

In Re June Board Meeting NYC - Civilian Complaint Review Board
June 14, 2023

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

June 14, 2023

4:17 p.m.

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HELD VIA VIDEOCONFERENCE/
100 Church Street
New York 10007

B E F O R E:

ARVA RICE, CHAIR

JONATHAN DARCHE, ESQ., EXECUTIVE DIRECTOR

COURT REPORTER:
Sabrina Brown Stewart

1 PUBLIC MEETING AGENDA

2 =====

- 3 1. Call to Order
- 4 2. Report from the Chair
- 5 3. Report from the Executive Director
- 6 4. Presentation from Assistant General
7 Counsel on the NYPD Matrix
- 8 5. Public Comment
- 9 6. Old Business
- 10 7. New Business
- 11 8. Adjourn to Executive Session

1 CCRB BOARD MEMBERS PRESENT:

2 =====

- 3 1. Arva Rice - Interim Chair
- 4 2. June Northern - Board Member
- 5 3. John Siegal, Esq. - Board Member
- 6 4. Kevin Jemmott - Board Member
- 7 5. Charlane Brown-Wyands, Esq. - Board Member
- 8 6. Joseph A. Puma - Board Member
- 9 7. AU Hogan - Board Member
- 10 8. Herman Merritt - Board Member
- 11 9. Michael Rivadeneyra, Esq. - Board Member

14 PRESENTERS:

15 Suzanne O'Hare - Assistant General Counsel and
16 Deputy Chief of Investigations, CCRB

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1 S P E A K E R S:

2 1. OMayRA

3 2. MICHAEL MEYERS - President, Civil Rights
4 Coalition

5 3. MAGGIE HADLEY - Legal Aid Society

6 4. MS. JENNINGS

7 5. JON MCFARLANE - VOCAL-New York

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1 MS. ALVAREZ: Good evening, everyone.
2 For those utilizing ASL Interpretation
3 Services, our two interpreters today are
4 Allison Zilg and Diane Barkstrom. Their
5 display names are CCRB ASL and ASL
6 Interpreter, respectively. In the chat, you
7 will find instructions on how to pin their
8 video.

9 Thank you.

10 CHAIR RICE: Good evening and welcome.
11 My name is Arva Rice. I use she/her
12 pronouns, and I am the interim chair of the
13 Civilian Complaint Review Board. I would
14 like to call the CCRB's June Public Meeting
15 to order.

16 Would the rest of the Board please
17 introduce themselves.

18 MR. RIVADENEYRA: Good afternoon. My
19 name is Michael Rivadeneyra. I am the City
20 Council Bronx designee to the Board. My
21 pronouns are he/him, and thank you.

22 MR. MERRITT: Good afternoon. My name
23 is Herman Merritt. I'm the City Council
24 designee from Brooklyn. I live in Brooklyn.

25 MR. SIEGAL: Hi. John Siegal, I'm one

1 of the mayoral appointees.

2 MR. DARCHE: My name is Jon Darche. I
3 use he/him pronouns, and I'm the executive
4 director of the Agency.

5 MR. JEMMOTT: Good evening. My name is
6 Kevin Jemmott, and I'm a mayoral designee
7 from Queens.

8 MR. PUMA: Good afternoon, everyone.
9 My name is Joseph Puma. I go by he/him
10 pronouns. I'm the Manhattan City Council
11 designee on the Board, and I hail from the
12 Lower East Side.

13 CHAIR RICE: Thank you.

14 And we would like to have those board
15 members who are joining us virtually, if they
16 could introduce themselves as well, starting
17 with AU.

18 MR. HOGAN: Yes. Good afternoon. My
19 name is AU Hogan. I'm a City Council
20 designee out of the 28th District in
21 Southeast Queens.

22 CHAIR RICE: June.

23 MS. NORHERN: My name is June Northern.
24 I am a mayoral appointee, and I live in
25 Brooklyn.

1 CHAIR RICE: Charlane.

2 MS. BROWN-WYANDS: Good afternoon. I'm
3 Charlane Brown, police commissioner designee.

4 CHAIR RICE: Thank you.

5 Since we do not have a quorum today,
6 I'm going to table the minutes until the next
7 meeting. As we kick off the June Board
8 Meeting, I want to say Happy Pride to
9 everyone celebrating. The CCRB is showing
10 support at Pride events across the City, and
11 we welcome anyone and everyone to join us.

12 On Monday, Commissioner Sewell
13 announced that she would be stepping down.
14 Commissioner Sewell was the first black woman
15 to lead the largest police department in the
16 country, and took on this role when crime was
17 rising. While we did not always see eye to
18 eye on disciplinary issues, we were able to
19 forge a cooperative working relationship, and
20 I thank her for her service to this great
21 city.

22 I also want to take a moment to
23 remember George Floyd. May 25th marked the
24 third anniversary of his killing. George
25 Floyd's death sparked a global wave,

1 demanding police reform and recognizing the
2 need for accountability. The CCRB continues
3 to work for civilians who believe they have
4 experienced misconduct, and to push for
5 greater accountability for police officers.

6 For several months, the CCRB and NYPD
7 have been in negotiations to work out a plan
8 to share data and documents needed, to
9 investigate racial profiling and bias-based
10 policing cases. Last week, we came to an
11 agreement, and Commissioner Sewell and I
12 signed a Memorandum of Understanding, that
13 will allow the CCRB to move forward with
14 these investigations.

15 While this MOU addresses the issue of
16 access to evidence, it does not solve for the
17 lack of staff and budget. The City Council
18 bill that created this unit, outlined 33
19 positions necessary to complete these
20 investigations. As of next week, the team
21 will have 17 members, and the proposed budget
22 would not even cover our current personnel
23 cost, let alone allow us to hire 16 more
24 people.

