

8 CHAIRPERSON GENTILE: Okay, thank you.

9 MARK PETERS: Sure. And we, we did give
10 those... I did give those numbers, I don't know if I
11 gave the exact... that exact number but the headcount
12 we discussed when I testified.

13 COUNCIL MEMBER ROSENTHAL: So I'm a
14 little bit jumping in, in the middle of the
15 conversation and, and looking at the council's report
16 on your headcount so just a quick question, it looks
17 like you still have some vacancies from positions
18 that you are authorized to hire...

19 MARK PETERS: Uh-huh...

20 COUNCIL MEMBER ROSENTHAL: What areas are
21 those vacancies in?

22 MARK PETERS: They are, they are not
23 concentrated in any one particular area and the
24 vacancy number is... has been going down obviously in
25 an agency of 700 there will be some number of

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 69
2 vacancies at any given moment simply because... I think
3 our attrition rate is something like nine percent
4 which is lower than the city, I'm pleased to say
5 that, I think the city's attrition rate over the...
6 overall is 12 percent and ours is nine percent. So,
7 we are in fact doing better than the city as a whole
8 at retaining staff which I'm very pleased with. So...
9 but if you're assuming nine percent attrition rate
10 that means roughly 70 positions that have to filled
11 give or take every year so at any given moment there
12 would be some number of vacancies.

13 COUNCIL MEMBER ROSENTHAL: Uh-huh...

14 MARK PETERS: We've pushed that number
15 down to below 70 at the moment. There are 65
16 vacancies now. There are now 65 vacancies which is a
17 little higher than I would like it to be some of that
18 is due to the fact that remember late 2015 but
19 functionally in 2016 the Inspector General for the
20 Health and Hospitals Corporation was brought under
21 DOI and was fully funded, it had been at a headcount
22 of about 20 which is simply... there is simply no way
23 that a headcount of 20 can do the work that's
24 necessary for a hospital system the size of HHC. That
25 headcount was expanded to roughly 70, most of those

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2 positions have now been filled but that took some
3 time and that is one of the reasons you... that this is
4 slightly larger vacancy rate now than I'd like. We've
5 done a lot of work, we've pushed that down
6 considerably.

7 COUNCIL MEMBER ROSENTHAL: How... what's
8 the time lapse between when you submit to whoever
9 that you are ready to hire a position and that
10 authorization to hire?

11 MARK PETERS: The time lapse... there's
12 several things... but that's not... that's not the same
13 time, we say we want the time this... I'll find... that's
14 fair... the, the time frame from when... the two big
15 things that take time are finding people, remember we
16 are hiring folks for law... [cross-talk]

17 COUNCIL MEMBER ROSENTHAL: Right, so this
18 is after you have identified someone... [cross-talk]

19 MARK PETERS: Once... so the biggest... the
20 single biggest time... the, the thing that takes the
21 most time is identifying a good candidate who we want
22 to hire... [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: Right but
24 beyond that so now... [cross-talk]

25 MARK PETERS: ...once that... [cross-talk]

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2 COUNCIL MEMBER ROSENTHAL: ...you've
3 identified...

4 MARK PETERS: Sure, once we've identified
5 two things have to happen, we have to fill out a par
6 and get OMB to sign off, that happens pretty quickly,
7 I don't know the exact amount of time but that's a
8 pretty quick process...

9 GANESH RAMRATAN: Yeah, two weeks...

10 MARK PETERS: A couple of weeks.

11 COUNCIL MEMBER ROSENTHAL: A couple of...
12 [cross-talk]

13 MARK PETERS: Back within a couple...
14 [cross-talk]

15 COUNCIL MEMBER ROSENTHAL: ...weeks and
16 that's... [cross-talk]

17 MARK PETERS: ...weeks... [cross-talk]

18 COUNCIL MEMBER ROSENTHAL: ...fast?

19 MARK PETERS: That's fast.

20 COUNCIL MEMBER ROSENTHAL: Okay, wait,
21 wait, wait, time out Greenbay. It takes a couple of
22 weeks... [cross-talk]

23 MARK PETERS: ...from... [cross-talk]

24 COUNCIL MEMBER ROSENTHAL: ...and that's
25 fast so how much is a couple, two, three?

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2 MARK PETERS: About... [cross-talk]

3 COUNCIL MEMBER ROSENTHAL: Two... [cross-
4 talk]

5 MARK PETERS: Two to three weeks.

6 COUNCIL MEMBER ROSENTHAL: Wow, that's a
7 long time. And if this agency if that's considered
8 fast I wonder what's happening in some other
9 agencies... [cross-talk]

10 MARK PETERS: Right, the big... [cross-
11 talk]

12 COUNCIL MEMBER ROSENTHAL: Anyway...
13 [cross-talk]

14 MARK PETERS: Right, so three things...
15 it's, it's a three-step process, right of which steps
16 two and three can happen at the same time but first
17 we have to post for the position and find somebody
18 and that takes real time especially when you're
19 talking about senior... [cross-talk]

20 COUNCIL MEMBER ROSENTHAL: Commissioner
21 I'm ready to... [cross-talk]

22 MARK PETERS: ...invest... [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: move on to the
24 next... [cross-talk]

25 MARK PETERS: Okay... [cross-talk]

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2 COUNCIL MEMBER ROSENTHAL: ...question, I
3 was curious whether or not OMB is freezing hires so
4 you answered my question... [cross-talk]

5 MARK PETERS: OMB... the... [cross-talk]

6 COUNCIL MEMBER ROSENTHAL: My next
7 question... [cross-talk]

8 MARK PETERS: ...I... no probability on that...
9 [cross-talk]

10 COUNCIL MEMBER ROSENTHAL: has to do with
11 asset forfeiture... [cross-talk]

12 MARK PETERS: Sure... [cross-talk]

13 COUNCIL MEMBER ROSENTHAL: Oh actually...
14 but you never answered my question, I don't... [cross-
15 talk]

16 MARK PETERS: I'm sorry... [cross-talk]

17 COUNCIL MEMBER ROSENTHAL: ...care about
18 your overall vacancy rate, I was asking specifically
19 of the 81 new hires that the council gave you there
20 seemed to be vacancies there, what areas are those
21 vacancies in and how many people are we talking
22 about?

