

Public Board Meeting of the CCRB January 9, 2013

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2 Public Board Meeting of the

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4 Civilian Complaint Review Board

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7 Wednesday, January 9, 2013

8 10:00 AM

9 209 Joralemon Street

10 Brooklyn NY

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13 DANIEL D. CHU, ESQ., CHAIR

14 JOAN M. THOMPSON, EXECUTIVE DIRECTOR

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17 PUBLIC MEETING AGENDA:

18 1. Call to Order

19 2. Adoption of Minutes

20 3. Report from the Chair

21 4. Report from the Executive Director

22 5. Committee Reports

23 6. Old Business

24 7. New Business

25 8. Public Comment

Public Board Meeting of the CCRB January 9, 2013

1 BOARD MEMBERS PRESENT WERE:

2 Dr. Mohammad Khalid

3 James Donlon, Esq.

4 Youngik Yoon, Esq.

5 Janette Cortes Gomez, Esq.

6 Rudolph Landin

7 Tosano J. Simonetti

8 David G. Liston, Esq.

9 Bishop Mitchell G. Taylor

10 Hon. Mary Ellen Fitzmaurice, Esq.

11 Alphonzo A. Grant, Esq.

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1 THE CHAIR: - We're having more than a momentary  
2 glitch with the recorder. Okay. I'm going to call this  
3 meeting to order. I want to thank the Brooklyn Borough  
4 President for his hospitality in allowing us to use  
5 this, this wonderful room. It feels like a, an  
6 old steakhouse or something, but,...

7 MS. JOAN THOMPSON: Feels like Peter Luger.

8 THE CHAIR: Peter Luger, yes. Okay, the first order  
9 of business is the adoption of the minutes. Because  
10 of CTS being down, we, have not had the minutes  
11 for October, November and for last month's December  
12 either. Once we, we have CTS up as I will let you know.  
13 We do have October's board minutes but I don't think there  
14 was ample time for the board to review it, so in lieu  
15 of doing it piecemeal, I think what we'll do it when  
16 we will have October, November, December and hopefully  
17 January and adopt all of them at the next meeting so  
18 that everyone has a thorough opportunity to review all  
19 four. October is now in your package, so you, you all  
20 have a hard copy of it.

21 Okay, in terms of the report from the Chair,  
22 I'm going to start with, a report on operations.  
23 At this point, there's been a lot of back and forth.  
24 We've tried to stay on top of what the situation is.  
25 And not surprisingly, the situation seems to change

1 from day to day and sometimes an even shorter  
2 interval. Consequently, it's still unclear as  
3 to when we will be returning to 40 Rector Street.

4 At this point, it's my understanding that some of  
5 the other smaller agencies have already returned to  
6 40 Rector Street, and that others will be  
7 continuing to do so.

8 The issue seems to be that phone service is  
9 still lacking at 40 Rector Street, so that's our main  
10 challenge. Our main challenge at this point is to get  
11 phone service up and running so that the staff  
12 can conduct their daily activities. Towards that  
13 end, we have been working with DoITT to explore some  
14 options. Some of the options may be to go with  
15 Voice over IP if Verizon cannot give us a date certain  
16 as to when phone services will be restored.

17 Along those same lines, there's been several meetings  
18 between our agency and FEMA to discuss the possibility  
19 of how we can be reimbursed for some of the expenses that  
20 were incurred as a result of superstorm Sandy. And as  
21 we previously mentioned, there was the loss of most of the  
22 agency cars and a significant amount of supplies that were  
23 located in the basement at 40 Rector and certainly  
24 there have been associated costs and incidental  
25 costs with making the move to 1 MetroTech Center.

1 I have asked that the staff keep the board  
2 informed of what the expenses and costs are, so  
3 that we can make well-informed decisions and  
4 to again, as the stewards of, the limited resources,  
5 we should try to exercise some restraint and, and  
6 fiscal responsibility in terms of our expenditures,  
7 particularly at 1 MetroTech, because at the end of  
8 the day, we don't know how long we're going to be  
9 there. But, what was very important was that  
10 we're able to restore our daily activities, conduct  
11 interviews, reach out to the complainants and, and do  
12 similar activities to get back as close to  
13 normalcy as we can under these, disruptive circumstances.  
14 I also think it's important for us to come  
15 up with a contingency plan, just in case there is  
16 a similar situation so that the interruptions would  
17 not be as dire as they were this time. And, and part  
18 of that may be to have redundancy in the  
19 servers and have a server in a remote location that  
20 hopefully would not be affected by things occurring  
21 in our one locale at 40 Rector.  
22 Now turning to investigations, CTS is now up  
23 and functional. All the cases that we received during  
24 the period of time that the agency was closed have now  
25 been entered into the system of CTS and all the cases

1 have been assigned to investigators. Investigators,  
2 as I mentioned, have phones, computers etc. I think  
3 we're still working on setting up the fax machines and I  
4 think we had an issue with the copier, mostly due to the move,  
5 but that's being addressed.

