

Public Meeting
May 14, 2014

Public Board Meeting
Of the Civilian Complaint Review Board
Wednesday, May 14, 2014
10:06 a.m.
100 Church Street, 10th Floor
New York, New York 10007

BISHOP MITCHELL G. TAYLOR, ACTING CHAIR
TRACY CATAPANO-FOX, ESQ., EXECUTIVE DIRECTOR

PUBLIC MEETING AGENDA:

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

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1 BOARD MEMBERS PRESENT WERE:
2 Dr. Mohammad Khalid
3 Daniel Gitner, Esq.
4 James Donlon, Esq.
5 Rudolph Landin, Esq.
6 Jules A. Martin, Esq.
7 Alphonzo Grant, Jr., Esq.
8 Joseph A. Puma
9 Youngik Yoon, Esq.
10 Tosano J. Simonetti

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1 BISHOP MITCHELL TAYLOR: All right. We're
2 calling our meeting to order today. Thank you so
3 much for being in attendance. First order of
4 business is the adoption of our minutes from the
5 last meeting. I'm sure that everyone has had a
6 chance to read those minutes, and if there are any
7 discrepancies or changes that might need to be made,
8 we can raise them now before a motion is made to
9 accept the minutes as produced.

10 DR. MOHAMMAD KHALID: Motion to accept.

11 BISHOP TAYLOR: Okay. Anyone second that?

12 MR. JAMES DONLON: Second.

13 BISHOP TAYLOR: All right. All in favor?

14 (Chorus of ayes.)

15 BISHOP TAYLOR: All right. So carried.

16 Now we're going to have a brief report. The
17 Agency is moving in a forward direction. I'm
18 grateful for that. There are a lot of exciting
19 things that are happening and there's a lot of work
20 that we yet have to do to make sure that things stay
21 on track. And I'm certain that, as the days and
22 weeks progress, that a lot of those things that may
23 be off track will be put back on track. And we will
24 continue the work of serving the citizens of New
25 York City and the complaints that are filed with the

1 Agency and be productive in that respect.

2 We, of course, had an Executive Session today
3 that discussed some of the things that we, as a
4 Board, are trying to really move forward as it
5 relates to cases that are being disposed of or
6 categorized, and we certainly hope to discuss more
7 of that in the public meeting on today.

8 Now, we're going to have the report from the
9 Executive Director.

10 DR. KHALID: May I make a correction, Mr. Chair?
11 That was the Operations Committee this morning.

12 BISHOP TAYLOR: I'm sorry. Operations
13 Committee.

14 MS. TRACY CATAPANO-FOX: Thank you, Bishop.
15 Good morning, everyone.

16 THE AUDIENCE: Good morning.

17 MS. CATAPANO-FOX: This month, the CCR -- I'm
18 sorry. In April of 2014, the CCRB received 486
19 complaints. This is 52 complaints fewer than the
20 same period of 2013, when the CCRB received 538
21 complaints. And you can see this referenced in page
22 5 of our report.

23 During the first four months of 2014, the CCRB
24 received 1809 complaints within its jurisdiction.
25 This is 230 more complaints than were received in

1 the same period last year when we received 1570
2 complaints. Year to date, we've had an increase of
3 15 percent of our cases since last year. However,
4 it should be recognized that these cases -- these
5 numbers reflect cases that fall within our
6 jurisdiction, and as investigations proceed,
7 sometimes those numbers can fluctuate to reflect the
8 cases that are not within our jurisdiction.

9 The Board closed 553 cases in April and a total
10 of 1629 year to date. In the first four months of
11 2014, the Board closed 630 full investigations,
12 including 99 substantiated complaints. And, year to
13 date, our substantiation rate is 16 percent of fully
14 investigated cases. Again, what we have
15 discovered -- and I want to thank the IT department
16 for working so hard to help us with this -- is that
17 Board closings of cases can fluctuate in terms of
18 month to month. So sometimes that number may look
19 different than what we presented the month before,
20 but that is an issue that we are working on and we
21 will address.

22 In April, civilians and officers mediated
23 15 cases. Year to date, civilians and officers have
24 mediated a total of 45 cases, and that from January
25 to April of this year, the Board has closed 42 cases

1 as mediation attempted.

2 The detailed monthly statistical report includes
3 two forms of reporting dispositions of CCRB cases.
4 The first report shows a truncation rate, that's on
5 page 8, and the second report shows the case
6 resolution rate, which is on page 9. From January
7 to April of this year, the updated truncation rate,
8 excluding cases closed as complaint withdrawn, was
9 50 percent. In the same period from last year, that
10 rate was 59 percent. But if you look at page 9, the
11 case resolution rate from January to April of 2014
12 was 44 percent, and in the same period of this time
13 last year, it was 30 percent.

14 The Agency docket at the end of April 30th of
15 this year was 2,545 cases. This is a 5 percent
16 decrease over the open docket from March of this
17 year, when we were at 2,690 cases. And if you look
18 at page 1 of our report, by date of report, 95
19 percent of our open investigations stem from
20 complaints filed within the last year and 65 percent
21 were filed in the last four months.

22 Out of the 2,545 open cases, 321 were awaiting
23 panel review, which is 13 percent of our docket;
24 1,964 were being investigated, 77 percent of our
25 docket; and 268 cases were in the mediation program,

1 including mediation-attempted cases pending Board
2 approval for closure, which is a total of 10 percent
3 of our docket. That's reflected on page 2.

4 By date of incident, 15 cases in our open docket
5 are 18 months or older. This is 0.6 percent of our
6 open docket. And in March of this year, that was
7 21 cases. Breaking down those 15 cases as follows:
8 Four cases are pending Board review, of which two
9 were returned by the Board for further work, one was
10 filed late, and the other was late because of delays
11 in receiving Police Department documents.

12 In one of those cases, the statute of
13 limitations crime exception applies. Of the
14 remaining 11 open investigations -- the SOL crime
15 exception applies to six cases -- four cases are on
16 DA hold, five cases were filed months after the date
17 of incident, one case was reopened seven months
18 after the first closure, and one case was late due
19 to investigative delays.

20 In March of 2014, the Police Department closed
21 five substantiated cases involving seven officers.
22 Two of these officers received Command Discipline A,
23 three officers received instructions, and the
24 Department declined to prosecute two cases. One
25 case, a substantiation of charges was referred to

1 the Police Department prior to the implementation of
2 the APU, and six cases, all of which were
3 recommendation of CDs or instructions, were sent
4 after the implementation of the APU.

5 In March of this year, the disciplinary action
6 rate was 71 percent, and 76 percent year to date.
7 From January to April of this year, or from year to
8 date, the Police Department decline-to-prosecute
9 rate was 24 percent. That's reflected on page 30 of
10 our report.

11 In April of 2014, 16 cases were substantiated by
12 the Board with a recommendation of charges and
13 specifications and were added to the APU docket. At
14 the end of April, the open docket of the APU was
15 comprised of 192 cases. Of these cases, three had
16 dispositions modified for the Police Commissioner
17 and we're awaiting recalendaring; 12 cases had
18 guilty pleas entered and we're awaiting approval by
19 the Police Commissioner; in 2 cases the trial
20 verdict was rendered and is awaiting approval by the
21 Police Commissioner; 13 trials have been completed,
22 awaiting verdicts; 9 trials were commenced but not
23 completed; 34 trials have been scheduled; 22 cases
24 are calendared for court appearances; 69 cases are
25 awaiting their initial court appearance after

1 charges have been served; and 6 cases, charges have
2 been filed; and the remaining 22 cases are awaiting
3 service.

4 In the March disposition report, there were no
5 final dispositions of APU cases reported.

6 This month, or in April of -- April 28th of
7 2014, the Executive Committee -- Commissioners
8 Martin, Liston and Taylor, as well as Commissioner
9 Simonetti -- and members of the staff and I met with
10 Deputy Police Commissioner Susan Herman to discuss
11 mediation, and her collaborative policing unit, and
12 how we can work together, be more -- to enhance our
13 mediation program for civilians and be more
14 collaborative in our process.

15 She had some excellent ideas for the Board in
16 terms of how we can move towards a more
17 dialogue-minded mediation program versus a formal,
18 more litigious mediation program. One of her
19 concerns -- what was good about the meeting was that
20 a lot of her concerns we have already incorporated.
21 And I have to thank the Executive Committee for
22 their hard work in preparing us for the meeting and
23 articulating how our agency does incorporate a lot
24 of the suggestions she made.

25 One of the ideas was to restructure our

1 mediation agreements to look less like legal
2 documents and more of a dialogue type of document.
3 That's something that we can -- presented to the
4 Board and something we can consider. They wanted to
5 make sure that we are keeping these matters
6 confidential, which, of course, we are, and we
7 ensure that there are confidentiality agreements.

8 She also wanted to make sure that we have a high
9 caliber of mediators and that they're continually
10 trained, and she actually volunteered to help us
11 with the training with them. So that's something
12 that we've been working on.

13 But, again, the Executive Committee set up a
14 great meeting in terms of working together to make a
15 commitment between the NYPD and us to further
16 increase the number of cases going to mediation
17 where the parties want to and making them as
18 successful and fruitful as possible. And I have to
19 thank Lisa Cohen for all her hard work on this as
20 well.

21 In terms of the Agency operations, as you can
22 see, we have repainted some of the areas. So that
23 is a positive. I also have to thank Rob Rodriguez
24 for -- one of our team managers -- for his hard
25 work. He has been a great -- he's a great supporter

1 of our softball team, and he's been working hard to
2 encourage the Agency and all of our staff to come to
3 the games and participate, as well as a Yankee/Met
4 game that we went on yesterday. So it's positive
5 that the Agency is moving in a good direction and
6 working together.

7 Any questions?

8 MR. DANIEL GITNER: I have a question about the
9 statistics.

10 MS. CATAPANO-FOX: Okay.

11 MR. GITNER: And the APU in particular. When
12 the APU tries a case that, say, involved two
13 officers in the same incident, does the APU try both
14 officers at the same time or is it two separate
15 trials?

16 MS. CATAPANO-FOX: It would be the same time --

17 MR. GITNER: Same time?

18 MS. CATAPANO-FOX: -- unless there was some
19 reason --

20 MR. GITNER: They're joined?

21 MS. CATAPANO-FOX: (Indicating.)

22 MR. GITNER: Okay. That's -- that's good.

23 And then, am I reading this right, that last
24 month the Police Department came back, I think, with
25 seven -- let me see -- the Police Department closed

1 five substantiated cases involving seven officers?

2 MS. CATAPANO-FOX: Yes.

3 MR. GITNER: But we're sending upwards of 20
4 officers a month, at least, to the APU for charges;
5 isn't that right? At least last month, I think. I
6 counted, but it's hard to count, but I think it's
7 about 20 different -- different officers who were
8 given charges, quote/unquote.

9 MS. CATAPANO-FOX: One of the things that we're
10 finding is that month to month some of the
11 statistics are being reflected, I don't want to say
12 inconsistently, but in ways that we need to fix
13 within our computer system, because a panel might
14 meet in one month and then meet again in another
15 month.

16 MR. GITNER: Yeah.

17 MS. CATAPANO-FOX: And so in terms of how those
18 numbers are being projected in our reports, it may
19 show --

20 MR. GITNER: I understand.

21 MS. CATAPANO-FOX: It's hard to give a
22 month-to-month assessment of what's going over to
23 DAO because those numbers could change.

24 MR. GITNER: Yeah, I understand that. I mean,
25 sometimes my panel will meet twice a month instead

1 of -- and skip the next month. I understand that.
2 But it does seem to me, regardless, we are still
3 sending significantly more cases for charges than
4 the Police Department closes each month.

5 MS. CATAPANO-FOX: Well, one of the things, I
6 have the action items that we discussed last month,
7 and in terms of following up on some of the things
8 that the Board members presented, that was certainly
9 a concern that you had presented and the other Board
10 members.

11 So what we are doing is we have started
12 reconciling our cases with DAO. We've sent them
13 over a list of all of the cases that we have that we
14 know we've sent where we don't have closure. They
15 have been working with us to send us cases back to
16 give us resolution on those cases that have been
17 resolved. And, at this point, we actually are down
18 to a very small pool of numbers --

19 MR. GITNER: Great.

20 MS. CATAPANO-FOX: -- that they have open. So I
21 think it's just a matter -- what we've instituted
22 now is on a monthly basis we will do reconciling
23 with DAO and then be able to report back to you how
24 many cases they have in their open dockets that are
25 CCRB cases.

1 MR. GITNER: Wonderful. Good. Thank you.

2 MS. CATAPANO-FOX: One of the other things that
3 came up last month, Commissioner Simonetti wanted us
4 to circulate to the Board a list of cases that were
5 eligible for mediation and those that weren't. We
6 did that last month. All the Board members received
7 that by e-mail. So it gives us a greater
8 opportunity to discuss whether or not you want to
9 expand that list, whether that list is appropriate.
10 And that's something that the Board can discuss.

