

# Fiscal 2006 Preliminary Budget Response

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## Part III

### Committee Reports Based on the Preliminary Budget Hearings

Hon. Gifford Miller  
Speaker of the Council

Hon. David I. Weprin, Chair  
Finance Committee

New York City Council  
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**TO:           Honorable Gifford Miller  
               Speaker**

**FROM:       Honorable David I. Weprin  
               Chair, Finance Committee**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing  
               Committee on Finance**

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The Committee on Finance held its Fiscal 2006 Preliminary Budget Hearing on Thursday, March 3, 2005. Testifying before the Committee was Department of Finance (DOF) Commissioner Martha Stark. The following is a summary of testimony presented by the Commissioner, the issues and concerns raised by the Committee and recommendations.

#### **Testimony Summary**

Commissioner Stark opened her remarks describing the Agency's gap closing efforts to the Committee. She gave details of how DOF would reduce \$21 million from its budget, primarily by finding new revenue. She described how the Department will generate an additional \$15 million in city register fees due to growth in the local real estate market. She also predicted that several of the Department's audit initiatives would add an additional \$5 million. She described the audit revenue as coming from businesses that handled cash transactions. DOF also intends to target for audit pass-through businesses, S-corporations and unincorporated businesses that may hide resources that flow directly to personal income.

Commissioner Stark next addressed the NYCserve system. The system has required more developmental work and these costs now have to be paid from the operating budget as the system's capital budget is exhausted. The Commissioner first described the NYCserve system as a database system that allows the City's payment centers to keep payment and adjudication information centralized. She then justified the need for almost \$10 million more in current year spending and \$6 million more in the outyears for the system. She said that this action places these expenditures in the expense budget, the correct categorization of these funds.

The Commissioner next described some of the difficulties with mailing the rebate checks to property owners. She detailed many of the problems with legal addresses not matching mailing addresses, with checks that are sent to co-op owners and not to the coop boards and the Staten Island situation in which property records are not maintained in the Agency's Automated City Register System (ACRIS). She did indicate that DOF was hopeful that Staten Island would eventually adopt ACRIS. In summary, the Commissioner said that if Members had constituents with problems related to the rebate, she recommended they call the City's help line number, 311.

Commissioner Stark introduced DOF's new quarterly Statement of Accounts. She mentioned that the model was based on a credit card bill in which one could see what had been paid recently and what is owed in a fairly straightforward fashion.

Commissioner Stark believes that since DOF is sending so many different types of bills, like sidewalk repair charges and charges on behalf of other agencies, this updated bill format would be more user-friendly. She also announced that DOF has gotten rid of its old delinquency notices, replaced now by the new Statement of Accounts so that amounts owed would be easier to track.

Commissioner Stark mentioned that DOF has established a parking violation pilot program that allows companies that are fined when making deliveries to waive their right to a hearing in exchange for paying stipulated fines. The Commissioner said this will allow companies to recognize which offenses are allowed and to reduce summons amounts for other violations. This pilot program has allowed the Department to eliminate the adjudication of 500,000 commercial summonses or 37 percent of the commercial total. There is a corresponding pilot program for individuals that allow them to pay a reduced fine in exchange for foregoing a hearing. That program is available in Manhattan and Queens and the waiting time in Queens has been reduced from 2 hours to half an hour.

Commissioner Stark discussed the cigarette tax initiative by saying that Finance discovered who to target for cigarette tax collections after ascertaining cigarette purchasers' identities from federal, state and city efforts resulting from lawsuits against web-based companies that sold cigarettes. The Agency wanted to make clear that there are no tax-free cigarettes and that even smokers and web-based retailers have to remit taxes. This initiative has billed 3,700 persons \$1.50 per pack of cigarettes purchased and already over 2,000 of those identified have paid. The Commissioner estimated that the City loses \$75 million annually from cigarette tax evasion.

### **Committee Issues and Concerns**

In response to concerns that some of the Department's information systems, like NYCServe, are experiencing difficulty in managing costs, the Commissioner explained that this characterization is inaccurate. She explained that NYCServe had been essentially a capital budget expenditure and that the large increases necessitated the change of the project's cost to be shifted to the expense budget. She added that a lot of what the NYCServe consultants had done previously was now done in house. Since some of the functions are still proprietary and others were never originally included, like water payments or the removal of bad debt, the increased NYCServe costs went to address these problems.

When asked about the Department's revenue PEG to collect \$150,000 from small hotels, the Commissioner explained that many of the new Bed and Breakfast ventures are minor operations and owners didn't realize that they were required to collect and remit the \$0.50 to \$2 daily hotel tax, as well as their responsibility for the City's five percent tax. The Commissioner explained that she would try to be lenient with the small hotels that came forward. This initiative is essentially a type of amnesty for small businesses that didn't appreciate before all of the procedures necessary to compete with City hotels.

The discussion then moved to the City's recent tax rebate checks. The Commissioner reported that the Department had about 20,000 checks returned and DOF analysis should show some of the Department's system limitations. The Commissioner said that she had assembled an internal team to analyze the legal addresses and mailing addresses of the property holders.

The Commissioner forcefully objected when asked if the evidence of the returned checks identified absentee landlords. She said that checks were returned for many reasons, including the failure to transfer the name on a deed and other changes that don't point to absentee landlords.

The Committee still continued to question the Commissioner about the absentee landlord surcharge. The Commissioner informed the Committee that the Agency has identified greater than 90 percent of the homeowners who actually live in their residence from tax incentive programs like the rebate. The Committee questioned whether the remaining property owners could be refined into a distinct group, specifically absentee landlords who can be subjected to a surcharge. Commissioner Stark considers this practice unacceptable because the Finance Department uses different rules for its rebate programs than it uses for a surcharge. She held that DOF needs independent, verifiable information to implement an absentee landlord surcharge.

With respect to tax lien sales, the Commissioner explained that while DOF does a great deal of customer outreach, particularly to seniors, they cannot merely change tax regulations. For example, while owners of tax delinquent accounts are allowed to enter the Department's payment plans, if a property is sold as a result of a tax lien before a payment plan is initiated, the interest rate climbs from the Department's nine percent rate to the tax lien rate of 18 percent. DOF tries to provide sufficient information so that taxpayers can always obtain the lowest interest rate. Seniors in particular should be able to access better tax incentive programs (Senior STAR, SCRIE, Veterans exemptions) if the seniors act on the assistance received from DOF outreach.

The Committee raised questions about the continuing rise of assessments. Commissioner Stark explained that while appraised values have risen dramatically, the assessed value, as seen in the new DOF notices, are not rising as rapidly. The Commissioner explained that the amount that property tax assessments can increase is set in the assessment roll. The Commissioner said taxpayers are free to go to the Tax Commission to contest their assessed values. She also reminded the Committee that in its most recent period, the Tax Commission received 42,000 requests to change assessments and made changes less than 5,000 assessments.

Finally, she discussed the Department's efforts to relieve the parking violation burden on companies that make deliveries. Many delivery companies such as UPS, FEDEX and some of the smaller firms have now reached an agreement where they can stipulate to and pay fines for certain violations in exchange for the dismissal of other violations directly related to making expeditious deliveries.

### **Recommendations**

The Committee recommends that the Department continue to introduce pilot programs, such as the revamping of the process of adjudicating parking violations for delivery services. Similar to the Department's initiative for individuals, this is a business-friendly Department initiative. The capacity to incorporate business-friendly components into Agency regulations is a useful method to promote a business and government partnership.

The Committee recommends that the Department increase the training, compensation and support appropriate enhancements to the state certification procedures for the City's assessors.

If salary surveys that compare City's assessors with their suburban peers demonstrate that compensation is not aligned closely enough, the Committee recommends efforts to minimize the differential. The City's reliance on the Department's assessors to help generate property tax revenue requires greater emphasis on the assessors' needs when performing their duties. The assessors have petitioned for the City Council's support for State and local initiatives geared toward improving their pay.

The Committee recommends that the Department develop a mechanism to implement an absentee landlord surcharge program. Administration opposition to an absentee landlord program should not delay the creation of potential collection options.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Committee on Finance**

**FROM:       Honorable Eric Gioia**  
**Chair, Committee on Oversight and Investigations**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Oversight and Investigations**

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The Committee on Oversight and Investigations conducted its Fiscal 2006 Preliminary Budget Hearing on Thursday, March 3, 2005. The Department of Investigation (DOI) appeared before the Committee, and this memorandum summarizes the testimony presented by the agency and the issues, concerns, and recommendations expressed by the Committee.

### **Department of Investigation**

#### **Hearing Summary**

Commissioner Rose Gill Hearn's prepared testimony focused on the agency's mission to: investigate cases of fraud, corruption, and unethical conduct by City employees, contractors, and others who receive City money; identify and recommend improvements for corruption hazards; and investigate the backgrounds of certain City employers and contractors. The Commissioner noted several achievements by the agency in Fiscal 2005, including investigations that exposed misconduct by a foster care provider contracted by the Administration for Children's Services and that led to the arrests of "dozens and dozens" of people who defrauded the New York City Housing Authority of housing subsidies. Commissioner Gill Hearn also described several ongoing investigations into fraudulent claims against the City.

Commissioner Gill Hearn highlighted the Department's efforts as an agency that have "a positive impact on the City's finances." She testified that as a result of DOI's investigative efforts, the City was awarded \$17.5 million in restitution from the seizure and liquidation of assets relating to a recent tax assessor fraud case. (As the lead City agency involved in the investigation, DOI was credited with the unexpected revenue towards its Fiscal 2005 and 2006 budget-reduction targets.)

The Commissioner also testified that despite previous budget cuts that have reduced the agency's staff by 55 positions, "DOI has continued to produce high quality investigations while ably handling a 25 percent increase in the number of complaints."

## Issues and Concerns

### Rotation of Inspectors General

Chairman Gioia questioned the Commissioner about DOI's increased oversight responsibilities with the Department of Buildings (DOB). The Commissioner replied that DOI is doing "much more proactive work" at DOB to reduce "the culture of acceptance that was there of taking bribes." While applauding those efforts, the Chairman noted that the DOB Inspector General, in addition to most Inspectors General (IG's), had been associated with their respective agencies for an extended period of time, and he asked if DOI and the integrity of its efforts would benefit from rotational shifting of IG's. Commissioner Gill Hearn replied that IG's become experts about their agencies; because "problems are cyclical," the IG must understand the "history of what has gone wrong." Chairman Gioia, however, pointed out the success of the Police Department's COMPSTAT model, which shifts precinct commanders to different areas of the City regardless of local crime statistics. He recommended that DOI recognize the "new vigor, new vision... and fresh perspective" that can be achieved by rotating IG's to the oversight of different agencies.

### A Truly Independent Department of Investigation

Chairman Gioia, in citing that the independence of DOI from political agendas is "of paramount importance," asked Rose Gill Hearn if she believed that the DOI Commissioner should be appointed to a fixed term, which would protect the position from capricious termination. Commissioner Gill Hearn cited the agency's history and unique role as compared to other locality's investigative bodies. She listed DOI's distinct features and powers, including the right to subpoena, the right to immunity, and external IG's. She also described the processes by which DOI Commissioners are hired (requires City Council approval) and fired (requires the Mayor to "put the reasons...in writing") that protect the position. The Chairman agreed that DOI "is a good system," but he pointed out that an "unscrupulous executive can undermine DOI" by cutting its funding. He recommended that this possibility could be ameliorated by pegging DOI's budget to that of another agency, much like the Independent Budget Office's annual funding is mandated to be a certain percentage of the funding appropriated for the Mayor's Office of Management and Budget. In closing, Chairman Gioia stressed that structural improvements and "creative legislative solutions" can be implemented that would "improve DOI and improve the perception of propriety and integrity."

### Other Miscellaneous Issues

Chairman Gioia and other Council Member posed several other questions to Commissioner Gill Hearn, who provided the following information:

- With regard to the Staten Island Ferry investigation, DOI has instituted a number of changes to Department of Transportation (DOT) procedures, including better alcohol and drug-testing measures and the vetting by DOI of all new hires and promotions.
- The Department is in the latter stages of setting up an Intra-City funding agreement with the Economic Development Corporation (EDC). DOI currently processes background checks for EDC but is not compensated for the associated costs.



- DOI's recently formed Inspector General office for the Housing and Development Corporation (HDC) has already provided recommendations with regard to bonuses, salary structures, and the abuse of travel and entertainment expenses.

**Recommendations**

The Committee recommends that DOI institute a policy that would periodically rotate Inspectors General to monitor other agencies. In doing so, the Department will (1) maximize its ability to root out problems of and develop solutions to fraud and corruption in City government, and (2) ensure the clear and unfettered oversight of City agencies.

In recognizing that the structure of City agencies is in constant need of refinement and improvement, the Committee recommends that the position of DOI Commissioner should be made more independent (for instance, as an elected position or to a fixed term of service) so as to guarantee that investigative efforts are not compromised by injudicious agendas.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Committee on Finance**

**FROM:       Council Member Maria Baez**  
**Chair, Committee on Aging**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Aging**

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The Committee on Aging held its Fiscal 2006 Preliminary Budget Hearing on Thursday, March 3, 2005. Commissioner Edwin Méndez-Santiago and other senior Department for the Aging (DFTA) officials represented the Agency before the Committee.

### **Department for the Aging**

#### **Summary of Testimony**

Commissioner Méndez-Santiago focused on the following topics in his prepared testimony: the changing demographics of the City's senior population, budget cuts that were only restored for Fiscal 2005, and the Bronx home-delivered meals pilot.

With regard to demographics, the Commissioner testified that the City's senior population is becoming more diverse. Of the 1.3 million City residents over age 60, the number of minority elderly has increased by 32 percent since 1990 and now account for one of every two City seniors. The senior population is also growing older, with an 18.7 percent increase in the 85 and older population since 1990.

In relation to budget cuts in the Fiscal 2006 budget, the Commissioner stated that these cuts would be addressed in the "negotiation process". He also said that regardless of the outcome of negotiations, the Mayor is committed to keeping all of DFTA's senior centers open and core services intact.

Regarding Senior Options (the Bronx home-delivered meals pilot), the Commissioner said the program will undergo an evaluation by a third party and that DFTA currently has no plans to expand the pilot to other boroughs.

#### **Issues of Concern**

The Committee's questions focused on the following topics: the Weekend Meals program, the Bronx home-delivered meals pilot, Borough President Discretionary funds, the ESL program and the State Budget.

A Council Member questioned the Commissioner about whether a formal evaluation had ever been done of the Weekend Meals program.

The Commissioner responded that no evaluation was done. In response to a question about increasing the utilization of the program, the Commissioner said that DFTA had tried some changes to the menu to increase utilization.

When questioned about the Bronx pilot, the Commissioner said that DFTA expected to realize approximately \$500,000 in savings in Fiscal 2005 and that 42 percent of Bronx seniors are receiving frozen meals. He also said that DFTA expected that the \$8 million cut in DFTA's Fiscal 2006 meals budget would be restored in the Executive Budget. Referring to the evaluation of the pilot, the Commissioner said that it would start in the next few months but he did not specify how much it would cost or when it would be completed.

The Committee inquired about the reduction in Borough President Discretionary funds in the Preliminary Budget. The Commissioner responded that there is currently only \$900,000 in BP Discretionary funds in the Fiscal 2006 budget, but that DFTA was hopeful that the rest of the funding (\$6.6 million) would be restored.

In response to a question about the English as a Second Language (ESL) program, the Commissioner stated that there is currently an average of 720 seniors attending the program at 36 senior centers. This compares to an average of 1,000 seniors who attended the program in 2002-2003 when the program was fully funded. The Preliminary Budget includes no funding for this program.

When questioned about a \$10 million increase in State funding for the Expanded In-Home Services for the Elderly Program (EISEP), the Commissioner gave an estimate of \$4 million as DFTA's expected share of the increased funding. The Commissioner said the additional funding could provide home care services for an additional 2,400 City seniors.

### **Recommendations**

The Committee recommends that funding be restored for the Weekend Meals program (\$1.7 million).

The Committee recommends that funding be restored for Council Member Discretionary funds (\$3 million).

The Committee recommends that funding be restored for Borough President Discretionary funds (\$6.6 million).

The Committee recommends that funding be restored in DFTA's meals budget (\$8 million).

The Committee recommends that funding be restored for the English as a Second Language (ESL) program (\$335,000).

The Committee recommends that funding be restored for the Medicare Rights Center (\$134,000).

The Committee recommends that funding be restored for the Extended Services Contracts (\$107,000).

**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David I. Weprin  
               Chair, Committee on Finance**

**FROM:       Council Member Eva Moskowitz  
               Chair, Committee on Education**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
               Committee on Education**

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The Committee on Education held its Fiscal 2006 Preliminary Capital and Expense Budget Hearings on Friday, March 4, 2005, and Tuesday, March 15, 2005, respectively. On March 4, 2005, Kathleen Grimm, Deputy Chancellor for Finance and Administration of the Department of Education and William H. Goldstein, President and Chief Executive Officer of the New York City School Construction Authority (SCA), provided testimony to the Committee on the Department's February Amendment to the Adopted 2005-09 Five-Year School Facility Capital Plan. Representatives of the City's principal education employees' unions and members of the public also addressed the Committee.

On March 15, 2005, Chancellor Joel I. Klein, Kathleen Grimm, Deputy Chancellor for Finance and Administration and Bruce Feig, Chief Financial Officer of the Department of Education provided testimony to the Committee on the Department's Expense Budget. Representatives of the City's principal education employees' unions and members of the public also addressed the Committee.

Following the hearings, on March 17, 2003, the Mayor succumbed to public and City Council pressure and announced the restoration of \$1.3 billion to the Fiscal 2005 education capital plan. The total City contribution in the education capital plan in Fiscal 2005 will be \$2.6 billion. However, the City's contribution for education capital would decrease by \$500 million in Fiscal 2006, \$400 million in Fiscal 2007, \$300 million in Fiscal 2008 and \$100 million in Fiscal 2009, with the expectation that the State will increase its funding to the Capital Plan in similar amounts. Therefore, the February Amendment as presented by the Department at the hearing is no longer applicable.

### **Department of Education / School Construction Authority - Capital**

#### **Testimony Summary**

Prior to the restoration of capital funds in Fiscal 2005, the Deputy Chancellor Grimm addressed the Committee about the Department's proposed changes to the five-year capital plan. Deputy Chancellor Grimm claimed that the February Amendment was merely a modification to comply with the Campaign for Fiscal Equity (CFE) funding timeframe, and that there were no cuts as a result of a delay in State Aid. She said the February Amendment also incorporated the latest

inputs from the community and elected officials and realigned projects according to the Department's needs.

Deputy Chancellor Grimm characterized the adopted five-year capital plan as a plan based on needs in three categories: capacity, rehabilitation and Children First Initiatives. The February Amendment included all projects proposed in the 2005-09 five-year capital plan. However, project schedules had shifted to follow the one-year shift in State funding. The five-year capital projects were now spread over six years, from 2005-2009 to 2006-2010. In regards to capacity projects, Deputy Chancellor Grimm said that no capacity projects had been cuts. The same number of new capacity projects (23) was scheduled to start this year. However, some projects that were scheduled to start in May and June had been shifted to July of this year. According to Deputy Chancellor Grimm, the February Amendment included \$13.5 billion, which reflected an increase of \$0.2 billion for inflation costs associated with the sixth year of the plan and an increase of \$0.2 billion resulting from the Council's additions and carryovers from the 2000-2004 capital plan. The February Amendment also assumed the State would provide the City with \$6.5 billion over a five year period in equal annual installments with the first \$1.3 billion installment in Fiscal 2006.

#### **Committee Issues and Concerns**

The Committee questioned the Department and SCA on the issues of cuts, SCA's capacity to meet its target, and average construction costs.

A total of 2,195 school repair projects totaling \$1.8 billion had been delayed or removed as a result of the February Amendment. However, the Department declared that no projects had been cut. To get a better understanding of the Department's position on the amendment, the Committee repeatedly questioned the Department on the cuts. Deputy Chancellor Grimm repeatedly answered that the February Amendment reflected the CFE funding timeframe and the current funding stream. When asked what the Department's contingency plan would be if the resolution process for the CFE funding takes another 10 years to settle, Deputy Chancellor Grimm replied that the City should be united in ensuring that the State provides this funding.

In prior year, the SCA has built about six schools a year. However, according to the proposed amendment, the number of capacity projects that are scheduled to start in Fiscal 2006 and the outyears are substantially higher than the number of projects SCA had completed in the past. To get a better understanding of SCA's capacity to meet its targets, the Committee questioned SCA as to whether its capacity to build or repair would allow it to carry out an additional \$1.3 billion in projects over the next four years. Deputy Chancellor Grimm said "YES" and added that that is what the State funding would allow.

The Administration claimed it lowered the cost of construction to approximately \$315 per square foot. To get a better understanding of this claim, the Committee questioned SCA how many school buildings were built at this cost. President Goldstein said three school construction contracts were awarded at this cost but none of them have been completed yet. When asked whether \$315 per square foot includes scope, design, insurance and land acquisition costs, President Goldstein said "NO" and added that the Department's prior criticism was mainly on the increase in construction costs, not with "soft" costs. SCA claimed that it has been focusing on bringing down construction costs only. The Committee then asked what was the average cost

per square foot including scope, design, insurance and land acquisition costs (soft costs), and President Goldstein said approximately \$451 per square foot.

**Public Testimony**

Witnesses scheduled to testify before the Committee were Randi Weingarten of the United Federation of Teachers (UFT), and Candice Anderson of Citizens' Committee for Children of New York (CCC). Only representatives from the UFT presented testimony for the record. CCC submitted written testimony.

Randi Weingarten, president of the United Federation of Teachers, addressed the Committee stating that the Administration's capital plan is unrealistic and should be redone because it does not make sufficient investment in the existing buildings, "it back loads" in later years too great a portion of the funds for safety and security, overcrowding is not properly addressed and there is no planned space to support an expanded full-day pre-kindergarten program for four-year olds and the initiation of a program for three-year olds. President Weingarten calls upon the City to restore funding to the five-year capital plan.

CCC calls upon the Council to work with the Mayor to ensure adequate funding to alleviate overcrowding and to ensure timely facilities maintenance and repair. CCC urges the Council, whether the final budget is a negotiated budget or the Council's own budget, to ensure that it has a positive impact on the broadest number of children and families. In addition, CCC asks the Council to consider two specific facilities proposals:

- Leasing school space to alleviate overcrowding. This would cost \$150 million in expense dollars to lease 1,051 new classrooms and would allow the creation of 21,000 seats in early childhood centers housing pre-k through grade 3; and
- Fully utilize New York City's middle school facilities. Reorganizing underutilized middle schools to include sixth graders would free space in the City's elementary schools to alleviate overcrowding and create the room necessary to fully implement Universal Pre-K and early grade class size reduction.

**Department of Education – Expense****Testimony Summary**

The Chancellor provided testimony to the Committee on the Department of Education's expense budget priorities for Fiscal 2006 which highlighted new initiatives that the Department will implement in the upcoming school year and accomplishments that the Department had achieved in school year 2004-05.

The Chancellor stated the following two new initiatives which the Mayor announced in his 2005 State of the City Address are to be implemented by the Department in September 2005: the gifted and talented program and the learning-to-work program.

The new citywide gifted and talented program will be targeted to historically underserved communities, while at the same time, provide support to existing programs that will be expanded

to serve students with high academic needs. The learning-to-work program aims to provide over-aged and under-credited students with enhanced academic supports, real world work-related experiences, and other support that these students need to help them earn a high school diploma and prepare for meaningful post-secondary employment. The Chancellor also stated that the Department would continue to invest in intervention services that are critical in helping at-risk students meet grade level requirements and the creation of new small schools. In September 2005, an additional 52 new small middle and high schools will open, bringing the total number of small public and charter schools created as part of the Children First New Schools Initiative to 157.

The Chancellor claimed that the Children First Initiatives are paying off. He said that test scores are up, high school graduation rates improved across the board, more schools (664) are making Adequate Yearly Progress (AYP), and there is a historic low number of schools (35) identified as Schools Under Registration Review (SURR). The Chancellor said the Department would continue to build on these successes and seize the opportunity afforded by the CFE decision to make education the engine of social progress it was meant to be for all of New York City's 1.1 million children.

#### **Committee Issues and Concerns**

The Committee questioned the Chancellor on the following issues: the Department's operating deficit; central administration savings; spending for English and math and principal discretion; small schools; English Language Learner programs; gifted and talented programs; CFE funding; and the pupil transportation contract.

The Committee began its questioning by asking the Chancellor about the Department's operating deficit for Fiscal 2004. The Department closed the Fiscal 2004 budget with a net operating budget deficit of \$156 million, which was reduced to \$142 million after the Department identified an additional \$14 million in revenues prior to the post. In addition, the Department's first fiscal analysis for Fiscal 2005 shows that the Department has a current operating deficit of \$48.6 million. Given the fact that more than a quarter of the total City budget is spent on education, the Department continues to overspend its budget. Consequently, the Committee was very concerned that the Department spent funds wisely and appropriately.

To get a better understanding of the Department's Fiscal 2004 operating deficit of \$156 million, the Committee questioned the Chancellor as to what were the contributing factors that caused the overspending. The Chancellor said about half of the Fiscal 2004 overspending was due to an increase in contracted special education services and the other half was the result of the Department realigning its accounting policies with that of the City's. CFO Bruce Feig further explained that the reason for the increase in special education services spending is due to growth in demand for particular services and the Office of Management and Budget's conservative spending projections. When asked when the Department became aware of the \$156 million overspending or deficit for Fiscal 2004, Mr. Feig said at the close of the fiscal year. The Committee was confused by the answer and questioned why the Department didn't realize overspending was occurring when the Council passed a budget modification in March 2004. Mr. Feig said the Department didn't know about the overspending at that time because the Department wouldn't know the number of students utilizing private special education services until it received the invoices.

The Committee questioned the Chancellor about the Comptroller's letter to the Mayor dated February 7, 2005, stating that the Department was not able to provide accounting data to the Comptroller's office to document the \$250 million in savings as a result of streamlining the administrative bureaucracy and reported that the Comptroller's office found the savings were only slightly more than \$140 million. The Committee questioned the Chancellor about the actual savings realized. The Chancellor said that the savings totaled \$250 million and cited the Independent Budget Office's (IBO) analysis of the Mayor's Preliminary Budget for 2006 for the Department of Education which also came up with a number close to \$250 million as evidence. IBO's analysis showed that the Department saved \$221 million in administrative expenditures, which included fringe benefit savings. When using the Department's methodology for calculating the savings, excluding fringe benefit savings, IBO found that the Department saved only \$191 million, a difference of \$59 million.

Since the Department's allocation data doesn't show spending by subject areas, it is hard to determine whether the Department is investing in subject areas that it claims are its priority. To get a better understanding of how the Department prioritizes, the Committee questioned the Chancellor about how much funding the Department will provide for english and math in Fiscal 2006. The Chancellor said that the amount of the operating budget that will go towards reading, math and science is determined by the principals. The Committee was concerned by the answer and questioned the Chancellor, asking if that meant principals can decide to invest only in reading or math for the school year. The Chancellor said no and then explained that principal discretion really means that the principals can decide whether to pay for an additional math or science teacher with tax-levy instructional funds allocated to schools for purposes other than basic teacher support, special education services or administration overhead. He continued by saying that based on this definition, school discretionary funding increased from \$140 per pupil in Fiscal 2004 to \$217 per pupil in Fiscal 2005, which does not include fringe benefit costs and Title I funding.

The Department recently announced its intention to create of an additional 52 small middle and high schools in September 2005. Seven of these schools would be placed in large high schools which already host several schools. Many of the small schools created in past years were placed in large high schools, causing tension between the new school and the host school because of issues like overcrowding and constrained resources in the host school. In an effort to solicit more information on how the Department plans to deal with the overcrowding issue in high schools, the Committee questioned the Chancellor about educational programs, student support and campus collaboration efforts the Department plans to implement to address the "culture clashes" among the host schools and the new small schools. The Chancellor said that the Department had created a council to work with those schools. When ask how much additional funding the Department is providing to the host schools to provide support services, the Chancellor said \$6 million. The Committee was also concerned that creating more small schools means the per pupil cost will go up and questioned whether the City will have enough funding for this initiative.

Currently, there are more than 140,000 English Language Learners (ELL) in the school system. However, very few ELL students (7.5 percent) pass the State's English as a Second Language



Achievement Test. The Committee is very concerned whether the Department is providing adequate services to meet the needs of ELL students.

In order to understand how well the Department is serving the needs of ELL students, the Committee questioned the Chancellor as to whether the Department has allocated extra resources for ELL programs. The Chancellor said the Department is spending more on professional development for ELL teachers and created a new dual-language program to serve the needs of ELL students.

Regarding the Department's proposal to expand the current gifted and talented program, the Committee questioned the Chancellor as to why Staten Island, the "underserved borough," has no self-contained gifted and talented program under the new proposal. The Chancellor said that the list has not been finalized. When asked how the Department determines which model of the gifted and talented program to be used, the Chancellor said that decisions are made by Regional Superintendents based on proposals provided by local schools.

On February 14, 2005, Justice Leland DeGrasse of the New York State Supreme Court adopted the Judicial Referees' recommendations and ordered the State to provide an additional \$5.6 billion in operating aid to be phased-in over four years and \$9.2 billion in capital aid to be phased-in over five years to the New York City school district to comply with the *CFE v State of New York* ruling. However, Albany leaders repeatedly say that NYC needs to contribute a portion of the funding. The Committee questioned the Chancellor as to whether the City is contributing enough to education when compared to other large school districts. The Chancellor said that the City's contribution to education has increased by \$1.63 billion from Fiscal 2002 to Fiscal 2005, while State contribution only increased by \$530 million over the same period. Mr. Feig then added that when compared to other large cities which have similar characteristics to New York City, the City's contribution is high.

Finally, the Committee questioned the Chancellor on the issue of pupil transportation contracts. The Department proposes \$701 million in the Fiscal 2006 Preliminary Budget for pupil transportation services. This is a nine percent or \$60.4 million increase over the Fiscal 2005 Adopted Budget yet the number of contracts remains constant at 185. The current pupil transportation contracts have not been competitively bid in 25 years and current contracts will expired on June 30, 2005. In an effort to understand the Department's new proposal, the Committee asked the Chancellor whether the Department proposed to competitively bid the pupil transportation contracts. The Chancellor said the Department is considering extending the current contract because competitively bidding for it would cost much more. The Committee then asked the Chancellor why the Department has not considered competitively bidding a section of the contract. The Chancellor said to re-bid a portion will increase costs because demand outweighs supply.

### **Public Testimony**

Witnesses scheduled to testify before the Committee were Randi Weingarten of the United Federation of Teachers (UFT), Veronica Montgomery of the District Council 37 and Local 372, and Candice Anderson of Citizens' Committee for Children of New York (CCC).

Only representatives from the UFT presented testimony for the record. CCC submitted written testimony.

Randi Weingarten, president of the United Federation of Teachers addressed the Committee and stated that the Mayor's Fiscal 2006 Preliminary Budget did not support many programs and initiatives that are vital to student learning and teacher retention, such as the teacher's choice program, early grade class size reduction, professional development and teacher certification, attendance improvement and dropout prevention (AIDP) and a special school project on safety. President Weingarten stressed that the special school project on safety should be funded because it has improved safety conditions in 180 schools since the 1994-95 school year.

CCC calls upon the Council to restore funding to vital programs that are critical to teachers and students, the teacher's choice program and the early grade class size reduction initiative. CCC recommends that the City allocate sufficient funding for fringe benefit costs to ensure that there will be adequate funding for other purposes.

**Recommendations**

The Committee supports the Department's initiative to create new gifted and talented programs on the elementary school level and expanding existing programs. However, the Council recommends that the new gifted and talented programs focus on the self-contained classroom model instead of just providing extra hours of enrichment during lunch or after school.

The Committee recommends that the Department include expenditure data by academic subject areas in its Annual School Based Expenditure Report to show the public how the Department is spending its funds. The Committee also recommends that the Department closely monitor its budget to ensure that funding is wisely and appropriately spent.

Finally, the Committee recommends that the Department, while focusing on creating more small schools and dismantling large failing schools, should take into consideration the issue of overcrowding and provide adequate resources to host schools to avoid "culture clashes" among the new small school and the host school.

**TO:           Honorable Gifford Miller  
              Speaker**

**Honorable David I. Weprin  
              Chair, Committee on Finance**

**FROM:       Honorable Bill Perkins, Deputy Majority Leader  
              Chair, Committee on Governmental Operations**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
              Committee on Governmental Operations**

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**Introduction**

The Committee on Governmental Operations conducted its Fiscal 2006 Preliminary Budget Hearing on Monday, March 7, 2005. Agencies appearing before the Committee were the Board of Elections; the Department of Records and Information Services; the Law Department; the Campaign Finance Board; the Financial Information Services Agency; the Department of Citywide Administrative Services; and two of the City's 59 Community Boards. This memorandum summarizes the testimony presented by the agency heads, and the issues, concerns and recommendations expressed by the Committee.

**Board of Elections**

John Ravitz, Executive Director, testified before the Committee on Governmental Operations. Steven Richman, General Counsel and Lucille Grimoldi, Director of Electronic Voting Systems joined him. Mr. Ravitz focused on three keys issues he believed were important to the Board of Elections (BOE). They are as follows: BOE's performance during the 2004 presidential election, the status of HAVA implementation in Albany and the Board's budgetary requirements for Fiscal 2006.

**2004 Presidential Election Performance**

In his testimony, Mr. Ravitz presented some statistics that reflected the 2004 Presidential Elections: The Board processed 435,092 new registered voters; in November, 400 additional voting machines were added to those election districts with 800 voters or more; and the Board operated 1,360 poll sites throughout the five boroughs. The Board had to replace 20 machines, while 487 machines had to be worked on by a technician. In its efforts to be ready for the day, the Board also printed extra emergency ballots for each election district and hired poll workers, information clerks and translators. A total of 2,281,476 individuals exercised their right to vote in the City in November 2004.

Mr. Ravitz did however recognize a few glitches that occurred on Election Day. The website received an astonishing 127,000 hits. Because the Board has only one server, the web page became inoperable as more and more people tried to access it. Moreover, the Board received

countless number of phone calls, which became too heavy for the trunk lines to handle and eventually led to a system overload.

In his testimony, Mr. Ravitz blamed both the City Council and the Bloomberg Administration for not having fully funded those needs. He claimed that, in 2003 and 2004, the Board requested funding to add more servers and to complete its Staten Island Phone Bank, which was not provided. He went further to point out that if the Board had received the requested funding in Fiscal 2005, many of the technical problems could have been avoided. In a move to solve the telephone overload problem, the Board of Elections is working with the Department of Information Technology and Telecommunications (DoITT) until the necessary upgrade of the Board's systems are completed.

### **ID Requirement**

According to HAVA mandates, individuals who registered to vote for the first time on or after January 1, 2003, and who registered by mail would have had to show ID at the poll sites last fall unless appropriate documentation was provided prior to the election. On March 3<sup>rd</sup>, 2004, the Board identified 50,000 such registered voters and sent letters to them in which the acceptable identification documents were listed. Mr. Ravitz testified that 35,000 of those individuals complied with the Board and were considered HAVA compliant and were not required to show ID at the sites. As for the remaining 15,000, a mere 1,000 did in fact show ID at the poll sites. The remaining 14,000 either did not show up to vote or were not allowed to vote due to the HAVA ID requirement. In November, the number of registered voters who applied by mail rose to 51,000; the Board's testimony did not include the total that actually got to vote in the general election.

