

In Re June Public Meeting NYC - Civilian Complaint Review Board
June 12, 2024

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

June 12, 2024

4:10 p.m.

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HELD VIA VIDEOCONFERENCE/

100 CHURCH STREET, 10th FLOOR

NEW YORK, NEW YORK 10007

B E F O R E :

Arva Rice, Interim Chair

Jonathan Darche, Esq. Executive Director

COURT REPORTER:

Stephanie O'Keefe

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PUBLIC MEETING AGENDA

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

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CCRB MEMBERS PRESENT:

1. Arva Rice, Interim Chair
2. June Northern, Board Member
3. Herman Merritt, Board Member
4. Joe Fox, Board Member
5. Kevin Jemmott, Board Member
6. Pat Smith, Board Member
7. Charlane Brown-Wyands, Esq. Board Member
8. Frank Dwyer, Board Member
9. John Siegal, Board Member
10. A.U. Hogan, Board Member

PRESENTERS:

- Molly Biklen, Associate Legal Director - New York
Civil Liberties Union
- Jennvine Wong, Supervising Attorney - Cop
Accountability Project, Special Litigation Unit -
Legal Aid Society
- Lillian Marquez, Deputy Bureau Chief of the Law
Enforcement Misconduct Investigative Office - Office
of the NYS Attorney General

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S P E A K E R S:

1. Ms. Mari Moss - Taskforce Member - Mayor's Taskforce to End Gender and Domestic Based Violence
2. Elijah McCormick - Civilian

PROCEEDINGS

1
2 MR. ROSE: Thank you very much for joining
3 us. For those utilizing ASL interpretation
4 services, our two ASL interpreters today will
5 be Craig Ridgeway and Lisa Dennett. The
6 instructions on how to pin their videos will be
7 in the chat. You can feel free to utilize --
8 feel free to find them at ASL interpreter
9 Ridgeway, or ASL interpreter Craig Ridgeway, and
10 ASL interpreter, Signexus, Lisa Dennett, also
11 for those utilizing CART services, those
12 instructions will be in the chat as well.
13 Thank you.

14 CHAIR RICE: Good evening and welcome. My
15 name is Arva Rice. I use she/her pronouns and
16 I am the interim chair of the Civilian
17 Complaint Review Board.
18 I would like to call the CCRB's June public
19 board meeting to order.
20 Will the Board please introduce themselves now,
21 starting to my right with Pat?

22 MR. SMITH: Pat Smith, mayoral appointee
23 from Manhattan. Good evening. How are you?

24 MR. JEMMOTT: Good afternoon. Kevin
25 Jemmott, mayoral appointee from Queens.

PROCEEDINGS

1 MR. FOX: Good afternoon. Joe Fox, police
2 commissioner designee.

3 MR. MERRITT: Herman Merritt, City Council
4 designee from Brooklyn.

5 MR. SIEGAL: Good afternoon. John Siegal,
6 I'm one of the mayoral appointees.

7 CHAIR RICE: Members who are joining us
8 virtually, I want to start with Frank, if you
9 would introduce yourself, please.

10 MR. DWYER: I'm Frank Dwyer, police
11 commissioner designee, and I am traveling, so
12 I'm joining you remotely.

13 MS. NORTHERN: -- mayoral appointee from
14 Brooklyn.

15 MS. BROWN-WYANDS: Charlane Brown-Wyands,
16 police commissioner designee.

17 CHAIR RICE: please repeat your
18 introduction, you got cut off.

19 MS. BROWN-WYANDS: Apologies. Charlane
20 Brown-Wyands, police commissioner designee.
21 Thank you.

22 CHAIR RICE: And, June, did you introduce
23 yourself as well?

24 MS. NORTHERN: I did. June Northern,
25 mayoral appointee from Brooklyn.

PROCEEDINGS

1 CHAIR RICE: Thank you so much. Is anyone
2 else on the line?

3 MR. HOGAN: A.U. Hogan, City Council
4 designee for the Queens.

5 CHAIR RICE: Thank you so much, A.U., for
6 joining us as well.

7 Are there any corrections or changes to the
8 May public Board meeting minutes?

9 (No response.)

10 CHAIR RICE: Any change or corrections?

11 (No response.)

12 Okay, seeing none, can I ask for a motion
13 to approve the May board meeting minutes.

14 MR. SMITH: So moved.

15 CHAIR RICE: Can I have a second?

16 MALE SPEAKER: Second.

17 CHAIR RICE: All those in favor?

18 (Chorus of ayes.)

19 All those opposed?

20 (No response.)

21 Okay, the meeting minutes are approved as
22 presented.

23 (No response.)

24 Okay, the meeting minutes are approved as
25 presented.

PROCEEDINGS

1 It has been four years since the murder of
2 George Floyd. Four years ago, our city and many
3 other cities saw massive protests.

4 As I said at our last meeting, New York
5 City had a long and vibrant history of political
6 protests. It appears this summer will be no
7 exception, as demonstrations continue in regard
8 to the Israel/Palestine conflict. The CCRB
9 remains committed to investigating any
10 misconduct that may occur during the policing of
11 these protests.

12 To date, the CCRB has conducted 32
13 investigations into alleged police misconduct at
14 Middle East protests around the City. Of those
15 complaints, six took place on college campuses.
16 In total, the complaints involved 66 subject
17 officers with 14 subject officers involved in
18 campus complaints.

19 This afternoon, the CCRB welcomes
20 representatives from the New York City Civil
21 Liberties Union, the Legal Aid Society, and the
22 Office of the Attorney General, who are here to
23 give a presentation on the settlement that they
24 reached with the NYPD related to the 2020
25 protest. This settlement was reached with the

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1 NYPD with the aim of reforming how we police
2 protests in New York City. This presentation is
3 a great opportunity for the Board and the public
4 to learn more about the settlement's impact on
5 policing in the City and how it may impact the
6 work of the Agency.