11 Commissioner Grant wanted to set up a procedure
12 to have employee feedback in terms of exit
13 interviews, when people are leaving. We have that
14 proceeding; we do that with our HR director. And
15 then I myself, also meet when the person is leaving,
16 to discuss with them how -- the positives and
17 negatives, and what they think we could do to
18 improve our operations. So that is something that
19 we are -- that we have implemented since last year.

20 BISHOP TAYLOR: Do we have a Board member as a
21 part of that process when employees exit?

22 MS. CATAPANO-FOX: We don't, but we could.
23 That's a good idea.

24 BISHOP TAYLOR: Because I think that someone
25 from Personnel Committee should probably be on that

1 exit interview process. I don't know how you guys
2 feel about that, but I think that that -- you
3 know --

4 MR. ALPHONZO GRANT, JR.: No.

5 BISHOP TAYLOR: -- to have it -- huh? It's not?

6 MR. GRANT, JR.: I -- it may not be feasible to
7 have a Board member on it initially. I think if
8 there is some significant information that needs to
9 be escalated, then a Board member can be involved.
10 But I think, feasibly, that can happen pretty
11 quickly. There's a lot of turnover at the Agency, I
12 just don't know if we have the resources to do that.
13 I certainly think I see where you're going, right,
14 if there's some issues that we need to be made aware
15 of. I think the way to address that is to have a,
16 you know, a significant number of people involved in
17 that exit interview.

18 Traditionally you'll have your head of HR, you
19 might -- you'll have your executive director and you
20 might have, you know, someone from the legal, on the
21 employment side. We're looking to fill our GC
22 position, but we can work out who will be on that
23 group to do the post interviews.

24 BISHOP TAYLOR: Is there a document that one
25 fills out that is available to review?

1 MS. CATAPANO-FOX: Yes.

2 BISHOP TAYLOR: Like, in post the exit of a
3 staff member?

4 MR. GRANT, JR.: Well --

5 MS. CATAPANO-FOX: We do. We have an exit
6 interview sheet that the employee fills out
7 explaining the positives/negatives, what their
8 experience was, how they would improve it, why
9 they're leaving. It's a two-page form and it gives
10 them ample opportunity to give feedback.

11 They also have sometimes added to that form,
12 they add their own pages, and they write out what
13 they want. So we can certainly provide that to the
14 Personnel Committee --

15 MR. GRANT, JR.: Yeah --

16 MS. CATAPANO-FOX: -- for your review.

17 MR. GRANT, JR.: -- I haven't seen the form, so
18 I --

19 BISHOP TAYLOR: Well, I mean, just as, as long
20 as there's some kind of record from the employee. I
21 think it's just our responsibility to make sure that
22 if there's exit interviews done, that it's made a
23 part of the public file for that employee.

24 MR. GRANT, JR.: The only thing I would say
25 there -- you know, my lawyer hat is sort of going

1 here so I'm -- you know, I want to get advice from,
2 you know, appropriate council for the Board just to
3 make sure that that document is what it should be
4 and can't be misconstrued into anything else. But I
5 hear what you're saying and --

6 BISHOP TAYLOR: Excellent.

7 MR. GRANT, JR.: -- we'll look into it.

8 MR. TOSANO SIMONETTI: I don't know that that
9 should be a public file. You just --

10 BISHOP TAYLOR: When I say "public," I mean, you
11 know...

12 MR. SIMONETTI: What, public means public,
13 right? It's available to the public? Is that --

14 BISHOP TAYLOR: Not the public-public, but I
15 mean --

16 MR. SIMONETTI: Who -- what public?

17 BISHOP TAYLOR: -- in terms of the Board.

18 MR. SIMONETTI: Us? We're --

19 BISHOP TAYLOR: Yeah.

20 MR. SIMONETTI: Just us?

21 BISHOP TAYLOR: The members of the Board, yes.

22 MR. SIMONETTI: Okay. Because I don't think
23 that that should be a public document.

24 BISHOP TAYLOR: No. I mean, that's why you
25 don't talk about personal issues in public.

1 MR. SIMONETTI: No, no. But the exit interview
2 document I'm talking about --

3 BISHOP TAYLOR: Right.

4 MR. SIMONETTI: -- specifically. I don't think
5 that should be a public doc -- because suppose the
6 person is going to be very candid with the people
7 who are doing the interview and say, you know,
8 there's a deficiency here. You got to plug this
9 hole, you know, you're not doing it right, you know
10 what I'm saying? And I don't think that should be
11 available.

12 Now, what information do we give a prospective
13 employee -- employer who calls the Agency and says,
14 did you -- did Simonetti was in your employ for a
15 couple of years? You just give the dates?

16 MS. CATAPANO-FOX: That's correct.

17 MR. SIMONETTI: That's it?

18 MS. CATAPANO-FOX: Only the HR person speaks to
19 that, to that --

20 MR. SIMONETTI: Is that what you give, that's
21 the extent of your information?

22 MS. CATAPANO-FOX: That's correct.

23 MR. SIMONETTI: You don't comment on --

24 MS. CATAPANO-FOX: No.

25 MR. SIMONETTI: Okay, good. I mean, that should

1 be the policy.

2 MS. CATAPANO-FOX: It is. And the only person
3 that speaks to prospective employers is the HR. Any
4 calls that come in --

5 MR. SIMONETTI: Okay.

6 MS. CATAPANO-FOX: -- if anyone else were to get
7 them, they would refer them to the HR department for
8 their questions. But HR has been directed, and
9 that's their policy.

10 MR. GRANT, JR.: Is that documented? Does HR
11 document who calls?

12 MS. CATAPANO-FOX: Oh, well, I can tell you that
13 the current HR director does. I mean, I don't know
14 what the policy was before I got here, but I can
15 tell you that, to my knowledge, I know that the new
16 director does that.

17 BISHOP TAYLOR: The new director has been on the
18 Board how long now?

19 MS. CATAPANO-FOX: January.

20 BISHOP TAYLOR: Since January? And so no one
21 else has talked to prospective employers relative to
22 past employees?

23 MS. CATAPANO-FOX: Not to my knowledge.

24 BISHOP TAYLOR: Okay.

25 MS. CATAPANO-FOX: Another issue that came up,

1 we were talking about tolling the statute of
2 limitations on DA hold cases. Commissioner
3 Simonetti suggested we discuss this at the meeting
4 with Susan Herman. It didn't -- we had a long
5 meeting and we had a lot of topics, and we never got
6 to that one. But it is something that I'm hoping
7 that once DAO appoints a new deputy commissioner,
8 it's something we can discuss in terms of how we're
9 handling those cases.

10 Commissioner Grant had suggested that all new
11 initiatives raised be documented and followed
12 through, so we're working on that. So that's
13 something that we're moving on.

14 The complainant satisfaction --

15 MR. GRANT, JR.: Just, sorry, just to be clear
16 on that, this, again, goes back to my point that,
17 you know, decisions are made, we talk about doing
18 these things, action items are made, and we end up
19 coming back to it again in three months.

20 And so what I've asked Tracy --

21 MR. SIMONETTI: Right.

22 MR. GRANT, JR.: -- to do is to, you know,
23 detail what we've discussed in the Board meetings,
24 aside from the minutes, but just the action items,
25 and then we can track those action items and see

1 what's being done to move it forward.

2 So, thank you, Tracy.

3 MS. CATAPANO-FOX: Thanks.

4 Commissioner Simonetti had mentioned the
5 Complainant Satisfaction Survey, and that is
6 something that Susan Herman is working on for the
7 NYPD. Mediation already does that, as does
8 Outreach. So I have to thank Carlmais Johnson and
9 Lisa Cohen for showing me -- they actually have
10 given us some samples.

11 We're trying to incorporate it for the
12 investigative side, so it's something that we can
13 work on with the Operations Committee. Once we get
14 some drafts together, we can work on whether or not
15 we want to do satisfaction surveys once a case is
16 completed when we send out the letter informing both
17 sides of the results. But that's something that the
18 Board can -- we'll get to you and we can work on
19 that as a project.

20 Then there were a couple of items that came up.
21 We've been talking about the substantiated cases.
22 We are -- we put together in the packet some more
23 information about the total substantiated cases in
24 2013, and we're breaking that down for you. And we
25 had discussed the idea of the entrance of visitors

1 and getting IDs and photos and such. We've been
2 working on that.

3 The building has committed that they will not
4 take pictures of people coming in on a public day
5 and that they routinely, biweekly, will erase --
6 either weekly or biweekly -- will erase all pictures
7 taken. But it's something that once we get our own
8 exit, which we're -- entrance and exit -- we're
9 working on, and that should be done in the next
10 probably two months, where we'll have more control
11 over it. But right now -- and we've been able to
12 confirm today that they did not take photos of any
13 of the public coming in today.

14 Other than that, I think that that's -- that
15 addresses the issues that came up last month.

16 MR. SIMONETTI: Yeah. At the Operations
17 Committee this morning, we were discussing
18 administratively closed cases. And the members
19 that -- of the Board that were present suggested
20 that we bring it up to the entire Board and we adopt
21 the resolution to do it as a pilot program for six
22 months, beginning in June and lasting until the end
23 of the year, to take a look, to get a better
24 understanding of what that's all about. So that's
25 the discussion we had about administratively closed

1 cases.

2 And the members that were there agreed that we
3 should bring it to the full Board and then have it
4 decided by a vote of the full Board.

5 So, if you want to put it in the form of a
6 resolution.

7 BISHOP TAYLOR: Tony, can you just give just a
8 little bit more bandwidth on it so that members that
9 were not here can --

10 MR. SIMONETTI: Yeah. The administratively
11 closed cases, as Tracy points out, we get a lot of
12 those cases that come from IAB and they're not
13 complainant generated in most cases. Most of those
14 cases are a blurb that they got, in some cases, from
15 reading a newspaper article, and then the Department
16 will generate a blurb to us saying, so-and-so. So
17 it's not, in most cases, a complainant generated.

18 So what they do, they get those cases, they take
19 a look at them, they reach out, see if they can talk
20 to someone, particularly the complainant, to find
21 out if they want to go forward with the case --
22 well, no, excuse me. You wait 21 days.

23 MS. CATAPANO-FOX: No, we first reach out.

24 MR. SIMONETTI: You reach out, then --

25 MS. CATAPANO-FOX: Then wait 21 days.

1 MR. SIMONETTI: -- wait 21 days. And after
2 21 days, if they haven't heard back, they'll attempt
3 on several more occasions to reach out to try to get
4 the complainant. At that point, if they're
5 unsuccessful, the case is administratively closed.

6 Our best guesstimate is that there's going to
7 probably be somewhere between 100 and 125 cases a
8 year. So it's not a large number of cases, though
9 it -- but it does impact somewhat on the docket. So
10 that's basically what the resolution is. But the
11 six-month trial period will give Board members an
12 opportunity to take a look at it, and then we can
13 always make changes to, or make changes as we go
14 along. This is not cast in granite.

15 DR. KHALID: And I would like to add also, Tony,
16 that the cases which are sensitive, excessive force,
17 all those are not included in this category.

18 MS. CATAPANO-FOX: Right.

19 MR. SIMONETTI: Yeah.

20 MS. CATAPANO-FOX: Essentially, what the
21 Operations Committee is proposing for the full Board
22 to vote on is in those cases where there's no
23 complainant, where the complainant has never
24 contacted us, we did not get notice from the
25 complainant, we got notice either from IAB or some

1 other NYPD department, we will reach out to that
2 complainant. We will try to call them and we will
3 send a letter indicating that they may be the victim
4 or a witness to police misconduct and that they can
5 file a complaint reaching us by all the methods that
6 we have.

7 We will then wait 21 days. If we've not heard
8 from the person or -- and not receive any
9 communication, we'll send another letter saying that
10 we need to hear from you if you're wishing to
11 proceed, but we're going to administratively close
12 the case until we hear from you. And you have an
13 18-month window to communicate with us.

14 Once the investigator and the team supervisors
15 have reviewed those cases and ensured that they're
16 not serious injury, that there's not excessive
17 force, that they're not sensitive cases, then they
18 will be put into a panel where the Deputy Executive
19 Director for Investigations, Denis McCormick, and/or
20 I will review them, make sure that they still fit
21 that criteria.

22 If they do fit that criteria, they will then be
23 sent to a panel of the Board members. And that will
24 be a rotating panel each month where the Board
25 members will get the case, review all of the

1 communications and determine whether or not that
2 case should be administratively closed. As
3 Commissioner Simonetti pointed out, if any one panel
4 member feels the case should go back for further
5 review or for further information, it will be sent
6 back to the team for further investigation. If
7 that -- if the panel does not vote to
8 administratively close it, then the case will be
9 sent back and we'll make more attempts.

10 But these are separate from truncated cases --

11 MR. SIMONETTI: Right.

12 MS. CATAPANO-FOX: -- or complaint withdrawn.

13 These are cases -- truncated cases are cases where
14 there's been some communication with the
15 complainant, and then that compl -- either that they
16 become unavailable, they're uncooperative, they've
17 withdrawn in some fashion. These are strictly cases
18 where we have never heard from the complainant.

