

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON RULES, PRIVILEGES, AND
ELECTIONS

----- X

November 26, 2018
Start: 3:17 p.m.
Recess: 6:07 p.m.

HELD AT: City Council Chambers

B E F O R E: KAREN KOSLOWITZ
Chairperson

COUNCIL MEMBERS: Adrienne E. Adams
Robert Cornegy, Jr.
Margaret S. Chin
Vanessa L. Gibson
Corey D. Johnson
Ritchie J. Torres
Kalman Yeger
Mark Gjonaj
Brad Lander

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

Margaret Garnett

Towaki Komatsu

Kelly Grace Price

Tatiana Guden

1
2
3 COMMITTEE CLERK: Sound check for the
4 Committee on Rules, Privileges, Elections, etc.
5 November 26, 2018, being record by Israel Martinez,
6 taking place approximately 3:00 p.m., City Council
7 Chambers. [pause]

8 CHAIRPERSON KOSLOWITZ: Good afternoon and
9 thank you for attending this hearing. My name is
10 Karen Koslowitz and I am honored to chair this City
11 Council Committee on Rules, Privileges, and
12 Elections. Before we begin, I would like to
13 introduce the Rules Committee council members, and
14 other council members who have joined us today. I
15 will start by introducing the Rules Committee
16 members. First, we are very pleased to be joined by
17 our speaker, Corey Johnson, as a member of the Rules
18 Committee, as well as Council Member Adrienne Adams
19 from Queens, Council Member Ritchie Torres of the
20 Bronx, Council Member Vanessa Gibson from the Bronx,
21 and we're joined also today by Council Members Kalman
22 Yeger and Council Member Gjonaj. And also we're
23 joined by Margaret Chin, and I saw Brad Lander here,
24 Brad Lander. There are also, well, I introduce them,
25 the council members who are not on the committee. I

2 would also like to acknowledge Rules Committee
3 Counsel Elizabeth Guzman and the investigative staff
4 members of the committee, Chuck Davis, chief
5 compliance officer, Alisha Vaso, and Andre Johnson
6 Brown, investigators as well as Rob Newman and Kelly
7 Taylor. Today's hearing will address an appointment
8 to the New York City Department of Investigation,
9 known as DOI. Mayor Bill de Blasio has nominated
10 Margaret M. Garnett to serve as Commissioner of the
11 Department of Investigation. The mayor has submitted
12 her name to the council for its advice and consent,
13 as required by the New York City Charter. If
14 approved, Ms. Garnett, a Brooklyn resident, will
15 serve as DOI Commissioner for an indefinite term. To
16 get us started, I would like to call on Speaker
17 Johnson for his opening statement.

18 SPEAKER JOHNSON: Thank you, Madam Chair.
19 Good afternoon. My name is Corey Johnson and I am
20 Speaker of the New York City Council. I want to
21 thank you, Chair Koslowitz, for your leadership on
22 this committee and on the important issue that we
23 will be discussing at today's hearing, as well as all
24 of my colleagues who are in attendance, and I see
25 we've also been joined by Council Member Robert

2 Cornegy as well. Today the Rules Committee will
3 consider the mayor's nomination of Margaret Garnett
4 to be the commissioner of the Department of
5 Investigation. Before I begin with my comments about
6 today's hearing, I want to say a few things about why
7 we are here today. Earlier this year the former head
8 of the Department of Investigation, Mark Peters,
9 fired Anastasia Coleman shortly after he had
10 appointed her as Special Commissioner of
11 Investigation for the Department of Education. Ms.
12 Coleman repeatedly raised concerns that under Mr.
13 Peters DOI was unlawfully asserting control over her
14 office. Instead of working with Ms. Coleman to try
15 to address these issue, Mr. Peters fired her.
16 Believing this was done in retaliation, Ms. Coleman
17 claims protection under the city's whistleblower law.
18 Our whistleblower law is vital to the functioning of
19 city government. No one knows better the inner
20 workings of city government than city employees.
21 Protecting those who raise issues of corruption or
22 other illegal activity is of paramount and obvious
23 importance. One of DOI commissioner's most important
24 responsibilities is investigating whistleblower
25 claims and determining whether a whistleblower is

2 entitled to protection. Because our whistleblower
3 law doesn't offer an alternate process for DOI
4 whistleblowers, Mr. Peters appointed James McGovern
5 as an acting deputy commissioner Investigation to
6 independently examine Ms. Coleman's claim. On
7 October 10 Mr. McGovern issued a report,
8 substantiating Ms. Coleman's whistleblower claims,
9 and I read the entire 150-page McGovern report, and I
10 have to say that I found that report very, very
11 troubling. There is no reason to go into the
12 details. Today's hearing is not about the report.
13 At bottom, though, Mr. McGovern found that Mr.
14 Peters, the man charged with protecting
15 whistleblowers, was found to have fired a
16 whistleblower for blowing the whistle on him. Mr.
17 Peters publicly accepted the recommendations in the
18 report and stated that he regretted his behavior.
19 Shortly thereafter the mayor fired Mr. Peters. As I
20 have said, as DOI commissioner, Mark Peters led
21 investigations that exposed serious issue at the
22 Administration for Children's Services and the
23 Department of Corrections, among others. He
24 uncovered mismanagement that threatened the health
25 and safety of New Yorkers, and corruption that might

1
2 have compromised the public trust. But the behavior
3 outlined in the McGovern report could not help but
4 undermine confidence in his work and I understand why
5 the mayor fired him. The council's role is now to
6 ensure that the next DOI commissioner is qualified,
7 competent, and willing and able to assert
8 independence from City Hall that this role requires.
9 It goes without saying that DOI plays a critical and
10 unique role in how the city functions. Along with
11 other oversights, like the City Council, the Conflict
12 of Interest Board, and the district attorneys, it
13 stands a bulwark against gross waste, abuse, fraud,
14 and corruption in city government. Accordingly, our
15 city charter gives the Department of Investigation
16 broad authority to conduct investigations that are in
17 the best interests of the city. To do its job it is
18 imperative that DOI remain independent from the
19 entities it is obligated to monitor, including and
20 especially the mayor. The DOI commissioner must not
21 be beholden to any political figure, and she must be
22 capable of withstanding political pressure that would
23 affect the integrity of DOI's work. Ms. Garnett's
24 public service is impressive. She currently serves
25 as executive deputy attorney general for Criminal

2 Justice. Before this, Ms. Garnett served as
3 assistant US attorney for the criminal division of
4 the Southern District of New York. In this role, Ms.
5 Garnett focused on violent and organized crime, and I
6 look forward to hearing how, if appointed, this
7 background would inform her work as DOI commissioner.
8 After he was fired, Mr. Peters made some troubling
9 allegations, that the mayor's office attempted to
10 influence the release of DOI reports, and he stated
11 that there are currently several ongoing
12 investigations involving the mayor. I have no idea
13 if this is true. I look forward to discussing with
14 Ms. Garnett how she would deal with pressure from
15 City Hall to influence investigations and how she
16 would approach ongoing matters involving the mayor.
17 It goes without saying that her responses to these
18 and other questions will be critical in this advice
19 and consent process. In closing, I want to say that
20 DOI's crucial role in city government demands that
21 the council carefully scrutinize this nomination
22 before approving it. That said, my colleagues and I
23 are committed to a strong and independent Department
24 of Investigation. I want to thank Ms. Garnett for
25 appearing before us today. I would also like to

2 thank everyone in attendance for joining us and for
3 your forthcoming contributions to this critical
4 conversation. Thank you, Madam Chair.

5 CHAIRPERSON KOSLOWITZ: Thank you. I
6 want to recognize Council Member Robert Cornegy,
7 Council Member Rafael Espinal, and Council Member
8 Keith Powers. The commissioner of DOI serves as DOI
9 head. Pursuant to the charter chapter 2 and 31, the
10 mayor appoints the commissioner upon the advice and
11 consent of the council. Before taking a vote the
12 council holds a public hearing. The DOI commissioner
13 is authorized and empowered to conduct any study or
14 investigation which in the judgment of the consumer
15 are in the best interests of the city. These
16 include, but are not limited to, investigations
17 concerning the affairs, functions, accounts, methods,
18 personnel, and effectiveness of the city agencies
19 over which DOI has jurisdiction. The DOI
20 commissioner also has a duty to conduct
21 investigations demanded by the mayor or the council.
22 The Conflicts of Interest board also has the power to
23 direct DOI to conduct investigations concerning
24 matters relating to the COIB's responsibility under
25 chapter 68 of the charter. Upon require, the DOI

2 commissioner must investigate any such council and
3 COIB investigation demand within a reasonable time.
4 DOI has jurisdiction over any agency, officer, or
5 employee of the city, any person or entity doing
6 business with the city and any person or entity paid
7 or receiving money emanating from city coffers. DOI
8 also has a complaint bureau which receives complaints
9 from the public. The DOI commissioner is also
10 responsible for approving the appointments of all New
11 York City agency inspector generals and conveys the
12 associated standards of conduct for all appointed
13 inspector generals in order to ensure uniformity of
14 their activities. The DOI commissioner monitors and
15 evaluates the activities of the IGs. The IGs report
16 directly to the DOI commissioner. The commissioner
17 is required to be a member in good standing of the
18 Bar of the State of New York and must have at least
19 five years of law enforcement experience. Currently,
20 the annual salary for the DOI commissioner is
21 \$220,845. I want to welcome Ms. Garnett. Would you
22 please raise your right hand and be sworn in.

23 MARGARET GARNETT: Good afternoon.
24
25

2 LEGAL COUNSEL: Do you swear or affirm to
3 tell the truth, the whole truth, and nothing but the
4 in the testimony you are about to give?

5 MARGARET GARNETT: Yes, I do.

6 LEGAL COUNSEL: Thank you.

7 CHAIRPERSON KOSLOWITZ: Would you like to
8 make a statement?

9 MARGARET GARNETT: Sure. Thank you,
10 Speaker Johnson, Chair Koslowitz, and Chair Torres.
11 My name is Margaret Garnett and I am honored to be
12 here before you today as the mayor's nominee for
13 Commissioner of the Department of Investigation. I
14 would also like to thank the members of the Rules
15 Committee, the Oversight and Investigations
16 Committee, and other members of the council for
17 allowing me here to discuss this vital role and my
18 qualifications for it. I grew up in a family deeply
19 committed to the idea of public service and for the
20 past thirteen years I have tried to honor that legacy
21 as a federal and state prosecutor. I am proud of my
22 reputation for independence, integrity, fairness, and
23 professional excellence, and if I am confirmed by
24 this council I look forward to bringing those
25 qualities to my work as commissioner of DOI. As a

1
2 prosecutor, I am honored to be considered to be the
3 next commissioner of DOI, and as a New Yorker I am
4 thrilled to have the chance to serve the city I love
5 in a new way. I have lived in New York City nearly
6 all of my adult life and I am raising my family here.
7 The Department of Investigation plays such a
8 important role in the city and can be a force for
9 tremendous positive change for all New Yorkers. In
10 its role as criminal investigator DOI helps to ensure
11 that New Yorkers have the honest government they
12 deserve, by rooting out wrong-doers who abuse the
13 public's trust and unfairly stain the work of the
14 vast majority of dedicated and honest city employees.
15 In its oversight role DOI can play a vital part in
16 improving the work of every part of city government,
17 by shining a light on needed systemic changes,
18 identifying waste and mismanagement, and giving this
19 council the administration and the public the
20 information required to push for reforms. Finally,
21 it is vitally important to the integrity of DOI that
22 it be independent from the rest of city government,
23 and also be perceived by the public as independent.
24 I believe that my career up to this point has
25 prepared me well to meet all of these challenges. I

2 feel lucky to have been trained as a prosecutor at
3 the United States Attorney's Office for the Southern
4 District of New York under the leadership of several
5 outstanding United States attorneys. I am confident
6 that the values I learned there will serve me well as
7 DOI commissioner, to be guided only by what is in the
8 public interest with total fidelity to the facts and
9 the law, to do the right thing in the right way for
10 the right reasons every day. In my work as an
11 assistant United States attorney I investigated
12 prosecuted a wide variety of cases, including massive
13 tax fraud, embezzlement, major narcotics cases, home
14 invasion robbery crews, and murders. I became the
15 chief of the Violent and Organized Crime Unit, which
16 I supervised for four years. During that time, the
17 unit charged hundreds of violent criminals
18 endangering the lives of New Yorkers and solved
19 dozens of murders, including cold case murders where
20 victims' families had been waiting for years or even
21 decades for answers. I also become involved in
22 several exhortation efforts in which information
23 learned from our investigations allowed us to
24 identify and clear a number of people wrongly
25 convicted of murder in other jurisdictions. I

2 subsequently was named a deputy chief of Criminal
3 Appeals and then chief of Appeals for the criminal
4 division. In that role I supervised the entire
5 criminal appellate docket of the office before the
6 Second Circuit Court of Appeals, as well as serving
7 as a legal advisor to the office as a whole,
8 including unit chiefs and executive staff. I was
9 involved in advising on every category of case the
10 office prosecutes, including public corruption,
11 securities fraud, violent crime, organized crime,
12 major fraud schemes, money laundering, and terrorism.
13 For the last year I have served as the executive
14 deputy attorney general for Criminal Justice at the
15 New York State Attorney General's office. In that
16 role I run the criminal division of the AG's office
17 and supervise approximately 150 prosecutors, 130
18 police investigators, and 150 other staff, including
19 forensic auditors, analysts, data scientists, and
20 clerical staff. The Criminal Division investigates
21 and prosecutes a variety of criminal cases statewide,
22 including public corruption, organized crime,
23 narcotics and firearms trafficking, Medicaid fraud,
24 patient abuse and neglect, and a wide range of
25 financial crimes, including securities fraud, real

1
2 estate fraud schemes, and insurance fraud. I also
3 supervise the special investigations and prosecutions
4 unit, which was created by the governor three years
5 ago to investigate any incident in New York State
6 where unarmed civilians are killed by police officers
7 or die in police custody. Finally, I advise the
8 attorney general and the civil divisions of the
9 office on issues that relate to the criminal justice
10 system or law enforcement. I have benefitted
11 enormously over the last year from the mentorship and
12 support of Attorney General Barbara Underwood and in
13 particular the way she has led the office these last
14 six months. In a time of upheaval and uncertainty
15 she has kept the focus of the entire office on the
16 incredibly important work we are doing on behalf of
17 all New Yorkers and inspired us all with her
18 brilliance, kindness, and enthusiastic dedication to
19 the public interest. For me personally she has been
20 a tremendous example of principled and steady
21 leadership. I believe that I have the professional
22 experience and personal qualities to lead DOI
23 effectively in its vital and important work in the
24 city. I have both conducted and supervised many
25 complex criminal investigations, exercising

2 independent judgment and reaching fair and just
3 results under sometimes intense public scrutiny and
4 criticism. I know how to produce superb written work
5 that is both analytically sound and accessible to a
6 variety of readers. I have built strong professional
7 relationships with key law enforcement partners,
8 including the five city district attorneys' offices,
9 the two US attorneys' offices, as well as the NYPD
10 and other federal and state agencies. If I am
11 confirmed, I will work to build those same quality
12 professional relationships with the heads of city
13 agencies and with this council in service of DOI's
14 oversight mission. Finally, I am an experienced
15 manager of people with a proven ability to create and
16 model a culture of collaboration, team work,
17 integrity, and the highest professional standards. I
18 hope to earn your confidence and support today, and
19 then go on to earn the confidence and support of the
20 professional staff at DOI and the confidence and
21 support of the public as we continue to work on their
22 behalf. I'm happy to answer any questions the
23 council has for me today.

24 CHAIRPERSON KOSLOWITZ: I would like to
25 call on the speaker.

2 SPEAKER JOHNSON: Thank you, Madam Chair.
3 Thank you, Ms. Garnett, for your testimony and for
4 being here today. I know this all happened pretty
5 quickly. Can you actually just talk a little about
6 when you got the phone call and how you got the
7 outreach related to being considered for this
8 appointment, and if you had any pre-existing
9 relationship with the mayor, any of the deputy
10 mayors, the Corporation Counselor, anyone within the
11 administration, before you got that phone call.

12 MARGARET GARNETT: So I first learned
13 about the possibility that I might be appointed as
14 DOI commissioner two weeks ago, exactly two weeks
15 from today, the Monday of the Veterans' Day holiday
16 weekend. I was told that afternoon by a colleague of
17 mine that he had given my phone number to Joanie
18 Clutter, who is the mayor's appointments counsel, and
19 that he thought she would call me and thought it
20 might be about DOI commissioner. I spoke to Ms.
21 Clutter that night on the telephone for about 30 to
22 45 minutes and then over the course of that week I
23 had an interview with Ms. Clutter and with First
24 Deputy Mayor Dean Fuleihan. I first spoke to the
25 mayor by telephone on the Wednesday evening of that

2 week for a brief conversation. That was the first
3 time I had ever spoken to the mayor in my life, and I
4 met him in person on the Thursday of that week at
5 Gracie Mansion.

6 SPEAKER JOHNSON: And had you had any
7 previous relationship with the mayor or any officials
8 in the administration?

9 MARGARET GARNETT: No. The only person I
10 know in the administration is Liz Glazer, who runs
11 the mayor's Office of Criminal Justice Policy. I
12 know her professionally. We used to have the same
13 job.

