

AMENDED TRANSCRIPT

Transcript of the Meeting of the
CHARTER REVISION COMMITTEE
held on Wednesday, August 15, 2001
at City College, 138th Street
Borough of The Bronx

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P R E S E N T

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MARTA VARELA

HOWARD WILSON

MR. MASTRO: Good evening, ladies and gentlemen. We are going to get started.

The first portion of this evening's program was arranged by the Commission staff to take expert testimony on two of the proposals that the Commission staff has recommended to the Commission that it consider for ballot propositions this November.

The two areas that we will be covering tonight in that portion of the program are the proposed creation of a Department of Public Health by merging the current Departments of Health and Mental Health, and as well as a related proposal involving expanding the size of the Board of Health.

Second, we will hear from an expert panel on a number of procurement issues that the staff has recommended that the Commission be placed on the ballot as a procurement reform package.

So, we will promptly begin, but I wanted to add that at approximately seven o'clock or as soon thereafter as time permits, given the experts we will be hearing from first, we'll commence a public hearing where members of the public will be encouraged to comment on any aspect of the Charter that they would like the Commission to consider and any potential Charter change or any area where they would like us not to make a change.

We have had the staff make recommendations to us to try to give some focus to the Charter Revision process in the period in which we will be deciding what, if anything, to put on the ballot for this November, but we review the entire City Charter and remain open to testimony on any subject that any member of the public wishes to bring to our attention.

So let's begin with the expert panels, and we will start tonight on the proposed creation of a Department of Public Health and we are most pleased and honored to have with us the current Commissioner of both the Health and Mental Health Departments, Neal Cohen.

Dr. Cohen, thank you for being here.

DR. COHEN: Good evening. I am Dr. Neal Cohen, Commissioner of New York City's Department of Health and its Department of Mental Health, Mental Retardation and Alcoholism Services.

I am here this evening to strongly support two proposals to revise the City Charter. The first would merge the two agencies I head into a new Department of Public Health.

The second would restructure and expand the Board of Health. These two proposals will preserve the City's preeminence in the areas of public health and mental hygiene, while modernizing our infrastructure to insure that we can keep New York healthy and safe in a rapidly changing world.

More than three years ago, Mayor Rudolph Giuliani proposed merging DOH and DMHMR&AS. The proposal initiated a broad and an on-going debate about the best way to provide public health and mental hygiene services in our City.

In an effort to move this discussion forward, the Mayor, in 1998, consolidated the management of the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services by appointing one commissioner for both agencies.

That action in effect created a laboratory in which to examine how the two agencies might work together. With a unified management structure, DOH and DMHMR&AS have demonstrated that much can be gained by better coordination. The informal union has facilitated a more holistic, community-focused approach to addressing pressing public health problems.

Since the merger was first proposed, the public policy imperatives promoting such a union have intensified.

U.S. Surgeon General David Satcher has issued first ever reports on both mental health and suicide, recasting both as major public health issues.

As the Surgeon General notes, scientific research on the brain shows a seamless picture of how biological, psychological and social factors affect overall well being.

The report recognized the inter-relationship between mental health and physical health well being and stresses the importance of integrating health and mental hygiene services. A merger of DOH and DMHMR&AS would advance the Surgeon General's important goals.

In addition, the public health community is increasingly aware that psychiatric disorders are little different from physical illnesses in their impact on society.

The Journal of Public Health reminds us that of the 15 conditions that cause premature death and disability in developed nations, one-third are psychiatric disorders.

Moreover, a growing number of public health professionals now believe that they cannot solve longstanding problems without relying on the sociological and behavioral science models, routinely used by mental health practitioners.

These behavior modification models have broad applicability in addressing some of our City's most pressing problems, including sexually transmitted diseases, HIV, AIDS, suicide, youth violence, teen pregnancy, domestic violence and child abuse.

Behavior modification models will grow in importance as the public health community moves to more aggressively address the nation's major causes of premature mortality -- heart disease, cancer and diabetes.

All of these noninfectious diseases can be prevented or delayed and their deleterious effects minimized through lifestyle changes.

A merger of the City's DMHMR&AS and DOH would bring more behavioral and public health experts together. And that would facilitate our ability to plan and implement prevention strategies capable of addressing a world where noninfectious conditions have become as important as infectious illnesses in determining overall wellness.

This evening I want to talk about both mental hygiene and public health and how the two city agencies that provide these services are moving to adopt a more integrated approach to delivering services.

Let me talk first about changes in the delivery of mental hygiene agencies supported by DMHMR&AS and then move on to discuss the public health services offered by DOH.

The mental hygiene community is changing. It is moving ever more quickly to the view that the disabled populations it assists -- those with mental illnesses, mental retardation and developmental disabilities and addictive diseases -- are best served through comprehensive, integrated medical models.

The old bureaucratic and professional barriers that separated the mental hygiene and mental health communities are rapidly disappearing.

Increasing numbers of mental hygiene practitioners, policy experts and researchers and consumers of services are finding that the more traditional distinctions that separated them from the public health community are at best, irrelevant and at worst, detrimental to the health and safety of those who depend on publically funded mental hygiene services.

The results of this new thinking from the mental hygiene community are being felt across the nation. Eleven states and several large cities, including Chicago and San Francisco, have consolidated their health and mental hygiene agencies.

We can learn much from these mergers. They are resulting in improved services and a more integrated, holistic approach to public health.

None of these mergers were undertaken to save money. Rather, they were initiated to more rationally allocate public health dollars and they are succeeding at that.

For this reason, the mergers, once viewed with wariness by some in the mental hygiene community, have won support over time.

Here in New York City much has taken place that has brought the public health and mental hygiene communities closer together. A growing number of community-based mental hygiene providers, and this is especially true for agencies serving people who are mentally retarded and developmentally delayed, are or have applied to e Article 28 health care providers.

Others are entering into formal alliances with hospitals and community based clinics to address the comprehensive needs of their consumers.

These agencies understand better than most that their clients require precisely the kind of integrated health care models that would be advanced through the creation of a merged Department of Public Health.

As important, medication management programs are being established at large mental health agencies and at small supportive residences where a growing number of severe and persistent mentally ill New Yorkers live.

The physicians and other health related workers that run these medication initiatives are making our mental health programs more health focused.

They insure that people with mental illness take psychotropic medications and additional drugs needed to address other diseases including HIV/AIDS.

This new interest in the physical health of people with mental illnesses has made the mental health community an active participant in the Health Department's turning point forums.

These community gatherings offer New Yorkers an opportunity to join with DOH in developing a public health action plan to address a neighborhood's most pressing health and safety problems.

The overwhelming sentiment expressed at the turning point forums by mental hygiene speakers is that community public health planning must be comprehensive and integrated.

It is precisely this kind of planning that has begun to flourish with the unified public health management structure created by Mayor Giuliani and would truly bloom if DMHMR&AS and DOH were formally merged through charter revision.

As you can see from all these examples, the community based agencies that contract with DMHMR&AS are a bit ahead of the charter revision proposal we are here to discuss this evening.

On an ad hoc basis they are moving toward more integrated models of care.

Their efforts would be made considerably easier if they were supported by a merged New York City Department of Public Health.

The unified management structure created by Mayor Giuliani is also having a profound impact on the work and structure of DMHMR&AS and DOH.

Traditionally, DOH has been a pioneer in the areas of disease control and prevention, health education, child and maternal health, environmental health and infant mortality reduction.

DMHMR&AS has played an invaluable role in developing and overseeing a community based service system for people with mental disabilities.

This rigid bifurcation is changing rapidly. A culture of bureaucratic separatism is giving way to a climate of cooperation at both agencies.

After three and a half years of unified management, DMHMR&AS is becoming increasingly concerned about general well being of people with mental disabilities.

A focus on agency programs is being augmented by a new emphasis on ensuring the provision of more holistic care.

DMHMR&AS has, for example, been given broad new responsibilities for the overall status of clients through the new assisted outpatient treatment or Kendra's Law as it is more popularly known.

This statute allows the courts to mandate community based services for noncompliant persons with mental illnesses.

With the law's passage, DMHMR&AS has taken an even greater interest in addressing the complex and multiple problems of the difficult to treat people who are subject to Kendra's Law.

Case managers are now addressing all the needs of their Kendra's Law clients.

Moreover, DMHMR&AS, working with the state, is increasing the number of case managers for other fragile and disorganized people with serious mental illnesses.

Each of these professionals is reaching across traditional bureaucratic boundaries to give their clients the comprehensive assistance they require.

In fact, DMHMR&AS and DOH are now working jointly with the City University to develop a case management institute to provide a well trained workforce to assist all who might benefit from this community support model.

Finally, let me stress that as both DMHMR&AS and DOH become increasingly involved in the discharge planning of inmates in our jails and prisons, their role in developing integrated models of service will continue to grow.

A formal merger of DMHMR&AS and DOH will greatly facilitate the development of the kind of program that is needed by people involved with the criminal justice system and who will be returning to the city's many neighborhoods and communities.

DMHMR&AS has, in fact, taken a leading role in developing integrated models of care.

Among the most interesting examples is a program run by The Cumberland Family Health and Support Center of the Health and Hospitals Corporation.

This program, targeted to addressing the multiple health needs of women with children who come to the attention of the child welfare system, offers one stop medical shopping.

The Cumberland Center was first proposed by DMHMR&AS and it is working with DOH, HHC and other city agencies to operate and evaluate this experiment in comprehensive care.

Another example of coordinated care started at DMHMR&AS is the early intervention program, which facilitates rehabilitative care for infants and toddlers who manifest signs of developmental delays.

Originally administered solely by the DMHMR&AS, it was recently transferred to the DOH.

Now the two agencies collaborate on the program and this has improved the continuum of care available to those enrolled in the initiative.

In addition, the new arrangement is allowing DOH to reach out to pediatric health providers to promote regular screenings for infants at risk for developmental delay who would benefit from the early intervention program.

Merging DMHMR&AS and DOH will facilitate this kind of cooperation and make it easier to introduce new kinds of programming for clients with diverse needs.

I want to take a few moments to talk about how the merger would affect New Yorkers who are mentally retarded or who have developmental disabilities and those who love and care for them.

This Commission has heard from parents of people with these disabilities who are concerned about how the merger might affect their loved ones.

I want to assure the parents and the members of this Commission that in supporting a merger, we believe that we can strengthen the City's commitment to those who are mentally retarded and developmentally disabled.

As I have just noted, we consider the early intervention program to be the kind of interdisciplinary model that will thrive in a merged department.

Our ongoing belief that EIP is an excellent program has resulted in over 95,000 referrals for service since the program started in 1993.

We are hoping that the number of children evaluated for EIP will increase now that DOH is working directly with the City's medical community to promote referrals.

And our commitment to this group of disabled people extends well beyond strengthening EIP. Our interest in supporting people who are mentally retarded or who have developmental disabilities can be measured by our actions during the period that the merger has been under discussion, in the years we have had unified management structure for DOH and DMHMR&AS.

In those three years, city tax levy dollars for MR/DD programming has risen by an extraordinary 27.4 percent.

