

Public Meeting of the Civilian Complaint Review Board
January 8, 2014

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Public Board Meeting
Of the Civilian Complaint Review Board
Wednesday, January 8, 2014
10:13 a.m.
40 Rector Street, 2nd Floor
New York, New York 1000

DR. MOHAMMAD KHALID, CHAIR
TRACY CATAPANO-FOX, ESQ., EXECUTIVE DIRECTOR

PUBLIC MEETING AGENDA:

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1. Call to Order
2. Adoption of the Minutes
3. Report from Chair
4. Report from Executive Director
5. Committee Reports
6. Old Business
7. New Business
8. Public Comment

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1 BOARD MEMBERS PRESENT WERE:
2 Dr. Mohammad Khalid
3 Tracy Catapano-Fox, Esq.
4 Daniel Gitner, Esq.
5 James Donlon, Esq.
6 Jules A. Martin, Esq.
7 Rudolph Landin, Esq.
8 Janette Cortes-Gomez, Esq.
9 Alphonzo Grant, Jr., Esq.
10 Youngik Yoon, Esq.
11 Tosano J. Simonetti
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1 CHAIRMAN DR. MOHAMMAD KHALID: Good morning,
2 everyone.

3 THE AUDIENCE: Good morning.

4 CHAIRMAN KHALID: Today, I'm the acting Chair.
5 The Chairman is not in today, so I will call this
6 meeting to order.

7 First thing on the agenda is the adoption of the
8 minutes from the last meeting.

9 MR. TOSANO SIMONETTI: Make a motion.

10 CHAIRMAN KHALID: Any seconds?

11 MR. RUDOLPH LANDIN: Second.

12 CHAIRMAN KHALID: Say "aye."

13 MR. LANDIN: Aye.

14 (Chorus of Ayes.)

15 CHAIRMAN KHALID: The motions are adopted of the
16 minutes from the last meeting.

17 I'd like to welcome the new administration of
18 Mayor De Blasio. The CCRB will work as closely as
19 they've been working with the previous
20 administration, and we will be very happy to do, as
21 duty of the CCRB, in the new administration.
22 There's nothing much to report except that the
23 chairman is out today, and, basically, there's
24 nothing much that I can say.

25 The next item on the agenda is the report from

1 the Executive Director.

2 MS. TRACY CATAPANO-FOX: Thank you, Doctor.

3 Good morning, everyone. Happy New Year.

4 THE AUDIENCE: Happy New Year.

5 MS. CATAPANO-FOX: I've been asked by Dan Chu to
6 read a statement with regard to his chairmanship,
7 and we wanted everyone to know that, by letter,
8 dated December 16th of 2013, he tendered his
9 resignation from the CCRB to, then, Mayor-elect de
10 Blasio, effective January 1st, 2014.

11 Mr. Chu says that, for him, it was a natural
12 break in the action in a way to provide the new
13 mayor with an opportunity to install a chair of his
14 own choosing. Mr. Chu states that it has been a
15 great experience working for the agency, and he's
16 very grateful to the former mayor, Bloomberg, for
17 the opportunity to serve. He also wants to thank
18 personally the entire agency for the hard work and
19 commitment that you've demonstrated on a daily
20 basis.

21 He also especially wants to thank the Board
22 members for what has been a great six years. He
23 states that he has rarely ever met a harder working
24 group of people and that the Board is comprised of
25 some truly exceptional individuals, each of which

1 with their own unique background experience and
2 expertise. Each Board member has consistently
3 contributed intellectual honesty and integrity to
4 every case reviewed, and together you've
5 accomplished a great deal and assembled a highly
6 effective leadership team comprised of the executive
7 staff.

8 Mr. Chu states that the agency's on a correct
9 course and is picking up momentum. He's truly loved
10 the days he's spent here and it's been a great run.
11 He considered everyone a dear friend and will miss
12 you all, and now says we should pick up the gavel
13 and get back to work. That sounds like Mr. Chu.

14 The monthly statistics for the agency are as
15 follows: CCRB has received 410 complaints since
16 December of 2013. This is 87 more complaints than
17 in the same period for 2012, when we received 323
18 complaints. This is a 27 percent increase for the
19 month, but it is important to note that back in
20 2012, in December, our agency's hotline was not
21 operational after the effects of Hurricane Sandy.

22 In 2013, the Board has received 5,419 complaints
23 within the jurisdiction. This is 322 fewer
24 complaints than in 2012, meaning, a 6 percent
25 decrease in our complaint activity. And the total

1 intake at the CCRB, including complaints within our
2 jurisdiction and those we refer out, declined by
3 22 percent from 2012, where we were at 14,657 intake
4 cases, to 11,484.

5 The Board has closed 864 cases in December. In
6 2013, the Board closed 2,082 full investigations,
7 including 300 substantiated complaints. The annual
8 substantiation rate was 14 percent. In 2013,
9 civilians and officers mediated 144 cases, 132
10 successful mediations and 12 unsuccessful ones. And
11 then 260 cases were closed as mediation attempted.
12 The case resolution rate, the rate at which cases
13 are fully investigated or mediated as a percentage
14 of all cases closed, was 35 percent.

15 In 2012, the Mediation Unit processed 28 percent
16 more cases -- I'm sorry, this year than in 2012. In
17 this year, it's 606 cases; last year, it was 474.
18 We offered mediation in 58 percent of all eligible
19 and suitable cases, resulting in 595 civilians
20 accepting mediation, which is a 55 percent
21 acceptance rate. We've offered mediation to 620
22 officers, and 512 accepted, which makes an
23 83 percent officer acceptance rate.

24 We've begun tracking additional information
25 regarding cases closed as complaints withdrawn.

1 Data from October through December, the fourth
2 quarter of the year, shows that in this category
3 53 percent of complainants had no desire to follow
4 through, 11 percent did not want to take time for an
5 interview, 7 percent withdrew upon advice of
6 counsel, 6 percent feared retaliation, 3 percent
7 just wanted to make a complaint, 17 percent provided
8 other reasons and 2 percent provided no reason at
9 all.

10 The agency's docket at the end of 2013 stands at
11 2,394 cases. This is a 15 percent decrease over the
12 open docket in November, when we were at
13 2,819 cases. Ninety-two percent of our open
14 investigations stem from complaints filed within the
15 last year, and 65 percent were filed in the last
16 four months. Of our open cases, 325 are awaiting
17 panel review, which is 14 percent of our docket,
18 1,858 are being investigated and 212 are in the
19 mediation program.

20 By date of incident, 14 cases in the CCRB's open
21 docket are 18 months or older, this is 6 percent
22 of our open docket. Three of the cases are on DA
23 hold, eight cases were filed months after the date
24 of incident, two cases are pending panel review, and
25 one case has been reopened.

1 In November, the NYPD closed three substantiated
2 cases involving five officers. One officer was
3 found guilty after trial, and four officers have
4 received instruction. From January through
5 November, the disciplinary action rate was 58
6 percent, and the Department's decline-to-prosecute
7 rate was 28 percent. In cases in which the
8 Department pursued charges and specifications, the
9 conviction rate was 82 percent. This includes
10 officers who pled guilty to charges and officers who
11 were found guilty after disciplinary trials. The
12 guilty-after-trial rate was 64 percent.

13 In 2013, 139 cases were substantiated by the
14 Board with a recommendation of charges and
15 specifications. This is the APU's docket and
16 represents cases involving 212 officers. Of the 139
17 cases, four cases are pending final approval of the
18 guilty plea, 47 cases are pending trial, and the
19 remaining are within the APU docket and are being
20 worked on eventually. Eight cases against 12
21 officers have been closed as of limitations
22 expired because the SOL expired prior to the case
23 being forwarded to the APU.

24 By the type of allegation being prosecuted,
25 83 percent of all allegations are abuse of

1 authority, 8 percent are force allegations and 9
2 percent are either discourtesy or offensive language
3 allegations. Fifty-two percent of all allegations
4 are stop and frisk.

5 With regard to some of the other things going on
6 in the agency, I am pleased to report that we began
7 our Intake Unit, actually, on Monday. I want to
8 congratulate Jayne Cifuni as the -- promoted as the
9 director of the unit, Nina Mickens, as the
10 supervisor of the unit, and we have currently ten of
11 our investigators in the unit working towards
12 scheduling interviews.

13 And I have to say that I'm very impressed that
14 they were able to actually schedule some complaints
15 for this week. So, although we started just on
16 Monday, we're actually moving very quickly, and it
17 looks like a good sign.

18 I also want to congratulate Carlmais Johnson,
19 who was promoted as the community outreach
20 coordinator. Many of you know her as one of our
21 excellent investigators, and now she's -- it's going
22 to be great to have her running our outreach
23 program.

24 In terms of new things going on, this month, I
25 spoke with the Deputy Borough President Leroy

1 Comrie, he's from Queens Borough Hall, and he has
2 indicated that they would be happy to help us have
3 some space so we can meet with our complainants and
4 do outreach in Borough Hall. So I'm hoping that by
5 the end of the month we'll have that up and running.
6 We are also looking into the cost of opening on
7 Saturdays; not every Saturday, once a month. We'll
8 start slow as a pilot program, but essentially we
9 can allow complainants to come in and do walk-in
10 complaints, to meet with investigators to do
11 interviews, and see if that is something that would
12 help the community in terms of meeting with us and
13 moving our cases to full investigation.

14 And one of the things that the Board has asked
15 me to follow up on was with regard to DA hold. We
16 are moving forward with the Investigations Committee
17 to address how we handle cases with DA hold so that
18 we get to them earlier, we monitor them more
19 effectively and ensure that the investigations are
20 proceeding. So, thank you.

21 CHAIRMAN KHALID: Thank you, Tracy.

22 Next on the agenda is the committee reports.

23 MR. SIMONETTI: Chairman, I'd just like to make
24 a comment about the cases 18 months or older. I
25 think staff should be commended, really, because

1 it's down to 14 cases. But more importantly, if you
2 look at the 14 cases, the vast majority used to be
3 DA hold. We're down to three, three cases out of
4 the 14 on DA hold. Half of the cases, seven, are
5 because of late filings, from a year late to two
6 years late in the filing, you know, and then one
7 case is pending review. And by the way, that case
8 has been resolved because we had a panel hearing
9 this morning.