14 SPEAKER JOHNSON: Ms. Garnett, did you
15 read the McGovern report?

16 MARGARET GARNETT: Yes.

17 SPEAKER JOHNSON: And what did you think
18 of it?

19 MARGARET GARNETT: I found it pretty
20 shocking.

21 SPEAKER JOHNSON: What was shocking about
22 it.

23 MARGARET GARNETT: Well, I think the
24 findings and conclusions in the McGovern report were
25 very troubling, particularly even more so in a law

2 enforcement agency. I think when you run an agency
3 that's charged with investigating other people, with
4 taking whistleblower complaints, with holding other
5 parts of city government to a high standard of
6 integrity that the findings there relating to abuse
7 of the commissioner's authority, in particular
8 disregarding or dismissing concerns raised by
9 professional staff that actions might not be lawful,
10 being abusive or threatening or intimidating to your
11 own staff, those things are very troubling.

12 SPEAKER JOHNSON: And did you agree with
13 Mr. McGovern's conclusion in that report,
14 recommendations that he made as part of that report?

15 MARGARET GARNETT: The recommendations
16 seemed to me to be sound and grow out of the findings
17 of the report.

18 SPEAKER JOHNSON: The report did not call
19 for Mr. Peters to be fired. Do you think that the
20 mayor's decision to fire him was an appropriate
21 decision?

22 MARGARET GARNETT: I think the
23 conclusions of the report provide a basis for
24 termination. If I engaged in that conduct I would
25

2 expect to be terminated. I think beyond that that's
3 a personnel decision by the mayor.

4 SPEAKER JOHNSON: When do you think a DOI
5 commissioner should be fired? What are the
6 appropriate grounds for dismissal of a DOI
7 commissioner?

8 MARGARET GARNETT: I would hesitate to
9 generate an exhaustive list. I think certainly if a
10 commissioner were found to have engaged in any
11 unlawful conduct, embezzlement, misuse of city
12 resources city, unethical conduct that caused, could
13 cause someone to question their moral authority to
14 lead the agency and have it function in its designed
15 role in the city. So I think there's a range of
16 potential conduct from criminal to just gross
17 mismanagement that could provide cause for
18 termination.

19 SPEAKER JOHNSON: And what would you do
20 if a DOI employee raised concerns about the legality
21 of your actions as commissioner? If that happened
22 what steps would you take?

23 MARGARET GARNETT: Well, I think the
24 first step would be to hear that person out and make
25 sure that they felt heard, that there was a culture

2 in which staff felt free to challenge me, to raise
3 concerns, that actions we were considering might not
4 be lawful or appropriate. So some of that is a
5 culture issue. And then I think if those concerns
6 are raised then there's a number of possible next
7 steps, including involving other staff, the general
8 counsel, potentially seeking outside advice from
9 Corporation Counselor or the Conflicts of Interest
10 Board, depending on what the nature of the concern
11 was.

12 SPEAKER JOHNSON: How would you handle a
13 whistleblower claim from a DOI employee generally if
14 it was brought forward?

15 MARGARET GARNETT: Well, I think the
16 first step would be to consider in consultation with
17 other executive staff whether it was appropriate for
18 me or other staff to be involved in adjudicating
19 that. I could imagine whistleblower complaints in
20 which I would have, that came from inside the agency
21 but didn't involve me personally, in which I would be
22 able to handle that the same as we would handle a
23 whistleblower complaint from another agency.

24 SPEAKER JOHNSON: What if it did involve
25 you personally?

2 MARGARET GARNETT: If it did involvement
3 me personally I would have to be recused from
4 handling it and I think the steps after that would
5 depend on the circumstances, whether there was
6 someone else, a senior-enough staff person within DOI
7 who could handle it, whether we should involve the
8 Corporation Counsel or, as was the case here, hire
9 independent outside counsel to respond.

10 SPEAKER JOHNSON: The McGovern report
11 also raised a broader question, which is who watches
12 the watchman. Do you think that there are any
13 structural changes that are needed so that we can
14 have confidence that any abuses of power by DOI would
15 not go unchecked?

16 MARGARET GARNETT: I don't think I have
17 any particular structural changes in mind. I think
18 the question of how prosecutors and investigators are
19 held in check is a complex one. It's very important,
20 I think as we've seen in the news, that prosecutors
21 and law enforcement investigators be independent from
22 political influence or political control, partisan
23 concerns, and in order for that independence to be
24 effective that often means limited oversight by
25 elected officials and other bodies. I think that

2 having a strong culture of integrity, a strong
3 leadership from the top of fidelity to the law and
4 the facts is the minimum foundation. That's the
5 absolute bedrock of ensuring that people charged with
6 investigating others are policing themselves as well.

7 SPEAKER JOHNSON: So there are several
8 highly charged, supposedly, ongoing DOI
9 investigations associated with the current
10 administration. Mr. Peters said that. He has
11 suggested that his firing was because of his
12 contentious relationship with City Hall and pursued
13 investigations that could be embarrassing to the
14 administration. What is your plan for these
15 potential investigations and other investigations
16 that are currently under way? Before you answer that
17 question about the investigations that he disclosed,
18 is it appropriate for him to publicly disclose those
19 investigations? I mean, typically investigations are
20 not disclosed until there is some type of conclusion,
21 or that the end of the investigation, it's found that
22 they have merit and that it's towards the end of the
23 investigation. Should it have been disclosed that
24 there are current investigations, and regardless of
25 that answer what is your plan if there are such

2 investigations underway on how to handle those
3 investigations should you be DOI commissioner?

4 MARGARET GARNETT: So I definitely agree
5 with the premise that investigations should not be
6 disclosed to the public. They shouldn't be leaked to
7 the press. They shouldn't be disclosed to the public
8 until the professional investigators charged with
9 carrying that out are ready to make final
10 determinations. There are many reasons for that,
11 which I can elaborate on if you would like me to.

12 SPEAKER JOHNSON: Yes, please.

13 MARGARET GARNETT: Some of it is to
14 protect the integrity of the investigation. Often
15 investigations involve informants or whistleblowers.
16 You might have undercover operations underway and
17 jeopardizing the integrity of the information you're
18 gathering and potentially the safety or position of
19 people who are helping you could be put at risk.
20 The, I think it's also important that sometimes
21 matters are investigated and a conclusion is reached
22 either that no wrongdoing occurred or that the
23 wrongdoing that occurred should be dealt with in some
24 way short of criminal prosecution. When you're a
25 criminal investigator you have tremendous power over

1
2 people's lives, to ruin their reputations, to cause
3 them tremendous damage, and where people have engaged
4 in wrongdoing that might be warranted, but where they
5 haven't it's inappropriate for the fact that someone
6 is under investigation to be leaked to the press or
7 disclosed publicly, in my view.

8 SPEAKER JOHNSON: And if there are
9 current investigations, again I have no knowledge of
10 this other than what I've read, how would you handle
11 those investigations that are currently ongoing that
12 might potentially involve the other side of City
13 Hall?

14 MARGARET GARNETT: So I also don't know
15 what those are, other than what I've read in the
16 press. But what I can say is that any meritorious
17 investigations underway at DOI will continue under my
18 leadership.

19 SPEAKER JOHNSON: Independently?

20 MARGARET GARNETT: Yes.

21 SPEAKER JOHNSON: Without interference
22 from the other side of City Hall?

23 MARGARET GARNETT: That's correct.

24 SPEAKER JOHNSON: I have a few more
25 questions, and then I, of course, want to hand it

2 over to the chair of our Oversight Investigations
3 Committee, Chair Torres. Has anyone at City Hall or
4 during this process asked whether were you appointed
5 commissioner and confirmed you would provide them
6 with information about ongoing investigations?

7 MARGARET GARNETT: No, and if they had I
8 would have withdrawn my name from the [inaudible]

9 SPEAKER JOHNSON: You would have
10 withdrawn your name if you were asked that question?

11 MARGARET GARNETT: Yes.

12 SPEAKER JOHNSON: Were you asked to
13 provide any assurances in what investigations you
14 would continue or start?

15 MARGARET GARNETT: No.

16 SPEAKER JOHNSON: What actions would you
17 take if you were ordered by someone in the
18 administration to cease an investigation or attempted
19 to influence its trajectory or outcome?

20 MARGARET GARNETT: Well, the first thing
21 I would do is hang up the phone. Um, I don't mean to
22 be flip, I'm sorry. Look, I think that it is
23 important when you are doing important work that
24 affects the city that you listen to stakeholders and
25 people who have a valuable perspective on how city

2 government works. That could include members of the
3 administration the heads of those agencies, members
4 of this council and their staff, but what's vitally
5 important for DOI's work and its ability to do that
6 work is that the ultimate decision be driven by the
7 independent professional judgment of the DOI
8 commissioner with the advice of the career staff at
9 DOI. And if I'm confirmed as DOI commissioner that
10 will be the sole basis on which I make decisions
11 about the outcome of investigations.

12 SPEAKER JOHNSON: What if you were asked
13 to withhold a report or to change conclusions and
14 recommendations that either you or the professional
15 staff at DOI wanted to include in a report that was
16 handled by the agency. What would you do?

17 MARGARET GARNETT: I would reject that
18 request.

19 SPEAKER JOHNSON: Well, your mandate is
20 to uncover misconduct in city government. You'll
21 work closely with the very agencies and personnel you
22 are tasked with overseeing. That's part of the
23 tension involved with being Commissioner of the
24 Department of Investigation. How would you balance
25 working closely with agency personnel while staying

2 independent from that agency when conducting an
3 investigation?

4 MARGARET GARNETT: So I think that is an
5 important balance. I think that, I don't think that
6 there is a necessary conflict between having
7 professional relationships with the heads of city
8 agencies or with this council or with the
9 administration and also being able to evaluate their
10 actions independently. I think, um, and some of the
11 nature of those communications and relationships I
12 would expect to vary considerably between a criminal
13 investigation and what I would broadly call an
14 oversight investigation. In a criminal investigation
15 it may well be that there's no consultation or
16 conversation with anyone outside DOI that's
17 appropriate at any time until charges are filed. In
18 the oversight role, I think the goal of that
19 ultimately, of that work, is to improve functioning
20 of city government. Sometimes accomplishing that
21 goal means calling people to account for gross
22 mismanagement or waste. But I think that can also,
23 even in those circumstances where a report might be
24 extremely critical that the ultimate goal is to have
25 the agency adopt the recommendations to change, to

2 improve the way that it functions, and the way that
3 it serves New Yorkers. And I think that given that
4 that's the goal, that having professional
5 relationships that are built on mutual respect is an
6 important part of that. But I think that I could
7 only earn that respect by demonstrating my
8 independence and my commitment to what my role would
9 be as DOI commissioner.

10 SPEAKER JOHNSON: Do you have any
11 preliminary observations on the performance and
12 effectiveness of DOI?

13 MARGARET GARNETT: I think, based my
14 observations as a citizen that they've done really
15 important work. I think, um, you highlighted some of
16 those issues in your opening statement, but I think
17 the work that's been done to expose the problem with,
18 related to lead testing in NYCHA, the report on ACS,
19 the Special Victims Division report, I think there's
20 a number of reports that have been really important
21 and I think in addition to those very high-profile
22 things I think there's sort of less high-profile day-
23 to-day work that DOI does and my experience has been
24 very good.

2 SPEAKER JOHNSON: Whistleblowers, as I
3 said in my opening statement, play a crucial role in
4 moving toward I believe a more ethical government and
5 fear of retaliation prevents potential whistleblowers
6 from disclosing unethical or illegal conduct. Do you
7 think that our whistleblower protections are
8 sufficient or could they be strengthened further?

9 MARGARET GARNETT: I'll confess that I'm
10 not familiar with the details of the whistleblower
11 protection statute. I obviously will become more
12 familiar with that if I'm confirmed as DOI
13 commissioner. I agree that it's extremely important
14 that whistleblowers be protected from demotion or
15 firing, or other even less serious retaliation. And
16 I think that part of why the independence and
17 perception of DOI is so important is precisely so
18 that whistleblowers will feel free to come forward
19 with confidence that their complaints will be
20 investigated fairly and professionally.

21 SPEAKER JOHNSON: How would a subordinate
22 describe your management skills and leadership style?

23 MARGARET GARNETT: I think and hope they
24 would describe my leadership style as both
25 collaborative and decisive. I think that my goal and

2 focus is to empower the people actually doing the
3 work so that they feel supported, protected. I think
4 the, one of my own guides a supervisor or leader is
5 that successes are for the people doing the work and
6 mistakes or failures are my responsibility, and I
7 think that you communicate that to your people by how
8 you run the organization that you're the leader of
9 and it frees them to do their best work.

10 SPEAKER JOHNSON: I have just one more
11 question and then I want to hand it off to Chair
12 Torres. Council Member Lander and Council Member
13 Williams were instrumental before I was elected to
14 the City Council in passing some very significant
15 police reform and accountability measures. One of
16 those measures created an IG, an inspector general,
17 for the NYPD, which falls under the purview of the
18 Department of Investigation. Not all of the IGs in
19 the city that report to the commissioner were created
20 by the City Council, but this position was and it was
21 a fight during the time. I wasn't here for it. They
22 could describe it, as could other members, more
23 accurately. But what I read, and again I don't know
24 if this is true, I've read that the current inspector
25 general, his name was removed off of reports and

1
2 Commissioner Peters' name was put on those reports to
3 make it sort of seem like it was all Commissioner
4 Peters and less about some of the work that the IG
5 was doing, and I want to understand the level of
6 independence that inspector generals would have, both
7 ones that were created by the City Council and ones
8 that were not created by the City Council. What
9 level of independence would they have in doing the
10 work that the charter and that local law gives them
11 authority to do, and how would you interface with
12 those different inspector generals that would fall
13 under your leadership?

14 MARGARET GARNETT: So I think that as a
15 general leadership matter that if you were the
16 commissioner of DOI that you are ultimately
17 responsible for the quality and integrity of the work
18 that is produced by anyone who reports to you. I
19 think that's a very different matter than seeking
20 personal recognition for the work that other people
21 are doing. The NYPD IG in particular, if I
22 understand correctly, was created with the concept,
23 with the idea that it would have some measure of
24 independence from DOI and would function differently
25 than the IGs that form the historical part of DOI,

2 and I think that given the unique role that NYPD IG
3 was designed to fill that that's appropriate. I also
4 don't know all the details. I know some of the
5 things that you alluded to and from what I read in
6 the papers, as well as some disputes over budget and
7 staffing and who people report to. My sense as a
8 leader is that decisions about staffing and budget
9 should be driven by the mission of the particular
10 unit. So if the NYPD IG has a mission and a workload
11 and work requirements that are different from some of
12 the other IGs at DOI and that might require different
13 kinds of staffing, different resources. So to me the
14 measure is what is required to fulfill the mission,
15 not what is best for Margaret Garnett.

16 SPEAKER JOHNSON: Do you think it's
17 appropriate to remove IGs' names off of reports that
18 they were deeply involved in, or that they ran the
19 investigation on?

20 MARGARET GARNETT: No.

21 SPEAKER JOHNSON: OK. I have more
22 questions later, but I want to turn to Chair Torres,
23 who has some questions. Thank you very much, Madam
24 chair. Thank you, Ms. Garnett. I look forward to
25 asking you some further questions after additional

2 colleagues have time to ask important questions.

3 Thank you.

4 MARGARET GARNETT: Thank you.

5 CHAIR TORRES: How are you, Ms. Garnett?

6 MARGARET GARNETT: Hi.

7 CHAIR TORRES: I'm sure the rain is by no
8 means an omen of things to come.

9 MARGARET GARNETT: I hope not [laughs].

10 CHAIR TORRES: So I had the opportunity
11 to meet you. I will say just a quick review of your
12 resume suggests you're exceptionally qualified for to
13 be DOI commissioner. My interaction suggests that
14 you're impressively well-tempered, likeable, so no
15 one can possibly question the professionalism of the
16 choice that the mayor has made.

17 MARGARET GARNETT: Thank you.

18 CHAIR TORRES: I want to preface my
19 questioning with some opening remarks and then I'll
20 get right into the questioning. You're being
21 considered for one of the most important positions in
22 city government. There's no oversight institution in
23 city government that possesses the investigative
24 reach and resources of DOI, right. You're the only
25 commissioner who has oversight over every city agency

1
2 and every city official in matters both criminal and
3 operational. You have at your disposal hundreds of
4 investigators embedded in every agency with access to
5 internal documents, information, communications. You
6 have the authority not only to investigate agencies
7 but also private individuals and institutions that do
8 business with the city or who otherwise receive a
9 benefit from the city, which is a limitless universe.
10 In fact, Amazon could be the latest company that
11 falls within DOI's orbit. So simply put, the breadth
12 and depth of DOI's power is without match in city
13 government. And I believe that a city that cannot
14 administer elections, cannot pick up the snow, or
15 cannot provide safe and decent affordable housing to
16 a half a million New Yorkers is a city that needs an
17 aggressive and proactive watchdog at the helm of DOI.
18 So the question for me is not whether DOI has
19 capacity to be aggressive and proactive, it does.
20 The question is how aggressive and proactive are you
21 going to be, and that's going to guide the questions
22 that I ask you. You spoke earlier about the
23 appearance and substance of independence from all
24 public officials, including the mayor. Did anyone in
25

2 the mayor's team play a role in preparing you for
3 today's hearing?

4 MARGARET GARNETT: Yes.

5 CHAIR TORRES: Who in the mayor's team
6 prepared you?

7 MARGARET GARNETT: I hope they'll forgive
8 me for not remembering their names, but Jeff Lynch,
9 who is the mayor's city legislative.

10 CHAIR TORRES: Never heard of him.

11 MARGARET GARNETT: [laughs] Um, so Ms.
12 Clutter and some people from her team at
13 Appointments, and Mr. Lynch and some people from his
14 team at City Legislative Affairs, and someone from
15 the press office.

