

1 Public Board Meeting
 2 Of the Civilian Complaint Review Board
 3 Wednesday, December 11, 2013
 4 10:00 a.m.
 5 40 Rector Street - 2nd Floor
 6 New York, NY 10006

7

8

9 DANIEL D. CHU, ESQ., CHAIR

10 TRACY CATAPANO-FOX, ESQ., EXECUTIVE DIRECTOR

11

12

13 PUBLIC MEETING AGENDA:

14 =====

- 15 1. Call to Order
- 16 2. Adoption of Minutes
- 17 3. Report from Chair
- 18 4. Report from Executive Director
- 19 5. Committee Reports
- 20 6. Old Business
- 21 7. New Business
- 22 8. Public Comment

23

24

25

1 BOARD MEMBERS PRESENT WERE:
2 Dr. Mohammad Khalid
3 James Donlon, Esq.
4 Youngik Yoon, Esq.
5 Tosano J. Simonetti
6 Bishop Mitchell G. Taylor
7 Tracy Catapano-Fox. Esq.
8 Janette Cortes-Gomez, Esq.
9 Daniel M. Gitner, Esq
10 Jules A. Martin, Esq.
11 Daniel D. Chu, Esq.
12 Rudolph Landin, Esq.
13 Alphonzo Grant Jr., Esq.

14
15
16
17
18
19
20
21
22
23
24
25

1 CHAIRMAN DANIEL CHU: All right, I'm going
2 to call this meeting to order. Good morning to
3 everyone. Welcome to our last meeting of
4 calendar year 2013. As this is the last meeting
5 of 2013, this also marks the last meeting of the
6 Board under the leadership of Mayor Michael
7 Bloomberg, and I just wanted to take a moment to
8 thank Mayor Bloomberg for his continued support
9 and personally for giving me the opportunity to
10 serve in this capacity. In particular, I want
11 to thank Deputy Mayor Carol Robles-Roman who has
12 always been supportive, who has been there to
13 give us insights and her wise counsel, and who
14 has also worked tirelessly to fill the vacancies
15 as they came along. I think now I am very
16 thankful and grateful for the Board that we
17 have. I think we are a very fair minded,
18 dedicated, and knowledgeable board. And I think
19 a lot of the thanks has to go to, again, Deputy
20 Mayor Carol Robles-Roman and also her very
21 capable chief of staff, Norma Abbene.

22 I also want to thank Police Commissioner,
23 Ray Kelly, with whom we have been able to work
24 out some difficult issues, over the years, and
25 also to implement new programs with. It is only

1 in conjunction with Commissioner Kelly that we
2 are now trying cases in the trial room, that the
3 mediation program is at a historical high, and
4 that is also thanks to Ms. Cohen. And so, in
5 closing, I want to keep it nice and short, but
6 it is a pleasure to serve the people of this
7 city. And I think that I'm sure the Board joins
8 me in looking forward to continuing our mission
9 under the new administration, Mayor Elect Bill
10 di Blasio, and also the incoming Police
11 Commissioner, William Bratton. So, with that,
12 I'm going to move to the adoption of the minutes
13 from last month, November 2013. Do I hear a
14 motion?

15 COMMISSIONER TOSANO SIMONETTI: Move to
16 adopt the minutes.

17 CHAIRMAN CHU: Is there a second?

18 COMMISSIONER MITCHELL TAYLOR: Second.

19 CHAIRMAN CHU: All those in favor, say aye.

20 [Chorus of ayes]

21 CHAIRMAN CHU: Any oppositionS? Any
22 abstentions?

23 COMMISSIONER JANETTE CORTES-GOMEZ: Aye.

24 CHAIRMAN CHU: Okay, one abstention noted,
25 Ms. Cortes-Gomez. All right, but

1 notwithstanding that, the motion -- the minutes
2 are adopted. Ms. Catapano-Fox, please give us
3 your report.

4 EXECUTIVE DIRECTOR TRACY CATAPANO-FOX: Good
5 morning everybody. Hope you all had a nice
6 Thanksgiving, and I will present my report. The
7 CCRB received 464 complaints in November. This
8 is 167 more than we received at the same time
9 period from last year, where we only received
10 272 complaints, but that was right after
11 Hurricane Sandy. The difference is clearly
12 attributable to, on some level, to Hurricane
13 Sandy.

14 From January to November, of this year, the
15 Board has received 5,022 complaints within its
16 jurisdiction, which is a seven percent (7%)
17 decrease from the period of last year, for that
18 complaint activity. Our total intake, at the
19 agency, including complaints, within our
20 jurisdiction, and those we refer out, has
21 declined by 25% from year to date. The Board
22 closed 363 cases in November. The first eleven
23 months of this year, the Board has closed 1,848
24 cases. These are fully investigated cases and
25 the Board substantiated 276 of that group,

1 leaving a substantiation rate of 15% of fully
2 investigated cases. And our truncation rate, or
3 not fully investigated cases, was 55%, which is
4 four percentage points lower than the first
5 eleven months of last year, when the not fully
6 investigated truncation rate was 59%.

7 In November of this year, the mediation unit
8 successfully mediated 14 cases involving 20
9 officers. Our year to date mediation report has
10 closed 328 cases. Our agency's docket, at the
11 end of November, stood at 2,819 cases. This is
12 a five percent (5%) increase over our open
13 dockets from October, when we were at 2,678
14 cases. Ninety-two percent (92%) of the open
15 investigations stem from complaints filed last
16 year, and 65% were filed within the last four
17 months. Of our open dockets, 670 cases are
18 awaiting panel review. That is 24%, almost a
19 quarter of the docket; 1,898 are being
20 investigated and 243 cases are being mediated.

21 By date of incident, 13 cases, in our
22 agency's open docket are 18 months or older.
23 This is significantly different than last year
24 when we had 23 cases, and a total of point four
25 percent (0.4%) of our open dockets. Out of

1 those cases, three cases are a D.A. hold, two
2 of the cases we are asserting the Crime
3 Exception of the Public Officer's Law, Section
4 75, four cases were filed in months after the
5 incident, two cases are pending panel review,
6 and two of the cases had an investigative delay,
7 and finally, one case was reopened.

8 In October of this year, the Police
9 Department closed four substantiated cases
10 involving four officers. They did not impose
11 discipline against one officer, and three
12 officers received instruction. From January
13 through October of this year, the NYPD
14 Disciplinary Action rate was 57% and the
15 Department declined to prosecute 29% of the
16 cases. In cases in which they pursued charges
17 and specifications, the conviction rate was 81%
18 and that includes officers who pled guilty to
19 charges, after trial, or at the disciplinary
20 trial, and those who were found guilty at the
21 trial rate was 60%.

22 With regard to the agency, we have been very
23 active in responding to some of the concerns of
24 the Board, one of which last month was presented
25 by the truncation rate, or not fully

1 investigated rate. And I know Bishop Taylor
2 and Tony, you both were concerned about the
3 productivity of our investigators, making sure
4 that they are working on the cases that need to
5 be fully investigated, and using energy for
6 those purposes. So, for that reason, we met and
7 we have decided to create an Intake Unit. I'm
8 going to let our Deputy Executive Director,
9 Denis McCormick, explain what the unit will be,
10 but essentially the purpose of it is to allow
11 the investigators on the team to focus on those
12 cases that need to be fully investigated, and
13 allow the Intake Unit to handle some of the up
14 front work, before it gets to them.

15 DEPUTY EXECUTIVE DIRECTOR MCCORMICK: It
16 is going to be a full time unit, staffed by
17 around 12 to 15 people. And every single case
18 that comes in, they are going to take all of the
19 live calls. Our focus is that they are going to
20 schedule people directly on the initial call.
21 We think that they are going to be able to pitch
22 mediation right away and be able to improve our
23 numbers.

