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CIVILIAN COMPLAINT REVIEW BOARD  
PUBLIC MEETING  
JANUARY 13, 2021  
6:32 P.M.

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HELD VIA VIDEOCONFERENCE

B E F O R E:  
FREDERICK R. DAVIE, CHAIR

Transcribed by:  
Elbia Merino

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BOARD MEMBERS PRESENT

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- Frederick Davie, Chair
- John Siegal, Esq.
- Erica Bond, Esq.
- Corrine Irish, Esq.
- Joseph A. Puma
- Michael Rivadeneyra, Esq.
- Angela Sung Pinsky
- Willie Freeman
- Frank Dwyer
- Salvatore F. Carcaterra
- Nathan Joseph
- Esmeralda Simmons, Esq.

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PRESENTERS

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Heather Cook, Esq., Assistant General Counsel

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CHAIR DAVIE: Good evening, everyone. Welcome to the January meeting of the Civilian Complaint Review Board. I want to thank you all for joining this discussion tonight about policing and civilian oversight. I'm Fred Davie, I'm the Chair of the Board. Before we get started, I'd like to ask my colleagues on the Board to introduce themselves.

Let me see if I can do this by -- I'm going to try it by our list here.

Mr. Joseph?

(No response.)

CHAIR DAVIE: Did we lose Mr. Joseph? He's there. Looks like he may be having a technical issue.

Mr. Rivadeneyra?

MR. RIVADENEYRA, ESQ.: Good evening, everyone. My name is Michael Rivadeneyra. I am the City Council Bronx designee to the Board. I want to wish everyone a happy new year.

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CHAIR DAVIE: Mr. Puma?

MR. PUMA: Good evening,  
everyone. My name is Joseph Puma.  
I'm the City Council designee to the  
Board from the Borough of Manhattan.  
And happy to new year to all.

CHAIR DAVIE: Mr. Dwyer?

MR. DWYER: Good evening,  
everyone. My name is Frank Dwyer and  
I'm a Police Commissioner designee.  
Thank you.

CHAIR DAVIE: Mr. Freeman?

(No response given.)

CHAIR DAVIE: Mr. Freeman, I  
think you are on mute.

MR. FREEMAN: Do you hear me?

CHAIR DAVIE: Yes.

MR. FREEMAN: Police  
Commissioner designee.

CHAIR DAVIE: Great. Thank you.  
Ms. Irish?

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

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CHAIR DAVIE: Ms. Bond?

MS. BOND, ESQ.: Good evening  
all. I'm Erica Bond. I'm a mayoral  
appointee as well.

CHAIR DAVIE: Ms. Pinsky?

MS. PINSKY: Hi, everyone.  
Happy New Year. I'm Angela Pinsky.  
I'm a mayoral designee formally from  
Brooklyn. Now living in Manhattan.

CHAIR DAVIE: Mr. Siegal?

MR. SIEGAL, ESQ.: Good evening.  
John Siegal, mayoral designee on the  
Board. Nice to see all the board  
members and glad to be here tonight.

CHAIR DAVIE: Mr. Joseph, we're  
back to you.

MR. JOSEPH: Good evening,  
everyone. Sorry for that disconnect.  
My name is Nathan Joseph. I'm a City  
Council appointee, and I live in  
Staten Island.

CHAIR DAVIE: And I think  
Mr. Carcaterra is on the phone.

MR. CARCATERRA: Yes. Hi, Fred.

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Good evening, everyone. Sal Carcaterra. And I am a Police Commissioner designee on the Board.

CHAIR DAVIE: Excellent. Did I get everybody?

(No response.)

CHAIR DAVIE: Excellent. Thank you, all.

What happened last week and what our nation witnessed was nothing short of a racist insurrection in our nation's Capitol. Insurrectionists armed with guns and pipes planted bombs at both the Democratic and Republican National Committee buildings and on the grounds of the Capitol. They desecrated the halls of a building that we all have ownership of and all should respect.

It is also difficult to ignore the disparities in the way in which these White insurrectionists were treated versus the way Black and Brown individuals, who peacefully protested

1  
2 police brutality, were treated this  
3 summer in DC, in New York and  
4 elsewhere. We can't lose sight of how  
5 we got here. When politicians and  
6 elected officials lied to their  
7 constituents, to the people they  
8 serve, they're doing a grave  
9 disservice and putting them at risk.  
10 People died needlessly last week  
11 because they were fed lies. Because  
12 they were egged on to storm the  
13 Capitol to fight for these lies.

14 We may have our disagreements.  
15 But there are never two versions of  
16 the truth. It may take us time,  
17 debate and work to uncover it. And in  
18 the end, many may not like it. But  
19 pursuit of and respect for the truth  
20 is essential to a healthy democracy.

21 Regardless of whether the topic  
22 is our election or bail reform or the  
23 repeal of 50-a, or the fact that the  
24 mistreatment of Black and Brown  
25 communities is still pervasive in



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policing across the country. As my friend, then colleague, the Reverend and now Senator-elect Raphael Warnock said to his congregation this past Sunday, "There is no transformation without truth."

New York City has gone through a lot of pain and sickness and grief over the past year. This upheaval has uncovered many truths. One such truth is that accountability for NYPD officers who commit substantiated misconduct is often meager and inconsistent. Another is the many difficulties the CCRB faces when conducting our investigations. And a third is that the relationship between the community and the police is not what it should be.

We certainly confront these truths every day during CCRB operations and every month at our board meetings, but what went on last summer made adamantly clear that we

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are long overdue for the City and the State to confront truths and then to transform.

The repeal of 50-a, which this board called for in March of last year, was a start. So was the first Department of Appeals Court authorizing CCRB to investigate complaints from people who view incidents in the news or online.

What brings us here tonight, proposed rules to restart sexual misconduct investigations, and empower CCRB to investigate false official statements by officers against civilians. There's also a start towards a better future for oversight. But there's more work to be done. And the CCRB is committed to this work.

In my testimony in front of the City Council on Monday, I made clear what the CCRB believes must be done to strengthen oversight and improve community police relations.

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Our agency needs direct access to body-worn camera footage. We should examine the final disciplinary authority held by the Police Commissioner, including a removal of final disciplinary authority for CCRB adjudicated cases.

NYPD interactions with vulnerable members of the public, including those exercising their First Amendment rights, youth, and individuals experiencing mental health crisis must be deescalated, and civilians should never face retaliation for filing complaints.

These recommendations and others were made by our partners in government at the OIG of the NYPD and the Commission to Combat Police Corruption. And our Youth Advisory Council, and our Youth Advisory Council, which also informed the Policing Reform Plan.

They serve as markers where the

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work begins. Not where it ends. And if the City can commit to addressing the events of last summer and engaging with substance on the issue of police accountability and civilian oversight, then there's still reason to hope for the future.

In addition to this discussion tonight and the recommendations we provided the City Council, in two weeks the CCRB will also be having a public discussion on the NYPD disciplinary matrix. This matrix will be a major step forward in moving towards a system of police conduct that imposes consistent and fair penalties upon all members of the NYPD who commit misconduct.

I want to be transparent about whether and how the Board will use the matrix, and this meeting in two weeks will ensure that. I look forward to the CCRB staff setting up that future meeting, and I know and appreciate all

1  
2 of your participation in that  
3 discussion in two weeks time.

