

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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April 29, 2019  
Start: 1:09 p.m.  
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HELD AT: 250 Broadway - Committee Rm.  
16<sup>th</sup> Fl.

B E F O R E: DONOVAN J. RICHARDS  
Chairperson

COUNCIL MEMBERS: Adrienne E. Adams  
Justin L. Brannan  
Fernando Cabrera  
Andrew Cohen  
Chaim M. Deutsch  
Vanessa L. Gibson  
Rory I. Landman  
Carlos Menchaca  
I. Daneek Miller  
Keith Powers  
Ydanis A. Rodriguez  
Paul A. Vallone

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

Oleg Chernyavsky, Executive Director of Legislative Affairs, New York City Police Department

John Cosgrove, Deputy Chief of Risk Management Bureau, New York City Police Department

Alex Crohn, Office of Chief of Strategic Initiatives, New York City Police Department

Michael Clark, Managing Attorney of Legislative Affairs, New York City Police Department

Jonathan Darche, Executive Director, Civilian Complaint Review Board, CCRB

Yojaira Alvarez, Director of Outreach and Intergovernmental Affairs, Civilian Complaint Review Board, CCRB

Victoria Davis & Justice Committee Member

Anthony Posado, Legal Aid Society

Kylynn Grier, Policy Manager, Girls for Gender Equity

Michael Sisitzky, Lead Policy Counsel, New York City Liberties Union

Yosam Li, Co-Director, Justice Committee Appearing for Member of DESIS UP And Moving, DRUM



2 [sound check] [pause] [gavel]

3 CHAIRPERSON RICHARDS: Alrighty, good  
4 morning, good morning. Is it morning? No, it's  
5 afternoon. Sorry. It's a long weekend and welcome. I  
6 am Council Member Donovan Richards from the 31<sup>st</sup>  
7 District in Queens, and I am the Chair of the Public  
8 Safety Committee. I want to acknowledge the Council  
9 Members who are here. I want to start with Carlos--  
10 Council Member Carlos Menchaca, Council Member Gibson  
11 and our newest addition from Southeast Queens  
12 Councilwoman Adrienne Adams. Welcome. [applause]

13 COUNCIL MEMBER ADAMS: Thank you.

14 CHAIRPERSON RICHARDS: We only one--oh, we  
15 have to initiate her. [background comments] That  
16 would be okay. We're going to now, and then we're  
17 also joined by Council Member Reynoso as well. We  
18 are here today to learn from the department about  
19 their role out of two laws that were collectively  
20 known as the Right to Know Act, Local Law 54 of 2017  
21 and Local Law 56 of 2017. Together these laws  
22 curtail the ability of police officers from engaging  
23 in one of the worst Stop, Question and Frisk tactics.  
24 When officers would stop someone for what--for no good  
25 reason and with no explanation, but sometimes with

2 force go through their pockets, it is pretty much  
3 only—it pretty much only happened in communities of  
4 color, and it happened a lot. Hundreds of thousands  
5 of times every year, and it is suggested that the  
6 department view those hundreds of thousands of hard  
7 working folks, students, parents and children as  
8 nothing more than potential criminals instead of  
9 citizens who have a constitutional right to be free  
10 from unlawful searches. One of the laws we passed  
11 required the department to train its officers to  
12 obtain voluntary consent any time they wanted to  
13 conduct a search. The other law requires officers  
14 during any stop where the officer suspects criminal  
15 activity, but does not have probable cause to arrest  
16 must provide an explanation for why the person was  
17 stopped and present—and present the person with a  
18 business card that tells the person who the officer  
19 is and to complain about the stop. Now, I actually  
20 voted against the second bill. I fully support the  
21 goals of the bill, but I felt it did not go far  
22 enough. I think officers should provide business  
23 cards almost every time they initiate an interaction  
24 with a civilian including Level 1 stops and traffic  
25 stops-stops. When a police officer asks someone for

2 their name, that's technically a Level 1 stop, but it  
3 can be intimidating especially given our history.

4 Officers make traffic stops in communities of color  
5 much more often than everywhere else, and we need the  
6 same protections in place to make sure traffic stops  
7 aren't just another version of stop and frisk, and  
8 that's a person experience of mine. My goal is  
9 simple. I want to make sure that officers have an  
10 incentive to treat everyone they come across with  
11 respect without exceptions. Regardless, we are going  
12 to hear about what steps the department has taken to  
13 implement these laws. We want to make sure that the  
14 department has procedures in place—in place for  
15 making sure that officers are complying with the law  
16 when conducting these stops, and given that the  
17 Federal Monitor in Floyd litigation is concerned  
18 about under-reporting, we want to make sure that the  
19 searches that take place are not being under-  
20 reported. In addition, we want to make sure that the  
21 way in which officers are asking for consent actually  
22 makes a person feel like it is voluntary. So, we are  
23 also going to hear from the Civilian Complaint Review  
24 Board to find out in this early stage of the laws and  
25 implementation if the CCRB is receiving complaints

2 that the law is not being followed, or if in the  
3 course of their investigations of other cases they  
4 are seeing evidence that it is not being followed. We  
5 are also hearing two bills today. Introduction No.  
6 1522 sponsored by Council Member Gibson, which would  
7 require the CCRB to report information regarding  
8 complaints about violations of the Right to Know Act,  
9 we are also hearing Preconsidered Introduction  
10 sponsored by Council Member Torres, which would—  
11 right? Wait. Reynoso, not Torres, which would  
12 require the NYPD—that was a blooper in my—in my  
13 statement. Yeah, okay, [laughter] which would  
14 require the—this is really Monday morning—Monday  
15 afternoon. [laughter] Which would require the NYPD  
16 to report on request to consent to search that that  
17 were denied. Before we begin, I just want to say  
18 that our goal here is not to cast blame. It is to get  
19 this rollout right. I know that changing the way  
20 35,000 police officers conduct one of their core  
21 functions is not easy, and I know that there are  
22 logistical challenges to overseeing this  
23 implementation, but getting this right is so crucial  
24 for the communities that still vividly remember the  
25 way we were treated for so long, and just as crucial

2 for the department as it continues to improve its  
3 image as one of-one that protects all New Yorkers.  
4 Since I believe we share the same goals, let's figure  
5 out how we can work together on this, and I'd like to  
6 thank--before we turn to my colleagues for their  
7 statements, I'd like to thank committee Counsel  
8 Daniel Ades (sic) our Policy Analyst Casey Addison  
9 and my Legislative Director Jordan Gibbons for all of  
10 their hard work on this hearing, and with that being  
11 said, we will go first to Council Member Gibson  
12 because she has to head to another committee, and  
13 then we'll hear from Reynoso. We also are joined by  
14 Council Members Lancman and Cohen as well.

15 COUNCIL MEMBER GIBSON: Thank you--

16 CHAIRPERSON RICHARDS: [interposing] Oh,  
17 and also our Public Advocate Jumaane Williams.

18 COUNCIL MEMBER GIBSON: Thank you. Thank  
19 you Chair Donovan Richards. Good afternoon to  
20 everyone who's here, and to all of my colleagues on  
21 the Public Safety Committee. I also want to welcome  
22 Council Member Adrienne Adams to the committee.  
23 Looking forward to our collective work together. I  
24 am Council Member Vanessa Gibson of District 16 in  
25 the Bronx, and I'm thankful to Chair Richards for



2 holding this hearing today to talk about two  
3 important bills that are carried by myself and  
4 Council Member Antonio Reynoso. I am proud to  
5 introduce and prime sponsor Intro 1522, which will  
6 require the Civilian Complaint Review Board, CCRB, to  
7 report our information regarding complaints that  
8 officers have failed to properly identify themselves  
9 or fail to obtain knowing and voluntary consent prior  
10 to conducting a search. In addition, this bill on  
11 today's agenda will require the CCRB to report  
12 information regarding complaints about violations of  
13 the Administration Code Sections 14-173 and 14-174,  
14 which are collect—collectively known as the Right to  
15 Know Act, and I want to thank our Speaker Corey  
16 Johnson and certainly Chair of the Public Safety  
17 Committee Donovan Richards and Casey Addison and  
18 Daniel Ades and the Committee team for their work. I  
19 was here during the last term in 2017. I chaired the  
20 Public Safety Committee when this City Council voted  
21 on the Right to Know Act, and I remember the long  
22 journey. A lot of advocacy, a lot of input, a lot of  
23 analysis of what we could do as a city, as an  
24 administration to ensure that New Yorkers understood  
25 their rights. Their rights were affirmed ty law, and

2 we also wanted to make sure that we continued to  
3 engage in with law enforcement and police officers in  
4 their conduct of searches were able to provide this  
5 very critical information, and here we are over a  
6 year later of the implementation of the Right to Know  
7 Act, and these bills that were put forth are simply a  
8 way to understand what is happening, understand any  
9 of the gaps in service, any deficiencies that we have  
10 identified as a department both the NYPD as well as  
11 the CCRB, and for those of us that work with the CCRB  
12 and host monthly office hours in our district  
13 offices, we also want to make sure that CCRB  
14 continues to do outreach, and share information. I  
15 remember when the Right to Know Act was passed and  
16 codified in law, CCRB's outreach team went to all of  
17 the boroughs, including mine in the Bronx and did  
18 outreach on a number of different outdoor events and  
19 family days and different recreation events to share  
20 information because a lot of times the laws that we  
21 enact here that are signed by the Mayor does not  
22 always translate on the ground, and simply put, we  
23 have to do better as a Council. We have to do better  
24 as an administration to make sure that New Yorkers  
25 understand their fundamental and civil rights, and so

2 I'm grateful to host and be a part of today's hearing  
3 today because we really want to hear from the  
4 department from the Administration on how it has been  
5 going in terms of implementation as well as any  
6 improvements that we could identify, and work  
7 towards, and today's introduction of these bills on  
8 the agenda is to do just that. So, once again, I  
9 want to thank my colleagues in government. Looking  
10 forward to today's hearing as well as moving forward  
11 and to apologize in advance that I have to step out.  
12 The challenge of sitting on seven committees there is  
13 another dual committee that's taking place right now  
14 that I will be going to shortly. So, I thank you  
15 again for being here to the NYPD and CCRB and to all  
16 the staff as well as thank you to Chair Donovan  
17 Richard once again. Thank you.

18 CHAIRPERSON RICHARDS: Thank you.

19 Council Member Reynoso.

20 COUNCIL MEMBER REYNOSO: I just want to  
21 thank the committee for hearing this important  
22 follow-up to the Right to Know Act. It was a law  
23 that took man years to pass, in my time four years,  
24 but even before that as part of the CIA where Council  
25 Member—then Council Member Jumaane Williams, now

2 Public Advocate, helped pass it. I also want to  
3 thank CCRB for the work they did in making sure that  
4 the general public knew about the important changes  
5 that were being made related the Right to Know Act.  
6 We are going to hear today from members of the public  
7 that about interactions with officers that seem to  
8 speak to non-compliance with the law. That concerns  
9 me because of the fight we had, and the intent and  
10 the good faith efforts that we were supposed to build  
11 through negotiations of this law would have made it  
12 so that we take is seriously. But right now, it  
13 doesn't seem like there's a culture change within the  
14 department that is implementing this in a serious  
15 way. It's either that or they've all run out—they've  
16 either run out of cards or we've significantly  
17 reduced the amount of concerns such as that are  
18 happening in the department. So, today we're going  
19 to find out a lot of information because there is new  
20 data, and I'm excited to hear that, but I think my  
21 goal in this hearing is for the NYPD to hear what we  
22 have to say and begin the process of taking Right to  
23 Know Act seriously, and I know have growing pains  
24 that we have to go through, but my biggest concern is  
25 that while those growing pains are happening,

2 people's rights are being affected, or people's  
3 rights are not being respected, and we don't have  
4 time to have progress on justice. Justice should  
5 always happen now. So, thank you again, Chair, for  
6 giving me time, and I'm looking forward to your  
7 testimony and to some questions.

8 CHAIRPERSON RICHARDS: We'll go to Public  
9 Advocate Jumaane Williams now for his statement.

10 PUBLIC ADVOCATE WILLIAMS: Thank you, Mr.  
11 Chair and Council Member Gibson, and, of course,  
12 Council Member Reynoso for his leadership and the  
13 speaker. I-I am here. I just want to be a part of  
14 the conversation. I think any time these bills get  
15 pushed or questions of how to make policing better  
16 there's always going to be a natural tension that  
17 exists. I don't know if that is ever going to go  
18 away, but it is important to keep these conversations  
19 going forward. I always say these conversations can  
20 never stop, but sometimes it seems after there's one  
21 big fight everybody thinks that the conversation is  
22 going to end, and if it gets pushed as being  
23 excessive. While I don't think it is, I think we  
24 have to continue these conversations. I know there  
25 was a bit of a bit of resistance whether it was the

2 community Safety Act or the Right to Know Act. On  
3 behalf of the Police Department, I am happy that we  
4 have a Police Department that I think—I know,  
5 actually is looking at these things differently than  
6 previous in the Police Department. So, that I  
7 appreciate, but there are still some natural  
8 tensions. I think there is still resistance to the  
9 spirit and the letter of the law when it comes to the  
10 Right to Know Ac. So, I'm looking forward to hear  
11 what your testimony is. Unfortunately, I won't be  
12 able to stay as long either, but I am paying  
13 attention to make sure that what the Council enacts  
14 is actually putting—being put into practice. Thank  
15 you.

16 CHAIRPERSON RICHARDS: Thank you, Public  
17 Advocate. We'll now go to our first panel. NYPD,  
18 Oleg—Deputy Chief Josh Cosgrove (sp?), Managing  
19 Attorney Michael Clark, and Director Alexander Crohn.  
20 Alrighty, with that being said, you can swear them in  
21 and then you may begin.

22 LEGAL COUNSEL: Do you swear to tell the  
23 truth, the whole truth and nothing but the truth and  
24 to answer all questions to the best of your ability  
25 before this committee?

2 OLEG CHERNYAVSKY: Yes.

3 ALEXANDER CROHN: Yes.

4 DEPUTY CHIEF COSGROVE: Yes.

5 OLEG CHERNYAVSKY: [coughs] Good morning,  
6 good afternoon, Chair Richards and members of the  
7 Council and Public Advocate Williams. I am Oleg  
8 Chernyavsky, the department's Executive Director of  
9 Legislative Affairs, and I'm joined here by Deputy  
10 Chief John Cosgrove from the NYPD's Risk Management  
11 Bureau; Alex Crohn from the Office of Chief of  
12 Strategic Initiatives and Michael Clark the Managing  
13 attorney of Legislative Affairs for the department.  
14 On behalf of Police Commissioner James P. O'Neill,  
15 we're pleased to testify about the implem-  
16 implementation of the Right to Know Act. Building  
17 trust between the NYPD and the city's diverse  
18 communities has been a cornerstone of the  
19 Commissioner's mission. The implementation of  
20 neighborhood policing has transformed the way we do  
21 business, and has allowed the department to continue  
22 to drive down crime while bringing us closer to those  
23 we serve. Notably, arrests are down from 387,805 in  
24 2014 the first year of Mayor de Blasio's term to  
25 246,773 last year. That is a 36, almost a 36.5%

drop. [coughs] Likewise, criminal courts summonses have dropped from almost 360,000 in 2014 to just under 90,000 last year a 75% drop. The department has reduced the number of times it stopped citizens from the high mark of 685,724 in 2011 to 11,008 in 2018, a decrease of 98.3%. These decreases—these decreases are emblematic of a department ethos to work smarter, to focus our resources with a laser like precision on persistent pockets of violence and a few that are responsible for it, and to empower our officers to exercise their judgment and problem solving ways that do not necessarily need to end with some sort of enforcement. Many people said this decrease in enforcement would lead to a corresponding increase in crime. The Mayor, this department, Council Members and many advocates challenged that common thinking, and under the leadership of Commissioners Bratton and O’Neill, we have been proven correct. The decreased enforcement has not led to an increase in crime. The only thing that has increased is the trust between the police and those that live in, work in and visit our city as we have moved beyond the corrosive divide created during the height of Stop and Frisk era. Crime continues to



2 decline to historic lows with the city recording  
3 fewer than 300 murders and 900 shootings for two  
4 consecutive years. Numbers that would have been  
5 unfathomable in previous administrations. However,  
6 there is still more work to do, and as Commission  
7 O'Neill has stated time and time again, there are  
8 things the NYPD is good at, things that we are the  
9 best at, but we can always be better. After the  
10 passage of Local Laws 54 and 56 of 2018, the  
11 department immediately set out—set up a working group  
12 and began the work of ensuring that we were able to  
13 timely implement these laws. In the nine months that  
14 were allotted, we needed to revise procedures, create  
15 new forms to collect data, design, mass produce and  
16 distribute business cards to tens of thousands of  
17 uniformed members of the service and figure out a way  
18 to ensure officers knew what—what was required of  
19 them. The department immediately began leveraging  
20 existing training to help spread the word. In  
21 January of last year, the department was in early—in  
22 the early stages—the early stages of training each  
23 and every uniformed officer on investigating  
24 encounters. After receiving comments from the  
25 federal monitor, and the plaintiffs in the Davis,

2 Logan and Floyd litigation, the in-service  
3 investigative encounter training was updated to teach  
4 officers about the impending changes to the law and  
5 department procedure. These updates were also  
6 included in training and recruitment—that recruits in  
7 the Academy new plain clothes officers and newly  
8 promoted sergeants and lieutenants must attend. The  
9 next step was figuring out what we didn't know. We  
10 were sure—we were unsure how often the officers would  
11 be required to give out cards, and how often they  
12 would choose to give out cards even when it isn't  
13 required. So we instituted a 30-day pilot program in  
14 four precincts to ensure there would be no surprises  
15 once implemented—once we implemented department wide.  
16 We followed—we followed this up with two focus  
17 groups, one with supervisors and one with officers.  
18 The pilot and focus groups gave us much needed  
19 insight into what a full roll out will look like and  
20 showed us that training we though we were going to  
21 use was insufficient. We immediately embarked on  
22 improving the training provided to officers so that  
23 they were clear about when they were required to  
24 offer contact cards. Realizing that not all officers  
25 would be able to complete the in-person training

2 prior to the law becoming effective, we created a  
3 three-pronged training approach for our officers.  
4 The first part of the training was the creation of  
5 two videos that officers were required to view. In  
6 order to get credit for viewing the videos, they were  
7 required to pass to quizzes demonstrating proficiency  
8 in the subjects covered in the videos. Additionally,  
9 training sergeants from across the department were  
10 trained at the Police Academy with respect to  
11 obligations under the new laws. As-as is the case  
12 with any change in law or policy, the training  
13 sergeants are then required to perform command level  
14 training for all officers in their command during  
15 roll call. The third prong to this approach is  
16 reinforcement through ongoing training. We achieved  
17 this prong by inserting Right to Know training into  
18 existing curriculums such as recruit training,  
19 promotional training for sergeants and the  
20 lieutenants, plain clothes training and in-service  
21 training in an effort to help ensure compliance in  
22 years to come. Additionally, in order to ensure  
23 officers had a simple way of understanding their  
24 legal obligations in various context, the department  
25 created an easy to use memo book insert that

2 described the various types of encounters and what  
3 they were required to do in each of these situations.  
4 The working group also had to coordinate design,  
5 printing and distribution of the contact cards. The  
6 working group—the working group completed many mark-  
7 ups that were ultimate—that would ultimately contain  
8 the necessary information, and would look presentable  
9 and professional. Once settled, the department  
10 printed and distributed the cards. In the end, the  
11 department printed a little more than 9.3 million  
12 personalized cards and an additional 934,000 blank  
13 cards totaling 10.2 million cards. By October 18<sup>th</sup>  
14 of last year, we had completed distribution. In  
15 addition, we had to devise a system that enabled us  
16 to easily replenish contact cards when officers ran  
17 out. In order to address this scenario, we created a  
18 portal on the department's Internet, which allowed  
19 officers to replenish their card stock with a click  
20 of a button. The aim of simplifying this process was  
21 to reduce instances where officers do not have  
22 personalized cards. The new business card  
23 requirement overlaps with requirements under the—  
24 under the data's Floyd Logan Litigation.  
25 Specifically, officers were required to hand over

2 the--what is a stop tear-off, which provided basic  
3 information about stops in general and check boxes  
4 that detailed the reasons behind the stop in  
5 particular. The department felt it would be more  
6 efficient to hand over a single item to citizens and  
7 worked with plaintiffs and the Federal Monitor to  
8 replace the tear-off. In its place, the department  
9 created a website and printed the URL on the back of  
10 the contact card. The website provides much of the  
11 information that was provided on the tear-off. In  
12 addition, the plaintiffs and Federal Monitor agreed  
13 to replace the checkboxes so long as we were able to  
14 create and expedited process to allow individuals to  
15 obtain their own Stop Report. As a result,  
16 individuals can now make this request online via a  
17 link on the website or in person. To date, there  
18 have been 65 expedited requests for Stop Reports, all  
19 of which were provided from between one to seven days  
20 of the request. This system is a significant  
21 improvement over the tear-off. The tear-off provided  
22 very limited information to individuals about why they  
23 were stopped. The Stop Report, on the other hand is  
24 designed to provide significantly more detail  
25 including the narrative—a narrative section, which

2 can provide individuals with greater clarity for the  
3 reasons behind the encounter. The website also  
4 includes links for individuals to request body-worn  
5 camera footage and to make a complaint to CCRB or IAB  
6 about any police misconduct. Finally, we needed to  
7 begin to collect data to be in compliance with the  
8 new laws. With permission of the Federal Monitor and  
9 the plaintiffs in the Floyd, Logan, Davis litigation  
10 we edited the Stop Reports so that all officers would  
11 be required to indicate whether they asked an  
12 individual for consent to search, and whether that  
13 consent was granted. In addition, we created a new  
14 report to-to capture the required data when officers  
15 asked for consent to search an individual when it is  
16 not in the context of police (sic) stop. There are  
17 things-there has been criticism in some circles about  
18 the manner in which we implemented this rollout. As  
19 with all new Initiatives, after our initial  
20 implementation there will be-there will come a point  
21 where we assess and make necessary changes. We are in  
22 the process of doing that now, and there were-and  
23 there were several comments from community advocacy  
24 groups that make sense, and will be included in  
25 future revisions. For example, we will more

2 prominently highlight the need to follow our  
3 translation guidelines when seeking consent to search  
4 an individual with limited English proficiency and  
5 we'll change the name and the instructions o the  
6 consent search report in order to ensure that  
7 officers know that the procedures must be followed  
8 when searching a vehicle or home. I will now briefly  
9 comment on one of the pieces of legislation being  
10 heard today, Preconsidered in-Preconsidered Intro  
11 4052 would require the department to report on the  
12 number of times a person refused consent based on the  
13 requests by officers to search. We are currently  
14 collecting and posting the information that is  
15 envisioned in this proposed bill based on an  
16 agreement to do so with the original bill's sponsor,  
17 and, therefore, we do not oppose this bill. Thank  
18 you and we look forward to answering any questions  
19 you may have.

20 CHAIRPERSON RICHARDS: Thank you, Oleg.  
21 Alright, let me start with-and then I'll-Vanessa, do  
22 you have questions, too?

23 COUNCIL MEMBER GIBSON: [off mic] Yes.

24 CHAIRPERSON RICHARDS: Okay, alright. I  
25 just wanted t make sure you had enough time. Do you

2 know how cards have distributed since Right to Know  
3 was implemented?

4 OLEG CHERNYAVSKY: We had distributed  
5 all--in all we printed 10.2 million. We distributed  
6 all of them. Now, every command was given an allot--  
7 was given an allotment of blank cards.

