

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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October 21, 2016
Start: 10:16 a.m.
Recess: 1:55 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Vanessa L. Gibson
Chairperson

COUNCIL MEMBERS:

Vincent J. Gentile
James Vacca
Julissa Ferreras-Copeland
Jumaane D. Williams
Robert E. Cornegy, Jr.
Chaim M. Deutsch
Rafael Espinal, Jr.
Rory I. Lancman
Ritchie J. Torres
Steven Matteo

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

Maya Wiley
Chairperson of CCRB

Mina Malik
Executive Director of CCRB

Thomas Kim
Chief of Investigations at CCRB

Robia Charles
Deputy Executive Director of Policy and
Strategic Innovation at CCRB

Jonathan Darche
Chief Prosecutor at CCRB

Matthew Kadushin
CCRB

Raniece Medley
Director of Outreach at CCRB

Mercer Givhan
Director of Training at CCRB

Roy Richter
President of NYPD Captains Endowment Association

Angel Harris
NAACP Legal Defense Fund

Nahal Zamani
Center for Constitutional Rights

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

Nick Malinowski
Brooklyn Defender Services

Cynthia Conti-Cook
Legal Aid Society

Michael McCune [sp?]
Legislative Advocacy Clinic Law School

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2 CHAIRPERSON GIBSON: Good morning, ladies
3 and gentleman. Welcome to the City Council Chambers.
4 I am Council Member Vanessa Gibson of the 16th
5 District in the Bronx, and I am proud to serve as
6 Chair of the Committee on Public Safety. I welcome
7 each and every one of you. I want to thank my
8 colleagues and members of the Public Safety Committee
9 who are here with us this morning. This morning,
10 today's hearing will be an examination of the
11 Civilian Complaint Review Board, the CCRB, their case
12 processing, outreach and new procedures. The safety
13 of every New Yorker in every neighborhood of every
14 community is of paramount importance to each and
15 every one of us, and we depend upon the hardworking
16 men and women of the NYPD to protect us each and
17 every day. The majority of our NYPD officers serve
18 our communities with respect, honor and the bravery
19 that we and the Department expect of each and every
20 one of them. Unfortunately, we recognize that there
21 are some officers that simply do not comply with the
22 standards and the expectations of the Department, nor
23 the public. Just this week and as a fellow Bronx
24 elected official, as a Bronx resident, I certainly
25 want to offer my sincere and heartfelt thoughts and

1 prayers to the family of Mrs. Deborah Danner who
2 unfortunately was killed in the Bronx just this past
3 week. I want to join with every New Yorker in
4 mourning her untimely death, her tragic passing, and
5 I send my thoughts to her family and to all of her
6 friends. I like many New Yorkers are extremely
7 shocked, outraged, really disappointed, really
8 disturbed by this senseless tragedy, and I know that
9 our Bronx District Attorney Darcel Clark will begin
10 her thorough investigation. While nothing can bring
11 back the life of someone who we have lost, I truly
12 hope that through this investigation, many of the
13 unanswered questions will be answered, and we will
14 learn what happened in this particular case, and
15 certainly procedures and guidelines and other
16 measures that we can implement moving forward so that
17 this tragedy never occurs again in our City. We in
18 this great city are extremely fortunate in that not
19 only do we have our five District Attorneys, the
20 NYPD, the Inspector General, and the internal NYPD's
21 IAB, we also have the CCRB which independently
22 investigates police actions and holds them
23 accountable. It is always essential that we strike a
24 delicate balance between public safety and the
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1 preservation of the rights of every resident in our
2 city. Police officers should feel and should be
3 respected, but we also must ensure we have a level of
4 accountability to the public that they serve. The
5 CCRB plays a crucial role in this process through its
6 investigation of police misconduct and allegations as
7 well as recommendations of discipline on any
8 complaints that are made against police officers. In
9 the last several years, the CCRB has undergone many
10 improvements through its restructuring of its
11 investigation units to decreasing case processing
12 times, as well as increased outreach efforts in the
13 boroughs. Today, during this hearing, I would love
14 to learn more about many of these developments, how
15 they have contributed to a increased substantiation
16 rate, and also the decrease in case processing times.
17 I would also like to learn about the increased
18 outreach efforts by the Board and what ways the
19 Council can continue to assist the CCRB and work as
20 their partner, and in addition, I'd like to know
21 about their position and some of the challenges we
22 may face with the state's civil rights law known as
23 50A which prohibits the disclosure of police
24 personnel records. And finally, we have a new Chair
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1 who's been appointed by the Mayor of CCRB, Ms. Maya
2 Wiley, as well as her Executive Director Ms. Mina
3 Malik and other members of the team with our new
4 Police Commissioner James O'Neill. I would love to
5 learn about any anticipated changes in the
6 relationship that we have with the NYPD as we move
7 forward. The CCRB plays an important role in the
8 fabric of this city to ensure that the public safety
9 of every resident is protected, and I look forward to
10 this morning's testimony by the CCRB. In addition to
11 our topic on CCRB this morning, we are also voting on
12 one bill and one resolution. Proposed Intro. 83A
13 relates to requiring the Police Department to
14 publicly post reports concerning cardiopulmonary
15 resuscitation and automated external defibrillator
16 training, and Proposed Reso. 1181A which calls upon
17 the New York State Legislature to pass and the
18 Governor to sign Briana's Law which requires all
19 police officers to be re-trained in CPR every two
20 years. Both of these pieces of legislation are
21 sponsored by Council Member Steve Levin. The
22 Proposed bill and the resolution will bring to light
23 the important issue of officer CPR and AED training.
24 I am one of the co-sponsors of both the legislation
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1 and the resolution, and certainly ask my colleagues
2 to join me in supporting this bill and this
3 resolution. Just a few weeks ago we had a hearing on
4 this, and we had the opportunity to hear from
5 Briana's parents, and sadly they will never get their
6 daughter back, but they will continue to be strong
7 advocates fighting for not only their child but for
8 every child that may be in a situation where Briana
9 had an asthma attack, and unfortunately the officer
10 was not able to help Briana, and ultimately she
11 passed away. And so certainly I want to thank
12 Briana's parents and her sister and her uncle and
13 aunt that came to our hearing and really provided
14 such an emotional testimony about their loved one,
15 and certainly in her honor and her spirit we will
16 continue to work with our state colleagues, Assembly
17 Member Felix Ortiz, who's the prime sponsor of this
18 legislation, to make sure that all of our officers
19 are always trained in CPR and AED training. We have
20 a lot to get to this morning, so I thank all of my
21 colleagues for being here. I thank the
22 Administration. I also want to thank the staff who is
23 here, the Committee on Public Safety, our Legislative
24 Committee Counsel Deepa Ambikar [sp?], our
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2 Legislative Counsel Beth Golub [sp?], our Financial
3 Analyst Ellen Eng, and my office staff, Dana Wax and
4 Caitlyn O'Hagan. And before I acknowledge the
5 members of the committee, today I have to just
6 announce and really congratulate-- during my tenure
7 as serving as Chair of this committee I had an
8 amazing opportunity to work with the very best
9 Financial Analyst on this Committee. This is someone
10 who came to us on the Finance team and knows each and
11 everything about the NYPD and the budget, the five
12 prosecutors, CCRB, and she's done such a tremendous
13 job helping us. When we have a conversation about
14 hiring more police officers, about the investments in
15 training, the capital renovations, she was right
16 there, and sadly she's leaving us at the City
17 Council, but she is going on to much greener
18 pastures. And so on this day on behalf of the
19 Speaker and all of the members of this Committee, I
20 want to recognize our Financial Analyst as she leaves
21 us here in the City Council. Thank you Ellen Eng for
22 everything that you have done. Please wave so we
23 know who you are. Ellen has been such a tremendous
24 asset to this team, and I don't know what I will do
25 without her, but I do know that we are blessed to

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have had you in our company as our Analyst for the Public Safety Committee. So, thank you. Thank you. Thank you, and we wish you God's continued blessings in all that you do. Thank you so much, Ellen.

[applause]

CHAIRPERSON GIBSON: We've been joined by our Minority Leader Steve Matteo, Council Member James Vacca, Chaim Deutsch, Robert Cornegy, Vincent Gentile, and Rory Lancman. And now, do any of my colleagues have any questions about the resolution or the legislation that's before us? Okay, with that, I will ask our Committee Clerk, William Martin, to please call the roll. Thank you.

COMMITTEE CLERK: William Martin, Committee Clerk. Roll call vote Committee on Public Safety, Introductions 83A and Resolution 1181A. Chair Gibson?

CHAIRPERSON GIBSON: I vote aye.

COMMITTEE CLERK: Gentile?

COUNCIL MEMBER GENTILE: I vote aye.

COMMITTEE CLERK: Vacca?

COUNCIL MEMBER VACCA: Aye.

COMMITTEE CLERK: Cornegy?

COUNCIL MEMBER CORNEGY: Aye.

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COMMITTEE CLERK: Deutsch?

COUNCIL MEMBER DEUTSCH: Aye.

COMMITTEE CLERK: Lancman?

COUNCIL MEMBER LANCMAN: Aye.

COMMITTEE CLERK: Matteo?

COUNCIL MEMBER MATTEO: Aye.

COMMITTEE CLERK: By a vote of 7 in the affirmative, 0 in the negative and no abstentions, both items have been adopted.

CHAIRPERSON GIBSON: Thank you very much, colleagues, and we will keep the roll open for other members of the Committee who will be joining us during the duration of our hearing. And now with that, we're going to begin our hearing this morning of the Civilian Complaint Review Board. We have with us our new Chair of CCRB, Ms. Maya Wiley. We have our Executive Director of CCRB, Mina Malik. We have our Chief of Investigations, Thomas Kim. We have the Deputy Executive Director of Policy and Strategic Innovation, Robia Charles. We have the Chief Prosecutor of CCRB, Jonathan Darche. We have Matthew Kadushin, also of CCRB, and we have our Director of Outreach Raniece Medley. Thank you all for joining us. This is a big panel. Thank you for being here

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to the entire team at CCRB, and now we will have our Counsel administer the Oath of Office. Thank you so much.

COMMITTEE COUNSEL: Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

CHAIRPERSON WILEY: We do.

COMMITTEE COUNSEL: Thank you.

CHAIRPERSON GIBSON: Thank you very much, and if anyone else is here after this panel of CCRB, if you are interested in testifying or submitting testimony to us, please see our Sergeant at Arms to your right. Make sure that you sign up so we can call you after this panel. Thank you once again for being here, and you may begin your testimony. Thank you.

CHAIRPERSON WILEY: Thank you, Chairperson Gibson, members-- is it on? It looks-- it's on? Yes. Thank you. Thank you, Chairperson Gibson and members of the Public Safety Committee. We greatly appreciate this opportunity to appear before you today to talk about the CCRB. On July 18th, 2016, Mayor Bill de Blasio appointed me Chair

1 of the Civilian Complaint Review Board. It is a
2 critical time for police oversight in New York and
3 the nation. The last two years have been marked by
4 devastating videos of police-involved shootings
5 across the nation and the disturbing, disturbing
6 murders of police officers simply for wearing the
7 badge. We have not been immune in New York City.
8 Names roll off the tongue all too easily of the names
9 of residents and police officers alike killed in the
10 last few years. It's with great sadness and sense of
11 purpose that the board and staff of the CCRB tackle
12 the task of police oversight and accountability, the
13 protection of rights, obviously, and support for
14 improved police and community relationships because
15 public safety requires it. The CCRB is the largest
16 civilian oversight police agency in the country.
17 It's one of the oldest and has become a model for
18 other jurisdictions, and these times of greater
19 scrutiny of Police Department and the increased
20 attention to reform can provide us a real opportunity
21 to continue to look at ways that we can strengthen
22 and grow the impact of the agency, building on a lot
23 of the successes that we are looking forward to
24 sharing with you today. We have an obligation as an
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1 agency to support a safe and fair city and continue
2 to serve as that model. As you know, the City
3 Charter charges the board with fair and independent
4 investigation of civilian complaints against sworn
5 members of the New York City Police Department, make
6 findings and where the evidence supports disciplinary
7 action, the Board makes a recommendation of
8 discipline to the Commissioner of the NYPD. Our
9 jurisdiction includes allegations involved, and we
10 confusingly for the public call it FADO, but it's a
11 lot easier than saying Forced Abuse of Authority,
12 Discourtesy and the use of Offense Language. By far
13 the largest unit in the CCRB is its investigations
14 unit. We take very seriously our responsibility to
15 fully and fairly investigate complaints. It is the
16 Board that determines whether misconduct has occurred
17 and may recommend various levels of discipline,
18 including instructions, formalized training, command
19 discipline or in most serious cases, charges and
20 specifications. If the Board recommends charges, the
21 CCRB's administrative prosecution unit prosecutes
22 these cases before the Deputy Commissioner of Trials.
23 I want to note that I think the CCRB in New York City
24 is unique in the nation in having this function. I
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1 don't know how many others do. I have looked, and I
2 have not found any, and perhaps there are a few
3 others, but I think it's an important power that the
4 agency got in 2012. For all of the disciplinary
5 recommendations, the Department Advocate's Office
6 handles the case. In all cases, the Police
7 Commissioner makes the ultimate determination of
8 discipline. You will hear today about the impressive
9 improvements the agency has made in these and other
10 areas of CCRB's work. I want to point out, though,
11 while investigations is the best known function
12 perhaps of the agency, we also make public data an
13 analysis on trends in the complaints we see
14 available. This helps us help the Police Department
15 and the public identify opportunities to improve
16 policing. We issue a lot of dating reports, and
17 you'll hear more about our increased production, but
18 we're not stopping there. We will continue to look
19 for opportunities to increase the public's
20 understanding of trends we see and recommended
21 reforms. We also recognize that the NYPD has
22 instituted new training and other policy reforms to
23 improve policing. We will work to identify how these
24 reforms are being implemented based on the review of
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1 our data, and we'll work to identify how these
2 reforms are being implemented-- I'm sorry-- based on
3 our view of our data, but it's critical that when we
4 see improvement we share the good news just-- not
5 just the areas where attention is needed, and I
6 really reinforce this because our role as an
7 independent and neutral agency is to make sure we're
8 sharing with the public both where we see the need
9 for improvement but also where we've seen
10 improvement, because often time that's not always
11 visible to the public. I will-- I have more in my
12 testimony, but where I really want to emphasize
13 whereas Chair I see the CCRB going is greater
14 outreach and dialogue with community about what is
15 happening with policing, greater and increased
16 transparency around the data we're seeing. We've
17 made tremendous strides in that, and we look forward
18 to making more. We're very, very committed to making
19 sure the public understands what we are seeing and
20 that we understand what the public's experience is.
21 The agency's undergone tremendous transformation, and
22 I will turn it over to our Executive Director Mina
23 Malik to share them. Thank you.

1
2 MINA MALIK: Good morning, Chair Gibson,
3 members of the Public Safety Committee. My name is
4 Nina Malik, and I am the Executive Director of the
5 Civilian Complaint Review Board. We will describe
6 CCRB's case processing times, outreach efforts and
7 new procedures. Before I do that, though, I would
8 like to introduce one member of our team who is up
9 here to my far left, the Director of Training who
10 joined us recently over the summer. He is Mercer
11 Givhan. The agency has undergone a tremendous
12 transformation and implemented new policies and
13 procedures to ensure that investigations and
14 prosecutions are more effective, that the CCRB is
15 interacting with the community it serves and that all
16 divisions of the agency are performing at or at close
17 to their top level. I'd first like to go into the
18 greater transparency and public education matters.
19 Our policy unit has made more data available and more
20 accessible the public. For example, the agency now
21 has a new website launching the data transparency
22 initiative, otherwise known as the DTI, and this
23 initiative was born out of conversations that were
24 had with various progressive thought leaders
25 throughout the country, Boston, Washington D.C. and

1 California. The DTI that we created and have been
2 working on for many, many months now provides
3 descriptive data on complaints against New York City
4 police officers, alleging the use of excessive or
5 unnecessary force, abuse of authority, discourtesy or
6 the use of offensive language. Visitors can view,
7 interact with and download CCRB data on four key
8 areas of the agency's work. One being complaints,
9 two being allegations, three, victims and alleged
10 victims, and four, members of service. The DTI
11 represents 10 years of CCRB data, covering more than
12 66,000 complaints, 192,000 allegations of police
13 misconduct, 86,000 victims and alleged victims, and
14 encompasses the approximate 36,000 current NYPD
15 officers over their entire career. Regarding
16 reports, this year our Policy Unit published three
17 issue-based reports in addition to our semi-annual
18 and annual reports. These include a report on
19 searches and entries that was published in March of
20 this year entitled, "Crossing the Threshold," an
21 evaluation of civilian complaints of improper entries
22 and searches by the NYPD from January 2010 to October
23 2015. Search and entry is one of the most common
24 forms of abuse of authority that the agency deals
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1 with each and every year. Following our search and
2 entry report, in May of 2016, our agency released a
3 short report on cases involving juvenile victims as a
4 separate section of the 2015 annual report. And
5 during Pride Month in June of this year, the agency
6 published a report specific to the LGBTQ community
7 entitled, "Pride, Prejudice and Policing, an
8 Evaluation of LGBTQ-related Complaints." We've also
9 had a record-breaking increase in outreach
10 presentations. The agency has dramatically increased
11 its community outreach. As of October 19th, 2016,
12 the Outreach Unit in our agency has already held 801
13 outreach presentations compared to 272 in 2015, 311
14 in 2014 and 159 in 2013. We hope to conduct 900
15 outreach presentations by this years' end, which will
16 represent a 230 percent increase from the previous
17 year, and a 466 percent increase from 2013. We
18 believe that outreach is a vital and essential means
19 of communicating with the public about what CCRB does
20 and how we as an agency can serve the community.
21 Outreach presentations include information about the
22 CCRB, its complaint process and jurisdiction, but not
23 only that, it also provides de-escalation tactics for
24 the public as well as frequently asked questions
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1 regarding officer/civilian interactions. The
2 agency's increased visibility is also due to the
3 consistent and concerted efforts to focus on a variety
4 of specific groups that have been disenfranchised and
5 disproportionately subject to police misconduct and
6 abuse. These groups include LGBTQ members,
7 probationers, homeless, formerly incarcerated
8 individuals and residents of public housing to name a
9 few. For example, on June 15, 2016 the CCRB hosted a
10 symposium, never done before, entitled "The Rainbow
11 Crossing; Police Accountability and the LGBT
12 Community" at the Lesbian, Gay, Bisexual, Transgender
13 Community Center in New York City. This one day
14 symposium was an extension of a CCRB forum event in
15 2014 entitled "Let's Talk it Out; Working Together to
16 Improve LGBTQ Police Encounters" which was a candid
17 conversation between the CCRB leadership and members
18 of LGBTQ advocacy groups. The agency expanded the
19 Community Partners initiative in collaboration with
20 the New York City Council. The CCRB now holds
21 special evening office hours in participating Council
22 Members' district offices across the five boroughs to
23 accommodate individuals who did not have access to
24 our main office during regular business hours.
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1 Participating Council Members include Speaker Melissa
2 Mark-Viverito and Council Members Vanessa Gibson,
3 Donovan Richards, Debbie Rose, Carlos Menchacca, and
4 Robert Cornegy. We are happy to work with any
5 Council Members who might be interested in
6 participating. We've also seen an increased number
7 of successful mediation. Our Mediation Unit provides
8 a valuable alternative method of resolving civilian
9 complaints of police misconduct and is a win/win
10 scenario for both the civilian complainant and the
11 police officer. Mediation sessions focus on
12 fostering discussion and mutual understanding between
13 the civilian and the subject officer. After a
14 successful mediation, the complaint is closed as
15 mediated, meaning that there will be no further
16 investigation and the officer will not be
17 disciplined. If the mediation is not successful, the
18 case returns to the Investigations Division for a
19 full investigation. Successful mediations can
20 benefit the communities because of measure of trust
21 and respect often develops between the parties. That,
22 in turn, can lead to better police/community
23 relations. The CCRB has simultaneously increased the
24 number of successful mediation it handles while also
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1 decreasing the number of days that the process takes.
2 So, for example, the average number of days to
3 mediate a case has steadily declined from 274 days in
4 2013 to 191 days in 2014 and 115 days in 2015. The
5 number of successful mediations has also increased
6 over time from 132 in 2013 to 182 in 2014 and 192 in
7 2015. Mediations has thus had a 90 percent success
8 rate in 2015. In the last 20 months, the CCRB has
9 improved investigations and dramatically decreased
10 the amount of time it takes the agency to investigate
11 complaints and allegations. From January through
12 September 2016, 95 percent of complaints are four
13 months old or less compared to 59 percent at the end
14 of 2014, despite only a very minor decrease, six
15 percent, in the total number of complaints that CCRB
16 receives. With respect to how quickly the agency is
17 closing cases, looking only at days spent within the
18 Investigations Division, it took an average of 101
19 days to complete a full investigation in the first
20 quarter of 2016 compared to an average of 222 days in
21 the first quarter of 2015, and looking back to 2014,
22 the average was 278 days in the first quarter. These
23 numbers include cases which have longer investigative
24 times that are outside of our control, such as cases
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1 on DA hold as requested by a district attorney, those
2 with subpoena actions, or those that have been
3 reopened. These types of cases tend to take more
4 time. Excluding those cases on DA hold with subpoena
5 actions or those that have been reopened, it took an
6 average of 84 days to complete a full investigation
7 in the first quarter of 2016 compared to the average
8 196 days in the first quarter of 2015, and which
9 reflects an 80 percent decrease. The average was
10 even higher in the first quarter of 2014 at 262 days.
11 The agency has been able to conduct better and faster
12 investigations due to improved cooperation with the
13 New York City Police Department. The availability of
14 more video evidence and new processes that were
15 implemented in March 2015. The agency has also
16 improved investigations by providing better training
17 to investigative staff and being more proactive in
18 investigating civilian complaints. Our new training
19 consists of an in-house competency based multi-week
20 training program for all new investigators which
21 include topics such as the NYPD Patrol Guide,
22 investigative and interviewing techniques, evidence
23 gathering, and substantive issues surrounding the
24 types of cases that fall within our jurisdiction
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1 under FADO. Furthermore, investigations are
2 generally more fruitful when an investigator strikes
3 while the iron is hot and begins a proactive
4 investigation as soon as possible after a complaint
5 is filed. Our relatively new field evidence
6 collection team is able to collect evidence in the
7 field so that evidence is not destroyed and can be
8 gathered much sooner rather than later. This
9 evidence consists usually of video from commercial or
10 privately owned surveillance cameras, cell phone
11 video taken by private citizens or NYPD surveillance
12 cameras. In addition, our investigators are better
13 equipped to canvas for witnesses and obtain witness
14 statements in the field. By being more proactive and
15 better trained, we are able to investigate citizen
16 complaints more effectively and efficiently, thereby
17 improving both investigations and investigative times
18 as well as improving confidence in the CCRB by
19 officers and civilians alike. Along with faster and
20 more effective investigations, our agency has seen a
21 greater number of substantiations and increasing
22 video evidence. The case substantiation rate
23 increased to 24 percent in 2015 from 14 percent in
24 2012, 15 percent in 2013 and 17 percent in 2014.
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1 Remembering that a CCRB complaint can have more than
2 one allegation, the number of officers with
3 substantiated allegations has increased over time
4 since 2011. The number of officers with
5 substantiated allegations has increased by 69 percent
6 compared to 2014. In 2011, the number of officers
7 with substantiated allegations was 213, and in each
8 year progressively after that it went to 243 in 2012,
9 463 officers in 2013, 467 officers in 2014, and 790
10 officers in 2015. We also have seen an increased
11 prosecution before the NYPD Deputy Commissioner of
12 Trials. The Administrative Prosecution Unit which
13 processes the agency's most serious cases has
14 conducted more trials and closed more cases in the
15 past year. As you may know, all charges and
16 specifications are prosecuted by the CCRB's APU.
17 Comprised of attorneys, the CCRB's APU prosecutes
18 misconduct before the NYPD Deputy Commissioner for
19 Trials. The APU closed 186 cases in 2015 compared to
20 112 in 2014, which reflects a 66 percent increase.
21 The APU has closed 196 cases year to date. And
22 further, the APU completed trials against 130
23 officers in 2015 compared to trials against 82
24 officers in 2014. When the CCRB recommends
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1 instructions, formalized training or command
2 discipline against a member of service, that
3 recommendation is sent to the Department Advocate's
4 Office. All substantiated cases where the Board
5 recommends charges and specifications are prosecuted
6 by the CCRB's APU. In 2015, the Board-- the Police
7 Department reported its final disciplinary decisions
8 for 440 subject officers, comprising both cases that
9 were prosecuted by the APU in cases that were handled
10 by the DAO. The Police Department imposed some form
11 of discipline, forfeiture of vacation, command
12 discipline, instructions, or formalized training in
13 350 cases resulting in an 80 percent disciplinary
14 action rate for APU and non-APU cases together. Last
15 year, the DAO's disciplinary action rate for non-APU
16 cases was 92 percent, much higher than in previous
17 years. For example, it was 70 percent in 2014, and
18 last year, the DAO declined to seek discipline in
19 fewer cases over time. That dropped to eight percent
20 in 2015 from 21 percent in 2014. The discipline rate
21 for APU cases in 2015 was 61 percent, similar to the
22 prior year which was 65 percent. With respect to our
23 new initiatives as an agency, we have strived to do
24 more and become better in what we do. The agency has
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1
2 also implemented several exciting new initiatives in
3 the past year and a half. For example, to reduce the
4 number of people missing their interview
5 appointments, and hopefully reflecting a decrease in
6 the truncation rate. The CCRB enabled the text
7 messaging service on October 7, 2015. In order to
8 continue the effort to accommodate New York City's
9 diverse communities, optional questions related to
10 sexual orientation and gender identity were added to
11 the complaint forms in late 2015. This year, the
12 agency also made complaint walk-in forms available in
13 five different languages, additional languages which
14 include Arabic, Chinese, Haitian-Creole, and Russian,
15 which will help to round out the agency's language
16 access in complement forms that have traditionally
17 been available only in English and Spanish. Finally,
18 the agency has brought itself into modern times by
19 creating its own twitter account, which was launched
20 in September 2016. With the support of the
21 Administration, we are confident that we are in a
22 better position to meet our objectives in fulfilling
23 the CCRB's mission to provide thorough, quality and
24 fair investigations into police misconduct for all
25 citizens of New York City. We are grateful that the