6 Civilian interviews have begun. Officer  
7 interviews will be scheduled to begin on January  
8 14 and other aspects of our daily activities are  
9 returning to normal. We are resuming our document  
10 requests. We've started receiving documents again  
11 from IAB, as well as from our NYPD liaison unit, and  
12 we're also back to serving subpoenas and everything  
13 is, is slowly but surely, getting back  
14 up and running and returning to normal.

15 In terms of our staffing numbers right now,  
16 the Investigation Division has an authorized headcount  
17 of 113 and we currently have, that's 113  
18 investigators, including managerial staff. And we  
19 currently have 107 investigators on staff. We're  
20 continuing our recruitment of qualified candidates and  
21 Level 2's and we're looking to fill those vacancies as  
22 quickly as possible.

23 The Deputy Executive Director of Investigations,  
24 Denis McCormick has also informed me that we will be,  
25 excuse me, are in the process of, of posting for

1 promotional opportunities, seeking qualified  
2 candidates for level two investigator promotions.  
3 The Executive Director Joan Thompson will give you,  
4 additional detailed information about complaint  
5 activity, the docket size, which has not surprisingly,  
6 really exploded with the aftermath of Sandy,  
7 the age of the cases, the number of cases pending  
8 board review and other relevant matters in that  
9 regard.

10 I also wanted to thank the board members, many of  
11 whom have stepped up to do emergency SOL  
12 panels to ensure that these cases that are where the  
13 statute of limitations is looming, gets over to PD  
14 as expeditiously as possible. And I want to thank the  
15 investigators, for also, really doubling  
16 their efforts and in some cases doing oral presentations  
17 to the board. And, just so you know they have been  
18 really trying to pull it together in order to  
19 make sure that the cases don't fall by the wayside  
20 or through the cracks.

21 So, let's see. In terms of mediation, the Mediation  
22 Unit is now scheduling mediations, reaching out to  
23 civilians and officers. And all steps of the process  
24 are now fully functional. The traditional training program  
25 offered by Columbia is available now to a select number

1 of our investigators and so we're looking to get  
2 additional people trained in mediation.

3 In terms of the Outreach Unit, there is now a  
4 report that's available for the board to review. The  
5 unit began to get back to outreach again on November  
6 14th 2012. It's conducted eight sessions since that  
7 date and many other sessions are currently scheduled.  
8 So despite the hardships and challenges in 2012, the  
9 Outreach Unit conducted 109 outreach sessions. So  
10 while that number is less than , falling short of the,  
11 the unprecedented number that we did in 2011, under the  
12 circumstances, I think that's, that's still a pretty  
13 good and respectable number.

14 In terms of budget, I've been informed that  
15 there is no January plan, which means that then  
16 most likely there will not be any additional  
17 budget actions until the later executive plan. Therefore,  
18 the numbers that we have are the numbers that we should  
19 remain at and able to work with.

20 Moving to reporting, we've gained again  
21 access finally to CTS, our database, and we've been  
22 working on three primary projects, the preliminary  
23 MMR, which will be available soon, the preparation  
24 of a monthly Executive Director report for October  
25 through December, which I think you already have



1 for October, but not the others.

2 MARCOS SOLER: No, we have all of them.

3 MS. THOMPSON: Yes, up to and including December.

4 THE CHAIR: Okay. So, so you will get that

5 as soon as I turn the table to Joan. For the record, we are

6 working on the completion of the semi-annual report,

7 which hopefully will be submitted to the committee by

8 January 15. Okay. I'm going to turn it over now

9 to Joan Thompson, who is going to give you the report

10 from the Executive Director.

11 MS. THOMPSON: Okay. Good morning. I'm going to

12 start with where Dan left off, speaking about the damage

13 the agency suffered as a result of Hurricane Sandy. Our

14 expenditures so far, and this is with OMB approval, have

15 been over \$110,000, most of which was spent on the cabling,

16 the new phones and the networking of the system. We are now

17 in a temporary space, but, we're still doing rotation of staff

18 because there's not enough space, but, what we've

19 recently learned that the other part of the floor that

20 they were saving for another agency to come in is now

21 available. But we're still faced with the same thing.

22 There's no computers, proper cabling or phones.

23 So if we were to move to the other half, which

24 would mean that probably about 90% to 95% of our staff

25 would be sitting five days a week in 1 MetroTech, with the

1 staff not rotating like they're doing now. It's probably  
2 going to cost us another \$50,000 to \$60,000  
3 again to do the cabling and the phones, etc. So  
4 that's something that needs to be discussed. I'm  
5 thinking that, from our discussions with DoITT,  
6 DoITT is thinking of approximately three to four weeks  
7 before we can have phone service back up and running at  
8 Rector Street. My educated guess is let's extend it  
9 out a little bit. If they're saying three weeks,  
10 let's say six weeks. So I'm thinking probably the end  
11 of, February, beginning of March, before we'll  
12 be able to get back in 40 Rector.

13 As Dan has said that the other agencies, some of  
14 the smaller ones have begun to move back in and  
15 two are moving in, next week, but they are moving  
16 in without phone service. One is the Campaign  
17 Finance Board is one and I think OATH is the  
18 other one. We can't afford to do that, obviously.

