

COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE AND

FEDERAL LEGISLATION

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CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL
OPERATIONS, STATE AND FEDERAL
LEGISLATION

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March 5, 2024
Start: 11:40 a.m.
Recess: 5:12 p.m.

HELD AT: 250 BROADWAY - COMMITTEE ROOM, 16TH
FLOOR

B E F O R E: Lincoln Restler, Chairperson

COUNCIL MEMBERS:

Gale A. Brewer
David M. Carr
James F. Gennaro
Jennifer Gutiérrez
Shahana Hanif
Vickie Paladino
Lynn C. Schulman
Inna Vernikov

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FEDERAL LEGISLATION

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A P P E A R A N C E S

Dawn Pinnock, Commissioner of Department of
Citywide Administrative Services

Jaclyn Jacobs, Assistant Commissioner for Fiscal
and Business Management at Department of
Citywide Administrative Services

Laura Ringelheim, Executive Deputy Commissioner,
Asset and Property Management at Department of
Citywide Administrative Services

Beatrice Thuo, Executive Deputy Commissioner,
Citywide Operators at Department of Citywide
Administrative Services

Crystal Monge, Chief Engagement Officer at
Department of Citywide Administrative Services

Sana Barakat, Deputy Commissioner, Energy
Management at Department of Citywide
Administrative Services

Sanford Cohen, General Counsel for Department of
Citywide Administrative Services

Jesse Hamilton, Deputy Commissioner, Real Estate
Services at Department of Citywide
Administrative Services

Keith Kerman, Deputy Commissioner, Fleet
Management and Chief Fleet Officer at Department
of Citywide Administrative Services

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

Lana Kim, Deputy Commissioner, Facilities
Management at Department of Citywide
Administrative Services

Silvia Montalban, Chief Citywide Equity and
Inclusion Officer/Deputy Commissioner at
Department of Citywide Administrative Services

Shameka Overton, Deputy Commissioner,
Administration at Department of Citywide
Administrative Services

Nitin Patel, Deputy Commissioner, Information
Technology and Chief Information Officer at
Department of Citywide Administrative Services

Katrina Porter, Deputy Commissioner and Chief
Human Capital Officer at Department of Citywide
Administrative Services

Joseph Wagner, Assistant Commissioner and Chief
Engineer, Construction and Technical Services at
Department of Citywide Administrative Services

Roman Gofman, Chief Contracting Officer at
Department of Citywide Administrative Services

Judge Hinds-Radix, Corporation Counsel at Law
Department

Muriel Goode-Trufant, First Assistant
Corporation Counsel at Law Department

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

Eric Eichenholtz, Managing Attorney at Law
Department

Motte Araf, Director of Finance at Law
Department

Asim Rahman, Commissioner at Office of
Administrative Trials and Hearings

Arnab Das, Deputy Commissioner for
Administration at Office of Administrative
Trials and Hearings

Brian Connell, Assistant Commissioner for
Financial Services and Data Analytics at Office
of Administrative Trials and Hearings

Michael J. Ryan, Executive Director of Board of
Elections

Vincent M. Ignizio, Deputy Executive Director of
Board of Elections

Gerald Sullivan, Director of Finance at Board of
Elections

Hemalee Patel, General Counsel for Board of
Elections

Raphael Savino, Deputy General Counsel for Board
of Elections

Pauline Toole, Commissioner of Department of
Records and Administrative Services

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

Ken Cobb, Assistant Commissioner of Department
of Records and Administrative Services

Fen Fen Chen, Budget and Revenue Analyst of
Department of Records and Administrative
Services

Lacey Tauber, Legislative Director for Brooklyn
Borough President

Susan Kassapian, Self

Tony Feldmesser, Chapter Leader, United
Federation of Teachers Judicial Hearing Officers
Chapter

SERGEANT-AT-ARMS: Mic check on the
Committee of Governmental Operations on the 16th
Floor, recorded on March 5, 2024, by Patrick K.

SERGEANT-AT-ARMS: Good morning and
welcome to the Committee on Governmental Operations,
State and Federal Legislation.

At this time, we ask that you please
place phones on vibrate or silent mode.

Thank you.

Chair, we are ready to begin.

CHAIRPERSON RESTLER: Good morning. Thank
you all for being with us today. It's nice to see
many familiar faces. My name is Lincoln Restler, and
welcome to my first budget hearing as the new Chair
of the City Council's Governmental Operations, State
and Federal Legislation Committee. That is a
mouthful. Today, we will hear testimony from the
Department of Citywide Administrative Services, DCAS,
the Law Department, Office of Administrative Trials
and Hearings, OATH, the Board of Elections, and the
Department of Records and Information Services, we've
got a fun day ahead of us, regarding everybody's
Fiscal '25 Preliminary Plans.

1
2 The agencies testifying today carry out
3 many of the most important functions that keep our
4 City running, including managing the City's vehicle
5 fleet, ensuring that citywide heat and light and
6 power bills are paid on time, advising and defending
7 us from lawsuits, conducting elections, collecting
8 administrative fines, preserving access to historical
9 and contemporary records of City government,
10 facilitating City employee hiring, reducing carbon
11 emissions generated by the public sector, and so much
12 more.

13 Our responsibility as Members of this
14 Committee is to work closely with these agencies to
15 ensure that they are effectively delivering the
16 services New Yorkers depend on. Our City budget is a
17 moral document that upholds the values we prioritize
18 as a City, and it showcases how well it is being
19 managed. There is no question that multiple hiring
20 freezes and seven rounds of budget cuts by Mayor
21 Adams has left many of our City agencies struggling
22 to fulfill their mandates. We look forward to hearing
23 more detail about five agency budgets today and
24 whether funding is being used effectively and
25 efficiently.

I'd like to make sure that we thank our Committee Staff for their work on preparing for this hearing. I'd like to thank Financial Analyst, Ross Goldstein, for his expert work. I'd like to thank the Finance Unit Head, Julia Haramis. Julia's done an exceptional job in supporting me and my team in preparing for this hearing. And, of course, our Senior Legislative Counsel, Jayasri Ganapathy, our Legislative Policy Analyst, Erica Cohen, my Communications Director, Nieve Mooney, and I want to just especially thank my Chief-of-Staff, Molly Haley, who is just brilliant, and any of the smart things that ever kind of come out of my mouth mostly came from her so I just want to thank Molly for being an exceptional partner.

I'd now like to welcome Dawn Pinnock, the Commissioner of the Department of Citywide Administrative Services, to testify before the Committee. Thank you so much for being here today.

The Department of Citywide Administrative Financial Services 2025 Preliminary Budget totals 2 billion, including 223.6 million in personal services funding to support 2,367 full-time positions and 1.77 billion for other-than-personal services. DCAS'

1 budget is divided into 10 program areas, and the bulk
2 of the agency's overall budget, or 55.2 percent, is
3 allocated to the Energy Conservation Program Area. In
4 the Preliminary Plan, DCAS' Fiscal 2025 Preliminary
5 Budget is 354 million more than the Fiscal 2024
6 adopted budget. This increase is mainly driven by
7 funding for energy for DCAS' Office of Citywide
8 Purchasing to cover asylum-related expenses. At
9 today's hearing, we look forward to discussing DCAS'
10 operations, new needs, and PEGs in the Preliminary
11 Plan, and the agency's plans for decarbonization of
12 our City fleet and buildings, hiring, recruitment and
13 retention policies, Renewable Rikers, and courthouse
14 management.
15

16 Commissioner, as I have said to you
17 before, I believe your selection was one of the
18 Mayor's best appointments. I greatly appreciate the
19 work you're doing to modernize our civil service exam
20 system, reduce the size of the City fleet and
21 increase safety, and increase M/WBE contracts. Our
22 buildings and transportation represent the two
23 largest sources of carbon emissions in New York City.
24 We are rightly placing more and more ambitious
25 requirements on the private sector to reduce their

1
2 emissions, but it is imperative that our City serve
3 as a model. Accordingly, I'd like to express my
4 significant concern about some of the cuts that have
5 been imposed on the DCAS budget that undermine our
6 urgent sustainability goals. We are required to
7 electrify the City fleet by 2038, but cuts to the
8 tune of 15 million dollars this Fiscal Year to
9 electric vehicle purchasing and 15 million more in
10 future Fiscal Years render that next to impossible.
11 I'm even more concerned about the 1-billion-dollar
12 cut to the DCAS Capital Plan. That was 17 percent of
13 all City agency Capital Project cuts. This will
14 significantly hinder the City's ability to reach our
15 urgent decarbonization goals of public sector
16 buildings, a critical objective in the face of the
17 climate crisis, and one that is very important to me
18 as the District 33 Council Member, where we have, I
19 believe, the second largest concentration of public
20 buildings in the City of New York.

21 Commissioner and team, we greatly
22 appreciate you being with us today. We look forward
23 to your testimony.

24

25

1
2 I'd like to acknowledge my Colleagues who
3 are here today, from Queens, Council Member Schulman
4 and Council Member Paladino.

5 I just would like to ask, Commissioner,
6 if you could limit testimony to five minutes. We
7 will, of course, accept a longer version for the
8 record.

9 And Council Member Gennaro is online.
10 There we go, in the ether. Jim, we appreciate you
11 always.

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

15 COMMITTEE COUNSEL GANAPATHY: Thank you,
16 Chair Restler. I'm Jayasri Ganapathy. I'm counsel to
17 the Committee on Governmental Operations, State and
18 Federal Legislation, and I will be moderating this
19 hearing.

20 During the hearing, first we would have
21 Administration panels testiFYaccording to the
22 schedule that was posted online followed by public
23 panel.

24 First, we will be hearing from the
25 Department of Citywide Administrative Services

1 followed by the Law Department, the Office of
2 Administrative Trials and Hearings, the Board of
3 Elections, the Department of Records and Information
4 Services, and then from members of the public.

5
6 For anyone who is on Zoom, please note
7 you will be muted until you are called on to speak,
8 at which point you will be unmuted by the host.

9 For Council Members who are on Zoom,
10 please use the raise hand function if you wish to ask
11 any questions, and we will call on you in the order
12 that Council Members have noted they are asking
13 questions.

14 We will now swear in the administration
15 witnesses. If you could please raise your right
16 hands?

17 Do you affirm to tell the truth, the
18 whole truth, and nothing but the truth before this
19 Committee and to respond honestly to Council Member
20 questions?

21 COMMISSIONER PINNOCK: Yes.

22 ASSISTANT COMMISSIONER JACOBS: I do.

23 COMMITTEE COUNSEL GANAPATHY: Thank you.

24 You can begin your testimony. Please just state your
25 name and your position for the record.

CHAIRPERSON RESTLER: Just before you do, Commissioner, I'd like to thank Council Member Inna Vernikov for joining us as well. Thank you.

COMMISSIONER PINNOCK: Thank you. Good morning, Chair Restler and Members of the Committee on Governmental Operations. My name is Dawn Pinnock, and I proudly serve as the Commissioner of the Department of Citywide Administrative Services, commonly known as DCAS. I'm accompanied by Jaclyn Jacobs, our Assistant Commissioner for Financial and Business Management Division, and members of my leadership team. I'm pleased to be here to discuss the proposed DCAS budget for Fiscal Year 2025. At DCAS, our mission is to make City government work for all New Yorkers, and it remains at the forefront of everything we do.

I would like to start by briefly looking back and providing a few updates about DCAS' work since our agency testified before your Committee last year. We have doubled down on public safety, namely street safety. We expanded our Intelligence Speed Assistance Pilot, which prevents operators from exceeding the local speed limit to more than 300 vehicles, including 50 school buses, and have reduced

1 the municipal fleet by 1,083 vehicles, exceeding our
2 target by 26 percent. Our roads are safer with a
3 significant decrease in hard-breaking incidents, a
4 reduction in reported crashes, and a compliance rate
5 of over 90 percent with local speed limits among our
6 fleet operators. Beyond the strides we made in fleet
7 safety, we also led and activated a multi-pronged
8 strategy to help restore and fortify the City's
9 workforce. We launched the City's first ever vacancy
10 sprint to bridge the municipal vacancy gap. Between
11 February and August, we hosted 16 events in
12 communities all around New York City. With support
13 from the Council and labor, the hiring halls were a
14 resounding success, yielding more than 2,200 same-day
15 job offers for critical government roles, and we're
16 actively reviewing the City's minimum qualification
17 requirements for entry level titles, a major step in
18 our efforts to make civil service more equitable and
19 accessible.
20

21 Turning our gaze forward, we're setting
22 our sights on furthering our work to cultivate a City
23 government that delivers equity, access, and
24 fortifies communities. With lingering impacts of
25 COVID-19 pandemic and the ensuing supply chain and

1 contractor disruptions that followed, we're working
2 hard to get back on track to meet our 40 percent
3 energy reduction commitments. We are installing an
4 additional 30 megawatts of solar generating capacity,
5 up to 10 megawatts of large-scale battery storage to
6 power city operation, and we have over 50 megawatts
7 of capacity contracted for development, some of which
8 we expect to come online this year. Part and parcel
9 to our work of greening our buildings in the coming
10 year, we are also laser-focused on modernizing our
11 fleet. This work includes growing our electric fleet
12 operation to over 5,000 vehicles, expanding our
13 charging infrastructure by 75 percent, and reducing
14 carbon emissions with the use of alternative fuels,
15 including our large-scale adoption of renewable
16 diesel. Currently, we have an overall budget of two
17 billion, which is inclusive of all funding sources,
18 with 981 million of that spent on citywide utilities,
19 including heating, lighting and power. These are
20 fixed costs based on forecasted energy usage and
21 utility rates. The good news is that DCAS is working
22 every day, both internally and with our sister
23 agencies through multiple programs, to reduce energy
24
25

1 use. To date, I'm proud to say that this work has
2 generated more than 126 million in energy savings.
3

4 Beyond providing utilities to our
5 municipal agencies, we are also tasked with
6 identifying physical spaces for City agencies and
7 other public entities to meet their operational
8 needs. When a need arises and City-owned space is not
9 available or feasible, our real estate team
10 identifies and negotiates leases on behalf of the
11 City. Our overall budget, 162 million, is dedicated
12 to these costs associated with multi-tenanted leased
13 sites.

14 In addition to these expenses, we have
15 also invested in extensive maintenance and repair
16 work across our portfolio of City-managed buildings.
17 To support these efforts in the current year, our
18 budget includes 13.7 million for façade projects for
19 various buildings in our portfolio, including 10.2
20 million recently added for 8811 Sutphin Boulevard, 26
21 Central Avenue, and 253 Broadway. It also includes
22 3.8 million recently added to support energy roof and
23 other interior repairs, 17 million to support the
24 City's effort to transition to an all-electric fleet,
25

and 112 million to achieve the One City Climate Goals as outlined in Executive Order 89 and Local Law 97.

In addition to these programs, every year DCAS generates a significant amount of revenue on the City's behalf. In Fiscal Year '24 and '25, we anticipate generating 75.8 million and 66.9 million, respectively. The revenue is primarily due to three areas, 41 million in private rentals to City-owned properties, 12.7 million for the sale of surplus vehicles and other City-owned equipment, and 4.8 million from applicant filing fees for a civil service exam.

On the savings front, DCAS, like other City agencies, has participated in budget reduction initiatives to help eliminate budget gaps and prepare for any potential budgeting restraints. These initiatives include OTPS savings totaling 17.7 million in Fiscal Year '24 and 15.9 million in Fiscal Year '25 due to a 15 million reduction, I'm sorry, I'm almost done, in the Fleet EV Purchasing Program, OTPS efficiencies across DCAS program offices, 17.8 million in Fiscal Year '24 and 6 million in Fiscal Year '25 of additional revenue due to increases in rents, energy initiative programs, and civil service

1
2 exam fees. The Preliminary Budget reflects an updated
3 Five-Year Plan of 3.3 billion from Fiscal Year '24
4 through '28 for projects managed by DCAS. This
5 includes maintenance and enhancements to DCAS
6 facilities and renovation of leased spaces. The
7 Preliminary Budget for Fiscal Year '25 is 764 million
8 and includes 434.5 million for energy conservation
9 and green energy projects, 306.5 million to support
10 our capital construction program for City offices,
11 20.9 million for information technology system
12 upgrades and, lastly, 2 million for fleet
13 electrification work.

14 In conclusion, I look forward to working
15 with each of you. I want to congratulate you, Chair
16 Restler, on your first hearing. Look forward to
17 advancing the mission of my agency and support the
18 critical work that we do to keep our City thriving.
19 With that, I would be happy to answer any of the
20 Council's questions. Thank you.

21 CHAIRPERSON RESTLER: Thank you so much,
22 Commissioner. That was clear and informative
23 testimony and very helpful. We appreciate you being
24 with us today.

1
2 I would love to start on the fleet and
3 really excited about improvements that you all have
4 been making around safety and excited to experience
5 what it's like to drive one of these vehicles with
6 the resistance to speeding.

7 COMMISSIONER PINNOCK: Intelligent speed
8 assistance.

9 CHAIRPERSON RESTLER: Intelligent speed
10 assistance, thank you so much, Commissioner, and I
11 know there's state legislation to expand that, and I
12 think it's a great idea so I just am enthusiastic
13 about it, and I want to also note to you, and to
14 Deputy Commissioner Kerman's credit, I was really
15 impressed by the fleet reduction goals that you all
16 demonstrated in the PMMR. Almost every agency shrunk
17 their fleet year-over-year, no easy feat, and you all
18 deserve a lot of credit for it.

19 I was, however, concerned to see that
20 combined with the November and January PEGs, that
21 there was a cut of 15 million dollars this Fiscal
22 Year for electric vehicle purchasing and 15 million
23 in the outyears. What is the annual change in
24 electric vehicle purchases due to this cut? What
25 should we anticipate this year and in the outyears?

COMMISSIONER PINNOCK: The potential reduction is approximately 350 to 375 cars per year. However, we are absolutely on track to meet our goal of 5,500 electric vehicles by the end of this Calendar Year.

CHAIRPERSON RESTLER: While you may be on track to meet your goal for this Calendar Year due to the work you've done in years past to get us ready for this moment despite the, I think, really ill-informed cuts, Local Law 140 that the Mayor did sign himself into law requires an all-electric fleet by 2038. Will DCAS be in compliance with this mandate? Does DCAS believe that you're still on track to be in compliance with this mandate, and do you expect to meet the FY25 goal of 5,500 electric vehicles?

COMMISSIONER PINNOCK: We absolutely will be on track for the 5,500 goals by 2025. However, to your point, we are absolutely in conversations with OMB about the restoration of funding. Given the fact that we would purchase certainly more than what we are currently allotted for based on the current funding allocation, we want to ensure that if we are to have a fully electric vehicle by 2038, we then

1 ramp up on our ability to be able to purchase
2 electric vehicles going forward.

3
4 CHAIRPERSON RESTLER: Just reading the
5 newspaper, it's appeared that we've seen shifts in
6 the consumer market around electric vehicles where
7 they become much more affordable, and so it's
8 surprising to me that we would make a cut at a time
9 when we should be able to purchase more electric
10 vehicles at affordable rates. Considering the short-
11 term cost reductions and our sustainability goals,
12 why do you think that this cut was imposed?

13 COMMISSIONER PINNOCK: We did not make the
14 decision to impose the cut. However, when we were
15 immediately notified of the cut, we did highlight the
16 impact to our partner agency. That has continued with
17 our request to restore funds. Specifically relating
18 to what we're finding in market, you're absolutely
19 right. We are seeing a downward trend in pricing, and
20 I will turn it over to Keith shortly. He has been
21 actively involved with talking to folks on the market
22 to ensure that we're always securing the best pricing
23 for New York City but, to your point, we did not
24 identify the cut. However, we have been actively
25 talking about ways to restore funding to allow us to

1 achieve our goals with respect to Local Law 140.

2 Keith, is there something you'd like to add about our
3 work with the market?
4

5 DEPUTY COMMISSIONER KERMAN: Sure. Keith
6 Kerman, the Chief Fleet Officer and Deputy
7 Commissioner DCAS, and good to see you and
8 congratulations.

9 CHAIRPERSON RESTLER: Thank you.

10 DEPUTY COMMISSIONER KERMAN: You know,
11 it's not hard math. We have 5,800 expense-funded
12 vehicles citywide, and then about another 5,800 at
13 the Police Department so that's the pool that has to
14 be electrified with expense funds. Then there's the
15 capital program, which is separate. We had the
16 ability to buy about 600 citywide. We're down to
17 about 250, so we will have to bridge the gap. We have
18 time to do that. As the Commissioner mentioned, for
19 the next year we're on pace. We've got another 650
20 vehicles on order. We will stay on pace. We have a
21 lot of electrification to do in the next year, but
22 we're committed to this Local Law and to electrifying
23 the fleet so we're going to need to work in the gap.
24 There are different ways to do that. There's federal
25 grant money to do that. Obviously, restoration to the

1 extent that we can work that out would be very, very
2 helpful.
3

4 CHAIRPERSON RESTLER: You have my
5 commitment. I'm going to push as hard as I can for
6 the restorations. I have to say it feels to me like
7 DCAS is being penalized by the Mayor and OMB for
8 doing your job too well, and because you were ahead
9 of schedule and because you were hitting the goals
10 that were laid out, ambitious goals, around more
11 electric vehicles being purchased, the Administration
12 is taking funds out of this budget, and it may be
13 penny wise, it's pound foolish. To meet our critical
14 and urgent climate goals, we need to be doubling down
15 on these investment in electric vehicles and
16 appreciate your leadership and expertise on this
17 topic and that both of you have been working so hard
18 and had us ahead of schedule to be able to withstand
19 this ill-informed cut. I do want to acknowledge as I
20 say every time at this Committee, former Gov Ops'
21 Chair, Council Member Gale Brewer, thank you for
22 joining us. Those were all my fleet-related
23 questions. Thank you for your great work, Deputy
24 Commissioner Kerman, did I miss anyone else? Good.

1 I'd like to shift to DCAS' capital
2 program, which is the other probably top concern of
3 mine as it relates to DCAS' Preliminary Budget. The
4 Preliminary Capital Commitment Plan includes 6.8
5 billion dollars DCAS for Fiscal Years '24 through
6 '28. This is a 1-billion-dollar cut. That that is
7 approximately 13 percent of the DCAS Capital Budget
8 since the Adopted Plan that has been cut. This is
9 twice the rate of the overall cut to the City Capital
10 Plan, which was about 6 percent and, notably, DCAS
11 projects represent 17 percent of the total funding
12 cut to the plan. It's just worth taking a moment to
13 acknowledge these numbers in simple ways for us all
14 to understand. The Mayor implemented a 6 percent cut
15 to the Capital Plan of City agencies, but he doubled
16 that for DCAS. It was a 13 percent cut to the DCAS
17 Capital Budget, and 17 percent of all cuts to the
18 Capital Plan happened in the DCAS budget. What is
19 driving the decline in DCAS' Capital Plan and what is
20 DCAS' capital commitment rate?

21
22 COMMISSIONER PINNOCK: Do you want to take
23 that?

24 ASSISTANT COMMISSIONER JACOBS: Hi, Jaclyn
25 Jacobs, Assistant Commissioner of Fiscal and Business

1
2 Management. This decline in the Capital Budget is
3 largely due to the capital stretch and cuts that were
4 imposed by the Administration in the Preliminary
5 Budget testimony. There was a billion-dollar
6 reduction in the Capital Plan, which consists of
7 326.4 million for public buildings, 187.7 million for
8 courts projects, 350,000 for real property, 295
9 million for energy management projects, and 220
10 million for other resiliency and technology projects.
11 While these didn't impact the active projects, these
12 reductions will impact our ability to advance
13 projects if funding is not restored into the Five-
14 Year Plan when needed for project registrations.

15 CHAIRPERSON RESTLER: I'd like to focus in
16 on the energy conservation projects. Could you just
17 tell us that number again for the record on that cut?

18 ASSISTANT COMMISSIONER JACOBS: Yes. There
19 was a 295-million-dollar.

20 CHAIRPERSON RESTLER: 295-million-dollar
21 cut. Last year, I believe, the Commissioner testified
22 that the energy conservation and green energy
23 projects was about 524 million. Could you tell us
24 after this 294-million-dollar cut, what is the

1
2 current funding for energy conservation projects in
3 the DCAS Capital Plan?

4 I'll have our Chief Decarbonization
5 Officer, Sana Barakat, answer that question.

6 CHAIRPERSON RESTLER: Thank you. Nice to
7 see you again.

8 CHIEF DECARBONIZATION OFFICER BARAKAT:
9 Good morning. I just wanted to clarify, so we do have
10 a cut and we do have stretches. The cut is 585
11 million, and the stretches were 295 million, and the
12 good news is that the cuts and the stretches are not
13 affecting our ability to cancel any of the ongoing
14 projects or the ones that we have planned. We will
15 still be able to complete the projects that we have
16 ongoing...

17 CHAIRPERSON RESTLER: You just testified
18 there was a 585-million-dollar cut, is that right?

19 CHIEF DECARBONIZATION OFFICER BARAKAT:
20 Right.

21 CHAIRPERSON RESTLER: And a 295-million-
22 dollar stretch? Did I get that right?

23 CHIEF DECARBONIZATION OFFICER BARAKAT:
24 Stretch meaning that the funding that we had were
25 pushed after Fiscal Year '28.

1
2 CHAIRPERSON RESTLER: It was pushed out of
3 the Five-Year Capital Plan is really what it means so
4 it's in the 10-Year Plan, but not in the Five-Year
5 Plan.

6 CHIEF DECARBONIZATION OFFICER BARAKAT:
7 That's right.

8 CHAIRPERSON RESTLER: So it's so far in
9 the future that maybe Mayor Adams will be around,
10 maybe not. It's rather than immediate projects that
11 we know will decarbonize our building.

12 CHIEF DECARBONIZATION OFFICER BARAKAT:
13 Yeah, I mean we still have 3.86 billion in the
14 budget. It's a hefty budget, and we do have the
15 expense account that we didn't get any PEGs on so
16 we're trying to balance the two, do as many projects
17 as possible with the budgets that we have. Again, it
18 doesn't affect our meeting the mandates, the 2030
19 mandates. It just affects the implementation or
20 initiation of new projects.

21 CHAIRPERSON RESTLER: I believe that the
22 kind of theory of the case in providing DCAS with
23 this large pot of money for decarbonization was for
24 DCAS to be able to disperse funds to the projects
25 that are most effective across City agencies to help

1
2 us decarbonize our public sector buildings. How is
3 this working? Considering the extent of the cuts that
4 Mayor Adams and OMB have imposed on DCAS' energy
5 conservation plans and projects, do you think that
6 the Mayor continues to be committed to this approach?

7 CHIEF DECARBONIZATION OFFICER BARAKAT:

8 Yes, I think now that the budget is balanced, and
9 we're hoping that the debt ceiling will be lifted and
10 the funds would be restored back.

11 COMMISSIONER PINNOCK: I'm sorry, if I can
12 just add to what Sana mentioned. In terms of the
13 overall structure around providing a pot of money to
14 DEM for use of agencies, that is absolutely still
15 happening so the premise around funding the positions
16 that really drive energy conservation work at the
17 agency level, that is still happening. In fact, we're
18 working with agencies to hire Agency Chief
19 Decarbonization Officers to really drive the work
20 home and to make sure there's a cultural shift that
21 needs to happen at the agency level. In addition to
22 that, we've continued to provide education that we
23 also pay for through our Emergency Management
24 Institute as well as allocating money for projects
25 that are in the pipeline. Based on the cut that we

1 just mentioned, yes, it does potentially impact our
2 ability to advance new projects, but for those
3 projects that are currently on our schedule, it is
4 not making that near-term impact.
5

6 CHAIRPERSON RESTLER: I hear you, but I
7 also hear you tell us that 295 million dollars in
8 projects that were supposed to be happening in the
9 next five years are no longer happening and so that's
10 an impact, and we can break down and we have a list
11 of the projects and we're going through them and
12 we're following up with each of my Colleagues in the
13 Council so that they understand what projects are not
14 being funded in their District that would have
15 advanced decarbonization goals in their neighborhoods
16 and improved their air quality and resiliency of
17 their communities, but there is a huge impact to this
18 cut and it is one that we're really concerned about.
19 I do have to say that listening to Director Jiha's
20 testimony yesterday, he said that with Governor
21 Hochul's proposal to expand debt capacity in the
22 executive budget, if that is in fact adopted later
23 this month, it would allow for the funding for the
24 BQE and for expanded funding for the jails. He did
25 not make any commitments about restorations to the

1 5.88 billion that were cut to the Capital Plan
2 citywide. He did not make any commitments about the 1
3 billion dollars in cut to the DCAS Capital Plan and
4 the huge impact that it has on our decarbonization
5 goals. You know, Colleagues at this table and all of
6 my Colleagues in the Council are receiving heat from
7 co-ops and condos in their buildings about the high
8 standards that are rightly being imposed on them via
9 Local Law 97 to decarbonize, and yet the public
10 sector, which I had thought was really leading the
11 way, I think is being hindered by the Mayor's
12 shortsighted and ill-informed budget cuts that are
13 limiting DCAS' ability to advance decarbonization
14 projects.
15

16 I imagine you're not going to tell me
17 which agencies have been the least cooperative and
18 least responsive in advancing these goals, but maybe
19 you could highlight a few of the agencies that have
20 been the most cooperative so that we have an
21 understanding of who have been the best partners.

22 COMMISSIONER PINNOCK: We have been
23 working and, Sana, you can certainly add if I miss
24 one of the agencies, we've been focusing on really
25 our top agencies that have the highest carbon

1 emissions so we've been working with SCA, DOE, our
2 cultural institutions, DSNY, DEP, Parks, DOT and, in
3 terms of resetting relationships, because Sana is
4 fairly new, she's now been here for six months.

5
6 CHAIRPERSON RESTLER: Welcome.

7 COMMISSIONER PINNOCK: This is her third
8 hearing, so listen, we're bringing her along very
9 well, but we have been working with each agency, and
10 part of that was establishing what we're calling
11 compliance meetings. We wanted to find out where they
12 were struggling with their projects. In some cases,
13 we learned that they've had some staffing shortfalls,
14 we're just coming out of a hiring freeze. In other
15 cases, we needed to brainstorm with them about how to
16 get certain projects that had stalled back on track.
17 Overall, they have been very cooperative, but those
18 are the agencies where we've placed most focus
19 because of their carbon footprint.

20 CHAIRPERSON RESTLER: I think we as a
21 Council want to bring greater accountability,
22 especially to the agencies that have not been as
23 cooperative partners, and so we hope to gather better
24 insight so we can see which agencies maybe don't have
25 as many projects moving forward where we might be

1
2 able to help encourage them to work better with DCAS
3 and the Administration as a whole.

4 I'm just going to do one more topic and
5 then kick it over to Colleagues, and I want to just
6 thank Council Member Carr, Brooklyn's newest Council
7 Member, for joining us today. He was redistricted to
8 have a little slice of Brooklyn, and we're proud to
9 have him in the delegation.

10 In FY23, the annual estimated reduction
11 in greenhouse gas emissions was 32,737, only 82
12 percent of the goal of 40,000 metric tons. Over the
13 past three Fiscal Years, the City is cumulatively
14 over 10,000 metric tons behind our goal. Last year,
15 DCAS testified that it would not be able to meet our
16 2025 decarbonization goals. With these new cuts, is
17 there any viable path to meeting our greenhouse gas
18 emission reduction goals, and by what year?

19 COMMISSIONER PINNOCK: In terms of the
20 mandate 40 by '25, as we've stated publicly in a
21 couple of hearings at this point, we will not meet
22 that. We did commit to Council Member Gennaro that we
23 will be responding with a firmer date to when the 40
24 percent is achievable. Our deadline is March 12th,
25 and we are on pace for that. There are a few things

1 we've had to consider. In addition to looking for
2 restorations in our fleet operations, we've had
3 similar discussions specifically around energy
4 management and sustainability. Since the last time
5 that we testified, we have been talking about the
6 restoration of funds and potentially getting other
7 projects potentially funded in the future that can
8 contribute to the 40 percent reduction.
9

10 CHAIRPERSON RESTLER: Since you all
11 testified last that you wouldn't be meeting the 2025
12 goal, OMB has then imposed significant new additional
13 cuts on DCAS that make it harder for you all to
14 achieve these mandates and goals so do you have, at
15 this time, a year by which you expect to reach that
16 goal? Have you discussed with OMB and City Hall the
17 impacts that these huge cuts will have on your
18 ability to reach the greenhouse gas emission
19 reduction goals?

20 COMMISSIONER PINNOCK: Absolutely. We are
21 in consistent conversation with OMB, absolutely are
22 in conversations with City Hall as well. We've laid
23 out impact statements, and so, as I mentioned, we are
24 on pace to provide our response on March 12th and, at
25

1 that time, we'll be able to share a deadline that we
2 can absolutely stand behind.

3
4 CHAIRPERSON RESTLER: One week from today.
5 I look forward to it.

6 COMMISSIONER PINNOCK: Yes.

7 CHAIRPERSON RESTLER: Terrific. I hope in
8 that response you'll help lay out for us the staffing
9 and budget needs that you all have to be able to
10 achieve if it's the 2030 goal is the next big
11 milestone that we're focused on or if they're interim
12 goals between. Just briefly, relatedly, I know that
13 the '25 goal was really tied to the Champlain Hudson
14 Power Express. Do we have a timeline on that right
15 now that you can share?

16 COMMISSIONER PINNOCK: The timeline is
17 spring of 2026.

18 CHAIRPERSON RESTLER: Okay, well, that's
19 pretty good. Can you identify any other big upcoming
20 priority projects in the pipeline that will help us
21 achieve these goals, that we should be mindful of?

22 CHIEF DECARBONIZATION OFFICER BARAKAT:
23 Yeah, we have many projects like I mentioned before
24 that they are going to be implemented. They were not
25 affected by the cuts or the stretches. Can mention

1 couple, we're doing lots of lighting upgrades,
2 comprehensive retrofits, deep energy retrofits across
3 the board in schools, solar as well. If you want me
4 to mention a couple, I can.

5
6 CHAIRPERSON RESTLER: I think if you
7 wouldn't mind following up in writing perhaps.

8 CHIEF DECARBONIZATION OFFICER BARAKAT: We
9 can.

10 CHAIRPERSON RESTLER: If you could help us
11 identify 5 to 10 of the largest projects that have
12 the biggest energy reduction or emission reduction
13 impacts. We'd love to celebrate them and to do that
14 with you and work with Council Members so they know
15 about the really important work that you're doing in
16 their Districts to achieve these goals.

17 I want to acknowledge my friend and
18 neighbor, Council Member Shahana Hanif, and then I
19 will kick it over to Council Member Schulman for some
20 questions followed by Council Member Brewer, and I do
21 have a lot more questions later, but we'll hear from
22 Colleagues first.

23 COUNCIL MEMBER SCHULMAN: Thank you very
24 much, Chair, and thank you, Commissioner. Always good
25 to see you.

1
2 I have a couple of questions. One, I
3 wanted to look at, in your testimony, you talked
4 about revenue generation. In FY24, you anticipate
5 75.8 million dollars in revenue and then only 66.9
6 million dollars for '25. What's making up the that
7 difference?

