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Public Board Meeting of the
Civilian Complaint Review Board

Wednesday, February 13, 2013
10:00 a.m.
40 Rector Street - 2nd Floor
New York NY 10006

Daniel D. Chu, Esq., Chair
Joan M. Thompson, Executive Director

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

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15 BOARD MEMBERS PRESENT WERE:

16 TOSANO J. SIMONETTI

17 YOUNGIK YOON, ESQ.

18 ALPHONZO GRANT, ESQ.

19 BISHOP MITCHELL G. TAYLOR

20 JANETTE CORTEZ-GOMEZ, ESQ.

21 JULES A. MARTIN, ESQ.

22 RUDOLPH LANDIN

23 DR. MOHAMMAD KHALID

24 JAMES DONLON, ESQ.

25 DAVID LISTON, ESQ.

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CHAIR CHU: The first order of

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business is the adoption of our

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previous board minutes. We have

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several. We have October, November,

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December of 2012 and January of 2013.

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Obviously, the reason for that was our

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servers were down for a significant

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portion of that time. But I hope that

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every board member has had a chance now

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to review those minutes.

12

Let's take a vote. Let's, I

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guess, do them one at a time in case

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there's any need for amendments.

15

Do I hear a motion for the

16

October 2012 minutes?

17

MR. LISTON: So moved.

18

CHAIR CHU: Is there a second?

19

MS. CORTES-GOMEZ: Second.

20

CHAIR CHU: Okay. All those in

21

favor of adopting the October 2012

22

minutes, please say "aye."

23

ALL MEMBERS: Aye.

24

CHAIR CHU: Any objections? Any

25

abstentions?

1 Okay. The October 2012 minutes
2 are adopted.

3 Moving on now, the November 2012
4 minutes, is there a motion?

5 BISHOP TAYLOR: So moved.

6 CHAIR CHU: Okay. Is there a
7 second?

8 MR. LISTON: Second.

9 CHAIR CHU: Okay. All those in
10 favor of adopting the November 2012
11 minutes, please say "aye."

12 ALL MEMBERS: Aye.

13 CHAIR CHU: Any objections? Any
14 abstentions?

15 Okay. Seeing and hearing no
16 objection or abstentions, the November
17 2012 minutes are adopted.

18 December 2012, do I hear a
19 motion?

20 MS. CORTEZ-GOMEZ: So moved.

21 CHAIR CHU: Is there a second?

22 MR. LANDIN: Second.

23 CHAIR CHU: All those in favor of
24 adopting the December 2012 minutes,
25 please say "aye."

1 ALL MEMBERS: Aye.

2 CHAIR CHU: Any objections? Any
3 abstentions?

4 Okay. Seeing and hearing no
5 objections and no abstentions, the
6 December 2012 minutes are adopted.

7 And finally, the January 2013
8 minutes. Is there a motion?

9 MR. SIMONETTI: Aye.

10 CHAIR CHU: Is there a second?

11 MS. CORTEZ-GOMEZ: Second.

12 CHAIR CHU: All those in favor of
13 adopting January 2013 minutes, please
14 say aye.

15 ALL MEMBERS: Aye.

16 CHAIR CHU: Any objections? Any
17 abstentions?

18 Seeing and hearing no objections
19 and no abstentions, the January 2013
20 minutes are also hereby adopted.

21 Okay. I want to welcome
22 everyone back to 40 Rector. As of
23 this week, we are entirely moved back
24 to 40 Rector Street. As you can see,
25 even from this room, the -- that

1 there's still construction going on.
2 We're here, things are not perfect,
3 but we are happy to be home.

4 I think the two main issues that
5 need to be addressed, and are being
6 worked on right now, is the toll free
7 1-800 number. And the reason for that
8 is Verizon, as of yet, has not been
9 able to provide us with a 1-800
10 number. And the problem that that
11 poses is that the 311 system must
12 transfer the calls to a toll free
13 number.

14 We do have a 212 number. But
15 for some reason, 311 has an issue with
16 transferring calls to anything other
17 than the toll free number. Our
18 Deputy Executive Director for Administration,
19 Brian Connell, is diligently working on that.
20 So I expect an update shortly on that. And
21 we should get that remedied without
22 really much more further delay.

23 At this point, we have worked
24 out a system of phones. It is not the
25 Verizon land lines. It also is not

1 the voiceover IPs over the Broadband
2 Internet. It is some type of device
3 that I think runs off of the wireless
4 network.

5 And while it's not perfect, it
6 is something that is working for us.
7 And we are back in touch with the
8 public. And hopefully we'll get
9 either voiceover IP or Verizon land
10 lines in the very near future.

