

**STATEMENT OF DEPUTY COMMISSIONER MICHAEL GERBER  
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON PUBLIC SAFETY**

**COUNCIL CHAMBERS  
SEPTEMBER 22, 2025**

Good morning Chair Salaam and members of the Council. My name is Michael Gerber and I am the Deputy Commissioner of Legal Matters for the NYPD. I am joined today by Deputy Commissioner Tarek Rahman, the NYPD's Department Advocate. On behalf of Commissioner Jessica Tisch, we thank you for the opportunity to testify regarding the NYPD's disciplinary system and the CCRB.

The Department's disciplinary system must be fair and effective, and under Commissioner Tisch the Department is taking wide-ranging steps to meet those goals. The Police Commissioner has made clear that allegations of misconduct against members of service must be rigorously investigated and promptly adjudicated. Allegations are to be addressed on the merits, consistent with the law and due process. The Police Commissioner has also made clear that the disciplinary process must move faster. Claims of misconduct must be examined with care, but undue delays undermine the credibility of the disciplinary system.

Of course, the participants in every disciplinary case care about the outcome. Disciplinary decisions can result in frustration and anger. We acknowledge that. Whatever disagreements there are about particular disciplinary cases, we are committed to a disciplinary system in which cases are carefully reviewed and resolved through a fair and thorough process.

The CCRB plays an important role in that system. As set forth in the New York City Charter, the CCRB has jurisdiction to investigate certain types of misconduct that uniformed members of the Department are alleged to have taken against members of the public in violation of Department policy. These include claims of excessive force, abuse of authority, discourtesy, and offensive language. The CCRB is also authorized to investigate allegations of false statements by uniformed members of service made in the course of CCRB investigations. When conducting its investigations, the CCRB will obtain materials from the NYPD and will conduct interviews. A CCRB investigator will then write a report with recommended findings. A panel of CCRB board members considers the case and decides whether to substantiate the allegations. When the CCRB substantiates, it will also recommend discipline to be imposed by the Police Department. Critically, as a matter of state law, disciplinary proceedings must be initiated within the statute of limitations—18 months from the incident in question—unless the conduct at issue would otherwise constitute a crime.

When the CCRB substantiates an allegation against an officer and refers the matter to the Department, there are different pathways that the case will take depending on the nature of the recommended penalty. When the CCRB recommends training or a command discipline—requiring an officer to forfeit up to 10 vacation days—that will generally be evaluated and processed by the Department without additional CCRB involvement. For the most serious disciplinary cases substantiated by the CCRB, which result in charges and specification against an officer, the CCRB will typically serve as the prosecutors within the Department's disciplinary system pursuant to a

2012 MOU between the Department and the CCRB. To the extent a case goes to a Department trial, a Department judge will hear testimony and receive evidence before making a recommendation to the Police Commissioner.

Under the City Charter and the Administrative Code, the Police Commissioner is responsible for discipline in the Department and is the final arbiter of all disciplinary matters. The Police Commissioner can agree with the CCRB that there was misconduct and impose the recommended penalty; the Police Commissioner can agree that there was misconduct and choose to impose a different penalty; the Police Commissioner can find that there was no misconduct and accordingly impose no discipline. When the Police Commissioner departs from CCRB's recommendation, she must explain her decision, in writing, to the CCRB. Those explanations are posted on the CCRB's website.

In this process, the work of the NYPD and CCRB intersect in two critical ways: The NYPD provides materials to the CCRB in connection with CCRB investigations, and then the NYPD decides how to resolve disciplinary recommendations that have been made by the CCRB to the Department. I want to speak about the trends and data in both aspects of the Department's work with the CCRB.

For the last several years, the Department's Legal Bureau has been responsible for providing materials from the NYPD that the CCRB needs to conduct its investigations, including documents and body-worn camera video. We are providing materials to the CCRB in a timely manner and will continue to do so. Documents requested by the CCRB are generally provided in two to three weeks. Unredacted video is typically produced to the CCRB in a little over a week. To the extent video needs to be redacted in compliance with the sealing statutes, the CCRB will have that video, on average, within a month. The bottom line is that, in most cases, the CCRB has what it needs from the NYPD within thirty days.