8 COMMISSIONER PINNOCK: Sometimes the
9 fluctuation ties into our PEGS with respect to civil
10 service exam fees. Our civil service exam schedule
11 really depends on the number of test takers we're
12 anticipating for a particular exam so that's a little
13 difficult to forecast. However, the revenue relating
14 to the renegotiation of our leases, that should
15 remain steady.

16 COUNCIL MEMBER SCHULMAN: Can you describe
17 to me how the private rentals work of the City-owned
18 properties?

19 COMMISSIONER PINNOCK: I'll have my Deputy
20 Commissioner for Real Estate, Jesse Hamilton,
21 respond.

22 DEPUTY COMMISSIONER HAMILTON: Good
23 afternoon, Councilwoman. Good afternoon. I'm Deputy
24 Commissioner Jesse Hamilton. Right now, we have about
25 350 short-term leases and 75 long-term leases. The

1
2 long-term leases account for 30 million dollars, and
3 the short-term leases account for 7 million.

4 COUNCIL MEMBER SCHULMAN: How does the
5 program work, like who's it rented out to, what are
6 the qualifications, all of that?

7 DEPUTY COMMISSIONER HAMILTON: Usually
8 non-profit organizations. Let's say City Hall, 210
9 (INAUDIBLE) Street, a lot of City-owned buildings, we
10 manage for the City of New York.

11 COUNCIL MEMBER SCHULMAN: Are there
12 opportunities for nonprofit organizations to rent
13 these properties?

14 DEPUTY COMMISSIONER HAMILTON: Sure, all
15 the time. They place an application in to our office,
16 and then we try to find adequate space within our
17 real estate portfolio.

18 COUNCIL MEMBER SCHULMAN: Okay, I'd love
19 to get the rules on that because I have a lot of non-
20 profits in my District that ask me all the time or
21 that we want to rent some property so I would
22 appreciate that.

23 Also, I see that the current year budget
24 includes 13.7 million for façade projects. Does that
25

1 include getting rid of scaffolding, the ugly
2 scaffolding that we see all over the place?

3
4 DEPUTY COMMISSIONER HAMILTON: We're doing
5 our best to get rid of scaffolding, but I'm going to
6 have to pass it over to my colleague, Joe Wagner,
7 Deputy Commissioner.

8 COUNCIL MEMBER SCHULMAN: We get to see
9 all of your staff now, Commissioner.

10 COMMISSIONER PINNOCK: Absolutely.

11 DEPUTY COMMISSIONER WAGNER: Yes, that's
12 true, Jess. We are trying to get rid of all the
13 scaffolding as we're doing our Local Law 11
14 inspections. Right now, we got some expense money,
15 OMB has been funding us for some expense money to get
16 some of the work done. As you see in the budget, we
17 had 9.7 million dollars, which we have completed. We
18 will complete, basically by the end of this Fiscal
19 Year, five projects that would include roofs and
20 facades. Basically, we're working on all our local
21 law work to try to eliminate the shedding. What we're
22 trying to do is, also, as we're getting the reports,
23 we're trying to do the work with a contractor. We got
24 some requirements contracts now, so we don't have to
25 put up sheds. In prior years, the minute you got your

1
2 local law inspection report, we were putting up
3 sheds. Now, we're trying to work simultaneously with
4 the inspection and doing the repairs at the same
5 time.

6 COUNCIL MEMBER SCHULMAN: I appreciate
7 that. I think it would also be helpful if, because
8 our constituents, DCAS to them is nebulous, like
9 nobody really has a grasp of that so if we can bring
10 you out to our communities, I'm going to ask to give
11 a presentation and things like that, I think that
12 would be very helpful so that people understand, and
13 I think it would be helpful to you as well and also
14 in terms of the civil service exam, all of that so I
15 wanted to mention that.

16 The last question I have is that, hold
17 on, so DCAS' vacant headcount as of January 2024 is
18 349 positions or a vacancy rate 14.9 percent. It was
19 announced on February 21, 2024, that the Mayor is
20 cancelling the PEG for the Executive Plan and, can
21 somebody shut their phone off, for the Executive Plan
22 and the Administration is moving from near full
23 hiring freeze to a two for one model and easing
24 other-than-personal spending freeze restrictions.

1
2 Does the agency have adequate head count to
3 effectively run all the programs?

4 COMMISSIONER PINNOCK: We've been able to
5 maintain core service delivery, absolutely. However,
6 we've had to stretch staff potentially to the limits
7 in some cases. As part of the lifting of the hiring
8 freeze, we are in active conversations with OMB to be
9 aggressive in hiring, especially for some of our
10 direct services positions, our custodial assistants.
11 Primarily we have folks in real estate that actually
12 will help us to achieve some of these savings we've
13 talked about so it's been tough, but we have
14 maintained core work delivery.

15 COUNCIL MEMBER SCHULMAN: I just have two
16 quick followup questions. One is, are there any
17 positions that are exempt from that, and what is the
18 expected impact on your ability to hire new staff?

19 COMMISSIONER PINNOCK: As mentioned with
20 the lifting of the hiring freeze, which I think was
21 about two weeks ago, we've already started to see
22 some movement and some approvals. Specifically,
23 titles that have been exempt for us. That's not been
24 the case. We have been following the guidance where
25 if it's a position tied to life and safety or

1
2 revenue-generating position, those are still
3 considered exempt for this exercise.

4 COUNCIL MEMBER SCHULMAN: Okay. What's
5 your ability to hire new staff?

6 COMMISSIONER PINNOCK: We've started to
7 see approval already.

8 COUNCIL MEMBER SCHULMAN: You have, all
9 right. Can you also let this Committee know or let us
10 know when there's issues that you have with OMB
11 around those exempt positions or hiring of staff
12 because that's something that's very important to us?
13 Thank you very much.

14 COMMISSIONER PINNOCK: Absolutely. Thank
15 you, Chair.

16 COMMISSIONER PINNOCK: Thank you.

17 CHAIRPERSON RESTLER: Thank you so much,
18 Council Member Schulman.

19 I just think it's important to state for
20 the record that the current DCAS headcount at 2018 is
21 more than 500 positions fewer than the FY20 budgeted
22 headcount. We're talking about a 22 percent decrease
23 in the DCAS budgeted ahead count in a five-year
24 period, and the fact that you're able to do as much
25 as you can with those cuts is a testament to your

1 abilities and the abilities of your team, but we can
2 and should be doing so much more if you were simply
3 staffed the right way, and seven rounds of budget
4 cuts and multiple hiring freezes have had a just
5 terrible impact on agencies like DCAS that do so much
6 for the City of New York, and I think it's worth just
7 underscoring that every City agency relies on DCAS,
8 whether it be to lease space or hire workers or
9 procure goods. They can't do their jobs if you don't
10 have the team in place to help them and so I just
11 really want to underscore the points by Council
12 Member Schulman that it's critically important that
13 we restore the headcount of DCAS to previous levels
14 you know as quickly as possible.

16 COUNCIL MEMBER SCHULMAN: Chair, with
17 that, I just want to ask one quick, are you still
18 doing hiring halls?

19 COMMISSIONER PINNOCK: The hiring halls
20 were paused during the hiring freeze, and so what
21 we've done is we've documented all the lessons
22 learned, and we created a playbook. We've taught
23 every agency how to host its own hiring hall just so
24 that we had a sustainable framework. We do expect
25 that with the lifting of the hiring freeze that we

1
2 may provide technical assistance but, right now, we
3 don't have the staffing per se. It is very labor
4 intensive so we expect to help agencies on the
5 sidelines utilizing our lessons learned.

6 CHAIRPERSON RESTLER: It is infuriating
7 that DCAS doesn't have the staff to be able to help
8 other agencies staff up, right? These cuts that the
9 Mayor is insisting on make zero sense and they are
10 hurting the people of the City of New York. We have
11 lost tens of thousands of workers under his
12 Administration, and we cannot provide the basic
13 services to protect and maintain the health and
14 safety of the people of New York City, and that you
15 don't have the staff to help other agencies hire says
16 everything that we need to know about how this Mayor
17 is failing the people of New York.

18 I'm going to pass it to Council Member
19 Brewer and, from there, to Council Member Carr.

20 COUNCIL MEMBER BREWER: Thank you very
21 much. You should know that yesterday at OMB, several
22 agencies stated that they are doing hiring halls, and
23 they said they're doing with DCAS just so you know.

24 COMMISSIONER PINNOCK: Yes. We provided
25 them with, like I said, the playbook..

1
2 COUNCIL MEMBER BREWER: No, no. They said
3 in the future they're doing it with DCAS.

4 COMMISSIONER PINNOCK: Oh, wow. Okay. So,
5 I missed that point. I didn't see that hearing. Thank
6 you.

7 COUNCIL MEMBER BREWER: I'm just letting
8 you know. I go to all the hearings. I pay attention.
9 Oversight and Investigations, which I Chair, has been
10 looking at family court. In the Bronx, I'm from
11 Manhattan, I never leave Manhattan, but I I went to
12 family court in the Bronx, and it is raining in
13 family court in the Bronx. Family court, as you know,
14 always feels like a stepchild in so many different
15 ways so in your 187.7 Capital Budget for courts, is
16 family court's, I don't know what, rain problem, it's
17 repairs, roof, etc., in that budget.

18 COMMISSIONER PINNOCK: Yes. Do you want to
19 go over the project?

20 DEPUTY COMMISSIONER WAGNER: Yes. We have
21 a capital project for 215 East 161st Street for a new
22 roof. DDC is doing that project. They're basically
23 just about done with the design and they will go out
24 to bid to do that. In the interim, we have done some
25 temporary patching.

1
2 COUNCIL MEMBER BREWER: Yeah, like little
3 buckets and stuff. The rain goes into it.

4 DEPUTY COMMISSIONER WAGNER: We have done
5 some temporary patching in some areas until they get
6 to do their project.

7 COUNCIL MEMBER BREWER: Okay, what's the
8 timing on that?

9 DEPUTY COMMISSIONER WAGNER: They should
10 be done with the design sometime this year and then
11 they will go out to bid.

12 COUNCIL MEMBER BREWER: Beginning of '25.

13 DEPUTY COMMISSIONER WAGNER: '25, yeah.

14 COUNCIL MEMBER BREWER: Okay. It cannot be
15 soon enough, I just want to say because they can't
16 use several rooms. You know the situation as well as
17 I do, I'm sure.

18 DEPUTY COMMISSIONER WAGNER: Yes.

19 COUNCIL MEMBER BREWER: It's horrible.
20 Number two, this is my 40-year issue. You have, I
21 assume, around the municipal building, those kiosks
22 are DOT's problems. They think they're yours, but
23 they're not rented. You've got to get all over DOT
24 about it but, generally, you have a lot of stores
25

1 that are vacant. What's going on with the vacant
2 stores in the City of New York?
3

4 COMMISSIONER PINNOCK: That's also part of
5 the work that we're doing around generating revenue.
6 As an example, there is a commercial space that had
7 been used for concessions years ago. We've put out an
8 RFP specifically to have someone come in to utilize
9 that space and so that has been baked into our
10 revenue generation projections as well.

11 COUNCIL MEMBER BREWER: Do you have some
12 sense of citywide, how much vacant commercial space
13 you have. Is it, I mean, obviously around here you
14 have some.

15 COMMISSIONER PINNOCK: Yes, we can
16 absolutely provide you with a list borough by borough
17 if that's helpful.

18 COUNCIL MEMBER BREWER: Okay, and is that
19 something you're working to try to rent, understand
20 there are vacancies in the private sector, but then
21 if we tell them to rent up, I think we should also,
22 along with the Chairman's notion that Local Law 97
23 should also apply to the City, when you see a vacant
24 store that is City-owned building, I know you got rid
25 of the pot shop, the smoke shop, that was good, but

1 I'm just saying in general, I'm trying to get rid of
2 70 of them so congratulations on getting rid of one.
3 We need to rent up so is there a plan to rent up all
4 of the commercial space?
5

6 COMMISSIONER PINNOCK: There is a plan. We
7 did a full-scale assessment but, in addition to the
8 renting of the commercial spaces, and as I said, I
9 can lay out what that information is. We also wanted
10 to just look at not necessarily storefronts but also
11 just the use of space, right, so we're talking about
12 opportunities for vending, for bicycle, rack
13 installations. We have placed out an RFEI just to see
14 how we can best utilize City-owned space in general.

15 COUNCIL MEMBER BREWER: Okay. Can you send
16 us a copy over to the Committee?

17 COMMISSIONER PINNOCK: Absolutely.

18 COUNCIL MEMBER BREWER: I'd like to see
19 that.

20 In terms of the wonderful work you do in
21 terms of the exams, I could be wrong on this, but I
22 think Maryland and Philadelphia have said, because
23 it's hard to hire for technology and others, we don't
24 need a college degree, etc., there's been a whole
25 effort along. Are we doing something similar?

COMMISSIONER PINNOCK: Absolutely. We've actually started this work where we've looked at the minimum qualifications. There are approximately, I think, 20,000 positions today that are now impacted by our removal of a college degree. We have a list of 40 titles in total that we're analyzing, and so we can certainly keep you abreast of our progress. One of the titles was correction officer. We saw that with removing even the college credits that we then had access to another 2,000 candidates that would have been skipped over on that list so it's absolutely working.

COUNCIL MEMBER BREWER: Philadelphia got credit, Maryland got credit, and we got zero in terms of this policy change. I'm just saying if we could let the world know if it's appropriate, particularly for jobs that are tech-related, I would say correctional officer makes sense, but there are with all due respect, we need help with tech in the City of New York.

COMMISSIONER PINNOCK: Absolutely.

COUNCIL MEMBER BREWER: To put it mildly.

COMMISSIONER PINNOCK: We're also looking at those titles that require a specification.

1
2 COUNCIL MEMBER BREWER: Exactly, so
3 everything that would bring more tech people in. Of
4 course, they don't stay long. That's another whole
5 topic. You maintain them. I'm familiar. My
6 (INAUDIBLE) CityStore. I love that CityStore. I live
7 in that CityStore. They know me. Ten percent off,
8 City employee. I love it.

9 COMMISSIONER PINNOCK: It's 20 now.

10 COUNCIL MEMBER BREWER: Oh, it's 20. It's
11 20 percent off. Anyway, what I'm trying to say is it
12 needs more visibility so can we move it to, nobody
13 knows about it except like the people in this room so
14 can we move it to 280 Broadway or some other place
15 that has visibility? I've been asking this for 40
16 years so don't take it personally.

17 COMMISSIONER PINNOCK: I don't, but we can
18 certainly think about it. You know, we've talked
19 about just even the marketing strategy, even during
20 the holidays, we had a holiday market.

21 COUNCIL MEMBER BREWER: No, but still no
22 tourists go there. First of all, they're not there on
23 the weekends, right? The tourists are on the
24 weekends. Can we work on that?

COMMISSIONER PINNOCK: We can absolutely
work with you on that...

COUNCIL MEMBER BREWER: And I need longer
scarves. You only have square scarves.

COMMISSIONER PINNOCK: Okay.

COUNCIL MEMBER BREWER: I need long
scarves. Okay? I can do the marketing and I can do
the buying for you.

COMMISSIONER PINNOCK: Wow.

COUNCIL MEMBER BREWER: Thank you. Thank
you very much, Mr. Chair. Exceptional offer from
Council Member Brewer. Thank you. I share her
enthusiasm for the CityStore. It is a place that I
buy many, many, many of my presents.

I would like to now pass it to Council
Member Carr.

COUNCIL MEMBER CARR: Thank you, Chair
Restler, fellow Brooklyn Colleague.

Commissioner, good to see you here. I
want to ask you a little bit about the non-public
school security guard program. I understand from
talking to a number of non-public schools that they
would love to be eligible and they're not because
that's how the Local Law is drafted, and that's

1 something for us to consider on the Council end, not
2 something on the agency end, but I'm wondering, is
3 the allocation in the Preliminary Budget for the
4 coming Fiscal Year sufficient to cover the need of
5 those who are eligible and applying to DCAS.
6

7 COMMISSIONER PINNOCK: One of the
8 adjustments that you would probably see to our budget
9 was the addition of, I believe, about 4.7 million
10 dollars to specifically restore that Code to have it
11 at the 19.8 million that's required under Law so that
12 would cover the 209 programs that are currently
13 covered.

14 COUNCIL MEMBER CARR: Okay, so there would
15 be nobody who would be missing a security guard who
16 would otherwise be eligible because the appropriate...

17 COMMISSIONER PINNOCK: Right. Those who
18 are part of the program are covered. We do have to
19 follow up with some of the schools. In some cases, we
20 are not invoiced as quickly as we'd like in order to
21 put forward the reimbursement in an expeditious way.

22 COUNCIL MEMBER CARR: Okay. Appreciate
23 that information.

24 With respect to civil service test lists,
25 what is DCAS' goal in terms of the amount of time it

1 takes DCAS to publish a list after an exam has been
2 given?
3

4 COMMISSIONER PINNOCK: Our cycle time
5 stands at about 219 calendar days, which amounts to
6 about five and a half months, and that's from the
7 time that the test is administered and someone takes
8 it to the time that we're able to publish it.

9 COUNCIL MEMBER CARR: What accounts for
10 that length of time?

11 COMMISSIONER PINNOCK: There are a few
12 things. It depends sometimes on the format of the
13 exam. Some exams have multiple parts. For instance,
14 our skill trades, they have to take a written exam
15 and then usually there's a practical exam to show the
16 demonstration of a skill. Also, we go through a
17 process of validation where you develop the exam, you
18 administer it, you then have protest reviews which
19 allows individuals to say that they believe they have
20 an answer that is equal to or better than what's on
21 the answer key. You have a validation board that
22 reviews those, then you score the exam, and then the
23 information is posted. There are a few steps there.

24 COUNCIL MEMBER CARR: There's no issues
25 related to staffing as far as you're concerned for

1 why there may be that amount of time between taking
2 of an exam and then the publication of it?

3
4 COMMISSIONER PINNOCK: Certainly, that is
5 an area where we do have a high attrition rate. The
6 nature of that work is very difficult, and we're also
7 competing with private institutions that offer
8 testing, and so certainly having more staff
9 potentially helps to move the needle, but those
10 processes, some of which are documented by law,
11 they're still required of us regardless of our
12 staffing levels.

13 COUNCIL MEMBER CARR: Okay. So you don't
14 think that you'd be able to improve much on that 219
15 calendar days generally speaking?

16 COMMISSIONER PINNOCK: I think that
17 potentially we can offer more exams. We generally
18 have like an average of 180 exams a year. This Fiscal
19 Year, I believe that we are on pace for over 200 so
20 it could potentially have us deliver more exams.

21 COUNCIL MEMBER CARR: Okay, because I hear
22 from a number of folks who have taken an exam,
23 already civil servants, they're hoping to move up the
24 ladder of an agency and a posting becomes available,
25 but the list hasn't been published yet, and there's

1
2 often this frustration between those who are ready,
3 eager, and, frankly, probably eligible to move up but
4 maybe miss a window there so is there any kind of a
5 communication that takes place between DCAS and
6 agencies about lists and postings.

7 COMMISSIONER PINNOCK: We absolutely do.
8 We have meetings that are called APO meetings. APO
9 stands for Agency Personnel Officers. It's really
10 your HR leads. We meet with them maybe every two to
11 three weeks. We do talk to them about upcoming exams,
12 upcoming lists. We also try to work with them to be
13 proactive to find out what their workforce needs are
14 so we're putting the right exams on the calendar, but
15 at any time when we're hearing that there are
16 concerns about employees at the agency level, we
17 absolutely try to respond to that.

18 COUNCIL MEMBER CARR: Thank you. Thank
19 you, Chair.

20 CHAIRPERSON RESTLER: Thanks so much,
21 Council Member Carr.

22 I would like to acknowledge my friend and
23 neighbor, Council Member Gutiérrez, and pass it over
24 to Council Member Hanif.

1
2 COUNCIL MEMBER HANIF: Thank you Chair.
3 Hi, Commissioner. Thanks for being here. I'll jump
4 right in.

5 I want to understand DCAS' role with the
6 asylum-seeker response. DCAS' budget includes 380
7 million dollars in Fiscal 2024 and 403 million
8 dollars in Fiscal 2025 for asylum-seeker expenses.
9 What is DCAS' role in the City's asylum-seeker
10 response efforts?

11 COMMISSIONER PINNOCK: We do not provide
12 direct service. However, we have been called upon to
13 assist with our licensing expertise. As you know, we
14 have a real estate division so there are two licenses
15 that we executed on behalf of the City. We also
16 handle any payment of bills and the management of
17 those invoices. At the time that our partners at
18 NYCEM and H & H that provide direct service, when
19 they have a bill or invoice, we handle that for them
20 on the backend, and then also we've been called upon
21 to assist with our contracting expertise.

22 COUNCIL MEMBER HANIF: What type of
23 services does DCAS provide directly or contract for?

24 COMMISSIONER PINNOCK: We don't provide
25 any direct service. No, we handled the bill paying,

1 we executed the two leases, and we were able to
2 piggyback off of the emergency services contract that
3 had been negotiated at the federal government level.

4 COUNCIL MEMBER HANIF: It's for those two
5 agencies specifically?

6 COMMISSIONER PINNOCK: NYCEM and Health
7 and Hospitals, yes. They provide direct service.

8 COUNCIL MEMBER HANIF: And then Randalls
9 Island, Floyd Bennett Field, Creedmoor Psych
10 Facility, are the asylum-seeker facilities contracted
11 through DCAS?

12 COMMISSIONER PINNOCK: Yes. I'll have my
13 Agency Chief Contracting Officer respond.

14 COUNCIL MEMBER HANIF: Sure.

15 CHIEF CONTRACTING OFFICER GOFMAN: Those
16 sites are contracted through one of our DCAS citywide
17 requirements contracts. That contract was established
18 way before the asylum-seeker crisis. I think the
19 initial establishment of the Garner contract was
20 about a decade ago after Hurricane Sandy, but Health
21 and Hospitals and NYCEM are using Garner service
22 through our citywide contract.

23 COUNCIL MEMBER HANIF: You said a decade
24 ago.
25

1
2 CHIEF CONTRACTING OFFICER GOFMAN: About,
3 yeah, I think the original registration was about
4 2014.

5 COUNCIL MEMBER HANIF: Why was DCAS chosen
6 to administer or operate these locations considering
7 every other agency involved has experience managing?
8 Again, this goes back to just, as the contract.

9 COMMISSIONER PINNOCK: Right, we're not
10 managing the locations.

11 COUNCIL MEMBER HANIF: Got it. I want to
12 ask about the recent report Comptroller Lander
13 published on asylum-seeker spending. DCAS has held a
14 master contract with Garner, which you just alluded
15 to, that agencies can hopefully use to purchase
16 essential services at pre-negotiated rates. We were
17 surprised to find that different agencies were paying
18 wildly different sums for the same exact service off
19 of this contract. H & H is paying 117 dollars per
20 hour for security guards while NYCEM is paying 79
21 dollars per hour for the same exact security guard
22 service. It's worth noting that the City has an
23 existing contract with FJC, a unionized security
24 operation that pays 24 dollars per hour for the exact
25 same service or approximately one fifth of the cost

1 of the highest Garner rate, and just to put in real
2 numbers for 100 security guards over a month,
3 taxpayers would be saved 3 million at lower Garner
4 rate and 7 million if we paid the FJC rate. Despite
5 this being a DCAS-held contract, we read that other
6 agencies were responsible for providing
7 administrative support and reviewing documentation
8 and invoices but, as the keeper of the master
9 contract, was DCAS aware of these extreme disparities
10 in security guard payoff of the same contract, and
11 should the master contract be revisited to reduce
12 security service costs and tighten the range of
13 acceptable rates?
14

15 COMMISSIONER PINNOCK: Before Roman
16 responds, I just want to mention that in our review
17 of the report, there are some inaccuracies that we're
18 actively working to respond to in writing relating to
19 Lander's report.

20 COUNCIL MEMBER HANIF: Could you share
21 what those inaccuracies are?

22 CHIEF CONTRACTING OFFICER GOFMAN: Just to
23 start off with the initial inaccuracy, the report
24 calls out that DCAS had a master contract with
25 security guards. At the time of the emergencies, our

1 master contract with FJC actually expired in November
2 2022, way before the asylum crisis started.

3
4 COUNCIL MEMBER HANIF: So you don't have
5 the master contract with FJC anymore?

6 CHIEF CONTRACTING OFFICER GOFMAN: Yes,
7 that expired in November of 2022.

8 CHAIRPERSON RESTLER: DHS has an active
9 contract with FJC?

10 CHIEF CONTRACTING OFFICER GOFMAN: No. The
11 report calls them active contracts. Some agencies
12 have extended their previous task orders, but those
13 task orders are set for certain scopes of work so
14 like DCAS has a task order with FJC to provide
15 security guards to our 55 buildings. If we wanted to
16 provide security guards to separate sites of asylum
17 seekers, we'd have to issue a new task order. With
18 the contract's expired, we would be unable to issue a
19 new task order so what the Comptroller's report shows
20 that there are contracts in effect, those are really
21 task orders, but they are for specific scopes of
22 those agencies so that's the initial inaccuracy. A
23 lot of the Comptroller's report also tries to go into
24 titles, the necessary titles, whether security
25 officer, security supervisor. Those prices were

1
2 previously negotiated by the federal government so
3 our contract, and it's not only DCAS, the State has a
4 contract with Garner also off of the federal GSA
5 schedule, many states, localities, and municipalities
6 have contracts off of the federal schedule, but the
7 rates are negotiated by the federal government, not
8 DCAS, not any other state so we have to abide by the
9 federal government's rates that was procured. Those
10 rates are not to exceed so in certain scopes, in
11 certain instances, agencies that are requesting
12 services from Garner could negotiate down rates but,
13 again, even the rate of FJC's contract was 24
14 dollars, that's really the prevailing wage. FJC does
15 charge overhead and profit on top of the prevailing
16 wage schedule so the rate for FJC contracts were not
17 24 dollars for a security guard officer.

18 CHAIRPERSON RESTLER: Just if I may, the
19 disparity that the different agencies were paying
20 through the Garner contract for security guards off
21 the same contract, is DCAS not looking at the backend
22 to say NYCEM is paying X, H & H is paying Y, there's
23 a major discrepancy here, we should be making sure
24 that if agency X is negotiating a lower rate, then

1 every agency should be benefiting and paying at that
2 rate. I mean it's a major disparity.
3

4 CHIEF CONTRACTING OFFICER GOFMAN: As a
5 compliance piece, again, so we have the not to exceed
6 issued by the federal government so let's say it is
7 whatever dollar value is. The negotiation to lower a
8 value of the not to exceed it is based really on
9 scope of work of the agency. Now, when it comes to
10 the asylum seekers, whether NYCEM and H and H were
11 paying separate, I don't think that to be true
12 because H & H and NYCEM were managing one contract,
13 right, so DCAS issued POs for Creedmoor, Floyd
14 Bennett Field, and Randalls Island. All of those are
15 collaboratively managed by H & H and NYCEM together
16 in collaboration so it's really one contract. I
17 haven't seen the paperwork that they're paying
18 different rates. The only other agency that's using
19 Garner right now on their own, outside of the DCAS,
20 NYCEM, H and H collaboration is HPD for Jefferson. I
21 don't know their rates. I know at some point when
22 they initially entered into an agreement with Garner,
23 there were some rate conversations that they called
24 me in to try to negotiate down, and we did but, for
25 the report that H & H and NYCEM are paying different

1 rates, they're managing one contract. I have to see
2 the documents, but...

3
4 CHAIRPERSON RESTLER: We would greatly
5 appreciate if you could back up any documentation or
6 any response that shared with Comptroller Lander on
7 potential or alleged inaccuracies in the report could
8 be shared with the Committee as well.

9 COMMISSIONER PINNOCK: Absolutely.

10 CHAIRPERSON RESTLER: Council Member
11 Hanif, did you have anything else you wanted?

12 You're good. I'll kick it over to Council
13 Member Paladino.

14 Oh, and could you identify yourself for
15 the record?

16 CHIEF CONTRACTING OFFICER GOFMAN: My name
17 is Roman Gofman. I'm the Chief Contracting Officer
18 for DCAS.

19 CHAIRPERSON RESTLER: Thank you, sir.

20 COUNCIL MEMBER PALADINO: Hi, and thank
21 you very much. Roman, these questions are for you so
22 don't get up.

23 I just want really some clarity here.
24 Security guards that are currently taking care of our
25 migrant centers. Just to be clear, 119 dollars an

1
2 hour. Is that so? Is that accurate? They are getting
3 paid 119 an hour?

4 CHIEF CONTRACTING OFFICER GOFMAN: So from
5 the...

6 COUNCIL MEMBER PALADINO: I know, go
7 ahead.

8 CHIEF CONTRACTING OFFICER GOFMAN: Garner
9 contract, I don't believe so. I have to check the
10 documentation. Currently, the three sites that DCAS
11 has POs and are paying invoices of the Floyd Bennett,
12 Creedmoor, and Randalls Island. Garner is not
13 providing security guard services.

14 COUNCIL MEMBER PALADINO: All right, who
15 is Garner? Let's be clear, make that very clear to
16 me. I'm new to this Committee. Who is Garner?

17 CHIEF CONTRACTING OFFICER GOFMAN: Garner
18 Environmental is the prime contractor that is
19 building the base camp sites at those three
20 locations.

21 COUNCIL MEMBER PALADINO: Okay, so they
22 build the...

23 CHIEF CONTRACTING OFFICER GOFMAN: Yeah,
24 but the services that they're providing, security
25 guard services, is stripped out of those three sites,

1 and I believe H & H is contracting directly with
2 their own security guard firm to provide services in
3 those three sites.
4

5 COUNCIL MEMBER PALADINO: Have any of you
6 ever seen the security guards at our migrant centers?
7 Have any of you had any interactions with them? I
8 have, and I'm going to tell you, they are poor at
9 best. They could barely speak, read, or anything.
10 I've had two in my District and, if these people,
11 while there's people out there starving, and these
12 people are making this kind of money, this is an
13 absolute sin. I have you down for 119 an hour, then I
14 see a discrepancy of 79 dollars an hour, which is
15 also blasphemy, and then I see here, I took a quick
16 little note, 24 dollars prevailing wages, explain to
17 me please, 119, 79, and 24, because 24 seems about
18 right. Anybody who's getting paid at any of the
19 migrant centers that I've been to anything more than
20 24 an hour, the taxpayers of this city are getting
21 robbed big time, and we could use this money
22 elsewhere. What security firms are we hiring that we
23 are putting people into these centers that when I go
24 there, and I visit often, can't even talk to me. I
25 don't understand. When I deal with DHS or anything

1
2 like that, primo, excellent, but when I go to these,
3 and we're dealing with outsourced security guard
4 agencies, they are a disgrace, and I'd like to know
5 what kind of income they're making because I know
6 people who are out of work, that if they could do
7 this for a living and make that kind of money, you'd
8 have a line out the door so please explain to me. I
9 don't understand who in the hell is getting 119 an
10 hour to sit in a migrant center for 12 hours and do
11 nothing, absolutely nothing?

12 COMMISSIONER PINNOCK: I was saying, as
13 mentioned as Roman testified, that the security guard
14 services are stripped out of the Garner contract
15 where we pay those invoices, but we are happy to
16 share your sentiments with those agencies that have
17 carved out the security role.

18 COUNCIL MEMBER PALADINO: I wrote a little
19 note here about the feds. What do the federal
20 statistics, when you mentioned the federal
21 government, what role do they play in this, if any at
22 all? You mentioned federal government. Can you please
23 go over that for me?

24 CHIEF CONTRACTING OFFICER GOFMAN: Yes.
25 Just first on the security guards, the report that

1 issued that there's guards that are making 24 through
2 the prevailing wage or the guards that you see at
3 DHS, those are actually the DCAS contracted guards
4 through FJC, right, so the report is saying that DCAS
5 has or had, because the contract expired, a contract
6 where the guards are making prevailing wage schedules
7 plus overhead profit, and Department of Homeless
8 Services is currently using our FJC contract as a
9 task order from the previous contract.
10

11 As far as the federal government
12 question, that Garner Environmental Contract that we
13 entered into from 2014 and are still in today, the
14 way we procure it, instead of doing a competitive
15 solicitation, the federal government already did the
16 procurement and the competitive solicitation on the
17 country's behalf, and every state, municipality,
18 Mayoral agency could tap into those contracts by
19 doing an intergovernmental procurement, and that's
20 how we got Garner Environmental. We used the federal
21 government's procurement and we piggybacked off of it
22 and got into a contract.

23 COUNCIL MEMBER PALADINO: Okay. Well, all
24 I could say is these security guard companies that
25 are being hired really need to be looked at because

nobody's worth 119 dollars an hour when there's
people out there that can barely make a living
flipping hamburgers in McDonald's and paying a
mortgage. Absolutely ridiculous and it's a sin.

CHAIRPERSON RESTLER: Thank you, Council
Member Paladino.

I'll just say I appreciate very much that
DCAS holds lots of master contracts that agencies all
purchase off of them, it's a lot of different moving
parts, but there is an expectation of doing more than
just paying the bills and processing the invoice, but
providing a level of oversight that we're getting the
most cost-effective purchasing with taxpayer dollars,
and I'm quite surprised, if I heard Mr. Goffman's
testimony correctly, that you're totally questioning
the validity of the Comptroller's report and the
discrepancy on the pay on the Garner contract. If if,
in fact, that report had inaccurate information, we'd
very much like to understand that as quickly as
possible because the findings that the Comptroller
shared were very disconcerting to us, or to me, and
were widely reported in the press, and so it's been
some time. I know we're all busy people, but to not
have a clear answer at this point after that report

1 has been issued is surprising so we hope to get
2 clarity as quickly as possible.

3
4 COMMISSIONER PINNOCK: You will.

5 CHAIRPERSON RESTLER: Thank you. Okay. I'm
6 going to just keep going on a few more questions,
7 being mindful of everybody's time.

8 I did want to just ask about something
9 that Director Jiha testified to yesterday. Is there a
10 cap on how many beds the state is willing to fund at
11 the three asylum-seeker sites in DCAS' purview? Sorry
12 to bring you back up here. Don't get too comfortable.

13 CHIEF CONTRACTING OFFICER GOFMAN: Sorry.
14 Can you repeat that question?

15 CHAIRPERSON RESTLER: Sure. I apologize.
16 In reference to Director Jiha's testimony yesterday,
17 is there a cap on the number of beds that the state
18 is prepared to fund at these three sites, Randalls
19 Island, Floyd Bennett Field, and, what was the third
20 one? And Creedmoor, thank you, of course, Queens, and
21 Creedmoor? The Admin is claiming that there's a 600
22 million gap, and could you just help us clarify
23 what's happening here?