23 MARK PETERS: Sure, the two biggest areas
24 where there are still vacancies and I don't think
25 it's correct by the way to say you gave us this many

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 74

2 lines and we haven't... we filled many of them, some
3 of... it was not... it's not as though we got 80 lines,
4 there are 60 vacancies that means we didn't fill...
5 [cross-talk]

6 COUNCIL MEMBER ROSENTHAL: I just...
7 [cross-talk]

8 MARK PETERS: 60 of them, many of those
9 actually got filled and these are other vacancies. Of
10 the new lines the two biggest places where there are
11 still vacancies are what's called BT2 that's the
12 Water Works that being built up state to bring water
13 into the city, we are hiring... that is going to be a
14 multibillion dollar project taking many, many, many
15 years... [cross-talk]

16 COUNCIL MEMBER ROSENTHAL: And that was
17 something the council... [cross-talk]

18 MARK PETERS: The council... [cross-talk]

19 COUNCIL MEMBER ROSENTHAL: ...wanted to...
20 [cross-talk]

21 MARK PETERS: ...yeah and we in... [cross-
22 talk]

23 COUNCIL MEMBER ROSENTHAL: ...fund?

24 MARK PETERS: The council and... well the,
25 the project itself is a multibillion dollar

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 75

2 infrastructure project that's been going on for a
3 number of years and will, we got about a dozen lines
4 give or take to simply do the Inspector General work
5 on that, we got a number of lines for that...

6 COUNCIL MEMBER ROSENTHAL: Move on...
7 let's... I, I... [cross-talk]

8 MARK PETERS: Sure... [cross-talk]

9 COUNCIL MEMBER ROSENTHAL: I don't feel...
10 maybe the staff will follow up with your office to
11 ask the questions. I'm, I'm just wanting to know if
12 the council asked you to do some work and some
13 positions were funded is that work happening?

14 MARK PETERS: Yes... [cross-talk]

15 COUNCIL MEMBER ROSENTHAL: Do you have
16 the staff to do that work and if there are vacancies
17 in that area is... are there any areas in particular, I
18 mean you got headcount to do... I don't know, in...
19 additional staff for the Inspector General unit and
20 for the Department of Buildings... [cross-talk]

21 MARK PETERS: Uh-huh... [cross-talk]

22 COUNCIL MEMBER ROSENTHAL: ...17
23 investigators and eight administrative staff... [cross-
24 talk]

25 MARK PETERS: ...Right... [cross-talk]

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2 COUNCIL MEMBER ROSENTHAL: ...39 positions
3 to enhance DOI Investigative staff covering a variety
4 of squads and units... [cross-talk]

5 MARK PETERS: Uh-huh... [cross-talk]

6 COUNCIL MEMBER ROSENTHAL: I, I'm just
7 asking... [cross-talk]

8 MARK PETERS: Sure... [cross-talk]

9 COUNCIL MEMBER ROSENTHAL: ...where those...
10 [cross-talk]

11 MARK PETERS: ...the result of hiring...
12 [cross-talk]

13 COUNCIL MEMBER ROSENTHAL: ...vacancies
14 are?

15 MARK PETERS: Right and the result of... we
16 have a hired... we've hired large numbers of people...
17 [cross-talk]

18 COUNCIL MEMBER ROSENTHAL: Yes, you have...
19 [cross-talk]

20 MARK PETERS: ...to do that and that's why
21 we arrested 37 people at National grid... [cross-talk]

22 COUNCIL MEMBER ROSENTHAL: God bless you.
23 Where have you not been able to hire?

24 MARK PETERS: I don't believe there's...
25 other than... well that's what I'm trying to explain to

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2 you, the two places where there are still significant
3 vacancies are on BT2 and on the Health and Hospitals
4 Corporation...

5 COUNCIL MEMBER ROSENTHAL: Got it, thank
6 you. I'm wondering about asset forfeiture... [cross-
7 talk]

8 MARK PETERS: Uh-huh... [cross-talk]

9 COUNCIL MEMBER ROSENTHAL: ...and whether
10 or not you've ever investigated whether or not and
11 this is not a... let me preface by saying there've been
12 a number of articles throughout the last few years
13 about improper asset for, forfeiture by the police,
14 I'm wondering if you can talk about any... you know has
15 there been any time where you've investigated that
16 issue with the NYPD?

17 MARK PETERS: What I can say to you is..
18 two things, one obviously with the extent that we
19 collect asset forfeiture and we do, we are remarkably
20 careful, we only collect that money after there's
21 been a criminal conviction...

22 COUNCIL MEMBER ROSENTHAL: This is on
23 civil cases... [cross-talk]

24 MARK PETERS: Yes, I understand... [cross-
25 talk]

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2 COUNCIL MEMBER ROSENTHAL: usually...

3 [cross-talk]

4 MARK PETERS: ...that... [cross-talk]

5 COUNCIL MEMBER ROSENTHAL: Oh okay, I was
6 just guiding you to answer the question I'm asking...

7 [cross-talk]

8 MARK PETERS: So we do not... so, two
9 things, we do not... we are not collecting money...
10 there... [cross-talk]

11 COUNCIL MEMBER ROSENTHAL: Not about your
12 collecting, I'm asking do you investigate, have you
13 ever investigated either in your tenure or someone
14 else's tenure before you started over the last five
15 years has DOI ever investigated NYPD for... [cross-
16 talk]

17 MARK PETERS: civil proceedings... [cross-
18 talk]

19 COUNCIL MEMBER ROSENTHAL: ...inappropriate
20 civil asset forfeiture?

21 MARK PETERS: I hear you, that is a
22 question I cannot answer sitting here right now.

23 COUNCIL MEMBER ROSENTHAL: Okay.

24

25

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2 MARK PETERS: That is not a question that
3 would be appropriate for me to answer sitting here
4 right now.