24 So, it is going to allow the investigators
25 to only work on the active cases. So, that will

1 decrease their caseload, because right now I
2 would probably say about 30% of their cases --
3 or 40% are not active. So, the hope is that the
4 active dockets for the investigators is going to
5 drop significantly, from an average of 22 or 23
6 down to 15. So, they are going to be able to
7 focus a lot more and have a more rapid response,
8 to follow up on cases.

9 COMMISSIONER ALPHONZO GRANT JR.: Will the
10 Intake Unit focus on like any preliminary
11 requests to NYPD, for just general information,
12 or will that still be the investigators - - ?

13 DEPUTY EXECUTIVE DIRECTOR MCCORMICK: You
14 mean like document requests or--

15 COMMISSIONER GRANT JR.: Yes, initial
16 document requests that can be done at the Intake
17 stage.

18 DEPUTY EXECUTIVE DIRECTOR MCCORMICK: That
19 is something that would help identify an officer
20 for mediation; it would be their responsibility
21 to do that.

22 COMMISSIONER GRANT JR.: Okay. And was - - ?

23 DEPUTY EXECUTIVE DIRECTOR MCCORMICK: Yes.
24 They are going to be responsible for the full
25 facets of the case, until the person showed up,

1 for an interview, and that would transferred
2 over, for the interview to the investigator or
3 investigative team.

4 COMMISSIONER DANIEL GITNER: How many people
5 do we envision being in this unit?

6 DEPUTY EXECUTIVE DIRECTOR MCCORMICK:
7 Fourteen.

8 CHAIRMAN CHU: And just so everyone is
9 clear, subsequent to the last operational
10 meeting, we formed an investigations committee.
11 And that investigations committee is now chaired
12 by Commissioner Dan Gitner. They held several
13 meetings and conference calls. I was part of
14 two of them. And between Mr. McCormick and the
15 Committee, they have come up with this and a
16 couple of other ideas to try to increase the
17 efficiency of the process. And to put a lot of
18 the work up front, so that it frees up time for
19 the investigators to focus on maintaining the
20 high level of their investigations. And I think
21 we can actually move right to committee reports,
22 and I know--

23 EXECUTIVE DIRECTOR CATAPANO-FOX:

24 [Interposing] I just want -- I'm sorry; Mr.
25 Chairman, I just want to let the Board know that

1 we are doing this with existing resources.
2 So, it is not going to involve an increase in
3 our budget. It will be done within the
4 resources that the agency already possesses.
5 So, there will be two supervisors and we are
6 anticipating 12 investigators in the unit, but
7 it will not impact our budget, in any negative
8 fashion. So...

9 CHAIRMAN CHU: That is correct. I'm sorry;
10 Commissioner Simonetti?

11 COMMISSIONER SIMONETTI: It's important that
12 Dan gives a report on the Committee. Is this
13 also done with a view toward increasing the
14 number of cases that we are going to put into
15 mediation?

16 DEPUTY EXECUTIVE DIRECTOR MCCORMICK: That's
17 our goal. All of our investigators are trained,
18 but there is going to be some additional
19 training for this particular unit.

20 COMMISSIONER SIMONETTI: Yes, I think we
21 should try to get more cases into mediation.
22 But also, I think we also had a discussion
23 several times about those whole classes of cases
24 that really they shouldn't be truncated, and I
25 thought we were going to eliminate that word

1 from our vocabulary. We weren't going to use
2 truncation any more. They're unable to be
3 investigated. And I think Tracy, the report --
4 the two panels that you look at, that fall under
5 the F panel, by the way those are the cases that
6 Tracy looks at, and she looked at 10F and 11F,
7 75 truncated cases, and she found out that about
8 one-third of them, 20, the complainant doesn't
9 want to go through with the process. And an
10 additional five that the complainant is too busy
11 or doesn't want to come to CCRB.

12 I think there are two issues that that
13 raises. If that's one-third of the cases, that
14 are going truncated, I think first of all, we
15 have to do more outreach. I mean it is clearly
16 a need for maybe having to reach out to
17 complainants and witnesses and making ourselves
18 more accessible, rather than everybody coming to
19 Rector Street. That's one issue. But having
20 said that, after we feel competent that these
21 cases are unable to be investigated, we should
22 then set up those categories that we spoke
23 about, and that should be reported in our semi
24 annual and annual report, that we are unable to
25 do it. We are shooting ourselves in the foot,

1 with this truncation rate. You know, if we
2 were to get those cases out, Marcos what would
3 the number go down to about? If we--

4 DEPUTY EXECUTIVE DIRECTOR MARCOS SOLER:
5 There is a memo.

6 COMMISSIONER SIMONETTI: Yes, I didn't read
7 it completely.

8 DEPUTY EXECUTIVE DIRECTOR SOLER: - -
9 testified that by the--

10 COMMISSIONER SIMONETTI: It would go down
11 dramatically.

12 DEPUTY EXECUTIVE DIRECTOR SOLER: Yes.

13 COMMISSIONER SIMONETTI: Right. It would go
14 way down, the truncation rate. So, I think -- I
15 don't want to lose sight of that. I think we
16 should also remember that we have that
17 percolating in our old business. But I mean
18 this is interesting stuff, that Tracy went and
19 talked to complainants and found out that this
20 is the case. So, it points out the two things -
21 - maybe some outreach and maybe finally
22 consolidating those cases and kind of taking
23 them off our screen.

24 CHAIRMAN CHU: And I think all of these
25 issues are really very tightly intertwined,

1 because we touched upon the reasons for trying
2 to do something new, like this Intake Unit, but
3 it also goes to outreach. I -- that's something
4 that we are going to talk about a little later
5 about having access to offices in the outer
6 boroughs and I can attest to how difficult it is
7 to get in. It took me an hour and a half this
8 morning, driving, so, being an outer borough
9 person myself, I think that's something that we
10 are looking into, and I know Tracy will report
11 on some of the possible options, in some of the
12 boroughs. And I know that particularly, with
13 the diversity of our Board, and the
14 representation that we have from the other
15 boroughs, that hopefully we can also put our
16 minds together and get access to other areas in,
17 for instance Staten Island, the Bronx and
18 Queens, and Staten Island.

19 COMMISSIONER GITNER: [Interposing] I have
20 two questions. The first is there any
21 possibility that the agency or Intake can stay
22 open either late one day a month or two days a
23 month or perhaps Saturday hours, say 9:00 to
24 12:00 so people who do say they are too busy to
25 come in, will have an opportunity to come in

1 when typically they are not working? You know
2 sort of a form of outreach. I mean I realize it
3 is them coming here still, but it would increase
4 the hours and perhaps some extent, I hate this
5 word, but reduce the truncation rate, because
6 theoretically you'll have at least a few people
7 coming in when otherwise they were "too busy".
8 I realize it is also a budget issue, perhaps,
9 and just -- it is definitely something to think
10 about, perhaps for next month, about whether
11 that is a possibility.

12 EXECUTIVE DIRECTOR CATAPANO-FOX: What we
13 are trying to do is this, - - the Intake Unit it
14 that because they are focusing on just getting
15 the calls in and then scheduling, they will have
16 flexibility and so if we needed to have someone
17 come in, on a case by case basis, we would
18 always allot for that, in terms of overtime or
19 working that out. But if the person lives in a
20 certain area, a certain borough, and we do have
21 night hours, that's one of the outreaches we
22 have been talking about, either at the borough
23 hall or at a center, then that investigator
24 could schedule an interview at that training
25 session or that outreach session, so that the

1 person just has to go there. And that would
2 be at night and potentially could be on
3 weekends, depending on what the--

4 MR. GITNER: [Interposing] I think all of
5 those are great ideas. The second -- the second
6 thing I was thinking of, is I realize that the
7 agency has a policy essentially that without a
8 notarized verified or sworn complaint, we don't
9 go forward. I actually think that's not what
10 the rules say. I think the rules say you can't
11 go forward solely upon an unverified complaint,
12 and that there are lots of certain times when
13 the evidence is such that you might not have a
14 verified complaint, for whatever reason, either
15 the guy is working, or maybe he called up and
16 changed his mind, but the other evidence, in the
17 case, is more than sufficient to go forward,
18 either to exonerate the police officer, or
19 substantiate the complaint.