### **HAVA & Albany**

In his testimony, Mr. Ravitz mentioned that the State Legislature's conference committee on HAVA was convening that same day. It was his hope that they would act quickly in order for the City to act promptly toward compliance with HAVA. The conference committee, he said, is to conclude its work within two to three weeks. Because the Legislature has not come up with any tangible plan for HAVA since Congress enacted it in 2002, there are uncertainties in Albany. The only successful agreement reached by the State was the ID requirement.

Mr. Ravitz stated that at such a late period, it would be virtually impossible for the Board to implement any compliance plan in a very effective, efficient and orderly way in time for the September 2006 citywide Primary Election. Upon the passage of HAVA, the City developed a comprehensive strategic plan, which Mr. Ravitz had hoped to have phased in over a period of three years, instead of the very compressed timetable the State would impose on the Board. He explained that it is very time intensive to train 3,000 poll workers and 4 million voters, conduct the necessary technical analysis and recruitment of qualified technical staff, and assist voters in understanding the new voting machines.

### **New Needs**

Mr. Ravitz testified that he will need \$10.13 million to implement HAVA-related programs. Of this amount, \$9 million was funded previously (\$4.5 million in Fiscal 2005 and \$4.5 million in Fiscal 2006). A total of \$1.13 million in additional HAVA-funding would therefore be required. The HAVA-related funds would be used for: educating the voters; training staff and poll workers; the establishment of additional warehouse space; warehouse modernization; expanding

the Electronic Voting Systems Department, developing of computer systems; and other HAVA related activities.

As for the ongoing operations new needs, the Board is seeking just under \$5 million, including \$3 million dollars for independent legal counsel, \$885,000 for the completion of the Staten Island Phone Bank, funding for support personnel, as well as funding for safety and security.

**Pay Equity.**

Although the Board of Elections' formal new needs funding request for Fiscal 2006 did not include \$6 million for pay equity, Mr. John Ravitz did offer his opinion to the Committee that the Board is the only City agency that had workers with such low salaries. He referred to a 2000 study conducted by the Board in which it documented that the Board's salaries are 40 percent lower than those of the Campaign Finance Board and election employees in surrounding jurisdictions.

**Issues and Concerns**

Referring to the January Plan for Fiscal 2006, Chair Perkins asked Mr. Ravitz why there weren't any new needs actions for the Board of Elections. Mr. Ravitz replied that he was not sure as to why the Board's new needs request was not funded. He said that is hopeful, though, that it would be included in the Executive Budget. Mr. Ravitz further stated that the Board of Elections enjoys a very healthy relationship with the Office of Management and Budget. Regarding the Pay Equity issue, Chair Perkins made it clear that it was beyond the Council's power to engage in collective bargaining negotiations on behalf of any group of City workers.

The Committee asked what would happen to the City if it is not HAVA compliant by January 1, 2006. In response, Mr. Ravitz articulated that he was not sure of the consequences except for the loss of funding the State risks. Furthermore, Mr. Ravitz revealed that the Board requested that the State legislature and the Governor include legal provisions that empower the Board of Elections in the City of New York to "...delay compliance with provisions requiring the use of a new voting system if it determines that: compliance is not possible; or compliance would impair voters' rights; or compliance would impair the proper administration of an election." However, such provisions would require pre-clearance from the US Department of Justice, which may not be easily obtained.

Referring to a HAVA timeline, the Committee asked the Board about its status on HAVA. Mr. Ravitz replied by saying that the only HAVA related action taken by the State was the HAVA ID requirement. The State Legislature has not addressed anything else on the timeline properly. Chair Perkins referred to the recent study released by the Office of the New York State Attorney General called "Voting Matters II," which mentioned the possible loss of \$219 million in federal funding. Mr. Ravitz echoed the study and agreed that the State risks losing the funding should it lag in its actions. The Committee further inquired about the financial exposure the City would face if we need to be HAVA compliant but no State funding is available. Mr. Ravitz indicated, "...One machine would be needed for each of the City's 1,360 Election Districts at approximately \$70,000 each or \$95.2 million." Councilmember Provenzano asked about the future of the lever machine technicians. Mr. Ravitz stated that they would be retrained to be able to maintain the new voting machines.

Chair Perkins inquired as to the Board's Capital Budget. Mr. Ravitz replied that BOE has never had its own Capital Budget, and that its Capital requests are funded through DCAS.

Reference was made to Capital funds (\$25 million) originally appropriated for election modernization under Mayor Koch's administration. Mr. Ravitz indicated that capital funds were used to make some needed improvements to BOE's offices for safety and health reasons. He said that the monies used for this weren't hidden under a mattress, but rather that they were appropriated through the appropriate checks and balance of DCAS and OMB. He advised the Committee to ask DCAS's Commissioner Martha Hirst to explain where these capital funds came from, as well as whether or not there are any funds from the Koch appropriation still remaining.

The Committee inquired about the number of people who had to show ID (15,000) and the number who voted after showing ID (1,000). He asked whether that meant that 14,000 didn't vote because of the ID requirement issue. Mr. Ravitz indicated that he would get stats to the Committee.

Councilmember Reed also inquired about the Manhattan warehouse in the Jacob Javitz Center that will be expanding. Mr. Ravitz said that "BOE's on a month-to-month lease, and when the Javitz Center expands, BOE will be asked to leave. DCAS has not given BOE a timeframe, and they're actively working on it". According to Mr. Ravitz, DCAS can't find any space in Manhattan, and they recommended a site in Long Island City, Queens. Mr. Ravitz indicated that they were still looking in Manhattan, and that BOE would appreciate any help from Council members to help locate space in Manhattan. A site at 146 Street was discussed. Mr. Ravitz indicated that that was a vacant site that would require a new building.

Mr. Ravitz indicated a desire to merge the main office on Varick Street and the Manhattan warehouse, as the rental cost for the Varick Street location is a bit expensive. He further indicated that BOE is seeking a Manhattan alternative so that Manhattan machines don't have to be stored in Queens because of the inconvenience it creates.

The Committee asked Mr. Ravitz to prioritize BOE's New Needs. Mr. Ravitz indicated that "...if Albany were to act quickly, and if the City were required to implement the new machines citywide all at once in the 2006 election, all requested HAVA New Needs would be a priority." Mr. Ravitz, however, questioned whether the vendors would be ready; whether BOE would be able to educate the electorate properly (i.e., whether there would be time to do mailings, print ads, etc.), and whether BOE would be able to integrate its computer systems, as would be necessary. He said that there could be big problems if voters were not properly educated.

The Chair asked whether BOE was considering any of the reforms proposed by the Council and others after the last Presidential Election, including same-day registration and early voting (to address long lines). He asked if they had any value, and if BOE had lobbied the State legislature for any of the constitutional changes that would be required to implement them. Mr. Ravitz' response was that "BOE hadn't made any such recommendations.

The Committee asked about the many issues related to poll workers and coordinators. Mr. Ravitz indicated that while BOE hasn't asked for new needs funding for this purpose, benefits could be reaped if the current salaries were increased from the current \$200/day for poll workers

and \$300/day for coordinators. He reported that BOE now has stand-by pools from CUNY/SUNY and good government groups.

**Recommendations**

Chair Perkins recommends that the following questions be answered by the Bloomberg Administration and by Albany:

**Capital Funding Disconnect Between the Administration and the Board of Elections**

As evidenced by a recent letter from the Board's Executive Director John Ravitz to Chairman Perkins, a significant disconnect exists between the Administration and the Board regarding the availability of capital funds. It is clear to the Chair that but for issues raised by him during the Preliminary Budget hearing, the extent of this disconnect would not have been realized by Mr. Ravitz or the Board.

Is this disconnect emblematic of a larger, systemic problem?

What can be done to make the Board's capital funding issues more transparent?

What roles are played by the following entities in the regard to the Board's Capital Budget issues:

- The Board of Elections itself?
- The Mayor's Office?
- The Office of Management and Budget (OMB)?
- The Department of Citywide Administrative Services (DCAS)?

**HAVA Implementation and Compliance – Dysfunction in Albany**

What is the delay in finalizing the legislation required to implement the HAVA Act?

What are the consequences to New York City if compliance is not achieved by the mandated timetable?

How is New York City expected to comply with the requirements of HAVA without direction or funding from Albany?

How is New York City expected to implement new voting machine technologies in conformance with HAVA without direction from Albany?

**Mayor's Election Modernization Task Force**

What is the Task Force's agenda?

What is the Task Force's budget?

What is the Task Force's timetable?

To what extent is it tasked with proposing reforms relating to the Board of Elections?

To what extent is it tasked with conducting ongoing oversight of the Board of Elections?

Will the Task Force be answerable to the City Council's Governmental Operations Committee?

Will the Task Force be answerable to the public? To voters? To advocacy organizations?

Will the Task Force be mandated to make recommendations regarding the Board's Capital Budget and Expense Budget appropriations? Will the Task Force be mandated to make recommendations regarding the Board's structure? Will the Task Force play a role in the Board's inter-governmental relations? Will it actively work to lobby the State Legislature regarding HAVA legislation and funding?

In summary, Chair Perkins recommends that the Bloomberg Administration give priority to the Board's new needs request in order to avoid repetition of the problems that occurred during the November 2004 presidential election. He also suggests that the State act swiftly so that the Board can have appropriate lead-time to implement HAVA. Lastly, the Chair recommends that, regardless of the size of the Board, it ought to be an independent entity; and therefore, the Mayor's Office and OMB must establish a separate capital budget for the Board of Elections to create the appropriate level of transparency and to facilitate appropriate oversight by the City Council.

### **Department of Records and Information Services**

Commissioner Brian G. Andersson testified before the Committee regarding the Fiscal 2006 Preliminary Budget for the Department of Records and Information Services (DORIS). His prepared testimony covered such topics as the City Hall Library, the Municipal Archives, and agency headcount.

#### **Hearing Summary**

Commissioner Andersson stated that the Department, through its unique City Hall Library, is the City's statutory depository for all reports issued by New York City government agencies. Through the Records Management Division, it provides for the professional management, storage and retrieval of records for 55 agencies and the various courts having jurisdiction over the City of New York. He went on to say that their renowned Municipal Archives Division preserves and provides public access to a large and impressive collection of the City's historic records.

Commissioner Andersson stated that the Department continues to successfully implement Local Law 11, which requires that all of the City's official reports be posted on the agency's website within 10 business days, and made available to the public. He went on to say that there are currently over 1,084 reports available on DORIS's website. He also stated that in October of 2004, the Department launched an on-line order form and electronic payment option for historical photographs. This was done through a partnership with the Department of Information Technology and Telecommunications (DOITT). He went on to say that the on-line option has proved to be very popular with the public and that DORIS is generating approximately \$1,000 per day in revenue from these photo sales.



**Issues and Concerns**

The Committee expressed concerns about the current status of the Giuliani Archives. Commissioner Andersson indicated to the Committee that approximately 1,800 cubic feet of material has been received with an additional 300 cubic feet still outstanding. The materials that have been received primarily consist of such items as correspondence letters, constituent letter, press digests, and other miscellaneous items. The Committee raised the issue of the fiscal impact of archiving the Giuliani papers and whether DORIS had sufficient space to house them. Commissioner Andersson responded by saying that the archiving is being done with existing resources at no cost to the City of New York. He went on to say that DORIS definitely has the space to house these items since they primarily consist of microfilm and digital records. He concluded on the subject by stating that completion of the Giuliani Archives project was on schedule, but did not give a time frame as to when it would be completed.

With regard to the Department's Revenue Budget, the Committee inquired about the generation of additional revenue in Fiscal 2005 and the outyears. As he stated in his opening testimony, Commissioner Andersson said the Department has launched an on-line order form and electronic payment option for historical photographs and that this was the reason for the generation of additional revenue. The Committee inquired as to how the public would know what DORIS had available for sale. Commissioner Andersson stated that other than coming to its offices in person, DORIS's website would be the only way people would know what was available for sale.

The Committee inquired as to what historical records are in DORIS's possession with regards to slavery, burial grounds, and Lower Manhattan. Commissioner Andersson stated that they have an extensive collection of data that dates back to the early 19<sup>th</sup> century. One such item the Commissioner mentioned was a 50 to 60-page book that detailed the birth records of slaves in Lower Manhattan. This was an interesting find since DORIS has very few birth records from the same era. He went on to say that Filmmaker Martin Scorsese has used the City Hall Library when he researched the Five Points region for his film *Gangs of New York*. The New York Historical Society came to the Library to do research for an upcoming television special.

**Law Department**

Testifying on behalf of the Law Department were Corporation Counsel Michael A. Cardozo, First Assistant Corporation Counsel Jeffrey D. Friedlander and Managing Attorney G. Foster Mills.

**Hearing Summary**

In his formal written statement, Mr. Cardozo indicated that the Law Department has approximately 650 lawyers working in numerous legal divisions. He briefly outlined the functions of these divisions and the clients whom the Department serves. The Counsel discussed the various tort matters the Law Department handles. Attached with his testimony were a few additional charts with graphs that described the status of litigation commenced by the Department. Mr. Cardozo mentioned that the sidewalk liability bill passed by the City Council has contributed to the reduction of tort payouts.

Since the bill was enacted on September 14, 2003, the Law Department has seen a 65 percent reduction in cases filed. By Fiscal 2006 and 2007, the savings from the reduced sidewalk filings should be considerable.

The next topic discussed was the City's lawsuit in which New York City has taken an aggressive posture on Internet cigarette sales. The Law Department is working with the State Department of Taxation to develop regulations that will ensure the collection of City taxes from Internet sellers. Mr. Cardozo then informed the Committee that the Law Department has brought lawsuits against firearm manufacturers to change certain sales and distribution practices that are known to facilitate gun trafficking; the trial is scheduled for September of 2005. Also, the Law Department is involved in a "climate change" lawsuit designed to compel the federal government and private industry to address this issue.

Mr. Cardozo mentioned the progress of the Senior Counsel Program - an initiative designed to provide salary increases for 100 to 300 attorneys who have been with the Department for three years or more in an effort to retain them. According to Mr. Cardozo, "the Senior Counsel Program is now 10 percent diverse."

### **Issues and Concerns**

Chair Perkins inquired about the status of the legal contracts related to the crash of the Staten Island Ferry. On the criminal side, he reported hourly rates of from \$250/hour to \$500/hour, and stated that multiple sets of attorneys had to be hired. On the criminal side, multiple firms have been utilized, costing the City \$250/hour. He indicated that the attorney contracts were let via the negotiated acquisition method since these services had to be secured quickly, and that the costs of the contracts were being paid for through the City's judgment and claims budget. The Law Department has no intention of switching vendors for the case. In past testimony, while not specifically addressing the rates, Mr. Cardozo stated that these attorneys were needed because the ferry litigation represents "a very major matter" for which the Law Department lacks personnel possessing particular areas of expertise.

The hearing then turned to the topic of the legal needs of the City's Board of Elections. Chair Perkins asked Mr. Cardozo about testimony heard earlier in the day from the Board's Executive Director John Ravitz asking the City Council to provide \$3 million for the retention of outside counsel, claiming that reliance on the Law Department was no longer viable. The Corporation Counsel indicated those instances in which his attorneys cannot represent the Board due to conflicts of interest, such as when the City sued the Board over matters relating to the proposed revision of the City Charter.

When questioned about the status of the False Claims Act legislation recently passed by the City Council, Mr. Cardozo indicated that the Mayor has yet to make a formal decision on the bill, but that he would do so within the time allowed under the City Charter. Shortly after the hearing, on March 14, 2005, the Mayor vetoed the False Claims Act.

Chair Perkins inquired about the paucity of blacks in management positions, and asked the Corporation Counsel to detail his efforts to diversify his agency. Mr. Cardozo indicated that approximately 15 percent of the Law Department's attorney and non-attorney staff are minorities, and that the Senior Counsel Program is 10 percent minorities. Chair Perkins expressed his disappointment in the low minority figures.

Chair Perkins raised the issue of granting numerous paralegal contracts to certain firms at the same time by keeping the value of the contracts below the \$100,000 threshold permitted under certain procurement guidelines.

Mr. Cardozo and his aides responded by stating that they have hired enough people and will no longer have a need for temporary paralegal help from outside firms. They also disputed the Chair's contention that the agency had attempted to sidestep the City's procurement rules in any way.

**Recommendations**

The Committee recommends that the Law Department engage in routine, pro-active endeavors designed to limit the City's potential exposure to lawsuits. This can include assisting agencies in: rooting out systemic discrimination; providing City services in a safe manner; and responding in a timely manner to issues that need redress. The Committee is concerned about the diversity of the agency, particularly in terms of management positions, and asks that efforts to increase diversity be revisited. The Committee further recommends that the agency refrain from using questionable practices to award contracts. Lastly, the Committee recommends that the Law Department seek better rates for the outside legal counsel services it retains.

**Campaign Finance Board**

Testifying on behalf of the Board were Executive Director Nicole A. Gordon, Deputy Executive Director Carole Campolo, General Counsel Sue Ellen Dodell, and Director of Campaign Finance Administration Amy Loprest.

**Hearing Summary**

Ms. Gordon indicated in her testimony that the Board would soon be submitting to the Mayor its Charter-mandated budget estimates for Fiscal 2006. She indicated that the budget submission would include "a slight increase in personnel services from FY 2004 and a substantial decrease in OTPS..." The rationale given for the increased OTPS projection is the "scheduled municipal election."

Ms. Gordon indicated that her agency is in the process of preparing the Voter Guide, while also preparing for the election in September. Among the other activities in which the Board is engaging are: "conducting audits, training candidates, updating software, and making our Web site even more useful to the public and to candidates."

Testimony was also given regarding new Board rules pertaining to "single source contributions."

**Issues of Concerns**

Referring to the Single Source Contributor Rule, the Committee inquired about the Board's plan to educate candidates who participate in the City's Campaign Finance Program, as well as all unions. Ms. Gordon indicated that the proposal is available both in hardcopy format and on the CFB's website. She further stated that the changes will not affect the amount in matching funds a candidate can receive.

Chair Perkins asked whether the proposed Fiscal 2006 budget to be submitted by the Board would include assumptions relating to recent City Council legislation that reformed the Campaign Finance Act, including increasing the campaign matching formula in certain instances to 6:1.

Ms. Gordon indicated that the agency's budget submission would include assumptions about the legislation because the cost increases associated with the matching formula increase will be felt in the upcoming municipal elections.

Chair Perkins and Council Member Brewer asked whether the Help America Vote Act (HAVA) would have any material impact on the agency's budget. Ms. Gordon indicated that no impact was anticipated.

**Recommendations**

Chair Perkins recommended that the Board develop a plan to educate all entities that are interested in City Elections about the new rules the Board has recently enacted. The potential audience for such training would include candidates, unions, as well as good government groups who in turn would educate the public.

**Financial Information Services Agency****Introduction**

Acting Executive Director Robert Townsend testified on behalf of the Financial Information Services Agency (FISA) regarding the agencies Preliminary Fiscal 2006 Budget. His prepared testimony covered topics such as the Financial Management System, the Payroll Management System, the agencies budget and staffing level, and new agency initiatives.

**Hearing Summary**

The Financial Management System (FMS) successfully supports the base functions required of a citywide budget and accounting system. FMS processes data for inclusion in the City's Financial Plans, Budget, Comptroller's Annual Statements and all required tax reports. FMS generated almost one million vendor payments valued at \$58.9 billion in calendar year 2004. FISA maintains a Call Center and a Training and Education Center to accommodate the informational needs of FMS users citywide. The FMS Call Center averages over 15,000 calls per calendar year; almost 79 percent of the questions asked are resolved that same day, with an additional 10 percent resolved the next day. During fiscal year 2004, almost 153 training classes were offered resulting in the participation of over 70 city agencies and almost 2,100 students.

With regard to the Payroll Management System (PMS), Director Townsend stated that PMS is the computerized payroll system responsible for producing the City's payroll. PMS enables FISA to process approximately nine million paychecks annually without significant incident. In order to accomplish this, PMS runs over 224 pay cycles per year producing payrolls of approximately \$20 billion.

Director Townsend stated that for Fiscal 2005 and Fiscal 2006, FISA's staffing levels are at an authorized level of 322 and 336 positions respectively.

FISA's Fiscal 2006 Preliminary Budget is \$49 million, with \$23 million for Personal Services (PS) and \$26 million for Other Than Personal Services (OTPS). Since the Budget was adopted for fiscal year 2005, FISA has had a total expense budget increase of \$2.1 million. Director Townsend reported to the Committee on a number of new initiatives being undertaken by FISA. The agency is: 1) performing a support role in the development of a new citywide timekeeping system (Citytime) being sponsored by the Office of Payroll Administration (OPA); 2) continuing to develop the Pension Payroll System taking over this function from the Comptroller's Office; 3) supporting the development of the New York City Automated Personnel System (NYCAPS); and 4) continuing to upgrade and maintain the FMS system.

**Issues and Concerns**

The Committee inquired about the \$3.3-million transfer from City-funded lines to Capital I.F.A.-funded lines. Director Townsend stated that the transfer was needed so it could continue to fund its Capitally eligible projects. The projects are: 1) Citytime, which is an automated timekeeping system, which is expected to be completed sometime during the summer; 2) NYCAPS, which is currently targeted for September of 2005; and 3) continuous upgrades to FMS.

The Committee inquired as to how much funding was put into FMS since its inception. Director Townsend stated that the original contract was valued at \$185 million with additional \$50 million for the infrastructure associated with the project. The Committee also inquired as to the current status of FMS. Director Townsend indicated that FMS is fully operational. The Committee asked Director Townsend if there were any new features for FMS that FISA planned to implement. The Director responded by saying that there were three projects in the works: 1) Vendor Reporting System; 2) Electronic invoicing; and 3) Enhanced Grants Management. There were no completion dates associated with these projects.

The Committee inquired as to the breakdown of funding for the various new needs of the agency. Director Townsend stated that funding was going to be allocated for additional support of the Pension Payroll System and the Citytime project. The Committee also asked why the funding disappears after the end of Fiscal 2006. Director Townsend responded by saying that the projects may or may not be completed, and that the volatility of these projects has kept them from making outyear projections.

**Department of Citywide Administrative Services**

Commissioner Martha K. Hirst testified on behalf of the Department of Citywide Administrative Services (DCAS) regarding the agency's Preliminary Fiscal 2006 Budget. Her prepared testimony covered the Expense, Revenue, and Capital Budgets as well as agency headcount levels.

**Hearing Summary**

Commissioner Hirst commented on certain items in her agency's Expense Budget. With regard to energy expenses, she stated that a large majority of DCAS's expenditures are for payment of the City's energy bills. DCAS is funded at \$521.1 million in Fiscal 2005 and Fiscal 2006 for citywide energy expenses due to an increase of \$23.1 million. This increase is due primarily to increases to the New York Power Authority (NYPA) production charges and Con Edison

Delivery charges. NYPA's rates have been increased by 15 percent while Con Edison's rates will increase by 2.3 percent. The remainder of the DCAS Expense Budget primarily funds the maintenance and operation of DCAS-managed office buildings and court facilities; security for non-court City-owned buildings; and the administration of civil service examinations.

Commissioner Hirst commented on certain items in the Revenue Budget. She stated that its largest source of revenue stems from the Division of Real Estate Services totaling \$59.5 million in Fiscal 2005 and \$40.2 million in Fiscal 2006. A substantial portion of that revenue is derived from commercial rentals of City-owned property and its public real estate auction. She also stated that DCAS also receives revenue from applicant filing fees for civil service examinations. DCAS anticipates receiving \$2.9 million in civil services exam revenue in Fiscal 2006. Some of the key civil service examinations that will be administered before the end of the fiscal year include Child protective Specialist, Correction Officer, Police Communications Technician, and Traffic Enforcement Agent. Regarding the Capital Budget, Commissioner Hirst stated that DCAS' focus is on projects that are critical to building maintenance and preservation, related to the health and safety of City employees and the public, as well as those mandated by law. Over the life of the Ten Year Capital Plan, DCAS has committed more than \$1 billion in City funds for these programs, with almost \$155 million committed in Fiscal Year 2006. Also included in DCAS capital budget is \$432 million in court construction projects managed by the Dormitory Authority of the State of New York (DASNY). She went on to say that DCAS would manage nearly \$75 million worth of leased-space construction projects over the next five years. This includes \$14 million for various Police Department (NYPD) projects, almost \$10 million for the Fire Department (FDNY), and approximately \$7.2 million for the Administration for Children's Services (ACS).

### **Issues and Concerns**

The Committee inquired as to the matter of budget efficiencies that stem from DCAS efforts on behalf of other agencies. Commissioner Hirst stated that DCAS has provided budget efficiencies in the area of energy conservation. They have achieved these efficiencies by providing outreach and education to all City agencies as well as having an energy liaison in every agency that it deals with. Also, DCAS continues to search for better ways to conserve energy and save money by holding energy workshops, conducting conservation projects that demand energy reductions throughout the City. Other efficiencies in the areas of personnel management and training have stemmed from broadened capabilities in the citywide training center.

The Committee inquired as to the issue of surplus inventory and how the City deals with these surpluses. Commissioner Hirst stated that DCAS informs agencies when any surplus exists. For instance, in the area of fleet management there are auto auctions that are held every other week and there is a citywide scrap contract through the Department of Sanitation.

The Committee expressed concern as to Capital funding for the Board of Elections. Commissioner Hirst stated that the Board of Elections has no Capital Budget. However, back in the mid-nineties, approximately \$25 million was appropriated in DCAS Capital Budget for the purchase of electronic voting machines. At the present time none of these funds have been used. She also stated if the Board of Elections wanted to draw down these funds they would need to work with the Office of Management and Budget (OMB).

The Board would have to identify programs to spend the money and then it would be included in the Capital Commitment Plan. She closed by saying that there is \$7.5 million in Capital funding committed to modernizing the Borough Offices of the Board of Elections.

### **Community Boards**

Of the 59 community boards throughout the City, only two testified before the Committee on Governmental Operations. The two boards in attendance were Manhattan Community Board #7 and Manhattan Community Board #9.

### **Hearing Summary**

With such a low number of Community Boards in attendance, Chairman Perkins asked them to provide a list of their biggest issues. The issues mentioned were minimal police presence in their neighborhoods, restoring meals for seniors, possible reductions in library hours, and safety improvements on each of the Boards most heavily traveled roadways.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Finance Committee**

**FROM:       Honorable James Sanders, Jr.**  
**Chair, Committee on Economic Development**

**Honorable Michael C. Nelson**  
**Chair, Committee on Small Business Services**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Economic Development**

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The Committee on Economic Development held its Fiscal 2006 Preliminary Budget Hearing on Monday, March 7, 2005. Testifying before the Committee was Economic Development Corporation (EDC) President Andrew Alper and the Department of Small Business Services (SBS) Commissioner Robert Walsh. This is a summary of the testimony presented, issues and concerns raised by the Committee and recommendations.

### **Economic Development Corporation (EDC)**

#### **Testimony Summary**

In his opening remarks President Alper spelled out that EDC is not a City agency, as tax-levy funding is not supplied for its operating costs. EDC is the managing agent for much of the City's real property. He briefly described that the EDC earns operational funding from its sale or rental of City property and from the fees generated from its financing deals. President Alper detailed EDC's capital and operating budgets before he then closed by updating the overall EDC development agenda and where it fits within the City's evolving business landscape.

The proposed Fiscal 2006 through 2009 Capital Commitment Plan for EDC would increase over 50 percent from the last plan. President Alper touched upon many of EDC's current capital projects which span a broad scope of development activities. President Alper said EDC would increase its spending commitments to properties that it manages at Hunts Point in the Bronx and the Brooklyn Wholesale Market. EDC also seeks to expand commercial activity at the Jamaica Center, the Javits Center and the 125th Street Redevelopment project. President Alper also briefly detailed some Waterfront projects on EDC's list such as the Bush Terminal, Brooklyn Army Terminal and the Harlem River Esplanade.

EDC is marshaling resources to dramatically transform the City's infrastructure scheme. President Alper detailed several of the most significant projects that would enable the City to avail itself of long-term growth opportunities.



One such project is the East River Science Park, a biosciences project that is already authorized to grow to 870,000 square feet and could potentially create up to 2,000 jobs for top research scientists.

Also among the strategic plans revealed by President Alper were airport improvement projects which have been advanced by the recently renegotiated airport lease with the Port Authority. This renegotiation increased the payments to \$93 million annually from the prior \$3 million yearly payment. President Alper also cited transportation ventures such as the streamlining of access to JFK from lower Manhattan and the planned reactivation of the Staten Island Railroad.

Before he began to take questions, President Alper described some of the economic activity that has been driving the City's recovery. Class A office space vacancy rates are lower than a year ago, providing evidence of the City's recovery from the events of September 11th. In addition, almost 40,000 private sector jobs were added over the last year, which brought the unemployment rate down to 2001's level.

He concluded his opening remarks when he referred to the City's tourism industry, already a significant driver of much of the City's economy. President Alper said tourism has benefited from enhancements to the City's capacity to handle an increasing number of cruise ships. This increased capacity has occurred simultaneously with the increase in the value of foreign currencies. This has spurred the perception that the City is a bargain relative to competing tourism locales. According to President Alper, this tourism activity would only increase if the comprehensive Downtown Brooklyn and the West Side Hudson Yards proposals were also implemented.

#### **Committee Issues and Concerns**

Much of the Committee's discussion was about the Atlantic Yards proposal for downtown Brooklyn. This is a wide-ranging development plan with a proposed 4,500 residential units, an additional two million square feet of commercial space and a 20,000-seat arena for the planned relocation of the New Jersey Nets basketball team to Brooklyn. Concerns about EDC's contribution to this overall \$2.6 billion proposal, specifically EDC's \$100 million commitment, were combined with a general discussion of other Committee concerns. Some questions were about the mechanisms of removing private property owners from the Brooklyn development's vicinity. Similarly, the Committee Members inquired if the \$100 million from EDC would be used directly to remove property owners. Many of the Committee's concerns about the Atlantic Yards proposal are very similar to concerns being expressed about the Hudson Yards project in Manhattan. Those concerns include whether the Council will have input on the approval process for large City projects. EDC's land utilization and project financing methods occasionally seem more likely to circumvent City Council approval rather than seek it.

In addition, the Atlantic Yards development site contains switching and many other functions one would expect in a centralized rail yard. The Committee's discussion brought out that these yards serve many public transportation purposes and the decision to employ EDC's capital resources would not necessarily address those uses. Perhaps subway and commuter trains would have to be rerouted and the rail yard's maintenance apparatus overhauled as a result of the development.

Part of the Committee's discussion of these large projects was concerning the issue of Community Benefit Agreements. Community Benefit Agreements are settlements between developers and local groups to include community improvements and other concessions in the developers' master plan.

The Committee's discussion centered around how project benchmarks are defined and what they might actually mean for the adjoining communities. Withstanding a formal Community Benefit Agreement, the process between the EDC and the Atlantic Yards developer has presented assurances that the project would provide jobs and infrastructure that would benefit the community as a whole. The Committee emphasized that these assurances are not firm agreements. Overall, the Committee's questions focused on how EDC manages the many details of supervising an ambitious undertaking like the proposed downtown Brooklyn area renovation.

The hearing also referenced issues such as lower Manhattan development. In recent years there have been disappointing attempts to obtain Empire Zone status for the Chinatown area and with other efforts intended to improve lower Manhattan's growth. President Alper focused on the June 2004 completion of the feasibility study for streamlining access between lower Manhattan and JFK airport. This new link would primarily serve the lower Manhattan district, but its centrality might assist in improving access to JFK from areas like midtown Manhattan. President Alper emphasized that \$2 billion in unused Federal tax credits would be used to improve lower Manhattan airport access. These credits have been exchanged for additional Federal funding that would be used to revamp the City's transportation infrastructure. Part of the recent Airport lease agreement consists of \$500 million from the Port Authority for airport access construction improvements. Finally, President Alper was questioned about timelines for Council Members' local projects and the large outyear increase of the EDC capital budget.

### **Recommendations**

The Committee recommends that the EDC continue to expand its efforts to provide the necessary cruise ship infrastructure that allows the City's tourism industry to grow. The growth of the cruise industry in the City will have a positive effect on ancillary businesses such as the City's hotel industry and shopping.

Similarly, the inclusion of comprehensive waterfront development with several of EDC's projects are very positive strategic choices. The Committee recommends that wherever possible, EDC continues to include public access waterfront space in ways that increase the commercial potential of the projects and their surrounding areas.

The Committee recommends that EDC develop more broad, multi-use incubation type facilities. The East River Science Park is an example of the type of space that the Committee supports and would like to see EDC expand this initiative. By using its resources to streamline the creation of multi-use facilities, EDC will lead to the creation of more business growth opportunities.

**Department of Small Business Services (SBS)****Testimony Summary**

SBS was represented at the hearing by Commissioner Robert Walsh and First Assistant Commissioner Andrew Schwartz. Commissioner Walsh delivered his prepared remarks which addressed one of the foremost Council concerns, the Minority and Women's Businesses Enterprises (MWBE) program.

Commissioner Walsh described the extensive outreach that he directs while leading the SBS Office of Contracting Compliance. Commissioner Walsh described the procurement upgrades that he has promoted such as placing MWBE certification materials online. He also described that the number of new businesses certified by SBS with MWBE status has increased. Commissioner Walsh also discussed the City's new private procurement alliance which links the City's certified MWBE businesses with major corporations such as JPMorgan Chase and NBC. If these corporations choose to buy from MWBE certified businesses, this partnership could increase business opportunities for MWBEs.

This new private procurement collaboration is in addition to city, state and federal opportunities that SBS has worked to promote through its Softshare software. Commissioner Walsh explained that Softshare provides contact data with e-mail alerts to vendors when contracts under \$100,000 are available for bid. Commissioner Walsh also described some updated City regulations such as the "5 + 5" program, which requires City agencies to use two randomly selected lists from the vendor pool: one with five bidders from the general vendor pool and one with five from the certified MWBE and Local Businesses Enterprises (LBE) pool.

The Commissioner then described the Workforce Development (Workforce Investment or WIA) program and its fundamental role with the Department's business solutions initiative. Commissioner Walsh said that SBS has helped over 1,000 different businesses hire new workers through its workforce initiatives. The Commissioner said SBS Workforce Career Centers will soon be functioning in all boroughs and through the SBS business solutions initiative, it has created workforce partnerships with City businesses. These partnerships are intended to link the WIA One-Stop system, where job seekers come for training with the businesses that seek workers. As an example, he asserted that SBS has helped to place 268 workers with jobs at the Mandarin Orient Hotel.

The Commissioner also updated the Committee on Business Improvement District (BID) developments. The Department currently oversees 50 BIDS, with four BIDs added in the current year. The Commissioner attributed the recent growth in the number of BIDs to the Administration's campaign to make a BID easier to form. He also thanked the Council for its part in promoting and approving BIDs.

As Commissioner Walsh completed his prepared remarks, he described the mission of the new Office of Industrial and Manufacturing Businesses, which is to help preserve and grow industrial jobs in the City. He introduced the office's leadership, former SBS Chief of Staff and now Director (Czar) Carl Hum and Assistant Director Mark Froggin. Commissioner Walsh described the necessity for this office as an Administration-led effort to address the encroachments that have been made on the City's manufacturing base by competing land uses.

The Commissioner described the proposed Industrial Business Zones as comprehensive areas conceived to protect the zones where the City's manufacturing takes place. According to Commissioner Walsh, SBS would be one of several City agencies that would work to make industrial businesses more competitive. He detailed how Deputy Mayor Dan Doctoroff had assembled diverse Agency resources (the Departments of City Planning, Buildings, Small Business Services and the EDC among others) to try to prevent rezoning of industrial space and thereby protect the City's industrial base.

