

Civilian Complaint Review Board-Draft
August 12, 2015

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Public Board Meeting
of the Civilian Complaint Review Board
Wednesday, August 12, 2015
6:35 p.m.
Community Mediation Services Center
89-64 163rd Street
Jamaica, New York 11432

RICHARD D. EMERY, ESQ., CHAIR
MINA Q. MALIK, ESQ., EXECUTIVE DIRECTOR

PUBLIC MEETING AGENDA:

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

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BOARD MEMBERS PRESENT WERE:

Richard D. Emery, Esq., Chair

Lindsay Eason, Commissioner

Youngik Yoon, Esq., Commissioner Salvatore

F. Carcaterra, Commissioner Joseph A.

Puma, Commissioner

Deborah L. Zoland, Esq., Commissioner

Daniel M. Gitner, Esq., Commissioner

Janette Cortes-Gomez, Esq., Commissioner

Bishop Mitchell G. Taylor, Commissioner I.

Bennett Capers, Esq., Commissioner

Mina Q. Malik, Esq., Executive Director

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CHAIR RICHARD D. EMERY: Let's call the August meeting of the Civilian Complaint Review Board to order. Sorin, are we ready with the technology? We're on board, everything is being recorded properly?

Welcome everybody. We're very happy to be here in Queens, in Jamaica. And we want to have -- actually, I'm going to change the order a little bit because I'm calling to order the meeting, but I'd like to welcome Councilman Lancman whose district we are now sitting and who is also, I can disclose, a former client of mine and a friend. And we're doing a number of things, talking about a number of things together on a lot of different fronts. And, Councilman Lancman, would you like to come up and talk a minute or two and then we'll proceed with the meeting?

COUNCILMAN LANCMAN: Yes.

CHAIR EMERY: You might want to stand at the podium. Thank you very much. And I've been advised that we have to be very careful tonight about talking into the mics because the web -- the web recording of what we do is not coming out

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clearly because people aren't talking into the mic, so let's be vigilant about that. Good.

COUNCILMAN LANCMAN: Thank you Richard, Mina, and the entire board. I just want to come out -- come out and welcome you all to the 24th Council District and say how pleased I am that you've come out to our area to conduct your meeting.

You know, as Richard alluded to, we are talking about a lot of issues that are important to people in the city as it relates to criminal justice reforms and the interactions between the community and the police. And there are a lot of good things going on, everything from reforming Summons Court, to how we deal with low-level quality of life offenses, to issues of bail reform.

And let me just say how pleased I am with the role that the CCRB is taking on -- has taken on, on these -- these issues. The CCRB is a very, very important component to criminal justice in New York City and to reforming police and community relations. And we really could not be happier with the work that you've done so far

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and we look forward to continuing to work with you. And the fact that you're here tonight and you're going to conduct your meeting out in the boroughs, as they say, is really a testament to your commitment to reaching out to -- to different communities and making sure that their voices are heard.

So again, welcome to my district, everyone. Tonight I hope you have a meaningful and a interesting meeting. And we're going to work together on a lot of these issues going forward and I know that we're going to do so productively. Thanks very much.

CHAIR EMERY: Well, let me just say
Congressman -- Congressman --

COUNCILMAN LANCMAN: Almost.

CHAIR EMERY: Promotes well. -- Councilman Lancman, we -- the relationship between the CCRB and the City Council has never ever been better. We rely enormously, obviously, for the well-being and the support of the Council for the -- for the agency budget-wise, and also from the point of view of access to areas of the city where the CCRB has not really been present in the past.

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And we are working very hard to be present in council districts, especially where our activity is the highest. And you have been very active on several fronts that are parallel and joined with what we do, and -- as have a number of other important council people.

So I just want to say from my personal point of view, and I invite anybody else to speak up on this issue, that I just think that this symbiotic relationship, if you will, between an executive agency -- it's not really an executive agency. We're an independent entity where the board really is independent from the executive although there are obviously aspects of it through the appointment process that -- where all three branches, or two branches at least, that aren't independent. But we are very, very fortunate to have a council that is so open and welcoming for the city -- for the CCRB.

COUNCILMAN LENTZMAN: Likewise, and there are many, many pieces to the puzzle of making police community relations in this city better. So I'm just so happy to be able to work with you individually, and the board, and to have a

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council, and an administration that takes these issues seriously. So, thanks again.

CHAIR EMERY: Thanks a lot, good. I just have a couple of things in the -- well can we move the adoption of the minutes, unless anybody else has any comments for Councilman Lancman, Councilperson Lancman, or ...

(No response.)

Okay. Anybody want to move the adoption of the minutes?

MR. CAPERS: I'll move.

CHAIR EMERY: Seconded?

MS. ZOLAND: Second.

CHAIR EMERY: Any -- all in favor say "aye."

(Chorus of ayes.)

CHAIR EMERY: And then, opposed, any opposed?

(No response.)

Okay. Just a couple of reports from the -- from me, the Chair. A couple of important things are happening immediately that I think are important to report publicly. The board is beginning to be aware of them. We have distributed a draft of the mid-year report which everybody is now looking at. I hope we get

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2 comments back relatively quickly. We hope to
3 issue that report as soon as we get a proper
4 vetting of it from the board. And then we will
5 hopefully release it early next week, probably
6 Monday or Tuesday of next week, we'll release it
7 publicly.

8 There are a number of very important
9 substantive issues that are being addressed in
10 this report, that I think will be extremely
11 interesting to those who follow the work of the
12 CCRB and the Police Department. And I think
13 there are developments that you will see in this
14 semi-annual report that you have never seen in
15 any CCRB report before, including the annual
16 report. And there is follow-up on a number of
17 the issues there that were most carefully thought
18 through and delved into in the annual report.

19 So, this is an important event and I
20 encourage the board members to make comments
21 relatively quickly. A lot of people have done an
22 enormous amount of work on it, obviously the
23 Policy Department, Mina and I have been through
24 it and are going through it still. And there's a
25 great deal of substantive and also editorial work

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that's going into this. So, let's have your comments as soon as you can give them.

The second thing is we are putting out a press release tomorrow. The substance of which I will not say in detail but the essence of which is an analysis from the last 18 months of our complaint -- of complaints to the CCRB, of the numbers of police officers who generated those complaints, and also broken down into categories of -- FADO categories -- of the complaints and the numbers of officers that generated complaints in specific categories.

And it is very interesting because of the -- I would -- the way I'd characterize it is the limited number of officers fully -- 84 percent of the police force did not generate one civilian complaint during the period in the last 18 months. And about 16 percent of the police force generated 100 percent of all the civilian complaints, which leads us to believe, in my mind, that there is a -- that this is not an intractable problem. That it is a problem that will always be there, but it is not a problem where we can't do a lot to mitigate the effects

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2 of complaints at least by the public against
3 police officers, because they can be identified.
4 And they can be -- the people who -- the officers
5 who are generating the most complaints can be
6 reassigned, trained, watched, and all of the
7 things that are necessary for mitigating the
8 future complaints that might arise from those
9 people.

10 And this is an interesting set of
11 statistics. It's a very limited little small
12 release with, I think, interesting statistics
13 that people who follow this issue are going to
14 gravitate to and have their own interpretation
15 of. But it's an extremely, in my view, hopeful
16 sign for the work we have.

17 And it also leads to the second point that
18 I want to make about a project that I alluded to
19 as early as last December, and actually maybe in
20 November; and that is trying to create an early
21 warning system. The Policy Unit has worked hard
22 on an early warning system and we are on the
23 verge of success in creating an early warning
24 system that I hope we're going to announce in
25 September. It's still being tested, it's still

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2 being analyzed, it is not quite functional yet
3 but it looks very promising. In that -- it
4 appears that we are going to be able to look at
5 every police officer in the New York Police
6 Department, give him or her a score, and that
7 score will reflect the probability of that
8 officer generating future complaints.

9 It's modest in the sense that it's not
10 going to say that a officer is going to be
11 abusive, or is going to violate the rules, or is
12 going to even have a substantiated CCRB
13 complaint. But it is going to say, with a lot of
14 confidence level statistically, that that officer
15 depending on the score, will generate future
16 complaints by citizens or civilians. And of
17 course that's an important thing, complaints are
18 important and limiting complaints in the
19 interactions between police officers and
20 civilians is an important value that we all would
21 like to see achieved.