19 So it's not a big number of our cases, as you
20 pointed out, but again, it would resolve -- right
21 now, we have about 60 cases in this posture, and
22 we've had these cases waiting for about five months.
23 So that's where we figured out, it's on average
24 12 cases a month.

25 And the panel, the Board can determine how the

1 panel -- it would obviously be one designee from
2 each, Mayoral, City Council and Police, and it would
3 be a rotating panel that would ultimately decide if
4 those cases are administratively closed.

5 So the resolution is to adopt this --

6 MR. GITNER: Procedure.

7 MS. CATAPANO-FOX: -- procedure.

8 MR. GITNER: I move to adopt the procedure.

9 DR. KHALID: I do, too.

10 MR. SIMONETTI: I second.

11 BISHOP TAYLOR: All in favor?

12 (Chorus of ayes.)

13 BISHOP TAYLOR: So carried.

14 MS. CATAPANO-FOX: Thank you very much,
15 Commissioner.

16 BISHOP TAYLOR: So we move to Committee reports.
17 I guess Dave Liston is not here today, he had an
18 emergency, but if there is a report from the APU,
19 maybe, Laura, you can give that?

20 MS. LAURA EDIDIN: Sure. I would just say that
21 the APU has released its quarter -- our quarterly
22 report for the first quarter of 2014. It's part of
23 the packet that was distributed publicly today.
24 And, you know, I just want to commend the Unit.
25 There's a lot of hard work that's been embodied in

1 those numbers, both on the trials that we've taken
2 in terms of outreach that the Unit has done. I'm
3 very proud of the work and I'm grateful to everyone
4 for all their hard work you've put in to those
5 cases.

6 BISHOP TAYLOR: Thank you so much, Laura.

7 And I, too, want to congratulate the APU Unit
8 and the work that you guys, your team is doing.
9 It's really valuable work and very good work and
10 very intense work. So thank you so much for the job
11 that you guys are doing.

12 Any other committees have reports?

13 MR. GITNER: I can report on the Investigations
14 Committee. I've worked with Denis on the DA holds
15 issue that was raised last month just to make sure
16 that everything is in order with that. There are
17 one or two cases where the statute of limitations is
18 approaching, but none imminent, and I'm working with
19 Denis to make sure that the right decisions are made
20 in those cases. So we're on top of the issue, to
21 the extent there was any worry last month.

22 BISHOP TAYLOR: Okay. Excellent.

23 MR. SIMONETTI: You know, apropos of that, there
24 was a very interesting case in the press, so we
25 can -- we certainly can discuss it. The case of the

1 two detectives on duty in Queens, assigned to
2 Brooklyn, in Queens doing -- following up on a
3 robbery investigation, if I understand it correctly.
4 And it winds up -- winds up one detective discharges
5 his weapon and he injures his partner.

6 Now, if you read the follow-up stories to that,
7 you'll notice that the shooter, Poggi, submitted his
8 application for retirement. Did anybody catch that?
9 Does everybody understand that there's a 30-day
10 calendar, a 30-day waiting period? You cannot --
11 you cannot go into a police station as a police
12 officer, or anybody in the Police Department, and
13 tell the desk officer, I'm retiring right --
14 effective right now. That doesn't work. The
15 Department has 30 days to take a look at you to make
16 sure there are no criminal activities pending, that
17 there are no serious charges pending, and that's
18 been that way for many, many years. When I first
19 came into the Police Department many years ago, we
20 didn't have that provision. They have that
21 provision, and it's a built-in safeguard, and thank
22 God they have it.

23 And it's interesting because they're going to
24 bring -- it appears that they're going to bring him
25 up on charges very quickly. And it happened in the

1 Livoti case, the case that I cited a couple of times
2 here, similar kind of thing with the chokehold, with
3 the Baez case, where the young man was killed after
4 Livoti applied a chokehold, and we brought him up on
5 charges. He applied to vest from the Department. I
6 think Poggi is a different case because he has over
7 the 20 years, so he's eligible to retire, not to
8 vest out. So that's an important consideration.

9 So the Department is going to bring those
10 charges within the 30 days, and they'll come up with
11 a disposition. And I don't know, I mean, I could
12 guess what the disposition could be. I don't want
13 to venture a guess, but they could -- they could
14 give him a monetary fine, they can give him a
15 reduction of his -- all his leave, they could take
16 that money away from him or they could fire him. So
17 it's going to be interesting to see, but there's
18 that safeguard built in and that's important. And
19 very kind of similar to, also, DA hold.

20 One of the things about the list of things that
21 are not mediable, and the one thing, and I've been
22 saying this, I've been saying -- preaching it for
23 17-1/2 years at this Board, that gun pointed should
24 be a case that's eligible for mediation. And I'm
25 sorry that most of the Board members were not at the

1 meeting with Susan Herman because she, I mean, she
2 absolutely feels that we should widen the cases that
3 we're putting into mediation, and I couldn't agree
4 more. And the one that jumps off the page here that
5 is not eligible for mediation is the gun-pointed
6 case.

7 I have to tell you a personal story. My partner
8 was killed in 1964. He had the bad guy up against
9 the wall, he had his weapon out, he had the guy. He
10 was going to be in the process of cuffing him -- the
11 guy just committed a robbery of a retail
12 establishment -- and he said, the guy said to him,
13 from eyewitnesses that were close by, hey, listen,
14 you got me, you know, just relax. And he did relax,
15 but he had the gun pointed. He did relax. The guy
16 turned around, shot him right between the eyes and
17 killed him. So I feel very strongly about guns
18 being pointed at people.

19 The weapon is a tool to a policeman. And I'm
20 not going to second-guess anybody, particularly if
21 they're, 2 or 3 o'clock in the morning, and they're
22 stopping a vehicle that maybe have four or five
23 people in the vehicle, you don't know what you have
24 in that vehicle. By the way, more cops get killed
25 or injured making vehicle stops and responding to

1 domestic violence disputes. That's a fact
2 throughout the United States. So I'm not going to
3 question or second-guess cops. If they feel
4 threatened -- and I know this, we're allowed, with
5 the gun withdrawn, you're allowed to mediate, but
6 the gun pointed, you can't mediate. Doesn't make
7 any sense to me.

8 If I'm going to take my weapon out, let me just
9 tell you very clearly, and I think you're a bad
10 person, that gun's going to be pointed right at you,
11 okay? So I believe that those cases should be
12 eligible for mediation, if everything else being
13 equal. That's the one that jumps off the paper.

14 Force cases. There are a lot of force cases
15 that we should take a look at that should go into
16 mediation. And I think our discussion with the
17 Deputy Commissioner was very clear. I mean, she
18 says, there's very few cases that couldn't go into
19 mediation, and I kind of agree. So, I mean,
20 that's -- that one jumps off the page at me.

21 MR. JULES MARTIN: So, Tony, the Mediation
22 Committee, the Mediation Unit, and members of the
23 Board and the staff, for that matter, will take a
24 look at cases that can be mediated -- mediation
25 eligible. The gun drawn versus the gun pointed,

1 there's too much of a hairline difference, and I
2 absolutely agree with you.

3 I think that, for me, mediation is a
4 tremendously important tool. It's shortened at
5 times when the complainant could have a conversation
6 with the officers, and I think that that complainant
7 does not have to wait six months to three-quarters
8 of a year to have that conversation. I think that
9 it's just absolutely valuable and it can be a
10 teaching tool for some officers. And it could be
11 tremendously powerful for the complainant because
12 that's probably the first and only time that they
13 would have a level playing field where they can
14 discuss what actually occurred.

15 MR. GITNER: For what it's worth, I agree. I
16 haven't -- I don't know why the line was drawn. I'd
17 like to hear that, if anybody has a memory as to why
18 certain things were placed on the
19 not-allowed-to-mediate list, just to hear the
20 rationale.

21 But, Mr. Simonetti, what you said resonates with
22 me very much. So, for what it's worth, to me at
23 least, I would -- if we had to vote right now, I
24 would vote in the same way I think you would.

25 MR. MARTIN: Well, we're probably going to give

1 you more cases to consider.

2 MR. GITNER: Yeah.

3 MR. MARTIN: And all will be determined not
4 helter-skelter, but for a good and sensible reason
5 why they should be mediation eligible as opposed to
6 ineligible.

7 BISHOP TAYLOR: And also, Jules, Commissioner
8 Jules, with the cases that are eligible for
9 mediation or given to the Mediation Committee,
10 they're looked at and scrutinized --

11 MR. MARTIN: Right.

12 BISHOP TAYLOR: -- to see if they actually
13 qualify. So, I mean, I think that in the gun
14 drawn/gun pointed, I agree with you, Tony, I think
15 that based on the circumstances and conditions of
16 that particular interaction, it could or could not
17 be eligible for what we're calling now mediation and
18 be a great opportunity for dialogue to begin.

19 I also think, on the point of mediation, that in
20 our meeting with Susan Herman, she brought out
21 that -- and, of course, she wrote some of the
22 original material for the Mediation Committee years
23 ago, right? I think that, you know, focusing it
24 more on not being as combative as it has sometimes
25 been between the officer and the complainant, and

1 refocusing it so that it is a conversation of
2 respect and a dialogue, and not an opportunity for a
3 civilian to beat up on an officer and then an
4 opportunity for an officer to just sit there without
5 any concern or compassion about what this
6 collaborative discussion is about, is very
7 important.

8 So I think that it would be a -- I don't think
9 that it's so much of the charges or the actual
10 interaction that should disqualify, but the attitude
11 and the willingness of the officer to participate,
12 no matter what the particular charge is, and the
13 civilian to be able to understand the civility of
14 coming together and having a dialogue. So I think
15 that's important.

16 So I think that makes more cases, you know,
17 eligible when you have -- and I think moving the
18 process up, and I think we talked about that, rather
19 than letting it lie out six or seven months because
20 the officers are dealing with hundreds and hundreds
21 of stops and cases, and the sooner you begin the
22 process of dialogue, interviewing the officer to
23 find out if that is something that he's amenable to,
24 and understanding the dynamics of it and the
25 benefits of it for the officer and for the civilian

1 is important.

2 So I think that gives us more bandwidth to be
3 more flexible with gun drawn/gun pointed and things
4 that may seem more egregious to us in the past in
5 terms of not allowing it to be eligible for
6 mediation, especially some of the forced cases as
7 well.

8 MR. MARTIN: And to further encourage officers
9 to participate in the mediation/dialogue program,
10 whatever information is derived through that
11 conversation through the mediation process, it will
12 not be used in future proceedings. That will kind
13 of lower the suspicion on the part of a lot of
14 officers because they believe that if they
15 participate in mediation, it may come back to haunt
16 them.

17 BISHOP TAYLOR: Right. And I think a campaign,
18 an exhaustive campaign to the Police Department and
19 the rank and file, relative to the benefits and the
20 value of mediation, or having a conversation with
21 someone that they had indifference with, is
22 important. I think that marketing it is going to be
23 very, very important. And once they have a level of
24 trust -- I think what was brought out in our meeting
25 with the Deputy Commissioner was that once you have

1 a few officers that actually participate in the
2 process and they're satisfied that, you know,
3 information is being destroyed, you know, on the
4 spot, no notes are being tabulated and taken out of
5 the room, and everything that happens in that room
6 stays in that room and is, you know, extinguished
7 when it's finished, when that word gets out, I
8 think, to the rank and file, more people would be
9 interested in participating in that process.

10 All right. Any other committee --

11 MR. SIMONETTI: You know, I think we've gotten
12 the cooperation of all the unions except one.
13 There's only one union that represents detectives
14 that's been stonewalling us; all the other unions
15 are on board. And, I mean, that's the vast majority
16 of people that come here for cases.

17 MS. CATAPANO-FOX: And we have seen an increase
18 in their numbers as well. They are a small
19 percentage of our cases, involving detectives,
20 and even --

21 MR. SIMONETTI: Are getting mediated?

22 MS. CATAPANO-FOX: -- and even that number --
23 yeah.

24 MR. MARTIN: Even better.

25 MS. CATAPANO-FOX: And in terms of the total

1 number, there's very few cases involving detectives
2 when you look at the grand --

3 MR. SIMONETTI: Right.

4 MS. CATAPANO-FOX: -- scope of our cases. But
5 the numbers have improved when it comes to
6 detectives participating in our mediation program.
7 So that's a positive.

8 MR. SIMONETTI: And Commissioner Herman also has
9 agreed to speak to them personally, the Board of
10 Officers of the DEA, to see if they would get on
11 board with that and talk up their program amongst
12 the membership, talk up the mediation program. So
13 hopefully that will go on.

14 PBA's on board. They're completely on board
15 with this. And I guess they're the vast number of
16 our clients, right, PBA members.

17 MS. CATAPANO-FOX: Witnesses.

18 BISHOP TAYLOR: All right. Are we finished with
19 that particular committee?

20 (No response.)

21 BISHOP TAYLOR: Any other committee reports?

22 (No response.)

23 BISHOP TAYLOR: All right. If not, moving on to
24 old business.

25 MR. GITNER: I just have a question about

1 something Tracy said. I'm not sure I followed.