20 So, a perfect example would be somebody
21 calls up and says cop A hit me. And then
22 decides to withdraw the complaint. But you know
23 what, the whole incident is on videotape,
24 because it took place in the, you know the store
25 or something, and either the videotape shows the

1 cop hit him or the videotape shows the guys is
2 lying. In either circumstance, everybody is
3 better off if we go forward, because the police
4 officer now has an exonerated thing on his
5 record, as opposed to an unsub, which is better
6 for the police officer. Or, it is sub'd, which
7 is better for society and the complainant. And
8 we are able to figure out whether that's a bad
9 cop or he shouldn't have hit the guy.

10 So, I think that the investigator should be
11 given discretion to go forward upon an
12 unverified, or whatever you call it, complaint,
13 assuming that other evidence is there. I think
14 we should not have this rule -- and I don't
15 think it is a rule, I think we should not have a
16 policy that is against the rules -- don't care
17 if we vote on that or if it merits further
18 discussion, but my view is that that policy
19 should be changed, and give the investigators
20 the discretion -- they are excellent
21 investigators are going through this stuff, that
22 they have the judgment, they have the ability to
23 do this, to go forward on these complaints.
24 That would simultaneously allow us to
25 investigate complaints that need to be

1 investigated, and reduce the number of
2 complaints that are not fully investigated, and
3 make this agency more robust for both the Police
4 Department and the citizens. I don't know if we
5 should discuss it later, or if you want to think
6 about it, but it's just my view that going
7 forward that that should be the way we behave.

8 EXECUTIVE DIRECTOR CATAPANO-FOX: And to be
9 clear, we don't only investigate cases where the
10 victim submits a sworn statement. We do
11 investigate cases where a complainant or a
12 bystander--

13 COMMISSIONER GITNER: [Interposing] But you
14 have to have a sworn

15 EXECUTIVE DIRECTOR CATAPANO-FOX: -observed
16 it. But we have always -- yes.

17 COMMISSIONER GITNER: See, I don't think --
18 I don't think that the rules say you have to
19 have a sworn statement. I think the rules say
20 you can't go forward solely upon an unsworn
21 statement, which makes sense. But if you have
22 an unsworn statement and lots of other evidence,
23 I don't know what the magic is of having a
24 notary means that all of a sudden we can move
25 forward. To me, that's silly. We should go

1 forward where the evidence merits it.

2 EXECUTIVE DIRECTOR CATAPANO-FOX: When you
3 say go forward, go forward--

4 COMMISSIONER GITNER: [Interposing] With an
5 investigation.

6 EXECUTIVE DIRECTOR CATAPANO-FOX: Because I
7 read many cases--

8 COMMISSIONER GITNER: [Interposing] And make
9 a determination.

10 EXECUTIVE DIRECTOR CATAPANO-FOX: -in my
11 three years or so, where they do go forward and
12 they make a conclusion based on unnotarized
13 statements.

14 COMMISSIONER GITNER: I actually am under
15 the impression that if we don't get that -- if
16 there is an unverified statement, the
17 investigators they don't go forward.

18 EXECUTIVE DIRECTOR CATAPANO-FOX: No, I've
19 read plenty--

20 COMMISSIONER GITNER: What's the -- what's
21 the policy?

22 EXECUTIVE DIRECTOR CATAPANO-FOX:
23 [Interposing] We need a verified statement by
24 someone.

25 COMMISSIONER GITNER: Yes.

1 EXECUTIVE DIRECTOR CATAPANO-FOX: The
2 victim might give a phone statement, but a
3 bystander or an independent person might give --
4 someone gives some sworn statement to us at some
5 point. And I think that that's an
6 interpretation of - - the rule--

7 COMMISSIONER GITNER: [Interposing] Yes.

8 EXECUTIVE DIRECTOR CATAPANO-FOX: -prior to
9 their being iPhones and video so accessible.

10 COMMISSIONER GITNER: Right, but now -- now
11 you have--

12 EXECUTIVE DIRECTOR CATAPANO-FOX:
13 [Interposing] So, in this day and age, where
14 you're--

15 COMMISSIONER GITNER: [Interposing] I don't
16 know why you need to have that.

17 EXECUTIVE DIRECTOR CATAPANO-FOX: I think it
18 was an interpretation that made sense at the
19 time, but it's something the Board has to--

20 COMMISSIONER GITNER: [Interposing] I just
21 want -- I'm just saying that that's the wrong
22 interpretation. And we should not -- we, as an
23 agency, shouldn't -- and it will reduce the so
24 called truncation rate, because we would have
25 fully investigated cases.

1 CHAIRMAN CHU: I think it is certainly
2 something that merits further discussion. I
3 don't think it's going to be changed with one
4 fell swoop. I think that the example that you
5 give clearly is a ground ball and it something
6 where it is black and white and you know an easy
7 call to make. I think, as with a lot of these
8 issues, what becomes more complicated as the
9 gray area ones where it's not as cut and dry.
10 You know, then we get into a situation where we
11 have to determine who the gatekeeper is going to
12 be and if it's going to be independent
13 investigators, we now have over a hundred
14 different gatekeepers, each with an individual
15 standard. I'm just thinking about this off the
16 top of my head. And that's why I said I think
17 it merits further discussion.

18 COMMISSIONER SIMONETTI: I think we took a
19 position, with the occupy Wall Street
20 demonstration, when obviously it was getting a
21 lot of press coverage, and people from all over
22 the country, and maybe all over the world, were
23 sending in complaints based on what they saw, in
24 the media. And they were sending complaints to
25 us and I think we had that discussion several

1 times and the outcome was we weren't going to
2 do anything with those cases unless we had a
3 complainant or a witness that was here, and not
4 somewhere else, or another part of the country
5 who saw something on TV and was outraged by what
6 they saw. I think if we extended to something
7 like that, where you know we are opening up
8 Pandora's Box.

9 COMMISSIONER GITNER: I understand. I get
10 all that. My view is that it really goes to the
11 weight of the evidence, whether you have a sworn
12 statement or not, and that there are plenty of
13 circumstances where the Board or the
14 investigator or whatever, some you can come up
15 with a system where without a sworn statement it
16 just doesn't make sense to go forward, or you
17 just don't view the weight of the evidence
18 enough to make a determination as to sub or
19 exonerate or unfound or whatever, but that
20 handcuffing the agency by saying you have to
21 have a sworn statement, in circumstances where
22 we know people are saying they are too busy,
23 they can't come down, etcetera, where there
24 might be other independent, easily found
25 evidence, not the right way to go, for every

1 party involved.

2 CHAIRMAN CHU: Well, I think--

3 COMMISSIONER GITNER: [Interposing] That's
4 my point.

5 CHAIRMAN CHU: I think the operative word,
6 in what you said, is there might, and it becomes
7 a case by case determination. And there seems
8 to be some internal inconsistency with saying,
9 on the one hand, you know let's work on the
10 issue of the truncations. Let's try to get that
11 down. Let's try to focus our resources and
12 energies on going forward on the cases that need
13 it most. And then on the other hand saying
14 well, let's invite these unsworn complaints and
15 add to the caseload only to perhaps have more
16 truncations.

17 Now, even in the example, I think that you
18 quote, and I'm a big fan of video, I love when
19 things are caught on video, but as we all know,
20 from cases we have looked at, there is also
21 snippets of videos, whether you are seeing the
22 whole video, whether you see the inception of
23 the act or whether you are just seeing a piece
24 of it, and I -- again, I think it merits more
25 discussion perhaps, and maybe something where as

1 part of the Chair of the Investigations
2 Committee, you might want to put together
3 something, for the Board, for further
4 discussion, at an operational meeting. But I
5 think it is certainly an issue that is worthy of
6 further discussion.

