



**NEW YORK CITY COUNCIL
COMMITTEES ON OVERSIGHT AND INVESTIGATIONS**

**TESTIMONY OF MARGARET GARNETT
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**CONCERNING THE FISCAL YEAR 2020 PRELIMINARY BUDGET,
THE PRELIMINARY CAPITAL PLAN FOR FISCAL YEARS 2020-2023,
THE PRELIMINARY TEN-YEAR CAPITAL STRATEGY FOR
FISCAL YEARS 2020-2029 AND THE
FISCAL YEAR 2019 PRELIMINARY MAYOR'S MANAGEMENT REPORT**

MARCH 26, 2019

Good afternoon Chair Torres and members of the Committee on Oversight and Investigations. My name is Margaret Garnett and I am the Commissioner of the New York City Department of Investigation (“DOI”). Thank you for inviting me to address the Committee on DOI’s Preliminary Budget for Fiscal Year 2020 and the work we are doing to strengthen DOI’s role as a premier law enforcement agency with independent oversight of the City.

I want to say at the outset that DOI is making a New Needs request for 13 additional positions in DOI’s Background Investigations Unit, with a funding request for 10 of those 13 positions, to ensure that we are able to properly address the backlog of investigations in this area and provide essential information for hiring agencies across the City. I do not make this request lightly and I will provide context further into my testimony, so there can be a full understanding of this critical problem and why we believe that these additional resources are required to address it.

DOI’s preliminary expense budget for Fiscal Year 2020 is \$38.4 million, consisting of \$30.98 million that supports approximately 378 full-time staff positions, and \$7.42 million for Other Than Personal Services, such as supplies, equipment and space. Included in the \$30.98 million for Personal Services is \$3.45 million in Intra-City funding, such as the funding for Memoranda of Understanding with thirteen City agencies, which supports 60 of the approximately 378 positions. There are an additional 221 headcount positions funded through various arrangements with other City agencies, including staff working at DOI’s Inspector General for the New York City Housing Authority (“NYCHA”), Inspector General for Health + Hospitals, and Inspector General for the Schools Construction Authority (“SCA”). This brings the total staff headcount who report through DOI’s chain of command to 599. In other words, approximately half of our staff are funded through financial arrangements with other City agencies or authorities.

DOI has been asked to identify savings in its budget, specifically we have been asked to save \$1.235 million over the next two fiscal years. I am pleased to report that we have already found \$350,000 in savings for FY 2019, primarily by reducing overtime costs. And we have a plan that should enable DOI to be on track to save the entire requested amount through FY 2022.

In the 3½ months since becoming Commissioner of DOI, I have seen firsthand the distinct role that DOI has within City government. I and my executive team have been particularly impressed by the breadth of investigations on the agency’s docket and the value the agency brings to the City, its employees, and the public at large.

DOI’s cases touch all facets of City government, from construction fraud and safety, to violence on Rikers Island, to theft of City funds and property, and fraud committed through the submission of false records to the City to cover up an array of schemes such as faked inspections, home visits never made to New Yorkers in need of

medical services, and fabricated business violations to scam company owners out of money.

DOI is there on these matters, and many others, protecting the public, safeguarding taxpayer funds, and upholding the integrity of City operations and the dignity of public service.

Since December, I have immersed myself in DOI's work – understanding how we conduct investigations, use our resources, and make decisions. I also wanted to know how DOI was perceived by those with whom we do business, particularly other law enforcement agencies and the City agencies we oversee. And I wanted to visit some of the unique sites over which we have jurisdiction, such as the Rikers Island complex and the DEP project in Marlboro, N.Y. known as BT2, where the City is repairing the tunnel that transports water from the Catskills to New York City. DOI has a team of investigators and auditors on-site, monitoring that construction in the Hudson Valley.

I have met multiple times with all of DOI's Inspectors General and their squads of investigators to familiarize myself with the array of matters they are tackling, and to ensure that we are focused on investigations that attack corruption in all its forms – from the more routine to the systemic. Our squads must be adept at conducting both the short- and long-term investigation, because corruption happens on all levels, and DOI's vigilance must be the same.

I have spent a significant amount of time meeting and re-establishing relationships with our law enforcement partners and with commissioners of the City agencies we oversee, to foster a better understanding of DOI's mission and how we work, and to make sure they know that we are here to find the facts and act on them with integrity and fairness. I hope that this greater awareness and improved relationships will lead to wider acceptance of our proposed reforms, will extend the reach and impact of our criminal cases through effective partnerships, and will build trust in our efforts to stem corruption, fraud and waste, and improve City operations.

These discussions have been illuminating. I believe we have positioned the agency on the right track, embracing DOI's unique oversight role as an agency that acts with integrity, goes where the facts lead it, and uncovers corruption without fear or favor.

Having DOI perceived and understood as an unparalleled law enforcement partner, with a distinct expertise in how corruption can infiltrate City operations, is among my goals and we are well on our way to reaching it.