4 Finally, I want to thank you all  
5 for attending this meeting tonight,  
6 New York's essential workers for  
7 keeping the faith during such a  
8 difficult time, and the CCRB staff for  
9 continuing to do this difficult work  
10 as we move forward toward recovery.

11 With that, I want to turn the  
12 floor over to our Executive Director  
13 Jon Darche, who will have a few words  
14 with us tonight and then we'll proceed  
15 with our public conversation. Jon?

16 MR. DARCHE: Thank you,  
17 Mr. Chair.

18 Good evening, everyone. Thank  
19 you for attending here tonight. It is  
20 important that the public is involved  
21 in the rule-making and policy creation  
22 with respect to policing and civilian  
23 oversight in New York City. Tonight  
24 is one such opportunity for public  
25 input.

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2           In February 2018, the CCRB  
3           passed a resolution to allow the  
4           agency to investigate sexual  
5           misconduct. Between February 2018 and  
6           May 2020, the CCRB investigated  
7           allegations of noncriminal sexual  
8           harassment, such as verbal harassment.  
9           We built competency, hired staff in  
10          investigations and the APU to  
11          investigate what we term Phase 2  
12          conduct, such as physical assault and  
13          other potentially criminal sexual  
14          misconduct. We have not yet started  
15          to investigate those cases.

16                 But Police Benevolent  
17          Association sued the CCRB to prevent  
18          the agency from investigating sexual  
19          misconduct, but our investigations  
20          continued until the First Department  
21          ruled that the CCRB had to use a  
22          rule-making process and receive public  
23          input in order to begin investigating  
24          sexual misconduct cases. We are here  
25          tonight to hear from you, and we're

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excited to receive your input on whether or not the CCRB should be able to, once again, investigate sexual misconduct.

We are also looking forward to receiving your comment on the second piece of the proposed rule change. On November 2019, New York City voted to empower the CCRB to investigate material false official statements made by subject officers during the course of our investigations. But this Charter change only addressed a specific category of false official statements, which are not currently within our jurisdiction. And this proposed rule change we are explicitly interpreting our abuse of authority jurisdiction to include another category of false official statements, that was made by officers against civilians in official testimony or on official documents.

If these rules are adopted,

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2           these types of false statements will  
3           be investigated as an abuse of  
4           authority. Following this meeting  
5           tonight and over the next few weeks,  
6           the Board will consider the public  
7           feedback and will eventually vote on  
8           whether to adopt the new rules. This  
9           is an important night for civilian  
10          oversight of the NYPD, and we look  
11          forward to hearing from all of you.

12                       Some ground rules for tonight:  
13           Please use the "raise the hand"  
14           feature to make a comment. The  
15           comment is going to be reserved -- is  
16           going to be limited to two minutes.  
17           If you would like to discuss a  
18           problematic encounter that you had  
19           with a police officer, please give us  
20           your contact information so that one  
21           of our investigators can follow up  
22           with you.

23                       I want to thank the staff for  
24           all their hard work and continuing our  
25           operations in these difficult



1  
2 conditions. And thanks again to the  
3 members of the public for  
4 participating.

5 CHAIR DAVIE: Thank you,  
6 Executive Director Darche.

7 Before we go to the report from  
8 the Assistant General Counsel, I think  
9 we probably should approve the minutes  
10 from the last meeting.

11 Is there a motion to approve the  
12 minutes?

13 MS. IRISH, ESQ.: So moved.

14 MR. FREEMAN: Second.

15 CHAIR DAVIE: Okay. It's been  
16 moved and seconded.

17 Are there any additions or  
18 revisions to the minutes?

19 (No response.)

20 CHAIR DAVIE: Hearing none, all  
21 those in favor of accepting the  
22 minutes as presented please say aye.

23 (Chorus of ayes.)

24 CHAIR DAVIE: Any opposed?

25 (No response.)

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CHAIR DAVIE: The motion carries. The minutes are passed.

So now, we will hear from our Assistant General Counsel, Heather Cook. Heather?

MS. COOK, ESQ.: Hi, good evening, everyone. I'm just going to run through a very, very quick PowerPoint on the rule-making process.

I'm just going to share my screen really quick. Okay. You all see that?

Okay. So this is going to be a very brief run-through just of our rule-making process.

So the legal authority for rule-making comes from what we refer to a CAPA, which is the City Administrative Procedure Act found in New York City Charter, Chapter 45. As Jon said, based on the Charter Commission vote back in 2019, as well as the May 2020 First Department Appellate Court Decision, the agency

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had to draft new rules to remain in compliance.

We submitted the draft of those rules to the Board, and then we sent them to the Law Department and City Hall for certification. The law department reviewed them for legal sufficiency, City Hall reviews them and makes sure everything is compliant.

Those certifications, as well as the draft of the new rules were then published in the City records, and on NYC rules 30 days prior to this hearing. We actually went a little bit more than 30 days this time. But it has to be at least thirty days prior to this hearing.

At the same time, we also distributed this to other interested parties, pursuant to Local Law 46, and these included the City Council, media outlets and other interested parties such as unions and other organizations

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affected by these rules.

Now, that brings us to tonight, where we are going to receive public comment. The Board will then, as Jon mentioned, deliberate and, at a certain point, adopt a final set of rules, taking into consideration everything that they hear from the public.

After that, the law department will once again make a final review of our rules, again, to ensure that they're legally sufficient. Once the law department signs off, we will publish the final rules in the City record one more time. And 30 days after that publication, our new rules will go into effect.

So that is your rule-making in under two minutes.

CHAIR DAVIE: Thanks so much, Heather.

Any questions for Heather from

1  
2 the Board members? Anyone?

3 (No response.)

4 CHAIR DAVIE: All right. Thank  
5 you, Heather.

6 So we will now enter the public  
7 comment portion of the meeting.  
8 Again, if you are interested in making  
9 a public comment, please use the  
10 "raise your hand" feature, and we'll  
11 go down the list. Please keep your  
12 comments to two minutes.

13 Yojaira, will you please call on  
14 the first person.

15 MS. ALVAREZ: Thank you, Chair.

16 As a reminder, please limit your  
17 remarks to two minutes.

18 First, we'll be hearing from  
19 Quadira Coles from Girls for Gender  
20 Equity.

21 MS. COLES: Can you all hear me?

22 CHAIR DAVIE: Yes.

23 MS. COLES: Okay. Good evening,  
24 members and staff of the CCRB. My  
25 name is Quadira Coles, and I'm the

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policy manager at Girls for Gender Equity.

GGE wrote to the CCRB in strong support for interpreting jurisdiction to include sexual misconduct by members of the NYPD. Now with the opportunity to give verbal comments, GGE would like to highlight some important recommendations to strengthen and clarify language use.

GGE works daily with young women and girls of color who are policed at every juncture of their lives. In 2018, BuzzFeed released thousands of records of misconduct cases and we found anecdotes involving school safety agents behaving inappropriately in numerous forms of sexual misconduct with students. Specific behaviors are listed in our written testimony.

Researchers agree that while the issue of sexual misconduct is often invisible in public discourse around police violence, it is both prevalent

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and systemic. It is with this context and organization experience that we offer these recommendations.

