

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

December 14, 2022

5:15 P.M.

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HELD VIA VIDEOCONFERENCE

100 CHURCH STREET

NEW YORK, NEW YORK 10007

B E F O R E:

ARVA RICE, CHAIR

JONATHAN DARCHE, ESQ., EXECUTIVE DIRECTOR

Transcribed by:

LARIN KAYWOOD

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PUBLIC MEETING AGENDA

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1. Call to Order
2. Adoption of Minutes
3. Remarks from the Chair
4. Remarks from the Executive Director
5. Presentation from Outreach on the CCRB
6. Public Comment
7. Old Business
8. New Business
9. Adjourn to Executive Session

In Re December Board Meeting NYC - Civilian Complaint Review Board
December 14th, 2022

1
2
3
4
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6
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BOARD MEMBERS PRESENT:

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- ARVA RICE, Interim Board Chair
- JOSEPH A. PUMA, Board Member
- ESMERALDA SIMMONS, ESQ., Board Member
- CORRINE A. IRISH, ESQ., Board Member
- AU HOGAN, Board Member
- WILLIE FREEMAN, Board Member
- MICHAEL RIVADENEYRA, ESQ., Board Member
- KEVIN JEMMOTT, Board Member
- FRANK DWYER, Board Member
- SALVATORE CARCATERRA, Board Member
- HERMAN MERRITT, Board Member

PRESENTERS:

- JAH I ROSE - Director of Outreach
- New York City Civilian Complaint Review Board

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

1
2
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SPEAKERS LIST
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CHRIS DUNN, Legal Director, New York Civil
Liberties Union

JENNVINE WONG, Staff Attorney - Legal Aid
Society's Cop Accountability Project

ANDREW WILSON, Community Member

KIMBERLY HARTMAN, Community Member

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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CHAIR RICE: Good evening, everyone. For those utilizing ASL interpreters, we have Matt and Greg joining us and in the chat are sections on how to pin their videos.

Thank you.

I would like to call the CCRB's December meeting to order. I'm pleased to welcome the newest member of our board, Kevin Jemmott.

Mr. Jemmott is a life-long New Yorker and Queens resident with extensive experience in communications, technology, and civic engagement.

He served as vice president and president of the Cambria Heights Civic Association where he advocated for an achieved investment in many committee initiatives; mainly, education, and zoning changes. We are lucky to have his unique perspective, and I look forward to working with him.

Will the Board members now please introduce themselves, starting with Mr.

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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Jemmott?

MR. JEMMOTT: Good evening, everyone. My name is Kevin Jemmott, and I'm one of the representatives on the Board from Queens as of December 1st, and this is my first board meeting.

And I'm looking forward to working with my fellow board members and I'm excited to be here.

MR. FREEMAN: Hello. My name is Willie Freeman, I'm the police commissioner designee, and I'm from Brooklyn.

CHAIR RICE: Start with those attendees in the room with Mr. Merritt.

MR. MERRITT: Good evening. My name is Herman Merritt, City Council representative from Brooklyn.

MR. DWYER: Good even. I'm Frank Dwyer, police commissioner designee.

MS. IRISH: Hi, Corrine Irish from Harlem.

MR. DARCHE: My name is Jon Darche and I use he/him pronouns and I'm the

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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executive director of the CCRB.

MS. SIMMONS: I'm Esmeralda Simmons. I'm a public advocate designee, and I'm from Brooklyn.

MR. RIVADENEYRA: Good evening. My name is Michael Rivadeneyra, and I use he/him pronouns, and I'm a City Council designee from the Bronx.

MR. PUMA: Good afternoon. My name is Joseph Puma. I'm the Manhattan City Council representative on the Board, and I go by he/him pronouns and wanted to welcome Mr. Jemmott to the Board.

MR. HOGAN: AU Hogan, Queens City Council representative.

MR. CARCATERRA: Good evening, everyone. My name is Sal Carcaterra and I'm a police commissioner, commissioner designee to the Board.

CHAIR RICE: Thank you, board members. I would like to ask for a motion to approve the minutes as presented.

May I have a second?

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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THE BOARD: Second.

CHAIR RICE: All those in favor, say aye?

THE BOARD: Aye.

CHAIR RICE: Any opposed, the minutes are approved as presented.

Earlier today, the police commissioner sent a letter to her staff regarding her intention to amend the disciplinary process.

She details the certain instances of the 70-plus times she deviated from the CCRB's recommendations and that she had interpreted the evidence differently.

I would like to be very clear, and say that I stand by the CCRB's recommendations. CCRB's investigations are detailed and thorough. The members of this board, and its staff are trained to collect and review all evidence in an impartial and fair manner.

The Board uses it's judgement, perspective, and most importantly, the evidence, to determine whether

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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misconduct occurred.

The NYPD approaches these cases from a different perspective when reviewing the evidence. Thirty years ago this city wrote into law that a civilian board should investigate allegations of police misconduct because the police shouldn't police themselves.

We will continue to work with the NYPD to improve the disciplinary process and look forward to conversations about how to improve the Matrix.

2022 has been another year of dedicated work and impactful growth for the CCRB. I was appointed interim chair at the beginning of this year and have gotten to see firsthand how hard this agency works for the people of New York.

We made great strides in day-to-day investigations; how we interact with the public, and larger initiatives to strengthen police accountability.

I will now mention highlights from teams across the CCRB. The agency took

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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major strides when the Board officially voted to change the rules to expand the CCRB's investigative jurisdiction, and improve transparency, and communication with the public.

