

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

NEW YORK CITY CHARTER REVISION COMMISSION 2019

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March 14, 2019
Start: 6:10 p.m.
Recess: 7:38 p.m.

HELD AT: Borough of Manhattan
Community College (BMCC)
Richard Harris Terrace

B E F O R E: GAIL BENJAMIN
Commission Chair

COMMISSIONERS: Sal Albanese
Dr. Lilliam Barrios-Paoli
Lisette Camilo
James Caras
Eduardo Cordero, sr.
Stephen Fiala
Paula Gavin
Lindsay Greene
Alison Hirsch
Reverend Clinton Miller
Sateesh Nori
Dr. Merryl Tisch
James Vacca
Carl Weisbrod

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

Panel 1:

Wendy Garcia, Chief Diversity Officer in the Office of the City Comptroller

Dawn Pinnock, DCAS Executive Deputy Commissioner for People, Operations, and Risk Management

Jonnel Doris, Senior Advisor and Director, Mayor's Office of Minority & Women-Owned Business Enterprises

Rev. Jacques Andre DeGraff, Chair of the School Construction Diversity Council and has negotiated with the City and the Building and Construction Trades Council on behalf of the Minority Business Leadership Council

Andrea Bowen, MSW, Bowen Public Affairs Consulting

Panel 2:

Richard Briffault, Chair, Conflicts of Interest Board

2 CHAIRPERSON BENJAMIN: Tonight is the
3 public meeting of the 2019 New York City Charter
4 Revision. I am Gail Benjamin, the Chair of the
5 Commission, and I am joined by the following members:
6 To my left is Alison Hirsh and Lisette Camilo. To my
7 right, my far right is the Outer Borough Steve Fiala,
8 Sal Albanese, Dr. Lilliam Barrios-Paoli, and Jim
9 Caras, and directly next to me is my Counsel David
10 Seitzer. Today we will continue the commission's
11 series of expert forums on the focus areas we adopted
12 in January. This evening we are privileged to be
13 joined by a distinguished set of panelists put
14 together in consultation with my fellow Commissioners
15 who have generously agreed to speak to us about Chief
16 Diversity Officers as well as corruption and
17 conflicts or interest in city government. We very
18 much look forward to delving into these important
19 topics with our panelists. Additionally, although
20 several individuals who were invited to speak about
21 the management of the city's pension funds were
22 unable to be here tonight, we will be soliciting
23 written comments from them, and reaching out as we
24 normally do with any questions that we do not have a

2 chance to ask at the forum. With that, let's get
3 started with our first--

4 COMMISSIONER ALBANESE: Chair, I have the
5 privilege of the floor. I'd like to just make a few
6 comments about the Pension Panel (sic) that
7 disappeared today. It evaporated.

8 CHAIRPERSON BENJAMIN: I can't finish,
9 can I?

10 COMMISSIONER ALBANESE: Sorry.

11 CHAIRPERSON BENJAMIN: I-I can't finish,
12 can I?

13 COMMISSIONER ALBANESE: You can finish.
14 I think you finished. I think we're about--

15 CHAIRPERSON BENJAMIN: No.

16 COMMISSIONER ALBANESE: Oh, I'm sorry.
17 When you're done I'd just like to make a few
18 comments.

19 CHAIRPERSON BENJAMIN: Just a few. Each
20 panelist will have three minutes to provide brief
21 opening remarks, and then we'll have 30 minutes for
22 Commissioner questions. If 30 minutes ends up not
23 being enough time to get to your question, just let
24 staff know and they will arrange follow-up
25 afterwards. For brevity sake, I'm going to call up

2 the witnesses, but I'll ask each of them to more
3 fully introduce themselves when they give their
4 statements. On this first panel we have Jonnel
5 Doris, Wendy Garcia, Dawn Pinnock, the Reverend
6 Jacques Andre DeGraff, and Andrea Bowen and I would
7 now like to recognize Sal Albanese who has a few very
8 brief comments.

9 COMMISSIONER ALBANESE: Well, about a
10 minute or so, and then I have—I think it's important
11 Madam Chair. I—I--

12 CASEY ADAMS: Okay.

13 COMMISSIONER ALBANESE: --I would just
14 like to say I'm disappointed in the fact that we had
15 pension reform panel along with the other issues
16 tonight, and for some reason the—the Bureau of Asset
17 Management that was scheduled to attend here tonight
18 and was actually agreed to attend in the afternoon
19 today said that they couldn't make it. They had
20 other business to attend to. Now, as you know, I've
21 written an op-ed about pension reform and the
22 importance of overhauling our pension plan in New
23 York City because it is—it is as the former
24 Comptroller John Liu said, It's a clunker a of a
25 plan. Mayor Bloomberg also agreed, and I think we

2 had an—we have an obligation to at least air it out,
3 and [pause in audio] pension plans and we needed an
4 opportunity to ask them questions about how that
5 pension plan is working with five different plans,
6 consultants up the kazooie, under-performing the
7 Canadians by 2.5% every single year, yet, I think
8 it's disrespectful for his staff not to be here, and
9 it's disrespectful for him not to be here. Today, he
10 was on the air talking about the Diversity Officer—
11 Chief Diversity Officer, which I think is a great
12 idea, which he has no jurisdiction over, but yet in
13 the area where he's responsible for our pension plan,
14 and, of course, when you—when you—when you take on a
15 pension like pension reform there's always—you're
16 going to take a little fire. He's missing in action
17 and so is his staff. So, I'm disappointed. I want
18 to thank the staff for doing whatever they could to
19 bring everybody—everybody in, and I'm going to—I will
20 ask the staff to do some additional research on this
21 topic and -and come up with a-with a deep dive on-on
22 pension reform in New York City because I think we
23 need it, the employees of the city, the taxpayers of
24 the city. The retirees depend on this system. We're
25 contributing \$10 billion a year. That's only going

2 to grow as Baby boomers retire. So, I know it's a
3 politically tough issue, but that's what we get paid
4 for as elected officials so he should not be missing
5 in action as he is today. But I'm going to continue
6 press that we address this issue.

7 CHAIRPERSON BENJAMIN: Thank you, Sal. I
8 know and I thank you for your comments and your
9 understanding. We have tried. The Comptroller
10 called me, and said that they would not be able to
11 make it. I have no way to compel persons as you know
12 to be here. We will try to find another way to go
13 about doing this, and you have my commitment to try
14 and make that happen.

15 COMMISSIONER ALBANESE: Thank you. I'd
16 like to know what was more important than the Bureau
17 of Asset Management not to attend. What? Did they
18 have a cheerleading event tonight? What-what was
19 going on?

20 Just to-I don't know how to turn this on.

21 CHAIRPERSON BENJAMIN: When the green
22 light is on.

23 COMMISSIONER: Okay. Is this on? Oh,
24 there it is. It's my understanding that the Chief
25 Investment Officer for the Comptroller's Office and

2 for the City of New York is actually out of town
3 tonight and so until--

4 COMMISSIONER ALBANESE: They what?

5 COMMISSIONER: The Chief Investment
6 Officer--

7 COMMISSIONER ALBANESE: What about him?

8 COMMISSIONER: Is out of town tonight,
9 and the reason being--so, and he is the most
10 appropriate person to testify on this issue given
11 what his portfolio is, and so it's my understanding
12 the Comptroller and the Chief Investment Officer
13 offered to find another date if all possible, but the
14 scheduling didn't work is my understanding, but
15 regardless we--

16 COMMISSIONER ALBANESE: That's not what
17 staff said. I'm sorry and--and the Chief Investment
18 Officer should not have been out of town because they
19 agreed to testify. They agreed to testify weeks ago
20 on this date and--and all of a sudden they're out of
21 town. I don't buy it. I'm sorry.

22 CHAIRPERSON BENJAMIN: With that, I thank
23 everyone around the table for their understanding.
24 We now have a quorum with the addition of Sateesh
25 Nori, and so I would like to entertain a motion to

2 adopt the minutes of the Commission's meeting of
3 March 11th held here at the BMCC, a copy of which has
4 been provided to all of the Commissioners. Do I hear
5 a motion?

6 COMMISSIONER: I make a motion.

7 CHAIRPERSON BENJAMIN: Second?

8 COMMISSIONER: Second.

9 CHAIRPERSON BENJAMIN: Discussion? All
10 in favor? Aye.

11 COMMISSIONERS: [in unison] Aye.

12 CHAIRPERSON BENJAMIN: Opposed? The
13 motion--the motion--I thought you were raising your
14 hand, Sal.

15 COMMISSIONER ALBANESE: No, no, no.

16 CHAIRPERSON BENJAMIN: [laughs] The
17 motion carries. Mister--Jonnel Doris, would you like
18 to start? [pause] [background comments]

19 CHAIRPERSON BENJAMIN: Move closer,
20 closer than you ever though possible. [background
21 comments/pause]

22 Good evening to New York City Charter
23 Revision Commissioners, esteemed co-panelists. My
24 name is Jonnel Doris. I'm the Senior Advisor and
25 Director of the Mayor's Office of MWBEs. Today, I

2 want to provide an overview of the citywide MWBE
3 program, the program's goals as well as an open view
4 of the structure and accountability within our office
5 that ensures our commitment to diversity in the
6 city's procurement process. In fall of 2016 Mayor de
7 Blasio announced the creation of the Mayor's Office
8 of MWBEs as a critical next step to—in the
9 Administration's commitment to increasing contract
10 and opportunities for Minority and Women
11 entrepreneurs. The Mayor pledged ambitious goals of
12 achieving 30% MWBE utilization by 2021 and having
13 9,000 certified businesses by the end of 2019. In
14 2015, the Mayor also outlined the OneNYC goal of \$16
15 billion to MWBEs in the next 10 years, and also last
16 year he raised that goal to \$20 billion since we were
17 ahead about \$1.8 billion of our projections. We are
18 excited to have the leadership of Deputy Mayor Phil
19 Thompson whose career long justice and equity work
20 includes increasing economic opportunities for
21 disadvantaged individuals and challenging structural
22 and historical barriers in the marketplace and within
23 government. Under the supervision of the Deputy
24 Mayor, our office, SBS and MOCS, we play integral—an
25 integral role in implementing oversight for the MWBE

2 program. The purpose of the city's program really is
3 to remedy the discrimination of past-past
4 discrimination in the city's procurement. This
5 impact is statistically analyzed in the Disparity
6 Study. I want to skip ahead of-for time purposes.
7 Since we are here tonight to really talk about the
8 Chief Diversity Officer, we wanted to give a little
9 update on where we are. Since the start of this
10 administration the city was at 8% utilization. We
11 are-last year in the Fiscal Year, we were at 19%. So
12 this morning doubled where we started at the
13 beginning of this administration and last year alone
14 we did \$3.7 billion in utilization for MWBEs when it
15 comes to contracting. We are not there yet, and we
16 know going forward we will have to continue to work
17 closely with our elected partners, members of this
18 Commission, certainly our colleagues on this panel to
19 help move the agenda forward for MWBEs. I would also
20 like to say that we didn't just change rules in the
21 city, which we have and made adjustments to policies
22 and procedures to ensure that MWBEs are able to
23 participate, we actually went to Albany to get state
24 law changed so that we can increase opportunity here
25 at the city level, and since we've done that, raising

2 our discretionary threshold, our bi-state law, change
3 in state law from 20,000 to 150,000 we are able to
4 move in the very short span of time over a few months
5 set over 750 contracts to MWBEs worth about \$56
6 million. So, we're committed to making the necessary
7 changes, lobbying where needed, and certainly look
8 forward to hearing from the Commission today, your
9 concerns concerning the CDO position.

