

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL AND
HUMAN RIGHTS

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HELD AT: Remote Hearing, Virtual Room 3

B E F O R E: Mathieu Eugene
Chairperson

COUNCIL MEMBERS: Mathieu Eugene
Inez D. Barron
Daniel Dromm
Brad S. Lander
Bill Perkins
Adrienne E. Adams
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A P P E A R A N C E S (CONTINUED)

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Chief Strategy Officer
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Tanya Meisenholder
Assistant Deputy Commissioner for Legal
Matters
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Matthew Kadushin
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Review Board

Brittny Saunders
Deputy Commissioner for Strategic
Initiatives
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SERGEANT AT ARMS: Recording to the computer all set.

SERGEANT AT ARMS: Cloud recording started.

SERGEANT AT ARMS: Backup is running.

SERGEANT AT ARMS: Thank you. Sergeant Polite, with your opening statement please.

SERGEANT AT ARMS POLITE: Thank you. Good afternoon and welcome to the remote hearing on Civil and Human Rights. Will council members and staff please turn on their video at this time? Once again, will council members and staff please turn on their video at this time. Thank you. To minimize disruption, please place all cell phones and electronics to vibrate. You may send your testimony at testimony@council.nyc.gov. Once again, that's testimony@council.nyc.gov. Chair Eugene, we are ready to begin.

CHAIRPERSON EUGENE: Thank you very much. Thank you for joining today the virtual hearing of the Committee on Civil and Human Rights on preconsidered T-2021 and 207099-A, local law to amend the administration code of the City of New York [inaudible] to require the New York City Commission

on Human Rights to investigate past official conduct by employees of the police department found to have engaged in biased acts and to make remedial recommendations and to repeal Action 8-131 of such code relating to the inapplicability of certain provisions of Chapter 1 of Title 8 of such code to acts committed by members of the police department in the course of their official duties. I am Council Member Mathieu Eugene, chair of the Committee on Civil and Human Rights. I would like to acknowledge also that we were joined by my colleagues, Council Member Vanessa Gibson and Council Member Adams. And we will now acknowledge the other members as soon they join us. Last month the committee launched a package of bills aimed to reforming policing in New York City. The legislative package touches on many different issues area and today we will hear preconsidered T-2021-7099, sponsored by Council Member Vanessa Gibson. In 2020 and in the midst of a global pandemic New Yorkers and people across the United States took the street to protest against the high-profile death of black Americans at the end of law enforcement. While the death of George Floyd and Breonna Taylor sparked last year demonstrations the

marches also called for justice for so many other killed by police over decades. Communities organized and successfully raised awareness and created political question that forced governments [inaudible] to face the reality that racism, bias are all too common in policing. In 2020 report the Brennan Center for Justice described countless instances in which [inaudible] members of law enforcement openly expressed views or affiliated with group that could result in racist and discriminatory policing. The report list examples of such behavior, including posting racist, xenophobic, and bigot content on social media, as well as participating in violent white supremacist or militant groups. Additionally, the report contends that many police departments know that this type of behavior exists within their rank but do very little to identify and discipline officials engaged in such conduct. Despite the existence of NYPD policies prohibiting racism, bias, and hate speech certain NYPD employees still exhibit or have exhibited such behavior. Unfortunately, more often than not officials engaged in such conduct are allowed to fly under the radar. In the limited instances where an official is

disciplined the consequences amount to nothing more than a slap on the wrist. This allegation of inaction have made clear that an independent public integrity review of past conduct of NYPD employees involved in explicit bias incidents is essential to ensure that NYPD is fully, is fulfilling its law enforcement duty and doing so without any sort of prejudice. For this reason the council is hearing today [inaudible] which would allow the New York City Commission on Human Rights to have the authority to review the work of NYPD employees found to have engaged in bias, discriminatory, or racist behavior in order to provide an additional and definite level of oversight on such matter. I look forward to hearing from representatives of the administration and members of the public as we continue to work towards rebuilding trust between communities and the New York Police Department. I would like also to thank committee staff [inaudible], [inaudible], Teddy Kennedy, and [inaudible] finance analyst. Now I would like to thank my staff also, Melissa [inaudible], and all of you who work hard to make this very important public hearing possible. Now I

would like to pass it to Council Member Vanessa Gibson for some remarks.

COUNCIL MEMBER GIBSON: Thank you so much, Chair Eugene, and good afternoon to all of my colleagues and the administration and everyone who is watching. I am thankful for today's hearing of the Committee on Civil Rights. I am Council Member Vanessa Gibson. I represent District 16 in the Bronx. And I hope each and every one of you are healthy, well, and safe, ah, during this time. I want to thank my colleague, our chair, Mathieu Eugene, ah, for hosting today's important committee hearing and certainly as the prime sponsor of preconsidered introduction that's on the agenda today I'd like to speak very briefly. Ah, Chair, you explained a lot about the bill and the purpose of today's hearing. So I'm going to shorten my remarks. Ah, today's legislation, as mentioned, is a local law to amend the administrative code of the City of New York in relationship to requiring the New York City Commission on Human Rights to investigate past professional conduct by employees of the police department who are found to have engaged in biased acts and to make remedial recommendations by

repealing Section 8-131 of such code relating to the inapplicability of certain provisions of Chapter 1 of Title 8 of such codes to acts committed by members of the police department in the course of performing their official duties. Unfortunately, we continue to talk about race in America. Every elected official, every advocate, we continuously strive to make so much advancement and progress in our efforts to achieve racial equity and social justice. And we know issues in police departments all across the country are, are not done in a silo, but we know that there are work and, and continuously things that need to be done. Ah, in March, I'm sorry, in May of last year unfortunately we saw the tragic murder of George Floyd, which we all acknowledge was clearly murder of this man who was facing a police officer's neck in his knee, ah, his knee in his neck, unfortunately, ah, for 8 minutes and 46 seconds. And I think for many of us as elected officials that sparked a movement, ah, the Black Lives Matter movement that has been going on for quite some time but was further defined by that occurrence last May. And since that time we've had many, many, many conversations around how we can continue to make improvements and bridge

the gap and create better relationships with law enforcement in our city. And I acknowledge that we have made a lot of progress. I acknowledge all of the great work of advocates, ah, civilians, activists, those that have been on the ground every single day fighting for equality. But I also know that work remains to be done. This legislation will finally give our agency, CCRB, necessary power to make recommendations that will be heard and followed by the NYPD. I'm extremely grateful that work is being done and conversations are being had with the mayor, the commissioner, ah, a number of listening sessions that we've seen across the city as we work towards a criminal justice reform package by April 1, ah, in accordance with the governor's, ah, new executive order. But I do know that work must continue to be done. Ah, officers put their lives on the line every single day and when anyone abuses their authority we have to make sure that they are all held accountable. And unfortunately we've seen past experiences, ah, with police violence in our city that we always denounce and we know we have to continue to work towards so that that is not repeated. Um, I want to give credit to my former

chair of the Committee on Oversight and Investigations, former Council Member Ritchie Torres. Under his leadership last December in 2020 his committee held a hearing as a result of Deputy Inspector James Kobel's posting a series of offensive statements online under an anonymous moniker on an online chat board. He was a 28-year veteran of the NYPD and served as the commanding officer of the NYPD's Equal Employment Opportunity Division, a subunit of the NYPD's Office of Equity and Inclusion, that was responsible for the prevention and the investigation of all employment and harassment claims. And unfortunately what our hearing and subsequent to that an investigation found was this deputy inspector was absolutely guilty of all that he was accused of and since that time the department began, um, an internal investigation, a departmental trial, and I do understand a few weeks ago Police Commissioner Shea terminated his employment. Um, and so following up on that, this bill really wants to continue to focus on any, any cases understand his leadership, but also any employees of the department that are found to be guilty of racist or any sort of discriminatory practices. We want to continue to

look at all of those particular cases that have been under that jurisdiction. And so that's really the meaning and definition behind today's legislation and so I do want to thank our committee staff, Ed Atkin and the entire team at ONI and now is the new chair of this committee. I look forward to our continued work. Thank you so much. I look forward to the administration's testimony today as well as questions from my colleagues and myself as we continue to work together towards common goals and bridging the gap in our relationships in the city, ah, with law enforcement. So I thank you so much, Chair Eugene, and I look forward to today's hearing. Thank you so much.

CHAIRPERSON EUGENE: Thank you so very much, ah, Council Member Gibson. Now I am going to turn it over to our moderate, committee analyst William Duby, to go over some procedural item.

