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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

April 13, 2022

4:00 p.m.

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HELD VIA VIDEOCONFERENCE/
100 Church Street
New York 10007

B E F O R E:

ARVA RICE, CHAIR

JONATHAN DARCHE, ESQ., EXECUTIVE DIRECTOR

COURT REPORTER:

Sabrina Brown Stewart

PUBLIC MEETING AGENDA

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1. Call to Order
2. Report from the Chair
3. Report from the Executive Director
4. Approval of Minutes
5. Presentation from Outreach on the CCRB
6. Public Comment
7. Old Business
8. New Business
9. Adjourn to Executive Session

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BOARD MEMBERS PRESENT

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- 1. Arva Rice, Chair
- 2. Salvatore F. Carcaterra, Board Member
- 3. Frank Dwyer, Board Member
- 4. Esmeralda Simmons, Esq., Board Member
- 5. Michael Rivadeneyra, Esq., Board Member
- 6. Herman Merritt, Board Member
- 7. John Siegal, Esq., Board Member
- 8. Erica Bond, Board Member
- 9. Corrine A. Irish, Esq., Board Member
- 10. Willie Freeman, Board Member
- 11. Joseph A. Puma, Board Member

PRESENTERS:

Yojaira Alvarez - Senior Advisor to the Executive
Director & Director of Intergovernmental Affairs

1 MS. ALVAREZ: Good evening, everyone.
2 For those that would like to utilize our ASL
3 services, we have two interpreters this
4 evening; Anna Marie Brown -- oh, I'm sorry.
5 Andria Alefhi and Craig Ridgway. You can pin
6 their videos on the chat, and you could also
7 use the cart services that are available in
8 the chat as well. Thank you.

9 CHAIR RICE: Good afternoon, everyone
10 and welcome. My name is Arva Rice. I use
11 she/her pronouns, and I am the interim chair
12 of the Civilian Complaint Review Board. I
13 would like to call the CCRB April public
14 meeting to order.

15 First, on behalf of the entire board, I
16 would like to recognize the 16 victims who
17 were injured in yesterday's horrific
18 shooting. And thank our city's first
19 responders who rushed to the scene. They are
20 in our thoughts and prayers, and we wish them
21 a speedy recovery.

22 Would the rest of the board please
23 introduce themselves, starting with Sal.

24 MR. CARCATERRA: Good evening,
25 everyone. My name is Sal Carcaterra and I'm

1 a Police Commissioner Designee.

2 MR. DWYER: Good evening, all. So, my
3 name is Frank Dwyer, and I'm also a Police
4 Commissioner Designee.

5 MS. SIMMONS: Good evening. My name is
6 Esmeralda Simmons. I'm from Bed-Stuy,
7 Brooklyn. I am a public advocate appointee.

8 MR. RIVADENEYRA: Good evening,
9 everyone. My name is Michael Rivadeneyra,
10 and I am a City Council designee I'm hailing
11 from the Bronx.

12 MR. MERRITT: Hi. My name is Herman
13 Merritt. I'm a City Council representative
14 from Brooklyn.

15 MR. SIEGAL: John Siegal. I'm not sure
16 this is on, but hopefully you can hear me.

17 John Siegal, I'm a Mayoral Appointee,
18 and glad to see you all in person, at least
19 those who are in the room here.

20 CHAIR RICE: Thank you.

21 Is there a quorum? Can I ask for a
22 motion to approve the minutes?

23 MS. SIMMONS: So moved.

24 MR. DWYER: Second.

25 MR. DARCHE: Madam Chair, do you want

1 the members who are online to introduce
2 themselves?

3 CHAIR RICE: Those that are online, if
4 I can ask them to introduce themselves.

5 Thank you, Jon.

6 MS. IRISH: Hi, this is Corrine Irish.
7 I'm a Mayoral Appointee and live in Harlem.

8 MS. BOND: Good afternoon, all. This
9 is Erica Bond. I'm sorry I can't be there
10 with all of you in person today. I'm a
11 Mayoral Designee and I'm from Brooklyn.

12 MR. FREEMAN: I am Willie Freeman. I'm
13 a Police Commissioner Designee, and I'm from
14 Brooklyn.

15 MR. DARCHE: Those are all the board
16 members who are online, Madam Chair.

17 CHAIR RICE: Okay. Thank you so much.

18 All right. And with that said, I know
19 that Esmeralda made a motion for the approval
20 of the board minutes.

21 Are there any changes or corrections to
22 the minutes before I officially accept that?
23 Any corrections or approval --

24 MR. DARCHE: Madam Chair --

25 CHAIR RICE: -- changes or

1 corrections --

2 MR. DARCHE: -- I think you need to
3 wait for Mr. Puma to arrive before you have a
4 quorum to vote on it.

5 CHAIR RICE: Okay. Okay.

6 All right. We will hold on the
7 approval of the minutes until we have a
8 quorum. So, thank you.

9 A few weeks ago, I had the opportunity
10 to advocate for the CCRB in the budget
11 hearing before the City Council's public
12 safety committee. I recapped many of the
13 Agency's successes from last year, including
14 gaining the right to investigate bias-based
15 policing, untruthful statements and sexual
16 misconduct and the right to self-initiate
17 complaints.

18 With these expanded powers, the Agency
19 continues to grow. We need to hire and train
20 numerous employees to staff the new unit
21 investigating bias-based policing and racial
22 profiling. We are constantly working to
23 better our investigative training programs
24 and our civilian assistance unit needs more
25 staffing.

1 Funding for our outreach team is
2 particularly key. All the investments into
3 the Agency is only validated if New Yorkers
4 know we are available to resource them -- or
5 an available resource for them.

6 Since the budget hearing, I am pleased
7 to report that OMB has approved 20
8 investigator positions which will fill our
9 next two classes of investigators and
10 authorize the hiring of three level-three
11 investigators and for the new unit on racial
12 profiling and bias-based policing.

13 Plus, we have identified six attorneys
14 and one data scientist who are actively
15 working with OMB to get on-boarded for the
16 Administrative Prosecution Unit and the
17 Racial Profiling Unit.

18 I would like to thank the City Council
19 who recently advocated for an expanded CCRB
20 budget, namely with the goal of achieving the
21 .65 percent ratio of uniformed officers to
22 CCRB employees outlined in the city charter.

23 I also use the hearing as an
24 opportunity to reemphasize the main goals the
25 CCRB hopes to achieve this year, starting

1 with receiving an exemption from sealing
2 statutes and improving the weight with which
3 NYPD accepts CCRB recommendations.

4 To that end, I met with Police
5 Commissioner Sewell last week to establish a
6 productive working relationship. This will
7 be the first of many meetings. And while we
8 may not always agree, we have laid the
9 foundation for open communication and will
10 both work hard to make New York City safer
11 for everyone.

12 One of the items we discussed is the
13 NYPD Disciplinary Matrix. The NYPD
14 introduced the Matrix for the first time in
15 January 2022, under Commissioner Shea. The
16 Department met with the CCRB and other
17 stakeholders while deciding the disciplinary
18 outcomes. And in February of last year, the
19 CCRB and the NYPD signed the Memorandum of
20 Understanding, agreeing to abide by the
21 Matrix.

22 The MOU agreed that each group would
23 only deviate from the Matrix in extraordinary
24 circumstances. The CCRB hope the
25 implementation of the Matrix would increase

1 how often the NYPD enforce CCRB
2 recommendations.