25 While the CCRB is committed to

1 thoroughly investigating profiling
2 complaints, we cannot do this without the
3 strong budgetary support. Profiling
4 complaints are extremely complex and
5 resource-intensive. We will not be able to
6 investigate profiling complaints, in addition
7 to other complaints in our jurisdiction, at
8 the level currently proposed by the
9 Administration. The Agency hopes that the
10 final budget includes the necessary support.
11 If it does not, the Agency will return to the
12 former practice of referring profile
13 complaints to the NYPD.

14 I would also like to reiterate the
15 importance of Intro 938, the City Council
16 bill that would give the CCRB direct access
17 to body-worn camera footage. BWC footage is
18 proven to improve the rate of definitive
19 conclusions in CCRB cases. Investigations
20 with BWC footage have a definitive conclusion
21 as to whether the officer committed
22 misconduct or not, nearly 40 percent more
23 than cases without BWC footage. This is
24 better for officers and civilians alike.

25 Also, this bill would save the NYPD and

1 the CCRB time and resources. The time it
2 takes to complete an investigation is an
3 ongoing conversation with the Department, and
4 this would be one way to shorten
5 investigative timelines. I'm hopeful that
6 the City Council will pass this bill.

7 I will now pass it off to our Executive
8 Director, Jonathan Darche.

9 Jon.

10 MR. DARCHE: Thank you, Chair Rice.

11 In April, our agency lost a beloved
12 member of our staff, David Douek, in a motor
13 vehicle accident. David was a key member of
14 the CCRB, both as a hard-working colleague
15 and as a friend. His loss has been deeply
16 felt here. And today, we want to honor
17 David's legacy and his service to the City by
18 renaming this room, the CCRB boardroom, in
19 his honor. From now on, we're going to call
20 it the David Douek Boardroom.

21 I want to welcome David's wife, Jess,
22 who is watching today online, and David's
23 father, BJ, who is with us today. David will
24 be forever remembered at the CCRB, and we
25 want to thank him and his family for all he

1 did for this agency and his colleagues.

2 Last month, the NYPD announced they
3 revised the Disciplinary Matrix while
4 testifying for the City Council. The
5 Department proposed making five changes to
6 the Matrix. Later tonight, Assistant General
7 Counsel, Suzanne O'Hare, will explain these
8 proposed changes. The CCRB will forward any
9 board member or public comments made tonight
10 to the Department for it to consider as part
11 of its public comment period.

12 Two weeks ago, the APU submitted the
13 legal brief requested by Trial Commissioner
14 Maldonado, closing the trial against the
15 officers who killed Kawaski Trawick. Deputy
16 Commissioner Maldonado will now review the
17 evidence and arguments before making her
18 recommendation to the Police Commissioner.

19 Before we get started this afternoon, a
20 quick updates on agency operations: Our
21 office is open to walk-in complaints, but it
22 is also possible to file complaints online at
23 nyc.gov/ccrbcomplaint. That is
24 N-Y-C.G-O-V/C-C-R-B-C-O-M-P-L-A-I-N-T, or you
25 can call us at 1-800-341-2272, or you could

1 also call 3-1-1. If anyone here tonight
2 wants to file a complaint, we have two
3 investigators on hand ready to take new
4 complaints, Emma Stydahar and Rob Bryan,
5 they're in the back. We also have a member
6 of our CAU staff here tonight, Amy
7 O'Sullivan.

8 Finally, some ground rules for this
9 afternoon: If you are joining us online and
10 would like to make public comment, please use
11 the raise-your-hand feature. If you are here
12 or if you are online, please keep your
13 comments to a four-minute maximum. Next
14 month, we are going to begin streaming the
15 board meetings on YouTube. But to
16 participate in the meetings remotely, you
17 must still register and sign in through
18 Webex.

19 I want to thank the staff for their
20 hard work. And thanks again to the members
21 of the public, both here and online, for
22 participating in this meeting.

23 CHAIR RICE: Members, do you have any
24 questions of our executive director?

25 (No response).

1 CHAIR RICE: Anyone online, do you all
2 have any questions of our executive director?

3 (No response).

4 CHAIR RICE: If not, then we're going
5 to have a presentation from our Deputy Chief
6 of Investigations and Assistant General
7 Counsel, Ms. Suzanne O'Hare.

8 MS. O'HARE: Good afternoon, everyone.
9 I am Suzanne O'Hare. As Chair Rice has
10 stated, I am an Assistant General Counsel and
11 Deputy Chief of Investigations here at the
12 CCRB. And I would like to discuss with you
13 today, the proposed changes that the NYPD is
14 suggesting for its Disciplinary Guidelines.

15 So, just a little background: The NYPD
16 established its guidelines back in January of
17 2021. We commonly refer to -- as does the
18 NYPD -- these Disciplinary Guidelines as the
19 Matrix, and they always were designed to be
20 updated periodically by NYPD. The purpose of
21 the Matrix -- I think that there are probably
22 a number of purposes that would be identified
23 by NYPD, but, for me, I think these are the
24 three most important; and that is to
25 establish uniformity of penalties to ensure

1 that each officer receives the same or a
2 similar penalty for the same misconduct as
3 other officers.

4 The second important purpose is to
5 inform those members of service what the
6 possible penalties are. It puts them on
7 notice, and it lets them know that there are
8 consequences for when they violate the Patrol
9 Guide.

10 And then, finally, the guidelines, the
11 Matrix, show the transparency of discipline
12 for members of service. It lets all of us,
13 the public at large, know exactly what
14 officers are expected to do and what the
15 consequences will be if they fail.

16 So, CCRB entered into a Matrix MOU, a
17 Memorandum of Understanding, in February of
18 2021. And in that agreement, both the CCRB
19 and the NYPD each agreed that they would
20 follow the guidelines that are set forth for
21 all of the recommendations that are made, and
22 they would only deviate from that Matrix upon
23 extraordinary circumstances.

24 And so, in May of this year, NYPD
25 announced some proposed changes. Now, the

1 changes that they propose are actually many,
2 but there are only five categories that
3 affect CCRB and are within CCRB's
4 jurisdiction.