10 CHAIRPERSON BENJAMIN: Thank you very
11 much, Mr. Doris. Wendy Garcia. Thank you to my
12 staff.(sic)

13 WENDY GARCIA: Thank you so much. Thank
14 you to the Charter Revision Commission for allowing
15 me to testify today. My name is Wendy Garcia, and
16 I'm the Chief Diversity Officer for the Office of the
17 Comptroller, and I'm here to call on the Charter
18 Revision Commission to end the status quo on
19 exclusion and put Chief Diversity Officer on the
20 ballot for November. As many of you already know,
21 there are multiple programs around the city that
22 already address income inequalities for women and
23 people of color. Some may say that programs--these
24 programs are enough, but we have found in our
25 analysis time after time again that those programs

2 don't have the systemic oversight and sustainability
3 that they need to be successful. A Chief Diversity
4 Officer will set the tone at the very top for
5 inclusion and it will create a five-borough economy
6 that represents the diversity of the city. For
7 example, Local Law 1, which sets contracting goals
8 across agencies focuses solely on business owners and
9 lacks accountability. Of the 6,700 certified MWBEs
10 only 20% of those firms received payments from the
11 City Contracts. We also found that in 2015, more than
12 60% of those agencies failed to submit contracting
13 information to the city's PIP system as required, and
14 with out this information agencies cannot hold primes
15 accountable for their contracting scopes,
16 disproportionately impacting MWBEs. In addition, as
17 you heard my colleague say earlier this week, we
18 found that 69% of MWBE contracts are submitted late
19 to registration delaying their payments and forcing
20 many of the businesses out. To raise this issue, you
21 need a CDO who reports to the top. If you look at
22 the new Office of Citywide Equity and Inclusion,
23 whose focus is employment and diversity, the head of
24 that office lacks the reporting structure needed for
25 real influence, and while I believe the current

2 commissioner supports this office mission, the office
3 needs to be elevated to ensure that the next
4 commissioner takes this seriously. Of the handful of
5 agencies that have CDOs a few report to the top, and
6 they're already seeing results. For example, if you
7 look at the Department of Design and Construction,
8 they increased their MWB spending by more than \$100
9 million since 2014. This is key because studies have
10 found that Chief Diversity Officers who do not report
11 to the top are really set up to fail in turn
12 impacting communities of color and women. My role,
13 which is an executive level position ensures that the
14 city uses its financial power from contracts to
15 investments to level the playing field. For example,
16 we took an honest look at the Comptroller's Office
17 procurement, and we created a strategy to almost
18 triple our spending with MWBEs from 11% to 29%, and
19 we pushed global companies to add directors from
20 various backgrounds. In fact, 49 companies we
21 targeted have elected 59 new directors who identify
22 as women and people of color. As you can see, this
23 issue is bigger than Local Law 1. We need to
24 enshrine it in the Charter. Thank you.

2 CHAIRPERSON BENJAMIN: Thank you very
3 much. Thank you very much, Ms. Garcia. Dawn
4 Pinnock:

5 DAWN PINNOCK: Thank you. Good evening
6 members of the New York City Charter Commission and
7 tonight's panelists. I'm Dawn Pinnock and I proudly
8 serve as the Executive Deputy Commissioner of People
9 Operations and Risk Management at the Department of
10 Citywide Administrative Services know as DCAS. I'm
11 pleased to have an opportunity to testify today to
12 inform you of the work that the Office of Citywide
13 Equity and Inclusion does to foster workplace
14 diversity, equity and inclusion across the city. In
15 line with the City Charter, OCEI's mission is to
16 enable city agencies to comply with the City's Equal
17 Employment Opportunity Policy and Charter Revisions
18 and laws concerning Equal Employment Opportunity.
19 Under the leadership of a Chief Equity and Inclusion
20 Officer, which works directly with mayoral agencies,
21 we conduct monitoring and we ensure citywide
22 compliance with policy reporting training
23 requirements. Additionally, under Local Law 12,
24 which was enacted in January of this year, which
25 memorializes OCEI's current structure, it calls for

2 the creation of a diversity and inclusion Office
3 within DCAS to which agencies are accountable and the
4 appoint of a Chief to lead this work, and specific
5 reporting requirements to highlight the city's
6 efforts to address workforce inequities. The city's
7 municipal workforce includes over 390,000 employees
8 who provide essential services to New Yorkers. We
9 are a minority majority with women representing 59%
10 of the city's workforce, and people of color
11 comprising 52%. We are a civil service municipality
12 whereby 83% of our positions are filled through civil
13 service testing and 95% of our workforce are
14 represented by unions whose salaries are codified in
15 collective bargaining agreements. Pursuant to the
16 city's EEO Policy, EEO officers report directly to an
17 agency head. DCAS' Chief Equity and Inclusion
18 Officer works directly with these officer to ensure
19 citywide compliance with respect to EEO and equity.
20 The chief participates in the vetting process for
21 these officers, provides orientation and
22 investigative support and holds monthly meetings,
23 mandatory meetings with these officers serving across
24 the city. The Office of Citywide Equity and
25 Inclusion also provides a host of tools including

2 mandatory training and a 24-hour access to both
3 information portals. The Chief also reports
4 regularly to City Hall regarding citywide policy,
5 training and compliance. Given the nature of civil
6 service, OCEI also focuses on pipeline development
7 prior to the administration of Civil Service exams.
8 We issue quarterly reports to our EEO officers
9 specifically for the purposes of hosting targeted
10 recruitment efforts to ensure that their workforce
11 and work place is diverse. There is a specific focus
12 on underserved communities including people with
13 disabilities, the LGBTQ community and people of
14 color. We've also partnered with the Mayor's Office
15 for People with Disabilities to connect people with
16 disabilities to civil service careers. Through this
17 partnership, we've hosted the first city's Diversity
18 Job Fair. It's first symposium for HR and EEO
19 professionals, and we're offering disability
20 etiquette training to educate all employees on ways
21 to engage with people with disabilities. I thank you
22 for the opportunity to testify this evening, and look
23 forward to hearing more about this proposal. Thank
24 you.

2 CHAIRPERSON BENJAMIN: Thank you, Ms.
3 Pinnock. Reverend DeGraff.

4 REVEREND DEGRAFF: Good evening,
5 commission. Thank you for this opportunity and to
6 join these distinguished co-panelists. In plain talk
7 it's not working and we're disappointed. Good people
8 are—are achieving things, but the reality is this:
9 The next mayor could come in and with the stroke of a
10 pen eliminated all the progress you've heard thus
11 far. We believe the progress to be institutionalized
12 through a CDO for the City of New York. The Federal
13 Reserve has a CDO, CBS has a CDO, the Nielsen
14 Companies has a CDO, and I was part of that effort
15 for over 10 years. Why am I saying that? because
16 the private sector has already recognized that having
17 diversity is good for business, and we need people
18 installed in office who every day see this as their
19 responsibility. There's a chief legal counsel. You
20 have your lawyer right with you, but other places
21 have a Chief Financial Officer and they worry about
22 the money. We need someone who is gate keeper and—
23 and a watch dog over for the City of New York, and
24 when the city allows MBEs and MWBEs to be a full part
25 of the life of the city, then jobs are created and

2 wealth is created in our community. But we need to
3 see a CDO who can do more and speak with the
4 authority not only of a Charter sanctioned position,
5 but also with the authority to call commissioners on
6 the carpet. So that when crimes don't pay subs,
7 somebody can intercede. Right now you can win a
8 contract and lose you business because there's no one
9 to speak up on behalf of the firms that win the
10 opportunities. And as a point in fact, despite all
11 the great numbers, black and brown communities are
12 watching the gravy train or economic development pass
13 us by. This is unacceptable. I am a past MWBE
14 advocate of the year from the city of New York
15 nominated by the building trades. I chaired the
16 Diversity Council of the School Construction
17 Authority the city's most successful program, and
18 what accounted for more than a third of its MWBE
19 spend. I know what I'm talking about, and I know
20 that unless there is sanctioned leadership with
21 authority and we just don't want to a CDO. We want a
22 funded office, and we want funded staff in each
23 agency because we need to get results that are—that
24 are accountable to the people that serve. It cannot
25 be from administration to administration. We have an

2 historic opportunity. I'm old enough to remember
3 when we had a Board of Estimate, and there were a lot
4 of backroom deals, and it was—it was the old boys
5 club.

6 CHAIRPERSON BENJAMIN: [interposing] Be
7 careful. I was on the Board of Estimate.

8 REVEREND DEGRAFF: [laughs]

9 CHAIRPERSON BENJAMIN: Because I sat on
10 the Board of Estimate.

11 REVEREND DEGRAFF: Excuse me?

12 CHAIRPERSON BENJAMIN: I sat on the Board
13 of Estimate.

14 REVEREND DEGRAFF: Well, okay. Well, you
15 were young. [laughter]

16 CHAIRPERSON BENJAMIN: The board and I
17 wasn't make that money. (sic)

18 REVEREND DEGRAFF: [interposing] You
19 were—you were a prodigy, but—but for the—for the rest
20 of us it was a way of business that—that was not
21 always done in public. There were a lot of things
22 that happened out of the public view. We want to
23 take this moment in history to open the door of
24 opportunity in the city of New York and to continue
25 to be a leader in public policy in the national

2 position that we occupy. Thank you for this
3 opportunity, and I welcome your questions.