1 Administration and this council are committed to
2 ensuring that the agency has all the assistance
3 needed for the future success of the CCRB. I thank
4 you for your time and continued support. Chair
5 Wiley, members of the Executive Staff and our Senior
6 Staff and I will be happy to answer any questions you
7 may have.

9 CHAIRPERSON GIBSON: Thank you very much.
10 Thank you, Chair Wiley. Thank you, Ms. Malik, to you
11 and your staff once again. Very detailed testimony,
12 and I think it's important to say that this is the
13 first time under this Administration that we've had
14 the CCRB just here to do an oversight hearing outside
15 of the normal budget process during both the prelim
16 and executive. This is the first time that we're
17 really having a very, you know, intimate conversation
18 about the work that has been done over the past
19 almost three years. So, there is a lot to talk about.
20 So I want to make sure that all of my colleagues and
21 I have an opportunity to really delve into a lot of
22 the work, and the numbers you've given us, the trends
23 over the past several years, but I always leave room
24 open and say that this is not the last time we will
25 have this discussion. I want to go to our Committee

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COMMITTEE ON PUBLIC SAFETY

Clerk so we can continue the roll so I can get members clocked in for the vote. William Martin?

COMMITTEE CLERK: Continuation roll call on Committee on Public Safety. Council Member Espinal?

COUNCIL MEMBER ESPINAL: I vote aye.

COMMITTEE CLERK: Torres?

CHAIRPERSON GIBSON: Okay, he'll be back. Thank you. We've been joined by Council Member Rafael Espinal, Brad Lander, and we were joined by Council Member Ritchie Torres. So, thank you once again. I will get right into my questions. So, first and foremost, I wanted to ask in your new capacity as Chair of the CCRB, have you put forth what your vision will be for the agency moving forward, coupled with most of the work that the agency has really done under Ms. Malik's executive leadership, is my first question. What do you envision and where do you see CCRB going in the current climate of working with the Department, dealing with, you know, tense times, building relationships within communities, particularly communities of color where there's been a fractured relationship in the past? A lot of the new efforts that were acknowledged that the

1 Department has the Neighborhood Coordination Officer
2 Program, Community Partnership Program and other
3 measures. And then two, have you had a chance to
4 meet and talk to the new Commissioner James O'Neill,
5 and where do you see that relationship going?
6

7 CHAIRPERSON WILEY: Thank you, it's a --
8 I very much appreciate the question because it is so
9 important, the times we're in right now, to
10 strengthen the relationships we have with all
11 stakeholders. My vision as Chair, and I have met
12 with all of the board members to discuss as well, you
13 know, the interest and issues that they see that we
14 should be working on, so I think I can share this
15 from a fairly shared perspective of the Board. One,
16 we really want to consolidate and continue to build
17 on the current successes of the agency, because the
18 progress that has been made in the past two and a
19 half years or so is really significant in terms of
20 improving the efficiency and effectiveness of the
21 investigation process and the relationship with the
22 NYPD. I mean, I think part of the success really is
23 because we are working collaboratively on moving the
24 cases effectively and efficiently, and that's
25 something we hope to continue to build on. But

1
2 equally importantly, we really-- and we've heard this
3 from the public as well in our public meetings, we're
4 trying to be responsive to the things that we are
5 hearing form the public. We have heard very clearly
6 that we have an opportunity to increase the public
7 dialogue on what reform means for New York City, how
8 we continue to find the opportunities to improve
9 policing, and particularly starting with going to
10 communities where we see the highest rates of CCRB
11 complaints, which is available on the website. You
12 can see all of the precincts and the numbers of
13 complaints we get form each, but we have a
14 substantial number from the 75, the 73 and the 44.
15 So actually using the opportunity of the next year to
16 spend a lot of time talking about what is happening
17 and to be able to use that to make recommendations
18 where we see the possibility to make improvements as
19 well as to increase public awareness and
20 understanding as well about some things and some
21 changes that may be going on that the public needs to
22 be aware of. So, I think that is a critically
23 important function of the CCRB. I see us continuing
24 to grow our role in policy recommendations. So
25 that's obviously something that the agency has always

1 done by utilizing our case data and our experiences.

2 As we know, we have a lot of opportunity to try to

3 both improve state law so that we can be more

4 effective as an agency, particularly on transparency.

5 That's critically important and I want us to play a

6 very aggressive role in that, but it's also important

7 that we continue to look at policy reform

8 opportunities to continue to support reform. I

9 believe deeply that we should also be elevating where

10 we see improvement. I said that in my testimony, but

11 I think it is critically important to use some of

12 the-- some of our ability to see what is working so

13 that we continue to support where improvements are

14 having the impacts we want, because that's not always

15 visible, I think to the Council and to the public,

16 and that's a role we can play. The one last thing I

17 would say is mediation. We have an incredibly good

18 success rate, a really impressive success rate with

19 mediation when cases go through the mediation

20 process. I think we have an opportunity to get a lot

21 more cases into mediation that are appropriately

22 handled there.

23
24 CHAIRPERSON GIBSON: You mentioned that

25 there are a few precincts based on the numbers that

1
2 you're receiving of precincts that have higher cases
3 of complaints against police officers, and I
4 recognize that there probably is a heavy
5 concentration in Brooklyn North and the South Bronx.
6 Have you since the data has been collected, and if
7 you've seen these trends over the course of several
8 years, have there been any recommendations that the
9 agency has made whether public to the Department,
10 etcetera, to identify what factors or root causes in
11 those particular precincts are the cause of some of
12 the higher instances of complaints against the
13 Department?

14 CHAIRPERSON WILEY: I will ask Doctor
15 Charles to share the information on trends. Since I
16 have been Chair we've had-- I've had informal
17 conversations. You've asked if I've met with the new
18 Commissioner. I have. I've raised this question
19 about an opportunity for us to work together to
20 better identify what's happening. So far in the
21 conversations that I've had, and I'm only sharing the
22 conversations I've had which are limited, it's been
23 mostly about trying to understand why and what's
24 happening there. So, one of the things that we
25 announced we would do with our November Board meeting

1
2 is actually call-- use it as an opportunity to have a
3 community meeting in the jurisdiction of one of those
4 precincts as a way that we can also use our public
5 meetings to forward the dialogue about what's going
6 on there in a public way.

7 CHAIRPERSON GIBSON: Okay. And then I
8 would also add that an important factor in this
9 conversation is, and not looking at any of the
10 precincts but just the ones you cited, and you know,
11 one of them I represent myself was one of the first
12 command that rolled out the NCO program, and I know
13 the Department is now looking at a massive community
14 survey to not only assess participation from
15 residents on the NCO program, but there should be
16 some sort of a comparison for those precincts that
17 have a high number of complaints and inquiries based
18 on the NCO roll out. Has that done anything to lower
19 those numbers, and are we looking at any of those
20 performances to make sure not only is crime going
21 down, but is the relationship between the public and
22 officers improving? So that's something I certainly
23 urge you to do. Obviously we're in 30 or so
24 different commands. I assure you that many of those
25 commands that you identify have NCO, whether it's a

1
2 year in or not is the question, but I'm pretty sure
3 that most of those commands have the NCO, and some
4 other level of the CPP program. So, is that
5 something that you can certainly consider and do
6 moving forward? I think it would be very helpful.

7 CHAIRPERSON WILEY: I'll let Doctor
8 Charles jump in on the data side of it. I would say
9 certainly on the discussion side of it, absolutely,
10 which is one of the reasons why we're looking at our
11 public meeting, because elevating some of the
12 qualitative and experiences of community residents I
13 think is important. We obviously generally in terms
14 of our data are reporting on the actual complaint.
15 I'll let Doctor Charles answer that. Sometimes we
16 can't. We don't have the data to draw statistical
17 comparisons because we don't have all the other data
18 that the NYPD may have, but certainly we can see
19 trends, and I think the trends are very important for
20 us to continue to look at. Doctor Charles, do you
21 want to add anything?

22 ROBIA CHARLES: Sure. I will simply add
23 that we actually have a policy analyst on my team who
24 is tasked specifically with looking at the NCO
25 program and the effect that it may have. So, that is

1
2 an ongoing project. In terms of whether or not the
3 project has lowered our numbers or impact them in any
4 way, that will take time to tell, and at this moment
5 we don't know exactly what impact it will have.

6 CHAIRPERSON GIBSON: Just quickly want to
7 talk about outreach efforts. You have a projection
8 of 900 presentations to get through throughout the
9 City. You talked a little bit about the type of
10 presentation, but can you give us a sense of where
11 we're doing these presentations, what does it entail,
12 what does it look like? And also, would that be
13 attributed to the number of cases that have come
14 before you in terms of the increase? Can you
15 introduce yourself for the purpose of the record?

16 RANIECE MEDLEY: Hello, thank you.
17 Raniece Medley, Director of Outreach.

18 CHAIRPERSON GIBSON: Great, thank you.
19 We have your name.

20 RANIECE MEDLEY: We've been doing our
21 outreach. We've been focusing on NYCHA development
22 throughout the City. We've also been doing schools,
23 community centers. We've been before at least 58 of
24 the NYCHA development throughout the City to date.
25 We've also been invited as I spoke to different and

1
2 various community centers, community organizational
3 events, national night outs, the family days, and
4 events of that nature. In terms-- one moment.

5 Educational institutions also make a great percentage
6 of the places where we actually get out and present.
7 We've been focusing and have a growing focus on
8 community schools and renewal schools particularly.

9 CHAIRPERSON GIBSON: That also includes
10 Community Boards, precincts councils. I've seen
11 staff at each of those on a fairly consistent basis
12 just sharing about what CCRB is and what the agency
13 does. Many do not know. It's fairly new, and just,
14 you know, people have never been engaged in that way.
15 So, have you seen the improvements and the results of
16 that outreach replicated in the number of cases that
17 are coming to the agency? Has that been like a
18 director correlation?

19 ROBIA CHARLES: So, we do not actually
20 equate the number of outreach presentations with our
21 complaint numbers coming in, and that's number one.
22 The second point is that our complaint numbers have
23 been decreasing over time, particularly in the last
24 five years. One of the ways in which we try to look
25 at the impact of our outreach presentation is how

1 many more people are aware of what CCRB does and
2 aware of the existence of CCRB as well as their
3 knowledge of de-escalation tactics and the other
4 things that we try to present to them. one of the
5 things that we intend to do in the future for the
6 first time as an agency is a New York Citywide survey
7 looking at awareness of CCRB and things of that
8 nature.

10 CHAIRPERSON WILEY: I would just add one,
11 to congratulate Director Medley for the incredible
12 work of outreach. One of the things that the Board
13 has asked the staff to do is to find ways to try to
14 identify the impact of the outreach sessions. It's
15 been a question the Board wants to find more ways to
16 support understanding the impact of our outreach and
17 what it's producing, but certainly I would say as a
18 board member one of the things we're interested in is
19 both making sure that more folks understand we're
20 here and why we're here in case they have complaints,
21 but also making sure they understand more about how
22 the Police Department functions, how they can engage
23 with the Police Department so there is a public
24 education function. And again, I think increasingly
25 just better understanding how we can be an

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2 engagement-- in better engagement with the community
3 around issues as they emerge.

4 CHAIRPERSON GIBSON: Okay. In your
5 efforts to continue to improve outreach efforts, was
6 there any consideration given in terms of having some
7 sort of a presence at Criminal Court? I mean, most
8 of the outreach efforts and presence you have are
9 community driven event through various different
10 capacities, but has that ever been a conversation or
11 thought about Criminal Court?

12 MINA MALIK: So, when I first came on
13 board, Chair Gibson, there were two people in
14 outreach, and subsequently it went down to one
15 person, and so we built the outreach team since then
16 up to six people. so we've started at these
17 institutions which Ms. Medley has spoken about, and
18 we're constantly looking for ways to engage the
19 community and do more outreach in the future, and
20 that's something that we can consider going forward,
21 because I understand that sometimes when people are
22 released from Criminal Court after they're arraigned
23 on charges, at times maybe they would need some sort
24 of services from our agency. So, it's something we
25 can certainly consider going forward.

1
2 CHAIRPERSON GIBSON: Okay. Yeah, it's
3 brought to my attention a couple of times, not just
4 Criminal Court but also corrections, Rikers Island.
5 I mean, there's, you know, obviously so much overlap
6 at times. So it was just something I wanted to raise
7 to see if that was anything that you were
8 considering. I wanted to ask, in your testimony you
9 talked about substantiated allegations, and you know,
10 looking at the pattern from 2011 and 12 going up, the
11 biggest increase, 24 percent, is in 2015, 790. Can
12 you explain that number and that significant or that
13 large jump and what that is attributed to?

14 MINA MALIK: It's attributed to a few
15 things, the increase in our investigative times as
16 well as the improvement in the way we conduct
17 investigations. In addition to the collaboration
18 with the New York City Police Department, I think
19 what we find is that we're getting better evidence
20 faster. And so when I use the terminology in my
21 testimony about striking while the iron is hot, when
22 we have our investigators proactively going out into
23 the communities, going out into the field and
24 collecting evidence at a much earlier time than they
25 had been in years past, you're able to get better

1 evidence of these investigations, and you're able to
2 get more evidence in these investigations. So, I
3 think coupled with the proactive nature of our
4 investigations, the improvement in our investigative
5 techniques, the ability to get video evidence as well
6 as the collaboration with the New York City Police
7 Department, we're better able to effectively do our
8 investigations and close them out faster as well as
9 have more quality investigations done.
10

11 CHAIRPERSON GIBSON: Okay. I think it was
12 just eye raising because it was such a large jump in
13 a year. I thought that was something that, you know,
14 I definitely wanted to ask about. You talked a
15 little bit about technology and getting access to
16 evidence a little bit quicker, video footage. I
17 think it's important to recognize, I mean, the
18 national conversation around policing in America and
19 the emergence of video footage from civilians has
20 increased exponentially. Do you think that that has
21 an impact on the work that you're doing in terms of
22 in gather data also including video footage from
23 civilians? How has that-- if it has had an impact on
24 your cases to date?
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CHAIRPERSON WILEY: From a Board perspective, sitting on panels and reviewing the investigations, I can tell you makes all the difference because it's objective. It's objective information about what happened in an incident.

CHAIRPERSON GIBSON: Within the investigation process, the authenticity of the video footage, you know, with modern day technology we have the ability to manipulate any sort of data we get. I mean, is that something that's obviously verified to make sure? Whether it's coming from anyone, I mean, just video footage, camera footage, surveillance, etcetera. Is that, you know, process thorough enough where you feel sure that during the process of the investigation that the video footage that you're getting from various areas is a sufficient part of the process?

THOMAS KIM: One of the things that we have to ensure during our investigation is that we don't go off of single source. For example, video evidence is very important--

CHAIRPERSON GIBSON: [interposing] But not the only.

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2 THOMAS KIM: Correct. That's why we
3 conduct interviews. We gather documents and so on to
4 see whether there's inconsistency. When we're
5 looking at video, we're not just looking at it as
6 factual, what may happen prior and after that lead to
7 the situation as well as whether there's gap in video
8 sequencing as well. So, those are factored in, and
9 definitely video has enhanced our capability to do
10 investigation, more thorough investigation.

11 CHAIRPERSON GIBSON: What happens in
12 instances where the stories or the information from
13 any of the individuals contradicts the video? How do
14 you delineate in those types of cases? So, can you
15 just give us a sense of, you know, the process of the
16 investigation from the point of the complaint coming
17 in, to the point of the determination of mediation or
18 if you move to a different route?

19 THOMAS KIM: Like a simple way to answer
20 that is, for example, we obtain a surveillance video,
21 and the video demonstrates an action that was taken
22 by members of service, and the complainant in the
23 case said it something completely different. Then in
24 those types of circumstances, case will exonerate or
25

1
2 unsubstantiate [sic] based on the procedural aspects
3 we look at Patrol Guides, what it guides.

4 CHAIRPERSON GIBSON: Okay. That was a
5 simple process. Wanted to ask about the Civil Rights
6 Law that's been talked about in recent and your
7 position on that and the discipline out comes that
8 you think would happen with complainants moving
9 forward on this particular Civil Rights Law 50A?

10 CHAIRPERSON WILEY: Well, so I think we
11 are both strongly in favor of more transparency. We
12 strongly support the Mayor's outline position on
13 reform. We want to actively and aggressively support
14 it, and we'll find ways to do it. And in terms of
15 the last part of your question on complainants, I
16 just want to make sure I understand what you want,
17 what the question is.

18 CHAIRPERSON GIBSON: So, I wanted-- how
19 has it affected you now to date and now even with the
20 Mayor's position? Obviously, this has to be changed
21 in Albany, and your position is that you support the
22 Mayor's position.

23 CHAIRPERSON WILEY: Yes, we strongly
24 support it.

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CHAIRPERSON GIBSON: Okay, great. Just one final question before I get to some of my colleagues. You and this agency are in a very unique position to track, you know, cases of alleged police misconduct and the officers in the precincts that have obviously the most problems. What does CCRB do to deter police misconduct, and do you see the role that you play as an agency in deterrence and prevention and not just being reactionary based on the complaints that come into the agency?

CHAIRPERSON WILEY: Yeah, and let me preface just by saying we can't say that virtue of the fact that we have a certain number of complaints in any particular precinct, you know, the question to the investigation and what we're actually able to substantiate happened in each individual case. So I just want to make it clear that we don't necessarily or can't draw a lot of specific inferences from that about the overall operation of the precinct. What is critically important I think in our function is that policy role, is to identify where we see trends that raise questions, where we see the opportunities to clarify or transform some of the policies of the Police Department based on what we're seeing and

1 actively elevate those. So, when I said earlier that
2 part of our vision is to have-- is to continue to
3 build on that policy function, it really does go to
4 being proactive to increase the effectiveness of
5 policing in a way that is fair, supports public
6 safety, both for the public and for the officers, and
7 that ensures that we're protecting the rights of all
8 of our residents.

