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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BOARD MEMBERS PRESENT WERE:

Dr. Mohammad Khalid
Daniel M. Gitner, Esq.
James Donlon, Esq.
David G. Liston, Esq.
Rudolph Landin, Esq.
Jules A. Martin, Esq.
Bishop Mitchell G. Taylor
Alphonzo Grant, Jr., Esq.
Youngik Yoon, Esq.
Joseph A. Puma
CHAIRMAN DR. MOHAMMAD KHALID: Good morning, everyone.

THE AUDIENCE: Good morning.

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

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

Do we have any --

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

MR. JAMES DONLON: Second.

CHAIRMAN KHALID: Any seconds?

MR. ALPHONZO GRANT, JR.: Second.

CHAIRMAN KHALID: All say...

(Chorus of ayes.)

CHAIRMAN KHALID: Any nays?

(No nays verbalized.)

CHAIRMAN KHALID: The adoption of the minutes have passed.

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

We are -- CCRB is going to be independently working, as has been doing previously, and will
continue doing their job to the best of our ability, which, in the past, we've been working very hard. And I want to thank all the investigators and all the staff for working diligently to make sure that the CCRB does its work.

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

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

MR. JOSEPH PUMA: Sure.

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

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

CHAIRMAN KHALID: Welcome. Thank you.
Now, the next item is the report from the Executive Director. Tracy.

MS. TRACY CATAPANO-FOX: Thank you, Dr. Khalid.

Good morning, everyone.

THE AUDIENCE: Good morning.

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

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

The Board closed 151 cases in January. If you look at the Executive Director's report, you'll see that there's two different charts. One of the comments that we had last month was that we are looking at case dispositions when you talk about truncation rate versus case resolution rate. And
what we did was we put together the charts in the
way that they had been presented in the past with
the truncation rate, and then the way that the Board
in -- had -- in 2013, there were two memos submitted
by the Deputy Executive Director Marcos Soler to the
Board in terms of how to proceed with calling cases
truncated versus case resolution.

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

So if you look, you'll see that in the
truncation report, the complaint withdrawn is taken
out on to a separate category of its own, and then
truncated cases are referred to cases where the
complainant was uncooperative, where, either
unavailable or unidentified. So if you look at it
on that chart, you'll see that there's 80 cases that are truncated, 26 that are withdrawn. That gives you 106 cases.

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

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

In January, there were five mediated cases between civilians and officers. There were actually six officers. One officer was involved in two cases and -- leaving us for the year right now with a total of five mediations. Again, the case resolution rate, the rate at which cases are fully investigated, are mediated as a percentage of all
the cases we had in January, would be 30 percent, and then the case of -- leaving 70 percent of cases where it was withdrawn, uncooperative, unavailable, victim unidentified.

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

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

At the end of January, the Agency dockets stood at 2,706 cases. This is a 13 percent increase over the open docket from December, where we had 2,394 cases. By the date of this report, 94 percent of
our open cases stem from complaints filed within the last year, and 64 percent were filed in the last four months. Of our open cases, 609 are awaiting Panel review, that's 23 percent of the docket; 1,869 are being investigated, which is 69 percent of the docket; and 231 cases are in the mediation program, totaling 8 percent of our docket.

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

In December 2013, the NYPD closed six substantiated cases involving eight officers. The NYPD found one officer guilty after trial, and seven officers received instructions. In 2013, the disciplinary action rate was 60 percent, and the Department decline-to-prosecute rate was 27 percent. In cases where the Department pursued charges and specifications, the conviction rate was 83 percent. This includes officers who pled guilty after trial.
and who pled guilty to charges. The
guilty-after-trial rate was 67 percent.

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

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

There were a couple of things that were
mentioned last month that I just wanted to update us
on, 100 Church being one of them. It looks like we
are finally moving the weekend of March 15th. That
is our final date, and so by that Monday, we should
be in there. Frankly, that's the last day. I can't
imagine why there would be any movement, but they
tell us that there's no question. And we are on
target in terms of moving our computers, our systems
and getting us ready to be there. I've been there
myself. This place looks really nice, it's very
open, there's a lot of space, and I think that it's
going to be a really nice change for the Agency, and
I think the Board will really like it.