4 CHAIRPERSON BENJAMIN: Thank you,
5 Reverend DeGraff and now Andrea Bowen. Is that mic
6 working? [background comments]

7 ANDREA BOWEN: Let's do this on. Good
8 evening, Chair Benjamin, and members of the NYC
9 Charter Commission. My name is Andrea Bowen, and I
10 am Principal of Bowen Public Affairs Consulting. I'm
11 a transgender woman, and advocate for the Lesbian,
12 Gay, Bisexual, Transgender, Queer, Questioning and
13 Intersex Community, and I currently engage in policy
14 articulation, advocacy and implementation around
15 LGBTQI and primarily transgender issues. I
16 previously submitted comments to the Charter
17 Commission cosigned by several organizations, and
18 they are at the back of testimony. And those form
19 the basis of my recommendations around the proposed
20 Chief Diversity Officer or CDO. I primarily work on
21 issues around the transgender, gender non-conforming
22 and non-binary community as we increasingly call it,
23 and so, but I'm just going to say trans for short
24 even though it's TGNC and BNY testimony. So, any CDO
25 position should not limited its purview to

2 procurement as is the focus of the Comptrollers'
3 proposal, but should view its mandate as pushing for
4 inclusion of women, minorities including—including
5 trans people across a variety of city activities.

6 New York City CDOs should ensure inclusion in city
7 agency hiring as do CBOS in other municipalities.

8 While the city of San Francisco, the take 1 doesn't
9 have a CDO, it has several offices that focus on
10 different minorities, and so their Office of

11 Transgender Initiatives informs about procurements,
12 but also like housing, and other issues under the

13 sun. And, you know, I was looking at San Antonio,
14 Texas' Chief Equity Officer, which oversaw an effort
15 to embed racial equity in city operations and

16 services. So, that's pretty expansive. So, NYCD's
17 City—NYC's CDO should have as expansive mandate as
18 possible and overseeing expansion of economic

19 opportunity in subject areas within the city's
20 purview. A particular contract focuses on a

21 particular community such as trans people or the
22 LGBTQ wide community at large, CDOs should actively
23 recruit organizations led by members of that

24 community, and also help organizations become

25 competitive for city contracts. I worked again with a

2 lot trans organizations, and I know as I've been
3 working with they're easy to take on city projects,
4 but don't have the know-how or don't know when
5 procurements happen, and so I'd like to see sort
6 greater technical assistance and outreach to make
7 sure those organizations are brought in line. CDOs
8 should have the responsibility of ensuring that
9 contracts that impact a particular community are
10 scored at least in part by community members from
11 that particular community. So, again like-like you
12 have something that impacts the LGBTQI community it
13 should be scored like LGBTQI people, and I'd like a
14 CDO to emphasize that. To ensure effectiveness of
15 proposed CDOs, they should be required to produce
16 regular public reports on agency hiring and
17 procurement awarded to protected classes under NYCD-
18 NYC law, and finally, and this is sort of CDO
19 adjacent, I would like to see the Charter have a
20 retiring requirement that at least one percent of
21 city agency jobs go to the trans community
22 considering it's an historical rates of
23 discrimination, and that Charter language be crafted
24 not only for that community, but others who are

2 similarly disadvantaged. Thank you for your time,
3 and I appreciate any questions you have.

4 CHAIRPERSON BENJAMIN: Thank you all very
5 much. We are now going to open up the floor for
6 Commissioner questions. Once again, if you don't
7 have time to get to something you wanted to ask, just
8 let one of the staff know, and they'll be more than
9 happy to follow up with the panelists after the forum
10 if we run out of time. The first person with a
11 question is Jim.

12 COMMISSIONER CARAS: [pause] Thank you,
13 everyone. Given that there are, you know, we have a
14 DCAS Office that is responsible for diversity hiring,
15 a mayoral office that's responsible for MWBE. We
16 have the EEPC. I believe—I don't know is there pay
17 equity office--

18 FEMALE SPEAKER: [off mic] Gender Equity.

19 COMMISSIONER CARAS: Gender Equity Office
20 as well. Are we talking—I mean—I'm asking you guys
21 your opinion. Are we talking about creating a
22 charter office for MWBEs or should we be talking
23 about restructuring and consolidating because it
24 seems like we have a lot of offices doing various
25 aspects of the same diversity issue.

2 JONNEL DORIS: Who was the question to?

3 All of us? [laughter] Well, first of all, thank you
4 for the question. The—there are a lot of programs
5 that you just described that are with this
6 administration. The fact of the matter is we're
7 looking ahead to what—what the next years would bring
8 and they need to be institutionalized. Some of the
9 MWBE programs will be brought under a CDL, but the—
10 the—the diversity and inclusion are a larger issue
11 than just compliance with Local Laws. They are also
12 way makers, making things happen. So, for instance
13 in the example that I gave earlier about the
14 subcontractor who didn't get paid, or to help
15 developers put their compliance plan and work plan in
16 order. The order—the offices, they get it done and
17 make it happen. By that, it means it's not a passive
18 gotcha office. It's a—it's an office that's
19 collaborative to work with the entities that deal
20 with government and government to include all of the
21 elements of our society.

22 DAWN PINNOCK: And just very quick to add
23 to that, what a—the role of a Chief Diversity Officer
24 is really to see the pattern of discrimination across
25 all agencies, and what we are succinctly asking for

2 is that we have one in the Mayor's Office that can
3 look at the CDO Office that can look at the MWBE
4 program and pick up those patterns and come up with
5 proactive solutions to address the gaps. The second
6 part of that is the Charter mandate CDOs inside of
7 city agencies, agencies and as you all know, you've
8 been all in government for a long time. When we
9 charter something into an agency, we know that the
10 next commissioner and the following commissioner will
11 have it. We don't—we don't the risk of losing the
12 concept of diversity and inclusion.

13 CHAIRPERSON BENJAMIN: [off mic] One
14 second. [on mic] Council--we've been joined by
15 Cordero, and I assume you would like to add your vote
16 to the adoption of the minutes from March 11th.,

17 COMMISSIONER CORDERO: [off mic] I do.

18 CHAIRPERSON BENJAMIN: Thank you very.
19 Please proceed.

20 DAWN PINNOCK: Thank you and thank you
21 question. As I posed my testimony, that was one of
22 the questions, that I, you know, actually as well
23 because as we look at our current system, there's a
24 great deal of overlap in terms of what is in the
25 current proposal, and what is happening really at the

2 agency level from a workplace and workforce equity
3 perspective. And so, while we certainly support the
4 spirit in which the proposal is written, there would
5 need to be some very clear conversation and
6 parameters around where these responsibilities sit
7 because currently we have a recent Local Law that was
8 passed that specifically states that DCAS really
9 serve as the home for workplace equity and inclusion
10 work, and we've been able to yield solid results,
11 you, as a result of that placement. In addition to
12 training on city employees in less than a year
13 330,000 employees on sexual harassment creating
14 standardized procedures across every agency.
15 Creating standardized codes of conduct, working with
16 MOPD to create pathway for people with disabilities
17 into civil service, which for those us who know about
18 civil services it can be quite daunting and complex
19 for individuals. We've been able to yield results,
20 you with having the Office of Citywide of Equity
21 Inclusion specifically DCAS. We also serve as a
22 central hub for all workforce data that is released
23 across the city. So, so similar to the question that
24 you've posed, that would be something that we'd be

2 interested in learning more about as this proposal
3 develops.

4 WENDY GARCIA: May I just add one
5 additional because I think—I think she brings up a
6 good point and a lot of people are raising that
7 question. I would actually argue the work is not
8 overlapping. I think you have agencies doing work in
9 silos, and that is an issue that city agencies have
10 across the board where you have one agency not
11 talking to another agency not speaking to another
12 agency. A CDO will bring that altogether. It will
13 say to whoever the mayor is, Hey, I'm seeing a
14 pattern in EEO and they're some regulations that we
15 need to change. I'm seeing a pattern in the MWBE
16 program, and there's some regulations that we need
17 change, and well, you know, when we elevate that to
18 the top it is—there is a much more aggressive push on
19 that issue. The same thing will happen at the agency
20 level. If there are bureaus within an agency that
21 are not doing what they are supposed to do, or there
22 is an agency policy change that needs to happen, only
23 a CDO can look across every single deputy
24 commissioner and say: It's time to make a change and
25 fix this issue.

2 JONNEL DORIS: [off mic] And could just
3 add? [on mic] Thank you. Thank you so much,
4 Commissioners. So, I think we—we echo the concern
5 about the proposal and certainly the redundancy or
6 the unsurety of how it would sit and work with—with
7 others. Currently, there is Local Law 1 that
8 mandates MWBE officers at the Deputy Commissioner
9 level meaning reporting directly into Commissioner
10 and also mandate a citywide MWBE Director, which
11 currently is a Deputy Mayor, Deputy Mayor Thompson.
12 So, directly reporting into the Mayor. The Mayor
13 created our office and appointed myself Senior
14 Advisor and the Director of that office first ever in
15 the city's history, and we've seen MWBE utilization
16 jump from 8% to 19% in the matter of a year and a
17 half or so, and we're continuing to grow. So, we
18 talk about sustainability and we hear the concern,
19 and this is all of our work by the way. I mean
20 everyone at this table. These are my colleagues.
21 We—we're in—in-in New York City and we're in Albany
22 working on this as well. The challenge is that we're
23 looking at this proposal because we want to
24 understand fully how it changes the construct that is
25 already there. There is direct reporting. There is

2 mandated quarterly meetings that we have with every
3 single commissioner and every MWBE officer. There
4 are month ACO meetings where we participate in.
5 There is ongoing training. There's procurement and
6 improvement plans mandated and submitted to the
7 Council every year about what those, and there's
8 accountability at the end on that. So, we are again
9 supportive, of course, of diversity. That's why
10 we're all here. That's why we're working, but we
11 are, you know, concerned about how this will be
12 administered with the current construct that we
13 already have, mandated already in law.

14 ANDREA BOWEN: And just as—as somebody
15 who hangs out in lots of rooms of community
16 organizers on regular basis, it's really hard to
17 point community members to people who are
18 accountable. Like I seriously tried making a
19 spreadsheet like for like people who are relevant to
20 the trans community who you talk to and agencies who
21 have heard, do other things. If there was like one
22 person who was responsible for a lot of contracting
23 and like city agency hiring and like things related
24 to diversity that like we could go to as like a sole
25 source, I think that—and like who is like dealing

2 with like intersectional issues as like all of our
3 issues are, I think that would be really, really
4 powerful especially from a community empowerment
5 perspective.

