

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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January 22, 2019
Start: 10:30 a.m.
Recess: 1:00 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Donovan Richards
Chairperson

COUNCIL MEMBERS:

Justin L. Brannan
Fernando Cabrera
Andrew Cohen
Chaim M. Deutsch
Vanessa L. Gibson
Rory I. Lancman
Carlos Menchaca
I. Daneek Miller
Keith Powers
Ydanis Rodriguez
Paul A. Vallone
Jumaane D. Williams

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

Frederick Davie
Chair of Civilian Complaint Review Board

Jonathan Darche
Executive Director at Civilian Complaint Review
Board

Pamela Monroe
Elected Civilian Review Board

Cynthia Conti-Cook
Legal Aid Society

Elias Holtz
Campaign for Elected Civilian Review Board

Patricia Okoumou
ECRB

Nahal Zamani
Center for Constitutional Rights

Kylynn Greer
Girls for Gender Equity

Jordan Woke

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2 CHAIRPERSON RICHARDS: Alright. We'll
3 now open-- move on to the oversight portion of
4 today's agenda, the Civilian Complaint Review Board.
5 Before I begin, I would like to acknowledge Council
6 Members Cohen, Deutsch, Powers, Menchaca, Rodriguez,
7 Vallone, Cabrera, and Brennan. Today we are hearing
8 a bill on sponsoring Introduction Number 1106, a
9 Local Law to amend the Administrative Code of the
10 City of New York in relation to requiring the
11 Civilian Complaint Review Board to report information
12 relating to truncated investigations. The CCRB's
13 work investigating and prosecuting allegations
14 against NYPD officers charged with misconduct has
15 provided critical oversight of one of the City's most
16 powerful agencies. Many of our citizens have turned
17 to the CCRB seeking justice at times when it felt
18 like there was none to be had. Many of our NYPD
19 officers have believed that they would not get a fair
20 shake, only to find that they were exonerated by a
21 thorough investigation. And as I'm sure we will
22 discuss today, that happens in a lot of cases. In
23 fact, the large majority of CCRB complaints are not
24 substantiated. That doesn't mean that the
25 allegations aren't true. Even though in the past

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2 I've been critical of abuses by members of the Police
3 Department, I have to acknowledge that many times
4 being a police officer involves making difficult
5 decisions and walking a fine line. And while an
6 individual might not like how they were treated,
7 there are times when something upsetting doesn't rise
8 to the level of misconduct. And I know the CCRB
9 works hard to be fair to complainants and officers
10 alike, precisely because there are those close calls,
11 but there are also other times, far too many times
12 when there is simply no question that an officer has
13 done something wrong. No one here will forget what
14 happened to Eric Garner, more recently Jazmine
15 Headley, and as more and more cell phone videos
16 surface it's clear that there are and always have
17 been countless others whose names we do not know who
18 are victims of inexcusable abuses of authority. And
19 for those times, we need a robust powerful CCRB to
20 thoroughly investigate, to preserve evidence and to
21 do everything within their power to hold the officers
22 accountable. The officer who killed Eric Garner will
23 finally face a departmental trial, prosecuted by the
24 CCRB. The CCRB is also investigating what happened
25 at the HRA office a few weeks ago. So, today, I want

1
2 to find out how we can support their mission and give
3 them the tools they need to be successful. I'm also
4 curious how the increase in video footage from
5 witness' cell phones and body-worn cameras has
6 affected the success of their investigations. I want
7 to learn about their mediation process and whether
8 that has been a meaningful method of resolving
9 disputes between civilians and police officers. I
10 want to hear how the Right to Know Act has affected
11 their work and what efforts the CCRB has undertaken
12 to ensure that the law is being followed. But there
13 are critical questions we must ask as well. Is there
14 more the CCRB can and should be doing? Is there
15 anything it can be doing better? I'm sponsoring a
16 bill about truncated investigations, because I wanted
17 to make sure there are good reasons for closing cases
18 without a full investigation. In addition, we need
19 to find out if the Board has the authority to
20 accomplish real and meaningful changes to an NYPD
21 disciplinary system that has no transparency and too
22 often makes it seem as if the NYPD is above the law.
23 Finally, we will address how the Commissioner's
24 authority to overrule a CCRB recommendation affects
25 the value of the CCRB process and what we can do to

1
2 strengthen that process. With these questions in
3 mind, I would like to welcome the CCRB and ask that
4 the witnesses be sworn in.

5 COUNCIL CLERK: Do you swear to tell the
6 truth, the whole truth and nothing but the truth
7 before this committee and answer all questions to the
8 best of your ability?

9 UNIDENTIFIED: I do.

10 UNIDENTIFIED: I do.

11 CHAIRPERSON RICHARDS: Before we do that,
12 I just want to mention we've been joined by Council
13 Member Gibson. You may begin.

14 FREDERICK DAVIE: Thank you. Chairperson
15 Richards and members of the Public Safety Committee,
16 thank you for the opportunity to appear here today
17 before you. I am the Reverend Frederick Davie, Chair
18 of the New York City Civilian Complaint Review Board.
19 The City Charter charges the CCRB with the fair and
20 independent investigation of civilian complaints
21 against sworn members of the New York City Police
22 Department. The CCRB is the largest police oversight
23 entity in the country, overseeing the investigation,
24 mediation, and administrative prosecution of
25 misconduct in the largest police department in the

1 country. Our jurisdiction includes allegations
2 involving use of force, abuse of authority,
3 discourtesy and the use of offensive language,
4 referred to as "FADO". Where the evidence supports
5 disciplinary action, the Board recommends specific
6 categories of discipline to the Police Commissioner.
7 In 2018, the CCRB received 4,745 complaints within
8 its jurisdiction, making the second year of an
9 increase in complaints following seven straight years
10 of declining complaint numbers. While there are
11 multiple reasons for what is driving this growth, we
12 believe one possible explanation is the Agency's
13 focused commitment to better serving vulnerable and
14 diverse communities in New York City. The last few
15 years have seen a tremendous expansion of the work of
16 the CCRB Outreach Unit, which delivered over 1,000
17 presentations in 2018, the largest number in the
18 Agency-- in the agency's history, to audiences
19 including high school students, immigrant
20 populations, probationary groups, homeless service
21 organizations, formerly incarcerated individuals,
22 NYCHA residents, and LGBTQ groups. Outreach staff
23 has met members of the public where they are, from
24 marching in the New York City's Pride Parade
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1
2 alongside the City's LGBTQ communities to developing
3 productive partnerships with community service
4 providers including homeless shelters, schools, and
5 organizations serving youth. All Agency Board
6 meetings are open to the public and half of those
7 meetings are conducted in various city-- in the
8 City's various communities, where residents can
9 attend and meet with our staff and express to the
10 Board their issues and concerns in a local setting.
11 Board meeting locations range from schools and faith
12 centers to New York City Housing Authority facilities
13 and senior centers. Part of the CCRB's renewed
14 efforts to better serve the public includes
15 additional focus on its public education mandate. In
16 anticipation of the Right to Know Act becoming
17 effective in October of 2018, the CCRB constructed a
18 full public education campaign in partnership with
19 members of City Council that involved creation of
20 educational materials and distribution of these
21 materials via street fair-- via street team efforts,
22 participation in press and social media efforts, and
23 working with elected officials to help provide
24 information to constituents. These efforts appear to
25 have been timely: 2018 saw the highest number of

1
2 fourth-quarter complaints received in the CCRB's
3 jurisdiction. That's 1,301 since 2013. The
4 proportion of complaints received in the fourth
5 quarter compared with the rest of the year went from
6 23.6 percent of complaints received in 2017 to 27.4
7 percent of complaints received in 2018. The CCRB
8 strives to be a model in the field of police
9 accountability, pursuing new initiatives to enhance
10 the efficacy of investigations and prosecutions and
11 to more effectively serve the people of New York
12 City. Of these initiatives includes the Board's
13 pilot program of its Disciplinary Framework,
14 initiated in January 2018. The Framework is a non-
15 binding matrix designed to guide Board Panel
16 discussions on disciplinary recommendations for
17 substantiated cases. The goal of the Framework is to
18 achieve consistent and fair discipline
19 recommendations for civilians and members of service.
20 The Framework outlines six allegation types, if
21 substantiated by a three-member Board Panel,
22 typically would result in the panel recommending
23 Charges and Specifications, the most severe level of
24 discipline. These allegations include chokeholds,
25 strip searches, warrantless entries, offensive

1 language, excessive force with serious injury, and
2 sexual misconduct. Under the Framework, Board Panels
3 also discuss the subject officer's CCRB history and
4 the totality of the circumstances of the case as a
5 way to guide its determination of the appropriate
6 disciplinary recommendation. As the pilot program
7 reaches its first full year of implementation this
8 month, Agency staff will examine data related to its
9 impact and make recommendations to the Board based on
10 these findings. As a national leader in police
11 oversight, the Board also periodically reviews its
12 categories to determine whether they fully serve the
13 needs of the public. In February 2018, the Board
14 adopted a resolution directing Agency staff to begin
15 investigating certain allegations of sexual
16 misconduct that had previously been referred to the
17 NYPD's Internal Affairs Bureau and to develop a plan
18 to investigate allegations of criminal sexual
19 misconduct. Since then, the Agency has received
20 complaints of more than 80 allegations of sexual
21 harassment, sexual or romantic propositions, sexual
22 humiliation, and sexually motivated strip searches,
23 and has created an internal working group to
24 determine how best to incorporate investigations and
25

1 prosecutions of sexual assault into the Agency's
2 operations. The Agency takes seriously its
3 commitment to protecting the mental health and well-
4 being of these, and all, complainants. The CCRB
5 serves some of New York's most vulnerable
6 communities, including youth, the homeless, LGBTQ
7 individuals, and those with mental illnesses, people
8 living with disabilities, and people of low income.
9 In 2018, we have worked diligently to develop strong
10 relationships with mental health and community
11 support service providers to more responsibly serve
12 the needs of complainants, victims, and witnesses.
13 In April 2018, the CCRB adopted a new policy of
14 providing civilians with information about New York
15 Well, a City program that provides free support and
16 assistance to people experiencing stress and trauma
17 as well as more serious mental, psychological, and
18 emotional health challenges. The CCRB Training Unit
19 collaborated with Dr. Lynn Kaplan, the director of
20 training and public education for Vibrant Emotional
21 Health, to develop training for the Investigations
22 Division to learn additional skills for effective
23 call management, face-to-face communication skills,
24 including active listening, emphatic response, and
25

1 the mechanics of making a warm-transfer to NYC Well,
2 and the steps an investigator should take when a
3 civilian presents an imminent risk to the public or
4 to him or herself. Additionally, investigators
5 learned how to engage civilians in conversations
6 about mental wellness, including how to introduce NYC
7 Well into conversations. Further, in accordance with
8 best practices recommended by service providers to
9 victims of violence, the Agency recently began
10 providing forensic experiential trauma interview--
11 that's FETI training-- to the Investigations
12 Division. This type of interview technique allows
13 for interviewing complainants and victims in ways
14 that empower them, providing investigators with
15 better information and complainants with a more
16 productive and caring experience at the CCRB.
17 Approximately 17 percent of the complaints received
18 in 2018 in the CCRB's jurisdiction involved
19 complainants and victims between the ages of 14 and
20 24. Young people, particularly young people of
21 color, have a disproportionately higher likelihood of
22 contact with police. The Agency has begun a number of
23 new initiatives aimed at giving younger complainants
24 and victims a voice in how the CCRB investigates,
25

1 prosecutes, and reports on police-youth interactions.

2 In December 2018, the CCRB selected 20 New Yorkers

3 between the ages of 11 and 24 years old to be members

4 of its inaugural Youth Advisory Council following an

5 open citywide application process. This group, which

6 meets quarterly, advises the Agency on its policies

7 and outreach efforts to young members of the public.

8 One of the Youth Advisory Council's current tasks is

9 to work with Agency staff to facilitate an event on

10 February 26, 2019 entitled, "Speak Up, Speak Out: A

11 Youth Summit on Policing in New York." This summit

12 will include panels of activists and advocates and

13 breakout groups to discuss the types of interactions

14 young people report having with police in New York,

15 and brainstorming on next steps for police

16 accountability efforts in this area. From this

17 summit, the CCRB hopes to gain insight into aspects

18 of police-youth relations to inform an upcoming

19 Policy Unit report on complaints the Agency receives

20 from people ages 14 to 24. The CCRB is committed to

21 providing strong, effective, and independent civilian

22 oversight for the New York City Police Department,

23 and to continue leading the way in civilian oversight

24 nationally. Thank you for your time and your

1 support, and the members of the Executive Staff and I
2 will be happy to answer any questions you may have.

3
4 CHAIRPERSON RICHARDS: Thank you for your
5 testimony, and I guess I'll be with-- so let's
6 start with some vocabulary. What does it mean to
7 substantiate a case?

8 EXECUTIVE DIRECTOR DARCHE: When the
9 agency substantiates a case, it means that it has
10 determined that it is more likely than not that the
11 allegation made by the civilian occurred, and that
12 what was alleged was misconduct.

13 CHAIRPERSON RICHARDS: And so it's fair
14 to say that only substantiated cases can wind up in
15 discipline being imposed?

16 EXECUTIVE DIRECTOR DARCHE: Correct.

17 CHAIRPERSON RICHARDS: Okay. What
18 percentage of cases are substantiated?

19 EXECUTIVE DIRECTOR DARCHE: Roughly 20
20 percent of the cases within the agency's jurisdiction
21 that are fully investigated are substantiated.

22 CHAIRPERSON RICHARDS: So even last year
23 out of the number you had, you would say the average
24 was around 20 percent.

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2 EXECUTIVE DIRECTOR DARCHE: Approximately,
3 yes.

4 CHAIRPERSON RICHARDS: And that seems to
5 be pretty low. Is there a reason for that? What
6 would you attribute that to?

7 EXECUTIVE DIRECTOR DARCHE: The agency
8 takes each case on its merits and looks at the
9 evidence that's available in each case that it has.
10 When it has a preponderance of the evidence that is
11 more likely or not, that the actions alleged by the
12 complainant occurred and that what occurred was
13 misconduct, we substantiate that allegation. There
14 is some times where the-- we are able to determine
15 that the conduct occurred, but was not misconduct.
16 We exonerate cases in those-- in that instance.

17 CHAIRPERSON RICHARDS: Can you give an
18 example of that?

19 EXECUTIVE DIRECTOR DARCHE: If someone
20 were to make a complaint that the-- that they were
21 stopped inappropriately on the street, and the Agency
22 would do an investigation and determine after
23 speaking to the civilian, to other witnesses,
24 reviewing the police paperwork, and then interviewing
25 the police officers, that the conduct occurred, that

1
2 the individual was indeed stopped by the police, but
3 that the police had the requisite level of suspicion
4 to conduct that stop, then we would exonerate that
5 cop.

6 CHAIRPERSON RICHARDS: Let's get into
7 discipline a little bit. So, if I understand
8 correctly, CCRB civilian staff conducts the actual
9 investigation and collection of evidence and board
10 members make the decision as whether to substantiate,
11 is that correct?

12 FREDERICK DAVIE: That's correct.

13 CHAIRPERSON RICHARDS: Alright, and then
14 take me through what happens once a case is
15 substantiated?

16 EXECUTIVE DIRECTOR DARCHE: Once the
17 board determines whether or not to substantiate the
18 allegation against an officer, in the board panel
19 process they go through, as the Chair described in
20 his testimony, the Framework that we are using to
21 determine what level of discipline to recommend to
22 the Police Department and substantiate cases. There
23 are five levels of discipline that can be recommended
24 to the Department. The lowest level is command level
25 instruction. That is where the supervisor of the

1
2 member of service in question instructs them on what
3 they did wrong and how not to do it in the future.