2 You were talking about pictures of people coming
3 into the building when --

4 MS. CATAPANO-FOX: Yes. Typically when you come
5 into the building, their policy was that you'd have
6 to show ID and then they would take your photo.

7 MR. GITNER: Right.

8 MS. CATAPANO-FOX: And then you'd be allowed in.
9 They basically -- essentially, they take a --

10 MR. GITNER: Like every building.

11 MS. CATAPANO-FOX: -- printed picture, and
12 then --

13 MR. GITNER: Right.

14 MS. CATAPANO-FOX: -- they use that to scan it
15 to allow you in.

16 There have been concerns presented that some of
17 the people coming into the building are offended and
18 are uncomfortable with being taken pictures of
19 because we are a building, a law department, our
20 agency; a concern that NYPD would possibly get those
21 pictures or that they would be stored in some type
22 of, you know, database. So there's been concerns
23 and we're addressing them.

24 MR. GITNER: Okay.

25 BISHOP TAYLOR: I had the same kind of feeling

1 as you had because I think, you know, most buildings
2 in New York City, you know, be it a city building or
3 a non-city building, you know, for security
4 purposes, they take pictures.

5 MR. GITNER: Exactly. I mean, I would -- I
6 mean, I guess, I guess you have to balance the
7 security -- the building has to be confident that
8 security is still at whatever level they decide is
9 necessary to protect everybody in the building,
10 staff on this floor and any of the other number of
11 floors, but I suppose what you're saying is that if
12 they take pictures, it will dissuade complainants
13 from coming in?

14 MS. CATAPANO-FOX: There are complainants that
15 are concerned that they might not --

16 MR. GITNER: Don't we take --

17 MS. CATAPANO-FOX: -- want to come in because --

18 MR. GITNER: -- when a complainant comes in,
19 don't we ask for ID?

20 MS. CATAPANO-FOX: We do, but they consent to
21 that and that's something -- in order to get into
22 our public sessions --

23 MR. GITNER: Yeah.

24 MS. CATAPANO-FOX: -- this is supposed to be for
25 the public --

1 MR. GITNER: Oh, so for this session?

2 MS. CATAPANO-FOX: Yes.

3 MR. GITNER: I see. So it's not just the
4 complainant, it's for this session, which happens to
5 be videotaped.

6 MS. CATAPANO-FOX: In particular.

7 MR. GITNER: We're not going to take pictures.
8 Okay. I just want to make sure the secur -- I just
9 wouldn't want this complaint to have been
10 instituted, a policy to have been instituted without
11 the building or us taking into account whatever
12 security, I'm not a security expert, but whatever
13 security the building or the building security
14 decides necessary. I mean, it's not just us in the
15 building, its a lot of people in the building.

16 BISHOP TAYLOR: Well, you know what, maybe this
17 was --

18 MR. GITNER: I just want to make sure that's
19 balanced. That's my only view. I'm not taking
20 it --

21 MS. CATAPANO-FOX: The people are still showing
22 ID --

23 MR. GITNER: Yeah.

24 MS. CATAPANO-FOX: -- in terms of getting in --

25 MR. GITNER: Okay.

1 MS. CATAPANO-FOX: -- and the building has a
2 right to obviously be concerned about our
3 security --

4 MR. GITNER: Yeah.

5 MS. CATAPANO-FOX: -- as are we --

6 MR. GITNER: Yeah.

7 MS. CATAPANO-FOX: -- of course, but the idea
8 that there could be some storage of data -- a
9 database where people's pictures are held and then
10 potentially used by other avenues, other agencies.
11 I can understand why citizens might be concerned
12 about that, so, we're trying to balance out
13 the interest --

14 MR. GITNER: Okay.

15 MS. CATAPANO-FOX: -- of the security versus
16 making sure that --

17 MR. GITNER: I just wanted --

18 MS. CATAPANO-FOX: -- people don't feel -- we
19 don't want people to feel that they shouldn't --
20 they don't want to come here, that they're making a
21 choice between having their privacy rights be
22 violated to come to a public meeting versus --

23 MR. GITNER: I understand that. I'm just
24 suggesting that the balance has to be done. But it
25 sounds like it was.

1 DR. KHALID: When we have our own entrance, how
2 does that work -- that would work?

3 MS. CATAPANO-FOX: We're going to -- we're not
4 going to take photos of people at the entrance when
5 they come for public meetings, but, of course, in
6 investigations, people who are coming here for
7 investigations, we do ask for ID.

8 We've talked about the different levels of ID,
9 whether or not you can show a school ID versus a
10 government-issued ID. And again, the idea is to
11 protect the security of everyone here, but ensuring
12 that we know who these people are as well so that we
13 don't have any issues with identification of
14 witnesses or complainants.

15 BISHOP TAYLOR: I might want to add that Jay-Z
16 might have something to say about this as well.

17 Any other old business?

18 MR. GITNER: On old business, I think it was
19 last month, it was raised that someone from our --
20 from legal, or a lawyer, had written a memo about
21 when it was appropriate essen -- I don't have it in
22 front of me -- but essentially to frisk somebody;
23 when it was appropriate for a police officer to
24 frisk somebody in the context of issuing a summons.

25 I obtained the memo, I read it. I have to say,

1 it was very well written, just from a lawyer's point
2 of view. Regardless of whatever the conclusion is,
3 I wanted to say that.

4 But I do think, to the extent that there was any
5 thought or push for the Board to adopt some sort of
6 policy, some sort of generalized policy about when a
7 police officer can frisk in that context, I don't
8 think we should engage in that discussion because
9 we're not a court, we're not a policy-making body
10 where we tell the Police Department what to do. All
11 we do in our panels is look at the specific facts
12 and decide whether or not any number of the FADO
13 allegations are approved, substantiated or not.

14 And I think that the memo -- well, you perhaps
15 could read it as being a very generalized memo, I
16 think it was meant in the context of that case,
17 having read it, and not as advocating a policy. And
18 so to the extent there was any desire for us to
19 issue a policy, I don't think that would be
20 appropriate. I think that's more the province of
21 the court.

22 So regardless of how I, personally, might feel,
23 one way or the other, I'm not saying I do agree with
24 it one way or the other, I don't think we as a Board
25 should be -- should be pronouncing policy or law

1 like that. It's just not our roll.

2 BISHOP TAYLOR: Just to be clear, I think that
3 the reason why the memo was circulated, and you're
4 right, was based on a particular case that we were
5 reading, the panels were reading, and I think that
6 the whole purpose was that, to find out what is the
7 extent of the law as it relates to the procedure of
8 executing a stop, question or frisk or a frisk in --
9 when a person is in custody or not in custody or the
10 dynamics centered around that so that there can be
11 impartial adjudication in those cases, not for us as
12 a panel, a Board, to make policies about what the
13 Police Department should or should not be doing.

14 MR. GITNER: I agree.

15 BISHOP TAYLOR: So it wasn't -- it wasn't there.

16 MR. GITNER: I agree. I just know that there
17 was some discussion last time about whether or not
18 it was. So I'm just -- I'm agreeing with you.

19 BISHOP TAYLOR: Okay. Any more old business or
20 any old business?

21 (No response.)

22 BISHOP TAYLOR: New business?

23 MR. GITNER: I do want to raise one thing. It
24 goes to our job to issue sort of policy reports or
25 recommendations.

1 BISHOP TAYLOR: Is this new business or old
2 business?

3 MR. GITNER: This is new.

4 BISHOP TAYLOR: Okay.

5 MR. GITNER: I've seen, in my panels at least,
6 some case -- without commenting on any specifics --
7 some cases where there's some sort of altercation,
8 and typically a young, younger person takes out his
9 or her phone and starts videotaping it. And the
10 officer may be, rightly, from a human point of view,
11 doesn't want to be videotaped, and they react one
12 way or the other, sometimes perhaps, in my view, a
13 little too harshly, sometimes rightly, whatever.

14 I, at least, am not clear that the Police
15 Department has any sort of policy or procedure or
16 training on how to handle somebody who's literally a
17 bystander, so not involved in the actual event, and
18 who happens to be taping the event. And I think
19 that that kind of incident will only increase,
20 particularly with young people who all have phones
21 and they all have videotape and everything gets
22 posted everywhere, and they may not understand how,
23 by videotaping the officer engaged in a very
24 stressful event, it may just increase the stress
25 level on the part of the officer. And so I -- and

1 so they videotape it. And then when the officer
2 says, "please don't," even if the officer reacts the
3 right way, and I don't know if that would be right
4 or wrong for the officer to say "please don't," you
5 know, it just escalates.

6 I think that we should look into the number of
7 incidents where that happens and the kinds of
8 factual scenarios that we've seen, and perhaps,
9 without, again, commenting on any specific report,
10 but at the very least encourage the Police
11 Department to also look into and think about this
12 kind of incident in action. I mean, I think it's
13 important, and I wouldn't want to see an officer,
14 again, in a stressful event, essentially get angry
15 at somebody for just videotaping and perhaps create
16 another stressful event that involve -- that results
17 in injury or something worse.

18 So I think that there should be some thought on
19 that and we should perhaps encourage the Department
20 to look at that.

21 MR. SIMONETTI: Wasn't there a case just
22 recently argued in the Supreme Court about the cell
23 phone? But this dealt with an alleged perpetrator.

24 MR. GITNER: Yeah. So I think that case --

25 MR. SIMONETTI: The ceasing of the phone of an

1 alleged perpetrator.

2 MR. GITNER: That case, I think --

3 MR. SIMONETTI: And I think they said they
4 couldn't do an extensive search of the phone.

5 MR. GITNER: Right. That was a little
6 different. That case, if somebody -- I think, if
7 the Police Department ceases somebody's phone --

8 MR. SIMONETTI: Right.

9 MR. GITNER: -- the Police Department can't
10 necessarily look in it for evidence without a
11 warrant. I'm not sure exactly what the contours
12 are. This, what I'm saying, is a little different,
13 it's somebody literally videotaping an incident as
14 it's occurring.

15 MR. SIMONETTI: I think the -- I mean,
16 personally, I think anybody can videotape. I mean,
17 I think -- Chris, you were around the days of
18 Tompkins Square Park when we had Patterson?

19 MR. CHRIS DUNN: We litigated this thing
20 30 years ago, Tony, with the Department, which I'll
21 tell you about when I stand up.

22 MR. SIMONETTI: Okay. But we had it -- we had
23 it with Patterson in Tompkins Square Park, when I
24 was the CO of that precinct. You remember, you used
25 to videotape everything. And he was horrible at

1 doing it because everybody was jumping up and down
2 (inaudible), and I had to look at all those tapes.

3 BISHOP TAYLOR: Can I --

4 MR. DONLON: There is a provision in the Patrol
5 Guide, apparently, that covers this exact situation.
6 And I'm quoting from a summary of the provision. It
7 says: "Citizens are protected against unreasonable
8 search and seizure in order to" -- sorry.

9 "Citizens are permitted to observe and record
10 arrests of other citizens as long as they do not
11 directly endanger the safety of an officer, obstruct
12 an officer's ability to administer his governmental
13 duties or are otherwise in violation of the law."
14 And it's NYPD Patrol Guide, Procedure 208-03,
15 Enclosure 4A-N. And...

16 MR. SIMONETTI: In my --

17 MR. DONLON: So if there's no obstruction of
18 governmental administration --

19 MR. SIMONETTI: Absolutely.

20 MR. DONLON: And this is probably the result of
21 what Chris Dunn is referring to.

22 MR. DUNN: Yes, it is.

23 MR. DONLON: But it's in there.

24 MR. GITNER: I think it's great that it's in
25 there, and I think it's probably, obviously, to some

1 extent, that people can videotape certain things.

2 My concern is not whether or not an individual
3 can do it, but how an officer in a stressful
4 situation -- you know, I was never an officer, but I
5 was a prosecutor, so I got to hear a lot about
6 stressful situations. And I think officers
7 sometimes don't, while they're handcuffing somebody
8 who's resisting and there's a gun involved, aren't
9 thinking, oh, my God, Patrol Guide, Section 1.1E-2A,
10 what do I do? Instead, like anybody who's being
11 videotaped when they don't necessarily want to be
12 videotaped, they may react. And I think you can
13 blunt some of that by significant training and just
14 making them aware of better ways to react in that
15 kind of situation. That's all my saying.

16 MR. DONLON: But I think this issue comes up
17 many times in situations where there is no stress.
18 There shouldn't be any stress involved. It's a
19 situation where an officer's giving someone a
20 summons and there's no gun drawn, there's no
21 physical altercation going on, it's just a situation
22 that should be routine, and all of a sudden
23 somebody's recording it and it escalates where the
24 officer is taking offense. And, you know, I think
25 those are the situations that we're seeing

1 occasionally in cases that we read as Board members.

2 MR. SIMONETTI: I can tell you, I mean, most --
3 most officers' reactions would be, hey, you can't be
4 doing that.

5 MR. DONLON: Exactly.

6 MR. SIMONETTI: Turn that Goddamn thing off, you
7 can't be videoing this.

8 MR. GITNER: Exactly.

9 MR. SIMONETTI: You know. And if it's that --
10 if it's a stressful a situation as you described, he
11 may go beyond that and, you know, push the guy.
12 Hey, I told you, get out of here, you can't be doing
13 that. I mean, that -- that's the reality of it.

