CIVILIAN COMPLAINT REVIEW BOARD
PUBLIC MEETING
July 13, 2022
4:10 p.m.

HELD VIA VIDEOCONFERENCE

BEFORE:
ARVA RICE, INTERIM CHAIR
JONATHAN DARCHE, ESQ., Executive Director

Transcribed by:
Shechinah Jackson
PUBLIC MEETING AGENDA

1. Call to Order
2. Adoption of Minutes
3. Report from the Chair
4. Report from the Executive Director
5. New Business
   Resolution on Remote Board Member Participation
6. Presentation from Director of Racial Profiling and Biased-Based Policing Unit
7. Public Comment
   Public Comment on Rules
   General Public Comment
8. Old Business
9. Adjourn to Executive Session
BOARD MEMBERS

Arva Rice, Interim Board Chair
AU Hogan, Board Member
Rev. Dr. Demetrius S. Carolina Sr., Board Member
Joseph A. Puma, Board Member
Michael Rivadeneyra, Esq., Board Member
Herman Merritt, Board Member
Willie Freeman, Board Member
John Siegal, Esq., Board Member
Erica Bond, Board Member
Corrine Irish, Esq., Board Member
Frank Dwyer, Board Member

Presenters:
Darius Charney - Director of Racial Profiling and Bias-Based Policing
New York City Civilian Complaint Review Board
SPEAKERS

Vanessa Gibson - Bronx Borough President
Nick Smith - Deputy Public Advocate
Corey Stoughton - Legal Aide
Kshithji Shrinath - Legal Fellow, Impact Litigation Practice- The Bronx Defenders
Guadalupe Aguirre - Staff Attorney - New York Civil Liberties Union
Samah Sisay - Center for Constitutional Rights
Andrew Case - Latino Justice PRLDEF
Author Mims - Community Member
CHAIR RICE: Welcome again, my name is Arva Rice. I use she/her, pronouns and I am serving as Interim Chair of the Civilian Complaint Review Board. I would like to call the July 20, 2022 CCRB meeting to order. Would the rest of the board members please introduce themselves and I will start once again with John.

MR. SIEGAL: Good afternoon, John Siegal, I'm the mayoral appointee and I'm glad to see everyone here.

MR. DWYER: Good afternoon, Frank Dwyer, police commissioner designee.

MR. HOGAN: Au Hogan, City Council designee in Queens.

MS. IRISH: Hi everyone, Corrine Irish, I live in Harlem and I'm a mayoral appointee.

MR. DARCHE: Good afternoon, my name is Jon Darche. I use he/him pronouns and I'm the executive director of the agency.

MR. MERRITT: Hi, my name is Herman
Merritt, City counsel representative from Brooklyn.

MR. RIVADENEYRA: Hi, good afternoon. My name is Michael Rivadeneyra. My pronouns are he/him and I am the City Council designee for the Bronx.

MS. BOND: Good afternoon, my name is Erica Bond. I use she/her pronouns and I am a mayoral designee, thank you.

MR. PUMA: Good afternoon, everyone. My name is Joseph Puma. I use he, him pronouns and I'm the Manhattan City Council representative on the board.

CHAIR RICE: We can have the board members who are joining us online to present themselves, starting with Mr. Freeman.

MR. FREEMAN: Willie Freeman, mayoral from Brooklyn.

MR. CAROLINA: Demetrius Carolina, mayoral appointee, he/him, Staten Island.

CHAIR RICE: Seeing as we have a
quorum, I would like to ask for a motion to approve the minutes as presented.

FEMALE SPEAKER: So moved.

CHAIR RICE: I'm sorry, I should've asked, are there any corrections or changes to the minutes before I ask for the approval, sorry. Are there any corrections or changes to the minutes?

Okay, may I have a motion to approve the minutes as presented?

MALE SPEAKER: So motioned.

CHAIR RICE: May I have a second?

FEMALE SPEAKER: Second.

CHAIR RICE: Okay, all those in favor of accepting the minutes as presented say aye.

CHORUS: Aye.

CHAIR RICE: Any opposition?

(No response).

CHAIR RICE: All right, the minutes are approved, thank you so much.

Last month, the Supreme Court of the United States failed this country by stripping of us of rights and laws that
work to protect us. New Yorkers have a legacy of vocalizing their pain and their frustration through protest and this has been no exception. Thousands of people across the City have gathered to protest these decisions and we want all New Yorkers to know the CCRB is committed to ensuring anyone who peacefully takes to the street can do so safely and seek redress if they believe they have experienced misconduct.

Today's meeting will be focused on allowing the public to comment on the CCRB's proposed rule changes. Last year the City Council voted to change the City Charter to grant the CCRB the power to self-initiate complaints and begin investigating bias-based policing and racial profiling. In order for the CCRB to begin these types of investigations, the board must vote to change the agency's rules. Darius Charney, the director of the unit dedicated to investigating bias-based policing will
provide more detail later on, about the unit and the proposed changes. While people have had the opportunity to comment on our proposed rules changes online, they may also do so in this meeting. At the conclusion of public comment, if board members have any questions about the rule changes, please direct them to executive director Jon Darche, who we will now hear from. Jon?

MR. DARCHE: Thank you, Chair Rice. As Avar mentioned, the public has been given the opportunity to comment on our proposed rule changes, which can be viewed online and they may also comment here today. This meeting is an opportunity for the board to hear the public reaction to our proposed rule changes before voting on them at a future meeting. Recently, the CCRB administrative prosecution unit brought the first protest case to trial. We are still waiting for the decision on that case from the trial commissioner. I
want to thank our investigators and prosecutors on the hard work that it took to get us to this point. This is the first of many trials for the protest cases and the final report on the protest case investigation will be published in the coming months. I want to just remind the public that our office is open for walk-in complaints, but it is also possible to file complaints online at NYC.GOV/CCRBComplaint, that is NYC.GOV/CCRBComplaint, by telephone by calling us directly at 1(800) 341-2272 or by dialing 311. If anyone wishes to file a complaint right now, we have two investigators on hand, ready to take any new complaints and if they can stand up, Eliza Clingstèn and Emma Stidahard (phonetic). So, if you are online please use the raise the hand feature during the public comments, so that we can call on you and I want to thank the staff for their hard work in putting us
in this new space in the Law Department
and also thank the law department for
allowing us to use this space for
today's meeting because we were
expecting a larger turnout for the
discussion of the rules.

CHAIR RICE: Does our board have any
questions for our executive director at
this time?

(No response).

CHAIR RICE: Any questions?

(No response).

CHAIR RICE: Do we have any new
business to come before the board?

(No response).

