

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

----- X

March 26, 2019
Start: 12:14 pm
Recess: 1:50 pm

HELD AT: Committee Room - City Hall

B E F O R E: RICHIE TORRES
Chairperson

COUNCIL MEMBERS: Carlina Rivera
Keith Powers
Ben Kallos
Diana Ayala
Rafael Salamanca
Rory I. Lancman
Kalman Yeger
Mark Treyger
Helen Rosenthal

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

Margaret Garnett, Commissioner
Department of Investigations (DOI)

Greg Waltman
G1 Quantum

Talaki Kamatsu (sp?), New York Resident

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

3

2 SERGEANT-AT-ARMS: Test. Test. This
3 is a test. Today's date is March 26th, 2019. This
4 is a Committee hearing on Oversight and
5 Investigations being recorded by Sergeant-at-arms,
6 Aaron Lopez.

7 [background comments]

8 CHAIRPERSON TORRES: We will start.

9 [gavel]

10 SERGEANT-AT-ARMS: Quiet down, please.
11 Quiet down.

12 CHAIRPERSON TORRES: Thank you. Thank
13 you. Good morning. My name is City Council member
14 Richie Torres and I am the Chair of the Oversight and
15 Investigations Committee. I want to thank the
16 Speaker, again, for appointing me for the Chair for
17 this Committee and I'm looking forward to learning
18 more about the Department of Investigation's budget
19 and how it addresses the needs of all New Yorker's.
20 The Committee will review the department's proposed
21 budget for fiscal 2020 and he relevant sections of
22 the preliminary Mayor's management report for fiscal
23 2019. The Department of Investigations promotes and
24 maintains integrity and efficiency in government
25 operations across the city. DOI's fiscal 2020

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 preliminary budget totals 38.4 million including 31
3 million for personnel services to support 378
4 positions and 7.4 million in other than personnel
5 services. We've got a lot of work ahead holding
6 public officials accountable, ensuring public money
7 is spent lawfully, and building faith in honest
8 government. On November 16th, Mayor Bill DeBlasio
9 nominated Margaret Garnett to serve as the Commission
10 of the Department of Investigation. I want to, once
11 again, congratulate Commissioner Garnett for her
12 appointment. I am looking forward to working with
13 you, Commissioner Garnett, and continue to discuss
14 with you and your team how the City Council can be a
15 partner to DOI and advocate on behalf of its needs,
16 budget, and otherwise. The committee would like to
17 learn how the fiscal 2020 preliminary budget supports
18 the department's ongoing efforts. The committee is
19 also interested in learning how we can work together
20 to improve operations and infrastructure, as well as
21 what the department plans to do to address the
22 extended time to complete a background investigation,
23 as well as a headcount deficit. I also want to make
24 sure that we thank our committee staff for their hard
25 work. Finance analyst, Anna Maria Camilla Vega, unit

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

5

2 head, Aisha Wright, and my Deputy Chief of Staff,
3 Romina Enea, and Raymond Rodriguez. I'd also like to
4 recognize my colleagues who are joining us today,
5 including the incomparable council member Rafael
6 Salamanca. I'd like to welcome and thank
7 Commissioner Garnett, our background investigators,
8 and inspector general's for the work that they do.
9 I'm looking forward to hearing from the Commissioner.
10 Please swear the Commissioner in. Okay. I guess I
11 will swear you in. Do you swear to tell the truth
12 and the whole truth and your testimony before the
13 city Council and your responses to city Council
14 member's questions? Okay. You may proceed. Thank
15 you, Commissioner.

16 COMMISSIONER GARNETT: Good afternoon,
17 Chair Torres and members of the committee on
18 oversight and investigations. My name is Margaret
19 Barnett and I am the Commissioner of the New York
20 City Department of Investigation. Thank you for
21 inviting me to address the committee on DOI's
22 preliminary budget for fiscal year 2020 and on the
23 work we are doing to strengthen DOI's role as a
24 premier law enforcement agency with independent
25 oversight of New York City. I want to say, at the

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 outset, that DOI is making a new needs request for 13
3 additional positions and DOI background
4 investigations unit with a funding request for 10 of
5 those 13 positions to ensure that we are able to
6 properly address the backlog of investigations in
7 this area and provide essential information for
8 hiring agencies across the city. I do not make this
9 request lightly and I will provide c context further
10 in my testimony so there can be a full understanding
11 of this critical problem and why we believe that
12 these additional resources are required to address
13 it. DOI's preliminary expense budget for fiscal year
14 2020 is 38.4 million dollars, which consists of 30.98
15 million that supports approximately 378 full-time
16 staff positions and 7.42 million for other than
17 personal services such as supplies, equipment, and
18 space. Included in the 30.98 million for personal
19 services is 3.45 million in inter-city funding, which
20 is funding we receive from other city agencies such
21 as through [inaudible [0:4:38] of understanding with
22 13 city agencies, which collectively supports 60 of
23 the approximately 378 positions. There are an
24 additional 221 headcount positions funded through
25 various arrangements with other city agencies,

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

7

2 including the staff working at DOI's inspector
3 general for the New York City Housing Authority,
4 Inspector General for Health and Hospitals, and
5 Inspector General for the School's Construction
6 Authority. This brings the total staff headcount who
7 report through DOI's chain of command to 599. In
8 other words, approximately half of our staff are
9 funded through various financial arrangements with
10 other city agencies or authorities. DOI has been
11 asked to identify savings and its budget.

12 Specifically, we have been asked to save 1.235
13 million over the next two fiscal years. I am pleased
14 to report that we have already met our target of
15 350,000 in savings for fiscal year 2019, primarily by
16 reducing our overtime costs. And we have a plan that
17 should enable DOI to be on track to save the entire
18 requested amount for fiscal year 2022. In the 3 1/2
19 months since I became Commissioner of DOI, I have
20 seen firsthand the distinct role that DOI has within
21 city government. I and my executive team have been
22 particularly impressed by the breadth of
23 investigations on the agency's docket and the value
24 the agency brings to the city, its employees, and the
25 public at large. DOI's cases touch all facets of

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2

3 city government, from construction fraud and safety
4 to violence on Rikers Island to theft of city funds
5 and property and fraud of all kinds committed through
6 the submission of false records to the city to cover
7 up an array of schemes such as faked inspections,
8 home visits never made to New Yorkers in need, and
9 fabricated business violations to scam company owners
10 out of money. DOI is there on these matters and many
11 others protecting the public, safeguarding taxpayer
12 funds, and upholding the integrity of city operations
13 and the dignity of public service. Since December, I
14 have immersed myself in DOI's work understanding how
15 we conduct investigations, how we use our resources,
16 and how we make decisions. I also wanted to know how
17 DOI was perceived by those with whom we do business.
18 Particularly other law enforcement agencies and the
19 city agencies we oversee and I wanted to visit some
20 of the unique sites over which we have jurisdiction,
21 such as the Rikers Island complex and DEP's project
22 in Marlborough, New York known as BT2 where the city
23 is repairing the tunnel that transports our water
24 from the Catskills to New York City. DOI has a team
25 of investigators and auditors on site monitoring that
construction in the Hudson Valley. I have met

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 a

3 multiple times with all of DOI's inspectors general
4 and their squads of investigators to familiarize
5 myself with the array of matters they are tackling
6 and to ensure that we are focused on investigations
7 that attack corruption in all its forms, from the
8 more routine to the systemic. Our squads must be
9 adept at conducting both short-term and long-term
10 investigations because corruption happens on all
11 levels and DOI's vigilance must be the same. I have
12 also spent a significant amount of time meeting and
13 reestablishing relationships with our law enforcement
14 partners and with commissioners of the city agencies
15 we oversee to foster a better understanding of DOI's
16 mission and how we work and to make sure they know
17 that we are here to find the facts and act on them
18 with integrity and fairness. I hope that this
19 greater awareness and improved relationships will
20 lead to wider acceptance of our proposed reforms,
21 will extend the reach and impact of our criminal
22 cases through effective partnerships, and will build
23 trust and our efforts to stem corruption, fraud, and
24 waste and improve city operations. These discussions
25 have been illuminating. I believe we have positioned
the agency on the right track, embracing DOI's unique

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

10

2 oversight role as an agency that acts with integrity,
3 goes where the facts lead it, and uncovers corruption
4 without fear or favor. Having DOI perceived and
5 understood as an unparalleled law enforcement partner
6 with a distinct expertise and how corruption can
7 infiltrate city operations is among my goals and I
8 believe we are well on our way to reaching it. I
9 have also had the opportunity to meet several times
10 with the Special Commissioner of Investigation over
11 schools, Anastasia Coleman, and to forge and
12 effective working relationship with her and her team.
13 As described in the October 2018 report by James
14 McGovern on SCI, that agency is intended to function
15 largely independently of DOI. However, Ms. Coleman
16 has an annual reporting function to me as the DOI
17 Commissioner and she has kept me up-to-date on the
18 referrals she makes to the schools Chancellor and on
19 public statements she makes. We have an open and
20 professional line of communication and I look forward
21 to that continuing during my tenure. The operational
22 effectiveness of DOI's peace officer program was one
23 of the first top to bottom reviews that I and my
24 executive team undertook and that review is ongoing.
25 We wanted to ensure that the program was following

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

11

2 best law enforcement practices, properly supporting
3 DOI investigations, and not wasting public funds.

4 The outcome of our reviews so far has included some
5 agency wide policy changes and some streamlining of
6 various aspects of the peace officer program. By way
7 of background, DOI's peace officer program dates back
8 decades and is an important part of DOI's workforce,
9 giving us the authority to make arrests, participate
10 in search warrants, undertake certain investigative
11 operations that present some level of risk, and
12 provide other law enforcement assistants to the
13 agency's work. But certain aspects of the program
14 have expanded beyond what I believe is appropriate or
15 necessary to support DOI's investigative work. We
16 have already begun addressing this concern by scaling
17 back both the program and the cost associated with
18 it, including eliminating some of the training that,
19 after our initial review, we deemed redundant or
20 superfluous to DOI's mission and reducing some
21 tangible items associated with the program, such as
22 the number of uniforms purchased for peace officers.
23 These changes have already resulted in illuminating
24 one month from the previously four month full-time
25 Academy training program and resulted in some savings

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

12

2 of nearly 200,000 dollars, with hopefully more to
3 come. I have also changed previous policies that I
4 found got in the way of investigations, including the
5 policy that restricted investigators who were not
6 peace officers from performing fieldwork.