7 On behalf of the Board, I'd like to thank
8 NYCLU, Legal Aid, and the Office of the Attorney
9 General for taking the time to present to us
10 today.

11 We will now hear from Executive Director
12 Jonathan Darche.

13 Jon.

14 MR. DARCHE: (Technical issue)-- CCRB
15 received in 2023 when compared to 2022. In
16 January 2024 the Agency implemented a program to
17 focus our resources by closing complaints that
18 only contained certain types of allegation.
19 Since then (technical issue) closed or referred
20 (technical issue) complaints without
21 investigation. If those complaints were still
22 on the Agency's open docket, the docket would
23 be 2,491 complaints. So far this year, the
24 Agency received 2,355 complaints within our
25 jurisdiction. This is only 3.8 percent of

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1 2023's pace, but is still 63.6 percent ahead of
2 2022's pace. While the staff and Board members
3 of the Agency remain committed to serving New
4 Yorkers in fulfilling our charter mandate, the
5 impacts of the current budget situation cannot
6 be understated. We remain hopeful that the
7 City's new budget will restore the Agency's
8 capacity to investigate all misconduct within
9 our jurisdiction, so as to better meet the needs
10 of New Yorkers.

11 Our office is open for walk-in complaints,
12 but it is also possible to file complaints
13 online at nyc.gov/ccrbcomplaint, by telephone at
14 1-(800)341-2272, by dialing 311 and say that you
15 would like to make a complaint about the police
16 officer or by tagging the Agency Twitter,
17 Facebook, or Instagram. If anyone wishes to
18 file a complaint right now, we have two
19 investigators on hand, ready to take your
20 complaints. We also have somebody from the
21 Civilian Assistance Unit to help them. The
22 investigators on call this afternoon are Emma
23 Stydahar, and Idan Falek, and Ruth Villafane is
24 here from the Civilian Assistance Unit.

25 Chair Rice.

PROCEEDINGS

1 CHAIR RICE: Do any of the members of the
2 Board have any questions for our executive
3 director?

4 (No response.)

5 Any questions for the executive director on the
6 line?

7 (No response.)

8 If not, we will now hear a presentation
9 about policing at protests from Molly Biklen,
10 Associate Legal Director at NYCLU.

11 MS. BIKLEN: Thank you very much, members
12 of the Board. Good afternoon. I'm Molly Biklen,
13 Associate Legal Director of the NYCLU, and I'm
14 happy to be here with my colleague, Daniel
15 Lambright, Senior Staff Attorney, Jennvine Wong
16 from the Legal Aid Society, Travis England, and
17 Lillian Marquez from the New York Attorney
18 General's Office.

19 So, as mentioned, the settlement agreement
20 we are discussing here today resolves four
21 consolidated cases that were filed to seek
22 redress for the NYPD's response to the protests
23 following the May 25, 2020 murder of George
24 Floyd by police in Minneapolis.

25 These four cases allege that the NYPD

PROCEEDINGS

1 engaged in unconstitutional policing, using
2 excessive force in arresting protesters,
3 journalists, and legal observers without
4 probable cause at racial justice protests in New
5 York City beginning in late May of 2020. If I
6 can advance the slide. Thank you.

7 So, I know that these protests are
8 familiar to the Board and many people in New
9 York City. Many of the incidents that were the
10 subject of the cases were investigated by the
11 CCRB, and as this Board found in its 2022 report
12 on the protest response, there were patterns of
13 misconduct in the NYPD protest response. And
14 the Board also found that 146 officers committed
15 misconduct and recommended disciplinary charges.
16 So, after these four lawsuits were filed, the
17 sergeants', detectives', and police officers'
18 unions, the PBA, SBA, and DEA intervened, and so
19 after more than two years of very intense
20 litigation, the City, the Plaintiffs, the DEA,
21 and the SBA union settled. So, the parties to
22 the settlement are the Attorney General's
23 office, the Plaintiffs in the Payne, Gray and
24 Rolon cases, the City of New York, the SBA, and
25 DEA. The PBA did not enter into the agreement

PROCEEDINGS

1 and has challenged, that matter is on appeal, but
2 the settlement is currently in effect.

3 So, I'm going to provide a review and then
4 turn it over to my colleagues for the specifics.

5 So, this settlement agreement is phased; it
6 has three phases. In phase 1, which is our
7 current phase, the NYPD develops policies,
8 procedures, and training to implement the
9 settlement.

10 Phase 2 then begins 45 days after the NYPD
11 adopts these updated policies and procedures that
12 were developed in phase 1. There is then a
13 three-year compliance period during phase 2,
14 during which a collaborative committee, that
15 includes representatives of the Plaintiffs, the
16 Attorney General's office, the NYPD, the City of
17 New York, and the Department of Investigation,
18 will review compliance and make recommendations.
19 Then phase 3 is 12 months of continued court
20 jurisdiction to ensure compliance.

21 So, writ large, the settlement creates a new
22 senior role within the NYPD to oversee responseto
23 public demonstrations. This is the First
24 Amendment activity senior executive.

25 It also establishes a four-tiered protest

PROCEEDINGS

1 response system, with one of the primary goals
2 to facilitate the First Amendment rights of
3 protesters.

4 It alters and formalizes practices around
5 crowd control, use of force, and mass arrest
6 processing centers, and incorporates current
7 Patrol Guide policies in several areas,
8 including treatment of legal observers and
9 institutes new policies and procedures for
10 treatment of the press and those recording
11 protests.