10 So if you look at this and if you take out the
11 seven cases and the one -- excuse me, the two
12 pending board review, we've only got five cases that
13 are 18 months or older. As long as I've been here,
14 we've never had that few cases. And so in spite of
15 Hurricane Sandy and the delays caused by that, we're
16 doing very well. And that's encouraging because we
17 should not be blowing SOLs on the cases. And these
18 other seven cases, we had no control over because
19 they were just reported late from the year to two
20 years later. Thank you.

21 CHAIRMAN KHALID: Thank you.

22 MS. CATAPANO-FOX: I'm sorry. And Tony, look,
23 we have been doing -- Dennis McCormick and I have
24 been meeting with the team managers each month to go
25 over cases that are 14 months or older to see where

1 they're at. And the team managers have been
2 excellent in terms of reviewing their cases and
3 making sure that we have a plan to move cases
4 forward so that we won't run into -- as much as we
5 possibly can to avoid having cases get put into the
6 SOL in the future.

7 MR. SIMONETTI: And I think if we implement some
8 of the suggestions of the Investigations Committee
9 with the DA hold and put those procedures into
10 place, I mean, this would virtually disappear.

11 CHAIRMAN KHALID: Thank you, Commissioner
12 Simonetti.

13 MR. DANIEL GITNER: I just have a question about
14 the statistics as well, if I may.

15 CHAIRMAN KHALID: Sure.

16 MR. GITNER: Am I reading this right, that the
17 Police Department, they closed about one, two, three
18 -- five cases last month against five officers?

19 MS. CATAPANO-FOX: That we know of.

20 MR. GITNER: That we know of?

21 MS. CATAPANO-FOX: That they reported back to
22 us, cases of ours.

23 MR. GITNER: Okay. So assume they're reporting
24 back all -- that their statistics are right in that,
25 so aren't we substantiating like 20 or 30 a month?

1 Isn't that what the statistics show?

2 MS. CATAPANO-FOX: You mean --

3 MR. GITNER: So aren't we sending approximately
4 20 to 30 substantiated cases a month to the Police
5 Department, I think?

6 MS. CATAPANO-FOX: I'd have to look it up.

7 MR. GITNER: Well, we're certainly
8 substantiating more than five.

9 MS. CATAPANO-FOX: Yes.

10 MR. GITNER: Is this rate typical of how their
11 response to our case is? In other words, are they
12 way behind, is there a huge backlog in the Police
13 Department; and, if so, is that sort of every month
14 getting huger and huger; and, if so, is there
15 something that we can do to help unclog that
16 backlog?

17 My view is, to some extent, once we substantiate
18 a case and send it to them, put aside the APU for a
19 moment, to some extent, we, at least from a process
20 point of view, owe it to the complainant to get the
21 process done. I realize it's the Police
22 Department's final decision, and this is not about
23 that, this is about timing and process.

24 If they're getting five cases a month and we're
25 sending them 20 , let's say, a month, every month,

1 they're never going to get to all of our cases.
2 It's just, by definition, it's just a pool that just
3 keeps getting filled and they're just taking tiny
4 bits of water out.

5 Maybe Mr. Simonetti can help me on this, but it
6 seems like, can we do anything to help that process
7 along.

8 MS. CATAPANO-FOX: I would say that we do inform
9 the complainants of what happens when the Board
10 makes its findings --

11 MR. GITNER: Right.

12 MS. CATAPANO-FOX: -- and so that they know that
13 the NYPD would now be handling these cases that are
14 substantiated.

15 MR. GITNER: Right. It's just sort of out of
16 our hands. Once it's with the PD, it's -- we have
17 nothing to do with it? Is that --

18 MS. CATAPANO-FOX: In terms of their process?

19 MR. GITNER: Yeah.

20 MS. CATAPANO-FOX: (Inaudible.)

21 MR. MARCOS SOLER: This is the statistical
22 clarification: Right now, we are not sending 25
23 cases a month to the Police Department because the
24 Board substantiates about 25 cases per month, but
25 70 percent of them are charges that are

1 specifications that have been made with the
2 Administrative Prosecution Unit --

3 MR. GITNER: I see.

4 MR. SOLER: -- so right now, we are sending
5 about seven to eight cases per month that are
6 command discipline and instructions, and that
7 explains the lower backlog -- sorry, the lower
8 docket in the Police Department.

9 MR. GITNER: All right. Okay. So that makes
10 sense.

11 MR. SIMONETTI: Because all the ones which we're
12 recommending charges go to the Prosecution Unit.

13 MR. GITNER: No, I understand. I thought we
14 were sending many more cases to the Police
15 Department, but I guess --

16 MS. CATAPANO-FOX: Now they're with APU.

17 DR. KHALID: We used to be, but now they're the
18 APU Unit.

19 MR. GITNER: I see, okay. So these statistics,
20 then, make much more sense. Okay, good. Okay.

21 It still should be -- I mean, I still hope that
22 they're matching our rate as quickly as they can.
23 And I should say that, and I still think that, to
24 some extent, if we can help the Police Department
25 along, if they're willing to allow us to do that, we

1 should, because we are, to some extent, you know,
2 the advocate for the complainant to the extent that
3 we have substantiated the case. I don't know if
4 there's anything we can do to help that along, but
5 I'll just throw that out there.

6 MR. SIMONETTI: Well, you know what will be
7 interesting, I think maybe down the road about six
8 months with the Prosecution Unit just gearing up, we
9 should be able to get a better handle on that, and
10 how quickly they will be able to get those cases
11 into the trial room and get them prosecuted and get
12 dispositions on them, you know.

13 MR. GITNER: Right.

14 MR. SIMONETTI: I don't know if the change of
15 administration is going to cause any delay in that
16 too, but people have to start getting up to speed, a
17 whole new crew coming in, and that may delay some
18 cases. But I -- that's clearly the reason, the
19 sanction between charges and command discipline,
20 which could be administered rather quickly.

21 CHAIRMAN KHALID: Any other questions anybody
22 has? Any committee reports?

23 MR. GITNER: Just, the Investigations Committee
24 just continues to explore ways to obtain documents
25 and information from the NYPD in a cleaner, more

1 efficient manner. It can take weeks or longer for
2 the NYPD sometimes to respond to the agency's
3 request, some of which are, in my view, quite
4 simple, and should be responded to quicker.

5 We've discussed several possible solutions, but
6 all of them are going to require discussion within
7 the NYPD about reinventing or reworking the system.
8 They include improved access to IAB, record systems,
9 various record systems, et cetera.

10 I think the Investigations Committee thinks that
11 the specifics of these issues should be on the
12 agenda for the meeting with the new police
13 commissioner and/or his delegate. I'm very hopeful
14 that such a meeting can be scheduled soon, and we
15 know it would be very fruitful dialogue.

16 CHAIRMAN KHALID: I think, Tracy, you have
17 something that's relatively --

18 MS. CATAPANO-FOX: Yes. On behalf of the Board
19 and the agency, we have sent a letter to the police
20 commissioner congratulating him on his appointment
21 and saying that we would be happy to meet with him
22 to discuss some of these issues.

23 CHAIRMAN KHALID: Jim, any committee --

24 MR. DONLON: The Reports and Recommendations
25 Committee, I understand from Linda Sachs that the

1 semiannual report, the PDF is on our website, and
2 the actual hardcopies are at the printer. And
3 they'll be ready as soon as the printer gets it back
4 to us, but they're in that final stage.

5 CHAIRMAN KHALID: Thank you.

6 Laura, do you have any, anything --

7 MR. SIMONETTI: Just a comment about what Dan
8 was talking about. And I guess the main issue here
9 is trying to get access to that MAS database, which
10 would certainly facilitate matters. The history has
11 been, since I'm on the Board anyway, is that at one
12 point in time, and, Chris, you remember those days
13 when we were sending messages over to Hudson Street
14 to try to get information, we had to actually
15 hand-carry the -- CCRB had to hand-carry them over
16 to IAB, was located at Hudson Street, to try and get
17 all that information. And eventually, through
18 cooperation with the Department, we're able to get
19 access to a lot of databases, you know. They told
20 us we couldn't have access, and then we showed them
21 why we should have access, and they conceded and we
22 got it.

23 I'm envisioning, with the new administration
24 coming in, if we had this meeting early on with
25 them, I'm sure they're going to give us access to

1 MAS, you know, which would be a big relief. I know
2 that Dennis has pointed out that they cause
3 sometimes delays of up to a month or two, and then
4 we wonder why we hit the SOL.

5 So if we can get that, we'll be in good shape.
6 And I don't foresee any problems in getting that
7 information and getting cooperation from them.

8 MR. GRANT, JR.: Tony, what's "MAS"?

9 MR. SIMONETTI: It's a database that has all
10 this informa -- I don't know exactly, but it
11 contains a volume of information that's important to
12 investigators.

13 MR. GITNER: There are various databases and
14 records that, in order for the CCRB to obtain, as I
15 understand it, we have to jump through some, what I'm
16 going to call, some bureaucratic hoops to get, and it
17 can take much longer than it should. The requests which
18 seem simply or sometimes misunderstood or they come
19 back answered, you know, halfway or not fully, and you
20 have to go through the system again. And it just
21 seems like, particularly given my conversation with
22 Dennis, where it seems like there can be very simple
23 answers to these questions so the agency can get
24 records much faster and be in a position to do the
25 investigations quicker and cleaner, just cut out a

1 lot of the bureaucracy.

2 CHAIRMAN KHALID: Laura, do you have anything to
3 report?

4 MS. LAURA EDIDIN: No, thank you for asking. It
5 was covered in the Executive Director's report.
6 Thank you.

7 CHAIRMAN KHALID: Executive Director. Okay.

8 MS. CATAPANO-FOX: But I think I have to commend
9 Laura and her staff for having a tremendous number
10 of trials scheduled for the next few months. It
11 looks like our unit is very, very busy. And I
12 believe it's on the website in terms of the schedule
13 for cases.

14 Do we have our calendar up yet?

15 MS. EDIDIN: No, it's not on; we're working on
16 getting it on the website, but there are approximately
17 35 trials scheduled between now and the middle of April.

18 MS. CATAPANO-FOX: Great.

19 CHAIRMAN KHALID: Any other committee reports?

20 (No response.)

21 CHAIRMAN KHALID: None.

22 Any old business?

23 (No response.)

24 CHAIRMAN KHALID: Any new business?

25 (No response.)