8 CHAIRPERSON RICHARDS: Okay.

9 OLEG CHERNYAVSKY: So, in case an officer  
10 runs out and they didn't use the Internet portal  
11 their stock, it's at every--it's at the command desk  
12 so they can get a-a quantity of blank cards, write  
13 their names in and go out on patrol.

14 CHAIRPERSON RICHARDS: Now--

15 OLEG CHERNYAVSKY: [interposing] I think--  
16 I think it's 9 point--

17 CHAIRPERSON RICHARDS: Three million or  
18 something.

19 MATT CLARK: There's 9.3 million of the  
20 personalized printed cards and about 935,000 of the  
21 blank cards.

22 OLEG CHERNYAVSKY: Right and the personal  
23 cards were distributed to the--to the police officers.

24 CHAIRPERSON RICHARDS: Right and who  
25 keeps track of ensuring that officers are



2 replenishing when they run out? Who—who does it? Who  
3 would do oversight over that or is that just  
4 specifically the officers?

5 OLEG CHERNYAVSKY: Well, I think it's a  
6 combination of things. There—the-it's specifically,  
7 obvious specifically the officer. If an officer is  
8 going to out on patrol without the necessary tools  
9 and base on the Local Laws these are necessary tools  
10 to carry with you when you're out on patrol. So, if  
11 you're going out without the necessary tools, that's  
12 in violation of the department protocol if you're not  
13 providing the cards as required by the law and in  
14 turn required by department policy, then that would  
15 be a violation of the policy as well. So, that's  
16 the--

17 CHAIRPERSON RICHARDS: [interposing] But  
18 right now, who specifically, when they do roll call  
19 is someone asking you got your cards, do you have  
20 your cards? What I'm getting at is, you know,  
21 because then you—you have the blank cards, and the  
22 blank cards they would have to fill in their specific  
23 names I'm assuming--

24 OLEG CHERNYAVSKY: Correct.

2 CHAIRPERSON RICHARDS: --and all of their  
3 information, which I'm not saying is being done, but  
4 we want to make sure that if we pass a law that  
5 officers are adhering to it. How many officers have  
6 run out of cards?

7 MATT CLARK: So, since--as of March 15<sup>th</sup>,  
8 and those numbers are a little out of date, we've had  
9 1,800 requests for additional cards.

10 CHAIRPERSON RICHARDS: 1,800 requests.

11 MATT CLARK: Right.

12 CHAIRPERSON RICHARDS: From--from 1,800  
13 officers?

14 MATT CLARK: That's correct.

15 CHAIRPERSON RICHARDS: Okay, got it

16 MATT CLARK: It's possible someone asked  
17 twice, but yes.

18 CHAIRPERSON RICHARDS: Okay and you're  
19 tracking if they've asked twice, and how do we know  
20 they're actually giving the cards out to the public?

21 MATT CLARK: So, Oleg mentioned that  
22 there's a lot of different that you do that, but--

23 CHAIRPERSON RICHARDS: Okay.

24 MATT CLARK: --to answer your roll call  
25 question, often times the training sergeants, you

2 know, will during roll call say, hey, you know, do  
3 you have your cards? It will be, you know, every  
4 precinct is a little bit different but that is done  
5 on a routine basis in the precinct.

6 CHAIRPERSON RICHARDS: And can you just  
7 go through what does the business card say in terms  
8 of how people can address complaints about police  
9 misconduct?

10 OLEG CHERNYAVSKY: Well, we actually have  
11 a-

12 CHAIRPERSON RICHARDS: -[interposing] And  
13 go through also language as well because I know that  
14 was something the advocates spoke of as well,  
15 language access.

16 LEGAL COUNSEL: We have a—we have a mark-  
17 up of the contact card, a blow-up that we can  
18 distribute to you. The front of the card obviously  
19 has the required officer name, shield, a blank for  
20 the precinct on the card, right our main Shield  
21 command, and—and there's also the blank for command  
22 that you can fill in the command number in the event  
23 an officer is transferred we—we're not constantly  
24 printing cards. You can fill that part in and it  
25 makes it a little more of an official process. The

2 back of the card has information on calling 311 if  
3 you have comments about the encounter, and it also  
4 has a website link to request you body worn camera  
5 footage and this kind of tracks—this is the way we  
6 integrated both bills. So, Council Member Reynoso's  
7 bill required that we offer individuals information  
8 on how to request body-worn camera footage of their  
9 consent search. We felt the best way to do that is to  
10 actually put the URL on the back of a contact card  
11 because one of the required instances where and  
12 officer must give out a contact card is after a  
13 consent search has been completed. So, by doing  
14 that, we're actually providing the individual subject  
15 to the consent search with the officer's name, rank,  
16 shield number, precinct, and we're also giving them  
17 information on where they can call to comment on the  
18 stop, and the website they can visit to request the  
19 body-worn camera footage.

20 MATT CLARK: And the website also has  
21 information on how to file a complaint with the CRB  
22 and IAD.

23 CHAIRPERSON RICHARDS: Alrighty, and how  
24 many—I wanted to go through do you know how many  
25

2 stops were conducted that required a business card to  
3 be handed?

4 OLEG CHERNYAVSKY: So, I mean we--the  
5 fourth quarter of--the fourth quarter of 2018 we had  
6 419 consent search requests--requests to consent to  
7 search. Out of that 419, 368 people granted consent  
8 to search, and that's a--that's the fourth quarter  
9 report that we posted on our website pursuant to the  
10 law.

11 CHAIRPERSON RICHARDS: And just go  
12 through a scenario when somebody voluntarily is  
13 searched, gives consent to search. So, just go  
14 through--can you go through a scenario where you're in  
15 the street. An officer is in the street. What would  
16 that look like? What would that interaction look  
17 like?

18 OLEG CHERNYAVSKY: And--and I just want to  
19 make sure--

20 CHAIRPERSON RICHARDS: [interposing] and  
21 what would it normally--

22 OLEG CHERNYAVSKY: -I understand the  
23 question.

24

25

2 CHAIRPERSON RICHARDS: Yes, just go  
3 through a scenario—an officer sees a gentleman on the  
4 street and requests consent to search>

5 OLEG CHERNYAVSKY: Right. Well, I mean  
6 it's—that would not be a scenario where we would  
7 request a search. It just merely seeing somebody in  
8 the street and saying I want to--

9 CHAIRPERSON RICHARDS: [interposing] No,  
10 no, no. I'm just saying--

11 OLEG CHERNYAVSKY: [interposing] But I  
12 think it's--

13 CHAIRPERSON RICHARDS: --it's voluntary  
14 so you said there were--

15 OLEG CHERNYAVSKY: Right.

16 CHAIRPERSON RICHARDS: --368 instances  
17 where people voluntarily gave you consent to search.

18 OLEG CHERNYAVSKY: Uh-hm.

19 CHAIRPERSON RICHARDS: So, these  
20 individuals—how would an officer—officer approach an  
21 individual in this instance and requests  
22 provided.(sic)

23 OLEG CHERNYAVSKY: So I mean, it can come  
24 in the context of a—I think the more—most common  
25 would be a reasonable suspicion stop commonly known

2 as a Level 3 stop where you have reasonable suspicion  
3 that a crime has been committed, is about to be  
4 committed. There is a Level 3 stop. Maybe the  
5 individual is—information is that there is a gun, an  
6 individual with a gun. We see an individual fitting  
7 that description carrying a bag, and that—during that  
8 stop we would ask for consent to look into the back.

9 CHAIRPERSON RICHARDS: And most people  
10 you just found to just voluntarily consent?

11 OLEG CHERNYAVSKY: Well, I mean I think  
12 it's—I think out of 419 requests, there were unless  
13 my math is off, 51 that individuals that denied  
14 consent. So, pursuant to the Council Member's bill,  
15 Council Member Reynoso's bill, we were to—we were  
16 obligated to provide guidance to our officers, and  
17 train them on how obtain—how to obtain knowing,  
18 voluntary and intelligent consent from individuals  
19 that we encounter, and we did that through the  
20 variety of training that we did whether it be—we did  
21 NYPDU, which is our Internet based training where we  
22 put quizzes on the back of the—of the—of the video.  
23 We did that through vocal training by training our  
24 training sergeants, and then having our training  
25 sergeants trained, and then we recognize that we need

2 this to happen on an ongoing basis, and I think the  
3 Public Advocate had mentioned, you know, we don't  
4 want to be put in a situation where, you know, we  
5 negotiate something. Now that the negotiation is  
6 over, everybody moves on—and okay, we—close the  
7 chapter. Well, we recognize is the seriousness of  
8 these—of these laws that were passed, and what we try  
9 to do is embed the training not only in this one-time  
10 upfront training to get us into compliance with the  
11 law, but into ongoing training so we put it into  
12 recruit training in the academy. So, every recruit  
13 coming out is going to be trained on this. When an  
14 officer gets a plain clothes assignment, they are  
15 going to be trained on this as part of plain clothes  
16 training. When supervisors become supervisors, and  
17 they got promoted, we train them during their  
18 mandatory training on how to be a sergeant, how to be  
19 a lieutenant, and we did it as part of the in-service  
20 training as well as the street encounter training.

21 CHAIRPERSON RICHARDS: [background  
22 comments] Yeah, and—so you—you answered the consent  
23 question, but how many stops in particular were  
24 conducted that required a business card to be handed  
25 out?



2 OLEG CHERNYAVSKY: So, I mean-

3 MATT CLARK: You're asking for-?

4 CHAIRPERSON RICHARDS: From level 2.

5 MATT CLARK: Yeah, level 3 stops, how  
6 many required a business card?

7 CHAIRPERSON RICHARDS: Or two?

8 MATT CLARK: So I mean we had 11,000  
9 stops in 2018.

10 OLEG CHERNYAVSKY: All of them felonies.  
11 (sic)

12 MATT CLARK: So, you know, obviously, you  
13 know, the law begins in October of '19 so it's some  
14 portion of that, and I don't know what the numbers  
15 are yet for-to date for this year, but except when  
16 except when--unless we have an arrest or summons, it  
17 should be all of them getting a business card  
18 afterwards but I don't have the exact date on that.

19 CHAIRPERSON RICHARDS: Do we track Level  
20 2s?

21 MATT CLARK: We don't track Level 2.

22 OLEG CHERNYAVSKY: Right, we don't track  
23 Level 2 so we don't know that, but the Level 3s,  
24 which we do track, unless it ended in an arrest or a

2 summons, I believe is the--the exception, everyone  
3 should have gotten one.

4 CHAIRPERSON RICHARDS: And the level?

5 MATT CLARK: A level 3 stop?

6 CHAIRPERSON RICHARDS: And how many--how  
7 often did A Level 3 stop encounter end up in an  
8 arrest? And can you--do you have more of breakdown of  
9 the outcome of those of the stops? You said 11,000  
10 stops.

11 OLEG CHERNYAVSKY: Yes, sir. Yeah,  
12 that's a--I mean we don't have that, but it's  
13 certainly something we could provide after the  
14 hearing. That's a number we can get for you.

15 CHAIRPERSON RICHARDS: How many searches  
16 of persons or property including vehicles?

17 OLEG CHERNYAVSKY: That would be the 419  
18 requests and 368

19 MATT CLARK: Actual searches for--

20 OLEG CHERNYAVSKY: 368 actual--

21 MATT CLARK: From October 19 through  
22 December 31<sup>st</sup> of last year.

23 CHAIRPERSON RICHARDS: Right and go  
24 through roadblock or check points. Do you have the

2 information disseminated down to that? Can you  
3 disseminate the information on that?

4 OLEG CHERNYAVSKY: Well, that's—it's not  
5 disaggregated out that way. It's—it's grouped  
6 together so we have--

7 CHAIRPERSON RICHARDS: We would love for  
8 it to be.

9 OLEG CHERNYAVSKY: Well, right. I mean I  
10 think when we passed the laws we captured—we were  
11 obligated to report a certain amount of data. I can  
12 look into those buckets. I'm not saying that it's  
13 impossible. I can look into it. I didn't know that  
14 that was something that—that you wanted to drill down  
15 on, but we can certainly look at the buckets and see  
16 if we could capture the buckets, but just—just to be  
17 clear that the 419 requests, 68 acceptance was based  
18 on the—the seven buckets that were outlined in the  
19 law.

20 CHAIRPERSON RICHARDS: And what I'm  
21 getting back at, and how do we know officers are  
22 actually letting people know they have right to not  
23 consent to a search. So, are we positive now body  
24 camera footage has to be turned on, correct--

25 OLEG CHERNYAVSKY: Yes, yes we would.

2 CHAIRPERSON RICHARDS: --before any  
3 search? Who reviewed that body footage?

4 OLEG CHERNYAVSKY: Our Risk Management of  
5 Bureau--

6 CHAIRPERSON RICHARDS: [interposing] How  
7 did you--How often is this?

8 OLEG CHERNYAVSKY: --reviews it. I mean  
9 we do it as part of the Federal Monitorship. What we  
10 do is we review the body-worn camera footage as a  
11 part of that monitorship, and what we've done is  
12 integrated the review and integrated the requirements  
13 under the law into that process as well, but again I  
14 mean I think it's--it's important to--to highlight and  
15 I--I guess we should do it at the outset is we're very  
16 early in the rollout. So, we have a--the only  
17 quarterly report that's out there now is a partial  
18 quarter of 2018. Again, the bill took effect on  
19 October 19<sup>th</sup> of 2018. So, it doesn't even capture a  
20 full quarter. We would need to get a little further  
21 in, take a look at a few quarters compared to  
22 quarters against each other to see if there is any  
23 kind of trends or patterns. These laws were a big  
24 deal. They were a big change and, you know, we as  
25 you've said early on in your testimony we're--we're

2 the largest department in the country. We have  
3 36,000 officers. Getting the message out on  
4 something this big is something we took very  
5 seriously. To Council Member Reynoso's point, when  
6 we—when—when this law was passed and we negotiated,  
7 in good faith, what we decided to do even though this  
8 wasn't mandated in the law is we created a pilot  
9 because we realized these were significant changes  
10 to—to traditional protocols that we did. So, we  
11 rolled out a pilot program in four precincts, which  
12 wasn't required by the law. We did that on our own  
13 initiative. After that, we did focus groups both with  
14 the Police Officers and their supervisors, and we did  
15 that before the full rollout of the law. We wanted to  
16 know if we're seeing problems we wanted to catch it  
17 early and try to amend training, and what we did was  
18 we actually saw that there were issues. Officers  
19 weren't understanding what their responsibilities  
20 were. So what we did was augmented the training. We  
21 created the NYPDU videos. Initially, I think the  
22 thought process was that we were going to train the  
23 training sergeants, and the training sergeants were  
24 going to train the officers a roll call. We realized  
25 that maybe wasn't enough, and we created based on the

2 pilot and the focus groups we did the NYPSU training.  
3 We still stuck with the in-service training as  
4 reinforcement and then we added as further  
5 reinforcement this program into ongoing training.

6 CHAIRPERSON RICHARDS: And can we see the  
7 videos? If they are--

8 OLEG CHERNYAVSKY: [interposing] Yes.

9 CHAIRPERSON RICHARDS: Okay, alrighty.  
10 Let me ask you a question. In what manner are  
11 officers--so this is the big question. So, those then  
12 have you found cases where officers have not done  
13 what the intent of these law were passed to do?

14 OLEG CHERNYAVSKY: I think it's --again,  
15 think it's pretty early to say. I--I know you're  
16 going to have CCRB on after us, and maybe they can  
17 shed more light because clearly one of the  
18 requirements in the bill and one--one of the things  
19 that we put on the card is 311 to make complaints  
20 311 would route them to CCRB. We also in our portal  
21 even though it's not on the back of the card, we give  
22 CCRB's phone number when you enter the portal to make  
23 complains, which I know was a topic that folks wanted  
24 to be on the card itself, but we've found that to be  
25 a compromise as well by we put 311 on the card, but

2 we put CCRB's number on the portal. So, maybe they'll  
3 shed some light as to what they've seen in the first  
4 couple of months.

5 CHAIRPERSON RICHARDS: Right and it's  
6 relatively early so the data may not reflect.--

7 OLEG CHERNYAVSKY: [interposing] And  
8 that--

9 CHAIRPERSON RICHARDS: [interposing] How  
10 many 311 complaints? Are you aware of that number?

11 OLEG CHERNYAVSKY: I'm not, I'm not.

12 CHAIRPERSON RICHARDS: I don't track  
13 that?

14 OLEG CHERNYAVSKY: Well, we're--we don't  
15 run 311, but I can get any kind of--

16 CHAIRPERSON RICHARDS: [interposing] But  
17 you can get that data?

18 OLEG CHERNYAVSKY: [interposing] I think--  
19 I think the right answer to this is you're having  
20 CCRB come here next.

21 CHAIRPERSON RICHARDS: Uh-hm.

22 OLEG CHERNYAVSKY: 311 would just forward  
23 the call to CCRB. So, rather than tracking how many  
24 calls went into 311, all they do is follow it toward  
25 CCRB and they'd be able to get that.

2 CHAIRPERSON RICHARDS: Well, I'm  
3 appreciative of your love for the CCRB on this, but I  
4 am interested in knowing do you track the complaints  
5 as well? I-I guess CCRB has a sound foundation.  
6 (sic)--

7 OLEG CHERNYAVSKY: No, I-I understand,  
8 but I mean--

9 CHAIRPERSON RICHARDS: [interposing] But  
10 would the Police Department be interested in this  
11 data as well?

12 OLEG CHERNYAVSKY: We--of course we're  
13 interested in it--

14 CHAIRPERSON RICHARDS: Alright,

15 OLEG CHERNYAVSKY: --and I--and I think  
16 that goes to my earlier point that we're so early in  
17 the process that CCRB I'm sure can give you their  
18 numbers. I don't know what they are, but I don't  
19 know what--how many of those numbers have been  
20 substantiated. They'll be able to share that  
21 obviously.

22 CHAIRPERSON RICHARDS: I get that.

23 OLEG CHERNYAVSKY: But we're interested  
24 in those numbers.



2 CHAIRPERSON RICHARDS: But I—I know it's  
3 early, but we want to make sure that officers get it  
4 right early--

5 OLEG CHERNYAVSKY: [interposing] Of  
6 course.

7 CHAIRPERSON RICHARDS: --this bill right?  
8 Because it's like, you know, equivalent to doing  
9 potting training, right? You got to keep going and  
10 going and I'm going through this phase now. We're  
11 trying—trying to get it right. We're working.

12 OLEG CHERNYAVSKY: [interposing] I don't  
13 know if I—[laughter] I don't know if I'd like it that  
14 way. [laughter] I—I wish I could. I mean I think—I  
15 think the important part is that we do recognize what  
16 you're saying and what that Council Member said  
17 earlier in his opening remarks, the pilot program  
18 that we did was self-initiated. We weren't forced to  
19 do it.

20 CHAIRPERSON RICHARDS: I get that.

21 OLEG CHERNYAVSKY: And no, but—but I  
22 think that speaks to your question about how  
23 seriously we're taking it, and do we really care if  
24 officers get it right? If we didn't care if officers  
25 got it right, we can put out a finest message and not

2 do any follow-up. We—we actually took a different—a  
3 variety of steps to ensure that they got it right at  
4 the outset, but again, we're a partial quarter in.  
5 We need to see a few quarters to see if there's any  
6 patterns, any trends. If we see any kind of systemic  
7 issues that we need to remediate through training.

8 CHAIRPERSON RICHARDS: So, this is—the  
9 pilot started when?

10 OLEG CHERNYAVSKY: The pilot was before  
11 the rollout.

12 CHAIRPERSON RICHARDS: Before the rollout  
13 and in October this went into effect?

14 OLEG CHERNYAVSKY: October 19<sup>th</sup>.

15 CHAIRPERSON RICHARDS: So, you're telling  
16 me you can't find trends from October to now?

17 OLEG CHERNYAVSKY: No, I said no, and I  
18 don't think that's—I don't think that's a  
19 controversial thing to say. You have a very big  
20 program being rolled out department wide to 36,000  
21 officers. This is something new, something they're  
22 not used to, and I think it takes time to roll it out  
23 that we did our due diligence upfront to make sure  
24 that they're well versed in it, you know, for the go  
25 date for day 1 and now we need to study those numbers

2 as they come I, and there certainly aren't a  
3 sufficient amount of numbers in yet.

4 CHAIRPERSON RICHARDS: Okay, I'm gong to  
5 come back for more question, but the last question  
6 that I have before I come back is what happens if an  
7 officer does not comply with the law. What is the-  
8 what is the discipline that they could face?

9 OLEG CHERNYAVSKY: I think it's-it's like  
10 any other violation of the Patrol Guide right. So,  
11 the law was codified. The law-the law was codified  
12 into our Patrol Guide and it became department  
13 policy. Any violations of department policy we would  
14 have to take a look to see what the severity is. Is  
15 it-was it an innocent mistake that an officer just  
16 got the requirement wrong? Something that could be  
17 remediated through training. Was it something that  
18 was willfully done? Something to be remediated by a-  
19 a more sever type of discipline. I mean I think all  
20 of their options are on the table, and we look at it  
21 on a case-by-case basis as any violation of the  
22 patrol guide.

23 CHAIRPERSON RICHARDS: I will come back.  
24 We are joined by Powers, Deutsch and Cabrera, and I  
25 will go to first Council Member Reynoso followed by

2 Adams, and then we'll go to our Public Advocate  
3 Jumaane Williams.

4 COUNCIL MEMBER REYNOSO: Thank you,  
5 Chair. So I just have a couple of questions, and  
6 from like it's rehabilitation (sic) October to  
7 December, how many Level 3 stops happened I guess?  
8 So, I'm asking

9 OLEG CHERNYAVSKY: Did we break it out  
10 October to December? I mean we have--did we break  
11 that formerly on our website?

12 MATT CLARK: I don't know. We do it  
13 annually on our website.

14 OLEG CHERNYAVSKY: Yeah, we do--we do--we  
15 do it annually. It's something I can absolutely get  
16 from you. We have 11,008 Level 3 stops in Calendar  
17 Year 2018.

18 COUNCIL MEMBER REYNOSO: Alright, so in  
19 2018 let's say you 11,000--

20 OLEG CHERNYAVSKY: 11,008.

21 COUNCIL MEMBER REYNOSO: --Level 3 stops  
22 of which from October to December a three-month  
23 period.

24 OLEG CHERNYAVSKY: I'll--I'll get you the  
25 exact number. I don't want to guess, but if you want

2 to crudely divide it by four and get a guestimate,  
3 maybe on with that.

4 COUNCIL MEMBER REYNOSO: [interposing]  
5 Yeah, that is what I'm going to do. So, I I'm going  
6 to do it at about 2,500 stops in that time, and those  
7 required business cards. Outside of that, Levels 1  
8 and 2 don't require a business card?

9 OLEG CHERNYAVSKY: Level 2 does.

10 COUNCIL MEMBER REYNOSO: Level 2 does.  
11 Level 2 does, but they don't even report it. Level 2  
12 stops are a lot more common than Level 3 stops.

13 OLEG CHERNYAVSKY: So, Level 2s, right,  
14 Level 2s aren't reported through a formal mechanism  
15 the way Level 3 is.

16 COUNCIL MEMBER REYNOSO: Okay and Level--  
17 and are Level 2s significantly--how many Level 2 stops  
18 have happened in the previous year?

19 OLEG CHERNYAVSKY: Again, that's--that's--

20 COUNCIL MEMBER REYNOSO: There's 11,000  
21 Level 3s. You've got to have the number for Level  
22 2s.

23 OLEG CHERNYAVSKY: No, I mean that's--  
24 that's not something that's tracked. Terry Stops  
25 have been routinely tracked. Terry Stops or Level 3

2 stops have been routinely tracked. Again, there's an  
3 elevation of suspicion as you go up the levels, you  
4 know.