5 COUNCIL MEMBER ROSENTHAL: Okay and then
6 for your... but you can get back to us in private...
7 [cross-talk]

8 MARK PETERS: At this time... [cross-talk]

9 COUNCIL MEMBER ROSENTHAL: ...you can't get
10 back... [cross-talk]

11 MARK PETERS: At this time it would not
12 be appropriate for me to comment either at this
13 hearing or otherwise on that matter.

14 COUNCIL MEMBER ROSENTHAL: Okay.

15 MARK PETERS: That, that... there are
16 things that my agency does not comment on... [cross-
17 talk]

18 COUNCIL MEMBER ROSENTHAL: No problem...
19 [cross-talk]

20 MARK PETERS: ...that... [cross-talk]

21 COUNCIL MEMBER ROSENTHAL: I got you...
22 [cross-talk]

23 MARK PETERS: ...that at this time is...
24 [cross-talk]

25

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2 COUNCIL MEMBER ROSENTHAL: Let's go back
3 to the HPD Inspectors where you discovered they were
4 and thank... you know this is all great work, this is
5 all great work and just what we need, many
6 constituents in my district could... we could point to
7 probably a dozen owners of buildings that we believe
8 are inappropriately harassing their tenants and you
9 know obviously it happens over a long period of time
10 and I'm wondering when you catch someone an HPD
11 Inspector who is you know in cahoots with the
12 building owner is there any opportunity for recovery
13 of apartments that have already been lost or... [cross-
14 talk]

15 MARK PETERS: There's, there's no... as I,
16 as I said to Council Member Dromm there's no really
17 good legal vehicle available to DOI. What we can do
18 is arrest the HPD Inspector and we have, there are
19 civil remedies but they're not civil remedies that
20 we... that we've got in that regard. There's no good
21 civil remedy for DOI in that regard.

22 COUNCIL MEMBER ROSENTHAL: And do you
23 have... when you've investigated... [cross-talk]

24 MARK PETERS: I'd be happy by the way to
25 enforce a civil remedy if there were one, I'm not at

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2 all unsympathetic to the position but there is
3 presently no good civil remedy the DOI can pursue in
4 that regard.

5 COUNCIL MEMBER ROSENTHAL: Right, right.
6 There may be soon and I'm... [cross-talk]

7 MARK PETERS: I... [cross-talk]

8 COUNCIL MEMBER ROSENTHAL: ...not
9 authorized to talk about that at this time, I'm sorry
10 I'm... I appreciate the work you do in all seriousness.
11 I, I'm curious if you then go after the owner... many
12 times the owners of one building own many buildings
13 where they are doing the same type of harassment, is
14 that... is there someone... do... who is it that could take
15 that information and do something with it, right,
16 obviously if someone's doing it here they're probably
17 doing at their other buildings... [cross-talk]

18 MARK PETERS: And, and one, one of the
19 things that we do whenever we do these cases is where
20 there's an owner who owns multiple buildings and we
21 find a crime in one we will certainly do some
22 checking to see if this is going on in other places...
23 [cross-talk]

24 COUNCIL MEMBER ROSENTHAL: Okay... [cross-
25 talk]

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2 MARK PETERS: ...so A we will do some
3 checking, I'm not suggesting that we can check every
4 single apartment of every single building, I would
5 then need... be coming to you for a staff of not 700
6 but several thousand, we do, do some checking but
7 second of all the point at which we arrest an
8 Inspector for doing this we will also report to the
9 relevant agency, BTOB or HPD or whatever that... you
10 know they get... they get a report from us that says
11 here's a problem, you should go back and audit all
12 the work this person did to see whether there are
13 bigger problems with what this person did.

14 COUNCIL MEMBER ROSENTHAL: And do you
15 know... okay, so this is really a question or... for the
16 DOB Commissioner... [cross-talk]

17 MARK PETERS: Or the HPD... [cross-talk]

18 COUNCIL MEMBER ROSENTHAL: ...or HPD...
19 [cross-talk]

20 MARK PETERS: Commissioner depending,
21 yes.

22 COUNCIL MEMBER ROSENTHAL: Got it, okay.
23 And I actually do want to go back to the asset
24 forfeiture question process real quickly, could you
25

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2 run through your asset forfeiture process and how you
3 make sure that money is used appropriately?

4 MARK PETERS: Sure, we will seize assets
5 that are the proceeds of a crime when we do that it
6 means that that only happens at the point at which,
7 the asset forfeiture happens at the point which we've
8 arrested somebody... you know we have arrested somebody
9 and there is a... you know and there's a prosecution.
10 So, A, I am very, very comfortable that at the point
11 at which we arrest somebody and people do not get
12 arrested... my agency does not arrest people unless
13 we've done a great deal of due diligence and people
14 at a very senior level have signed off on that arrest
15 almost to always me. So yeah, somebody's been
16 arrested at the point at which we're seeking
17 forfeiture funds. I feel pretty good that if you've
18 been... I feel pretty good that if we've arrested
19 somebody that nobody's therefor using the asset
20 forfeiture as an abusive tactic at that point.

21 COUNCIL MEMBER ROSENTHAL: It goes back
22 to DOI or into a... [cross-talk]

23 MARK PETERS: It... it... [cross-talk]

24 COUNCIL MEMBER ROSENTHAL: ...I just don't
25 know how... [cross-talk]

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2 MARK PETERS: ...it is... fair... [cross-talk]

3 COUNCIL MEMBER ROSENTHAL: ...it works...

4 [cross-talk]

5 MARK PETERS: ...fair question. The money...
6 in some instances the money can go back to other
7 parts of the city and in some cases the money goes to
8 DOI and there's a whole series of... there's... it... the
9 world's longest set of rules in my general counsel is
10 one of a small number of people who have become
11 genuinely expert on how all those rules work.

