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COMMITTEE ON JUSTICE SYSTEM

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

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March 26, 2018
Start: 10:09 p.m.
End: 12:51 p.m.

HELD AT: 250 Broadway-Committee Room, 14th
Floor

B E F O R E: Ritchie J. Torres
Chair of the Committee on
Oversight and Investigations

COUNCIL MEMBERS:
Ritchie J. Torres
Ben Kallos
Keith Powers
Rafael Salamanca, Jr.
Mark Treyger
Kalman Yeger

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COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

A P P E A R A N C E S

Fiona O'Grady
Director of Government Relations for Samaritan
Suicide Prevention Center

Sambal [SP?] Augustine
Samaritans of New York Suicide Prevention

Mr. Komatsu [SP?]

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2

3 CHAIRPERSON TORRES: Good afternoon, everyone.
4 I'm City Council Member Ritchie Torres and I'm the
5 Chair of the Committee on Oversight and
6 Investigations and I am proud to be joined by my
7 colleague Ben Kallos. We are holding a hearing on
8 the Preliminary Budget for Fiscal Year 2019 but
9 before we proceed to the testimony of DOI, I'm going
10 to make an opening statement regarding the
11 independence of DOI. The mission of Oversight and
12 Investigations has taken on greater import in a
13 political age that has seen an unprecedented assault
14 on the independence of the very investigative
15 institutions that have kept government accountable
16 and transparent. The role of the Oversight and
17 Investigations Committee is not only to investigate
18 and oversee City Government, but also defend the
19 integrity and independence of those who do. Even
20 though the administration of President Donald Trump
21 is without equal in the contempt it has shown for
22 good government law enforcement and investigative
23 journalism. Here in New York City we have seen a
24 less sensational but nevertheless insidious assault
25 on the independence of New York City's oldest law

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2 enforcement agency, The Department of Investigations,
3 as well as an assault on local investigative
4 journalism. I have been troubled by both public and
5 private attempts at discrediting the DOI
6 Commissioner, as well as investigative journalist who
7 have drawn the ire and therefore the political
8 disfavor of City Hall. Expressing distain for good
9 government law enforcement and investigative
10 journalism as the President has done nationally, and
11 as the Mayor has done locally represents a profound
12 disservice to the public interest. The leading
13 casualty of the quiet assault on DOI's independence
14 has been the Office of the NYCHA Inspector General.
15 City Hall refuses to fairly and fully fund the Office
16 of the NYCHA IG, even though the IG has been
17 instrumental in protecting NYCHA from millions of
18 dollars in fraud. DOI investigators of NYCHA are
19 woefully underpaid compared to investigators in
20 comparable institutions whose operations are no more
21 complex than, and in some cases less complex than
22 those of the Housing Authority. As shown in the
23 chart before you, the disparities are egregious
24 enough to speak for themselves. An entry level DOI
25 investigator on average earns somewhere between \$55,

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2 000 and \$57,000 annually. By contrast, an entry
3 level investigator in NYCHA, earns only \$42,000
4 annually. An experienced DOI Investigator on average
5 earns \$85,000 annually by contrast and experienced
6 DOI investigator in NYCHA earns only \$72,000. It is
7 hardly a coincidence that City Hall's insistence in
8 underfunding the Office of the NYCHA IG comes in mid
9 DOI's investigations into the multiple management
10 failures at the New York City Housing Authority. The
11 threat to investigative independence is measured not
12 only in dollars but also in words. As President
13 Barack Obama once said, words matter. In public
14 appearances the Mayor has been dismissive, even
15 disdainful in the words he has spoken about DOI and
16 investigative journalism. In January of 2008, during
17 an interview on Fox 5's Good Day New York, the Mayor
18 attacked Greg Smith, an accomplished investigative
19 journalist as "one reporter who has an ax to grind".
20 In that very same interview, when asked about the
21 false testimony of his NYCHA Chairperson, the Mayor
22 spoke dismissively of DOI, even though DOI's core
23 findings on the chairperson's testimony have never
24 been credibly challenged by anyone at City Hall. In
25 March of 2018, when the Daily News reported that the

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2 new DOE chancellor was named in a lawsuit for
3 "engaging in inappropriate flirtatious conduct with a
4 female employee. The Mayor in an interview with
5 Brian Layer[SP?] accused the Daily News of "having
6 and ax to grind". Fortunately for the public, he
7 independence of the media is guaranteed by the first
8 amendment, but what guarantees the independence of
9 DOI? A few months ago, the New York Post had an
10 article on the independence of DOI with a sensational
11 headline, De Blasio Wants to Axe Investigation Chief
12 for Exposing Foul Ups. Leave aside for a moment the
13 sensationalism. The article itself exposes a loop
14 hole in the structure of city government. One too
15 glaring to overlook. There are no clear checks and
16 balances that would prevent a Mayor from unilaterally
17 removing a DOI commissioner. The charter contains no
18 structural protection for the independence of DOI
19 from political retaliations. Investigations to be
20 effective have to be undertaken without fear or
21 favor. The fear of political reprisal apart from the
22 act itself can be debilitating to the moral of an
23 investigative agency. The only way to remove the
24 fear of retaliation is to remove the ability to
25 retaliate. The new charter revision commission set

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2 to be convened by the City Council through local law
3 should reaffirm and reinforce the independence of
4 DOI. The charter should be amended to prevent the
5 Mayor from removing the DOI commissioner without the
6 approval of the City Council. A role for the City
7 Council in both the appointment and the removal of a
8 DOI commissioner would represent the strongest,
9 structural, safeguard against political retribution.
10 Just as important as the process of appointment and
11 removal is budgeting. DOI depends for funding on the
12 very mural administration it oversees. The financial
13 dependency DOI has on the Mayor is a threat to the
14 independence it needs from the Mayor. The charter
15 should therefore be amended to empower DOI with an
16 independent budget. The operational needs of DOI,
17 especially the need for improved recruitment and
18 retention of investigators at the Office of the NYCHA
19 IG should no longer be at the mercy of City Hall
20 officials who to borrow a phrase from the Mayor,
21 "might have an ax to grind". The charter revision
22 should adopt, what I would call the [inaudible 7:00].
23 The investigators should be independent of the
24 investigated and should be insulated from the
25 politics of retribution. Commissioner Peters and his

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2 dedicated squads and investigators have been
3 unflinchingly vigilant in preserving the integrity of
4 public life. Those of us on the Oversight and
5 Investigations Committee must in turn be equally
6 vigilant in guarding the guardians of good
7 government. That will be our charge over the next
8 four years. With that said, Commissioner Peters.

9 COMMISSIONER PETERS: Thank you. Good morning
10 Chair Torres and members of the Committee on
11 Oversight and Investigations.

12 CHAIRPERSON TORRES: [Interposing] Actually
13 Commissioner, I'm going to swear you in. Can you
14 raise your right hand?

15 COMMISSIONER PETERS: Oh sure.

16 CHAIRPERSON TORRES: Do you swear to tell the
17 truth and the whole truth and nothing but the truth
18 in your testimony before today's committee and in
19 your response to Council Members questions?

20 COMMISSIONER PETERS: I do.

21 CHAIRPERSON TORRES: Okay, thank you.

22 COMMISSIONER PETERS: Good morning. Chair Torres
23 and members of the committee on Oversight and
24 Investigations. I'm Mark Peters, Commissioner of the
25 Department of Investigation and I'm joined by Deputy

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS
2 Commissioner and Chief of Investigations Susan
3 Lambiase and Deputy Commissioner Chief of Operations
4 Ganesh Ramratan. I want to thank you both for your
5 words of support for the independence of DOI which is
6 a central requirement for our work and also for the
7 opportunity to address the committee today concerning
8 DOI's Preliminary Budget for Fiscal Year 2019. I
9 also welcome this opportunity to update the committee
10 on DOI's recent work and our vision for the coming
11 budget year. DOI's Preliminary Expense Budget for
12 Fiscal Year 2019 is \$41.2 million consisting of \$30.8
13 million that supports approximately 395 full time
14 staff positions and \$1.4 million for other than
15 personal services, such as supplies, equipment, and
16 space. Included in the \$30.8 million for personal
17 services is \$4.7 million intracity funding such as
18 the funding for memoranda of understanding with 13
19 city agencies that support 76 of the approximately
20 395 positions. In addition to the staff comprised in
21 the agencies budget there are additional 306 head
22 count staff members who work for us through various
23 arrangements with other city agencies. Including
24 staff working for the inspector general for the
25 Department of Education also known as the special

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2 commissioner for Investigation for Schools. The
3 Inspector General for the New York City Housing
4 Authority and others. This brings the total staff
5 head count who report through DOI's chain of command
6 to slightly more than 700. In 2017, DOI
7 investigations exposed and stopped the theft of
8 public funds, strengthened fairness and integrity in
9 city operations, arrested city employees for
10 exploiting their insider access and protected the
11 safety of all New Yorkers. Additionally, our
12 oversight work goes beyond city agencies and includes
13 nonprofits who are the beneficiaries of city
14 contracts and employees of private companies doing
15 business with the city. Specifically, in 2017 DOI
16 investigations led to arrests and issuance of policy
17 and procedure recommendations including the
18 following: The arrests of five individuals for
19 defrauding disaster relief associated with build it
20 back program and an associated report documenting the
21 findings of an interim investigation examining
22 contractor invoices and field audits that so far have
23 saved approximately \$40 million of tax payer funds.
24 Also, DOI uncovered a \$3 million fraud scheme in
25 partnership with the United States Attorney's office

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2 for the Eastern District involving the submission of
3 reimbursement claims for school meals that were never
4 served. Also, DOI exposed an illegal gas meter
5 installation scheme that led to the arrests of
6 national grade employees and others on charges of
7 enterprise corruption. For engaging in dangerous
8 practices similar to those in the 2015 lower east
9 side gas explosion that killed two people. Further,
10 DOI arrested one dozen city Department of Correction
11 staff and installed multiple jail sentencings of
12 others. All the result of ongoing investigations
13 into contraband, smuggling, and inmate assault by doc
14 staff. Further in partnership with the Brooklyn
15 District Attorney's office, DOI's investigation into
16 the death of a worker at a construction site resulted
17 in the indictment of a construction company owner on
18 manslaughter and other charges. Additionally, DOI
19 conducted multiple investigations into safety issues
20 at NYCHA including a report that exposed NYCHA's
21 failure to conduct mandatory lead paint safety
22 inspections and NYCHA's related falsification of
23 documents submitted to federal regulators. Other
24 NYCHA investigations revealed in excess of \$8 million
25 in contractor and tenant fraud. And finally, DOI

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2 worked with multiple agencies on the arrest of
3 thirteen individuals including medical professionals
4 who trafficked opiates through their pain management
5 clinics and a former state legislature who owned a
6 medical testing laboratory affiliated with those
7 clinics. For a large-scale insurance fraud scheme
8 that resulted in payments of over \$13 million for
9 Metro Plus. New York City's health and hospitals
10 corporation insurance company. In addition, DOI
11 issued sixteen reports in 2017, and issued 969 policy
12 and procedure reform recommendations. A 42% increase
13 from 2016. Our reports for example, shined a light
14 on needed operational improvements within the New
15 York City Police Department including the way in
16 which officer's handle situations involving people in
17 mental health crisis. Training for interactions with
18 members of the LGBT community, and the need to better
19 assist undocumented immigrants, who are the victims
20 of serious crimes and who have been helpful with NYPD
21 investigations with obtaining federal immigration
22 relief. Other reports detailed the misuse of city
23 resources such as city owned cars by high level
24 managers at doc. Including that agencies then
25 commissioner. We also presented our findings in

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2 prevailing wage investigations that included the
3 recovery and reimbursement of wages to workers on
4 school constructions sites of more than \$1.2 million.
5 Ultimately, our reports hold agencies accountable by
6 giving the public a greater understanding of city
7 operations and empowering city leadership. Including
8 this council with facts and actionable
9 recommendations necessary for lasting reforms. In
10 terms of numbers and metrics overall, I can report
11 that in calendar year 2017, DOI had 726 arrests
12 stemming from approximately 2700 investigations and
13 over 883 referrals for criminal prosecution. In
14 addition, I'd like to specifically address the needs
15 of the Background Investigation Unit. The Background
16 Investigation Unit is responsible for conducting
17 mayoral investigations of mayoral and mayoral
18 employees working in decision making or sensitive
19 city positions. Our work helps determine whether
20 candidates are suited to serve the public trust. In
21 2017 the unit closed 2782 background investigations.
22 This represents over 185 cases per investigator of
23 current staffing levels. Over 21% of background
24 investigations closed in 2017 had potentially adverse
25 information that may have impacted higher retention.

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2 Due to the ever-increasing number of background
3 requests received, and the static staffing levels.
4 The unit the year with a back log of 6,050 background
5 investigations. To maintain the accuracy,
6 thoroughness, and fairness, which characterized DOI
7 background investigations. The only way to reduce
8 this back log is to increase staffing in the unit.
9 DOI has asked for funding for new lines in this area
10 for the past several budget cycles. I would like to
11 emphasize that our background unit provides a direct
12 essential service to the entire city. Furthermore,
13 the vulnerability to the city inherent in not
14 completing background investigations in a timely
15 matter is acute. As always, DOI's goal is to
16 leverage our expertise across the agencies, eleven
17 investigative squads to develop highly complex cases
18 in line with our strategy of attacking corruption
19 comprehensively through systemic investigations that
20 lead to high impact arrests, preventive internal
21 controls, and operational reforms. With that in
22 mind, I note that we have recently made changes to
23 our organizational structure with a view toward both
24 consistency of investigations and maximizing DOI's
25 ability to see across agencies to city functions as a

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2 whole. Previously, certain investigative squads
3 including those overseeing the NYPD and the
4 Department of Education operated separately from
5 DOI's main organizational structure. Four years of
6 experience has demonstrated to me that this does not
7 allow DOI to maximize the impact of this work, or to
8 take full advantage of DOI's institutional knowledge
9 and strength. As such, we've taken steps to fully
10 integrate this work within our reporting structure.
11 A change that will result an even greater impact and
12 ability to tackle issues going forward. Under this
13 structure, we now have a full compliment of
14 inspectors general overseeing all city agencies
15 including inspectors general overseeing DOC, the
16 NYPD, the Department of Education, the School
17 Construction Authority, NYCHA, and NYC Health and
18 Hospitals. All eleven of our Oversight units each
19 led by one or more inspectors general will work with
20 their respective unit and across units, to maximize
21 the effectiveness of our operations. Finally, in
22 addition to arrests and issuance of reports, we plan
23 to turn additional focus to monitoring agency
24 adoption of previous recommendations. Long after our
25 initial investigations have come to a close. Such

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2 follow up is essential in part of the virtue of
3 having a permanent and independent IG function within
4 New York City. Through our public reports, we
5 empower the general public and governing bodies such
6 as this council in City Hall by enhancing agency
7 transparency and prompting reforms that strengthen
8 public policy and our high impact arrests and
9 emphasis on complex investigations means that we can
10 shut down the most costly and damaging fraud schemes
11 by attacking corruption vulnerabilities at their
12 roots. Through this strategy we continue to see
13 success in Enforcement areas across the board. I
14 thank the committee and the City Council for its
15 support in our independent roll and I welcome any
16 questions you may have at this time.

17 CHAIRPERSON TORRES: Thank you Commissioner.
18 We've been joined by Council Member Keith Powers. I
19 have a few questions about the DOI and then I'll
20 proceed to the Preliminary Budget. So, I put two
21 proposals on the table for consideration by a charter
22 commission, revision commission. One is to have the
23 City Council play a role in the removal of a DOI
24 commissioner, and the second is to empower DOI with
25

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2 an independent budget. What are your thoughts on
3 those proposals?

4 COMMISSIONER PETERS: There is nothing more
5 important than an independent nonpolitical law
6 enforcement force in a civil democracy and there is
7 nothing more important to me than the independence of
8 DOI. It is something that I have worked very hard to
9 preserve over the last four years and so, I clearly
10 welcome both the support and any steps that will
11 strengthen, that will further strengthen the
12 independence and the nonpolitical nature of DOI.

13 CHAIRPERSON TORRES: Did my opening statement
14 accurately characterize the resource constraints
15 facing the NYCHA Inspector General?

16 COMMISSIONER PETERS: Yes, it did. Uhm, the
17 NYCHA Inspector General does have lower fun- as you
18 noted, the funding for parallel positions at NYCHA
19 versus parallel positions in what is sometimes called
20 main DOI, but I am trying not to use that phrase
21 anymore because all of our inspector generals are
22 part of DOI, but there is a gap in funding. I
23 believe it comes to about \$147,000 over the 47
24 positions. If I'm off by a thousand dollars or so,
25 somebody sitting here will correct me, but its about

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2 \$147,000. We have in fact had some staff leave the
3 NYCHA IG for other parts of DOI. Stability at the
4 NYCHA IG is deeply important. We have also had
5 conversations that have not yet been resolved with
6 NYCHA about amending the MOU to give us a fixed
7 percentage of money, so that we are not in a position
8 of needing to go back to NYCHA each time a line
9 opens.

10 CHAIRPERSON TORRES: Now, have you brought— how
11 long has these paid disparities stay back. How long
12 has it persisted?