The new unit on racial profiling, and bias-base policing has already begun investigating dozens of cases and the agency has received 20 cases of body-worn camera misuse.

The rule changes also officially updated CCRB terminology, in an effort to provide greater accessibility to information about police oversight, and make it easier for all New Yorkers to understand CCRB documents.

We also translated CCRB materials into 12 languages, in order to ensure that all New Yorkers can learn about their rights when interacting with officers and filing complaints.

This is part of the agency's larger effort to increase transparency, which has included posting police department

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deviation letters to our website along with redacted closing reports.

Since the repeal of 50-A, we have continued efforts to make our work accessible to the public including and completing 375 FOIL requests in the last year and sending out 554 sets of records.

In May, our investigators closed the 321 protest cases, some of the most complicated cases that have come through our agency, while also looking into the thousands of other complaints that continue to come in.

The investigations unit also restructured NYPD documentation requests and collection in order to shorten investigation timelines, it has reintroduced mediation, one of the most successful resolutions for CCRB's cases.

Our administrative prosecution unit has more than triple the number of cases on its docket than it had last year. This is largely due to the discipline

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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Matrix which has resulted in more cases being recommended charges and specifications.

While the unit was below its normal head count while receiving this huge influx of cases they persevered and have since hired five prosecutors over the summer and an additional four prosecutors will start in January of 2023.

Throughout this year, our outreach team, went above and beyond by reaching over 35,000 New Yorkers. In their efforts to educate people about their rights while interacting with police officers and the resources available to them.

They conducted nearly 800 presentations, making sure to reach out to vulnerable groups, such as youth groups and New Yorkers who are not proficient in English.

The outreach team also participated in a series of parades, marches, events,

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and workshops tailored to support our LGBTQIA plus community.

I would also like to thank the Young Men's Initiative for providing us with the funding to promote our resources in various radio and print outlets; including Z100, Black Information Radio, and the Urdu Times, El Diario, and the Caribbean Times.

The CCRB's ability to investigate racial profiling and bias-based police allegations was put into effect on August 22, 2022.

The CCRB's outreach, IGA, and the community departments conducted the annual week of awareness from October 24th to 28th, to share this information with the public.

During this five-day-long event, we've partnered with elected officials, city agencies, and community organizations to coordinate an outreach social media campaign to educate the public about the agency's ability to

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

1
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investigate racial profiling and bias-based policing allegations.

The outreach team, alongside the racial profiling and bias-based policing unit conducted a total of 27 outreach events that included 15 street teams and 12 community information sessions throughout the five boroughs.

The CCRB led its fourth class of Youth Advisory council members engaging 20 young people from all five boroughs, who gave insight into their experiences with police, and hosted an event to shed light on youth and policing.

CCRB was also thrilled to host 15 SYEP students, who worked on a range of projects, including our agency-wide resource drive to provide product donations to breaking ground to boost their efforts supporting those experiencing street homelessness.

This year we set up training for all senior staff members from the NYC commission on Human Rights in how to

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

1
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create a more inclusive work environment for CCRB, LGBTQIA+ staff.

The CCRB became the first agency, to our knowledge, to update employee staff displays, to include pronouns, install dispensers in all bathrooms, and menstrual product dispensers in all bathrooms, including men's room, and implemented an agency wide standard e-mail signature which provides an option to include an employees respective pronouns.

We ensured CCRB continued to be a leading voice in national police oversight conversations by participating in the NACOLE's annual conference and meeting with oversight agencies around the country to help establish the best practices.

2022 was a landmark year for the CCRB and there are many more agencies, and many more accomplishments by the agency that were not mentioned here.

And so thank you to the entire

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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staff, for continuing to do great work.
We will now hear from Executive
Director, Jon Darche.

MR. DARCHE: Thank you, Chair Rice.

On the staffing front, I have some
good news and bad news: The good news
first, the Office of Management and
budget or OMB approved on boarding four
APU prosecutors along with the digital
media specialist and an outreach
coordinator.

A digital media specialist and
outreach coordinator has already started
with the agency and the prosecutors are
expected to start in January.

We were hoping to hire two more --
in addition, we are going to have a new
investigative class of approximately ten
investigators in January.

We are hoping to hire two more
classes around that size in 2023, but
the current budget outlook is that we
will probably not be able to do that.

While our charter and investigative

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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powers have continued to grow each year, the number of people we have investigating cases has not gone up.

We need more people to keep up with our expanding responsibilities, and we'll keep working with the Office of Management and Budget to ensure that we do keep up.

Another focus for the coming year is an exemption from sealing statutes. The agency has been calling for an exemption from sealing statutes for several years, and yet this conduct continues to be hidden behind sealed records and this can impede and extend our work unnecessarily doing a disservice for all New Yorkers.

A clear example of this is the case which was recently in the news regarding CCRB's administrative prosecution of Police Officer Wayne Isaacs for the killing of Delrawn Small.

Officer Isaacs' records were sealed, when he was found not guilty by a jury

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 in a criminal case. In order for the
3 CCRB to properly prosecute his case, we
4 need access to the evidence in that
5 criminal case. The CCRB filed a motion
6 in October of 2021 to unseal these
7 documents and over a year later we are
8 still waiting to hear back from the
9 judge. This is just one case.

10 In the new racial profiling cases
11 that we will be investigating, there are
12 potentially hundreds, if not thousands,
13 of cases that we are going to need
14 access to. Imagine if we had to wait
15 over a year on every single one of them?