Almost \$3 million in new dollars has been devoted to work readiness, afterschool respite and weekend respite services.

This investment has resulted in 45 new programs serving 876 individuals annually.

It is true as concerned parents have stated, that the merger will create a bigger agency but it will be one in which all of our existing constituencies will feel at home.

And because this will be a truly integrated agency pledged to interdisciplinary programming people with mental disabilities will have a new opportunities to access an expanded range of services.

The opportunities for input and involvement from the MR/DD sector and from other disabilities will, in fact, be as great or greater in the new agency than they are today.

And to that end, I have recently designated a new Deputy Commissioner at DMHMR&AS to oversee both the early intervention program and all of our MR/DD services.

To address the concerns raised by members of the mental retardation and developmental disabilities community in the Commission's hearings last week and last evening, I would suggest that the Commission's staff change its recommendations on the merger to further assure that the needs of this community are adequately represented in this new agency.

First, that of the deputy commissioners to be appointed, there be at least two executive Deputy Commissioners.

One of these Executive Deputy Commissioners would have direct oversight of the merged department's operations concerning mental health, mental retardation and alcoholism services, would report to the commissioner directly, and would oversee other deputy commissioners as necessary.

That will give public health and mental hygiene programs exact structural parity in the new agency.

Second, I recommend that the proposal to expand and restructure the Board of Health be changed to require that one of the new members of the expanded Board of Health will be a member of the mental hygiene community services board of the DMHMR&AS, an advisory body to DMHMR&AS.

Eligibility for Board of Health membership will be expanded to allow participation from individuals with a professional background in behavioral health and/or rehabilitation services.

This broadened membership criteria will ensure the needs of people with mental disabilities will be clearly articulated on the board.

Let me turn to how DOH has fared during this period of unified management.

It is moving beyond its traditional role. The most notable of DOH's experiments in interdisciplinary programming is the agency's highly regarded directly observed therapy or DOT program for those with TB.

When DOT was implemented in 1992, it was targeted to those with the most difficulty following complex TB medication regimes.

But over time, more entered the program. Today, between 80 and 90 percent of the department's TB patients are in DOT.

The dedicated workers who help patients overcome this disease have become accustomed to referring clients to a wide array of mental health and substance abuse programs.

They like the case manager counterparts in AOT, have become dispensers of comprehensive health services.

DOH has also become more interested in fostering integrated, comprehensive models of care. This is in part a result of the fact that the Giuliani administration moved the Mayor's office of Medicaid managed care from the Mayor's office to DOH's new division of health care access.

The transfer was designed in part to enhance the ability of low income New Yorkers to get coordinated health, mental health and substance abuse services from their HMOs.

For this reason, DOH has taken a new look at mental hygiene services and in the process it has become far more interested in the broader issue of how mental and physical problems interact with each other.

Examples of this new awareness can be found in the department's City Health Information, a widely read publication targeted to health care professionals.

Recent issues of CHI have taken an interdisciplinary approach to public health problems.

For example, one issue on the health problems of New York seniors examined the impact of depression on physical illnesses and rehabilitation efforts.

Of equal importance, the department's efforts to prevent and treat hepatitis C have moved beyond traditional disease control and techniques to incorporate a concern for how people react to a diagnosis of this form of hepatitis.

The department is developing an office of behavioral and social science so that it can better incorporate a more holistic approach to addressing public health problems into all of its programming.

In addition, with DMHMR&AS, it has sponsored a major professional forum on the value of behavioral models in addressing public health concerns.

That conference, brought together public health and mental hygiene practitioners and illustrated the potential of interdisciplinary cooperation.

Later this year, both departments will be sponsoring a major forum on mental health wellness promotion that will explore how mental and physical illnesses interact.

The unified administration of New York City's public health and mental hygiene agencies has also fundamentally influenced the health promotional activities of both DOH and DMHMR&AS.

Both agencies have offices of health promotion and disease prevention, working collaboratively on joint programs such as improving the health and well being of older adults.

These offices are also permitting both agencies to focus on helping people avoid high risk behaviors such as unsafe sex and drug and tobacco use.

For example, DOH's renewed efforts to reduce new HIV infections are benefitting from the agency's enhanced access to social science and behavioral expertise.

Specifically, it has allowed DOH to better target groups at particularly high risk for HIV infection, including young minority males who have sex with males.

It has also helped to create the City's highly successful Quit Yet anti smoking campaign.

Having discussed some of the benefits achieved by having a unified management structure, I want now to give you some additional examples of what a formal union would achieve.

Merger will allow us to further reduce the stigma attached to mental disabilities.

By placing all of our public health concerns in one agency, we help to eliminate the belief that physical illnesses are more significant than mental disabilities.

A merger will also permit us to engage in more effective and efficient community based planning to address the comprehensive health and mental hygiene needs of individual neighborhoods.

Having one department for all public health concerns offers other important advantages.

With one agency, we can work more effectively with New York State and the federal government to implement integrated, comprehensive public health and mental hygiene programming.

We will be in a far better position to accept public monies for integrated public health efforts.

The merger will also enable us to innovate.

With one Department of Public Health, we are in a better position to encourage our counterparts at the state and federal levels support integrated care experiments.

In addition, the merger will allow us to reach out to foundations and other grant funding organizations to develop imaginative interdisciplinary programming for New Yorkers.

New York City has always been a true national leader in public health and mental hygiene and the merger of DMHMR&AS and DOH will allow us to continue in that position.

Now that I have told you all that a merger will achieve, I want to emphasize what a merger will not do.

It has been specifically designed to ensure there is no reduction in services to any DMHMR&AS and DOH constituency.

Equally, the proposal to create the new department will not save money. It maintains all of the very important public health and mental hygiene programs of the respective departments and meets all requirements of the state's health and mental hygiene laws.

Consumers, providers and advocates who interact with the two departments will feel at home in a new Department of Public Health.

Their access will be maintained, as will their ability to influence the development of policy.

As you know, a merger proposal was included in the last staff recommendations for Charter Revisions. Several significant and positive changes were made to the original proposal that are being incorporated into the proposal this Commission is evaluating.

For example, the proposal before you requires that the new department have a separate executive deputy commissioner of mental hygiene who would report directly to the commissioner, that separate budgetary units of appropriation be maintained for the mental health, mental retardation and developmental disabilities services within the Mayor's office of operations.

In addition, the proposal requires the Mayor's office of operations to review the merger in the second and fourth years after its adoption and finally, it includes a maintenance of effort clause, to ensure that the current funding stream for mental hygiene services remains intact.

I want to close my discussion of the merger by emphasizing that the prime beneficiaries of the merger would be groups with the most complex medical and mental hygiene health care.

I believe that the individuals served by both DMHMR&AS and DOH frequently overlap.

These people would be best served by having one agency dedicated to their overall well being.

As the unified management structure that the Mayor implemented shows, we can do a better job through coordinated effort.

Let us take the next logical step and merge our public health agencies.

Now let me turn to the issue of strengthening and modernizing the City's public health infrastructure through an expansion of New York City's Board of Health.

The recommended charter revision would increase the membership of the Board of Health from 5 to 11 members, retain the current ratio of medical to non-medical personnel, reduce members' terms from 8 years to 6 and provide that terms e staggered to assure continuity of membership on the board.

These changes will insure that the board can better address today's complex public health issues and confront new and emerging problems.

Historians now acknowledge that the creation of the Metropolitan Board of Health in New York City in 1866 was one of the most significant both DMHMR&AS and DOH frequently overlap.

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Historians now acknowledge that the creation of the Metropolitan Board of Health in New York City in 1866 was one of the most significant events in the history of American public health.

New York City, with its vast and diverse population has always faced unparalleled public health challenges and the Board of Health has successfully guided efforts to address threats to health and safety.

It has been a leader in developing policies that helped to win innumerable public health battles including the elimination of smallpox which it helped defeat by creating the nation's first vaccine laboratory.

Today, it leads the fight against HIV/AIDS and the West Nile virus.

Just over a century ago, in the year 1893, the New York City Board of Health played what would later come to be seen as a leading role in the conquest of an epidemic infectious disease, cholera.

That year, the Board of Health established at the health department, the world's first municipal bacteriological laboratory.

Over the next 40 years, the Health Department lab stood as the preeminent example of the practical application of bacteriology to public health and contributed significantly to our understanding of diphtheria, scarlet fever, tuberculosis, meningitis, polio, milk bacteriology and infant diarrhea.

When the Board of Health came into being, the city had just a million inhabitants and communicable diseases were by far the most common and fatal diseases threatening New Yorkers.

Today, the city is home to more than 8 million people. With most infectious diseases under control, noninfectious illnesses, such as heart disease, cancer, diabetes, and asthma, and environmental health issues, such as lead poisoning and safe drinking water, engage more of our attention.

As the issues confronting us grow more complex and varied, we must take a new look at the Board of Health to insure that it can continue as a public health leader.

The main function of the board is to promulgate the New York City health code, a significant body of the law that can encompass any matter within the jurisdiction of the Department of Health and which has the force and effect of laws set forth in Section 558 of the New York City Charter.

Since 1928, the Charter has specified that the board comprise five members, including the commissioner of health, who serves as chairperson.

Section 553(a) of the Charter specifies that two of the five members be medical doctors with 10 years experience in clinical medicine, public health administration or college or university public health teaching.

The remaining two members, excluding the health commissioner, are not required to be physicians.

The Health Department's jurisdiction is among the most extensive and varied of all city agencies. It addresses communicable diseases, environmental health, radiological health, food safety, veterinary affairs, water quality, pest control and vital statistics.

Newly emerging pathogens and biological warfare are among the most recent additions to its roster.

The ever growing list of issues the Board of Health must address is the critical reason we are proposing that its membership be expanded.

With a larger board, we increase the likelihood that members' expertise will extend to any major public health matter.

Adding additional members will also allow us to include representatives with experience relating to special health needs of various groups in the City.

Finally, a large board can bring a greater diversity of academic, clinical and community perspectives to the broad range of public health issues that come before it.

The current Board of Health is unusually small when compared to the boards of neighboring jurisdictions.

The membership of county and district Board of Health in New York State typically comprises six or more members.

The New York State Public Health Council is a 15 member body. Westchester County's Board of Health is made up of 13 members and Suffolk County's board has seven members.

While New York City's board has a smaller membership than other analogous bodies, its members serve for longer periods of time.

A term of six years is more consistent with the term lengths of Board of Health members in other jurisdictions.

New York City has a vast array of public health talent. Reducing a term from 8 to 6 years insures that more of our expertise issued and that more people become involved with the Department of Health.

In addition, the city would benefit if the terms of the board members were staggered.

That reform will provide more continuity on the board and insure smoother transitions.

Thus, an 11 member board, appointed for staggered, six year terms, would strike the right balance between state of the art expertise and efficient board performance.

Let me make one final point about this proposal to review the charter.

To achieve the highest level of expertise, non-physician members of the board are required to hold at least a master's degree in environmental, biological, veterinary, physical, or behavioral health or science, or in a related field.

In addition, they must have a minimum level of experience, such as more than ten years of work in their respective fields.

Implementation of the proposals I have discussed today would speed the modernization and extend the breadth of the City's public health strategy.