7 Effectively, this prior directive reaches to the
8 number of investigative staff who could perform any
9 function in the field, delaying investigations
10 progress and impeding the professional development of
11 DOI's staff. Decisions about who goes out into the
12 field are now governed by the needs of the
13 investigation and an assessment of the relevant facts
14 about the operation. For example, where there are
15 concerns about public safety or the safety of DOI's
16 staff, a peace officer or a detective from our NYPD
17 squad would be assigned to conduct the operation or
18 to assist in it. Absent specific safety concerns or
19 operational needs that require special training,
20 fieldwork is carried out by the investigator,
21 auditor, or attorney who is otherwise responsible for
22 the investigation, regardless of their peace officer
23 or non-peace officer status. This kind of law
24 enforcement management moves cases along and I
25 believe makes the best use of our resources. These

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

12

2 sorts of reforms speak to the larger philosophy that
3 I am working to promote at DOI, which is to ensure
4 that our decisions, whether about investigative steps
5 or allocation of resources or external relationships
6 are governed primarily by the question what is best
7 for the case or investigation? What will produce the
8 most effective resolution and successful result? My
9 goal is DOI Commissioner is to ensure that we are a
10 top notch investigative agency performing at the
11 highest levels of professionalism, effectiveness, and
12 ethics on every case, whether big or small. DOI's
13 relationships within the city with fellow law
14 enforcement partners with prosecutors and with the
15 city agencies we oversee are integral to the work we
16 need to and to achieving these goals. DOI must be
17 known for setting and meeting highest standards for
18 cells that include finding and acting on the facts
19 without fear or favor or political agenda and
20 demonstrating that integrity is at the heart of
21 everything we do. These are not just platitudes for
22 other agencies, but the benchmarks for DOI, as well.

23 Turning to IT upgrades and our forfeiture
24 funding, critical upgrades to DOI's information
25 technology infrastructure are needed this year.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

1 A

2 DOI's current computer and other IT equipment are
3 past their five year life cycle and, as a result, DOI
4 requested and the city has already approved 14.8
5 million dollars for capital costs that include the
6 purchase of the network servers, computers, and other
7 hardware. DOI has requested an additional 6 million
8 dollars for computer software and subscription over
9 the next five years and we currently expect that
10 DOI's forfeiture funds will be available to support
11 the majority of that cost. Since we are using
12 forfeiture funds to support some costs associated
13 with our IT upgrades, I'd like to explain how these
14 funds play a role in supporting specific law
15 enforcement operations at DOI, how we acquire such
16 funds, and the specific rules that limit their use.
17 Both federal and state law allow the prophets of
18 criminal activity to be forfeited to the government
19 and shared with investigating agencies that worked on
20 the case, with the general guideline that these funds
21 must support law enforcement activities. The
22 majority of DOI's forfeiture funds are the result of
23 partnering with federal prosecutors, so I will focus
24 briefly on federal funds. There are very specific
25 federal rules as to what forfeiture funds may and may

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

15

2 not be used for. As a beneficiary as some of these
3 federally regulated funds, DOI has used them within
4 the relevant guidelines to, for example, support law
5 enforcement training for DOI and other city agencies
6 and to update our agencies computer infrastructure.
7 These forfeiture funds, however, are finite. And, as
8 noted, they may only be used for certain law
9 enforcement related purposes as set out in federal
10 guidelines. Thus, for example, forfeiture funds may
11 not be used to fund salaries for permanent staff
12 positions or otherwise substitute for items that the
13 city must fund. The majority of our current federal
14 forfeiture funds are the result of an investigation
15 DOI conducted that led to multiple arrests and
16 convictions associated with the corruption scandal
17 linked to the implementation of the city's automated
18 timekeeping system, otherwise known as City Time.
19 These funds are allocated by year and are expected to
20 be fully spent by 2022. Although our case is to
21 generate additional forfeiture funds each year, there
22 is no case currently charged that is expected to
23 produce a forfeiture amount anywhere close to that
24 generated by the City Time case. Restoring and
25 expanding on our relationships with the two federal

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

16

2 prosecutors in the city, as well as the five district
3 attorneys and the special narcotics prosecutor is an
4 important part of, not only producing successful
5 outcomes by ensuring access to the most suitable
6 prosecutor for a given case, but also improving our
7 ability to call back criminal theft of city money
8 through forfeiture and putting that money back into
9 law enforcement operations.

10 Turning to our requests for additional
11 lines and funding for background investigation unit.
12 As I noted earlier, DOI is asking for 13 additional
13 positions for our background investigation unit,
14 which provides a vital service to all city agencies
15 and has been struggling for years under an
16 unacceptable backlog. Our original new needs
17 requests to the office of management and budget last
18 fall requested funding for all 13 new positions. If
19 we secure approval for the 13 additional lines, I am
20 pleased to report that I believe that DOI can find
21 three of the 13 needed positions out of its current
22 budget. Because of the high priority that I have
23 placed on addressing the background unit backlog and
24 doing so without negatively affecting investigative
25 work, we have identified this funding through the

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

17

2 savings and over time and restructuring of the
3 executive staff. Accordingly, I am only requesting
4 funding for 10 of the 13 new positions at an
5 estimated cost of 690,000 dollars. Currently, the
6 unit is overseen by a director and consists of four
7 other supervisors, 13 investigators, and to
8 administrative staff. DOI has identified three
9 people to fill open lines for the background unit for
10 investigative positions, however, due to the city's
11 partial freeze on hiring, we are currently unable to
12 onboard these individuals and these positions remain
13 vacant. DOI is mandated to conduct background
14 investigations on all managerial positions in the
15 city, all individuals earning more than 100,000
16 dollars a year, individuals directly involved in city
17 contracts and zoning decisions, and individuals who
18 work on the city's computer programs and other
19 sensitive positions. While DOI's background unit has
20 always had some backlog, it has increased over the
21 past several years due to a larger number of incoming
22 requests for background investigations. Without
23 additional staff, the majority of these requests
24 became part of the backlog and, in some cases, are
25 still part of it. For instance, approximately 1913

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

1 2

2 background investigations are still open from 2016, a
3 year that DOI received 3731 background investigation
4 requests. Let me provide a glimpse into the volume
5 of the problem a monthly basis. In fiscal 2018,
6 DOI's background unit received an average of
7 approximately 236 new investigations each month while
8 closing an average of approximately 193
9 investigations per month. Even with that kind of
10 close rate, the backlog was still increasing by
11 approximately 42 investigations each month. As a
12 result of these factors, the backlog has risen to
13 approximately 6300 background investigations not
14 being actively worked and awaiting completion.
15 Bluntly, DOI is mandated mission to screen all
16 sensitive and high level city employees is not being
17 met, nor can it be met with the current staffing. It
18 also means that the majority of those job candidates
19 have already begun employment with the city of New
20 York and are awaiting the results of their background
21 investigation, sometimes for years, of vulnerability
22 that causes me great concern. I have spent many
23 hours personally reviewing this problem, spending
24 real time in the background unit to see and
25 understand the flow of work and how it is being

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

1 a

2 managed. DOI has taken many important steps to
3 address the backlog, even without additional lines.
4 First, the unit was restructured in late 2018 shortly
5 before my arrival at DOI to attack the backlog on two
6 fronts. As new background investigation requests
7 come into DOI, a dedicated intake team and background
8 is performing an initial review of them to assess if
9 there are any that should be expedited to two red
10 flags that, based on our experience, are most likely
11 to result in an adverse employment decision. If red
12 flags are identified, those applications are routed
13 to a dedicated expedite team to be finalized. The
14 remaining background applications team to routine are
15 routed to one of two background teams that process
16 routine applications in the order that they were
17 received. Second, under my tenure, DOI has moved to
18 redirect some resources to the background unit on a
19 temporary basis. Wherever possible, newly hired
20 investigators now begin their tenure at DOI with a
21 three-month rotation in the background unit with both
22 provides additional hands in background and gives new
23 DOI investigators valuable investigative training
24 prior to being assigned case work. In addition,
25 existing DOI administrative staff and other parts of

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

20

2 the agency are being assigned tasks to help advance
3 the unit's efforts to complete and close background
4 investigations. We are continuing to regularly
5 assess the process and the allocation of staffing to
6 ensure that we are operating at maximum efficiency.
7 But these improvements and adjustments are nowhere
8 near enough to address the problems and I
9 respectfully ask the Council to grant our request of
10 13 additional personnel lines with funding for 10 of
11 those lines. The 13 positions would include 10 new
12 investigators, two supervisors, and one
13 administrative assistant. We would anticipate
14 organizing this new staff into two new teams assigned
15 to process the routine applications by date of
16 receipt and order to be fully dedicated to clearing
17 the backlog. I realize that the ask of 13 additional
18 personnel has been made for the past several years
19 and that even with DOI providing funding for three of
20 the positions is a considerable financial ask
21 requiring an estimated 690,000 dollars. But I see no
22 other way for DOI to carry out its mandate of
23 conducting and completing essential background
24 investigations, clear the backlog in less than five
25 years, and eventually moves the unit to where I

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

21

2 believe it needs to be, which is a goal of completing
3 all background investigations and an average of 120
4 days or fewer. In closing, I want the Council and
5 the public to know how much of an honor it is for me
6 to serve as DOI Commissioner. I am so grateful for
7 the opportunity to tackle all the challenges that
8 come with this role. There is no other municipal
9 oversight agency quite like DOI when supported by
10 strong legal statutes that help us expose fraud,
11 waste, abuse, and inefficiency and an agency that
12 helps instill confidence in the public workforce and
13 in city government. At DOI, you have a team of
14 nearly 600 city employees, administrative staff,
15 investigators, auditors, lawyers, inspectors general
16 all dedicated to watching out for the city and all
17 New Yorkers and preventing corruption from taking
18 root. I am extremely proud of our staff and the work
19 that we do. Thank you very much. I am happy to
20 answer any questions the Council has for me.

21 CHAIRPERSON TORRES: Thank you,
22 Commissioner, for your testimony. I have a few
23 questions and then on to my colleagues an opportunity
24 to ask questions, as well. He testified that DOI has
25 found 350,000 dollars in savings for FY 2019. Sorry.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

??

2 Since FY 2020, actually. FY 2020 by reducing
3 overtime costs? How will you achieve this reduction
4 when historically over time expenditures have
5 exceeded the budgeted amount? So, for example, in FY
6 2018, DOI had an overtime budget of 110,000, but the
7 actual expenditure was well over 1 million. 10 times
8 higher than your budgeted amount. It's almost as if
9 the budgeted amount is meaningless. So that's one
10 question and then the second question I would have
11 that in FY 14 your overtime expenditure was 395,000
12 and it rose to well over 1 million in FY 18. What
13 accounts for the exponential growth and over time
14 expenditures in the span of a few years?