3 We will now hear from Executive
4 Director, Jon Darche, with a detailed results
5 of the Matrix thus far.

6 Jon?

7 MR. DARCHE: Thank you, Chair Rice.

8 My name is Jon Darche. I'm the
9 Executive Director of the Agency, and I use
10 he, him and his pronouns.

11 As the Agency has been using the Matrix
12 for a year now, the Chair charged me, on
13 behalf of the board, with reporting to the
14 public on how the Agency implemented the
15 Matrix, and what changes the board would
16 suggest that the Department make in the
17 Matrix.

18 First, a little background. The NYPD
19 introduced the Matrix for the first time with
20 then Police Commissioner Shea in
21 January 2021.

22 The Matrix is an idea that had been in
23 development by the NYPD for a while. It was
24 recommended by the Blue Ribbon Commission,
25 the Department convened to review

1 disciplinary matters. Later as part of the
2 state-mandated police reform process, of
3 which our interim chair was a facilitator,
4 that the Department agreed to introduce the
5 Matrix.

6 The Department met with and took input
7 from the CCRB, as well as other groups, as
8 part of creating the Matrix. And then, in
9 February of 2022, the NYPD introduced some
10 amendments to the Matrix.

11 Just some statistics to explain where
12 we are now with regard to the Matrix.

13 There have been 752 members of service
14 against who the CCRB substantiated at least
15 one allegation of misconduct since the Matrix
16 was adopted by the NYPD and the CCRB in
17 February 2021.

18 There are 539 cases in which the Police
19 Commissioner must still make a ruling on
20 whether to impose discipline and what the
21 penalty will be.

22 The NYPD closed 213 disciplinary cases
23 against members of service, against who the
24 CCRB substantiated at least one allegation
25 since the Matrix was adopted by the NYPD in

1 January 2021.

2 In 127 of those cases, the Department
3 did not take any disciplinary action at all,
4 so those cases do not impact the Matrix.

5 In 86 cases, the Department imposed
6 discipline. The Department took the CCRB's
7 disciplinary recommendations 75 times. The
8 Department imposed a lesser discipline than
9 recommended by the CCRB 11 times. We are
10 still working to understand what happened in
11 those 11 cases.

12 While the impact of the Matrix on the
13 rate at which the NYPD concurs with the
14 CCRB's disciplinary recommendations is
15 unclear, what is very clear is the impact of
16 the Matrix on CCRB's discipline
17 recommendations.

18 From 2016 to 2020, the average rate at
19 which the CCRB recommended charges for
20 members of service against who it
21 substantiated at least one allegation of
22 misconduct is 13 percent. And then, during
23 that same time period, the percentage of time
24 the CCRB recommended a command discipline,
25 whether Schedule A or Schedule B, was

1 47 percent. And then, the rate at which the
2 CCRB recommended either instructions or
3 formalized training was 40 percent.

4 In 2021, which still includes a small
5 portion of the time when the Matrix was not
6 in effect, the CCRB recommended charges for
7 50.5 percent of the members of service
8 against who it substantiated at least one
9 allegation.

10 The CCRB recommended either a
11 Schedule A or Schedule B command discipline
12 44 percent of the time, and it recommended
13 instructions of formalized training 5 percent
14 of the time.

15 The most direct impact of the Matrix
16 has been the explosion in the size of the
17 open docket of the CCRB's administration --
18 Administrative Prosecution Unit.

19 2020, APU had 35 open cases. 2021, the
20 open docket climbed 167 open cases. And
21 already in 2022, there have been a 139 cases
22 sent to the APU.

23 This required additional resources,
24 especially prosecutors, be assigned to that
25 unit. That's why we're very thankful that

1 we've been working with Office of Management
2 and Budget to set start dates for the four
3 prosecutors who we've identified and made
4 offers to, that were accepted by the Agency.

5 So, the Chair, on behalf of the board,
6 asked me to meet with the NYPD about ways we
7 could tweak the Matrix. Prior to doing so, I
8 met with members of the Policy Unit, Case
9 Management Unit and General Counsel's Office
10 to determine what allegation types resulted
11 in the most hesitation in using the Matrix.

12 The areas of the Matrix that caused the
13 most hesitation, according to staff, were
14 allegations of discourtesy and allegations of
15 offensive language. The Policy Unit could
16 not identify anything in the statistics that
17 would indicate there was an issue with
18 discourtesies. But the staff that was
19 present in the panel deliberations, indicated
20 there is often a feeling that the mitigated
21 penalty for discourtesy was too high.

22 The issue of offensive language is more
23 stark. The board panels decided not to
24 substantiate 8 or 12 percent of the
25 allegations of offensive language that --

1 where the board had recommended -- where the
2 investigator had recommended substantiating
3 an allegation of offensive language. And
4 when you isolate that to allegations of
5 offensive language related to gender, that
6 percentage climbs to 19 percent of the time
7 the board will change -- will go against the
8 investigator's recommendation of
9 substantiating an allegation of offensive
10 language.

11 That's compared to board panels
12 deciding not to substantiate approximately
13 7 percent of all allegations, not just
14 limited to offensive language.

15 I have since met with representatives
16 of the NYPD's Risk Management and Legal
17 Affairs Bureau, that are working on making
18 changes to the Matrix. I conveyed staff some
19 initial findings. The members of the
20 Department I spoke to were receptive to our
21 feedback.

22 During this initial meeting, we
23 discussed various ways to amend the Matrix.
24 One those ideas centered around breaking
25 offensive language into different categories

1 or rose on the Matrix as has been done with
2 entries into premises and use of force, that
3 would allow the board and the Department to
4 calibrate the discipline imposed on members
5 of service for those types of misconduct.

6 The members of the Department who I met
7 with and I agreed to meet again in the
8 future, but we have not yet scheduled more
9 meetings. And that's where we stand right
10 now with the Matrix.

11 I was also hoping, Madam Chair, to give
12 an update on where the case involving Police
13 Officer Wayne Isaacs is.

14 So, do you want me to continue with
15 that or do you want me to take questions on
16 the Matrix right now?

17 CHAIR RICE: Questions from the board
18 members on the Matrix first, and then we'll
19 go into the case for Officer Isaacs.

20 MR. CARCATERRA: I have a question.
21 And just tell me if I got the numbers right,
22 the two that jumped off the page.

23 So, there's a 37 percent increase in
24 charges cases; is that correct, based on the
25 new Matrix?

1 MR. DARCHE: Yes. So, I don't know if
2 it's a 37 percent increase, but it increased
3 from 13 percent to 50 percent.

4 MR. CARCATERRA: Okay. Okay. And
5 35 percent on the decrease side in the
6 instructions and training?

7 MR. DARCHE: Correct.

8 MR. CARCATERRA: Let me ask you a
9 question, Jon: Did you have any idea that
10 these numbers would be so significant when
11 this Matrix went into effect?

12 MR. DARCHE: So, I think it was clear
13 from looking at the Matrix that it would call
14 for much higher types of discipline to be
15 imposed on members of service, just from
16 looking at the numbers. And then -- but I
17 had not foreseen that stark in increase.

18 MS. IRISH: Jon, I have a question, if
19 you can hear me.

20 You mentioned that a hundred of the 213
21 cases the NYPD closed, 123 that we
22 recommended be substantiated, the NYPD took
23 no disciplinary action. That's, by my
24 calculation, 57.7 percent of the cases that
25 we've substantiated. And you said that that

1 is not considered a deviation under the
2 Matrix.

3 Can you just explain that a little bit,
4 'cause I'm confused.

5 MR. DARCHE: So, there's a difference
6 between following the Matrix and then
7 concurrence with the CCRB's recommendation.
8 So, we would not -- those cases are not
9 considered concurring with the CCRB's
10 recommendation because we recommended that
11 those officers be disciplined, one level or
12 another. But since the Department felt that
13 there was no discipline required, they did
14 not even go to the analysis of using the
15 Matrix.

