

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE

----- X

October 14, 2014  
Start: 10:14 a.m.  
Recess: 12:01 p.m.

HELD AT: Committee Room-City Hall

B E F O R E:  
JULISSA FERRERAS  
Chairperson

COUNCIL MEMBERS:  
Ben Kallos  
James G. Van Bramer  
Donovan Richards  
Helen K. Rosenthal  
Robert E. Cornegy, Jr.  
Vincent Ignizio  
I. Daneek Miller  
Laurie A. Cumbo  
Vanessa L. Gibson  
Corey D. Johnson  
Mark Levine  
Vincent Gentile  
Ydanis A. Rodriguez

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

Jeffrey Shear  
Deputy Commissioner  
Treasury, Payments and Operations  
NYC Department of Finance

Samara Karasyk  
Assistant Commissioner  
External Affairs  
NYC Department of Finance

Amy Slifka  
Deputy Commissioner/Executive Director  
Environmental Control Board

Marisa Senigo  
Assistant Commissioner  
Public Affairs and Communications  
Office of Administrative Trials and  
Hearings

Elizabeth Brown  
Supervising Analyst  
Housing, Environment and Infrastructure  
NYC Independent Budget Office

Glen Bolofsky  
Founder  
parkingticket.com

1  
2 CHAIRPERSON FERRERAS: Good morning and  
3 welcome to today's Finance Committee hearing. I am  
4 Council Member Julissa Ferreras and I chair this  
5 committee. We have been joined by Council Member  
6 Kallos and Majority Leader Van Bramer.

7 Today, we will hold the first hearing on  
8 legislation sponsored by myself and Council Member  
9 Kallos. Proposed Intro 489-A would amend the  
10 administrative code in relation to the notice of  
11 violations that are adjudicated by the Environmental  
12 Control Board. For the benefit of the public and my  
13 colleagues, I will provide a little background on the  
14 Environmental Control Board. We've also been joined  
15 by Council Member Richards.

16 Beginning in the 1970s... you can... I  
17 understand, you're walking through. Beginning in the  
18 1970s, the city and state legislature established a  
19 policy that would transfer various quality-of-life  
20 offenses, such as littering, air, noise, sanitary and  
21 health code violations to the criminal court... from  
22 the criminal court to the administrative tribunals.  
23 In order for the seemingly minor violations to  
24 receive the time and expertise they need for  
25 adjudication in 1977, the Environmental Control Board

1  
2 or ECB was created. The ECB is an administrative  
3 tribunal that holds hearings on the notice of  
4 violations issued by other agencies for various  
5 quality of life infractions. ECB does not issue  
6 notices of violation, does not establish enforcement  
7 policies, does not employ inspectors or agency and  
8 does not direct, control or otherwise influence  
9 where, when or to whom notices are to be issued.  
10 Notices of violations for quality-of-life infractions  
11 include dirty sidewalks, unleashed dogs, loitering,  
12 noise, public indecency, rollerblading or  
13 motorcycling in forbidden areas, sidewalk  
14 obstructions, rodent and pest control, defacement of  
15 property and amount, location and nature of hazardous  
16 substances and labeling of hazardous substances.

17 13 city agencies write quality-of-life  
18 tickets and file them with ECB, including the  
19 Department of Buildings, the Department of  
20 Sanitation, the Fire Department and the Department of  
21 Health and Mental Hygiene. Outstanding ECB judgments  
22 result when fines imposed on an individual or  
23 business by one of the 13 agencies are not paid by  
24 such individual or business in a timely manner.  
25

1 Pursuant to the memorandum of  
2 understanding entered into by the Department of  
3 Finance and the ECB in 2002, DOF is responsible for  
4 collecting default and in violation ECB judgments.  
5 By law, the ECB cannot write off outstanding ECB debt  
6 for eight years from the date of the judgment it is  
7 docketed. As a result, to date, there are \$1.48  
8 billion in outstanding ECB judgments, most of which  
9 originate from the Department of Buildings, the  
10 Department of Sanitation and the Fire Department. Of  
11 this amount, \$350 million in interest and 83 percent  
12 of the debt is more than two years old.

13 On June 30th, 2014, at the request of the  
14 Finance Committee, DOF submitted a report to the  
15 Council detailing the amount of outstanding ECB  
16 judgments sought for collection by DOF. In that  
17 report, DOF cited several reasons for the high amount  
18 of outstanding debt and made recommendations about  
19 ways in which the collection efforts can be improved.  
20 DOF's report focused on the amount of debt  
21 outstanding, rather than DOF's collection practices  
22 or success rates, such as the percentage of judgments  
23 collected, length of time it takes to collect a  
24

1  
2 judgment and enforcement tools that are used to  
3 collect such judgment.

4           The legislation before us today would  
5 require an annual report from DOF to the Council  
6 detailing the amount of outstanding ECB judgments at  
7 DOF, the enforcement tools used by DOF and the  
8 success of DOF's collection efforts. This bill is a  
9 transparency bill. Since I've been Finance chair, my  
10 efforts in this capacity have been steered by my  
11 goals to ensure a transparent government while making  
12 prudent and fiscal responsible decisions. The  
13 purpose of the hearing today and the legislation  
14 before us to get a better understanding on the amount  
15 of outstanding debt from ECB judgments that is owed  
16 to the city and develop ways to ensure that it's  
17 collected.

18           The Council looks forward to hearing from  
19 DOF and the Office of Administrative Trials and  
20 Hearings, which houses the ECB, to learn more about  
21 the ECB process and DOF's collection practices.  
22 Before we hear from OATH and ECB, I will return the  
23 mic over to the co-sponsor to the co-sponsor of this  
24 legislation and before that, I just wanted to  
25 acknowledge that we've been joined by Council Members

1  
2 Rosenthal, Cornegy and Ignizio. Council Member  
3 Kallos.

4 COUNCIL MEMBER KALLOS: Thank you, Chair  
5 Ferreras. Charged with maintaining a high quality of  
6 life for New York City, the Environmental Control  
7 Board, which is housed within the Office of  
8 Administrative Trials and Hearings, receives  
9 violations originating from 13 different city  
10 agencies. These violations range from littering to  
11 failure to remove snow and ice to failure to comply  
12 with the orders of the Department of Buildings.  
13 According to the Department of Finance, there is  
14 currently \$1.48 billion in uncollected ECB debt that  
15 is owed to the city. \$1.2 billion of that or 83  
16 percent of that debt is older than 24 months. Every  
17 dollar of uncollected ECB debt could be a dollar that  
18 goes towards schools, seniors and other city  
19 services. In order to ensure efficiency of city  
20 services, it is imperative that we empower our city  
21 agencies to collect the money for which they are  
22 writing violations.

23 Since this issue was raised back in March  
24 during a preliminary budget hearing of the  
25 Governmental Operations Committee and then followed

1  
2 by a June budget hearing with Governmental Operations  
3 Committee and the Finance Committee, I've enjoyed the  
4 opportunity to work with the Department of Finance,  
5 OATH and Chair Ferreras on figuring ways to improve  
6 collection methods for ECB. It's also of note that  
7 this is all work that was spearheaded by Council  
8 Member, now Borough President Gale Brewer, who at her  
9 time identified up to I believe \$600 million in  
10 uncollected ECB debt, so although this was not  
11 something that I guess could have been addressed by  
12 the previous administration, I'm glad that this  
13 administration is ready to take this on. I also want  
14 to thank Finance Chair Julissa Ferreras for her  
15 leadership on this issue and for drafting this  
16 legislation.

17 CHAIRPERSON FERRERAS: Thank you, Council  
18 Member Kallos. You may begin your testimony.

19 DEPUTY COMMISSIONER SHEAR: Good morning,  
20 Chair Ferreras, Council Member Kallos and members of  
21 the Finance Committee. My name is Jeffrey Shear and  
22 I am the Deputy Commissioner for Treasury, Payments  
23 and Operations at the New York City Department of  
24 Finance. I started in this position last month, but  
25 I am pleased to have worked with many of you at the



1 Department of Education and at the Office of  
2 Management and Budget. I am joined today by Samara  
3 Karasyk, Assistant Commissioner of External Affairs  
4 at the Department of Finance; Amy Slifka, Deputy  
5 Commissioner and Executive Director of the  
6 Environmental Control Board and Marisa Senigo,  
7 Assistant Commissioner of Public Affairs and  
8 Communications at the Office of Administrative Trials  
9 and Hearings, OATH.

11 The bill under consideration today would  
12 require the Department of Finance to submit an annual  
13 report to the Council each May 1st, detailing  
14 outstanding city agency summonses originally eligible  
15 for hearings at ECB, which is part of OATH, and  
16 referred to the Department of Finance for collection  
17 after becoming judgments. The report would indicate  
18 the issuing agency, the base penalty for the  
19 violation, any default penalties and interest and  
20 other descriptive information.

21 We support this legislation. We look  
22 forward to working with you to further refine the  
23 specifics of the reporting requirements. The  
24 reporting requested is not burdensome and we know  
25 there is keen interest from the Council after the

1  
2 Department reported that its inventory of judgment  
3 debt associated with violations adjudicated at ECB,  
4 hereafter referred to as ECB debt, is \$1.5 billion.  
5 The reporting is consistent with our object to  
6 increase our transparency.

7           It is important for the Council and the  
8 public to have an understanding of the ECB debt owed  
9 to the city. The request also is timely, as the  
10 Department has prioritized a comprehensive review of  
11 ECB debt. As you know, the Mayor has noted the need  
12 for the city to make every effort to collect on this  
13 debt. To this end, the administration is developing  
14 a plan to increase collection of this debt, reduce  
15 the inventory of outstanding debt and divide the  
16 inventory into categories that will allow the public  
17 to better understand it and what portion of it is  
18 potentially collectable.

19           In the spirit of transparency this bill  
20 aims to achieve, I would like to take the opportunity  
21 to discuss the current ECB debt inventory, as well as  
22 explain the process through which an agency summons  
23 becomes a judgment and the role of the Department of  
24 Finance in collecting this outstanding debt. 13  
25 different agencies issue violations that are

1  
2 adjudicated by ECD, including the Departments of  
3 Buildings, Sanitation and Environmental Protection,  
4 among others. These violations vary from minor to  
5 major offenses.

6           The Department of Sanitation tickets  
7 include improper recycling and failure to sweep the  
8 sidewalk. The Building Department's violations  
9 include building occupancy inconsistent with the  
10 Certificate of Occupancy and work without a permit.  
11 If found to be in violation after an EBC hearing,  
12 these building code infractions result not only in a  
13 monetary fine, but also a requirement to address the  
14 underlying condition, such as applying for a revised  
15 Certificate of Occupancy or obtaining a required work  
16 permit.

17           The city's enforcement agencies issue  
18 these violations not to generate revenue, but to  
19 preserve the health, safety and order of our city.  
20 The ultimate goal is for the public to comply with  
21 the rules. Of course, the fines associated with  
22 these infractions provide a disincentive to break  
23 these important rules. However, these summonses are  
24 intrinsically more difficult to collect than other  
25 fines and charges levied by the city. In issuing

1  
2 parking tickets, for example, it is easier to  
3 identify the responsible party because vehicle owners  
4 are responsible for violations, even when they allow  
5 others to drive their cars, and all vehicles must be  
6 registered with the State Department of Motor  
7 Vehicles; therefore, we have the owner name and  
8 address associated with each license plate. Also,  
9 parking violations that become judgments can be  
10 readily enforced against the owner's vehicle through  
11 the city's booting program.

12 Another example of charges that are  
13 easier to enforce are those related to real estate,  
14 which has straightforward ownership information;  
15 thus, it is also easier to collect water and sewer  
16 charges. Under state and local law, unpaid real  
17 estate charges become a tax lien, which the owner  
18 must pay when seeking to sell the property, and which  
19 the city can sell if the owner fails to do so. As a  
20 result, the city's property tax lien sale has become  
21 an effective tool in collecting delinquent real  
22 estate charges.

23 For summonses that are adjudicated by  
24 ECB, it is not always easy to identify the  
25 responsible party. For example, violations of

1 littering may be totally unrelated to the owner of  
2 the property where the infraction was observed.  
3 Illegal trash or an abandoned car may be found at a  
4 vacant lot with no listed address. Even when  
5 responsible parties are properly identified and  
6 served, the fines are not enforceable against the  
7 property. They are judgments against an entity, not  
8 liens against the property and a vehicle or other  
9 major asset can only be restrained or taken by the  
10 city if the summons has passed into judgment status  
11 and it can be proven that the asset belongs to the  
12 same party as the one who committed the infraction.  
13 When a violation is issued, recipients are provided a  
14 date for an ECB hearing. In most cases, recipients  
15 may plead guilty and pay the fine or participate in a  
16 hearing to contest the violation.