5 So, I've set up a table on this slide,
6 and I'm going to list the misconducts. We'll
7 go through each one. You'll see at the top,
8 there is a mitigated penalty, presumptive
9 penalty, and an aggravated penalty. As the
10 board is aware, NYPD have set up a number of
11 factors that allow for mitigating reasons and
12 aggravating reason to either lower or
13 increase the prospective penalty.

14 For these five categories, NYPD has not
15 proposed any changes to the presumptive
16 penalty or the aggravated penalty. They are
17 only concerned with changes to the mitigated
18 penalty for these five categories. So, let's
19 begin:

20 The first category is an unlawful
21 search or entry. And as you can see, the
22 presumptive penalty for a violation of this
23 section of the Patrol Guide would be ten
24 penalty days. And when we say "penalty
25 days," we're referring to forfeiture of

1 vacation days by that member of service. And
2 the aggravated penalty is 20 days; no changes
3 there.

4 What has changed, and this is, of
5 course, a proposal, is that instead of five
6 penalty days as a mitigated penalty, they are
7 recommending training. Now, training is a
8 nonformal discipline, and that means that it
9 would not be reflected on that officer's
10 disciplinary history.

11 The next category is -- covers three
12 separate categories; threat of force, a
13 police enforcement that was improper, or
14 removal to a hospital without justification.
15 And here, again, presumptive and aggravated
16 remain the same. The proposed change is from
17 five penalty days to training.

18 The next category is Failure to Process
19 a Civilian Complaint at each precinct. If a
20 civilian comes in and wants to make a
21 complaint or file a complaint against a
22 member of service, officers are required to
23 help them do that. And if they fail to do
24 so, here in the mitigated penalty, NYPD is
25 recommending changing it from five penalty

1 days to training.

2 The fourth category is Discourtesy.
3 That is -- that qualifies as rude or improper
4 or profane, either oral statements or
5 gestures. And here, the recommendation is to
6 change it from one penalty day to training.

7 And then, finally, the last category is
8 Offensive Language; that is language that
9 disparages someone's race or religion, mental
10 health, or physical status, sexual identity,
11 or sexual expression. And here, the
12 recommendation on the mitigated penalty is to
13 change it from ten penalty days down to one
14 penalty day.

15 And so, finally, as was mentioned
16 before by Mr. Darche, there is an opportunity
17 for the public to make a comment on these
18 proposed changes by NYPD. You can go to the
19 NYPD website on their policy page, and you
20 click on the comment submission link, and you
21 can either support these changes and tell
22 NYPD why you support them, or you can
23 recommend that these changes not be made and
24 why you feel so. And the website link for
25 that is:

1 www.nyc.gov/site/nypd/about/about-nypd/public
2 -comment.page.

3 Thank you all very much for your
4 attention. I seriously appreciated that.

5 CHAIR RICE: Thank you very much.

6 Do the board members have any questions
7 for Suzanne?

8 Yes.

9 MR. RIVADENEYRA: So, in regards to the
10 unlawful entry search, I see in the
11 parenthetical, "substantial physical presence
12 or remaining," I know that they are different
13 categories.

14 Is the proposal to align with
15 de minimus entry in unlawful search? Because
16 I believe that's the other option in terms of
17 discipline.

18 MS. O'HARE: I can't tell you exactly
19 what their purpose is, whether they are
20 trying to align it with de minimus. But yes,
21 you are correct, at this moment, with this
22 proposed change, it would make substantial
23 physical presence or remaining in a residence
24 unlawfully, to be the same as a de minimus
25 entry, which we generally consider to be like

1 a foot in the threshold.

2 MR. DARCHE: True for all three
3 sections or just the mitigated?

4 MS. O'HARE: Just for the mitigated.

5 MR. RIVADENEYRA: Do you know why these
6 particular areas were selected, in terms of
7 changing or proposing a change to the
8 mitigated penalties?

9 MS. O'HARE: I do not have any
10 background on why they are proposing these
11 particular changes. I'm not sure if
12 Mr. Darche may be privy to more of their
13 reasoning.

14 MR. DARCHE: I had a meeting with
15 members of the first deputy commissioner's
16 team, along with Mr. Kadushin, our general
17 counsel, in which we discussed the issue of
18 offensive language with them, but that was
19 the only allegation type that we discussed.
20 I mean, I had actually suggested that they
21 reform the offensive language category in a
22 manner similar to how they had changed the
23 entry and search, by dividing it into
24 different rows, and they went in a different
25 direction.

1 MR. PUMA: Just a question.

2 I'm not sure if whether the agency or
3 just, you know, other advocacy organizations
4 have examined deviations from the Matrix,
5 that the commissioner, you know, has imposed
6 on cases that have come to the Department,
7 and whether these categories, if there's any
8 sort of, kind of, statistical relationship
9 to, you know, deviations and these
10 categories? I don't expect you to have that
11 data in front of you, but I'm just curious --

12 MS. O'HARE: You have such low
13 expectations of me. But, unfortunately,
14 you're absolutely correct. That is something
15 that would have been put together by our
16 policy unit.

17 And, Jon, do you have any information
18 that you could help Mr. Puma with?

19 MR. DARCHE: So, we have not done a
20 formal analysis of the deviation memos, as
21 someone who reads all of them when they come
22 in. Again, offensive language is something
23 that has been an issue for some time now, as
24 is the entry issue. But most of the time,
25 the issues come -- the issue is more whether

1 the Department is going to find any
2 misconduct occurred at all.

3 And so, it's not truly a deviation from
4 the Matrix. It's more of a reluctance to
5 find that misconduct occurred. I shouldn't
6 state it that way. It's a disagreement
7 between the agency and the Department over
8 whether misconduct occurred.

9 MS. O'HARE: Any other questions for
10 me?

11 (No response).