12 COUNCIL MEMBER ROSENTHAL: Okay, so the,
13 the law is set out by DOI not by city law
14 departments?

15 MARK PETERS: Actually much of its set...
16 much of its federal law because a lot of the asset
17 forfeiture we... there are federal asset forfeiture
18 laws and there are state asset forfeiture laws,
19 there's no city law in this.

20 COUNCIL MEMBER ROSENTHAL: Okay... [cross-
21 talk]

22 MARK PETERS: It's a... there are federal
23 laws and city laws and which applies depends on which
24 prosecutors we're working with and whether we're...
25 [cross-talk]

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2 COUNCIL MEMBER ROSENTHAL: ...Fascinating...

3 [cross-talk]

4 MARK PETERS: ...arresting people for
5 federal or state crimes.

6 COUNCIL MEMBER ROSENTHAL: Thank you so
7 much for your service.

8 MARK PETERS: Thank you.

9 CHAIRPERSON GENTILE: Thank you Council
10 Member. I just want to... I just want to be certain of
11 the 81 positions that have been budgeted it's 13 that
12 have yet to be filled, am I correct?

13 MARK PETERS: I, I apologize Council
14 Member, 81 and 13 you've lost me on which number
15 you're referring to... [cross-talk]

16 CHAIRPERSON GENTILE: The, the... [cross-
17 talk]

18 MARK PETERS: I apologize Mr. Chair.

19 CHAIRPERSON GENTILE: According to your
20 statistics you have hired all but 13 of the positions
21 that were funded?

22 MARK PETERS: I don't believe that...

23 [off-mic dialogue]

24 MARK PETERS: I don't believe that's
25 correct for the... I don't believe that I said that for

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2 the agency overall and if I did I misspoke. I don't
3 believe I said that we've filled all but 13 lines... I,
4 I honestly don't... I don't believe that I said that,
5 if I did it wouldn't be accurate... [cross-talk]

6 CHAIRPERSON GENTILE: We'll check, we'll
7 check... [cross-talk]

8 MARK PETERS: I apologize... I... [cross-
9 talk]

10 CHAIRPERSON GENTILE: ...they... they'll
11 check. Okay, no, no problem.

12 MARK PETERS: I apologize and I... [cross-
13 talk]

14 CHAIRPERSON GENTILE: No, that's, that's
15 fine, that's fine. Great, okay. Let me... let me ask
16 you then... do we have any... okay, great. You mentioned
17 in your testimony that there was a report on the NYPD
18 in regard to the political activities... [cross-talk]

19 MARK PETERS: Sure... [cross-talk]

20 CHAIRPERSON GENTILE: ...could you expound
21 on that and... [cross-talk]

22 MARK PETERS: Oh sure, so the NYPD, there
23 are a set of rules, they are both enshrined in a
24 federal court decision called Handsome and also in
25 the NYPD control guide that govern when the NYPD may

do surveillance of political and religious activities. These are important... the, the rules have been in existence for a... you know for many years since the 1970's, they are particularly relevant now as... regard to surveillance of Muslims and Mosks and, and, and such. The trick is that it's where these things is very hard to measure because obviously when the NYPD is doing surveillance especially when they are doing surveillance in the security context they are not going to talk about that publicly nor should they and so there's no opportunity for all of the usual oversight entities... you know the, the usual civilian oversight entities to see whether this is being done properly. Part of the reason for having an Inspector General for the Police Department that is part of DOI that is a law enforcement entity is so that we can go and what we did is we essentially pulled, you know insisted on having all of the records presented to us, we were able to look at them in a locked room at One Police Plaza with people who had appropriate... you know who had been appropriately vetted for security reasons and so we were able to do for the first time an examination as to whether the Handshoe rules were being followed and what we found

was that on a number of instances the rules were... for example you get... because you open an... in surveillance, you have to set forth your reason for surveillance, you then get either a 180 or 365 days to do the surveillance then you have to ask for permission to continue if you want. We found that on, you know a large number of instances they were continuing surveillance after the authorization expired. Unlike wiretap... when we do a wiretap we have to go to a judge for permission and so there's a judge that's looking at it, in the case of political surveillance that is done in... the permission comes internally from the NYPD so there's no other check that's why we've got an Inspector General, that's why the... this council and it's wisdom created an independent Inspector General for the police department and made it part of DOI so there was a law enforcement entity that could go and look at the stuff and we did. The federal judge overseeing Handshoe in fact rejected a proposed settlement largely based on our report and we will of course go back and, and continue to monitor that.

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2 CHAIRPERSON GENTILE: So, so the... so
3 political surveillance of any group is a decision
4 made within the NYPD?

5 MARK PETERS: Yes.

6 CHAIRPERSON GENTILE: And, and to
7 continue that... to a continuance as opposed... [cross-
8 talk]

9 MARK PETERS: that... the thing is... there
10 is... [cross-talk]

11 CHAIRPERSON GENTILE: Right... [cross-talk]

12 MARK PETERS: Yeah and let's, let's be
13 clear there is absolutely no doubt that the NYPD has
14 legitimate reasons for doing surveillance and
15 legitimate reasons in some instances for doing
16 surveillance of political and religious groups,
17 there's, there's nobody disputing that point but like
18 in the same way that there's nobody disputing the
19 fact that there are times when it is appropriate to
20 engage in wire taps but like that we have a set of
21 rules to make sure that they... that people's civil
22 liberties are protected and that the use of this
23 technique is cabined by a set of rules. In the case
24 of surveillance there's a set of rules that say
25 essentially you got to go to this committee within

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2 the NYPD, set forth the reasons why you need the
3 surveillance, re-up permission after a certain period
4 of time and so what we did is we... because we're law
5 enforcement and we can have access to these files we
6 were able to review the files and determine that in
7 some... that in a more than nominal number of instances
8 either the time frames were not being adhered to or
9 the NYPD was not in fact providing sufficient basis
10 for renewing the surveillance.