24 CHIEF CONTRACTING OFFICER GOFMAN: DCAS is
25 not involved in any funding decisions or

1 reimbursement decisions, right? When we were asked to
2 enter into the PO and currently paying our invoices,
3 we are provided with funding by OMB for the estimated
4 dollar value for the Fiscal Year, but we are not in
5 conversations for reimbursement or anything on the
6 state's level
7

8 COMMISSIONER PINNOCK: Right. So that
9 would have to be something that's posed to OMB. We
10 just don't have any line of sight into that.

11 CHAIRPERSON RESTLER: I understand. We
12 will follow up with OMB. I just have to say I think
13 it's odd that DCAS is involved at all. I appreciate
14 your all's role in site selection, and that's a great
15 resource, and Deputy Commissioner Ringelheim and
16 others have tremendous expertise that we value in
17 helping to find every possible site for any potential
18 use across the city, but every other agency involved,
19 as Council Member Hanif noted, have expertise in
20 providing 24/7 care to people in need except for
21 DCAS, and so it's a little funny that you all are
22 expected to have 380, 400 million dollars your budget
23 to fund these essential services but are not involved
24 more than invoicing, right, and it makes it hard for
25

us to know where to go for the questions and to get the answers that New Yorkers deserve.

Okay, I'm going to try to go fast. I really appreciated Council Member Schulman's questioning around the DCAS headcount and workforce. There was just one followup question I wanted to ask, and this was related to, Commissioner, your comment on the hiring halls. Do you have a current vacancy rate in the Human Capital Division, and would enhanced staffing in that division lead to more workers getting hired at City agencies more quickly?

COMMISSIONER PINNOCK: I will bring up my Deputy Commissioner for Human Capital on the vacancy rate specifically for Human Capital. For our agency, our vacancy rate is 14 percent, and I'm happy that you're raising workforce again because I do want to assure the Council that despite our headcount, we are absolutely not just leaving agencies out there in terms of civil service administration and their ability to hire now that the hiring freeze has been lifted. The technical support that we have provided them has been helping in terms of recruitment, in terms of having diverse recruitment plans, looking at utilization data to hire a diverse caliber of talent

1
2 across job categories. If we were to have more staff
3 and I know I'm going to get to you, Katrina, if we
4 were to have more staff, where I think it could be
5 helpful is when we want to centralize certain
6 functions that sometimes agencies get bogged down in
7 because the civil service process and the hiring
8 process, they don't necessarily correlate, like if
9 one is fast, it doesn't mean the other one is faster.
10 Hiring at the agency level is dependent upon your
11 budget, it depends upon how quickly you can get a PAR
12 approved, and how quickly you can post and get the
13 position filled. Civil service is ongoing. We're
14 always churning out exams. However, there are certain
15 administrative processes that can bog down an agency
16 in its hiring process so, if there was a
17 determination to centralize some of those, I think
18 that that would actually help all of the agencies,
19 but that would require some additional human capital.

20 CHAIRPERSON RESTLER: We would love to
21 work with you on a proposal along those lines. As the
22 former Deputy Commissioner for Human Capital, if I
23 recall correctly, you know this work as well as
24 anybody, and so we would love to advance that
25 together. Just the other question, while I have you

1
2 up here, that I'd love to ask is if you can give us a
3 timeline for the FY22 and FY23 Workforce Profile
4 Reports that my staff and I love so much. Thank you.

5 DEPUTY COMMISSIONER PORTER: Yes. Thank
6 you for that question. Katrina Porter, Deputy
7 Commissioner for Human Capital. To address your
8 question regarding the Workforce Profile Report,
9 we're actively finalizing the next iteration of that
10 report, and we expect to have it released shortly. We
11 do understand the importance of the data and that it
12 is actually delayed, but we should have something
13 available to the Council and the public soon enough.

14 CHAIRPERSON RESTLER: Okay. We look
15 forward to meeting with you and learning more about
16 the findings in that report, considering the tens of
17 thousands of City workers' positions that have been
18 cut during the Adams' Administration, we think it's
19 critically important, and can I just ask you both if
20 you have it, do you have information on citywide
21 hiring at your fingertips? Do you have an
22 understanding of the current City workforce or is
23 that data that you can follow up with us on?
24
25

1
2 COMMISSIONER PINNOCK: We can absolutely
3 follow up because some of that would require that we
4 reach out specifically to those agencies.

5 CHAIRPERSON RESTLER: Okay, we would love
6 to follow up, and we can send that in writing on a
7 request on current workforce data.

8 All right. I have a couple more questions
9 before I get kicked to go to the next agency.
10 Renewable Rikers. We were really appreciative of the
11 feasibility study report being released yesterday. My
12 understanding is about 40 acres on Rikers Island have
13 been cleared and are in DCAS' control or I should say
14 are no longer in DOC control, are in DCAS' control.
15 Are there any plans at this time to begin utilizing
16 that space, solar panels, composting sites, or other
17 ways that we can start regenerating renewable energy?

18 COMMISSIONER PINNOCK: Meaningful
19 conversations around the use of the 42 acres have not
20 yet commenced, but we do expect them to with the
21 availability of the feasibility studies from MOCEJ
22 and DEP. We are actively working now to get a meeting
23 on the calendar with the Committee Members. We did
24 meet very early in the Administration, but there were
25 still some key roles that had to be filled. They are

now been filled, and so we're looking forward to
having those discussions starting in the spring.

CHAIRPERSON RESTLER: Okay. We look
forward to those conversations getting underway as
quickly as possible. I think it would be very
powerful to start making tangible progress on the
Island, and so I hope that we'll be able to actually
break ground and make progress in the near future.

I wanted to follow up on another item
that Council Member Schulman asked about. I think
this is for Mr. Wagner. The new needs of 9.7 million
that were in the FY24 budget, and I think it's 590 in
FY25 for emergency façade and roof repairs. How many
specific buildings does this new really one-time
investment cover? Are you able to quantify the number
of buildings that will see their scaffolding removed
as a result of this investment? Then on the flip side
just because, to be cognizant of time, all the cuts
that were just announced subsequently in the DCAS
Capital Plan, the billion dollars of cuts, is that
going to generate additional scaffolding that is
going to be up for longer periods of time as façade
improvements and roof repair projects get delayed? If
you could just help us on both of those items, I know

1
2 there's a lot there, but if you could give us the top
3 lines, we would appreciate it.

4 COMMISSIONER PINNOCK: Definitely, as it
5 relates to the 9.7 million, there are six locations
6 that are impacted. Specifically for facades, it's 88-
7 11 Sutphin Boulevard. That is also a location where,
8 as opposed to scaffolding, we are working on the
9 installation of the netting. There's also 26 Central
10 on Staten Island and 253 Broadway so that's covered
11 under the façade. For roof repairs, we have 60 Center
12 Street, 80 Center Street, and 10 Richmond Terrace and
13 so, while certainly our goal is to try to remove all
14 of the shedding, we've estimated that we can probably
15 remove about 50 percent of that, but we certainly
16 would fine tune our analysis and circle back to the
17 Council with additional information.

18 COMMITTEE COUNSEL GANAPATHY: Kamillah
19 gets two, Chris Marte gets three, but none for
20 Brooklyn.

21 COMMISSIONER PINNOCK: Oh, I knew you were
22 going to do that.

23 CHAIRPERSON RESTLER: None for Brooklyn.
24 You know I got to, I don't have a choice.

DEPUTY COMMISSIONER WAGNER: Brooklyn, we have finished 210, all the scaffolding is down at 210. 345, the scaffolding..

CHAIRPERSON RESTLER: Yes, you deserve real credit at 345. Thank you for that.

DEPUTY COMMISSIONER WAGNER: That is finished.

CHAIRPERSON RESTLER: 360, what can you tell me?

DEPUTY COMMISSIONER WAGNER: 360 will be started in mid-2025 and should be completed by mid-2027.

CHAIRPERSON RESTLER: So by mid-2027, no more scaffolding in front of 360 Adams because it was the year I graduated from college that that scaffolding went up. My 40th birthday is coming up. I'm just saying like it's been a minute. All right. I appreciate it. Could you just speak to the Capital Budget cuts? Does that have any impact on façade and roof projects that mean scaffolding will be up for longer periods of time.

DEPUTY COMMISSIONER WAGNER: Right now, we're working on it. The budget cuts right now did impact some of our life safety projects, but it

1 didn't impact any of our façade projects at this
2 moment.
3

4 CHAIRPERSON RESTLER: So you don't believe
5 that any of the billion dollars of cuts to the DCAS
6 Capital Plan will lead to scaffolding being up for
7 indefinite periods of longer periods of time.

8 DEPUTY COMMISSIONER WAGNER: No, because
9 I'm trying to work hard on trying to not put
10 scaffolding up as I do the inspections and get at
11 least the unsafe condition taken care of to do the
12 capital project. In the meantime, I don't have to put
13 scaffolding up, and that's we've been working very
14 hard. I have somebody working very hard on that, and
15 we seem to be really following through pretty good on
16 that.

17 CHAIRPERSON RESTLER: Well, that is
18 helpful progress. We're happy to hear it. Thank you
19 very much, and we'll look forward to having a
20 celebration when the work is done in the Brooklyn
21 Municipal Building and at 360 Adams. Thank you to you
22 and your team and especially to Laura for all your
23 great work.
24
25

1 The 354 million in growth in the DCAS'
2
3 2025 Preliminary Budget is primarily attributed to
4 asylum-seeker spending. Is that right?

5 COMMISSIONER PINNOCK: Yes.

6 CHAIRPERSON RESTLER: And the '25 Contract
7 Budget for DCAS totaled 463 million, but we found
8 that 407 million was in the other professional
9 services bucket. Is that asylum-seeker spending? Tell
10 me if I can clarify that question further.

11 COMMISSIONER PINNOCK: 403 million of that
12 is for asylum-seekers spending, yes.

13 CHAIRPERSON RESTLER: That's helpful.
14 We've seen the City workforce shrink by tens of
15 thousands. You all are pursuing a dynamic remote work
16 pilot that I'm certainly excited about that I hope
17 will improve retention rates for City workers, but we
18 haven't yet seen a reduction in the City-leased space
19 and, rather than cutting spending on electric
20 vehicles, Keith, or other necessary investments, I
21 would think this is an area where we could reduce
22 underutilized space that we're spending a lot of
23 money to rent out. Is that something that is in the
24 process of being analyzed? Is there any progress that
25 you can report on that effort?

COMMISSIONER PINNOCK: Absolutely. We have launched a Citywide Space Savings Initiative where we've engaged all agencies. The goal of the exercise is really to optimize the City's footprint given the fact that we do have remote schedules now in place. Our goal is that by the end of this Fiscal Year, we'll be in a position to assign agency specific targets based on agency's current footprint, headcount, and need for desks.

CHAIRPERSON RESTLER: Okay. We are eager to understand progress on that front, and I think as you help us understand some of the current staffing levels at City agencies and how that's changed over time, we want to also be looking at those same agencies about whether they need as much lease space as they do.

I wanted to ask you about average building cleanliness. We saw this in the PMMR that the average building cleanliness and condition rating for DCAS-managed non-court spaces was down 10 percent from 72 percent to 62 percent. Could you give us any insight in this decline and what you're doing to reverse it?

1
2 COMMISSIONER PINNOCK: The decline was
3 certainly relating to some attrition. We have City
4 Custodial Assistants that perform that work. The
5 nature of that work is very difficult, in some cases
6 physically taxing, and it's very difficult to retain
7 staff in that particular role. That is one of the
8 titles that we're actively and aggressively working
9 with OMB to backfill our positions, and there were
10 also some other priorities that had impacted the
11 nature of their work where we had to have staff float
12 between locations and close proximity.

13 CHAIRPERSON RESTLER: That is helpful. I'm
14 disappointed to hear that staffing is the primary
15 challenge behind it.

16 I think that covers all the questions I
17 had to ask, but I just want to ask you,
18 Commissioners, is there anything else we didn't cover
19 today that you would like to add?

20 Gale has one more question, and then
21 we'll go to Council Member Brewer to close it.

22 COUNCIL MEMBER BREWER: No, you'll close
23 it, but my question is 22 Reed Street, the status,
24 and then I am supportive, do you own part of Wards
25 Island? I know the State has some, the City has some.

1 I want Wards Island to become a Roosevelt Island, and
2 so I've been pushing for that, but is that something
3 that you also have any knowledge of? Those two
4 questions.
5

6 COMMISSIONER PINNOCK: I think that we
7 have only a small portion on Wurts Island, but I can
8 circle back with the specifics there.

9 COUNCIL MEMBER BREWER: Okay, and what's
10 with 22 Reed? It was City Planning, now there are
11 agencies in there. We have a burial ground issue, and
12 I didn't know if you ever going to keep it, sell it.
13 I just didn't know the status.

14 COMMISSIONER PINNOCK: I know we don't
15 have any plans to sell it, and I know that there have
16 been a host of conversations around potentially
17 demolishing, rebuilding, so I can definitely circle
18 back. I don't have that information with me. I
19 apologize.

20 COUNCIL MEMBER BREWER: It's just been
21 going out for about 30 years. Thank you.

22 CHAIRPERSON RESTLER: At least, and I know
23 we do own a number of the shelter sites on Wards
24 Island so I don't know if it's, exactly how control
25 works, but they're certainly publicly owned.

1
2 I just want to close by saying
3 Commissioner, I think this you are doing an
4 impressive job and I really want to thank you and
5 your team for your hard work.

6 COMMISSIONER PINNOCK: Thank you.

7 CHAIRPERSON RESTLER: You're a great
8 public servant.

9 COMMISSIONER PINNOCK: Thank you. I'm
10 very, very lucky. I have an amazing team. Being a
11 service provider is not easy, but they make it look
12 easy each and every day, and I'm very thankful for
13 them and thank you to all of you today.

14 CHAIRPERSON RESTLER: Thank you. Thank you
15 for joining us. Thank you all.

16 COMMITTEE COUNSEL GANAPATHY: Thank you.
17 We will take a very short break before the Law
18 Department comes in to testify.

19 Hello, thank you. We can get started.
20 This is the Committee on Governmental Operations,
21 State and Federal Legislation, and we will be hearing
22 testimony from the New York City Law Department.

23 If the panelists will please raise their
24 right hand, I can administer the oath.

Do you affirm to tell the truth, the whole truth, and nothing but the truth before this Committee and to respond honestly to Council Member questions?

CORPORATION COUNSEL HINDS-RADIX: I do.

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: I do.

MANAGING ATTORNEY EICHENHOLTZ: I do.

DIRECTOR ARAF: I do.

COMMITTEE COUNSEL GANAPATHY: Thank you.

You can begin. Before you speak, please state your name and role for the record, and Chair Restler will be making a brief opening statement.

CHAIRPERSON RESTLER: Thank you so much.

Thank you, Jayasri. I'd like to welcome Corp Counsel Judge Sylvia Hinds-Radix, the Head of our Law Department to testify today.

The Law Department's Fiscal '25 Preliminary Budget totals 220.3 million dollars including 145.3 million in personal services to support 1,404 full-time positions and 75 million for other-than-personal services. The Law Department serves as the legal counsel for the City, the Mayor,

various elected officials like all of us, and
numerous City agencies.

Today, we look forward to discussing the
Law Department's operations, the new needs and PEGs
included in the Preliminary Plan, staffing at the
department, affirmative litigation, PD settlement
payouts, juvenile justice, and more. Judge, I have
been pleased, truly, to learn about your efforts to
expand the ethics and risk management work of the Law
Department. I'd also like to commend you and your
team regarding the recent lawsuit against social
media companies and for your leadership of a national
coalition of cities to safeguard access to medication
abortion. We have, though, seen a sharp decline in
the Law Department headcount in recent years, and I
am concerned about how that reduced staffing capacity
is impacting the Department's ability to serve our
City. I am also highly concerned about a crisis
unfolding in our youth detention facilities. The
number of kids in jail has doubled since Mayor Adams
came into office. The Law Department plays a critical
role as the team that serves as the prosecutors in
many of these cases. We've seen a 44 percent increase
in felony arrests year-over-year for kids while

1
2 diversion rates have declined in City programs that
3 serve at-risk youth have been eliminated.

4 Judge Hinds-Radix, I really want to thank
5 you for being with us today. We look forward to your
6 testimony. Thank you so much.

7 CORPORATION COUNSEL HINDS-RADIX: Thank
8 you very much. Good afternoon, Chair Restler and
9 distinguished Members of the Government Operations
10 Committee. I'm having a little cold so my voice. It
11 is a pleasure to come before you to discuss the Law
12 Department's Fiscal Year 2025 Preliminary Budget.
13 This afternoon, I'm joined by First Assistant
14 Corporation Counsel, Muriel Goode-Trufant; Managing
15 Attorney Eric Eichenholtz; and Director of Finance,
16 Motte Araf.

17 The Law Department represents the City,
18 the Mayor, the City Council, other elected officials,
19 and the City agencies in all affirmative and
20 defensive civil litigation. As a prosecuting agency,
21 the Department brings proceedings in family court
22 alleging violations of criminal law and represent the
23 people of the state of New York in proceedings filed
24 in criminal court to enforce the City's
25 Administrative Code.

1
2 Law Departments attorneys draft and
3 review local and state legislation, real estate
4 leases, procurement, contracts, and financial
5 instruments for the sale of municipal bonds. The
6 Department also provides legal counsel to City
7 officials on a wide range of issues such as civil
8 rights, education, intellectual property, land use,
9 and environmental policy. The Department's work
10 embraces all City entities and operations. Our impact
11 is tremendous.

12 The Department currently has on board
13 approximately 765 assistant corporation counsels and
14 665 support professionals. We are proud to be a
15 diversity, equity, and inclusion leader in the legal
16 profession with approximately 30 percent of our
17 lawyers ethnically diverse and 58 percent women.

18 The Law Department plays an important
19 role in enhancing the City's fiscal strength,
20 providing internal support to agencies and elected
21 officials to ensure legal and ethical compliance and
22 in advocating for the public good. To better carry
23 out this mission, during the past year, we created
24 the new divisions that you, Council Member, just
25

referred to the Risk Management Division and the
Ethics and Compliance Division.

In prior years, I testify before this
Committee about the important work that was then the
Torts Division Risk Management Unit working with all
City agencies to mitigate or eliminate risk to city
residents both short-term by identifying dangerous
conditions which can be remediated quickly and long-
term by identifying agency operations or practices
that are often the subject of litigation to discuss
possible changes. This past year, we expanded this
unit into its own division in the Law Department,
adding staff and resources to focus on this important
task. The Risk Management Division meets regularly
with City agencies to discuss matters that are
frequently the subject of litigation, to strategize
about possible changes to mitigate risk. As its own
division, the Risk Management Division has expanded
its work beyond personal injury matters to risk
issues across all legal disciplines. For example,
Risk Management attorneys are working with our Labor
and Employment Law Division attorneys to create
strategies and to prevent liability from wage and
hour violations. The Risk Management Division is also

1 embedding attorneys in our teams handling cases in
2 which monitors have been appointed by the courts.
3 Their work will ensure that these costly monitorships
4 function no longer than is absolutely necessary and
5 provide guidance and counsels to agencies to ensure
6 that the legal issues that lead to these large cases
7 do not recur.

9 Our Ethics and Compliance Division was
10 created to the overwhelming demand for advice and
11 counsel from Law Department's Chief Ethics Officer
12 from within the Law Department as well as throughout
13 the City government on matters of legal ethics,
14 representations and conflicts of interest as well as
15 demonstrated need for additional resources to be
16 placed on compliance matters. In addition, the Law
17 Department separately handles various federal
18 compliance matters including counseling and
19 litigation of false claims acts, matters concerning
20 the City's compliance with the terms of federal
21 grants. Additionally, the Law Department required new
22 expertise and resources to meet new obligations in
23 supporting the five district attorney's offices and
24 the Special Narcotics Prosecutor's Office who have
25 requested representation for their staff members in

1 connection with proceeding before the newly formed
2 Commission on Prosecutorial Conduct. The Ethics and
3 Compliance Division was created to better conduct
4 this important work as well as to create new measures
5 to ensure compliance by City agencies with local,
6 state, and federal requirements, which require
7 monitoring, advisors, and reminders that were not
8 currently in place within City government prior to
9 the creation of this division. The creation of this
10 division also achieves, for the City, cost savings.
11 For instance, after shadowing outside counsel for
12 approximately nine months, the division is now
13 capable of representing prosecutors and attorneys in
14 grievance proceedings, eliminating the need to hire
15 outside counsel at significant additional cost to
16 provide a defense of these individuals.

18 The Law Department plays a significant
19 role in securing funds for the City and in protecting
20 the public good. For example, through the work of our
21 Affirmative Litigation Division, in the first half of
22 this Fiscal Year, we recovered over 30 million
23 dollars for the City and City entities. This includes
24 monetary recoveries for unpaid cigarette taxes,
25 property damage, breach of contract, idling

1 violations, tenant protection, false claim act cases,
2 securities fraud, anti-youth vaping, and opioid
3 settlement payments among other things. In addition,
4 collection law firms supervised by the Law Department
5 recovered over 10 million dollars. In addition to
6 these financial recoveries obtained to compensate for
7 violations of the City's rights, our Affirmative
8 Litigation Division continued in the Fiscal Year to
9 pursue civil enforcement actions for the protection
10 of public health and safety. We continue to litigate
11 against cigarette traffickers, sellers of flavored
12 electronic cigarettes or vapes, and marketers of e-
13 cigarettes to youth. There are approximately 50
14 matters either in court or under consideration to
15 compel compliance by landlords and building owners
16 with code requirements designed to protect tenants
17 and the public. In December, we reached our first
18 million-dollar settlement with the owner of eight
19 properties in Manhattan who agreed to take a
20 corrective action plan.

21
22 We continue to litigate against
23 manufacturers Kia and Hyundai who decided to omit
24 from certain car models the industry standards anti-
25 theft immobilization devices, forcing law enforcement

1
2 to respond to surging levels of auto theft with
3 thieves participating in a viral TikTok challenge.

4 As you are aware, we just filed a suit on
5 behalf of the City, the New York City Department of
6 Education, the New York City Health and Hospitals to
7 hold social media platforms accountable for their
8 contribution to the youth mental health crisis facing
9 our City. We also settled the first pattern of
10 practice lawsuits under the City's Freelance Isn't
11 Free Act, enforcing compliance with the nation's
12 first law protecting freelance workers and recovering
13 double damages for the freelancers who were not paid.

14 We also anticipate saving the City over
15 100 million dollars this Fiscal Year in payouts from
16 the Judgment and Claims Fund through our continuing
17 activity to compel insurance companies to defend and
18 indemnify the City. In these cases, we are enforcing
19 coverage for lawsuits arising out of the work
20 performed by private contractors and permittees.
21 Every case that the insurance company steps up to
22 defend is a case that does not have to be defended by
23 City attorneys, thus saving enormous legal resources.
24 Settlements and judgments paid by insurers in cases
25 falling within the policy coverage also save the City

substantial sums. This past year, the Affirmative Litigation Division achieved a milestone, passing more than a half billion dollars saved since the start of that program in 1990.

A further example is our Commercial and Real Estate Litigation Division, which defends the City in a wide range of contractual disputes. These disputes include categories of agreements, contracts with private companies to build or repair the City's infrastructure, leases of important public properties, and contracts for all types of goods and services. These claims are largely based upon negotiated terms of pre-existing agreements and typically involve significant exposure to the City. In, in Fiscal Year '23, the Division saved the City 50 million dollars by resolving a 150 dollars in claims for 1 million dollars. Similarly, our Tax and Bankruptcy Divisions defense of real property tax assessments protected 91 million in property tax receipts in the Fiscal Year '23 and almost 30 million during the Fiscal Year of '24.

A large focus of our work this year was to ensure the City could adequately respond to the influx of asylum seekers arriving in our city. Led by

1 our executive team, a multidisciplinary group of
2 attorneys from across several Law Department
3 divisions, provided critical and timely legal advice.
4 The work of this dedicated group of attorneys from
5 divisions such as Legal Counsel, Affirmative
6 Litigation, General Litigation, Contracts and Real
7 Estate, Administrative Law, and Regulatory Litigation
8 enabled the City to respond to this crisis lawfully
9 and cognizant of applicable laws and rules. The team
10 also litigated myriad matters that arose in order to
11 represent the City's interest in court, which was
12 tasked with litigating and continuing to litigate in
13 upstate counties and towns to defend the City's
14 ability to use available upstate hotel rooms for
15 temporary housing assistance for asylum-seekers,
16 ensuring the City was not limited in our ability to
17 manage this crisis.
18

19 As you are likely familiar, our office
20 also works side by side with the Council attorneys
21 crafting local laws and then defending those laws if
22 and when they are challenged. All of this work is in
23 addition to our efforts to defend the City and its
24 employees in litigation in more than 70, 000 cases
25 annually. We've experienced an increase in pending

1 cases, particularly in our largest division, the Tort
2 Division, where there are now more than 31,000 cases
3 pending. Included in the number of pending cases are
4 longstanding cases, COVID-19-related cases, and newly
5 filed Adult Survivor Act and Child Victim Act cases.
6 The tort caseload remains steady this year due to our
7 efforts to employ new strategies to efficiently
8 address case backlog despite budget constraints. For
9 example, for years, tort cases involving the
10 Department of Transportation have been hampered by
11 the need to, at great personal cost, search myriad
12 databases maintained by the agency to locate and
13 provide relevant material for discovery.
14

15 Working with the Law Department, DOT has
16 implemented a system called Universal Legal Search,
17 ULS. USL can search across DOT's database to extract
18 and pull relevant material for discovery production
19 in a far more efficient manner. We anticipate that
20 USL will allow the Tort division to significantly
21 reduce a backlog of discovery motions, including
22 motions to strike the City's answers in cases in
23 which the City otherwise has a meritorious defense.

24 We continue to pursue all other
25 innovative strategies with other agencies to manage

1
2 the workload across all of our divisions in the face
3 of increased workload and emerging legal challenges
4 but fear the unprecedented levels of attrition of
5 ACCs and support professionals may outpace our
6 mitigation efforts. For example, we continue to see
7 an erosion of resources previously provided to the
8 Tort division that enabled us to improve case
9 outcomes through increasing early settlements,
10 engaging in better case preparation, and enhancing
11 our state court trial practice. As the City's fiscal
12 condition improves, we look forward to working with
13 Office of Management and Budget and the City Council
14 to restore resources to successful initiatives and
15 identify new initiatives that would allow the Law
16 Department to more effectively carry out this
17 mission.

18 The Family Court Division is the second
19 largest and only prosecutorial division in the Law
20 Department. All of the work in the Division is geared
21 towards strengthening youth, families, and
22 communities. Its mission is twofold through juvenile
23 justice and interstate child support. We are the
24 Presentment Agency for Juvenile Justice, Adolescent
25 Offenders, and Interstate Child Support Cases

1 referred to the New York City Family Court. Under
2 this rehabilitative mandate of the Family Court Act,
3 the Family Court Division must work to achieve
4 outcomes that serve the needs of each individual
5 youth brought before the court. While at the same
6 time, protecting the interests of crime victims and
7 ensuring the safety of the community at large.
8 However, these matters require resources similar to
9 those prosecutorial agencies, such as district
10 attorneys. Our family court attorneys work in
11 approximately 30 locations, 365 days and nights a
12 year including nights and weekends and holiday
13 operation. The amount of serious matters handled by
14 this division continues to rise. New York City
15 continues to experience a significant increase in
16 violence around firearm cases. The number of firearm
17 cases handled by this division is at an all-time
18 high. In 2017, the division handled 39 firearm cases
19 citywide. In 2022, 384 firearm cases were referred to
20 and investigated by the Family Court Division and, in
21 2023, that number reached 415. Thankfully, the
22 numbers of homicide referrals have decreased from
23 eight in 2022 to two in 2023. However, the number of
24 juvenile cases referrals increased by 51.8 percent,
25

1
2 at 3,814 in 2002 to 5,790 in 2023, 73 percent which
3 involved felony charges. Despite the increased
4 complexity of the cases and the challenges regarding
5 evolving technology and attrition, with the exception
6 of the first year of the pandemic in 2020, this
7 Division has maintained a conviction rate of over 70
8 percent, reaching 77, in 2023. Our child support case
9 referrals also increased by 9.68 percent from 1,870
10 in 2022 to 2,051 in 2023, but the goal for our youth
11 in juvenile justice is to identify strengths and
12 resources and opportunities to foster success in the
13 community. To do so, our staff members are dedicated
14 to outreach across the five boroughs, attending
15 events in schools and in communities in order for us
16 to meet and support all of those who may need our
17 assistance. In juvenile justice proceedings, the law
18 requires a determination that balances the needs of
19 the youth and the community. The vast majority of
20 cases in the division result in community-based
21 outcomes, including divergent restorative justice.
22 Through all our matters, we look forward towards
23 matching youth and families and impacted community
24 members with appropriate services and opportunities
25 geared toward preventing system involvement,

1 providing rehabilitation, securing restorative
2 justice, and promoting enhanced outcomes for the
3 youth, for families, and communities in New York
4 City. Our staff is committed to a holistic approach
5 of these issues.
6

7 My testimony today provides a limited
8 survey of the very broad and varied legal work
9 performed by the Law Department. By keeping the
10 interests of all New Yorkers at the center of our
11 work, we can do what is right and reinforce trust in
12 government, and that is our core commitment. I thank
13 you for your support of the Law Department, and I
14 look forward to our continued collaboration. I would
15 be happy to answer any questions you may have.

16 CHAIRPERSON RESTLER: Thank you so much,
17 Judge, for that thoughtful and thoughtful and
18 expansive testimony. We really appreciate it. I'll
19 start with covering a few topics and then if
20 Colleagues would like to jump in, by all means.

21 Firstly, I greatly appreciate the
22 essential work of the Law Department, and I think one
23 of the City of New York's great assets are the
24 senior, seasoned, expert attorneys in the Law
25 Department, and my concern is that we're not

1 resourcing the agency adequately. The Law
2 Department's Fiscal Year 2024 Adopted Budget was 247
3 million dollars. According to Prelim, you all are on
4 pace to spend 284 million dollars, but the FY25
5 budget is just 220 million dollars. That's a 64-
6 million-dollar difference. That's a 30 percent
7 reduction potentially in spending for the Law
8 Department year-over-year. If enacted, that would be
9 a hugely detrimental cut to the Law Department. Could
10 you please detail what changes contributed to Law's
11 budget dropping so dramatically between the current
12 Fiscal Year as of January and the Fiscal '25 budget?

13 CORPORATION COUNSEL HINDS-RADIX: I'd like
14 to refer that to our Director of Finance.

15 DIRECTOR ARAF: Good afternoon.

16 COMMITTEE COUNSEL GANAPATHY: Could you
17 state your name and position for the record?

18 DIRECTOR ARAF: Sure. Motte, M O T T E,
19 last name is Araf, A R A F, and the I'm the Director
20 of Finance.

21 The Law Department budget is lower in the
22 FY25 as a result of the OTPS, the other-than-personal
23 services, budget is underfunded, and that's mainly
24 due to the underfunding for major cases and
25

1
2 technology-related cost, and we work with our
3 colleagues at OMB to fund that shortfall year to
4 year. Given the nature of legal services, we
5 understand that it has to be done through the process
6 of supplemental budget. We revise needs during the
7 financial plan cycles and they address them the year
8 to year. We have not had a year where we went into a
9 negative, so the budget has always been balanced, but
10 we understand that because of that nature of legal
11 services, they're not able to baseline the funding.

12 CHAIRPERSON RESTLER: I appreciate that,
13 and we'll certainly dig in on some of the contracted
14 OTPS work, but it's not just a question of OTPS.
15 We're seeing significant shifts in the Law Department
16 headcount. You know, when you look back to FY19 pre-
17 pandemic, Eric can remember these days well, the Law
18 Department had a head count of 1,970. As of January,
19 we saw it at 1,460, and you testified today there
20 were 765 assistant court counsels and 665 legal
21 support professionals. That's an 18 percent decrease
22 in a five-year period in the number of lawyers that
23 we have on staff. That is a huge reduction. More than
24 one out of six lawyers, the Law Department has
25 disappeared in the last five years, and yet you all

1 have more work to do than you did back then. For a
2 long time, the Law Department was celebrated as the
3 largest law firm in the New York City, the people's
4 law firm, but that's no longer true. Kirkland and
5 Ellis has more attorneys than the Law Department.
6 That's crazy and that is wrong, and we should be
7 investing in the Law Department because when the Law
8 Department doesn't have capacity, every other agency
9 in City government is slowed down. I'm particularly
10 concerned about, well actually there's two questions
11 I'd like to ask here, one, in Fiscal '24, the Exec
12 Plan, 63 baseline positions were removed from the Law
13 Department, and there was a new November PEG that cut
14 56 more positions so that's a further 119-person
15 staff reduction at the Law Department, which has
16 already undergone significant staffing cuts in the
17 last number of years. How can the Law Department
18 perform its essential functions with this
19 historically low staffing levels that are continuing
20 to significantly decline as a result of the Mayor's
21 aggressive PEGs?
22

23 CORPORATION COUNSEL HINDS-RADIX: Are you
24 finished?
25

1
2 CHAIRPERSON RESTLER: I'm done. I like to
3 speechify a little too much, but I'm serious and
4 concerned about this.

5 CORPORATION COUNSEL HINDS-RADIX: There
6 has been, of course, a decrease in staff and not just
7 because of the PEGs. There have been significant
8 attrition because of COVID, there's still an
9 inability to get younger attorneys wanting to be able
10 to work from home so there've been some pieces that
11 have also now coming on place are, as we were looking
12 at it yesterday and discussing the fact that we are
13 now, because of some adjustments that have been made
14 working with OMB, we've been able to do something
15 with our salaries, and Council Member Brewer will
16 tell you the last time I was here, she was talking
17 about the Law Department salaries and our inability
18 to compete. We have been able to make some of those
19 adjustments, and I believe it has made our Department
20 more attractive, and now as we are recruiting, we're
21 seeing the interest coming to the Law Department so
22 those are things that we have been working to put in
23 place to do the work that we're doing, and you've
24 said, and we agree, we have a committed group of
25 people who work for the Law Department who are

1 interested in doing City work, and, in spite of our
2 deficits, we've been able to do the work that we're
3 supposed to do on the behalf of the City.
4

5 CHAIRPERSON RESTLER: Judge, can you lay
6 out for us how are the savings determined from the
7 most recent PEGs, and what will be the impact on
8 agency operations?

9 DIRECTOR ARAF: Sure. In light of our
10 budget condition and the head count that was just
11 mentioned, we try where possible to bring in revenue
12 to meet the PEGs. In the absence of that, we work
13 with the OMB task force where it's not possible that
14 the revenue will be realized on time, they look into
15 our attrition, into our vacancies condition, and they
16 plug in a difference so that, for example, 56
17 reduction that you mentioned, it's a one-time
18 reduction. It's not a baseline so the headcount
19 authorizes..