16 If our legislators eliminated those
17 roadblocks we would be able to do our
18 work much more effectively and
19 expeditiously than we currently can.

20 Today, our office is open for
21 walk-in complaints, but it is also
22 possible to file a complaint online,
23 [NYC.gov/ccrbcomplaint](https://nyc.gov/ccrbcomplaint), that is
24 NYC.GOV/ccrbcomplaint, and you can also
25 contact us by telephone at

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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1-800-341-2272 or by dialing 311.

If anyone wishes to file a complaint tonight, we have investigators on hand, ready to take any new complaints.

Keymani Dunkley and Emma, are you guys here? Thank you Keymani, thank you Emma.

Ivonne Torres from the CAU is also here to help assist us as well.

If you are online and joining us and would like to speak please use the raise-your-hand function. Whether you are joining us online or in person, please limit your comments to a four-minute maximum.

I want to thank the staff, as always, for all of your hard work and thanks to the public for attending.

CHAIR RICE: May I ask the members of the Board, if you have any questions of our executive director?

Any questions?

MR. DWYER: I don't have a question but I do have a comment. Do you wish

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

20

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for me to hold that for later?

CHAIR RICE: Make the comment,
Frank, please.

MR. DWYER: I am not sure exactly,
but it feels like a year and a half ago
that the Matrix was introduced and at
the time we and the police department
agreed that there would be ongoing
dialogue, and that we would submit a
report of moving forward with what we
thought were strengths and weaknesses,
and in truth I don't know if we ever did
that.

But what I do know, is that I have
sat on many panels, one as recent as 48
hours ago, and not only myself, but
another board member commented on
feeling that the penalties in the Matrix
and, in particular cases, were
excessive.

Given this is the case, and given
that I have sat on many panels where not
only myself, but other board members
have felt penalties were excessive, I

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

21

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think that it's a good thing, and as part of our ongoing process, the Matrix needs to be evaluated for penalties that are both excessive and inadequate.

So I am extremely pleased that the police department is engaging and continuing to serve the process and I would encourage collectively as a board, to submit reports, and opinions, and including the majority of the opinions of the Board and minority opinions of the Board of what is excessive and what is inadequate.

CHAIR RICE: Thank you, Frank, I really appreciate that comment.

Anyone else? Any comment before we proceed?

(No response.)

Hearing none, we will have a presentation from the director of outreach, Mr. Jahi Rose.

MR. ROSE: Thank you, Chair Rice. Please bare with me while I share my screen. I'm Jahi Rose, I go by he/him

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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pronouns and I'm the director of
outreach for the CCRB.

Can you see my screen?

(No response.)

MR. ROSE: As you may know, the
review board is the largest oversight
independent entity of the largest police
force in the country.

The CCRB investigates, mediates, and
prosecutes complaints of misconduct
alleged against officers of the NYPD.
The agency is governed by a 15 member
board and we met many of the Board
members here. Five seats are appointed
by the New York City mayor, five are
appointed by the New York City Council;
and three designated by the police
commissioner; one appointed by the
public advocate and the chair is jointly
appointed by the New York City Mayor and
the New York City Council.

The CCRB has a-four-part
jurisdiction for allegations that we can
help investigate. A helpful acronym to

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

1
2
3
4
5
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remember is FADO, which stands for force, abuse of authority, discourtesy, and offensive language.

Just a little bit of information regarding the Rights to Know Act: The Rights to Know Act was a law that went into effect on October 19, 2018 and impacts certain interactions with the police officers under certain circumstances, the officers should identify themselves by providing their name, and other identifying information, such as rank command, and shield number, and some exceptions, should explain the purpose of an encounter.

They should also inform individuals of their right to say no when asking for their consent to search, the individual's person, property, vehicle, and/or home.

In certain circumstances they should offer a business card that lays out the officer's information, and explains on how to file a comment and/or complaint

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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about the encounter with the officer. Civilians can request these business cards with all encounters, or all interactions. This is a copy of what the business cards look like.

There are various ways to file complaints with the Civilian Complaint Review Board, as mentioned by executive director, Jon Darche; one of the easier ways is to utilize our website at NYC.GOV/CCRBcomplaint, and you can also call the CCRB's hotline at 1-800-341-CCRB or 1-800-341-2272.

Remember, if you see footage of misconduct on social media or in the news, you can feel free to file a complaint, even if you were not there in person. The typical handle for the CCRB is CCRB_NYC.

Additional ways to file a complaint with the CCRB include calling the 311, and you can also visit the CCRB headquarters at 100 Church Street, on the tenth floor in lower Manhattan; you

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2
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4
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6
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can file a complaint on social media by direct messaging the CCRB, our platforms are Facebook, Twitter, and/or Instagram. You can also send a letter to the CCRB's office at 100 Church Street, 10th floor, New York, New York, 10007.

You can also file a complaint at a local police precinct, it doesn't have to be a precinct where the encounter took place. Officers are required to accept CCRB complaints at any any precinct or you can request a complaint form and a postage-free envelop.

CCRB is hiring. If you are interested in positions with the agency, which include investigators, and investigator attorneys, and child preparation assistance, and so many other positions, feel free to check the NYC.gov/job website, and type CCRB in the search.

Alternatively, if you don't see a role posted and you would like to submit a cover letter and resume, feel free to

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e-mail us at careers@CCRB.NYC.GOV for any future interest.

The CCRB's youth advisory applications are live, the CCRB Youth Advisory Council is a working committee made up of young leaders who are on the committee, and they are committed to criminal justice issues and improving police community relations.