22 So, that -- that process is going to take
23 place and we hope to announce this early warning
24 system, as I said, in September. Perhaps, Mina
25 will allude to that a little more in her report.

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2 And then finally, I want to harken back to
3 something that has come up a number of times.

4 And I want to say it now so that during the
5 public session there can be comments and
6 discussion of this. Especially I think Chris
7 Dunn from the NYCLU has focused on this a lot,
8 created -- and I think legitimately and
9 importantly -- created a very significant
10 awareness of the difficulties and problems that
11 this agency is having with the section of the
12 Civil Rights Law Section 50A, requiring
13 confidentiality of personnel records. And the
14 aspects of it that affect our day-to-day
15 functions, our ability to notify complainants
16 about the identity of police officers in the
17 dispositions of CCRB cases. And more broadly,
18 our response to FOIL requests.

19 This is an area right now which is,
20 obviously as a result of a recent decision by
21 Justice Schlesinger, and there's an ongoing
22 litigation in Queens very much the subject of
23 judicial activity. The Schlesinger opinion opens
24 up this question in a way, from our point of
25 view, where it's never been opened up before.

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2 And I think we are very much re-evaluating this
3 whole area and attempting to create as much
4 transparency as the law allows, both for
5 complainants and for the public at large.

6 We are very much desirous to having as
7 much transparency on cases as is permissible
8 under the legislative enactment of 50A. And
9 therefore, we're working with the corporation
10 counsel. There are a lot of contingencies even
11 within the city government, obviously, the Police
12 Department, the unions, the parties in the case
13 of the Schlesinger opinion, Officer Pantaleo, and
14 his lawyers, and the union, and us.

15 And we are seeking -- we will -- there is
16 an appeal that is now pending in the First
17 Department, we will be part of that appeal. And
18 we will be seeking to get the right decision from
19 judges as to the greatest amount of transparency
20 which 50A allows. And we're pushing in that
21 direction and if others want to come -- I'm
22 saying this now because it is a big issue
23 especially with respect to complainants, who
24 during the past several months have not been
25 getting the identity of police officers by name,

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2 even though I think the letters do convey
3 effectively who the police officers are, by
4 identifying what they did and where they are
5 among the allegations that were alleged. But
6 they aren't getting them by name, and more
7 broadly what the FOIL, the Freedom of Information
8 Law, obligations are of the CCRB to identify
9 officers.

10 So, I think this is a matter that is very
11 much in flux and that we are working with on a
12 literally daily basis to try and open up as much
13 transparency for the CCRB as possible. I think
14 with that -- I actually think that we should have
15 your report, Mina, before we do the public
16 commentary because we've had a lot of requests
17 that public commentary come afterwards and we're
18 at the beginning of the meeting anyway. So let's
19 go forward if it's all right with you.

20 MS. MALIK: Absolutely.

21 CHAIR EMERY: Unless there are any other
22 comments from the board before we go to the
23 Executive Director's Report.

24 (No response.)

25 Okay, Mina maybe you could take over.

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2 MS. MALIK: Sure. Good evening, everyone.
3 My name is Mina Malik and I am the Executive
4 Director of the Civilian Complaint Review Board.
5 And I would like to thank the Community Mediation
6 Services for assisting us in being here tonight.

7 First, I want to provide you with some
8 highlights from our monthly statistical report
9 and then discuss other matters pertaining to the
10 operations of our agency. And for a full review
11 of our agencies monthly statistics, please visit
12 our website.

13 Year-to-date civilian complaints against
14 the police have decreased by 21 percent. From
15 January through July of 2015 the CCRB received
16 2456 complaints as compared to 3126 complaints
17 for the same time period in 2014. By category of
18 allegation. Discourtesy complaints have
19 decreased by 30 percent, force complaints have
20 decreased by 27 percent, offensive language
21 complaints by 24 percent, and abuse of authority
22 complaints by 20 percent.

23 During the first seven months of 2014, the
24 CCRB received an average of 447 complaints per
25 month. That number decreased to 346 complaints

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2 per month in the second half of 2014. In the
3 first seven months of this year, there have been
4 two distinct patterns. From January through
5 March of 2015, the agency received an average of
6 291 monthly complaints and from April through
7 July of 2015, the agency received an average of
8 396 monthly complaints.

9 In July our docket and case processing
10 times continued to improve drastically. In
11 December of last year we implemented a strategy
12 under the new Chair, which was designed to
13 further reduce both the number of old cases in
14 our open docket and the average time to complete
15 an investigation. And we continue to achieve the
16 targets that we have set forth for ourselves.

17 The number of cases in the open docket of
18 the Investigations Division continues to be lower
19 than at any point in the last ten years. A year
20 ago in July of 2014 the open docket of the
21 Investigations Division was 1833 cases. The open
22 docket in June of 2015 was 567 cases and this
23 reflects a 69 percent reduction. In July we
24 focused particularly on cases nine months or
25 older in order to minimize the number of cases

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2 approaching the statute of limitations, which is
3 18 months. At the end of July, there were only
4 two cases that were older than 18 months and both
5 cases had been on DA hold. In addition, there
6 were two cases that were 15 to 18 months old, 5
7 cases that were nine to 14 months old. Only 1.5
8 percent of all cases under investigation in July
9 of 2015 were nine months or older as compared to
10 15 percent in July of last year. And in July of
11 this year, 95 percent of the cases in the open
12 docket of the Investigations Division were four
13 months or younger which was 32 percentage points
14 higher than in July of 2014. These docket
15 numbers represent the lowest and the best docket
16 numbers since the creation of this agency as an
17 independent office from the New York City Police
18 Department.

19 By the end of July, there were 451 cases
20 pending board and/or executive staff review or 39
21 percent of the open docket. 139 cases were in
22 our mediation program and there were nine cases
23 on DA hold. The statistics show that our
24 month -- that month after month we continue to
25 reach the new benchmarks and the goals that we

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2 have set for ourselves in terms of timeliness as
3 an agency.

4 We reviewed the productivity of the
5 Investigations Division from January through
6 July, and we continue to find that investigators
7 under the new smaller squad structure were able
8 to close cases in substantially less time than it
9 took investigators to close cases under the
10 former larger team structure. Investigators
11 closed 1441 full investigations from January
12 through July of 2015 as compared to 1182 cases
13 last year, 22 percent more full investigations.
14 Of the total full investigations, 881 were filed
15 prior to the implementation of the reforms and
16 were closed at an average of 274 days, the same
17 average as before the reforms. However the 560
18 investigations filed after the implementation of
19 the reforms, have closed in an average of 83
20 days. And this is a 70 percent reduction in the
21 number of days to close full investigations
22 compared to a year ago.

23 There are other statistics showing that
24 the new squad structure is far more effective
25 than the former larger team structure. The

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2 number of days it takes to interview a
3 complainant has decreased from 31 days in the
4 first half of last year to 13 days year-to-date
5 of 2015. The number of days it takes to
6 interview an officer has decreased from 211 days
7 in the first half of last year to 54 days
8 year-to-date 2015.

9 I also want to highlight the statistics
10 related to the disposition of some of our cases.
11 The case resolution rate is 50 percent
12 year-to-date. And year-to-date, the board has
13 substantiated 22 percent of all full
14 investigations which is higher than the
15 percentage for the same period last year when the
16 board substantiated only 14 percent of the cases
17 it fully investigated. The board also
18 substantiated six percent of all fully
19 investigated force allegations, 18 percent of all
20 fully investigated abuse of authority
21 allegations, nine percent of all fully
22 investigated discourtesy allegations, and three
23 percent of all fully investigated offensive
24 language allegations. And notably, the Board
25 substantiated 34 percent of all frisk -- fully

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investigated frisk allegations.

Year-to-date the percentage of cases referred to the Administrative Prosecution Unit is 25 percent of all substantiated cases. And year-to-date in 2015, the CCRB has resolved 218 cases through the mediation program which is up from 198 cases for the same period in 2014.