### **Committee Issues and Concerns**

Subsequent to Commissioner Walsh and Assistant Commissioner Schwartz explaining how SBS improves the City's environment for small businesses, the Committee asked about the reported reductions to MWBE staff and other reductions described in the Council's briefing documents. The SBS leadership indicated that reports detailing reductions were inaccurate. This point of contention was clarified after an explanation was provided to the Committee that the City Council Finance Division describes the elimination of large Council items in the budget as hidden cuts. This description would apply to the elimination of the MWBE staff as it does to the elimination of funding for the Commercial Revitalization program, the Garment Industrial Development Corporation and New York City and Company.

This debate led to a wider ranging Committee discussion of the recently released MWBE report and its associated recommendations. The release of the report highlighted the Department's need to more aggressively encourage citywide efforts that result in more procurement funding awarded to MWBE businesses.

The Commissioner cited real progress in SBS's efforts to increase meaningful outreach to City agencies and to better align the City's MWBE program with that of the State, the Port Authority (PANYNJ) and other entities. Many entities, both public and private, share the City Council's desire to take actions that make their procurement pool more diverse. The Commissioner said that he has been able to help change regulations to enable the State and PANYNJ to share information from one vendor list. Commissioner Walsh also reiterated how the 5+5 program should foster the ability of City Agency Chief Contracting Officers (ACCOs) to reach beyond their usual suppliers and consider more minority and women-owned firms for possible procurement opportunities.

The Committee debated assertions about increasing the size of the MWBE list and other assertions such as the historical trend of ACCOs to contract primarily with vendors with whom they feel most comfortable. Another issue debated was why SBS shares its lists of City certified businesses with the private sector instead of evaluating the use of MWBE certified businesses by the ACCOs, particularly for the City's billions of procurement dollars. Some Members of the Committee contended that since Chase and NBC actively use these lists, there must be an alternative method to assure that the City's ACCOs use them. Another concern expressed was how to make any MWBE efforts meaningful and productive and avoid the program becoming a rote procedure while MWBE procurement remains stymied.

The concerns about MWBE contracting seemed to overlap with the Committee's interest in the WIA workforce program. The Commissioner provided descriptions of the WIA program's successes and questions arose about how SBS has allied increasing private sector employment

access for its clients with channeling workers into the City's labor unions. The Committee also raised questions about updating the WIA program by moving One-Stop Centers currently located in centralized borough locations to areas with high unemployment. Thus, populations with the greatest needs may perhaps better utilize the One-Stop Centers. High unemployment is particularly persistent with unemployment rates as high as 70 percent or greater in parts of the Rockaways in Queens and parts of Fort Greene in Brooklyn. Currently, communities with such persistent unemployment are served by the more centrally situated WIA One-Stops such as the centers in Jamaica, Queens and in downtown Brooklyn.

### **Recommendations**

The Committee recommends the Department develop more initiatives to assure that ACCOs are pro-actively encouraged to purchase more of the City's procurement from MWBE certified firms. Lack of procurement opportunities is an intractable problem and even after procurement opportunity programs have been implemented, the impact of a historical inability by MWBEs to sell to the City has remained. The need exists to directly involve the Agency purchasers, increasing their emphasis on MWBEs.

The Committee recommends that the new Office of Industrial and Manufacturing Businesses be structured to work with developing industries as well as with existing ones to strategically manage the City's land regulations. This office should consist of professionals in dynamic growth fields, all working together to secure a viable future for the City's manufacturing industry. By providing the office with the necessary resources and expertise to support existing manufacturing zones, new industries will also have the potential to develop in the City's industrialized areas. The ability of the office to manage the influence of private sector development will determine the City's capacity to increase employment in new industries.

The Committee recommends SBS look at expanding or even relocating the workforce One Stop centers to areas where the need is greatest. This would improve the WIA program by providing better client service. Previously, the Committee recommended that the Agency's job development programs be merged with the New York City Housing Authority (NYCHA) programs. The linking of several agency workforce programs with those communities demonstrating the greatest employment needs should focus the available employment resources most directly on the core problems.

The Committee recommends the Administration fully restore Council initiatives such as the funding to the Garment Industrial Development Corporation (GIDC), the New York City and Company and the MWBE staff for Fiscal 2006. In light of the MWBE report which re-emphasized just how differently the diverse parts of the City participate in the City's economy, the failure of the Administration to restore the two positions may possibly have a severe impact.

### **Public Testimony**

Peter Engelbrecht from Gateway Development Corporation spoke about the need for EDC to maintain the \$27 million in Capital project funding improvements being made in the Greater Jamaica vicinity.

Ray Singleton from WHEDCo, the Women's Health and Education Company, also testified. WHEDCo's representative thanked the Council for its current support of \$260,000.

He also asked for continuing support for all of WHEDCo's programs. WHEDCo is focused on assisting women where it provides childcare to 900 kids and is also involved in producing training programs funded by the WIA program administered by SBS. Ray Singleton described the training the organization provides and the placement assistance that has provided its Bronx clients with jobs at firms such as Fresh Direct.

**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David I. Weprin  
               Chair, Finance Committee**

**FROM:       Council Member Madeline Provenzano  
               Chair, Committee on Housing and Buildings**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
               Committee on Housing and Buildings**

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**Introduction**

On March 8, 2005, the Committee on Housing and Buildings held a hearing on the Fiscal 2006 Preliminary Budget for the Department of Housing Preservation and Development (HPD), the Department of Buildings (DOB), and the New York City Housing Authority (NYCHA). Commissioner Shaun Donovan testified on behalf of HPD, Commissioner Patricia Lancaster testified on behalf of DOB, and Chairman Tino Hernandez testified on behalf of NYCHA.

**Department of Housing Preservation and Development****Hearing Summary**

Commissioner Shaun Donovan began his testimony with an overview of Mayor Bloomberg's housing agenda announced in December of 2002 and then briefly discussed HPD's work around rezoning initiatives, preservation of Mitchell Lama housing, and Local Law 1 implementation.

Commissioner Donovan went on to highlight threats to HPD's budget at the federal level, particularly the Bush Administration's proposal to restructure and reduce funding for the Community Development Block Grant Program (CDBG). He then provided an overview of the Agency's Fiscal 2006 Expense and Capital Budgets as proposed in the January Plan. He concluded by discussing HPD's efforts to work with foundations in establishing low-interest loan programs and the agency's work around anti-predatory lending.

Following the Commissioner's testimony, members of the Committee questioned him on a number of issues, especially CDBG funding. The Commissioner went over on a program by program basis how reliant HPD is on CDBG funding for many of its activities, particularly in the area of Code Enforcement. In response to questions about Local Law 1 implementation, HPD stated that a total of \$75 million in capital and expense dollars combined had been dedicated to this cause, and that, although it was too early to determine how effective the law has been at reducing lead poisoning, preliminary data did not indicate a decline that could be directly attributed to HPD's efforts. Council Members also expressed concern regarding the lack of funding for programs usually supported by the Council including the Community Consultant Program and Neighborhood Preservation Consultants.

**Issues and Concerns**

The Committee is very concerned regarding the proposed restructuring and cuts to the CDBG budget. The Committee is also concerned about City funding for Council supported programs including anti-eviction legal services and Community Consultants. In general, the Committee would like greater detail on the Mayor's housing plan including the distribution of units built or preserved to date or in the pipeline by income group and geographically.

**Recommendations**

The Committee recommends that additional capital funding be invested in housing production and preservation to enhance the Mayor's plan and that HPD provide a more complete progress report on the type and location of units preserved and produced under the Mayor's plan to date. The Committee recommends that \$1 million for Community Consultant Contracts, \$350,000 for Housing Court Information Services, \$680,000 for the Neighborhood Preservation Consultant Program, \$2.5 million for anti-eviction legal services, and \$200,000 for the Landlord Training Program..

**Department of Buildings****Hearing Summary**

Commissioner Lancaster provided an overview of the Department's Fiscal 2006 Budget, which includes funding for an additional 95 staff to handle increases in workload pertaining to construction permits and code violation complaints generated through 311, to perform targeted inspections in the areas of small building construction and industrial retention, and to improve the efficiency of the Department's operations.

Commissioner Lancaster then went on to discuss a number of managerial and technological reforms being undertaken by the Agency. Among these reforms were the enhancement of the Plan Exam Notification System, a revised and streamlined Certificate of Occupancy format and production system, the development of e-filing to allow the filing of plans over the internet, and a number of training and professional development initiatives. Following the Commissioner's testimony, members of the Committee questioned the Commissioner on a wide range of issues including staffing and salary levels, the use of private contracts to perform elevator inspections, and the type of training provided to different types of inspectors.

**Issues and Concerns**

While many members of the Committee praised the work of Commissioner Lancaster and her staff, the Committee remains concerned about the adequacy and efficiency of the Department's programs and services.

**Recommendations**

The Committee recommends that \$670,000 secured by the Council in Fiscal 2005 for construction inspectors should be restored to the Fiscal 2006 budget.



**New York City Housing Authority****Hearing Summary**

Chairman Hernandez began his testimony by providing an overview of NYCHA's plans to issue \$600 million in bonds over the next two years to support its capital program. He then went on to provide an overview of NYCHA's 2005 Adopted Budget – NYCHA operates on a calendar year – including cost savings and new initiatives and a review of the federal funding outlook. He stated that generally federal funds are falling short of needs and that NYCHA's Fiscal 2005 Section 8 allocation was \$50 million short of what is required to support all existing voucher holders resulting in no turnover vouchers being issued for the foreseeable future. Council Member Diana Reyna, Chair of the Subcommittee on Public Housing led questioning on a range of topics with special attention on the bond issue. NYCHA testified that they could have bonded for double the \$600 million, but chose a more conservative course of action that they believed addressed their needs.

**Issues and Concerns**

The Committee believes the bond issue is an important step towards addressing NYCHA's capital needs, but remains concerned regarding NYCHA's overall budget situation.

**Recommendations**

The Committee recommends that the Council advocate for increased federal capital and operating funding for NYCHA and increased funding for Section 8 than that proposed by the Bush Administration.

**TO:           Honorable Gifford Miller  
              Speaker**

**Honorable David Weprin  
              Chairperson, Committee on Finance**

**FROM:       Honorable Lewis A. Fidler  
              Chairperson, Committee on Youth Services**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing  
              Committee on Youth Services**

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On March 8, 2005, the Committee on Youth Services held a hearing on the Fiscal 2006 Preliminary Budget for the Department of Youth and Community Development (DYCD). Testifying on behalf of the agency was Commissioner Jeanne Mullgrav.

### **Department of Youth and Community Development**

#### **Hearing Testimony**

In her prepared remarks, Commissioner Mullgrav outlined the initiatives and programs included in the Department of Youth and Community Development's Fiscal 2006 Preliminary Budget. The Commissioner stated that the Department's Preliminary Budget for Fiscal 2006 is projected at \$211 million, of which approximately \$111 million is City Tax Levy (CTL) funding. The Commissioner advised that eighty percent of DYCD's funding is directed to youth services.

The Commissioner noted that since she was appointed in April 2002, DYCD's portfolio has expanded in several programmatic areas. These include the transfer of the Mayor's Office of Adult Literacy to DYCD in 2002 and the 2003 transfer of In-School Youth, Out-of-School Youth, and the Summer Youth Employment Program (SYEP). The Commissioner noted that DYCD had improved SYEP through streamlining the application process, increasing the use of technology, and improving communication with CBO-providers.

The Commissioner added that it is now DYCD's goal to improve the In-School and Out-of-School Youth Employment programs and that DYCD plans to release a Request For Proposals (RFP) that will focus especially on utilizing technology to increase efficiency and targeting providers that offer opportunities in growth industries.

The Commissioner discussed the Out-of School Time (OST) Initiative and DYCD's role in releasing this RFP and their planned administration of the program. The Commissioner noted that \$12.5 million has been added to DYCD's Preliminary Budget to support OST services.

In her prepared remarks, the Commissioner discussed DYCD's partnership with the Human Resources Administration to access State and federal Temporary Assistance to Needy Families

(TANF) dollars based on Beacon participants who are eligible to receive TANF. The Commissioner advised that this would result in a net savings to the City of almost \$2 million (CTL) in Fiscal 2006 and the outyears and that this will not diminish service levels.

The Commissioner also noted that the Fiscal 2006 Preliminary Budget returned to the “baselined budget amount for several programs” including the Beacon program, Street Outreach and Youthlink. In other words, the restorations that were added for these programs for the Fiscal 2005 Adopted Budget have not been included in the Fiscal 2006 Preliminary Budget.

### **Issues and Concerns**

#### **Out-of School Time (OST)**

Chairperson Fidler requested clarification on how DYCD will allocate the \$12.5 million that was added to OST in the Preliminary Budget. This \$12.5 million baselines \$10 million and \$2.5 million that were restored in Fiscal 2005 for Youth Development and Delinquency Prevention (YDDP) and The After School Corporation, respectively. The Commissioner responded that the entire \$12.5 million would be added to OST’s school-based Option I. Chairperson Fidler then requested clarification on whether this additional funding would be used to increase the number of slots provided or raise the price that is spent on each child participating in the program. The Commissioner responded that the funding would be used to increase the number of slots.

Regarding the RFP, Chairperson Fidler asked how many responses had been received, to which the Commissioner responded that DYCD has received approximately 1,100 responses. Chairperson Fidler was specifically concerned about the level of responses that had been received from providers to serve the “target” zip codes that DYCD identified as having the greatest need. The Commissioner responded that DYCD was just beginning to review these responses and that she would be able to provide a more detailed response regarding the number of responses, the number of slots proposed and the split between year-round and school-year programs in a month’s time.

Chairperson Fidler reminded the Commissioner of concern that had been expressed at an earlier hearing on OST as to what degree funding allocated in the RFP to Option I would actually be awarded to contractors serving the target zip codes. The Commissioner responded that, as she stated earlier, DYCD would give “greater consideration” to providers who would run programs in targeted zip codes. The Commissioner also stated that DYCD was still planning on commencing OST on September 1, 2005 and that DYCD was in regular discussions with Administration for Children Services (ACS) to provide a smooth transition for children who will be transferring from participation in an ACS program to an OST program.

Chairperson Fidler asked about the future status of six programs that are funded under the YDDP funding stream, but provide services during the school day. What does the future hold for these types of programs under the OST system? The Commissioner could not answer with certainty, in that she did not know whether any of these particular groups had applied for OST.

**Summer Youth Employment Program (SYEP)**

Chairperson Fidler expressed great concern and disappointment that the \$11.5 million that the Council restored for SYEP for last summer's program was not included in DYCD's Preliminary Budget. The Commissioner acknowledged that this funding was not included and also acknowledged that the program faced other challenges for the coming summer due to the Governor's proposal to discontinue appropriations for SYEP and instead make SYEP one possible funding option under the State's Flexible Fund for Family Services (FFFS) proposal. In the past the State has appropriated a specific amount for SYEP and the City has received a portion of this funding. The Commissioner also stated that because of the recent rise in the minimum wage from \$5.15 to \$6.00 per hour, if the program does not receive additional funding to compensate for this increase, the program will be in a position where they are forced to offer less slots than they have in the past.

Chairperson Fidler asked the Commissioner to estimate how the minimum wage increase and the lack of \$11.5 million CTL dollars will affect SYEP this summer, to which the Commissioner replied that these circumstances would mean approximately 10,000 fewer slots being offered from the approximately 16,000 slots that were funded with CTL dollars last summer. Chairperson Fidler expressed grave concern about the effect the FFFS proposal would have on SYEP, to which the Commissioner advised that the City opposes the FFFS block grant proposal and that she and her staff were continuing to lobby Albany to restore funding for SYEP. The Commissioner declined to say how many slots were in jeopardy due to FFFS, based on the fact that because summer jobs are discretionary under the FFFS proposal and it is unknown what funding summer jobs would ultimately receive under the proposal.

**Runaway and Homeless Youth**

Chairperson Fidler reiterated the concern the Committee expressed last year over the lack of emergency shelter beds for gay, lesbian, bi-sexual, and transgender (GLBT) youth. The need for expanding the number of emergency shelter beds and transitional beds for GLBT youth was also noted by Councilmember Gerson, who challenged DYCD to move faster to meet the needs of these youth. The Commissioner advised that DYCD planned to release a new RFP for shelter and transition beds this coming autumn, but did not offer specifics on how or if this RFP would be targeted to providing beds for GLBT youth. The Commissioner cited DYCD's long-standing relationship with Covenant House in providing this service. Chairperson Fidler recognized the good work of Covenant House, but expressed concern to the Commissioner about under-utilization of their beds and that, while DYCD-funded beds may reflect a high utilization, when all of Covenant House's beds are looked at, under-utilization will likely be apparent. To resolve this question, Chairperson Fidler called on DYCD to audit the financial and programmatic operations of Covenant House to determine the actual utilization. Councilmember Gerson also recognized the good work of Covenant House, but pointed out that because of this organization's religious affiliation, it may not always be the most comfortable environment for GLBT youth.

**“Hidden Cuts”**

Chairperson Fidler expressed grave disappointment at the fact that the Fiscal 2006 Preliminary Budget contains approximately \$33 million in “hidden cuts” – restorations made for Fiscal 2005 to programs such as the Beacons, Street Outreach and Youthlink, and other Council initiatives that have not been included in the baseline for Fiscal 2006. The Commissioner acknowledged the value of these programs and she remained hopeful that this funding would be restored before

Adoption. Chairperson Fidler appreciated the Commissioner's acknowledgement, but also reiterated his strong opposition to these reductions and the Council's hope that the Administration would restore this funding in time for the Executive Budget.

**Recommendations**

The Committee recommends that the Department of Youth and Community Development (DYCD) insure that qualified proposals to provide Out-of-School (OST) services in the zip codes designated as targeted in the Request for Proposals (RFP) receive adequate consideration in the selection process.

The Committee recommends that DYCD continue to fund qualified school –time programs currently funded by Youth Development and Delinquency Prevention (YDDP) funding. As DYCD currently plans to place YDDP funding within the OST program, the Committee has a special concern that substitute funding for these programs be identified.

The Committee recommends that the Administration restore the \$11.5 million in City Tax Levy funding that was included in the Fiscal 2005 Adopted Budget for the Summer Youth Employment Program (SYEP).

The Committee recommends that sufficient funding be provided to SYEP to provide the maximum possible enrollment.

The Committee recommends that DYCD increase its inventory of emergency shelter beds from 60 to 120. The Committee also recommends that when DYCD releases its next RFP for this service, that sufficient resources in the RFP be targeted to Gay/Lesbian/Bi-sexual and Transgender youth, as these youth continue to demonstrate need for access to the shelter system.

The Committee recommends that \$2.8 million be restored to DYCD's Fiscal 2006 Budget to provide immigrant adults with English for Speakers of Other Languages (ESOL) instruction and legal services for issues related to workplace disputes.

The Committee recommends that \$5.2 million be restored to DYCD's budget in Fiscal 2006 to fund Discretionary Programs selected by each Councilmember to provide youth services within the community.

The Committee recommends that \$8.1 million be restored to DYCD's budget in Fiscal 2006 to fund 66 Beacon programs throughout the City.

The Committee recommends that \$863,000 be restored to DYCD's budget in Fiscal 2006 to fund YouthLink and Drug Prevention and Runaway and Homeless Youth programs for City youth.

The Committee recommends that \$3.5 million be restored to DYCD's budget in Fiscal 2006 to fund programs operated by community based organizations that provide young people with the opportunity to develop skills in athletics, the arts and community service.

The Committee recommends that \$568,000 be restored to DYCD's budget in Fiscal 2006 to fund Community Development programs that provide out-of-school development services, housing assistance to domestic violence victims, and technical assistance for community-based housing development.

The Committee recommends that \$700,000 be restored to DYCD's budget for Fiscal 2006 to fund Helping Involve Parents in Schools (HIP Schools), a web-based system to enable parents, teachers, and principals to interact with each other with the goal of improving student performance.

**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David I. Weprin  
Chair, Finance Committee**

**FROM:       Council Member Michael E. McMahon  
               Chair, Committee on Sanitation and Solid Waste Management**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing  
               Committee on Sanitation and Solid Waste Management**

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On March 8, 2005, the Committee on Sanitation and Solid Waste Management held a hearing on the Fiscal 2006 Preliminary Budget for the Department of Sanitation. Commissioner John Doherty testified on behalf of the Department.

#### **Testimony Summary**

The Commissioner testified about several topics, including the proposed expense and capital budgets for Fiscal 2006 and the outyears, the street cleaning program, the solid waste management plan, weekly recycling and enforcement efforts. He stated that in preparing this budget, the Department sought to achieve a balance between the importance of protecting the public health and environment, with the cost-effective provision of essential sanitation services.

The Commissioner began his testimony by stating that as proposed, the Fiscal 2006 Preliminary Budget allocates \$1 billion in operating funds that will allow the Department to continue its interim waste export program, weekly recycling and the collection of glass recyclables, composting programs and hire additional personnel and reduce overtime.

The Commissioner goes on to say that the Department's capital budget for Fiscal 2006 is approximately \$641.4 million. Of this, \$597.7 million is allocated for construction costs and \$43.7 million for equipment. The Department's total capital commitments-to-date are \$104.4 million, emphasizing that the Department has been ranked as the number one agency for achieving its capital commitment plan for eight out of the past nine years.

With regard to the Department's street cleaning program, the Commissioner noted that at the end of February 2005, the City's overall scorecard rating was 91.3 percent, compared to 89.6 percent during the same period in Fiscal 2004. In the first eight months, no district or section has averaged a score of below 70 percent for streets rated acceptably clean.

The Commissioner informed the Committee that the Department has also expanded Operation N.I.C.E. or the Neighborhood Intensive Cleanup Effort to include all 59 sanitation districts. In Fiscal 2004, Operation N.I.C.E. operated in the 18 sanitation districts that received the lowest scorecard ratings.

The program raised the average of the original 18 districts targeted for improvement by more than 15 points from 71 to 86 and resulted in the cleaning of 1,322 vacant lots. Because of the notable improvements in the participating sanitation districts, the program will be expanded to all 59 sanitation districts citywide.

In regards to the Department's snow budget, the Commissioner informed the Committee that the Fiscal 2006 budget is approximately \$31.9 million after the adjustment based on a five-year average is added. To date, the snowfall total for the City during this year's snow season stands at 38 inches and Department has used 301,164 tons of road salt.

The Commissioner stated that planning for the Department's short and long-term waste management needs continues to be one of the Department's highest priorities. In the meantime, the Department is continuing its interim export operations. In Fiscal 2004 the Department collected and disposed of 3.8 million tons of refuse at a cost of \$257.8 million. From July 2004 through December 2004, the Department spent approximately \$130.1 million in export fees. The Fiscal 2006 budget allocates \$269.9 million in export tipping fees and \$14.9 million for processing costs of metal, glass and plastic recyclables and leaf and Christmas tree composting programs. In addition, approximately \$7.5 million is allocated for public education and outreach measures.

Speaking about recycling, the Commissioner stated that the City is committed to advancing its current recycling program. In Fiscal 2004, the Department announced its decision to enter into a twenty-year contract with the Hugo Neu Corporation to process metal, glass, and plastic and a portion of mixed paper. Additionally, Hugo Neu has commenced the environmental review process for this new facility. It is anticipated that the contract, lease and environmental review will all be completed this fall.

The Department also worked with Dell Computers and Lexmark to award a local non-profit organization a grant to coordinate with the Department electronic drop-off events citywide. This program resulted in 52.7 tons of electronic items collected. In addition, through February 2005, the Department has made 9,486 appointments to remove CFC gas from appliances. To date, 156,742 appliances have been serviced compared to 154,532 appliances during the same period in Fiscal 2004.

The Commissioner also briefed the Committee on the Department's efforts to switch the entire fleet from diesel fuel to ultra-low sulfur fuel two years ahead of the federal requirements. Presently, the Department's entire fleet of 450 street sweepers is equipped with a diesel oxidation catalyst designed to reduce emissions from diesel engine exhaust. Also, approximately 200 refuse collection trucks are currently equipped with the latest after-treatment emission reduction technology devices. The Department was awarded a federal grant of \$136,000 to retrofit 68 collection trucks that operate in four districts in the South Bronx with diesel oxidation catalysts.

Lastly, with regard to addressing various public concerns, the Commissioner stated that the 311 system continues to be a useful tool and all requests for sanitation services and enforcement are referred to the Department.



**Committee Issues and Concerns**

The Committee's questions focused on the following: the snow budget, solid waste management, Fresh Kills landfill closure plans, the Mayor's basket collection program, the supplemental basket program, overtime and productivity improvements, the status of the Hugo Neu contract, and the Staten Island Transfer station.

The Committee wanted an update on the snow budget for the current fiscal year. The Commissioner stated that the Fiscal 2005 Adopted Budget of \$27.7 million is based on a 5-year snow budget average. To date, the Department has spent over \$27 million and the Office of Management and Budget will make up the difference if there is a budget deficit, which he anticipates there will be. On average, the Department spends \$1 million for every inch that falls and the Commissioner stated that at least 38 inches have fallen this fiscal year thus far.

The Chair of the Committee noted that there is a hearing scheduled for March 30, 2005 with regard to the Solid Waste Management Plan (SWMP) and today's hearing would not focus on the SWMP in great detail. The Committee wanted to know what is the Fiscal 2006 waste export budget. The Commissioner provided the following figures: \$269.8 million for export tipping fees; \$14.8 million for processing fees; and \$7.5 million for public education. The Department plans to spend part of the \$7.5 million on a waste characterization study. The Department has not conducted a study since 1989.

The Committee also wanted an update on the status of the final capping and closure plans at the Fresh Kills landfill. The Committee questioned why the Department is not spending the budgeted funding for closure and how this will effect completion of this project. The Commissioner explained that the landfill final capping costs were overestimated and delays in the approval from the New York State Department of Environmental Conservation for its design changes will not effect the final completion of the project. The Department is proposing to cut the Fiscal 2006 budget of \$57 million to \$19 million, however Fiscal 2007 and Fiscal 2008 are budgeted at \$56 million for final capping and closure costs at Fresh Kills.

There were some questions with regard to the proposed elimination of the supplemental basket program and the cut to the Mayor's basket collection and litter patrol program. The Committee had concerns about how the cuts to these two programs would impact the City. The Commissioner told the Committee that the 40 percent cut to the Mayor's program would be balanced throughout the five boroughs. If there were areas that needed more cleaning than other areas the Department would address it on an as needed basis. The Committee was also informed that the cost to continue the supplemental basket program in Fiscal 2006 has increased by \$400,000 to \$1.8 million. The Commissioner was not clear as to why the Department is proposing to cut this program.

The Commissioner was asked what types of productivity improvement plans were in place that resulted in an anticipated overtime reduction in Fiscal 2006. The Commissioner said the Department's good management, more refuse tonnage per truck, and filling vacancies quickly have resulted in an overtime reduction of \$123,000 in Fiscal 2006. Commissioner Doherty provided the following average tonnage figures: in Fiscal 2003 the average was 10.6 tons per truck and 10.8 tons per truck in Fiscal 2004 and 2005.

The Committee also wanted to know when the Hugo Neu contract would be signed. The Commissioner said that Hugo Neu is in the process of working on its environmental impact report and that everything should be completed and the contract signed in the fall of 2005.

Considering the focus on reducing truck traffic, the Chair of the Committee expressed concern about increased truck traffic on City streets. The Committee wanted to know why the Department is increasing the number of truck trips to Visy as opposed to transferring the paper tonnage by barge. The Commissioner stated that it was cheaper to send the increased paper tonnage by truck rather than by barge. Moreover, the Chair wanted to make sure that this transfer station was for Staten Island garbage only. The Commissioner assured the Chair that the transfer station would be used exclusively for Staten Island's garbage.

The Committee also inquired about the status of the Staten Island waste transfer station and who would operate the facility. The Commissioner responded that a Request for Proposals was released and currently the only contractor left to negotiate with is Allied Inc. The Department will operate the transfer station pending its negotiations with Allied Inc.

The Committee inquired about the recycling education budget for Fiscal 2004 and Fiscal 2005. According to the Commissioner, the Department has budgeted \$4 million for each fiscal year for mailing campaigns, telephone solicitation, and newspaper and radio advertising. Commissioner stated that he did not believe that the education program increases the diversion rate.

**Public Testimony**

There was no public testimony.

**Recommendations**

The Committee recommends that DOS and the Mayor never support the re-opening of the Fresh Kills landfill under any circumstances. The Department should continue exploring alternatives to the current waste export contracts such as the acquisition of an upstate landfill.

The Committee recommends that DOS explore new technologies that can turn waste into energy rather than continuing to export trash.

The Committee recommends that DOS restore and baseline funding for the Supplemental Basket Program and the Roosevelt Island Automatic Vacuum Refuse Collection (AVAC) system.

The Committee recommends the Department continue to explore ways to limit the transport of garbage via barge as opposed to by truck.

**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David Weprin  
               Chair, Finance Committee**

**FROM:       Honorable Christine Quinn  
               Chair, Committee on Health**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
               Committee on Health**

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On March 10, 2005, the Committee on Health held a hearing on the Fiscal 2006 Preliminary Budget for the Department of Health and Mental Hygiene (DOHMH), the Office of the Chief Medical Examiner (OCME) and the Health and Hospitals Corporation (HHC). Testifying on behalf of their agencies were Dr. Thomas R. Frieden, Commissioner, DOHMH; Dr. Charles Hirsch, Chief Medical Examiner; and Alan Aviles, Acting President and Chief Executive Officer, HHC.

### **Department of Health and Mental Hygiene**

#### **Hearing Testimony**

In his prepared remarks, DOHMH Commissioner Dr. Thomas Frieden began by highlighting the major accomplishments of the Department over the past year. The cornerstone of these is the *Take Care New York: A Policy for a Healthier New York City* initiative, launched in 2004. This initiative identified ten areas where intervention can avert illness or death. As examples, Dr. Frieden cited the distribution of 25,000 free nicotine patches that were donated by Pfizer Pharmaceuticals, the establishment of three new syringe exchange programs in Queens, a 43 percent increase in the number of colonoscopies performed in HHC's 11 hospitals, and an expansion of the Department's Nurse Family Partnership and Newborn Home Visiting programs that have helped almost 2,000 new mothers be healthier and have healthier babies.

Dr. Frieden reported that the Department had to identify savings of 6 percent in Fiscal 2006. Dr. Frieden continued that, as a result of a combination of administrative efficiencies, improvements in revenue collection and a re-estimate of spending on Early Intervention (EI), the Department would be able to achieve this savings without decreasing services.

Dr. Frieden explained the EI savings as a combination of a re-estimate of the size of the growth of EI and an initiative to realize additional revenue. The Department now estimates that EI will grow at an annual rate of 3 percent, rather than the prior estimated growth rate of 7.5 percent. The second major component of this EI savings will be a Revenue Maximization initiative, whereby the Department expects to increase reimbursement from Medicaid for EI services.

In order to mount a vigorous collection effort, the Department's Fiscal 2006 Preliminary Budget includes \$1.2 million for Department staff to process these Medicaid claims. Dr. Frieden assured the Committee that there would be no reduction in EI services and that the program continues to grow.

Dr. Frieden advised that the Nurse Family Partnership has enrolled 112 clients in Queens, 66 clients in Harlem, and expects to begin enrolling clients at its central Brooklyn site in May. Dr. Frieden stated that it was the Department's goal to enlist private support to assist in the expansion and maintenance of this program. As evidence of this private support, Dr. Frieden cited the Robin Hood Foundation's donation of \$570,000 to assist in the establishment of the Brooklyn site.

The Newborn Visiting Program is currently operating in central Brooklyn and Harlem. This program provides a home visit to first-time mothers and assesses their home in such areas as lead hazards and whether their home offers appropriate nutrition and living space for the newborn.

Dr. Frieden confirmed that the Fiscal 2006 Preliminary Budget includes \$5 million (gross funds) for Fiscal 2006 and the outyears to fund the HIV/AIDS Prevention in Communities of Color Initiative. The Commissioner elaborated that this would provide syringe exchange, rapid HIV testing, prevention efforts for people who are HIV positive, and anti-stigma activities. The Commissioner advised that with this funding, HIV/AIDS prevention funding for Fiscal 2006 would be approximately \$38 million.

Dr. Frieden advised that the Department would be spending approximately \$4 million (gross funds) annually to comply with the Local Law 1 lead poisoning prevention regimen. This is in addition to the \$2.1 million that has been allocated to survey day care centers.

The Fiscal 2006 Preliminary Budget includes \$1.7 million in new funding for the Golden Apple Quality Improvement Initiative to provide training and incentives to restaurants to meet sanitary and food safety standards that exceed the current mandated levels.

The Commissioner advised that the Fiscal 2006 Preliminary Budget includes \$7.3 million (gross funds) to hire school nurses. The Commissioner cautioned that, despite this additional funding, there continues to be a widespread nursing shortage. Because of this, and despite the Department's recruitment efforts, the Department is likely to have more funding than it is able to spend on school nurses. The Commissioner did add that, in the event that the Department was able to recruit more nurses, additional funding would be made available. The Commissioner also added that the Department has sufficient funds to provide summer school nurses for the coming summer at the same level provided last summer.

The Fiscal 2006 Preliminary Budget does not include funding that was included at Adoption last year to operate tuberculosis clinics in Brownsville and Far Rockaway. Dr. Frieden advised that the two clinics remain open, pending finalization of agreements whereby the Brownsville Community Health Center and the Addabo Health Center, respectively, will take over the services these two clinics currently provide. Dr. Frieden commented on the efforts that the Department has made to improve the Bureau of Day Care in the wake of the death of Matthew Perilli, last August.

Among these are the cross-training of Public Health Sanitarians and Early Childhood Educational Consultants for all types of day care. The Department has also increased its staff by 30, enabling the Department to increase the number of inspections from approximately 2,011 in October 2004 to over 2,745 in December 2004. Furthermore, the Commissioner advised that a Day Care Activity Tracking System for Group Day Care facilities and a handheld computer application to document inspection activities were being developed and these should be in place by the end of this month. The Department was also expanding the information on day-care inspections that is placed on the Internet, enhancing the ability of parents to assess the quality of particular day care sites.

Dr. Frieden was critical of the State budget proposal to reduce Article 6 State aid to localities. If this proposed cap is implemented, Dr. Frieden estimated that the cost to the City could be as much as \$15 million in the next calendar year and perhaps even more in the following years. Dr. Frieden asked for the Council's assistance in convincing the State legislature to reject this proposal.

### **Issues and Concerns**

#### **Infant Mortality**

Chairperson Quinn reminded the Commissioner that the Bronx has seen an increase in its infant mortality rate and asked what the Department is doing to address the rising rate of infant mortality in the Bronx. Dr. Mary Bassett, Deputy Commissioner for Health Promotion and Disease Prevention explained that there was a Council-funded infant mortality reduction initiative that provided services in the Bronx. Chairperson Quinn sought clarification on whether this funding was included in the Fiscal 2006 Preliminary Budget, and Dr. Frieden stated that it was not currently in the Fiscal 2006 Budget.

Based on this information, Chairperson Quinn sought to confirm that – in the event the Council funding is not restored – there would be no funding for infant mortality prevention in the Bronx in Fiscal 2006. Dr. Frieden confirmed that this was the case, and added that the Department would like to provide this service in the Bronx. Dr. Bassett advised that the Department has put together a plan on how much it would cost to fund infant mortality prevention services in the Bronx, and Chairperson Quinn requested that the Department share this information with the Committee.

In closing, Chairperson Quinn stated her grave concern that the increasing need for infant mortality prevention services in the Bronx has not received more attention from the Administration.

#### **HIV/AIDS Prevention**

In Fiscal 2002, the New York City Council appropriated funds totaling \$5 million dollars to specifically address the severe, unmet HIV needs here in NYC's communities of color. This HIV/AIDS in Communities of Color Initiative was created to explicitly support a broad range HIV-related care and prevention programs and services provided by NYC community-based organizations of color serving communities of color.