19 But the City is paying rent, DCAS is paying rent at 40 Rector,  
20 so that's why they're anxious for us to get out of 1  
21 MetroTech because they're paying two rents for us,  
22 basically.

23 So all the city agencies are lumped in one  
24 lease, so it's not like ours is separate. So once  
25 they pay for the other city agencies, they're paying

1 for us as well. So they're continuously calling to  
2 see how we're doing and, and what's going on. But  
3 that's a thought for us if we're there another  
4 six weeks or eight weeks, do we want to spend  
5 that extra \$50,000 or \$60,000 to get the phones and  
6 cabling up at 1 Metro? But it would mean having all  
7 of our staff or just about all of our staff located  
8 there, rather than the rotation. And with the 600  
9 plus cases that have come in, obviously we need  
10 everyone on deck. So that's up to you guys.

11 All right. The report, as Dan has stated,  
12 are the statistics as reported from October through  
13 December. The CCRB received 1,272 complaints from  
14 October 1st to December 31st. This is 103 fewer  
15 complaints filed than in the same period of 2011, when  
16 the CCRB received 1,375 complaints. There was a 7%  
17 decrease in complaint activity for that period. We  
18 received 619 complaints in October, a 30% increase as  
19 compared to October of 2011. We received 297  
20 complaints in November, which is a 33% decrease as  
21 compared to November 2011. We received 356 complaints  
22 in December, which is also a 22% decrease as compared  
23 to December in 2011.

24 After Sandy, approximately two-thirds of the  
25 complaints received by the CCRB were filed with the

1 Police Department. Under normal circumstances, we  
2 receive about 45% of our complaints from the PD. Of  
3 the complaints filed with the CCRB directly, about  
4 two-thirds were filed over the Internet or via email.  
5 Complaints filed by phone have decreased substantially  
6 due to the fact that our 1-800 number has not been  
7 operational. For example, in October before Sandy,  
8 82% of complaints filed directly with the CCRB were  
9 filed by telephone. After Sandy, about one-third of  
10 all complaints filed with the CCRB directly were filed  
11 by the phone. In absolute numbers, we received 286  
12 complaints by phone in October and 43 complaints by  
13 phone in December.

14 THE CHAIR: Oh, excuse me, I just received this note  
15 from security that there seems to be a car that is  
16 blocking I guess the Borough President's spot,  
17 so if anyone has a black SUV, license plate New York  
18 State, (Chair gives plate number,) I think you'd better move  
19 it or lose it !!

20 DR. KHALID: Yes, that is me. I was told that it was okay.  
21 I thought they allowed parking there.

22 THE CHAIR: I'm sorry but you better move it.

23 DR. KHALID: The police officer said it was okay, we checked,  
24 Tony checked with him and he said okay.

25 THE CHAIR: [Interposing] Yes.

1 DR. KHALID: Okay, I'll move it.

2 THE CHAIR: Okay. Sorry.

3 MS. THOMPSON: You've found the guilty

4 party.

5 MR. TOSANO J. SIMONETTI: Lodge a civilian

6 complaint, laughing!!

7 MS. THOMPSON: Okay. Since November 7th,

8 instructions for how to file a complaint are posted on

9 our website, as well as the new phone number to call.

10 The city's three one one, 311 service also provides this

11 new phone number to call us. Just in case you want to

12 know, the new number is 212 392-4170. We couldn't give

13 you a harder number.

14 And during this past year, despite the disruption

15 of the last two months, complaint activity has

16 decreased by 2%. In 2012, we received 5,820

17 complaints, which is 144 fewer than in 2011, when we

18 received 5,964. The board, the board closed 4,344

19 cases in 2012. By comparison, in 2011, the board

20 closed 6,107 cases, a 29% decrease. The

21 substantiation rate was 15% of full investigations,

22 which is seven percentage points higher than in 2011,

23 when the substantiation rate was 8%. In 2012, the

24 board substantiated 187 cases and the truncation rate

25 was 65%, which was a 3% increase from the 2011 rate,

1 and the year-end truncation rate ended up  
2 being 62%.

3 In 2012, the CCRB had received 285 cases  
4 through the mediation program. The number of cases  
5 resolved by the Mediation Unit is 18% of the total  
6 number of cases resolved by the CCRB. In 2012, 7% of  
7 all closed cases have been mediation closures. The  
8 agency's docket at the end of December stood at 4,109,  
9 which is a 25% increase over the open docket at the  
10 end of September, which was 3,278. 92% of our open  
11 investigations were filed within the last year and 56%  
12 were filed in the last four months. Of the open  
13 cases, 935 are awaiting panel review, or 23% of the  
14 docket. 2,908 are being investigated and 267 cases  
15 are in the mediation program.

16 By date of incident, 41 cases in the open  
17 docket are 18 months and older, as opposed to 16 in  
18 September. This is 1% of the open docket. Two cases  
19 are or were on DA hold. 13 cases were filed months  
20 after the date of incident. In four cases, the delay  
21 has had no apparent justification and in one case,  
22 there is a complex set of circumstances that delayed the  
23 interview process. And in the last case, the officer  
24 is on military leave. 20 cases are pending board  
25 review.

