



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

**TESTIMONY OF MARGARET GARNETT
COMMISSIONER, NEW YORK CITY DEPARTMENT OF INVESTIGATION**

CONCERNING THE FISCAL YEAR 2022 EXECUTIVE BUDGET

MAY 7, 2021

Greetings, Chair Gibson and members of the Committee on Oversight and Investigations. My name is Margaret Garnett and I am the Commissioner of the New York City Department of Investigation (“DOI”). On behalf of DOI, I would like to welcome and recognize Councilmember Gibson as the new Chair of this Committee. My staff has enjoyed introducing DOI to you and your team and I look forward to working with you and this Committee, continuing to provide a window into DOI’s work and its important role in supporting good government, particularly as we continue to navigate these unprecedented times.

I am pleased to deliver this testimony via video, the second budget testimony we are presenting under the grip of the COVID-19 pandemic. The serious fiscal challenges that emerged during the early days of the pandemic continue to affect the City and all City agencies, and DOI has shared in this burden. The budget cuts, Citywide hiring freeze, and employee furloughs have presented weighty challenges for DOI both in the present and as it looks to build a stronger future. We have had to make very hard choices and we continue to make them. Our goal is to navigate through a smaller budget and a reduction in headcount without significantly compromising the agency’s work. However, the severe constraints on hiring, salaries, and promotions have had an impact on the agency, leaving us currently with a significant number of vacancies in our workforce, and making it difficult to retain staff and establish a strong, flexible plan for the future.

DOI is a unique law enforcement agency with a broad mandate to root out corruption, fraud, malfeasance and other types of wrongdoing across the entire City. As a result, our work, and our budget, is focused on the investigations we do and the people who do them. Unlike many City agencies, DOI does not have “programs” or provide direct tangible services to the public. Therefore, there is no one program or area where DOI could cut to realize a large sum of savings.

Rather, to satisfy the budgetary constraints that have been imposed on us, we have to look for small savings across the whole agency, asking staff to carry a heavier burden and to do more with a smaller workforce and fewer resources.

I want to recognize the determination and hard work by DOI's staff that has made it possible to meet the fiscal goals we have been given. And I want to share with this Committee the dedication to public service that DOI's staff has had in spite of the difficulties of this past year, swiftly and successfully shifting into new and different work configurations as warranted by COVID-19 -- from transitioning to working remotely early last year, to seamlessly moving to a mix of remote and on-site work schedules last summer. DOI's staff has continued to do their jobs and advance the agency's mission, as well as willingly stepped up to assist other City agencies during the crisis, including transporting essential Personal Protective Equipment ("PPE") to area hospitals during the pandemic's early days, advising the Citywide emergency procurement task force, and offering to conduct expedited Vendor Name Checks on companies being considered for pandemic-related contracts. DOI also loaned two staff members from its Fingerprint Unit to assist DOHMH in conducting background checks for their various programs, including the Learning Bridges program, which provides free child care options for children from 3K through eighth grade on days they are remote learning.

This past year is a story of extraordinary circumstances. It has proven the resilience of this City and its people. And at DOI, as it was at so many City agencies, it has reflected the perseverance of our employees and their commitment to public service.

To understand our current situation, I want to share some context about DOI and its mandate, providing a foundation for the rest of my testimony, where I will discuss (i) the budget cuts and the savings DOI has been able to realize; (ii) the progress of the reforms I implemented to strengthen DOI's investigative foundation; and (iii) the impact of COVID-19 on DOI and the agency's productivity in the face of this year's many challenges.

To start, I would like to provide the Committee with some budget and staffing figures:

The proposed budget for Fiscal Year ("FY") 2022 is \$53.1 million, of which \$3 million is a pass-through to fund a mayoral initiative to audit the non-profit homeless service sector under DHS. The remaining \$50.1 million supports DOI's Personal Services and Other Than Personal Services in the amounts of \$29.4 million and \$20.7 million, respectively. FY2022 proposed headcount stands at 363 full-time staff, although a significant number of vacancies and limited hiring authority means we expect to begin FY 2022 with a much lower active headcount.

DOI's current expense budget for FY 2021 is \$58 million, consisting of \$29.3 million in Personal Services for approximately 365 full-time staff positions. The budget includes \$28.7 million for Other Than Personal Services, such as supplies, equipment, and space. Included in the \$29.3 million for Personal Services is \$5.5 million in Intra-City funding, from Memoranda of Understanding with thirteen City agencies. An additional approximately 180 staff positions are funded through various arrangements with other City agencies, including staff working at DOI's Inspector General for the New York City Housing Authority ("NYCHA"), Inspector General for Health + Hospitals, and Inspector General for the School Construction Authority ("SCA").