12 It also establishes this oversight
13 committee, the collaborative committee that I
14 mentioned before, creates new requirements for
15 documenting protest response to assist in that
16 oversight, and incorporates an aggravating
17 factor for disciplinary -- in the disciplinary
18 matrix for protest misconduct.

19 One of the major points of the settlement
20 is this new senior role for response to protest
21 and to manage compliance. This role is from
22 within the Police Department, it must be at a
23 deputy chief or above and work in connection
24 with the Department's Legal Bureau. This
25 position will take an active role in pairing the

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1 new policies, procedures, and training, and also
2 of the Department response to anticipated
3 protests and participate in after-action
4 reviews, as necessary. But the senior executive
5 role does not replace the incident commander
6 tasked with managing on the ground.

7 And, now I'll turn it over to my colleague,
8 Jennvine.

9 MS. WONG: Thank you for having us here
10 today. Going a little bit more into detail, in
11 sort of the -- into one of the areas of the
12 agreement that has gained a lot of attention, is
13 NYPD's Red Light/Green Light Policy as part of
14 the tiered response system. What this does is,
15 it formalizes and implements a Red Light/Green
16 Light Policy in where there are red light
17 offenses, offenses that are designated as those
18 that require the approval of the rank of captain
19 or above before a line officer can make an
20 authorized arrest. These include common protest
21 offenses, like obstruction of governmental
22 administration, violation of emergency orders,
23 disorderly conduct, and other VTL, vehicle and
24 traffic law, offenses. The identity of the
25 individual who authorized the red light arrest

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1 must be documented. Any offenses not designated
2 a red light offense shall be considered what is
3 called a green light offense, which means that
4 individualized probable cause is required
5 for -- there would still be a requirement for
6 individualized probable cause for each green
7 light or red light arrest. Moving into the tiered
8 response system, which is an essential part of
9 this settlement agreement. Tier 1, this would be
10 something that is central to phase 2, tier 1
11 basically would be the presumptive tier, unless
12 other conditions are met. And this is in
13 response to what was a rapid police response
14 escalation during the 2020 protests, and this
15 basically formalizes that NYPD should be
16 responding with the softest touch possible at the
17 outset for most demonstrations.

18 NYPD, during tier 1, may deploy protest
19 liaisons from the Community Affairs Bureau, these
20 individuals should be trained in effective
21 communication with protesters, deescalation in
22 crowd psychology, and should be tasked with a
23 primary goal of facilitating First Amendment
24 activity.

25 This role is to communicate with protesters

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1 and demonstrators. It would be --it would
2 prioritize establishing a dialogue with protest
3 leaders to help facilitate this First Amendment
4 activity.

5 Patrol officers may be deployed to
6 re-route vehicle or pedestrian traffic, and
7 officers cannot be drawn from the SRG Unit, the
8 Strategic Response Group, and cannot carry
9 equipment associated exclusively with those
10 units.

11 Moving between the tiers would require
12 specific conditions to be met. So for tier 2,
13 the incident commander, in consultation with the
14 First Amendment activity senior executive, the
15 FAA senior executive has to be, that there are
16 agreement violations that are imminent, or that
17 there is a serious risk that the crowd size will
18 obstruct critical infrastructure, so this
19 provides that measure of discretion for the
20 incident commander and the FAA senior executive
21 to make the decision to move to tier 2, if
22 needed. In this tier, NYPD will be able to
23 dispatch protest liaisons, officers for traffic
24 control, as well as additional officers that
25 could be staged off-scene, if at all possible,

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1 out of the view of protesters, but certainly
2 nearby, in order to be able to be deployed
3 quickly if a tier 3 or tier 4 winds up being
4 authorized by the incident commander with the
5 FAA senior executive. So, this deployment must
6 also be proportional to the threat and they
7 should be removed when the threat has been
8 resolved.

9 Tier 3, implementation of tier 3 must also
10 be authorized by the incident commander in
11 consultation with the FAA senior executive. In
12 tier 3, if there is individualized probable
13 cause to arrest individuals engaged in either
14 green light offenses or authorized red light
15 offenses, NYPD officers may make arrests based
16 on that approval and authorization. NYPD can
17 deploy an appropriate number of officers to
18 address specific individuals engaged in these
19 offenses, and in tier 3, SRG may be deployed,
20 but only as long as necessary, and proportional
21 to address the specific situation. Protest
22 liaisons and patrol officers may also be
23 deployed to address traffic and should continue
24 to facilitate the First Amendment activity.

25 I'd like to note also that tiers do not

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1 have to be moved through in a sequential order;
2 it is based specifically on what the
3 circumstances of each demonstration may present
4 at that time, and so it does not mean that
5 demonstration must go from tier 1 to tier 2
6 before moving to tier 3. It may be that there
7 are circumstances that allow the incident
8 commander and an FAA senior executive to
9 determine that a demonstration has moved from a
10 tier 1 to a tier 3, it also means that a
11 demonstration that is in tier 3 may also move
12 back down to tier 2 or tier 1, based on the
13 specific facts on the ground.

