

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL
OPERATIONS

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Wednesday, March 22, 20223
Start: 2:03 p.m.
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HELD AT: Council Chambers, City Hall

B E F O R E: Sandra Ung, Chair

COUNCIL MEMBERS:

Gale A. Brewer
Lincoln Restler
Lynn C. Schulman

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

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Commissioner
Dept. of Citywide Administrative Services

Shanna Midelton
Chief Financial Officer
Dept. of Citywide Administrative Services

Roman Gofman
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Chief Administrative Law Judge
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Legislative Director
Brooklyn Borough President

Ben Weinberg
Director of Public Policy
Citizens Union

2 SERGEANT AT ARMS: Once again Good afternoon and
3 welcome to the Committee on Governmental Operations.
4 At this time, if you can please place phones on
5 vibrate or silent mode. Thank you. Chair, we are
6 ready to begin.

7 CHAIR UNG: Good afternoon, everyone. Welcome to
8 the City Council's Governmental Operations Committee
9 hearing on the fiscal 2024 preliminary budget. My
10 name is Sandra Ung. I'm the Chair of the Committee.
11 At today's hearing will hear testimony from the
12 Department of Citywide Administrative Services, the
13 Law Department, the Board of Elections, and the
14 Office of Administrative Trials and Hearings
15 regarding the fiscal 2024 preliminary plan.

16 The agencies testifying today carry out many of
17 the most important functions that keep our city
18 running, including managing the city's vehicle fleet,
19 ensuring that the citywide heat, light, and power
20 bills I paid on time, advising and defending us from
21 lawsuits, and conducting elections, collecting
22 administrative fines, and much more.

23 Our responsibility as members of this Committee
24 is to work with these agencies to ensure that they
25 deliver to the city. We look forward to hearing more

2 details about the agency's budget and whether funding
3 is being used efficiently. I would like to make sure
4 that we thank the committee staff for their hard work
5 and preparing for this hearing. Principal Financial
6 Analysts Julia Haramis Florentine Gabor, Financial
7 Analyst, Ross Goldstein, Financial Unit Head, Alia
8 Ali, Senior Legislative Counsel, Christopher Murray
9 who's on paternity leave, Legislative Policy Analyst,
10 Erica Cohen, my Chief of Staff, Alexander Hart, and
11 my Communications Director, Shea Miller.

12 And now I'd like to welcome Dawn Pinnock, the
13 Commissioner of the Department of Citywide
14 Administrative Services to testify before this
15 committee. Thank you for coming Commissioner. DCAS
16 fiscal 2024 preliminary budget totals \$1.4 billion,
17 including nearly \$206 million in personnel services
18 to support 2,323 full time positions. The budget
19 also includes \$1.2 billion and other-than-personnel
20 services. DCAS's budget is divided into 10 program
21 areas, and a bulk of the agency is over budget, or
22 65% is allocated to the energy conservation program
23 areas. In the preliminary plan, DCAS fiscal 2024
24 preliminary budget is \$42.2 million less than its
25 fiscal 2023 adopted budget. This slight decrease of

2 3% is mainly driven by reduced funding across DCAS
3 program budgets. Additionally, the agency
4 anticipates losing 105 headcount, and is running with
5 107 vacant positions.

6 At today's hearing, we will deep dive into DCAS
7 budget to ensure that New Yorkers and city agencies
8 receive the service they deserve.

9 And now I'd like to please ask the Community
10 Council to administrate the oath and swear in the
11 testifying representatives.

12 COUNSEL: Please raise your right hand. Do you
13 affirm to tell the truth, the whole truth and nothing
14 but the truth before this committee and to respond
15 honestly to the council member questions?

16 ALL: I do.

17 COMMISSIONER PINNOCK: Thank you. Good
18 afternoon, Chair Ung and members of the committee on
19 governmental operations. My name is Dawn Pinnock and
20 I proudly serve as the Commissioner of the Department
21 of Citywide Administrative Services, more commonly
22 known as DCAS. At DCAS, our mission is to make city
23 government work for all New Yorkers. I'm joined
24 today by my Chief Financial Officer Shanna Midelton,
25 and members of my leadership team.

2 As a team, we approach our work with a commitment
3 to our three core values: equity, effectiveness, and
4 sustainability.

5 I'm pleased to be here to discuss the proposed
6 DCAS budget for fiscal year 2024. I want to start by
7 providing a few updates about DCAS's work since our
8 agency testified before this committee last year.

9 The climate crisis is real, and it is urgent.
10 And that is why DCAS is taking bold and decisive
11 action to reduce emissions from government
12 operations. In fiscal year 22, DCAS completed 2000
13 energy efficiency measures and city buildings and
14 infrastructure, reducing greenhouse gas emissions by
15 24,600 metric tons, the equivalent of removing 5300
16 cars from our streets. Thus far in fiscal year 23,
17 we have successfully installed resilient solar
18 roofing at six Fire Department fire houses to
19 generate emissions free energy. We made historic
20 investments in electric vehicles and charging
21 infrastructure. During fiscal year 22, we replaced
22 nearly 1300 fossil fuel powered vehicles with
23 electric models, a key step as we transition the
24 entire fleet to electric. We also led a successful
25 effort to reduce the size of the city's vehicle fleet

2 by over 850 vehicles. This initiative will reduce
3 greenhouse gas emissions by over 2000 metric tons per
4 year and save taxpayers \$13.7 million per year.

5 In addition to our climate actions, we are
6 helping city government get stuff done, helping every
7 agency deliver on their mission, and creating
8 opportunities for all New Yorkers. During fiscal
9 year 22, and year to date, we've made strides to
10 innovate and improve the civil service process. We
11 created and administered the city's first bridge
12 exam. This exam covers 10 different civil service
13 titles. By only paying one fee and taking one exam,
14 New Yorkers will be eligible for jobs under 10
15 different civil service titles.

16 We also hosted and participated in nearly 200
17 events to spread awareness about working for the city
18 of New York, reaching over 12,000 participants. We
19 also administer administered 153 civil service exams
20 to over 79,000 job seekers and released mobile
21 technology that now allows jobseekers to apply for
22 civil service exams using their cell phones.

23 Through this work, we are opening pathways to
24 great careers in government. In addition to
25 strengthening the city's workforce, DCAS is

2 responsible for purchasing, storing and managing the
3 inventory of over \$1 billion in supplies and
4 equipment procure for city agencies each year. The
5 bulk purchasing we do helps lower prices that save
6 money and allows for a centralized distribution
7 process.

8 To improve the procurement process, during fiscal
9 year 2022. We deployed our new warehouse management
10 system and integrated that system with the city's
11 procurement system known as PASSPort. This will
12 enhance the use of our inventory and do additional
13 data analysis to inform management and reporting.

14 As DCAS Commissioner, one of my many goals is to
15 build a better DCAS, one that is customer focused,
16 nimble, modern, and effective. While much has been
17 achieved during the first year of the Adam's
18 administration, important work lies ahead. As we
19 look forward, we're doubling down on cultivating a
20 city government that delivers equity, access, and
21 fortifies communities. Over the past three years
22 employers around the world have been plagued with
23 unprecedented challenges as a direct result of the
24 COVID-19 pandemic. Unfortunately, the city of New
25 York is no exception. Despite the harsh realities

2 that have up-ended the workforce as we know it. We
3 are proud that our civil servants have continued to
4 provide critical services and ensure that New Yorkers
5 have access to adequate resources, opportunities, and
6 information.

7 In the coming months, we are ramping up on a
8 recruitment effort that involves the launch of a
9 marketing campaign aimed at encouraging people to
10 join the city's workforce and hosting monthly hiring
11 events across the city. These events are targeted to
12 all New Yorkers with an emphasis on providing equity
13 and access for underserved populations who might not
14 have considered chartering a career path in city
15 government. In addition to the work we are doing to
16 improve and grow our workforce, we have also
17 committed to four core strategic priorities, which
18 are aligned with Mayor Adams objectives.

19 Those four priorities include: Jobs. As we
20 manage the city's primary pathways to employment, it
21 is our main objective to position New York City
22 government as a competitive employer and reduce and
23 standardize current hiring cycle times. And we're
24 also looking to increase recruitment and retention of
25 diverse talent pools. Number two: Growing our

2 electric vehicle network. We will continue to expand
3 citywide electric vehicle charging infrastructure
4 with an emphasis on increasing accessibility and
5 environmental justice communities. Three:
6 Increasing opportunities for MWBEs. We will support
7 MWBEs, by increasing their contract spend through
8 direct vendor engagement, training and improved
9 procurement methods. We are also increasing our MWBE
10 outreach by creating bi-monthly in house networking
11 opportunities between vendors and certain purchasing
12 categories. And number four: Making our city more
13 livable. We will improve communities and make our
14 city more livable and attractive by increasing
15 property utilization for city-owned and leased
16 spaces.

17 As we strive to achieve these goals, it's
18 important to understand how DCAS's budget plays a
19 role in determining what is possible. The vast
20 majority of DCAS's budget is allocated to cover
21 expenditures on behalf of other city agencies. In
22 fact, 61% of our annual budget supports programs at
23 our sister agencies, 36% supports citywide services
24 that agencies utilize or benefit from, and the
25 remaining 2% supports our internal needs.

2 As the city's service provider, our \$1.6 billion
3 operating budget must support \$916 million and
4 projected energy expenses, including heat, light, and
5 power at agencies and properties across the city.
6 \$152 million to cover costs associated with multi-
7 tenanted lease sites, as we're responsible for
8 identifying space for city agencies and other public
9 entities when city-owned space is not available or
10 feasible.

11 DCAS has also been leading efforts on multiple
12 initiatives aimed at reducing emissions from
13 government operations, electrification of the
14 citywide fleet, and maintaining city buildings by
15 addressing life and safety repairs in the public
16 sites we manage.

17 In the current year, our budget includes \$19.5
18 million for facade projects, \$7.7 million to support
19 emergency roof and other interior repairs, \$32
20 million to support the city's effort to transition to
21 an all-electric fleet, and \$110 million to achieve
22 the One City Climate goals as outlined in Executive
23 Order 89 and Local Law 97.

24 In addition to the aforementioned programs, every
25 year DCAS generates revenue on behalf of the city.

2 In fiscal year 23 and 24, we anticipate generating
3 \$60.9 million and \$66.2 million respectively. This
4 revenue is primarily due to three areas: The rental
5 of city-owned properties, the sale of surplus
6 vehicles and other city owned equipment, and from
7 applicant filing fees for civil service exams.

8 For our capital plan, the preliminary budget
9 reflects an updated five-year plan of \$4.1 billion
10 from fiscal year 23 through fiscal year 27, for
11 projects managed by DCAS. This plan includes
12 maintenance and enhancements to DCAS facilities,
13 renovation of leased spaces, and continuing our
14 energy conservation and fleet electrification work.
15 The preliminary budget for fiscal year 24 is \$856
16 million.

17 I want to take the opportunity to thank the
18 Council for its ongoing partnership, and for
19 providing me with the opportunity to testify today.
20 I look forward to working with each of you to advance
21 the mission of DCAS, and support the critical work we
22 do citywide to keep our city thriving.

23 With that I would be happy to answer any
24 questions. Thank you.

2 CHAIRPERSON UNG: Thank you, Commissioner, for
3 your testimony. And we are here joined by
4 Councilmember Schulman and Restler.

5 I just have a couple of questions: Regarding to
6 MWBE, DCAS fiscal 2024 contract budget totals \$58
7 million to cover 134 contracts in the same fiscal
8 year. How much of DCAS contract budget was allocated
9 to the minority, women-- MWBE in fiscal 2023?

10 COMMISSIONER PINNOCK: I'll turn that question
11 over to our Chief Contracting Officer Roman Gofman.

12 MR. GOFMAN: Thank you for the question,
13 Councilmember. DCAS-- Our budgets aren't
14 specifically allocated to MWBEs. Rather, we ensure
15 that every possible dollar that can be awarded based
16 on our ability to procure through the rules. Any
17 instance that we can go directly to MWBE for
18 contracts under a million, unbundling our other
19 contracts to create that value, or increase our goals
20 on prime contracts, we take every opportunity to
21 increase MWBE utilization.

22 CHAIRPERSON UNG: Okay. But in 2023, is there a
23 number for that?

2 MR. GOFMAN: So currently, for 2023, we spent--
3 we've contracted around \$19.6 million with MWBEs, and
4 total contracts allocated currently is \$74 million.

5 So back to what you were saying originally: Is
6 there any contracting issues with MWBEs, that you
7 could-- you know, through the contracting process,
8 that you have noticed that could be done better?

9 MR. GOFMAN: So for DCAS generally, a lot of our
10 contracts are based on citywide needs, as our
11 citywide procurement team procures for all agencies
12 to utilize a contract. During-- Back in January,
13 when the MWBE discretionary method went up to
14 \$1,000,000, we delegated our charter authority back
15 to the agencies to allow them to procure goods up to
16 a \$1,000,000, where it used to be \$100,000. So DCAS,
17 when it does its own procurement, is typically where
18 it goes over that million-dollar threshold where we
19 can't utilize the MWBE discretionary method. And
20 then we do it as Competitive Sealed Bids, with the
21 bid being-- the lowest bid being the awarded vendor
22 who is responsible.

23 There are instances that we use other criterias
24 to increase MWBE utilization. So with bids, we do
25 best values. We've had experience where we did our

2 electric fleet trucks, the Ford Mustangs, we did it
3 as a best value which the bids came in from an MWBE
4 vendor and a non-MWBE vendor at the same price where
5 we awarded the MWBE vendor based on the best-value
6 method. So we take every opportunity we have to
7 award MWBEs. But typically, we are doing large scale
8 procurements where we can't utilize these
9 discretionary methods, or micro-purchase methods, and
10 it comes in as the lowest most responsible bidder.

11 And if I can just add, I know you specifically
12 mentioned about challenges. So some of the
13 challenges that we've noticed while working with
14 MWBEs is that in some cases, individuals or vendors
15 don't know what it means to do business with the
16 city.

17 And so one of the things that the team has done,
18 they put together those networking sessions that we
19 mentioned where they will understand some of the
20 reporting requirements and working with the city, the
21 invoicing requirements. And we also partnered with
22 MOCS, Mayor's Office of Contract Services to host
23 information sessions to really train vendors on how
24 to use the PASSPort system, since all invoicing and
25 contracting is done through that system. But also,

2 when we have larger contracts, we've taken an active
3 role-- a proactive role in the bundling those
4 contracts, meaning that we're just not sending out
5 that RFP for large vendor to come in, we take a look
6 at the current market. And we conduct an analysis to
7 see if there's actually capacity with registered
8 MWBEs. And as a result of that analysis, we debundle
9 that contract, and make certain awards more
10 appropriate for a smaller business to take on, so
11 they can gain that experience in working with the
12 city.