16 CHAIR TORRES: And what has been the
17 extent of your interactions with the mayor?

18 MARGARET GARNETT: I spoke to the mayor
19 for about 30 minutes during the week prior to my
20 nomination being announced on the phone. I met with
21 him in person at Gracie Mansion for, it was a lengthy
22 interview, about two hours, that week, and then I
23 actually ran into him on the street on Saturday
24 outside the Y. I was picking up my daughter from her
25

2 swimming lesson and the mayor was coming out and we
3 chatted for about ten minutes on the sidewalk.

4 CHAIR TORRES: And during those
5 interactions did the mayor convey to his expectations
6 of you as DOI commissioner?

7 MARGARET GARNETT: Um, yes, I mean, we
8 talked about my background, we talked about, he said
9 that he expected that DOI would continue to be
10 independent, that he also expected me to have, it was
11 important to have professional relationships with
12 this council, with city agencies, with other law
13 enforcement partners, and we mostly talked about my
14 background and my professional experience.

15 CHAIR TORRES: I'm curious to hear your
16 thoughts on the proper role of DOI, right, I think
17 DOI could serve as a largely reactive institution
18 responding to isolated complaints and cases of fraud,
19 corruption, or abuse, or it can take on a broader
20 oversight role, right, proactively investigating
21 mismanagement, operational failures in city agencies.
22 Which role do you envision for DOI?

23 MARGARET GARNETT: I think both of those
24 roles are important and really one relates to the
25 other. I think DOI's role as criminal investigator,

2 even though of course all of those investigations
3 won't ultimately result in criminal charges, is very
4 important and much of that work, certainly not all,
5 but much of it will be reactive to whistleblower
6 complaints, complaints from citizens, tips or
7 requests from the council or from other parts of city
8 government, including the administration, and that
9 work is very important. I think a number of people
10 have touched on the fact that DOI is very powerful
11 and I think it is important for the dignity of public
12 service and for the confidence that citizens of New
13 York have in their government that DOI remain active
14 in that role of rooting out wrongdoing. But I think,
15 uniquely in my experience among criminal
16 investigative agencies, DOI also has, is very, to me
17 very attractive ability to not just think about cases
18 but think more broadly about problems in the city and
19 to use their vantage point, largely drawn from
20 investigations of specific instances of waste or
21 fraud or abuse to see the bigger picture, to identify
22 instances where systemic change is needed or where
23 there's been gross mismanagement, waste, or fraud, or
24 abuse of the public's trust. So I don't see that a
25 choice between those two is required. Rather, I

2 think both roles are important and they're
3 complementary of each other.

4 CHAIR TORRES: I agree with you. Correct
5 me if I'm wrong. It seems to me, even though you
6 have a wealth of experience as a prosecutor, there
7 seems to be something uniquely daunting about the
8 role of a DOI commissioner in this sense, that your
9 role is essentially to investigate the administration
10 whose head appointed you, whose head could fire you.
11 As far as I know, I know that you obviously, the
12 attorney general, you know, could obviously
13 investigate the president under special
14 circumstances, but does not investigate executive
15 agencies with regularity, right. The attorney
16 general of New York does not investigate
17 gubernatorial agencies with regularity. Whereas DOI
18 investigates mural agencies with regularity. That's
19 a uniquely, have you ever been in that kind of
20 situation before where you have to investigate the
21 administration whose head has the power to fire you?

22 MARGARET GARNETT: Um, I'm sorry, I'm
23 hesitating only because I want to make sure that I
24 don't say anything about any investigations that I
25 can speak about publicly. Um, I think it is

2 certainly true that the US Attorney's Office has the
3 ability to conduct criminal investigations that could
4 touch on members of the federal government and in my
5 time in office that certainly occurred. Um, same
6 thing at the attorney general's office, that we have
7 the ability to investigate other members of state
8 government and have done so, including people like
9 gubernatorial agencies or connected to the governor.
10 So as a general matter, yes, I think I have been in
11 situations where that's possible. I agree that
12 structurally DOI is different in that that is its
13 primary mission.

14 CHAIR TORRES: Are you confident that, I
15 guess, how do you, this is a tough question to answer
16 in the abstract. You never know until you're
17 actually in the situation. But how do you not allow
18 yourself to be deterred by the risk or the threat of
19 political retaliation that constantly hangs over an
20 agency like DOI?

21 MARGARET GARNETT: So I certainly have
22 experience withstanding pressure and criticism and
23 keeping my focus on doing the right thing based on
24 the facts and the law. I could give dozens of
25 examples of that through my career as a prosecutor.

1
2 I think in this specific instance, um, I don't have a
3 great concern. I'm not a political person. I have
4 no political ambitions. I think far more important
5 to me is my reputation as a prosecutor for integrity,
6 fairness, professionalism, um, I think I would, I
7 would much sooner risk being fired than risk damaging
8 my professional reputation. So I, um, I have not
9 been in the situation where someone threatened to
10 fire me if I did X, Y, or Z. But I can tell you that
11 I have no hesitation that if I was faced with a
12 choice of doing what I thought was right or being
13 fired I know which one I would choose.

14 CHAIR TORRES: And you're familiar with
15 the tenure of Commissioner Mark Peters, I suspect.
16 You're familiar with the kind of investigations he's
17 undertaken, the kind of reports he's written, is that
18 fair to say?

19 MARGARET GARNETT: In a general way, yes.

20 CHAIR TORRES: So based on your own
21 knowledge of how DOI operated under his leadership,
22 was Commissioner Peters too aggressive, in your
23 opinion?

24 MARGARET GARNETT: Um, too aggressive in
25 the substance? [inaudible]

2 CHAIR TORRES: At investigating
3 operational failures, mismanagement in mayoral
4 agencies.

5 MARGARET GARNETT: No.

6 CHAIR TORRES: No, OK, good. When it
7 comes to investigating those kind of cases, how will
8 your approach differ from your predecessors?

9 MARGARET GARNETT: That's hard for me to
10 say because I don't know what his approach was in
11 directing the investigations. What I can say is that
12 under my leadership that DOI will follow the facts
13 wherever they lead, that in any situation in which we
14 have credible information about corruption or
15 wrongdoing that that would merit, that would be a
16 proper subject of DOI investigation and that the path
17 of that investigation would be governed by the facts
18 and the evidence and no other consideration.

19 CHAIR TORRES: Now the investigations you
20 conduct, the oversight investigations, often results
21 in recommendations and reforms regarding the
22 operations of an agency, and many of those reforms
23 are agreed upon...

24 MARGARET GARNETT: Right.
25

2 CHAIR TORRES: ... between DOI and the
3 applicable agency. Are you willing to commit to
4 tracking whether agencies are complying with those
5 agreed-upon recommendations and the extent to which
6 those agencies are complying with those
7 recommendations?

8 MARGARET GARNETT: I guess it depends
9 what you mean by tracking. I think that it is
10 difficult, certainly some reports might result in the
11 appointment of a monitor for a particular agency, of
12 various kinds, and in that case, those cases, there
13 would be a monitor in place and that person would
14 report to DOI. I think that DOI is not itself a
15 monitor, that's not its expertise. So I do think
16 that it's important, and I confess I haven't given a
17 lot of thought to the mechanism for doing it, that
18 where DOI has made recommendations and there have
19 been commitments from the agencies to carry those out
20 that there would be an ongoing oversight function
21 that would assess whether those things are being
22 implemented.

23 CHAIR TORRES: So you would perform that
24 function of monitoring whether there has been
25 implementation of agreed-upon recommendations?

2 MARGARET GARNETT: Yes, I think that's
3 important. I don't know what exactly the mechanism
4 would be, but the concept I agree with, yes.

5 CHAIR TORRES: And since the City Council
6 has an oversight function over city agencies would
7 you commit to briefing the City Council or relevant
8 committees about whether agencies are implementing
9 faithfully agreed-upon recommendations?

10 MARGARET GARNETT: Um, yes, I think that
11 there certainly will be situations where there will
12 be barriers to disclosing information that is known
13 to DOI, whether to the council, to the
14 administration, to the public, um, but where
15 appropriate I think that it can be valuable to share
16 that information with the council.

17 CHAIR TORRES: And by barriers you mean
18 legal barriers, or?

19 MARGARET GARNETT: Right, legal barriers
20 or investigative concerns, yes.

21 CHAIR TORRES: Like, are there
22 investigative concerns beyond legal barriers?

23 MARGARET GARNETT: Um, yes, sometimes
24 that even though there might be information that's
25 not, um, grand jury information or technically barred

2 from disclosure that there would be legitimate law
3 enforcement or investigative reasons why at a given
4 point in time it wasn't appropriate to disclose that
5 information.

6 CHAIR TORRES: If it derailed the
7 investigation or undercut the investigation?

8 MARGARET GARNETT: Right, right, if it
9 undercut the investigation.

10 CHAIR TORRES: OK, that's a fair point.
11 If you are confirmed, as you likely will be, and I'm
12 revisiting questions that were posed earlier, but I
13 think there's some question about what your
14 confirmation will mean for the investigations
15 undertaken by your predecessor. My understanding is
16 that in DOI there is something known as the executive
17 dashboard, which is essentially an internal list of
18 approximately the twenty-most consequential
19 investigations and these are said to be
20 investigations that are likely to result in a report,
21 about 95% of them do. If you decide for whatever
22 reason to discontinue an investigation on the
23 executive dashboard or decline to publish the
24 findings from one of those investigations on the
25 dashboard will you let the City Council know?

2 MARGARET GARNETT: I can't commit to
3 doing that. I think it will depend greatly on what
4 the reasons were for a decision not to issue a report
5 or to close an investigation. What I can say is that
6 no, um, the only consideration in making that
7 decision will be the facts and the evidence and the
8 viability of, um, the charges if it's a criminal
9 investigation, or the evidence and facts that we have
10 to issue a report that's on the oversight side.

11 CHAIR TORRES: I'm guess I'm curious to
12 know, because it would seem to me you have, the
13 council has a right to know, right, we have an
14 oversight function over city agencies and I see it as
15 the role of DOI to ensure that we have enough
16 information to effectively oversee agencies. And the
17 public has a right to know. So like what is, setting
18 aside criminal law enforcement, which has its own
19 requirements for confidentiality, there's no one here
20 who's interested in knowing what criminal
21 investigations DOI is conducting. But when it comes
22 to the oversight function, what is the public's right
23 to know, what's the City Council's right to know,
24 what are the limits of those rights as you see them?

2 Setting aside criminal law enforcement, we all
3 understand that's an exception.

4 MARGARET GARNETT: OK. So setting that
5 aside...

6 CHAIR TORRES: Yes.

7 MARGARET GARNETT: ...That's, I think, my
8 largest reservation, I think that...

9 CHAIR TORRES: The reason I say this is
10 because there is an article in BuzzFeed today that
11 suggested that DOI shelved a report about misconduct
12 on the part of officers in NYPD, and that's the
13 greatest fear I have, is that there are
14 investigations that have been undertaken but that
15 neither the public nor the City Council will ever
16 find out about the results of those investigations,
17 and so what is our right to know and what are the
18 limits?

19 MARGARET GARNETT: Um, I would imagine, I
20 don't know this for sure, but I would imagine that
21 there are many, DOI is undertaking investigations
22 based on complaints from the citizens, tips from City
23 Council, from agency heads, from the administration,
24 from a wide variety of sources, as I think is true in
25 many law enforcement agencies. I assume that many of

2 those inquiries do not pan out, or that it is, a
3 decision is made that, um, essentially there's
4 nothing to see here, there's no, it doesn't rise to
5 the level of issuing a report, no criminal charges
6 should be brought, a look was taken and a decision is
7 made based on what the evidence is that no further
8 action is needed. Given the breadth of DOI's
9 responsibilities, I would imagine that happens
10 hundreds of times a year. I don't think that it
11 serves the public interest or this council's
12 oversight function to have an endless stream of
13 disclosure, that we received a tip about X and we
14 looked and decided there was nothing there.

15 CHAIR TORRES: But I'm referring to the,
16 I agree, there's some investigations that go nowhere,
17 and what about the investigations that bear fruit?
18 Can you imagine a circumstance under which there's an
19 investigation that bears fruit but you would
20 nevertheless decline to either notify the City
21 Council or publish the investigative findings?

22 MARGARET GARNETT: No.

23 CHAIR TORRES: OK. So if an
24 investigation bore fruit you have a reporting
25 obligation to the public and to the council?

2 MARGARET GARNETT: Yes.

3 CHAIR TORRES: OK. You are unique among
4 commissioners in the sense that you are nominated by
5 the mayor, but you are confirmed to the City Council.
6 So there's a sense in which you have obligations to
7 both the executive and the legislature, reporting
8 obligations. Do you see those obligations as
9 equivalent or do you think you have a greater
10 reporting obligations?

11 MARGARET GARNETT: I see those as
12 equivalent. I don't think that there's, I think the
13 mayor and City Council are co-equal branches of city
14 government. Obviously, in New York we have a strong
15 mayoral system with a lot of control over city
16 agencies, but the council plays a very important role
17 in city government, so as far as DOI's obligations
18 and the goal, which is improving city government and
19 city services, I don't see a difference between the
20 council and the mayor on that front, no.

21 CHAIR TORRES: And I see the
22 investigative function of DOI as complementary to the
23 oversight function of the City Council. We both have
24 a shared mission of investigating overseeing city
25 agencies, public benefit corporations. As

1
2 commissioner, would you see the council as an
3 institutional partner in reforming the operations of
4 city agencies?

5 MARGARET GARNETT: Yes, I think
6 particularly on the oversight side there's a lot of
7 potential for collaboration.

8 CHAIR TORRES: I have a question, I'm
9 going to share with you an experience I had with the
10 Housing Authority. The former chair of the Housing
11 Authority submitted erroneous testimony to the City
12 Council about NYCHA's lead safety program and that's
13 something we would have never found out but for a
14 letter from DOI informing us. So if you come to
15 discover that a government official submitted to the
16 City Council testimony that is untrue, inaccurate, or
17 incomplete in any way, do you feel you have an
18 obligation to inform the council?

19 MARGARET GARNETT: Certainly if
20 information is untrue. I would consider that a very
21 serious breach of the public trust, and I could
22 imagine situations where that could support a
23 criminal investigation which might delay any...

24 CHAIR TORRES: Setting aside the
25 criminal, yes.

1
2 MARGARET GARNETT: But, yeah, I think if
3 DOI has information that a city official gave
4 untruthful testimony to the council that the council
5 should be notified by DOI. Again, assuming there's
6 no need for confidentiality for other reasons. I
7 think that it starts to get more fact-dependent and
8 more complicated once you move down the spectrum to
9 incomplete or not fully forthcoming. I think it's
10 more of a judgment call. But certainly I can imagine
11 situations on that spectrum where I would feel an
12 obligation to notify the council that we had
13 information that suggested that...

14 CHAIR TORRES: As a general proposition?

15 MARGARET GARNETT: Yes.

16 CHAIR TORRES: OK. I have more
17 questions, but I want to give my colleagues an
18 opportunity, so, thank you.

19 MARGARET GARNETT: Thank you.

20 CHAIRPERSON KOSLOWITZ: Thank you.
21 [clears throat] Excuse me. I had three questions,
22 but they were already answered. So I want to
23 acknowledge Council Member Mark Treyger and Council
24 Member Jumaane Williams. And now I'd like to call
25 on...

2 SPEAKER JOHNSON: Madam Chair, may I just
3 ask one quick question? Ms. Garnett, have you
4 volunteered on any political campaigns in the past?

5 MARGARET GARNETT: The only thing was in
6 2004. My husband and I on Election Day did some get-
7 out-the-vote work for John Kerry in Pennsylvania.
8 Other than that, no.

9 SPEAKER JOHNSON: And have you made
10 political contributions to anyone who is currently in
11 city office?

12 MARGARET GARNETT: In New York City
13 office?

14 SPEAKER JOHNSON: In New York City
15 office?

16 MARGARET GARNETT: No.

17 SPEAKER JOHNSON: Thank you. Thank you,
18 Madam Chair.

19 CHAIRPERSON KOSLOWITZ: Council Member
20 Adams?

21 COUNCIL MEMBER ADAMS: Thank you, Madam
22 Chair. Good afternoon, Mr. Garnett, thank you, Ms.
23 Garnett, thank you so much for being here with us
24 today. Your testimony so far has been exceptional,
25 in my opinion, and the fact that you are here,

2 seated, and hopefully will be concerned, ah,
3 confirmed, um, is very heartening for me personally,
4 so I just wanted to say that. My colleague, Council
5 Member Torres, as well as the speaker, spoke about
6 some items that are of concern to me as well
7 regarding your predecessor. It's been reported that
8 former Commissioner Peters restricted the authority
9 and tied the hands of the inspector general, the NYPD
10 Inspector General, regarding policemen misconduct and
11 instances of being untruthful in office statements.
12 My concern regarding the inspector general, as is, I
13 believe, my colleagues here on the panel today, is
14 the role of the NYPD Inspector General and how
15 critical that role is, there is already a perception
16 in the public that there no consequences for bad
17 behavior by police officers, and it's not just New
18 York, it's across the country. It's a national
19 problem. So when we find out that a leader, um, that
20 has been put into place by City Council, that that
21 leadership is somehow being usurped by another in
22 charge is extremely, number one, it's baffling, and
23 number two, it's extremely disturbing. How are you
24 going to protect that office of NYPD Inspector
25 General? How are you going to ensure confidence in

2 that individual and the role that is so needed with
3 regard to police behavior with public perception and
4 with the overall responsibility of the NYPD
5 inspector?