6 REVEREND DEGRAFF: Madam Chair, can I--
7 Can I interject just one thing--

8 CHAIRPERSON BENJAMIN: Reverend DeGraff.

9 REVEREND DEGRAFF: --and that is this:
10 We're spending--I would hope that the Commission would
11 consider that good people are making good efforts,
12 but they have inadequate tools, but the results for
13 black and brown communities are unsatisfactory, and
14 when you hear my distinguished colleague talk about a
15 10-year plan, the Mayor is only going to be here for
16 eight years. So, we don't know about those other out
17 years. It depends. It depends on what happens. We
18 need this to be institutionalized because stuff
19 happens at agencies. At some agencies there's a
20 direct report. Other agencies report to the-- the
21 MWBE director reports through ACCO, and so, it gest
22 to be a status quo, and not a turnover or an
23 inclusion at those agencies. It has to be--the
24 mandate of--of--of positions created by statute and by
25 vote of the public is what will empower change in New

2 York. We're at a historic crossroads and you have
3 the opportunity to open the door for progress in our
4 communities.

5 CHAIRPERSON BENJAMIN: I have a question.
6 Can this be done by legislation, and if you sought
7 such legislation?

8 REVEREND DEGRAFF: Yeah, we could.

9 DAWN PINNOCK: Could I--could I just--I
10 would say no because the charter is what
11 constitutionalizes how the city governs.

12 CHAIRPERSON BENJAMIN: Right.

13 DAWN PINNOCK: And what a CDO would do is
14 you would be changing at this point how we view the
15 governance of the city. I want to talk just a little
16 bit about the systemic racism, and we know that a lot
17 of the ways that we are going business now are based
18 on 30 and 40 years ago. We need someone at the top
19 who can take the microscope, and who can go through
20 all those rules and regulations, who can go through
21 all the operations and say: How do we change this,
22 and fix this to do this differently. Legislation all
23 depends on who would like to introduce it. A Charter
24 says--

2 CHAIRPERSON BENJAMIN: [interposing] I-I
3 didn't catch that.

4 DAWN PINNOCK: I'm sorry.

5 CHAIRPERSON BENJAMIN: I didn't catch
6 what you just said. The last sentence, we couldn't
7 hear you.

8 DAWN PINNOCK: Oh, I'm sorry.

9 Legislation is really based on whoever introduces it.
10 What the Charter does is that it set-it-it sets a
11 tone that the city is serious about this, and it sets
12 a tone that the city is-is focused on pushing
13 diversity not just in procurement not just in EEO,
14 but on regulatory and compliance matters as well.
15 Thank you.

16 CHAIRPERSON BENJAMIN: But could it be
17 done but legislation? I understand your preference-
18 of saying--

19 REVEREND DEGRAFF: [interposing] There
20 have been efforts to it by legislation, and there
21 have been those who have compromised it along the
22 way, and that is why we are pursuing the will of the
23 people, and that expression through a Charter vote
24 rather than [bell] through legislation. There have
25 been many, many efforts, and there are some CDOs who

2 exist and they are really public relations officers,
3 community relations officers. We need it codified by
4 the will of the people in a public vote. [pause]

5 CHAIRPERSON BENJAMIN: Sal, you're next.

6 COMMISSIONER ALBANESE: Yeah, I think
7 Reverend Degraff makes a compelling point. What
8 you're looking for is basically codifying this in-in-
9 in the Charter instead of getting here about what's
10 happening and there are some good things happening
11 now and maybe in the future they may not be as good,
12 but if it's in the Charter, it's part of our
13 government-governance process, which is what you're
14 seeking I believe, Correct?

15 DAWN PINNOCK: Yes.

16 REVEREND DEGRAFF: Part-part of it when
17 we fought--in Local Law 1 we fought to have CDOs
18 included. The Mayor's Office at that time chose to
19 say that that would be an intrusion from the
20 Legislative into the Executive Branch. They didn't
21 want City Council dictating positions in City Hall.
22 So, this is a way that--to the heart of your question,
23 that's been tried and--and--and has not reached
24 fruition. This is the way that we believe it will
25

2 reach lasting for which it will produce meaningful
3 results over time.

4 COMMISSIONER ALBANESE: Just one quick
5 question Reverend DeGraff, on—I know the state has
6 done a pretty good job especially with New York State
7 Dormitory Authority in terms of MWBE contracts. Are
8 they doing something different than the city is
9 doing or—more—they're more effective than the city
10 or--?

11 REVEREND DEGRAFF: Well, the-the-the fact
12 of the matter is that the CDO over the state of New
13 York is Governor Cuomo, and so--

14 COUNCIL MEMBER ALBANESE: He's what? I'm
15 sorry.

16 REVEREND DEGRAFF: The Governor is, in
17 fact, the CDO for New York State. He actually in
18 those quarterly meetings he's attended. He attends
19 those meeting and—and woe be to the Commissioner who
20 is falling short of their goal. It flows from the
21 top. And in—in—in this instance by putting it in the
22 City Charter, that officer would have the authority
23 not only of the Mayor's Office but of the will of the
24 people. So, we need people who can call
25 commissioners on the carpet. We need people who can

2 study data, but also look at the implications and not
3 only be-address problems, but be problem solvers, and
4 that's really-there are a lot of folk whose-who
5 you've heard this before, we never done that before
6 or the other enemy of progress: We've always done it
7 this way. We need people who can help the agencies
8 think outside the box. The good people in government
9 who want to bring about change need this help to get
10 to accomplish the goals that you've heard about.

11 COUNCIL MEMBER ALBANESE: Take Cuomo out
12 of the equation. Is there anything in the State
13 Constitution or in the State Law that mandates or has
14 some reference to achieve diversity levels?

15 REVEREND DEGRAFF: No, there's not-
16 there's not in state law, but the-but the state has
17 been more aggressive in interpreting the disparity
18 studies, which are the legal underpinning for any
19 executive or preferential programs.

20 COUNCIL MEMBER ALBANESE: Thank you.

21 JONNEL DORIS: Can I just add one thing?
22 I think, you know, we want-we want everyone to know
23 that I think the fact that, you know, we're in this
24 business is because we are very much concerned about
25 the disparities that we see. You know, this is not

2 some—something we're just looking over or holding
3 agencies accountable. Our office was created for
4 this purpose. It's embedded and enshrined in law
5 already again, and vetted the officers who are direct
6 reports. We're not talking about MWBE staff that may
7 be working, but there's also Deputy Commissioner
8 level mandated by Local Law 1 that is an MWBE
9 officer. Also the Citywide MWBE Director is a report
10 into the Mayor. All of this is already in our
11 context in the law. We've already also seen change
12 and transition in changing procedures, in changing
13 laws, in changing our goal setting processes,
14 changing how we interpret Local Law 1. We—we are in
15 the process of updating Local Law the goals, et
16 cetera to match our disparity study, and so I think,
17 you know, we want to be sure that we're doing
18 everything that we can at this moment to do that, and
19 I believe, you know, there's more to be done, and
20 we're doing it--

21 COMMISSIONER ALBANESE: [interposing] I
22 understand that, but do you support codifying this in
23 the City Charter? That's the question. I mean I—I
24 know what you're doing, and it sounds like you're
25 doing some pretty good work, but I think the essence

2 of this panel is about codifying this in the City
3 Charter. I mean are you for it or against that?

4 JONNEL DORIS: I think—I think we are
5 here to hear the concerns from the—from the
6 Commissioners. I think we're here to hear to hear
7 concerns of my colleagues.

8 COMMISSIONER ALBANESE: Okay.

9 JONNEL DORIS: What we're saying is that
10 we—we're—we're exploring it, and trying to discover
11 are we being duplicative here? Are we doing the same
12 thing that's already being done? I mean that's--

13 COMMISSIONER ALBANESE: [interposing] You
14 don't have a position on it is basically what you're
15 telling me?

16 JONNEL DORIS: I think we're in
17 exploratory mode at this time.

18 COMMISSIONER ALBANESE: Okay. I—I want
19 to be—

20 CHAIRPERSON BENJAMIN: [interposing]
21 Wait—wait.

22 COMMISSIONER ALBANESE: Okay, Madam
23 Chair.

24 CHAIRPERSON BENJAMIN: Thank you. I have
25 a question. If you're—why did you limit this to

2 mayoral agencies then? Why not include the
3 Comptroller or the--the borough presidents or the
4 council or any anybody else? Why only mayoral
5 agencies.

6 WENDY GARCIA: Well, it would be all
7 agencies. It would be--it would be all agencies.

8 CHAIRPERSON BENJAMIN: No, it says
9 Mayoral. It would be a mayoral office.

10 WENDY GARCIA: I'm saying it would be all
11 agencies. I--I--[background comments] So, right.

12 CHAIRPERSON BENJAMIN: Would you approve
13 of the--

14 WENDY GARCIA: I'm sorry can

15 CHAIRPERSON BENJAMIN: Go ahead.

16 WENDY GARCIA: Sorry. I--just my--I mean
17 the way it's drafted right now is that there's an
18 office--my understating the way it's drafted right now
19 is that there's a high level appointment in the
20 Office of the Mayor, and in all of the mayoral
21 controlled agencies.

22 CHAIRPERSON BENJAMIN: [interposing] Yes.

23 WENDY GARCIA: So, the question I think
24 will be so I guess a different way to phrase the
25 question, which is probably not the way Chair

2 Benjamin phrased it, but I will visit it there, would
3 you be open to expanding it to other agencies? Is
4 there non-mayoral entities in the city? Is there a
5 reason why they were excluded? The Comptroller, the
6 Public Advocate?

7 DAWN PINNOCK: Yes, absolutely we would
8 be open to expanding it. I think the position that
9 the—the essence of the position is that we need chief
10 diversity officers at institutions across government
11 that can help elevate the issue of both hiring and
12 procurement and policy and regulation issues so that
13 they can sit there and talk to the top and deregulate
14 anything that's causing discrimination. That being
15 said, so thank you for clarifying. [background
16 comments]

17 WENDY GARCIA: Yeah, I—I—when I was—I was
18 responding to this, the Comptroller's proposal, but
19 what Reverend DeGraff said, when I was looking over
20 it I was like—I was looking not only at the
21 Comptroller's proposal, but also the proposal to have
22 independent budgeting, and I was thinking about like
23 well we want to have something really protected from
24 like political. And so any like the influence of the
25 Mayor and like shifting with political whims within

1 administration. Like wouldn't it be awesome to
2 actually have it outside the Mayor's Office with an
3 independent budget. That was just one thing that was
4 occurring to me as I was writing testimony.
5

6 REVEREND DEGRAFF: The issue is—the fact
7 of the matter is in our form government the Executive
8 Branch proposed the budget and, therefore, that's
9 where the sway is and that's why proposals has been
10 on the Executive Branch, the—this office existing
11 within the Executive Branch, and I just want to set
12 the record straight because it might have seemed to
13 some who will be uninitiated that if any of the
14 remarks that have been said that we want to recognize
15 the contributions of Reverend Doris and—and—and Dawn
16 and entities that they represent because they have
17 come a quantum from where we were a number of years
18 when this administration came in. It was nearly
19 flatlined in terms of MWBE participation. So, I
20 don't want to—I don't want in this moment to sound
21 like I'm throwing the baby out with the bath water.
22 We couldn't have this moment but for the work that
23 they've done because the reality is that progress has
24 enemies. And status quo is—is at every institution
25 by definition, and so we want to recognize their

2 contribution because their contribution brought us to
3 the point where we can have these aspirations because
4 we know that there are good people like this in
5 government. Thank you.