11 Getting back to the 212 number,
12 obviously the issue with 311 being
13 able to transfer the calls has had an
14 effect on the complaint activity.
15 And our Executive Director, Joan
16 Thompson, will address that during her
17 report.

18 All right. At this point I will
19 turn the floor over to Ms. Thompson,
20 the Executive Director.

21 MS. THOMPSON: Good morning
22 and following up on what Dan has
23 said, I will just give you a
24 report of what the effects of
25 Hurricane Sandy had on complaint

1 activity. We prepared several charts
2 that documents the effect of the
3 hurricane. They looks at our
4 complaint activity.

5 Obviously, our complaint
6 activity has decreased sharply. The
7 number of CCRB complaints has
8 decreased by 48 percent when compared
9 to the trend for the first ten months
10 of 2012.

11 Total intake has decreased by 62
12 percent. The decrease is very
13 dramatic. We're looking at where
14 complaints are filed. Complaints
15 filed with the CCRB directly have
16 decreased by 65 percent. And the most
17 significant decrease is with
18 complaints filed by phone which has
19 decreased by 88 percent.

20 Complaints filed by e-mail have
21 increased by 54 percent in absolute
22 numbers. When we received the monthly
23 average of 249 complaints by phone
24 before Sandy, and from January through
25 October 2012 have received a monthly

1 average of 29 complaints by phone
2 after Sandy.

3 Although there has been a 15
4 percent decrease in the number of
5 calls citizens made to 311 after
6 Sandy, the ratio of 311 calls
7 to complaints has changed
8 significantly. Before Sandy, we
9 received one CCRB complaint for every
10 four calls to 311. After Sandy, we
11 received one complaint for every 31
12 calls to 311.

13 Since November 7th,
14 instructions on how to file complaints
15 are posted on our website as well as
16 a new phone number to call. The
17 City's 311 service also provides the
18 new number to callers. And the new
19 number, by the way, is (212) 392-4170.
20 But that, of course, means that's it's
21 no longer toll free, that they have
22 to dial 212. And the Deputy Executive
23 Director for Administration, which is
24 Brian Connell, is working towards
25 restoring our 1-800 services.

1 We have been notified that on
2 March 12th, the City Council's Committee
3 on Public Safety will be holding a budget
4 hearing, and we have been asked to
5 testify. As usual, we will be
6 testifying at 2:30 before the City
7 Council at that time. It's March 12th
8 at 2:30.

9 The monthly statistics. The
10 CCRB received 194 complaints in
11 January. This is 311 fewer complaints
12 filed within the same period in 2012
13 when the CCRB received 505 complaints.
14 It is a 62 percent decrease in
15 complaint activity for that period.

16 The past year, even considering the
17 disruption in November and December,
18 complaint activity has decreased by
19 3.5 percent. In 2012 we received
20 5,760 complaints, which is 209
21 complaints fewer than in 2011 when we
22 received 5,969 complaints.

23 The board closed 543 cases
24 in January. The substantiation rate
25 was 19 percent of full investigation.

1 The board substantiated 23 cases. The
2 truncation rate was 78 percent, which
3 is 14 points higher than in 2012 when
4 the year end truncation rate was 64
5 percent.

6 The agency's docket at the end
7 of January stood at 3,693 cases, which
8 is a 10 percent decrease over the open
9 docket at the end of 2012 when it
10 stood at 4,109. 88 percent of our
11 open investigations were filed within
12 the last year. And 48 percent were
13 filed in the last four months.

14 Of the open cases, 1,136 are
15 awaiting panel review or 31 percent of
16 the docket. 2,229 are being
17 investigated. And 328 cases are in
18 the mediation program.

19 By date of incident, 47 cases in
20 the CCRB's open docket are 18 months
21 and older as opposed to 41 cases in
22 December 2012. This is 1 percent of
23 the open docket. Two cases are or
24 were on DA hold. Eight cases were
25 filed months after the date of

1 incident. In two cases, the delay has
2 no apparent justification. And in two
3 cases there's a complex set of
4 circumstances that delayed the
5 interview process. And in one case
6 the officer is on military leave. 32
7 cases are pending board review.

8 In December, the Police
9 Department closed 53 substantiated
10 cases. In 2012, the department has
11 closed 326 cases and has imposed
12 discipline against 229 officers. The
13 department did not impose discipline
14 against 93 officers. In 2012, the
15 disciplinary action rate was
16 71 percent, and the department declined
17 to prosecute rate was 22 %.
18 The guilty after trial rate is
19 71 percent. And in cases in which
20 the department pursued charges
21 and specifications, the rate at which
22 officers were found or pled guilty
23 was 82 percent.