4 The next--

5 CHAIRPERSON RICHARDS: [interposing] And
6 that's their local precinct commander would handle
7 that?

8 EXECUTIVE DIRECTOR DARCHE: Generally--
9 generally speaking, yes.

10 CHAIRPERSON RICHARDS: Is there any cases
11 where you find it's not the commander or someone
12 else?

13 EXECUTIVE DIRECTOR DARCHE: It depends on
14 the rank of the officer.

15 CHAIRPERSON RICHARDS: Okay.

16 EXECUTIVE DIRECTOR DARCHE: For example,
17 if it's a senior officer who's getting instructions
18 it might not be from their direct supervisor. The
19 next highest level is formalized training, which
20 involves formal classroom setting training whether at
21 the Academy or at One Police Plaza on-- should be
22 aimed directly at the misconduct that was
23 substantiated. The next highest level of discipline
24 is a Schedule A Command Discipline. A Schedule A
25 Command Discipline is automatically removed from the

1
2 officers' central personnel index after a year and
3 can result in a penalty of between a reprimand all
4 the way up to forfeiture of five vacation days. A
5 Schedule B Command Discipline is the next highest
6 level of discipline that can be recommended that the
7 penalty involved in that can range from a reprimand
8 to forfeiture of 10 vacation days, and that after
9 three years, the member of service can ask for that
10 to be taken off their Central Personnel Index, but
11 the-- but it does not-- the Department does not have
12 to--

13 CHAIRPERSON RICHARDS: [interposing]
14 Someone is seeing the light today.

15 EXECUTIVE DIRECTOR DARCHE: The highest
16 level of discipline that the Board can recommend is
17 charges and specifications. That-- in those cases,
18 those are prosecuted by the APU, those resulting in
19 administrative charges being filed against members of
20 service, and then the administrative prosecution unit
21 brings them through the full disciplinary process at
22 the Department.

23 CHAIRPERSON RICHARDS: And what method
24 does the Board use to decide what the appropriate
25 level of discipline is? Are there guidelines?

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2 EXECUTIVE DIRECTOR DARCHE: So, the Board
3 is currently in the middle of a pilot program
4 regarding how it recommends discipline. We are using
5 a framework that is-- that serves as a series of
6 guidelines as to what discipline-- whether or not
7 charges and specification should be imposed on the
8 member of service who had misconduct substantiated.

9 CHAIRPERSON RICHARDS: And take me through
10 the pilot a little bit.

11 EXECUTIVE DIRECTOR DARCHE: So, the Board
12 found six allegations that kind-- the initial level
13 of review to determine whether or not charges would
14 be warranted in a case. And those are force with
15 injury, strip search, chokehold, entry to a home or a
16 place of business, offensive language, and sexual
17 misconduct. The-- those are generally speaking, they
18 warrant-- those allegations warrant charges. The
19 next level of review is to look at the officers' CCRB
20 history and to see if they have prior misconduct
21 substantiated against them, and if that misconduct
22 especially was similar to what has been substantiated
23 in the case that they're determining. And then the
24 final level of review is to just look at the totality
25 of the circumstances, because there may be some

1 factors in a case that it would appear on its face to
2 warrant charges, but some aspect, for example, if it
3 involved a particularly vulnerable civilian, if they
4 were young or in a vulnerable group might warrant
5 charges and specifications where otherwise lesser
6 discipline would seem to be appropriate. And also,
7 there are times where the totality of the
8 circumstances, it would appear that charges and
9 specifications are warranted, but the Board has
10 determined that in this particular case they did not
11 warrant charges and specifications.
12

13 CHAIRPERSON RICHARDS: So, let's-- let me
14 follow up on that. So, you go through and you come
15 up with disciplinary recommendations. I just want to
16 hear a little bit more structure of how the Board is.
17 So, when you vote on these things, does it have to be
18 unanimous-- does it have to be unanimous amongst the
19 board members? How does that work?

20 EXECUTIVE DIRECTOR DARCHE: So, the vast
21 majority of the complaints that are heard by the
22 board are actually heard by panels of three board
23 members. Every panel consists of one Mayoral
24 designee, one City Council designee, and one Police
25 Commissioner Designee.

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2 CHAIRPERSON RICHARDS: And you said you--
3 sorry to cut you off. So, and you said three panels?

4 EXECUTIVE DIRECTOR DARCHE: So, each panel
5 has three members.

6 CHAIRPERSON RICHARDS: Three members each
7 panel.

8 EXECUTIVE DIRECTOR DARCHE: And one from
9 each designating authority is on every panel, and the
10 panels rotate so there are no set panels.

11 FREDERICK DAVIE: It's a majority vote,
12 usually, that gets a recommendation forwarded to the
13 Department.

14 CHAIRPERSON RICHARDS: And when you
15 recommend command discipline to the DAO, what happens
16 if they disagree with your recommendations?

17 EXECUTIVE DIRECTOR DARCHE: So, in those
18 cases, the Department generally files a
19 Reconsideration Request, and we review those
20 Reconsideration Requests, and then respond, and if
21 the Board keeps its original determination, then the
22 Department has to decide whether to impose discipline
23 or it can take-- it can decide not to take the
24 Board's recommendation and impose its own level of
25 discipline or no discipline at all.

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2 CHAIRPERSON RICHARDS: And how often do
3 they agree that the officers need discipline?

4 EXECUTIVE DIRECTOR DARCHE: So, in 75
5 percent of cases where it is not an APU level case
6 where it's either command discipline or some kind of
7 training involved. The Department agrees with the
8 CCRB's recommendation and imposes some kind of
9 discipline.

10 CHAIRPERSON RICHARDS: So, they impose
11 some type of discipline. Can you speak to how often
12 they agree with the actual amount of discipline that
13 you recommend?

14 EXECUTIVE DIRECTOR DARCHE: I think
15 that's roughly 50 percent of the time.

16 CHAIRPERSON RICHARDS: So only 50 percent
17 of the time they agree? In a case that they don't
18 agree, can you just take me through some examples of
19 how they-- how much more you minimize the discipline,
20 they minimize the discipline that you might have
21 recommended? So, if you said, 10 vacation days, how--
22 - is it a negotiation? Do they--

23 EXECUTIVE DIRECTOR DARCHE: [interposing]
24 So, with regard to non-APU cases, the Board does not
25 recommend the level of penalty. So it just

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2 recommends the level of discipline. So, the Board
3 recommends a command discipline, but it doesn't
4 specify what level of penalty should be associated
5 with that command discipline.

6 CHAIRPERSON RICHARDS: And--

7 EXECUTIVE DIRECTOR DARCHE: [interposing]
8 When we say 75 percent of the time, it means if we
9 recommend a command discipline, the Board is either
10 recommending-- the Department is imposing either a
11 command discipline or some kind of training on the
12 member of service.

13 CHAIRPERSON RICHARDS: And when officers
14 take a plea administered by the Police Department,
15 does the CCRB still make a recommendation of
16 discipline?

17 EXECUTIVE DIRECTOR DARCHE: So, officers
18 make recommend-- officers plead guilty in APU cases.
19 In those cases, the board substantiated misconduct
20 recommended that the particular member of service
21 face charges and specifications. The Administrative
22 Prosecution Unit filed charges and specifications
23 against that member of service. The Department
24 serves the charges and specifications on the member
25 of service. They are then brought before an

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2 administrative law judge who's employed by the Police
3 Department there and either the Deputy Commissioner
4 of Trials herself or an Assistant Deputy Commissioner
5 of Trials, and in the cases where they plead guilty,
6 the APU has recommended a penalty to the
7 administrative-- to the Deputy Commissioner of Trials
8 or one of her assistants, and the member of service
9 pleads guilty to that recommended penalty. But the
10 Police Commissioner is the final arbiter of
11 discipline, and he can sometimes reduce the penalty
12 or he can sometimes reduce the level of discipline,
13 set aside the plea, reduce the-- dismiss the charges
14 and file some other kind of discipline against the
15 member of service, or sometimes he can impose no
16 discipline at all.

17 CHAIRPERSON RICHARDS: Right, and I guess
18 that's the million-dollar question. So, often we get
19 the question of, well, we have the CCRB but the
20 Police Commissioner at the end of the day can still
21 overturn a guilty plea. How often does that happen?

22 EXECUTIVE DIRECTOR DARCHE: We'll get
23 back to you with that. Mr. Chair, I--

24 CHAIRPERSON RICHARDS: [interposing] Come
25 on--

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2 EXECUTIVE DIRECTOR DARCHE: I should have
3 it, but I don't. I apologize to you.

4 CHAIRPERSON RICHARDS: So, last year, how
5 many times would you say that happened? So, you-- is
6 it a dozen? I hope you can find that number, hear
7 that number. Can you just state your name for the
8 record?

9 EXECUTIVE DIRECTOR DARCHE: Sorry, Mr.
10 Chair. Jonathan Darche, I'm the Executive Director
11 of the CCRB, and--

12 CHAIRPERSON RICHARDS: [interposing] Oh,
13 you don't have to say it over again. If she was
14 going to speak, she--

15 EXECUTIVE DIRECTOR DARCHE: In the-- in
16 four percent of the cases in the first half of 2018,
17 which the Police Commissioner finalized discipline in
18 an APU case he set aside the plea but imposed some
19 form of discipline, and in 33 percent of the time he--
20 - he kept the same level of discipline. He kept
21 charges and specifications, but reduced the penalty.
22 And just to put it in raw numbers, that was in one
23 case where we set a lower level of discipline, and in
24 eight cases where the penalty was reduced, and in

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2 2018 there were no cases where he did not impose
3 discipline when there was a plea.

4 CHAIRPERSON RICHARDS: When there was a
5 plea?

6 EXECUTIVE DIRECTOR DARCHE: Correct. In
7 2018, none of the cases, there was no discipline at
8 all.

9 CHAIRPERSON RICHARDS: Is that less than
10 prior years?

11 EXECUTIVE DIRECTOR DARCHE: Yes.

12 CHAIRPERSON RICHARDS: And can you take
13 me through, just roughly take me through those
14 numbers again? So, from-- maybe if you can start
15 from 2016 to 2017?

16 EXECUTIVE DIRECTOR DARCHE: In 2016 there
17 were four cases in which the Police Commissioner set
18 aside a plea and imposed no discipline, which is
19 roughly two percent of the cases that the APU
20 handled, and then in 2017 there were three cases
21 where the Police Commissioner set aside a plea and
22 imposed no discipline.

23 CHAIRPERSON RICHARDS: And is the CCRB
24 permitted to share the Police Commissioner's final
25 decision of discipline with victims and complainants?

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2 EXECUTIVE DIRECTOR DARCHE: Yes, the
3 CCRB, it's a relatively new practice, but now we-- in
4 addition to sending disposition letters to civilians
5 at the conclusion of the CCRB investigation, we now
6 send disposition letters to the complainants at the
7 conclusion of the NYPD's disciplinary cases, both in
8 APU cases and in non-APU cases.

9 CHAIRPERSON RICHARDS: And how do
10 complainants respond when they believe the Police
11 Commissioner's chosen discipline is insufficient?

12 EXECUTIVE DIRECTOR DARCHE: They--
13 generally, when people are unhappy with that result.

14 CHAIRPERSON RICHARDS: Say that again,
15 I'm sorry.

16 EXECUTIVE DIRECTOR DARCHE: Generally,
17 people are unhappy with that result.

18 CHAIRPERSON RICHARDS: And how do-- so,
19 they're generally unhappy and there's no recourse for
20 them.

21 EXECUTIVE DIRECTOR DARCHE: Correct.
22 They-- sometimes they will contact the agency, and we
23 will explain to them the process, but if they feel it
24 was insufficient, just understanding the process
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2 isn't enough for them to feel better about the
3 process.

4 CHAIRPERSON RICHARDS: I'm going to come
5 back with more questions. I'm going to go to Council
6 Member Menchaca then Deutsch.

7 COUNCIL MEMBER MENCHACA: Thank you. I
8 want to start at the top and really kind of put this
9 into context. We really rely on you all as the CCRB
10 to be independent and to investigate, and the line of
11 questions really kind of points to this idea of data
12 that shows us some troubling trends. And I kind of
13 want to get some sense of some of those trends.
14 Since 2014 how many officers have you-- have-- sorry.
15 How many officers have been fired from the NYPD as a
16 result of CCRB investigations and prosecutions? Do
17 you have that data?

18 EXECUTIVE DIRECTOR DARCHE: None.

19 COUNCIL MEMBER MENCHACA: No. Is that
20 data--

21 EXECUTIVE DIRECTOR DARCHE: [interposing]
22 None.

23 COUNCIL MEMBER MENCHACA: None? Zero.
24 Got it. So, no one has been fired in relationship to
25 a CCRB investigation?

1 EXECUTIVE DIRECTOR DARCHE: Correct.

2 COUNCIL MEMBER MENCHACA: Okay.

3 EXECUTIVE DIRECTOR DARCHE: Correct.

4 COUNCIL MEMBER MENCHACA: So, given the
5 low number of cases, zero, that the CCRB advocates
6 and charges-- advocates the charges and
7 specifications, it can be argued that the message to
8 the public is that police abuse is being protected by
9 the City's independent watchdog agency. So why
10 doesn't CCRB seek termination of abusive officers
11 more often? Because there's two questions here.
12 One, how many have, and then how many have you
13 actually pursued? Can you talk a little bit about
14 those two components, seeking termination and then
15 effectively bringing termination forward?

16 FREDERICK DAVIE: So, Council Member,
17 before John provides, the Executive Director provides
18 those stats, I'd just like to comment on this notion
19 that the independent agency could be perceived as
20 protecting police officers. I'd just like to remind
21 the council that the members of this board are
22 actually designated by public officials, and are
23 committed to pursuing allegations against members of
24 the NYPD with as much rigor and independence as the
25

1 statutes allow, and we do that. I think the issues
2 that we faced are more rooted in the statutes that
3 currently exist particularly around final
4 determination much more than they are around the
5 rigor that the staff and the board brings to this
6 process. So, I'd just like to offer that alternative
7 perspective on whether or not the agency is actually
8 protecting members of the NYPD, because I think we
9 work hard not to do that, but to be fair and rigorous
10 and aggressive in our efforts to be an independent
11 civilian oversight agency.
12

13 EXECUTIVE DIRECTOR DARCHE: With regard
14 to the number of times we're recommended termination,
15 I'd have to get back to you on that. We don't have
16 that with us today, but it is not a large number of
17 cases, and I am confident in saying when the APU is
18 determining what penalty to recommend in its cases,
19 it looks at the severity of the alleged misconduct,
20 the officer's CCRB history, and their NYPD
21 disciplinary history as well as the case precedent
22 for what has been imposed for similar misconduct in
23 the past by either this Police Commissioner or other
24 Police Commissioners. And that's how we form our
25 penalty recommendations.

1
2 COUNCIL MEMBER MENCHACA: Got it. Okay,
3 and I have some other questions that I think kind of
4 speak to the larger issues, but to just quickly
5 respond to you-- I think what is-- what feels very
6 uncomfortable, right? It's just like, wow, I said
7 something not only provocative, but I think what
8 people feel on the ground, including myself, members
9 of this committee potentially, and so that's real.
10 And I know that you're responding with a sense of
11 like mission that you have, and I have no doubt that
12 you have that mission across the board. What's
13 important though is that we hit that head-on with
14 data, and that's why I'm asking for the data that I'm
15 asking for, and no matter what you think is real for
16 you, there's another reality that is out there, and
17 that's what we're trying to confront. So, let's talk
18 about the New York State Law 50A, and you know,
19 advocates argue that the 50A shields abusive officers
20 and police discipline in a shroud of secrecy. In the
21 cases of Eric Garner and Graham leaked records show
22 that officers in both cases has prior misconduct
23 complaints, and for a period of time the CCRB
24 provided summaries of the complaints upon request.
25 However, this ended in 2016 when the City turned the

1
2 clock backwards on NYPD transparency by instituting a
3 new policy of hiding misconduct in discipline
4 histories of officers. With regard to 50A, the
5 City's Law Department represents both NYPD and CCRB,
6 doesn't this present a conflict of interest, and
7 would the CCRB be open to seeking independent
8 counsel, period, question mark?

