

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FINANCE AND OVERSIGHT AND
INVESTIGATIONS

NEW YORK CITY FISCAL YEAR 2010 EXECUTIVE BUDGET
HEARINGS

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May 12, 2009
Start: xx:xx pm
Recess: xx:xx pm

HELD AT: Council Chambers
City Hall

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Chairperson, Finance

ERIC N. GIOIA
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CO-CHAIRPERSON GIOIA: I call this meeting, the Joint Hearing of the Finance and Oversight and Investigations to order. I ask counsel to swear in the Commissioner.

COMMITTEE COUNSEL: Do you swear or affirm that the testimony you are about to give is to the best of your knowledge truthful and accurate?

COMMISSIONER: I do.

COMMITTEE COUNSEL: Okay.

CO-CHAIRPERSON GIOIA: Thank you. And welcome Commissioner. In the interest of time I will skip my opening statement and just let you get right to your opening statement. And apologies for beginning late this afternoon.

COMMISSIONER ROSE GILL HEARN: Not at all. Thank you very much. Good afternoon Chairperson Gioia and members of the Committee on Oversight and Investigations. Thank you for the opportunity to address the Committee concerning the Department of Investigation's Executive Budget for Fiscal Year 2010 and to share with you the agency's ongoing, substantial accomplishments.

In the 2 months since I last

testified before you, DOI's commitment to uncovering wrongdoing and fraud has not wavered. So far in Fiscal Year '09, the agency has received more than 12,600 complaints, conducted 475 corruption prevention lectures, arrested 616 individuals on a variety of corruption related crimes, and provided City agencies with 355 policy and procedure recommendations intended to correct vulnerabilities shown and flowing from the cases we conducted.

These numbers reflect DOI's continued commitment to investigate and diligently stop wrongdoing before it becomes entrenched conduct. The agency has acted on tips and exposed corruption working with City agencies to remedy the vulnerabilities investigators find. DOI investigations have resulted in several significant guilty pleas involving long term investigations and nonprofit vendor fraud.

We have used available resources to achieve the highest impact both through investigations and educational outreach. The following are highlights of DOI's most significant cases since March 2009.

In March the Health Department notified DOI about the disappearance of approximately 49 blank birth certificates from its Bureau of Vital Records and the theft of credit card information from the same unit where members of the public purchase birth certificates. DOI immediately began an investigation of these stunning developments.

Investigators, myself include, conducted site visits, interviewed Health Department employees and examined the records of the Bureau. DOI discovered that there were actually more than 100 blank birth certificates missing from the Records Bureau and in less than a month had identified an insider who had stolen the credit card information.

DOI's investigation resulted in charges being brought against three individuals including the individual who works in the Bureau of Vital Records for illegally obtaining and using credit card information of customers who faxed birth certificate requests to the Health Department. DOI worked with Federal prosecutors in the Southern District to quickly shut down the

scheme in which the defendants attempted to charge thousands of dollars on the victims' credit cards according to the criminal complaint.

These charges are a testament to the round the clock tracing of this fraudulent scheme by DOI investigators which got results. DOI is working with Department of Health to strengthen security measures within the Bureau of Vital Records.

DOI's investigation into fraud allegations at the City-run television station, NYCTV, uncovered a conspiracy scheme to defraud the City of tens of thousands of dollars. The investigation resulted in the arrest of the station's now former Chief Operating Officer, Trevor Scotland; and Vincent Taylor the owner of VRT Multimedia, a private company.

They were charged with diverting to VRT more than \$60,000 in payments from advertisers that should have gone to NYCTV for production work. DOI investigators found that between March '07 and April '08, Scotland and Taylor split the diverted funds with Scotland receiving approximately 80% and Taylor 20% of the funds

according to the charges.

DOI worked with prosecutors to hold these individuals accountable and we are working with DOIT to improve internal controls at the television station to ensure this kind of corruption is not repeated.

DOI has continued to root out and stop individuals who bribe City officials in the hope of evading safety violations or illegally gaining access to City information. Thanks in large part to honest employees who report bribe offers to DOI, as they are required to do, DOI has been successful in this arena.

In April, for instance, DOI arrested a co-owner of a Bronx plumbing company on a charge of offering a bribe to a DOI investigator posing as an employee of the DEP. The plumbing company co-owner offered a payoff for the addresses of locations where broken water pipes required emergency repairs, which he would have used to solicit business. DEP promptly reports this misconduct to DOI, allowing our investigators to investigate and stop the illegal conduct.

