



THE COUNCIL OF THE CITY OF NEW YORK

Melissa Mark-Viverito, Speaker

**BRIEFING PAPER
OF THE
COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS**

Brad Lander, Chairperson

JANUARY 30, 2014

**Topic: Commissioner, New York City Department of Investigation –
(Candidate for appointment by the Mayor upon the advice and consent of the
Council)**

- **Mark G. Peters [M-14]**

In a letter dated January 16, 2014, Mayor Bill de Blasio formally submitted the name of Mark G. Peters to the Council of the City of New York, for its advice and consent, regarding Mr. Peters' appointment as the Commissioner of the New York City Department of Investigation.

The New York City Department of Investigation ("DOI"), is headed by the DOI Commissioner. Pursuant to the *New York City Charter* ("Charter"), Chapter 31, the Mayor appoints the Commissioner with the advice and consent of the New York City Council, after a public hearing. Section 801 of the *Charter*, also provides that the Mayor may remove the Commissioner upon filing in the office of the Commissioner of Citywide Administrative Services, and serving upon the Commissioner, the reasons therefore, and allowing the Commissioner an opportunity to make a public explanation. Currently, the annual salary for the DOI Commissioner position is \$205,180.

The *Charter* sets forth requirements for any individual to be appointed to the position of DOI Commissioner, which includes being a member in good standing with the Bar of the State of New York and at least five (5) years of law enforcement experience [*Charter* section 801].¹

Chapter 34 the *Charter* and *Mayoral Executive Order* #105 (1986) (“Executive Order”), detail the primary responsibilities of the DOI. The DOI has jurisdiction over any agency, officer, or employee of the city; any person or entity doing business with the city; any person or entity that is paid or receives money from or through the city; or any agency of the city. The DOI must also maintain a Complaint Bureau, which shall receive complaints from the public.

INVESTIGATIVE POWERS AND DUTIES

Some of the DOI Commissioner’s powers and duties regarding investigations are as follows:

The DOI Commissioner has a duty to conduct various investigations. The DOI Commissioner is authorized and empowered to conduct any study or investigation, which in the opinion of the DOI Commissioner, may be in the best interest of the city, including but not limited to investigations regarding the affairs, functions, accounts, methods, personnel or efficiency of any agency, of which DOI has jurisdiction.

The DOI Commissioner also has a duty to conduct investigations directed by the Mayor and the New York City Council.

The Conflicts of Interest Board (“COIB”), also has the power to direct DOI to conduct investigations of matters relating to its responsibilities under Chapter 68, of the *Charter*. The DOI Commissioner must thereafter investigate any such matter within a reasonable time.

¹ *Charter* section 801 does not define law enforcement experience. Black’s Law Dictionary, 9th edition, defines law enforcement as: “The detection and punishment of violations of the law. This term is not limited to the enforcement of criminal laws. For example, the Freedom of Information Act contains an exemption from disclosure for information compiled for law-enforcement purposes and furnished in confidence. That exemption is valid for the enforcement of a variety of noncriminal laws (such as national-security laws) as well as criminal laws. See 5 USCA § 552(b)(7). 2. CRIMINAL JUSTICE (2). 3. Police officers and other members of the executive branch of government charged with carrying out and enforcing the criminal law.”

APPOINTMENT AND ASSIGNMENT POWERS

The DOI Commissioner also has the power to appoint and assign various positions; some of these positions are as follows:

The DOI Commissioner may appoint two (2) deputies, who may conduct or preside over any investigation, authorized by Chapter 34, of the *Charter*, at the direction of the Commissioner, for the purpose of ascertaining facts in connection with any study or investigation, authorized by Chapter 34 of the *Charter*. The DOI Commissioner and each deputy have the power to compel the attendance of witnesses, administer oaths, and examine such persons as may be deemed necessary.

Pursuant to *Executive Order #11* (1990) (as amended by *Mayoral Executive Order #34* (1992)), the DOI Commissioner has the duty to appoint a Special Commissioner of Investigation for the New York City School District. *Executive Order #23* (1995), further provides for the issuance of subpoenas through the DOI, when DOI determines it is appropriate, for investigations related to the Commission on School Safety.

Pursuant to *Executive Order #7* (1994), the DOI Commissioner also has the duty to appoint the Special Counsel to the Mayor for the Fiscal Oversight of Education, who is also a Special Deputy Commissioner within DOI. This Special Counsel oversees the budgetary procedures and finances of the New York City Board of Education, and the overall New York City School District.