1 CHAIRMAN KHALID: None.

2 MR. GITNER: I'll raise something. It's sort of
3 new and old. Last month, or maybe it was the month
4 before, there was some discussion about how the NYPD
5 reports back about its dispositions regarding stuff
6 that doesn't get sent to the APU. I know that the
7 MOU requires some sort of back and forth about why
8 the NYPD does what it does. I'm going to raise
9 again, I think the agency should also be asking
10 NYPD. I know that apparently there's some informal
11 communication, but maybe communication with the
12 Board or panels so that we understand why the NYPD
13 makes the decisions it does. Maybe that can be on
14 the agenda for any meeting with the new
15 commissioner.

16 I think it's important because I think it would
17 do a lot, to the extent there is a disconnect
18 between why a panel may decide X and the NYPD
19 decides Y, to the extent we can understand that
20 going forward, maybe our investigations will change
21 a bit, maybe we'll answer questions that were not
22 answered right now, et cetera. And maybe that might
23 also necessitate us explaining a little bit why we
24 decide to substantiate cases to the NYPD. I think
25 we should be exploring that in a more disciplined,

1 more formal manner.

2 MS. CATAPANO-FOX: So, Dan, you want DAO
3 essentially to report the results of the
4 cases --

5 MR. GITNER: I don't know that, if it has to be
6 in writing, I think there should be a discussion about
7 the format for what they should say or what they
8 shouldn't say or what we should say or we shouldn't
9 say. But I do think there should be some sort of
10 discussion about it. I mean, if there is a
11 formalized way for discussion for the cases to go
12 through the APU, which I think there are, and if
13 there is, it's in the MOU, I don't see it, for any
14 intellectual reasons, why that same process couldn't
15 be in place for the other kinds of charges. And I'm
16 not suggesting in any way that this means that the
17 NYPD shouldn't retain whatever authority it has
18 right now to decide whatever it wants to decide at
19 all. What I'm saying is that I think both the PD
20 and the agency can benefit from more of a discussion
21 about why we decide what we do rather than just give
22 them like a verdict, why the panel decides what it
23 does, which is sometimes different or not always
24 obvious from the report, and we could benefit from
25 learning why the NYPD decides what it does. It

1 doesn't mean there has to be an appeal or anything
2 like that, but the discussion, I think, would allow
3 our verdicts or our decisions to be better and would
4 allow us, would frankly allow them to understand why
5 we're doing what we're doing. And maybe there'll be
6 less of a disconnect between the two decisions going
7 forward. We can narrow a gap, which I think is good
8 for everybody.

9 MR. SIMONETTI: You know, that brings to mind
10 that would you agree that the police commissioner
11 has to be the final arbiter of discipline?

12 MR. GITNER: Yes.

13 MR. SIMONETTI: You do, okay.

14 MR. GITNER: I'm not suggesting that that's --

15 MR. SIMONETTI: Because, I mean, that has to be.

16 MR. GITNER: I agree.

17 MR. SIMONETTI: Because if he's going to be
18 responsible for running the Police Department and
19 being held accountable, he's got to be the final
20 arbiter. They have a lot more information that they
21 can base their dispositions on than we do, okay.
22 There's a lot of confidential stuff that goes into
23 the CPI that we don't have access to that they do,
24 okay. So that's how the determinations are made.
25 They're not made in the back room. It's not the

1 police commissioner sitting -- because I'm the guy
2 that used to sign off on those things -- it's not
3 him just sitting up there in a vacuum and saying,
4 yeah, this guy should be dismissed, this guy's going
5 to get 30 days, whatever the case may be. They
6 consult with commanding officers to find out what's
7 going on. They look at the CPI history, they go
8 over to IAB and find out if any holds, any
9 corruption allegations. There's a whole process
10 that takes place.

11 So we have to have some confidence in the fact
12 that he's coming out with maybe a disposition that's
13 contrary to what the trial judge may be
14 recommending.

15 MR. GITNER: I'm not suggesting that's -- I
16 agree with that. But what I'm suggesting is that to
17 the extent that there could be more of a dialogue,
18 and maybe the dialogue cannot be as fulsome as I
19 would like or somebody else might like, but there
20 certainly could be more of a dialogue than there is
21 now. And to the extent there can be a dialogue, at
22 the very least, we can benefit because we can
23 understand, okay, they decided differently for X, Y
24 and Z. So now we know in the future, in a similar
25 case we should be maybe asking different questions

1 or questions in a different way or we should be
2 considering those kinds of factors.

3 We may also decide, they decide, for X, Y and Z,
4 and disagree and decide not to change our questions,
5 but we could benefit from that and our investigation
6 can benefit. And frankly, if we do a better job, if
7 we need to -- if in a dialogue we learn that we need
8 to do a better job of explaining to them why we're
9 making certain decisions, maybe despite or in
10 conjunction with this process you're telling me
11 about, which I think is a good process and I'm fine
12 with it, maybe every now and then they will go with
13 our recommendation rather than go without it because
14 they'll understand our rationale in a better way.

15 I'm just suggesting that this should be thought
16 about, it should be brought up, and there should be
17 a discussion. And maybe in the end, some sort of a
18 process can be put in place.

19 MR. JULES MARTIN: Mr. Chair, I think that we
20 can -- you know, Dan raised some valid points, but I
21 think that we should allow the new administration to
22 be in place before we start to explore those issues.
23 In fact, a meeting with the police commissioner and
24 his staff may brought up as well.

25 CHAIRMAN KHALID: Well, in the past, I think

1 that whenever we had a meeting with the police
2 commissioner, any issue the Board had, we always
3 discussed with the police commissioner and his
4 staff. And so I think in the near future, when we
5 have the meeting, I'm sure that whatever we have on
6 our minds we'd be able to discuss with the new
7 police commissioner and his staff, and we'll take it
8 from there.

9 Any other questions anybody has?

10 (No response.)

11 CHAIRMAN KHALID: Public comment? Mr. Chris
12 Dunn.

13 MR. CHRIS DUNN: Okay. Good morning.

14 THE AUDIENCE: Good morning.

15 MR. DUNN: Welcome to the new era.

16 So, Tracy, I have, as many of you have young
17 children, well, not that young anymore, and I know
18 about people who break up with their boyfriend or
19 girlfriend by text and by e-mail, I never thought it
20 would happen for me. And I'm sorry Dan is not here
21 to say good-bye to everyone in person, I wish he
22 had, both for him and for all of us, but I will just
23 say that --

24 MS. CATAPANO-FOX: I didn't know where you were
25 going with that. I didn't know how it related to

1 that.

2 MR. DUNN: So, much less had his best friend
3 read the text, but, okay. So, I wish I could say
4 good-bye to him. I'll say good-bye to him on the
5 side, and we'll see who the new person is.

6 On the subject of new people, with respect to
7 Commissioner Bratton, the Board has typically met
8 with the police commissioner periodically, and, of
9 course, even meeting with Commissioner Kelly for a
10 very long time, those of you who have been doing
11 that, I would strongly encourage you that, given
12 that it is a new day, that this just not be another
13 meeting with the police commissioner and this be
14 taken as the opportunity that it is, which is to
15 really rethink what the relationship is between the
16 agency and the Police Department, and go in there
17 with that in mind. This should not just be a
18 continuation of the various issues that we've had on
19 the list, many of which you've talked about time and
20 again.

21 And, Dan, to your credit, you've raised lots of
22 good and important issues which often times do not
23 get voiced in public, and I just think this is a
24 really important opportunity. It's the first time
25 to meet with him, you should be starting from

1 scratch.

2 All right. Going back in history a little bit
3 in terms of the report, I did want to say a few
4 things about the report. First, on the
5 substantiation rate, this is, again, the product of
6 a little bit of the way that the numbers get
7 reported, but you report a 14.4 percent
8 substantiation rate that is substantiated -- a
9 substantiation rate of cases that are fully
10 investigated. The actual substantiation rate of
11 cases that are filed is 4 percent, and I think it's
12 important not to lose sight of that.

13 On the truncation rate, which I see in the
14 tradition of good dictators all across the world,
15 you have just erased the notion of truncation from
16 the books. And this report no longer reports a
17 truncation rate and reorders the recording of
18 disposition of cases that do not result in a full
19 investigation. And there's been a discussion, at
20 least that I've heard in the last couple meetings,
21 about changing the approach of the truncation rate.
22 I think, however, it is a significant mistake,
23 setting aside the merits of that debate, to, in the
24 year-end report, change the form of reporting that
25 has been used throughout the reporting year. And

1 whatever might be the merit of changing reporting
2 anew, it violates pretty fundamental notions about
3 reporting during a reporting period change the way
4 you were doing reporting, and I urge you to go back
5 for this report and for the annual report, which, I
6 understand, is in the oven, to your credit. You
7 should do a consistent reporting technique. And
8 then for next year, if you want to change the
9 reporting, that's a different thing.

10 In terms of Department dispositions, Dan, I'm
11 glad to see you're paying attention to that. What
12 you missed was the good news which was that that was
13 a 25 percent improvement from last month where they
14 only came back with four cases. I do not think that
15 is just an APU phenomenon. And maybe it is, but the
16 lag in the time the Department has cases I do not
17 think lines up with the fact that they have stopped
18 essentially disposing cases for the last couple
19 months. Maybe it is, but I'd be very surprised of
20 that. And I think I raised this last month when
21 there were only four reported dispositions. Someone
22 needs to go back to them and really see that that's
23 what's going on or that pool is just getting fuller.

24 But the other thing that points to is, to the
25 extent that there's an APU phenomenon, and maybe

1 there isn't, I mentioned this last week, or last
2 month, this report should include APU information.
3 If all of a sudden there are a lot of cases that are
4 being subbed, that are being disposed of by the APU,
5 right now the way the reporting is, as I understand
6 it, those cases are underreported; you do not see
7 where they are. So if it's really five cases and
8 there are 20 cases that were disposed of by the APU
9 last month, then they should be on here. But the
10 truth of the matter is the APU can't dispose of
11 anything.

12 As Tony points out, the person who's wearing the
13 pants in this relationship is the police
14 commissioner. And I would actually be surprised
15 that people are contemplating that ultimate
16 disposition of cases that are sent over there,
17 whether handled by the APU or not, are to be
18 reported as anything other than Police Department,
19 Police Department dispositions. And so even to the
20 extent that there are some significant number of
21 cases going through the APU, I think they still will
22 show up in your reporting. Ultimately, the
23 dispositions are coming from the Police Department,
24 but you'll tell me if something's otherwise.