This month DOI completed an

undercover operation after a DOB inspector notified us about a bribe offer. That covert operation ended in the arrest of an employee of a Brooklyn based contracting company on charges of paying a \$1,000 bribe to a DOI undercover investigator posing as a DOB investigator to avoid violations at a Manhattan job site.

DOI has made 17 arrests since January of '08, charging individuals with offering payoffs to DOB inspectors to overlook unsafe conditions. DOI's efforts in this arena also including finding and investigating individuals including industry professionals who falsify City documents and file fake documents with the DOB, conduct that is not only criminal but creates a fake, unreliable record at the job site that can jeopardize and undermine safety.

In April, DOI arrested the president of an expediting company on charges of faxing a phony document to her client, an architect, to make it appear that the DOB had approved the architect's construction job when it had not. These investigations and arrests underscore the message that this type of illegal

behavior will not be tolerated by the City. And individuals who engage in it will face arrest and prosecution.

DOI has continued to focus on ensuring that safety remains a priority for construction in the City. In an effort to raise awareness about safe construction practices, DOI along with the DOB and a variety of other agencies participated last month in the City's recent 5th Avenue Construction Safety Week. Ironically during the safety week DOI initiated an undercover operation after a DOB inspector notified us about a bribe offer.

This week DOI is continuing its joint enforcement with the Fire Department to target commercial and other property owners who have not addressed open fire code violations ,a significant safety concern. So far this year DOI has arrested 194 individuals for failures to appear on fire code violations and brought them to court to answer the citations and remedy the violation. Since this effort began in July 2007 it has resulted in hundreds of fire code violations in mainly commercial establishments now

being addressed and more than \$120,000 in fines ordered to be paid to the City.

DOI's efforts also go toward protecting the precious City and public funds set aside to provide needy New Yorkers with a fundamental necessity, housing. DOI investigators vigilantly watch this area to detect, including City employees, who have falsified or concealed information to secure housing benefits thereby taking precious funds from those who are legitimately eligible. So far in 2009 DOI has arrested 20 individuals for fraudulently obtaining housing benefits including approximately \$385,000 in government housing funds.

Earlier this year a concerned tenant went to court questioning a Notice of Eviction he received. An alert clerk in Bronx Supreme Court notified DOI when he noticed the Notice of Eviction had the name and badge number of a former City Marshal and an index number that could not be matched to any case in the court.

DOI investigated and arrested the landlord on charges that he fraudulently issued a Notice of Eviction in the name of a retired City

1
2 Marshal and served it together with a forged court
3 document on a tenant in his Stewart Avenue
4 Apartment House in the Bronx. The investigation
5 found that during an ongoing dispute regarding
6 unpaid rent the landlord had the documents altered
7 and given to the tenant in an effort to get the
8 tenant out without pursuing the lawful process
9 through the courts.

10 DOI brought its unequalled expertise
11 in City operations to an intensive and far-
12 reaching joint investigation with Federal
13 prosecutors from the Southern District that
14 resulted in the indictment of Santo Petrocelli,
15 Sr., of Petrocelli Electric Company, who was
16 charged with giving cash and a lease car to a
17 union representative. Prior to this investigation
18 Petrocelli Electric had been a major vendor of the
19 City's street light contracts.

20 DOI's participation in this
21 investigation ensured that the City's interest in
22 integrity and safety was protected. In order to
23 guard against any disruption of the City's street
24 and traffic light maintenance and construction, in
25 2006 DOI placed the appropriate cautionary notices

in Vendex and worked with the City DOT to place Petrocelli under the scrutiny of an independent monitor who reported to DOI. Petrocelli's contracts have since been completed and the company has no current contracts with the City.

The prosecution of former State Senator Ethan Gonzalez, Jr. and his three co-defendants began with a painstaking DOI forensic investigation and accumulation of the evidence from various nonprofit organizations. This investigation originated from a referral to DOI from another City agency regarding financial impropriety at a City-funded Bronx nonprofit which DOI auditors and investigators meticulously examined, exposing the trail and extent of the fraud that Gonzalez, three of his associates and ultimately four nonprofits engaged in.