12 MS. O'HARE: Then, I thank you for your
13 time.

14 Oh, yes.

15 MR. SIEGAL: I have one.

16 MS. O'HARE: Mr. Siegal, sure.

17 MR. SIEGAL: Let me just say, seeing
18 you behind the lecture and being over here, I
19 see why you've been so effective with judges
20 over the years.

21 Another aspect of the Matrix is, it's
22 supposed to instill progressive discipline,
23 such that subsequent violations are penalized
24 more strongly. I don't know if we have any
25 analysis of whether that's been done, but is

1 there anything in this change that you view
2 as impacting that approach?

3 MS. O'HARE: I don't think that
4 anything that they're proposing here, that
5 affects CCRB, is going to have any effect on
6 that, because it really is just in the
7 mitigated penalties. The progressive
8 discipline that Mr. Siegal refers to is where
9 an officer is found to have a recent history
10 of similar conduct, and that may require,
11 pursuant to the NYPD's Matrix Guidelines, to
12 elevate a penalty to show that this is a
13 progressive type of discipline.

14 And so, because this is all for
15 mitigated penalties, I don't think that any
16 of this will have any effect on progressive
17 discipline.

18 MR. DARCHE: Were there changes made to
19 the portions of the Matrix dealing with
20 progressive discipline?

21 MS. O'HARE: No, there were not.

22 CHAIR RICE: Any additional questions?
23 I'm not sure if I had a chance to ask folks
24 on the line if you all had any questions.

25 Charlane, did you all have any

1 questions?

2 MS. BROWN-WYANDS: Yes.

3 I'm not sure if it was mentioned, but
4 is there a length of time for the public
5 comment period? When do public comments
6 close?

7 MS. O'HARE: I believe that there is a
8 finite period of time during which the public
9 can comment. But offhand, I don't know what
10 that date is. But the NYPD website, I
11 imagine that information would be found
12 there.

13 MR. DARCHE: Am I right or wrong, Matt?

14 MR. KADUSHIN: Correct.

15 MR. DARCHE: June 18th is the deadline,
16 Ms. Brown.

17 MS. BROWN-WYANDS: Thank you.

18 MS. O'HARE: Well, thank you all for
19 your time.

20 CHAIR RICE: Thank you. We appreciate
21 it.

22 So, June 18th is the final day for
23 public comments, so for those --

24 MR. SIEGAL: Are we going to have
25 discussion of this from board members? I

1 think you said that comments we make will be
2 submitted as if they're comments?

3 MR. DARCHE: Yes.

4 MR. SIEGAL: Great.

5 CHAIR RICE: Thank you for that.

6 We will now hear from the public. We
7 -- oh, I'm so sorry. I'm so sorry. I
8 misunderstood. Yes.

9 MR. SIEGAL: I certainly would like to
10 take the opportunity to comment, if we're
11 submitting it as part of the comment record.

12 I have three things regarding the
13 proposed changes to the Matrix; one is, as is
14 obvious, but has gone unstated, these are all
15 downgrades. So, they've reviewed the Matrix
16 and they're moved certain mitigated
17 categories down, and there's been no
18 correction of situations in which board
19 members have felt that the Matrix options are
20 insufficient.

21 And let me just say it this way: It
22 sends the wrong signal to revise the Matrix
23 and only downgrade discipline. It is -- I
24 don't necessarily disagree with some of these
25 changes and the specifics, but they had the

1 opportunity to thoroughly revise the Matrix
2 and chose only certain downgrades, and that
3 sends a certain signal.

4 Secondly, there's an emphasis here on
5 training. As a board member, I'm fine
6 recommending training in certain
7 circumstances, certainly for junior officers
8 or first offenses. But for the entire time
9 I've been on this board, which is a long time
10 now, I've been asking for some visibility
11 into what training is provided when we
12 recommend training as a discipline. Because
13 I'm not comfortable recommending training,
14 unless I know that the training being given
15 is responsive to the violation that occurred.

16 I've been to the taser training, for
17 example, and so I know what that is. But I
18 don't know what discipline is in -- what
19 training is imposed for a variety of
20 offenses, ranging from offensive language to
21 failure to give a business card, to unlawful
22 entries. I don't know, and I think it would
23 be helpful to the Board to know.

24 Third point and last, and I appreciate
25 everyone's patience. The presumptive penalty

1 for stop-and-frisk is way too low. It's
2 three days. So, ten days if you unlawfully
3 enter someone's home, but three days if you
4 unlawfully enter their body. The whole
5 reason this Matrix exists is the finding that
6 the NYPD, over a number of years, was
7 unconstitutionally deploying stop-and-frisk;
8 that's the whole way we got here. And at a
9 time when the Department recently defended
10 the Monitor's Report about the conduct of the
11 anticrime unit by saying, "Well, by our
12 calculations, only 18 percent of the stops
13 were unconstitutional."

14 We clearly still have an issue. And
15 three days as a presumptive penalty for
16 stop-and-frisk is insufficient; many of us
17 have said that. I know that's been
18 communicated to the Department, and that
19 needs to be revised upward to be consistent
20 with the philosophy of the Matrix, and as a
21 sufficient deterrent and penalty for what
22 remains the leading issue in the cases that
23 we see and to the public.

24 So, thank you.

25 CHAIR RICE: Thank you. I appreciate

1 that.

2 Any other comments or seconds to what
3 has been laid out for us?

4 Yes.

5 MR. RIVADENEYRA: I do want to echo
6 everything that Mr. Siegal said, especially
7 around the lack of transparency that the
8 Department has around training, just
9 because -- again, you know, training is fine
10 in certain circumstances, but without
11 knowledge of what those trainings are,
12 without actually being able to examine the
13 material around training, you know, this is
14 absolutely sending the wrong message. It's
15 not a message to try to correct an improper
16 behavior.