SCI

I have also had the opportunity to meet several times with the Special Commissioner of Investigation ("SCI") over Schools, Anastasia Coleman, and to forge an effective working relationship with her and her team. As described in the October 2018 report by James McGovern on SCI, that agency is intended to function largely

independently of DOI. However, she has an annual reporting function to me, as the DOI Commissioner, and has kept me up-to-date on the referrals she makes to the Schools Chancellor and on public statements she makes. We have an open and professional line of communication and I look forward to that continuing during my tenure.

Peace Officer Program

The operational effectiveness of DOI's Peace Officer Program was one of the first top-to-bottom reviews that I and my executive team undertook, and that review is ongoing. We wanted to ensure that the program was following best law enforcement practices, properly supporting DOI investigations, and not wasting public funds. The outcome of our review so far has included some agency-wide policy changes and some streamlining of various aspects of the Peace Officer program.

By way of background, DOI's Peace Officer program dates back decades and is an important part of DOI's workforce, giving us the authority to make arrests, participate in search warrants, undertake certain investigative operations that present some level of risk, and provide other law enforcement assistance to the agency.

But certain aspects of the program had expanded beyond what I believe is appropriate or necessary to support DOI's investigative work. We have addressed this concern by scaling back both the program and the costs associated with it, including eliminating some of the training that, after our initial review, we deemed redundant or superfluous to DOI's mission; and reducing tangible items associated with the program, such as the number of uniforms purchased for peace officers. These changes have resulted in eliminating a month from the previously four-month full-time academy training program and resulted in some savings of nearly \$200,000, with hopefully more to come.

I have also changed previous policies that I found got in the way of investigations, including the policy that restricted investigators who were not peace officers from performing field work. Effectively, this directive reduced the number of investigative staff who could perform any function in the field, delaying investigations' progress and impeding the professional development of DOI staff. Decisions about who goes out into the field are now governed by the needs of the investigation and an assessment of the relevant facts about the operation. For example, where there are concerns about public safety or the safety of DOI staff, a peace officer or a detective from our NYPD squad will be assigned to conduct the operation or to assist. Absent specific safety concerns or operational need that requires special training, field work is carried out by the investigator, auditor, or attorney who is otherwise responsible for the investigation, regardless of their Peace Officer or non-peace-officer status. This kind of law enforcement management moves cases along and makes the best use of our resources.

These sorts of reforms speak to the larger philosophy that I am promoting at DOI, which is to ensure that our decisions, whether about investigative steps or allocation of resources or our external relationships, are governed primarily by the question: “What is best for the case or investigation? What will produce the most effective resolution and successful results?” My goal as DOI commissioner is to ensure that we are a top-notch investigative agency, performing at the highest levels of professionalism, effectiveness, and ethics, on every case whether big or small.

DOI’s relationships within the City, with fellow law enforcement partners, with prosecutors, and with the City agencies that we oversee, are integral to the work we do and to achieving these goals. DOI must be known for setting, and meeting, high standards for itself that includes finding and acting on the facts, without fear or favor or political agendas, and demonstrating that integrity is at the heart of everything we do. These are not just platitudes for the agencies we oversee but the benchmarks for DOI as well.

IT Upgrades and Forfeiture

Critical upgrades to DOI’s Information Technology (“IT”) infrastructure are needed this year. DOI’s current computer and other IT equipment are past their five-year life cycle. As a result, DOI requested and the City has already approved \$14.8 million for capital costs that include the purchase of network servers, computers, and other hardware. DOI has requested an additional \$6 million for computer software and subscriptions over the next five years and we expect that DOI’s forfeiture funds will be available to support the majority of that \$6 million cost. Since we are using forfeiture funds to support some costs associated with our IT upgrade, I would like to explain how these funds play a role in supporting specific law enforcement operations at DOI, how DOI acquires such funds and the specific rules that limit their use. Both federal and state law allow the profits of criminal activity to be forfeited to the government and shared with the investigating agencies that worked on the case, with the general guideline that these funds must support law enforcement activities. The majority of DOI’s forfeiture funds are the result of partnering with federal prosecutors so I will focus on federal funds. There are very specific federal rules as to what forfeiture funds may and may not be used for. As a beneficiary of some of those federally-regulated funds, DOI has used them within the relevant guidelines to, for example, support law enforcement training for DOI and other City agencies, and update the agency’s computer infrastructure.

These forfeiture funds, however, are finite; and, as noted, they may only be used for certain law enforcement-related purposes as set out in federal guidelines. Thus, forfeiture funds may not be used to fund salaries for permanent staff positions or otherwise substitute for items the City must fund.

The majority of current federal forfeiture funds are the result of an investigation DOI conducted that led to multiple arrests and convictions associated with the corruption scandal linked to the implementation of the City’s automated timekeeping

system, otherwise known as the CityTime case. These funds are allocated by year and are expected to be fully spent by 2022. Although our cases generate additional forfeiture funds each year, there is no case currently charged that is expected to produce a forfeiture amount that is anywhere close to that generated by the CityTime case. Restoring and expanding on our relationship with the two federal prosecutors in the City, as well as the five district attorneys and the special narcotics prosecutor, is an important part of not only producing successful outcomes by ensuring access to the most suitable prosecutor for a given case, but also improving our ability to claw back criminal theft of City money through forfeiture, and putting that money back into law enforcement operations.