In the definition of abuse of authority, we recommend the word "sexual misconduct" be expanded to include sexual harassment and sexual assault. Within the revised definition of sexual misconduct, we recommend adding sexual intimidation, coercion and extortion. We ask that using physical gestures be expanded to include expressions.

In addition to that, include language that encompasses a spectrum of digital or written forms of harassment, and also add in the course of duty or other than legitimate purposes with verbal sexual harassment to be inclusive of text-based communication or otherwise. Revise "inappropriate touching" to "groping", as "inappropriate" is far too subjective a word choice.

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2           We would like the CCRB to  
3           explain on-duty sexual activity to  
4           indicate more of a spectrum of course  
5           of sexual contact. In addition to  
6           including the use of official position  
7           identification card or badge or any  
8           use of department property or vehicles  
9           to coerce, persuade, force or  
10          initiate/engage in sexual contact with  
11          anyone or solicit sexual conduct while  
12          off duty.

13           We ask the CCRB to clarify when  
14          the decisions utilized of a sexual  
15          nature -- of a sexual nature in  
16          comparison to discrimination or  
17          harassment that is gender based. Our  
18          concern is that the scope then becomes  
19          too narrow or limited to deferring to  
20          sexual desire. Neglecting instances  
21          of sexual violence arising from gender  
22          discrimination. A potential reframing  
23          might be misconduct of a sexual nature  
24          or motivated in whole or in part by  
25          civilians actual perceived gender or



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gender presentation.

Delete the word gratuitously as shames or degrades as not needed or qualified. Replace the word sexual organs with body and part or a whole. Physical attributes, attire, appearance, or gender expression. The language sexual organs is far too limited to physiology at the expense of ignoring a person's presentation or appearance.

Lastly, include instances where an officer uses or refers to their own body as a form of sexual humiliation.

Thank you for the opportunity to testify.

CHAIR DAVIE: Thank you, speaker.

Yojaira, our next speaker.

MS. ALVAREZ: Thank you, Quadira.

Next, we'll be hearing from Deputy Public Advocate, Nick Smith.

MR. SMITH: Thank you. Thank

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you very much. Can you all hear me?

CHAIR DAVIE: Yes, we can, Nick.

MR. SMITH: Great. Good evening, everybody. I'm Nick Smith. First Deputy Public Advocate on behalf of PA Jumaane Williams.

Before I quickly read the remarks, I just want to kind of frame I think where we are and how we got here. It's clear to me that the PBA in suing the Board when it did, that the clear intent was to not just stop the adoption of these rules, but to literally keep these allegations a secret. That's, quite frankly, unacceptable and just has to be called out. We can't allow these allegations against officers to be secret. That's just not acceptable.

So to the remarks, very briefly. So once again, I'm Nick Smith, First Deputy PA. We thank the Board for having this hearing. No authority figure, especially a police officer,

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should abuse power. No survivor should be ignored. All rape and sexual assault cases must be investigated if an officer is the perpetrator.

Survivors who experienced severe and long-lasting trauma must be shown that no person is above the law. Therefore, I support the CCRB in leading sexual misconduct cases to ensure accountability. Without that accountability, there's no justice.

In 2017, two officers sexually assaulted a young woman. This horrific, traumatic and violent act has a name. It's called rape.

The case even led to a new law a year later that prohibited sex between an officer and a person in custody. Unfortunately, the young woman did not receive justice, as in 2019, a judge gave a light sentence to these officers who later resigned. Worse, the credibility of the woman was

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questioned. Make no mistake, this is a justice system failure.

And I see the time is running out, very briefly, as I wrap up; untruthful statements are also alarming and require investigation. Lying is so common among officers, that prosecutors across the City, that is DAs, have a list of officers considered to be dishonest. Notably, Staten Island and Brooklyn DAs prohibited said folks from testifying -- said officers from testifying. They must commit to the truth at all times.

Finally, to wrap, I emphasize that there needs to be a reimagining of policing and that first starts with accountability. Having the CCRB lead that process is a very helpful start. And our hearts and prayers are with any person who has been a victim of sexual assault or abuse, or has had to suffer from false statements made by

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an officer, particularly during a CCRB investigation.

I vote on the resolution. Thank you so much.

CHAIR DAVIE: Thank you. Mr. First Deputy Public Advocate. And I just want to say to the Board members, if you have any questions at all during the pause, please feel free to ask them. Thank you again, Nick.

Yojaira, our next speaker. Please.

MS. ALVAREZ: Next, we'll be hearing from Isabelle Chandler, a Community and Policy Aide for Councilmember Carlina Rivera.

MS. CHANDLER: Thank you so much. I'm unable to turn on my video, but I will be sharing testimony tonight on behalf of Councilmember Carlina Rivera. And her full testimony is available on her social media.

On behalf of my constituents of

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New York City's Second Council District, I respectfully submit these comments in support of the proposed CCRB rule change to include police sexual misconduct under its purview.

Until 2018, New York State Law did not explicitly forbid sexual contact between police officers and people in their custody. In 2021, there's no question that police sexual misconduct is a glaring abuse of NYPD authority, and that the CCRB should be able to investigate it.

I welcome this rule change as an opportunity to now codify an authority that should frankly already exist. Black and Brown New Yorkers have historically been disproportionately targeted, harassed and surveilled by the NYPD. Over the past year, our City has faced repeated instances of police misconduct, particularly during the Black Lives Matter protests.

Under the umbrella of police

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misconduct, police sexual misconduct is especially egregious and inextricably tied to the movement to decriminalize sex work in our City.

Decriminalizing sex work would eradicate incentives for officers to falsely arrest people for allegedly soliciting sex. This would also prevent so much of the violence that occurs when undercover VICE SWAT officers fail to wear their cameras or badges while falsely arresting New Yorkers.

In addition to oversight of police sexual misconduct, the CCRB should be the sole authority in recommending action, including firings for police officers found guilty of misconduct, and I stand in full support of this proposed rule change and will continue to advocate for bolder action and broader CCRB oversight. Thank you.

CHAIR DAVIE: Thank you.

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Our next speaker, please.

MS. ALVAREZ: Next, we'll be hearing from Zamir Ben-Dan, staff attorney with Legal Aid Society. Followed by Josie Torielli and Alvin Bragg.

MR. BEN-DAN: Can everybody hear me, see me?

CHAIR DAVIE: Yes, we can. We can't see you, but we can hear you.

Now we can see you.

MR. BEN-DAN: Can you see me now?

CHAIR DAVIE: Yes, we do. Go ahead.

MR. BEN-DAN: All right. So, good evening. My name is Zamir Ben-Dan, and I'm a staff attorney with the Legal Aid Society. I'm also a representative of the Black Attorneys of Legal Aid Caucus, which is an amalgamation of over 100 Black Legal Aid lawyers. Our written testimony and our comments today are focused on



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the issue of untruthful statements by  
NYPD.

On June 26, 2020, our caucus  
sponsored a social media action,  
drawing attention to the decades old  
problem of police perjury, known as  
Testalie. Using the hashtag "cops  
lie", attorneys from all over the  
country provided dozens upon dozens of  
real-life examples of police  
dishonesty. This action revealed to  
our caucus what defense attorneys  
throughout the country and what even  
prosecutors and judges all know; that  
cops lie and they lie frequently.

Testalying is not new. NYPD  
cops have been lying for decades.  
What has been different over the past  
five to ten years is the increase of  
cameras, both among business  
establishments and among civilians  
recording incidents with their cell  
phones.