14 Tier 2 is based on the approval of the
15 incident commander and the FAA senior executive,
16 is if there are protesters seeking to gain
17 unauthorized entry, they're physicality blocking
18 others' entry into a sensitive location, if
19 there's engagement in criminal offenses or
20 trespass of third degree or higher would allow
21 officers to engage in targeted efforts to
22 address green light offenses or wide-spread
23 instances of riot, incitement to riot or
24 unlawful assembly. However, those offenses
25 cannot be -- the offenses have to be continued

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1 to be unabated, they cannot be addressed through
2 further deescalation or targeted enforcement.
3 So, they also may move to disperse a protest and
4 the crowd must be provided the opportunity to
5 disperse and be provided with information that
6 allows them to disperse so that demonstrators
7 have the information they need in order to
8 disperse in an orderly fashion. They must be
9 audible to the entire crowd, exit points must be
10 clearly identified, protesters must be able to
11 be directed to where they may continue to
12 lawfully demonstrate and protest whenever
13 possible. Some of the offenses that we -- some
14 of the misconduct that we saw and that were
15 complained about from the 2020 protest included
16 kettling, and so part of the tiered response
17 system also addresses these tactics. So, NYPD
18 cannot engage in widespread kettling, which is
19 enclosing all individuals with an intent to
20 take police action against them without having
21 individualized probable cause. However, NYPD can
22 encircle individuals within a crowd who are the
23 target of a particular arrest. So, the targeted
24 arrests for either red light offenses or for
25 green light offenses can still be done.

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1 Individuals who are inadvertently encircled must
2 be allowed to exit the formation immediately and
3 officers must help facilitate their exit, and
4 this is in direct response to a lot of the
5 misconduct that was observed and reported during
6 the 2020 protests.

7 As for use of force, many of these -- much
8 of what we are seeing here actually already
9 encompassed in NYPD policy, but it is reiterated
10 in the agreement for clarity for example, OC
11 spray shall not be used at a demonstration
12 unless there is use of physical force that is
13 otherwise permitted by law or NYPD policy.
14 Large volume OC spray can only be used by
15 officers specifically trained in the use and
16 authorized by a supervisor. It cannot be used
17 in an indiscriminate manner or against peaceful
18 protesters or those engaging in passive
19 resistance.

20 Bicycles cannot be used -- only may be used
21 consistent with the tiered approach and cannot
22 be used indiscriminately as well. And flex cuffs
23 must be checked regularly. NYPD must also have
24 the necessary tools to remove and loosen them
25 where appropriate and when requested.

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1 Another issue that came up frequently during
2 the 2020 protest was the use of mass arrest
3 processing centers, particularly during the Mott
4 Haven protests, where many protesters were
5 spread out amongst several different mass arrest
6 processing centers, and so the NYPD must
7 establish one, it must be authorized by the
8 senior executive or the designee.

9 NYPD is required to ensure that the
10 location and contact information are readily
11 available to the public via social media
12 accounts so that loved ones, defense attorneys
13 are able to find those who are arrested and
14 taken to mass arrest processing centers, and all
15 people held must be provided clean water, food,
16 PPE, prompt access to telephones, and adequate
17 medical care, and restrooms, all of which is
18 already part of NYPD policy as written.

19 Other arrest processing requirements,
20 individuals other than juveniles must be
21 processed in under seven-and-a-half hours,
22 except when there are particular circumstances
23 that affect that, like emergency medical care, a
24 violation -- you know, if it is a violation not
25 involving a First Amendment activity. There must

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1 be expedited processing of juveniles or, for
2 example, if there is an out-of-state warrant
3 that might affect the amount of time a person
4 may be held in custody.

5 So, what this creates is, again, something
6 that I think is already in NYPD policy, which is
7 a presumption that those held in custody shall
8 be processed expeditiously and not held for
9 prolonged detention.

10 As my colleague had mentioned earlier,
11 discipline for misconduct, the disciplinary
12 matrix shall be amended to add an aggravating
13 factor to excessive force cases if it is engaged
14 in during legally protected First Amendment
15 speech.

16 There has been, also, a specific clause
17 with respect to the treatment of members of the
18 press. So, the NYPD must explicitly acknowledge
19 that there is a clearly established right under
20 the First Amendment to record police activity in
21 public. Officers cannot prohibit the press the
22 right to observe and record protests, including
23 where putting up crime scene tape. And they
24 cannot arrest members of the press or public
25 solely for observing or recording police

PROCEEDINGS

1 activity in a public place. To ensure
2 compliance, NYPD will be required to
3 participate in at least two meetings a year to
4 discuss any news gathering, to allow the press
5 to make recommendations on policies.

6 I'm going to hand this to my colleague.

7 MS. MARQUEZ: Thank you, Board. My name is
8 Lillian Marquez; I'm from the New York State
9 Attorney General's Office, and thank you to my
10 colleagues for providing you with a general
11 summary of some of these substantive provisions
12 that will be applying at the protests.

13 I will be going over how we will be
14 ensuring that there is compliance with these
15 provisions.

16 So the first phase, where we find ourselves
17 today, is you really making sure that these
18 provisions are -- thank you -- these provisions
19 are, you know, encompassed in NYPD policy.
20 Jennvine mentioned a number of those are
21 already there in the Patrol Guide, to the
22 extent that they are not, now is the time that
23 NYPD is going to be drafting those policies,
24 and, eventually, also drafting training
25 curricula. Those will be shared with plaintiffs

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1 and they will be, you know, a derivative process
2 to finalize those.

3 What we expect to be included in the new
4 policies are, the four-tier response system,
5 that arrest policies, use of force at public
6 demonstrations, again to the extent not already
7 there, and treatment of the members of the
8 press.

9 Forty-five days after those policies are
10 finalized, phase 2 begins, and this is when the
11 oversight committee that was mentioned earlier
12 will begin its work. They will meet regularly
13 to review and evaluate NYPD's protest responses
14 and, part 2, facilitate that effort. The DOI
15 will be conducting an in-depth review of two
16 protests each six-month period and make
17 recommendations tied to that review.

18 They must publicly issue progress reports
19 summarizing the review of the NYPD's response to
20 protests. And the City will be providing
21 funding to hire full-time staff to achieve this
22 to the tune of \$1.625 million. They will also be
23 providing funding to plaintiffs' attorneys to
24 conduct this oversight work throughout this
25 period, which is, again, a multi-year period.