6 DAWN PINNOCK: I just wanted to clarify a
7 couple of things, and so from our perspective from a
8 workplace and workforce equity perspective, you know,
9 a lot of what's been mentioned today is really
10 already in place. There is a clear system of
11 accountability between the DCAS Chief Equity and
12 Inclusion Officer and the CEO Officers who report to
13 every agency head across the city. And so, when we
14 talk about silos and not being able to speak to the
15 breadth of work that's happening across the city,
16 that's actually not where we currently sit. In
17 addition to having monthly mandatory best practices
18 meetings where we meet with our EEO officers, we
19 share citywide trends. We look at complaint data to
20 see if there are any trends or any best practices
21 that can be implemented to help us work together
22 better as a city. In addition to that, we're
23 training. We've also built in clear escalation
24 processes up to the Deputy Mayors where they are
25 following with agency heads specifically relating to

2 training and reporting clients, and any policy
3 changes that we're seeking to make. And so, I just
4 wanted to point out because I do understand, you
5 know, the spirit of the proposal, but once again I do
6 think that clarification as to where rules would
7 reside given where we currently are really needs to
8 be fleshed out.

9 CHAIRPERSON BENJAMIN: Thank you very
10 much.

11 COMMISSIONER: Can I just ask a follow-up
12 question to that because I appreciate that. Is the-
13 the coordination-the across agency coordination that
14 you engage in, is there any reason not to codify that
15 in the Charter given-I mean is that-do you see that
16 as a clear mandate from the law or as something that
17 that is both-both a function of Local Law 12, but
18 also of the current leadership and the current
19 commissioner, the current mayor? Like do you think
20 that-I guess my question is what is the downside to
21 codifying that level of coordination at the highest
22 level in the Charter?

23 DAWN PINNOCK: Base on what I know of the
24 proposal, I would not necessarily say that I see a
25 very clear downside, but once again, I do think that

2 clarification needs to happen. We do see that
3 monthly engagement with our EEO Officers as an
4 extension of Local Law 12. We also see that that
5 obligation to ensure that this city is working
6 better, and that we are looking at our data to really
7 drive how we recruit, how we get ahead of our Civil
8 Service testing process to ensure that at the time
9 they taking selections that we are selecting a
10 diversity of individuals that reflect the diversity
11 of the city. So, I don't necessarily see a clear
12 downside, but I think that's all the more reason why
13 this prosecution requires it.

14 REVEREND DEGRAFF: The fact of the matter
15 is that history didn't begin with the de Blasio
16 Administration. The 12 years of meeting and
17 preceding that were-and then he 8 years preceding
18 that was-was MWBE participation nearly flatlined in
19 New York City. So, there's 20 years versus the last
20 few years, which to the point is why it should be
21 codified because we don't know what the future holds,
22 but we can write the future with your efforts by
23 including the position to be codified in the Charter
24 Revision that's coming up in the fall.

2 JONNEL DORIS: I was just going to thank
3 Reverend DeGraff for his kind words, and—and
4 certainly we can't do it without him, and—and
5 advocates. You know, we—we came into a situation and
6 he did—he's making it very clear that the program is
7 dismantled and certainly not operating in its full
8 potential. I think the steps we've made as—as a city
9 we're going in the right direction, but also I
10 believe that the current Local Law that we have and
11 this is why I think that between Dawn and myself
12 trying to understand how we would sort of set these
13 positions in place, et cetera where there's some
14 overlap with what the current law already says and
15 where there is an MWBE officer as direct report to the
16 Commissioner. They MWBE director a direct report to
17 the Mayor, and I think the challenge the we're trying
18 to understand is then what—how is this other position
19 fills into all of that on top of what's already
20 codified in law. And the law also mandates our
21 procedures. They MWBE Officers are responsible for—
22 for the procurement plans. They're responsible for
23 the utilization plans. They're responsible for
24 contract compliance. All these things that we are
25 very much aware of and are concerned about, and so

2 again that—we're just—we just need to figure out how
3 this bill be operationalized. And the last thing
4 I'll say, you know, the commitment, you know, varies
5 obviously from individual to individual and—and—and
6 agency head to agency hear, but—but I think the
7 centralization of the MWBE Director in the Mayor's
8 Office where—where they're all reporting to
9 currently. That's the current structure. I think
10 that gives us the—the breadth and to do what we've
11 done over the last several years. We're—we're not
12 clearly there yet because we can't erase historic
13 discrimination, institutionalize discrimination,
14 sexism, racism. All of that is in the procurement
15 system and also in the marketplace. That's something
16 you haven't talked about here. In the marketplace
17 these MWBEs have with—with issues with trying to get
18 loans, trying to get a bond, trying to get insurance.
19 Paying more for everybody else so when they actually
20 bid for us here at the city maybe they're not bidding
21 as the best way that they can because they have to
22 deal with all this extra money they have to pay out
23 to get the services that they need in order emit to
24 us. I mean it's a—it's a cycle of—of discrimination
25 that we're fighting against. And so we've

2 implemented several things from the Mayor's Office
3 such as a Low-Interest Loan Funds, a Bond Collateral
4 Assistance program for our MWBE developers. Funding
5 there went to the private sector, raised money from
6 the private sector, our banks, our depository banks
7 to the tune of tens of millions, and put it all in
8 the pool that serves the MWBE, and that's what we're
9 doing now because we have the leverage from the
10 Mayor's Office to do that. So, again, I think we are
11 happy to—to continue discussion, but there's a lot
12 happening here, and a lot of this is already in the
13 law that is quarterly reported, that is mandated also
14 by the—by the—by the Council. So, anyway, I have to—
15 I'll stop there, but certainly we—we—we're continuing
16 to explore with our—with our colleagues.

17 WENDY GARCIA: I just, Madam Chair,
18 wanted to give an operationalized example. So the
19 way you operationalize is you get Chief Diversity
20 Officer. You have her report directly let's say—
21 let's take it at a city agency to a commissioner.
22 That Chief Diversity Officer will have let's say the
23 MWBE Officer right under them. That way that MWBE
24 Officer gets to talk about what they saw, what market
25 they saw, what market analysis they saw. So, in my

2 Office that's what we do. I have Brian who is
3 sitting here with us today. He goes over market
4 analysis. He looks up the patterns. He looks at the
5 scope of work for every RFP, and when Brian is done
6 with that RFP, he says, Hey, Wendy, I know we've
7 traditionally looked at this RFP in this way and this
8 way and this way, but state law is blocking us from
9 seeing X, Y and Z. I take that to the Comptroller,
10 and I say I found the pattern and it's impacting ever
11 single bureau in this office. The other thing Brian
12 does is he looks at availability across the board,
13 and if there is MWBE availability through the lens of
14 a marketplace because he's an MWBE officer, I go back
15 to the Comptroller and say, this RFP will definitely
16 have a target. If at any point there is someone in
17 my office that says, I don't really want to do that
18 because last year this how we did it, my stature in
19 the office, the fact that I'm an executive can help
20 override or it can help us come to a conclusion on
21 what is the best for that office. I can only do that
22 because I sit with every other executive in my
23 office. Brian and MWBE Officer does a great job, and
24 he does what many MWBE Officers to, but they can't-
25 they can't create policies. And while I agree with

2 Jonnel that they do great and wonderful work, they
3 don't impact policy, and a CDO allows for that to
4 happen.

5 JONNEL DORIS: And I have a point of
6 clarification to my colleague. The MWBE officers as
7 stipulated in the law are Deputy Commissioners
8 meaning that they are executive and they're in the
9 executive branch of every single agency. So, and
10 that's—I just want to make that clarification. They
11 are executive members of the cabinet of every agency.

12 REVEREND DEGRAFF: [interposing] Madam
13 Chair, in the interest of time I'd like to just leave
14 the Council, the Commission with this thought: Let's
15 instead of starting at the starting line, let's start
16 at the finish line and talk about a CDO being in
17 place and work backwards from that. Once you agree
18 to the principle of codifying it, these are details
19 that can be worked out. The legislation doesn't
20 exist. The—the—the proposal does not exist in stone.
21 What—what it needs to do is to take into
22 consideration what you've heard today, and present a
23 proposal that—that it satisfies your requirements.
24 But the bottom line has to be that we need a Charter
25 Revision CDO, and we need it now.

2 COMMISSIONER ALBANESE: Madam Chair.

3 CHAIRPERSON BENJAMIN: Yes.

4 COMMISSIONER ALBANESE: The Reverend and
5 I with respect to your position, I—I just—I'm of the
6 opposite mindset. You see, we are in a big mess in
7 this city because in part, not because of, but in
8 part because we have a voluminous Charter that over
9 the years has been used over and over again to layer
10 more and more complexity into an already complex
11 municipal corporation. We have designated Deputy
12 Mayors, and Deputy Commissioners in agencies. We've
13 designated any number of different things over the
14 years, and what we have found is that an executive
15 comes in and the City Council comes in, and they
16 ignore it. You can mandate a deputy commission for
17 X, Y and Z all you want in the Charter, but if you
18 have an unwilling chief executive and a lackluster
19 City Council not doing oversight, that Deputy
20 Mayoralty or that Deputy Commissionership in that
21 agency with that particular oversight responsibility
22 gets lost. I think what's needed is not the general
23 theme. Diversity is critical. It's the life blood
24 of this city, We are as diverse a city as exists
25 anywhere, and that's part of the greatness of the

2 city, but shouldn't we talk with greater specificity
3 about the specifics before mandating, enshrining in
4 our local constitution and this is for all of you.,
5 the notion of something that is a moving target.