9 FREDERICK DAVIE: So, I think we should
10 make clear that it was never the CCRB's practice to
11 provide information on individual officers'
12 disposition--

13 COUNCIL MEMBER MENCHACA: [interposing]
14 You're talking about the summaries? Sorry to
15 interrupt. You're talking about the summaries?

16 FREDERICK DAVIE: We did aggregate
17 summaries. And we still do aggregate presentations
18 of data. The information on individual officers, if I
19 understand it correctly, came from the NYPD and not
20 from the CCRB, and that process would not change for
21 us with a change in 50A, which we, in keeping with
22 both the Mayor and the Police Commissioner's
23 position, support.

24 COUNCIL MEMBER MENCHACA: And that's just
25 the function of-- that they have that position. If

1
2 the position changed, then your position would change
3 as a function of your relationship to them?

4 FREDERICK DAVIE: I-- no. I think that
5 we would maintain the current level of
6 confidentiality in order to-- in order to be-- to do
7 our work, but we would certainly encourage the NYPD
8 if the law were changed, obviously to make that
9 information public, because I think we believe it's
10 important to the public to have it.

11 COUNCIL MEMBER MENCHACA: Okay, again,
12 this is where there's a real conflict intention of
13 practice, of independence, and that's problematic. I
14 have one more question. Yeah, cool. Just tell me
15 when to stop. One more question. Okay. I just want
16 to be clear. That's problematic. That's
17 problematic, and I think for a few reasons, and I
18 think the question that ended with was independent
19 counsel, and would you be able to seek independent
20 counsel?

21 FREDERICK DAVIE: I'm sorry, Councilman.

22 COUNCIL MEMBER MENCHACA: I don't know if
23 you want to share anything--

24 FREDERICK DAVIE: [interposing] Yeah, I
25 just wanted to clear up that if 50A were changed, we

1
2 would make information on individual officer's
3 public.

4 COUNCIL MEMBER MENCHACA: That's what I
5 thought, which is different what you just said.

6 FREDERICK DAVIE: Correct.

7 COUNCIL MEMBER MENCHACA: Got it. Okay.
8 Independent counsel, is that at all in your world of
9 possibility in terms of just-- the larger question is
10 this question, seeking independent counsel rather
11 than using the City's counsel who is also protecting
12 agents that you're trying to be independent from.

13 FREDERICK DAVIE: So we have had that
14 discussion. We haven't felt it necessary to do it.

15 COUNCIL MEMBER MENCHACA: Okay, we might
16 differ on that. Final question-- there's more
17 questions, but the Chair's so gracious in allowing me
18 to ask the last question which is really thinking
19 about over the years the disturbing and consistent
20 trend has been that a percentage of the CCRB cases,
21 the officer responsible for the misconduct cannot be
22 identified, and these are amongst the CCRB complaints
23 that are fully investigated. In the first half of
24 the 2018, eight percent of fully investigated cases
25 were closed without identifying officers responsible

1
2 for misconduct. So, what's caused this to continue
3 to be a persistent problem, and what are the examples
4 of the role NYPD has played in helping to identify
5 abusive officers or obstructing identification of
6 these officers?

7 EXECUTIVE DIRECTOR DARCHE: So, the
8 agency prides itself on its ability to identify
9 officers. If a civilian makes a complaint to the
10 agency, it does not need to know the name or shield
11 of the member of service. If you come to us with a
12 complaint, we strive to identify the officers
13 responsible, so that if the conduct is substantiated
14 we could-- we could make sure they-- we could
15 recommend discipline against that member of service.
16 But one of the-- there are some times where it is
17 impossible to figure who is actually the individual
18 that is responsible for the misconduct. And while--
19 while I agree with you eight percent is too high the
20 same way that the truncation rate is too high. We
21 are always looking to reduce it. It is not because
22 the agency is not taking it very seriously or
23 assigning resources to it. It just-- sometimes in
24 these situations where, for example, there's a may
25

1 lay and there are multiple officers involved.

2 Finding out who did the exact strike is difficult.

3
4 COUNCIL MEMBER MENCHACA: Okay. I feel
5 like you're not answering the question about the
6 eight percent. We both agree that it's high, but and
7 then you're saying but there's a whole bunch of
8 reasons why. And I don't know if you're going to be
9 able to answer it anyway, but I'm just letting you
10 know that's a real-- that's a problem. That's a real
11 problem. And unless we get a better sense about that
12 eight percent, and maybe you can give us data on--
13 just look at 208, how many cases. Was this a case of
14 multiple officers? We got to know something, because
15 right now that darkness, that void of information is
16 troubling to everything else that's connected.

17 EXECUTIVE DIRECTOR DARCHE: We could get
18 that you that, Mr.--

19 COUNCIL MEMBER MENCHACA: [interposing]
20 Okay, great.

21 EXECUTIVE DIRECTOR DARCHE: Council.

22 COUNCIL MEMBER MENCHACA: Okay, great.
23 So there's some data request that would be good to
24 get to the Chair of the Committee.

1
2 EXECUTIVE DIRECTOR DARCHE: [interposing]
3 Sure.

4 COUNCIL MEMBER MENCHACA: on my questions
5 before. Thankyou.

6 CHAIRPERSON RICHARDS: And that's a good
7 Segway into this before I get to Council Member
8 Deutsch. What do you say to people, and I think
9 there's this perception and argument that the CCRB
10 has no teeth, or that they ask, you know, what's the
11 point in going through with the complaint if the
12 Police commissioner at the end of the day is going to
13 have the final call. So, what are some things that,
14 you know, you recommend as law-- we're law makers
15 obviously-- that we can do to help strengthen your
16 efforts and ensuring that accountability is
17 happening. Obviously, the question around 50A.I'm
18 sure there'll be a lot more conversation around that
19 in Albany, I predict. But what-- you know, what
20 could we do as law makers to help strengthen your
21 office at this point?

22 FREDERICK DAVIE: Sure. So, we are
23 continuing our efforts to address what we see as some
24 challenges in our process. We've talked about
25 truncations and the executive director can talk to

1
2 you in more detail about the efforts staff currently
3 taking to reduce the number of truncations, and
4 that's involved, and it's a very elaborate process.
5 It is really important for us that when people bring
6 a complaint that they stay with it, and it's
7 important for us to help them stay with that
8 complaint. I think if we can bring the truncation
9 numbers down, which we're really working on, it will
10 increase confidence in the agency to do its work. I
11 think greater concurrence between the NYPD both on
12 the need for discipline when an allegation is
13 substantiated and the type of discipline. Once it's
14 substantiated, a greater concurrence there would
15 increase that confidence. And we're working with the
16 NYPD Police Commissioner to address those issues.
17 So, I think those are two areas where we can work
18 more closely again. Again, at the end of the day it's
19 a matter of law. The Commissioner has the final
20 word on discipline, and that's just a reality that
21 we work with that.

22 CHAIRPERSON RICHARDS: Right. And just,
23 you know, I mean, and it's of my opinion, you know,
24 I think that we should be doing more to ensure that--
25 how do I say this correctly but politically

1
2 correctly that the Police Commissioner doesn't have
3 as much discretion in this conversation as he does
4 now. So, figuring out ways to ensure that, you know,
5 accountability can actually happen in opening up that
6 process, you know, 50A. so, a culmination of
7 different things to strengthen you, because at the
8 end of the day as we talking about building trust
9 with the public and creating a real avenue, a
10 meaningful avenue for people to file complaints to
11 hold those officers accountable who break the code
12 CPR, you know, we have a long way to go. So, you're
13 in a tough spot, because once again, at the end of
14 the day, you could recommend penalties, individuals
15 being held accountable, but with the Police
16 Commissioner having the final say-so, it really
17 weaken a discipline process that we believe should be
18 strengthened. That being said, I'm going to go to
19 Council Member Deutsch and then come back for more
20 questions. And Cohen? Deutsch then Cohen.

21 COUNCIL MEMBER DEUTSCH: Thank you.

22 Thank you very much, Chair. So firstly, if someone
23 receives an ACD for a criminal case, would that-- to
24 your knowledge, would that stay on someone's record?

1 EXECUTIVE DIRECTOR DARCHE: A Schedule A
2 Command Discipline or an adjournment--

3 COUNCIL MEMBER DEUTSCH: [interposing] An
4 adjournment.

5 EXECUTIVE DIRECTOR DARCHE: contemplation
6 of dismissal?

7 COUNCIL MEMBER DEUTSCH: Yeah, an
8 adjournment.

9 EXECUTIVE DIRECTOR DARCHE: So, it's my
10 experience that those are generally sealed after six
11 months or a year depending on the type of ACD that is
12 issued, but it would still be on their arrest record.
13 It would--

14 COUNCIL MEMBER DEUTSCH: Would it be?

15 EXECUTIVE DIRECTOR DARCHE: It depends on
16 the level of access that the person-- that the person
17 doing the search has.

18 COUNCIL MEMBER DEUTSCH: Yeah, because
19 usually-- usually most cases will get closed. That
20 means it would be sealed, right? So if the person
21 applies for a job or for a promotion at a job, you
22 know, and someone tends to look into it, that would
23 be sealed. It's my understanding an officer who has a
24

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2 CCRB filed against him or her, does that stay on the
3 record? If someone is exonerated?

4 EXECUTIVE DIRECTOR DARCHE: Yes, the
5 exoneration would remain on their record as
6 exonerated.

7 COUNCIL MEMBER DEUTSCH: So, what would
8 be the difference between someone receiving an ACD
9 and that record would be sealed and an officer who
10 becomes exonerated, why would that still remain on
11 the record?

12 EXECUTIVE DIRECTOR DARCHE: Because one is
13 a criminal allegation and the other is an
14 administrative claim that someone's disciplinary
15 history. In addition, if you-- if someone gets
16 arrested and their prints are run, the fact that they
17 previously received an ACD is on the rap sheet-- I
18 apologize for not knowing the proper term-- that's
19 given to the District Attorney, the court and the
20 NYPD. So, it's not as if it is totally eliminated
21 from existence. It's still on their record.

22 COUNCIL MEMBER DEUTSCH: So, and if
23 someone-- an officer is exonerated, right, they're
24 not taking the prints, they're not going through all
25 those same things. So why would that remain on the

1
2 record for the rest of that officer's career? And
3 number two is that, what is your opinion? I mean, I
4 believe in fairness, and I agree what the Chair has
5 spoken before, that if someone has allegations
6 against an officer, they follow CCRB and the officer
7 is found guilty, that they have to take proper, you
8 know, action against that officer. But what is your
9 personal opinion, as the Chair, what is your personal
10 opinion in fairness that if an officer is exonerated,
11 should that remain on his or her records throughout
12 his or her career?

13 FREDERICK DAVIE: I do think it's
14 important for us to have the history of an officer's
15 relationship with the CCRB as we adjudicate
16 complaints and allegations against that officer. So,
17 it think that's important information for us to have.

18 COUNCIL MEMBER DEUTSCH: So, it's
19 important for CCRB. Now, do you give that
20 information to the NYPD, if someone--

21 EXECUTIVE DIRECTOR DARCHE: [interposing]
22 So, when a member of service has an exoneration that
23 is not forwarded to the NYPD as a disciplinary case,
24 it's not sent to the Department Advocate's Office,
25 the --

1
2 COUNCIL MEMBER DEUTSCH: [interposing]

3 So, it's sent to the NYPD.

4 EXECUTIVE DIRECTOR DARCHE: It is not
5 sent to the NYPD. It is not finding of misconduct.
6 It is kept in the CCRB's database. There are a--
7 there have been several cases where we will refer a
8 matter to NYPD's Bureau of Risk Management in which
9 we find cases where officers have acted within
10 guidelines, but perhaps need retraining on something
11 or mis-stated the law in an interview, so that they
12 could receive the benefit of not making the same
13 mistake on the street. So, for example, if someone
14 comes in and is a witness officer and describes their
15 understanding of the law of when to search someone or
16 when to enter someone's home improperly, we will let
17 the Department know so they can correct that person's
18 understanding of what the law properly is. Also, we
19 may find incidents where the officer has behaved
20 within guidelines, but we have an issue with the
21 guideline, so we will refer the matter. Generally,
22 we wait until there's more of a body of evidence,
23 more than just one case where we will refer something
24 to the Department and say this is something you
25 should look at.

1
2 COUNCIL MEMBER DEUTSCH: So that
3 information is kept by the CCRB, so it's not shared
4 typically with the Department you're saying.

5 EXECUTIVE DIRECTOR DARCHE: Correct.

6 COUNCIL MEMBER DEUTSCH: Unless it's
7 necessary. So before an officer gets promoted or--
8 does the NYPD ever like reach out to CCRB and ask,
9 okay, was there any complaints against this officer,
10 even those that were exonerated?

11 EXECUTIVE DIRECTOR DARCHE: You know,
12 Council Member, I've heard this before that somehow
13 having an open CCRB or a sub-CCRB can somehow impact
14 your promotional chances or transfer chances, but
15 when I was the Deputy Chief Prosecutor and Chief
16 Prosecutor in the APU, routinely I would see
17 officers, their representation would change, because
18 they had either been promoted or transferred, so they
19 would have a new union and new attorneys provided.
20 So, my-- I don't know. I can't speak to the
21 departmental process other than my understanding is
22 it had no effect on their-- or it did not prevent
23 them from getting promoted or transferred.

24 COUNCIL MEMBER DEUTSCH: So, that's-- but
25 it's not-- you're not speaking for the NYPD.

1 EXECUTIVE DIRECTOR DARCHE: Correct.

2 COUNCIL MEMBER DEUTSCH: So, is there
3 ever a time that the NYPD would call you up, like a
4 year later, asking you, okay, give me some
5 information on this officer regarding any CCRB
6 complaints, and let's say you had one or two and both
7 of them were exonerated, would you be mandated to
8 give that information over to NYPD?
9

10 EXECUTIVE DIRECTOR DARCHE: So, the NYPD
11 has the ability to pull up an officer's discipline--
12 CCRB history. That--

13 COUNCIL MEMBER DEUTSCH: [interposing] But
14 you're saying that they don't have the information
15 because you don't share everything with them?

16 EXECUTIVE DIRECTOR DARCHE: But they can--
17 - so we would not refer--

18 COUNCIL MEMBER DEUTSCH: [interposing] So
19 they have the same system. They could go in your
20 system?

21 EXECUTIVE DIRECTOR DARCHE: They have--
22 we provide access to our database in a limited
23 manner, and they have the ability to create for
24 themselves officer disciplinary history without
25 requesting it from us.

1
2 COUNCIL MEMBER DEUTSCH: So, if you're
3 saying-- before you said that you don't share this
4 information, but now you're saying that they do have
5 access to the information. So, really, you don't
6 have to share it if they have the access to that
7 information.

8 EXECUTIVE DIRECTOR DARCHE: But the NY--
9 we do not refer cases the way we would substantiate a
10 case. We do not refer exonerated cases to the
11 Department Advocate's Office.

12 COUNCIL MEMBER DEUTSCH: Yeah, but if
13 someone's exonerated, it wouldn't have to go to the
14 Public Advocate's Office anyway, right?