13 CHAIRPERSON UNG: Thank you. What are the normal
14 MWBE contracts with DCAS?

15 MR. GOFMAN: So we-- we procure everything from
16 construction, building maintenance-- building
17 maintenance-- our Facilities Management Group is one
18 of our higher volumes in contracting. We have--
19 We've been working on energy management also to try
20 to get MWBEs in there. We're working currently on a
21 security guard contract where we're cutting out and
22 creating a MWBE-only, pre-qualified list where only
23 MWBEs will be solicited to-- to win the security
24 guard contracts under a million. So we do almost
25 every type of procurement method outside of Human

2 Services. So it's construction, building
3 maintenance, energy sector training. We have MWBE
4 availability, and we have contracted with MWBE in all
5 these sectors.

6 CHAIRPERSON UNG: Thank you. Now I want to move
7 to a couple of questions about the civil service
8 exam. So according to the PMMR, during the first
9 four months of fiscal 2023, the number of civil
10 service exams open for filing was 13% lower than the
11 same period in fiscal 2022. And DCAS attribute this
12 to a decrease of the types of exam offered.

13 And for one, I do have to ask about the job
14 opportunity specialists exam in February. I believe
15 this exam was cancelled?

16 COMMISSIONER PINNOCK: So the exam was postponed.
17 And I'll start off-- and you know, I have my deputy
18 commissioner here, Barbara Dannenberg, to fill in any
19 details.

20 So that particular exam along with eligibility
21 specialists, they were postponed, and that was done
22 in consultation with the agency, the highest within
23 that title. The reason was, is because we wanted to
24 give the opportunity for that agency to hire very
25 quickly into those roles. And then we would have an

2 opportunity then to create that exam, after people
3 have already received requisite training and started
4 the work.

5 So they've not been canceled. They will appear
6 on the schedule. We just wanted to give them some
7 bandwidth and some time to the agency to actually
8 recruit and hire into those roles to address
9 immediate needs.

10 In terms of the decrease that you see in the
11 PMMR, our response was tied to the hiring needs of
12 New York City. So when we put together our exams
13 calendar, every year, we canvas agencies to figure
14 out what their hiring need is. So they could have
15 100 vacancies and job opportunity specialists, they
16 could say, you know, "I need five probation
17 officers."

18 And so our list generally reflects the demands of
19 our clients, and that would be our city agencies. At
20 that time, there had been hiring that it slowed. So
21 the need for those particular exams wasn't necessary,
22 because we had other lists readily available for
23 agencies to use for hiring.

24

25

2 CHAIRPERSON UNG: So just to be clear, the reason
3 is not because you-- DCAS lacked resources to add
4 additional applications?

5 CHAIRPERSON UNG: So the resource issue is real.
6 But the fact that we were able to delay certain
7 exams, it actually allowed us to shift resources. So
8 over this period, we also had to conduct really large
9 scale exams for our uniformed partners. So
10 specifically for a Sergeant and Lieutenant. Sergeant
11 alone, I think has 10,000 test takers. And so we had
12 to rent an external space in order to administer that
13 exam over one to two days. And so it allowed us to
14 shift existing resources to address those other
15 exams.

16 CHAIRPERSON UNG: Okay, thank you.

17 COMMISSIONER PINNOCK: Thank you.

18 CHAIRPERSON UNG: And I have a last question
19 about the renewable energy deal. So last year, DCAS
20 played a role in securing a deal, the New York State
21 Energy Research and Development to power city
22 government operations using 100% renewable energy by
23 2025. So what does that really mean when it says,
24 "operation be powered by 100% renewable energy by
25 2025?"

2 COMMISSIONER PINNOCK: I'm going to forward that
3 question to Brian Chang, our assistant commissioner
4 for supply.

5 MR. CHANG: Yes, and thank you for that question.
6 So what do we mean by 100% renewable energy supply is
7 that when these two transformative transmission lines
8 are fully up and constructed and providing clean
9 energy directly to the city of New York, it will
10 essentially allow us to power 100% of city operations
11 within our current purview through renewable energy
12 sources directly.

13 CHAIRPERSON UNG: Well 2025 is around the corner.
14 So how is-- what is the status update of this
15 agreement? It's been one year.

16 MR. CHANG: Of course, and I'm happy to announce
17 our progress on these two lines that we've achieved
18 since the Committee met last year. For, excuse me--
19 for one of the lines with Champlain Hudson Power
20 Express, the construction broke ground in November of
21 last year. The other second line, Clean Path New
22 York, is projected to break ground next year. And in
23 both cases, all-- both lines are expected, or
24 projected to have operations by fiscal year 26.

25 CHAIRPERSON UNG: Okay, so a little bit behind.

2 MR. CHANGE: Uh, well, I think that-- the figure
3 I believe you noted earlier was calendar 2025. I was
4 just noting that the-- the full projected timeline
5 for both projects are expected to come through the
6 fiscal year. So I think we're still close, but not--

7 CHAIRPERSON UNG: Okay, thank you. I believe
8 that Councilmember Restler has a few questions.

9 COUNCILMEMBER RESTLER: Thank you so much, Chair.
10 I didn't realize that you were already ready for me.
11 It is good to see you, Commissioner.

12 COMMISSIONER PINNOCK: Same here.

13 COUNCILMEMBER RESTLER: Truly, I am one of your
14 big, big, big fans. And you have a great team at
15 DCAS. Shanna, especially, it's good to see you, and
16 everybody here, many of whom I've had the privilege
17 of working with over the years. I think that Mayor
18 Adams made the absolute best choice in his DCAS
19 Commissioner. So I'm happy to get a chance to engage
20 a little bit today.

21 I've been a bit of a broken record at every other
22 oversight hearing that we've been having during the
23 preliminary budget process, where I've been fixated
24 on the dramatic decline that we've experienced in the
25 city workforce, which is now under 300,000 people for

2 the first time since I believe 2015, the beginning of
3 the de Blasio administration. We haven't seen such a
4 steep decline in the workforce since the recession in
5 the early 90s.

6 It is very concerning. And we see the real
7 impact it's having on the processing of SNAP and cash
8 assistance benefits, the installation of bike and bus
9 lanes, the planting of trees. Across the board, when
10 you look at the PMMR His fiscal year, we are seeing
11 agencies fail to achieve their objectives because
12 they don't have the staff.

13 And so just first off, I know that the hiring
14 halls, I think, we're your innovation. I appreciate
15 the leadership that DCAS has demonstrated there in
16 partnership with DC 37. And I'm pleased to see those
17 taking off.

18 When do we think we'll be able to fill the 25,000
19 vacancies that kind of permeate city government?
20 When do we expect to fill them by at-- from your
21 vantage point? Is this something that we can look
22 to? Do we have a timeline for how we're going to
23 properly and fully staff up city government?

24 COMMISSIONER PINNOCK: So we absolutely have a
25 plan, and apologies in advance because our plan is

2 pretty comprehensive, but I will try to be brief in
3 the interest of time.

4 But I do want to go back just to provide a bit of
5 context: Certainly the city is experiencing a
6 staffing shortage, as you know, as folks are, you
7 know, similarly nationwide. And as it's taken time
8 for us to get here, part of our approach is really
9 taking the time in order to making sure that we are
10 fortifying the city's workforce but also building a
11 pipeline. Because if we're just, you know, being
12 short sighted and hiring into these roles, and we're
13 not thinking about what it takes to recruit people,
14 where to recruit them, and thinking about what to
15 retain them, we're actually going to be in a very
16 similar position very soon. So in terms of a
17 specific timeline, to say when we think we'd fill all
18 23,000 vacancies, I don't have that for you today.
19 However, I can say that we are on what we're calling
20 a "four-month sprint" to see how much of a dent we
21 can make in our vacancies between now and the end of
22 this fiscal year.

23 So that sprint involves quite a few things: the
24 hiring halls, certainly that will continue, we will
25 not be hosting just one of them per month. In

2 February-- excuse me in April, we will be hosting
3 four borough-based events. And part of that is also
4 targeting those titles, where we have the greatest
5 number of vacancies, and those that place the
6 greatest amount of risk to city operation and to
7 services to New Yorkers. So for instance, we have a
8 hiring hall this Saturday in Queens at Borough Hall,
9 and we are focusing primarily on social services
10 titles. So when we're thinking about the risks
11 presented to DSS, we're covering the caseworker, the
12 case manager, the job opportunity specialist, the
13 eligibility specialists, to give them an opportunity
14 to welcome job seekers and to conduct interviews on
15 site and hire on site. And I'm sure you know this,
16 we generally take quite a bit of time before making a
17 job offer, and we're creating a space for people can
18 do that day of an interview. And so we're doing
19 those for a month between now and the end of the
20 fiscal year. We certainly think will make a dent.

21 On a parallel track. We are also a meeting with
22 folks who have been identified as recruitment czars
23 in their agencies. So essentially, that is the
24 person who works within the agency to identify a
25 hiring goal. Because from our perspective, we can

2 have all these events, and you can have an agency
3 specific event, but if you don't have a goal in mind,
4 then you're just you know, operating aimlessly,
5 frankly.

6 So before every event, an agency has to submit a
7 goal. And at the end of the event, we want to know
8 what the disposition was: Namely, how many offers
9 you made, how many interviews you've conducted, et
10 cetera.

11 And I just have one more thing specifically
12 around retention. So we've also convened working
13 groups with agencies to look at our pre-hire process,
14 because I know that there are a host of concerns that
15 people have about how long it takes for them to get a
16 job with the city of New York, but also looking at
17 the onboarding process. So we can try to have a
18 standardized experience, regardless of the agency
19 someone is hired into. So we are really emphasizing
20 to all agencies that we are one employer. And so the
21 experiences somebody would have when they work at
22 DCAS should be the same experience they have when
23 they go to the Department of Health. And I'm also
24 happy to share with you other aspects of this sprint
25 as well.

2 COUNCILMEMBER RESTLER: I appreciate all of that.
3 It's good to hear, and it's helpful, and I really-- I
4 respect and-- and know the depth of expertise that
5 you have around human capital issues and human
6 resources issues.

7 But I do just want to say-- I do-- my critique
8 here is primarily of the mayor and OMB. When you
9 look at the discrepancies of a 6% NYPD vacancy rate
10 versus the nearly 20% DSS vacancy rate, or the low
11 vacancy rates of the non-mayoral agencies versus the
12 18% DOB vacancy rate, in addition to the 11% of
13 positions that have already been eliminated, there
14 are serious discrepancies across agencies that to me
15 are an indication of deliberate policies by the mayor
16 and OMB to achieve savings on the-- as a-- as a
17 result of-- of preventing hiring from happening.

18 And so I just want to do-- highlight if I can,
19 Chair Ung, I know we got a long afternoon, but very,
20 very briefly. Some of the things that I'm looking
21 at, though, that are more in DCAS's control that I
22 would love to see prioritized: Bridge exams. We saw
23 a 13% reduction in exams year over year, as the Chair
24 noted. If we can expand bridge exams that allow more

2 applicants to take one test for up to 10 titles, it
3 could really help.

4 And secondly, according to my notes, we're
5 looking at 222 days as the average amount of time
6 it's taking DCAS to certify exam results. So that is
7 too long, and it is not helpful. And we've got to do
8 more that when people are applying for exams, it's
9 bridge exam, so they can apply for multiple titles,
10 and we're getting those results certified much faster
11 so that we can get the hiring process moving. Could
12 you comment on both of those? And are those part of
13 your priorities as we move forward as well?

14 COMMISSIONER PINNOCK: They absolutely are.
15 Expansion of the bridge exam, given the fact that we
16 were able to test close to 4000 tests takers in one
17 shot, covering 10 titles is certainly what we'd like
18 to do. We're actually looking at grouping job
19 categories. So as opposed to having a test that's by
20 title, if you're in an analyst series, we have an
21 analyst exam, which will cover a slew of titles, so
22 happy to share with you as we continue along that
23 process.

24 Secondly, around the 222 days, you're absolutely
25 right. While it is below the target that's outlined

2 in the MMR, what we are going to be doing is flipping
3 more of our exams to an ENE format, which is, you
4 know, a valid test taking type across municipalities,
5 but it's also far quicker. And so definitely happy
6 to share with you our progress. And I'm happy to see
7 there's alignment.

8 COUNCILMEMBER RESTLER: I appreciate it. I
9 really-- I'm pleased that you're driving this work.
10 The one thing that I would ask is that there be more
11 information sharing with the council. If-- If it
12 would be possible for DCAS to share monthly reports
13 as we do this hiring frenzy through the end of the
14 fiscal year, to try to get as many people into
15 positions as possible, so we could help support your
16 progress, any ways we can be helpful, we want to be.
17 Downtown Brooklyn would be a great place for a hiring
18 hall event, we'd love to have you.

19 COMMISSIONER PINNOCK: We're coming.

20 COUNCILMEMBER RESTLER: We're ready for you. I
21 will volunteer my good friend, Antonio. We'd love to
22 have you at Borough Hall. We want to make you-- we
23 want to host you.

24 COMMISSIONER PINNOCK: We are absolutely going to
25 Borough Hall. So thank you for that.

2 COUNCILMEMBER RESTLER: I mean, I'll call him
3 after this. But-- But seriously, we want to help.
4 So I know I'm going to get in trouble with my Chair
5 if I keep talking. I'm shutting up. But thank you
6 for the opportunity.

7 COMMISSIONER PINNOCK: Thank you.

8 CHAIRPERSON UNG: Thank you, Commissioner. And
9 you-- DCAS is actually having a event in my district
10 with high school students. I think it's great. Get
11 them above the pipeline young. Thank you for today,
12 and thank you for your patience. I know you guys
13 were ready for a bit. So I appreciate all of you
14 coming today.

15 COMMISSIONER PINNOCK: Oh, thank you. Thank you
16 so much. And we appreciate having the opportunity to
17 testify before you today.

18 CHAIRPERSON UNG: And thank you for always, you
19 know, keeping me up to date and, you know, having
20 meetings with you, with our office about you know
21 what is going on with DCAS. I appreciate that.

22 COMMISSIONER PINNOCK: Absolutely. Have a good
23 day.

24 CHAIRPERSON UNG: Now I would like to welcome
25 Corporate Counsel Sylvia Hinds-Radix, the head of the

2 Law Department to testify before this committee.

3 Thank you for testify before today's hearing.

4 The Law Department's fiscal 2024 prelim budget
5 totals \$220.9 million, including \$145.2 million in
6 personnel services funding to support that the 1523
7 budget full time positions. Today we look forward to
8 discussing the law departments operations, including
9 its hiring plans, review its fiscal 2023 Prelim
10 Mayor's Management Report, among other important
11 topics. With that, I'd like to please ask the
12 Committee Counsel to administer the oath and swear in
13 the testifying representatives.