15 COMMISSIONER GARNETT: So, where primarily
16 identified the overtime savings and I had referred to
17 when you referenced in the beginning of your question
18 primarily through some of the changes that I
19 referenced in my testimony to the peace officer
20 program. So I think that some of the increase in
21 overtime was related to this policy of allowing only
22 peace officers to do field work. What that meant was
23 that it increased the strain on the peace officer
24 portion of our staff while sometimes creating
25 situations where the non-peace officer investigator,

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

22

2 and auditors weren't able to move their cases along
3 as quickly as they otherwise could. And so, some of
4 the overtime demand comes from only peace officers
5 can go in the field. I have changed the policy.
6 Some came from the investment in Academy by
7 shortening the Academy from four months to three. We
8 have realized some overtime savings there. In the
9 past few years, DOI had instituted a command center
10 that had to be staffed at night and on the weekends.
11 We have changed the role of the command center so
12 that it is used only when we believe it's necessary
13 for law enforcement purposes during inactive
14 operations such as arrest, search warrant, things of
15 that nature. And then, of course, various other
16 changes that we have made primarily focused on the
17 peace officer program is where I think we have
18 realized most of those overtime savings that I
19 referred to. Turning to the second part of your
20 question about the relative increases, so I don't
21 know for sure because I haven't studied in detail
22 from fiscal 2014 to now. I can say some of the
23 overtime increase is probably related to hand count
24 increases. So there is a proportional increase and
25 an absolute increase. So I would imagine that some

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 21

3 of the increase from fiscal 2014 to now comes from a
4 proportional increase based on increased headcount.

5 But I also think that much of-- My sense is that
6 much of that increase is probably related to some of
7 these changes to the peace officer program that I
8 referenced earlier.

9 CHAIRPERSON TORRES: So your analysis is
10 that the peace officer program is what largely
11 accounts for the growth and over time expenditures.
12 Is that right?

13 COMMISSIONER GARNETT: yes. I think that
14 accounted, for sure, for a significant portion of
15 the--

16 CHAIRPERSON TORRES: [interposing] And
17 what was the original rationale for the policy of
18 limiting fieldwork to peace officers?

19 COMMISSIONER GARNETT: So, I can only sort
20 of speak second or third hand because, of course, I
21 wasn't at DOI when the policy was created, but my
22 understanding is that it was driven by a combination
23 of what people at the time perceived to be safety
24 concerns as well as a desire to increase the
25 importance and centrality of peace officers to DOI's
work.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

25

2 CHAIRPERSON TORRES: And what were the
3 safety concerns?

4 COMMISSIONER GARNETT: DOI's work spans a
5 tremendous-- There's a tremendous breadth to DOI's
6 work.

7 CHAIRPERSON TORRES: Yeah.

8 COMMISSIONER GARNETT: So much of it is
9 things that really do not present safety issues such
10 as going to another city agency during the business
11 day to meet with witnesses or get documents. In my
12 view, those present no safety concerns that require
13 specialized law enforcement training. But we also
14 are engaged in operations such as arrests, search
15 warrants-- What I would call, refer to, as sort of
16 an uncontrolled knock where you are just going to
17 knock on someone's door and asked them if they will
18 speak to you and you don't really know for sure who
19 is on the other side of that door, as well as
20 participation and actions at Rikers Island on NYCHA
21 gang task force and number of other law enforcement
22 taskforces. So, there are situations that present
23 safety risk and DOI's work and then there are many
24 situations that, in our view, do not present any
25 unusual safety risk. So, I think, if I understand

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

26

2 correctly-- again, second or third hand-- that the
3 prior policy was based on a view that it would be
4 better practice to air on the side of assuming the
5 safety risk and a time DOI investigators leave the
6 building. Having reassessed that, I don't believe
7 that is the best practice, so we have changed it.

8 CHAIRPERSON TORRES: So, are you taking
9 a case-by-case approach? Obviously you have a DOI
10 investigator is meeting with an agency official at
11 City Hall, that's not a dangerous situation that
12 requires an armed peace officer.

13 COMMISSIONER GARNETT: That's right.

14 CHAIRPERSON TORRES: But what if you are
15 conducting a gang operation in a public housing
16 development? Is that the kind of situation that
17 would warrant a-- like are you making determinations
18 based on a case-by-case basis?

19 COMMISSIONER GARNETT: That's right. So
20 we have given some broad parameters of guidance to
21 the inspectors general who run each squad about what
22 the kinds of situations that, and our view, present a
23 heightened risk and not typically. Many of those
24 decisions are run up the chain through our chief of
25 investigations who has 38 years of law enforcement

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

27

2 experience to make a final call as to whether it is a
3 situation that we are all comfortable with any DOI
4 employee conducting or whether it is one that, at a
5 minimum, would need a peace officer or NYPD detective
6 from our squad to accompany or perhaps be a situation
7 where we would only feel comfortable with the
8 participants all being people with additional law
9 enforcement training.

10 CHAIRPERSON TORRES: And in your
11 testimony, you were critical of the peace officer
12 program. You said, quote, but certain aspects of the
13 program had expanded beyond what I believe is
14 appropriate or necessary to support DOI's
15 investigative work. Can you clarify that?

16 COMMISSIONER GARNETT: Yeah. So, look, I
17 think that different managers can make different
18 decisions and it doesn't mean that one is correct and
19 one is not correct. All I can do is exercise my own
20 best judgment in consultation with people whose
21 judgment I trust to do what I think is best for DOI
22 and, in evaluating the peace officer program, I can
23 give you one example. It previously had been
24 standard for all peace officers in initial training
25 to be sent upstate to a high-speed vehicle tactical

2 vehicle training course that was four days off site.
3 In my view, our jurisdiction is limited to the five
4 boroughs, other than the Watershed. I do not believe
5 it was a necessary expenditure for our peace officers
6 to have specialized and on-site training in
7 conducting high-speed vehicle chases and other
8 advanced tactical vehicle maneuvers, so we have
9 eliminated that. That's just one example. We have
10 eliminated that as a standard part of training for
11 our peace officers.

12 CHAIRPERSON TORRES: How many peace
13 officers do you have?

14 COMMISSIONER GARNETT: Approximately 200
15 at this point. Approximately 200 of DOI's staff are
16 peace officers.

17 CHAIRPERSON TORRES: As you know, there
18 is a real crisis when it comes to the background
19 investigations. You know, as you acknowledged, in
20 fiscal year 2015, the department took an average of
21 188 days to complete a background investigation and
22 61 percent of the total investigations were closed
23 within six months. Three years later, DOI spent an
24 average of 533 days to complete a background
25 investigation with only 39 percent of cases closed

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 a

2 within six months. What impact will your new budget
3 request, if it were to go forward, have on the slow
4 response time when it comes to these background
5 investigations?

6 COMMISSIONER GARNETT: So, I should
7 clarify, first, that their-- the story behind these
8 numbers is a little more complex than it appears on
9 its face. Prior to 2016, the number of days to
10 complete a background investigation and number that
11 were closed within six months were based on a date
12 chosen for the time the background investigation was
13 opened. Meaning the day someone started working on
14 it to the time that it was closed and results sent to
15 the agency. There were many instances, I really
16 don't know how many, but many under that way of
17 discount team in which investigations have been
18 received by DOI considerably before the date they
19 were deemed opened. So, in 2016, again, before my
20 arrival DOI, a decision was made to change the way
21 that we calculated these numbers. To make them more
22 transparent so we could really understand the true
23 scope of the problem. So beginning in 2016, so that
24 would be reflected in the fiscal 2017 numbers and
25 forward, the number is calculated based on the date

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

20

2 the request for investigation is received at DOI to
3 the date that it is closed. So I actually asked my
4 background unit supervisor, the person who runs the
5 whole unit, to run for me, if she could, how our
6 numbers would look in fiscal 2018 if we were applying
7 the same methodology that had been used prior to 2016
8 and that number would be approximately 260 days from
9 open to close in about 50 percent closed in six
10 months. And so on a comparison of fiscal 17 forward
11 to prior years, the bearer numbers are a little bit
12 misleading.

13 CHAIRPERSON TORRES: Okay.

14 COMMISSIONER GARNETT: But, to me, what--

15 CHAIRPERSON TORRES: [interposing] The
16 comparison--

17 COMMISSIONER GARNETT: that--

18 CHAIRPERSON TORRES: is misleading.

19 COMMISSIONER GARNETT: The comparison is
20 misleading.

21 CHAIRPERSON TORRES: But the original
22 methodology, the accounting methodology, disguised a
23 true lack in DOI's background investigation.

24 COMMISSIONER GARNETT: In my view, yes. I
25 think that it-- I don't think it was intent-- I'm

2 not saying it was intentionally done to do that, but
3 the true picture is more accurately reflected by the
4 fiscal 17 numbers forward.

5 CHAIRPERSON TORRES: I'm going to ask
6 you about a specific case. I understand there are
7 constraints of confidentiality. I will ask the
8 question. If you can do your best to answer those
9 questions within the constraints of confidentiality.
10 As you know, the DOI background check of Kevin
11 O'Brien, formerly the Chief of Staff for the DeBlasio
12 administration failed to uncover his pattern of
13 sexual harassment at his previous place of
14 employment, the Democratic Governors Association.
15 What actions are you taking to assess what, if
16 anything, went wrong with the background
17 investigation into Mr. O'Brien?

18 COMMISSIONER GARNETT: So, when that
19 situation came to light, I-- We certainly looked
20 back at our own records to make sure that we were
21 comfortable that DOI had not missed anything in its
22 process and, in the course of reviewing the file
23 myself, speaking to the investigators who conducted
24 that background investigation, and reviewing the
25 documents, I am confident that DOI did not miss

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 22

3 anything or did not, in any way, sort of let down the
4 team with regards to the background investigation
5 into Mr. O'Brien. Inquiries were made of the
6 Democratic Governors Association and, based on
7 information provided by Mr. O'Brien and his prior
8 employer, we were informed that there was no adverse
9 information related to his prior employment. And we
10 reported that to City Hall.

11 CHAIRPERSON TORRES: I guess, do we
12 accept a situation like Mr. O'Brien's as an
13 inevitability or, I mean, how do we prevent a repeat
14 in the future?

