

Civilian Complain Review Board Public Meeting  
February 12, 2014

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Public Board Meeting  
Of the Civilian Complaint Review Board  
Wednesday, February 12, 2014  
10:20 a.m.  
40 Rector Street, 2nd Floor  
New York, New York 10006

DR. MOHAMMAD KHALID, ACTING CHAIR  
TRACY CATAPANO-FOX, ESQ., EXECUTIVE DIRECTOR

PUBLIC MEETING AGENDA:

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1. Call to Order
2. Adoption of the Minutes
3. Report from the Chair
4. Report from the Executive Director
5. Committee Reports
6. Old Business
7. New Business
8. Public Comment

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1 BOARD MEMBERS PRESENT WERE:

2

3 Dr. Mohammad Khalid

4 Daniel M. Gitner, Esq.

5 James Donlon, Esq.

6 David G. Liston, Esq.

7 Rudolph Landin, Esq.

8 Jules A. Martin, Esq.

9 Bishop Mitchell G. Taylor

10 Alphonzo Grant, Jr., Esq.

11 Youngik Yoon, Esq.

12 Joseph A. Puma

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1 CHAIRMAN DR. MOHAMMAD KHALID: Good morning,  
2 everyone.

3 THE AUDIENCE: Good morning.

4 CHAIRMAN KHALID: This meeting will come to  
5 order. I am temporarily acting Chairman for the  
6 meeting.

7 The first thing on the agenda today is the  
8 adoption of the minutes from the last meeting.

9 Do we have any --

10 MR. DAVID LISTON: I move to adopt the minutes.

11 MR. JAMES DONLON: Second.

12 CHAIRMAN KHALID: Any seconds?

13 MR. ALPHONZO GRANT, JR.: Second.

14 CHAIRMAN KHALID: All say...

15 (Chorus of ayes.)

16 CHAIRMAN KHALID: Any nays?

17 (No nays verbalized.)

18 CHAIRMAN KHALID: The adoption of the minutes  
19 have passed.

20 The report from me is, once again, I would like  
21 to congratulate the new Mayor De Blasio and the new  
22 Commissioner, Police Commissioner, welcome the new  
23 Police Commissioner Bratton.

24 We are -- CCRB is going to be independently  
25 working, as has been doing previously, and will

1 continue doing their job to the best of our ability,  
2 which, in the past, we've been working very hard.  
3 And I want to thank all the investigators and all  
4 the staff for working diligently to make sure that  
5 the CCRB does its work.

6 I have to report to you, we have a new board  
7 member. After many years that we didn't have a  
8 Manhattan City Council Member, now we finally have  
9 one, which has been appointed, Mr. Joseph Puma. And  
10 he's right here.

11 Mr. Puma, would you like to say a few words  
12 about yourself?

13 MR. JOSEPH PUMA: Sure.

14 Good morning. Very happy to fill this  
15 long-standing vacancy on the board and have been,  
16 you know, just very grateful for the welcome I've  
17 gotten from the staff and the board members, and I'm  
18 really looking forward to, you know, serving in this  
19 role for the residents of New York City.

20 I have a background that -- I have a background  
21 in city government, civil rights law and community  
22 organizing and activism, so I hope to draw from  
23 those experiences while doing the good work of the  
24 CCRB. Thank you.

25 CHAIRMAN KHALID: Welcome. Thank you.

1           Now, the next item is the report from the  
2 Executive Director. Tracy.

3           MS. TRACY CATAPANO-FOX: Thank you, Dr. Khalid.  
4 Good morning, everyone.

5           THE AUDIENCE: Good morning.

6           MS. CATAPANO-FOX: This month, the CCRB received  
7 488 complaints for January of 2014, which is 302  
8 more complaints than in the same period of 2013,  
9 when the Agency only received 186 complaints. But  
10 that can be attributed to the fact that our  
11 toll-free lines were not operational, due to  
12 Hurricane Sandy.

13           In 2013, the Board received 5,393 complaints  
14 within its jurisdiction. This is 349 fewer  
15 complaints than in 2012. It was a 6 percent  
16 decrease in complaint activity, and the total intake  
17 at the CCRB, including complaints within our  
18 jurisdiction and those we refer out, declined in  
19 2013 by 21 percent, to 11,509.

20           The Board closed 151 cases in January. If you  
21 look at the Executive Director's report, you'll see  
22 that there's two different charts. One of the  
23 comments that we had last month was that we are  
24 looking at case dispositions when you talk about  
25 truncation rate versus case resolution rate. And

1 what we did was we put together the charts in the  
2 way that they had been presented in the past with  
3 the truncation rate, and then the way that the Board  
4 in -- had -- in 2013, there were two memos submitted  
5 by the Deputy Executive Director Marcos Soler to the  
6 Board in terms of how to proceed with calling cases  
7 truncated versus case resolution.

8 So what we did was we broke it down. The  
9 statistics are the same. Essentially, there were  
10 151 closed case; 40 of them were full  
11 investigations, and 111 were not full  
12 investigations. But depending on how the Board  
13 wants to break them down in the future, you can see,  
14 we had five mediation closure cases, that's  
15 consistent on both charts, but in terms of how you  
16 refer to cases that are not fully investigated, the  
17 charts are presented in two different ways. And the  
18 Board can then determine how they want in the future  
19 for us to present the disposition of cases.

20 So if you look, you'll see that in the  
21 truncation report, the complaint withdrawn is taken  
22 out on to a separate category of its own, and then  
23 truncated cases are referred to cases where the  
24 complainant was uncooperative, where, either  
25 unavailable or unidentified. So if you look at it

1 on that chart, you'll see that there's 80 cases that  
2 are truncated, 26 that are withdrawn. That gives  
3 you 106 cases.

4 If you look at the new chart with the case  
5 resolution rate, then the case resolution rate would  
6 be, 29 percent of our cases, 45 were resolved with  
7 full investigations, either a full investigation or  
8 a mediation, and the other 106 would be cases where  
9 it is in other dispositions and not full  
10 investigations because either the complainant  
11 withdrew, be uncooperative, unavailable or  
12 unidentified.

13 Again, the numbers are the same, but it's a  
14 matter of how the Board in the future wants us to  
15 lay out those statistics. And that is something you  
16 might want to vote on, you might want to look at it  
17 and vote at the next meeting. And again, we just  
18 lay it out for the Board's review. Great.

19 In January, there were five mediated cases  
20 between civilians and officers. There were actually  
21 six officers. One officer was involved in two cases  
22 and -- leaving us for the year right now with a  
23 total of five mediations. Again, the case  
24 resolution rate, the rate at which cases are fully  
25 investigated, are mediated as a percentage of all

1 the cases we had in January, would be 30 percent,  
2 and then the case of -- leaving 70 percent of cases  
3 where it was withdrawn, uncooperative, unavailable,  
4 victim unidentified.

5 If you're looking at it at a truncated rate from  
6 the past, then we would say the truncation rate for  
7 January was 53 percent. And again, the difference  
8 in that is because we're excluding cases where the  
9 complaint is withdrawn. Okay.

10 To specify cases that the complainant withdrew,  
11 what we're doing now for the Board is showing you  
12 the percentage of cases and why the complainant  
13 withdrew their complaint. So there are 35 percent  
14 of the cases where the complainant had no desire to  
15 follow through; 27 percent where the complainant  
16 could not take the time or did not want to take the  
17 time to give an interview; 23 percent where they  
18 withdrew on advice of counsel; 8 percent where they  
19 just intended to report the complaint; 4 percent  
20 feared retaliation by the officers; and then 4  
21 percent provided no reason.

22 At the end of January, the Agency dockets stood  
23 at 2,706 cases. This is a 13 percent increase over  
24 the open docket from December, where we had 2,394  
25 cases. By the date of this report, 94 percent of

1 our open cases stem from complaints filed within the  
2 last year, and 64 percent were filed in the last  
3 four months. Of our open cases, 609 are awaiting  
4 Panel review, that's 23 percent of the docket; 1,869  
5 are being investigated, which is 69 percent of the  
6 docket; and 231 cases are in the mediation program,  
7 totaling 8 percent of our docket.

8 By date of incident, 24 cases in our open docket  
9 were 18 months or older. This is a 1 percent of our  
10 total docket. There were 14 cases 18 months or  
11 older in December, and the breakdown for our cases  
12 now is as follows: There's two cases on DA hold,  
13 eight cases were filed months after the date of  
14 incident, two cases are late because the Board has  
15 returned it for further investigation or work and  
16 12 cases are pending Board review.

17 In December 2013, the NYPD closed six  
18 substantiated cases involving eight officers. The  
19 NYPD found one officer guilty after trial, and seven  
20 officers received instructions. In 2013, the  
21 disciplinary action rate was 60 percent, and the  
22 Department decline-to-prosecute rate was 27 percent.  
23 In cases where the Department pursued charges and  
24 specifications, the conviction rate was 83 percent.  
25 This includes officers who pled guilty after trial

1 and who pled guilty to charges. The  
2 guilty-after-trial rate was 67 percent.

3 In January, five cases were substantiated by the  
4 Board with recommendation of charges and  
5 specifications, and were added to the APU docket.  
6 In January, the open docket of APU was 136 cases  
7 against 207 officers. Of these cases, three have  
8 been tried, six cases have guilty pleas awaiting  
9 approval by the Police Commissioner, 34 cases are  
10 scheduled for trial, 26 cases are scheduled for  
11 another type of court appearance, 57 cases are  
12 awaiting their initial court appearance, and ten  
13 cases are awaiting the filing of charges.

14 Of those three cases that have been tried by  
15 APU, one case, the Assistant Deputy Commissioner of  
16 Trials rendered a verdict, which is awaiting review  
17 by the Police Commissioner, and the other two are  
18 waiting for the verdict by the Assistant Deputy  
19 Commissioner of Trials.

20 There were a couple of things that were  
21 mentioned last month that I just wanted to update us  
22 on, 100 Church being one of them. It looks like we  
23 are finally moving the weekend of March 15th. That  
24 is our final date, and so by that Monday, we should  
25 be in there. Frankly, that's the last day. I can't

1        imagine why there would be any movement, but they  
2        tell us that there's no question. And we are on  
3        target in terms of moving our computers, our systems  
4        and getting us ready to be there. I've been there  
5        myself. This place looks really nice, it's very  
6        open, there's a lot of space, and I think that it's  
7        going to be a really nice change for the Agency, and  
8        I think the Board will really like it.