Historically, there have been concerns about the Department providing materials to CCRB, and I want to address them here. There was a backlog in 2020; that was cleared years ago. There was a time in 2023 when the Department was not providing data to the CCRB in connection with bias-based policing investigations. That issue is long resolved. We entered into an MOU with the CCRB in June 2023 regarding information and documents to be provided in connection with those investigations, and we consistently give CCRB what it needs pursuant to the MOU. We have also made an important change in how we handle a CCRB investigation when there is a parallel criminal investigation or a parallel investigation by our Force Investigation Division, also known as FID. Pursuant to a 2019 MOU between the NYPD and the CCRB, materials were not provided to the CCRB until after any criminal investigation or FID investigation had concluded. We recognized that this was not the right approach, and so we wrote a new MOU at the end of 2023 to ensure that when there is an ongoing criminal investigation or FID investigation the CCRB will receive the relevant materials within 90 days of request. We have honored our obligations under that MOU, without exception.

There is a broader point, beyond the data and the MOUs: We work closely with the CCRB to get the CCRB what it needs to investigate its cases. Members of our CCRB liaison unit talk with the CCRB every day. Legal Bureau executives are regularly in contact with CCRB executives. It is a



collaborative relationship to ensure that the CCRB can fulfill its mandate under the Charter.

Turning to cases in which the CCRB substantiates an allegation of misconduct: As Commissioner Tisch testified earlier this year, she was concerned that some of our procedures for CCRB substantiations did not reflect the core values underlying our disciplinary system. As a result, she made two programmatic changes that have substantially altered the way in which we handle CCRB matters. First, until early this year, we were imposing a “short SOL” rule that automatically closed CCRB cases if they came to us less than 60 business days before the statute of limitations was due to expire. On March 1, Commissioner Tisch reversed that policy and ordered that the Department make substantial efforts to review every complaint substantiated by the CCRB. This has been a sea change. In 2024, over 800 cases were closed because of the “short SOL” policy. Since March 1 of this year, there have been 3 CCRB cases closed because of the proximity in time to the statute of limitations, and in each case only after a case-specific analysis by the Department Advocate. Second, pursuant to Provision 2 of the 2012 MOU between the NYPD and the CCRB, there are certain circumstances in which the Police Commissioner can retain a case rather than having it prosecuted by the CCRB. This includes circumstances in which there is an ongoing parallel Department investigation, a related criminal investigation, or in the interests of justice when an officer has no disciplinary history or prior substantiated CCRB complaints. The Police Commissioner committed to exercising this power judiciously, and the data reflects that: In 2024, the Department exercised its Provision 2 authority 93 times; this year, that has happened 24 times.

These changes, and the Department’s commitment to engaging with CCRB on the merits, are reflected in the concurrence rate between the NYPD and the CCRB. The CCRB calculates this rate as the measure of the NYPD’s agreement with the disciplinary recommendations it receives from the CCRB. In 2023, the concurrence rate was 56%. In 2024, it was 30%. In the first half of 2025 it was 76%. And if you exclude the “short SOL” cases from the beginning of the year, the concurrence rate in the first half of 2025 was 91%. That is, in 91% of cases the Department imposed the discipline sought by the CCRB. While the Police Commissioner can, and sometimes does, disagree with the CCRB, in most cases the Police Commissioner adopts the CCRB’s recommendation.

And it is not just that the Department is agreeing with the CCRB much more often; it is also evaluating CCRB cases and imposing discipline at a much faster pace. Using the CCRB’s data on adjudicated matters, and excluding the “short SOL” cases, in 2023 the Department adjudicated cases against 637 officers. In 2024, that number was 679. In the *first half* of 2025 it was 643. Under Commissioner Tisch, the Department’s productivity when resolving CCRB cases has increased by almost 100%. While speed can never come at the expense of fairness, there is tremendous value in resolving cases expeditiously—for the CCRB and for the Department, and for both complainants and respondent officers. That is what we have committed to do, and that is what we are doing.

Thank you for the opportunity to testify today, and we look forward to answering your questions.



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Dr. MOHAMMAD KHALID  
INTERIM CHAIR

**Testimony of the Civilian Complaint Review Board before the New York City  
Council Public Safety Committee**

**September 22, 2025**

Good afternoon to you Chair Yusef Salaam, and to the entire committee. Thank you for the privilege and honor of being here today. My name is Dr. Mohammad Khalid, and I am currently the Interim Chair of the Civilian Complaint Review Board.

First, I wish to take a moment to read to you a few news headlines from this year:

From St. Louis: "City Tells Police Oversight Board to Stop Providing Oversight – Or Face Penalties"

From Iowa: "Iowa City to Dissolve Community Police Review Board to Comply with New State Ban"

From Florida: "Civilian Police Oversight in Florida Crumbles After New Law Kicks In"

Across the country, we are seeing more stories like these. But here in New York City, we are seeing more complaints of police misconduct.