6 MARGARET GARNETT: So I don't know all
7 the facts of the situations you're referring to, but
8 I certainly share the conceptual concerns about the
9 NYPD Inspector General to fulfill the role that the
10 council envisioned for that position. So I don't
11 know Mr. Eure, of course, I haven't had an
12 opportunity yet to meet with any of the senior staff,
13 but I think the first place to begin is for me to sit
14 down and meet with him and hear what his concerns are
15 and hear from him whether there are ways he feels
16 he's been constrained and start to understand more of
17 what may or may not have gone on in the past. I
18 think for me that will mean relevant standards for
19 the issuance of DOI reports is are they truthful and
20 do they meet the highest professional standards. I
21 don't think other considerations are relevant to that
22 decision. So I think that if that has gone on in the
23 past that would be very troubling and I would want to
24 get an understanding of what has happened and whether

2 there are things that ought to be done now to correct
3 that.

4 COUNCIL MEMBER ADAMS: Thank you very
5 much. Also, just to I guess maybe reiterate
6 something that the speaker referenced, with regard to
7 whistleblowers and the protection of whistleblowers,
8 one thing that we don't want is to tamper
9 whistleblowers coming forward. We want to continue
10 to produce confidence by the job that we are doing
11 and by the job that our agencies are doing so that we
12 can encourage people to come up and speak out often
13 and always about misconduct that is going on around
14 them. How do you see your role as it pertains to
15 whistleblowers and the provision of information
16 coming from whistleblowers?

17 MARGARET GARNETT: So I think first that
18 maintaining the independence and integrity and
19 reputation for independence and integrity of DOI is
20 really important to that. Whistleblowers will only
21 come forward if they have confidence that the
22 information they're bringing to DOI's attention is
23 going to be investigated professionally, driven only
24 by what the facts are, and that they will be
25 protected from retaliation, so I think that any

1
2 commissioner of DOI should want to encourage city
3 employees or people who work for entities that
4 receive city money to come forward with knowledge
5 they have about wrongdoing or mismanagement or fraud.
6 And so you have to give people in everything you do,
7 even unrelated investigations, act in a way that
8 gives people confidence that their identity will be
9 protected for as long as possible, that they will be
10 protected from retaliation and that their complaints
11 will be investigated professionally and fairly. So I
12 think that globally is the most important thing. As
13 I said in response to Speaker Johnson's question, I
14 don't know all the ins and outs of the city's
15 whistleblower statute. I certainly think that if the
16 staff at DOI or myself as commissioner felt that that
17 statute needed to be changed or improved or
18 strengthened to protect whistleblowers that will be
19 appropriate to bring those concerns to the council.

20 COUNCIL MEMBER ADAMS: Thank you very
21 much. I yield to my colleagues.

22 CHAIRPERSON KOSLOWITZ: Council Member
23 Chin.

24 COUNCIL MEMBER CHIN: Thank you Chair.
25 Ms. Garnett, good afternoon. I'm really proud to see

1
2 a highly qualified woman being nominated for this
3 position. Thank the mayor for that. And thank you
4 for your testimony and your insight into this role
5 for the commissioner of Department of Investigation.
6 I just wanted to follow up in terms of some of the
7 issues that we might be able to get the Department of
8 Investigation to investigate, to pay attention to,
9 and especially like in my district, for example. The
10 public really have lost confidence in government
11 because of some of these rampant issues that's been
12 going on, for example, like placard parking. We're
13 overrun by it and the city's not enforcing it enough,
14 and people are violating the law and every day I hear
15 from my constituents that they've lost trust in
16 government, that we have not done something to really
17 stop this issue. Another one in my district and
18 something that we have no control over is this whole
19 proliferation of social adult daycare in the city.
20 There are more of them than senior centers that are
21 funded by the city, and meanwhile they are taking
22 government Medicaid dollars and they're not really
23 doing what they're supposed to do, and the Department
24 for the Aging don't have the official oversight. But
25 we know for a fact that a lot of them are violating

2 the law and taking advantage of elderly New Yorkers.

3 And the third one, which is also in my district,

4 Speaker, proliferation of counterfeit goods, people

5 buying and selling on the street, especially during

6 the weekend and holidays, I mean, they're just out

7 there, and there's got to be some way of stopping

8 this. They're not paying taxes. They're violating

9 the law. They get arrested, they come back out, and

10 we cannot get the district attorney's office to

11 really work with us to find some creative ideas to

12 sort of stop these kind of illegal activity that's

13 taking over our streets, and New Yorkers are losing

14 confidence in government. So I wanted to hear from

15 you how we can work together to take care of some of

16 these issues so that we can build back the confidence

17 from our citizens.

18 MARGARET GARNETT: So I think that part

19 of the design of DOI is that among the places where

20 the DOI can get direction from investigations or

21 requires for investigation is from the City Council,

22 and I think that it's, DOI is a very powerful agency

23 and has access to many sources of information, but

24 one area where it is by far inferior to the council

25 is how much access you have to constituent concerns

2 and to how citizens of New York experience city
3 government and city government services, so I think
4 that information is unique to the council and is a
5 potentially very valuable source of information for
6 DOI and its oversight function. So I look forward to
7 collaborating with the council on those issue. I
8 can't really speak to the specific issues that you've
9 raised because I just don't have the information, but
10 it is interesting on counterfeit goods the penalties,
11 as I'm sure you've learned, the criminal penalties
12 are very low. At the US Attorney's Office we did a
13 number of these kinds of cases. The penalties are
14 very low and probably not much of a deterrent, as
15 you've said. I think one advantage DOI has, as I
16 mentioned earlier, is that it's not limited to just
17 thinking about individual criminal cases, but also
18 can take a broader view from a collection of
19 potential criminal investigations to work with other
20 agencies on systemic reform. So I don't have the
21 answers sitting her today to those things, but I
22 think that they're important issues for how city
23 residents experience their government and I look
24 forward to working with you or other council members
25 on those issue.

2 COUNCIL MEMBER CHIN: Thank you, and I
3 look forward to working with you on them, too. Thank
4 you.

5 CHAIRPERSON KOSLOWITZ: Council Member
6 Treyger.

7 COUNCIL MEMBER TREYGER: Thank you very
8 much, Chair, and congratulations on your nomination.

9 MARGARET GARNETT: Thank you.

10 COUNCIL MEMBER TREYGER: A couple of
11 questions here, and forgive me if this might have
12 been asked earlier, or if you answered this earlier,
13 just to kind of refresh my memory. So how did you
14 become aware of this opportunity to become
15 Commissioner of DOI?

16 MARGARET GARNETT: Um, so, exactly two
17 weeks ago from today a colleague of mine told me that
18 he had been asked for my cell phone by Joanie
19 Clutter, who is the mayor's appointments counsel, and
20 that he had given it to her and I should expect her
21 to call me and that he thought it was about DOI, and
22 I spoke to her later that evening. And that's the
23 first that I heard about that I was being considered
24 to possibly to be nominated as Commissioner of DOI.

2 COUNCIL MEMBER TREYGER: So just a few
3 weeks ago some...

4 MARGARET GARNETT: Two weeks ago from
5 today, it's been a whirlwind, yes.

6 COUNCIL MEMBER TREYGER: Happy
7 Thanksgiving [laughs].

8 MARGARET GARNETT: Thank you. [laughter]

9 COUNCIL MEMBER TREYGER: Who did you
10 consult with about this position before taking the
11 job?

12 MARGARET GARNETT: I talked to my
13 husband. I spoke to the judge that I clerked for,
14 who is now a federal judge on the Second Circuit.
15 He's been an incredible mentor for me and source of
16 advice, so I really value his perspective. I spoke
17 to the attorney general and to some of the other
18 senior staff at the attorney general's office.

19 COUNCIL MEMBER TREYGER: Thank you very
20 much. I'm going to get now to the council. I know
21 this might sound like a very easy question, but this
22 is an important question to this council,
23 particularly to what's happened in recent years. How
24 important is it for city officials to be truthful to
25 the City Council during our committee hearings?

2 MARGARET GARNETT: Vitally important. I
3 mean, I think the council has an important oversight
4 role that depends on truthful testimony, and I think
5 maybe more importantly even than that, that
6 government officials who are not truthful are, that's
7 a violation of the public's trust, even more so than
8 making this council's oversight role more difficult.

9 COUNCIL MEMBER TREYGER: I appreciate
10 that answer, because there have been some really
11 unfortunate moments in recent years. My colleagues
12 mentioned before the issue about NYCHA lead testing
13 and I recall an exchange I had with an administration
14 official about children being tested for lead in
15 NYCHA, and I was repeatedly told by the
16 administration that the city is a national leader on
17 the issue and if it was not for the wonderful
18 reporting of the press, because the press did an
19 outstanding job, they uncovered through FOIA requests
20 and through other means that there were in fact
21 numerous children poisoned with lead living in public
22 housing. But, again, this council was told that
23 we're a national leader. And so I could tell you
24 that there has been significant breaches of trust
25 between the administration and the council that has

2 to be healed and repaired in order for us to conduct
3 effective oversight, in order for us to effectively
4 serve the people that we are sworn to serve. We
5 can't solve problems if we're not honest about them
6 and that's what we're here for. Are you familiar
7 with any systemic investigations, and the key word is
8 systemic, investigations of the New York City
9 Department of Education in recent years?

10 MARGARET GARNETT: No.

11 COUNCIL MEMBER TREYGER: Neither am I,
12 neither am I. I am the chair of the Education
13 Committee in the New York City Council. And I am not
14 familiar with any city-led systemic investigation.
15 There has been an investigation of personnel matters,
16 which are important, but I can't point to systemic
17 investigations, the ones that we have seen with NYCHA
18 and lead testing. The DOE is the largest city
19 department. When you combine pension costs, it's
20 over 30 billion dollars, it's over a third of our
21 budget. And I've been in the council, now this is my
22 fifth year, I can't point to one. But the federal
23 government is not waiting for us, because I'm reading
24 in the press that there's a federal investigation of
25 the Office of Pupil Transportation, OPT, over the

2 school bus issue. I held a hearing on that issue,
3 and a week or so later I read a report that the
4 federal government is now investigating. I am
5 reading in the papers as well that there's a back-
6 and-forth between the city and state over the issue
7 of the yeshiva inquiry, that it took over three years
8 for the city to conclude that they couldn't enter
9 some schools, and some schools are doing OK, and some
10 schools have to do better. And I'm reading again in
11 the press that there was an active inquiry within DOI
12 about this issue. So I believe we have a lot of work
13 to do, critical work to do. I do believe restoring
14 faith and trust in governments is critical. I
15 believe that we must have an honest, open,
16 transparent process here, and I do wish you much
17 success in your office. I appreciate your answers
18 about the importance of independence because we have
19 to be here for the right reasons. We're here for the
20 right reasons, and so I congratulate you once again
21 on your nomination and I look forward to working
22 together, and I thank the chair for her time.

23 MARGARET GARNETT: Thank you.

24 COUNCIL MEMBER LANDER: Thank you very
25 much, Madam Chair. Ms. Garnett, welcome. I agree

2 with the speaker and my colleagues that both your
3 resume and your performance today suggest the
4 temperament and experience that we are looking
5 forward. I was pleased to learn you are a
6 constituent. We have not met before, and I haven't
7 run into you in the front of the Y yet [laughter],
8 but I'm glad you're here. I do want to focus a
9 little more, as a couple of my colleagues had, on the
10 office of the NYPD Inspector General. Obviously,
11 there are many other agencies that are critical in
12 the function of DOI, but in 2013 this council passed
13 Local Law 70, sponsored by Council Member Jumaane
14 Williams and me, establishing that office at DOI.
15 Before that, there was no NYPD Inspector General. And
16 we chose to locate it at DOI for a number of reasons,
17 because of the dual reporting to the council as well
18 as the mayor, because the independent subpoena power,
19 because of the tradition of integrity and
20 independence, all things we wanted. But it has a
21 somewhat different function from many of the other
22 inspectors general. Because NYPD has IAB for cases of
23 individual wrongdoing we were really looking for
24 something that would focus more on pattern practice
25 issues, on civil rights issues, on systemic problems

2 and discrimination, and that means a stronger public
3 facing role, less reliant potentially on
4 whistleblowers, more policy analysis, in addition to
5 the ability to do the thorough investigations, and I
6 say for the most part that office got stood up in
7 2014 and I'll give credit here to the mayor and to
8 former Commissioner Peters and especially to
9 Inspector General Phil Eure, they stood that office
10 up for the most part with meeting the goals and
11 vision that this council had for it and some really
12 hard-hitting reports have been accomplished on use of
13 force, on the Special Victims Division that have
14 achieved significant oversight and change at the
15 NYPD. At the same time, especially in recent days,
16 there are these issues of concern that have come up.
17 The speaker referred to the issue around the website,
18 staffing, budget, Council Member Adams spoke to
19 concerns and Council Member Torres as well,
20 highlighted in these BuzzFeed article today about
21 whether a couple of reports were shelved, both one
22 about officer lying and one that Council Member
23 Williams and I have requested looking at the gang
24 database. And I do think it's important to lift up
25 here some allegations of concern raised in Mark

2 Peters' letter related to the question of
3 cooperation from the NYPD and situations where he may
4 have sought it and either did not receive the
5 materials or cooperation necessary and City Hall may
6 not have backed him up there. And then, in some ways
7 a very troubling one, these issues surrounding Deputy
8 Chief Osgood, who played a role in giving information
9 to DOI for the Special Victims Division report and
10 concerns that his transfer, or I guess, it read as a
11 demotion out of that unit, appear like they are
12 potentially retaliation for whistleblowing, obviously
13 something that would be very troubling for all the
14 reasons that you've talked about. So I guess I just
15 wonder if, you know, first can you say a little more
16 about how you see the police oversight function and
17 what you would look to do as DOI commissioner in
18 relationship to the NYPD Inspector General's office,
19 and then I guess I just want to ask about a couple of
20 those specifics as well.

21 MARGARET GARNETT: OK, so I think, as you
22 said, a big part of why the NYPD IG is so, um,
23 different from other parts of DOI is because unlike
24 really any other agency that I'm familiar with in
25 city government the NYPD IAB takes on a large portion

2 of the work that DOI would do for many other city
3 agencies in terms of individual instances of
4 wrongdoing, whether they result in criminal charges
5 or internal discipline, and so, as I understand it,
6 the NYPD IG is, as you said, a different role, a much
7 more externally facing role in trying to be an
8 intermediary between the communities that are policed
9 in the city and the way that the police department
10 functions in terms of policies, practices, training,
11 I think in the last year with my involvement in our
12 special investigations and prosecutions unit there's
13 quite a bit of overlap, I think, between some of the
14 work that CIP does and the work of NYPD IG in that
15 part of the mandate for CIP is not only to
16 investigate instances of deaths in police custody or
17 at the hands of the police statewide, but also very
18 importantly to produce public reports that are
19 transparent as to what the evidence was in the
20 investigation, the legal analysis driving any
21 decision about what charges are possible, if any, are
22 warranted, and then most importantly any
23 recommendations for systemic changes, whether for
24 that particular department or for law enforcement in
25 the state more generally. So I think there's a lot

1
2 of overlap between what I've learned in the past year
3 in the work of CIP and what the NYPD IG does and I
4 think, look, we're very lucky as New Yorkers to have
5 a really outstanding, professional, sophisticated
6 police department that I think is the envy of many
7 other cities in the country, but there's room for
8 improvement in every agency, but in policing in
9 particular given how important it is and how much
10 power and influence they can have over the lives of
11 New Yorkers. So I think we should justifiably be
12 proud of the police department. But there's no
13 question that there's room for improvement and that
14 it is valuable to have an independent person and
15 staff that is outside of the police department and
16 engaged with a broader debate around policing in this
17 country, to be involved in making those
18 recommendations and pressing for necessary reform.
19 So I think it's a very important role and I look
20 forward to meeting Mr. Eure and talking to him about
21 the operation of his office.

22 COUNCIL MEMBER LANDER: Thank you. I
23 think that reflects the balance we feel as well. We,
24 of course, appreciate the role that the NYPD plays
25 and creating the inspector general where it didn't

2 exist was not a vote of the opposite, of a vote of no
3 confidence. I think you say it just right, we want
4 it made better, made as good as it can possibly be.
5 Three specific questions, one on this issue of
6 cooperation. Every agency resists investigation,
7 like all human beings I think would resist, so, but
8 if there are instances, as I'm sure there will be,
9 where you need cooperation in getting documents,
10 materials, individuals to speak, and there is
11 resistance, I guess from any agency, but since it's
12 been raised specifically around the PD how will you
13 handle it, that balance between wanting cooperation
14 and relationship-building, but when necessary being
15 willing to use your subpoena power, and if there are
16 times when you don't get an adequate level of
17 cooperation can we have your commitment that you will
18 let us know that and that things won't just wind up
19 buried for lack of cooperation without any ability
20 for us to have a sense of what's taking place?

21 MARGARET GARNETT: Yes, I think, look, I
22 think all agencies, including NYPD, have an
23 obligation to cooperate with DOI's investigations.
24 And a failure to do so or act of obstruction or
25 resistance is really a dereliction of the public's

2 trust and confidence in those leaders. So I think
3 that any response to resistance or lack of
4 cooperation has to be calibrated to the
5 circumstances. So there's a range of possible
6 responses, starting with a direct conversation
7 between the commissioner and the relevant agency
8 head, potentially involving other parts of city
9 government, whether that be City Hall or this
10 council, the appropriate committee or council members
11 who oversight over that part of city government,
12 subpoena power, of course, exposing a lack of
13 cooperation in a public report, and under very
14 egregious circumstances potentially, you know,
15 recommending criminal charges for obstruction. I
16 hope that would be a rare and very extreme measure,
17 but...