I have one item of new business
before the board for consideration
today. It is a resolution that, if
adopted, would authorize remote
attendance at meetings by CCRB board
members under certain circumstances.
Earlier this year the open meetings law
was amended to permit members of a
public body to participate in the
meeting via videoconference. From a remote location that is not open to the public, if there are extraordinary circumstances. Some examples of extraordinary circumstances are disability, illness, caregiving responsibilities or other significant or unexpected factors or events that preclude a board member from physically attending a meeting. I want to emphasize to the public that if this resolution is adopted, that does not mean that the entire board can participate in the board meeting remotely. Under the law, a quorum of board members still must be physically present at the board meeting location in order for a board member to be able to participate remotely. The CCRB recognizes the significant value that having in-person board meetings provides to members of the public, in terms of transparency and accountability. I should note that notwithstanding this
resolution, executive orders for emergencies such as the COVID-19 pandemic might allow for fully remote meetings or remote participation by board members and/or the public when they will in effect. I will now read the resolution into the record.

"Proposed Civilian Complaint Review Board Resolution authorizing board members to attend meetings via videoconferencing under extraordinary circumstances. Whereas, by passing chapter 56 of the laws of 2020, chapter 56 the New York State legislature amended section 103 of the open meetings law and whereas chapter 56 adds section 103-A of the open meetings law permitting the Civilian Complaint Review Board ("CCRB") to authorize its members to attend meetings by videoconferencing under extraordinary circumstances and whereas section 103-A2A requires the CCRB to adopt a resolution following a public hearing authorizing the limited
use of videoconferencing under such circumstances and where as section 103-A2 allows for hybrid meetings by requiring that a minimum number of members are present to fulfill the public bodies quorum required in the same physical location or locations where the public can attend and where as section 103-A2C requires that members be physically present at any meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances, including disability, illness, caregiving responsibilities or any other significant or unexpected factor event which precludes the member's physical attendance at such meeting and where as in accordance with section 103-A2D, any members attending by video conferencing except during executive session, be heard, seen and identified while the meeting is being conducted, including but not limited to, any motion,
proposal, resolution and any other matter formally discussed or voted upon and where as section 103-A2G requires that any meeting where a member attends by videoconference be reported to the CCRB web page within five business days and transcribed upon request and where as section 103-A2H requires that members of the public be permitted to attend and participate if authorized in any meeting by videoconference when a member attends by videoconference. Be it resolved that the CCRB authorizes its members who experienced an extraordinary circumstance as described above and further defined by any rules or written procedure later adopted, to attend meetings by videoconference as long as the quorum of the meeting of the members attend in person at one or more locations open to the public. Two, as long as the members can be seen, heard and identified while the open portion of the meeting is being conducted and
three, as authorized permitted under chapter 56 of the laws of 2020 and be it further resolved that the CCRB shall create written procedures further governing its use of videoconferencing by its members and compliance with chapter 56 of the laws of 2020 -- 2022."

MR. DARCHE: Madam Chair, I just wanted to clarify the chapter 56 of the laws of 2022, not of 2020 correct?

CHAIR RICE: Yes, of 2022, thank you. Shall I read it again?

MR. DARCHE: No.

CHAIR RICE: Okay, the written procedure governing how and when a board member can participate remotely via video conferencing have been prepared by our general counsel's office. These procedures will be posted on the CCRB website. Do the board members have any questions?

MR. RIVADENEYRA: I have a question about the public access to the videoconference, do we need to have at
least one board member request for video conferencing so that we are still doing videoconference for the public or will we continue doing videoconference for the public to access what we've been doing?

MR. DARCHE: The agency intention is to continue to do hybrid meetings for as long as possible. One of the reasons why we are continuing to do meetings at 100 Church and haven't gone into the community yet, is we need to figure out how to accomplish that when we are on the road, so to speak.

MR. RIVADENEYRA: Thank you.

CHAIR RICE: Questions, any other questions from our board members?

(No response).

CHAIR RICE: Any questions from those who are joining us online?

(No response).

CHAIR RICE: Okay, all right, may I have a motion to approve the resolution as presented?
MALE SPEAKER: So ruled.

CHAIR RICE: May I have a second.

FEMALE SPEAKER: Second.

CHAIR RICE: All those in favor say aye.

CHORUS: Aye.

CHAIR RICE: Any opposed?

(No response).

CHAIR RICE: The resolution is approved. Thank you very much. Now we're going to have a presentation from our director of racial profiling and bias-based policing, Darius Charney, that is relevant to the proposed rules that we're going to take public comment on today. Darius?

MR. CHARNEY: Okay, I'm going to try this with the mask, but if you can't hear me, I'll take it down. Good afternoon, I want to thank the board and Chair Rice for giving me the opportunity to speak to you today about some of the proposed rule changes related to the CCRB's new jurisdiction to investigate
complaints of racial profiling and bias-based policing as well as the new jurisdiction to conduct what I call past professional conduct investigations of members of service who have been found to have previously engaged in acts of bias. I'm going to start with just a little bit of history, I think, as most folks are aware historically the CCRB has not investigated racial profiling or bias policing. We do receive a lot of those complaints from the public and up until now when we have received them, we have referred them to the NYPD's Internal Affairs Bureau. From 2014 through 2021 NYPD received an investigated over 3,400 profiling bias policing allegations and substantiated a total of four. This system of referring to IAB has now changed because last year the City Council passed Local Law 47. Which amended chapter 18A of the New York City Charter, which is the chapter that covers the CCRB and those
amendments did two things that are relevant to my presentation. One is that it clarified that the CCRB's abusive authority jurisdiction covers civilian complaints of racial profiling and bias-based policing against NYPD members of service, so that change has now been codified in section 440-C1 of the charter. The other important change is that the local law created a new area of CCRB jurisdiction to investigate what is called past professional conduct, the NYPD members who have previously been found by the CCRB or certain other public entities, which I will get to in a second, to have committed an act of bias or severe act of bias within the last five years, these new changes codified in charter section 441 so what the -- I'm sorry, I skipped a couple of these, um -- oh, you know what, it looks like after, it looks like a couple of slides have mysteriously disappeared, that's all right. I'll kind of
improvise here, two of the changes that are in the proposed rules that I did want to highlight are the definitions for an act of bias and also for what is a covered entity. Again, for some reason it's not here, but the act of bias definition, it talks about acts that are motivated by an animus on the part of the police officer on the basis of race, gender, sexual orientation, disability and I believe a nation of origin. Again this definition appears in section 441-C of the charter, which is the section that refers to past professional conduct investigations and that definition now appears in the proposed rules. In addition, Local Law 47 and section 441 defines the term "covered entity" and that definition includes the CCRB, it also includes NYPD, it include the City Commission on Human Rights, as well as state and federal courts within New York State and the Department of Investigation for the
City. In addition, section 441 gives the CCRB the authority to identify other covered entities that could potentially make finding that an officer had engaged in an act of bias. So the proposed rules also include other agencies, state and federal agencies that do have jurisdiction to investigate bias activity. Those include the New York State Division of Human Rights, the New York State Attorney General's office, as well as the United States Department of Justice and the Equal Employment Opportunity Commission. Those definitions that you see in the rules, as I said, come directly from section 441 of the charter. The terms that the charter does not define are the terms racial profiling and bias-based policing, which of course appear in section 440-C1 of the charter, so the proposed rules have incorporated the definitions of racial profiling and bias-based policing that come directly
from the NYPD's own policy, which is
found in NYPD administrative guide
304-17 and the definition of bias-based
policing is also found in New York City
administrative code 14-151, which was
enacted in 2013 by local law 71, so
those definitions again are coming
directly both from NYPD policy, as well
as New York City statute and those are
the definitions that the NYPD Internal
Affairs Bureau has been using in it's
investigation of bias-based policing and
racial profiling. So now I will go
forward here and I apologize from the
missing slides in the presentation, I
will provide a full -- a full PowerPoint
that I guess we can also put on the
website, but I will make sure that you
all get it. The two slides kind of lay
out what acts of bias and cover entity
and racial profiling and bias-based
policing, those definitions, but I did
just want to explain really briefly, we
have had some questions about, you know,
what are these different terms, acts of bias versus racial profiling and bias-based policing mean. Racial profiling and bias-based policing do cover more protective identity categories than does the term acts of bias. Those additional categories are immigration status, housing status, as well as age and again, those come from the City statute that's in 14-151, also under local law 47 acts of bias that could trigger that past conduct investigation, can in certain circumstances include off-duty conduct, so these are the differences between the acts of bias term and the racial profiling and bias-based policing, but what I did want to just clarify is these terms are used for different purposes according to the charter amendments, so act of bias, as I mentioned before, that term appears in section 441 of the charter, which specifically applies to the past professional conduct
investigations. Whereas the term racial profiling and bias-based policing section 440(C)1 of the charter, which is the section that talks about CCRB's FADO jurisdiction and its FADO investigations and specifically identifies racial profiling and bias-based policing as a form of abusive authority. So that's why these different terms and they have different uses and again the proposed rules reflect what those distinctions as laid out in the charter amendments themselves so that is kind of the -- I think those are the rule changes I wanted to highlight, there is a rules memo that we have provided to the board and it's also available online for the public to view, which goes into a little bit more detail about these changes and some of the other changes in the proposed rules related to racial profiling, bias policing and past professional conduct investigations, but I did want to spend a couple of minutes
talking about the CCRB's work to get ready to investigate these new areas of jurisdiction.