17  
18 In Calendar 2013, more than 500,000  
19 agency summonses eligible to be adjudicated by ECB  
20 were written. 30 percent were paid or otherwise  
21 resolved prior to a hearing and 30 percent were  
22 contested. Of the contested cases, after a hearing  
23 at ECB, 43 percent were dismissed and 57 percent of  
24 cases were sustained. Recipients who do not pay the  
25 fine and neglect to participate in the hearing are

1 considered to be in default. 40 percent of the  
2 violations issued in Calendar 2013 fell into the  
3 default category. Because many of the defaulted  
4 violations had an additional penalty assessed for the  
5 default itself, we feel it is important to take a  
6 closer look at the penalty schedule for various  
7 violations. The default amounts vary by issuing  
8 agency and by violation and we want to make sure that  
9 the default penalties accomplish the goal of  
10 encouraging respondents to pay or contest their  
11 summons, while not being so high as to deter people  
12 from taking action.

14 We also are looking at whether there are  
15 ways to facilitate the scheduling of hearings for the  
16 public. Currently, ECB judgments are referred to the  
17 Department of Finance after default or after a  
18 contested hearing when it is determined that the  
19 respondent has some liability, but the respondent  
20 fails to remit payment. Before the judgment is  
21 referred to Finance, ECB will send two notices or  
22 three notices if there was a default, to the  
23 respondent. If an outstanding amount still remains,  
24 the judgment is docketed in court for the amount due  
25 and the case is referred to DOF. Once the judgment

1 is filed, interest begins to accrue at a rate of nine  
2 percent annually, which is set out in state law.

3 Nine percent is a high rate of interest in the  
4 current economic climate. Where the interest rates

5 decrease in line with current interest rates, the

6 Department expects the inventory of debt would

7 naturally shrink over time. Currently, about \$370

8 million of the \$1.5 billion inventory consists of

9 interest. Upon receiving the judgment, the

10 Department of Finance sends its own collection letter

11 to the respondent and assigns the case either to its

12 own staff or to an outside collection agency.

13  
14 DOF faces a number of obstacles in trying

15 to collect this debt. It can be difficult to track

16 down and contact the debtor. Some respondents are

17 improperly identified through handwritten summonses.

18 While the use of handheld devices that automatically

19 look up property ownership has increased in recent

20 years, there are still over 100,000 agency summonses

21 that are handwritten each year, which can lead to

22 improper identification of the respondent. In some

23 instances, ownership of a property has turned over

24 since the summons was issued, making contact with the

25 respondent challenging, especially if the respondent

1  
2 has moved out of the city. As referenced earlier,  
3 some violations are issued against individuals who  
4 are not the owner of the property where the violation  
5 was observed.

6           DOF has also struggled with the sheer  
7 volume of cases. We did not begin to use outside  
8 collection agencies extensively for ECB debt until  
9 Fiscal Year 2012. Currently, we have about \$1  
10 billion of the inventory assigned to outside  
11 collection agencies; however, much of the referred  
12 judgment debt was older than two years at the time of  
13 the referral, making collection difficult. While the  
14 collection agencies are required to contact debtors  
15 by mail and by phone, we are taking steps to ensure  
16 that all the judgment debt assigned is sufficiently  
17 worked. We are implementing a policy that all  
18 judgment debt must be worked by two collection  
19 agencies in sequential fashion. Judgments that have  
20 been assigned to one collection agency longer than  
21 the prescribed period will be recalled and assigned  
22 to a different agency.

23           When our staff or our collection agencies  
24 contact the judgment debtor, we also face the  
25 challenge of asking payment from individuals and



1  
2 businesses who refuse to pay or who are unable to  
3 pay. Many summonses are written against paper  
4 companies listed as the owners of city properties.  
5 These companies do not have staff, income sources or  
6 assets. For debtors with insufficient assets to pay,  
7 we have the ability to settle outstanding amounts by  
8 reducing or eliminating default penalties, but only  
9 for summonses that have no public health or safety  
10 risk that must be addressed. Also, many of the  
11 respondents we contact ask us for a comprehensive  
12 bill of their pre and post-judgment debt, but that  
13 currently requires staff to use two different  
14 computer systems.

15           DOF collected \$41 million on judgment  
16 debt in Fiscal Year 14. As part of our comprehensive  
17 review of this matter, we are looking to segment our  
18 inventory. We plan to work with the easiest debt  
19 most intensively, take enforcement action against  
20 debtors with identifiable assets, ensure that all  
21 debt is reviewed in some manner and proactively  
22 identify cases pertaining to DC's out-of-business,  
23 bankrupt or unfound respondents as uncollectable so  
24 that the revenue potential from this judgment debt is  
25 not exaggerated.

1  
2 Before concluding, it is important to  
3 note that the matter of Finance's ECB judgment debt  
4 inventory has been raised before and that progress  
5 has been made. In September through December 2009,  
6 the city ran a penalty relief program in an effort to  
7 increase revenue by settling default penalties and  
8 interest. Violations with an underlying condition;  
9 for example, Department of Building violations were  
10 only eligible if the underlying condition was  
11 addressed prior to filing an application. That  
12 program produced one-time revenue for the city of \$14  
13 million. Since that time, ECB has moved from  
14 quarterly to monthly docketing of its judgments to  
15 speed the referral of cases to DOF. The amount of  
16 judgment debt collected by DOF has increased from \$21  
17 million in Fiscal Year 09, the year before the  
18 amnesty program, to \$41 million in Fiscal Year 14.  
19 Still, more needs to be done. We think it may be  
20 time to consider another amnesty program for judgment  
21 debt if it combined with extensive public outreach  
22 and then followed by tougher enforcement. We look  
23 forward to sharing our plans with you as they take  
24 shape.

1  
2 Thank you for the opportunity to testify  
3 on the bill before the committee today. We  
4 appreciate the Council's attention to this issue and  
5 its engagement in working together to improve our  
6 debt collection. We have begun working closely with  
7 ECB and the agencies that issue the highest volumes  
8 of violations on a plan to improve our effectiveness  
9 in collecting debt associated with those violations.  
10 We look forward to working with you as we present and  
11 carry out our proposals. We will be relying on you  
12 to help us educate the public so that they understand  
13 the true universe of this debt. We will be reporting  
14 back to you with the specifics about our plan for  
15 improvements. At this time, I would be happy, as  
16 well as my colleagues to answer any questions you may  
17 have.

18 CHAIRPERSON FERRERAS: Thank you very  
19 much for your testimony. We've been joined by  
20 Council Member Miller, Cumbo, Gibson, Johnson and  
21 Levine. I'm going to talk a little bit about process  
22 and I want to give my colleagues an opportunity to  
23 ask questions, so then I'll come back with the rest  
24 of my questions on the second round. So, just so we  
25 have a clear understanding, obviously when we hear

1  
2 \$1.5 billion out there in judgments and we are trying  
3 to negotiate a budget and in June we're taking away,  
4 giving, trying to figure out how many senior centers  
5 we're going to keep open or how many new programs we  
6 want to start, this is a pot that we could  
7 potentially use. So when I talk about process or  
8 question process, I want you to be able to answer me  
9 in the way that is real money that we will be able to  
10 collect because eight years later, we haven't been  
11 doing a great job at collecting it and I don't think  
12 if any of us had the opportunity to have... to be  
13 able to hire agencies to collect money and they're  
14 doing such a horrible job. If there's two agencies  
15 that are supposed to collect \$1 billion and they're  
16 not, then what do you have to do for the city to say  
17 we no longer want to deal with you? You're obviously  
18 not doing the best job possible, so but let me bring  
19 it back to my actual question for processing so you  
20 can explain this to me. And this is where we talk  
21 about what happens at DOF, but also before that, what  
22 happens at EBC. How long does it take on average for  
23 a docketed case to be transferred to DOF from ECB?  
24 I'm sorry. You just have to say your name for the  
25 record.

1  
2 DEPUTY COMMISSIONER SLIFKA: I'm sorry.  
3 My name is Amy Slifka. I'm the Executive Director of  
4 ECB and the day they are documented, they are  
5 transferred to DOF.

6 CHAIRPERSON FERRERAS: Okay and I'm  
7 sorry. I'm going to go a little bit back and forth.  
8 There's a Comptroller's report that stated in 2009...  
9 that stated that there was some discrepancies between  
10 ECB's message to DOF that there's this debt that  
11 needs to be collected, so can you walk me through why  
12 that happened?

13 DEPUTY COMMISSIONER SHEAR: Well, I'm not  
14 sure if the findings of that audit are still  
15 applicable. I think since that time there's been  
16 some tightening of the procedures, so...

17 CHAIRPERSON FERRERAS: So talk to me  
18 about the tightening of the procedures.

19 DEPUTY COMMISSIONER SHEAR: Well, for  
20 example, ECB used to docket the judgments on a  
21 quarterly basis and now ECB is docketing the  
22 judgments monthly.

23 CHAIRPERSON FERRERAS: Okay.

24 DEPUTY COMMISSIONER SHEAR: So that helps  
25 get the judgments to us faster.

1  
2 CHAIRPERSON FERRERAS: Okay and the  
3 systems that you use are they the same; your computer  
4 systems?

5 DEPUTY COMMISSIONER SLIFKA: Well,  
6 actually you use...

7 DEPUTY COMMISSIONER SHEAR: [interposing]  
8 Right, no.

9 DEPUTY COMMISSIONER SLIFKA:  
10 [interposing] No, the answer to that question...

11 [crosstalk]

12 DEPUTY COMMISSIONER SHEAR: The...

13 [crosstalk]

14 DEPUTY COMMISSIONER SLIFKA: Is...

15 DEPUTY COMMISSIONER SHEAR: [interposing]  
16 There are two separate systems, so the ECB system has  
17 the initial record of the violation and the hearing  
18 record and then when it... once the judgment is  
19 docketed, then there is, in essence, a file transfer  
20 and the records are passed over to our case tracking  
21 system so that our in-house staff and our collections  
22 agencies can begin collection efforts.

23 CHAIRPERSON FERRERAS: So your systems  
24 can communicate effectively now, 'cause I know that

1  
2 wasn't the case in the past. So your systems almo...  
3 how long does it take? Is it as instantaneous as...

4 [crosstalk]

5 DEPUTY COMMISSIONER SLIFKA:

6 Instantaneously.

7 CHAIRPERSON FERRERAS: [interposing] Okay

8 and how does DOF inform ECB about the collections;

9 how much you were able to collect successfully?

10 DEPUTY COMMISSIONER SHEAR: Well, I think

11 in two ways. One is that when we receive payments,

12 we actually forward them to ECB's payment processing.

13 CHAIRPERSON FERRERAS: Okay.

14 DEPUTY COMMISSIONER SHEAR: So they get

15 the record that way because we want to make sure the

16 original record reflects the payment and then we also

17 do share our internal reports with ECB, so they know

18 how much we are collecting.

19 CHAIRPERSON FERRERAS: If ECB judgment...

20 if an EBC judgment that is sent to your agency, but

21 their collection efforts are unsuccessful and the

22 statute of limitation has passed the eight years, how

23 do you communicate to ECB to write it off?

24 DEPUTY COMMISSIONER SLIFKA: It

25 automatically comes back to ECB.

1  
2 CHAIRPERSON FERRERAS: [interposing] At  
3 what point?

4 DEPUTY COMMISSIONER SLIFKA: Through the  
5 computer system there's a program written at eight  
6 years from the docketed date.

7 CHAIRPERSON FERRERAS: At eight years  
8 from the docketed...

9 [crosstalk]

10 DEPUTY COMMISSIONER SLIFKA: Docketed  
11 date, yes.

12 CHAIRPERSON FERRERAS: Now, I know that  
13 it takes state legislation to change this. If we  
14 were able to advocate for this on a state level,  
15 which is, you know we're setting up our agenda all  
16 year long so that we can go advocate for this write-  
17 off on another level. I mean in Albany, would this  
18 create havoc in your system or is this something  
19 simple? Because what I've learned is you know,  
20 sometimes we have great intentions and then you guys  
21 have to go out and buy a whole new system because we  
22 changed it by two years.