The CCRB's Administrative Prosecution Unit conducted 13 trials in 2015 and -- in July of 2015. And from January through June 2015, the discipline rate was 91 percent for cases in which police misconduct was substantiated by the board and sent to the Police Department's Advocates Office with penalty recommendations. The Department declined to prosecute rate was only nine percent from January through June. And from January through July 2015, the discipline rate for cases resolved by the Administrative Prosecution Unit was 55 percent.

And I have to say that these numbers that are reflected in the statistics that the Deputy Executive Director Marcos Soler put together for us tonight, are reflective of the hard work and the dedication of the men and women of the

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2 Civilian Complaint Review Board. All of the
3 investigators in the Investigations Division, and
4 the Administrative Prosecution Unit, as well as
5 the Case Management Unit.

6 And I want to thank all of them for their
7 hard work and their dedication in making sure
8 that these cases are done and resolved in a more
9 timelier and effective manner. Thank you.

10 CHAIR EMERY: Thanks, Mina. Before we go to
11 public session, Bennett Capers wanted to raise
12 one issue with the board as a preliminary matter.
13 There's no sought resolution on this question
14 tonight but it's something that we should be
15 thinking about and discussing perhaps for the
16 next meeting.

17 MR. CAPERS: Yeah, absolutely. So as many of
18 you know in reviewing complaints, the board
19 occasionally comes across evidence of misconduct
20 that's really outside of the mandate of the CCRB.

21 A particularly troubling example of this
22 is when we find evidence of false statements by
23 police officers. So -- and just to clarify, I'm
24 not talking about situations where reasonable
25 minds can differ. I'm talking about situations

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2 where an officer maintains that events happened a
3 particular way and there's clear and convincing
4 evidence that, A) It did not happen that way, and
5 B) That the officer therefore made false
6 statements. So for example, when we have
7 videotape evidence that clearly contradicts an
8 officer's statements to the CCRB.

9 So, my understanding is that normally with
10 the CCRB, since this is outside our mandate, we
11 do not recommend punishment -- we can't recommend
12 punishment. What we do is, we alert the NYPD and
13 the NYPD can then investigate and do as it
14 pleases. I'm -- I don't even know, since I'm
15 relatively new to the CCRB, whether we even
16 follow-up with the NYPD to see how they respond
17 to situations where we find evidence that
18 officers have made false statements, whether they
19 investigate, whether they discipline.

20 So for the most part, to a certain extent,
21 our hands are tied, this is outside our area.
22 But it seems to me that there are other things we
23 can do. So it seems to me that one thing we may
24 want to consider doing is, passing on information
25 to district attorneys' offices. This would not

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2 be, to clarify, for the purpose of prosecuting
3 officers for false statements at all. Rather,
4 this would simply be to alert district attorney's
5 offices that certain officers in certain
6 situations, we have evidence, that they have
7 engaged in false statements. Obviously -- or
8 maybe not obviously -- but prosecutors should
9 want to know this information so that they can
10 comply with their constitutional disclosure
11 obligations and their ethical obligations. So my
12 guess is prosecutors would want this information.

13 In my review of Section 50A suggests that,
14 we're actually authorized under Section 50A of
15 the New York Civil Rights Law to provide this
16 information to district attorneys' offices. So,
17 it seems to me that it might be a good idea to
18 start simply passing on the names of officers in
19 situations where we've found clear and convincing
20 evidence that officers have made false
21 statements, simply passing on that information to
22 district attorneys' offices so they are aware of
23 that information and they can use that
24 information going forward when they decided which
25 officers they want to call as witnesses, whether

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to call certain officers, whether they have certain disclosure obligations when they call certain officers as witnesses.

So, I raise that for discussion and I look forward to hearing what other people have to say.

CHAIR EMERY: Any thoughts, comments at this juncture? Anybody want to address this question? Or it can be --

MR. CAPERS: Or you can mull it over until the next time we're here.

CHAIR EMERY: No, no --

MS. ZOLAND: Well, I would -- I do want to say that this was not something that the members of the board were aware of before tonight.

CHAIR EMERY: No, it was brought up for discussion in that vain only.

MS. ZOLAND: And I think it's inappropriate to comment significantly on such an important suggestion without having the opportunity to mull it over.

I find it -- I see a substantial amount of problems with providing to a district attorney's office mere allegations that have not been investigated. The CCRB, I would put out, does

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2 not give the officer the opportunity to be heard
3 on these allegations when they refer it to the
4 NYPD. So providing mere allegations to the
5 district attorney's office, strikes me as giving
6 them something they won't have anything -- they
7 can't do much with, the mere obligation. But I
8 would like to obviously consider it more
9 thoughtfully and I think that --

10 So, I find that it is troubling when we
11 find that officers may -- are not particularly
12 credible and perhaps have engaged in making a
13 false official statements. The police department
14 does take such conduct, misconduct, very, very
15 seriously. I don't think there is any evidence
16 before us that they don't take that seriously.

17 And an officer is entitled to due process
18 regarding disciplinary matters. So for them to
19 go a DA's office, even not for prosecution, just
20 to use against them to attack their credibility
21 in court without giving the officers due process
22 rights some thought, is also troubling.

23 So those are my initial impressions about
24 the suggestion.

25 CHAIR EMERY: Well I would suggest, subject

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to the board's wishes, that a subcommittee look into this.

MR. CAPERS: And I think Bishop wants to make a comment.

CHAIR EMERY: Oh, sorry. Bishop, go ahead.

BISHOP TAYLOR: I think it probably would be helpful if we knew what the disposition was of the recommendations that we've made thus far, and maybe that can be an assignment given to the subcommittee. But maybe an inquest on, you know, what happens with those OMN's that we send over. Because maybe there's something being done that we don't know about.

CHAIR EMERY: Right, I think certainly the Policy Unit has had some thought about this and also it will be looking into this further. The false official statement question in OMN's was of course, a significant part of our annual report and it's going to be followed up, in some respects, in the semi-annual report as well statistically at least. And so I do think you're right, that given the fact that it has become a fairly significant subject matter for the CCRB and its analysis of interactions in

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investigations that we should follow-up with that.

But I think this is a perfect example of where the expertise of people on this board along with the help of the staff, should be marshaled to focus on this and make sense of it in a way that maybe will cause the board to act. Or maybe will cause the board not to act or some -- there could be some also -- some just request of the police department that are not in any way binding but that we believe are appropriate given what we now know and what we would then -- in the stats we've now marshaled.

So other than Bennett who's clearly volunteered to be on the subcommittee, who else would like to join the subcommittee? Debbie do you want -- would you like to?

MS. ZOLAND: Sure.

CHAIR EMERY: Sure. So I think -- I think it's always good to have different points of view on the subcommittee and these two work together very well --

MR. CAPERS: A lot.

CHAIR EMERY: -- any way. So I think -- and

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are very good together. Anyone else would like to be on the subcommittee that would want to look at this?

MS. CORTES-GOMEZ: I can.

CHAIR EMERY: Joe isn't here -- Joe isn't here yet so we'll offer him that possibility.

MR. CAPERS: Yes, I'm actually going to volunteer Joseph.

CHAIR EMERY: Okay. So we'll get Joe on it as well, three is enough. And then can -- and then Mina can figure out staffing with the Policy Unit to support the subcommittee in a way that, can mine the data and make requests from -- mine our data and then make requests from the police department. Make sense? And then you can report at the next -- at the next meeting or whenever it's comfortable for you to feel like you have a position that makes sense. Lindsay, you want to be on it?

MR. EASON: Not at the moment. But I -- it's a subject that needs, as we said, the careful mining so we're making sure that we're not -- making sure that we're not recreating the wheel. As Debbie said, to make sure that all of the

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2 sensitive issues around this is addressed, fully
3 addressed by the committee headed by Bennett.

4 CHAIR EMERY: Well I want to also make it
5 clear, and I think the semi-annual report will
6 make it clear, that this is a fairly rare
7 occurrence and I think that Bennett alluded to
8 that fact.

9 I mean, there are a lot -- there are
10 probably a group of cases where maybe you have a
11 suspicion that the story isn't being told. It
12 certainly happens with complainants and it
13 certainly happens with officers. But a
14 suspicion -- we're not talking about suspicions
15 here. We're talking about what Bennett
16 described, which is clear evidence that may very
17 well lead to a conclusion. That's the only time
18 I think that any of the panels come up with what
19 we call an Other Misconduct Noted, OMN, that's
20 noted actually on paper. And usually when that
21 happens, usually I would say, the police officer
22 is given every opportunity to say what appears to
23 be the correct factual scenario and doesn't.