We have created a racial profiling bias policing investigations unit, which is the unit that I was hired to direct. The unit, we like to call ourselves the RPBP unit, we are housed within the investigations division of the CCRB and the unit will conduct all racial profiling and bias-based policing and past professional conduct investigations. We will work closely with other investigations division staff to jointly investigate those cases that involve both traditional FADO and filing bias policing allegations, we definitely want to take advantage of the incredible institutional knowledge and expertise that already exists in the agency, so we think by doing these investigations and coordination with the investigations division, they will and will really, I think maximize our ability to do these
investigations effectively and thoroughly. In terms of the unit's staffing as present the unit includes the Director that is myself and you know, I have a lot of experience doing civil rights police misconduct work in both here in New York City and nationally and including working on the Floyd versus City of New York case, which I think many of you are familiar with, we have also hired a deputy director who is a former policy Council to the chair of the City Commission on Human Rights, she has more than five years experience investigating complaints of discrimination and enforcing the New York City Human Rights Law, which is one of the broadest anti-discrimination laws in the country, we have also recently hired a chief data scientist, who has more than nine years of quantitative research experience and has focused on racial and other forms of inequality, which I think will be very
relevant to the work that we do. We have also hired two investigating managers, who both of whom are experienced CCRB investigators; they were internal hires and each of them will each supervise a team of investigators and investigating attorneys. So far, we've hired three investigators and three investigator attorneys and we intend to hire, by the fall, two more investigators, four investigating attorneys and an additional data analyst to work with our data scientist. Last thing I'd like to say on this, for the staff we already hired, the investigators and investigating attorneys, we put them through several weeks of our new investigating training, which is recognized as one of the best training programs in the country for civilian oversight and we've also begun to train them on bias policing specific issues and will continue to do so throughout
the summer and then we'll do the same kind of training and on-boarding for the new staff who started in the fall. So I'm going to stop there because I obviously want to give enough time for others to weigh in here, but I'm happy to answer any question that the board may have and I guess, hand it back over to you, Chair Rice.

CHAIR RICE: Thank you so much for that presentation. I want to ask the board members, if they have any questions specifically related to what Darius has laid out in the racial profiling and bias-based policing unit, so any questions for Darius based on the unit that's been created?

MR. DWYER: I'd like to ask him for clarity on the 18-month statute of limitations.

MR. CHARNEY: Sure.

MR. DWYER: Visa vie the past professional conduct investigations?

MR. CHARNEY: So the past
professional conduct investigations, again this is something that was created by the City Charter, it states that if one of those covered entities that I named earlier makes a final determination that a member of service has committed an act of bias within the past five years, that would then trigger CCRB authority to investigate the last five years of their professional conduct to determine if that prior act of bias was part of a bigger pattern of bias behavior. At the conclusion of that investigation the CCRB is supposed to report its findings to the commissioner, but there is no mandate in the charter amendment, as far as I know, that actually provides for that to be handled through the same disciplinary system that a regular CCRB civilian complaint would, so I don't know if that means that the 18 months statute of limitations that you're referring to, which is obviously applied when we're
talking about disciplinary proceeding, I don't know if that would apply to this kind of investigation because the outcome of these investigations is not clear that is a disciplinary process as opposed to an investigation, that then provides information for the police commissioner, I guess, to determine what he or she will do, so I don't know if that answers your question, but I think the 18-month statute of limitations may not apply here, yes.

MR. DARCHÉ: So there's nothing in either of the Charter or the City rules that would contradict civil service law 77, section 75 that sets out the 18-month statute of limitations and the exception to the 18-month statute of limitations, so any discipline that would result throughout their service.

MR. CHARNEY: Would still have to meet that, yes.

FEMALE SPEAKER: Within the 18 months that finding.
MR. CHARNEY: I think it would have to be the incident, right.

MR. DARCHE: I think it's, the 18-month period is from the date of the incident, unless there is an exception to the statute of limitations under section 75 of civil service law, if the conduct that the member of service is accused of committing could be construed as a crime, then the statute of limitations does not apply at all, so if the conduct that the member -- if an investigation of a member of service were to determine that misconduct occurred and that it occurred more than 18 months prior to the finding of the CCRB and it could not be charged as a crime, then the officer could not be disciplined for it.

CHAIR RICE: Any other questions from our board in regards to the (inaudible) of the unit?

MS. BOND: I just -- I'm struggling a little bit with the intent of the law
here because of the five-year lookback journey, so then it's just not clear to me what happens, right, does it mean that there's on the record of the officer -- is there some record of this investigation and this determination around racial bias but there is no redress because we cannot actually recommend any misconduct or was the intent of the legislation simply to start to document what's happened in the past, for purposes of policymaking? I find it a little confusing that we would interpret the law to limit us to 18 months when, in fact, we've been given a five-year lookback period.

MR. DARCHE: Because the law doesn't limit us to 18 months, the law limits us to 18 months if the conduct could not be charged as a crime and so it all depends on the individual facts and circumstances of the case.