15 EXECUTIVE DIRECTOR DARCHE: Mr.
16 Councilman, I don't understand what you're asking.

17 COUNCIL MEMBER DEUTSCH: If someone is
18 exonerated on a complaint, right, that complaint
19 would not have to go-- would any way not have to go
20 to the Public Advocate's Office. Correct?

21 EXECUTIVE DIRECTOR DARCHE: Correct.

22 COUNCIL MEMBER DEUTSCH: Because there
23 was no-- nothing was--

24 EXECUTIVE DIRECTOR DARCHE: [interposing]
25 Department Advocate's Office.

1
2 COUNCIL MEMBER DEUTSCH: Yeah, Department
3 Advocate's Office, yeah. Because it was unfounded
4 and there's no-- nothing substantiated.

5 EXECUTIVE DIRECTOR DARCHE: Mr.
6 Councilman, it's-- an unfounded complaint is not the
7 same as an exonerated complaint.

8 COUNCIL MEMBER DEUTSCH: Okay, I'm
9 talking--

10 EXECUTIVE DIRECTOR DARCHE: [interposing]
11 An unfounded--

12 COUNCIL MEMBER DEUTSCH: [interposing]
13 exonerated, exonerated.

14 EXECUTIVE DIRECTOR DARCHE: Just for-- if
15 I could explain to-- for everyone to understand. An
16 unfounded complaint is when the Agency is able to
17 determine by a preponderance of the evidence that the
18 conduct alleged did not occur. Exonerated means that
19 the conduct occurred, the officer did what the
20 civilian said they did, it's just that it was within
21 guidelines. So, the officer didn't commit
22 misconduct, but the officer did what the civilian
23 said they did.

24

25

1
2 COUNCIL MEMBER DEUTSCH: Got it. So,
3 does an unfounded complaint stay in the officer's
4 record?

5 EXECUTIVE DIRECTOR DARCHE: Yes.

6 COUNCIL MEMBER DEUTSCH: Just as
7 exonerated. So, it's just unfounded means that there
8 was nothing substantiated, like totally nothing
9 substantiated, right?

10 EXECUTIVE DIRECTOR DARCHE: The Agency
11 was able to determine by the preponderance of the
12 evidence that misconduct alleged did not occur.

13 COUNCIL MEMBER DEUTSCH: So, why does
14 that-- the unfounded stay on the record if it's
15 unfounded? Do you agree that an unfounded complaint--
16 - before you said exonerated, that something CCRB
17 needs to know, that information is important, but
18 unfounded, do you feel the same way that an unfounded
19 complaint is something you need to know?

20 EXECUTIVE DIRECTOR DARCHE: Yes, because
21 we also keep track of the civilians' CCRB history.
22 So, if the-- if we were to not keep track of
23 unfounded complaints, then we wouldn't know if the
24 civilian had made an unfounded complaint in the past.

1
2 COUNCIL MEMBER DEUTSCH: So, you hold the
3 records to hold against the complainants in other
4 words?

5 EXECUTIVE DIRECTOR DARCHE: We--

6 COUNCIL MEMBER DEUTSCH: [interposing]
7 That means--

8 EXECUTIVE DIRECTOR DARCHE: [interposing]
9 We don't hold the records--

10 COUNCIL MEMBER DEUTSCH: [interposing] Is
11 that what you're saying?

12 EXECUTIVE DIRECTOR DARCHE: to hold it
13 against anyone, Mr. Councilman. We hold the records
14 because that's what happened at the CCRB and we have
15 an obligation as a government entity to keep an
16 accurate count of our records. In the same way that
17 the Police Department keeps track of when someone had
18 an arrest that was sealed that the New York State
19 Division of Criminal Justice Services still knows if
20 someone got an ACD or had a case dismissed, the CCRB
21 needs to know if someone had a-- a member of service
22 had a complaint filed against them and it was
23 unfounded, or that allegation was exonerated. It's
24 just a matter of record-keeping. There's no intent

1
2 behind it. There's no-- it's just keeping full count
3 of what we do.

4 COUNCIL MEMBER DEUTSCH: So, if someone
5 is guilty-- if someone-- there's allegations against
6 someone for criminal complaint, guy goes to court, no
7 AC-- it's totally unfounded, dismissed, case
8 dismissed, that's-- to your knowledge, does that-- is
9 that staying on the person's record?

10 EXECUTIVE DIRECTOR DARCHE: So, when I
11 was a DA--

12 COUNCIL MEMBER DEUTSCH: [interposing]
13 Yeah.

14 EXECUTIVE DIRECTOR DARCHE: and I would
15 get someone's rap sheet, and someone had a case
16 dismissed against them, it was still showing up as
17 dismissed.

18 COUNCIL MEMBER DEUTSCH: It would stay--

19 EXECUTIVE DIRECTOR DARCHE: [interposing]
20 Still see the arrest, and then the disposition would
21 be dismissed.

22 COUNCIL MEMBER DEUTSCH: Would it stay on
23 their criminal records?

24 EXECUTIVE DIRECTOR DARCHE: That's their
25 criminal--

1
2 COUNCIL MEMBER DEUTSCH: [interposing] If
3 there's no criminal, there's no criminality there,
4 right?

5 EXECUTIVE DIRECTOR DARCHE: In the same
6 way that it's in the CCRB's system--

7 COUNCIL MEMBER DEUTSCH: [interposing] It
8 never gets sealed?

9 EXECUTIVE DIRECTOR DARCHE: and off their
10 history, it may be sealed, but someone still has the
11 underlying complaint in their system.

12 COUNCIL MEMBER DEUTSCH: Yeah.

13 EXECUTIVE DIRECTOR DARCHE: You're not
14 going into the DCJS and removing the fact that the
15 person had an arrest.

16 COUNCIL MEMBER DEUTSCH: So when you were
17 a DA, was that-- is that information that if
18 someone's found not guilty, is that information ever
19 shared with someone else, or does someone else ever
20 have access to your computers to obtain that
21 information? In your experience?

22 EXECUTIVE DIRECTOR DARCHE: From my
23 experience, if someone were to file-- if there was a
24 so-ordered subpoena for a member of services'

1
2 disciplinary history, we will provide that
3 disciplinary history to the court.

4 COUNCIL MEMBER DEUTSCH: Okay. I think
5 my time is up, but okay, thank you.

6 CHAIRPERSON RICHARDS: Thank you.
7 Council Member Cohen?

8 COUNCIL MEMBER COHEN: Thank you, Chair
9 Richards. Thank you for your testimony. Let me just
10 say as a preliminary matter, though, I do think that
11 the-- that here in the City we are ahead of the
12 curve, I think, in terms of the public's confidence
13 in police officers, I think that examples of
14 misconduct are relatively low compared-- you know,
15 obviously there's no comparable size force, but I
16 think on a per capita base. But I also agree with
17 the Chair here that I think that there are statutory
18 and structural problems with CCRB. I don't think
19 that the general public has great confidence in CCRB,
20 and again, I'm not here to beat you up. I don't-- I
21 think that you probably are doing the best you can
22 with the resources and the structure that you have.
23 But just sort of I think to buttress [sic] the case a
24 little bit, could you just tell me briefly what the
25 duration is? I make a complaint on day one, assuming

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2 I don't disappear. I want to see it all the way
3 through. What is the average amount of time it takes
4 for you to take a case from beginning-- I guess a
5 substantiated case that we sort of have--

6 EXECUTIVE DIRECTOR DARCHE: So, in 2018,
7 it took roughly 190 days for us to fully investigate
8 and substantiate a case. That time is-- has been an
9 increase. That reflects an increase that we were
10 able to determine is a result of body-worn camera
11 footage. Body-worn camera footage is a huge boom to
12 our investigations. It gives us not only video, but
13 audio in many cases. That is very helpful in
14 reaching determinations, but it is-- it causes an
15 increase in the length of time to fully investigate a
16 case. Even if there's just one video, if it's five
17 minutes long it's not just adding five minutes of
18 investigative time. You have to request the video.
19 You have to receive it from NYPD. Then you have to
20 watch it. Often times you watch it multiple times so
21 that you can break down exactly what is pictured in
22 the video. The-- in 2018 started using software to
23 let us analyze video, not just body-worn camera
24 video, but all video so that we can better understand
25 what's happening in the video, and make better

1
2 determinations from having the video. So the-- that
3 is a main-- that is, I think, one of the main
4 increasing pressures on our investigative times.

5 COUNCIL MEMBER COHEN: I just want to be
6 clear that I understand your answer. So, a little
7 more than six months if I come into CCRB, make my
8 complaint, in six months, assuming it's a
9 substantiated case, that there will be resolution.

10 EXECUTIVE DIRECTOR DARCHE: That the CCRB
11 will have-- the panel or the full board will have met
12 and issued a determination.

13 COUNCIL MEMBER COHEN: And I think you
14 answered this already or it came up in an answer, but
15 the burden of proof is the preponderance of evidence.

16 EXECUTIVE DIRECTOR DARCHE: Correct.

17 COUNCIL MEMBER COHEN: You talked also a
18 little bit about sexual misconduct. Obviously,
19 officer on officer sexual misconduct is not within
20 your jurisdiction.

21 EXECUTIVE DIRECTOR DARCHE: The CCRB's
22 jurisdiction includes when a member of service is
23 alleged to have committed misconduct against an off-
24 duty member. So we would have jurisdiction over that
25 case, but if it's on-duty-- if it's on-duty against

1
2 on-duty or off-duty versus on-duty, we would not have
3 jurisdiction.

4 COUNCIL MEMBER COHEN: Does that ever
5 happen? Do you ever get--

6 EXECUTIVE DIRECTOR DARCHE: [interposing]
7 I would have to check.

8 COUNCIL MEMBER COHEN: It doesn't happen
9 frequently.

10 EXECUTIVE DIRECTOR DARCHE: Correct.

11 COUNCIL MEMBER COHEN: How do you-- for
12 as a lay person, when does excessive force-- where is
13 the line between excessive force and assault. Like,
14 how do you know that you have jurisdiction, that it's
15 not a criminal matter?

16 EXECUTIVE DIRECTOR DARCHE: So there's
17 concurrent jurisdiction. If there is a criminal
18 matter that the-- where excessive force-- we don't
19 have to determine whether or not it is criminal
20 conduct or not, unless there's the-- there's a small
21 time where we have to decide whether or not the crime
22 exception to the statute of limitation applies, and
23 even then we are not really looking whether the act
24 occurred was criminal or not. We're just act--
25 looking to see whether it could be pled as a crime.

1
2 The-- it's up to the District Attorney's offices to
3 determine whether or not criminal conduct or, in some
4 cases, the Attorney General.

5 COUNCIL MEMBER COHEN: Will you know if
6 the-- if the case is being investigated by the DA,
7 will you sort of stand down and wait or?

8 EXECUTIVE DIRECTOR DARCHE: So, if either
9 the DA or the Attorney General or a US Attorney
10 request that we stand down-- we call it "DA hold." So
11 we will hold off on our investigation, and we will
12 wait until we're informed by the prosecutor's office,
13 then we are cleared to go forward. we have changed
14 our procedures I would say in the last year and a
15 half to make sure that we are affirmatively checking
16 every month to make sure that the hold is still in
17 place so that we don't waste time where we could be
18 investigating a case and making them stretch out.

19 COUNCIL MEMBER COHEN: If you were the
20 first point of contact for a complainant, and the
21 allegation suggested the crime, would you notify the
22 DA?

23 EXECUTIVE DIRECTOR DARCHE: So, in cases
24 now where we are receiving complaints that are phase
25

1
2 II allegations and are allegations of sexual assault,
3 we are referring them to the DA's offices.

4 COUNCIL MEMBER COHEN: You are.

5 EXECUTIVE DIRECTOR DARCHE: As a matter
6 of course. And we do that before we begin any
7 investigation. We don't look into whether or not any
8 merit to it, we just-- we receive that type of
9 allegation, and we refer it to the relevant DA's
10 Office.

11 COUNCIL MEMBER COHEN: I'm sure that it
12 was clear, it's just that I don't-- I think I have
13 the background [sic]. Could you just explain to me?
14 The APU is CCRB or is NYPD?

15 EXECUTIVE DIRECTOR DARCHE: The APU is
16 CCRB. It was created after a 2012 Memorandum of
17 Understanding between the CCRB and the NYPD. It is
18 the only unit of its type in the nation. We are-- we
19 are responsible for prosecut-- administratively
20 prosecuting the-- I sometimes say "we" because I used
21 to be in the APU. Administratively prosecuting
22 charges against members of service who have had
23 misconduct substantiated by the Board, and the Board
24 recommended they face charges and specifications.

1
2 COUNCIL MEMBER COHEN: Chair, I just have
3 one more question. If the-- do all cases where you
4 have jurisdiction go to-- like, what if there's no--
5 the Department or Commissioner O'Neill thinks that an
6 officer needs to be disciplined, they don't need to
7 go to CCRB, they could just discipline the officer on
8 their-- does that ever-- I mean--

9 EXECUTIVE DIRECTOR DARCHE: So, there are
10 time where the Department will refer cases to us.
11 There are times where when we-- and I would have to
12 check to get you the exact number of cases. It's not
13 a large number where we have substantiated misconduct
14 against the member of service, and then before we
15 were able to inform the Department, they had already
16 taken disciplinary action against the members.

17 COUNCIL MEMBER COHEN: I would be
18 interested in those numbers. That's probably not a
19 great way to proceed. I think-- I don't think it's
20 sort of respectful to the Board Members at CCRB,
21 people doing their work, if you know, you do the work
22 and then it turns out NYPD is like, "Never mind, we
23 already handled it." That's probably not a great
24 outcome or a satisfying outcome for anybody. So if
25

1
2 you could get that information I think it would be
3 helpful.

4 EXECUTIVE DIRECTOR DARCHE: We'll get it
5 for you.

6 CHAIRPERSON RICHARDS: And if--

7 COUNCIL MEMBER COHEN: [interposing] Thank
8 you, Chair.

9 CHAIRPERSON RICHARDS: Thank you, and I
10 think that was a good question. You know, and we
11 want to know what that level of discipline was. So
12 they're waiting for you to get that information to us
13 as well, because we don't really believe that the
14 Police Department should be policing itself.
15 Otherwise, there would be no need for the CCRB. Let
16 me just go back into the APU, again. So, my
17 understanding is that the APU is preparing to
18 prosecute Officer Pantaleo this year. Can you tell
19 us when that will happen and why it has taken so
20 long?

21 EXECUTIVE DIRECTOR DARCHE: So, I think I
22 can only talk to what's been publicly reported.
23 There is a hearing in front of DCT Maldonado's
24 schedule for January 31st, and the last hearing date
25

1 she also set trial dates in May and June that I
2 should know the exact dates, but I do not.

3
4 CHAIRPERSON RICHARDS: And what took so
5 long?

6 EXECUTIVE DIRECTOR DARCHE: The-- there
7 was initially the Richmond County District Attorney's
8 Office asked the Agency to hold on its investigation--
9 -

10 CHAIRPERSON RICHARDS: [interposing] The
11 CCRB is the Agency, correct?

12 EXECUTIVE DIRECTOR DARCHE: So-- yes,
13 sorry. The-- my apologies. The Richmond County DA's
14 Office placed the CCRB's investigation of the
15 incident on DA hold. And then the eastern district
16 of New York placed the case on DA hold even though
17 they're not exactly DAs, and then finally, Central
18 Justice had the case on hold as well when the case
19 had gone to that. And then even after the CCRB-- and
20 it wasn't until--

21 CHAIRPERSON RICHARDS: [interposing] That
22 DA hold came off when?

23 EXECUTIVE DIRECTOR DARCHE: I'd have to
24 get back to you on the exact date. I don't remember
25 the--

1
2 CHAIRPERSON RICHARDS: [interposing] Okay.