24 So -- but that's not always true either.
25 So I don't -- I don't want to make any

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2 pre-judgments about this. I think it's important
3 that the subcommittee really think about it more
4 specifically than certainly I have or probably
5 anybody else on this board, except maybe Bennett.

6 So, good. Thank you. So, let's -- any
7 other comments at this point before we go to
8 public commentary?

9 (No response.)

10 Joe you're here. You've just been
11 volunteered for a subcommittee.

12 MR. PUMA: Oh, really? Oh, yeah. Okay.

13 CHAIR EMERY: It's a very, very difficult
14 problem that is going to involve pretty much 90
15 percent of your time for the next two or three
16 months.

17 MR. PUMA: Tell me more.

18 CHAIR EMERY: We're going to have a
19 subcommittee that looks into OMN's for false
20 statements and thinks about what we should be
21 doing as a board with respect to those when they
22 occur.

23 MR. PUMA: Excellent. Well, I accept the
24 assignment.

25 CHAIR EMERY: See that. Bennett -- Bennett

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2 volunteered you.

3 MR. PUMA: All right.

4 CHAIR EMERY: It wasn't me. All right, so
5 let's start with Oliva Luis -- Oh, I'm sorry Luis
6 Oliva, Olivo. Come -- would you come -- be kind
7 enough to come up to the podium. And then for
8 the record, identify yourself and try to limit it
9 to two or three minutes, if possible.

10 MR. OLIVO: Okay.

11 CHAIR EMERY: But we're going to be open and
12 flexible about that.

13 MR. OLIVO: I'm going to take just one
14 minute, it's short. I am Luis Olivo. I've been
15 living in the same place for more than 15 years,
16 that's 94-46 85th Road, Woodhaven 11421. Good
17 evening meeting of the members, board. I'm
18 Spanish.

19 It happens that I have a little concern
20 about this situation that happens to me with the
21 police. And I made a complaint to the CCRB.
22 They respond to me and -- I left my glasses. Now
23 the complaint is an OCD201500478. They respond
24 to me in English, I call them say, "Could you
25 please respond in Spanish," they also did. That

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2 was in January.

3 Now what I consider misconduct about this
4 police officer -- which I'm a disabled person, I
5 got paper here to prove it. But it doesn't
6 matter how I was when at that time in January
7 with that cold outside, they handcuff of me
8 without telling me nothing, without telling me
9 nothing, and laughing. They put me in a place
10 and took me to a hospital or whatever. And then
11 the police officer at the end he said, "Oh, I'm
12 sorry. I was just following orders." But damage
13 was done. Like I said, I'm a disabled person
14 with so many illness diabetic, heart condition,
15 and that traumatized me.

16 So I've been calling CCRB, Director, and
17 unfortunately they send the case to police 102
18 and they repeatedly say, "The somebody going to
19 follow-up." Which I don't know, it's over there.

20 CHAIR EMERY: Let me just say that I think we
21 should follow-up with you. I'm glad you're here
22 and bringing this to our attention. We have the
23 director -- the Director Tom -- Tom --

24 MS. MALIK: Chief Investigations.

25 CHAIR EMERY: Yeah, Chief of Investigations.

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Sorry, I was -- Director of Investigations, titles aren't my thing. So Tom Kim, who is incredibly vigilant, incredibly thorough, an incredibly caring person and his two deputies are here, Chris Duerr and Thelwell -- Winsome Thelwell. And you can talk to any one of these three tonight. And sit tight.

MR. OLIVO: Thank you.

CHAIR EMERY: And they will get into this, and we will get back to you I promise you --

MR. OLIVO: Thank you, sir.

CHAIR EMERY: -- about the specifics of your case. And if it's -- if we did something wrong, we'll revisit it. If we can do something to help you, we will.

MR. OLIVO: Thank you.

CHAIR EMERY: Next is -- I can't tell whether Reuben Torres wanted to, it didn't say yes or no.

MR. TORRES: Yeah, actually I do want to --

CHAIR EMERY: So please. And identify yourself again for the record, if you would please.

MR. TORRES: My name is Reuben Torres. Actually, I work for the Human Resource

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Administration for New York City. There's two things I really wanted to ask you. As far as recommendations made by this board, being that you guys were created to give recommendations to the police commissioner, if the police commissioner continues to reject recommendations what can be done after that?

CHAIR EMERY: Recommendations concerning what?

MR. TORRES: Concerning police misconduct, or stop and frisk, what's the next step after that?

CHAIR EMERY: Well, you come to the CCRB for issues where you want to complain about specific stop and frisks or other alleged police misconduct. If you're talking about policy recommendations -- are you talking about policy recommendations that are across many cases -- that cross many cases or specific cases?

MR. TORRES: Well, police misconduct like for instance foul language. I know, like, the inspector general handles policy recommendations. But what I'm saying is that, let's say a police officer, you know, said discourtesy or bad language to a civilian. And you -- obviously you

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do an investigation and you basically recommend it to the police department. And it's up to the police department to handle the punishment for that officer. So once that's handed off, like you said, do you guys follow up on that or it's, you know...

CHAIR EMERY: We follow-up on it in the sense that we have -- we get a statistical report --

MR. TORRES: Okay.

CHAIR EMERY: -- of what the penalties are that are imposed by the police department if we have substantiated a case and referred it there. With respect to cases that aren't fully investigated, we do more limited follow-up if they're just referred to the police department.

But in our category of cases -- that is force, abuse of authority, discourtesy, and offensive language -- we do the investigation assuming that the claimant continues to cooperate. The only basis in which we wouldn't do the investigation is if there's a DA hold and then it's held until the time we can do an investigation or if the complainant either withdraws or doesn't cooperate to continue the

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2 complaint. But in those categories, we will do
3 the investigation to conclusion and make a
4 determination whether the allegations are
5 substantiated, unfounded, exonerated, or
6 unsubstantiated.

7 MR. CAPERS: Can I ask a question?

8 CHAIR EMERY: Sure.

9 MR. CAPERS: Okay. Because I think you and I
10 are thinking the same thing.

11 CHAIR EMERY: Yeah.

12 MR. CAPERS: It sounds like you're asking
13 what authority we have --

14 MR. TORRES: Yeah, do you have subpoena
15 power --

16 MR. CAPERS: -- once we make a punishment,
17 book penalty recommendation, what authority do
18 we have to follow-up, especially if the police
19 department disagrees.

20 MR. TORRES: Because, what I'm saying is that
21 you can make recommendations all day, it's like
22 whether or not -- what's the actual action?

23 CHAIR EMERY: Yeah.

24 MS. CORTES-GOMEZ: Well, on the cases that
25 are substantiated and we recommend charges, we

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have our very own unit who prosecutes those cases.

MR. TORRES: Okay.

CHAIR EMERY: And moreover what's happened is, instead of 60 or 70 percent of the time when we make a recommendation the police department is following it -- as was the case in the past -- it's now, as you may have heard, when Executive Director Malik said that there -- when she gave her statistics -- it's now 91 percent of the time. So the police department -- which has final control over all discipline of police officers, they have final control -- is following our recommendations in 91 percent of the cases now, currently.

So there's some reason to believe, that if we come up with a recommendation it's very likely that there's going to be some punishment whether it's satisfactory or not to the citizen, or civilian, who knows. I mean, we don't always agree with every aspect of what the complaint is about. We make an independent investigation and make that decision.

So it's -- it's a complicated process but

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we have now gotten to the point where the police department really is responding to our recommendations.

MR. TORRES: Okay.

CHAIR EMERY: Thank you, sir.

MR. TORRES: Thank you, Mr. Chairman.

MS. ZOLAND: I just wanted to add that in the written agreement between the police department and the Civilian Complaint Review Board -- and I believe it's in the rules now, I'm not sure, when the police department disagrees with a recommendation of the Civilian Complaint Review Board the police department must get back to the CCRB in writing, detailing why they disagree. So it opens -- and we can then respond as well. So there is dialogue when there is disagreement.

MR. TORRES: Okay, thank you.

CHAIR EMERY: Okay. The next person is Mr. O'Grady. How are you tonight?