24 CHAIR CHU: Okay. Thank you,
25 Joan.

1 Moving on now to committee
2 reports. Are there any committees
3 that have anything to report this
4 morning?

5 MR. LISTON: Mr. Chairman, this
6 morning the APU committee met. That's
7 a committee made up of commissioners
8 who are working together to help the
9 CCRB put together procedures for the
10 administrative prosecution unit which
11 will try civilian complaints.

12 This, as you all know, is
13 something very exciting for the CCRB.
14 It's a chance for us to work alongside
15 the department Advocate's Office to
16 prosecute the cases that the CCRB has
17 substantiated.

18 It's exciting. And one of the
19 reason it's exciting is we have such
20 wonderful new prosecutors who've
21 joined the unit, our office. We have
22 ten prosecutors and we also have a
23 deputy.

24 Today, the APU committee had the
25 privilege of meeting those prosecutors

1 and hearing from them a little bit
2 about their backgrounds. They are all
3 former prosecutors. Several have
4 worked in the private sector at law
5 firms. Some are from the Queens DA's
6 office, Brooklyn DA's office, the
7 Bronx DA's office, and Corp Counsel. One
8 is a Major in JAG Corp of the United
9 States Army Reserve.

10 So they bring together a wide
11 range of experiences. They are
12 clearly experienced and enthused about
13 their mission and eager to move
14 forward. And we on the APU committee
15 are eager to support them in any way
16 we can.

17 As with anything new and
18 exciting, it presents challenges and
19 opportunities. And we are working
20 very closely with Laura Edidin to put
21 together procedures and sort out
22 logistical issues.

23 For example, one issue that's
24 come up is whether and to what extent
25 should our prosecutors at the CCRB

1 have access to certain internal police
2 records related to individual
3 officer's history. And on the one
4 hand, there's issues of
5 confidentiality. And on the other
6 hand, of course, we want to access as
7 much as we can to make the sorts of
8 judgments and decisions and conduct
9 the sorts of prosecutions that we
10 intend to do.

11 So we're sorting that out. And
12 no doubt we'll land on a reasonable
13 approach. And it's something we'll
14 continue to discuss. And another
15 issue is situations in which the
16 commissioners have noted or
17 substantiated other misconduct noted;
18 violations or allegations that are
19 actually not within our former
20 jurisdiction but as to which we've
21 made recommendations. And we're
22 sorting out what role our prosecutors
23 will play in connection with those.

24 So there are a number of issues,
25 but they'll all be sorted out. The

1 committee will continue to meet often
2 and soon. And I'll have more to
3 report the next time we're here.

4 CHAIR CHU: Thank you, Mr. Liston.

5 And just to your point, I would
6 echo the sentiments of that we have
7 assembled a very well-credentialed
8 crew of prosecutors and they're
9 excited to get going.

10 At this point, there are
11 certainly still procedural issues that
12 need to be resolved. We look forward
13 to, also, publication. At this point,
14 we are ready. We are coordinating
15 with PD since they too have rule changes
16 that must be made. And that should be
17 happening shortly.

18 In terms of training, that is
19 something that's continuing. And I
20 think in the very near future we feel
21 that everything will be on track and
22 the ball will get rolling.

23 MR. LISTON: That's for sure.

24 CHAIR CHU: Thank you.

25 On behalf of the Reports and

1 Recommendation Committee, I'd like to
2 indicate that the semi-annual report
3 now is in its final stages. It should
4 be going to the printers shortly. And
5 immediately after that, we will
6 obviously be working on getting the
7 numbers together for the annual report
8 since the post-Sandy difficulties and
9 challenges have set us back time-wise
10 with the reports.

11 Are there any other committee
12 reports this morning from any of the
13 other committees?

14 BISHOP TAYLOR: We don't have a
15 report this month. But next month
16 Outreach will have a full report on
17 our plan for the year.

18 CHAIR CHU: Great. Thank you.

19 Are there any other committees
20 at this time that have anything to
21 report? If not, let's move on to old
22 business.

23 In terms of old business, I
24 stand corrected. I received a letter
25 from Mr. Dunn. And it included a

1 transcript of what I provided
2 information-wise last year regarding
3 the PC meeting that we had.

4 And so being a man of my word, I
5 will provide some further information
6 as to the PC meeting that was held on
7 December 11th of 2012.

8 As I mentioned previously, eight
9 out of the ten board members were
10 present at that meeting. Some of the
11 issues that were discussed involved
12 the substantiation rate and OMN rate,
13 which is the other misconduct rate,
14 and the trends that we see.