1 From September through November, the Police  
2 Department closed 93 substantiated cases. From  
3 January to November, the department has closed 273  
4 cases and has imposed discipline against 195 officers.  
5 The department did not impose discipline against 75  
6 officers. 54 cases were dupes, 17 were SOL cases and  
7 four were not guilty after trial. The disciplinary rate  
8 is 72% and the department declined to prosecute rate  
9 is 20%. The guilty after trial rate is 72% and in  
10 cases in which the department pursued charges and  
11 specifications, the rate at which officers were found  
12 or pled guilty is 85%. Okay.

13 THE CHAIR: Thank you, Joan.

14 MS. THOMPSON: You are welcome.

15 THE CHAIR: Okay, moving on, are there committee reports?  
16 committee reports? To reiterate, as I previously  
17 mentioned, that the semi-annual is in progress, it is  
18 being worked on and the anticipation is that we should be  
19 getting it to the committee shortly. Okay, seeing no  
20 other committee reports, I'm going to move to old  
21 business.

22 The Deputy Chief of the Administrative  
23 Prosecution Unit has joined us, starting the  
24 first of this year. His name is Jonathan Darche. I  
25 don't think he's here right now because I think the

1 unit is in training. But, we welcome his  
2 addition. He joins us from the, District  
3 Attorney's office in Queens County.  
4 At this point, the unit is staffed with a  
5 chief, a deputy, seven prosecutors, a supervising  
6 investigator and a policy analyst. At this point,  
7 hiring is continuing as Laura Edidin and Jonathan  
8 Darche have continued interviewing candidates for the  
9 remaining positions. The available positions are  
10 currently still posted on our website. And, as I  
11 mentioned, they are all in training now, participating  
12 in the investigative training as we speak and I'm happy to  
13 report that, there have been a series of meetings  
14 now between our office led by Joan and Laura  
15 with the DAO, the Department Advocate's Office.  
16 So we are making pretty swift progress on  
17 some of the remaining issues that need to be ironed  
18 out in anticipation of the soon to be coming  
19 transition. And it's expected that the publication  
20 of the new rules will be very soon and that we're  
21 excited at the prospect. We have a great group of  
22 prosecutors. They're ready to roll. Soon, they're  
23 going to complete their training and at that point, I  
24 think the name of the game is, to adopt, adapt,  
25 improvise and overcome. It, it's a transitional



1 period. What we need is both agencies kind of coming  
2 together and as seamless a transition as possible,  
3 but, we are I think getting closer to ironing  
4 out what the final issues are. If there are  
5 certain issues that cannot be resolved at that  
6 time, we're going to find an alternative option by which  
7 to move forward.

8 So that's kind of where we stand with the  
9 APU. More to be reported shortly. Is there any  
10 new business or any other old business?

11 Mr. Simonetti?

12 MR. SIMONETTI: Yes, on the new business, I  
13 guess, in light of the recent decision regarding  
14 stop and frisk, first of all, can somebody kind of  
15 explain what that decision is specifically? And I  
16 think staff and Marcos particularly should  
17 start tracking and see if we can get some historical  
18 data first from CTS to see what it looked like  
19 previous to the decision and then track it going  
20 forward. And report on that each month to see what's  
21 happening with that. So first, could somebody give us  
22 like a clarification on exactly what that decision  
23 said?

24 THE CHAIR: I mean I know that we got that  
25 yesterday as part of a press package. I think, I

1 don't know if there's anyone in the room, that has  
2 read the entire 157-page decision. I know I read the  
3 the summary. And I know that both our agency,  
4 under the guidance of Marcos Soler, who is the  
5 Deputy Executive Director of Strategic Initiatives,  
6 and, Denis McCormick, the Deputy Executive  
7 Director of Investigations, have been monitoring  
8 this issue, even prior to the issuance of this  
9 decision.

10 We had an initial report on this, oh several months  
11 ago, when was that? Two years ago? A year  
12 and a half ago? And they have been following up on  
13 the data, and, they were certainly doing  
14 this independent from the court case. But that  
15 data is available and, I will, ask them to  
16 make that available so that the board is given  
17 the most latest updates.

18 In terms of giving a summary of that report,  
19 I don't know if there's someone here who has had an  
20 opportunity to read the decision, but in sum and  
21 substance, I think it just says that, the issues  
22 that we addressed in our report, which is that,  
23 there were some stops apparently that were happening,  
24 under the guidance of the clean halls or trespass  
25 affidavit-type cases were being done without the

1 predicate of any kind of reasonable suspicion.

2 So, in terms of the details of that, I

3 think the full decision was provided in our

4 packets and if there's anyone here, and I'm sure Mr.

5 Dunn, who has or may have some additional

6 information that he may want to share with us.

7 You know, I, I think that would be welcomed as well.

8 MR. SIMONETTI: Is it geographically limited

9 to certain parts of the city?

10 MS. THOMPSON: The Bronx.

11 MR. SIMONETTI: Just the Bronx?

12 THE CHAIR: It seems like it, and it seems to

13 coincide with some of the same places and I think

14 the same developments that were happening up in the Bronx

15 with the District Attorney's office and the stance

16 that they were taking.