The range of services included care, prevention, education, outreach, advocacy and support services; and an organization of color is defined as a community-based organization where at minimum 51 percent of the board of directors and 51 percent of the key management/decision making staff are comprised of Black, Latino/a, Asian and Pacific Islander, and/or Native American in accord with the client population being served and indigenous to the community.

The Council has continued to fund this initiative on an annual basis in Fiscal 2003-2005 due to the Administration's unwillingness to baseline this funding. In neither Fiscal 2002 nor in any of the years following has the NYC Department of Health and Mental Hygiene appropriately allocated the full amount of the HIV/AIDS Communities of Color Initiative funding consistent with the intent of the New York City Council and the AIDS community. The mayor has baselined \$5m annually for an HIV/AIDS Prevention for Communities of Color initiative beginning in Fiscal 2006.

**Harm Reduction**

Chairperson Quinn commended the Commissioner for his work in establishing three new syringe exchange programs in Queens, but noted that \$858,000 (City Tax Levy, CTL) that was included in Fiscal 2005 for harm reduction has not been included in the Fiscal 2006 Preliminary Budget. The Commissioner confirmed this was the case, and that it was uncertain whether any of the groups that received funding under this initiative would receive funding from the \$5 million (gross) HIV/AIDS Prevention in Communities of Color initiative. Chairperson Quinn reiterated the importance of this funding and these programs. The Commissioner did not take issue with this assertion.

**Lead Safe Houses**

Chairperson Quinn requested an update on the funding for a lead "safe-house" that currently operates in northern Manhattan. Dr. Bassett advised that the City funds three of these units at a cost of \$200,000 and the State funds two units at an approximate cost of \$130,000. Dr. Bassett explained further that the contract to operate these units expires in June of this year. The Department advised that in Fiscal 2006, it plans to close the site in northern Manhattan and move the site to Brooklyn, where the Department maintains that there is a greater need for this type of service. The Department further advised that the northern Manhattan site is actually accessed by greater numbers of people from Brooklyn than from northern Manhattan. Chairperson Quinn questioned this assertion and, while supportive of this service in Brooklyn, stated that there is still a need for this service in northern Manhattan. Chairperson Quinn requested that the Department provide the data on which it based its conclusion that the current northern Manhattan location is serving more Brooklynites than Manhattanites.

**Lead Paint Inspections**

Councilmember Stewart requested an update on the Department's progress in completing lead paint inspections of day care centers. Dr. Jessica Leighton reported that there are approximately 2,000 group day centers and that, to date, the Department has cited 196 of them for lead violations. This testing is being done with XRF machines and it should be completed within six months to one year.

Dr. Leighton also reported that among the Administration for Children's Services day care centers tested, approximately 58% had a lead paint hazard.

Dr. Leighton qualified this high incidence, by adding that the Department selected the centers with the highest risk for initial testing, so it is likely that this percentage will decrease as more centers are tested. Dr. Leighton concluded by stating that the Department was in need of additional resources to do this total testing for lead hazards.

**Pest Control**

Councilmember Perkins requested an update on the Department's pest control efforts and the Department reported that it has received a grant from the federal Centers for Disease Control to establish an Integrated Pest Management training program, and that this will receive \$600,000 over the next three years.

**School Health**

In follow-up to an issue raised last year, when the Department cancelled doctor coverage in schools for the final two weeks of the school year, Councilmember Quinn requested clarification on whether doctors would be provided for the final two weeks of this school year. Dr. Frieden advised that they would be provided this year (Fiscal 2005), but could not commit, at this time, to whether they would be provided in the outyears.

After expressing satisfaction that the Fiscal 2006 Budget contains funding for summer school nurses, Councilmember Quinn asked, if the number of students enrolled in summer school rose from summer 2004 numbers would the Department have sufficient funds to pay for additional nursing coverage. Dr. Roger Platt advised that the Department is in consultation with the Department of Education and based on these discussions, he believed that the same amount of summer school nursing coverage from last year would be sufficient for this year. Councilmember Quinn reiterated her concern about this issue and requested that at the Executive Budget, the Department present the latest estimate on the number of children who would be enrolled in summer school. Councilmember Quinn also requested additional information on the Automated Student Health Records (ASHR) that the Department uses to monitor student health, and in particular asthma among students.

Regarding the longstanding difficulty in recruiting school nurses, Councilmember Stewart asked if the Department directed any of its recruitment efforts overseas. At this time the Department does not recruit overseas and Dr. Frieden did not mention any plan to commence overseas recruitment.

**Prison Health Services**

Councilmember Clarke sought clarification on the contract that the Department recently completed with Prison Health Services, Inc. to provide health services to inmates in City jails. This contract received considerable attention in a series of recent New York Times articles detailing instances where Prison Health had provided substandard care in jails in the City and elsewhere. Dr. Frieden responded that despite his efforts to secure a large number of responses to the Department's Request for Proposals (RFP), only four contractors submitted bids and all of these were for-profit entities. Among those four, Dr. Frieden continued that Prison Health submitted the best bid, both in terms of the quality of service they would provide and the price at which they would provide them.

Dr. Frieden made the following points about the current contract. The first of these was that this contract does not offer Prison Health any incentives to increase their profit by reducing services. Specifically, payments for medications and hospitalizations were separated from this contract. That is, Prison Health will have no incentive to withhold these services in the hope of increasing their profit. Finally, Dr. Frieden emphasized the difference between the Health Department monitoring performance under this contract as opposed to having a correctional agency monitoring a health-services contract. In most of the cases cited in the Times articles, Prison Health had contracts with a local Sheriff's office.

Councilmember Perkins expressed concern about HIV/AIDS in New York City jails and about the rate of HIV/AIDS in African-American males returning from City jails. Dr. Frieden advised that he would forward information the Department has on HIV/AIDS rates in City jails. Dr. Frieden continued that HIV/AIDS is a serious problem in the City's jails, that this area is underfunded, but that he was seeking additional funds for this service and seeking support from community based organizations to provide this service, should funding become available.

**Dental Van**

Councilmember Sears criticized the Department for its failure to include funding for the New York University Dental Van in the Fiscal 2006 Preliminary Budget. In Fiscal 2005, the Council restored \$268,000 (CTL) for this service for low-income children city-wide. Councilmember Sears continued that school-based dental services should be expanded rather than reduced. Dr. Frieden commented that the Department does provide dental services in schools. Chairperson Quinn supported Councilmember Sears' assertion and commented that in addition to the dental van, there are over \$22 million in funding for public health services that was included in the Fiscal 2005 Adopted Budget that has not been included in the Fiscal 2006 Preliminary Budget and that this funding should be baselined.

**Recommendations**

The Committee recommends that the Department utilize the \$5 million (gross funds) HIV/AIDS Communities of Color, currently included in the Fiscal 2006 Preliminary Budget, in a manner that recognizes the expertise that community-based organizations have developed over the past three years in providing HIV/AIDS prevention services within communities of color. The City Council urges the Mayor to abide by the original intent of this initiative and allocate the baselined Fiscal 2006 as follows: a.) in a manner consistent with the strategy used by the Department of Health in Fiscal 2002 to distribute these funds competitively, based upon a simplified application for eligibility, to community-based organizations serving communities of color - giving preference to those where a majority of the board of directors and key senior and program staff are of racial and ethnic minorities reflective of the population served, and are indigenous to the communities being served - to support innovative multi-year service strategies addressing the full range of the HIV-related needs of communities of color, with significant attention to the needs of smaller organizations meeting specialty needs of specific communities and neighborhoods, and b.) to carve-out funding within this initiative that would extend support through their original term only those multi-year awards currently operating that were allocated to community-based organizations by the Department of Health and Mental Hygiene derived solely from city tax-levy HIV/AIDS Communities of Color funds in Fiscal 2005.



The Committee recommends that the Department restore the additional \$2.4 million (CTL) to the HIV/AIDS Communities of Color Initiative and the \$858,000 (CTL) to the Harm Reduction Initiative that were included in the Fiscal 2005 Adopted Budget, but have not been included in the Fiscal 2006 Preliminary Budget.

The Committee is deeply concerned about the rising infant mortality rate in the Bronx and the fact that the Preliminary Fiscal 2006 Budget contains no funding for infant mortality prevention for the Bronx. The Committee strongly encouraged the Department to secure funding to meet this critical, underserved need.

The Committee commented on the alarming numbers of inmates returning from incarceration who are infected with HIV/AIDS, and recommends that the Department increase its efforts to contain the incidence of HIV/AIDS within City jails. The Committee recommends that the Department expand its lead safe-house capacity and that its current northern Manhattan lead safe-house remain open in Fiscal 2006.

The Committee recommends that the Department provide safety training for food-service workers to prevent injury to food service workers and protect the health of customers. The Committee recommends that as the Department enters new agreements with providers for Early Intervention (EI) services, it pay particular attention to ensuring that previously underserved and less affluent communities receive adequate EI services.

The Committee recommends that the Department provide \$5.3 million in funding to maintain the Department's subsidy for eleven Child Health clinics.

The Committee recommends that the Department restore the funding for the following programs to the Department's baseline budget: Infant Mortality Reduction Initiative (\$2.8 million), Cancer Prevention Initiative (\$781,000), Asthma Control Programs (\$445,000), School-based Clinics (\$536,000), Administrative Fee Waivers for Prescriptions (\$2.4 million), Community Healthcare Network (\$690,000), HIV/AIDS counseling and education (\$207,000), Emergency Preparedness Programs (\$1.4 million), the Asian-American Hepatitis B Project (\$1.3 million) and the New York University Mobile Dental Van (\$268,000).

### **Office of the Chief Medical Examiner**

#### **Hearing Testimony**

Dr. Hirsch stated that the Office of the Chief Medical Examiner (OCME) has identified remains of 1,585 of the 2,749 victims of the September 11, 2001 attack on the World Trade Center. Of the 19,915 recovered remains, OCME has identified 52 percent of them. Dr. Hirsch advised that OCME has exhausted currently available technology in making these identifications. Beginning in January, OCME staff began making phone calls to victims' families to advise them of the pause in their identification operations. Dr. Hirsch continued that OCME has entered several contracts with outside providers, in the hope of developing new technologies that will facilitate the identification of additional remains. Dr. Hirsch advised that the Fiscal 2006 Preliminary Budget contains \$5.35 million for WTC-related operations, comprised of \$2.1 million for maintenance of systems and facilities and \$3.25 million for the development of new systems.

Dr. Hirsch confirmed that OCME's new Forensic Biology Laboratory is scheduled to open in November 2006, and that OCME is funded for phased-in staffing of this facility from late in Fiscal 2006 through Fiscal 2008. When completed, the new facility will have over 600 additional employees at an additional cost of approximately \$30 million.

Dr. Hirsch continued that OCME is currently recruiting personnel to staff a training laboratory at Bellevue Hospital. The lab was scheduled to open last spring, but has been delayed because the space is currently occupied by the Evidence Examination Unit, which was displaced by other construction at Bellevue. OCME is currently looking for a permanent location for the Evidence Examination Unit. Dr. Hirsch also commented that the transfer of the Evidence Examination Unit has had a negative effect on the turnaround time for DNA identification cases.

Dr. Hirsch concluded by stating that OCME's Fiscal 2006 Preliminary Budget is \$56 million, comprised of \$45 million for personal services and \$11 million for other than personal service. Dr. Hirsch confirmed that OCME will meet its planned reduction of \$3.1 million (CTL) by delaying the hiring of 84 positions, due to the delay in the opening of the Forensic Biology Laboratory.

**Recommendations**

The Committee will continue to assist OCME as it enters contracts to develop the technologies required to identify unidentified remains from victims of the WTC attack.

The Committee will continue to assist OCME in opening its Forensic Biology Laboratory and in locating a permanent location for its Evidence Examination Unit.

**Health and Hospitals Corporation****Summary of Testimony**

On March 10, 2005 the Acting President of the Health and Hospitals Corporation (HHC), Alan Avilés, Esq. testified before the Committee on Health regarding the Fiscal 2006 Preliminary Budget. Two senior officers (Marlene Zurack, Senior Vice-President for Finance and LaRay Brown, Senior Vice-President Corporate Planning, Community Health and Intergovernmental Relations) also testified with him during the questions and answers period.

Mr. Avilés introduced himself as the new acting President of the Corporation and expressed his commitment to continue the implementation of initiatives aimed at improving service delivery and the financial stability of the Corporation. These include increasing enrollment in public health programs, increasing revenues, containing costs, increasing organizational efficiency through the use of the latest information technologies and engaging in process redesign efforts to improve patient services by tapping the institutional knowledge and experience of HHC staff.

Mr. Avilés' noted that, as in past years, HHC continues to face fiscal challenges. With projected Fiscal 2006 costs of \$4.7 billion and anticipated revenues of \$4.1 billion, the Corporation faces a shortfall of approximately \$450 million in Fiscal 2006 after taking into account the \$150 million pre-payment it will receive in June 2005.

The Corporation plans to address the projected \$450 million shortfall through a number of initiatives. These include additional State and Federal revenues of \$275 million; savings of \$100 million from a hiring freeze on non-essential personnel and restrictions in the use of overtime; and continued risk management and malpractice cost containment efforts.

With respect to cuts to the Corporation, Mr. Avilés noted that in addition to a Preliminary Plan PEG of \$11.4 million, which reduces the \$150 million subsidy to \$138.6 million, the Corporation faces a \$2.4 million cut for medication fee waivers, a \$5.3 million reduction in City funds to the child health clinics, and a \$6.2 million City funds cut for substance abuse, mental health and mental retardation/development programs funded through the Department of Health and Mental Hygiene (DHMH). With respect to the mental health/substance abuse cuts, Mr. Avilés indicated that if enacted, the mental health cut would increase waiting times to 3 - 4 months for non-crisis child and adult patients, and the substance abuse cut would target rehabilitation services.

With respect to the clinics, Mr. Avilés, LaRay Brown and Marlene Zurack stated that the Corporation is not planning “to take action” as a result of these cuts. These HHC officials stated that the Corporation will seek further enhancements and work to expand prevention and screening. Ms. Zurack also stated that the child health clinics operate with a \$10 million shortfall: while it costs \$21 million to operate the clinics, HHC collects revenues of \$6 million from health insurance plans and \$5 million from DHMH, resulting in \$10 million in unreimbursed costs.

While Mr. Avilés said that he is committed to preserving services despite the reductions, Marlene Zurack noted that the \$11.4 million will be “tough to implement.” This reduction is in addition to past cuts that HHC has faced but has absorbed, such as the \$4.4 million cut to Communicare clinics. Marlene Zurack added one past cut that HHC did not absorb was a \$714,000 reduction to TB services at a long-term facility that had difficult-to-treat patients with tuberculosis, but the funding for this particular service is no longer needed.

While the State budget is now under negotiations in Albany, Mr. Avilés explained that if the State budget were to be enacted with the Governor’s cuts to public health insurance and health care providers, HHC would stand to lose some \$300 million. He testified that HHC would not be able to absorb the magnitude of this cut without compromising the level of care that HHC currently provides. These potential State cuts would force HHC to restrict access to primary care, curtail disease management work, and significantly limit health promotion efforts.

## **Issues and Concerns**

### **Child Health Clinics**

The Committee is concerned about the potential impact of the proposed \$5.3 million in City funds (\$7.8 million in gross funds) to the child health clinics which are already operating under a deficit. The Committee will continue its work with the Joint Working Group on Pediatric Care to identify health resources that are available citywide and assess the City’s pediatric health care needs.

**Outpatient Prescription Medication**

Prescription medication represents an essential, cost-effective component of health care delivery. Given the large number of uninsured individuals being cared for at HHC and the rising costs of medication, it is essential to at the very least maintain the current level of funding for the medication fee waivers.

**Recommendations**

The Committee recommends the restoration of \$5.3 million to DHMH for the child health clinics (\$7.8 million in gross funds).

The Committee recommends the restoration of \$2.4 million to DHMH for outpatient medication fee waivers.

The Committee recommends the restoration of \$6.4 million to DHMH for mental health and substance abuse services.

The Committee recommends the restoration of \$207,000 to DHMH for HIV/AIDS services.

**TO:           Honorable Gifford Miller  
              Speaker**

**Honorable David I. Weprin  
Chair, Committee on Finance**

**FROM:       Honorable Helen Sears  
              Chair, Committee on Standards and Ethics**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing  
              Committee on Standards and Ethics**

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**Introduction**

The Committee on Standards and Ethics conducted its Fiscal 2006 Preliminary Budget Hearing on Thursday, March 10, 2005. Executive Director Mark Davies testified on behalf of the Conflicts of Interest Board regarding its Fiscal 2006 Preliminary Budget. This memorandum summarizes the testimony presented by Mr. Davies and the issues, concerns and recommendations expressed by the Committee.

**Conflicts of Interest Board****Hearing Summary**

Mr. Davies provided the Committee with two handouts relating to his opening testimony: The Conflicts of Interest Board's 2004 Annual Report and an exhibit of how the Board has dealt with these budget cuts and their performance over the last ten years.

Mr. Davies testimony informed the Committee that any further reductions to the Board's budget would cripple their agency. This is due to the fact that the Conflicts of Interest Board can't sustain cuts that other agencies have due to their limited resources since they have no vacancies and a minimal Other Than Personal Services (OTPS) budget. He commented on how the Preliminary Fiscal 2006 Expense Budget does not include a restoration for the Training and Education Unit. He went on to say that without this unit, the Board would be in violation of the City Charter. Mr. Davies concluded on the subject by saying that the only funding request the Board would be making is that the \$143,000 for the Training and Education Unit be restored and baselined.

Mr. Davies stated that the Board is hurting in other areas as well, mainly in the Legal Advice and Enforcement Units. In the Legal Advice Unit, telephone requests for advice have jumped from 1,650 to 2,633 (59.6 percent) from 2001 to 2004. He asked the Committee to bear in mind that the headcount for this unit has remained at three over the same time period. Also, the average age of requests for legal advice has jumped from 18 days in 2001 to eight months in 2004. In the Enforcement Unit, complaints received have jumped from 124 to 307 (147.6 percent) from 2001 to 2004 while the headcount for this unit has stayed at four over the same time period.

Also, referrals to the Department of Investigation (DOI) have increased from 49 in Fiscal 2001 to 156 in Fiscal 2004 an increase of 218.4 percent. Mr. Davies concluded his testimony by stating that he believes the Board should have a guaranteed budget like the Campaign Finance Board and the City Council.

**Issues and Concerns**

The Committee inquired about Web based interactive training. Mr. Davies responded by stating that interactive training would not be sufficient to provide the necessary training that would be needed. He also stated that machines can't replace human trainers primarily because during training people raise questions and possible ethics violation scenarios that a computer could not possibly conduct on its own. Mr. Davies did say that he did not want to minimize the importance of computer-based training and that it a very valuable component.

The Committee asked Mr. Davies how much time the Board spends on mayoral agencies as opposed to the City Council. Mr. Davies explained that the Board spends about 98 percent of its time regarding issues pertaining to mayoral agencies and only two percent of its time on City Council issues. After the explanation, the Committee raised the issue that since a vast majority of the Board's time is spent on issues from mayoral agencies that the \$143,000 for the Training and Education Unit be restored and baselined in the Fiscal 2006 Executive Budget.

The Committee expressed concern about whether the increase in referrals was due to more complaints being filed. Mr. Davies responded by stating that an increase in training also increases the amount complaints due the fact that when people receive advice and become aware of what the ethics laws are they become more inquisitive. Hence, the increase in referrals and complaints are due to an increased sense of awareness from ethics training.

The Committee expressed concern about whether agencies are mandated to receive ethics training. Mr. Davies stated that the Conflicts of Interest Board is mandated to conduct ethics training even though agencies are not mandated to receive it. He went on to say that the Board must convince an agency to receive ethics training and that in the end it is ultimately up to the agency if they want to receive it.

**Recommendations**

The Committee and its Chair feel very strongly that the City of New York should have a proactive and well-funded Conflicts of Interest Board. As cited above, the Board has been increasingly productive in recent years despite having been the subject of minimal funding. The Committee recommends that the Executive Budget restore and baseline the Board's \$143,000 and three positions that provide charter mandated ethics training. The Committee also recommends that the Executive Budget not propose any further cuts to the agency because any such cuts would prevent the agency from fulfilling its Charter-mandated duties, including training and education.

**TO:           Honorable Gifford Miller  
              Speaker**

**Honorable David Weprin  
Chair, Finance Committee**

**FROM:       Honorable Margarita Lopez  
              Chair, Committee on Mental Health, Mental Retardation, Alcoholism &  
              Drug Abuse and Disability Services**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
              Committee on Mental Health, Mental Retardation, Alcoholism & Drug  
              Abuse and Disability Services**

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### **Hearing Testimony**

Dr. Thomas R. Frieden, Commissioner of the Department of Health and Mental Hygiene (“the Department”) testified on behalf of the Division of Mental Hygiene (DMH). Dr. Frieden began his prepared remarks by announcing that the Department’s Fiscal 2006 Preliminary Budget contained no reductions from prior financial plans. The Commissioner admitted that, in the past, the Council and the Administration have differed on what constitutes a “cut,” with the Administration defining “cut” as a reduction to the baseline and the Council defining “cut” in broader terms to include one-year restorations that are not carried over from the prior year’s Adopted Budget. Dr. Frieden acknowledged that the Fiscal 2006 Preliminary Budget did not include funding that had been included in the DMH’s Fiscal 2005 Adopted Budget.

The Commissioner continued that the Department has been able to achieve its six percent reduction target, without reducing baseline services, through a re-estimate of the Department’s Early Intervention (EI) program. In terms of the budget, the Commissioner noted that EI is the Department’s largest single program and that, as per the request of Chairperson Lopez, the program will be transferred to DMH, effective the start of Fiscal 2006.

The Commissioner explained the cost savings as a re-estimate, where the annual growth of participation in EI would be reduced from 7.5 percent each year to 3 percent. The Commissioner explained further that the Department’s goal for EI was to ensure that the appropriate services go to the children who have a legitimate need for them. This includes utilizing standardized instruments in the evaluation process and beginning to have DMH personnel conduct these evaluations. The Commissioner pointed out that it is the Department’s goal to insure that the EI program is culturally competent to provide services in the diverse communities of the City.

The Commissioner described a new EI service delivery model – *Families as Partners* – that aims to increase family participation and make family members’ more aware of the child’s disability. The Commissioner also described the use of 311 for advertising EI services and requiring billing within 90 days as important for increasing accountability among providers.

The Commissioner continued with a summary of initiatives DMH is developing in cooperation with the Federation of Mental Retardation/Developmental Disability Council chairs to meet various needs within the MR/DD community. These include: developing psychiatric inpatient capacity for MR/DD patients who also suffer from an acute mental illness; developing capacity for alcohol and substance treatment programs for adults with MR/DD; and finally analyzing the difficulties of MR/DD clients who are transitioning out of the public school system at age 21.

In the area of mental health, the Commissioner reported that DMH has been able to utilize \$1.3 million in previously unallocated Comprehensive Outpatient Program Services (COPS) funding to award 15 clinics additional funding that will enable them to increase the City's clinic capacity by nearly 34,000 visits per year.

In the area of alcoholism and substance abuse prevention, the Commissioner highlighted two new programs. The first will provide funding for a new alcohol treatment program at the emergency departments of five HHC hospitals that will screen patients, provide a brief intervention, and offer a referral for treatment. This program, allocated \$500,000 in Fiscal 2005, will pay for publication of an issue of City Health Information describing the procedure and will enable HHC to purchase the training module for the five hospitals. The Commissioner is hopeful to find funding in Fiscal 2006 to expand this program. The second initiative will increase access to buprenorphine, a new treatment for individuals addicted to heroin. DMH will provide \$40,000 to each of 12 medical centers that have outpatient substance abuse programs, eight of these will be HHC facilities and four will be in the voluntary sector.

The Commissioner noted that the gravest threat to DMH's budget for Fiscal 2006 comes from budget cuts at the State level. As an example, the Commissioner cited twenty-six mental hygiene programs that received State funding through City contracts, but because of State budget cuts will have their funding reduced beginning July 1, 2005. The Commissioner noted that, despite the fact that a reduction in State funding is the issue, DMH has been able to secure funding to keep these programs intact through Fiscal 2005. In addition to this reduction are further proposed State budget reductions to local mental health programs that could be as high as \$2 million for New York City.

On the positive side, the Commissioner advised that the proposed State budget includes funding to increase the Medicaid reimbursement rate for freestanding mental health clinics, operating stipends for supported housing beds, and adding funding to create new residential and day services. However, the State budget also contains proposed reductions to local chemical dependency providers that could amount to more than \$2 million for New York City.

Returning to Early Intervention (EI), the Commissioner described proposals in the Governor's budget, including raising the parental fee level and allowing counties to negotiate their own rates for EI services. The Commissioner noted that the Governor has submitted these proposals in the past, and the Legislature has declined to enact them.

The Governor's proposed budget also includes a proposal to eliminate mental health services for low-income families that are enrolled in Family Health Plus. The Commissioner stated that he was deeply disturbed by the consequences of this proposal, and noted that, in 2004, 19,000 Family Health Plus enrollees accessed mental health services.



The Commissioner advised the Committee that he has visited Albany to advise lawmakers that this proposal would be harmful to the City.

Regarding the federal budget, the Commissioner warned that the President's proposed budget eliminates the capital allocation for Section 811 and reduces the overall budget for this program by half. In New York City, this program funds more than 500 units of housing for mentally ill and physically disabled individuals.

### **Issues and Concerns**

#### **Reductions to 26 Programs**

Chairperson Lopez expressed deep disappointment that the funding to the 26 programs the Commissioner referred to in his opening remarks would be reduced for Fiscal 2006. While acknowledging that the Commissioner was carrying out the directive of the State, Chairperson Lopez had concerns regarding how the programs were selected and what efforts the Commissioner was taking to have this funding restored.

The Commissioner explained that the State ordered DMH to make \$3.15 million in reductions, as well as ordering DMH not take the reductions against any programs in thirteen specific programmatic categories, including residential programs, psychiatric emergency programs and psychosocial clubs. The Commissioner added that the programs that were off-limits for reduction are the same categories that have been identified for conversion to the State's Personalized Recovery Oriented Services (PROS) program.

Chairperson Lopez took issue with the Commissioner's assertion and specifically noted that one of the programs that has been identified for a reduction – Hospital Audiences – is a psychosocial club. Chairperson Lopez requested a meeting with the Commissioner to discuss the criteria by which programs were selected for reduction and the Commissioner stated that he would be happy to meet with Chairperson Lopez to discuss this issue.

In addition to voicing support for these programs and promising to do all she could to keep these reductions from being implemented, Chairperson Lopez criticized the Commissioner for what she believed to be an insufficient effort to have this funding restored by the State. The Commissioner responded that he is doing what he can do to have the funding restored, including personally traveling to Albany.

#### **Early Intervention**

Chairperson Lopez took issue with the Commissioner's justification that the growth rate for Early Intervention (EI) services is declining. In particular, Chairperson Lopez noted the growing number of children who suffer from autism and the effects of exposure to lead paint. The Commissioner responded by stating that the program will continue to grow and serve additional children. The following factors account for the decline in the growth rate: DMH's cancellation of contracts with substandard providers and a standardized evaluation for children. The Commissioner also made a point that DMH was making a concerted effort to insure that services are directed to communities where the need is greatest.

Aside from the decline in the EI growth rate, the Commissioner attributed the Department's expected savings to a Revenue Maximization Initiative where the Department would realize additional revenue from Medicaid claims that were previously denied. Chairperson Lopez asked about the Department's results with billing for private insurance. The Commissioner answered that the Department is only able to collect approximately ten percent of the amount they bill private insurance.

#### **Children Under Five Mental Health Initiative and Crystal Methamphetamine Prevention Initiative.**

Chairperson Lopez expressed extreme disappointment that \$670,000 (City Tax Levy, CTL) that was included for the Children Under Five Mental Health Initiative and \$670,000 (CTL) included for the Crystal Methamphetamine Prevention Initiative in the Fiscal 2005 Adopted Budget are not included in DMH's Fiscal 2006 Preliminary Budget. The Commissioner acknowledged that this funding was not included in the Preliminary Budget and also voiced support for these programs. Chairperson Lopez asked about the status of each of these contracts. The Commissioner responded that while none of the contracts had yet been registered with the Comptroller, all of the Children Under Five contracts had been signed and a public hearing on these was scheduled for March 22, 2005. The Commissioner continued that DMH was moving forward with the registration process for the Crystal Methamphetamine prevention contracts.

#### **Prison Health Services**

Chairperson Lopez sought clarification on the contract that the Department recently completed with Prison Health Services, Inc. to provide health services to inmates in City jails. This contract received considerable attention in a series of recent New York Times articles detailing instances where Prison Health had provided substandard care in jails in the City and elsewhere. Dr. Frieden responded that despite his efforts to secure a larger number of responses to the Department's Request for Proposals (RFP), only four contractors submitted bids and all of these were for-profit entities. Among those four, Dr. Frieden continued that Prison Health submitted the best bid, both in terms of the quality of service they would provide and the price at which they would provide them. Chairperson Lopez asked which other contractors submitted bids, and the Commissioner stated that he would provide this information.

The Commissioner made the following points about the current contract. The first of these was that this contract does not offer Prison Health any incentives to increase their profit by reducing services. Specifically, payments for medications and hospitalizations were separated from this contract. That is, Prison Health will have no incentive to withhold these services in the hope of increasing their profit. Finally, the Commissioner emphasized the difference between the Health Department monitoring performance under this contract as opposed to having a correctional agency monitoring a health-services contract. In most of the cases cited in the Times articles, Prison Health had contracts with a local Sheriff's office.

Chairperson Lopez requested confirmation on a dollar amount for how much would be spent on mental health services under this contract and a percentage figure of what this represents of total contract funding. The Commissioner did not have this figure available, and promised to provide it to the Committee.

**DMH Preliminary Fiscal 2006 Budget**

Chairperson Lopez requested confirmation on how much of DMH's Fiscal 2006 Preliminary Budget of \$792 million was comprised of City Tax Levy dollars and how much was comprised of either State aid or Medicaid dollars. The Commissioner stated that he did not have that figure available, but that he would provide it. Chairperson Lopez also sought confirmation on whether approximately \$12.8 million in funding that was included in the Fiscal 2005 Adopted Budget to provide services for mental health, developmental disability, and alcoholism and substance abuse prevention services in the voluntary sector, private hospitals and HHC facilities had been eliminated from the Fiscal 2006 Preliminary Budget. The Commissioner confirmed that this funding was not in the Fiscal 2006 Preliminary Budget. Chairperson Lopez expressed great disappointment that this funding had not been included, and reiterated the importance of these programs.

**Recommendations**

The Committee recommends that the Administration restore the following funding to the Division of Mental Hygiene's Fiscal 2006 Budget to sustain the following programs: \$3.3 million for Mental Health/Substance Abuse Programs at HHC facilities; \$2.6 million for Mental Health/Mental Hygiene programs at HHC facilities; \$1.2 million in funding for Mental Health Voluntary Sector Contracts; \$1.2 million in funding for Alcoholism and Substance Abuse Prevention Voluntary Sector Contracts; \$1.3 million in funding for programs serving the mentally retarded and the developmentally disabled; and \$1.7 million for programs run by mental health providers and hospitals throughout the City.

The Committee recommends that the Administration baseline funding for mental health services specifically targeted to Children Under the Age of Five. The Committee recommends that the Administration baseline funding for crystal methamphetamine prevention and education.

The Committee recommends that the Division of Mental Hygiene target its Early Intervention services in communities where there is the greatest need and that the Division of Mental Hygiene recognizes an increasing need for Early Intervention services due to incidence of lead poisoning and autism.

The Committee recommends that the State and the Administration work together to fashion a solution to insure that twenty-six community-based mental health programs remain at full funding in Fiscal 2006. DMH reduced funding for these programs by a collective \$3.15 million following the State's failure to restore this funding to the State's Fiscal 2004-2005 budget.

The Committee recommends that the State and DMH fashion a solution to insure that under a Comprehensive Outpatient Provider System (COPS) program, accommodations are made to insure the viability of programs that cannot adapt to a Medicaid- fee-for-service model of billing.

The Committee recommends that the Division of Mental Hygiene recognize the unique mental health needs of senior citizens and work with the provider community to develop mental health services targeted to the particular needs of seniors.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Committee on Finance**

**FROM:       Honorable Yvette D. Clarke**  
**Chair, Committee on Fire and Criminal Justice Services**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Fire and Criminal Justice Services**

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### **Introduction**

The Committee on Fire and Criminal Justice Services conducted its Fiscal 2006 Preliminary Budget Hearing on Friday, March 11, 2005. Agencies appearing before the Committee were the Criminal Justice Coordinator (testifying regarding the indigent defense system), the Legal Aid Society, the Fire Department, the Department of Probation and the Department of Correction. During the public testimony portion of the hearing the Council heard from representatives of several indigent defense providers and criminal justice programs.

This memorandum summarizes the testimony presented by the agency heads and the issues, concerns and recommendations expressed by the Committee.

### **Indigent Defense**

#### **Hearing Summary**

Criminal Justice Coordinator John Feinblatt indicated that Fiscal 2005 spending on indigent defense services will be about \$197.5 million. This includes \$71.6 million for the Legal Aid Society, \$25.9 million for seven alternative providers and \$100 million for 18-b expenses including Family Court. As per the January Plan, total indigent defense spending is scheduled to rise to \$202.5 million.

Mr. Feinblatt discussed the various steps that his office has taken over the last several years to control costs and ensure quality of legal representation. He discussed the recent re-organization of Legal Aid's finances and his office's continuing monitoring of the Society's budget and caseload statistics. He reported that Legal Aid is exceeding the minimum percentage of cases in the arraignment parts that it staffs, and that he will continue to work with Legal Aid to stabilize its operations.

Regarding the alternative providers, Mr. Feinblatt indicated that they continue to be effective advocates for their clients. When asked about the providers' contention that they need additional funding to keep up with inflation, he stated that he was in discussion with them about the sufficiency of their funding.

Regarding the 18-b budget, the Criminal Justice Coordinator reported that significant uncertainty exists as to the level of State support that the City can expect. He testified that the amount of revenue coming into the State's Indigent Defense Fund is uncertain, as is the percentage of the Fund that will be available to the City.

Funding for neither the Neighborhood Defender Service (NDS) nor the Office of the Appellate Defender (OAD) is included in the Fiscal 2006 Preliminary Budget. When questioned about the lack of baseline funding for the Neighborhood Defender Service (NDS) and the Office of the Appellate Defender (OAD), Mr. Feinblatt reiterated his position that his office is precluded from doing so because these agencies failed to secure a contract through the Request for Proposal (RFP) process. He did indicate, however, that NDS and OAD continue to perform satisfactorily with the City Council discretionary appropriations made annually.

Mr. Feinblatt reaffirmed his belief that, "a healthy criminal justice system requires a strong defense bar, just as it requires a strong prosecution," and he also indicated his opinion that, "the state of the defense bar is healthy in New York and it is still cost effective.

Testifying on behalf of the Legal Aid Society were Peter v. Z. Cobb, its new President, and Steve Banks, its Associate Attorney-in-Chief. Their prepared testimony discussed at length recent developments at the Society, chief among them its financial restructuring. In discussing Legal Aid's Criminal Defense funding, they reported their pleasure in being able "to report to the Council that the Administration has informed us that it will restore a proposed \$2 million reduction in our criminal defense funding that had been proposed in the Fiscal Year 2006 Preliminary Budget." Regarding the Society's civil legal services, Legal Aid called for the restoration of City Council funds for work related to: citywide low-income legal services; anti-eviction and SRO representation; and advocacy pertaining to the Earned Income Tax Credit (EITC).