We urge the Commission to vote to accept these proposals for inclusion on the ballot in November.

Thank you for your interest and consideration.

MR. MASTRO: Commissioner, I have a question, because we have heard from a number of witnesses, members of the public, who are parents or guardians or relatives of individuals who are part of the mentally retarded community about their concerns that if the merger were to be approved, that that would have some adverse effect on the services that that group currently receives or the funding that that group receives, and that those individuals fear that mentally retarded services being part of a large agency, would be something that would hurt that community.

How do you respond to those concerns?

DR. COHEN: It's very clear in my view that that is not the case at all.

I know that there are anxieties that are expressed by some of these family members, and it goes back to a period of time when they experienced the devastation of finding the Willowbrook experience, which was where people with severe mental retardation were housed in inhumane settings and discomfort and concern about how the public sector would care for their loved ones.

In fact, we have, as I said earlier in my testimony, created a deputy commissioner position well before the Charter Commission came into effect now in this year to see to it that there is a deputy commissioner whose sole oversight responsibility is to early intervention program and the MR/DD.

The early intervention program is a wonderful program. We have had the opportunity to very early on identify these young infants and toddlers were showing very early signs.

It's a federal entitlement that allows them to get evaluated and all the rehabilitative services they will need in order to offer speech and hearing, and it's a variety of needs to make sure that we minimize any further development of disability, and allow increasing more children to be in the main stream of education, and not have to go into special education.

Many of the very same providers who provide mental retardation services are providing early intervention services and it's been widespread recognition that the Health Department in conjunction with the Department of Mental Health has done a super job of making this work.

In a city as large and as complex as ours, I think that we in the last few years have created opportunities for educational forums, and duly diagnosed conditions, those in the MR/DD community who have special health issues.

While it is not specifically an illness, we recognize that there is a variety of special needs that this population has that are being supported in large measure by community service.

It has the City support, the much greater proportion of the services are funded at the state level, and the institutional living in the community is the responsibility of the state, but they are pleased that the City has always been there to provide ongoing community support, in a very positive way.

I think the structure that I am proposing where we would have two executive commissioners, executive deputy commissioners reporting directly to a commissioner really ensures that we have the very same level of accountability and information and oversight within this new agency that we will have in the current agency.

MS. GIL: Thank you, Commissioner, for very good testimony, which clarifies many of the concerns expressed by the public.

I only have a question, actually related to one of the persons who testified yesterday in Queens, and the concern was expressed as follows, that to have individuals with developmental disabilities within a public health agency that addresses problems such as sexually transmitted diseases, tuberculosis and a whole host of diseases that carry numerous negative connotation in the minds of persons, and putting together the developmental disability community, it was perceived to be a negative.

Actually, it was almost to be perceived as being stigmatized by being put in a public health agency as you describe it.

As a Commissioner of an integrated public health agency, what can we do, what would you do, what would your suggestion be to alleviate the concerns of those who would be sharing with other populations who are at risk of other type of diseases?

DR. COHEN: Well, of course you know that stigmatizing people who require public health services, just as much as our society stigmatizes people with mental disabilities, and people with mental illness, people with addictions and the mental retardation community, who are supported by the agency, share the oversight and by an agency that is dealing with very stigmatized people.

As you know, we have addressed a variety of public health issues. In my testimony, I reported on how we are now moving further and further to address cardiovascular disease, to address cancer, to address diabetes, and to address asthma, and I am sure those mothers of asthmatics in our city who saw a decline by 35 percent through an innovative public health strategy are not concerned about the linkage of their asthmatic children with people who are also served by the Department of Health who may have sexually transmitted diseases, the response will be according to what we do for them.

To generate a satisfactory measure of performance improvement -- this administration has targeted this community, this is the first time that city tax levy dollars have gone to the MR/DD community in more than 12 years, and we were able for I think four consecutive years to provide new city tax level funding.

So, in large measure, I think whether or not that community is going to see this as a benefit or not will depend upon the commitment of new city administration, a city council, the need for us as a public health agency going forward to be strong advocates and lending a strong voice for the people who are disadvantage to speak to the needs of disadvantaged communities.

But I think the asthma story is a good example where we can have significant urban health models that benefit communities that are normally at disadvantaged and that the issue of stigmas that is addressed to some of the communities and some of the individuals we serve, doesn't need to be applied and there is increasing awareness and one that we want to promote that public health is all of us and it's not us here and them over there.

MR. ROBERTS: Excuse me, Commissioner.

You mentioned that at one unit, combining the two would help facilitate both state funding and federal funds in terms of the health services.

Would that pretty much act as a one stop where families can be served with both the state services and the federal services with the City combining health services?

DR. COHEN: That is our goal. I think you are going to hear some testimony from some of our expert witnesses as well that increasingly, we have moved in the City toward an integrated service model, recognizing that health services have been very fragmented so that you might have to go over here for mental health services.

You may have to go there for addiction services and you have to go to a third place for good primary care, other mental hygiene services for MR/DD affected people.

We have some model that we have been supporting HHD as piloted a very promising model at The Cumberland Family Health Center you will hear about tonight.

We have increasingly, when we get a grant and get new dollars from the City Council, we look to provide integrated models. We look to agencies to tell us there is going to be access to primary care, mental health, mental hygiene services, as well as addiction services.

No one-stop shopping.

MS. LIU: After hearing all this testimony, we know this is a very solid suggestion to merge these two agencies, but also I heard a lot of parents, they really, it seems to me they are more emotionally drained, like taking care of their mentally retarded children, it seems to me they are very panicky.

I know it's hard, it seems they don't trust whatever the new change, new way.

Is there any way we can kind of assure them what their benefits, whatever cares they have, they will have that or there is any way to, because this is a very emotional question.

DR. COHEN: I understand that, and it's, you know, while it's a relatively small community in our DMH.

It's nevertheless a community that has accomplished a great deal in leading the deinstitutional living and bringing their children into the communities, integrated into the community and overcoming stigma and overcoming the fears of their neighbors about people with mental retardation living among them, and they have been really an inspiration to these personally.

Our agency has recognized that they have accomplished a great deal. What I have done is given this opportunity for this newly, this new federally, federal mandate for early intervention, and its entitlement program to improve the linkage between pediatric, the pediatric community, so they will recognize the babies who are born with

low birth weight, the babies who have other congenital defects and are likely perhaps born of mothers who may have certain health problems to be at higher risk for developmental delays.

We would make sure that they get into the rehabilitation services and make sure that their growth potential is maximized and that they don't become mentally delayed if at all possible.

And from zero to three, will have a more fluid handoff for the three to five preschool services and then later services the MR/DD community will provide.

I believe that we have made proposals in the Charter Revision to ensure that there is parity between the mental hygiene communities that we are currently servicing and the health communities, and while we have structural parity, obviously it will require some sensitivity on the part of a new agency to go the extra mile to make all constituents feel very much at home.

And I would expect that that would be a number one priority for this new agency.

MS. LIU: Thank you.

MR. MASTRO: Thank you, Commissioner.

Next we will hear from our panel of experts who have been good enough to come here tonight to offer their views.

Gail Nayowitz, Mary Redd, Giselle Stopler, Dr. Van Dunn and Pam Factor-Litvak.

As many of you as want to can come up. We look forward to hearing from you.

Who would like to go first?

MS. NAYOWITZ: Good evening. My name is Gail Nayowith and I am the executive director of Citizen's Committee for Children of New York, an independent, non-profit organization that works to insure that every child in New York City is health, housed, educated and safe.

Thank you to members of the Charter Revision Commission for the opportunity to speak about the proposed Charter Amendment merging NYCDOH and NYCDMH, MR&AS.

I am here tonight to support the merger of the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services.

You should know that CCC testified in support of this merger in 1998 when this proposal was before the City Council and at the first public hearing in Staten Island last week.

I am here again tonight to restate our support for the merger.

Why the merger would be good for children.

A merged agency could take on a developmental focus which is the key to positive outcomes for children.

It could focus on primary prevention, early detection and treatment, identifying children at risk and providing timely intervention.

It would provide the opportunity to meld the best approaches from public health and mental hygiene services.

The EI program serves as the best example of this kind of approach to early detection, intervention and treatment for very young children.

The EI program serves infants and toddlers from birth to two years old with, or at risk of, developing delays.

This program provides a range of important early services to the child and family to reduce the risk of learning disabilities, placement in special education, handicapping conditions, developmental delays and generally poor outcomes.

It helps babies and toddlers get an early start on the road to healthy development.

I don't have time for a lot of details about EI.

Suffice it to say that the EI program crosses specialties, blending the best primary prevention, and early detection and treatment approaches across fields of health, mental health and mental retardation services.

A truly stellar program, EI grows each year and is one of the success stories of cross disciplinary programming for children.

It is also the model for what can be done for children if public health, mental health, mental retardation and Alcoholism Services work together.

The structural division of health and mental health services in a historically separate Department of Health and Department of Mental Health, Mental Retardation and Alcoholism Services has functioned as a barrier to ensuring access to care for children.

The chasm between public health and mental health, mental retardation and alcoholism services that occurs when Department of Health and DMH are separate agencies means that the best public health approaches are not made available to children early on when they need it most.

Look at the incredible progress made in reducing asthma hospitalizations because of a concerted effort to educate parents, do community outreach and provide access to the latest detection and treatment methods.

This kind of approach is almost never used in the behavioral health arena even though experts agree that primary prevention, early intervention and treatment is the best way to help parents understand their child's special needs and secure the services the child and family needs to reach their potential.

The public health system and mental health, mental retardation and alcoholism services system can learn a great deal from each other and can provide more coherent direction for the city in a merged agency.

Program planning, more efficient use of resources, cross disciplinary training, increased access to early detection/screening and treatment services and higher quality programming can result from a merger.

What a merged agency would look like.

In addition, we believe that special care must be given to insure that neither the public health nor specialty mental health, mental retardation and alcoholism focus is lost in a merger.

Permanent, high level responsibility for mental health, developmental disabilities and substance abuse services must be the first order of business within a merged agency.

Some additional issues must be addressed as the merger moves forward including the appointment of one first deputy commissioner who reports directly to the commission and two executive deputy commissioners, one for health and one for mental health, mental retardation and alcoholism services reporting to the first deputy commissioner to manage the work of the health and mental hygiene divisions of the newly merged agency.

CCC strongly supports the DOH and DMH merger as the Commission staff recommends.

We urge you the Charter Revision Commission to make the merger of DOH and DMH, MR&AS a priority and make it visible on the ballot.

Proposal to expand the Board of Health.

Further, we support the Commissioner staff's proposal to expand the Board of Health with two amendments.

First, we support expansion to 11 members and the recommended changes to make terms overlap.

Second, we suggest a friendly amendment recommending that of the five new appointments, three be friendly amendment recommending that of the five new appointments, three be professionals in behavioral health with

clinical credentials and expertise in the areas of mental health, mental retardation, alcoholism services and substances abuse.

And finally, we offer a friendly amendment recommending that the Charter Amendment stipulate that one of these new appointments to the Board of Health be reserved for the chairman of the Community Services Board to promote better integration of the public health, mental health, mental retardation and alcoholism functions of the newly merged agency.