14 But apropos to your comments, Jimmy, boy, what a
15 timely -- what a timely comment. Look what happened
16 yesterday in the West Village.

17 MR. DONLON: I'm not sure I heard this incident.

18 MR. SIMONETTI: You didn't? You didn't hear
19 what happened in the West Village yesterday?

20 MR. DONLON: Oh, with our friend, the --

21 MR. SIMONETTI: Oh.

22 MR. DONLON: -- the Hollywood actor or --

23 MR. SIMONETTI: Yeah.

24 MR. DONLON: -- the New York City actor? Yes,
25 okay.

1 MR. SIMONETTI: Yeah.

2 MR. DONLON: Yeah, I haven't been under a rock
3 completely.

4 MS. CATAPANO-FOX: We could do a policy review,
5 if the Board wants.

6 MR. DONLON: Yeah.

7 MS. CATAPANO-FOX: We could put together cases,
8 we could do a review of cases --

9 MR. DONLON: Yeah, I think there --

10 MS. CATAPANO-FOX: -- involving videos that were
11 taken.

12 MR. DONLON: Yeah, I think there are lots of
13 cases --

14 MR. GITNER: Yeah.

15 MR. DONLON -- that we could look at, yeah.

16 MS. CATAPANO-FOX: Okay.

17 MR. DONLON: There's plenty of them.

18 MR. SIMONETTI: But that would be a reaction,
19 clearly, on the part of an officer.

20 MR. GITNER: Even in a -- I mean, my view is
21 that a police officer even giving a summons, that
22 is -- could be a stressful situation. I mean, a
23 police officer giving a summons is still an adverse
24 relationship with somebody. They're handing
25 somebody a ticket, that's not necessarily a fun

1 thing for that person to receive. I think in all
2 situations it's a -- it can be very difficult. It's
3 important to --

4 BISHOP TAYLOR: Yeah.

5 MR. GITNER: -- to train these police officers
6 the right way.

7 MR. SIMONETTI: It always happens with paparazzi
8 --

9 MR. GITNER: Yeah.

10 MR. SIMONETTI: -- and celebrities.

11 MR. GITNER: Exactly.

12 MR. SIMONETTI: Clearly.

13 MS. CATAPANO-FOX: But are you looking for cases
14 where an independent person is videotaping it or
15 when the complainant -- when the victim themselves,
16 or both? That's fine. We can do --

17 MR. GITNER: I think both.

18 MS. CATAPANO-FOX: Okay.

19 MR. GITNER: Yeah, I think both.

20 BISHOP TAYLOR: Yeah, when you were talking, I
21 made a note that it probably would be prudent for us
22 just to kind of index how many video-involved cases
23 that we have --

24 MR. GITNER: Sure.

25 BISHOP TAYLOR: -- and just kind of get some

1 bandwidth on the particulars of those cases and
2 see -- you know, but I also think that as police
3 professionals, we should -- the Police Department
4 should have a knowledge of the Patrol Guide and know
5 that in 208-03, Enclosure 4A-N --

6 MR. DONLON: Exactly.

7 BISHOP TAYLOR: I think they should know that a
8 citizen has the right to videotape as long as
9 they're not obstructing the scene of the crime or
10 interfering with the police protocol.

11 So I would say that they -- for them to say,
12 well, I don't know that number, that -- no, no, no.
13 They're police professionals.

14 MR. DONLON: We have this --

15 MR. MARTIN: Well, I think it's -- I think of it
16 as more of a --

17 MR. SIMONETTI: It's an emotional response.

18 BISHOP TAYLOR: I agree with you.

19 MR. SIMONETTI: That's what it is.

20 MR. MARTIN: Yeah, I think it --

21 BISHOP TAYLOR: I know it's an emotional
22 response, but there -- we also -- we also hold them
23 to a high standard as they're interacting with the
24 public and should know. I mean, this is not
25 something that is, you know, done, you know, once in

1 a while. I mean, in the advent of social media and
2 the continuum of that, you know, that is something
3 that should be in the forefront of their minds and
4 know that they cannot come to a citizen and just
5 react emotionally.

6 MR. MARTIN: Yeah, I don't think that's --

7 MR. SIMONETTI: I think what you're describing
8 --

9 MR. MARTIN: -- yeah.

10 MR. SIMONETTI: -- and what Dan described,
11 they're two different situations. He's talking
12 about a very heated situation wherein a bystander is
13 videoing the police officer taking whatever action
14 he's taking and he -- and he threw in some -- some
15 points that --

16 BISHOP TAYLOR: Well, he also said that there
17 were things that were videotaped that were not
18 heated, that created a separate escalation.

19 MR. SIMONETTI: I can tell you, from my
20 practical experience, most cops would respond by
21 saying, hey, you can't be doing that, get the hell
22 out of here.

23 BISHOP TAYLOR: So they're violating Patrol
24 Guide 208-03, Enclosure 4A-N.

25 MR. SIMONETTI: Then you substantiate it and

1 come up with a disposition.

2 MR. MARTIN: I think that that --

3 MR. SIMONETTI: That's why we're here.

4 MR. MARTIN: -- I think it's not a matter of
5 policy adjustment, I think it's a matter of more
6 training.

7 MR. GITNER: (Inaudible.)

8 MR. MARTIN: I think this is an opportune time
9 to --

10 BISHOP TAYLOR: That's what you raised.

11 MR. MARTIN: -- at this juncture, to possibly
12 communicate to the Department that this area is
13 percolating and that they should be reminded of that
14 particular Patrol Guide provision. Whether or not
15 every officer knows ever -- the entire four corners
16 of the Patrol Guide, no, they do not, but this is an
17 area, this is a category that needs -- they need
18 some reminding of. I think this is a very, very
19 important point.

20 MR. SIMONETTI: Exactly. And this is something
21 for the IG and us to have a discussion about. And
22 let me just tell you something. They've got a
23 Deputy Commissioner of Training, a new person over
24 there --

25 MR. MARTIN: Right.

1 MR. SIMONETTI: -- that takes his job very
2 seriously. Worked for me for many, many years, and
3 this is the right guy to have in that position.

4 And, listen, I don't care how many times you
5 tell cops about that, but -- by the way, just let me
6 remind you, a lot of people think that that thing is
7 gospel, the Patrol Guide. Listen to what it's
8 called, "patrol" -- that ain't the important
9 thing -- the second word, it's a guide. It's a
10 guide. If you can memorize half of the stuff that's
11 in that thing, boy, you're a genius. Believe me.
12 Believe me. If you can regurgitate half of that
13 stuff, you're a genius. But it's a guide. But
14 all -- every -- and Ben Tucker, who's the new Deputy
15 Commissioner of Training, he can tell them, he can
16 have classes about this.

17 MR. MARTIN: Right.

18 MR. SIMONETTI: They can do role-playing about
19 this. And I'm going to tell you what happens: You
20 get hot on the street, it happens, then that's going
21 to be the cop's reaction, his initial reaction. I
22 mean, that's for us to decide. That's why we have
23 the Civilian Complaint Review Board.

24 MR. GRANT, JR.: You know, Commissioner Martin
25 raised a good point. I think we, at times,

1 categorize things under the title "policy." You
2 know, when we recommend policy changes or
3 suggestions, that's one thing, but this has come up
4 a couple of times about identifying areas where, I
5 like to use your words, where there's -- things are
6 percolating, and bring that to the attention of the
7 PD. We've done that in the past in the form of
8 memos. I think we all put that under policy. And I
9 think that's what you were saying, Dan, because
10 we've discussed this, and I agree with you.

11 But this raises one of my -- what has become one
12 of my pet peeves is that we've talked about this
13 before. And I remember a meeting earlier this year,
14 or late last year, where we had asked, the Board had
15 asked for some sort of an outline of potential
16 matters that were seen percolating so that we could
17 assess that and decide whether or not we needed to
18 submit a memo over to the PD. And I'm not sure if
19 that fell between the cracks.

20 There's a lot of things going on, but I just
21 don't want these things to fall through the cracks
22 because this came up before. I'm sure of it. We've
23 asked for, you know, something back to highlight
24 some of these things that could be of issue.

25 You know, where are we on that, Tracy? Marcos?

1 I don't know.

2 MS. CATAPANO-FOX: We did submit in one of the
3 Board packets, I could go back and look which month
4 it was, all of the reports that we have done and
5 then the reports that we were working on.

6 MR. GRANT, JR.: Right. I remember that.

7 MS. CATAPANO-FOX: So that did come through.

8 MR. GRANT, JR.: So where are we with the
9 reports that were recommended on that?

10 MS. CATAPANO-FOX: That's a good question.

11 MR. GRANT, JR.: And, look, I don't want to put
12 anybody on the spot right now, let's just -- you
13 know, for the next meeting, if we could have a
14 report on that --

15 MS. CATAPANO-FOX: Absolutely.

16 MR. GRANT, JR.: -- so we can move forward
17 because, you know, Mr. Dunn, I don't agree with a
18 lot of things he says, but one thing that he did say
19 that I agree with is part of our role is to address
20 these policy or percolating issues, and we haven't
21 done that in some time.

22 MR. SIMONETTI: You know, if we get a permanent
23 chairperson, one of their role -- their jobs could
24 be to take those reports and disseminate it to
25 appropriate committees to take a look at to see if

1 they need updating on some of that stuff. There's a
2 lot of stuff we sent over to the Police Department,
3 tremendous amount of stuff that we sent over. So
4 the committee should be taking a look at that, make
5 a recommendation as to updating or any new thing.
6 And this is certainly a new thing.

7 By the way, the IG comes into effect next
8 Tuesday. He's going to be on board May 20th, that's
9 when his job starts. And we should have a lot of
10 discussions with the IG because this is the kind of
11 stuff he'll bring back there. And I guess what he
12 tells them, probably he holds more weight sometimes
13 than what we say, you know. And he can tell --

14 MS. CATAPANO-FOX: Well, I hope not.

15 MR. SIMONETTI: Well, he's the IG. I mean, so,
16 you know.

17 MS. CATAPANO-FOX: I think Mr. Eure is very
18 familiar with the operations of the Agency because
19 he was running the DC --

20 MR. SIMONETTI: Yeah, DC.

21 MS. CATAPANO-FOX: -- version of the CCRB --

22 MR. SIMONETTI: Yeah.

23 MS. CATAPANO-FOX: So I think that that's a
24 positive in our favor. I also think that, in light
25 of the legislation that the City Council is

1 proposing with regard to him giving quarterly
2 reports on the law department, which we submitted
3 written testimony on, the Board -- and I thank the
4 Board members and the Executive Committee for
5 helping to draft the written testimony that we
6 provided -- I think that that's going to go exactly
7 to what you were saying in terms of being -- working
8 with all the different groups more, the
9 Comptroller's Office, the law department and the IG,
10 to kind of get those policy ideas out there to see
11 what we've done, to see where we should be moving
12 forward, and then figuring out amongst the agencies
13 how to best make those policy recommendations to the
14 NYPD.

15 MR. GRANT, JR.: Does this -- is this
16 something -- because obviously we don't have a chair
17 and, you know, another one of my pet peeves, that's
18 another issue -- but do we have a committee that
19 addresses this? Would this fall under the Reports
20 Committee?

21 MR. SIMONETTI: Well, I think the reports that
22 we've sent over dealt with a lot of different areas,
23 and I think for one committee to handle them all, I
24 don't think that would be appropriate. It could be
25 disseminated either to the Operations Committee or

1 the Reports Committee, or, like, we had established
2 several special committees when we did the
3 hollow-point bullet controversy that was
4 percolating, I don't know how many years ago that
5 was with the hollow-point bullet, and we get a
6 report on that. So I think it would be up to the
7 chair to take a look at it and then get those
8 reports disseminated.

9 And, by the way, we got to get our committees
10 back on track. I mean, I think we lost sight of
11 some of those committees, you know. We haven't
12 heard -- and I think the new chair, one of the
13 thirteenth things they should do is appoint chairs for
14 those committees and then, if people are not willing
15 to serve on them, just nominate people to be on
16 them. That's what we need.