Thus, the total staff headcount who report through DOI's chain of command is approximately 545, just under half of which are funded through financial arrangements with other City agencies or public authorities.

The Cost of the Budget Cuts and How DOI is Achieving Savings

For Fiscal Year 2021 the agency provided \$2.5 million in savings, approximately \$2.15 million in Personal Services that was realized through a reduction of 22 lines, attrition, mandated employee furloughs, and the Citywide hiring freeze. Another \$353,000 in Other Than Personal Services was achieved by evaluating all discretionary spending and finding ways to cut costs, for instance renegotiating some contracts and realizing that some procurements planned for FY 2021 will not occur until the following year, thereby saving those costs in the current fiscal year.

In FY 2022, DOI has been directed to cut costs by approximately \$1.95 million through similar approaches to cost savings, including a further baselined headcount reduction of seven lines.

However, these reductions and constraints come at a price, namely the inability to fill critical investigative positions, coupled with delays in promotions and raises, all of which diminish DOI's ability to retain and hire qualified staff. We have attempted to focus our extremely limited hiring authority on areas that can benefit investigations across the agency, such as staffing for our new initiative --- discussed in last year's budget testimony --- to create a centralized Data Analysis Unit that will serve all of DOI's investigative squads. We have hired a director for this Unit and are actively recruiting for three data analysts to staff it.

The New Investigator Program is a second effort that is essential to shore up the agency's investigative foundation and one we also discussed in last year's preliminary budget testimony,

but then had to immediately place on hold. This Fiscal Year and early next Fiscal Year, we hope to receive approval to hire two cohorts of five entry-level investigators each, that would jumpstart this initiative, which will combine six months of intensive training on investigative techniques with close supervision on introductory casework. The goal of the Program is to develop investigators who can then staff any one of our investigative squads but also have the common understanding of investigative best practices, knowledge about the specifics of integrity and corruption investigations, a shared commitment to a culture of integrity, and preparation to meet the high professional standards that DOI expects.

Despite the current fiscal constraints, filling investigative vacancies, and doing so in a way that enables us to implement this new Program, is among the critical initiatives to ensure DOI's continued strength in investigations.

There is no doubt that the fiscal realities, along with a significant slowdown in the criminal justice system and a diminished ability to do certain kinds of in-person field work broadly affected DOI's operations in Calendar Year 2020, decreasing our number of arrests, recommendations issued, and the cases we were able to open and close, among other indicators. Given the pandemic's continuing hold on New York City, we are seeing similar trends in the first half of Calendar Year 2021, which we expect will begin to turn around once the City safely and fully reopens.

My executive team and I have worked hard to ensure that the savings we must realize in our budget do not fall disproportionately on any one area of oversight, because that would be a losing strategy for New York City. Rather, DOI is trying to absorb these cuts across the board. What that means is there are fewer DOI staff, juggling more projects, under greater resource pressure, in every part of the agency. We are focused on minimizing the effect of these constraints

on our work and our mission, shifting resources where necessary to staff high-priority matters that impact public health and safety. We are also hopeful that the additional flexibility provided by the federal stimulus aid to the City will ease the burden on DOI and allow for approval of the mission-critical hires I just discussed.

Legacy, Reforms, and Results

To better understand our current situation, I want to provide some context about DOI and its mandate and how the reforms I have made since taking office in December 2018 speak to furthering that mission. DOI is the City's Inspector General, a law enforcement agency made up of attorneys, auditors, analysts, investigators, and administrative personnel. But that short description fails to acknowledge DOI's legacy in New York City, how a massive corruption scandal led to its establishment in 1873, and how the agency has answered the call to root out corruption and fraud throughout its long history. As a result, DOI has an extensive statutory mandate and distinct role within City government: protecting the City from corruption, fraud, waste and malfeasance; exposing wrongdoing and holding accountable those who seek to steal from the City and undermine its programs and operations; issuing recommendations to remedy the corruption vulnerabilities we find through our investigations; arming City agencies and City government with the facts in an array of areas so informed decisions can be made; and educating City employees about their mandate to report corruption and fraud to DOI.

At our core, DOI is a fact-finding agency. We provide the facts to fight corruption, fraud, and malfeasance that seeks to undermine the City; and we foster reform that aims to prevent this type of insidious conduct from taking hold in the future. DOI's work provides the facts so wrongdoers are held accountable and so City operations can be strengthened and improved.