9            A new development that occurred is Local Law  
10        103. As of next month, all of our meetings must be  
11        in a public forum. And what we need to do is the  
12        Board needs to vote on whether or not -- according  
13        to the statute, we're supposed to either do a live  
14        stream, webcast live or, if practicable, or we can  
15        archive it and put it on after a video here. So the  
16        Board can determine -- we've met with DoITT, we've  
17        met with DCAS, and what they've told us is that if  
18        we can webcast live, we should; if we choose to  
19        videotape it, we can. But either way, within 72  
20        hours, we have to have it archived and posted on our  
21        website.

22            MR. DANIEL GITNER: If it's webcast, it still,  
23        then, has to be posted?

24            MS. CATAPANO-FOX: Yes. The key is to make sure  
25        it's archived. So in terms of the way the Board

1 wants to proceed, we have to buy the equipment and  
2 set ourselves up so for the next meeting we would  
3 have this capability. I wanted to open it --

4 BISHOP MITCHELL TAYLOR: Is DoITT or -- are  
5 there any additional resources being given to  
6 agencies without that capacity to develop that  
7 capacity?

8 MS. CATAPANO-FOX: Bishop, they want us to pay  
9 for it ourselves. If we couldn't, they would  
10 probably assist us with that, but really it's a  
11 matter of just getting a video camera and then doing  
12 the live stream on the website. So they are  
13 assisting us in the setting it up, but essentially,  
14 each agency has to pay for the costs of any new  
15 system.

16 BISHOP TAYLOR: Okay. So if it's going to be  
17 mirrored with other webstreamed or webcammed or  
18 webcast agencies, like the City Council or -- all of  
19 their meetings are webcammed. They're done, some of  
20 them are done, they're done -- most of them are done  
21 live.

22 MS. CATAPANO-FOX: Yes.

23 BISHOP TAYLOR: And you can view them almost  
24 immediately, but it's on, like, the New York TV or  
25 whatever it is, NYC --

1 CHAIRMAN KHALID: Yeah, NYC 31.

2 BISHOP TAYLOR: -- TV or whatever it is. I  
3 mean, do they want us to comply with that or just  
4 put it on our website?

5 MS. CATAPANO-FOX: We can do it through YouTube,  
6 we can pick a site and put it on through there, but  
7 as long as we archive it onto our website at some  
8 point, and within 72 hours. That's the key.

9 MR. DAVID LISTON: Wouldn't it be ideal if folks  
10 could go to our website and see it there rather than  
11 go some place else?

12 MS. CATAPANO-FOX: Brian, do you --

13 MR. LISTON: Tune in and then they could click  
14 the link -- sorry?

15 MS. CATAPANO-FOX: I'm going to ask the Deputy  
16 Commissioner.

17 MR. BRIAN CONNELL: There can be a link on our  
18 website that transfers you to --

19 MR. LISTON: Right.

20 MR. CONNELL: -- the YouTube video. So it  
21 wouldn't be on our website per se, but there would  
22 be a link to --

23 MS. CATAPANO-FOX: There would be a link to it.

24 MR. CONNELL: -- where it's available.

25 MR. LISTON: Okay.

1 BISHOP TAYLOR: So we have to decide, you know,  
2 which portal we use, but --

3 MS. CATAPANO-FOX: Correct.

4 BISHOP TAYLOR: Okay.

5 MS. CATAPANO-FOX: And again, I leave that up to  
6 the Board. We can talk about it more, I can get you  
7 more information, but essentially, by next month we  
8 have to know whether or not the Board wants to do it  
9 as a live stream or if you want us to have it as a  
10 taped version that then gets updated later.

11 MR. LISTON: Why not have both? I mean, more is  
12 always more when it comes to exposure. People can  
13 watch it live, and then if they miss it, they can  
14 watch it again later.

15 MS. CATAPANO-FOX: Well, we have to tape -- no  
16 matter what --

17 MR. LISTON: Yeah.

18 MS. CATAPANO-FOX: -- we have to preserve it on  
19 our site.

20 MR. LISTON: Sure.

21 MS. CATAPANO-FOX: So it's just a matter of  
22 whether or not we want to do a live stream now so  
23 that everything is in realtime or if we want to  
24 record it now and then upload it within 72 hours.

25 CHAIRMAN KHALID: I think we'll discuss this at

1 the Executive Session and then we can vote on it how  
2 we want to proceed with this. Is that --

3 BISHOP TAYLOR: We know we have to make an  
4 action, so, yeah --

5 CHAIRMAN KHALID: Yeah.

6 BISHOP TAYLOR: -- so we can talk about the  
7 details --

8 MR. LISTON: I don't know why we can't discuss  
9 it at an open public meeting, but...

10 BISHOP TAYLOR: I mean, do you want to decide  
11 now which portal about the --

12 MR. LISTON: Let's do it. Let's make a  
13 decision.

14 BISHOP TAYLOR: But I just don't know what would  
15 be the most effective, cost-effective way to  
16 actually create the portal.

17 MR. LISTON: Well, what if we get it on the  
18 agenda for -- oh, so we do need to make a decision  
19 today, though, don't we.

20 CHAIRMAN KHALID: Yes.

21 MS. CATAPANO-FOX: We have to.

22 CHAIRMAN KHALID: Because it has to be next  
23 month, so we must do it today.

24 MR. LISTON: Right. Then let's get a report --

25 MS. CATAPANO-FOX: I'm going to ask

1 the Deputy -- Brian, do you know the costs in terms  
2 of...

3 MR. CONNELL: Well, one obstacle for doing it  
4 for the next meeting is that, if we do live  
5 streaming, would be, some installation be done. We  
6 have to get a vendor that would set it up. And if  
7 we set it up here, it would then have to be  
8 reinstalled at 100 Church Street. So it's better to  
9 do the --

10 MS. CATAPANO-FOX: We may want to do a videotape  
11 for the March meeting, and then set up a more  
12 permanent live stream once we're at 100 Church.

13 BISHOP TAYLOR: Well, so that's what I'm saying.  
14 I mean, I think that, you know, I have no -- we  
15 should have no problem talking about this publicly,  
16 but, I mean, to talk about to whack the weeds on  
17 which portal --

18 MR. GITNER: I think it does seem weird to talk  
19 privately --

20 BISHOP TAYLOR: Yes.

21 MR. GITNER: -- about us talking publicly, but I  
22 think what we should do is for now we can vote, do  
23 the simple one, which is just videotape it and stick  
24 it on YouTube, or wherever we stick it on, and then  
25 that's in compliance with the laws, as I understand

1 it, so we should be in compliance with the law. And  
2 then next time, after we move to 100 Church and they  
3 tell us what our IT capabilities are, we can get a  
4 report from you guys, you can tell us what's  
5 possible, how much it costs, and we can reconsider  
6 it. But in the meantime, we're in compliance with  
7 the simplest, most cost-effective way.

8 And we can vote now, we don't have to discuss it  
9 anymore, and we can move on to more important  
10 things. That's what I would do.

11 MR. LISTON: If that's a motion, I second.

12 MR. DONLON: I second it.

13 MR. GRANT, JR.: Hold one second. I think what  
14 the Bishop was trying to say there's some details  
15 that I know I don't fully understand.

16 What are the implications of videotaping it and  
17 throwing it onto YouTube? What does that mean? I  
18 mean, I don't understand what that means as opposed  
19 to putting it onto our website.

20 MS. CATAPANO-FOX: We would have to put it on  
21 our website no matter what. In terms of recording  
22 it, we have to have it within 72 hours archived, so,  
23 available on our website.

24 MR. GITNER: So what I would do is the minimum  
25 in compliance with the law, which is videotape it

1 and stick it, archive it on our website. I  
2 personally have no interest in sticking it on  
3 YouTube, I'm sort of saying that as a proxy for the  
4 Web. I would archive it, stick it on our website.  
5 That's, as I understand it, in compliance, which we  
6 should be. And then we can reconsider once we're at  
7 100 Church, what our capabilities are and what  
8 everybody wants to do as a Board.

9 MS. CATAPANO-FOX: It doesn't have to be  
10 YouTube. I mean, the idea is that we don't have --  
11 our website doesn't have the capability to stream  
12 live video, so we have to use another service  
13 similar.

14 MR. GITNER: I understand. So, I understand.  
15 All we have to do is video it, stick the video file,  
16 whatever it's called, on our website so someone can  
17 click it. That's where it should be. You can click  
18 it on our website, you don't need to go to YouTube.  
19 That's the minimum that's required. We should be in  
20 compliance, and then we can reconsider once we move.

21 BISHOP TAYLOR: I mean, and that's just about  
22 setting up a video camera. It's not installing,  
23 like, this, all this --

24 MR. LISTON: A studio or something.

25 MR. GITNER: Exactly.

1 BISHOP TAYLOR: We would set up a video camera,  
2 we tape it, post it on the website, and then we  
3 whack the weeds with what's the best way, whatever.  
4 I agree with that. That's what I was saying before.

5 MR. GITNER: Okay, great.

6 MR. LISTON: I think we're all on the same page.

7 BISHOP TAYLOR: Make a motion.

8 MR. LISTON: A motion's been seconded. Maybe we  
9 can --

10 BISHOP TAYLOR: Yes.

11 MR. GITNER: I move for that.

12 BISHOP TAYLOR: I second that.

13 CHAIRMAN KHALID: Is everybody "yes" on that?

14 MR. GITNER: Yes.

15 MR. LISTON: Yes.

16 MR. GRANT, JR.: "Yes" on what? What's "that"?

17 CHAIRMAN KHALID: Okay. All the way. Okay.

18 MR. GRANT, JR.: Wait, wait, wait. Hold on.

19 What's "that"?

20 MR. GITNER: Videotaping it --

21 CHAIRMAN KHALID: The videotaping.

22 MS. CATAPANO-FOX: For the March meeting. Just  
23 for the March meeting.

24 MR. GITNER: -- and archiving it on our website.

25 MR. GRANT, JR.: Videotaping it and archiving it

1 on our website, and there's a motion on the table?