20 CHAIRPERSON RESTLER: In addition to the
21 63-baseline reduction that you had to deal with just
22 recently.

23 DIRECTOR ARAF: That's correct, yeah.

24 CHAIRPERSON RESTLER: That's a lot, 119
25 positions out of a 1,500-person workforce. We're

1 talking about a significant impact on Law's
2 operations and capacities, correct? That's what I
3 thought. Is there something you wanted to add?
4

5 MANAGING ATTORNEY EICHENHOLTZ: Yeah,
6 sure. I would just add also, Council Member, because
7 I think your question was also how do we deal with
8 this, I think we all agree it's a lot of reduction,
9 and we work I think, and I really do appreciate OMB
10 has been receptive to our concerns when these issues
11 arise, and we work with them to identify needs so one
12 of the things, as the Judge mentioned, that was a
13 challenge to us was recruitment was down and, as a
14 result of recruitment, we had a large number of
15 vacancies and obviously from a budgetary perspective,
16 then those vacancies, the management budget will look
17 at that and say, you have a lot of vacancies, and we
18 said we want to hire into those vacancies, we want to
19 make sure that we have staff that are taking care of
20 the needs and things like that, and they've been a
21 partner to us and, when we've identified staff,
22 they've been supportive, they've been creative and
23 credit a lot of our revenue to try and reduce the
24 number of vacancy reductions. This year, as the Judge
25 mentioned with work from home, they worked with us

1 and they approved a restructuring of our attorney's
2 salary structure based on what we're seeing from the
3 DA's office and the AG's office to make our salaries
4 more in line and more competitive plus we had the
5 recent COLA adjustments that were very helpful so
6 from our perspective, we expect that our hiring is
7 going to tick up and what we've discussed with OMB
8 and what we'll continue to discuss, and I can assure
9 you we will continue to do is if our hiring makes it
10 such that we're reaching a point where this new
11 headcount, where we're going up against this new
12 headcount and there are needs that are important,
13 they will continue to speak with us about meeting
14 those needs, about floating overhead count of things
15 like that, obviously with no promises or commitments,
16 but we intend to advocate and we will work with them.
17 If we have that personnel and if we have those needs,
18 we will continue to make sure.

20 CHAIRPERSON RESTLER: Does the Department
21 expected that it will need to settle more cases
22 instead of going to trial due to lower staffing
23 levels.

24 CORPORATION COUNSEL HINDS-RADIX: Settling
25 cases involve, Council Member, a lot of things. We

1 evaluate the exposure for the City. We don't
2 necessarily go to settle a case because there is not
3 an individual person to go to trial. That's not our
4 bottom line. We try to make sure that we're doing it
5 in the best interest of the City.
6

7 There's a possibility if we didn't settle
8 a case, we could go to trial and be exposed to a
9 significant judgment. Those are things that we look
10 at, and those are things that we have the attorneys
11 do and we have them understand that it is a part of
12 their responsibility, as attorneys with licenses, to
13 go into court and to have that first and foremost
14 rather than the thought that we have to settle it
15 because of the fact we don't want to go to trial.

16 CHAIRPERSON RESTLER: Could you please
17 provide in writing as a followup to this hearing a
18 breakdown of the head count in each division and how
19 that's changed over the last four years?

20 CORPORATION COUNSEL HINDS-RADIX: For each
21 division?

22 CHAIRPERSON RESTLER: Yes.

23 CORPORATION COUNSEL HINDS-RADIX: Okay, we
24 will provide that.
25

1
2 CHAIRPERSON RESTLER: That would be great.
3 Judge, as you and I have discussed, I really worry
4 about places like the Contracts Division that are
5 responsible for reviewing every contract, every RFP,
6 everything, and Amrita and her team need the staff to
7 be able to review it or it slows down every agency's
8 ability to do their jobs, and so it's where Law
9 serves as that pinch point that I'm most concerned
10 about, but we would really appreciate being able to
11 analyze that together.

12 CORPORATION COUNSEL HINDS-RADIX: We are
13 too, Council Member, and we make sure that the areas
14 where we see the impact, where it's critical to the
15 City that we have the discussions with OMB.
16 Irrespective of what is there at the time, if there
17 is a question of the headcount for that division
18 haven't been met, and we realize that there is
19 something that needs to be done, we have those
20 discussions also.

21 CHAIRPERSON RESTLER: I appreciate it, and
22 I appreciate the comments about increases in salary,
23 and hopefully that will improve recruitment and
24 retention. I'm just going to go on one more topic,
25

1
2 and then if Council Member Brewer or Carr would like
3 to jump in.

4 The number of youth in detention, as I
5 mentioned in my opening statement, has doubled since
6 the Mayor came into office, and it increased 30
7 percent year-over-year according to the PMMR. Average
8 length of stay is also up by 16 percent year over
9 year. The doubling of youth in jail has literally
10 packed our detention facilities to such an extent
11 that kids are regularly sleeping in classrooms. The
12 Law Department serves as the prosecutors in many of
13 these cases that potentially place kids in jail. I
14 want to focus on prosecutorial discretion and what is
15 the result of deliberate policy choices by the Adams'
16 Administration that is driving this increase in youth
17 incarceration. Have you conducted a review about
18 what's driving the team's decisions that are
19 contributing to this 44 percent increase in felony
20 arrests year over year?

21 CORPORATION COUNSEL HINDS-RADIX:

22 Actually, I believe last week we had a discussion
23 with, and yesterday, a discussion with our Family
24 Court Division. Everybody is pretty much aware of the
25 fact that there has been a significant spike in in

1
2 violence amongst youth in our city. That has been a
3 focus for us to try to make sure that we try to get
4 these young people out of that pipeline. Although we
5 are the prosecutorial arm for the City, our cases are
6 referred from Probation Department. Unlike how they
7 go to the district attorney's office and the district
8 attorney's office has a different process. Ours are
9 referred from the Probation Department. If you would
10 look and you'll see the (INAUDIBLE) what we have been
11 looking at. We've been seeing many more felonies
12 amongst these young people, and we evaluate these
13 cases on a case-by-case basis. Our direction isn't
14 from an Administration. It is from what we have
15 before us and the legal strategies and requirements
16 that we have to take.

17 CHAIRPERSON RESTLER: Are you considering
18 any actions or policy changes that might reduce the
19 percentage increase in felony arrests, that might
20 reduce the percentage of kids that are getting sent
21 to jail?

22 CORPORATION COUNSEL HINDS-RADIX: Well,
23 what we also have been doing, and we had a meeting
24 and continue to meet with the Probation Department,
25

1 and we're working across agencies to have that kind
2 of a discussion and also...

3
4 CHAIRPERSON RESTLER: Have you been
5 encouraging the Probation Department to restore the
6 programs that they've eliminated that provide care
7 and services to young adults who are at risk?

8 CORPORATION COUNSEL HINDS-RADIX: We're,
9 having discussions with them about those things and
10 how we can collectively work together and...

11 CHAIRPERSON RESTLER: Are you advocating
12 for those restorations with the Department of
13 Probation because the diversion rates in the PMMR
14 have declined for the number of youth that are being
15 served.

16 CORPORATION COUNSEL HINDS-RADIX: We
17 haven't been advocating with them. We've been talking
18 to them about what we can do, and our role is not to
19 tell them what they can do with this, but our role
20 really and working with them, well, that's a
21 misstatement, and working with them in this area. We
22 have looked at what we see here with youth and, if
23 you evaluate it, you have to realize that the crimes
24 that we have been seeing now aren't what we have been
25 seeing in the past, and so there has to be a

1 different evaluation of what we are seeing here.
2 Like, gun crimes had gone up significantly. I was
3 talking to a staff who was saying at some point you
4 saw two youth in a year with guns. At one point, we
5 were like at 39 youth so it is something that we have
6 to look at across the board, and we're happy that
7 we've been able to get the agencies to sit down
8 together to start talking about what we can do
9 collectively.
10

11 CHAIRPERSON RESTLER: I really do
12 appreciate that. I would say that when I work with
13 the Brooklyn District Attorney's Office, we're often
14 talking about investments in programs that need to be
15 made for ATIs, ATDs, diversion programs that can keep
16 people out of our criminal justice system, and so I
17 do feel like it is potentially your role. We have a
18 Department of Probation that's eliminated the Next
19 Steps program, that has dramatically defunded the
20 Arches program. These are evidence-based, effective
21 programs that keep our young people engaged and out
22 of detention facilities. I appreciate your comments
23 on gun increases, but in your testimony today, the
24 year-over-year increase in firearms cases that were
25 referred to the Family Court Division increased by 8

1 percent from. In that same period, the number of
2 youth felony arrests increased by 44 percent so we're
3 seeing something that's much larger happening. Your
4 decision, the Law Department's decisions to charge
5 these young people with felonies means that they're
6 being sent to the juvenile detention facilities that
7 cannot accommodate them, and so we need your help and
8 leadership in helping to reverse this deeply
9 problematic trend.
10

11 I do want to ask specifically, do the
12 unacceptable conditions in the ACS juvenile detention
13 facilities that cannot fit more young people, is that
14 something that you all consider in making your
15 prosecutorial decisions?

16 CORPORATION COUNSEL HINDS-RADIX: I was
17 reading..

18 CHAIRPERSON RESTLER: No, you're fine. The
19 point I was making on the data was 8 percent increase
20 in gun charges year-over-year, 44 percent increase in
21 youth felony arrests, and the gun charge increase is
22 deeply concerning and we definitely have a lot of
23 work to do together about it. The way to address it
24 is to invest in the Department of Probation Programs
25 that the Mayor and the DOP Commissioner have cut.

1 That aside, I want to ask specifically, the ACS
2 facilities are over capacity, kids are sleeping in
3 classrooms in unsafe conditions. Do those
4 unacceptable conditions inform your prosecutorial
5 decisions to pursue felony charges and to send these
6 kids to facilities that can't accommodate them?
7

8 CORPORATION COUNSEL HINDS-RADIX: In our
9 prosecutorial position, we look at a holistic
10 approach. There's not one thing that we look at and
11 not the other so all of these things will be taken
12 into consideration.

13 Council Member, I have to go with your
14 information that kids are sleeping on the floors.
15 That is not something that I am aware of.

16 CHAIRPERSON RESTLER: It's been widely
17 reported in the press. At this point, we understand
18 that the Mayor and his team are planning to spend
19 many tens of millions of dollars to expand the size
20 of our jails for kids so that we're incarcerating
21 more youth.

22 I think that there's an opportunity with
23 leadership from the Law Department to be prioritizing
24 diversion and creating opportunities to get our young
25 people on the right track, not just sending them away

1 to jail and, unfortunately, that's what's been
2 happening, we've seen a doubling of the number of
3 kids in jail. Is there something you'd like to add
4 before we kick it over? No? I'll kick it over.
5

6 Council Member Brewer, Carr, would you
7 like to jump in?

8 COUNCIL MEMBER BREWER: Thank you very
9 much. I was just appreciative of the fact that you're
10 talking about hybrid. I must admit I talked about it
11 in hearings for a year before the Mayor talked and
12 did it so how much difference has it made in terms of
13 not just you, but every legal aspect of every single
14 agency wasn't able to hire until hybrid was announced
15 as something the City can do so is it helpful? That's
16 my question.

17 CORPORATION COUNSEL HINDS-RADIX: I don't
18 think that we have had enough time to be able to give
19 you a definitive answer on this because this is
20 something that we just implemented, but I think it is
21 helpful in that our attorneys were pretty excited
22 with the ability to do this and our labor and
23 employment folks work with it and try to get it
24 together. Look, we are very conscious of the fact
25 that this is the way of..

1
2 COUNCIL MEMBER BREWER: And every other
3 firm does it in the private sector.

4 CORPORATION COUNSEL HINDS-RADIX: Of
5 course, they had to be pretty much our (INAUDIBLE)
6 made before we were able to get the pieces, the
7 unions got it, then we got it. I think what we have
8 been seeing now in recruiting and people that are
9 expressing interest in the Law Department is that
10 people are expressing an interest because of I think
11 I believe those two pieces the fact that we've been
12 we've done something with our adjustment salaries and
13 that is also an option and, yes, I think it's
14 beneficial I think we need to have some more time to
15 look at it, but I think that it is something that is
16 going to be very beneficial.

17 COUNCIL MEMBER BREWER: Okay. In agencies,
18 obviously there's general counsels in different
19 agencies, do they also use hybrid? Do you coordinate
20 with them on some of the hiring issues? Obviously,
21 probably on substance but, from my perspective, it's
22 just hard to hire, period, attorneys in New York City
23 so I'm just wondering if they're being as intelligent
24 as you are about trying to be creative.

1
2 MANAGING ATTORNEY EICHENHOLTZ: Yeah, I
3 think most of the agencies, or at least the ones that
4 I've worked with, very much were welcoming of the
5 idea of hybrid work for their attorneys.

6 COUNCIL MEMBER BREWER: The Mayor was just
7 a year too late, but that's my opinion and not yours.

8 MANAGING ATTORNEY EICHENHOLTZ: I do think
9 that they, like the Law Department, are looking at it
10 as a potential recruitment tool. I think they, like
11 the Law Department, most of the agencies had saw it
12 as a way a morale booster, as a retention tool, and
13 we do discuss hiring practices with some agencies. To
14 the extent we have, I know that agencies, I can't say
15 universally of every agency, obviously, but there are
16 agencies that intend to take advantage of the new
17 flexibility as part of their recruitment and
18 retention process.

19 COUNCIL MEMBER BREWER: Okay. you
20 mentioned OTPS shortfall in technology. Could you be
21 more specific as to what the shortfall is because
22 obviously in today's world it's an incredibly
23 important funding issue.

24 DIRECTOR ARAF: Yeah, so our technology
25 budget has always been low and then, as I mentioned

1 before, we always try to reallocate resources to fund
2 that shortfall, but because of the challenges that
3 the Department has been going for the past few years,
4 we needed to enhance our systems and spend a great
5 deal of funding into the infrastructure, the network,
6 so all that now has to be added into the base, and we
7 are talking to OMB to at least try to make that
8 portion part of the baseline budget.

10 COUNCIL MEMBER BREWER: Mr. Chair, I would
11 suggest it would be another issue to put on your list
12 because they can't survive without most current
13 technology.

14 My favorite, smoke shops. I have 70, no
15 legal, and my question is, I know you've been working
16 on nuisance, where are we doing, how are you doing
17 closing them.

18 CORPORATION COUNSEL HINDS-RADIX: We've
19 still been ongoing in the Law Department with
20 bringing nuisance actions on those people who are
21 violating. I know you know.

22 COUNCIL MEMBER BREWER: Up to here, I
23 know.

24 CORPORATION COUNSEL HINDS-RADIX: Yeah.
25 It's something that for the Law Department is a huge

1 challenge. We were hoping that there's going to be a
2 change in legislation in Albany, and that's where it
3 needs to come from so that we would have a better
4 ability for the City to be able to deal with these
5 challenges that we're seeing with the smoke shops
6 that are popping up all over the place.

8 COUNCIL MEMBER BREWER: Okay. Then at some
9 point, just maybe not now, but how many people are
10 assigned to it? I just want to say that Consumer
11 could close them, PD could close them, the Sheriff's
12 doing what he can. I would argue that we have enough
13 resources in New York, I don't know what's going to
14 happen in Albany, to close them so that would be
15 something that to discuss. I'm up to here with that.

16 CORPORATION COUNSEL HINDS-RADIX: The
17 administration has been very concerned about this
18 and...

19 COUNCIL MEMBER BREWER: Concerned, but
20 nothing is closing. I'm practical, nice to talk. I
21 know how to close them so I'm just trying to be
22 specific about how it can be done. PD and Consumer
23 can actually close them, just so you know.

24 During the first four months of FY24, all
25 cases, this is about cases against the City,

1 increased 18 percent from the same period in the
2 prior year, from 2,838 to 3,352, and I think the same
3 happened on the state and federal issue. I know this
4 is an ongoing issue, it's nothing new. We've been
5 talking about these cases for many years. What are we
6 doing to try to stop the upward trend, and how do we
7 deal with this issue? It's not a new issue I know.

9 CORPORATION COUNSEL HINDS-RADIX: That was
10 one of the reasons why we implemented the new Risk
11 Management Division, and we're having the attorneys
12 from Risk Management, we built out a whole team,
13 we're having them talk to agencies across the board
14 so that we can identify those issues that have been
15 causing the City problems, that have been causing
16 people to bring these lawsuits. That's one of the
17 things that we're doing to manage this, but you
18 realize too that we've had a spike based on the fact
19 that there was COVID and, during the time that there
20 was COVID, a lot of lawsuits that didn't really hit
21 the pipeline are now doing so the spike in numbers
22 happens to do with some of that, but the one thing
23 that we were focused on is making sure that people
24 have the tools and understand the things or the
25 behavior that's pervasive, that causes the threats to

1 the City in that fashion, and we're looking at it and
2 monitoring and making sure that this Division has the
3 tools that they need and the individuals that they
4 need to work with our agencies to highlight this.

5
6 COUNCIL MEMBER BREWER: It's a lot of
7 taxpayer money that is used to settle these cases.
8 Okay, I do believe that in the past such efforts have
9 been made, maybe with social media and more
10 communication, and I don't know what training
11 involved, because people do what they're going to do.
12 I assume PD is the highest, but I don't know that for
13 a fact, and I would love to see some way of working
14 so that people don't end up in your auspices so let's
15 see what happens. Thank you.

16 CHAIRPERSON RESTLER: Thanks so much,
17 Council Member Brewer. Council Member Carr.

18 COUNCIL MEMBER CARR: Thank you, Chair.
19 Judge, good to see you, and thank you for your
20 service to the City.

21 I just want to piggyback on something
22 Council Member Brewer was discussing with you,
23 nuisance abatement with the vape shops. You mentioned
24 state law needs to be changed, but Council Member
25 Powers, our Colleague, has Intro. 397, which is a

1 reintroduction from last term, which would put some
2 more teeth back into the City's nuisance abatement
3 law with respect to illegal cannabis sales. I think
4 even if we're supporting the mission of legal
5 cannabis, we need to make sure these illegal shops
6 get closed. I hope that you and your team take a look
7 at that bill because I think it could help further
8 that mission. With respect...

10 CORPORATION COUNSEL HINDS-RADIX: You said
11 Intro. 397?

12 COUNCIL MEMBER CARR: Intro. 397 is the
13 new bill number.

14 CORPORATION COUNSEL HINDS-RADIX: Okay.

15 COUNCIL MEMBER CARR: With respect to some
16 of the areas where I think you're working that you
17 could actually have a significant financial impact on
18 the City is your ongoing work with the Callahan
19 Consent Decree, in particular how it pertains to the
20 current migrant situation so I know the position of
21 the Administration has been to take the Callahan
22 Consent Decree's application away from the migrant
23 population, my position is that it never applied, and
24 I was just wondering if you can give us an update on
25 where things stand with that.

2 CORPORATION COUNSEL HINDS-RADIX: Of
3 course, there's ongoing litigation in Callahan, and
4 our position now is we've been working with litigants
5 and we've been we've been working with, of course,
6 the Legal Aid Society who's defending this matter. We
7 are hopeful that we can reach a situation where we're
8 able to protect the City's interests more effectively
9 than what we saw in the Callahan Consent Decree.
10 Since there's ongoing litigation and we're working,
11 we have been directed from the court and other
12 counselors that we're not going to be discussing
13 where we're going at this time, but I'll tell you we
14 have spent a significant amount of time and legal
15 expertise across our Law Department in order to
16 ensure that the City is protected and that we do it
17 properly, that we are not found in contempt in any
18 actions that we take, and those are the things that
19 we're looking at.

20 COUNCIL MEMBER CARR: Understood. You
21 referenced in your discussion with Chair Restler and
22 Council Member Brewer the new tools in your toolbox
23 about hiring up and giving you more bandwidth to do
24 what you're doing and hopefully go beyond that. You
25 mentioned you're going to be hiring up. What's your

1
2 expectation for FY25 in terms of what you hope to
3 hire based on your budgeted availability?

4 MANAGING ATTORNEY EICHENHOLTZ: I think we
5 start with in the past few Fiscal Years, one of the
6 reasons our headcount was reduced in the PEGs was
7 because we weren't matching and hiring up to our
8 headcount so I think our first step is we want to,
9 especially with the lower headcount, we want to hire
10 up to that headcount. Our various Divisions have
11 certain needs that they want to make sure are
12 addressed and staffed, and so what's going to happen
13 is we're going to reach that headcount, and then
14 after that headcount, we're going to be hiring into
15 those particular needs and working with OMB to do it,
16 and so I think, especially since a lot of these
17 developments are recent, we don't necessarily have a
18 goal or a projection, but at the very least we want
19 to achieve and to show that we can maintain a staff
20 at this headcount, at a higher headcount, and I think
21 that would be our goal for this coming Fiscal Year.

22 COUNCIL MEMBER CARR: Okay. CORPORATION

23 COUNSEL HINDS-RADIX: And remembering that our not
24 hiring that was not because of our reluctance to do
25 so and Council Member Brewer will tell you that last

1 time. People, yeah, you literally couldn't hire.
2 There are law firms out there who cannot hire
3 attorneys either. That has been an issue, and we were
4 also impacted by this. Because of the changes that
5 we've mentioned, we're hoping that we're able to deal
6 with that.
7

8 COUNCIL MEMBER CARR: Okay. Thank you.
9 Thank you, Chair.

10 CHAIRPERSON RESTLER: Thank you both for
11 those questions, and I just want to say that we hope
12 that you all will set ambitious benchmarks for
13 hiring, for increasing the headcount of the Law
14 Department, and we want to help champion and support
15 those goals. We believe in the work that you do, and
16 we want you to be resourced to be able to actually
17 accomplish it, and the 20-odd percent reduction in
18 the number of people working in the Law Department
19 over the last five years has a big impact on the City
20 of New York and so we want to help support the growth
21 and return to those pre-pandemic staffing levels.

22 I'm just going to try to cover a few more
23 topics before we let you enjoy the rest of your
24 afternoon. First is NYPD settlements. Recent analysis
25 by the Legal Aid Society found that in '23, the City

1 paid out 114.6 million dollars in lawsuits alleging
2 police misconduct. Since 2018, these lawsuits have
3 cost the City 548 million dollars, not including any
4 matters settled prior to litigation. The median
5 payout has increased during that same time from
6 10,000 dollars in 2018 to 25,000 dollars last year,
7 two and a half times increase. The PMMR also revealed
8 a major uptick in civilian complaints against the
9 police under Mayor Adams tenure, up 60 percent from
10 just last year, right? We're seeing dramatically more
11 enforcement, dramatically more incarceration, and not
12 surprisingly dramatically more complaints against
13 police misconduct. We can only assume that the uptick
14 in police misconduct complaints will result in even
15 more litigation than what we're already seeing and
16 even greater settlement payouts so what steps has the
17 Law Department taken to ensure that officers that are
18 generating these repeated lawsuits are properly
19 disciplined and that there's real accountability for
20 the bad actors that are mistreating New Yorkers and
21 wasting taxpayer dollars?
22

23 FIRST ASSISTANT CORPORATION COUNSEL

24 GOODE-TRUFANT: Muriel Goode-Trufant. When it is that
25 we see trends in multiple cases or see something

1 notable in even one case, we have communications with
2 the Police Department about how those issues might be
3 remedied so that's what we do on an ongoing basis.

4 CHAIRPERSON RESTLER: Is that having any
5 impact or effect? Can you show any results from those
6 informal conversations?
7

8 FIRST ASSISTANT CORPORATION COUNSEL

9 GOODE-TRUFANT: Certainly. The conversations would be
10 attorney-client privileged and to the extent that
11 there are tweaks, telling you that this was tweaked
12 because there was a problem would probably reveal
13 things that we would not be permitted to reveal, but
14 I do know that because of those ongoing
15 conversations, there are tweaks that are made and
16 changes and...

17 CHAIRPERSON RESTLER: I appreciate that
18 you've been having those conversations. It sounds
19 like that's the longstanding Law Department policy
20 and yet things are moving in a pretty extraordinary
21 direction. We've paid over a half a billion dollars
22 in City taxpayer money to settle these allegations of
23 police misconduct, 114 million dollars last year.
24 What are we doing to reverse this trend?
25

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: One thing I'd like to highlight about what is included in the police misconduct settlements, and that is a number of reverse conviction cases where individuals were incarcerated for some 30 years, and the settlement of those cases in order to provide a measure of justice to those individuals amounts to large numbers, and those alone would drive up the average settlement if you are paying an individual 10 million, 12 million, 15 million dollars, and there are several of those cases within the past few years as our various district attorneys have had a view to conviction integrity.

CHAIRPERSON RESTLER: And we certainly celebrate that prioritization on conviction, the Conviction Review Units, Conviction Integrity Units. Accordingly, could you provide the total payouts based on the year of the misconduct to us in writing over the last few years so that we could see that breakdown and actually understand what's coming from Louis Scarcella from the '80s and '90s and what's actually happening as a result of police misconduct today?

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: Yes...

CHAIRPERSON RESTLER: I'll take a yes.

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: It's a yes comma because I want to highlight for you that in any given year there may be 1,000 such settlements so we may have to group them such that without something that's minutiae that will drive you crazy, we'll have to think of a way that answers the question and yet is meaningful.

CHAIRPERSON RESTLER: We would be happy to follow up with a written request for the information in a way where you can respond more readily. We're not trying to overwhelm you with a data request here, but it would be helpful to see the broad strokes of what's happening from '80s and '80s convictions being overturned and what's happening from police misconduct today. I do hope that the Law Department will consider additional actions that you all can take to rein in police misconduct, to slow down the amount of settlement, to reduce the amount of settlements that we're paying out.

CORPORATION COUNSEL HINDS-RADIX: Not to beat a dead horse, Council Member, but that's also

1
2 one of the reasons why we've implemented this Risk
3 Management Unit to evaluate those types of things, to
4 make sure that there's discussion with the agencies
5 of specific things that we see that are driving this.

6 CHAIRPERSON RESTLER: I totally appreciate
7 that and appreciate that focus, but the PMMR showed a
8 60 percent increase year-over-year in CCRB
9 complaints. That's a big number. We already had more
10 CCRB complaints, if I remember this correctly, in the
11 first four months of this year than we did four years
12 ago over the whole year so we're seeing a big shift,
13 and that's because of the trends that I've already
14 mentioned. I won't repeat myself, but I did want to
15 ask relatedly on this risk management piece. The
16 Preliminary Plan includes an additional 33.7 million
17 dollars in City funds in Fiscal Year '24 for the OTPS
18 shortfall. My understanding is this funding is
19 related to court-ordered monitors. Could you let us
20 know how many cases that covers?

21 FIRST ASSISTANT CORPORATION COUNSEL

22 GOODE-TRUFANT: Seven.

23 CHAIRPERSON RESTLER: And NYCHA was by
24 far...

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: Cases, not cases, you meant monitors?

CHAIRPERSON RESTLER: Monitors, yes. Seven
monitors. Fair. And the NYCHA monitor was by far the
greatest source of spending?

CORPORATION COUNSEL HINDS-RADIX:

(INAUDIBLE)

CHAIRPERSON RESTLER: Yeah, Bart did
pretty well, right?

CORPORATION COUNSEL HINDS-RADIX: Yes.

CHAIRPERSON RESTLER: Yes. I mean Not the
Bart did pretty well part, but that the NYCHA monitor
was a significantly...

CORPORATION COUNSEL HINDS-RADIX: NYCHA,
yes. Yes, NYCHA is.

CHAIRPERSON RESTLER: And you're expecting
that those costs will remain similar with the new
firm that has been identified, Jenner and Block, to
take over the NYCHA monitor responsibilities?

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: It remains to be seen.

CHAIRPERSON RESTLER: Okay. The Law
Department spokesperson said to a reporter that they
expected spending to continue at similar levels.

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: Yes, but with monitorships, they send you invoices, and so you can't say on the front end what the needs of the monitor will be.

CHAIRPERSON RESTLER: Was cost a major decision in the determination to select a new monitor for NYCHA?

FIRST ASSISTANT CORPORATION COUNSEL

GOODE-TRUFANT: The determination was not the Department's.

CHAIRPERSON RESTLER: Fair.

CORPORATION COUNSEL HINDS-RADIX: I think when you talk about cost here, and we can check that, but it is not just one individual, it was just him, and now there are two people. If you're talking about it being the same cost, that may not be an accurate representation because now two people are being paid.

CHAIRPERSON RESTLER: Okay. Final items for you. Payments for judgment and claims. According to the PMMR, the payouts made for judgments and claims against the City in state and federal court increased over 200 percent in the first four months of Fiscal Year 2024 to 213 million dollars. That's up from 60 million in the same period from 2023, a

1
2 fourfold increase. What drove the increase in the
3 first four months of this fiscal year?

4 FIRST ASSISTANT CORPORATION COUNSEL

5 GOODE-TRUFANT: One case. There was one class action
6 that accounted for 135 million dollars in that four-
7 month period.

8 CHAIRPERSON RESTLER: Has the Law

9 Department taken any steps to reduce judgment and
10 claims expenditures?

11 CORPORATION COUNSEL HINDS-RADIX: Yes, our

12 Risk Management.

13 CHAIRPERSON RESTLER: All right. We're

14 hoping to start to see some great results from that
15 Risk Management Division.

16 The last topic that I'm going to ask on,
17 unless my Colleagues have any further questions, I'll
18 do two brief ones. I don't want to make any promises
19 I can't keep.

20 Asylum seeker legal casework. The
21 Preliminary Plan included an additional 1.3 million
22 for legal services relating to the Asylum Application
23 Help Center. Could you confirm how much money has
24 been spent to date through this contract?

1
2 DIRECTOR ARAF: Yes. As of a week and a
3 half ago, a total of approximately a little over 17
4 million.

5 CHAIRPERSON RESTLER: Why would you have
6 spent, and Prelim was already a month or so ago, six
7 weeks ago, but why spend 16, 17 million and only seek
8 1.3 million in new needs.

9 DIRECTOR ARAF: That 1.3 million was
10 actually added centrally by OMB. It's not through an
11 action that we do at our end and actually, at this
12 point, the budget is already above that 17 million. I
13 think it's been modified to about 20 million at this
14 point.

15 CHAIRPERSON RESTLER: Okay. The last thing
16 I wanted to ask about is impact litigation.

17 CORPORATION COUNSEL HINDS-RADIX: Council
18 Member, you're aware of the fact that contract you're
19 asking about is state funding?

20 CHAIRPERSON RESTLER: Absolutely. Okay,
21 but still want to make sure that it's reflected
22 accurately in your budget and that what we're seeing
23 in Prelim are the actual expenditures of the
24 Department, and there's a major disparity of 1.3
25

1 million showing up in Prelim and in actuality 16, 17
2 million had already been spent at that time.

3
4 In 2018, the Law Department created the
5 Strategic Advocacy Initiative to expand the
6 Department's pursuit of impact litigation and
7 strategic advocacy. Could you just tell us how many
8 attorneys are focused on identifying potential new
9 impact litigation cases, and there was a Strategic
10 Advocacy Committee that was created around that time,
11 does that still exist?

12 FIRST ASSISTANT CORPORATION COUNSEL

13 GOODE-TRUFANT: The work continues in our Affirmative
14 Litigation Division, and it is shared by the whole of
15 the division now.

16 CHAIRPERSON RESTLER: How big is that
17 division approximately?

18 FIRST ASSISTANT CORPORATION COUNSEL

19 GOODE-TRUFANT: At most 20 people.

20 CHAIRPERSON RESTLER: Okay. Any other
21 questions, guys?

22 I just want to say...

23 CORPORATION COUNSEL HINDS-RADIX: We keep
24 it funded and staffed because we know, Council
25 Member...

1
2 CHAIRPERSON RESTLER: How important it is
3 to me.

4 CORPORATION COUNSEL HINDS-RADIX: Very
5 important.

6 CHAIRPERSON RESTLER: I know, and I know
7 it's important to you, and that's why we were happy
8 to confirm you as a Counsel.

9 I just want to say in closing, we deeply
10 appreciate your work. We value the Law Department
11 tremendously and really appreciate you taking the
12 time to be with us today. We want to help support the
13 growth of the Law Department so that you have the
14 capacity you need to thrive, and I hope that we will
15 be able to continue the conversation about juvenile
16 detention. We are deeply concerned about the current
17 crisis that we're facing, and I hope that we'll be
18 able to work together with other leaders in the
19 administration to reverse the trends in the months
20 ahead. Thank you very much.

21 CORPORATION COUNSEL HINDS-RADIX: I will
22 ensure you that we will have continued discussions
23 with the Law Department, Family Court Division, and
24 with Probation and make sure that people understand
25 what your concerns are.

CHAIRPERSON RESTLER: Thank you. Thank you
all for joining us today. Have a good afternoon.

COMMITTEE COUNSEL GANAPATHY: Thank you.
We will be transitioning over to the Office of
Administrative Trials and hearings next after a few
minutes.

CHAIRPERSON RESTLER: Thank you very much.
Okay. I would now like to welcome Asim Rahman, the
Commissioner and Chief Administrative Law Judge, to
testify before the Committee. Thank you for joining
us today.

The Office of Administrative Trials and
Hearings Fiscal 2025 Preliminary Budget totals 59.4
million, including 46.1 million in personal services
funding to support 396 full-time positions and 13.3
million for other-than-personal services. OATH is the
City's central independent administrative law court
conducting hearings for City agencies, commissions,
and boards. Today, we look forward to discussing
OATH's operations and the PEGs included in the
Preliminary Plan, staffing at the agency, the
handling of increased summons, and special education
hearings.

1
2 Since Mayor Adams came into office, we
3 have seen a dramatic increase across the board in the
4 numbers of summonses being issued. Despite the
5 substantial increase in the total number of hearings
6 and trials at OATH and an increase in the time it
7 takes to issue decisions, the Mayor and OMB have
8 imposed PEGs that reduce the resources OATH has to
9 efficiently meet its mandates. Additionally, the
10 increase in revenue from OATH cases has not kept pace
11 with the major increase in City enforcement. I'm
12 concerned that the increase in minor summonses is
13 disproportionately impacting low-income New Yorkers
14 who do not have the means to realistically pay, which
15 could lead to increased financial hardship for many
16 families.

17 I want to thank you, Commissioner, for
18 joining us today. With that, I would like to please
19 ask Committee Counsel Jayasri Ganapathy to administer
20 the oath and swear in the testifying representatives.

21 COMMITTEE COUNSEL GANAPATHY: Thank you,
22 Chair Restler. We now have representatives from the
23 Office of Administrative Trials and Hearings here to
24 testify. If you would all please raise your right
25 hands.

1
2 Do you affirm to tell the truth, the
3 whole truth, and nothing but the truth before this
4 Committee and respond honestly to Council Member
5 questions?

6 JUDGE RAHMAN: Yes.

7 ASSISTANT COMMISSIONER CONNELL: Yes.

8 DEPUTY COMMISSIONER DAS: Yes.

9 COMMITTEE COUNSEL GANAPATHY: Thank you.

10 CHAIRPERSON RESTLER: Just before we
11 begin, we've asked all of the folks testifying today
12 to limit testimony to about five minutes and we're
13 happy to take a longer testimony into the record.
14 Thank you so much.