3 EXECUTIVE DIRECTOR DARCHE: But I know
4 that the NYPD finally served Officer Pantaleo, I want
5 to say, in August of-- in Summer of 2018, and we had
6 initial hearing date a couple of months ago. And the
7 reason for the delay since Officer Pantaleo was
8 served-- this is-- I don't want to get too much into
9 the case with bar because of 50A.

10 CHAIRPERSON RICHARDS: I'm going to move
11 on to the next incident, but this has taken too long.
12 Pantaleo should be gone. Illegal chokehold should be
13 gone. After the Jazmine Headley incident at the HRA
14 Office, the NYPD chose not to discipline the officers
15 involved. Is there a role that you're playing in
16 this case? Can you speak to it if you determine that
17 there was misconduct? Can the Commissioner disregard
18 your recommendations?

19 EXECUTIVE DIRECTOR DARCHE: So, the CCRB
20 has an open investigation into this matter, and then
21 I can't speak further on the individual Headley case,
22 but I can talk generally speaking about what happens
23 if the CCRB substantiates something. And for
24 example, IAB has unsubstantiated or exonerated that
25 conduct. Generally speaking, we're allowed to go

1 forward with our process, and then the Commissioner
2 has to determine whether or not to issue discipline.
3

4 CHAIRPERSON RICHARDS: And the
5 Commissioner can disregard your specific
6 recommendations, correct?

7 EXECUTIVE DIRECTOR DARCHE: Correct, but
8 the Commissioner could also decide to discipline an
9 officer based on the information that we present to
10 the Commissioner.

11 CHAIRPERSON RICHARDS: Right, and I think
12 he's publicly said that, you know, in this particular
13 incident-- I'm sure going further--

14 EXECUTIVE DIRECTOR DARCHE: [interposing]
15 But we should not com--

16 CHAIRPERSON RICHARDS: [interposing] Yeah,
17 but--

18 EXECUTIVE DIRECTOR DARCHE: [interposing]
19 This agency can't comment.

20 CHAIRPERSON RICHARDS: Okay, got it.
21 Alrighty, and so this leads me to the big million-
22 dollar question, you know, what do you say to people
23 who argue that once again you have no teeth, and
24 what's the point in going through your process if the
25

1
2 Commissioner can disregard your specific
3 recommendations?

4 FREDERICK DAVIE: So, Mr. Chair, I would
5 say that we are probably one of the, if not the,
6 strongest independent oversight board in the country.
7 We've made great strides in independent civilian
8 oversight. We clearly have a long way to go in terms
9 of our-- being the kind of optimum agency that this
10 city and other people here would desire, but again,
11 you know, part of this is structural, and it's a
12 matter of law, and at the end of the day there is a
13 final arbiter when it comes to our final decision
14 maker when it comes to police discipline. We will
15 again-- I heard Council Member Menchaca, we will
16 pursue this with all the energy and vigor and
17 expertise that we can bring to bear. We will always
18 be knocking on this door and the door of the
19 Administration for more resources to do that. We
20 take-- we consider it a particular honor-- I think I
21 speak for my fellow board members-- to be able to do
22 this work. Proud to be appointed by elected
23 officials, to be responsible for those elected
24 officials and be responsible to the public. It's a--
25 we have a really dedicated staff that comes and work

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2 and works hard every day, and we think we're the best
3 the country has at the moment, but there's always
4 opportunities to be better. But we thank you for
5 your support and the opportunities to do this work.

6 CHAIRPERSON RICHARDS: We're going to
7 take a two-minute recess, and I'm just going to go
8 next door and vote. I will be right back. Two-
9 minute recess.

10 [break]

11 CHAIRPERSON RICHARDS: Alrighty, I want
12 to go through the APU unit, a few questions on that.
13 So, I understand that the trials that are open to the
14 public are open to the public, but that all records
15 including the transcripts are not disclosed to the
16 public. Why is the record of a public proceeding
17 shielded from the public's view?

18 EXECUTIVE DIRECTOR DARCHE: Currently,
19 the--

20 CHAIRPERSON RICHARDS: [interposing]
21 Sorry, I should have waited for Daniel to come back.
22 He's always so close to me, I thought he was here.
23 You may continue.

24 EXECUTIVE DIRECTOR DARCHE: The current
25 state of 50A of the Civil Rights Law is that an

1 officer's disciplinary record is sealed. And
2 therefore, even though it is a public proceeding,
3 once it is a record of his discipline it become
4 sealed. So this is-- it is a-- it's why having these
5 public trials is so important. There have been in
6 the-- in the year and a half before that MOU between
7 NYPD and CCRB went into effect, no officer where the
8 CCRB had recommended they receive charges and
9 specifications went to trial. In the time since the
10 MOU has been in effect, more than 370 members of
11 service have had public trials where they're open to
12 people from the-- open to the public to come in and
13 see what is-- the evidence that is being offered
14 against members of service and their responses to it,
15 and I understand-- and I think it's imp-- it's
16 frankly the only opening into this process that is
17 available for the public, and that's why I think the
18 APU-- one of the reasons why the APU is so important,
19 and one of your questions has been how can the City
20 Council help the CCRB. I think in the 2018 Charter
21 Revision process, the CCRB recommended codifying the
22 APU, and I think codifying the APU and making it part
23 of the law, and trying to get in the law of this city
24
25

1
2 would go a long way to making the CCRB stronger and
3 improving public confidence in the CCRB.

4 CHAIRPERSON RICHARDS: And I certainly
5 support you in those efforts, and I know we're going
6 through a particular process as well as the Council,
7 but following that, you know, once again-- you know,
8 so if I-- I could watch the trial, correct? I can
9 come as a member of the public and watch, but the
10 records of the public proceeding are still shielded
11 from public view. It is in your opinion that the
12 public disclosure of records and decisions made at
13 Department trials would benefit the process?

14 FREDERICK DAVIE: We think the more
15 transparency in this process, the better it's going
16 to be for everybody.

17 CHAIRPERSON RICHARDS: So, you would
18 agree that 50A being repealed is a good thing?

19 FREDERICK DAVIE: I'm sorry?

20 CHAIRPERSON RICHARDS: 50A being repealed
21 is a good thing?

22 FREDERICK DAVIE: At least being
23 seriously revised, yes.

24 CHAIRPERSON RICHARDS: And I also
25 understand that the APU only prosecutes cases when

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2 the board thinks there is sufficient evidence of
3 misconduct, but it's up to the Deputy Commissioner of
4 Trials to find the officer guilty or not guilty.
5 What is the conviction rate for APU cases again?

6 EXECUTIVE DIRECTOR DARCHE: So, the
7 conviction rate at trial is approximately 50 percent.

8 CHAIRPERSON RICHARDS: Right. And what
9 do you think is driving the discrepancy once again?

10 EXECUTIVE DIRECTOR DARCHE: I think the--
11 I think the burden of proof, while-- I think that's a
12 very good question. It's something we've been
13 studying a great deal. The-- and it was something
14 that concerned me greatly when I was Deputy Chief
15 Prosecutor and Chief Prosecutor at the APU. I think
16 that the credibility determinations that the board
17 makes in its process are sometimes different than the
18 credibility determinations that are made by the
19 Deputy Commissioner of Trials and the Assistant
20 Deputy Commissioner of Trials.

21 CHAIRPERSON RICHARDS: Ah-ha [sic] no
22 shock.

23 EXECUTIVE DIRECTOR DARCHE: And I'd just
24 like to point out, even when the Deputy Commissioner
25 of Trials or one of her assistants makes a recommend-

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2 - they also make recommendations to the Police
3 Commissioner. They are not the final say. It's the
4 Police Commissioner who's the final arbiter in all
5 matters of police discipline.

6 CHAIRPERSON RICHARDS: So would you say
7 that the Commissioner, let's imagine there's a form
8 of discipline that you recommend opposed to the DOA.
9 Do you find he tends to side with the Department or
10 your recommendations more?

11 EXECUTIVE DIRECTOR DARCHE: So, I can-- I
12 think the process is more complicated than that,
13 while the Department Advocate-- the Department
14 Advocate tends not to express-- from what I can tell,
15 the Department Advocate is not signing off or in the
16 decision tree, so to speak, where the police
17 Commissioner is getting information from the Deputy
18 Commissioner of Trials about--

19 CHAIRPERSON RICHARDS: [interposing] How
20 do we know that?

21 EXECUTIVE DIRECTOR DARCHE: You would
22 have to speak to the Police-- the Police Department
23 exactly what process they follow. But the-- they're--
24 - anecdotally I have seen cases recently where the
25 Police Commissioner has chosen the CCRB's

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2 recommendation over another internal PD
3 recommendation. And I think that's happening-- it is
4 my impression. I don't have-- I can't-- it's just
5 anecdotal, so I apologize for that, but it's my
6 impression that there is-- there has been more
7 traction.

8 CHAIRPERSON RICHARDS: And you know,
9 where do these trials take place again?

10 EXECUTIVE DIRECTOR DARCHE: In One Police
11 Plaza at-- in Police Headquarters in the-- on the
12 fourth floor in the Deputy Commissioner of Trials'
13 office.

14 CHAIRPERSON RICHARDS: So in One PP. So,
15 if you had a complaint, and you had to go to a trial,
16 you would have to walk through One Police Plaza.

17 EXECUTIVE DIRECTOR DARCHE: And that is a
18 concern for many of our witnesses, and we take great
19 efforts at the agency to make sure that they-- that
20 the civilians who are testifying their cases are
21 informed of what's going on and brought into the
22 process and we try and facilitate their participation
23 in the process as much as possible, but it is often
24 intimidating.

25 CHAIRPERSON RICHARDS: Right, because--

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2 EXECUTIVE DIRECTOR DARCHE: [interposing]
3 to have to go to police headquarters when you've been
4 a victim of police misconduct.

5 CHAIRPERSON RICHARDS: Right. And I
6 would assume the purpose of the trial was to for-- if
7 you go on a trial for their to-- for you to feel like
8 you're in a neutral space that would make you more
9 comfortable, maybe the percentage rate would go up as
10 people are even a little bit more comfortable. I know
11 there was a proposal at one point floated. I think
12 to have these at least held at the OATH facilities--

13 EXECUTIVE DIRECTOR DARCHE: [interposing]
14 So, the first-- I think the first attempt to create
15 an APU result-- in the early 2000s, resulted in
16 litigation in which it was held that it wasn't proper
17 to have police disciplinary matters held at OATH.
18 They had to be internal to the Police Department. I
19 think the case was Lynch v. Giuliani, but the--
20 that's just my understanding.

21 CHAIRPERSON RICHARDS: Do you think this
22 is something we should look at again? IS this
23 something that we should entertain?

24 EXECUTIVE DIRECTOR DARCHE: I-- I don't
25 know how the law impacts on that. Right now, my

1
2 understanding of the law is that it has to be
3 internal to the Police Department, but I-- that could
4 change.

5 CHAIRPERSON RICHARDS: Okay. Alright,
6 I'm going to begin to wrap up. Just a few more
7 questions. I want to go through the truncated cases.
8 So, Intro 1106 looks to require additional reporting
9 on cases that are truncated. Can you describe the
10 situations that result in cases being truncated, and
11 the decision the board determines.

12 EXECUTIVE DIRECTOR DARCHE: So, the--

13 CHAIRPERSON RICHARDS: [interposing] And
14 are you in support of the bill?

15 EXECUTIVE DIRECTOR DARCHE: So, my agency
16 was in contact with people from your office late last
17 week where we submitted some revisions to the bill.
18 You know, truncation is something that we take very
19 seriously. We are focused on it. We try and reach
20 out to civilians within the -- we-- the deadline for
21 our office to reach back out to a civilian is 48
22 hours. We are generally speaking much faster than
23 and reaching out to people. We have a field team that
24 will go out and meet with people where they are so
25 that they don't have to come to our agency. We will

1
2 provide them with metro cards to come to us. We meet
3 with people on-- in Department of Correction custody
4 through video conference. We are-- we make the utmost
5 efforts to try and find people. when we-- before we
6 truncate a case, it is reviewed by senior
7 investigative staff who are really experienced and
8 who might look at a case and say, you know, there's
9 something that could have been done here to try and
10 reach a civilian that this investigator didn't do,
11 and we'll send the case back and say, "Try this." We
12 don't want our standards to become a ceiling. We
13 want our standards to be a floor, to say the minimum
14 that can be done to reach a ceiling. The-- and we
15 are willing to go meet with people where they are and
16 not just make them come down to 100 Church Street
17 where we are located. We are-- one of the things we
18 do is we cooperate with many City Council people,
19 especially you, Councilman Richards, where are part
20 of our CPI initiative, Community Partners Initiative,
21 so that we can meet with civilians in their
22 communities, where they live and work so that they
23 can have an opportunity to easily make a statement to
24 us. So we share your concern about truncation. We
25 report on truncation already in our annual support,

1 in our semiannual report and in our monthly reports.
2 With that being said, we understand why you want more
3 information. It makes sense to us, and we submitted
4 some changes in language to your bill, but we think
5 in its spirit it's a good bill. We understand the
6 motivation for it. The main focus on our changes is
7 to give us more-- give us the opportunity to give you
8 more context and give you more meaningful information
9 so you can see why things are truncating as best we
10 can. Often times, it's tough for us to know why
11 something is truncating, because we weren't able to
12 find the civilian in the first place. So,-- but
13 there are times where when we have information, we're
14 going to want to give it to you. So, we think the
15 bill that we-- the language we sent back to you will
16 allow us to give you the information you want in a
17 helpful way.

19 CHAIRPERSON RICHARDS: And-- yeah. And I
20 hear you, and I want to thank you for that. Can you
21 just go through what efforts are made by
22 investigators before truncating the case?

23 EXECUTIVE DIRECTOR DARCHE: So, they send
24 letters, emails, and make phone calls to people. The
25 field team will go to the scene where the

1
2 investigator themselves will go to try and find the
3 civilian so that we can get a hold of them and get a
4 statement from them.

5 CHAIRPERSON RICHARDS: That leads me to
6 this question quick, and I definitely get they're
7 probably challenges with the budget, and in your
8 testimony before the Mayoral Charter Commission, you
9 asked the CCRB's budget be set at one percent of the
10 NYPD's budget. Why is it important that the budget
11 be linked in that way instead of allocations through
12 the annual budget process? And I say that to say,
13 you know, we're talking about-- and you've taken--
14 how many cases did you take last year?

15 EXECUTIVE DIRECTOR DARCHE: Forty-eight
16 hundred. More than 4,500 cases.

17 CHAIRPERSON RICHARDS: More than 4,500,
18 and you have how many investigators?

19 EXECUTIVE DIRECTOR DARCHE: Ninety line
20 investigators.

21 CHAIRPERSON RICHARDS: Ninety. So, if
22 your budget were to increase I'm assuming you would
23 be able to hire up more and possibly even think
24 outside of the box. I know you're doing some great
25 work in my district office, but what about satellite

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2 offices across the boroughs? I mean, have we ever
3 given any thought to that or perhaps having offices
4 in each borough, or maybe perhaps you're looking at
5 the communities with-- who've been impacted the most
6 in possibly setting up an actual shop there so that
7 you can reach people while the iron is hot? I'm
8 assuming 48 hours, even 48 hours, even as fast as
9 that could typically be. You know, in a case you
10 need to be able to get the people right away. And my
11 concern is that you're at 100 Church Street, and I'm
12 not saying you're people are not out doing outreach
13 and doing that, but if there was an established
14 place, you know, folks to go to, I think that that
15 would make a big difference in a place you could
16 literally send teams out right away, but the only way
17 to do that is through the budget and ensuring that
18 you have the necessary resources to accomplish at the
19 very least something like that that I just floated.
20 So, can you speak to why you proposed that to the
21 Charter Commission?