2 MR. GITNER: Yes.

3 MR. GRANT, JR.: Okay.

4 MS. CATAPANO-FOX: Just for the March meeting.

5 MR. GRANT, JR.: Got it.

6 MS. CATAPANO-FOX: And then you can revisit it  
7 when we give you the costs and how we can do it at  
8 the new location.

9 MR. GRANT, JR.: I just like clarity, guys.

10 MR. LISTON: I agree. Well, for the sake of  
11 clarity, let's just ask, you know, all those in  
12 favor, all those opposed.

13 CHAIRMAN KHALID: So we all in favor of that,  
14 that there will be a videotaping for the --

15 MR. DONLON: Well, I think we should vote.

16 MR. LISTON: The way you do this, the way you do  
17 it is say "All those in favor?"

18 CHAIRMAN KHALID: Oh, okay.

19 MR. LISTON: And "All those opposed?"

20 CHAIRMAN KHALID: All those in favor?

21 MR. LISTON: (Inaudible) for you, unless you  
22 want me to.

23 CHAIRMAN KHALID: No, no.

24 All those in favor --

25 (Chorus of Ayes.)

1 CHAIRMAN KHALID: -- say "aye."

2 So everybody's in favor.

3 MS. CATAPANO-FOX: Okay.

4 MR. LISTON: By the time we go on video, we'll  
5 get that right.

6 MS. CATAPANO-FOX: Last month the Board had  
7 asked me to look into what had happened with the  
8 12 cases that APU had received without the statute  
9 of limitations, or had the statute of limitations  
10 expired. Essentially, it really wasn't 12 cases, it  
11 was 12 officers with eight cases. And in all of  
12 those cases, there was a series of investigators who  
13 had been reassigned the cases, either because they  
14 had -- people had left the Agency, and so there was  
15 delays because of that, as well as Hurricane Sandy.

16 In one of those cases, there was also some  
17 communications going back and forth between DAO and  
18 APU with regard to that case. And then by the time  
19 the charges were able to be served, that would  
20 have -- it expired. So I think that, it is my hope  
21 that the Hurricane Sandy issue will no longer be an  
22 issue, but for those particular cases, that was a  
23 relevant part of why those cases -- why the statute  
24 of limitations had expired.

25 Another thing the Board had asked me to look

1 into --

2 MR. GRANT, JR.: Before we move on, I just have  
3 a question.

4 MS. CATAPANO-FOX: Of course.

5 MR. GRANT, JR.: I mean, I've seen that come up  
6 a couple of times where investigators had left and  
7 things get handed over. Has anything or can  
8 anything be implemented internally to make sure that  
9 the transition, we don't lose time on the statute of  
10 limitations in passing these things on?

11 MS. CATAPANO-FOX: That's a great suggestion,  
12 and yes. What we're doing now is when -- we're  
13 meeting with the team managers earlier on, when  
14 people are leaving, to make sure that the cases are  
15 assigned timely and to make sure that they can move  
16 -- we're also doing 14-month meetings, which the  
17 Deputy Executive Director, Denis McCormick, and I  
18 are doing with each team to go over the cases that  
19 are at 14 months. And if that's part of the delay,  
20 we are making sure that those cases are expedited so  
21 that we can avoid some of these issues that we've  
22 run into before.

23 Some of those cases, they get reported late by  
24 the complainants or by IAB or NYPD, and so that  
25 definitely adds to some of our delays that are built

1 in.

2 But, yes, you're right, we have to make sure  
3 that when an investigator leaves, that we monitor  
4 the cases that they were assigned and make sure that  
5 they're reassigned quickly.

6 MR. GRANT, JR.: And I'll leave this to your  
7 judgement, but the 14-month meeting you think is an  
8 adequate amount of time, it leaves enough time on  
9 the statute of limitations?

10 MS. CATAPANO-FOX: It gives us --

11 MR. GRANT, JR.: Why 14 as opposed to 12? I  
12 mean, does it give you enough time?

13 MS. CATAPANO-FOX: It's been giving us enough  
14 time. I think that it's a good stance. One of the  
15 issues -- and I feel like Mr. Gitner's going to  
16 bring this up -- but we have paperwork delays with  
17 regard to investigators who work really hard and  
18 really try to get these cases together as quickly as  
19 they can.

20 But in terms of the delays that we have with  
21 regard to getting paperwork from NYPD, if we push it  
22 to 12 months, we may still have some of that  
23 inherence in that problem. But by 14 months, we're  
24 at a point where, with most cases, the investigation  
25 is complete. We've interviewed almost everyone or

1 we've interviewed everyone and now we can move  
2 forward.

3 And I can't thank the team managers enough for  
4 working so hard to make sure that those cases are  
5 moving. They're well aware of the monthly meetings.  
6 And each time, we're getting cases -- we have less  
7 cases each month because they're really working hard  
8 to get those cases moving into panels quicker.

9 MR. GRANT, JR.: Thanks.

10 MS. CATAPANO-FOX: So the only other thing that  
11 the Board asked me last month to address was  
12 subpoenas in terms of whether or not a committee  
13 could be created or, to authorize subpoenas of  
14 witnesses who don't want to appear. And I met  
15 with -- I spoke to Corp. Counsel, I addressed the  
16 issue. They said, under the Charter, that would  
17 have to be a full Board vote.

18 MR. LISTON: That may -- I don't disagree, but  
19 we could have a committee at least take an initial  
20 first look, and then, I'm thinking, it could report  
21 to the full Board, and then the full Board would  
22 weigh in ultimately. And that might be a way to do  
23 this.

24 MS. CATAPANO-FOX: That's, I mean --

25 MR. GITNER: I agree with him. That's something

1 we discussed.

2 MS. CATAPANO-FOX: Okay.

3 MR. GITNER: I think that the complications of  
4 the subpoena itself in herding all the cats --

5 MR. LISTON: Right.

6 MR. GITNER: -- that are the Board. It's too  
7 difficult rather than if you have three people who  
8 essentially help the staff and work with the staff  
9 and decide, here are the issues, let's get it  
10 packaged for the Board. It would be much more of an  
11 efficient process.

12 MR. LISTON: And make a recommendation to the  
13 board.

14 MR. GITNER: Absolutely.

15 MR. GRANT, JR.: But we still have the concern  
16 of the time, right? Are you saying that the  
17 recommendation to the Board, complete Board, and the  
18 voting of that has to be at the public Board  
19 meeting?

20 MR. GITNER: No. Well, I don't know because I'm  
21 not Corp. Counsel. But my assumption is that  
22 because it's specific to an ongoing investigation, I  
23 think our practice has been that none of that is  
24 public and that's all done, essentially, in  
25 Executive Session. I don't think it even has to be

1 done in the Executive Session that follows this, I  
2 think it can be done sort of as an Ad Hoc Executive  
3 Session, whatever form we choose. But it can be  
4 done quickly and sort of on the fly as the  
5 investigations occur. And if the committee packages  
6 it in a way that for the Board that's efficient and  
7 quick, it hopefully can be very easily done and  
8 won't have to involve too much back and forth, but  
9 enough so that the Board has the information it  
10 needs to vote.

11 MR. GRANT, JR.: Good. Good. That's my  
12 concern. All right, good.

13 MS. CATAPANO-FOX: Okay. Thank you very much.

14 CHAIRMAN KHALID: Any other questions? Anybody,  
15 any Commissioners have any other suggestions or  
16 questions?

17 MR. GITNER: I have a question about the  
18 statistics.

19 CHAIRMAN KHALID: Okay.

20 MR. GITNER: So, I didn't want to interrupt.

21 So, as I understand it, the intake for January  
22 this year is much higher than it was last year by an  
23 order of 200, 300 cases, in part because of Sandy.  
24 It shut us down last year.

25 So assuming that intake continues to be much

1 higher for several months because of Sandy, and  
2 we're now, we now have an APU, which is a great  
3 thing but also increases the burden on the Agency to  
4 some extent, are we confident that we can handle the  
5 -- well, it seems to me, you know, if you're talking  
6 about hundreds of cases, the obvious increased load  
7 in case work, investigative work, and a significant  
8 portion of which is, as I understand it, are being  
9 sent to APU, I mean, is the system sufficient as it  
10 is now to handle that kind of, those kinds of  
11 numbers, or are we going to end up drowned by July  
12 or August and way behind the eight ball,  
13 particularly because we have this -- I'll address  
14 this later -- but we have the 18-month statute of  
15 limitations that I think should be extended, but  
16 also, we have this horrible backlog that's caused by  
17 our somewhat dysfunctional relationship sometimes  
18 with the NYPD, where our investigations are slowed  
19 because of, frankly, bureaucracy, silly bureaucracy.

20 So I just want to make sure that the Agency is  
21 thinking about this massive increase in numbers,  
22 sort of a superstorm in and of itself for us. How  
23 are we going to handle that? Are we thinking about  
24 that or is it something we should start to think  
25 about or am I totally off base?

1 MS. CATAPANO-FOX: I don't think you're off  
2 base. We have -- a part of what we've been doing is  
3 working towards that as a long-term possibility.  
4 That's why we hired another team attorney. I'm also  
5 reviewing cases so that we can make sure that we can  
6 get the cases to the panels quicker with the team  
7 attorneys. But we might need more team attorneys.

8 MR. GITNER: Do we have a budget for that?

9 MS. CATAPANO-FOX: Currently?

10 MR. GITNER: Yes.

11 MS. CATAPANO-FOX: Not quite.

12 MR. GITNER: To me, we have, we have, even now  
13 with January as the increase, we have the Executive  
14 Director, who has -- I know you have a ton of work,  
15 you spend a lot time working with -- I'm not sure it  
16 should be the Executive Director's role to  
17 constantly be digging into the specifics of the  
18 cases and have to do that in order to make sure the  
19 flow works.

20 It sounds like we don't have the money to hire  
21 the people we need, so how do we get the money to  
22 increase the budget and increase the staff that you  
23 need? And how do we begin by positioning ourselves  
24 so everybody understands that we're going to be --  
25 there's going to be a backlog, there's going to

1 be -- it sounds like there's going to be a huge  
2 problem unless we start thinking about it now and  
3 asking -- planning now, and asking for money to  
4 increase the staff, et cetera.