18 COUNCIL MEMBER LANDER: Of course.

19 MARGARET GARNETT: ... but certainly is
20 possible. So I think there's a range of tools and
21 responses that would be, would have been calibrated
22 to what the factual circumstances were.

23 COUNCIL MEMBER LANDER: Thank you. On
24 the two investigations around officers who may have
25 lied under oath and around the gang database, can we

2 have your commitment to look into those two issues
3 which have been raised and figure out what the
4 appropriate next steps are without knowing what they
5 are today? Those seem like two things that we, you
6 know, I hope you'll look into and would like your
7 commitment that you'll look into them and take the
8 actions you deem appropriate.

9 MARGARET GARNETT: Yes, I assume, again,
10 from what I read in the, I only know what I read in
11 the papers, um, I do still read a paper newspaper, I
12 may be one of the last few. But certainly my first,
13 one of the first orders of business will be to meet
14 with the heads of each part of DOI, including Mr.
15 Eure and get a sense of what his concerns are and
16 what's in the hopper, and anything that he is looking
17 at I would like to get up to speed on and make sure
18 that we're taking appropriate steps to move it
19 forward.

20 COUNCIL MEMBER LANDER: We'd like to
21 hear, you know, to the extent that there isn't
22 something that requires confidentiality, a report
23 back from on that, on the gang database. We've
24 requested that investigation and we're eager to see
25 it move forward, and obviously if there is something

2 there on the issue of lying that's important, and
3 then finally on this question of Chief Osgood, who
4 sat here in this room when the council had a very
5 thorough hearing chaired by Council Member Richards,
6 who chairs our Public Safety Committee and Council
7 Member Torres, it seems pretty straightforward that
8 he played a role in cooperating with DOI in a way
9 that provided critical, shined a light on critical
10 issues and led to significant change that needed to
11 happen, and now he has been transferred out of that
12 unit. I don't know what happened internally, but one
13 has to, it certainly raises questions about
14 whistleblowing, cooperation with DOI, and whatever
15 the individual circumstances it's important from a
16 public point of view for people to have the
17 confidence to cooperate. So I guess there, as well,
18 I'm asking the same, can we have your commitment to
19 look into what happened there and as you then deem
20 appropriate developing a plan for what the action is
21 that's appropriate coming out of your look into that
22 situation?

23 MARGARET GARNETT: I certainly share your
24 concern, that if any city employee of whatever rank
25 is retaliated against because of cooperation with

2 DOI that would be very troubling and unacceptable to
3 me. So I don't know, I mean, I certainly, I, again,
4 read the news reports about Chief Osgood being
5 transferred to a different command. So I don't know
6 the facts, but I think to the extent there's any
7 credible information that some, a city employee was
8 retaliated against for cooperating with DOI that that
9 would absolutely merit us looking into it.

10 COUNCIL MEMBER LANDER: Can we just have
11 your commitment on this one to look into it, whether
12 he comes forward and alleges that he's a
13 whistleblower or not, given the elevation in the
14 public, I think, I guess I would like your commitment
15 that you're going to look into what happened in that
16 situation. That may not mean opening a full
17 investigation unless there's information that merits
18 it, but more than waiting for him to come forward and
19 identify himself as a potential whistleblower.

20 MARGARET GARNETT: Oh, and yeah, I don't
21 think that looking into it would require waiting for
22 him to come forward, and I'd certainly think that
23 that's something that I would raise with Mr. Eure and
24 get more information about, yes.

2 COUNCIL MEMBER LANDER: OK. Thank you
3 very much. Thank you, Madam Chair.

4 CHAIRPERSON KOSLOWITZ: Mr. Speaker.

5 SPEAKER JOHNSON: Just some quick
6 questions and then I want to get to the other
7 colleagues. I just want to reiterate something that
8 Council Member Lander just said. I think, it's
9 Council Member Lander who said it, I have very
10 serious concerns as well about the gang database,
11 about predominantly young men of color being caught
12 up in a database that they shouldn't be in, and we
13 have requested that investigation from DOI into this
14 and, again, I would just like, given the importance
15 for members of this body, to understand your
16 commitment to looking into that for us and reporting
17 back on it.

18 MARGARET GARNETT: Yes.

19 SPEAKER JOHNSON: Great. Similarly, I
20 agree with the Council Member Lander just said on
21 Chief Osgood and the great work and cooperation
22 involved in shining a light on the Special Victims
23 Division. So thank you for that. There was a
24 question for prehearing questions and it's Question
25 2-B, and the question was how would you respond to a

2 request by City Hall to pull or stop an
3 investigation. Now we asked about this earlier, and
4 your answer was I would listen to the input of any
5 appropriate stakeholder, including the
6 administration, members of the council, or leadership
7 of the relevant agency. But the sole factor in
8 deciding the outcome of a DOI will be my independent
9 professional judgment in consultation with career
10 staff at DOI. I just want to be very clear. That
11 means that what you were saying in that answer is if
12 a member of the city council, someone in the
13 administration, a commissioner, a deputy
14 commissioner, sought to interfere or stop an
15 investigation you would not allow that to happen.
16 You may listen to what that individual has to say,
17 but you are not in any way playing along with people
18 stopping an investigation. I just want to be very
19 clear on this.

20 MARGARET GARNETT: Yes. That's right.

21 SPEAKER JOHNSON: OK. And then Council
22 Member Adams asked about, and I asked about,
23 strengthening whistleblower protections. I actually
24 think there's more we can do to strengthen
25 whistleblower protections via legislation in the

2 council and I would love your commitment to be able
3 to work with you and the folks at DOI, the
4 professional staff who deal with whistleblower
5 complaints on working together to strengthen
6 whistleblower protections through a legislative
7 process to provide greater protection for
8 whistleblowers and I would love you to be open to
9 having that conversation.

10 MARGARET GARNETT: Yes, and I'm sure that
11 the staff at DOI will have some ideas of their own
12 about issues they've seen in past investigations and
13 I think we'd be happy to work with the council on any
14 needed improvements or strengthening of that law.

15 SPEAKER JOHNSON: And I should have asked
16 this earlier. The Special Commissioner of
17 Investigations as part of the Department of Education
18 as the chair of our Education Committee, Chair
19 Treyger was talking about earlier, what is your
20 understanding, given everything that transpired and
21 how we got to this moment today, what is your
22 understanding of the independence of that office, the
23 reporting structure from SCI to DOI, given everything
24 that transpired what is your understanding of where
25 we stand?

2 MARGARET GARNETT: So the Special
3 Commissioner of Investigations reports to the
4 commissioner of DOI, but, again, as with some other
5 things we talked about today the design of SCI, as I
6 understand it, was intended and is protected by
7 certain executive orders and other statutory
8 protections to function to some degree independent of
9 sort of core DOI and this word, org chart, of DOI
10 that flows down from the commissioner. It has its
11 own budget, its own obligations. As Council Member
12 Treyger said, the Department of Education is the
13 largest city agency. My own children attend public
14 schools, so I have a vested interest in that, as all
15 New Yorkers should. They have their own budget.
16 It's very important that I think they be empowered to
17 do real oversight over the Department of Education,
18 which has a huge staff, a huge budget, serves, I
19 think, the number I saw recently, 3 million children
20 in the city, and so I don't know Ms. Coleman, I've
21 never met her. I think among my first orders of
22 business, if I am confirmed as DOI commissioner, will
23 be to meet with her and sit down with her
24 individually, basically to take her temperature and
25 how she's feeling about all that's transpired over

2 the last few months and hear from her what she thinks
3 is needed to have the recommended reset from the
4 McGovern report between the commissioner's office and
5 SCI and its staff.

6 SPEAKER JOHNSON: Would you be open if, I
7 have not consulted the legislative counsel and my
8 counsel here about this today, but if there was a way
9 to actually codify not just through previous
10 executive orders that were issued by previous mayors
11 and the subsequent executive order that the mayor
12 issued when this action took place earlier this year,
13 do you think that the independence, as you just
14 described, of the Special Commissioner's Office of
15 Investigation as part of the Department of Education,
16 should that be codified as we understand it right now
17 so that there is total clarity around that level of
18 independence?

19 MARGARET GARNETT: Truthfully, I don't
20 know enough about the details to have a view on that.
21 I think, if I'm confirmed, once I get to DOI and
22 learn more about what is required and the operation
23 of SCI I'd be happy to work collaboratively with the
24 council on any changes. Right now I just don't know
25 enough to have an informed view.

2 SPEAKER JOHNSON: Thank you very much,
3 Ms. Garnett. I'm going to have further questions,
4 but I want to send it back to the chair to call on
5 additional colleagues.

6 CHAIRPERSON KOSLOWITZ: Council Member
7 Gjonaj.

8 COUNCIL MEMBER GJONAJ: Thank you, Chair.
9 Congratulations, Ms. Garnett, on your nomination.
10 The first question that came to mind is what was the
11 conversation like around Thanksgiving dinner?

12 MARGARET GARNETT: [laughs]

13 COUNCIL MEMBER GJONAJ: Don't answer
14 that, please [laughs]. We obviously [coughing]
15 [inaudible] the importance of having commissioners
16 and agencies testify truthfully and honestly. In the
17 lead paint testimonies and the false testifying that
18 was done before this council, how would you have
19 handled that investigation, or how would you have
20 handled such false, misleading, willful testify?

21 MARGARET GARNETT: I think there's no
22 question that this council should not tolerate, and
23 frankly no part of city government should tolerate
24 false testimony before this council. I think, I've
25 prosecuted perjury cases before as a prosecutor, so I

2 know how difficult they are to prove criminally, and
3 I think there's also, there's quite a spectrum and
4 range of sort of intentionally false and perjurious
5 testimony down to mistakes or failures of memory, and
6 all of those things along that spectrum shouldn't be
7 treated the same. Look, I do think that part of DOI
8 has a criminal investigative function in holding city
9 officials to high standards and I think to the extent
10 there's testimony that is at the potentially criminal
11 end of the spectrum, that that's worthy of
12 investigation.

13 COUNCIL MEMBER GJONAJ: You gave an
14 explanation, two weeks ago was the first time you
15 were approached. When did you accept the nomination
16 and who did you meet with to accept the nomination
17 and consideration for this position?

18 MARGARET GARNETT: So at the end of my
19 conversation with the mayor on Thursday at Gracie
20 Mansion he said I'd like to offer you this job and
21 I'm going to nominate you to be Commissioner of DOI,
22 if you accept. And I accepted.

23 COUNCIL MEMBER GJONAJ: You didn't give
24 it any thought, you didn't say I'll get back to you?
25

2 MARGARET GARNETT: Oh, I'd been thinking
3 about it pretty much nonstop for the preceding three
4 days.

5 COUNCIL MEMBER GJONAJ: Is it concerning
6 to you that the person that is nominating you for
7 this position, requiring the confirmation by the
8 council, can terminate you without the cooperation
9 of the counterpart that confirms your nomination,
10 being this body?

11 MARGARET GARNETT: No.

12 COUNCIL MEMBER GJONAJ: In a November
13 letter to the council, former Commissioner Peters
14 confirmed that the DOI has an ongoing probe into
15 NYCHA, the NYPD, and alleged City Hall interference
16 in the Department of Education's review of yeshivas.
17 Assuming that these investigations are happening,
18 once your appointment is final will you pledge to not
19 make any changes in the scope of the investigations
20 or make any changes to any lead personnel in charge
21 of these investigations?

22 MARGARET GARNETT: I think the only
23 changes I would make would be driven by what I learn
24 about what the facts and evidence are. The subject
25

2 matter or the potential targets of the investigation
3 play no role in that decision.

4 COUNCIL MEMBER GJONAJ: So you would not,
5 you would keep the existing investigation under the
6 leadership ongoing until you're brought up to speed,
7 I would imagine?

8 MARGARET GARNETT: Right, and I don't, I
9 don't know, I don't know at all who the personnel are
10 that are working on these reported investigations,
11 what their nature is, what their status is, so I
12 would need to get there and learn about who, what are
13 the investigations, what stage are they at, who are
14 the personnel, are those the right resources, the
15 right personnel, the right strategy. But any
16 decision that I make on that will be driven only by
17 my own independent judgment as a prosecutor and not
18 anything related to who the targets are.

19 COUNCIL MEMBER GJONAJ: Happy to hear
20 that. In a perfect world of keeping this very
21 important position independent, would you rather see
22 this position be an elected position versus an
23 appointed position?

24 MARGARET GARNETT: I don't have a view on
25 that one way or the other. I've worked in offices

2 where the principal is appointed and where the
3 principal is elected, and I think it is possible to
4 have an agency that operates with integrity and with
5 independence under either structure. I have no
6 interest in running for office myself, so I guess I'm
7 happy for myself that it's an appointed position. So
8 I don't think that there's a right answer to that one
9 way or the other. I think it is possible, and I've
10 experienced it myself, to have independent
11 professional organizations that operate with
12 integrity and fairness under both models.

13 COUNCIL MEMBER GJONAJ: Thank you for
14 your time.

15 MARGARET GARNETT: Thank you.

16 CHAIRPERSON KOSLOWITZ: Council Member
17 Torres.

18 COUNCIL MEMBER TORRES: A few more
19 questions. My understanding is under the charter
20 there are three triggers for a DOI investigation,
21 right, you have a referral from the commissioner, a
22 referral from the mayor, and a referral from the City
23 Council. And it's the third one that's unclear,
24 right, because what exactly qualifies as a referral
25 from the City Council? Is it a local law, is it a

2 resolution, is it a referral from the speaker, is it
3 a referral from the investigations chair, is it a
4 referral from the relevant subject base committee.
5 So I guess how would you interpret what qualifies as
6 a referral from the City Council?

7 MARGARET GARNETT: So I haven't done a
8 study of that provision of the charter, but I think
9 there's a difference between sort of required
10 triggers, right? Like there are the charter
11 provisions are the DOI is required to open an
12 investigation upon one of those triggers being
13 activated. But what I would expect and exists, and
14 would expect to continue under my leadership, is that
15 DOI doesn't limit itself to only those triggers and
16 in fact opens many investigations based on
17 information from civilian complaints, from
18 whistleblowers, from individual council members and
19 other parts of city government, and I would expect
20 that to continue and I don't think, I think the
21 question that you ask of what is the scope of that
22 charter provision would only arise in a situation in
23 which we at DOI didn't want to do something or look
24 into something that an individual council member had
25 sent our way, and you could imagine a dispute

2 arising, like is this required or not required. But
3 I guess I don't expect that situation to arise
4 because I think that a properly functioning
5 investigative agency should take seriously any
6 credible information that it receives regardless of
7 the source, and I would expect that to continue.

8 COUNCIL MEMBER TORRES: So here's a
9 concern. I had a great working relationship with
10 your likely predecessor. But I will confess to you,
11 it was frustrating what I took to be the excessive
12 secrecy of DOI, even beyond what I thought was
13 necessary for maintaining an investigation. So the
14 speaker brought up earlier that we made a request for
15 an investigation into gang database and we could send
16 the request to DOI, but the moment we would inquire
17 about it the response tends to be the same, we cannot
18 comment on an ongoing investigation. So, and I
19 understand that, but like how am I supposed to hold
20 you accountable for following up on the referrals
21 from the council as an institution, not simply an
22 individual member, but this is a priority for the
23 speaker, when the only response DOI gives us is we
24 cannot comment on an investigation. Like there has

2 to be, and maybe you can't answer this now, but there
3 has to be a middle ground.

4 MARGARET GARNETT: I think the
5 frustration you identify is a common one and is one
6 that is maybe an unavoidable feature of interactions
7 with the law enforcement agencies.

8 COUNCIL MEMBER TORRES: I'm talking about
9 non-oversight investigations.

10 MARGARET GARNETT: Right, although I
11 think even oversight investigations are often unclear
12 at the beginning where the investigation is going to
13 go, whether, I think, certainly seen in previous DOI
14 reports, there's quite a range of reporting options
15 from sort of naming and shaming individual people, to
16 just broadly discussing systemic changes. So I think
17 it is a tension and I regret to say it's a tension
18 that will probably continue to some degree if I
19 become DOI commissioner, but I do hope that we can
20 have productive and professional conversations...

21 COUNCIL MEMBER TORRES: But let me
22 challenge you for a moment.

23 MARGARET GARNETT: Sure.

24 COUNCIL MEMBER TORRES: Even the CIA and
25 the FBI will provide confidential briefings to

2 Congress. So why can't DOI do the same to the City
3 Council under agreed-upon circumstances of
4 confidentiality? We often find out about your
5 investigative findings, DOI's investigative findings,
6 the day the report becomes public. How do we change
7 that?

8 MARGARET GARNETT: I don't know, but I
9 think, this is very...

10 COUNCIL MEMBER TORRES: I'm going to be a
11 thorn on your side. This is my...

12 MARGARET GARNETT: Sure.

13 COUNCIL MEMBER TORRES: ... greatest
14 frustration with DOI.

15 MARGARET GARNETT: I look forward to it.
16 As I said, I think, I'm, I don't think, I'm happy to
17 have those conversations about how we can improve
18 that relationship. I don't want to commit to any
19 particular mechanism to do that today. I just don't
20 know enough about how it could or should work. But I
21 think that conversation, that push-pull, is an
22 important one and one that should happen, and I
23 expect you to be a thorn in my side.