### **Recommendations**

Legal Aid Society: The Committee recommends that the Office of the Criminal Justice Coordinator continue to work with the Legal Aid Society to ensure that the Society has the resources it needs to furnish the type of outstanding advocacy for which it is known.

Neighborhood Defender Service (NDS): The Committee recommends that NDS's budget be increased to \$3 million in the Fiscal 2006 Executive Budget in accordance with the organization's stated needs.

Office of the Appellate Defender (OAD): The Committee recommends that OAD's Budget be increased to \$2 million in the Fiscal 2006 Executive Budget in accordance with the organization's stated needs. Additionally, consideration should be given to meeting OAD's request for a one-time appropriation of \$250,000 related to the entity's evolving lease issues.

Legal Services for New York (LSNY): The Committee recommends that funding of \$500,000 for LSNY's Keeping Families Together Program be included in the Fiscal 2006 Executive Budget.

### Fire Department

Testifying on behalf of the agency were Nicholas Scopetta, Commissioner, Stephen Rush, Assistant Commissioner of Budget, Daniel Shacknai, Deputy Commissioner for Intergovernmental Affairs and Management Initiatives, and Peter Hayden, Chief of the Department.

#### Hearing Summary

The Commissioner started his testimony by addressing the January Financial Plan. Despite the numerous budget reductions in the past, the Commissioner was upbeat about the improved economic environment in New York City and noted that management improvements and revenue initiatives, rather than service reductions, make up the bulk of the Department's Programs to Eliminate the Gap (PEG) savings. He pointed out the mandatory PEG restoration associated with the elimination of the fifth post on 49 of 60 Engine Companies that are staffed with an extra firefighter. He recounted for the Committee that the Department restored the five-firefighter staffing just two months after the decision was made to reduce it, thanks to improved medical leave levels.

On the issue of service levels, the Commissioner stated that current levels of service remain excellent and that he does not foresee a restoration of service levels to those that existed prior to our recent tough fiscal times. However, he stated his belief that with the infusion of homeland security grant funding, the Department will be able to improve its operational capabilities to respond to terrorism threats.

The Commissioner testified that the Fiscal 2005 Financial Plan requires all uniformed agencies to reduce their total City-funded overtime budgets by ten percent, or specifically for the Department, \$10 million. The Commissioner mentioned that the Department plans to reduce overtime through retirement of injured firefighters who cannot return to full duty, which will result in full-duty hires. He also stated that the FDNY will go "over quota" by increasing the class size of uniformed firefighters by 250 more than the standard roster level. This acceleration will in turn generate a savings of \$6 million in Fiscal 2006 and Fiscal 2007. The increased uniform staffing, along with tightened controls on medical leave, will help to lower the Department's City-funded overtime spending

On the issue of EMS revenue collection, the Commissioner testified that the Department expects further improvement in the collection of ambulance transport revenue. The January Plan targets \$52.3 million in collections, in conjunction with Medicaid reimbursements of \$62.7 million from HHC for a realization of over \$115 million in Fiscal 2006. The billing vendor, HMS, is in the third year of a five-year contract. Along with HMS, the Department plans to hire six (6) individuals who will work with the State Insurance Department to ensure that non-paying insurance companies make their payments to the FDNY.

On the issue of additional revenue collection, the Commissioner testified that the Department anticipates collecting additional revenue from increased penalty fees for Fire Code violations, and in turn, improved compliance with the Fire Code.

The Department will also realize additional revenue from the two-percent New York State tax on fire insurance premiums paid by out-of-state commercial insurers. Lastly, the Commissioner expressed his opinion that the Department has exhausted all options to collect outstanding debts from self-pay patients who are uninsured or presumed uninsured. As per the Commissioner's testimony to the Committee, it is almost impossible to collect from this group, and therefore, the Department would consider selling the accounts to a vendor for a fixed amount.

The Commissioner discussed the Department's budget, specifically dealing with new needs. The Department will need funding to cover unanticipated overtime costs caused by high medical leave rates and other factors associated with firefighting. Funding in the amount of \$1.3 million is also needed for seven permanent new positions in the Diversity Recruitment Unit. Commissioner Scoppetta stated that the Department will devote more resources to both the EEO and the Diversity Recruitment Units.

With regard to the Department's 10-year capital budget, \$30 million has been allocated for firehouse renovation.

With respect to on-going operations, the Commissioner stated that communications have been improved. The Department deployed new handie-talkies, post radios and battalion repeaters. Commissioner Scoppetta testified that the Department continues to work closely with the Department of Information Technology and Telecommunications (DoITT) and the Police Department to implement and integrate upgrades to the City's computer aided dispatch (CAD) and communications infrastructure. He also mentioned: the acquisition of two mobile command vehicles to help manage major operations; that EMS received two Major Emergency Vehicles; the enhancement of the Department's Hazardous Material response capabilities by creating 25 Ladder Support Companies, 3 HazTech Engines and 22 HazTac Ambulances; and also the purchase of a 130-foot fireboat due for delivery in 2007.

The Commissioner discussed Homeland Security Grant funding that provides federal money to assist the FDNY in enhancing its disaster preparedness. The FDNY has been awarded grant funding to support initiatives like: the increased hazardous materials (HazMat) operations and specialized rescue capabilities through advanced training; the procurement of resources for catastrophic incident response such as wireless incident command boards; and ongoing training of uniformed forces throughout every rank. Also, the Department received grant money to fund health surveillance for FDNY firefighters and EMS personnel exposed to the World Trade Center site. Lastly, the Commissioner briefly requested the help of the City Councilmembers to help with the Diversity Recruitment initiative.

### **Issues and Concerns**

Chairwoman Clarke welcomed the Commissioner and the other Fire Department representatives and thanked them for their continuing cooperation in working with the City Council to protect the lives of all New Yorkers.

The Committee praised the Department on its response to the Committee's call to tackle the lack of minorities and women in the Department when compared to the City's other uniform agencies.

Chair Clarke asked the Commissioner whether or not the Diversity Recruitment funding was baselined in the Department's budget, and whether or not the Cadet program would be reinstated. The Commissioner replied by stating that the funding is staying in the Department's budget; the amount includes \$525,000 for Recruitment events, some OTPS, and salaries. In response to the Cadet program, the Commissioner stated that the FDNY is focusing on the Explorer program that works with various high schools to get students acquainted with the Fire Department functions. Commissioner Scoppetta mentioned that it is easier for an Explorer to join the EMS because of the age requirement-18 years of age, whereas an individual must be 21 years old to become a firefighter. He further stated that an Explorer participant who is interested in becoming a firefighter has no choice but to go to college after high school while waiting to meet the age requirement. He also mentioned that the Department works closely with John Jay College to help educate potential future firefighters. Beyond the Explorer program, the Department is working with a high school in Brooklyn devoted to fire science; those students in turn will be connected with John Jay College.

The Committee inquired about the issue of the lack of bathrooms for women in various firehouses. The Commissioner mentioned that 119 firehouses are equipped with a women's bathroom. There are 92 more that will need to be equipped with women's bathrooms. On average, each will cost \$85,000 for a total of \$7.8 million. No timeline was given to the Committee.

The Committee members expressed concern about response times for the areas affected by the closing of the six firehouses in May 2003. The Commissioner stated that the areas surrounding four houses experienced an increase in response times but that those times are still lower than the citywide average of four minutes and 44 seconds. Two areas surrounding closed houses experienced an increase but are still below the national average of six minutes. Council Member Clarke asked whether the Department is considering the reopening of the six firehouses and the Commissioner responded that the Department has no such plans but that it will continue to track response times and workloads.

Lastly, the Committee expressed concern about the Administration's plans to reconfigure the CAD system and build a second Public Safety Answering Center (PSAC II). The Commissioner testified that the Department meets weekly with the Police Department, DoITT and labor to discuss these plans and to work towards the goal of implementing an integrated and complete computer aided dispatch system and emergency communication infrastructure. Again, no timeline was given as to when it is to be completed.

The Committee inquired about the sale of items that have the City's logos and where the money goes. The Commissioner stated that a portion of the money would go to the agency and the rest would go to City coffers.

With the City's aggressive community development plans, the Committee raised concerns about the possibility of the Department's potential limitations to respond to emergencies due to population density shift. The Commissioner responded that he is open to speak with all groups who believe that there is a need for new firehouses. He further stated that he is not promising anything to anyone by meeting with a group or an individual.



**Recommendations****Diversity Recruitment Initiative**

The Committee recommends that the Department should double the amount of funding proposed for the Diversity Recruitment Initiative, by adding an additional \$1.376 million.

**Fire Cadet Program**

At a cost of \$2.8 million, the Department should re-fund the now-defunct Fire Cadet Program. This funding should support 300 cadets.

**Upgrade the City's Emergency Communications and Dispatch Systems**

The Committee supports the Department's initiative to establish an integrated communications and dispatch system. It commends the Department's undertaking on PSAC II and the special attention it has given to the purchase of equipment that is practical to the unique demands of fire safety and firefighting in New York City. The Committee recommends however, that a comprehensive written plan for the City's reconfiguration of its emergency communications and dispatch systems be promptly provided to the Council for its review

**Women's Bathrooms**

The Committee recommends that the Department expedite the implementation of its bathroom installation plans so that women firefighters can be deployed to any firehouse.

**Safety Gear**

The Committee reiterated the need to expedite the purchase of life-saving equipment for all firefighters in order to avoid preventable injuries and fatalities.

**Department of Probation**

Testifying on behalf of the Department of Probation (DOP) was Commissioner Martin Horn.

**Hearing Summary**

In his prepared remarks Commissioner Horn began by stating that, "I am pleased to report that the Department of Probation is achieving its January financial plan target without cutting any staff or services." This was accomplished, he testified, through the expansion of DOP's Alternative-to-Placement program – a program designed to divert juveniles from placement in State Office of Children and Family Services (OCFS) facilities, which he said, in the old days would have been referred to as reform schools. The Commissioner proudly reported that this initiative would not only save both the City and State \$16 million (as OCFS placements are very expensive, and their cost is split evenly between the City and State), but also lead to better outcomes for the juveniles. Furthermore, he was happy to report that the expansion of the Alternative-to-Placement program would allow the City to draw down \$1.7 million in state child welfare funds.

A key feature of the Alternative-to-Placement program is DOP's partnership with the Vera Institute of Justice's Esperanza program.

The Commissioner explained that Esperanza provides “home-based supervision services needed to keep juveniles with their families and communities.”

He continued by discussing the expanded sentencing options that will soon be offered by DOP to juveniles who would otherwise be bound for State custody, the intensive supervision that will accompany these diverted juveniles, and the manner in which the court would be kept apprised of the juveniles’ compliance with their program mandates.

Commissioner Horn concluded his remarks by indicating – as has become his custom at budget hearings – that the City is being shortchanged by the State in the amount of probation aid it receives. He stated that, “We could accomplish even more if State funding reflected the disproportionate number of felons and juveniles we supervise who otherwise would be in state placement.

During the question-and-answer portion of the hearing, Commissioner Horn explained how the Department had improved upon the Alternative-to-Placement program through the earlier identification of the most appropriate cases and the development of an assessment tool to ascertain the degree of risk associated with each juvenile, as well as the strength of their ties to their families and communities. Commissioner Horn made an important distinction for the Committee members as to what is often the key determinant of whether or not a child is assessed as appropriate for the Alternative-to-Placement program. Often, he said the decision has less to do with the seriousness of the crime than with the level of family function or dysfunction.

Upon placement in the program, Commissioner Horn reported, school attendance is monitored, as is the juveniles’ general behavior. Family court judges are then provided reports as to whether that behavior has been “pro-social” or anti-social.” Not all violations lead to placement in State facilities, he said; some lead only to a tightening of community supervision. The Commissioner indicated that DOP’s diversion rate this year is 23 percent, “a marked improvement over prior years.”

In concluding his remarks, Commissioner Horn noted how expensive it is to send a juvenile to State placement, and how counter-productive such placements often are. He said, “We spend a lot of money to make them worse...My goal is to divert all appropriate juveniles.”

### **Issues and Concerns**

Declining State probation aid continues to be a problem. By the Department’s own estimate, the State provides \$20 million less annually than it could under State law. If but a fraction of those funds were to be made available to DOP, better probation officer-to- probationer ratios could be created, enhanced public safety. Additionally, more needed services could be provided to juvenile and adult probationers so that they could turn their lives around and be less likely to violate the conditions of their probation and/or recidivate.

**Recommendations**

Chair Clarke recommends the following:

1. The State should re-examine its probation aid formula and provide the maximum allowable reimbursement for costs incurred by DOP.
2. The Fiscal 2006 Executive Budget should restore the \$54,000 in City Council funding provided to the Hope Program in Fiscal 2005 for the provision of employment services for probationers.

**Department of Correction**

Testifying on behalf of the Department of Correction (DOC) was Commissioner Martin Horn.

**Hearing Summary**

In his prepared remarks Commissioner Horn remarked that DOC's Preliminary Budget for Fiscal 2006 is "the lowest budget we have had in a decade." He indicated that the agency's average daily population is projected to be 13,709, roughly the same level as in Fiscal 2005.

The Commissioner proceeded to outline a series of budget reductions associated with the lowering of staff headcount that are included in the January Plan, explaining that, "None of our staff reduction will compromise public safety." He also reported that DOC would receive PEG credit for the expansion of the Department of Probation's Alternative-to-Placement program.

The next item addressed by the Commissioner was overtime. He testified that DOC is being "focused and aggressive about controlling" overtime costs. Even so, he testified, keeping expenditures within the constraints of the agency's \$43-million overtime budget in Fiscal 2006 "will be a difficult goal to achieve." He described the hiring and sick leave control measures that DOC is putting into place to best help the agency limit overtime spending.

Commissioner Horn next turned his focus to the efforts the Department is taking to ensure ample jail space exists in the near- and long-term. Over half of the Department's capital commitments are for the replacement of "aging modular capacity with new staff-efficient structures. In response to questioning from the Chair and other Council members, the Commissioner indicated his belief that the three currently closed borough detention centers (in Brooklyn, Queens and the Bronx) offered some of the most appropriate jail space in the City. He furthermore indicated that a decision as to whether or not to re-open one or more of them is likely to be made with the next year.

The Commissioner concluded his prepared remarks by reporting on the continued decline in the level of violence in City jails, indicating that it is "on pace to reach the lowest level ever."

Upon questioning, the Commissioner indicated the Department's and his personal commitment to discharge planning. He described the many services currently being provided to those seeking discharge plans, and thanked the Council for its continued funding support in this area. Chair

Clarke indicated dissatisfaction that \$500,000 in City Council funding for discharge planning was not baselined, and therefore, not in DOC's Fiscal 2006 Preliminary Budget.

Lastly, the Commissioner discussed the amount of federal reimbursement the Department is receiving for the housing of illegal aliens. While indicating that the City is shortchanged by \$60 million annually in this area, the Commissioner indicated that all localities are similarly underfunded. He also explained that the amount of reimbursement seems to bear little relationship to the number of aliens in DOC custody.

### **Issues and Concerns**

The Committee will remain vigilant in its oversight of the Department to ensure that the proposed uniform staff reductions in the January Plan don't lead to a decrease in safety for DOC's inmates or staff.

### **Recommendations**

Chair Clarke recommends the following:

1. Discharge planning funds provided by the City Council should increase from the \$500,000 provided in Fiscal 2005 to \$4 million in Fiscal 2006. This \$3.5-million dollar increase, coupled with a \$1-million dollar increase in the Department of Juvenile Justice, would constitute for the City Council a significant **Discharge Planning Expansion Initiative**.
2. The federal government should increase its State Criminal Alien Assistance Program (SCAAP) funding cover DOC's actual expenditures in this area. Such an increase would provide DOC with an additional \$60 million annually.
3. The State government should increase its reimbursement rates for State-ready inmates to cover DOC's actual expenditures in this area. Such an increase would provide DOC with an additional \$160 million annually.

**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David I. Weprin  
               Chair, Finance Committee**

**FROM:       Council Member James F. Gennaro  
               Chair, Committee on Environmental Protection**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
               Committee on Environmental Protection**

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On Tuesday, March 11, 2005, the Department of Environmental Protection (DEP) appeared before the Committee regarding the Fiscal 2006 Preliminary Budget. Representing the agency were Commissioner Emily Lloyd and other senior officials.

#### **Testimony Summary**

Commissioner Lloyd covered the following topics in her prepared testimony: DEP's expense and capital budget; the funding for the watershed protection program; the Filtration Avoidance Determination (FAD); the budgetary impact of nitrogen removal mandates; the status of the landfill remediation projects; the status of the environmental health and safety programs (EH&S); federal and state consent orders; the status of the Croton filtration plant; the Environmental Control Board (ECB) uncollected fines and increased revenues; the close of the lien sale loophole; and the passage of the noise code (Intro. 397).

The Commissioner began her testimony reviewing DEP's Fiscal 2006-2015 Capital Plan. The ten-year projected budget of \$15.8 billion will fund a number of critical long-term projects. These include the construction of the Kensico-City Tunnel (\$1.7 million), the Croton Water Treatment Plant (\$1.2 million), the Dependability Study for Water Supply Demand Reduction (\$1 billion) and many other critical initiatives.

The Fiscal 2006 operating budget of \$747 million is a net change of \$27 million from the Fiscal 2005 January Plan of \$774 million. This change is the result of reductions in programs or projects that have been completed, deferred funding from Fiscal 2004 to Fiscal 2005 and various other timing adjustments that affect the operating budget.

Giving an overview of the watershed protection program, the Commissioner stated that as outlined in the 1997 Memorandum of Agreement (MOA) between DEP and other watershed stakeholders, DEP committed \$250 million to land acquisition. To date, the City has spent approximately \$186 million to acquire more than 53,000 acres. The balance of \$64 million from the original \$250 million is available to spend in the coming year. Additionally, the Mayor committed an additional \$25 million for East of Hudson land acquisition.

DEP anticipates that land acquisitions will continue at approximately the same pace for the next three years, budgeting \$10 million in Fiscal 2006, \$11 million in Fiscal 2007 and \$6 million in Fiscal 2008. DEP projects it will acquire 7,000 to 8,000 acres per year in fee acquisitions and easements. In addition, the agricultural easement program, administered by the Watershed Agricultural Council, is expected to acquire easements on an additional 4,000 acres each year.

With regard to watershed security, the Commissioner said that the DEP police force is budgeted for 188 police officers and 23 positions for management, analysis and support in Fiscal 2006. As of the end of January 2005, there were 173 DEP police officers on staff. The breakdown is as follows: 3 captains; 9 lieutenants; 26 sergeants; and 135 environmental police officers. The DEP police force has undergone substantial expansion and modernization that includes: an electronic security surveillance assessment for 225 upstate locations completed at a cost of \$8 million; an early warning detection system installed and put into operation at a cost of \$20 million; and the construction of police precincts, six in the West of Hudson area which are substantially completed, costing \$10 million, and one in the East of Hudson area for \$3 million.

The Commissioner also gave the Committee an overview of the budgetary impacts of the nitrogen removal mandates. The construction cost associated with the current nitrogen program, which is the subject of New York State Department of Environmental Conservation consent orders, is estimated at \$700 million. In January 2003, DEP made some revisions to its nitrogen program to modify many of the interim milestones specified in the October 2002 Facility Plan that was previously submitted to and approved by the State. DEC has not accepted the proposed revisions to the 2002 Facility Plan and as a result, DEP has not been compliant with many of these milestones and is pursuing a resolution to these issues.

Speaking on landfill remediation projects, Commissioner Lloyd stated that DEP is responsible for the remediation at the following four landfill sites: Pelham Bay in the Bronx; Pennsylvania Avenue and Fountain Avenue in Brooklyn; and Brookfield Avenue in Staten Island. In Fiscal 2005, a total of \$13 million was allocated for construction management and \$112 million for final capping and restoration in Fiscal 2006. The remediation at the Pelham Bay landfill was completed in June 1998 and the designs for the Brookfield landfill is nearing completion. Remediation facilities for the Pennsylvania Avenue and Fountain Avenue landfills are currently under construction. In Fiscal 2005, a total of \$58 million was allocated for these Brooklyn landfills.

The Commissioner went on to provide an update on the Environmental Health and Safety programs. DEP has increased its headcount from 27 in Fiscal 2001 to 103 in Fiscal 2005, an increase of 76 positions. All of the positions were funded internally. DEP has had a cumulative Other Than Personal Services (OTPS) budget of \$14.5 million between Fiscal 2001 and Fiscal 2005. These funds were used for remediation and compliance, training and supplies, equipment, service contracts and other safety needs. The capital commitments related to Environmental Health and Safety between Fiscal 2001 and Fiscal 2005 is over \$229 million, of which \$70 million has been expended.

The City is subject to several federal and state consent orders and the Commissioner gave an update on their status. We are in compliance as follows: the Croton Water Treatment Plant is in compliance with the Second Supplement to the Consent Order; and the Combined Sewer

Overflow (CSO) program which is in compliance with all of the milestones in the revised order entered into by the City and State DEC on January 14, 2005; and all the order milestones are expected to be met for the Delaware Aqueduct Shafts 9,10, and 17. However, the City is not in compliance with the Hillview Cover Administrative Order entered into with the State Department of Health (DOH). The order required the start of the construction of a cover by April 30, 2002 with its completion by December 31, 2005. DEP is currently in negotiations with the State DOH and the United States Environmental Protection Agency to renegotiate this order.

In regard to the Croton Water Treatment Plant, the Commissioner informed the Committee that the plant will be located at the Mosholu Golf Course in the Bronx. The facilities' design is complete and a site preparation contract for \$128 million has been awarded. The preliminary construction has begun. A substantial amount of funding, \$1 billion, has been budgeted in Fiscal 2007 when the largest part of the construction will occur.

Commissioner Lloyd also told the Committee that ECB debt continues to be in the \$650 million range. Most of this debt is attributed to large default penalties imposed when respondents fail to appear at hearings. ECB's projected revenue for Fiscal 2005 is higher than Fiscal 2004 revenue collections. This is attributable to the increased issuance of Notice of Violations in Fiscal 2005, particularly for Department of Sanitation and Department of Building violations.

Lastly, the Commissioner expressed her interest in the passage of two pieces of legislation: Intro.154 and Intro. 397. Intro. 154 address the lien sale loophole that allows property owners to sell property without paying outstanding water bills. Intro.397 addresses the revision of the noise code.

#### **Committee Issues and Concerns**

The Committee's questions focused on the following: inspector headcount; watershed land acquisition; Watershed Rules and Regulations (WRRs); watershed security; Jamaica wells; and the impact of sink disposal systems on DEP's sewage system.

The Committee wanted to know how many inspectors the Department currently has and what types of inspections they conduct. The Commissioner stated that there are 40 inspectors that handle noise and air inspections and 20 right-to-know inspectors. The right-to-know inspectors can also conduct air and noise inspections on an as needed basis.

In regard to the land acquisition program, the Committee wanted additional information on this program. The Commissioner stated that the funding for the East of the Hudson land acquisition has been spent, but there are still funds available for the West of the Hudson. The Committee inquired further about how much more would be sufficient for additional land acquisition. The Commissioner told the Committee that the Department would opt to renew its land acquisition permit for another five years. If the permit were renewed, an additional \$50 million potentially would be added to the program. Due to the law of diminishing return, the Department does not believe it will see a significant increase in land acquired.

The Committee requested an update on the status of DEP efforts to amend the State Public Health Law to allow for higher penalties and more effective injunctive relief for violation of the

WRRs. The Commissioner told the Committee that there has been no movement by the State to amend the law.

The starting salary of DEP police is significantly lower than that of other police officers in the tri-state area. The Committee is deeply concerned about the turnover within the Department due to the low salary range. The Committee inquired about DEP's plan to increase the pay of DEP officers in an attempt to provide parity with other law enforcement officers. The Committee feels that it is imperative to provide pay parity and reduce attrition to ensure the safety of our water supply. The Commissioner informed the Committee that the Department is working with labor unions and the Administration to address this issue. Currently, the starting salary for a DEP police officer is \$25,000, going up to \$42,000 in a six-year period. In comparison, the starting salary for a New York City police officer is \$34,000, going up to \$55,000 over a five-year period. Sixty-five percent of the DEP police are deployed in Westchester County where the average salary is \$70,000 for police officers.

The Committee also inquired about the status of re-opening several water wells in Jamaica, Queens. The Committee was told that the station #6 well is being remediated and designs are being finalized and work will begin in 2008 to address ground well flooding problems.

Lastly, the Committee wanted to find out DEP's position on the installation of sink disposal systems to reduce the amount of waste generated in New York City. The Commissioner stated that sink disposal systems would increase water nitrogen levels. She believes that the use of commercial disposal systems cannot be allowed due to the large volume of waste generated, thus significantly increasing water nitrogen levels. Residential sink disposal systems would be okay because of the relatively small numbers that are currently in use. The Department of Sanitation and DEP will get together to discuss further the pros and the cons of using sink disposal on a wide-scale basis.

**Public Testimony**

There was no public testimony.

**Recommendations**

The Committee strongly recommends that DEP's main priority be to ensure watershed protection and continue its efforts to avoid filtration of the Catskill/Delaware water supply. The Committee urges the DEP to provide adequate funding to ensure watershed protection and additional land or easement acquisition.

The Committee also recommends that DEP reduce the attrition rates of DEP police by increasing the salaries of its officers to be on par with other law enforcement agencies.

The Committee recommends that DEP provide the Council with details on all of its plans to find creative and cost effective alternatives to the capital expenditures currently mandated by existing consent decrees.



**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David I. Weprin  
               Chair, Finance Committee**

**FROM:       Council Member Bill DeBlasio  
               Chair, Committee on General Welfare**

**Council Member Tracey Boyland  
               Chair, Committee on Women’s Issues**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearings  
               Committee on General Welfare;  
               Committee on General Welfare and Women’s Issues**

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On March 14, 2005 the Committees on General Welfare, and Women’s Issues conducted Fiscal 2006 Preliminary Budget Hearings. Testifying before the Committees were the Department of Social Services/Human Resources Administration, represented by Commissioner Verna Eggleston; the Administration for Children Services, represented by Commissioner John Mattingly; the Commission on Human Rights, represented by Commissioner Patricia Gatling; and the Department of Homeless Services, represented by Commissioner Linda Gibbs.

### **Department of Social Services/Human Resources Administration**

#### **Summary of Testimony**

Commissioner Eggleston’s prepared testimony was general and did not directly address budget issues. Her prepared testimony described a newly implemented program called Wellness, Comprehensive Assessment, Rehabilitation and Employment (WeCare) that targets hard to employ public assistance enrollees with medical or mental health conditions. The program is expected to be fully operational by June 2005 and is currently operating the first two sites in Brooklyn and Manhattan.

The Commissioner’s prepared testimony also mentioned a phone-based survey to gauge job retention among welfare recipients placed in jobs. Based on the survey, the Department estimates that of the 86,152 public assistance enrollees placed in jobs in 2004, 73 percent were still employed after six months. However, after three months, as many as 16 percent were no longer employed after the first three months of employment, and 27 percent were no longer employed after the first six months of employment. The Commissioner did not clarify the reasons why one-quarter of job placements do not result in employment periods longer than six months, nor did she provide information on the types of jobs people are placed in, the wages they receive and whether those jobs tend to offer health benefits other than one-year transitional Medicaid benefits.

With respect to public health insurance, the Commissioner pointed out an increase in the number of public health insurance enrollees since 2002. As of January 2005, there were 2.5 million individuals enrolled in Medicaid and Family Health Plus. While it is true that enrollment levels have increased from the 2002 rolls, the current enrollment level is lower than pre-welfare reform when there were 2.7 million Medicaid enrollees in the City. It is unclear whether the number of beneficiaries will reach pre-welfare reform levels given that enrollment seems to have reached a plateau in the last six months.

## **Issues and Concerns**

### **Emergency Food**

During the questions and answers period Council Member Perkins referred to the latest hunger report released by the New York Coalition Against Hunger, pointing out that while the demand for emergency food at soup kitchens and pantries continues to rise, City funding for EFAP is scheduled to decrease by \$670,000 because the Administration failed to baseline this funding in the outyears. The Committee recommends that this funding be restored and baselined.

### **Medicaid Consumer Assistance program (MCCAP)**

This year the Council added \$268,000 in City funds (\$1.1 million in gross funds) to the Managed Care Consumer Assistance Program (MCCAP) but the Administration failed to baseline these added funds. The Fiscal 2006 allocation will therefore be reduced to \$675,000 in City funds (\$2.7 million in gross funds). The Committee recommends that this funding be restored and baselined.

### **Food Stamps**

The Committee recommends the continuation of food stamps outreach and education activities across the City to ensure that every eligible low-income person in need of food stamps benefits receives them. With 1.08 million food stamp beneficiaries, current enrollment is higher than it has been in previous years but it is still lower than it was in the mid-nineties, pre-welfare reform, when over 1.4 million low-income New Yorkers were receiving food stamps.

### **AIDS Housing**

During the questions and answers period Council Member Palma asked for clarification on spending for AIDS housing. She pointed out that while spending on emergency housing is over-budget, spending on permanent housing is under-budget. It remains unclear whether HASA intends to address this funding need through an internal funding reduction for permanent housing. The Committee is concerned of the possibility of funds being shifted to support commercial SROs at the expense of permanent housing. In a follow-up letter to the Commissioner, the Committee requested clarification on the amount of City funds allocated for AIDS housing broken down by emergency housing and permanent supported housing from 2000 through 2005 and how these funds are spent.

### **Public Assistance**

Many people remain on Public Assistance (PA) who should be transferred to Federal SSI benefits. There are many disabled persons on PA who have not been adequately diagnosed with a disability and who do not necessarily have the adequate means to apply for federal benefits. Enrolling qualified people onto SSI benefits both the City and the individual.

The City no longer has to assume a share of the costs to support the individual in question. And the individual receives long-term or even lifetime care, without having to conform to work requirements which may be beyond the person's means. The State estimates there are approximately 14,000 persons statewide coded as unable to work that remain on PA. It can be assumed most of these cases are in New York City, as the City leads in the number of SSI applications. Legal Services organizations have already been funded by the State to provide legal assistance to people on welfare to transfer to SSI. And yet, advocates have testified that the funding for Disability Advocacy Project is not nearly enough to meet the demand.

At a time when the City is expanding its services for people with disabilities on PA, it should also be expanding legal services to help with transfers to SSI when appropriate. Furthermore, the Committee supports efforts to transfer PA eligibles to federal unemployment benefits when appropriate through the use of targeted legal services.

### **Administration for Children's Services**

John B. Mattingly, Commissioner of the Administration for Children's Services (ACS), presented prepared testimony that provided an overview of the Agency's continuing reform efforts, existing programs, and major budgetary highlights.

#### **Summary of Testimony**

Commissioner Mattingly reported that ACS's total Fiscal 2006 Preliminary Budget is \$2.1 billion, comprised of \$950 million in Federal funds, \$576 million in State funds, and \$568 million in City tax levy funds.

#### **Child Welfare Reform Plan**

The Commissioner testified about the child welfare reform plan he announced in February entitled "Protecting Children and Strengthening Families: A Plan to Realign NYC's Child Welfare System". The plan contains three components: rightsizing, reinvesting and realignment. Rightsizing will include the reassignment of 2,200 children from low-performing agencies to high-performing agencies as well as targeted reductions in foster care capacity. The Preliminary Budget reinvests \$36.8 million in savings from the declining foster care census in foster care rates, preventive services and aftercare services. Referring to realignment, the Commissioner stated his plan to reform the financing of the child welfare system so that neighborhood-based family support is the central focus of the system.

#### **Restorations**

The Commissioner stated that all of the cuts that were restored by the Council and the Administration in the Fiscal 2005 Adopted Budget were added to ACS's baseline budget for Fiscal 2006 and the outyears. The following allocations/programs were restored in the Preliminary Budget: foster care and adoption rates (\$11.9 million in City funds), preventive services (\$7.9 million), foster care substance abuse program (\$5 million), independent living program (\$500,000), child care slots (\$9 million) and child care fee surcharge (\$1.9 million).

**State Budget – Flexible Fund for Family Services (FFFS)**

The Commissioner testified that the Governor's SFY 2005-06 Executive Budget proposal to create a Flexible Fund for Family Services (FFFS) is a "smokescreen for a severe cut in funding to the counties" and that the FFFS under-funds the City by at least \$175 million. The Commissioner stated that ACS's child care program would suffer the most from this reduction and that ACS could be facing a cut of over \$100 million. If the FFFS were adopted, this could force ACS to eliminate approximately 22,000 child care slots for low-income working families, or over one-third of the total number of child care slots currently funded by ACS.

**Issues of Concern****Informal Child Care**

The Committee inquired about a recent child fatality that occurred while the child was in the care of an informal child care provider and what ACS planned to do to enhance the safety of informal child care. The Commissioner responded that he would seek to hire ten additional staff to begin to implement standards and inspections for informal providers.

**Out of School Time (OST) Plan**

The Committee expressed concern about several important issues that ACS must deal with relating to the transition to OST and the phasing-out of the school-age child care program. One issue the Committee raised was the right of parents who currently receive school-age child care to request a voucher when their classroom closes so that they can continue to access ACS child care. The Committee asked how many additional vouchers ACS would have to issue to these parents. ACS stated that there was no way to estimate this number at the present time but that the Agency did not expect there to be a large need for new vouchers in September 2005 due to attrition and natural turnover in child care slots.

The Committee inquired about the number of child care workers who would lose their jobs due to the closure of school-age child care programs. ACS stated that they could not estimate this but that there are approximately 2,000 workers who currently work in the school-age child care system.

The Committee also inquired about whether ACS would be receiving any additional funding or staff to manage the transition to OST. ACS responded that the Agency did not expect to receive any additional resources to manage the transition.

**State Budget – FFFS**

The Committee was very concerned about the potential impact of the FFFS on ACS's budget. The Commissioner said that the FFFS would be "devastating" to ACS's child care program because the TANF Surplus currently provides a large percentage of ACS's total State funding for child care. When asked if ACS had any other resources to replace the funding that would be lost under the FFFS, the Commissioner responded in the negative.

**Recommendations**

The Committee recommends that ACS and the Administration be as active as possible in urging the Governor and the State Legislature to reverse any cuts to social services programs that would result from the enactment of the FFFS.

The Committee recommends that ACS and the Administration do everything possible to ensure the continuation and stability of ACS's pre-school child care system after the closure of the school-age child care program.

The Committee recommends that funding be restored for approximately 1,500 family child care slots created last year (\$10 million).

The Committee recommends that funding be restored for the CONNECT domestic violence program (\$1 million).

### **Commission on Human Rights**

#### **Summary of Testimony**

Patricia L. Gatling, Commissioner of the Commission on Human Rights, testified before the Committee on March 14<sup>th</sup>, 2005. The Commissioner testified that the Plan eliminates funding of three percent (\$85,000) in Fiscal 2005 and six percent (\$170,000) in Fiscal 2006. Despite these cuts, the Commission will continue to operate as an efficient and effective agency. The Commission's headcount is 88, with only 14 being paid from City funds. The Commission has eliminated its backlog, with most determinations usually being found within one year.

The Commission's main outreach tool has been the media. The Commission was featured over 200 times in print, radio or television in 2004. This is twice the number of media mention compared to 2003. The Commission also runs a Peer Mediation Program in 21 schools. The Commission's Immigrant Employment Rights Program conducted 114 workshops for immigrant employees and employers. The Commission's Mortgage Counseling and Anti-Predatory Lending program alerts residents to the dangers of predatory lending by conducting community workshops, and through counseling individuals referred by HUD and other organizations who are faced with the loss of their homes.