22 EXECUTIVE DIRECTOR DARCHE: So, Mr.
23 Chair, the first thing is you reminded me in your
24 question is something that I forgot, which is the
25 work that we've done with the underserved communities

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2 that you mentioned with the LGBTQ community, with
3 young people, with the homelessness community, so
4 that we can better make sure the formerly
5 incarcerated people so that we can-- so that they are
6 aware that we are here to hear their complaints.
7 When the NYPD changes its protocols or procedures, it
8 impacts the CCRB. When the NYPD changes parts of
9 their Patrol Guide, when it updates any of its
10 technology or revises its trainings, the CCRB must
11 update its own investigative protocols, retrain all
12 of our investigators, and when new technologies are
13 adopted, like how now the NYPD is using drones to get
14 footage of people, we must revise our procedures as
15 well. So, these are-- this is something that has
16 been done around the country and that was why we made
17 that request.

18 CHAIRPERSON RICHARDS: So other places
19 having detainers [sic]-- and how much more money
20 would this get you, do you know?

21 EXECUTIVE DIRECTOR DARCHE: I think it
22 would get us to 55 million dollars a year.

23 CHAIRPERSON RICHARDS: Let's just go
24 through sexual misconduct quick before we begin to
25 wrap up. So you're obviously doing this pilot and

1 taking sexual misconduct cases. Go through the
2 numbers again. How many cases did you take of sexual
3 misconduct?
4

5 EXECUTIVE DIRECTOR DARCHE: So we
6 received 80 cases for sexual harassment this year
7 that we, in 2018, excuse me, that we were
8 investigating. And then, I think it was
9 approximately 50 cases that we referred to DA's
10 offices where there were phase II cases, sexual
11 assault.

12 CHAIRPERSON RICHARDS: So, out of the 80,
13 50 were referred to--

14 EXECUTIVE DIRECTOR DARCHE: [interposing]
15 No, no, 80 phase I and 50 phase II.

16 CHAIRPERSON RICHARDS: Okay. So--

17 EXECUTIVE DIRECTOR DARCHE: [interposing]
18 Which I guess--

19 CHAIRPERSON RICHARDS: 130--

20 EXECUTIVE DIRECTOR DARCHE: [interposing]
21 Can I just clarify that? So, we've received 80
22 allegations of sexual harassment and 50 allegations
23 of sexual assault.

24 CHAIRPERSON RICHARDS: Fifty of sexual
25 assault.

1
2 EXECUTIVE DIRECTOR DARCHE: We are
3 currently investigating the cases of sexual
4 harassment, but we are in a process of developing
5 procedures where we can investigate the sexual
6 assault cases.

7 CHAIRPERSON RICHARDS: Right, but all 50
8 of the sexual assault, alleged sexual assaults, have
9 been referred to District Attorneys for--

10 EXECUTIVE DIRECTOR DARCHE: [interposing]
11 Correct.

12 CHAIRPERSON RICHARDS: investigation.
13 And then prior to this, who was overseeing this IAB?

14 EXECUTIVE DIRECTOR DARCHE: So, prior to
15 this we would refer all allegations of sexual
16 misconduct to the NYPD.

17 CHAIRPERSON RICHARDS: Okay. And do we
18 know how many in total were referred prior to this
19 hundred-- is this 130 new, or were these--

20 EXECUTIVE DIRECTOR DARCHE: [interposing]
21 These 130 were either made-- they were either being
22 investigated-- they were either from open
23 investigations during 2000-- after February 2018 or
24 were made since February 2018. So, if we had--

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CHAIRPERSON RICHARDS: [interposing] So,
all of these are--

EXECUTIVE DIRECTOR DARCHE: [interposing]
an open case--

CHAIRPERSON RICHARDS: from 2018.

EXECUTIVE DIRECTOR DARCHE: Correct.

CHAIRPERSON RICHARDS: And then prior to
that, all of-- whatever else you might have received
is referred to IAB.

EXECUTIVE DIRECTOR DARCHE: Correct.

CHAIRPERSON RICHARDS: Do we know where
IAB ended up on any of these cases?

EXECUTIVE DIRECTOR DARCHE: We were not
informed by NYPD the results of those investigations.

CHAIRPERSON RICHARDS: Okay. Alright, and
I'm going to begin to wrap up. I think I had-- I
think Carlos touched on this a little bit. Since
2014, how many officers had been fired from the NYPD
as a result of CCRB investigation and prosecutions?

EXECUTIVE DIRECTOR DARCHE: None, so--

CHAIRPERSON RICHARDS: Zero. Why doesn't
CCRB seek determination of abusive of officers or
charges and specifications more often?

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2 EXECUTIVE DIRECTOR DARCHE: So, the
3 process that the APU uses when it was determining
4 what level of penalty to recommend in the CCRB case
5 is that it looks at the alleged misconduct. It looks
6 at the disciplinary history of the officer, and it
7 looks at the departmental precedent. So, those are
8 the three factors that we take into account when
9 looking at what penalty to recommend in a charges
10 case.

11 CHAIRPERSON RICHARDS: But since 2014,
12 how many times did you seek termination?

13 EXECUTIVE DIRECTOR DARCHE: I'd have to
14 check with you, Council Member, to my-- not a lot.

15 CHAIRPERSON RICHARDS: And you didn't
16 find any cases where the-- so, how many cases would
17 you say accumulated between 2014 and now? So, you
18 saw about 5,000 last year.

19 EXECUTIVE DIRECTOR DARCHE: But of--

20 CHAIRPERSON RICHARDS: [interposing] On
21 average it's been around 4,000, I would assume, a
22 year. So, if I did the math,-- oh, and 2019 now.
23 Four times five, possibly 20,000 cases, and you
24 didn't see fit to recommend termination of any
25

1
2 officers. Even out of the-- and I mean, out of the
3 substantiated cases.

4 EXECUTIVE DIRECTOR DARCHE: So, we can--
5 as I told Councilman Menchaca, we'll get you the
6 details on how often we recommended termination for
7 an officer, but it is not a lot. The category, the
8 things that we look at when we are recommending
9 discipline, when we are recommending a penalty to the
10 Department are the conduct alleged that the officer
11 committed, the disciplinary history and rank of the
12 member of service as well as the case law surrounding
13 prior discipline that's been imposed on the other
14 people who have been found guilty by the department
15 of that misconduct.

16 CHAIRPERSON RICHARDS: So, I will end
17 with this. I think Council Member Lancman may have
18 some questions. But I just find it hard to believe
19 that out of reviewing 20,000 cases, the CCRB could
20 find not even five cases where you would recommend a
21 termination?

22 EXECUTIVE DIRECTOR DARCHE: So, I just
23 don't have the numbers in front of-- I do know that
24 no one has been terminated yet.

25 CHAIRPERSON RICHARDS: Right.

1
2 EXECUTIVE DIRECTOR DARCHE: But I don't
3 have--

4 CHAIRPERSON RICHARDS: [interposing] But
5 how many times did you seek termination?

6 EXECUTIVE DIRECTOR DARCHE: We'll find
7 out for you, Council Member.

8 CHAIRPERSON RICHARDS: Okay. So, I would
9 hope that in cases where we see repeated misbehavior,
10 misconduct, that the CCRB would really take that
11 seriously, and part of the reason I'm saying this is
12 this adds to the legend of why individuals don't take
13 the CCRB serious. And further roads, what we're
14 trying to accomplish, and that's real discipline. I
15 do believe for a vast majority of the Department they
16 have a lot of great officers, but we on the ground
17 also understand that there are some officers out
18 there who don't belong in the Department at all, and
19 for CCRB to have very little cases where they
20 recommended termination, I find that to be a little
21 bit troubling, and I would hope that as we move
22 forward that we would ensure that-- you're not doing
23 me any favors. I mean, we want to make sure the
24 public knows who's serving them in their communities,
25 and that they are getting the best product and the

1 best offices, and that's what creates a safer city.
2 So, I will be quiet on that note, but I would hope
3 the CCRB would certainly take that much more
4 seriously. Councilman Lancman?

6 COUNCIL MEMBER LANCMAN: Good afternoon.

7 Sorry for my tardiness, I was-- there was a hate
8 crime in Queens which I was involved in attending to.
9 It's aftermath. But I wanted to ask about-- and if
10 this has already been exhaustively covered, forgive
11 me. But I wanted to ask about the circumstances
12 where the officer is found guilty by the Deputy
13 Commissioner, and those results were overturned by
14 the Commissioner. I think in your testimony you say
15 that in 2017 you closed-- the APU closed 112 cases,
16 59 cases in which discipline was imposed. Out of the
17 49 cases in which discipline was not imposed, 39
18 result of "not guilty" verdicts by the Commissioner
19 and four were the result of overruling by the
20 Commissioner. What can you tell us about the cases
21 where the Commissioner overruled decision of the
22 Deputy Commissioner and whether the Commissioner
23 provides any rationale or reasoning at least to the
24 CCRB?

1
2 EXECUTIVE DIRECTOR DARCHE: So,
3 Councilman, in the APU reports, we give synopsis of
4 the cases in which the Department-- where the Police
5 Commissioner changed either a guilty plea or a
6 verdict issued by the Deputy Commissioner of Trials
7 or one of her assistants. So, I-- that data is out
8 there. We can get it for you. I just don't have it
9 in front of me, but we'll get that for you.

10 COUNCIL MEMBER LANCMAN: So, what if
11 anything is the Commissioner, the Police
12 Commissioner, require-- well,--

13 EXECUTIVE DIRECTOR DARCHE: [interposing]
14 No, that was-- when I saw you, Councilman, I thought
15 you might ask about something else, so I had--

16 COUNCIL MEMBER LANCMAN: Well, you got to
17 tell me what you think I should be asking. That
18 sounds good. Does the Commissioner provide any
19 rationale for his decision to overturn the Deputy
20 Commissioner's decision which was made after a trial,
21 seeing the witnesses? In a normal legal proceeding
22 for a Trial Court's decision whether it's a jury or a
23 judge to be overturned, it's necessary for there to
24 be a rationale because that's not unheard of, but

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2 it's someone's saying-- the Commissioner is saying
3 that a mistake was made.

4 EXECUTIVE DIRECTOR DARCHE: So, in the--
5 generally speaking, yes. The level of explanation
6 varies depending on the nature of the change. So, if
7 the Police Commissioner is merely changing the level
8 of penalty, it can be a shorter explanation than if
9 the Police Commissioner is say reducing the level of
10 discipline or imposing no discipline at all. The
11 Police Commissioner tends to write a more expansive
12 explanation of what they've done.

13 COUNCIL MEMBER LANCMAN: And is that
14 required by any rule of the CCRB or in the MOU or any
15 statute?

16 EXECUTIVE DIRECTOR DARCHE: It's in the
17 MOU.

18 COUNCIL MEMBER LANCMAN: It's in the MOU.

19 EXECUTIVE DIRECTOR DARCHE: Yes.

20 COUNCIL MEMBER LANCMAN: And then the
21 reality is the Commissioner's decision is final. Is
22 there any recourse if the CCRB having prosecuted this
23 case thinks that the Commissioner missed some
24 important piece of evidence or misapplied the law or
25

1
2 got it wrong in some way, is there any recourse or
3 does the buck stop with the Commissioner, period?

4 EXECUTIVE DIRECTOR DARCHE: So, in the
5 process outlined by the Memorandum of Understanding,
6 before the Police Commissioner can downwardly depart
7 from APU recommendation or a Deputy Commissioner's
8 Trials recommendation, the Police Commissioner has to
9 do so in writing and give the CCRB an opportunity to
10 respond. So, but in the end, the Police Commissioner
11 is the final arbiter. So we can-- you know, when the
12 Police Commissioner informs us of his reasoning
13 initially, we respond, but that is our all-- our
14 whole recourse.

15 COUNCIL MEMBER LANCMAN: So, your
16 opportunity to respond is before the Commissioner
17 renders a final public decision.

18 EXECUTIVE DIRECTOR DARCHE: Correct. And
19 I don't know how public the final decision is,
20 because it's a disciplinary matter.

21 COUNCIL MEMBER LANCMAN: Right. Yeah,
22 the reasoning that you described that is required by
23 the MOU, is that released to the public or that is
24 just reasoning provided to the CCRB and within the
25 office's personnel file?

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2 EXECUTIVE DIRECTOR DARCHE: So, the CCRB
3 has been trying to improve the quality of the
4 quarterly AP reports, and one of the things we've
5 begun to do is include descriptions of the reasons
6 the Police Commissioner gives us for the actions that
7 he takes.

8 COUNCIL MEMBER LANCMAN: So, at best
9 you're-- the only thing the public can see is the
10 CCRB's description of the Commissioner's reason. The
11 Commissioner's reasons himself as he lays them out,
12 that's not disclosed to the public, is it?

13 EXECUTIVE DIRECTOR DARCHE: I think we do
14 a pretty good job, but again, you would have to talk
15 to the Department about if they disagree with our
16 descriptions.

17 COUNCIL MEMBER LANCMAN: No, no, no, I'm
18 sorry. I miss-- maybe I misspoke. I just want to
19 clarify, the Commissioner has to provide a reason for
20 why he is overturning the decision of the trial,
21 right?

22 EXECUTIVE DIRECTOR DARCHE: Correct.

23 COUNCIL MEMBER LANCMAN: And that
24 requirement comes from the MOU, right?

25 EXECUTIVE DIRECTOR DARCHE: Correct.

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2 COUNCIL MEMBER LANCMAN: The
3 Commissioner's reasoning, is that disclosed to the
4 public or that is just shared with the CCRB?

5 EXECUTIVE DIRECTOR DARCHE: My
6 understanding is that it is shared with CCRB and then
7 we make it public in our APU reports as best we can
8 considering 50A.

9 COUNCIL MEMBER LANCMAN: Right. Okay.
10 How have you found-- sorry, just last one. How have
11 you found commissioners, this commissioner, prior
12 commissioners, to be in terms of their responsiveness
13 and willingness to engage in a back and forth with
14 the CCRB when they give their reasoning, alright?
15 I'm going to overturn this verdict, here's why. You
16 get an opportunity to respond. Is that a real
17 dialogue, a real engagement, or do you get the sense
18 that the Commissioner's made his decision and your
19 response is something you're entitled to, but at that
20 point no one's listening?

21 EXECUTIVE DIRECTOR DARCHE: So, I think
22 there have been a few cases recently that may be
23 outliers in my mind, so-- but where we have written--
24 where we have responded, and then the Commissioner
25 has not-- has not-- has not deviated, or in one of

1
2 those cases he was going to retain a case, and
3 instead allowed us to proceed. So, it's a-- I feel
4 like there is a dialogue with this Police
5 Commissioner, and he-- on that particular issue, he
6 has re-- that doesn't mean that he just, you know, on
7 every case, but in these two recent cases--

8 COUNCIL MEMBER LANCMAN: [interposing] So,
9 there are-- there are cases, there are circumstances
10 where the Commissioner indicated that he was going to
11 rule one way to overturn a decision, and in response
12 or in consideration of the CCRB's response to that,
13 he changed course in some way?

14 EXECUTIVE DIRECTOR DARCHE: So, there was
15 one case where he was going to retain a case pursuant
16 to the MOU and not allow any procedures, but he
17 decided to allow the case to proceed. And then there
18 was another case where there was a plea where one of
19 the-- an internal PD person made a recommendation to
20 lower the discipline. We responded, and he kept the
21 discipline what had been agreed to.