6 There's a lot of diversity of opinion on this subject
7 right at that table as I'm sure there is right here.

8 I-I take point with what the Chair said. This
9 absolutely could be done by Local Law. This could be
10 done by executive order. The-the-the administer-the
11 Department of Citywide Administrative Services, the-
12 the ACS, we went through this with ACS. We created
13 it through the executive order, and then years later
14 after ironing out all the details, and after the
15 Council and the Mayor went back and forth and after
16 scandal after scandal, we decided to put it before
17 voters and say now it's ready or the people to decide
18 if it's Charter ready. I think the great concern we
19 have is not with the laudable goal, the end is you
20 have to be out of your mind to disagree with the end,
21 but the means, the means are critical, and my concern
22 is we're always too quick to come up with a catchy
23 title, and then try to ram into the Charter, and then
24 we're left very disappointed when nothing happens,
25 and our city has a history of that. So, I would-I'd

2 like to just ask all of you: Could you talk to us
3 about Local Law 12? And before you do that, you know
4 the Department of General Services used to exist. It
5 was changed to the Department of Citywide
6 Administrative-Citywide Administrative Services.
7 They've got great people there, they've got great
8 leadership there. Isn't that a great nexus or a
9 great place where the nexus should happen? You know,
10 there are rules and regulations and all sorts of
11 things. I read some—in one of the testimonies with
12 holistic that there is a concern that DCAS wouldn't
13 take a holistic approach when, in fact, DCAS is a
14 citywide entity, a charter agency that is citywide
15 taking a holistic approach. Just back up a bit and—
16 and could you speak to us about Local Law 12, which
17 isn't even on—online yet, right. It was just passed.
18 What impact would that have on the feasibility of a
19 concept like this going forward?

20 DAWN PINNOCK: Well, from a DCAS
21 perspective, Local Law 12 specifically speaks to the
22 current structure we had in place. It calls for an
23 Office of equity and Inclusion, which is currently
24 housed at DCAS, and the law specifically says that
25 this office should be housed at DCAS. It also calls

1 for a chief to serve and to lead workplace and
2 workforce equity efforts and then there are very
3 specific requirements, specifically relating to
4 reporting, which ties into the workforce data that we
5 provide to city agencies already. I talks about
6 providing under-utilization information across job
7 categories. There's a section that talks about
8 providing pay analysis and equity information. There
9 are also aspects of it that specifically refer to
10 retirement eligibility, tenor of employees. All of
11 these data points are currently collected by DCAS and
12 we provide that information to EEO officers in three
13 different—from three different data sources. We
14 issue a workforce profile report where most of that
15 information is compiled. We conduct comparisons to
16 the New York City Employable Workforce. In that
17 particular report we also provide the Federal EEO4
18 report that's required by the EEOC to agencies as
19 well as another report that's specifically pulled
20 from our Complaint Tracking Database. So, essentially
21 Local Law enshrines the work that we are currently
22 doing specifically relating to reporting, but also
23 ensuring that there is a Chief who is charged with
24

2 working with every EEO officer across the city who
3 reports to DCAS.

4 COMMISSIONER ALBANESE: And,
5 Commissioner, are you aware of the status of the—the
6 Chiefs at this moment. It's—I think it's in May that
7 this actually takes effect, right?

8 DAWN PINNOCK: Yes, it actually takes
9 effect, but we worked with the Council to have the—
10 the law reflect the work that we had already, you
11 know, been doing, and that was intentional because
12 there was a lot that I think that folks assumed about
13 what we were [bell] and were not doing, and we had
14 the opportunity to really highlight the work that
15 we've done specifically around investigations and
16 compliance, workforce data, sharing and collection
17 also providing agencies with the tools they need to
18 promote equity within the workplace. So, we made a
19 conscious shift to not just focus on compliance, but
20 also to offer a program and to provide an expanded
21 service portfolio to our EEO counterparts across the
22 city.

23 REVEREND DEGRAFF: Honorable, I—I see it
24 a little differently and I respect your views, but a
25 couple of things. One, for 20 years the city of New

2 York had an MWBE spend of less than 3%. So, the
3 recent accomplishments are transitory if we can't
4 codify it, number 1. Number 2, I believe in the
5 people and--and talk about a mediocre City Council and
6 negligent executives. I trust the people, And so, I
7 believe that the people with this Commission have the
8 capacity to craft a proposal for the--for the election
9 or the vote in November, and so there are--they have
10 always been fits and starts toward progress, but
11 we're not going to satisfy--be satisfied with status
12 quo when we can have excellent. New Yorkers always
13 led the nation in innovative public policy, and I
14 think you have the opportunity to continue our
15 leadership role.

16 WENDY GARCIA: I would just add that
17 there are cities across the nation that are already
18 doing this. You look at Chicago they have a Chief
19 Diversity Officer, and they're looking at it from the
20 perspective of it being at the top. You look at
21 small--small states like Tennessee and Nashville, and
22 they have Chief Diversity Officers looking at this at
23 the top, and a lot of their Chief Diversity Officers
24 are part of their governance mandate. So, this is
25 not--this is--this is--while this is not a topic that I

2 think it's-it's-for me it's not so much about
3 clarification. It's really about us having the will
4 to make this sustainable, and I think the Charter
5 allows us to do that. When we put it in the Charter,
6 40 years from now we know it will still exist. I
7 don't know what's going to happen to the program ten
8 years from now. I don't know if it's going to be
9 accountable. Jonnel is doing a great job, but guess
10 what? What if another Jonnel comes in, and he
11 doesn't want to do a good job or she doesn't want to
12 do a good job, where do we find accountability in the
13 City of New York. We're asking you to give us that
14 accountability to let the voters decide what that is,
15 and ten years from now we'll still have a Chief
16 Diversity Officer. We'll have a more robust CDO
17 program. We'll have a more robust MWBE program, and
18 we can ensure that now.

19 CHAIRPERSON BENJAMIN: Thank you very
20 much. Are there any further questions? I'd like to
21 thank all the panelists for their participation and
22 for their robust conversations. I'm sure that there
23 will be some additional questions and concerns that
24 raised for one of you or many of you, and I would
25 like to thank you for coming and spending the time

2 with us, and sharing your expertise. Thank you very
3 much. [background comments] Okay, we're now very
4 happy to be joined by Richie—Richard Briffault, which
5 is the—[background comments] who serves as Chair of
6 the New York City Conflicts of Interest Board.
7 Please go ahead and share your comments and then
8 we'll open it up to the Commissioner questions.

9 RICHARD BRIFFAULT: Great. This is—this
10 is on. Okay, great. Members of the Charter Revision
11 Commission, thank you very much for the opportunity
12 to speak with you today. My name is Richard
13 Briffault. I am the Chair of the New York City
14 Conflicts of Interest Board. I want to say a few
15 words about the work and structure of the Board, and
16 after that I'd be very happy to answer any questions
17 you may have. Commission of the Board, which was
18 created by the 1987 Charter Revision Commission, was
19 to protect the integrity of our city government and
20 to help assure our citizens that their government is
21 worthy of the trust. The Board administers the
22 Conflicts of Interest Provisions of the Charter, the
23 Annual Disclosure, the Lobbyist Gift Law, the
24 Affiliated Not for Profits Law and the Legal Defense
25 Trust Law. Much of the Board's work consists of

2 education and training for the city's more than
3 300,000 public servants. The Board also responds to
4 requests for advice both formally and informal public
5 servants and issues formal orders and opinions,
6 promulgates rules and prosecutes alleged violators
7 through administration proceedings. The board
8 consists of five public members appointed by the
9 Mayor with the advice and consent of the Council with
10 staggered six-year terms, and members eligible for
11 reappointment for one additional term. The only
12 qualification the Charter sets for appointments are
13 that members are chosen for the independence,
14 integrity, civic commitment and high ethical
15 standards. However, the Charter also sharply
16 restricts the outside activities of members
17 effectively limiting the ability of Board members to
18 participate in city politics. No member of the Board
19 may hold any other public office, seek election to
20 any public office, be a public employee or appear as
21 a lobbyist before the city. The day to day
22 operations of the board are handled by a staff or 26
23 divided roughly equally among the units responsible
24 for education and training, legal advice enforcing
25 the Conflicts Rules and administering the Disclosure

2 Law and got some data in the—in my comments, which
3 can also be found on annual report going through the
4 large number of informal requests for advice. Our
5 opinions are enforceable actions. The number of
6 disclosures we handle, classes, et cetera on this
7 here particular human issue of following the
8 directive of council legislation. We have been doing
9 a lot of rule making to codify it by our rules,
10 codify our prior interpretations in formal rules, and
11 we've completed five and are beginning nine, and we
12 are a very lean operation with an annual budget of a
13 little over \$2.5 million. A couple of questions have
14 been raised about the membership of the board. The
15 current members believe that our current structure
16 works very well. Our small size facilitates
17 deliberation and action. The combination of mayoral
18 appointment and Council confirmation both for initial
19 appointment and any reappointment assures that any
20 issues about any nomination can be public aired and
21 addressed. Not having multiple appointing officers
22 or a political distribution requirement eliminates
23 the concern that a member would view him or herself a
24 representative for the appointing officer or party, a
25 fragmentation that has affected the work of many

2 other agencies such as New York State's JCOPE (sic).

3 We are not and have not been a political body. The

4 Charter tells us the stay out of politics and we do.

5 Two of the current members of the board were

6 initially appointed by Mayor Bloomberg, but have been

7 reappointed or have been continued by Mayor de

8 Blasio. The three others were appointed by Mayor de

9 Blasio. We have each been before the Council for

10 conformation, some more than once. We come from a

11 variety of backgrounds, city service, the private

12 sector and academia, which is not to say the current

13 structure is the only one possible, but it does seem

14 to work. Just one more thing about our structure.

15 The Charter, it authorizes the Board to appoint a

16 Counsel. We now use the term Executive Director who

17 supervises the board's day-to-day operations, and

18 works for the board. Accountability to the board

19 serves to assure that both the Executive Director and

20 her staff are independent of the political process.

21 The current structure allows the Executive Director

22 to deal with expertise and a deep understanding of

23 the law, and how it works in the countless situations

24 in which it has to be applied. We think that's a

25 good combination with accountability, independence

2 and expertise. Finally, the Commission has indicated
3 that one of the possibilities before it has been
4 transferring the regulation of lobbying from the City
5 Clerk the Conflicts of Interest Board or to the COIB.
6 We currently enforce the Gifts Provisions of the
7 City's Administrative Code that apply to lobbyists.
8 We have no position concerning the expansion of that
9 role. We expect the lobbyists along with the
10 necessary additional staff and budget will be
11 provided, and I'm very happy to take any questions
12 about this or any other issues that relate to
13 Conflicts of Interest Board.