14 COUNSEL: Please raise your right hand. Do you
15 affirm to tell the truth, the whole truth, and
16 nothing but the truth before this committee and to
17 respond honestly to council member questions?

18 ALL: I do.

19 COUNSEL: You may proceed.

20 MS. HINDS-RADIX: Distinguished members of the
21 Government Operations Committee, it is a pleasure to
22 come before you to discuss the Law Department's
23 fiscal year 2024 preliminary budget. I'm joined by
24 First Assistant Corporation Counsel Muriel Goode-
25 Trufant, Managing Attorney Eric Eichenhost, and Chief

2 of Administration Jenny Nagel. The Law Department
3 represents the city, the Mayor, the City Council,
4 other elected officials, and the city's agencies in
5 all affirmative and defensive civil litigation.

6 As a prosecuting agency, the department brings
7 proceedings in family court alleging violations of
8 criminal laws and represent the people of the state
9 of New York in proceedings filed in criminal court to
10 enforce the city's Administrative Code. Law
11 Department attorneys draft and review local and state
12 legislation, real estate leases, procurement
13 contracts and financial instruments for the sale of
14 municipal bonds. The department also provides legal
15 counsel to city officials on a wide range of issues
16 such as civil rights, education, intellectual
17 property, land use, and environmental policy.

18 The department's work embraces all city entities
19 and operations. Our impact is tremendous. The
20 department currently has onboard approximately 730
21 assistant cooperation counsels and 635 legal support
22 professionals. We are proud to be a diversity,
23 equity, and inclusion leader in the legal profession.
24 With approximately 30% of our lawyers ethnically
25 diverse, and 59% women.

2 The Law Department plays an important role in
3 enhancing the city's fiscal strength and advocating
4 for the public good. Notably, our affirmative
5 litigation division has already recovered some \$37
6 million for the city and city entities this fiscal
7 year, and we anticipate recovering approximately \$6
8 million more by the end of the fiscal year. This
9 includes monetary recoveries for unpaid cigarette
10 taxes, property damages, social services
11 overpayments, judgment collection activities, breach
12 of contract, trademark infringement, design and
13 construction litigation, among other things.

14 In addition to these recoveries, we continue to
15 reach large settlements from the ongoing litigation
16 against the manufacturers and distributors of
17 opioids. As you may be aware, the city, along with
18 other states, including New York, and other counties
19 and cities throughout the US, brought claims against
20 manufacturers, and distributors, and marketers of
21 prescription opioid products. The city has received
22 more than \$10 million from settlements from these
23 lawsuits since January of this year alone.

24 As we reach settlement with other manufacturers,
25 the amount received by the city will continue to

2 grow. For example, this past January, the city in
3 connection with the state and other localities in New
4 York, settle with another large opioid manufacturer
5 that will result in the city receiving a total of \$80
6 million over the duration of the settlement.

7 In addition to these financial recoveries. Our
8 affirmative litigation division continues to pursue
9 civil enforcement actions to protect city residents,
10 including our successful litigation for injunctive
11 relief, preventing ghost gun manufacturers from
12 selling those dangerous guns into New York City. We
13 also anticipate saving a significant amount of payout
14 from the judgment and claims fund through our
15 continuing activity to compel insurance companies to
16 defend and indemnify the city. In these cases, our
17 tort affirmative litigation divisions are enforcing
18 coverage for lawsuits arising out of the work
19 performed by private contractors and permittees.

20 Every case the insurance companies step up to
21 defend is a case that does not have to be defended by
22 city attorneys, thus saving enormous legal resources.
23 Settlements and judgments paid by insurers in cases
24 falling within the policy coverage also saved the
25 city substantial sums. Since the start of the

1 project in 1990, we have saved the city almost half
2 \$2.5 billion.
3

4 Another example of law department efforts that
5 result in cost savings is the work of our torts
6 division risk management unit that works with all
7 city agencies to mitigate or eliminate risk to city
8 residents, both short term and identifying dangerous
9 conditions that can be remediated quickly, and long
10 term by identifying agency operations are practices
11 that are often the subject of litigation to discuss
12 possible changes.

13 The Risk Management Unit meets regularly with
14 city agencies to discuss the matters that are
15 frequently the subject of litigation, to strategize
16 about possible changes to mitigate risk. A further
17 example is our commercial and real estate litigation
18 division, which defends the city and a wide range of
19 contractual disputes.

20 These disputes include three categories of
21 agreements, contracts with private companies to build
22 and repairs as the city's infrastructure, leases have
23 important public properties and contracts for all
24 types of goods and services. These claims are
25 largely based upon negotiated terms of pre-existing

2 agreements, and typically involve significant
3 exposure to the city.

4 In fiscal 22 the division saved the city more
5 than \$32 million by reserving \$138 million in claims
6 for just under \$106 million, and is on pace to exceed
7 that amount this fiscal year.

8 Similarly, our tax assessments protected almost
9 \$62 million in property tax receipts in the fiscal
10 year of 22, and more than \$37 million during the
11 first year of 23.

12 The law department continues this excellent work
13 at a time of great challenge. As we continue to
14 emerge from the COVID-19 pandemic, we have seen a
15 dramatic increase in our new filings. These new
16 filings are part of an increased workload caused by a
17 growing return to in-person court appearances and
18 trials, and a substantial decrease in resources at
19 our disposal. As you are likely familiar, our office
20 works side by side with counsel attorneys, crafting
21 local laws, and then defending those laws if and when
22 they are challenged. To name just a few, over the
23 last year, we have collaborated in our defense of
24 local laws, providing relief and protection to hotel
25 employees, capping delivery app service fees, and

2 laws prohibiting discrimination based on sexual and
3 reproductive health decisions. This work was in
4 addition to our effort to defend the city and its
5 employees in litigation in more than 62,000 cases.

6 During the pandemic, we have experienced an
7 increase in pending cases, particularly in our
8 largest division, tort. In tort there are now more
9 than 28,000 cases 2000 More than a year ago, and 4000
10 more than two years ago. Included in this number are
11 COVID-19 related cases, newly filed Child Victim Act
12 cases, as well as long standing cases for which trial
13 dates and hundreds of cases in state court have been
14 delayed by the pandemic, and for which the court
15 system is now working to move forward.

16 Pre-pandemic, we were able, with the assistance
17 of the City Council to add resources to the tort
18 division, which enabled us to improve case outcomes
19 throughout increasing early settlements, engaging in
20 better case preparation, and enhancing our state
21 court trial practice. We have experienced a total
22 erosion of those resources these past two years, and
23 we'll need to focus on existing resources on handling
24 the increased caseload.

2 We will continue to pursue innovative strategies
3 to manage the workload across all our divisions in
4 the face of the increased workload and post pandemic
5 challenges, but fear that the unprecedented level of
6 attrition of ACCs and support professionals may
7 output outpace our mitigation efforts.

8 All the work of the Family Court division is
9 geared towards strengthening families and
10 communities. Its mission is twofold through juvenile
11 justice and interstate child support, we are the
12 presentment agencies in all juvenile justice and
13 adolescent offender cases referred to the city's
14 family courts. Under the rehabilitative mandate of
15 the Family Court Act, the family courts division must
16 work to achieve outcomes that serve the needs of each
17 individual youth brought before the court, while at
18 the same time protecting the interest of crime
19 victims and ensuring the safety of the community at
20 large. However, these matters require resources
21 similar to those prosecutorial agencies, such as our
22 district attorneys.

23 Our family court attorneys work in approximately
24 30 locations 24 hours a day, seven days a week,
25 including nights, weekends, and holidays. The amount

1 of serious matters handled by this division continues
2 to rise. New York City continues to experience a
3 significant increase in violence around firearm
4 cases. The number of firearm cases handled by that
5 division is at its all time high and it has increased
6 exponentially over the past three years. Where
7 referral of zero or one homicide was the norm of the
8 division and prior five years in 2022, eight
9 homicides were referred and investigated to our
10 staff. In 2017, the Division handled 39 firearm
11 cases citywide. In 2022 384 for cases were referred
12 and investigated by our family court division.

14 Despite the increased complexities of cases and
15 challenges regarding evolving technology and
16 attrition, with the exception of the first year of
17 the pandemic in 2020, this division has maintained a
18 conviction rate of over 70%.

19 The goal for youth and juvenile justice is to
20 identify strengths as well as the resources and
21 opportunities to foster success in the community. To
22 do so, our staff members are dedicated to outreach
23 across the five boroughs, attending events in schools
24 and in communities in order for us to meet and
25 support all those who may need our assistance. In

2 juvenile justice proceedings, the law requires
3 determination that balances the needs of the youth
4 and the community's safety.

5 The vast majority of our cases in the division
6 result in community-based outcomes, including
7 diversion and restorative justice. Despite the
8 continued difficulties presented by the pandemic, the
9 number of diversions have continued to grow.
10 Throughout all matters, we look forward to matching
11 youth, families, and impacted community members with
12 appropriate services and opportunities geared toward
13 preventing system involvement, and providing
14 rehabilitation, securing restorative services, and
15 promoting enhanced outcomes for youth, families and
16 communities in New York City.

17 Our staff is committed to a holistic approach to
18 these issues. My testimony today provides a limited
19 survey for you of the very broad and very legal work
20 performed by the law department. By keeping the
21 interest of all New Yorkers at the center of our
22 work, we can do what is right to reinforce trust in
23 government. And that is our core commitment. I
24 thank you for your support of the law department, and
25

2 I look forward to our continued collaboration. And I
3 would be happy to answer any questions that you have.

4 CHAIRPERSON UNG: Thank you for your testimony.

5 And again, apologies for the very late start.

6 Just a few questions: The prelim budget adds \$1
7 million into city funds in just fiscal 2023 for a
8 consultants hired, in relation to a litigation
9 between the city and a Hurricane Sandy contractor.
10 What-- What was his funding used for?

11 MS. HINDS-RADIX: I would refer this question to
12 Jen Nagle, our Chief of Administration.

13 MS. NAGLE: Hi there. This is a case associated
14 with the city's Build It Back program. And there was
15 a large amount of backup that had to be reviewed in
16 very short discovery time. So the purpose of this
17 contractor was to assist with the review of this
18 documentation. The discovery period has ended. It
19 ended in January. So that's why it's just one year.

20 CHAIRPERSON UNG: Okay. Perfect. You answered
21 that question. About the positions and pay levels,
22 because I know, like, all across New York City,
23 every-- and especially the law department, there's a
24 need to hire more attorneys. So what are the party

2 positions that our law department is most focused on
3 hiring right now?

4 MS. HINDS-RADIX: Well, in the Law Department we
5 actually are focused on getting into our headcount.
6 You realize that in the documentation that we've
7 given to you that our torts department took a big
8 hit. It is-- We have 28,000 outstanding cases in
9 torts. Obviously, that is one-- a focus of ours,
10 also in our family court division, that's also a
11 significant focus for us. But we want to be able to
12 maintain a-- the headcount across the board in the
13 department, and we're working towards that.

14 CHAIRPERSON UNG: And has the law department
15 taken a look at the valuation of current salary
16 levels, and the potential increases for these
17 positions to improve hiring and retention?

18 MS. HINDS-RADIX: Yeah, we-- We are quite aware
19 of the fact that we have not remained competitive.

20 CHAIRPERSON UNG: Okay.

21 MS. HINDS-RADIX: Uh, you know, we've seen
22 attrition. One of one of the factors is that our
23 salaries are not competitive. And we have been
24 discussing it with OMB, and we've been taking a look
25 at our salary structure. You know, we-- There are

2 people who are leaving us, who are going to areas
3 that-- Historically we were-- we were the creme-de-
4 la-creme. And so those things are significant to us.

5 CHAIRPERSON UNG: So briefly what is right now
6 the salary structure? What would be a, you know, an
7 attorney coming in? You know, I assume it's based on
8 the years of experience?

9 MS. HINDS-RADIX: Well, yes. And then there is a
10 starting salary. And-- and we can provide you with
11 that. There's a starting salary and the gradations
12 that we have after-- after a year after an attorney
13 passes the bar, but our starting salary right now is
14 \$73.5.

15 CHAIRPERSON UNG: I see. Thank you. I'm also an
16 attorney myself in my past life. And I, you know, I
17 do know how, you know, how important is, you know,
18 someone who thinks it's important to work for New
19 York City, but it needs to be something that, as you
20 just said, it should be comparable. Not as
21 comparable to private, I understand that, but
22 comparable enough where they do want to work in, in
23 the law department. Which I actually know many
24 friends who have many great starts from the Law
25 Department.

2 MS. HINDS-RADIX: Right. And you know, we
3 actually train our attorneys well. They get a
4 significant amount of training from us until, you
5 know, we feel that when-- when they move on-- to

6 CHAIRPERSON UNG: They do. They move on to like
7 really great legal-- private legal practices,
8 actually.

9 MS. HINDS-RADIX: Yeah.

10 CHAIRPERSON UNG: And just a question about the
11 payouts for judgments and claims. So according to
12 PMMR, the payouts made for judgment claims from
13 fiscal 2022 was \$794.7 million, which is considerably
14 higher than the \$623.2 million in fiscal 2020, and
15 the \$576 million in fiscal 2021? Any-- Any reasons
16 why there was an increase, and it doesn't relate to
17 any large, particular large payout?

18 MS. HINDS-RADIX: All right. Muriel will answer
19 that.

20 MS. GOODE-TRUFANT: Yes. Thank you. There are
21 certain large payouts that occurred in fiscal year
22 22. Some of them were related to reverse conviction
23 cases. And so just a few of those large settlements
24 caused the amount of judgment and claims to increase
25 significantly.

2 CHAIRPERSON UNG: Okay, thank you. What is the
3 budget for payout for fiscal 2023?

4 MS. GOODE-TRUFANT: The budget for judgment and
5 claims is a question for the Office of Management and
6 Budget.

7 CHAIRPERSON UNG: Okay. And lastly, what steps
8 has the law department taken to reduce the judgment
9 and claims expenditure?

10 MS. GOODE-TRUFANT: We look to settle cases early
11 where we can. We also look to investigate as
12 thoroughly as we can, because by being prepared
13 litigants, we are able to limit our liability.

14 CHAIRPERSON UNG: Okay. Just one last question.
15 Would it be helpful to have more attorneys in the law
16 department?

17 MS. HINDS-RADIX: Well, it's always helpful to
18 have more attorneys in the Law Department.
19 Absolutely. There-- there's a lot of work there to
20 do. We um-- we are also having these discussions
21 with OMB about-- about having more attorneys and
22 replacing full-time positions. And that's been an
23 ongoing discussion that we're having.

24

25

2 CHAIRPERSON UNG: Thank you, I believe now all
3 the councilmembers here have a few questions. So I'm
4 going to first start with Councilmember Schulman.