MODERATOR: Thank you, Chair. Ah, I am William D'Ory, policy analyst to the Committee on Civil and Human Rights of the New York City Council. Before we begin testimony, I want to remind everyone that you will be on mute until you are called on to testify, at which point you will be unmuted by the

host. Members of the administration who are testifying will not be muted during the Q&A portion of administration testimony. I will be calling on panelists to testify. Please listen for your name to be called. The panelists to give testimony will be the chief strategy officer of the Office of the First Deputy Mayor, Chelsea Davis, deputy commissioner for equity and inclusion of the New York City Police Department, Tanya Meisenholder, assistant deputy commissioner for legal matters of the NYPD, Oleg Chernyavsky, assistant chief of the New York City Police Department, Matthew Pontillo, deputy commissioner for strategic initiatives at the New York City Commission on Human Rights, Brittny Saunders, general counsel of the Civilian Complaint Review Board Matthew Kadushin, and chief of staff of the Mayor's Office of Criminal Justice, Marcos Soler. I will call on you shortly for the oath, then again when it is time to begin your testimony. During the hearing if council members would like to ask a question of the administration or a specific panelist please use the Zoom raise hand function and I will call on you in order. We will be limiting council member questions to five minutes, which includes the

time it takes to answer questions. All hearing participants should submit written testimony to testimony@council.nyc.gov if you have not already done so. The deadline for written testimony is 72 hours after the hearing. The committee chair has also asked me to note for the public that we have a large number of witnesses scheduled to testify today. We expect this to be a long hearing, but we will be reviewing written testimony, which is also part of the record, in case you need to leave before you are called upon to testify. Before we begin testimony I administer the oath. To all members of the administration who will be offering testimony or will be available for questions please raise your right hands. I will read the oath, then call on each of you individually for a response. Do you swear to tell the truth, the whole truth, and nothing but the truth before this committee and to respond honestly to council member questions? Chief Strategy Officer from the Office of the First Deputy Mayor, Chelsea Davis.

CHIEF STRATEGY OFFICER DAVIS: Yes, I do.

MODERATOR: Deputy commissioner for equity and inclusion of the New York City Police Department, Tanya Meisenholder?

DEPUTY COMMISSIONER MEISENHOLDER: Yes, I do.

MODERATOR: Assistant deputy commissioner for legal matters of the New York City Police Department Oleg Chernyavsky?

ASSISTANT DEPUTY COMMISSIONER
CHERNYAVSKY: I do.

MODERATOR: Assistant chief of the NYPD Matthew Pontillo?

ASSISTANT CHIEF PONTILLO: I do.

MODERATOR: Deputy commissioner for strategy initiatives of the New York City Commission on Human Rights, Brittny Saunders.

DEPUTY COMMISSIONER SAUNDERS: Yes, I do.

MODERATOR: General counsel of the Civilian Complaint Review Board, Matthew Kadushin?

GENERAL COUNSEL KADUSHIN: Yes, I do.

MODERATOR: Chief of staff of the Mayor's Office of Criminal Justice, Marcos Soler?

CHIEF OF STAFF SOLER: Yes, I do.

MODERATOR: Thank you all. Now I invite the representative of the First Deputy Mayor's Office to begin their testimony.

CHIEF STRATEGY OFFICER DAVIS: Good morning, Chair Eugene and members of the Committee on Civil and Human Rights. My name is Chelsea Davis, chief strategy officer in the Office of the First Deputy Mayor. I'm joined by Brittny Saunders from the Commission on Human Rights, Matthew Kadushin from the Civilian Complaint Review Board, Marcos Soler from the Mayor's Office of Criminal Justice, and Matthew Pontillo, Tanya Meisenholder, and Oleg Chernyavsky from the New York City Police Department. Thank you for inviting us to discuss this important topic today. I want to begin, of course, by saying that bigotry and hatred have no place within the City of New York. As explained by the NYPD Inspector General biased policing, actual or perceived, undermines the core value of equal treatment under the law, and also poses a threat to public safety because racial profiling and other types of biased policing undermine the public's confidence and trust in law enforcement. This administration and the NYPD are 100% committed to identifying and rooting out

bias, both implicit and explicit, through awareness training and by holding officers accessible throughout prompt, legitimate investigations and transparent administrative, civil, or even criminal prosecution where necessary. NYPD policy, memorialized in Patrol Guide Section 203-25 strictly prohibits racial profiling and bias-based policing. In 2018 the NYPD began training on implicit bias for its 36,000 uniform members using the fair and impartial policing curriculum. The NYPD has since trained 100% of its uniform work force and continues to train new recruits on implicit bias, ah, and has now expanded that training to civilian employees. With the publication of the NYPD disciplinary matrix and the MOU between CCRB and NYPD, termination is now the presumptive penalty for either racial profiling or biased-based policing. On behalf of the administration I'll outline a few of the latest reforms that have already been announced, provide a brief update on Executive Order 203, um, the process currently underway, and touch on the bill before us today. Eliminating bias in policing has been a key pillar of this administration. And while the order, ah, the executive order outlines a process and

timeline for developing and approving a plan, this is not is something that just began. Achieving our goals has required policy changes, new trainings, and genuine education and community engagement, and of course long-term culture change. Our mission has been to set up permanent structures for ongoing reform that will last far beyond April 1 into future administrations and departments. In addition to the discipline matrix and the accompanying memorandum of understanding the mayor announced a group of reforms during the 2021 State of the City to build community power in neighborhood policing. These include the Joint Force to End Gun Violence, a commitment to double the crisis management system workforce, a plan to give communities a voice in choosing precinct commanders, improved training to put the community first, including expanding the people's police academy, and supporting intensive, um, community immersion for officers new to communities, as well as an effort to elevate community feedback through CompStat. It includes the David Dinkins Plan, the largest expansion and strengthening of CCRB since it was established. This plan recommends granting CCRB new review powers, including initiating individual

case investigations on its own, guaranteed timely access to body-worn camera footage, and guaranteed full access to officers' disciplinary and employment histories for substantiated cases, um, as well as the authority to investigate individual instances of biased-base policing, the topic of today's hearing. The city will also expand CCRB to include the powers of, um, the OID and CCPC to greatly strengthen oversight. This new stronger oversight agency will investigate complaints, conduct regular audits, ah, and conduct systemic reviews of NYPD policy and practices. Executive Order 203 requires every local government in New York State to create a police reform and reinvention collaborative. It directs police departments across the state to perform a comprehensive review of all current procedures and practices and for the chief executive of such local government to convene the head of the local police agency and stakeholders in the community to develop a plan. Such a plan must adopt and implement the recommendations resulting from its review and consultation, including any modifications, modernizations, and innovations to its policing deployments, strategies, policies, procedures, and

practices tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing. The plan must be offered for public comment to all citizens and then after consideration of such comments present it to the local legislative body for adoption by April 1, 2021. The preliminary plan will be released in the coming days. The bill before us today outlines a process for investigating a current or former member of the police department's previous conduct. If they are found to have engaged in an act exhibiting prejudice, intolerance, or bigotry or of unlawful discrimination against any person or group of persons by city oversight agencies, a district attorney, the attorney general, or a court. As currently drafted the bill would require the Commission on Human Rights to conduct this investigation. In addition, it would require the Commission on Human Rights to investigate all work performed and cases handled by the Equal Employment Opportunity division of the NYPD between 2014 and 2020. The administration believes it is in the

public interest to move investigations of allegations of bias-based policing and racial, racially biased behavior of which racial profiling is a subset from the NYPD to the CCRB. This is what the mayor announced as part of the Dinkins Plan. We believe this is an important reform which will help build trust and accountability within the discipline system, something we have heard a lot about through this reform process. The administration completely agrees that should a bias-based policing complaint be substantiated against a member of service it is important to find out whether this was an isolated incident or part of a pattern of behavior. This is important for transparency and accountability, both essential for building trust with the community and for risk management. While the Commission on Human Rights is identified as the implementing agency in the current draft of the bill, there are a number of factors related to independence, expertise, and capacity that need to be considered when identifying the appropriate structure for this work. We look forward to future conversations about what the appropriate entity or entities outside of the police department are to take on this important and large

responsibility as we rethink police oversight. While there are various safeguards in place to prevent any one person from having too much influence over equal employment opportunity complaints, we agree that it's, um, that it's important to ensure that the cases handled by PD's Equal Employment Opportunity Division were handled properly. The department is currently procuring an independent consultant that will be tasked with reviewing their EOE investigative policies and procedures, as well as a review of previous cases to determine compliance with NYPD and citywide policies and procedures. It's anticipated that the NYPD will complete the procurement process and award a new contract in the spring.

Additionally, the charter mandates that each agency perform an annual review of its policies and procedures, as well as complaints, to ensure that all city agencies provide equal access to employment.

The Department of City Administrative Services has created a uniform policy and is in charge of helping agencies be in compliance with this policy, ah, as well as city, state, and federal law. Finally, the city's Equal Employment Practices Commission, the EEPC, already audits, evaluates, and monitors the

employment practices of all agencies in the city.

Um, in fact the NYPD is currently undergoing one of these routine audits and will work with EEPCC on adopting any recommendations that are made. We look forward to future conversations with the council on this topic and on police reform throughout the coming weeks and months. Thank you, and my colleagues and I are, are here and happy to answer any questions you may have.