17 So, again, I stand with what John said.

18 CHAIR RICE: Any -- oh.

19 Did you have a comment, Joseph?

20 MR. PUMA: I also concur with the
21 statement from Mr. Siegal.

22 CHAIR RICE: Any other comments from
23 those who have joined us on the line?

24 MR. HOGAN: I don't know. Maybe -- I
25 definitely concur with Mr. Siegal, and also,

1 just look at me, from looking at it from many
2 positions, is that it's sending a bad message
3 to the public when we're trying to get things
4 right. And when you downscale or -- almost
5 as though it looks like to look over there
6 and be responsible of employees. And NYPD
7 has the -- all police officers are employees
8 of the City, and that there has to be some
9 kind of respectful accountability, you know.
10 And I think that the Agency and NYPD could
11 revisit it and look at these things and see
12 whether or not they should move forward as
13 such.

14 Thank you.

15 CHAIR RICE: Thank you.

16 MR. MERRITT: Chair, what is the
17 process? Where do we go from here with this?
18 How is this going to be implemented?

19 CHAIR RICE: That's a great question.
20 And your question is about how do our
21 comments now get reflected back to the NYPD,
22 the comments that we talked about right here,
23 or you're talking about the overall process
24 of public comment?

25 MR. MERRITT: I'm talking about will --

1 how will we decide whether this becomes
2 policy? Who makes that decision?

3 CHAIR RICE: That's a great question.

4 MR. DARCHE: The Police Department
5 makes the decision. They have 30 -- they've
6 posted these -- this change to the Matrix in
7 a manner similar to how we did when we
8 proposed the rules. And based on the public
9 comment, the Police Commissioner will then
10 determine whether or not to go forward with
11 the Matrix -- the proposed changes to the
12 Matrix, or if they need to make significant
13 revisions to their proposed revisions,
14 whether they have to repost again for another
15 time of public comment.

16 CHAIR RICE: Any other comments or
17 questions?

18 (No response).

19 CHAIR RICE: My only comment is, I also
20 agree with what you've laid out. So, thank
21 you so much for thoughtfully laying that out.
22 And obvious -- to state the obvious once
23 again, this is also of concern considering
24 the lack of concurrence between the
25 recommendations that the CCRB is already

1 making and the Police Department. So, for us
2 to have a trend of downgrading the penalties
3 with that as our current reality is of a
4 particular concern.

5 All righty. Any other comments,
6 comments or questions?

7 (No response).

8 CHAIR RICE: All right. If not, I'm
9 going to go ahead and press forward in the
10 agenda. We will now hear from local
11 community leaders. Thank you so much for
12 joining us. And as a reminder, we're going
13 to ask that you please keep your comments to
14 four minutes.

15 Yojaira, would you please call on the
16 first speaker.

17 MS. ALVAREZ: Thank you, Chair Rice.
18 First, we'll be hearing from Omayra,
19 who's joining us virtually.

20 MS. OMayRA: Hello?

21 CHAIR RICE: Hello, Omayra, we can hear
22 you.

23 Can you hear us?

24 MS. OMayRA: Can you hear me? Can you
25 hear me?

1 CHAIR RICE: Yes, we can.

2 MS. OMAIRA: Oh. Thank you so much.

3 I'm trying to do complain about a captain
4 named Hansel Duran. He's responsible for the
5 death of 14-year-old Jacob Borbin. And
6 apparently, he has a friend who work in the
7 CCRB; her name is Rosemary. She's a deputy
8 director, and the director of case manager
9 (sic), Mr. Mahadeo. And they are not
10 allowing me to do a complaint about this
11 captain.

12 MR. DARCHE: So, I believe -- if you
13 would like, ma'am, I can talk to you after
14 the meeting and explain the reopening process
15 and why your complaint was closed and why it
16 was not reopened. But that is essentially
17 what happened. It was not the deputy
18 director of the Case Management Unit acting
19 on her own. It was that the Agency
20 determined that we could not proceed with the
21 complaint. And then, when you made a request
22 to reopen it, I determined not to reopen it.

23 MS. OMAIRA: It would seem that you are
24 friends with this captain. And this man is
25 responsible for the death of Jacob Borbin, a

1 14-year-old boy from the Bronx, that he's
2 providing counsel to.

3 CHAIR RICE: Ma'am, we're going to ask
4 for you to continue your conversation with
5 our executive director, so that we can
6 clarify why that case was -- why CCRB decided
7 not to go forward with that case.

8 MS. OMAIRA: I'm just letting you guys
9 know that this man is friend with the captain
10 and that's why he's closing my cases, when
11 this captain is responsible for the death of
12 14-year-old Jacob Borbin, in the Bronx. He's
13 providing guns to these children in the Bronx
14 and this man, apparently, is friend with the
15 captain.

16 CHAIR RICE: I'm not sure who the man
17 is that you're referring to, but I do know
18 that in our processes, that no man is allowed
19 to make an independent decision like that.
20 So, like I said, we'll continue this
21 conversation to figure out why, in fact, it
22 is that the case was closed, because people
23 don't have the ability to make decisions
24 based on familiar or any other types of
25 relationships.

1 MS. OMAIRA: And how do I do complain
2 about this man, if I believe that he's friend
3 with the captain and he's closing my cases?
4 Who would I do complain about this? Because
5 Rosemary, also, the deputy director, they're
6 all friends with this captain. They're just
7 Hispanic defending this captain, when he's
8 responsible for the 14-year-old, Jacob
9 Borbin's death.

10 MR. DARCHE: If you want to make a
11 complaint about one of our staff members, you
12 would make it to me. But if you want to make
13 a complaint about me, you would do it to the
14 Department of Investigation. And I'm the one
15 who made the decision not to reopen the case.

16 MS. OMAIRA: Well, I'm here. I'm
17 defending Jacob Borbin and many teenagers
18 that have been killed in the Bronx. This man
19 is friend with the captain, Hansel Duran.
20 Apparently, he has a drug dealer helping him
21 in the Bronx, and they're responsible of drug
22 dealing and prostituting children from 14 to
23 12-year-old little girls in the Bronx, and
24 you are responsible for him.