5 I mean, also, one way, I suppose also could be  
6 to somehow force -- "force" is a strong word -- but  
7 somehow force cases into mediation, which, I know,  
8 is a great program. I'd like to see those numbers  
9 much, much higher. But how do we do that? And  
10 somebody's got to be thinking, I think -- you know,  
11 we have to have, I'm going to call it the five-year  
12 plan, but really the five-month plan to get on track  
13 pretty quickly because I think you, essentially,  
14 could end up, really, with a huge backlog that will  
15 be very difficult to catch up to.

16 MS. CATAPANO-FOX: Well, in terms of mediation,  
17 one of the things that we're doing in order to  
18 increase our mediation numbers is with intake. It  
19 is presented initially, presented not just as an  
20 option but a suggested option for the process of the  
21 cases to the complainants from the onset.

22 THE REPORTER: I'm sorry, can you repeat that,  
23 please.

24 MS. CATAPANO-FOX: Mediation is now presented in  
25 intake as not just an option, but a suggested option

1 for the complainant from the initial onset of the  
2 case.

3 Then one of these ideas that we've actually  
4 tossed around is, when we meet with NYPD, to try to  
5 encourage them to create -- aspirationally, it would  
6 be great if we could have a mandatory mediation for  
7 officers in their first three years. Officers in  
8 their first three years get a significant number of  
9 complaints, mostly because they're new to the job.  
10 And part of it's training, but also part of it is  
11 just the experience of being a police officer.

12 If we could encourage the Collective Bargaining  
13 Agreement to require officers on their first  
14 complaint within the first three years to have to go  
15 to mediation, not to have the option to choose not  
16 to, that could go a long way towards pushing our  
17 numbers and also helping NYPD to better train their  
18 officers about how to behave or how to interact with  
19 the community.

20 MR. GITNER: So I think that's a good idea, but  
21 I have a question. So right now, officers can  
22 refuse mediation --

23 MS. CATAPANO-FOX: Yes.

24 MR. GITNER: -- if the complainant wants it?

25 MS. CATAPANO-FOX: Of course.

1 MR. GITNER: And that's because of the  
2 Collective Bargaining Agreement?

3 MR. LISTON: Well, I think it's also the  
4 thinking, I think, that people think mediation works  
5 better if both parties --

6 MS. CATAPANO-FOX: It's voluntary.

7 MR. LISTON: -- want to be there.

8 MS. CATAPANO-FOX: Essentially, mediation is  
9 supposed to be a voluntary process by two parties  
10 interested in moving towards a goal of resolution.  
11 But there are programs -- when I worked in the  
12 courts, we did require mandatory mediation in some  
13 cases because we felt that for at least the first  
14 90 minutes, if people are required to come to  
15 mediation and they see what it's like, they will  
16 often proceed through it.

17 So you can tell -- the court system does have  
18 matrimonial and commercial mediation where the  
19 parties are directed to mediation for 90 minutes.  
20 If they choose not to proceed, then it goes back  
21 into the regular litigation posture but with the  
22 hope that once they learn about mediation they will  
23 do better and understand that the process is  
24 actually a better resolution for them.

25 MR. LISTON: Exactly.

1 MS. CATAPANO-FOX: So if we could get  
2 officers -- if we could get the NYPD on board with  
3 that, that might increase our numbers.

4 MR. GITNER: Yeah, I think that's a good --  
5 there are lots of systems where judges say, I'm  
6 ordering you to go talk settlement. And sometimes  
7 it works and sometimes it doesn't. But the fact is  
8 is sometimes it works. I think that's something we  
9 should at least study quickly because that could  
10 help reduce the backlog.

11 I know that apparently we have to push the  
12 Collective Bargaining Agreement in one direction, so  
13 I know that's not going to be easy. But we should  
14 study that and we should also be thinking about --  
15 you know, I don't know how this works. I mean, do  
16 we have to go to the City Council to ask for money,  
17 do we go to the Mayor's Office? How do we set it up  
18 so people understand that our teams need more  
19 people, they need more resources to handle what's  
20 clearly coming?

21 MR. GRANT, JR.: Well, one thing I think is that  
22 this sounds like a task for the Operations Committee  
23 to take on in helping to come up with a plan to move  
24 us forward.

25 David, would you agree?

1 MR. LISTON: We have an APU Committee too. We  
2 could do it that way. But one way or the other, I  
3 think it's worthy of getting a bunch of people  
4 around a table to really drill down to each of these  
5 issues and talk about a number of potential  
6 solutions, several of which we've already heard.

7 MR. GRANT, JR.: I just want to make sure we get  
8 it into the right committee's hand --

9 MR. LISTON: Yeah.

10 MR. GRANT, JR.: -- right away and get some  
11 assistance. And I know that, Tracy, you know,  
12 you're sort of in a lot of different things right  
13 now, but I know Marcos can be an asset in helping  
14 the committee move quickly on that also.

15 MR. LISTON: What if we had a joint meeting of  
16 the APU Committee and the Operations Committee to  
17 address these and other related issues?

18 MR. GRANT, JR.: Who's chairing the APU  
19 Committee?

20 MR. LISTON: I am. And it's been a while since  
21 we've had a meeting.

22 MR. GRANT, JR.: Okay.

23 MR. LISTON: We're long overdue. And everything  
24 I'm hearing here reminds me of why we need one.

25 CHAIRMAN KHALID: So why don't we have a

1 combined meeting with the Operations and APU  
2 together, like you suggested.

3 MR. LISTON: And let's aim to have it within the  
4 next two or three weeks. We have to give the public  
5 proper notice of the meeting, but as soon as  
6 possible. That's what I'd like to do.

7 MR. DONLON: All right. There's one thing I'm  
8 concerned about and, you know, I'm not opposed to  
9 increasing staffing, increasing our budget,  
10 increasing our efficiencies, all of those things are  
11 great. But the thing I'm questioning is whether we  
12 are comparing January 2013/January 2014. Of course  
13 there's a huge disparity, but I don't think that  
14 that indicates that we're in a crisis because all of  
15 a sudden now we have a huge increase in our case  
16 load.

17 I mean, again, I'm not saying this to say we  
18 shouldn't do anything we can do to improve the  
19 Agency and the performance, but, you know,  
20 historically, our complaints are decreasing, they're  
21 not increasing. And that, I think, is reflected in  
22 the annual report, which I'll talk about in a  
23 minute.

24 So I just don't think we should be in crisis  
25 mode in the sense that all of a sudden now we're

1 being inundated with complaints, because I don't  
2 think that's accurate.

3 MR. LISTON: Yeah, that's a fair point.

4 MR. GRANT, JR.: And that's an excellent point,  
5 and I think that's why Dan said we should study it,  
6 and that's why I'm saying --

7 MR. GITNER: Study it.

8 MR. DONLON: Yeah, absolutely. What I mean is,  
9 but I just don't want to --

10 MR. GRANT, JR.: No, that's a good point.

11 MR. DONLON: I think that there's an impression  
12 here that we're in --

13 MR. GRANT, JR.: No, no, no, no.

14 MR. DONLON: -- you know, that all of a sudden,  
15 we're being inundated.

16 MR. LISTON: Actually, I think we're just trying  
17 to make sure we don't end up in a crisis.

18 BISHOP TAYLOR: No, but that was my concern too.

19 MR. DONLON: I'm all in favor of anticipating  
20 any problems --

21 BISHOP TAYLOR: Right, right.

22 MR. DONLON: -- and dealing with them. And, you  
23 know, I'm not disagreeing with all of these  
24 suggestions. I think they're great. But I just  
25 don't want to give -- it's a public meeting, and I

1 don't want to give the public the impression that  
2 we're about to be completely --

3 BISHOP TAYLOR: Exactly.

4 MR. DONLON: -- you know, overwhelmed, because I  
5 don't think that's true. But at the same time, I am  
6 entirely in agreement that we could use more  
7 resources and that we're, you know, struggling with  
8 a backlog, et cetera. But it's certainly nothing --  
9 I think we don't want to give the impression that  
10 this is something that's suddenly occurring. This  
11 is something that we deal with, you know, over the  
12 months and the years. It's been a problem.

13 CHAIRMAN KHALID: And I think we have a new  
14 Board member, so I think that whatever the backlog,  
15 what it increases, that we'll be able to solve as  
16 well with the new Board member after four years,  
17 five years.

18 MR. DONLON: That will help.

19 CHAIRMAN KHALID: Yes.

20 BISHOP TAYLOR: I also want to, just for the  
21 record, say that we do have a process already in  
22 place for mediation and, you know, referring people  
23 to mediation, explaining the mediation option. If  
24 you're telling me that we should review that process  
25 more to see if there's more explanation we can give

1 to the complainants, I agree. But I think forcing  
2 someone to go through a mediation seminar or setting  
3 or whatever is not -- doesn't sound constitutional  
4 to me.

5 MR. GITNER: I think it's constitutional, but I  
6 think that whether it's a good idea or bad idea is a  
7 different question. And it just should be the Board  
8 or whatever committee should look at it and think  
9 about it because it could, frankly, increase our  
10 efficiencies, and it could be a good thing, both for  
11 the city, people. They may not fully understand it  
12 --

13 BISHOP TAYLOR: I just don't like the word  
14 "force," like when we say "forcing" people into --

15 MR. GITNER: It should just be a requirement.  
16 You know, you have to think about mediation,  
17 considerate of -- you know, at the same time, we go  
18 forward with certain parts of the investigations. I  
19 mean, we could -- there are all sorts of ways, I  
20 think, we can think about it to maybe make it more  
21 efficient, I'm just suggesting we should -- there  
22 should be talking about it, because I think it  
23 could, it makes -- even if we have a little change,  
24 that could be a lot better.

25 MR. LISTON: Let's have a joint meeting, the

1       Operations Committee and the APU Committee, and talk  
2       about all these issues. I think we should invite  
3       Lisa Grace Cohen as well to speak to us about the  
4       mediation component, and, of course, Laura and Jon.  
5       I think there's a lot to talk about. Sooner rather  
6       than later.

7               MR. GRANT, JR.: And I think to move things  
8       along, prior to that meeting, we could talk to Tracy  
9       and Marcos about getting the analysis done so that  
10       when the committee meets --

11              MR. LISTON: Good point.

12              MR. GRANT, JR.: -- we can sort of understand --

13              MR. LISTON: We need everybody around the table.  
14       We need to do it soon. And I agree with Jim, we're  
15       not in a crisis, but I agree with Dan, we want to  
16       avoid one.