16 MS. IRISH: And do we or are we
17 entitled to some understanding as to why no
18 discipline -- they determined no discipline
19 was required in 57.7 percent of the cases
20 that we substantiated?

21 MR. DARCHE: Yes. Yes. Ms. Irish.

22 So, the three types of categories,
23 broadly speaking, are when officers are
24 retired, when officers had been previously
25 adjudicated to have committed some misconduct

1 for the same conduct by the Department, and
2 if the Department considered that we got them
3 the case too close to the SOL for them to
4 impose discipline.

5 And so, I don't have the exact
6 breakdown of those numbers, but those are the
7 three largest categories.

8 CHAIR RICE: Sal?

9 MR. CARCATERRA: No, I lost my chain --
10 I'm fine. Jon, how are you doing? Let me
11 just finish up with my questions. I don't
12 want to -- to amend the Matrix, the last
13 part, you said you're going to have a
14 follow-up with the PD but no date set,
15 correct?

16 MR. DARCHE: Correct.

17 MR. CARCATERRA: Because we've spoken
18 about this for a while now, and while we're
19 waiting for a date and while we're waiting to
20 make possibly some amendments to this Matrix,
21 it's still moving forward with what I see is
22 very, you know, excessive at times and a jump
23 of almost 40 percent, you know, discipline.

24 So, I would just like to see, maybe,
25 these meetings done sooner than later, so we

1 could maybe come to some consensus to kind of
2 wrap our arms around this and maybe put it in
3 a better direction. And this -- by the way,
4 I've been on panels where other board
5 members, like myself, Mayoral Designees,
6 Council Designees, where we're all basically
7 saying, "I think something needs to be done
8 to that Matrix."

9 So, I'm not only speaking for myself
10 here. And so, I would just like to see if we
11 can just move that along at a little quicker
12 pace.

13 Thanks, Jon.

14 MR. DARCHE: Understood.

15 MS. SIMMONS: Good afternoon, Jon.
16 Thank you for that report. And thank you
17 Madam Chair and Executive Director for
18 meeting with the officials at NYPD regarding
19 the Matrix.

20 I'm going to be a little more basic
21 about it. I think the board needs to have a
22 full report of the Matrix and have some
23 discussions among ourselves in terms of what
24 we think are the most alarming parts of its
25 execution by ourselves and also the actions

1 or inactions by the Department, and that we
2 should make some recommendations on how we
3 feel the Matrix needs to be changed or how
4 implementation of the Matrix needs to occur.

5 I would like to see that kind of
6 discussion within this board. And that's the
7 full appreciation of all the work you've
8 already done and all the discussions you've
9 had with the Department.

10 MR. DARCHE: So --

11 MS. BOND: Sorry, Jon. I know you were
12 going to say something.

13 MR. DARCHE: I appreciate Simmons'
14 point, and I will work with the General
15 Counsel and the Policy Unit and the Chair to
16 make sure that conversation is -- that you're
17 given the information you have to have that
18 fulsome conversation. But I think we might
19 have to have that in public. I don't know if
20 it's possible to do that in private.

21 I don't want to over promise to the
22 board. And I'm going to check with the
23 General Counsel afterwards to -- because I
24 know, you know, the open meetings law is
25 extremely serious and I just need to make

1 sure we're following it in the right way,
2 which is why we presented this information
3 today in public, so that you can have this
4 conversation.

5 MR. SIEGAL: Jon, John Siegal here. I
6 have a question. I don't know -- it occurs
7 to me as we're speaking. I don't know if you
8 have the information nor or can answer it.

9 But under the Matrix, the one area of
10 discretion for the Board in recommending
11 penalties is where we find a violation but we
12 have the option of designating the action as
13 aggravated or mitigated which changes the
14 result.

15 Has there been any analysis, that you
16 know of, of the categories of misconduct or
17 the types of misconduct that we've reviewed,
18 and are there areas where we've tended to
19 more find them aggravated or mitigated?

20 And the reason I ask is, I think from a
21 results-oriented point of view, there have
22 been times where some of us have looked at
23 what the Matrix result is and made
24 recommendations tied to the -- what the
25 penalty would result in if we designated it

1 as aggravated or mitigated. And I'm thinking
2 that may shed some light on areas where board
3 members tend to think that the outcomes
4 depart from what perhaps they'd prefer, so we
5 try to adjust it by those designations.

6 I hope I make sense, but it's -- has
7 there been any look at that?

8 MR. DARCHE: That actually made a ton
9 of sense. And, no, if we have looked at it
10 in that way, I'm not aware of it. And I
11 think that's actually a very fruitful area of
12 the complaint, so we will look at it.

13 CHAIR RICE: The questions in regard to
14 the discipline.

15 MR. DWYER: Executive Director, this is
16 Frank Dwyer.

17 I would add that I've seen significant
18 discussion discourse among myself and my
19 fellow board members in areas such as use of
20 force. The Board substantiated and said it
21 is the presumptive. And yet, in the
22 discussion, and beside the fact I was working
23 on something -- but in discussion, my fellow
24 board members and I --

25 (Technical difficulties.)

1 MR. DARCHE: I'm sorry. I can't hear
2 Mr. Dwyer.

3 MR. DWYER: Can you hear me now?

4 MR. DARCHE: I heard you say, "Can you
5 hear me now?" The last thing I heard you say
6 was, "in discussion, my fellow board members
7 and I."

8 MR. DWYER: That the penalty for
9 presumptive, which is the middle one, for
10 presumptive on use of force which is 20 days,
11 if I remember correctly, seemed excessive but
12 the board members still felt that the
13 presumptive use of force was the appropriate
14 designation of what happened, even though
15 they didn't agree with the penalty, but they
16 felt obligated to go with it.

17 So, I think one, the use of force is a
18 whole area where the whole continuum is
19 worthy of discussion. So, for example, a
20 shove of a shoulder versus a much harder use
21 of force, yet they both, if you come down
22 with a presumptive penalty, you have a 20-day
23 penalty.

24 The business card area, as I have
25 pointed out in panels and others have pointed

1 out -- in fact, including yourself Executive
2 Director, when two or three years ago at the
3 public meeting you put a monetary value on
4 what a day's penalty is and is whatever the
5 number we come up with, \$400.

6 Well, at the moment, for you to give a
7 business card is presumptively, I believe,
8 three days. I regularly say that, "No." I
9 mean, the mitigation penalty of one day is
10 far more appropriate. So, these are at least
11 two other categories where I feel discussion
12 with the Police Department is important.

13 And I suspect now that we know this
14 work is going on, that all of us collectively
15 can reflect back on the work we've done and
16 see what other categories are present.

17 I would also ask that when we're doing
18 panels that, since it's such an important
19 topic, that from this day forward, staff
20 collect, in a very fastidious way, records of
21 any time panel members say that "we
22 substantiate as presumptive. We have
23 concerns about the penalty," and then you'll
24 have much stronger data to engage for or
25 against the Matrix in its present form.

1 MR. DARCHE: So, I appreciate what
2 you're saying, Mr. Dwyer.

3 One of the things that I make sure to
4 do when I was talking with staff at the
5 Department is try and give areas where there
6 was a consensus and not get into areas
7 where -- while some board members or groups
8 of board members might have felt something
9 was too high, others may have disagreed.