10 CHAIRPERSON GIBSON: Okay. Sorry,
11 colleagues, I just have one final quick question. It
12 was brought to my attention, and I think I raised
13 this to you before, but I wanted to go on record in
14 making sure that it was clarified. Can you describe
15 and tell us about the make-up of the board in terms
16 of the Mayoral appointees, etcetera? Previous
17 experience, if those individuals are prohibited from
18 having law enforcement experience, just to make sure
19 that, you know, members of the public understand that
20 there is a balance. It's come to my attention by
21 many that, you know, many individuals feel like final
22 decisions are made by some that do not understand
23 what it's like to be a police officer. They have now
24 law enforcement experience. So I'd like the members
25 of my committee and the public to understand, what

1
2 does the CCRB look like in terms of the make-up and
3 the background experience of the Board?

4 CHAIRPERSON WILEY: Certainly. By
5 Charter, the Board has 13 Board Members, five
6 including the Chair is appointed by the Mayor. Five
7 are appointed by the City Council, one representing
8 each borough, and then three are appointed by the
9 Police Commissioner. No, Board Member can be an
10 employee of the City. So we are civilian. That's
11 the civilian part. Obviously,-- I shouldn't say
12 obviously. There is no requirement in the Charter of
13 any particular type of experience for the Board
14 Member, but typically and certainly currently, all
15 the representatives appointed by the Police
16 Commissioner have been and served in the New York
17 City Police Department as police officers in various
18 ways. The way we organize our panels, our panels are
19 the places in which the Board receives all of the
20 evidence from the investigation, and a full summary
21 of the investigation from the investigators, and then
22 go through each individual case and make a
23 determination about what we think, whether we can
24 substantiate, whether it's exoneration or unfounded,
25 all of the various ways in which we make decisions,

1 and then determine recommendations for discipline if
2 we have substantiated an allegation. Every-- we
3 serve those panels. It's three Board Members per
4 panel. Every single panel has one representative
5 that's been appointed by the Mayor, one
6 representative that's been appointed by the City
7 Council and one representative that has been
8 appointed by the Police Commissioner. So, in terms
9 of our current make-up, every single panel has
10 someone one it who has police experience, and I will
11 say just in my short time I've been on the board for
12 three months now. I've served on three panels. I am
13 incredibly impressed by both the hardworking
14 commitment of all our board members, the attention to
15 detail, and I almost wish we could replicate in the
16 public conversation the conversations that we're able
17 to have on our panels because of all our various
18 backgrounds and experiences. It is a very, very
19 balanced discussion. It is one in which we actively
20 and aggressively look at each case individually, and
21 it is one in which I think there is a lot of
22 constructive engagement around how we all have
23 experienced policing in New York City.
24

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2 CHAIRPERSON GIBSON: Okay, great. Thank
3 you. Now we're going to get to my colleagues. We
4 have a five minute clock, and if we have more time
5 certainly we'll have a second round as members come
6 in. So we are going to begin with Council Member
7 Gentile followed by Council Member Deutsch. Thank
8 you, colleagues.

9 COUNCIL MEMBER GENTILE: Thank you, Madam
10 Chair, and Chair Wiley, thank you. Good morning.
11 Thank you for being here with your team, and for
12 answering questions. I just want to follow up on
13 Chair Gibson's talk about the make-up of CCRB and
14 speak a little bit more about that because you did
15 indicate to us that the three appointees from the
16 Police Commissioner are all former police officers in
17 one way or the other. However, I'm curious about the
18 other members, because credentials I think matter
19 here. If I were asked to sit on a medical review
20 board, I would feel wholly inadequate in evaluating
21 medical procedures on a medical review board, because
22 I have no credentials to do that. So, I'm curious
23 about the rest of the make-up of CCRB. What
24 credentials do the other members of the CCRB bring
25 with them to evaluate the police procedures, the

1
2 police training in order to do it in a credible
3 manner?

4 CHAIRPERSON WILEY: Thank you for that
5 question. First, let me say that we'll be happy to
6 provide the bios of all the Board Members, and of
7 course, they're also available on the website,
8 because they're varied backgrounds. And obviously
9 because you have different appointing entities for
10 the positions, you know, I can't speak to the City
11 Council how the City Council makes decisions.
12 Certainly what I would say is the process by which we
13 determinate, make determinations about cases is very,
14 very, very much informed by a lot of both evidence
15 gathering on the part of the investigators, provision
16 of a full briefing on the law as it applies to the
17 facts, and we have access to resources in terms of
18 the expertise within the staff if we have questions.
19 I would say unlike a situation in which you had a
20 medical panel where there was no question you'd have
21 to be-- have the training and background. In this
22 instance, as long as you have a very, very clear
23 sense of what the legal parameters are, in other
24 words, what's lawful conduct under both case law and
25 the Patrol Guide and what is not, and then you have

1 clear, clear set of facts, and where facts are not
2 clear because they aren't always. It really is
3 something that we can do quite effectively with the
4 range of experiences and backgrounds, because part of
5 what happens is we always come back to both the facts
6 that are clear and how to apply them against both the
7 Patrol Guide. Patrol Guide often is a resource for
8 what we're looking at because the Case Law itself
9 often the conduct comes down to what the police
10 officer is told.

11
12 COUNCIL MEMBER GENTILE: I hear you.

13 CHAIRPERSON WILEY: The training is
14 actually not something, just to be fully frank--
15 we're not evaluating cases based on training. We're
16 evaluating cases based on the legal requirements for
17 police officer conduct.

18 COUNCIL MEMBER GENTILE: So what efforts
19 are made to outreach the NYPD to better understand
20 the Patrol Guide, any ambiguities in the Patrol Guide
21 or any other reforms that the Police Department is
22 instituting? What kind of outreach is there from the
23 CCRB to try to understand those attempts by the
24 Police Department?

1
2 CHAIRPERSON WILEY: Again, a really
3 important question because it's part of what I think
4 has been the improvement in relationships between the
5 CCRB and the NYPD. It, as particularly over the last
6 two years, is that there are regular meetings with
7 the Police Department on issues that arise. We
8 actually have a-- I was just over there for over an
9 hour yesterday. We, actually, as a full staff meet
10 regularly with both the Risk Management Unit, the DAO
11 and representatives from the Commissioner's Office
12 and as well as the, obviously the-- when we're going
13 through the process of reporting and thinking about
14 whether or not we're making recommendations on
15 policy, those are often active discussions with the
16 Police Department. Also, if they're looking at
17 revision to Patrol Guide, we're actually in a
18 relationship in which we talk about in advance before
19 they finalize what the revisions are, why they're
20 making them. Where we-- if we have concerns, what
21 our concerns are. So we're actually in a regular and
22 constant process of discussing that. If the DAO--
23 remember that what we send over our recommendations.
24 If a case is substantiated, we send over our
25 recommendations for discipline. If the DAO feels that

1 we have not appropriately interpreted the Patrol
2 Guide, they send us the memo saying that they think
3 we've mis-applied the cont-- they have access
4 obviously to all the information, and we have a
5 dialogue with them based on their own evaluation, and
6 that's a lot of the ways in which we identify whether
7 there's either gray area, disagreement or
8 misunderstanding.

9
10 COUNCIL MEMBER GENTILE: So, ultimately
11 the attempt is made--

12 CHAIRPERSON WILEY: [interposing] On a
13 regular basis.

14 COUNCIL MEMBER GENTILE: Understand. I
15 have other questions, a lot of other questions, but
16 I'm on a time, so I'm going to have to come back.
17 Thank you.

18 CHAIRPERSON GIBSON: Council Member
19 Deutsch followed by Council Member Lander.

20 COUNCIL MEMBER DEUTSCH: Thank you.
21 Thank you, Madam Chair, and I want to thank you for
22 coming in front of the Public Safety Committee this
23 morning. I also want to recognize members and
24 leaders of the police unions that are here today. I
25 just want to recognize them who are here on behalf of

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2 the officers, 38,000 plus officers of the New York
3 City Police Department. My question to you is that
4 when there is a complaint to the CCRB and that
5 complaint is unfounded, what happens to that
6 complaint as far as being recorded on the officer's
7 file? Does it get recorded or does that get
8 dismissed and leave the file? And using up my time.

9 CHAIRPERSON WILEY: Sorry.

10 MINA MALIK: So, my understanding is that
11 the-- whatever is-- whatever our recommendations and
12 findings are in terms of our complaints, that there
13 is a record of that at the NYPD, but in terms of what
14 stays within the officer's personnel file, that's a
15 question that should be answered by the Department.

16 COUNCIL MEMBER DEUTSCH: So, no one on
17 this panel would know if something remains in the
18 officer's file?

19 CHAIRPERSON WILEY: Well, because we--

20 COUNCIL MEMBER DEUTSCH: [interposing]
21 It's a yes or no answer.

22 CHAIRPERSON WILEY: We can't answer what
23 the policies are, personnel policies are at the
24 Police Department.

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COUNCIL MEMBER DEUTSCH: So as members of the CCRB, aren't you supposed like supposed to know like what happens to a file after you investigate? Or should you know?

CHAIRPERSON WILEY: What we know is what happens with our recommendations for discipline.

COUNCIL MEMBER DEUTSCH: So do you know what happens--

CHAIRPERSON WILEY: [interposing] But an un-- an unfounded, we're not making any recommendation for discipline to the Police Department because we have said that it's unfounded.

COUNCIL MEMBER DEUTSCH: Do you know that once it's unfounded what happens to that report?

MINA MALIK: So, we notify the Police Department of substantiated allegations regarding any police officers. So, that's exactly what they're notified about. In terms of unfounded complaints, unsubstantiated complaints, those are-- those do not go over to the Police Department, and but there is a record that we keep of unsubstantiated, unfounded, exonerated, substantiated complaints.

COUNCIL MEMBER DEUTSCH: So that record stays with you for how long?

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MINA MALIK: It stays with us for years.

COUNCIL MEMBER DEUTSCH: For years. In your testimony you mentioned here that we have an obligation to support a safe and fair city. Also in the testimony it's mentioned that fair and independent investigation of civilian complaints against sworn members of New York City Police Department, and it also mentions here "fully and fairly" investigate complaints, which I understand this is complaints that civilians make against our NYPD officers, but my question is where is the fairness to our 38,000 plus officers in the City of New York that if something is unfounded, why would that file remain with you for that long? Or it shouldn't be there at all?

CHAIRPERSON WILEY: Well, all city agencies are governed by document retention policies, so we retain any number of documents related to the work of the agency and are required to do so under the policies, document retention policies of this City.

COUNCIL MEMBER DEUTSCH: How many members are on the Board, 13, I believe?

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COMMITTEE ON PUBLIC SAFETY

CHAIRPERSON WILEY: There are 13 Board positions, correct.

COUNCIL MEMBER DEUTSCH: Are the members, are their votes public record?

CHAIRPERSON WILEY: They're-- we do not have a disclosure process for our votes.

COUNCIL MEMBER DEUTSCH: Why not?

CHAIRPERSON WILEY: I think that you're now asking question of a new Board member, and what we'll do is come back to you with an answer on that.

COUNCIL MEMBER DEUTSCH: Please. Okay. What is the percentage of complaints that are unfounded?

RANIECE MEDLEY: So, the-- I can tell you, actually. Looking at the last year for 2015--

COUNCIL MEMBER DEUTSCH: [interposing] I need extra time.

RANIECE MEDLEY: So, our complaints 2015, nine percent.

COUNCIL MEMBER DEUTSCH: Ninety percent?

RANIECE MEDLEY: Nine percent.

COUNCIL MEMBER DEUTSCH: Nine percent unfounded.

RANIECE MEDLEY: Correct.

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2 COUNCIL MEMBER DEUTSCH: So what are the
3 numbers?

4 RANIECE MEDLEY: So, for 2015 we have 42
5 percent unsubstantiated. These are found in our
6 annual report as well online, figure 19. Twenty-two
7 percent exonerated. Nine percent unfounded.
8 Fourteen percent substantiated. Thirteen percent
9 officer unidentified.

10 COUNCIL MEMBER DEUTSCH: Okay. So, how
11 many actually founded?

12 RANIECE MEDLEY: So, the founded--

13 COUNCIL MEMBER DEUTSCH: [interposing]
14 Take away the unfounded, unsubstantiated, how many
15 are actually founded?

16 RANIECE MEDLEY: Do you mean
17 substantiated?

18 COUNCIL MEMBER DEUTSCH: Yes.

19 RANIECE MEDLEY: Okay. So, substantiated,
20 1,284, and again, these numbers are found on figure
21 19 of the annual report for 2015--

22 COUNCIL MEMBER DEUTSCH: [interposing] And
23 what percentage is that?

24 RANIECE MEDLEY: Fourteen.
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COMMITTEE ON PUBLIC SAFETY

COUNCIL MEMBER DEUTSCH: Fourteen percent that are founded. So, what--

RANIECE MEDLEY: [interposing] Fourteen percent that are substantiated.

COUNCIL MEMBER DEUTSCH: That are substantiated, okay.

RANIECE MEDLEY: Yeah, so founded is a different.

COUNCIL MEMBER DEUTSCH: Yes, okay. What percentage of complaints are made from one individual that may be a chronic, a person that makes chronic complaints?

RANIECE MEDLEY: So that is a great question. That actually takes time to analyze, and that is largely because of the way that we capture individuals who file complaints within our system. So, I can give you that data at another time, but not right now.

COUNCIL MEMBER DEUTSCH: So that is kind of important to have that data. And yes, okay, thank you.

RANIECE MEDLEY: We're happy to provide it.

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COUNCIL MEMBER DEUTSCH: And also, how does the CCRB examine prosecuted cases that result in a verdict of not guilty in order to improve and fine tune the process of investigation?

MINA MALIK: I'm sorry, can you rephrase your question, Council Member?

COUNCIL MEMBER DEUTSCH: Okay, how does the CCRB examine cases that result in a verdict of not guilty that are, yes, unsubstantiated in order to improve and fine tune the process of investigation? So that means in order to fine tune your process to investigate future cases?

MINA MALIK: Are you talking about not guilty after trial or are you talking about after an investigation that doesn't go to the administrative prosecution?

COUNCIL MEMBER DEUTSCH: Some-- that once it gets prosecuted and it results in a non-guilty verdict?

UNIDENTIFIED: He's talking about trials.

CHAIRPERSON WILEY: So, I think as I understand the question, for a case that goes all the way through trial--

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2 COUNCIL MEMBER DEUTSCH: [interposing]
3 Yes.

4 CHAIRPERSON WILEY: but where the
5 administrative law judge finds not guilty, where
6 obviously the Board has made a recommendation of
7 charges and the APU has prosecuted the case, is there
8 a learning loop about any opportunity to fine-- to
9 improve investigations--

10 COUNCIL MEMBER DEUTSCH: [interposing]
11 Yes.

12 CHAIRPERSON WILEY: as a result of what
13 we learned from that process.

14 JONATHAN DARCHE: Thank you for your
15 question. The APU when we get back a not guilty
16 verdict, we will go over at the Executive Staff with
17 that, APU with the Prosecutor and with the staff to
18 try and figure out where we could have done better,
19 not just as a prosecutor, but also the Investigation
20 Unit and work well with the Investigations Division
21 to go back and see where things could have gone
22 better if anywhere.

23 COUNCIL MEMBER DEUTSCH: Okay, thank you.
24 If you can get back.

25 CHAIRPERSON GIBSON: Council--

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2 COUNCIL MEMBER DEUTSCH: [interposing] And
3 finally, I just want to know if--

4 CHAIRPERSON GIBSON: [interposing] No, no.
5 Council Member, your time is up. I will get back to
6 you. Let me get to Council Member Lander, and then
7 we'll go on.

8 COUNCIL MEMBER DEUTSCH: Thank you.

9 COUNCIL MEMBER LANDER: Thank you, Madam
10 Chair, and thank you for convening this hearing,
11 which I think has been very enlightening, and I also
12 want to thank Chair Wiley and Executive Director
13 Malik for your leadership. I mean, I think at this
14 time when we are across the country working in--
15 through a very challenging problem to have you have
16 increased outreach, decreased processing time,
17 strengthen the relationship with the Department and
18 the public, and then dramatically increased the
19 percentage of substantiated complaints where there is
20 then a disciplinary action, it's just a-- it's a
21 story we should be telling louder. And so I'm glad
22 that you're there and look forward to learning more
23 about what others perceive as working and not
24 working, but I think that's a starting point.
25 There's a lot of really good stuff to show here. I

1
2 just want to make sure I understand in your response
3 to the questions that Council Member Deutsch asked.
4 So for the 86-- the 14 percent of cases which are
5 substantiated, they move forward. For the other 86
6 percent, nothing ever goes in the personnel report of
7 an officer, because you're not making any reference
8 to-- I mean, what remains is the investigation file
9 that you have, not-- there's nothing that goes in
10 goes to the NYPD. Something goes in their personnel
11 records at all, right?

12 ROBIA CHARLES: So, I'm just going to
13 clarify the language a little bit there. The-- what
14 we are talking about in terms of unfounded,
15 unsubstantiated, substantiated, and exonerated relate
16 to the allegation level. So, it's--

17 COUNCIL MEMBER LANDER: [interposing]
18 Right.

19 ROBIA CHARLES: fourteen percent of
20 allegations that are substantiated.

21 COUNCIL MEMBER LANDER: Right.

22 ROBIA CHARLES: Largely what we talk about
23 in terms of substantiated cases over the year that is
24 complaints that have a substantiated allegation.

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2 That's 27 percent. So two different things there,
3 just to clarify so that there's no confusion.

4 COUNCIL MEMBER LANDER: Okay. And
5 Council Member Deutsch can come back to this, but
6 obviously, you know, you wouldn't want people to have
7 on their records complaints that were
8 unsubstantiated, but those don't ever-- unless it's
9 substantiated and you move forward, they never wind
10 up in the personnel records at all.

11 CHAIRPERSON WILEY: We are making no
12 disciplinary recommendation in those circumstances.

13 COUNCIL MEMBER LANDER: Okay. So, I do
14 want to focus a little on a series of areas that I
15 think are all related to 50A adjudication because I
16 think we have a number of challenges presented by our
17 inability to really understand the relationships, and
18 I'll just lay out a couple of areas. I mean, one, I
19 think we all have good reason to believe that a high
20 percentage of complaints are against a very small
21 percentage of officers and that the vast majority of
22 officers aren't engaged in any wrong doing, aren't
23 receiving complaints, you know, aren't generating
24 complaints. That's something we want to celebrate.
25 For the small percent that are, and especially the

1 small percent that are-- who are getting multiple
2 complaints, obviously that's an appropriate area for
3 your focus and for the Department's focus. Well, but
4 it feels to me like our ability to use, to focus on
5 that, to help, you know, focus on the small
6 percentage of officers with multiple complaints for
7 appropriate, you know, discipline, retraining or
8 reassignment, it feels constrained by our lack of
9 ability to have transparency around disciplinary
10 record. I mean, and that's obviously-- it wouldn't
11 be necessary for the public to see them, for you and
12 the Department to collaborate on them. Although, at
13 a minimum it'd be hard for us to know it was
14 happening. So, how are you thinking about that?
15 What can we do without changes to 50A? What do you
16 think the Department could do? What are you
17 exploring?

19 CHAIRPERSON WILEY: All very important
20 questions, and I would say that this is going to be a
21 process of a lot of discussion with a lot of
22 stakeholders. I think the positive relationship with
23 the NYPD and the collaborative relationship means
24 that we are increasingly having conversations about
25 how we can be more effective at sharing information

1 with them and vice versa to continue to better
2 identify where there are opportunities for
3 improvement. So, I think those are ongoing
4 conversations. What I would say is our primary focus
5 right now is how to really support getting the
6 changes made on 50A at the state level because we do
7 think it's critically important to be able to
8 appropriately communicate with the public where there
9 has been disciplinary action taken. I do want to
10 just clarify one thing. Just because we've received
11 multiple complaints on a particular officer doesn't
12 mean-- we could have had multiple complaints in which
13 they were exonerations or unfounded. So, the fact of
14 a complaint or allegations in and of itself doesn't
15 tell us whether a particular officer is a wrong-doer.
16 The real issue is where there is an indication of a
17 pattern of behavior of complaint, which is something
18 I know NYPD looks at for their own purposes of
19 identifying opportunities for training, but also we
20 do look at where we see-- we do have information that
21 we pull from our own complaint history about whether
22 we have substantiated allegations that are similar
23 against a particular officer who's a respondent.
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2 ROBIA CHARLES: So, I will add three
3 points to that. There are a number of things that we
4 are already doing within the law. the first is if
5 you look at our data transparency initiative on our
6 website, there is a section that looks at summary-
7 level data in terms of how many officers currently on
8 the force have a complaint, and how many of those
9 have a complaint with a substantiated allegation.
10 So, that's the first point. The second is that there
11 are many officers, as the Chair said, that have
12 complaints. What is more important, in fact, are
13 those that have complaints with substantiated
14 allegations. So, this is something we try to drive
15 home to the Department all the time. The second issue
16 is in my unit, which is the Policy Unit, we've
17 actually have a running list of officers looking at
18 how many complaints they've had over the course of
19 their history and how many complaints with the
20 substantiated allegation, and we do indeed talk to
21 the Department, in particularly, the Risk Management
22 Bureau with respect to those officers at the top of
23 the list, those with the most substantiated
24 allegations and complaints. So there is ongoing

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2 discussion, and we are working on it as much as we
3 can.

4 COUNCIL MEMBER LANDER: I have further
5 questions, but I'll save them for my second round.

6 CHAIRPERSON GIBSON: Thank you, Council
7 Member Lander. Just a couple questions before I get
8 to my other colleagues again. I wanted to find out
9 in the recommendation process of a case, how often is
10 the recommendation complied with by the Department?
11 In what instances is there a departure from that and
12 there is another, a subsequent recommendation made by
13 the Department, and then how often do you go back and
14 forth, and then what final decision is made? Can
15 you give us some numbers and an idea of where we see
16 the greatest number of recommendations complied as in
17 they agree with you, or instances where they do not
18 agree with the sanction or recommendation of that
19 particular case?

20 CHAIRPERSON WILEY: I'll ask Doctor
21 Charles to speak to the actual numbers of that and I
22 can answer just generally the question about our
23 experience and relationship to it as Board Members.