Members advise the CCRB staff about its efforts to engage young New Yorkers, serve as ambassadors to their communities, and provide information about the agency, and joint team building activities. The eligibility to apply for the CCRB's Youth Advisory Council, you have to be between the ages of ten and 18, and a New York City resident.

If you would like more information about the Youth Advisory Council, feel free to e-mail outreach at outreach@CCRB.NYC.GOV, information regarding applying for the Youth

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

27

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2
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Advisory Council will also be in the chat.

If you would like an outreach presentation for community members, organizations, schools, feel free to also reach out to the CCRB Outreach Team at outreach@CCRB.NYC.GOV, and also feel free to follow us on our social media platforms that's Instagram, Twitter, and Facebook.

Thank you very much.

CHAIR RICE: Thank you.

Mr. Rose, you mentioned that the Youth Advisory Council link is live, when is the due date?

MR. ROSE: The due date will be on January 31st.

CHAIR RICE: Do any members of the Board have any questions for Jahi?

Any questions? Hearing none.

We will now enter the public comment portion of the meeting. We'll begin with those joining us virtually who would like to make a comment, followed

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

28

1
2
3
4
5
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7
8
9
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by those joining us in person.

For those joining virtually, please use the raise-your-hand feature. And please keep your comments to four minutes.

Yojaira, would you please call on the first person?

MS.ALVAREZ: Thank you, Chair, we'll first be hearing from Chris Dunn.

MR. DUNN: Good afternoon. I'm trying to turn on my camera. But I am good and I apologize for that.

CHAIR RICE: It's clear, thank you.

MR. DUNN: First welcome Mr. Jemmott. It's nice to see new board members, not to put you on the spot, but I think it's always nice the public to hear from new public members about their experience in policing and their views on police oversight and so I hope in the future that you will be able to do that.

But Arva, I want to talk about your opening statement about the communication that went out from the

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

29

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police commissioner this morning.

I appreciate your strong statement, and it's the right thing to be saying, and I view this as being almost a direct attack on the CCRB.

And, Frank, I understand that reasonable people may disagree about the Matrix, I don't think it's reasonable for the the police commissioner to be sending out this sort of communique to everyone at the police department without a lot of conversation and a lot of consultation with the CCRB.

This is the message, as I read it, every single member of the department, and I, the police commissioner, am going to do undo CCRB's recommendations, and I'm going to undo CCRB substantiations, the CCRB is not an credible investigative agency, and this is almost buried at the bottom, we are going to undo the Matrix.

And the Matrix was something that was a heavily worked on document and

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2 went through a whole lot of public
3 process. I do not think it's
4 constructive or appropriate for the
5 police commissioner in an e-mail to
6 every member of the department,
7 announcing essentially publically, and
8 this has been given to the press and
9 they'll be reporting about, that the
10 police department is going to undo the
11 Matrix.

12 So I believe in the CCRB, and I
13 believe in the recommendations that the
14 CCRB is making; and I understand the
15 point that there should be consultation
16 between the CCRB and the department,
17 about discipline, of course.

18 But to me, this approach orders on
19 an act of bad faith, is not an example
20 of the police department working with
21 the CCRB, to me it's an example of the
22 police department getting ready to brawl
23 with the CCRB, and Arva, I'm glad that
24 you're pushing back, I hope the Board
25 pushes back, there needs to be better

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ways to address disciplinary concerns
other than this.

CHAIR RICE: Thank you, and thank
you for that perspective for your
analysis, for your interpretation.

I am hoping that some of your
interpretation is incorrect and that we
can have a positive working relationship
with NYPD as we look at it and we review
the Matrix.

And as Frank pointed out that we are
commissioned to do and every member of
this board wants to look at and work
together and utilize what was the
initial promise of the Matrix, and that
was to push for increased accountability
with the NYPD and so I'll leave it with
that and see if Jon wanted to add
anything.

MR. DARCHE: And I have nothing
really add to Chris' comment, go back to
what board member, Dwyer said, on behalf
of the agency, I have been in touch with
the executives at he NYPD and have

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 shared concerns and have been expressed
3 by board members about the Matrix.

4 I have been told there is a working
5 group at the NYPD and has been working
6 on it and we have been waiting to
7 interact with them and assume the
8 process will start now after reading the
9 message about discipline that was sent
10 to the members of service today.

11 MR. IRISH: I was curious, with the
12 message about the commissioner
13 differentiate -- disagreeing with
14 penalty, or disagreeing with the
15 recommendation of the substantiation?

16 Because substantiation
17 recommendation has nothing to do with
18 the Matrix and you're just disagreeing.

19 MR. DARCHE: So there were three
20 instances referenced in the letter.

21 The first two instances are
22 individual cases, and the third instance
23 is a group of cases; and then the first
24 case in the letter, it describes her
25 having a difference on the, whether the

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officer should be disciplined at all;
and then the second two have to do with
the level of penalty for the misconduct
that occurred.

In the first case, it was four
allegations substantiated against the
member of service; the police
commissioner felt that two of them
shouldn't have been substantiated and
she did discipline the member of service
for the two allegations that she
determined for misconduct.

MR. DUNN: And Jon, to add to that,
I don't know if you can still hear me,
she's not just talking about 3 cases,
she says in 70 cases, she's either
reduced the penalty or dismiss the case
outright. So it is both. And you're
absolutely right. Dismissing it
outright, that's challenging the
substantiation, it's got nothing to do
with the Matrix.