10 So, areas where there was a lot of
11 agreement in where I went back to the
12 Department or on discourtesy where there was
13 a mitigating factor and offensive language.
14 And then -- and to me, if you look what
15 you're saying about force, the Matrix divides
16 force into numerous categories and
17 subcategories, which are roles in the Matrix.
18 Which if we haven't put on our website, I'll
19 make sure it's there for the public to go
20 through and it's online on the NYPD's
21 website.

22 And so, I feel like there is a
23 sufficient -- what I feel isn't material.
24 Like clearly, the Department is interested in
25 what the board feels. And I just -- it is

1 tough to kind of breakdown the feelings as a
2 whole because not everyone feels -- there's
3 some people who feel that force is excessive
4 and there are other people who feel that
5 forces penalties are too high, and there are
6 other people who feel that abuse of authority
7 penalties are too high, and then there are
8 other people who feel the opposite.

9 And so, the two -- at least the two
10 categories where we were able to find a
11 consensus, where I was, that doesn't mean
12 that there isn't one, is on discourtesies
13 that are -- where there's a mitigating factor
14 or the mitigating factors prevail and then
15 offensive language.

16 CHAIR RICE: I believe you were trying
17 to ask a question as well.

18 MS. BOND: Sorry. I'm having a little
19 bit of trouble hearing, but I just want to
20 chime in quickly which is to say: I think
21 it's important that we continue to have this
22 conversation about the Matrix and how it's
23 being implemented.

24 But I also just want to underscore
25 Board Member Irish's point around the 213

1 cases. If we're finding that in 60 percent
2 of cases, the Matrix isn't even coming into
3 play because there's disagreement between
4 CCRB and the Department about whether
5 discipline needs to be imposed at all.

6 I think that needs to be a point of
7 discussion with the NYPD that goes beyond
8 just the Matrix and how it's applied because
9 we're clearly not coming into agreement about
10 whether any discipline is needed at all.

11 And I do think some of the rationale
12 for taking on the Matrix was to create more
13 agreement in terms of the imposition of
14 discipline, both in terms of the kind of
15 discipline, but also, I think, many of us
16 were hoping that there would be higher levels
17 of agreement when it comes to whether
18 misconduct occurred.

19 So, I just want to name that as an
20 important point for continued discussion with
21 the NYPD as we talk about changes to the
22 Matrix.

23 MR. RIVADENEYRA: Jon, just thankful
24 that you're having this conversation.

25 I know when the board attempted to do

1 its own Matrix years ago, we had reached out
2 to the Department to do an analysis of
3 similar cases and see what the Department
4 would use in discipline measures in those
5 similar cases.

6 I wonder, to use Erica's point, you
7 know, to sort of align it a little bit
8 better, are we getting that same information,
9 when we're having these conversations now
10 about the Matrix that the department created,
11 you know. Like my understanding was that the
12 Department was creating this to address many
13 of the issues that were brought up in the
14 past administration and that they put this
15 sort of aggressive approach in establishing
16 the higher discipline and also making it a
17 progressive Matrix.

18 You know, I just wanted to understand,
19 like, how are we trying to get information
20 back from the Department about their usage of
21 their own Matrix before we also do an
22 analysis of how we would recommend changes to
23 their --

24 MR. DARCHE: Thank you,
25 Mr. Rivadeneyra.

1 The Department has been following the
2 guidelines, or guidelines and requirements
3 set out by the council in -- I'm forgetting
4 the name of the City Council bill that
5 requires them to report out on cases where
6 they do not concur with either the CCRB's
7 discipline recommendation or the Assistant
8 Deputy Commissioner of Trials recommendation.
9 So, our Policy Unit has been compiling those
10 trying to get a handle on them.

11 We are also redacting them and putting
12 them online for people to see. So, the issue
13 isn't really a flow of information, it's
14 trying to understand the information we do
15 have and what it is telling us, and then
16 coming to an agreement with the Department on
17 what the Department actually -- whether they
18 agree with us or not about what the penalty
19 levels.

20 MS. SIMMONS: Jon, I have one other
21 question.

22 You mentioned that the Department
23 implemented amendments to the Matrix in
24 February of this year, if I heard correctly.
25 I am very interested in hearing what those

1 amendments are and if they intend to further
2 amend before or after discussions with the
3 CCRB?

4 MR. DARCHE: So, I will get you --
5 those amendments were made public in
6 February, and we will share that on our
7 website and we will also e-mail it to all the
8 board members so that you have it. There's a
9 memo they had with explanation of the changes
10 as well as the new Matrix. So, we'll let you
11 have it, so you can see what the changes are.

12 CHAIR RICE: Are there any more
13 questions for our Executive Director in
14 regards to the discipline Matrix portion of
15 this report? Any other questions?

16 MS. BOND: Just one more question and
17 that's with regard to the cases that we've
18 subbed but there hasn't been a final decision
19 by NYPD. So, if I'm understanding this
20 correctly, we had 752 officers that have one
21 or more allegations substantiated against
22 them. NYPD has made a decision on those
23 cases one way or the other in 213 cases.

24 I'm just curious what the timeline is
25 like between when we're making a

1 recommendation and NYPD is making a
2 determination about whether to impose
3 discipline or not.

4 Do we have any numbers on the average
5 amount of time that that's taking?

6 MR. DARCHE: I'll get that for you. I
7 don't have it in front of me.

8 MS. BOND: Great. Thank you.

9 MR. DWYER: Yeah, it's more of an
10 observation. I mean, I don't think it should
11 get lost on us, among the many things the
12 Executive Director said, that in 86 cases,
13 the Department concurred with the findings.
14 And 75 out of the 86, they did take the
15 recommendation, which -- I don't know. Maybe
16 somebody smarter than I am could do it in
17 their head, but I would suspect that's
18 somewhere between the 85 to 90 percent
19 percentage range.

20 So, when they do concur, they seem to
21 take the recommendation at a very high rate.
22 As somebody who sits on panels and regularly
23 doesn't concur with my colleagues, I think I
24 would find something similar that the -- that
25 I often also don't incur, but what I'm saying

1 here is, we shouldn't miss the fact when they
2 agree that it is a disciplinary matter, they
3 do take the recommendations at a very high
4 rate.

5 CHAIR RICE: Excellent points brought
6 up by many members of the board, which we
7 will take back and discuss further.

8 Unless I hear any other questions, I'm
9 going to ask our Executive Director to
10 continue with the rest of his report, and
11 then we will do a vote on the minutes.

12 Jon?

13 MR. DARCHE: Thank you, Madam Chair.

14 I wanted to update folks on the CCRB
15 case involving Police Officer Wayne Isaacs.
16 We've received many inquiries around the
17 status of the APU trial prosecuting
18 Officer Isaacs.

19 And just to give you all a little
20 background. In 2016, Officer Isaacs fatally
21 shot Delrawn Small. In 2017, Officer Isaacs
22 was found not guilty of the murder of
23 Mr. Small. In 2018, members of Mr. Small's
24 family filed a complaint with this agency.
25 And after a full investigation, the CCRB

1 substantiated misconduct against
2 Officer Isaacs. One allegation, that Police
3 Officer Isaacs used excessive force when he
4 shot Mr. Small.

5 In October of 2020, the Agency filed
6 charges and specifications with the NYPD. In
7 January of 2021, the Department served Police
8 Officer Isaacs with those charges and
9 specifications. In March of 2021, Police
10 Officer Isaacs' attorney filed an Article 78
11 proceeding with the Supreme Court New York
12 County, asking for the Court to stop the
13 disciplinary proceeding.

14 In October 2021, the CCRB filed a
15 motion to unseal the criminal case against
16 Officer Isaacs in order to obtain all of the
17 records used during the criminal trial.
18 Attorney General James' office joined in our
19 application and that application is still
20 pending.