7 EXECUTIVE DIRECTOR CATAPANO-FOX: We could
8 try to pull some cases. We could look at some
9 of the last couple of panels and see if there
10 were cases that, I don't want to say truncated
11 anymore, I feel like it's a bad word in the
12 room, but we didn't fully investigate because
13 there wasn't a sworn statement and see if there
14 was other independent evidence. Because there
15 are also cases of attorneys where litigants are
16 given advice not to--

17 COMMISSIONER GITNER: [Interposing] I
18 understand that.

19 EXECUTIVE DIRECTOR CATAPANO-FOX: So,--

20 COMMISSIONER GITNER: [Interposing] I agree.
21 I think it's worthy--

22 EXECUTIVE DIRECTOR CATAPANO-FOX: Okay.

23 COMMISSIONER GITNER: -of a serious
24 discussion.

25 COMMISSIONER JAMES DONLON: Well, one thing

1 on the video, in -- for instance, in a trial
2 setting, you introduce a videotape; you have to
3 have some sort of a foundation. I mean the
4 sworn statement, in this context, could come
5 from the keeper of the videotape. It doesn't
6 necessarily have to be an eye witness. It could
7 be the person who can vouch for the -- well, you
8 know the fact that the videotape was -- was real
9 or taped at that time and place and it was -- it
10 was operating properly, etcetera. So, that
11 would be a sworn statement. I meant that might
12 -- you know in terms of this discussion, that
13 might be one way of dealing with it. But I
14 think I agree, you know with Dan, this is a case
15 by case situation, certainly.

16 CHAIRMAN CHU: Okay. Dan, did you have any
17 other issues?

18 COMMISSIONER GITNER: Actually, I do. I
19 have a quick question about the statistics.
20 With regards to the DUP rate, does the Police
21 Department tell us why they make what decisions
22 they make?

23 EXECUTIVE DIRECTOR CATAPANO-FOX: We have a
24 discussion with DAO

25 COMMISSIONER GITNER: [Interposing] Because

1 I know with the APU they have to, right? If a
2 judge decides to go penalty and the Police
3 Department decides differently, then the Police
4 Department has to tell us why?

5 EXECUTIVE DIRECTOR CATAPANO-FOX: In
6 writing.

7 COMMISSIONER GITNER: Okay, so they have to
8 do that in something other than an APU
9 determination?

10 EXECUTIVE DIRECTOR CATAPANO-FOX: They don't
11 have to. They just have to give us just the
12 results of the--

13 COMMISSIONER GITNER: [Interposing] They
14 just have to give us - - .

15 EXECUTIVE DIRECTOR CATAPANO-FOX: Right,
16 what happened with the cases. We will call DAO
17 sometimes to try to get information, to elicit
18 what happened, but that's not in writing.

19 CHAIRMAN CHU: And I think they will give an
20 explanation. Sometimes it is an explanation
21 that we can agree on or understand, and other
22 times it is, you know kind of nebulous.

23 COMMISSIONER GITNER: Okay.

24 CHAIRMAN CHU: Dan, is there anything
25 further you would like to discuss, coming out of

1 your committee?

2 COMMISSIONER GITNER: Yes, thanks. So, we
3 met with Denis and had several discussions with
4 him, last month and perhaps earlier this month.
5 I think we made some significant progress in
6 discussing ways and methods to make the process
7 more efficient. We will talk more about those
8 at the operations meeting, after we have a
9 chance to fine tune them. I think are quite
10 important and - - issues about how to get
11 quicker and better and have a smoother
12 relationship with the Police Department. Not
13 that it is not smooth now, but a better one.
14 But I do think there are two issues that we can
15 discuss that are worth bringing up now. They
16 include D.A. holds and the use of subpoenas.

17 I'll start with D.A. holds first. So, I
18 want to just make clear what it is. When a CCRB
19 complaint is made, the District Attorney's
20 Office can ask the CCRB to stay with the
21 investigation pending its own case. And
22 obviously there can be very good reasons for
23 that request. But at the same time, we only
24 have 18 months before our state runs. So, the
25 hold can eat into our time to investigate the

1 cases. And as it stands now, there is no --
2 well, while I think the agency does a good job,
3 there is no overarching system to determine
4 whether or not a hold request should be honored
5 or granted or once it is granted what to do with
6 it, other than sort of let it sit.

7 So, we discussed the following potential
8 solutions, which all can be implemented
9 separately or together, depending on after we
10 discuss it how we feel. We do think that every
11 D.A. hold request should be made in writing, and
12 they should be more than formulaic. They should
13 state the reasons for the hold. That doesn't
14 mean they have to be a long opinion come from
15 the D.A.'s Office, but they can clearly and
16 simply state why they are asking for the hold.
17 Every day hold requests should be -- we think
18 automatically granted for a month, and then sent
19 to a panel, which can determine if the request
20 should continue to be honored. The panel can
21 decide the request based on its merits, the age
22 of the case, the reason for the stay, etcetera.
23 And then revisit the request periodically,
24 perhaps every month, or whatever period was
25 necessary for that particular stay. And during

1 the pendency of any holds, at CCRB the agency
2 of investigators, they can still take documents,
3 so that when the hold is lifted, assuming it is
4 lifted, our investigators are ready to go.

5 The other solution, which perhaps is a
6 little more complicated, that the agency could
7 ask the Police Department to agree that any time
8 a hold is granted, at the request of a law
9 enforcement agency, the statute should be told.
10 That is complicated and presents some legal
11 issues, but frankly, I think it can be done. By
12 the way, there are -- maybe Denis you can answer
13 this -- in terms of the number of holds that are
14 pending at any one time, I think there are about
15 ten or so?

16 DEPUTY EXECUTIVE DIRECTOR MCCORMICK: I
17 would say seven or eight, but I don't know.

18 COMMISSIONER GITNER: Seven or eight? Okay.
19 And then with regards to subpoenas, as everybody
20 knows the agency has subpoena power. It is
21 clarified in various sections in our charter.
22 It is obviously a very powerful investigative
23 tool. Our investigators are obviously also
24 engaged in important fact finding missions. So,
25 if we just ask the appropriate use of subpoenas

1 to compel testimony, as opposed to asking for
2 documents, there are cases in which a person has
3 refused to provide information, for which a
4 subpoena may have caused that person to change
5 his or her mind, and submit to an interview.
6 There are also cases where the use of a subpoena
7 can make a big difference. It can be beneficial
8 for the public, the complainant and the Police
9 Department.

10 I'll just give one example. There is a
11 single witness to an incident between an officer
12 and a civilian. The civilian says the officer
13 hit me. The officer denies it. The witness
14 sees the whole thing. Sort of similar to the
15 videotape incident I described earlier, but
16 rather than videotape, this is a person. This
17 time a civilian makes the complaint, swears to
18 it. Unfortunately medical records are not
19 helpful, either because the assault didn't
20 occur, or because the assault didn't result in
21 an injury. Or maybe the victim didn't go to the
22 doctor. In that situation, a panel might unsub
23 the case, because essentially you have a he said
24 she said situation. The police officer says I
25 didn't do it. The complainant says yeah you

1 did.

2 But if you have a witness, we would be
3 either able to sub it or rule it unfounded. So,
4 if you have -- in that situation, if the witness
5 is uncooperative, we are stuck, unless we try to
6 issue a subpoena. And it would allow you to get
7 closer to the truth. It is arguably a better
8 result for everybody involved. So, given that,
9 we discussed with Denis how to educate the
10 investigators -- the trained investigators,
11 regarding the very measured and appropriate use
12 of subpoena power. In order to issue a
13 subpoena, actually the Board must approve it.
14 It is not an investigator -- it is not within
15 the investigator's sort of can of tools, without
16 the Board's approval.