15 JUDGE RAHMAN: Good afternoon. My name is
16 Asim Rahman, and I'm the Chief Administrative Law
17 Judge and Commissioner at the New York City Office of
18 Administrative Trials and Hearings, also known as
19 OATH. I'd like to start by thanking Chair Restler and
20 Members of the Committee on Governmental Operations,
21 State and Federal Legislation for the opportunity to
22 testify today. I'm accompanied by Arnab Das, Deputy
23 Commissioner for Administration and Brian Connell,
24 Assistant Commissioner for Financial Services and
25 Data Analytics. OATH is New York City's central

1 administrative law tribunal. In the past Calendar
2 Year, fiscal challenges have not deterred us from our
3 mission to ensure due process, fair and impartial
4 hearings, and timely decisions for everyone who comes
5 before OATH. All of OATH'S adjudicators approach this
6 responsibility with the utmost seriousness as do the
7 OATH staff who help support our hearings. I can
8 personally speak to this commitment. As the Chief
9 Administrative Law Judge, I, myself, conduct trials
10 and conferences where I meet with litigants and their
11 representatives, listen to evidence, help parties
12 find opportunities to settle, and issue decisions
13 that are based on the law. Even when faced with such
14 fiscal challenges, OATH has been able to maintain our
15 standards by adapting our practices so that we
16 continue to seamlessly deliver our services to New
17 Yorkers, City agencies, and other parties who appear
18 before us. The proof is in the numbers. In 2023
19 alone, we processed almost 590,000 summonses, held
20 over 220,000 hearings, issued close to 2,500 appeals
21 decisions, and conducted over 625 trials. That is a
22 tremendous volume of work, and it is a testament to
23 the amazing public servants who are part of the OATH
24
25

1 team and who help us ensure that we deliver due
2 process to those who appear before us.

3
4 A key ingredient to ensuring due process
5 is keeping OATH independent. For OATH, independence
6 means that our administrative law judges and judicial
7 hearing officers listen to all sides, review all the
8 evidence without favor, apply the law fairly, and do
9 all of this without any external influence. At OATH,
10 we believe there is one standard of justice for all.
11 The members of the public who have cases at OATH are
12 treated no differently than the City agencies that
13 appear before us. We do not take direction from any
14 City agencies on our cases. Independence also means
15 that OATH does not comment on enforcement policies,
16 rules or regulations, or disciplinary practices of
17 agencies that file cases with us. Our role is just to
18 adjudicate, not to set policy. Consistent with this,
19 when we regularly provide City Council with data
20 reports concerning cases filed with OATH, you'll note
21 that we do not analyze or make recommendations
22 regarding that data. Such analysis is not in our
23 purview.

24 Structurally, OATH consists of several
25 divisions. Our adjudications work is handled by our

1
2 Trials Division, our Special Education Hearings
3 Division, and our Hearings Division, which itself
4 includes our Adjudications Division, our Appeals
5 Division, and the Clerk's Office. Across these
6 various divisions, we handle an incredible breadth of
7 work including the adjudication of civil summonses
8 issued by New York City Enforcement Agencies against
9 residents and entities, disciplinary matters
10 involving City workers, violations of the Conflict of
11 Interest Law, the City Human Rights Law and more, and
12 matters involving special education services provided
13 by the DOE. That's just a sample of what we do at
14 OATH.

15 OATH is also home to the Center for
16 Creative Conflict Resolution, which is the City's
17 center for alternative dispute resolution. OATH's
18 mission requires that we prioritize the public's
19 access to justice, and we do that in several ways. We
20 focus on language access to make sure that people who
21 do business with OATH can do it in the language that
22 they choose. We have a Help Center that provides
23 free, non-legal advice to unrepresented individuals
24 who have cases at OATH and, in 2023, our Help Center
25 had close to 80,000 interactions with members of the

1
2 public where we were able to answer their questions
3 and provide assistance regarding OATH summonses. We
4 leverage technology to make the hearings process more
5 efficient, including giving people the option of a
6 callback when they have a hearing by phone. We do a
7 tremendous amount of community outreach and education
8 work and, as you know, as often in partnership with
9 Council Members where we come out to your Districts
10 and provide people with information about OATH, I
11 know we've been to your own Districts recently, and
12 we do so much more to help ensure equal access to
13 justice in the city.

14 As mentioned, OATH's Fiscal Year 2024
15 adopted budget was 65.3 million dollars, and the
16 Fiscal Year 2024 current modified budget was 62.8
17 million dollars. OATH'S total Preliminary Budget for
18 Fiscal Year 2025 will be 59.4 million dollars. Of the
19 59.4 million dollars, 46.1 million is in personal
20 services and 13.3 million is in other-than-personal
21 services. Agency headcount will be 396 for the Fiscal
22 Year 2025 Preliminary Budget. That does not include
23 348 per session judicial hearings officers in the
24 Hearings Division, all of whom work on a part-time
25 schedule.

1
2 In closing, OATH is dedicated to
3 providing access to fair and impartial justice for
4 all New Yorkers. I look forward to our continued
5 efforts with the City Council, and I welcome any
6 questions that you may have. Thank you.

7 CHAIRPERSON RESTLER: Thank you so much.
8 We really appreciate the thoughtful testimony. Do you
9 prefer to be referred to as Judge, Commissioner,
10 what's the best way to?

11 JUDGE RAHMAN: So the Charter takes
12 primacy overall, and the Charter says that I am the
13 Chief Administrative Law Judge of the Office of
14 Administrative Trials and Hearings. Judge or Chief is
15 fine.

16 CHAIRPERSON RESTLER: Great. We'll go with
17 Judge. We did Judge last hearing; we'll do Judge this
18 hearing.

19 At 59.4 million, OATH's FY25 budget is
20 5.9 million less than the FY24 budget, approximately
21 a 10 percent reduction. The PMMR showed that
22 summonses sent to OATH are up 26 percent from the
23 same period last year and on pace to be almost
24 865,000 summonses for the year that are going to
25 OATH, a 60 percent increase since the Mayor took

1 office. Similarly, trials are up by 6 percent and on
2 track to be 66 percent higher than FY21 so summonses
3 are up 60 percent trials are up, 66 percent since the
4 Mayor took office, and the PMMR also revealed the
5 average time it's taking to issue decisions on trials
6 is up 21 percent by over six days and the average
7 time it's taking to render a decision on hearings is
8 up 33 percent to about 12 days. Yet, there's a budget
9 cut, which just is hard to fathom so does the agency
10 have the resources it needs to handle this seemingly
11 ever-increasing caseload in a timely and efficient
12 manner, and did you request any new needs or
13 resources from OMB to be able to keep pace?

14
15 JUDGE RAHMAN: Thank you, Chair Restler. I
16 think that OATH has the resources it needs to match
17 the increase that we are seeing if you take into
18 account the fiscal situation that the City is going
19 through. Every agency had to tighten its belt,
20 identify funds for the PEG and, when we did so, our
21 mission was to ensure that we make those cuts while
22 still ensuring that New Yorkers receive due process,
23 and receiving due process means that they are
24 receiving decisions on their cases that are based in
25 fact and guided by the law. It has come at a cost of

1 some of those decisions taking a little more time,
2 but I still think we are meeting our mission of
3 delivering due process with the staff that we have.
4

5 CHAIRPERSON RESTLER: Okay. With more
6 resources, could OATH administer more timely
7 resolutions or decisions in both divisions?

8 JUDGE RAHMAN: Let's start with the Trials
9 Division. There are factors that can lead to an
10 increase in time. The most obvious factor is an
11 increase in caseload, but there are other factors
12 that affect it as well that are not as tied to
13 resource, and that is the makeup of the cases.
14 There's a body of cases. Every year, the kind of
15 division of those cases changes so when we look at
16 the first four months of the current Fiscal Year and
17 compare it to last year, the cases for the Trials
18 Division year-over-year included a 125 percent
19 increase in cases relating to real estate and land
20 use. Those are more complicated. Those naturally take
21 more time so it's not a delay. It's the nature of the
22 case just leads to more time.

23 In our Hearings Division, the summonses
24 are handled by two types of individuals. You have our
25 full-time staff, those are our staff attorneys, they

1
2 hear cases, and then you have our part-time, per diem
3 judicial hearing officers, and that is a body of
4 individuals who work part time. They, again, are not
5 on the full-time staff, and they adjudicate these
6 matters. If we had additional staff attorneys, are
7 there matters that we could probably turn around
8 quicker? The answer is yes. That is simple math that
9 if you have greater resources in certain divisions,
10 you may be able to have greater efficiencies.

11 On the per session hearing officer side,
12 we still have money in our budget to hire more per
13 session hearing officers. More resources aren't
14 needed because we actually have the cushion that we
15 need to bring in more.

16 CHAIRPERSON RESTLER: There was a PEG on
17 the per diem hearing officers.

18 JUDGE RAHMAN: There was, and we put money
19 towards that because we looked at what we had in our
20 budget to pay the per diems, and we said, okay, even
21 if we hire more per diems, we still have some left
22 and we were able to put that towards the PEG. We
23 think that putting the per diem hearing officer funds
24 towards the PEG is not limiting our ability because
25 we still have the ability to hire more per diem.

1
2 CHAIRPERSON RESTLER: Last year, you used
3 343 per diem hearing officers. You expect to use more
4 this year?

5 JUDGE RAHMAN: The 343 number is a number
6 of per diems that we have on our roster but, because
7 they're part-time, it depends on who picks up work.
8 Not all of them pick up work. There's some who maybe
9 haven't picked up work in two or three years. In the
10 past seven months, it's roughly in the neighborhood
11 of 180 per session hearing officers have actually
12 picked up work. On any given day, it's 50 to 70 who
13 might pick up work. We're seeing this floating number
14 of somewhere between 180 and 200 who are actually
15 taking up the work from year to year, and we can
16 afford it right now within our current budget.

17 CHAIRPERSON RESTLER: Okay. Just broadly
18 while we're on the topic of staffing, the OATH
19 headcount is currently I believe at 444. That's 16
20 positions over the budgeted headcount of 428. The
21 FY25 OATH budgeted headcount is down to 396. That
22 would represent an 11 percent elimination of your
23 workforce, much greater than any rate of potential
24 attrition. Have you taken any steps to meet this new
25 headcount goal? Are you expecting that you will be

1
2 required to comply with it or lay off some that needs
3 to be considered to meet such an ambitious reduction
4 in headcount?

5 JUDGE RAHMAN: It is an ambitious
6 reduction and, as part of the November Plan PEG, we
7 entered into an attrition plan with OMB, which meant
8 not only did we give up vacancies but we gave up
9 future vacancies, that if there's attrition, that
10 line will go towards the PEG. That's, of course, a
11 concern to any agency with the numbers that you
12 mentioned, but we've had open discussions with the
13 OMB where if a position has been vacated where it is
14 a critical operations position where losing that line
15 is going to derail everything, then we've been able
16 to engage with OMB of, okay, you need to let us
17 backfill this line, we can't put this one towards the
18 PEG, and we've reviewed those with OMB, OMB has
19 scrutinized them, and they've given us the green
20 light on some of these to go ahead and hire people
21 where, even though we have an attrition plan, we've
22 been given permission to backfill when we've
23 demonstrated that it's a critical need. That's very
24 important to us.

1
2 CHAIRPERSON RESTLER: So you are expecting
3 to comply with the 11 percent headcount reduction and
4 have a 396 headcount by FY25?

5 JUDGE RAHMAN: It's what we put in as part
6 of the PEG, it's what we've committed to doing.

7 CHAIRPERSON RESTLER: What's the current
8 headcount today?

9 JUDGE RAHMAN: Around 445.

10 CHAIRPERSON RESTLER: Okay. I just mean to
11 say we're over the FY24 budgeted headcount. That's a
12 50-person reduction, essentially, starting in three
13 months. I don't understand, I don't know your
14 workforce intimately, but one out of nine people
15 disappearing via attrition in the next few months
16 seems unlikely. I just want to reiterate my question.
17 You expect to reach this massive headcount reduction
18 goal in this very short timeframe?

19 JUDGE RAHMAN: We ultimately expect to
20 reach it. The timing of it does depend on attrition
21 and, if we get to a point where those numbers have
22 not been met by the start of the next fiscal cycle,
23 we will have to have a conversation with OMB about
24 that.

1
2 CHAIRPERSON RESTLER: Okay. I have to say
3 we're already seeing hearing time resolution go up,
4 we're already seeing trial time resolution go up
5 because of the significant increase in the number of
6 cases that are going your way. How you could possibly
7 manage a double-digit percent reduction in your
8 workforce and not have an enormous impact on being
9 able to manage this caseload seems impossible. I
10 don't understand what OMB is thinking. I don't
11 understand the analysis here. It makes no sense to me
12 whatsoever. There's not a question there. It's just a
13 statement of being utterly confused at what they're
14 doing.

15 I want to just touch on another topic and
16 then pass it over to my Colleagues. I'm very, very
17 concerned about the significant increase in summonses
18 that have been issued since Mayor Adams came into
19 office, a 60 percent increase across the board. Can
20 you break down for us which agencies are responsible
21 for the greatest increase in summonses issued during
22 Mayor Adams' tenure or year-over-year, if that's an
23 easier data set to utilize?

24 JUDGE RAHMAN: Yeah, just one moment,
25 please. If we do consider year-over-year, I can give

1
2 you a comparison for certain agencies with respect to
3 summonsed issuance as to Fiscal Year '24 versus
4 Fiscal Year '23 or Fiscal Year '24 versus Fiscal Year
5 '22 or '21.

6 CHAIRPERSON RESTLER: '21 would be great
7 if it's easy.

8 JUDGE RAHMAN: Okay. '21, the largest
9 increase, let me just line up my numbers here, one
10 moment. The greatest increase that we've seen at
11 OATH, now the numbers I'm looking at cover the
12 majority of agencies, we have different data sets
13 because of different systems so what I'm reading to
14 you is likely leaving out TLC and some DOHMH. If you
15 put those aside and we talk about the remaining
16 enforcement agencies, the Police Department's
17 issuance rate has gone up, the volume of what we've
18 seen with the Police Department Fiscal Year to date
19 is 41,779. That is a 287 percent increase from the
20 same...

21 CHAIRPERSON RESTLER: 287 percent?

22 JUDGE RAHMAN: Yeah. 287. That's a 287
23 percent increase from the same period Fiscal Year to
24 in Fiscal Year 2021.

1
2 CHAIRPERSON RESTLER: Okay, and is that
3 the largest agency increase?

4 JUDGE RAHMAN: Oh, I'm sorry, I missed
5 one. The DEP has a year-to-date total this Fiscal
6 Year issuance 50,216. That represents a 391 percent
7 increase in issuance with summonses filed with OATH
8 as compared to Fiscal 2021 year-to-date, and then the
9 largest is... Those would be the two numbers that I
10 would put in the triple digits in terms of increases
11 since 2021.

12 CHAIRPERSON RESTLER: Okay. That is very
13 helpful. We appreciate you providing that data.

14 JUDGE RAHMAN: Oh, I'm sorry. For the
15 category of Health that we do track, it's a 340
16 percent increase.

17 CHAIRPERSON RESTLER: What category is
18 that?

19 JUDGE RAHMAN: DOHMH, within the data I'm
20 looking at, certain summonses that they issue are
21 captured in this data set and certain are not. With
22 the ones that are captured in this data set, it's a
23 340 percent increase. The total number year-to-date
24 is 28,612.

1
2 CHAIRPERSON RESTLER: Okay. Thank you very
3 much. We would love if you would be amenable to
4 submit this for the record so that we can just look
5 at the agency-by-agency breakdown and how that's
6 evolved over time. It's clear that there's been a
7 deliberate policy decision by this Administration
8 that's led to 300 and 400 percent increases of
9 summons that are issued.

10 I'm just wondering a couple of related
11 questions. Do you track the dismissal rates by
12 agency, by type of violation? Is that information
13 that you share back with agency heads to try to offer
14 some guidance on violations that are not effectual?

15 JUDGE RAHMAN: We do have a dismissal
16 report that is sent out to agencies. It is not sent
17 with any instructions on what they should do with it.
18 It is information that we have and information that
19 we provide. The dismissal report has not percentages,
20 it has gross numbers of number of dismissals in a
21 given period so I have month-by-month numbers. What
22 it does track, it does not track the type of
23 summonses so if you're talking about an agency, if
24 you're talking about DEP, it doesn't say the type of
25 DEP summonses that are dismissed, rather it says the

1 basis for the dismissal. Some are dismissed because
2 it was improperly filed. Some are dismissed because
3 on the merits, it was dismissed. The hearing officer
4 said, no, I disagree ultimately on the merits. Some
5 are dismissed because they actually don't come to
6 OATH. There's a jurisdictional issue. They were filed
7 with us, but they shouldn't have been filed with us
8 so it breaks down those categories.

10 CHAIRPERSON RESTLER: Okay. Do you also
11 track that information by the City employee? Let's
12 just say sanitation officer X or police officer Y was
13 responsible for issuing 700 summonses in the last
14 year. Do you track their individual dismissal rates
15 at that level?

16 JUDGE RAHMAN: We don't. We track, as I
17 mentioned, by agency and, within the agency, the
18 basis for the dismissal.

19 CHAIRPERSON RESTLER: Can you advise which
20 agency has the highest dismissal rate at this time?

21 JUDGE RAHMAN: One moment. As I mentioned,
22 the dismissals that we have in our dismissal report
23 are gross numbers, so I'd need to know the
24 percentages of the total body to know a dismissal
25 rate but, from a rough review, NYPD's dismissal rate

1
2 is on the higher side, and one reason we know that is
3 because one of the reports that we run, that we
4 provide to the Council is our CJRA report, the
5 Criminal Justice Reform Act report. If you review the
6 CJRA report, for example, I'm looking at our
7 quarterly report from the last quarter of the
8 Calendar Year 2023, and it shows that of the slightly
9 more than 15,000 CJRA summonses that were issued,
10 between 41 and 43 percent of those were dismissed by
11 NYPD.

12 CHAIRPERSON RESTLER: Okay. We found when
13 we reviewed Local Law 64 of 2015 that required OATH
14 at that time to report on dismissal rates that PD had
15 a dismissal rate of about 30 percent so it's
16 disconcerting to hear that that has gone up as a
17 percentage, both as a total number, of course, as the
18 number of summonses issued by the Police Department
19 has increased dramatically as well.

20 JUDGE RAHMAN: Yeah, I should briefly
21 qualify just a technical note. CJRA summonses can
22 also be issued by the Parks Department. I believe
23 that the majority that fall into the data I'm reading
24 are NYPD, but I just wanted to add that
25 qualification.

1
2 CHAIRPERSON RESTLER: That is helpful.
3 Yeah. Last question for me for the moment, and I'll
4 kick it to Council Member Brewer.

5 Do you track the demographics of
6 individuals that receive summons? Do you have
7 information on race, gender, even income level of the
8 recipients of these summonses?

9 JUDGE RAHMAN: We don't. We capture the
10 information that is on the summonses itself, and so
11 you'll have names, addresses, sometimes these are
12 business names and not kind of natural persons nor do
13 we gather any of that information for people who come
14 in, and we couldn't since the majority of them are
15 doing it by telephone. I think you'd find the same
16 response from many tribunals around the country that
17 the individual demographics of the folks who appear
18 at the tribunals is not captured, and then there's an
19 issue of geography. Summonses are issued across the
20 five boroughs, but we don't track geographic data
21 because we find that sometimes the geographic data
22 itself is faulty. When inspectors are in the field
23 and they write down a zip code, it may be an
24 incorrect zip code, it may be a zip code that falls
25 outside the five boroughs, so we don't feel like the

1 data regarding geography is something we can rely
2 upon to know what is the geographic makeup of where
3 these summonses are issued. I'd refer you to the
4 enforcement agencies who may have more reliable
5 information on where they do their issuance.
6

7 CHAIRPERSON RESTLER: Look, I certainly
8 wouldn't expect that's perfect data. I appreciate
9 that there are faulty elements to it, but it's the
10 best we've got and, in a world in which we don't have
11 more demographic information about who are the
12 recipients of these summons, addresses tell us a lot.
13 If we know people live in Brownsville versus the
14 Upper West Side or South Shore versus Brooklyn
15 Heights, it tells us an important story, and I do
16 hope that we can work together to better understand
17 the residential data of who are receiving these
18 summonses because it sounds like that's the most
19 viable way for us to make some assumptions about race
20 and about income if we don't have access to that data
21 at this time.

22 JUDGE RAHMAN: We'd be happy to follow up
23 with you about that and, if my statement regarding
24 demographic data was an overstatement, I'd go back to
25 the office and someone explains that there's a

1 subcategory of certain summonses from certain
2 agencies that do capture that, we'll look into
3 whether that's something we actually record in our
4 systems. I'm not sure if it is, but the summonses are
5 generated by the agencies and so, if some of that is
6 captured, I don't want to misspeak on that.

8 CHAIRPERSON RESTLER: Sure. Council Member
9 Brewer.

10 COUNCIL MEMBER BREWER: Thank you. We do
11 love John Castelli. I just want you to know for the
12 record.

13 JUDGE RAHMAN: John does great work for
14 OATH and for the City.

15 COUNCIL MEMBER BREWER: Yes, he does. Just
16 so you know, I am captured in your data because in
17 1994 when I was renovating where I live, I filled out
18 some freaking paper incorrectly so, in 2023, two
19 Buildings Department people showed up at my house to
20 say I had filled it out incorrectly, I still don't
21 know what I filled out incorrectly, and we didn't
22 have a (INAUDIBLE) so, anyway, I paid a very nice
23 fine to OATH, and we are still trying to get the
24 (INAUDIBLE) so I just want to say thank you. It was
25 handled very nicely. I can't remember the name of the

1 woman. We did put down all of our Upper West Side
2 data, however, just so you know. Good experience. A
3 lot of freaking money, but good experience.
4

5 My question is twofold. First of all, you
6 are a revenue-generating agency. I thought that under
7 the scenario with OMB, when you are a revenue-
8 generating agency, you're less likely to get PEGs. Is
9 that incorrect or less likely to get costs? You
10 certainly are a revenue-generating agency or are the
11 agencies the revenue generators, and you're just a
12 trial.

13 JUDGE RAHMAN: I don't necessarily prefer
14 the title revenue generating, and here's why.
15 Tribunals should not be associated with revenue
16 because then that makes it seem like we are partial
17 towards the outcomes that would lead to revenue and
18 we've seen problems with that type of model across
19 the country. That being said, we understand that
20 people come to OATH, and we, as a City, want to make
21 sure that people have multiple ways to pay so can
22 people pay at OATH? Yes, they can, and so there is
23 revenue that passes through our doors that then goes
24 into the City coffers so in that regard, we are part
25

1 of the revenue system, so to speak. But I forgot your
2 question. I'm so sorry.

3
4 COUNCIL MEMBER BREWER: That's part of it,
5 but the issue for me, too, is as a result, since you
6 are a revenue-generator, you shouldn't get cut.
7 That's what's in the (INAUDIBLE).

8 JUDGE RAHMAN: I would take that position
9 and when we, for example as I mentioned earlier, have
10 positions that we're losing due to attrition that..

11 COUNCIL MEMBER BREWER: Are revenue
12 generators.

13 JUDGE RAHMAN: That are mission critical
14 because maybe it's an adjudicator or fall into the
15 category of positions that can support the City's
16 coffers, we explain that to OMB and they are
17 receptive to that information when we share it about
18 needing to fill a line because ultimately it'll help
19 the City's FISC.

20 COUNCIL MEMBER BREWER: Okay. I would
21 agree with the Chair since you have been cut so much,
22 that seems to me that it should be just a way of
23 doing business not to cut, but that's another story.

24 I am concerned.

1
2 CHAIRPERSON RESTLER: But you got that for
3 the record that she agrees with the Chair.

4 COUNCIL MEMBER BREWER: Yeah, for once,
5 not often.

6 The uncollected dollars. Smoke shops are
7 my challenge right now. I go with the Sheriff, they
8 get lots of charges against them. I don't know if
9 they ever pay, I have no clue. Some people say maybe
10 in a year or so they might pay. In general, how long
11 does it take to collect this money, not just from the
12 smoke shops, but go on OpenData, it looks like about
13 maybe 10 percent of them are paying something, I
14 don't know. I would assume they've been getting a lot
15 of summonses because there's a lot of them, all
16 illegal, but that's just one example so my question
17 is how much is uncollected from what you can decipher
18 and, second, how long does it take to, not just the
19 smoke shop, but anybody can delay it. It seems like
20 about a year is what I'm told from the Sheriff's
21 people. A long time.

22 JUDGE RAHMAN: Yeah, I understand the
23 concern. It is not information that OATH has because
24 we're not in the collections business. We adjudicate
25 the cases. We are hearing officers or our ALJs set

1
2 the penalty and then it heads into the hands of other
3 City agencies to go forward with the collection. With
4 respect to the example you gave, there may be certain
5 matters that are returnable to OATH and then there
6 may be certain actions taken by the Sheriff that
7 actually don't come to OATH. I'd refer you to the
8 enforcement agencies and to the Law Department,
9 because sometimes collections involve taking legal
10 action for more information on the time it takes to
11 do collections and other data regarding collections.

12 COUNCIL MEMBER BREWER: All right, but how
13 long does it take for anybody who has an issue where
14 they dispute it, because some people do, like a year
15 or so because you go back and forth just in terms of
16 getting a final judgment.

17 JUDGE RAHMAN: I see. If it's an OATH..

18 COUNCIL MEMBER BREWER: That's the second
19 question.

20 JUDGE RAHMAN: I understand. Thank you.
21 For an OATH matter, if an individual in our Hearings
22 Division, a respondent is found to be in violation,
23 they have 30 days, or there's a five-day window if
24 it's mailed, about 30 to 35 days to pay.

25 COUNCIL MEMBER BREWER: Correct.

1
2 JUDGE RAHMAN: And that payment has to be
3 made even if they want to file an appeal. That's the
4 time it takes for them to pay so hopefully those
5 funds are hitting the City coffers. Of course, if
6 they appeal, then it might be some time until the
7 appeal is done before they get a refund if they
8 prevail upon entering an appeal.

9 COUNCIL MEMBER BREWER: Okay, so you're
10 saying the people absolutely pay within that 35-day
11 window?

12 JUDGE RAHMAN: They're supposed to.

13 COUNCIL MEMBER BREWER: Okay, but they
14 don't.

15 JUDGE RAHMAN: But some don't.

16 COUNCIL MEMBER BREWER: None of the smoke
17 shops are paying.

18 JUDGE RAHMAN: If it's returnable to OATH
19 and they don't pay, then it goes to a separate set of
20 hands, for example maybe the Law Department, to take
21 collection action. There are other types of cases
22 which are easier for the Department of Finance to
23 collect on. If they're auto-docketed, that's a whole
24 other conversation but...

1
2 COUNCIL MEMBER BREWER: I get the picture.
3 I think it's something that hopefully the Council
4 will look at more because we have a very large,
5 uncollectible number. When I asked IBO to look at it
6 a year ago, it was 2.1 billion, so that's a big
7 number.

8 Carter cases, that's what I think is what
9 DOE has put on your plate. Is that correct?

10 JUDGE RAHMAN: I wouldn't say that DOE put
11 it on our plate. I would say that we took it upon
12 ourselves working with the DOE and the State
13 Education Department and we...

14 COUNCIL MEMBER BREWER: I think Ms. Liz
15 Vladeck, for whom I have great respect, put it on
16 your plate. That would be my definition, but go
17 ahead.

18 JUDGE RAHMAN: What's the question,
19 Council Member?

20 COUNCIL MEMBER BREWER: The question is
21 how's it going? Because guess what the number one
22 issue of money in the City of New York is? I have
23 many friends who are before you and they want their
24 kids and they deserve to get the best education
25 possible, but they spend a lot of time with you and

1 they're costing the City a fortune. Now, why in
2 hell's name DOE doesn't build schools that would
3 address the concerns? I don't know. We've been
4 talking about it for years but, meanwhile, you've got
5 the cases and the numbers are going like this.

7 JUDGE RAHMAN: We have the cases. The
8 numbers are going like that in an upward trajectory
9 but, to your question about how's it going, I think
10 it's going pretty well and I'll explain why.

11 The chief reason that matters were sent
12 over to OATH and that the MOU was executed between
13 DOE, OATH, and the Mayor and then the State Education
14 Department getting involved was because of delays
15 that were taking place. Those people who have cases,
16 those parents who had cases had to wait a very long
17 time past the legal deadline, and because there was a
18 backlog of cases so the idea was let's give it over
19 to OATH and see what they can do. It's been two
20 years, and we've shown that we were able to eliminate
21 the backlog.

22 COUNCIL MEMBER BREWER: Okay.

23 JUDGE RAHMAN: We've been able to get the
24 processing times below the legal deadlines. We're now
25 down to an average of 67 days. The legal deadlines

1 are either 75 or 105 days if there is an extension
2 granted so in many cases it's 105 days. We're at an
3 average of 67 days, and so we've been able to reduce
4 the backlog, we've been able to demonstrate that
5 these cases can be done within the legal timeframes,
6 and this was a transition. We started taking cases
7 while the other independent hearing officers still
8 had their cases. It was a gradual transition.

9
10 COUNCIL MEMBER BREWER: I remember those
11 politics.

12 JUDGE RAHMAN: And then January 1st of
13 this year is when the transition was complete. Right
14 now, every new case that DOE gets comes to OATH. We
15 are now taking all new cases. We are, I think,
16 delivering on the promise of what was intended when
17 this was set up, and we're going to continue to do
18 our best to make sure that the parties who appear
19 before us receive good, strong, timely decisions that
20 are impartial.

21 COUNCIL MEMBER BREWER: Okay. I appreciate
22 that.

23 Just final, I hate to be just talking
24 about the smoke shops. Sheriff says, I'm not making
25 this up, it's usually 20,000, 30,000 per smoke shop,

1
2 just in terms of each flower is like 250, I think I
3 know them by heart by now, then they're sent to, I
4 assume to OATH, then who do I go to find out who has
5 or has not paid if you don't know? That would be
6 whom? Because it's very strange that all of this is
7 happening, and there seems to be cash flow in terms
8 of people not paying. The gentleman I described to
9 you in terms of the newsstand, it turns out, of
10 course, it was owned by somebody else, she hasn't
11 paid in three years.

12 JUDGE RAHMAN: Council Member Brewer, I
13 apologize for not having this information, but
14 whether it comes to OATH depends on the type of
15 summons that is issued.

16 COUNCIL MEMBER BREWER: Correct.

17 JUDGE RAHMAN: So there are going to be
18 some summonses that are returnable to OATH. I don't
19 know which are the ones that the Sheriffs are issuing
20 that are not returnable to OATH and where they go.

21 COUNCIL MEMBER BREWER: Okay.

22 JUDGE RAHMAN: That would be a question
23 for the Sheriff but, the ones that do come to OATH,
24 like perhaps there is some sort of unlicensed...

25

1
2 COUNCIL MEMBER BREWER: You got the
3 tobacco and the cannabis are the main ones.

4 JUDGE RAHMAN: We'll get the unlicensed
5 tobacco sales. Sometimes we get those from DCWP and
6 if the enforcement agency or the Sheriff or DCWP was
7 to say this is the list of summonses then yes, an
8 inquiry can be made with OATH as to what is the
9 status of these, but the timing really depends on
10 when the hearing is scheduled.

11 COUNCIL MEMBER BREWER: Okay. It just
12 seems to me there's a lot of money that is floating
13 out there that people are not paying, and we have to
14 figure out how to address that. Thank you very much.

15 JUDGE RAHMAN: Thank you.

16 CHAIRPERSON RESTLER: Thank you so much,
17 Council Member Brewer. I'd like to actually just
18 follow up on the two of the topics that she
19 mentioned.

20 On special ed cases, appreciate very much
21 that you said the backlog has been eliminated, but
22 new metrics in the PMMR through October of this
23 Fiscal Year indicated that there were 8,149 cases
24 appointed to OATH and 3,585 cases closed so could you
25

1
2 advise us what's the current total number of open
3 cases or an approximation?

4 JUDGE RAHMAN: I don't have that
5 information on hand but, if there's a specific
6 inquiry that you'd like us to follow up on.

7 CHAIRPERSON RESTLER: I think if you could
8 provide that number as a followup, it would be
9 helpful just to understand. You also said the...

10 JUDGE RAHMAN: Chair, I'm sorry. That's
11 how many open cases, right?

12 CHAIRPERSON RESTLER: How many open cases
13 there are currently and you'd also indicated that the
14 numbers are on an upward trajectory so is there any
15 data point you can share with us to put those 8,149
16 new cases figure from the PMMR covering the first
17 four months of the year into context or perspective.

18 JUDGE RAHMAN: I think we could provide
19 some information that explains how many open cases
20 currently, and then, in terms of any data trends
21 regarding is it increasing, that's some information
22 we can provide.

23 CHAIRPERSON RESTLER: Terrific. I think
24 that would be very helpful. This is an area that I
25 think we hope to do some additional oversight with

1
2 you in the months to come and to work together to, we
3 appreciate OATH taking on this responsibility. It's
4 an area of City government that I don't think has
5 worked well for, as the Council Member noted, a very,
6 very long time, and we are committed to working
7 together to try to make some improvements.

8 JUDGE RAHMAN: Yeah, and I would like to
9 add to that, Chair, that OATH has just one chapter of
10 that story. We are just doing the adjudications. The
11 issues regarding the actual service provisions, the
12 examples that Council Member Brewer mentioned
13 regarding the construction of schools, those are all
14 education policy decisions that OATH would not play a
15 role in.

16 CHAIRPERSON RESTLER: I'd like to just
17 return back to another item that Council Member
18 Brewer asked about, which is revenue and appreciate
19 very much the back and forth that you all just had
20 but, when I look at the numbers, we're talking about
21 60 percent increase in summons, 66 percent increase
22 in trials since the Mayor took office, but only a 27
23 percent increase in revenue, and that's a major
24 disparity in terms of the amount of new revenue
25 coming in relative to the significant amount of

1 additional enforcement action that you're all
2 responsible for adjudicating so what do you attribute
3 to this severe disparity?
4

5 JUDGE RAHMAN: I'd be speculating, but
6 there's two factors. The first is the actual question
7 of what percentage of those summonses have been
8 sustained in-violation. Because if there's an
9 increase in issuance of summonses, but there's a
10 decrease in the rate of their being found in-
11 violation, then there's not going to be a basis on
12 which to collect the penalty. That's the first issue.
13 I don't know sitting here today if there's been major
14 fluctuations in the changes of in-violation findings
15 so that's the first...

16 CHAIRPERSON RESTLER: Excuse me, but
17 you're sending, I think, it was monthly reports to
18 agencies on dismissal rates.