11 CHAIRPERSON GENTILE: I see, okay. I
12 want to ask you about the NYPD and, and NYCHA
13 agreement... oh we've been... also been... just a break for
14 a minute or two, say we've been joined by our newest
15 member of our ONI committee Council Member Bill
16 Perkins, welcome.

17 COUNCIL MEMBER PERKINS: Thank you.

18 CHAIRPERSON GENTILE: There is a report
19 about NYCHA and, and NYPD coming to some, I guess it
20 was a PPR about reporting on crimes that have taken
21 place by... arrests that have been taking place by
22 residence of, of NYCHA has that agreement actually
23 gone into effect, did, did... so that the reporting has
24 improved?

25

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2 MARK PETERS: Right, so... and, and as I
3 said to you there, there are two issues. There is do
4 the agencies say they're going to do it and then are
5 they doing it. So, we issued a report last year which
6 found that the NYPD was not properly notifying NYCHA
7 when crimes were committed on NYCHA property and also
8 that NYCHA was then... when they were being notified
9 NYCHA was not taking that information, seeking
10 permanent exclusions to get people who'd been, you
11 know arrested for and convicted of violent crimes out
12 of NYCHA property. Both NYCHA and the NYPD agreed in
13 the wake of this report to change the reporting
14 system so that the NYPD was properly reporting this
15 to NYCHA and so that NYCHA then was properly
16 following up on this. We are in the middle of an
17 investigation which we... I hope to finish soon as to
18 whether or not in fact the NYPD is providing the
19 information and whether in fact NYCHA is in fact
20 taking action based on the information they're being
21 provided and as soon as that report is done we will
22 make it public and I'd be happy to come back before
23 this committee to talk about that at that time.

24 CHAIRPERSON GENTILE: With, within the
25 next several months you think?

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2 MARK PETERS: I think that's a safe... I
3 think that that's a safe guess, yes.

4 CHAIRPERSON GENTILE: Okay, I, I, I just...
5 my finance staff just gave me the... I guess this an
6 answer you provided to the finance staff for... to the
7 question have all the positions since FY '17 November
8 Plan been filled and your answer was, we are
9 continuing to ensure we hire up to the allocated
10 headcount as of Friday 17th, I guess that's February
11 17th, you'd say... I think so, okay, 2017, we have
12 hired all but 13 of the headcount granted to us since
13 the FY '17 November Plan.

14 MARK PETERS: Is that... okay, I'm told
15 that's correct.

16 CHAIRPERSON GENTILE: Okay.

17 MARK PETERS: I'm told by my staff that's
18 correct.

19 CHAIRPERSON GENTILE: Okay...

20 MARK PETERS: If they say it, it must be
21 so.

22 CHAIRPERSON GENTILE: Okay, great.

23 MARK PETERS: I, I... and I... [cross-talk]

24 CHAIRPERSON GENTILE: Alright, just for
25 the record... [cross-talk]

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2 MARK PETERS: ...apologize... {cross-talk]

3 CHAIRPERSON GENTILE: ...just for the
4 record... [cross-talk

5 MARK PETERS: ...that... [cross-talk]

6 CHAIRPERSON GENTILE: ...that's all.

7 MARK PETERS: Yeah. Yep, they... [cross-
8 talk]

9 CHAIRPERSON GENTILE: Okay... [cross-talk]

10 MARK PETERS: ...they, they just confirmed
11 that we did say that and we meant it.

12 CHAIRPERSON GENTILE: Okay, great, that's
13 good. That's good. Let's... to, to the PMMR a couple
14 questions here, why does the PMMR report for DOI... we...
15 I've... we've asked this before not including the data
16 and statistics of the IG reports?

17 MARK PETERS: Well it does... well the... it
18 does two things, every... there are now... how many
19 inspectors... there are 15... there are... there are a
20 large number of inspectors General, there are 45
21 city... roughly 45 city agencies each has an Inspector
22 General, there are not 45 Inspectors General because
23 some agencies share IG's. all of those then go into
24 the PMMO, we do not break them down by Inspector
25 General for a number of reasons not the least of

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which is that it's not necessarily helpful because for example we do a report... the NYCHA NYPD issue, there's a NYCHA Inspector General, there's an NYPD Inspector General not clear where would you put those recommendations into and where would you put those numbers into. The bigger question is and part of the reason for having DOI is that it's important to think about this enforcement as a citywide matter. Part of the way that you view it, I think these things that Inspectors General Office's fail at times is when they only think of themselves as I'm the Inspector General for NYCHA or I'm the Inspector General for DOB or I'm the Inspector for the NYPD as opposed to I am the part of DOI looking to see is the city as... at large complying with the law, complying with its own rules and be... you know and efficiently doing what it's supposed to. So, we tend not to break it down one IG versus another in the numbers A, it would be quite cumbersome and B, I'm not sure that that... if... I almost don't want... I try not to think about it that way, obviously, I have an Inspector General for NYCHA, I have an Inspector General for the NYPD, obviously, I expect them to know their agencies but frankly I also have meetings with the Associate

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2 Commissioners and the IG's at a larger level because
3 I want to make sure that they are collectively
4 talking to one another using the NYCHY NYPD report as
5 an example it would make no sense to only look at
6 half of that equation and not the other half.

7 CHAIRPERSON GENTILE: So, so you... what
8 you're saying is that within the performance
9 indicators that you have in the, the DOI portion of
10 PMMR you find the data related to the IG's, it's in
11 there... [cross-talk]

12 MARK PETERS: Yes, that... [cross-talk]

13 CHAIRPERSON GENTILE: ...it's in there...
14 [cross-talk]

15 MARK PETERS: ...indeed that essentially is
16 the data related to... it... too... now there are certain
17 IG's like the Police Inspector General that also has
18 a separate reporting requirement through one of the
19 city council statute and so we will report
20 information about that separately with a separate
21 report, reporting requirement but all of... everything
22 DOI does is essentially the sum of all of our
23 Inspectors General. To sort of talk about DOI
24 separate from... everything we do is the sum of the

25

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2 work of all of our Inspectors General, of a... of the
3 network of Inspectors General.