MS. IRISH: Yeah, but this doesn't mean like something we would accept as a
limitation if we have a five-year lookback period and let's say the last act maybe occurred within 18 months or something, I mean, a finding of a pattern of racial profiling, to me, is very distinct from an incident of, you know, a stop and frisk or something like that. To me, that is a very different character and I don't believe should be subject to the 18-month statute of limitations if we been granted a five-year lookback.

MR. CHARNEY: The charter amendment itself does say that we can recommend discipline, but it says where consistent with section 75 of the laws, so I think to board member Bond's point, I mean, I don't know what the City Council was intending here, but they did very specifically say if we are going to recommend discipline it has to be consistent with section 75, which is where the 18-month statute of limitations comes in, yeah.
MR. HOGAN: My question is just for the clarity because there is a whole lot of stuff that is not clear to me because it's almost to the point that if he is not being able to -- if it's not being addressed as a crime and there is no further discipline is that correct after the 18 months, is this what it's saying, unless it was a crime?

MR. DARCHE: So it's not a crime as if it was charged by a prosecutor and then there was a finding of guilt, it's whether the conduct could be charged as a crime, so if that conduct could be charged as a crime, then the crime exception does not apply and that is something that has to look at every case individually, to look at the facts and circumstances as to whether or not the conduct that was misconduct could be considered a crime and one of the purposes of the City Councils five-year lookback was, if there is evidence that the member of service has engaged in
bias activity that might not be from their police action, it might be because the reason that the City Council began debating this provision, was there was a case of an inspector in the department's equal opportunity division who was found to have engaged in racist, misogynistic and homophobic statements on an online forum that was not part of their job duties, but there was nothing that can be done about that officer's conduct as a police officer, so the act of bias or the severe act of bias triggers the lookout into their police activity and so it doesn't -- it is -- it may be that your investigation -- that Darius's unit's investigation does not uncover any police activity that was the result of bias, even though you would have evidence of, the officer was biased from the act of bias that resulted in the investigation. Those are extremely difficult and broad investigations that will involve all of that officer's
police actions that they took for the five-year period from the finding, it's one of the reasons why the agency advocated for an entire unit to handle these types of investigations because they're extremely time-consuming and they require --

MR. CHARNEY: A lot of resources --

MR. DARCHE: Thanks, a lot of resources, but they're, in a way, very different from the pattern and practice profiling investigations that are -- that the unit is also going to be investigating. Instead, it's almost like an individual FADO investigation into every police action that officer took during the five-year period, so if there is misconduct that is discovered and if that misconduct is within the 18 months or will fall within the crime exception then the officer can be disciplined for that conduct.

MR. HOGAN: If the allegations were connected to, as an officer or was not
an officer.

MR. DARCHE: Correct because at that point then we're looking at their police activity.

MS. IRISH: If the pattern leads so the last act, which is within the 18 month period, that officer can be disciplined based on the pattern.

MR. DARCHE: So there are two separate things, there is pattern for profiling, but then there is an act of bias that leads to the looking at their past action, you don't need a pattern.

MR. CHARNEY: I think if I understand board member Irish's question, if when you -- so the investigation has been triggered by some act that happened four years ago, now you're investigating and you see that within the last five years, including maybe 12 months ago, the officer has done bias behavior, could we discipline or could we recommend discipline for any of that bias behavior that happened on
the job within those last 18 months and as I read the statute we could recommend it. I mean, the statute says we can recommend a lot of things to the police commissioner and then the police commissioner has within 120 days to respond and say what action, if any, they're going to take in response to our recommendations, so I don't know if that answers your question.

CHAIR RICE: Do the board members have any other questions relating to the new reforms unit? Yes, John.

MR. SIEGAL: I have kind of an obscure question here, essentially, I have been reading, I understand the definition of bias-based policing comes from local law 71, so we're kind of stuck with it and that statute is nine years old, so it's probably been some stuff, but do you have any learning you can share with us as to what "creed" and "housing status" are under that definition?
MR. CHARNEY: Yes, so, housing status, the definition actually means, in local law 71 they specifically define housing status, which was very good of them to do, it includes things like, are you a renter or owner, it includes do you live in public housing or private housing, it includes whether you're domiciled or un-domiciled or whether you live in a shelter. If you know the allegation is that the police officer took action based on any of those kinds of housing statuses, that would fall under, as we read it, the definition of bias-based policing and then the other was creed, I think is defined in the rest of the categories in that statute in local law 71, they refer to the human rights law definitions and I believe creed is defined as essentially synonymous with religion or religious belief.

MR. SIEGAL: I didn't mean to ask you on whether you comprehend --
MR. CHARNEY: No, we look very closely with all these things because there are a lot of categories we have to keep track of, thank you.

CHAIR RICE: Any questions from the board members?

MR. PUMA: Yes, I have a question about, I guess, what for work product I guess would be and what level of involvement the board has, in that this is a new paradigm for the agency and it's wonderful, as many staff as we're going to have working on it, but a traditional investigation goes to a panel of three board members, we make recommendations and the case gets referred to the police department how a typical case from your unit might be handled and I know this stuff is still being --

MR. CHARNEY: Yeah, so I think to answer your question, I kind of look at the two different categories, I think you have racial profiling and bias
policing, which you know now falls under abuse of authority, so that's one category and then we have these past professional conduct investigations. So for the first category, the bias policing racial profiling, I think we are going to treat those just as we would any FADO, if a civilian makes an allegation we'll go to investigate it, we're going to do a closing report, we are going to make recommendations as to what the disposition should be and then we bring it to a panel -- and then a panel and the panel will vote, just as you do with any FADO case and if you're going to substantiate, then we go forward with the same process we have for other FADO allegations, I believe that profiling is in the discipline matrix already, there are presumptive penalties, so I think we would handle it as we do other FADO, for past professional conduct. I mean, obviously it's going to have to go to the board in
some capacity to approve before it can be sent to the police commissioner because it's going to be in a report with recommendations that might be discipline, they might be other things, but in terms of whether that would go to a panel versus the whole board, I don't think we -- actually confess we haven't thought through that yet, but I think we will and we would, obviously would want all your input and ultimately we would obviously have the final say as to what the process should be, but I think that's the thinking around how we would handle those.

MR. PUMA: Thank you.

CHAIR RICE: Thank you, Mr. Joseph for that question, do you have any other questions for our board? All right, we will now enter the public -- one raised hand.

MALE SPEAKER: No --

MR. CHARNEY: Was there another question?
CHAIR RICE: No, I think we're done, just double-checking, we're now going to enter the public comment portion of the meeting that is divided into two sections. First we will hear from members of the public that would like to comment on our proposed rules, then we will hear general comments from the public and I'm going to turn it over to Yojaira who has a number of folks who are going to --

MR. DARCHE: Can I just make one correction, it's not just that all cases will go to panels. Sometimes, if the case is, for a variety of reasons, might go to the full board as well, but they will be treated, as Darius said, like any other case, not just going to a panel of three, just wanted to make that clear.

CHAIR RICE: Thank you, terrific, Yojaira, are you ready with our first person to make a comment, Yojaira?

MS. ALVAREZ: Thank you, Chair.
First, we will be hearing from Bronx Borough President Vanessa Gibson, followed by Deputy Public Advocate Nick Smith.