MODERATOR: Thank you. Ah, I will now turn it over to questions from the chair. Panelists from the administration, please stay unmuted if possible during the question and answer period. A reminder to Chair Eugene, you will be in control of muting and unmuting yourself during this period. Thank you. Chair Eugene, please begin.

CHAIRPERSON EUGENE: In your testimony you mentioned several measures that have been taken to, ah, address the issue of bias and racial profiling from police officers. But did you see that the, there have been any changes, any progress made since those measures have been taken to now? Did you see any changes, anything different, any improvement in the behavior of the police officers? Can you talk

to us about that? Can you give us some detail about the improvements or the progress that the department have been doing in term of, you know, addressing the issue of bias and racial profiling?

CHIEF STRATEGY OFFICER DAVIS: Sure.

Thank, thank you for, for asking that question. I think it's extremely important that we consistently, um, evaluate the impact that these efforts are having. Um, I think one of the, the major, um, points of progress of this administration have been to really lighten the touch of criminal justice investment and, and law enforcement. Um, we've seen that through the vast decrease of the stop, question, and, and frisk program. Um, however, I think, um, we have made it, ah, a key pillar of this reform to go beyond what's already been done, um, particularly in the context of the, the Dinkins plan and strengthening oversight and making sure that there is, um, an independent external oversight body that will investigate complaints of, of racial bias and racial profiling. Um, and that the CCRB is, um, stronger than it's, than it's ever been before. Um, and I, I think there are, um, a lot of key reforms that have recently been announced as to making sure

that there is community power and a community voice in, in police reform that will also, um, address key issues of, of racial bias. Um, I think that the, um, training in implicit bias of all uniform members that's now being expanded to civilian members, um, is also an extremely important step that, um, I know the representatives from the police department can talk more about.

CHAIRPERSON EUGENE: Ah, one of the issue, very important element of this, ah, crisis, you know, bias, ah, racial profiling, people believe that, you know, the trust and the public, the relationship, the good relationship between, ah, ah, the police department and community is very, very important. And you, you mentioned that, that, ah, also certain measures have been taken in term of improving the relationship between the police department and the, the community. You mentioned the David Dinkin plan. Do you think that, you know, there have been also any progress in term of, of relationship and trust, you know, in the police department? Did you observe any improvement in term of relationship, you know, better relationship between the police department and the community?

Bears on the action or the measure that have been taken with, ah, the hope there will be an improvement between the relationship, ah, between the police department and the community?

CHIEF STRATEGY OFFICER DAVIS: Yeah, absolutely. Um, I think that, ah, what we have heard through a lot of our, um, community engagements through the, the implementation of Executive Order 203 and through the, um, founding of the Reform and Reinvention Collaborative, um, has certainly been that programs like, um, neighborhood policing have resulted in, in better community relationships and increased trust, um, but that this is a really long-term effort to change the culture of the police department, um, and to make sure that there are long-term, um, structures in place far past April 1 for, for improving that trust. Um, so a lot of our, our, our plan will certainly focus on, um, new kinds of community engagement, um, as the mayor outlined in the State of the City. Um, but it is also true that all kinds of accountability are essential for building trust as well, um, and we think that having external oversight, um, through this new, you know, much stronger consolidated oversight agency, um, is

essential for, for public confidence and building trust in oversight.

CHAIRPERSON EUGENE: Thank you for your answers. Ah, before I, ah, ask my next question, let me acknowledge that we have been joined by Council Member Brad Lander and Council Member Barron also. Thank you, council members. And I think that I did it already, but if I didn't do it let me acknowledge that also we have been joined by Council Member Adams. Ah, you know, I remember my family usually say that my son there is no perfection in anything. There's one, ah, 100% perfection in anything that we are doing as human being. There's always room for improvement. We try to do everything that we can do, but we should, every [inaudible] they work hard to improve what we are doing and to do more than what we have done yesterday. Do you believe that, ah, everything has been done by the administration and the police department to improve the relationship and the, you know, between the police department and the community and to increase the trust in the police department? Do you believe that everything has been done or if there is any other thing that should be done? Do you think that, you know, more work should

be done to get to the level of trust in the police department, to get to the level of a good relationship between the police department and the community in order for us to have a better environment or [inaudible] of peace for the community, and also between the community and the police department. Because I do believe that we are all New Yorkers, we are all responsible for a peaceful, you know, better community and this level of peace will be achieved when we get to the point that we can trust each other. I mean, police department and community. What do you think that should be done, that anything in addition to what you mentioned that should be done to reach that level, or do you believe that we, we reached that level already?

CHIEF STRATEGY OFFICER DAVIS: I believe [inaudible] incredible progress in neighborhood policing and building up the crisis management system and the mayor's action plan to, for neighborhood safety, um, throughout this administration that have had real considerable benefits for, for all New Yorkers, but I think this work is, is never done and there's, there's always more to do, which is why, um,

we are working so hard to put out, um, a reform plan that hopefully can really take many, um, next steps by April 1, by the end of this administration and far into the future to continue to improve trust, to continue to work, um, and make sure that together communities and police can build their own, um, vision for public safety. I think that, um, a lot of what was announced in the, the State of the City, including doubling the workforce of, um, the crisis management system, ah, you know, will go, um, a long way towards furthering a lot of the progress, um, that has already begun over the past seven years. Um, but there is, of course, always, always more work to do, um, which is one of the reasons why, um, we are prioritizing creating a, a stronger police oversight entity, um, and believe that, that, um, investigations into bias-based policing belong, um, in that external oversight agency, um, and also why we're, we're continuing to build structures for more and more community engagement that will be permanent, because the community should always have a voice in that ongoing reform.

CHAIRPERSON EUGENE: Now let me turn it Council Member Gibson, who is going to ask some questions. Council Member Gibson, please.

COUNCIL MEMBER GIBSON: Thank you so much again, Chair, and thank you so much for your testimony as I'm going through. So just a couple of questions and I, I'm, I know we have NYPD here. Um, help me understand what measures, if any, were in place to actively identify officers who have associated themselves with hateful ideologies and hateful statements who engage in, you know, racist, misogynistic and hateful conduct and words. So before this Kobel investigation came about, um, what measures were in place by the department that actually provided a mechanism by which people can come forward anonymously, but also your own internal investigation, ah, within the NYPD. Can you explain a little bit about the process may have existed?

ASSISTANT CHIEF PONTILLO: So a couple of things. Ah, I'll, I'll begin and I'll pass it to Deputy Commissioner Meisenholder. So a number of things that are in place, right. I think first and foremost the department has taken a very, very clear, strong stand absolutely prohibiting this type of

conduct both on and off duty. Ah, we make it very, very clear that even if you're off duty while you may have a right to free speech you don't have a right to be a police officer and therefore we, we don't tolerate that, that type of behavior. Ah, going back, beginning in, ah, late 2014 the department began capturing information and began, ah, investigate allegations of biased policing and racial profiling. Ah, that's been under the supervision of a federal monitor since that time. Ah, one of the changes we made to those investigations, ah, that he recommended, was, um, as part of that investigation to do a review of social media. So investigators will look at somebody's social media footprint that's publicly available to see if there are any indicia of, of that type of activity. Ah, in terms of reporting, ah, everybody in the police department, everybody, every employee of then ypd is a mandated reporter for any official, ah, any misconduct or corruption, ah, and those reports can be made anonymously to IAB, by phone, by email, by letter, ah, and [inaudible].

COUNCIL MEMBER GIBSON: OK. So, I, I hear you and I understand, but I also think that when

you talk about implementing it in practicality reality the confidentially, um, there's no confidence that officers feel that they come forward and, and report something and it's truly, truly confidential, um, and so there's this wall of silence that we always talk about. Um, even within the, the Kobel investigation, um, has there been an analysis done of any of the back-and-forth exchange? I mean, so, you know, this particular social media website all of the, you know, comments that this inspector was making, those folks that were interacting with him, has that been investigated and followed up on to see if there's any overlap with current complaints that may have come to the department?

ASSISTANT CHIEF PONTILLO: What I can say about that is, you know, he was posting, ah, stuff on social media and he using, ah, a pseudonym. So it, it would assume that other people would know who that pseudonym really was and that doesn't appear to be the case. Ah, the Internal Affairs Bureau from October of 2019 through the beginning of January, ah, of 2020, ah, October 14, 2020, through the, ah, beginning of January 2021 conducted a comprehensive investigation of Clouseau's social media activity and

social media footprint. Ah, very, very, ah, labor-intensive, time-consuming work, ah, involving multiple layers of subpoenas to look at phone records and IP addresses, ah, and social media, ah, ah, network activity, ah, in order to link the, not only the posts to Clouseau but then Clouseau to James Kobel. Ah, during the course of that investigation there was not, ah, indicia of anybody else being identified who is a current active member, ah, who was involved with Clouseau.