For the third year in a row, the Commission obtained almost one million dollars in damages from complaints. The Commission also collected nearly \$90,000 in fines for the City.

The Commissioner announced that the City will now support legislation introduced by Gail Brewer, Intro. 22, which makes several amendments to the City's Civil Rights Administrative Code.

#### **Issues and Concerns**

The Committee is concerned with the reduction of City funding for staff at the Commission. The Plan reduces the funding for three City funded lines from the Commission. Even if no current employees have been laid off, due to unfilled federal lines that could be taken advantage of, reducing these funds hurts the overall potential capacity of the Commission to protect Civil Rights. These reductions seem to be a return to the previous Mayor's policy of slowly defunding the Commission. Furthermore, recent events have demonstrated the risk of relying on federal funds for services previously funded with City dollars. Virtually all of the federal funds are C.D. funds.

The current proposed federal budget would reduce about 30 percent of various categories of federal funds, including C.D. funds. In addition to being reduced these funds would be reprogrammed and placed under the Department of Commerce.

Reducing City funds and relying further on federal dollars is a questionable policy at a time when such funds are more at risk than ever.

### **Department of Homeless Services**

Linda Gibbs, Commissioner of the Department of Homeless Services (DHS), presented prepared testimony that focused on several key initiatives, summarized the Preliminary Budget for 2006 and offered current and historical data on DHS operations.

#### **Summary and Testimony**

##### **Shelter Census**

The Commissioner testified that over the past two years, the homeless family shelter population has both stabilized and now modestly decreased. In February of this year, there were 8,668 families in the system, which included 14,498 children. This represented a 6 percent decrease in the number of families in the shelter in February of 2003, and 1,726 fewer children. Regarding single adults, the Commissioner was more cautious, but also suggested that five years of expansion had come to an end. This February was the first time in 20 years where the number of single adults in shelter did not increase over the January numbers.

##### **Housing Stability Plus (HSP)**

In the three months of the program so far, over 732 families have been enrolled in the program, and eight single adults. The Commissioner's goal is to have 160 families move out of the shelter per week. The Commissioner is convinced that the policy of no longer offering Section 8 vouchers has lowered some of the demand for shelter. During the first ten months of calendar 2004, shelter applications were up by five percent over calendar 2003. However, during the four months since the announcement of the new Section 8 policy, applications have dropped by 14 percent.

The Commissioner testified that the cost of HSP would be \$10 million in the first year, but \$40 million overall. It was unclear whether this last figure represented Fiscal 2006 alone, or the first two fiscal years of the program. By next year, up to 6,500 families would be enrolled. The Chair discussed at length with the Commissioner how the program would be funded. The Commissioner explained that HSP funds would come from the TANF base grant, the portion set aside for individuals who receive grant payments. Thus, the State's Budget's proposal to create Flexible Funds for Family Services (FFFS) would not impact the HSP program, according to the Commissioner's understanding.

##### **Scatter Site Apartments**

The Commissioner testified that the Department continues to make progress in reducing the size of the scatter site program. At its peak, there were 2,091 apartments in use. The current number, 1,172 units that remain in use, represents a drop of 14 percent.

When questioned, the Commissioner testified that she hopes to close out the program by December of this year. Currently, \$33 million is budgeted for the program. Since a year ago last summer, the City has followed the procurement rules for contracting in adding new apartments to the system. There are still per diem funded apartments being used, but these are the first to be eliminated as the demand drops.

**Prevention and FFFS**

“HomeBase” Offices are now up running in the six communities targeted for the Neighborhood Prevention Initiative. The Department will monitor the results, and hopes to be able to expand HomeBase throughout the city. However, the Chair pointed out that the Prevention initiatives are the ones most at risk in the budget. The Department is depending on the availability of FFFS funds to fund the non-City portion of this \$12 million program. The Program has \$2.6 million in City funds in the current year, and hopes to receive \$8.4 million in State and federal funds. The Chair added that the City has once again cut \$900,000 from the Adult Rental Assistance Program (ARAP), and \$7.5 million in Legal Services at HPD and from the Criminal Justice Coordinator. The Commissioner responded that ARAP has not performed very strongly, with most of the funds going un-utilized. In contrast, eight single adults have already moved out of shelter through the use of HSP. The Chair asked the Commissioner to consider committing any future savings that may arise from future homeless caseload reductions towards prevention initiatives.

**Issues and Concerns****Prevention**

The Committee is concerned that once again it is prevention that suffers under the Administration’s Plan. The Plan cuts the ARAP program, which allows single adults who are working to move out of shelter with a rent subsidy. Similarly, the Preliminary Plan cuts over \$7.5 million in anti-eviction and other legal services for low income people. While these cuts are in other agencies, the absence of such services will drive up the number of people who become vulnerable enough that they may need to seek emergency shelter. Similarly, the Commissioner herself has testified that the Neighborhood Prevention Initiative is at risk because it relies on TANF funding that may end up cut, due to the institution of FFFS.

**Recommendations****Adult Rental Assistance**

The Committee recommends a full restoration to the Adult Rental Assistance Program (ARAP). As the homeless crisis continues to grow, the City cannot afford to eliminate any of its options that might significantly address the problem. The proposed elimination of Council funding for ARAP is a serious concern for the Committee. Continuing to support ARAP at its current funding level would only cost the City \$900,000 annually. Restoring this funding could mean providing rent subsidies and support services for many working homeless individuals, thus enabling them to leave the shelter system and obtain private-market apartments. Unlike the Department’s new HSP program, participants are not required to be on public assistance. Secondly, the subsidy is not reduced by 20 percent during the second year. Thirdly, while HSP is on a much larger scale, this program will primarily serve families, not adult singles. Finally, the proposal to eliminate this funding also runs counter to DHS’s stated objectives of pursuing a prevention-first service model.

**TO:           Honorable Gifford Miller  
               Speaker**

**Honorable David I. Weprin  
               Chair, Finance Committee**

**FROM:       Council Member Domenic M. Recchia, Jr., Chair  
               Committee on Cultural Affairs, Libraries and International Intergroup  
               Relations**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
               Committee on Cultural Affairs, Libraries and International Intergroup  
               Relations**

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On March 14, 2005, the Committee on Cultural Affairs, Libraries and International Intergroup Relations held a hearing on the Fiscal 2006 Preliminary Budgets for the Department of Cultural Affairs (DCA), the New York Public Library – Research (NYPL-R), the New York Public Library (NYPL), the Brooklyn Public Library (BPL), and the Queens Borough Public Library (QBPL). Commissioner Kate Levin testified on behalf of the DCA, Paul LeClerc testified on behalf on NYPL-R and NYPL, Ginnie Cooper spoke for BPL, and Thomas Galante represented QBPL. Several advocates for the libraries and the arts and cultural institutions in the City also testified. The following is a summary of that hearing.

### **Department of Cultural Affairs**

#### **Testimony Summary**

Commissioner Levin summarized some of the actions proposed in the January Plan. These include a six percent budget reduction taken from DCA’s baseline budget. DCA would apply this cut across the board to the organizations funded through the cultural program lines, and would impose a two-tiered cut on the Cultural Institutions (CIGs), with larger CIGs facing larger percentage cuts. The Preliminary Budget for Fiscal 2006 does not include the approximately \$20 million in restorations and enhancements made to the DCA’s budget by the Council for Fiscal 2005, but Commissioner Levin expressed optimism that “the Mayor and the Council [will] work together to identify additional funds for restoration” (testimony at p. 2) before the Fiscal 2006 budget is adopted.

Commissioner Levin discussed at length some of the agency’s current activities and programs. She talked of the Cultural Development Fund and the policy shift DCA introduced, which now allows awardees to receive all of their funding up-front. She summarized the activities of the Cultural Affairs Advisory Commission, and described DCA’s Cool New York project. She discussed the Materials for the Arts program. Finally, in her prepared testimony, Commissioner Levin talked of the Gates exhibit in Central Park.



**Committee Issues and Concerns**

Council Members discussed a variety of issues with Commissioner Levin. Of concern, obviously, was the impact of the Mayor's proposed budget cuts on cultural organizations. Commissioner Levin carefully avoided specifying the service cutbacks, furloughs or other negative impacts that might result if DCA's budget is adopted as proposed. The Preliminary Budget for Fiscal 2006 contains only \$101.1 million for DCA, while the current agency funding level is \$124.8 million. The Committee stressed that the proposed DCA budget includes an 18 percent cut, not just a six percent cut. Commissioner Levin replied by reminding the Committee that the Fiscal 2005 enhancements were not baselined, and that the Administration does not consider the removal of this \$20 million from DCA's budget a cut. She said it is too early to predict whether the Mayor will increase DCA's budget when he releases the Executive Plan. However, she stated that she does expect the adopted budget to be larger.

We discussed the Gates exhibit and the revenue it generated for the City. She told the Committee that the Gates generated about \$8 million in taxes, but we project tax earnings were higher. Commissioner Levin promised to forward data on tax receipts and concessions revenue related to the Gates to the Committee. She will work with the Economic Development Corporation to compile the data. She explained that DCA will receive none of the Gates revenue, but that many cultural organizations reported increased sales and visits during the Gates exhibit.

We discussed security-related concerns and expenses for the cultural organizations. Commissioner Levin agreed that security costs have increased, and she explained that the increases vary by location and type of cultural institution. She reported that she has discussed security issues with Police Commissioner Kelly. The Committee suggested that she help seek federal assistance for security expenses borne by the CIGs.

We also asked Commissioner Levin why DCA or the Administration had not published an accurate, detailed preliminary budget for the agency. The Departmental Estimate for DCA did not show the proposed budget changes included in the January Plan. The Department should release a detailed proposed budget for the agency so that each program that receives City funds and the public can see how the Mayor's proposed budget cuts will be allocated.

**Public Testimony**

Thirteen individuals testified before the Committee about DCA's preliminary budget. All but Anthony Begoni, who is President of Local 1501, represented a cultural organization. Every person who testified praised the work of cultural programs and organizations, and agreed that the DCA budget should be increased.

**Recommendations**

The Mayor should increase the baseline budget of DCA to more accurately reflect the public funding needs of the cultural programs and CIGs supported by the City. The Council has provided significant operating support to cultural organizations every year, and groups rely on this funding. Baselining this support would more accurately account for these funds, which generally support basic services, not "enhancements". The Fiscal 2002 Adopted Budget for DCA was approximately \$138 million.

This is a more appropriate level of public support for cultural organizations, and the Administration should increase the baseline budget of DCA to the Fiscal 2002 level.

## Libraries

### Testimony Summary

Ginnie Cooper described the service improvements, most notably an increase in hours that the BPL has been able to implement thanks to the funding boost provided by the City Council for Fiscal 2005. She announced that every Brooklyn library would be open on Saturday beginning Saturday, April 2nd. She also described how BPL uses technology. She explained that BPL has created a new staff position, the Technical Resource Specialist, who provides technology support to library users at every branch. Finally, Ms. Cooper discussed the Preliminary Budget, which she said would have a “devastating impact on library service.” (Testimony at p. 5). She projected that the proposed almost \$10 million cut would lead to a loss of 200 jobs at BPL.

Paul LeClerc echoed Ms. Cooper’s characterization of the preliminary budget for the libraries. He explained that NYPL’s cut of \$16 million in Fiscal 2006 would mean many branches would be open only three or four days each week; none would be open every day of the week. The collections budget would be further slashed and library services and services to special populations would be reduced as well. Mr. LeClerc thanked the Council for its past strong support of libraries and described the important role libraries play in New York City.

Tom Galante spoke about the service enhancements QBPL has instituted during the current year. He thanked the Mayor for not cutting QBPL’s budget for Fiscal 2005. He also thanked the Council for restoring funding to the library for Fiscal 2005, but pointed out that the Council’s budget enhancements had not restored QBPL’s funding level to where it was in Fiscal 2002. His testimony did not address the potential impact of the Mayor’s proposed cuts for Fiscal 2006. Mr. Galante concluded by saying, “we hope and believe the FY’06 shortfall in the preliminary budget plan will be addressed in the Mayor’s final budget proposal to the City Council.

### Committee Issues and Concerns

The Committee expressed its extreme concern with the potential impacts of the library cuts proposed by the Mayor. I called on the libraries to do much more to make the devastating effect of the cuts known to the public. I criticized their failure to loudly denounce the proposed spending plan, and recommended that the libraries immediately begin a campaign to increase City support for library services.

### Public Testimony

Representatives from the unions that represent library employees testified before the Committee. All called for an increase in library funding, and testified about the need to increase salaries.

### Recommendations

Public library services are basic and essential, public services that should be offered every day of the week. Opening neighborhood branches for only three or four days each week, which is the service level the Mayor has proposed in his Preliminary Budget for Fiscal 2006, is simply unacceptable.

The budgets for the three library systems should be increased to ensure that all libraries are open for a minimum of five full days each week, and some portion of every weekend. To provide anything less would prevent most New Yorkers from accessing library services.

**TO:           Honorable Gifford A. Miller  
               Speaker**

**Honorable David I. Weprin  
               Chair, Finance Committee**

**FROM:       Council Member Helen D. Foster  
               Chair, Committee on Parks and Recreation**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing  
               Committee on Parks and Recreation**

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The Committee on Parks and Recreation held its Fiscal 2006 Preliminary Budget Hearing on Wednesday, March 16, 2005. Testifying before the Committee was Department of Parks and Recreation (DPR) Commissioner Adrian Benepe. The following is a summary of the testimony presented by the Commissioner, issues and concerns raised by the Committee, a summary of public testimony and recommendations.

#### **Testimony Summary**

In his testimony, the Commissioner highlighted the improvements to the overall condition and the cleanliness of parks and playgrounds and the Agency's priorities. For the years ahead, DPR will continue to maintain core services while strengthening the parks system in three ways: promoting healthy living through fitness, creating special events to draw people to parks, and working to demonstrate how well-maintained parks lead to community development through its "Greening New York City" initiative.

#### **POP / WEP**

In his testimony, the Commissioner provided an update on the Parks Opportunity Program (POP). In early March of 2001, through HRA's transitional employment program, DPR began hiring Work Experience Program (WEP) participants who were approaching their five-year limit on public assistance through POP. In this program, participants receive health benefits, job training, and vacation and sick leave. This program is funded with a fifty percent match from Albany. The POP program, at its peak, which is usually in the spring and summer months, has about 3,000 participants. As the Department's full-time headcount continues to dwindle, DPR has come to rely more on POP participants to maintain and clean parks. In Fiscal 2004, the Department of Parks, in an effort to increase its placement ratio of WEP participants, hired about 500 participants who have completed the POP program as seasonal workers with a baselined allocation of \$6.2 million in the Fiscal 2004 Adopted Budget. In 1997, the Department had 6,400 WEP participants compared to 517 in the current fiscal year.

**Initiatives**

The Commissioner reported that fitness remains the key to preventing obesity and other illnesses and ensuring an active and healthy future. To combat this epidemic, the Department developed an exciting new Healthy Living initiative that offers a family-based approach to addressing issues of diet and fitness. Using data supplied by the Departments of Health and Mental Hygiene and Education, the Department has been able to identify at-risk communities that include West Bronx and Brownsville, Brooklyn where organized fitness programs are most needed. Started in 2003, Shape Up New York is DPR's newest fitness program offered in nine neighborhoods that are significantly affected by health problems such as diabetes and obesity, has been expanded to include two NYCHA facilities, St. Nicholas Community Center and Wagner Center, and the Department hopes to expand this program to reach even more communities with the Council's support.

In addition, the Department, in collaboration with the Department of Health, NYC Commission on Women's Issues, the YMCA and the Police Athletic League, is coordinating a major walking fitness initiative for this summer. Individuals, young and old, will meet at over 100 different locations throughout the city to participate in organized 1.5 to 2 mile walks three evenings per week. This program, Step-Out New York City, will encourage citizens to get active using effective low impact and low cost methods of achieving and maintaining fitness.

Parks and green space encourage tourism, create business opportunities and raise property value. For this reason, over the last ten years DPR has invested over \$1 billion in city parks through the capital program alone. In the last three years, the Department has installed over 40 synthetic turf fields and another 40 are in the planning stages. Because they are more durable, environmentally friendly and less expensive than natural grass fields, synthetic turf fields are used more, allowing more people to play soccer or baseball year round. To ensure that playgrounds are user friendly, the Department is consulting with "New York's playground set" and with children from PS 31 to design Davis Playground in Staten Island.

Lastly, the presence of trees and flowers not only makes the City's open space enjoyable, they provide innumerable health benefits. To this end, last year a community group, Greening is Breathing, in the Hunt's Point section of the Bronx, was awarded a grant to complete greening projects that will help bring the health benefits of trees and plants to that community. This year, this greening effort will be expanded to five additional neighborhoods, East New York, Morrisania, East Harlem, Far Rockaway and Port Richmond. In addition, the Americorps participants along with the Department's staff will walk the streets to record each city tree this spring. This census will identify urban forest trends and changes, and using a computer base module, calculate a value of trees' environmental and economic benefits. Over the last three years, the Department has greened the City and improved air quality by planting over 60,000 new trees, three million new flowers and 200 Operation Releaf sites, which convert barren corners of playgrounds to green spaces. In Fiscal 2006, DPR, along with the Council's and Borough Presidents' help, hopes to plant over 10,000 trees.

**Public-Private Partnerships**

The Department of Parks and Recreation is always looking for new partners to help support the many parks, playgrounds and facilities in its system. It is not just Parks' staff that has made the park system great. It is also the thousands of individuals that volunteer their time.

In Fiscal 2004, these individuals performed countless hours of community service in the City's parks. In addition, support for capital projects and programs were received from not-for-profit partners such as the Central Park Conservancy, the City Parks Foundation, the Prospect Park Alliance, and the Friends of Van Cortlandt and Pelham Bay Park. Additionally, the Department is taking an aggressive approach to forming new partnerships with corporations and local businesses that could sponsor events, endow the maintenance of a facility, and/or fund the operation of a recreation center. According to the Commissioner, private investment in city parks has allowed the Department to offer recreational, after-school and special events that would not have otherwise been possible. Although, some are concerned that private money has created a "two-tier" park system in which more affluent neighborhoods receive more funding, private investment in certain parks means that public money can be spent in other neighborhoods with fewer sponsorship dollars. The recent exhibit, "The Gates" by Cristo and Jean-Claude in Central Park succeeded in attracting more than four million visitors and generated an estimated \$254 million in economic activity, at no cost to DPR. In fact, the Department received a donation of \$1.5 million from Cristo and Jean-Claude's foundation and generated an additional \$700,000 in concession revenue as a result of the exhibit. In addition, this year's "Eggstravaganza" slated for March 26, 2005 in Central Park will be sponsored by PAAS, Western Union and the New York Post and will feature a petting zoo, egg dyeing, a puppet show, and arts and crafts.

**Recreation**

The Commissioner's testimony highlighted an array of spring recreation programs such as handball, basketball, indoor soccer, swimming, and volleyball in all five boroughs. To help ensure adequate staffing of city swimming pools and beaches for the summer season, the Department offers lifeguard training courses in addition to intense local recruiting and targeted international outreach. The Department is also partnering with the Department of Education to encourage and bring back swimming to our local schools. This effort will help prepare potential future lifeguards that could be hired by the Department, as private demand of lifeguards continues to increase. According to DPR, the proposed seasonal staff reduction should have minimal or no impact on lifeguard and pool staffing, but would impact maintenance and recreational services.

**Committee Issues and Concerns**

Members of the Committee commented on the perennial nature of the reductions proposed for the Agency. Emphasizing that the importance of parks and open spaces are sufficient in and of themselves to warrant significant City investment, the Committee inquired as to what would happen if the Council didn't restore the proposed cuts for seasonal staff and tree pruning. The Commissioner responded that reductions would seriously impact DPR's ability to provide recreational services and maintain cleanliness levels in parks. The proposed \$7.3 million reduction to the seasonal budget will displace about 600 seasonal workers. The Fiscal 2005 tree-pruning budget of \$2.1 million will allow DPR to prune about 26,000 trees, however, the proposed Fiscal 2006 budget contains \$325,000 for emergency tree pruning only. This would mean that the Department's block-by-block tree-pruning program that allows each City tree to be pruned once every ten years would be suspended.

**Public Testimony**

Former City Council Member, Carol Greitzer testified before the Committee. In her remarks, she called on the Council to hold hearings on all aspects of privatization and to develop guidelines before approving any funding where privatization is a factor. Her concern arises from the proposed private restaurant that would occupy outdoor space at Union Square Park. She feels that the Administration should not unilaterally decide when and where to remove land from public enjoyment.

Allison Farina, Director of Government and Community Affairs for New Yorkers for Parks (NY4P), also testified before the Committee. In her testimony, she urged the Council to provide funding in the Fiscal 2006 Expense Budget to hire additional full-time staff in the Parks Department. She called for the restoration of the proposed cuts and the allocation of an additional \$20 million to Parks to provide for additional maintenance and recreational staffing, PEP officers and tree pruning services at City parks.

Also appearing before the Committee were Jonathan Greenberg of Open Washington Square Park Coalition, Albert K. Butzel, President of Friends of Hudson River Park and Richard Lottis of the Wildlife Conservation Society who called on the Council to restore the proposed funding cuts to Parks.

**Recommendations**

In Fiscal 2006 and the outyears, the Committee recommends that the Administration fully restore seasonal City Park Worker (CPW) positions costing \$7.3 million.

Trees not only improve the aesthetics of neighborhoods, they improve air quality and reduce respiratory and other health hazards. As a result, the Committee recommends that the Administration fully restore the tree pruning contract reduction of \$2.1 million.

Lastly, the Committee recommends that the Administration increase funding to DPR to hire additional PEP officers to patrol parks citywide.

**TO:           Honorable Gifford Miller  
              Speaker**

**Honorable David I. Weprin  
Chair, Committee on Finance**

**FROM:       Honorable Melinda R. Katz  
              Chair, Committee on Land Use**

**Honorable Gale A. Brewer  
Chair, Committee on Technology in Government**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing  
              Committee on Land Use, joint with Committee on Technology in  
              Government**

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### **Introduction**

The Committee on Land Use conducted its Fiscal 2006 Preliminary Budget hearing on Wednesday, March 16, 2005. Agencies appearing at the hearing were the Landmarks Preservation Commission (LPC), the Department of Information Technology and Telecommunications and the Department of City Planning. This memorandum summarizes the testimony presented by the agency heads, and the issues, concerns and recommendations expressed by the Committee.

### **Landmarks Preservation Commission**

Robert B. Tierney, Chair of the Landmarks Preservation Commission and Ronda Wist, Executive Director for the LPC, testified on behalf of the Landmarks Preservation Commission concerning its Fiscal 2006 Preliminary Budget. Mr. Tierney addressed landmark designations, work on previously designated buildings and landmark application fees.

### **Hearing Summary**

With regard to landmark designations, Chair Tierney stated that the Commission has currently designated 1,118 individual landmarks and 83 historic districts, with 11 district extensions, throughout all five boroughs. The total number of buildings under the Commission's jurisdiction, including those in historic districts, is approximately 23,000.

Chair Tierney stated that the Commission is also responsible for regulating work on buildings that are already designated. In the current fiscal year, the Commission has received 5,554 applications for work on designated properties and taken 5,683 actions. The Commission continues to enact new and amended rules to make its regulatory process more efficient and easier for homeowners.



Chair Tierney stated that the Commission received approximately 650 complaints in the first six months of the fiscal year in its enforcement area. In the same time period, the Commission has issued 394 warning letters, 174 notices of violation, and 17 stop work orders. Approximately two-thirds of the warning letters result in owners applying expeditiously to the Commission to address their violations.

With regard to the Fiscal 2006 Preliminary Budget, Chair Tierney stated that the Commission's Fiscal 2006 Expense Budget is approximately \$3.55 million, with \$2.99 million in City funds and \$557,000 in non-City funds. He also stated that last July the Commission adopted a fee schedule for work on landmarked buildings that also required a permit from the Department of Buildings. To date, the City has collected approximately \$600,000 in revenue from the Landmarks fees.

### **Issues and Concerns**

The Committee expressed concern about vacancies at the Landmarks Preservation Commission. According to the January Plan, the full-time headcount that is forecasted for the LPC in Fiscal 2005 and the Preliminary amount for Fiscal 2006 is 50. Yet according to the City's Financial Management System (FMS), as of December 31, 2004, the LPC's actual full-time headcount was 38, which would indicate that there are 12 vacant positions at the agency. Executive Director Wist indicated that the LPC currently had 50 people working at the agency, approximately 47 full-time employees and three part-time employees, and that there aren't any vacancies. This could only mean that a portion of the full-time employees at the Landmarks Preservation Commission are classified as full-time equivalents. Ms. Wist agreed to work with the Council's Finance staff in an attempt to reconcile these headcount inconsistencies.

The Committee expressed concern as to Landmark Permit fees and if there were any complaints about the fee schedule. Chair Tierney stated that the fees were administered appropriately and fairly with very few complaints. The Committee followed up that response by inquiring about people being happy with the imposition of fees. The Chair responded by stating that no one was happy about the imposition of permit fees, but that there have been very few complaints.

Although the LPC did not request any additional funding, several advocates indicated that the agency is under-funded and its budget and staffing levels need to be increased.

### **Department of Information Technology and Telecommunications**

Testifying on behalf of the agency were Commissioner Gino Menchini, Larry Knafo, First Deputy Commissioner, and General Counsel, and Margery Brown, Deputy Commissioner for Finance, and Mitchel Ahlbaum, General Counsel.

### **Hearing Summary**

Commissioner Menchini started his testimony by discussing DoITT's accomplishments of the past year, as well as the agency's four goals for the upcoming fiscal year. The Commissioner discussed how the agency is leveraging its resources, where possible, to consolidate the City's information technology infrastructure.

By consolidating many agencies' computer systems into DoITT's data center, the City spends less and the technology is more efficiently managed and supported. The Commissioner discussed how DoITT houses computer systems for the Department of Finance, the New York City Housing Authority (NYCHA), Law Department and the Department of Citywide Administrative Services (DCAS), the Department of Transportation (DOT), with the Department of Education as the next agency consolidation.

The Commissioner reported to the Committee that DoITT has developed four goals that will help it deliver technology services according to the City's business objectives. The first goal is to use technology to improve and increase public access to government services. The second goal is to reduce the cost of technology, investments and best practices. The third is for DoITT to strengthen the City's plans, resources and processes for responding to IT and telecom Critical Events and Emergencies. And lastly, the fourth goal will focus on building relationships with other organizations to further develop technical solutions and services. Many projects are underway to fulfill these four goals.

The Department envisions a variety of centrally managed tools and services in order to provide uniform implementation of technical, security and financial applications. For example, DoITT provides email, calendaring and task management for various agencies. Commissioner Menchini discussed the coordinated citywide prevention and response to computer virus and worm attacks through emergency response procedures and critical information dissemination through an information portal. DoITT is providing Virtual Private Networks so that individual agencies do not have to establish their own expensive security systems. DoITT continues to develop improved disaster preparedness and recovery plans. In addition, DoITT has been working with Verizon and other telecom carriers to ensure the best pricing and services possible.

The Commissioner discussed the 311 system with the Committee. On March 9, 2005, the 311 Citizen Service Center celebrated its second anniversary. The 311 Citizen Service Center receives approximately 40,000 calls per day—a 30 percent increase from last year, in over 170 languages, with live operators 24 hours a day, seven days a week. DoITT will be expanding 311's functionality with information specific to the caller's home area or any location requested. Also, 311 will provide enhanced services through which elected officials, organizations, and other entities will be able to call on behalf of constituents without having to make numerous calls to get the status of a complaint. According to the commissioner, the service is being tested and should be operable by the end of Spring 2005.

In addition to 311, DoITT has been working to improve NYC TV (formerly CrossWalks). Commissioner Menchini also discussed the transfer of WNYE-FM and WNYC-TV stations to DoITT. The Commissioner stated that the transfer took place as a way to broaden the various programs and other activities that will generate revenues to the City. According to Commissioner Menchini, NYC TV has improved coverage and programming by including shows that support the City's economic interests, community traditions, and City-supported cultural and arts events. This year NYC TV has been nominated for 13 New York Emmy Awards.

The Commissioner briefly discussed the Department's Fiscal 2006 Preliminary Budget of \$267 million, an increase of \$32 million over fiscal 2005. Of this amount, \$60 million is for Personal Services to support 971 full-time positions and \$207 million is for Other Than Personal Services.

Of the \$207 million, \$104 million represents Intra-City services DoITT provides to other City agencies.

**Issues and Concerns**

Chair Katz opened the session by indicating to the Commissioner and DoITT's staff how distressed she was with DoITT's practice of promising information while delivering little. To date, the City Council is still awaiting information promised a year ago.

The Committee inquired again about pay telephone franchise revenues figures and various other documents that were promised last year by the Commissioner. The Commissioner assured the Committee that the information would be provided as soon as possible. The Committee also requested the status of Council Members receiving information from 311 regarding their constituent complaints. The Commissioner responded that DoITT is working to provide interoperability similar to the Community Boards for Council Members.

The Committee inquired about broadband and Cable TV revenue, and the telecommunication fund. The Commissioner responded that the Cable TV franchise is due to expire in 2008.

The Committee members inquired about the Mobile Telecommunication ("Poletop") Franchises and the process of creating the various zones and the compensation formula. The Commissioner responded that DoITT used data from the 2000 Census to ascertain where the City has a 95 percent telephone wiring penetration. Some areas, such as Staten Island, do not have the infrastructure for wireless antennas; another issue the agency considered in the process was the affordability of certain areas. When asked about the revenue portion of the initiative, the Commissioner replied that they only include revenue that covers the cost of the project for the time being. All revenues generated from the poletops will go in the City's general fund. As for the maintenance and monitoring of the devices, the commissioner stated that DoITT is responsible to monitor the work of those companies; the companies are responsible for maintaining their antennas, as well as removing those they plan to drop or abandon. Also, he mentioned that should there be testing for the equipment for compliance with FCC regulations, the companies would have to bear the costs.

Another concern expressed by the Committee was where monies saved by DoITT's technology consolidation were going. The Commissioner responded that monies saved usually remain in the individual agency's budget, and often the cost savings associated with DoITT's technology consolidation prevents spending on costly services and that money can be allocated to other projects.

The Committee inquired about the status of the agency's Emergency Communication Transformation Project (ECTP) that has a capital budget of \$1.345 billion. Chair Katz stated that she would block the agency from accessing this fund if no information regarding the progress status, expenditures, and completion timeframe is provided to the City Council. The Commissioner agreed to provide information on all the projects DoITT is undertaking.

The Commissioner did provide a broad outline regarding the Capital Budget expenditures for certain projects associated with ECTP's four components: PSAC 1, PSAC 2, System Integration/CAD/QA, Radio/Telephony (multiple projects), as follows:

PSAC 1 at 11 Metrotech: \$80 million in FY05 and \$65 million between FY06-FY09 for a total of \$145 million. This amount is to retool (demolishing, rebuilding and refurbishing) the main 911-call center in Brooklyn. FDNY and EMS will be co-locating in that call center in order to provide a more centralized service.

PSAC 2: \$12 million in Fiscal 2005 and \$488 million from Fiscal 2006 through Fiscal 2009. The Commissioner stated that a location for PSAC 2 had yet to be determined.

System Integration/CAD/QA: \$194 million is estimated for Fiscal 2005 and \$256 million for Fiscal 2006 through 2009.

Radio/Telephony (multiple projects): \$28 million is estimated for Fiscal 2005 and \$222 million for Fiscal 2006-2009. The Commissioner hopes to provide 911 call services by using Voice over Internet Protocols (VoIP).

In short, there is a total of \$314 million set aside for ECTP's four components in Fiscal 2005 and \$1,031 billion for Fiscal 2006-2009. The total cost estimate for the Project completion is \$1.345 billion. Both Chair Katz and Chair Brewer indicated that a much more precise breakdown of planned ECTP Capital Budget expenditures was needed.

When asked about the Expense Budget funding for ECTP (\$10 million in Fiscal 2005 and \$48 million annually thereafter), the Commissioner indicated his belief that all these funds would be spent, with no accruals being likely.

The Committee also inquired about the Department's list of new needs for various projects. They include the Public Safety Network, an Emergency Services contract, and the City Hall Emergency Communication System. Commissioner Menchini responded with a short description of the projects while acknowledging that many of DoITT's projects overlap. The Public Safety Network is a project through which the City's first responders will be able to communicate better through enhanced and state of the art equipment. He also mentioned that it would help to overcome many of the limitations the City faced during the World Trade Center terrorist attacks on September 11<sup>th</sup>, 2001. The Emergency Services contract DoITT has with IBM will provide planning, testing and maintenance for emergency response equipment. The City Hall Emergency Communication System is a service provided by DoITT to provide access to elected officials to make announcements and provide responses to any unanticipated event that may occur.

Lastly, the Committee inquired about DoITT's involvement with the Board of Elections (BOE) website and telephone capabilities. The Commissioner replied that they are working together to allow BOE to use its 311 call centers, as well as to help the Board to enhance its website capability while maintaining its independence. Nothing is finalized at this time.

**Recommendations**

Chairs Katz and Brewer expressed in the strongest possible terms the need for DoITT to provide the City Council with specific details regarding the proposed Capital and Expense Budget spending for the ECTP. Information on site selection, vendors and timetables is also required.

The Chairs also requested that DoITT promptly respond to all outstanding City Council information requests.

Lastly, Chairs Katz and Brewer asked for systems to be put in place promptly through which Council Members would be able to track 311 constituent complaints and inquiries.

**Department of City Planning**

Chair Amanda Burden testified for the Department of City Planning (DCP) and the City Planning Commission (CPC) concerning the Fiscal 2006 Preliminary Budget. Her testimony covered the following topics: agency headcount levels, agency revenue, and Citywide planning initiatives.

**Hearing Summary**

Regarding the agency's budget and headcount, Chair Burden stated that the Department's authorized Fiscal 2005 Adopted Budget was \$18.7 million, which consisted of \$6.7 million in City funds and \$12 million in Federal funds. At the time of adoption, the Department's headcount was 256 full-time staff positions, of which 83 were tax levy-funded and 173 were federally funded. The Fiscal 2006 Preliminary Budget for the Department is \$19.3 million for 251 full-time staff. Of this amount \$6.6 million will consist of City funds for 77 employees and \$12.7 million in Federal funds for 174 employees.

On the issue of agency revenue, Chair Burden stated that the Department has budgeted funds of \$1.4 million to be realized in Fiscal Year 2005. These funds consist of Uniform Land Use Review Procedure (ULURP) and City Environmental Quality Review (CEQR) application fees, as well as publication and subscription sales. Chair Burden indicated that the agency was projecting the same level of revenue for Fiscal Year 2006.

Chair Burden stated that while the overall funding for the Department has not changed significantly, they are committed to find ways to meet the demands and challenges of its expanding work program and that they seek the Council's support of the Preliminary Budget for Fiscal 2006. This budget will enable the Department to continue to realize an agenda that is vital to the long-term growth and viability of the City.

**Issues and Concerns**

The Committee expressed concern about the \$313,000 reduction to the Department in Fiscal 2005 and was concerned that it was a reduction to the funding that the Council provided to the agency. Chair Burden indicated that the Department welcomed the additional funding that was provided by the City Council and that this cut is not directly related to that funding.

The Committee inquired as to how the Department was spending the \$335,000 that the City Council allocated to them in Fiscal 2005. Chair Burden stated that \$335,000 is being used to conduct lower density studies in the boroughs of Brooklyn, Queens, The Bronx, and Staten Island. Of the \$335,000, the Department plans to spend \$215,000 for three full-time positions and six part-time positions by the end of the fiscal year.

