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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC BOARD MEETING

February 8, 2023

4:00 P.M.

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HELD AT 100 CHURCH STREET, 10TH FLOOR

NEW YORK, NEW YORK

AND VIA WEBEX VIDEOCONFERENCE

B E F O R E:

ARVA RICE, INTERIM CHAIR

JONATHAN DARCHE, ESQ., EXECUTIVE DIRECTOR

Transcribed by:

Elbia Brumit

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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. Report from the Executive Director
- 5. Public Comment
- 6. Old Business
- 7. New Business
- 8. Adjourn to Executive Session

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BOARD MEMBERS PRESENT

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- 1. Arva Rice - Interim Chair
- 2. June Northern - Board Member
- 3. Rev. Dr. Demetrius S. Carolina Sr. -
Board Member
- 4. John Siegal, Esq. - Board Member
- 5. Kevin Jemmott - Board Member
- 6. Joseph A. Puma - Board Member
- 7. Frank Dwyer - Board Member
- 8. AU Hogan - Board Member
- 9. Herman Merritt - Board Member
- 10. Esmeralda Simmons, Esq. - Board Member

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SPEAKERS

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- 1. Christopher Dunn - Legal Director -New York Civil Liberties Union
- 2. Ms. Jennings - Community Member
- 3. Jennvine Wong - Staff attorney - Legal Aid Society's Cop Accountability Project

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CHAIR RICE: She/her pronouns

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and I'm the Interim Chair of the

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Civilian Complaint Review Board. I

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would like to call the CCRB's February

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public board meeting to order.

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Would the rest of the board like

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to introduce themselves? We'll start

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with our newest board member, June.

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If you can introduce yourself. And

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then we'll go to Reverend Carolina,

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John and then over to Herman.

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MS. NORTHERN: I am June

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Northern, mayoral appointee from

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Brooklyn.

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REV. CAROLINA: Demetrius

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Carolina, mayoral appointee, Staten

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Island.

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MR. SIEGAL: Good afternoon.

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John Siegal. I'm a mayoral appointee

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to the board.

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MR. DARCHE: Jon Darche,

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executive director of the CCRB. I use

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he/him pronouns.

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MR. JEMMOTT: Kevin Jemmott.

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Mayor appointee from Queens.

MR. PUMA: Good afternoon. My name is Joseph Puma. I go by he/him pronouns, and I'm the City Council representative on the board from Manhattan.

MR. DWYER: I'm Frank Dwyer. I'm a police commissioner designee.

MR. HOGAN: AU Hogan. City Council appointee from the Borough of Queens.

MR. MERRITT: Herman Merritt. City Council designee from Brooklyn.

CHAIR RICE: And do we have anyone who is with us joining us virtually? No?

(No response.)

CHAIR RICE: Okay. Thank you. May I have a motion to approve the minutes as presented?

BOARD MEMBER: So moved.

CHAIR RICE: Can I have a second?

BOARD MEMBER: Second.

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CHAIR RICE: Are there any changes or corrections to the minutes?

Sorry. Should have asked that first.

(No response.)

CHAIR RICE: None. Okay.

Hearing none, all those in favor of approving the minutes, say "aye".

(Chorus of ayes.)

CHAIR RICE: All right. All those opposed?

(No response.)

CHAIR RICE: All right. The minutes are approved.

A week ago today marked the start of Black History Month, a time of year that's carved out for us to remember the immeasurable contributions that Black Americans have made to this country. Today, I'd like to honor New York City's first Black Mayor, Mayor David Dinkins, who is the reason the CCRB exists as a fully independent oversight agency.

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We are reminded of the importance of police oversight as we continue to face atrocities of police brutality, particularly against Black and Brown men that have come to light.

I would like to take a moment to remember the family of Tyre Nichols and send thoughts and prayers to his family at this time.

(Moment of silence.)

CHAIR RICE: Thank you.

On Monday, the CCRB released a comprehensive report analyzing the police misconduct that occurred during the 2020 protest, when thousands of New Yorkers took to the streets to protest police brutality after George Floyd's murder. Peaceful protestors were kettled, pepper sprayed, assaulted and arrested. As a result, the CCRB received over 250 complaints, 300 of which were filed in just 48 hours.

We began investigating these

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highly complex cases all while adjusting to remote work in the middle of a global -- in the middle of the global Coronavirus pandemic.

Over the next two years, investigators tracked out witnesses, photographs, video montage and radio footage and more to piece together the series of events at protests across all five boroughs. With the evidence still diligently collected by CCRB investigators, the board was able to vote on hundreds of cases and found 146 officers committed misconduct and recommended discipline measures based on the NYPD's disciplinary matrix.