17              CHAIRMAN KHALID: You know, most of the cases,  
18       we routinely offer mediation. And in most of the  
19       cases which we did, there's always an option that's  
20       given to the complainant about the mediation. If  
21       they don't accept it -- the police officer doesn't  
22       accept it, then it's a different story, but...

23              MR. GITNER: I understand that. But, for  
24       example, there could also be a system where the  
25       complainant wants it and apparently the officer can

1 say no. And we could try to implement a system  
2 where if the complainant wants it, it's automatic.

3 I realize that that requires some negotiation  
4 with the Police Department, but I'm not -- to me, a  
5 system like that, in certain circumstances, seems  
6 fair, given our role. And we should study it and  
7 see if it is fair and see what the equities are and  
8 listen to what the Police Department says about it,  
9 one way or the other, and make a decision.

10 But I can see a fair system being set up or,  
11 under certain circumstances, where a complainant  
12 wants mediation, the officer should be, at least in  
13 some instances, I'm not going to use the word  
14 "forced," but the officer should go through that  
15 mediation. And that could be good for everybody,  
16 including that officer.

17 BISHOP TAYLOR: Right. Now, Jules, you always  
18 raised the point of how important it is for an  
19 officer to choose mediation over the other options,  
20 right?

21 MR. JULES MARTIN: Right.

22 BISHOP TAYLOR: Can you talk --

23 MR. MARTIN: As I listen to the debate here, you  
24 know, you have to remember that the bottom line with  
25 mediation is it's not punitive to the officers. So

1 the constitutionality doesn't come into play, as  
2 Bishop has mentioned.

3 And I think that anything that we can do to  
4 foster the mediation program we should do because  
5 it's quicker, the resolution is quicker and the  
6 complainant is satisfied quicker. And we don't have  
7 to go through almost a year-long wait to reach a  
8 resolution. And I think it's good for the officer  
9 too because now you have both parties at the table  
10 understanding both sides. So I think it's a win-win  
11 for the officer and a win for the complainant.

12 BISHOP TAYLOR: And you always say that  
13 officers, they often times would choose mediation  
14 than the other option because it's nothing on their  
15 record permanently.

16 MR. MARTIN: No, it's not on their record.

17 BISHOP TAYLOR: Right.

18 MR. MARTIN: And it's a learning tool and a  
19 teaching tool.

20 CHAIRMAN KHALID: Any other questions?  
21 Anything?

22 MR. GITNER: I have one question.

23 CHAIRMAN KHALID: Go ahead.

24 MR. GITNER: Since the creation of the APU, has  
25 the Board sent more cases for charges than in the

1 past? Do our statistics tell us that? I was trying  
2 to look at it and figure that -- I couldn't, I  
3 couldn't figure that out.

4 BISHOP TAYLOR: Marcos, could you, do you have  
5 any information on that?

6 MR. MARCOS SOLER: There is actually a small  
7 decrease in the proportion of cases than are charges  
8 --

9 BISHOP TAYLOR: Speak up a little bit, Marcos.

10 MR. SOLER: There is a small decrease in the  
11 proportion of cases than are charges by the Board  
12 and in which the Board recommends charges. It  
13 normally was around 70 percent. Right now, it's  
14 slightly lower than the 70 percent mark. But  
15 has not, there's certainly not an increase in the  
16 number of cases they referred, as recommended by the  
17 Board as charges.

18 MR. LISTON: And this is all so new still. I'm  
19 not so sure we can look at that as a trend  
20 necessarily.

21 MR. SOLER: Right. There is -- we have data  
22 from April to the present, and certainly what we  
23 have not seen is an increase in the number of cases  
24 referred to the APU program as a proportion of the  
25 total number of cases.

1 MR. GITNER: Thank you.

2 MR. LISTON: Shall we move the agenda?

3 CHAIRMAN KHALID: Okay. Last time I wasn't sure  
4 that whether Dan Chu has resigned, but now  
5 apparently it's evident that he has resigned. So on  
6 behalf of the Board and on behalf of the Agency, I  
7 want to thank former Chair, Dan Chu, for his hard  
8 work. And he has done tremendous work for the  
9 Agency, and we want to thank Dan Chu for his  
10 services to the CCRB and to the City of New York.

11 With that, next item on the agenda is the --

12 BISHOP TAYLOR: Also, too, Dr. Mohammad, we were  
13 supposed to have a plaque that we usually give --

14 CHAIRMAN KHALID: Yes.

15 BISHOP TAYLOR: -- ceremoniously to the Chairs,  
16 and I think that it was ordered maybe two or three  
17 weeks ago. Why is it -- is it here?

18 MR. CONNELL: There was some revisions to the  
19 actual wording and we have to have it redone.

20 BISHOP TAYLOR: But I thought we were going to  
21 have -- revisions to the wording? Isn't this, like,  
22 basic, like, take the last Chair out and put the new  
23 Chair in?

24 MR. CONNELL: No. We have to come up with  
25 different wordings for the Chair. And when we print

1 it, we get the proof back, and the proof, the  
2 wording was not accurate. And we have to send it  
3 back to the --

4 BISHOP TAYLOR: And so if we wanted to have it  
5 ready for today -- okay, I got you. So the proof  
6 came back too late to have it ready for today.

7 MR. CONNELL: Correct.

8 BISHOP TAYLOR: Okay.

9 CHAIRMAN KHALID: So hopefully we'll have it  
10 next time?

11 MR. CONNELL: It'll be ready tomorrow. And it  
12 will be UPSed to us within a couple days.

13 CHAIRMAN KHALID: Okay.

14 MR. CONNELL: So we certainly will have it for  
15 the next meeting.

16 BISHOP TAYLOR: Tomorrow. Excellent.

17 CHAIRMAN KHALID: Thank you.

18 Next item on the agenda, the committee reports.  
19 Committee reports.

20 MR. DONLON: Reports and Recommendations  
21 Committee, I can report that the annual report is --  
22 the draft is complete; it's been reviewed. Marcos  
23 is sending it to the Police Department for their  
24 usual review, and it should be ready to go to print,  
25 I would think, within the next -- I don't know what

1 the turnaround time is for the Police Department.

2 Two to three weeks?

3 MR. SOLER: The Executive Director will  
4 determine the amount of time that we're going to  
5 allow them to review it.

6 MR. DONLON: Right, okay.

7 MS. CATAPANO-FOX: Right.

8 MR. SOLER: And we certainly want to give them a  
9 very close deadline. We think ten days might be --

10 MS. CATAPANO-FOX: He said ten days.

11 MR. SOLER: -- ten days might be sufficient.

12 MR. DONLON: That's -- okay. So then sometime  
13 within the next month it should go --

14 MR. SOLER: Yes.

15 MR. DONLON: -- to the printer? Okay.

16 And on the semi-annual report, I know last time  
17 we said it was at the printer.

18 Linda, do you know offhand, or Marcos, where  
19 that's at?

20 MR. SOLER: That was already released.

21 MR. DONLON: It's on the website, I know.

22 MR. SOLER: You can find it on the website.

23 Also, the hard copies came. We distributed to the

24 --

25 MR. DONLON: We haven't gotten them, as far as I

1 know.

2 MR. SOLER: Oh, the Board didn't get them? I  
3 apologize.

4 MS. LINDA SACHS: Okay. I'll make sure you get  
5 them.

6 MR. DONLON: Okay. But that's -- it's out  
7 already, so that's good. All right. And that's it  
8 for that report.

9 CHAIRMAN KHALID: The other thing I wanted to  
10 report to you that the Police Commissioner has  
11 reached out to the CCRB for a meeting with the  
12 Board, and we are in the process of hopefully  
13 setting a meeting with the new Police Commissioner  
14 very soon in the near future.

15 MR. GRANT, JR.: I just want to make a point on  
16 that, and, you know, I think -- you know, my concern  
17 is that we don't have a Chair appointed to be our  
18 leader to help cement our concerns and our voice.  
19 And certainly having an important meeting like that  
20 would be the importance that goes with first  
21 impressions. I think Commissioner Martin had  
22 suggested that we come up with an agenda for that  
23 meeting.

24 I think we've already pushed it back from the  
25 original closed date by the NYPD to a March date

1 with the hopes that, you know, we would have a Chair  
2 appointed by then. But certainly, it would give us  
3 more time to come up with a, you know, a cohesive  
4 agenda that everybody's on board with on our time  
5 frame.

6 But my -- I guess the reason why I'm making this  
7 statement publicly is that, you know, we need a  
8 Chair. This is not good for the Agency to not have  
9 someone that is the day-to-day person for the Agency  
10 to interact with the Executive Director and the  
11 staff. And it is difficult enough having to report  
12 to one or two people, but having to report to a  
13 Board, as the Executive Director, I can imagine  
14 would be very tough. And we're trying our best to  
15 sort of move that process forward.

16 I know we are going to, as a Board, designate or  
17 vote on an Executive Committee that would serve the  
18 function of the interim Chair to help the Executive  
19 Director deal with the day-to-day issues that come  
20 up. But just for the record, I encourage the Mayor  
21 and City Hall to really move forward quickly to help  
22 us to get a Chair designated so we can continue to  
23 build on the great work that this Board has been  
24 doing over the last couple years.

25 BISHOP TAYLOR: I second that motion.

1 MR. LISTON: I also want to just commend our  
2 Executive Director and our staff for doing such a  
3 great job, as always, and it's probably more  
4 difficult without a Chair. And we hope to have that  
5 resolved quickly, but we should thank you for  
6 everything you're doing to keep the ship moving  
7 forward in the meantime and as always.

8 MS. CATAPANO-FOX: Thank you.

9 CHAIRMAN KHALID: I hope that we should be  
10 having a new Chair by the new Mayor soon, and I'm  
11 sure everything will work out. So we can wait on  
12 the Police Commissioner meeting till the new Chair  
13 is appointed or whatever. The committee can make a  
14 decision meeting the Police Commissioner, and  
15 whatever the public agenda is, we can discuss with  
16 the Police Commissioner.

17 MR. LISTON: For whatever it's worth, I hate to  
18 put off the meeting too long. I think it's an  
19 opportunity to meet the new Commissioner. And  
20 hopefully we'll have a Chair very, very soon, but  
21 I'd like to suggest that we not put off that meeting  
22 too much longer.