5 COUNCIL MEMBER REYNOSO: Okay.

6 OLEG CHERNYAVSKY: So, Level 3s have  
7 always been the ones that tracked. Obviously Level  
8 4s, which are enforcement whether summons of arrest  
9 or arrests, that's tracked because we have those  
10 numbers.

11 COUNCIL MEMBER REYNOSO: How many—how  
12 many business cards do each officer—does each officer  
13 get?

14 MATT CLARK: Regular patrol officers get  
15 250, and detective get 500.

16 OLEG CHERNYAVSKY: 250 to 500 depending  
17 on the rank.

18 COUNCIL MEMBER REYNOSO: Those are the  
19 rank.

20 OLEG CHERNYAVSKY: Those are the  
21 personalized business cards so I think they will also  
22 get the plain business card as well.

23 COUNCIL MEMBER REYNOSO: So, that's what  
24 I want to get to. So, you need to go to 250 to 500  
25 business cards. Let's say 250 for a regular officer

2 for a police officer, 250. In that—in that 2-1/2  
3 months they ran out under 250 and 1,800 people  
4 decided that they needed more cards. So you made a  
5 request to the NYPD. You get—would a civilian be  
6 able to get their hands on a blank business card?

7 OLEG CHERNYAVSKY: In—In what sense? I  
8 mean I—we provided you with the mock-up.

9 COUNCIL MEMBER REYNOSO: Right, with a  
10 mock-up, but an actually business card. No officer  
11 should ever give someone a blank—blank card.

12 OLEG CHERNYAVSKY: Oh, no, no, no. I—let  
13 me clarify. When I say blank business card, I don't  
14 mean that a civilian gets a blank card. What I mean  
15 is that an officer ran out of the pre-printed card  
16 with his or her name on it. So, the blank card is  
17 the one that has a dash, but they are obligated to  
18 write their name in when they give it over to  
19 someone.

20 COUNCIL MEMBER REYNOSO: [interposing]  
21 So, that's what I'm asking. These—so you're going to  
22 see someone with a blank business card, a blank one  
23 and it's not an officer. So, in that case, the  
24 officer gave that person a blank business card

2 without any information on it? That's--that's a  
3 concern for me.

4 OLEG CHERNYAVSKY: [interposing] Well, I  
5 don't know if--I don't know if I would jump to that  
6 conclusion. So, I mean when officers should--

7 COUNCIL MEMBER REYNOSO: [interposing]  
8 And they be late--maybe they printed it?

9 OLEG CHERNYAVSKY: No, well, I--I--

10 COUNCIL MEMBER REYNOSO: A civilian  
11 printed it.

12 OLEG CHERNYAVSKY: Well, a couple of  
13 points. So, point number one is there is a  
14 possibility that an officer can drop a card or lose a  
15 card or lose a card and it could get picked up. So,  
16 that's a possibility, right. An officer should not  
17 be giving out a blank card to a civilian. That's  
18 against the department protocol. So, if somebody has  
19 a card, can somebody make a photocopy of a card?  
20 Sure, but I'm alleging some sort of kind of--

21 COUNCIL MEMBER REYNOSO: Conspiracy.

22 OLEG CHERNYAVSKY: Yeah. I'm not doing  
23 that but it's a high level--

24 COUNCIL MEMBER REYNOSO: [interposing] My  
25 point is--my point is not necessarily is just--I just



2 want to know who keeps track, and I think that the  
3 chair asked the same question. Who keeps track on how  
4 these business cards are being handed out? 250 in  
5 every single area. We have 1,800 giving out 250  
6 cards in just two months. That's a lot of business  
7 cards to be out and about and-and those are only-and  
8 that's not including—we don't know they're Level 2  
9 staffs because you don't keep that number, but it's  
10 2,500 Level 3 stops of which the 2,500 Level 3 stops  
11 are at 300, 400 of those, which is about 20% were  
12 consent searchers. So, out of the 2,500 about 20%  
13 are consent searches. Does that seem like a high  
14 number of consent searches considering the amount of  
15 stops that are happening?

16 OLEG CHERNYAVSKY: I—I don't know if I  
17 can really answer that. I mean it's what really is a  
18 high number? We're—we're very early on in the  
19 process and this is the point I was making we're not  
20 a full quarter in, a full reporting quarter in. We  
21 have—we have the reports that we're doing. I think  
22 what I'm gleaning from the report that I'm seeing is  
23 that if I'm going to look at it through, you know, a  
24 more positive lens, I can see that we have asked 419  
25 times and 51 individuals denied consent, which means

2 that they were--they were properly, you know,  
3 requested consent. They understood their rights, and  
4 they chose not to consent. Other individuals chose  
5 to consent. So, I--I--

6 COUNCIL MEMBER REYNOSO: [interposing]  
7 Most of the individuals chose to consent, but  
8 there's--so 20%--and my--what I'm trying to get at is  
9 20% of stops that are Level 3 are required consent  
10 searches is what I'm adding here. You can't do a  
11 consent search on Level 2, right?

12 OLEG CHERNYAVSKY: Yeah, you can do that.

13 COUNCIL MEMBER REYNOSO: So, you can do a  
14 consent search on Level 2 where you don't need a body  
15 camera?

16 OLEG CHERNYAVSKY: Well, that's--the body  
17 camera needs to be on for any search. You can see--  
18 you can ask for a consent search at Level 2 and Level  
19 3.

20 COUNCIL MEMBER REYNOSO: Okay, so can the  
21 NYPD provide us with 368 videos that show the consent  
22 search happening or do I have to FOIL or do I have to  
23 FOIL that or can the NYPD give me that. I just want  
24 to see how the officers are doing to see their  
25

2 performance and see, you know, they're complying and  
3 make sure that everything is-is happening.

4 OLEG CHERNYAVSKY: Yeah, I mean we-we  
5 can-we can certainly about how-how that's, you know,  
6 how to comply with such a request. I mean it's done  
7 and it is done through a FOIL process. You know, we  
8 certainly provide individuals with their body camera  
9 footage. That's part of your bill and, you know, we  
10 provide them the mechanism to request it. We provide  
11 them the expedited Stop Report for a level 3. We  
12 would provide them with the body-worn camera footage  
13 now. Now, I-the other thing is to keep in mind is  
14 only recently has there been the injunction  
15 preventing us from releasing body camera footage was  
16 lifted. So, I mean that-that's an important thing to  
17 recognize the we weren't able to provide body camera  
18 footage based on the court injunction in the PBA Case  
19 are 58 (sic). So that has been lifted in-towards the  
20 end of February. So, we now are able to utilize and  
21 provide these during the fall--

22 CHAIRPERSON RICHARDS: [interposing] Let  
23 me, let me chime in here for a second. Can the  
24 committee come and see video? Would-would you give  
25 us access?

2 OLEG CHERNYAVSKY: I told the staff (sic)  
3 there something. Yes.

4 CHAIRPERSON RICHARDS: Okay.

5 COUNCIL MEMBER REYNOSO: We would like—we  
6 would like to go—

7 CHAIRPERSON RICHARDS: [interposing] And  
8 sampling? So, I want the perfect stop to show up.  
9 So, how do we come in and just look at an array?

10 OLEG CHERNYAVSKY: I mean we can--

11 CHAIRPERSON RICHARDS: Okay.

12 OLEG CHERNYAVSKY: I mean we—I think you  
13 would agree that we have set up--

14 CHAIRPERSON RICHARDS: [interposing] Yes.

15 OLEG CHERNYAVSKY: --situations for, you  
16 know, when upon requests where we've given briefings  
17 and, you know, and responded to requests so we can  
18 work together without--

19 CHAIRPERSON RICHARDS: [interposing]

20 Okay/

21 OLEG CHERNYAVSKY: --delays and that sort  
22 of thing.

23 CHAIRPERSON RICHARDS: Okay. Nice to  
24 know.

2 COUNCIL MEMBER REYNOSO: And just-do,  
3 just to let you know, the numbers just done—they feel  
4 out of whack to me. That's all. There's just some  
5 numbers that when you put them together either, you  
6 know, the cost of commonly making consents such as  
7 that--and correct me if I'm wrong--have no reasonable  
8 suspicion of probable cause, right. That's why you  
9 would need a consent search, right? Without it you  
10 can search them as of right.

11 OLEG CHERNYAVSKY: Well, you can—you can  
12 seek consent to search someone with reasonable  
13 suspicion, not publicly, you know, needed any more,  
14 but with reasonable suspicion you can seek consent to  
15 search because you can't search someone—you can frisk  
16 someone as an as of right, but you can't search them  
17 as an as of right at a Level 3 business decision.

18 COUNCIL MEMBER REYNOSO: So, 20% of the  
19 time the officers are going to these people and  
20 asking them to search them. I feel that's really  
21 high. I feel like there should be more reasonable  
22 suspicion or actual probable cause for them to ask  
23 for these type of searchers. Twenty percent is a  
24 significant number in my—in my account, but—so and  
25 I'm just going back in the paper math. It just

2 doesn't sound right, and then out of those people  
3 only 90% of them, and 90% of them more or less said  
4 yes search me even though I have the right to walk  
5 away, which is also a number that I think is unusual,  
6 and these are just—I'm just saying that I think  
7 they're unusual. Maybe I'm the only one that sees it  
8 that way, but if an officer tells me hey, you don't  
9 need to do this search, I'm going to say oh, I don't  
10 want to do this search. That's what I would say. I  
11 also want to know out of these consent searchers, can  
12 I get a number of how many people actually were  
13 arrested or got criminally charged?

14 OLEG CHERNYAVSKY: We can look into that.  
15 That—that is also something I'd like because then we  
16 have to go to another point where folks might be—  
17 they're incriminating themselves with full knowledge  
18 that they don't need to be searched, and that's—  
19 that's when I—I start to—I start seeing if this is  
20 working, right, and I'm not saying that we want to  
21 protect criminals or do anything like that. All I'm  
22 saying is if I know that I have something that could  
23 get me arrested, and I have an option not to be  
24 searched, I'm probably not going to ask to search.  
25 So, I want to know in what cases do these folks end

2 up being arrested because they were searched and now  
3 many consented to a search there? I want to see what  
4 the rate patten is. I just want to—I just want to be  
5 able to note it.

6 OLEG CHERNYAVSKY: Sure.

7 COUNCIL MEMBER REYNOSO: So, for me I  
8 guess your data is-is not conclusive. It's very  
9 early because the numbers just seems very—they're all  
10 over the place for me, that how many cars are—people,  
11 1,800 officers are already running out of cards is a  
12 big problem for me.

13 OLEG CHERNYAVSKY: No, but—well, that's—  
14 that's not that they're running out of cards. It's an  
15 example of-of the system that you codified in the law  
16 working, right. So, they came to—they're engaging  
17 the public. They're giving out the cards as you want  
18 them to do. They came to the realization they're  
19 running low on cards. They reordered cars to  
20 replenish their stock. That's—that's not an example  
21 of something bad. That's an example of what you  
22 wanted in the law. It's working. This part is  
23 working.

24 COUNCIL MEMBER REYNOSO: I—I want to—I—I  
25 don't see it the same way. 1,800 yes you're right if

2 they are giving them out in a—in a meaningful way and  
3 they're building community and so forth, but then I  
4 just feel like 1,800 officers have given out 252 more  
5 cards in the public. That—that would be great if  
6 that's the idea, but also, my problem is access to  
7 blank cards. I want to limit access to blank cards. I  
8 don't want any opportunity for someone to get a blank  
9 card in the public. I just want you—I just want the  
10 regular business card. Right now 1,800 officers in  
11 the city of New York that are very good at what  
12 they're doing according to you because they're  
13 handing them out regularly and have blank cards, and  
14 I don't think that's acceptable.

15 OLEG CHERNYAVSKY: No, but that's—that  
16 what--we need to clarify this because that's not what  
17 I said at all. What I said is it doesn't mean that  
18 they have blank cards.

19 COUNCIL MEMBER REYNOSO: [interposing] I  
20 know they have blank. They have to fill them in.

21 OLEG CHERNYAVSKY: No, but that's not  
22 what I'm even saying.

23 COUNCIL MEMBER REYNOSO: Okay.

24 OLEG CHERNYAVSKY: I'm not even saying  
25 that. They could have realized when they got down to



2 50 pre-printed cards I need to reorder more cards.  
3 They may have never gotten to the point that they  
4 used the card that need to handwrite. They—they  
5 followed the protocol that you set out. It doesn't  
6 mean that they ran out and they were left with  
7 nothing. The officer could have said, okay, I had  
8 250. I'm down to 50.

9 COUNCIL MEMBER REYNOSO: We are both  
10 informal, but we're doing an anecdote. I'm giving  
11 and anecdote. We're just making stuff up right now.  
12 We don't know for certain.

13 OLEG CHERNYAVSKY: I know that 1,800  
14 officers--

15 COUNCIL MEMBER REYNOSO: [interposing]  
16 Need more cards, want more cards.

17 OLEG CHERNYAVSKY: No, we know that 1,800  
18 officers ordered more cards pursuant to the protocol  
19 that we created that you dictated in your bill, and  
20 we that does not mean, and we shouldn't jump to the  
21 conclusion that they were giving out blank cards.  
22 We—we just don't have--

23 COUNCIL MEMBER REYNOSO: [interposing]  
24 Not blank. I guess they're giving out the cards that  
25

2 are blank that they have to fill in. That's what I'm  
3 saying.

4 OLEG CHERNYAVSKY: But even that, we  
5 can't jump to that conclusion.

6 COUNCIL MEMBER REYNOSO: But what--

7 OLEG CHERNYAVSKY: [interposing] All we  
8 know is that 1,800 officers were running low on  
9 cards, and we reordered them.

10 COUNCIL MEMBER REYNOSO: [interposing]  
11 That's very backward. Everyone in this room that if  
12 you're saying that if you're going to have cards and  
13 you're about to run out of cards, you should ask for  
14 more. 1,800 officers are either about to run out of  
15 cards or don't have cards. That's the--the general  
16 assumption that someone would have. Either you're  
17 about to run out or you have run out. So, you make a  
18 request.

19 OLEG CHERNYAVSKY: Okay.

20 COUNCIL MEMBER REYNOSO: And I don't want  
21 any of those officers to walk around with cards that  
22 they have to fill in. I want them to have the real  
23 cards, because I don't want an opportunity where  
24 there's misprint or a miswriting or people giving out  
25 blank cards or there are opportunities--opportunity--an

2 opportunity not to give out that card. That's all  
3 I'm saying is--

4 OLEG CHERNYAVSKY: Council Member I got  
5 you, but the idea behind--when this bill was being  
6 drafted, the idea behind it was to--to ensure that we  
7 we're--we're not left with a situation where we have  
8 an encounter with an individual in the street, and we  
9 have nothing to give them, and the safeguard to that  
10 was what if a situation happens that an officer ran  
11 out of cards? Is there something that we can give  
12 them? Now, one of the solutions was stay behind the  
13 old way give them your name, rank and shield number.  
14 Have the person write it down, and that's it, and one  
15 of the--the thought process behind not going right to  
16 that process was well, they won't have the 311 number  
17 on the back. They won't have the URL on the back.  
18 We could achieve this interim solution by having the  
19 card where an officer can write their name down to--to  
20 fill a gap while these cards are being printed, if  
21 they waited too long. Otherwise, if they didn't wait  
22 too long, and--and triggered the reorder of 50, then  
23 they never ran out and they never had to go to the  
24 other card.

2 COUNCIL MEMBER REYNOSO: I-I don't  
3 disagree with you. I-I think we're saying the same  
4 thing.

5 OLEG CHERNYAVSKY: Yeah, okay.

6 COUNCIL MEMBER REYNOSO: How does it take  
7 for someone to get a card after they request cards?

8 MATT CLARK: It should take less than a  
9 week.

10 COUNCIL MEMBER REYNOSO: So, about a  
11 week. Okay, so they never have these blank cards for  
12 more than a week, worse case scenario?

13 MATT CLARK: Correct.

14 COUNCIL MEMBER REYNOSO: Okay, the fact  
15 is we're all on the same page. I think Oleg is-is,  
16 you're concerned about what I'm saying. What I'm  
17 saying is I don't want people with those blank cards  
18 and you guys have a system by which that should  
19 happen very early. The next-the last thing is the  
20 stops that are happening, though, are still happening  
21 in mostly black and brown communities. Out of all  
22 the stops I have 317 stops out of 368 happening to  
23 mostly Black and Hispanic males. Do-is there an  
24 issue as to why that exists? That's over 86% of the

2 stops happening and consent searches happening in  
3 black and brown communities.

4 OLEG CHERNYAVSKY: Uh-hm. So, again, I  
5 mean I think it's—that is the number you're  
6 accurately saying here. It is the first partial  
7 quarter that we're seeing. I think they're roughly  
8 tracking the stop and frisk numbers—the—the—the Level  
9 3 encounters. They're roughly tracking that, and  
10 generally speaking we know that consent searches  
11 generally fall into the Level 3 stop. So, we're  
12 seeing that correlation, but again this is a really  
13 early correlation to make because I—al though the  
14 stop—the Level 3 stop numbers the stop-and-frisk  
15 numbers have been out for quite some time year over  
16 year and we could make comparisons about the 2011 and  
17 see how the numbers have plummeted. We don't have  
18 that—that reference base with Consent to Search, but  
19 we will have it. I mean--

20 COUNCIL MEMBER REYNOSO: [interposing]  
21 This is—so this is my last question. So, I guess what  
22 I'm—the insight that I get from that is that in cases  
23 when there is no reasonable suspicion or limited  
24 reasonable suspicion and no probable cause, that  
25 black and brown people are still being stopped at a

2 disproportionate rate than white people. Before if  
3 was stop-and-frisk happened, you go after everyone  
4 and it's fine and there's no way to judge whether or  
5 not there's some type of profiling happening I'd say  
6 even though because it—we found out eventually that  
7 it was unconstitutional, the point that I'm making in  
8 this one case where the officer's discretion as to  
9 whether or not he should stop someone is based on  
10 reasonable suspicion of probable cause over 85—I  
11 think it's 86% of the time, they're doing that to  
12 black and brown people. These are cases where all  
13 individuals walk away because there's not enough  
14 evidence there to call for a legal search. Hey could  
15 walk away and not do a consent search. They're doing  
16 it at a disproportionate rate to black and brown  
17 people. That's a big problem because they have  
18 choice now. There's a—there's—there's no need for  
19 them to continue their police work if they need to  
20 ask consent, if they need to get consent because they  
21 don't—they don't see enough evidence there to move  
22 forward, but they do that specifically to black and  
23 brown people, and that—that is a big concern for me  
24 when it comes to the numbers that I have in front of

2 me that over 86% are happen to black and brown  
3 people. Okay, do you have any statements about that?

4 OLEG CHERNYAVSKY: Yeah, so, I mean I-I  
5 think based-based again and I don't know where the-  
6 the Level 3 Stop data breaks out for that last  
7 quarter, October 19<sup>th</sup>, but let's-for argument's sake  
8 let's use the numbers that you provided that are  
9 divided by 4 and-and you'll have about you said  
10 2,500, and you said 20% of that are consent searches.  
11 So, we know that in 80% so the demographics tend to  
12 break the same way as the consent searches generally  
13 speaking, and what we know to your point is an 80%  
14 then of those Level 3 stops a consent search was not  
15 sought. It was sought based on what you said in the  
16 20%. Again, I'm using your numbers because I don't  
17 want get married to the numbers. I don't know that  
18 breakout, but so we know that what we're going to see  
19 over time and again it's-I'm going to keep repeating  
20 this because we're-we're drawing conclusions from a  
21 partial first quarter, you know. So, we want to see  
22 how these numbers play out over-over a few quarters.  
23 We want to see if there is any kind of trends, but I-  
24 I recognize what you're saying. I, you know, I-I  
25 understand shat you're saying, but we don't

2 necessarily know that, you know, where those consent  
3 searches break out. So, was there probable cause to  
4 arrest based on that? Was that developed, and we  
5 know that in—in the vast majority, which is 80% based  
6 on the kind of approximation that we're making that  
7 consent was not asked for and that's again not  
8 capturing Level 2 stops either so--

9 COUNCIL MEMBER REYNOSO: Thank you--

10 CHAIRPERSON RICHARDS: Thank you and--

11 COUNCIL MEMBER REYNOSO: --for allowing  
12 me to ask those questions. Thank you.

13 CHAIRPERSON RICHARDS: No problem. Thank  
14 you, thank you, Council Member Reynoso, and before I  
15 pass it to Council Member Adams, do you agree these  
16 numbers need to change and it—you know, it seems  
17 specifically when we look at numbers that they are  
18 across a lot of policing in the city. You look at  
19 marijuana, 86% of all arrests were in black and brown  
20 communities. Would you agree that we should try to  
21 nip this in the bud early before the numbers start to  
22 look like they have historically looked in other  
23 areas before we had to move into more oversight and  
24 stronger conversation about it. So, if we're  
25 noticing a pattern early, the question is will the



2 police—do you—do you agree with what I'm saying when  
3 the two, do we think we should try to make some  
4 changes now for the numbers?

5 OLEG CHERNYAVSKY: Well, yeah. I mean I  
6 think it's—it's hard to call it a pattern when we  
7 only have one quarter. So, we need to see a few  
8 quarters to actually call it a pattern, but I—I think  
9 to your larger point, which I would agree with and I  
10 think that the Commissioner and—and you would agree  
11 that the department has gone down this road. When  
12 you take a look at a height of 685,000 stops in 2011,  
13 and you're down to 11,000 in 2018, 98—more than 98%  
14 drop. When you look at 140,000 fewer arrests from  
15 2014 to 2018, when you're looking at 75% decreases in  
16 summonses, right, we're—we work together on the  
17 Criminal Justice Reform Act to issue civil summonses  
18 but Criminal Court summonses are down from what,  
19 360,000 to 190,000. I think what you would agree with  
20 me on is that that is precisely where the department  
21 is going.

22 CHAIRPERSON RICHARDS: Right.

23 OLEG CHERNYAVSKY: We're trying to find  
24 solutions that are not necessarily always enforcement  
25 solutions.

2 CHAIRPERSON RICHARDS: Right, and that's  
3 why I want to know the numbers in most of these  
4 voluntary consent stops. You know, were there  
5 weapons found. You know, were these individuals  
6 arrested, and I'll just equate this, you know, I  
7 don't want to equate this to basketball, but, you  
8 know, this is--this is looking the New York Knicks  
9 down by 30 in the first quarter, and I'm not saying  
10 it's not possible for them to come back in the fourth  
11 quarter, and win the game, but it's not likely. So,  
12 if we can have some star power early on in this fight  
13 we perhaps won't be down by 60 in the fourth quarter.  
14 Sorry, but--but you get my point. We're seeing the  
15 numbers move in a certain direction.

16 OLEG CHERNYAVSKY: Well, I-I--

17 CHAIRPERSON RICHARDS: [interposing] I  
18 just want to harp on it. I'm just saying it's early  
19 enough

20 OLEG CHERNYAVSKY: Well, you have a--

21 CHAIRPERSON RICHARDS: --to get it out  
22 there.

23 OLEG CHERNYAVSKY: I get it.

24 CHAIRPERSON RICHARDS: Yeah.

25 OLEG CHERNYAVSKY: Noted.

2 CHAIRPERSON RICHARDS: Okay.

3 OLEG CHERNYAVSKY: Again, and I'm not  
4 going to, you know--

5 CHAIRPERSON RICHARDS: Yes

6 OLEG CHERNYAVSKY: --repeat the fact that  
7 we're very early on.

8 CHAIRPERSON RICHARDS: Yes.

9 OLEG CHERNYAVSKY: We don't have a lot  
10 to, you know, to--

11 CHAIRPERSON RICHARDS: [interposing]  
12 Forgive for being leery.

13 OLEG CHERNYAVSKY: --in there but, I know  
14 what you're saying.

15 CHAIRPERSON RICHARDS: [laughter]

16 Alrighty. I'm going to go to Council Member Adams.

17 COUNCIL MEMBER ADAMS: Thank you, Chair  
18 Richards. Thank you very much for your testimony--

19 OLEG CHERNYAVSKY: Thank you.

20 COUNCIL MEMBER ADAMS: --today. We really  
21 do appreciate it. I'm going to try to be brief. In  
22 echoing a lot of my colleagues' sentiments today and  
23 being very, very concerned of that 86% in our black  
24 and brown communities who are affected by this, and  
25 we want to--to make sure that they are affected

2 positively by this law. My concern is still with the  
3 monitoring. If you will, of-of compliance with-with  
4 the law. How are you making sure that officers who  
5 are giving out cards and all of the circumstances in-  
6 in which they're supposed to. Are you utilizing  
7 body-worn cameras? How exactly are you measuring  
8 officers' intake?