17 MR. SIMONETTI: Does that impact also on

18 Manhattan because they're in the same southern

19 district?

20 THE CHAIR: Again, I think I'm going to, I'm

21 going to ask

22 MR. SIMONETTI: [Interposing] Okay.

23 THE CHAIR: I am going to allow the people that are

24 more intimately involved--

25 MR. SIMONETTI: [Interposing] Well, how does

1 it affect the rest of the city?

2 THE CHAIR: We will, we will find out.

3 MR. SIMONETTI: Okay. And is it confined

4 only to outdoors? I think a lot of the decision

5 was dealing with outside stops.

6 THE CHAIR: As soon as we get back to the new office at

7 MetroTech, I'm going to have someone print the 157

8 pages and any board member who wants a hard copy will

9 be given a hard copy.

10 BISHOP MITCHELL TAYLOR: Can you send it

11 electronically?

12 THE CHAIR: It can be sent electronically.

13 MR. SIMONETTI: I'd like a summary.

14 BISHOP TAYLOR: And prepare a summary.

15 THE CHAIR: That's true.

16 BISHOP TAYLOR: Counsel Daw.

17 THE CHAIR: We will do that.

18 BISHOP TAYLOR: Just a summary.

19 THE CHAIR: That's a good idea. Mr. Daw

20 would you be so kind as to prepare an executive

21 summary for the board?

22 COUNSEL DAW: Yes, that's fine.

23 MR. SIMONETTI: And maybe, Dan, maybe we

24 also should consider it because I mean it, it's

25 a major decision. Maybe writing a report after a

1 certain period of time, giving us the data prior to  
2 the decision and the data after the decision, maybe  
3 you should - - .

4 THE CHAIR: As, as I mentioned, we actually  
5 did a report, about a year and a half or two years  
6 ago.

7 MR. SIMONETTI: Yes, that's right.

8 THE CHAIR: There has been a follow-up and I  
9 think that, that's not going to be an issue. We  
10 have, we're already close to...

11 MR. SIMONETTI: [Interposing] Okay.

12 THE CHAIR: Being able to report on that  
13 even prior to the issuance of this decision.

14 MR. SIMONETTI: Maybe the reports committee  
15 could take a look at it.

16 THE CHAIR: Absolutely. Anything else?  
17 Being no new business, I'm going to turn this over to  
18 public comment. I don't see his name on the list, but I do  
19 see Mr. Dunn and I'm sure he's going to be clarifying  
20 any questions and details that were raised by  
21 Commissioner Simonetti.

22 MR. DUNN: So I know all about the case and will be happy  
23 to clarify it for you, Dan.

24 THE CHAIR: And that's what we love about  
25 you.

1 MR. DUNN: I want to start off by saying,  
2 you know, there's a spot there, Dan, for a portrait.  
3 (pointing to the wall) I think you'd look good there. Right?  
4 THE CHAIR: A painting?  
5 MR. DUNN: No, no, no. Not really, only kidding, all  
6 right, so Tony to answer your question. So yes, it's only  
7 in the Bronx. It is a lawsuit about a challenge to  
8 suspicious stops outside and inside buildings in the TAP  
9 program. The case is a citywide case. The case  
10 involved outdoor stops and indoor stops, but we went  
11 in for - - only on outdoor stops in the Bronx because  
12 the Bronx has most of the buildings and because the  
13 outdoor stops are the most frequent stops. So this is  
14 a preliminary ruling. There will be further  
15 proceedings about the rest of the city,  
16 both the indoor and outdoor stops.  
17 I think the one thing that should particularly  
18 concern the CCRB, and I understand you guys are  
19 a little bit in a difficult position being one  
20 of the agencies in the city, but the judge looked very  
21 closely at the department's training about stop and  
22 frisk, and that arose because the city's primary  
23 defense in the case was training, they came and they said,  
24 "We have fixed the problems, we have done a lot of  
25 training in the last year around stop and frisk."

1 and she looked at it and she said, "Well, not only  
2 does that not fix the problem , in fact it's making  
3 the problem worse." Because she found that there was  
4 a lot of trainings actually in the Housing Bureau in certain  
5 respects, didn't address clean halls at all.  
6 But also in some important ways - - police  
7 officers in ways that I think you may see some  
8 reaction to that. So most significantly, she pointed  
9 to a video that got played during the trial and which  
10 has been distributed to every single precinct in the  
11 city and shown to every single police officer in Housing in  
12 which an instructor says on screen in the video, "When  
13 uniformed officers approach someone and say, "Stop,  
14 police!!!" In the transcript, three exclamation points  
15 there, "Stop, police!!!" The instructor said, "That  
16 is not a stop for purposes of getting a 250 or for the  
17 requirement of having a legally required reasonable  
18 suspicion for a stop and frisk." The video said that is  
19 not a stop. You cannot even do a 250. You do not  
20 need to have a suspicion for a stop and frisk.  
21 There's no question that is a legal matter  
22 to stop. And indeed, Jimmy police officer on the stand  
23 recently had - - saw on video - - he said, "Well, of  
24 course that's a stop." Then the video got shown and  
25 there was some trouble. Um, and so one of the