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

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

MS. CATAPANO-FOX: Yes. The key is to make sure
it's archived. So in terms of the way the Board
wants to proceed, we have to buy the equipment and
set ourselves up so for the next meeting we would
have this capability. I wanted to open it --

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

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

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

MS. CATAPANO-FOX: Yes.

BISHOP TAYLOR: And you can view them almost
immediately, but it's on, like, the New York TV or
whatever it is, NYC --
CHAIRMAN KHALID:  Yeah, NYC 31.

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

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

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

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

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

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

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

MR. LISTON:  Right.

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

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

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

MR. LISTON:  Okay.
BISHOP TAYLOR: So we have to decide, you know, which portal we use, but --

MS. CATAPANO-FOX: Correct.

BISHOP TAYLOR: Okay.

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

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

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

MR. LISTON: Yeah.

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

MR. LISTON: Sure.

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

CHAIRMAN KHALID: I think we'll discuss this at
the Executive Session and then we can vote on it how
we want to proceed with this. Is that --

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

CHAIRMAN KHALID: Yeah.

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

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

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

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

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

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

CHAIRMAN KHALID: Yes.

MS. CATAPANO-FOX: We have to.

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

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

MS. CATAPANO-FOX: I'm going to ask
the Deputy -- Brian, do you know the costs in terms
of...

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

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

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

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

BISHOP TAYLOR: Yes.

MR. GITNER: -- about us talking publicly, but I
think what we should do is for now we can vote, do
the simple one, which is just videotape it and stick
it on YouTube, or wherever we stick it on, and then
that's in compliance with the laws, as I understand
it, so we should be in compliance with the law. And then next time, after we move to 100 Church and they tell us what our IT capabilities are, we can get a report from you guys, you can tell us what's possible, how much it costs, and we can reconsider it. But in the meantime, we're in compliance with the simplest, most cost-effective way.

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

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

MR. DONLON: I second it.

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

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

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

MR. GITNER: So what I would do is the minimum in compliance with the law, which is videotape it
and stick it, archive it on our website. I personally have no interest in sticking it on YouTube, I'm sort of saying that as a proxy for the Web. I would archive it, stick it on our website. That's, as I understand it, in compliance, which we should be. And then we can reconsider once we're at 100 Church, what our capabilities are and what everybody wants to do as a Board.

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

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

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

MR. LISTON: A studio or something.

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

MR. GITNER: Okay, great.

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

BISHOP TAYLOR: Make a motion.

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

BISHOP TAYLOR: Yes.

MR. GITNER: I move for that.

BISHOP TAYLOR: I second that.

CHAIRMAN KHALID: Is everybody "yes" on that?

MR. GITNER: Yes.

MR. LISTON: Yes.

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

CHAIRMAN KHALID: Okay. All the way. Okay.

MR. GRANT, JR.: Wait, wait, wait. Hold on. What's "that"?

MR. GITNER: Videotaping it --

CHAIRMAN KHALID: The videotaping.

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

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

MR. GRANT, JR.: Videotaping it and archiving it
on our website, and there's a motion on the table?

    MR. GITNER: Yes.

    MR. GRANT, JR.: Okay.

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

    MR. GRANT, JR.: Got it.

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

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

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

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

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

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

    CHAIRMAN KHALID: Oh, okay.

    MR. LISTON: And "All those opposed?"

    CHAIRMAN KHALID: All those in favor?

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

    CHAIRMAN KHALID: No, no.

    All those in favor --

    (Chorus of Ayes.)
CHAIRMAN KHALID: -- say "aye."

So everybody's in favor.

MS. CATAPANO-FOX: Okay.

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

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

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

Another thing the Board had asked me to look
MR. GRANT, JR.: Before we move on, I just have a question.

MS. CATAPANO-FOX: Of course.

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

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

Some of those cases, they get reported late by the complainants or by IAB or NYPD, and so that definitely adds to some of our delays that are built
But, yes, you're right, we have to make sure that when an investigator leaves, that we monitor the cases that they were assigned and make sure that they're reassigned quickly.

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

MS. CATAPANO-FOX: It gives us --

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

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

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

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

MR. GRANT, JR.: Thanks.

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

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

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

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

    MS. CATAPANO-FOX: Okay.