25 And that's unfair if I don't have

1 nobody to complain about you, sir. You're
2 defending this captain because he's your
3 friend, but you know that he's killing
4 children and he's prostituting children from
5 12 years old. This man needs to be fired;
6 and that's it.

7 CHAIR RICE: Ma'am, I hear you.

8 And I'm not sure what the process is in
9 order to make sure that she can speak to
10 another person, but you do have a way to be
11 able to address this issue, that Jon's laid
12 out for you. And so, we want to make sure
13 that we can help you through that in order
14 that you have a place to go in order to
15 register your concerns and your issues.

16 How would that happen for her to be
17 able to have a conversation after this
18 meeting?

19 MR. DARCHE: I have her e-mail, and
20 I'll reach out to her and explain for her
21 what happened in the process. And if she
22 wants to make a complaint about me, how to
23 reach out to the Department of Investigation.

24 CHAIR RICE: Thank you.

25 Who's next on the list?

1 MS. ALVAREZ: We currently do not have
2 anyone else with their hands raised, so we
3 can move to in-person public comment.

4 Oh, I'm sorry. Somebody just raised
5 their hand virtually. Next, we have Maggie
6 Hadley.

7 CHAIR RICE: We have somebody,
8 Mr. Meyers, who's on virtually, that we're
9 going to go to first.

10 MR. DARCHE: Mr. Meyers is here.

11 CHAIR RICE: Oh, okay. I'm sorry.
12 Okay. I'm so sorry.

13 MS. HADLEY: I'm sorry. Is this --
14 should I go now?

15 MR. SIEGAL: There's someone on
16 virtual, Hadley.

17 MR. MEYERS: Yes. I'm Michael Meyers.
18 I'm the president of Civil Rights Coalition.
19 In my short time to speak to you today, I
20 want to first of all congratulate the
21 executive director and the chair of CCRB.
22 Because in my judgment, they are intelligent.
23 They have high integrity, civility and
24 courage. You do a job I could not do, could
25 not stand to do, because I don't have the

1 kind of patience that you have. I have the
2 intellect. I don't have the patience.

3 Secondly, I want to say, in my short
4 time, I appreciate the resignation of the
5 police commissioner. I didn't hear any
6 applause for the police commissioner during
7 the Chair's brief comments about her. I
8 heard applause for the CCRB member who --
9 staff member who passed. And I'm glad there
10 was no applause for the resignation of the
11 police commissioner, out of civility. For no
12 other reason than civility.

13 But I think that she was not good. She
14 was not for us. She was not for CCRB. And
15 our recent proposals that we hear from our
16 staff member, your staff member, from the
17 Department of -- they should have come here,
18 not you. They could have come here and talk
19 to you, the CCRB, about their proposals to
20 change the rules to reduce discipline.

21 Who the hell are they? Who do they
22 think they are? And I want to check on the
23 authority, the legal authority, of the NYPD
24 to change their policies in terms of -- and
25 the policy, respective of how they discipline

1 and downgrade discipline for police officers.
2 That's CCRB's job to recommend discipline,
3 not the police commissioner, or the retiring
4 police commissioner. So, I think you should
5 check that, double-check it, triple check it,
6 check with the mayor, see what his opinions
7 are.

8 Now, I must tell you that she never
9 came to talk to you directly, as far as I
10 know. She was invited because we wanted to
11 hear from her. We, the people, want you to
12 hear from her directly and we want to be in
13 the room when you talk to her directly. And
14 we wanted her to hear the people's comments
15 about her department and her administration
16 and her lackluster leadership of it.

17 She was the police officers' police
18 commissioner. She was not our police
19 commissioner. But I welcome -- and I state
20 for the record, that I welcome her
21 resignation and I thank her for it.

22 Finally, let me say that I want to say
23 that the time period for comment on her
24 proposal, I haven't received it, though. I
25 guess the Civil Rights Coalition is not on

1 her E-list. But the Civil Rights community,
2 as far as I know, and I just talked to Norman
3 Siegel earlier today. The Civil Rights
4 community never heard anything from the
5 Police Department about downgrading their
6 penalties.

7 Who the hell do they think they are?
8 Thank goodness she's leaving? Can somebody
9 say amen, that she's leaving? I don't want
10 anybody to think that we don't welcome her
11 resignation, because we do. She is not a
12 good police commissioner. She is
13 irresponsible and has been irresponsible.
14 And the sooner she gets out of here, the
15 better.

16 Farewell comment about her proposals to
17 amend the laws and the regulations because
18 she never believed in disciplining cops, so
19 nobody should be surprised. She was the
20 cop's cop. She made that very clear, not
21 coming to the CCRB meeting, not coming to
22 meet the public. Who the hell does she think
23 she is? Well, in less than 30 days, we don't
24 care.

25 CHAIR RICE: Thank you for your

1 comment.

2 I believe we do have somebody on the
3 line who has a comment.

4 MS. ALVAREZ: Yes, Chair.

5 Next, we'll be hearing from Maggie
6 Hadley.

7 MS. HADLEY: Thank you so much.

8 My name is Maggie Hadley, and I'm a
9 staff attorney in the Law Reform and Special
10 Litigation Unit, the Legal Aid Society. The
11 Legal Aid Society serves as the primary
12 public defender to individuals prosecuted in
13 the State criminal system in all five
14 boroughs across the City.

15 Together with the NAACP Legal Defense
16 Fund, we also serve as counsel to Plaintiffs
17 in Davis versus City of New York, one of
18 three federal class action lawsuits
19 challenging the New York City Police
20 Department's stop-and-frisk and trespass
21 enforcement practices.