23 DEPUTY COMMISSIONER SLIFKA: I don't  
24 think there'd be any problem on ECB's end.



1  
2 CHAIRPERSON FERRERAS: Okay, so I want to  
3 talk about actually actual collect... how about on  
4 your end?

5 DEPUTY COMMISSIONER SHEAR: Now, I... if  
6 you extended the time?

7 CHAIRPERSON FERRERAS: Or no, we want to  
8 shorten it. We don't want to make it lengthier.

9 DEPUTY COMMISSIONER SHEAR: Oh, if you  
10 shorten it, our system could handle that.

11 CHAIRPERSON FERRERAS: Okay, so I want to  
12 talk about actual collection. Who collects your  
13 debt? How... by which means do you collect your  
14 debt?

15 DEPUTY COMMISSIONER SHEAR: The debts  
16 collected both through in-house and through  
17 collection agency efforts.

18 CHAIRPERSON FERRERAS: So you have the  
19 use of the Marshalls and the Sheriffs, which have  
20 also at times when you... do you not use them at all  
21 for collections currently?

22 DEPUTY COMMISSIONER SHEAR: So we use the  
23 city Sheriff and the Marshalls. We don't use them  
24 enough, so the initial collection efforts are Dunning  
25 efforts. We sent a letter; we try to contact the

1  
2 debtor by telephone and the Marshalls and the city  
3 Sheriff they are there to enforce, so when we are  
4 able to identify that a certain debtor is not  
5 responding to our efforts and we know of a specific  
6 asset that the debtor has that could be restrained or  
7 seized, that's the time where we can issue an  
8 execution to either the city Sherriff or for some of  
9 the debt to the city Marshalls and say, "Please go  
10 after this debtor and please look to seize this asset  
11 to satisfy the debt."

12 CHAIRPERSON FERRERAS: So there is 13  
13 agencies and at one point you had 20 agencies that  
14 DOF used to use or use different tools for  
15 enforcement and collection on. Is there one agency  
16 that you use... I know that the law dictates that the  
17 Marshalls cannot collect Sanitation debt.

18 DEPUTY COMMISSIONER SHEAR: That's  
19 correct.

20 CHAIRPERSON FERRERAS: But every other  
21 collection... they can collect on everything else.  
22 What do you use the Marshalls and the Sheriffs to  
23 collect on?

24

25

1  
2 DEPUTY COMMISSIONER SHEAR: Well, we use  
3 the... except for the Sanitation debt with the  
4 Marshalls...

5 CHAIRPERSON FERRERAS: [interposing]  
6 Right.

7 DEPUTY COMMISSIONER SHEAR: If our staff  
8 identifies an asset to be seized, that's what we  
9 would use them for. We would ask the Marshalls or  
10 the Sheriff, "Please go," and maybe we identify a  
11 bank account, for example, that could be restrained.  
12 That is when we would use them and...

13 [crosstalk]

14 CHAIRPERSON FERRERAS: So...

15 [crosstalk]

16 DEPUTY COMMISSIONER SHEAR: And I want to  
17 be...

18 CHAIRPERSON FERRERAS: [interposing]  
19 Yeah.

20 DEPUTY COMMISSIONER SHEAR: Clear that we  
21 feel that we have not been using them often enough  
22 and part of our plans is to more proactively identify  
23 the cases where we can take enforcement measures and  
24 use both the city Sheriff and the Marshalls to do  
25 more enforcement actions.

1  
2 CHAIRPERSON FERRERAS: Because as New  
3 Yorkers, I think we know the Marshalls more so for  
4 evictions and the Sheriff for evictions and for your  
5 car as in the booting program. Today, when I woke up  
6 this morning, there were four cars with boots on my  
7 block, so they're working and obviously, you know I  
8 understand that we have a challenge with the  
9 automated system. I see parking violations are just  
10 scanned; the registration and all this information  
11 comes up. I don't understand how a handheld can't  
12 tell you who owns a property or who... you know, who  
13 owns a business; why we can't have that capacity yet  
14 on a handheld where it doesn't just say owner of and  
15 it ends up in the 60 percent or 40 percent of tickets  
16 that are enforceable really. So can you walk me  
17 through... I know that you mentioned a little bit  
18 about technology, but is your agency looking to do a  
19 better job at... and I guess this is on the ECB end,  
20 but also DOF 'cause it's a partnership, right? Is  
21 there a collaboration with the 13 agencies on getting  
22 closer to one system of summonsing or that you're  
23 able to collect more effective information?

24 DEPUTY COMMISSIONER SLIFKA: I can't  
25 speak for the issuing agencies. I know that a lot of

1  
2 them are going to electronic NOV's, but I can't speak  
3 to that. We do assist them whenever they need help  
4 in working with our computer system so that we can  
5 capture the information they send over in these  
6 electronic NOV's.

7           CHAIRPERSON FERRERAS: So I'm going to  
8 ask one last question. Then I'm going to give it  
9 over to my council member... not my council member;  
10 Council Member Kallos and we have a couple of others  
11 in queue for questioning. But I wanted to talk about  
12 penalties. Now, obviously we're in a tough economic  
13 time. I know you talked about the nine percent,  
14 which you know, I would agree is high, especially  
15 when you're trying to work with someone that wants to  
16 pay something off and one of the advantages of  
17 interacting finally with someone who has judgment is  
18 that you're able to give them a discount or a program  
19 and it speaks to the amnesty. But can collection  
20 agencies offer opportunities where people can waive  
21 their penalty or bring the cost down? What do New  
22 Yorkers have to be able to negotiate with collections  
23 agencies or DOF when it actually comes to finally  
24 finding someone to pay off the debt?

1  
2 DEPUTY COMMISSIONER SHEAR: Yes, so both  
3 our staff and our collection agencies under the  
4 approval of our staff; under the supervision of our  
5 staff are able to do limited settlements. We are  
6 able to abate penalties...

7 CHAIRPERSON FERRERAS: [interposing]  
8 Okay.

9 DEPUTY COMMISSIONER SHEAR: Default  
10 penalties specifically if there is no underlying  
11 condition that requires fixing. So, for example, for  
12 the Sanita...

13 [crosstalk]

14 CHAIRPERSON FERRERAS: The compliance  
15 related ones, right?

16 DEPUTY COMMISSIONER SHEAR: Yes.

17 CHAIRPERSON FERRERAS: Okay, so non-  
18 compliance related summonses can be... the penalties  
19 can be abated.

20 DEPUTY COMMISSIONER SHEAR: The  
21 penalties, not the interest, the penalties can be  
22 abated. For the compliance related ones, we can only  
23 abate penalties if the underlying condition has  
24 previously been addressed.

1  
2 CHAIRPERSON FERRERAS: So why can you  
3 abate penalties, but not interest?

4 DEPUTY COMMISSIONER SHEAR: We are not  
5 authorized by law to abate interest.

6 CHAIRPERSON FERRERAS: So in reality,  
7 sometimes your penalties could actually be more than  
8 your summons... than... I mean your interest could be  
9 more than your penalties.

10 DEPUTY COMMISSIONER SHEAR: I don't know.  
11 I can't speak to that. I'd have to look at that.  
12 The penalties vary, so I suppose that's so, but I  
13 haven't examined that closely.

14 CHAIRPERSON FERRERAS: But and I mean  
15 we're talking about the average, right, and maybe ECB  
16 can speak to this, but if we're talking about the  
17 average penalty... or the average summons going into  
18 default two years later and if we finally find  
19 someone four years later, I got to believe that at  
20 nine percent there could be... especially if we're  
21 talking about littering... there could be the  
22 situation where your interest is higher than your  
23 penalty. So if we're working with my penalty, which  
24 I doubt you can zero out, then I'm really working on  
25 the interest, so I would think where we need the

1  
2 movement in the interest. Not that I'm saying that  
3 we should remove the penalty negotiating factor, but  
4 the interest is also an issue in some of these cases.

5 DEPUTY COMMISSIONER SHEAR: The interest  
6 is also an issue; that's certainly right. I think  
7 whether it's higher than the penalties depends on the  
8 size of the penalties, so I think you're correct,  
9 that four years down; four years at nine percent you  
10 could have cases where the interest succeeds the  
11 penalty, but it depends. I think there are also  
12 cases where even after four years the penalty might  
13 exceed the interest.

14 CHAIRPERSON FERRERAS: Right.

15 DEPUTY COMMISSIONER SHEAR: Certainly the  
16 main point that the interest becomes very significant  
17 at a nine percent rate over time is true.

18 CHAIRPERSON FERRERAS: Absolutely. Okay  
19 well, I'm going to circle back 'cause I definitely  
20 want to ask some questions on the actual debt and how  
21 it's real and what are we really going to be able to  
22 collect; at one point, \$5 billion and most of it  
23 being eight years old, what is the realistic  
24 assessment of those numbers? But I'll have Council  
25 Member Kallos ask his questions.



1  
2 COUNCIL MEMBER KALLOS: If you could  
3 answer the Chair's question first, please. That's a  
4 great question.

5 DEPUTY COMMISSIONER SHEAR: No.

6 CHAIRPERSON FERRERAS: [laughing] What I  
7 said was I want to have an assessment of this 1.  
8 almost \$5 billion. Most of it or a good percentage  
9 of it is eight years or definitely more than two  
10 years old.

11 DEPUTY COMMISSIONER SHEAR: More than two  
12 years, yes.

13 CHAIRPERSON FERRERAS: More than two  
14 years old. A lot of it is in the eight year bracket;  
15 six to eight year bracket. How much of that is  
16 really collectable and what is the number that this  
17 Council really should be pushing forward; you know a  
18 realistic number at this point?

19 DEPUTY COMMISSIONER SHEAR: Right. Well,  
20 we don't have that number today. That is part of the  
21 plan that we are working on and that's why we are  
22 emphasizing the need to really segment the debt  
23 because some of it is really uncollectable and we  
24 have not done a good job of labeling it as such.  
25 Clearly, the older it is and if we're unable to find

1  
2 the debtor or if we find evidence that the debtor is  
3 out of business, deceased, out of the city, we need  
4 to be marking that as uncollectable. I think we need  
5 to intensify our efforts on the newer debt, doing  
6 more referrals to the city Marshalls and to the city  
7 Sheriff, so we are assessing that. I don't have a  
8 number to give you today.

9 ASSISTANT COMMISSIONER KARASYK: This is  
10 Samara Karasyk for the record, and I just want to  
11 jump in too to say that one of the things that we  
12 mentioned in our testimony, and I know that we've  
13 spoken about, is that we want to get you guys that  
14 number because we are going to need your help  
15 explaining to people why the number isn't really one  
16 and a half billion; that we've gone through this  
17 whole process; that we've gotten to a number that we  
18 really feel like is a realistic number and we are  
19 going to work really hard to collect on that number,  
20 but it's not going to be the whole universe of one  
21 and a half billion. So we're definitely going to be  
22 communicating with you guys as soon as we're able to  
23 figure that out more, but you know it's an intensive  
24 process that we're working on.

1  
2 CHAIRPERSON FERRERAS: Right, clearly and  
3 I just got to say that it's always a little  
4 disappointing when you're on this side of the table  
5 and we hear, "We don't have a number; we're working  
6 on it," but I appreciate that you're working on it.  
7 Clearly, this is a different administration. I just  
8 hope that when we circle back on this topic and have  
9 an oversight and I'm thinking a year from now, so I'm  
10 basically giving you 12 months and hopefully you'll  
11 be able to give us a report on that before when our  
12 first report comes out in May, which I'm expecting  
13 from this legislation, that we are a lot closer to  
14 that because we can't negotiate on another budget  
15 without having this number be real. And I want to  
16 circle back also and follow up with the MOU between  
17 the agencies, but Council Member Kallos, and thank  
18 you.

19 COUNCIL MEMBER KALLOS: I believe the  
20 Chair is more generous than I. I would like answers  
21 before our next preliminary budget hearing 'cause  
22 that will have been 12 months since we started this  
23 conversation. I'd like to focus on Introduction 489-  
24 A. In it, we have a certain number of items to be  
25 disclosed. The first question is whether or not you

1  
2 would be friendly to the inclusion of an open data  
3 requirement, which is other agencies, including TLC,  
4 are starting to give the data live, so the violations  
5 are written, they are anonymized and then they go  
6 online. And then, instead of having to chunk it up  
7 in two reports and give summaries where the Council  
8 and members of community who are interested have to  
9 make assumptions based on the data they're given, you  
10 can just give them the raw data so that we can  
11 compute it and figure it out, so there is already an  
12 open data law. We wouldn't actually need to change  
13 this legislation. Is there a timeline for DOF or ECB  
14 to comply with open data and voluntarily...