13 COMMISSIONER PETERS: We have certainly been
14 having conversations with NYCHA about the paid
15 disparities for about two years, but I am certain
16 that the disparities date farther back than that but
17 our first conversations about two years ago is when
18 we started having the conversations, but the
19 disparities themselves assuredly date back further
20 than that.

21 CHAIRPERSON TORRES: And what are NYCHA's
22 reasons for rejecting your funding request?

23 COMMISSIONER PETERS: The reason is that we have
24 gotten essentially are that NYCHA cannot afford any
25 more money for Oversight.

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2 CHAIRPERSON TORRES: Now there is no institution
3 that's more financially distressed than the Health
4 and Hospitals corporation. How well funded is the
5 inspector general for the Health and Hospitals
6 Corporation compared to that for the NYCHA or the New
7 York City Housing Authority?

8 COMMISSIONER PETERS: Sure, the New York City
9 Health and Hospital's IG is very well funded. We
10 entered into an MOU with the Health and Hospitals
11 Corporation, excuse me, New York City Health and
12 Hospitals now that's its been rebranded. We entered
13 into a MOU about a year and a half ago, maybe two
14 years ago with H&H that has significantly more
15 funding and also significantly more autonomy than
16 does the MOU with NYCHA. We have requested that
17 NYCHA enter into a new MOU with us that is updated.
18 The one that we have now is about twenty years old.
19 We have requested that they enter into an updated MOU
20 with us that would essentially parallel the one with
21 H&H. To date that hasn't happened.

22 CHAIRPERSON TORRES: What is NYCHA's response to
23 the request for a new MOU?

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2 COMMISSIONER PETERS: To date, we've received a
3 series of inquiries about details but no response
4 either accepting or rejecting.

5 CHAIRPERSON TORRES: And regarding the funding
6 request and the new MOU, have you brought you
7 concerns to City Hall?

8 COMMISSIONER PETERS: Certainly, our concerns
9 are known at City Hall as well as at NYCHA about our
10 funding concerns and I've certainly met with Deputy
11 Mayor Alicia Glen about it.

12 CHAIRPERSON TORRES: And what has been the
13 response from the Deputy Mayor?

14 COMMISSIONER PETERS: The Deputy Mayor's
15 response was that NYCHA didn't have the money.

16 CHAIRPERSON TORRES: Okay, did you let her know
17 that Health and Hospitals is also financially
18 distressed?

19 COMMISSIONER PETERS: Uhm, I do - I don't want
20 to speak to the exact details of the conversation,
21 but I can assure you that we have made quite clear to
22 NYCHA and to City Hall - it seems to me likely that
23 they are aware of the financial condition of Health
24 and Hospitals.

25

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2 CHAIRPERSON TORRES: Okay. A number of
3 questions about the Preliminary Budget. I'm going to
4 make an observation about DOI and please let me know
5 if you disagree. But it seems to me under your
6 leadership DOI has undergone both a quantitative and
7 a qualitative transformation. When it comes to the
8 former, there has been a dramatic expansion of head
9 count and when it comes to the later, there seems to
10 have been an equally dramatic expansion of mission
11 that DOI is no longer strictly limiting itself to
12 fighting corruption. It seems to have taken a much
13 broader role of overseeing the operations of city
14 government. Is that a fair characterization that DOI
15 has emerged more as an oversight institution, not to
16 the exclusion of its anticorruption role but an
17 expansion of its mission. Is that a fair
18 characterization?

19 COMMISSIONER PETERS: Uhm, I think it is true
20 that we have begun to look more systemically at
21 problems. Whether — the only thing I'm hesitating
22 about is the — is whether I'm comfortable saying that
23 some of these things that we find are not corruption.
24 If you define corruption narrowly as people take in
25 bribes, then yes, I absolutely agree. But if you

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2 view corruption more as the failure of government to
3 follow the rules and to do what it is supposed to do
4 and deliver the services it is supposed to deliver,
5 under that more broad definition – I just want to be
6 careful about the word corruption. Having said that,
7 there is no doubt that one of the things we have done
8 in the last four years is to take a look at whether
9 there are broader systemic problems that result in
10 failure to follow what we all agree are the rules to
11 make sure that services are delivered. And I believe
12 that that is an important role. I believe that
13 although nobody was arrested as a result – nobody so
14 to date has been arrested as a result of our report
15 on lead paint inspections. I believe that it is an
16 important role for DOI to play to point out to the
17 public and to this council that lead paint
18 inspections were not going on. That there was a
19 public health hazard that false forms were filed. I
20 believe that the work we did at the beginning of 2017
21 on ACS to point out that at the time ACS did not have
22 a functioning 27/7 ability to deal with child abuse,
23 although again, there were no arrests made. I
24 believe that that is incredibly valuable work that
25

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2 will protect children and is an essential part of
3 DOI's mission and ought to be.

4 CHAIRPERSON TORRES: Now DOI's budget has two
5 program areas. Agency operations and IG, Inspector
6 general. When it comes to agency operations, DOI's
7 budgeted head count has gone from 155 positions in FY
8 2013 to 320 positions in FY 2019. A 106% increase.
9 When it comes to Inspector General's IG, DOI's
10 budgeted head count has gone from 62 positions in FY
11 2013 to 75 positions in FY 2019. What accounts for
12 the massive growth in agency operations but the
13 modest growth in IG?

14 COMMISSIONER PETERS: I think that— yeah, I
15 think a big chunk of that is accounting rather than
16 reality issue. Remember that the titles that OMB
17 ascribes to people, do not often reflect what they
18 are doing, so that for example, there are people
19 doing investigative work who are not listed by OMB as
20 investigators and similarly there are large numbers
21 of people doing investigative work who are paid for
22 by other entities. So, for example, there are 47
23 staff at the inspector general's office for NYCHA.
24 None of those show up in OMB documents. So, there
25 has been a significant growth in the size of DOI and

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2 while some of that growth assuredly has been in terms
3 of central staff, because that is – frankly, we have
4 a more robust IT staff now then we did before both
5 because we need to protect against the dangers of
6 hacking and also be cost increasingly our work
7 requires sophisticated computer forensics. When we
8 recently had Health and Hospitals arrested somebody
9 on child pornography charges, we needed computer
10 forensics to get around some of the walls this person
11 had set up to hide the pornography that he was
12 downloading. So that in fact a person who's doing
13 computer forensics for us may not be listed as an
14 inspector general but their doing forensics work.
15 So, yes there has been a large increase. Most of
16 that in fact is people who are out in the field doing
17 investigations.

18 CHAIRPERSON TORRES: Are most of your
19 investigators within the program area of agency
20 operations or within the program area of inspector
21 general?

22 COMMISSIONER PETERS: Uhm, it's a mixture of
23 both. But again, these are – I think its important
24 not to read too much into OMB classifications of
25 positions. Data analyst for example may not be

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2 listed as being part of an agency IG, but obviously
3 data analysts are full time reviewing bank records
4 and other bits of data to see where is - you know
5 where there are cases.

6 CHAIRPERSON TORRES: Why are the - you know
7 NYCHA pays for all of its investigators in the office
8 of the NYCHA IG. Why is the IG program area not
9 fully funded by MOU's with other agencies? Why do
10 you take a portion of the cost?

11 COMMISSIONER PETERS: I'm not sure I fully -

12 CHAIRPERSON TORRES: So, the office of the NYCHA
13 IG based on what you conveyed to me pays for all of
14 NYCHA's investigate - all of the investigators out of
15 NYCHA's budget.

16 COMMISSIONER PETERS: That is correct.

17 CHAIRPERSON TORRES: Is that a pattern that
18 holds true across every agency?

19 COMMISSIONER PETERS: No, no. So, there are some
20 - it's a little bit complicated and if I get too
21 wonky and if I get too budget wonky, please stop me.
22 So, there are some agencies that are technically not
23 mayoral agencies. The New York City Housing
24 Authority, The School Construction Authority, Health
25 and Hospitals Corporation. Because those are not

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2 technically mayoral agencies, we have with each of
3 them an MOU, in which they agree to be bound by all
4 the rules that cover mayoral agencies. For example,
5 mayoral agencies, we don't subpoena them. We simply
6 send them something called an EO 16 letter and they
7 give us documents that we need. Non-mayoral agencies
8 sign an MOU with us, in which they agree to bound by
9 all of this and they agree to pay for X-number of
10 lines. Then additionally, DOI gets an allocation
11 from the city of - that comes to about a little over
12 300 lines and then there are about 70 more lines that
13 are technically DOI employees, but money is
14 transferred to our budget from certain agencies. For
15 example, HRA we have an MOU with them under which
16 they agree to essentially supplement the funding that
17 we have already have allocated to that. The result
18 comes to a staff count of about 700. In a better
19 world, DOI would simply get 700 lines to use as
20 appropriate. And the reason I say that is that
21 priorities change and needs change. So, for example,
22 right now the number of people working at the NYCHA
23 IG's office is fixed by MOU. The number of people
24 working at H&H IG's office is fixed by MOU. Some of
25 the people working at HRA, are fixed by MOU. As it

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2 happens, these are all agencies that require the
3 staffing, but if a year from now we were to determine
4 that every bit – there was less of a need at one of
5 those places and a greater need at say, the
6 Administration for Children Services, we do not have
7 the ability to move lines around. Those lines are
8 sort of frozen in a historical pattern and so it does
9 restrict our ability to move resources around.

10 CHAIRPERSON TORRES: So, if I understand
11 correctly, when it comes to non-mayoral governing
12 entities, whether it be public benefit corporations
13 or public authorities, those entities fully fund to
14 the extent that those entities have an MOU with DOI,
15 fully fund their inspector generals. Is that –

16 COMMISSIONER PETERS: That is correct.

17 CHAIRPERSON TORRES: But with city agencies,
18 some of the investigators might be on DOI's payroll
19 and some of them might be on the agency payroll. Is
20 it a mix of the two with city agencies?

21 COMMISSIONER PETERS: It is a mix. With city
22 agencies it is primarily, though not exclusively DOI.
23 Payroll although in some instances money is
24 transferred by that agency to DOI's budget to pay the
25 cost, but there are in fact some city agencies for

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2 example, the Department of Correction, there are DOC,
3 people who are technically DOC employees who work for
4 DOI pursuant to a variety. There are a variety of
5 different MOU's. Honestly, a lot of it is
6 historical. Something goes wrong at an agency,
7 everybody agrees for additional oversight beyond what
8 we have is necessary, the agency and DOI enter into
9 an MOU in which the agency agrees to give us X head
10 count. Sometimes that's done by simply having the
11 agency give us the money and we hire. Sometimes
12 technically they remain that agencies employees. In
13 all instances however, they report through our chain
14 of command.

15 CHAIRPERSON TORRES: When it comes to
16 investigators beyond the payroll of DOI, how dramatic
17 has your head count expansion been?

18 COMMISSIONER PETERS: The head count expansion
19 beyond investigators has not been huge.

20 CHAIRPERSON TORRES: Investigators on DOI's
21 payroll.

22 COMMISSIONER PETERS: On DOI's payroll.

23 CHAIRPERSON TORRES: Yes.

24 COMMISSIONER PETERS: Uhm, the expansion – the
25 biggest expansion would be the H&H – you know two

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2 years ago H&H was an independent IG and it had
3 nothing to do with DOI. We now have – we're budgeted
4 for 75, so that's probably the largest expansion of
5 non-DOI numbers. We also as a result, as you may
6 remember back in May of last year it developed that
7 part of the Department of Corrections own Internal
8 Affairs Group was listening in on DOI phone calls.
9 The result of this was that part of DOC internal
10 affairs was taken away from DOC and moved over to
11 DOI. So that's I believe it was 20 head count that
12 was removed from DOC and brought over to DOI. So, I
13 would say those are probably the two biggest
14 expansions of non-DOI head count are in those two
15 places.

16 CHAIRPERSON TORRES: Do you have a total number,
17 or do you want to get back to me on –

18 COMMISSIONER PETERS: A total number of the head
19 count now –

20 CHAIRPERSON TORRES: The head count expansion
21 beyond the investigators on your payroll.

22 COMMISSIONER PETERS: Uhm, it is – I can tell
23 you that it is now 306 and if you want we will get
24 back to you with the – you know, what it was three
25

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2 years ago or four years ago etc. We will get you a
3 year by year break down.

4 CHAIRPERSON TORRES: So DOI enters into MOU's
5 with Public [inaudible 37:05] corporations, public
6 authorities for the purpose of treating them as city
7 agencies for the purpose of investigations.

8 COMMISSIONER PETERS: Correct.

9 CHAIRPERSON TORRES: Why enter into MOU's with
10 city agencies when DOI has inherent authority over
11 them?

12 COMMISSIONER PETERS: The MOU's with city
13 agencies have nothing to do with the authority. We
14 already have it. They have solely to do with
15 funding. So, for example, there is an MOU with HRA.
16 It doesn't give us any authority over HRA.
17 Basically, it's an agreement with HRA. It is we
18 believe 30 but we will get you the exact number. It
19 doesn't have anything to do with our authority, it
20 just says we are entitled to higher up to 30
21 additional staff to investigate benefits, fraud, at
22 HRA and HRA will pick up the cost of those lines. So,
23 the reason for that - I'm being informed by people
24 who are a lot smarter than I am and know a lot more
25 than I do. Uhm, the only way to get OTDA the state

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2 agency to pay for this is to have it done through
3 this mechanism. Another words, in order to get OTDA
4 to reimburse part of the cost of these
5 investigations, it has to be done through this route.

6 CHAIRPERSON TORRES: Understood. Uhm, one more
7 question about head count. DOI has a budgeted head
8 count of 415 positions, but an actual head count of
9 363 positions. Uhm, from FY 2013 to FY 2017, DOI on
10 average has had a budgeted head count of 287
11 positions but an actual head count of only 269
12 positions. There seems to be a persisting gap
13 between the budgeted head count and the actual head
14 count. Why is that?

15 COMMISSIONER PETERS: Sure. So, I believe that
16 if you look at any city agency or for that matter,
17 any large corp of any sort, you will see a gap
18 between budget and actual because people leave and
19 need to be replaced and there is a gap between them.
20 For DOI, in many instances given the sensitive work
21 we're doing, it can actually take longer than
22 otherwise to find investigators. In fact, I will
23 tell you when we initially took over the twenty
24 positions from DOC although we were taking DOC
25 people, the DOC people had to pass our background

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2 screening which is more rigorous than DOC's and it
3 has taken a long time. That is not fully staffed
4 yet, or its almost fully staffed because a number of
5 people who we would have taken, could not pass our
6 background screening process. Leaving positions
7 open. I believe that our vacancy rate is about 10%,
8 and I'm told that the city-wide average is about 12.
9 So, if anything, I think our vacancy rate is a little
10 bit lower than the city's but that is really the
11 function or the fact that when somebody that in an
12 agency with roughly 700 people, some number of people
13 leave at any given time. Also, many of those - of
14 the vacancies of the whole 700, there are 93
15 vacancies but really 20 of those will be filled
16 momentarily. In other words, we have candidates, you
17 know, they are going through the background
18 screening.

19 CHAIRPERSON TORRES: What if we were to just
20 aggregate it? Are there squads or offices of
21 inspector general where you've had particular
22 challenges with recruitment and retention and
23 vacancies?

24 COMMISSIONER PETERS: Sure. Uhm, as you eluded
25 to in your testimony the fact that we pay on average,

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2 there is – the fact that on average, there is a lower
3 pay at NYCHA has certainly made it more difficult to
4 recruit and we have in fact had some people leave the
5 NYCHA IG for other parts of DOI. Squad one, that is
6 the Rikers Island the jails, has been particularly
7 troubling to get good people. Uhm, we are still H&H
8 actually we have more vacancies there bluntly than I
9 would like. Part of that is that a big chunk of what
10 we need to hire there are forensic accountants and
11 auditors and I can honestly say that hiring good
12 forensic accountants and auditors is arguably the
13 hardest type of investigative slot to fill.

14 CHAIRPERSON TORRES: Overtime. DOI's overtime
15 expenditures have risen from \$212,000 in FY 2013 to
16 \$1 million in FY 2019. What is driving the
17 astronomical growth in overtime?

18 COMMISSIONER PETERS: Uhm, so the growth of
19 overtime and that is a growth over a number of years.
20 It was in Fiscal Year 2017 it was \$926,000. In
21 Fiscal Year 2018, we are on track for \$1.1 million.
22 It has grown. Part of that is because all of DOI's
23 work has grown. We are doing more work with more
24 staff and lots of the work that we do in NYCHA, in
25 DOC, require – if your doing cases involving large

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2 scale drug operations, whether it's the Sheepshead
3 Nostrand case where we arrested 16 people for running
4 a large-scale drug operation out of that NYCHA
5 complex, or the Rikers work that we've done. That
6 stuff doesn't happen nine to five and so it requires
7 the more you do this kind of work and I think its
8 very valuable work. If we're going to keep places
9 safe requires more overtime. Although, to keep it in
10 perspective.

11 CHAIRPERSON TORRES: We'll can I ask is this a
12 transitional serge in overtime, because what I worry
13 about is a trajectory that might be unsustainable
14 right now. Is overtime expenditures gonna quadruple
15 over the next four years again? Or do you believe
16 this is a transitional serge?