15 We also provided an update to
16 the Police Commissioner regarding some
17 of the trespass affidavit numbers that
18 we have within the agency. And that's
19 something that will be discussed
20 further during this meeting as well.

21 We also discussed points on
22 better communications in terms of
23 sharing information on parallel
24 investigations where both the N.Y.P.D.
25 and the CCRB have open cases stemming

1 from the same incident or the same
2 issues. And we also talked about how
3 we might be able to improve on working
4 on the truncation rate going forward.

5 And finally, we explored
6 possibilities where some of the board
7 members, particularly those who were
8 formerly from N.Y.P.D., might have a greater
9 role in terms of at least training on
10 community and policing issues and
11 other related issues.

12 Okay. So that was old business.
13 Our next point in old business is
14 related to some of the raw numbers and
15 data that we have. And it's in
16 response to Commissioner Simonetti's
17 inquiry regarding the agency's numbers
18 on stops and trespass issues that
19 arise in NYCHA Buildings and also in
20 the Clean Halls buildings.

21 So to provide us more
22 information on that is going to be
23 Marcos Soler and Denis McCormick. I
24 don't know who is starting, Denis, do you want
25 to start?

1 MR. MCCORMICK: Yes.

2 CHAIR CHU: Denis is the
3 Executive Deputy Director of
4 Investigations.

5 MR. MCCORMICK: As some of you
6 may know, in 2010 we did a study on
7 improper stop, question AND frisk that occurred
8 around NYCHA buildings or F.T.A.P.
9 building, Clean Halls buildings. And
10 we issued that report. This is our
11 follow-up information.

12 So we term these as patrol
13 housing. And this is, I said it's
14 Clean Halls, F.T.A.P.s and NYCHA
15 buildings. And in 2010 we uncovered
16 76 cases that fell within that sample.
17 And in 2012 we found 59. So it was
18 approximately a 23 percent drop in the
19 number of cases received.

20 The substantiation rate, there
21 were 23 cases in 2010 .
22 There were 22 in the 2012 data. So
23 the substantiation rate went from 30
24 percent all the way up to 38 percent.

25 In that sample, approximately 50

1 percent of the officers that were in
2 the sample were substantiated for
3 either an improper stop or question
4 related to something criminal, when
5 the officer believed the person was
6 criminally trespassing.

7 Just looking at the dates, the
8 first study was from July 1st, 2008,
9 through October 31st, 2009. In 2010,
10 I believe it was either May or in
11 June, the Police Department issued
12 an Interim Order, # 23. And they
13 also said they were going to be
14 retraining some of the housing
15 officers.

16 So our study from -- for the
17 2012 starts on July 1st, 2010, and
18 goes through Halloween, October 31st
19 of 2011. So it's the same time
20 period. Just, obviously, a few years
21 later. And it's after the
22 implementation of the interim
23 order.

24 Some of the other numbers that
25 we saw was the discipline rate. It

1 was 79 percent in 2010 with a DUP
2 rate of 21 percent. And in 2012 it
3 was 72 percent. They went along with
4 our recommendations and they duped the
5 cases, they duped cases in 24 percent of
6 the time.

7 The type of the building also
8 changed. In 2010 it was 64 percent
9 was in NYCHA and 36 was in Clean
10 Halls. And this time around we saw 51
11 percent in Clean Halls and 49 percent
12 in NYCHA.

13 The borough. For 2012, there
14 was 47 percent of our cases took
15 place in the Bronx. 22 percent
16 took place in Brooklyn. 19 percent in
17 Manhattan. And 12 percent in Queens.
18 There's nothing in Staten Island
19 during that time period.

20 The race. We also saw that 68
21 percent of the people that were
22 stopped were Black, 30 percent were
23 Hispanic and 88 were male.

24 And I think the only other
25 number there is, the summons rate was

1 63 percent in 2010 and 53 percent in
2 2012; summons and arrests rate at which
3 somebody was arrested during the time
4 frame in our sample. So there was a
5 10 percent decrease when that happens.

6 CHAIR CHU: And Denis, just to be
7 clear, it was a comparable 16-month
8 period that was looked at, right?

9 MR. MCCORMICK: Same exact
10 period. Same exact 16 months, from
11 July 1st through October.

12 CHAIR CHU: And this is based on
13 the universe of our CCRB complaint
14 cases?

15 MR. MCCORMICK: Yes. It was all
16 cases in which an officer stated that
17 the reason to approach was for
18 criminal trespass.

19 CHAIR CHU: And is that something
20 that was done manually or through CPS?

21 MR. MCCORMICK: Yes, manually.
22 We went through manually this time, I
23 think it was almost 700 cases, 660 cases
24 exactly. So we had to manually go
25 through it and determine which cases

1 fell within our sample.