MS. GIBSON: Good afternoon ladies and gentlemen, I hope you can hear me.

CHAIR RICE: Yes, we can.

MS. GIBSON: Thank you. Thank you so much, good afternoon, Madam Chair Avar Rice and the members of the Civilian Complaint Review Board. It's a great opportunity to join with all of you for your monthly hearing. I am Bronx Borough President Vanessa L. Gibson proud to join with all of you my pronouns are she/her and hers and I want to thank you for the invitation to speak before you today regarding the rule changes that the CCRB is proposing. I truly believe this is an important step towards implementing two very important local laws that will truly make the CCRB a more effective body and better able to accomplish all of your mission.
Ensuring the public safety is one of the important jobs and functions that we truly have as a local government and the work of the NYPD is truly essential to fulfill this goal. However, if the public does not have confidence in the police department to enforce the laws fairly without any bias and without any abuse, they will be unable to accomplish that mission. Therefore, the work of our agency of the CCRB is crucial to ensure that the public can report when an officer steps out of line and an appropriate investigation is performed. Local Law 47 of 2021, of which I was very proud to introduce as a former member of the New York City Council, authorizes the CCRB to investigate biased policing incidents, as well as racial profiling complaints, allowing the CCRB to investigate these claims of racism and other biases against police officers, will enable the public to know that these officers are not able to
engage in these sorts of behaviors with impunity. This is especially important for vulnerable BIPOC communities, low income communities that have often and historically been targeted by unfair police practices over the years. We truly must improve education and training for all of our officers, so we know that they can do their jobs fairly, in a unbiased way and to be clear working with the NYPD our partners, working with the police commissioners and all of the men and women of the NYPD, ensuring that they uphold the laws, they conduct themselves in a respectable way and they truly are treating everyone fairly and respectfully, as we should do the same for our officers as well. I want to recognize this is a two-way street as we ask our officers to treat us fairly and New Yorkers need to do the same as well, but we know the small minority of officers who fail to meet the standard,
we want to make sure that the CCRB has the tools and resources necessary to investigate and recommend penalties, if appropriate. In addition, this law will allow the CCRB to conduct a lookback at an officer's past record, if the officer is found to have engaged in past bias policing, this means the CCRB will review past actions and records of the officer to ensure that they have not engaged in this particular behavior in the past. This will really ensure true accountability and an open process for the members of the public with whom the officer has had a particular interaction. I was very proud as a member of the City Council to support the passage of Local Law 24 of 2022, which now authorizes the CCRB to initiate investigations rather than waiting for a member of the public to file a complaint. This reform will enable the agency to immediately take action to launch an investigation
whenever there is evidence, sufficient evidence that misconduct has occurred, justice should be done regardless of whether the complaint is made and this reform will truly help all of you meet that goal. The rule changes that are being proposed today regarding the improper use of body worn cameras is also a strong and important step towards ensuring accountability. I support the pilot years ago of body worn cameras working with the police foundation because it is a critical part of our reform that protects both the public and the officers, they're neutral bystanders, they help provide an unbiased account of an incident and have often been used to both substantiate complaints as well as clearing officers of any wrongdoing when officers fail to turn on their cameras in a timely fashion. This is truly an abuse of public trust and it should be investigated as such body worn cameras
are an essential part of modern day policing happening all across the country and officers must use them when appropriate. The City must also continue to reform the CCRB to increase its effectiveness in combatting police misconduct. The agency became a truly independent oversight commission with the ability to issue binding disciplinary action substantiated cases and the complaint that has been logged against police officers. Now while we continue to push for these changes, the reforms that these laws had enacted are really a great step forward and I want to commend you, madam chair, the members of CCRB, I want to thank you for introducing these rules changes to fully implement Local Law 47 and Local Law 24 and again as a former member of this City Council, being part of the legislative body, I do want to make just a lot of compliments towards CCRB. We've been able to roll out a number of
reforms that brings CCRB into the outer of borough most because we know many complainants do not want to go down to Church Street in lower Manhattan and we've been able reform the process and allow more engagement with those who want to come forward in a very neutral way and a very responsible and respectful way. I thank you for your time this afternoon. I look forward to working with, now with my new role as the Bronx Borough President and I thank you for holding this very important hearing this afternoon, thank you Madam Chair.

CHAIR RICE: Thank you, Madam Borough President for your remarks and for your leadership. Yojaira?

MS. ALVAREZ: Thank you Borough President. Next we will be hearing from Deputy Public Advocate Nick Smith, followed by Corey Stoughton.

MR. SMITH: Good afternoon everybody, can you see or hear me?

MS. ALVAREZ: We can hear you. I
think the video is unable to be activated, but you can proceed.

MR. SMITH: Okay, no problem. Good afternoon everybody, thank you so much for giving me the opportunity to briefly testify on these proposed rule changes relative to the Council passing the laws. Before I touch on the actual rules, I just want to say on behalf of our public advocate Jumaane Williams that we continue to insist on two other elements, which is final disciplinary authority of the CCRB, we long called for that, secondarily, encouraging the administration to ensure that the CCRB has sufficient resources to staff, not only this new unit that Darius is in charge of, but its agency overall, that includes, by the way, funds needed to publicize the availability of CCRB as a resource to New Yorkers and representing the public advocate who is actually the sponsor of Local Law 71, we thank you for the invitation and we do align
ourselves and support the proposed rule changes. An example of that goes back to summer of 2020, during the BLM protest after the murder of George Floyd there are undoubtedly far more alleged incidents of alleged misconduct of that were reported. When people experience abuse or inappropriate behavior from the police, they are vulnerable and may be hesitant or scared to share what has happened to them, many New Yorkers don't know how to file a complaint with CCRB or how long they have before the statute of limitations expires, I know that was discussed a few minutes ago. In the age of smartphones and social media, many acts of alleged misconduct are quickly publicized. This rule change will allow the CCRB to investigate what they're seeing in real time, the CCRB also propose new rules to make the investigation process more transparent and easier for the public to understand for civilians and especially for people
who primarily speak in languages other than English, of the legal terms typically used in reports that are often confusing or difficult to understand. Replacing the term "unsubstantiated" with "unable to determine," for example, makes it clearer there was not sufficient evidence to establish whether or not it was an act of misconduct. Importantly the updated language also adds bias-based policing in racial profiling, as well as improper use of body worn cameras to the definition of abuse of authority. The CCRB operates for civilians and all communications must be in language that every New Yorker can understand, it is clear that we must prioritize, empowering and increasing resources for the CCRB, so they're able to fully hold the PBA accountable. The proposed rule changes, particularly those giving the CCRB the power to initiate its own investigations are steps in the right direction and one
that we must continue and again, on behalf of the Public Advocate we thank you for the invitation and the work that the CCRB continues to do for all New Yorkers, thank you so much.

CHAIR RICE: Thank you for your comments, Deputy Public Advocate Smith. We appreciate your comments and as well as your leadership as well. Yojaira, our next comment?