The DOI Commissioner is furthermore responsible for approving the appointments of all NYC Agency Inspectors General (“IG”), and creates and disseminates the associated standards of conduct, for such appointed positions. The DOI Commissioner also has the duty of monitoring and evaluating the activities of these IGs, to ensure that there is uniformity amongst their actions.

Inspectors General report directly to the DOI Commissioner and are responsible for the investigation and the elimination of corruption and other criminal activity, as well as conflicts of interest.

A. Appointment of the NYPD Inspector General, Pursuant to Local Law 70 (2013)

In addition to the DOI Commissioner’s duty to approve all NYC Agency IGs, the DOI Commissioner is now mandated by the newly enacted Local Law 70

of 2013, to specifically appoint an individual, to be the first Inspector General of the New York City Police Department. The duties of this IG will include investigating, reviewing, studying, auditing and making recommendations, relating to the operations, policies, programs and practices, of the New York City Police Department, on an ongoing basis, with the goal of enhancing the effectiveness of the department, increasing public safety, protecting civil liberties and civil rights, and increasing the public's confidence in the police force, thus building stronger police-community relations. These investigations, reviews, studies, audits and recommendations will also address NYPD's ongoing partnerships with other law enforcement agencies. The NYPD IG will also report directly to the DOI Commissioner.

The DOI Commissioner will be required to select the individual, who will perform the duties as the NYPD IG and report to the Council, the identity and qualifications of this individual, no later than ninety (90) days after the effective date of Local Law 70, which requires the appointment to be made no later than April 1, 2014.

GUIDELINES AND RECOMMENDATIONS

In the DOI Commissioner's role, he or she has the duty to provide various reviews and audits of various city agencies, and has a duty to provide recommendations for these entities.

Pursuant to *Executive Order* #87-2 (1987), the DOI Commissioner establishes guidelines, regulating the submission of employee annual financial disclosures, which are required to be submitted to the DOI, including establishing the requisite time frame for the submission of these disclosures, to ensure that there is compliance in this area, within a reasonable amount of time.

Executive Order #18 (1995), also establishes a Police Corruption Commission (PCC), to assist the Mayor and the Police Commissioner in assessing the effectiveness of the Police Department's implementation and maintenance of anti-corruption efforts. The PCC shall only investigate these matters when the PCC and the DOI Commissioner, with the approval of the Mayor, determine that exceptional circumstances exist, in which the assessment of the Police Department's anti-corruption system requires the investigation of an underlying allegation of corruption, made against Police Department personnel, because the NYPD remains responsible for conducting investigations regarding the specific allegations of corruption made against Police Department personnel.

Executive Order #26 (1996), which renamed the Child Welfare Administration (CWA), to the Administration for Children's Services (ACS), created an "Inter-Agency Group," which is chaired by the DOI Commissioner. The DOI Commissioner, along with the Mayor's Office of Management and Budget, the Mayor's Office of Labor Relations, the New York City Police Department, the New York City Human Resources Administration, and the New York City Law Department, have a duty to make recommendations to improve the operations of ACS.

REPORTING REQUIREMENTS

The DOI Commissioner has a duty to comply with various reporting requirements; some of these mandatory reports are as follows:

The DOI Commissioner shall prepare a written report or statement of findings for investigations, and shall forward a copy of such report to the requesting party, if any. In the event that the matter investigated involves or may involve allegations of criminal conduct, the DOI Commissioner, upon completion of the investigation, shall also forward a copy of the written report or statement of findings, to the appropriate prosecuting attorney, or, in the event the matter investigated involves, or may involve a conflict of interest or unethical conduct allegation, the DOI Commissioner must also forward a copy of the written report or statement of findings, to the New York City Conflicts of Interest Board (COIB).

The DOI Commissioner also has the duty to forward to the Council and to the mayor, a copy of all reports and standards, prepared by the Corruption Prevention and Management Review Bureau, upon issuance by the Commissioner.

CONCLUSION

Mr. Peters is being appointed by the Mayor to serve for an indefinite term. Should Mr. Peters receive the Council's advice and consent, he will fill a vacancy. Mr. Peters is scheduled to appear before the Council's Committee on Rules, Privileges, and Elections on January 30, 2014. Copies of Mr. Peters' résumé and Committee report/resolution are annexed to this briefing paper.

Attachments:

Mr. Peters' résumé

Committee on Rules, Privileges and Elections – Committee Report
Resolution M 14

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