Now, members of the public are

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increasingly aware of how pervasive police perjury is. Whether is to get around constitutional constraints regarding search and seizure, to cover up their own misdeeds, or to make arrests and quotas, testalying is a major problem that undermines the integrity of the judicial system, makes a mockery of any notion to criminal justice and destroys the lives of people in the community.

Simply put, there can be no justice as long as police perjury continues to go unabated. Therefore, in our view, the Civilian Complaint Review Board should be fully empowered to investigate police perjury and open the eyes that prosecutors and judges willfully closed to this sinful conduct.

Thank you.

CHAIR DAVIE: Thank you very much.

Next speaker, please.

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MS. ALVAREZ: Thank you so much,  
Zamir.

Next, we'll be hearing from  
Josie Torielli.

MS. TORIELLI: Hi, everyone.  
Can you hear me?

CHAIR DAVIE: Yes.

MS. TORIELLI: Okay. Great.  
Thank you so much. My name is Josie  
Torielli. I'm a licensed clinical  
social worker. I've worked with  
interpersonal violence since 2004. My  
social work career has focused  
specifically on intervention and  
prevention of sexual gender-based  
intimate partner and domestic  
violence.

My goal is to ensure that all  
people have access to expert and  
compassionate care following trauma.  
I earned my BA from Syracuse  
University, my MSW from Columbia  
University, and I've completed  
post-graduate certification in

1  
2 advanced trauma treatment. My prior  
3 experience includes work with the New  
4 York City Alliance Against Sexual  
5 Assault, the Training Institute for  
6 Mental Health, Institute for  
7 Contemporary Psychotherapy, Counseling  
8 services, New York-Presbyterian  
9 Hospital, Safe Horizon and Long Island  
10 College Hospital.

11 And I currently work as a  
12 consultant. Also an adjunct lecturer  
13 at Columbia University School of  
14 Social Work and published material  
15 related to trauma informed care for  
16 medical professionals. And I note I'm  
17 a survivor of intimate partner and  
18 sexual violence, and I feel that's  
19 important to include as this informs  
20 my professional work and viewpoint,  
21 and to make clear that we are not  
22 talking about others who have  
23 experience interpersonal violence.

24 So as a professional and as a  
25 survivor, I'm here to support the

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investigation of sexual misconduct allegations via the CCRB's abuse of authority jurisdiction.

I've worked with thousands of survivors of sexual violence in my career, including working in emergency departments and often, an important part of their healing is including naming and reporting what happened. This act involves a great amount of trust in systems that are supposed to support crime victims. It's quite literally turning your story over to a system and outcome of the disclosure, and too many times I've seen faith in that system disappear as the system fails.

So the failures of the current system are emphasized when working with people who have experienced sexual violence via the NYPD. In my experience, survivors who opt to report sexual misconduct face additional barriers to justice. How

1  
2 do you report a crime when it was  
3 committed by a member of that system?  
4 And in my experience as an advocate,  
5 it's been increasingly very difficult  
6 in order to work with the internal  
7 affairs bureau of the NYPD to  
8 investigate these crimes currently.

9 I also want to say, as a person  
10 who worked with the CCRB in order to  
11 provide training and trauma-informed  
12 care, I'm highly confident that their  
13 investigators are well trained and  
14 prepared in order to investigate these  
15 claims.

16 Thank you.

17 CHAIR DAVIE: Thank you very  
18 much.

19 Our next speaker, please?

20 MS. ALVAREZ: Thank you so much  
21 Josie.

22 Next, we'll be hearing from  
23 Alvin Bragg, codirector of the New  
24 York Law School Racial Justice  
25 Project. Followed by Sandra Park and

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Chris Dunn.

MR. BRAGG: Yes, this is Alvin Bragg. Can you hear me?

CHAIR DAVIE: We can, Alvin. Please proceed.

MR. BRAGG: Thank you, Chair Davie and Executive Director Darche for convening us.

My name is Alvin Bragg, codirector of the Racial Justice Project at New York Law School. We submitted written testimony, so I'm just going to pull out a few key points.

The first is, we cited to law, New York State case law showing that abuse of authority certainly includes false statements by police officers, indeed not just New York State law. But federal law as well. I previously served as a federal prosecutor and tried an FBI agent for lying. Some of the most significant types of abuse of authority, not just within the

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definition.

Secondly, this is sorely needed, not just a jurisdictional point. I'm thankful to the CCRB for its work concerning former Officer Pantaleo. The Racial Justice Project represents members of the Eric Garner family and other police accountability organizers in a lawsuit against Mayor de Blasio and the City. That case centrally involves lying by Officer Demico, which was found by NYPD administrative law judge, and we are seeking details about that six plus years after Mr. Garner's death.

So this jurisdiction is not just something that's significantly needed in the abstract. It is significantly needed in a very pressing way. I know the police unions and others are resisting the jurisdiction. This is a matter of public safety. We need community trust in order for us to have actual public safety. It's



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paramount.

Briefly, to the second piece on sexual abuse, we have cited law as well showing it's not just state law that is well within abuse of authority jurisdiction, but also when I was at the Attorney General's office, we investigated a local police department for this type of varying misconduct. And a federal judge upheld a consent decree.

So this is conduct that is well within the CCRB's authority, abuse of authority, and the Racial Justice Project respectfully submits that these rules be adopted.

Thank you.

CHAIR DAVIE: Thank you. Thank you very much.

Next speaker, please.

MS. ALVAREZ: Thank you so much, Alvin.

Next, we'll be hearing from Sandra Park, Senior Staff Attorney

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with American Civil Liberties Union in  
the Women's Rights Project.

(No response.)

MS. ALVAREZ: Sandra, we are  
having a little trouble hearing you.

(No response.)

MS. ALVAREZ: We can't hear you.

MS. PARK: Guys --

MS. ALVAREZ: There you are.

CHAIR DAVIE: Now we can.

Please proceed.

MS. PARK: Okay. I'm hoping you  
can hear me.

CHAIR DAVIE: We can. Please go  
ahead.

MS. PARK: Okay. Great. Good  
evening. My name is Sandra Park. I  
am a senior attorney with the Women's  
Rights Project. And I'm testifying  
tonight on behalf of both the National  
ACLU as well as NYCLU on the issue of  
sexual misconduct.

Both our organizations strongly  
support the proposal for CCRB to

1  
2 accept and investigate complaints of  
3 police sexual misconduct. As our  
4 written testimony outlines, and as  
5 many others have already spoken to,  
6 police sexual misconduct is a  
7 pervasive problem nationally and in  
8 the NYPD. And that's worn out by a  
9 number of reports and studies, as well  
10 as high profile headlines.

11 We believe CCRB investigation of  
12 these complaints is a critical step  
13 towards promoting police  
14 accountability, reducing sexual  
15 misconduct and the harms committed by  
16 those officers that engage in this  
17 misconduct. And it's all the more  
18 important for the CCRB to have this  
19 role because NYPD has failed over many  
20 years to adequately investigate and  
21 respond and address sexual misconduct  
22 within its ranks. So for most New  
23 Yorkers, until CCRB stepped in, there  
24 was no point in filing reports or  
25 complaints because they'd be doing so

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with the very agency that has long  
condoned the misconduct.