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1 And that includes a fundamental piece, which is
2 the community outreach expert. This person will
3 be responsible for engaging affected communities
4 and incorporating their input. And I'll just
5 emphasize this for the public, that we do want
6 to continue, as we had during litigation, to get
7 that input, the critical input from the folks
8 who are attending and witness what is happening
9 at these protests.

10 The oversight committee will generally be
11 overseeing and monitoring the implementation of
12 the provisions we went over and compliance with
13 reforms in this multi-year period.

14 And to give you an idea who will be sitting
15 on it, the commissioner of DOI will chair,
16 NYPD'S FAA senior executive will be on the
17 committee, as will a representative from the
18 Office of Corporation Counsel, a union
19 representative from either the SBA or DEA, a
20 representative from our office, the New York
21 State Attorney general's office, and two
22 attorneys from remainder of the plaintiffs'
23 groups, either Legal Aid Society, NYCU, Gray or
24 Rolon.

25 One report that will be a main focus point

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1 for the committee, any protest, and there is
2 certain criteria set forth in the agreement that
3 would trigger an after-action report. This is
4 the sort of a report that allows for NYPD to
5 measure certain information, data about how they
6 responded. Any of those action reports will be
7 created by the FAA senior executive and document
8 exactly how they responded, who the incident
9 commander was, how many folks were deployed,
10 what decisions were made with regards to arrests
11 and the justifications for those, what uses of
12 force --what force was used, and why, if at
13 all, tiers were moved between all these
14 different elements will be detailed in these
15 written reports, and these will be the subject
16 of, you know, much of the committee's review.

17 After the 36 months and the final report
18 from DOI, we move into phase 3, and, as
19 mentioned before, it's a 12-month period during
20 which the Court will continue to retain its
21 jurisdiction over the agreement. If the NYPD
22 violates the terms of the agreement at any
23 time, the plaintiffs may take action to bring
24 the matter to court and that, again, continues
25 through phase 3.

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1 And I'm sure what the -- is at least
2 somewhat interested in is what your role is.
3 So the settlement does not confer any changes
4 to your FADO jurisdiction, it explicitly, in
5 paragraph 87, it notes that. So, you know,
6 NYPD must continue to refer to you and you will
7 continue, of course, exercising your own
8 justification over complaints of misconduct
9 related to protest policing, that includes
10 excessive force and abuses of authority.

11 And to the public, if you have experienced
12 police misconduct while demonstrating, there
13 are a number of things you can continue to do,
14 and we encourage it, file a complaint with the
15 CCRB, contact any of the plaintiffs' counsel,
16 again, including the New York State Attorney
17 General's office, Legal Aid Society, NYCLU, or
18 the other consolidated plaintiffs' counsels to
19 report your experience if you believe you had
20 potentially -- you did experience violated
21 portions of the settlement agreement or, of
22 course, consult with any other civil rights
23 attorney.

24 So, we just want to thank you again for
25 the time you have granted us to go over this,

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1 what we believe is a momentous agreement, and
2 welcome -- turn it back to you, Chair Rice, and
3 welcome any questions that we can help answer.

4 CHAIR RICE: Thank you for that very
5 thorough presentation, and I should have said
6 this in the beginning, but to other members of
7 the Board, the materials are before you. I
8 think most of you were able to read along, so
9 thank you for that.

10 I do have quite a few questions, but I do
11 want to give that opportunity to the other
12 members of the Board as well, but I think that
13 the first two questions that I have, I can't
14 resist asking.

15 The first is, I wanted to know if there
16 was any conversation about including the CCRB
17 in the oversight committee, if there was any
18 discussion about that and what was concluded.

19 Then I also wanted to know, in terms of
20 the four tiers, what was your -- what was the
21 mindset for what could be either avoided and/or
22 included, offset by going to a four-tier system?

23 MS. BIKLEN: Those are very interesting
24 questions. Molly Biklen again, from the
25 NYCLU.

PROCEEDINGS

1 Without getting into, sort of, some of the
2 discussion behind, you know, the settlement
3 agreement, which would, of course, be
4 confidential, I think, you know, the entire
5 agreement recognizes the important role of
6 the CCRB in terms of investigating complaints
7 and assuring the, you know, accountability
8 and compliance for constitutional policing by
9 the NYPD, so that remains a very significant
10 part of the settlement agreement. But the DOI
11 is there to chair the committee and add, sort
12 of, a different investigatory perspective to
13 the compliance committee.

14 With respect to the four tiers, the idea,
15 and this is not -- you know, it's not novel
16 to New York, and bringing it all together, we
17 think is momentous, but it is a tactic that
18 has, you know, literature applied from other
19 places to bring sort of a right-sized
20 approach to policing. I think, you know, if
21 you look at some of the reports coming out of
22 the 2020 protests, including the DOI's report
23 on the police response, including the
24 Corporation Counsel's report, you know, this
25 is CCRB's own report of, sort of, what

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1 happened, you see escalation when there -- you
2 know, enormous numbers of police officers were
3 often responding and can get out of hand very
4 quickly. So rather than, you know, sending the
5 maximum number of police officers to any First
6 Amendment activity, the idea is to right-size
7 that approach to eliminate some of the
8 escalation, try to reduce some of the escalation
9 that was seen during the 2020 protests from,
10 sort of flooding the zone in that way. And
11 sometimes the crowd reactions -- it was an
12 escalatory response as opposed to a
13 deescalation response. You know, there are
14 hundreds of protests that happen in New York
15 City, thousands each year and, most thankfully,
16 do not lead to violence to, you know,
17 brutality, to unconstitutional policing, so we
18 want to learn from those, and often it's those
19 where there is not, sort of, that outsized
20 police response, and that is what that
21 four-tiered response is looking at.