Police oversight is seemingly under attack. But it is also more needed than ever.

As the nation's largest civilian police oversight board, our most important role is to work on behalf of New Yorkers to provide accountability and oversight of the New York City Police Department.

But we also serve as an example for the rest of the country, working to achieve the goal of better police-community relations. Others look to us as a model that they can follow.

How do we do this?

Perhaps most importantly, this Council's proposed Charter Revisions would help us in ways that would profoundly impact police oversight here in New York. But crucially, they would also serve as an example for other cities around the country.

First, the proposal to modify our minimum budget from a headcount-based model to a model based on the personnel costs of the Police Department would help our work dramatically. Even as the number of police officers has grown, the CCRB has not been able to keep up. This new model would revolutionize our ability to reduce the time it takes to investigate cases.



Second, the proposal to add two additional members to our board – one designated by the Police Department and appointed by the Mayor, and one appointed by the Public Advocate – would further help our Agency more efficiently handle our sizable workload. This would also help us by expanding the diversity of views on our board, enabling us to demonstrate the importance of thought leadership and discussion to our counterparts around the country.

Lastly, the proposal to alter the quorum requirements to a simple majority, not including vacant seats, would allow the Board to convene more often and at greater convenience – once again giving us the tools to more efficiently complete the vital work that our Agency undertakes.

It is hard to overstate just how transformative these proposals would be to the CCRB. We are pleased to see the City Council's support of our mission, and its desire to back that support up with specific policies.

We appreciate the work of the Commission to Strengthen Local Democracy.

These proposals alone will not enable the CCRB to fully fulfil its mission to receive, investigate, mediate, hear, make findings, and recommend action on complaints against New York City police officers.

We are the largest police oversight board in the country, and the scale of our work is even larger. In 2024, we recorded the highest number of complaints in over a decade. Many of these complaints represent the worst days of someone's life, whether they were being accused of a crime, suffering a mental health crisis, or simply going about their business.

At present, two things constrain our ability to fully represent the people of New York as they request accountability from the NYPD for alleged misconduct.

The first is that we do not have direct access to all the information our investigations require.

For example, after we begin investigating a complaint, our investigators must request access to body-worn camera footage from the police department. While this delay has decreased over time, it still represents a significant roadblock in completing our investigations in a timely manner.

The same is true for other types of records within the NYPD that may come up during an investigation. And many of the records we do request are sealed under statute. This means legally we cannot view them, and we may be unable to investigate serious allegations.

We cannot truly begin our investigation in full until we have access to all necessary records. Having direct access to all records, including access to sealed records, would make the Agency much more efficient and able to fully investigate our cases. The CCRB having direct access also means the CCRB being exempt from New York State's sealing statutes.

Second, the CCRB is empowered by law to make recommendations for discipline to the Police Commissioner, but we do not impose that discipline ourselves. We have seen this recently in CCRB cases such as LT Jonathan Rivera's killing of Allan Feliz.

Without final disciplinary authority in the cases we investigate, even the most serious substantiated allegations of police misconduct can go unchecked.

When this happens, public trust is weakened. People do not trust the CCRB, and they do not trust the other systems of public safety. This weakening of the public trust also weakens the relationship

between the police and the people they serve. This is exactly what the CCRB was designed to help fix.

It is a great privilege to lead the CCRB as Interim Chair. Every day, I see the New Yorkers who my Agency serves – walking down the street, waiting in line at the store, even sitting across from me in this hearing right now.

We are pleased to have partners in this work throughout the government, including in this chamber. We believe that together, we're able to be the voice of accountability on behalf of New Yorkers, and to be a model for other cities around the country to follow.

New Yorkers lead, and we always will.

Thank you once again for the opportunity to join you here today at this vital hearing, and I look forward to your questions.

**Testimony  
Of  
Linda Tigani, MSW  
Chair & Executive Director  
NYC Commission on Racial Equity (CORE)**

**Before the  
  
New York City Council  
Committee on Public Safety  
  
On  
Monday September 22, 2025**

**NYPD Officer Discipline and the Civilian Complaint Review Board**





## Commission on Racial Equity

Good morning, Chair Yusef Salaam and members of the Committee on Public Safety. My name is Linda Tigani, and I have the honor of serving as the Chair and Executive Director of the NYC Commission on Racial Equity (CORE). I lead CORE in partnership with 14 Commissioners and 12 staff members.

In the wake of a national uprising against police violence, NYC residents overwhelmingly voted to establish CORE, a 15-person led independent commission responsible for holding NYC government accountable to advance racial equity in government operations and increase community voices in government decision making. Commissioners and staff represent the diversity of New York City.