4 CHAIRPERSON GENTILE: Okay. Now you have
5 commented also about the types of performance
6 indicators that are, are used over time and... [cross-
7 talk]

8 MARK PETERS: ...Right... [cross-talk]

9 CHAIRPERSON GENTILE: ...one of those
10 indicators that you're not a fan of is the metric
11 that measures the length of investigation time,
12 right?

13 MARK PETERS: Correct.

14 CHAIRPERSON GENTILE: Could you explain
15 to us again why that's the case?

16 MARK PETERS: Sure. Different
17 investigations take different amounts of time. The
18 investigation that resulted in the arrest of 37
19 national grid employees and, and other... and landlords
20 that was a massive investigation it took well over a
21 year and that was all time well spent on the other
22 hand there are other investigations that can be done
23 relatively quickly. Time is just... if you view time
24 spent as why are you not taking... why do you not get
25 these things completed more quickly the hardest thing

to do in an investigation is not to get it done quickly, it's often to keep it from getting done too quickly so that you don't jump too quickly. For example, on that... the national grid case, we could easily have arrested some number of those people well before the year plus that the investigation took so we could easily have finished that investigation in two months, arrested a smaller number of people, closed the investigation and been done, the harder thing is to say no let's not do that let's go up on... let's continue to stay up on wires, let's continue to play this out and see the full span of what we've got. So in fact somebody doing an investigation like that does it in two months and arrests three people I think has actually failed as opposed to somebody who does it in 14 months and arrests 37 people and so I worry whenever people use the metric length of time because it, it provides an incentive to do these things quickly and believe me and, and trust me I could walk out of this room and we could put all of my staff behind me up here under oath and they would tell you with some degree of despair and annoyance just how often I tell them I want things to move faster than they're moving but having said that while

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2 I say that to them all the time I also think it's
3 important not to jump too quickly because the biggest
4 case is the ones that have the most impact are the
5 ones that you don't jump too quickly because
6 frequently when you see one crime it means there's
7 three others and if you just have the patience you
8 can pick them all up.

9 CHAIRPERSON GENTILE: It... do you... would
10 there be a better performance indicator or better
11 metric for performance indicator on investigations?

12 MARK PETERS: I mean I think there are... I
13 always worry about metrics and this is hard and, and
14 it presents the totally legitimate question well you
15 need to have... we need to have some way of evaluating
16 whether you're doing a good job and that's right, I
17 mean the... I think that getting too in the weeds on
18 numbers of arrests or numbers of PPR's isn't always
19 helpful and I say this despite the fact that the
20 number of arrests went way up so this is not just I'm
21 saying I don't think arrests are helpful because my
22 arrests numbers went down, my arrest numbers went
23 quite a bit up and that's no surprise as we've been
24 doing these larger systemic cases they've been
25 resulting in larger numbers of... you know larger

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2 numbers of arrests. I think the best metric but it's
3 hard to put a number around this is, is there a
4 greater sense within city agencies that there's a cop
5 on the beat watching and are we seeing significant
6 institutional changes. For example, probably the
7 single best piece of evidence that we are beginning
8 to make progress on Rikers Island and I am by no
9 means suggesting we're done or we're even close to
10 done, we're not but one good demonstration of that is
11 for years there had been resistance to having drug
12 sniffing canines on Rikers Island who could check
13 Correction Officers coming in the door. Finally, we
14 broke... because of a series of investigations that
15 both led to some arrests but took a lot of time to
16 write reports, which don't go into any metric, we
17 finally broke through and forced everybody to, to
18 agree to drug sniffing canines. That then took some
19 time to get up and running to train them at the... you
20 can't just go to a pet store and say oh I'll take the
21 cute looking dog over there... [cross-talk]

22 CHAIRPERSON GENTILE: ...Uh-huh... [cross-
23 talk]

24 MARK PETERS: ...it's now up and running
25 and in fact last month, you know last month we

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2 arrested yet another Correction Officer because we've
3 got random checks going on and we're finding this
4 stuff and I believe that that kind of hard work's
5 going to begin to make a dent in that particular
6 problem but that's the result not merely of a bunch
7 of arrests but a bunch of undercover work we did and
8 a bunch of reports many of which are not a metrics
9 but the existence of the drug sniffing canines is
10 possibly the best evidence of we're making progress.
11 It's just hard to put that in a number.

12 CHAIRPERSON GENTILE: Okay and those drug
13 sniffing canines came as a result of, of a PPR?

14 MARK PETERS: Yes, we essentially... you
15 know at... two years ago we did a series of arrests
16 involving contraband, we also were able to have an
17 undercover... we sent an undercover officer into Rikers
18 to go through the various checkpoints, we gave that
19 undercover officer 250 decks of heroine, half a pound
20 of marijuana, a bottle of vodka, a razorblade,
21 Oxycodone pills, think there may have been some other
22 contraband, all on his person and he was able to walk
23 through security checkpoints six out of six times.
24 The result of both arresting a bunch of folks for
25 doing this and this wasn't just a wild guess that we

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2 thought he could get through this was the result of
3 having arrested a bunch of people for doing this kind
4 of thing...

5 CHAIRPERSON GENTILE: Right... [cross-talk]

6 MARK PETERS: ...but the ability to not
7 only do the arrest but write a report in which we,
8 you know could show this and then issue a bunch of
9 PPR's finally got us to the point, it took some time
10 where DOC and the union and everybody said okay, we...
11 you know okay, we have no choice but to agree we'll
12 have drug sniffing... you know we will begin to deploy
13 drug sniffing canines.

14 CHAIRPERSON GENTILE: ...Uh-huh... [cross-
15 talk]

16 MARK PETERS: ...that was the result of
17 PPR's, it was also the result of the undercover
18 investigation, it was also the result of the arrests,
19 and it took all... you know all of this... part of what
20 we try to do at DOI is to see the things systemically
21 so we're seeing all these parts and they can come
22 together as a... in a sustained way to force a change,
23 in this case the, the change of Rikers on drugs
24 sniffing canines...