21 In January of 2022, the Court denied
22 Police Officer Isaacs' application in his
23 Article 78 proceeding because the Police
24 Commissioner had not made a final
25 determination in the case. And then last

1 month, Officer Isaacs' attorney wrote a
2 letter to the Police Commissioner asking her
3 to use the power she has under Provision 2,
4 the 2012 MOU that created the Administrative
5 Prosecution Unit.

6 Provision 2 allows the Police
7 Commissioner to retain cases where the
8 subject officer either has no disciplinary
9 history or there are parallel or related
10 criminal investigations. Most of the time
11 when Provision 2 is in play, the Police
12 Department makes the determination on its
13 own. It is rare but not unprecedented for a
14 subject officer to request the Police
15 Commissioner use the powers under
16 Provision 2. In those cases, it's almost
17 akin to a motion to dismiss in a criminal
18 trial.

19 The CCRB submitted its response to
20 Officer Isaacs' request. We are waiting the
21 Police Commissioner's decision. And I just
22 want to point out that much of the
23 information in this case is sealed because
24 Officer Isaacs was acquitted in the criminal
25 trial. And this case is an example of why

1 the CCRB has been advocating for an exemption
2 to the state's sealing statutes.

3 Before we get started any further this
4 afternoon, I wanted to just give a quick
5 update on our agency operations. We continue
6 to review protest cases and expect to have a
7 protest report out in the coming months. Our
8 office is open for walk-in complaints, but
9 you can also file complaints online at
10 nyc.gov/ccrbcomplaint. That's nyc.gov/ccrb
11 C-O-M-P-L-A-I-N-T or by telephone at
12 1-800-341-2272, or by just calling 3-1-1.

13 We're going to ask people to limit
14 their comments to four minutes in the public
15 session. And I want to thank the staff for
16 their hard work and thanks to the members of
17 the public who are participating today. And
18 if there are any other questions, I'm
19 available, Madam Chair, to answer them.

20 CHAIR RICE: Before we go to the public
21 comment, does anyone have any questions in
22 regards to the report that we just heard from
23 our Chair on the Isaacs case?

24 (No response.)

25 CHAIR RICE: Any clarifying questions

1 on the Isaacs case, the board members?

2 (No response.)

3 CHAIR RICE: Anyone online?

4 MS. BOND: I just have one question.

5 So, Jon, you noted that Officer Isaacs'
6 attorney is asking the Police Commissioner to
7 take the case under Provision 2. The two
8 reasons that that can happen is where there's
9 no prior history or there's a parallel
10 investigation or criminal case.

11 Do you know which of those applies here
12 or both?

13 MR. DARCHE: So, I don't know if
14 Officer Isaacs has prior disciplinary
15 history, but I do know that there are
16 parallel criminal -- there was a parallel
17 criminal investigation into this case.

18 MS. BOND: But that's closed now,
19 correct?

20 MR. DARCHE: Correct.

21 MS. BOND: Okay. So, we don't have any
22 reason to believe there are other parallel
23 investigations happening?

24 MR. DARCHE: Correct.

25 MS. BOND: Okay. Thank you.

1 CHAIR RICE: Thanks for that
2 clarification.

3 Any other questions about the update on
4 the Isaacs case?

5 (No response.)

6 CHAIR RICE: All right. We have been
7 joined by another board member. We are going
8 to ask if he could introduce himself.

9 MR. PUMA: Hi. Good afternoon,
10 everyone. My name is Joseph Puma. I'm the
11 Manhattan City Council Designee to the board,
12 and I live in Manhattan on the Lower
13 East Side.

14 CHAIR RICE: So, are there any
15 amendments or corrections to the minutes as
16 presented? Any corrections to the
17 amendments?

18 (No response.)

19 CHAIR RICE: All right. Once again,
20 can I have a motion to accept the minutes as
21 presented?

22 MS. SIMMONS: So moved.

23 CHAIR RICE: Can I have a second?

24 MR. MERRITT: Second.

25 CHAIR RICE: All right. Thank you.

1 All in favor of accepting the minutes as
2 presented with "aye."

3 (Chorus of ayes.)

4 CHAIR RICE: Opposed, same sign?

5 (No response.)

6 Okay. We're going to have a
7 presentation from our Senior Adviser Yojaira
8 Alvarez on outreach.

9 Yojaira?

10 MS. ALVAREZ: Thank you so much, Chair.
11 I hope you can see my screen. Perfect.
12 Apologies. Let me just do it from the
13 beginning.

14 Great. So, as the Chair mentioned, my
15 name is Yojaira Alvarez. I am the senior
16 adviser and director of inner governmental
17 affairs at the CCRB. I'm here filling in for
18 the irreplaceable Jahi Rose who is on a
19 well-deserved vacation.

20 So, I wanted just to take some time to
21 have those that are joining us virtually or
22 in person to give you a brief overview of the
23 Agency. As was discussed, we are the
24 Civilian Compliant Review Board. We are the
25 nation's largest oversight entity of the

1 nation's largest police force.

2 The Agency is responsible for
3 investigating, mediating and administratively
4 prosecuting complaints of misconduct alleged
5 against members of the NYPD. As you can see,
6 we are governed by a 15-member board, five
7 are appointed by the Mayor, five are
8 appointed by the City Council, three are
9 designated by the Police Commissioner but
10 then appointed by the Mayor. One is
11 appointed by the Public Advocate and the
12 Chair is co-appointed by the Mayor and the
13 City Council.

14 So, although we are an agency that
15 investigates allegations of police
16 misconduct, we don't investigate all
17 allegations of police misconduct. There are
18 four major categories that we investigate.
19 And a helpful reminder on what we investigate
20 is the acronym FADO, F-A-D-O.

21 The "F" is for force. So, if force is
22 used during an encounter with a police
23 officer that falls within our jurisdiction,
24 we would then investigate it to determine if
25 it was excessive or unnecessary, given the

1 totality of the circumstances.

2 The second category is abuse of
3 authority. This is a very larger category.
4 Some of the allegations that fall within that
5 category are improper entry, refusal to
6 provide a name and shield number, improper
7 stops, searches or frisks, threatening to
8 call ICE, forceable removal to the hospital
9 and sexual misconduct, among others.

10 The "D" is for discourtesy. So, this
11 includes discourteous gestures, actions and
12 words, like the use of profanity.

13 And finally, we investigate allegations
14 of offensive language. So, this is language
15 that inappropriately refers to my race,
16 ethnicity, sexual orientation, gender
17 identity or expression, nationality,
18 disability status, religion, et cetera.

19 And as we've mentioned before, the
20 Agency is preparing to soon investigate
21 allegations of racial profiling and
22 bias-based policing, and we'll be presenting
23 on that soon.

24 So, as a reminder, the Right to Know
25 Act is now law. So, what that means is that

1 in majority of the situations and encounters
2 with police officers, police officer must
3 identify themselves by providing their name
4 and other information; such as their rank,
5 command and shield number upon request. And
6 in certain situations, they would proactively
7 provide that information. And this is what a
8 card would look like (indicating).

9 With some exceptions, they have to
10 explain the purpose of that interaction with
11 the civilian. So, in situations where they
12 do not have the legal justification to search
13 you, they must proactively ask for that
14 consent. And they have to also inform you of
15 your right to say no.

16 They also have to provide language
17 access services upon request or if they
18 notice that the civilian that they are
19 interacting with is monolingual and does not
20 speak English.

21 As a reminder, you can also report
22 allegations of police misconduct that you
23 have witnessed on social media or on the
24 news, even if you were not there in person.
25 Our Twitter handle is @ccrb_nyc.