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2 ROBIA CHARLES: Okay, so that is actually
3 a difficult question. And there's really two
4 different ways--

5 CHAIRPERSON GIBSON: [interposing] Really?

6 ROBIA CHARLES: to think about it. The
7 first is whether there was compliance with respect to
8 the disposition that we give, exonerated,
9 substantiated, so on and so forth. The second issue
10 is whether there is agreement or not with respect to
11 the specific penalty recommendation, right? So we
12 have Command Discipline A/B. There are charges.
13 There's formalized training. There's instructions.
14 Within those, in particular within Command Discipline
15 A and B, there's still variations. So, there's a
16 different answer depending on specifically what
17 you're interested in, but the large response I can
18 give you is that there has been an increase in
19 agreement both in terms of our dispositions and in
20 terms of our agreement on penalty recommendations
21 over time.

22 CHAIRPERSON GIBSON: Okay. And just for
23 the record also, if you could just describe for the
24 members and the public what some of those
25 recommendations look like, because I think often

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2 times, you know, the conversation is always, you
3 know, that officers are not held accountable for
4 their actions, but there is a lot of work that CCRB
5 does in terms of compliance with the recommendations
6 that are made. I just think because it's not
7 available to the public as one of my colleagues has
8 said, most people don't see what is actually
9 happening to that particular officer. So, could you
10 give us a sense of what the recommendations are?

11 ROBIA CHARLES: I will let my colleague
12 John Darche respond to that.

13 CHAIRPERSON GIBSON: Okay.

14 JONATHAN DARCHE: If I could just
15 clarify, Madam Chair, you want me to describe the
16 different levels of discipline?

17 CHAIRPERSON GIBSON: Yes, discipline.

18 JONATHAN DARCHE: So, the lowest form of
19 discipline is instructions from--

20 CHAIRPERSON GIBSON: [interposing] Is that
21 A?

22 JONATHAN DARCHE: subject-- no.

23 CHAIRPERSON GIBSON: You have them in
24 letters?

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1 JONATHAN DARCHE: So, generally speaking
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3 there are three levels of discipline.

4 CHAIRPERSON GIBSON: Right.

5 JONATHAN DARCHE: There is training.
6 There is a command discipline and charges and
7 specifications.

8 CHAIRPERSON GIBSON: Okay.

9 JONATHAN DARCHE: So, when the Department
10 decides to discipline an officer by giving them
11 further training, the lowest form of training is
12 called Command-level Instruction which is where the
13 member of services commanding officer gives them
14 guidance as to what to do and not to do, and if that
15 situation were ever to reoccur. Second level of
16 training is called formalized training, and that
17 involves classroom training either at the Academy or
18 at another formal setting at the Department where
19 training occurs. The second middle level of
20 discipline are called command disciplines, and there
21 are two types of command discipline. Schedule A
22 command discipline is only on an officer's record for
23 one year and the penalty can range from as low as a
24 reprimand to as high as forfeiture of five vacation
25 days. With a Schedule B command discipline, the

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2 penalty can range from as low as a reprimand and to
3 as high as forfeiture of 10 vacation days.

4 CHAIRPERSON GIBSON: Forfeiture of?

5 JONATHAN DARCHE: Ten vacation.

6 CHAIRPERSON GIBSON: Oh, 10. Okay,
7 didn't hear you.

8 JONATHAN DARCHE: Command B disciplines
9 stay on an officer's record for at least three years
10 and they are not automatically removed. An officer
11 has to ask for them to be removed from their record,
12 and then the Department-- it's up to the Department
13 whether or not to remove it. The highest level of
14 discipline is charges and specifications. Charges
15 and specifications, the-- if an officer is found to
16 have committed misconduct under charges and
17 specifications, the lowest level of discipline is a
18 reprimand, and the highest level of discipline is
19 termination from the Department. Officers can also
20 be put on dismissal probation, which means for a year
21 if they are-- the Department can fire them without
22 process if they're accused of misconduct. But they
23 can also forfeit vacation days or be put on
24 suspension.

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2 CHAIRPERSON GIBSON: Okay. Can you just
3 elaborate a little bit on the last part? You said
4 dismissal of--

5 JONATHAN DARCHE: [interposing] Dismissal
6 probation--

7 CHAIRPERSON GIBSON: [interposing] Okay.

8 JONATHAN DARCHE: means that an officer
9 when they're on probation no longer has their process
10 rights as an officer under the union, they-- union
11 contract. They could be fired if they're merely
12 accused of misconduct later down the road.

13 CHAIRPERSON GIBSON: Okay. So, how often--
14 - do you have percentage numbers? I mean, you said
15 it's a little difficult to gather, but in-- would you
16 say in many instances the Department agrees with your
17 recommendation? Okay.

18 CHAIRPERSON WILEY: And I would just add
19 to that just because I think you raised an extremely
20 important point for public visibility. You know, the
21 public knows usually about the most dramatic cases.
22 The vast majority of our cases are obviously not
23 necessarily at the level of what would reach a news
24 story. So the public doesn't always know about it.
25 Often times, because the Department is instituting a

1 new training regimen and going through training, all
2 officers, we may see a case, for example, as Board
3 Members where it's clear that either there's an op--
4 what we really want to improve are the outcomes
5 overall and overtime. So, if we think it's more
6 effective to support better policing to recommend
7 training rather than having a police officer lose
8 vacation days, which isn't necessarily going to
9 support a police officer getting support and
10 understanding what he or she could have done
11 differently and how he or she understands the patrol
12 guide, we are looking to do that, because that's the
13 kind of thing that supports more and better policing
14 over time, those are the kinds of ways we make-- I'm
15 just giving one example because I think the issue is
16 how to support the reform of policing and how to
17 support police officers to be doing their jobs more
18 effectively, and so we look at discipline not just as
19 retribution, we look at discipline as what's the
20 appropriate thing to do in each case and
21 circumstance, and I think generally we're seeing good
22 agreement with DAO.

24 MINA MALIK: And I think also, Council
25 Member, that also go-- or Chair Gibson, rather-- that

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2 also goes back to the question about fundamental
3 fairness for the 36,000 members of the Police
4 Department that was raised earlier. Not only is that
5 in terms of fairness to the member of service as to
6 what they need to perform their job better, but also
7 in fairness to the 36,000 members, I personally have
8 met with union leaders who did not know about our
9 process and who wanted to learn about it more. And
10 so in speaking with the union leaders, many of whom
11 are here today, we talked about these increased
12 faster investigations, the better investigations that
13 yield faster case resolutions, and two of the things
14 that have always been an issue with the member of
15 service is that the languishing of the cases that
16 took place in years past did not allow them to be
17 transferred to other precincts or to other commands
18 and did not allow them to be promoted within the
19 Department. So I think in interest of fairness we're
20 looking at that as a whole in terms of faster
21 investigations, more effective investigation, and
22 that is more fair to the members of the Department as
23 a whole. And in terms of the not guilty verdict that
24 we receive, again, we're looking at those cases
25 closely. We read the judges' decision in terms of

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2 why a not guilty was founded, and we look at ways to
3 enhance the investigation more. We have our new
4 Director of Training who will also be involved in
5 that process and who can look at those not guilty
6 verdicts as well, but those are all things that I
7 think more [sic] to the benefit of the 36,000 members
8 of the NYPD in addition to the video that we are
9 getting more of nowadays, because not only is the
10 video substantiating more cases, but video evidence
11 is also exonerating officers who are unfounding [sic]
12 complaints by civilians. So all of that comes into
13 play when we're talking about fairness to both the
14 New York City public as well the 36,000 members of
15 the Police Department.

16 CHAIRPERSON GIBSON: Right. And I
17 appreciate the efforts to obviously make sure that
18 there is a balance and looking at all sides of this
19 conversation. With the discipline recommendations
20 that you make to the Department, so the example of
21 training, right, and so in some cases that could
22 potentially take some time. do you provide-- is
23 there a time frame or a window in which that has to
24 be implemented, and then does that case remain open
25

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2 or because you've made your decision, the Department
3 agrees, is that case considered closed?

4 MINA MALIK: So, the case remains open in
5 terms of we're waiting for the ultimate disciplinary
6 action that has been taken.

7 CHAIRPERSON GIBSON: To be taken.

8 MINA MALIK: So, we wait for that
9 information to come to us from the Department.

10 CHAIRPERSON GIBSON: Okay.

11 MINA MALIK: In terms of any time frames,
12 that I would recommend that be a departmental
13 question, because we don't have any time frames
14 imposed on our side and certainly that's something
15 that they need to take into account when they're
16 implementing disciplinary actions as the final
17 arbiter of discipline.

18 CHAIRPERSON GIBSON: Okay. Well, I can
19 imagine on all parts everyone wants to ensure that
20 the case is closed as quickly as possible. Council
21 Member Gentile asked the question that I wanted to
22 just expand upon. Because of the constant changes of
23 the Department of new legislation that's codified in
24 Local Law-- so I think about crisis intervention. I
25 think about internal department procedures that are

1
2 now changing. The Patrol Guide will now be available
3 online to members of the entire city. So how do you
4 keep up with the ongoing changes, technology upgrades
5 which is absolutely critical, and even new future
6 measures like the recent contract that was awarded
7 with the Department beginning the process of
8 implementation of body-worn cameras? So, all of this
9 is very relative to the work you do, but how do you
10 ensure that you keep up to date, because that can
11 only allow you to do your job better to ensure that
12 your understanding of the process was happening to
13 make sure that cases are thoroughly investigated?

14 MINA MALIK: So, that's something that
15 requires collaboration and open communication between
16 our agency and the New York City Police Department,
17 and we do have that communication between the Risk
18 Management Bureau, the Department Advocate's Office,
19 the Legal Bureau, and so that's how we try to ensure
20 that we are kept up to date on any departmental
21 guidelines that have changed or any new initiatives
22 that they have taken on.

23 CHAIRPERSON WILEY: And they actually
24 will come over and do presentations for the staff of
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1
2 the CCRB as well when they have-- right-- when they
3 have Patrol Guide changes.

4 CHAIRPERSON GIBSON: Oh, okay.

5 CHAIRPERSON WILEY: And we're actually
6 working on ways to-- it's one of the things I think
7 we can do more of is also making sure the board is
8 getting up to dated on that-- up to date on that as
9 well as the changes happen.

10 MINA MALIK: That's correct. They do
11 come and do presentations for us, and I would just
12 like to clarify because I think there is a
13 misconception in the public's view that the NYPD is
14 training us as investigative staff and as
15 prosecutors, and they come to us, or we go to them to
16 hear their different presentations as to how they
17 teach and train their members of service, but our
18 training for our investigative staff as well as our
19 prosecutors is totally separate and in part from the
20 training that the NYPD does for their member of
21 service.

22 CHAIRPERSON GIBSON: Okay. And I have to
23 put my finance hat on. In the next several months we
24 will begin more conversations around the new budget,
25 and in the past three budgets, CCRB has received

1 funding in the adopted budget for the outreach
2 efforts for enhanced technology in the 21st century
3 for looking at recruitment of Level I investigators,
4 a greater promotional path from Level I to Level II,
5 reducing caseloads for investigators so that there's
6 not just an inundation of cases for one investigator.
7 So, moving forward with the increased capacity for
8 the agency, do you anticipate hiring any additional
9 staff? Is there anything that you'd like us to be
10 aware of as we move forward for a new fiscal year?

11
12 CHAIRPERSON WILEY: So, we really welcome
13 that conversation. We have six new Board Members on
14 the CCRB who've served for less than a year. So it's
15 an active conversation that we're going to have about
16 the priority setting for the agency and we're really
17 looking forward to having those discussions with
18 Council.

19 CHAIRPERSON GIBSON: Okay, thanks. Great.
20 Council Member Gentile and then Council Member
21 Lander.

22 COUNCIL MEMBER GENTILE: Thank you, Madam
23 Chair. Chair Wiley, you or your team said-- and I
24 want to dig down a little bit on this. The
25 discipline rate for the APU cases in 2014 and 2015

1 were 61 and 65 percent respectively, which means that
2 35 to 40 percent of the cases there was no discipline
3 imposed at all, which to me appears to be a really
4 significant number of cases that probably should have
5 never been brought in the first case. So what is it
6 in your plan as the new Chair to bring that
7 percentage of the number of cases that end up having
8 now discipline imposed down at least in the APU
9 cases?
10

11 CHAIRPERSON WILEY: Well, let me say one
12 board statement first, and then I'll turn it over,
13 John, if you want to add anything. I think that it's
14 important as an independent agency to make sure that
15 we are doing everything in our power to ensure that
16 we have the highest quality investigations. The fact
17 that we may disagree with the Police Department or an
18 Administrative Law Judge with an outcome does not
19 necessarily mean our position was incorrect. So, I
20 think what we need to do as an agency and what we do
21 as an agency is essentially what Mr. Darche described
22 which is look at the cases individually and decide
23 whether or not we think there's something we would
24 have done differently in terms of-- but we are-- to
25 go to that level of recommendation from the agency

1
2 perspective, the fact that we have a disagreement
3 with the Police Department about discipline doesn't
4 necessarily mean we would take the position that we
5 had done something wrong.

6 COUNCIL MEMBER GENTILE: Well, and that
7 may be--

8 CHAIRPERSON WILEY: [interposing]
9 Sometimes we don't--

10 COUNCIL MEMBER GENTILE: [interposing] the
11 case in 10 to 15 percent of the cases, but we're
12 talking 35 to 40 percent of the cases that are in APU
13 end up with no discipline. That's a significant
14 number of cases that beyond just disagreeing with the
15 ALJ is that maybe we need to take a look at what
16 we're doing here and bringing so many cases that
17 result in no discipline.

18 CHAIRPERSON WILEY: What we have-- and
19 one of things that I think is so important is such an
20 increased success rate with concurrence, what we
21 would call concurrence. So, where we have agreement.
22 One of the things that I think we are increasingly
23 doing is understanding where-- finding and trying to
24 understand where we may actually, for instance, have
25 disagreement about an interpretation of law and how

1 we define and find preponderance of the evidence,
2 right, which is our evidentiary standards. So, one
3 of the things that has been so important about the
4 collaborative relationship with the Police Department
5 is that it enables us to better understand where we
6 have differences in interpretation and in gray areas
7 versus where we just need to bring more into
8 alignment our understanding of how they see cases and
9 how we see cases. So, what I would say is I think
10 that's part of the ongoing process always is to look
11 at where we need to make improvements and where we
12 identify tensions and potentially areas of
13 disagreement.

14
15 COUNCIL MEMBER GENTILE: Okay. And it's
16 not only the APU cases. I'm told also in DAO cases,
17 the Detectives Unit is telling me that they win
18 almost 60 percent, win meaning no discipline, in
19 those cases, too. So, we really have to take a look
20 at the amount of cases that end up with no
21 discipline. That's my plea to you, that you have a
22 vision and a goal to bring those cases down so we're
23 not spending time on cases like that.

24 JONATHAN DARCHE: I have nothing more to
25 add to what Chair Wiley said.

COUNCIL MEMBER GENTILE: Okay, very good.

Let me ask you quickly, I want to talk about some specifics. Also, my preparation for the hearing, it's come to my attention that sometimes police officers that are-- that come to CCRB are asked about validity of search warrants that are issued in a particular case. I'm just curious. Unless there is-- you have some evidence or reason to believe that a police officer withheld some significant information to the court that was deciding on whether to sign a search warrant, if you-- unless you have evidence of that type, I'm curious as to why the police officer is being questioned about the validity of a warrant that was decided upon by the court and the judge signed the warrant. And that point, it's the court that made that judicial decision to issue a search warrant.

COUNCIL MEMBER WILLS: Well, I'll turn that over to staff. What I'm aware of as a Board Member, so I'm just going to speak as a Board Member not as staff processing and investigating is, we have cases in which a warrant has one address and the police are at a different address. So, that's what I've seen, which is not the same thing as--

1
2 COUNCIL MEMBER GENTILE: [interposing] Is
3 that the extent of the questioning that--

4 CHAIRPERSON WILEY: [interposing] I'm
5 going to turn that over to staff for that. I'm just
6 saying as a Board Member what I see is those are the
7 kinds of cases coming to us where there's a question
8 about the warrant. It's not a validity question
9 about the warrant. It's the accuracy of the police
10 action relative to what the warrant enables the
11 officer to do.

12 THOMAS KIM: Unless it was not brought to
13 my attention, that is the case, and we will not
14 question whether the judge rightfully issued a search
15 warrant or not. That is not our job. However, we do
16 look at did the officers enter prior to search
17 warrant being obtained after entrance [sic]. So,
18 it's more of sequence as well as had Chair indicated
19 was at the right address. So, if there are cases
20 that is different than, I do need to know about it,
21 and I'm pretty confident that's not the case.

22 COUNCIL MEMBER GENTILE: So, the validity
23 of the warrant is not an issue before you?

24 THOMAS KIM: Correct.
25

1
2 COUNCIL MEMBER GENTILE: Or having the
3 officer defend the validity of a warrant.

4 CHAIRPERSON WILEY: Yeah. There's
5 certainly no case that I've seen as a Board Member
6 where that's the question. The question is whether
7 the officer did what the warrant allowed.

8 CHAIRPERSON GIBSON: Council Member
9 Lander?

10 COUNCIL MEMBER LANDER: Thanks very much.
11 So, I appreciate the increase in situations where
12 substantiated complaint resulted in discipline and I
13 think that speaks well of both CCRB and the
14 Department, but I am troubled by the lack of data and
15 transparency where there's a departure even if it's a
16 lower disciplinary charge. So, right now you guys
17 will develop a preliminary recommendation. You have
18 a reconsideration process. You may adjust or reduce
19 it. You eventually go to the NYPD and they may
20 reduce it further, but all the public learns is just
21 the percent of whether there was any disciplinary
22 action or not. So, why-- I mean, it seems to me as a
23 matter of transparency especially in the aggregate.
24 We ought to know some aggregate data about your
25 preliminary recommendation, your reconsidered

1
2 recommendation, and the NYPD's final decision, and
3 not only was there any discipline or not, but where
4 were the reductions and some information on how much
5 and why. So why can't-- why don't know those and why
6 can't we? And that can't possibly be 50A implicated.
7 I'm not asking for any individuals' identity. So why
8 don't we have that, and when can we can get it?

9 ROBIA CHARLES: So, that is a wonderful
10 question and it'd one that we thought long and hard
11 about it. So, in our data transparency initiative
12 that's on our website, it's-- for us, that is a
13 marathon and not a sprint. So we are continuing to
14 build out new functionalities and new data to share
15 with the public, especially at the aggregate level as
16 you mentioned. One of the things that we are almost
17 finished with at this very moment is looking at our
18 discipline, our disposition and discipline
19 recommendations that the Board makes, and then the
20 final penalty decision that is made by the Department
21 as well as a few steps in between that which is
22 allowable by the law. So, this is oen of our
23 forthcoming efforts that will be currently on our
24 DTI. So,--

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COMMITTEE ON PUBLIC SAFETY

COUNCIL MEMBER LANDER: [interposing] So we will have it.

ROBIA CHARLES: Keep looking at it.

COUNCIL MEMBER LANDER: We will have that.

ROBIA CHARLES: Yes, absolutely.

COUNCIL MEMBER LANDER: Alright, great. When?

ROBIA CHARLES: Please look at our website and take a look.

COUNCIL MEMBER LANDER: When? Roughly by when?

ROBIA CHARLES: So, it can't be this month. We're currently in a testing phase of it, but we hope to do it by the end of the year.

COUNCIL MEMBER LANDER: Great, okay. Thank you.

ROBIA CHARLES: Takes time.

COUNCIL MEMBER LANDER: No, I think that will be--

ROBIA CHARLES: [interposing] It's a lot of data, so it takes--

COUNCIL MEMBER LANDER: [interposing] I think that'll be very helpful. Now, a few sort of

1
2 specific examples of that, I just noticed in some
3 review of that annual report that there were four
4 cases-- you know, there were-- of the 41 cases where
5 you guys actually had guilty pleas, there were four
6 cases where the Commissioner set them aside and
7 vacated the plea and the disciplinary recommendation.
8 So, when something like that happens, you receive a
9 reason for it? But, I mean, again, what can-- you
10 know, what can the public know in that case for
11 example where I think anyone would expect it if you
12 guys brought a case, you substantiated it, you got a
13 guilty plea, and then the Commissioner vacated the
14 plea. Some information should be available about,
15 again, why that was.

16 CHAIRPERSON WILEY: So, I think this is
17 an area of ongoing discussion with the NYPD, and
18 obviously there's a new Police Commissioner, so
19 there's always the question of also how the new
20 Commissioner will make decisions. So, this is an
21 area of obviously active conversation. I think to
22 your point, Council Member Lander, the point about
23 more transparency just about what kinds of reasons,
24 generally speaking I would just say in terms of my
25 conversations with DAO, generally speaking what I've

1 heard is that there is a departure from what they see
2 as their-- in the cases that they handle themselves
3 that aren't coming through the CCRB, that they want
4 to see consistency across their cases. Obviously, we
5 don't have any insight into what they do in the cases
6 that don't come through CCRB, but this is an area for
7 more conversation.
8

9 COUNCIL MEMBER LANDER: So, are you
10 considering as part of the Data Transparency
11 Initiative, I could imagine putting the reasons in
12 aggregate. You know, when you get a reason back, and
13 that could be a reason for reduction in penalty or it
14 could be a reason for no, you know, for-- even though
15 you couldn't give us the individual case, if in
16 addition to recording the reduced finding, you made a
17 menu of reasons for reduction. Perhaps you could
18 make those, you know, make that available in
19 aggregate as well?

20 CHAIRPERSON WILEY: We will definitely
21 continue to talk about that. That's helpful.

22 COUNCIL MEMBER LANDER: Okay, on a
23 totally different topic, not data related at all,
24 advocates have brought to my attention this question
25 about whether the CCRB receives and investigates

1
2 complaints of sexual misconduct or sexual assault
3 against police officers, and I know there's just some
4 lack, I guess some lack of clarity about whether you
5 have that jurisdiction around abuse of authority
6 already and would take them, whether that could be
7 clearer to people? I guess the advocates have said
8 that because it's not sufficiently clear some people
9 think they're supposed to go to the Department with
10 complaints about sexual assault by, you know, it
11 could be an on-duty or an off-duty officer. So can
12 you just clarify for us, do you need us to give-- I
13 mean, I think everyone would say you should. I don't
14 know. I can't imagine it would and say you shouldn't
15 have that authority. So if you need us to provide it
16 more clearly, this would be a good time to tell us.