17 COMMISSIONER PETERS: I believe its
18 transitional. I do not believe they are going to
19 quadruple again. Uhm and for whatever its worth,
20 just a matter of perspective, our overtime now is
21 about 1.9% of our budget. I believe the NYPD's so
22 it's a little under 2%. I believe the NYPD is about
23 13%. So, we are spending less on overtime then the
24 NYPD.

25

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2 CHAIRPERSON TORRES: I might be a low bar
3 commissioner, but I think the NYPD has a special
4 status in city government.

5 COMMISSIONER PETERS: As do we obviously. So,
6 just to keep that into perspective, I don't believe
7 that we are going to see a quadrupling again of it,
8 but my other concern is that a chunk of our overtime
9 is not reflected in the budget because it is paid for
10 by forfeiture funds. The problem is forfeiture funds
11 are not infinite. DOI did a case a number of years
12 ago that brought in a huge amount of forfeiture funds
13 more than we normally do. That money will run out
14 and that money for overtime will run out. So, we are
15 going to be increasingly dependent on the city's
16 budget for overtime. But I think we're going to be
17 reasonably stable over the next couple of years.

18 CHAIRPERSON TORRES: So, DOI has a just a widely
19 very complex function in city government. DOI
20 conducts [inaudible 45:01] checks, background checks,
21 you service the investigative arm for [inaudible
22 45:04], you investigate corruption. You oversee
23 operations, so I'm going to have various questions
24 about jurisdiction because not only do you have DOI
25 as the centralized investigative force in city

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2 government, but each agency might have its own
3 investigative unit and knowing the jurisdictional
4 differences between the two can be complicated. One
5 is what is the difference in jurisdiction between the
6 commission to combat police corruption and the NYPD
7 Inspector General?

8 COMMISSIONER PETERS: Sure. So, the commission
9 to combat police corruption was created by an
10 executive order a number of years ago and it
11 essentially serves an advisory role with regard to
12 the NYPD. They review a certain number of IB cases
13 each year and then advise the police commissioner and
14 an occasion— and I believe they issue an annual
15 report on whether or not certain IAB functions.
16 Meaning NYPD's Internal Affairs Bureau has handled
17 its work correctly. The Department of Investigations
18 Inspector General for the NYPD, is the independent
19 Inspector General for the NYPD charged with reviewing
20 not merely IAB functions, although we do have
21 jurisdiction over that, but over the entire NYPD to
22 look at whether the NYPD A. Has engaged in illegal
23 activity. B. Has engaged in activity that is in
24 violation of its own regulations. C. Has engaged in
25 "waste, fraud, or abuse," meaning the obviously

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2 improper use of resources and D. Whether the NYPD has
3 taken actions that negatively effect the civil rights
4 of New Yorker's. It's a very broad – we have a very
5 broad mandate.

6 CHAIRPERSON TORRES: Why have two distinct
7 entities? Why not centralize them?

8 COMMISSIONER PETERS: Right now, there are I
9 suppose four different entities that look at the
10 NYPD. There is IAB which is the Departments Internal
11 Affairs Bureau and most agencies have some form of
12 Internal Affairs Bureau. I think it is important for
13 agencies to have Internal Affairs Bureau, I would
14 note that A. This council, when it passed local law
15 70 obligated Internal Affairs to report to DOI on
16 certain trends or other issues. And B. Under
17 Executive Order 16, which has been in place for at
18 least I think, thirty years, every city's Internal
19 Affairs group has an obligation to stand down if DOI
20 sends them written notice saying that we are
21 investigating something. As a general rule, we tend
22 not to send a lot of stand down requests because we
23 think that additional investigations are important,
24 but there have been times in other agencies where we
25 have in fact said to an Internal Affairs group,

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2 please stand down. We are going to do this, and we
3 don't want anybody else looking at it until we've had
4 a chance.

5 CHAIRPERSON TORRES: You have the authority to
6 review police misconduct, police operation.

7 COMMISSIONER PETERS: Absolutely.

8 CHAIRPERSON TORRES: Police operation. What is
9 the difference or overlap, between CCRB and DOI?

10 COMMISSIONER PETERS: That's a great question.
11 Uhm, and it is one that we have devoted considerable
12 thought to over the last four years and one that to
13 some extent experiences teaching us – has allowed us
14 to evolve our thinking in. My thinking is different
15 now then it was four years ago. CCRB has a large
16 staff that investigates individual instances of
17 police misconduct and they have a large staff. There
18 staff is actually larger than the DOI's IG staff.
19 They do individual instances, misconduct, both
20 smaller instances of misconduct and very serious
21 instances of misconduct. It would be impossible for
22 DOI to replicate that work absent essentially taking
23 on the entire staff and mechanism of the CCRB. What
24 DOI does is we are empowered to look at both
25 individual instances of misconduct, and systemic

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2 problems. What we've tried to do, and we tried to do
3 this with all of the agencies but especially so in
4 the case of the police because there is ACCRB. Is
5 rather than simply viewing individual cases in
6 isolation, we have tried where there has been police
7 misconduct, we have tried to look at it as a systemic
8 matter. In other words, to go beyond did officer X
9 you know, engage in misconduct on this date but is
10 there a broader problem that goes beyond what officer
11 X did. And I think that what you've seen in a lot of
12 the reports that we've issued and what you will see
13 in some future work that will be coming out of that
14 Inspector General's office during the course of this
15 year is an ability to look more broadly. So, for
16 example, not just did the NYPD improperly surveil a
17 particular political organization on a particular
18 date, but a detailed review of whether the NYPD was
19 improperly surveilling political and religious
20 groups, and did they have the infrastructure in place
21 to make sure that they didn't do so in the future.
22 And what we found was that in fact, there was
23 improper surveillance going on and improper checks on
24 surveillance. And that was the kind of thing that
25 could only be done by DOI, because it has to be done

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2 by an entity that is independent from the police
3 department, but that is also a law enforcement agency
4 and therefore can have access to highly confidential
5 documents.

6 CHAIRPERSON TORRES: You and I had – I just want
7 to challenge. I do think action in individual cases
8 could effect systemic change. Right, if individual
9 officers are held accountable for misconduct, and
10 what role can DOI play in holding officers
11 accountable for misconduct? And later on, I'm going
12 to ask you about some of the exposes that we've seen
13 in the New York Times.

14 COMMISSIONER PETERS: Sure. So, I agree with
15 you that individual cases can be a vehicle for
16 dealing with systemic conduct.

17 CHAIRPERSON TORRES: Especially in matters of
18 policing.

19 COMMISSIONER PETERS: I agree with you and I
20 agree with you in especially matters of policing and
21 I want to be very careful here, because as you know
22 we do not ever speak about ongoing investigations or
23 even acknowledge the existence of ongoing
24 investigations and so with that very clear caveat, I
25 agree with you completely about the importance of

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2 doing individual cases including individual - I agree
3 with you as a general matter on the importance of
4 doing individual cases including individual criminal
5 cases as a way of dealing with systemic problems. I
6 agree with you on that as principal.

7 CHAIRPERSON TORRES: What about practice?

8 COMMISSIONER PETERS: And I am committed to - I
9 believe we have put that into practice at many
10 agencies. We are committed to that principal.
11 Putting that principal into practice at the NYPD as
12 well but beyond that I'm not going to discuss it.

13 CHAIRPERSON TORRES: I'm going to pressure on
14 this commissioner. The Inspector General has been in
15 place for how many years? Two or three?

16 COMMISSIONER PETERS: Four.

17 CHAIRPERSON TORRES: Four years. Have you
18 brought any cases against individual officers for
19 misconduct or malfeasance?

20 COMMISSIONER PETERS: We have not brought cases
21 - that Inspector General's office has not brought
22 individual cases to date.

23 CHAIRPERSON TORRES: And why is that?

24 COMMISSIONER PETERS: To date, the
25 investigations that we have done have been looking at

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2 broader systemic issues that have not presented
3 themselves for individual prosecutions. Uhm, I
4 believe well, I believed that there were other
5 vehicles for effectively handling this. We are
6 reconsidering whether there are alternative effective
7 vehicles for handling individual prosecutions and as
8 a result of that reconsideration, we are rethinking
9 how we are handling certain investigations. That is
10 a rethinking process that I and senior staff are
11 going through. If your questions is, why did it take
12 us four years to rethink it, because none of us are
13 perfect.

14 CHAIRPERSON TORRES: Fair enough. I appreciate
15 the admission of – okay, so your shifting toward a
16 focus on individual cases, it sounds?

17 COMMISSIONER PETERS: We have always had a DOI
18 and an influence on individual cases. We've arrested
19 726 people last year including you know to give you a
20 fairly – two fairly recent examples, we arrested 17
21 asbestos inspectors for falsifying asbestos safety
22 reports expressly as a way to demonstrate the need
23 for wholesale change in the way we do asbestos
24 inspections in New York City. We've arrested
25 multiple general contractors for violating DOB

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2 regulations that resulted in people getting killed
3 and brought manslaughter charges expressly as a way
4 of demonstrating there needs to be a change in the
5 way safety is done. We are rethinking – we are
6 always rethinking how we do all of our
7 investigations, but certainly, we are rethinking how
8 police investigations need to be done.

9 CHAIRPERSON TORRES: I want to press on this
10 because DOI will often tell the number of arrests,
11 the number of investigations and you show no
12 trepidation about arresting the Loveland actors and
13 other agencies. Why the trepidation with the NYPD?

14 COMMISSIONER PETERS: I would quibble with the
15 phrase trepidation. Uhm, –

16 CHAIRPERSON TORRES: But you do treat the NYPD
17 differently then you do other agencies when it comes
18 to the anti-corruption in the law enforcement
19 function of DOI's. Is that a fair observation? It
20 seems like your role in relation to the NYPD is
21 oversight, but is that –

22 COMMISSIONER PETERS: I – I don't know – as I
23 said, I don't know that I would agree with the word
24 trepidation. I think if you look at some of the
25 reports we've issued via the NYPD and the response

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2 that those reports have engendered from the NYPD, I
3 don't believe they would feel as though we have
4 treated them with kid gloves or with trepidation.

5 CHAIRPERSON TORRES: But those are oversight
6 reports. So, earlier in our conversation, you said
7 you had an expansive conception of corruption. Is
8 excessive force, is police brutality, do those fall
9 within the meaning of corruption as you understand
10 it.

11 COMMISSIONER PETERS: Yes.

12 CHAIRPERSON TORRES: What about Test a Lying?
13 This phenomenon that the New York times has
14 chronicled. Does that fall within the meaning of -

15 COMMISSIONER PETERS: Absolutely.

16 CHAIRPERSON TORRES: So, why not investigate
17 individual cases of test of lying, excessive force,
18 police brutality?

19 COMMISSIONER PETERS: So, in 2015 we issued a
20 report which among other things found we reviewed I
21 believe it was 107, if I'm off by one or two, forgive
22 me. Uhm, instances of excessive force that were
23 presented - I want to make sure I'm getting these
24 numbers exactly right. If I get the numbers off by
25 even a little bit, somebody will correct me. In

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2 which excessive force was substantiated by the CCRB
3 and in roughly a third of the – we found that in 36%
4 of instances where we independently verified that the
5 CCRB was correct in terms of excessive force and
6 presented evidence of excessive force to the police
7 commissioner. The police commissioner nonetheless,
8 declined to discipline the officer. We wrote that
9 report in 2015 and we wrote it as the beginning of a
10 review of excessive force and that is an attempt to
11 say this is an issue that needs to be taking more
12 seriously. Since then as you know, we issued a
13 follow up report on the recording of excessive force
14 which concluded that to this day, the NYPD is under
15 reporting the use of force. I don't which to go into
16 present investigations except to say, that we take, I
17 take extremely seriously excessive force. I take
18 extremely seriously false statement. I will also say
19 that turning such cases into criminal cases as
20 opposed to civil CCRB matters is remarkably difficult
21 in a lot of different ways and requires a huge amount
22 of work both from us and from the relevant DA's, but
23 it is absolutely an issue. It is an issue for which
24 we have jurisdiction and its one that we're concerned
25 about.

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2 CHAIRPERSON TORRES: I know, and I know its
3 incredibly complex. My only concern is that there
4 have been zero cases and I think we all recognize
5 that there is a small subset of officers who drive a
6 disproportionate a share of CCRB complaints, law
7 suits, police brutality, but its one thing to have a
8 report on those subsets of officers. It is something
9 else to actually hold them accountable and I want the
10 city to be in the business of actually holding the
11 worst actors in the NYPD accountable for driving a
12 disproportion or share of excessive force or test of
13 lying or whatever problems have been identified.

14 COMMISSIONER PETERS: I agree with you. I agree
15 with you although I would also point out that part of
16 the reason that we write these reports and there will
17 be more of them in the coming year. Part of the
18 reason for writing the reports is so that the public,
19 so that the council, so that the Mayor, so the Police
20 Commissioner, so that everybody is aware of the this.
21 The first thing that needs to happen is if the NYPD,
22 and as I said, these numbers are now several years
23 out of date. If the NYPD fails to discipline some
24 large percentage of officers where they are given

25

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2 incontrovertible proof of excessive force. That is a
3 real problem and it is one that requires examination.

4 CHAIRPERSON TORRES: But it seems to me you have
5 more.

6 COMMISSIONER PETERS: I obviously do not have –
7 I do not have the power to discipline officers. I
8 actually don't tackle with the power to indict
9 officers. The DA has to do that. I do have the
10 power to arrest police officers. Uhm, although I
11 would not – to be honest I would not arrest an
12 officer without knowing that a DA was going to
13 prosecute them. That would strike me as an abuse of
14 my powers. In order to do that, you need to work
15 with the DA, but I also would suggest that some of
16 these are questions that ought to be posed of he city
17 and of NYPD and part of the power of DOI is to point
18 out where the disciplinary process is broken down.

19 CHAIRPERSON TORRES: But there is often denial.
20 I mean its often the case that the NYPD will reject
21 the recommendations of both CCRB and the NYPD
22 Inspector General. The difference between DOI and
23 CCRB is that DOI can actually take action against
24 individual officers.

25

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2 COMMISSIONER PETERS: That is true, and it is
3 something that we are keenly aware of and I
4 acknowledge that to date the work we have done,
5 [inaudible 1:01:12], the NYPD and the problems we
6 have seen have not to date resulted in arrests.

7 CHAIRPERSON TORRES: And a few more
8 jurisdictional questions.

9 COMMISSIONER PETERS: Sure.

10 CHAIRPERSON TORRES: What is the difference in
11 jurisdiction between the Special Commissioner of
12 Investigation and the Office of Special
13 Investigations at the DOE?

14 COMMISSIONER PETERS: Oh, so the Office of
15 Special Investigations is DOE's internal – it is the
16 equivalent of IAB for the NYPD and ID for DOC.
17 That's their internal folks. Generally, when they
18 get – and when they generally get complaints, they
19 send them to us. Some small number we will deal with
20 because they are serious enough and most of them we
21 will send back to them to handle because they are
22 clearly just disciplinary matters. The Special
23 [inaudible 1:01:56] for Investigation, also known as
24 the Inspector General for the Department of Education
25 is the Inspector General reporting to me part of DOI.

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2 Its called Squad 11 internally. That is the DOI
3 Inspector General who does investigations, recommends
4 discipline, etc. It's the difference between IAB and
5 -

6 CHAIRPERSON TORRES: Oh, straight forward. Yeah.
7 There was a New York times article recently about a
8 portrayed to dispute you and the DOE regarding the
9 special commissioner of investigations.

10 I was not clear on the nature of that dispute. Can
11 you -

12 COMMISSIONER PETERS: Well neither was I. Uhm to
13 be honest, neither was I. So, very honestly 1. The
14 most important thing to note is the mission of he
15 Inspector General's office hasn't changed. The
16 Inspector General has always reported to DOI and
17 continues to and most importantly will continue to be
18 independent of the Department of Education. I will
19 tell you that we have made some managerial as I
20 eluded to you in my testimony, we've made some
21 managerial and structural changes to better integrate
22 - for a variety of reasons we have made managerial
23 and structural changes to both the NYPD IG and the
24 Department of Education IG to bring them within fully
25 integrated within DOI so that they can and will be

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2 doing the same kinds of work that all of DOI does.
3 Which also goes back to your question about, have we
4 been treating the NYPD differently. We are now fully
5 integrating that function within DOI. That's
6 something we've done fairly recently. I will tell
7 you that at no time while the New York Times reported
8 that there was a conflict. At no time has anyone
9 from the Department of Education contacted me or any
10 one on my staff to object to anything we're doing.
11 So, I'm not quite sure where the controversy is
12 either. DOE certainly hasn't objected to us and what
13 we are doing is simply making sure that those two
14 squads, the police and DOE, are fully integrated
15 within DOI and handle cases in the same consistent
16 way as the rest of DOI. I think that that is
17 important, and I think that although both of those
18 squads have done enormous good work, and I think you
19 will see in the fairly near future, a further display
20 of that. This will allow them to do even more good
21 work including as it relates to some of the things
22 we've discussed previously.

23 CHAIRPERSON TORRES: So, I want to see if I
24 understand the changes that are at work. You're

25

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2 renaming the DOE Special Commissioner Investigation,
3 the Inspector General for the DOE?

4 COMMISSIONER PETERS: Well, by law they are
5 technically – will always be technically called the
6 Special Commissioner for Investigation. They are
7 also called the Inspector General for DOE. That
8 strikes me as a bit of nomenclature. I tend to refer
9 to it as the IG because it is important that we have
10 consistent work across the line. As a matter of law,
11 they still have a separate additional title.