5 COUNCILMEMBER SCHULMAN: Thank you very much, and
6 thank you for coming today. I have not had
7 interaction with the Law Department, but-- directly
8 at least. I used to work at Health+Hospitals. So
9 I'm going to talk to you, particularly Woodhull
10 Hospital. So I'm going to talk to you about
11 settlements.

12 How have the reduced staffing levels that
13 department impacted the quest of settlements? And
14 I'm also going to ask-- Well, anyway, answer that
15 first, and then I'll go into the rest of it.

16 MS. HINDS-RADIX: Yeah. Settlements-- There are
17 a lot of different pieces to settlements. Of course,
18 less-- fewer people to work will impact in any area.
19 However, the law department-- we've been quite
20 resilient and we have we have made sure that we have
21 done whatever triage we've had to in order to ensure
22 that we protect the city's interests. And that you
23 know, we-- fortunately have dedicated people at the
24 law department who are really committed to the work
25 that they do. That has caused us to have-- to do

2 more with less. But we have been able to ensure that
3 we have been protecting the interests of the study.

4 COUNCILMEMBER SCHULMAN: Thank you. Have
5 settlements increased or decreased over the last
6 year?

7 MS. HINDS-RADIX: Well, there has been an
8 increase in settlements for-- for several reasons.
9 One of them is the fact that we've-- we've just come
10 out of COVID. There were those court cases that were
11 quiet, that or now not so because the court is, is--
12 has revamped and is moving more quickly with-- with
13 some of these things. So those are a lot of factors
14 that have to increased what we've had here with--
15 with our...

16 COUNCILMEMBER SCHULMAN: So-- so many years ago,
17 there was a philosophy, particularly in terms of
18 malpractice cases, that the Law Department would
19 fight everything and then that changed over the years
20 to let's see if we could settle. So what I'm going
21 to ask you is: Do you know how much money last year
22 was paid out in settlements from H+H?

23 MS. GOODE-TRUFANT: In the area of medical
24 malpractice, H+H handles its own cases, not the Law
25 Department.

2 COUNCILMEMBER SCHULMAN: Okay. Interesting.

3 Okay. And so that money-- So that money doesn't
4 come into the general fund?

5 MS. GOODE-TRUFANT: It is a part of judgment and
6 claims, but it's not a contribution that comes from
7 the Law Department's work.

8 COUNCILMEMBER SCHULMAN: Okay, but it does-- but
9 city funds are paid for those settlements?

10 MS. GOODE-TRUFANT: Yes.

11 COUNCILMEMBER SCHULMAN: Okay. Got it. Is the
12 law department pushing for the reinstatement of any
13 of the vacant reduction-- vacancy reductions in terms
14 of staffing and settlements?

15 MS. HINDS-RADIX: Yes, we are. And as recently
16 as last week, we were successful in having a new unit
17 from-- we had a discussion with OMB, and we were able
18 to get a new ethics division, a division that will
19 protect our ethical interests within, not only just
20 the Law Department, but all the city agencies. And
21 so we-- we continue to evaluate. We've been looking
22 at our the build-out of our risk department, and
23 that's an ongoing-- ongoing discussion, and we hope
24 to be able to hear about that very shortly. But yes.

2 COUNCILMEMBER SCHULMAN: Okay. Thank you very
3 much. That's all I have to ask.

4 CHAIRPERSON UNG: Thank you. Councilmember
5 Restler?

6 COUNCILMEMBER RESTLER: Thank you Chair Ung, and
7 it is good to see you, Judge, and all of the fine
8 folks from the Law Department. Thank you for joining
9 us today. Just-- I appreciate that both my
10 colleagues have emphasized, or wanted to talk about
11 settlements today.

12 I'm particularly concerned about PD settlements.
13 And I think we saw the number this year go up to \$121
14 million. And, you know, the recent article in New
15 York Mag about the Ashanti Case, and the mentality of
16 the Law Department to fight tooth and nail, again, in
17 defense of police abuse-- alleged police abuse and
18 misconduct.

19 And I found it really troubling. And I'm
20 concerned about the approach of the Law Department
21 over many years -- Not-- You've-- You've only been
22 there for a relatively short time -- but I wanted to
23 get an understanding why we're seeing such a major
24 increase in police settlements, and if there's a
25 shift in strategy or approach from the Law Department

2 that could have a beneficial effect on improving
3 police-- NYPD's approaches toward community
4 relations.

5 MS. HINDS-RADIX: Well, you know-- Thank you for
6 the question, Councilmember. I-- You know, I
7 disagree with you on the characterization from that
8 article, right? Because the law department's role is
9 to ensure that it protects the city. I would-- I
10 would always have to have a question with that
11 because as attorneys, we have an ethical obligation
12 as officers of the court to ensure that what we--
13 what we present to the court is not frivolous. And
14 so to suggest that the law department just fights, as
15 that-- as that article does, and-- and does that
16 without evaluating what is before us is something
17 that I would have to disagree with vociferously.

18 We find, and we regularly have discussions with
19 the police department and our agencies. We have
20 discussions about the risks of certain behavior, and--
21 - and how it should be approached with reference to
22 how it would affect the city. We do-- And we provide
23 the guidance that is supposed to be provided.

24

25

2 When we-- when we see cases that have to be
3 resolved, we also understand that we-- that lives of
4 citizens are involved here, too.

5 So that is a part of the evaluation that we make
6 as-- as we do that.

7 And-- And an overwhelming majority of the cases
8 that we do, we realize that the-- the defense of the
9 police department is defensible. And so we have--
10 since we have the obligation to defend those things,
11 we do. And the cases that need to be settled, we
12 evaluate them and we settle them.

13 COUNCILMEMBER RESTLER: I appreciate your
14 perspective, and I certainly have great admiration
15 for police officers who put their lives on the line
16 every day defending the people of New York City,
17 keeping our neighborhoods safe. But when there is
18 police misconduct, there needs to be accountability.
19 And I do hope that your team, and the Special Fed
20 Unit in particular, will continue to take a hard and
21 critical look at cases, and when there has been
22 misconduct that we don't go to the mat defending it,
23 but instead work to support and meet the needs of New
24 Yorkers who have been victimized.

2 MS. HINDS-RADIX: That is clearly our intent,
3 Councilmember, to ensure-- to ensure that we-- as we
4 go to protect the city, that we do it in an ethical
5 manner, and we will we will continue to do that.

6 COUNCILMEMBER RESTLER: I appreciate that. I
7 just-- If I can sneak in two other quick questions.
8 Judge, are you advising? Should I be calling you
9 Court Counsel? I don't know what the right-- can I
10 go with Judge? Is that okay?

11 MS. HINDS-RADIX: Yes, you can go with Judge.

12 COUNCILMEMBER RESTLER: Thank you very much.
13 That's how I've always known you. I don't know if I
14 can change it by tribe. So Judge Hinds-Radix, if--
15 are you advising the mayor on the timeline to close
16 Rikers Island? Is your understanding that-- that all
17 jails on Rikers Island must close by August 31, 2027?

18 MS. HINDS-RADIX: I am acutely aware of the--
19 what the law says, and I-- and I will not discuss the
20 advice that I'm giving to a client. I wouldn't tell
21 the Mayor what I would tell to the City Council. And
22 so I will-- I will just punt that one. And tell you
23 that I--

24 COUNCILMEMBER RESTLER: I like you too much to
25 give you a hard time, but-- but I wish we could get

2 more of an answer out of you. Lastly, on a super
3 parochial matter, we are trying our best to get
4 Bushwick Inlet Park cleaned up. Devin Goodrich from
5 the law department has been working with us, and
6 Exxon, and Chevron and others for the city to take
7 responsibility for its portion of the cleanup. We
8 hope that the law department will be less litigious
9 and more cooperative so we can finally get our park
10 built on the Williamsburg waterfront, and look
11 forward to your collaboration in that effort.

12 MS. HINDS-RADIX: I will collaborate with you and
13 protect the interests of the city.

14 COUNCILMEMBER RESTLER: Said like a true lawyer.
15 Thank you very much.

16 MS. HINDS-RADIX: You're welcome.

17 CHAIRPERSON UNG: Thank you, Councilmember
18 Restler. I believe Councilmember Brewer has a few
19 questions too.

20 COUNCILMEMBER BREWER: Thank you. I-- I was late
21 because I had to run to an event. But I was
22 listening to your excellent presentation on my cell
23 phone. So thank you. And I also want to thank you
24 for the work you're doing on the smoke shops, and the
25 cannabis, and the nuisance. And we're all trying.

2 So far it hasn't been wildly successful. But
3 everybody's trying, and I appreciate that.

4 MS. HINDS-RADIX: Thank you. I thought
5 Councilmember Restler was going to ask me about that,
6 because he's very interested in my affirmative
7 litigation unit.

8 [LAUGHTER]

9 COUNCILMEMBER BREWER: Maybe the second round.
10 But I appreciate it. So I'm also focused on the
11 issue of trying to figure out about some of these
12 police cases. So how many lawyers and staff members
13 are there in your risk management unit? And does it
14 have sophisticated enough software to ingest claims
15 data for the city agencies, and the confidential
16 agency records about employees that the law
17 department obtains in the course of its work? I
18 just-- I don't know how many people are there, and do
19 you have the right software?

20 MS. GOODE-TRUFANT: We have a risk management
21 unit in our tort division--

22 COUNCILMEMBER BREWER: Yes.

23 MS. GOODE-TRUFANT: --which has several members.
24 But we also look at the work of risk as part of what
25 many of the department engages in, and the work that

2 they do with our client agencies. And so yes, our
3 risk unit, which is small but mighty, is-- does it
4 all-- all the time, but all of us share part of that
5 workload.

6 COUNCILMEMBER BREWER: Okay. And how about the
7 software?

8 MS. GOODE-TRUFANT: If Councilmember would share
9 which particular types of software that we should...

10 COUNCILMEMBER BREWER: I mean, do you think it's
11 satisfactory? Do you know? Or maybe that's-- You
12 could get back to us if the staff members--

13 MS. GOODE-TRUFANT: Well, we certainly have--
14 Separate from our risk management unit, we have a
15 team of researchers that do deep dives into certain
16 issues. We have on retainer access to various
17 databases. And so we-- But we're always looking to
18 learn more. So if there is something that you think
19 is state of the art, we would welcome the input.

20 COUNCILMEMBER BREWER: All right. Thank you.

21 MS. HINDS-RADIX: And just before you came, we
22 were-- One of the things we discussed was the
23 expansion of our risk unit. That is something that
24 we're currently working on.

2 COUNCILMEMBER BREWER: Right. I heard that on my
3 cell phone. Thank you. And does that unit run
4 reports to identify trends -- I think this is what
5 you're talking about -- and problematic employees?
6 And, you know, obviously, you want to make it more
7 robust, but you need more staff to do that. But is
8 that the kind of thing that they do? I assume trends
9 and problematic employees would be something that--
10 You could do that with data analytics, not to mention
11 software.

12 MS. GOODE-TRUFANT: Right.

13 MS. HINDS-RADIX: And we do that, and tell
14 agencies about the things that we've seen that are
15 problematic as we go through litigation, what we've
16 discovered, and you know, if this is how you did it,
17 and you got in trouble for it, you don't do it again.
18 We have those kinds of discussions all the time.

19 MS BREWER: Okay. I think the law department has
20 stepped up its defense of civil rights claims against
21 law enforcement -- I'm sure you know, what we're
22 talking about -- treating more and more as "no pay"
23 in an effort to bring down settlement costs. And I'm
24 just wondering-- I think you have a good leading
25 person, and I'm wondering if the approach that is

2 being taken by, I think, Pat Miller, is that the one
3 that the police misconduct litigation is following?

4 Is it something that you're-- Because everybody's
5 trying to figure out, and I'd be I happen to be very
6 supportive of the police department, but you have bad
7 apples like you've got bad elected officials. And
8 the question is not to have them cost the city of New
9 York a fortune.

10 So I'm just wondering how you're dealing with
11 the-- the no-pay effort?

12 MS. HINDS-RADIX: Well, that has not been-- That
13 has not been our approach, just a no pay effort,
14 what-- and I think the statistical data would bear
15 that out. What we do is we-- As litigators, we look,
16 and we take cases while on a case by case basis. We
17 try to evaluate them to see where they are, where
18 they are in our to benefit to us to litigate. And if
19 there's a benefit for us to litigate, we will
20 litigate that case. There may be a distinct
21 possibility for us or a reason for us not to settle,
22 because of the evaluation of the case. And that is
23 an attorneys job. And that's the kind of work I
24 expect them to do for the city.

2 And-- And our attorneys are well aware of the
3 fact that that we expect them to go into court and
4 act ethically.

5 COUNCILMEMBER BREWER: Okay.

6 MS. HINDS-RADIX: The evaluation, and I was
7 telling Councilmember Restler before, a lot of things
8 that we see in the newspaper is-- they talk
9 evaluation of what they think it's supposed to
10 happen. But we have the city's interest to protect.
11 And we-- we try to do that every day.

12 COUNCILMEMBER BREWER: And one other quick
13 question, which is that-- So the civil rights cases,
14 are they handled in a particular unit? Or-- Because
15 I know you talked about the huge number of tort cases
16 that you're trying to address-- Or are they
17 distributed throughout? In other words, how do you
18 handle those cases? I assume that's your-- One of
19 your biggest case loads.

20 MS. HINDS-RADIX: Yeah.

21 COUNCILMEMBER BREWER: So how do you handle
22 those?

23 MS. GOODE-TRUFANT: The federal civil rights
24 cases are handled by special federal litigation.

2 There are state civil rights cases which are handled
3 by our tort division.

4 COUNCILMEMBER BREWER: The police and correction
5 are handled as you just described?

6 MS. GOODE-TRUFANT: Police and correction in
7 federal court are handled by special federal
8 litigation. In state court, they're handled by the
9 tort division with some of them handled by general
10 litigation.

11 COUNCILMEMBER BREWER: Okay, so spread out more
12 than one might think. I think that's the concern.
13 So it is spread out, those cases.

14 MS. GOODE-TRUFANT: A little bit.

15 COUNCILMEMBER BREWER: You think it should be
16 spread out a little bit more maybe?

17 MS. GOODE-TRUFANT: Not necessarily, because
18 expertise in the subject area is required.

19 COUNCILMEMBER BREWER: Okay. And then when I was
20 born president, I know that there's lots of times
21 when you can't represent the City Council, as you
22 suggested, and the borough president, for a whole
23 series of reasons, conflict of whatever.

24 So is that something that's pretty prevalent,
25 because you obviously have to hire outside counsel at

2 that point? Has that happened, maybe not in your
3 tenure, in the last year or so? But it definitely
4 happened in the past, so I just was wondering if
5 that's something that you've come up against.