Backgrounds

As I noted earlier in my testimony, DOI is asking for 13 additional positions with our Background Investigation Unit, which provides a vital service to all City agencies and has been struggling for years under an unacceptable backlog. Our original “New Needs” request to the Office of Management and Budget last fall requested funding for all 13 new positions. If we secure approval for the 13 additional lines, I am pleased to report that I believe that DOI can fund 3 of the 13 needed positions out of its current budget. Because of the high priority I have placed on addressing the background unit backlog, and doing so without negatively affecting investigative work, we have identified this funding through savings in overtime and restructuring of the executive staff. Accordingly, I am only requesting funding for 10 of the 13 positions, at an estimated cost of \$690,000.

Currently, the Unit is overseen by a Director and consists of four supervisors, 13 investigators and two administrative staff. DOI has identified three people to fill open lines for the Background Unit; however, due to the City’s partial freeze on hiring, we are currently unable to onboard these individuals and the positions remain vacant.

DOI is mandated to conduct background investigations on all managerial positions, individuals earning more than \$100,000 annually, individuals directly involved in City contracts and zoning decisions, and individuals who work on the City's computer programs and other sensitive positions.

While DOI’s Background Unit has always had some backlog, it has increased over the past several years due to a larger number of incoming requests for background investigations. Without additional staff, the majority of these requests became part of the backlog and, in some cases, are still a part of it. For instance, approximately 1,900 routine background investigations are still open from 2016, a year that DOI received 3,731 background investigation requests.

Let me provide a glimpse into the volume of the problem on a monthly basis. In FY 2018, DOI’s Background Unit received an average of approximately 236 new investigations each month, while closing an average of approximately 193 investigations

per month. Even with that kind of close rate, the backlog was increasing by approximately 42 investigations each month.

As a result of these factors, the backlog has risen to approximately 6,300 background investigations not being actively worked and awaiting completion.

Bluntly, DOI's mandated mission to screen all sensitive and high-level City employees is not being met; nor can it be met with the current staffing. It also means that the majority of those job candidates have already begun employment with the City of New York and are awaiting the results of their background investigation, sometimes for years, a vulnerability that causes me great concern.

I have spent many hours reviewing this problem, spending real time in the Background Unit to see and understand the flow of work and how it is being managed. DOI has taken important steps to address the backlog, even without additional lines:

- First, the Unit was restructured in late 2018, shortly before my arrival at DOI, to attack the backlog on two fronts: As new background investigation requests come into DOI, a dedicated intake team in the Background Unit is performing an initial review of them to assess if there are any that should be expedited due to red flags that, based on our experience, are most likely to result in an adverse employment decision. If red flags are identified, those applications are routed to a dedicated "expedite team" to be finalized. The remaining background applications, deemed "routine", are routed to one of two background teams that process routine applications in the order they were received.
- Second, under my tenure, DOI has moved to re-direct some resources to the Background Unit on a temporary basis. Wherever possible, newly hired investigators now begin their tenure at DOI with a three-month rotation in the Background Unit, which both provides additional hands in Backgrounds and gives new DOI investigators valuable investigative training prior to being assigned casework. In addition, existing DOI administrative staff in other parts of the agency are being assigned tasks to help advance the Unit's efforts to complete and close background investigations.

We are continuing to regularly assess the process and the allocation of staffing, to ensure that we are operating at maximum efficiency. But these improvements and adjustments are nowhere near enough to address the problem, and I respectfully ask the Council to grant our request of 13 additional personnel lines, with funding for 10 of those lines. The 13 positions would include 10 new investigators, 2 supervisors, and one administrative assistant. We would anticipate organizing this new staff into two new teams assigned to process the "routine" applications by date of receipt, in order to be dedicated to clearing the backlog.

I realize that the ask of 13 additional personnel for the Background Unit has been made for the past several years and that, even with DOI providing funding for 3 of the positions, it is a considerable financial ask, requiring an estimated \$690,000. But I see no other way for DOI to carry out its mandate of conducting and completing essential background investigations, clear the backlog in less than five years, and eventually move the Unit to a goal of completing all background investigations in an average of 120 days or fewer.

In closing, I want the Council and the public to know how much of an honor it is to serve as DOI's Commissioner. I am grateful for the opportunity to tackle all the challenges that come with this role.

There is no other municipal oversight agency quite like DOI, one supported by strong legal statutes that help us expose fraud, waste, abuse, and inefficiency; an agency that helps instill confidence in the public workforce and in City government.

At DOI, you have a team of nearly 600 City employees – administrative staff, investigators, auditors, lawyers, Inspectors General – all dedicated to watching out for the City and for all New Yorkers, and preventing corruption from taking root. I am extremely proud of the staff and the work we do.

Thank you.

I am happy to answer any questions the Councilmembers have for me.