This report details the patterns of misconduct discovered in the NYPD Protest Response, road blocks the CCRB encountered while investigating these cases, recommendations on how to improve the process moving forward and the current status of each protest case.

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After analyzing these cases, the CCRB has several recommendations on how the NYPD should update procedure in order to better respond to protests in the future. Members of service should receive updated and routine training on the proper use of crowd control tactics during large scale events.

Officers, particularly, need to be retrained on the use of pepper spray and batons. They should not interfere with reporters and legal observers who are acting in their official capacity during protests. Officers should allow civilians time to comply with police orders and not take action against people who are trying to comply.

All members of service should be easily identifiable. Any special gear should have their name and shield number clearly visible. The department should have organized

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deployment plans that allow easy tracking of where individual members of service are.

Officers should have fully charged body-worn cameras and functioning GPS that should be activated for all interactions. The CCRB should have direct access to body-worn camera footage and other NYPD documents.

To read all 17 CCRB recommendations, please find the report on our website. But one instrumental step the NYPD must take is to hold these officers accountable. The NYPD must send a message to their employees that using force against peaceful protestors and interfering with their First Amendment right to protest will not be tolerated.

Police should be there to protect New Yorkers and ensure they can safely express themselves. Thus far, complaints for 78 officers have

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been finalized by the Police Commissioner and only 42 of those officers have faced misconduct. In order to rebuild civilian trust in the NYPD, they must hold their officers accountable.

This was a major undertaking for the agency, and I would like to thank everyone who touched this report.

From investigators who closed the cases, to the data team that analyzed them, FOIL for their redactions, APU for prosecuting the cases, the board members who carefully deliberated each case and provided feedback on the report, and everyone in between. Thank you for all of your hard work.

We will now hear from Executive Director Jon Darche on the data and current status of these cases.

Jon?

MR. DARCHE: Thank you, Chair Rice. As Chair Rice mentioned, the

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CCRB substantiated misconduct against 146 members of the NYPD. Of those 146, the board recommended 89 officers receive charges and specifications, which is the highest level of discipline that we can recommend.

Those cases get sent to the administrator prosecution unit that this agency has in order to prosecute those cases. Of those 89 cases, 62 are still pending in the APU.

The further 57 officers had substantiated misconduct in which the board recommended they receive either a Schedule A or Schedule B command discipline. So far, the department has disciplined 30 of those members of service, four at a rate lower than the CCRB recommended. There are six cases still pending and three members of service retired without discipline.

It's important to note when going through these statistics that one complaint can have multiple

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allegations of misconduct. In total, over the whole course of the protests cases, there were 140 substantiated allegations of abuse of force. That included 34 allegations of improper use of a baton and 28 allegations of improper use of pepper spray that were substantiated.

There were further 72 allegations for abuse of authority that were -- that were -- that were substantiated. And during the time covered by this report, the CCRB did not have jurisdiction over improper use of the body-worn camera, so we recommended that the department investigate 101 possible misuse of body-worn camera.

While these are impressive statistics, it's also important to note that in 59 cases, the board was unable to identify officers for any of the allegations. And in 43 percent, 609 allegations, the board was unable

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to identify the member of service who committed the misconduct. This is largely due to problems with NYPD paperwork, problems with body-worn camera footage, and the nature in which members of service were deployed.

Many of these problems can be fixed if the department follows its own procedures in future protests. The department has a policy that members of service are not supposed to assign arrests or assign summonses in these types of incidents. We routinely found that members of service who processed arrests and summonses were not familiar with the incident for this -- that the civilian was alleged -- the crime or the violation that the civilian was alleged to have committed, or the officer who gave the civilian to the officer who was writing up the arrest.

That took away one of our main

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tools that we are able to identify the officers who were involved in an incident.

We also found that the department deployed officers outside of their normal protocol. Instead of deploying people via the radio, there were officers deployed on an ad hoc basis with a cell phone, often with supervisors they were unfamiliar with and partners they were unfamiliar with so that they didn't know who they were serving at a particular point with. So they couldn't tell us anything about the incidents where they were at because they did not know the people they were working with.

These are changes that we've recommended the department take going forward. Because there are going to be protests like this in the City of New York in the future. There are going to be incidents where people want to protest. Whether it's about

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police misconduct or it's about a woman's right to choose, or unionization, any of a host of issues that could come up. And the NYPD and this City need to be prepared for how to respond to those types of incidents.