MR. O'GRADY: Oh, thank you, thank you. Mr. Dunn's not going to speak?

CHAIR EMERY: Who?

MR. O'GRADY: Dunn, he's not going to speak?

CHAIR EMERY: We're not -- we're going to

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2 skip over Mr. Dunn tonight.

3 MR. O'GRADY: There is one typo on page 41,
4 line 15, "tenure" should be followed by a comma
5 and delete the word "O-F, and proceed with
6 communication," that's the only typo I saw.

7 CHAIR EMERY: That's pretty good.

8 MR. O'GRADY: Mr. Chairman, you indicated
9 former Commissioner Kuntz, now a federal judge,
10 that he was a good guy. Well, the write-up
11 given -- given hereto was made by a police -- was
12 made by a police command 501 signed by a police
13 sergeant, as you should see.

14 Melba Khan succeeded David Zornow as
15 chairman of this body. Commissioner Kuntz led a
16 public revolt among the commissioners against
17 Melba Khan. He accused Melbat -- Chairman Melba
18 Khan of being too buddy buddy with the police
19 commissioner. Commissioner Kuntz accused
20 Chairman Ba Khan -- Melba Khan -- of meeting with
21 the police commissioner without their knowledge,
22 without the knowledge of the entirety of this
23 board. In other words, secret meeting with the
24 police commissioner. Commissioner Kuntz accused
25 Melba Khan of secret meetings with the

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2 police commissioner without the knowledge of this
3 board, the rest of the board.

4 The American -- the Southern Confederacy
5 developed their own currency, financial system,
6 money. The James Lenox Room, the fourth century
7 library out of the cameo book, "on the dark blue
8 uniform of the union army considered more stylish
9 than the confederacy gray uniform." The military
10 Chief Grant became -- began -- began calling for
11 more and more recruits to put on the dark blue
12 uniform.

13 Able-bodied young men began fleeing to
14 Canada to allude military service -- to allude
15 military service. According to this cameo book
16 of the James Lenox Room, "President Lincoln
17 issued executive order, if an able-bodied son
18 will not serve the nation in its time of need
19 where this situation exists, the elderly female
20 is ordered subdued." In other words, "the mother
21 is ordered subdued and taken to and across the
22 Canadian border to join her son over the Canadian
23 border."

24 CHAIR EMERY: Thank you, Mr. O'Grady. Chris?

25 MR. DUNN: Good evening.

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CHAIR EMERY: Good evening.

MR. DUNN: So, I want to start with the Bennett Capers bombshell. Okay. We're going to refer perjury, perjurious NYPD officers to the DA offices for Brady disclosures. I'll believe it when it happens, good for you. I don't know if we have any of our friends from the PBA here, you are going to be a marked man from this point forward.

CHAIR EMERY: Why do think I let him say it?

MR. DUNN: Pat Lynch is going to want to be on that subcommittee, as will I. But seriously -- and I do mean this seriously, and the fact that you have police officers, rare as it may be, who you conclude are lying to the CCRB is a serious matter.

It is an issue that many people have been talking about for many years, both with the CCRB, with IAB, with federal court testimony, referred to testifying in some circumstances. It is not a wide spread problem but it is a very serious problem. And I do think it is incumbent upon the CCRB to start confronting the fact that when it concludes that a police officer has lied, to do

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something other than note other misconduct and send it over to the department.

CHAIR EMERY: Before we -- I really want to say one thing about it so you can also comment in response. I think it's incredibly important to understand that we don't make a finding or a conclusion because that's not our jurisdiction.

MR. DUNN: I understand the debate about that.

CHAIR EMERY: And what we -- when we do it, we do take it very seriously and we do it based on the evidence we've heard but it is a notation of evidence that troubles us and I want to be clear on the context.

MR. DUNN: I understand that.

CHAIR EMERY: Okay.

MR. DUNN: And I know the debate about, if it's technically outside of your jurisdiction you are not making a final determination in any investigative sense and there are those qualifications. And Debbie, yes you are right about due process concerns, and a police officer is entitled to have his or her opportunity to respond to that. But particularly when you have

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2 police officers who are involved with criminal
3 cases for instance, where their testimony is
4 going to be critical to the outcome of the case.
5 And a city agency learns that police officer has
6 lied in terms of making statements to the agency,
7 it is incumbent upon the agency to do something
8 about it and do something serious beyond simply
9 other misconduct noted and sending it over to the
10 police department.

11 So I -- I welcome that initiative. I
12 recognize the complexities legally and
13 politically around that, but I think it's great
14 that you are talking about that much as it may be
15 to your peril. Okay. So on related issues --

16 MS. ZOLAND: I just -- I would like to
17 comment on that. I just -- on one point -- I
18 agree with a lot of what you said, actually I
19 believe it is very serious. And I think it is
20 important that we take all of the action that we
21 can take but the only thing I would say is
22 mischaracterized is, we do not even do an
23 investigation of the false statements. Our
24 investigation of other misconduct leads us to
25 believe that there are false statements. So

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there is not an independent investigation of false statements done by the CCRB and I think that your remarks indicate otherwise. So, I just would want to say that.

MR. DUNN: Well Debbie, I hear that but I feel like there's a little bit of a formality in the following sense. You bring a guy in, he says, "I didn't punch the guy, it did not happen, I never laid a hand on him, I've looked at my memo book, I've talked to my partner, I've consulted my conscience, it did not happen." And then lo and behold, you get a piece of videotape on the building right next to the guy and you see him punch the civilian. Okay, you can say you're not formally investigating it. You can say you don't have a formal determination and that's all fine and good. But the fact of the matter is, you have what appears to be dispositive evidence that he lied to you.

MS. ZOLAND: Right.

MR. DUNN: And we can characterize that, you know, in process terms any way you want, but when that happens as a city agency I think you have a obligation to consult with and notify a

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2 prosecuting authority; that that officer is
3 involved and where his or her testimony will be
4 critical to the outcome of the case.

5 So, which segues into the second issue,
6 which is the body camera issue. I know that you
7 folks are seeing more and more video, what I
8 don't know is how much you have started to see
9 video from body camera's in the department. And
10 I just would be interested in knowing what -- to
11 the extent of which you are know getting body
12 camera footage?

13 And what you are doing about this issue
14 that arose as a result of the inspector general's
15 report where the inspector general is suggesting
16 that police officers not be permitted to look at
17 videotape before they give a statement when
18 there's an investigation. What you are doing
19 about that in terms of if you are getting
20 videotape, are you telling an officer that you
21 have videotape from the body cam? And are you
22 allowing the officer to look at that before he or
23 she gives a statement to you?

24 CHAIR EMERY: Let me try and respond. Tom
25 maybe you know or maybe Winsome knows. I don't

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2 think we've seen body cam video yet because if
3 I'm not mistaken, the pilot program somehow
4 exempts -- I don't think it could if we
5 subpoenaed it -- but I don't -- I think it
6 exempts --

7 BISHOP TAYLOR: It doesn't.

8 CHAIR EMERY: It doesn't? It doesn't exempt?

9 BISHOP TAYLOR: No.

10 CHAIR EMERY: I thought it --

11 BISHOP TAYLOR: No, they said it did.

12 CHAIR EMERY: They said it did --

13 BISHOP TAYLOR: Yeah.

14 CHAIR EMERY: -- at one point, that it
15 exempts video from the disciplinary process,
16 but --

17 MR. DUERR: We've had it.

18 CHAIR EMERY: You've had it. Okay, so
19 we're -- so it's in process because I don't think
20 any panel has seen it yet. Right?

21 MR. DUERR: Probably not. CHAIR

22 EMERY: Right, okay. So --MR.

23 DUERR: Investigators have --

24 investigators have it, some investigators.

25 CHAIR EMERY: Okay. So I'm wrong, I stand

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corrected. We have some and it's coming, obviously, it will be a big factor here.

MR. CAPERS: Can I interject something else?

CHAIR EMERY: Sure.

MR. CAPERS: Because I'm wondering if as a matter of course we should be requesting body camera video.

CHAIR EMERY: We are, we are --

MR. CAPERS: So we do, as a matter of course request it?