19 JUDGE RAHMAN: Yes.

20 CHAIRPERSON RESTLER: You're tracking that
21 data.

22 JUDGE RAHMAN: Yeah, I just don't have
23 that sitting here today...

24 CHAIRPERSON RESTLER: I guess I'm just
25 interested have you been thinking, I assume you're

1 looking at this is a pretty macro global question,
2 right? Major increase in summons and enforcement,
3 modest increase in revenue. Do you think that there's
4 been a significant increase in dismissal rates that's
5 driving it?
6

7 JUDGE RAHMAN: To your point, we're not
8 looking at that. To make the assumption that OATH
9 would be looking at that puts upon OATH a
10 responsibility that we don't go in towards. We don't
11 go in towards collection so that would be the second
12 factor. The first factor is what is the rate of the
13 in-violation findings?

14 The second factor about revenue is
15 collections, is if a someone is found in-violation
16 and they have to pay a penalty, a person or an
17 entity, if they're not paying, is that money being
18 collected? That's not something that OATH plays a
19 role in. We have a very limited function with respect
20 to collection, which allows people to pay if they
21 come in and then there's a certain subcategory of
22 summonses where we do a little bit of collections
23 work, but the collections work is the responsibility
24 of other arms of the City, not the responsibility of
25 the tribunal, again, because the tribunal should not

1
2 be the one who is going out there and trying to
3 generate revenue for the City and so I would refer
4 you to the Department of Finance, I'd refer you to
5 the Law Department. They play a role in collections
6 and other agencies and the Administration as to why
7 revenue has not been up.

8 CHAIRPERSON RESTLER: I wish we had got
9 our (INAUDIBLE) in a different order. No, I'm just
10 kidding.

11 CHAIRPERSON RESTLER: Look...

12 COUNCIL MEMBER BREWER: (INAUDIBLE)

13 CHAIRPERSON RESTLER: No, absolutely. We
14 asked the judge about it, and we've engaged with DOF
15 on this as well, but I appreciate you're not the
16 collections agency, but you're the entity that has
17 the global perspective on what's happening, and I
18 think we're interested in digging in with you on the
19 dismissal data to see what kind of factor that is in
20 driving this disparity. We're also really interested
21 in better understanding if the best data we have is
22 the residential data, the data of where these people
23 live who are receiving these enforcement summons
24 because I believe that we're seeing significant
25 increased enforcement in low-income areas and that we

1
2 have poor New Yorkers who are just unable to pay, and
3 we have an enforcement structure that doesn't work
4 and that's why we're not seeing the increase that is
5 comparable on revenue that is matching the
6 enforcement, and so we're interested in digging in
7 with you further on this and better understanding it.
8 I think this data is further ground for exploration
9 of Council Member Brannan's pilot that he's proposed
10 legislation for that I hope we'll have an opportunity
11 to discuss more in the future. I know that it's an
12 area of some concern for you. I don't have a question
13 there. I just wanted to get all that out on the
14 record.

15 Last things I want to ask about relate to
16 better understanding some of the PEGs. The
17 Preliminary Plan includes a PEG of 10,000 in FY24,
18 and a baseline PEG though of 1.1 million starting in
19 July, relating to transcription services for the
20 special ed hearings. It was indicated that you have a
21 transcription service in-house that's covering these
22 costs. I understand that it's been a gradual process
23 to be taking on these special ed hearings, but why
24 only now are you officially achieving the savings

1 from this if you had the transcription service in-
2 house all along.
3

4 JUDGE RAHMAN: I think there's some
5 confusion around the transcription service. I've had
6 a chance to read the Council report regarding today's
7 hearing, and I think there are some inaccurate
8 statements in there regarding the transcription
9 service so I can explain.

10 CHAIRPERSON RESTLER: Please.

11 JUDGE RAHMAN: There's a vendor that is
12 used for the purpose of the transcription, which a
13 transcription is legally required as part of a
14 special education hearings and, to put it simply, the
15 contract that was being used had certain bells and
16 whistles attached so you have your baseline providing
17 a transcript and then you've got these additional
18 services or additional charges that are levied by the
19 vendor. After living with this vendor for some time,
20 and determining that we need the baseline transcript
21 but we don't need some of these bells and whistles,
22 we've been negotiating with the vendor to reduce the
23 overall cost so we're not eliminating the
24 transcription. We are reducing the cost of the
25 vendor's contract to get rid of some of the services

1 that we don't think are baseline legally necessary,
2 but we are still going ahead with transcription
3 because we're supposed to and because it's important
4 to the parties who appear before us.
5

6 CHAIRPERSON RESTLER: Just a couple final
7 things. I know I told you I was done. I lied.

8 JUDGE RAHMAN: Totally fine. We're here to
9 provide you with information.

10 CHAIRPERSON RESTLER: I appreciate it. I
11 don't know if Council Members Brewer and Carr are
12 enjoying my questions as much as you are, but
13 hopefully. We found a tremendous annual report that
14 was provided by OATH six or seven years ago that gave
15 a really great overview of everything that the agency
16 does and the reach that you have. Is that something
17 that you would consider reproducing some updated
18 version of to help educate New Yorkers about the work
19 of OATH?

20 JUDGE RAHMAN: I think we can look into
21 that. I think that times have changed and a lot of
22 material has moved online, and we've revamped the
23 OATH website so that it has a lot of that same
24 information in there, maybe less of the kind of
25 public outreach and political handshaking out in the

1
2 community. I know that's in that report. But if you
3 look at that report for what does OATH do, you'll
4 find that online. If you look at it regarding OATH
5 data, you'll find that online. One of the things
6 that's in that report are graphs that look like this.
7 These very helpful pie charts. This is a graph that
8 has to do with our default rate and hearings and
9 dismissals and in-violation. This is right now on our
10 OATH website. We have a section in our OATH website
11 that is for hearings data and trials data, and we
12 make sure that we include a variety of graphs and
13 tables, just to illustrate we have by-agency bar
14 charts that show year-over-year, by agency, what the
15 issuance rate has been, and information about
16 language access. It is not in a singular, stand-alone
17 printed copy, but a lot of the information that we
18 think the public wants to know about OATH, we have
19 available online, but we can look into whether it
20 makes sense to put it into an annual report and happy
21 to chat further about that.

22 CHAIRPERSON RESTLER: Great. Lastly, the
23 PMMR showed a significant decrease in the help
24 sessions conducted by OATH in the first four months
25 of the Fiscal Year. Was this due to fewer available

1 procedural justice coordinators? Are there more folks
2 being hired? I guess not, considering the 50-odd
3 person headcount reduction that you're barreling
4 toward. Are you expecting those numbers to reverse or
5 that trend to reverse?
6

7 JUDGE RAHMAN: For the period that was
8 reviewed for the PMMR and the reduction in the help
9 sessions that are captured in that data, there's two
10 explanations. The first is staffing. During that
11 period, we did have a lull that for our help center
12 was one of the lowest staffing periods that we've
13 had. It's gone up. We have since then been able to
14 hire new procedural justice coordinators into our
15 help sessions so that's the good news is that we have
16 a team now that's helping members of the public.

17 The second factor that really isn't clear
18 from the data is that the PMMR captures something
19 called help sessions. A help session is when two
20 people have a scheduled in person or telephone
21 conversation, but our PJs do other work. They sit at
22 the window to welcome people when they come into
23 OATH, they answer their questions on the spot, giving
24 advice, that's unscheduled, they do email- and text-
25 based assistance. Those metrics for things at the

1 window, and the text and the email, it's not captured
2 in help session. When we looked at those months, we
3 saw, oh, help sessions went down, but these other
4 types of communications went up so, when we realized
5 that, we are now looking at ways for future reporting
6 to capture those other types of assistance because we
7 want everyone to see the full view of what the help
8 center is doing. That's a long way of saying, some of
9 it was staffing, but some of it, I think, is the data
10 doesn't reflect other types of work they were doing
11 during that time.

13 CHAIRPERSON RESTLER: Anything else from
14 my Colleagues? No.

15 I want to thank you very much, Judge, for
16 coming in today and for the whole team at OATH for
17 being here and for your responsiveness and commitment
18 to transparency. We're very eager to dig in a whole
19 lot more on the data that I think we've just started
20 talking about today and appreciate your partnership
21 and look forward to working together.

22 JUDGE RAHMAN: Thank you very much for the
23 opportunity today. Have a good afternoon.

24 CHAIRPERSON RESTLER: Thank you.

25

1
2 COMMITTEE COUNSEL GANAPATHY: Thank you.
3 We'll be moving on to the Board of Elections in a few
4 minutes.

5 CHAIRPERSON RESTLER: I would now like to
6 welcome the BOE team to the Gov Ops hearing today.
7 Thank you for joining us, Executive Director Mike
8 Ryan and Deputy Executive Vinny Ignizio, who we are
9 very pleased is a former Member of this body so it's
10 always good to have you back here, Vinny. We
11 appreciate you both testifying today, and I just want
12 to give a special shoutout to your General Counsel
13 who's somebody who I have a great deal of admiration
14 for, Hemalee Patel. Thank you for being with us as
15 well and the whole BOE team.

16 The BOE's Fiscal 2025 Preliminary Budget
17 totals 144.8 million including 68 million in personal
18 services funding to support 517 budgeted full-time
19 positions. BOE is responsible for conducting all
20 federal, state, and local elections in the City of
21 New York.

22 Today, we look forward to discussing
23 BOE's operations, budging practices, staffing, and
24 reviewing its Fiscal 2024 Preliminary Mayor's
25 Management Report. We hope to learn more about the

1
2 BOE's preparedness for four, four citywide elections
3 in the next 15 months, April, June, and November 2024
4 and June 2025.

5 I'd like to thank Mr. Ryan and Mr.
6 Ignizio again for joining us today. Before I turn it
7 over to thank the Committee Counsel to administer an
8 oath and swear you both in, we've been asking folks
9 to keep their testimony to approximately five
10 minutes, and we have your full testimony in the
11 record. Jayasri.

12 COMMITTEE COUNSEL GANAPATHY: Thank you,
13 Chair Restler.

14 Thank you for joining us for this hearing
15 with the Committee on Governmental Operations and
16 State and Federal Legislation. We are now swearing in
17 the Board of Elections. Could you please raise your
18 right hands?

19 Do you affirm to tell the truth, the
20 whole truth, and nothing but the truth in your
21 testimony before this Committee and respond honestly
22 to Council Member questions?

23 DEPUTY EXECUTIVE IGNIZIO: So help me God.

24 EXECUTIVE DIRECTOR RYAN: Yes.
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COMMITTEE COUNSEL GANAPATHY: Thank you.

You can begin.

EXECUTIVE DIRECTOR RYAN: Thank you, Chair Restler, Chair Brannan and the other Members of both the Governmental Operations Committee and the Finance Committee that are present here today. As has been past practice with the Board, we are prepared to dispense with the oral presentation of testimony and will stipulate that the oath that was just administered applies to the writing that was submitted to the Committee and we can move forward to the meat of the hearing, which is Committee and Chairs' questions. I would just have one point of personal privilege to question. Are you happy that my colleague, Mr. Ignizio, is a former Member of the City Council, or are you happy that as a former Member he's here today?

CHAIRPERSON RESTLER: It's a very good point, and I will defer to Brooklyn's newest Council Member to answer it properly. I'll say from my vantage point we are big fans of Mr. Ignizio here in the Council and appreciate his service to the City over many years.

1
2 EXECUTIVE DIRECTOR RYAN: As we are here
3 at the Board of Elections.

4 CHAIRPERSON RESTLER: There's a lot of
5 Staten Island at the table over there, but that's why
6 we gave David a little slice of Brooklyn in the
7 redistricting process to even it out.

8 We're happy to jump right into questions.
9 We appreciate the efficiency.

10 EXECUTIVE DIRECTOR RYAN: Chair, could we
11 just introduce our colleagues?

12 CHAIRPERSON RESTLER: Oh, yes.

13 EXECUTIVE DIRECTOR RYAN: First, I don't
14 think either one of us stated our names into the
15 record. I am Michael J. Ryan. I'm the Executive
16 Director of the Board of Elections.

17 DEPUTY EXECUTIVE IGNIZIO: Vincent
18 Ignizio, Deputy Executive Director.

19 EXECUTIVE DIRECTOR RYAN: And present with
20 us today, already acknowledged by the Chair, is
21 Hemalee Patel, who is the Board's General Counsel,
22 Deputy General Counsel Raphael Savino, and Director
23 of Finance Gerald Sullivan.

24 CHAIRPERSON RESTLER: Great, thank you
25 very much. I will start and kick it over to Council

1
2 Members Carr and Brewer whenever they'd like to jump
3 in.

4 The FY25 budget totals 144.8 million
5 including 68 million in personal services funding to
6 support about 517 full-time positions, but the actual
7 headcount is approximately 700. Why not update the
8 BOE budget accordingly.

9 EXECUTIVE DIRECTOR RYAN: We have worked
10 very closely in the 10 years that I have been here.
11 Certainly, that relationship has continued to build
12 during the previous Administration and has stayed
13 steady and continued to build during the current
14 Administration. There's quite a bit of flexibility
15 potentially for the Board's budget on an annual
16 basis. For example, Mr. Chairman, you mentioned that
17 we have four or five election events over 15-month
18 period. I was concentrating more on one fiscal. We
19 did in 2022, annual, not fiscal, but in 2022 Calendar
20 Year, we did eight elections with all of the special
21 elections. There is some advantage, as I understand
22 it, and I don't want to speak on behalf of the
23 Administration, but there's some advantage to doing
24 the math the way that they do it for budget planning
25 purposes, but it always works out that we're on the

1 same page either during the Fiscal Year when
2 adjustments need to be made either in the December
3 Plan, November, December, January Plan, whatever it
4 turns out to be, and it works out well. We know what
5 our paid headcount is on an ongoing basis. Like any
6 agency, that may fluctuate up or down depending on
7 arrivals and departures to coin an airport phrase,
8 but we work well with them and the math always works,
9 and there's an advantage to doing it for OMB the way
10 that they do it. We would certainly tell this
11 Committee, given its oversight responsibility, if we
12 felt we were being shorted and not having the funds
13 necessary.
14

15 CHAIRPERSON RESTLER: We appreciate that.
16 Please do not hesitate to let us know.

17 I see in your testimony that you're
18 projecting an actual budget of about 260 million for
19 FY25.

20 EXECUTIVE DIRECTOR RYAN: Yes.

21 CHAIRPERSON RESTLER: How does that
22 compare to your anticipated spending for FY24?

23 EXECUTIVE DIRECTOR RYAN: It's about the
24 same. It's probably going to be about 5 million
25 higher than last year but, when we're doing

1
2 projections, we try to project further ahead than we
3 may land, and we're also anticipating the expiration
4 of some contracts that may end up causing us to have
5 a higher OTPS than might have been last year, but
6 here's the other thing, Mr. Chairman, one of the
7 biggest driving costs that we have is the poll worker
8 budget, and that can fluctuate from time to time.
9 During presidential election years, we have a
10 tremendous interest in typically people serving as
11 poll workers. That can wane in off-year elections.
12 That does go up and down, and we also have ultimately
13 no firm control over what the cost of a primary
14 election is going to be because it really depends on
15 whether offices are ultimately challenged, and that
16 could work out to be a citywide event or it could be
17 much more truncated and then the special elections
18 are left off to the side.

19 DEPUTY EXECUTIVE IGNIZIO: Mr. Chair, to
20 put some ornaments on that tree, roughly slightly
21 north of 40,000 poll workers for a presidential and
22 slightly north of about 30,000, you'd say, Mike, for
23 an off-year, 35,000 in that neighborhood.

24 EXECUTIVE DIRECTOR RYAN: Correct.
25

1
2 CHAIRPERSON RESTLER: I'd like to dig in
3 on some poll site worker-related questions. According
4 to the PMMR, we have seen a steady decline over the
5 last few years in poll site workers showing up to
6 work. It was up at a peak of about 96 percent in
7 FY21, down to 90 percent in the latest report that
8 we've seen. What's BOE doing to reverse this trend?

9 EXECUTIVE DIRECTOR RYAN: We have an
10 electiondayworker.com portal, if you will, for poll
11 workers to sign up. We also have public outreach. I'm
12 sure you've seen the ads and such in the subway,
13 become a poll worker. Like I said, it kind of ebbs
14 and flows. My experience over 10 years has been, it's
15 more related to what is going on at the poll site
16 than what the Board is doing so presidential
17 elections have a tendency to be robustly attended,
18 lesser events or primaries for that matter have a
19 tendency to be more shortly attended by the poll
20 workers. In the meantime, we always have a standby
21 pool so when we have our no-show stats that we put
22 out, we also have standby pools in all the boroughs
23 and then they get deployed and reconfigured. We're
24 not seeing that kind of no-show on the early voting
25 locations. Those have a tendency to be a more premium

1 assignment but, on election day, things can go wrong
2 in people's lives...

3
4 DEPUTY EXECUTIVE IGNIZIO: We've
5 sufficiently been staffed, though, throughout for EV
6 and for polls.

7 CHAIRPERSON RESTLER: You do feel that,
8 despite the 10 percent of workers not showing up,
9 you've been able to cover and manage poll site
10 operations effectively without significant delays or
11 inconveniences to special voters?

12 EXECUTIVE DIRECTOR RYAN: This would be
13 something that I think that we could maybe talk more
14 face to face about but, for the purposes of a public
15 consumption I would say this, there have been changes
16 to the way that elections have been conducted over
17 the last decade in terms of maybe decade and two
18 years now, privacy booths and the DS200 scanners and
19 those kinds of things, and the mandates for poll
20 workers and the numbers of poll workers that we need
21 have not necessarily changed apace with the manner in
22 which we conduct elections. The example I'd like to
23 give you is there are those of us here may be old
24 enough to recall when we had primary elections, it
25 was necessary for a poll worker to stand next to the

1 lever machine to change the dial so that you made
2 sure that the person was voting on a Democrat,
3 Republican, or other ballot. We don't have the need
4 for those poll workers anymore, but those poll worker
5 numbers are still contained within the recommendation
6 or the guidelines from the State Board of Elections.
7 We look to staff relative to what we're told we
8 should staff but, if one or two here or there don't
9 show up, there's sufficient padding in the overall
10 work.
11

12 CHAIRPERSON RESTLER: Forgive my ignorance
13 on this. You're subject to the State Board of
14 Elections to determine the staffing plan per poll
15 site on how many people are expected to be there?

16 EXECUTIVE DIRECTOR RYAN: Yes. We also can
17 develop our own, but they have guidelines on what the
18 staffing plan should be so we endeavor to get at or
19 as close as we can to those recommendations and
20 regulations but, if it doesn't happen, then we
21 haven't found ourselves in a position where lack of
22 poll workers is causing delay. The things that cause
23 delay more for us could be that a poll site, keeping
24 in mind we don't own the poll sites, that a poll site
25 might not be opened on time, and if that delay starts

1 in the morning then it continues for a good chunk of
2 the day and then also the timing of day that the
3 individual voters show up to vote. If everyone shows
4 up first thing in the morning and there's a long line
5 down the block then we're going to have delays.

7 CHAIRPERSON RESTLER: Just a couple more
8 questions on this. If you'd be interested in
9 developing a plan to streamline the staffing and
10 increase the compensation, we'd love to work with you
11 on that and explore it together. My recollection is
12 that during the de Blasio Administration there was an
13 increase in poll site worker compensation to try and
14 improve the recruitment and retention of poll
15 workers, and I believe Speaker Heastie was a strong
16 proponent of that. We would love to talk and explore
17 that together. It could be cost neutral or even save
18 the City money and deliver a better outcome. I think
19 if folks were compensated more generously, we'd have
20 a higher rate of people showing up and a more
21 reliable workforce and so if that's something that's
22 of interest, we'd love to explore it together.

23 EXECUTIVE DIRECTOR RYAN: On those two
24 things, yes, we'll always take yes for an answer,
25 additional assistance and ideas are always a good

1 thing. We're not of the opinion at the Board that we
2 have cornered the market on good ideas, and
3 sometimes, I know it's a little bit obscure, but I
4 liken management to looking at a Monet. Sometimes the
5 closer you get to it, the less you appreciate the
6 image and the more removed from it you get the more
7 you appreciate the image.

8
9 With respect to the compensation, the de
10 Blassio Administration gave the first raise to poll
11 workers which exceeds the statutory mandate of the
12 New York State Election Law. I think it was 2001 when
13 Mayor Giuliani gave the raise.

14 CHAIRPERSON RESTLER: Wow.

15 EXECUTIVE DIRECTOR RYAN: And then Mayor
16 de Blassio gave a raise.

17 COUNCIL MEMBER BREWER: 2002. It was in
18 2002.

19 EXECUTIVE DIRECTOR RYAN: 2002, right?
20 Thank you, Madam Historian, so it was a long time
21 before there was a raise, and then Mayor de Blasio
22 gave a raise. At the time that he gave the raise, we
23 were asking to go from 200 to 300 for poll workers
24 and from 300 to 400 for coordinators. We got half a
25 loaf. We went from 200 to 250 and from 300 to 350

1 which we took as better than nothing, but certainly
2 several years ago, I forget exactly what year it was,
3 but about four or five years ago, we were asking for
4 it to be 300 and 400, and the cost of living has only
5 gone up since then.

7 CHAIRPERSON RESTLER: Look, poll site
8 workers perform an essential public service. While
9 voting is, I believe, 15 hours, it's a 17, 18, 19
10 hour day, because you have to get there before the
11 poll site opens, and you're there sometimes for one
12 or two hours after the poll site closed doing your
13 tally so we really value the work that the poll site
14 workers do to make our elections work, and I'm
15 certainly interested in continuing this conversation
16 with you.

17 EXECUTIVE DIRECTOR RYAN: And if I could
18 just make one more suggestion where there might be a
19 way to air quote, raise the poll worker compensation
20 without raising the poll worker compensation. There's
21 an IRS regulation that requires the Board of
22 Elections, and there was a previous Counsel to this
23 Committee that, I don't want to say he didn't believe
24 what I was telling him, but he went and did his own
25 research and confirmed that I was, in fact, saying

1 the right thing, that there's an IRS regulation that
2 requires the Boards of Elections throughout the
3 country to treat poll workers as employees so we used
4 to be able to treat them as a day worker and give
5 them what is it, a 1099 I think it is, and then we
6 had to treat them like employees, and so we have to
7 deduct federal taxes, we have to deduct state taxes,
8 and we have to deduct city taxes, and also process
9 each poll worker into, the administrative cost of us
10 treating them like an on-and-off worker throughout
11 the year. There has been some talk nationally about
12 passing something in Congress that would make poll
13 workers exempt from federal taxes. I think, from
14 where I sit at least, that that should catch on
15 across the Board, city and state, to really take a
16 look at whether or not poll worker pay could be
17 deemed as a form of public service and exempt from
18 taxation, and then that might also solve a problem
19 for us with respect to individuals that receive other
20 forms of compensation that might have income limits
21 that might be causing them to stay away from serving
22 as poll workers because they're afraid it'll push
23 them over a particular threshold.
24
25

1
2 CHAIRPERSON RESTLER: We'll certainly
3 consult with our federal counterparts on this as
4 well. While I would be interested in learning more
5 about streamlined staffing models, interested in
6 exploring enhanced compensation for poll site
7 workers, I am also interested in depoliticizing the
8 appointment process for poll site workers, and I'd
9 just like for you to explain on the record, I had
10 thought that the BOE empowered District leaders to
11 make appointments in their Assembly Districts or
12 their portions of the Assembly Districts, to
13 recommend pole site workers for those areas. Is that
14 a formalized process? Relatedly, we've recently seen
15 in my county, the county leader designating District
16 leaders that they don't get along with and not
17 allowing them to make recommendations for poll site
18 workers. It all seems like a bad outcome for voters.
19 Could you explain the rules and how can we improve
20 the process?

21 EXECUTIVE DIRECTOR RYAN: Certainly. It's
22 embedded in State statute that the local political
23 parties have input and authority about who gets
24 recommended to be a poll worker. In terms of removal
25 as poll workers, to the extent that we have extra,

1
2 I'll call them extra, not really extra, but extra
3 poll workers in the system, some may get assigned to
4 every election because they're really good and some
5 may get assigned only when they're needed, and the
6 Commissioners have the authority to remove poll
7 workers for cause irrespective of what the party may
8 say. Now, the problem that you are raising has become
9 a problem that has diminished over the course of time
10 because with each passing year during my time here,
11 and I don't think there's any correlation to it, we
12 have been seeing less and less poll workers coming
13 from the parties and more and more poll workers
14 coming from individuals that want to serve. We were
15 alarmed, in a sense, when we saw that number drop
16 below 40 percent of party-recommended people. That's
17 now down between 25 and 30 percent so the
18 overwhelming majority of people that serve as poll
19 workers in the City of New York come to us away from
20 the formal party process.

21 CHAIRPERSON RESTLER: If you'd be
22 interested, would love to work with you on ways to
23 encourage outreach and recruitment outside of the
24 party process. If, as you've testified, it's
25 statutorily required for you to take input from the

1 parties then that statute should be revisited, but we
2 want to do everything we can to encourage people to
3 be recruited outside of a politicized process.
4

5 EXECUTIVE DIRECTOR RYAN: To the extent
6 that you may have seen some of those efforts that
7 we've made on the subways and such, that's all
8 directed outside the party process and, if there's
9 other things and other ways that we can do it, for
10 example, getting away from poll worker proper
11 interpreters, which are a poll worker in a sense, we
12 were seeing a shortfall for a number of years in
13 Korean interpreters. One of the things that we did
14 was we had outreach with the various language-
15 specific communities, and we learned at least with
16 the Korean community, that we weren't conducting our
17 outreach in the places that would be most effective
18 at reaching Korean-speaking peoples and the kinds of,
19 they have specific digital platforms that they access
20 more regularly that we weren't targeting and, when we
21 did that, we started to target in those directions,
22 we started to see our shortfalls of Korean poll
23 workers dissipate. So again, going back to what we
24 had said earlier, if we're missing something, we're
25 happy to work collaboratively to overcome the

1 hopefully very small tiny holes in our process but
2 work in a way that is in the spirit of collegiality
3 and cooperation.
4

5 CHAIRPERSON RESTLER: Thank you. I do have
6 a few more questions, but let's see if Council
7 Members Carr and Brewer ask them first. I'll kick it
8 over to Council Member Carr.

9 COUNCIL MEMBER CARR: Thank you, Chair.
10 Good to see Mike and Vinnie both, in any capacity
11 here.

12 I wanted to talk a little bit about
13 cybersecurity. We read about this a lot. Voters are
14 understandably concerned that in this day and age,
15 whether their information and, of course, their
16 elections are safe from cyberattack, and I was
17 wondering if you guys could tell us a little bit
18 about what you've been doing internally to the BOE to
19 safeguard the vote from those kinds of threats.

20 EXECUTIVE DIRECTOR RYAN: I can go back to
21 2016. I don't want to say that cybersecurity wasn't
22 an issue before 2016, but it certainly bubbled very
23 quickly to the surface in the summer of 2016, and one
24 of the things that we started doing then which, my
25 mom used to say don't break your arm patting yourself

1 on the back, but it really was at my suggestion and
2 insistence, we started to treat cybersecurity issues
3 the same way that you would treat any other
4 emergency, like an impending or potential hurricane
5 or any other kind of mass electric outage, and I
6 asked then Director Jeff Brown, who's now departed
7 the agency and has become NYC3, to start to do
8 tabletop exercises where we treat cybersecurity
9 issues the same way that you would treat any other
10 emergency, and it has dropped off a little bit in
11 COVID. It has come back again this year with a lot of
12 fervor. We get everybody in the room, and when I'm
13 talking to everybody, federal, state, local
14 officials, security experts, police department, cyber
15 people, FBI, Department of Homeland Security, and
16 others, and basically the idea behind it is to put a
17 face and a name together so that if there's an
18 emergency, that I'm not calling this guy Dave, I'm
19 calling David Michael Carr that I know from being at
20 the table and working together. That having been
21 said, we have a very close relationship on an ongoing
22 basis with NYC3. We don't like to particularly
23 discuss the efforts that are made in this area
24 publicly because we don't want to invite mischief,
25

1 but we do have monitoring services that were provided
2 through contracts from NYC3, what used to be DoITT,
3 that monitor our systems 365 days a year, 24 hours a
4 day, 7 days a week, and they monitor our systems to
5 make sure that if there's any external threats,
6 either potential threats or actual threats,
7 fortunately we haven't seen them from time to time,
8 but I can tell you of an instance, and I won't say
9 who it was, but there was an elected official on
10 Staten Island whose campaign website was hacked from
11 external mischief, and the Board of Elections advised
12 the official that their website was in a little bit
13 of a problem. Because of the way that the traffic was
14 coming in to us, we noticed something wasn't right,
15 and we made the appropriate referral so it's not only
16 protecting us and our systems. For example, the voter
17 registration system, we have kept that as a fully in-
18 house system, not subject to external access to the
19 extent that during the COVID emergency, when we had a
20 lot of people working from home, the one system that
21 they were not allowed to access was the voter
22 registration system. You couldn't go onto a VPN and
23 get into the voter registration system because we're
24 not confident that it's impervious if we open the
25

1 door so we keep that door shut. I don't know, Mr.
2 Ignizio, if you have anything else you'd like to add
3 to that.
4

5 DEPUTY EXECUTIVE IGNIZIO: No. We work
6 with the federal, state, and city partners throughout
7 to put a robust safety net approach. Of course,
8 nothing is invulnerable, but we are working every day
9 and we get alerts and concerns. We're talking every
10 day about potential threats and when we react. We
11 really rely heavily on our federal, state, and city
12 partners who do this day-in and day-out and the
13 system is of the utmost concern, particularly in
14 years that have the nation's concerns such as the
15 presidential year.

16 COUNCIL MEMBER CARR: I appreciate that
17 answer. The Chair was asking you before about poll
18 worker compensation, and one of the things I know
19 that's been a struggle is the level of compensation
20 you can offer to non-publicly owned poll sites or
21 early voting sites right now for-profit-owned sites
22 or maybe even privately owned sites. What are the
23 constraints that the agency has in that regard and
24 who would need to lift them to allow you maybe to
25

1 offer a better rate of compensation for use of a site
2 that wasn't government-owned.

3
4 EXECUTIVE DIRECTOR RYAN: I think they
5 fall into two different categories essentially. One
6 is the non-government sites then that we can't
7 legally mandate because of a tax exemption or some
8 other reason, and then there's the non-government
9 sites where we are going hat-in-hand to the
10 particular location because we have a need in that
11 area that's not satisfied by a government building or
12 a site that we can mandate. That's where you're
13 seeing a tremendous disparity between what private
14 sites may get. The ones where we're going to them, I
15 wouldn't say paying market-rate, but we're paying a
16 higher rate of compensation to the sites that we go
17 to, asking them to be good citizens. There's a price
18 of admission for being a good citizen apparently,
19 right, and the other sites were not allowed to pay
20 rent. We have them provide to us the additional
21 costs, the upcharges that they're facing for being a
22 poll site, enhanced security, or lost opportunity,
23 those kinds of things. We begged and were rebuffed
24 when this early voting was first starting because
25 that's really where the charges have gone through the

1 roof. We begged for some type of scale to be passed
2 with that legislation and it didn't happen because we
3 would like everybody to be on a level playing field,
4 and so we're dealing with it in the best way that we
5 can, but I would not sit here today and say there's
6 uniform consistency across the across all of the
7 various poll sites, particularly those that serve as
8 early voting locations. It's a little bit easier with
9 the election day sites, but the early voting
10 locations, it's some are getting a few thousand
11 dollars and some are getting much more than that. For
12 example, we received a tremendous amount of praise
13 during 2020 when we used Madison Square Garden as an
14 early voting location. Obviously, absent an emergency
15 like that, Madison Square Garden's not going to be
16 available because they have other events that are
17 going on, but we paid them 250,000 dollars to serve
18 as a poll site. They got the big headline, they gave
19 us our logo on the roof of Madison Square Garden, and
20 it was great, but they got a lot of money to do it,
21 and we're certainly not paying that kind of money
22 across the board to other locations, and so basically
23 if they give us a small bill, we pay a small bill. If
24 they give us a larger bill, we pay a larger bill.
25

1
2 COUNCIL MEMBER CARR: Okay.

3 EXECUTIVE DIRECTOR RYAN: There's no
4 method to it, if that's the question.

5 COUNCIL MEMBER CARR: We'll have to keep
6 that in mind next time we're all up in Albany, and I
7 just want to, in closing, Chair, thank you both for
8 all the work that you've been doing, and all the
9 entire team at the agency. Things have been running
10 really well, and I appreciate all the great work.
11 Thank you.

12 EXECUTIVE DIRECTOR RYAN: Thank you,
13 Councilman.

14 DEPUTY EXECUTIVE IGNIZIO: One thing we
15 should mention, though, is the depth of which we have
16 enhanced, and the great system of early voting that's
17 worked from, what was it, 61 sites in...

18 EXECUTIVE DIRECTOR RYAN: Yes, 61 in 2019.

19 DEPUTY EXECUTIVE IGNIZIO: And I think
20 this year we're poised to get somewhere around 150.
21 Currently, we're seeking to add additional sites 143
22 total, I know Gale will record it, 143 currently,
23 I've known Gale long enough not to say roughly, 143
24 sites for this year and potentially more as we do the
25 run up.

1
2 EXECUTIVE DIRECTOR RYAN: And to
3 supplement that a little bit, the Council Historian
4 may remember way back to 2019 when we were coming out
5 and we had 61 early voting locations and we were
6 being excoriated that we weren't doing enough, and we
7 tried to, during that testimony, and matter of fact,
8 you were in the Administration at the time, I'm not
9 holding you responsible for any of that excoriation,
10 but we were being told it wasn't enough and we kept
11 telling everybody this is not something that you can
12 just add water and stir. It's something that's brand
13 new, and it has to be built. You don't want it to
14 fail coming out of the blocks and then it's a
15 disaster and nobody trusts it. We're seeing a
16 building trust in early voting, and we went from 61
17 sites in 2019 to now we're going to be utilizing 143
18 sites for the next election, and we're viewing that
19 whole process of early voting sites and site
20 selection as an evolutionary process. In other words,
21 a job that's never going to be done. You shouldn't
22 look at it and go, okay, we're good enough now. We
23 should always be looking to improve.

24 DEPUTY EXECUTIVE IGNIIZIO: Chairman, if we
25 can advertise, if Council Members, if community

1 residents want us to look at particular sites
2 throughout, we will evaluate and, please, we look to
3 you as Council Members in the local Districts to say
4 I could use an extra site and please help us
5 interface with whomever is an appropriate site and we
6 obviously need to look through our systems to ensure
7 that it's in compliant with rules, regs, laws,
8 whatnot, but please let us know.

10 CHAIRPERSON RESTLER: Absolutely.

11 DEPUTY EXECUTIVE IGNIZIO: We're looking
12 for assistance.

13 CHAIRPERSON RESTLER: I'm never shy in
14 reaching out when I think there's a gap in our
15 District. We'll encourage Colleagues across the
16 Council to take advantage of that as well.