1 concerns that the judge expressed was the Police  
2 Department was mistreating police officers about what  
3 is a stop and therefore which police encounters  
4 require the legal reasonable suspicion and which police  
5 encounter require the 250  
6 And - - were in this trial in two ways.  
7 First, you have twice in the annual reports pointed  
8 out a systemic problem with police officers - - you  
9 got to stop complaining. You figure out - - stop.  
10 You say to the department, "Give me the 250." You  
11 guys, you guys have access to the database. There's  
12 no 250. Time and time and time and time again.  
13 That's a big problem - big problem in the - - big  
14 problem in the - - .  
15 Yes, and secondly, Tony, you asked about the  
16 examination - - . The agency did do an examination of  
17 trespass - - testimony to City Council about trespass,  
18 primarily focusing on NYCHA stops and private  
19 buildings in TAP . And you testified as a result of  
20 looking at your files where police officers were  
21 stopping people on suspicion of trespass simply  
22 because they were walking into or out of one of these  
23 buildings. And you guys then went and met with the  
24 Department Advocate's Office and the Legal Bureau and  
25 I think, Katie Lamire as part of this.



1 THE CHAIR: I'm sorry?

2 MR. DUNN: Katie Lamire who's, you know, the  
3 Commissioner's

4 MS. THOMPSON: [Interposing]Special Counsel.

5 MR. DUNN: Special Counsel. And we have  
6 documents that have introduced in this trial, which -  
7 - the back of the CCRB investigation indicated that  
8 police officers believe they could just stop anybody  
9 and they hit a problem, they have to deal with that.

10 So you have sort of looked at that and I think it  
11 would actually be very helpful, as Dan suggested  
12 to look at what is happening with trespass-related  
13 stops . You're going to be getting this ,but  
14 you are in fact getting a piece of the action.  
15 Um, and I think the investigation and  
16 what you learn from the officers, is important  
17 in terms of getting at the basic problems, which is  
18 it's fine to stop people you suspect of trespass based  
19 upon something you observe that looks like trespass.  
20 But the fact that someone is walking out of a building  
21 or walking into a building, oftentimes where they  
22 live, is not a basis to stop them. And you can  
23 imagine these stops are not the friendliest  
24 encounters.

25 Okay, so that's why I deal with cases about -

1 In summary, there's a whole set of things that can  
2 happen about the citywide aspect of this. I think the  
3 Department, to the extent that they do anything,  
4 should start doing, you know, training, train  
5 people just in the Bronx. You would think that they would  
6 some supervisory training citywide because it is a citywide  
7 program. Technically, right now, it's ---- yesterday  
8 focuses just on outdoor stops in the Bronx.

9 MR. SIMONETTI: Now, this, Chris, it's my  
10 understanding when we submitted that report that  
11 we're speaking about and we, we sent a copy over to  
12 the department. As a result of that, there was a  
13 a patrol guide revision that was developed. And I  
14 think if I remember correctly, at the time, where it  
15 was also that in, with the issuance of that patrol  
16 guide revision, there was going to be additional  
17 training in terms of the officers to instruct them  
18 properly to, comply with that particular revision  
19 program. So.

20 MR. DUNN: - - that happened in part.  
21 You're absolutely right. There was a, was there a  
22 new, there were two new interim orders that went out  
23 last May. And the year before that, and I think this  
24 was probably a significant part of - - . The  
25 department had significant training within the Housing

1 Bureau because they were for some reasons I do not  
2 understand, they knew they had the exact same  
3 phenomenon happening in TAP as well as NYCHA . They  
4 chose only to do the NYCHAs. There was no training  
5 anywhere else.

6 Yes and the interim orders they issued in  
7 May of this year are generic stop and frisk orders.  
8 They pertain in some respects to the administration of  
9 the program and not the specifics of when you can stop  
10 people. And that's the sort of thing where you know,  
11 kind of we're halfway. We didn't actually deal with  
12 the hard problems . We're making the stops - -  
13 two years ago or a year and a half ago - - NYCHA  
14 trend, which I actually think was okay. And the NYCHA  
15 trend I think has made some difference and the NYCHA  
16 trespass - - actually - - .

17 This is not that complicated. But it  
18 shows for reasons I do not understand not to - - and  
19 that was part of why the judge said that it was a  
20 constitutional matter. It was a common sense matter.  
21 He said, "You've got a problem. Part of it is you  
22 have told them , and for whatever reason, they  
23 decided to limit what they were doing - - ."

24 MR. SIMONETTI: Did our report deal both  
25 with NYCHA and with the trespass affidavit buildings?

1 MR. MARCOS SOLER: Right, Yes, our report  
2 focuses on stops regardless of whether they were at the Housing  
3 Authority or at Clean Halls. And what we have done is  
4 to compare a number of cases from the period of time that we  
5 studied before, which was 16 months, to a number of case. We had  
6 from a new period, which is also 18 months. We are  
7 looking at data from two periods of 16 months so, for the purpose of  
8 comparison, we will be able to compare apples to apples,  
9 16 months before the training and 16 months after the  
10 training.