17 BISHOP TAYLOR: I totally agree. Totally agree.

18 MR. GRANT, JR.: I don't know if you're being
19 positive, Tony, or you're hinting at something
20 that's about to happen regarding the new chair,
21 but --

22 MR. SIMONETTI: I wish.

23 MR. GRANT, JR.: All right. Well, if that's the
24 case, I don't want this to sit any longer, you know.
25 I want us to keep moving these things forward, so --

1 MR. SIMONETTI: You're absolutely right.

2 MR. GRANT, JR.: -- I don't want to wait for a
3 chair.

4 MR. SIMONETTI: No, no. You're absolutely
5 right.

6 MR. GRANT, JR.: I want us to decide if we're
7 going to designate --

8 MR. SIMONETTI: I agree wholeheartedly.

9 MR. GRANT, JR.: -- a committee to help drive
10 this along because we have to keep moving forward.

11 MS. CATAPANO-FOX: Commissioner Grant, what we
12 could do is send the Board a list of -- for example,
13 we've been working on the I-Cards policy report,
14 we've been -- there are a couple of reports that
15 we've mentioned in the past that we're working on.
16 What we could do is send a list, send some drafts to
17 the committ -- to all the Board members, and they
18 could either -- the Executive Committee could
19 designate people or you could volunteer to be part
20 of reviewing that report and then presenting it, if
21 the Executive Committee wants to create those
22 special committees for people to be a part of, as
23 you said. That's something we can -- we can
24 certainly send it to you guys so you can get a feel
25 for what different projects we're working on, and

1 then you could maybe perhaps designate members to --

2 MR. GRANT, JR.: Right.

3 MS. CATAPANO-FOX: -- review it and oversee it.

4 MR. GRANT, JR.: I think it should definitely be
5 sent to the full Board, but I will recommend to my
6 fellow Board members that some folks volunteer or be
7 designated to drive this because it's going to fall
8 through the cracks again. And a lot of us are
9 working on committees, we're working extremely hard
10 right now, and, you know, you can't task the same
11 people to do the same thing over and over again. So
12 some folks need to step up and help to drive this
13 through.

14 MS. CATAPANO-FOX: Commissioner Taylor, one
15 other issue that has come up very recently, the NYPD
16 has now issued a -- I don't know if it's a Patrol
17 Guide, yet, designation -- but essentially those
18 cases where police are not supposed to collect
19 condoms any more in certain cases. I don't know if
20 that's going to -- if the Board has any position on
21 whether they want to see that as an abuse of
22 authority in cases where they do.

23 So we may get cases now, and we actually have
24 had cases in the past, where the collection of
25 condoms as evidence has come into play. It's not,

1 per say, relevant. Before, it was not relevant to
2 the allegations that we had, but now that it is a
3 violation by the NYPD, is that something that you
4 might want to consider as an abuse of authority or
5 is that an other misconduct noted.

6 It's something that we should talk about. And
7 once we get a little more information from the NYPD
8 about how they're handling it, maybe we can come up
9 with some guidelines because that might be some --
10 an allegation now that we'll see in future cases.

11 MR. GITNER: I think it should be case by case.

12 MR. MARTIN: I think we should wait because the
13 devil is going to be in the details.

14 BISHOP TAYLOR: Absolutely.

15 MS. CATAPANO-FOX: Okay.

16 MR. GITNER: Yeah, I think it should just be
17 case by case. I can see a situation where it's
18 abusive authority. I can also see a situation
19 where, okay, so they grabbed a box of condoms, who
20 cares, from an abusive authority point of view, as
21 opposed to a Police Department -- you know, a
22 violation of some sort of Police Department rule or
23 district attorney rule. So I'm not --

24 MS. CATAPANO-FOX: But as an allegation. In
25 terms of investigators getting a case --

1 MR. GITNER: But that --

2 MS. CATAPANO-FOX: -- if a case came in today
3 and that was an allegation, how they would proceed.

4 MR. GITNER: Oh, I see.

5 MS. CATAPANO-FOX: I guess the Investigations
6 Committee could meet and talk about --

7 MR. GITNER: Whether it's OMN or an abusive
8 authority.

9 MS. CATAPANO-FOX: Exactly. So that we would
10 know how to proceed --

11 MR. GITNER: I see.

12 MS. CATAPANO-FOX: -- in terms of the closing
13 reports and recommendations.

14 MR. GITNER: Okay, sorry. I misunderstood.
15 Thank you.

16 MS. CATAPANO-FOX: That's just a new item that
17 just came up.

18 BISHOP TAYLOR: All right. We're moving on now
19 to public comment, and we have a long list of people
20 beginning with and ending with Chris Dunn.

21 MR. DUNN: Good morning. I know it's been a
22 long morning already.

23 Mr. Grant, I will take you up on your olive
24 branch. The policy stuff is very important and I'm
25 happy to hear you say that. And I don't know who

1 you meant when you said, some people got to "step
2 up," but you guys probably know who he was referring
3 to, so hopefully people will step up.

4 All right --

5 MR. GRANT, JR.: They know me. They know --

6 MR. DUNN: I know, I know.

7 Starting with the symbolic, but not --
8 nonetheless, not unimportant, thank you for
9 repainting. It's a small thing, perhaps, but I do
10 think that your public perception is important.

11 I will say, in conjunction with that, and as a
12 small thing, Dan, I think it's an important thing,
13 the business about people getting in here, it is
14 just part of a larger concern that you've heard me
15 say many times about public engagement between the
16 CCRB and complainants and witnesses. And I view
17 moving here, having -- being a situation where you
18 have created, actually, more barriers. And I just
19 think you have to -- we have to get to the point
20 where the public is easily engaged with you.

21 And, Tracy, you have talked often about borough
22 offices. None of that has happened yet. And I
23 just, you know, I just want to keep saying, you have
24 got to work on this. It reflects on the truncation
25 rate. The truncation rate is just not an abstract,

1 statistical number, it reflects in large part how
2 comfortable members of the public feel working with
3 you. And it may come down a little bit because
4 we've rejiggered the categories, and it may come
5 down some using more investigators, but what's
6 really going to bring it down is when you have a
7 more open relationship with the public.

8 And I know, with respect to the APU report -- I
9 do want to say, I'm going to come back to it, I
10 thought that was an excellent report, I appreciate
11 you doing it -- the APU report talked about
12 videotaping access to the trial room to allow
13 complainants who are incarcerated to participate in
14 the trial. I think there was some discussion at
15 some point with the Board about the possibility of
16 allowing a video connection for complainants so they
17 don't have to get their way down here to 100 Church
18 Street and go through the security downstairs. It's
19 a lot easier on them. We just have to figure out a
20 way to make it easier for people to participate in
21 the investigation process.

22 All right. With respect to the APU report, as I
23 said, I think that's a terrific report. I encourage
24 all of you to read that report. It raises some
25 genuine concerns about the APU process and your

1 relationships with the Department, and I think the
2 report is good in being candid in that respect. I
3 don't know what it leaves out, but what I see, it
4 looks like an open and candid report.

5 One thing that struck me as being a particular,
6 potential problem is apparently the Department's
7 refusal to allow you to plea down a specifications
8 and charges case. And, as I understand it, but
9 correct me if I'm wrong, basically the Department
10 says, once you file charges and specs you are on a
11 trial track and you cannot turn something into a
12 lower-level offense.

13 MS. CATAPANO-FOX: To be fair, that's the way
14 the MOU reads.

15 MR. DUNN: The MOU actually specifically
16 prevents that?

17 MS. CATAPANO-FOX: No.

18 MR. DUNN: I don't remember that.

19 MS. CATAPANO-FOX: No. It just says that we
20 have substantiation with charges. There's no
21 mechanism within it --

22 MR. DUNN: Yeah.

23 MS. CATAPANO-FOX: -- for a reduction, so it's
24 something that the Executive Committee and the Board
25 is working on with DAO --

1 MR. DUNN: Okay.

2 MS. CATAPANO-FOX: -- to work that out.

3 MR. DUNN: I'd be surprised if the MOU actually
4 bars you from doing that.

5 MS. CATAPANO-FOX: No.

6 MR. DUNN: I don't remember that. My guess is
7 the Department's taking the position you cannot do
8 it. And if that's the case, I hear you're saying
9 you're talking to them, but that -- that's a
10 significant issue. And in no small part, that
11 creates some perverse incentives in terms of the
12 Agency's preferring charges and specs versus
13 something else, and it takes away some flexibility
14 from the process. So there's that.

15 The other thing is, and there are very few cases
16 that have come through, looks like you're batting
17 zero in terms of the Police Commissioner adopting
18 pleas that you have negotiated. Am I right about
19 that? There are three cases and, as I understand
20 it, in two cases, he has imposed a lesser penalty,
21 and in one case he --

22 MS. CATAPANO-FOX: He increased it.

23 MR. DUNN: -- increased the penalty?

24 MS. CATAPANO-FOX: Yes.

25 MR. DUNN: I realize it's a sample of three,

1 three is three, but I do think it's very important
2 to stay on top of that because the more the Police
3 Depart -- the Police Commissioner is not adopting
4 pleas that you have negotiated, obviously that
5 undermines your authority in terms of actually being
6 at the table and negotiating pleas with the police
7 officer.

8 Okay. On the administrative closures, there was
9 a much longer discussion about this at the
10 Operations Committee meeting. I'm happy to see
11 there was a Board discussion about this. And what
12 you're talking about sounds to me like it makes
13 perfect sense, if truly they are cases that are
14 being generated without any complainant. But it
15 does raise a larger issue about -- and I am somewhat
16 embarrassed even to say this, but I don't know the
17 answer -- about whether or not you can be proceeding
18 with an investigation without a complainant, whether
19 by Charter you are required to have the
20 complainant --

21 MS. CATAPANO-FOX: The Charter only reads that
22 we cannot proceed solely with an unsworn complaint.

23 MR. DUNN: Okay. Well, there we go. It's the
24 Charter that says that. So, I mean, the concern I
25 have about the administrative closure cases is

1 putting that case back into the pot, if you decide
2 you should put it back into the pot. It doesn't
3 really advance anything because you're not going to
4 have a complainant who's going to come in, you're
5 not going to have a sworn complaint that's going to
6 get truncated anyhow, so I'm not sure at the end of
7 the day that it's going to make much difference, but
8 there is that.

9 The docket, I noticed that -- we talked about
10 this -- the 18-plus-month docket seems to have come
11 down considerably since the last month. That's
12 great. I hope -- I know you all take it seriously,
13 but I just want to say it again, just for the
14 record, those blown statute of limitation cases are
15 a huge problem. You still have four cases where the
16 complainant filed on time and they've blown the
17 statute of limitations. And it's better than it
18 was, to be sure, but this is something where Zero
19 Vision should be part of the CCRB's mission. You
20 should have no cases where you've blown the statute
21 of limitations.

22 All right. Mediation. I heard all the speeches
23 about mediation. That's great.

24 Tony, I was a little surprised because you said
25 two completely contradictory things today. First

1 you said, the heart and soul of what we do is
2 investigations, and then you turned around and said,
3 we shouldn't be doing any investigations, we should
4 be having hand-holding sessions with cops.

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

6 MR. DUNN: That's my characterization --

7 MR. SIMONETTI: That's not a contradiction.

8 MR. DUNN: -- of what he said. Thank you for
9 coming to his defense.

10 MR. SIMONETTI: That's not a contradiction.

11 MR. DUNN: See, there we go. He's not denying
12 it.

13 MR. GITNER: And it's not a contradiction.

14 MR. DUNN: You're going to have to work that out
15 with him.

16 Look, I get mediation. I understand the
17 benefits to mediation. But I've said this before
18 and I'll say it again, when you do mediation,
19 there's no investigation; you don't get to the
20 bottom of what's going on. You get two people in
21 the room, they have whatever session they have, and
22 people walk away. And the Agency learns nothing
23 about what actually is behind the incident, and the
24 Agency can't use what's behind the incident.

25 And going to the policy points, the most

1 valuable thing beyond getting sort of, some sort of
2 resolution for the complainant is your figuring out
3 patterns and practices, trying to talk to the
4 Department about that in an effort to make sure that
5 doesn't happen again in the future so you don't have
6 to get rid of your complainants. And I would love
7 to have you have zero complaints, but when you do
8 mediation, you just cut off that possibility.

9 And, Tony, with respect to specifically the gun
10 pointed, I heard your story, I get that. That
11 doesn't translate to me into the notion that gun
12 pointed is inconsequential for the complainant. And
13 you may be talking about situations where cops may
14 have many circumstances in which they pull out a gun
15 and point a gun at you. And you probably have had a
16 gun pointed at you, I have not. My guess is not too
17 many other people here have. Jules, perhaps.

18 MR. MARTIN: Yeah.

19 MR. DUNN: Mr. Landin, perhaps. I am quite sure
20 that for a complainant, in many instances, that's a
21 hugely traumatic episode. And it is not
22 appropriate, in my view, given the impact on the
23 complainant, for that to be routed into mediation.

24 MR. GITNER: But what if the complainant wants
25 that?

1 MR. DUNN: Well, I --

2 MR. GITNER: Right now, the situation, as I
3 understand it, is if a complainant wants that, the
4 complainant can't have that.

5 MR. DUNN: That's correct. Just like if --

6 MR. GITNER: And we're talking about dealing
7 with the trauma to the complainant. So I think all
8 Tony was saying was make it -- make that available.

9 MR. SIMONETTI: About the safety of the officer.
10 That doesn't count? That doesn't come into play?

11 MR. DUNN: But Tony, that's the basis for a
12 non-substantiated complainant. I think you're, in
13 my mind, you're confusing the merits of the
14 complaint --

15 MR. SIMONETTI: No, I'm not.

16 MR. DUNN: -- with how the complaints should --

17 MR. SIMONETTI: No, no, no.

18 MR. DUNN: -- be processed by the CCRB.

19 MR. SIMONETTI: I'm -- it's very clear in my
20 mind that the weapon is a tool of being a police
21 officer. And if I feel threatened, whether I'm
22 stopping somebody in the middle of the night and I
23 hold a weapon at my side or I got it pointed
24 directly into the car, and there's four or five
25 people and there's only two of us, I don't see that

1 that's a contradiction to what I said before.