Thank you.

MR. MASTRO: Thank you.

Who would be our next speaker?

MS. STOPLER: My name is Giselle

Stopler. I'm a director of the Mental Health Association of New York City, and I thank you for the opportunity to be here this evening and testify on behalf of the merger between the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Service.

The recent landmark U.S. Surgeon General's report on mental health, the very first of its kind in the long history of the Surgeon General's office stated, and I quote, recognizes the inextricably intertwined relationship between our mental health and our physical health and well being, and challenged our health and social service agencies to take action to usher in a healthy era of the mind and body for the nation.

Well, Dr. Satler's representation comes as no surprise to our agency. The Mental Health Association of New York City's extensive experience in the provision of mental health services has proven time and again that health and mental health are linked at the most basic levels, and we believe that the proposed merger of the New York City Department of Health and Mental Health affords our City the unique opportunity to be at the forefront of a holistic approach to public health, recommended by the Surgeon General's office and we feel needed by our City's 8 million residents.

Let me give you a concrete example of how we think this can work so well.

In developing our most recent campaign, which focused on depression among senior citizens, the Mental Health Association collaborated with the Departments of Health, Department of Mental Health and the Department for the Aging.

The key message of its ground breaking public education initiative has been that depression is a treatable medical illness and if untreated, can either aggravate the course of or make one more vulnerable to other serious medical illnesses.

For example, one out of three elders with medical problems is also depressed and persons with depression are four more times likely to suffer from a heart attack. The unique collaboration between these three major City departments clearly underscores the inter-relationships between health and mental health and purposefully delivered a holistic health message to the City.

The need for greater integration for mental health practice and health care settings is further illustrated by the fact that the majority of people with mental illnesses are not treated by mental health clinicians or psychiatrist; rather they are treated by their primary care providers.

Research has clearly demonstrated the persons with depressive or anxiety disorders are among the most frequent repeat visitors complaining of physical illnesses that are often unrelated to their mental illness.

Furthermore, in a new collaboration with the Department of Health, Mental Health and the New York City Board of Education toward a children mental health campaign, where again recognizing the need to recognize the holistic message for children, children are typically less able to articulate their emotional problems, much less able than adults and are not only more likely to act them out in behavior ways but also manifest them physiologically.

For example, sleeping and eating disturbance, which are very common symptoms of mental illness can have an impact on a child's physical health. You can't separate the two.

Consequently, children with mental health problems are frequent visitors in school nurse's offices and often don't even go to school.

Whether the patients are children, are seniors or are adults, health and mental health providers clearly do not function in separate spheres.

We believe that merging the two departments would make the City's health service systems more reflective of the realities of day-to-day clinical practice and better prepare these systems for more collaborative integrated approaches.

Aside from the value on a direct service level, the merger would also help combat stigma, a major concern of the association.

We believe it will enable more people to seek treatment because once individuals begin to understand that seeking help for an emotional problem is as vital to one's health as seeking help for a physical concern, we believe then we will be able to vanquish the fear and shame that currently prevents people from seeking help for mental disability.

In addition, mergers of the departments of Health and Mental Health allows New York City to send a forceful message that mental illnesses are, in fact, illnesses of the body and persons with mental illness should be entitled to the same insurance coverage as a person suffering from a physically debilitating condition.

As a result, we believe that this merger could not only encourage more people to seek out treatment, but also set further precedent towards helping them obtain the insurance needed to pay for that care.

While the proposed merger could serve many positive functions, it also brings to bear one crucial caveat.

In our effort to emphasize holistic health, we must also ensure that necessary distinctions between mental health and physical health are not overlooked.

While mental health is no doubt an important aspect of general health, the assessment and treatment of mental illness is often very different than that of physical illness.

Similarly, the support services needed for people with mental illness may often differ from that of a person with a physical condition; therefore, we strongly feel that the proposed York City Department of Mental Health, Mental Retardation and Alcoholism Services.

Our support rests on three of the important functions of public health departments, namely the assurance that appropriate services are available, the coordination of disease control and prevention, and oversight of research pertaining to the etiology and treatment of diseases and to the administration of health services.

The world health organization defines health as a state of complete physical, mental and social well being and not merely the absence of disease or infirmity.

A merged New York City Department of Health and Mental Health will be in the unique position to provide services in light of this definition, rather than fragmented for physical, mental and social well being.

Such coordinated services will offer a framework for intervention on the most important health concerns we face today, HIV/AIDS, sexually transmitted diseases, youth violence, teenage pregnancy and others.

These concerns clearly have physical, mental and social health components.

Integration of services will allow practitioners to more effectively coordinate treatment of all aspects of these problems.

The New York City Department of Health has long been a pinnacle in disease control and prevention.

Historically, Department of Health has addressed epidemic acute infectious diseases and implemented programs prevent further outbreaks.

Diseases such as HIV/AIDS and problems such as teenage pregnancy require prevention programs that encompass medical, psychological and social interventions.

Moreover, consolidation of control and prevention efforts will eliminate the stigma associated with requesting mental health services.

Efficient coordination of prevention efforts requires consolidation of resources.

Finally, public health research is focusing on the interrelationships between physical and mental illness, and boundaries between the two are becoming blurred.

For example, it is now realized that one of the primary risk factors for schizophrenia is damage to the brain during development and that damage may be due to maternal infections during pregnancy or to prenatal nutrition.

Thus, etiologic research and research on treatment and administration of services must incorporate a coordination between providers and researchers in general and mental health.

This can most efficiently be accomplished through a consolidation of the two departments.

In summary, we believe that the main functions of public health would be served better by consolidation and coordination of the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services.

A merger of the two departments would most efficiently allow for service delivery, prevention and control efforts and research needs.

Thus the Mailman School of Public Health supports this endeavor.

The Mailman School of Public Health also supports the proposal to revise the City Charter to increase the membership of the New York City Board of Health from 5 to 11 members.

Since its creation in 1866, the Board of Health has played a major role in guiding the City's work to address public health threats.

When the board was first established, its key mission was to respond to communicable diseases, which constituted great threats to public health.

While many infectious diseases are now under control and there has been great progress in the development of vaccines against many infectious diseases, new epidemics such as HIV/AIDS, and re-emergent diseases, such as tuberculosis, for which currently there are no vaccines, pose threats to the health of the public.

We face other major public health challenges; chronic diseases, such as heart disease and asthma, environmental health concerns, such as air and water quality and the potential threat of bioterrorism and the need for the City's public health system to be prepared for such an event.

Many of today's public health challenges could not be foreseen when the board was created over a century ago.

An expanded Board of Health which would include members with a broad range of expertise in today's public health issues, would be in better position to respond to the changed and more complex public health landscape.

The Mailman School of Public Health concurs with the proposal to revise the City Charter to increase the membership of the Board of Health.

MR. MASTRO: Thank you.

MS. REDD: Good evening, Chairman Mastro, Commission members and interested parties.

My name is Mary D. Redd, president and CEO of Steinway Child and Family Services, a multi service agency serving the residents of New York City and also chair of the New York City Community Services Board of the New York City Department of Mental Health, Mental Retardation and Alcoholism Services.

The Community Services Board consists of consumers, family members and providers and functions as an advisory board to the New York City Department of Mental Health, Mental Retardation and Alcoholism Services.

I am here this evening to support the proposed merger of Department of Health with Department of Mental Health, Mental Retardation and Alcoholism Services.

For too many years health care has been a tale of two separate systems that at times have diverged in different directions and at times overlapped causing needless redundancy and waste.

This separation makes no sense administratively, clinically, fiscally or practically.

The interactions of physical well being and psychological stability are well founded and all of us know how stress can cause ulcers, an asthma attack or raise blood pressure that can cause cerebral stroke.

More and more we are helping people control these illnesses with not only medication but stress reduction techniques.

Most non-western philosophies are grounded in the need to maintain harmony between the mind and body for optimum health.

Given the acceptance of these basic tenets of mind body wholeness, separating the controls, regulations and funding streams for treatment of the person is unwarranted and counterproductive.

The structure of a merged entity must preserve the integrity of both systems in a way that does not cause one or the other to be neglected, underfunded or controlled by the other.

This would best be done by having an overall commissioner of public health services with separate deputy commissioners for behavioral health and public health services.

They would be on an equal level with regard to their respective roles and both report to the commissioner of public health services.

Some administrative functions could be shared but programmatic budgets would be separate.

Patient care would be integrated through the use of a health passport that would be utilized and carried by the patient and be the key to a centralized health database for every person.

The person to run this integrated health system should be someone with experience and knowledge in all aspects of health care. We are very fortunate to have had such a person who has demonstrated over the past three years as acting commissioner of public health services, the feasibility of such a system.

The time is long overdue for us to recognize the need and wisdom of developing an integrated health system that offers everyone a continuum of care.

This can only be accomplished by merging the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services under a united leadership and I wholeheartedly support this effort.

Thank you for your attention and understanding of this important issue.

MR. MASTRO: Thank you.

DR. VAN DUNN: Good evening. My name is

Dr. Van Dunn. I'm the senior vice president for

medical and professional affairs and chief medical officer at the New York City Health and Hospitals Corporation.

I would like to thank the Commission for allowing me the opportunity to speak in favor of the merger of the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services.

New York City Health and Hospitals Corporation serves as the City's public hospital system.

We operate 11 acute care hospitals, four long-term care facilities, six diagnostic and treatment centers. We strive to provide comprehensive care in an integrated service delivery system, which includes public health, preventive health, mental health services and primary care.

Public health, any public health problems such as HIV AIDS, youth violence, teenage pregnancy, suicide, domestic violence and child abuse include a behavioral health component.

The revision will result in a comprehensive Department of Public Health with a vision and a mission to address patient's needs in a more integrated holistic manner with a focus on comprehensive prevention and disease management.

The efficacy of an integrated care approach has been widely acknowledged.

The United States Surgeon General in his December 1999 report on mental health highlighted the connection between physical and mental health and stressed the importance of improving access through health care and mental health systems integration.

In addition, medical research has shown that treatment outcomes can be greatly enhanced by adding a behavioral health service component for patients with diseases such as asthma, hypertension, heart disease, cancer and diabetes, although psychiatric problems are frequently identified in the general medical setting, psychiatry and public health medicine for the most part are not integrated.

Over the last three-and-a-half years, Dr. Neal Cohen has served as the Commissioner of the New York City Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services.

As a member of HHC's board of directors, Dr. Cohen has played a role in shaping the corporation's strategic direction to a more closely aligned mental health hygiene and general health care.

As part of the Mayor's drug abuse initiative three years ago, the corporation developed several integrated drug abuse programs for adults and youth incorporating primary care and mental health services under one case management model.

The Cumberland Family Health and Support Center, established in February of 1998 and based on this model has been very successful in helping women achieve the goals of establishing and maintaining sobriety, increased employment and family reunification.

The HHC board of directors in conjunction with the corporation's network leadership has declared a war on asthma.

Asthma not only has a medical component but the health care provider must consider the psychosocial impact of the disease on the patient as well as its impact on the family and caregivers.