22 CHAIR RICE: Do any members of the Board
23 have any additional questions?

24 (No response.)

25

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1 Any additional questions?

2 MR. SIEGAL: I do.

3 First, on the schedule, where are we at?

4 It says the settlement was approved

5 February 24, then there is phase 1. Do you

6 know when phase 1 is going to end, when it's

7 going to go to phase 2, and what the schedule

8 is?

9 MS. WONG: Jennvine Wong from Legal Aid.

10 So, we are currently in phase 1. The

11 timeline that was provided is really just a

12 general history. I don't have a strict

13 schedule to provide to the Board,

14 unfortunately, just that we are currently in

15 phase 1, that policies are being changed, those

16 are being finalized. Once those are finalized,

17 training will be implemented, and once that has

18 been done, 45 days out from that, we will be in

19 phase 2.

20 My understanding is that we are moving as

21 expeditiously as we can at this point, but

22 policies must be changed first and training

23 must be rolled out.

24 MR. SIEGAL: The First Amendment, the FAA,

25 the First Amendment, that's in person,

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1 right, right?

2 MS. WONG: Correct.

3 MR. SIEGAL: That person's approval is
4 required before you go to tier 2 or to tier 4?

5 MS. WONG: Correct.

6 MR. SIEGAL: What happens if, as
7 happened in 2020, there are multiple incidents
8 across the City?

9 MS. WONG: This requires -- this doesn't
10 take away the role of the incident commander,
11 who is the person who is on the ground at the
12 demonstration. It merely requires that the
13 incident commander consult with the FAA senior
14 executive, and also that these decisions and the
15 factors that go into these decisions are
16 actually recorded.

17 MR. SIEGAL: So, that FAA senior executive
18 will that person have staff?

19 MS. WONG: I think, yeah they --

20 MR. SIEGAL: Can that power delegated
21 because I have been in situations that there is
22 a demonstration in every borough and that person
23 (unintelligible) contact with the incident.

24 MS. WONG: Yes, they can have a designee.

25 MR. DARCHE: I have some questions along

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1 this line. Is it going to be a uniformed
2 member of service or a civilian member of the
3 service?

4 MS. WONG: The FAA senior executive does
5 need to be, I think, ranked captain or higher,
6 deputy chief.

7 MR. DARCHE: So, in theory, the deputy
8 commissioner is senior to a captain, but is not
9 a uniformed member of service, but you're saying
10 it does need to be a member of service.

11 MS. BIKLEN: The NYPD designates this
12 person. It's up to the NYPD to designate this
13 person. They do have to be -- you know, the
14 settlement agreement provides that it shall be
15 the chief of department or a senior level
16 designee within the chief of department's
17 office holding the rank of deputy chief or
18 higher, with extensive knowledge of the
19 application of the First Amendment as it
20 relates to protest activity, and this person
21 will then consult with members of the legal
22 bureau and can also have a designee available
23 to assist in overseeing.

24 MR. DARCHE: So is it going (technical
25 issue) -- so, like the CCRB, there might be a

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1 deputy general counsel who is also the FOIL
2 appeals officer, so would there be someone in
3 the chief of department's office who is also
4 the senior First Amendment activities senior
5 executive?

6 MS. BIKLEN: That seems likely.

7 MR. DARCHE: So, I have one more question.
8 There -- and I apologize if I missed it, but at
9 one point in the presentation, you referred to
10 having community affairs officers involved at
11 the tier 1, but then later, you referred to
12 protest liaisons, so is that the same thing as
13 someone who is in community affairs or is there
14 a subset of community affairs officers who is
15 going to be considered protest liaison?

16 MS. BIKLEN: It will be the latter, where
17 there will be a subset.

18 MR. DARCHE: I don't remember, so it's a
19 subset of community affairs officers?

20 MS. BIKLEN: A subset of community affairs
21 officers, correct, that would receive additional
22 training on being protest liaisons.

23 CHAIR RICE: I wanted to ask those folks
24 who are joining us virtually, do you have any
25

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1 comments or questions?

2 (No response.)

3 CHAIR RICE: I have a follow-up question on two
4 of the issues that were really highlighted,
5 both in the report of the CCRB, as well as in
6 reports of the Attorney General's office,
7 everyone basically talked about this in the
8 media and that with that, the kettling and the
9 treatment of members of the press, and so
10 they're highlighted in the agreement and, but I
11 wasn't completely sure of the implementation
12 process or the accountability, so under the
13 treatment of members of the press, it talks
14 about the NYPD must explicitly acknowledge
15 there is a clearly established right under the
16 First Amendment right to record police
17 activity in public.

18 I don't know what explicitly acknowledging
19 means and what it means in the day-to-day
20 interaction of the police with the press in
21 a situation like what we had in the George
22 Floyd protest.

23 MS. BIKLEN: I believe what, Chair, you're
24 referring to is, paragraph 89, and that's
25 simply reviewing knowledge within the Patrol

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1 Guide. So, for instance, that subsection A
2 says "the Patrol and/or Administrative Guide
3 shall be updated to acknowledge" -- so on and
4 so forth, "these very clearly established
5 rights." So a number of these provisions are
6 restating what the law is but will just be more
7 clear in the Patrol Guide so that, you know,
8 rank and file can see, that in what we believe
9 they see just more often.

10 CHAIR RICE: Thank you.

11 Yes.

12 MR. SMITH: What are criteria to
13 establish who is a member of the media, as
14 opposed to someone who just shows up with a
15 camera?

16 MS. BIKLEN: So, that is also in the guide,
17 both recognizing that a member of the press is
18 not limited to people officially issued Mayor's
19 Office of Media and Entertainment press passes,
20 and that the NYPD must set clear standards in
21 its training to ensure that members of the press
22 are able to exercise their rights.