MS. ALVAREZ: Thank you, Deputy Public Advocate, we will be hearing from Corey Stoughton followed by Andrew Case.

MS. STOUGHTON: Thank you very much and good evening everyone, (inaudible) Sorry, can you hear me? I want to thank you for the opportunity to comment on today's rule changes. My name is Corey Stoughton. I'm from the Legal Aid Society. I'm here speaking on behalf of both the Legal Aid Society and the NAACP Legal Defense and Education Fund, who is our cocounsel in the Davis versus New York case, which is the companion case
of the stop and frisk litigation
pertaining to patterns of unlawful
stops, arrests and searches outside of
NYCHA properties. As lawyers for low
income people who often experience the
worst abuse of police authority, I want
to thank you, the CCRB, for all of the
slate of rule, proposed rule change
proposals that will advance the cause of
accountability through independent
oversight. The range of issues raised
today, which we addressed in detail in
our written testimony, but there are
three issues that I'd really like to
highlight today in my oral testimony.
First, on the issue of body worn cameras
and the rule changes around body worn
cameras, a written testimony lays out
legally direct experience of rampant
violations of the NYPD own body worn
cameras policy and thus the need for
more independent oversight of the
department's failure to follow its own
rules on timely activation and
deactivation of cameras to report police encounters. Our internal focus group of public defenders within Legal Aid Society revealed failures to record -- failures to report in, late activation are so rampant in criminal defense cases that can fairly be called the norm rather the exception, particularly in cases were there are indications of use of force or indications of potential false arrest or other unconstitutional behavior. These issues had also been noted in the stop and frisk litigation that we're part of and while the monitor reporting shows that there has been some improvement in this practice by the NYPD over time, that improvement is very slow and starting from such a low baseline of noncompliance that there is really no question that we're far away from living out the promise of body worn cameras as a meaningful tool of police accountability, so for those reasons the CCRB's attention to this issue and the
clarification on the fact that this issue falls within its FADO authority and always has and that it will focus on this issue is really welcomed and we really appreciate that. The second issue that I want to highlight, is the issue of expanding authority to self-initiated complaints, again our experience at Legal Aid Society gives us a practical insight to how important that expansion authority is. We file CCRB complaints on behalf of clients who we encounter coming from criminal arraignments, where there is indication of police misconduct very regularly and what we often encounter is that clients are unwilling or unable to file CCRB complaints in a timely manner, often because there are pending criminal charges and we have to advise our clients of the risk to their criminal case of filing a CCRB complaint immediately while there are pending criminal charges, we have also
unfortunately seen patterns of trumped-up criminal charges in cases where officers are clearly filing those charges and pursuing those charges in order to cover up instances of police misconduct. We often see that on low-level charges that might eventually not get prosecuted, but resulted in a delay in a person being able to file or incompetent to file a CCRB complaint, so echoing the comments of the deputy public advocate, the ability to, for CCRB to self-initiate ensures timely investigation into incidents of police misconduct in many cases where complainants are simply unable to have access to this form of accountability and then the final issue I want to highlight is the issue of the language and the fact that this might even have to be a subject of a debate, to be honest with you, quiet an affront to the English language because even as a lawyer, I have found the terminology
that the CCRB uses to describe complaints mystifying and in so many instances, not only do I have trouble explaining and getting the client to understand this, but we have trouble getting members of legal (inaudible) understanding and other actors from the Legal Aid Society and so the common sense language changes that are being proposed are really critical to ensuring the CCRB can continue to engage with the public and being an effective tool for the public and our clients. Thank you so much for these comments, we appreciate this again and we fully support the proposed changes.

CHAIR RICE: Thank you, Ms. Stoughton for those comments, we appreciate them. Yojaira, the next presenter?

MS. ALVAREZ: Thank you so much, Corey. Next we will be hearing from Andrew Case followed by Samah Sisay and Lupe Aguirre.
MR. CASE: Hi, can you hear me, can you see?
CHAIR RICE: Yes, we can hear and see.
MR. CASE: Great, thank you, my name is Andrew Case, I'm senior Council at Latino Justice and I want to thank you the board and agency staff for inviting us to comment on the proposed changes to the agency's rule. We are in favor of implementing the proposed rules and the proposed procedure and we want to thank the board for taking action to implement its new powers and particularly for taking action to implement the body worn camera abuse of authority allegations. We're glad to hear that the racial profiling and bias policing unit will be robust and staffed and that they're receiving additional training to tackle these complaints. These complaints are among the most important that the agency will handle and there also among the most challenging to investigate and we
appreciate that that challenge has been taken seriously by the agency. We want to comment on three elements to the rule changes. First is the definition of unable to determine, our position here, we appreciate the change in the rule, but we also believe that the fundamental issue is that the agency relies on this finding far too frequently, it did it when I was at the CCRB 15 years ago using substantiated and in 2018 this agency closed fully 48 percent of its allegations with "unsubstantiated." It's now moved back down again to where it was about 15 years ago, 28 percent, but the CCRB is suppose to make findings based on a preponderance of the evidence standard. And we know that the preponderance of the evidence standard is commonly called 50 percent plus a feather. In the age of body worn cameras, in the age of very thorough and very complete investigations, the agency does, there should be almost no
allegations in which there is a pure 50 percent chance either way and the agency is unable to make a determination. This ruling, this outcome, whatever you want to call it, should be used extremely and frequently. And proper use of body worn camera evidence, in addition to being an abuse allegation of authority in and of itself which we appreciate, should be an element that the agency considers when reviewing and investigating the underlying allegations. If an officer refuses to turn on his body worn cameras and one officer didn't report an incident properly. That itself is the extra feather evidence demonstrating that the officer more likely than not did what the complaint alleged, it would be proper even for the CCRB to enact a rule that defines that if an officer did not turn on their body worn camera, that in itself is evidence that, had the camera been turned on, would have shown what the complainant alleged. I want to
mention one point also about the racial profiling bias policing group and the complaints of past conduct investigations, I have -- I think there are some questions that were raised that were very interesting how they would play out in practice, but one thing I think the unit can do is use the skills developed in that to investigate conduct that may not appear additionally, related to an allegation of racial profiling bias, but which can be that also extra feather of evidence, an officer's social media profile, an officer's off-duty conduct, while it's not something the CCRB can investigate in and of itself, that is evidence that can be used to make a determination in a racial bias profiling complaint. The Biden Executive Order recently said the agencies should be doing everything they can to identify people who have white supremacist ties, taking officers who have complaints of racial bias, in doing
a thorough investigation of their online presence to determine if there is a point to that bias, is an effective way to implement that executive order.

Thank you for the opportunity for Latino Justice to address your rule changes and thank you for taking the initiative to further strengthen your agency's powers.

CHAIR RICE: Thank you, Mr. Case for your comments, we appreciate them. Yojaira, can we hear from the next speaker.

MS. ALVAREZ: Next we'll be hearing from Samah Sisay, followed by Lupe Aguirre.