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

    MR. LISTON: Right.

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

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

    MR. GITNER: Absolutely.

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

    MR. GITNER: No. Well, I don't know because I'm not Corp. Counsel. But my assumption is that because it's specific to an ongoing investigation, I think our practice has been that none of that is public and that's all done, essentially, in Executive Session. I don't think it even has to be
done in the Executive Session that follows this, I think it can be done sort of as an Ad Hoc Executive Session, whatever form we choose. But it can be done quickly and sort of on the fly as the investigations occur. And if the committee packages it in a way that for the Board that's efficient and quick, it hopefully can be very easily done and won't have to involve too much back and forth, but enough so that the Board has the information it needs to vote.

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

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

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

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

CHAIRMAN KHALID: Okay.

MR. GITNER: So, I didn't want to interrupt. So, as I understand it, the intake for January this year is much higher than it was last year by an order of 200, 300 cases, in part because of Sandy. It shut us down last year.

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

So I just want to make sure that the Agency is 
thinking about this massive increase in numbers, 
sort of a superstorm in and of itself for us. How 
are we going to handle that? Are we thinking about 
that or is it something we should start to think 
about or am I totally off base?
MS. CATAPANO-FOX: I don't think you're off base. We have -- a part of what we've been doing is working towards that as a long-term possibility. That's why we hired another team attorney. I'm also reviewing cases so that we can make sure that we can get the cases to the panels quicker with the team attorneys. But we might need more team attorneys.

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

MS. CATAPANO-FOX: Currently?

MR. GITNER: Yes.

MS. CATAPANO-FOX: Not quite.

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

It sounds like we don't have the money to hire the people we need, so how do we get the money to increase the budget and increase the staff that you need? And how do we begin by positioning ourselves so everybody understands that we're going to be -- there's going to be a backlog, there's going to
be -- it sounds like there's going to be a huge problem unless we start thinking about it now and asking -- planning now, and asking for money to increase the staff, et cetera.

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

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

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

MS. CATAPANO-FOX: Mediation is now presented in intake as not just an option, but a suggested option
for the complainant from the initial onset of the case.

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

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

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

MS. CATAPANO-FOX: Yes.

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

MS. CATAPANO-FOX: Of course.
MR. GITNER: And that's because of the Collective Bargaining Agreement?

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

MS. CATAPANO-FOX: It's voluntary.

MR. LISTON: -- want to be there.

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

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

MR. LISTON: Exactly.
MS. CATAPANO-FOX: So if we could get officers -- if we could get the NYPD on board with that, that might increase our numbers.

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

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

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

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

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

MR. LISTON: Yeah.

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

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

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

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

MR. GRANT, JR.: Okay.

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

CHAIRMAN KHALID: So why don't we have a
combined meeting with the Operations and APU together, like you suggested.

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

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

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

   So I just don't think we should be in crisis mode in the sense that all of a sudden now we're
being inundated with complaints, because I don't think that's accurate.

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

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

MR. GITNER: Study it.

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

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

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

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

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

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

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

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

BISHOP TAYLOR: Right, right.

MR. DONLON: -- and dealing with them. And, you know, I'm not disagreeing with all of these suggestions. I think they're great. But I just don't want to give -- it's a public meeting, and I
don't want to give the public the impression that
we're about to be completely --

BISHOP TAYLOR: Exactly.

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

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

MR. DONLON: That will help.

CHAIRMAN KHALID: Yes.

BISHOP TAYLOR: I also want to, just for the
record, say that we do have a process already in
place for mediation and, you know, referring people
to mediation, explaining the mediation option. If
you're telling me that we should review that process
more to see if there's more explanation we can give
to the complainants, I agree. But I think forcing
someone to go through a mediation seminar or setting
or whatever is not -- doesn't sound constitutional
to me.

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

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

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

MR. LISTON: Let's have a joint meeting, the
Operations Committee and the APU Committee, and talk
about all these issues. I think we should invite
Lisa Grace Cohen as well to speak to us about the
mediation component, and, of course, Laura and Jon.
I think there's a lot to talk about. Sooner rather
than later.

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

MR. LISTON: Good point.