15 COMMISSIONER GARNETT: Um--

16 CHAIRPERSON TORRES: And I know it's a
17 hard question, but--

18 COMMISSIONER GARNETT: Well, this may
19 sound cynical. I guess I'm a cynical prosecutor.
20 Sometimes people lie about things that are important
21 to them and I think that is people are-- people at
22 whatever place--

23 CHAIRPERSON TORRES: Yeah.

24 COMMISSIONER GARNETT: whether an
25 applicant or prior employment, employer, current
26 employer have a reason for not telling the truth,

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 22

3 that overrides the consequences of not telling the
4 truth. There is little to be done for that other
5 than to try to create deterrent factors that change
6 the balance between people's reasons for not telling
7 the truth and the consequences for not telling the
8 truth.

9 CHAIRPERSON TORRES: Now, if I live to
10 an FBI investigator, it's a crime. A felony, right?
11 Are there legal consequences for lying to a DOI
12 background investigator?

13 COMMISSIONER GARNETT: Yes. So our
14 background investigation form is required to be
15 notarized and, as part of the notarized
16 certification, the applicant is informed that any
17 false statement could subject them to criminal
18 prosecution. Potentially a felony with prior some
19 aggregators, but either a misdemeanor or felony
20 charge for false statements.

21 CHAIRPERSON TORRES: And so Mr. O'Brien
22 signed and notarized document under the threat of
23 perjury or--

24 COMMISSIONER GARNETT: Yes.

25 CHAIRPERSON TORRES: the charge of--
Did he lie to DOI?

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 21

2 COMMISSIONER GARNETT: I'm not going to
3 answer that in this forum.

4 CHAIRPERSON TORRES: Is DOI
5 investigating whether he lied or--

6 COMMISSIONER GARNETT: I can't comment on
7 that.

8 CHAIRPERSON TORRES: My only concern is
9 that if there is no resolution to the matter, I worry
10 about sending the message that you can lie to DOI
11 with impunity. That even if it is a crime on paper,
12 if we are not willing to investigate and enforce,
13 what message does that send to the rest of the world
14 about--

15 COMMISSIONER GARNETT: So, I---

16 CHAIRPERSON TORRES: [interposing] the
17 seriousness of truth telling to DOI?

18 COMMISSIONER GARNETT: I certainly tell
19 you I share that concern and I think that it is an
20 extremely serious matter that should be pursued with
21 all available options. I'm just not going to comment
22 on a particular case. But I share your concern.

23 CHAIRPERSON TORRES: Okay. If I might
24 ask a more specific, but tell me if you can comment.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

25

2 Did the Democratic Governors Association lied to you
3 or mislead DOI?

4 COMMISSIONER GARNETT: I'm not going to
5 comment on that in this forum.

6 CHAIRPERSON TORRES: Okay. Are you
7 aware of any-- There was a New York Times article
8 about neutral references. Are you aware of any
9 neutral reference agreement between the Democratic
10 Governors Association and Mr. O'Brien?

11 COMMISSIONER GARNETT: I did read that
12 article, but I am not in a position to comment
13 further in this forum.

14 CHAIRPERSON TORRES: I'll have more
15 questions later, but I want to hand it off to council
16 member Rosenthal.

17 COUNCIL MEMBER ROSENTHAL: Thank you so
18 much, Chair. Nice to meet you.

19 COMMISSIONER GARNETT: Nice to meet you.

20 COUNCIL MEMBER ROSENTHAL: I'd love to
21 have a formal sit down at some point and get to know
22 each other a little bit better.

23 COMMISSIONER GARNETT: Of course.

24 COUNCIL MEMBER ROSENTHAL: Great. Just
25 to follow up on the Chair's question about sexual

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

26

2 hara-- identifying there-- or not identifying that
3 there had been a history of sexual harassment. Are
4 you considering changing the set of questions that
5 DOI would ask a former employer to include the
6 question is there a history of sexual harassment? Or
7 is there a history of confirmed sexual harassment?

8 COMMISSIONER GARNETT: So, I think that I
9 would put that question sort of into two parts. One
10 is the questions that we ask applicants. And we did
11 take a look at that. In my view, the question that
12 we ask applicants about sort of any prior adverse
13 situations that previous employment is currently so
14 broad that it adequately captures any investigation,
15 resignation and Lou of termination, mutual agreement
16 to leave employment because of an investigation into
17 misconduct such that, in my view, as to the form, an
18 applicant who answers note to our existing questions
19 is not going to be induced to answer yes but I am
20 more specific question that specifically references
21 sexual harassment. So I don't believe there is any
22 change needed in our paper forms. Turning to the
23 questions we ask employers, I think, historically, we
24 have found that our questions, which tend to be quite
25 broad to employers are best suited to the kind of

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

27

2 gathering in anything adverse, rather than specific
3 categories. But in the wake of the situation and
4 general discussion about how these matters are
5 handled by employers, we are talking about whether a
6 change might be needed. We haven't reached any
7 decision about that.

8 COUNCIL MEMBER ROSENTHAL: So I would
9 posit that a broad question yields a broad answer and
10 that by specifying specific areas of importance, that
11 you will capture more information. So while I
12 understand, from a legal perspective, having a
13 broader category technically includes all of the
14 subcategories and certainly agree with you, I think
15 we are at a point in time in history when racial,
16 homophobic, and certainly sexual harassment, all
17 those issues-- Our culture-- We are changing our
18 culture and there are people who would like to forget
19 that they were-- That it was determined that any one
20 of those things did happen and that they, because
21 they would like to forget it, they do. There is a
22 difference between what should happen and what really
23 happened and, given the reality of people describing
24 their own behavior and not being able to understand
25 that that is sexual harassment or is misogynistic,

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

28

2 homophobic, or racist behavior. We have so far to go
3 on that. I would really urge you to think a lot
4 harder about that and, in fact, include those
5 specific examples much more clearly and specifically.
6 Does that make sense or--

7 COMMISSIONER GARNETT: No. It definitely
8 does make sense and I would say we are always open to
9 reassessing our processes. This is a service we
10 provide to the city and so it's not a-- I think the
11 hiring agency is, I want to be clear, have the
12 primary responsibility for employer reference checks,
13 but we do understand the important role that DOI is--
14 You know, I think my testimony and what I have said
15 so far about how troubled I am by the backlog, I
16 hope, makes clear how much we understand the
17 important role of DOI's background checks. So we are
18 certainly open to rethinking that and I will take
19 that under consideration.

20 COUNCIL MEMBER ROSENTHAL: Yeah. I'm not
21 going to litigate this here. I would punch it back
22 to the Chair, but to me, that's a very disheartening
23 response because agencies will-- I just came out of
24 a contracts hearing where, you know, the-- Who is
25 responsible for what is super amorphous. So the

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2a

2 notion that DOI provides a service to an ancient sea
3 is confusing to me. I think I would worded that DOI
4 has a job to do and included in the job is reviewing
5 whatever it is you review and, if you're explicitly
6 not reviewing the history of sexual harassment or
7 misogynistic or whatever behavior and thinking, in
8 your mind, that, oh, the agency should really be
9 doing that, I would urge us to have an open dialogue
10 about who exactly is responsible for doing that
11 background check.

12 COMMISSIONER GARNETT: Uh--

13 COUNCIL MEMBER ROSENTHAL: We don't have
14 to discuss it now, but that is very--

15 COMMISSIONER GARNETT: I--

16 COUNCIL MEMBER ROSENTHAL: disheartening
17 to me.

18 COMMISSIONER GARNETT: I just want to make
19 clear-- This is probably a failure of communication
20 on my part. I don't think we are at all talking
21 about different things are different approaches to
22 this problem. My only point is that there is a
23 shared responsibility. That's in no way to say that
24 DOI is not taking incredibly seriously its role to

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 investigate any prior adverse employment action. So
3 I really--

4 COUNCIL MEMBER ROSENTHAL: Right.

5 COMMISSIONER GARNETT: I don't think we
6 disagree and, again, I'm happy to have a fuller
7 conversation about this.

8 COUNCIL MEMBER ROSENTHAL: Yeah, Chair,
9 this wasn't even my set of questions, but I'm very
10 disturbed by that answer and if we could follow up on
11 that, I'd appreciate that. You know, the question of
12 taking responsibility for whether or not there's a
13 history of sexual harassment should not be ambiguous
14 and my guess is that an agency is looking at
15 skillset and counting on DOI to identify the broader
16 set of issues that don't have to do with skillset,
17 but have to do with historic behavior.

18 COMMISSIONER GARNETT: And we are doing
19 that.

20 COUNCIL MEMBER ROSENTHAL: Okay.
21 Actually, my question to you is about specific area
22 and it's not going to take a lot of time and know we
23 have to move rooms. So, very quickly, the-- It is
24 my understanding that your office has challenges
25 working sometimes with agencies and they're being

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

41

2 cooperative with your department. Specifically, I am
3 wondering about the NYPD's Special Victims Division
4 and the challenges that happened previously. Are you
5 incurring challenges, again, and do you expect to
6 have another report coming out soon about the adult
7 squad or about the child squad and are you getting
8 cooperation from the NYPD?

9 COMMISSIONER GARNETT: So I can't comment
10 on what specific things we are investigating and what
11 reports are going to be coming. I think in response
12 to your core question, it is true that the
13 relationship with NYPD, in terms of access, has been
14 a challenging one in the past. I have taken on that
15 challenge. We had some meetings already with the
16 senior folks at the PD. There is a new Deputy
17 Commissioner for legal matters. We will be meeting
18 with him in the upcoming weeks in an effort to try to
19 resolve these. It has been a problem. We are
20 working to resolve it and I have some level of
21 optimism that we will get there.

22 COUNCIL MEMBER ROSENTHAL: So, the
23 consequences of that problem are that we are not
24 exposing the fact that there are sexual assault cases
25 that are not being investigated, that are being swept

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

12

2 under the rug, and, in particular, the drug-induced
3 sexual assault cases are being swept under the
4 arrived today and there are serious consequences of
5 that for the people who live in New York City and I
6 would urge us to figure out a way to get past that
7 stonewalling. Thank you.

8 COMMISSIONER GARNETT: Thank you.

9 CHAIRPERSON TORRES: So, Commissioner,
10 as exhilarating as your testimony has been--

11 COMMISSIONER GARNETT: [laughter]

12 CHAIRPERSON TORRES: the cameras are not
13 here for you, so we're going to actually relocate to
14 the committee room so that the Mental Health
15 Committee can hold a hearing on THRIVE NYC. So,
16 we'll proceed.