2 CHAIR CHU: Any commissioners have
3 any questions?

4 BISHOP TAYLOR: I would just like
5 to say, Denis, thank you so much for
6 a very exhaustive report. It gives us
7 a real peek into what our work has
8 yielded over the last few years.
9 Thank you. This is very valuable.

10 CHAIR CHU: Thank you.

11 Is there any other old business
12 from any other commissioners?

13 Turning to new business, is
14 there any other new business?

15 MR. SIMONETTI: Once again, I am
16 concerned about the truncation rate.
17 I see we are up to 78 percent. I guess I've
18 spoken on this numerous times. I
19 think I've always said and I will
20 continue to say that we have to have
21 some way of taking a look at this and
22 some way of dealing with it. We've
23 got to do some quality assurance work
24 on the truncation rate because it's
25 just too high.

1 I mean, when I started here,
2 truncation rate was less than 50
3 percent. And so it's gone up
4 considerably. Almost a hundred
5 percent it's gone up. So I think we
6 have to revisit that again, and maybe
7 at the Operations committee. We
8 should convene an Operations committee
9 meeting and see if we can come up with
10 some answers.

11 BISHOP TAYLOR: Mr. Chair, did we
12 not talk about the reclassification of
13 some of the cases that may have
14 trunc'd that may skew the numbers?

15 CHAIR CHU: We did. And prior to
16 our relocation to Brooklyn, that was
17 something that we were working on in
18 terms of really trying to make some
19 inroads in terms of getting that
20 number down.

21 I would imagine that, also,
22 Sandy certainly did not help our
23 numbers, including truncation.

24 Denis, do you have any input?

25 MR. MCCORMICK: I mean, the

1 first month is -- I think there were a
2 lot of -- I think you said you looked
3 at a few panels today. So I think
4 there were not a lot of panels that
5 met the first month versus what's
6 going to happen now. A lot of cases
7 were hooked up by drawing a number of
8 trunks that had happened during Sandy
9 or right around Sandy.

10 So I think that number will come
11 down. But we also think there was an
12 18 percent complaint withdrawn rate so
13 far, which is about six or seven
14 points higher than what we've had
15 historically. So that might play
16 somewhat into it.

17 But I think everyone can see the
18 numbers. After a few times that
19 number should come down.

20 MR. SIMONETTI: I think we
21 preliminarily started discussions
22 about the complaint withdrawal
23 rate.

24 CHAIR CHU: That's right. Because
25 at this point, the withdrawals are

1 still included within the trunks.

2 MR. SIMONETTI: Right. Some way
3 of figuring out if we can come up with
4 a new classification of cases which
5 take those cases out of truncation
6 rate. Because really, if it's a
7 withdrawn case, we never had an
8 opportunity to do anything with the
9 case.

10 BISHOP TAYLOR: Absolutely.

11 MR. SIMONETTI: And I think most
12 of the board is in agreement with
13 that. So we should continue that
14 discussion.

15 CHAIR CHU: Right. We need to
16 pick up where we left off on that.

17 BISHOP TAYLOR: So just to be
18 clear, so withdrawn cases are still a
19 part of the trunc?

20 MR. SIMONETTI: Yes.

21 BISHOP TAYLOR: And to be clear,
22 that's when a complainant withdraws
23 their complaint?

24 CHAIR CHU: Right, they make the
25 initial complaint.

1 MR. SIMONETTI: And I think we
2 should look at some of the other
3 categories. I mean, obviously,
4 complainant uncooperative and witness
5 uncooperative probably make up the
6 majority of the truncated cases, but
7 we should look at things like
8 complainant unavailable.

9 I think that's another area that
10 we should take a look at. We should look
11 at all those categories that fall
12 under the truncation cases -- with the
13 truncation cases.

14 MR. LISTON: What I was going to
15 raise, I think in some ways it relates
16 to the issue you've raised, Mr.
17 Simonetti. And I'm obviously not
18 going to discuss specific cases, but
19 we've all seen cases where the
20 complainant is unavailable,
21 uncooperative, the complaint is
22 withdrawn. We've seen cases where the
23 investigators try to interview a
24 witness or a complainant, and we're
25 told by a lawyer, We're suing the City

1 and you can't speak to my client.

2 As I saw maybe the hundredth
3 such case, it hit me, don't we have
4 subpoena power? And are we using it
5 as fully as we ought to? A lawyer
6 says you're not going to speak to my
7 client, that doesn't -- do we need to
8 stop there? I think it's an important
9 enough case.