2 MR. DUNN: Okay. That's fine. I'm just telling
3 you, from my perspective, and I understand there's
4 going to be a process, I heard what Jules said,
5 there's going to be a process, you're going to have
6 a discussion about this, I'm just telling you, gun
7 pointed, I think, is a big event for a complainant.
8 I don't think that should be batted off to
9 mediation.

10 And I will say the reason why that is now
11 non-mediabile, and you will go back and I'm sure
12 Tracy will pull it for you, there was a Times story
13 about four or five years ago about a case where
14 there was a gun-pointed incident, that was a very
15 dramatic incident, and the CCRB had mediated it.

16 MR. SIMONETTI: The CC -- I'm sorry, I didn't
17 hear that.

18 MR. DUNN: The CCRB had mediated it, and the
19 complainant talked about how unhappy he was about
20 that. A big Times story. And that prompted, as I
21 recall it, a change by the Board that those were not
22 going to be treated as mediable cases.

23 So again, it was a number of years ago, you'll
24 pull it out. Maybe I've forgotten some of the
25 details probably, but that --

1 MR. SIMONETTI: I don't even -- I don't --

2 MR. DUNN: -- there was a whole discussion about
3 it.

4 MR. SIMONETTI: I don't recall that. I had to
5 be on the Board.

6 MR. DUNN: You were certainly on the Board. You
7 might not have been here that day, but you were on
8 the Board.

9 MR. SIMONETTI: Then pull the case.

10 MR. DUNN: Okay.

11 MR. SIMONETTI: I think I would've remembered
12 that.

13 MS. CATAPANO-FOX: But I think your ideas go --

14 MR. SIMONETTI: I would have argued --

15 MS. CATAPANO-FOX: I think your ideas are going
16 in the same direction. The idea that the
17 complainant initiates the idea of mediation so that
18 if they are so impacted in a negative way by a gun
19 pointed, they wouldn't want a mediation --

20 MR. DUNN: Well --

21 MS. CATAPANO-FOX: -- so we wouldn't send it
22 there. And then if, for some reason, they are --
23 they would prefer a mediation, they prefer the
24 opportunity to address the officer in a mediation
25 forum, all I think Commissioner Simonetti and, you

1 know, Commissioner Gitner are saying is, give them
2 that opportunity.

3 MR. DUNN: I understand that.

4 MS. CATAPANO-FOX: If that's their goal.

5 MR. DUNN: I just -- I think maybe you are
6 ascribing a benevolence to a mediation offer by the
7 CCRB that I do not ascribe to, okay. I mean, you
8 know, you kind of view that when you guys say
9 "mediation" to somebody, they're just sitting there
10 going, well, they're bouncing this or doing that,
11 was I sufficiently traumatized. You know, I think,
12 for many people, they may think, you know, I'm
13 getting jerked around by these guys, I'm never going
14 to get any justice from them, if that's all I can
15 get, I will take it.

16 And so, I'm just saying that I don't think it's
17 quite the dispassionately logical decision made by a
18 complainant to participate in mediation, and I think
19 there are some categories of offense that you have
20 all decided should not be mediable, okay. So you
21 have recognized there's some things where the
22 complainant should not be given a choice, and I am
23 simply saying that gun pointed is a category, I do
24 not think, for the same reasons you don't give
25 complainants the choice in other alleged misconduct,

1 you should give the complainant a choice here, given
2 the importance of a gun pointed.

3 Now, I will say, in conjunction with that, and I
4 say this publicly, the Department is very good in
5 terms of shootings. The Department's
6 extraordinarily restrained when it comes to the
7 shootings. So I don't say this in the context that
8 we have a shooting epidemic in New York City, we do
9 not. But I think the gun-pointed episode is still
10 very, very important.

11 All right. What we do have an epidemic of is
12 photography harassment. And you, Dan, you were
13 absolutely right to be raising that. You guys
14 should be looking at it.

15 And, Tony, I'm a little alarmed by your
16 suggestion that it doesn't make any difference what
17 we say, it doesn't make any difference how many
18 times you remind cops that they can't do this, they
19 are going to blow up at people who take out their
20 cell phones and videotape or photograph things.

21 MR. SIMONETTI: That's the reality of a
22 situation that's described by Dan.

23 MR. DUNN: I understand that. Well, Dan was
24 talking about a variety of situations. But I can
25 tell you, if the Department --

1 MR. SIMONETTI: But the most traumatic one he
2 talked about.

3 MR. DUNN: Well, no. I think you're -- all
4 right, look. There may be an instance where there's
5 a whole lot of stuff happening and someone pulls out
6 a phone and a cop has an instinct. I'm not quite
7 sure why the phone should necessarily prompt that.
8 If they're engaged with somebody, the fact that
9 someone's ten feet away with a cell phone should be
10 the least of his or her concerns.

11 But I can tell you, we get photography arrest
12 complaints all the time. We sue the Department
13 regularly about photography arrest issues. Starting
14 with the Patrol Guide provision that Jim read, is
15 from a case called Black v. Cudd (phonetic), and we
16 litigated in the '70s, the Department settled it.
17 That Patrol Guide language has been in there. There
18 have been at least two operation orders that have
19 gone out in the last ten years that I have worked
20 out with the Department about photography issues and
21 it just continues to be a problem. And I do think
22 it is a training problem, I do think it is a
23 sensitivity problem.

24 I understand people don't like having cameras in
25 their faces, but, you know, as I think Dan's

1 suggesting, you know, in today's world, they're
2 everywhere. And at some level they have got to
3 recognize that that's just part of the landscape and
4 it shouldn't be prompting any problem on their part.
5 And it's not just they say, people, get out of here,
6 people are getting arrested.

7 We had two cases of clients who got arrested for
8 photographing police activity. One, a stop and
9 frisk in Bed-Stuy. A woman is walking home, you
10 know, they've got -- they stopped three kids,
11 they're stopping/frisking them, she takes out her
12 phone and videotapes it, she ends up in cuffs. And
13 it just -- it happens all the time.

14 So I think it would actually be very helpful for
15 the CCRB to be saying to the public and to the
16 Department, you have an issue about your officers in
17 terms of the way they're responding to photography
18 and videotape, and here's some constructive things
19 that you can do. I think Commissioner Bratton will
20 be receptive to that. I think everyone recognizes
21 that's fully, legally protected activity, and the
22 trick has got to be to get officers to deal with the
23 instinct that they have had about, you know, that
24 sort of scrutiny. So I would encourage that. I
25 think that's a very good idea.

1 All right. Thank you very much.

2 BISHOP TAYLOR: Thank you, Mr. Dunn.

3 MR. DUNN: Oh, actually, I'm sorry, I forgot one
4 thing. I'm sorry.

5 Dan, you mentioned the memo, the frisk and
6 summons memo. So I've gotten three reports that
7 there's a DOI investigation taking place here at the
8 CCRB about how I got that memo; is that correct?

9 MS. CATAPANO-FOX: That would be up to DOI.
10 They wouldn't --

11 MR. DUNN: Well --

12 MS. CATAPANO-FOX: -- tell us.

13 MR. DUNN: No, no. Well, I'd be very -- whether
14 they told you or not, Tracy, I'd be very surprised
15 if you didn't know it was happening. I've gotten
16 reports from CCRB staff that it is happening. So
17 are you telling me you don't know that there's an
18 investigation --

19 MR. GITNER: I think the answer is --

20 MR. DUNN: -- taking place?

21 MR. GITNER: -- if there's an investigation, no
22 one's going to answer that question. So you can
23 make a comment, but nobody here is going to comment
24 on whether or not there is a Department of
25 Investigation investigation, which, by its nature,

1 is confidential.

2 MR. DUNN: Okay. But if there were no
3 investigation taking place, Dan, I don't think
4 there's anything confidential about this statement,
5 "There is no DOI investigation." Is anyone prepared
6 to say, "There is no DOI investigation"? Because I
7 have been told by three different sources in the
8 CCRB there is a DOI investigation about my having
9 gotten this memo.

10 MR. SIMONETTI: I think I --

11 MR. DUNN: Yes, Tony.

12 MR. SIMONETTI: -- would've known about it if I
13 heard it. I've never heard it.

14 MR. GITNER: I heard about it from you.

15 MR. DUNN: Okay. I would have thought you would
16 have known about it also.

17 MR. SIMONETTI: I've never heard it.

18 MR. DUNN: Okay.

19 BISHOP TAYLOR: And I --

20 DR. KHALID: I just --

21 BISHOP TAYLOR: -- for the record, I've never
22 heard it either.

23 MR. SIMONETTI: And if I did hear it, I'd tell
24 you.

25 MR. DUNN: Okay.

1 DR. KHALID: I did not hear it. News to me.

2 MR. GITNER: I heard about it from you earlier.

3 MR. DUNN: All right. Very good. I hear what
4 people are saying. We'll see. I don't hear Tracy
5 saying, "I know nothing about it and if I did I
6 would tell you," but that's okay.

7 MS. CATAPANO-FOX: I haven't heard anything from
8 DOI about an investigation.

9 MR. DUNN: Okay. Okay.

10 MS. CATAPANO-FOX: Sorry.

11 MR. SIMONETTI: And they shouldn't be calling
12 you.

13 MS. CATAPANO-FOX: I don't think that they would
14 tell us. I think that's --

15 MR. SIMONETTI: Absolutely not.

16 MS. CATAPANO-FOX: -- the key.

17 MR. DUNN: Okay.

18 MR. SIMONETTI: It would tantamount to an EEO
19 complaint coming back to us.

20 MR. DUNN: Well, Tony, we can debate that some
21 other time.

22 MR. SIMONETTI: Well, they're not supposed to be
23 calling us. I don't know anything about it. I
24 never heard it before until you just said it.

25 MR. DUNN: Okay.

1 MR. GRANT, JR.: But, you know, it begs the
2 question, so if we did, what's the problem? What's
3 the issue?

4 MR. DUNN: What the issue is is that there is
5 nothing that is unlawful or improper about the fact
6 that somebody gave me that memo.

7 MR. GRANT, JR.: Okay. So you made your
8 comment. Then why are you standing here in a
9 threatening manner, like --

10 MR. DUNN: No, I'm not --

11 MR. GRANT, JR.: -- you have to demand it. I
12 don't understand that.

13 MR. DUNN: No, I'm not threatening anything.
14 What I'm saying is I think it would be a serious
15 issue if the Board or the Agency or, frankly, the
16 City were investigating people within the CCRB who
17 made available to the public a policy memo about a
18 significant police practice issue, namely, the
19 frisking of people in conjunction with summonses.

20 And, Dan, I was a little surprised by your
21 comments because I do think the Agency has to have a
22 position about whether or not that is misconduct or
23 not, and the pol -- the memo takes the position it
24 is not misconduct because frisk in those
25 circumstances are permissible as a matter of law.

1 So I think that's actually going to be dispositive
2 of what --

3 MR. GITNER: But the memo is limited -- the memo
4 is one lawyer's opinion, reading cases on an area of
5 law of which there is no court decision deciding one
6 way or the other. It's just one lawyer's opinion,
7 frankly, a well-written memo, in the context of a
8 single case. That's all it is. And it wasn't
9 distributed. It's not, as you keep saying, some
10 sort of recommendation to the Board to adopt a
11 policy. It's just not that.

12 MR. DUNN: I get that. I understand that.
13 Although, it was distributed within the Agency --

14 MR. GITNER: It was distributed to you.

15 MR. DUNN: No, no, no.

16 MR. GITNER: It wasn't distributed to me.

17 MR. DUNN: No, no. But it did -- let me -- rest
18 assured, the one person who did not give it to me
19 was the person who wrote it.

20 MR. GITNER: I understand that.

21 MR. DUNN: This got circulated within the
22 Agency, other people had it, okay. And the point is
23 that, what I am saying, is that even for that
24 particular case, okay -- I mean, you do this all the
25 time. You make decisions about substantiated cases

1 based upon your assessment of what is lawful or not
2 or what is permissible or not, for instance, under
3 the Patrol Guide, which is, Tony points out, is only
4 a guide. Although, cops who go through the trial
5 room and get fired for violating the Patrol Guide
6 might think it's a little more than a guide.

7 But the point is, it, at the very least for that
8 case, it takes a policy pos -- a pure legal
9 position. You've read that memo, it's purely a
10 legal memo. And I do think that it's not okay for
11 the Board simply to say, we're going to leave that
12 to somebody else because, by virtue of the
13 complaint, you had to make a decision about whether
14 or not to substantiate that complaint. And that
15 memo determined whether or not -- I assume, though,
16 I know nothing about the particulars of the case --
17 that the complaint in that case was substantiated or
18 not. So it does take a position. And it's
19 guided --

20 MR. GITNER: On the facts of that case.

21 MR. DUNN: Well, there are no facts in the memo,
22 Dan.

23 MR. GITNER: Right, because you didn't get the
24 entire folder. But under the facts of that case,
25 the panel made whatever decision it made. And under

1 the facts of another case, that panel or a different
2 panel will make whatever decision it makes, and it
3 may or may not be the same. It's a totally
4 fact-driven decision.