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 102

2 CHAIRPERSON GENTILE: Now that's very
3 interesting because you really don't have the
4 authority to enforce a, a PPR, right?

5 MARK PETERS: That is correct.

6 CHAIRPERSON GENTILE: But from what I'm
7 hearing is that it's sort of the pressure of repeat
8 incidents that, that forces sort of puts the pressure
9 on the agency to follow your recommendation?

10 MARK PETERS: I, I should be clear that
11 most Commissioners in this city have been... most
12 Commissioners most of the time have been enormously
13 cooperative and have not needed a... you know and have
14 been happy to make changes as we found problems. So I
15 do not want to leave you the impression that we are,
16 you know sort of at a constant war with, with the
17 city, we are not but certainly there are instances
18 where the changes are difficult for any number of
19 reasons and where additional pushes are needed and
20 certainly the... you know the use of undercovers and
21 the use of large reports and the... and the ability to
22 do large systemic cases rather than just arresting an
23 officer here and arresting an officer there but
24 rather large numbers of arrests all of this can
25 combine to add pressure in the same way that frankly

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2 we've now arrested a number of people who own or
3 manage general contracting firms because they've had
4 unsafe conditions and people have gotten killed on
5 their sites. We are doing more of those cases, my
6 hope is that if we arrest and, and with our DA
7 partners prosecute a sufficient number of people for
8 this people will begin to get the message that they
9 need to run their sites safely and they can't be
10 skirting DOB rules but that's not going to happen
11 with one arrest, that's going to happen with a
12 sustained effort over time and that's what we're
13 going to do until people get the message that if you
14 run an unsafe site and people get killed we will find
15 you, we will prove it, we will prosecute you.

16 CHAIRPERSON GENTILE: Okay and that... and,
17 and that process and that time period is just
18 beginning is what... [cross-talk]

19 MARK PETERS: ...yeah, we've... [cross-talk]

20 CHAIRPERSON GENTILE: ...you're saying...
21 [cross-talk]

22 MARK PETERS: ...done several prosecutions
23 already. We are looking at more cases, I think that...
24 I, I wish it wasn't something that is a multiyear
25 process but quite frankly I suspect it will be.

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2 CHAIRPERSON GENTILE: Okay, great. To
3 really talk just a little bit about some... or some
4 finish up questions about the citywide savings
5 program that you actually recognized a one percent
6 savings in OTPS spending across the agency which
7 comes to I guess it was about 21... 22,000 dollars have
8 you considered other areas that might yield some cost
9 savings?

10 MARK PETERS: Yeah, I, I have to... it...
11 obviously DOI saves the city a lot of money in a lot
12 of places, right, we just for example did... issued our
13 most recent report on the Build It Back Program in
14 which in addition to arresting four people for
15 defrauding the program the result of our monitoring
16 saved about 40 million dollars.

17 CHAIRPERSON GENTILE: 40, 40... [cross-
18 talk]

19 MARK PETERS: ...40 million... [cross-talk]

20 CHAIRPERSON GENTILE: ...million... [cross-
21 talk]

22 MARK PETERS: ...40 million dollars over
23 the course of Build It Back and the prior... and, and
24 the prior reiteration of that program. So clearly a
25 lot of this monitoring saves a lot of money. In terms

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 105

2 of savings from DOI I have to tell you I believe that
3 we operate in a very lean and, and efficient manner,
4 there is not a lot of money that we could save by
5 doing things differently. The real savings come from
6 things like doing the monitoring so the money isn't
7 misspent, 40 million dollars is real money.

8 CHAIRPERSON GENTILE: So and, and there
9 is a, a, a way to calculate the savings from an
10 integrity monitor?

11 MARK PETERS: Sure, obviously, there's
12 several ways to do it. One is the actual money where
13 we say you're not... you know this, this is a
14 fraudulent bill we're not paying it, in something
15 like Build it Back one of the things one of the
16 things we will do with contract... one thing our
17 monitor will do is say we've looked at X number of,
18 of contracts on average, the billings were over by
19 this amount therefor we're going to withhold this,
20 this larger amount based on this and then we can
21 negotiate with the contractor to do that or Build it
22 Back can do that based on our reports. Both of those
23 are different ways of, of quantifying those numbers.

24 CHAIRPERSON GENTILE: I see, okay.

25

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2 MARK PETERS: And that doesn't include
3 obviously, the money they could save simply because
4 people know that we're watching. We actually a number
5 of years ago picked somebody up on a wiretap in which
6 several contractors were overheard saying there's
7 really not much we can do about the bills here
8 because DO... you know there are DOI Inspectors running
9 around... [cross-talk]

10 CHAIRPERSON GENTILE: ...Uh-huh... [cross-
11 talk]

12 MARK PETERS: So that doesn't even
13 include the money they'd save because you know we are
14 the cop on the beat in this regard and in the same
15 way that a police officer walking a beat keeps...
16 prevents crimes that will never go in any statistic
17 because of public safety, when people know that we
18 are watching that clearly saves money that we'll
19 never quantify.

20 CHAIRPERSON GENTILE: the... [cross-talk]

21 MARK PETERS: ...it's the money we can't...
22 [cross-talk]

23 CHAIRPERSON GENTILE: right... [cross-talk]

24 MARK PETERS: ...quantify... [cross-talk]

25

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2 CHAIRPERSON GENTILE: The, the diversion
3 factor. Let's, let's talk about then one of the areas
4 that you do checks on and, and, and that's the, the
5 Vendex unit that... [cross-talk]

6 MARK PETERS: Sure... [cross-talk]

7 CHAIRPERSON GENTILE: ...that you do
8 background checks on businesses and individuals if...
9 currently the... my understanding is that if, if the...
10 if, if the check is not completed by DOI within 30
11 days the agency that requests the vendor check can
12 actually contract with that, with that, that
13 contractor?