6 MS. HINDS-RADIX: I haven't had it in my tenure.

7 COUNCILMEMBER BREWER: Okay. All right. Thank
8 you very much Madam Chair.

9 MS. HINDS-RADIX: Thank you.

10 CHAIRPERSON UNG: Thank you. And thank you all
11 for your hard work.

12 MS. HINDS-RADIX: Thank you very much.

13 MS. GOODE-TRUFANT: Thank you.

14 We're set when you're set

15 CHAIRPERSON UNG: Oh, perfect. Now I would like
16 to welcome Executive Director of BOE, Michael Ryan,
17 to testify before this committee. Thank you for
18 testifying before today's hearing. The BOE fiscal
19 2024 prelim budget totals \$136.7 million, including
20 \$61.1 million in personnel services, funding to
21 support the 517 budgeted full time positions. The
22 BOE is responsible for conducting all federal, state,
23 and local elections in New York City.

24 Today we look forward to discussing BOE's
25 operation, including staffing, and how it forecasts

2 its budget, among other important topics. With that,
3 I would like to ask the Committee Counsel to
4 administer the oath and swear in the testifying
5 representatives.

6 COUNSEL: Please raise your right hand. Do you
7 affirm to tell the truth, the whole truth, and
8 nothing but the truth before this committee, and to
9 respond honestly to council member questions?

10 ALL: Yes.

11 COUNSEL: You may proceed.

12 Thank you, Chair Ung, and members of the
13 Governmental Operations and Finance Committees.
14 Thank you for the opportunity to appear before you
15 today to offer testimony on behalf of the Board of
16 Elections. I am Michael Ryan. I am the Executive
17 Director. Seated to my left is the Deputy Executive
18 Director, Vincent Ignizio. And immediately to my
19 right is General Counsel Hemalee Patel, Deputy
20 General Counsel, Rafael Savino, as well as the
21 Finance Director, Gerald Sullivan.

22 As we have come to do in the past, we have pre-
23 submitted written testimony to the to the committee,
24 and we are happy to-- at this-- especially at this
25 late hour to dispense with the reading of the of the

2 testimony and proceed directly to the to the
3 entertainment portion of the proceedings, which are
4 the Council questions.

5 CHAIRPERSON UNG: Thank you, and really apologies
6 for the late start. I do have a couple of questions.
7 Certainly. The first question about the state
8 funding in fiscal 2023. I noticed there was the \$8.6
9 million state funding for fiscal 2023 and none for
10 the non city funding reflected in fiscal 2024. So
11 what is the source of the state funding in fiscal
12 2023?

13 MR. RYAN: The-- The source of that funding was a
14 tier grant. We also had \$1.5 million in a postage
15 grant. And we expect to get similar grants for this
16 coming fiscal year. However, April 1 is the
17 adoption-- targeted adoption date for the state
18 budget, and we'll have a better idea of what grant
19 packages will be available to the municipalities.
20 What usually happens is, the state gets-- either
21 establishes independently a grant package, or
22 combines it with federal funding. And then there is
23 a calculation that they do based on county size. And
24 New York City usually gets about 40%-- 42% of the
25 overall grant package.

2 CHAIRPERSON UNG: Thank you. And you do expect
3 to-- after April 1 to receive similar funding?

4 MR. RYAN: Well, I would say hopeful. Not quite
5 expect. But we're hopeful. They typically do some
6 type of grant package, and they target different
7 things in different fiscal years.

8 CHAIRPERSON UNG: Thank you.

9 MR. RYAN: Certainly.

10 CHAIRPERSON UNG: Moving quickly on to the poll
11 site interpreters and translators: How many poll
12 site interpreters or translators are typically
13 required for early voting?

14 MR. RYAN: For early voting, or for election day,
15 it really depends. That question moves from time to
16 time, and from election to election. In primary
17 elections, we may have a full citywide election, we
18 may have an election that only several of the poll
19 sites are open in each borough. It looks like this
20 particular primary election is shaping up to be
21 small. We don't see too many challenges amongst the
22 parties. But that will be completely vetted during
23 the filing process, and the post filing hearing
24 process.

1 So we don't really know. But I can tell you that
2 we service five languages: English, Spanish, Korean,
3 Chinese, and Bengali. And then we follow section 203
4 of the federal guidelines, and we assign interpreters
5 accordingly.
6

7 CHAIRPERSON UNG: What is the total budget in
8 fiscal 2023 and 24 for the poll site interpreters and
9 translators?

10 MR. RYAN: So we-- we don't kind of figure it out
11 that way. It's all a subdivision of the-- subset I
12 should say, of the poll worker budget. So the poll
13 worker budget is \$250 a poll worker, \$350 a
14 coordinator. And it's all kind of worked within
15 that. We don't have the ability to, say, pay
16 interpreters on an hourly basis. They are ultimately
17 considered to be a poll worker. The difference
18 between an interpreter and a regular poll worker,
19 though, is an interpreter needs to pass a test, and
20 does not necessarily have to be a registered
21 Republican or registered Democrat, where a normal--
22 or regular poll worker, I should say, would have to
23 be a member of either of the two major parties.
24
25

2 CHAIRPERSON UNG: Thank you. And right now,
3 there is enough interpreters available? Is there any
4 issues with that?

5 MR. RYAN: Yes. We haven't had real issues in
6 terms of the interpreters lately. In the past, we
7 had difficulties with particularly obtaining Korean
8 interpreters. And we have-- and this started really
9 before COVID. Obviously, COVID changed the dynamic a
10 little bit, or a lot. But we started targeting,
11 especially the Asian-specific languages, in a
12 different way. We found out that we weren't using
13 the-- I don't want to say "the proper way", I don't
14 know exactly the way to say it. We weren't using the
15 most effective way to communicate with the Asian-
16 language-speaking community. And we have other ways
17 of different digital platforms. Now for me to say
18 that I am fully versed in the specific Asian language
19 digital platforms: I am not. But I can tell you
20 that the efforts that we've made with our language
21 unit has brought more Korean interpreters into our
22 contact list, and we've had far less problems
23 recruiting Korean interpreters in the most recent
24 years.

2 CHAIRPERSON UNG: No, that's good to hear. There
3 is, you know, issues regarding the Asian languages.
4 Really feel free to contact my office, since I do
5 have the highest Asian population in all of New York
6 City Council.

7 MR. RYAN: We certainly will, because we're
8 always looking to stay on top of our outreach
9 efforts. And our theory is we have to spend the
10 outreach money anyway in order to do our job. So we
11 should be spending it in the most effective way
12 possible. We might think we're doing something
13 that's working very well, and then we get the
14 feedback from more specific members of the community
15 and find out that our efforts aren't as effective as
16 we'd like them to be.

17 CHAIRPERSON UNG: Thank you. Now to early
18 voting. What is the current number of planned early
19 voting sites for this upcoming June election?

20 MR. RYAN: It's one-- it's 140. If we have a
21 full citywide election, which we're not anticipating
22 for June. We'll have something less than a full
23 citywide election in June. But-- But 140. And if
24 you look, in our testimony, there is specific
25 reference to where we started in in 2019, versus

2 where we are now. In 2019, we had 61 early voting
3 locations. And now we're up to 146. I apologize.
4 We just-- In the last five minutes, because you asked
5 the question, we added another six early voting
6 locations.

7 In any event, our target-- We're at 146 now. Our
8 target is to get to 200. And we're trying to
9 continue to push forward to get to-- move from say
10 1200 election day sites to 1500 election day sites.
11 That's where we'd like to get. We think that will
12 put us in a better position.

13 However, I always have to underscore: We own no
14 poll sites. We have no absolute access to the sites.
15 Yes, we can legally designate sites. But that is
16 limited. So we're always reaching out, not only to
17 the City Council, but other governmental entities, to
18 try to assist us to make a broader base of
19 government-owned facilities available to the Board of
20 Elections for Election Day. The less private sites
21 we have to open, the less money we will spend, and
22 the more control we'll have over the facility.

23 So that is more of a plea than an answer to the
24 question. But it remains the same nonetheless.

2 CHAIRPERSON UNG: Understood. So that leads us
3 to our next question. So what factors are considered
4 when you consider a location for the voting, or
5 changing the, you know, the early voting site?

6 MR. RYAN: So when we're using purely private
7 sites, they-- Some of them that we cannot legally
8 mandate will change from election to election because
9 the site is either no longer available, or the
10 landlord does not wish to allow us to use it. And
11 then we have to move.

12 But in any event, the specific factors that we
13 have to consider for early voting-- for early voting
14 locations are laid out in the-- in the New York State
15 election law. And it involves population density, it
16 involves accessibility to-- to the public
17 transportation, and ADA compliance, and all of those
18 and all those things. But we follow the New York
19 State election law. And they were pretty specific
20 when they drafted that. And they've made some tweaks
21 to it since early voting began in 2019, as well.

22 As well as they-- What they have done is lowered
23 the population density, which means that we would
24 have more early voting locations with a lower
25 population density.

2 CHAIRPERSON UNG: Do you, just, see the turnout
3 for all the early voting locations sites? Would that
4 ever change? You know, like how you determine
5 whether or not voting-- the early voting sites should
6 be there, or should it be moved? Should it... you
7 know?

8 MR. RYAN: Well-- So we have to follow the state
9 law first and foremost. Then, if a site is not
10 getting turnout, that might be related to the site
11 itself, or it might simply be related to the voting
12 vagaries of the individual district. It's a-- it's a
13 difficult item to assess with specificity. But
14 suffice it to say, when we started early voting, we
15 started with 61 sites. We came-- Councilmember
16 Brewer was there at the time, and we were chided
17 quite loudly from different corners of the city, that
18 we weren't doing enough. And we said we-- And I'm
19 not-- And certainly Councilmember Brewer was not one
20 of them who loudly chided us (maybe privately and
21 quietly chided us), but we said at the time that our
22 plan is to get this program off the ground on short
23 notice and built. And we have built. We got to 106.
24 We thought we were doing a great job and then the
25 state law changed and now we're up to 146.

2 But our-- still the goal remains to be at 200,
3 and then take it-- and then take it from there. But
4 we're finding, the more sites that we're adding, the
5 more difficult it is to find appropriate locations.
6 And that's why we're saying, again, to you folks, we
7 need space. And we will assess and survey any
8 location that is given to us as a potential site and
9 see if it-- it fits not only our needs, but meets
10 with state legal mandates.

11 CHAIRPERSON UNG: Thank you. And just one last
12 question about early voting. In all the other
13 counties in New York State, they have early voting
14 centers where voters from any assembly district
15 within the county can vote early. We do not have
16 that in New York City. So can you explain why we do
17 not?

18 MR. RYAN: Well, I would say first, other
19 counties are not analogous to New York City. In many
20 of the counties that have voting centers, they only
21 have voting centers. Some of these counties use
22 their office for early voting. So it's not analogous
23 to New York City to say that they have voting centers
24 or not. They're making everybody go to one spot.

2 That's not necessarily, you know, helpful to the
3 voters.

4 But I want to make something very, very clear,
5 and it's getting to a point of critical mass. The
6 ballot marking devices that we use to conduct
7 elections, while they may have been good in 2007,
8 when we started to use them, they are past their
9 useful life cycle for the improvements that we want
10 to be able to make to the elections process. And the
11 biggest hurdle that we have with the ballot marking
12 devices, which is an impediment to further analysis,
13 to having voting centers, is that the memory that
14 these devices have, which are hardwired memory cards,
15 is insufficient for the audio files for the various
16 languages that we have to serve. The audio files
17 take up a lot of space on the ballot marking devices.

18 And for each ballot style that we have, and we
19 have over 4000 ballots 1000, the city of New York.
20 If you were going to have, say, in Brooklyn, which is
21 the fourth largest city in the world, if it's a
22 standalone city. If this 4000 ballot styles
23 citywide, there might be 1600 ballot styles, 1800
24 ballot styles in Brooklyn. We don't have a device
25 that will be able to accommodate the audio files for

2 all of those ballot styles. And that is a-- not only
3 is it a big impediment to early voting, I'd like to
4 take this opportunity to say, because it's such a big
5 impediment early voting, it's just kind of an
6 emblematic fact. It's also, considering that we are
7 now in 2023, and the Americans with Disabilities Act
8 was passed in 1990, and were an enacted in 1991, and
9 we're now in 2023, that we are still in New York
10 State, having our members of our accessibility
11 community voting in such a starkly different manner
12 than the way that voters vote every-- that all the
13 other voters vote, I think that is beyond a violation
14 of the spirit of the Americans with Disabilities Act.

15 And we-- we owe our accessibility community
16 voters more than we're giving them, and we at the
17 City Board of Elections don't have the independent
18 authority to move that issue forward. That's done on
19 a state level.

20 CHAIRPERSON UNG: Okay. Has there-- So speaking
21 of these new machines that's needed, has there been
22 research? What-- how much-- You know, how much are
23 these machines? How much would, you know, we would
24 need to upgrade these machines?

2 MR. RYAN: So we can't get to that point first.
3 Because there are no-- presently, although we hear
4 that are things in the hopper on the state
5 certification side. There's nothing for us to
6 consider, until the state board of elections
7 completes its certification process for new devices.
8 And until that process is completed, we keep hearing
9 dates. I don't want to testify for the state board
10 of elections. We're hoping that we'll have things,
11 new things to consider soon. And if we do, we'll
12 then come back to you guys and say, "Hey, we need
13 more money because we got these new devices."

14 CHAIRPERSON UNG: No, thank you. I think-- Yes,
15 I think the sounds you're hearing things are moving
16 in that direction, you think.

17 MR. RYAN: Yes.

18 CHAIRPERSON UNG: Okay. And please keep us up to
19 date about that.

20 MR. RYAN: Well, you guys will be the first to
21 know if-- if we need more money for new machines.

22 CHAIRPERSON UNG: I think my question about the
23 early voting sites is not to decrease them. But to
24 have a machine that if you live anywhere in the
25 district, you can actually go to that site and

2 not to go to your specific site, which I think
3 hopefully could drive up some early voting numbers.

4 So with that, I'm-- I believe Councilmember
5 Brewer has a few questions.

6 COUNCILMEMBER BREWER: Thank you. To follow up
7 on the Chair, so-- because we do want to be able to
8 vote early at different locations, and what you're
9 saying, I think, is one of the reasons we can't, is
10 because the BMDs are not available at all the
11 different sites? Why-- what is the impediment?

12 MR. RYAN: No. It's not that BMD is not
13 available. The BMDs do not-- that we presently use
14 to not have sufficient memory to accommodate the
15 needs of larger-- Consider it this way: If you're
16 taking an early voting location--

17 COUNCILMEMBER BREWER: Right.

18 MR. RYAN: --right?, and you want to say we're
19 going to take 10 assembly districts and press the 10
20 assembly districts into an early voting location,
21 you're going to need to have the ballot styles for
22 all of those assembly districts and election
23 districts.