24 COUNCIL MEMBER TORRES: And to the extent
25 that I did, was aware of some details, it was often

2 based on a personal relationship, right, and I don't
3 think that's the right, it shouldn't be ad hoc.

4 There should be a formal reporting structure between
5 the City Council and DOI that outlasts your tenure,
6 my tenure, the speaker's tenure. Is that something
7 that you're willing to work with us to build?

8 MARGARET GARNETT: I think it's certainly
9 a conversation I'm willing to have. I just don't
10 know enough today about how it should work or could
11 work, but I think that I'm certainly open to hearing
12 the council's concerns and talking about ways we can
13 work together that would be more satisfactory to the
14 council while still protecting DOI's mission.

15 COUNCIL MEMBER TORRES: And I just want
16 to briefly, Council Member Treyger asked questions
17 about SCI.

18 COUNCIL MEMBER TREYGER: I asked some
19 questions about SCI and the level of some dependence
20 involved.

21 COUNCIL MEMBER TORRES: Great. I do want
22 to, because it seems the report, the McGovern report
23 is clear that the commissioner, I think makes a
24 persuasive case that he exceeded his authority,
25 that's a finding that I accept. But I guess here's

2 where I do think there seems to be a legitimate
3 concern, that we have not seen the kind of systemic
4 investigations from SCI that we've seen in NYCHA.
5 There's no equivalent of the lead investigation in
6 SCI. There's no equivalent of the safety
7 investigations that we've seen in ACS and SCI. I
8 guess, how do you feel about, what would you make of
9 the performance of SCI when it comes to investigating
10 broader operational failures at the DOE? One example
11 is the delays in the busing. No one knows what role
12 SCI is playing. I have no idea what role SCI is
13 playing.

14 MARGARET GARNETT: Nor do I.

15 COUNCIL MEMBER TORRES: And that's been
16 on the daily news front page for weeks, months ago.

17 MARGARET GARNETT: Look, it certainly is
18 very surprising that there haven't been systemic
19 reports that relate to DOE given its size, I think
20 some of the incidents that we all know about from the
21 press and from being citizens in the city. So I have
22 to imagine that certainly in the last six months or
23 so that it's maybe been difficult for SCI to focus on
24 its work. That's just a guess from the outside.

2 COUNCIL MEMBER TORRES: But even before
3 the last six months, I've seen no, in my five years
4 on the City Council I'm not aware of a single report
5 from SCI that exposed a systemic failure, and DOE is
6 not one agency among many, it's a third of the city
7 budget. Yet it seems like the office is far less
8 effective than inspector generals in much smaller
9 agencies.

10 MARGARET GARNETT: Yeah, I think that
11 that's a concern. So I just...

12 COUNCIL MEMBER TORRES: I appreciate
13 that.

14 MARGARET GARNETT: Right, I just don't
15 know enough today to have a recommendation or an
16 answer, but I certainly share the concerns that
17 you've raised and that Council Member Treyger has
18 raised.

19 COUNCIL MEMBER TORRES: And I guess this
20 is going to be a tough question to answer, but the
21 SCI emerges from the McGovern report more autonomous
22 than ever and so what is the relationship between the
23 DOI commissioner and the SCI commissioner? What's...
24 ?

2 MARGARET GARNETT: I think that the SCI
3 still reports to the DOI commissioner. I think there
4 are, there are other ways of encouraging, inspiring,
5 directing investigations that fall short of, I think,
6 trying to take control of every aspect of SCI's
7 operations, as was the subject of the McGovern
8 report. So I don't think it's one or the other. I
9 don't think it's either completely hands off with no
10 leadership and no involvement, or the degree of
11 control that was criticized in the report. So I
12 don't have the answers today, but as I said I
13 certainly share your concerns about the effectiveness
14 of that agency and would like to learn more.

15 COUNCIL MEMBER TORRES: Earlier in the
16 year I had expressed when Commissioner Peters was
17 accused of violating the whistleblower rights of
18 Anastasia Coleman before the appointment of a special
19 counsel there were media reports indicating that
20 Corporation Counsel was contemplating investigating
21 those allegations against the commissioner. Which
22 raised the question in my mind, does Corporation
23 Counsel have the authority to investigate the DOI
24 commissioner? What would be your thoughts on that
25 question?

2 MARGARET GARNETT: I don't know the
3 answer to that question.

4 COUNCIL MEMBER TORRES: All right, thank
5 you.

6 CHAIRPERSON KOSLOWITZ: Council Member
7 Cornegy.

8 COUNCIL MEMBER CORNEGY: Thank you, Madam
9 Chair. Thank you, Ms. Garnett, for being here today.
10 Fortunately or unfortunately for you, this is apropos
11 for you being here today on a day when myself as the
12 chair of the Housing and Buildings Committee and my
13 borough president are calling for a thorough
14 investigation of the city's third-party transfer
15 program, which is administered through HPD, which is
16 reported to be disproportionately impacting the
17 transfer of wealth of properties of African American
18 and Latino and minority constituents in the borough.
19 We saw today two cases in particular where homes were
20 transferred with the reported value each of 1.5
21 million, no mortgage, one for a thousand dollars in
22 **water** was transferred to a third party, a nonprofit,
23 and the other for thirty thousand dollars in
24 outstanding value, in outstanding violations, and
25 when we've attempted to get from HPD the criteria

2 about which, at least these types, of properties,
3 were transferred we have been unable to do it at this
4 point. I just want to know, this is like a clear-cut
5 example of DOI intervention potentially yielding some
6 information that could protect a particular
7 demographic in the city. I'm curious as to what your
8 willingness would be to do a thorough investigation
9 from your vantage point on an agency like HPD.

10 MARGARET GARNETT: I'm certainly happy to
11 investigate any agency in the city that there's
12 credible allegations of misconduct or corruption. So
13 I don't have a view of one agency versus another and
14 I'll confess, I don't know much about the city's
15 third-party transfer program. Certainly at the
16 attorney general's office we have a real estate
17 enforcement unit within the criminal division that
18 has done really terrific work, I think, on deed theft
19 and other circumstances where bad actors have taken
20 advantage of elderly or otherwise absentee property
21 owners in the city. So I know a little bit about
22 sort of deed theft and how it's possible to do that.
23 From what I understand, you referenced a third-party
24 transfer is not necessarily criminal misconduct in
25 that same way. So I don't know much about the

2 specifics but I'm happy to look into it and have a
3 further conversation with you about those concerns.

4 COUNCIL MEMBER CORNEGY: Well, I
5 appreciate your answer. The reason I didn't actually
6 bring up deed theft, deed fraud, and/or lien sales,
7 which is the Trifecta that's displacing the most home
8 owners and communities of color across the city is
9 because it was mentioned before that the city's, New
10 York City's purview over particular things, I wanted
11 to be specific on HPD, our purview over HPD in
12 particular. But it is that Trifecta that I'd like to
13 overall look for, we're not clear whether or not, I
14 wasn't clear whether or not DOI, the city's DOI, had
15 the purview to look at. The judicial system, which
16 we believe is culpable in some of these transfers,
17 especially through lien sale, so it's an over-arching
18 idea and certainly I'd love to be able to collaborate
19 in the future trying to find a way to stem the tide
20 of this transfer of wealth, in particular communities
21 that are gentrifying throughout the city.

22 MARGARET GARNETT: And I would be happy
23 to continue that conversation.

24 COUNCIL MEMBER CORNEGY: Thank you.

25 MARGARET GARNETT: Thank you.

2 CHAIRPERSON KOSLOWITZ: Council Member
3 Yeger.

4 COUNCIL MEMBER YEGER: Thank you, Madam
5 Chairman. Congratulations on your nomination, and I
6 look forward to continuing conversations for the next
7 three years as a member of Mr. Chair Torres'
8 committee. You'll be from time to time appearing
9 before us, I'll be the one smiling, Ritchie will be
10 the one doing what he does. But I wanted to just go
11 into a little bit of what Mr. Speaker spoke with you
12 about earlier today, and he inquired if you had read
13 the McGovern report and you indicated that you did,
14 and two words I wrote down from your response were
15 that you found it shocking and troubling. Is that
16 reflection limited to the conduct of the former
17 commissioner or do you find that in your reading of
18 the report that there may have been other people at
19 DOI that should you be recommended by this committee
20 to the floor and the council confirms you, you will
21 ultimately have to look at other conduct from other
22 people? Or, if you're not comfortable saying so you
23 can choose that as well.

24 MARGARET GARNETT: Yeah, I think I agree
25 that there's other people talked about in the report

2 with potentially troubling conduct. I don't feel
3 comfortable discussing personnel matters here...

4 COUNCIL MEMBER YEGER: Fine.

5 MARGARET GARNETT: ... but I think that's
6 one of the first orders of business is to look into
7 that, yes.

8 COUNCIL MEMBER YEGER: Do you ever
9 believe it's appropriate for a law enforcement agency
10 to talk about an investigation that is ongoing with
11 details of the ongoing investigation?

12 MARGARET GARNETT: Of a criminal
13 investigation? No.

14 COUNCIL MEMBER YEGER: Or of an
15 investigatory investigation. DOI is kind of hybrid,
16 because not every investigation is necessarily
17 criminal in nature, although at times it can become
18 criminal, but at its essence it's there to find out,
19 to discover, to produce a report and sometimes a
20 recommendation or referral to an appropriate
21 prosecutor. DOI itself, as you know, is not a
22 prosecutor. You are a prosecutor right now, but in
23 my view, and there's a reason that the charter
24 requires one of the job requirements of the
25 commissioner is to be admitted to practice law in

2 this state, and I think there's a higher level of
3 appropriate conduct that can be expected of an
4 officer of the court when it comes to leading an
5 investigatory agency that's not necessarily a
6 prosecutorial agency but has somewhat hybrid powers.
7 So with that framework, is it ever appropriate for an
8 investigatory agency, such as DOI, to publicly state
9 an investigation is occurring in the manner which
10 happened last week?

11 MARGARET GARNETT: I think my baseline
12 answer would be no. I think there are always
13 circumstances that will be exceptions, so I hesitate
14 to say that I could never imagine any circumstance in
15 which it would be appropriate, but I think as a
16 general matter statements to the public or at least
17 to the press, while investigations are ongoing, it is
18 difficult to imagine a circumstance where I think
19 that would be appropriate.

20 COUNCIL MEMBER YEGER: So to frame what
21 happened last week, it was a correspondence that was
22 a public correspondence, it wasn't an internal
23 conversation with a superior or an in camera
24 conversation with a legislative body, for example, or
25 with a member of the judiciary overseeing a case, but

1
2 it was a public letter, a defense of a record, if you
3 will, and prosecutors have certain guidelines,
4 tenants that they have to abide by. Obviously DOI
5 commissioner not being a sworn prosecutor per se,
6 it's a little different, but that's why I referenced
7 the point about being an officer of the court and
8 having certain obligations to speak truthfully, to
9 be, to be, I guess, I guess circumspect with the
10 information that one states, needing only to state
11 that which is necessary to be stated, so as to, as
12 you say, as you said at the beginning, DOI has the
13 ability to destroy people's careers, lives, make
14 things at least uncomfortable for people, and here
15 what we had is correspondence that its sole purpose
16 was to, you know, fire parting shots on the way out
17 the door. That's my characterization. It doesn't
18 have to be yours, ma'am. But my point, again, is
19 putting aside the broader question of whether or not
20 coming before the council and speaking about, or
21 having an in camera conversation with the speaker or
22 the chair of a relevant committee, as Mr. Chair
23 Torres spoke about earlier. The broad document that
24 was released to the public that set forth that there
25 were several investigations that had not been

2 completed and detailed information about those
3 investigations. Do you believe under those set of
4 circumstances is it appropriate to do that?

5 MARGARET GARNETT: No.

6 COUNCIL MEMBER YEGER: OK. You read the
7 letter, I assume?

8 MARGARET GARNETT: Yes.

9 COUNCIL MEMBER YEGER: OK. Did you find
10 it credible?

11 MARGARET GARNETT: Um, I don't have any
12 basis to judge whether or not it's credible. I do
13 know that as far as the portion of the letter that
14 might relate to me, the concern that any future DOI
15 commissioner will be chilled, I can assure you that I
16 will not be chilled and to the extent that anyone,
17 Mr. Peters or in the administration or otherwise
18 thinks that I will be intimidated or chilled I think
19 they will be sorely disappointed.

20 COUNCIL MEMBER YEGER: Good for them, for
21 being sorely disappointed, because I believe you and
22 I take you at your word should this council confirm
23 you that when you take the oath it has the words
24 faithfully executing the duties of the office and
25 you'll swear to do that and I believe you will and

1
2 you're an officer of the court and you've already
3 taken an oath and you've take your oath as deputy
4 attorney general, and I believe you will be trusted
5 to do your job in accordance with the oath. There
6 was an allegation in the letter, I'm not going to
7 drag you through the entirety of the letter, but
8 there was an allegation in the letter that a member
9 of the NYPD had brandished his firearm, have you read
10 that?

11 MARGARET GARNETT: I saw the
12 characterization that there was an NYPD officer...

13 COUNCIL MEMBER YEGER: Displayed his,
14 displayed his sidearm in an effort to...

15 MARGARET GARNETT: ... had a visibly
16 displayed firearm at the meeting, yes.

17 COUNCIL MEMBER YEGER: If you were
18 commissioner, if you were anybody, if you worked, in
19 your current job, at any job you've ever held, in a
20 position to have a conversation with, during the
21 course of your official duties with a member of law
22 enforcement who displayed a firearm in a manner
23 described in the letter, would the first time anybody
24 have ever heard about that been in a letter issued
25 many months later?

2 MARGARET GARNETT: No...

3 COUNCIL MEMBER YEGER: Is it fair to say
4 you would have gone to the supervisor, you would have
5 reported it to a superior officer of some kind,
6 notified your own security personnel, perhaps?

7 MARGARET GARNETT: If someone had
8 brandished a firearm, yes, that's a very...

9 COUNCIL MEMBER YEGER: Displayed, I'm
10 using the word brandished, I think the word is
11 displayed or somehow indicated that the sidearm was
12 carried.

13 MARGARET GARNETT: Right. It's not clear
14 to me from the letter what occurred. I will say that
15 I have interacted with police officers and federal
16 agents and my own investigators pretty much every
17 single day of the last thirteen years and in almost
18 all of those meetings when they're in my office with
19 their jacket off they have a visibly displayed
20 firearm, so I find it a little bit unusual that
21 someone in law enforcement would find a visibly
22 displayed firearm to be meaningful outside of the
23 ordinary course...

24 COUNCIL MEMBER YEGER: Same here.

2 MARGARET GARNETT: I don't know the
3 facts.

4 COUNCIL MEMBER YEGER: I want to just
5 inquire very briefly on a topic that Chair Torres
6 asked you about. I do agree that when you have the
7 sensitive position of heading an investigatory agency
8 with law enforcement powers and the specifics as laid
9 out in the charter, it is a sensitive job. But at
10 the same time, as the chair indicated, the council
11 does have oversight over that agency. And as the
12 head of the agency that would be you. [coughing]
13 Bless you.

14 MARGARET GARNETT: Excuse me.

15 COUNCIL MEMBER YEGER: And you'd be
16 appearing from time to time before the council and
17 that's in public. Do you believe that a process can
18 be fairly and ethically created in which you are able
19 to from time to time, without a broad rule about it,
20 but from time to time, as the case may be, on
21 sensitive issues where the council is looking into
22 something or the chair is looking into something, or
23 you're aware that it may, you know, the two may
24 somehow meet, for you to have an in camera
25 conversation with the chairman or the speaker?

2 MARGARET GARNETT: Yeah, I certainly
3 think that it is possible to design a process in
4 which both sides could have confidence that we had a
5 shared understanding of the need for confidentiality,
6 that there might be some frustrations on both sides
7 at times, I think that's inevitable, but I certainly
8 think it's possible to design a process that could
9 give both sides some comfort and a greater ability to
10 share information.

11 COUNCIL MEMBER YEGER: And as a
12 prosecutor, from time to time you've had, ah, and
13 also as a clerk for a judge from time to time, I
14 assume, you've had the ability to participate in in
15 camera conversations, the purpose of which is
16 designed to not be made public, but where it's
17 important for the appropriate authorities to have
18 shared information, so that everybody is sort of on
19 the same page and that there's no surprises caught,
20 but more importantly because there are shared
21 responsibilities and if two separate agencies,
22 yourself and for example the council, the legislative
23 body, are going down two different paths, not being
24 aware of, for example, the council can actually be
25 doing something that interferes with your

2 investigation, you may need to have a conversation
3 with the speaker or with the chairman to make sure
4 that that doesn't occur. So you're comfortable doing
5 that from time to time and to work with the council
6 to create a process, not with me, not with the other
7 members, but with the speaker and with the chairman,
8 so that you can have that comfort that you're able to
9 share information confidentially with the council.

10 MARGARET GARNETT: Yes, as you've said,
11 I've certainly been part of those types of
12 conversations in the past and I think that it is
13 possible to design a process that would make that
14 possible under appropriate circumstances.

15 COUNCIL MEMBER YEGER: Thank you very
16 much and Madam Chair, thank you for giving me the
17 opportunity not as a member of the committee for
18 indulging me. Good luck. Godspeed.