17 Before I just pass it to Council Member
18 Brewer, I do want to ask one more early voting
19 question.

20 I certainly believe in New York City
21 exceptionalism, we are the best place on earth, but
22 one of the ways in which I'm disappointed is that
23 every other county in New York State has early voting
24 centers where voters from any assembly district
25 within the county can go and vote and, while I

1
2 applaud you for the increase in total early voting
3 sites, that's a good and necessary thing to make it
4 more convenient for people to vote early. I do think
5 that having hubs at centralized locations that are
6 easy for people to participate in would help increase
7 turnout as well and potentially be a more cost-
8 effective model than continuing to increase site
9 after site after site. Are there technological
10 barriers that are preventing you from having singular
11 borough hubs that could allow for everybody to come
12 in and early vote at that location, and what will it
13 take for us to overcome it?

14 EXECUTIVE DIRECTOR RYAN: I would say that
15 while your statement is true in fact, it is in some
16 respects the equivalent of being true in word but not
17 being true in deed, and the reason I say that is the
18 way that the stats are reported is the centralized
19 locations, when they started early voting in some of
20 these more rural jurisdictions throughout New York
21 State, their centralized location was their office.
22 It was the Board office. Now, if anyone wants to come
23 into any of the Board offices, we can certainly
24 accept the ballot from any place located within that
25 borough so sometimes when you look at stuff that's

1 purely statistical, you don't necessarily get the big
2 picture. That having been said, New York itself is at
3 least 41 percent of the total number of voters in New
4 York State so to compare us to say what they're doing
5 in Chemung County or anywhere else is not necessarily
6 a right comparison but, to your point, yes, right
7 this minute, technology is preventing us from looking
8 at vote centers. The ballot marking devices that we
9 presently use have insufficient memory to handle all
10 of the ballot styles. One way that that could be,
11 which is highly political, one way that that could be
12 helped is if, even for early voting, that we don't
13 report results by election district and simply report
14 results by assembly district because then we would be
15 able to eliminate boatloads of ballot styles because,
16 in order for the system to report the data out at the
17 backend, it has to go into the system a certain way
18 so if we were going to report election results by
19 assembly district, then the number of ballot styles
20 that we would need would drop. If the number of
21 ballot styles that we'd need would drop, then the
22 number of audio files that we would need for any
23 ballot marking device, whether it be the one we
24 presently use or some new one, would also drop.
25

1
2 CHAIRPERSON RESTLER: Are you seriously
3 considering that at this time?

4 EXECUTIVE DIRECTOR RYAN: We can't do it.
5 The State law says we have to report election results
6 by election district and it has to have that
7 breakdown. I'm sure that there are legitimate reasons
8 for doing it. I'm simply pointing out that it
9 presents an impediment to us in terms of how we have
10 to set up the ballot styles and then how we program
11 the machines.

12 CHAIRPERSON RESTLER: Without
13 modifications in State law, are there strategies that
14 you are considering that could allow for borough-wide
15 early voting election hubs?

16 With the present equipment that we have,
17 no, but I guess it was back in August, the State
18 Board of Elections approved some new equipment. We
19 have taken a look at our calendar, and we have made a
20 determination internally and with the with the
21 approval of the Commissioners, first, no responsible
22 elections administrator or elections systems vendor
23 would suggest that it would be a good idea to change
24 voting systems during a presidential election year so
25 given the timing of the approval, that became

1 something that was put off into the future. As we
2 look at the balance of the upcoming election years,
3 we start to look at next year, which is now the
4 second year that we would be using ranked choice
5 voting, some people here might have an interest in
6 that. We're starting to think that, when we first
7 looked at it, a year and a half later probably not a
8 good idea to put out a new voting system in a year
9 where the voters are still getting used to a more
10 complex way of voting and, when the moment comes,
11 that we sit down with the Commissioners and we
12 believe that it's the right time to start that public
13 conversation and perhaps, it's starting today, we
14 envision engaging in a process the way that we
15 engaged in the process going back to 2010 before the
16 machines were the current machines that we're using
17 were selected by bringing all of the vendors whose
18 new machines got approved and having a public
19 conversation about that and a period of public input,
20 which of course would include elected officials, but
21 we envision that some of the good government groups
22 and regular citizens will want to know.

24 CHAIRPERSON RESTLER: The accessibility
25 community.

1
2 EXECUTIVE DIRECTOR RYAN: The
3 accessibility community and all of those things, and
4 we do know this, when that moment in time comes, it
5 is going to be a substantial expense. I have not
6 committed to memory the cost associated with each of
7 these new items that the vendors are putting out for
8 sale, but it's going to be substantial and it's also
9 going to be something that we would likely have to
10 engage the PPB rules with respect to that, because as
11 I understand it presently, there are no state
12 requirements contracts or OGS contracts for any of
13 those items that we could say, okay, we finished our
14 selection and now we're going to be able to go ahead
15 and do this so it's a lengthy, costly process.

16 CHAIRPERSON RESTLER: But it doesn't sound
17 like you're considering it prior to 2026 so we'll see
18 what the different procurement vehicles and options
19 you have at that time.

20 EXECUTIVE DIRECTOR RYAN: I don't want to
21 get ahead of my skis and speak fully for the
22 Commissioners...

23 CHAIRPERSON RESTLER: Let me pass it to
24 Council Member Brewer before I get in trouble.

25

1
2 EXECUTIVE DIRECTOR RYAN: I don't want to
3 get ahead of my skis and speak fully on behalf of the
4 Commissioners because, ultimately, they will direct
5 staff what they want to do. I was simply trying to
6 give some insight into some of the concerns that
7 we're thinking about because it's not, I hate to keep
8 using this phrase, but it's not going to be an add
9 water and start process. This is a big deal.

10 CHAIRPERSON RESTLER: Understood.

11 COUNCIL MEMBER BREWER: I think water is
12 better than Picasso.

13 EXECUTIVE DIRECTOR RYAN: It was Monet.

14 COUNCIL MEMBER BREWER: Whatever.

15 EXECUTIVE DIRECTOR RYAN: You're in the
16 county of big museums. You have to understand.

17 COUNCIL MEMBER BREWER: I know, but I
18 don't know, better than dead horses (INAUDIBLE) I
19 don't like it all.

20 A couple of things. First of all, I think
21 over the time in terms of outreach, NYPIRG has been
22 helpful. You've done a lot of outreach over the
23 years, I know the Chair knows some, but for those of
24 us who've been doing it even longer, you really have
25 so it's not an easy process, but I'm just saying a

1 lot of young people in the last few years have been
2 participating. Young people who have an interest in
3 the mission.
4

5 EXECUTIVE DIRECTOR RYAN: Yeah.

6 COUNCIL MEMBER BREWER: I just want to say
7 thank you for that.

8 EXECUTIVE DIRECTOR RYAN: Thank you.

9 COUNCIL MEMBER BREWER: Okay. Early
10 voting. The problem, I did write a letter recently,
11 is the schools, so I don't know how many of the 143
12 are schools, I've got all my schools complaining
13 because it's the gym or the cafeteria or something so
14 is that something that you're looking at to try to
15 have less schools? Of course, no schools would be
16 great in Manhattan because they don't have outdoor
17 space perhaps like other boroughs, but it's a big
18 problem so how are we addressing the early voting in
19 the schools? Obviously, Election Day is not a problem
20 because, at least for November, there's no school.
21 (INAUDIBLE) they still complain about that too.
22 Schools.

23 EXECUTIVE DIRECTOR RYAN: It really is
24 difficult for us. We are certainly eyes and ears and
25 hearts open for any alternative suggestions other

1 than what we're doing now for election day. It's
2 roughly about 700 out of 1,200. It changes from time
3 to time. For early voting, it's in the 60s out of the
4 140. The problem that we have, not only with the
5 schools, but more so with the schools as well is in
6 addition to that, we're imposing often on the
7 schools. We have 61 sites out of 143 present sites
8 where we have to have diesel generators so talk about
9 going green. We have to have diesel generators to
10 provide auxiliary power to make sure that the
11 equipment is all running properly. Another layer of
12 analysis that we would have to do if we move to a
13 different type of machine, so the answer is we're
14 never letting the grass grow under our feet with
15 respect to election day sites or with respect to
16 early voting sites. The problem that we have is
17 where. The other problem is for a lot of
18 neighborhoods in New York City, the schools are the
19 most centrally located facility.

21 DEPUTY EXECUTIVE IGNIZIO: We need more
22 sites.

23 EXECUTIVE DIRECTOR RYAN: Yeah.

24 COUNCIL MEMBER BREWER: I'm aware of that.
25 I'm just saying, as parents, it's a lot of concerns.

EXECUTIVE DIRECTOR RYAN: Right, and I got to tell you, I'm not going to name the location, but it's a location that's near and dear to mine and Mr. Ignizio's hearts, he came in and said what about this location, and I said, I've rode that area, I've gone around, it happens to be my early voting site, so I'll give you a little clue, and I said but Vin, you're welcome to go look, and he went around the neighborhood and looked everywhere, and in that particular area...

DEPUTY EXECUTIVE IGNIZIO: (INAUDIBLE)

EXECUTIVE DIRECTOR RYAN: In that particular area, we have two choices, one, the junior high school, or, two, the elementary school. We went with the elementary school because the elementary school has an external entrance into the building so you can go directly into the gymnasium from outside.

COUNCIL MEMBER BREWER: Oh, I understand that.

EXECUTIVE DIRECTOR RYAN: And where the junior high school is, you have to walk three quarters of the way down a hallway deep into the building to get to the gymnasium.

COUNCIL MEMBER BREWER: Okay.

1
2 EXECUTIVE DIRECTOR RYAN: These are the
3 struggles that we go with go through.

4 COUNCIL MEMBER BREWER: Okay, but, in the
5 situation that I'm talking about, it's not even an
6 entrance, it's just the lack of a gym or a cafeteria
7 and it's causing havoc. Anyway, we'll keep talking
8 about it. But I am looking for other sites as we
9 speak.

10 EXECUTIVE DIRECTOR RYAN: Please, and I'm
11 not saying this to be funny at all. We're not adverse
12 to road trips. I'm happy to get out of the office
13 once in a while.

14 COUNCIL MEMBER BREWER: (INAUDIBLE) I know
15 the borough.

16 EXECUTIVE DIRECTOR RYAN: So if there's
17 something that you or anyone else needs to show us,
18 we're more than happy to come out as long as it's not
19 election day.

20 COUNCIL MEMBER BREWER: At some point,
21 these buildings, they get the J51 and the 421A, we
22 were trying to say, listen, you have gotten a nice
23 big tax abatement. You should allow some for voting,
24 but that didn't seem to work either. I know we're
25 trying different paths.

1
2 EXECUTIVE DIRECTOR RYAN: Right. It has
3 worked for some facilities, like some of the more
4 resistant cultural facilities in Manhattan, have
5 started to come around in that regard, and that's
6 helpful.

7 COUNCIL MEMBER BREWER: Okay. On the
8 voting machines, I don't really, so you're saying,
9 what, '25, '26 is when the decision, so it's not
10 going to be this year, but that has to go through a
11 process, and we're going to end up with what was
12 discussed in Albany or does the locality decide? Is
13 that how it's left? The locality decides?

14 EXECUTIVE DIRECTOR RYAN: Yeah, so
15 ultimately the locality decides based on the approved
16 list of vendors. We can't just say anybody. It has to
17 be one of the vendors that's on the list from the
18 State.

19 COUNCIL MEMBER BREWER: Okay. Are any of
20 them ones that you can see your ballot or not? Are we
21 going to have this fight?

22 EXECUTIVE DIRECTOR RYAN: All of them in
23 one way, shape, or form have been interpreted to be
24 one where you could see your ballot according to
25 State Board of Elections interpretation.

1
2 COUNCIL MEMBER BREWER: I'm not getting
3 into that one.

4 The overtime issue obviously is something
5 that a lot of agencies have. What kind of overtime
6 are you looking at or have you looked at and is that
7 something that's going to continue into the future?
8 Obviously, when the big election, I assume it gets
9 even more complicated.

10 EXECUTIVE DIRECTOR RYAN: Yes. We have
11 made a value determination that we think serves the
12 taxpayers of the City of New York in the best way
13 that we can. You can isolate in your budget analysis
14 overtime as a number and why is it so high or you can
15 spread it out over the cost of the year. Elections,
16 typically, not talking about early voting, but
17 elections are on a Tuesday, right? We can't say come
18 back on Wednesday if we're not ready. What we have
19 done is we've treated ourselves more like a retail
20 outlet that has upsizes for Christmas staff. Because
21 of the number of special elections, we used to do it,
22 hire extra people in July, August, and then in
23 December, we would release them. We don't have that
24 kind of election schedule anymore, right? The primary
25 got moved from September to June, and then we're

1
2 having special elections all year round. It is still
3 more fiscally prudent and fiscally conservative,
4 small c conservative, to pay people overtime than it
5 is to hire more full-time staff.

6 COUNCIL MEMBER BREWER: Okay.

7 EXECUTIVE DIRECTOR RYAN: There's more
8 cost associated with upsizing your staff than there
9 is to paying the staff that you have the overtime,
10 and that's the conundrum that we face.

11 COUNCIL MEMBER BREWER: Okay. Then Rikers
12 Island, how do people there vote?

13 EXECUTIVE DIRECTOR RYAN: I anticipated
14 that this question might come from a different Member
15 of the body, but I have a copy of my letter from
16 November 1, 2022, that we sent to the Legal Aid
17 Society. They have this coalition Vote in NYC Jails.
18 I'm certainly happy to provide this copy to you guys,
19 and I can me email it to you. The reality is this in
20 a nutshell, and you will get to other stuff. The New
21 York City Charter requires the New York City
22 Department of Corrections to...

23 COUNCIL MEMBER BREWER: No, Correction. No
24 S. Correction.

1
2 EXECUTIVE DIRECTOR RYAN: Right,
3 Correction, right, to, yes, it's State Correction,
4 City Correction, right so to conduct the voting
5 program for prisoners, and the New York State law
6 provides for absentee voting for people who are away
7 from their residence.

8 COUNCIL MEMBER BREWER: Okay.

9 EXECUTIVE DIRECTOR RYAN: Those are the
10 two bodies of law that cover people who are currently
11 being held as prisoners in Rikers Island. That's what
12 we abide by. We've given that information out to this
13 group on multiple occasions. They decided to do a
14 protest in front of our building last week or two
15 weeks ago when it's really, I'm not trying to slough
16 it off to someone else, but it's really City DOCS
17 that..

18 COUNCIL MEMBER BREWER: But can they put
19 voting machines on the island? I don't know. I'm
20 asking. I don't know.

21 EXECUTIVE DIRECTOR RYAN: I used to
22 oversee the jails in New York City in a different
23 capacity years ago. I would say that would be a tall
24 ask, but I no longer oversee them, and they have
25

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2 competent professionals both in the Administration
3 and the agency that we work with.

4 CHAIRPERSON RESTLER: You are under oath.

5 EXECUTIVE DIRECTOR RYAN: Yes. From what I
6 can see. You have a closer relationship with these
7 folks.

8 COUNCIL MEMBER BREWER: Thanks. The only
9 other thing I would say, when I'm at NYCHA all the
10 time, it's always the concern that people who come
11 from upstate, not Rikers, think they can't vote so we
12 have to do more education to explain that if their
13 sentence is complete, they can vote and even not,
14 they can, but there's no understanding that I can
15 vote if I have done time.

16 EXECUTIVE DIRECTOR RYAN: While I think it
17 was...

18 COUNCIL MEMBER BREWER: I hear it all the
19 time.

20 EXECUTIVE DIRECTOR RYAN: I think the
21 hearts were in the right place. I don't think it's
22 been advertised well enough that you can get a
23 dispensation from the Governor to vote even if you
24 were previously in a category of individuals that
25 might've been ineligible.

1
2 COUNCIL MEMBER BREWER: Okay. I'm just
3 saying the whole world needs to be thought about.
4 Thank you.

5 CHAIRPERSON RESTLER: Thank you so much,
6 Council Member Brewer, Madam Historian, whatever the
7 right, but I do want to follow up on the issue at
8 Rikers. I was joking about you being under oath.
9 Obviously, I just have zero confidence in the
10 leadership of the Department of Correction and their
11 commitment on this issue, and we do want to expand
12 access to vote for people who are almost entirely
13 pre-trial and so 90-something percent of the people
14 who are on Rikers Island have not been convicted of
15 any crime, are eligible to vote, and even for the
16 folks who have been convicted of a crime, it's
17 overwhelmingly misdemeanors, they're eligible to vote
18 too so the population of Rikers should have access to
19 participate. They don't. There's an absentee process
20 that clearly doesn't work. When you look at the data
21 on the number of people voting, it's negligible. It's
22 very modest. You may have the numbers in front of
23 you. I can share what I have, but we really want to
24 see this increase, and I guess the question I would
25 ask is, we've had a pretty effective model at nursing

1
2 homes over an extended period of time that I've
3 always thought are a little subject to the political
4 influence, but whatever, that aside, why not
5 replicate something along those lines where the BOE
6 takes responsibility to actually make voting access
7 something that is available to detainees on Rikers
8 Island?

9 EXECUTIVE DIRECTOR RYAN: I'll tell you
10 from my agency's perspective, because the City
11 Charter requires the Department of Correction to run
12 this program, we do what we're asked by the
13 Department of Correction. If they want to change how
14 they're going to run the program and want to consult
15 with us on what additional efforts we can make in
16 that regard, we're happy to do it, but I have visited
17 Rikers Island in a professional capacity on enough
18 times to know you can't get on the Island if they
19 don't let you there, right, as well it should be
20 right and that's the jails are there for a reason so
21 it can't be an either/or it has to be symbiotic
22 between the Department of Correction and the Board of
23 Elections.

24 CHAIRPERSON RESTLER: It absolutely
25 requires cooperation and coordination with the

1
2 Department of Correction. If we're waiting on them to
3 do this, it will never, ever happen.

4 EXECUTIVE DIRECTOR RYAN: Honestly and
5 totally respectfully, I think you're in a much better
6 position to scratch that itch with your Colleagues
7 than the Board of Elections is, and we're happy to
8 continue the conversation.

9 CHAIRPERSON RESTLER: Look, we're happy to
10 take a look at the language in the Charter and how it
11 needs to be revisited, but what I'm looking for is
12 leadership from the Board of Elections on this issue
13 to step up and try to help address a gap that the
14 Department of Correction never will. If we're waiting
15 for the Department of Correction to provide
16 leadership, to provide you with guidance, it's not
17 happening, and it's not going to happen for the
18 foreseeable future so we want to find an alternative
19 path forward that's going to address the fact that
20 thousands of people, and under Mayor Adams, the
21 number of people on Rikers Island has increased by 30
22 percent in these two years, and it's growing by the
23 day, we want to make sure these folks have the right
24 to vote.

1
2 EXECUTIVE DIRECTOR RYAN: Let's do this.
3 Let's, you obviously have my phone and my email. Pick
4 a day, we'll sit down, have a get-together, and put
5 our heads together, because there may be a way to
6 modernize the process that keeps our staff off of
7 Rikers Island. I had sent to Council Member Brewer
8 the other day we have a nice button on our website
9 now that gives people access to not only absentee
10 balloting but to the new early mail balloting statute
11 that was passed, and maybe there's a way for us to
12 work with the Department of Correction and the social
13 workers on the Island to give scheduled computer
14 access to the prisoners for the purposes of applying
15 for an absentee ballot through the portal then we get
16 that, and then it just happens, right? I don't want
17 to say it's by magic, but the system is set up to
18 work properly, and that might be a way for us to
19 modernize the process, streamline it to some extent,
20 and put the prisoners in a better position than they
21 are presently.

22 CHAIRPERSON RESTLER: Well, I appreciate
23 that, welcome the opportunity to meet and discuss in
24 greater detail. I imagine that if we put our heads
25 together, we can find some good solutions. I would

1
2 also just encourage that BOE be coordinating with the
3 Department of Correction and the Department of Design
4 and Construction who are a much more willing partner,
5 to make sure that as we're moving forward on the
6 borough-based jail plan, that the needs of the BOE
7 are considered and incorporated. In Brooklyn, where
8 the borough-based jail is in my District, there's
9 ample community facility space in the facility where
10 we should be making sure that the design is met to
11 accommodate an early voting type location that should
12 work much better than having to go through an
13 absentee process. I hope we can discuss that item as
14 well because we're about to start construction of the
15 new facility in the weeks ahead. It is finally moving
16 forward in Brooklyn, although not at similar speed in
17 other boroughs.

18 My last topic for the day, unless my
19 Colleagues want to jump in on anything else, is
20 around interpretation and translation. I'll just ask
21 a few questions if you wouldn't mind. How many poll
22 site interpreters and translators are typically
23 required for election day by the BOE, and how many
24 languages are you currently covering, and then just

1 want to tee up the John R. Lewis Voting Rights Act, I
2 believe is taking effect...

3
4 DEPUTY EXECUTIVE IGNIZIO: September.

5 CHAIRPERSON RESTLER: September. Thank
6 you. I was going to say very soon. Does this impose
7 additional requirements on NYC beyond what our
8 existing laws require? If so, what changes does the
9 BOE need to make to meet the Voting Rights Act
10 language access requirements and you on pace to do
11 so?

12 EXECUTIVE DIRECTOR RYAN: My understanding
13 is that the John Lewis Voting Rights Act does not
14 impose additional language requirements, but those
15 conversations, we just recently did..

16 DEPUTY EXECUTIVE IGNIZIO: We have an
17 operational working.

18 EXECUTIVE DIRECTOR RYAN: Yeah, exactly
19 right.

20 DEPUTY EXECUTIVE IGNIZIO: With the AG's
21 office.

22 EXECUTIVE DIRECTOR RYAN: With the AG's
23 office. This challenge is much bigger for them in
24 terms of statewide management than it is for us, but
25 we are a big piece of the pie for them so we actually

1
2 started conversations with them about all the John
3 Lewis Voting Rights Act requirements before they even
4 got their working group together, recognizing that
5 we're going to present the biggest challenges for
6 them, but those conversations will be ongoing, and I
7 don't want to speak for the Attorney General's office
8 if they have a different interpretation. If they do,
9 they will tell us, here is what we interpret your,
10 it's the whole purpose of the John Lewis Voting
11 Rights Act is to clearly define the authority of the
12 State Attorney General's Office to direct those
13 jurisdictions that are more specifically covered,
14 some are less. We fall basically into the categories
15 of a jurisdiction that would have been covered by
16 pre-clearance under the previous Voting Rights Act.
17 Now all five boroughs weren't covered then, but they
18 are now so we'll continue to work with the Attorney
19 General's Office and they're staffing up.

20 CHAIRPERSON RESTLER: Despite this being
21 six months out from implementation date, it's still
22 too early to tell for sure whether there are
23 additional language access requirements that are
24 being posed on the BOE?

25

1
2 EXECUTIVE DIRECTOR RYAN: Yes. They did so
3 far two Zoom conferences and our relevant staff,
4 myself included, participated in those where they're
5 starting to set up the framework. I'm telling you I
6 don't think we're going to have any additional
7 language requirements. That's my interpretation, but
8 what I am saying to you is, in full deference to the
9 New York State Attorney General's Office, I recognize
10 that my opinion is not the last stop on the train,
11 and they get to impose if necessary.

12 CHAIRPERSON RESTLER: We have a great
13 working relationship with the AG. If there are any
14 concerns that you're not getting the information that
15 you need in a timely basis, please let us know. We
16 all adore our Attorney General.

17 EXECUTIVE DIRECTOR RYAN: No, I think
18 what's happening is they have a big task ahead of
19 them and they have a schedule and they're working
20 their way through it. That having been said, we have
21 enjoyed a very good working relationship with the
22 Civil Rights Bureau within the Attorney General's
23 office year-in and year-out. They cooperate with us.
24 They tell us if they think we're not doing something
25

1
2 right and we cooperate very fully with them, and we
3 think the AG's office staff is doing a great job.

4 Presently, we typically utilize on a
5 citywide election, 629 interpreters during early
6 voting and 2,443, and then that's broken down by for
7 election day and then that's broken down by borough
8 but, certainly, we can give you the full breakdown on
9 that in writing away from it. I have it and, if you
10 want me to read it into the record, I will.

11 CHAIRPERSON RESTLER: We will tell you
12 that we appreciate you coming in today, and I think
13 the BOE gets a lot of grief and it deserves some of
14 it, but I would say this I really do believe that
15 things have been improving at the Board of Elections,
16 and that's no easy feat and I want to credit you both
17 and your team for the progress that's being made.
18 It's a very difficult structure that I think places
19 severe limitations on the kinds of reforms that
20 should happen but, working within those constraints,
21 you've done an admirable job so I just want to thank
22 you guys for coming in and thank the whole BOE team
23 for their work and look forward to continuing to work
24 together.

1
2 EXECUTIVE DIRECTOR RYAN: Thank you very
3 much, and I would just like to say as well one of the
4 things that we're welcoming because it seems to be
5 happening from the outside in, I don't know what your
6 interpretation is, to the extent that we're not
7 trapped between a path that the New York State
8 Legislature wants to walk versus a path that the New
9 York City Council might want to walk, and the more
10 that those two bodies can come together and do what
11 is fair and reasonable and we're not the rope being
12 pulled one way or the other, that's very helpful to
13 us, and I have seen an improvement in that regard
14 over my course of time as the Executive Director.

15 CHAIRPERSON RESTLER: We're happy to work
16 on those conversations. Senator Myrie is a fellow
17 Brooklynite so we'd love to bring together Colleagues
18 that to try and think about better coordination of
19 the city and state level, but thank you for coming in
20 today.

21 EXECUTIVE DIRECTOR RYAN: Thank you so
22 much.

23 CHAIRPERSON RESTLER: We really appreciate
24 it. Thank you all, and we will switch over to DORIS
25 if everyone is ready.

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COMMITTEE COUNSEL GANAPATHY: Thank you.

We'll be moving on to the Department of Records and
Information Services shortly.

In the meantime, if you are here to
testify as a member of the public, please note we are
running about half an hour to 45 minutes behind
schedule, but you are in the right place if you are
here to testify regarding the budgets for the
Committee on Governmental Services, State and Federal
Legislation.

CHAIRPERSON RESTLER: Thank you so much. I
would like to continue our hearing today and welcome
our distinguished Commissioner from DORIS, Pauline
Toole, and her team to testify before the Gov Ops
Committee today. Thank you so much for being with us.

DORIS' Fiscal 2025 Preliminary Budget
totals 14.6 million including 4.3 million in personal
services funding to support 49 budgeted full-time
positions and 10.2 million for OTPS. DORIS ensures
that the City records are properly maintained and
makes materials available to diverse communities,
both online and in person. They serve an absolutely
essential function.

1
2 Today, we look forward to discussing
3 DORIS' operations, the PEGs included in the
4 Preliminary Plan, data retention policies, staffing,
5 and reviewing its Fiscal 2024 Preliminary Mayor's
6 Management Report. We're also keen to discuss recent
7 reports on citywide email documentation retention
8 policies.

9 I really want to thank Commissioner Toole
10 for joining us today and for your distinguished
11 service to our city. I'd like to please ask our
12 Committee Counsel to administer the oath and swear in
13 our reps.

14 COMMITTEE COUNSEL GANAPATHY: Thank you,
15 Chair Restler. This is the Committee on Governmental
16 Operations, State and Federal Legislation, and we
17 will be hearing from the Department of Records and
18 Information Services. If you would please raise your
19 right hands.

20 Do you affirm to tell the truth, the
21 whole truth, and nothing but the truth before this
22 Committee and respond honestly to Council Member
23 questions?

24 COMMISSIONER TOOLE: Yes.

25 ASSISTANT COMMISSIONER COBB: Yes.

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ANALYST CHEN: Yes.

COMMITTEE COUNSEL GANAPATHY: Thank you.

You may begin.

COMMISSIONER TOOLE: Good afternoon,
Council Members. Thank you for hearing from the
Department of Records and Information Services, known
as DORIS.

DORIS is responsible for three key
governmental functions, establishing and enforcing
records, practices, and policies, providing access to
New York City government information, and preserving
the historical records of City government. We do this
through our three divisions, Municipal Library,
Municipal Archives, and Municipal Records Management,
with essential support from the Information
Technology and Administration Units. The agency's
mission is to foster civic life, as you mentioned,
Council Member by preserving and providing access to
the historical and contemporary records of City
government, to ensure that City records are properly
maintained following professional archival and record
management practices, and to make our materials
available to diverse communities.

1
2 The Preliminary Budget includes
3 14,563,733 dollars in operating funds. In Fiscal '24,
4 DORIS implemented two rounds of Program to Eliminate
5 the Gap, PEG, cuts totaling a little under 1,600,000
6 dollars. The bulk of the PEG was drawn from funding
7 to implement an electronic records management system,
8 ERMS, citywide in the amount of 1,002,336 dollars.
9 The remaining 556,664 dollars was obtained through
10 reductions in cleaning and other services, totaling
11 134,000 dollars and PS accruals totaling around
12 423,000 dollars and the elimination of two staff
13 lines. In the current Fiscal Year, DORIS received
14 436,000 in federal and state grants. We administer up
15 to 1 million dollars annually from the State Archives
16 Local Government Records Management Improvement Fund
17 for projects in City offices and agencies. The New
18 York State Library is helping the Municipal Archives
19 preserve and catalog the Lower Manhattan Building
20 Plans collection. There are currently two projects
21 funded by federal agencies. The IMLS National Park
22 Service is funding preservation and digitization of
23 the Brooklyn Bridge drawings, and the NHPRC is
24 funding preservation, rehousing, and digitization of
25 more than 5,000 ledger records from the towns and

1
2 villages in the Bronx, Queens, Brooklyn, and Staten
3 Island that date prior to consolidation in 1898.
4 Collectively, they're called the Old Town Records.
5 The Municipal Archives has made good progress
6 providing online access to information about its
7 holdings and increasing the quantity of digitized
8 items available on our website. The archives
9 continues to add content to collection guides. First
10 launched in 2021, the guides are a comprehensive,
11 searchable publication of archival collections. It
12 includes multiple levels of descriptive information
13 as well as name, place, and subject authorities. The
14 archives currently is implementing a software
15 application for digitized and born digital
16 collections that have been and will be transferred to
17 the archives. The public interface for digital
18 collections is slated to launch in May of this year.
19 The archives also completed the relocation of its
20 off-site storage to a state-of-the-art archival
21 repository in Sunset Park that features specialized
22 HVAC, digital labs, a conservation lab, and a really
23 beautiful public reading room. As a result of the
24 relocation, the archives established greater physical
25 and intellectual control of the collections, which

1 date from 1645 through 2021. During Fiscal '23 and to
2 date in Fiscal '24, the Archives Reference Services
3 Unit responded to more than 50,000 requests for
4 information, including vital records. They digitized
5 over 103,000 items on demand and responded to 96
6 percent of vital records requests within 12 days,
7 which is up from the 47 percent of them last year.

9 The Municipal Library continues to pivot
10 from a brick-and-mortar research facility to one that
11 increasingly offers digital content with the goal of
12 building and maintaining a robust online library. The
13 catalog of library holdings is accessible via
14 WorldCat, which as it sounds, is a worldwide catalog
15 platform. The foundation for this online library is
16 the Publications Portal, which is mandated by section
17 1133 of the City Charter. The Charter requires every
18 agency to provide the Municipal Library with digital
19 versions of all reports required by Executive Order
20 or Law as well as all other publications issued. The
21 GPP currently provides access to over 44,000 items,
22 and the chart that is in the testimony shows the
23 growth of the online portal in the past decade. Each
24 January, the librarians notify every agency of the
25 report it is required to issue during the calendar

1 year. Notices of reports that are not submitted are
2 posted on the portal as mandated. There were 1,855
3 reports that were required in Calendar Year '23. 1,
4 285 were submitted, which is 69 percent of those that
5 were required. The library continues to harvest
6 social media posts from 601 New York City government
7 accounts associated with 53 entities across nine
8 social media outlets including Facebook, Flickr,
9 Google+, Instagram, LinkedIn, Pinterest, X, Vimeo,
10 and YouTube. In addition, the library maintains an
11 online repository of agency websites dating to 2019.
12 Both services are now provided by an outside vendor,
13 CivicPlus.
14

15 The agency's Application Development Team
16 continues to create innovative solutions to improve
17 public access to government records. The City's one-
18 stop freedom of information law portal, OpenRecords,
19 which launched in 2015, processes requests for 55
20 active and 7 inactive agencies. There have been just
21 over 412,000 FOIL requests entered into the system.
22 The status of requests can be tracked in the portal,
23 providing the requester with the timeframes to
24 receive responses and the tools for a direct dialogue
25 with FOIL officers at each respective agency. The

1 site is fully ADA accessible. In Fiscal '24 and
2 Fiscal '25, our team is going to be migrating the
3 platform from its current on-premise server to the
4 Azure Cloud with no impact expected on either the
5 agency or public end users. In 2022, the application
6 team developed an online vital records platform that
7 currently makes more than 10 million historical
8 birth, death, and marriage records dating from 1862
9 absolutely available to the public. High-quality
10 copies of the records can be downloaded and printed
11 from the site at no charge. The historical records
12 allow people around the world to explore their family
13 history, and additional records are added on a
14 quarterly basis.
15

16 On records management, the City Charter
17 defines records as anything created or received in
18 the course of transacting City business. For the past
19 several years, DORIS has developed guidance to help
20 City government manage the 2 million cubic feet of
21 accumulated paper records as well as to implement
22 modern records management practices for born digital
23 records. As of August 2023, OTI was managing 11.2
24 petabytes of data on servers and a total of 546.3
25 terabytes of data on the combined Microsoft

1 platforms, which I have to say is a lot of data. The
2 city's move to MS365 in 2019 and 2020 facilitated the
3 DORIS ability to deploy an ERMS at City agencies. The
4 software is a solution that we are utilizing
5 integrates with MS365 to provide the records
6 management connection. The solution implements each
7 agency's file plan, basically that's the record
8 schedule, it identifies digital records, it applies
9 retention periods and triggers the eventual disposal
10 process. The effort recognizes that almost all City
11 records are created and stored electronically and
12 should be managed digitally as well. Currently, 30
13 agencies utilize the ERMS, and there are 42 million
14 records under management. This is up from 7 million
15 at the start of Fiscal '24. We are working with OTI
16 and several agencies that did not move their records
17 to the MS Cloud to deploy the solution on records
18 stored in their on-premise servers, and we are now
19 deploying the tool to manage email records at
20 agencies using the service.