17 [pause]

18 CHAIRPERSON TORRES: Note that I told
19 the city Council from the very beginning that we
20 should be in the committee room, but that's--

21 [background comments]

22 SERGEANT-AT-ARMS: Testing. One, two,
23 three. Today's date is March 26th, 2019. Part B of
24 oversight investigations switched to the committee
25 room by Stephen Sudowski (sp?).

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

12

2 [background comments]

3 CHAIRPERSON TORRES: Commissioner, I

4 just want to quickly follow up more with this
5 statement than a question, but you are free to
6 comment on it. You had a back-and-forth with Council
7 member Rosenthal and the Special Victims Division and
8 DOI made the following statement in one of its annual
9 reports. It said a year-long investigation found
10 that the police departments Special Victims Division,
11 which investigates cases involving sexual assaults,
12 was understaffed and under resourced. Following this
13 investigation, the police department added over 16
14 new investigators to the SVD squads that investigate
15 adult sex times. Upgrades to current as SVD
16 facilities are underway and new facilities are being
17 planned and the prioritization of stranger rape over
18 acquaintance rape has ended. It's the final
19 statement gives the impression of mission
20 accomplished and I'm not aware of a single advocate
21 or member of the city Council who has been working on
22 this issue who thinks that the NYPD has actually
23 prioritized-- entered the prioritization of strange
24 rape over acquaintance rape. It's not a question,
25 but it's a concern that's been relayed to me and I

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

^^

2 thought it was incumbent of me to relate it to you.

3 So, Council member Treyger?

4 COUNCIL MEMBER TREYGER: Thank you.

5 Thank you, Chair Torres. Welcome, Commissioner. In
6 your testimony, I am reading here that you have had
7 the opportunity to meet several times with the SCI
8 Commissioner and that she has an annual reporting
9 function to your office even though they are largely
10 independent of DOI and she has kept you up to date on
11 referrals she makes to the schools Chancellor and on
12 public statements that she makes. Is that correct?

13 COMMISSIONER GARNETT: Yes, sir.

14 COUNCIL MEMBER TREYGER: So, what the
15 process both for the kind of go into this questioning
16 that I understand she, technically, really just
17 started last year and started, stopped, and started
18 again. So I appreciate that and understand that.
19 Can you share with us what public statements as she
20 made or has that office made as far as that they have
21 kept you up to date on and, also, what referrals that
22 they have made to the Chancellor?

23 COMMISSIONER GARNETT: So, I can't talk
24 about any specific referrals, but I can tell you
25 that, and just the three months that I have been DOI

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

15

2 Commissioner, I have reviewed, I would estimate, well
3 over 100 referrals to the Chancellor based on
4 findings that SCI made about particular situations of
5 employee misconduct or financial fraud. I know from
6 my conversations with Ms. Coleman that, given, I
7 think, as you referenced sort of the difficulties in
8 turmoil of the past year, there's quite a bit of
9 backlog at SCI in processing-- I don't want to
10 diminish them by calling them routine, but in the
11 context of SCI's work, these routine referrals from
12 the department of education and from my vantage
13 point, I think they are working very diligently to
14 this sort of catch up and clear through that backlog
15 and address some of the staffing issues and so on
16 from the past year. I know Ms. Coleman is very
17 committed to getting through that backlog in pivoting
18 to create a space to do more systemic long-term wide
19 ranging investigations. I have made myself available
20 to her as a resource for that planning and I think
21 that cooperation will continue. So it has been a
22 difficult year for SCI and I think Ms. Coleman seems
23 to have her arms around what needs to be done in both
24 the short term and the long term, so I look forward
25 to seeing what they will do in the months ahead.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

16

2 COUNCIL MEMBER TREYGER: And can you
3 shed light on what public statements the office have
4 made in--

5 COMMISSIONER GARNETT: Oh--

6 COUNCIL MEMBER TREYGER: your--

7 COMMISSIONER GARNETT: So, you know, I am
8 racking my brain. I think there has been at least
9 one press release. So, any sort of press releases or
10 other public comments we get notified that they are
11 going to make one. So it was a very busy time, but
12 I'm recalling-- I think I'm recalling one in
13 December. There was a press release about interest,
14 but there have not been any reports, I think if
15 that's what you are asking about, in the three months
16 that I've been at DOI.

17 COUNCIL MEMBER TREYGER: So , I think
18 I've expressed this before and I remain very
19 concerned that I-- Understanding that the
20 Commissioner is still relatively new in the position
21 because of what happened in the past year, but I
22 remain very concerned that I am having difficulty
23 finding any evidence of systemic reviews over the
24 city's largest apartment. It is my understanding
25 that, back in 2014, SCI and into the former

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

17

2 Chancellor a report of some kind dealing with OPT.

3 It's not clear what the report entailed. It's not

4 clear what the outcome of that referral was, but what

5 is clear is that last year, when my committee,

6 Education Committee, held a hearing on OPT, we

7 learned of deep troubles in that office and then I

8 learned after the hearing that there was a federal

9 investigation of OPT. So I have to sometimes remind

10 the administration that the Council is a coequal

11 branch of government. You know, we are elected

12 officials, as well. We have an important oversight

13 function in city government and it is very hard to

14 conduct effective oversight if we have no idea in

15 our-- I think intentionally, by design, kept in the

16 dark about systemic failures, particularly over a

17 department that is responsible for over 1.1 million

18 children and is the largest apartment over a 33

19 billion dollar department in the city of New York.

20 The largest apartment in our city. Can you shed any

21 light about Andy's systemic reviews that you have

22 been made aware of? That are underway? Because what

23 I am hearing is that they might be conducting

24 systemic reviews, but they don't have a sense of

25 obligation to report that to the Council or report

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

12

2 that to the public other than a referral to the
3 schools Chancellor. And I don't think that is
4 effective government. We need to know what the
5 problems are in order for us to, as policymakers,
6 make sure that it doesn't happen again. And if you
7 can just comment on that, I would appreciate it.

8 COMMISSIONER GARNETT: Sure. I really
9 don't disagree with anything that you have said. I
10 can't comment on specific investigations that are
11 ongoing at SCI, but I know that there are a number
12 of, what I would characterize as long-term or
13 systemic investigations, that are ongoing. And what
14 the results of those will be, I don't know, but I do
15 think that SCI should be applying the same standards
16 that we do at DOI. It's a gray area, for sure, a
17 circumstances based assessment of when something
18 merits a full scale public report when a referral
19 letter to an agency is appropriate. The referrals to
20 the Chancellor that I referenced in response to, I
21 think, Chair Torres' question, or maybe your earlier
22 question, are of the type that would fall typically,
23 for any agency whether it is the Department of
24 Education or any other, to sort of an employee
25 misconduct referral. That typically goes back to the

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

1a

2 head of the agency. But I think it is certainly the
3 case that there will be outputs of systemic or
4 longer-term investigations that will merit a public
5 report and I would apply the same standards to, you
6 know, which side the matter falls on as we would
7 apply for any other agency.

8 COUNCIL MEMBER TREYGER: It is of--
9 I'm just flagging. And I know this is a budget
10 hearing. And I appreciate your candor about that
11 your office is in need of additional personnel and I
12 think we take that very serious. We have to. You
13 are the official watchdog and I think that we have an
14 obligation to make sure that your office is fully
15 equipped with all the resources you need to
16 effectively do the job and, of course, that concern
17 extends over into SCI, as well. I will note that the
18 DOE does have internally OSI, which, from my
19 understanding, deals with many employee misconduct
20 cases and there is sometimes a gray area between
21 which cases OSI takes on versus what cases SCI takes
22 on, but I think the Chair and I have discussed this
23 on more than one occasion that we are deeply
24 concerned that we are not seeing any public evidence
25 of systemic reviews over DOE. I only learn about

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

50

2 them through the press, by federal investigators, not
3 by really city investigators. And I will also share
4 with you, Commissioner Garnett, that it was not lost
5 on me that-- I recently chaired a seven hour hearing
6 on special education. In addition to the fact that
7 on the eve of my hearing, the DOE announced that they
8 were looking to move past SISAS (sic) which is
9 another technology boondoggle of the administration
10 has put us through because they spent a lot of money,
11 over 100 million dollars, on this program only to
12 kind of now saying that it was not working. One of
13 their chief technology folks in DOE resigned because
14 of some investigation that, again, I was not aware of
15 until I read about it in the press. Where you aware
16 of that investigation before it became public?

17 COMMISSIONER GARNETT: No. It was not.

18 COUNCIL MEMBER TREYGER: Uh--

19 COMMISSIONER GARNETT: But that does not
20 mean that no one at SCI was, but I personally was not
21 aware of it. No.

22 COUNCIL MEMBER TREYGER: Right. This
23 is an area that I think I flagged a number of times
24 where we spend a lot of money on technology in the
25 DOE and many school visits that I contact, Internet

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

51

2 is not working, not enough bandwidth, but were
3 spending this money every month. We are paying
4 someone's bill and I just find it interesting that,
5 on the eve of the hearing, then announced that this
6 person has been either forced to resign or fired due
7 to some investigation that, again, my committee had
8 no knowledge about until we read about it in the
9 press. And these are the things that we find
10 frustrating because here we are advocating for more
11 money to better meet the technological means of our
12 schools and of our students and, yet, the person in
13 charge of technology was under investigation for some
14 wrongdoing and we had no clue. And so I really would
15 appreciate, quite frankly, more transparency. And
16 just, to be blunt, evidence that that the office is
17 functioning beyond employee misconduct cases, which,
18 I think, technically, my fall under the realm of the
19 OSI. Although, as it greater in nature, I understand
20 it might go to SCI, but, Commissioner Garnett, I have
21 not been pleased with the lack of transparency,
22 particularly when I am hearing that there are
23 referrals being made to the Chancellor and we have no
24 knowledge whether the Chancellor is taking them-- is
25 making changes because of it, with the nature of them

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

52

2 are, the outcome, or whether any policy changes are
3 being recommended. And so, I plan to follow up with
4 you, hopefully in the near future, as well as with
5 the SCI Commissioner, as well.

6 COMMISSIONER GARNETT: I would welcome
7 that.

8 COUNCIL MEMBER TREYGER: Thank you,
9 Chair.

10 CHAIRPERSON TORRES: Thank you, Council
11 member Treyger. Council member Kallos?

12 COUNCIL MEMBER KALLOS: Commissioner
13 Garnett, when your predecessor, Mark Peters, was
14 terminated by the Mayor, is sent a letter to the City
15 Council and I quote. The context of the Mayor's
16 interactions over the past several years with DOI
17 combined with certain ongoing investigations about
18 which the Mayor and his senior staff are very much
19 aware, must cast doubt upon the Mayor's true motives.
20 End of quote. What is the status of the ongoing
21 investigations that were referenced by your
22 predecessor?