CHAIR EMERY: We have a protocol, that is, we are now learning the identity of every officer who is wearing a body cam. So that, that can be checked if there's a complaint against that officer or other officers who are doing -- doing patrol or -- or activity with that officer. We are all over body cams believe me.

MS. MALIK: That's -- that's actually correct. So there are 54 officers currently across the city who are wearing body worn cameras. We have the names and the tax numbers of those officers and there is a very small number of cases that we have reviewed where body worn camera footage has been involved. But we do

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have those names, and we are making those requests where those officers are involved in a complaint that comes to the CCRB.

MR. DUNN: So what's your position about --

CHAIR EMERY: So the second part -- let me -- let me respond to the second point. As a general practice and investigatory practice -- and again Tom and Winsome and Chris can answer this, perhaps better than I or Mina as well. We do not -- we get the officer's story version of events first before any video is shown as a general, and a proper, and an investigative practice. That's not to say that there aren't cases where if an officer doesn't remember anything or if there's some specific reason to deviate from that, we don't deviate. We're not -- we're not -- we don't feel confined to always prevent the officer from seeing the video prior to the time that there is a statement. But as general investigative practice would compel us, we get a statement from the officer prior to the time we show any video.

MR. DUNN: Okay. On the subject of, perhaps mini bombshell number two. So Richard, you guys

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are putting out a release tomorrow about the number of officers who are responsible for complaints -- you gave us the basic statistics. The question I have about that is, what the denominator is namely when you say 84 percent and 16 percent, of what?

CHAIR EMERY: It's all identified -- it's all cases that the CCRB is aware of in the last 18 months where we have the identify of the officer.

MR. DUNN: No, I understand that. That's the numerator but --

CHAIR EMERY: No, that's the denominator.

MR. DUNN: -- but in terms of 35,000 or --

CHAIR EMERY: That's the denominator. The denominator is -- in other words -- well, it's you're right. It's the numerator in all of the categories. The denominator is the entire force 37,000 --

MR. DUNN: Okay.

CHAIR EMERY: -- officers.

MR. DUNN: Okay.

CHAIR EMERY: And we do it by percentiles, you'll see it.

MR. DUNN: All right. I would just note,

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obviously I'll see it tomorrow --

CHAIR EMERY: Yeah, you'll --

MR. DUNN: -- and we can talk about it. As you said different people may have different interpretations.

CHAIR EMERY: Exactly. I don't think that --

MR. DUNN: As you know, there are large percentage of members of the department who have virtually no civilian interaction. And so, I for one want to see actually the way that breaks down because --

CHAIR EMERY: Sure.

MR. DUNN: -- that may substantially dilute the 16 percent, which may actually be closer to 50 percent of the officers who actually have day-to-day interaction with civilians. But we'll see.

CHAIR EMERY: Yeah.

MR. DUNN: Okay. So I here what you're saying about the semi-annual report, I'm glad to hear it's coming out. What's happening with my long awaited bystander study which you talked about with great enthusiasm a year ago? The bystander video study?

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CHAIR EMERY: Well, it's been incorporated. Marcos do we -- where are we with a separate bystander video study? We've done a number of video studies and essentially the bystander aspect of it has been incorporated into some of those in the annual report?

MR. SOLER: Yeah. As soon as we complete...

CHAIR EMERY: Sorry?

MR. SOLER: As soon as we complete the mid-year report, we will finalize the bystander report.

CHAIR EMERY: Okay. So you have some hope Chris. I wouldn't count too much on it but...

MR. DUNN: I had hoped months ago Richard.

CHAIR EMERY: Well --

MR. DUNN: And I'm not that young, I can't have too much hope.

CHAIR EMERY: Hope springs eternal.

MR. DUNN: Okay, all right. So on the officer ID notification issue and the 50A issue, I appreciate your raising that. Yes, that's a source of great concern to us as obviously --

CHAIR EMERY: Us as well.

MR. DUNN: -- as I understand it is to you.

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2 And I was intrigued by you're saying you were
3 going to participate in the appeal of the case.
4 I don't expect you to disclose now your legal
5 position, but I look forward to the CCRB filing
6 something that says this is not covered by 50A
7 and in fact the public should have access to
8 these things.

9 CHAIR EMERY: I'm not sure it will be -- say
10 that.

11 MR. DUNN: Yeah, I'm not sure it will say
12 that either but...

13 CHAIR EMERY: It will certainly be seeking
14 judicial guidance with respect to our obligations
15 under 50A in a -- in a case that is -- that we
16 would consider considerably more influential from
17 the First Department than we would for one judge
18 who judged it in the context of the
19 Garner/Pantaleo issue.

20 MR. DUNN: Yeah, we'll -- I understand that.
21 I mean, I -- I remain to this day, as we said in
22 the letter to you and Mina and the entire board,
23 perplexed that the city after 20 years of
24 consistent practice all of a sudden decided that
25 disclosing officer names in CCRB notification

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letters violated 50A, but --

CHAIR EMERY: You have to talk to Zac Carter about that.

MR. DUNN: -- that -- that's what you've done and there we are.

CHAIR EMERY: You have to talk to Zac Carter about that.

MR. DUNN: Don't be throwing Zac under the bus, okay. That wasn't the question.

CHAIR EMERY: You can go see him. I know you have immediate access to him, he answers his cellphone for you.

MR. DUNN: Okay. Where are you on the rules?

CHAIR EMERY: We're done, we're --

MR. DUNN: You're done? Have they --

CHAIR EMERY: They're not adopted but they are -- they are in the corporation --

MR. DUNN: I haven't seen anything in the city record.

CHAIR EMERY: They're in the corporation counsel's office.

MR. DUNN:: I see, okay.

CHAIR EMERY: They have to finish that process.

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MS. MALIK: That's right.

CHAIR EMERY: And then they have to go through DCAS, right?

MS. MALIK: Mayor's Office of --

MS. ZOLAND: Mayor's Office.

CHAIR EMERY: Mayor's Office.

MS. MALIK: -- Operations.

CHAIR EMERY: It's an endless --

MR. DUNN: Okay.

CHAIR EMERY: -- byzantine bureaucracy --

MR. DUNN: Okay.

CHAIR EMERY: -- to get these rules adopted.

MR. DUNN: Okay.

MS. MALIK: I know you'll be at the public meeting Chris.

MR. DUNN: So -- so -- before or after the bystanders study?

CHAIR EMERY: Well, I think actually that may be before the flood, okay?

MR. DUNN: You know it's a different climate we're operating in now, that flood may be in five years.

CHAIR EMERY: That's true, you're right. Both of these things might be in five years.

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2 MR. DUNN: All right. The final thing I want
3 to mention is in terms of the monthly report, a
4 few things. First, I repeatedly said I do not
5 assign great significance to short term changes
6 in complaint numbers, however you folks spent a
7 fair amount of time trumpeting what you've viewed
8 as being a significant decline in complaint
9 numbers for the second half of last year. So I
10 do want to note since people want to operate on
11 that plain, that the complaint numbers for the
12 first 6 months of this year are up from the
13 complaint numbers of the last six months of last
14 year. And more importantly the trend line last
15 year was straight down, the trend line this year
16 is straight up. And I just note that for the
17 record.

18 Secondly, I was struck by the visual in
19 this monthly report that identifies that for the
20 year-to-date the truncation rate is 50 percent.

21 CHAIR EMERY: It's below 50 percent.

22 MR. DUNN: 50 percent.

23 CHAIR EMERY: That's right, as opposed to 60
24 percent last year.

25 MR. DUNN: 60 percent is better -- 50 percent

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is better than 60 percent to be sure --

CHAIR EMERY: Yeah, yeah.

MR. DUNN: -- don't get me wrong. I'm just going to say, 50 percent is a completely unacceptable truncation rate. I know that you do not disagree with that. But I just want to note that there continues to be an extraordinarily high, in my view, truncation rate.

And in conjunction with that, Richard you mentioned in the conjunction with the meeting we have here, the effort to be out in the boroughs. I still am unclear how much you're actually operating in the boroughs as opposed to the board meetings, which I have some ambivalent feelings about out in the boroughs, but setting that aside. What is the status --

CHAIR EMERY: That's because you have to come.

MR. DUNN: Well, you know I love seeing new parts of the city all the time, don't get me wrong about that. But what is the status of staff actually being in the boroughs and dealing with complainants?