21
22 Public access. DORIS has taken steps to
23 expand public access to and engagement with the
24 library and archival collections on site, online, and
25 in neighborhoods. We offer many online programs,

1 including lunch and learn sessions, book talks, and
2 lectures. Our recent program on the founding of
3 municipal government in 1653 had more than 300
4 viewers. Our current on-premise exhibit, Uniting the
5 Boroughs, was created in partnership with MTA Bridges
6 and Tunnels. It explores the engineering marvel that
7 is the Triborough Bridge. We have built a strong
8 social media presence with dedicated followers on
9 Facebook, X, and Instagram. In addition to the
10 nyc.gov site, we have two dot NYC sites, Women's
11 Activism and Archives dot NYC, and then the separate
12 City of New York site, Harlem Conditions.
13 Archives.nyc includes images from our exhibits. It
14 has a weekly blog post. It has examples of digital
15 collections. A New Amsterdam story collection. It's
16 also an entry point for volunteers to sign up for our
17 storytelling initiative, which is called Neighborhood
18 Stories. This project pairs volunteers who gather
19 stories and residents who want to share information
20 about their neighborhood. It's based on the notion
21 that the effect of governmental decisions is
22 experienced by everyday New Yorkers so these
23 perspectives about schools and housing and street
24 cleaning and parks, policing, you name it, they're
25

1 available online and will be available going forward
2 in the archives. Harlem Conditions focuses on a 1936
3 report to Mayor Fiorello LaGuardia that was not
4 published at the time. A stellar group of New Yorkers
5 had been appointed to a commission to explore the
6 roots of a 1935 riot in Harlem. Their conclusions
7 have resonance today. We have also exhibited archival
8 content at the annual Photoville show, most recently
9 linking sound from historical WNYC radio broadcasts
10 with video from the NYPD surveillance films. Finally,
11 our education outreach includes connecting high
12 school students with access to primary source records
13 and providing elementary school students with either
14 an in-person or online trip through the Brooklyn
15 Bridge records.
16

17 This summarizes our key activities, and
18 we'd be happy to answer questions if we can.

19 CHAIRPERSON RESTLER: Commissioner, that
20 was informative and insightful. Thank you very much
21 for taking the time to craft that testimony and
22 sharing it with us.

23 I'll jump right in. The FY24 Preliminary
24 Budget for DORIS totals 14.6 million dollars,
25 including 4.3 million in personal services to support

1
2 49 full-time positions. Excuse me, that's the FY25
3 budget for DORIS. That's a 10 percent reduction from
4 the FY24 adopted, and I'm just concerned about your
5 all's ability to continue to fulfill your vital
6 mission facing such a significant budget cut.

7 COMMISSIONER TOOLE: I appreciate your
8 concern, and obviously everyone is dealing with a
9 very difficult situation with the cuts. Because we
10 had funding for the electronic records management
11 system, we were able to make the bulk of our cuts
12 from funding that was allocated for that, which means
13 we are slowing the expansion of that service across
14 City agencies, but it has allowed us to preserve the
15 staff to maintain our core mission.

16 CHAIRPERSON RESTLER: Okay. I'll come back
17 on the electronic records management system.

18 Earlier in your tenure as Commissioner
19 back pre-pandemic in FY19, we were at 61 full-time
20 staff for DORIS. We're now at, I think, 47 budgeted
21 staff. We're looking at a 23 percent reduction. With
22 that significant reduction in the workforce, do you
23 believe that DORIS can continue to fulfill its vital
24 mission?

COMMISSIONER TOOLE: That number from 2019 also included positions that were funded through grants, and not all of the positions were tax levy funded so the number you're looking at with 49 budgeted for Fiscal '25 doesn't take into account any funding we might get for work that would allow us to bring on additional staff.

CHAIRPERSON RESTLER: Have you secured grants that will allow you to bring on additional staff?

COMMISSIONER TOOLE: We have one grant right now, one grant, the Stackpole?

ANALYST CHEN: Yes.

COMMISSIONER TOOLE: And then we have applied for multiple grants that we anticipate, we hope, will be successful that will allow us to fund additional archivists who will work on some of our oldest collection, including the Council collection which dates to the 1700s.

CHAIRPERSON RESTLER: Wow. Yeah, that's pretty cool.

COMMISSIONER TOOLE: Yeah, and we're keeping our fingers crossed. That's our next priority.

1
2 CHAIRPERSON RESTLER: Great. We're happy
3 to learn more about that. Any ways that we can be
4 supportive, please let us know. I would just ask,
5 maybe it's the same question of the pending grants,
6 but are there planned or current programs where
7 additional resources are needed that you're looking
8 for City funding?

9 COMMISSIONER TOOLE: We're working with
10 Office of Management and Budget to identify needs and
11 discuss with them opportunities for funding.

12 CHAIRPERSON RESTLER: The PEG included
13 elimination of two vacant positions. How was the
14 decision made to eliminate those positions? Was that
15 by DORIS, by OMB, or together in consultation?

16 COMMISSIONER TOOLE: No, DORIS just made
17 the decision to eliminate the positions, and we
18 looked at the positions that were vacant and the
19 likelihood of being able to fill those positions in
20 the near future and the availability of other
21 resources to do some of that work.

22 CHAIRPERSON RESTLER: To return to the
23 ERMS, my understanding is that by implementing this
24 PEG on the ERMS, you're slowing the timeline by which
25 agencies will adopt utilization of it. Is that right?

2 COMMISSIONER TOOLE: That is correct.

3 CHAIRPERSON RESTLER: And can you break
4 down how many agencies will not be utilizing the
5 electronic record management system over what period
6 of time as a result of this?

7 COMMISSIONER TOOLE: I don't have that
8 figure for you, but it really depends on how you
9 define agencies, offices. DORIS' responsibility is
10 for citywide records management, so that's beyond the
11 Mayoral agencies. It includes offering records
12 management guidance to the Council, to the elected
13 officials in the City so ideally everyone would begin
14 managing their electronic records by using the ERMS
15 solution.

16 CHAIRPERSON RESTLER: How would you help
17 us quantify the impact of the delayed implementation?
18 How will this be felt?

19 COMMISSIONER TOOLE: I think it will be
20 felt at the agency level because they'll continue to
21 accumulate records without following their records
22 retention schedule, which outlines how long any type
23 of record should be retained and then triggers a
24 disposal process that requires multiple levels of
25 authorization so they will hold the records and

1
2 there'll be more records that are stored. Now, the
3 Citi's agreement with Microsoft gives a large
4 quantity of cloud storage for each account so it's
5 not like it's going to run the cost of Microsoft
6 storage up, but it will delay the efficient
7 management of those electronic records.

8 CHAIRPERSON RESTLER: Okay. I'd like to
9 ask about the recent article that indicated a shift
10 in record retention policy for emails of non-
11 policymakers, indicating their emails would be
12 deleted after four years instead of eight years.
13 Could you advise, was that report accurate?

14 COMMISSIONER TOOLE: I think it's after
15 three years, not four years.

16 CHAIRPERSON RESTLER: Oh, excuse me.

17 COMMISSIONER TOOLE: It is accurate, and
18 we've had several conversations with the Office of
19 Technology and Innovation. In 2019 and 2020, as I
20 mentioned in my testimony, they moved City agencies
21 to MS365 and for Outlook, which is the email service,
22 as well as a lot of other services. When they did
23 that, they only migrated the accounts of people who
24 were still existing in City government. Some of those
25 people may have subsequently left, but they're in the

1 MS365 cloud. Those people who had left City
2 government before 2019, the email was all on an
3 Enterprise Vault system, and they did not migrate
4 those. Those all stayed on that Enterprise Vault
5 server, which is now out of support and the cost of
6 maintaining that server and the service was about a
7 million dollars in OTI costs. Our discussion was, are
8 these records going to be of value to anyone? Now,
9 there's Role A, which is policymaker email on that
10 Enterprise Vault server as well. Those records, under
11 our policy, are transferred to the municipal
12 archives, and the Role B email, which would have been
13 deletable after eight years, we could keep it for
14 four more years.

16 CHAIRPERSON RESTLER: Can you explain what
17 that means, the Role B.

18 COMMISSIONER TOOLE: Role B are non-
19 policymakers, so they're anyone in City government
20 who has a computer who's been using the computer
21 system since, I think, OTI expanded email access back
22 in 2002. All of that has been sitting there and, in
23 our judgment, there was no reason to retain it for
24 additional time because it's not been utilized. We
25 checked for litigation holds. If there are lit holds,

1 that mail also gets transferred back to its agency to
2 the MS365 cloud. We looked at filings under the Adult
3 Survivors Act, and if there were agencies that had a
4 number of filings or if they had a lot of litigation,
5 all of that email will also be transferred to the
6 agency's MS365 cloud, and the bulk that remains are
7 emails of people who left government before 2019. If
8 they come back, it's unlikely in my experience, that
9 they are going to go back to their same agency and in
10 the same role so it made a lot of sense to help the
11 City save a million dollars and manage that disposal
12 process. It's not like the people at OTI are just
13 pushing a button. The agencies need to go through the
14 litigation holds. They need to identify anyone Role B
15 that might have a hold, that info gets transferred
16 back to them, and then submit a disposal application
17 that is reviewed by the Law Department, by the
18 Municipal Archivist, and by me before disposal can
19 actually happen so we've maintained all of the
20 safeguards in a way of saving money and getting rid
21 of records that will never have a use.
22

23 CHAIRPERSON RESTLER: This policy was
24 developed, it sounds by you and DORIS and OTI.
25

1
2 COMMISSIONER TOOLE: By DORIS and OTI in
3 consultation with the Law Department.

4 CHAIRPERSON RESTLER: Sure, and when was
5 this policy developed?

6 COMMISSIONER TOOLE: We started talking
7 about this maybe last year, about a year ago and, as
8 OTI defined the problem and we began to get our hands
9 around things, we had to wait until after November
10 when the deadline for filing a claim under the Adult
11 Survivors Act ended so we could identify entities in
12 the City that might have more filings, if there were
13 a lot we might not move forward with the project, but
14 it ended up that it's a viable project.

15 CHAIRPERSON RESTLER: Just to make sure
16 that I'm following, the shift in policy is that for
17 non-policymakers who do not have a litigation hold on
18 the specific email correspondence, that email had
19 been retained for a period of eight years and now
20 that is being retained for a period of three years,
21 and there's a process before it's ultimately
22 eliminated or destroyed, but that is the shift to
23 avoid the cost of storage, which is approximately a
24 million dollars a year.

1
2 COMMISSIONER TOOLE: Yeah, there are two
3 points of clarification. One is it's this email of
4 Role B, so non-policymakers who left City government
5 before 2019 so those non-policymakers who still are
6 in City government, their email will be retained for
7 the requisite period of time, the eight years. The
8 other piece is, no, it's not that email was being
9 kept for eight years. DORIS in concert with many
10 record managers at agencies throughout the City and
11 the Law Department, we developed an email policy. Up
12 until 2017, there wasn't an email policy in New York
13 City. Everything lasted for forever, which is a huge
14 waste of time and money and, finding things, how
15 could you possibly find things? This seemed to us to
16 be a sensible approach.

17 CHAIRPERSON RESTLER: Yes, understood, but
18 it was in the last year that the determination was
19 made in the shift of the amount of time those emails
20 are kept from eight to three years so prior to 2017
21 or whenever that was, everything was kept in
22 perpetuity then it was kept for eight years, now it's
23 for three for emails that meet the categories that
24 you described.

COMMISSIONER TOOLE: For people who've left.

CHAIRPERSON RESTLER: People who've left City government, who are non-policymakers, who don't have a litigation hold on the specific (INAUDIBLE).

COMMISSIONER TOOLE: Yes. That cohort.

CHAIRPERSON RESTLER: Okay. I do have a couple more questions, but I will pass it to my Colleague, Council Member Brewer, who always has good things to say.

COUNCIL MEMBER BREWER: He's always saying things like that. Thank you very much. I have great respect for you, Commissioner, and for DORIS, and I want everybody to remember that Ken Cobb was a Sloan awardee last year. Congratulations. That's a big deal. I was so excited so congratulations to the whole agency.

A couple issues. First of all, a thank you because I know you're working on the co-naming of street signs on a web, which is something that I've been trying to do for many years, and I want to maybe get an update on that, but thank you very much.

People, when you look up on the sign and you don't know who the person is, you can go to the website and

1
2 you'll be able to figure out. Many of them are 9/11
3 people. I stood next to families who were quite
4 devastated and who have a sign, but nobody really
5 knows who they are so this is a great opportunity for
6 sharing and making people feel like New York is
7 something they can understand so thank you very much.

8 My question is, in terms of staff, one of
9 the issues, as you know, is just trying to get the
10 individuals who are leaving or the agencies,
11 whatever, culmination of material to DORIS so that's
12 a staff issue, I would assume, and time-consuming. Is
13 that something that maybe needs to be a new need
14 because you're going to have a lot of Council Members
15 leaving with term limits, it becomes even more
16 challenging, I think in terms of and I know, I happen
17 to know, Mr. Chair, who did or did not give their
18 records for the last Administration.

19 COMMISSIONER TOOLE: No telling, Gale. No
20 telling.

21 COUNCIL MEMBER BREWER: I won't tell, but
22 I know exactly who did or did not, and I brought
23 boxes so I am very big believer in archives.

24 COMMISSIONER TOOLE: Yes.
25

1
2 COUNCIL MEMBER BREWER: At this agency, I
3 don't take credit for a lot, but I did save this
4 agency when Mr. Bloomberg wanted to merge it with
5 DCAS, and I said hell no, and thank God, because we
6 have a great staff. That's my question. In other
7 words, maybe would it be considered a new need. Is
8 that something that you can do with existing staff,
9 or are you going to try to get more?

10 COMMISSIONER TOOLE: One of the really
11 great things about having records born digitally is
12 the transfer process becomes so much easier because
13 you don't have to move boxes and boxes of content and
14 the direct...

15 COUNCIL MEMBER BREWER: Unless you're like
16 the two of us with the paper, go ahead.

17 COMMISSIONER TOOLE: And we can
18 accommodate paper as well. The Director of the
19 Municipal Archives has done a really splendid job in
20 putting together deep cold storage in the Azure cloud
21 to intake records so that they can be held up until
22 the point when the collection can be processed by
23 archivists. As we identify the volume of records that
24 will be brought in, we certainly work with OMB if
25 there is a staffing need.

1
2 I also want to return to the first
3 comment you made about posting the information of
4 people for whom streets and parks have been renamed.
5 We are on target to have the 117 pieces of
6 information from the most recent Council legislation
7 on the web, but I think you'll be happy about this,
8 we have a very ambitious plan to develop an app so a
9 person could be on the street corner and tap on the
10 location and get the information. Now it's going to
11 take us a little time and it's all intern power,
12 going to be powered by interns on this, but I think
13 it's doable and we should have a good prototype by
14 the end of the summer.

15 COUNCIL MEMBER BREWER: Congratulations.
16 We hope. That's very, very exciting.

17 Also, maybe you mentioned it in your
18 testimony, I was trying to do something, but do you
19 have enough warehouse capacity for the paper that you
20 do have and the archives that you do have in the
21 sense that, obviously in the future, maybe that's not
22 such an issue, but you do need to keep what's
23 historic so what's the warehousing capacity and so
24 on?

1
2 COMMISSIONER TOOLE: I think it's in the
3 MMR. We have capacity at the combined Queens and
4 Brooklyn warehouses for what we anticipate will come
5 in. That may well be affected because of some
6 concerns the landlord in the Queens warehouse is
7 expressing about the height of the shelving, which
8 are like 16 feet high, which is enormously tall but,
9 as of now, yeah, we have sufficient storage space.

10 COUNCIL MEMBER BREWER: Okay. Thank you
11 very much.

12 CHAIRPERSON RESTLER: Thanks so much
13 Council Member Brewer, and the celebration of street
14 renamings and educating New Yorkers about the history
15 of people who have contributed so much to our
16 neighborhoods is a tremendous undertaking and you
17 know, on that and on other fronts, if there are ways
18 that this Committee can help amplify the good work
19 that's happening at DORIS, we really want to do so so
20 please don't hesitate to keep us apprised of
21 milestones and progress that we can celebrate with
22 you.

23 COMMISSIONER TOOLE: We'd be happy to do
24 so.

1
2 CHAIRPERSON RESTLER: Just a few quick
3 PMMR-related questions before we let you enjoy the
4 rest of your afternoon.

5 DORIS record retrieval time from off-site
6 facilities as well as stored records, I believe, have
7 increased substantially this Fiscal Year. Is that a
8 staffing issue?

9 I'm turning it over to Assistant
10 Commissioner Ken Cobb.

11 ASSISTANT COMMISSIONER COBB: There hasn't
12 been much change in the current figure. It's still
13 about one and a half days, which is well below the
14 two-day target for that activity.

15 CHAIRPERSON RESTLER: But last Fiscal
16 Year, according to PMMR, I believe it was at 0.77
17 days so that's nearly doubling if I am recalling it
18 correctly.

19 ASSISTANT COMMISSIONER COBB: Right. We
20 recognize that and we're redeploying staff to make
21 sure that the figure does not increase substantially
22 beyond that.

23 CHAIRPERSON RESTLER: Am I right to
24 understand you're comfortable as long as you're
25

1
2 achieving the two-day time frame but, of course,
3 faster is better.

4 ASSISTANT COMMISSIONER COBB: Faster is
5 better, but two days is reasonable that it works for
6 the agencies. As long as we can meet that target,
7 we're good.

8 CHAIRPERSON RESTLER: Okay. Is the
9 slowdown a direct result of this reduction in staff?

10 COMMISSIONER TOOLE: Yes, but it has
11 nothing to do with the PEGs. It had to do with people
12 leaving, there are temporary workers and leaving and
13 being able to fill positions, yeah.

14 CHAIRPERSON RESTLER: There was
15 significant improvement in the processing of vital
16 records requests. Do you want to just speak for a
17 moment about the success you've had there?

18 ASSISTANT COMMISSIONER COBB: Yes, it's
19 really quite extraordinary. The average time to do a
20 process request for copies of historic vital records
21 is still, we're down to seven days when it previously
22 had been about 17 days. We achieved that because of
23 our very talented IT team did some work in the way
24 that we take the information that comes from the
25 Department of Finance after people pay for this work.

We did some internal processing procedures and the result, as you can see, has been quite amazing.

CHAIRPERSON RESTLER: That's great.

Congratulations on that front.

ASSISTANT COMMISSIONER COBB: Thanks to the IT people.

CHAIRPERSON RESTLER: The last question I wanted to ask is regarding the numbers of records digitized. There was a pretty remarkable reduction in the numbers of records digitized in the PMMR for the first four months of this Fiscal Year relative to the last Fiscal Year. Can you explain that significant shift and can you also explain the impact of staffing reduction on that?

ASSISTANT COMMISSIONER COBB: Sure. Most of the digitization work is funded by grant projects. It just so happened in Fiscal '23 we finished up a couple big projects, so we had big numbers in Fiscal '23. At the moment, it's diminished. Although in January, we started digitizing again with another project, we mentioned the Stackpole Foundation. We're digitizing the 1890 census. It's an important record for family history research. You'll start seeing the numbers to come up again. It's not really related to

1 staffing. It's more to do with the funding that pays
2 for people to do things like that.

3
4 CHAIRPERSON RESTLER: Unless Council
5 Member Brewer has anything else?

6 COUNCIL MEMBER BREWER: Rock stars.

7 CHAIRPERSON RESTLER: I want to I want to
8 concur with Council Member Brewer's gratitude for the
9 work of the team at DORIS. Thank you for coming in
10 and sharing insights with this Committee on the work
11 that you're doing and, if there are ways that we can
12 be helpful moving forward, please do let us know.
13 Thank you.

14 COMMISSIONER TOOLE: Thank you.

15 CHAIRPERSON RESTLER: We will shift to our
16 next panel shortly, public testimony.

17
18 CHAIRPERSON RESTLER: Thank you so much to
19 the members of the public who are here with us today.
20 We have three people slated to testify on this panel.
21 First, we have a representative from Elected
22 Officials Office so I would like to just give them
23 the opportunity to testify first. Brooklyn Borough
24 President's Representative Lacey Tauber is with us,
25 and we'd love to give her a chance, oh, you need to

1 swear them in. Sorry, let me pass it to Jayasri
2 before I mess anything more up.
3

4 COMMITTEE COUNSEL GANAPATHY: Thank you.
5 We are now turning to public testimony.

6 Each panelist will have three minutes to
7 speak. You may begin once the Sergeant-at-Arms has
8 cued the timer.

9 Council Members who have questions for a
10 particular panelist can either let me know or,
11 there's two of you here, so I'm sure you can work it
12 out and, if you are testifying in-person, you can sit
13 at the table and, once you are cued, you can begin.

14 For panelists who are on Zoom, when your
15 name is called, a Member of our Staff will unmute you
16 and the Sergeant-at-Arms will give you your cue to go
17 ahead and begin upon setting up the timer so please
18 wait to hear that cue.

19 We are now going to hear from Lacey
20 Tauber, followed by Susan Kassapian, and then Tony
21 Feldmesser.

22 Lacey, you can go ahead when the Sergeant
23 calls time.

24 SERGEANT-AT-ARMS: Your time has begun.
25

1
2 LACEY TAUBER: Okay. Sorry. I heard it.
3 Got it. Thanks. Hi, Chair Restler and Members of the
4 Committee. As mentioned, I'm representing Brooklyn
5 Borough President Antonio Reynoso today. I'm the
6 Legislative Director here at Borough Hall, and I'm
7 basically here to talk about Community Board budgets,
8 even though they're not on the hearing agenda today.

9 As you know, Community Boards are a
10 critical link between the public and City government,
11 weighing in on important issues that impact
12 everything from small businesses to street safety to
13 the availability of portable housing, and their
14 individual budgets as well as the support they
15 receive from external partners deserves the Council's
16 attention. This is a challenge, actually, since there
17 is no one agency responsible for supporting their
18 work. In practice, each board is its own independent
19 agency, however due to their very small budget
20 supports, cannot exercise the full complement of
21 services generally performed by a City agency
22 including, but not limited to procurement, HR, IT,
23 etc., without assistance. Because of their very
24 limited budgets with no baseline increase since 2014,
25 the Boards are struggling just to maintain their

1 basic Charter-mandated functions. Accordingly, the
2 Charter tasks both our offices, the BPs and the Civic
3 Engagement Commission, with providing technical
4 assistance and training to the Community Boards.
5 However, the BP's office is simply not funded to
6 provide the full scope of the support and technical
7 assistance that they need, and the CEC is facing
8 major proposed budget cuts that will hinder their
9 already limited work in this area. It's worth noting
10 that the CEC as a relatively new office is actually
11 not assigned to a City Council Committee for
12 oversight so the BP would urge the Speaker to take
13 action on this as these proposed budget cuts are not
14 only going to impact Community Boards but also other
15 efforts like citywide participatory budgeting and
16 they should be examined. The situation where these
17 three entities, the Boards themselves, the BPs, and
18 the CEC, all have a role in ensuring that the Boards
19 can carry out their duties, yet all three are
20 underfunded and understaffed to do so is why the BP
21 has been calling for the creation of a new Office of
22 Community Boards that would become a central resource
23 for assisting the Boards with technology, policies,
24 procedures, HR, legal counsel, training, etc. We know
25

1
2 this is a big ask when the City is facing difficult
3 financial times, but no other City agency goes
4 without vital support services, and the Community
5 Boards shouldn't have to either. I'm not sure how
6 much time I have so I will just say we submitted a
7 list of things that the Office of Community Boards
8 could provide which District Managers of these Boards
9 across the City have been asking for. I mentioned a
10 number of these things already. Others include
11 technical assistance and land use planning,
12 identifying public meeting spaces, translation, child
13 care and food for meetings, accessibility,
14 procurement tech, live streaming, and supporting
15 meaningful engagement from City agencies on the
16 budget process. Thank you so much for the opportunity
17 to present this testimony today. The Borough
18 President looks forward to working with the Council
19 on this and other ways to support our Community
20 Boards. Thank you.

21 CHAIRPERSON RESTLER: Thank you so much,
22 Lacey. It is always great to see you.

23 COMMITTEE COUNSEL GANAPATHY: Thank you.
24 We'll now move to testimony from Susan Kassapian. You
25 can go ahead.

1
2 SUSAN KASSAPIAN: Thank you so much. I
3 have worked for the City for 35 plus years. I was
4 Deputy Commissioner at OATH for six, retired in
5 January of '22 and, before that, I was General
6 Counsel and Assistant Commissioner, Principal
7 Administrative Law Judge for DCA when DCA was DCA. I
8 appreciated Chief Judge Rehman's comments about
9 OATH's mission being to prioritize New Yorkers'
10 access to justice, but that is not happening and a
11 huge area of concern, which I'm bringing to your
12 Committee's attention.

13 In August of 2016, the jurisdiction of
14 hearing Consumer Affairs cases came to OATH, that's
15 when I also came to OATH and, unfortunately, a
16 decision was made to tell Consumer Affairs that they
17 could no longer bring consumer restitution hearings
18 to OATH without assigning an attorney to each and
19 every case. That had never been done for 40 years.
20 For 40 years, the General Counsel's office drafted
21 the summons and the consumer presented their own
22 case, and it worked just fine. What happened was,
23 after a year, Consumer Affairs no longer had enough
24 attorneys to bring those cases, and they also had a
25 second mission, the worker protection piece, so they

1 stopped bringing those hearings. That means that
2 every single New Yorker who is a homeowner or an
3 apartment owner in this city has no protection, zero
4 protection from the Department of Consumer Affairs.
5 It is an outrage they're not enforcing any of the
6 license laws that result in consumer restitution
7 hearings, the most important of which are home
8 improvement contractors. There's a 15-million-dollar
9 fund that is not being used. There should never be
10 more than 2 million because every two years, the
11 contractors pay into the fund. There's 15 million
12 dollars because these hearings haven't been heard
13 since November of 2017, and I have been dealing with
14 consumers who have lost their homes, who have lost
15 their minds because what Consumer Affairs does is
16 they tell them go to court. It takes five years to go
17 to court. It takes thousands of dollars to pay a
18 lawyer. It's ridiculous. We're supposed to, pursuant
19 to the Administrative Code, provide consumer redress
20 against licensees of the Department of Consumer
21 Affairs. They're simple hearings to write up, and the
22 consumers can present those hearings. On the
23 collectability of fines point that Councilman Brewer
24 brought up, the absurdity is that the funds can pay
25

1
2 fines and restitution, not like LLCs that just go out
3 of business and you can't find them. This is real
4 City money that the City coffers are not getting, and
5 they can be getting it with legitimate contractors
6 that pay the fines they're ordered but, if the
7 contractor doesn't pay the fines, they can invade the
8 Trust fund and there's a second Trust fund for tow
9 truck companies. That fund has hundreds of thousands
10 of dollars that's not being utilized. It's totally
11 absurd. I'll just end off with the mind-blowing
12 absurdity that vigilante consumers are allowed to
13 present cases on idling of engines and noise
14 complaints, but OATH will not allow a consumer
15 homeowner to present their own case. This is in
16 violation of OATH on hearing division rules, and I
17 was the Deputy Commissioner, one of them, for the
18 Hearing Division. It's outrageous. It's lasted for
19 over six years. It must stop. The Commissioners
20 should talk to each other, and these cases need to be
21 on the docket again and OATH cannot afford to lose
22 staff. When I was the Assistant Commissioner or the
23 Deputy Commissioner, we didn't have enough staff
24 attorneys full time then so there's no way with the
25 added burden that they can possibly do the work

1 they're supposed to be doing, no less this work which
2 they refuse to do for no reason. No rule is needed.
3 Nothing is needed. Someone just has to say yes. Thank
4 you so much for listening.
5

6 COMMITTEE COUNSEL GANAPATHY: Thank you,
7 Susan. Okay, if there's any questions, but...

8 SUSAN KASSAPIAN: I'm happy to answer
9 questions at any time. I would love to answer
10 questions actually.

11 COMMITTEE COUNSEL GANAPATHY: Wait. We
12 have one more witness on this panel.

13 SUSAN KASSAPIAN: Okay, and I'm happy to
14 hear Tony Feldmesser's comments.

15 COMMITTEE COUNSEL GANAPATHY: Next, we
16 have Tony Feldmesser. Tony, you can go ahead when the
17 Sergeant calls time.

18 SERGEANT-AT-ARMS: Your time has begun.

19 TONY FELDMESSER: Thank you very much. I'm
20 trying to get my visual here going. I'm at the Union
21 office, and so I'm not familiar with their
22 technology. Just give me a moment. How do we do this?
23 Sorry about that. I don't know. That says stop video.

24 CHAIRPERSON RESTLER: Don't worry about
25 it, Tony. We can hear you just fine.

1
2 TONY FELDMESSER: Okay, great, but I put
3 on a nice suit and tie for you.

4 My name is Tony Feldmesser, and I'm the
5 Chapter Leader for the UFT's Judicial Hearing Officer
6 Chapter, representing per session hearing officers at
7 the Office of Administrative Trials and Hearings and,
8 on behalf of the entire union and especially the
9 members of my Chapter, I would like to thank Chair
10 Lincoln Restler and all the Members of the City
11 Council's Committee on Governmental Operations, State
12 and Federal Legislation for holding today's public
13 hearing. With me is Eileen Wienerman, our Union
14 Liaison and our fierce advocate, both at the Union
15 and with OATH.

16 As background, our members are employed
17 in OATH's Hearing Division. We provide hearings...
18 There we go. Hey, Susan.

19 SUSAN KASSAPIAN: Hi.

20 TONY FELDMESSER: As background, our
21 members are employed at OATH's Hearing Division. We
22 provide hearings and due process to those who receive
23 summonses issued by the City's regulatory agencies.
24 The respondents who come before us are as diverse as
25 the city. For many, this is their first experience

1
2 and perhaps their only experience with the judicial
3 system. We cannot emphasize enough how important it
4 is for us to provide due process on behalf of the
5 City to these individuals and entities in the public
6 service, but we are here today to call for an
7 investigation and oversight into OATH's labor
8 practices in the context of its budget and
9 operations. Ironically, we are faced with an employer
10 who, despite being ordered to comply with City
11 regulatory rules on our members behalf, has chosen to
12 purposely ignore them. In doing so, OATH has
13 undermined labor relations and union rights, cheated
14 our members by reducing their compensation, and
15 wasted City resources. Before going into specifics, I
16 would like to present in plain terms and by example
17 what has been going on and why oversight is
18 important. Imagine that you're an employee working in
19 an office for, I don't know, let's say a government
20 agency, and you're given all the equipment to perform
21 that job, from your computer to your phone to your
22 stapler to your heat, from a desk to electricity,
23 from internet access to a printer, and then your
24 employer kicks you out of your office and says, if
25 you still want your job, you must find your own place

1 to do it, and supply all those things yourself and,
2 by the way, we're not going to compensate you for any
3 costs that may arise because we kicked you out, we
4 won't even discuss it, oh, and by the way, if you
5 can't do this, sorry, you're out of a job.

7 This in a nutshell in the current
8 parlance has been our members' lived experience.
9 Before the pandemic, we, like other City employees,
10 worked in offices throughout the five boroughs, and
11 we, like other City employees, worked remotely during
12 the pandemic. However, unlike other City employees,
13 we were told one day after being led to believe
14 otherwise that we would not be returning to our
15 offices and that we would have to continue to work
16 remotely. No exceptions. If one of our members could
17 not work from home for whatever reason, they were out
18 of a job, constructively terminated. No recourse.
19 Before the pandemic, we, like other City employees,
20 were given supplies and equipment and electronic
21 support so we could perform our jobs. However, unlike
22 other City employees, this kind of support has been
23 deliberately withheld. No exceptions, no recourse.
24 And this continues today, despite a court order to
25 the contrary. Once it became apparent that we would

1 be working remotely moving forward, we made a demand
2 to OATH Management to bargain in good faith over the
3 amount of compensation to which we were entitled due
4 to that remote work. This was not some far-fetched or
5 esoteric request. As our Deputy Commissioner likes to
6 say, a six-year-old would know, a six-year-old would
7 know that negotiations are mandatory when a
8 management decision has an impact on employees'
9 compensation. Nevertheless, OATH said no, make us, so
10 we went to the Office of Collective Bargaining and
11 sued them over their failure to provide compensation
12 for equipment and electronic systems and otherwise
13 bargain in good faith and, despite the fact that they
14 had no legal defenses, OATH still said no, make us,
15 so we agreed to mediate through the Office of
16 Collective Bargaining at OATH's own request then OATH
17 sabotaged the mediation by demanding we abandon our
18 action as a condition for continuing it. The
19 mediator, who had spent considerable time and effort,
20 could barely hide her anger so we went ahead with the
21 case. After months of hearings, tens of witnesses,
22 and submitting hundreds of exhibits, OATH did not put
23 on a meaningful defense. Let me just emphasize the
24 fact that this took approximately two and a half
25

1 years so we won, we won the decision. We got a
2 decision from the Board of Collective Bargaining that
3 found us entitled to compensation for equipment and
4 support and directed OATH to bargain with us. Despite
5 this, even with union negotiations going on at that
6 very moment, OATH said no. OATH refused to discuss it
7 with us and brought nothing to the table in direct
8 violation of that order. At this point, I'm going to
9 just refer to the Board of Collective Bargaining
10 Decision 10 OCB2d 14 that was issued on April 4th,
11 2023, and that will be submitted with our written
12 testimony. At this point, it's worth mentioning that
13 the Office of Labor Relations was complicit with OATH
14 Management at every step. Their conduct fed into the
15 campaign of the worst of employers who have tried and
16 have failed to treat their employees as something
17 less, not entitled to support, like gig workers. For
18 the record, the UFT established time and again that
19 we were City employees and are City employees. Also,
20 while there's been much discussion about the
21 advantages of remote work to employees, will remote
22 work serve as a means for management, like OATH, to
23 take advantage of its dedicated workforce? Within
24 this context and in others, we hope that the City
25

1 Council investigates all remote work practices with
2 an eye toward employee protection.
3

4 One more thing you should know about
5 OATH's use of City resources. Since our union
6 certification, we've had to file no less than seven
7 improper practice charges and one Article 78 on
8 behalf of the Chapter. OATH and OLR have lost or have
9 been forced to settle every one of them. These
10 litigations have cost OATH and the City roughly 1
11 million in awards, not to mention the time and other
12 resources invested in their efforts.

13 CHAIRPERSON RESTLER: Tony, thank you so
14 much for your testimony, and my only regret is that
15 we didn't have an opportunity to hear from you before
16 we heard from OATH as we would have welcomed the
17 opportunity to ask questions on this. Same is true
18 for your testimony, Susan. We will absolutely follow
19 up with you both for more information. I think you've
20 both raised really important issues that require
21 followup and attention, and we'd be happy to work
22 with you each to make that happen. I just want to
23 thank you, Tony, for showing off that jacket, sport
24 coat, and tie.

1
2 TONY FELDMESSER: Thank you, thank you. We
3 look forward to our continued engagement with the
4 Council on making clear OATH and OLR's conduct toward
5 the City's unionized employees. Thank you.

6 CHAIRPERSON RESTLER: Thank you very much
7 for your testimony.

8 Thank you both for being with us today.
9 We look forward to working together, and I just want
10 to thank one more time, Ross, Jayasri, Erica, and
11 Julia for their tremendous work, and Molly from my
12 team thank you all for making it through a marathon
13 day, and thank you to Council Member Brewer.

14 COMMITTEE COUNSEL GANAPATHY: Seeing no
15 other witnesses online or in the room, Chair Restler,
16 would you like to close out the hearing?

17 CHAIRPERSON RESTLER: Hope everyone has a
18 great afternoon. [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 19, 2024