23 COMMISSIONER GARNETT: Well, I'm not going
24 to talk about any ongoing investigations, about what

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

52

2 I can tell you is that no investigation at DOI has
3 been closed because of Mark Peters' firing.

4 COUNCIL MEMBER KALLOS: Within the
5 same statement, your predecessor references
6 interactions with the Mayor's office and the Mayor's
7 senior staff. Have you had any contact,
8 interactions, communications, or otherwise with the
9 Mayor or his staff related to any ongoing
10 investigations since your coming on?

11 COMMISSIONER GARNETT: I have not spoken
12 to the Mayor at all since then day of my nomination
13 other than-- I'm sorry. Since the day of my
14 confirmation other than I was at City Hall for a
15 meeting and he happened to be passing by and he stuck
16 his head in to say hello and we exchanged
17 pleasantries. That was the end of it. I have had no
18 conversations with anyone at City Hall about any
19 particular case other than what has sort of always
20 been the case with City Hall where we have direct
21 access to City Hall emails or documents. So when we
22 have requests, they go through the office of the
23 Council to the Mayor and there been times when we
24 have had conversations specifically about kind of the
25 mechanics and scope of document or email requests.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

51

2 But they haven't been about what we are doing on the
3 investigative side. And there has been no
4 interference with any investigation.

5 COUNCIL MEMBER KALLOS: I appreciate
6 your transparency. Typically when an investigative
7 authority is interested in accessing communications--
8 I think we all see on TV whether fiction or
9 nonfiction, folks showing up in three letter jackets
10 walking away with computers or other monks to
11 materials in often the daytime surprise. What are
12 you finding when you are requesting the emails or
13 other data from the administration in terms of
14 whether you are getting the full and complete,
15 including emails that may have been deleted or how
16 are you dealing with the preservation of evidence?

17 COMMISSIONER GARNETT: So, I believe that
18 we are getting what we request. I'm not aware of any
19 situations in which we have not been able to get the
20 things that we request. I think some of it is
21 mechanical that many mayoral are participate in an
22 email system that we call a clear well, which enables
23 us to have more direct access to emails. The City
24 Hall and a few other city agencies do not participate
25 in that process, so there would have to be some

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

55

2 mechanism to get things. It is certainly the case
3 that, as there were a situation where we perceived a
4 need for surprise or for an additional level of
5 secrecy or a more covert operation, we would do
6 whatever we thought was necessary to meet those
7 needs.

8 COUNCIL MEMBER KALLOS: Have you been
9 able to gain access to people's communications that
10 relate to their job that are being done through
11 personal communications?

12 COMMISSIONER GARNETT: Uh--

13 COUNCIL MEMBER KALLOS: Potentially in
14 violation of the rules such as people using their
15 blackberry and blackberry messenger or-- I'm trying
16 to remember the name of the new app folks use for
17 encrypted communications.

18 CHAIRPERSON TORRES: What's app?

19 COUNCIL MEMBER KALLOS: There's What's
20 app and then there's another one that's specifically
21 just for-- But is that something that you see people
22 still using versus communications methods that are
23 more easily tracked?

24 COMMISSIONER GARNETT: So, when we ask for
25 information, I can tell you that we sometimes will

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

56

2 specific-- Depending on the needs of the
3 investigation, sometimes we specifically ask for
4 emails from a custodian account that is controlled by
5 City Hall or by the other relevant agency and
6 sometimes we ask for any communications on any
7 platform which would include personal email and any
8 other platform. It's also the case that, where we
9 have knowledge that, certainly in a criminal
10 investigation where we have knowledge, that other
11 means of communications were used, we have all the
12 law enforcement tools that would be appropriate to
13 that. A search warrant or subpoena request to the
14 Internet provider.

15 COUNCIL MEMBER KALLOS: Should the
16 Mueller report be public?

17 COMMISSIONER GARNETT: I'm not going to
18 comment on them.

19 COUNCIL MEMBER KALLOS: I had a
20 feeling. I think it should be public. But where I
21 was going with it is when people make a complaint
22 that merits investigation, would it be possible that,
23 even if there is a finding that there is no finding
24 of wrongdoing, that the investigatory report be made
25 available at least to the complaining parties so that

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

57

2 we can, at least, see the due diligence and see what
3 conduct occurred and whether it was just a problem
4 with the system that gave rise to the complaint or,
5 in some cases, the joke might be incompetence isn't
6 always criminal.

7 COMMISSIONER GARNETT: Well, you know, we
8 typically try to be as fair and evenhanded and
9 consistent as we can and applying the FOIL standard
10 another's standards of public disclosure to our work.
11 It is true that, in general, when the matter has been
12 investigated and not substantiated, that that
13 information, that underlying information doesn't
14 become public. That's, I think, a useful protection
15 in the FOIL for reputational reasons and privacy. We
16 get many, many complaints at DOI, most of which are
17 very important, some of which are unsubstantiated.
18 And so I wouldn't want to create any kind of chilling
19 effect or deterrent effect of people's confidence in
20 DOI's work or willingness to report things even if
21 they're not sure what's going on by over releasing
22 unsubstantiated or inconclusive investigation. But
23 we try to evaluate each situation on its merits and
24 assess all of the relevant factors for FOIL. So, I
25 know that's probably an unsatisfying answer, but I

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

50

2 want to be transparent about the factors that go into
3 that decision.

4 COUNCIL MEMBER KALLOS: I appreciate
5 it. I think it's just when somebody goes through the
6 trouble of contacting DOI, the concern is whether or
7 not the investigation happens and even just having
8 some sort of situation where if you see somebody
9 who-- There are things that have happened where I
10 look at it and I'm kind of confused about it and
11 concerned about it and have reached out to DOI to
12 say, is this right? I see people who are reporters
13 in this room who have written stories that I have
14 flagged for DOI because I felt that those stories
15 raised questions of culpable conduct and, I guess, to
16 this day, I don't know what has happened in most of
17 those case and, to the extent, there could be a way
18 to let folks know, that would be great. Thank you,
19 Chair.

20 CHAIRPERSON TORRES: Yep. I do have a
21 question. I suspect you might resist answering it,
22 but your predecessor made reference to a number of
23 investigation that preexist your 10 year and publicly
24 indicated that one of those investigations-- it's
25 known as the Yeshiva investigation-- was close to

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

5a

2 completion and since the investigation was made
3 public and sends former Commissioner Peter made
4 serious allegation political interference on the part
5 of City Hall, how do we find out as an oversight
6 body, whether that investigation had merit or
7 resulted in an actual finding?

8 COMMISSIONER GARNETT: On that one, given
9 the prior public comment, I can say the investigation
10 is ongoing.

11 CHAIRPERSON TORRES: I guess the
12 challenge-- And I understand the need for
13 confidentiality, but when you have a former
14 Commissioner make a serious allegation of possible
15 political interference, doesn't the public have a
16 right to know whether that investigation had any
17 merit whatsoever?

18 COMMISSIONER GARNETT: Well, the
19 investigation is ongoing. So--

20 CHAIRPERSON TORRES: It is ongoing?

21 COMMISSIONER GARNETT: Yes. I'm sorry.

22 I--

23 CHAIRPERSON TORRES: Oh. I don't know
24 if I heard you.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2

3 COMMISSIONER GARNETT: Oh, I said that in
4 my prior answer. Yes. As to that particular--
5 Although, we typically don't, and all on
6 investigation, I think the public statements that
7 have already been made about that investigation, I
8 felt comfortable saying that it is ongoing. Our
9 investigation continues into that matter. And I
10 don't know why Commissioner Peters would say the
11 things he said. What I can say is that I have not
12 been on the receiving end of any interference in the
13 Yeshiva investigation.

14 CHAIRPERSON TORRES: I asked you earlier
15 about the practice of lying to DOI or failing to tell
16 the truth in a notarized document. Has DOI ever made
17 a referral for criminal prosecution when it comes to
18 lying or otherwise misleading the agency on a
19 notarized document on a legal instrument?

20 COMMISSIONER GARNETT: Yes.

21 CHAIRPERSON TORRES: You have. Okay.
22 How many referrals have you made?

23 COMMISSIONER GARNETT: I don't know.

24 CHAIRPERSON TORRES: Okay.

25 COMMISSIONER GARNETT: But I know that--

 CHAIRPERSON TORRES: Do those--

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

61

2 COMMISSIONER GARNETT: I know that we
3 have.

4 CHAIRPERSON TORRES: How often do those
5 referrals resulted in actual prosecution?

6 COMMISSIONER GARNETT: I don't know
7 because I don't know how many have gone in the past.
8 I only know that, during my tenure, we have made such
9 referrals and those matters are ongoing.

10 CHAIRPERSON TORRES: Okay. I suspect
11 you answered this earlier, but I just want to-- If
12 DOI receives the 13 new positions that you are
13 requesting, what impact will that have on the
14 timetable for background investigations?

15 COMMISSIONER GARNETT: Our plan for the 13
16 positions would be to organize them into two new
17 teams that would be to organize them into two new
18 teams that would be five investigators and one
19 supervisor each with shared clerical assistance from
20 the admin and those two teams would be, at least
21 until the backlog is significantly reduced, dedicated
22 to what we refer to as aged cases which is the
23 processing of routine background investigations on a
24 first in first out basis. So those two teams would
25 be fully dedicated to reducing the backlog of old

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

62

2 cases. I think how long that will take depends on
3 how much the other changes we have made, how quickly
4 they can contribute to efficiencies, but,
5 conservatively, we have estimated that, if we get the
6 additional staff, we could completely eliminate the
7 backlog and less than five years and maybe sooner.
8 And then get the unit on track to, what I think, is a
9 reasonable and realistic goal, which is to complete
10 all background investigations regardless of priority
11 or routine status and 120 days or if you are on
12 average.

13 CHAIRPERSON TORRES: 120 days. And that
14 could be accomplished simply by adding 13 new
15 positions to your headcount?

16 COMMISSIONER GARNETT: Yes. So the first
17 task for the 13 new positions would be reducing and
18 eliminating the backlog and then, I think, once the
19 backlog is gone and we are current with processing
20 new applications, our tension would shift to reducing
21 the total time it takes us, on average, to complete a
22 background investigation with the goal of getting
23 that to 120 days or less.