And this is where, I hope that it's
not as destructive as it sounds, she

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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then in the next sentence, makes a point in saying she has done this more than any recent police commissioner. It's like she is staking out territory as a matter of pride that she is dismissing CCRB substantiations, or reducing penalties.

Again, reasonable people can disagree about particular cases and particular circumstances and this feels like it's an attack on the CCRB.

MS. SIMMONS: Is it possible for the Board members to get a copy of the e-mail?

MR. DARCHE: We have found out about it in the paper and so I think that we should distribute it to everyone.

MS. IRISH: I find it hard to interpret it otherwise, if it wasn't sent to everyone except for the CCRB. It doesn't seem indigitive of trying to work anything out with the CCRB, and I don't really understand how seeking to amend the disciplinary process is

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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ambiguous, but it doesn't sound like trying to establish a better functioning relationship with CCRB.

CHAIR RICE: I do not disagree with that. Do any of the members of the Board have a comment about that?

Michael?

MR. RIVADENEVRA: I'd just like clarity on those 70 cases. In the ones that discipline is being replaced, are we receiving deviation or any sort of communication as to why it is not at the level that we had recommended?

Or is it sort of taken it upon herself to deviate without informing us her reasoning for the deviations.

MR. DARCHE: The police commissioner is providing us with copies of -- providing us with memos that explain the reasons for her deviations.

CHAIR RICE: Any other questions from on our board?

MR. DWYER: I've sat on many panels in the last year or year and a half and

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where board members have said that if the Matrix did not recommend the certain penalty, they would have imposed lower penalty, but since they felt that the initial agreement was to try to hold the Matrix they were going to impose a penalty higher demand that they instinctively felt was appropriate.

That didn't happen just once, that has happened, and if my fellow members on the Board disagree with me, say that, but I have heard that said many times, and I heard it again 48 hours ago, when I sat on a panel 48 hours.

And so I mean, the original Matrix, was and is as it will be a working document, and it's a working document that frankly, where I think that there are many cases where the initial penalties are too high, and perhaps some cases where the initial penalties were too low.

MR. DARCHE: Mr. Dwyer makes a very good point. We were involved in

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 conversations with the police department
3 during the NYPD reform process from 2020
4 and 2021, that resulted in the Matrix.
5 And then when the department published
6 it's Matrix, we worked with them on the
7 MOU that resulted in this agency
8 adopting the Matrix. Then, I'll find
9 out the exact date for the Board, there
10 were communications back and forth about
11 issues with the Matrix that resulted in
12 an amended Matrix being issued.

13 And so actually, this is the second
14 version of the Matrix that we are
15 working with. And we will continue to
16 work in the department in good faith to
17 make sure that they know the issues that
18 the Board members are surfacing and we'll
19 go forward in that vein. That exactly is
20 what Mr. Dwyer is saying.

21 And so this is not the CCRB choosing
22 the Matrix, this is the department's
23 Matrix.

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25 MS. IRISH: I would say from my

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 personal experience, I've have had as
3 many instances feeling like a
4 punishment, a penalty was excessive as
5 I've had that a penalty was too low, and
6 I think three days for a Fourth
7 Amendment violation of someone being
8 stopped and frisked without cause is
9 unacceptable, but I was willing to apply
10 those, and I apply those penalties
11 because I thought that both sides are
12 going to be adhering to the Matrix, and
13 it seems to me that only CCRB has been
14 ad-hearing to the Matrix while the
15 police commissioner has deviated at
16 will, whenever, based on any reason, or
17 any justification at all, I don't find
18 the deviations legitimate, and I
19 understand she disagrees, but I think
20 there has to be reason, and there has to
21 be some basis for disagreement, and there
22 needs to be discussion, and the approach
23 of sending this e-mail blast out, is sort
24 of saying that it's not going to promote
25 a functioning

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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relationship and it's not meant to.

It's an attack.

CHAIR RICE: And so I'm going to
move onto -- go ahead, yes?

MR. HOGAN: I just want to ask a
question, and because we are here to try
to make things correct, and so to the
point that there might be some penalties
that some might agree they might be too
harsh, and it's also at the same time in
the same case where you are looking at
body warn cameras not on, body warn
cameras is not present, a request by
CCRB to get body warn cameras never
returned back, the request.

Then you also have many cases that
the officers are not identified, and
then you have "subject retired," and so
if we are going to correct stuff, let's
look at stuff, and you know, decide to
correct the stuff, and not try to lean.
If we're trying to make stuff better,
and trying to make not just the police
department accountable, but make us

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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accountable, because we have to be
accountable if we're going to really
look at these things objectively, and
then really look at it and say what can
be done better, in the interest to all
that is involved.

I don't want the -- for people to
look at the CCRB as an agency or an
entity that is attacking officers, we're
trying to correct the conduct, okay?
And correcting the conduct, it has
nothing to do with the reprimand. But
if the conduct begins to correct, I
guess the reprimand would be lesser.

And I personally think for the
police commissioner, who has not been
open to a whole lot of other stuff, I'm
glad that she is working and doing her
job, but it's interesting to put out an
e-mail blast, and to that extent we get
it afterwards and hearing it from the
public about what her findings are, and
there is supposed to be an MOU, and an
agreement of working with them.

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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MS. SIMMONS: I do feel like this is a deliberate slight by the recently appointed police commissioner; and I know that the Chair has been ready, willing and open to meet with the commissioner on a variety of issues, including the Matrix.