25 On the mediation, Tracy, I wasn't quite sure I

1 heard the numbers correctly. You report mediation
2 allegations, as I understand it. Did you say there
3 were a total of 144 some-odd cases mediated in 2013?

4 MS. CATAPANO-FOX: Yes.

5 MR. DUNN: Okay. And I see there were 64 mediated
6 in December, according to the monthly report. So I'm
7 just wondering why there was this huge bulge of
8 cases that got mediated in the last month of the
9 year, or am I misreading the report.

10 MR. DONLON: That sounds like it might be
11 mediation attempted or --

12 MR. DUNN: Well, yes. There are a bunch of --
13 most of them are mediation attempted.

14 MR. DONLON: Right.

15 MR. DUNN: Is that just because you get to the
16 end of the year and if you haven't been able to pull
17 it off it just all gets reported as mediation
18 attempted?

19 MR. DONLON: Oh, no, no. I don't think that's
20 the reason.

21 MS. JANETTE CORTES-GOMEZ: We work on them as we
22 get them.

23 MR. DUNN: Okay. But the 144 number, that's
24 just mediated, or that's mediated and mediated
25 attempted?

1 MR. DONLON: I thought that was the number
2 mediated through the course of the year.

3 MS. CATAPANO-FOX: Yes.

4 MR. DUNN: I see, okay. That does not include
5 mediated attempted?

6 MS. CATAPANO-FOX: No.

7 MR. DUNN: I see. Okay, sorry. Never mind, I
8 take it all back.

9 One other thing about the APU, which I thought I
10 heard you say, were there 12 cases that went to the
11 APU where we had blown the statute of limitations,
12 that you had blown the statute of limitations?

13 MS. CATAPANO-FOX: Yes.

14 MR. DUNN: Those are 12 substantiated cases
15 where the statute of limitations is blown, because
16 they don't go to them unless it's substantiated? So
17 what's --

18 MS. CATAPANO-FOX: Right.

19 MR. DUNN: I mean, Tony, I appreciate your
20 speech about the 18-plus month cases, and I share
21 it, and I've said repeatedly, the agency's done much
22 better on dealing with 18-plus month cases. But I'm
23 a little shocked to hear there were 12 substantiated
24 cases recently that went to the APU, that the
25 statute of limitations was blown. What's --

1 MR. SIMONETTI: I would attribute some of that
2 to Hurricane Sandy, and I think we're seeing the end
3 of those cases now. We just had another panel this
4 morning, and it looks like that's ending. And, yes,
5 we had a couple of delays where investigators have
6 either resigned or left the agency, given to new
7 investigators, they have to gear up and get started
8 again, but I think we're going to see the end of
9 that in terms of that delay caused by Sandy.

10 MR. DUNN: Well, okay. But I got to tell you,
11 that's a very big number. I mean, of course when
12 you report 18-plus month, those are unresolved
13 cases. And the release we've all kind of had in the
14 back of our minds was, well, maybe these might be
15 substantiated, and therefore, even though there are a
16 number of cases on this report, it doesn't necessarily
17 spell something bad. But if there are actually 12
18 substantiated APU cases, that is bad, and there's no
19 way that big of a number of cases should have had a
20 statute of limitations blown that were subbed.

21 MS. CORTES-GOMEZ: But I think that's one of the
22 reasons why Tracy and Dennis are making an effort to
23 look at these cases a lot earlier to avoid that.

24 MR. DUNN: I get that.

25 MS. CORTES-GOMEZ: And if a special meeting

1 needs to occur with a special panel, we are
2 definitely all on board with that.

3 MR. GITNER: It's also the case that I think
4 that gathering documents quicker, we can hopefully
5 avoid that problem. And I think that unlike most
6 agencies, where, internally, discipline issues are
7 conducted either by an inspector general or internal
8 agencies, we are doing a disciplinary process for
9 another agency. So we're sort of hamstrung by
10 someone else's timeline. We can't just go and get a
11 document, we have to go through this process. So,
12 hopefully, and I know that the agency's working very
13 hard on this, hopefully that process will also help
14 cut down on this number.

15 MR. SIMONETTI: Well, the hope was when we had
16 gotten the first memorandum of understanding for an
17 APU Unit, the hope was that we were going to do
18 those cases right here in the building with OATH.
19 We were going to OATH because the vast majority of
20 cases against police officers and sergeants were
21 adjudicated at OATH. And then it went up, the PBA
22 came in with an injunction, it went up to the
23 appellate court, from there it went to the Court of
24 Appeals. And you know what the decision was?
25 You must try all cases in a police trial room. I'm

1 still trying to figure out that decision, why we
2 have to go to the police trial room. You know, we
3 had OATH here and that'd be the perfect place to be
4 trying these cases.

5 MR. DUNN: Well, I don't disagree with you about
6 that, and, Dan, I understand completely what you're
7 saying, you guys are beholden to the Department.
8 You've been beholden to them for a long time.
9 And --

10 MS. CATAPANO-FOX: Chris, I'm going to look into
11 the hold case.

12 MR. DUNN: Okay.

13 MS. CATAPANO-FOX: I just wanted to --

14 MR. DUNN: That's fine.

15 MS. CATAPANO-FOX: -- for my own personal -- I
16 always want to know why --

17 MR. DUNN: Because that strikes me as being an
18 extraordinarily big number. I've never heard any
19 suggestion of that many blown substantiated cases.

20 MS. CATAPANO-FOX: Okay.

21 MR. DUNN: Okay. And then the final thing I
22 want to say on the Investigations Committee, again,
23 I'm thrilled to hear that you've been doing that. I
24 do want to say one thing about these committee
25 meetings. They are subject to the Open Meetings

1 Law. I don't know what notice has been provided to
2 the public, if any, about committee meetings.
3 Sometimes I get a call and I come, but that, of
4 course, is not the answer. So I want to just -- I
5 don't want this to sound the way it will sound, but
6 I just want to remind everyone, committee meetings
7 are subject to the Open Meetings Law, and the public
8 can come and the public should have notice of them.
9 And at the very least, any committee meeting should
10 be on their website so that the public or just
11 busybodies like me can come to the meetings. All
12 right? Thank you.

13 CHAIRMAN KHALID: Thank you, Mr. Dunn.

14 Any other public comment?

15 (No response.)

16 CHAIRMAN KHALID: None? The meeting is
17 adjourned, and we'll take a ten-minute break.

18 (Whereupon, the hearing concluded at 10:50 a.m.)

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C E R T I F I C A T I O N

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

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

I reported the proceedings in the
within-entitled matter, and that the within
transcript is a true record of such proceedings, as
amended.

I further certify that I am not related to any
of the parties to this action by blood or marriage
and that I am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto set my hand
this 15th day of January, 2014.

MARGARET CRANE

**Public Meeting of the Civilian Complaint Review Board
January 8, 2014**

A		
<p>a.m (2) 1:4 36:18 able (6) 9:14 16:9,10 18:18 26:6 31:16 abuse (1) 8:25 acceptance (2) 6:21,23 accepted (1) 6:22 accepting (1) 6:20 access (7) 17:8 18:9,19,20,21,25 23:23 accomplished (1) 5:5 accountable (1) 23:19 acting (1) 3:4 action (3) 4:12 8:5 37:14 activity (1) 5:25 actual (2) 18:2 28:10 additional (1) 6:24 address (1) 10:17 adjourned (1) 36:17 adjudicated (1) 34:21 administered (1) 16:20 administration (6) 3:17,20,21 16:15 18:23 25:21 Administrative (1) 15:2 adopted (1) 3:15 adoption (2) 1:16 3:7 advice (1) 7:5 advocate (1) 16:2 agencies (2) 34:6,8 agency (11) 4:15,18 5:14 9:6 17:19 19:23 21:9 22:20 27:16 33:6 34:9 agency's (6) 5:8,20 7:10 17:2 32:21 34:12 agenda (6) 1:13 3:7,25 10:22 17:12 21:14 agree (3) 23:10,16 24:16 allegation (1) 8:24 allegations (6) 8:25 9:1,3,3 24:9 31:2 allow (6) 10:9 15:25 23:2,4,4 25:21 Alphonzo (1) 2:9 amended (1) 37:12 and/or (1) 17:13 anew (1) 29:2 annual (2) 6:7 29:5 answer (2) 21:21 36:4 answered (2) 19:19 21:22 answers (1) 19:23 anybody (2) 16:21 26:9 anymore (1) 26:17 anyway (1) 18:11 apparently (1) 21:10 appeal (1) 23:1 Appeals (1) 34:24</p>	<p>appellate (1) 34:23 appointment (1) 17:20 appreciate (1) 32:19 approach (1) 28:21 approval (1) 8:17 approximately (2) 13:3 20:16 April (1) 20:17 APU (20) 8:19,23 13:18 15:16,18 21:6 22:12 29:15,25 30:2,4,8,10 30:17,21 32:9,11,24 33:18 34:17 APU's (1) 8:15 arbiter (2) 23:11,20 aside (2) 13:18 28:23 asked (2) 4:5 10:14 asking (3) 20:4 21:9 24:25 assembled (1) 5:5 assume (1) 12:23 attempted (6) 6:11 31:11,13,18,25 32:5 attention (1) 29:11 attribute (1) 33:1 AUDIENCE (3) 3:3 4:4 26:14 authority (2) 9:1 22:17 AVENUE (1) 1:23 avoid (3) 12:5 33:23 34:5 awaiting (1) 7:16 aye (2) 3:12,13 Ayes (1) 3:14</p>	<p>blowing (1) 11:17 blown (6) 32:11,12,15,25 33:20 35:19 board (20) 1:1,2 2:1 4:21,24 5:2,22 6:5,6 8:14 10:14 11:12 14:9,24 17:18 18:11 21:12 26:2 27:7 34:2 books (1) 28:16 Borough (3) 9:25 10:1,4 boyfriend (1) 26:18 Bratton (1) 27:7 break (3) 4:12 26:18 36:17 brings (1) 23:9 brought (2) 25:16,24 building (1) 34:18 bulge (1) 31:7 bunch (1) 31:12 bureaucracy (1) 20:1 bureaucratic (1) 19:16 business (4) 1:20,21 20:22,24 busy (1) 20:11 busybodies (1) 36:11</p>
	B	
	<p>back (15) 5:13,19 12:21,24 18:3 19:19 21:5,7 23:25 28:2 29:4,14 29:22 32:8 33:14 background (1) 5:1 backlog (3) 13:12,16 15:7 bad (2) 33:17,18 base (1) 23:21 basically (1) 3:23 basis (1) 4:20 began (1) 9:6 begun (1) 6:24 behalf (1) 17:18 beholden (2) 35:7,8 believe (1) 20:12 benefit (5) 22:20,24 24:22 25:5,6 best (1) 27:2 better (6) 16:9 23:3 25:6,8,14 32:22 big (4) 19:1 33:11,19 35:18 bit (4) 21:21,23 28:2,6 bits (1) 14:4 Blasio (2) 3:18 4:10 blood (1) 37:14 Bloomberg (1) 4:16</p>	<p style="text-align: center; border-top: 1px solid black;">C</p> <p>C (2) 37:2,2 calendar (1) 20:14 call (4) 1:15 3:5 19:16 36:3 Carlmais (1) 9:18 case (13) 5:4 6:12 7:25 8:22 11:7,7 13:11,18 16:3 24:5,25 34:3 35:11 cases (87) 6:4,5,9,11,12,14,16,17 6:19,25 7:11,13,16,20,22,23,24 8:2,7,13,16,17,18,20 10:13,17 10:24 11:1,2,3,4,11,12,14,17,18 11:25 12:2,3,5,18,22 13:4,24 14:1,13,23,24 15:5,14 16:10,18 20:13 21:24 22:4,11 28:9,11,18 29:14,16,18 30:3,6,7,8,16,21 31:3,8 32:10,14,20,22,24 33:3,13 33:16,18,19,23 34:18,20,25 35:4 35:19 Catapano-Fox (29) 1:10 2:3 4:2,5 11:22 12:19,21 13:2,6,9 14:8,12 14:18,20 15:16 17:18 20:8,18 22:2 26:24 31:4 32:3,6,13,18 35:10,13,15,20 category (1) 7:2 cause (2) 16:15 19:2 caused (2) 11:15 33:9 CCRB (7) 3:18,21 4:9 5:15 6:1 18:15 19:14 CCRB's (1) 7:20 certain (1) 25:9 certainly (3) 13:7 18:10 24:20 certify (2) 37:8,13</p>