17 CHAIRPERSON WILEY: You know, obviously
18 our jurisdiction is over FADO. There are-- there--
19 we just had this conversation as a Board because we
20 had a presentation at our last Board meeting, so this
21 is something we will continue to be looking at as an
22 agency. I mean, the bottom line, though, is anything
23 that falls within those categories of force, abuse of
24 authority, can be brought to us. So, things that
25 it's not captured by us as sexual misconduct, meaning

1
2 that's not a stand-alone category. But obviously
3 there is conduct that may be part of allegations that
4 we receive that would fall into it, but I think the
5 issue that is being raised about the clarity and the
6 transparency and understanding whether there are
7 other things that need to be done is one that we have
8 to take very seriously.

9 COUNCIL MEMBER LANDER: Okay. So, if you
10 could just-- because of course if there was a sexual
11 assault or sexual misconduct it would-- that's abuse
12 of authority and use of force, but I mean, it could
13 be verbal so it might not be use of force, but still
14 I think would be abuse of authority. But if it
15 doesn't-- if that doesn't live as a category for
16 members of the public to see, you could imagine
17 something not thinking it was the kind of thing that
18 they would bring. So, I would recommend that you--
19 if you can without statutory change find a way to add
20 that and if you need us to make that a category by
21 law, it, yeah, it feels like that would make it
22 easier for people to know that it was an appropriate
23 thing for them to approve [sic].

24 CHAIRPERSON WILEY: I think that's very
25 helpful suggestion, and I just want to recognize the

1
2 staff because I do think that one of the things that
3 the staff has been very effectively doing is reaching
4 out to communities that experience particular types,
5 LGBTQ, this issue of sexual misconduct has been
6 actually coming to us because the staff has been
7 doing such a great job outreaching to stakeholders
8 and particularly communities that may be particularly
9 under-represented in coming to the CCRB in the first
10 place.

11 COUNCIL MEMBER LANDER: Agreed. And I
12 want to honor sort of this on all sides because it
13 seems to me the fact that there's so much more
14 outreach and there aren't a lot more complaints, and
15 that the substantiation rate is going up, but it's
16 not, you know, it's not mushrooming, like gives
17 credit to the CCRB and credit to the Department as
18 well. I mean, it's hard to know through all the data
19 what's noise and what's signal, but I feel like
20 there's reason to believe that the training is
21 working, that some of that is improving and that
22 we're doing better at investigating and bringing
23 disciplinary recommendations in those cases where we
24 need to. So, anyway, I-- I will yield my time, but
25 I'm past the time, having any time to yield. But

1
2 thank you, Madam Chair, again, for convening the
3 hearing.

4 CHAIRPERSON GIBSON: Thank you, Council
5 Member Lander. I want to acknowledge the presence of
6 Council Member Jumaane Williams, and call Billy
7 Martin for a vote.

8 COMMITTEE CLERK: Continuation roll call,
9 the Committee on Public Safety Introduction 83A and
10 Resolution 1181A, Council Member Williams?

11 COUNCIL MEMBER WILLIAMS: Aye.

12 COMMITTEE CLERK: Vote now stands at 9 in
13 the affirmative.

14 CHAIRPERSON GIBSON: Alright. I'm getting
15 there. Thank you very much. Thank you, Council
16 Member. And I just wanted to ask, in your testimony
17 you talked about three different reports that the
18 agency has done, one on entries and searches, the
19 others one juvenile cases, and third, LGBTQ related
20 complaints. Based on your data and recommendations,
21 have you seen any improvements in those particular
22 areas where changes have been made by the Department?
23 Have you see less of those types of complaints coming
24 into the agency, and generally speaking moving
25 forward, are there any other reports or topics that

1
2 you're looking at that you are allowed to share with
3 us so that we can understand what's coming down the
4 pipeline?

5 ROBIA CHARLES: So, in terms of whether
6 we've seen a change in complaint numbers based on
7 juvenile cases, LGBTQ related complaints and a search
8 and entry, there has not been great movement there.
9 That's largely because the reports were issued this
10 year. Not enough time has passed, and also because
11 those numbers are fairly consistent. So, for
12 example, search and entry is one of our highest forms
13 of abuse of authority every single year for the past,
14 you know, 18 some years. So, that simply is what it
15 is. In terms of future reports, in addition to the
16 three you mentioned, we obviously have the annual
17 report and the semi-annual which come out every year.
18 We have a Taser [sic] report as well as what's often
19 called the bystander report, but that's really when
20 officers interact with audio and video recording,
21 which is obviously important as more video and audio
22 recordings are coming across our table over time. In
23 addition to these two reports, we are looking next
24 year to start off with another big report, sort of
25 like the search and entry March of this year, which

1 looks at the effectiveness of penalties on officer
2 behavior. So it's a large report which we are
3 starting now, in fact, but we hope to push that out
4 at the beginning of next year.
5

6 CHAIRPERSON GIBSON: I wanted to-- thank
7 you. That's-- it's good to know moving forward in
8 terms of what the agency is looking at. With the
9 increased efforts that the department is making
10 around the evolving issue of mental health, I think
11 it goes without question that mental health is
12 something that we obviously want to treat as a real
13 disease and not criminalize it. And the Department
14 is being asked to respond to many, many cases of
15 individuals with emotional disturbances, with defined
16 diagnosed mental conditions. You know, obviously the
17 horrific death of Ms. Danner really underscores the
18 increased effort that we are striving to make around
19 mental health. Riker's Island, DOC, and the crisis
20 intervention training, etcetera. I mean, we can
21 never train and invest enough in mental health
22 resources and programs for individuals, and I also
23 bring up those who could potentially be suicidal as
24 well. I've had too many cases in my own district of
25 children attempting suicide. So, it's heartbreaking,

1 and now, you know, looking at the Department and CIT
2 and where we see the future of addressing these EDP
3 cases, do you see any involvement or nay role that
4 CCRB may play in this effort? Have you seen any
5 cases at the agency now of instances of complaints
6 with an emotionally distressed person? And then
7 moving forward, obviously, DA Clarke has jurisdiction
8 over this particular case, but do you see any role
9 that you may or may not play in this particular case
10 as well?
11

12 CHAIRPERSON WILEY: Obviously, We can't.
13 We don't know in terms of this particular case.
14 We'll be seeing as that unfolds. In terms of this
15 general point, which is very important, and I think
16 to all of us for many reasons, and a tremendous
17 tragedy, we definitely receive a lot of complaints
18 related to whether or not for example someone was
19 taken to the hospital by the police against their
20 will who was an emotionally disturbed person. So, it
21 does underscore, I think, how complicated it is for
22 police officers because they have to make judgements
23 about what they're legally authorized to do,
24 sometimes in the context of some potentially very
25 dangerous set of circumstances. Obviously, what

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2 we're primarily weighing is whether or not in a
3 particular complaint an officer or officers complied
4 with the law. I think in terms of your question it's
5 certainly something we can look at in terms of
6 tracking. I think Doctor Charles, you can-- in terms
7 of what we currently track on EDP's can share that.

8 ROBIA CHARLES: So, it is very difficult
9 to diagnose or determine who is an EDP, and for that
10 reason we can't tell how many complaints,
11 complainants are EDP's. So that's the bottom line
12 response. However, our investigators, you know, come
13 across folks who seem to be EDP's. There might be a
14 history of something related to being an EDP. Our
15 investigators are aware that, you know, we touch upon
16 complainants that fall into this category quite
17 often, but we don't have numbers because we cannot
18 correctly identify. However, we have worked, and we
19 are beginning to work, in fact, with the Department
20 of Mental Health looking at what sorts of services we
21 might be able to tell people they can go, you know,
22 and seek some sort of help or whatever they need
23 because that's not something that we provide
24 obviously at CCRB. It does touch us in a very
25 interesting way, because you know, we come across

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2 folks with regard to fatal cases, but again, we don't
3 have specific numbers because it's a difficult
4 community to capture.

5 CHAIRPERSON GIBSON: Right.

6 CHAIRPERSON WILEY: But to be clear, we
7 would be able to capture just the number of
8 complaints that are based on whether there was a--

9 CHAIRPERSON GIBSON: [interposing] Right
10 that you have now.

11 CHAIRPERSON WILEY: lawful removal, for
12 example. So where the case, the allegations
13 themselves related to an identification of a person
14 that is emotionally disturbed.

15 CHAIRPERSON GIBSON: Right.

16 CHAIRPERSON WILEY: But that's the
17 difference. You're right, that's a very different--

18 CHAIRPERSON GIBSON: [interposing] And
19 now you've, you've said that, you know, because it's
20 constantly evolving and because there are so many
21 different levels and, you know, different diagnoses,
22 and we don't always see someone that has a mental
23 illness. It's not just that, you know, that-- in
24 terms of being obvious. How do you ensure that your
25 investigators-- I mean, a lot of this is training,

1 obviously, but it's constantly changing. How do you
2 make sure that with some of these very, you know,
3 particular and sensitive cases that the investigators
4 are given sufficient information and resources to
5 really understand, you know, what could be a mental
6 illness and how you can best provide, you know,
7 efficiency in that particular case?
8

9 THOMAS KIM: For the investigator it is
10 very important to determine facts to the case,
11 whether the complainant appears to be EDP or the
12 complaint involves EDP. So that's oen thing. Second
13 thing is, even in our current training, there is
14 component related to how to deal with person with
15 emotional disturbance. But we are engaging in
16 additional resources such as Doctor Charles indicated
17 with OMH and so on to look at additional training for
18 our internal staff as well as resources that we could
19 provide to the complainant as well. But one
20 important fact that I want to make sure is that we
21 look at the complaint itself, whether the complainant
22 is EDP or not, but we gather additional evidence to
23 determine whether incident happened or not and
24 whether procedural guideline was violated or not. So
25 that is the fact of how we approach, but in terms of

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2 dealing with person with mental disorder, we are
3 looking to have additional training to ensure not
4 only we take the complaint or deal with the
5 individual, but possibly refer them to additional
6 resource.

7 CHAIRPERSON GIBSON: Okay, great. Council
8 Member Gentile?

9 COUNCIL MEMBER GENTILE: Thank you, Madam
10 Chair. I just had a question. You talk about the
11 quick resolution of cases, and that's good, that's a
12 positive thing, but you don't operate in a vacuum.
13 So I want to ask you a question about Rosario
14 Material. When you have a complaint where there's a
15 criminal trial proceeding, it's my understanding that
16 at times you have police officers involved in that
17 situation testify at CCRB, which creates, I would
18 think, Rosario Material in the criminal trial because
19 I assume it's not-- it's discoverable and it's not
20 subject to 50-A. so, in those instance where there
21 is a criminal trial proceeding concurrent to your
22 complaint, why is that you could not hold off on your
23 proceeding until the criminal matter is resolved, one
24 way or the other, much as IAB does? You know, IAB
25 usually to my knowledge, IAB waits until the criminal

1
2 complaint is resolved, criminal trial, criminal
3 matter is resolved before they move in any way. I'm
4 curious as to why that's not done with CCRB and the
5 result in Rosario Material that's created by
6 additional testimony in front of your panel?

7 MINA MALIK: So, Council Member, we do
8 work with the five district attorney's offices across
9 the City, and the understanding is that if the
10 district attorney of whichever county requests us to
11 put a hold on our investigation, we honor that hold.
12 And so therefore--

13 COUNCIL MEMBER GENTILE: [interposing] But
14 why is it just a matter of course if there is a
15 criminal trial proceeding that your determination
16 would actually be enhanced by the result of the
17 criminal trial one way or the other, and you would
18 avoid the issue of creating Rosario Material?

19 CHAIRPERSON WILEY: Mr. Darche, you want
20 to since you have to do--

21 JONATHAN DARCHE: [interposing] We don't
22 always know that there is a criminal proceeding until
23 we hear from the DA's Office. So once we hear from
24 the DA's Office, then we put the case on hold.

1
2 COUNCIL MEMBER GENTILE: Isn't it easy
3 enough to run a name and find out whether there is a
4 pending case in one of the five boroughs?

5 MINA MALIK: Well, we also still have our
6 mandate as an agency to go forward--

7 COUNCIL MEMBER GENTILE: [interposing]
8 Yeah, no, I'm not saying you--

9 MINA MALIK: [interposing] with an
10 investigation.

11 COUNCIL MEMBER GENTILE: just discard it,
12 I'm just saying you hold off much like other
13 situations where there are non-criminal proceedings
14 moving forward at the same time a criminal proceeding
15 is moving forward. You allow the criminal proceeding
16 to resolve itself first before the non-criminal
17 proceeding goes forward.

18 CHAIRPERSON WILEY: So, I think the
19 question about whether or not there has actually been
20 a serious issue presented based on what's happen in
21 the past experience is something we can look into. I
22 certainly as a Board Member have not heard of having
23 an actual problem. Certainly what we're seeing is--
24 and in a lot of our data in terms of the processing
25 of investigations of allegations is, and we're seeing

1 a lot of cases explained to us why we're getting it
2 after our internal goals around how we're processing
3 because we're complying with DA holds. So, I think
4 it's a question we can take back and just look at to
5 see if we're actually seeing any problems. I'm--
6 from our vantage point, I don't know that we're aware
7 that there have been any significant ones to date,
8 but we can take a look at that.

10 COUNCIL MEMBER GENTILE: It just seems to
11 me that there has to be a way that you can vet those
12 cases in some way find out if there's a criminal
13 proceeding going on simultaneously to your complaint.
14 Thank you, Madam Chair.

15 CHAIRPERSON GIBSON: Thank you very much,
16 Council Member Gentile, and now we'll have Council
17 Member Williams.

18 COUNCIL MEMBER WILLIAMS: Thank you, Madam
19 Chair. Thank you Executive Director and Chair and
20 the entire CCRB for being here. I apologize for
21 being late, so I may ask some repetitive questions.
22 I think this important and the work you do is
23 important, so thank you. I also agree that I think
24 there's been a lot of movement in the NYPD, which has
25 been great. I think there-- there's been less

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2 understanding or feel of it on the ground. So I'm
3 waiting for the feeling on the ground to catch up
4 with actual work that has been done. I know one place
5 that has not been done very well, it's transparency
6 and accountability, and I believe those two things
7 are what people are waiting for the most. So, my
8 hope is that we can move forward with that, and the
9 job and work that you do is important there to be
10 fair to both the police officer and the complainant,
11 but when there is substantiation to make sure or at
12 least suggest that discipline occur. So I have a few
13 questions. One is following up on something that
14 Council Member Lander mentioned. I don't-- this is a
15 specific question, so if you can-- if you answered
16 it, I'm sorry. But it's just referring to the report
17 that says you're at an all-time high of 92 percent of
18 substantiation. Do you know today how often the NYPD
19 pursue discipline at the level your recommend?

20 ROBIA CHARLES: So, the substantiation
21 rate for 2015 is 27 percent. I believe that 92
22 percent that you just quoted is for the discipline
23 rate for non-APU cases specifically.

24 COUNCIL MEMBER WILLIAMS: Say that again.

25

1
2 ROBIA CHARLES: The 92 percent that you
3 quoted is for-- it's the discipline rate for non-APU
4 cases in 2015.

5 COUNCIL MEMBER WILLIAMS: Okay.

6 ROBIA CHARLES: That is not the
7 substantiation rate.

8 COUNCIL MEMBER WILLIAMS: Substantiation
9 rate is only 27 percent.

10 ROBIA CHARLES: It is 27 percent for the
11 year 2015.

12 COUNCIL MEMBER WILLIAMS: And so the 97
13 percent, that is the number--

14 ROBIA CHARLES: [interposing] Ninety-two
15 percent.

16 COUNCIL MEMBER WILLIAMS: Ninety-two
17 percent, that is the number of--

18 ROBIA CHARLES: [interposing] It's the
19 discipline rate for non-APU cases.

20 COUNCIL MEMBER WILLIAMS: At the level
21 that you recommended?

22 ROBIA CHARLES: So, it is for a penalty.
23 That means that the CCRB Board has recommended a
24 penalty of any sort, charges, formalized training
25 instructions, command discipline, and that the final

1
2 penalty metered [sic] out by the PD was a penalty
3 rather than no penalty at all.

4 COUNCIL MEMBER WILLIAMS: So, it's 92
5 percent of the 27 percent, and NYPD metered out some
6 sort of discipline.

7 ROBIA CHARLES: So, really it's two
8 different things.

9 COUNCIL MEMBER WILLIAMS: Okay.

10 ROBIA CHARLES: So, the complaints in
11 2015 which have at least one substantiated
12 allegation, that is 27 percent, and then of those
13 complaints that were substantiated, a discipline was
14 recommended by the Board, and out of 92 percent of
15 those cases the Police Department finally decided
16 that there should be a penalty rather than no
17 penalty.

18 COUNCIL MEMBER WILLIAMS: So, of the 27
19 percent, what percentage did you recommend
20 discipline?

21 ROBIA CHARLES: So, all substantiated
22 cases have a recommended discipline.

23 COUNCIL MEMBER WILLIAMS: So it's 100
24 percent of the 27 percent.

1
2 ROBIA CHARLES: Have a recommended
3 discipline, yes.

4 COUNCIL MEMBER WILLIAMS: And then 92
5 percent of that 100 percent.

6 ROBIA CHARLES: Have a final penalty that
7 is metered [sic] out by the Department.

8 COUNCIL MEMBER WILLIAMS: Okay, thank
9 you.

10 ROBIA CHARLES: It is complicated.

11 COUNCIL MEMBER WILLIAMS: And then how
12 many-- at the level that you recommend, that the CCRB
13 recommended?

14 ROBIA CHARLES: So, I don't have that
15 number off-hand. I can tell you that the-- what
16 you're talking about is penalty agreement rate
17 specifically, and that is increased over time, but
18 that number, I can't tell you specifically right now.
19 I'm happy to get that to you later.

20 COUNCIL MEMBER WILLIAMS: Okay. And that
21 27 percent, I think -- I don't know the cases, but I
22 do know it does show for officers who think that CCRB
23 is just there to somehow be hard on them, that you
24 probably do take a lot of time. Not probably, you do
25 take a lot of time, and not everything's

1
2 substantiated, and not everything should be
3 substantiated. So, I think it's important that the
4 Board is viewed as a fair and impartial board when it
5 comes to this. In terms of use of force, there were
6 some Patrol Guideline changes from the interim, and
7 some folks believe that it actually weakened when it
8 came to use of force, including removing that deadly
9 physical force be used only as a last resort, and
10 that was consistent with Department policy and the
11 law, and the creation of a list of potential
12 exemptions that arguably can weaken it. And so, I
13 wanted to know if you had an opinion on the
14 guidelines themselves, the new ones, or if you've
15 seen any new areas of concern, misconduct or anything
16 like that?

17 JONATHAN DARCHE: The new force
18 guidelines contain a great deal of useful information
19 for the Board to use to evaluate whether a member of
20 the NYPD's use of force was reasonable. Patrol Guide
21 Section 221.01 now mandates that members of the NYPD
22 use de-escalation techniques prior to using force
23 when it's appropriate and consistent with personal
24 safety, and the section also gives 11 factors that
25

1
2 the Board can use to determine whether the use of
3 force was reasonable.

4 COUNCIL MEMBER WILLIAMS: But they also
5 changed when physical-- deadly force can be used only
6 as a last resort, and I think that they also put some
7 exemptions that folks felt might weaken it. Do you
8 have an opinion on those two changes and then even
9 with what you have said, I just want to know if
10 there's any new areas of concern, any increase in any
11 types of complaints since those guidelines have
12 changed?

13 CHAIRPERSON WILEY: So, I think the best
14 way to answer that question which is important is
15 that generally speaking whenever there is a
16 significant change in Patrol Guide, obviously that's
17 one of the things that the CCRB does in developing--
18 looking at our complaint patterns and developing
19 recommendations is to see whether or not we think
20 there are positive impacts or opportunities for
21 change. So we will be looking at that. It hasn't
22 been that long. So, it would be, I think, too soon
23 to be able to share with you what its impact has been
24 in terms of what we're seeing in complaints. But I

1 think it's-- we understand the question, and I think
2 it's the kind of when we analyze what we see.

3
4 COUNCIL MEMBER WILLIAMS: Thank you.

5 And, you know, this body does have legislation to try
6 to make it a law that it bans chokeholds, in
7 particular. I just wonder if CCRB has any opinion on
8 whether a ban like that will be useful or helpful.

9 CHAIRPERSON WILEY: Certainly, we as a
10 Board have not had that specific discussion. So, I
11 certainly would not be able to offer an opinion at
12 this time.

13 COUNCIL MEMBER WILLIAMS: Thank you. We
14 also have a package of legislation called "The Right
15 to Know Act." I had a couple of questions about
16 that. CCRB has had a few reports actually that pay
17 particular attention to a persistence of complaints
18 revolving around unconstitutional searches as late of
19 2015. They also pointed out that there might be
20 potential officer confusion on the legal standards
21 for search and suggestions of possible inadequate
22 training. I can't say based on the many years of
23 back and forth and white noise that was-- and black
24 noise, I guess, that was back and forth about what
25 "Stop, Question and Frisk" was, what it wasn't.

1
2 There's probably a lot of people confused about what
3 it is, not differentiating between the policy that
4 was being done which is unconstitutional and the
5 actual tool itself that is necessary and needed
6 within the Police Department. And I could see
7 confusion happening amongst us, and I assume that
8 there might be some officers who are confused as
9 well. But I wanted to know if a law around consent
10 and search would be helpful in clarifying some of the
11 things that were pointed out in the CCRB report?

12 JONATHAN DARCHE: So, the compromise
13 reached between the Administration and the City
14 Council with regard to the "Right to Know Act" should
15 make it easier for the agency to determine if consent
16 was actually given prior to a search, and identified
17 members of service who stop civilian who have made a
18 complaint, and this could lead to faster
19 investigations and increased number of findings on
20 the merits in individual cases.