I am beginning to feel like this disrespect is genuine, in terms of not wanting to work with the CCRB, and that the CCRB, that we have to be very, very strong in terms of our response to this.

And in terms of our intent to get the new commissioner to understand that in fact this is their product. And if she wants to disavow, disavow it, say it, just say it, that they are not working with us anymore, but for us to be held captive to it and for them to tell us it's a waste of time and throw it to the wayside, is not appropriate. I think it have served some, it has benefitted the CCRB, and I think it has benefitted our process, and I don't

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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agree with all of it, at all, and I never have.

But this type of behavior from one agency to another agency, particularly a watchdog agency, is not appropriate in my opinion. And notwithstanding the mayor's generous comments about our new member, the value of the CCRB, I don't see that reflected in his commissioner's e-mail statement.

And so there needs to be some accountability, and you know we don't believe in kicking down doors, or midnight raids, on One Police Plaza, but their needs to be a little bit of excitement from our side that this is not actually outraged, but some excitement from outside that is not really appropriate.

CHAIR RICE: Any other comments?

One more. Did anyone else want to make a comment?

Any other comments?

MR. DWYER: I'll just make one more.

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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I'm trying to remove myself from the process and recognize the anxiety and stress on both sides of the debate, and I do see that.

As many of you, I suspect, saw the New York Times last week and a big article about the huge numbers of officers retiring. The New York Times, about a week ago, ran a huge number of articles about the officers retiring, large numbers, and the less public papers, is to say that you don't find Paris perhaps or whatever, running those for about a year, and the Times talked about financial insensitive, and other places, and things like that; but I know from talking to police officers throughout the City is their perception that the disciplinary system, when it comes from the CCRB process, it's not understanding their workings and it is one of the biggest reasons that I hear that they leave.

But what I hear them say is that

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 they can do what they understand to be
3 consistent with their training, and to
4 do the right thing and it's likely, or I
5 would say very, very possible, that CCRB
6 will misunderstand what they did and
7 rule that they were wrong and then
8 because of the strength or the
9 excessiveness of the Matrix that there
10 will be an excessive penalty, in their
11 opinion, imposed on them.

12 So given that I am hearing that and
13 I suspect that it's being heard in
14 Police Plaza, and thousands of officers
15 are leaving, and often when I see names
16 of the police officers leaving, and I
17 know them to have immense experience and
18 them leaving is a great loss,
19 particularly in senior staff.

20 And I do think it's very important
21 that as the City Charter said in the
22 days of Mayor Dinkins when this was
23 established, that our workings begins
24 with the police department, must be
25 understood by the community and the

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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members of the Police Department as fair and just, the Charter did not use those exacts words, but similar words, otherwise the system falls apart.

I believe that part of this, or part of the urgency in this, is to say that the process is going to be looked at in the attempts being made to quickly assure there is fairness felt and perhaps it needs to be fairness obviously felt on both sides.

CHAIR RICE: Thank you, Frank, for that comment.

I just wanted to, once again, repeat some of the things that you've heard. First of all, the discipline Matrix, as Jon eloquently has pointed out, has been an intricate process.

I also wanted to state that the CCRB did not create the penalties that exist in the discipline Matrix. So I wanted to be very clear about that, and I also wanted to reference that Ms. Irish has spoken to us about there are different

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 issues we're talking about. There is
3 the penalties and also the
4 substantiations, and both issues will be
5 looked at as we move forward; and they
6 are pushed forth to be done with the
7 CCRB; because thirty years ago, the
8 people of New York City decided that the
9 police department needed the independent
10 of an oversight of an entity that would
11 be made up of a body of citizens and
12 that became the CCRB, and as long as we
13 are in effect, we will continue to carry
14 on that role.

15 Yojaira, who is next on the list?

16 MS. ALVAREZ: That concludes the
17 virtual portion of the public session.

18 CHAIR RICE: If you're interested in
19 making a public comment, please line up
20 behind the podium. As a reminder,
21 please keep your comments to four
22 minutes.

23 MS. WONG: Good evening. My name
24 is Jennvine Wong, I'm a staff attorney
25 with the Legal Aid Society's

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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Cop Accountability Project. Thank you for holding this meeting tonight, and thank you for all of the great work that CCRB has been doing.

First, I would like to commend some things that the CCRB had announced earlier, which is the posting of the redacted closing reports, that is a great step towards transparency and accountability, and I know that is something that the Legal Aid Society has been doing that through our FOIL requests through the CCRB, and so I'm really happy to see the CCRB is doing that on their own now.

So I wanted to address the discussion about the police commissioner's e-mail.

The one thing that I wanted to bring up is, and I know Chris Dunn has already brought this up, I agree with my colleague in everything that he said. When the Matrix was first announced, there was a lot of public comments and

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many hours of labor and consideration were put into the public comments that were submitted about it, and one of the criticisms that was submitted was that the police commissioner having final authority could undermine the efficacy of the Matrix and could undermine the fairness of it.

And in this e-mail that was sent out, the police commissioner had deviated 70 times, more than any of her predecessors and what that really shows is that this criticism has borne out and it's undermined the CCRB and undermined the Matrix.

And it sounds as though the CCRB was not consulted, at least thus far, with at least with respect to amending the Matrix and I have to agree with my colleague, Mr. Dunn, that is very troubling, considering the MOU, considering all of the great work that CCRB has done, and has done working towards greater transparency and

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accountability.