5 MR. DUNN: Okay. Well, then I don't know what
6 the point of the legal memo was, but I hear what
7 you're saying. We'll see where it goes. Okay.

8 BISHOP TAYLOR: All right. Seeing that there's
9 no more public comment, this meeting is --

10 MR. MARTIN: Wait, wait --

11 MS. NAHAL ZAMANI: I'm sorry, excuse me.

12 MR. MARTIN: -- a minute. Ms. --

13 BISHOP TAYLOR: Oh, did you sign up?

14 MS. ZAMANI: I'm sorry, I did not.

15 MR. MARTIN: That's okay.

16 BISHOP TAYLOR: Okay. State your name and --

17 MS. ZAMANI: Sure. Nahal Zamani with the Center
18 for Constitutional Rights. I'm the --

19 MR. SIMONETTI: Could you come up so I can see
20 you?

21 MS. ZAMANI: -- advocacy program manager here.
22 Sure.

23 MR. SIMONETTI: Thank you.

24 MR. MARTIN: And so that the stenographer can
25 hear you.

1 BISHOP TAYLOR: Can you just sign the...

2 (Whereupon, Nehal Zamani complies.)

3 MS. ZAMANI: Thank you.

4 MR. GRANT, JR.: Thank you. Get some diversity
5 here in comments.

6 MS. ZAMANI: So I have some questions and maybe
7 some comments. This is my first CCRB meeting, so
8 I'm sorry for obstructing the process, but trying to
9 participate in it.

10 I wanted to know a little bit more about the APU
11 report. I saw there was about -- is it just the two
12 pages in here or is it a longer report? I haven't
13 checked your website from today.

14 MS. CATAPANO-FOX: In terms of the pro --

15 BISHOP TAYLOR: It's more than two pages.

16 MS. ZAMANI: It's more than two pages.

17 MS. CATAPANO-FOX: In terms of the process, we'd
18 be happy to talk to you --

19 MS. ZAMANI: Okay.

20 MS. CATAPANO-FOX: -- about any questions you
21 have.

22 MS. ZAMANI: Great. So specifically --

23 MS. CATAPANO-FOX: Typically this is a public
24 comment where the public makes comments --

25 MS. ZAMANI: Okay.

1 MS. CATAPANO-FOX: -- about what's happening
2 with the Board.

3 MS. ZAMANI: So, you know, I haven't read the
4 report in its entirety, I've just gone over the two
5 pages, but, you know, I think it would be
6 interesting to see, I notice that in the CCRB's
7 monthly reports, just in the last month or two,
8 we've seen the modification pleas by the Police
9 Commissioner. It's been a small number, but I'd
10 still be interested in finding out a little bit
11 more. So to the degree that the MOU allows you to
12 make any information about that more public to get a
13 sense if there's any patterns or practices in these
14 modifications, it might be helpful to make that
15 public if that's something that the Board can do.

16 For example, and I'm just speaking off the top
17 of my head here, if our Police Commissioner of the
18 NYPD were to be modifying pleas in which cases only
19 the officers were white and always the complainants
20 were black, and that were happening in 90 percent of
21 the pleas that he was ultimately modifying, and that
22 number was beyond three, but, you know, something
23 more statistically relevant, that might be something
24 that we should know about as the public. So that
25 would be just one example.

1 So if that information could be, if it's not
2 already in the report, made more detailed and have
3 some more analysis made available, that would be
4 great. And I do urge more consistent reporting on
5 this modification of pleas if it does continue to
6 happen.

7 MR. SIMONETTI: That sounds like a question for
8 the Police Commissioner. You're asking on
9 modifications?

10 MS. ZAMANI: I'm asking on if you guys have
11 information such as a written explanation
12 or information about the details of cases --

13 MR. SIMONETTI: Are you talking about placing
14 someone on modified assignment? Is that what you're
15 talking about?

16 MS. ZAMANI: No, I'm sorry.

17 MR. SIMONETTI: Modifying the recommended
18 discipline?

19 MS. ZAMANI: Exactly.

20 MR. SIMONETTI: Okay. Do you also know that the
21 Police Commissioner is the final arbiter --

22 MS. ZAMANI: Absolutely.

23 MR. SIMONETTI: -- of discipline --

24 MS. ZAMANI: Yes.

25 MR. SIMONETTI: -- in the Police Department?

1 MS. ZAMANI: Yes.

2 MR. SIMONETTI: Regardless of anybody else
3 who's -- has recommendations and adjudic --

4 MS. ZAMANI: I understand that.

5 MR. SIMONETTI: He is the final arbiter.

6 MS. ZAMANI: Yes.

7 MR. SIMONETTI: And, by the way, I must tell
8 you, apart from the Police Commissioner, it has to
9 remain that way because I held that position. It
10 has to be that way. Because in the military it's
11 the same way, the commanding officer has to be the
12 person. And I know the whole issue about the cases
13 of rape in the military and I've been listening to,
14 on C-SPAN, all those discussions, but there has to
15 be that the Police Commissioner has to be the final
16 arbiter.

17 MS. CATAPANO-FOX: I think Commissioner
18 Simonetti makes a good point. And in terms of
19 our -- right now we've only had three --

20 MS. ZAMANI: Yeah.

21 MS. CATAPANO-FOX: -- come back, so we do annual
22 reports, we do semiannual reports. The Executive
23 Committee and the Board reviews them very carefully.
24 There are FOIL requests that can be made --

25 MS. ZAMANI: Okay.

1 MS. CATAPANO-FOX: -- with regard to obtaining
2 information about cases, so that's a method by which
3 you can proceed. But I think that as the year goes
4 on and we get more determinations from the Police
5 Commissioner, I think the Board will be in a better
6 position to decide in terms of what information we
7 can present and how we can present it in the
8 reports.

9 MS. ZAMANI: And I would just urge that the
10 Board, to the degree that it can through the MOU,
11 make as much information public just in case we're
12 seeing an emerging issue. I think that would be
13 really compelling for the public to have a really
14 wholistic understanding of what's happening. And
15 that's, you know, just given the scope of the MOU
16 and the agreement that you have and any written
17 explanations that you may have or actually some
18 detailed information about those cases, which you
19 do, to some degree, of course, identifying and
20 lifting the identifying information made public, if
21 we can have a little more sense of what's happening
22 here, that would be great, if it's not already
23 contained in the report.

24 As for the conversation around the new NYPD, and
25 I believe it's a policy, but I do have to check if

1 it's an order or not, regarding the collection of
2 condoms as evidence. Wherever this Board may land,
3 I think any type of consistent tracking that you can
4 have would be really helpful. Because there are
5 times that the NYPD changes things that it does
6 either in the light of the law or the consideration
7 of the impact it has on New Yorkers, right, and then
8 it doesn't go by that; that is, it doesn't trickle
9 down to the behaviors and interactions that
10 individuals have with officers.

11 So if that is happening, any type of whatever
12 you may land on, how you -- if you land on
13 identifying as an abusive authority, in terms of
14 tracking of complaints, whatever you do, if you can
15 do that consistently, that really helps us ensure
16 that this is not an ongoing issue, which it has
17 consistently been. And with a particular disparate
18 impact on LGBTQ people and individuals of color and
19 transgender individuals.

20 And as you're conducting your policy review,
21 proposed policy review regarding filming of
22 individuals in police interactions, one suggestion
23 may be or one comment may be to consider the
24 escalation of either force or possibly misconduct in
25 association with the presumed or actual filming of

1 incidents. So that if individuals either being
2 stopped by or interacting with law enforcement or
3 others on the street are engaging in a lawful
4 filming of activities, are you guys seeing the
5 escalation in misconduct, are you seeing an
6 escalation in the use of force, are you seeing a
7 disproportionate or incorrect escalation in the use
8 of force; therefore, if someone filming my
9 interaction with a cop 20 feet away, has the cop
10 react in whatever way, but that reaction, whatever
11 it may be, may be actually thwarting the appropriate
12 levels of force that are expected for that level of
13 interaction.

14 And, lastly, I mean, this is more of a personal
15 comment, but I can't imagine that if someone had a
16 gun drawn on my face, or, you know, to my head as I
17 was laying down on the ground and, you know, a boot
18 presumably was on my neck, that I might
19 automatically feel safe enough to go into a
20 mediation. So as you guys are representing the
21 interests of New Yorkers, a personal plea, and not
22 for me as an advocate but for me as an individual,
23 might --

24 MR. SIMONETTI: Nobody's -- I did not --

25 MR. GRANT, JR.: Nobody said that.

1 MR. SIMONETTI: -- suggest that.

2 MS. ZAMANI: Maybe just to consider --

3 MR. SIMONETTI: I did not suggest that.

4 MS. ZAMANI: Maybe just to --

5 MR. SIMONETTI: This is not a drama course.

6 This is real life stuff.

7 MS. ZAMANI: Sure. If I could just complete my
8 comment.

9 MR. SIMONETTI: Yeah, but, please, don't take it
10 out of context.

11 MS. ZAMANI: Absolutely.

12 MR. SIMONETTI: You're talking about somebody
13 pointing a gun in your face with his boot on your
14 neck.

15 MS. ZAMANI: Sure.

16 MR. SIMONETTI: That is not what I talked about.

17 MS. ZAMANI: So in cases of guns being drawn,
18 it's not always a pleasant experience for whomever
19 might be there. And so if you have individuals who
20 are having a gun drawn on them by a member of law
21 enforcement, by someone that is sworn in to serve
22 the public, it can be assumed that they may not feel
23 safe going into a mediation space, irrespective of
24 how particularly stellar your mediation teams may
25 be. So I just wanted to put that out there.

1 MR. GITNER: Can I just say, so it's clear the
2 public --

3 BISHOP TAYLOR: Thank you so much.

4 MR. GITNER: -- understands, I don't think
5 anybody was saying that if somebody gets a gun
6 pointed at them and then makes a complaint, they're
7 being forced into mediation. I don't think anybody
8 suggested that.

9 MS. ZAMANI: My understanding was that you were
10 talking about the possibility of opening up the
11 opportunity for mediation, should those individuals
12 be opened to it, right?

13 MR. SIMONETTI: I suggested that. Exactly.

14 MR. GITNER: Should they choose it.

15 MS. ZAMANI: Right. Okay.

16 MR. GITNER: Not just be open to it --

17 MS. ZAMANI: Yeah.

18 MR. SIMONETTI: Yes.

19 MR. GITNER: -- should they choose it.

20 MS. ZAMANI: Yeah. And I think --

21 MR. GITNER: That's all.

22 MS. ZAMANI: -- I think my feelings on that,
23 personally, would probably echo that of Chris
24 Dunn's, in that, you know, this -- it may not be
25 something that is even felt like a choice because

1 the experience may not be -- may be so problematic
2 and so traumatic for the individual that it might
3 even have some ramifications on perceptions of your
4 guys' ability to do the work that you're doing, the
5 mere suggestion of it. So I just wanted to offer
6 that.

7 DR. KHALID: But the public, if a person
8 individually wants to accept that, you may not
9 accept, but the other person might want to accept
10 and --

11 MS. ZAMANI: Absolutely, yeah.

12 DR. KHALID: That's what Tony Simonetti --

13 MS. ZAMANI: And I don't want to -- I only spoke
14 for myself, how I would feel if, you know, a gun was
15 on me. I wouldn't want to make any comments about
16 all of the public, all of New York.

17 MR. SIMONETTI: Have you ever been confronted
18 with that?

19 MS. ZAMANI: No, I haven't. But I can't imagine
20 it's very nice. I have had interactions --

21 MR. SIMONETTI: Have you ever been shot at?

22 BISHOP TAYLOR: Excuse me. Can I just say --

23 MS. ZAMANI: Yes.

24 BISHOP TAYLOR: -- are you finished with your
25 public comment?

1 MS. ZAMANI: Absolutely. I tried to finish a
2 couple of minutes ago.

3 BISHOP TAYLOR: Let me just say for the record
4 --

5 MS. ZAMANI: Yeah.

6 BISHOP TAYLOR: -- that, just so that no one is,
7 you know, thwarted from giving public comment, the
8 purpose of public comment is so that you can make
9 public comment without fear of retribution or
10 challenge. And so I want to thank you for your --
11 is it Thamani or Tama -- Ta -- how do you pronounce
12 that?

13 MS. ZAMANI: My last name's Zamani.

14 BISHOP TAYLOR: Zamani. Right.

15 MS. ZAMANI: Yes.

16 BISHOP TAYLOR: Thank you so much, Ms. Zamani.

17 MS. ZAMANI: Thank you.

18 BISHOP TAYLOR: All right. This meeting is
19 adjourned.

20 (Whereupon, the hearing concluded at 11:48 a.m.)
21
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