12 CHAIRPERSON TORRES: And instead of the NYPD IG,
13 and the DOE IG reporting directly to you, to whom
14 will those – ultimately, they will report to you but
15 who is the immediate supervisor?

16 COMMISSIONER PETERS: Right, everybody ultimately
17 reports to me. Each of those – the way that the
18 Department of Investigations is structured. Every
19 Inspector General reports to an associate
20 commissioner. The associate commissioners are people
21 with tremendous experience in law, with 20, 30 years
22 of law enforcement in many cases. There are three
23 associate commissioners. All of the IG's report to
24 one of those associate commissioners. The associate
25 commissioners in turn report to Susan Lambiase who is

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2 my Deputy Commissioner for Investigations whose also
3 had an extremely long career in law enforcement
4 starting out at the Brooklyn DA's office. They report
5 to my first deputy who is in charge of running the
6 office on a day to day basis who reports to me. Uhm,
7 and his will in fact allow me to be more involved in
8 both of these IG's offices because rather than having
9 to deal - carve out time for day to day work, it
10 allows me through the staff and we have I believe, I
11 and my first deputy and my deputy commissioner and my
12 associate commissioners have developed what I believe
13 has been an extraordinarily effective model for
14 handling cases, and this will allow us to leverage
15 all of that experience.

16 CHAIRPERSON TORRES: I have many more questions
17 commissioner, but I'm going to actually allow my
18 colleague Keith Powers to ask a few questions.

19 CITY COUNCIL MEMBER KEITH POWERS: Thank you.
20 Good to see you. Thank you for that testimony and
21 its never easy to be on the microphone with Ritchie
22 Torres. So, I commend you on that. I know the
23 conversation at the beginning started about ways to
24 ensure that DOI is more independent and I commend
25 Council Member Torres for some ideas about how to

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2 ensure the independence whether its going through and
3 independent budget or through consent of the City
4 Council. The other thought that one might have is -
5 well, let me take a step back. The process as it
6 currently stands for your appointment if I recall was
7 to be nominated by the Mayor and then be with the
8 consent of the City Council, is that correct?

9 COMMISSIONER PETERS: Yes. I was nominated by
10 the Mayor and then confirmed by the Council.

11 CITY COUNCIL MEMBER KEITH POWERS: Great and you
12 currently serve until further notice without any
13 fixed term, or there is no year cap on your job. Is
14 that correct?

15 COMMISSIONER PETERS: You're stuck with me for a
16 good long while.

17 CITY COUNCIL MEMBER KEITH POWERS: Well, I think
18 you're doing a good job, so I'm okay with being stuck
19 with you.

20 COMMISSIONER PETERS: Well thank you.

21 CITY COUNCIL MEMBER KEITH POWERS: So, but
22 another idea would be on terms of independence is to
23 create a fixed term that lasts beyond any particular
24 administration or city council member or otherwise.
25 Any thoughts on something like that?

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2 COMMISSIONER PETERS: I'm not sure. I mean
3 obviously there are instances. You know, the most
4 notable instance is the FBI, you know the FBI
5 directors term is ten years for several reasons. One
6 is by definition extends beyond anyone in
7 administrations. Second of all very bluntly, I think
8 it probably takes roughly that much time to do a good
9 job. I'd like to believe I've done a good job in my
10 first four years here. I believe I have but I am
11 acutely aware even if I'm not going to list right now
12 all of the things that I have not yet done and all
13 the changes that have not been made. Not because
14 we're not - everybody on my staff working practically
15 24 hours a day but because change takes time.
16 Investigations take time. I mean I understand that
17 the big investigations that people talk about coming
18 out of DOI are usually sixteen to eighteen month long
19 investigations from the time they start and in many
20 instances where there's a troubled agency, it can be
21 two years after we decide that there is real trouble
22 at an agency before we're turning out the kind of
23 work that can do that.

24 CITY COUNCIL MEMBER KEITH POWERS: And presumably
25 you inherited some case work that a predecessor had,

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2 and you will at some point and time handle office
3 work too because of the multiyear process.

4 COMMISSIONER PETERS: Absolutely, and by the way
5 I should say, I inherited, I'm very, very, lucky. I
6 inherited from my predecessor a remarkable staff. I
7 inherited, although we've added a lot to that staff,
8 I inherited a remarkably talented staff and a
9 remarkable legacy of work which has made everything
10 that we've done in the last four years possible. We
11 didn't have to start from scratch in a lot of places
12 and that's made it possible. So, I owe a huge debt
13 of gratitude to my predecessor and I feel therefore
14 an obligation that whatever time it is that I'm done
15 with this to hand over an agency in even better shape
16 to my successor but as I said, I think you're stuck
17 with me for awhile and I'm hopefully not going
18 anywhere.

19 CITY COUNCIL MEMBER KEITH POWERS: Yeah and my
20 point being that in particularly with the Department
21 of Investigations more than any other agency I can
22 think of having I think sharing council with Torres's
23 statement about independent budget or other ways to
24 ensure that you're not subject to the political
25 moment, whether its at the council or the

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2 administration. It's important to me not only as a
3 council member but also as tax payer to ensure that
4 we have an independent oversight body in the city.
5 Uhm, I want to move to DOC and the Department of
6 Corrections and your annuity with the Department of
7 NYPD that the DOI's investing - I know you guys were
8 just discussing it, investing the larger systemic
9 issues rather than the individual employees or
10 individual cases. Is that the same with the DOC?

11 COMMISSIONER PETERS: Uhm, its been different with
12 DOC which has followed a bit more of a traditional
13 DOI model to date. Uhm, and as I spoke to you
14 before, we are now bringing everything within one
15 entity. So, we have arrested since we started our
16 sort of large scale look at DOC, we've arrested I
17 think about 80 people including 23 correction
18 officers for contraband, smuggling, for sexual
19 assault, for violence. In addition to all of those
20 arrests, we've issued a number of reports dealing
21 with the failure to properly staff and hire, and
22 screen DOC employees. The failure to properly set up
23 check points to prevent contraband smuggling. All of
24 that work - and all of that work is continuing.

25

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2 CITY COUNCIL MEMBER KEITH POWERS: And on the
3 contraband issue, you had a report just a few weeks
4 ago really about continued failures at two complexes.
5 The Manhattan Detention, Brooklyn Detention Complex.
6 Presumably, have you looked at the other ones as
7 well? Have you done pass actions on it? It seems
8 like its both an individual failure and a systemic
9 failure to continue to keep people secure
10 particularly, we're talking about women employees.
11 In this case, we're able to bring in contraband at
12 that two facilities. Any status on – it was only a
13 few weeks ago, but any update on the status of the
14 recomm – the DOC agreed to your recommendations. Do
15 you have any updates on status, timeline, and if not
16 yet implemented when we might – and there was four
17 recommendations when those would be [inaudible
18 1:12:40].

19 COMMISSIONER PETERS: Sure. That's a great
20 question. Uhm and it grows to a broader point which
21 is we issue reports and make recommendations and
22 frequently there not always – they get accepted. But
23 the bigger issue is not, does somebody accept the
24 recommendations, but do they actually implement them?
25 And one of the things that we plan to do over the

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2 course of this year is a much harder look at not
3 merely whether recommendations are accepted, but
4 whether they are implemented, and our plan is that by
5 the end of this year we will be able to post publicly
6 for every city agency. All of the recommendations,
7 and not only whether they were accepted but whether
8 they were actually implemented. So, that citizens,
9 New Yorkers, and frankly this council, will be able
10 to actually go and see not only did they say they
11 would do it, but have they done it. And one of the
12 real issues that we've had at DOC is that while
13 they've agreed to many of our recommendations, they
14 agreed to many of the recommendations that we made
15 two years ago about contraband smuggling and yet,
16 what this report demonstrated was that even though
17 they'd agreed to these recommendations, they weren't
18 actually implemented because if they had been, we
19 wouldn't of been able to smuggle in scalpel blade and
20 marijuana and suboxone into all of these facilities.
21 It was clear if you you'd followed our recommendation
22 from two years ago, we couldn't have smuggled the
23 stuff in. We smuggled the stuff in. It was clear
24 they're not following them. So, a lot of what our
25 recommendations from the most recent report, we're

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2 really just saying look, the stuff we told you about
3 two, now three years ago, we meant it. It's
4 important. Do it. Uhm, they have now committed to
5 doing it. We will go back again, uhm I imagine it
6 will take a number of months for them to implement
7 this, but we will go back again and if they've
8 implemented it, then the next time we try to smuggle
9 scalpels and suboxone into the facilities, our guys
10 will get stopped. And if the they haven't
11 implemented it, I will be back to this council and to
12 this committee to say, despite all their statements,
13 nothings happened. Uhm, similarly, we made a huge
14 number of recommendations to DOC about how they have
15 to change their hiring practices. We are now in the
16 process of examining whether or not they have
17 accepted those recommendations and when we conclude
18 that investigation, we will issue a report and I will
19 be back to this committee if you're not tired of me
20 by then. Uhm, to comment on whether or not they
21 actually followed up.

22 CITY COUNCIL MEMBER KEITH POWERS: And are there
23 penalties for in a case of the recent report, it
24 seems like it was failure both to adopt your
25 recommendations, but then behave - I mean is there

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2 systematic problems with security and then there is
3 individual behavior where people don't uh, a metal
4 detector goes off and somebody then ignores it. Are
5 there penalties for the folks in any report, or any
6 investigation that fail to actually meet their job
7 requirements? And I'm not calling for that, I'm just
8 asking.

9 COMMISSIONER PETERS: Right. No, no, it's a
10 great question. So, obviously where people are
11 engaged in illegal conduct for example, the report
12 went along with to go back to Chair Torres's
13 observation, which I completely agree with. That it
14 is often times necessary to do individual arrests to
15 highlight a problem. That report accompanied the
16 arrest of several officers who had in fact - you know
17 several officers were part of a network of contraband
18 smuggling and the report followed with the arrest
19 because the arrest was a vivid demonstration of the
20 broader problem. The report then demonstrated the
21 broader problem. Where people simply are not
22 following the rules in the sense of waving people
23 through who shouldn't be, that's not criminal
24 conduct. In some of those instances, we will make
25 referrals to the agency recommending discipline.

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2 Sometimes we will and sometimes we won't and that's a
3 judgement call based on a wide variety of factors,
4 but certainly when we do these investiga- when we do
5 investigations and find people not doing their jobs
6 in this way, we often make a disciplinary referral
7 separate and apart from any criminal referral.

8 CITY COUNCIL MEMBER KEITH POWERS: Got it. So,
9 something that's more internal than in the criminal
10 in terms of how to be punitive. And there was a
11 recent report from Department of Corrections about
12 sexual abuse. We noted a large increase in both
13 allegations and I think findings, and a huge back log
14 in terms of investigations. It would almost strike
15 you as an almost a crisis of behavior. And I'm not
16 pointing the finger at any particular person or
17 entity responsible to it, its allegations come from -
18 based on a lot of reasons but what are your recent
19 findings or at least in terms of sexual abuse within
20 our Director of Department of Corrections facilities?

21 COMMISSIONER PETERS: Right. So, this is a huge -
22 it is in fact a real problem. Sixteen staff have now
23 been modified as a result of DOI investigations.
24 Meaning they are no longer allowed contact with
25 inmates as a result of our investigations stemming

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2 into sexual assault at Rikers and at other
3 facilities. I think its important to say Rikers and
4 other facilities because sometimes people lose track
5 of the fact that there's Brooklyn House and there's
6 Manhattan, and all of the problems that exist. Let
7 me be very clear about this. All of the problems
8 that exist on Rikers, exist equally if not more so at
9 the localized borough facilities. I think that's an
10 important fact not to lose track of especially in the
11 debate about closing Rikers. So, we have done and
12 are doing a number of investigations in sexual
13 assault at the city jails. We have arrested - we
14 have already made some arrests in this regard. We
15 have arranged for sixteen staff to be modified.
16 These are remarkably hard cases to do criminally for
17 a variety of reasons. Nonetheless, we have made some
18 arrests. We have arranged for an even larger number;
19 sixteen modifications and I think that that work is
20 going to be continuing for some time. It is a
21 genuine problem. Uhm, bluntly we would do more
22 investigations if we had more staff.

23 CITY COUNCIL MEMBER KEITH POWERS: Got it and you
24 did mention that you had difficulty staffing for the
25 DOC and Rikers and other and as you know, a very

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2 important point, there is more than Rikers Island in
3 terms of what's under the jurisdiction of DOC. Can
4 you give us more reasons why or information on terms
5 of your challenges and difficulties staffing that?

6 COMMISSIONER PETERS: Sure. I mean there have
7 several. One is as I said, last year what it
8 developed that DOC's and Internal Affairs division
9 had been essentially ease dropping on – improperly
10 ease dropping on DOI phone calls a part of DOC's
11 internal affairs group. One of the parts that
12 listens to – that monitors phone calls which is an
13 enormously time – monitoring phone calls is an
14 enormously time-consuming process that bluntly for a
15 variety of reasons that I'd rather not go into in a
16 public setting, cannot be made more efficient with
17 computers. It is a huge time-consuming process.
18 About twenty people were supposed to be sent over.
19 Uhm, those people had to pass because although they
20 would be technically DOC employees, they would be
21 working for DOI. They would have access to DOI
22 records. They would be in DOI facilities. They had
23 to pass our background screening process and the
24 number of people who got through the interview

25

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2 process and then couldn't get through the background
3 screening process, was significant.

4 CITY COUNCIL MEMBER KEITH POWERS: It was twenty
5 that were supposed to come over?

6 COMMISSIONER PETERS: Twenty were supposed to
7 come over. Not all of them were supposed to be DOC
8 staff. I think it was twelve DOC staff, four DOC
9 captains, and four civilian staff. Somebody is going
10 to check the exact numbers.

11 CITY COUNCIL MEMBER KEITH POWERS: And they were
12 current employees that were supposed to be sent over
13 and become DOI -

14 COMMISSIONER PETERS: Correct. The four
15 civilians were gonna just be hired by us. The other
16 sixteen - did I just do the math right? Yes, I did.
17 The other sixteen uhm, and somebody is checking
18 those. I'm sorry, there's two captains, not four
19 captains. Twelve staff, two captains, four civilian
20 analysts, there is two more, somebody will find out
21 what those other two positions were.

22 CITY COUNCIL MEMBER KEITH POWERS: And so, they
23 were DOC employees that were then going to be
24 transferred over -

25 COMMISSIONER PETERS: Correct.

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2 CITY COUNCIL MEMBER KEITH POWERS: So, are you
3 concerned - I'll share, I might be but are you
4 concerned that there are employees at DOC who are
5 doing work that could not pass your background
6 investigation?

7 COMMISSIONER PETERS: I am uhm as I've said, and
8 I don't mean to sound like a broken record on this.
9 We obviously do not discuss ongoing investigations,
10 but I will tell you that we are in the process of
11 finish- of our review of whether - we issued a report
12 two years ago about DOC staffing. In other words,
13 what we found was that in something like a third of
14 all hires from one class, there were red flags in the
15 hiring. Meaning the people who'd been hired either
16 had known gang affiliations, they had prior felonies
17 on their records, or some other you know, indicator
18 that they clearly shouldn't be a DOC employee but got
19 hired anyway. Uhm, we are - we will be issuing a
20 report this year, probably the first half of this
21 year as to whether or not DOC made the changes we
22 recommended and whether there still remaining, these
23 kinds of red flags in the hiring. As I said, we do
24 not discuss the contents of our investigations until
25 they're completed but at the point at which that

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2 report is completed, I'd be happy if this committee
3 wants to come back and answer more detailed questions
4 on that subject.

5 CITY COUNCIL MEMBER KEITH POWERS: Yeah, I'm
6 concerned I mean I think if not I'm the Criminal
7 Justice Chair, we can have you as well but you know,
8 I think we would all share some concern that there
9 are employees who can't pass and I'm sure you have a
10 high standard but again, can't pass a background.

11 COMMISSIONER PETERS: I share your concern.

12 CITY COUNCIL MEMBER KEITH POWERS: Thank you.
13 Just and I'll let my colleagues, you have a back log
14 in terms of background checks?

15 COMMISSIONER PETERS: Yeap.

16 CITY COUNCIL MEMBER KEITH POWERS: Six thousand
17 something - I don't know what the number is but over
18 six thousand. So, on a similar note, does that mean
19 that we have folks who are working [inaudible
20 1:23:34] and who have accepted jobs or working that
21 have not yet been received a background
22 investigation?

23 COMMISSIONER PETERS: Yes.

24 CITY COUNCIL MEMBER KEITH POWERS: And its maybe
25 not six thousand, but its in the thousands I assume.

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2 COMMISSIONER PETERS: It is. I mean just, and I
3 just want to be careful that we don't set off - it is
4 a concern, but I don't want us all to panic.
5 Obviously, there are certain jobs that are
6 particularly sensitive or particularly senior where
7 we will get a call from an agency saying we plan to
8 hire this person for this very sensitive position.
9 Can you please make sure it gets done before they
10 start? And those will be kicked to the top of the
11 pile. In deed one of the reason that you'll find
12 that some number ten to linger is applications
13 periodically for the most sensitive things jump the
14 line. Which is appropriate. I'm not - I'm not
15 criticizing on that.