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

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

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

MR. GITNER: I understand that. But, for
example, there could also be a system where the
complainant wants it and apparently the officer can
say no. And we could try to implement a system
where if the complainant wants it, it's automatic.

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

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

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

MR. JULES MARTIN: Right.

BISHOP TAYLOR: Can you talk --

MR. MARTIN: As I listen to the debate here, you
know, you have to remember that the bottom line with
mediation is it's not punitive to the officers. So
the constitutionality doesn't come into play, as Bishop has mentioned.

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

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

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

BISHOP TAYLOR: Right.

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

CHAIRMAN KHALID: Any other questions?

Anything?

MR. GITNER: I have one question.

CHAIRMAN KHALID: Go ahead.

MR. GITNER: Since the creation of the APU, has the Board sent more cases for charges than in the
past? Do our statistics tell us that? I was trying
to look at it and figure that -- I couldn't, I
couldn't figure that out.

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

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

BISHOP TAYLOR: Speak up a little bit, Marcos.

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

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

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

MR. LISTON: Shall we move the agenda?

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

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

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

CHAIRMAN KHALID: Yes.

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

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

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

MR. CONNELL: No. We have to come up with different wordings for the Chair. And when we print
it, we get the proof back, and the proof, the wording was not accurate. And we have to send it back to the --

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

MR. CONNELL: Correct.

BISHOP TAYLOR: Okay.

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

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

CHAIRMAN KHALID: Okay.

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

BISHOP TAYLOR: Tomorrow. Excellent.

CHAIRMAN KHALID: Thank you.

Next item on the agenda, the committee reports.

Committee reports.

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

Two to three weeks?

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

MR. DONLON: Right, okay.

MS. CATAPANO-FOX: Right.

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

MS. CATAPANO-FOX: He said ten days.

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

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

MR. SOLER: Yes.

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

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

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

MR. SOLER: That was already released.

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

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

Also, the hard copies came. We distributed to the

--

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

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

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

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

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

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

I think we've already pushed it back from the original closed date by the NYPD to a March date
with the hopes that, you know, we would have a Chair appointed by then. But certainly, it would give us more time to come up with a, you know, a cohesive agenda that everybody's on board with on our time frame.

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

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

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

MS. CATAPANO-FOX: Thank you.

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

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

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

MS. CATAPANO-FOX: Absolutely.
CHAIRMAN KHALID: -- Tracy, and then we can move forward from there.

Any other questions? Any...

(No response.)

CHAIRMAN KHALID: Good. Any old business?

(No response.)

CHAIRMAN KHALID: Any new business?

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

And if the Police Commissioner's too busy, which I understand he might be, he's very important, has a lot to do, we should meet with him twice and some sort of high-level designee twice once a quarter. And that would allow us to constantly keep our issues in his mind instead of, you know, let's talk once a year, I'll see you again next February when
we repeat everything that we're talking about now because we still have the same issues and the same problems; whereas, if we have regular meetings, it's almost like the issues will to be -- have to move. So I want to encourage more frequent meetings and more frequent dialogue in some capacity. I think it's very, very important. I think it's something we should talk about when we meet with him and maybe beforehand. I don't know if it's something we talk to him about or his designee or whatever.

MR. LISTON: Let's discuss it with him directly.
MR. GITNER: Yes.
MR. GRANT, JR.: Yeah --
BISHOP TAYLOR: Just point of information -- oh, yeah. Go ahead, I'm sorry.
BISHOP TAYLOR: I was just going to say --
MR. GRANT, JR.: I was going to say the same thing.
BISHOP TAYLOR: Oh, okay. Point of information, Dan. I think that, you know, Dan has had, when he was Chair, regular meetings with the PC, more than we've had in the past, and constant communication with the Department, which was really a stark
difference with what we did in the past. So I think that that has already begun. So...

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

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

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

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

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

BISHOP TAYLOR: No, I agree with you totally.

MR. GITNER: I agree with that, but there should be more formalized communications between the Board so we can continue to have our agendas, which I
think are very important, and keep, you know,
pushing what we think is important at a high level.

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

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

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

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

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

And I think, also, you know, based on what I've seen publically, it's very consistent with what the new Police Commissioner and the new Mayor have said, in terms of streamlining a lot of the processes in other contexts and categories. And I think I'm -- I
don't think I'm saying it in controversial, I
actually think what I'm saying is we need to get on
board with what they're saying about everything else
they're doing.