Also, the Department would spend \$20,000 on computer hardware and software for those employees. So, of the \$335,000 that was allocated for lower density studies \$235,000 would be spent by the end of the fiscal year. Chair Burden stated that it would not spend the entire amount because the Department did not hire these individuals at the beginning of the fiscal year. Chair Burden stated that these hires were prudent in assisting the Department, but was not sure if they could retain these individuals due to the fact that the funding was only allocated for the current fiscal year.

**Recommendation**

Although there were many praiseworthy things said about the work of the agency, a number of Committee members indicated that the Department of City Planning could benefit from additional funding and personnel. As such, the Committee recommends that the \$335,000 that was placed in the Department's budget in Fiscal 2005 for the funding of lower density studies be placed in the Fiscal 2006 Executive Budget so they can continue their excellent work.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Finance Committee**

**FROM:       Council Member Philip Reed**  
**Chair, Committee on Consumer Affairs**

**SUBJECT:    Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Consumer Affairs**

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On March 16, 2005, the Department of Consumer Affairs (DCA) appeared before the Committee regarding the Fiscal 2006 Preliminary Budget. Representing the Department of Consumer Affairs were Commissioner Gretchen Dykstra and other senior officials. Representing the Business Integrity Commission was Chairman Thomas McCormack.

### **Department of Consumer Affairs**

#### **Testimony Summary**

The Commissioner highlighted several topics, including: an overview of the Agency's budget; the inspection process; the restructuring of the Legal Division; the elimination of the backlog cases in the Adjudication Division; license fees and application processing; and obtaining hearing authority for non-licensed businesses.

The Commissioner gave the Committee an overview of the Fiscal 2006 Preliminary Budget, specifically projected revenues, expenses and headcount for the Agency. In Fiscal 2006, DCA is projecting revenues of \$17.9 million, which is \$432,000 less than the Fiscal 2005 November Financial Plan projections for Fiscal 2006. This decrease reflects adjustments for historically lower than expected revenue generated by bingo games and by weights and measures inspection fees. The Commissioner goes on to say that the Fiscal 2006 Preliminary Expense Budget is \$14.1 million, which includes \$11.3 million for Personal Services (PS) and \$2.8 million for Other Than Personal Services (OTPS). DCA's projected Fiscal 2006 headcount is 241, which reflects a decrease of four positions.

In regard to the DCA's inspection efforts, the Commissioner gave the Committee an overview of borough-based and crossed-trained inspectors. In Fiscal 2005, a total of 61,975 compliance inspections were conducted, slightly down from 62,466 inspections in Fiscal 2004. In Fiscal 2005, approximately 68 percent of the inspections were comprehensive (meaning only one inspector visited the business to verify its compliance with license and consumer protection laws), compared to 34 percent during Fiscal 2004. This shift to comprehensive inspections has almost entirely eliminated the wasteful and annoying multiple visits by inspectors.

The Commissioner continued her testimony by expressing to the Committee that the Agency does not measure the success of the enforcement efforts by the number of violations written nor does it set quotas for inspectors. The inspectors know that the most enduring measure is increasing the compliance rate and changing behavior rather than bombarding businesses with ticket blitzes. The violations the inspectors write educates the businesses about what not to do. In Fiscal 2004, DCA issued 11,121 notices of violation, which is fewer than the 11,604 issued in Fiscal 2003.

The Commissioner announced that the Legal Division has been renamed the Litigation and Mediation Division to reflect the consolidation of functions resulting from the transfer of mediation staff from the disbanded Complaints Division. The transferred mediators now work closely with attorneys who can address legal issues that invariably arise in mediation. Since the restructuring, approximately 925 consumer complaints have been resolved and \$658,024 in consumer restitution or debt cancellation was collected during the first four months of Fiscal 2005, a 246 percent increase over the \$267,017 recovered during the same period last year. The attorneys of this division have focused on consumer protection law violations that result in the most harm to the largest number.

The Commissioner goes on to say that during the first four months of Fiscal 2005, attorneys negotiated fine settlements for \$500,560 compared to \$1.1 million for the entire fiscal year in 2003. Also, during the first four months in Fiscal 2005, the attorneys also disposed of 121 unlicensed contractor seizure cases that resulted in \$122,791 in fines compared to 22 unlicensed seizure cases and \$31,250 in fines during the same period in Fiscal 2004. As a result of DCA's focused efforts, the 1,600 case backlog in the Adjudication Division has been eliminated. Virtually all new cases are now decided within 30 days of the record being closed.

In regard to licensing fees, the Agency does not profit from the fees because the City cannot generate more than the cost of administering those licenses. The number of DCA licensing applications dropped from 14,425 in Fiscal 2004 to 11,706 in Fiscal 2005, and in the first four months of Fiscal 2005, the Agency issued 10,606 applications compared to 13,425 in Fiscal 2004. The decrease reflects the change in the expiration dates for some licenses as determined by DCA to in order spread the licensing workload more evenly throughout the year.

This year's top priority of the Commissioner was obtaining hearing authority. She expressed her gratitude for the Committee's sponsoring of Intro. 390 that would extend DCA's hearing authority over all the laws it enforces, including the City's stringent Consumer Protection Law. Currently, if an unlicensed business violates the Consumer Protection Law, DCA must go to the State Court to enforce the law. Approximately 50 percent of the 1,060 businesses the Agency issued non-hearable violations, settle and pay the fine. That, however, leaves the other half who simply ignore their obligations and responsibilities, knowing that DCA lacks the power to enforce the law.

#### **Committee Issues and Concerns**

The Committee's questions focused on the licensing process, headcount, the ethnic makeup of the staff, the Earned Income Tax Credit campaign and the top five complaints.



The Committee wanted to know the total number of licensing categories and how many required fingerprinting and why. The Commissioner informed the Committee that 14 of the 55 licenses issued by DCA require fingerprinting.

The Commissioner cited businesses such as locksmiths and contractors as the types of businesses required to be fingerprinted for safety reasons because they access to people's homes.

According to the January 2005 headcount run, the Agency has 17 vacancies. The Committee wanted to know the titles of the vacant positions and if they planned to fill them. The Commissioner told the Committee that one of the 17 vacancies has recently been filled. The Department hired a Consumer Refund Specialist who will focus on consumer docket cases to ensure that timely restitution payments are made to consumers. The remaining vacancies consist of two legal positions, seven clerical positions and seven inspector positions.

The Chair also inquired about the ethnic makeup of the Agency. The Commissioner did not have the information readily available but said she would forward it to the Committee.

There is \$140,000 allocated in the Fiscal 2006 Preliminary Budget for the Earned Income Tax Credit (EITC) program. The Committee wanted clarification on the total budget for this program and if DCA would be responsible for disseminating information about New York City's EITC. The Commissioner shared with the Committee that the total Fiscal 2006 budget for this program is \$140,000, these funds will be used for two staff positions and printing costs. In addition, the information that will be disseminated to the public will not specifically address New York City's EITC program.

The Committee wanted to know what are the top five complaints reported to the Department. The Commissioner stated that the top five complaints are the same as last year. The most complaints are about home improvement contractors followed by debt collectors, electronic stores, furniture stores and towing companies.

### **Recommendations**

The Committee recommends DCA include information about New York City's EITC program in its next EITC campaign.

## **The Business Integrity Commission**

### **Testimony Summary**

The Chairman testified about several topics, including the Commission's total budget, headcount, revenue targets, agency performance indicators, judgments and collections of violations, and the enforcement units.

The Chairman began his testimony by giving the Committee an overview of the Commission's budget and headcount. BIC's proposed budget for Fiscal 2006 is \$5.5 million, of which \$4 million is allocated for Personal Services (PS) and \$1.5 million for Other Than Personal Services (OTPS). There is a \$450,943 increase in the Preliminary Budget from Fiscal 2005, reflecting an additional \$255,943 in the OTPS budget, and \$195,000 in the PS budget.

The \$255,943 increase in the OTPS budget is for rent BIC withheld from its landlord until the landlord met its tax obligation. Now that the issue has been resolved, BIC will pay rent as scheduled moving forward. In December 2004, the City and DC 37 settled a lawsuit to promote market aides to market agents. The City agreed to provisionally appoint 19 market aides to market agent status. The additional \$195,000 in the PS budget includes increases in salary, fringe benefits, and holiday pay for these employees. Currently, there are 63 employees at the Commission.

The Chairman continued his testimony by giving an overview of the revenue budget. BIC's revenue target for Fiscal 2006 is \$1.5 million. BIC expects to collect \$809,700 from license and registration fees charged to trade waste removal companies and public market wholesalers. The estimated revenue from fines assessed on businesses BIC regulates will be about \$733,000.

BIC's legal staff is composed of five attorneys, a legal director, and a general counsel. The legal staff has closed 1,812 of the 1,946 applications that were received since August 1996. Currently, BIC has only 134 trade waste applications awaiting completion. During the period of July 2004 to the present, BIC reduced the total number of pending applications from 228 to 134, a 41 percent reduction. BIC continues to receive new applications at an average rate of 10 to 15 per month.

The Chairman pointed out that the procedures for processing trade waste license and registration renewal applications are more efficient. From November 2004 to the present, BIC has completed 426 renewal applications, which came due at various times within that period. BIC currently has 162 renewal applications pending.

The Chairman went on to say that BIC has not detracted from its commitment to its core mission: to ensure that organized crime stays out of the industries it oversees. BIC continues to receive crucial assistance from the New York City Police Department's Organized Crime Investigation Division (OCID), which deploys a detachment of police detectives at BIC. These detectives both gather field intelligence and conduct criminal investigations into the trade waste and public market wholesale industries.

The Committee was given an update on the development of indicators to evaluate the agency's performance. BIC and the Mayor's Office of Operations have developed internal indicators to assess the agency's performance. These indicators track the agency's performance on a monthly basis in the following areas: (a) applications, for both trade waste and public wholesale markets; (b) enforcement, for both trade waste and public wholesale markets; and (c) revenue.

The Chairman also provided the Committee with an overview of the enforcement efforts of the wholesale markets. There are 23 market agents currently assigned to work directly in the Fulton Fish Market and the Hunts Point Produce Market. Market agents can write violations and summonses for a variety of illegal activities. Most violations are heard at the Environmental Control Board with the exception of vehicular violations that are adjudicated by the Parking Violations Bureau.

**Committee Issues and Concerns**

The Committee's questions focused on vacancies, the ethnic makeup of BIC and the processing time for private carting licensing.

According to the January 2005 headcount run, the Agency has 10 vacancies. The Committee wanted to know the titles of the vacancies and if they planned to fill them. The Chairman told the Committee that one of the 10 vacancies has recently been filled, the general services position. The remaining vacancies consist of one Deputy Commissioner of Enforcement, six market agents, and two investigators. The Chairman could not provide the Committee with a timeline as to when these positions would be filled.

The Committee also inquired about the ethnic makeup of the Agency. The Chairman did not have the information readily available, but said he would forward it to the Committee.

According to the Chairman's testimony, BIC closed 1,812 of the 1,946 trade waste applications that had been received since August 1996. From July 2004 to the present, the number of pending applications has been reduced by 41 percent. The Committee inquired about the average processing time for new applications. The Chair stated that it takes a couple of months to complete.

**Recommendations**

The Committee recommends that the Business Integrity Commission produce an updated report on organized crime activity in the trade waste industries and the public wholesale markets.

**TO:           Honorable Gifford A. Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Finance Committee**

**FROM:       Council Member John Liu**  
**Chair, Committee on Transportation**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Transportation**

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On March 18, 2005, the Transportation Committee held its hearing on the Fiscal 2006 Preliminary Budget. The Committee heard testimony from representatives of the Metropolitan Transportation Authority/New York City Transit (MTA/NYCT), the Department of Transportation (DOT), and the Taxi and Limousine Commission (TLC). The following is a brief summary of testimony presented by agency representatives, issues and concerns raised by the Committee and recommendations.

### **Metropolitan Transportation Authority**

#### **Testimony Summary**

Gary Lanigan, MTA's Director for Budgets and Financial Management, Harvey Poris, Budget Director of NYCT and Greg Kullberg, MTA's Director of Capital Program Budgets, testified before the Committee on the MTA's 2005 Operating Plan and the proposed MTA 2005-2009 Capital Plan.

In his testimony, Mr. Lanigan talked about the vital role the MTA plays in the economic success of New York and the serious financial challenges the Authority faces in both its operating and capital budgets. To address some of these financial challenges before they become unmanageable, the Authority's Board has approved an operating budget for calendar year 2005 which includes increases in the 30-day and seven-day MetroCard discount passes, an increase in the Express Bus fare, as well as higher commuter rail fares and tolls. In addition, the adopted budget includes a reduction of 1,273 positions and deficit reduction initiatives totaling \$140 million. According to the budget director, the fare and toll changes, coupled with internal non-service related reductions, will allow the MTA to achieve a balanced budget in 2005. However, the Authority is still faced with operating deficits of \$607 million in 2006, \$689 million in 2007 and \$991 million in 2008. As a result, a hiring freeze has been imposed for all non-safety and critical positions, all discretionary travel has been suspended and limits have been imposed on non-personnel-related spending agency-wide.

To further streamline its operations and make them even more efficient to meet the challenges ahead, the Authority has proposed a restructuring plan that is now included in the State Fiscal 2005-2006 Executive Budget.

The restructuring plan, when approved, will allow the consolidation of two commuter rail operations and the consolidation of the Authority's various bus operations to minimize expenses in future years.

Discussing the Authority's planned capital spending, Mr. Lanigan told the Committee that one of the biggest challenges currently facing the MTA is its proposed 2005-2009 Capital Plan. Since its release, the Capital Plan, approved by the MTA Board and submitted to the Capital Program Review Board (CPRB), has been positively received by many civic and business organizations, including the Regional Plan Association and the New York City Partnership. The Plan calls for spending \$17.2 billion on identified core programs to ensure that vital infrastructure, such as buses, trains, bridges, track switches and signal blocks that literally keep the system running, remains in a state of good repair. The Plan will also commit \$500 million for security initiatives to protect and "harden" the system against terrorist attacks. In addition, the Plan proposes spending \$9.9 billion on expansion projects, including the Second Avenue subway and the East Side Access project.

To pay for these needs, last December the MTA proposed to the Governor and the State Legislature a series of tax increases, including a commuter tax that would provide about \$850 million annually to pay for the debt service on new bonds to fund the Authority's proposed capital plan.

However, despite the seriousness of the Authority's financial need, on January 18, 2005, the Governor, proposed a budget for the MTA that would provide only \$19.2 billion, including \$2 billion to be paid for by New York City for the No. 7 line extension. The 19.2 billion proposal by the Governor, which does not fully fund the Plan, presents significant budgetary problems for the Authority. The Governor's Plan, if adopted, is funded for only three years and will provide only \$14.7 billion for the Authority's core programs, requiring the MTA Board to make difficult choices as to how to allocate resources to keep basic infrastructure in good operating condition.

With regard to the MTA's debt service costs, the budget director stated that the Authority's debt service costs have continued to grow. For calendar years 2005 and 2006, debt service costs are projected to be \$1.2 billion and \$1.4 billion respectively, but will grow to \$1.6 billion by 2008. Of the current \$20.1 billion capital plan, a total of \$12 billion or 60 percent is private funding.

### **Committee Issues and Concerns**

The Committee was concerned about a number of issues, including the funding for the proposed capital budget, the Authority's TBTA surplus revenue sharing formula, a security implementation process and debt service.

With concern to the possibility of inadequate funding for the Authority's proposed capital plan, the Committee asked the MTA whether it could continue to maintain the system in good repair if its proposed "bare-bones" capital budget is not fully funded. Mr. Lanigan responded that it would certainly be a challenge for the Agency and that there would be trade-offs. However, the MTA is committed to maintaining safety first.

The Committee expressed concern about recent system breakdowns and service interruptions caused by fire, and signal control failures caused by water sipping through a hole in a ceiling that went undetected for years. The Committee asked the MTA to comment on a statement that the Agency's budget problems are already affecting service or that it is "skimping" on maintenance in light of breakdowns in the system over the past month that have derailed service for hundreds of thousands of commuters. Responding, the Director insisted that the MTA have standards that do not allow cuts to items that deal with maintenance or safety.

The Committee asked about the security measures that the agency is undertaking to ensure safety within its system given that the majority of the \$600 million earmarked for security remains unspent. Mr. Lanigan said that he could not discuss detailed security plans. However, the Authority is in the process of spending the \$600 million, of which \$143 million is federal funds earmarked for major capital projects that include monitoring/surveillance, intrusion detection and "hardening" certain elements of the system. In addition, the proposed 2005-2009 capital plan contains additional funding of \$500 million for security measures not covered by the current allocation. At this point, the Committee reminded him that this allocation has been available for over two years and wondered why the MTA has spent only about \$200 million, the majority of which is federal funds.

The Committee also expressed concern about the current TBTA surplus revenue sharing formula. This formula, which has been in existence since 1968, shortchanges NYC residents who pay 70 percent of tolls in the region. Under the current method, the first \$24 million of TBTA operating surplus must be allocated to the NYCT and any excess is divided equally between MTA and the NYCT. The Committee inquired if the MTA was aware of any proposal by the Governor to change the formula to a more equitable ratio. The MTA representatives said that they are not fully aware of the Governor's proposal, however, the MTA is seeking to gain more management flexibility as to the distribution of TBTA surplus and other revenues, through State legislation.

Lastly, the Committee expressed concern that the Governor's proposed funding plan for the MTA allows for the possibility of future fare increases, compared to the plan put forth by the MTA. The MTA's proposed funding plan calls for a series of tax increases, including a commuter tax, that would provide about \$850 million annually to pay for the debt service on new bonds to fund the Authority's proposed capital plan.

### **Recommendations**

In light of the daunting fiscal challenges facing the Metropolitan Transportation Authority in its efforts to maintain a system in good repair, secure it against terrorist attacks, and expand the 100 year old transit system, the Committee recommends that the Governor and the State Legislature provide budgetary relief by allocating significant capital funds in the state budget for the MTA.

In recognition of the impact the MTA has on the continued vibrancy of the region's economy, and the fact that the system's infrastructure is in need of repair to help prevent future breakdowns like the ones that have recently besieged the subway system, the Committee recommends that the Governor and the State Legislature approve and provide adequate funding for the MTA's proposed \$27.7 billion 2005-2009 Capital Plan.

Furthermore, New York City residents pay over 70 percent of tolls on MTA bridges yet less of the TBTA surplus comes to the Transit Authority due to the current revenue sharing formula that favors the commuter rails. The Committee recommends that the Governor and the Legislature change the TBTA surplus revenue sharing formula to a more equitable formula.

Lastly, with the recent increase in terrorist attacks and the availability of nearly \$600 million in the MTA's 200-2004 capital budget and an additional \$500 million in the MTA proposed 2005-2009 Capital Plan for security enhancements, the Committee recommends that the MTA move quickly to implement adequate security measures on all its systems to protect the riding public and the Authority's assets.

### **Department of Transportation**

#### **Testimony Summary**

Commissioner Iris Weinshall testified and answered the Committee's questions on DOT's Fiscal 2006 Preliminary Budget.

Her testimony included an outline of the Department's Capital Budget of \$8.9 billion that includes over \$800 million in new needs over the next ten years. For Fiscal 2006, some of the highlights include: \$230 million for City bridges; \$56 million for the reconstruction of East 153<sup>rd</sup> Bridge at Park Avenue in the Bronx; \$86 million for Willis Avenue and East 161<sup>st</sup> Street Bridges; \$45 million for reconstruction of the Hamilton Avenue Bridge over the Gowanus Canal; and \$91 million to purchase Advance Traffic Controllers, replace street light luminaries and construct pedestrian ramps. The Department plans to resurface 895 lane miles of streets and arterials in Fiscal 2006 and the outyears.

Furthermore, the Commissioner told the Committee that some of the reductions to DOT's expense budget this fiscal year are a result of funding switches with the State-funded Consolidated Highway Improvement Program (CHIPs) and Federal transit funds. Also, the Commissioner stated that the Department is moving forward with implementing congestion pricing initiatives. These initiatives include expanding the sale of muni-meter parking cards and installing 116 muni-meters to expand DOT's commercial parking initiative to avenues in Manhattan.

Speaking on the issue of metered parking on Sundays, the Commissioner stated that the purpose of the meters is to encourage a turnover of curb space in commercial areas. She informed the Committee that while DOT only received a small number of complaints over the past three years, in the past few weeks the Department has suddenly received a great deal of interest in metered parking on Sundays. She noted that DOT has accommodated many requests to change the regulations around houses of worship and where warranted, changed the regulation from one to two hours. She stressed that if parking spaces are not metered on Sundays, people will choose to park their cars overnight and not move them the next day. This will limit available parking spaces for businesses that remain open on Sundays and could lead to double parking on those streets and avenues. Currently, Sunday meter parking generates approximately \$7 million per year.

On traffic safety, particularly along Queens Boulevard and other locations that have repeatedly been sites of traffic or pedestrian-related accidents, the Commissioner said that through its Traffic Calming Program, DOT has continued to develop new strategies to make the roadways safer and more conducive to pedestrian movement. Accordingly, accidents, injuries and fatalities on city roadways are at their lowest levels in nearly a century. Since 1990, fatalities have decreased by over 57 percent, from 701 fatalities to 298 fatalities last year. From 1993 to 2000, Queens Boulevard was the site of 70 pedestrian fatalities. In 2001, there were four pedestrian fatalities, three in 2002, six in 2003 and only one in 2004. Also, in the last year, the Department has made additional safety improvements at other high accident intersections and corridors. These improvements include: the redesign and installation of new signals at Parsons Boulevard and 25<sup>th</sup> Avenue in Queens; the expansion of the “THRU Street Program” at 14 additional intersections in Manhattan; the implementation of a program in Hunts Point to keep truck drivers off of parts of Hunts Point and Garrison Avenues in the Bronx; and the implementing of measures along Third Avenue between Union and Fifteen Streets in Brooklyn where several recommendations contained in the Downtown Brooklyn Traffic Calming Study were successfully implemented.

To protect one of the City’s most vulnerable groups of pedestrians, last winter the Department launched a new program called “Safe Routes to School” that helps children cross the streets more safely around 135 highest-risk school locations citywide. The program costs will be approximately \$2.5 million.

To further improve safety, following the October 15<sup>th</sup> tragedy on the Staten Island Ferry, many changes have been implemented. In addition, the Department is continuing to implement the improvements recommended by Global Maritime and Transportation School (GMATS). DOT is in the process of creating a Safety Management System (SMS), a key recommendation of both GMATS and the National Transportation Safety Board. The SMS will develop a clear line of authority within the levels of ferry management, and set policies and procedures to cover all aspects of the operation. Also, the first of the three new Kennedy Class replacement boats, the Guy V. Molinari, paid for with federal funds of approximately \$140 million, went into service on January 26, 2005 and the remaining two boats are expected to go into service in May and September of this year.

The Department of Transportation is also moving to improve city streets by creating an aesthetically pleasing streetscape while expanding revenue opportunities without the use of public dollars. DOT expects to award a Coordinated Street Furniture Franchise this spring. This initiative is expected to generate over \$400 million over the next 20 years.

Lastly, the Commissioner informed the Committee that its New York City Bus Rapid Transit (BRT) Study, in cooperation with the MTA-NYC Transit and State DOT, is underway. The BRT project is seeking to enhance transit options in the City by combining the speed and reliability of a rail system with the flexibility of a bus system.

#### **Committee Issues and Concerns**

The Committee asked the Commissioner about the DOT’s plans for service improvement on the Staten Island Ferry, noting that the Fiscal 2006 Preliminary Budget contains no funding for the recently enacted legislation to increase service on the Ferry.



She responded by stating that the law takes effect on May 19, 2005. Hence, DOT has time before the implementation date to take such action.

The Committee also raised concern that DOT has not spent funding earmarked for private ferry subsidy in the Rockaways and in Brooklyn. The Commissioner responded that DOT's position not to subsidize private ferries has not changed. DOT favors spending money on landing infrastructure for ferries but not on individual operations.

Lastly, the Committee expressed concern about how DOT handles potholes, especially in those areas in the City that are continually affected. The Commissioner explained that DOT works in conjunction with the Department of Environmental Protection (DEP) to better coordinate repair work and road resurfacing. Some pothole problems are caused by conditions that include water retention or wood decay underneath the ground and must be assessed by DEP. In the meantime, DOT will continue to fill the potholes but will mill and pave once the assessment is completed. Due to winter weather conditions, DOT does not begin milling and paving city streets until March 15<sup>th</sup> of each year.

### **Recommendations**

Given the passage of legislation that provides additional ferry service on the Staten Island Ferry (intro. 94-A) and that the Fiscal 2006 Preliminary Budget contains no funding to increase service on the Ferry, the Committee recommends that the Administration move quickly to provide additional funding to increase service on the Staten Island Ferry.

The Committee recommends that the Administration expand the "Safe Routes to School" program to allow schools citywide help children cross the streets around school locations more safely.

The Committee also recommends that the Administration seek to mill and pave city streets more quickly instead of repeatedly filling potholes only in areas where they are frequent and poses a threat to public safety.

## **Taxi and Limousine Commission**

### **Testimony Summary**

Commissioner Matthew W. Daus testified and answered the Committee's questions on TLC's Fiscal 2006 Preliminary Budget.

In his testimony, the Commissioner highlighted the Commission's planned and ongoing initiatives. These include the sale of additional taxicab medallions last October, the implementation of electronic fingerprint processing at its Staten Island licensing facility, TLC's enforcement efforts and accessible service for the riding public.

Testifying about the October sale of 300 additional taxicab medallions, the Commissioner stated that the TLC's medallion sale outreach plans including seminars, workshops for potential bidders and print and media advertising, proved extremely successful and resulted in the acceptance of

over six hundred bids. In addition, the TLC worked with the Mayor's Office for People with Disabilities, members of the disability community in New York and environmental advocacy groups including the Sierra Club, to address the specialized accessible and alternative fuel medallions. As a result of this collaboration, four separate auctions were conducted: an individual auction; a mini-fleet auction; an accessible auction; and an alternative fuel auction.

The TLC auctioned 130 mini-fleet medallions at an average bid of \$393,232, 116 individual medallions at an average bid of \$339,207 and all 27 accessible medallions at an average bid of \$275,731. In total, the auction generated \$97.9 million in revenue, which is \$32.9 million more than the projected \$65 million amount.

The Commission was unable to sell medallions set aside for alternative fuel use, but plans to re-offer these medallions at a future auction. With the October auction, the Commission has auctioned nearly 600 medallions of the 900 medallions authorized. TLC plans to auction the remaining medallions in Fiscal 2006.

On providing accessible service for the riding public, the sale of 27 accessible medallions represents a significant step in the right direction. The Commission will be working with its Disability Advisory Board to evaluate the 27 wheelchair accessible yellow taxis in operation to help create standards that will best meet the needs of the riding public. In addition, the TLC will continue to work with the for-hire-vehicle base owners to help them meet their obligations of providing accessible service.

According to the Commissioner, TLC has continued to proactively address issues of service refusal through its Operation Refusal initiative. As of January 2005, the TLC had conducted 1,439 Operation Refusal field tests with a 95.5 percent compliance rate. The Commission is in the process of recruiting 25 trainees for its next enforcement officer class scheduled to begin next month, in addition to a class of 30 that completed training in September of 2004.

Lastly, the Commissioner expressed the TLC's commitment to streamlining its operations through the application of advanced technology. The Commission's website has continued to be invaluable to both the public and the agency's regulated industries. In Fiscal 2004, the TLC received 1.7 million website "hits" (visits to the site) compared to 76,000 in Fiscal 1999. In Fiscal 2005, the Commission has received 1.4 million hits to date.

#### Committee Issues and Concerns

The Committee is concerned that the Administration is not moving quickly enough to implement the recommended alternative fuel use taxicab program. Although the Commission argued that there are no available alternative cars at this time that meet TLC's standards, the Committee hopes that the TLC will look to other cities such as San Francisco where the alternative fuel taxi program is already a success for some insight and guidelines.

#### Recommendations

To ensure that the medallions set aside for wheelchair accessible and alternative clean fuel taxicabs are used as intended, the Committee recommends that the TLC increase efforts to ensure that suitable vehicles are available for purchase by individuals bidding on these medallions.

Also, the Committee recommends that the Administration use some of the surplus revenue from the medallion sales to improve the industry and expand the taxicab stand pilot program in the outer boroughs.

**Public Testimony**

The Committee heard testimony from Joseph Garber a civic leader from Brooklyn, Noah Budnick of Transportation Alternative, and Mr. X, a concerned citizen.

In his testimony, Mr. Garber contends that the Department of Transportation could achieve some efficiency savings by turning off streetlights during daytime hours.

Mr. Budnick of Transportation Alternative would like to see the Mayor's Office of Transportation reinstated to help agencies better work together and address common neighborhood problems like speeding, dangerous access to parks, inappropriate "cut-through" traffic and excessive truck traffic on neighborhood streets.

Lastly, Mr. X called upon the Committee to ensure that speed bumps are installed along Queens Boulevard in Queens to help reduce pedestrian fatalities.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Finance Committee**

**FROM:       Council Member Charles Barron**  
**Chair, Committee on Higher Education**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Higher Education**

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On March 18, 2005, the Higher Education Committee held a hearing on the Fiscal 2006 Preliminary Budget for the City University of New York (CUNY). Chancellor Goldstein testified on behalf of CUNY.

#### **Testimony Summary**

Chancellor Goldstein highlighted several of CUNY's achievements and discussed CUNY's proposed expense and capital budgets, the elimination of the Peter F. Vallone Scholarship and other Council-funded programs, proposed State cuts, and the restructuring of the Tuition Assistance Program (TAP).

The Chancellor began his testimony by highlighting some of the following accomplishments: CUNY has a 97 percent passing rate for the teacher state exam, the highest since testing began; the Honors College will graduate its first class; the enrollment in the College Now program has increased 70 percent since 2001 to over 37,000 participants; CUNY/Department of Education collaboration was awarded \$12.5 million over five years to improve K-12 math and science education; over 600 new full-time faculty have been added in the last two years; total grant and revenue has increased 63 percent in last four years; classes will begin in the fall at the first Graduate School of Journalism at a public university in New York; and CUNY launched its first-ever comprehensive fund-raising campaign, raising a half a billion dollars in the last four years.

The Chancellor gave the Committee an overview of the State Executive Budget for Fiscal Year 2005-2006. The State budget leaves a budget deficit of \$70.5 million in Fiscal 2006. The State budget proposes a \$250 tuition increase for full-time resident undergraduate senior college students. This tuition increase of 6.3 percent from \$4,000 to \$4,250 annually would increase the overall tuition to over \$1,000 in just 24 months. The State Executive Budget proposal also leaves the University with a \$26.3 million operating budget shortfall at CUNY's senior colleges. The budget deficit includes mandated needs such as new leases and buildings, environmental health and safety needs, new faculty commitments, and energy costs. The State budget proposes to eliminate the \$6.9 million financial aid component of the SEEK Program, which serves the poorest students at CUNY.

The main concern of Chancellor was the budgetary cuts to the community colleges. Enrollment at CUNY's community colleges reached over 72,000. Yet while more and more students sign up for courses, fill classrooms, and request financial aid, support from the State and the city declines. The Chancellor goes on to say that the Fiscal 2006 Preliminary Budget calls for \$151.5 million in overall support for CUNY, a decrease of \$34.7 million from overall support in the Fiscal 2005. This reduction is offset by a \$3 million increase in City support for pensions, which is funded outside of CUNY's budget. For the community colleges, the Fiscal 2006 Preliminary Budget funds \$133.8 million, which is a reduction of \$12.6 million from current-year budget levels.

The Chancellor expressed he is deeply worried about proposed reductions \$7 million for the Peter F. Vallone scholarship and \$4.5 million for the community colleges safety net program. In 2003-2004, almost 8,600 CUNY students, including honors college enrollees, received the Vallone Scholarship and 14,500 community college students received funding from the safety net program.

The Chancellor went on to say that we must also factor in recent changes to the eligibility formula for federal Pell Grant funding. Those changes will cause about 2,200 CUNY students to lose their entire Pell Grant, and another 44,000 to lose part of their Pell Grant. The change will cost students a total of \$8.4 million in Pell Grant funding for the 2005-2006 year. Our first priority must be to protect qualified students who cannot afford to attend college.

The Chancellor also pointed out, that the deep cuts that have been proposed discourage true progress. CUNY's energy is spent in a salvage effort, trying simply to retain minimal levels of funding. How much more effective would it be to focus on investing in CUNY, in building on the gains made in the last several years and strengthening our academic programs.

With regard to the capital budget, the Chancellor is requesting an additional \$201 million, which includes \$107 million that was added by the state legislature last year but subsequently vetoed. These funds were allocated for an instructional building and library at Bronx Community College; the renovation of 500 Grand Concourse for Hostos Community College; the continued renovation of Center III at LaGuardia Community College; the holocaust Center at Queensborough Community College; replace the roofs at Kingsborough Community College; design and construct an instructional building at Queensborough Community College and augment funding for acquisition and remediation of the Department of Sanitation garage site being purchased for the expansion of Medgar Evers College. If the City does not appropriate the necessary matching funds in the upcoming fiscal year, CUNY will be unable to use any State funds for capital projects at community colleges and Medgar Evers College.

The University is actively engaged in the process to rebuild Fiterman Hall. The State budget allocates \$20 million for Fiterman Hall, which is matched by the City's financial plan. CUNY has \$167 million of the estimated \$187 million needed to replace the building, and are working with the Lower Manhattan Development Corporation to obtain the remaining funding.

There is approximately \$100 million in the City's capital plan for CUNY, both mayoral funds (approximately 25 percent) and funds from the City Council and the Borough Presidents (approximately 75 percent). However, the majority of these funds are already allocated to active projects being implemented by the University.

Approximately \$27 million of the City Council and Borough Presidents funds are allocated to senior college projects, and are therefore not eligible for State matching funds.

There are projects that are eligible for and CUNY expects to receive, State matching funds. But most of the funds allocated to the community colleges and Medgar Evers College are earmarked for equipment to upgrade classrooms and laboratories. These funds cannot be re-designated for health and safety and code compliance projects, the very projects most urgently in need of additional funding.

### **Committee Issues and Concerns**

The Committee's questions focused on the following topics: the impact of the cuts on CUNY's faculty and students and CUNY's capital plan.

The Committee wanted the Chancellor to elaborate further about the impact of the \$5.4 million reduction to the Community Colleges. The Chancellor stated the Community College Investment Program's purpose was to increase the number of full-time faculty and support staff. To cut funding at the community colleges would undermined the gains made in recruiting and retaining full-time faculty at the community colleges.

The Committee stressed the need for capital funding and the City's underutilization of the State's capital matching program for CUNY. The Chancellor agreed that it is essential that the City increase capital funding in order to get the matching funds or the State will reduce the amount available.

The Committee noted that as a result of the City not fully utilizing all available CUNY funding in the past, the State lowered the allocation available this year and might not be amenable to additional appropriations in the future.

### **Public Testimony**

Public testimony was heard from Victor Elmann, Vice Chairman for Legislative Affairs of the University Student State Senate; Lauren Fasano, University Student Senate Chairperson; Bonnie Duen, President of Student Government at Queensborough Community College and Victor Rajcoomar, member of the University Student Senate.

Those who testified stressed the importance of preventing tuition increases and to continue investing in the City's future by investing in CUNY.

### **Recommendations**

The Committee recommends that the Administration restore the \$30 million reduction to CUNY's budget in Fiscal 2006 and the outyears. This recommendation will fully restore all proposed cuts to the community colleges, Peter F. Vallone scholarship, City Council-funded program and the Hunter Campus Schools.