15 [crosstalk]

16 DEPUTY COMMISSIONER SLIFKA: E...

17 [crosstalk]

18 COUNCIL MEMBER KALLOS: Disclose some of  
19 this information?

20 DEPUTY COMMISSIONER SLIFKA: I'm just  
21 going to answer for ECB. We are already complying  
22 with the open data legislation.

23 COUNCIL MEMBER KALLOS: And so you're  
24 giving raw data or PDFs. Perfect.

25

1  
2 ASSISTANT COMMISSIONER KARASYK: [off  
3 mic] Our data set is live.

4 DEPUTY COMMISSIONER SLIFKA: Our data set  
5 is live at this point in time.

6 COUNCIL MEMBER KALLOS: How much of the  
7 information we're asking for in this legislation is  
8 already available in the data sets?

9 DEPUTY COMMISSIONER SLIFKA: That I can't  
10 answer specifically. Just give me a second to go  
11 over this again.

12 [crosstalk]

13 COUNCIL MEMBER KALLOS: It's okay. If  
14 you don't have the answer readily available, we're  
15 happy to take it later. In terms of just items for  
16 disclosure, in your testimony you referred to the  
17 fact that certain summonses are done using handheld  
18 digital devices, while are still written by hand. Is  
19 there any opportunity to add whether things are  
20 digitally issued or handwritten as a reporting item  
21 so that we can see what is working and...

22 DEPUTY COMMISSIONER SHEAR: I'm sorry. I  
23 didn't follow.

24 COUNCIL MEMBER KALLOS: In your reporting  
25 requirements would it be friendly to include whether

1  
2 the summons was issued digitally or by hand so that  
3 we can see that and hopefully phase out handwritten  
4 in favor of the digital? Yeah?

5 DEPUTY COMMISSIONER SLIFKA: I believe  
6 that's a question for me. I would have to check back  
7 with IT. As far as our open data information, we  
8 give the violation; who it was issued to; the amount  
9 due; the address. I mean basically everything that's  
10 captured; the issuing agency; everything that's  
11 captured in AIMS [sic]. Now that I'm looking at the  
12 legislation, these are more financial type of things,  
13 which I don't think is available from our data set.  
14 As far as whether the violation is handheld or  
15 written, I'm not sure we capture it, but it doesn't  
16 mean that... I really don't know. I'd have to get  
17 back to our IT people about it.

18 COUNCIL MEMBER KALLOS: If it could be  
19 captured that would be amazing and perhaps if we  
20 could have a DOF data set that tied into the key...  
21 the ECB violation number, it would allow those of...  
22 I'm a civic hacker. I play with computers and I use  
23 it to make government information useful. There's a  
24 whole community of us and so the more you put out,  
25 the more we can use and the more the other civic

1  
2 hackers and the City Council central staff can use  
3 it. In terms of collections, how much of the  
4 collections are you able to find additional  
5 information using research from public data bases  
6 available on Lexus Nexus or Dun and Bradstreet  
7 reports?

8 DEPUTY COMMISSIONER SHEAR: Well, we use  
9 both sources. I'm not sure... when you say how much,  
10 I'm not sure how to quantify that. We certainly...  
11 our in-house staff uses...

12 [crosstalk]

13 COUNCIL MEMBER KALLOS: Yeah.

14 DEPUTY COMMISSIONER SHEAR: Both sources  
15 and our collection agencies use them as well. Those  
16 are our two primary databases in researching the  
17 debt.

18 COUNCIL MEMBER KALLOS: And so we're able  
19 to do... and do we do that on all debt or all on  
20 collective debt or do we just do it on specific debt?

21 DEPUTY COMMISSIONER SHEAR: I don't know  
22 if we do it on all debt. I think that we do it more  
23 frequently on the more collectable higher level debt.

24 COUNCIL MEMBER KALLOS: Mm-hm.  
25

1  
2 DEPUTY COMMISSIONER SHEAR: I can get  
3 back to you with specifics, but I think depending on  
4 the revenue potential, we're more likely to use those  
5 tools.

6 COUNCIL MEMBER KALLOS: And whether we  
7 like it or not, we've seen a trend nationally and  
8 locally from local banks where we have community  
9 banking towards national banks, so most of the banks  
10 in New York City, whether we like it or not, are  
11 national banks. They're not state chartered. How  
12 often are you using bank searches in order to find  
13 debt or find accountholders and how much their  
14 balances are?

15 DEPUTY COMMISSIONER SHEAR: I think the  
16 answer is not often enough. We do some. I think we  
17 need to be, as part of our plan, looking to automate  
18 our process and do more frequent searches against  
19 those national banks.

20 COUNCIL MEMBER KALLOS: As somebody who's  
21 done ERISA litigation and dealt with collections  
22 against construction companies that were  
23 disreputable, I can tell you that those searches are  
24 incredibly useful. Another item was actually in the  
25 news recently on "This Week" last week: civil



1  
2 forfeiture and the ability to actually file a case  
3 against a piece of property and so in some of these  
4 cases you're talking about having abandoned property  
5 and empty lots or empty lots themselves or other  
6 items like that. Does DOF engage in civil forfeiture  
7 or focusing on saying, "We don't have the owner, but  
8 we do have the ostensible properties that are an  
9 ability to collect against the property itself and  
10 even if it's a car, sell it for scrap metal."

11 DEPUTY COMMISSIONER SHEAR: Well, the...  
12 in terms of the property, that's something that DOF  
13 is not doing. If we have a case where there's a  
14 potential forfeiture, we would need to refer that to  
15 the Law Department and it is difficult for this type  
16 of debt because the debt is issued against the owner,  
17 so it is not a tax lien the moment it is issued, like  
18 water or sewer charges become a tax lien right away,  
19 so there is definitely court action that would have  
20 to be taken to take that type of action.

21 COUNCIL MEMBER KALLOS: One item that's  
22 been bantered around is the seven years or eight  
23 years, so as an attorney, usually when I file a  
24 judgment, that judgment is collectable for 20 years,  
25 so regardless of when the actual occurrence or pay-in

1  
2 happened, which may have happened 50 years ago, last  
3 year or whatever, once I reduce it to judgment, I get  
4 20 years to collect on that judgment. How long do I  
5 get on ECB debt once it's reduced to judgment?

6 DEPUTY COMMISSIONER SLIFKA: I'm not sure  
7 if I understand the question, but it's eight years.  
8 If it's not collected within the eight years, then  
9 it's written off. So but you can always... well, no,  
10 it's written off.

11 COUNCIL MEMBER KALLOS: So I guess the  
12 question...

13 [crosstalk]

14 DEPUTY COMMISSIONER SLIFKA: Sorry about  
15 that.

16 [crosstalk]

17 COUNCIL MEMBER KALLOS: Is after it's  
18 written off can somebody still collect it for the  
19 remaining 12 years, which is the New York state  
20 statute of limitations on a judgment.

21 DEPUTY COMMISSIONER SLIFKA: I do not  
22 believe so.

23 COUNCIL MEMBER KALLOS: Okay, if we  
24 extended it to 20 years would it actual... extended  
25 ECB debt to the same collections period as every

1  
2 other debt in the state of New York would that be  
3 useful?

4 DEPUTY COMMISSIONER SHEAR: I don't think  
5 that would be very useful in that I think the biggest  
6 potential here to collect more is on the newer debt  
7 and so that's where our focus is on more intensive  
8 efforts concerning the newer debt.

9 COUNCIL MEMBER KALLOS: In the report  
10 that you issued in June on page 15, we received a  
11 chart of ECB collections by OCA and on that it lists  
12 all other collections. All other collections is that  
13 Department of Law collections or who's all... who is  
14 all others? There's ECB collected by OCA and then  
15 there is all other collections, so if you'll just  
16 identify for the record the two parties.

17 DEPUTY COMMISSIONER SLIFKA: For ECB  
18 debt, it's the Department of Finance and the Law  
19 Department, so if a notice of violation is not served  
20 in a certain manner pursuant to the charter of BCL,  
21 CPLR or if it's \$25,000 or more, it becomes the Law  
22 Department who does the collection.

23 COUNCIL MEMBER KALLOS: So that's... and  
24 that's under all other collections.

25 DEPUTY COMMISSIONER SLIFKA: I guess so.

1  
2 COUNCIL MEMBER KALLOS: Okay. So perhaps  
3 next time we do this we should bring the Law  
4 Department to the table too since they're the missing  
5 element between the two of you. So one thing that I  
6 noticed in the chart is that...

7 [crosstalk]

8 DEPUTY COMMISSIONER SHEAR: Right, just  
9 one thing. I think that we have to revise this  
10 chart. I think we've been looking at our revenue  
11 numbers lately, so we're going to proactively give  
12 you an updated version...

13 COUNCIL MEMBER KALLOS: [interposing]  
14 Thank you.

15 DEPUTY COMMISSIONER SHEAR: Of this  
16 chart.

17 COUNCIL MEMBER KALLOS: So the question  
18 is in Fiscal Year 2012, the Law Department was able  
19 to collect \$21 million and the collection agencies  
20 were able to collect \$7.2 million for a total of \$28  
21 million. As of Fiscal Year 2014, we are down to \$23  
22 million with the collection agencies getting \$23  
23 million and the Law Department and others getting  
24 \$182,710 and then in order to collect this \$23  
25 million we are paying the collections agencies \$2.8

1 million, giving us a net back of \$20 million, which  
2 means that it seems like... and don't get me wrong.  
3 If you weren't trying this, I would have said, "Why  
4 aren't we trying collection agencies?" But it seems  
5 like having tried collection agencies for now four  
6 years, the collection agencies aren't even close to  
7 what the Law Department was able to collect.

9 DEPUTY COMMISSIONER SHEAR: Right. So a  
10 couple of things: one is that again, we need to  
11 update this chart. The numbers here are incomplete  
12 and frankly, understated, so as I testified in Fiscal  
13 Year 14, total collections were \$41 million.

14 COUNCIL MEMBER KALLOS: Oh, wow. Okay.

15 DEPUTY COMMISSIONER SHEAR: And so...

16 [crosstalk]

17 COUNCIL MEMBER KALLOS: And that's from  
18 agencies?

19 DEPUTY COMMISSIONER SHEAR: That's  
20 altogether, so that's collection agencies and I also  
21 want to emphasize that the Law Department has a very  
22 small piece of the all other collections. Most of  
23 the all other collections comes from in-house...

24 COUNCIL MEMBER KALLOS: [interposing] How  
25 much?

1  
2 DEPUTY COMMISSIONER SHEAR: Department of  
3 Finance staff. We will get you those updated  
4 numbers.

5 COUNCIL MEMBER KALLOS: Was it in the  
6 briefing or... perfect. Thank you very much on that.  
7 I guess one question is collection agencies scare me  
8 a little bit. They may engage in... they're private.  
9 They're... so I'm in the city of New York and we  
10 abide by certain rules and is it my understanding or  
11 is it true that the collection agencies use different  
12 collection methods than the city of New York can?

13 DEPUTY COMMISSIONER SHEAR: I'm not sure  
14 what you mean in terms of different collection  
15 methods.

16 COUNCIL MEMBER KALLOS: Can a collection  
17 agency call somebody at home at 9:00 p.m. or 10:00  
18 p.m. or 11:00 p.m.?

19 DEPUTY COMMISSIONER SHEAR: No, I don't  
20 believe they're allowed to call people that late.  
21 They can call people certainly after the workday.

22 COUNCIL MEMBER KALLOS: Mm-hm.

23 DEPUTY COMMISSIONER SHEAR: It's been a  
24 while since I've reviewed the Federal Fair...

25 [crosstalk]

COUNCIL MEMBER KALLOS: Fair Debt...

[crosstalk]

DEPUTY COMMISSIONER SHEAR: Credit...

[crosstalk]

COUNCIL MEMBER KALLOS: Collections Act.

DEPUTY COMMISSIONER SHEAR: Collection

Act. I don't believe collection agencies are allowed to call that late.