24

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

62

2 CHAIRPERSON TORRES: So the ultimate
3 goal is 100-- is a timetable of four months? 120
4 days, right?

5 COMMISSIONER GARNETT: On average. Yes.

6 CHAIRPERSON TORRES: Okay. How long
7 will it take you to remove the backlog?

8 COMMISSIONER GARNETT: I'm sorry?

9 CHAIRPERSON TORRES: How long would it
10 take you to remove the backlog?

11 COMMISSIONER GARNETT: I think four to
12 five years.

13 CHAIRPERSON TORRES: Four to five years.
14 Okay. So with the 13 positions?

15 COMMISSIONER GARNETT: Yes.

16 CHAIRPERSON TORRES: All right. How
17 many backlogged investigations do you have?

18 COMMISSIONER GARNETT: 6300.

19 CHAIRPERSON TORRES: so within five
20 years, then we can hope for efficient background
21 investigations of 120 days.

22 COMMISSIONER GARNETT: Yes. And hopefully
23 sooner. I think that we have made progress on how
24 fast we can do things. I think there-- My
25 understanding is there was sometimes a practice in

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 the past of, in effect, taking the easier
3 investigations and moving those quickly which created
4 a situation where more difficult investigations,
5 largely because of out-of-state factors and things
6 like that, were kind of left to remain in the
7 backlog. Our current practice has totally changed
8 that. Routine backlogged investigations are handled
9 first in first out so that-- We are making
10 efficiencies to move it faster, but I think reducing
11 the backlog is key to getting the total time down to
12 120 days or less.

13 CHAIRPERSON TORRES: What's the average
14 at the moment? The average amount of time it takes
15 you to complete a background investigation?

16 COMMISSIONER GARNETT: From date received
17 to date closed is over 500 days on average. Again,
18 some of that is driven by the extreme age of what is
19 in the backlog which we are now working to reduce.
20 So, every time we close the case that we received in
21 2016, that sort of-- It's a positive development, but
22 it bumps the average number up and, as we clear the
23 backlog from oldest to current, that number will
24 continue to go down.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

65

2 CHAIRPERSON TORRES: It just seems to
3 me-- I mean, have you calculated how many more
4 positions you would need to remove the backlog within
5 a year? Because four to five years strikes me as too
6 long.

7 COMMISSIONER GARNETT: Well, right now,
8 our investigators handle-- I should double check my
9 numbers. I do have that number of the average they
10 clear and a month. Hold on. So, that number
11 currently is one investigator-- Averaged over the
12 whole unit, the average investigator clears just over
13 140 cases a year. They close just over 140
14 investigations a year. So I haven't done the math
15 and I'm a lawyer, not an accountant, so I'd have to
16 do a little bit of calculation about how many
17 investigators it would take to clear 6300 in a year
18 at assuming roughly the same rate of productivity.
19 About 140 each year. But we could run those numbers.

20 CHAIRPERSON TORRES: I'd be curious--

21 COMMISSIONER GARNETT: And report back.

22 CHAIRPERSON TORRES: to because four to
23 five years strikes me as too long given the
24 importance of background investigations and it seems

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 to me the value of a background investigation
3 declines over time.

4 COMMISSIONER GARNETT: Oh, that is--

5 CHAIRPERSON TORRES: Right? If--

6 COMMISSIONER GARNETT: 100 percent
7 correct.

8 CHAIRPERSON TORRES: there is a person
9 who has been in his position for five or six years,
10 giving me the finding of a background investigations
11 six years into his employment strikes me as almost
12 useless.

13 COMMISSIONER GARNETT: And there's also a
14 funny kind of relationship between the time it takes
15 and this ongoing employment and that what we
16 categorize as routine background investigations are
17 most likely to take longer. Those are also the
18 positions where the person typically begins their
19 employment-- they don't have to wait to start
20 working until their background is cleared. Some
21 categories like commissioners and other very
22 sensitive positions can't start--

23 CHAIRPERSON TORRES: [interposing] Can
24 you explain to the public how do you prioritize
25 background investigations?

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

67

2 COMMISSIONER GARNETT: Sure. We have an
3 intake team that does initial processing of
4 backgrounds. That initial processing includes
5 fingerprinting of the applicant, running a criminal
6 history, conducting an initial interview, doing an
7 education check, New York City residency, and an a
8 DOI internal history. After that point, background
9 investigations are categorized either as priority,
10 expedited, or routine. Priority includes generally
11 the people I reference to typically cannot start work
12 until they are cleared. Examples are Commissioner
13 level appointees, very high level City Hall
14 employees--

15 CHAIRPERSON TORRES: Mr. O'Brien
16 would've been a priority?

17 COMMISSIONER GARNETT: Yes. Members of
18 certain boards and commissions, judicial appointees.
19 Those people typically cannot start until they are
20 cleared and so they are moved into the priority
21 bucket.

22 CHAIRPERSON TORRES: So, can we just do
23 one by one, what is the extent of the backlog when it
24 comes to priority?

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 ⁶² COMMISSIONER GARNETT: Oh, there's no
3 backlog for priority.

4 CHAIRPERSON TORRES: There is no
5 backlog. Okay.

6 COMMISSIONER GARNETT: No.

7 CHAIRPERSON TORRES: What's the average
8 amount of time it takes you to complete a priority
9 investigation?

10 COMMISSIONER GARNETT: I don't know the
11 answer to that off the top of my head, but I would
12 estimate it is probably less than 60 days, the most.

13 CHAIRPERSON TORRES: Less than 60 days.

14 COMMISSIONER GARNETT: On average.

15 CHAIRPERSON TORRES: So, as far as you
16 are satisfied with that--

17 COMMISSIONER GARNETT: Yes.

18 CHAIRPERSON TORRES: with the
19 performance on priority investigations.

20 COMMISSIONER GARNETT: Yes. Handling our
21 current workflow, I think the unit is doing a great
22 job.

23 CHAIRPERSON TORRES: And how large is
24 that universe to priority--

25 COMMISSIONER GARNETT: Um--

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2 ^{ca}CHAIRPERSON TORRES: investi-- Do you
3 have a number?

4 COMMISSIONER GARNETT: I believe it's a
5 combined priority expedite team which is-- I'm not
6 sure exactly. It would be for five investigators and
7 a supervisor.

8 CHAIRPERSON TORRES: What's the total
9 number of investigations? Do you know? Like--

10 COMMISSIONER GARNETT: Oh. The total
11 number of investigations.

12 CHAIRPERSON TORRES: of priority
13 investigations?

14 COMMISSIONER GARNETT: I don't know if the
15 top of my head.

16 CHAIRPERSON TORRES: Okay.

17 COMMISSIONER GARNETT: But I can--

18 CHAIRPERSON TORRES: Fair enough.

19 COMMISSIONER GARNETT: give you that
20 number.

21 CHAIRPERSON TORRES: And with expedited
22 investigations, can you describe what that is?

23 COMMISSIONER GARNETT: Sure. So expedited
24 investigations comprise a couple of categories.
25 Probably the largest category are those applications

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

70

2 that, for some reason, have been red flagged by our
3 intake team. So the intake team that I referenced
4 earlier that is doing these initial checks, those
5 initial checks are driven by the things that, and our
6 experience, are most likely to produce a result that
7 would be called for an adverse employment decision.
8 So significant criminal history, proves that a person
9 has misrepresented their residency in New York City,
10 misrepresentations about employment credentials which
11 might be a requirement for their job. So, if there
12 are red flags in the intake process, that applicant
13 would be routed to expedite so that those issues can
14 be resolved more quickly because they are, in all
15 likelihood, going to start working while we are
16 conducting their background check.

17 CHAIRPERSON TORRES: So, there are some
18 background investigations that are, by default, a
19 priority and then there are some that become more of
20 a priority by virtue of a red flag that arises over
21 the course of intake. Is that--

22 COMMISSIONER GARNETT: That's correct.

23 CHAIRPERSON TORRES: Okay.

24

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

71

2 COMMISSIONER GARNETT: The expedite team
3 also handles people who have previously been
4 background checked by DOI for any reason.

5 CHAIRPERSON TORRES: Okay.

6 COMMISSIONER GARNETT: We can complete
7 those faster because we only have to update and other
8 agents-- executive level agency employees that, for
9 whatever reason, the agency had has not identified as
10 priority, but in DOI's view, are going in the
11 sensitive positions like a General Counsel rule or
12 some other high level role in an agency and so we, on
13 our own discretion, expedite those because they are
14 in a more sensitive position at the agency. And
15 then, everyone else, essentially, as and routine
16 pile, which we--

17 CHAIRPERSON TORRES: [interposing] And
18 just a question on do you know the number-- how
19 large that universe is? The number of expedited
20 investigations?

21 COMMISSIONER GARNETT: Off the top of my
22 head, no, but I can get you that number.

23 CHAIRPERSON TORRES: Do we know the
24 backlog?

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

72

2 COMMISSIONER GARNETT: I wouldn't consider
3 the expedite group is having any backlog.

4 CHAIRPERSON TORRES: Okay.

5 COMMISSIONER GARNETT: We work to clear
6 those as quickly as possible and those can range
7 anywhere sort of to 60 to 120 days on average.

8 CHAIRPERSON TORRES: So that 60 to 120
9 days. Okay. And then there is routine.

10 COMMISSIONER GARNETT: Right. And then
11 there is routine.

12 CHAIRPERSON TORRES: Which I imagine is
13 the largest universe.

14 COMMISSIONER GARNETT: Yes.

15 CHAIRPERSON TORRES: Can you tell us
16 what routine is?

17 COMMISSIONER GARNETT: Routine is,
18 basically, everyone else.

19 CHAIRPERSON TORRES: Okay.

20 COMMISSIONER GARNETT: So, it's anyone who
21 doesn't fall into one of the categories that I have
22 already mentioned would go into our routine bucket,
23 which we currently work from oldest forward so that
24 we are always working to clear the backlog.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

72

2 CHAIRPERSON TORRES: In debating how to
3 address the backlog of background investigations, the
4 focus has largely been on how do we expand the supply
5 of background investigators. Have you ever
6 considered the possibility that maybe the problem is
7 not supplied, but demand? Are you doing too many
8 investigations? Like obviously we agree the
9 expedited investigations and priority investigations,
10 that's core DOI investigative work. Are you doing
11 background investigations on low level employees in
12 city government or--

13 COMMISSIONER GARNETT: Well--

14 CHAIRPERSON TORRES: investigations that
15 are questionable?

16 COMMISSIONER GARNETT: I would say no--

17 CHAIRPERSON TORRES: Okay.

18 COMMISSIONER GARNETT: to the extent

19 that--

20 CHAIRPERSON TORRES: So what's the
21 lowest level employee that you would in--

22 COMMISSIONER GARNETT: Well--

23 CHAIRPERSON TORRES: On whom you would
24 do a background investigation.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

7A

2 COMMISSIONER GARNETT: So, the only low
3 level employees that-- People I would categorize as
4 low level employees that would fall within the
5 background group are those who are in a sensitive
6 position. They are involved in significant
7 procurement, zoning changes, areas that are
8 particularly susceptible to corruption, they work on
9 sensitive IT infrastructure for the city or for a
10 particular agency.