In our comments, as others have  
said, we believe that this  
jurisdiction is entirely appropriate.  
And indeed, any arguments that police  
sexual misconduct does not qualify as  
abuse of authority minimizes the deep  
harms of this misconduct and ignores  
how officers' positions within NYPD  
empower these types of violations of  
civil and human rights.

I'll note that in our comments,  
we do have some recommendations for  
amendments, particularly around  
clarifying when sexual misconduct can  
be committed when an officer is both  
off and on duty.

But I'll just sum up by thanking  
the CCRB for undertaking this issue,  
and expressing our support for the  
regulation.

CHAIR DAVIE: Thank you  
Ms. Park.

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Our next speaker, please.

MS. ALVAREZ: Thank you so much.

Next, we'll be hearing from  
Chris Dunn from NYCLU. Followed by  
Jennvine Wong.

CHAIR DAVIE: Chris, you there?

MR. DUNN: Good evening, Fred.  
Can you hear me now?

CHAIR DAVIE: Yes, we can.  
Please go ahead.

MR. DUNN: Good evening, Fred.  
Good evening other members of the  
Board, Jon.

Fred, I want to say at the  
outset, I particularly appreciate your  
opening comments. What happened last  
week was not only a political crisis,  
it was a gruesome crisis and race  
crisis, and I think what happened last  
week has to be considered in light of  
what the board is trying to do this  
evening. Which we fully support.

As you know, we took the very  
unusual step of filing in support of a

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City agency and when the PBA challenged the initial effort to bring sexual misconduct complaints into your jurisdiction. We similarly support tonight, and I want to specifically address the issue of false statements, a nice way of saying cops who lie.

As we all understand, police officer false statements has a profound threat to the integrity of policing, to the legitimacy of the criminal justice system, the public confidence in both.

I thought the CCRB in fact were not having investigated complaints about false statements by police officers that took place in court and in paperwork. It has always been part of their jurisdiction. There can be no question about that. If there's anything that qualifies as an abuse of authority, is a police officer who lies in paperwork, lies in court, the result of destroying the lives of

1  
2 civilians; any suggestion by the PBA  
3 or anybody else that somehow that is  
4 not an abuse of authority, that the  
5 CCRB could always have investigated,  
6 defies common sense in any notion of  
7 the English language.

8 So we are pleased that you are  
9 taking the step on. We actually think  
10 it was probably unnecessary and was  
11 long overdue. But we fully support  
12 the rule as it would affect false  
13 statements. And if the PBA sues, as  
14 we know they will, we can rest assured  
15 that we in NYCLU will be there in  
16 support of the CCRB if it has to  
17 defend such a case.

18 Thank you.

19 CHAIR DAVIE: Thank you, Chris.

20 Our next speaker, please,  
21 Yojaira.

22 MS. ALVAREZ: Thank you, Chris.

23 Next, we'll be hearing from  
24 Jennvine Wong from the Cop  
25 Accountability Project at Legal Aid

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Society. Followed by Maryanne  
Kaishian.

MS. WONG: Hi. Can you all hear  
me?

CHAIR DAVIE: Yes, we can,  
Jennvine.

MS. WONG: Thank you. Good  
evening, and thank you to Executive  
Director Darche, Chair Davie and the  
Board for the opportunity to testify  
about these long overdue and important  
rule changes proposed.

My name is Jennvine Wong, and  
I'm an attorney with the Cop  
Accountability Project at the Legal  
Aid Society. To be clear, police  
sexual misconduct and false statements  
are clearly abuses of authority by any  
plain understanding. These forms of  
misconduct are enabled by the  
authority of the officers that  
perpetrate them and cause devastating  
harms onto their victims.

And first, in addressing the



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issue of police sexual misconduct, NYPD's persistent failure to properly investigate complaints of sexual misconduct is endemic of a toxic culture that does not take sexism or sexual violence seriously.

Since 2018, Legal Aid's Exploitation Intervention Project, a project that represents people prosecuted for prostitution related charges and advocates for survivors of sex trafficking and sexual exploitation has demanded accountability for this systemic sexual harassment and assault of our clients by NYPD VICE Enforcement Division officers.

In a recent investigation by ProPublica, it was revealed that 17 women reported to their attorneys a sexual assault committed by a single undercover VICE officer. An NYPD leadership has shielded that officer from any meaningful discipline,

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despite compelling allegations of false arrest and sexual misconduct reported to the OIG of almost three years ago. And internally, NYPD has willfully failed to curtail sexual harassment and assault against their own members.

NYPD continuously fail survivors of sexual abuse. Whether they're civilians or members of service themselves. And officers cannot continue to hide behind a cloak of authority while exploiting the vulnerable people they interact with.

I invite the Board to review my written testimony that discusses more in depth these underlying failures of NYPD. And at a minimum, survivors, must be able to report police sexual misconduct to an agency other than the one that has perpetrated the harm.

In turning to false statements, there's no other way to put it. As my colleague so succinctly and eloquently

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testified earlier, cops lie. They make false statements in official documents in conversation with prosecutors and on the witness stand and under oath. And those lies have life-changing consequences for Legal Aid clients and defer their freedom.

Yet, even in cases where an officer's false statements are exposed, it is rare the officers are held to account anyway whatsoever. Officers remain on the street to do it again, and are even promoted through the ranks. NYPD has been unable to curtail the rampant lies that are told by members of service, and the District Attorney's offices protect them.

Police lying is so prevalent, that it has earned the moniker of testalying. In the last 12 years, the Manhattan DA's office has charged only four officers of perjury in 26 with charges related to lying about arrests

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or summons.

Many attorneys in our criminal defense practice report that officers own body-worn camera will often directly contradict --

MR. DARCHE: Ms. Wong, Ms. Wong, we are trying to limit people to two limits.

MS. WONG: I understand, and I will be -- I'm finishing up.

And many attorneys in our criminal defense practice have reported that there's video that directly contradict police testimony and statements on a regular basis. And yet these officers evade accountability on a regular basis, while our clients become ensnared in the criminal legal system based on these lies.

The proposed rule changes would provide civilians an opportunity to seek accountability with an entity other than NYPD itself, and we

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support -- we support the -- these  
rule changes.

Thank you for the time.

CHAIR DAVIE: Thank you.

Yojaira, our next speaker,  
please.

MS. ALVAREZ: Next, we'll be  
hearing from Maryanne Kaishian from  
Brooklyn Defender Services.

MS. KAISHIAN: Thank you for  
having this hearing. My name is  
Maryanne Kaishian, and I'm Senior  
Policy Counsel of Brooklyn Defender  
Services.

BDS supports the proposed rule  
changes, which are in accordance with  
the best interests of residents and  
the will of New York City voters. I'm  
going to address the sexual misconduct  
aspect of those rule changes and echo  
Girls for Gender Equity and other  
organizations calls for clarifying  
definitions and the addition of  
expansive language.

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2                   Sexual abuse and harassment is  
3 endemic to NYPD interactions with  
4 civilians. People of all genders and  
5 sexual orientations are at risk of  
6 abuse, but many of the individuals  
7 subjected to this common form of  
8 misconduct are targeted specifically  
9 because of their sexual orientation,  
10 race and/or gender and gender  
11 expression.