23 And so the settlement agreement identifies
24 certain indicia of what it is to be a
25

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1 journalist or member of the press, meaning an
2 individual who gathers reports and licenses
3 news or content, and to facilitate this
4 realtime investigation, or identification of
5 members of the press, the following shall be
6 considered indicia, visible identification,
7 such as by wearing or carrying a press
8 credential or other press identification,
9 wearing or displaying distinctive clothing,
10 label, or insignias, or logos to identify the
11 bearer as a member of the press. Other indicia
12 may include professional equipment, such as
13 cameras, lights, microphones, or audio
14 recorders, they're not exclusive and a person
15 need not exhibit every one of them to be
16 considered a journalist or a member of the
17 press.

18 So, the idea here is to update the
19 training to make sure that, you know,
20 identification is not simply one limited press
21 card, you know, there are several other press
22 identifications out there and to make sure that
23 that training is disseminated to the NYPD.

24 MR. SMITH: So, there is nothing to
25 stop someone showing up with something on their

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1 body that says "press" and says "I'm press, I
2 get treatment that these other demonstrators
3 don't get"?

4 MS. BIKLEN: The NYPD would still be able
5 to exercise their discretion, but some of those
6 indicia would be indicia whether that person is
7 a working member of the press.

8 For example, in one of the cases, one of
9 the plaintiffs was arrested wearing a press
10 card and was, you know, a stringer journalist
11 for several, you know, significant outlets but
12 did not have a MOME press pass, had a State
13 Department press card.

14 CHAIR RICE: Any other questions from
15 members of the Board, either virtually or here
16 in person?

17 (No response.)

18 I want to thank you, Ms. Biklen, for that
19 presentation, and to the rest of your
20 colleagues. We know you worked very hard in
21 putting together the presentation and also in
22 negotiating the agreement, so we appreciate
23 your efforts towards creating greater
24 accountability for New Yorkers, so thank you so
25 much for that.

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1 We are now going to enter into the public
2 comment portion of the meeting. We will begin
3 with those joining us virtually who would like
4 to make a comment, followed by those who are
5 joining us in person.

6 Jahi, do we have anyone who is going to be
7 joining us virtually?

8 MR. ROSE: So far, I do not see any raised
9 hands virtually.

10 MR. DARCHE: Madam Chair, I neglected to
11 remind -- (technical issue) -- joining us online
12 or who want to speak here today.

13 CHAIR RICE: Thank you very much for that.

14 So, reminder about the length of the
15 comments, if there is anyone here in the room
16 who would like to make a comment, if they want
17 to make their way to the podium, they can do
18 so.

19 MS. MOSS: Hello, my name is Mari Moss this
20 is for my daughter and mothers who refuse to
21 have their rights and civil liberties taken
22 taken from them (technical issue).

23 I would also like to say that I support
24 Arva Rice's request on March 20, 2023 for an
25 increase of (technical issue) dollars in the

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1 City Council budget, which is a budget that has
2 never been as big as it is right now. The
3 biggest budget since 2020, of April 2015, was
4 \$85 billion, it is now \$111.6 billion, so
5 (technical issue) 570 is a good enough budget
6 for the CCRB to be -- to be an independent arm
7 of the NYPD, investigating any kind of police
8 brutality, excessive force or any other
9 challenges that police may cause.

10 I don't have a written speech, the only
11 thing I can come up with since my last speech
12 that I mentioned, I quoted Tupac Shakur. This
13 time I want to say that Malcolm X said that the
14 most unprotected person in America is the black
15 woman, the most disrespected person in America
16 is the black woman and until I see evidence
17 differently, I'm going to say Malcolm X again
18 and again.

19 We got to have decorum in our police
20 department. We have got to have respect in our
21 police department. We have got to have those
22 who are willing to protect and serve our
23 communities to make safeguards for the citizens
24 of our community, and that does not mean using
25 excessive force. I've seen individuals,

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1 especially mothers, who are checking on
2 children at the schools to be shackled at the
3 ankles like a slave, to be shackled at the
4 wrists with no breathing room for your veins to
5 pump blood through them. There has got to be a
6 safeguard.

7 And we keep talking about training, but I
8 think the only training that we really need in
9 our police force is protect and serve --
10 (technical issue) with compassion and
11 integrity, either one and -- (technical issue).

12 I'm just going to -- because I have
13 two-minutes time, I'm just gonna end with this,
14 we have police officers who don't want to be
15 police officers, we have police officers who
16 think that the badge allows them to bully
17 people. Those are the ones that we need the
18 find new jobs, for because we citizens of New
19 York City and State do not pay our police
20 officers to abuse citizens or to use negativity
21 in any form to the citizens of this City.

22 That's all I have to say.

23 CHAIR RICE: Thank you, Ms. Moss, for your
24 comments.

25 Is there anyone else who has a comment

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1 this evening, if they want to step to the
2 podium? As you heard from our executive
3 director, you have two minutes for comment.

4 MR. McCORMICK: My name is Elijah
5 McCormick, I'm just a member of the public.
6 This is my first time coming to one of these
7 meetings, and pretty much, I got some
8 questions. Is that okay?

9 CHAIR RICE: Yes.

10 MR. McCORMICK: Alright, first question, I
11 have filed a complaint with CCRB, and it has
12 been moved up the ranks to APU (technical
13 issue), and once it reached that, I was
14 researching, trying to find more information
15 about a process APU or how they are chosen to
16 be elected for the APU, and it's kind of like,
17 really like vague, like I feel like I've been
18 ghosted on that part, without really knowing
19 who or what or how it's conducted, so I wanted
20 to ask about, more so, transparency provided to
21 the public through the website for CCRB. The
22 most we get is, like, one paragraph about the
23 APU. And that was my question, was there any
24 future, you know, intentions of providing more
25 information?