16 COMMISSIONER PETERS: Right and I don't criticize
17 agencies for periodically calling and saying this is
18 a particularly sensitive position. Could you kick
19 this to the top of the line, but yes there are a
20 reasonable number of people who are working whose
21 backgrounds have not been completed. That is true
22 and every now and again something bad happens and
23 we're reminded of it and it is something that
24 concerns me.

25

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2 CITY COUNCIL MEMBER KEITH POWERS: Does that
3 include teachers?

4 COMMISSIONER PETERS: Teachers go through a
5 different background and process that's handled by
6 the Board of Educations. So, we do not - we do not
7 do teacher backgrounding.

8 CITY COUNCIL MEMBER KEITH POWERS: Got it and is
9 there any sort of sense of time line by which -
10 you're going to be getting more obviously because we
11 hire people all the time, but if you had no new
12 hires, what's the expected timeline that you think
13 that you would actually achieve getting through
14 65,000?

15 COMMISSIONER PETERS: Oh, if we do not have new
16 hires that number will go up because obviously at
17 some point we'll get through those 6,000 but more are
18 coming in -

19 CITY COUNCIL MEMBER KEITH POWERS: When would
20 your expected timeline be to get through the existing
21 back log?

22 COMMISSIONER PETERS: Oh, in other words if the
23 city never hired another person and I never had to do
24 another background other than the ones we presently
25

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2 have, which we understand is not — hang on, if you
3 give me one sec and I'll tell you exactly how many.

4 CITY COUNCIL MEMBER KEITH POWERS: I mean you had
5 2,700 last year, that you closed.

6 COMMISSIONER PETERS: Okay, so if we closed 2,700
7 a year so three well, two and half years. Two to
8 three years if we at current staffing levels, it
9 would be two plus years.

10 CITY COUNCIL MEMBER KEITH POWERS: Right.

11 COMMISSIONER PETERS: Right, whatever 2,700
12 divided by 6000, more math then I can do in my head,
13 but if you want I'll —

14 CITY COUNCIL MEMBER KEITH POWERS: Its close to
15 three years.

16 COMMISSIONER PETERS: Close to three years. It
17 would take that long to get everything done.
18 Obviously, one is as I said, a certain number of
19 things will — obviously new things are coming in a.
20 some of those will jump the line as they should but
21 b. the number will in fact go up because more are
22 coming in then are getting done. It tends to become
23 more acute every four years and especially every
24 eight years where there's a new administration
25 because there tends to be an even greater inflex at

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2 the senior levels and those sometimes take longer to
3 do.

4 CITY COUNCIL MEMBER KEITH POWERS: Got it thank
5 you. Thank you and I'll hand it off from there.

6 COMMISSIONER PETERS: Thanks.

7 CHAIRPERSON TORRES: I'm going to ask a few
8 questions before turning it over to Council Member
9 Yeger who has joined us. I notice you said that the
10 localized borough-based jails.

11 COMMISSIONER PETERS: Hmm hmm.

12 CHAIRPERSON TORRES: Are as dangerous if not more
13 so then Rikers Island.

14 COMMISSIONER PETERS: Yes.

15 CHAIRPERSON TORRES: I want to tread carefully
16 because I know you're in the business of evaluating
17 compliance and policy rather than making policy
18 judgements, but I took that to mean some skepticism
19 about the plan to close Rikers Island and replace
20 them borough-based jails. Is there concern that
21 those borough-based jails can be just miniaturization
22 of Rikers Island or?

23 COMMISSIONER PETERS: Right. So, let me be very,
24 very, clear. Unlike all of you, I'm not an elected
25 official and so not in the business of setting city

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2 policy and priorities. The Mayor has declared that
3 Rikers should be closed. This Council has declared
4 that Rikers should be closed and the Department of
5 Investigation will do everything necessary to make
6 that process work as well as possible and so I am
7 wanting to be very clear that I'm not taking any
8 position on the closure of Rikers. Having said that,
9 it is clear that the localized borough facilities
10 that exist now which are the ones that people are
11 talking about using, have all of the same problems as
12 Riker's. Have all of the same issues of violence of
13 contraband smuggling and in fact we documented this
14 to some extent in the most report we issued. So,
15 that if Rikers is closed, we're closing Rikers and
16 moving the population of Rikers to localized
17 facilities. In that of itself will not eliminate the
18 violence, or the contraband smuggling or the other
19 issues that we are talking about at Rikers. Now
20 whether closing Rikers has other virtues is a
21 question for the Mayor and for the Council and not
22 for me. Whether closing Rikers could in some way
23 help reduce violence, is a questions for jails,
24 professionals and not me but what I can say as a
25 matter of fact, is that the simple closing of Rikers

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2 and moving to localized facilities in it of itself
3 what we now know is that does not have any impact on
4 violence, contraband smuggling and the related
5 problems.

6 CHAIRPERSON TORRES: So, the notion that borough-
7 based facilities are inherently safer than Rikers is
8 not one out by the facts as you understand them.

9 COMMISSIONER PETERS: That is absolutely correct,
10 yes.

11 CHAIRPERSON TORRES: A few more questions about
12 it. DOI has the authority to investigate city
13 employees or those who do business with the city,
14 contract with the city. Those who receive benefits
15 from the city.

16 COMMISSIONER PETERS: Sure.

17 CHAIRPERSON TORRES: What about those who lease
18 land from the city would that fall within -?

19 COMMISSIONER PETERS: Yes, absolutely. People
20 who lease land - several things. People who lease
21 land from the city are absolutely within our
22 jurisdiction and as you know, we have done
23 investigations about city leases and things like
24 that. Additionally, people in the real estate
25 industry who are regulated by DOB in terms of

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2 construction safety are very much within our
3 jurisdiction as you know in the last two years we
4 brought three manslaughter cases against general
5 contractors who failed to follow DOB regulations and
6 got workers killed. And that is part of a larger
7 work that we are doing with all five DA's to try to
8 use criminal penalties to basically clean up and make
9 safe for the construction industry.

10 CHAIRPERSON TORRES: Now one of the – as I
11 understand one of the entities leasing land from New
12 York City is the MTA. As I understand we technically
13 own – even though the MTA is a – New York City
14 [inaudible 1:30:55] authority is a creature of state
15 law, apparently New York City technically owns the
16 infrastructure on which it operates or at least the
17 subways. Could the city's ownership interest in the
18 infrastructure of the MTA? Sort of the basis for
19 establishing an Inspector General?

20 COMMISSIONER PETERS: I want to be really careful
21 how I answer this for several reasons. Uhm, as a
22 technical matter, probably. However, to caveats here
23 both of which are extremely important. 1. As you
24 know by state law there is an inspector general of
25 the MTA. State law mandates and there is an

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2 independent Inspector General's office at the MTA.
3 By state law the MTA Inspector General is appointed
4 by the Governor. In order for DOI to do that work,
5 it would be – to do it in something other than for
6 show which I don't believe engaging in this work for
7 show. You know in order to do that we would a. be
8 replicating the work of the state created entity. I
9 don't know what the staffing is there, but I would
10 guess, and we can get back to you on it but would
11 guess they got about a 100 staff. For us to do this
12 work either wholesale on our own or you know, as has
13 been done before through an MOU in which the MTA
14 agreed that their IG would then report through DOI,
15 would require the hiring of 100 people, it would
16 require a massive commitment of time from the senior
17 central staff at DOI. Uhm, if this council or the
18 Mayor were to direct us to do so, we cer – you know,
19 you folks are elected, and we are not, and we would
20 do it, but I think it would be a massive undertaking
21 that would require an influx of resources vastly
22 greater than anyone would ever see.

23 CHAIRPERSON TORRES: Now the state wide – the
24 existing IG for he MTA has a state-wide focus and
25

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2 reports to presumably the state legislature, the
3 Governor.

4 COMMISSIONER PETERS: Yes.

5 CHAIRPERSON TORRES: There's a debate about
6 whether the city should invest resources in the MTA.
7 Alright, we're debating whether we should invest in
8 the MTA action plan.

9 COMMISSIONER PETERS: Yes.

10 CHAIRPERSON TORRES: Uhm I imagine that if the
11 city does decide to invest resources there is going
12 to be a call for greater accountability on how city
13 dollars are spent and there is no IG that reports to
14 the council or the Mayor, or the city at large. So,
15 that's why I'm putting the idea - that's the context
16 of which I'm asking the question.

17 COMMISSIONER PETERS: I am absolutely sympathetic
18 to that point. I mean I'm obviously not going to get
19 - I have no opinion on how the city should fund the
20 MTA or whether the city should fund the MTA, that is
21 so far beyond my swim lane that I can barely see that
22 part of the pool.

23 CHAIRPERSON TORRES: And that's not my question.

24 COMMISSIONER PETERS: Right but the answer is I
25 am entirely sympathetic to the idea that the city has

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2 no effective oversight of the MTA the way it does
3 with every other thing the city funds. What I would
4 cautions and if the council and the Mayor wanted that
5 oversight, DOI would obviously be the place to
6 provide it because we have the infrastructure, but I
7 would want to caution that before we walk down that
8 road, in order to do it in a meaningful, I mean, I
9 could assign one person to think about it, but in
10 order to do it in a meaningful way in which I could
11 come before this council once a year and say, we are
12 doing our job, would essentially require taking the
13 part of the present MTA IG, or a big chunk of it and
14 moving it over to the city. Or a massive influx of
15 resources and honestly a massive use of time at the
16 top of DOI, meaning I mean you can see my deputy
17 commissioner for investigations turning slightly
18 green at the thought of this. It would be a massive,
19 massive -

20 CHAIRPERSON TORRES: It could be a prohibitive
21 undertaking for all I know.

22 COMMISSIONER PETERS: And I would certainly want
23 considerable time to think about it and talk with my
24 staff about it before I spoke about it beyond that.

25

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2 CHAIRPERSON TORRES: These are purely academic
3 questions but one more academic question. Uhm, given
4 the city's ownership interest in the subway system,
5 do you think that DOI has the authority to oversee
6 the MTA in the absence of an MOU, or would it require
7 an MOU as a legal matter?

8 COMMISSIONER PETERS: Uhm, DOI I believe, and I
9 would really like the opportunity to sit with my
10 general council before.

11 CHAIRPERSON TORRES: Sure.

12 COMMISSIONER PETERS: And I'm happy to have - I
13 believe the answer is yes, that we have that
14 authority, but I would actually like the ability to
15 sit with my general council and write you a follow up
16 letter if that's okay?

17 CHAIRPERSON TORRES: On your terms, absolutely.

18 COMMISSIONER PETERS: Yes. I am happy to get
19 back to you about that. I'd like a chance to
20 actually discuss that with general council staff,
21 meaning the lawyers at DOI, so that I don't say
22 something that demonstrates why I stopped being a
23 lawyer a couple years ago.

24 CHAIRPERSON TORRES: Fair enough commissioner.
25 Council Member Yeger.

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2 CITY COUNCIL MEMBER YEGER: Thanks Chairmen.

3 Good morning commissioner.

4 COMMISSIONER PETERS: Good morning.

5 CITY COUNCIL MEMBER YEGER: I stopped being a
6 lawyer on December 31st. Well, I guess once a
7 lawyer, always a lawyer right.

8 COMMISSIONER PETERS: Right. No, no, no, you'd
9 be surprised. Do you feel better?

10 CITY COUNCIL MEMBER YEGER: I call myself a
11 recovering lawyer. Uhm, I apologize for my
12 tardiness, I was at a hearing across the street, so
13 if I ask you something that was previously covered,
14 just say previously covered and go watch the tape and
15 I will be happy with that. I won't be insulted.
16 Uhm, in your testimony you indicated that a
17 background check unit closed 2,782 investigations in
18 2017. Your performance indicators indicate that
19 there is a 300-day average time to complete a
20 background investigation. That's what your target
21 is, that's what you're hoping for. You want more
22 staff to close that number. If an employee or a
23 punitive a perspective employee is required to
24 undergo a background check as a condition of
25

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2 employment. Do they actually start the job prior to
3 having the employment check?

4 COMMISSIONER PETERS: Yes.

5 CITY COUNCIL MEMBER YEGER: Okay, so they could
6 be on the job prior to then what happens you know,
7 300 days later you come back and say this guy should
8 not be hired.

9 COMMISSIONER PETERS: Uhm, well by the way just
10 to be clear. We never say to an agency, you should
11 or should not hire the person.

12 CITY COUNCIL MEMBER YEGER: Right, just string
13 the indicators.

14 COMMISSIONER PETERS: We basically say to the
15 agency, we have done the background check and we have
16 either developed no adverse information or we've
17 developed the following adverse information and also
18 understand that adverse information is a really
19 broad, I mean, we will literally say this person has
20 X number of unpaid parking tickets. Often
21 commissioners will decide - will basically say to the
22 employee go pay the parking tickets, I still want the
23 person, and I'm just going to tell them to pay the
24 parking tickets. So, we don't say hire, don't hire,
25 we say, here's the adverse information. If somebody

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2 is working there and we send the commissioner a
3 letter after they've started that says, here's the
4 adverse information, the commissioner then has to
5 decide, given the adverse information, given what I
6 now know about this person's performance, do I want
7 to fire them, or do I want to allow them to continue.
8 In much the same way that if we send adverse
9 information before somebody is hired, the
10 commissioner or relevant hiring person then needs to
11 decide uhm, do I still want to hire this person in
12 anyway or do I want to not hire them.

13 CITY COUNCIL MEMBER YEGER: Okay. I know your as
14 the with the very specific mandate that you have, you
15 as I've heard your testimony before. You tend to shy
16 away from the broad policy statements because you've
17 said that's not really your thing and you give the
18 facts and you know, you let everybody else do the
19 policy stuff. Uhm, but would you feel comfortable
20 with a process or even a statute or a regulation
21 within the city of New York that if a particular job
22 is subject to background investigation, by your
23 agency that that position can't be filled until the
24 investigation is complete?

25

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2 COMMISSIONER PETERS: I think that that would
3 present real logistical problems for this reason.
4 Uhm, there is a huge backlog in doing background
5 investigations. You can only do so many ba- an
6 investigator can only do so many background
7 investigations per year. I mean, their time and
8 space being finite. There is a huge backlog, I think
9 that it would cripple the ability of many agencies to
10 do hiring. Now, what I will tell you is that
11 generally where an agency is hiring somebody in a
12 particularly sensitive or important or high-profile
13 position, they will often call us and say, we want to
14 hire so and so, it's a particularly sensitive
15 position, can you kick this to the top of the pile
16 because we really want it done before we hire them.
17 And as a general rule, we will accommodate that and
18 part of the reason for the backlog and for somethings
19 taking as long as they do is the number of things
20 that jump the line. Ultimately, as I said, I don't
21 opine on policy and that would be up to this council
22 and the Mayor. I think that you would find that it
23 could have a crippling effect on the city's ability
24 to hire a workforce.

25

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2 CITY COUNCIL MEMBER YEGER: Okay, do you do
3 background checks on employees of the council. Not
4 member staff, but central staff?

5 COMMISSIONER PETERS: No, we do not.

6 CITY COUNCIL MEMBER YEGER: Not at all?

7 COMMISSIONER PETERS: No, we only do it for
8 Mayoral agencies.

9 CITY COUNCIL MEMBER YEGER: Alright, uhm God
10 bless us, this council is about to hire 125 people.
11 Not with standing my no vote on the council's budget
12 last week to the tune of approximately \$15 million.
13 Good people like that. Uhm, would you support a law
14 in the city that would require that this council's
15 employees with the same definitions as those of
16 Mayoral agencies that require DOI background checks
17 also be subject to background checks?

18 COMMISSIONER PETERS: Respectfully I would leave
19 to the city council to decide the requirements for
20 their own hiring. I don't believe its my place to
21 opine on that.

22 CITY COUNCIL MEMBER YEGER: More mine, I think.
23 You spoke a little bit about Rikers and the closing
24 and the outer borough facilities which I think as you
25 indicated, and very rightfully, there often

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2 unmentioned in the discussion about Rikers, because
3 its close Rikers, close Rikers, close Rikers and then
4 what? Let's build these borough facilities and then
5 what? And the then what, is where you come in and
6 say, folks listen, the same problems you have at
7 Rikers, except for the part about being on an Island,
8 you have at every borough facility. Uhm, do you
9 believe that the city is ready to simply build these
10 borough facilities right now with the management of
11 DOC the way it is with the indicators that you're
12 finding. With the repeated problems that you know,
13 you're addressing. You're pointing out the issues
14 not being addressed. Do you believe that the city is
15 ready to just start building these out of borough
16 facilities?

17 COMMISSIONER PETERS: Well, as I said, whether or
18 not Rikers should be closed is the decision to be
19 made by the Mayor and by this Council and not for me.
20 Uhm, and we at DOI and let me be very clear, we will
21 be absolutely supportive of whatever decision is made
22 and whatever timeline is made, and we will do
23 everything we need to do to help make that a success.
24 I think it is clear from the most recent report we
25 issued, that the problems that exist at Rikers, also

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2 exist equally at the localized borough facilities and
3 so that the mere act of building a series of
4 facilities and moving the present population both of
5 inmates and of correction officers to those
6 facilities, will result in seeing all of the problems
7 on Rikers spread out throughout these other
8 facilities. So that if Rikers is going to be closed
9 and if that closer is going to in fact solve the
10 problems we're seeing, something beyond merely the
11 construction of facilities and the disbursement of
12 people off the island will need to take place.