12                   The police commonly subject  
13 women and sex workers of color to  
14 sexual abuse and harassment. This is  
15 a race and gender justice issue. The  
16 inherent power imbalance between  
17 civilians and the NYPD is heightened  
18 by the race and gender dynamics often  
19 present in abusive police  
20 interactions, and it is completely  
21 unreasonable to expect victims of  
22 sexual misconduct to turn to the  
23 police and the Department for help.

24                   As public defenders, we  
25 represent people who are targeted with

1  
2 gender slurs, unwanted advances by  
3 officers, many of whom are uniformed  
4 and on duty. Officers take picture of  
5 people's bodies and faces with their  
6 cell phones and critique appearances,  
7 mocking people based on their gender  
8 expression.

9 Members of the VICE Squad,  
10 including others, routinely abuse  
11 people in their custody and other  
12 targets of their rogue operations.  
13 Some officers, such as the undercover  
14 officer known as UC157, commit rape,  
15 sexually humiliate people in custody,  
16 obtain sexually compromising  
17 information on people and blackmail  
18 people into sex. Without an  
19 independent investigatory body to turn  
20 to, victims of sexual misconduct are  
21 left with no recourse, other than  
22 reporting the incident to the NYPD  
23 itself. All but ensuring inaction  
24 while risking the NYPD's notorious  
25 retribution and additional harm.

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Members of the NYPD understand that the current system all but guarantees, not only the unaccountability of the perpetrators, but the continued victimization of targeted people should they turn to their abusers for help.

Like other forms of police abuse, sexual misconduct by officers is an exercise of unchecked police power over civilians. It should be investigated by the CCRB as an independent agency. It is unacceptable that these complaints are excluded from CCRB jurisdiction, particularly given the sensitive nature of the allegations.

And I see I'm out of time. I'm just finishing up.

And the valid reasons that targeted people would decline to lodge these complaints with the NYPD. The current exclusion of sexual misconduct from the CCRB's investigatory power



1  
2 serves no purpose other than to  
3 provide cover for abusive police. The  
4 expansion of CCRB power should be  
5 accompanied by other mechanisms of  
6 reducing the scope and authority of  
7 the NYPD, and it must happen  
8 immediately for the safety and welfare  
9 of the City.

10 Thank you.

11 CHAIR DAVIE: Thank you.

12 Next speaker, please.

13 MS. ALVAREZ: Thank you so much.

14 Next, we'll be hearing from  
15 Laurie -- sorry -- sorry.

16 Next, we'll be hearing from  
17 Rachel Geller.

18 CHAIR DAVIE: Speaker, please go  
19 ahead.

20 SPEAKER: Can you all hear me?

21 CHAIR DAVIE: Yes, we can.

22 Please proceed.

23 SPEAKER: On behalf of the New  
24 York City Alliance against sexual  
25 assault and the New York State

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coalition against sexual assault, I'm here to reiterate our comments submitted and express our support for changes to Chapter 18-A, Section 440 of the New York City Charter, expanding the CCRB's authority to compass police sexual misconduct.

Sexual violence is an abuse of power and far too many of our clients have had the unfortunate firsthand experience of abuse of power at the hands of the NYPD. Research bares out our anecdotal evidence.

In 2015, a national survey found that on average, a police officer is reported for sexual misconduct at least every five days. In NYC, a 2003 survey of young adults found that two in five young women reported sexual harassment by law enforcement and half of those victimized were young women of color.

Without independent oversight, police perpetrators often evade

1  
2 accountability. Internal reporting  
3 systems that represent law enforcement  
4 value internal political and  
5 reputational protection in closed  
6 cases above safeguard and the  
7 fundamental human rights of survivors.

8 As a result of the current  
9 system's failure to protect survivors,  
10 many survivors do not report sexual  
11 misconduct by law enforcement. As the  
12 CCRB moves towards taking on the  
13 responsibility, we further recommend  
14 that the council consider the  
15 following needs: Require training so  
16 investigators learn how to center the  
17 unique needs of survivors during  
18 inclusive, anti-oppressive and  
19 trauma-informed framework. Ensure  
20 that the reporting process is clear,  
21 conspicuous and accessible. Formulate  
22 internal and external procedures to  
23 protect the privacy of survivors.  
24 Execute timely investigations with a  
25 thorough communication system. Ensure

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there's a mechanism for survivors to be connected to resources such as hospital services and mental health counseling if desired.

Under Section 101, we suggest removal of the word gratuitously from the definition, in order to avoid making complainants reach an arbitrary standard of humiliation. Under Section 101, in category 17 and 18, we request that complainants be given the opportunity to rescind their agreement to move forward with mediation before, during or after the process, since mediation may result in survivors feeling intimidated or coerced into an agreement.

In conclusion, both of our organizations overwhelmingly support the expansion of the CCRB's authority, jurisdiction, composition, duties and power to encompass sexual misconduct by police officers.

Thank you.

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CHAIR DAVIE: Thank you.

Next speaker, please, Yojaira.

MS. ALVAREZ: Just a reminder, folks, if you would like to share comments, please use the "raise the hand" feature.

Next, we'll be hearing from Laurie Roberts, State Policy Advocate from the Innocence Project, followed by Kelly Grace Price.

MS. ROBERTS: Hi, everyone. Can you hear me?

CHAIR DAVIE: Yes, we can. Go ahead.

MS. ROBERTS: Great. Thank you.

My name is Laurie Roberts, and I'm a State Policy Advocate with the Innocence Project. Thank so much for the opportunity to testify this evening.

We are an organization that works to exonerate wrongfully convicted people across the country and here in New York City, where 19

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people have been proven innocent through DNA testing through 1991. And the Innocence Project can draw a straight line in numerous cases from false statements made by NYPD officials, to the wrongful convictions we spend our time overturning.

We strongly support this proposed rule change to ensure the CCRB can investigate matters of truthfulness. Because the consequences when officers lie are devastating. I also -- I really want to note specifically that when NYPD officers make false statements to bolster convictions against innocent people, the real perpetrators of those crimes remain undetected in the community. Indeed, the real perpetrator was identified in 50 percent of the 375 wrongful convictions proven by DNA nationwide. And those people went on to commit 154 additional violent crimes, including

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83 rapes and 36 murders.

So false statements made by NYPD officers is a public safety issue. My written testimony details a number of examples from our casework where wrongful convictions occur because of false statements. But I just want to highlight Andre Hatchett's story. He spent 25 years in prison for a murder he did not commit, in part because of false statements made by the NYPD. And when he was exonerated by the Conviction Review Unit of Kings County.

They specifically noted, quote, "It was implausible to the point of saying impossible for Hatchett to have been able to commit all of these acts."

And specifically noting the NYPD's problematic investigation. And when he was exonerated, he filed a lawsuit that won a 12 million-dollar settlement with the City. But he

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noted in that lawsuit, "Mr. Hatchett seeks to bring the defendant's misconduct to light, and to ensure they are held accountable for their action."

I see I'm out of time, so I'll just quickly finish up to say that one way to make sure wrongful conviction never happen again is to investigate these falsehoods when they happen. In all of these examples, victims only discover that these officers lack credibility after spending years behind bars. The Court emphasize the connection with untruthfulness and exoneration, and these officers rarely face consequences for lying with impunity.

So the Innocence Project strongly supports this rule change, and the CCRB must be fully empowered to investigate police officers who make false statements.