DOI can and does investigate many matters on its own. We also work with law enforcement partners, such as the FBI and the NYPD, and partner with the area's prosecutors, including all five district attorneys, the state Attorney General, and the two United States Attorney's Offices that cover our region. Our cases can result in criminal charges and can lead to administrative action by the relevant City agency. We effect arrests and we stay behind after that arrest to recommend reforms that aim to remedy the systemic problems we uncover in our investigations.

Our broad anti-corruption mandate includes investigating potential City whistleblower matters; conducting investigations requested by the Mayor and City Council; and serving as the designated investigators for the Conflicts of Interest Board ("COIB"), examining potential breaches of the City's ethics rules and providing the facts so the COIB can make a determination.

DOI also has a discrete and targeted role within the City's contracting process: to provide information related to Vendor Name Checks of the vendor and its principals for contractors that meet the City's disclosure threshold of \$250,000 or more. DOI checks its own internal databases and relays to the contracting agency whether DOI has previously investigated a vendor or its principals and had substantiated findings from those investigations. This step enhances the checks that agency contracting officers are expected to conduct, assisting City agencies to make their own determination as to vendor responsibility and whether a particular contract should be awarded.

DOI manages an Integrity Monitoring program that allows the City to enter into or continue contracts with companies that might otherwise be precluded from doing business with the City due to integrity issues. Under this program, these companies agree to be monitored by an outside, independent monitor that reports to DOI. Presently, we have approximately 10 vendors in this program. The City does not pay for these monitorships, rather the vendor who pays the integrity firm directly.

In addition to monitoring specific companies, DOI also has appointed integrity monitors to help the City oversee integrity issues on largescale City projects. For example, in the wake of Hurricane Sandy, NYCHA required an integrity monitor to oversee the recovery and rebuilding effort at its properties. DOI acts as a pass-through agency for that funding, approximately \$2.5 million annually that goes directly to fund the integrity firm that provides the day-to-day oversight.

The same Vendor Integrity Unit will be managing the monitorship of the Bronx Parent Housing Network (“BPHN”). DOI has an ongoing criminal investigation into financial improprieties at BPHN that was in process in 2020 and has already resulted in criminal charges against one defendant. Because this is an ongoing and active matter I cannot provide further details at this time. Alongside this ongoing investigation, DOI has been working with the City Department of Social Services ("DSS") to strengthen oversight of BPHN, including retaining a monitor that will report directly to DOI and provide additional oversight on BPHN’s approximately \$80 million in contracts with the City. In addition, DOI and DSS are working to retain an independent monitor that will also report to DOI and will conduct an audit of all non-profit homeless shelter providers with City contracts, providing greater oversight of how this important nonprofit sector is using City dollars and complying with City requirements designed to prevent fraud.

Investigating City-funded nonprofits continues to be an investigative priority for DOI. There are hundreds of City-funded nonprofits that provide critical services to New Yorkers and do their jobs with integrity. However, DOI investigations continue to reveal corruption, waste, fraud, and other abuse in this area. In addition to the investigations that have led to arrests and criminal charges, DOI regularly makes administrative referrals to City agencies that have highlighted issues such as potentially wasteful spending; conflicts of interest; family members on the organization’s

payroll in violation of City contracts; and other mismanagement that leaves the organization, City clients, and the City itself, vulnerable. The City sends billions in taxpayer funds to these nonprofits, and depends on them to provide an array of social services to the most vulnerable New Yorkers, and so it is an area where DOI continues to maintain a close eye and investigate regularly.

A DOI investigation can start through proactive means, DOI deciding to investigate a matter based on information it has obtained; a specific request from the Mayor, City Council or other relevant entity; or through a tip or complaint. DOI receives thousands of complaints annually and each is reviewed to determine whether an investigation should be opened, or whether it is more appropriate for another agency to handle. For instance, investigators examine whether the allegations involve potential criminal conduct under DOI's jurisdiction or present issues that should be expanded into a broader probe, among others. So far this fiscal year, DOI received more than 9,500 complaints and opened approximately 745 investigations. Complaints received by DOI that do not result in the opening of a DOI investigation may be referred to another agency that can more appropriately address the allegations made in the complaint; DOI also tracks and retains complaint information that is not yet ripe for an investigation to inform DOI's proactive investigative work or to provide a base of information for future investigations.