9 OLEG CHERNYAVSKY: So, body-worn cameras  
10 do go on the 2, the-at Level 2 at Level 3 during  
11 searches. So, if we go down the line of-of-of  
12 buckets that are envisioned in-in Local Law-it's  
13 either 54 or 56, the-the contact part of the bill,  
14 the vast majority of those buckets are captured in  
15 the body-worn camera policy and there is body-worn  
16 camera footage. We do do audits of the body-worn  
17 camera footage based on our Federal Monitorship. We  
18 clearly as we move further out from implementation  
19 we're going to utilize CCRB data, and see what  
20 they're seeing, see where we need to train, see where  
21 the packets are of issues if we start seeing issues.  
22 See if this is more of an across-the-board issue that  
23 we're witnessing or if it's focused on certain  
24 precincts that we're seeing it, and maybe you don't  
25 need a department wide refresher. Maybe you need

2 refreshers in certain areas, but again, as I said,  
3 it's—we're a little early, but those are all of the  
4 things that we're looking at, and we're not saying  
5 that's our comprehensive. We may say see things in  
6 the data as we get this data that's going to kind of  
7 shine light and give us some other solutions and  
8 directions that we're not seeing. So, we're—we want  
9 to make this work. We—I think we've shown that when  
10 the bill was passed, and we actively worked on the  
11 negotiations on these bills, but once we came to that  
12 solution and the bills passed, we jumped in and we  
13 wanted to make sure it worked. We did pilots, we did  
14 focus groups. These things weren't required in the  
15 law. We wanted to make it work. We didn't want to  
16 blow this off, and we wanted to make sure that  
17 everything was planned—was—was working the right way.  
18 We had the go date on October 19<sup>th</sup>. Now, we want to  
19 see and reflect on what are seeing? Are we seeing  
20 complaints for non-compliance? Are we witnessing  
21 through our audits that things aren't working the way  
22 they—we envisioned them to work, and we're going to  
23 make changes to ensure that the spirit of the law is  
24 upheld.

2 COUNCIL MEMBER ADAMS: Thank you and have  
3 you seen many issues of non-compliance? Do you have  
4 a figure of non-compliance thus far? If so, what was  
5 the disciplinary action?

6 OLEG CHERNYAVSKY: We—we don't, and again  
7 the—the point I was making with CCRB all of these  
8 complaints were—are being filtered to CCRB. So  
9 they're going to be able to give numbers in the panel  
10 after us, and what the substantiation rates relative  
11 to that were, but again, I—I don't know what those  
12 numbers are but I would caution that, you know, like  
13 any other big rollout of—of a new piece of  
14 legislation, there's going to be a learning curve,  
15 and we want to see, you know, it's not necessarily  
16 that officers are opposed oppose or willfully  
17 disregarding what this protocol is. It's just  
18 something new. It's something that they need to be  
19 trained and what we want to see is, you know, is more  
20 training necessary? You know, are we seeing willful  
21 disregard? I mean these are things that we're going  
22 to see, but we're going to need to wait a little bit  
23 to reflect and see.

24 COUNCIL MEMBER ADAMS: Okay, thank you  
25 very much.

2 OLEG CHERNYAVSKY: Thank you.

3 CHAIRPERSON RICHARDS: Thank you. We'll  
4 go to Council Member Deutsch followed by Deutsch  
5 we'll hear from Menchaca, Council Member Menchaca.

6 COUNCIL MEMBER DEUTSCH: Thank you,  
7 Chair. You know, as we move on, we're going to be  
8 talking about more on this issue and the Right to  
9 Know Act and to see how it progresses within the New  
10 York City Police Department, and—and I appreciate you  
11 being here today and testifying and speaking of all  
12 the positive outcomes of this—this bill how it  
13 affects all New Yorkers. So, I have a few questions.  
14 I'm going to keep it very brief. Number one is that  
15 do you see any negative impact that this is having  
16 on—on—this is having on officers, on their personal  
17 safety? Number one. Number two is that if it's a  
18 Level 3 stop, does the officer have a—is the officer  
19 permitted to obtain ID from the person he or she  
20 stops, and run his or her name to see if there's any  
21 outstanding warrants.

22 OLEG CHERNYAVSKY: So, I'll—I'll let Mike  
23 talk to the Level 3, you know, the protocols beyond  
24 Level 3. In terms of threats, again, I think it's  
25 just—just like the other—some of the other

2 conclusions that—that we were talking about. I think  
3 it's a little early to tell. I mean I—I think you  
4 know and a lot of the Council Members know and  
5 through the course of other hearings we—we highlight  
6 the fact that officers are the subject of threats.  
7 We had over the last two years an average of about  
8 150 direct threats against police officers, and  
9 another 150 per year of general threats against  
10 police officers, and this is not a correlation to—to  
11 contact cards. This is just the reality of the world  
12 we live in. Officers' safety gets threatened with  
13 their regularity, and that's something that we  
14 monitor and keep an eye on, and although I can't  
15 reach that conclusion, you know, that correlation  
16 now, I think that's certainly something that we  
17 always keep an eye out.

18 COUNCIL MEMBER DEUTSCH: So, during the  
19 process of a—of an officer offers his identification  
20 and has to do other means of communication before the  
21 officer does his or her job, now do you see any  
22 downside of the officer putting their personal safety  
23 as far as that when it come to moving along with the  
24 Right to Know Act, moving along with making sure that  
25 we do everything properly?



2 OLEG CHERNYAVSKY: I mean again, I think--  
3 I think--

4 COUNCIL MEMBER DEUTSCH: [interposing]  
5 Kind of like if-if you're-if you're approaching  
6 someone and the person-what is the procedure on the  
7 Level 3? What is the procedure? What is the officer  
8 have to do?

9 MICHAEL CLARK: When you're approaching  
10 someone at Level 3, you're supposed to identify  
11 yourself, and state your purpose for interaction  
12 unless certain exceptions apply like exigent  
13 circumstances. So, and if there is a gun in their  
14 pocket, they probably can go frisk that pocket and  
15 not wait for: I'm Officer Clark and I'm here to  
16 search you because I believe you have a gun. Like  
17 there are exigent circumstances, but outside of that,  
18 they're supposed to identify themselves and say I'm  
19 stopping you because you fit the description of  
20 someone I'm trying process or whatever.

21 COUNCIL MEMBER DEUTSCH: So, is the  
22 officer on a Level 3 is the officer permitted to  
23 obtain ID even if-if-even if that individual refuses  
24 to have their bags searched by the officer?

2 MICHAEL CLARK: They're all owed to ask  
3 for ID, but individuals aren't required to provide  
4 it.

5 COUNCIL MEMBER DEUTSCH: And they're not  
6 required to provide any identifying---

7 MICHAEL CLARK: At a Level 3 interaction.

8 COUNCIL MEMBER DEUTSCH: Uh-hm.

9 MICHAEL CLARK: If you're driving a car  
10 it's obviously different, but for like on a--on a, you  
11 know, especially on the street they're not required  
12 to provide ID.

13 COUNCIL MEMBER DEUTSCH: So, from the  
14 11,000 stops, you mentioned--actually, you mentioned  
15 50--from the 419 you mentioned 51 refused consent, and  
16 that--that includes of giving ID. Correct?

17 MICHAEL CLARK: No, that--that refusing is  
18 refusing to be searched.

19 COUNCIL MEMBER DEUTSCH: To be searched?

20 MICHAEL CLARK: Right.

21 COUNCIL MEMBER DEUTSCH: And now from that  
22 amount how many actually gave ID? Like if someone--if  
23 51 refused to be searched, did that 50--did those 51  
24 consent to give ID?

2           MICHAEL CLARK: They may—maybe, maybe  
3 not. I don't think we have data on how often we're  
4 asking for ID. I know—I know we don't have the data.

5           COUNCIL MEMBER DEUTSCH: So, once someone  
6 gives ID then you have a right to run the person's  
7 name to see if there are any outstanding warrants,  
8 correct?

9           MICHAEL CLARK: Yeah. I think yeah, yeah  
10 you can do that, but it's—I mean you can't prolong  
11 the interaction to do that. Like if you can do it  
12 within the time you would normally do in a stop.

13           COUNCIL MEMBER DEUTSCH: So, my question  
14 is about from 11,000 stops—so if from the 11,000  
15 let's assume there's a certain percentage that  
16 refused to give consent to have their bags searched,  
17 but from the 11,000 they all agreed to give the ID to  
18 the officer right, and—and the officer now has a  
19 right to check their ID to see if there's any  
20 outstanding warrants or the person was previously  
21 arrested and for what it was. We have no numbers on  
22 that?

23           MICHAEL CLARK: I'm pretty sure we don't  
24 have that—I'm pretty sure we're not checking how  
25 often these requests are--

2 COUNCIL MEMBER DEUTSCH: [interposing]

3 You--do you believe it's important to check these  
4 stats in order to on the stand? I mean I think  
5 personally that it's important to know this as we  
6 continue talking [coughing] about how this--how these  
7 bills progress to see how many people they actually  
8 stopped may have been arrested for gun possession,  
9 may have been arrested for other types of violent  
10 crimes and as well as to see how many people have  
11 warrants for possibly some violent crimes. This way  
12 could see how to better not only make sure that New  
13 Yorkers are protected, but the people who are doing  
14 the jobs to protect New Yorkers that they have  
15 families as well, and that they are protected as  
16 well.

17 OLEG CHERNYAVSKY: So, I mean I think,  
18 you know, I think we have to look at it a couple of  
19 different ways. So, if a Level 3 elevates and gives  
20 an officer probable cause to make an arrest that  
21 officer, that individual is arrested. We clearly  
22 know their name. We can--we know their criminal  
23 history. We know, you know, who these--who these folks  
24 are. At a Level 3 encounter that's--that where we have  
25 reason able suspicion, but it does not rise to

2 probable cause where we're making an arrest, that  
3 individual will be free to go. We would not detain  
4 that individual to run their warrant history to see  
5 what their resume, you know, was to the extent they  
6 had one. That wouldn't be proper nor is that  
7 individual obligated to give ID. They can refuse ID  
8 just as they refuse a consent search. We could ask  
9 for. They don't have to give it to us. So, we could  
10 have a situation where we're at a Level 3, we ask for  
11 a person's name. They refuse to give us—they refuse  
12 to identify themselves. We ask for consent to  
13 search. They refuse consent to search, and then  
14 nothing out of that Level 3 stop elevates the  
15 probable cause, and leaving the scene. So, I mean I—  
16 I—I hope that answers the question.

17 COUNCIL MEMBER DEUTSCH: Okay so that—okay  
18 I just want to finally just say I want to thank the  
19 sponsors of these bills, how important this is in  
20 order to have accountability and the officers who are  
21 out there, and—and I think—and I think we're moving  
22 in the right direction, but we also need to make sure  
23 that overall as time goes on that, you know, not only  
24 did we—would we, you know, we—we protect the citizens  
25 of the city, but we also protect those law

2 enforcement officers who are out there doing their  
3 job, and just to show just a few days ago, Anthony  
4 Salgado who was arrested three times within a short  
5 period of time once grabbing an officer's tasers, and  
6 the second time attacking a correction officer, and  
7 third time injuring an officer during—at that  
8 hospital while—while he was in custody. So this is  
9 very concerning to me. Yes, we're speaking about,  
10 you know, making sure that there's accountability  
11 with the Police Department, but at the same time we  
12 need to show that there's accountability that when an  
13 officer is doing his or her job that they are  
14 protected as well, and we as New Yorkers we have to  
15 take everything into account and—and look at both  
16 sides and look at overall how these bills will impact—  
17 how these bills are being implemented that it should  
18 be done properly 100% to make sure that it works  
19 right. So, I want to thank you.

20 OLEG CHERNYAVSKY: Thank you.

21 CHAIRPERSON RICHARDS: Thank you, Council  
22 Member Deutsch and I think you made some valid  
23 points. I think we were—we were dragging you further  
24 left for a second, but you made some really valid  
25 points. I think at the end of the day we want to

2 ensure that all of these voluntary consent searches  
3 are actually ending up with something, right. You  
4 know, I think the department talks about decision  
5 policing. How precise are we really being if you are  
6 stopping over? I mean if you're searching over 300  
7 individuals and really not finding anything. So,  
8 that's why that data--the data component is so  
9 important here because it will tell us whether we are  
10 in one sense really precisely identifying those who  
11 could bring harm to our communities, and also to our  
12 officers as well, but we need to know that these  
13 searches are searches that are meaningful because  
14 they--you know, there's a public safety director.

15 OLEG CHERNYAVSKY: And we'll--we'll get  
16 the data and I'll also look at--I have in my notes  
17 what--what we're recovering?

18 CHAIRPERSON RICHARDS: Thank you. I'm  
19 going to go got Council Member Menchaca.

20 COUNCIL MEMBER MENCHACA: Thank you,  
21 Chair and thank you to the NYPD team for being here  
22 today. I--I have two sets of questions and one of  
23 them are really thinking about engagement of the  
24 neighborhoods and the representatives of our  
25 communities that can be part of shifting and changing

2 and evolving the patrol guide, which is like a-the  
3 Bible, if you will of the NYPD. You know, I-I've  
4 been in some of your-with some of your predecessors a  
5 very long time ago in spaces where the Patrol Guide  
6 was getting changed, and it takes time. It takes  
7 effort, but it really gets into a better place when  
8 you have really good engagement, and there were some  
9 agreements that were made as we moved forward to-to  
10 change these guidelines with community at the table,  
11 and so are you aware of any-any issues like community  
12 advocates have raised specifically speaking to Patrol  
13 Guide changes in language?

14 OLEG CHERNYAVSKY: Relative to-to Right  
15 to Know.

16 COUNCIL MEMBER MENCHACA: Right to Know.  
17 This is all about Right to Know.

18 OLEG CHERNYAVSKY: We have, yeah--

19 COUNCIL MEMBER MENCHACA: [interposing]  
20 Are you aware of any other issues?

21 OLEG CHERNYAVSKY: Yes, I am.

22 COUNCIL MEMBER MENCHACA: Because I want  
23 to make sure that I can kind of walk through some of  
24 these issues and on-on the record you can kind of  
25 responds some of those issues, and I think what-



2 what's—what comes to mind first is the specific  
3 changes that were made to training, written guidance,  
4 operation orders, consent forms and reporting  
5 protocols for home and vehicle consent searches, if  
6 any, to ensure that they conform to the Right to Know  
7 Act. Will you share copies of these documents with  
8 the Council and advocates?

9 OLEG CHERNYAVSKY: So, yeah. I mean I  
10 think we should—maybe I should kind of start with a  
11 little bit of an overview.

12 COUNCIL MEMBER MENCHACA: Please.

13 OLEG CHERNYAVSKY: We—we did meet with  
14 advocates. There are some advocates we met earlier  
15 on, some advocates we met—we met with a little later  
16 on in process. With that said even the advocates we  
17 met with later on in the process we listened to their  
18 concerns with the Patrol Guide procedures that we  
19 were doing, that we were putting out and although it  
20 was too late to actually change the Patrol Guide  
21 procedure because rollout was about a month away,  
22 what we did commit to is taking a look at their  
23 suggestions, and when we do our next revision and as  
24 I said earlier, anything this large we wait until  
25 it's rolled out for, you know, six, eight, nine

2 months, you know, and to see is there anything  
3 operationally that we need to change? Because it's  
4 just not working. There's hiccups in the process and  
5 that generally happens not in—not even in high  
6 profile situations such as this. So, what we  
7 committed to is that when we do that reflection and  
8 revision, we will try to implement some of the  
9 suggestions that they made to us right—right prior to  
10 the rollout, one of which was to make Language Line a  
11 little more prominent in this procedure. So, the way  
12 we generally do it when it comes to Language Line was  
13 we have patrol guide procedure that deals with  
14 language access, and which applies across the board.  
15 So, we have a procedure in the Patrol Guide that  
16 deals with language access. Some of the advocates  
17 detected was well given what the requirements of this  
18 law were, and—and what the—what the bill intended.  
19 It would be good to actually insert something along  
20 the lines referencing language access right in—right  
21 in the provision, right in that section, something we  
22 don't normally do. You've seen the patrol guide.  
23 It's online. It's quite lengthy, but we said okay,  
24 that's—that's something reasonable, that's something  
25 we can do. Another thing that I think you started

2 off with was better clarity on consent searchers  
3 whether in the street, a car, a home--

4 COUNCIL MEMBER MENCHACA: Uh-hm.

5 OLEG CHERNYAVSKY: --and they raised  
6 that, you know, they would have liked to see more  
7 clarity so it's clearer to officers that this applies  
8 to home searches as well as to car searches not only  
9 consent searches of bags in the public. Now,  
10 although that's the way we trained it, when they  
11 highlighted that, we said okay. So, when we do our  
12 revision we'll try to augment a little bit to make it  
13 clearer that in writing that it applies in all of  
14 those scenarios as well. So, we sat down although I  
15 know that-that some of the advocate weren't happy  
16 that we didn't implement immediately before, we did  
17 commit to looking at their suggestions and trying to  
18 implement as many as we could, as many as we agreed  
19 with in the subsequent revision, and which we intend  
20 on doing.

21 COUNCIL MEMBER MENCHACA: And when is  
22 that subsequent revision?

23 OLEG CHERNYAVSKY: Think we're--what--I  
24 think we're about five or six months in--into the  
25 rollout. We're already looking at it. I don't know

2 if we're—we're going to start revising just yet, but  
3 we're already starting to look at revisions and these  
4 are the things that I highlighted are on the table  
5 that are going to make—make the cut and not to say  
6 that that's an exhaustive list, but, you know, those  
7 are two things that come to mind.

8 COUNCIL MEMBER MENCHACA: How--how often  
9 are you meeting with advocates, and is there—is there  
10 like a—a monthly meeting where you can both kind of  
11 hear directly from advocates about implementation as  
12 it's happening so that you can both kind of get a  
13 sense on the ground not necessarily data that you're  
14 not capturing because we're already kind of seeing  
15 some holes in some of the data capture, but just a—a  
16 kind of touchpoint so that advocates can kind of sit  
17 and talk to you a little bit about violations. I was  
18 at press conference earlier today where people were  
19 talking about how people are violating the Right to  
20 Know Act already and they're seeing that, and there  
21 are CCRB processes. There's all these processes, but  
22 we can add—we can always add more opportunities to  
23 engage. Would you commit to siting down with  
24 communities, community advocates to—to kind of talk

2 through some of that stuff, create a space for  
3 dialogue on a regular basis?

4 OLEG CHERNYAVSKY: I mean we've—we've  
5 done it before. We've done in a—in a variety of  
6 realms. We're never opposed to sitting down with—with  
7 advocates, you know, and hearing their input on any  
8 of our programs especially something as large as  
9 this.

10 COUNCIL MEMBER MENCHACA: Okay, great.  
11 Sounds like you're open to that, and we can  
12 definitely follow up on that, and back to the  
13 Language Line, this is another kind of important  
14 thing vulnerable communities and—and really looking  
15 at immigrants in the city Language Line becomes one  
16 of those things that sometimes works and then—and  
17 then most of the time it just doesn't work. Are you—  
18 are you recording how many times interpretations are  
19 services are—are being asked for in communicating  
20 with searches or any of the Right to Know Act  
21 interaction.

22 OLEG CHERNYAVSKY: All related to Right  
23 to Know.

24 COUNCIL MEMBER MENCHACA: Relative? Well  
25 just stick to that because--

2 OLEG CHERNYAVSKY: No, not specifically.

3 I can take a look if we report anywhere or capture  
4 anywhere how many times we utilize languages services  
5 generally speaking. I know that we're not capturing  
6 how many times, but again, I-I think it's important  
7 then to-to highlight another point that consent  
8 searches if we recover anything from a consent search  
9 that's incriminating that results in an individual's  
10 arrest, that's subject to oversight of the courts.  
11 So, and the-the tests that a judge would-would put  
12 upon this issue are consent searches whether the  
13 consent was obtained voluntarily, knowingly and  
14 intelligently. Clearly, if somebody doesn't speak  
15 the language in which the request was asked, they're  
16 not consenting intelligently and knowingly. I think  
17 we would all agree on that, and the evidence would be  
18 suppressed. So from our standpoint it doesn't make  
19 much sense to ask somebody that doesn't speak English  
20 for consent to search in English, then giving us  
21 consent only to go to court and have the evidence  
22 thrown out. Just that wouldn't make too much sense.  
23 So, we utilize language services, a headcount-a count  
24 on how many times it was done. In this, you know,  
25 in-in the realm of consent searches, I don't know.

2 COUNCIL MEMBER MENCHACA: Well, so what-  
3 what I want to do, and I don't know if you wanted to  
4 add-

5 MICHAEL CLARK: Yes. I'm just going to  
6 add we also—we have Language Line, which is going to  
7 be subset of it. We also have many thousands of  
8 bilingual officers who wouldn't necessarily need it  
9 if they're fluent in the language they're speaking,  
10 of course.

11 COUNCIL MEMBER MENCHACA: Yes and that's  
12 the goal right now.

13 MICHAEL CLARK: So, the Language Line may  
14 not necessarily cover every instance where they still  
15 were able to provide proper—an explanation of their  
16 rights.

17 COUNCIL MEMBER MENCHACA: Okay, and I  
18 guess I'll—I'll end with this, on this Language Line  
19 conversation I think—I think what's important here is  
20 that—that we understand if there's—if there's—if  
21 there's a process—if an officer is moving down their  
22 line of questioning that will get to consent, they  
23 are going to do everything they can to ensure that  
24 this solid process, but what we're talking about is  
25 all those times that there's not a solid process and-

2 and essentially there's abuse of power here, and—and  
3 I thin that's what we're trying to figure out how  
4 many of those instances people are asked for Language  
5 Line. They didn't know that—that there was an abuse  
6 of power by the police officer, and I think those are  
7 the cases that we're talking about. Those are the  
8 things that—that make-make it difficult for  
9 communities when they feel over-surveillanced, over-  
10 surveillanced, and so it's not—it's not those cases  
11 that work really well. We know that there's—there's—  
12 three's been the good work of the police to do the  
13 investigation to know they're going to go in, and  
14 they're ready. It's all those other times that are  
15 messy and—and really causing a lot of-of-of backlash  
16 from neighborhoods. That's—that's—so—so really  
17 getting a sense about how many—how many requests are  
18 being asked for Language Line are important things  
19 that we can kind of document. The last question is  
20 about DNA, and—and kind of reporting DNA, and—and  
21 using DNA as a way of-of—and I want to get the  
22 question right because this is about consent and  
23 search—consent related searches. Does NYPD inform  
24 people in custody who are taking into what the  
25 Detectives' Guide-Guides describe as controlled



2 environment in a precinct interrogation rooms, and  
3 those kind of things that—that anything a person  
4 either drinks or smokes in the room will be collected  
5 for DNA.