14 CHAIRPERSON BENJAMIN: Sal.

15 COMMISSIONER ALBANESE: Yes.

16 CHAIRPERSON BENJAMIN: Sal.

17 COMMISSIONER ALBANESE: Good evening.

18 Just a couple, a couple questions. One, you state
19 that—that representing the particular appointing
20 officer or party it has a fragment—a fragmentation
21 has affected the work, and whether ethics agencies
22 such as New Yorker State's JCOPE, but it—you're—
23 you're appointed by the Mayor, right and—and you—you
24 do rule on things that impact the Mayor.

25 RICHARD BRIFFAULT: Right.

2 COMMISSIONER ALBANESE: Isn't that an
3 inherent conflict?

4 RICHARD BRIFFAULT: I think because we
5 all have appointed and confirmed in the same way, we
6 don't think of ourselves as in some sense
7 representing different interests. I mean in some
8 institution it's appropriate to have that. It's your
9 commission. I mean it makes a lot of sense to have—
10 have things from different parts of city government.
11 I think the way we work is we really are—it helps us
12 to be internally cohesive and to be sort of
13 collective independent of everybody to be honest is
14 that don't see ourselves as working for anyone in
15 particular but for the city as a whole, and I think
16 if—it seemed okay for me to talk about specific cases
17 except for those that have been in the public record.
18 And I think it's fair to say that if you look at what
19 we've done over the last few years we have managed to
20 impose—do things that have not been—that the Mayor
21 might not have wanted, and the City Commissioners
22 certainly didn't want when—when fines were imposed,
23 that the Council may not have wanted that some DAs
24 didn't want because we also have some authority over
25 them. I think that we—I think it's fair to say that

2 we have been able to show that we have been
3 independent, and I think and I—but I think being part
4 of that is the sense of in a coalition of commitment
5 because we're not—there's no temptation to think
6 well, I represent the such and such position. We all
7 represent the same position, which is the city. So,
8 we're all subject to the same process.

9 COMMISSIONER ALBANESE: So, you would not
10 be in favor of the City Council or the Public
11 Advocate or the Borough Presidents having an
12 appointee to the Conflicts of Interest Board?

13 RICHARD BRIFFAULT: I may not. I'm happy
14 to say I have a conflicts of interest because I'm—I'm
15 here under the current situation. So, and the board
16 discussed this recently. We had a—we actually had a
17 discussion about what I should be saying, and what
18 the Board's role in all of this is. (sic) I think the
19 way I would put it is we think the current system
20 works pretty well, and I think my approach is—it's a
21 kind of a debate well don't fix it approach. I'm—I'm
22 not saying that there would be something terribly
23 wrong with another change. But I do think that works
24 well. I do think JCOPE is a caution. I think that
25 everyone would agree that that does not work well in

2 the way that's been set up, and you know, I-I trust
3 your judgment on this. But I think our view on this
4 is that--and--and not just the current form, but I
5 think going back like as we came into existence in
6 roughly--I guess roughly 1990 the '87 Charter
7 Commission sort of what that belt way (sic) so now
8 we've been in existence for close to 30 years.

9 COMMISSIONER ALBANESE: Two more--two more
10 quick questions.

11 RICHARD BRIFFAULT: Sure.

12 COMMISSIONER ALBANESE: The-- presently
13 the law states that when you leave--when the
14 legislators leave government service, they're
15 prohibited from lobbying for one year.

16 RICHARD BRIFFAULT: Right.

17 COMMISSIONER ALBANESE: I mean I'm--I'm of
18 the view that it should be a lifetime ban or a 5-year
19 ban. We've seen a lot of ethical issues surface as a
20 result of that. Has the board taken a position on
21 something on that? Have you reviewed it? Have you
22 discussed it?

23 RICHARD BRIFFAULT: In some sense we're--
24 in that sense we're not a policy making body. The
25 answer is no. We have not taken a position on that.

2 COMMISSIONER ALBANESE: Do you have—do
3 you have a view on it?

4 RICHARD BRIFFAULT: I think there's no
5 magic hour, no magic year. I mean just—it just—just
6 one slight correction I think for certain city
7 officials it's a—it's a two-year ban, but you're
8 right. So the vast majority of city officials into a
9 one year ban with respect to their former agency and
10 a lifetime ban with respect to anything they were
11 specifically involved in. When I look at the federal
12 rule for some it's one, for some it's two. For the
13 Senate the U.S. Senate it's two. I think most
14 agencies around the country use either one or two. I
15 think there are a handful of very senior federal
16 officials and national security or international
17 trade where it's four. So, there is—you know, we've—
18 we've got to balance I guess the—the integrity of the
19 system, which I think is very valuable with to what
20 extent would this discourage high quality people from
21 going into government. There's no magic place to set
22 the balance. Some one year or two years, but further
23 out you go, the more you raise the—the concern that
24 some people will be discouraged from entering public
25 services.

2 COMMISSIONER ALBANESE: Because they can
3 become lobbyists?

4 RICHARD BRIFFAULT: Well, because it
5 might interfere with that they do afterwards. I mean
6 some people come into public service as they had
7 certain track records in the private sector or the
8 not-for-profit section. You know, a lot of the—I
9 mean the lobbyists in New York City is also done by
10 the not-for-profit sector. The not-for-profit sector
11 in New York City is huge, and so I don't think it's—I
12 don't think it's all one way or the other.

13 COMMISSIONER ALBANESE: No.

14 RICHARD BRIFFAULT: I think—I think it's
15 right to—to have some kind of cooling off period. It
16 could be longer. How long it should be I—I don't
17 have a strong opinion on that.

18 COMMISSIONER ALBANESE: Well, we—we—our
19 founding fathers, as you know, when they—when they
20 developed our constitution thought of public service
21 elected positions as a, you know, as—as a vocation,
22 and then they went back to their prior occupation
23 whatever it was. . Now we seem to be moving into the
24 direction where being an elected official is really
25 the low bar for many folks going into public service

2 and—and they really aim to be lobbyists, who then go
3 out and earn millions of dollars because they're
4 lobbying their—their—their best colleagues. I mean
5 it's a philosophical question, and I don't expect you
6 to answer it, but I've got some real concerns about
7 it. That's why we—we're seeing members of—of the
8 Senate and the House proposing real anti-corruption
9 measures right now in D.C. and I think we need to go
10 in that direction. We've seen scandals here in the
11 city as well, and then one final question Madam Chair
12 if I may one final question. The—the New York—the
13 New York City Campaign Finance Law, lobbyists can
14 only contribute \$400, but they can go out and bundle
15 tons of money. How it—I mean how is that—how is
16 that—how is that not a major conflict, and why is
17 that allowed?

18 RICHARD BRIFFAULT: Well, I can't give
19 you an answer. That's a little bit outside my
20 wheelhouse right here, but I turn it back. I mean
21 whether it's in the Charter or through ordinary
22 legislation, it clearly is a bundling kind of
23 regulation. There's no absolute ban on doing that.
24 I mean, but there's no censorship or additional
25 regulated bundling that I'm aware of, and whether

2 it's a—I mean I—I was here during the prior panel and
3 I know that there was some really good discussion I
4 think about what belongs in the Charter, and what can
5 be done by Local Law that you can do it as a hybrid.

6 COMMISSIONER ALBANESE: The funny with
7 that is lobbyists cannot provide gifts to legislators
8 to go to go to the officials, yet we have a Campaign
9 Finance Law. We even go out and lobbyists are
10 bundling \$50, \$60,000 for people running for office
11 that we have a—what a \$50 gift ban. I mean is it—is
12 it and this kind of in converse in my opinion, but
13 hopefully we can address it.

14 CHAIRPERSON BENJAMIN: I just had a
15 question for you about the constituency of the
16 Commission. I note that in other locations many
17 times there were requirements whether it's
18 professional or representative. You said that you
19 weren't opposed to them, but you didn't see a need
20 for it.

21 RICHARD BRIFFAULT: Uh-hm.

22 CHAIRPERSON BENJAMIN: Do you think it
23 could add to the work of the board if—if—if the
24 constituency was always guaranteed to be spread
25 across a fairly wide spectrum?

2 RICHARD BRIFFAULT: A couple things. One
3 is the size question. How big are we talking about
4 because I do think at some point depending on which--
5 constituency is a word that covers a lot of ground so
6 that there are multiple different kinds of
7 constituencies. The broader you make the body, the
8 harder it may be for its every decision to make
9 judgments so we're forced to interpret advisement and
10 enforce the law, which is a lot of what we do. So,
11 that's I mean, it's similar to the point of how long
12 should the cooling off period be--the period be.
13 There's no magic number. Five has been a good size
14 because it allows us to deliberate, but also make
15 reach decisions and to try and keep on a--a reasonably
16 tight schedule of giving advice and reaching and
17 including adjudications and going for rule making.
18 So, that's a good one.

19 CHAIRPERSON BENJAMIN: Right, But I'm not
20 necessarily talking about expanding or sizing the
21 board.

22 RICHARD BRIFFAULT: Right, no, no, no.

23 CHAIRPERSON BENJAMIN: I'm talking about
24 potentially if there were requirements that--

25 RICHARD BRIFFAULT: Right.

2 CHAIRPERSON BENJAMIN: --let's say one
3 person had to be an attorney with a--

4 RICHARD BRIFFAULT: Right.

5 CHAIRPERSON BENJAMIN: --record in this
6 area. That another person had to be a not-for-profit
7 executive or--

8 RICHARD BRIFFAULT: Well, I'd have to
9 think about it some more. I mean I do think that--I
10 think we're all attorneys. Certainly we do a lot of
11 legal work in our meetings. So, the ones who aren't
12 attorneys are really doing a good job of faking it
13 because there is--there's a high level of legal
14 analysis that does go on. So, I--I don't know if it's
15 always been the case. There have been board members
16 before I came onto the board. I mean they're not
17 quite attorneys.(sic)

18 CHAIRPERSON BENJAMIN: [interposing] I
19 thin there was a member who was a minister.

20 RICHARD BRIFFAULT: That's quite, quite
21 possible. I mean I wouldn't--I don't know that you
22 need to require it. Obviously people bring judgments
23 and insights from all sort of fields. I suspect it
24 helps, but I wouldn't call it essential. In terms of
25 some--I--I think there--I guess my major concern would

2 be turning people—I think there's the plus side is
3 what you suggest is guaranteeing the different
4 perspectives are there. The downside is I think we'd
5 be converting people into representatives of
6 constituency groups. You know, right it does have it
7 and it is the case we've had people from the private
8 sector, the public sector, academia, some of the
9 private sector lawyers in the past, and had labor
10 practices--

11 CHAIRPERSON BENJAMIN: [interposing]

12 They're all attorneys.

13 RICHARD BRIFFAULT: I'm sorry.

14 CHAIRPERSON BENJAMIN: I said but they're
15 all attorneys.

16 RICHARD BRIFFAULT: For now yeah, and it
17 might be helpful. I don't know. I'm a lawyer
18 myself. I teach--

19 CHAIRPERSON BENJAMIN: [interposing] Yes.

20 RICHARD BRIFFAULT: --I teach law school
21 and maybe I'm biased on this.

22 CHAIRPERSON BENJAMIN: I'm not a lawyer,
23 but we do have that profession amply represented on
24 this board I think. Would all lawyers like to raise
25 their hands? [laughs] [background comments]

2 RICHARD BRIFFAULT: I'm—I'm not going to
3 say no. I—I-

4 CHAIRPERSON BENJAMIN: [interposing] I
5 was just curious.

6 RICHARD BRIFFAULT: It's not like there's
7 some other fields where I think like the City
8 Planning Commission helps people with a planning
9 background. In my case, there are some bodies that—
10 the Landmarks Preservation Commission people have an
11 architecture background or it's never understands.