DOI is constantly balancing the public's right to know about our work with protecting confidential and sensitive information from our investigations. Part of DOI's mission is to promote government reforms, which often require the support and engagement of the public and other government officials, including City Council. The benefits of public engagement and transparency must be balanced, however, with the need to maintain the confidentiality and integrity of our ongoing investigations, so that we can do the most effective investigative work and so that individuals feel comfortable and confident stepping forward and providing information,

particularly in light of the statute that mandates City employees to report corruption to DOI. Finally, we have an obligation to avoid unfairly smearing the subjects of allegations and investigations, unless and until those allegations have been substantiated.

Substantiated findings can become public through a few different mechanisms. For instance, if we make an arrest, DOI or its partner agency may issue a public release containing appropriate details for that stage of the criminal case; if the topic is significant or has a broad impact, DOI may issue a public report. All of these public releases and reports are posted on DOI's public website. Non-criminal matters that do not rise to the level of a public report are typically closed with a written referral letter to the relevant agency head or to the Conflicts of Interest Board. Such matters, which often involve individual employee misconduct, are not typically released publicly by DOI.

We regularly evaluate ways to be more transparent and to use various tools to educate the public about our work. Under my administration, we began publicly posting our annual Whistleblower Letters that describe our work in this area during each year. Last year, we unveiled our Policy and Procedure Recommendations ("PPRS") Portal on the agency's public website, which currently catalogues more than 4,800 recommendations to City agencies, dating back to 2014, and including the current status of the recommendation. And in March, for the first time in its 30-plus year existence, DOI issued its annual anti-corruption report publicly. This required annual report outlines the internal anti-corruption programs at every City agency, including the vulnerabilities agencies have self-identified as problems and the strategies they are using to remedy them. The compilation of the report is mandated by Executive Order 105, which consolidated the Inspector General function within DOI during the 1980s and established the Commissioner of DOI as the City's independent Inspector General. The report has historically been an internal document

shared at the highest levels of City government to provide a window into individual agency's corruption prevention programs from the agencies' perspective. We had a vision for the report, updating it to provide greater relevance for governing in the 21st century, focusing it on a specific corruption topic, and issuing it publicly. This year's report focuses on the COVID-19 pandemic and the corruption hazards arising in the pandemic response at each agency, as well as other public health and safety corruption hazards. The report can now be viewed on our public website.

When I arrived at DOI in December 2018, my top goals were to strengthen the agency's investigative structure, and practices, and rebuild trust with our investigative partners and within City government through a culture of absolute integrity and apolitical factfinding. As soon as I arrived, my executive team and I set about to reinvest the agency's resources into investigations. For example, we streamlined the internal reporting process to remove management layers and ineffective procedural bottlenecks and allow investigators more direct access to the executive staff; we established a case review process that emphasizes excellence in both big and small cases and seeks to advance investigations through best practices and in collaboration with our partners; and we reorganized the training division to focus on the substance of investigative practices and the varying training needs of the entire DOI staff.

And, when we found problems, I acted immediately to rectify them. For example, when I discovered thousands of background investigations languishing in the Background Investigation Unit, we determined where the process had failed and restructured to address those failures, dividing the unit into two teams: One team is focused solely on eliminating the backlog and works with cases received prior to July 1, 2019. A second team is focused on the incoming background investigations, as of July 1, 2019, so that we could begin meeting our obligations to City agencies

in a timely manner immediately, without waiting until the backlog was eliminated and without adding to the existing backlog. This team operates with the goal of completing all new background investigations in less than six months, with an average time of completion of less than 120 days. We haven't reached the finish line yet, but we're getting there.

On July 1, 2019, approximately 6,500 background files were in the backlog. As of May 1, 2021, DOI has reduced the backlog by more than half, closing more than 3,400 backlogged cases. During the same period, DOI has closed approximately 2,500 current incoming background investigations. In the nine months prior to the start of the pandemic, we had closed 100% of all new background investigations within 6 months. Even with the delays caused by pandemic-related complications, we have completed 89% of new background investigations within six months in this fiscal year to date.

And, finally, a paramount goal was to strengthen DOI's relationships with its law enforcement and prosecutorial partners. As a former prosecutor, I understand the vital need for collaboration in investigations, and the wisdom in sharing intelligence and expertise. These relationships are critical to the health and future of DOI and, most importantly, to the depth and breadth of DOI's investigations. I am proud of the law enforcement partnerships that we have fostered during the nearly three years I have been here and the results of those partnerships, some of which I'll discuss shortly.