I think that we all knew when the Matrix was published, there would eventually be some comments and assessment of the efficacy of it, and I think there was also an expectation that not only would the CCRB be involved, but this Matrix would be accountable to the public and the public engagement and any changes would be open to public comment. It's very troubling if that's not going to be the case and the police commissioner is going to be, on her own, doing away with whatever she feels is not appropriate or should not be included in the Matrix. Without any kind of public engagement, and especially without any engagement or analysis done by the CCRB. So that's the first and foremost. I know that the CCRB in the past has advocated to retain final authority over their own cases, and so I think this is an example of an instance where perhaps the discussion should be

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revived.

And I have one other comment to make that is unrelated to the Matrix, but it's related to the racial profiling and the bias unit, and it's a question that I have with respect to the investigations and that is, how does the CCRB investigators dealing with the force, and the fact of court decisions, for example in suppression hearings and in criminal court where the court has found that there is unlawful stop.

How does the CCRB investigations take those court decisions into account?

Is a new investigation started from scratch, or is the CCRB giving deference to that court's decision and finding that the officer made an unlawful stop.

And, thank you for your time.

CHAIR RICE: I will turn it over to Jon to respond.

MR. DARCHE: So with regards to individual cases that we investigate it's all done on a case-by-case basis

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and not necessarily a one-to-one correlation between a court's decision that a police action, should result in suppression of evidence, and or in a dismissal of a criminal case, and that there was misconduct committed by the officer.

So we try and gather as much of the evidence as we possibly can and evaluate it and in many times we are in fact looking at cases before there has been any kind of traditional review of the underlining police activity, so it's not like, that we have that to rely upon, that whether or not the stop was constitutional or not.

MS. WONG: Just a follow-up questions on that: Given that the CCRB's rules have been amended, so that CCRB can self initiate complaints, I am wondering if there is anything that triggered -- for example, if there is a suppression hearing and it's been found by a court over at 100 Center, that

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Officer John Doe unlawfully stop and search of an individual, is there any kind of systemic way that the CCRB would be able to track those kind of cases and trigger an investigation under this new authority given the amendments?

MR. DARCHE: Well, so the answer to the questions is there a way? The answer is there is always a way. As our IT person often tells me, but that does not mean there is currently a way, we are not doing that now and it's not on the horizon for us to do so, but you know people, from Legal Aid and other defender organizations in the city do refer cases to us and then we do investigate them.

MS. WONG: Thank you.

Would the CCRB consider finding a way to systemically track the decisions? Given the new authority to self initiate complaints.

MR. DARCHE: Yes, I think it's something that we would consider, yes.

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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CHAIR RICE: Please step to the microphone.

MR. DARCHE: So people are interested in speaking, and your next. And if there is other people interested in speaking, be line up behind the person who is about to speak.

MR. DWYER: I mean I appreciate you thinking about that and this is something that I thought about for a long time I think that it has to go both ways.

If evidence is not suppressed and that is to say that the judge finds that was a good search the gun was legally seized then we should not -- because we all know there isn't a parallel universe we shouldn't find that the officer didn't do any illegal search when the judge found that he didn't do an illegal search and if this is an avenue that is going to be explored maybe easy to do with court records today.

Or maybe with the thing that

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 happened with the lab two days ago and
3 maybe a 10-year scientific process, but
4 it has to go both ways. If we're going
5 to decide it's a bad search, you can't
6 say the judge allowed the gun into
7 evidence, and but we're going to decide
8 that it's a bad search after the Supreme
9 Court judge has allowed into evidence.

10 On the second point, and I wanted to
11 be explicitly clear and I am not blaming
12 anybody, but I think that there is a
13 collective responsibility among us on
14 the Board and given COVID and other
15 things going on, and given facts that
16 the budget is being cut and we did say
17 that we would submit to the police
18 department and I believe we initially
19 said after 6 months, a report on what we
20 receive a report on what we thought
21 about the Matrix certainly at one point,
22 we would say after a year, we would
23 submit it. And we had an agreement to
24 submit it and we didn't make that
25 submission.

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 I want to be explicitly clear, I'm
3 not blaming the staff. As far as I am
4 concerned, they work persistently hard,
5 particularly the executive director, but
6 it's not like the comments have not been
7 welcome. We haven't submitted a
8 comprehensive report and this is
9 something that I have raised a few times
10 over the years and I think there should
11 be a collection of what each board
12 member thinks and should be a collection
13 of information and of what the
14 policymakers and the administration
15 think and a collection of the individual
16 investigators and other people who
17 really do the downright day-to-day work.
18 I think we should submit that report and
19 I think it's an odious task because it's
20 so complex and so many subdivisions and
21 so I just want to be clear, and it's not
22 that we, and it's not that we have not
23 been welcomed to submit something.

24 MS. IRISH: My recollection is
25 different. I remember saying that we we

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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2 are going to prepare a report to the
3 public not submit a report to the NYPD,
4 and it was not that we needed to have
5 submitted a report in order to have
6 changes to the Matrix be evaluated, and
7 to me if we were holding ourselves
8 accountable to the public, to say we are
9 taking it on we know it has problems and
10 we are going to monitor it, and produce
11 something that explains where we are at
12 with it. And I don't know if we said a
13 report, or just that we are going to
14 assess it in six months or a year and I
15 do believe that CCRB had staff, CCRB
16 staff has been reaching out to the
17 police department about it on a regular
18 basis. The other thing is that one of
19 the issues in trying to produce any kind
20 of assessment with the Matrix was the
21 fact that there is such an extended
22 delay between when we started submitting
23 the recommendations on the Matrix and
24 when the NYPD started acting on that, on
25 those recommendations and issuing a

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

57

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2 disciplinary decision, and so that
3 delayed our ability to analyze what was
4 going on with the Matrix itself.