13 CITY COUNCIL MEMBER YEGER: Okay. So, and again
14 with the understanding obviously you don't do the
15 policy stuff, you do the facts and you just present
16 them. Should not DOI be called on to go back out and
17 take another look at Rikers and say, clean and green.
18 Give a checkmark, give a greenlight before the Rikers
19 closing and the building of these borough facilities
20 and DOI is able to say, everything we've pointed out
21 and report a. and then report b. because you've
22 indicated that they didn't pay attention to report a
23 necessarily. Uhm, that yes, we give them a clean
24 bill of health. Ready to go.

25 COMMISSIONER PETERS: Well -

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2 CITY COUNCIL MEMBER YEGER: And I'm not even
3 saying that this is something that you have to decide
4 on your own to do. I'm just asking uhm you know,
5 between us, with nobody else listening, is that
6 something that it just makes sense to do?

7 COMMISSIONER PETERS: Well obviously we continue
8 to right reports about what's going on both at Rikers
9 and at localized facilities and we in fact, this most
10 recent report dealt exclusively with localized
11 facilities and I can assure you that over the course
12 of the next year you will be seeing additional
13 reports from us about issues at Rikers. I don't know
14 that there is ever a situation which we give an
15 agency a "clean bill of health".

16 CITY COUNCIL MEMBER YEGER: Fair enough.

17 COMMISSIONER PETERS: Not because there aren't
18 many agencies that are incredibly well run. There
19 are I should say, in the city of New York, a large
20 number of agencies that are incredibly well run, but
21 our function is not sort of like a general practicing
22 physician, to give somebody a clean bill of health.
23 Our function is to be constantly looking, because
24 even something that is well run today, can have a
25 problem tomorrow. We will regardless of whether the

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2 city's inmate population is housed on Rikers Island -
3 is housed I guess about 70% of the inmate population
4 is housed on Rikers, I may have that number wrong.
5 If I do, I apologize, but regardless of whether the
6 bulk of the population is housed on Rikers or in
7 localized facilities, we will continue the kind of
8 work we've done that have resulted in as I said,
9 about 80 arrests, including 23 correction officers.
10 We will continue the work we've done that have
11 resulted in 16 staff modified for sexual assault. We
12 will continue that work regardless of where the
13 inmates are housed.

14 CITY COUNCIL MEMBER YEGER: And I don't doubt
15 that commissioner and your work in the city in the
16 last four years is forgive this description is
17 certainly legendary in many respects but what I would
18 urge, and I would never tell the commissioner my
19 thoughts on how to run the agency. Its not my job,
20 its yours, but I would say that you have sort of a
21 road map. Things that you've identified in Rikers
22 that need broad - from the top, policy changes that
23 filter in and make those changes and I would say that
24 at the very least, before we can proceed to the next
25 step, we would need DOI. I would need DOI and I'm

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2 just one person here, but I would need to see that
3 you said maybe not a clean bill of health, but these
4 are the 20 things we pointed out and on these 20
5 things we've seen the movement into the direction
6 that we're not confident. We are now, not not. We
7 are now confident that DOC is at the place where
8 they've addressed our concerns because you are the
9 watchdog. You are the one - DOC is not identifying
10 it. Its not us at the council. Its not the Mayor.
11 It's you, you're watching them.

12 COMMISSIONER PETERS: I appreciate that and as I
13 said, and one of the things I said is one of the
14 things we will do, and this will be done by the end
15 of the year. Is we will list for every city agency
16 where we have issued policy and procedure
17 recommendations, called PPR's. We will be able to
18 list by the end of the year, not only all of the
19 PPR's and not only whether they were excepted meaning
20 the agency said yes, we'll do it, but whether on our
21 estimation, they've been implemented and so clearly
22 one of those agencies will be DOC and so you and this
23 council and the public at large will have the ability
24 by the end of the year to essentially look at a list
25 of all of the things that we have said need to be

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2 fixed at DOC, and whether in our estimation that's
3 happened. I think that will provide you with a very
4 nice check list.

5 CITY COUNCIL MEMBER YEGER: I think so as well.
6 Thank you very much commissioner.

7 COMMISSIONER PETERS: Thank you.

8 CITY COUNCIL MEMBER YEGER: Thank you Mr.
9 Chairman.

10 CHAIRPERSON TORRES: Thank you. One question
11 before I – and then I'll hand it over to – yes.

12 COMMISSIONER PETERS: Mr. Chair – Can I? I've
13 just been told that I gave one piece of inaccurate
14 information on my last set of answers. Can I clarify
15 something?

16 CHAIRPERSON TORRES: Absolutely.

17 COMMISSIONER PETERS: I'm told that we do vetting
18 on city council staffers and we do is when city
19 council staffers, we do vetting, and we will tell the
20 city council whether there are any substantiated DOI
21 investigations about the staffer, but we don't do the
22 fuller background review. So, we do that piece of
23 vetting, but not a full background review and I
24 apologize for getting that wrong. My apologies.
25

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2 CITY COUNCIL MEMBER YEGER: No, I appreciate that
3 and one of the things that they teach us in law
4 school right even if we make the error, we have to
5 correct it right away as soon as we get new
6 information. I appreciate that. So, let me just do
7 a quick follow up and then I'll give it back to the
8 Chairman. Thank you Chair. So, like I indicated at
9 the beginning of my questioning. God bless us, we're
10 going to hire 125 here. I don't know where we're
11 going to put them, but we're going to hire them.
12 Uhm, and you indicated that you sometimes somethings
13 go to the top of the pile. Fast track, I don't know
14 what term you used, but for some kind of positions if
15 there more important and you have to do a background
16 check you put them at the top. Am I phrasing that
17 wrong or?

18 COMMISSIONER PETERS: Yes. No in other words, we
19 will be told that there are certain positions that
20 are particularly important, and they will go to the
21 top of the line.

22 CITY COUNCIL MEMBER YEGER: Who tells you that?

23 COMMISSIONER PETERS: Oh, in other words an
24 agency will call - will occasionally call and say,
25 you know, sometimes its self-evident. If the Mayor's

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2 office is appointing a new commissioner, its self-
3 evident that something needs to be done quickly, but
4 occasionally agencies will call and say you know,
5 we're hiring this and this. Can this get done
6 quicker.

7 CITY COUNCIL MEMBER YEGER: There sending you 125
8 people possibly.

9 COMMISSIONER PETERS: Well, although as I said so
10 let me be clear. We do not do a full and I want to
11 get it right the second time since I got it wrong the
12 first time and I'm offering apologies. We do not do
13 a full background check on city council staffers. We
14 do the sort of limited review. Mr. Chair, could I
15 correct two other little things.

16 CHAIRPERSON TORRES: Absolutely.

17 COMMISSIONER PETERS: I have an extremely
18 efficient staff who have passed me two notes.

19 CHAIRPERSON TORRES: I wish those practices
20 replicated elsewhere -

21 COMMISSIONER PETERS: You know what getting it
22 right, it's the coin that we live with. I said that
23 there were in talking about the 2005 use of force
24 report, I said that we reviewed 107 IB files. We
25 reviewed 104 and NYPD imposed no discipline - okay

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2 there is a full public report on this. We reviewed a
3 179. Of 104, where we believed discipline was
4 required by our own independent review, 37 did not
5 get disciplined. Did you follow that.

6 CHAIRPERSON TORRES: Yeah, understood.

7 COMMISSIONER PETERS: Good. Did I get that
8 right? Hang on, I'm being told by my Deputy
9 Commissioner I still got that wrong and I really
10 apologize.

11 CHAIRPERSON TORRES: But I do admire the
12 commitment to truth telling.

13 COMMISSIONER PETERS: May I send you a copy of
14 this report?

15 CHAIRPERSON TORRES: Absolutely.

16 COMMISSIONER PETERS: And you may read page 40.
17 I commend you to page 47 of the report which I assure
18 you gets the numbers exactly right. Uhm and then on
19 the DOC, the staff the 20. 12 Corrections officers,
20 two civilian analysts, 2 captains, 2 assistant
21 inspectors general, and 2 deputy inspectors general.

22 CHAIRPERSON TORRES: Council Member Yeger.

23 CITY COUNCIL MEMBER YEGER: Yeah, just going back
24 to the limited vetting. Could you describe the
25 difference between what you would do if you were

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2 background checking a commissioner versus limited
3 vetting on an employee of this body?

4 COMMISSIONER PETERS: Sure.

5 CITY COUNCIL MEMBER YEGER: Without giving any
6 trade secrets that you may not -

7 COMMISSIONER PETERS: No, no there's no trade
8 secrets. There is a very detailed questionnaire that
9 a commissioner has to fill out. Its actually, I
10 believe online some place, isn't it? Yes. Its
11 actually online on our website. It is an incredibly
12 lengthy process that takes days and days just to fill
13 out. We then finger print people. We then go and
14 make sure they've paid their taxes. We run a bunch
15 of checks on them. Uhm, we do interviews. For the
16 city council, what I'm told, somebody will stop me if
17 I gotten this wrong. Is that we simply check to see,
18 is there an open or a previously substantiated DOI
19 investigation about that person, which is a very
20 limited subset of the things we can check for.

21 CITY COUNCIL MEMBER YEGER: Gotcha, okay. Thank
22 you very much Mr. Chairman.

23 COMMISSIONER PETERS: I got that right this time.

24 CHAIRPERSON TORRES: I have a quick question
25 about since we're on the subject of Rikers Island and

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2 a quick question about ACS and DOC's and the
3 implementation of the Raise the Age Law. There is a
4 policy dimension, but my question will be focused on
5 the oversight dimension. Uhm, so under the Raise the
6 Age law, New York City must transfer all 16 and 17-
7 year old's from Rikers Island to what are known as
8 specialized secure detention facilities. The city is
9 planning to staff youth detention facilities with
10 adult correction officers who in my opinion - not in
11 my opinion, I think have been shown to be ill
12 equipped to handle younger offenders and correction
13 mistreatment of youth detainees has been the subject
14 as you know, of a federal investigation and a court
15 settlement. A number of advocates and elected
16 officials have concerns that we run the risk of
17 transferring the Rikers Island Correctional cultural
18 and violence to these new facilities and in doing so,
19 in my opinion, defeating the very purpose of Raise
20 the Age. Is there a role for DOI and overseeing the
21 matter in which the city will implement the Raise the
22 Age law? Obviously, you cannot prevent the city from
23 staffing SSD's with correction officers, but do you
24 have a role to play in insuring that those officers
25 are properly trained to handle 16 and 17-year old's?

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2 COMMISSIONER PETERS: Uhm, we certainly do. We do
3 in this regard. We have jurisdiction over right now,
4 the city already has two facilities for juvenile
5 offenders. Cross Roads and Horizon, we have
6 jurisdiction over those facilities. We have done
7 investigations into those facilities. We have issued
8 policy and procedure recommendations to ACS about
9 those facilities. Uhm, as you know, we've actually
10 made some arrests related to some of the non-secured
11 detention facilities in the past. So, we have
12 jurisdiction in the same way that we do over the
13 jails over this and we've done investigations. Uhm,
14 and as the population increases, we will attempt to
15 shift resources to continue looking at that although
16 as I said, one of the issues we confront is that a
17 substantial chunk of our investigators are locked in
18 my agency because of various MOU's and indeed we have
19 in past budgets asked for more staffing for DOC,
20 which would be helpful in looking at this. So, there
21 is absolutely - there is a role. We will be looking
22 at this. We will be investigating this. As to the
23 broader policy of whether it's a wise idea to have -

24 CHAIRPERSON TORRES: I'm certainly not - I'm
25 expressing my own opinion, but I just want you to

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2 know it's a priority for me. Certainly, if it were
3 up to me, these facilities would be staffed with ACS
4 workers right. The city is going to staff them with
5 correction officers in the short-term and then there
6 is going to be a two-year transition to ACS workers.
7 What I would expect from DOI is to ensure that to the
8 extent that there are correction officers in these
9 facilities. That they are properly trained. That
10 they receive even more specialized training than ACS
11 workers receive and what efforts or progress is the
12 city making toward completing the two-year
13 transition? And can it be done much sooner? I don't
14 know what feasible, but I certainly hope that it can
15 be done much sooner.

16 COMMISSIONER PETERS: So, you should know that we
17 will absolutely be looking at this issue. We will be
18 looking at the training issue. We will be looking at
19 what's going on. I do think we need to be careful,
20 as I said, we have done investigations in these
21 facilities and it is not - they are not as staffed by
22 ACS workers now they have not been problem free.

23 CHAIRPERSON TORRES: Of course.

24 COMMISSIONER PETERS: So, the mere changing over
25 from DOC to - in some ways, just like the mere moving

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2 people from one facility to another isn't going to
3 solve the problems. The mere changing over from DOC
4 employees to ACS employees in and of itself, I don't
5 know is necessarily going to solve all of your
6 concerns, but we will absolutely be reviewing this.
7 It is a concern of ours as well.

8 CHAIRPERSON TORRES: Although maybe my facts are
9 wrong. I suspect cases of brutality are not as
10 prevalent among ACS workers as they are among
11 correction officers.

12 COMMISSIONER PETERS: Issues of brutality are
13 not. Issues of relationships and undo familiarity
14 however, can be. We have not seen issues of
15 brutality, that is true, but we have seen other
16 issues.

17 CHAIRPERSON TORRES: Which was the subject of the
18 federal law suit dating back to 2015 or 14?

19 COMMISSIONER PETERS: 15, I believe. Yes, issues
20 of brutality are not things that we've seen at the
21 facilities.

22 CHAIRPERSON TORRES: Okay. Council Member
23 Lander.

24 COUNCIL MEMBER LANDER: Thank you Mr. Chair.
25 Commissioner its good to see you. Uhm, two quick

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2 questions because we're late in this hearing and uhm,
3 so one, following up on the NYPD issue of sort of
4 where discipline did not match either what was
5 recommended by CCRB or what you guys thought. First,
6 the numbers you are referring to are from the use of
7 force report that you guys put out in October of
8 2015?

9 COMMISSIONER PETERS: Yes.

10 COUNCIL MEMBER LANDER: Which was primarily cases
11 that were before 2014 or so right?

12 COMMISSIONER PETERS: Most of those cases dated
13 to the prior administration. Uhm, we are as we do
14 with everything, we are very much following up on
15 that and hope to have other things to say about it.

16 COUNCIL MEMBER LANDER: So, I guess that's my
17 question, which you've answered, but I'm going to ask
18 it anyway and of course that was in the context
19 specifically of the use of force. You know, and I
20 think a lot of progress has been made at the NYPD and
21 this administration. I have a lot of respect for
22 commissioner O'Neil. If there is one area where I
23 really think we are still not where we need to be
24 especially it is in accountability, where there are
25 incidents of misconduct and obviously, that was in

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2 the news very much just a month or two ago on an
3 independent investigation. Which I think was more
4 focused on things coming out of IAB. Then the CCRB,
5 so I guess my question is light, both of the need to
6 kind of come back to this issue in light of the fact
7 that most of those were from the prior administration
8 and this one in the light of the fact that there is
9 some reason to be concerned more broadly about you
10 know, whether and again, this is in the context of a
11 small percentage of officers giving a bad name to a
12 much larger percentage of officers and to me, when
13 that happens, the good work of the vast majority of
14 officers is undermined. Not only by the conduct of
15 the very small percentage of officers who engage in
16 misconduct but by the fact that there is not
17 accountability when they do. So, it sounds like you
18 implied that this is something you're looking at, but
19 I guess I wanted to just ask it publicly. This seems
20 to me to be an area that is really important for you
21 guys to be focusing on.

22 COMMISSIONER PETERS: I agree with you. It is
23 absolutely an area that its important for us to be
24 focused on. We wrote the report in 2015. We then
25 wrote a follow up report that was issued I guess

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2 maybe two months ago looking at – one of the reforms
3 that came out of the 2015 report was the idea that
4 the NYPD would now for the first time require every
5 time force was used. Not excessive force, force. A
6 threat resistance investigation form, called a TRI
7 form would be filled out and so it seemed to us the
8 next most important thing to do is to see after
9 giving the NYPD some time to get this thing unveiled,
10 were they doing so? What we found was that in a
11 number of ways they were not consistently getting the
12 forms filled out and they were not consistently
13 reporting force. The force is still being
14 underreported. That was a report that we issued
15 roughly two months ago. But the next step is to look
16 at now that we know that force is still not being
17 fully reported and we need to make changes there,
18 what is happening in the disciplinary process? That
19 is something that absolutely needs to be looked at.
20 It is something I will be very honest with you, will
21 take some time for a variety of reasons. Uhm, these
22 things take time. Some of which, as I testified to
23 this committee under the prior chair. Uhm, there
24 have been issues with the NYPD's production of
25 documents and information. They have slowed

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2 investigations, but they have not prevented them.
3 Uhm, I assured this committee and I will assure you
4 again, that at such point that I believe that the
5 failure to produce information cannot be resolved
6 internally and is having a sufficiently negative
7 effect on our ability to do investigations that
8 requires coming back to the council and correcting
9 the testimony that I gave. I will do so, but my
10 testimony now stands. It has slowed investigations.
11 It has not prevented them, and we are still trying to
12 work through some of those issues.