DOI investigators did what they do best. They followed the money, uncovering hundreds of thousands of dollars in public funds to pay for personal luxuries such as Gonzalez' membership in a vacation club, a luxury villa in the Dominican Republic and even costs related to Gonzalez' private cigar company and distribution

company. DOI worked with Federal authorities to stop the corruption and ultimately each of the four co-defendants was held accountable.

We are very satisfied to report that as a result of DOI's hard work, former Senator Gonzalez pleaded guilty last Friday in the Southern District to diverting public funds from one Bronx nonprofit to another whose main service to the public was to pay for his expenses and those of his co-defendants. And just yesterday the last of the co-defendants pleaded guilty, bringing a successful end to DOI's investigation on this case.

A notable fact is that the Gonzalez case was one of the significant cases that brought about DOI's focus on individuals who defraud nonprofit organizations funded with public money. As you know DOI's response to the issue of who is watching the enormous amount of public money given to nonprofits who are funded to provide services to this City, was to establish a special nonprofit vendor unit within DOI to more closely scrutinize the hundreds of millions of dollars in taxpayers' funds that are at stake.

2 In that unit of DOI, cases have
3 resulted in charges against several individuals
4 including the February '09 indictment of Odell
5 Holland, the former Program Director of Tremont
6 Community Council Home Attendant Program, a Bronx
7 nonprofit that contracted with HRA to provide
8 services to the elderly and the disabled. DOI's
9 investigation found that hundreds of thousands in
10 funds were diverted from that nonprofit and into a
11 personal account in Holland's name.

12 In April '09 another arrest from a
13 DOI investigation culminated in the guilty plea by
14 Hugh Blackburn, the former Deputy Director at two
15 nonprofits in the Bronx and Queens, La Peninsula
16 and St. Alban's, which received contracts from ACS
17 to serve low income children and families.
18 Blackburn pleaded guilty to the embezzlement of
19 more than \$400,000 in public funds.

20 In the last three fiscal years, DOI
21 has conducted vendor name checks on the average of
22 720 or is it 7,236 companies. When you factor in
23 the number of principals and affiliates for each
24 company, we have conducted more than 50,000 checks
25 as part of the Vendor Responsibility Determination

Process. In addition DOI conducted more than 4,000 vendor name checks for NYCHA as well as HDC and HPD for publicly funded developments. Performing these vendor name checks, a labor intensive process, is a vital function to ensuring that the City contracts with vendors of integrity.

Coming into FY '10, DOI hopes to charge each company undergoing a VNC check a \$100 fee. Based upon the number of VNCs the DOI is called upon to perform over the last 3 years, we project this fee will generate revenue of over \$600,000 annually for the City. This eminently reasonable fee that covers part of our cost is for each corporate entity checked, not the numerous principal and affiliate checks for each company that we are called upon to do.

The Executive Expense Baseline Budget for the Department of Investigation for Fiscal Year 2010 is \$19.6 million: \$14.5 million for personal services and \$5.1 million for other than personal services. Additionally we receive close to \$700,000 from 2 other City agencies via intercity agreements which also includes 7 positions that are not part of the Baseline

Budget.

These funds are placed in DOI's Expense Budget through budget modifications and are reflected as an increase to the modified budget after Fiscal Year '10 begins. Included in the total Baseline PS Budget is approximately \$3.2 million in funding, representing 61 positions, resulting from Memoranda of Understanding that DOI has with several agencies. This brings the total number of individuals under DOI's Baseline Budget beginning in FY '10 to 237. The total budgeted headcount increases to 244 after the additional 7 positions are added through budget modifications.

Under the most recent series of budget reductions, DOI will have to reduce staffing to 176 employees by the end of FY '10. This is a reduction of 130 people since 2002. My staff and I are working on new and innovative ways of maintaining and in many instances improving productivity despite staff reductions.

I am more than confident of our continued success. At this time I would be pleased to answer any questions the Committee members may have.

2 CO-CHAIRPERSON GIOIA: Thank you
3 very much Commissioner. And thank you for your
4 impressive work, as always. You know, when you
5 were going through some of the parade of
6 horrors, of former State Senator Gonzalez, I
7 mean we started shaking our head up here. It's
8 just, it's so appalling. And I think, you know
9 when you--especially in tough budget times, when
10 vital services are being cut, what you find,
11 especially as you're traveling around the City as
12 much as I am these days, people say well, you
13 know, isn't there fat to cut. You know, how are
14 you really spending my money.