Thank you so much for your time.



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CHAIR DAVIE: Thank you.

Our next speaker, please.

MS. ALVAREZ: Thank you so much,  
Laurie.

Next, we'll be hearing from  
Kelly Grace Price, and that will  
conclude our public comment portion.

CHAIR DAVIE: Speaker, go ahead,  
please.

(No response.)

CHAIR DAVIE: Is the speaker  
there?

(No response.)

CHAIR DAVIE: All right.  
Yojaira, do we have written testimony  
from this speaker?

MS. ALVAREZ: Kelly, can you --  
are you able to unmute?

We do not have written testimony  
from Kelly. But Kelly, I will send  
you my e-mail in case you do want to  
provide that, if you are unable to  
mute or turn on video.

CHAIR DAVIE: Okay. So let me

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see if any of the Board members have any questions before we proceed on anything that we have heard in the testimonies so far.

MR. SIEGAL, ESQ.: Mr. Chairman, John Siegal. I have a question.

We received extensive written testimony. Many of the people who submitted that have appeared today. My question is whether the police unions that submitted testimony were invited to appear this evening to testify. And if so, what responses we got.

Because I've read the testimony and raises some issues I'd like to ask about. And begins with their statement that the CCRB has, in effect, carried out this rule-making process in private. And here we are in public session, and I just want to know whether they were invited and what response we got.

CHAIR DAVIE: It's my

1  
2 understanding that they might actually  
3 be in attendance somewhere in our  
4 participants, but chose not to speak;  
5 is that correct, Yojaira?

6 MS. ALVAREZ: Actually, Chair,  
7 from our understanding, we haven't  
8 seen anyone from the unions in  
9 attendance.

10 But that's correct, Mr. Siegal,  
11 they did submit testimony and were  
12 invited to testify.

13 CHAIR DAVIE: You said they're  
14 not in attendance. I thought you said  
15 they were. Okay.

16 MR. SIEGAL, ESQ.: I'd just like  
17 to note for the record I have some  
18 questions on points that were raised  
19 in that testimony. And I, for one,  
20 would appreciate an opportunity to get  
21 into a dialogue with them.

22 MR. DARCHE: Mr. Chair, we did  
23 expect representatives of the union to  
24 be in attendance today, but they were  
25 not. And Mr. Siegal, you have

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questions, I'll talk to the -- and see if it's appropriate for us to take questions from you or any other Board members and reach out to the union. I don't -- we would certainly have to make them in writing and publically available for them. We'll see if that's something we could do.

CHAIR DAVIE: Thank you, Jon, Jon Darche.

Mr. Siegal, any other questions or comments on this?

MR. SIEGAL, ESQ.: No. I just wanted to note, I thought Mr. Bragg's testimony where he identified preexisting case law that informs the definitions of untruthful testimony and sexual misconduct was particularly helpful. It seems to me that we are not writing these rules on a blank slate and that incorporating preexisting case law makes good sense. And I thought that was particularly helpful, and I just wanted to commend

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that contribution.

CHAIR DAVIE: Great. Thank you.

Any other comments or questions from any of the other board members?

MR. DWYER: Yes, Mr. Chair.

This is Frank Dwyer, in case you can't see me.

I just want clarification on -- I mean, I was up until about 3:00 o'clock this morning reading the testimony, and the testimony is phenomenally rich, and certainly one cannot easily take it all in.

So recognizing the requirements of open meanings and other things, what is the process now of discernment in terms of taking the testimonies, going through our proposals, how will that be taken on, how would the Board be involved before something is brought back to the public? I would think a next meeting or a third meeting for us to vote on, et cetera.

CHAIR DAVIE: Jon, do you or

1  
2 Matt want to talk about this? My  
3 understanding is that we are going to  
4 try to have this -- be ready to vote  
5 on this in our February board meeting.  
6 And if we need to have another public  
7 conversation before we get to  
8 February, I'm sure we can schedule  
9 that.

10 But Jon, you want to talk about  
11 the process as it now stands?

12 MR. DARCHE: So my understanding  
13 is that the February board meeting, if  
14 there are motions to change the -- the  
15 language of the proposed rules, we'll  
16 then have to vote on that. And if the  
17 language changes go to the general  
18 counsel who make a determination if  
19 it's a substantive change, then we are  
20 going to have to restart the process.

21 And so that would mean that we  
22 would have to go back to the Mayor's  
23 Office of Operations and the law  
24 department to get approval for the new  
25 language, and then have another public

1  
2 hearing and then potentially vote. So  
3 it's -- it's fairly straightforward,  
4 although long.

5 MS. PRICE: Hi, it's Kelly Grace  
6 Price. I just wanted to say I was  
7 able to unmute my button, if you would  
8 like to hear from me.

9 CHAIR DAVIE: Sure, Ms. Price.  
10 Go ahead.

11 MS. PRICE: -- technical  
12 difficulties. I'm not a fan of this  
13 Webex platform.

14 I wanted to say that I've read  
15 and listened to the other advocates  
16 that have submitted testimony, and I  
17 agree especially with the  
18 considerations that the Alliance  
19 submitted. I have much respect for  
20 that organization, having worked with  
21 Mary Haviland on the Downstate  
22 Coalition.

23 And with that in mind, I just  
24 wanted to say, there's nothing in the  
25 rules that allots for the backside

1  
2 services to people that make  
3 complaints. The CCRB is only  
4 obligated to send a letter via U.S.  
5 Postal Service at the end of its  
6 investigation notifying the  
7 complainant of the status of their  
8 complaint, whether it's founded,  
9 substantiated or unsubstantiated. And  
10 survivors deserve more than just a  
11 letter.

12 What's the plan to manage the  
13 flow of information to survivors post  
14 interview. And survivors that aren't  
15 notified when administrative trials  
16 are held, if their complaints were  
17 founded and were not able to  
18 participate in that, were not able to  
19 submit victim impact statements.  
20 There's no information about the  
21 agreements between the district  
22 attorney's office investigations into  
23 criminal acts by -- alleged criminal  
24 acts, sexual acts by police officers  
25 and how those investigations will



1  
2 dovetail, stall or coincide with CCRB  
3 investigations.

4 We need more information about  
5 how -- what the -- the service level  
6 agreements between these two  
7 organizations are. We don't know if  
8 investigations will be stalled pending  
9 the outcome of the CCRB  
10 investigations. We don't know.

11 And we also don't have any  
12 previous data on how many  
13 investigations IAB or department of  
14 investigations OIG has done over the  
15 past ten years. I submitted in my  
16 written testimony -- I heard someone  
17 say that they hadn't received my  
18 written testimony, so I'm very happy  
19 to send it again, because I spent an  
20 enormous amount of time looking for  
21 data about previous investigations  
22 into NYPD sexual abuse, assault and  
23 harassment against citizenry and  
24 against other NYPD staff members.

25 And I was able to parse out some

1  
2 data that I presented to you. We'd  
3 like to know, you know, if this data  
4 is accurate and does the CCRB have  
5 previous data into this kind of  
6 allegation that we can look at.  
7 Please, I know I've taken my two  
8 minutes, thank you so much for  
9 listening to me and please pay  
10 attention to my written testimony.  
11 I'm happy to send it again.

12 CHAIR DAVIE: Thank you. And  
13 Yojaira, if you can talk to the  
14 speaker about getting her information  
15 and getting her testimony.