11 MR. DUNN: But the problem we have, Marcos,  
12 is the training, just to be clear, was NYCHA focused .

13 MR. SOLER: I believe so.

14 MR. DUNN: Yes.

15 MR. SOLER: I was addressing the concern--

16 MR. DUNN: [Interposing] Yes.

17 MR. SOLER: of the board member.

18 MR. DUNN: We'll have to deal with that.

19 THE CHAIR: And Marcos, you'll be able to  
20 have some more numbers for the board by next meeting,  
21 to update that report?

22 MR. SOLER: I think we will be able to report publicly  
23 We have a preliminary report but I prefer not to report  
24 to the board members now our findings based on my recollection.  
25 Yes, it's much better to provide you a written report, the

1 cases that we had evaluated and obviously we'll be  
2 able to compare the 16-month period we had reviewed before to the  
3 new period. Then The board can make determinations from  
4 there. We will prefer to disseminate that information  
5 to the Recommendations Committee so they could review it  
6 and then bring it to the full board.

7 MR. DUNN: The only comment I would add to  
8 that is I know, and would suggest or otherwise separate  
9 NYCHA stops from stops, but I think it's  
10 important information given that the department -  
11 - there was two categories of stops - - there are  
12 already thousands of police in the city - - we're  
13 talking a lot - - . Um, worse - - .  
14 All right. Um, I don't really have much  
15 more to say. In terms of the report, I feel that in the  
16 ED's report, I think it's really important that we do  
17 some thinking here that it is indicated that the numbers  
18 from November and December come at a time when the  
19 agency was practically shut down. I say that for two  
20 reasons. One, the complaint numbers, while I don't  
21 swear to it by virtue of the complaint number being down  
22 that there are a whole lot of complaints out there that  
23 never got made because there was no way to make them.  
24 And if this complaint just lives in agency history as  
25 down, it's going to look like something very different

1 was happening - - .

2 And so I think we need there to be something  
3 added to report, particularly for November and  
4 December numbers ,clear that up.

5 THE CHAIR: Just to be clear, my understanding  
6 was that Marcos, you know this better  
7 than anyone else here, there were still complaints that  
8 were being registered online and by email. Correct?

9 MR. SOLER: Let me clarify. There was a  
10 period of time in which the only way to file a  
11 complaint was either at a police precinct or with  
12 Internal Affairs, not with the CCRB. For a while, we  
13 were not able to receive phone calls. On November 7,  
14 we set up an alternative number is the 212 number  
15 as opposed to our regular 800 number. The 800 number is well  
16 known to people. When you call 311, 311 transfer  
17 calls from 311 into the 800 number. 311 right now  
18 does not have the ability to transfer calls from the  
19 311 number into the 212 number, so what they do at 311  
20 is they tell people, "Please call this number."  
21 And obviously it seems that the 800 number  
22 is more appealing to people than when 311 tell people, you  
23 know, when there's a direct transfer than when people  
24 have to make two calls. So we, we are aware of that  
25 problem, but, as of now, there is no way we can solve that.

1 People have been able to file complaints over the  
2 Internet all along. We know that, it's simple. We know that  
3 just about 10% of all complaints are made to the CCRB by email.  
4 The number has increased obviously over a period of time, but  
5 through different ways, people have been able to file  
6 complaints. You are correct that the preferred way in  
7 which people file complaints with us is by  
8 phone. The phones were down for a period of time and  
9 certainly were not fully operational as we would like to  
10 have it.

11 I fully agree with that. It's, it's just that we  
12 have not been able to restore the 1800 services.

13 MR. DUNN: I'm not, I'm not faulting you.

14 MR. SOLER: No, no, I am not explaining to you.

15 MR. DUNN: You have--

16 MR. SOLER: [Interposing] Again, I was  
17 referring to the Chair comments.

18 MR. DUNN: You have drops in complaints of  
19 like 30%, 40%. That's not because there was a  
20 drop of 30%, 40%. It's just because people couldn't  
21 file complaints in the way, not that they preferred  
22 to, but they had to. I just think that it is  
23 misleading to give this report without some indication  
24 of that reality. And second, in terms of, uh, in the,  
25 look, I've seen you guys have been under siege. I, I,

1 I'm not complaining about the investigative issues. I  
2 understand them completely. Yes, and the fact that  
3 there have been - - special implications - - calendar  
4 listing - - still going up and I feel like there's got  
5 to be some continuing emergency action to deal with -  
6 - . Uh, if nothing else, uh, for obvious reasons - -  
7 .

8 Uh, Joan, I was confused about one thing. I  
9 thought you said there were 176 total subcases for the  
10 year. I thought I saw 187.