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

MR. GITNER: Well --

CHAIRMAN KHALID: And in the past, Dan, I wanted
to tell you something that whenever we had a meeting
with PC, the Executive Director sent a message to, an e-mail to all the Board members whatever their thoughts of the agenda is, and we put that together. And we always did that with Ray Kelly. And so I think that this, moving forward, we're going to do the same thing. You know, they're only there for six weeks. So we are going to do that as far as -- as a Board, we have met with the Commissioner Kelly probably, maybe, seven --

BISHOP TAYLOR: Oh, yes.

CHAIRMAN KHALID: -- six, seven times already.

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

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

BISHOP TAYLOR: But I just think that, you know, Dan --
MR. GITNER: I'm not being critical and I'm not trying to compare this Administration or that Administration at all. Period.

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

CHAIRMAN KHALID: Yeah.

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

CHAIRMAN KHALID: And the C --

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

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

I'm not being critical of what happened in the
past. What happened in the past is the past and was right at the moment. I'm saying, in my view, maybe you disagree, that's fine, in my view, we should be pushing in that direction. That's all I'm saying.

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

And it's strange to me that after all of the intense work that the investigators do and they put together these wonderful reports, and then I know the Panel's spent a lot of time thinking about these cases, that over 25 percent of those cases, we're told, sorry, we totally disagree, and there's zero
back and forth about why. We don't -- it's like, it's like a verdict, guilty or not guilty, and you don't get to ask the jury why.

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

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

So I would see -- like to see that kind of discussion being whispered to the Police Department, and they can tell us if they disagree. If they disagree, fine. But at least, I think, beginning that kind of dialogue will be very, very important to solve -- it will make us more efficient, it will
make our decline-to-prosecute rate, I think, go down
because we -- and I think it's better for the, I
think it's, frankly, better for the Police
Department and it's better for the citizens.

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

MR. MARTIN: Dan --

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

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

MR. GITNER: I agree.

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

And secondly, we don't want to come across as
whiners. We want to have some really mega issues
that we've been dealing with so that this is the first impression that he would have of the Board.
Not those small issues -- not that the small issues don't count, but we should go with mega issues that we think that is on the top in terms of our priorities.

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

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

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

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

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

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

MR. GITNER: Yeah, right.

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

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

MR. LISTON: Excellent.

CHAIRMAN KHALID: Any other questions? Anything?

BISHOP TAYLOR: No more committee reports, right?

CHAIRMAN KHALID: No more --
MR. LISTON: I hope not.

CHAIRMAN KHALID: Public comments?

Mr. Chris Dunn.

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

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

MS. TOLLIVER: I'm right here.

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

MS. TOLLIVER: Hi.

THE BOARD: Hi.

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

MR. LISTON: That would be a sacrifice.

MR. DUNN: On the subject of new members, Mr. Puma, welcome to the CCRB. I understand you were here last month. Here's a question I have. I'm familiar with your background and appreciate the comments you made. I ask this of every single new
CCRB appointee. I don't see a lot of experience with policing issues in general, and the NYPD in particular, so I'm interested in what perspective you bring to the CCRB in terms of our friends at the NYPD.

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

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

And that sort of brings in my work, especially in the Lower East Side, on public housing issues. Though we don't work, at the organization that I'm a part of, Good Old Lower East Side doesn't work
directly on police issues, we, you know, certainly
are conscious of issues regarding, you know, NYPD
and public housing.

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

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

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

All right. On the report, Tracy, I appreciate
your reporting on some of the changes in the
formatting of the report. I think that's important.
You didn't mention, I don't think, but there's also
a whole section about the APU Unit in the report?

MS. CATAPANO-FOX: Yes.

MR. DUNN: Which, actually, is very helpful.

Thank you on that.

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

And to go to Jim's point, that increase is a bit
of an artificial increase because there was such a
drop off because of Sandy-related ability to file
complaints with the Agency. And it's not that the
Agency lost a lot of staff during that time because
the complaints came down, it did not; the staffing
remained the same, it's just the complaint activity
went way down. The staff work went way down because of the work situation. But you have the same staffing, you're back to what are more typical numbers. I'm a little less worried about the number of complaints that came in this month.