22 COUNCIL MEMBER LANCMAN: Okay. So, those
23 aren't case where he's overturning or disregarding a
24 trial verdict. They're different.

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2 EXECUTIVE DIRECTOR DARCHE: Correct, but
3 it is-- it is part of that process of--

4 COUNCIL MEMBER LANCMAN: [interposing] Got
5 it. Okay, thank you very much. Thank you.

6 CHAIRPERSON RICHARDS: Alright, thank
7 you, sir. Just before you go, question on
8 composition of the board. So, do you think that the
9 current structure of appointments allows the board to
10 reflect the diversity of the City as mandated by the
11 Charter? And there have been some suggestions that
12 the CCRB's Charter should be modified so that the
13 board is elected instead of appointed. Do you think
14 that such a change would help the board accomplish
15 its goals?

16 FREDERICK DAVIE: So, Mr. Chair, I do
17 think the CCRB currently reflects the diversity
18 geographic and demographic diversity of the City.
19 There is always room for improvement.

20 CHAIRPERSON RICHARDS: Give me a
21 breakdown.

22 FREDERICK DAVIE: So, let me just try this
23 off the top of my head. I don't have it at my
24 fingertips, but I think I know everybody who's there.
25 So, there are two African-American men. There is--

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2 CHAIRPERSON RICHARDS: [interposing] Not
3 including you.

4 FREDERICK DAVIE: Including me.

5 CHAIRPERSON RICHARDS: Okay.

6 FREDERICK DAVIE: There are three Latino
7 men. There are two Latino women. There's one
8 additional woman of color, who I think identifies as
9 African-American, but I'm not sure about that. There
10 are two white men, and I think that's-- who am I
11 missing? There are three white men, sorry.

12 CHAIRPERSON RICHARDS: And how many out
13 of all of those board members, how many have a law
14 enforcement background?

15 FREDERICK DAVIE: Three.

16 CHAIRPERSON RICHARDS: Three.

17 FREDERICK DAVIE: The three designated by
18 the Commissioner.

19 CHAIRPERSON RICHARDS: And any opinions
20 on an elected CCRB?

21 FREDERICK DAVIE: So, I think a level of
22 accountability that we have to public officials as
23 designated and appointed members of the board is key
24 to how the effective functioning of this board.
25 There is some concern at least on my part, and I

1
2 won't speak for the entire board on this, but that
3 electing a board introduces a level of politics and
4 money perhaps that will not necessarily result, I
5 think, in what people may be after and their desire
6 to have an elected board. We could-- you could elect
7 a board that was more sympathetic, for example, to
8 the NYPD. And as an unintended consequence with the
9 inability to then necessarily hold that board as
10 accountable as you as elected officials can hold us.
11 So, I think as currently constituted we have a really
12 effective board. I think the changes that-- I think
13 the desires that people have to see a more effective
14 CCRB can happen through certain other structural
15 changes and perhaps increase capacities in areas, and
16 will get us closer to where folks want to be. I
17 don't think an elected board will necessarily get us
18 there.

19 CHAIRPERSON RICHARDS: Alrighty, thank
20 you. I'm going to go to Council Member I. Daneek
21 Miller. He has a few questions, and then we're going
22 to get to the public. Alrighty.

23 COUNCIL MEMBER MILLER: Thank you so
24 much, Mr. Chair. As you just broke down the
25 designees from CCRB by ethnic background, what

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2 portions of the City do they locate-- I'm sorry, do
3 they represent?

4 FREDERICK DAVIE: So, all the boroughs,
5 all five boroughs are represented because we have--
6 the council designees each comes from a one of the
7 five boroughs. Then beyond that, we have Brooklyn
8 with an additional member, Staten Island with an
9 additional member, Queens with two additional
10 members, that's myself and one other person, and then
11 Manhattan with two additional members.

12 COUNCIL MEMBER MILLER: So, as is
13 currently constituted, are you satisfied that it
14 makes up a fair representation of the entire-- the
15 communities throughout the City?

16 FREDERICK DAVIE: Geographically, yes,
17 sir, I do.

18 COUNCIL MEMBER MILLER: In terms of
19 recommendations based on the cases that you've heard,
20 what is the percentage that have been undertaken,
21 taken on by the Police Department, and do you agree
22 with those general outcomes?

23 EXECUTIVE DIRECTOR DARCHE: So, in 75
24 percent of our non-APU cases--

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2 COUNCIL MEMBER MILLER: [interposing]
3 Which is?

4 EXECUTIVE DIRECTOR DARCHE: I'm sorry,
5 Councilman. The Board, when the Board substantiates
6 a case against the member of service, it can
7 recommend five levels of discipline. The most
8 serious level of discipline is charges and
9 specifications and those cases go to the
10 Administrative Prosecution Unit, or the APU. The
11 other recommendations are referred to the Department
12 through the Department Advocate's Office. So in the
13 non-APU cases, in 75 percent of the time that we
14 substantiate misconduct, the Department imposes
15 discipline when we recommend discipline. In the APU
16 situation it is complicated because in 50 percent of
17 the cases that go to trial there are "not guilty"
18 verdicts.

19 COUNCIL MEMBER MILLER: Are the
20 recommendations consistent? Are the charges or the
21 discipline consistent with the recommendations of
22 CCRB? And what is the percent on that? So, you
23 recommend something and they do something different
24 or they-- the recommendation you made is the same.
25 What is the percentage in those cases?

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2 EXECUTIVE DIRECTOR DARCHE: So, when the
3 Department recommends a level of discipline-- when
4 the CCRB recommends to the Department a level of
5 discipline less than charges and specifications, 75
6 percent of the time they impose some kind of
7 discipline, but only 50 percent of the time is the
8 level of discipline that the board recommended.

9 COUNCIL MEMBER MILLER: Do you find that--
10 - do you have access to know that whether or not this
11 is consistent with the level of progressive
12 discipline based on CDA?

13 EXECUTIVE DIRECTOR DARCHE: So, that's a
14 very sophisticated question. We are informed by the
15 Department in the vast majority of the non-APU cases
16 through the reconsideration process of why they are--
17 why they feel a different level of discipline is
18 warranted, but we don't know-- it's generally not put
19 in terms of the CBA, particularly.

20 COUNCIL MEMBER MILLER: So, you don't
21 have-- first of all, discipline, progressive
22 discipline is in my opinion for corrective measures.
23 So, you know, should be looked at in that, but in
24 terms of whether or not there's a consistency in how
25 discipline is delivered based on it is Department

1 charges or recommendation from CCRB or somewhere
2 else. Is there-- does that consistency exist based
3 on the charges?
4

5 EXECUTIVE DIRECTOR DARCHE: So--

6 COUNCIL MEMBER MILLER: [interposing] Is
7 what we trying to entertain.

8 EXECUTIVE DIRECTOR DARCHE: I understand,
9 sir. The-- we don't have information about the non-
10 APU cases about whether or not the penalty that's
11 imposed is consistent with other discipline, other
12 similar incidents that are not CCRB cases. We do
13 have-- we do have a frame of reference in the APU
14 cases as to where the discipline and penalties
15 imposed fall with regard to non-CCRB cases.

16 COUNCIL MEMBER MILLER: Thank you. Thank
17 you, Mr. Chair.

18 CHAIRPERSON RICHARDS: Alrighty, I want
19 to thank you for coming in, and just want to say we
20 appreciate the work that you do day-in and day-out.
21 We know we still have some work to strengthen-- work
22 to do to strengthen you and obviously some laws and
23 charter revision and all these things that I think--
24 and 50A, which we think in all but strengthen the
25 work that you. We look forward to continuing to work

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2 with you. We appreciate the community outreach
3 efforts that you certainly have been doing.
4 Certainly in my district, and I'm sure other Council
5 Members certainly could agree as well that that is
6 such an important step in building communication and
7 relationships with the CCRB and communities. And I
8 do want to say more people know that the CCRB
9 actually exists, which a few years ago I couldn't say
10 the same thing, especially for my district. So, we
11 look forward to a continued working relationship with
12 you and ensuring that we can push the admin and the
13 Department to do better by you. So, thank you for
14 coming in today. Look forward to continuing to work
15 with you.

16 EXECUTIVE DIRECTOR DARCHE: Thank you,
17 Mr. Chair.

18 FREDERICK DAVIE: Thank you, Mr. Chair.

19 CHAIRPERSON RICHARDS: Alrighty, so we're
20 going to call our first panel, and I'm going to try
21 not to chop up your names: Pamela Monroe, Elected
22 Civilian Review Board; Cynthia Conti-Cook, Legal Aid
23 Society; Elias Holtz-- I think this is-- Campaign for
24 Elected Civilian Review Board; Patricia Akiman [sp?],
25 ECRB. Did I chop that up? Okoumou, got it. It's

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2 your handwriting. It's as bad as mine. Alrighty,
3 and we're going to put three minutes on. We're
4 supposed to be out of here by one, and we will try to
5 stretch it as much as we can. Alrighty, you may
6 begin. State your name for the record and who you're
7 representing.

8 PATRICIA OKOUMOU: Patricia Okoumou.

9 CHAIRPERSON RICHARDS: Why don't you
10 start? Go ahead, start, Cynthia.

11 CYNTHIA CONTI-COOK: Cynthia Conti-Cook
12 for the Legal Aid Society. Good morning. Good
13 afternoon, maybe. Thank you for holding this
14 hearing. We're looking forward to being able to
15 weigh in on the Civilian Complaint Review Board and
16 the advances it has made in the past few years. I do
17 want to speak to a question that Council Member
18 Richards asked in the last panel, which is whether we
19 would support repeal or reform of 50A, and I just
20 want to emphasize that repeal is absolutely necessary
21 of 50A. Reform is not sufficient. In a recent
22 decision passed in December from the Court of
23 Appeals, they held that 50A is not an exemption to
24 FOIL, but a privacy right, and without fundamentally
25 changing that structure of 50A's relationship to the

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2 FOIL laws, I don't think we're going to get the
3 reforms or action that we need. So, repeal is
4 necessary to restructure how disclosure of police
5 misconduct records is treated legally on a
6 fundamental basis. To the extent any granular
7 information is available on police misconduct
8 information, even though it's not tied to officer
9 names, it's because the CCRB's advances in improving
10 its data transparency initiative. We greatly
11 appreciate the efforts that they've made in order to
12 make the detailed types of allegations that are
13 frequently reported available. We're looking forward
14 to new reports. We know that there hasn't been a
15 report from the CCRB since June 2017 which was on the
16 Right to Record, and we're looking forward to more
17 issue-based reports from the CCRB in the coming
18 future. I realize that they noted that they expect
19 one to come soon. I also-- just on the question of
20 50A want to point the Council to Wilson's descent in
21 that case where the failure to weigh the public's
22 right to access disciplinary hearings and the related
23 filings was emphasized and really lacked
24 consideration, and I think it lacks consideration
25 politically, as well. We hear a lot about the

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2 potential harms to officers, but I don't think that
3 the harms that secrecy does to community members and
4 to the public's trust in the system and our inability
5 to engage in an informed public discourse is really
6 weighed properly. In addition, I would like to see
7 the CCRB empowered to make the final disciplinary
8 determinations in the cases that they prosecute. The
9 CCRB is an independent agency and it's empowered by
10 the civilians of New York City to hold the NYPD
11 accountable according to our sense of justice and not
12 the NYPD's sense of justice. It is exactly because
13 the NYPD has historically been dismissive of
14 violations and brutality that we have embodied an
15 independent agency with the ability to investigate
16 and prosecute these. The Council should also expand
17 the authority of the CCRB to prosecute School Safety
18 Agents and other police officers who come under the
19 jurisdiction of the NYPD for purposes of training and
20 credentials. Just a few more points. I apologize.

21 CHAIRPERSON RICHARDS: Go ahead.

22 CYNTHIA CONTI-COOK: We also really want
23 to emphasize that the CCRB needs independence from
24 the legal department. Multiple filings on behalf of
25 the CCRB by the Law Department are in direct conflict

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2 with what the Law Department's interests are in these
3 cases. They represent officers and they indemnify
4 officers in many civil rights proceedings and for
5 them to give legal counsel to the CCRB and the NYPD
6 equally places them in direct conflict and often
7 results in the CCRB taking short shift [sic] next to
8 the NYPD's legal priorities. The final thing that I
9 would echo, I realize it may get brought up again
10 later, is the reconsideration process is something
11 that we believe is truly problematic. The lack of
12 transparency, as Council Member Lancman emphasized,
13 that the Commissioners' own determinations failed to
14 keep. It is a problem. We don't understand what
15 final determinations are being made and what's being
16 considered. The only last thing that I'll mention is
17 I realize the CCRB is interested in producing a
18 disciplinary framework that was piloted in the last
19 year. We agree with that. We have asked for that in
20 the past. I would just ask that if it is going to
21 actually go forward, that that disciplinary framework
22 be made publicly available.

23 CHAIRPERSON RICHARDS: Thank you. Oh,
24 forgot I extended your time. I was listening, waiting
25 for the bell. Yes, ma'am?

1
2 PATRICIA OKOUMOU: Council Member, thank
3 you for the opportunity to testify today. My name is
4 Patricia Okoumou, a member of the steering committee.
5 I will need more time, if you don't mind, to speak
6 for the panel. There's three of us. This testimony-
7 - this is testimony on behalf of the Campaign for an
8 Elected Civilian Review Board. We are a coalition of
9 over three [sic] organizations and permanent
10 individual including unions, social justice
11 organizations, and mothers and relatives of those
12 killed by the NYPD. We also testify today
13 representing feedback from New Yorkers from over
14 three years of organizing in neighborhoods suffering
15 from police misconduct, harassment, lying, abuse, and
16 violence. Our campaign recognizes the effort of this
17 legislation to increase transparency in regards to
18 truncated CCRB investigation. Civilians needs to
19 know that complaints are being taken seriously and
20 fully investigated. It is a big problem that so many
21 CCRB complaints aren't fully investigated. We agree
22 that transparency is essential for accountability.
23 However, transparency is not enough. We believe the
24 improved data and security of the CCRB will prove
25 that with all past reports on the CCRB have that

1 fails to fundamentally hold police accountable. This
2 is not only due to the massive amount of complaints
3 the CCRB doesn't investigate, but also because the
4 complaints it does investigate [inaudible] result
5 only in recommendation for discipline to the NYPD
6 Commissioner who is free to water down or throw out
7 the recommendation entirely. In fact, in 2017, the
8 Department reduced the CCRB-recommended penalties 73
9 percent of the time. This is the reality of our
10 city, that the Department shields its officers who
11 commit abuses and misconduct from public
12 accountability, and that the agency doesn't task with
13 representing us, the civilians, has no real power.
14 This is the biggest problem we see. We could use this
15 time to read off more statistics that prove the CCRB
16 needs some fundamental improvement. However, the
17 most valuable message we can give you is from the
18 public, actually the people on the street that we've
19 spoken to in all five boroughs. This truth is that
20 people have lost faith in the CCRB by in large New
21 Yorkers who need it most. Those in communities of
22 color do not trust the system currently in place. I
23 need more time, sorry. Because they don't see
24 results from their complaints. I'm almost done. One
25

1 revealing example from Staten Island Office of
2 Pantaleo, the officer that ended Eric Gardner's life
3 with an illegal chokehold, had 14 allegations against
4 him, four of which were substantiated by the CCRB.
5 However, the NYPD threw out the recommendations for
6 discipline, and all Officer Pantaleo got was a slap
7 on the wrist, instruction, which the weakest of
8 penalties, and loss of two vacation days. This is a
9 joke and an insult to those civilians he abused. If
10 we had an effective review board that could make
11 binding discipline, Pantaleo's abusive conduct could
12 have been corrected, and Eric Gardner would likely
13 still be alive today. Eric and his family paid the
14 ultimate price-- the ultimate price for a system
15 that can hold the police accountable while Pantaleo
16 currently makes over \$100,000 a year on desk duty.
17 This is totally-- a total travesty. This
18 unattainable reality is why we advocate for a charter
19 amendment that will replace the current CCRB with an
20 oversight board elected by the people and empowered
21 to investigate and make binding decision on
22 discipline after thorough investigation. We call for
23 an elected board to ensure independent oversight for
24 the police that people in every neighborhood can
25

1 trust. We also advocate for special prosecutor which
2 will eliminate any conflicts of interest that may be
3 present and that last, of course with the District
4 Attorney's Office in criminal cases involving the
5 NYPD. We are asking that the Committee on Public
6 Safety support in our efforts in the current Charter
7 Revision Commission. Dozens of groups and
8 individuals have testified for an elected and power
9 [sic] review board at recent CRC [sic] hearings. We
10 had the most testimony of any single amendment
11 proposed to the Commission by far. This city has to
12 stop protecting abusive police. It's time to protect
13 the people with an elected review board, then New
14 York can be a leader in police accountability for the
15 whole country, and we hope we can take action
16 together. If we fail to act, we're only waiting for
17 another Eric Gardner, Mohammad Bar [sp?], Debra
18 Danner [sp?], and Saheed Rasul [sp?]. Thank you for
19 your time. We'll be happy to take any questions you
20 may have.