11 MR. SOLER: It's 187.

12 MR. DUNN: Yeah. Okay, maybe I misread it. I  
13 just wanted to make sure that.

14 MR. SOLER: It's 187 .

15 MR. DUNN: Okay. and then the dup  
16 rate, you know, I say this every time, but I'm going  
17 to say it again. We're back to 20%. You know, there  
18 was a time when it looked like that was going down.  
19 It's not been an issue. I continue to want to see the  
20 dupe rate go down, but now 20% of the cases are getting  
21 duped. Something's going on, either your end or their  
22 end, I don't know which, but, again, you mentioned  
23 the semi-annual report, which I'm always happy to hear  
24 about, but what I do want to urge, and I know you guys  
25 are scrambling with other things, the annual report,



1 last year's came out in August 2012 for the 2011 year.  
2 If there's any way possible that you guys can get on  
3 track with the annual report so that it comes out in a  
4 more timely fashion - - everybody - - the agency.  
5 And then two other things, at the last  
6 meeting, Dan, you reported about in a very skeletal  
7 way the meeting you would have with the police  
8 commissioner. And I said I thought it was somewhat skimpier  
9 report than you had done a year ago. Check the minutes. I  
10 don't know if you guys had a chance to do that. I  
11 would think that the public is more worried about  
12 police commissioner and the topics that were discussed -  
13 - worry about this - - . Um, so I just - - uh, and I  
14 hope maybe somebody will be able to pull the minutes  
15 from - - a year ago - - report maybe the next meeting  
16 - - .  
17 Yes, and then finally, Tony, you a couple of  
18 months ago or several months ago raised the issue  
19 about the agency getting back in the business of doing  
20 some policy examination. And the position - -  
21 trespass arrest - - I did not hear any reporting about  
22 what may be on the list for potential policy issues to  
23 examine, but once the dust settles or the water  
24 recedes, I'm hoping that, that something surfaces - -  
25 start looking at the policy issues.

1 THE CHAIR: Okay, thank you. There's no one  
2 else that, uh, is signed up for public comments?

3 Well, there is. Going once, going twice?

4 MR>JONES: Oh, City Hall, they, they said  
5 that your website only indicates limited access about  
6 the agency, you know, the next month's location. That, you  
7 know, they don't, know your website doesn't say  
8 anything about where the next meeting location will be.

9 THE CHAIR: It, it has not been determined  
10 yet. So as soon as it is, it will be updated on the  
11 website. And so, so please keep checking back.  
12 It, it will be posted as soon as it's determined where  
13 it's going to be. There's nothing further? We're  
14 going to break.

15 MR. SIMONETTI: Dan, just one clarification.  
16 Joan.

17 MS. THOMPSON: Yes.

18 MR. SIMONETTI: You said that there was a  
19 30% increase of cases in October, a 33% decrease in  
20 November and a 22% decrease in December. Is that?

21 MS. THOMPSON: Yes, that's correct.

22 MR. SIMONETTI: Okay. So my question would  
23 be the storm was when? The 27th of, of October? Uh,  
24 the 26th, the 27th. I'm just concerned what,  
25 what's the 30% figure? Is that a backlog of cases

1 that we couldn't get to because of the hurricane?

2 MR. SOLER: No, no, no. Can I answer that?

3 MS. THOMPSON: Yes.

4 MR. SOLER: Tony, in terms of complaint

5 activity, starting in July, we started to see an

6 increase in complaint activity compared to the similar

7 periods of time in 2011. So July, August,

8 September and October - they all reflected higher

9 complaint activity than the year before. So in

10 October, what happened was that in the first three or four

11 weeks of October, when we were operational, we received

12 close to 100 cases more than we did in the same

13 period of 2011. So even if the last few days of October, we were

14 closed, and we did not receive as many complaints as

15 usual, we had so many complaints that we had received

16 in the early part of October, that the result was that complaint

17 activity increased for October.

18 But when we go back through our cases, the cases we

19 took, we take the cases based on the day in which the

20 person filed a complaint. We don't put them in

21 particular month or another. You file a complaint,

22 you call us today to file a complaint and that's when we

23 enter the complaint. And that is the way we are

24 reporting it .

25 MR. SIMONETTI: Is there any, is there any

1 discernible reason why we had such a tremendous  
2 increase in the first three weeks? I mean is, is it,  
3 as you look at the cases -

4 MR. SOLER: We, we can look at including  
5 another report, it, that, as I said, that trend in  
6 October, we had a similar increase in the last four  
7 months and we certainly can take a look and determine  
8 what kind of activity changes we are seeing.

9 MR. SIMONETTI: But then we had a 33%  
10 decrease in November.

11 MR. SOLER: Yes, we saw that and we  
12 would point out as a result of the fact that--

13 MR. SIMONETTI: [Interposing] 22% decrease.

14 MR. SOLER: --the 800 number was not working  
15 and the same should be said about December. We have seen an  
16 an increase in December in part because, people have  
17 been able to call more through the 212 line  
18 than they did, you know, in November.

19 THE CHAIR: Anything further? Let's break  
20 until the second session.

21 [END OF HEARING]

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1 C E R T I F I C A T E

2

3 I, Caroline Murphy, certify that the foregoing transcript  
4 of proceedings in the transcript was prepared using the  
5 required transcription equipment and is a true and  
6 accurate record of the proceedings.

7

8 Signature:

9 Date: January 14, 2013

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