21 COUNCIL MEMBER WILLIAMS: That's
22 interesting. So, you think the compromise would be
23 helpful. DO you know what the compromise is? As far
24 as I know there isn't anything in writing to even
25 look at to say that the compromise would be helpful.

1
2 CHAIRPERSON WILEY: So, I think part of
3 what Mr. Darche is trying to say is, based on what we
4 understand it to be, we're obviously looking at this
5 from the perspective of our operation of our agency
6 and all we can do is try to understand what the
7 discussion is that's happening. Certainly,
8 obviously, when-- if and when there are additional
9 things put in writing, we'll do a new assessment of
10 whether and how it affects our operations. Our
11 primary purpose right now is really to understand how
12 things will impact how we do our job and how we
13 understand what our job is.

14 COUNCIL MEMBER WILLIAMS: So for clarity,
15 the compromise as you understand it based on what
16 you've heard because there's nothing in writing would
17 be helpful in alleviating some of the things that
18 were in the report.

19 CHAIRPERSON WILEY: Well, we think that
20 to the extent there's greater clarity it's going to
21 help us. And so, you know, without weighing in on
22 the merits because I don't think we're in a position
23 to do that at this point as an agency, I think, you
24 know, to the extent that there are continuing
25 discussions, we're looking forward to looking at them

1
2 and understanding how they impact us as an agency and
3 how we continue to support effective and fair process
4 which is what we're here to do.

5 COUNCIL MEMBER WILLIAMS: So, would you
6 believe in concretizing in law what the compromise as
7 you understand it verbally, because there's nothing
8 in writing, would be even more helpful in moving
9 forward?

10 CHAIRPERSON WILEY: I think all we can
11 say today is based on what we understand, you know,
12 that will help us in terms of clarifying how we're
13 interpreting our cases, but that at the end of the
14 day, you know, the policy process that is going to be
15 engaged within, and the City Council doing its job,
16 you know, we're obviously always ready to weigh in on
17 how we think it effects our operations, and we'll so
18 moving forward.

19 COUNCIL MEMBER WILLIAMS: Thank you. I
20 had a similar question of the ID bill as a consent to
21 search, but I assume it will be the same answers for
22 that as well, correct? Thank you. My last question
23 was, are there any-- what reports are being planned
24 for release by CCRB in the upcoming year.

1
2 ROBIA CHARLES: So, in addition to the
3 reports that we've already issued this year, we're
4 looking to issue Taser Report as well as what is
5 commonly called the Bystander Report, which means
6 we're looking at officer interaction with video or
7 audio recordings. We hope to round out this year with
8 those reports. For next year, we'd like to start
9 again with another large report, similar to our
10 search and entry report of March of this year, which
11 looks at the effectiveness of penalties on officer
12 behavior.

13 COUNCIL MEMBER WILLIAMS: Thank you very
14 much. Thank you for being here and answering the
15 questions of the very important work that you do. I
16 think it's important that particularly in this time
17 with the conversations that are going on. So, thank
18 you. Thank you, Madam Chair.

19 CHAIRPERSON GIBSON: Thank you, Council
20 Member Williams, and as I let you guys go, I thank
21 you very much for coming today. And you know, also I
22 think it's important alluding to what Council Member
23 Williams talked about whether it's an administrative
24 agreement, and administrative change, a Patrol Guide
25 amendment, whether it's Local Law, you know, these

1
2 are the types of measures where communication is
3 obviously going to be key, whether it comes through
4 the Council or the Department or any other agency. I
5 mean, obviously state measure that come down from
6 Albany is very important. We just constantly have to
7 be able to communicate and understand what is going
8 on, because ultimately the work we do affects you and
9 vice versa. So, while I know that there have been
10 certain agreements and other measures that have been
11 talked about and agreed to, we need to make sure that
12 we're obviously on the same page and how that effects
13 your work. But it is clear to me, you know, since
14 you came aboard, since Ms. Malik and the entire team,
15 there has been an incredible amount of work done and
16 a lot of investments made. And for me, as a member
17 from the Bronx, I appreciate the outreach, and that's
18 important for my residents. I don't want them to have
19 to travel to Lower Manhattan just to do, you know, an
20 inquiry or just to provide a complaint. I mean,
21 that's not what I think we should be doing. I think
22 for us in the outer boroughs we always want to make
23 sure we get enough attention like everyone else's to
24 make sure that there's equitable not just access, but
25 there's just a chance for people to make sure that

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2 their voices are heard. So moving forward there's a
3 lot of work that we will continue to do, but I thank
4 you for the report. I have the semi-annual report
5 from January to June of this year, and so we'll
6 continue to have conversations as well as, you know,
7 further forthcoming reports from the agency, but I
8 thank you for being here and look forward to working
9 with you, and certainly know that you can call upon
10 us, and anything that you need moving forward, and
11 we're happy to work with you. Thank you very much
12 for being here, thank you.

13 CHAIRPERSON WILEY: Thank you for having
14 us.

15 CHAIRPERSON GIBSON: And if I could just
16 make one final request, I always do to the
17 Administration? It would be very beneficial if you
18 could leave someone from CCRB behind so that you
19 could hear the remainder of the hearing. At times,
20 you know, the entire Administration will leave, and
21 there are other organizations that I'm sure would
22 appreciate you being here so you can hear their
23 testimony as well. Thank you. Our next panel to
24 come before us for this morning's hearing is the
25 President of the NYPD Captain's Endowment

1 Association, President Roy Richter, and I also want
2 to acknowledge that earlier we had with us the
3 President of the Lieutenant's Benevolent Association
4 President Lou Turco as well as the President of the
5 Detective's Endowment Association President Michael
6 Palladino. Thank you very much for being here,
7 President Richter, and you can begin when you settle
8 in. Thank you.

10 ROY RICHTER: I think it's springtime and
11 the rain has stopped. Thank you. My name is Roy
12 Richter. I'm the President of the NYPD Captains
13 Endowment Association. My police union is the
14 official bargaining unit for the 760 uniformed
15 members of the New York City Police Department in the
16 rank of Captain, Deputy Inspector, Inspector, Deputy
17 Chief, and Police Surgeons. I'm here today to talk
18 about a section of the City Charter that created the
19 CCRB and language contained in that section that
20 reflects a legislative bias against law enforcement
21 when determining the make-up of the board that
22 reviews complaints from the public against police
23 officers. When this language was originally passed
24 into law, a balancing provision existed to allow for
25 the Police Department to review recommendations of

1 the CCR Board and prevent officers from being charged
2 for actions that were in fact consistent with their
3 training, the law and made in good faith. Non-
4 legislative changes agreed upon in 2013, 2012-2013
5 altered the manner in which complaints against
6 officers by the CCR Board, CCRB Board, were processed
7 and removed this legislative standard from the review
8 process and has eroded confidence in the fairness of
9 the overall process by uniformed members of the
10 Police Department. First, I would like to go over
11 briefly the section of the City Charter and
12 provisions that create the Civilian Complaint Review
13 Board. The members of the CCRB Board consist of 13
14 individuals appointed from our communities by the
15 City Council, the Police Commissioner, and the Mayor.
16 This Board reviews investigations and recommendations
17 made by CCRB investigative staff who are charged with
18 investigating complaints by New Yorkers against New
19 York City police officers involving use of force,
20 abuse of authority, discourtesy, and use of offensive
21 language. In the past, CCRB staff would forward
22 their investigative results and recommendation to the
23 CCRB Board who would vote to approve the
24 recommendation and forward the case to the Police
25

1 Department. The Police Department would review and
2 consider the appropriateness of the case folder for
3 issuance of charges and specifications against the
4 officer, or some other form of remedial action. In
5 many cases, the Department would take no action if it
6 was determined that the action committed by the
7 officer fell within Department guidelines and was not
8 appropriate for disciplinary proceedings. As a
9 previously stated, the CCRB Board consists of 13
10 members, only three of which who are appointed by the
11 Police Commissioner are legislatively permitted to
12 have any law enforcement experience. The remaining
13 CCRB Board Members, the ones appointed by the City
14 Council and the Mayor are statutorily forbidden from
15 having any law enforcement experience in either a
16 local, city, state, or federal law enforcement
17 occupation or having ever, ever been employed by the
18 New York City Police Department in any capacity. In
19 2013, the procedures pertaining to the investigation,
20 review, issuance of discipline and prosecution of
21 subject officers was substantially modified by an
22 agreement between the then Police Commissioner and
23 CCRB. This agreement removed the level of review
24 practiced by the Police Department to determine
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1 whether an officer's actions were in fact within
2 Department guidelines before the issuance of charges
3 and specifications against a subject officer. The
4 agreement also removed from the Police Department the
5 authority to prosecute the subject officer in an
6 administrative forum. This authority to prosecute
7 police officers was given to CCRB staff attorneys.
8 The modifications in this 2013 agreement took effect
9 in 2014 and now provide for civilian complaint that
10 is investigated by CCRB staff to be forwarded to the
11 CCRB Board who review and approve the recommendation
12 and direct the Police Department to issue charges and
13 specifications against an officer with the case
14 prosecuted by a CCRB staff attorney. There no longer
15 exists a safeguard of preliminary review of the facts
16 and circumstances surrounding the complaint by Police
17 Department officials. In the two years since these
18 new practices have gone into place, I have observed
19 prosecutions of subject officers of all ranks to
20 increase dramatically even while overall numbers of
21 complaints by the public against police have remained
22 at historical lows. The CCRB has also broadened
23 their definition of authority under abuse of
24 authority provision in the empowering City Charter
25

1 provision to impose adverse employment action against
2 officers who they feel stopped, searched or arrested
3 a person beyond their legal authority, or while
4 executing a judicially approved warrant to search or
5 arrest an individual exceeding their legal authority
6 contained in that court-approved warrant. In many of
7 these types of incidents, the officers feel wrongly
8 accused having acted in good faith in accordance with
9 their training, Department policy and at the
10 direction of Police Department Commanders. As you ca
11 imagine, many of these cases have gone to trial with
12 many officers being found not guilty at the
13 conclusion of a process that takes 12 to 24 months to
14 complete. Although I am mentioning it, I am not here
15 to talk about the internal process of CCRB as I am
16 hopeful I can engage in future constructive
17 discussion with the new Chair of the CCRB and resolve
18 many of my concerns by means of a productive
19 dialogue. I am here to bring to your attention and
20 ask you to change a plainly-worded bias in the law
21 that limits your and other elected leaders' ability
22 to choose persons appropriate for appointment to the
23 CCRB Board. Uniformed officers of the NYPD are
24 looking for fairness. When a subject officer is
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1 charged with abuse of authority for violating the
2 constitutional rights of an individual, and review of
3 the facts reflect that the officer acted in good
4 faith, consistent with their training, Department
5 policy and the law, these officers should not have to
6 put their careers on hold while defending themselves
7 in a prolonged administrative prosecution. A
8 prosecution such as this by itself is the wrong
9 outcome when it is exacerbated by a knowledge that
10 the charge emanates from a board who is statutorily
11 barred from having any law enforcement background or
12 having ever worked for the Police Department in any
13 capacity, there is a clear feeling by the officer
14 that the system is unfair and the officer is being
15 persecuted, not prosecuted. Police officers are
16 professionals who draw upon years of training and
17 experience when they place themselves in harm's way
18 protecting the rights and safety of New Yorkers. An
19 analogy of the current CCRB review process is to a
20 person who has a complaint about medical treatment
21 rendered to them by a medical professional. How fair
22 would that process be if the board who was charged
23 with reviewing the appropriateness of medical care
24 rendered is banned from having any background in the
25

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2 medical field when rendering a determination on a
3 complainant? Thank you for the opportunity this
4 hearing affords to bring this matter to your
5 attention, and I'm hopeful that you can review this
6 legislation and modify it accordingly. And as a
7 second page, I did hand out a copy of the relevant
8 section of the City Charter, which is the provision
9 that I'm calling into question.

10 CHAIRPERSON GIBSON: Thank you very much,
11 and I'm still looking at this, your letter that
12 you've submitted. Before I get to Council Member
13 Gentile, I wanted to ask what your recommendation is.
14 So, Chair Wiley expressed and clarified the
15 membership and what the 13 member board looks like,
16 and the PC's appointees can have and traditionally do
17 have law enforcement background and experience. And
18 so that you're saying that in addition to that,
19 you're asking for the ability for the other
20 recommendations coming from the Council and the Mayor
21 to also have some sort of-- okay. So just clarify
22 what you're asking for.

23 ROY RICHTER: So, what I'm asking for is
24 for you to have the ability to consider people of all
25 backgrounds and experience, not to have a law in

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2 place that limits your ability to only appoint-- to
3 not appoint from a specific class of people and
4 appoint from another. So, I'm looking to give-- I'm
5 not-- all the people that you've appointed in the
6 past, I have no quarrel with, and I have every
7 confidence that you would appoint somebody in the
8 future that is equally responsible, but I don't
9 believe that you should be excluded from appointing
10 people that have law enforcement experience in their
11 background.

12 CHAIRPERSON GIBSON: Okay, understand.

13 While you talked a little bit about your relationship
14 and partnership moving forward with the CCRB, based
15 on the testimony and what they described today about
16 the work that they've done over the, you know, past
17 two and a half years, have your members come to you
18 noticing that there have been changes and
19 improvements? So, in addition to what you're asking
20 about the make-up and membership of the 13 member
21 board, what other issues have been raised that were
22 or were not addressed today in today's hearing?

23 ROY RICHTER: CCRB, the enhanced powers
24 that they have and the prosecutions that they're
25 bringing against police officers is probably the

1 subject of some of the most angry comments I receive
2 from my members. It's a challenge, and I realize the
3 law and the agreements that are in place. I'm hopeful
4 to work in a productive manner and to go forward
5 basis, but when you-- there was a quick mention of
6 it, but I know of Captains and above, I've had seven
7 prosecutions in the last 18 months, five not guilty.
8 You know, when you look at not guilty verdicts at
9 trial and the process is 12 to 36 months long to
10 complete that where a Captain basically takes
11 themselves out of the mix for even being considered
12 for a promotion, that's-- you know, you don't look at
13 the skill of the attorney. You have to look at the
14 cases that are being brought. And to the extent that
15 you have a low conviction rate, that-- I think that's
16 smoke, and I think I can tell you that there's fire
17 behind that. But again, that's something that I'm
18 looking to work. There's, you know, one of the
19 issues that I'm looking to work through is to give
20 every new administration an opportunity and a chance
21 to interact. Unfortunately, in the new Mayoral
22 Administration, I'm now with the third Administration
23 in CCRB, so hopefully this one will be productive.

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2 CHAIRPERSON GIBSON: Most of your
3 members-- you represent Captains, Deputy Inspectors,
4 Inspectors. So, the majority of your members are
5 commanding officers and executive members of police
6 precincts, and so they are the leaders of our
7 commands. In terms of their management and
8 navigating CCRB being a part of the conversation to
9 improve relationships, I mean, they play a very
10 critical role. So, I think about Chair Wiley's
11 comments about some of the police precincts that have
12 higher instances of CCRB complaints. What do you and
13 what are you planning to do in your capacity as
14 President of this union to work with the relevant
15 stakeholders to try to identify the source and what
16 can be done? So, you know, I'm saying that not just
17 as the Chair of the Committee, but I represent some
18 of those commands, and so it's important for me to
19 understand working with my CO's. what are we doing,
20 because you know obviously change starting at the top
21 in order for it to get to the bottom, there has to be
22 a mindset from your members that, you know, this is
23 the measures and this is the way that we should move
24 forward, you know, working together and building
25 relationships.

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2 ROY RICHTER: Absolutely. I can tell you
3 that precinct commanders, separate and apart from the
4 independent agency which is CCRB which is charged
5 with reviewing and investigating complaints, precinct
6 commanders are held accountable for CCRB complaints
7 made against members of their command, and it's
8 something that's taken very seriously. And so far as
9 numbers of complaints in different areas of the City,
10 generally I found that the vast majority of civilian
11 complaints come about as a result of enforcement
12 action. And when there's a lot of enforcement action
13 in a different area of the city, you're going to see
14 a larger number of complaints generated from that
15 enforcement action, just as a product, just as a
16 byproduct of the action. One of the big concerns that
17 I have is that you have people, just as an example,
18 that work in the Warrant Squad. The Warrant Squad
19 leads the City, I'm confident they lead the Police
20 Department in the largest number of CCRB complaints.
21 And those detectives that work, and they're primarily
22 detectives of people in their career path, they're by
23 working in that unit they have the very every day
24 real issue of placing their career on hold because of
25 the CCRB complaints that they will receive as a

1 result from working in that warrant squad. So, a
2 problem on a command level is how do you try and find
3 responsible people to work in these assignments that
4 are going to result more likely than not in an
5 adverse employment action against them regardless of
6 how effectively they perform their job? That's a
7 challenge. That's a challenge that I'm hoping to
8 work with CCRB. I know the Police Department command
9 structure is aware of it, but when I talk about
10 prosecutions earlier and I know there's a movement to
11 change policy and direction and fairness, but it
12 shouldn't be a bottom-up where you're prosecuting the
13 officers that we're telling what to do. It should be
14 a top-bottom policy, and you need to give direction
15 from the top to the bottom before you discipline from
16 the bottom up.

18 CHAIRPERSON GIBSON: So you indicated
19 that from your perspective and what you're seeing
20 that many of the complaints against officers are
21 based on enforcement actions. So, now are you saying
22 that this is derived-- and you know, we talk a lot
23 about enforcement, right, and targeted enforcement,
24 and what has, you know, sometimes been the historical
25 practice of not just this Department but just

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2 Departments across this country, especially in low-
3 income immigrant minority communities where it wasn't
4 necessarily based upon complaints, 311 and 911 calls,
5 but it was based on what many of us felt was just
6 discriminatory practices. So moving forward and the
7 work that we have tried and still try every day to do
8 to make sure that there's equity and fairness, so
9 communities of color that are engaged in practices of
10 bad behavior and illegal behavior happening in non-
11 minority communities as well, and sometimes at a
12 greater level, but it's just not enforced. And so
13 what I try to do as not just a member of this Council
14 is to make sure that people understand that if you
15 engage in fraudulent illegal behavior in our
16 neighborhood, then it's not tolerated in our
17 community just like it shouldn't be tolerated in
18 another community. And I think we as a Department,
19 as an agency, we struggle with that every day, and
20 it's not easy because we're talking about a fraction
21 of New Yorkers that are the bad apples that none of
22 us want in our communities, and we try through
23 precision, you know, policing and other measures to
24 get at them, but not at the expense of infringing
25 upon others' individual rights and just based upon,

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2 you know, other factors, race, color, etcetera. So,
3 moving forward, how do you think we as a Council can
4 work with you and your members, because many of your
5 CO's I know and I work with, and I understand the
6 struggle, I hear it almost every day, and I recognize
7 it because I represent a borough where I have a lot
8 of those challenges, but I always want to be fair. I
9 don't want people to think that they're targeted just
10 because of the color of their skin or just because of
11 a neighborhood. So, you know, that targeted
12 enforcement, and I feel like people are complaining
13 because they really feel that they're just being
14 targeted and they're not-- they're not the ones that
15 are engaging in that type of behavior. So, how do
16 you think we can continue to work together so that we
17 can find that balance, because I will tell you now,
18 we're not a place where we can be satisfied, because
19 we're not at that balance just yet? We still have a
20 lot of inequity in the system, and I imagine you hear
21 that and you would agree to a certain extent.

22 ROY RICHTER: It's a work in progress,
23 absolutely. And I think when you look back on the
24 years in the City of New York and where we were as
25 recently as 2011-2012 with the outcry of the

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2 communities about-- of aggressive policing that
3 wasn't necessarily deserved policing, I think we've
4 come a long way from there, and I think the numbers
5 of stops and the enforcement actions reflect a lot of
6 that. And you know, when Commissioner Bratton
7 recently left, you know, they were asking about what
8 his legacy was, and I honestly said that when he
9 started-- when I worked for him 25 years ago, it was
10 a city under siege, and now when he came back it was
11 hopefully utilize what he referred to as the peace
12 dividend, but that is a work in progress, and I think
13 Commissioner O'Neill is going to continue with that
14 work in progress. But what you talked about and so
15 far as the community talking to people and saying
16 illegal conduct is not acceptable and we're working
17 together with law enforcement in developing those
18 relationships. That's an important thing that we
19 need to maintain and build upon to further the shared
20 goal of public safety in New York City.

21 CHAIRPERSON GIBSON: Council Member
22 Gentile?

23 COUNCIL MEMBER GENTILE: Thank you, Madam
24 Chair. And President Richter, thank you for being
25 here, and I think I use the same analogy, I don't

1
2 know if you were here earlier today when I said that,
3 if I were asked to be on a medical review board, I
4 would feel wholly inadequate because I don't have the
5 credentials to sit on a medical review board.

6 ROY RICHTER: Yes, and I just want for
7 the record to know I did not give you that line.

8 COUNCIL MEMBER GENTILE: That's right.
9 That's right. We-- I'm amazed when I read what you
10 said, but that's exactly the point I think of what I
11 was saying and what you're saying in your testimony
12 that the backgrounds of those who sit on the board
13 have to have credibility in order for it to be a fair
14 proceeding, and I've read, and I'm actually a little
15 bit disappointed that when this subject came up in
16 front of the CCRB they didn't clarify the fact of
17 this section of law that you're now pointing out to
18 us, and I'm a little disappointed in them that they
19 did not offer the clarification that you show us here
20 that it's the members appointed by the Police
21 Commissioner that can have the law enforcement
22 background, but not the others. The only exception I
23 see here, and I want to make sure this is correct,
24 that the City Council and the Mayor may actually
25

1
2 appoint someone who has a prosecutorial background,
3 is that correct?

4 ROY RICHTER: That is accurate, yes.

5 COUNCIL MEMBER GENTILE: So, a former
6 Assistant DA or a former Federal Prosecutor could be
7 appointed by either the City Council or the Mayor.

8 ROY RICHTER: That is accurate, yes.

9 COUNCIL MEMBER GENTILE: Okay, so that I
10 just wanted to clarify that. The other question I
11 had is that if after trial an officer at whatever
12 level is found not to be guilty or no charges, no
13 discipline, have you discussed with the CCRB what
14 should be reflected in their records concerning an
15 outcome like that?