17 But our view, as a panel -- as a committee,
18 was that investigators, who encounter a
19 situation in which they think -- or he or she
20 thinks a subpoena to a civilian or a business
21 would be helpful, raise it with Denis or someone
22 very, very senior, who has the appropriate
23 experience to understand it, to know when it is
24 appropriately used. Denis, in turn, can then
25 decide if it warrants a subpoena. If he thinks

1 it warrants a subpoena, he can present it to
2 the Board. And then the Board can vote and
3 discuss it. And after accounting for all of
4 those - - whatever we think they are.

5 I don't think there is any need to vote
6 about that right now, because we do have
7 subpoena power. There is no question about it.
8 But I do think, and we thought as a committee,
9 it is important to communicate, frankly, that
10 the Board understands that there are appropriate
11 circumstances, even if they are limited, and
12 even if they are very limited circumstances,
13 where a subpoena can be an important and
14 effective tool that our agency uses. And I know
15 Denis will be talking to his -- his team about -
16 - about all this and how to implement that. So,
17 those are the two issues we discussed that I
18 thought were appropriate for discussion or at
19 least reporting now, - - more after we finish
20 implementing or hopefully talk about
21 implementing - - . Thanks.

22 CHAIRMAN CHU: Thank you.

23 COMMISSIONER GRANT JR: I have a quick
24 question, Mr. Chairman.

25 CHAIRMAN CHU: Yes?

1 COMMISSIONER GRANT JR.: With respect to
2 the subpoenas, of witnesses, are we talking
3 about subpoenaing exclusively third party
4 witnesses? And what I mean is there are
5 instances where a complaint is brought by the
6 victim. But then they are with others who
7 allegations may be appropriate to them, and they
8 are not cooperative. Are we talking about using
9 a subpoena for those individuals as well, or
10 just the -- the independent witness who
11 observed--

12 COMMISSIONER GITNER: [Interposing] I think,
13 at this stage, what we really talked about was
14 the latter category, the independent witness.

15 COMMISSIONER GRANT JR.: Okay.

16 COMMISSIONER GITNER: But frankly, there is
17 no limit, on the subpoena power, in those terms.
18 If, and to borrow Dan's terms, from our last
19 discussion, it is really case by case. And if
20 it were appropriate for whatever reason, the
21 Board could decide to subpoena, somebody who was
22 in the room, in your example. If it were -- if
23 it were appropriate.

24 COMMISSIONER GRANT JR.: Okay. And just one
25 other question, Chair. The -- the process of

1 having the Board vote on it, I don't know if
2 you looked into this, but does the full Board
3 have to vote on it, or can the Board designate a
4 subcommittee of the Board--

5 COMMISSIONER GITNER: [Interposing] I don't
6 know if the Board can designate. I actually
7 think the likelihood is that just like the Board
8 can designate a panel, to rule on a case, the
9 Board probably could designate a panel to rule
10 on a subpoena. But I would say this as a
11 lawyer; I think you need to ask a lawyer,
12 because I don't know. I don't know the answer.
13 It certainly would be better if a panel could do
14 it, from an efficiency point of view.

15 COMMISSIONER GRANT JR.: Right.

16 COMMISSIONER GITNER: Because I could see
17 situations where, you know in this limited slice
18 of categories where subpoenas are appropriate,
19 speed may be -- may be appropriate too. You may
20 want to get something, an answer, quicker rather
21 than later. You know and it is much easier to
22 do it with three people than 12 or 13.

23 COMMISSIONER GRANT JR.: Okay. We should
24 get some counsel on that, I guess, at some
25 point, before we implement it.

1 CHAIRMAN CHU: And again, I want to thank
2 Dan for just keying up these issues. These are
3 issues that again, I think are important ones,
4 and we should -- we should definitely get some
5 legal opinion on it. Also look at some of the
6 numbers, in terms of the cases that that might
7 called for those measures and whether or not we
8 institute something going forward, we certainly
9 need to do it in a very measured way, and make
10 sure that we are not trampling on, and - -
11 subpoenas and bringing everyone in. But it is a
12 useful tool out there. And I think the issue is
13 now properly keyed up for further discussions.
14 Thank you.

15 COMMISSIONER GITNER: Thank you.

16 CHAIRMAN CHU: Are there any other
17 committees that are making reports?

18 COMMISSIONER DONLON: Reports and
19 Recommendations Committee advised by Marcos that
20 the semi annual report is with the printer. It
21 has been sent to the Police Department for
22 comment and apparently there has been no
23 comment, to date, but the report is with the
24 printer and it probably realistically it would
25 be early next year, I would expect, that it will

1 be available.

2 And on the annual report, as has been
3 reported previously, that report is in the
4 process of being prepared already. Even though
5 all the stats for the year are not available
6 yet, it is being expedited so that hopefully it
7 will be put out in a more timely fashion than we
8 have been doing in the past, which I think will
9 be good for everyone. So, that's the report.

10 CHAIRMAN CHU: Thank you, Jim. Is there any
11 report from the APU?

12 DEPUTY EXECUTIVE DIRECTOR LAURA EDIDIN:
13 Since last month's Board meeting, the APU has
14 received 4 cases for a total of 129. In terms
15 of the breakdown of the origin of the incidents
16 that led to a complaint, almost 52% originated
17 with a stop & frisk, a little more than 14%
18 originated with a car stop, and almost 12%
19 originated with an improper entry into a
20 dwelling. Two APU trials are already underway.
21 We presented evidence in two. They are both
22 Nicole Junior's and they have been continued for
23 additional proceedings. And we have 22 other
24 trials that are calendared between now and the
25 middle of March. I want to acknowledge that Jon

1 Darche and Carrie Eicholtz both presented
2 Outreach - - that. If I left anybody out, I
3 apologize. But we have a busy couple of months
4 ahead of us. Thank you.

5 CHAIRMAN CHU: Sounds good. Thank you for
6 that report. And I know you guys have been, and
7 outreach have been spending a lot of time trying
8 to interview candidates. What is the status on
9 that?

10 COMMISSIONER MITCHELL TAYLOR: So, the team,
11 Tracy, of course has done a fabulous job in
12 fielding some great candidates. We are getting
13 down to the last few. So, we should have
14 something to report in the next meeting, in
15 terms of having a solid candidate, and we
16 definitely want to have them in place by
17 January, or before. Few of the Board members,
18 especially Al Grant, has been very active in
19 presentations with the outreach efforts and in
20 all the investigators have been a part of it.
21 This has been fabulous. And so I am excited
22 about all of the Outreach. And then, with the
23 college access program, we are opening up some
24 more internships and opportunities for urban
25 children to interface with CCRB and then become

1 navigators in peer to peer -- to create
2 intervention for other young people that don't
3 really understand the body of work that we do,
4 but then we are also using it as a mechanism to
5 help them understand interaction between police
6 and people, the right way to do that, and how to
7 insulate themselves from escalation. So, it has
8 been really effective putting this whole thing
9 together.

10 CHAIRMAN CHU: Wonderful. Any other
11 committee reports? No other committee reports?
12 Let's move on to old business. And can we get
13 an update on the move to 100 Church?

14 EXECUTIVE DIRECTOR CATAPANO-FOX: I can tell
15 you that we are still here.

16 [Laughter]

17 EXECUTIVE DIRECTOR CATAPANO-FOX: There you
18 go. No.

19 COMMISSIONER TAYLOR: Thank you for that.
20 Thank you.

21 CHAIRMAN CHU: All right, moving along.

22 [Laughter]

23 EXECUTIVE DIRECTOR CATAPANO-FOX: We are
24 expected to move in January, and I have to thank
25 Shay and Brian for working so hard. We have

1 furniture moving -- being delivered. We
2 actually have a floor that is getting put
3 together, right Brian? And we are anticipating
4 that by mid to late January we should be there.
5 So, I can't promise that you won't be sitting
6 here for the next board meeting, but you know
7 hope springs eternal.