COUNCIL MEMBER KALLOS: Is Department of Finance or ECB just making sure that we're paying attention to how debts are collected or we creating a mechanism so that if somebody is having a city debt collected against them and a credit collections agency is using improper practices that we're getting a report on 311 or somewhere else so that we can fix that and make sure that we're not using disreputable collection agencies?

DEPUTY COMMISSIONER SHEAR: Yes, so first, one of the things in the federal act is that if people request that they not be called that the collection agencies are not supposed to call anymore. So we routinely recall debt. The collection agencies are required to tell us and we recall that debt from them and at that point we'll take it over; we'll do

1  
2 all the collection efforts and certainly if a citizen  
3 reports to us via 311 the collection agency doing  
4 something improper we will take appropriate action.

5 COUNCIL MEMBER KALLOS: Is there a  
6 mechanism through 311 to report that?

7 DEPUTY COMMISSIONER SHEAR: Why wouldn't  
8 there be?

9 COUNCIL MEMBER KALLOS: I have had the  
10 wonderful experience of being told that 311 will  
11 accept certain calls and then have 311 not be trained  
12 to accept those calls and therefore, bounce the  
13 calls.

14 ASSISTANT COMMISSIONER KARASYK: Well,  
15 we'll review the agreement that we have with 311 to  
16 see how they're being addressed.

17 COUNCIL MEMBER KALLOS: Perfect. Thank  
18 you very much and thank you for your time on these  
19 questions.

20 CHAIRPERSON FERRERAS: Thank you, Council  
21 Member Kallos. We will now have questions from  
22 Council Member Rosenthal. I just want to... as a  
23 piggyback to Council Member Kallos' questioning, is  
24 there a trigger on how... how do you choose how  
25 you're going to enforce 'cause I know your tools are



1  
2 income execution, wage garnishment, sale of property,  
3 referral of debt to collection agencies, Dunning  
4 letters and the use of Sheriffs and Marshalls. So  
5 how do we know what you're using for whom for what  
6 amount?

7 DEPUTY COMMISSIONER SHEAR: Yes, so our  
8 basic procedure is that as the debt comes in from  
9 ECB, the first thing that we do or our computer  
10 system does is it looks to see whether that entity  
11 already has debt assigned either to a collection  
12 agency or to in-house staff and if it does, then the  
13 new judgment gets combined with the old case.

14 CHAIRPERSON FERRERAS: [interposing]  
15 Hm...

16 DEPUTY COMMISSIONER SHEAR: So it  
17 continues to be worked. For new debt coming in, we,  
18 before anything else, send a DOF collection letter so  
19 our initial efforts are us trying to collect in-house  
20 and the larger dollar cases stay with us for more  
21 intensive collection efforts. If we do not get a  
22 response from our collection letter, then that debt  
23 will be referred to the collection agency for work.

24 CHAIRPERSON FERRERAS: So there isn't a  
25 part where you say, "This is going to go to the

1 Sheriff. We're going to begin garnishing." Or when  
2 does that get triggered?  
3

4 DEPUTY COMMISSIONER SHEAR: Yes, so that  
5 gets triggered for the debt that's being worked in-  
6 house. If we have identified the debtor and if we're  
7 unable to get payment, then the staff is asked to  
8 identify assets, so that would be cases that would  
9 not go to the collection agency if the staff is  
10 actively working a case and if the staff identifies  
11 an asset, that's the time when we would refer that  
12 case to either the city Sheriff or to the city  
13 Marshalls.

14 CHAIRPERSON FERRERAS: Okay, so where  
15 you're losing me and I guess this is where... if you  
16 have this written is there like a compliance  
17 procedure of how this all works so that I could have  
18 a better understanding? So if you have that  
19 available if you can provide it for our committee  
20 that would help us. If you're saying that once a  
21 debt... the computer systems identify if it's going  
22 to go to a collection agency or if it's coming to  
23 you, then at what point is it going through the  
24 Marshalls or the Dunning letter or all this other  
25 stuff?

1  
2 DEPUTY COMMISSIONER SHEAR: Right. So  
3 I'm sorry for not being clear. The computers... all  
4 the computer system does is when the new debt comes  
5 in, it sees who has a case pertaining to that person  
6 or that business and it combines the new debt with  
7 the old debt. The flow of the process is that we  
8 work the debt in-house first and if we are  
9 unsuccessful there is a decision point, at which our  
10 staff needs to decide whether we can identify an  
11 asset, in which case we would keep the case and we  
12 would refer the case to the Marshalls or to the city  
13 Sheriff. If we are unsuccessful collecting in-house  
14 and we cannot identify an asset, at that point we  
15 would refer it to the collection agency.

16 CHAIRPERSON FERRERAS: That may already  
17 have some other debt that they're collecting on for  
18 this person or a business.

19 DEPUTY COMMISSIONER SHEAR: If the  
20 collection agency already has debt because we  
21 couldn't identify an asset, then all new judgments  
22 pertaining to that person would go to the collection  
23 agency.

24 CHAIRPERSON FERRERAS: [interposing]  
25 That...

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

[crosstalk]

DEPUTY COMMISSIONER SHEAR: But...

[crosstalk]

CHAIRPERSON FERRERAS: Already wasn't able to collect on that debt. So we're kind of just piling on on a system that might not work, right, potentially? Don't answer that. I see. I get it.

DEPUTY COMMISSIONER SHEAR: Okay.

CHAIRPERSON FERRERAS: Council Member Rosenthal.

COUNCIL MEMBER ROSENTHAL: Thank you and thank you, Council Members Ferreras and Kallos for this bill and it's so great to hear that the Department of Finance is interested in implementing this data collection system. It's often the case that... sorry, is this reverberating or something? Is it just me? Alright, that simply by paying all this attention to it, I can tell that you guys are re-jiggering the systems and I'm sure the numbers are going to up, so it's all very impressive. I have five questions that I think are pretty straightforward, just to get a sense; a weight in one coda to Council Kallos' question about 311. When you're looking into that system, maybe it would be

1 interesting to... could you collect and let us know  
2 how many complaints there have been to 311 about  
3 collection agencies?  
4

5 DEPUTY COMMISSIONER SHEAR: Yes.

6 COUNCIL MEMBER ROSENTHAL: So I'm  
7 interested... you put out a contract I guess in 2012  
8 and you got these three collection agencies, so with  
9 my Contracts hat on, how long is the contract for or  
10 was the contract for?

11 DEPUTY COMMISSIONER SHEAR: Right, so  
12 there were three contracts. They are all set to  
13 expire over the next 12 to 18 months. We can get you  
14 the specifics.

15 COUNCIL MEMBER ROSENTHAL: And how many  
16 agencies? Someone just corrected it was 17?  
17 [background voice] Oh, I'm sorry, how many... oh, so  
18 three...

19 [crosstalk]

20 DEPUTY COMMISSIONER SHEAR: There...

21 [crosstalk]

22 COUNCIL MEMBER ROSENTHAL: Agencies.

23 [crosstalk]

24 DEPUTY COMMISSIONER SHEAR: There are  
25 three agencies that we're using, yes.

1  
2 COUNCIL MEMBER ROSENTHAL: So are you in  
3 the process of writing a new contract or a new RFP?

4 DEPUTY COMMISSIONER SHEAR: Yes.

5 COUNCIL MEMBER ROSENTHAL: Yes and I'm  
6 wondering did you have proponents criteria for those  
7 three vendors and are you... is it giving you the  
8 information you would want for when you reissue the  
9 RFP would you change some of the methodology? Did  
10 you learn about the differences between the success  
11 rates or the methodology with these three different  
12 agencies? That was a softball question.

13 DEPUTY COMMISSIONER SHEAR: Yes, so right  
14 now the approach to collection agency procurement is  
15 to do bids because collection agencies are seen as  
16 more like commodities rather than a Request for  
17 Proposal.

18 COUNCIL MEMBER ROSENTHAL: Okay.

19 DEPUTY COMMISSIONER SHEAR: So that makes  
20 it somewhat challenging for us in that we want to be  
21 attuned to performance measures, but bids require us  
22 to take the low bidder, so what we are looking to do  
23 for the current contracts and to carry that into the  
24 new ones is to do this idea of debt rotation so that  
25 if an agency has had debt for a certain period of

1  
2 time, we'll say, "Okay, you've had it long enough.  
3 Now we're going to take it back and now we're going  
4 to ask our other collection agency to start working  
5 that debt," and anticipate reflecting that in our new  
6 bids in that we will have one bid for the primary  
7 assignment and we will take the lowest responsible  
8 bidder for that and then we will have a bid for the  
9 secondary assignment.

10 COUNCIL MEMBER ROSENTHAL: Oh,  
11 interesting.

12 DEPUTY COMMISSIONER SHEAR: So we feel  
13 that that quality control measure is the best way to  
14 continue to use the bid process and to make sure that  
15 the collection agencies are...

16 [crosstalk]

17 COUNCIL MEMBER ROSENTHAL: How many...

18 [crosstalk]

19 DEPUTY COMMISSIONER SHEAR: Being watched.

20 COUNCIL MEMBER ROSENTHAL: Agencies do  
21 you expect to contract with next time around then,  
22 two or just this process of primary, secondary?

23 DEPUTY COMMISSIONER SHEAR: We... they do  
24 two. We may do more. We are looking to divide the  
25 debt, so we may do...

1  
2 COUNCIL MEMBER ROSENTHAL: [interposing]  
3 Right.

4 DEPUTY COMMISSIONER SHEAR: Separate  
5 agencies, say for the simple fines, the summonses  
6 issued by agencies like the Sanitation Department and  
7 they do a different contract for the ones requiring  
8 corrective actions, such as the Department of  
9 Building fines.

10 COUNCIL MEMBER ROSENTHAL: [interposing]  
11 Right.

12 DEPUTY COMMISSIONER SHEAR: So we may  
13 have as many as four. We're still in the planning  
14 stages.

15 COUNCIL MEMBER ROSENTHAL: So as you  
16 think about it or as you've seen your three agencies,  
17 and obviously the amount collected has increased over  
18 time, which is terrific, have you seen any of the  
19 agencies not performing well according to the  
20 criteria that you laid out and is there a clause for  
21 termination in the contracts?

22 DEPUTY COMMISSIONER SHEAR: So there is a  
23 clause for termination in the contracts. We feel we  
24 need to do a better job of monitoring the contracts  
25 is where I would start. I think at 30,000 feet, they



1  
2 seem to be at about the same level, but I think we  
3 want to better measure the intensity of their efforts  
4 and if they really are working all of the debt as  
5 hard as they could be and that is why we are  
6 commencing with the debt rotation.

7 COUNCIL MEMBER ROSENTHAL: Yep and so  
8 along those lines, is there... do you... if you have  
9 suggestions... I'm a little bit going out on a limb  
10 to speak for the sponsors of the legislation, but if  
11 you have suggestions for things that you think should  
12 be included in the reporting requirements that you  
13 think are meaningful things to track, is that  
14 something you'd be open to; us expanding the data  
15 collection points?

16 DEPUTY COMMISSIONER SHEAR: Sure. I  
17 think first, we have to do it. We have to figure out  
18 what it is.

19 COUNCIL MEMBER ROSENTHAL: [interposing]  
20 Yeah.

21 DEPUTY COMMISSIONER SHEAR: So we are  
22 open to it, but we need to do it.

23 COUNCIL MEMBER ROSENTHAL: And along  
24 those lines, I'm going to jump... this is all my  
25 first question. I'm going to just sort of get rid of

1  
2 my fifth question, which was IBO has made some  
3 specific suggestions. They issued a paper and  
4 they'll be giving testimony today for reporting.  
5 They seem to have... I just read it quickly. It has  
6 to do with parking tickets and red light violations.  
7 I'm wondering if you would consider their suggestions  
8 as well.

9 DEPUTY COMMISSIONER SHEAR: I haven't  
10 reviewed their suggestions, so I certainly would  
11 consider them. I can't really comment on them today.

12 COUNCIL MEMBER ROSENTHAL: So and this  
13 goes to Small Business Services. Are there enough  
14 agencies out there that do the work of debt  
15 collection so that you feel that you're getting good  
16 competitive bids or is this an area where we need  
17 more agencies?

18 DEPUTY COMMISSIONER SHEAR: In terms of  
19 collection agencies?

20 COUNCIL MEMBER ROSENTHAL: Yes.

21 DEPUTY COMMISSIONER SHEAR: There are  
22 many collection agencies out there. I think we  
23 just... we need to be careful in making sure we're  
24 getting responsible bids and to monitor the contract  
25 closely, but there are a lot of agencies out there,

1  
2 so we feel that there's a good potential pool of  
3 vendors.