23 CHAIRMAN KHALID: Okay. So we can set up a  
24 meeting --

25 MS. CATAPANO-FOX: Absolutely.

1 CHAIRMAN KHALID: -- Tracy, and then we can move  
2 forward from there.

3 Any other questions? Any...

4 (No response.)

5 CHAIRMAN KHALID: Good. Any old business?

6 (No response.)

7 CHAIRMAN KHALID: Any new business?

8 MR. GITNER: I want to encourage that, since  
9 I've been on the Board since, I don't even remember,  
10 you know, seven months or so, we've not had a  
11 meeting with the Police Commissioner. So we will  
12 have one in a month or so, apparently, and  
13 apparently, historically, we've had meetings once a  
14 year with the Police Commissioner. I think that  
15 it's woefully insufficient. I think it's totally  
16 inadequate and that there should be, I'm going to  
17 say at least double it and say twice a year. But I  
18 think there should be a meeting once a quarter.

19 And if the Police Commissioner's too busy, which  
20 I understand he might be, he's very important, has a  
21 lot to do, we should meet with him twice and some  
22 sort of high-level designee twice once a quarter.  
23 And that would allow us to constantly keep our  
24 issues in his mind instead of, you know, let's talk  
25 once a year, I'll see you again next February when

1 we repeat everything that we're talking about now  
2 because we still have the same issues and the same  
3 problems; whereas, if we have regular meetings, it's  
4 almost like the issues will to be -- have to move.

5 So I want to encourage more frequent meetings  
6 and more frequent dialogue in some capacity. I  
7 think it's very, very important. I think it's  
8 something we should talk about when we meet with him  
9 and maybe beforehand. I don't know if it's  
10 something we talk to him about or his designee or  
11 whatever.

12 MR. LISTON: Let's discuss it with him directly.

13 MR. GITNER: Yes.

14 MR. GRANT, JR.: Yeah --

15 BISHOP TAYLOR: Just point of information -- oh,  
16 yeah. Go ahead, I'm sorry.

17 MR. GRANT, JR.: Go ahead. Go ahead.

18 BISHOP TAYLOR: I was just going to say --

19 MR. GRANT, JR.: I was going to say the same  
20 thing.

21 BISHOP TAYLOR: Oh, okay. Point of information,  
22 Dan. I think that, you know, Dan has had, when he  
23 was Chair, regular meetings with the PC, more than  
24 we've had in the past, and constant communication  
25 with the Department, which was really a stark

1 difference with what we did in the past. So I think  
2 that that has already begun. So...

3 MR. GITNER: I think that's great. I mean, I,  
4 you can even hear from me, I didn't know about it.  
5 So I think it should be the kind of communication  
6 that gets filtered to the Board, and then the  
7 Board --

8 BISHOP TAYLOR: Well, when you say you didn't  
9 know about, I mean, he's talked about it in public  
10 meetings saying, "I talked to the Commissioner," "I  
11 met with the Commissioner," the six and seven months  
12 you've been here.

13 MR. GITNER: Well, look. I think Dan was a  
14 great Chair, so I'm not criticizing Dan at all.

15 BISHOP TAYLOR: No, no, no. I didn't suggest  
16 that.

17 MR. GITNER: What I'm saying is that I think the  
18 nature of the communication should then change, and  
19 I think it should be a little more formalized and  
20 there should be meetings, not just -- and we should  
21 continue the meetings with the Chair.

22 BISHOP TAYLOR: No, I agree with you totally.

23 MR. GITNER: I agree with that, but there should  
24 be more formalized communications between the Board  
25 so we can continue to have our agendas, which I

1 think are very important, and keep, you know,  
2 pushing what we think is important at a high level.

3 I think, then, our problems will at least be  
4 thought about over there, if not solved. They'll at  
5 least know what we're thinking about. And when they  
6 have issues, they'll know how we might respond.

7 For example, I think, and Tracy raised this  
8 earlier, there is a horrible problem, I think,  
9 between the Investigations Unit, our Investigations  
10 Unit, and how they obtain documents from the NYPD.  
11 And I've raised this before. I'm not speaking on  
12 behalf of the Investigations Division, it's just me  
13 when I say it's "a horrible problem."

14 But, you know, when our people want very simple  
15 documents and, frankly, I think uncontroversial  
16 documents, they have to essentially send -- instead  
17 of sending our request, say, to the command or the  
18 precinct for a command log or a 250 or whatever,  
19 they have to send it to IAB, who assigns it a  
20 number, who then decides if it's approved or not,  
21 and then it goes to this person and that person.  
22 And it's been my understanding, at least, it can  
23 take up to three months to get very simple  
24 documents. And we've heard before about how this  
25 lag in investigations can really hurt our ability to

1 investigate. Memories fade.

2 If there's an issue, for example, someone wants  
3 to show a photo array, you know, you're five, six  
4 months later, you may not be able to do that photo  
5 array; you may not be able to identify an officer.  
6 And that can be good or bad for -- I'm sorry, bad  
7 for either the -- both the complainant and the  
8 officer. It's a bad thing, I think, for the NYPD to  
9 have this kind of, this bureaucracy.

10 I think this -- if we're able to sort of foster,  
11 put that, for example, on our agenda and keep it on  
12 the agenda, and keep talking to the right people.  
13 I'm not saying the Police Commissioner has to get  
14 involved in any degree, but there should be regular  
15 meetings, not just at our level, but at staff level  
16 between their designee and our designee where their  
17 problems are aired and solutions are found. If  
18 solutions can't be found, it trickles up to the  
19 higher-level meetings. You know, those kinds of  
20 problems, I think, are difficult and important.

21 And I think, also, you know, based on what I've  
22 seen publically, it's very consistent with what the  
23 new Police Commissioner and the new Mayor have said,  
24 in terms of streamlining a lot of the processes in  
25 other contexts and categories. And I think I'm -- I

1 don't think I'm saying it in controversial, I  
2 actually think what I'm saying is we need to get on  
3 board with what they're saying about everything else  
4 they're doing.

5 BISHOP TAYLOR: Well, I think finally the  
6 Administration is getting on board with what we've  
7 already been saying and what the Agency objective  
8 has already been. So I think to have a Mayor that  
9 is thinking progressively and then addressing stop  
10 and frisk, you know, aggressively, and -- you know,  
11 I met -- we were at a meeting at PC -- One Police  
12 Plaza yesterday with the Police Commissioner, and  
13 he, he's talking, you know, very sternly about  
14 really changing some of the structure in some of the  
15 operations even with CCRB, and make -- so I think  
16 that we have to give a chance to -- so I think  
17 you're absolutely right. They're moving in a  
18 direction already and we've already been moving in a  
19 direction. I think it's going to be an easier fight  
20 for us, a lighter lift for us with this  
21 Administration than it's been in the past. That's  
22 just what I feel.

23 MR. GITNER: Well --

24 CHAIRMAN KHALID: And in the past, Dan, I wanted  
25 to tell you something that whenever we had a meeting

1 with PC, the Executive Director sent a message to,  
2 an e-mail to all the Board members whatever their  
3 thoughts of the agenda is, and we put that together.  
4 And we always did that with Ray Kelly. And so I  
5 think that this, moving forward, we're going to do  
6 the same thing. You know, they're only there for  
7 six weeks. So we are going to do that as far as --  
8 as a Board, we have met with the Commissioner Kelly  
9 probably, maybe, seven --

10 BISHOP TAYLOR: Oh, yes.

11 CHAIRMAN KHALID: -- six, seven times already.

12 MR. GITNER: I'm not criticizing what happened  
13 in the past. I'm not saying that -- what I'm saying  
14 is that I think this is, frankly, a good  
15 opportunity. And I know they've only had six weeks,  
16 I'm just trying to make sure we are thinking about  
17 it and getting on board with it and doing it.

18 You know, I don't necessarily want to wait for  
19 them to come to us, although I'm sure they will, I  
20 think we should also be knocking on their door.  
21 And, look, six weeks is not a lot of time, I agree,  
22 but we can also be knocking on their door saying,  
23 here's what we want to do.

24 BISHOP TAYLOR: But I just think that, you know,  
25 Dan --

1 MR. GITNER: I'm not being critical and I'm not  
2 trying to compare this Administration or that  
3 Administration at all. Period.

4 BISHOP TAYLOR: I think we should just continue  
5 the good work that we're doing --

6 CHAIRMAN KHALID: Yeah.

7 BISHOP TAYLOR: -- all right, and they're  
8 going -- you know, we're asking the Administration  
9 to, you know, expedite the appointment of a Chair.  
10 So we can continue doing what we're doing, but, I  
11 mean, let's just continue doing the great work that  
12 we're doing.

13 CHAIRMAN KHALID: And the C --

14 BISHOP TAYLOR: We have an APU unit, we have to  
15 reduce --

16 MR. GITNER: All I'm saying -- I'm not saying  
17 we're not doing great work. All I'm saying is I  
18 think there should be -- I think quarterly would be  
19 better, but I realize that's a lot of work -- I  
20 think there should be more high-level communication  
21 between the Police Department and the Board. And it  
22 can be a committee of the Board or the eventual  
23 Chair or whoever. But I think there are real issues  
24 that deserve discussion. Period.

25 I'm not being critical of what happened in the

1 past. What happened in the past is the past and was  
2 right at the moment. I'm saying, in my view, maybe  
3 you disagree, that's fine, in my view, we should be  
4 pushing in that direction. That's all I'm saying.

5 For example, if you look at, like, their  
6 decline-to-prosecute rate, it's, like, whatever,  
7 28 percent or something. There should be some  
8 communication between the Board and the Police  
9 Department about why. Why are they, when we say  
10 there should be discipline, or whatever kind of  
11 case, why, in over a quarter of those cases, do they  
12 disagree? I have no idea. I'm not saying they're  
13 wrong and I'm not saying they shouldn't have the  
14 final authority, but I'd like to know. And I,  
15 frankly, would like them to know why we, as a Panel  
16 or a Board, thought there should be. And I think  
17 that kind of communication, that number will shrink  
18 because we'll then ask better questions and they'll  
19 ask better questions.