1 And if you've experienced or witnessed
2 misconduct, there are multiple ways of
3 accessing the Agency. You can call most
4 favorite number 3-1-1.

5 You can contact us directly at
6 1-800-341-2272. You can visit our office
7 located in Lower Manhattan at 100 Church
8 Street, 10th Floor. You can file a complaint
9 at your local precinct.

10 And as a reminder, every precinct is
11 required to take a CCRB complaint. And you
12 can also mail in a complaint at our address,
13 100 Church Street, 10th Floor, New York,
14 New York 10007.

15 And finally, we want remind everyone
16 that the CCRB is hiring. We encourage you to
17 share this information with your networks.
18 You can find the job posting, other
19 investigator, along with other open positions
20 at nyc.gov/jobs. If you have any questions
21 you can e-mail careers@ccrb.nyc.gov. And
22 more information about the investigator
23 position is found on our website, which we
24 will include in the chat.

25 And last, but not least, we have a

1 dedicated team of coordinators that will go
2 to any after-school program, religious
3 institution, any community event that you
4 have to share this information about the
5 CCRB. You can reach us at
6 outreach@ccrb.nyc.gov to request the
7 presentation. Again, we are in-person and
8 also virtual, and these are our social media
9 handles.

10 Thank you so much.

11 CHAIR RICE: Thank you.

12 So, to the board members present in the
13 room first, do you all have any questions of
14 Yojaira in regards to her presentation?

15 (No response.)

16 CHAIR RICE: Any questions, comments,
17 feedback?

18 (No response.)

19 CHAIR RICE: And to our members who are
20 online?

21 (No response.)

22 CHAIR RICE: Okay. Hearing none, we
23 will now enter the public comment portion of
24 the meeting.

25 If you are interested in making a

1 public comment, please line up behind the --
2 wait, we don't have a podium. You can use
3 the "raise your hand" feature if you're
4 joining us virtually and we will go in order.

5 Please keep your comments to
6 four minutes. And we're going to ask Yojaira
7 if you would please call on the first person.

8 MS. ALVAREZ: Thank you, Chair.

9 The first person on our list is joining
10 us virtually, Michael Meyers.

11 (No response.)

12 MR. DARCHE: Could someone allow --
13 upgrade Mr. Meyers so he can speak.

14 MS. ALVAREZ: It looks like there's a
15 bit of a technical difficulty with Meyers --
16 with Michael, so we will circle back.

17 Next, we have Vincent Riggins.

18 MR. RIGGINS: (Inaudible.)

19 MS. ALVAREZ: Vincent, we heard a
20 little bit. If you can --

21 MR. RIGGINS: Yes, I apologize. I had
22 a package delivery at the same time you
23 called on me.

24 I got a couple of questions. One, I
25 apologize -- well, I'm Vincent Riggins. I'm

1 co-chair public safety Community Board
2 Number 5. And I got on a little late, but
3 can you briefly explain what is meant by your
4 Matrix. It's a simple question. I give them
5 all to you, take your time. And what's the
6 difference between "lying" and "misleading?"

7 What's the difference between lying and
8 misleading? 'Cause apparently, the
9 Commissioner is using misleading as not being
10 lying, so I definitely want you to explain
11 that to me as well. And one more question.

12 You can start answering, though, I'm
13 going to draw up the other one.

14 Oh. And under Section 307 (B) of the
15 Crimes Act 1900, why would that not apply in
16 officers giving false or misleading
17 information?

18 And I'll wait for your response.

19 CHAIR RICE: Thank you, Mr. Riggins.
20 We're going to ask our Executive Director to
21 respond to the first question about what
22 exactly we were referring to when we
23 mentioned the disciplinary Matrix, and then
24 ask him about the questions between -- the
25 difference between lying and misleading as

1 has been defined by our new Police
2 Commissioner.

3 MR. RIGGINS: Okay. Well, discipline
4 is the word I was missing, so this should be
5 an easy answer. I didn't have discipline, so
6 now I know what the Matrix is, but go right
7 ahead. I'm sorry.

8 MR. DARCHE: No problem, Mr. Riggins.

9 Matrix is a system that the Department
10 developed with input from the community and
11 other stakeholders, including the CCRB, to
12 try and create a discipline system that is
13 consistent and predictable for different
14 levels of misconduct and also institutes a
15 system of progressive discipline.

16 And as was pointed out by Ms. Simmons,
17 they recently updated it in February of this
18 year, and we are engaged in conversations
19 with the Department about future changes to
20 the Matrix.

21 With regard to the difference between
22 lying and misleading, I don't know the
23 particular cases, but I believe misleading is
24 when everything you say is technically true,
25 but you are conveying a false impression of

1 what the facts are to the person asking the
2 question. And lying is when you
3 intentionally tell something that is not
4 true. And then, I'm not familiar with
5 Section 302 of the Crimes Act.

6 MR. RIGGINS: Okay. So, from my
7 understanding, the Commissioner, past or
8 present, was using a difference in the words
9 misleading or lying to vacate or not
10 discipline officers; is that what I'm
11 reading? Is that accurate?

12 MR. DARCHE: Sorry. I don't --

13 MR. RIGGINS: Some of the cases that
14 you guys already filed, the officers were
15 guilt of lying, but none of them got any
16 discipline from lying. And the Commissioner
17 found that they were misleading, not lying.

18 MR. DARCHE: So, until recently, cases
19 involving allegations of false statements
20 were not in the CCRB's jurisdiction. And so,
21 there was recently a report put out by
22 LatinoJustice, which is part of Puerto Rican
23 Legal Defense Fund, and that went into how
24 the Department handled cases in which we
25 found evidence that an officer gave a false

1 statement, and then we would refer that to
2 the Department for investigation.

3 So, that's not -- those statistics are
4 not exactly in our purview and none of those
5 cases were handled by the current Police
6 Commissioner.

7 MR. RIGGINS: Let me ask one more
8 follow-up question.

9 So, is that a reason or justification a
10 commissioner could use not to follow your
11 recommendation? Well, I guess they can.
12 They could just ignore it, I guess, but
13 that's what I'm trying to find out.

14 Just by them saying, "No, he didn't
15 lie. It was a little misleading." Is that
16 justification for a commissioner to do that
17 and not take action against the CCRB's
18 filing?

19 MR. DARCHE: So, I think that we're in
20 a much different situation now than during
21 the period covered by the report because now
22 telling untruthful statements to the CCRB is
23 within our jurisdiction. And also telling --
24 giving untruthful statements to entities
25 other than the CCRB is considered an abuse of

1 authority.

2 So, now these cases which we previously
3 have referred out are going to be handled
4 inside CCRB as part of our jurisdiction and
5 then we will be able to give you much better
6 feedback and clearer answers as to how the
7 Department treats those cases and why they
8 treat them that way.

9 Part of the problem with the old system
10 is it was not transparent, and we don't have
11 a lot of insight into why the Department did
12 what it did.

13 MR. RIGGINS: So, today you have more
14 transparency?

15 MR. DARCHE: We do. We just don't have
16 a lot of cases where there's been a file
17 disposition where we've had untruthful
18 statements as part of our jurisdiction.

19 MR. RIGGINS: Final question, if you
20 will.

21 So, 50C allow you to look back at
22 police officers' records. How come that was
23 not applied in the cases that you found where
24 officers actually lied or did you guys do
25 that research?