22 I want to speak on the NYPD's alarming
23 proposed amendments to the Matrix. And Legal
24 Aid will also be submitting written comments
25 on this as well. Many of the proposed

1 changes raised serious questions about the
2 NYPD's commitment to holding officers
3 accountable and deterring misconduct.
4 Broadly speaking, the NYPD seeks to reduce
5 penalties for specific acts of misconduct, as
6 well as implement procedural changes,
7 allowing for the calculation and position of
8 lower penalties in general.

9 First, the proposed amendments would
10 reduce the mitigated penalty for a number of
11 offenses against the public, including
12 threats, unlawful searches, and discourtesy
13 to training. Each of these reductions
14 signals to officers and communities that the
15 offense, at least in some cases, is less
16 serious than previously conceived. These
17 proposed reductions will also undoubtedly
18 lead to officers receiving training in
19 situations where such discipline is
20 inappropriate and will not promote
21 accountability.

22 This board defines training as the
23 least severe discipline appropriate for
24 officers who misunderstand the policy. And
25 the Matrix allows extremely wide latitude for

1 the imposition of mitigated penalty. And
2 counsels in a mitigated penalty may be
3 advisable in a vast number of circumstances,
4 certainly not limited to when an officer has
5 made a good faith mistake. We also echo the
6 Board's comments during this meeting about
7 concerns surrounding training as a penalty in
8 general, including the need for greater
9 transparency about the content of training.

10 Second, the proposed changes include a
11 narrowing of the types of misconduct in which
12 penalties may run consecutively, rather than
13 concurrently, which would likely reduce
14 overall penalties imposed on officers found
15 to commit multiple acts of misconduct,
16 stemming from a single incident. In some
17 cases, this change may even cause conduct
18 that previously would have resulted in
19 charges in a formal prosecution to result in
20 a mere command discipline.

21 In addition, NYPD seeks to remove
22 language in the current Disciplinary Matrix
23 that preserves the Matrix's influence and
24 settlements and ensure that settlements are
25 not used as a pretext to disregard

1 Matrix-appropriate penalties. Each of these
2 amendments would undermine the Matrix's goal
3 of transparent, fair discipline, that deters
4 future acts of misconduct. I also note that
5 these proposed changes arrive amidst other
6 alarming revelations about a lack of NYPD
7 accountability, including the Federal
8 Monitor's recent report about ramping
9 unlawful stops by neighborhood safety teams
10 and the police commissioner's, former police
11 commissioner's rejection of the majority of
12 this board's disciplinary recommendations in
13 2022.

14 We know from experience that when the
15 NYPD waters down discipline, community
16 members, like Legal Aid Society clients, pay
17 the price. The Matrix holds great promise to
18 improve the disciplinary process and ensure
19 officers are held to account for misconduct,
20 but it will lose all efficacy if the NYPD is
21 permitted to continue diluting it.

22 Thank you.

23 CHAIR RICE: Thank you for that
24 comment. We appreciate it, Ms. Hadley.

25 Yojaira, is there anyone else on the

1 line?

2 MS. ALVAREZ: No one else has raised
3 their hand at this time.

4 CHAIR RICE: Thank you. And I believe
5 we did have somebody else in the room who had
6 a public comment, if you wanted to come to
7 the podium and introduce yourself.

8 MS. JENNINGS: Hello.

9 CHAIR RICE: Hello.

10 MS. JENNINGS: I spoke many times here,
11 but, unfortunately, you don't handle
12 stalking. I was run down in the streets by
13 mobs today, and it was unbelievable, on the
14 property of MTA. There was a call made at
15 2:30 at booth R-310 to Sewell; it didn't go
16 through. There was a call made to Mark P.
17 Stewart; it didn't go through. It went to
18 Lisa Lee at MTA; that went through, and I
19 told her, I asked her if she could reach out
20 to -- what's it, Jenna, at the top there?

21 I'm having a problem with my heart. I
22 make sure to let it be known in the hospital
23 when I go there. I sit back there very
24 quietly. You notice I don't move. It's very
25 difficult not to move, and watch people creep

1 around. When I turned my head, I see a hand.
2 Problem with my heart now. I had a heart
3 attack in 2011.

4 Let's cut to the chase. A letter a
5 day, you know, go to the White House under
6 M-1714, the time or the booth that I'm at
7 when I call 3-1-1. Every correspondence to
8 everyone says, the 3-1-1 to the 9-1-1, to the
9 e-mails and the letters to the MTA, NYPD,
10 mayor, governor, elected officials and the
11 President. I asked them all 16 years where
12 did the complaints go. It's only been 16,
13 just 16.

14 If you spent a day watching me, I don't
15 go out anymore. You'll know every move I
16 make. I went out when I went to the
17 hospital. I don't go out. I go out to dump
18 the garbage where I stay, a private street,
19 quiet street, and they stand there and they
20 march back and forth, they fly up and down
21 the streets. And I just watch who's near me
22 with the backpacks, the pieces of paper, the
23 babies, they luggage.

24 Ms. Jennings, Mr. Darche, I asked
25 before, maybe you could reach out to the

1 mayor, but we know it's a lost cause.
2 Because like someone said, the lady that was
3 there, Sewell, her hands were tied. She
4 couldn't do anything. And what's his name,
5 Maddrey? Maddrey and Philip Banks, all of
6 these are in those letters that have gone to
7 the White House since 2009, that went under
8 every single bus and train camera I've ever
9 passed, every. So, wherever I'm at, if
10 there's a camera, the letters have gone.

11 May the 25th, I went to Transit 12 for
12 help; didn't get any. I just watched them
13 march around. I called in there, Sewell's
14 office, spoke to, I guess it was a Cadet
15 Batista, she said about sending an e-mail. I
16 said, "I've been sending them, I think, since
17 Raymond Kelly, Police Commissioner Dave." I
18 called Steward also in there. Then, I went
19 to 125th and sent the priority letters. I
20 sent on the 25th of May -- was it five
21 o'clock, the letters? There was a call to
22 3-1-1 before I made it, and a call to the
23 28th Precinct, which is two blocks away,
24 where I attempted to sit and eat something
25 and the creeping around was unreal; that's my

1 typical day.