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

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

One thing you did not mention we talked about last month was the question about why so few cases are coming through from the Department. Again, we
have another month where there are very few cases that came through from the Department, and there were some issues about whether or not that was because cases were getting diverted to APU. I don't know if that's an answer to that or not, but there are virtually no cases coming back from the Department at this point.

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

MR. GITNER: Are you talking about dispositions --

MR. DUNN: Yes.

MR. GITNER: -- from the Department?

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

The subpoena issue. Glad to see you're pursuing that. I'm looking forward to the day that the Board subpoenas somebody. Dan, I agree that the discussion about subpoena in an individual case is Executive Committee discussion, but the fact that
the Board issues a subpoena should be reported
publicly. It does not have to be any discussion
about the cases, but that would be an important fact
because I don't think it's ever happened before.

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

Okay. There were a number of comments made
about, "we should talk about something in Executive
Session," and then, I'm referring to what David
said, "no, no, we should do it in public." I just
want to reiterate, particularly for the new people,
the Open Meeting Law applies. I think there has
been a clear tendency for some time for the Board to
be making decisions in Executive Session or perhaps
by e-mail that doesn't happen in a public meeting.
And so I want to say to all of you: Keep that in
mind. You all have a legal obligation to make sure
things are happening in public meetings.
Somewhat unrelated to that, one of my friends inside the Agency, and I'd like to think I have many of them, sent me an e-mail that went out from Denis at the end of January concerning the way the Agency is now dealing with cases that are being referred by the Department as opposed to, are coming directly to CCRB. And that e-mail starts: "The Board approved cases being administratively closed under the following circumstances." And it goes on to set out a new procedure by which cases that come from the Department are going to be handled by the Agency, which involves far less effort on the part of the Agency to get the complainant to participate in the investigation.

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

And as I understand it, about 40 percent of the cases are coming from the Department, and, therefore, we are in a situation now, if this e-mail
is correct, that the Agency is going to be using a much less rigorous process for dealing with these complaints and it's going to be closing them much more easily.

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

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

MR. DUNN: Denis.

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

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

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

MR. DUNN: But of course you can ask.

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

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

MR. DUNN: Yes.

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

MR. DUNN: You can rest assured, if you had a policy in place to retaliate against people for
distributing an e-mail like this, that would be an
unconstitutional policy and we'd be having a
conversation about that.

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

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

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

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

MR. DUNN: Of course.

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

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

BISHOP TAYLOR: -- public meeting minutes of the
past to try to find when that probably was done, and
we didn't have a public discussion on it. I don't
remember a private discussion on it, but I think we
need to, as a Board, discuss this to figure out how that e-mail was transmitted and why there is that significant change without broader Board discussions publicly. You're right about that.

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

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

BISHOP TAYLOR: But I think, Liston, what he, Dave, what he really raises is not more public meetings, it's the fact that there was an e-mail that was sent out that there was no public discussion on.
MR. LISTON: Well, I think, if I understand your --

BISHOP TAYLOR: Right?

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

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

MR. LISTON: Right. Yes.

MR. DUNN: That's my primary concern.

MR. LISTON: Fair enough.

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

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

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

MR. DONLON: Can I just ask, what's the date of
the e-mail that you're referring to?

MR. DUNN: January 28th.

MR. DONLON: Okay.

MR. DUNN: 4:36 p.m.

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

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

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

MR. DUNN: Okay.

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

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

MR. LISTON: I agree.

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

MR. DUNN: I appreciate that. I'll close with a piece of good news.
The report's -- it's terrific. I mean, the semiannual, that was way too light, of course, but there's a new regime on reporting. I think it's great that the annual report will actually be out in a timely fashion. That's the first time the Agency has done that in the ten-plus years I have been doing it. So thank you very much.

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

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

CHAIRMAN KHALID: Thank you, Mr. Dunn.

Anybody else with public comment?

(No response.)
CHAIRMAN KHALID: If not, the meeting is adjourned. And we'll take a five-minute break for the Executive Session.

(Whereupon, the hearing concluded at 11:33 a.m.)
CERTIFICATION

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
Civilian Complain Review Board Public Meeting
February 12, 2014

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