24 COUNCILMEMBER BREWER: Got it. Okay.

2 MR. RYAN: When you have to have a ballot style
3 in the BMD, it has to have an accompanying audio
4 file, so that the audio file matches specifically
5 with that ballot style. And these machines are on
6 the very, very end-- We're already at the end of
7 life and storage, memory storage.

8 COUNCILMEMBER BREWER: I think they're at the end
9 of their life, even without the storage.

10 MR. RYAN: Correct. 100 percent.

11 COUNCILMEMBER BREWER: From all my friends who
12 tried to use them--

13 MR. RYAN: I mean, aside from the fact that they
14 made of good sturdy steel, there rest of them, you
15 know, it's time to go.

16 COUNCILMEMBER BREWER: They're at the end-- So
17 let me pretend that we-- the other counties Herkimer,
18 blah, blah, blah, they don't have that problem,
19 because they're too small, is that what you're
20 saying?

21 MR. RYAN: Well, they don't have the language
22 requirements that we have in New York City, which
23 adds to the issue. So if you have only, say, English
24 and Spanish, if that's your requirement, then you
25 only have to have two audio files.

2 COUNCILMEMBER BREWER: Okay.

3 MR. RYAN: We have locations that have upwards of
4 five audio files.

5 COUNCILMEMBER BREWER: Okay. So I'm still trying
6 to get back-- so the issue of voting in different
7 locations-- you're working downtown, you live uptown,
8 but you want to vote you can vote downtown -- the
9 challenge is mostly the BMDs? Or is there some other
10 challenge to this being able to vote anywhere on a--

11 MR. RYAN: So the challenge is mostly the BMDs.

12 COUNCILMEMBER BREWER: Okay.

13 MR. RYAN: And without a new device, we can't
14 even get to the next step of doing an analysis.

15 COUNCILMEMBER BREWER: I got it. I got it.
16 Okay.

17 MR. RYAN: And then coming to you, you know, as
18 an elected official, not necessarily in the context
19 of a hearing like this, but for us to be able to come
20 to you and say, "Hey, we got a new machine,
21 Councilmember Brewer. What do you think?" You know,
22 "How do you-- How would you envision the right way to
23 do it for your district?" And we can have those
24 conversations at a later date if we have the right
25 equipment?

2 COUNCILMEMBER BREWER: Okay. And I assume that
3 even though the State may come up with something,
4 they're not the geniuses on this topic, either.

5 MR. RYAN: They don't run elections. And I think
6 that's the challenge for the State Board of Elections
7 as well. They're trying to do a job overseeing 62
8 counties with all different needs, and they don't run
9 elections.

10 COUNCILMEMBER BREWER: Yeah, I know. But I
11 think-- Yes. So my question to you is, do you-- I
12 assume you do this, but do you work with the
13 gazillion software people in the city of New York to
14 figure out how to do what you're trying to do? Or do
15 we wait for the State to come up with something

16 MR. RYAN: The structure is that the State Board
17 of Elections has to certify devices for elections,
18 and we can't do anything unless that certification
19 endorsement has occurred.

20 COUNCILMEMBER BREWER: All right. So if-- And if
21 we don't like what they certify, we just live with
22 it?

23 MR. RYAN: Yes.

24 COUNCILMEMBER BREWER: All right. I mean, I just
25 don't know that they know more than somebody we know,

2 in the city of New York, who is good at this, but
3 I'll leave that for now. I will-- I don't-- I like
4 Mr. Kellner, but I don't think he knows anything
5 about Board of Elections, BMDs.

6 My other question is: The-- How do you like plan
7 for your budget? Because I assume when you talk
8 about real estate, you also have to pay some of these
9 private-- I know, we have to negotiate some of these
10 private enterprises, and they hold you up for money
11 in a way that is not appropriate because they're
12 supposed to be-- In my opinion, you should be
13 participating as a citizen of the city of New York
14 and letting people vote on your premises. But I know
15 that's not how they look at it.

16 MR. RYAN: Right. Prior to the passage of early
17 voting, we "asked"-- I'll say it that way. We asked
18 the state legislature to establish standards for
19 payment for the early voting locations. The
20 legislation passed, and the standards were not
21 included.

22 So where we're at with that is: We still can--
23 We still have the legal authority to designate poll
24 sites. And within that designation includes early
25 voting. But in those areas where we don't have

2 sufficient locations that we have the legal
3 designation to-- we cannot at least legally designate
4 them.

5 COUNCILMEMBER BREWER: You're-- Like a school.

6 MR. RYAN: We're then-- Yeah, like that, or other
7 government buildings, other not for profits.

8 COUNCILMEMBER BREWER: Right. That's what I
9 mean. Right.

10 MR. RYAN: We essentially-- And this is not a
11 good position to be in. But in those locations, we
12 essentially have to go hat in hand to these-- to
13 locations in the area and say we need a spot. And
14 then we end up--

15 COUNCILMEMBER BREWER: Paying them.

16 MR. RYAN: --paying for that, to the point now
17 were early voting, and the 106 early voting locations
18 that we used last election, and Election Day, are
19 mirror image in terms of cost. So we're paying as
20 much for early voting with 106 sites, as we're paying
21 for Election Day with 1200 Plus sites.

22 COUNCILMEMBER BREWER: Because you have to deal
23 with some of the private sites.

24 MR. RYAN: Correct.

25

2 COUNCILMEMBER BREWER: And I think as, you know,
3 I-- what we've always maintained that if you get a,
4 you know, J51, a 421A, as long as it exists, et
5 cetera, that you should be able to use that site
6 because they're getting their tax break. I guess
7 that has never really been accomplished.

8 MR. RYAN: Correct. But-- But you know, the
9 biggest portion of-- Well, the finances all come from
10 you guys. And I certainly think that I would be
11 happy if there was interest to work on a-- help you
12 guys with a resolution to the State, to say, "This is
13 affecting our ability to plan for our budget. And we
14 would like you to address this in the legislative
15 process." We certainly could provide you with
16 information if there was an appetite for it.

17 COUNCILMEMBER BREWER: Okay. I think there is
18 because money is tight. And we are concerned about
19 our budget. So that's certainly-- The other thing
20 that was just mentioned here, that there were more
21 complaints about poll workers than in the past, and I
22 know you do a lot of training, I'm aware of that.
23 But do you have some reason why it has-- I guess it
24 went from 480 to 256 in 21, and then 510 in 22. And

2 I just didn't know if there was some reason for that.
3 It's hard to recruit. I know.

4 MR. RYAN: Right. So some of it was COVID
5 related. There were those issues. And then the
6 other thing is when-- when turnout goes up,
7 complaints go up. And when you have more, shall we
8 say, voters that don't typically vote or new
9 registrants and you know what they're voting for, you
10 know, for the first time, or they haven't voted in a
11 while, and they're not as familiar with the process,
12 sometimes that becomes the poll workers' fault. So
13 it's a-- it's a mix of things. But we certainly work
14 on the training aspect of it as-- as best we can.
15 And when we get complaints about issues in real time,
16 we have much more of an ability to react and correct,
17 when we get the complaints post election. And with
18 the-- you know, weeks down the road, it becomes very--
19 - it becomes very hard to put Humpty Dumpty back
20 together and figure out who exactly did what.

21 COUNCILMEMBER BREWER: Okay. And then just
22 finally, locally, I've got the Riverside Community
23 Center, we walked it. We figured out that we could
24 put a very long ramp, and we want it.

25 MR. RYAN: Okay.

2 COUNCILMEMBER BREWER: I don't want to be told,
3 "No, it's too much," or blah, blah, blah. Because
4 that's where the seniors vote and they wouldn't have
5 to travel so far. And you could add it to your,
6 whatever number you're trying to get for your target.

7 MR. RYAN: Well, so when we first started--

8 COUNCILMEMBER BREWER: We spent hours walking to
9 get it--

10 MR. RYAN: When I first started here, this was
11 before the 2014 Second Circuit decision, the Board's
12 reaction to inaccessible sites was to move the site.

13 I think you're now aware that that's no longer
14 our reaction. And we now have seven-- we started out
15 with two, we now have 17 ramp installation vendors.
16 And we use the same components with all of the
17 vendors, and they have to-- if they're going to be
18 one of our vendors, they have to be willing to use
19 these-- these components.

20 So I can tell you this: If the interior of the
21 site surveys well, the exterior of the site will not
22 be an impediment. One more ramp to the mix. You
23 know, we had 600-and-something ramps last-- last
24 election. So let's say with 667, then 668 is not
25 going to be a budget breaker.

2 COUNCILMEMBER BREWER: Thank you very much.

3 MR. RYAN: We'll-- we'll take care of it. So if
4 you get me that information, and you have my contact,
5 we will get our surveyors out there, and the ramp
6 will not be an issue. I can't speak for the site
7 otherwise.

8 COUNCILMEMBER BREWER: Thank you very much.
9 Cynthia Dodi's also terrific. I just want to add
10 that. Thank you, Madam Chair.

11 MR. IGNIZIO: Councilmember, really quick on
12 that, if I-- One thing that we are trying to
13 encourage both the Council and the State Legislature
14 to look at is the ability to ensure ramps or
15 accessibility permanently, meaning a JOCs contract
16 which allows for the concrete. That way the entire
17 site can use it year round, not just during
18 elections, we don't have to spend the money to rent
19 ramps, and it ends up being a-- a benefit to the
20 community because that ramp is there, and that
21 facilities accessible throughout the entire year, not
22 just during election,

23 COUNCILMEMBER BREWER: I agree. And I will be
24 very quick: I have spent hours. The issue is, your
25 definition of ADA is different than the earlier

2 definition of ADA in a senior center. So the
3 friggin' wheelchairs can get in there, but the--
4 whatever definition you have, they don't. Even
5 though they go in every single day.

6 MR. IGNIZIO: So let's put our heads together.

7 COUNCILMEMBER BREWER: No, we tried. We tried
8 moving the wall. We tried-- You cannot imagine.
9 And it's not possible. So in this particular case,
10 there may be others, I was willing to pay for it, buy
11 the concrete, move the wall, I was willing to do
12 anything. It just can't be moved, blah, blah, blah.
13 So we're going to be stuck, if possible, with the
14 ramp, as long as the interior works.

15 MR. IGNIZIO: Right.

16 COUNCILMEMBER BREWER: Thank you.

17 MR. RYAN: And I can tell you that one of the
18 ways-- I know it's not-- not popular for some-- some
19 folks' purposes, but one of the ways that we were
20 able to put the consent order on the ADA
21 accessibility to rest, and-- and have that finally
22 closed and the court signed off on the fact that a
23 couple of years ago that we're no longer under it was
24 because we strictly adhered to the legal mandates.

2 We didn't write the legal mandates, but we have
3 to comply with them, because if we don't, what's
4 going to happen is an accessibility rights group will
5 bring another lawsuit. And we'll be back under
6 another-- another consent decree, which is not really
7 helpful to anyone. We want to work with the
8 accessibility community. And we also want to
9 appropriately accommodate the neighborhoods.

10 CHAIRPERSON UNG: Thank you. And I believe
11 Councilmember Schulman has a few questions?

12 MR. RYAN: Certainly.

13 COUNCILMEMBER SCHULMAN: Yes. Hi, how are you?

14 MR. RYAN: I'm well, thank you.

15 COUNCILMEMBER SCHULMAN: So I just want to make
16 sure I have this correct. I'm listening about the
17 early voting sites, because-- So when-- So there's
18 two-- There's two things: One is the machine-- Just
19 in general. One is the machines, and one is getting
20 an appropriate site.

21 MR. RYAN: Yes.

22 COUNCILMEMBER SCHULMAN: Correct? Okay. And
23 then you'll come back-- I'm in district 29. So I--
24 my early-- the early voting site for me, which is
25

2 Forest Hills, Rego Park, Kew Gardens, Richmond Hill
3 is not--

4 MR. RYAN: New district 29 or old district 29?

5 [LAUGHS]

6 COUNCILMEMBER SCHULMAN: The new district twenty-
7 - Well, you know, the van is not-- Let's not talk
8 about that. The VAN is not ready for the for the new
9 districts. That said, the new district is Forest
10 Hills, Kew Gardens, Richmond Hill, and a small piece
11 of Rego Park. But at any rate, there a lot of-- The
12 district has a significant number of older adults.
13 And so it's hard for them, the early voting site is
14 at Queensboro Hall, which is a little bit difficult
15 to get to. So I just want to-- when-- when all of
16 this happens, and I'm more than happy to work with
17 you on seeing what we can do with the state and
18 certainly talk to my state legislators about that.
19 So-- And we can just-- Offline we can talk about
20 what-- The details that I would need to go to them
21 with.

22 But yeah, I just want that taken into
23 consideration, because it is difficult, and I think
24 more people would vote if they-- if it was closer to
25 them.

2 MR. RYAN: So I would I would say this as well:
3 When-- When the boroughs established the early voting
4 locations, they'd look at the map of the borough, and
5 then they have to break that map up into chunks,
6 right? So they're going to assign certain districts
7 to Borough Hall. If there is another facility
8 somewhere else that's better, they might be able to
9 remove a district or two and put it in another
10 location as well.

11 COUNCILMEMBER SCHULMAN: Okay.

12 MR. RYAN: That's another potential option. So
13 if you're aware of some place that you want us to
14 take a look at, we certainly can do that.

15 COUNCILMEMBER SCHULMAN: Okay. Well, I'll circle
16 back. I'll circle back with you on that.

17 MR. RYAN: Okay.

18 COUNCILMEMBER SCHULMAN: But at any rate, is-- So
19 actually now that-- now that you brought this up, the
20 VAN: What's-- Do you have the staff needed to make
21 the changes to the list for the new districts? The
22 voter lists?

23 MR. RYAN: Yes. We actually did that already.
24 We did it-- We did it in December.

25 COUNCILMEMBER SCHULMAN: Okay, well, this--

2 MR. RYAN: And it had to be distributed in order
3 for people-- It had to be distributed before
4 petitions hit the street. Otherwise people would not
5 be able to be engaged in petitioning, which is
6 already underway.

7 COUNCILMEMBER SCHULMAN: I'm telling you, as
8 somebody who's running for re election, the VAN list,
9 we were told the state's-- that it's not updated.

10 MR. RYAN: The state?

11 COUNCILMEMBER SCHULMAN: Yep. It's not updated.

12 MR. RYAN: We're not-- respectfully, we're not
13 the state.

14 COUNCILMEMBER SCHULMAN: No. I know you're the
15 city, but I just--

16 MR. RYAN: If you need-- If you need a voter list
17 for your districts, we have them. We completed the
18 maps in December, and the voter lists are completed,
19 and we're at our front count as required by law
20 before petitions hit the street.