15 And when you see stories like this,
16 well, you know, it's everyone--what everyone fears
17 the most about government. I thank you for the
18 work your agency is doing to try to not only catch
19 the bad guys but to rebuild peoples' faith in what
20 we do, that there is somebody actually watching
21 the store.

22 On that, as more and more money,
23 government money is coming to New York City in
24 terms of Federal stimulus money, what role will
25 DOI play regarding the utilization and monitoring

of Federal stimulus funds?

COMMISSIONER HEARN: I've already been in touch with Federal authorities here in New York about that very topic both in the Eastern and Southern District of New York. And there is a working group that is in the offing that will be addressing that very point. And we will be participating along with Federal authorities in the oversight of the money that has come into City government from the Federal government recently.

CO-CHAIRPERSON GIOIA: Who's part of the working group?

COMMISSIONER HEARN: Well we are certainly going to participate. And we've been in touch with the US Attorney's Office on that.

CO-CHAIRPERSON GIOIA: Okay. Are there any revenue streams to help us police the new funds? In other words, you know, as some offline agencies as we've discussed in the past signed Memorandums of Understanding which you allude to in your testimony, is there an opportunity to take some Federal money to supplement DOI to watch the Federal money being spent?

COMMISSIONER HEARN: I don't know.
It's a very creative idea and we certainly have it
in mind.

CO-CHAIRPERSON GIOIA: Good
because, you know, my concern obviously is with
the staff decreases which are substantial, and
with more work coming your way because of the
increased amount of Federal funding..

COMMISSIONER HEARN: Great idea.

CO-CHAIRPERSON GIOIA: Thank you.
In addition, you know, I was wondering if you have
any suggestions on how the City can--I'm sure
you're familiar with Wikipedia. The, you know,
the online encyclopedia, the brains of the entire
world coming together and adding. And the idea
that there's collective wisdom, sunlight, the
internet allowing us to see what is happening in
government, how dollars are being spent.

I wonder if DOI has any suggestions
on what more the City Council in terms of
discretionary spending, in terms of the capital
budget, can be put online so that we could involve
other New Yorkers in seeing how the money's being
spent.

COMMISSIONER HEARN: Well I think the City's already doing quite a bit of that. I think the Mayor's Office of Contracts post contracts. I think the Department of Buildings posts filings. I think the Department of Health posts various things relating to its activities. So I think that individual agencies are already doing quite a bit of that and taking advantage of the websites in that regard.

CO-CHAIRPERSON GIOIA: Well if you have any other suggestions, please do let us know.

COMMISSIONER HEARN: Absolutely.

CO-CHAIRPERSON GIOIA: I want to you ask you about, I think I'm missing a page here... this happened to that woman that ran for Senate one time. I wanted to ask you about the Food Stamp and fraud. Do you know off the top of your head, and I'm sorry if I'm asking the wrong question here, how many people were prosecuted for--because of the fingerprint requirement, people who are applying under fake names or in ways they shouldn't? Do you have that readily available or do you want to get that to me?

COMMISSIONER HEARN: I don't have

it readily available. We can get it for you.
We'd have to get it from HRA but we can certainly
provide that information to your office.

CO-CHAIRPERSON GIOIA: I'd like
that. I mean and the question I'm asking is how
many people who have been identified because of
the fingerprinting requirement are committing
fraud. And in addition I'd love a full report, I
don't mean to say a full report, I'd love a
briefing on the fraud that is being caught because
of Food Stamps in HRA. What type of fraud that
is. If that's the applicants or if that is people
within the agency, what's actually happening
there.

We were in receipt of numbers that
very few actual fingerprint--people who were
fingerprinted actually were caught committing
fraud but that it was a huge expense to the City
to actually do the fingerprinting. So I'm trying
to figure out if there's any effect, positive or
negative in the fingerprinting. I have my
opinions on it but I'd like to see some data on
it--

COMMISSIONER HEARN: [Interposing]

Okay sure. We'll get that for you--

CO-CHAIRPERSON GIOIA: --as well.

And by the way, I should acknowledge my colleagues, Council Member John Liu from Flushing, pardon me, and Kenny Mitchell, Council Member Ken Mitchell from Staten Island.

In terms of the decreased staff, because that is a substantial number, over the past 7 years. What services are you cutting back, be it as the 176. I'm sorry 130 people you've lost?