10 Other agencies will routinely
11 issue subpoenas and make full use of
12 their full subpoena power. And I'd
13 just, first, like to get a better
14 sense as to what is our subpoena
15 power. Is it everything we want?

16 If it's not strong enough,
17 perhaps we should talk about seeking
18 greater subpoena power. On the other
19 hand, if it's greater than what we're
20 actually using, I think that's
21 something that we as a board should
22 consider.

23 Because there may very well be
24 cases that are serious enough, an
25 officer's record is such that we need

1 to take serious action. We can't just
2 accept our men do not want to come
3 down. If we have a subpoena, there
4 may be cases where we have to use
5 that.

6 I'd like to suggest, and I don't
7 know whether this is the Operations
8 Committee or the next meeting of the
9 board, perhaps our General Counsel can advise
10 us, at some point as to the full scope
11 of our power. And then I would
12 suggest, once we have a handle on
13 that, we should talk about whether
14 we're using it to the full extent of
15 the --

16 CHAIR CHU: On that point, I mean,
17 I think that's definitely an
18 interesting point to explore. Most of
19 the public, I think, in articles that
20 I've read are often times confused as
21 to whether we do have subpoena power.

22 Generally, the subpoena power
23 that we've used is to obtain
24 documents. But certainly, there might
25 be a universe of cases where there's

1 compelling factors that would cause us
2 to explore using subpoena power to
3 obtain even testimonial if it was
4 important enough.

5 I think that's something we can
6 explore. It certainly, I think, takes
7 a backseat to dealing with the
8 truncation rate at the moment. But I
9 would like to ask Mr. Daw, who is our
10 agency general counsel, to look into
11 that, both historically and also what
12 powers do we have. And I think it is
13 an excellent issue to bring up at the
14 next operational meeting for further
15 discussion.

16 MR. LISTON: Thank you.

17 CHAIR CHU: Thank you.

18 Any other further new business?

19 I will just add that now that we
20 are back at 40 Rector Street, the
21 search for an Executive Director will
22 continue. We want to thank,
23 obviously, Joan Thompson who has
24 gotten us back to 40 Rector Street.

25 It was very challenging at

1 MetroTech in Brooklyn. We're back.
2 We're forming a search committee and
3 that's going to move forward. So
4 hopefully she'll stay with us a little
5 longer, but the process is moving
6 forward.

7 Are there any other -- is there
8 any other new business?

9 Seeing no new business, we will
10 open this up to public comment. And
11 Mr. Dunn.

12 MR. DUNN: Good morning. I
13 guess one of the good things about
14 Sandy is we're all a little bit
15 closer.

16 Okay. Let me start with the
17 good news.

18 Dan, thank you very much for the
19 report about the commissioner's meeting
20 the board. I've never questioned you
21 being a man of your word. I do
22 appreciate that report.

23 On the intake numbers, not that
24 I think anyone's taking this lightly,
25 but this seems like this is a complete

1 emergency. I mean, if people can't
2 reach the agency, I don't know what
3 the point of having the agency is.

4 And it seems like the City, I
5 realize this might not be under your
6 power and control, has got to be
7 moving heaven and earth so that
8 complainers can reach you. And you
9 know, the numbers make it quite clear
10 that whatever may be happening in
11 terms of 311 supposedly telling
12 callers they can call a 212 number,
13 that most people are just not getting
14 through one way or another.

15 And I just -- I mean, it was --
16 I was very surprised to hear in the
17 December meeting, I think, that you
18 had so many problems. We are now two
19 months later, you've got 194
20 complaints in January. I mean, that
21 is a huge problem. Someone has to
22 deal with that immediately.

23 MS. THOMPSON: Excuse me. I
24 just got word that the 1-800 number is
25 just now working from a few minutes

1 ago.

2 MR. DUNN: What do you know?

3 There you go. I didn't say it. You

4 said it. You said it. Okay, great.

5 That is true. We'll see what happens.

6 Just crossing things off.

7 Okay. On the monthly report --

8 and I know operations have been

9 disrupted, but, you know, there are a

10 couple of things that stand out beyond

11 the intake numbers.

12 You still have a ton of cases on

13 the 18-month plus report. And by my

14 count, there are 30 cases that were

15 filed over a year ago that have now

16 hit statute of limitations.

17 And you know, it feels -- again,

18 I know that the operations have been

19 disrupted. But it feels like the

20 18-month plus list has just gone out

21 of control. And a bunch of these

22 things have statute of limitations

23 that expired months ago. So it's just

24 housekeeping, I suppose. But

25 something's got to happen on that.