COUNCIL MEMBER GIBSON: OK. So I'm wondering, ah, the last time we, we held a hearing of the Committee on Oversight and Investigations back in December, um, our deputy commissioner for equity and inclusion testified that there would be an independent, ah, investigation done, um, in terms of this particular case, but also I'm wondering the follow-up. Ah, our committee has not heard anything since that I mean and I realize it's only been about a month, but has the department taken any steps to have this outside entity review, ah, the entire EEOC division and all of the cases that, ah, this former employer of the department oversaw, have you looked at all of the previous cases and if so when can we

expect a follow-up, um, on some of the findings of, of that investigation?

DEPUTY COMMISSIONER MEISENHOLDER: Thank you for the question. I, I'd first like to comment that we in EEO do have oversight and safeguard in place that are put in place internally by the multiple levels of review that EEO complaints go through, in terms of investigators, supervisors, and attorneys. So there is no, not one person in EEO who can make a single decision without multiple layers of oversight from others. In addition, we also have oversight by DCAS in terms of the citywide EEO policy and we provide data to DCAS quarterly and also evaluate our policies. I'd also add that there is oversight by the EEPC for citywide agencies and we're currently in the middle of an audit. To answer your question about the independent review, as noted on December 16 we are moving forward and we are in the middle of a procurement and we expect that to be finzd in the early spring, and we're very much invested in having an independent person come in and review not only our policies and practices, but also the cases that we've had over the past few years.

COUNCIL MEMBER GIBSON: OK. So what's the timeframe on that when we can expect a conclusion?

DEPUTY COMMISSIONER MEISENHOLDER: So I can't give you a firm answer because part of that is governed by the procurement process. I think the expectation is that we would have the independent reviewer on board by the early spring and they would have several months to complete their investigation.

COUNCIL MEMBER GIBSON: OK. Um [inaudible].

DEPUTY COMMISSIONER MEISENHOLDER: I'd just add, so I'll just add that we are absolutely committed to sharing the results of that audit once they are available, even though we don't we know exactly when they will be.

COUNCIL MEMBER GIBSON: OK. I appreciate that. And, you know, understand that, you know, we're having this conversation because, ah, of the investigation that we came about last year. And, and so all of these different layers of oversight and accountability that have been cited, you know, somebody dropped the ball and, and we just want to make sure that these systems in place are there to do

the job that they're supposed to do. Um, we can't be assured that there are not still, ah, complaints and calls coming in. You know, we just want to make sure that things are being done as they should be and with everyone with titles and responsibilities, you know, these types of, this was a very, very big case that was uncovered and really spoke volumes to a lot of discrepancies we have in the system, and so moving forward with the independent review and with all the layers of, ah, oversight that you're talking about, how can we be assured, you know, that this type of case will not be uncovered again. This was a 28-year veteran of the NYPD, a lot of time, a seasoned member of the service at a high level of responsibility and authority being accused and ultimately found guilty of egregious behavior. I mean, the message that that sends to the members of the department, you know, is, is one of great concern and so, you know, understand that when you talk about all these layers we just want to make sure that everybody is doing the job that they're supposed to be doing and we uncover things because it highlights issues that continue to exist in the department. So that's why we're asking, um, around the timeframe because I want to

understand, you know, how we move forward and ensure that there really is confidentiality with people that come forward, that their identity is protected because we can't be certain that this is not still happening just on another website in another form, you know, with another, another pseudonym.

CHIEF STRATEGY OFFICER DAVIS: Um-hmm, yeah, I, I, I absolutely agree. I, I think it's important to reiterate that the, you know, we believe the safeguards that previous any one person from having too much influence or having unilateral decision-making over any equal employment opportunity complaint, um, that, that did function, but we absolutely agree that, um, building in more external oversight and preventative measures here is key. Um, I think the, the external, um, independent entity that the police department is contracting for is, is a big part of that. Um, I think it's really important, um, that it's now very clear in the discipline matrix that termination is the presumptive penalty for any kind of, um, bias-based policing or racial profiling. Um, and, and PD can potentially speak to other, um, safeguards specific to social media that have been put in place.

COUNCIL MEMBER GIBSON: OK. Um, I just have two more questions, Chair. Please indulge me. Sorry about that. OK, so a couple of the announcements that we've heard thus far, the discipline matrix, the accompanying MOU between the mayor and CCRB, a number of reforms announced in the State of the City address, ah, the Joint Force to End Gun Violence, right, which is the commitment to CMS. A lot of these things are being announced and they will begin, but, um, I'm wondering in terms of some of the other mechanisms that we've talked about in place, um, the inclusion of the city's Commission on Human Rights, um, you mentioned in your testimony that you wanted to have further conversations on if that agency is the best in terms of capacity and experience. So what would you suggest if not the Commission on Human Rights as the agency that would ultimately under the terms of this legislation that would receive and, and make recommendations of to our district attorneys and others. If not them then what would you suggest?

CHIEF STRATEGY OFFICER DAVIS: So we certainly haven't made any decisions about that. We're extremely supportive of making this type of

investigation something that occurs outside the police department as a form of oversight and we just have to be extremely thoughtful and deliberative about, um, what it looks like and, and where it lives. We want to make sure that the, the agency in charge has the necessary independence, discretion, um, resources, expertise, jurisdiction to make sure that the investigations actually have the intended impact. Um, so, so we don't, um, have any commitments now as to where we think that this should live. Um, but we agree that this is something that should be external to the police department as, as a form of oversight. Um, and we look forward to continue talking about, um, who should do it.

COUNCIL MEMBER GIBSON: OK. And then the terms of the bill cite that it would be a five-year look back. Is the administration in agreement with that timeframe?

CHIEF STRATEGY OFFICER DAVIS: Um, I believe the, um, for the EEO, um, issue I believe the, um, external, um, entity is going to be contracted to review, ah, cases from 20, ah, or review the, the EEO cases and complaints from 2014 to 2020, is that right, Oleg? The exact terms of the

solicitation and the work are not available at this time, as this solicitation just went out and part of that is going to be based on what, um, who applies for this and what their methodology will look like. We would like them to determine what the actual case is and the timespan is.

COUNCIL MEMBER GIBSON: OK. OK, thank you, Chair. I may circle back, ah, and allow my colleagues to ask questions as well. But thank you so much, and, and thank you for, ah, your responses.

CHIEF STRATEGY OFFICER DAVIS: Thank you.

MODERATOR: Thank you, Council Member Gibson and Chair Eugene. As a reminder to panelists, please do your best to speak slowly so that you, so that what you are saying can more accurately be interpreted. I will now call on council members in the order they have used the Zoom raise hand function. If you would like to ask a question and you have not yet used the Zoom raise hand function please do so now. Council members, you will have a total of five minutes to ask your question and receive an answer from the panelists. The Sergeant at Arms will keep a timer and will let you know when your time is up. Once I have called on you, please

wait until the sergeant has announced you may begin before asking your questions. First, we will hear from Council Member Barron, followed by Council Member Lander, and Council Member Rosenthal. Ah, Council Member Barron, please begin.

SERGEANT AT ARMS: Time starts now.

COUNCIL MEMBER BARRON: Thank you very much. Good afternoon and thank you to Chair Eugene for this, ah, very important hearing. Note this is in response to Executive Order 203, which talks about eliminating bias in policing and looking at their policies, their training, and, ah, community engagement. We have to look at the top. We have to start at the top, and I'm talking about the police Commissioner Shea. When he was the chief of crime control in 2018 he said, "I do not believe that NYPD officers treat black communities any differently than they treat white communities." We have a problem because we're now being asked to address an issue that the police commissioner thinks does not exist. This is an issue. I had a meeting last week with the, ah, group that's talking about how they're going to eliminate this and the meetings that they've been having in the community, ah, the reform and reimagine

group, and, ah, I invited the, ah, community board chair to be a part of that. And he indicated that this group that's being going around and having these wonderful town forums has in fact not been outreaching to the boots on the ground, not been involving and making welcome those so-called violence interrupters that have been doing much of this community work, that they've been very select in the people that they are hearing from. So I have major concerns that this policy that's going to be presented in the next seven months is not in fact reflective of what are the true issues. Ah, the panelist said that where this group should be housed is important because it should be outside of the police department. I agree with that. The, the policies that we're going to be implementing. And I suggest to you that we look at the legislation that's being called for an elected civilian review board. Presently the CCRB has people appointed by the mayor, by the police department, and by the City Council. We are calling for an elected civilian review board where the community will have an opportunity to say who the representatives they are, who, who the representatives are that they want to see forming

these policies and making these decisions.