MS. SISAY: Thank you, good afternoon, my name is Samah Sisay and I am with the Center for Constitutional Rights. I'm providing testimony today on behalf of the Center for Constitutional Rights and Beldock Levine and Hoffman LLP, organizations that have served for the past 14 years as Plaintiff's Council, in the Floyd versus
City of New York litigation, as you all may know, this landmark civil rights class action successfully challenged the New York City Police Department's racially discriminatory and unconstitutional stop, question and frisk practices. This suit resulted in a monitorship and in a federal court injunction that mandated reforms to the NYPD procedures for disciplining officers found by the CCRB to have committed misconduct during police stops. We welcome the CCRB's effort to incorporate the reality of racial bias and policing into their mandate through the newly-formed racial profiling and bias policing investigation unit. We're very happy that this action has been taken and we believe that this work falls squarely within the CCRB's statutory mandate. The CCRB's proposed changes are especially pertinent to our work given, the fact that within the past eight years that the Floyd
post-trial monitorship the NYPD has failed to reach full compliance with the federal Court remedial order.

Today, I'm just going to briefly touch on two aspects of our written comment that we submitted. First, just talking about definition of abuse of authority to include body worn cameras and then lastly, talking about the CCRB authority to investigate bias-based policing and racial profiling and how that can be extended to help with the issues that we're seeing with a lack of reporting in stops through the Floyd monitorship. So the definition of abuse of authority we think could be more expansive or we would just like to just, you know, talk about ways in which we think it should be more expansive with regard to body worn cameras, so we definitely welcome the CCRB's incorporation of improper use of body worn cameras into the definition of abuse of authority, expanding its
ability to investigate another significant aspect of police misconduct during the Floyd litigation. The court specifically mentioned the CCRB as a stakeholder in the reform process and recognized that body worn cameras were uniquely suited to address the constitutional harm at issue and so we believe that this is an issue that falls squarely within the mandate for CCRB. So the proposed rule talks about improper use of body worn cameras as when a member of service member fails to turns it on, turns it off prematurely or fails to record an incident in violation of the NYPD patrol guide and so for that last section the fails to record an incident in violation of the NYPD patrol guide, we just want to state for the record that we hope that covers when a member of the service fails to turn on the body worn cameras at the start of an encounter, as required by the patrol guide because from our experience and
from the report that CCRB released in 2020, we saw that a huge issue is not that officers are not actually recording encounters it's that when they are recording them, they turn the cameras on late and so we don't get, like really important information of the beginning of the encounter and just making sure that is something that that's being looked at. And secondly, as I was saying, we believe that the CCRB authority to investigate allegations of bias-based policing and racial profiling is important to reducing the continuing racial disparity between subjects and police stops through the decades of the work plaintiffs for Floyd are -- Plaintiff's Counsel for Floyd have noticed that despite dramatic reduction in the number of reported stops, the racial disparity continues between folks who are being stopped and so we think this is really important and we think that -- we don't think it has been shown
through the monitorship's own report that there is an under-reporting of stops and therefore we think an accurate reporting of stops is really, really important for us to get at this racial disparity and so again, this is not a part of the rule at this time, but we do believe that the definition of abuse of authority should be expanded to include investigations into improper reporting of stops because we think this is what is adding to the severity, because much like improper use of body worn cameras, the under-reporting of stops serves as a significant roadblock to evaluating constitutional compliance or investigations into unlawfulness of individual stops and so we hope that the CCRB's involvement in this issue will result in more robust and credible investigations of allegations in police misconduct and a reduction in bias policing practice and we believe that the CCRB's newly established ability to
self-initiate investigations into misconduct will also really help in this regard. So overall, we are very happy with that and we thank you all for your work on this issue.

CHAIR RICE: Thank you so much, Ms. Sisay for your comments. Yojaira, who is next?

MS. ALVAREZ: Next we'll be hearing from Lupe Aguirre.

MS. AGUIRRE: Hi, good afternoon. My name is Lupe Aguirre, I'm a staff attorney at the New York Civil Liberties Union and today I will just be highlighting several key points that are outlined in more detail in our written comments.

So first, I want to acknowledge that we have reached this important point because of ongoing issues with racial profiling and bias policing in the NYPD and the NYPD's mishandling of investigations into these abuses, so
prevalence of this issue, we also offer our broad support for the roles regarding this investigation, however we do know that we urge the CCRB to continue having meaningful, robust engagement with stakeholders, particularly directly impacted communities and this includes fully implementing the CCRB's language access plan, which we hope to follow up with y'all on that soon. The bulk of our comments will relate to the CCRB's proposal to investigate the misuse of body worn cameras, which we think is very important for both police accountability and transparency issues for three reasons.

First, we understand that body worn cameras are a useful tool for police accountability and transparency generally and misconduct investigations, but the reliability and utility of that tool is undermined when officers are not properly documenting their encounters
with the public. As some of my fellow
commenters have pointed out, there are
serious concerns that officers are
failing to properly document the
encounters including violence,
manipulating or interfering with body
worn cameras and failing to activate
them in a timely manner to fully capture
the encounter, so because body worn
cameras are susceptible to these sorts
of abuses, we believe it's really
important to have independent monitoring
by agencies like the CCRB body worn
camera use. Second we, we, we
understand well that the NYPD and IAB
also have a documented history of
mishandling misconduct investigation and
there no reason to believe that the
investigations of body worn cameras
misuse will be any different
contrastingly the CCRB has demonstrated
that it understands the value and
utility of body worn cameras footage for
its investigation and does take them
seriously, so that is another reason why we support the rule.

Finally, the rules important for transparency purposes. The CCRB does a good job of publicizing information about its findings, operations, investigations and we firmly believe as the CCRB learns more about this particular issue, it would also report it to the public and increase the public understanding of the issue as well. We do, however, strongly encourage the CCRB to commit to publicizing on a regular basis the information that it receives by other government entities or agencies around its -- their final determination of bias by NYPD officers, given the importance of this issue and the stakes involved, it is critical information for the public to know. That concludes our comments and thank you for your time.

CHAIR RICE: Thank you, Ms. Aguirre for your comments, we appreciate them. Yojaira?
MS. ALVAREZ: Thank you, Chair, thank you, Lupe. Next we'll be hearing from Kshithji, sorry and he will be testifying in person, so if you can please come up to the podium.