12 (sic)

13 CHAIRPERSON BENJAMIN: Well, to Sal's
14 question it might be helpful to have an ethicist or a
15 minister or someone else who looks at the question,
16 the conflict of interest and ethics from a different
17 background of knowledge and philosophy. Just a
18 thought.

19 RICHARD BRIFFAULT: I don't really
20 disagree, but the only—I would just say one more time
21 and I'll stop, is a lot of what we do is an interpret
22 and enforce the law. We do bring enforcement
23 actions, and we do make—we do engage in things that
24 resemble adjudication as well as rule making. We

2 don't have to be a lawyer to that, but I do think it
3 helps.

4 CHAIRPERSON BENJAMIN: Thank you. Mr.
5 Fiala.

6 COMMISSIONER FIALA: Thank you, Chairman
7 Briffault, thank you for attending tonight. I have
8 three areas of inquiry. The first you use the phrase
9 a cooling off period for officials who leave
10 government. I'm wondering are there any additional
11 officials or city employees not presently affected by
12 that cooling off period that—that the Board thinks
13 might benefit from being brought into that fold?

14 RICHARD BRIFFAULT: I think the current
15 law I think covers everybody or it covers everybody
16 subject to our jurisdiction. It is targeted in terms
17 of you—the former employee or former public servant
18 cannot appear before—we don't—well, not restricted to
19 lobbying. It covers more broadly appearances and
20 communication with their former agency. There's some
21 issues to how agencies define. For instance, if
22 you're the Council, you're the council. We'll refer
23 somebody in. The Department of Finance is the
24 Department of Finance. So, but I believe it covers
25 everybody.

2 COMMISSIONER FIALA: Okay. Well, that
3 sounds like it's sufficiently expansive.

4 RICHARD BRIFFAULT: Right.

5 COMMISSIONER FIALA: Two, my recollection
6 and I--and don't hold me to the exact phase. I think
7 it was 2010 the last Charter Commission raised from
8 \$10,000 to \$25,000 the ability to levy the fines. The
9 argument made by COIB at the time was--I think it was
10 88 or something that it hadn't grown with inflation.
11 We're almost a decade removed now. Is the fine
12 sufficient?

13 RICHARD BRIFFAULT: We only rarely
14 actually get to the high fine, which we do try and
15 calibrate the fine to mimic the violation so that--
16 also to some extent to the seriousness of--to--to the
17 level of the employee. We haven't really focused on
18 it. I think--I wouldn't--I'm not inclined to. I
19 wouldn't be opposed to some indexing of that number,
20 but I don't that we often hit the max.

21 COMMISSIONER FIALA: This is the board--
22 the board isn't making a formal appeal--

23 RICHARD BRIFFAULT: No, no.

24 COMMISSIONER FIALA: --saying that this
25 is--this is a--

2 RICHARD BRIFFAULT: This is--

3 COMMISSIONER FIALA: --prevents good
4 oversight because the-the numbers are too-too
5 obviously not.

6 RICHARD BRIFFAULT: [interposing] Well, I
7 don't think that is--we have felt that to be a
8 problem.

9 COMMISSIONER FIALA: Okay and finally
10 there's always this debate about independence--

11 RICHARD BRIFFAULT: Uh-hm.

12 COMMISSIONER FIALA: --you know, not only
13 of your body but of all. I'm pretty amazed. \$2.5
14 million is your annual budget.

15 RICHARD BRIFFAULT: Uh-hm.

16 COMMISSIONER FIALA: You used the word
17 it's-it's fairly modest or something--

18 RICHARD BRIFFAULT: [interposing] Wee, I
19 think is the word I used.

20 COMMISSIONER FIALA: It sure is

21 RICHARD BRIFFAULT: Yeah.

22 COMMISSIONER FIALA: A blink of an eye
23 in-in-in government today, and the number of staff.
24 I'm curious about budget cycle time.

25 RICHARD BRIFFAULT: Uh-hm.

2 COMMISSIONER FIALA: You're—you've been
3 chair for how long now?

4 RICHARD BRIFFAULT: Almost five year.

5 COMMISSIONER FIALA: Five years. So,
6 you've gone through five budget cycles. When the
7 annual dance takes place, does COIB fall in—in—in the
8 same line as a lot of entities where you get this
9 drastic cut, and then you're having to kind of fight
10 to get back to where you were?

11 RICHARD BRIFFAULT: I—I-

12 COMMISSIONER FIALA: [interposing]
13 Because that speaks to a degree of independence,
14 doesn't it?

15 RICHARD BRIFFAULT: Yes. My Executive
16 Director is here and she would have a better-be
17 better able to answer that. I think it's fair to say
18 our budget has been flat for several years. So, I
19 don't know that we have been fleppies (sic) but I do—
20 I—I—we have in the past and as—as our commissions to—
21 and are locked in the budget. So, lock in to give us
22 a protected budget, which I think would either the
23 current level of adjustment for inflation a fixed
24 percentage of the city budget. It would be, as you
25

2 suggest, practically a rounding error, and we
3 actually are, but at least to commit to that.

4 COMMISSIONER FIALA: So, on that subject--

5 RICHARD BRIFFAULT: Yeah.

6 COMMISSIONER FIALA: --do-do you have
7 that--a fixed percentage of the city budget?

8 RICHARD BRIFFAULT: Right.

9 COMMISSIONER FIALA: Is it a particular
10 agency or the overall city budget?

11 RICHARD BRIFFAULT: Well, that's a good
12 question. I haven't--I don't--

13 COMMISSIONER FIALA: [interposing] I
14 don't--I don't want to put you on the spot on that.
15 If--if--if you and the Executive director might want to
16 forward that to the Executive Director of the Charter
17 Commission.

18 RICHARD BRIFFAULT: I think--I think it
19 would be in some sense it takes where we are now, and
20 take it as a--the current budget would be the
21 numerator. We--we do not make it (sic) for the
22 overall budget, or--or for the overall budget and--

23 COMMISSIONER FIALA: [interposing] So the
24 .0000000 something?

2 RICHARD BRIFFAULT: [interposing] Well,
3 but-but-but as the city budget had tended to grow,
4 and I think it's more about protection. I don't
5 believe we've threatened, but we are the agents.
6 We're not the only agency, but we are the agency that
7 oversees the people who write our funding.

8 COMMISSIONER FIALA: Yeah, that's why I
9 think perhaps you've go the degree--

10 RICHARD BRIFFAULT: [interposing] Yeah.

11 COMMISSIONER FIALA: --of independence
12 that a lot of people would envy. So, I thank you.
13 Thank the entity for their work. Thank you, Madam
14 Chair.

15 CHAIRPERSON BENJAMIN: Jim, I believe you
16 had a question.

17 COMMISSIONER CARAS: Yes. Thank you for
18 coming. I wanted to follow up on that. If you could
19 get us or your staff could get us, you know, your
20 training obligations were greatly increased.

21 RICHARD BRIFFAULT: Uh-hm.

22 COMMISSIONER CARAS: I think in the 2010--

23 RICHARD BRIFFAULT: [interposing] To
24 everybody.

25 COMMISSIONER CARAS: --Commission.

2 RICHARD BRIFFAULT: Yes.

3 COMMISSIONER CARAS: So, since that time
4 have your numbers of complaints taken in, advisory
5 opinions issued increased as a result of that, and
6 have—and your budget stayed flat? If we could see
7 those numbers, that might be helpful to deciding, you
8 know, the need for any—if--if we think you need a
9 fixed budget and a level that maybe that should be
10 fixed at.

11 RICHARD BRIFFAULT: We will get you those
12 numbers. I think certainly the numbers went up
13 sharply after 2010. They haven't gone—they—they
14 continue. Otherwise they haven't gone up so sharply
15 in the last couple of years, but I do think we've
16 been—this year was the either the highest or the next
17 highest on most of the metrics of what we do. Our
18 budget, but I think a big jump was earlier. Our
19 budget is higher than it was in 2010, but it has
20 been—I know for the last three years it's been
21 relatively—it was literally flat for the last two,
22 and relatively flat for the last three. We can get
23 you more numbers on that.

24 COMMISSIONER CARAS: Yes. Thank you.

2 CHAIRPERSON BENJAMIN: Any other
3 questions? Any other questions. Well, I would like
4 to thank you for--

5 RICHARD BRIFFAULT: [interposing] My
6 pleasure.

7 CHAIRPERSON BENJAMIN: --coming to speak
8 with us and for sharing with us your experience, and
9 with that our next forum will be on Monday, March
10 18th at 6:00 p.m. at City Hall on several governance
11 related topics including the roll of the Public
12 Advocate, the Law Department and the overall
13 structure and balance of power in city government.
14 With that, the business of today's meeting has been
15 concluded. Commissioner, while you're more than
16 welcome to take your written materials with you,
17 please remember to leave your folder and your name
18 cards behind so that we can recycle.

19 COMMISSIONER ALBANESE: Motion to
20 adjourn.

21 CHAIRPERSON BENJAMIN: [laughter]
22 Second.

23 COMMISSIONER: Second.

24 CHAIRPERSON BENJAMIN: Discussion? All
25 in favor, aye.

2 COMMISSIONERS: [in unison] Aye.

3 CHAIRPERSON BENJAMIN: Opposed? This
4 meeting is adjourned. Thank you all very much for
5 coming. [background comments/pause]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 22, 2019