Oftentimes when radical, ah, legislation is put forth there are all these other intervening policies that come forth to undermine and to weaken that strong, vibrant, radical legislation that's going to really see change and make sure that what we want to see is implemented. The ECRB legislation is calling for electeds from the community to serve, elected community residents to serve on this board, and it's calling for an independent prosecutor because the prosecutor that's a special prosectuor now relies on the police department to do its work. So it's from the beginning fatally flawed. We've read all the articles from the *New York Times* about how flawed the CCRB has been, how ineffective they've been, and we've said go the way of those things that have outlived their usefulness, if in fact they ever were useful. And we need to bring forth the voice of the people to be able to address the issues that they know exist in their community and that they will not be compromised by the police, by those representatives of the police and of the mayor and of the City Council also that are oftentimes weaken in their responses. So I just wanted to use this

opportunity to say that when you've got someone at the top who doesn't think that there's a problem I don't know how you think you can come to a conclusion that's going to address the problem that readily exists. And also in the erythematosus of looking back I want us to look back at Inspector Chell, who shot Ortanzso Bovell in the back and said, oh, my gun discharged accidentally as I was falling. He was never charged. There was never an investigation. There were never any charges brought on his behalf I this case. Subsequently a civil suit was launched and the jury heard from professionals who study the angles and trajectory and all of that and said there's no way that the trajectory of the bullet that killed Ortanzso Bovell...

SERGEANT AT ARMS: Time expired.

COUNCIL MEMBER BARRON: ...could have been fired from someone falling. Thank you. Just let me conclude. From someone who was falling as he claimed he was. He was [inaudible].

SERGEANT AT ARMS BIANDO: Council Member Barron, I'm sorry, you were muted.

COUNCIL MEMBER BARRON: OK. I just wanted to end by saying I wanted to thank the chair

for being able to present this information and charge that there's no statute of limitation on murder and that the, the Inspector, ah, Chell, who has since retired, should still be examined for the crime that he committed. And until that happens people are not going to trust what the police department is saying, what these, ah, ah, conversations are about, what these initiatives are calling for, because there is no justice in that. Thank you so much. Thank you.

MODERATOR: OK. Next we will hear from Council Member Lander.

SERGEANT AT ARMS: Time starts now.

COUNCIL MEMBER LANDER: Thank you very much, ah, Chair, for convening the hearing. Um, Ms. Davis, I, I was surprised to learn that City Hall's response to this issue, ah, would be to have the NYPD itself procure an investigation that, you know, they would contract for and select when we have the DOI, the NYPD, the Office of the Inspector General, and the CCRB, ah, all available for police oversight. Doesn't it further undermine already badly, ah, undermined confidence in police oversight structures when for something like this, rather than using the oversight we have, um, not just that the PD itself

would do it, but that City Hall's approach to getting to what happened would be to say the NYPD itself is going to go ahead and contract for its own oversight?

CHIEF STRATEGY OFFICER DAVIS: Thank, thank you for this, this question. I [inaudible] welcome the opportunity to talk this, this through a, a little bit more. Um, so I think in, in terms of investigating complaints of, of bias-based policing, ah, we absolutely think that it's essential that this move to become a, a function of, um, the CCRB and, ah, the new consolidated oversight agency that we're building that will hopefully be the, the strongest, ah, possible police oversight, um, structure that, that could exist in the city. Um, in terms of this, um, deeper level of investigation after a substantiated, ah, complaint we also think that's essential and we think that that's essential to, to occur within the full scheme of, of oversight in the city. Um, just to the specific question of the overview of, of the EEO, um, and the, the cases that, um, took place over the past few years and those, um, policy and procedures, there is already that overlapping, um, oversight structure with, um, PD itself with DCAS and, um, with the, with the board,

um, that's doing that full doing audit right now. We think on top of that for this specific issue, um, it's important to have a completely independent, um, very, very, very thorough, um, and comprehensive audit and investigation. Um, I'm not sure any current entities would have the ability to do that right now. We want to make sure that it's as comprehensive and, and broad as thorough as possible, and I think, um, Deputy Commissioner Meisenholder can speak more to, to the value of that being independent to the city.

COUNCIL MEMBER LANDER: Yeah, I'm, I'm not, I mean, I understand why the PD would hire someone outside. My question is how City Hall could think having the PD contract for it was going to be the best way to get independent oversight. Like that's the police choosing their own contractor. You can say they'll be independent once they're selected, but if you're saying you need a whole new agency and to restructure the way CCRB is working, it just makes zero sense to me that City Hall's approach wouldn't be to do it that way and that what I would have expected was that city would say we're looking to have the CCRB be restructured, so they are going to

contract for and conduct this oversight. If they don't have the capacity in house then that is fine, they could hire someone outside, but to me right now we have the worst of all worlds. Like if this was at CCHR it's gonna overwhelm CCHR's resources and they're not gonna be able to investigate any of their other cases, and I guess I'd be curious what Deputy Commissioner Saunders, ah, thinks about it. To me, like, I'm, I'm very anxious about this going to CCHR. But I'm, I'm also really anxious about why it's beginning its life as an NYPD contract. That is not, you don't get to, you know, as an entity, say we have a problem. We know we have a problem. We'll decide who will conduct the investigation and provide the oversight. Like that's why CCRB was created. Then it's why the NYPD Inspector General's office was created. Um, so to say the way we're gonna start is the PD is going to write a solicitation and we'll decide what agency it moves to later, I just, we're starting in place that already undermines my confidence in the capacity of these process to deliver the kind of oversight that's needed. Um, ah, but before I lose my time, which is running out, if anyone wants to respond that's fine, but I, I guess

I, I do, you know, I appreciate that since our last questions that the mayor and the police commissioner have acknowledged that the departmental trial of Wayne Isaacs needs to proceed, though I was disappointed that Victoria Davis and Victor Dempsey's family members learned about it in the press rather directly when I asked that they be given information at the hearing. So it was really super distressing to learn that they learned about it in the media. But there's still no date for that trial. So I guess I would like to know what day by which the NYPD will provide the records that the CCRB has requested so that that trial could begin. Thank you.

CHIEF STRATEGY OFFICER DAVIS: PD, can you [inaudible].

SERGEANT AT ARMS: Time expired.

CHIEF STRATEGY OFFICER DAVIS: Oleg, are you there?

ASSISTANT CHIEF PONTILLO: Yeah, on, on the, ah, Wayne Isaacs case, so a few weeks ago, ah, [inaudible] were served. The department is now working with CCRB to provide them all of the investigative files and records, ah, that the NYPD has. Ah, they will also have to get an unsealing

order, ah, in order to get the trial transfer to grand jury testimony from the criminal trial. Ah, that's all ongoing. In terms of scheduling a trial date, that's really up to, ah, the trial judge, ah, CCRB, and the respondent. Ah, they will have a pretrial hearing in the coming weeks where they'll talk about discovery and witnesses and a timeline, and they'll set a trial date, and [inaudible] we have a date.

COUNCIL MEMBER LANDER: [inaudible] know is by what date the NYPD will deliver to the CCRB the documents and materials it has requested?

ASSISTANT CHIEF PONTILLO: Ah, I don't have a firm date. But, ah, if, if there's anything that hasn't been delivered yet it will all be delivered, ah, within the coming weeks. But, but not, ah, a prolonged period of time. It will be within weeks.

COUNCIL MEMBER LANDER: How many weeks?

ASSISTANT CHIEF PONTILLO: Ah, I don't know. I have to check to see what the status is. I don't have that information with me.

COUNCIL MEMBER LANDER: So weeks could be one weeks or weeks could be 52 weeks.

ASSISTANT CHIEF PONTILLO: It's not gonna be 52.

COUNCIL MEMBER LANDER: Ten?

ASSISTANT CHIEF PONTILLO: I already said I don't know and I would have to, ah, check.

COUNCIL MEMBER LANDER: OK. I, I asked for, I mean, I, I just, I mean, I'm gonna try not to lose my cool here. Like, I, I asked at the prior hearing for a date when the PD would start the departmental trials. CCRB rfd the complaint in October. Not a few weeks ago. Months ago. Only because, I mean, you spoke to spoke to their family at the last hearing and, and then the mayor and the commissioner say to the media without calling them, yes, there will be a trial, as though that's doing something, when it's doing nothing. Like CCRB had referred the complaints already. So no date is set and you won't give a date by which you're going to respond to the CCRB's information request. Is, is that correct? You still don't have that?

ASSISTANT CHIEF PONTILLO: I, I personally don't have that information, no.

GENERAL COUNSEL KADUSHIN: I'm Matthew Kadushin from the CCRB. I just want to say, ah,

thank you for asking questions about the Wayne Isaacs matter. I can say that generally speaking in the administrative prosecution unit once the case is there and, and we request documents from NYPD when the case gets to the, ah, administrative prosecution unit we, we normally get, we get the requested materials in a timely fashion. And, and to my knowledge, you know, we've been working, ah, collaboratively and there has not, has not been a holdup of information. I know there's a question about whether or not an unsealing order should be filed, ah, to get the, ah, trial transcripts and we're in the process of reviewing that and making a determination as to whether to file and even filing with NYPD or on own on from the general counsel's office.

COUNCIL MEMBER LANDER: OK. My, my, my time is up and others have questions. I, I, I want to ask what took from October till February and whether that's just the normal course of business. But I, I'm gonna turn it back over to the Chair. I just gotta say like I just feel this way at every one these hearings. If the goal is to provide confidence they, we are moving in the direction of structures of

accountability that would enable communities to feel like there was meaningful oversight. It would be hard for anyone to feel that we were meeting that goal. Thank you.