One of the really notable things about this report is that for the first time, the CCRB included the closing report of every complaint mentioned in the report, along with the departure letters for every time the Police Commissioner deviated from the CCRB recommendation in the protest complaint. So you are going to be able to see not just characterizations of what someone says happened, you will see what our investigators uncovered, what evidence we were able to present, and the reason that the board either substantiated misconduct or the Police Commissioner chose not to issue discipline.

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I want to join the Chair in thanking the staff for their hard work on these cases. It was really an honor to work with you on them, and I'm proud of all the work you did. We do have a meeting today, so if you want to make a comment, please either raise your hand and walk to the front when -- if you are here, when it is time for public comment or use the "raise the hand" function remotely and we will call on you.

There's a four-minute cap on public comment. And if you are here to file a complaint, we have investigators here. Emma and Rob are here, and they'll be able to take your complaints if you have an incident that you wish to file with us today.

Thank you, Madam Chair.

CHAIR RICE: Thank you. To the members of the board, do you all have any questions either of myself or of Jon?

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Yes?

MR. SIEGAL: I just have comments, a couple, from a personal perspective, having reviewed this report. And I commend the staff and the board members who were on the protest panels. It was an incredible amount of work to go through all this and do all this.

I just wanted to note two additional things, which I think from my perspective are decisions that led to a lot of this. Just to put them on the record.

One, it was the directive of the prior Police Commissioner at this time that all members of the police department cover their badges. And that was a directive and an appropriate one to memorialize losses and things that were going on. But one that has the findings that this report shows, there need to be other ways of doing that don't end to

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obscure the identity of officers as the recommendations in the report detail.

Secondly, I've lived in New York 46 years. So the only general curfew I ever remember was a decision by the prior mayor that immediately criminalized thousands of people's First Amendment protected activity, and it was a decision that caused a lot of this and it was never done before and it should be considered much more carefully. It wasn't done in response to the protest after the Rodney King murder, which I think were universally acknowledged at the time to have been well handled and didn't lead to this type of street confrontation.

And we saw repeatedly in these cases, police officers testifying that events held -- occurring miles away were justification for cracking down on protests that were geographically

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and unrelated to and did not involve individuals who may have been committing crimes elsewhere, and the curfew caused that type of abuse of force to be carried out throughout the city. Which is, in my view, why the numbers here are so high.

So I appreciate the opportunity to comment and thank everyone for their work.

CHAIR RICE: Thank you, John, for that addition. We do appreciate it.

Does anyone else have any question or comment related to the protest report?

(No response.)

CHAIR RICE: Any other board members have any other question or comment?

(No response.)

CHAIR RICE: All right, seeing none, we want to have our board member who has joined online, Ms. Simmons,

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have you joined us?

MS. SIMMONS: Yes, I'm here.

CHAIR RICE: If you can introduce yourself. Ms. Simmons, if you can introduce yourself?

MS. SIMMONS: I don't have -- I don't have -- oh, I do.

My name is Esmeralda Simmons. I'm an appointee of the Public Advocate Jumaane Williams. I hail from Bedford-Stuyvesant, Brooklyn. Glad to be here.

CHAIR RICE: And do you have any comment or question on the release of the protest report?

MS. SIMMONS: Excuse me? I didn't hear you.

CHAIR RICE: Comment or question on the release of the protest report before we proceed in the meeting?

MS. SIMMONS: Yes. Thank you for giving me the opportunity. I join with my fellow board member, John, on congratulating the staff on a fine job

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done.

And also, also thanking the board members who worked so arduously to go through these cases and make sure that our recommendations were based on fact and not bias.

Thank you so much for the work that you've done, and we need to learn lessons from this. So I think the CCRB has been the right agency at the right time doing the right thing.

CHAIR RICE: Thank you. Appreciate that.

We will now enter the public comment portion of the meeting. We will begin with those joining us virtually who would like to make a comment, followed by those who are joining us in person. For those joining virtually, please use the "raise your hand" feature. Please keep your comments to four minutes.

Yojaira, will you please call on the first person.

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MS. ALVAREZ: Thank you, Madam Chair. First, we'll be hearing from Chris Dunn (phonetic).

MR. DUNN: Okay. Arva, can you hear me?

CHAIR RICE: I can hear you, Mr. Dunn. Thank you for joining us.

MR. DUNN: Good afternoon. I want to start, Arva, with your salute to Former Mayor Dinkins. He is often times a forgotten figure in this city. And as you know, he is responsible for the independent creation of the CCRB, coming up on 30 years. And I appreciate you recognizing him.