13 COUNCIL MEMBER LANDER: I'm sorry. I appreciate
14 that, and I know this chair will want you to follow
15 up with him. Uhm, it makes me nervous that its going
16 to be awhile. I have to be honest. I feel like this
17 is a question that a lot of New Yorkers rightly have.
18 Uhm, it could be resolved by one PP obviously without
19 needing your Oversight and Investigation. The way
20 the administration has handled 50A makes it much
21 harder. So, I will leave it there. I feel like this
22 area is where your reports have been good. A lot of
23 changes at the NYPD have been good but the fact that
24 when there is documented use of force, in too many
25 cases the consequences minimal is less than the CCRB

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2 recommends. It just corrodes confidence, so we don't
3 need to go back and forth about it further, I'm glad
4 you guys are looking at it. I want you to know its
5 something that I at least and I think other members
6 of this body and the chair are eager for you to be
7 looking at.

8 COMMISSIONER PETERS: And please understand it is
9 a very serious priority for us. It is the reason we
10 wrote that report in 2015, so that we could say to
11 the public, to this council, to everybody who needs
12 to know. There has been a lot of talk about this
13 failure to discipline in the last couple of months
14 and there have been a number of articles written
15 about it. I'm not going to comment on any of the
16 articles or what we are doing vis a vis those
17 specific situations, but this is something that in
18 our defense, we've pointed out in October of 2015.

19 COUNCIL MEMBER LANDER: And to be clear the thing
20 that I'm upset about is not you have not done more
21 oversight and investigation of the reductions and
22 discipline. You know, so I agree with you that you
23 provided some evidence. There have been other
24 investigations that provide some evidence. I'd like
25 to see the problem get fixed more than more reports

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2 about it, but the tool we have here is to do
3 oversight so. Let me just ask one other question and
4 its possible that you've gone over this since you've
5 been here. This is about the restructuring, not on
6 the NYPD IG side, but on the SCI and Department of
7 Education side, because you know I've been reading
8 the Newspapers and heard from some folks in SCI as
9 well but there is one thing I just really want to
10 make sure of and ask you on the record. Because as I
11 understood it and was looking at it, even under as
12 things have been until now, the number of
13 investigators, of staff at the SCI relative to the
14 total within DOI is a much lower percentage then the
15 percent that the Department of Education is of the
16 New York City budget. Which is to say if anything
17 more resources need to go just as a matter of
18 proportion into focusing on the Department of
19 Education. So, I want to make sure obviously at a
20 minimum since DOE funds that work that there's not
21 any diminution of resources. But really what I think
22 is merited at least as I do the math, is an increase
23 in resources to look at DOE because again, the head
24 count has just been much smaller than the percent
25 that DOE is of the budget. And I know you know,

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2 obviously a concern people have raised is that as you
3 have positions that go across a number of different
4 of the squads, some resources could get essentially
5 diverted from DOE to being more broadly supporting
6 the DOI. What I just want to know from you is that
7 at a minimum there is no diminution of resources to
8 looking at DOE and that if I'm right, that the
9 proportion if anything should be increase, that
10 you'll look to do that over time.

11 COMMISSIONER PETERS: So, there has been no
12 diminution - let me go back to first principles. The
13 inspector general for the school system, whether we
14 title it Special Commissioner for Investigation of
15 the Inspector General. Technically it is titled
16 Special Commissioner for Investigation. I tend to
17 refer to it as the Inspector General because it is
18 important to me that we have consistency of
19 investigations. That we handle investigations
20 involving the school systems and the NYPD in the same
21 way that we do everywhere else and so that's the
22 reason for the internal nomenclature. That office
23 has always reported to DOI. It always will. It is
24 independent and always will be of the Department of
25 Education. There's been no diminution in resources.

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2 The newspaper article noted there is a position that
3 happens to be vacant there that we are using for an
4 overall DOI function. That does happen from time to
5 time because all of these IG's are dependent on uhm
6 DOI's overall functioning. I'm actually hopeful that
7 that's temporary and we've even said to OMB that
8 we're doing this in a temporary way and we'd like the
9 line back. Uhm, this is a very important area. I
10 certainly would not say no to additional staff.

11 COUNCIL MEMBER LANDER: Am I right as a matter of
12 math? That the head count as a percentage of total
13 DOI head count is substantially lower than the
14 percentage that the DOE budget represents of the
15 city's budget?

16 COMMISSIONER PETERS: That is, I believe that's
17 true. Somebody is going to sit here with a
18 calculator and do the math for both of us, but I'm
19 reasonably certain -

20 COUNCIL MEMBER LANDER: What is the head count by
21 the way? What is the number?

22 COMMISSIONER PETERS: This one I'll say it
23 publicly. 67 budgeted, 57 actual.

24 COUNCIL MEMBER LANDER: And the total DOI head
25 count?

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2 COMMISSIONER PETERS: 708 did you just say? Oh,
3 okay, 67 is the budgeted head count for SCI. Overall
4 DOI has a little over 700 people, so its about 10%.
5 I strongly suspect that the NYPD, I'm sorry, that the
6 DOE is more than 10% of the city's.

7 COUNCIL MEMBER LANDER: Yeah, its over 20.

8 COMMISSIONER PETERS: Percent of the head count?

9 COUNCIL MEMBER LANDER: Yeah.

10 COMMISSIONER PETERS: I do want to caution that
11 there are lots of factors that go into decisions
12 about how to allocate resources of which size is only
13 one. There are agencies that are small but require
14 more intensive review then agencies that are larger
15 that require less, but there is no doubt that size is
16 a factor. Uhm, there is no doubt that with more
17 staff we could do more. I am hopeful in the next six
18 months it is extremely time consuming to add staff.
19 Especially forensic accountants and auditors. If you
20 want a life tip - what you could study in college to
21 guarantee that you'll have a job when you get out of
22 college, forensic accounting and auditing.

23 COUNCIL MEMBER LANDER: My sons a freshman and
24 I'm going to call him right now and say, I got a good
25 job for ya.

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2 COMMISSIONER PETERS: All jokes aside. I have
3 said.

4 COUNCIL MEMBER LANDER: Nursing and also forensic
5 accounting.

6 COMMISSIONER PETERS: I have had conversations
7 with Deans at various schools in New York and
8 including John Jay and said we will basically hire as
9 many qualified forensic auditors and accountants as
10 you can graduate. You know, we'll hire them as fast
11 as you can graduate them. Uhm, the problem is my
12 Deputy Commissioner pointed out, we don't pay as much
13 as the private sector or even a lot of other places.

14 COUNCIL MEMBER LANDER: Or hire as quickly.

15 COMMISSIONER PETERS: And therefore, can't hire
16 as quickly, but I would like to add to the schools
17 Inspector General more accountants and auditors
18 because they spend a huge amount of money on
19 contracting and I would like DOI to be able to take a
20 closer look at that contracting and where that money
21 is going. And it is on my list of things to do over
22 the next four to six years. That is on my four to
23 six - increasing that function is on my four to six-
24 year plan.

25

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2 COUNCIL MEMBER LANDER: That's good to hear.

3 Thank you for that. I think we share the belief that
4 that needs to – you know is a critical area of
5 oversight. Where lots of stuff is happening that
6 can't possibly get the level of oversight and
7 attention it needs so. Thank you. Thank you, Mr.
8 Chair.

9 CHAIRPERSON TORRES: A few more questions and I
10 will hand it over to Council Member Salamanca. Uhm,
11 you spoke of the NYPD slowing down investigations.
12 I'm not a lawyer, but that sounds like obstruction.

13 COMMISSIONER PETERS: Obstruction as a legal
14 matter is a very specific, precise thing and if there
15 was anything meeting the legal precise definition of
16 obstruction, we would take appropriate action. Uhm,
17 and let me be clear, I'm not suggesting that anything
18 akin to the legal definition of obstruction is going
19 on. I want to be very clear about that. Uhm, we
20 have had issues as I've testified before, with the
21 pace at which the NYPD produces material and, in some
22 instances, have had disagreements with them about the
23 production of certain materials. While that has
24 slowed some investigations including one that I
25 expect will have a lot more to say about in the

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2 coming days. It has not prevented any
3 investigations, nor have we yet hit the point where I
4 have felt that our attempts to resolve this by
5 working with the NYPD have hit a wall.

6 CHAIRPERSON TORRES: I'll phrase it less
7 provocatively then. Uhm, are these slowed down
8 investigations in good faith or bad faith? Likes is
9 there you know there's disagreement, bureaucratic
10 inertia, or is there an intent to impede your ability
11 to do your job?

12 COMMISSIONER PETERS: I can't answer that
13 question, because I cannot read minds.

14 CHAIRPERSON TORRES: But you can infer from
15 behavior. If you feel like you're in no position to
16 answer to answer that question I'm -

17 COMMISSIONER PETERS: We are still - let me put it
18 to you this way. We are still discussing these
19 issues, both with the NYPD and with City Hall. We
20 have not yet hit the point at which I believe it is
21 necessary to come to this council and say, the issues
22 are unresolvable. Uhm, if we hit the point at which
23 I determine that the issues are unresolvable, I will
24 be back to this council, but we are not there at this
25 moment.

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2 CHAIRPERSON TORRES: Duly noted. Is there any
3 other agency that slows the production of documents?

4 COMMISSIONER PETERS: The way NYPD does?

5 CHAIRPERSON TORRES: Yes.

6 COMMISSIONER PETERS: Not now. There has in the
7 past but not now.

8 CHAIRPERSON TORRES: Okay. I want to ask a few –

9 COMMISSIONER PETERS: I'm sorry, I just wanted to
10 ask somebody who does this everyday whether I
11 overstated. She thinks I haven't.

12 CHAIRPERSON TORRES: I want to ask just a few
13 quick questions about construction safety.

14 COMMISSIONER PETERS: Sure.

15 CHAIRPERSON TORRES: And then I want to hand the
16 mic to Council Member Salamanca. As you know, we
17 have crisis of construction workers fatalities in New
18 York City. Uhm, how many investigations has DOI
19 conducted regarding construction safety?

20 COMMISSIONER PETERS: Uhm, part of that and I
21 don't want to do one of these what is, is mean. Part
22 of that depends on how you define an investigation
23 and here why. Every time there is a serious accident
24 on a construction site, whether somebody dies or is
25 seriously injured. At the same time that the NYPD

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2 and fire department are alerted to this, DOI is also
3 alerted to this and staff from our Construction squad
4 go out there. So, literally once or twice a week we
5 will get a notif- yeah, I think maybe once or twice a
6 week but certainly many, many times a month we will
7 get one of these alerts and we will send people out
8 there. If that constitutes an investigation, there's
9 a huge number of investigations. In the overwhelming
10 number of those incidents, our folks come back from
11 you know the onsite investigation and inform me or
12 inform the associate [inaudible 2:13:51] and the
13 associate commissioner will inform me as appropriate
14 that there is nothing for us. Meaning there is no
15 evidence that the injuries were the result of
16 somebody violating DOB regulations and at which case
17 there is nothing for us to do. We are not the NYPD,
18 we are not the fire department. In some small subset
19 of those cases, they will say, it maybe that there
20 are violations of DOB regulations and we will do a
21 more comprehensive investigation. In most of those
22 cases, the conclusion is that there is no criminal
23 activity. Somebody violated DOB regulations, but not
24 the way that you could demonstrate was sufficiently
25 linked to the injury to prosecute somebody and in a

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2 small number of cases, our folks will come back and
3 say we think there is and at which point we will sit
4 with a district attorney and we will suggest to them
5 that this person should be prosecuted. In most, not
6 all of those instances the DA will then agree to do
7 so. In some instances, the DA will say we just don't
8 think the evidence is enough to convince a jury and
9 that is - let me be clear, that is absolutely their
10 right. Uhm, I believe in the last 18 months to 2
11 years we've done 3 manslaughter cases. Which is more
12 than have been done in a long time. There are
13 although I don't discuss ongoing investigations, I
14 will tell you there are several other investigations
15 like that that are going on that I believe by the end
16 of the year will result in additional prosecutions.

17 CHAIRPERSON TORRES: Now in addition to
18 overseeing DOB's enforcement of the building codes,
19 is a sense in which you play an enforcement role in
20 relation to contract. You have the authority to
21 arrest them. If you find evidence of criminal
22 behavior, do we have stats on the arrests of
23 contractors or responsible either injuries or
24 fatalities on construction sites.

25

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2 COMMISSIONER PETERS: I can get you — I don't —
3 other than the three manslaughter cases that I'm
4 aware of, we can get you some more information on
5 that.

6 CHAIRPERSON TORRES: Okay. How large is the squad
7 dedicated to construction safety?

8 COMMISSIONER PETERS: That's not a number that we
9 generally put out. It is large, certainly with more
10 staff. There are other things that we could do to go
11 back to my constant complaint about auditors and
12 analysts. Additional auditors and analysts would
13 allow us to do some larger proactive reviews both of
14 where the contractors are routinely violating DOB
15 rules. Also, bluntly whether real estate owners are
16 in violation to various DOB rules as a relate to
17 tenant harassment.

18 CHAIRPERSON TORRES: My question are companies
19 there?

20 COMMISSIONER PETERS: Without commenting on
21 specifically on that case, because as you know we
22 never comment on things that are ongoing.

23 CHAIRPERSON TORRES: Fair enough.

24 COMMISSIONER PETERS: We have as you know, I
25 believe the year before last, we actually did arrest

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2 a landlord for essentially filing false paperwork and
3 creating hazardous conditions for tenants and we
4 arrested them for all of that. We certainly have
5 jurisdiction to do that. I'm obviously not going to
6 comment on any specific investigations.

7 CHAIRPERSON TORRES: The City Council enacted a
8 landmark construction safety legislation, a local law
9 196. Which requires extensive safety training and a
10 site safety training card for every worker. Do you
11 have the resources necessary for the enforcement of
12 that law?

13 COMMISSIONER PETERS: We do some of that
14 enforcement and as you know we've done both arrests
15 and reports related to site safety cards and there is
16 no doubt that the forged site safety cards are a real
17 problem. There is no way that DOI with our present
18 staff or anything like it, could fully enforce that.
19 A chunk of that enforcement would have to reside with
20 DOB. Uhm, we simply at 700 staff overall, I don't
21 think it's reasonable to assume that we could do the
22 full enforcement of that.

23 CHAIRPERSON TORRES: Are you seeking an expansion
24 in that area?

25

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2 COMMISSIONER PETERS: Uhm, somebody is checking
3 on the exact new needs – it would be in our new needs
4 request, which I believe you have but if they give me
5 an answer in the next minute, I will. If not, I will
6 send you a letter with an answer.

7 CHAIRPERSON TORRES: Okay.

8 COMMISSIONER PETERS: Sorry not to have every
9 detail.

10 CHAIRPERSON TORRES: No, I think and since we're
11 – I'm going to ask one more – I don't have it with me
12 right here, but I will ask – I'm going to make a
13 statement about Kushner companies. I know you cannot
14 but obviously, we found more than 80 falsified
15 filings for building permits across 34 properties in
16 the span of 4 years. There are these forms, these
17 PW1 forms. I will ask simple yes or no questions.
18 Do you have occupied units that will remain occupied
19 during construction? Does your building have rent
20 regulated units and when it came to the question in
21 particular, we have reason to believe that Kushner
22 companies lied repeatedly, so my question is, have
23 you investigated the practice of falsifying PW1
24 forms? Have you made arrests in relation to the
25

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2 falsification of PW1 forms? What has been DOI's work
3 in this area?

4 COMMISSIONER PETERS: Sure. About a year and a
5 half ago we arrested a landlord who essentially
6 falsified a series of forms. I do not know off the
7 top of my head whether it was a PW1 form or something
8 else, but we will check on that and I will get back
9 to you on a written follow up. But certainly, it was
10 about false filings that allowed the landlord to
11 create uninhabitable situations for tenants and
12 didn't attempt to get the tenants out. So, we've
13 done these cases, we have the jurisdiction. We did
14 arrest that landlord. We certainly, where there is a
15 wholesale failure to accurately report on these forms
16 have the right to do that. I want to caution that
17 criminal cases are tricky in this regard, because you
18 need to demonstrate not only that the form is false,
19 but that the person who signed the form knew it was
20 false when he or she signed it and one of the issues
21 that comes up in a lot of these cases. Not just
22 this, but a number of the others. Is that you have,
23 unless the form exquisitely says, I personally have
24 knowledge of everything. I personally - this is why
25 were able to do the asbestos cases. We arrested 17

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2 asbestos inspectors for falsifying forms saying there
3 was no asbestos on this construction site. Go ahead
4 feel free to knock down the walls. When in fact,
5 either there was asbestos, or they'd never checked.
6 Because that form as written, requires you to say, I
7 personally was there and did this stuff. When the
8 form doesn't have that, I don't believe the PWI form
9 does, but again, we'll check and get back to you.
10 It's a much trickier to do criminally because you
11 need to prove that the person who signed it also knew
12 - in other words if one person knows you know, if one
13 person in the company knows that there are rent
14 control tenants and another person in the company
15 fills out the form and the two of them didn't talk,
16 you may have a regulatory matter, but you probably
17 don't have a criminal matter. That's probably more
18 detailed than you wanted but.

19 CHAIRPERSON TORRES: And one more problem with
20 those forms, is that it states that falsifying a PWI
21 is a misdemeanor, but my understanding is under state
22 law, falsifying a legal instrument could be a felony.