4 COUNCIL MEMBER ROSENTHAL: Do you bid  
5 local? Do you... are your companies local do you  
6 know?

7 DEPUTY COMMISSIONER SHEAR: I think one  
8 of them is. I would have to get back to you with the  
9 specifics...

10 [crosstalk]

11 COUNCIL MEMBER ROSENTHAL: I would... I'd  
12 be...

13 [crosstalk]

14 DEPUTY COMMISSIONER SHEAR: Of all of  
15 them.

16 [crosstalk]

17 COUNCIL MEMBER ROSENTHAL: Interested  
18 from the M... also from the MWBE criteria. It seems  
19 like it would be... I'm not making a judgment. I'm  
20 just always... I'm working up to my hearing on... to  
21 our hearing on MWBE, so it's front and center on my  
22 mind. It would strike me that... but going back to  
23 the local for one second, it would strike me that an  
24 agency that's local that knows the city and  
25 understands the city, that might be an interesting

1  
2 criteria to contemplate for a responsible bidder,  
3 possibly not, whatever.

4 DEPUTY COMMISSIONER SHEAR: Yeah, I think  
5 we would have to review that with the Law Department  
6 to see whether we can...

7 [crosstalk]

8 COUNCIL MEMBER ROSENTHAL: Oh.

9 [crosstalk]

10 DEPUTY COMMISSIONER SHEAR: Include that.

11 COUNCIL MEMBER ROSENTHAL: Okay, thanks.

12 I'd be interested in knowing. Do you have a sense of  
13 what the value would be of a public amnesty if you  
14 ran it again for Fiscal Year... our current Fiscal  
15 Year 15?

16 DEPUTY COMMISSIONER SHEAR: Not at this  
17 time.

18 COUNCIL MEMBER ROSENTHAL: Do you have a  
19 sense if it would be bigger or smaller than the \$14  
20 million from before?

21 DEPUTY COMMISSIONER SHEAR: I think that  
22 depends on the scope of how many judgments; what the  
23 judgment amount would be that would be subject to the  
24 amnesty.

1  
2 COUNCIL MEMBER ROSENTHAL: Yeah and it  
3 would also strike me if the last amnesty was done in  
4 when, 2012?

5 DEPUTY COMMISSIONER SHEAR: 2009.

6 COUNCIL MEMBER ROSENTHAL: Nine; that a  
7 lot has changed since then, especially in terms of  
8 the collection agencies, but that'd be interesting  
9 to... if you could as you come up with number, I  
10 think we'd be interested in knowing it. And then  
11 lastly, I'm wondering about those who have the debt.  
12 I'm wondering if you can sort by address if you...  
13 because I'm wondering who these people are and I'm  
14 wondering if you can sort by council district maybe  
15 or if there was some way of sorting it in a  
16 meaningful way that could give us information about  
17 who they are and similarly, if you could layer on top  
18 of that sort of the people with one hit versus the  
19 people with you know, five hits; five judgments and  
20 if that would be useful information if you already  
21 collect that or how you think about it.

22 DEPUTY COMMISSIONER SHEAR: So we... I  
23 don't have it with me. We do have information on the  
24 people with one hit versus the...

25 [crosstalk]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COUNCIL MEMBER ROSENTHAL: Okay.

[crosstalk]

DEPUTY COMMISSIONER SHEAR: Entities with multiple hits and we know the majority of entities have only one and so then you have the entities that have multiple as a small of the population, but a large part of the debt.

COUNCIL MEMBER ROSENTHAL: Here's what I'm getting toward: in the reporting criteria could... when you think about what would be the good things for us to be collecting data around, could you include there the notion of who are these people and I want to get a sense of by income level, frankly, and would we consider low hanging fruit debtors who we know are at higher income levels and can pay, but are skirting for some reason or another versus those in another situation versus all those in between?

DEPUTY COMMISSIONER SHEAR: Well, I think getting income levels will be challenging.

COUNCIL MEMBER ROSENTHAL: Right and I was...

[crosstalk]

DEPUTY COMMISSIONER SHEAR: So I...

[crosstalk]

1  
2 COUNCIL MEMBER ROSENTHAL: Trying to use  
3 where they live as a proxy; maybe that's not fair.  
4 No, okay and especially with our changing city at all  
5 times. Although you might know it if you didn't  
6 overlay a property tax and you could come up with  
7 that. I don't... we're sitting here brainstorming  
8 for a second, but you get the point that I'm getting  
9 at.

10 DEPUTY COMMISSIONER SHEAR: I get the  
11 point, but that would be a challenging data exercise,  
12 even by property since we don't know if the entity  
13 that incurred the fine was the owner of the property  
14 or not. I think we probably could begin to work with  
15 you say on the entities with the highest amounts of  
16 debt.

17 COUNCIL MEMBER ROSENTHAL: [interposing]  
18 Mm-hm.

19 DEPUTY COMMISSIONER SHEAR: That that  
20 might be a good starting point and then we could...

21 COUNCIL MEMBER ROSENTHAL: [interposing]  
22 Mm-hm.

23 DEPUTY COMMISSIONER SHEAR: Take... see  
24 where that conversation goes.

25 COUNCIL MEMBER ROSENTHAL: Yeah, it's...

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

[crosstalk]

DEPUTY COMMISSIONER SHEAR: But...

[crosstalk]

COUNCIL MEMBER ROSENTHAL: Just important and then similarly, if you would be able to carve out small businesses.

DEPUTY COMMISSIONER SHEAR: Well...

COUNCIL MEMBER ROSENTHAL: And then I'm done, sorry.

CHAIRPERSON FERRERAS: Oh, no. Thank you, Council Member Rosenthal. I just wanted... and this is... and I know Council Member Cornegy is going to ask his questions and I'm sure have something to say, as he's the chair of the Small Business Services Committee. But I want to... I know that when I spoke to the Commissioner when we had our conversation, there is something to be said about a small business that is paying their fines when they do get Sanitation and their neighbor could have \$10,000 in fines and because of poor enforcement or lack of enforcement and they know that there isn't going to be any enforcement, they actually are at an advantage. Regardless of the actual ticketing, and I think there's politics to that and conversations that



1  
2 we're having you know, the last two months where the  
3 Hyatt is ticketed I think in history we said and I  
4 could be wrong, but so what that will do to our debt  
5 at the end of this conversation, probably a year from  
6 now, is we'll see an increase, but I think there is a  
7 valid point to the reason why we have to collect  
8 because that is actually what will make this all fair  
9 from the collection side, not the actual issuing of  
10 tickets side. So Council Member... we've been joined  
11 by Council Member Gentile and Council Member  
12 Rodriguez. We will now hear from Council Member  
13 Cornegy followed by Council Member Gentile.

14 COUNCIL MEMBER CORNEGY: Good morn...  
15 still good morning. Good morning. Thank you, Madam  
16 Chair and Chair Kallos. I think that this is very  
17 timely and a great piece of legislation. This, for  
18 me, marks probably one of the most controversial  
19 hearings for me, so as I hear your testimony, I'm  
20 increasingly concerned because while on this  
21 committee it's very important for me to help you  
22 maximize efficiency for debt collection, I realize on  
23 the back end that disproportionately a lot of those  
24 collections come from districts like mine, who are  
25 senior-based and minority-based, and although my

1  
2 district in particular has a very healthy and robust  
3 outreach program for its tax lien mitigation and  
4 water lien mitigation and we have a tax and water  
5 lien help night, where we bring everybody out and we  
6 have CBOs that work throughout the year to bring  
7 awareness to particular liens and debts. We go to  
8 all ends to attempt to do that; to mitigate you know,  
9 the forfeiture or liens being places on people's  
10 homes and other people don't do that as much for  
11 whatever reason. So I'm just concerned that while we  
12 are attempting to maximize efficiency and ramp up our  
13 ability to do collections without the same effort put  
14 into outreach, it could potentially be disastrous for  
15 certain portions of the city as it relates to that,  
16 so I'm just wondering if you know, while we're having  
17 this conversation about maximum debt collection,  
18 there has to be a conversation going on  
19 simultaneously about maximum outreach.

20 DEPUTY COMMISSIONER SHEAR: Absolutely.  
21 That was in the testimony, but it can't be emphasized  
22 enough that outreach is integral to our efforts here.  
23 I do want to make clear that the debt that we're  
24 talking about today is not debt that is subject to  
25

1  
2 the lien sale. So I know that your concerns still  
3 apply for this debt as well, but it is separate.

4 COUNCIL MEMBER CORNEGY: And I thought it  
5 was, but you did mention it in your testimony, which  
6 kind of stuck in my craw. Also, you said that there  
7 are 13 different agencies that can actually do this  
8 collection. We just do outreach for tax and water.  
9 I wonder if there's any outreach done for the others  
10 and what it is and I already know the answer and it's  
11 kind of rhetorical; that it's not as robust perhaps,  
12 especially as it relates to certain segments of the  
13 city.

14 DEPUTY COMMISSIONER SHEAR: It is not as  
15 robust. That is correct and that's why we are  
16 looking to do both, Council Member. We are looking  
17 to ramp up our collection efforts, but we also want  
18 to educate the public and do outreach for the public  
19 and frankly, we need your help to do that.

20 COUNCIL MEMBER CORNEGY: So I certainly  
21 would be willing. You know, the program that I  
22 mentioned, our tax and water lien night was something  
23 that my predecessor has been doing in conjunction  
24 with DOF for quite some time, and we have found it to  
25 be relatively successful at mitigating you know, your

1  
2 unfortunate circumstances that could happen at the  
3 end. You know, I'd love for every council member to  
4 have that opportunity, so I look forward to working  
5 with you to see how we could replicate that  
6 throughout the City Council and with other city  
7 agencies that also have the power to offer tickets.

8 DEPUTY COMMISSIONER SHEAR: We look  
9 forward to that as well. Thank you.

10 CHAIRPERSON FERRERAS: Thank you, Council  
11 Member Cornegy. So I'm going to follow up on some  
12 questions. I'm going to kind of go back between the  
13 Comptroller's audit and where we are now with  
14 collections, but before that, I'm going to have  
15 Council Member Gentile ask a question.

16 COUNCIL MEMBER GENTILE: I'll be brief.  
17 Thank you very much and thank you for testifying and  
18 you may have mentioned this. I didn't hear all of  
19 your testimony, so if you did, I apologize, but I've  
20 been hearing a lot about collection agencies in the  
21 time that I've been here and seeing in your testimony  
22 that you are attempting to segment your inventory of  
23 debt. Given that, why is it that we haven't done at  
24 least a part of the inventory of the debt and treated  
25 it like we do water and sewer liens and sell it to a

1  
2 third party and at least have that part of the  
3 debt... collect something out of that part of the  
4 debt and have the third party deal with it after that  
5 point? Why can't we do that with some of the ECB  
6 debt?

7 DEPUTY COMMISSIONER SHEAR: Well, the ECB  
8 debt is in the tax lien, the same way that the water  
9 and sewer charges are. The debt goes against the  
10 owner of the property, for example, or the person  
11 littering, so it is not the same type of claim or the  
12 same type of judgment as the water and sewer charges.

13 COUNCIL MEMBER GENTILE: Granted, but why  
14 wouldn't that be eligible for sale to a third party?

15 DEPUTY COMMISSIONER SHEAR: We could  
16 consider it a sale. I don't think that that type of  
17 judgment would bring in as much revenue as a tax lien  
18 sale, but it's something we could look at.

19 COUNCIL MEMBER GENTILE: It would at  
20 least give you another weapon; another piece of the  
21 arsenal to try to collect some of the... or at least  
22 collect some revenue out of the debt that you are  
23 holding right now.

24 DEPUTY COMMISSIONER SHEAR: Understood.  
25

1  
2 COUNCIL MEMBER GENTILE: Thank you, Madam  
3 Chair.

4 CHAIRPERSON FERRERAS: Excuse me.  
5 [coughs] Thank you, Council Member. So I'm going to  
6 follow up. I wanted to talk about the Marshalls in  
7 particular and enforcement and I know that I had  
8 briefly mentioned the Sanitation piece, and this is  
9 legislation that I'm actually working on currently.  
10 But in 1997, the Marshalls were authorized under  
11 Article 16 of the New York Civil Courts Act to  
12 enforce judgments in the same manner as the Sheriffs,  
13 with exclusion of making arrests and selling  
14 property. However, in Section 1049-A of the New York  
15 City's Charter, which governs the ECB, only Sheriffs  
16 can enforce Sanitation code violations that are  
17 adjudicated by ECB. What is the rationale behind  
18 this provision if you know?