In terms of the report, I want to say on behalf of the NYCLU, we feel like this was a terrific effort by the agency. It's an important report. It identifies many acts of misconduct by the police department during the George Floyd protests.

I think as everyone recognizes, this just scratches the surface of the

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misconduct that took place. And as somebody who has been dealing with the police department for decades now, there was a level of pervasive unchecked supervisor-supported violence directed against protestors that I think is unprecedented in this city. And your report is an important documentation of that.

But we have much more work to do as a city to address what happened with the police department in the aftermath of George Floyd's murder. And one of the most troubling things about the aftermath is to this day, the department fails to recognize how completely out of control it was and the level of violence that took place. And that continues to be a stain on the city and on the department.

I want to pick up on something that John said. The department oftentimes tries to claim that police officer misconduct, particularly in

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situations like this, is a product of things happening in the moment, spontaneously, out of control, unpredictably. We fully reject that.

But one thing I want to note is, as John noted, one of the most troubling aspects of your report is the documentation of what you described as the pervasive covering of officer identification. That is premeditated, that was systematic, that was from the top. And something very serious has to happen as a result of that.

I don't think we can expect the police department to address that. This is something that the mayor's office has to deal with. And I can only hope that the second Black mayor that we have had will take responsibility for that. And I have been troubled by the silence from City Hall so far in response to this report. And I look forward to hearing

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more from them on what they're going to do about this.

The final thing I want to mention is, I want to commend the agency for what Jon noted, which is the inclusion with the report of all the closing reports. The CCRB I think has been unique among city agencies in not only respecting the repeal of 50-a, but actually embracing it. And this is a perfect example of a government agency trying to be transparent and trying to be transparent about a very controversial event. And I hope going forward the CCRB will continue to, on its own -- full documentation about its work as it relates to the police department.

You, your staff has been terrific about that since the repeal of 50-a. It stands in dramatic contrast to what the department is doing and to this day, the NYPD refuses to release information that

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the repeal of 50-a used to cover. To this day, we have to continue litigating and we just sued them again recently. And I want to thank the CCRB because you are doing what all agencies should be doing, and this report is a good example of that.

Thank you.

CHAIR RICE: Thank you so much, Mr. Dunn, for your comments.

MR. DARCHE: Can I add one thing?

CHAIR RICE: Sure.

MR. DARCHE: The -- out of the 226 cases that the agency fully investigated, the agency has put the closing reports of all 182 that are not still pending in the APU on our website so that they can be reviewed by the public. We've redacted them and they're there for people to -- to review and -- and get information from.

CHAIR RICE: Thank you, thank

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you for that clarification. And once again, Mr. Dunn, thank you so much for your feedback, in particular, highlighting some of the issues and failings that were identified in the report. But you wanted to highlight and underscore.

And thank you again, Jon, for those as well.

Yojaira, can we speak with the next person?

MS. ALVAREZ: We currently have no other attendees with their hands raised.

But we want to take this moment to thank the office of Assembly member Souffrant Forrest, Assembly Member Steven Raga, Assembly Member Michael Novakhov and the Queens District Attorney and the Manhattan District Attorney for attending tonight.

CHAIR RICE: Terrific. Thank you so much.

For those who are interested in

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making comments here in the room, if you want to line up at the podium, please state your name and you have four minutes in which to address the board.

Yes, sir, I can't see behind the pole, but --

MR. DARCHE: It's Ms. Jennings.

CHAIR RICE: Sorry.

MR. DARCHE: Come one, Ms.

Jennings.

CHAIR RICE: My apologies.

Could not see behind the pole.

MS. JENNINGS: Hello. I spoke last month. Can you hear me?

CHAIR RICE: We can.

MS. JENNINGS: And I spoke in the days of de Blasio. Start date of this is May 11, 2006, which means it's 16 years of people I don't know stalking me.

You do not handle CCRB -- but I speak here hoping that the mayor hears this, most of all the White House.

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2 Because a letter a day has gone to
3 Obama, to Trump, to Biden. A letter a
4 day. Those are every camera I've
5 seen. The letter started in 2009. I
6 only walk from --

7 (Technical interruption.)

8 ASL INTERPRETER: This is the
9 interpreter. We are unable to hear in
10 the room right now.

11 MS. JENNINGS: If you are the
12 police and you see huge mobs coming at
13 a lady and I go and ask you for help
14 and you walk away, and I'm at a camera
15 because that's where I'm at when I'm
16 making the phone calls.