HHC's comprehensive asthma initiative addresses both the medical and psychosocial needs.

In November 2000, HHC implemented another phase of our corporatewide asthma initiative by use of asthma vans.

These asthma vans are providing asthma screening and education and referral.

In addition, it's providing medical and psychosocial services to the patients, never forgetting that you have to consider the impact of the disease on the family and on the patient.

Nationally, it's recognized that 70 percent of the patients seen in a primary care setting report a somatic complaint, such as a stomachache or headache.

In order to better address the full mind, body picture, there is a corporate wide effort to screen for depression in every primary care setting.

At HHC we are working with HIV medical directors to develop models of care that also integrate primary care in mental health.

For example, at Woodhull Mental Health Service, children and teens who are HIV positive or have AIDS attend the kids and teens talk club or CAT Club. At the CAT club, they receive medical care and individual group and counseling services.

The smoking cessation program located in all acute care facilities at HHC has trained staff to help identify smokers and provide a variety of medical and behavior health interventions to help patients quit smoking.

This initiative is funded through a contract with the City Department of Health.

HHC is also the recipient of a federal health resources and service administration grant under the new community assessment program, CAP, to expand access to health care.

Through the CAP initiative several community based organizations and the corporation have taken opportunities to expand on the integration of the care model by addressing by addressing pre and post natal depression.

Recently the City Department of Health awarded a grant to the Brooklyn perinatal network and Kings County Hospital for the delivery of mental health services to women referred to HHC.

The creation of the New York City Department of Public Health will allow the corporation opportunities to build upon the accomplishments and will ensure that newly integrated programs can be fully implemented.

The benefits of this type of merger have been seen nationally. Eleven states and several large cities, including Chicago and San Francisco, have consolidated their health and mental health agencies.

All of these programs are reporting positive results from the merger.

With regard to the provisions in the Charter Revision language, HHC supports the requirement for a specific leader identified as the deputy commissioner to oversee mental hygiene.

In addition, we also support the budgetary protections for mental hygiene and the Mayor's office of operations providing a review of the services being provided.

These provisions provide a strong assurance that the merging of the Department of Mental Health and the Department of Health under one public health entity will have the necessary leadership and will not result in a reduction of service in any one particular service domain.

I would also like to lend support to the proposal to revise the City Charter to expand the New York City Board of Health.

The Board of Health should be expanding from 5 to 11 members so that the Board of Health can have the benefits of the broader public health expertise, including experts in mental health and substance abuse areas, given the breadth of the

health needs of New York City citizens.

In closing, I think that the proposed changes to the City Charter will improve the overall health of New York City citizens and I urge the Commission to accept the proposals for inclusion on the November ballot.

Thank you.

MR. MASTRO: Thank you very much. I appreciate all of you being here.

Any questions the Commission members had?

Thank you all very much. We will move on now to speakers on procurement.

We look forward to hearing from Mike Best, Ross Sandler and Darwin Davis.

Please come up.

Members of the public, obviously we are, with the expert testimony being given, we are running a little behind, but we will do everything we can do expedite it, so as soon as we have heard from the speakers on procurement we will move immediately into the public hearing testimony.

Thank you.

Who would like to go first?

MR. BEST: Chairperson Mastro and members of the Commission, good evening. My name is Michael Best, I am the director of the Mayor's office of contracts and the city chief procurement officer.

Thank you for the opportunity to appear before you.

I am here to urge the Charter Revision Commission to adopt the procurement proposals contained in the Commission's staff report.

Meaningful change in the procurement process is critically important but can be extremely difficult to achieve.

It requires delicately balancing speed and effectiveness with corruption prevention.

The current Charter, however, does not strike the right balance. It has resulted in an unwieldy system that makes it difficult for agencies to complete their procurements quickly and difficult for vendors to do business with the City.

Reform of the City's procurement system is necessary, and only revision of the Charter can achieve it.

The seven proposals contained in the Commission's staff report would all improve the City's procurement process, and the Commission should propose them to the voters.

Procurement is the means by which the City purchases goods, services and construction.

A significant part of the City's work is performed through its procurements, which total approximately \$7 billion in value annually.

The City's procurements range from foster care services contracts with non-profit agencies for sheltering abused children to construction contracts for rehabilitating the City's roads and bridges to contracts for routine supplies that agencies use each day to operate.

The procurement process, therefore, is vital to the City's ability to deliver essential services to City residents.

It should be structured to allow City agencies to carry out their missions efficiently and effectively, and to encourage quality contractors to do business with the City.

Unfortunately, the current Charter's procurement chapter is not structured that way.

The current Charter contains extraordinarily detailed, burdensome, and time-consuming procurement procedures, and many of these procedures stand in the way of further necessary reform.

When the 1989 Charter Revision Commission wrote the current charter, it did so in the wake of a major contracting scandal involving the Parking Violations Bureau.

The 1989 Commission sought to clarify the responsibilities of the Mayor, the Comptroller and other elected officials in the contracting process; to make the procurement process more open than it had been under the board of estimate; and to avoid corruption in the contracting process.

In trying to achieve those goals, however, the 1989 Commission created an unwieldy system that does not function as it should.

It contains layers of unnecessary bureaucracy.

It does not promote an efficient use of agency resources and time. And because the process is so lengthy and complicated, it discourages some quality vendors from doing business with the City.

Today, this Commission faces a different situation than the one that faced the 1989 Commission.

Under Mayor Giuliani, the City has made great strides against corruption and criminality in the business world, as is recognized in the portion of the Commission's staff report regarding the proposal to create an Organized Crime Control Commission.

Instead of a city where scandal in contracting was endemic, the City now is vigilant about corruption in the contracting process.

Moreover, this Commission can now examine the Charter's procurement chapter with the benefits of many years of the City's experience with existing procedures.

Throughout this administration, the Mayor's office of contracts has worked diligently to reduce the number of steps that must be completed before a contract is approved, while maintaining procedural safeguards that protect the City.

At the same time, since 1994 the Procurement Policy Board has made numerous revisions to its rules to streamline the procurement process, by eliminating unnecessary rules and providing agencies with more flexibility within the process.

These efforts have improved the contracting process, but they are not, by themselves, enough.

The current Charter's procurement chapter must be revised to streamline the procurement process. The Commission's goal should be to streamline the process so that city agencies can focus on and improve the substance of their contracts, the quality of their contractors and the timely delivery of services to our citizens.

As I will discuss, the preliminary recommendations contained in the Commission staff's report address areas of the Charter that add unnecessary delay and burdens to the procurement process.

Before I discuss them in detail, however, let me briefly address what the recommendations are not.

The proposals would not alter the balance of power in municipal government.

They would not take power away from any City official, and they would not increase the power of any City official.

They would not diminish the openness or the competitiveness of the procurement process.

Instead, the proposals by applying the lessons we have learned conducting procurement under the current Charter, would streamline the procurement process and make it more efficient.

The Commission staff's report contains proposals to revise the Charter in seven areas and I support them all.

I will limit my remarks to four of them; small purchases, public hearings, contract resignation and integrity review.

As for the others, I will simply note that I agree with the rationales outlines in the Commission's staff report.

Small purchases.

I will begin with the proposal to increase the maximum dollar limits for small purchases.

I wholeheartedly agree with the statement in the Commission staff's report that the single most effective way to reduce red tape from the procurement system is to raise the threshold of the streamlined, but still competitive, small purchase procurement process.

Small purchases are just what they sound like; purchases for relatively small dollar values.

They can be processed very quickly, because small purchases are not burdened by many of the procedural requisites imposed on higher dollar value procurements, such as public notice of solicitation and award, pre-solicitation review reports, recommendations for award, supplier protests, written notices of non-responsiveness, VENDEX, and public hearings.

Indeed, there is a dramatic difference between the amount of time it takes to process a small purchase and the amount of time it takes to process contracts using other procurement methods.

As shown in Chart 1, the average time it takes to process a contract using the request for proposal, or RFP process, is eight months, for competitive sealed bid contracts it takes four months; but the time it takes to process a small purchase averages just two weeks.

The current small purchase dollar limits of \$25,000 for goods and services and \$50,000 for construction and construction related services, however, are simply too low.

They do not reflect the increase in prices for goods and construction over the last several years.

Yet as prices have gone up, many procurements that years ago would have been small purchases must be processed by much slower procurement methods because they are more expensive now than they were when the current small purchase limits were set.

The PPB recognized that the small purchase limits needed to be raised as far back as 1997, when it passed a rule to increase the limits.

Under the Charter, however, the rule could not become effective unless the City Council passes a concurring resolution, and since early 1998, the Council has refused to take any action on the resolution.

Revision the Charter to increase the limit now is both necessary and appropriate.

Setting the limit at \$100,000 would make sense in the context of both the way the City spends its procurement dollars and the way that Charter and the PP rules treat other procurement requirements.

First, raising the small purchase limits to \$100,000 across the board would match the current limit for information technology.

There is no reason why the small purchase limit for information technology should be higher than for small purchases for other goods or for construction.

Second, raising the small purchase limits to \$100,000 would dramatically reduce paperwork and vastly accelerate the processing of over hundreds of procurements a year.

As shown in Chart 2, if the small purchase limits were raised to \$100,000, we could accelerate the processing of more than 700 procurements a year, or 20 percent of all contracts.

Third, procurements under \$100,000 can truly be small when compared to the amount the City spends each year on contracts.

As Chart 3 shows, if the small purchase limits were \$100,000, only 0.6 percent of the dollar value of all city contracts would be processed as small purchases.

Fourth, the \$100,000 amount is one that the Charter already recognizes as significant for measuring the magnitude of a contract.

For instance, a contractor must fill out VENDEX forms only when its contract, or the cumulative value of its contracts in a calendar year, exceeds \$100,000.

And the requirement in Charter Section 312(a) that agencies must certify that a contract does not displace City workers, or justify the displacement of City workers if it does, applies only to contracts over \$100,000.

Raising the small purchase limit to \$100,000 would simply ratify what we already know, that purchases under \$100,000 are small.

Furthermore, the proposed increase would have tremendous benefits for both City agencies and the contractors with whom they do business.

As I've said, agencies would be able to process many procurements as streamlined small purchases if the limit were \$100,000, saving valuable time and resources.

Doing so would be of particular help to an agency like the Department of Youth and Community Development, which has many small dollar-value contracts to provide important services to the City's youth.

And DYCD's contractors, many of whom are small, not-for-profit, community based organizations, would benefit from having their contracts processed far more quickly as small purchases.

The benefits of an increased small purchase limit do not end with those procurements, however.

Raising the small purchase limits to \$100,000 would free up agency and oversight resources and time to focus on higher dollar value, more complex procurements, so that they could be processed more quickly and effectively as well.

As noted in the Commission staff's report, a higher small purchase limit would mean more small purchase solicitations distributed to small, minority owned and woman owned businesses through the City's bid-match program.

Thus increasing the small purchase limit would have a dramatic positive impact on the City's entire procurement system.

Public hearings.

Another area where we should streamline the procurement process involves public hearings.

The public hearing requirement was intended to provide a forum for purchasing agencies to receive testimony on certain proposed contract awards greater than \$100,000.