1 And Tony, you're channeling me
2 now. Yes, the truncation number is
3 even more alarming than it normally
4 is. And maybe it is a fluke of the
5 storm in October, and we'll see, but
6 we all know that truncation number has
7 been steadily going up. So I'm happy
8 to hear you say we've got to look at
9 this. I know others are concerned
10 about it.

11 And it may be that dragging
12 complainants in here with subpoenas is
13 something the board might want to
14 explore. I am not endorsing that for
15 a moment. I do not think, for a
16 moment, that's really what the problem
17 is.

18 You will always have people who
19 file complaints and will not pursue
20 them. You always have had that
21 problem. That doesn't explain why we
22 have gone from under 50 percent to the
23 high 60's to now, in this last month,
24 close to 80 percent.

25 And then the final thing is the

1 DUP rate. This is one of my pet
2 peeves. And a year and-a-half or so
3 ago the DUP rate actually went down.
4 And you guys were all trumpeting that.
5 And I was welcoming it. The DUP rate
6 has gone right back up. It was over
7 20 percent last year. You know,
8 that's a lot of DUPs.

9 The other thing is, I don't
10 understand the report. Looking at the
11 department dispositional table, I
12 count 32 cases. The table only shows
13 16. I don't know if I am mis-
14 categorizing things -- and no one has
15 to figure it out right now -- but when
16 I look at -- you attach a table of
17 each case and the disposition of the
18 department, and I see that you keep
19 saying department unable to prosecute.
20 That's not what's happening, of
21 course. It certainly not. I see 32
22 entries on that table and I only see
23 16 on the report.

24 So I may be misunderstanding
25 something here but --

1 MR. SOLER: Would you like a
2 clarification?

3 MR. DUNN: Yes.

4 MR. SOLER: Is 32 allegations,
5 in other words. It's allegations,
6 not cases.

7 MR. DUNN: Okay. A case then --

8 MR. SOLER: A case in which
9 actually they -- the department is
10 testifying guilty or some allegations
11 might have further --

12 THE REPORTER: I'm sorry. I
13 can't hear you.

14 MS. SOLER: In some instances
15 the department might want to impose
16 command discipline for one allegation,
17 but to DUP the other allegations.

18 MR. DUNN: Okay. So this is an
19 allegation --

20 MR. SOLER: This is an
21 allegation based analyses which we
22 have provided. And the allegations are
23 listed there, when you count the
24 cases...

25 MR. DUNN: Okay. All right. I

1 get that. Thank you for that
2 clarification.

3 Okay. On one sort of related
4 thing, about due to cooperative
5 complainants. We had two clients last
6 month who had letters from the agency
7 saying we have done something with
8 your case. In one instance it was
9 referred to IAB. Another instance, we
10 need you to come in for your
11 interview.

12 In neither instance had our
13 client filed a complaint. They were
14 both complaints that came from the
15 department. And so our clients were a
16 little bit surprised to get a letter
17 from you saying here's what we are
18 doing with your complaint, one of
19 which is saying please contact us
20 immediately because we need to
21 interview you.

22 Now, I know that the department,
23 on occasion, refers incidents to the
24 CCRB for investigation. But I think
25 you need to redo notices that are

1 going to members of the public who
2 you're writing to about those
3 incidents. They have not filed a
4 complaint, they don't have a case that
5 they know of.

6 And when they get something
7 saying you must call us immediately
8 and come in for an interview, we're
9 saying we referred your complaint to
10 IAB, that can be an alarming thing for
11 people. I think because a lot of
12 people are not too thrilled about IAB.
13 And at the very least, that letter
14 should say, We have received a
15 complaint from the Police Department
16 involving you, blah, blah, blah, blah.

17 So -- and if anyone wants copies
18 of these, I'll give them to you. They
19 have the names on them. But since
20 you're the board, it's okay. But they
21 would not be distributed widely; I'd
22 appreciate that.

23 Okay. The final thing that I
24 want to ask about was the report about
25 the trespass stops. Good for you.

1 Those numbers are a little bit of a
2 bombshell, I think. I'm curious, is
3 there going to be something in writing
4 produced?

5 CHAIR CHU: At this point, these
6 are more or less raw data. At some
7 point we're going to meet and discuss
8 whether or not there's going to be a
9 follow-up recommendation or paper that
10 will be released.

11 MR. DUNN: All right. Well, I
12 get that. But in my mind at least,
13 there's a difference between what
14 recommendations you make and what the
15 actual facts are. And Denis set out
16 the facts. But -- and maybe it'll be
17 in this transcript. But I know for
18 the reporter that's a real challenge
19 to get all that straight. And it'd be
20 a public service if you folks put
21 something out, as you sometimes do
22 when Joan gives numbers, that sets out
23 what the specifics are.