8 COMMISSIONER TAYLOR: Now, Tracy, can we go
9 see the space at 100 Church?

10 EXECUTIVE DIRECTOR CATAPANO-FOX:

11 Absolutely. Right now it's just a vast empty
12 space. But by all means, they are building the
13 room--

14 COMMISSIONER TAYLOR: [Interposing] So,
15 there is no vast work being done right now?

16 EXECUTIVE DIRECTOR CATAPANO-FOX: There is
17 work, it's just -- Brian, would you like to
18 update us?

19 DEPUTY EXECUTIVE DIRECTOR BRIAN CONNELL:
20 There is a lot of construction being done. They
21 have put in the ceiling, some--

22 COMMISSIONER TAYLOR: [Interposing] Oh, they
23 are working on it?

24 DEPUTY EXECUTIVE DIRECTOR CONNELL: But the
25 furniture, with the - - workstations and really

1 looking at it -- looking at it - - space has
2 not been done yet. It is being delivered this
3 week and next week, and - - work here.

4 EXECUTIVE DIRECTOR CATAPANO-FOX: So, I
5 think at any given -- I mean we go every
6 Wednesday.

7 COMMISSIONER TAYLOR: Okay.

8 EXECUTIVE DIRECTOR CATAPANO-FOX: Brian and
9 Shay have been in meetings. But by all means,
10 if you want to -- we were waiting for there to
11 be a little bit more foundation at - - but by
12 all means, we would be happy to have you.

13 COMMISSIONER TAYLOR: What time do you guys
14 go on Wednesdays?

15 EXECUTIVE DIRECTOR CATAPANO-FOX: Wednesdays
16 at 12:00 are the meetings. So, that's--

17 COMMISSIONER TAYLOR: [Interposing] At 100
18 Church?

19 DEPUTY EXECUTIVE DIRECTOR CONNELL: Yes.

20 COMMISSIONER TAYLOR: What floor?

21 DEPUTY EXECUTIVE DIRECTOR CONNELL: It's on
22 the tenth floor.

23 COMMISSIONER TAYLOR: Tenth floor? Okay.

24 CHAIRMAN CHU: And I think one of the other
25 concerns that we had, especially in light of

1 going through the experience of Sandy, is
2 hopefully the wiring for the internet will be
3 robust enough where we can utilize laptops and
4 wifi and -- and other more advanced docking
5 systems where there would be the ability to work
6 off site, should the need arise. Is that
7 something that has been looked into?

8 DEPUTY EXECUTIVE DIRECTOR CONNELL: Right.
9 We have already purchased the docking stations,
10 for the Executive staff - -. So, all that will
11 be a fixed PC unit, to use on a daily basis. In
12 the event they have to be removed and work from
13 a remote site, that is going in as well. And we
14 did specify, during the construction, that and
15 review of the electrical, that we needed to make
16 sure we have wifi capabilities - -. So, as you
17 go through your meetings, it is going to be - -
18 that we -- we are confident that that will
19 happen - - .

20 CHAIRMAN CHU: Great. Great. Thank you.
21 Thanks for that report.

22 EXECUTIVE DIRECTOR CATAPANO-FOX: And
23 Chairman, I just wanted to also mention that we
24 have been doing -- training was an issue that
25 you had mentioned, and not only have we

1 increased our outreach training, thank you
2 Bishop and Brian have been working so hard on
3 getting a staff fully trained. We are also
4 doing a legal training. We are in the middle of
5 new investigator training. So I have to thank
6 Roger Smith, Lauren, and our new Chief Attorney,
7 Brian Krist, that we -- who started with us in
8 November, for really getting our group trained
9 and ready to go into the team for
10 investigations. I would be remiss if I didn't
11 mention that.

12 CHAIRMAN CHU: Great. And can we get an
13 update on -- on what is going on with -- with
14 the litigation with Bologna?

15 EXECUTIVE DIRECTOR CATAPANO-FOX: Well, the
16 litigation is over, and for our purposes, and he
17 is scheduled to be interviewed next week.

18 CHAIRMAN CHU: Okay. Thank you. Is there
19 any other old business that anyone else wants to
20 bring up?

21 COMMISSIONER SIMONETTI: Yes, Mr. Chairman.

22 CHAIRMAN CHU: Yes?

23 COMMISSIONER SIMONETTI: Again, I had -- I
24 had mentioned several times about us taking a
25 look at some of the old reports that we did over

1 the years. And I think, with the new
2 administration coming in, with new mayor, new
3 police commissioner, I think we should take a
4 look at all those reports, with a view toward
5 updating those that need to be reported, and I
6 think sending them over the Police Department,
7 to give the new commissioner some understanding.
8 We do -- are we sending anything over to him,
9 when he takes over in January, to let him know
10 like what our positions are and things? I think
11 we should be sending a lot more stuff over to
12 the Police Department, particularly in terms of
13 the training issue.

14 I was always a firm believer that this
15 agency should have been the oversight committee
16 -- the oversight for the Police Department. And
17 I know we have courts that tell us otherwise,
18 but I always thought that. And I think, with
19 the new administration coming on board, and a
20 new year coming up, I think this is a crossroads
21 for this agency. And I think we should really,
22 really buckle down and start sending over the
23 stuff that -- I don't know how much has gone
24 over recently, you know. We used to send over a
25 lot of stuff, to the Police Department. And I

1 would like to see that continue. But
2 particularly in terms of training issues.

3 We had a case today, in one of our panels,
4 where clearly -- I mean I had to read -- one of
5 the attorneys was kind enough to give us a copy
6 of the Patrol Guide section that dealt with
7 pepper spray. And I've got to tell you
8 honestly, if someone was to ask me some of the
9 parameters for using pepper spray, I would not
10 have known them. And I bet you if you went out
11 randomly and talked to cops out on the street,
12 that many of them would not be able to
13 articulate how far away you have to be from a
14 person--

15 COMMISSIONER SIMONETTI: What kind of burst
16 can you release the pepper spray in? You know
17 it tells you to do two one second bursts. You
18 know. Not a shhhhh - - . So, those kinds of
19 issues become very important -- very important
20 for training purposes. And I think we should be
21 sending them over.

22 The Department -- I've got to tell you, when
23 I was there, we were always looking for things
24 to do in-service training with. I mean there is
25 so much to do. The cops get that routinely, the

1 in-service training. So, this clearly was an
2 issue that should be brought to their attention.
3 I mean the parameters, I can tell you honestly;
4 I wouldn't have even guessed them, that they
5 were listed there.

6 CHAIRMAN CHU: What -- I agree with all of
7 that. What statistics do we send the Police
8 Department? If any? And if we don't, we
9 should. We should consider, think about,
10 regularly sending statistics to them, that could
11 be helpful to them. For example, if we are
12 getting a lot of complaints about one kind of --
13 of activity, or in one area or one precinct, or
14 all combined, that can be very helpful to the
15 Police Department to fix itself, or create new
16 policies and procedures. In many ways, we are -
17 - because we are no longer -- we are a civilian
18 agency, we -- you know we used to be part of the
19 Police Department, but we collect all this
20 information that can be highly useful to the
21 Police Department, in making it a better, more
22 friendly and frankly more effective place. So,
23 we should be doing that.

24 COMMISSIONER SIMONETTI: We did -- we did
25 that with a great deal of success, in the past.

1 We did with the PBA cards.

2 COMMISSIONER DONLON: No, no, but -- but
3 Tony, I think these issues are -- they are in
4 the annual report and the semi-annual report,
5 all of them. The types of complaints, the
6 location of the complaints, all those statistics
7 are in the -- in the reports and they are on the
8 website. But I mean certainly, you're right,
9 that information is important. But I think, in
10 fairness to what we have done in the past, it is
11 there. And it is sent to the Police Department.

12 COMMISSIONER SIMONETTI: Short of somebody
13 doing a dissertation or writing a paper for a
14 Masters Degree, I don't know how often people go
15 to the website to look. I don't know how often
16 people read the annual reports or the semi
17 annual reports. What--

18 COMMISSIONER DONLON: [Interposing] Well, I
19 am assuming the Police Department Commissioner's
20 Office reads them, I hope.