6 OLEG CHERNYAVSKY: I mean I'll—I can  
7 certainly look in and get back to you. I didn't  
8 realize this was the implementation of Right to Know  
9 Act oversight. So, I didn't really brush on that.

10 COUNCIL MEMBER MENCHACA: No, and I—and I  
11 understand that.

12 OLEG CHERNYAVSKY: But, I'll—I'll—I'll  
13 certainly get back.

14 COUNCIL MEMBER MENCHACA: [interposing]  
15 But this is all kind of relevant like how do you  
16 create consent.

17 OLEG CHERNYAVSKY: I'll certainly get  
18 back to you with those articles

19 COUNCIL MEMBER MENCHACA: Okay, thank you  
20 so much.

21 CHAIRPERSON RICHARDS: Thank you for  
22 bringing that up because we're going to have a whole  
23 lot more questions on that, but not at this hearing,  
24 but I am interested in how consent works out when it  
25 comes to DNA as well. So, I would say we should start

2 getting ready for those questions, and before I turn  
3 to Council Member Miller, I wanted to go into 311  
4 again. So, individuals can obviously file a 311  
5 complaint, and it is supposed to be forwarded to  
6 CCRB, but in some cases we've heard that is not  
7 happening, and we all know that 311 sometimes works.  
8 I'm not saying it's not an effective way to-to  
9 resolve city issues, but sometimes those complaints  
10 may not be forwarded CCRB. So, how would you track it  
11 then?

12 OLEG CHERNYAVSKY: I mean we—we don't run  
13 311 at the NYPD. The assumption I guess that we  
14 start with I guess that we start with is that if  
15 somebody calls 311 with a complaint Right to Know  
16 related, that it gets forwarded to CCRB. A gain, we  
17 put on our URL. We look, we provide contact  
18 information for CCRB on the URL, which is printed on  
19 the back of the card as well. So, the 311 number is  
20 actually printed on the back of the card. Our URL is  
21 printed on the back of the card, and when you go  
22 there, you actually, you get 311 and CCRB that you  
23 can call to make a complaint. So, I mean I really  
24 can't speak intelligently.

2 CHAIRPERSON RICHARDS: Right, but their-  
3 I'm sure the NYPD deals with DOITT and other  
4 agencies, so, just making sure that that process is  
5 working, and I mean we have an obligation to do that  
6 as well, but I just want to make sure that that's  
7 also acknowledged as well, that 311 does not always  
8 forward complaints the way it should. I also wanted  
9 to add on--s Level 2 stops you--you don't have to track  
10 those obviously, but do you track them?

11 OLEG CHERNYAVSKY: No, so I mean through  
12 the Federal Monitorship what's--what's tracked are  
13 Level 3 stops. I mean we clearly track Level 4  
14 because that's arrest or summons. So, we know how  
15 many people we're arresting and summoning. So, we  
16 track that as well, but based on the Federal  
17 Monitorship and--and 250 Stop, Question and Frisks  
18 historically, that's in level that's tracked.

19 CHAIRPERSON RICHARDS: And that's not  
20 something you would never entertain Level 2s? I mean  
21 I don't think we need to be told by a monitor that  
22 it's tracking data.

23 MICHAEL CLARK: Yes. I agree.

24 CHAIRPERSON RICHARDS: So, their-  
25

2                   MICHAEL CLARK: [interposing] I do think  
3 there's a pilot program that we're working on to  
4 track Level 2s.

5                   JOHN COSGROVE: My name is Deputy Chief  
6 John Cosgrove. I'm the Commanding Officer of the  
7 Risk Management Bureau. We are the bureau responsible  
8 for coordinating with the Monitor, the Federal  
9 Monitor. The court ordered a pilot program back in  
10 July of 2018 to record all Level 1 and Level 2 stops.  
11 The court further ordered in August that the body-  
12 worn camera-body-worn cameras be utilized to record  
13 all Level 1 and Level 2 stops. In November of '18  
14 the federally-the Court appointed monitor designed  
15 and submitted to the court a framework for designing  
16 a pilot program that would impact 12 precincts and  
17 PSAs throughout the city. That framework is  
18 currently under discussion with both ourselves by the  
19 department, the monitor himself and the plaintiff's  
20 attorneys for the three different cases. There are  
21 some aspects that need to be ironed out to see if  
22 it's feasible at all. They involve civilian observers  
23 and some electronic-modification of electronic app  
24 program within our Smart Phones. So, it's  
25 anticipated that we're coming to some type of pilot

2 framework that we can actually complete and  
3 participate in, but that would be—that's what we have  
4 on the horizon for Level 2 stops.

5 CHAIRPERSON RICHARDS: You are doing  
6 this, as you said, in some precincts Level 1 and 2  
7 interactions right with body cameras?

8 JOHN COSGROVE: Any—any stop--

9 CHAIRPERSON RICHARDS: Any stop, right.

10 JOHN COSGROVE: --is supposed to be  
11 recorded on a body camera.

12 CHAIRPERSON RICHARDS: Right, but what  
13 I'm getting is--

14 JOHN COSGROVE: Level 2.

15 CHAIRPERSON RICHARDS: --so when it comes  
16 to the Right to Know Act--

17 JOHN COSGROVE: Correct.

18 CHAIRPERSON RICHARDS: --eventually and  
19 one of the reasons once again I voted on the second  
20 half of the bill is because a lot of our interactions  
21 at our Level 1 stops predominantly in our communities  
22 and they're not necessarily covered under these  
23 specific bills, but the question is would you have  
24 ever entertained Level 1 stops period when it comes  
25 to Right to Know Act?

2                   JOHN COSGROVE: Well, I-I don't think so,  
3 and I'll explain why. Because I think Level 1 stops—  
4 I don't think they're necessarily limited to any—any  
5 particular type of community. I think they're so  
6 common, and—and an example I—I like to generally give  
7 is, you know, you're looking for a missing child and  
8 an officer is walking through Central Park or Union  
9 Square Park and asking individuals, encountering  
10 individuals and asking questions about have you seen  
11 the child and whatever. These basic interactions  
12 would fall under, and they happen every day  
13 throughout the city. We take a look at 911 calls,  
14 which a lot of them may result in Level 1 encounters.  
15 Over six million of them. I mean there is—there is  
16 millions of these encounters that happened on a  
17 routine basis where we tried to focus with—with Right  
18 to Know is the encounters where accusatory questions  
19 begin not a basic encounter where we're actively  
20 telling our officers affirmatively get out there and  
21 speak to people. That's neighborhood police and  
22 engage with the public and tying the mandatory, you  
23 know, card that's linked to Level 3 stops and Level 2  
24 stops, which are accusatory stops in nature you know,  
25 to an innocent or a basic stops for requests for

2 information. We don't think that's probably the  
3 right approach, you know, just the sheer volume of  
4 cards that would be dispensed now. That's not to say  
5 that there can't be some area at Level 1 where a card  
6 wouldn't be handed out, an officer can voluntarily  
7 hand out cards and we encourage that. As part of  
8 neighborhood policing, individuals can ask an officer  
9 for a card. An officer under the policy that we  
10 created would be obligated to give a business card if  
11 asked even at a Level 1. So, we try to cover a Level  
12 1 as much as we can, but I think as a mandate in  
13 Right to Know Act I-I don't think that-that would be  
14 prudent.

15 CHAIRPERSON RICHARDS: And I'll just---  
16 let me just, and I'm going to move to Council Member  
17 Miller but, you know, as we talk about building  
18 community police relations, I imagine there is a 3-0  
19 camera against the-let's just use the example that  
20 you gave in the park. You know, what would be wrong  
21 with handing someone a card to say, hey, if you've  
22 got information, if you-if you receive any  
23 information, if you see the shout here's a card. Is  
24 the -is the worry that you believe officers may give  
25 false complaints against them? Is that-is that--

2 JOHN COSGROVE: [interposing] I mean  
3 that is.

4 CHAIRPERSON RICHARDS: Is that what the  
5 premise of-

6 JOHN COSGROVE: That certainly could JOHN  
7 COSGROVE: be a result. I'm not sure.

8 CHAIRPERSON RICHARDS: But how would-

9 JOHN COSGROVE: [interposing] but I-I  
10 think it's just, you know, it's getting to a place  
11 where-where you're talking about millions of  
12 encounters and we're talking about a mandate, right?  
13 So, that's-that's what we're really talking about  
14 when you talk about Level 1. We're talking about  
15 creating the type of mandate that we created for  
16 Level 2 and 3, which is a mandate. You have to do  
17 it, right and you're saying to overlay that-now  
18 there's a limited number of that universe. So, if at  
19 Level 3 there's a 11,008 last year, at Level 2  
20 there's some subset then it's a finite number. Level  
21 1 encounters are millions, and you're creating a  
22 mandate for millions that if an officer happens to be  
23 one they would have to literally carry around card  
24 dispensers on their-on their belts. You know, two,  
25 if an officer is wrong and doesn't give a card,



2 they're susceptible to some sort of a discipline for  
3 an innocent basic encounter with a civilian where no  
4 accusatory questions are being asked, just a basic  
5 conversation and requests for information.

6 JOHN COSGROVE: Okay, we agree to  
7 disagree, but we have 51 Council Members. We all  
8 have to print cards and in our travels on the train  
9 and other places, we encounter constituents all the  
10 time who may have complaints and we could give out a  
11 basic card for them to call the office so if they  
12 have information or complaints. I don't see why it  
13 would hard for--

14 OLEG CHERNYAVSKY: [interposing] well, I  
15 can certainly--

16 CHAIRPERSON RICHARDS: --so that I can  
17 support the community to do the same thing.

18 OLEG CHERNYAVSKY: I can support a bill  
19 that would mandate that you give out a business card  
20 at time. [laughter]

21 CHAIRPERSON RICHARDS: Well, we would  
22 immediately mandate if we didn't have those cards.

23 OLEG CHERNYAVSKY: But again, I we  
24 encourage our officers to--we encourage our officers  
25 to give out the cards, and we do--we do.

2 CHAIRPERSON RICHARDS: [interposing]

3 Yeah, and I—I do want to give cards to the 105<sup>th</sup>  
4 Precinct. I had what I believe a Sanitation truck  
5 hit my car when they—with a plow. Anyway, that's  
6 another story for another day. I'm not even going to  
7 go after the city for this because I'd probably—I'd  
8 probably be 50 by the time we even settled. So, yes,  
9 I'm going to have to come out of my pocket for that.  
10 But anyway that's another story for another day, but  
11 they did give me a card after the interaction.

12 OLEG CHERNYAVSKY: Uh-hm. Again, we--

13 CHAIRPERSON RICHARDS: I mean I was  
14 shocked I got a card, but I got a card.

15 OLEG CHERNYAVSKY: Well, I don't think  
16 that it's--

17 CHAIRPERSON RICHARDS: [interposing] I  
18 don't think that—I don't think that necessarily was a  
19 bad interaction. I wasn't—I didn't feel the need to  
20 call CCRB because we—because the Police Department  
21 handed me card.

22 OLEG CHERNYAVSKY: And again, I don't  
23 think—I'm not jumping to that conclusion. I just  
24 think that in the sheer volumes of those encounters  
25 I'll even give it to an individual to request a card.

2 Even give to an officer to present a card, and those  
3 encounters. Once accusatory questions start, it's a  
4 mandate that's already there and that's—that's how we  
5 tried to separate every—separate it out.

6 CHAIRPERSON RICHARDS: I'm going to go to  
7 Council Member Miller, but I will just—let me just  
8 reiterate. The most common stops in our communities  
9 are Level 1 stops, and unfortunately they're not  
10 going to be counted in this, and it's just—it's just  
11 a fact. My—my—my—every interaction I've had with a  
12 police officer from teenager up has been a Level 1  
13 stop and unfortunately, that's not the engaged these  
14 bills, you know, I—I hope we can have some future  
15 conversations about this especially vehicle stops,  
16 which are very common in our communities. Alrighty,  
17 council Member Miller.

18 COUNCIL MEMBER MILLER: Thank you, Mr.  
19 Chair. Good afternoon, gentlemen. Actually that is  
20 a little disheartening to hear what—what you were  
21 saying because that almost defeats the purpose of the  
22 legislation. So, I want to begin with—of the federal  
23 precincts that are under the Federal Monitorship. I  
24 believe that we had two in Southeast Queens, and it's  
25 the 103 and 113. While they had an incident that I

2 must say that they are—that we are light years from  
3 we were five or six years ago. Quite frankly, if we  
4 were able to educate we wouldn't have to legislate,  
5 and if we were able to change the culture, and give  
6 people the dignity that they deserve during these  
7 encounters, this would not be necessary. How do you  
8 —what do you have to give to me to take that to my  
9 constituency saying—to be able to say that these—this  
10 community that had been twice under Federal  
11 Monitorship that there is a mechanism in place to  
12 ensure that folks are being treated with the dignity  
13 and respect that they deserve that their  
14 implementation of Right to Know is—there is an  
15 element of oversight that will ensure that that  
16 happens as well. Just in general what—what do I have  
17 to take back to reassure folks that this process is  
18 working.

19 OLEG CHERNYAVSKY: So, I think and, I'll—  
20 I'll briefly repeat some of the stuff that—that we  
21 talked about earlier in the hearing, which is your  
22 own terms of rollout. You know, we gave examples of  
23 how we took the bills seriously, and once the bills  
24 were passed then we—we, you know, we participated in  
25 the negotiations over the bills, but once the bills

2 were actually passed, we self-initiated a pilot  
3 program. We did focus groups with police officers  
4 and their supervisors to ensure that they actually  
5 understood what their obligations were under the law.  
6 What we didn't want to do is wait until October 19<sup>th</sup>  
7 of 2018, and say, you know, issue a directive to be  
8 read out loud and say okay, here are your obligations  
9 now. We understood that this was a little complex.  
10 There was a consent to search policy. There was  
11 contact card mandates of where you were obligated to  
12 give out contact cards. So what we did was we wound  
13 up—we ran pilot programs to see of the training we  
14 were doing, which was rollcall training whether the  
15 officers in the four precincts that we piloted  
16 whether they understood what—what was going on, and  
17 what we realized was is that the training could have  
18 been better. They didn't really—it didn't seem like  
19 they really understood what their obligations were  
20 under the law. What we di after that was create an  
21 Internet—Internet based training that was completed  
22 by officers before October 19<sup>th</sup> of 2018. That  
23 Internet based training had quizzes attached, and you  
24 wouldn't credit for completing that until you passed  
25 the quizzes. Then we did rollcall training. We

2 trained our training sergeants to then go and train  
3 their troops at roll call. Then we implemented  
4 training for future trainings that was this, you  
5 know, pre-rollout training but ongoing. For example  
6 our recruits in the Police Academy. Every recruit-  
7 recruit class coming out of the Police Academy is  
8 going to learn Right to Know. Every officer that's  
9 going to get assigned to a plain clothes detail, part  
10 of the plain clothes training is going to be contact  
11 cards. That's from now and going into the future.  
12 Another example is-what was the--? Promotional  
13 training, sergeants and lieutenants when they-when  
14 they get promoted and they have to take a class in  
15 training, they're going to get the Right to Know  
16 training and that's from now until ongoing, and then  
17 in-service training where officers go back to the  
18 Police Academy and get trained. We embedded that.  
19 We embedded Right to Know into that in-person  
20 training. So, these-these are ongoing trainings that  
21 aren't only upfront before the start date. So, we did  
22 the upfront before the start date, but then we made  
23 sure we embedded it to reinforce officers on what  
24 their obligations are, reinforce them on supervisors  
25 that they know what to expect of their officers.

2 Based on the way we designed the-the rollout, Level 2  
3 encounters, Level 3 encounters, consent searches,  
4 they need to be recorded on body-worn camera, on  
5 their body-worn cameras. So what we do is we audit  
6 body-worn camera footage. We put 311 on the back of  
7 the contact card to call 311 to comment on the  
8 encounter. We also put a link to a website on the  
9 back of contact card, and when you go to that link  
10 you can request your body camera footage for the  
11 consent search. You can request your stop-Stop  
12 Report to the Level 3 Stop Report, and it gets  
13 expedited. So, currently, I think we had 65 people  
14 that requested it, and they received it between one  
15 and seven days, which is the actual Stop Report with  
16 the explanation of why they were stopped and then we  
17 put CCRB's number on our website so when you  
18 hyperlink using the URL, their number is there as  
19 well so they can-individuals can report there. And  
20 then like anything else I mean we-this was rolled out  
21 in October 19<sup>th</sup> of last year. So far, we only have  
22 one partial quarter posted. We want to take a look  
23 at what the numbers show us, you know, as we roll out  
24 over a few quarters, and see if we see any kind of  
25 patterns. We'll obviously coordinated with CCRB to

2 see what they're seeing in terms of complaints. Our  
3 complains across the board across the city, our  
4 complaints isolated to certain precincts. Maybe the  
5 training needs to be focused. Maybe it needs to be  
6 refreshed around the department, but I think we took  
7 it with a level of seriousness that it deserved. We—  
8 we rolled it out. We ensured that all of our officers  
9 were trained before the start date, and now we're  
10 monitoring to see what we need to do to make it  
11 better if we see any issues.

12 COUNCIL MEMBER MILLER: So, what  
13 precincts exactly were part of the pilot program?

14 JOHN COSGROVE: I think it was the 4-0—  
15 oh, gosh, the 7-5 and the 9. [background comments]  
16 That's right. So, are you talking about the pilot  
17 program for the business cards? I believe it was the  
18 4-0 or the 4-5, the 7-5 and the 9-0 for the—for the=

19 COUNCIL MEMBER MILLER: [interposing] How  
20 many of those were part of the—the Federal  
21 Monitorship, if any?

22 OLEG CHERNYAVSKY: Every precinct is  
23 under the Federal Monitorship.

24 COUNCIL MEMBER MILLER: How many—how many  
25 of the original—how many of those—I know we had two



2 of the top 5 precincts in terms of Stop and Frisk in  
3 Southeast Queens. As I said, in the 103 and 113.  
4 They were specifically mentioned as part of the suit  
5 and—and we went further into negotiate some with the  
6 Federal Monitor. Are any of those precincts  
7 involved? Were there any of those involved?  
8 Obviously not if those are the ones that you  
9 mentioned and—and how do we know specifically that  
10 those that were involved that corrective measures  
11 have been taken or that they specifically that target  
12 audience--

13 OLEG CHERNYAVSKY: Uh-hm.

14 COUNCIL MEMBER MILLER: they get it?

15 OLEG CHERNYAVSKY: So, I—I—I want to  
16 clarify what this pilot was. This pilot wasn't  
17 required in law. It wasn't asked of us. We did it  
18 ourselves for one reason, to see if the training that  
19 we intended on doing department wide for Right to  
20 Know training if the officers actually—if it was  
21 sufficient, and what we learned in the precincts that  
22 we did it in and obviously we didn't do it in the  
23 precincts that you're talking about. In the four  
24 precincts where we did it, we recognized that there  
25 was confusion, that the officers were not clear on

2 when they were obligated to give a contact card and  
3 this is before the October 19<sup>th</sup> start date. This was  
4 early on. So, we gave ourselves enough time to test  
5 it out to see if the training we were doing was  
6 sufficient to test out how many cards should we  
7 expect to print for officers, and based on that we  
8 realized that the training could have been better,  
9 and we improved the training for the department wide  
10 training.

11 COUNCIL MEMBER MILLER: So, thank you for  
12 that, but are you saying that—that the understanding  
13 internally within the department it was like the  
14 universe was larger than those that were indirectly  
15 involved in the Federal Monitorhship or in the  
16 lawsuit that led up to it, and so just to deal with  
17 those precincts, it wasn't enough that—that you—you  
18 wanted to go outside of there and—and make sure that  
19 you were addressing the entire universe of those that  
20 are going to come in contact and be a part of this as  
21 well, which I think is a problem that we have not  
22 addressed specifically those precincts that—that had  
23 the greatest amount of—of stops during the Stop-and-  
24 Frisk, but then I want to talk about again—You talked  
25 about the working group and those that were involved

2 in kind of developing and cultivating what that  
3 program would look like, supervisors, managers, the  
4 TDA. Who specifically was involved?

5 OLEG CHERNYAVSKY: So, what we did was  
6 after-after we did the pilot, we did a-so, let's  
7 stick with the pilot first for a moment, and then  
8 we'll expand to out. We did focus groups with  
9 supervisors and with the cops. So, when we tried it  
10 out, we gave them the training that we wanted to do  
11 department wide. Then we sent them out into field  
12 and we said okay, what's the complying. What are,  
13 you know, how are they complying with the directives  
14 that they received? After it was all over, I believe  
15 it was 30-day pilot, we sat down with the cops, the  
16 rank and file and then we sat down with their  
17 supervisors to get an understanding of what they  
18 believed they needed to do, you know, and where they  
19 may have been wrong, where they weren't wrong, and  
20 where they were right to see if-if there was a  
21 universal misunderstanding of what their obligations  
22 were. Aside from that, the plaintiffs in the Federal  
23 Monitorship the Federal Monitor we sat or we-there  
24 were stakeholders as part of the federal litigation  
25 that were involved early on that commented on the

2 Patrol Guide procedures that we were doing, and then  
3 later in the process about a—I think it was about a  
4 month before rollout, we sat down with other  
5 stakeholders with the recognition that it was—it was  
6 maybe a little too late to implement some of their  
7 suggestions, but with the promise that we were going  
8 to take their suggestions and try to implement the  
9 ones that we could in the subsequent revisions, which  
10 we committed to doing today.

11 COUNCIL MEMBER MILLER: So, and by  
12 involving all that those individuals that were  
13 involved, do you think that you captured the best  
14 possible universe? Obviously we—it wasn't 100%, but  
15 in terms of by involving and engaging the folks that  
16 were involved in the focus group, was there anyone—  
17 anyone from outside the department?

18 OLEG CHERNYAVSKY: So, yeah. I mean I  
19 think the—inside the emissions was the focus groups.  
20 Outside the department was the Federal Monitor, the  
21 litigants and the Stop, Question and Frisk lawsuits.  
22 The stakeholders that--

23 COUNCIL MEMBER MILLER: Wait, wait, wait.  
24 I'm talking about specifically during implementation.

25 OLEG CHERNYAVSKY: Yeah, that's—I'm—I'm--

2 COUNCIL MEMBER MILLER: And—and putting  
3 together, and putting together the rollout, and  
4 obviously you handed the rollout to the officers, the  
5 officers went out on the street and you came back and  
6 got feedback, but prior to that was anyone involved  
7 in actually putting together—helping to plan the  
8 rollout?

9 OLEG CHERNYAVSKY: I mean I'm not sure--

10 COUNCIL MEMBER MILLER: [interposing] Who  
11 did that? Was that—was—was that managers, upper  
12 management supervision?

13 OLEG CHERNYAVSKY: I mean I'm—obviously  
14 on that ultimate level it would have to be  
15 supervision then. It would be supervisors and  
16 managers, but in order to get to that place we're  
17 taking the input from the troops on the ground in  
18 order to develop a better policy. So, the, like—as I  
19 said, the—the first—the first approach was let's do  
20 rollcall training. We realized from our troops on  
21 the ground that that's probably not going to be  
22 sufficient. We're going to need to do more. We  
23 worked with the litigants and the stakeholders and  
24 the federal monitor to imbed because we needed to

2 embed this training and—and this procedure into the  
3 patrol guide that--

4 COUNCIL MEMBER MILLER: At what point did  
5 that occur?

6 OLEG CHERNYAVSKY: That was I mean very  
7 early.

8 MICHAEL CLARK: So, I think that portion  
9 of the Federal Monitor plaintiffs was on the in-  
10 service trainings and the recruit trainings and that  
11 was pretty early. I think we did that. We want to  
12 be in places as early as possible and make the  
13 changes to 1211 was pretty early, and then when we  
14 met with other advocate groups that was relatively  
15 maybe a month, a few weeks before the implementation,  
16 and that's when Oleg said we—some of the comments we  
17 had we didn't have time to make changes for, but  
18 we're going to in round 2 I guess make those changes.  
19 The pilot happened in April of 2018, and in order for  
20 us to get that going we had to get approval from a  
21 lot of the other people in the monitorship. So, a lot  
22 of things happened prior to that.