23 COMMISSIONER PETERS: It can be. Yes.

24 CHAIRPERSON TORRES: And it seems to me it should
25 say that on the form, but that's my policy opinion.

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2 COMMISSIONER PETERS: I can't well if we -- we do
3 not even confirm whether investigations are ongoing,
4 so I'm not going to -- but if we were to do an
5 investigation and were to find that the way the form
6 is constructed is an impediment to doing criminal
7 cases, then we would absolutely issue a report saying
8 that.

9 CHAIRPERSON TORRES: Absolutely. Thank you,
10 commissioner. Council Member Salamanca.

11 COUNCIL MEMBER SALAMANCA: Thank you Mr. Chair.
12 Good afternoon commissioner. Excuse my voice, I have
13 a cold.

14 COMMISSIONER PETERS: Good afternoon.

15 COUNCIL MEMBER SALAMANCA: Uhm, commissioner I
16 wanted to just ask you a quick question about
17 oversight and investigations on the Department of
18 Design and Construction. Has your agency done any
19 investigations or audits in terms of there projects
20 the last four years?

21 COMMISSIONER PETERS: I would like to I mean
22 certainly, they are within one of our squads and
23 certainly we have done -- I don't believe there is a
24 city agency that we haven't done some oversight of.
25 I am not aware of any major investigations that have

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2 been completed in the last year involving DDC but I'm
3 speaking really slowly in the hopes that if I'm
4 saying something really stupid, somebody in my staff
5 is going to stop me. Uhm, but if I could, I would
6 like to get back to you on that one.

7 COUNCIL MEMBER SALAMANCA: Alright, I just you
8 know, I just wanted to express my frustration with
9 the Department of Design and Construction. I will
10 give you an example. I have a project in my
11 district. It's called [inaudible 2:23:14] uhm, it's
12 one of the largest DC public space projects with a
13 budget of about \$13 million. They started
14 construction in May of 2014 and today is March of
15 2018 and the plaza has not been completed. There has
16 been issues with the contractor filing for
17 bankruptcy. Work not being done and you know, I've
18 had housing developments built faster than a plaza.
19 You know in one of my busiest hubs in my district and
20 I would really love to see your agency, you know, pay
21 more close attention to some of these projects. That
22 I agree some of my colleagues are raising frustration
23 with DDC as well in terms of the delays of their
24 projects.

25

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2 COMMISSIONER PETERS: So, with your permission
3 Council Member, what I'd like to do is have somebody
4 from the squad that deals with DDC. Reach out to
5 your staff to get the details of this particular
6 incident and we will take a look at it and get back
7 to you.

8 COUNCIL MEMBER SALAMANCA: Sounds great thank
9 you. Thank you, Mr. Chair.

10 CHAIRPERSON TORRES: Commissioner you've been.
11 I'm just going to run through a few issues and then -

12 COMMISSIONER PETERS: I'm at your disposal.

13 CHAIRPERSON TORRES: Some issues that have been
14 obviously in the papers and - franchise agreements.
15 As you know, as you might know, Charter
16 Communications, otherwise know as Spectrum has been
17 found by do it to be out of compliance with this
18 franchise agreement. In addition to failing to
19 comply with the franchise agreement, Charter is under
20 investigation from the Attorney General for allegedly
21 defrauding New Yorkers over internet speeds and
22 performance. Does DOI have oversight over franchise
23 agreements?

24 COMMISSIONER PETERS: I believe that we would to
25 the extent that we are giving something of value to

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2 an agency, but I'd like permission to respond to that
3 to you in writing after I can talk with my council
4 staff.

5 CHAIRPERSON TORRES: Fair enough because I find
6 DO Its enforcement of franchise agreements
7 lackadaisical and it seems to me you have the most
8 institutional memory on investigations and there
9 should be a role for DOI in enforcing these franchise
10 agreements. Uhm, so as far as you know, there is no
11 Inspector General? Which squad covers DO It?

12 COMMISSIONER PETERS: Do it is in squad 4. So,
13 we do have an inspector. Obviously, there is an
14 inspector general. Squad 4 has Do it. Alright, its
15 5. I thought it was 5. She told me 4, but no squad
16 5.

17 CHAIRPERSON TORRES: Squad 5, okay.

18 COMMISSIONER PETERS: It is in squad 5 and in
19 fact as you we issued about two and half years ago a
20 very, very, detailed report on the 911 completion
21 project that was done by them. Uhm, on the franchise
22 agreement issue, let me talk with both squad 5 and
23 council, my council and give you a more forceful
24 answer.

25

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2 CHAIRPERSON TORRES: Understood. Second issue,
3 according to a New York Post article dating back to
4 February 27, 2018. Two of New York's biggest
5 insurance providers, Empire, Blue Cross Blue Shield
6 and Emblem Health have been accused of defrauding tax
7 payers in the tune of \$1 billion. Are you aware of
8 this matter?

9 COMMISSIONER PETERS: I am aware of the matter,
10 and I cannot comment at this time beyond telling you
11 that I'm aware of the matter.

12 CHAIRPERSON TORRES: Does DOI have jurisdiction
13 over the matter?

14 COMMISSIONER PETERS: Yes.

15 CHAIRPERSON TORRES: Okay. Any updates? I want
16 to respect the confidentiality of investigations, so
17 I want to see how I can ask this question.
18 Obviously, there's ongoing continuing interest in the
19 lead safety. Are you in a position to confirm
20 whether NYCHA is properly conducting lead safety
21 inspections. Properly conducting remediation and
22 abatement whether NYCHA is in compliance with
23 federal, state, and local laws governing lead safety.

24 COMMISSIONER PETERS: I honestly cannot confirm
25 that at this time.

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2 CHAIRPERSON TORRES: Okay. Another issue is
3 administrative subpoenas. According to a New York
4 Post article dating back to January 8, 2018, the NYPD
5 issued an administrative subpoena to Google for the
6 purpose of obtaining the "entire digital history of a
7 17-year-old high school student". Has DOI looked
8 into the practice of improperly using administrative
9 subpoenas in the place of what should be a court
10 order or a judicial subpoena?

11 COMMISSIONER PETERS: Yeah, I can't other than to
12 tell you that I'm aware of that issue, I can't
13 comment.

14 CHAIRPERSON TORRES: You are aware of that issue?

15 COMMISSIONER PETERS: I'm aware of the issue and
16 I can't comment further. We are aware, DOI with
17 large is aware of the issue.

18 CHAIRPERSON TORRES: This one obviously has been
19 widely covered. Harvey Weinstein, the former film
20 producer, obviously sexually harassed Ambra Gutierrez
21 here in New York City in 2015. The Governor has
22 recently ordered the Attorney General to investigate
23 the Manhattan District Attorney's handling of the
24 case. The account of the NYPD's handling of the case,
25 all come from within the NYPD. Has there been an

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2 independent examination of the NYPD's handling of the
3 Harvey Weinstein case.

4 COMMISSIONER PETERS: The issue of the NYPD's
5 handling of sexual assault cases is one we are very
6 much aware of issues relating to the NYPD's handling
7 of sexual assault matters and beyond that I cannot
8 today comment further.

9 CHAIRPERSON TORRES: And the reason I'm asking
10 specifically about Harvey Weinstein is you know there
11 is a perception that powerful people are above the
12 law. That law enforcement institutions are much more
13 aggressive in holding account everyday people then
14 powerful film makers and that's obviously a cretic
15 that's been leveled against the DE's office but as
16 far as I know there's been no independent examination
17 of the NYPD's handling of the Harvey Weinstein case.
18 I understand there's confidentiality, but I just
19 wanted to raise it as a cause -

20 COMMISSIONER PETERS: Right, I at this moment and
21 time, I think it is a fair - questions about the
22 NYPD's handling of sexual assault cases are fair
23 questions but I can't go beyond saying anything about
24 that just yet.

25

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2 CHAIRPERSON TORRES: I mean you have the
3 authority to investigate the NYPD's handling
4 particularly of Harvey Weinstein's case.

5 COMMISSIONER PETERS: We do. I want to be
6 careful about one thing here. We do. As a general
7 rule, I don't believe it is a good idea for the
8 Department of Investigation to reinvestigate a
9 specific case handled by the NYPD, for a variety of
10 reasons. One is a matter of resources and two is
11 absence some genuinely and improper conduct but
12 having said that, the broader way in which these
13 kinds of cases are handled is something that we have
14 an absolute obligation to look at and will have more
15 to say about it in the future.

16 CHAIRPERSON TORRES: Although there is a
17 difference between investigating the Harvey Weinstein
18 case versus investigating the NYPD handling of the
19 case, or the DA's handling of the case. Those are -
20 so I'm not requesting, I'm not talking about
21 reinvestigation. Its overseeing best practice -

22 COMMISSIONER PETERS: I understand you and then
23 there are a number of issues about best practices and
24 I don't believe that they should be limited solely to
25 the way that one particular case was handled.

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2 CHAIRPERSON TORRES: Okay. I understand that
3 obviously the disinclination to look into individual
4 cases right, but could an exception be made, and now
5 I'm speaking hypothetically. Could an exception be
6 made when there is concern that a public powerful
7 figure might be – that there is a standard for the
8 powerful and then there is a standard for everyone
9 else. Could an exception be made for high profile
10 cases where there's concern that there might be
11 preferential treatment from law enforcement?

12 COMMISSIONER PETERS: It could be, but I think
13 that is the kind of decision that needs to be
14 exercised remarkably judiciously.

15 CHAIRPERSON TORRES: I think that's fair to say.
16 Uhm, that is the extent of my questioning to you.
17 Commissioner, you have been generous with your time
18 and I'm an admirer of your work and I'm an admirer of
19 really the transformation of DOI and to a much more
20 robust oversight agency and you can count on my
21 committee to be as supportive as we can be.

22 COMMISSIONER PETERS: Thank you very much and I
23 really appreciate your time.

24 CHAIRPERSON TORRES: Absolutely, thank you. With
25 that said, this hearing – Now we are proceeding to

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2 public testimony, so we have Mr. Komatsu. Ms.
3 O'Grady from Samaritan Suicide Prevention Center
4 and Ms. Augustine from Samaritans of New York
5 Suicide Prevention. And can we have a two-minute
6 timer.

7 FIONA O'GRADY: Good morning.

8 CHAIRPERSON TORRES: Good Afternoon.

9 FIONA O'GRADY: Good afternoon. Yes, it was a
10 long and fabulous hearing and new topics from a
11 suicide prevention center. Good Afternoon. My name
12 is Fiona O'Grady, I'm Director of Government
13 Relations for Samaritan Suicide Prevention Center.
14 Thank you, Chairman Torres and the committee, for the
15 chance to speak today. As we all too often these
16 days violent and self-harming behavior are on the
17 rise impacting our families, friends, and communities
18 where we work and where we live. This problem
19 touches people of every age, race, sexual identity,
20 and culture especially those living in poverty. The
21 mentally ill, veteran, immigrants, and LGBT and Q
22 adolescents. So, it makes sense that Mayor de Blasio
23 would make preventing suicide a priority. What does
24 not make sense is that in this battle to help those
25 most at risk, the Mayor would eliminate funding for

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2 Samaritans. The only community-based agency in New
3 York whose soul mission is to prevent suicide.

4 Samaritans created New York City's first suicide
5 prevention hotline 35 years ago answering 1.3 million
6 calls from those in distress and when the Mayor
7 determined New York needed to expand its suicide
8 prevention network, one of the first things he did
9 was to cut funding for Samaritans hotline.

10 Samaritans started the city's first suicide
11 prevention education program 30 years ago providing
12 40,000 to New York City DOE and community agency
13 health care staff with needed crisis response
14 training and when the Mayor's office issued contracts
15 to provide that training to New York City schools he
16 again rejected Samaritans who last year provided uhm
17 we taught close to 800 psychologists, social workers,
18 etc. from nearly 600 schools city wide. The same
19 with volunteerism. The Mayor promotes it, but cuts
20 funding to a hotline that staffed entirely by nearly
21 100 community volunteers who donate over \$750,000 in
22 free labor. Especially when the Mayor state in
23 thrive that we'll work with our partners to create
24 new programs and make them work, we would like the
25 opportunity to work with you to look into this and on

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2 that note, I'd like to pass on the next comments to
3 my colleague Sambal[SP?] Augustine, a member of
4 Samaritans Executive Leadership Team. Sambal.

5 SAMBAL AUGUSTINE: Good afternoon. I want to
6 thank the committee for this time. My name is
7 Sambal Augustine and I first came to the Samaritans
8 15 years ago as a hotline volunteer. At the time,
9 I was studying to go to medical school, but my
10 experience at Samaritan changed my life. People
11 talk about wanting to make a difference in the
12 world we live in. Samaritans volunteers actually
13 do something about it. Uhm, the first lesson we
14 learn on the hotline is to shut up, because you
15 can't be listening if your doing all the talking.
16 We learn about how judgmental we can be, how often
17 we make assumptions, await topic that make us
18 uncomfortable. Mostly we learn to respect the fact
19 that people are unique and complex and there are no
20 easy answers. It humbling work because it forces
21 you to realize when you are trying to help someone
22 and its not about you. An important realization if
23 you are going to be effective talking to someone
24 who's depressed and feeling like they're standing
25 on the edge of a cliff. Samaritans has over 100

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2 volunteers that reflect the city's [inaudible
3 2:38:21] city. They are caring, devoted, when they
4 complete the intensive emotional boot camp
5 training, they work one shift a week, once a month
6 and overnight from 11 pm to 8 am in the morning.
7 Samaritans volunteers do what it takes to make a
8 difference. They make the city more responsive to
9 people when they are most vulnerable. Samaritans
10 provide a necessary alternative to other services
11 and should be embraced by the Mayor and the
12 Department of Health. Why they do not, is
13 certainly a question. At the same time Samaritans
14 most thank this council for without your ongoing
15 support, our hotline would have closed years ago
16 and on behalf of Samaritans Volunteers, I want to
17 thank you.

18 CHAIRPERSON TORRES: Thank you.

19 MR. KOMATSU: HI. I'm [Inaudible 2:39:13]
20 Komatsu, we've met previously. Uhm, on January 8th
21 I tried testifying in opposition to your Right to
22 Know Act Bill in the blue room of City Hall.
23 Members of NYPD actually tried to prevent me from
24 entering City Hall for that purpose. So, there was
25 some discussion earlier today in this meeting about

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2 NYPD issues oversight also with regards to HRA.
3 Uhm, I gave you some information to look at in your
4 spare time. Currently defending a frivolous
5 criminal prosecution on me in the Bronx, but I
6 think 12 days after I testified on December 12th or
7 December 14th in City Hall I was illegally stopped,
8 ceased, arrested, in retaliation for just walking
9 to a drug store in a public area. So, if your
10 having the meeting today to I guess make an inquiry
11 whether there is sufficient oversight of the NYPD,
12 I talked to the commissioner on February 23rd at the
13 New York Law School about this federal law suit
14 against the Mayor's head of security. He told me he
15 is not going to answer my questions and he claimed
16 I filed a law suit against him. I haven't, so if
17 I'm having these face to face conversations with
18 the appropriate people, I'm not getting appropriate
19 [inaudible 2:40:21]. When I tried going to your
20 October 4th Town Hall meeting by Law School, the
21 NYPD kept me out of it. So, if I'm a whistle
22 blower, if I have a first amendment right to walk
23 through the doors, conduct myself lawfully, and I
24 brought it to your colleagues attention that this
25 has been a repeated practice where by, when the

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2 Mayor was up for reelection, using these public
3 meetings as campaign events and I can't walk
4 through three of the doors, that's actually voter
5 fraud and voter suppression if you think about it.
6 So, I guess at the end of the day, I don't mean to
7 waste your time. The reason why I'm here is I live
8 in Housing for Veterans by Katona Park. The
9 landlord did a bade and switch. They're using tax
10 payer money. Uhm, they are going to have a fund
11 raiser in May and they're not [inaudible 2:41:02].
12 They don't have the building registered with HPD or
13 HRA and HPD. They are not doing a darn thing, so
14 can you?

15 COMMISSIONER PETERS: I'll have my staff get
16 your information and then we can follow up with HPD
17 absolutely.

18 MR. KOMATSU: Thank you. No, he is the person
19 who assaulted me on July 2nd.

20 COUNCIL MEMBER SALAMANCA: Is it your testimony
21 that you were stopped by the police from going to
22 testify at a hearing at the blue room, then several
23 days later at a CVS in the Bronx, you were stopped
24 by different police and those two things are
25 connected?

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2 MR. KOMATSU: Ah, there not connected, its just
3 coincidental but in total its happened to me more
4 than 20 times at public meetings. Uhm, there is
5 collaborating witnesses, its on video, I submitted
6 formal requests to the NYPD. I had their own video
7 confirming it.

8 COUNCIL MEMBER SALAMANCA: Okay, alright.

9 MR. KOMATSU: If you want a copy of the video -

10 COUNCIL MEMBER SALAMANCA: No, no, no, I'm good.
11 Thank you very much.

12 MR. KOMATSU: Thanks.

13 CHAIRPERSON TORRES: Thank you for your
14 testimony. Are we entering any testimony for the
15 record? Okay, great. So, with that said, this
16 meeting is adjourned. [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 April 1, 2018