16 MS. ALVAREZ: I'll follow up.

17 CHAIR DAVIE: Thanks so much.

18 Any other comments from board  
19 members or staff? Questions?

20 MS. SIMMONS, ESQ.: Esmeralda  
21 Simmons. I'm sorry for being late. I  
22 was stuck at a doctor's office trying  
23 to get a COVID test.

24 CHAIR DAVIE: There you go.

25 MS. SIMMONS, ESQ.: All day

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long. It's an occupation. Anyway, I refused to leave when he finally called me. Even though it went right at the same time of our meeting.

I too searched the documents to get a real good idea of how many complaints occur per year. And I'm not satisfied that I actually have a grasp on that, because obviously that will color how many -- how many cases, additional cases may come through. And I believe it might be actually more cases since it's going to be coming to us rather than to NYPD or AIB.

So I too am interested if you have any data on the number of cases we are talking about.

CHAIR DAVIE: Great. Thank you.

I do know that, Jon, in the past, we had collective data on the cases that we sent over to the IAB, I'm assuming over a given period of time. And if we can share that data

1  
2 again, and then any other data that  
3 might be relevant for the Board  
4 members.

5 MR. DARCHE: I'm trying to find  
6 it. I'm pretty sure we posted it on  
7 the website. But if we haven't, we'll  
8 get it up there soon. If I can find  
9 it in the next two minutes, I will  
10 unmute and share that information.

11 CHAIR DAVIE: Thank you.

12 MS. SIMMONS, ESQ.: That's  
13 great. But the real numbers will be  
14 closer to what complaints are sent to  
15 NYPD as well on this topic.

16 Thank you.

17 MR. DARCHE: Correct. The  
18 referral numbers is what I'm going to  
19 try to get.

20 MS. SIMMONS, ESQ.: Okay. Thank  
21 you. Everybody go get tested. All  
22 right.

23 CHAIR DAVIE: Or vaccinated.  
24 Assuming eligibility.

25 MS. SIMMONS, ESQ.: That's

1  
2 Saturday. I have an appointment for  
3 Saturday.

4 CHAIR DAVIE: Great.

5 Other comments or questions for  
6 the staff, other board members?

7 MR. JOSEPH: This is Nathan. I  
8 have a question. I don't know what  
9 happened. I got bounced offline  
10 again. I guess my internet is not  
11 very stable.

12 I had a question about -- I  
13 think it was Jennvine Wong had talked  
14 about sexual misconduct officers  
15 against other officers. Is that  
16 something that we could even look at  
17 or is that totally outside of our  
18 scope?

19 CHAIR DAVIE: Jon, you want  
20 to --

21 MR. DARCHE: In order for it to  
22 be in the CCRB's jurisdiction, it  
23 would have to be an on-duty police  
24 officer using conduct against --  
25 committing conduct against an off-duty

1  
2 police officer.

3 CHAIR DAVIE: And we have had at  
4 least one -- I've been on at least one  
5 of those cases since I've been on the  
6 Board. Not for sexual misconduct, but  
7 for another FADO issue.

8 MR. JOSEPH: Okay. Thank you.

9 CHAIR DAVIE: Other comments,  
10 questions?

11 MR. PUMA: Mr. Chair, this is  
12 Joseph Puma.

13 CHAIR DAVIE: Sure. Please go  
14 ahead.

15 MR. PUMA: So Jon's answer kind  
16 of is a good jumping point, I think,  
17 for my question. And I heard it come  
18 up in a few of the testimonies.

19 So a point of information, I --  
20 you know, most CCRB cases arise from  
21 incidents involving officers who are  
22 on duty. I have -- I know that we  
23 have also investigated and adjudicated  
24 cases involving officers that were off  
25 duty. So I just wanted to provide --

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you know, ask that question to the staff in terms of when -- what our jurisdiction is and what our role is depending on whether an officer -- a complaint is involving an officer on duty or off duty.

It occurs to me that this particular universe of sexual misconduct allegations kind of lends itself to, you know, maybe more variants in terms of whether an officer is on duty or off duty or patterns of harassment involving an individual might involve times in the chronology when an officer was on duty or off duty.

So I just wanted to ask that question so that the public is clear.

MR. DARCHE: So if an officer is off duty but invokes their authority as a police officer. So if, for example, if an officer is off duty but uses their shield to pull someone over while they're driving, then they will

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be considered on duty.

If I may go back to Ms. Simmons' comment. I got the numbers on referrals to IAB for sexual misconduct. In 2016, there were 50. In 2017, there were 61. In 2018, there were 58. In 2019, there were 18. In 2020, there were 31.

That is just referrals. We do not investigate those matters. So I don't know the results of those investigations by Internal Affairs Division.

CHAIR DAVIE: Thanks, Jon.

First, Mr. Puma, did you have any other questions for Jon or staff?

MR. PUMA: So -- no. I -- the answer was -- was what I understood. So an officer who would be off duty has to invoke their police authority in the incident, and that's what would be the subject of a CCRB investigation, right?

MR. DARCHE: Correct.



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MR. PUMA: Thank you.

CHAIR DAVIE: Sure. Thank you.

Ms. Simmons, you heard Jon's statistics; do you have any other questions or comments?

MS. SIMMONS, ESQ.: Oh, I thought I had unmuted myself and thanked him.

Thank you, Jon. That was it. Thank you.

CHAIR DAVIE: Thanks so much.

Anything else on these questions for board or staff?

MS. IRISH, ESQ.: Yeah, I had a question. Just to clarify with regards to false statements by officers.

Would that include statements by officers that are false during the course of our investigation? Do we have jurisdiction over that?

MR. DARCHE: So we have jurisdiction over that already, due to the Charter. But the Charter language

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specifically referred to --

Can someone just give me a thumbs up that they can hear me because I'm getting weird things on my screen.

CHAIR DAVIE: Yeah, we can hear you. Go ahead, Jon.

MR. DARCHE: So the Charter revisions specifically apply to false statements made to CCRB. Because of the timing of the CCRB investigation, the civilian might not know they were made, can't file a complaint about that. So it gives us the authority to investigate them separate from abuse of authority.

CHAIR DAVIE: Does that answer your question, Ms. Irish?

MS. IRISH, ESQ.: Yes, thank you.

CHAIR DAVIE: Sure. Okay. Any other questions? Comments on this.

(No response.)

CHAIR DAVIE: All right.

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Any old business to come before  
the Board?

(No response.)

CHAIR DAVIE: Any new business  
to come before the Board?

(No response.)

CHAIR DAVIE: Hearing none, is  
there a motion to adjourn to executive  
session?

MS. BOND, ESQ.: Moved.

CHAIR DAVIE: Second?

MR. JOSEPH: Second.

CHAIR DAVIE: Those in favor of  
adjourning to executive session,  
please say aye.

(Chorus of ayes.)

CHAIR DAVIE: Any opposed?

(No response.)

CHAIR DAVIE: Motion carries and  
we are adjourned to executive session.

Thanks to the public and thanks  
to all of you.

(TIME NOTED: 7:43 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF SUFFOLK)

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

I reported the proceedings in the  
within-entitled matter, and that the within  
transcript is a true record of such proceedings to  
the best of my ability.

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 21st day of January, 2021.

  
Elbia Merino

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