**Public Meeting of the Civilian Complaint Review Board
January 8, 2014**

<p>cetera (2) 17:9 21:22 chair (5) 1:9,17 3:4 4:13 25:19 chairman (26) 3:1,4,5,10,12,15,23 10:21,23 11:21 12:11,15 16:21 17:16,23 18:5 20:2,7,19,21,24 21:1 25:25 26:11 36:13,16 chairmanship (1) 4:6 change (6) 16:14 21:20 25:4 28:24 29:3,8 changing (2) 28:21 29:1 charges (7) 8:8,10,14 14:25 15:12 16:19 22:15 children (1) 26:17 choosing (1) 4:14 Chorus (1) 3:14 Chris (4) 18:12 26:11,13 35:10 Chu (5) 4:5,11,14 5:8,13 Cifuni (1) 9:8 Civilian (1) 1:2 civilians (2) 6:9,19 clarification (1) 14:22 cleaner (2) 16:25 19:25 clearly (1) 16:18 closed (8) 6:5,6,11,14,25 8:1,21 12:17 closely (1) 3:18 come (5) 10:9 19:18 36:3,8,11 coming (4) 16:17 18:24 24:12 30:23 command (2) 15:6 16:19 commanding (1) 24:6 commend (1) 20:8 commended (1) 10:25 comment (5) 1:22 10:24 18:7 26:11 36:14 commissioner (15) 12:11 17:13,20 21:15 23:10 24:1 25:23 26:2,3,7 27:7,8,9,13 30:14 commitment (1) 4:19 committee (15) 1:19 10:16,22 12:8 16:22,23 17:10,23,25 20:19 35:22,24 36:2,6,9 communication (2) 21:11,11 community (2) 9:19 10:12 complainant (2) 13:20 16:2 complainants (4) 7:3 10:3,9 14:9 complaint (3) 1:2 5:25 7:7 complaints (11) 5:15,16,18,22,24 6:1,7,25 7:14 9:14 10:10 completely (1) 35:6 comprised (2) 4:24 5:6 Comrie (1) 10:1 conceded (1) 18:21 concluded (1) 36:18</p>	<p>conducted (1) 34:7 confidence (1) 24:11 confidential (1) 23:22 congratulate (2) 9:8,18 congratulating (1) 17:20 conjunction (1) 25:10 considered (1) 5:11 considering (1) 25:2 consistent (1) 29:7 consistently (1) 5:2 consult (1) 24:6 contains (1) 19:11 contemplating (1) 30:15 continuation (1) 27:18 continues (1) 16:24 contrary (1) 24:13 contributed (1) 5:3 control (1) 11:18 conversation (1) 19:21 conviction (1) 8:9 cooperation (2) 18:18 19:7 coordinator (1) 9:20 correct (1) 5:8 correctly (1) 31:1 corruption (1) 24:9 Cortes-Gomez (4) 2:8 31:21 33:21 33:25 cost (1) 10:6 counsel (1) 7:6 COUNTY (1) 37:4 couple (3) 28:20 29:18 33:5 course (5) 5:9 27:9 32:2 33:11 36:4 court (2) 34:23,23 covered (1) 20:5 CPI (2) 23:23 24:7 CRANE (2) 37:6,21 credit (2) 27:21 29:6 crew (1) 16:17 currently (1) 9:10 cut (2) 19:25 34:14</p> <hr/> <p align="center">D</p> <hr/> <p>DA (6) 7:22 10:15,17 11:3,4 12:9 daily (1) 4:19 Dan (8) 4:5 18:7 22:2 25:20 26:20 27:21 29:10 35:6 Daniel (2) 2:4 12:13 DAO (1) 22:2 Data (1) 7:1 database (2) 18:9 19:9 databases (2) 18:19 19:13 date (2) 7:20,23 dated (1) 4:8</p>	<p>day (2) 27:12 37:18 days (3) 5:10 18:12 24:5 de (2) 3:18 4:9 deal (1) 5:5 dealing (1) 32:22 dear (1) 5:11 debate (1) 28:23 December (6) 4:8 5:16,20 6:5 7:1 31:6 decide (8) 21:18,24 22:18,18,21 25:3,3,4 decided (1) 24:23 decides (3) 21:19 22:22,25 decision (3) 13:22 34:24 35:1 decisions (4) 21:13 23:3,6 25:9 decline-to-prosecute (1) 8:6 declined (1) 6:2 decrease (2) 5:25 7:11 definitely (1) 34:2 definition (1) 14:2 delay (3) 16:15,17 33:9 delays (3) 11:15 19:3 33:5 delegate (1) 17:13 demonstrated (1) 4:19 Dennis (4) 11:23 19:2,22 33:22 Department (17) 8:8 12:17 13:5,13 14:23 15:8,15,24 18:18 23:18 27:16 29:10,16 30:18,19,23 35:7 Department's (2) 8:6 13:22 Deputy (1) 9:25 desire (1) 7:3 despite (1) 25:9 determinations (1) 23:24 dialogue (6) 17:15 24:17,18,20,21 25:7 dictators (1) 28:14 different (4) 22:23 24:25 25:1 29:9 differently (1) 24:23 director (5) 1:10,18 4:1 9:9 20:7 Director's (1) 20:5 disagree (2) 25:4 35:5 disappear (1) 12:10 disciplinary (3) 8:5,11 34:8 discipline (4) 15:6 16:19 23:11 34:6 disciplined (1) 21:25 disconnect (2) 21:17 23:6 discourtesy (1) 9:2 discuss (2) 17:22 26:6 discussed (2) 17:5 26:3 discussion (9) 17:6 21:4 22:6,10 22:11,20 23:2 25:17 28:19 dismissed (1) 24:4 dispose (1) 30:10</p>
--	--	---

Public Meeting of the Civilian Complaint Review Board
January 8, 2014

disposed (2) 30:4,8
disposing (1) 29:18
disposition (3) 24:12 28:18 30:16
dispositions (7) 16:12 21:5 23:21
29:10,21 30:19,23
docket (8) 7:10,12,17,21,22 8:15
8:19 15:8
Doctor (1) 4:2
document (1) 34:11
documents (2) 16:24 34:4
doing (8) 11:16,23 23:5,5 27:10
29:4 34:8 35:23
Donlon (6) 2:5 17:24 31:10,14,19
32:1
Dr (4) 1:9 2:2 3:1 15:17
Dunn (20) 26:12,13,15 27:2 31:5
31:12,15,23 32:4,7,14,19 33:10
33:24 35:5,12,14,17,21 36:13
duty (1) 3:21

E

E (1) 37:2
e-mail (1) 26:19
earlier (2) 10:18 33:23
early (1) 18:24
EDIDIN (2) 20:4,15
effective (2) 4:10 5:6
effectively (1) 10:19
effects (1) 5:21
efficient (1) 17:1
effort (1) 33:22
eight (3) 7:23 8:20 15:5
either (3) 9:2 33:6 34:7
eligible (1) 6:18
else's (1) 34:10
encourage (1) 27:11
encouraging (1) 11:16
ensure (1) 10:19
entire (1) 4:18
envisioning (1) 18:23
era (1) 26:15
erased (1) 28:15
especially (1) 4:21
Esq (9) 1:10 2:3,4,5,6,7,8,9,10
essentially (3) 10:8 22:3 29:18
et (2) 17:9 21:22
eventually (2) 8:20 18:17
everybody (1) 23:8
exactly (1) 19:10
excellent (2) 9:21 12:2
exceptional (1) 4:25
excuse (1) 11:11
executive (6) 1:10,18 4:1 5:6 20:5
20:7

experience (2) 4:15 5:1
expertise (1) 5:2
expired (2) 8:22,22
explaining (2) 21:23 25:8
explains (1) 15:7
explore (2) 16:24 25:22
exploring (1) 21:25
extent (11) 13:17,19 15:24 16:1,2
21:17,19 24:17,21 29:25 30:20
extraordinarily (1) 35:18