11 CHAIRPERSON TORRES: And that's
12 described as routine.

13 COMMISSIONER GARNETT: Well, it depends on
14 the--

15 CHAIRPERSON TORRES: Okay.

16 COMMISSIONER GARNETT: It depends on the
17 position, but the category of managerial employees,
18 which is a category and Executive Order 16 can be
19 quite large because anyone who is in a supervisory
20 role--

21 CHAIRPERSON TORRES: Do you know how
22 large that category is?

23 COMMISSIONER GARNETT: No. Off the top--

24 CHAIRPERSON TORRES: Is it hundreds? Is
25 it thousands?

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

75

2 COMMISSIONER GARNETT: It's thousands, but
3 we don't track the background investigations by which
4 category they fall.

5 CHAIRPERSON TORRES: But to my point
6 about demand versus supply, is that category too
7 broad?

8 COMMISSIONER GARNETT: I think that that
9 is more of a political decision for the Mayor--

10 CHAIRPERSON TORRES: But I--

11 COMMISSIONER GARNETT: and the Council to
12 make.

13 CHAIRPERSON TORRES: am for the City
14 Council and so, as the chair of the committee that
15 oversees your agency, I am asking in your
16 professional opinion, someone who is on the ground,
17 do you believe that category is too broad?

18 COMMISSIONER GARNETT: Yes. I think the
19 category--

20 CHAIRPERSON TORRES: Okay. So how--

21 COMMISSIONER GARNETT: I think the
22 category could, that category in particular, could
23 probably be shrunk somewhat without affecting the
24 integrity of city operations.

25 CHAIRPERSON TORRES: So--

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

76

2 COMMISSIONER GARNETT: We have not studied
3 the problem--

4 CHAIRPERSON TORRES: Okay.

5 COMMISSIONER GARNETT: in depth. So--

6 CHAIRPERSON TORRES: So, my ask of you
7 is to come back to the City Council. We are likely
8 to have a subsequent budget hearing in May. Tell me,
9 explained to me, or delineate how DOI could safely
10 shrink the category of routine investigations
11 managerial positions without jeopardizing the
12 integrity of city government.

13 COMMISSIONER GARNETT: Okay. Happy to do
14 that.

15 CHAIRPERSON TORRES: Great.
16 Commissioner, always a pleasure. Thank you so much
17 for your testimony. So--

18 COMMISSIONER GARNETT: Thank you.

19 CHAIRPERSON TORRES: And I just want to
20 point out that we were joined earlier by council
21 member Salamanca, Powers, Treyger, Lancman, and
22 Kallos, and Rosenthal. So-- And we only have one
23 panel of two witnesses. We have Greg Waltman from GI
24 Quantum and Talaki Kamatsu.

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

77

2 GREG WALTMAN: Good afternoon,

3 [inaudible 37:53]

4 CHAIRPERSON TORRES: Yeah. Yeah.

5 GREG WALTMAN: Greg Waltman--

6 CHAIRPERSON TORRES: [interposing] If
7 you can just-- Yeah.

8 GREG WALTMAN: [inaudible 38:01]

9 CHAIRPERSON TORRES: Speak through the
10 mic so that it can be recorded for the record.

11 [inaudible 38:06] [background comments]

12 CHAIRPERSON TORRES: Okay.

13 GREG WALTMAN: Greg Waltman, G1
14 Quantum. Thank you, Mr. Torres. It's always
15 interesting. I have a clean energy company called G1
16 Quantum. We specialize in different types of
17 proprietary innovation and I was overhearing with
18 your Department of investigation that they wanted a
19 request for some 13 new positions. Obviously, there
20 is a question the fiscal year 2020 bunch at with
21 reallocating resources to that with respect to over
22 time and the types of fiscal constraints that would
23 hinder or impair any further value expansion of
24 Department of Investigations. And I just wanted to
25 articulate a point where we have a proprietary

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

78

2 innovation, Quantum Tracks, which is a variation of
3 speed breaker technology waves, as track
4 enhancements, I would argue obsolete track
5 enhancements are being conducted, this new type of
6 track enhancement can go a long way in supplementing
7 New York City's energy grid creating the first ever
8 self-sustainable city in the world. So, with that
9 being said, you know, there is, obviously, ample
10 opportunity to then restructure, not only Department
11 of Investigation budgetary constraints, but also
12 different types of Section 8, NYCHA, different types
13 of related issues, that can go a long way. So I just
14 wanted to put that out there and that these solutions
15 do exist and as track enhancements are, you, under
16 way, it's not-- I'm not advocating for a big dig,
17 Boston big take all at once. I'm just saying, as we
18 go along executing along those types of lines would
19 be a superior course of action for the city. Thank
20 you.

21 CHAIRPERSON TORRES: Thank you for your
22 testimony.

23 TALAKI KAMATSU: Hi. I'm Talaki Kamatsu.
24 We had a conversation on Monday last week at around 5
25 o'clock outside of City Hall by the Broadway entrance

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

7a

2 that was after I was illegally kicked out of a public
3 hearing in the Blue Room that the Mayor held in
4 regards to the bill signing meeting with regards to
5 labor rights. You mentioned to me during that
6 conversation that, with regards to oversight, you
7 would pursue systemic problems instead of, I guess,
8 individual problems, but a year ago I also testified
9 in a public hearing with you. That was in March and
10 I basically testified that there are public town hall
11 meetings, public resource fair meetings, and my
12 testimony then was that I was illegally prevented
13 from attending those public forums. Today there is a
14 case of the second circuit of the Knight First
15 Amendment Institute versus Trump. They already oral
16 argument in the case at 10 o'clock today. There is
17 an audio recording of that. So, I guess with regards
18 to the Commissioner of DOI who was just over here
19 testifying, I was at her office on Wednesday of last
20 week submitting a complaint about what transpired on
21 Monday of last week in the Blue Room. But you have
22 my written testimony that I submitted, but let me
23 just quickly play this video recording of what
24 transpired last Monday for Judge Lorna Schofield in
25 my federal court lawsuit against the city.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS
2 ^{an}

3 CHAIRPERSON TORRES: Before you play the
4 video, is there any profanity or anything
5 objectionable?

6 TALAKI KAMATSU: No.

7 AUDIO RECORDING OF TALAKI KAMATSU: Good
8 afternoon, Mr. Mayor.

9 AUDIO RECORDING OF MAYOR: Good
10 afternoon.

11 AUDIO RECORDING OF TALAKI KAMATSU: You
12 and I have talked a few times about this company
13 called NTT Data (sp?). You've said in the press
14 recently too much money is in the wrong hands, so for
15 the benefit of this audience, I am going to begin my
16 testimony by playing back a video of our conversation
17 on March 15 of 2017 at your town hall in Chelsea.

18 AUDIO RECORDING OF MAYOR: I don't know
19 if that's something--

20 AUDIO RECORDING OF TALAKI KAMATSU:
21 [interposing] First amendment--

22 AUDIO RECORDING OF MAYOR: [inaudible
23 42:07] testimony.

24 AUDIO RECORDING OF TALAKI KAMATSU:
25 First amendment rights say I can do that.

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

21

2 AUDIO RECORDING OF MAYOR: Your first
3 amendment rights are great. I just want to say if I
4 don't know if we accept that as a testimony. So, we
5 should keep moving forward. Okay. Let me just say a
6 quick--

7 AUDIO RECORDING OF TALAKI KAMATSU: So,
8 come on.

9 TALAKI KAMATSU: This is the aftermath.

10 AUDIO RECORDING OF TALAKI KAMATSU: Face
11 me. Can I get your name? [background comments]
12 Right here. [background comments] Judge Schofield,
13 so, this is Talaki Kamatsu. I just tried testifying
14 in a public hearing with the Mayor in the Blue Room.
15 I was illegally assaulted in the public hearing in
16 the Blue Room by a member of the NYPD. This is his
17 supervisor. I was assaulted by a black male. I
18 asked for their identities. They won't give me to
19 it. They won't give me his name, his rank.

20 AUDIO RECORDING OF UNKNOWN MALE: I'll
21 give you all my information [inaudible 43:04]

22 AUDIO RECORDING OF TALAKI KAMATSU: I s
23 specifically asked for--

24 AUDIO RECORDING OF UNKNOWN MALE:
25 Whatever you need. [inaudible 43:06]

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2

3 AUDIO RECORDING OF TALAKI KAMATSU: I

4 specifically asked for his name.

5 AUDIO RECORDING OF UNKNOWN MALE: I

6 tried testifying lawfully. I was illegally prevented
7 from doing that.

8 TALAKI KAMATSU: Can I continue? Okay.

9 AUDIO RECORDING OF TALAKI KAMATSU: Upon
10 that happening, a member of the NYPD--

11 CHAIRPERSON TORRES: [interposing] Your
12 time is expired, but we understand the point you
13 made. So, I appreciate your testimony. So--

14 TALAKI KAMATSU: So, just to conclude--

15 CHAIRPERSON TORRES: Yeah.

16 TALAKI KAMATSU: With regard to my
17 written testimony, I have to appear in court twice
18 this week. Tomorrow is in a housing court case. I
19 submitted FOIL request to HRA. They have been
20 illegally refusing to comply with my FOIL requests.
21 I think I've previously testified to you that I was
22 assaulted where I reside, so if that is critical to
23 my defense and I have a FOIL right to that
24 information, can you intervene to, I guess, have HRA
25 immediately comply with my FOIL rights?

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

2

3 CHAIRPERSON TORRES: This is not a Q&A,
4 but I certainly, if you have a concern, you can
5 certainly email my office or related to my staff and
6 we can follow up with you.

7 TALAKI KAMATSU: But the Chairman of this
8 committee, correct?

9 CHAIRPERSON TORRES: So, I chair the
10 committee, but I don't-- and I asked questions and
11 you testify. So, and we've heard your testimony and
12 I thank you for coming.

13 TALAKI KAMATSU: Thank you, Judge
14 Schofield.

15 CHAIRPERSON TORRES: With no further
16 panels, this hearing is adjourned.

17 [gavel]

18

19

20

21

22

23

24

25

1 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS
2 21

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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 26, 2019