24 CHAIR CHU: It'll be made
25 available.

1 MR. DUNN: Okay. That's great.

2 And I did have a couple special
3 questions. Which, I'm not sure would
4 be clarified by?

5 MR. MCCORMICK: Denis
6 McCormick

7 MR. DUNN: Denis, you mentioned
8 the sub rate being 50 percent for
9 officers for 2000 -- in the second
10 study from 2010 to '11. And you said
11 the sub rate for the cases was 38
12 percent. So I wasn't quite sure how
13 those two related.

14 MR. MCCORMICK: By the number of
15 officers in the samples, over half of
16 them were substantiated. But there
17 were certain cases -- no, in certain
18 cases there might have been three
19 officers that were substantiated.

20 So it was a much higher number
21 for the number of subject officers
22 than there were cases. So the sub
23 rate was 38 percent for our sample.
24 But -- for case based. Allegation
25 based, it was 50 percent of the

1 officers were subbed.

2 Marcos might be able to explain
3 it better.

4 MR. DUNN: Okay. So you said
5 there were 59 cases total. So 38
6 percent of 59, whatever it is, that's
7 the number of the 59 that got subbed.
8 For instance, if those 59 cases
9 involved 100 police officers, you're
10 saying the allegations relating to 50
11 of those officers got subbed; is that
12 correct?

13 MR. SOLER: This is the correct way
14 to report these numbers. There were 22 cases
15 that were substantiated out of a universe
16 of 59. There were 41 officers out of a
17 universe of 81 officers that received at
18 least one substantiated allegation.

19 MR. DUNN: Okay. And those 41
20 officers were the officers connected
21 to the 22 substantiated cases?

22 MR. SOLER: Yes.

23 MR. DUNN: Okay. I got you.

24 Okay. All right. And you
25 mentioned that the kind of dividing

1 line between these two studies was the
2 interim order the department issued in
3 June of 2010, and some training the
4 department said it had done in
5 conjunction with that interim order.

6 As I'm sure you know, there's a
7 lot of controversy, and we all know
8 there's litigation around both the
9 NYCHA trespass stop activity and the
10 Clean Hall trespass stop activity.

11 And the effectiveness of the training
12 provided by the department around the
13 NYCHA side is a very important issue
14 for many people. And the department
15 has said that it is embarking on some
16 similar training on the Clean Halls
17 side.

18 I say all this to make the point
19 that one of the things that you do
20 that is so important is that you see
21 trends in cases that you get. You
22 tell the department and you make
23 recommendations about training.

24 I need to see a little bit more
25 specifics about these numbers, but it

1 looks to me like the NYCHA training
2 was not as effective as people had
3 hoped it might be. Because I still
4 see -- my guess is we still have a
5 pretty large number of NYCHA cases
6 that got substantiated.

7 But it would be helpful to see
8 the breakdown. And I hope that when
9 you produce this, that of the 22 cases
10 that got subbed this time versus the
11 23 that got subbed last time, there
12 will be a breakdown of which of those
13 are NYCHA cases and which of those are
14 Clean Halls cases.

15 Because conversely, if it turns
16 out that the NYCHA training was quite
17 effective, well, that's something
18 everyone wants to know about because
19 this is a problem city-wide. It goes
20 well beyond the Housing Bureau.

21 So I just want to say it's
22 terrific that you looked at this,
23 Tony. I think that you raised it in
24 January suggested that people do so.
25 And I have always been concerned that

1 the board stays away from things when
2 the temperature goes up.

3 The temperature is definitely up
4 around trespass stops. I think it's
5 an important public service that you,
6 in fact, looked at that. And I look
7 forward to seeing the written report
8 as quickly as possible.

9 And I certainly hope, I'm going
10 to encourage you to make public
11 whatever recommendations you make to
12 the department. I find that you guys
13 get into trouble when you make secret
14 recommendations to the department.
15 It's happened in the past, before many
16 of you were on the board. It tends to
17 blow up.

18 I think it'd be very important
19 for the agency, as an independent city
20 agency, to make whatever
21 recommendations it does in a public
22 way. Which does not have to be going
23 after the department, but nonetheless,
24 should be public.

25 Thank you.

1 CHAIR CHU: Thank you.

2 Seeing no other people signed up
3 to speak, we're going to take a quick
4 break and then we're going to end the
5 session. Thank you.

6 (TIME ENDED: 10:50 a.m.)

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CERTIFICATION

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

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 13th day of February,
2013.

KIMBERLY CLYNE

* * *