CHAIR EMERY: Mina, you want to answer that?

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MS. MALIK: Sure. So we have an initiative where we're in -- actually in the boroughs. And we have it with several different council members across the city. And we're going to their offices every Friday, is that right John?

MR. CONNELL: In Cornegy's office --

CHAIR EMERY: Sorry?

JOHN: So Brian, you want to answer it or you want me to answer it? Brian, you answer.

MR. CONNELL: At Council member Cornegy's office.

MS. MALIK: Council member Cornegy's office in Brooklyn so far.

MR. DUNN: So, one -- one council members office. Is that right?

MS. MALIK: There are -- we're in process of getting some more council members on board.

MR. DUNN: I think that's great. This is like the bystanders study. I've been hearing this for two years actually not just one. So I want to encourage that, I think that's great, I feel like you guys have to get beyond the talking stage and get to the doing stage on this. And I think the truncation rate is a reflection of the

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fact that basically you still continue to operate from downtown Manhattan exclusively.

CHAIR EMERY: Well, that's not quite true -- we have a field team that is also seeing people. And people are seen by investigators in areas where if they can't come to the office, there is an outreach -- not specifically to council members offices -- but to areas where people are to try to minimize the truncation rate.

The truncation thing is very interesting and difficult problem, as far as I can perceive it. And I may not be the best person to speak to it. But the difficulty is, there is a fundamental problem of people being very angry for good or not good reasons, we don't know when they've had an interaction with police officers and coming in and making complaints. And then hearing from their neighbors and friends and lawyers in some cases -- Norman Siegel being a perfect example -- that it is unwise to participate in the CCRB process for -- and -- and I understand that.

From a strategic point of view, if you're a lawyer, there's a very good argument -- or

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2 there has been in the past, I don't think there
3 is now -- but there has been in the past a
4 extremely persuasive argument not to participate
5 in CCRB even if you filed an initial complaint.
6 And I think we are suffering still from hangover
7 of a reputation that this agency had in the
8 communities at large and certainly in the legal
9 community.

10 And I think that truncation rate, I hope,
11 will go down as confidence goes up. And
12 particularly as the time for investigations
13 shortens. So that people understand that they're
14 not going to be strung out on the line, a fish on
15 the hook, for a year or more without getting any
16 answers to their questions. The problem of
17 course is, is the answers to their allegations
18 are by no means always satisfactory. And I don't
19 pretend they can be with the preponderance of the
20 evidence standard that brings us to a 22 percent
21 substantiation rate, which is higher than it's
22 ever been by far. But nevertheless, it means
23 that four out of five cases are unsubstantiated
24 and people are probably going away disappointed
25 on that basis continuing with the communication

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about CCRB being a paper tiger, ineffective.

So this is a fundamental and difficult problem that I think we have to frankly admit and do the best we can to address.

BISHOP TAYLOR: Richard, can I ask you a question?

CHAIR EMERY: Yes.

BISHOP TAYLOR: Doesn't the truncation rate include complaints withdrawn --

CHAIR EMERY: Yes.

BISHOP TAYLOR: -- victims uncoop, and things of that nature? And I think that we've struggled with trying to extrapolate those particular cases that we don't have control of in order to have a better read on what the real truncation rate is with cases that we go forward with.

MR. DUNN: But here's what I want to emphasize, and we've been having this debate forever.

BISHOP TAYLOR: But that's what I'm saying.

MR. DUNN: Which is you characterize a -- a victim or a complainant uncooperative or withdrawn as something over which you have no control, and what I am saying to you, from my

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perspective, you have enormous control over that. And for instance, the fact that somebody has to come down to 100 Church Street -- much as I love the building, I've spent a lot of time there -- during working hours Monday through Friday to give a statement, creates an enormous barrier.

CHAIR EMERY: We're trying very hard to address that in some boroughs.

MR. DUNN: Well, that's great and I've been hearing that for -- and Richard, again I know your intentions are good, don't get me wrong. I've been hearing for years about this borough initiative.

CHAIR EMERY: Right.

MR. DUNN: Years, okay. And I hear that you're in one council members office -- which is a start to be sure. But that is no answer to the people who live in the Bronx, who live out here in Queens, who work all day, and are just not going to be able to say to their employer, "I'm taking the day off to go in and chitchat with the CCRB." It's not going to happen.

CHAIR EMERY: Well, I'm sure --

MR. DUNN: Those people withdraw.

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CHAIR EMERY: -- I'm sure -- I'm sure that Councilman Lentzman is going to turn over his office to us tomorrow.

MS. CORTES-GOMEZ: Can I just say that this month alone, I had an encounter where I had an investigation -- or an investigator rather, go out to Staten Island to meet with someone to identify an officer and she didn't show, after confirming. So there are attempts by our investigators to try and go out to them, but if they do not show up after confirmation what are we to do?

MR. DUNN: Of course.

MS. CORTES-GOMEZ: And that --

MR. DUNN: No, I don't have any problem with that.

MS. CORTES-GOMEZ: -- I believe is the situation that Bishop just indicated.

CHAIR EMERY: We're doing -- we're really trying hard. And if you have constructive ideas as to how we can do this better, I would love to have them.

MR. DUNN: I loved your bus idea, Richard.

CHAIR EMERY: I liked the bus idea too but --

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and if we -- the problem was the city council members sort of coopted it. Sorry Bishop, you wanted to say something?

BISHOP TAYLOR: Yeah. Well, I think that also too that we've got re-enforcement of our outreach team that's going to be in place soon. We have been talking about complaints on demand. We've been talking about real -- instead of just having, you know, sites set up, have sites available. So that if we get a complaint in Staten Island and the person says, "Okay, I want to make this complaint," then we can say go to our A site in Staten Island. So we have had -- and you're right, it takes some time to put that together but we are working -- I think we've made more progress on that front with our new chair, our new executive director, and a lot of new team changes. So I think that it will come sooner than what you've seen in the past.

MS. MALIK: Yes. I have to say Chris, that the investigators in the agency aren't chained to their desks. They're actually going out into the field where it's necessary. Where people can't come down to 100 Church Street they are going out

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there. They're going out to Riker's Island, they're out in Staten Island, they go out to the Bronx, they go out to Queens, far eastern Queens. They're going all over the city to make sure that people's complaints are addressed and heard.

MR. DUNN: Okay. I -- that's great. I'd love to see some reporting on that just like you do outreach. I'd love to know how many complainants you actually interview each month in some place other than 100 Church Street, that would be a revealing figure.

CHAIR EMERY: I think that's a -- that's a good idea. I think we should --

MR. DUNN: I might learn something.

CHAIR EMERY: -- I think we should put that stat together.

MR. DUNN: And I would just remind this board --

CHAIR EMERY: You have that? What?

MS. CEDENO: I was just going to say that, as we speak one of our agency prosecutors at this moment, is at the house of one of the complainants prepping them for trial.

MS. CORTES-GOMEZ: And it is about a quarter

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to eight.

MR. DUNN: Good for them. That's not a truncated case any how.

CHAIR EMERY: I understand, yeah.

MR. DUNN: The final couple things I want to mention. And I do want to say and I want to recognize this, that Mina, you guys have made enormous strides in terms of the -- internal organizational efficiency I see that very clearly. I'm now really encouraging that energy and success to be directed towards some of the external organizational efficiency.

All right, the two final things I'll say and then I'll sit down, I've talked too long. First I notice that the most common substantiated complaint for the first six months, frisks. That continues to be a huge problem. And -- and since Council Member Lancman is here, he'll be interested in this -- I see that you have 129 chokehold complaints for the first six months. And Richard you have personally paid a lot of attention to this, I hope the agency continues to pay attention to it. I think the chokehold issue continues to be a major issue.

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CHAIR EMERY: It most certainly is. It's very central to several things that are going on right now and we're following up on it in the mid-year report.

MR. DUNN: Okay, thank you very much.

CHAIR EMERY: Thank you. Now we have our host who I want to acknowledge, Mr. Mark Kleiman and also Regina Ritchie, who I want to thank very much for providing this facility, the County Mediation Unit for us. But Mark, you wanted to come up and say something, if you would. Thank you very much and I want to -- I want to thank you so much for your generosity and your -- your helping us be here.