The problem however is that public testimony is seldom offered at contract public hearings.

The requirement in the current Charter that agencies must conduct public hearings for every contract with a value over \$100,000, therefore often adds an unnecessary and time consuming step to the already burdensome procurement process.

This section of the Charter should be revised.

The proposal in the Commission staff's preliminary report does two things; it raises the public hearing threshold for contracts from \$100,000 to \$500,000 and it creates a new public comment process for contracts between \$100,000 and \$500,000.

In doing so, the proposal achieves two important goals; it would reduce delays in the procurement process on those contracts that rarely receive public comment, but it would preserve the public's ability to comment on higher dollar value contract awards.

The only difference with the current Charter provision would be the replacement of public hearings for contracts with a value between \$100,000 and \$500,000.

As Chart 5 shows, only 16 or 8 percent of the 200 contracts for which there was testimony had a value between \$100,000 and \$500,000.

The total dollar value of these 16 contracts was less than 1 percent of the total dollar value of the contracts that received testimony.

Given these facts, it makes sense to find another, less time consuming way to receive public comment on contracts valued between \$100,000 and \$500,000.

The way to do it is through a written public comment process. The precise mechanisms for eliciting such written comment should be left to the PPB, but allowing a written public comment process would be much faster than holding a public hearing.

As shown in Chart 6, a \$500,000 threshold would reduce the overall number of hearings by 38 percent, but it would affect less than 2 percent of the total dollar value of those contracts that have public hearings under the current Charter.

At the same time, because the proposal sensibly maintains the public hearing requirements for contracts with a value over \$500,000, it would have no impact on those contracts that tend to receive hearing testimony from the public.

Finally on this topic, by permitting agencies to obtain written public comment in lieu of testimony at a public hearing on contracts with a value between \$100,000 and \$500,000, the proposal would actually make it easier for the public to comment on those contracts.

Currently, members of the public who wish to comment must do so by testifying at a public hearing which is held at a specific time and place.

If members of the public could instead submit their comments via the internet, for example, they would be able to prepare and submit their comments at virtually any time that was convenient for them.

The proposal thus would enhance public participation in the contract process while also enabling agencies to save resources that are currently devoted to public hearings.

Contract registration.

The recommendation in the Commission staff's report requiring the automatic registration of a contract if the Comptroller fails to act within the Charter's prescribed time frames and protocols simply makes explicit what is already the law.

In so doing, it will save time in those instances where the Comptroller exceeds the allotted period for review, and it will make the process more accountable and predictable.

After careful consideration, the 1989 Commission decided to make clear that the Comptroller has a limited but important role in the contract process.

Under the Charter prior to registering a contract, the Comptroller must verify that there are sufficient funds to pay for the contract, verify that all required certifications have been made, and verify that the proposed vendor has not been debarred.

Additionally, the Comptroller may object to the registration of a contract on the grounds of corruption.

These powers of the Comptroller should not be diminished or altered, and the proposal would not do so.

There have been times, however, when Comptrollers have attempted to exceed this role and refused to register a contract on other grounds.

When Comptrollers exceed their authority in this manner, registration is unnecessarily delayed and in turn payments to contractors are delayed and the continuity of services provided by contractors is at risk of disruption.

These delays could affect vital services essential to the most vulnerable citizens of the City.

The proposal that the Charter should expressly state that a contract is deemed registered if the Comptroller has not objected within 30 days of its filing for registration, and that the City's computer database should

automatically record a contract's registration if the Comptroller does not act within the required timeframes, would clarify the division of responsibilities in the Charter.

Contractors would then be able to rely on a definitive date when funds would begin flowing.

Centralized integrity review.

The Charter Revision Commission's recommendation to explicitly authorize centralized integrity assessment is particularly important.

As the Commission staff's report notes, in 1996 a PPB task force unanimously recommended that the City centralize the process for evaluating contractor integrity.

Centralization would be a more efficient way to assess integrity than is leaving each agency to do an individual integrity review on its own for each of its contractors, and it would make it easier for the City, in the procurement process, to draw upon information learned from the anti-corruption measures the City has successfully implemented in other areas of the business world.

Avoiding corruption in the contracting process is an essential responsibility of municipal government, and the PPB rule recognize this responsibility by mandating that the City contract only with responsible contractors.

In the contracting process, fraud, waste and abuse can take a wide variety of forms.

For example, contractors may make claims for work not performed, for labor and material not used or for materials not meeting specifications.

Contractors may engage in collusive bidding, bribe City officials, or misappropriate City funds.

Contractors may also make false statements or omit information in disclosures to the City in an attempt to conceal problematic information.

This sort of concealment often occurs when the contractor has engaged, or is alleged to have engaged, in activities in violation of federal, state or local laws, or when the vendor has performed poorly in the past.

Selecting vendors with business integrity makes good business sense.

In any contracting relationship, the client must be able to trust that the vendor will in fact deliver the needed goods or services.

Contracting with vendors with business integrity minimizes the risk that the vendor will act in bad faith and fail to perform the required task satisfactorily.

Once the vendor is on the job, substituting a new vendor is difficult and costly. Therefore, properly reviewing a vendor's business integrity is a critical part of the procurement process.

Yet the effort involved in examining a vendor's business integrity, including the analysis of information from various sources, interviewing vendors and following up on adverse findings or pending matters in various courts, can be time consuming.

The proposal to centralize integrity review would help prevent delay in the procurement process in three ways.

First, agencies would no longer have to reinvent the wheel every time a contractor who already did business with the City received a new contract with a new agency, a centralized review would ensure that the contractor's history was immediately known every time it received a city contract.

Second, centralized review would help ensure uniform treatment among agencies when confronted with the same set of facts.

Third, a centralized review of a City contractor could be ongoing, rather than taking place only when a contract is about to be awarded, so that the information is known throughout the procurement process rather than only near the end, a procurement is felt.

Additionally, actions by a vendor that cast doubt on its business integrity must be viewed in their entirety.

It is particularly important to review closely instances where more than one of these actions comes into play, because such instances may suggest a pattern constituting potentially corrupt behavior.

A central repository for contractor history would ease the burden of gleaning information from a myriad of sources and running the risk of having only segmented knowledge of a contractor's record of integrity.

Indeed, a centralized integrity assessment approach is also better suited to identifying corrupt companies and ferreting out alter egos, successor companies and dummy corporations that frequently enable corrupt individuals, including those involved in organized crime, to remain in business even after exposure of criminal conviction.

Finally, a centralized integrity approach would allow the City, during the procurement process, to draw most effectively on information learned to agencies such as the trade waste commission.

Conclusion.

One of the hallmarks of the Giuliani Administration has been the vast improvement in management and efficiency of City agencies.

We have taken strides to improve the procurement system within the context of the current Charter, but further necessary change can come only from Charter revisions.

The proposals contained in the Commission staff's report are sensible and address directly the need to improve the efficiency of the procurement process.

The Commission should adopt the proposals.

I appreciate the opportunity to appear before you. If members of the Commission have any questions, I will be happy to answer them.

MR. MASTRO: Thank you for that comprehensive testimony.

Now we will hear from Ross Sandler.

MR. SANDLER: Thank you very much. It's nice to be here. I appreciate the opportunity to address the Charter Revision Commission.

I have a number of points about contracting I would like to speak to.

First, on small purchases, small purchases, in the next issue of City Law, which we publish, the Center for New York State Law, we have a chart that analyzes the contracts in the year 2000.

There are about 6,000 contracts. Of those, if you take the bottom 4,000 contracts, the total amount of money is only \$91 million.

The bottom four thousand contracts equal 91 million; the top 2000, six billion. So what that tells us is that an awful lot of effort is going into very small contracts, and it would be much more efficient for the Agency if they could spend less time on the smaller contracts and more time on the larger ones, and that's what this proposal is about.

Second, on the hearings.

The hearings have not proved their worth. They were added to the Charter in '89, by the '89 Commission, because there had been hearings at the board of estimate, and they did not want to remove the opportunity to appear before an agency and talk about a contract.

People do not show up and it mostly appears to be a waste of time.

Your solution, proposal solution makes sense, but I would suggest that you could equally achieve it by authorizing the PPB to decide when or to issue a rule that suggested to agencies when a hearing would be appropriate and when it is not, and that would be more flexible than a dollar amount which will inevitably have to be changed at some point anyway.

So I would suggest that you consider, as you did with the small purchase provision, to allow the PPB to alter that or to suggest other means or other tests for when a hearing might be appropriate.

On a small point, on the page 96 of the rules, at one point you talked about the controller having to file with the Mayor any objections to contracts. Then you talk about them being delivered, and I think the confusion between "filing" and "delivering" should be ironed out, what it is you mean by that.

And I am talking about on page 97, item B-3, calls for delivery, where everywhere else the word filed is used, and it seems to me that that should be ironed out one way or the other what you want to do there.

Now, registration of a, on page 98 you suggest that, that the automatic system automatically register.

I am not so sure -- I understand delegating this authority to mayors and controllers, I am not so sure about delegating it to machines.

I would suggest that it's entirely possible machinery could go haywire and you end up with all sorts of problems. I am not quite sure what the purpose is of having an automatic, computerized registration trigger on 30 days. I would rather have it say deemed or something like that. I just don't understand that point particularly.

On page 96, let's see, I want to speak about registration a little.

Registration has been a problem, not a

personality problem necessarily, although that has been true as well. It's an institutional problem because you have a controller who has the authority to register and you have the mayor who is undeniably responsible politically and legally for the contract decision.

The current PPB rules require the agency to deliver not just the contract, but additional documentation as well, and allows the controller to ask questions which must be responded to forthwith. And therein those rules have caused confrontations between the agencies and the controller, with which I am sure many of you are familiar.

The controller wishes to get behind the contract, understand more about it, test all sorts of questions in the name of political accountability and legality and the Mayor's Office is saying, "Wait a second. We delivered a contract. We delivered a certificate. We want to get on with our job. Why are you going so deeply into our job."

The Charter is clear the Mayor is right as to who has the responsibilities, and yet the rules as currently written have allowed the controller to take some liberty in getting information and asking questions.

Thirty days is a very short period of time, and as this rule is written right now, it says filing the contract alone is all the agencies have to do, the bare bones contract.

And I would suggest that the issue is difficult enough in terms of the relationship between the controller and the Mayor, institutionally, not personally institutionally that you might consider adding the words "and such other documents as the PPB would require or authorize."

And the reason there is I think that that would be an escape valve. I don't think I am telling you anything that you don't already know, that there is institutional context here, that this would be controversial and that there is some legitimacy to asking a few questions and getting additional documents beyond the bare bones contract that would not undermine the Mayor's responsibility.

So I would suggest in your deliberations you might think of allowing the PPB, which the Mayor's Office controls three of the five votes, to add some additional documentation besides the contract as an escape valve.

Now, the last is the centralized evaluation, and here I want to speak a little bit both from experience and from how at least as I read this proposal.

First of all, I think it's a good proposal, in the context of integrity. The integrity decision is the most difficult decision that an agency makes, and why is it so difficult.