DEPUTY COMMISSIONER SAUNDERS: Ah, if I may just say a couple words in response to Council Member, um, Landers, especially about the, the commission?

MODERATOR: Yeah, go ahead. Thank you, Brittny.

DEPUTY COMMISSIONER SAUNDERS: Thank you. Um, so I just wanted to say that, um, one, thank you for convening this hearing and for inviting us to, to speak. Um, and while we definitely support efforts to address to bias at NYPD, we do have some very serious concerns, um, about the impact of this bill, um, on the commission and on, ah, this issue overall. Um, I'll just say briefly that, you know, they relate to things like independence, so we are an independent investigatory agency, um, with jurisdiction over NYPD. And the design of kind of ongoing consultation and collaboration with NYPD that's required under this bill in connection with also the kind of long-standing and deep, um, oversight of, um, of, you

know, EEO actions at, at PD and their Office of Equity and Inclusion, um, would really, I think, compromise our ability to, to act in that independent investigatory fashion. In addition, we have serious resource concerns as well. Um, you know, our head, head count, rather, has declined steadily, um, as a result of the fiscal situation and other factors. Um, we're already having to make hard choices about, you know, our work. Um, as you all know, we enforce human rights protections across housing, employment, public accommodations for all who live in, visit, or work in the City of New York. Um, we do this with respect to all employers and providers of public accommodations and housing providers, whether they are public or private. Um, so for us to, um, take on this additional work, it would really force us, ah, to redirect our resources away from that core human rights work, um, and towards, um, these kind of specific mandates which are, are quite, um, quite burdensome. And I also want to say that, you know, part of the issue there is that we've been successful over the last five years because we've been able to connect with community, to speak with, um, you know, folks in council, folks, um, in other areas of

government, folks in community about what the kind of rising human rights challenges are and what the best way to address them is, and it's precisely because we've been able to figure out the best way to invest our resources, whether it's a new policy approaches and new enforcement approaches, um, or new public education approaches on things like anti-black racism or COVID-19 discrimination, um, you know, source of income, fair chance, all of these issues that we've been able to so responsive. Um, but if we are requested to take on the tasks that are in this legislation it's really going to, um, eviscerate our ability to do that kind of consultation and to take on that work. So I just want to share that.

MODERATOR: Thank you. Um, next we will hear from Council Member Rosenthal.

SERGEANT AT ARMS: Time starts now.

COUNCIL MEMBER ROSENTHAL: Thanks so much. Um, I appreciate the opportunity to ask these questions. I want to follow up on Council Member [inaudible] just, and, and the question I have is around transparency, ah, and oversight of the RFP itself. First of all, just yes or no, is it an RFP or an RFI?

CHIEF STRATEGY OFFICER DAVIS: I believe it's an RFP. Um, Deputy Commissioner Meisenholder, can you confirm?

DEPUTY COMMISSIONER MEISENHOLDER: It's a negotiated acquisition.

CHIEF STRATEGY OFFICER DAVIS: Oh, OK.

COUNCIL MEMBER ROSENTHAL: It's a negotiated acquisition. Does that mean it's with a vendor that you already have?

DEPUTY COMMISSIONER MEISENHOLDER: No. And no vendors...

COUNCIL MEMBER ROSENTHAL: And what is, what is negotiated, ah, acquisition mean?

DEPUTY COMMISSIONER MEISENHOLDER: I can't speak to the specifics of the procurement method. I, I'm not fully in a position to answer that question.

COUNCIL MEMBER ROSENTHAL: So just to be clear, a negotiated acquisition is something that you do with a vendor that you already have. So it could be that you're gonna work with one of the vendors that you have now and you put out an RFP to the vendors you have now. So I think there should be some clarity...

DEPUTY COMMISSIONER MEISENHOLDER: It's not necessarily...

COUNCIL MEMBER ROSENTHAL: ...around that.

DEPUTY COMMISSIONER MEISENHOLDER: It's not necessarily with a vendor that we already have. It is open to various vendors.

ASSISTANT CHIEF PONTILLO: Right, so, for, for example, the NYPD's procurement of body-worn cameras was done through the negotiated acquisition process. And that's because we wanted an opportunity in that case to discussion with potential vendors what they could supply under what timelines, what services they had, and then negotiate the best deal. So it's kind of a hybrid of using, ah...

COUNCIL MEMBER ROSENTHAL: OK, thank you. Thank you very much. Um, and then who has seen the RFP itself? Who wrote it and who has reviewed it? Has the First Deputy Mayor, Mayor's Office, have you reviewed the RFP itself?

CHIEF STRATEGY OFFICER DAVIS: I, I haven't personally reviewed the RFP. But I'm happy to get back to you with, with who has reviewed it, um, unless NYPD has more information about, about who has.

COUNCIL MEMBER ROSENTHAL: Has, has anyone at City Hall reviewed the RFP?

DEPUTY COMMISSIONER MEISENHOLDER: So the law department has been involved in the drafting of the scope of work.

COUNCIL MEMBER ROSENTHAL: The law department. So anyone with, is it [inaudible] public? Can I, can I, can the public see it?

DEPUTY COMMISSIONER MEISENHOLDER: Not at this time. We're not in, ah...

COUNCIL MEMBER ROSENTHAL: Why not? Why not?

DEPUTY COMMISSIONER MEISENHOLDER: Because it is not been, I, I don't know. I mean, I don't know enough about that piece of the procurement process to answer that fully. But we are still in the solicitation process and I will find out that answer and get back to you.

COUNCIL MEMBER ROSENTHAL: Well, I mean, here's the point. I, I'm sure Legal has reviewed it for legal terminology and specifics, but if no one has reviewed it from a policy point how do we know it's gonna even get at what we're looking for it to get at? Will we ever see the request for proposal?

Will we ever see the proposals that you are offered, that you are offered to choose from? Will we see the final contract after you've negotiated with a vendor and you have a contract? Will the public be able to see that one? So those are three different times the public could see what we're even talking about. So at any of those points will it be public?

DEPUTY COMMISSIONER MEISENHOLDER: As I said a few minutes ago, I, I do not have the answer to those questions. Those are better directed to our procurement section and I, I don't have them...

COUNCIL MEMBER ROSENTHAL: It's, it's, it's really not a procurement question. It's a policy question. And perhaps as Council Member Lander did, the, the question then goes to the First Deputy Mayor's Office.

SERGEANT AT ARMS: Time expired.

COUNCIL MEMBER ROSENTHAL: Are you OK with a contract, an RFP going out on a policy issue that you think is important that you've never seen?

CHIEF STRATEGY OFFICER DAVIS: Um, I think this is a really important question. Thank you for, for bringing this up. Um, I will make sure to

look into who, who has seen, if anyone at City Hall has seen it, um, and if not....

COUNCIL MEMBER ROSENTHAL: Well, how about this....

CHIEF STRATEGY OFFICER DAVIS: If not...

COUNCIL MEMBER ROSENTHAL: [inaudible] actually...

CHIEF STRATEGY OFFICER DAVIS: ...we can ask, ah, Legal to, to do so. We'll make sure that, that it's reviewed. I'm not a procurement expert either and I don't know that the ins and outs of negotiated acquisition, but...

COUNCIL MEMBER ROSENTHAL: [inaudible] again, so only, right, so just to be clear, the only way we unearthed the fraud that was done by the Department of Education contract that had been signed and was 600 million dollars to expenses was by looking at the contract. So I, I'm hard pressed that after that example under your tenure you wouldn't to look at contracts, number one, but number two, I think the public has a right to know the answer and I think what would be worth committing to is not maybe or maybe not getting back to our City Council staff, but instead the mayor making a public statement as

his daily media availabilities about when this contract will be public, whether it's in the, seeing the RFP, seeing the bids that come in, or seeing the final, ah, contract that is signed. It, it, the mayor himself should care about this and announce to the public when it will be public to them that they can see what this independent oversight contract looks like, no?

CHIEF STRATEGY OFFICER DAVIS: I, I think it's essential that there's public confidence and, and perceived legitimacy in this process, and so I take that feedback very seriously. Thank you.

COUNCIL MEMBER ROSENTHAL: Thank you for your time.

MODERATOR: Next, um, I will turn it back to Chair Eugene for any further questions.

CHAIRPERSON EUGENE: Thanks. With respect to complaints or accusation of police officers received, you know, by the, ah, department, ah, how does the department handle accusations of officials who associate with group that engage in hateful ideologies or who have history of explicitly racist and hateful statement or conduct and how many also of those complaints were done or made by

internal whistleblowers, and could you tell also [inaudible] disciplinary action and what was disciplinary action taken by the department?

CHIEF STRATEGY OFFICER DAVIS: Um, I'll, I'll let, ah, PD speak to the, the specifics of this answer. But I do want to reiterate that as part of the discipline matrix and the MOU between CCRB and PD that, that termination is the presumptive penalty for, for either racial profiling or, or bias-based policing. Um, but I'll PD speak to the, the specific question.