16 ROY RICHTER: I have not discussed with
17 the CCRB that specific issue, but I can tell you that
18 regardless of the outcome, CCRB is accumulated by an
19 officer over their career remain on their record
20 forever. You know how many CCRB's that they've
21 received, and that's regardless of whatever the
22 disposition is. Does it become a form of a piece of
23 paper that goes in their personnel folder, no, but it
24 goes in that computer generated record that everybody
25 has access to.

1
2 COUNCIL MEMBER GENTILE: Okay, so it's
3 also an issue with the NYPD and what data that they
4 keep that even though someone was exonerated, there
5 was a complaint filed, a CCRB complaint?

6 ROY RICHTER: Correct. The Police
7 Department will measure the number of complaints
8 filed, but so far as the disposition, there would be
9 an additional record if it resulted in some type of
10 discipline such as charges and specs, that would be
11 an additional entry, but the Police Department would
12 note the entry of a CCRB being filed against the
13 officer.

14 COUNCIL MEMBER GENTILE: I see. But
15 there's no notation as to the outcome of that
16 complaint?

17 ROY RICHTER: Not that I'm aware of.
18 Although, probably the more appropriate person to ask
19 that question of would be Commissioner O'Neill and
20 the Police Department.

21 COUNCIL MEMBER GENTILE: Right, okay.
22 That's interesting. Also, during my questioning of
23 Commissioner-- of Chair Wiley, she did not seem
24 opposed to the fact of if there's a concurrent
25 criminal case going on, that they would hold off on

1
2 their investigation and interviewing of witnesses in
3 the CCRB complaint if they knew there was a criminal
4 matter open on a complaint that they're dealing with.
5 Is there some way that that could be communicated
6 from the union to the CCRB if you know your member,
7 one of your members is involved in a criminal case
8 that's also subject of CCRB?

9 ROY RICHTER: I'm aware of CCRB's
10 resistance to placing their investigations on hold in
11 that scenario. I haven't had detailed conversations
12 with the new Chair on that topic. I do intend for it
13 to be something that I would bring to their
14 attention.

15 COUNCIL MEMBER GENTILE: It just sort of--
16 because I'm concerned about the Rosario Material
17 that's created in these situations, and IAB always,
18 from my understanding, IAB always waits until the
19 criminal manner is resolved before they move in their
20 investigation. So, I don't see why it shouldn't be
21 the same here.

22 ROY RICHTER: In the internal affairs
23 matters when they're investigating in place of
24 criminal conduct against police officers, they as a
25 part of their process, they require a release from

1
2 the DA's Office to allow them to proceed in their
3 case. In certain situations, the DA's Office does
4 give the Police Department that ability to proceed
5 with an administrative hearing, but many instances
6 and probably overwhelmingly in a vast majority of
7 them, they're told to refrain from it.

8 COUNCIL MEMBER GENTILE: Okay, thank you
9 so much.

10 CHAIRPERSON GIBSON: Thank you, Council
11 Member Gentile. Now we'll have Council Member
12 Williams.

13 COUNCIL MEMBER WILLIAMS: Thank you,
14 Madam Chair, sorry, Mr. Richter. Thank you for being
15 here. First, I just wanted to say thank you for all
16 the folks in your position, even though we don't
17 always agree on everything. I think you have done
18 the most to try to move this conversation in a
19 positive way, and being able to have empathy for all
20 sides is important, and I wish everyone could kind of
21 take that view even in disagreement. So, I just want
22 to publicly say thank you for allowing the discourse
23 and the discussions to move forward in a way that's
24 constructive with empathy for everyone.

1
2 ROY RICHTER: Thank you. It's important
3 issues.

4 COUNCIL MEMBER WILLIAMS: Thank you. I
5 did want to ask, I know I kind of, if I'm correct,
6 the general feeling from most officers about CCRB
7 might not be that impartial as folks would like. But
8 I did want to question based on what we heard, only
9 27 percent of complaints were substantiated. Does
10 that do anything do kind of push back on that
11 narrative?

12 ROY RICHTER: Well, so the 27 percent of
13 the cases that were substantiated is not necessarily
14 the number that is shocking to me, but the issue is
15 the 92 percent of those cases that are substantiated
16 and then forwarded to the Police Department for
17 discipline, and when I say forwarded, either there
18 were issuance of charges or a negotiated play. The
19 problem with those types of scenarios is you put
20 officers into an area where they're-- they face a
21 decision, "Do I fight this because I'm right, or do I
22 accept the plea and take and admit guilt when I know
23 I'm not guilty to move on with my career?" And
24 that's an issue, it doesn't matter what section of
25 the community you're in, it's a constant. It's a

1 struggle. Ninety-two percent is a very high
2 percentage. The eight percent that did not result
3 in-- I would be interested as to what that eight
4 percent involves because, you know, are they either
5 not guilty; is that trial? I'm not sure. I don't
6 know what that eight percent is. But 92 percent is a
7 very high number when you're dealing a complicated
8 application of police training and the law as it
9 applies to interaction with the public.
10

11 COUNCIL MEMBER WILLIAMS: I would just
12 say, that was a very interesting description you gave
13 of the choices that have to make. That's precisely
14 the choices that many people have to make when
15 they're offered plea deals in prison, and very often
16 accept the plea just because they want to get out of
17 Rikers Island rather than actually being guilty. And
18 so it's interesting that there is shared concern in
19 those type--

20 ROY RICHTER: [interposing] And you can
21 appreciate the lifelong frustration that that
22 decision has for that person.

23 COUNCIL MEMBER WILLIAMS: But I did want
24 to say, is there-- the 27 number seems to be fairly
25 low. I mean, if I'm doing my math right, 73 percent

1 are not substantiated, which I think is good. We
2 don't want an arbitrary number, but that-- if it's
3 substantiated, are you saying that there should not
4 be discipline? I'm trying to-- what would happen to--
5 - what should happen to the 100 percent of the
6 substantiated cases?
7

8 ROY RICHTER: You see--

9 COUNCIL MEMBER WILLIAMS: [interposing]

10 Sorry, if we're saying-- or are we saying even those
11 cases shouldn't have been substantiated?

12 ROY RICHTER: See, the issue is you have
13 substantiated complaints, and when you're an
14 investigator, you make an assessment of the legality
15 and the reasons why you're substantiating it, but
16 when your training is not related or I should say it
17 has-- when you're dealing with the recipe-- an
18 ingredient is the Police Department practice and
19 procedures and what direction is given to an officer,
20 and that's just-- that's an ingredient versus what
21 your feeling is and what the law is and how it should
22 be applied, and then you substantiated a case against
23 an individual officer and you prosecute that case
24 without the officer, and you have an officer that
25 basically feels that they acted within guidelines,

1
2 appropriately, consistent with training, and at the
3 specific direction of a commander, you create a very-
4 - a sense, what I hear from people of all ranks, a
5 frustration at the imposition of this type of a
6 charge. And that, the problem with that is, you
7 know, you're dealing with an outside agency and there
8 grows a resentment against that outside agency versus
9 a review and an understanding like-- you need the
10 office. All discipline is about training somebody to
11 make them better. If you're not going to terminate
12 an officer and take them off the Police Department
13 for serious misconduct, you need to train them and
14 offer some type of a remedial action in order to make
15 them better, and make them somebody that's a
16 productive part of the Police Department to make this
17 city safe. And to the extent that instead of making
18 that officer productive and there's a remedial course
19 of action, you're making them resentful. I don't
20 believe that's in anybody's interest.

21 COUNCIL MEMBER WILLIAMS: I agree. I would
22 say-- I would just submit, although not a one for one
23 exact same, there are similar feeling for IAB, which
24 is inside the Department, not outside the Department.

1 So, it may not be whether it's outside or inside. It
2 just may be the nature of the beast, so to speak.

3 ROY RICHTER: I understand.

4 COUNCIL MEMBER WILLIAMS: And then my
5 other question just kind of similar to that line of
6 thinking, it seems to me that that position they're
7 in may not be from CCRB. It just may be because you
8 have to investigate. So if whether it was done
9 internally, there still will be a point in time where
10 that decision will have to be made. So I'm trying to
11 figure out how you make that, massage that part right
12 there, because it doesn't sound like that's a CCRB
13 problem. That just sounds like a problem of
14 investigating these types of complaints.

15 ROY RICHTER: There's always an issue
16 with making it too hot or too cold, and I'm looking
17 to work with people to make it just right, and we're
18 not there yet.

19 COUNCIL MEMBER WILLIAMS: Thank you very
20 much. I look forward to continue discussion. Thank
21 you.

22 CHAIRPERSON GIBSON: Thank you very much.
23 I appreciate you being here and just for your efforts
24 as President of Captains Endowment Association,
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1
2 working with us. I think it's important as both of
3 my colleagues alluded to just in terms of making sure
4 that we're all in this together, and we have to work
5 together. We don't want to have a resentful
6 relationship. Policing in America, policing in this
7 City is a very delicate conversation. There are a
8 lot of eyes and ears, a lot of critiques and
9 criticisms, compliments, and complaints, and I think,
10 you know, putting that all together, you know, for
11 all of us, we don't want this, you know, conversation
12 to be adversarial. We want to work together. So, I
13 appreciate you as well as your colleagues being here.
14 I hope it's replicated throughout the entire team,
15 but we know it's always a work in progress, but I
16 appreciate you outlining the provisions of Section
17 440 and where you'd like to see changes, and
18 obviously this will be submitted into our record and
19 we can continue to have future conversations about it
20 moving forward.

21 ROY RICHTER: Thank you, and thank you
22 for the opportunity.

23 CHAIRPERSON GIBSON: Thank you very much
24 for coming, President Richter. Thank you. And thank
25 you for being President Palladino as well. Thank you

1 from detectives. Our next panel is Nahal Zamani from
2 the Center for Constitutional Rights, Michael McKean
3 [sp?] from the Legislative Advocacy Clinic Law
4 School, Nick Malinowski from Brooklyn Defender
5 Services, Cynthia Conti-Cook from the Legal Aid
6 Society, and Angel Harris from the NAACP Legal
7 Defense Fund. Please come forward. And also for the
8 record, want to acknowledge that we have received
9 testimony from the New York City Anti-Violence
10 Project on matters pertaining to today's hearing.
11 Thank you all for being here. Thank you for your
12 patience. And who'd like to begin? Thank you.

14 NAHAL ZAMANI: On behalf of the Center
15 for Constitutional Rights, or CCR, I'd like to thank
16 the Public Safety Committee for holding this hearing
17 and for its oversight over the CCRB. My name is
18 Nahal Zamani. I'm an Advocacy Program Manager with
19 the Center for Constitutional Rights Legal and
20 Advocacy Organization that has been challenging for
21 nearly two decades the NYPD's abusive and
22 discriminatory policing practices through advocacy
23 and as well our "stop and frisk" litigation, Floyd
24 versus The City of New York. As my time here is
25 brief, I wanted to focus my remarks on several

1 aspects of the CCRB's work and some opportunities and
2 challenges that the Board faces. Now, I want to
3 start by saying that civilian oversight over Police
4 Department is an essential function of society, and
5 for that reason, and especially with regards to the
6 investigations of the board, we would urge the CCRB
7 to take a robust and engage [sic] interpretation of
8 its FADO mandate. That should include investigating
9 and substantiating allegations of racial profiling or
10 racially motivated pedestrian or traffic stop
11 summonses, searches and other law enforcement
12 actions. And now while the NYPD is recently announced
13 court-ordered improvements within its internal
14 investigations with regards to civilian complaints
15 related to racial profiling or basis, that would not
16 obfuscate the role of the CCRB in additionally
17 investigating similarly themed allegations received
18 by the Board. We would also encourage the CCRB to
19 consider violations of Local Law 71 which expanded
20 the prohibitions on profiling through its
21 investigations and the associated substantiations.
22 With regards to the prosecution of substantiated
23 police misconduct cases and the work of the APU, the
24 APU unit of the CCRB is absolutely critical. It
25

1 really ushers in increased accountability, justice
2 and transparency, and because of the APU union's
3 work, we actually have a purview into the NYPD's own
4 disciplinary mechanisms and policies and procedures.
5 And now while the CCRB has a universally agreed upon
6 improved relationship with the NYPD and there is
7 greater cohesion between the two city agencies,
8 despite this increased cohesion, a number of major
9 concerns do remain. And I'll use my remaining time
10 to go over them in brief. With regards to the NYPD
11 Police Commissioner's exclusive disciplinary
12 authority, the APU's resolution of cases can be at
13 stake when the Commissioner downplays pleas or
14 downgrades disciplinary penalties. So in that case,
15 and I'm very encouraged to hear that the CCRB will be
16 making strides towards increasing the information
17 related to these in all few future cases in which
18 pleas are modified. Now, some of that information is
19 in the APU reports and sometimes in the annual/semi-
20 annual reports, but putting it all in one place
21 really allow advocates as well as the public as well
22 as the City Council to exercise authority and ensure
23 that there are no major areas of concern. It is also
24 of the utmost importance that NYPD officers are held
25

1
2 accountable for substantiated, unconstitutional
3 conduct. So the NYPD should not be using the
4 reconsideration process to contest the CCRB's
5 recommended disciplinary penalties, its credibility
6 recommendations and the weighing of testimonial
7 evidence. Now, the CCRB had a few months ago opened
8 up a period for public comment, and a number of us
9 included here sent a letter outlining our concerns.
10 I won't repeat all of them. What we do want to
11 underline is that we are concerned that the
12 reconsideration process between the NYPD and the CCRB
13 would perpetuate the problematic NYPD disciplinary
14 mechanisms that were identified in a federal court in
15 Floyd versus The City of New York, our "Stop and
16 Frisk" lawsuit, and to potentially undermine court-
17 ordered disciplinary reforms. Furthermore, and this
18 is looking forward, the reconsideration process could
19 potentially undermine the independence of the Board
20 and its substantiation prosecution of allegations
21 overall. That is, the CCRB may begin to or already
22 has started to recommend lower disciplinary penalties
23 for the misconduct that it would have previously
24 recommended being punished at higher levels, or the
25 Board could no longer substantiate allegations it

1 would have in the past substantiated in order to
2 avoid future NYPD request for reconsideration. So,
3 I'm raising this issue as I conclude because it's
4 absolutely critical given the work of the APU unit as
5 well as what we all would agree is the strengthening
6 of the CCRB's investigatory functions, and this
7 phenomenon is indeed true, then this would be really
8 at detriment to the functions of the Board overall.
9 And I want to conclude by welcoming continued
10 collaborations with the CCRB. They were named in the
11 collaborative reform process in our case under Floyd,
12 and we really welcome continuing to work with them
13 and the important mandate that they have before them.
14 Thank you.

16 CHAIRPERSON GIBSON: Thank you very much.
17 Thank you.

18 MICHAEL MCCUNE: Good afternoon. My name
19 is Michael McCune [sp?], and I'm a student in the
20 Legislative Advocacy Clinic at New York Law School.
21 This year the clinic has been researching ways to
22 improve accountability and transparency of the NYPD.
23 Thank you for giving me the opportunity to talk about
24 the Civilian Complaint Review Board. The CCRB
25 encourages members of the community to file

1 complaints when they feel they have been victims of
2 police misconduct. As a civilian body, the CCRB is
3 an important alternative for people who are afraid or
4 intimidated to complain directly to the Police
5 Department, or who feel their allegations would fall
6 on deaf ears. In our current social climate with so
7 much unrest surrounding police use of force, the CCRB
8 is a crucial tool to the people of New York. By
9 reviewing the investigative file, determining the
10 merits of each case and recommending a disciplinary
11 action, the CCRB is a megaphone for the victims. It
12 is also an important signal to the City of New York
13 that police misconduct will not be tolerated or
14 ignored. Unfortunately, the CCRB is so limited in
15 its role and impact as it is the sole responsibility
16 of the New York City Police Commissioner to
17 discipline the officer in any manner which he or she
18 deems appropriate including no discipline at all.
19 There is no requirement that the Commissioner follow
20 the recommendations of the CCRB. While we recognize
21 that state law is very restrictive in this area, the
22 resources of the CCRB are being wasted if their
23 efforts and determinations are overlooked and under
24 considered. Not to mention, there's a serious
25

1 negative impact on community members who go through
2 the process only to be denied justice, accountability
3 and finality. The people of New York look to the
4 CCRB to address their grievances, but every time the
5 Commissioner ignores a discipline recommendation, its
6 purpose is undermined and it communicates to both
7 police officers and New Yorkers that police are not
8 accountable to the citizens for their actions. We
9 have heard about the City's renewed focus on
10 police/community interactions, but without true
11 transparency and accountability, trust will suffer.
12 Since civilian members of the CCRB cannot hold
13 individual officers accountable under state law, we
14 recommend creating additional ways to hold the
15 Commissioner accountable for his or her decisions and
16 to promote transparency. Our suggestion is to
17 require the Commissioner to justify his or her
18 disciplinary decisions and to make those decisions
19 available to the public. This requirement falls
20 squarely within the City Council's oversight
21 authority over the Police Department. The
22 Commissioner should be required to issue a timely
23 report discussing the disciplinary actions taken and
24 to have the CCRB's recommendations factored in. This
25

1
2 report could consist of the number of CCR
3 recommendations, the number of cases where the
4 Commissioner departed from the recommended
5 discipline, and the reasons for the departure. The
6 people of the-- excuse me. The people of the City
7 deserve to know the reasoning behind the
8 Commissioner's decisions, particularly where they
9 deviate from the reasons of recommendations of the
10 investigating body. In addition, the recent action by
11 the NYPD and the Mayor's Office to conceal police
12 discipline decisions further frustrates transparency.
13 We urge the City Council to use its oversight
14 authority to ensure we aren't going backwards on
15 issue of police including the overly broad
16 application of Civil Rights Law 50-A. The people of
17 this city deserve better, especially those who have
18 been victims of police misconduct. Thank you for
19 your dedication to this important issue.

20 CHAIRPERSON GIBSON: Thank you very much.
21 Thank you.

22 : My name is Nick Malinowski. I'm here
23 on behalf of Brooklyn Defender Services which
24 represents more than 40,000 Brooklyn residents every
25 year. Each of our clients, by definition, has had an

1 interaction with the New York City Police Department.

2 We'd like to thank City Council, the Committee and

3 the Chair for holding this oversight hearing, and

4 inviting us to attend. One of the major changes in

5 courtroom practices resulting from the massive influx

6 of arrests accompanying the shift towards Broken

7 Windows Policing is a reality that most cases rely on

8 the testimony of a single police officer rather than

9 a civilian-generated complaint. Because of this, the

10 integrity of the police officer has become paramount

11 to our system of criminal justice in New York City.

12 New York City is home to one of the most secretive

13 regimes in the country when it comes to police

14 transparency. It is all but impossible for the public

15 or defense attorneys, to see police disciplinary

16 records or any administrative actions resulting from

17 alleged or substantiated misconduct. Compare these

18 privacy protections to those experienced by our

19 clients in criminal court, who are accused sometimes

20 of serious offenses but much more frequently of minor

21 behaviors less damaging to a sense of public order

22 than police misconduct. Is it more important for the

23 public to know which of their neighbors has stolen

24 hygiene products from a chain pharmacy, or which

25

1 officers in their communities carry substantiated
2 claims of false arrest, brutality or other abuses of
3 authority? Recently the Office of Court
4 Administration sought corrections for 36,000 records
5 where criminal histories meant to be sealed were left
6 open; the state sells these records to third-party
7 vendors who sell the information, even when it's
8 inaccurate, to landlords, bankers, anyone who asks.
9 Sealed information from RAP sheets is also regularly
10 leaked to news outlets by law enforcement personnel,
11 in violation of state law. As a general rule privacy
12 has been greatly degraded in all areas except for
13 police misconduct and discipline. How come? Because
14 the City has no apparatus for publicly collecting and
15 disseminating these data and records, community
16 groups are left tracking police officers in their
17 precincts in order to try to produce some semblance
18 of accountability. What is left is a well-founded
19 public perception that the City will only act on
20 police reforms when it is forced to do so. We'd ask
21 that CCRB be tasked with providing the public with
22 greater access to the performance and disciplinary
23 backgrounds of officers in local precincts. As a
24 civilian oversight body, the CCRB should be
25

1
2 accountable to the people of New York and
3 specifically to those people who have been victimized
4 by police misconduct. The Council could consider
5 changing the City Charter to allow the CCRB to have
6 final disciplinary say over police officers or to
7 otherwise reflect this goal. As was mentioned
8 earlier, Brooklyn is a borough with the most CCRB
9 complaints in 2015. Specifically, the 75th and 73rd
10 precincts were among the worst as well as Brooklyn
11 North. The 75th precinct is also the precinct that
12 generates the highest number of civil lawsuits
13 against the city related to police misconduct and has
14 the most civil forfeiture claims as well. With the
15 benefit of CCRB's recent move toward more precise
16 record keeping, we've also learned that Brooklyn is
17 home to five of the sixth worst precincts with
18 regards to police misconduct for LGBTQ New Yorkers.
19 While we appreciate the Chair's questions to CCRB on
20 this issue, we'd also ask the Council to look at
21 remedies in addition to the CCRB. We're happy to
22 work with Council on that as it pertains to Brooklyn.
23 We have reiterated the Chair's suggestion for more
24 outreach in Criminal Court to the public and would
25 also wonder if there are opportunities for proactive

1 work by the CCRB in response to the outcome of court
2 cases. Last year, one of our clients won a criminal
3 case after a judge found that officers from the 67th
4 precinct in Flatbush has falsely arrested him. This
5 was a case where a gun was planted on our client.
6 What has the City done to curb the authority of the
7 officers involved in that case who may still be
8 making arrests? How would the public even know? The
9 Brooklyn District Attorney's Office said he would
10 launch an investigation into the precincts, but 18
11 months later we haven't heard anything about it.
12 Similarly, CCRB has found 60 police officers guilty
13 of making false statements during CCRB hearings. If
14 these officers made false statements to the CCRB,
15 it's possible they also made false statements in
16 court appearance as well. Does the CCRB have
17 authority to consider cases dismissed in court or
18 otherwise adjudicated with evidence of police
19 misconduct? If not, the CCRB, who should be looking
20 into these types of cases. Historically our office
21 has been hesitant to work with the CCRB because of
22 the potential negative impact on open criminal
23 matters. Currently we are working with the CCRB to
24 implement a new process for encouraging clients to
25

1
2 make complaints to us, and then we can pass them on
3 to the CCRB, so that we can protect peoples' rights
4 during their criminal case. The CCRB's interest in
5 case processing times can conflict with appropriate
6 concern for the rights of people facing criminal
7 charges. Our clients have been told by CCRB that
8 their cases will be closed as non-compliant after we
9 advised them to delay testifying due to complicated
10 criminal court matters. People should not be forced
11 into this choice. To the extent that attorneys serve
12 as reporting non-witnesses to a CCRB complaint, the
13 CCRB could update its rules to provide counsel with
14 all information that is provided to the police and
15 other parties to traditional cases. We hope that by
16 working with CCRB we can develop a process for people
17 with pending criminal cases that works for everybody.
18 It sounds like the CCRB already has a relationship
19 with the District Attorney's Office about this exact
20 issue, and we would hope that to develop a similar
21 relationship with them as well. Just in the interest
22 of time I'll just skip to the bottom and say that as
23 the City pushes the CCRB to do more mediation, we
24 think that that is a process that through which
25 people can develop understandings, and would also

1
2 like City Council to look into the use of mediation
3 in the Criminal Court context as well. We look
4 forward to working with you on this work [sic].