It's a decision that is often made in ignorance. It's not unusual for the Department of Investigation or some investigative agency to say to an agency, the person you are about to contract is under investigation in the grand jury, but we can't tell you why, and the investigation, we don't know what's going to happen, and we don't know how long it's going to take, so you do what you want or not.

And that puts the agency in a terrible position.

MR. WILSON: I'm sorry. Doesn't the Department of Investigation notifying the agency that the contractor is under investigation mean that's necessarily a non-responsible contractor?

MR. SANDLER: No.

MR. WILSON: And the agency loses the discretion?

MR. SANDLER: No, not at all. You were commissioner of investigation, maybe that's how you interpret it.

MR. WILSON: It's my understanding --

MR. SANDLER: That is not automatic.

MR. WILSON: For many of the last eight years, when a contractor is under, for example, indictment --

MR. SANDLER: Indictment is different.

MR. WILSON: -- there is a probable cause finding in that case that there is a reason to believe that the contractor has done something wrong. Just as you wouldn't hire a painter or a person to work on your home might

be a crook, so to the City should not have to hire a crook.

Now the question is backing it up, if the Department of Investigation or others contend that the contractor is under investigation, I would have thought that most agencies would not be using that contractor in giving City business to a party or where a responsible agency of government has made it clear that there is a problem. The City should always be, have the right to reject.

MR. WILSON: I understand the problem might arise when there is only one contractor that seems to be particularly good for the job, but you can hire one of 20, and one of them is under investigation, why are we even by debating the prospect of not choosing one of the other 19?

MR. SANDLER: Howard, with all due respect, it's a very extreme position. There are lots of contractors who find themselves under investigation for one reason or another, and grand jury investigations are secret, and the DOI cannot tell the agency what the purpose of the investigation or what the --

MR. WILSON: Fair enough. I understand that.

MR. SANDLER: So it leaves the agency, it leaves the agency in the dark about how to make a judgment about it. And grand jury investigations as we all know sometimes come to nothing.

MR. WILSON: Bill, the question isn't, the question is whether the City, in protecting its interests should do business with an entity where there is sufficient facts that are out there that cause a grand jury, a prosecutor, an investigator agency to worry and then the issue is why are we worrying more about the contractor than the City, which should have the ability, if it chooses to do so, to disregard that contractor and move on to the next party that doesn't have that kind of taint hanging over it.

MR. SANDLER: Let me make my point clearly.

A problem with the integrity decision is that you often don't have all the facts and the City should be allowed to act when it doesn't have all the facts when it comes to integrity, and that as is an event that happens more often than you would, than most people think.

MR. WILSON: You and I both understand how often it can happen.

MR. SANDLER: And so I would agree that a centralized decision on integrity makes sense because the agency is often at the City. The people who know are not in the agency. The people who know are at DOI, because they often have access. They are often participating in a grand jury investigation.

They have more information than the agencies do. So I am -- maybe we aren't in disagreement at all.

When it comes to integrity, I believe that this proposal is quite good because it allows the City to make a decision in a centralized way which then -- and incidentally, you and I also know that integrity decisions, particularly integrity decisions, are already as a matter of fact mostly centralized anyway because DOI is the key actor in that.

Let me go onto the other two, as to performance and capability. They should not be made in ignorance. Those decisions should be made with facts.

And in addition, the whole sense about the procurement process over the last ten years has been to professionalize the ACO's and the agencies to not only know how to do contracting but to rate their contractors and to act professionally.

And as to those decisions, I don't see the commanding need that you have in the integrity area that you have in the performance and capability and, indeed, the justification.

MR. WILSON: As far as centralization?

MR. SANDLER: Indeed, when you look in the discussion, in the materials it only talks about integrity. It does not talk about performance and capability.

Well, performance, an agency rates a contractor as marginal, all right. Next they get another contract. The agency has to decide if they want to deal with that contractor or

not.

They can decide that's not, not a -- not responsible because they have been rated marginal. Whereas now that gets appealed to the Mayor's Office of Contracts, and through that process, the contractor gets a chance to try and demonstrate that they really can do it right. That is not possible with integrity, because it is -- let me say not that it's impossible.

It is much more difficult on the integrity side.

On the capability side, it's the same thing.

Many contractors are found non-responsible because they don't have the experience requirement. They don't have sufficient bank balances. They, for one reason or another, they have too many jobs. They are already stretched two thin to take on a new job. That is a capability decision.

Now, this provision in the Charter says

"may," so it's possible that everything wouldn't be centralized as a principal, and it's a soft principal, not a hard principal.

As a soft principal, I would urge you to think in terms of reinforcing the professionalism of the agency contracting officers at every step of the way except where it doesn't make a whole lot of sense, and I would agree that in the integrity decision, it doesn't make a whole lot of sense, because that is going to be centralized no matter what.

On capability and performance, I would

be resistant to making that, and so maybe it's not a great harm to have the word "may" here to allow it.

But to me the way government works it tends to want to centralize everything anyway, so if I had my druthers I would say centralize the integrity decision if you want to do it, but not -- don't include at this point performance and capability.

Leave that at the agency and demand they do it right. Allow the people to work it out, and the Mayor's Office of Contracts and not fiddle with that in that way.

MR. WILSON: How does this proposal establish the decisionmaker in the first instance for the integrity determination? Who

is going to actually do it?

MR. SANDLER: It doesn't. What it says --

MR. WILSON: Delegate to PPB the way to establish it?

MR. SANDLER: No, no. It doesn't. It says the centralized. It says may evaluate the integrity, so what it would be, he can designate one or more agencies to participate in such efforts.

I would be surprised if this effort was not led by the Mayor's Office of Contracts and DOI. Thus it would end up being exactly where it is now.

MR. WILSON: But this would change what you are now talking about?

MR. SANDLER: The Charter does not say anything about that right now. Right now what happens is the agency makes a non-responsibility decision based on integrity.

Now, my question is every general counsel is going to talk to DOI and the Mayor's Office of Contracts before they do that or they read Vendex or read City Law.

MR. WILSON: Wouldn't it be in Vendex, something ought to be in Vendex?

MR. SANDLER: What this would do is authorization that procedure in a formal way. I take it that there is no appeal.

So the place to go would be an Article 78, and so you go right to court after this centralized Mayor's delegate makes that decision.

MR. WILSON: I think what the provisions allow is it addresses some suggestion in a court decision that the Mayor does not have and DOI also does not have the authority to intervene in integrity decisions; that then

those decisions have to be made in the first instance by the agency, and there is, I think there is some language in a court decision suggesting that, I think that language is wrong, and City has taken the position that that language is wrong, but nonetheless, this Charter change would eliminate that suggestion.

MR. SANDLER: It's a good change. It should be centralized. It's in practice it is what is going to happen anyway. Let's do it openly and let DOI and the Mayor's Office of Contracts make that decision, but I worry about those other two, performance, and capability.

MR. WILSON: What do you do, Ross, when the Department of Transportation has found a contractor who worked on its project to be incompetent and let's assume that the documents shows that the contractor really did a poor job, now it is in front of the Department of Environmental Protection, and it's a good, from the point of view of DEP, it's a good contractor and they want to hire this, they want to hire this entity and they want to dismiss the fact that DOT a year earlier found this contractor to do a really poor job, I take it the centralization would make it, would at least have one person or one group making that judgment as opposed to an ACO in each department dealing with each department's needs make the independent judgment?

MR. SANDLER: I think the significance of this, the hidden significance, what is the standard on review.

MR. WILSON: Arbitrary and capricious?

MR. SANDLER: There is no formal hearing, so there is no record. To debar somebody you have to go to oath, which means you have to have a record.

MR. WILSON: By declaring them not responsible, you don't go through the oath procedure that gives maximum flexibility to deal with the City agency to getting the job done and not spending a lot of time on technical legalities?

MR. SANDLER: That sort of underscores my point. I think it's very important when it comes to integrity.

MR. WILSON: On performance?

MR. SANDLER: On performance and

capability, I think the City ought to be put to its test on this. The agency ought to be required to keep their records and go forward on it. They don't do it now.

MR. WILSON: They didn't do it when you were there. They're not doing it now. The likelihood that it will continue to be a problem unless somebody is worrying about it in one place, isn't that one reason to be thinking about doing it in the centralized way?

MR. SANDLER: You want to be fair to the contractor. The City does not have an abundance of contractors in lots of areas. One of the reasons is they don't know what's going to happen. You can't reward the good contractors very easily.

MR. WILSON: Because?

MR. SANDLER: Because you can't give them any edge in the competitive process. You did a great job on the last contract; here is a new contract.

MR. WILSON: If the bad contractors are weeded out and it's only the good contractors competitive bidding and assuming they are honest, then you are going to get good --

MR. SANDLER: You weed out the bad contractors.

MR. WILSON: I'm not dealing with integrity; I am dealing with irrelevant issues.

MR. SANDLER: My preference would be the City manages contracts better, keep the records better and goes to oath on capability and performance not the informal way; that's my suggestion.

Let me go on to the last point, which is the last sentence in Section 335, it says the Mayor and an agency designated by the Mayor may make such evaluations or conclusions available to agencies.

I think it should be "shall." I don't understand how you can make a decision like this and decide whether or not to make it public.

Any department decision has to be made public, published in the City record. Make non-responsibility decisions available. They are in the contract file, and so I think the word "may" should really be "shall" in that.

And that concludes my testimony.

MR. MASTRO: Thank you very much.

Darwin Davis, thank you for being here.

MR. DAVIS: Good evening. My name is Darwin Davis and I am the executive director of the Human Services Council of New York City, Inc.

I would like to thank the members of the New York City Charter Revision Commission for the especially in the areas of contract reform, technology and performance-based services.

In its contracting role, HSC, has made several notable accomplishments, such as the implementation of a Model Client Services Request for Proposal that has reduced the amount of paperwork involved in submitting and reviewing proposals for funding.

The Model RFP has been implemented and utilized for all human services contracts let since Fiscal Year 2000.

We also promoted the use of electronic funds transfers for the first payments to all human services providers.

Other procurement reform efforts include changing the Bidder's Conferences in two significant ways:

1. Attendance by senior level, city agency personnel is now required and
2. The time after the conference during which providers can respond has been extended.

In addition, HSC is currently collaborating with MOC on a post-award pamphlet targeting next steps for human services contractors.

HSC's efforts in this arena have been, and continue to be, well received by our sector.

While there are several preliminary recommendations before the Commission, my remarks will focus primarily on the proposals to reform the City's purchasing procedures.

HSC strongly supports increasing the small purchase limit threshold to \$100,000 for goods and services.

We conducted an analysis, based on FY 2000 data, of the impact of increasing the threshold to \$100,000 on the human services sector and found that this increase would yield enormous benefits for our sector and the City.

HSC's analysis indicated that of the 2,764 total number of health and human services contractors, 732 contracts were processed as small purchases.

Increasing the threshold to \$100,000 for goods and services results in an additional 661 additional contracts, which totals 1,393 health and human services contracts, 732 small purchases contracts and 661 additional contracts, processed as small purchases.

Youth and elderly services contracts represent the majority of health and human services contracts that would be processed as small purchases at a \$100,000 threshold, 877 youth and 164 elderly services contracts.