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: Sure. I just want to clarify, ah, Chair, you were talking about how many complaints we received from officers engaged with, ah, I guess extremist groups or groups that were espousing, um, racist and extremist, ah, ideologies.

CHAIRPERSON EUGENE: So how many complaint related to officials that are associated to those group?

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: OK, right. Any, any NYPD officials associated with those groups, is that, that the question? Do we have an idea?

CHAIRPERSON EUGENE: Yeah.

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: We're not aware of any complaints that came in for that.

CHAIRPERSON EUGENE: You have none, actually none?

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: Yeah, I mean, we're not aware of any complaints. I'll do another check after this hearing is over. I'll call our Internal Affairs, ah, Bureau, ah, to see, but I'm, we're not aware of any.

CHAIRPERSON EUGENE: So there have been no officials also that raise certain issues or bring those complaint to the department?

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: Sir, I'm sorry, I was speaking over you. Can you say that again?

CHAIRPERSON EUGENE: Is there any officials, police officials from the department, that raise the question that, you know, ah, ah, approach your department to let the department know that those complaint exist or there are some accusation of certain officials? What we call the whistleblowers.

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: Yeah, no, we're, ah, we're not aware of any. Again, after the hearing I'll check with Internal Affairs to see if, ah, if any such complaints, anonymous or otherwise, have come in. But even just, just to highlight, even the case with, ah, James Kobel, that wasn't an internal complaint that came in. It was an investigation that was started by the City Council, ah, and then it was referred to us after, after the investigation ran its course.

CHAIRPERSON EUGENE: What about complaints or accusations made by the members of the community, of the public?

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: You're talking about allegations? Again, we're, we're talking about the same thing, allegations for members of the public that police officers are engaged with extreme groups.

CHAIRPERSON EUGENE: Yes.

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: Yeah, do we have more, no, we're not aware of any of those complaints. Whether it's from the public or internal, or anonymous. But, again,

I'll, it would come in through our Internal Affairs Bureau, so I'll verify with them and get back to your office as soon as the hearing is over.

CHAIRPERSON EUGENE: Thank you very much for your answers. Let me turn it over to our moderator.

MODERATOR: I will now turn it over to Council Member Gibson, who has a question.

COUNCIL MEMBER GIBSON: Thank you. Ah, just two final questions. Ah, my first question is for NYPD again. I just want to go back the independent review of the EEO division, and I want to just fully understand some of the safeguards that you're talking about that are in place to make sure that this investigation is truly independent, as well as that independent, ah, authority's ability to access some of the documentation and evidence that they will need to fulfill that independent review. Can you just expand a little bit on what safeguards that have been put in place for this to happen?

DEPUTY COMMISSIONER MEISENHOLDER: So to clarify, you're speaking about the independent review in particular?

COUNCIL MEMBER GIBSON: Yes.

DEPUTY COMMISSIONER MEISENHOLDER: Or other safeguards? So with respect to the independent review, as I indicated, it is still in the early procurement stages and the scope of work is complete. Um, I can't, beyond that there's a number of layers in the scope of work which delineate a review of EEO policies and practices and a review of cases. But there, I don't think that there is much else to add with respect to that until we move forward with the procurement.

COUNCIL MEMBER GIBSON: OK, and what point would you be able to share any of that data with the City Council?

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: Council Member, just to add, I think, in answer to your question, they would be given access to whatever information they needed...

DEPUTY COMMISSIONER MEISENHOLDER: Yes.

ASSISTANT DEPUTY COMMISSIONER

CHERNYAVSKY: ...to complete the scope of their work.

DEPUTY COMMISSIONER MEISENHOLDER: They will have full access to all of our case files.

COUNCIL MEMBER GIBSON: OK, and at what point, if any, would the council have access to any information?

DEPUTY COMMISSIONER MEISENHOLDER: So...

COUNCIL MEMBER GIBSON: [inaudible]

DEPUTY COMMISSIONER MEISENHOLDER: We've committed to sharing the reports with the council as we move forward with the procurement.

COUNCIL MEMBER GIBSON: OK, OK. Thank you. Ah, my other question is for the Commission on Human Rights. Ah, thank you, Ms. Saunders, for outlining your, ah, capacity issues and, and certainly the budget constraints that your agency and many other agencies have. Ah, last year's budget was very painful and we had to make some very hard decisions. Ah, but nonetheless that does not stop us from doing the work that we need to do. So I want to understand today, um, has your agency received any complaints to your knowledge in relationship to any, ah, law enforcement officials exhibiting any racist or biased behavior or using hate speech? Can you tell us? Um, are you investigating or have you seen any of those cases come to your agency as of yet?

DEPUTY COMMISSIONER SAUNDERS: So what I do know is that, um, we have, um, at, in fiscal year 2020 we had two, ah, complaints that, rather, two claims that were filed with us for bias-based profiling, um, by law enforcement, which is a protection under our law for cases where individuals are targeted for law enforcement activity, ah, not on the basis of any suspicion that they've engaged in illegal activity, but because of their, um, their membership in a certain protected class. So race, gender, age, anything like that. So we have that protection. I know that we have two claims that were filed and we suspect that part of the reason why those numbers are so low, frankly, is because damages are not available, um, in those cases because the way that statute was, um, was drafted. In terms of your specific question about cases where, um, folks have expressed, um, some sort of hateful ideology, I actually, I work on the policy side as opposed to the law enforcement side, so there's a limit to what I can know. But I can certainly go back and talk to folks and see, um, hat, if anything, we know about the substance of, um, existing cases and what we can

share about that, because there's often a limit to what we share about ongoing investigations.

COUNCIL MEMBER GIBSON: OK. And what would you say, I know that you're on the policy side, but in these particular cases, ah, what would happen that would cause the agency to warrant further actions, so a referral to another agency, like in what types of instances would your agency have to have further action that's beyond your current purview?

DEPUTY COMMISSIONER SAUNDERS: Yeah. Um, so we would certainly, like, I would say we can offer different types of remedies depending on the type of case that comes to us. So, for example, if someone is bringing a, um, case about their interaction with NYPD and the violation that they think has happened to their human rights, um, when NYPD is acting as a, ah, provider of public accommodations, we could order policy changes, we could order, um, you know, something like training. We could also, um, order that damages be paid to that individual to compensate them. Um, similar, ah, but also in, in cases where we can't necessarily, um, address all the issues that have been raised, you know, folks can certainly take

their cases, um, and file under federal law in federal court, um, where there's kind of a wider range of, um, I'm sorry, remedies available. Um, and of course we'd certainly also share information with folks about other kind of city agencies with, um, jurisdiction relative to NYPD that might be helpful to them.

COUNCIL MEMBER GIBSON: OK, great. Um, and similarly to what one of my colleagues, Council Member Barron, talked about with the CCRB being more civilianized, um, your agency investigates, ah, allegations of, you know, racism, discrimination, all across the city agencies. So do you believe that the New York City Commission on Human Rights, your expertise and level of experience could be used to complement the work we're trying to do, the progress we're trying to make, and certainly helping us to rebuild and improve public trust in our work with the NYPD?

DEPUTY COMMISSIONER SAUNDERS: So I certainly think that, you know, we have, um, a lot of expertise on how the New York City Human Rights Law protects New Yorkers and how to educate folks about those protections, how to enforce those specific

protections. And I think we would love to continue to talk to you about, um, ways that we could support, um, the process of, um, you know, oversight of PD in this area, or if there's information that we can get, that we've gathered, that we think that is relevant to this area. I think we'd be kind of happy to share that. But what I, ah, am concerned about is that we don't have the kind of specific expertise in the sorts of deep-dive audits that are contemplated here for the commission to take on and we certainly don't have the expertise or the capacity in, as it relates to like EEO operations and, and functions, um, that would, you know, enable us to oversee or to evaluate another agency's functions in that area. So I think we're happy to be part of conversations, um, but the, the role as is it structured in the legislation now is not really aligned with our, um, expertise.

COUNCIL MEMBER GIBSON: OK, thank you for that. I appreciate that. And I would love to talk more about additional resources, ah, that the agency would need, um, your current capacity now, and certainly I don't, I'm not familiar with your ongoing work, if any at all, that you may have today with CCRB. But in light of all of the new reforms that

we're talking about and expanding the responsibility of agencies like CCRB, um, I think this gives us an opportunity to look at the work of the Commission on Human Rights, ah, and how, you know, obviously the terms of the legislation is one part of it, but also just thinking much more long term, right?

DEPUTY COMMISSIONER SAUNDERS: Um-hmm.

COUNCIL MEMBER GIBSON: To see, you know, what opportunities that we can provide as a council to support your work and to really look at a lot of EEO work.

DEPUTY COMMISSIONER SAUNDERS: Yeah, um, understood. EEO itself is not our specific, um, expertise, but certainly welcome the, the invitation to continue talking, um, about the connections between all this work and also really appreciate your work in this area and your bringing together this hearing.