17 So I'll keep it short. Anybody
18 here if they can reach out to the
19 mayor, Governor, because see, I've
20 done all that. When he was the
21 Brooklyn borough president, yes, I
22 reached out him, five years ago. At
23 the time when Ms. Lori had prince Noah
24 (phonetic), yes. I don't
25 understand -- so see if you can help

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me out, reaching out, you now, to the mayor, the governor, most of all the White House.

Thank you very much. Thank you.

MR. DARCHE: Ms. Jennings has been coming to the board for many years now, and we will make another attempt to try and help her after tonight.

CHAIR RICE: Thank you.

Yes, ma'am?

MS. WONG: Thank you.

My name is Jennvine Wong. I'm a staff attorney with the Legal Aid Society. First and foremost, apologies for my tardiness today. And also thank you to the board.

The release of this report is really an achievement. I know that it's been long waited for. I know it's been -- a lot of hard work has gone into it. And as we reviewed this report, there were a lot of things that really jumped out at us.

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The amount of excessive use of force claims here that were substantiated, I understand that the CCRB is vigorously pursuing accountability against these officers. I understand that unfortunately, the Police Commissioner having final say over discipline, the CCRB can only do so much.

Nonetheless, what the CCRB is doing is something that is a service to every New Yorker. Especially New Yorkers who went out into the streets to exercise their First Amendment rights in 2020, who were out expressing their grief, their collective grief and who just wanted to be able to safely protest and express their views with respect to police brutality.

A lot of the findings in here are findings that I think many of us had already known because we saw it in person. And we've seen it reflected

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in other reports that were released by other agencies.

I did have a question for the CCRB, which is -- and I know I heard this because I know earlier, Yojaira had mentioned that she was thanking some members of various district attorneys' offices that were also present at tonight's meeting. And my understanding is that the district attorney's offices also have police accountability units or public corruption units that are tasked with investigating and prosecuting officers who commit crimes.

With the substantial amount of excessive use of force claims in here, it sounds there's a lot of assault cases here as well, similar conduct by police officers, and I'm just curious as to whether or not any of these cases were referred by CCRB to any of the relevant district attorney's offices, and whether any resulting

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investigations, prosecutions were pursued as another avenue of accountability, when the CCRB may not be able to pursue accountability or may not have been able to get it because of deviations from the Police Commissioner or so forth.

One thing I also wanted to point out was the finding here about the pervasive practice of officers obscuring their badge numbers in a way that prevented people from finding out who they were or from noting who they were when they were confronted with officers who engaged in misconduct.

And this ties in with the Right to Know Act, which I think is another problem that has reared its head. Many times -- complaints that are made to the CCRB with officers that are unable to be identified. And the CCRB has done a lot of education on the Right to Know Act, and I hope that that education continues. Because

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it's important. In order for us to hold officers accountable, we need to know who they are. And officers need to comply with the Right to Know Act in order for civilians to be able to name them in their complaints.

So lastly, I just wanted to reiterate our support for Legal Aid's recommendation to have direct access to body-worn footage. The delay is unacceptable. As an oversight agency, and as an agency that investigates officer misconduct, the CCRB should have direct access to body-worn camera. This has long been advocated by the agency itself and it's long been supported by the Legal Aid Society and other advocates.

Thanks for your time.

CHAIR RICE: Thank you, Ms. Wong, for those comments, and for your feedback on the report in general. I'm going to turn it over to our executive director to answer that

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specific question about taking those cases to the district attorney's offices.

MR. DARCHE: So during the summer of 2020, we were in touch with many of the district attorney's offices because they had concurrent investigations alongside ours. And some of them actually resulted in criminal prosecutions. At the time, we did not refer cases to -- in those instances. They were concurrent investigations that the DA's offices had opened on their own.

We did share information with the New York State Attorney General's Office and the New York City department of investigation. And I think much of the information that is in their reports, they obtained through sharing information with us.

CHAIR RICE: Is there anyone else in the room who has a comment or question? Want to step to the podium?

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If not, I will ask board members if there is any old business that we have to come before the board? Any old business?

(No response.)

CHAIR RICE: Do we have any new business to come before the board?

(No response.)

CHAIR RICE: Hearing none, I'm going to move now that we break into executive session. The agenda for executive session is, the board will deliberate on two full board cases, receive an update from the executive director and the general counsel will update us on litigation.

Do I have a motion to adjourn the meeting?

BOARD MEMBER: So moved.

CHAIR RICE: Do I have a second?

BOARD MEMBER: Second.

CHAIR RICE: All right. The meeting is concluded. Thank you so much for joining us.

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(TIME NOTED: 4:43 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF NASSAU)

I, Elbia Brumit, 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 15th day of February, 2023.


ELBIA BRUMIT