Overall, approximately 50 percent of all health and human services contracts would be processed as small purchases.

As the noted in the staff report to the Commission, it often takes only two weeks to process small purchase contracts, which would allow the Mayor's Office of Contracts to devote more time and energy on larger dollar amount contracts that require additional attention.

However, HSC disagrees that increasing the small purchase threshold is the single most effective way to remove red tape from the procurement system.

Processing more human services contracts as small purchases will only alleviate part of the problem with the procurement of human services contracts.

There has been an unhealthy acceptance by both the City and vendors that late contracts are a way of life.

This must change. Non-profits, encouraged by city agencies, routinely begin work on July 1st, even though payment may be delayed by several months.

The City, nor non-profits, should find themselves saying to parents of children in daycare, scattered site housing occupants, or senior citizens that their center is closed until further notice.

The data compiled by the City highlights this problem. Roughly 93 percent of human services vendors receive payment as late as six to seven months after the services were scheduled to begin.

Estimates indicate that late health and human services contracts potentially cost vendors \$6.1 million in unreimbursable interest fees on loans borrowed from banks to fund services while awaiting registration and payment.

In essence, the City's inability to process contracts and pay non-profits vendors promptly places these agencies under unreasonable pressure to underwrite the costs of managing and financing services.

It is appropriate that non-profits are underwriting the costs of service delivery because the procurement system neglects this issue.

These lengthy delays in the review process of contracts are attributable to MOC and the City agencies with oversight of human services contracts.

There are no timelines for prompt review of contracts are attributable to MOC and the City agencies with oversight of human services contracts.

There are no timelines for prompt review of contracts imposed on MOC and the City agencies, although the Comptroller has a mandated timeframe of approximately 30 days to register contracts.

Furthermore, the City Charter does not include any mechanisms to hold MOC accountable for these delays, which often times causes a major disruption in service delivery.

The recent addition of late contracts as an index in the Mayor's management report may bring some needed light to this subject.

HSC firmly believes that the contract review process must be reformed to mandate that contract award and registration will conclude before or on the start date of services.

Imposing timelines for each step in the contract review process, as well as making specific personnel in MOC and the City agencies accountable for lags in contract registration and award would surely resolve this problem.

Part of this accountability should be interest payments to non-profits whose contracts are delayed by no fault of their own.

In closing, I would like to thank the Commission for this opportunity and I am open to any questions.

MR. MASTRO: Any questions?

Gentlemen, thank you very much. We appreciate you being here.

We will now hear from Herman Badillo.

MR. BADILLO: Thank you, Mr. Chairman and the members of the Commission.

I would like to congratulate you on your diligence and express my support for the bulk of your staff's recommendations.

I will suggest two new proposals for you to consider.

First, I agree with your staff's recommendations on making the administration for children's services a Charter agency with full rulemaking authority, and

Two, making our schools safer through school crime reporting requirements and gun free school safety zones and

Three, protecting human rights by establishing the office of immigrant affairs and the human rights commission as charter agencies.

I do not intend to detract from other worthy proposals contained in the staff report dated July 27, 2001, but the staff suggestions I just mentioned are truly noteworthy and belong in a revised City Charter.

Now, the two new proposals I wish to propose deal with mayoral succession and campaign finance.

I propose that the voters should have the opportunity to vote for a mayor and vice mayor of the same party.

In the event the mayor vacates his office, the vice mayor would immediately take office and these would be continuity through the end of the term.

This change would align the City with the state and federal governments.

The vice mayor would assume many of the duties of the public advocate, and that office could be eliminated.

Finally, the next proposal I make deals with campaign finance.

I am a strong supporter of the New York City campaign finance law.

The current Charter empowers the campaign board to take such actions as it deems necessary and appropriate to improve public awareness in all citywide elections.

I urge that the Charter be revised to require a minimum of three debates of all candidates for citywide office, including primaries for major parties.

The board should be empowered with the power to set reasonable terms for the debates.

The reason we need such a revision is obvious. The law was established before the concept of the inexperienced billionaire candidate was established in the City.

My opponent, in the Republican party, Mr. Bloomberg, for example is avoiding all debates.

Yet he is spending record amounts in his campaign.

This situation was not contemplated and the problem must be addressed to protect the Democratic nature of our system.

Money must be taken out of the process to the extent possible and requiring a debate is a minimal requirement that would provide information to the voter.

The publication of the voters guide is not enough in this era.

Thank you for your giving me this opportunity.

MR. MASTRO: Thank you.

We will next hear from Leo Glickman with C. Virginia Fields' office.

MR. GLICKMAN: Leo Glickman, deputy general counsel to the Manhattan Borough president, C. Virginia Fields. I'm here offering testimony on her behalf tonight.

Members of the Commission, once again the Mayor has empaneled a Charter Revision Commission in haste and without a cogent rationale.

Although I have the highest regard for the individual members of this panel, like most New Yorkers, I continue to be concerned by both the process and substance of these proceedings.

With only one public hearing in each borough, there is neither the time nor the opportunity for any of the meaningful reforms suggested by the public to be fully aired and debated.

Attempting Charter reform on the eve of the most dramatic and far reaching leadership change in New York City's history, is both irresponsible and unnecessary.

This November, as a result of term limits, we will elect three new citywide officials, two-thirds of the City Council and four new borough presidents.

It seems that now is not the time to be amending our City's basic governing document.

One of the proposed charter changes that most concerns me is the consolidation of the Department of Health with the Department of Mental Health, Mental Retardation and Alcoholism Services.

Most mental health advocates I have spoken with strongly feel that this merger would adversely affect and marginalize government's role in addressing mental health issues.

Many advocates believe that the one commissioner/two agency approach of the past three years has resulted in the neglect of the full needs of Department of Mental Health merging the two agencies increases the likelihood that city government's commitment to mental health matters will regress, rather than progress.

A number of the other preliminary proposals should rightly be left to the newly elected city council for their consideration and study.

Although many of the recommendations have merit, they do not rise to a level requiring Charter amendment.

It is wrong to usurp the prerogatives of a newly elected body.

I strongly urge that this Commission refrain from placing Charter reform on this year's ballot.

These hearings would be better used to prepare a comprehensive report on the area of city government that the next government should address during its term, either through legislation or charter amendment.

It is more appropriate to afford the next mayor and City Council the opportunity to make any charter reforms by due process, allowing time for the necessary full and open public discussion.

Thank you for the opportunity to add my views to the record.

MR. MASTRO: Thank you.

We will now hear from Gurt Sabar, for Eva Moskowitz, City Council member.

MR. SABAR: I am Gurt Sabar, legislative aide to Councilmember Moskowitz. I will be pretty brief.

On behalf of Council Member Moskowitz, I would like to take this opportunity to express support for the Commission's proposal to elevate the ACS to formal agency status.

As a former teacher and children's advocate, we should use every possible resource to improve the lives and broaden the horizons of every child in New York City.

She also understands a child will never be able to reach his full potential until the security and stability of his home life is guaranteed.

For many of the children in New York, this goal cannot be accomplished without significant help from the community at large.

By establishing the ACS as a permanent City agency, we will be improving the delivery of vital services, such as child protection services, adoption services, child support collection enforcement, and child care and early childhood educational programs.

As a full fledged City agency, the ACS will have the power to enhance the lives of millions of New York children who might otherwise be lost to poverty, drugs and abuse.

Council Member Moskowitz strongly supports the administration contention that a single independent agency would better serve the needs of our children.

She also believes that it would be unwise for the City to retain its practice of maintaining the ACS as a temporary agency whose continuing existence is subject to the whims of each newly elected mayor.

The future of our City commands we establish ACS as a permanent partner in the campaign to enhance the lives of every child in our community, given the success the ACS has enjoyed as an independent agency.

I respectfully request it be elevated to the status of a full charter agency.

Thank you.

MR. MASTRO: Thank you very much and please thank the Councilwoman for her comments.

Now we will hear from other members of the public.

Just briefly before we begin, I wanted to go over briefly the procedures that we will follow.

Each speaker should have signed up at the speaker's table outside as you came in.

Everyone will have a chance to testify who signed up. Each speaker will have three minutes to give his or her testimony. You will be advised when you have one minute left and then when your time has expired.

We have many speakers tonight, so we must abide by the time restrictions.

If you choose to ask questions, that will count as part of your time. You are welcome to do that, but we are also here principally tonight to hear your views on Charter proposals. So, please use your time.

If you have written testimony, we will be happy to consider that. You can submit it to us tonight or mail it to the Commission at 32 Lafayette Street, 14th floor, New York, New York 10007.

We have sign language interpretation present to my left and there will also be transcripts made of tonight's proceedings made available to the public.

Now, before we begin, there will be and a brief summary by the Commission's general counsel, Anthony Crowell, of those proposals which the staff has recommended the Commission should seriously consider for potential placement on the ballot lot.

We are considering the entire charter, reviewing the entire charter.

We urge you to comment on any aspects of the charter that you wish. We wanted to be aware of what the staff's recommendations were.

MR. CROWELL: My name is Anthony Crowell and I serve as general counsel for the Charter Revision Commission.

The Commission staff's recommendations fall into nine separate categories, and the staff recommends that each category be proposed as a separate ballot proposition.

It should be noted that expert testimony is being given for each of the categories at expert briefings prior to the public hearings in each borough.

This evening at 6:00, expert testimony was given on the staff's recommendations on:

Creating a new Department of Public Health by merging the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services.

Expanding the Board of Health from 5 to 11 members, including the commissioner, to ensure a diversity of practice areas on the board.

Ensuring the integrity and improving the process concerning the City's purchasing procedures to guarantee more effective delivery of goods and services to citizens.

Other staff recommendations under consideration include:

Making the Administration for Children's Services, known as ACS, a charter agency.

Making the Office of Emergency Management, also known as OEM, a charter agency.

Creating an Organized Crime Control Commission to combat organized crime in the Fulton Fish Market, the commercial waste carting industry and in the shipboard gaming industry.

Establishing a new office to combat domestic violence to enhance the coordination of the various city services to combat domestic violence and assist victims of domestic violence.

Requiring that public school teachers and other Board of Education employees report information to the police department relating to suspected sex offenses and other violent crimes committed against a public school student.

Creating gun free school safety zones and making it a crime for most persons to possess a gun within 1,000 feet of any school in the city, except police officers.

Banning the sale and possession of any type of gun to any person under the age of 21.

Making the human rights commission a charter agency and providing for enforcement of the city's human rights law through the charter.

Making the office of immigrant affairs a charter agency and providing for mechanisms so that City agencies will keep confidential any information they may have regarding a person's immigration status.

Reforming the City's conflicts of interest rules to improve conflicts of interest board's investigative functions and provide that any elected official, holding an office when a local law is passed that would increase the salary of that office, to receive such salary increase upon re-election to office. Empowering the fire department to oversee building inspections.

MR. MASTRO: Thank you.

(Time Noted: 8:00 p.m.)

CERTIFICATION

I, BONNIE ATELLA, a Shorthand Reporter and Notary Public, do hereby certify that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

BONNIE ATELLA