20 And it's strange to me that after all of the  
21 intense work that the investigators do and they put  
22 together these wonderful reports, and then I know  
23 the Panel's spent a lot of time thinking about these  
24 cases, that over 25 percent of those cases, we're  
25 told, sorry, we totally disagree, and there's zero

1 back and forth about why. We don't -- it's like,  
2 it's like a verdict, guilty or not guilty, and you  
3 don't get to ask the jury why.

4 You know, in the APU context, you can actually  
5 say why. It's built into the system where we're  
6 allowed to say, can you please tell me why, and they  
7 say, here's why and whatever. It's not that we can  
8 change their mind, but at least there's discussion.

9 And I think in the lower categories, the  
10 instructions and the command discipline, I don't  
11 understand why we don't have that built in somehow  
12 also. To me, it's even more important to have  
13 discussion there because at least with the APU, you  
14 have this whole trial, this whole process aired out,  
15 so you can have some back and forth sort of within  
16 the process. In the command discipline and  
17 instructions process, it's all on paper, and so you  
18 don't have the back and forth at all. I think it's  
19 even more important to have that.

20 So I would see -- like to see that kind of  
21 discussion being whispered to the Police Department,  
22 and they can tell us if they disagree. If they  
23 disagree, fine. But at least, I think, beginning  
24 that kind of dialogue will be very, very important  
25 to solve -- it will make us more efficient, it will

1 make our decline-to-prosecute rate, I think, go down  
2 because we -- and I think it's better for the, I  
3 think it's, frankly, better for the Police  
4 Department and it's better for the citizens.

5 And I'm not criticizing what's happened before.  
6 I'm not saying that there was bad communication  
7 before. I'm saying it should change a little bit  
8 now because life changes, things are different now,  
9 there's a new Administration, there's new policies.  
10 As far as I'm concerned, what I'm saying is totally  
11 consistent with what they said --

12 MR. MARTIN: Dan --

13 MR. GITNER: -- and we should go forward.

14 MR. MARTIN: -- we have to remember that it was  
15 the Police Commissioner who reached out to us. So  
16 that speaks volume. In terms of --

17 MR. GITNER: I agree.

18 MR. MARTIN: -- his interest in knowing what we  
19 do, how we do it, what our needs are. I think that  
20 when we develop this agenda it should be a carefully  
21 thought-out agenda because we're going to have a  
22 defined amount of time to meet with the Police  
23 Commissioner.

24 And secondly, we don't want to come across as  
25 whiners. We want to have some really mega issues

1 that we've been dealing with so that this is the  
2 first impression that he would have of the Board.  
3 Not those small issues -- not that the small issues  
4 don't count, but we should go with mega issues that  
5 we think that is on the top in terms of our  
6 priorities.

7 MR. GITNER: I completely agree with that. I'm  
8 just saying that I, in addition, and I appreciate  
9 that he reached out to us, I think it's great, I'm  
10 saying that I'm hopeful that he'll reach out, it  
11 will not be where we have one meeting a year and see  
12 him again next February or next March.

13 MR. MARTIN: Right. No, I'm saying that to say  
14 that we should go in and make requests. Not -- you  
15 know, I don't think this is the meeting for demands  
16 because if he reached out to us, that means that he  
17 is willing to listen.

18 MR. GITNER: I totally agree. I don't think  
19 we're in a position to start a demand; I do think  
20 we're in a position to help him understand where  
21 we're coming from, and, also, we want to understand  
22 where he's coming from.

23 BISHOP TAYLOR: So we'll all have an opportunity  
24 to submit our detailed topics for discussions, and  
25 I'm sure yours will be the longest of them all. And

1 we'll go from there. Yeah.

2 CHAIRMAN KHALID: And also, in the past, the  
3 Executive Director and senior staff have been  
4 meeting with their staff, with the Police Department  
5 with any issues, and I'm sure Tracy has been meeting  
6 Marcos. And it has happened in the past, there's  
7 nothing new. But --

8 MR. LISTON: We're having a lot of discussion  
9 about something that's already been made perfectly  
10 clear.

11 MR. GITNER: Yeah, right.

12 MR. LISTON: Dan is just saying, let's have more  
13 meetings, and that's a good idea.

14 CHAIRMAN KHALID: Well, if we have an agenda,  
15 I'm sure that the Police Commissioner will be  
16 listening to us when we say that we have an agenda,  
17 we'd like to meet you more times. And I'm sure that  
18 he will be gracious to meet us more times, if we  
19 have an agenda.

20 MR. LISTON: Excellent.

21 CHAIRMAN KHALID: Any other questions?  
22 Anything?

23 BISHOP TAYLOR: No more committee reports,  
24 right?

25 CHAIRMAN KHALID: No more --

1 MR. LISTON: I hope not.

2 CHAIRMAN KHALID: Public comments?

3 Mr. Chris Dunn.

4 MR. DUNN: Of course. But now I have to try to  
5 be brief. I'm going to stand over here because the  
6 Reporter asked me to stand over here. My apologies.

7 First, I want to introduce -- where'd she go?  
8 She left?

9 MS. TOLLIVER: I'm right here.

10 MR. DUNN: Oh, Candis. Here she is. Candis  
11 Tolliver's an organizer with the NYCLU, who you will  
12 see more of.

13 MS. TOLLIVER: Hi.

14 THE BOARD: Hi.

15 MR. DUNN: All right. So on this PC business,  
16 Dan, you're right about more meetings. And I  
17 understand this problem about not having a Chair.  
18 I'm prepared to make the sacrifice and be the acting  
19 Chair. So let me know.

20 MR. LISTON: That would be a sacrifice.

21 MR. DUNN: On the subject of new members,  
22 Mr. Puma, welcome to the CCRB. I understand you  
23 were here last month. Here's a question I have.  
24 I'm familiar with your background and appreciate the  
25 comments you made. I ask this of every single new

1 CCRB appointee. I don't see a lot of experience  
2 with policing issues in general, and the NYPD in  
3 particular, so I'm interested in what perspective  
4 you bring to the CCRB in terms of our friends at the  
5 NYPD.

6 MR. PUMA: Right. Well, you know, it is true  
7 that I don't have a lot of professional experience  
8 dealing with NYPD issues. I think, you know, the  
9 building blocks, though, have come from lots of  
10 different experiences.

11 One is my time having worked in city government,  
12 especially 6.5 years at the Office of Management and  
13 Budget. So I got a real sense of just how things  
14 run and working with agencies. But certainly, yes,  
15 that aspect of that day-to-day sort of police  
16 work/patrol work, that certainly doesn't come  
17 through very much at working at OMB. So, but I  
18 think that perspective certainly, you know, is one  
19 building block. The other is just being a lifelong  
20 New Yorker, growing up in public housing. And so  
21 having sort of those perspectives as well.

22 And that sort of brings in my work, especially  
23 in the Lower East Side, on public housing issues.  
24 Though we don't work, at the organization that I'm a  
25 part of, Good Old Lower East Side doesn't work

1 directly on police issues, we, you know, certainly  
2 are conscious of issues regarding, you know, NYPD  
3 and public housing.

4 Also, another aspect of my experience that I  
5 think is helpful is having been a paralegal at the  
6 NAACP Legal Defense Fund. And so -- which I'll call  
7 "LDF." LDF does have a Criminal Justice Unit, and I  
8 did work on some cases. LDF's cases tend to be more  
9 focused on capital defense and juvenile  
10 life-without-parole sentencing. LDF was involve --  
11 is involved in one of the -- the Davis case, which I  
12 didn't work on very much, actually.

13 But, so I think it's just -- and at LDF, I did  
14 work with a good number of attorneys who were public  
15 defenders. So I think just learning from them and  
16 having worked on those cases, you know, brings it  
17 all together.

18 MR. DUNN: Well, welcome to the Board. You're  
19 filling some very big shoes. Denis, who has been  
20 gone for four years now, was a terrific influence to  
21 the Board. He was a little bit of a loose cannon,  
22 and Dan is filling his role. So he's the guy you  
23 want to spend time with. Stay away from some of  
24 these other people. But, okay.

25 All right. On the report, Tracy, I appreciate

1 your reporting on some of the changes in the  
2 formatting of the report. I think that's important.  
3 You didn't mention, I don't think, but there's also  
4 a whole section about the APU Unit in the report?

5 MS. CATAPANO-FOX: Yes.

6 MR. DUNN: Which, actually, is very helpful.  
7 Thank you on that.

8 On the subject of the big increase in  
9 complaints, Dan, I must say, I'm always happy to  
10 hear Board members say "disaster," but I must say  
11 that I'm a little less worried by the APU  
12 implications that you're suggesting both -- for  
13 several reasons. First, given the truncation rate  
14 and the low substantiation rate and the number of  
15 months it takes to complete an investigation, gets  
16 completed, we are probably talking about a  
17 relatively modest number of cases at some point well  
18 down the road actually ending up in APU.

19 And to go to Jim's point, that increase is a bit  
20 of an artificial increase because there was such a  
21 drop off because of Sandy-related ability to file  
22 complaints with the Agency. And it's not that the  
23 Agency lost a lot of staff during that time because  
24 the complaints came down, it did not; the staffing  
25 remained the same, it's just the complaint activity

1 went way down. The staff work went way down because  
2 of the work situation. But you have the same  
3 staffing, you're back to what are more typical  
4 numbers. I'm a little less worried about the number  
5 of complaints that came in this month.

6 I am worried, though, about something you  
7 raised, which is the 18-plus month cases. That  
8 docket has blown up, and I don't understand why.  
9 There were two cases -- there were genuine 18-plus  
10 month cases last month, and you're now to, like, 12.  
11 I don't know what happened there, but that's a very  
12 big problem. And there had been some controls that  
13 were in place, I think, to catch those cases.  
14 Somebody's got to look at that.

15 And Tracy, your report about the APU blown  
16 statute limitations cases we talked about last  
17 month, I'm not very consoled by that because  
18 investigators come and go all the time. And to  
19 suggest that the problem is a problem when an  
20 investigator leaves and a case sits there, if that's  
21 a problem in the Agency, that's got to be a priority  
22 because turnover is just a constant.

23 One thing you did not mention we talked about  
24 last month was the question about why so few cases  
25 are coming through from the Department. Again, we

1 have another month where there are very few cases  
2 that came through from the Department, and there  
3 were some issues about whether or not that was  
4 because cases were getting diverted to APU. I don't  
5 know if that's an answer to that or not, but there  
6 are virtually no cases coming back from the  
7 Department at this point.