19 MARGARET GARNETT: Thank you.

20 CHAIRPERSON KOSLOWITZ: Mr. Speaker.

21 SPEAKER JOHNSON: Thank you. I thought
22 it was strange, there was the letter that Council
23 Member Yeger just referenced that was addressed to
24 myself and Chair Torres from the previous
25 commissioner, which did not go into detail, but

1
2 alluded to specifically investigations, again, I
3 don't know if these investigations are real, I have
4 no information, but the letter said, what the letter
5 said and you indicated, Ms. Garnett, that you read
6 that letter, so the previous commissioner disclosed,
7 if it is true, that there are potential
8 investigations. In BuzzFeed he was, I guess, reached
9 on the phone and he was asked about an investigation
10 related to Phil Eure and the NYPD on members of the
11 NYPD lying and he said that he didn't comment on
12 investigations. So I found that to be strange, that
13 we got a letter that was disclosed to the press. I
14 actually got, the press got that letter before I got
15 that letter. I was given that letter by a member of
16 the press before I received it, which detailed
17 investigations, but then when asked about an issue
18 that is of importance to the council, again, I don't
19 know if there's anything there there, he said he
20 doesn't comment on investigations. How do you square
21 that from the conversation that we've had today?

22 MARGARET GARNETT: I don't think it can
23 be squared.

24 SPEAKER JOHNSON: You don't believe it
25 can be squared?

2 MARGARET GARNETT: I don't know what was
3 in Mr. Peters' mind and I certainly think that the
4 proper response is not to comment publicly on ongoing
5 investigations. I agree with you that there seems to
6 be a conflict between the letter, the discussion that
7 is in the letter that was released in response to his
8 termination and the stated position that no comment
9 can be made on ongoing investigations.

10 SPEAKER JOHNSON: I agree with you. I
11 found it to be strange and I couldn't square it,
12 either. Which is why I'm glad we're having a
13 conversation today and it's been, I think, a pretty
14 detailed conversation with no, um, I think
15 inappropriate or over-the-line commitment from you on
16 disclosing things that you would deem to endanger an
17 ongoing investigation, but as Chair Torres and Chair
18 Treyger and as our colleague, Council Member Yeger
19 just pointed out in his line of questioning, figuring
20 out the right balance, not publicly, but how the
21 council's charter-mandated oversight of city agencies
22 is complemented by DOI's investigations and the
23 symbiotic productive relationship that can occur
24 between this oversight body, which has limited
25 ability, we have some ability, but we don't have the

2 same tools in the arsenal that DOI has in getting
3 certain information, and so I'm happy to hear a level
4 of commitment and once you, if you become DOI
5 commissioner, understanding and exploring that
6 appropriate balance of what is the right balance of
7 meeting with us, having conversations with us,
8 working with us in a productive fashion on issues
9 that are important to this body and issues that are
10 important to DOI. I think Chair Treyger has really
11 pointed out the size and breadth of the Department of
12 Investigation and the fact that as chair of that
13 committee he has no idea if the Special Commissioner
14 of Investigations or DOI generally has been looking
15 into anything related to that, and us not wanting to
16 do it to try to sort of peek under the curtain, but
17 to just understand if there are issues that we should
18 be looking at through the budget process, if there
19 are issues that we should be looking at through our
20 oversight process when we have the chancellors or
21 commissioners come in here, and so I think it's very
22 helpful to hear this conversation today, and to be
23 honest I'm not sure I ever felt comfortable having
24 this conversation before related to DOI. And partly
25 I think it's because of the strength of DOI and, you

1 know, and how I felt previous leadership comported
2 themselves and not really feeling totally comfortable
3 in being able to have a level of conversation like
4 this. So I'm grateful we're having this conversation
5 today. I just have one question, and then we have
6 another round of questions. I also want to praise
7 Commissioner Peters. Again, as I said in my opening
8 statement the work he did at ACS, the work he did at
9 NYCHA, the work he did at MOCS, the work he did at
10 the Department of Corrections, the work he did at
11 many agencies which I think resulted in good rapport
12 with good recommendations, those are all good things
13 and I want to see that work continue. Are there any
14 particular things that you feel passionate about? Are
15 there any particular areas that given your experience
16 in the attorney general's office and in the Southern
17 District in the US Attorney's Office that you think
18 DOI has already been working on which is of interest
19 to you, or you haven't seen DOI work on, but is of
20 interest just to explore, you know, Council Member
21 Chin raised a real important issue around social
22 adult daycare centers and Medicaid fraud involved.
23 Are there any other areas, generally, not
24 specifically, because I don't want you to tip the
25

2 hand if you are going to pursue something when you
3 get in there, but generally issue area, are there
4 issue areas that are important to you that you feel
5 passionate about that you look forward to looking at
6 if you become DOI commissioner?

7 MARGARET GARNETT: There's no one
8 particular subject matter. I mean, certainly as a
9 prosecutor, in my experience as a prosecutor there
10 are aspects of city government that I know a lot more
11 about and have a lot more insight into their
12 operations, including NYPD and Corrections, and in my
13 time at the AG's office I think that understanding
14 has expanded. Some of the discussion that we had
15 about the housing and real estate issues I've learned
16 a lot more about in the past year. It wasn't
17 something I knew much about at the US Attorney's
18 Office. But I think I'm approaching this with, I
19 hope, some humility and recognition that DOI's
20 purview is so wide and there are huge aspects of city
21 government that sitting here today I know almost
22 nothing about, and I think that you make the best
23 decisions with the best information, so I do expect
24 to develop over time priorities for things DOI should
25 focus on. I think that from my perspective it would

2 be disrespectful to the career staff at DOI to make
3 those commitments now. I'd like to get there, meet
4 with the people who have been doing the work, who are
5 closest to the agencies that they oversee, hear from
6 them what's going on, what they've seen, what they'd
7 like to work on and filter up from those
8 conversations what should be their priorities agency-
9 wide.

10 SPEAKER JOHNSON: And lastly, Council
11 Member Yeger just spoke to this, and I'm not asking
12 this in a specific way but in a general way since you
13 were just asked about it. You said at the beginning
14 of the questioning today at the beginning of this
15 hearing that you read the entire McGovern report.
16 That's correct, right?

17 MARGARET GARNETT: Yes, I may have
18 skimmed some pages, but I read the entire thing, yes.

19 SPEAKER JOHNSON: And Council Member
20 Yeger just asked you a question about the personnel
21 at the Department of Investigation. I'm not asking
22 for any specific changes. I know you would have to,
23 if you're confirmed, get in there, understand where
24 things stand, talk to the top-level staff, but I
25 would assume that any leader, any council member, any

2 speaker, any commissioner, would probably seek to
3 have people that they know and trust, that they've
4 worked with in the past in previous professional
5 capacities, and would you be looking to complement
6 the existing executive staff with your own people,
7 people that you have had a working relationship with
8 in the past?

9 MARGARET GARNETT: Yes, I'd like to have
10 some of my own people come with me, yes.

11 SPEAKER JOHNSON: Thank you. You know, I
12 want to say, Ms. Garnett, I'm very impressed, I'm
13 done. I know we have other questions. I'm going to
14 leave, but I'll leave you in good hands, and I want
15 to say I'm very impressed with your temperament, your
16 knowledge, your professionalism, your career, the
17 interactions that we had privately, which was only
18 once, last week before the Thanksgiving holiday, a
19 meeting we had with Chair Koslowitz and Chair Torres,
20 where we asked extensive questions, not all the same
21 as the questions today, but they were serious, hard
22 questions, and I thought they were answered in a very
23 thoughtful, professional manner, which gave me a lot
24 of confidence even before this hearing today. Your
25 written responses gave me similar confidence. Your

2 opening statement gave me confidence, and the way
3 you've comported yourself and conducted yourself
4 today, sometimes not answering the way maybe council
5 members would want you to answer, but answering it in
6 a thoughtful, measured, fair way, and for me I think
7 the commissioner of this agency, it's a very tricky
8 job, it's not an easy job, and it requires someone
9 that of course has fidelity to the law, but also
10 fidelity to fairness and how investigations are
11 conducted, how they are disclosed, and how you work
12 with other levels of government. And so I feel
13 confident in your ability to lead this agency. I
14 don't speak for the entire council and we have not
15 had a conversation about this yet, but I look forward
16 to supporting your nomination. Today's hearing has
17 given me confidence in your ability to lead this
18 agency and I do that with the hope that we can have a
19 productive working relationship together to benefit
20 New Yorkers across the board, especially the most
21 vulnerable, and having a City Council and a
22 Department of Investigation that is able to uncover
23 corruption, waste, fraud, and abuse, and come up with
24 specific policy recommendations to benefit the lives
25 of New Yorkers who rely upon government to get things

1
2 right and do things better. So I look forward to
3 supporting your nomination and I look forward to
4 working with you should the other members of this
5 body agree with the support of your nomination for
6 the betterment of our city, and I'm really grateful
7 for your testimony today, how you've answered our
8 questions, and your temperament. Thank you very
9 much, Ms. Garnett, and I'm going to turn it back to
10 Chair Koslowitz.

11 MARGARET GARNETT: Thank you, I
12 appreciate that very much.

13 CHAIRPERSON KOSLOWITZ: Council Member
14 Treyger.

15 COUNCIL MEMBER TREYGER: Thank you,
16 Chair. I just have a couple of follow-up questions.
17 The speaker mentioned and my colleague, Council
18 Member Torres mentioned, and I mentioned earlier
19 about the fact that I am not familiar with any
20 systemic investigations of the DOE within the past
21 five years. The inquiries that I did mention before,
22 namely with school buses, were not housed with SCI.
23 These inquiries are housed with a federal body or
24 others. So I am seeking further clarity on of the
25 structure, because a lot has been reported in the

2 press, but we really haven't heard folks here under
3 oath about this structure. The fact that for all
4 these years there's been no systemic investigations
5 of the largest department in our city, but the fact
6 that federal agents are investigating, I think that
7 warrants an inquiry. Is there anything in the law,
8 based on your understanding, that prohibits DOI from
9 initiating its own investigation of the DOE, even
10 with this structure that has been talked about quite
11 a bit?

12 MARGARET GARNETT: I'm not sure.

13 Honestly, I'm still getting up to speed as a legal
14 matter about the divisions between SCI and DOI and
15 how that works, you know, it's clear that SCI is a
16 part of DOI in one sense in that the special
17 commissioner reports to the commissioner of DOI. It
18 has its own independent budget and historically under
19 Mr. Condon operated with a great deal of
20 independence. But I think that the special
21 commissioner is still answerable to the commissioner
22 of DOI and the kinds of questions that you're raising
23 about how they are allocating resources, what
24 investigations are underway, I certainly think that
25 those are conversations that if I am confirmed I

2 would expect to have with Ms. Coleman in order just
3 at the beginning to learn myself about what kinds of
4 investigations they are pursuing, how their resources
5 are being used, to get Ms. Coleman's perspective on
6 what they should be doing and have hopefully a
7 productive conversation about that. I just know so
8 little sitting here right now, but I share your
9 concerns and I look forward hopefully to having that
10 conversation.

11 COUNCIL MEMBER TREYGER: Because right
12 now we rely whether on a press report, we rely on
13 news from the federal government, we rely on a
14 comptroller's audit or report where sometimes the DOE
15 is overspending, bloated contracts, problematic
16 contracts. Meanwhile we have a dedicated
17 investigatory body that is supposed to do this work.
18 And we really haven't heard anything other than just,
19 you know, personnel matters. And I would just like
20 to know and get further clarity from you and you
21 might not have all the answers here today, under what
22 circumstances would you inform SCI that this is an
23 issue that has come to your attention, we should
24 investigate this, even in the face of an action on
25

2 the part of SCI? Can you speak about this type of
3 scenario?

4 MARGARET GARNETT: Again, I want to be
5 careful because I don't, I don't know sitting here
6 today all the details about the nature of that
7 relationship, but it's clear that SCI is answerable
8 to the commissioner of DOI and so I think that it's
9 as a general matter entirely appropriate for the
10 commissioner to be talking with the Special
11 Commissioner of Investigation about what
12 investigations are ongoing to be up to speed on
13 those, to be given direction and advice about the
14 conduct of those investigations, and it's not my
15 understanding sitting here today that the
16 independence of SCI means that they have no oversight
17 whatsoever, the commissioner of DOI has no role in
18 directing those investigations. So I think, as I've
19 said, I share your concerns. I'm eager to learn more
20 about what they have underway and talk to Ms. Coleman
21 about what her vision is for the operation of that
22 part of DOI.

23 COUNCIL MEMBER TREYGER: Because I'm just
24 eager to know whether DOI could itself initiate an
25 investigation even in the face of the structure that

2 has been talked about quite a bit. Obviously,
3 Commissioner Peters in his office did, that based on
4 press reports there were inquiries, and I think
5 that's what led to a lot of the tension. You also
6 have within DOE OSI, which is their own internal
7 investigatory group. Some things might get kicked
8 around to SCI, back to OSI, DOI, but the question
9 remains I cannot believe, and it's hard for me to
10 believe sitting here today that for the past five
11 years no complaints have been reported to SCI that
12 are systemic in nature and no report that we could
13 point to. So I plead with you today that this is a
14 matter of great importance, especially the fact that,
15 you know, we're talking about over one million of our
16 schoolchildren, we're talking about over a third of
17 our city budget, an issue that is of great importance
18 to this council, that we get clarity on the structure
19 and that proper and effective oversight and
20 independence are paramount, and I would appreciate
21 your commitment to that, and I again, once again,
22 congratulate you on your nomination.

23 MARGARET GARNETT: Thank you.

24 CHAIRPERSON KOSLOWITZ: Council Member
25 Lander.

2 COUNCIL MEMBER LANDER: Thanks very much,
3 Madam Chair and Ms. Garnett, thank you very much for
4 sticking around for what's become now a long hearing.
5 So I actually just want to kind of correct the record
6 on my first round of testimony and ask you sort of a,
7 the questions around a couple of the investigations
8 and in particular the ones around potential issues of
9 non-consequence for lying of NYPD officers, to me
10 it's not a question of sort of internal power
11 struggle at DOI and NYPD, it's a question that really
12 matters for the integrity of the NYPD and the DOI
13 itself. I'll start by saying, you know, there's no,
14 you know, that reports looks at a pretty small
15 percentage of off the, excuse me, the BuzzFeed
16 investigation in place of any report from the NYPD,
17 IG, or DOI that we saw, looked at a couple hundred
18 officers and had several dozen serious allegations,
19 that's out of, obviously, over the years that looked
20 at fifty-thousand plus officers, so I think we're
21 talking about 99% of officers plus, but for the small
22 percentage of officers that are identified in the
23 work that BuzzFeed did, some very serious and
24 troubling allegations about lying about use of force,
25 lying on the record, lying in court, lying in

1
2 internal investigations, and so I just want to make
3 sure that you understand, you know, in addition to
4 the issues you have to deal with internally as you
5 set up the structure, I just want to make sure that
6 you know from us and hear from you also that that's
7 an issue that just like you spoke to Council Member
8 Treyger about people who would come in here and lie
9 to us and how serious that would be, especially in a
10 state which is one of just a handful in the country
11 where officer disciplinary records are shielded from
12 public record that that's a really core and important
13 role of DOI and the NYPD IG, and it's something that
14 you would take seriously and want to look at and make
15 sure it is was given the attention it merited.

16 MARGARET GARNETT: Yes, I think it's a
17 serious issue.

18 COUNCIL MEMBER LANDER: I think you said
19 before that it was something you would take a look
20 at, obviously without knowing, did you get a chance,
21 had you read, not today's BuzzFeed article, but the
22 earlier report that dug into these dismissal
23 probation cases?

24 MARGARET GARNETT: No, I don't think I
25 have seen that.

2 COUNCIL MEMBER LANDER: All right, can I
3 ask that you, after today, read that earlier article
4 which looks at cases of dismissal probation and a
5 series of files that BuzzFeed was able to get that
6 raise a series set of issues in which we have not had
7 a report from the IG on, I don't know whether they
8 looked and concluded that there wasn't something
9 there from their point of view, or what happened at
10 all, but will you agree to take a look at the
11 article? It's not a long, not a long read, in
12 addition to your dialogue with Inspector General Eure
13 as you figure out what's a pro going forward there.

14 MARGARET GARNETT: Yes.

15 COUNCIL MEMBER LANDER: OK. Thank you
16 very much. Madam Chair, thank you again for the
17 indulgence in the long hearing.

18 CHAIRPERSON KOSLOWITZ: Council Member
19 Torres.

20 COUNCIL MEMBER TORRES: I want to follow
21 up on both Council Member Lander and Council Member
22 Treyger, and this will be my final round of
23 questioning. There is a sense in which DOI is even
24 more empowered to investigate individual misconduct
25 on the part of an officer than even CCRP, where you

2 have subpoena power, you're a law enforcement agency,
3 you could arrest. I think one of my criticisms of
4 DOI, and I've said it publicly to Commissioner
5 Peters, is I'm aware of no instance in which DOI has
6 held an individual officer accountable for
7 misconduct. Is that a dynamic you're willing to
8 change?

9 MARGARET GARNETT: Um, yeah, I have been
10 part at the US Attorney's Office of prosecuting
11 police officers for misconduct, and federal agents
12 also. So I have some experience doing that and I
13 don't, obviously there are, as Council Member Lander
14 alluded to, there are some rules and structures that
15 are different for police officers, but in terms of
16 DOI's obligation to hold all city employees to account
17 for their behavior, within that broad purview I don't
18 see why a police officer should be treated
19 differently than other city employees.

20 COUNCIL MEMBER TORRES: I'm actually
21 happy with that response. Historically, SCI has been
22 insulated from City Council oversight. Our oversight
23 over SCI has been through DOI. But now that SCI has
24 been established as fundamentally independent of DOI
25 in spite of whatever reporting obligation it might

2 have to the DOI commissioner, should SCI come before
3 the City Council on its own or should you be
4 testifying before the City Council on behalf of SCI
5 when it comes to budgetary matters?