F

F (1) 37:2
facilitate (1) 18:10
FACSIMILE (1) 1:25
fact (3) 24:11 25:23 29:17
factors (1) 25:2
faster (1) 19:24
feared (1) 7:6
fewer (1) 5:23
Fifty-two (1) 9:3
figure (1) 35:1
filed (4) 7:14,15,23 28:11
filing (1) 11:6
filings (1) 11:5
filled (1) 14:3
final (6) 8:17 13:22 18:4 23:11,19
35:21
find (2) 24:6,8
findings (1) 14:10
fine (2) 25:11 35:14
first (4) 3:7 27:24 28:4 34:16
five (7) 8:2 11:12 12:18,18 13:8,24
30:7
Floor (1) 1:5
follow (2) 7:3 10:15
follows (1) 5:15
force (1) 9:1
foresee (1) 19:6
form (1) 28:24
formal (1) 22:1
formalized (1) 22:11
format (1) 22:7
former (1) 4:16
forth (1) 21:7
forward (4) 10:16 12:4 21:20 23:7
forwarded (1) 8:23
found (2) 8:3,11
four (5) 7:16 8:3,17 29:14,21
fourth (1) 7:1
frankly (2) 23:4 25:6
friend (2) 5:11 27:2
frisk (1) 9:4
fruitful (1) 17:15

full (3) 6:6 10:13 28:18
fuller (1) 29:23
fully (3) 6:13 19:19 28:9
fulsome (1) 24:18
fundamental (1) 29:2
further (1) 37:13
future (3) 12:6 24:24 26:4

G

gap (1) 23:7
gathering (1) 34:4
gavel (1) 5:12
gear (1) 33:7
gearing (1) 16:8
general (1) 34:7
getting (8) 13:14,24 14:3 16:16
19:6,7 20:16 29:23
girlfriend (1) 26:19
Gitner (25) 2:4 12:13,16,20,23
13:3,7,10 14:11,15,19 15:3,9,13
15:19 16:13,23 19:13 21:2 22:5
23:12,14,16 24:15 34:3
give (2) 18:25 22:21
given (3) 19:21 27:11 33:6
glad (1) 29:11
go (14) 11:24 15:12 19:20 22:11
24:7 25:12,13 27:16 29:4,22
32:16 34:10,11 35:2
goes (1) 23:22
going (22) 9:5,21,24 14:1 16:15
17:6 18:25 19:16 21:8,20 23:6,17
24:4,7 26:25 28:2 29:23 30:21
33:8 34:17,19 35:10
good (13) 3:1,3 4:3 9:17 15:20
19:5 23:7 25:11 26:13,14 27:22
28:14 29:12
good-bye (3) 26:21 27:4,4
gotten (1) 34:16
Grant (2) 2:9 19:8
grateful (1) 4:16
great (6) 4:15,22 5:5,10 9:22 20:18
group (1) 4:24
guess (2) 15:15 18:8
guilty (4) 8:3,10,11,18
guilty-after-trial (1) 8:12
guy (2) 24:1,4
guy's (1) 24:4
guys (1) 35:7

H

Half (1) 11:4
halfway (1) 19:19
Hall (2) 10:1,4
hamstrung (1) 34:9

**Public Meeting of the Civilian Complaint Review Board
January 8, 2014**

<p>hand (1) 37:17 hand-carry (2) 18:15,15 handle (2) 10:17 16:9 handled (1) 30:17 handling (1) 14:13 hands (1) 14:16 happen (1) 26:20 happens (1) 14:9 happy (5) 3:20 4:3,4 10:2 17:21 hard (2) 4:18 34:13 hardcopies (1) 18:2 harder (1) 4:23 hear (2) 32:23 35:23 heard (4) 28:20 31:1 32:10 35:18 hearing (2) 11:8 36:18 held (1) 23:19 help (8) 10:2,12 13:15 14:5,6 15:24 16:4 34:13 hereunto (1) 37:17 highly (1) 5:5 history (3) 18:10 24:7 28:2 hit (1) 19:4 hold (7) 7:23 10:15,17 11:3,4 12:9 35:11 holds (1) 24:8 honesty (1) 5:3 hoops (1) 19:16 hope (3) 15:21 34:15,17 hopeful (1) 17:13 hopefully (3) 34:4,12,13 hoping (1) 10:4 hotline (1) 5:20 Hudson (2) 18:13,16 huge (2) 13:12 31:7 huger (2) 13:14,14 Hurricane (3) 5:21 11:15 33:2</p> <hr/> <p align="center">I</p> <hr/> <p>IAB (3) 17:8 18:16 24:8 implement (1) 12:7 important (6) 5:19 19:11 21:16 27:22,24 28:12 importantly (1) 11:1 impressed (1) 9:13 improved (1) 17:8 improvement (1) 29:13 Inaudible (1) 14:20 incident (2) 7:20,24 include (3) 17:8 30:2 32:4 includes (1) 8:9 including (2) 6:1,7 increase (1) 5:18 indicated (1) 10:2 individuals (1) 4:25</p>	<p>inform (1) 14:8 informa (1) 19:10 informal (1) 21:10 information (8) 6:24 16:25 18:14 18:17 19:7,11 23:20 30:2 injunction (1) 34:22 inspector (1) 34:7 install (1) 4:13 instruction (1) 8:4 instructions (1) 15:6 intake (3) 6:1,3 9:7 integrity (1) 5:3 intellectual (2) 5:3 22:14 interested (1) 37:15 interesting (1) 16:7 internal (1) 34:7 internally (1) 34:6 interview (1) 7:5 interviews (2) 9:12 10:11 investigated (3) 6:13 7:18 28:10 investigation (3) 10:13 25:5 28:19 investigations (10) 6:6 7:14 10:16 10:19 12:8 16:23 17:10 19:25 21:20 35:22 investigators (6) 9:11,21 10:10 19:12 33:5,7 involving (2) 8:2,16 issue (2) 18:8 26:2 issues (6) 17:11,22 25:22 27:18,22 34:6 item (1) 3:25</p> <hr/> <p align="center">J</p> <hr/> <p>J (1) 2:11 James (1) 2:5 Janette (2) 2:8 31:21 January (4) 1:3 4:10 8:4 37:18 Jayne (1) 9:8 Jim (1) 17:23 job (2) 25:6,8 Johnson (1) 9:18 Jr (2) 2:9 19:8 judge (1) 24:13 Jules (2) 2:6 25:19 jump (1) 19:15 jurisdiction (2) 5:23 6:2</p> <hr/> <p align="center">K</p> <hr/> <p>keeps (1) 14:3 Kelly (1) 27:9 Khalid (26) 1:9 2:2 3:1,4,10,12,15 10:21 11:21 12:11,15 15:17 16:21 17:16,23 18:5 20:2,7,19,21 20:24 21:1 25:25 26:11 36:13,16</p>	<p>kind (1) 33:13 kinds (2) 22:15 25:2 know (31) 4:7 9:20 11:6 12:19,20 14:12 16:1,3,6,12,14 17:15 18:19 19:1,1,10,19 21:6,10 22:5 23:9 24:24 25:20 26:17,24,25 34:12 34:24 35:2,16 36:1</p> <hr/> <p align="center">L</p> <hr/> <p>lag (1) 29:16 Landin (3) 2:7 3:11,13 language (1) 9:2 late (4) 11:5,5,6,19 Laura (4) 18:6 20:2,4,9 Law (2) 36:1,7 leadership (1) 5:6 learn (1) 25:7 learning (1) 22:25 left (1) 33:6 Leroy (1) 9:25 let's (1) 13:25 letter (2) 4:7 17:19 limitations (6) 8:21 32:11,12,15,25 33:20 Linda (1) 17:25 lines (1) 29:17 list (1) 27:19 little (4) 21:23 28:2,6 32:23 located (1) 18:16 long (3) 11:13 27:10 35:8 longer (3) 17:1 19:17 28:16 look (7) 11:2,10,22 13:6 24:7 33:23 35:10 looking (1) 10:6 looks (3) 9:17 20:11 33:4 lose (1) 28:12 lot (7) 18:19 20:1 21:17 23:20,22 30:3 33:23 lots (1) 27:21 loved (1) 5:9 lower (2) 15:7,7</p> <hr/> <p align="center">M</p> <hr/> <p>main (1) 18:8 majority (2) 11:2 34:19 making (3) 12:3 25:9 33:22 MAMARONECK (2) 1:23,24 managers (2) 11:24 12:1 manner (2) 17:1 22:1 MARCOS (1) 14:21 MARGARET (2) 37:6,21 marriage (1) 37:14 Martin (2) 2:6 25:19 MAS (3) 18:9 19:1,8</p>
--	---	--

Public Meeting of the Civilian Complaint Review Board
January 8, 2014

5

matching (1) 15:22
matter (3) 30:10 37:10,16
matters (1) 18:10
mayor (3) 3:18 4:13,16
Mayor-elect (1) 4:9
McCormick (1) 11:23
mean (8) 12:10 13:2 15:21 22:10
23:1,15 32:19 33:11
meaning (1) 5:24
means (1) 22:16
mediated (10) 6:9,13 31:3,5,8,24
31:24,24 32:2,5
mediation (11) 6:11,15,18,20,21
7:19 30:25 31:1,11,13,17
mediations (1) 6:10
meet (4) 10:3,10 17:21 27:25
meeting (19) 1:1,13 3:6,8,16 10:12
11:24 17:12,14 18:24 21:14
25:23 26:1,5 27:9,13 33:25 36:9
36:16
meetings (7) 28:20 35:25,25 36:2
36:6,7,11
member (1) 5:2
members (2) 2:1 4:22
memorandum (1) 34:16
mentioned (1) 30:1
merit (1) 29:1
merits (1) 28:23
messages (1) 18:13
met (2) 4:23 27:7
Mickens (1) 9:9
middle (1) 20:17
mind (3) 23:9 27:17 32:7
minds (2) 26:6 33:14
minutes (3) 1:16 3:8,16
misreading (1) 31:9
missed (1) 29:12
mistake (1) 28:22
misunderstood (1) 19:18
Mohammad (3) 1:9 2:2 3:1
moment (1) 13:19
momentum (1) 5:9
Monday (2) 9:7,16
monitor (1) 10:18
month (26) 5:19 9:24 10:5,7 11:24
12:18,25 13:4,13,24,25,25 14:23
14:24 15:5 19:3 21:3,3 29:13,20
30:2,9 31:8 32:20,22 33:12
monthly (2) 5:14 31:6
months (9) 7:16,21,23 10:24 11:13
11:25 16:8 20:10 29:19
morning (7) 3:1,3 4:3 11:9 26:13
26:14 33:4
motion (1) 3:9

motions (1) 3:15
MOU (2) 21:7 22:13
move (1) 12:3
moving (3) 9:16 10:13,16

N

N (1) 37:2
narrow (1) 23:7
natural (1) 4:11
near (1) 26:4
necessarily (1) 33:16
necessitate (1) 21:23
need (2) 25:7,7
needs (2) 29:22 34:1
never (5) 11:14 14:1 26:19 32:7
35:18
new (26) 1:6,6,21,24 3:17,21 4:3,4
4:12 9:24 16:17 17:12 18:23
20:24 21:3,14 25:21 26:6,15 27:5
27:6,12 33:6 37:3,4,7
news (1) 29:12
Nina (1) 9:9
Ninety-two (1) 7:13
Notary (1) 37:6
note (1) 5:19
notice (2) 36:1,8
notion (1) 28:15
notions (1) 29:2
November (3) 7:12 8:1,5
number (9) 20:9 30:20 31:23 32:1
33:11,16,19 34:14 35:18
numbers (2) 28:6 31:1
NYPD (13) 8:1 14:13 16:25 17:2,7
21:4,8,10,12,18,24 22:17,25