21 COUNCILMEMBER SCHULMAN: Fine. Well, we can we
22 can talk about that off-- But the State has advised
23 us that they are not ready yet. They don't have-- So
24 so people are paying for these lists and not getting
25

2 the-- not getting the new districts. But we're-- I'm
3 glad that you have them.

4 The poll workers: Is there any consideration
5 given to increasing their-- that what we-- what they
6 get paid?

7 MR. RYAN: The compensation?

8 COUNCILMEMBER SCHULMAN: Yeah.

9 MR. RYAN: So yes. That would be something that
10 could be completed in the state budget. There are
11 there are two ways for poll workers to get a raise.
12 One is the New York State Legislature sets a new rate
13 of pay, or two in New York City by executive order of
14 the Mayor. And the last raise was given by Mayor de
15 Blasio. We were asking for \$300 for poll workers and
16 \$400 for coordinators, and we got \$250 for poll
17 workers, and \$350 for coordinators. Half a loaf was
18 better than none. But still, that is something
19 that's within the sole purview of the Mayor, or in
20 the collective purview of the State Legislature and
21 the Governor.

22 COUNCILMEMBER SCHULMAN: With the requirement now
23 that you can register to vote up to 10 days prior to
24 the election, as opposed to 25 days. Do you have

2 this-- Do you have enough staff to process those
3 applications?

4 MR. RYAN: Yes.

5 COUNCILMEMBER SCHULMAN: Okay, great.

6 MR. RYAN: And-- And to add on to that, we will
7 be ready for the online voter registration deadline
8 in May.

9 COUNCILMEMBER SCHULMAN: No, that's great. Those
10 are all the questions that I have to ask you for the
11 moment. But thank you very much. You've-- This has
12 been very educational, actually, information.

13 MR. RYAN: Thank you.

14 CHAIRPERSON UNG: And thank you, Executive
15 Director Ryan. I look forward to those machines.

16 MR. RYAN: We do too. Thank you. Thank you,
17 Councilmember. Have a wonderful day folks.

18 CHAIRPERSON UNG: Good afternoon. I'm saving the
19 saving the best for last. I'd like to now introduce,
20 welcome Asim Rehman, the Commissioner and the Chief
21 Administrative Law Judge to testify before this
22 committee. Thank you for testifying before today's
23 hearing. The Office of Administrative Trials and
24 Hearings fiscal 2024 prelim budget totals \$62.9
25 million including \$45.3 million in personnel services

2 funding to support the 368 full time positions, and
3 the \$17.7 million for other-than-personnel services.
4 OATH the city's central independent administrative
5 law court conducting hearings for the city agencies,
6 commissions, and boards. Today we look forward to
7 discussing many aspects of OATH's operation,
8 including the management of summons received through
9 city agencies, a citywide savings program, and a
10 review of the fiscal 2023 Prelim Mayor's Management
11 Report, among other important topics.

12 With that, I like to ask the Committee Counsel to
13 administer the oath and swear in the testifying
14 representatives.

15 COUNSEL: Good afternoon. Please raise your
16 right hand. Do you affirm to tell the truth, the
17 whole truth, and nothing but the truth before this
18 committee, and respond honestly to Councilmember
19 questions?

20 ALL: I do.

21 COUNSEL: You may proceed.

22 COMMISSIONER REHMAN: Good afternoon. My name is
23 Asim Rehman, and I am the Commissioner and Chief
24 Administrative Law Judge at the New York City Office

2 of Administrative Trials and Hearings, also known as
3 OATH.

4 I'd like to start by thanking Chair Ung and the
5 members of the Committee on Governmental Operations
6 for the opportunity to testify today. And I'm joined
7 today by my colleague Brian Connell, Assistant
8 Commissioner for Financial Services and Data
9 Analytics.

10 OATH is New York City's Central independent
11 administrative law tribunal, and our mission is to
12 ensure that everyone who appears before us receives a
13 fair opportunity to be heard and a timely resolution
14 of their case. We are a high volume court. In 2022
15 alone, we processed almost 500,000 summonses, held
16 over 235,000 hearings, issued close to 2000 appeals
17 decisions, and conducted approximately 650 trials.
18 In each of these cases, we take great care to ensure
19 that every party who appears before us is treated
20 impartially and is accorded due process.

21 In today's testimony, I'll first describe the
22 successful efforts of OATH over the past year and
23 then we'll then address the budget projection for the
24 coming year.

2 In the past calendar year, the challenges caused
3 by the pandemic did not diminish OATH's ability to
4 ensure due process and fair and impartial hearings.
5 Rather, since the earliest days of the pandemic here
6 in New York City, OATH has been able to adapt its
7 practices so that we could seamlessly deliver our
8 services to New Yorkers, city agencies, and all other
9 parties who appear before us. Most notably when the
10 pandemic started, not only was OATH able to quickly
11 pivot from in person to remote hearings, but we have
12 since refined our practices so that the remote option
13 has become the mode of choice for most respondents
14 who have cases at OATH.

15 To put this in concrete terms, it is with great
16 pride that I can report that we have managed to
17 conduct more than 586,000 remote hearings in our
18 hearings division since the pandemic began. We've
19 also held thousands of remote trials and conferences
20 in our trials division. And thanks to remote
21 hearings, OATH continues to afford New Yorkers with
22 access to just outcomes on city-issued summonses,
23 while also providing convenience and a healthy and
24 safe way for New Yorkers to appear.

2 The vast majority of New Yorkers who challenged
3 city issued summonses at OATH, continue to opt for
4 the convenience that a telephone hearing provides.
5 Adding to this convenience as an available callback
6 function that eliminates their waiting time on the
7 phone.

8 Whatever challenges await the city, the amazing
9 staff at our agency have dedicated themselves to
10 meeting these challenges and making sure that New
11 Yorkers receive impartial hearings and timely
12 decisions. Our staff at OATH are very much New
13 York's Fairest.

14 Let me start with our trials division. The OATH
15 Trial Division adjudicates a wide range of cases
16 filed by city agencies, boards, and commissions.
17 Trials are conducted by Administrative Law Judges
18 (ALJs), who are appointed to five year terms. The
19 division's caseload includes employee discipline and
20 disability hearings for civil servants, as well as
21 cases involving city-issued license suspensions and
22 revocations, city vendor contract disputes, the
23 conflicts of interest law, the city human rights law,
24 consumer and worker protection law, the Loft Law,
25 retention of police-seized vehicles prior to

2 forfeiture proceedings, and seizure of vehicles from
3 drivers accused of speeding in school zones or
4 running red lights.

5 In the past two years additional staff have
6 joined OATH trials division to help the division
7 adjudicate or facilitate settlement of an increased
8 caseload of employee disciplinary matters brought by
9 the city's Department of Correction.

10 Over the past year, the OATH Trials Division
11 continued to conduct proceedings primarily by video.
12 This has enabled parties to participate safely and
13 effectively, view video and other evidence
14 simultaneously, receive interpretation in the
15 language of preference, and communicate clearly with
16 the ALJs. In fact, through the dedication of our
17 skilled staff, the tribunal has produced
18 significantly more output in the first half of fiscal
19 year 2023 than in the same period in the prior fiscal
20 year, with a higher percentage of decisions upheld.
21 Specifically from July 1, 2022, through January,
22 2023. OATH ALJs resolved 1539 cases, including 1262
23 cases via settlement conference, which represents an
24 increase of 58% as to settlements compared to the
25 same period last year. Both ALJs also held 342

2 trials, 37% More than the same period in the prior
3 year. And lastly, 99% of our ALJ's reports and
4 recommendations have been upheld by city agency heads
5 in their final determinations.

6 We also have our hearings division at OATH. The
7 hearings division is comprised of adjudications, the
8 clerk's office, and appeals. Adjudications conduct
9 hearings on summonses issued by more than 20
10 different city enforcement agencies for alleged
11 violations of a law or city rules. Enforcement
12 agencies that issue these summonses include DOB,
13 Department of Sanitation, DEP, the Fire Department,
14 Parks, DCWP, DOHMH, and TLC.

15 In terms of numbers, I'm proud to report that we
16 have now adjudicated over 240,000 summonses in the
17 last 12 months. Adjudications continue to conduct
18 most of its hearings telephonically. Telephonic
19 hearings are safe, easy, and very convenient. With
20 the telephonic hearing residents and small
21 businesses, their representatives, and city agency
22 attorneys and inspectors do not have to travel to an
23 OATH Hearing Center and appear in person. They can
24 simply schedule their remote hearings by email. A
25 callback option is also available for residents and

2 small businesses to use once they check in for their
3 hearing by phone, which is an added convenience that
4 eliminates the need to wait on hold, and allows New
5 Yorkers to get on with their day until their hearing
6 is called.

7 That said, we know that some individuals do want
8 to physically come to OATHs office for a hearing.
9 Accordingly, OATH continues to make in-person
10 hearings available to respondents upon request. And
11 residents and businesses also have the opportunity to
12 submit their defense by mail, or through what we call
13 one-click submissions.

14 We also have our clerk's office in adjudication--
15 in hearings. And the clerk's office staff handle all
16 of the administrative steps associated with hearings,
17 from scheduling, to responding, to inquiries, to
18 mailing out decisions, to processing refunds, and
19 accepting payments on penalties imposed. In 2022 the
20 clerk's office process close to 500,000 summonses
21 that were filed with OATH.

22 And lastly appeals, the third part of our
23 hearings division, receives and adjudicates matters
24 that are filed with OATH when a party appeals the
25

2 decision of a hearing officer in 2022. Appeals
3 issued close to 2000 decisions.

4 Next is our special education hearings division.
5 The special education hearings division was
6 established by Mayoral Executive Order 91 of 2021 and
7 a Memorandum of Agreement executed by OATH, the City
8 Department of Education, DOE, and the State Education
9 Department, all to address the growing number of
10 filings relating to claims for services for students
11 with special needs, and to address the extensive
12 delays in the adjudication of such claims.

13 Federal law provide that students with
14 disabilities are entitled to a free and appropriate
15 education. Accordingly, DOE is required to provide
16 each special needs student with appropriate services
17 so that the student may benefit from the educational
18 program. A parent who believes that DOE is not
19 providing the appropriate services for their child
20 may file a due process complaint. The due process
21 complaint is then assigned to an impartial hearing
22 officer (IHO) who must adjudicate the matter in a
23 fair and timely manner. Our OATH IHOs are appointed
24 to four year terms to ensure greater judicial
25 independence and the IHOs are also bound by ethical

2 rules to afford each party appearing before them due
3 process and impartiality.

4 In the past year, we have accomplished the
5 mammoth task of standing up this new division.
6 Moreover, for the cases that have been assigned to
7 OATH, we are meeting our intended purpose of reducing
8 the time it takes to adjudicate claims filed by
9 parents.

10 OATH also has the Center For Creative Conflict
11 Resolution. Since 2016 OATH's Center for Creative
12 Conflict Resolution has served as the city
13 government's central resource for restorative justice
14 and conflict resolution services in support of city
15 government agencies, businesses, and the general
16 public. The center offers a number of workplace
17 conflict resolution services for city agencies,
18 including mediations, conflict coaching, group
19 facilitation, restorative practices, dispute system
20 design services, education, and training. A primary
21 goal for the center since its inception has been to
22 work with city agencies to design and implement
23 alternative dispute resolution services and
24 restorative practices in their public facing work.

2 During the past year, the center has handled
3 close to 400 consultations, coaching sessions,
4 trainings, workplace, and community mediations and
5 group facilitations.

6 Now, OATH's mission requires that we prioritize
7 the public's access to justice. And there's several
8 ways that we achieve this. I'll tell you about six.

9 First OATH ensures that it is accessible by
10 providing in plain language and translating
11 information into the top 10 languages spoken in New
12 York City. Everyone has access to free translation
13 services for help sessions, trials, hearings,
14 community service, and mediations. OATH also makes
15 all of its forms and applications available in the
16 top 10 languages, and other documents as well, such
17 as outreach flyers, informational fact sheets, and
18 handouts. And later this year, when a respondent has
19 a matter that's heard by the OATH hearings division
20 or trial division, OATH is going to make it possible
21 for that respondent to request a copy of the decision
22 be sent to them in their preferred language.

23 Second, not having a lawyer should not limit
24 one's ability to navigate OATH's processes. So OATH
25 has a help center which ensures that unrepresented

1 respondents receive non-legal answers to their
2 questions, are made aware of their rights, and
3 understand the hearing process. A resident is
4 afforded the opportunity to have a help session,
5 which is a one-on-one meeting with one of our OATH
6 procedural justice coordinators, and in their
7 language of preference. The city's Help Center
8 response time to requests for help sessions is less
9 than one calendar day on average. And in 2022 OATH
10 Help Center staff conducted over 50,000 help
11 sessions, and assisted almost 40,000 individuals who
12 came to the windows at our various offices. In
13 addition, the OATH Help Center has added specialized
14 units that focus on assistance to small businesses,
15 veterans, and older adults. And since 2021, the Help
16 Center began conducting help session in OATH trials
17 division for unrepresented for-hire vehicle drivers
18 facing license suspension or revocation, and for
19 vehicle owners seeking to recover their vehicles
20 after NYPD seizure pursuant to an arrest. More than
21 a dozen explanatory fact sheets on enforcement agency
22 processes and on OATH's hearings processes are
23 available at our Help Center, and they are-- they may
24 be translated into the top 10 languages. These
25

2 documents include fact sheets such as DOB
3 certificates of correction, DOB stipulations, DCA
4 settlements, helpful information for hair cutters,
5 hair salons, and barbershops, and summonses where
6 your property was taken away. So if you, or your
7 staff, or your constituents would like to learn more
8 about our Help Center, please reach out to us and
9 we'd be very happy to provide it. The information is
10 also on the OATH website.

11 Third, with respect to access to justice, OATH
12 leverages technology to make our adjudications more
13 accessible to parties. A text message reminder
14 system is available to all OATH respondents to help
15 ensure that people never miss a hearing, and get real
16 time updates about the status of their case. Since
17 the inception of the text message reminder system in
18 September of 2020, approximately 13,000 respondents
19 have registered for these reminders. The text
20 message system can also be utilized to initiate
21 contact with our Help Center. In addition, during
22 the pandemic, both added the callback option which I
23 previously referenced. Since this option was
24 launched, around 80% of respondents have taken
25 advantage of it. We also have created a QR code

2 which you will find on outreach materials, email
3 signatures, and other correspondence which takes
4 users to a specific page on OATH website called "You
5 received a summons. Now what?" This webpage
6 enumerates all of the options available for someone
7 who has just received a summons including links to
8 webpages and online forms, such as a reschedule form,
9 payment websites, hearing request forms, and other
10 pertinent information. We are also in the process of
11 relaunching our website with a new sitemap, which
12 will make it easier for users to find information.