1 MR. DARCHE: I am not familiar.

2 Mr. Riggins, I'm going to ask that you
3 reach out to -- that you give my number --
4 that you give your number and contact
5 information to someone online --

6 MR. RIGGINS: Okay.

7 MR. DARCHE: -- who is going to chat
8 with you. And then my policy people will
9 call you and get exactly what you're asking
10 and we'll get answers for you.

11 MR. RIGGINS: Thank you. Sorry for
12 being long-winded.

13 MR. DARCHE: No, sir. That was a good
14 question. I just don't know the answer.

15 CHAIR RICE: Thank you very much --
16 thank you, Mr. Riggins.

17 MR. RIGGINS: You're welcome.

18 CHAIR RICE: Frank, were you trying to
19 make a comment or no?

20 MR. DWYER: (Hand gesture.)

21 CHAIR RICE: You're fine? Okay. Thank
22 you.

23 Yojaira, can we hear from the next
24 person with a question?

25 MS. ALVAREZ: Thank you, Mr. Riggins.

1 It's nice to hear from you again.

2 We will try Michael Meyers one more
3 time. And as we're calling them up, I just
4 want to acknowledge and thank the staff from
5 Council Member Grace Meng's office and
6 Queens, Bronx and Manhattan DA's offices and
7 Council Member Carlina Rivera's office, the
8 office of Public Advocate Jumaane Williams,
9 the office of Speaker and Assembly Member
10 Carl Heastie and Speaker Adrienne Adams'
11 staff for all attending tonight. Thank you
12 so much.

13 Michael?

14 MR. MEYERS: Can you --

15 (Disruptive background noise.)

16 MS. ALVAREZ: There's a bit of
17 feedback. Want to try that again?

18 MR. MEYERS: Can you hear me now?

19 (Disruptive background noise.)

20 MS. ALVAREZ: There's a bit of
21 feedback. We'll circle back with you,
22 Michael, and see if we can sort that out and
23 try to alleviate that.

24 Next, we'll be hearing from Chris Dunn,
25 and we'll circle back with Michael.

1 MR. DUNN: Good afternoon, everyone. I
2 do wish there were a podium. And I look
3 forward to us being in person again sometime
4 soon.

5 I want to focus on the Matrix
6 discussion, which was quite illuminating, and
7 picking up on what Corrine and Erica said,
8 although they were very subtle about it, I
9 find quite alarming.

10 And I'm going to start with -- Jon, I
11 want to make sure I understand why the Agency
12 believes it's appropriate to be modifying the
13 Matrix. If I am to understand it, the
14 modifications you are considering are
15 modifications to lessen penalties.

16 And I heard your report about the
17 increase in charges and spec cases. I assume
18 that by itself would not be a reason for
19 changing it. And I heard you suggest that
20 some board members are resisting subbing
21 cases because of their view of
22 appropriateness of the Matrix, which sounds
23 to me like something that should not be
24 happening.

25 But can you, Jon, explain what the

1 entities thinking is about trying to change
2 the Matrix.

3 MR. DARCHE: It is based on the
4 conversations with staff who are in the
5 panels. It was determined that the areas in
6 which the board had a consensus, a broad
7 consensus, that the penalties were too high
8 was when they determined that mitigated
9 penalty for discourtesies was appropriate.

10 And then, in many cases involving
11 offensive language where either the term was
12 close to being considered part of a common
13 language that had been attenuated from its
14 origin as offensive language. And then -- or
15 in statements that would have -- that were
16 discourteous, that the board felt were more
17 discourteous than offensive language.

18 Because -- I'm trying to think of a way
19 to do it without using offensive language and
20 it's very difficult. But -- so, let's say --
21 so, let's -- it's just tough to do it in this
22 situation. But there are terms which have
23 become -- the word "bitch" to refer to women
24 or sometimes men in the sexual politics of
25 it, it sometimes isn't clear that that use of

1 that language is actually meant to be an
2 offensive language gender.

3 And so, it becomes questionable whether
4 that is offensive language or a mere
5 discourtesy. So, there's no question it is
6 misconduct, it's what is the level of
7 misconduct.

8 MR. DUNN: Okay. Well, I will -- I
9 hear what you're saying. I think one of the
10 board members -- I'm sorry. I don't remember
11 who it was, was asking for a fuller board
12 discussion about this. And since I'm not on
13 the board, I'll just say as a member of the
14 public, I think that's imperative that the
15 Agency is going to be advocating with the
16 Police Department to reduce penalties in the
17 Matrix, which from our perspective is not
18 demanding enough of police officers.

19 I think it's essential the Agency have
20 an open discussion before it goes out and
21 starts negotiating and use as an -- follows
22 by Sal's suggestion "this is going too
23 slowly." From my position, it's going too
24 fast, and I cannot tell how many members of
25 the board are fully informed about what the

1 status is of negotiations with the Department
2 about this.

3 But I, for one, just want to say very
4 loudly and clearly that we have a lot of
5 concerns that the CCRB is calling for a
6 reduction of penalties to the Matrix.

7 The other thing I just want to mention,
8 I appreciate the detailed accounting, Jon, in
9 terms of the numbers. But I do want to pick
10 up on a couple of things, notwithstanding
11 Frank's efforts to play this as if the
12 Department is somehow doing something
13 laudable.

14 If there are 86 total cases where
15 discipline is imposed out of 700 since
16 February of 2021, which is what I understood
17 the numbers to be, that is a paltry number.
18 And I am prepared to wager, although I don't
19 that. I don't want to put you on the spot,
20 Jon.

21 But if you know, of the 75 of the
22 accepted recommendation, how many of them are
23 for instructions or formalized training?
24 Which is, I think, you know, in our book is
25 not discipline at all.

1 MR. DARCHE: So, I think if you -- so,
2 number one, I don't have the breakdown for
3 you and I can get that for you.

4 In 77 of the 88 cases or 76 of the
5 cases, they've complied with our
6 recommendation. And as you could see, we
7 recommended very few instructions cases. And
8 the reason why it is tough to make a
9 conclusion about how the Department is
10 treating these cases is there are 500 cases
11 that are open where the Department hasn't
12 made a determination yet and there is a new
13 Police Commissioner.

14 And so, I think it behooves us to be a
15 little -- and I understand your concern and
16 your vigilance on this issue, but I just
17 think it's too soon to reach a conclusion,
18 one way or the other, how this Police
19 Commissioner is acting on CCRB
20 recommendations.

21 I think one of the reasons why, like in
22 the same way that I, you know, you feel that
23 it's going too fast and Sal feels like it's
24 going to slow, we're having this
25 conversation, disclosing the data we do have

1 so that we can not do things in secret and
2 explain what's going on to the public, so you
3 know where we stand.

4 MR. DUNN: Yeah, and don't get me
5 wrong. I appreciate that. And you guys -- I
6 mean, I've said this many times: For all my
7 criticism with the CCRB, you're terrific in
8 terms of disclosing information. You are the
9 most transparent city agency when it comes to
10 policing by a wide margin, full stop.

11 But the fact that Commissioner Sewell
12 has been here for three months doesn't give
13 me a lot of comfort about 539 cases that have
14 been sitting there since February 2021. And
15 I'm the first person to say let's see what
16 her practice is. What I am saying is, and as
17 many of us know, the Department has a
18 terrible history on this.

19 I'm always looking forward to a new PC
20 coming in and all of a sudden turning that
21 around. I am not holding my breath for that.
22 And I don't see anything in the numbers so
23 far to suggest things are changing. To be
24 sure, there are a lot of undecided cases, but
25 I think that Corrine's, like this -- when you

1 talk about till they're closing, which has
2 always been a problem, they're just saying
3 drop dead to the CCRB.