2 You could look at my diary and see
3 everything is in my diary. I got pressure
4 pain over there. I couldn't move. But y'all
5 know that. I have a diary. I have no
6 problem showing you my diary. I write down
7 everything. But the letters go to the White
8 House, go at every single camera. The CEO's
9 names; Bezos Whole Foods, and all the places
10 that I go that I'm harassed by the staff and
11 the people that run it in there, go in those
12 letters.

13 So, again, if you could try and maybe
14 speak to, I think it's Dawn Baskerville, the
15 assistant to the Mayor. I also put her name
16 first when I send him an e-mail. He gets
17 many today when I go out, and the rest of
18 them will get. Ms. Jennings.

19 When I leave, I fear for my life,
20 'cause see -- oh, did you know this is
21 drug-related, right? Y'all must know that.
22 And I don't do drugs. When I say a large
23 cartel, large.

24 Have a good day.

25 CHAIR RICE: Thank you, Ms. Jennings,

1 for your comment.

2 Do we have any other -- anyone else in
3 the room who has a public comment, has a
4 comment during our public session?

5 (No response).

6 CHAIR RICE: Okay. Do we have any old
7 business to come before the board, any old
8 business?

9 MS. ALVAREZ: Apologies Chair?

10 CHAIR RICE: Do we have any new --

11 MR. DARCHE: Yojaira, did someone else
12 want to make public comment online?

13 MS. ALVAREZ: Yes. We have somebody
14 that just raised their hand. Jon McFarlane.

15 MR. MCFARLANE: Thank you, Yojaira. My
16 name is Jon McFarlane. I'm a leader with
17 VOCAL-New York. I'm sure some of you would
18 be familiar with my organization. I want to
19 say peace to Jahi and Yojaira, both of whom I
20 know for a while now. Thank you for giving
21 me the opportunity to speak.

22 I just -- you know, I was just
23 routinely listening in while I was doing some
24 other work, and then, you know, I heard about
25 these mitigated penalties, caught my

1 attention. And I just want to say that, you
2 know, part of the problem is that, you know,
3 the CCRB doesn't really have any enforcement
4 tools, and so these mitigated penalties,
5 these downgrades that will predominantly
6 affect black and brown individuals in the
7 five boroughs, you know, there's nothing that
8 anybody can do to really stop it. We'll make
9 our comments, right?

10 But I find it fascinating that the
11 NYPD, you know, they were found guilty -- the
12 NYPD was found guilty of excessive
13 stop-and-frisk back in 2011 by Judge Shira
14 Scheindlin. And it's incredibly that like
15 ten, eleven, twelve years later, they think
16 that a mitigated penalty should be training
17 for stop-and-frisk or for unlawful entry.

18 I mean, how do you factor -- what kind
19 of thinking do you have to possess to think
20 that this far down the line, that any officer
21 who performs an unlawful stop-and-frisk
22 should be given training? That's what the
23 Police Academy is for; six months or
24 nine months or whatever the hell it is.
25 That's where you receive training on a

1 fundamental civil right, like the 4th
2 Amendment, you know, on a fundamental
3 constitutional right, like the 4th and 5th
4 and 1st Amendments; that's where you receive
5 your training.

6 I can't see how any officer who've been
7 on a job a year or two years and will perform
8 those type of violations can be -- the
9 mitigated punishment for that would be
10 training. I can't see how somebody can stop
11 me or my little brother in the street,
12 unlawfully frisk us because they got some
13 anonymous tip about a black man robbing a
14 store 10 miles away and then go in my pocket,
15 search me, traumatize my family or my
16 neighbors and get 30 minutes of training.

17 And like some of the members on the
18 Board said, the CCRB doesn't even know what
19 that training consist of. Is it a slap on
20 the wrist, don't do it again and they're out
21 of the door in two minutes? That's not fair.
22 I don't think it's right. But until there's
23 an agency or some type of mechanism that can
24 hold NYPD officers accountable, until the
25 process has been altered in a way that the

1 NYPD commissioner cannot usurp the authority
2 from the CCRB when they make their
3 recommendations, then black and brown people
4 are going to suffer over and over again.

5 Thank you for your time.

6 CHAIR RICE: Thank you for your
7 comment, and thank you for underscoring the
8 fact that it is true that the NYPD
9 commissioner does have the final authority,
10 an arbiter of discipline, that is recommended
11 by the CCRB.

12 Yojaira, is there anyone else on the
13 line?

14 MS. ALVAREZ: That concludes the public
15 session, Chair.

16 CHAIR RICE: Thank you. And there's no
17 one else in the room.

18 Okay. Do we have any old business to
19 come before the Board, any old business?

20 (No response).

21 CHAIR RICE: Do we have any new
22 business?

23 (No response).

24 CHAIR RICE: Okay. Hearing none, I'm
25 going to move that we break into executive

1 session.

2 The agenda for the executive session
3 is, the Board will receive an update from the
4 executive director on pending personnel
5 actions and board member training, and the
6 general counsel will update us on litigation.

7 Do I have a motion to adjourn the
8 meeting?

9 MR. DARCHE: We don't have a quorum
10 tonight, so we decided to hold it till next
11 month.

12 MR. SIEGAL: So moved.

13 CHAIR RICE: Do I have a second?

14 MR. RIVADENEYRA: Second.

15 CHAIR RICE: All right. All those in
16 favor?

17 (Chorus of ayes).

18 CHAIR RICE: All right. The June
19 meeting of the CCRB is now concluded.

20 Thank you. Thank you, everyone, for
21 joining us.

22 (Time Adjourned: 5:12 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF QUEENS)

I, Sabrina Brown Stewart, a shorthand reporter within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the statement taken on June 14, 2023.

I further certify that I am not related to any of the parties to this action by blood or by 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 24th day of June, 2023.

Sabrina Brown Stewart
Sabrina Brown Stewart