19 DEPUTY COMMISSIONER SHEAR: I don't know.

20 CHAIRPERSON FERRERAS: Okay, so we're  
21 going to... you know, obviously I'm working on  
22 legislation to help correct that. Do you think that  
23 this will allow you with a stronger tool for  
24 enforcement?  
25

1  
2 DEPUTY COMMISSIONER SHEAR: Yes, I think  
3 having two options rather than one option in terms of  
4 referring the Department of Sanitation judgment debt  
5 for enforcement is better for Finance.

6 CHAIRPERSON FERRERAS: Mm-hm.

7 DEPUTY COMMISSIONER SHEAR: I think  
8 there's also work incumbent upon us as an agency to  
9 do more enforcement actions generally so we could  
10 take advantage of that.

11 CHAIRPERSON FERRERAS: Okay, so in the  
12 line of enforcement I know that the Comptroller's  
13 audit and we've referenced it earlier; you weren't  
14 sure if it was relevant or pertained to anything  
15 anymore, but there were 17 recommendations in the  
16 Comptroller's audit, one of which was to obtain prior  
17 payment information in an attempt to identify bank  
18 accounts of respondents in order to send execution  
19 letters to seize assets. And I know that after my  
20 colleague asked the question, you said, "We really  
21 don't do that well." So of those recommendations, of  
22 the 17, do you know how many are enforced, why aren't  
23 they being enforced or implemented I should say, and  
24 why is this one, which is number six of the 17, in  
25 particular not followed?

1  
2 DEPUTY COMMISSIONER SHEAR: So the  
3 question from the council member was slightly  
4 different, so I think that what we tend to do most  
5 frequently is that when in-house staff has a case to  
6 see if there's a prior payment and what bank that  
7 check was drawn against, I don't know if we are doing  
8 that intensively enough, so that is part of our  
9 review and we also... the council member was asking  
10 about just going to a large bank and saying, "Here's  
11 a list of all of the judgment debtors. Which ones  
12 have accounts with you?" And that's where I was  
13 saying we are not doing that.

14 CHAIRPERSON FERRERAS: So I get that you  
15 may not be prepared to answer the 17 recommendations;  
16 which one you're working on, which ones are enforced,  
17 which ones you're having an issue with adopting. Can  
18 you follow up with this committee? We're going to  
19 have a follow up letter to you, so I'm hoping that  
20 you can get me those responses as soon as possible so  
21 that we're able to further do our work here on the  
22 Council.

23 DEPUTY COMMISSIONER SHEAR: Yes.

24 CHAIRPERSON FERRERAS: Thank you. Now I  
25 wanted to ask a question about... sorry. My



1  
2 understanding that when Marshalls do enforcement,  
3 they probably do this a lot better than DOF, right,  
4 so I'm thinking that they're going to look at bank  
5 accounts; they're going to try to find the person who  
6 they need to collect this debt from. So if we have  
7 agencies or program... or enforcement tools that can  
8 do it more efficiently than what we're doing now,  
9 since we have \$1.5 billion debt up there, do you find  
10 that you may be going to more of these resources that  
11 are actually working than those that are not?

12 DEPUTY COMMISSIONER SHEAR: I think we  
13 need to have a conversation with the Marshalls to see  
14 what they can do. I know that we don't want to give  
15 them a lot of debt where they're unable to find  
16 assets; that that would be counterproductive, but I  
17 think if they're willing to do the legwork and find  
18 the assets where maybe unable to, then we certainly  
19 want to leverage our efforts by using them.

20 CHAIRPERSON FERRERAS: Great. I'm going  
21 to have Council Member Rodriguez.

22 COUNCIL MEMBER RODRIGUEZ: Thank you,  
23 Chair and first I would like to say thank you to my  
24 daughter for being patient with me and first, I'd  
25 like to recognize that the situation and all the

1  
2 methods that we have when it comes to the need to  
3 collect \$1.4 billion does not reflect the actual  
4 leadership of the Department of Finance, but this is  
5 a situation that has been accumulated for so many  
6 years, so I know that with the new leadership inside  
7 the Department of Finance, there's a new approach on  
8 how to address the situation. And \$1.4 million  
9 means... billions means a lot you know, to us when it  
10 comes the time for us to get the revenue to balance  
11 our budget. In page 14, you address that in 2012,  
12 the Department of Finance contracted three outside  
13 collection agencies. How much are paid to those  
14 three agencies and what has been the productivity of  
15 those three collection agencies? How much have they  
16 been able to collect?

17 DEPUTY COMMISSIONER SHEAR: Well, what we  
18 pay to the collection agencies vary by agency.  
19 Somewhere I have the commission rates, which I think  
20 vary from around 10 percent to 20 percent or more  
21 from the agencies. In terms of what they've  
22 collected, we do know that collections, since we  
23 started using the agencies, are up overall.

24 COUNCIL MEMBER RODRIGUEZ: But do we have  
25 a figure; how much total was paid to those three

1  
2 collection agencies and how much money have they  
3 raised?

4 DEPUTY COMMISSIONER SHEAR: We can get...  
5 [crosstalk]

6 COUNCIL MEMBER RODRIGUEZ: Or collected?

7 DEPUTY COMMISSIONER SHEAR: We can get  
8 you that figure.

9 COUNCIL MEMBER RODRIGUEZ: Okay and what  
10 is your expectation on how many... what is the men  
11 and women power that has been assigned from the  
12 Department of Finance to work on the collection on  
13 the \$1.4 billion?

14 DEPUTY COMMISSIONER SHEAR: I'm sorry...  
15 [crosstalk]

16 COUNCIL MEMBER RODRIGUEZ: What is the  
17 human resources that has been assigned? How many  
18 people do we have in that unit at the Department of  
19 Finance that is assigned to collect the \$1.4 billion?

20 DEPUTY COMMISSIONER SHEAR: We have  
21 people in-house who work both ECB debt and other  
22 types of debt as well, so I think we have some work  
23 to do to figure out for you what the full-time  
24 equivalent is.

1  
2 COUNCIL MEMBER RODRIGUEZ: And what is  
3 the average? Like how many people do we have right  
4 now that we know that there's a unit at the  
5 Department of Finance that their responsibility to  
6 work on the collection of the \$1.4 billion?

7 DEPUTY COMMISSIONER SHEAR: Yeah, so I  
8 don't have that number for you because we have people  
9 in our collections unit who are working ECB, the \$1.5  
10 billion and they're also working parking violation  
11 debt and tax judgments as well, so we need to get  
12 back to you and give you the... what would be the  
13 equivalent, the full-time equivalent of people who  
14 are working the ECB debt.

15 COUNCIL MEMBER RODRIGUEZ: So the  
16 Department of Finance don't have a particular unit  
17 that their only responsibility is to work on  
18 collecting the \$1.4 billion.

19 DEPUTY COMMISSIONER SHEAR: No, no, we do  
20 have... our collectors work more than... work other  
21 types of debt as well.

22 COUNCIL MEMBER RODRIGUEZ: Okay, so I  
23 think that that's you know, important for us,  
24 especially working in collaboration, that we get some  
25 follow up and see how there's some progress on

1  
2 putting the human resources that should be assigned  
3 only to work on collections and also I think that  
4 the... to get the figure on how much has been spent  
5 to... how much has been paid to those three  
6 collection agencies and how much money have they been  
7 able to raise will be a question that I hope that  
8 with the chair we can follow up.

9 DEPUTY COMMISSIONER SHEAR: Okay.

10 CHAIRPERSON FERRERAS: Thank you and  
11 Council Member, we'll follow up with a letter, which  
12 you'll get, with all the questions that weren't asked  
13 today. But I want to commend the new administration.  
14 This time next year, we're going to be right here and  
15 I will not be calling you the new administration and  
16 I'm hoping that you have tons of answers to a lot of  
17 the questions that we have today. But I want to  
18 commend you for investigating the enforcement  
19 problems with ECB's judgments. I know in large part  
20 the new administration inherited the existing  
21 enforcement problems, so I'm looking forward to  
22 working with you to address them and to seeing you  
23 again before the committee in a year and see how much  
24 progress we've made, okay? Thank you for testifying  
25 today.

DEPUTY COMMISSIONER SHEAR: Thank you.

CHAIRPERSON FERRERAS: And we're going to  
be calling up the IBO.

[Pause]

[background voice]

[Pause]

CHAIRPERSON FERRERAS: You may begin.

ELIZABETH BROWN: Good morning,  
Chairwoman Ferreras and members of the City Council  
Finance Committee. My name is Elizabeth Brown and I  
am the Supervising Analyst for Housing, Environment  
and Infrastructure at the New York City Independent  
Budget Office. Thank you for your invitation to  
testify today regarding Intro 489-A, legislation, as  
we've heard, that will require the Department of  
Finance to provide annual reports to the City Council  
on the number of Environmental Control Board  
violations it receives for collection, the  
outstanding debt associated with those violations, as  
well as other information. While this legislation  
would enhance transparency and accountability for the  
collection of a large source of city revenue, IBO  
would encourage the City Council to expand the

1  
2 information required and to establish even greater  
3 transparency in the distribution of the reports.

4           The Environmental Control Board or ECB is  
5 a tribunal located within the city's Office of  
6 Administrative Trials and Hearings. It is charged  
7 with adjudicating the city's quality of life  
8 violations. This includes tickets issued by 13 city  
9 agencies ranging from infractions for disposing of  
10 recycling and non-recycling refuse container to  
11 unauthorized vending to performing construction or  
12 demolition work without a building permit.

13           In Fiscal Year 2014, city agencies sent  
14 ECB nearly 567,000 violations for adjudication. ECB  
15 holds hearings on the violations when necessary and  
16 issues judgments with associated fines and penalties.  
17 If these penalties and judgments remain unpaid for  
18 more than 60 days, the outstanding balance is  
19 transferred from ECB's jurisdiction to the Department  
20 of Finance, the agency charged with collecting funds  
21 owed to the city.

22           In Fiscal Year 2014, the city collected  
23 \$136 million in payments for ECB adjudicated  
24 violations according to the Green Book, which are  
25 monthly data files created by ECB and shared with

1  
2 city agencies. This figure includes all payments  
3 collected during the year, even if the penalties were  
4 levied in earlier years. ECB accounted for about  
5 two-thirds of the funds collected in Fiscal Year  
6 2014, with the remaining third collected by the  
7 Department of Finance.

8 ECB's monthly Green Book provides useful  
9 data on the number and types of citations received,  
10 as well as the revenue collected. All of the  
11 information is broken out by the agency issuing the  
12 citation. It does not, however, report data on the  
13 total penalties imposed or debt outstanding.

14 Our office has looked into this question  
15 of unpaid fines several times. In 2011, at the  
16 request of then-City Council Member Gale Brewer, IBO  
17 published an analysis of the city's delinquent  
18 accounts, which was a bit broader than the  
19 legislation we are discussing today. In addition to  
20 ECB adjudicated violations, we also accounted for the  
21 monies owed for parking tickets and red light camera  
22 violations, which are collected by the Department of  
23 Finance, as well as outstanding property charges,  
24 also collected by the Department of Finance, and  
25



1  
2 certain payments handled directly by the Department  
3 of Health and Mental Hygiene and the Fire Department.

4 IBO found that the city was owed nearly  
5 \$440 million in delinquent ECB adjudicated fines  
6 registered in the three years prior to our analysis,  
7 2007, '08 and '09. Of this, IBO found that the  
8 largest share of unpaid fines, \$200 million worth,  
9 was issued by the Department of Buildings, followed  
10 by the Department of Sanitation with \$134 million in  
11 unpaid fines and the Department of Transportation  
12 with \$37 million. Violations issued by the Fire  
13 Department accounted for \$27 million worth of the  
14 unpaid fines and outstanding tickets from the  
15 Department of Environmental Protection totaled \$15  
16 million. Unpaid balances from remaining agencies  
17 that refer violations to ECB totaled \$25 million.