MR. KLEIMAN: I'm so pleased you're here. I was in one of the first, maybe the first, class of mediators that the CCRB put together and mediated for several years. But I think that a lot of the issues and discussion about public perception, and numbers of mediations, and have people showing up and not showing up, became a bit of a deterrent. But I understand now, that it has picked up and I really appreciate that.

I think -- I've always felt that it's one

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of the most -- could be one of the most significant experiences that a police officer can have, sitting across the table from a person with whom they've had a difficult -- a difficult situation. And to be able to -- on both sides. And I've found that the cases that I did, that was true. And there was definitely an impact made on both.

What -- around this issue of decentralization, which I think is an important one and I think you all recognize that. The -- there is a community mediation center in every borough. I would hazard to say that the majority of the mediators who mediate for the CCRB are certified by the mediation centers around the city. And I would suggest that you think about citing the mediations, potentially at the centers.

CHAIR EMERY: That's a great idea.

MR. KLEIMAN: We are one of the community mediation centers -- we are the community mediation center for Queens and we handle somewhere around 15, 1800 cases a year. And this -- this -- behind you is the mediation

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2 center, this two-story building we built in the
3 space.

4 The other thing that I wanted to say is
5 that, we're very involved with the process with
6 police; the efforts they're making through Deputy
7 Commissioner Herman regarding the restructuring
8 of the precincts and the training of certain
9 officers, these neighborhood coordinating
10 offices, etc. And one of the objectives is to
11 have them -- well not direct -- but recommend,
12 suggest that any case where there is not an
13 arrest, that it be referred -- if it's
14 appropriate -- it be referred for mediation at
15 the mediation centers of the various -- in the
16 various boroughs.

17 And my -- my hope there also would be that
18 the education process to officers across the city
19 on the benefit of mediation. And hopefully
20 seeing situations or individuals who they've come
21 across and seen in conflict, having resolved or
22 lower the temperature of those conflicts would
23 make a big difference.

24 CHAIR EMERY: It's interesting your
25 discussion. Lisa's not here tonight but I assume

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that we can connect the two of you --

MR. KLEIMAN: Sure.

CHAIR EMERY: -- if you're not connected already because Lisa --

MR. KLEIMAN: Yeah, we've -- we've talked a couple of times.

CHAIR EMERY: Yes, good. And the interesting thing about mediation from our point of view is, I'd hoped to expand it and have the CCRB expand it. And we are expanding it but it's more slowly than I had hoped for. And it's really a delicate thing. It's not delicate on one side but it's very delicate on the other. And I think it's worth noting and saying -- describing what I mean for just very briefly.

The investigators are very well trained to do something which is present the opportunity for mediation without it feeling coercive.

MR. KLEIMAN: Sure.

CHAIR EMERY: Because we do not want people to feel that when they want to have a full investigation, that they are being dissuaded from doing that. And inevitably many people do feel that when you present the mediation in a

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convincing or persuasive way.

MR. KLEIMAN: Yeah.

CHAIR EMERY: So it's a subtle thing to have civilians who are making complaints and they're usually angry at the early stages --

MR. KLEIMAN: Sure.

CHAIR EMERY: -- opt for mediation without them feeling coerced to do so. And we are vigilant about not putting people in that situation.

On the other hand, the thing that's not complicated is the police officers. Other than the detectives who have some kind of absolute rule against mediating, which I don't know what's that about. But virtually all the police officers, 85 percent of them or so, will opt for mediation. And they opt for it, I don't think for any particularly high-minded reason initially. I think they go into it in a way that ends up being quite rewarding --

MR. KLEIMAN: Right.

CHAIR EMERY: -- and important and the experience is a good one, or often a good one for everybody involved.

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They go into it because they don't have to make a statement. This is something that Chris Dunn for instance and others, have complained about. Because we have this huge capacity to gather these statements and this evidence --

MR. KLEIMAN: Sure.

CHAIR EMERY: -- and this very important data and we shouldn't be foregoing that data. And we're wrestling with that problem too. But that's an aside.

The officers have a huge incentive to go to mediation and they do. So sometimes the mediation is -- fails but often it's actually a very high percentage success rate.

MR. KLEIMAN: Sure.

CHAIR EMERY: So we're -- we are very much committed to the idea of expanding and working with our mediation opportunities.

MR. KLEIMAN: Yeah. Just one question on that.

CHAIR EMERY: Sure.

MR. KLEIMAN: And that is -- I mean, I -- we've been involved in the mediation programs in all the courts. And actually the family court

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2 custody mediation program around the city we ran
3 for six years before the bottom fell out of the
4 economy. And I -- I actually believe that -- I'm
5 a believer in mandatory mediation. It's like now
6 you have mandatory, beat each other up in the
7 court system. If mediation doesn't work, you can
8 always go through the court system. And I wonder
9 if -- if the complainant is dissatisfied with
10 what happens, can they go back and start the case
11 again?

12 CHAIR EMERY: Yes.

13 MR. KLEIMAN: With you?

14 CHAIR EMERY: They can, they can.

15 MR. KLEIMAN: Okay. Well, then that...okay.

16 CHAIR EMERY: That's right, they can. But
17 the problem is, we don't want to have a lot of
18 hoops in the way of a final investigation and a
19 full investigation.

20 MR. KLEIMAN: Sure, sure.

21 CHAIR EMERY: We don't want to slow down the
22 investigative process. So what we're trying to
23 do now, is have mediation -- where it's opted for
24 and successful to have people on both sides
25 participate -- paralleled by continuing

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investigations. So that if it does -- if it's not successful, at least the basics have been done by our agency to put it back on track and to the investigative track when mediation fails. So we haven't lost all the time that leads up mediation.

MR. KLEIMAN: Okay, because mediation -- and we -- we schedule cases within, you know, based on convenience in a week, in two weeks.

CHAIR EMERY: But the problem is the police officers. It's very hard for us -- when you have a court ordered situation it's quite difficult from -- quite different from when you have --

MR. KLEIMAN: Yeah.

CHAIR EMERY: -- police officers who have to be assigned to this task from their usual tasks. Precinct commanders and other command do not like to have manpower or person power --

MR. KLEIMAN: Yeah, diminished.

CHAIR EMERY: -- diverted.

MR. KLEIMAN: Right.

CHAIR EMERY: So it's a problem there and it's also a problem for civilians to get away from their jobs, from their daily lives and --

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PROCEEDINGS

MR. KLEIMAN: Sure.

CHAIR EMERY: -- do something like this.

MR. KLEIMAN: Sure.

CHAIR EMERY: And that usually does take place during the day because mediators are primarily available during the day.

MR. KLEIMAN: I'd be careful about talking before the mediation just not to resurface the -- the emotions so that when they go in there there's a greater likelihood of listening to each other --

CHAIR EMERY: Right.

MR. KLEIMAN: -- basically. Thank you.

CHAIR EMERY: Thank you so much and thank you so much for having us. Other reports from committees? Anybody want to speak up for things that are going on? Otherwise, we're headed towards an adjournment to executive session.

MR. O'GRADY: Can I say a couple more things?

CHAIR EMERY: Of course, come on up Mr. O'Grady. Do you want to just say it from there?

MR. O'GRADY: Well, yeah. The penmanship of the police sergeant who signed my write-up, you

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PROCEEDINGS

know, someone said it's Salotano, Sergeant Salotano. But his penmanship, you know, it's like a judge or a doctor. You know, does anyone know if what -- is it -- because they said -- someone said Sergeant Salatono? But I don't know how you got Salatono out of that.

CHAIR EMERY: I'm sorry. I don't know the answer. Anybody want to report on anything that's going on from anybody's point of view?

(No response.)

We're good? All right. So can we have a motion to adjourn to executive session?

MR. CAPERS: So moved.

MS. CORTES-GOMEZ: Second.

CHAIR EMERY: All right. All in favor?

(The members raise their hands.)

Any opposed?

(No response.)

Thank you very much.

(Time noted 7:53 p.m.)

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PROCEEDINGS

C E R T I F I C A T E

STATE OF NEW YORK)
 :
COUNTY OF KINGS

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

THAT the within transcript is a true and accurate record of the testimony given by such witness.

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 12th of August 2015.

BONITA RICHARDS

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