5 HARTMAN: Hi, hello. My name is
6 Kimberly Hartman. And I thought that
7 before I came here, this is for
8 education and I'm glad this came up in
9 my perception I think that public
10 education should include psychology for
11 kids at a younger age; they will know
12 how to work with it later. Which now I
13 agree with Frank, it's a
14 misunderstanding, and a lot of people
15 just seem in my perception seem to be
16 having a defense mechanism going back
17 and forth. Because police officers are
18 getting harassment from the people as
19 the people are getting harassment from
20 them.

21 I think it's a misunderstanding and
22 I think that public education should
23 have psychology a long with it to avoid
24 less misunderstanding.

25 And that is it.

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

58

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CHAIR RICE: Keep your comments under four minutes or less.

ANDREW: Hello, how are you? My name is Andrew. I would like to have some clarification the CCRB website and the gathering evidence. So if someone files a complaint against a police officer, what is the procedure for the evidence on your website, that you have set up?

MR. DARCHE: The agency speaks to civilians involved in the incident and we request police paperwork and in the cases that we have the ability to do so, we send people to the field to investigate to go to the area where the incident occurred and to see if there are witnesses that we can speak to, and most especially collect video evidence from the scene.

Once all of that evidence has been collected including body-worn camera footages; we then prepare for officer interviews, and then we interview the

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

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officers, and once the officers are interviewed the investigators organize the evidence, and put it into a closing report and make recommendations to the Board.

At that point, the cases go to the Board for the Board to make final determinations about whether the alleged instances occurred and if they did occur, if they were misconduct.

ANDREW: Do you get evidence from the victim as well?

MR. DARCHE: Yes.

ANDREW: Thank you very much. Law enforcement brutally assaulted me threw me in the psych ward against my will. And I went to the hospital from the bodily injuries, no one from the CCRB has contacted me about the other recording device that captured them giving me a beat down.

And when I told the CCRB that, they had took the cameras off the building, and erased the evidence, like they did

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

60

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from the guy in Chicago, and they had murdered him, and they showed it on the news, and they went to Burger King and erased the video. They did the same thing. When I reported it to the CCRB review board, no one contacted me about the other reporting device.

And so how do we move forward from here? Now, am I the first person that the CCRB has done this to, or have they done it to other people? That is the same question that I ask about law enforcement.

When law enforcement gives me a beat down, they attack people, am I the first person, or have they done it to other people?

MR. DARCHE: So the agency makes every effort it can to investigate and collect evidence from as many civilians as possible.

I understand that you feel that your case was not handled appropriately by the CCRB. I have been personally

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

61

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involved with your cases for months now,
and I believe the investigators who
handled your cases have done an
appropriate job.

ANDREW: You just said that you, the
CCRB, would gather evidence from the
victim as well, you're contradicting
yourself. No one contacted me about the
evidence of the law enforcement giving
me a beat down, until this day.

You're contradicting yourself, that
is a contradiction.

MR. DARCHE: I just think that we
disagree about how these investigations
have gone forward.

ANDREW: I don't disagree. I agree
with you, I'm asking you what the
procedure is.

MR. DARCHE: You said we haven't
contacted you, and obtained the
evidence, but I believe that we have
your evidence.

ANDREW: We agree together, you have
informed me that the CCRB gathers

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

62

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evidence from the victim as well.

So we are not disagreeing, we are agreeing; no one has gathered evidence from me down until this day, when law enforcement no one has checked out the evidence has given me a beat down on another recording device.

So we are in an agreement, no one has checked out my recording device, that is what I am saying. Now, that is on your website. I did not put that there.

MR. DWYER: Is there any evidence that you would like to give to an investigator?

If you have more evidence, we would like to investigate, we have investigators here.

ANDREW: I would be more than happy to.

MR. DWYER: One of the investigators would be happy to meet with you and accept whatever evidence that you have.

Emma, and then from CAU, why don't

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

63

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you meet with Andrew, and again, get his evidence.

Thank you.

ANDREW: Thank you, I appreciate that. I was hoping that the CCRB might do something, and I feel like that is why they still attack me today.

And they are doing the site work again, but I don't remember the date right now, because I filed a complaint, and that was the court case I gave them before.

CHAIR RICE: We would appreciate your question and comment, Andrew.

Thank you, Andrew.

Do we have anyone else who would like to make a public comment?

None. Do we have any old business to come before the Board this evening?

Any old business?

Do we have any new business to come before the Board this evening?

Hearing none.

I am going to move now that we break

In Re December Board Meeting NYC - Civilian Complaint Review
Board
December 14th, 2022

64

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into executive session. The agenda for the executive session is the Board will receive an update from our executive director on our annual report, and on pending personnel issues. I would like to call for a motion to close out the meeting.

MR. DWYER: Motion to close.

CHAIR RICE: Do I have a second?

THE BOARD: Second.

CHAIR RICE: All those in favor.

THE BOARD: Aye.

CHAIR RICE: So adjourned. The meeting is closed.

(Time noted: 5:55 p.m.)

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C E R T I F I C A T E

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

That the witness whose examination is
hereinbefore set forth was duly sworn and that
such an examination is a true record of the
testimony given by such a witness.

I further certify that I am not related
to any of these parties to this action by blood
or marriage, and that I am not in any way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this December day of 29th, 2022.

Larin Kaywood
LARIN KAYWOOD