21 COMMISSIONER SIMONETTI: I mean we all know
22 the furor of a stop and frisk. We all know what
23 the new Mayor is saying. We all know what the
24 new Police Commissioner is saying. And I think
25 we should be looking at that very carefully.

1 CHAIRMAN CHU: Isn't one of our -- one of
2 our missions to not only deal with complaints,
3 but to make regular reports to the Police
4 Department regarding policies and procedures? I
5 don't know the last time we have done that.

6 COMMISSIONER SIMONETTI: We -- we do that.
7 We do.

8 COMMISSIONER DONLON: Here is the thing; it
9 sounds like there is two broad topics. One is
10 giving them the data and the statistics, on a
11 regular basis. And again, it is available, to
12 them, when they need it. And Marcos Soler does
13 have an interface with OMAP and has a good
14 relationship with the NYPD. We, from time to
15 time, have memos like the truncation memo, that
16 you now all have before you. And then the
17 second kind of piece of that would be the policy
18 recommendations, such as the PBA cards or -- or
19 similar patterns and trends that come up.

20 And again, we are certainly constantly in
21 dialogue with a new incoming Police Commissioner
22 and a new leadership at NYPD. I do agree this
23 is certainly a great opportunity to meet with
24 them and find out what works best for them as
25 well. So, I think these are important issues,

1 but I don't think we have been running blind
2 of the NYPD and I don't think we have been -- we
3 have been withholding any information. I do
4 view us--

5 COMMISSIONER GITNER: [Interposing] No, I'm
6 not suggesting--

7 CHAIRMAN CHU: [Interposing] If I might
8 finish.

9 COMMISSIONER GITNER: Certainly.

10 CHAIRMAN CHU: I do see us the stewards of -
11 - of statistics and that is one of the things we
12 do. And I think that does keep Mr. Soler quite
13 busy. So, day to day, again, I don't think they
14 shoot us, as members of the Board, emails or
15 calls to update us on what kind of
16 communications are transpiring. But unless I am
17 mistaken, those communications are going on all
18 the time.

19 CHAIRMAN CHU: Anything further? If there
20 is no other old business, I'll open this up to
21 new business.

22 COMMISSIONER TAYLOR: I think what Tony is
23 saying, in terms of -- if I can go back to this
24 -- and maybe you have closed it already. Maybe
25 we should go on to new business. The memos -- I

1 think what Tony is saying, packaging something
2 sooner rather than later, for the new P.D. to
3 look at in terms -- because I mean you're right,
4 we are stewards of all of this info, especially
5 the stop question frisk info. And so, I think,
6 you know maybe putting some people on pulling --
7 extrapolating the things that are important to
8 them, talking about it, and like what Tony said,
9 I don't know who looks at the semi or the annual
10 or whatever, but being responsible to package it
11 and say this is where we are, I think. Is that
12 what you were -- you're more referring to?

13 COMMISSIONER SIMONETTI: Yes.

14 CHAIRMAN CHU: And I think we do have a good
15 amount of memos that, as Tony indicated, just
16 probably need a little updating and revising.
17 So, certainly that is something that I think
18 we'll do.

19 COMMISSIONER SIMONETTI: Yes, I think on the
20 scheme of things, I mean in terms of a
21 transitional paper, from us to the Police
22 Department, we're going to be pretty well down
23 at the bottom of the totem pole, because of all
24 the issues that he is going to have to deal with
25 when he comes into office. But I think we

1 should certainly let them know we are on their
2 radar screen, you know, and that we're thinking
3 about all these things and we have become a
4 little more proactive.

5 COMMISSIONER TAYLOR: Well, I think -- I
6 think that the new mayor, the incoming mayor, is
7 -- has us on his radar already. I mean he, I
8 know he sought to maybe a couple -- I've talked
9 to him extensively over the years he has been
10 Public Advocate and even City Council member.
11 So, he -- this is definitely on his radar.

12 CHAIRMAN CHU: And clearly, I think that
13 this is something that is high on his priority
14 list. So, I think, as Tony indicated, this is
15 an exciting time to share any kind of new ideas
16 we have. And I think, you know Dan has already
17 keyed up a lot of good ideas that we should
18 further discuss and see about implementing or --
19 or trying out.

20 COMMISSIONER MOHAMMED KHALID: Are we - -
21 with the new incoming Commissioner in the
22 future?

23 CHAIRMAN CHU: Absolutely.

24 COMMISSIONER KHALID: The Board?

25 CHAIRMAN CHU: We will let you know, even

1 though you are on Staten Island.

2 [Laughter]

3 COMMISSIONER GRANT JR.: So, Dan, presumably
4 that would be the meeting where prior to that
5 you would prepare the bullet points of issues
6 and concerns and a lot of these sub topics and
7 we'll gather the information, in light of that.

8 CHAIRMAN CHU: You know, I would -- getting
9 into the logistics, I think maybe on a first
10 date with the Board, maybe we get to know him a
11 little bit, before we whip out the PowerPoints.
12 But -- but certainly, you know we can have that
13 at the ready if -- if conditions allow and
14 permit.

15 COMMISSIONER GRANT JR.: All right. Sounds
16 good. That's why you're in charge.

17 [Laughter]

18 CHAIRMAN CHU: So, again, if there is
19 nothing further, I'm going to open this up to
20 public comment. And though we don't have a
21 list, I assume Mr. Dunn has much to say.

22 MR. DUNN: I'm sorry; but you're right.

23 EXECUTIVE DIRECTOR CATAPANO-FOX: Good
24 morning, Mr. Dunn.

25 CHAIRMAN CHU: Good morning.

1 MR. DUNN: Good morning to all of you.

2 CHAIRMAN CHU: Good morning.

3 MR. DUNN: All right. Starting with the
4 beginning, so - - first. - - . Was there
5 something unusual that happened last month, with
6 regard to your cases? Because they had closed
7 like over 250 in the first ten months of the
8 year and only four cases last month.

9 EXECUTIVE DIRECTOR CATAPANO-FOX: Not that
10 I'm aware of.

11 MR. DUNN: Okay. Well, I thought we had all
12 this chit chat happened between you and the - -
13 happened, but maybe - - . But that just struck
14 me as being unusual. And then the other thing I
15 wanted to ask about was the 18 month report.
16 So, I - - you've added the Special Limitation
17 Crime Exception - - . I would have thought that
18 by definition anything that was DA hold, had the
19 exception. So, I'm curious. What would be the
20 basis for the D.A.'s office getting pulled from
21 the CCRB if the underlying conduct would not
22 constitute a potential criminal offense?

23 EXECUTIVE DIRECTOR CATAPANO-FOX: If they
24 are investigating the complainant.

25 MR. DUNN: They are investigating the

1 complainants? Okay. All right. So, I get
2 that. The other thing I wanted to say about the
3 report, there are three cases here that have
4 very, very long delays by the agency, meaning
5 there are immediate - - . - - the agency two
6 days, nine days, 19 days that are now -- the
7 statute of limitations has expired. And I mean
8 I said this before, I think you guys have done a
9 better job in - - statute of limitation cases
10 but some of - - cases figure out how it is
11 possible 18 months actually - - clock. So, I
12 mention that.

13 Okay, on the Intake Unit, on the truncation
14 business, I have some reservations about this
15 truncation business as I've said before. But it
16 seems like the Intake Unit is a great idea.
17 It's good to see that you are trying to
18 streamline - - process. But that is only half
19 the problem at best. And I hear -- I hear
20 people talking about having more hours or open
21 places in other -- other offices in other
22 places, that's all fine and good. But that
23 hasn't taken place now for a long time. And so,
24 I think the time has come to actually make that
25 happen. I'm not quite sure what the holdup is.

1 But Dan, you said "people are too busy". I'm
2 not going to read too much into that, but I
3 think you may be underestimating on how
4 difficult it is for some people to get here.