23 COUNCIL MEMBER MILLER: So, we're  
24 satisfied that this process here allowed us to  
25 capture the world—the greatest universe in terms of—

2 in terms of the rollout, but making sure that that we  
3 had the best understanding training of the officers  
4 that were going to-to-to be involved, and what does  
5 that-I know you said that supervisors and-and-and  
6 individuals being promoted does that mean everyone  
7 except for those who are sitting permanently behind a  
8 desk that are ultimately going to be trained and to  
9 go out of there?

10 OLEG CHERNYAVSKY: Yeah, yeah. I mean I  
11 think the-everybody has been trained. I mean the  
12 goal obviously upfront was the people that--

13 COUNCIL MEMBER MILLER: [interposing] You  
14 said everybody. Who's everybody?

15 OLEG CHERNYAVSKY: So the department,  
16 unformed-uniformed officers, but the-the-I mean the  
17 way we staged it and the-the-the goal was-

18 COUNCIL MEMBER MILLER: [interposing] And  
19 supervisors, every supervisor?

20 OLEG CHERNYAVSKY: Yes, yes and the goal  
21 was to train the individuals that have contact  
22 routinely with the public first to ensure that--

23 COUNCIL MEMBER MILLER: Right.

24 OLEG CHERNYAVSKY: --and then, but yeah,  
25 ultimately, everyone was trained.

2 MICHAEL CLARK: So, we did—we created two  
3 videos, and they had to view every video and take a  
4 quiz on it, every uniformed officer from PO to Chief  
5 had to take that--

6 COUNCIL MEMBER MILLER: Okay.

7 OLEG CHERNYAVSKY: --and then there is  
8 the—what we're talking about the other training, and  
9 then there's a command level training. So, you know,  
10 the training sergeants were doing training to all the  
11 officers who go out in the field, and then the in-  
12 service training is the final piece that I think Oleg  
13 was talking about where sergeants, lieutenants and  
14 any promoted to get, anyone who becomes a plain  
15 clothes officer, all new recruits and then there's a  
16 massive in-service training for—on all investigative  
17 encounters that every officer has to take, and we put  
18 it into that training, and that's ongoing as we  
19 speak.

20 COUNCIL MEMBER MILLER: So, let me just  
21 jump off that for a moment before I return it to the  
22 chair, and—and forgive me if you have spoken on this  
23 already, but I wanted to talk about the last public  
24 report and the number of searches that were



2 documented or that had been consented, and what were  
3 the findings on that? Do you have the date on that?

4 OLEG CHERNYAVSKY: Yeah, so it's—we put  
5 it on our website. This is the fourth quarter of  
6 2018. What we saw was that—and this is a partial  
7 quarter so it started—rollout started October 19<sup>th</sup> of  
8 2018, so it captures the 19<sup>th</sup> through December 31st.  
9 So, it's the partial quarter. We had 419 requests  
10 for consent to search, and out of those 419, 368  
11 people consented to the search. So, effectively 51  
12 people refused consent.

13 COUNCIL MEMBER MILLER: And--

14 OLEG CHERNYAVSKY: [interposing] And  
15 that's based on our protocol, the guidance that we  
16 developed pursuant to Council Member Reynoso's bill  
17 where, you know, we're asking in a manner that  
18 elicits no one voluntarily in the--

19 COUNCIL MEMBER MILLER: [interposing]  
20 And—and in—in—in those instances, were there any  
21 weapons or contraband?

22 OLEG CHERNYAVSKY: Yeah, so we -I  
23 committed to the Council Member before, before you  
24 came in that we're going to—I'll get the number of  
25 arrests that stemmed from that, and I will try to get

2 the recoveries—information on what we recovered from  
3 that.

4 COUNCIL MEMBER MILLER: And the  
5 demographics?

6 OLEG CHERNYAVSKY: That's posted on the  
7 report. It's posted online, age, gender and race.

8 COUNCIL MEMBER MILLER: And location?

9 OLEG CHERNYAVSKY: And precinct.

10 COUNCIL MEMBER MILLER: Okay, thank you.

11 CHAIRPERSON RICHARDS: Thank you, Council  
12 Member Miller. Okay, I think we are finished here.  
13 We'll have some follow-up items for you, but you get—  
14 you get out gist. We're looking for that data that's  
15 so—so critical out of all 368 stops and letting us  
16 know, you know, that consent to searches is actually  
17 targeting the right people, and we're going to—I  
18 think we've agreed to start to look at the  
19 disparities already in the way the consent searches  
20 are happening already, and then Right to Know, the  
21 cards. We'll talk a little bit more about the Level  
22 1s, but certainly want to have a further conversation  
23 on Level 2s and Level 3s. So, with that, I thank you  
24 for coming today.

25 OLEG CHERNYAVSKY: Thank you.

2 COUNCIL MEMBER MILLER: Alrighty. We now  
3 will have Jonathan Darche from Civilian Complaint  
4 Review Board. [pause] Alrighty. You may begin.

5 JONATHAN DARCHE: [off mic] Chair  
6 Richards—[on mic] and members of the Public Safety  
7 Committee, Member—Council Member Miller, thank you  
8 for the opportunity to speak before you today. I'm  
9 Jonathan Darche, Executive Director of the Civilian  
10 Complaint Review Board. As you know, the CCRB is  
11 responsible for investigating, mediating and  
12 prosecuting allegations of excessive force, abuse of  
13 authority, discourtesy and offensive language against  
14 member of the New York City Police Department. In  
15 advance of the Right to Know Act going into effect on  
16 October 19, 2018, we created new allegations and  
17 protocols to account for the additional types of  
18 misconduct implicated by the law and trained our  
19 Investigations Division on these new mechanisms. CCRB  
20 staff also worked with the act's co-sponsors, Council  
21 Member Antonio Reynoso and Council Member Ritchie  
22 Torres and the Council's Progressive Caucus to  
23 conduct a public education campaign. Our staff  
24 collaborate with advocates and partners to develop  
25 the Right to Know Act and Know Your Rights materials,

and distributed thousands of flyers outside subway stations and schools and in street festivals throughout the five boroughs in coordination with street team efforts by Council Members Rivera, Menchaca and Powers. As a result of the act and the CCRB's public education work, the agency has seen a 22% increase in complaints in the last six months compared with the same timeframe last year. Included in that number are 192 complaints containing 322 allegations of a failure to receive a business card as required by the Right to Know Act. These metrics are publicly available on the CCRB's website via our Data Transparency Initiative, and we intend to report further on the impact of the Right to Know Act in our 2019 Semi-Annual and Annual Reports. I believe that the Right to Know Act plays an important role in police accountability in New York City and that the public deserves to know as much about police disciplinary process as possible under the law. The CCRB is committed to its role in providing that transparency and to fair and impartial police oversight in the city of New York. I'm happy to answer any of your question.

2 CHAIRPERSON RICHARDS: Thank you. I'll  
3 start with the first one. Has the NYPD been  
4 forthcoming with documents that record a police  
5 officer's compliance with the Right to Know Act?

6 JONATHAN DARCHE: Yes.

7 CHAIRPERSON RICHARDS: Has the city been  
8 forthcoming 100% of the time?

9 JONATHAN DARCHE: So there are--there are  
10 incidents where we are not getting paperwork that  
11 we've requested, but--or--or body-worn camera paper--  
12 body-worn camera footage that we've request, but  
13 generally speaking, they are cooperative. It's not  
14 a--it's not a systemic problem so far.

15 CHAIRPERSON RICHARDS: Okay. What does  
16 that mean? So out of how many? Do you have a  
17 sample--a number you could--so that there are just  
18 maybe two cases where you haven't got out of 100 or--  
19 ?

20 JONATHAN DARCHE: So are you talking  
21 about just with regard to the Right to Know Act or--?

22 CHAIRPERSON RICHARDS: Uh-hm.

23 JONATHAN DARCHE: We have to get you that  
24 number. I just don't have it in front of me, but  
25 I'll get it for you.

2 CHAIRPERSON RICHARDS: So, you said they  
3 have been compliant when it's--when it's come to the  
4 Right to Know Act?

5 JONATHAN DARCHE: So, it's not specific  
6 that they're not giving us Right to Know Act  
7 information. They're--it is--

8 CHAIRPERSON RICHARDS: I know, hundreds  
9 of different things. Okay. Has there been any  
10 instances--instances where you're learning through  
11 investigations that there are violations of the Right  
12 to Know Act?

13 JONATHAN DARCHE: So, right now we--it's--  
14 it's a very short amount of time that the Right to  
15 Know Act has been in effect with regard to our  
16 investigations. So, if you look at refusal to  
17 provide named allegations, there have been 150 such  
18 allegations since the Right to Know Act went into  
19 effect, and we've only been able to close one of  
20 those allegations so far on the merits, and that was  
21 unfounded by body-worn camera footage, and that--that  
22 case also had a--a refusal to give a shield number  
23 allegation associated with it, and that allegation  
24 was also unfounded mostly due to the body-worn camera  
25 footage we received on that case.

2 CHAIRPERSON RICHARDS: And shouldn't they  
3 all--all these encounters be on body-worn cameras?

4 JONATHAN DARCHE: Unless--

5 CHAIRPERSON RICHARDS: [interposing] Are  
6 they--

7 JONATHAN DARCHE: So, the--we encourage  
8 you people if you feel that you've been the victim of  
9 misconduct by someone not following the Right to Know  
10 Act, to make a complaint with the CCRB, but not  
11 everyone who makes a complaint was entitled to a card  
12 under the Right to Know Act, and so it may have been  
13 that the person an encounter with the police. They  
14 wanted--they--they thought they were entitled to a  
15 card. They did not ask for a card, and they did not  
16 get a card. So, in that case, there--there would have  
17 been no obligation to record it.

18 CHAIRPERSON RICHARDS: Right and Mr.  
19 Darche, you said out of 150 cases you received 150  
20 complaints.

21 JONATHAN DARCHE: We've received 150  
22 allegations.

23 CHAIRPERSON RICHARDS: Allegations.

24 JONATHAN DARCHE: Some of those might  
25 have more than one. Some of those allegations there

2 might more than one of them in a particular  
3 complaint. For example if I was walking down the  
4 street and I encountered three members of service who  
5 stopped me, I might allege that all of them should  
6 have given me a card, or all of them should have told  
7 me my—their name.

8 CHAIRPERSON RICHARDS: What are you able  
9 to do with the information on a lack of compliance  
10 with the Right to Know?

11 JONATHAN DARCHE: Could you—can you be  
12 more specific, Mr. Councilman, Mr. Chair.

13 CHAIRPERSON RICHARDS: So, does the lack  
14 of obtaining consent rise to the level of misconduct  
15 when you investigate?

16 JONATHAN DARCHE: So, if a—if a member of  
17 service conducts a search, and we were able to  
18 determine that they were relying on consent to do  
19 that search, but we don't feel that that consent was  
20 properly obtained, we would substantiate that  
21 allegation. The burden of proof that the agency has  
22 is the—is a preponderance of the evidence.

23 CHAIRPERSON RICHARDS: Right and then  
24 would—so give me a scenario. What level of



2 discipline would CCRB then recommend to the  
3 Commission on something like this?

4 JONATHAN DARCHE: So the—the factors that  
5 we take into account when the board is recommending  
6 discipline are the allegation that has been  
7 substantiated, the member of services disciplinary  
8 history and ran within the department and then just  
9 the totality of the circumstances. So, if—if the  
10 member of service who has a—if the allegation is  
11 failure to give a business card upon request, and the  
12 officer has no disciplinary history, and has a  
13 relatively low tenure, and there's nothing else  
14 remarkable about the case, it is likely that that  
15 member of service we would recommend training. If  
16 we're talking about a search of a person, or search  
17 of a home, and/or if the response—or if the subject  
18 officer is of a longer tenure and higher rank, it is  
19 more likely that there will be more serious  
20 discipline recommended such as a command discipline  
21 or meeting charges especially if we're talking about  
22 search of a home.

23 CHAIRPERSON RICHARDS: Alright and let's  
24 move from consent business cards—do you—is it similar  
25 or what are your thoughts around handing out business

2 cards as well if an officer doesn't supply a business  
3 card?

4 JONATHAN DARCHE: So, the agency treats  
5 failure to give a business card as a fatal  
6 allegation, as abuse of authority.

7 CHAIRPERSON RICHARDS: And you spoke of  
8 an increase specifically I think in your testimony.  
9 You stated there's been a 22% increase in complaints  
10 in the last six months and that's attributed to--  
11 you're attributing that to Right to Know?

12 JONATHAN DARCHE: So, it--we-we can't  
13 attribute it to anything in particular, but we and  
14 this is--this is my--

15 CHAIRPERSON RICHARDS: [interposing] Did  
16 you sweep (sic) or you're just saying this is--there's  
17 been a 22% increase?

18 JONATHAN DARCHE: And what we know hasn't  
19 changed in the last six months. It has been the  
20 implementation of the Right to Know Act and the  
21 public education work that the agency's Outreach Unit  
22 did in conjunction with many City Council Member and  
23 frankly a lot of staff members not just from the  
24 Outreach Unit, chipped in to help with that outreach  
25 work.

2 CHAIRPERSON RICHARDS: And—and go through  
3 your—your outreach work, and I am very appreciative  
4 of the work you're—you're doing in our district, but  
5 what does the Right to Know Act Campaign look like  
6 right now? Are you working with stakeholders in local  
7 communities to get the word out? Are we positive  
8 that everyday New Yorkers know that they have the  
9 right to know?

10 JONATHAN DARCHE: So, I—I think that  
11 those are two separate questions. I know that my  
12 staff has been working very hard in conjunction with  
13 stakeholder groups and with members of the Council to  
14 make sure that as many people know about the Right to  
15 Know Act as possible, but from what I have heard from  
16 advocates, and from, you know, from people in  
17 meetings that it is not as well known as it need to  
18 be.

19 CHAIRPERSON RICHARDS: What can we do as  
20 a Council or as a city or as administration to ensure  
21 that the public know that these laws are actually in  
22 effect? Does it mean more money? Do we need—I mean  
23 I'm sure if the agency will take more money. I don't  
24 know any agency that won't, but—but what could we  
25 could to make sure we get the word out a little bit

2 more? Can you go through some examples of some  
3 campaigns that CCRB is doing at the moment?

4 JONATHAN DARCHE: So, I'll--

5 CHAIRPERSON RICHARDS: Uh-hm.

6 JONATHAN DARCHE: Yes, we would take more  
7 money if the Council gave us more money, but the--our  
8 Outreach Unit really works very hard to go to  
9 schools, go to after school centers, go to community  
10 groups, go to libraries. Where there are people  
11 gathering, the CCRB outreach teams will be there  
12 trying to make sure that people know not just about  
13 the Right to Know Act, but about the CCRB, and that  
14 we are here to take their complaints, investigate  
15 them, mediate them if they so choose and if there is  
16 misconduct that's been substantiated and charges are  
17 recommended, process those cases.

18 CHAIRPERSON RICHARDS: How big is your  
19 outreach team?

20 JONATHAN DARCHE: We have a Director, and  
21 five outreach coordinators.

22 CHAIRPERSON RICHARDS: And I'm assuming  
23 there are some challenges because my office has  
24 challenges with reaching out to a larger universe. I  
25 mean we do what we can do with what we have right?

2 But if you're talking about 10 million New Yorkers,  
3 how will those six people reach those--six people  
4 reached 10 million people?

5 JONATHAN DARCHE: It's very, very  
6 difficult. One of the things that our--that our  
7 Policy and Communications team do, I was talking  
8 about the Data Transparency Initiative. We try and  
9 make as much material available on line as possible,  
10 but without the--it's difficult to do those type of  
11 outreach efforts that would really make the--the  
12 public aware of the Right to Know Act and of the CCRB  
13 with--with the resources we have.

14 CHAIRPERSON RICHARDS: So, offline I  
15 think we should speak about maybe a campaign day  
16 around Right to Know or something of that nature how  
17 we partner with the Black, Latino and Asian Caucus or  
18 the Council as well, but there has to be ways for us  
19 to work collectively to really get the word out.  
20 Maybe it's a Tweeting Day. You know, I mean there's  
21 a variation of things that we could all do to make  
22 sure that we get the word out there especially in  
23 communities that largely are communities that are  
24 used to being targeted, with stop-and-frisk.

2 JONATHAN DARCHE: It's a great idea, Mr.  
3 Chair.

4 CHAIRPERSON RICHARDS: So, I think there--  
5 there's more. Is there anything else we could do to  
6 strengthen outreach efforts here?

7 JONATHAN DARCHE: I--I think that's a  
8 great start and I'm looking at my Director of  
9 Outreach and Intergovernmental Affairs, and I can  
10 tell she's already excited to put something like that  
11 together. That's excitement, right, Yajaira? Yes,  
12 yes.

13 CHAIRPERSON RICHARDS: She's saying that  
14 because her boss is here. [laughter] Are there--I  
15 would have said yes, too. Are there problems with  
16 the law that make it hard for--for implementation or  
17 make it harder to--to track or substantiate cases, or  
18 are there any changes you would recommend to us at  
19 the Council?

20 JONATHAN DARCHE: So, we are very careful  
21 to conduct fair and impartial investigations.

22 CHAIRPERSON RICHARDS: That's the  
23 political answer.

24 JONATHAN DARCHE: No, but--

25 CHAIRPERSON RICHARDS: Okay.

2 JONATHAN DARCHE: I'm [laughter] So, we  
3 try not to suggest and ask leading questions in  
4 initial interviews so that we don't put into  
5 someone's mind that they should complain about  
6 something that didn't happen, and so making sure that  
7 our investigators are trained and aware of the Right  
8 to Know Act so that they ask the questions that will  
9 lead us to get information that let us judge whether  
10 the Right to Know Act should-should-whether it  
11 applies and whether it was violated. The-you know,  
12 we-we feel like we're good at it, but we need to do-  
13 we need to keep reviewing it and making sure that our  
14 people are-are on top of it.

15 CHAIRPERSON RICHARDS: And I understand  
16 that you have to somewhat be impartial, but I'm  
17 assuming your investigators would know based on, and  
18 they've all been trained in what to look for here,  
19 correct?

20 JONATHAN DARCHE: Correct, but, you know,  
21 it is-it is still new, and it's not something that  
22 we've been doing for a long, long time. So, we need  
23 to make sure that our people are asking the right  
24 questions.

25 CHAIRPERSON RICHARDS: Right.

2 JONATHAN DARCHE: So, we have a robust  
3 quality assurance effort to make sure that those  
4 questions are being asked, and--and--so that's what  
5 we've been doing to make sure that we are doing our  
6 jobs as the main avenue for oversight of the NYPD  
7 especially for civilians who have individual  
8 complaints that they're making, that their cases are  
9 fairly heard.

10 CHAIRPERSON RICHARDS: Okay and I don't  
11 want to go into it, but you said only one case so far  
12 was substantiated out of a 150 and those 150--

13 JONATHAN DARCHE: [interposing] But  
14 that's--but that's--

15 CHAIRPERSON RICHARDS: --were a variation  
16 of different complaints.

17 JONATHAN DARCHE: So that's--that is  
18 because there's a long process involved. So those  
19 aren't 150 cases that are closed.

20 CHAIRPERSON RICHARDS: No, I get it.

21 JONATHAN DARCHE: It's 150 cases we've  
22 received since October and we've only had one  
23 substantiated case out of that 150, but that's  
24 because we have--still have a lot more. Those cases  
25 are still in the--



2 CHAIRPERSON RICHARDS: And when we end  
3 those cases (sic) we'll make progress, which I know  
4 each case is different on the 149 left?

5 JONATHAN DARCHE: So, I-I-I would like to  
6 think that certainly by the end of this year, those  
7 cases would be resolved, and we could accurately  
8 report to you on what the disposition of those cases  
9 were.

10 CHAIRPERSON RICHARDS: And--and forgive me  
11 today. It's been a long week, and out of those 149,  
12 those are Right to Know specific violations?

13 JONATHAN DARCHE: So, the--in my--in my  
14 testimony I referenced 192 complaints containing 322  
15 allegations of failure to receive a business card as  
16 required by the--

17 CHAIRPERSON RICHARDS: [interposing] Can  
18 you say that again? How many? 300?

19 JONATHAN DARCHE: 22 allegations.

20 CHAIRPERSON RICHARDS: Allegations,  
21 failure--

22 JONATHAN DARCHE: --to receive a business  
23 card.

24 CHAIRPERSON RICHARDS: And that was--and  
25 those complaints were just specifically on that?

2 JONATHAN DARCHE: Correct.

3 CHAIRPERSON RICHARDS: Okay.

4 JONATHAN DARCHE: Because those are the  
5 ones that I can tell you are definitely related to  
6 Right to Know Act. Whereas, someone just complaining  
7 that they were searched improperly, they might not  
8 have realized that-that right was even implemented-  
9 implicated by the Right to Know Act, but we're still  
10 investigating. At the early stages of a case, we  
11 don't-we don't hold a civilian responsible for  
12 knowing the law that much. So, if you just think  
13 that you were treated badly, call the CCRB, tell us  
14 what happened, and then we can evaluate the case.  
15 So, it may be that the person wasn't searched  
16 pursuant to a consent search. It may have been that  
17 they were searched-their home was entered and  
18 searched pursuant to a search warrant or the police  
19 made an arrest and then they just search incident to  
20 that arrest, and so there are different analyses that  
21 then follow, and so they wouldn't necessarily  
22 implicate the Right to Know, and until the cases are  
23 completed that we are able to have the board review  
24 them and have our policy staff review it, it becomes

2 difficult for us to tell you, whether the Right to  
3 Know Act was implicated or not.

4 CHAIRPERSON RICHARDS: And-and CCRB I'm  
5 assuming you need more staff being that you're  
6 starting to see these--these increases? Are you  
7 projecting a need for more resources here?

8 JONATHAN DARCHE: So, we've been working  
9 with the Office of Management and Budget. They are  
10 understanding our--that the caseloads have gone up,  
11 and that are not just the complaints but the  
12 caseloads of individual investigators from this work,  
13 and they are monitoring the situation along with us,  
14 and they have promised us that, you know, that they  
15 take these caseloads very seriously and they'll get  
16 us the resources we need should the trend continue.

17 CHAIRPERSON RICHARDS: And the NYPD out  
18 of these 300 cases--allegations--I'm sorry--they've  
19 been complying or forthcoming with information to you  
20 in these cases?

21 JONATHAN DARCHE: So, if there are issues  
22 it's with an individual case and it's not systemic,  
23 and I can get back to you on that. I just--there may  
24 be a case or two where someone has made a request and  
25 it has not been complied with as fast as we would

2 like, but that doesn't mean that there is not a  
3 general willingness on the part of the department to  
4 share information.

5 CHAIRPERSON RICHARDS: And I mentioned  
6 earlier about the 311 complaints being forwarded to  
7 CCRB. Are you finding 311 gets you those complaints  
8 ore are you finding gaps in the 311 system?

9 JONATHAN DARCHE: So, we've been working  
10 hard with the 311 team since the Right to Know Act  
11 was first passed. We've given them new scripts.  
12 We've worked with them in implementing those new  
13 scripts so that when people do call, we are getting  
14 their complaints, and so far we think it's working  
15 but we are monitoring the situation, and we're going  
16 to work with the 311 folks to make sure that we are  
17 getting all of the complaints.