The Committee recommends that the Administration increases the Safety Net Program by \$2.5 million for a total of \$7 million, and increase the Peter F. Vallone Scholarship by \$5 million for a total of \$12 million in Fiscal 2006 and the outyears.

The Committee recommends that the State reverse its proposal to restructure the TAP program and fully restore the financial aid component of the SEEK, PELL and College Discovery Programs.

The Committee recommends that the City approve a Five-Year Capital plan for the community colleges in order to receive matching funds from State.

**TO:           Honorable Gifford Miller**  
**Speaker**

**Honorable David I. Weprin**  
**Chair, Committee on Finance**

**FROM:       Honorable Peter F. Vallone Jr.**  
**Chair, Committee on Public Safety**

**Honorable Sara Gonzalez**  
**Chair, Sub-Committee on Juvenile Justice**

**SUBJECT:   Fiscal 2006 Preliminary Budget Hearing**  
**Committee on Public Safety/Sub-Committee on Juvenile Justice**

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The Committee on Public Safety, jointly with the Sub-Committee on Juvenile Justice, conducted its Fiscal 2006 Preliminary Budget Hearing on Monday, March 21, 2005. Agencies appearing at the hearing were the New York City Police Department (NYPD), the Department of Emergency Management (DEM), the District Attorneys and Special Narcotics Prosecutor, the Department of Juvenile Justice (DJJ), and the Civilian Complaint Review Board (CCRB). This memorandum summarizes the testimony presented by the agency heads and the issues, concerns, and recommendations expressed by the Committee.

### **Police Department**

#### **Hearing Summary**

Police Commissioner Ray Kelly began his prepared testimony with a discussion of the City's crime statistics and NYPD crime initiatives. The Commissioner noted that major felony crime had dropped by five percent in Calendar 2004 when compared to Calendar 2003. He highlighted the success of Operation Impact, an initiative that focuses police resources in select high-crime areas: major felony crime in Calendar 2004 dropped 26% within Operation Impact zones. The Commissioner also emphasized the success of Operation Trident, which has split the 75<sup>th</sup> Precinct – an area with historically high crime rates – into three geographical zones, each under the command of a different police captain. Compared to the same period in Calendar 2004, the Commissioner noted that major felony crime in the 75<sup>th</sup> Precinct fell 23 percent in Calendar 2005, and he testified that the Department may expand the Operation Trident model into other geographically large precincts. Regarding safety in City schools, the Commissioner described the success of the School Impact program, which applies the Operation Impact model on designated schools with high crime complaint activity. Other crime-fighting initiatives highlighted by the Commissioner included: Biotracks, a federally funded program that applies DNA analysis to burglary crime scenes; the Citywide Vandals Task Force, which targets graffiti vandalism; and traffic safety efforts that have reduced traffic fatalities and DWI-related offenses.



Commissioner Kelly then discussed the Department's efforts to maintain and fund its counter-terrorism initiatives.

The Commissioner estimated that counter-terrorism and intelligence-gathering initiatives will cost the City \$164 million in both Fiscal 2005 and Fiscal 2006. These initiatives include: approximately 1,000 officers assigned to daily counter-terrorism efforts; Operation Atlas, which protects critical landmarks and infrastructure and costs the City \$900,000 per week; local, national, and international intelligence-gathering efforts; and other programs. While touting the NYPD's enhanced counter-terrorism efforts, the Commissioner noted that the City had requested from the Federal government \$462 million for NYPD counter-terrorism activities, yet the Department had received only \$237 million since Federal Fiscal 2002. The Commissioner detailed the proposed Federal Fiscal 2006 nationwide grant program from the Department of Homeland Security (DHS), and he highlighted an "improved allocation formula" that would shift the DHS State Homeland Security Grant funding away from a State minimum basis and in favor of "risk, threats, vulnerabilities, and unmet essential capabilities." But Commissioner Kelly acknowledged, "We need to continue our efforts to secure adequate funding for New York City."

The Commissioner continued his prepared remarks by listing the gap-closing initiatives that have reduced the NYPD's budget by \$135.5 million in Fiscal 2005 and \$130.7 million in Fiscal 2005. The Fiscal 2006 budget reduction programs include such measures as: \$91.9 million in Personal Services (PS) savings from a higher-than-expected number of retiring officers and reduced civilian headcount; additional City funds surplus of \$30.3 million from the use of a DHS grant for Operation Atlas overtime; and new arrest overtime savings of \$13.5 million from a District Attorney plan to reduce arrest-to-complaint-sworn times.

Commissioner Kelly also provided a detailed analysis of the agency's overtime spending. He projected that Fiscal 2005 overtime expenditures will total \$426 million, of which \$160 million "will be reimbursed through grants and other revenues." The remaining \$266 million, he noted, represented a 16 percent drop in City-funded overtime compared to the \$317 million spent in Fiscal 2004. The Commissioner testified that "surplus PS funding" will be used to cover any additional gap in Fiscal 2005 overtime spending. With regard to Fiscal 2006 overtime costs, the Commissioner admitted that the proposed budget of \$260.9 million "is not sufficient to cover the [projected] overtime expenditures," but the Department "will endeavor to achieve overtime savings where possible and to identify surplus funds...to address much of the [expected Fiscal 2006] overtime need."

In closing his prepared statement, Commissioner Kelly provided an update to the NYPD's Capital Budget. Despite a new needs request of \$470.1 million for new precinct construction, new technology needs, and equipment life cycle replacement, the Mayor's Office of Management and Budget (OMB) provided only \$200 million, including: \$100 million for the construction of new 40<sup>th</sup>, 66<sup>th</sup>, 70<sup>th</sup>, and 110<sup>th</sup> precinct station houses; \$26 million for technology needs; and \$74 million for equipment replacement needs. He also testified that the precinct construction funding was insufficient, and "therefore additional funding will be required."

## Issues and Concerns

### Emergency Preparedness and Counter Terrorism Grants

Chairman Vallone was concerned about the continued lack of financial commitment from the Federal government to offset New York City's local emergency preparedness and counter-terrorism efforts, and he echoed the Commissioner's statements that New York City "deserves more federal funding."

In particular, the Chairman pointed out that New York State reserves the maximum 20 percent of Urban Area Security Initiative (UASI) funds that are awarded to New York City – a portion that will amount to \$42 million of New York City's proposed Federal Fiscal 2006 UASI award. Noting that the State-retained portion must be spent in New York City, the Chairman asked Commissioner Kelly how these funds have been used in the past or will be used in the future to support counter-terrorism efforts in the City. The Commissioner "could not say with certainty" how the State has utilized or will utilize its UASI portion within the City limits, and he admitted, "It's a concern that needs to be addressed." Chairman Vallone found it "disturbing" that the City's Police Commissioner was not aware of how New York State expended these funds and vowed to find a definitive answer from State administrators.

### Overtime

In noting that the Department's Fiscal 2005 projected overtime expenditure of \$426 million was significantly greater than its Preliminary Fiscal 2006 Overtime Budget of \$260 million, Chairman Vallone questioned the Commissioner about how he would control overtime costs. The Commissioner admitted that the Department is "under budgeted" for overtime; he cited that the Department spends \$70 million annually for planned and unplanned events overtime, yet is only budgeted to spend \$50 million. He also noted that \$50 million in Fiscal 2005 overtime spending incurred during the Republican National Convention would not be repeated in Fiscal 2006. Finally, Commissioner Kelly testified that First Deputy Commissioner George Grasso chairs an overtime committee that "holds units accountable" for overtime expenditures. Chairman Vallone reiterated his position that event sponsors should reimburse the City for overtime security costs, and the Commissioner replied that (1) the Mayor's Office and OMB – and not the NYPD – set and maintain policies for reimbursement for events overtime; (2) the NYPD will implement efficiencies, such as utilizing 300 scooters purchased for the Republican National Convention, to reduce overtime at events, and (3) historically benign events will be assigned less officers than in the past. Finally, the Chairman suggested that the best method to lower overtime would be to hire additional police officers. While the Commissioner welcomed an increase in uniformed headcount, he claimed that more officers would not necessarily result in overtime savings because "overtime gives us a certain amount of flexibility."

### Uniformed Headcount and Precinct Staffing

In reiterating that "more police officers will reduce crime," Chairman Vallone commended the Commissioner about the results of Operation Impact. However, the Chairman expressed concern about how the Department had deployed the majority of recently graduated recruits to a select number of Operation Impact precincts, as opposed to a balanced allocation across all City precincts.

Commissioner Kelly, recognizing the “potential for displacement of crime,” replied that the previous group of rookie officers assigned to Operation Impact was eventually reassigned in an equitable manner across all City precincts. He also testified that Operation Impact – and the policy of eventual reassignment of officers – would continue in Fiscal 2006.

The Chairman asked the Commissioner to describe the effects of the NYPD’s recent decision to split its annual attrition-replacement recruit class into two separate classes, one to be hired in July and one in January of each fiscal year. The Commissioner replied that the quality of recruits was the highest since he became Commissioner: of the 1,700 recruits currently in the Police Academy, 30 percent have a four-year baccalaureate degree. He also noted that the Department “has never been more diverse”: 28 percent of the current class is Hispanic and 18 percent is African-American. As well, the Commissioner noted that the Department’s agency-wide Asian employment had increased from one percent to three percent. The Commissioner admitted that attrition will be high over the next few years because 80 percent of police officers retire after 20 years on the force, and large recruit classes hired in the mid-1980’s are reaching this 20-year retirement mark.

Chairman Vallone, in noting a recent announcement that 40 percent of the latest Nassau County Police recruit class was comprised of former NYPD officers, called for a better salary structure for NYPD officers. The Commissioner agreed that higher police officer salaries in New York City suburbs was a major issue, but he claimed that the NYPD’s non-retirement attrition rate of two percent “can’t be found at any Fortune 500 company.”

Chairman Vallone asked the Commissioner about how the Department was complying with a recent arbitration ruling that requires the NYPD to: (1) cease and desist from assigning clerical and administrative duties to police personnel, and (2) assign Police Administrative Aides to perform those duties. The Commissioner responded that the time period in which the City could file an appeal had passed, and although he felt the number of civilianizable positions put forward by DC-37 was “unrealistic,” he would “work with the unions” with regard to the decision.

Finally, the Chairman questioned the Commissioner about a report released by the Commissioner to Combat Police Corruption (CCPC), which analyzed a sample of recent recruits and found that background checks of previous arrest records should have disqualified many of them from serving on the police force. Commissioner Kelly noted that people with felony convictions cannot serve on the police force, but “arrests are not a bar to public employment.” The Commissioner felt that CCPC report was a “misplaced concern,” and he testified that the NYPD is preparing a response to the report.

### **School Safety**

Chairman Vallone commended the Department for using federal funds to hire additional police officers to ensure public safety in City schools. The Commissioner noted that with the additional officers, NYPD school safety personnel now include: 170 officers assigned directly to schools; 120 precinct-based officers involved with school safety; and 4,200 School Safety Agents. With regard to the School Impact program, the Chairman expressed concern that once an Impact School’s crime statistics drop to a level such that it can exit the program, violent incidents may rise after the school safety personnel are reassigned. Commissioner Kelly replied that: (1) the School Safety program has a Mobile Task Force that ensures maintenance of effort at past

Impact Schools, and (2) no school taken off the program had experienced a subsequent crime increase that necessitated reassignment to the program. According to the Commissioner, 17 schools are part of the current School Impact program. Chairman Vallone also questioned the Commissioner about the NYPD's role in selecting and prioritizing the installation of school safety-related equipment (surveillance camera and entrance access control systems), which are funded through the Department of Education's (DOE) capital budget. The Commissioner replied that the School Safety Division: (1) coordinates with DOE personnel about the schools that will receive surveillance camera systems, and (2) relies on the recommendations of school principals about the installation of magnetometers, panic alarm doors, and other entrance access control systems. (According to the Commissioner, 69 schools have permanent magnetometers and 10 schools are assigned magnetometers on a periodic basis.) Of equal concern to the Commissioner, however, is the lack of additional school safety personnel that are required to operate school safety-related equipment.

Council Member Katz asked the Commissioner if the NYPD would retain the 50 new school safety-related police officers beyond the 36 months of the Federal grant program. Commissioner Kelly replied that although he didn't want to project headcount three years from now, he had "no reason to think that they would be dropped." Council Member Katz also questioned the Commissioner about recent legislation that requires DOE and the NYPD to post school violent incident data on DOE's website. The Commissioner noted that the first statistics to be posted, which will reflect the City's 2004-2005 school year, should be available this fall.

#### **Emergency Dispatch Operations**

Although he recognized that the \$1.3-billion Emergency Communication Transformation Project (ECTP) is being managed by the Department of Information Technology and Telecommunications (DoITT), Chairman Vallone once again called on the Administration to complete a vital component of ECTP: the second Public Safety Answering Center (PSAC II). Commissioner Kelly referred timetable questions to DoITT, but he did testify that the current site of "a Bronx psychiatric facility" had been chosen as the location for PSAC II. The Commissioner stated that land acquisition would have to be completed, and he admitted that a detailed analysis conducted by the NYPD about the location's security had delayed the process. The Commissioner noted that a limited back-up system to PSAC I existed at Police Headquarters, but the Chairman replied that a much more robust system is required. Commissioner Kelly agreed.

#### **Establishment of a Fourth Precinct on Staten Island.**

Council Member McMahon questioned the Commissioner about a recent announcement that a new precinct would be formed on Staten Island. The Commissioner cited population increases that warranted the new precinct, but he was not able to provide details about the fiscal impact or the new precinct's location and confines. In answering the Chairman's question about funding for the new precinct, the Commissioner was unsure whether the Fiscal 2006 Executive Budget would reflect additional capital and/or expense appropriations. Commissioner Kelly also could not confirm whether new civilian and uniformed personnel would be hired in order to staff this new precinct, or whether personnel would be siphoned off from other NYPD precincts and units. However, the Commissioner did testify that construction would start in late 2006 or early 2007 and would be completed in 2009.

**Recommendations**

The Committee urges the Department to continue its efforts to pursue Federal funding for New York City's local counter-terrorism efforts, and in particular to ensure that the Federal government: (1) awards counter-terrorism and emergency preparedness grants based solely on risk assessment and target potential; (2) awards Urban Area Security Initiative grants directly to a limited number of urban areas (all of which have experience with federal grant applications and requirements) and not to the States with a pass-through requirement to localities; and (3) allows localities the unfettered ability to use grants to offset any local counter-terrorism cost.

The Committee encourages the Department to maximize law enforcement strength by (1) redeploying police officers who currently perform administrative tasks to law enforcement duties, and (2) fully or partially offsetting new police hires by assigning the new officers to overtime-reducing shifts. In addition, uniformed staffing for the new Staten Island precinct should consist of new hires and not of officers siphoned off from other precincts.

The Committee recommends that the Department reduce its overtime expenditures through civilianization, efficient tour scheduling, efficient use of personnel at planned and unplanned events, and increased patrol strength at the precinct level. Additionally, the Committee urges the Mayor's Office and OMB to limit the number of event permits issued and to require event promoters to reimburse the City for security costs.

The Committee encourages the Department to meet the requirements of a recent arbitrator's ruling that: (1) non-law enforcement positions are staffed with civilians, and (2) all full-duty uniformed officers who currently perform administrative tasks are reassigned to law enforcement functions.

The Committee urges the Department, in conjunction with DoITT and the Fire Department, to provide full project scope and financial details for and to expedite the completion of the Emergency Communications Transformation Project (ECTP). In particular, the second Public Safety Answering System (PSAC II), a vital component to the Enhanced 9-1-1 System and project, which has been delayed for over ten years, must be completed as soon as possible.

The Committee urges the NYPD, in conjunction with the Department of Emergency Management, the Fire Department, and other City first responder agencies, to meet the guidelines of Federal Department of Homeland Security National Incident Command System (NIMS), including the formalization of the City's unified command structure, such that: (1) the receipt of Federal emergency preparedness grants is not jeopardized, and (2) agency coordination is maximized in the event of any emergency incident.

**Department of Emergency Management****Hearing Summary**

The prepared testimony of Commissioner Joseph E. Bruno reviewed the core functions of the Department of Emergency Management (DEM). Commissioner Bruno highlighted the agency's emergency operations program and public education initiatives, the interagency preparedness exercises that it coordinates, and DEM's Fiscal 2006 Preliminary Budget.

**Issues of Concern****Unified Command Structure**

Chairman Vallone questioned the agency about the City's compliance with the Department of Homeland Security (DHS) National Incident Command System (NIMS), which calls for "the Nation's first standardized management plan that creates a unified structure for Federal, State, and local lines of government for incident response." In particular, the Chairman asked the Commissioner to reaffirm that New York City's Incident Command Structure (CIMS) is fully compliant with NIMS so that: (1) Federal emergency preparedness grants would not be jeopardized by the failure to be in compliance; and (2) agency coordination is maximized in the event of any emergency incident.

Commissioner Bruno replied that the "CIMS structure complies with the NIMS template." He also testified that CIMS will meet the October 2005 DHS deadline for self-compliance as well as the November 2006 deadline for official DHS compliance. The Commissioner pointed out that the final CIMS structure will involve 20 agencies, and he expected that the document detailing the CIMS structure would be "released shortly."

**Emergency Preparedness and Counter Terrorism Grants**

As he did during the NYPD portion of this hearing, Chairman Vallone pointed out that New York State reserves the maximum 20 percent of Urban Area Security Initiative (UASI) funds that are awarded to New York City – a portion that will amount to \$42 million of New York City's proposed Federal Fiscal 2006 UASI award. Noting that the State-retained portion must be spent in New York City, the Chairman asked Commissioner Bruno about how these funds have been used in the past or will be used in the future to support counter-terrorism efforts in the City. The Commissioner alluded to coordination efforts with the State Emergency Management Office (SEMO) but could not provide substantive examples of how the State had utilized or will utilize its UASI portion within the City limits. Chairman Vallone referred to earlier testimony that Police Commissioner Kelly was also unaware of how the State spends these funds and reiterated his vow to get a definitive answer from State administrators.

Of the total \$203 million in Federal Fiscal 2006 DHS emergency preparedness and counter-terrorism grants that has been earmarked for New York City, the Commissioner testified that DEM is seeking \$9 million for its emergency preparedness efforts. Of this amount, Commissioner Bruno would use \$1 million for the Ready New York campaign, which "educate[s] New Yorkers about what they need to do to prepare for all types of emergencies."

**Emergency Command Center**

Chairman Vallone asked for an update of DEM's new Emergency Operations Center, which is under construction in Brooklyn Heights' Cadman Park. In particular, the Chairman pointed out that the building's construction, which will incorporate the existing shell of the former New York City Red Cross Building, had been reported by local residents and officials to have slowed considerably. Commissioner Bruno replied that work continues on the project: steel beams for a 25-foot addition had recently been erected; mechanical systems were installed; and the building was ready for installation of its exterior shell, plumbing system, and electrical system. The Commissioner expected the new center, which he says will be the City's first "green" agency headquarters with "environmentally responsible design features," to be finished in April 2006.

**Other Miscellaneous Issue**

Chairman Vallone and other Council Members posed additional questions to Commissioner Bruno, who provided the following information:

- A recent survey of New Yorkers about their emergency preparedness plans concluded that ten percent of respondents are aware of DEM's Ready New York pamphlet, 30 percent have a disaster plan, and 22 percent have a "go bag" with items they might need during an emergency.
- Several changes have been effected in the event of another citywide blackout or similar emergency that would require area evacuation, including:
  - (1) an 800MHz radio system is in place so that the Mayor can communicate with all agencies; (2) a separate emergency fuel supply is being maintained for City vehicles; (3) a plan has been developed to use commercial ferries for emergency transport; and (4) gas stations have been equipped with generators in order to bring fuel from the underground tanks to the pumps.
- DEM coordinates instruction of Community Emergency Response Teams (CERT), whose participants are trained in basic disaster response skills so they can assist emergency personnel when needed. The agency trains teams by community board: 17 teams have completed CERT training, and another 15 teams are expected to complete training this year. It is the agency's goal to have one certified CERT team in each community board by the end of 2006.

**Recommendations**

The Committee urges DEM, in conjunction with the Police and Fire Departments and other City first responder agencies, to meet the guidelines of Federal Department of Homeland Security National Incident Command System (NIMS), including the formalization of the City's unified command structure, such that: (1) the receipt of Federal emergency preparedness grants is not jeopardized, and (2) agency coordination is maximized in the event of any emergency incident. In addition, a final copy of the City's Incident Command System (CIMS) should be forwarded to the Committee immediately.

As the City's emergency preparedness coordinator, DEM interacts with local, State, and Federal agencies. As such, DEM should be aware of how DHS grants awarded to non-City agencies, such as the portion of UASI funds that are retained by New York State, are spent in New York City in accordance with the terms of the grant application. The Committee recommends that DEM attain a complete accounting of the UASI funds that have been retained by New York State and used within New York City limits. A copy of this report should also be forwarded to the Committee.

**District Attorneys and Special Narcotics Prosecutor****Hearing Summary and Issues of Concern**

Testifying about the City's proposed Fiscal 2006 budget for prosecution services were Manhattan District Attorney (DA) Robert M. Morgenthau, Bronx DA Robert T. Johnson, Queens DA Richard A. Brown, Staten Island DA Daniel M. Donovan, Jr. and Special Narcotics Prosecutor Bridget G. Brennan. Also testifying was First Assistant District Attorney Dino G. Amoroso, representing Brooklyn DA Charles J. Hynes.

Chair Vallone greeted the prosecutors, complimented them on their continued contributions to the City's public safety efforts, and indicated his desire to vastly improve their collective budgetary situation. He briefly alluded to the many rounds of budget reductions that their offices have suffered during the past three years (totaling more than \$40 million), and reported that numerous colleagues on the Council join him in desiring a significant increase to their baseline budgets and the elimination of the Administration's misguided Revenue Enhancement Program. (These colleagues include, but are certainly not limited to, Council Members Oddo, Fidler and Gennaro.)

Each of the prosecutors provided testimony regarding the severe budgetary constraints under which they are operating. As was the case last year, testimony revealed that attorney headcounts are down, average caseloads are disturbingly high, and plea bargain deals are being entered into that would never have been negotiated were the prosecutors' offices not so bereft of resources. Additionally, public safety has been jeopardized because of the prosecutors' inability to prosecute cases in an expeditious manner, conduct long-term investigations, and provide crime prevention services.

The DA's and the Special Narcotics Prosecutor described the logistical and planning difficulties inherent in the Revenue Enhancement Program, and the recently proposed restorations relating to the Program. They all indicated that revenue generation would likely be reduced this year compared to last, potentially limiting the amount of additional restorations that might be made in Fiscal 2005.

A few of them discussed the Case Processing Initiative contained in the January Plan, indicating that OMB embraced this cost-saving initiative as a substitute for yet additional budget cuts. But they used this initiative to demonstrate that *investments* in their agencies were more prudent and more cost effective than budget reductions.

Much of the testimony heard by the Committee dealt with important discretionary programs each of the offices runs. While the prosecutors stated that some programs have been eliminated or scaled back, others continue to greatly benefit the City and its residents, including many of the most vulnerable populations. Because of declining financial support from the federal, State and City governments, the prosecutors testified, many programs are compromised; additional funds are necessary to continue them, or in some instances, just to run them effectively. With the exception of the Brooklyn DA, each of the offices provided written testimony that included specific Fiscal 2006 budget requests as follows:



## New York DA:

Restoration of Budget Cuts - \$12,300,000  
Enhanced Money Laundering Unit - \$600,000  
Identity Theft Unit - \$564,300  
Enhanced Child Abuse Unit - \$352,000

## Bronx DA:

Restoration of Budget Cuts - \$3,400,000  
Rikers Island Prosecution - \$209,000  
Additional Security Reimbursement - \$150,000

## Queens DA:

Revenue Protection Unit - \$500,000  
Response to Exploitation of the Elderly - \$600,000

## Richmond DA:

Witness Protection - \$200,000  
Truancy Alliance Program - \$30,000  
Detective Investigators – amount unspecified  
Replacement of Grant-Funded ADA's – amount unspecified  
Integrated Domestic Violence Court Part – amount unspecified

## Special Narcotics Prosecutor:

Baseline City Council Restoration - \$800,000  
Baseline Restoration of Revenue from DA's - \$\$290,768

Money Laundering -\$489,500  
Alternatives to Incarceration - \$765,500  
Internet Investigations Unit - \$144,000

**Recommendations**

The Administration should abandon the Revenue Enhancement Initiative beginning in Fiscal 2006.

The \$3.5 million enhancement provided to the offices of the District Attorneys and the Special Narcotics Prosecutor in Fiscal 2005 should be restored in Fiscal 2006. Additionally, a substantial portion of the more than \$20 million in cuts to the prosecutors' baseline budgets needs to be restored.

**Department of Juvenile Justice**

Testifying on behalf of the Department of Juvenile Justice (DJJ) were Commissioner Neil Hernandez, Deputy Commissioner for Administration and Policy Andrew Gonzalez, and Deputy Commissioner for Operations and Detention Thomas Tsotsoros.

**Hearing Summary**

Chair Gonzalez began the DJJ portion of the hearing with a moment of silence for the late James E. Davis, her predecessor as Chair of the Subcommittee.

In his prepared remarks, Commissioner Hernandez outlined the mission of the agency and described some of his key initiatives. He described the Alternative-to-Placement initiative that is being expanded by the Department of Probation, detailing the manner in which it will aid DJJ in managing its population. He indicated that this strategic investment also responds to DJJ's daily detention population, which "increased 7 percent the first four months of this year even though juvenile arrests dipped 5 percent."

The Commissioner discussed the January Plan action that will allow for the hiring of 200 additional juvenile counselors, and how it will lead to lower overtime expenditures and lessen the burden on "overworked staff." He indicated that the influx of juvenile counselors would improve the counselor-to-juvenile staff ratio such that it will exceed the mandated State requirement.

Also in his prepared remarks, Commissioner Hernandez noted DJJ's plan to convert positions currently filled by individuals in the "houseparent" title to the title of "congregate care specialist." This, he said, along with the hiring of 10 additional childcare staff, "will allow us to reduce the existing work shift for NSD [non-secure detention] staff from 12 to 8 hours." When asked about the union's level of support for the title conversion, the Commissioner indicated that, "this is a positive thing for them." He also said that Commissioner Gonzales was working diligently to be sensitive as to where juvenile counselors will be assigned to accommodate the staff's desires to work close to home. Commissioner Hernandez detailed the manner in which DJJ is working with the Office of Labor Relations and the Office of Management and Budget to implement and properly fund the title conversion.

The last January Plan action referred to by the Commissioner was the quarter of a million dollars added to DJJ's budget to support the ongoing funding of non-secure detention group homes.

Although Commissioner Hernandez discussed the \$400,000 in baseline funding for discharge planning that will be available in Fiscal 2006, his prepared remarks did not discuss the "hidden cut" of \$500,000 for discharge planning funds provided by the City Council in Fiscal 2005, that is not restored in the Mayor's Fiscal 2006 Preliminary Budget. When asked about this hidden cut, Commissioner Hernandez indicated his disappointment that the funds are not presently in DJJ's Preliminary Budget, stressing his strong belief that discharge planning is a key to reducing the readmission rate for juveniles in his care. The Commissioner also warned the Committee that the Department is in jeopardy of losing another \$600,000 in discharge planning funds typically made available through the Juvenile Accountability Incentive Block Grant (JAIBG).

Chair Gonzalez asked several questions about the types of discharge planning services DJJ provides and about the specific populations who actually receive discharge plans. She unequivocally proclaimed her belief that the funding for discharge planning should not only be maintained, but expanded. Furthermore, she extended the support of the Sub-Committee to Commissioner Hernandez, indicating that perhaps DJJ and the City Council could collaborate on a joint study of readmission rates to gauge the effectiveness of discharge planning. The

Commissioner indicated his appreciation for the Chair's offer and stated that he'd be delighted to examine the idea of such a partnership if confidentiality concerns could be addressed. (He noted that approximately 85 percent of juveniles are engaged in Family Court proceedings.)

Returning to the issue of the 200 newly funded juvenile counselors, Chair Gonzalez inquired as to whether their presence would enable the Department to increase its discharge planning resources. Commissioner Hernandez responded by stating that the new staff would enable overall supervision to be greatly enhanced.

When questioned about the recidivism rate for juveniles leaving DJJ, the Commissioner detailed the difference between recidivism and readmission rates, indicating that the latter was the better indicator of the agency's performance. He furthermore stated that, "some of the preliminary results [of readmission studies] are quite encouraging." The Commissioner also remarked that the most influence that DJJ can have in the area of discharge planning is to focus on those with serious health and mental health needs. To that extent, he trumpeted the success of the Adolescent Portable Therapy program, a joint initiative of DJJ and the Vera Institute of Justice that provides substance abuse treatment and counseling and "follows children and their families through and beyond their time in the Juvenile Justice System."

Council Member Dilan asked several questions of Commissioner Hernandez, including one seeking clarification as to the difference in the cost to detain a juvenile in secure, as opposed to non-secure detention. The Commissioner responded by saying that secure detention costs \$100/day more per juvenile.

### **Issues and Concerns**

Chair Gonzalez expressed extreme displeasure with the fact that the City Council's discharge planning funding is not included in DJJ's baseline budget for Fiscal 2006 and beyond. She also cited the need to have a research instrument to track readmissions "one, two and three years down the road."

### **Recommendations**

Discharge planning funds provided by the City Council should increase from the \$500,000 provided in Fiscal 2005 to \$1.5 million in Fiscal 2006. This \$1-million dollar increase, coupled with a \$3.5-million dollar increase in the Department of Correction, would constitute for the City Council a significant Discharge Planning Expansion Initiative.

A research instrument to track readmissions of juveniles leaving DJJ must be developed.

## **Civilian Complaint Review Board**

### **Hearing Summary and Issues of Concern**

Testifying on behalf of the Civilian Complaint Review Board (CCRB) were Board Chairman Hector Gonzalez and Executive Director Florence Finkle, each of whom submitted written remarks that primarily expressed grave concern about the effect of increased complaint activity, combined with inadequate investigative headcount, on the timeliness and quality of CCRB investigations.

Board Chairman Gonzalez thanked the City Council for its \$1-million restoration to the CCRB's Fiscal 2005 Adopted Budget, which "permitted the CCRB to fund 24 investigator positions in an effort to keep pace with a complaint rate that has risen in each of the last four years." But the Board Chairman noted that because the restoration was not baselined, the Board's Fiscal 2006 Preliminary Budget "would compromise the CCRB's capacity to fulfill its core mission: the timely and detailed investigation of complaints."

The Board Chairman noted that 6,210 complaints had been received by the CCRB in Calendar 2004 – "the most complaints filed in one year of the agency's history as an independent agency" – and he noted that the City's 3-1-1 system "played a significant role in the increase." He testified that of the four complaint categories, those involving abuse of authority allegations had risen at a rate higher than the other categories of force, discourtesy, or offensive language allegations. Board Chairman Gonzalez also described increases in substantiation rates, and thus concluded, "The rise in complaints is not solely attributable to spurious allegations."

Beyond complaint activity, the Board Chairman described other areas of performance by the agency. The Board's mediation program continues to grow, with a record number of cases successfully mediated (113) and total cases closed through mediation (209). He also described policy recommendations that were made to and implemented by the NYPD. The first, which stemmed from an analysis of substantiated strip-search complaints, recommended additional training of NYPD Patrol Guide strip-search procedures. As a result of the CCRB's findings, Board Chairman Gonzalez testified that Police Commissioner Kelly has "issued a directive regarding proper procedures for conducting strip searches of prisoners" and "is in the process of developing a training video regarding proper search procedures." The second recommendation, according to the Board Chairman, consisted of three suggestions derived from an analysis of complaints following the February 2003 anti-war protests. The Board recommended that: (1) the NYPD should provide to the Board unedited video footage made by the Technical Assistance Response Unit (TARU) at demonstrations; (2) officers assigned to the NYPD Mounted Unit should display identification that is clearly visible from street level; and (3) in order to better identify officers, the NYPD should put in place measures whereby officers responding to a mobilization can be traced for the course of the mobilization. According to Board Chairman Gonzalez, Police Commissioner Kelly has implemented the first two of these suggestions.

The Board Chairman closed his opening remarks with details of a new needs funding request to OMB for permanent and adequate funding for investigative resources. This request – \$1.5 million for an additional 33 investigators – would allow the Board to fund "the minimum number [of investigators] to keep up with the complaints the agency is currently receiving."

Executive Director Finkle reaffirmed the Board Chairman Gonzalez's concerns about maintaining adequate funding for investigative resources. She first described efficiency efforts that the agency has undergone to compensate for reduced investigative headcount. These include: (1) the consolidation of clerical tasks, which has allowed the shifting of vacated administrative positions to investigative titles; (2) with the assistance of OMB, the expeditious replacement of departing investigators; (3) the focus of investigative resources on only those complainants and alleged victims who express a willingness to follow up on their complaints; and (4) the focus of investigative efforts where "factual and legal issues are more easily resolved." Despite productivity efforts, the Executive Director testified that closed cases in Fiscal 2004 "could not totally keep up with the complaints being filed," and thus the docket of open

cases increased from 2,816 to 3,204. Executive Director Finkle described other key performance indicators that have suffered, including the time to complete a full case investigation in 2004, which averaged 280 days versus the 2003 average of 257 days. As she has done in previous budget hearings, the Executive Director provided extensive statistical projections about how the proposed Fiscal 2006 investigative headcount – excluding City Council restorations – would detrimentally affect the agency’s ability to carry out its mandate. In particular, she projected that the agency’s average monthly docket would increase by 128 cases per month; this level, she noted, would be comparable to levels not seen since 1996, “a time when the NYPD, the City Council, civil rights advocates, and the public at-large criticized and characterized the CCRB as ineffective.”

Executive Director Finkle also described how “relying on single-year funding provided in adopted budgets is inherently inefficient.”

For instance, investigators that leave the agency in the latter part of the fiscal year cannot be replaced because the subsequent fiscal year’s budget “does not include funding for these positions.” The tenuousness of single-year funding also results in the “the sudden and large-scale need to interview and hire new investigators” early in each fiscal year, which “inordinately absorbs supervisory resources that are needed to oversee cases.” Finally, the Executive Director testified that because new investigators take longer to close cases, the agency’s productivity is negatively affected by large-scale hiring early in the fiscal year. Executive Director Finkle concluded her opening remarks by stating “in order to do our job properly, we simply need more investigators.”

### **Recommendations**

After many years of being criticized as ineffective, the CCRB, via the receipt of additional funding and the institution of efficiency initiatives, has made great strides in fulfilling its City Charter mandate to investigate complaints concerning misconduct by police officers towards members of the public in a “complete, thorough and impartial” manner. Unfortunately, the Board’s proposed Fiscal 2006 and outyear investigative headcount is insufficient to process record levels of complaint activity in a comprehensive and timely manner. To ensure that the CCRB can continue to operate in a manner in which the public has confidence, the Committee urges the Administration to add \$1.5 million to the Board’s Fiscal 2006 and annual outyear budgets to hire an additional 33 investigators.

The consistent increase in complaint activity over the last several years raises concerns about how police officers are interacting with the public. The Board has studied the data related to each investigation but shies away from claims that the increase can be attributed to any discernable pattern or trend. The Committee believes that a rigorous statistical study of the data should be undertaken, either by the Board or an outside entity, to pinpoint the cause of increased complaint activity. The Board, in its mission statement, has pledged “to report to the police commissioner patterns of misconduct uncovered during the course of investigations and review of complaints,” and a thorough and comprehensive analysis of the cause of increased complaint activity will assist the agency’s achievement of this goal.