COUNCIL MEMBER GIBSON: OK, thank you.
Thank you so much, Chair.

CHAIRPERSON EUGENE: Welcome.

MODERATOR: Ah, at this time I would like to invite any council members who may have further questions to use the Zoom raise hand function in

order to indicate, ah, that you have a question and I will call on you. OK, so it seems that there are no further questions. Um, we will now turn to public testimony. I'd like to remind everyone that unlike our typical council hearings we will be calling individuals one by one to testify. Each panelist will be given three minutes to speak. Please begin your testimony once the sergeant has started the timer. Council members who have questions for a particular panelist should use the Zoom raise hand function and I will call on you in the order you raised your hand. After the panelist has completed their testimony, council members, you will have a total of five minutes to ask your question and receive an answer from the panelist. For panelists, once your name is called a member of our staff will unmute you and the Sergeant at Arms will set the timer, then give you the go-ahead to begin. Please wait for the sergeant to announce that you may begin before delivering your testimony. I would like, um, the order of our first panel will be Albert Fox Cahn from the Surveillance Oversight Technology Project, Mark Feiner from Disability Rights New York, and Taj

Saen from Team Take Charge. Ah, Albert Fox Cahn, you may begin.

SERGEANT AT ARMS: Time starts now.

ALBERT FOX CAHN: Thank you, Chair Eugene and to the committee for the opportunity to testify before you today. My name is Albert Fox Cahn and I'm the executive director and founder of the Surveillance Technology Oversight Project at the Urban Justice Center. We're a New York-based privacy and civil rights group, and we deeply support the goal of trying to tackle the systemic bias that has defined New York's policing culture for so many generations. And when I first saw the invitation to testify before you today I was excited, because for years it had baffled me that we had a provision like Section 131 of the Human Rights Law, that we would have a section that specifically exempted one city agency and only one city agency from the full effect of those human rights protections, and so I strongly support the repeal of that provision. And I believe that the Human Rights Commission is a valuable complementary force in fighting bias and discrimination within the policing structure. That said, I am, I am quite nervous about the structure

that has been offered in the legislation as written because I am unsure if the commission has the, ah, has both the structural independence under the proposed rule and the resources necessary to ensure that police are held accountable for bias and, and discrimination in their job. I, I also would like to highlight that this legislation does little to identify the harms that are found not with human bias in policing, but the ever-more present threat of automated bias in New York City's policing. We know that thousands of New Yorkers are being arrested every year using biased and invasive surveillance tools, like facial recognition. And we think it is entirely appropriate that the Human Rights Commission be given the authority under this, ah, repeal, ah, under this proposed legislation, not just to look at human bias, but to look at that form of automated bias, because our fear is that in the coming years these questions of what systems we purchase, what automated tools we deploy to monitor our city and to determine who is quote unquote a threat will inevitably lead to the automated racial profiling of more and more New Yorkers of color. So, again, we, we, ah, strongly support this limited role for the

Human Rights Commission, but we also strongly support the fully independent civilian control disciplinary structure that is able to ensure that it is the people of the city who ultimately control the discipline of our officers and not merely the appointees from City Hall. We need to have true independence because we've seen for too many decades that even the best-intended structures, no matter how well crafted on paper will ultimately be undermined by the political powers that seek to protect police over and over and over again. Thank you very much.

MODERATOR: Thank you. Next we will hear from Mark Feiner. Mark, you may begin.

SERGEANT AT ARMS: Time starts now.

MODERATOR: It seems we may have lost Mark at the moment, um, and Taj Saed is also unavailable. So I'll move on to our next witness, Robert Malek.

SERGEANT AT ARMS: Time starts now.

ROBERT MALEK: Yes, hi. My name is Robert Malek and, um, I have a speech here. It's, ah, it's about 10 minutes long, so I'll just, ah, three minutes and then the rest you can read on, on my website. Ah, my website is acscomplaints.com and,

ah, nypdcomplaints.org. Ah, one thing I'd just like to start off saying is that, um, IAB investigations can't be FOIA'd under the Freedom of Information Law. I've tried it. That's a real problem, OK. Um, also investigations with, with IAB, um, they get kicked back to the same officers that are involved in the wrongdoing to begin with. And you don't know that as a citizen unless you FOIA the investigation and say, oh, so this sergeant was involved and that lieutenant was involved. So when you call IAB they kick it back over to precinct. The sergeant calls you, or the lieutenant calls you. You don't know the sergeant was involved with the wrongdoing to begin with. So they just cover for themselves. Ah, so, you know, that's, that's a problem as well, and, yes, when you have corruption that's at a high level it certainly affects the rest of the department and the investigations. Um, you know, Lawrence Armstrong, chief detective, he's a real problem. I mean, I have, ah, in this one situation where, um, there was an investigation that was supposed to be done by, um, having Special Victims and, um, and it was, and it was not, and it was not done. Um, Inspector Rowe even confirmed to me it wasn't done. I FOIA'd, I

FOIA'd the investigation that was done and they, they investigated the wrong thing. Ah, but yet Lawrence Armstrong, he gets back to me and he tells me that, no, I, I've checked all the work of all detectives in the past two-and-a-half years and we haven't done not one thing wrong. When one thing that's gonna to be shocking to all of you is, ah, I'm blocked from making any police report for my daughter's abuse for the past two years in the City of New York. All right, and he thinks that detectives aren't doing anything wrong. I've never been prosecuted or charged with making a false police report and I can't make any police reports in New York City. And this is OK with, ah, with Lawrence Armstrong. All right. So, you know, that may sound to you to be pretty like amazing, like how can you [inaudible] really. Anyway, when you go on my website, so I'll be, the [inaudible] websites and I'll be placing up more and more evidence daily. So I'm not just saying this, I'll be providing evidence. Um, but bias takes, you know, many different, you know, many different forms, not just about race, ah, you know it's, it's, it's about, ah, race, gender, class, age, and also I want to say that, um, NYPD, it's not just NYPD. ACS, ACS

of New York City is also NYPD. So you have different police forces. ACS of New York City, they have their police force. They can take away your children from you without charging you even for any, even with a crime. They can, I mean, I haven't, I haven't seen, I haven't seen my daughter in the past...

SERGEANT AT ARMS: Time expired.

ROBERT MALEK: All right. [laughs]
[inaudible].

MODERATOR: Robert, would you like to, to finish your, your sentence?

ROBERT MALEK: Oh, yeah. Thank you. Um, you know, ah, if, if you're brought to, to ACS court, ACS court has a judge there that's specifically there just to hear ACS cases. It's an administrative court. It's not a regular court and you can't prevail in that court. Several attorneys have told me this. There's no, there's no jury. You can have your child taken away from you as in, as has mine, I haven't seen my daughter in the past, in the past year. You can have your child taken away from you without you ever being charged with a crime, ever being convicted of a crime. There's no jury. I would much rather have a police officer beat me, you

know, beat me up than take away my child from me without me ever having committed a crime and there be no jury. So I recommend that, you know, go to my web, there's a lot on my website and, and, you know, I have a lot more to say, of course, but I appreciate that you let me, you know, finish there and, um, you know, hopefully we can meet again. I'll be back, it's my first time. [laughs]

MODERATOR: Thank you, Robert. Um, next we will hear from Naz Akoyl. Naz, you may begin.

SERGEANT AT ARMS: Time starts now.

NAZ AKOYL: Ah, thank you. Um, good afternoon. I'd like to thank the committee for allowing me to testify on such a crucial matter. Um, the bill that the committee discussed today is not only incredibly important, but it's long overdue. Um, it's difficult to fathom that for decades Section 131 exempted the NYPD responsible for protecting the rights of New Yorkers from scrutiny regarding biased acts. Um, and the lack of accessibility that this exemption creates is truly unacceptable, especially given the well-documented history of discrimination that has plagued the NYPD. Um, we urgently need independent investigation of ongoing biased behavior

by the NYPD. For example, we need independent investigation of [inaudible] drastic racial discrimination and stop and frisks, admittedly fewer in number now, but that still target people of color upwards of 90% of the time. All of our public officials have a responsibility to respect civil and human rights of New Yorkers, but no single institution needs this kind of oversight more than the NYPD. However, we hear the concerns about expertise capability and resource availability that Deputy Commissioner Saunders voiced. And it's clear to us that while it's important to remove a jurisdictional barrier to the commission's investigative authority regarding biased policing, as this bill attempts to do, it's, it doesn't seem viable to position the commission as the central enforcement mechanism in this framework. And there's need for an independent elected oversight body with specific bandwidth for this kind of investigative work. With that, I'd like to reiterate Mr. Cahn's message that this bill is an important first step, but it is only a first step that must be followed by measures directed at banning or regulating surveillance technologies used by the NYPD that

create or contribute to a culture of biased policing,
which has no place in our city. Thank you for the
opportunity to testify today.

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 March 6, 2021