5 MR. GITNER: I'm not underestimating
6 anything by saying people are too busy.
7 Sometimes people have to work. They can't --
8 they can't leave from 9:00 to 5:00. They have
9 child care obligations, they can't come here.
10 I'm not underestimating anything. I get what
11 you're saying.

12 EXECUTIVE DIRECTOR CATAPANO-FOX: And that's
13 difficult -- that -- it's not an extrapolation
14 or an interpretation.

15 MR. GITNER: That's not my quote.

16 EXECUTIVE DIRECTOR CATAPANO-FOX: It's mine.
17 It would be from the people that we spoke to - -

18 MR. DUNN: I understand.

19 EXECUTIVE DIRECTOR CATAPANO-FOX: But you're
20 right. We could, in terms of discussing how we
21 could make them available, we can do better.
22 But they are saying they are too busy.

23 MR. DUNN: And then on the issue about the
24 subpoenas. - - to hear your opinion about the
25 subpoenas. And this is an example and Dan, this

1 is one of the reasons I have you on the Board.
2 You personally come with a - - perspective. You
3 blunder into all kinds of things no one wants to
4 talk about, and good for you. Subpoena has been
5 a word not uttered in this agency, I think in a
6 long time. I don't know. I'm not prepared to
7 guess. There has not been a single subpoena
8 issued in the time that any of you have been on
9 the Board, except for possibly Tony -- maybe
10 Tony.

11 MR. DUNN: He's been around for a very long
12 time.

13 MR. DUNN: But another thing I would mention
14 is amongst the people who might be the
15 beneficiaries of a more forcible limitation, are
16 NYPD working people. And I - - see a problem
17 with someone showing up. And - - when the CCRB
18 issues a subpoena - - the department member will
19 not show up. On the DUP rate, actually going
20 back to the report. So, and then you asked the
21 question what do we know about -- what does the
22 Department tell you about what it is that we do.
23 I hear it being said there is an informal
24 process by which the CCRB finds out why the
25 cases are not DUP'd . I feel like that should

1 be part of the reporting. Because when the
2 public looks at the reports, all you see are the
3 DUP's. You have no idea why cases are being
4 DUP'd. And if you know, I think you should be
5 reporting that. Because all of you should know
6 why things are getting DUP'd. And the public
7 should know why things are getting DUP'd , if
8 you know. - - tell the Department to tell us
9 formally why they are getting - - conversations.
10 But that's - - .

11 Okay, on the APU, - - . So, I'm thrilled
12 that you're trying to get this started. I'm
13 thrilled you get - - trials are scheduled. My
14 guess is I would have to call around the agency
15 to figure out the dates of those events.
16 Because I don't think they are on the website.
17 And I know the Department doesn't have a docket.
18 And you guys should. There is not a reason in
19 the world why this should not be on the website,
20 a listing of trials the CCRB is doing, in the
21 trial room, and information--

22 COMMISSIONER TAYLOR: [Interposing] That's
23 true.

24 MR. DUNN: -as well as - - locations.

25 COMMISSIONER TAYLOR: That's true.

1 EXECUTIVE DIRECTOR CATAPANO-FOX: We are
2 working on that.

3 MR. DUNN: Okay. Okay, terrific. Now, the
4 other thing I wanted to say about the -- and I
5 would include also, by the way, in your monthly
6 - - records report, there should be a section
7 there on the APU - - . Right now we have - -
8 talking about it. That is a regular part of
9 your business now. It's a regular part of the
10 office. I would - - a section in your monthly
11 report about the - - .

12 EXECUTIVE DIRECTOR CATAPANO-FOX: You mean
13 in writing?

14 MR. DUNN: In writing.

15 EXECUTIVE DIRECTOR CATAPANO-FOX: Okay, I--

16 MR. DUNN: [Interposing] - - report, status
17 -- statistical report. You know, how many cases
18 are in the unit. Where they stand. The outcome
19 of the cases. - - . And then, I mentioned this
20 last month, there is a requirement under the MOU
21 to give a quarterly report, about the APU. Not
22 that I think - - or any, but I just want to
23 reiterate that and if there is a quarterly
24 report coming, people would like to see it.

25 COMMISSIONER GRANT: I'm sorry; can you

1 repeat that again?

2 MR. DUNN: The MOU for the APU, - - , has a
3 provision in it about the CCRB producing a
4 quarterly report of activity under the MOU.

5 EXECUTIVE DIRECTOR CATAPANO-FOX: And we are
6 working on that.

7 MR. DUNN: Okay. Dan, I'd love it if you
8 would raise the issue about the policy
9 recommendations. I can't quote you exactly, but
10 aren't we supposed to be doing reports to the
11 Department also about policy issues. - - .
12 Yes, you are, are part of your charter activity.
13 It is something that this Board has really
14 fallen down on the job. I've said this many,
15 many times. And the suggestion that the PBA
16 cards is like the example of a report -- it just
17 highlights the problem. I don't know how many
18 of you remember that report. That was a report
19 about some police officers confiscating PBA
20 courtesy cards in traffic stops. - - that might
21 be an issue. In terms of the issues about
22 police misconduct - - civilians in the City of
23 New York, that is about as low down on the list
24 as I can imagine. Not that I like police
25 officers confiscating courtesy cards from

1 people. But it is hardly what - - . And that
2 is the policy recommendation that people talk
3 about and remember. There are a million things
4 that this Board can and should be doing under
5 policy issues. And Dan, - - and at one point
6 there was a lot of discussion on whether or not
7 you could do it. Even though you have been
8 doing it for many years. And then recently Tony
9 - - discussion about actually trying to do it,
10 again. That hasn't really gone anywhere, from
11 that discussion, as far as I know. Although
12 there have been some reports - - activity - -
13 department that - - . Again, that is a central
14 part of what you should be doing, and you are
15 the one place in the world, in our little hamlet
16 here, that get a steady flow of civilian
17 information about conduct by the Police
18 Department that provides a basis for actually
19 saying to the Department -- again it doesn't
20 have to be in a destructive way, there are
21 issues. You've got to deal with them. And if
22 you don't, we're going to make you deal with
23 them.

24 MR. GITNER: Can I just say I agree with
25 much of what you said, but I don't think it is

1 fair to say that the Board has fallen down on
2 its job, in any sense, since I have been here.
3 As you know--

4 MR. DUNN: Dan, you've been here for ten
5 minutes--

6 MR. GITNER: [Interposing] No, I've been
7 here for a few months. And I can see how hard
8 they work. And I can see how difficult the
9 problems are, and I don't -- you're, frankly
10 your comments are very welcome and you know a
11 lot and really very knowledgeable about this and
12 etcetera. But I don't think it is fair to say,
13 in a public way, Mr. - - , that the Board has
14 fallen down on its job, - - .

15 MR. DUNN: Did that bother you?

16 MR. GITNER: But substantively, much of what
17 you said makes sense.

18 MR. DUNN: I respect that and - - do think
19 the activity of the Board, on the issue of
20 policy analysis and recommendations, I have been
21 saying for years, and I will reiterate that from
22 my perspective, the Board has fallen down on the
23 job. Which brings me to what you started with
24 Dan, which is to thank you Mr. Mayor, the Deputy
25 Mayor, the Police Commissioner and good for you.

1 I'm glad you're all - - . I'm not going to -
2 - anybody. But I will say is, as Tony said,
3 it's a new day. There's a new administration.
4 We have a new Police Commissioner. We have a
5 better - - have a significant different CCRB.
6 And I, for one, am looking forward to see us
7 entering into a time where the CCRB is going to
8 have much more authority and much more - - much
9 more actively involved in police misconduct
10 issues. Again, - - .

11 CHAIRMAN CHU: Thank you. If there are no
12 other people seeking to make public comment, we
13 will take about a ten minute break and then go
14 into executive session.

15 [END OF HEARING]
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

C E R T I F I C A T E

The prior proceedings were transcribed from audio files and have been transcribed to the best of my ability.

Signature *J. Wilson*

Date December 17, 2013_____