COMMISSIONER HEARN: None really.

I mean there's still an Inspector General for each of the City's agencies. We are still conducting the Vendex checks. We're still conducting the background checks that are needed for incoming or being promoted employees. So our three core functions continue.

CO-CHAIRPERSON GIOIA: Has

absorbing the current reductions continued to negatively impact the length of time required for investigations?

COMMISSIONER HEARN: Well each

investigation, you know, is different and, you

know, can take a varying amount of time. I think that the way in which we have risen to the challenge of the cutbacks is with management, and better management and supervision and moving cases along. Not letting them languish, letting go the ones that are not going anywhere, closing them out if they're not going anywhere. Moving along the ones that are going someplace in an efficient manner so that we can continue with the assembly line of constant cases that are coming in.

So it's foursquare a management task to keep the agency running and to keep it running with fewer resources and yet in an effective matter. And I think we're certainly doing much more with less as a result. I mean our numbers continue to be very high across the board. As you can see, in terms of the number of arrests that we've done. But I'm really not interested in just slapping handcuffs on people as we've discussed before.

Our Anti-Corruption Outreach Program, you know, continues to be over 500 lectures each year. And when we do find a problem and/or do make an arrest in a case, we're not just

moving on as other law enforcement agencies do. That's not a criticism of them, that's not their job to stay behind and analyze what the vulnerability was.

We do stay behind. We analyze it. We work with the agency to amend the situation so that perhaps we can prevent future corruption and I can have fewer cases in that particular area in the future. So those are the things that we've been doing, at least I've been doing for the last seven and a half years. And that really hasn't changed albeit we're working very hard and trying to identify impact cases to the extent that we can.

CO-CHAIRPERSON GIOIA: And of course the reason, the impact cases is because the idea is it would then send that--it'd have a chilling effect on crime.

COMMISSIONER HEARN: That's right.

CO-CHAIRPERSON GIOIA: DOI appears to be on a trajectory to shoulder a case load of maybe 5,000 cases in 2009, almost 5,000 cases, is that right?

COMMISSIONER HEARN: We have open

at any time on average about 1,000 cases. So perhaps over the course of 12 months, 5,000 may be opened, looked at, either investigated or not or referred to another officer agency to take a look at. So your number may be correct. But what is correct is that we have about 1,000 matters open at any given time.

CO-CHAIRPERSON GIOIA: It's a lot--

COMMISSIONER HEARN: [Interposing]
It's a lot, yeah.

CO-CHAIRPERSON GIOIA: --and it's going up. And it has been going up over the past couple of years which, as we've discussed in the past, is not necessarily a sign that the City is getting less honest but more that you're doing a better job and that DOI's doing a better job.

Is there, and I assume, or let me put it in a question, as the staff level has gone down and case work has gone up, I assume case loads have gone up for individual inspectors and investigators at DOI.

COMMISSIONER HEARN: Yes I think that's fair to say.

CO-CHAIRPERSON GIOIA: Do you have

any concern about burnout there in the near term?

COMMISSIONER HEARN: Well I hope, I hope not. I hope that we can, you know, continue to engage people around the fact that, you know, they have a very full plate of, you know, a whole array of issues and keep people, you know, happy and humming along. I mean it's my hope that we don't experience, you know, the burnout.

CO-CHAIRPERSON GIOIA: Okay. Any questions from my colleagues? Do you have anything you'd like to add Commissioner? Well I thank you, as always, for your testimony--

COMMISSIONER HEARN: [Interposing]
Thank you.

CO-CHAIRPERSON GIOIA: --I mean I think it's a very difficult budget times. I do believe that DOI is a strong investment for New York, for the money that your agency spends, I think it safes us exponentially more. And I'm very thankful for your work and the work of your entire staff.

COMMISSIONER HEARN: Thank you
Councilman.

CO-CHAIRPERSON GIOIA: Thank you.

Okay. Am I adjourning here?

[Off mic]

CO-CHAIRPERSON GIOIA: We're going to adjourn--we're going to adjourn--we are now adjourning this Joint Hearing of Finance and Oversight and Investigations.

[Gavel banging]

[Witnesses and audience moving around, getting ready for next Committee]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in dark ink on a light-colored background.

Signature _____Laura L. Springate_____

Date _____June 7, 2009_____