21
22 CHAIRPERSON RICHARDS: Thank you. So, I
23 think we've all heard this opinion before. I think
24 the CCRB certainly shared it. So, in a -- with the--
25 in the event of an elected board, you obviously would

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2 have outside influences playing a part in the process
3 of electing board members. So there could be monies
4 being poured into candidates that may actually defeat
5 what you're trying to achieve, and so that's been an
6 opinion we've largely heard. How would you respond
7 to that?

8 ELIAS HOLTZ: Well, elections are really-
9 - is it on? With the current set-up, the people have
10 no power. The Commissioner makes all the decisions.
11 An appointed board is not accountable to the people.
12 It's accounted to the people who appointed it, the
13 mayor, City Council, the Police Department, and so
14 that's not a situation where we have any recourse.
15 And so an elected board is the purest representation
16 of the people's will that we can have. And so yes,
17 there will be pro-police forces running in these
18 elections, but we've been campaigning for three years
19 on the streets. We know the community cares about
20 this, and they're going to run candidates that
21 represent them, and that's-- there's no substitution
22 for an elected body when it comes to this issue where
23 the police have an incredible amount of power and the
24 public has none. So that's why we're pushing for an
25 elected body.

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2 CHAIRPERSON RICHARDS: And but the Police
3 Commissioner, you acknowledge, would still have the
4 final say on discipline. So how would that
5 differentiate--

6 ELIAS HOLTZ: [interposing] Our charter
7 amendment actually takes away the monopoly on
8 discipline from the Commissioner and gives it to the
9 board, so they make binding decision--

10 CHAIRPERSON RICHARDS: [interposing] And
11 that-- and how would that be achieved? I'm sorry,
12 through charter?

13 ELIAS HOLTZ: It's a charter revision.

14 CHAIRPERSON RICHARDS: Charter revision,
15 right? So you would hope that a charter revision
16 would be made to achieve better. Okay.

17 UNIDENTIFIED: May I make a statement?

18 CHAIRPERSON RICHARDS: Yes.

19 UNIDENTIFIED: Just regard to the charter
20 revision. I just want to point out I think it is--
21 Mr. Davie, leadership with the CCRB, stated that this
22 coming review board is the leader in the nation, but
23 I just want to say right now it looks like Rochester,
24 our sister city, is the leader. They just got a
25 draft number to amend their current Civilian Review

1
2 Board with disciplinary measures. So, they're really
3 taking the lead on this. We were hoping it would be
4 New York City, but they have a bill number.

5 CHAIRPERSON RICHARDS: And just speak to-
6 - so he spoke of the diversity of the board. Are you
7 in agreement that the board actually reflects the
8 diversity of New York City?

9 ELIAS HOLTZ: I would say it doesn't
10 because it reflects appointees by the city
11 government. It really reflects the city government
12 and it doesn't reflect the people. If the people get
13 to elect a board, it will inherently reflect five
14 boroughs in New York City. They may take off
15 demographic boxes and live in certain boroughs, but
16 there's no substitution for saying that an elected
17 board represents the people; it inherently does. And
18 so it really reflects an appointed body and is pretty
19 insulated from the public, you know.

20 CHAIRPERSON RICHARDS: And what if there
21 was some sort of proposal to expand the number of
22 seats on the board to allow more civilians to sit on
23 it. What would be your thoughts around that?

24 UNIDENTIFIED: Actually, I proposed
25 legislation that is proposed, a board of 21 members

1 which would reflect the city, we believe, a little
2 bit more, more so. We outline how those districts
3 would come about in the proposed legislation, which I
4 believe you have a copy of. But it would not just
5 reflect boroughs, but actual neighborhoods,
6 specifically those communities where they have the
7 highest number of CCRB's. There would be extra
8 representation from those particularly communities as
9 well.
10

11 CHAIRPERSON RICHARDS: Okay. Thank you
12 all for your testimony. We're going to call the next
13 panel: Nahal Zamani, Center for Constitutional
14 Rights, Kylynn Greer, Gender-- Girls for Gender
15 Equity, and Jordan Woke [sp?]. And you'll just state
16 your names and who you're representing and then--

17 NAHAL ZAMANI: Hi, my name is Nahal
18 Zamani, and I'm representing the Center for
19 Constitutional Rights. Great. So, I wanted to thank
20 first the Public Safety Committee for holding this
21 important hearing, particularly given the
22 significance of the CCRB or the Board's work. And
23 the Center for Constitutional Rights works with
24 committees that are under threat. We've been working
25 with communities who are being targeted on the basis

1 of their identity or their political work for decade
2 and in New York for over 20 years we've been
3 challenging the NYPD's discriminatory and abusive
4 policing practice, and in particular we sued the NYPD
5 for their unconstitutional stop and frisk program,
6 and we're currently in the remedial phase. Since my
7 time is pretty brief I just wanted to touch on a
8 couple of issues. My testimony is a little bit more
9 in-depth. But I wanted to touch on, because this
10 came up, the significance of the CCRB's work
11 nationally as a civilian oversight agency. It's one
12 of the most powerful agencies in the country
13 currently in its functioning, but I think a number of
14 factors that really are at the hands of the NYPD
15 hinder the CCRB from fully meeting their mandate.
16 And one other thing that's significant about what the
17 CCRB does is that it really opens up our
18 understanding of how the NYPD believes-- thinks about
19 and treats and disciplines misconduct by the police
20 or by its members. And specifically, if you follow
21 or trace the path of civilian complaints, have a
22 better understanding of really what's not known to
23 most of us, which is a very secretive process around
24 police accountability. In particular, I think the
25

1
2 CCRB's prosecution arm, which came into place under
3 the 2002 MOU or Memorandum of Understanding with the
4 NYPD is pretty key, and because we have regular
5 reporting by this unit, and I'll talk a little bit
6 about some of their work, we have a much better
7 understanding about the NYPD's disciplinary practices
8 over all. But despite this, and despite more
9 committed by the CCRB and the Department to work.
10 There are a number of actions that the Police
11 Commissioner and the NYPD is taking. They're
12 ultimately hindering the CCRB from meeting its
13 mandate, and I would argue for all of us for having
14 much more accountability for police and civilian
15 interactions. A few key developments that I think are
16 good for the committee to know about is that since I
17 last testified before this committee nearly three
18 years ago, we now have more public reporting by the
19 CCRB's APU unit, and the report that they came out
20 with in this past summer I think is very
21 illuminating. There are many disturbing trends
22 there, and I think that the CCRB should be regularly
23 sharing this information so we can get a true,
24 contemporary understanding of how the NYPD is
25 engaging or not in discipline. I also want to

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2 commend the CCRB for its increased reporting around
3 this discipline framework, and of course, we want to
4 know a lot more, particularly if it's going to be
5 employed by the CCRB and the NYPD, but I would just
6 underline that it's absolutely imperative that the
7 NYPD overall has a clear discipline framework that's
8 adopted by all of its entities and commanders that
9 are having hand in discipline overall. Thank you.

10 CHAIRPERSON RICHARDS: Thank you.

11 KYLYNN GREER: Good afternoon, Committee
12 Chair Richards and members of the Committee on Public
13 Safety. My name is Kylynn Greer. I work as the
14 Policy Manager at Girls for Gender Equity, an
15 organization challenging structural forces that work
16 to obstruct the freedom, full expression, and rights
17 of girls, transgender, and gender non-conforming
18 youth of color. We are also proud members and
19 leaders of a number of coalitions and joint campaigns
20 that advance our work. Pertinent to today's hearing,
21 GGENYC [sic] Schools Campaign, the Sexuality
22 Education Alliance of New York, and Community United
23 for Police Reform thank you for the opportunity to
24 speak today. We work daily with young women and
25 girls of color who are policed at every juncture of

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2 their lives, on the way to school by NYPD officers,
3 in school by NYPD School Safety Agents, and while
4 accessing city services as seen with Jazmine Headley
5 at Department of Social Services. As such, we
6 applaud the Civilian Complaint Review Board for its
7 vital work to hear and act on cases where New Yorkers
8 have been mistreated by the New York Police
9 Department, sometimes seeking action while the NYPD
10 takes no action, as seen with Officer Pantaleo. We
11 also recognize the pivotal first step taken by the
12 Civilian Complaint Review Board in adopting a
13 resolution to immediately begin to investigate claims
14 of NYPD sexual harassment and extortion, and look
15 forward to it being one step of many. As an agency,
16 Girls for Gender Equity stands with Anna Chambers, an
17 18-year-old girl who was raped and sexually assaulted
18 by two NYPD officers in Brooklyn, and who is one of
19 many survivors of NYPD sexual violence. These
20 experiences and narratives are often unheard in
21 mainstream media or conversations about policing.
22 This silence exist alongside a multitude of systemic
23 barriers to reporting and survivor supports. This is
24 absolutely and unequivocally rooted in racial and
25 gender discrimination. We know that the survivors

1 who are most impacted by police sexual misconduct are
2 often the very survivors that are not believed, young
3 people, TGNC and queer people, and/or women of color.

4 In New York City two in five young women reported
5 experiencing sexual harassment by NYPD officers.

6 According to the Cato Institute, gender-based
7 violence is the second-most reported form of police
8 misconduct, with more than half of the reports,
9 including minors. We stand with all survivors and

10 must emphasize the urgency of CCRB in phasing in all
11 reports of sexual misconduct, including rape and
12 sexual harassment. Until the action exists for all
13 forms of sexual misconduct to be heard by the CCRB,

14 survivors in and out of school are forced to report
15 to the Internal Affairs Bureau of the NYPD which is
16 to build off due to the recent phasing in of the

17 policy of the CCRB, there is the option to refer
18 cases to the DA's offices and in the interim, the IB
19 still has access. This is the very same agency with

20 officers wearing the very same uniform as the
21 officers who are harmed-- who harmed the survivors
22 seeking support. We call on New York City to take

23 action with community input and to stand alongside
24 women and girls of color in the fight for
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1
2 discriminatory and abusive policing. Additionally,
3 Girls for Gender Equity calls for the immediate
4 expansion of CCRB's authority to explicitly include
5 School Safety Agents and other Peace Officers under
6 the purview of NYPD. Currently, pathways for
7 reporting harmful experiences with School Safety
8 Agents and other Peace Officers must also go to the
9 Internal Affairs Bureau of the NYPD. Young people
10 who have experienced reportable harm by School Safety
11 Agents must have their reports handled by the very
12 same officers who harmed them. CCRB can and should
13 be the primary agency for these reports and should
14 have the authority to make the final disciplinary
15 decision in cases in which they already have
16 oversight, including other related misconducts, which
17 includes false statements, lying on official
18 statements and more. Thank you for the opportunity
19 to testify.

20 CHAIRPERSON RICHARDS: Thank you. You
21 may begin.

22 JORDAN WOKE: Good afternoon. My name is
23 Jordan Woke. I have no official association with any
24 entity here. I attend meetings with people in West
25 Harlem, the Manhattan Ville area, and I've heard

1 stories a while ago about they had problems with the
2 police, and somebody said, "Why didn't you go to the
3 CCRB?" And the answer is, "Why bother?" And that's
4 the answer that I consistently get, so I decided to
5 find out if I could understand "why bother." So I've
6 been going to all the borough meetings. I've been
7 going to the meetings at 100 Church. I read monthly
8 in the semi-annual, the issue-based reports. We work
9 with a data transparency initiative. I attend APU
10 trials. I certainly agree that the disposition from
11 these trials at least should be made public. You can
12 use Pacer for the federal ones. The state has a
13 similar system. This is hidden, and the issue has
14 been raised before. 50A, I have yet to hear someone
15 explain how it benefits the civilians. It may be
16 that it's true, but no one has been able to explain
17 it to me. You spent a lot of time on non-
18 concurrence. I think that the non-concurrence rate
19 may have gone down recently. There are multiple
20 reasons that could have happened. One, that the
21 police are agreeing more often; or two, the CCRB is
22 sensing what it is that the Police Department will
23 accept and therefore they can come up with the right
24 answer. That is a particular issue: truncation. This
25

1 is a very difficult problem. I have no idea how to
2 solve it, but when I go to these five different
3 boroughs, predominantly the people who speak are
4 people of color, and in fact, some of them may be
5 NYCHA housing. The people who are the investigators,
6 and I'm not saying they have to come from NYCHA
7 housing, but have backgrounds that would make it
8 initially very difficult for someone with a complaint
9 to believe that the investigator understands their
10 background. Growing up black in this world is really
11 tough. New York is no--

13 CHAIRPERSON RICHARDS: [interposing] Who
14 you telling? Go ahead. Go ahead.

15 [laughter]

16 JORDAN WOKE: Well, I'm learning more
17 about it. I'm reading more about it. And so if
18 you've forever had difficulty with white authority,
19 coming and speaking to an investigator who has the
20 best of intentions and really would do a very good
21 job, I have to believe that in some cases that will
22 dissuade. Now, there's no solution that I can see,
23 because you can't say we'll hire only those
24 investigators who are of this sort or that sort, but
25 in terms of the effect. So, after all of my time

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2 reading and talking to people, I'm impressed with the
3 direction that the CCRB has been taking over the last
4 few years. I can see what they've done. I can see
5 what they're doing. I'm talking to people. I know
6 where they want to be. So I feel very comfortable
7 that assuming the environment can improve, they're
8 going to continue to do a better job. Thank you.

9 CHAIRPERSON RICHARDS: Thank you for your
10 testimony. Thank you all for coming out today.
11 We're going to close this hearing now, but I want to
12 thank everyone for coming out today. I want to thank
13 the CCRB for the work that they continue to do, even
14 through the many challenges and loopholes and other
15 barriers they face and pursuing justice for those of
16 us who report to them. I want to thank the NYPD for
17 their community policing and all of that good stuff,
18 but want to end by saying the Police Department
19 cannot alone police the Police Department. And the
20 only way to make sure that we really hold those who
21 violate the trust of the public is to ensure that
22 there's more transparency and accountability, and one
23 way to ensure that that does happen is to ensure that
24 there's a stronger CCRB as we move forward. So,

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thank you all for coming out today. This hearing is
now closed on time, one o'clock.

[gavel]

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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 February 13, 2019