5 CHAIRPERSON GIBSON: Oh, thanks. Thank
6 you. Good ideas. Thank you.

7 : Good afternoon.

8 CHAIRPERSON GIBSON: Noon.

9 ANGEL HARRIS: Chair Gibson and Committee
10 Members. My name is Angel Harris and I'm Staff
11 Attorney with the NAACP Legal Defense and Educational
12 Fund. I am here with my co-counsel, Cynthia Conti-
13 Cook who is a Staff Attorney at Legal Aid Society
14 Special Litigation. We are co-counsel on the Davis
15 Versus the City of New York, which is a federal class
16 action that was filed in 2010 to challenge the
17 systemic practice of illegally stopping, arresting
18 individuals for purported trespass violations in New
19 York City public housing properties. This case was
20 settled last year, and as a part of the settlement
21 the Davis team, we have become a part of the federal
22 court monitoring of the New York City Police
23 Department in an effort to institute reforms in
24 police training, supervision, discipline, and
25 monitoring. So this is a very important issue for us

1 and we appreciate the opportunity to provide
2 testimony. Our testimony will address two
3 substantive areas. The first being the ongoing
4 collaborations between the CCRB and the NYPD
5 including whether and to what extent they benefit New
6 Yorkers seeking accountability for police misconduct.
7 And the second being the lack of transparency
8 regarding police accountability in these
9 collaborations and elsewhere. At the outset, we do
10 want to acknowledge that over the past three years
11 the CCRB has made several improvements as we've heard
12 today. The length of time required for a CCRB
13 investigation has shortened. CCRB substantiation
14 rates have increased, and additionally the agency has
15 improved its outreach efforts to community groups and
16 New Yorkers, which we also heard about today. We are
17 also encouraged by CCRB's publication of several
18 reports, one being on improper entries and police
19 encounters with the LGBTQ community, and but we are
20 concerned with the reconsideration process. The
21 reconsideration process as we've heard today is the
22 collaboration between the CCRB and the NYPD, which
23 allows the NYPD's Advocates Office or the DAO to ask
24 the board to reconsider findings and/or penalty
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2 recommendations in substantiated cases based on new
3 evidence or reasons not known during the
4 investigation. We believe that this process has the
5 potential to critically undermine the urgently needed
6 public trust. Time and again the CCRB has concluded
7 that the more the NYPD adopts CCRB recommended
8 penalties, the more effective the CCRB is. While it
9 is unquestionably true that the CCRB needs the
10 ability to prosecute and pursue penalties for
11 misconduct on behalf of New Yorkers who have come to
12 it for justice, it is not clear that the
13 reconsideration process has increased the rate at
14 which NYPD adopts CCRB penalties or if the CCRB has
15 simply reduced the number of cases where the CCRB
16 recommends charges in substantiated cases. A
17 comparison of the tables 30 through 21 in the
18 statistical appendices to its annual reports, from
19 2010 and 2015 suggests that it's the latter. In
20 2010, 2011 and 2012, the CCRB recommended charges
21 against between 68 and 70 percent of officers it
22 substantiated complaints against. After the MOU
23 allowing the CCRB to prosecute its own cases was
24 instituted and the agency began moving forward, there
25 was little change. In 2013, the CCRB still

1 recommended charges of 67 percent of officers
2 involved in substantiated cases. However, after the
3 reconsideration process was introduced in 2004 by the
4 former Chairman Richard Emry [sp?], the percentage of
5 officers with substantiated complaints where the CCRB
6 recommended charges dropped to 54 percent in 2014.
7 Most recently, in 2015, the percentage dropped to
8 only 25 percent of the substantiated cases being
9 pursued by the CCRB. That's a drop from 67 percent
10 in 2013 to 25 percent in 2015. Under these
11 circumstances, the fact that the NYPD now adopts more
12 of the CCRB's recommendations is hardly impressive.
13 Rather the NYPD becoming more open to justice
14 demanded by aggrieved New Yorkers, it appears that
15 the CCRB has become less rigorous and indeed has
16 adopted the NYPD's rubrics for how to prosecute and
17 penalize misconduct. Additionally, former Chairman
18 Emry has repeatedly mentioned or had repeatedly
19 mentioned the adoption of a rubric matrix or
20 guideline between the NYPD and the CCRB for
21 determining how to decide which officers are
22 prosecuted and penalized, but it has never been
23 disclosed to the public. Any such matrix should have
24 been publicly-- should have been made publicly
25

1 available. Recommendations for reconsideration from
2 the NYPD should also be made public with applicable
3 redactions as should the CCRB responses if and when a
4 modification is made in response to an NYPD request.
5 We are concerned that if this collaboration is
6 exclusively done in secret it will threaten the
7 public trust in the CCRB as an independent agency.

9 CYNTHIA CONTI-COOK: To continue, I
10 realize that the CCRB spoke today about the data
11 transparency initiative which is an excellent
12 improvement compared to just flat charts and PDF
13 files, but there still is no raw data available
14 behind it, and the CCRB has actually not updated its
15 New York City Open Data Portal files since 2009. And
16 so we would first in the movement towards
17 transparency with the CCRB really like to see an
18 updated Open Data Portal from them. The transparency
19 of officer's complaint and disciplinary records has
20 also come up several times today. We understand the
21 importance of having, I think, transparency in
22 regards to police complaints and disciplinary
23 records. This has already been explained by my
24 colleagues here. Without public access to complaints
25 about officers, the public is left to speculate about

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2 how dangerous some officers are after incidents such
3 as the killing of Ms. Danner, as the killing of Mr.
4 Garner, etcetera. Two Supreme Court Judges, previous
5 NYPD Administrations and even Governor Cuomo agreed
6 that summaries of police officers' complaints and
7 disciplinary records should be public under New York
8 State Civil Rights Law 50-A. However, the de Blasio
9 Administration has interpreted the law to mean that
10 these records are confidential. For example, in
11 August the NYPD ended its decades' long practice of
12 giving media access to summaries of administrative
13 proceedings. The CCRB also stopped disclosing
14 summaries of CCRB complaint histories in October
15 2014. Legal Aid brought a successful lawsuit against
16 the CCRB for this substantiated complaint history of
17 the officer who killed Eric Garner. In that case,
18 the court-ordered disclosure based on the finding
19 that summaries were not covered under State Law 50-A.
20 This is because Civil Rights Law 50-A while poorly
21 written and in need of reform for sure does not
22 prevent the release of summaries of officers'
23 misconduct, especially substantiated misconduct.
24 None the less, the de Blasio Administration appealed
25 claiming that the summaries of administrative

1 proceedings are also confidential. This
2 interpretation reflects a stricter view of state law
3 than that which was applied by any prior
4 Administration and a drastic divergence from
5 longstanding standards of transparency. This appeal
6 is going to be heard in the first department in
7 November. The announcement last week about the
8 Mayor's 50-A reform principles outlined how the state
9 law and the Mayor's view needs to be modified in
10 order to publicly disclose public information about
11 disciplinary complaints. Not coincidentally, that
12 announcement was also cited in the reply brief that
13 was also filed last Friday. Because both the NYPD
14 and the CCRB have simultaneously stopped disclosing
15 summaries of disciplinary information, it appears
16 that the CCRB's interpretation of the law comes from
17 the de Blasio Administration and the City's Law
18 Department. There's a conflict of interest where the
19 Law Department that defends hundreds of officers and
20 the NYPD against civil rights cases also determines
21 the CCRB's responsibilities with respect to public
22 disclosures. Indeed, the very reason the CCRB exists
23 is because an oversight agency must have independence
24 to appear capable of rendering justice. Plainly, the
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2 CCRB should have sought conflict counsel from an
3 independent law firm for that case. Thank you for
4 the opportunity to testify, and we're happy to take
5 any questions.

6 CHAIRPERSON GIBSON: Thank you very much.
7 I'm going to ask Council Member Gentile, I believe he
8 had a question.

9 COUNCIL MEMBER GENTILE: Yes, and thank
10 you for your patience and waiting until this
11 afternoon to testify, and thank you for coming in.
12 I'm just curious because I don't know. When
13 something goes through the reconsideration process,
14 it doesn't reach the Police Commissioner's level at
15 that point, am I correct?

16 CYNTHIA CONTI-COOK: That's right, yeah.
17 That's correct.

18 COUNCIL MEMBER GENTILE: Okay, so it goes
19 through the reconsideration process first, and then
20 what happens?

21 CYNTHIA CONTI-COOK: It depends. I think
22 what the reconsideration is for. There's two things
23 that the NYPD can ask the CCRB to reconsider. They
24 can ask them to reconsider the prosecution itself.

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2 They can also ask the CCRB to reconsider the
3 recommended penalty.

4 COUNCIL MEMBER GENTILE: I see, okay. And
5 then it's the CCRB that decides whether that happens
6 or not?

7 CYNTHIA CONTI-COOK: That's correct.

8 COUNCIL MEMBER GENTILE: Okay. And if it
9 does happen, the Police Commissioner doesn't have a
10 role at that point, correct? Okay. So, then there
11 was some testimony about the Commissioner overruling
12 discipline recommendations. So, I'm curious, in the
13 last two years, how many times has that happened
14 where the Police Commissioner has overruled
15 discipline recommendations?

16 NAHAL ZAMANI: So, I have one number
17 readily available which is 2015. This is according
18 to the CCRB's own report, that the Police
19 Commissioner took four cases. There were 41 cases
20 that led to a guilty plea from APU-prosecuted cases,
21 and then in four of those cases, and I'm reading from
22 the verbatim from the report, the-- in the four cases
23 where there was originally a plea, again from the
24 CCRB 2015 Annual Report, the plea was set aside by
25 the Police Commissioner and the charges were

1 dismissed and the CCRB later clarified that of these
2 four cases the officer did receive a penalty in all
3 four of those cases. So, we don't want to
4 concentrate necessarily on a number, per say,
5 although any case in which something has been agreed
6 upon by all parties and then overturned by the
7 Commissioner certainly raises eyebrows, and we would
8 like to know more. Now, in these cases, the Police
9 Commissioner is mandated to provide some written
10 recommendations and notice the CCRB. So it'd be
11 great to see more about what happened there, and
12 overall, if the Commissioner continues to exercise
13 his authority whether it's four, 14, 44, or 400, we
14 want to ensure that the Commissioner's really
15 pursuing the right type of discipline penalties for
16 misconduct when it happens, and these are
17 specifically at the charges and specification level.
18 So these are the most serious allegations that have
19 been substantiated around misconduct, and it is
20 through the lens of the CCRB and their agreement with
21 the Commissioner through the MOU that we even know
22 about this.

24 COUNCIL MEMBER GENTILE: I'm just
25 curious. I'm not sure I heard you correctly.

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NAHAL ZAMANI: Yeah.

COUNCIL MEMBER GENTILE: Does the Commissioner explain his overruling to the CCRB or not?

NAHAL ZAMANI: You can take that.

CYNTHIA CONTI-COOK: Yes, it's our understanding that anytime there is a divergent from the recommended penalty that the CCRB gets a memo.

COUNCIL MEMBER GENTILE: CCRB is informed, is--

CYNTHIA CONTI-COOK: [interposing] Gets a memo from the Commissioner.

COUNCIL MEMBER GENTILE: A memo, okay, I see. Okay.

ANGEL HARRIS: And I think that's sort of where we are about the transparency and just knowing the reason why because the public, they don't know what happened in that process, and I think that's where the breakdown is and that's where the lack of public trust comes in.

COUNCIL MEMBER GENTILE: That's an internal memo that you don't see, that the public doesn't see.

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2 ANGEL HARRIS: That's correct, and that's
3 where our problem lies.

4 COUNCIL MEMBER GENTILE: I see, okay,
5 very good. Thank you. Thank you all.

6 CHAIRPERSON GIBSON: Thank you very much.
7 I wanted to ask two very quick questions, and then
8 most of the testimony I think everyone was very clear
9 about the reconsideration process, and one of the
10 colleagues here talked about, you know, the decision,
11 even the final decision that CCRB recommends to the
12 Department is not open to the public, and so in those
13 instances where the Department, you know, departs,
14 refutes their recommendation, I mean, do you have an
15 idea or-- I mean, obviously you're saying that it
16 should be open to the public. Do we know why? Is
17 it because the Department thinks the decision may be
18 too harsh? I mean, can you give us some ideas of
19 what your thoughts are behind that?

20 CYNTHIA CONTI-COOK: I think the best we
21 can do is speculate. I don't know. I mean, it's
22 part of the problem is that we just don't know. We
23 have no idea if it's because the NYPD is doing
24 parallel investigations and then finding that their
25 interpretation of the facts are different, if they're

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2 looking at the same facts and just interpreting them
3 differently, or if it's because they're reading the
4 law differently or they're understanding the standard
5 for preponderance of the evidence differently. The
6 fact that we can't answer this question is part of
7 why we think that the reconsideration process is
8 problematic.

9 CHAIRPERSON GIBSON: And if you think
10 about it, before you begin, if you were here for
11 President Roy Richter's testimony and he talked about
12 CCRB having greater authority and how sometimes he
13 believes that there's a dispute between abuses of
14 power. So officers are saying that they're within
15 their rights. They're making judgements based on
16 their training, etcetera, but CCRB is interpreting it
17 from a different perspective. So, I too can only
18 speculate, and I would think that, you know, in those
19 particular instances, you have the Department saying,
20 "No, this was in the purview of this particular
21 officer. They were not abusing their authority."
22 Because it's something, you know, it's constantly up
23 to interpretation depending on who's doing the
24 interpretation.

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2 CYNTHIA CONTI-COOK: Yeah, what I heard
3 from President's Richter's testimony, I thought it
4 was very interesting actually, because what I heard
5 him saying was that especially in the past we had
6 higher commanding officers that were really pushing
7 the officers that were on patrol to interact in ways
8 that were very aggressive, and that for following the
9 directions of their immediately higher officers, the
10 officers were getting hit themselves personally with
11 the CCRB complaints and really taking the fall for
12 the Department in its policies, and I think that's an
13 area where the CCRB should really doing a lot of
14 reporting on. If they're seeing patterns of officers
15 saying, "Well, I was following the directions from my
16 commanding officer," or from the-- or the commanding
17 officer was following the directions from central, I
18 think that is exactly the reason we have the CCRB in
19 the first place, and it's also an indication that the
20 officer should actually organize around that in
21 particular. Because if it's coming from the NYPD,
22 but the CCRB is pointing it out as a violation, then
23 there really needs to be a policy change.

24 ANGEL HARRIS: And I think that exactly
25 what Ms. Conti-Cook just said, is when you look at

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2 the fact that we don't know, but CCRB does have
3 access to this information. So if there is an
4 inconsistency in training or instruction with
5 officers, then while the CCRB may be recommending
6 more training if that's not the proper training that
7 NYPD, that the officers are being given, then we have
8 to look at and assess that information. And that's
9 the reason why we need to know sort of the reasoning
10 behind why they want to reconsider certain sentences.
11 So, I think it just highlights. If we are going to
12 recommend training, we need to make sure that the
13 trainings are being adequately and sufficiently
14 mitted [sic] out to the officers.

15 NAHAL ZAMANI: And if I may just add to
16 that, we learned a lot when we put the NYPD on trial
17 around the "Stop and Frisk" practices, and we had the
18 head of the Department Advocate's Office come in and
19 really talk about the way that they treated CCRB
20 initiated cases. That's civilians that went to the
21 CCRB, made an allegation of misconduct. That
22 allegation of misconduct was substantiated, and it
23 rose to the level of charges and specifications, and
24 it was brought before the DAO to prosecute at the
25 time. This was a little bit before the MOU between

1 the Departments had fully gone out, and we heard
2 very, very disturbing trends there, and because of
3 that the court now has some oversight over
4 disciplinary matters, and so when we look at current
5 issues like the reconsideration process, it could
6 really undermine what is ultimately going to be
7 ordered by the court, or the attempts that the
8 Department actually itself is starting to make on top
9 of the attempts that the CCRB is making. And I just
10 want to clarify from an earlier testimony regarding
11 the CCRB having more power. It's that the 2002 MOU
12 between the NYPD and the CCRB is nearly an extension
13 of the disciplinary authority, that's the authority
14 that's granted to the Police Commissioner, and allows
15 a little sliver of that to go to the CCRB to
16 prosecute the cases that it initiates. Ultimately,
17 the ultimate disciplinarian is still the Police
18 Commissioner, and the reason why this is important is
19 not to go over 2012 MOU, but it's really to say that
20 the CCRB has a mandate. It has an expanded mandate
21 afforded to it through this 2012 MOU, but if the
22 Police Commissioner and the NYPD is continuing to
23 undermine its work, that affects the reputation of
24 the efficacy of the CCRB and meeting its own mandate.
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2 And the trickle-down effect of that is that ordinary
3 New Yorkers have less confidence that the Board is
4 really advocating on their behalf in the cases that
5 their allegations of misconduct should be
6 substantiated or that there is real accountability
7 that comes about as a result of these allegations and
8 substantiated cases of misconduct. So, the
9 ramification extends beyond the Board, but it does
10 still circle around the Department around which it
11 has a relationship with.

12 CHAIRPERSON GIBSON: And the members and
13 the clients that you work with, what has been
14 recently, right, under this new Administration and
15 with the amount of work that CCRB has undertaken,
16 what do you feel like the message on the ground,
17 right? So, they're doing a tremendous amount of
18 outreach. They're at Community Boards, etcetera,
19 throughout the City. What have your clients been
20 saying about CCRB? Like, do they feel like they're
21 relevant? Do they know who they are? I mean, is it
22 something that, you know, we should be looking at
23 moving forward in terms of making sure that they're
24 really an agency that's given much more teeth, much
25 more respect, to be honest, so that people have them

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2 to use as an outlet for addressing the issues that
3 they're going through.

4 ANGEL HARRIS: I would say that for our
5 client base, which are individuals who live in NYCHA
6 developments, there is a lack of confidence in the
7 CCRB. It's not an avenue that folks are, you know,
8 sort of running to, which is unfortunate because it
9 should be an independent agency that, you know,
10 individuals feel comfortable coming to. But I think
11 part of it when you sort of look at the numbers and
12 them not knowing why a case wasn't substantiated or,
13 you know, the decision-making, and I think if they
14 had answers to those questions, then the level of
15 confidence would increase. Obviously, you will
16 always have people who, you know, will be, you know,
17 suspicious of certain agencies and certain systems,
18 but I think if they had access to the information
19 that would help build public confidence.

20 NICK MALINOWSKI: Yeah, I'd add that it's
21 pretty mixed, like some clients that we talk to are
22 very interested in filing a complaint. Some find it
23 to be a very arduous process that's not really worth
24 their time. Some of the worst things that we've seen
25 is when people have felt-- you know, we've encouraged

1 people to file a complaint. They've gone through the
2 process. They've gotten a substantiated, you know,
3 ruling of misconduct, and then that police officer is
4 still on the street on their block. They see them in
5 the deli and they say, "What was, you know, what did
6 I spend the last six months trying to do?" So, we
7 have, you know, in some precincts the same officers
8 on video, you know, over and over again, and the
9 complaints are substantiated. We don't know what
10 happened, but maybe they lost a few vacation days,
11 but nevertheless they're back on the street, you
12 know, doing the same thing.

14 CHAIRPERSON GIBSON: Do you think the
15 CCRB has been open to conversations with a lot of our
16 civil legal service providers and advocates, civil
17 rights organizations around some of the changes? I
18 mean, I've seen just from my perspective, I think
19 that they have been and are in terms of making sure
20 that they're doing the best that they can, but
21 they're also looking at efficiency and the
22 effectiveness of the work that they do. So, I've
23 seen that just in, you know, the two and a half
24 years. Have you also seen similar, or do you think
25 that, you know, we still have a long way to go?

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2 CYNTHIA CONTI-COOK: I've seen a lot of
3 improvement in terms of their reaching out to our
4 organizations. We attended the LGBTQ presentation
5 that they gave, I want to say last spring, but it
6 might have been longer ago, and I'm generally
7 impressed with the amount of attention that they're
8 paying in recent time to outreach, specifically.

9 NICK MALINOWSKI: Yeah, I'd agree.

10 CHAIRPERSON GIBSON: Okay. Okay, thank
11 you all for coming today. We appreciate your
12 presence and your testimony, and we look forward to
13 working with you. Thank you very much.

14 CYNTHIA CONTI-COOK: Thank you.

15 CHAIRPERSON GIBSON: Want to thank all of
16 my colleagues for being here. I want to thank my
17 colleague, Council Member Gentile, who stayed with me
18 to the end. I always love having colleagues remain
19 with me to the end, but today's hearing of the
20 Committee on Public Safety as it relates to the
21 Civilian Complaint Review Board is hereby adjourned.

22 [gavel]

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COMMITTEE ON PUBLIC SAFETY

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COMMITTEE ON PUBLIC SAFETY

C E R T I F I C A T E

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



Date November 15, 2016