13 Fourth, OATH has redesigned a majority of
14 summonses -- the aspect of the summons that OATH is in
15 control of -- that agencies use, with clearer, plain-
16 language instructions, fewer words, and the QR code.

17 Fifth appreciating that access to justice also
18 requires transparency, OATH continues to facilitate
19 requests from the media, for records, information and
20 access to hearings. Additionally, our trials
21 division decisions are made available online. Our
22 hearings division appeal decisions are accessible
23 online, and we make the outcome and status of current
24 hearings available to see online. Our average
25 overall response time is approximately eight days.

2 Sixth, with respect to access to justice, OATH
3 recognizes that even with the technological advances
4 and conveniences I outlined, there are New Yorkers
5 who want to engage with the city in person. And so
6 OATH meets people where they are. We have offices in
7 every borough where people can come in in person, and
8 ask questions, and take care of both business. Each
9 year thousands of respondents come to our borough
10 offices to get work done. These are just some of the
11 measures that OATH is put in place to ensure that its
12 operations are fair and transparent, and that
13 everyone has access to justice.

14 We also focus on public education, we understand
15 that the city government can sometimes be difficult
16 to navigate. OATH has various vehicles for keeping
17 respondents and practitioners updated on new
18 developments. This includes the agency's social
19 media presence and our monthly bench notes
20 newsletter. Moreover, OATH remains committed to
21 leaving our offices, getting out into the
22 neighborhoods and educating New Yorkers about what we
23 do. During the past year, OATH Communications and
24 Public Affairs and Legislative Affairs Division
25 continue to provide public education services about

2 how New Yorkers and New York City businesses can
3 resolve their civil violations. In the last year,
4 OATH has conducted approximately 83 public-facing
5 educational events in collaboration with elected
6 officials, business associations, community groups,
7 and more. These educational events included
8 trainings about OATH for councilmembers' district
9 office staff who handle constituent services, and we
10 recognize that some of your constituents will have a
11 summons related issue at one time or another, so
12 we're happy to give your staff information about how
13 OATH works.

14 Also, we've introduced OATH At Office, a new
15 initiative involving OATH staff working on location
16 in a councilmember's district office, and meeting
17 with and assisting constituents on matters related to
18 their summonses and the hearing process. We're proud
19 of our work partnering with the Council through the
20 years to provide assistance to the residents of New
21 York City. We look forward to working more with the
22 council to continue to find new ways to help New
23 Yorkers get work done.

24 Finally, with respect to the budget, OATH's
25 fiscal year 2023 adopted budget was \$68.2 million

2 dollars, and the fiscal year 2023 current modified
3 budget is \$65.1 million. OATH's total preliminary
4 budget for fiscal year 2024 will be \$62.9 million.
5 Of this \$62.9 million, \$45.2 million is in personnel
6 services, and \$17.7 million is an other-than-
7 personnel services. Agency headcount will be 368 for
8 fiscal year 2020 for preliminary budget. This does
9 not include the roughly 343 per session hearing
10 officers in the OATH hearings division. \$137.2
11 million is expected to be collected by the city in
12 civil penalties for fiscal year 2024 from payment of
13 fines prior to a summons being docketed, or falling
14 into collection status.

15 In closing, OATH remains dedicated to providing
16 access to fair and impartial justice for all New
17 Yorkers. Our outreach work with this City Council
18 has helped us meet that goal this past year. I look
19 forward to our continued efforts. And I welcome any
20 questions that you may have. Thank you.

21 CHAIRPERSON UNG: Thank you for your testimony,
22 and thank you for the great work. I know I--
23 Certainly my office has a great partnership with your
24 team. So thank you.

2 Just a few quick questions. The budget does
3 provide for 368 full time positions. Is that-- Is
4 that sufficient for all the work that OATH has to do?

5 COMMISSIONER REHMAN: So our main goal is, as I
6 mentioned, to provide individuals and respondents and
7 businesses who appear before us with a fair and
8 impartial hearing and a timely resolution of their
9 case. We've had vacancy reductions. And with that
10 we've still been able to deliver on that core
11 service. Our staff may be a bit stretched thin.
12 Every agency that has had to go to-- get through
13 vacancy reductions has had to manage those. But
14 currently, we're able to get the work done that we
15 need to get done. There are areas of our work where,
16 when we feel that additional staff may be needed, we
17 engage in discussion with-- with the OMB on that
18 topic.

19 CHAIRPERSON UNG: Thank you. And a question
20 about the Independent Administrative Tribunal to hold
21 hearings, related to New York City's [inaudible]
22 require special education services. Why does the
23 PMMR-- does not include indicators for the Special
24 Education Services, and will there be indicators next
25 year?

2 COMMISSIONER REHMAN: So the Special Education
3 Hearings Division started taking cases one year ago
4 this month, March of 2022. So the data wasn't there
5 to put it into the PMMR now. It is one of our new
6 divisions. It's an adjudications division. It's a
7 very busy division. So our intent is to have MMR
8 data-- is to have the SCHD's work reflected in MMRs
9 going forward. I don't quite know if we're going to
10 do it for the-- this current coming MMR, because it
11 wasn't in the PMMR. But for the future, surely that
12 should go in and we will be working on what are the
13 appropriate metrics to put into that report.

14 CHAIRPERSON UNG: Great. And just a few
15 questions about the summons. Is there a broad
16 breakdown during the summons that OATH receives by
17 issuing agencies? Like basically what agencies, you
18 know, issue the most summons? And what are the type
19 of summons that's most common?

20 COMMISSIONER REHMAN: Sure, I'd be happy to share
21 that. The information-- if we-- if we think about
22 the fiscal year to date, so July through January of
23 2023, and we look at it by agency. Far and away, the
24 agency that has the highest volume of summonses that
25 are filed with OATH is the Department of Sanitation.

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2 And just to give you an illustration by numbers: So
3 far, through January of 2023, in this fiscal year,
4 we've received over 190,000 summonses by the
5 Department of Sanitation. The next in line, which I
6 believe is DEP, is in the neighborhood of 36,000.
7 It's possible that there may be health-related
8 numbers that are slightly higher than that, but I
9 just wanted to use the DEP to illustrate the gulf
10 between number one and number two. Once you get to
11 number two and the remaining agencies, the numbers
12 are a little more consistent.

13 CHAIRPERSON UNG: And that 190,000 by the
14 department sanitation, what is the most typical type
15 of summonses.

16 COMMISSIONER REHMAN: Sure. Yes. For the
17 Department of Sanitation, the most typical summonses
18 are dirty sidewalk. They are failure to clean 18
19 inches into the streets (you have your sidewalk and
20 then you have to go a little bit beyond the curb),
21 and then storage receptacles, summonses regarding
22 storage receptacles.

23 CHAIRPERSON UNG: Thank you. And one last
24 question. What about the geographic distribution of
25 these summons? Maybe just by borough.

2 COMMISSIONER REHMAN: I don't have that
3 information. And I'm not sure sitting here today, if
4 our systems allow us to run that. Obviously summons
5 has have zip codes on them and other information.
6 But I would need to check with my team to know if we
7 can actually run a report that shows summons
8 distributions by type and by zip code. But I don't
9 know sitting here today.

10 CHAIRPERSON UNG: That would be great. Thank
11 you. And what is the percentage of summons that
12 people just do not pay?

13 COMMISSIONER REHMAN: Sure. So you know, we
14 refer to that as default. These are individuals who
15 would come to a hearing-- or not show-- I'm sorry,
16 not show up for a hearing, and therefore it goes into
17 a default status. And right now, if you look at the
18 entire work that the hearings division handles,
19 default rate is about 40%.

20 CHAIRPERSON UNG: Okay. And what type of summons
21 are the most common for these defaults?

22 COMMISSIONER REHMAN: Sure. If we look at our
23 agencies, the agency-- not by volume, but by
24 percentage, the agency that has the highest of their
25 summonses that have the highest default rates is

2 DOHMH. So in looking-- I'm just looking at January
3 2023. So for example, to illustrate, in January
4 2023, DOH, we received about 4571 summonses from
5 DOHMH. 50% of those resulted in a default status.
6 And then there are other agencies that also have a
7 50% rate, BIC and DCWP. But the numbers of summonses
8 are much smaller. So 50%, but it's a smaller number.
9 Yeah.

10 CHAIRPERSON UNG: What is the consequences for
11 defaulting on a summons? What's the next steps after
12 that?

13 COMMISSIONER REHMAN: Right. So we want to make
14 sure-- this comes back to making sure that everyone
15 has a fair opportunity for a hearing. We recognize
16 that sometimes people intentionally default, but are
17 there other times when people unintentionally
18 default. They may miss something. So if an
19 individual defaults, they can file a motion to vacate
20 that default. And it's a very simple process that
21 within the first 75 days -- it used to be a shorter
22 period, and then it was extended -- an individual can
23 file a request to have the default vacated. And it's
24 not something where they need to get into lengthy
25 arguments. It's a very simple process to have that

2 reopened. Then they can pursue the case if they want
3 to. If they choose not to. If the default stands,
4 then they are going to be in a status where there'll
5 be some sort of kind of collection standing against
6 them by the city of New York, as the city would want
7 to collect on-- on the penalty.

8 CHAIRPERSON UNG: Thank you. You know, it's--
9 it's a long day. So thank you. Thank you for
10 answering all these questions. I'm good with all my
11 questions. Does-- No? Okay. Thank you.

12 COMMISSIONER REHMAN: Thank you very much.

13 CHAIRPERSON UNG: And again really, really,
14 apologies for the late start.

15 COMMISSIONER REHMAN: Not at all. We're happy to
16 be here and happy to continue to work with the
17 Council and answer any questions you may have. Have
18 a great day.

19 COUNSEL: All right, seeing nobody signed up in
20 person, we have two panelists-- or two public
21 testimony. We'll start with Lacey Tauber and then
22 Ben Weinberg. So Lacey, if you can unmute yourself,
23 we can get started. You can start Thank you,

24 SERGEANT AT ARMS: Starting time.

2 MS. TAUBER: Hi, my name is Lacey Tauber. I'm
3 the legislative director for Brooklyn Borough
4 President Reynoso. I'm here today, as I was last
5 year actually, to talk about Community Boards. Even
6 though they were once again, unfortunately not on
7 today's budget agenda.

8 I submitted longer testimony in writing, but just
9 wanted to review quickly some of the BP-- the things
10 that the BP would like to see in the budget to
11 support our Boards which serve as the most grassroots
12 level of city government.

13 The biggest thing is staffing. Right now, their
14 existing budgets provide no more than three to four
15 staff lines, giving them little room for competitive
16 salaries, and struggling sometimes with you know,
17 technical assistance. They need the technical
18 assistance for land use that goes beyond what is
19 provided. We would love to see professional urban
20 planners work directly with the Boards. Right now
21 the boards have to pay for that. Again, their
22 budgets are limited. There's a few other things that
23 the district managers are asking for support,
24 identifying new spaces, human resources,
25 communications, and technology. IT support, that's a

2 key one. OTI currently has one staff member
3 dedicated to all 59 Boards, and the way that they
4 prioritize the requests often leaves Boards at a
5 disadvantage. It takes a very long time for them to
6 get assistance. Equity and accessibility at
7 meetings. Most critically translation services but
8 also food and childcare, real engagement from city
9 agencies on the budget process.

10 I think there's a big debate about whose
11 responsibility some of this work is. But the truth
12 is our office is simply not funded to provide the
13 full scope of the support and technical assistance
14 that the Boards need to do their charter mandated
15 functions.

16 So we would love to see, you know, at least one
17 staff person in every agency solely dedicated to
18 working with the Boards. And in the long term, the
19 BP supports the future of Community Boards, working
20 groups call for a central staff, where Community
21 Board staff and members central resource for
22 assistance with all of the things that I talked
23 about. Thank you so much for your time.

24 SERGEANT AT ARMS: Time expired.

25 COUNSEL: Next up is Ben Weinberg.

2 SERGEANT AT ARMS: Starting time.

3 MR. WEINBERG: Hello, good afternoon

4 Councilmembers. My name is Ben Weinberg and I'm the

5 Director of Public Policy at Citizens Union.

6 Citizens union is a nonpartisan government group

7 dedicated to making democracy work for all New

8 Yorkers. Thank you for the opportunity to speak

9 before you today about the New York City Board of

10 Elections.

11 The NYC BOE is-- is fully funded by the NYC

12 Government but is not accountable to the city's

13 elected officials, or to the state, or to the public

14 in the same way that other agencies are, but to the

15 leaders of political parties. And the NYC BOE has

16 ignored legislation that this body has passed in the

17 past. And while many election employees are hard-

18 working public servants, particularly the thousands

19 of poll workers who give their time every year, they

20 also they also face partisan-based hiring and a

21 promotion mechanism that impacts performance.

22 The past year was an extremely busy election and

23 redistricting year and the BOE has managed to pass it

24 with relative success compared to the public blunders

25 of previous years. But past experience tells us that

2 the structural limitations of the BOE system end up
3 manifesting in a public blunder. Although structural
4 change can only be done at the state level, the city
5 council does have the opportunity or opportunities to
6 exert influence over the New York City BOE's
7 operations, and to push for a forum.

8 Most importantly, the Council is the only elected
9 body with some power to impact the selection of
10 commissioners to the New York City BOE. It can and
11 should take measures to guarantee qualified
12 commissioners are appointed, from holding public
13 hearings with adequate notice, to refusing to appoint
14 party-recommended candidates who did not demonstrate
15 the necessary experience or commitment for reform.

16 Now while the previous Council appointed nine new
17 commissioners, and approved seven reappointments,
18 this Council has so far had the opportunity to
19 appoint one new commissioner with one more coming
20 soon. And each of these instances is an opportunity
21 to require nominees to publicly commit to reforms,
22 from implementing Council bills to publicly posting
23 all job listings and hiring based on merit.

24 SERGEANT AT ARMS: Time expired.

25 MR. WEINBERG: Just-- Just finishing.

2 In addition, Councilmembers can express their
3 support for legislation to improve election
4 administration, which is moving through the
5 legislature. The State Senate has passed a package
6 of bills that would improve hiring and training
7 resources, ethical standards, and performance at
8 local BOE, including a proposal to restructure and
9 reform the New York City BOE, which would give the
10 Council a say in appointment to the board's executive
11 director, allow the city to set the type of reports
12 it receives from the Board, and provide the OMB with
13 stronger oversight over the board's expenses.

14 The Council can approve a resolution calling on
15 the legislator to pass these bills, and on the
16 governor to sign them. That's it. Thank you for
17 your time. I hope you consider that as you debate
18 the DOE's budget.

19 Is Juan Calcutta or Alex Stein on the Zoom. If
20 they are please raise their hands. I not seeing
21 anyone else. I will turn it back over to the Chair
22 to close the hearing.

23 [ONE MINUTE SILENCE]

24 [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 28, 2023