14 MARK PETERS: Correct.

15 CHAIRPERSON GENTILE: That's correct, is,
16 is it... is that a... I, I guess that... I guess it's a...
17 it... do you find that a little troubling and somewhat
18 problematic if, if, if those contractors are not
19 being vetted.

20 [off-mic dialogue]

21 MARK PETERS: We... it is fairly rare that
22 we don't get these things done within 30 days so it's
23 not a huge problem obviously yes, I, I, I would
24 prefer if the rule was you can't proceed unless we
25 get it done, I certainly however understand that cit

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 108

2 agencies do need to keep things going and part of the
3 trick to running a successful DOI is doing our work,
4 keeping the city honest without shutting the system...
5 without shutting the city down. so yes, I would
6 prefer it if everybody had to wait, it is not... it's a
7 pretty infrequent occurrence though that we don't get
8 it done within 30 days... [cross-talk]

9 CHAIRPERSON GENTILE: So, you, you would,
10 you would estimate if you don't have the exact number
11 somewhere in the 90 percent range that, that those,
12 those are, are done within 30 days?

13 MARK PETERS: I'm, I'm told it's
14 something like 94 percent per month but we'll confirm
15 that and get back to you.

16 CHAIRPERSON GENTILE: I'm sorry, say...
17 [cross-talk]

18 MARK PETERS: I'm told it's something
19 like 94 percent get done timely within 30 days and
20 we'll get back to you with the exact... we'll confirm
21 that and get back to you.

22 CHAIRPERSON GENTILE: Okay, great, great,
23 cool. Just one other aspect I wanted to ask you about
24 since we're... we don't gather that often, can you just
25 discuss with us your findings in the, in the probe

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2 that you did and we had a hearing on it actually on
3 the, on the voter fraud probe that you conducted a
4 probe into ineligible individuals and... voting at the
5 polls you, you did say in a, in a statement to Cranes
6 that we did not substantiate a single incident of
7 either illegal voting so actually it, it, it may
8 actually be a different... you... that quote may have
9 been a, a different... [cross-talk]

10 MARK PETERS: That quote... so and I, and I
11 appreciate the opportunity to clarify this because I
12 thought it was very important. We did an... the
13 Department of Investigation did an investigation
14 into... we've done a number of investigations into the
15 board of elections, we did an investigation of the
16 elections, we found a number of problems with the
17 board of elections probably the most significant
18 problems involved hiring issues but we found others
19 including some issues with the voter rolls and
20 failure to purge voter rolls properly all of which
21 are real and serious and important issues. What we
22 didn't find were examples of people voting illegally
23 and the reason I appreciate clarifying this is this
24 is in a report we did several years ago, we found
25 some very serious issues, they are serious issues,

they deserve a serious response and they deserve serious consideration. We did not find however examples of people voting illegally and we certainly did not find were examples of people voting illegally. There is people for political motives that I can't speculate about have recently taken that report and attempted to use it to claim that the Department of Investigation has substantiated claims that have been made by some of the federal government that there is rampant voter fraud going on. Our report did not substantiate rampant voter fraud, it is intellectually dishonest to suggest that our report could in any way be used to support claims... the claims of rampant voter fraud that have been made... were made late last year and earlier this year and especially given the colloquia we had before about the real issues of making sure that as a law enforcement agency people trust us, people are willing to work with us, people are comfortable talking to us suggesting that we have issued a report demonstrating illegal voting which we didn't is deeply counter product... beyond whatever else you may think about it and I don't get... and I leave that to others, it is deeply counterproductive, it is in... it

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 111
2 is intellectually dishonest for anybody to suggest
3 that we found rampant voter fraud and it is
4 counterproductive given the need of this agency to
5 work with every community in New York City and get
6 folks to trust us.

7 CHAIRPERSON GENTILE: So the PPR's that
8 you issued in that report have, have... did not relate
9 to voter fraud in any way?

10 MARK PETERS: No, the PPR's involved some
11 issues with the voter roles which have been well
12 documented... [cross-talk]

13 CHAIRPERSON GENTILE: Right... [cross-talk]

14 MARK PETERS: ...both in New York City and
15 in many, many other places but there were no PPR's
16 that... there were no findings in the report that said
17 gee we found all sorts of folks are illegally voting
18 and there's rampant voter fraud or even non-rampant
19 voter fraud, we didn't find it and I object to people
20 using this agency which has an important law
21 enforcement purpose for political means of any sort.

22 CHAIRPERSON GENTILE: Okay, well I'm glad
23 we put that on the record then. Great... [cross-talk]

24 MARK PETERS: ...Me too.

25 CHAIRPERSON GENTILE: Okay.

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2 MARK PETERS: Thank you.

3 CHAIRPERSON GENTILE: I, I think that
4 wraps up our preliminary hearing at the moment but I,
5 I suspect that with a series of new needs coming up
6 in the executive budget unlike last year where we
7 didn't have an executive budget hearing I probably
8 anticipate we're going to have one this year.

9 MARK PETERS: I look forward to being
10 back with you again.

11 CHAIRPERSON GENTILE: Okay...

12 MARK PETERS: Then at what... any other
13 time that this committee thinks it appropriate.

14 CHAIRPERSON GENTILE: Great...

15 MARK PETERS: I'm at your disposal.

16 CHAIRPERSON GENTILE: Thank you, one, one
17 minute... oh yes, oh yes, I do want to mention for the
18 record that we are going to send you a letter just to
19 request the follow up information, the buyback
20 program where you can provide the committee with the
21 cost associated with the program, the vacancies that
22 we talked about, the... what areas are the vacancies in
23 and the intra-city agreements that will all be in the
24 follow up letter.

25 MARK PETERS: Excellent.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 113

2 CHAIRPERSON GENTILE: Okay, thank you
3 very much...

4 MARK PETERS: Thank you... [cross-talk]

5 CHAIRPERSON GENTILE: Thank you
6 Commissioner, thank you to the staff, thank you to
7 Deputy Commissioner. This hearing is closed.

8 [gavel]

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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 30, 2017