The Pandemic's Impact; DOI's Response

When the City shuttered last March and all of New York state went on "pause", DOI sent nearly all of its employees home and set them up to work remotely. It was an enormous task, but one that we did successfully and which has allowed us to operate throughout the past year. When

the City and State rolled back some restrictions last summer, we surveyed our entire workforce, studied the public health guidance, and implemented an initial re-opening plan for our offices in July of 2020. This plan, in which we opened our offices on a voluntary basis to no more than 25% of the total agency workforce on any given day, while continuing to provide full support for remote work, was very successful both in terms of safety for our employees and the mission of the agency. In accordance with recent mayoral directives, on May 3rd all DOI employees returned to the office for at least some portion of their workweek.

Despite the setbacks and challenges of the pandemic, DOI continued to receive complaints and open and advance investigations. The effect of the pandemic on the court system posed particular hurdles to our criminal investigations and cases, but we adapted and made progress in any way that we could, and even saw an uptick in the number of civil and administrative referrals made by our investigators.

When the Mayor issued Executive Order (“EO”) 101, suspending the regular procurement rules to expedite emergency procurement, DOI proactively reached out to City agency contracting officers and to the Mayor’s Office of Contracting Services and offered to do its usual Vendor Name Checks on an expedited basis, even though the EO suspended the requirement.

We partnered with the United States Attorney’s Office for the Southern District of New York to investigate an attempt to capitalize on the City’s desperate need for PPE, leading to charges against a New Jersey man for attempting to deceive and price gouge the City into paying him and his co-conspirators \$45 million for PPE he did not possess and wasn’t authorized to sell. The good news highlighted by this investigation was that the City’s expert procurement specialists asked the right questions and raised the alarm, prompting the investigation and preventing a potentially massive loss to the City.

Over the last fiscal year, DOI's work led to an array of investigations, arrests, and indictments, including the following:

- Forged and fake parking placards were the focus of two separate criminal matters, one that led to charges against an Assistant Commissioner who pleaded guilty to a misdemeanor and was demoted; and a second that uncovered a ring of people, including four City Correction Officers, using forged disability parking placards. In addition, we investigated several matters involving counterfeit parking placards used by Health+Hospitals employees that resulted in COIB fines.
- We worked with the U.S. Attorney's Office for the Eastern District of New York and the Federal Bureau of Investigation on an investigation that led to charges against six Correction Officers and 15 others related to conspiring to accept bribes and smuggle contraband onto Rikers Island facilities.
- An investigation with the Manhattan District Attorney's Office led to an insurance broker pleading guilty to an extensive insurance fraud scheme that included false information provided to insurance carriers to avoid more than \$1 million in insurance premiums, which left more than 100 construction workers underinsured. As a result of his conviction, the broker had to pay \$100,000 to the New York State Insurance Fund and surrender his insurance broker license, among other penalties.
- The owner of a construction company pleaded guilty to conspiracy to commit mail fraud for orchestrating a scheme to defraud SCA by failing to pay the prevailing wage to his workers. As part of a plea agreement, the owner agreed to pay more than a half-million dollars in restitution to six of his employees and their unions and paid more than \$48,000 to SCA. DOI investigated the matter with the U.S.

Department of Labor Inspector General and the Office of the U.S. Attorney for the Eastern District of New York.

- We partnered with the Manhattan District Attorney's Office to investigate the death by suicide of an inmate at the City's Manhattan jail, and in less than six months secured the indictment in April of a Corrections Captain for criminally negligent homicide and other charges related to the filing of false paperwork to cover up the inaction of Corrections Officers.
- And, finally, we issued several significant public reports on systemic issues:
 - An in-depth review of gaps undermining the collection process of City Environmental Control Board and impeding the collection of millions of dollars in valuable City revenue;
 - A report on federal lead abatement violations by NYCHA that included the finding that none of NYCHA's lead abatement jobs during a five-year period were supervised by a federally-certified lead supervisors, a problem exacerbated by widespread falsification of paperwork within NYCHA's lead abatement unit; and
 - A lengthy report on the response by the NYPD to the George Floyd protests, with DOI issuing 20 recommendations to improve the NYPD's response related to mass protests and two recommendations to streamline and improve police oversight in New York City.

The work of DOI is fundamental to the public's faith in good government; to the government's ability to hold itself accountable. DOI's work reflects good government in action.

I am profoundly proud of the work of DOI's staff over the past year, under the challenges of a once-in-a-century pandemic. Their professional dedication and commitment to public service and the vital mission of the agency were the engine behind all of DOI's achievements.

Thank you and I'm happy to take any questions you may have.