O

O (1) 37:2
OATH (4) 34:18,19,21 35:3
obtain (2) 16:24 19:14
obvious (1) 22:24
occur (1) 34:1
October (1) 7:1
offensive (1) 9:2
offered (2) 6:18,21
officer (2) 6:23 8:2
officers (11) 6:9,22 8:2,3,10,10,16
8:21 12:18 24:6 34:20
Oh (1) 31:19
okay (20) 12:23 15:9,19,20,20 20:7
23:13,21,24 24:23 26:13 27:3
31:5,23 32:4,7 33:10 35:12,20,21
old (3) 1:20 20:22 21:3
older (4) 7:21 10:24 11:13,25
once (3) 10:7 13:17 14:16

ones (2) 6:10 15:11
open (7) 7:12,13,16,20,22 35:25
36:7
opening (1) 10:6
operational (1) 5:21
opportunity (4) 4:13,17 27:14,24
order (3) 1:15 3:6 19:14
outcome (1) 37:15
outreach (3) 9:19,22 10:4
oven (1) 29:6
owe (1) 13:20

P

panel (7) 7:17,24 11:8 21:18 22:22
33:3 34:1
panels (1) 21:12
pants (1) 30:13
particularly (1) 19:21
parties (1) 37:14
paying (1) 29:11
PBA (1) 34:21
PD (2) 14:16 22:19
PDF (1) 18:1
pending (5) 7:24 8:17,18 11:7,12
people (5) 4:24 16:16 26:18 27:6
30:15
percent (33) 5:18,24 6:3,8,14,15
6:18,20,23 7:3,4,5,6,6,7,8,11,13
7:15,17,21 8:6,7,9,12,25 9:1,2,3
14:25 28:7,11 29:13
percentage (1) 6:13
perfect (1) 35:3
period (2) 5:17 29:3
periodically (1) 27:8
person (3) 26:21 27:5 30:12
personal (1) 35:15
personally (1) 4:18
phenomenon (2) 29:15,25
pick (1) 5:12
picking (1) 5:9
pilot (1) 10:8
place (6) 12:10 22:15 24:10 25:18
25:22 35:3
plan (1) 12:3
plea (1) 8:18
pleased (1) 9:6
pled (1) 8:10
point (2) 13:20 18:12
pointed (1) 19:2
points (3) 25:20 29:24 30:12
police (27) 12:17 13:4,12,21 14:23
15:8,14,24 17:12,19 23:10,18
24:1 25:23 26:1,3,7 27:8,13,16
30:13,18,19,23 34:20,25 35:2

**Public Meeting of the Civilian Complaint Review Board
January 8, 2014**

<p>pool (2) 14:2 29:23 position (1) 19:24 possible (1) 17:5 possibly (1) 12:5 PRESENT (1) 2:1 President (1) 9:25 pretty (1) 29:2 previous (1) 3:19 printer (2) 18:2,3 prior (1) 8:22 problem (1) 34:5 problems (1) 19:6 procedures (1) 12:9 proceeding (1) 10:20 proceedings (2) 37:9,11 process (13) 13:19,21,23 14:6,18 22:14 24:9 25:10,11,18 34:8,11 34:13 processed (1) 6:15 product (1) 28:5 program (3) 7:19 9:23 10:8 promoted (2) 9:8,19 prosecuted (2) 8:24 16:11 Prosecution (3) 15:2,12 16:8 provide (1) 4:12 provided (3) 7:7,8 36:1 public (11) 1:1,13,22 26:11 27:23 36:2,7,8,10,14 37:6 pull (1) 31:16 pursued (1) 8:8 put (4) 12:5,9 13:18 25:18</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quarter (1) 7:2 Queens (1) 10:1 question (1) 12:13 questions (7) 16:21 19:23 21:21 24:25 25:1,4 26:9 quicker (3) 17:4 19:25 34:4 quickly (4) 9:16 15:22 16:10,20 quite (2) 17:3 30:25</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R (1) 37:2 raise (2) 21:2,8 raised (3) 25:20 27:21 29:20 rarely (1) 4:23 rate (18) 6:8,12,12,21,23 8:5,7,9 8:12 13:10 15:22 28:5,8,9,10,13 28:17,21 rationale (1) 25:14 read (2) 4:6 27:3 reading (1) 12:16 ready (1) 18:3</p>	<p>realize (1) 13:21 really (5) 10:25 27:15,24 29:22 30:7 reason (3) 7:8 16:18 31:20 reasons (3) 7:8 22:14 33:22 received (4) 5:15,17,22 8:4 recommendation (2) 8:14 25:13 Recommendations (1) 17:24 recommending (2) 15:12 24:14 record (3) 17:8,9 37:11 recording (1) 28:17 records (2) 19:14,24 Rector (1) 1:5 refer (1) 6:2 regard (3) 4:6 9:5 10:15 regarding (2) 6:25 21:5 reinventing (1) 17:7 related (2) 26:25 37:13 relationship (2) 27:15 30:13 relatively (1) 17:17 release (1) 33:13 relief (1) 19:1 remaining (1) 8:19 remember (1) 18:12 remind (1) 36:6 reopened (1) 7:25 reorders (1) 28:17 repeatedly (1) 32:21 report (23) 1:17,18 3:22,25 9:6 18:1 20:3,5 22:3,24 28:3,4,7,16 28:24 29:5,5 30:2 31:1,6,9 33:12 33:16 reported (7) 11:19 12:21 28:7 29:21 30:18 31:17 37:9 reporting (12) 1:23 12:23 28:24,25 29:1,3,3,4,7,9 30:5,22 reports (7) 1:19 10:22 16:22 17:24 20:19 21:5 28:16 represents (1) 8:16 request (1) 17:3 requests (1) 19:17 require (1) 17:6 requires (1) 21:7 resignation (1) 4:9 resigned (1) 33:6 resolution (1) 6:12 resolved (1) 11:8 respect (1) 27:6 respond (1) 17:2 responded (1) 17:4 response (6) 13:11 20:20,23,25 26:10 36:15 responsible (1) 23:18 result (1) 28:18</p>	<p>resulting (1) 6:19 results (1) 22:3 retain (1) 22:17 retaliation (1) 7:6 rethink (1) 27:15 review (5) 1:2 7:17,24 11:7,12 reviewed (1) 5:4 reviewing (1) 12:2 reworking (1) 17:7 right (16) 12:16,24 14:11,15,22 15:4,9 16:13 21:22 22:18 28:2 30:5 31:14 32:18 34:18 36:12 road (1) 16:7 room (4) 16:11 23:25 34:25 35:2 Rudolph (2) 2:7 3:11 run (2) 5:10 12:4 running (3) 9:22 10:5 23:18</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>Sachs (1) 17:25 sanction (1) 16:19 Sandy (4) 5:21 11:15 33:2,9 Saturday (1) 10:7 Saturdays (1) 10:7 saying (4) 17:21 22:19 24:3 35:7 says (2) 4:11 5:12 schedule (2) 9:14 20:12 scheduled (3) 17:14 20:10,17 scheduling (1) 9:12 scratch (1) 28:1 Second (1) 3:11 seconds (1) 3:10 see (14) 10:11 11:25 15:3,19 22:13 27:5 28:13 29:11,22 30:6 31:5 32:4,7 33:8 seeing (1) 33:2 semiannual (1) 18:1 send (1) 13:18 sending (6) 13:3,25 14:22 15:4,14 18:13 sense (2) 15:10,20 sent (3) 17:19 21:6 30:16 sergeants (1) 34:20 serve (1) 4:17 SERVICES (1) 1:23 set (1) 37:17 setting (1) 28:23 seven (4) 11:4,11,18 15:5 shape (1) 19:5 share (1) 32:20 shocked (1) 32:23 show (2) 13:1 30:22 showed (1) 18:20 shows (1) 7:2</p>
---	--	--