18 In addition to the ECB fines, IBO also  
19 found that \$308 million was outstanding for parking  
20 tickets and red light camera violations during our  
21 study period. At the time, most were for parking  
22 tickets, but the number of red light camera  
23 violations has grown since then. Given the magnitude  
24 of unpaid parking and red light camera fines and  
25 given that they are also collected by the Department

1  
2 of Finance, IBO suggests the Council consider  
3 including similar data on these and other camera  
4 violations collected by the Finance Department in the  
5 reporting required under Intro 489-A. While the  
6 total amount of uncollected parking fines is  
7 published annually in the CAFR, the level of detailed  
8 information described in this introduction is not  
9 available.

10 In the past, IBO has been able to provide  
11 snapshots of the city's unpaid fines; however,  
12 regular reporting would add another layer of  
13 transparency. It would also help provide a clearer  
14 picture of the city's financial position and ensure  
15 that the city agencies charged with collecting fines  
16 are held accountable for their efforts.

17 Under the current draft of the  
18 legislation, the new reports would be provided to the  
19 City Council. In the interest of further enhancing  
20 the transparency provided by this legislation, IBO  
21 suggests that the Intro be amended to also require  
22 that the reports may be available online to the  
23 public and other offices.

24 Thank you for your invitation to testify  
25 and I would be happy to answer any questions.

1  
2 CHAIRPERSON FERRERAS: Thank you very  
3 much and I actually took note of your recommendation,  
4 so we are going to consider to amend the legislation  
5 to have it made public to the... made available to  
6 the public online.

7 So in 2003, your office published a  
8 report regarding fine collections by city agencies  
9 and in that report you considered five elements that  
10 determine both the effectiveness of enforcement and  
11 the amount. So I know that you mentioned this, so  
12 when... as you were here and...

13 [crosstalk]

14 ELIZABETH BROWN: Mm-hm.

15 [crosstalk]

16 CHAIRPERSON FERRERAS: You heard the  
17 testimony, do you agree with the fact that DOF in  
18 June in their June report mentioned the ability to  
19 settle debt with a system in collecting fine revenue?

20 ELIZABETH BROWN: Sorry, can you say that  
21 again, the last part?

22 CHAIRPERSON FERRERAS: Do you agree that  
23 when DOF says if we settle the debt then we'll be  
24 able to collect better fine... we'll have a higher  
25 level of collecting actual fines?

1  
2 ELIZABETH BROWN: I'm not sure what they  
3 mean by settle the debt.

4 CHAIRPERSON FERRERAS: So that was kind  
5 of what we were going...

6 [crosstalk]

7 ELIZABETH BROWN: Okay.

8 [crosstalk]

9 CHAIRPERSON FERRERAS: Back and forth at,  
10 but when we talked about settling the debt, I know  
11 that they talked about the opportunity of saying you  
12 only have to pay a certain portion or we can  
13 negotiate.

14 ELIZABETH BROWN: Okay, yeah.

15 CHAIRPERSON FERRERAS: Do you think that  
16 that would increase the number of actual collections?

17 ELIZABETH BROWN: I mean that's not  
18 something we'd look into specifically, but I can see  
19 you know, it's easier to pay less debt, so I mean or  
20 also if there could be some sort of payment plan. I  
21 don't know if that currently is an option where you  
22 could pay a portion of the debt. I know that some  
23 things, like the Housing Department, have done that  
24 over time; if you can pay a portion of the debt

1  
2 that's helpful, but you know, lower debt is easier to  
3 pay.

4 CHAIRPERSON FERRERAS: So I wanted to  
5 hear your thoughts 'cause DOF in their report  
6 mentioned that the city should reexamine the ECB's  
7 write-off policies, which statutorily is currently at  
8 eight years. Do you have any recommendations on the  
9 eight year write-off policy?

10 ELIZABETH BROWN: That's something I have  
11 back into and get back to you about.

12 CHAIRPERSON FERRERAS: Please do and  
13 we'll...

14 [crosstalk]

15 ELIZABETH BROWN: Sure.

16 [crosstalk]

17 CHAIRPERSON FERRERAS: Follow up with  
18 you. And I know that you... we hear your  
19 recommendations; we take them very seriously and it  
20 helped us kind of be able to put our...

21 [crosstalk]

22 ELIZABETH BROWN: Mm-hm.

23 [crosstalk]

24 CHAIRPERSON FERRERAS: Reports together,  
25 but also helped us kind of get ready for this

1  
2 hearing, so I appreciate and take of all your reports  
3 very seriously. I'm someone who actually reads them  
4 and they're...

5 [crosstalk]

6 ELIZABETH BROWN: Well, thank you.

7 [crosstalk]

8 CHAIRPERSON FERRERAS: Very important to  
9 our city and how we assess with how our budget is  
10 operating. We're going to have Council Member  
11 Gentile ask some.

12 COUNCIL MEMBER GENTILE: Thank you, Madam  
13 Chair and thank you to the IBO for coming today. I  
14 just took note of the fact that you said the largest  
15 share of unpaid fines, \$200 million, was issued by  
16 the Department of Buildings.

17 ELIZABETH BROWN: Mm-hm.

18 COUNCIL MEMBER GENTILE: And it seems to  
19 me that part of the issue that we have in trying to  
20 enforce many of the zoning and building codes is the  
21 fact that the lack of enforcement causes people to  
22 just have a laissez-faire attitude and just go ahead  
23 and do whatever they want 'cause they know there's  
24 not going to be the enforcement. So is this a  
25 particular area that the DOB finds there might be

1  
2 something that ECB can package and sell to a third  
3 party collection, a third party as we do with the  
4 water and sewer charges? We're talking about...

5 ELIZABETH BROWN: [interposing] Right.

6 COUNCIL MEMBER GENTILE: Their violations  
7 against property that's written by the Department of  
8 Buildings.

9 ELIZABETH BROWN: Again, that's something  
10 I have to look into and I think that's something the  
11 Council would have to also be in favor of. It is a  
12 huge number for the Department of Buildings,  
13 especially when you look at the violations that are  
14 received from ECB, a much... you know, they don't get  
15 the most from the Department of Buildings. Mostly  
16 they come from Sanitation, so it's a huge share that  
17 are unpaid, but it's not a huge share that ECB is  
18 actually adjudicating. So these... I mean  
19 concentrating on the DOB violations because that's  
20 just such a big share of the unpaid I think is a good  
21 idea and if you can look at different enforcement  
22 tools I think that you know, it wouldn't be... right  
23 now, it doesn't seem like this is such a great way of  
24 enforcing the building codes, so I think that would  
25 be...

1  
2 COUNCIL MEMBER GENTILE: [interposing]

3 What we're doing now is not a great...

4 [crosstalk]

5 ELIZABETH BROWN: What we're doing now,  
6 but we're not collecting as much revenue. I mean  
7 collecting revenue is a good thing, but also it's to  
8 make sure that these buildings; everything is safe  
9 and so if that's being ignored for right now, any  
10 action would probably be effective. But we'd... I'd  
11 have to look into the tax lien; the liens I think and  
12 so...

13 [crosstalk]

14 COUNCIL MEMBER GENTILE: I would ask you  
15 to and maybe we can have this conversation...

16 [crosstalk]

17 ELIZABETH BROWN: Mm-hm.

18 COUNCIL MEMBER GENTILE: As we go  
19 forward, but I'm not even sure. I think part of the  
20 reason why we have a lot of builders and a lot of  
21 people who own buildings that run amok is because  
22 they know that Department of Building violations are  
23 not enforceable or have not been enforced by the  
24 city, so I think that's a big area and now you're  
25 saying that the largest share of unpaid fines comes



1  
2 from DOB. So that's I think an area if at the very  
3 least we should try to not only get the revenue, but  
4 by enforcing it also trying to rein in some of the  
5 bad actors who are out there building and running  
6 amok as to what they do regardless of the zoning law,  
7 regardless of building codes. Thank you.

8 CHAIRPERSON FERRERAS: Thank you very  
9 much. Thank you for your testimony today. We're  
10 going to call this hearing to a close.

11 [gavel]

12 [Pause]

13 CHAIRPERSON FERRERAS: Sorry, we have an  
14 actual witness here. I'm sorry, can we start the  
15 tape? [background voice] Okay, great. Thank you and  
16 I am sorry to our witness who's here to testify, Glen  
17 Bolofsky of parkingticket.com. Come on up. I'm  
18 sorry, Glen, and I'm staring right at you.

19 [background voices] No. [background voice] I know, I  
20 know.

21 GLEN BOLOFSKY: [off mic] Good morning.

22 CHAIRPERSON FERRERAS: Good morning. I  
23 think you got to turn on your mic, Glen.

24 GLEN BOLOFSKY: Good morning. How are  
25 ya? Good, nice to see you. Finance is a busy place,

1  
2 you know, maybe a little too busy and whether it... I  
3 really support this bill big time because  
4 transparency is the key and certainly more  
5 transparency is desirable and necessary so you know  
6 what's going on in your districts and what's going on  
7 in the city. And whether it be ECB or DOB or PVB,  
8 all these acronyms add up to a lot of work and again,  
9 perhaps possibly too much work for one agency.  
10 That's my general thought process in terms of the  
11 need for more transparency; more collection on these  
12 outstanding liabilities or potential liabilities.

13 In terms of the Finance Committee here  
14 this morning, I know there's a lot of issues that you  
15 grapple with on a daily basis in your Manhattan  
16 offices and in your district offices. I get calls  
17 even this week from district offices in Brooklyn and  
18 other places where constituents come in with all  
19 types of tickets and Council people need help. They  
20 don't often find a friendly hand over there at DOF  
21 and it's a challenge to say the least when you have  
22 individuals; constituents coming into your office;  
23 they voted for you or they want to vote for you and  
24 you want to do your best to help them and it's very  
25 difficult to get any cooperation, which is something

1  
2 that I struggle with daily. I have a man in court  
3 today at the Parking Violations Bureau and we have a  
4 representative there five days a week and there's a  
5 lot of struggles just to get fair hearings on the  
6 merits.

7           One of the key things is the actual  
8 notice of violation themselves don't even include the  
9 required statutory message. For example, on a  
10 parking ticket you're allowed to request a hearing  
11 date and time to come in so that you can plan it;  
12 organize your defense' gather your evidence. They  
13 used to have this on the parking tickets many years  
14 ago and they stopped putting that information on a  
15 parking ticket.

16           We've had to file an action against the  
17 Department of Finance back in January to try to get  
18 them to abide by the statutory requirements and it  
19 puts your constituents and all the members of the  
20 public; driving public at a great disadvantage when  
21 they don't know their rights and so one of the things  
22 that are really required on the ticket is a message  
23 that says you can book an appointment; you know,  
24 schedule an appointment to come in and Finance likes  
25 to say in response very simply, "Well, we don't need

1  
2 to provide this even though it's required under the  
3 statute because people can come in any time that they  
4 like, any time." But what's misunderstood there is  
5 that one, it's a requirement of the statute, making I  
6 my view, although I'm not an attorney and I think you  
7 know I'm an expert in the subject matter, in my view  
8 making every single ticket defective because it lacks  
9 the statutory requirement of the notice that you can  
10 schedule a hearing and come in for a hearing.

11           The other statutory requirement that's  
12 lacking on the ticket is that if you fail to satisfy  
13 the ticket timely, a default judgment will be entered  
14 against you and that's very big 'cause that affects  
15 people's credit ratings and their livelihoods because  
16 a lot of people today when they apply for a job the  
17 first thing the employer does is check their credit  
18 rating and if they don't have a very good credit  
19 rating, they may be denied employment but yet, the  
20 statutory requirement is not on the face of the  
21 ticket.

22           So I just wanted to come, say hello and  
23 voice my support for the efforts everyone's making.

24           CHAIRPERSON FERRERAS: I really  
25 appreciate your support and on the work that you do.

1  
2 I just want to say that parking tickets by nature  
3 don't go through ECB, but I think that this is a  
4 topic that definitely merits this conversation and a  
5 hearing possibly, so we'll hopefully look into more  
6 detail and to have that opportunity because it is of  
7 concern. We're here to bring transparency and to be  
8 supportive of New Yorkers. It's not just the  
9 enforcement, but we have to have a fair hand, not  
10 just a heavy hand. So, thank you for coming today to  
11 testify.

12 GLEN BOLOFSKY: Thank you for having me.

13 CHAIRPERSON FERRERAS: And now I will  
14 call this hearing to a close.

15 [gavel]

16 [background voices]

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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



Date October 21, 2014