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1 CHAIR RICE: Thank you, Mr. McCormick, for
2 that question, I'm going to have our executive
3 director talk a little more about the APU unit.

4 MR. DARCHE: So, Mr. McCormick, once the
5 Board votes and substantiates at least one
6 allegation against a member of service in the
7 complaint, if the Board recommends a level of
8 discipline called charges and specifications,
9 which is the most serious level of discipline
10 that can be imposed on a police officer, that
11 complaint then is sent to the administrative
12 prosecution.

13 The administrative prosecution unit was
14 established in 2012 as part of a memorandum of
15 understanding between the New York City Police
16 Department and the CCRB.

17 Before the APU was created, the CCRB
18 would -- if the CCRB substantiated misconduct,
19 it would merely send a recommendation to the
20 Police Department, and the Police Department
21 would be responsible for all the disciplinary
22 matters that happened after the CCRB
23 substantiated misconduct.

24 Now, with the Administrative Prosecution
25 Unit, on these most serious cases, the

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1 attorneys for the Administrative Prosecution
2 Unit, which we call the APU, they stand in the
3 shoes of the Department Advocate, so instead of
4 having an NYPD attorney bringing the
5 disciplinary case at One Police Plaza and
6 bringing those disciplinary charges and
7 prosecuting the disciplinary charges through
8 calling you as a witness, as the victim in this
9 case, it will be a CCRB attorney, APU
10 prosecutor, who will be prosecuting that case.

11 It is a -- they're not elected, they're
12 hired, experienced attorneys who are the staff
13 at the CCRB, some of them are former
14 prosecutors. I was the first deputy chief
15 prosecutor for the unit when it was created,
16 but we have also hired former defense attorneys
17 to the APU. The current chief prosecutor, who
18 is here today, Andrea Applewhite, is a former
19 defense attorney.

20 And when our attorneys go to One Police
21 Plaza, and they are in the trial room, they are
22 going to advocate for the appropriate level of
23 discipline to be imposed on the police officers
24 for the misconduct that they are accused of,
25 that this Board has substantiated, but then

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1 there is a whole separate subsequent disciplinary
2 process that happens at the department.

3 So, if you wait around, I'm sure
4 Mr. Applewhite would love to talk to you and tell
5 you more about the process and how it affects
6 your case.

7 MR. McCORMICK: Thank you. I wanted to ask
8 that some way, somehow the public is accessible
9 to that, because once my decision, it was pretty
10 much APU, CCRB sent it to APU, and that was the
11 most information that I got. So I would ask for
12 more transparency on the website or some way or
13 fashion, maybe during the receipt and
14 notification of charges substantiated or not,
15 during that process, so the person would know
16 more detail about the person being hired,
17 everything you just told me pretty much, but just
18 more details so they feel more comfortable with
19 the process.

20 MR. DARCHE: I'm going to talk with Claire
21 Platt, who is our acting Senior Communications
22 Advisor and who is responsible for our website,
23 about making sure there is more information about
24 the Administrative Prosecution Unit available for
25 everyone on the website, but also

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1 I'll talk with Andre and make sure to tighten
2 up the lines of communication to make sure
3 there is a smooth transfer between -- so that
4 you understand what is the next step in the
5 process when the case goes to the APU, so I
6 appreciate you coming out and pointing out that
7 flaw and where we can do better.

8 MR. McCORMICK: One more question, I got
9 some more time.

10 Alright, I know CCRB is aware of a bill
11 being passed for -- not being passed, but going
12 up through the process of police personal
13 liability insurance for holding people -- having
14 police officers -- this billed S3515 pertaining
15 to police officers having to be liability
16 insured when they -- you know, in order to be a
17 police officer, there is a bill. So, basically,
18 if you're not aware, I don't know if CCRB is
19 aware or if you're a part of that or -- is there
20 a consensus upon the views on the bill, if there
21 is accuracy or backing up for the bill, I think
22 that bill will be very effective when it comes
23 to accountability.

24 MR. DARCHE: I'm not familiar with the
25 bill, but I will do is, next month in my

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1 remarks, I will tell folks what the bill is,
2 so that it's more clear to everyone what's
3 involved.

4 MR. McCORMICK: Okay. That's it. That's
5 all I have. Thank you for the information.

6 MR. DARCHE: Thank you, sir.

7 CHAIR RICE: Does anyone else have any
8 comments? Do you want to come to the
9 microphone?

10 (No response.)

11 If not, do we have any old business to
12 come before the Board?

13 (No response.)

14 Any old business?

15 (No response.)

16 Any new business?

17 (No response.)

18 Hearing none, I'm going to move that we
19 break into executive session.

20 The agenda for executive session is the
21 Board will deliberate on three full-board
22 cases. The Executive Director will discuss
23 pending personnel actions, and the General
24 Counsel will provide updates regarding pending
25 litigation.

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1 Could I have a motion to adjourn the
2 meeting?

3 MR. SIEGAL: So moved.

4 CHAIR RICE: Do I have a second?

5 MR. MERRITT: Second.

6 CHAIR RICE: All in favor?

7 The June meeting of the CCRB is concluded.
8 Thank you.

9 (Time Noted: 5:07 p.m.)

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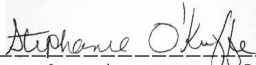
C E R T I F I C A T E

STATE OF NEW YORK)
) ss:
COUNTY OF SUFFOLK)

I, STEPHANIE O'KEEFFE, a Reporter and Notary Public within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the proceedings taken on June 12, 2024.

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 12th day of June, 2024.


Stephanie O'Keeffe