**Public Meeting of the Civilian Complaint Review Board
January 8, 2014**

<p>side (1) 27:5 sight (1) 28:12 sign (2) 9:17 24:2 significant (2) 28:22 30:20 similar (1) 24:24 Simonetti (17) 2:11 3:9 10:23 12:7 12:12 14:5 15:11 16:6,14 18:7 19:9 23:9,13,15,17 33:1 34:15 simple (2) 17:4 19:22 simply (1) 19:18 sitting (2) 24:1,3 six (2) 4:22 16:7 slow (1) 10:8 SOL (3) 8:22 12:6 19:4 SOLER (2) 14:21 15:4 SOLs (1) 11:17 solutions (1) 17:5 some-odd (1) 31:3 somebody (1) 24:19 something's (1) 30:24 soon (2) 17:14 18:3 sorry (5) 6:16 11:22 15:7 26:20 32:7 sort (7) 13:13 14:15 21:2,7 22:9 25:17 34:9 sound (2) 36:5,5 sounds (2) 5:13 31:10 space (1) 10:3 special (2) 33:25 34:1 specifications (3) 8:8,15 15:1 specifics (1) 17:11 speech (1) 32:20 speed (1) 16:16 spell (1) 33:17 spent (1) 5:10 spite (1) 11:14 spoke (1) 9:25 ss (1) 37:4 staff (6) 5:7 10:25 20:9 25:24 26:4 26:7 stage (1) 18:4 stands (1) 7:10 start (3) 10:8 16:16 25:22 started (2) 9:15 33:7 starting (1) 27:25 State (2) 37:3,7 statement (1) 4:6 states (3) 4:14,23 5:8 statistical (1) 14:21 statistics (5) 5:14 12:14,24 13:1 15:19 statute (5) 32:11,12,15,25 33:20 stem (1) 7:14 STENO-KATH (1) 1:23</p>	<p>stop (1) 9:4 stopped (1) 29:17 Street (3) 1:5 18:13,16 strikes (1) 35:17 strongly (1) 27:11 stuff (2) 21:5 23:22 subbed (2) 30:4 33:20 subject (3) 27:6 35:25 36:7 substantiate (2) 13:17 21:24 substantiated (13) 6:7 8:1,13 13:4 14:14 16:3 28:8 32:14,16,23 33:15,18 35:19 substantiates (1) 14:24 substantiating (2) 12:25 13:8 substantiation (5) 6:8 28:5,8,9,10 successful (1) 6:10 sudden (1) 30:3 suggesting (5) 22:16 23:14 24:15 24:16 25:15 suggestion (1) 35:19 suggestions (1) 12:8 suitable (1) 6:19 supervisor (1) 9:10 sure (5) 12:3,15 18:25 26:5 30:25 surprised (2) 29:19 30:14 system (2) 17:7 19:20 systems (2) 17:8,9</p> <hr/> <p align="center">T</p> <hr/> <p>T (2) 37:2,2 take (7) 7:4 11:10 17:1 19:17 26:7 32:8 36:17 taken (1) 27:14 takes (1) 24:10 talked (1) 27:19 talking (1) 18:8 team (3) 5:6 11:24 12:1 technique (1) 29:7 tell (2) 30:24 33:10 telling (1) 25:10 ten (1) 9:10 ten-minute (1) 36:17 tendered (1) 4:8 terms (8) 9:24 10:12 12:2 14:18 20:12 28:3 29:10 33:9 text (2) 26:19 27:3 thank (13) 4:2,17,21 10:20,21 11:20,21 12:11 18:5 20:4,6 36:12 36:13 that'd (1) 35:3 thing (6) 3:7 29:9,24 32:9 35:21,24 things (5) 9:5,24 10:14 24:2 28:4 think (36) 10:25 12:7 13:5 15:23 16:7 17:10,16 20:8 21:9,16,16,24</p>	<p>22:6,9,12,19 23:2,7 25:11,19,21 25:25 26:4 27:23 28:11,22 29:14 29:17,20 30:21 31:19 33:2,8,21 34:3,5 thinks (1) 17:10 thought (5) 15:13 25:15 26:19 32:1 32:9 three (5) 7:22 8:1 11:3,3 12:17 thrilled (1) 35:23 throw (1) 16:5 time (7) 7:4 18:12 27:10,19,24 29:16 35:8 timeline (1) 34:10 times (1) 27:22 timing (1) 13:23 tiny (1) 14:3 today (3) 3:4,5,23 told (1) 18:19 Tony (4) 11:22 19:8 30:12 32:19 Tosano (2) 2:11 3:9 total (2) 5:25 31:3 tracking (1) 6:24 Tracy (8) 1:10 2:3 4:2 10:21 17:16 26:16 30:25 33:22 tradition (1) 28:14 transcript (1) 37:11 tremendous (1) 20:9 trial (6) 8:3,18 16:11 24:13 34:25 35:2 trials (3) 8:11 20:10,17 true (1) 37:11 truly (2) 4:25 5:9 truncation (4) 28:13,15,17,21 truth (1) 30:10 try (3) 18:14,16 34:25 trying (3) 18:9 35:1,4 two (7) 7:24 11:5,11,19 12:17 19:3 23:6 type (1) 8:24 typical (1) 13:10 typically (1) 27:7</p> <hr/> <p align="center">U</p> <hr/> <p>ultimate (1) 30:15 Ultimately (1) 30:22 unclog (1) 13:15 underreported (1) 30:6 understand (12) 15:13 17:25 19:15 21:12,19 23:4 24:23 25:14 29:6 30:5 31:2 35:6 understanding (1) 34:16 unique (1) 5:1 unit (11) 6:15 9:7,9,10,11 15:2,12 15:18 16:8 20:11 34:17</p>
---	--	--

**Public Meeting of the Civilian Complaint Review Board
January 8, 2014**

<p>unresolved (1) 33:12 unsuccessful (1) 6:10 urge (1) 29:4</p> <hr/> <p align="center">V</p> <hr/> <p>vacuum (1) 24:3 valid (1) 25:20 various (3) 17:9 19:13 27:18 vast (2) 11:2 34:19 verdict (1) 22:22 verdicts (1) 23:3 view (3) 13:17,20 17:3 violates (1) 29:2 virtually (1) 12:10 voiced (1) 27:23 volume (1) 19:11</p> <hr/> <p align="center">W</p> <hr/> <p>walk-in (1) 10:9 want (12) 7:4 9:7,18 22:2 28:3 29:8 35:16,22,24 36:4,5,6 wanted (3) 4:7 7:7 35:13 wants (3) 4:17,21 22:18 wasn't (1) 30:25 water (1) 14:4 way (13) 4:12 11:7 13:12 22:11,16 25:1,14 28:6 29:3 30:5 33:19 36:5 37:15 ways (1) 16:24 we'll (7) 10:5,7 19:5 21:21 26:7 27:5 36:17 we're (14) 9:16 11:3,15 13:7,24 15:11 18:18 20:15 23:5,5 25:8 33:2,8 34:9 we've (7) 6:21,24 11:12,14 17:5 27:18 33:13 wearing (1) 30:12 website (4) 18:1 20:12,16 36:10 Wednesday (1) 1:3 week (2) 9:15 30:1 weeks (1) 17:1 welcome (2) 3:17 26:15 went (5) 32:10,24 34:21,22,23 WHEREOF (1) 37:17 willing (1) 15:25 wish (2) 26:21 27:3 withdrawn (1) 6:25 withdrew (1) 7:5 within-entitled (1) 37:10 WITNESS (1) 37:17 wonder (1) 19:4 wondering (1) 31:7 words (1) 13:11 work (4) 3:18 4:18 5:13 31:21</p>	<p>worked (1) 8:20 working (6) 3:19 4:15,23 9:11 20:15 34:12 world (1) 28:14 writing (1) 22:6</p> <hr/> <p align="center">X</p> <hr/> <p>X (3) 21:18 24:23 25:3</p> <hr/> <p align="center">Y</p> <hr/> <p>Y (3) 21:19 24:23 25:3 yeah (2) 14:19 24:4 year (14) 4:3,4 6:16,17,17 7:2,15 11:5,19 28:25 29:8 31:9,16 32:2 year-end (1) 28:24 years (3) 4:22 11:6,20 Yoon (1) 2:10 York (6) 1:6,6,24 37:3,4,7 young (2) 26:16,17 Youngik (1) 2:10</p> <hr/> <p align="center">Z</p> <hr/> <p>Z (2) 24:24 25:3</p> <hr/> <p align="center">0</p> <hr/> <p align="center">1</p> <hr/> <p>1 (1) 1:15 1,858 (1) 7:18 10:13 (1) 1:4 10:50 (1) 36:18 1000 (1) 1:6 10543 (1) 1:24 11 (1) 7:4 11,484 (1) 6:4 12 (6) 6:10 8:20 32:10,14,23 33:17 132 (1) 6:9 139 (3) 1:23 8:13,16 14 (7) 6:8 7:17,20 11:1,2,4,25 14,657 (1) 6:3 14.4 (1) 28:7 144 (3) 6:9 31:3,23 15 (1) 7:11 15th (1) 37:18 16th (1) 4:8 17 (1) 7:7 18 (3) 7:21 10:24 11:13 18-plus (3) 32:20,22 33:12 1st (1) 4:10</p> <hr/> <p align="center">2</p> <hr/> <p>2 (2) 1:16 7:8 2,082 (1) 6:6 2,394 (1) 7:11</p>	<p>2,819 (1) 7:13 20 (4) 12:25 13:4,25 30:8 2012 (6) 5:17,20,24 6:3,15,16 2013 (8) 4:8 5:16,22 6:6,8 7:10 8:13 31:3 2014 (3) 1:3 4:10 37:18 212 (3) 1:24 7:18 8:16 22 (1) 6:3 25 (3) 14:22,24 29:13 260 (1) 6:11 27 (1) 5:18 28 (2) 6:15 8:7 2nd (1) 1:5</p> <hr/> <p align="center">3</p> <hr/> <p>3 (2) 1:17 7:6 30 (3) 12:25 13:4 24:5 300 (1) 6:7 322 (1) 5:23 323 (1) 5:17 325 (1) 7:16 35 (2) 6:14 20:17 381-2061 (1) 1:24 381-2064 (1) 1:25</p> <hr/> <p align="center">4</p> <hr/> <p>4 (2) 1:18 28:11 40 (1) 1:5 410 (1) 5:15 47 (1) 8:18 474 (1) 6:17</p> <hr/> <p align="center">5</p> <hr/> <p>5 (1) 1:19 5,419 (1) 5:22 512 (1) 6:22 53 (1) 7:3 55 (1) 6:20 58 (2) 6:18 8:5 595 (1) 6:19</p> <hr/> <p align="center">6</p> <hr/> <p>6 (4) 1:20 5:24 7:6,21 606 (1) 6:17 620 (1) 6:21 64 (2) 8:12 31:5 65 (1) 7:15</p> <hr/> <p align="center">7</p> <hr/> <p>7 (2) 1:21 7:5 70 (1) 14:25</p> <hr/> <p align="center">8</p> <hr/> <p>8 (3) 1:3,22 9:1</p>
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Public Meeting of the Civilian Complaint Review Board
January 8, 2014

82 (1) 8:9
83 (2) 6:23 8:25
864 (1) 6:5
87 (1) 5:16

9

9 (1) 9:1
914 (2) 1:24,25
95-DEPOS (1) 1:24
953-3767 (1) 1:24