MR. KSHITHJI: Thank you. Just a second, can you hear me, okay. Good afternoon, my name is Kshithji and I'm a legal fellow with the impact litigation practice of the Bronx Defenders. During the course of our representation, we have seen that low income people in the Bronx experience bias policing, yet many do not seek accountability because to do so presents risks to them or seems like a futile effort. Hurdles include the fear of retaliation, the difficulty individuals face in obtaining corroborative documents for accounts of similar misconduct, which is also often critical to proving a bias claim and complications from parallel proceedings, such as prosecutions or deportation proceedings that are, in fact, caused by
the bias policing itself. In addition, insufficient responses can build mistrust that oversight agencies can do anything. We represented a group of clients brutalized at a protest in Mott Haven in June 2020. Mott Haven is a predominately black and brown community in the south Bronx that already faced longstanding racially disparate police violence. Despite the prevalence of protests throughout that spring, it was in Mott Haven that the NYPD employed a drastic militarized response, beating protesters with batons and arresting and charging more protesters there than in any other protest. Our clients witnessed hard harassment of black and brown people during the protest, searching their hair, physically attacking them and holding them longer after arrest. Our clients collectively, actively demanded redress from the city, seeking compensation and broader accountability for the past and present
patterns of racial and bias policing. All our clients received pre-litigation settlement offers. The city resisted demands for the boarder accountability and the CCRB, despite its mission to respond to misconduct by NYPD officers, did not have the authority to even investigate racial bias by officers on the scene. Without institutional mechanism to scrutinize individual cases of bias, racialized police violence goes unchecked and can build to tragedy like policing of the Mott Haven protest. We agree with prior commenters and believe the proposed rule to help to address the very hurdles, the accountability for bias policing and help to interrupt such conduct earlier in the process. The rules authorize the CCRB to investigate bias, further, the rules permit the CCRB to self-initiate complaints. The board no longer has to close its eyes to obvious bias and can instead proactively investigate and build trust with
community members. The rules also permit the board to look back at an officer's professional history, which provides important context for disrupting future acts of bias. We also support the CCRB decision to designate improper use of body worn cameras as an abuse of authority. Given how difficult it is for an individual to come forward it is crucial when they do, the individual's right to be heard is protected. Misuse of body worn cameras interferes with that right as our written testimony further details. For these reasons we support the CCRB proposed rules and we thank you and the new division for this important effort, thank you very much.

CHAIR RICE: For those joining us in person and would like to make a comment on the proposed rule changes, if anyone would like to make a comment, they can come to the podium. Anyone in person? Okay.
MR. MIMS: Hello board, thank you for hearing me out. First thing I wanted to say, if I could.

CHAIR RICE: Could you state your name for the record.

MR. MIMS: I'm sorry, Arthur Mims.

CHAIR RICE: Thank you, Mr. Mills.

MR. MIMS: Mims.

CHAIR RICE: Mims.

MR. MIMS: It's okay. The police has a tendency to screw it up, too sometimes, what I was going to say was I wanted to know for sure will the board now see about actually tagging these cops' records? What I mean by that is letting it be known that so and so got these many complaints against him and also making hard recommendations for discipline, because I can remember a time when the board wanted to do that, but the police department let it be known they did not care for your input. I also want to know whether they will be going after their sick days and their
vacation days because I do believe in hitting these people who do this kind of crap in their pocket because that's what they respect, that's when they really and truly look up when you hit them in their pocket and you hit their vacation days and their sick days and you take about 10 or 20 of them away from them, maybe they start to get the message because when you turn around and you sue, which is what we have done in the past, you turn around and sue them, that money is not coming from the police department, that money is our money, so basically that I wanted to say, also I heard at one of the meetings you said you would talk about calling up the police chief to come by. Will somebody from the police department bring their, I think I say this on camera, bring their asses down here and hear what the hell some of the public have to say? I say that because I also think, too, it's about time. I know we're still dealing
with the COVID thing, but I would like for us to very much to turn around and come back into, I mean go back into -- I mean go back out into the outer boroughs, come back out and really and truly and I mean, let the police department bring their asses down there and hear, this is nothing calm -- I'm not saying this to sound like someone who hate the police, but I am a person when I was younger had my problems with the police, as quite a few black males I know had their problems with the police, including Obama and others. And the truth of the matter is that you could only take this crap but so damn long, that's why when I heard the Council, the lady speak earlier and she said few apples, I'm sick and tired of a few bad apples because the truth of the matter is, if there is a few bad apples, I really think it's time you got -- did something about that orchard, you really need to go in that orchard and do
something because it's more than a few bad apples. People forget, one man killed George Floyd, one man put his knee on his neck, but three other shmucks stood around and told everybody else to back off and what you need to actually do, I mean I wish everyone in this room would actually get the paper out that, the actual report that the police put out when George Floyd died before they knew that there was a 16-year-old girl with a camera that was videotaping them because they made it sound almost as if the poor guy went into some kind of shock and we took him to the hospital and we did what we could. No mention -- so anyway I thought I'd say my little two cents and thank you very much for hearing me out.

CHAIR RICE: Thank you, Mr. Mims, we appreciate that.

MR. DARCHE: Madam chair, I just wanted to point out two things in response to Mr. Mims' questions. The
first is that since 2020 when the legislature appealed civil rights law section 50A, the agency has been putting member of service CCRB records online and so you can search and find out the CCRB histories of members of service, so that's no longer secret information and the board has also, as of last year committed to following the department's disciplinary matrix for discipline recommendations and so that is all public information that can be used to gauge how the CCRB is determining what level of discipline to recommend that the department impose on members of service.

CHAIR RICE: Thank you, Jon, for that clarification. Is there anyone else in the room that would like to make a comment during this general public portion of the meeting?

(No response).

CHAIR RICE: Anyone else?

(No response).
CHAIR RICE: Thank you. Do any board members have any questions for Jon on the proposed July changes? Any questions for executive director?

(No response).

MR. PUMA: I just wanted to -- on the rules pertaining to changing the language of certain dispositions, I just wanted to clarify for the record that "unable to investigate" will sort of cover investigations that, where there could be various numbers of situations where we couldn't complete the investigation, such as a complainant that wasn't responsive or a victim that wasn't available. I just wanted to clarify that the agency wouldn't be losing that level of nuance in its reporting of like, public data, you know, and just want to make sure that we preserve that and I just wanted to clarify if this affects that.

MR. DARCHE: Thank you for that question, Mr. Puma. The agency will
continue to gather that information as we always did, and report it, but we feel that general title to describe those types of cases is better described as unable to investigate rather than truncated or any of the other terms we used in the past.

MR. PUMA: Thank you.

CHAIR RICE: Any other questions for Jon on the proposed rule changes?

(No response).

CHAIR RICE: Okay, seeing none, do we have any old business to come before the board, any old business?

(No response).

CHAIR RICE: Okay, all righty, so hearing none, I'm going to move now that we break into our executive session, the executive session -- the agenda session for the board will deliberate on one full board case, will receive an update from the executive director on the pending personnel action and an update from the general Council on litigation,
can I have a moment -- can I have a motion to bring this meeting to a close?

MR. DARCHE: Into executive session.

CHAIR RICE: I'm sorry, do I have a motion to bring the executive session -- I mean, bring the meeting into executive session?

MALE SPEAKER: So motioned.

CHAIR RICE: Do I have a second?

FEMALE SPEAKER: Second.

CHAIR RICE: All in favor?

CHORUS: Aye.

CHAIR RICE: All right, so moved, thank you very much.

(Whereupon, the examination was concluded at 5:33 p.m.)
CERTIFICATE

STATE OF NEW YORK)

: ss

COUNTY OF BRONX   )

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

That the witness whose examination is
hereinbefore set forth was duly sworn and that
such an examination is a true record of the
testimony given by such a witness.

I further certify that I am not related
to any of these parties to this action by blood
or marriage, and that I am not in any way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 13th day of July, 2022.

[Signature]

Shechinah Jackson