4 And then, look at the actual discipline
5 they are imposing and it may well be that a
6 smaller percentage of your cases you're
7 recommending training and instructions. I
8 get that. I'm going to guess it's a
9 disproportionate number up to 75. I'm just
10 going to guess. I don't have any idea.
11 Maybe I'll be proven wrong.

12 So, I guess all I'm saying is thank you
13 for this presentation. Thank you for getting
14 this out. Please hear me as I say this
15 support notion of people undoing -- this is
16 my language, not yours. Undoing the Matrix
17 is an alarming issue to me, in a Department
18 that does not distinguish itself in terms of
19 its discipline and practices.

20 I'll get off my soapbox. I look
21 forward to standing in front of a podium in
22 front of all of you sometime soon.

23 Thank you.

24 MR. SIEGAL: John Siegal here.

25 It was always the intention stated at

1 the time the Matrix was adopted that it would
2 be reviewed after a year, number one. And
3 number two, I don't think it's accurate to
4 take the comments that have been made as the
5 CCRB trying to reduce the level of
6 discipline. I don't think that's accurate at
7 all.

8 And one of the aspects of it is that
9 the Matrix, like any guidelines, impose
10 comparative penalties for different offenses.
11 And some of the discussion has been comparing
12 those outcomes under the Matrix because some
13 of us feel that in some areas they're too
14 low.

15 So, the two areas that Jon identified
16 are a small portion of the types of things
17 that have been discussed in panels, and that
18 I did agree totally need to be discussed
19 fully and publicly. But I'd urge you not to
20 jump to the conclusion that the CCRB is
21 trying to reduce discipline under the Matrix.
22 I don't think that that's accurate.

23 MR. DUNN: Okay. John, I appreciate
24 that. I look forward to hearing a full
25 discussion and particularly an identification

1 of cases where the Agency is going to
2 recommend an increase in penalty. I just
3 haven't heard that articulated so far.

4 MR. DARCHE: Madam Chair, there was
5 just one other thing that Mr. Siegal reminded
6 me of that I was hoping I could address, and
7 that is, February 2021 was the first time the
8 board voted to adopt the Matrix. We voted
9 three cases involving one member of service
10 in March of 2021 and then it took several
11 months for us to get the Matrix integrated
12 into our system to start using it more fully.

13 And so, while I understand 500 cases
14 outstanding is a lot of cases to have open
15 for a year, I don't think that's like -- it's
16 not like all those cases were decided on
17 February 1, 2021. The vast majority of those
18 500 cases are much newer than a year old,
19 14 months old.

20 CHAIR RICE: Thank you for that
21 information --

22 MS. IRISH: Jon --

23 CHAIR RICE: -- thank you, Jon, for
24 providing that input on where the CCRB is on
25 the discipline Matrix.

1 And thank you, Mr. Dunn. It's
2 wonderful to meet you, and I look forward
3 to further conversation partnership with you.

4 Yojaira, can we hear from the next
5 person on the list?

6 MS. IRISH: Can I just ask for a
7 clarification with regards -- in relation to
8 this with regards to the April monthly
9 report? The number of NYPD decisions or
10 non-APU cases, it says the report include
11 February and not March.

12 Is that just a mistake or are there no
13 -- have there been no determinations by NYPD
14 in March?

15 MR. DARCHE: So, what had been
16 happening is sometimes cases were -- the
17 reports were coming in very close to the
18 board meeting date. And so, at some point
19 last year, we -- I believe we switched to
20 being a month behind.

21 So, instead of reporting the March data
22 in April, we're reporting the February data
23 in April.

24 MS. IRISH: Okay. Because I thought
25 for the APU cases, it is March data.

1 MR. DARCHE: Because the APU, it's
2 different tracks from the Department. On the
3 APU cases, we're getting the decisions from
4 PCT in most cases. Whereas the non-APU
5 cases, we're getting from DAO, and sometimes
6 we get them from the Police Commissioner.

7 It's -- in an effort to make sure the
8 information was accurate, we decided to delay
9 the non-APU cases by a month. I should have
10 -- I thought I must have explained that back
11 then. If we didn't, I apologize. That's my
12 fault.

13 MS. IRISH: Thank you.

14 CHAIR RICE: Any final questions from
15 the board?

16 (No response.)

17 CHAIR RICE: Let's listen to the next
18 person on the list.

19 MS. ALVAREZ: Thank you, Chair.

20 We will try Michael one more time.

21 MR. MEYERS: Can you hear me?

22 (Disruptive background noise.)

23 MS. ALVAREZ: There's a lot of
24 feedback. I'm not sure if you can step away
25 from -- I don't know if you're both on your

1 phone and the laptop.

2 MR. MEYERS: Can you hear me now?

3 (Disruptive background noise.)

4 MS. ALVAREZ: It's pretty bad feedback,
5 Michael. I'm really sorry.

6 MR. MEYERS: Public meeting --

7 (Disruptive background noise.)

8 MS. ALVAREZ: So, Michael, our next
9 public meeting will be on May 13th -- sorry,
10 May 11. You can join us virtually or in
11 person. If you have any other questions
12 before that or if you want to relay what you
13 wanted to ask, you can e-mail me --
14 yalvarez@ccrb.nyc.gov. So, that's Y-A-L-V,
15 as in victor, A-R-E-Z.

16 Apologies, Michael.

17 Chair, that concludes our public
18 session.

19 MR. DARCHE: Madam Chair, I just want
20 to say while we may have been unable to get
21 Mr. Meyers to give a statement today, I think
22 we should recognize the history he's had with
23 policing in the City and civilian oversight
24 in the City. And, you know, he brought to
25 our attention the issue with limiting how

1 long people could speak, two minutes being
2 too short. We went back and looked at the
3 situation and extended it to four minutes.

4 And, like, I truly value him. I know
5 many of the other board members do value
6 Mr. Meyers and his contributions. And I want
7 to apologize that we were unable to get him
8 online today and assure him, you know,
9 whether he comes down in person next week --
10 next month or we'll just make sure we get a
11 better connection, so that he can speak at
12 the next meeting.

13 CHAIR RICE: Thank you, Jon, for that
14 acknowledgment.

15 Anything else from any of the board
16 members in the room or online, who I can now
17 see. So, thank you so much for that
18 adjustment.

19 All right. Do we have any old business
20 to come before the board, any old business?
21 Old business?

22 (No response.)

23 CHAIR RICE: All right. And do we have
24 any new business to come before the board?

25 (No response.)

1 CHAIR RICE: Nothing new? Nothing new.

2 (No response.)

3 CHAIR RICE: Hearing none, I am going
4 to move now that we break into executive
5 session.

6 The agenda for executive session is the
7 board will receive an update from the General
8 Counsel and the Executive Director will
9 discuss the following three items; scheduling
10 issues for panels, update on pending
11 personnel actions, and scheduling board
12 training sessions.

13 Do I have a motion to conclude the
14 meeting?

15 SPEAKER: (Inaudible.)

16 CHAIR RICE: Do I have a second?

17 MR. RIVADENEYRA: Second.

18 CHAIR RICE: All right. All in favor?

19 (Chorus of ayes.)

20 CHAIR RICE: All right. So moved.

21 The meeting is concluded. Thank you.

22 (TIME NOTED: 5:28 p.m.)

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25

C E R T I F I C A T E

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STATE OF NEW YORK)

:SS

COUNTY OF QUEENS)

I, Sabrina Brown Stewart, a shorthand reporter within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the statement taken on April 13, 2022.

I further certify that I am not related to any of the parties to this action by blood or by 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 21st day of April 2022.

Sabrina Brown Stewart
Sabrina Brown Stewart