6 MARGARET GARNETT: I don't think I know
7 enough to have an informed view on that. I think, I
8 expect to, if I'm confirmed, to sometimes be back
9 here to testify in my capacity as DOI commissioner.
10 I think, I would imagine there would be many other
11 instances where other staff or IGs would be the more
12 appropriate witness. So I just don't know enough
13 about the relationship between the council and SCI
14 and DOI commissioner to have an informed view that is
15 specific to SCI.

16 COUNCIL MEMBER TORRES: Do you feel DOI
17 has the authority to investigate DOE or matter
18 relating to DOE independently of SCI? Like, if SCI
19 said, you know, we're not interested in looking at
20 this, could DOI investigate in the absence of SCI?

21 MARGARET GARNETT: I'm not sure. I'd
22 have to talk to, you know, counsel at DOI. I would
23 want to make sure we were acting within the lawful
24 authority of DOI. But I think if that authority were
25 available to DOI separate from SCI and if I ever felt

1
2 that SCI was not looking at something that merited
3 review, if we had the authority to do so I would be
4 willing to do that. I just don't know sitting here
5 today if that's, if we have the lawful authority to
6 do that. Now it's been said that DOI can not only
7 investigate city agencies, but you can investigate
8 those who do business with the city, receive
9 subsidies from the city, some kind of benefit from
10 the city. It's been pointed out that the City of New
11 York owns the subway. In your opinion, does DOI have
12 the authority to investigate the MTA?

13 MARGARET GARNETT: My understanding,
14 sitting here today, is no. I think that's
15 unfortunate in some ways as a citizen...

16 COUNCIL MEMBER TORRES: Yeah, it is
17 unfortunate.

18 MARGARET GARNETT: Yeah.

19 COUNCIL MEMBER TORRES: Actually, a
20 question about law enforcement. You've had
21 interactions with DOI in your current, I guess your
22 previous capacity as the head of the criminal
23 division in the Attorney General's office. What were
24 those interactions with DOI and how has DOI perceived
25 within the broader law enforcement community?

2 MARGARET GARNETT: So I have had a number
3 of cases at the Attorney General's office in which
4 DOI is the investigative agency, as well as, plus
5 personal involvement, but I'm certainly aware of a
6 number of cases at the US Attorney's office in which
7 DOI was the investigating agency, including some very
8 significant cases, like the CityTime fraud case. So
9 I think that the career staff at DOI has an
10 outstanding reputation. They have terrific
11 investigators and lawyers working there and I'm
12 looking forward to meeting some of them.

13 COUNCIL MEMBER TORRES: That's good. And
14 I know there were a series of questions about the
15 notion of commenting on investigations. And I'm
16 wondering, to play devil's advocate for a moment, is
17 there a difference between acknowledging the
18 existence of an investigation and disclosing the
19 details of an investigation, so I think we could all
20 agree that the latter is utterly unacceptable. But
21 is there something wrong with merely acknowledging an
22 investigation? So if there's an issue and we have our
23 own oversight and investigations division, one issue
24 about which there has been public outrage has been
25 the series of fatalities in the carting industry and

2 members of the public want to know what is the
3 council doing about this, what is the mayor doing
4 about this, what is DOI doing about this. Would it
5 be wrong to say we're looking into this, we're
6 acknowledging that we're looking into this, but we're
7 not going to disclose exactly what we're looking
8 into? Is that wrong?

9 MARGARET GARNETT: I don't think that's
10 always wrong. I think that particularly in the
11 oversight function I could imagine situations where
12 it would be, could be appropriate for DOI to say that
13 on a broad subject area we have received a referral
14 from the City Council or the mayor's office and we
15 are looking at...

16 COUNCIL MEMBER TORRES: So there's
17 nothing intrinsically wrong with commenting on an
18 investigation as long as you're not disclosing
19 details, is that, would that be a fair statement?

20 MARGARET GARNETT: Yeah, I think you have
21 to be very careful and there should be a bias towards
22 less disclosure rather than more because of the
23 concerns that I've identified. So I think it's, I
24 could imagine situations where it would be

2 appropriate, um, but I think because of the concerns
3 the bias should be towards not.

4 COUNCIL MEMBER TORRES: And I have a
5 question about whistleblowing. Much has been said
6 about the McGovern report, which is quite persuasive
7 and compelling and I think no one here would ever
8 want to be the target of a McGovern report.

9 MARGARET GARNETT: I know Jim a little
10 bit personally, he's very impressive.

11 COUNCIL MEMBER TORRES: No, it's, it was
12 an impressive document. But I do have questions
13 about his, and I'm not a lawyer, but what I take to
14 be the breadth of his interpretation of whistleblower
15 laws. So we often hear the three words corruption,
16 fraud, and abuse, and corruption and fraud seem
17 straightforward to me. Abuse seems more of a gray
18 area and I'm wondering where is the line between
19 insubordination and conscientious objection, or
20 insubordination and whistleblowing? I could present
21 you with a quick hypothetical. Suppose I'm the
22 speaker of the City Council and I have a wonderful
23 lawyer named Mark Treyger. And I ask Mark, I need
24 you to draft a bill regulating commercial rents in
25 New York City. And Mark says, you know, I have

2 concerns about whether the City Council has the
3 authority to do that, and he and I have this back and
4 forth over the course of several weeks, and he just
5 refuses to draft the bill, and at some point as the
6 speaker I say I'm going to have fire you, right,
7 because ultimately I'm the speaker, I'm in charge, I
8 make the determination about what laws we draft here.
9 Is he an insubordinate employee or is he a
10 whistleblower?

11 MARGARET GARNETT: I think it's so
12 dependent on the facts and circumstances. I think
13 that when an informed employee raises concerns that
14 they are being directed to undertake actions that
15 they think would violate the law that merits the most
16 serious, thoughtful consideration, particularly in a
17 law enforcement agency. So sometimes these are
18 complex, difficult questions, but I think at a
19 minimum it's clear to me that is very troubling and
20 could give some rise to whistleblower protection. So
21 it is very difficult to talk about hypotheticals
22 without knowing all the facts. I agree it can be a
23 complex issue.

24 COUNCIL MEMBER TORRES: And you could
25 also, you could ascribe nefarious motivations or you

2 could assume that there's a good faith disagreement
3 about what the law actually says, right?

4 MARGARET GARNETT: Yes, and that's why
5 these questions are very complicated.

6 COUNCIL MEMBER TORRES: OK. I want to
7 thank you for your testimony and, like the speaker, I
8 have been thoroughly impressed with you. I have
9 every intention of voting for you and I look forward
10 to working with you.

11 MARGARET GARNETT: Thank you.

12 COUNCIL MEMBER TORRES: Thank you so
13 much.

14 CHAIRPERSON KOSLOWITZ: Thank you. I
15 will now open up the floor to the public for
16 comments. Comments are limited to only three
17 minorities. Also, if you have a written statement
18 please provide a copy of that statement to the
19 sergeant-at-arms for distribution. We have three
20 people that want to testify, Towaki Komatsu. [pause]
21 OK, will you begin, please?

22 TOWAKI KOMATSU: Sure. The reason why I
23 am here today is to oppose the proposed nomination of
24 the candidate for this position only because the
25 mayor's actually technically without legal authority

2 to nominate. I testified previously to Mr. Torres
3 on, let's see, March 26 at a City Council meeting.
4 During that testimony, that testimony was recorded on
5 video, I'm looking at a video of that testimony, so I
6 think for today's testify I'll just play back that
7 video for your benefit as well as the audience. Just
8 give me one sec. [plays recording -Thank you
9 [inaudible] we've met one time previously. On
10 January 8 I tried testifying in opposition to]...

11 CHAIRPERSON KOSLOWITZ: What is that?

12 What is that?

13 TOWAKI KOMATSU: Sure. Basically I
14 testified before Ritchie Torres on March 26 at his
15 oversight committee meeting. During that testimony I
16 told him very explicitly that the mayor's NYPD
17 security detail illegally excluded me from public
18 meetings while he was running for reelection. During
19 that testimony, I pointed out very explicitly that
20 that particular act constitutes voter fraud and voter
21 suppression. I testified at other public hearings.
22 I've made it aware to members of the journalism field
23 who have opted to censor that. While I sit before
24 you today I have two lawsuits. I have one against
25 the City of New York in federal court. I talked to

2 Mr. Yeger over there previously during a City Council
3 meeting. He advised me to send him an email. I did
4 that. There was no response. I also have a New York
5 State Supreme Court lawsuit against HRA. The reason
6 why this meeting is being held today is for
7 oversight. You're trying to make a decision as to
8 whether to, um, essentially replace Mark Peters. Um,
9 I met with DOI in their offices as a whistleblower.
10 I gave them information. They didn't act. That
11 information was against the NYPD in regards to being
12 excluded from public hearings such as this. Also,
13 with regards to HRA where there is no oversight. So
14 let me just, I guess, close with this, um, like I
15 said at the outset. The mayor had absolutely no
16 legal authority whatsoever to have nominated Ms.
17 Garnett today for this position, um, and the truth of
18 the matter is there hasn't been any, ah, performance
19 by DOA, DOI, in the past such that I've had to resort
20 to legal action against the city and it's going to
21 encompass the deficiencies within DOI and HRA when I
22 file papers in the next two days. Thank you.

23 CHAIRPERSON KOSLOWITZ: Thank you

24 COUNCIL MEMBER YEGER: Madam Chair, may I
25 inquire?

2 CHAIRPERSON KOSLOWITZ: Hmm?

3 COUNCIL MEMBER YEGER: May I inquire,
4 Madam Chair? Your testimony is that the mayor
5 doesn't have the authority to nominate a commissioner
6 of the Department of Investigations?

7 TOWAKI KOMATSU: Absolutely not, and the
8 reason for that I think...

9 COUNCIL MEMBER YEGER: Because you
10 haven't said the reason.

11 CHAIRPERSON KOSLOWITZ: You have to talk
12 into the mic.

13 TOWAKI KOMATSU: Sorry. So with regards
14 to the, it's all about voter fraud and voter
15 suppression. People

16 COUNCIL MEMBER YEGER: It's all about
17 what?

18 TOWAKI KOMATSU: Voter fraud and voter
19 suppression. Um, people had a decision to make when
20 the mayor was reelected. If I was serving as a
21 whistleblower at his public town hall meetings, his
22 public resource fair meetings prior to the primaries,
23 prior to the general election, and I was illegally
24 excluded from those meetings, that is voter fraud and
25

2 voter suppression. Therefore, his reelection was
3 achieved through voter fraud and voter suppression.

4 COUNCIL MEMBER YEGER: OK, gotcha. Just
5 wanted to make sure I understood the legal basis for
6 your point that the mayor couldn't make this
7 nomination. Got it. Madam Chair.

8 CHAIRPERSON KOSLOWITZ: Kelly Grace.

9 KELLY GRACE PRICE: Good afternoon. My
10 name is Kelly Grace Price. I'm one of the co-
11 founders of Close Rosies, the organizing project to
12 close the Rose M. Singer Center, the all-female jail
13 on Riker's Island. I would just like to take a
14 moment to comment on the previous testimony. I know
15 this gentleman. This is a gentleman who is always at
16 public hearings. He's a war veteran, and I
17 understand his anger and his rage at having his voice
18 blocked and constantly muted from public discourse,
19 and this gentleman shows up at every meeting, and
20 just asks for his voice to be heard, and I just
21 wanted to thank this committee for taking him
22 seriously and for giving him a question. Even though
23 his comments might be ad hoc, I do feel that there
24 needs to be a broader place for public input, however
25 we work that out. My specific issue has always been

2 around working on sexual violence. As an innocent
3 person, I was thrown into the Rose M. Singer Center.
4 I won't take this opportunity to lambast Cy Vance,
5 but I really am one of the first people that was
6 screaming about the very poor policies and process
7 that Mr. Vance uses in his office under the guise of
8 acting to help victims and survivors. He knew I was
9 a survivor, and yet he threw me into Riker's Island.
10 I went to Mount Holyoke. I had no idea what was
11 going on Riker's Island. The only time I had ever
12 been arrested was in Boulder, Colorado when I had
13 been pushing my Vespa home drunk one night. I had no
14 idea how to deal with the criminal justice system.
15 And I was a very savvy person. I had been running
16 photojournalists in and out of war zones for a very
17 long time. But I want to talk specifically about how
18 in all of these hearings no one ever talks about how
19 we're going to reform the way that sexual assault and
20 sex, rape investigations against city agents and
21 agencies are performed. This is a role that the DOI
22 is the fulcrum. In regarding the Department of
23 Corrections, the DOI has the aegis to take
24 investigations of rape and sexual assault, as you
25 know, which is a hot-button issue. We just forced a

2 tri-committee hearing on the issue back in September.

3 The DOI has the aegis to take these investigations
4 away from the internal DOCS DOI and investigate them.

5 But we have no transparency on when or where these
6 investigations are lobbied back and forth, when they
7 end, when they don't. As you know, you've probably

8 heard from your colleagues on the Women's Issues
9 Committee, on the Criminal Justice Committee, and on
10 the Judiciary Committee that rape and sexual assault

11 on Riker's Island is the issue that has been hidden
12 and swept aside and swept under the rug. But this is
13 ubiquitous in all of our city agencies. Let's look

14 at the mess just in city government, when your own
15 staffers need to elevate a complaint of rape and
16 sexual assault. That's a mess. The same thing with

17 the Department of Education. We need a department
18 investigation that takes Me Too investigations very
19 seriously, and I would really emphasize that going

20 forward in exploring this candidate's qualifications
21 that this is a line of questioning that you really
22 take up with her, because our voices are being muted.

23 We have absolutely no one to turn to, and no one
24 doing investigations. As women, as the majority of
25 the population in the city, the most sacrosanct

2 promise you can offer us is protection and now you
3 have a moment to help us and I would appreciate it if
4 you would seize that moment. Thank you for listening
5 to me.

6 CHAIRPERSON KOSLOWITZ: And the last one,
7 Tatiana Guden [phonetic], I hope I said your name
8 right.

9 UNIDENTIFIED: How ya doing.

10 TATIANA GUDEN: Hi.

11 UNIDENTIFIED: Do you have any written
12 documentation of your statement?

13 TATIANA GUDEN: No.

14 UNIDENTIFIED: Take a seat. Make sure you
15 identify yourself for the record.

16 TATIANA GUDEN: OK. Hi, my name is
17 Tatiana Guden. I have a specific concern and
18 specifically what was written by Mr. Peters in his
19 November 19th letter, specifically on page 8 and 7
20 regarding other investigations not yet made public
21 but known to the administration and involving senior
22 agency officials and, um, senior agency officials,
23 the mayor, and public safety, and that these
24 investigations are currently in place and have not
25 been yet made public. Um, I have, I think I have a

1
2 good idea of what they are. I had actually emailed
3 Mr. Johnson and Mr. Torres and Mr. Poniak [phonetic]
4 evidence of, um, what exactly that is. I did that
5 recently and more of that can be found in the lawsuit
6 that I filed, Guden versus City of New York. My
7 biggest concern is this. From listening to Ms.
8 Garnett and especially the fact that she has had no
9 connection to the mayor prior than two weeks ago when
10 she first became a nominee, that makes me feel very,
11 um, confident. My only concern is it seems like, I
12 know that DOI has unfettered access, you know, by the
13 powers that's given to it. Unfettered access over
14 every single person, every city employee from, you
15 know, a janitor at NYCHA to the mayor to the district
16 attorneys, to the police commissioner. They have
17 unfettered access to the emails, to every single
18 document, and so on. I know that previously there
19 was, you know, connection between Mr. Peters and the
20 mayor that maybe prevented him from or, um, he chose
21 not to do certain things that he should have. But it
22 just seems that DOI just as in general when it comes
23 to investigating higher-ranking, you know, the agency
24 has and especially at the NYPD, I mean, Mr. Peters,
25 like I said, he says one, he'll say one sentence in

1
2 that letter, that sentence means a lot. It seems
3 like DOI is, even though it has power to just walk in
4 and surreptitiously pull emails and to, you know,
5 they don't need to subpoena documents, they can just
6 walk in and grab them off the shelf, and it just
7 seems they're not doing it out of politics, out of
8 trying to be polite, or out of, you know, that's
9 just, you know, that's just, it was never done that
10 way before. What can be, and, again, I'm fully
11 confident in...

12 UNIDENTIFIED: You have to wrap it up.

13 TATIANA GUDEN: OK, in Ms. Garnett's, um,
14 independence, but how can City Council, especially
15 the Oversight Committee at City Council, how can they
16 kind of, um, encourage the DOI exercise that power
17 more than it has, so, um, what?

18 CHAIRPERSON KOSLOWITZ: [inaudible] no
19 longer with us and I feel confident that Ms. Garnett
20 will do a very good job. I mean, she testified today
21 for almost three hours and every question was asked
22 of her, that was asked of her, she answered without
23 hesitation. So I feel very confident in her
24 nomination.

2 TATIANA GUDEN: Yeah, so do I. Like I
3 said, it's more of DOI exercising the powers that it
4 has, you know.

5 CHAIRPERSON KOSLOWITZ: Thank you very
6 much. I thank our candidate, Ms. Garnett. I also
7 thank our speaker and all council members,
8 particularly the members of this committee. This
9 Rules Committee Advice and Consent Hearing now stands
10 in recess, to be continued on the morning of November
11 28 for committee vote. This meeting is recessed.

12 [gavel]

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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



Date November 30, 2018