18 CHAIRPERSON RICHARDS: How do you work  
19 with 311 to make sure?

20 JONATHAN DARCHE: So, our Policy Unit and  
21 the Investigations Division have been working with  
22 311 to make sure that their people are trained when  
23 they get certain questions or when they're asking  
24 questions to use the scripts that we give them, and  
25

2 that we've worked with them to develop to make sure  
3 that we get those cases.

4 CHAIRPERSON RICHARDS: You know, and—and  
5 in these scenarios are these cases being forwarded to  
6 the NYPD directly?

7 JONATHAN DARCHE: So, I'm not aware of  
8 any, but that doesn't mean that it hasn't occurred,  
9 but I—I'm confident that we—the work we have done has  
10 made sure that the vast majority of them are coming  
11 to us.

12 CHAIRPERSON RICHARDS: I'm going to go to  
13 Council Miller for questions.

14 COUNCIL MEMBER MILLER: Thank you, Mr.  
15 Chair. Good afternoon. So, just a few brief  
16 questions. When—when the NYPD was—was testifying  
17 previously they talked about the collaboration—  
18 collaborations with CCRB. Could you elaborate on  
19 that in terms of anything that you—somehow you guys  
20 have part—was part of the focus group or played a  
21 roll in the focus group or more importantly in terms  
22 of after the rollout, what kind of role are you then  
23 playing on oversight of—of Right to Know?

24 JONATHAN DARCHE: So, I—I think our most  
25 important role with regard to cooperating with the

2 department came after passage and before  
3 implementation that we worked with the department and  
4 advocates to make sure that the literature we were  
5 giving out to people and the information we were  
6 giving to—to the residents of the city was accurate  
7 and there was—I think we—in that case we were a  
8 bridge between advocacy groups and the department,  
9 and we were able to explain to the department why  
10 some of the things they—they thought—issues they had  
11 with the—the implementation of the bill didn't seem  
12 to me—to the CCRB to be born out by the language of  
13 the legislation, and so—and I couldn't—I know that we  
14 worked hard to make sure that everyone agreed that  
15 the information we were handing out was accurate. I  
16 forget exactly what the issues were. There were two  
17 or three issues with our—that we kept going back and  
18 forth to make sure the literature was accurate. I  
19 forget what they were now. I could go back and find  
20 that.

21 COUNCIL MEMBER MILLER: [interposing] And  
22 of the—over 300 complaints, has there been any  
23 subsequent conversation about the legislation? About  
24 the rollout and implementation of the rollout of the  
25 legislation by the NYPD? Has—has that—have they

2 engage the CCRB in any shape, form or fashion as to  
3 what the complaints were, and feedback as to what  
4 could be done differently of some of the things that  
5 you were talking about in terms of whether or not  
6 there was a direct correlation between policy, policy  
7 rollout and what you guys were seeing?

8 JONATHAN DARCHE: Yes. So, it's  
9 important for the CCRB to-when they're finding  
10 someone is guilty of misconduct, right, when they're  
11 substantiating allegations of misconduct to-to take  
12 into account how officers are trained. And so if  
13 there is an inconsistency between the legislation,  
14 and how it-and how it is being trained to officers  
15 about how to implement the legislation, it becomes  
16 difficult to substantiate misconduct because the  
17 officers think they're following what they are  
18 supposed to be following and so working with the  
19 department on issues like that is paramount. It's not  
20 something we do just in the Right to Know Act. We do  
21 that-it's something we do regularly.

22 COUNCIL MEMBER MILLER: So, so-so not  
23 just in the areas of where complaints have been  
24 substantiated, but in those gray areas where you-  
25 where you-you're really taking a look at it, but at

2 the end of the day it is the lack of training on this  
3 end or, but at the end of the day, something  
4 happened, and -and it may not rise to the level of-of  
5 discipline, but the fact is that something happened  
6 and-and that it is beyond your intent of the-of-of-  
7 of-of the policy of the law, And while we are not  
8 recommending, we have not found conclusively that  
9 this person was in violation, but this is something  
10 that we really need to take a look at. Are you  
11 taking a look at those or suggesting to the  
12 department that this is really great, and  
13 particularly leads to something else?

14 JONATHAN DARCHE: Yes, one of the-  
15 Inspector Cosgrove who was testifying earlier and  
16 he's the commanding officer for Risk Management, one  
17 of the earliest conversations I had with him when he  
18 first became-I think-I think I became Executive  
19 Director after he became of CO of Risk Management.  
20 So, or it was around that-the same time. One of my  
21 earliest conversations with him was about how just  
22 because the CCRB is exonerating conduct, doesn't mean  
23 that it is good police work. And so, going, you know,  
24 that-having the lines of communication open between  
25 the Risk Management Unit and the CCRB is very



2 important. So, we can go to then with issues not  
3 just with Right to Know Act, but generally go to them  
4 with issues and say this is something we're-we have  
5 seen, and we think it's something you need to look  
6 at.

7 COUNCIL MEMBER MILLER: That is kind of  
8 precisely what I--what I was getting and--and that  
9 obviously CCRB they're maintained its integrity. So,  
10 that the credibility is there and that they can  
11 receive it in a way that it should be received and it  
12 is very important. I want to get back to one of the  
13 things that they Chair was talking about earlier, and  
14 that is how do we reach our target audience and--and  
15 whether or not there seems to be a discrepancy the  
16 8.5 million New Yorkers as opposed to specifically  
17 those communities of color. Those precincts that are  
18 serving and specifically those precincts that were  
19 involved in lawsuits and the initial Federal  
20 Monitoring, and that is not--that's a handful, less  
21 than 10, and so have we identified those. Again 103,  
22 113s and to--to make sure that they are specifically  
23 in compliance because otherwise we're-we're kind of  
24 saying that the problem is was--was much, much greater  
25 than those five or six precincts that had been

2 identified in the lawsuit, and beyond and—and are we  
3 specifically reaching that target area in a way,  
4 again that we can bring back to the community and the  
5 constituents saying that this was being doing not  
6 just from an NYPD perspective from a CCRB  
7 perspective. Here's the things that are being done  
8 to make sure that the services are being delivered  
9 with the integrity and respect that they deserve, but  
10 at the same time, if there is---that there is this  
11 vehicle that, because there is a specific vehicle  
12 that the—the constituency has available to them,  
13 Right to Know that you should be utilizing this.

14 JONATHAN DARCHE: So, I'm going to  
15 address two of the issues that you brought up in that  
16 question separately, if that's okay with you,  
17 Councilman. Thee first is the pilot program and the  
18 pilot program that I'm aware of was—was ordered by  
19 Judge Torres in the implementation phase of the Floyd  
20 litigation, and it set up a rather, depending on your  
21 perspective either robust or complicated process for  
22 evaluating whether or it was feasible to require  
23 business cards to be given out in Level 2 and Level 1  
24 encounters. The—the agency is a stakeholder in the  
25 Floyd litigation because the CCRB is responsible for

2 making sure that officers are properly carrying out  
3 the law, whether it's the Fourth Amendment or New  
4 York State law or the Right to Know Act. And while  
5 we are a stakeholder generally, we have not been  
6 engaged in the negotiations that Mr. Chernyavsky was  
7 describing where it's negotiations between the NYPD,  
8 the Monitor and the plaintiffs' lawyers. But we have  
9 been keeping in touch with Risk Management  
10 specifically to make sure that when the Pilot Program  
11 begins, we are aware of it so we can hold officers  
12 responsible for—who are participating in the pilot  
13 program, responsible for the requirements of the  
14 Pilot Program. But, I think there was a second—  
15 second layer to your question.

16 COUNCIL MEMBER MILLER: Yes, I was  
17 talking specific to those—those targeted audiences,  
18 those—those. Because I think again, if—if we're  
19 saying—if we have a pilot program that—which does not  
20 specifically include the precincts that were directly  
21 involved in the lawsuit in the conversations and the  
22 overall conversations that—that we were because our  
23 communities was involved with the judge, then we are—  
24 then we are looking at a much wider problem if—if  
25 that is the case. I'm hoping that that is not the

2 case, and I'm more concerned about the fact that we  
3 did not have outreach in Southeast Queens. How do we  
4 move forward, and one of my—one of my concerns going  
5 in was kind of the confusion of right to consent and  
6 the Right to Know and whether or not we were creating  
7 an environment that kind of falsely armed folks with—  
8 with information or law that, you know, if-if—  
9 ultimately if they want to search anyone, the  
10 searching is going to coerced to searching, and--and  
11 what happens in between, right. So, I think  
12 understanding the rules of engagement is what's most  
13 important here, and how do we make that happen? How  
14 do we then reach our target audience and I know that  
15 you have an outreach team, and I like the Chair are  
16 certainly making ourselves available and we events  
17 every week multiple times. And I know that they've  
18 been out to talk to community boards and so forth,  
19 but I have not seen any specific dialogue  
20 specifically around Right to Know since the role of  
21 CCRB and—and kind of reintroducing themselves, but  
22 this specifically is something that is—is vitally  
23 important in its impact. And finally, we're not  
24 dealing with—with Level 1s and 2s. That's—that's  
25 really what these encounters and the culture and—and

2 the environment of community and police  
3 relationships. That's really where it happens, and I  
4 think, Chair, that-that we're-we're really missing  
5 the boat if that happens. Obviously, if you get into  
6 a more serious crime that leave the opportunity for  
7 things to happen, and-and there's all sorts of  
8 investigations that happen anyway because of that,  
9 but just in these low-level incidental encounters  
10 that undermine the integrity of communities and  
11 people just keep going, right? Let me just say this:  
12 When you get pulled over, when families get pulled  
13 over, right, and-and-and husbands and wives and  
14 children are taken out of the car, the car is tossed  
15 and nothing happens. They get back in, and you don't  
16 know what happened, and they call the precincts and,  
17 No, that wasn't one of our guys, right? Those are  
18 the things that really, really undermine the-the  
19 community, the integrity and the fabric of the  
20 community, and are we missing something there? Is  
21 there a way that this doesn't-but there is something  
22 else that-that we can do here to make sure that-that  
23 this tool that has been created address that?

24 JONATHAN DARCHE: So, I think the tool  
25 that addresses that is the CCRB itself, and so I

2 don't—I think it's important not to let people know—I  
3 think it's important to let people know what their  
4 rights are under the Right to Know Act, but the most  
5 important thing is that people know if you feel that  
6 you have been the victim of police misconduct, you  
7 should call the CCRB. Calling the precinct, they—it  
8 might be legitimate answer that it wasn't one of  
9 ours. It was a different command or it was a  
10 different unit. It was a gang unit or a narcotics  
11 unit, but not the CCRB. Our investigators even if  
12 you don't know who the officer was we'll find out.  
13 We are very good at identifying who the officers are  
14 and we—it is important that if we don't have a  
15 complaint, we can't investigate it. And so, one of  
16 the—you are correct when our people are going out in  
17 the field. We are not necessarily doing specific  
18 right to Know Act only education because to do that  
19 without telling people about the CCRB and our process  
20 and how to file a complaint, it's meaningless.  
21 Unless people know to call us if they have a problem,  
22 if you're calling the—the precinct, you shouldn't be.  
23 You should be calling the CCRB.

24 COUNCIL MEMBER MILLER: Thank you very  
25 much. Thank you, Mr. Chair.

2 CHAIRPERSON RICHARDS: Thank you, and I  
3 do want to thank the members today. I think you did  
4 your CCRB—I think there was something I did with you  
5 in Rosedale. I came by and--

6 JONATHAN DARCHE: [interposing] Indeed.

7 CHAIRPERSON RICHARDS: --that was a  
8 really good meeting because it wasn't necessarily the  
9 regulars, but more of that would be helpful, and  
10 that's a staffing question, right? Like you can only  
11 be in one in one place at one time.

12 JONATHAN DARCHE: And one of the things  
13 that we've been doing this year is we've been trying  
14 to focus on public housing to do our—to do our  
15 monthly meetings in, and every other meeting we've  
16 been going into different housing facilities across  
17 the—the city, and I think we're going to be uptown in  
18 May, and I encourage people to come to our public  
19 meetings and—and participate and give your testimony  
20 to us so it's—it's another avenue to let New Yorkers  
21 participate in the system and tell us how they feel  
22 about what—what is going on with policing in their  
23 community.

24 CHAIRPERSON RICHARDS: Okay, two last  
25 questions. One, in your testimony you know that you

2 just skipped around the legislation. Do you support  
3 the legislation?

4 JONATHAN DARCHE: The--?

5 CHAIRPERSON RICHARDS: The bill, the  
6 proposed bill?

7 JONATHAN DARCHE: So, we support the  
8 goals of the legislation--

9 CHAIRPERSON RICHARDS: Okay.

10 JONATHAN DARCHE: --and-and making sure  
11 that the Council and the public have as much  
12 information about the Right to Know Act  
13 implementation as possible just as in the  
14 Communication (sic) Bill we worked with you and--and  
15 to make sure it was as--that the--the legislation would  
16 accomplish your goals and not burden the agency. I  
17 think right, we--we have work to do offline as it--as  
18 it were with your staff and my staff to make sure  
19 that we can accomplish the same goals with the--the  
20 proposed legislation.

21 CHAIRPERSON RICHARDS: So, you support  
22 it? Don't support it?

23 JONATHAN DARCHE: We support the goals,  
24 but the way to it--

25 CHAIRPERSON RICHARDS: Okay.



2 JONATHAN DARCHE: --will be very  
3 difficult to implement.

4 CHAIRPERSON RICHARDS: Okay, and let's go  
5 through what's difficult? What would be difficult?

6 JONATHAN DARCHE: So, right now because  
7 there have been so few cases that have gone through,  
8 we're able to look at all of them and--and we can  
9 break down the different items that aren't in the  
10 legislation and if you're going to do it on a yearly  
11 or semi-annual basis--

12 CHAIRPERSON RICHARDS: Okay.

13 JONATHAN DARCHE: --it would be--it would  
14 be much, much more difficult, and so in order to--in  
15 order to accomplish the goals of getting the Council  
16 and the public the information that you need, I think  
17 the bill needs to be tweaked.

18 CHAIRPERSON RICHARDS: Okay, and then on--  
19 just one last thing on have you received any  
20 complaints on people not knowing that they had a  
21 right to--to not voluntary--to voluntary consent?

22 JONATHAN DARCHE: Yes.

23 CHAIRPERSON RICHARDS: Okay. [pause]

24 JONATHAN DARCHE: So, as I was describing  
25 earlier, it's tough to know the exact number of cases

2 that we've received right now that implicate that  
3 because until we've gone through all of the  
4 investigative process we don't know if was, in fact,  
5 a consent search that was implicated, but right now  
6 we're seeing approximately seven complaints that have  
7 at least one improper search that was based on a  
8 consent search.

9 CHAIRPERSON RICHARDS: Okay. Alright, so  
10 we're going to get through all those cases?

11 JONATHAN DARCHE: Yes, sir.

12 CHAIRPERSON RICHARDS: [laughs] Okay.  
13 Alright, I want to thank you for coming in today.

14 JONATHAN DARCHE: Thank you, Mr. Chair.  
15 Thank you, Council Member.

16 CHAIRPERSON RICHARDS: Thank and look  
17 forward to working together. Thank you. Alrighty,  
18 we're going to call up Kylynn Grier, Girls for Gender  
19 Equity; Anthony Posado, Legal Aid Society; and  
20 Michael Sisitzky, New York City Liberties Union; and  
21 also Victoria Davis from the Justice Committee,  
22 Delrawn Small. Thank you. [background comments/  
23 pause] Baby Justice or Victoria? Which One?  
24 [laughter] Nobody is ready to go. You may want the  
25 Baby to go first.

2 VICTORIA DAVIS: Oh, okay.

3 CHAIRPERSON RICHARDS: [laughs] Hi,  
4 Baby.

5 VICTORIA DAVIS: Hi. [laughs] Okay,  
6 I'll—I'll start. Thanks for having me. My name is  
7 Victoria Davis and the sister of Delrawn Small who  
8 was killed by NYPD Officer Wayne Isaacs on July 5,  
9 2016. I'm also a member of the Justice Committee, a  
10 grassroots organization that alongside many other  
11 groups passed the Right to Know Act, and a Bronx  
12 community member who has experienced a Right to Know  
13 Act violation. This year on February 27<sup>th</sup>, I was  
14 walking around--

15 CHAIRPERSON RICHARDS: He's ready to go.

16 VICTORIA DAVIS: Yes. [laughter]

17 CHAIRPERSON RICHARDS: No, I'm saying, he  
18 was an activist already.

19 VICTORIA DAVIS: He's ready to go. Yes.

20 CHAIRPERSON RICHARDS: No, he's grabbing  
21 that mic. He's ready to speak.

22 VICTORIA DAVIS: Do you want—do you want  
23 to talk about the encounter?

24 CHAIRPERSON RICHARDS: He'll be fine.

25

2 VICTORIA DAVIS: He would say about the  
3 encounter. He was there. [laughter] Well, we were  
4 walking down the street and that's when we--when I saw  
5 an elderly woman lying on the sidewalk on West  
6 Princeton Avenue, on West Princeton Avenue with a lot  
7 of blood gushing out of her head. I stopped to try  
8 to help and a lot of the other community members  
9 rushed to help to come to aid her as well. Some  
10 called 911, others looked around for people who knew  
11 her. One member took off her T-Shirt and used it to  
12 apply pressure to--to the elderly woman's head. At  
13 on--at that point an NYPD car from the 46<sup>th</sup> Precinct  
14 arrived, and two uniformed officers got out. Rather  
15 than rushing to the elder's aid, they stood on the  
16 sidewalk and watched while our community members were  
17 trying to figure out how to help her. I approached  
18 the officers and told them they should help the  
19 woman. They paid very little attention to and did  
20 very little to assist her. At this point, a second  
21 NYPD car arrived, and two other officers got out.  
22 One was one in a regular uniform, and the other was  
23 in a white--a white shirt. I asked the uniformed  
24 officer who appeared--who appeared. Wait. I asked the  
25 uniformed officer if they were going to help the

2 elder woman because her head was still bleeding, and  
3 only the people of the community were helping. He  
4 did not respond. He smirked and laughed. Because of  
5 this, I requested his business card, which I know I  
6 have the right to do because of the Right to Know  
7 Act. Naturally, that's what I had told him. Rather  
8 than produce his card, he said, "What card?" in a  
9 sarcastic tone. I then asked again. He handed me a  
10 green card. It had lines. I still have the card  
11 with me—it had lines in it for the officer's ranking,  
12 shield number and other identifying information on  
13 one side, but they were not filled in. I asked him  
14 to fill out the card and he refused telling me I  
15 could fill it out myself in rude tone. I asked him  
16 several times to fill out the card, but he continued  
17 to refuse. When I asked him outright for his name  
18 and badge number, he ignored me. This was a clear  
19 violation of the Right to Know Act. I felt  
20 completely disrespected as the officer who I was  
21 interacted with—interacting with clearly had  
22 absolutely respect for the Right to Know Act  
23 protocols. For this to happen [bell] [background  
24 comments] in the midst of an elderly woman bleeding  
25 profusely on the ground, I just wanted to make sure

2 that that like I highlighted there are other members  
3 of the Justice Committee who have witnessed the Right  
4 to Know Act violations as well. For example, in  
5 Jackson Heights our members have witnessed multiple  
6 stops of street vendors during which officers do not  
7 give their name, rank and command at the start of  
8 interaction. In the Bronx we have also seen officers  
9 stop people for alleged fare evasions and not  
10 identify themselves. Because of the Justice  
11 Committee's experience working in neighborhoods with  
12 large immigrant communities, I also want to raise a  
13 concern about language access. Time and time again  
14 Justice Committee members who are trained to cop  
15 watch have witnessed incidents in which NYPD officers  
16 stop community members who are not comfortable with  
17 English. Never once have we seen officers use the  
18 Language Line that is available to them. Almost every  
19 single time the officers have stopped non-primary  
20 English speakers that our members have either  
21 witnessed or personally experienced officers simply-  
22 simply speak to-talk to-talk at them, talk at the  
23 community member, their target. I'm sorry. At the  
24 community member in English without caring whether or  
25 not the person understood what they were saying or

2 being asked us. This raises serious questions for us  
3 when it comes to the implementation of the Right to  
4 Know Act and especially the Consent to Search Law.  
5 If members of the community have no idea what  
6 officers are saying to them, how can they give  
7 informed consent to a search? We have no way of  
8 knowing how many of the so-called consent-consent to  
9 searches the NYPD has conducted since October 2019  
10 were searches of New Yorkers who don't fully  
11 understand English or if the officers involved follow  
12 language access guidelines. Let's see. I just—I'll  
13 close out this sentence and I will—I just want to  
14 say, all this to say there is clearly a lot of work  
15 to do and we are calling on the City Council to make—  
16 to make sure it gets done. The NYPD is not  
17 implementing the Right to Know Act adequately—  
18 adequately, and in some cases—well, in the last  
19 cases. As with my experience, officers are flat out  
20 disrespecting the laws. The people they are  
21 intending—they're interacting with and the broader  
22 community. On top of taking action to ensure the  
23 Right to Know Act was fully implemented, the City  
24 Council also has the responsibility to enact  
25 additional laws to fill in the gaps to take greater

2 steps towards ensuring police accountability and  
3 transparency, and thank you.