8 Is that something that anyone has any more of a  
9 sense about?

10 MR. GITNER: Are you talking about  
11 dispositions --

12 MR. DUNN: Yes.

13 MR. GITNER: -- from the Department?

14 MR. DUNN: Yes. I think there are only eight  
15 this month; there were like four last month. I  
16 mean, there are a tiny number of cases that are  
17 coming through. I think someone needs to find out  
18 on, we don't have to call Commissioner Bratton, but  
19 someone needs to find out how come you're not  
20 getting any cases back.

21 The subpoena issue. Glad to see you're pursuing  
22 that. I'm looking forward to the day that the Board  
23 subpoenas somebody. Dan, I agree that the  
24 discussion about subpoena in an individual case is  
25 Executive Committee discussion, but the fact that

1 the Board issues a subpoena should be reported  
2 publicly. It does not have to be any discussion  
3 about the cases, but that would be an important fact  
4 because I don't think it's ever happened before.

5 And it goes to your point, which you couched in  
6 pretty dramatic terms, but I think it's completely  
7 true, which is sometimes it's like pulling teeth  
8 getting documents out of these guys. And whether  
9 that's by design or just by the normal inertia,  
10 that's something that has to change. And the  
11 18-plus-month-case problem is the best evidence  
12 there is. That has got to change. That just cannot  
13 be happening.

14 Okay. There were a number of comments made  
15 about, "we should talk about something in Executive  
16 Session," and then, I'm referring to what David  
17 said, "no, no, we should do it in public." I just  
18 want to reiterate, particularly for the new people,  
19 the Open Meeting Law applies. I think there has  
20 been a clear tendency for some time for the Board to  
21 be making decisions in Executive Session or perhaps  
22 by e-mail that doesn't happen in a public meeting.  
23 And so I want to say to all of you: Keep that in  
24 mind. You all have a legal obligation to make sure  
25 things are happening in public meetings.

1           Somewhat unrelated to that, one of my friends  
2           inside the Agency, and I'd like to think I have many  
3           of them, sent me an e-mail that went out from Denis  
4           at the end of January concerning the way the Agency  
5           is now dealing with cases that are being referred by  
6           the Department as opposed to, are coming directly to  
7           CCRB. And that e-mail starts: "The Board approved  
8           cases being administratively closed under the  
9           following circumstances." And it goes on to set out  
10          a new procedure by which cases that come from the  
11          Department are going to be handled by the Agency,  
12          which involves far less effort on the part of the  
13          Agency to get the complainant to participate in the  
14          investigation.

15          I don't recall there being any discussion about  
16          that amongst the Board in public session, and I  
17          don't know if this is an artfully written e-mail,  
18          but there are two things that this raises. First,  
19          if the Board decided this, it should have decided  
20          this in public; and second, this decision, whoever  
21          made it, reflects a substantial change in CCRB  
22          practice.

23          And as I understand it, about 40 percent of the  
24          cases are coming from the Department, and,  
25          therefore, we are in a situation now, if this e-mail

1 is correct, that the Agency is going to be using a  
2 much less rigorous process for dealing with these  
3 complaints and it's going to be closing them much  
4 more easily.

5 So I guess the question I have is, what's the  
6 deal on this?

7 MS. CATAPANO-FOX: Who sent the e-mail?

8 MR. DUNN: Denis.

9 MS. CATAPANO-FOX: Who sent it to you?

10 MR. DUNN: Tracy, you know I'm not going to tell  
11 you that.

12 MS. CATAPANO-FOX: Okay. Just wanted to ask.

13 MR. DUNN: But of course you can ask.

14 MR. LISTON: What is our policy with regard to  
15 distributing the e-mails outside of the CCRB?

16 I know that that's not the real issue you're  
17 raising, but it raises a concern for me in terms of  
18 confidentiality. And I'm not asking you the  
19 question --

20 MR. DUNN: Yes.

21 MR. LISTON: -- but I'm asking my fellow Board  
22 members, do we not have a policy in place with  
23 regard to confidentiality of our communications?

24 MR. DUNN: You can rest assured, if you had a  
25 policy in place to retaliate against people for

1 distributing an e-mail like this, that would be an  
2 unconstitutional policy and we'd be having a  
3 conversation about that.

4 MR. GITNER: I don't think that's what he's  
5 suggesting.

6 MR. DUNN: Okay. Well, I heard the first  
7 reaction, why don't we have a policy that prevents  
8 people from doing this.

9 MR. LISTON: No. Actually, I just asked if we  
10 have a policy.

11 BISHOP TAYLOR: I think that you raise a very,  
12 very important point, and I'm in concert with what  
13 you're saying. I don't remember any Executive  
14 Session that approved this particular e-mail, and so  
15 if you can just give us a chance to discuss this, I  
16 mean --

17 MR. DUNN: Of course.

18 BISHOP TAYLOR: -- we're discussing it now, I  
19 don't remember -- I, you know, I read all the --

20 MS. CATAPANO-FOX: We had a meeting in November  
21 that we talked about it, that --

22 BISHOP TAYLOR: -- public meeting minutes of the  
23 past to try to find when that probably was done, and  
24 we didn't have a public discussion on it. I don't  
25 remember a private discussion on it, but I think we

1 need to, as a Board, discuss this to figure out how  
2 that e-mail was transmitted and why there is that  
3 significant change without broader Board discussions  
4 publicly. You're right about that.

5 MR. LISTON: And I also want to, if I may, be  
6 clear that I've often been the first to say, or the  
7 second or third to say, we need to do more of our  
8 discussions in public. The Open Public -- I agree  
9 with Chris about the Open Public Meetings Law. It's  
10 very important. And we should only be discussing in  
11 Executive Session those matters that are  
12 specifically exempt from public discussion, employee  
13 issues, personnel issues. But otherwise, everything  
14 should be in the clear light of day.

15 I'm not happy about the idea nor would any  
16 agency be happy about the idea of e-mails being  
17 leaked, if you will. But that's a separate issue.  
18 And the main issue that you raise is public  
19 meetings, and I'm all for them. And we need to be  
20 more careful about being more public.

21 BISHOP TAYLOR: But I think, Liston, what he,  
22 Dave, what he really raises is not more public  
23 meetings, it's the fact that there was an e-mail  
24 that was sent out that there was no public  
25 discussion on.

1 MR. LISTON: Well, I think, if I understand  
2 your --

3 BISHOP TAYLOR: Right?

4 MR. LISTON: -- concern, Chris, it's that  
5 something may have been discussed at Executive  
6 Session that often should be discussed publicly.

7 MR. DUNN: Well, I have that concern. My  
8 primary concern is with the policy.

9 MR. LISTON: Right. Yes.

10 MR. DUNN: That's my primary concern.

11 MR. LISTON: Fair enough.

12 MR. DUNN: All right? I have an Open Meetings  
13 concern also, which some people might consider be a  
14 technicality. I do not.

15 MR. LISTON: I don't consider that a  
16 technicality either.

17 MR. DUNN: And I will say, setting aside  
18 whatever you meant to convey, whistle-blowing is an  
19 honored tradition. It is good for the public, it is  
20 good for agencies. You should welcome it, you  
21 should not worry about it. It's not a confidential  
22 communication; it's not about an investigation; it's  
23 not about a case; it's not about a personnel matter.  
24 It's about a policy of the Agency.

25 MR. DONLON: Can I just ask, what's the date of

1 the e-mail that you're referring to?

2 MR. DUNN: January 28th.

3 MR. DONLON: Okay.

4 MR. DUNN: 4:36 p.m.

5 CHAIRMAN KHALID: We can always, Chris, go back  
6 into the reporting and see if we discussed publicly.  
7 I don't recall anything of that nature.

8 MR. DUNN: Well, you know, for better or for  
9 worse, I'm here for all of these things. I don't  
10 have any discussion about that.

11 CHAIRMAN KHALID: I have attended every meeting  
12 in nine years. I have never missed a meeting --

13 MR. DUNN: Okay.

14 CHAIRMAN KHALID: -- of CCRB, so...

15 MR. GRANT, JR.: One thing I know for certain is  
16 that, you know, we need to look into this and  
17 address it. And, you know, at the next public Board  
18 meeting, we need to --

19 MR. LISTON: I agree.

20 MR. GRANT, JR.: -- we owe the public the  
21 courtesy of reporting on that. Because I agree,  
22 that is significant, it's serious, and we will look  
23 into it.

24 MR. DUNN: I appreciate that. I'll close with a  
25 piece of good news.

1           The report's -- it's terrific. I mean, the  
2           semiannual, that was way too light, of course, but  
3           there's a new regime on reporting. I think it's  
4           great that the annual report will actually be out in  
5           a timely fashion. That's the first time the Agency  
6           has done that in the ten-plus years I have been  
7           doing it. So thank you very much.

8           With respect to the Police Commissioner, getting  
9           an opportunity to comment, I will just repeat what I  
10          always say when we have this discussion, which is, I  
11          don't think the NYPD should get the exclusive  
12          opportunity to comment on draft reports, but at the  
13          very least, at the very least, the Board should be  
14          doing what the GAO does and other major  
15          accountability organizations do. They put in the  
16          report a copy of the letter that went to the agency,  
17          they put in the report a copy of the letter that  
18          came back from the agency so the public can see what  
19          the back and forth was between the Board and the  
20          Police Department before a report was finalized.

21          But it's terrific that you're doing it in a  
22          timely fashion, and I thank you for that.

23          CHAIRMAN KHALID: Thank you, Mr. Dunn.

24          Anybody else with public comment?

25          (No response.)

1           CHAIRMAN KHALID:  If not, the meeting is  
2 adjourned.  And we'll take a five-minute break for  
3 the Executive Session.

4           (Whereupon, the hearing concluded at 11:33 a.m.)  
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C E R T I F I C A T I O N

STATE OF NEW YORK            )  
  )  ss.:  
COUNTY OF NEW YORK        )

I, MARGARET CRANE, a Notary Public  
within and for the State of New York, do hereby  
certify:

I reported the proceedings in the  
within-entitled matter, and that the within  
transcript is a true record of such proceedings.

I further certify that I am not related to any  
of the parties to this action by blood or marriage  
and that I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 25th day of February, 2014.

\_\_\_\_\_

MARGARET CRANE

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