4 CHAIRPERSON RICHARDS: Thank you, Ms.  
5 Victoria.

6 MALE SPEAKER: So, Good afternoon. I  
7 want to thank the Committee and you, Chairperson  
8 Richards for holding this very important hearing, and  
9 you have my testimony, and I would just highlight  
10 some important portions of the testimony and address  
11 some of the things that were mentioned by the NYPD  
12 when they testified, and I just want to start off  
13 with this: In our Work in the Community Justice Unit  
14 across New York City we provide a number of Know Your  
15 Rights workshops of police encounters and always talk  
16 about the Right to Know Act since its passage, and  
17 what we find across the board is that the majority of  
18 community members do not know what their rights are.  
19 That's—that's the baseline that we need to start with  
20 and operate with, and—and when—after I say that, I  
21 just want to mention—walk you through a scenario that  
22 is a common textbook scenario where we see that the  
23 Right to Know Act is not being implemented. So, a  
24 group of youth are in a park or in a corner. A  
25 police officer smells Marijuana or the odor of



2 Marijuana and approaches that group of-of youth. At  
3 that point in time, that is now a Level 2 encounter,  
4 right. That officer feels that he or she has founded  
5 suspicion criminality, and no youth that we have  
6 encountered in all of the workshops that we have done  
7 have told us that police officers have given their  
8 business cards when being encountered by police  
9 officers in this exact scenario. So, when the  
10 officers approaching them to ask that pointed  
11 question of-of what's happening and who is smoking  
12 Marijuana, and to start to see what-what he or she  
13 can find out, none of them have been given a Right to  
14 Know Act business card with the name of the officer  
15 that's conducting this kind of questioning, and we  
16 all know that police officers use deception when  
17 they're engaging in these encounters to see if there  
18 is some incriminating information that comes out of  
19 this end. Let's say that this escalates to a Level 3  
20 stop, and the officer at that point is supposed to  
21 ask for their consent to search and activate their  
22 body-worn camera. That's not what we're seeing, and  
23 here I want to just mention that there's a huge  
24 interplay and interconnection between the Right to  
25 Know Act and body-worn cameras in that the video

2 footage that we have received after months of-of  
3 requesting for it and-and demanding it, not as easy  
4 as it was mentioned by the NYPD shows that by the  
5 time that the cameras are activated, the search has  
6 already occurred or the officers have already begun  
7 to extract from the bag of from a vehicle the thing  
8 that they are going to now accuse our clients with.  
9 So, there's never any activation of the camera at the  
10 point of questioning or at the point of asking the  
11 person for their voluntary and knowing consent. So,  
12 when both of those things are not happening, it is our  
13 position that the NYPD cannot say with any confidence  
14 that they are implementing the Right to Know Act or  
15 that the spirit or the intent of the Right to Know  
16 Act is being followed. In addition to that, let's-we  
17 can switch that scenario [bell] of the-of the odor of  
18 Marijuana and use it to say when youth are being  
19 asked if they are part of the game, right. Nothing  
20 has given rise to the officer other than-of how  
21 they're dressed or if they have scars and tattoos,  
22 and if the officer begins to ask those pointed  
23 questions, he or she should be providing those youth  
24 with their business card to let them know why they're  
25 being stopped, but that's not even happening, and

2 we're seeing and especially in the community of  
3 Corona with the recent shooting on the subway  
4 platform that there has been a heightened police  
5 present in that area. This is what police officers  
6 have been doing and the youth have not been given  
7 business cards, and especially youth who let's say  
8 they do not even speak English are further  
9 marginalized and not even being told what is it  
10 that's occurring. And something that was mentioned  
11 earlier was that crime is down, and that's a good  
12 thing for all of us, but the fact that crime is down  
13 does not mean that interactions have also been going  
14 down with police officers or the fact that they are  
15 being—that they're not reporting. Also the court is  
16 not an adequate measure or mechanism in which to  
17 determine the—whether the stop was one that lawful or  
18 if the police provided the knowing voluntary consent  
19 request or if they give out their business card  
20 because in a lot of cases it's not—90% of them are  
21 resolved in pleas, and many of the at the arrangement  
22 state. So, at a state where there hasn't been any  
23 suppression hearing, there hasn't been any  
24 opportunity to question how the stops are placed or  
25 the behaviors of the officer. So, I just wanted to

2 make sure that that was highlighted, and something  
3 also to—to bring the attention to the committee is  
4 that at—as written into the Patrol Guide at a Level 2  
5 encounter officers may—may request consent to search,  
6 right and many of them are asking for it. I mean not  
7 asking for it, but many of them are engaging in  
8 consent searches at Level 2 stops. So, it's not just  
9 solely a matter of Level 3 encounters that we need to  
10 focus on, and it is unfortunately as was mentioned by  
11 other committee members that Level 1s and Level 2s  
12 are not being reported because that is the bulk of  
13 where police interactions are occurring. Also just  
14 bringing your attention to the Patrol Guide again for  
15 with respect to Level 3, the language as it is  
16 written when you look at Point 25 says: You may  
17 request consent to search. Right so there's not—even  
18 the language is not one that is directing officers to  
19 make sure that this—that they have to do this, but  
20 rather it kind of leaves it open for their own  
21 discretion to engage in that. So, it's—that's very  
22 problematic as well, and I just wanted to point out  
23 that in our—also in our recent work in litigation  
24 represent the E-bike Delivery—Food Delivery Workers  
25 we are—we have not met a single one of them who has

2 received a business card from police interactions,  
3 and when they're getting stopped and as well as  
4 searched by police officers in these cases. Lastly,  
5 something that we did want to point out and I  
6 elaborate further in the testimony is that the Right  
7 to Know Act should encompass DNA searches. DNA  
8 searches when youth, juvenile or other community  
9 members are being brought over to the precinct, and  
10 buccal swabs are taken from them, this carries heavy  
11 consequences. This is a form of racially biased  
12 policing. This goes into a permanent data bank, and  
13 people are not being told that they have a right to  
14 not consent to that DNA swab being taken from them.  
15 If this was a case that was in court, the prosecutors  
16 would have to have submitted a motion and get a court  
17 order to have our clients submit to an actual DNA, if  
18 the client has not pled out to a-right has not taken  
19 an actual plea in which case that's a different  
20 requirement, but out of somebody's own voluntary  
21 consent is taking people's DNA is a matter that  
22 should be one where they are informed of what's  
23 happening, and that their consent should be taken as  
24 a result of that. So, that's just something that we  
25 do want to highlight, and I know if a the committee

2 has a hearing coming up that, then that's great to  
3 explore that, but just wanted to make sure that in  
4 this space that was highlighted and mentioned, and  
5 lastly there's a—there's a few client stories that  
6 are—are written into the testimony, but I will just  
7 elevate one that—that is really common that we see a  
8 lot is—is has to do with the Right to Know Act as it  
9 relates to car stops. So, our client M.S. is a  
10 credible messenger and violence interrupter from Far  
11 Rockaway. M.S. was driving his car with two other  
12 violence interrupters, and he was pulled over for  
13 other reason than driving while black. M.S. was  
14 asked to step out of the vehicle along with all the  
15 other people in the car, and they were all asked  
16 pointed questions about what they were doing, and  
17 what was happening. M.S. demanded to know the reason  
18 for being stopped, but the police officers refused to  
19 answer any questions. The police then searched the  
20 car and then told M.S. that he was free to go. The  
21 police never activated their body-worn cameras. They  
22 never provided a business card, and they also never  
23 asked for their knowing and voluntary consent. So,  
24 that just that client's story alone triggers all the  
25 different ways in which the Right to Know Act was

2 violated and the way in which there was non-  
3 compliance. So, again we—we support this introduction  
4 that the Council is putting forward that this  
5 committee has today, but would suggest that the  
6 Council actually demand that the police follow and  
7 take seriously the Right to Know Act that they  
8 actually implemented, and that they also consider  
9 including DNA searches as something that should be  
10 complying with the Right to Know Act as well. Thank  
11 you.

12 CHAIRPERSON RICHARDS: Thank you.

13 KYLYNN GRIER: Good afternoon Committee  
14 Chair Richards. My name is Kylynn Grier, and I'm the  
15 Policy Manger at Girls for Gender Equity. GGE is a  
16 Brooklyn based intergenerational organization working  
17 to combat widespread gender based and racialized  
18 violence that young people of color experience.  
19 Through direct service and advocacy—advocacy and  
20 culture change, GGE brings young people into the  
21 broader intersectional, multi-racial movement to end  
22 gender based violence by ensuring that the most  
23 impacted voices are heard and those solutions are not  
24 dead. Thank you for holding this important hearing  
25 today. The full implementation of the Right to Know

2 Act is urgent for cisgender and transgender women and  
3 gender non-conforming young people who regularly  
4 experience discriminatory interactions with police as  
5 they play outside, walk to and front school and live  
6 their everyday lives. When cis and trans women and  
7 GNC young people are stopped these interactions can  
8 really be traumatizing, and frequently dehumanizing  
9 and can include sexual harassment and sexual  
10 violence. These interactions often criminalize young  
11 people and can lead to unnecessary arrests, but have  
12 collateral consequences for mental health, families,  
13 work and school. In this Me Too Movement moment,  
14 armed police officers identifying themselves to  
15 community members and gaining informed and voluntary  
16 consent to search individuals are at bare minimum.  
17 We call on the New York Police Department to fully  
18 implement the full spirit and letter of the law. I  
19 want to also list two stories, shared by young people  
20 we serve at GGE. First, three young of color all 18  
21 years old and younger headed to the train station  
22 after our programming. As there frequently is, there  
23 was an officer standing outside the turnstiles to MTA  
24 stations. Despite using the Metro Cards that GGE  
25 gives out after a program, the officer followed these



1 three young women. The Officer intentionally waited  
2 for the group to separate before he followed a young  
3 woman now along to hassle her claiming she jumped the  
4 turnstile. I really want to emphasize the tactic  
5 that a gun carrying older adult male officer waited  
6 until a young woman was alone, a moment where she was  
7 less able to defend herself as the moment to  
8 intimidate and attempt to criminalize her. Another  
9 young woman in our programming shared that recently  
10 one of the NYPD school safety agents in her school  
11 repeatedly sexually harassed her, abusing his  
12 authority multiple times asking for her number.  
13 Let's be clear, this is school personnel that she has  
14 to see everyday. If she avoids school in an effort  
15 not to be sexualize by an adult, then she is  
16 vulnerable to truancy charges, which fall within the  
17 Right to Know Act jurisdiction. She is caught in a  
18 double bind with limited recourse. These  
19 interactions are just the tip of the iceberg, and  
20 they do—they are so frequent that they are almost  
21 normalized by young people. As an organizational  
22 members as a Right to Know Act Coalition [bell] we  
23 met with the NYPD to learn about how they are  
24 beginning to implement the law. At no point prior to  
25

2 the department of the rollout of their piloted  
3 training did they take any recommendations that  
4 impacted—impacted communities made. After reading  
5 the NYPD Patrol Guide changes, it's clear that the  
6 implementation of the Right to Know Act is not  
7 occurring to the extent mandated by the law. The  
8 laws states that an officer must obtain voluntary,  
9 knowing and intelligent consent by directly informing  
10 people of their right to decline a search and by  
11 clearly asking whether someone understand that they  
12 have the right to decline a search. None of these  
13 mandates are made clear in the NYPD Patrol Guide.  
14 GGE also supports Council Member Reynoso's bill T201,  
15 you know the bill number. [laughs] 4052 introduced by  
16 Council Member Reynoso requiring that the NYPD report  
17 on declined searches. This legislation supports  
18 provisions for NYPD transparency that the existing  
19 Right to Know Act was founded on. Reporting on  
20 declined searches is imperative so that we know that  
21 the option to a declined search is being upheld by  
22 the NYPD. Thank you for the opportunity—opportunity  
23 to testify today.

24 CHAIRPERSON RICHARDS: Thank you.

2                   MICHAEL SISITZKY: Good afternoon. My  
3 name is Michael Sisitzky, Lead Policy Counsel with  
4 the NYCLU. The Right to Know Act has been a key  
5 priority for the NY Civil Liberties Union for years.  
6 So, we would like to thank the committee and Chair  
7 Richards for convening this hearing today. You know,  
8 based on the updates to the Patrol Guide that some of  
9 which were discussed earlier and the limited data  
10 that's currently come out on Consent Searches, the  
11 NYCLU has serious concerns about how the NYPD went  
12 about implementing the laws, and a key reason that so  
13 much of what went into the Patrol Guide the NYPD got  
14 wrong, was how they went about developing that  
15 guidance. So, we heard a little earlier during the  
16 NYPD panel about what their process and timeline  
17 looked like for getting input from advocates and  
18 community members and it was very telling the  
19 approach that they took. So the Consent to Search  
20 Law now Local Law 56 it starts off by expressing the  
21 Council's very clear intent that the guidance for  
22 consent searches be developed with input from the  
23 community. They NYPD, as I acknowledged earlier,  
24 chose to interpret community to mean the plaintiffs  
25 in ongoing litigation. Plaintiffs would be subject

2 to confidentiality and not be able to fully or  
3 publicly discuss a lot of the details that were being  
4 sent back and forth between them and the NYPD.  
5 Litigators who are subject to confidentiality  
6 restrictions are not a substitute for engagement with  
7 communities that are directly impacted by NYPD  
8 policies, and so the unsurprising result of that was  
9 that the Patrol Guide provisions that they developed  
10 were really lacking in context. They omitted some of  
11 the clear requirements of the law or misstated some  
12 of the exceptions, and when the NYPD did meet with  
13 the advocates who had actually worked on the Right to  
14 Know Act, it was in maybe three or four weeks before  
15 the law took full effect, and it was made very clear  
16 in that meeting any substantive changes were off the  
17 table before the laws would be implemented. So, what  
18 we saw were omissions like language access. It was  
19 good to hear the NYPD earlier say that they view  
20 putting in language access provisions into the Patrol  
21 Guide is reasonable, but not just reasonable. Those  
22 requirements it's a very clear explicit requirement  
23 in Local Law 56 that the consent to search guidance  
24 must include provisions for utilizing interpretation  
25 services. It's not a matter of reasonableness. It's

2 a matter of complying with the law. Similarly, the  
3 department made most of their changes to the Patrol  
4 Guide in Section 212-11 governing investigatory  
5 encounters. In that section they didn't address the  
6 fact that Right to Know Act applied to vehicle  
7 searches, home searches. There was one update made  
8 to a provision in the Patrol Guide that dealt with  
9 inventory searches of automobiles, but that was  
10 basically it. They didn't really make any plans to  
11 implement the law outside pedestrian encounters,  
12 which is something that had they meaningfully engaged  
13 with the communities that advocated for this bill, we  
14 could have caught much earlier. And one, another  
15 area where the Patrol Guide was lacking that the NYPD  
16 didn't address in their earlier testimony was on the  
17 affections related to so-called implied consent  
18 searches. [bell] So, there's a limited range of  
19 searches that happen when entering public facilities,  
20 courthouses, et cetera, where you're entrance into  
21 that location implies your consent to be searched.  
22 Neither the identification laws nor the Consent to  
23 Search Law applies in those cases, but the way that  
24 the NYPD incorporated that exception into the Patrol  
25 Guide, it left out the qualifying language about your

2 entrance into that location needing to constitute  
3 implied consent to search. So, the result of the  
4 Patrol Guide provision appears to imply a much  
5 broader exception when officers don't have to comply  
6 with the requirements, and lastly I'll point out that  
7 the—well the NYPD supports Antonio Reynoso, Council  
8 Member Reynoso's bill to codify the reporting on  
9 declined searches. We would recommend that the bill  
10 also include reporting on language access services so  
11 that we can get a sense for whether or not the  
12 department is committed to utilize interpretation  
13 services when interacting with people with limited  
14 English proficiency, and we would also recommend that  
15 the Council complete the picture on all types of  
16 investigatory encounters by NYPD officers. So, there  
17 was some discussion earlier about the fact that the  
18 NYPD couldn't produce numbers, couldn't give any data  
19 to Council Member questions about how many Level 2  
20 encounters were taking place. How many request to  
21 search particularly at Level 2 encounters versus  
22 Level 3 and it points to a clear need to get a full  
23 accounting of reporting on all types of investigatory  
24 enforcement encounters by the NYPD. So we would  
25 recommend legislation to require similar to the way

2 that the NYPD collects and reports data on stop-and-  
3 frisk to require the NYPD to track and publicly  
4 report information on Level 1, Level 2 encounters,  
5 traffic stops and really get a sense of how policing  
6 impacts New Yorkers. Thank you.

7 CHAIRPERSON RICHARDS: Okay, thank you so  
8 much. Just one question and I know some people left  
9 from up there and I know you—you came up with the-the  
10 scenario, well not a scenario, but something that  
11 happened to the young ladies who went to the train.  
12 Do they file CCRB complaints as well or no? What  
13 does it do?

14 KYLYNN GRIER: We haven't yet filed any  
15 CCRB complaints. It's not that we're not open to it.  
16 I think we are in the process of trying to get young  
17 folks trained up on the Right to Know Act and the  
18 fact that they are able to ask for a business card.

19 CHAIRPERSON RICHARDS: Okay, and I would  
20 just urge everybody when these interactions happen to  
21 make sure that we file so that they're documented.  
22 It just makes our lives easier that at least to track  
23 it. Alright, thank you so much. [pause] Okay, Yusa  
24 Liem (sp?) Rising Up. Matthew Beesten (sp?) Is MTR

2 here? I don't see anybody. Oh, Make the Road. Oh,  
3 sorry. [pause] [background comments]

4 MATTHEW BEESTEN: There you go. Good  
5 afternoon everybody. I'm Matthew J. Beeston, a  
6 student and youth leader of Make the Road New York  
7 who currently resides in East New York. Last  
8 November I was coming from a movie screening  
9 coordinated by a coalition that I'm, a partner in.  
10 The event was running late and my bus was—and my bus  
11 route was delayed. Bus—I'm a block away from my  
12 house at around 11:00 p.m. I had a flight to catch  
13 the next—it was in the next few hours, and I realized  
14 that didn't have a pair of headphones for it. I  
15 decided to go to the corner store that I knew would  
16 have a pair I would be able to get at short notice.  
17 It was late at night, and I just got called by my mom  
18 telling me to hurry up and get home not too long  
19 before I got off the bus. So, I'm naturally walking  
20 haste. However, once I made—however, once I made it  
21 to the middle of the block, a black car with tinted  
22 windows stopped parallel to me. I didn't notice this  
23 until I heard a man—I hear—I hear a man's voice call  
24 to mean ask where was I going. Unsure of who these  
25 people are, I practiced my right not to answer, and I



2 continued moving. Within a few seconds—within a few  
3 seconds later, two men burst out of the car and one  
4 of them began to loom a flashlight inches away from  
5 my face bombarding me with questions while looking  
6 through my bag. While the other man was a few  
7 distance away from—from me and the man with the  
8 flashlight who was gripping his holster. Eventually,  
9 the man with the flashlight was satisfied with my  
10 answers and they got back into their car and drove  
11 away. Throughout the situation I strived to remain  
12 silent because I knew that the situation had been  
13 much worse. Much worse was confirmed once one of the  
14 police officers told that me he actually believed I  
15 was walking quickly because I had a weapon or a gun.  
16 The two—the two never informed me that they were  
17 police officers. I had to find out their titles by  
18 my eye stumbling on their badges in my state of  
19 panic. I knew I was supposed to receive a business  
20 card with those—with those cops' information, but I  
21 did not. I felt dehumanized morally by the actions  
22 with the fact that these police officers were talk-  
23 talking at me and not with me. The ting that shook  
24 me the most was that the fact—was the fact of that  
25 two police officers was going continue patrolling my

2 community for people who looked just like me for the  
3 same—for similar matters. It worried me they could  
4 have found someone that would have one—one variable  
5 difference about them. Instead of coming from after  
6 school [bell] activity, the person could have been  
7 coming from a party or a bar. Chance was the only  
8 thing preventing someone from being a lost soul. My  
9 story is one of many with young people all over the  
10 city with stories just like mine. It should take a  
11 form—any form of humiliation or fear to for these  
12 issues to be changed. What needs to happen for them  
13 -for the NYPD to comply with the laws—the law to  
14 prevent anyone from being mistreated. The  
15 relationship between NYPD and the community members  
16 has a long history made up of unaccountability and  
17 violence. We have stories consistently being told  
18 about people in our communities being brutalized by  
19 the police. It's important where I'm desensitizing  
20 from the sight of people that can—they will be my  
21 brother, my dad or my family or my friends being  
22 harmed by a cop whether it be viewing this parchment  
23 stripment my community members broadcasted on TV here  
24 hearing what happened to an individual down in the  
25 street to having to go through it myself. Make the

2 Road and coalitions of advocates have fought for the  
3 Right to Know Act. This bill is meant to end police-  
4 possible police abuse, help prevent unnecessary  
5 police encounters as well as requiring the NYPD to  
6 be more transparent when interacting with the public.  
7 It was created so that situations like mine wouldn't  
8 have the space to happen, that continues to rear its  
9 nasty head—nasty head in my mind. That event could  
10 have gone so differently by simply asking for my  
11 consent to search me, giving me some way to address  
12 my concern to them, and just talking to me as I was  
13 an equal. Thank you for listening.

14 YOSAM LI: Thank you for sharing that.  
15 My name is Yosam Li (sp?). I'm a Co-director of the  
16 Justice Committee but I'm here to read a statement, a  
17 testimony on behalf of a member of DESIS Rising Up  
18 and Moving, DRUM, one of our allied organizations in  
19 Queens. So, his statement—Adam's Statement is this:  
20 My name is Adam and I am a resident of Richmond Hill,  
21 Queens and a member of DRUM, Desis Rising Up and  
22 Moving. DRUM is a membership led community  
23 organization that builds the power of working class  
24 South Asian and Indo-Caribbean immigrant workers,  
25 adults and youth to lead social and policy change in

2 their communities. Through DRUM, I learned about the  
3 Right to Know Act and exactly what the law does. In  
4 November 2018. On a Saturday evening in Richmond  
5 Hill, my brother and my friends were stopped and  
6 questions by the police. We were walking to our  
7 apartment when we saw an NYPD car speeding up the  
8 wrong way down a one-way block. When they saw us,  
9 they stopped, walked up to us, starting asking us  
10 questions about a robbery that just happened. After  
11 asking questions, they walked away. I believe they  
12 violated the ID law for the Right to Know Act. They  
13 did not identify which precinct they were from. They  
14 did not give us their business card. Since they were  
15 questioning us about a crime, they required by law to  
16 give us a business card. As an undocumented queer  
17 person, I'm very nervous around the police. I know  
18 many of the LGBTQ+ community have faced harassment  
19 and abuse from the NYPD and because of my immigration  
20 status I worry the police stop—if the police stop me  
21 and it leads to an arrest, I would be put on ICE's  
22 radar and because of my immigration status, I did not  
23 report this incident. How can immigrants feel safe  
24 on the streets if the NYPD continues to violate laws  
25 such as the Right to Know Act? I ask the committee

2 to hold the NYPD accountable when their officers  
3 violate the law. Thank you, and then I'm just going  
4 to also make a few observations about the NYPD  
5 testimony. So, I say this as a representative of the  
6 Justice committee. So, first thing, when advocates  
7 finally go a chance to meet with the NYPD, which is  
8 pretty close to when the Right to Know Act was  
9 supposed to be implemented and saw the instruction  
10 that was going in the Patrol Guide, when they sat  
11 down and met with us, they said we're not going to  
12 make any changes, and we asked they are you going to  
13 make—will you make changes after implementation, they  
14 basically sidestepped the question, didn't make any  
15 promises. So, this is actually even though we've  
16 been trying to follow up with them, and when I say  
17 we, I mean CPR, we've been trying to follow up with  
18 them. This is the first time actually heard the NYPD  
19 say that they're willing to deal with the language  
20 access issue and deal with some of the other issues  
21 around street-car stops and home searches that's in  
22 Patrol Guide. I also want to just flag that the way  
23 that the NYPD was talking about Level 1 stops, as I  
24 think you know, is really misleading, but there are  
25 many, many times when Level 1 stops absolutely feel

2 hostile where they're asking questions like who are  
3 you? Where are you going? That all happens in Level  
4 1 stops. We also heard an NYPD head here refer to  
5 uniformed officers [bell] as troops on the ground.  
6 So, it just gives you a little bit of insight into  
7 the way that that cops are operating in our  
8 communities and, of course, any interactions with  
9 police for certain community members are going to  
10 feel hostile. And then the last thing that I want to  
11 point out is that the Federal Monitor highlight on  
12 Level 1 and 2 stops did not require that there's ever  
13 going to actually be real reporting on Level 1 and 2  
14 stops. So, it's absolutely essential that that  
15 Council legislate that there be reporting on Level 1  
16 and 2 stops.

17 CHAIRPERSON RICHARDS: Thank you all for  
18 coming out today and Matthew, I want to say that I  
19 share your story and the same interaction happened to  
20 me at 13. It was my first interaction with the  
21 Police Department. So, keep your head up. I know it  
22 gest tough and, you know, you never forget that  
23 experience. It's something that I still live with  
24 today, but one of the-the ways you make changes doing  
25 what you did coming here today. So, I want to thank

2 you for sharing your story. Also, I want to say if  
3 you did not file a CCRB complaint, you should do that  
4 as well. I'll also just end with on the Level 1  
5 stops. We do have a bill on Level 1 stops that we  
6 are going to introduce. We'll be calling on people I  
7 guess to help us advocate to make sure it passes, and  
8 the we're going to look at the 2s and 3s again as  
9 well. With that being said, I want to thank everyone  
10 for coming out to this necessary hearing, and we want  
11 the public to know that you have the right to know  
12 who's policing your community and who's stopping you,  
13 and we're going to do a whole lot more work to make  
14 sure we're doing outreach and giving CCRB more tools,  
15 but also figuring out some creative ways we can all  
16 selectively work together between advocates—advocacy  
17 groups and government, and everyone else to make sure  
18 the public really does not. With that being said,  
19 this hearing is now finished. [gavel]

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C E R T I F I C A T E

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



Date May 31, 2019