The primary means through which CORE fulfills its mandate is by shaping, evaluating, and monitoring the City's biennial racial equity planning process, whose centrality to our work remains undiminished by the mayor's ongoing delinquency in releasing it. To ensure that this process is guided by "the priorities of [those who] have been historically underrepresented in, or underserved by, government and its processes," CORE has engaged over an estimated 7000 New Yorkers and supported over 300 local community conversations raising recommendations for what actions government must take to improve the well-being of communities harmed by racism and social injustice.

These conversations have revealed a palpable frustration with the lack of accountability for a history of New York City Police Department actions resulting in the killing, sexual assault, harassment, and false imprisonment of Black and Brown New Yorkers. From overreliance on police to intervene in mental health crises to underinvestment in services for individuals impacted by the criminal legal system to failure to hold officers accountable for abuse of power, law enforcement reform emerged as a key priority among respondents throughout the five borough and across age and racial groups.

Of the 4,212 New Yorkers surveyed during our first round of engagement, 83.6 percent agreed that holding police officers accountable for the harm and abuse they commit is critical to improving the well-being of New Yorkers, leading CORE's commissioners to vote in November 2024 in favor of Community Equity Priority (CEP) 16 "*Ensure all city employees and their agencies, including the police and social service providers, are held accountable for any harm and abuse of power.*" Now in our second round of engagement, we have received feedback from 4,550 respondents about the relative urgency of each of the existing 18 Community Equity Priorities, and preliminary data shows that 94 percent of respondents believe that CEP 16 is an urgent task for NYC government to address.

Through our CEP community conversation programming, New Yorkers have raised some of the cases that will likely be discussed today, such as the killing of Allan Feliz, and Win Rozario,

# **NYC CORE**

## **Commission on Racial Equity**

along with the death of Saniyah Cheatham. However, these cases represent a few but are not the only cases we must address. Recent data released from the CCRB and analyzed by CORE indicates that cases complaints have skyrocketed under the Adams Administration while accountability has plummeted, with over 300 officers having evaded recommended penalties across all four of the Administration's Police Commissioners.<sup>1</sup> As news reports have continued to highlight corruption and abuse of power, NYC seems to move farther away from the equity values outlined in the opening page of our NYC Charter. Every complaint represents a person that was physically, psychologically, and emotionally abused, if they survived the interaction with NYPD. Each of those individuals, their families, and their communities deserves justice.

The Civilian Complaint Review Board, the Courts, and now NYC CORE offer individuals and families the opportunity to file complaints against NYPD abuse of power. Through NYC CORE online complaint form, our fourth charter mandate which requires that we accept complaints from the public about how agency conduct may have the effect of exacerbating racial equity disparities, New Yorkers have raised individual cases of police misconduct and practices that allow for officers to evade accountability. We have received complaints regarding the withholding of footage, the lack of communication and transparency regarding discipline decisions, and the ability for any police commissioner to disregard of the Civilian Complaint Review Board recommendations on discipline.

Therefore, I am here to propose recommendations for accountability that were raised to CORE by New Yorkers. Some recommendations may require changes in state law, city law, and some may be operational decisions within NYPD and the Mayor's Office. Irrespective of who has jurisdiction over each recommendation, NYC CORE believes that the steps below first steps towards accountability. All actions to hold police officers accountable should be done in consultation with community members, most specifically survivors of police violence, family members who have lost loved ones to police violence, and communities harmed by racism and social injustice.

- Allow for the Civilian Complaint Review Board to have final authority over police officer discipline.
- Develop and implement a Police Officer and Member of Service discipline matrix that is transparent, publicly available, and agreed upon by survivors of police violence, family members who have lost loved ones to police violence, and communities harmed by racism and social injustice.

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<sup>1</sup> Cramer, M. (2023, March 16). N.Y.P.D. Rejected Over Half of Review Board's Discipline Recommendations. New York Times. Available at <https://www.nytimes.com/2023/03/16/nyregion/nypd-discipline-recommendations.html>

# **NYC CORE**

## **Commission on Racial Equity**

- Require the NYPD comply with existing laws to turn over footage and information to existing oversight bodies to ensure timely and complete investigations into police misconduct.
- Institute accountability practices that account for the well-being of survivors, and family members harmed by police misconduct throughout the investigation and after a decision has been rendered.
- Conduct an anti-racist review of 911 script to ensure that racial bias, and bias against people experiencing mental health episode yields a response that is trauma informed and encompassing of the all the services NYC has to offer – not just police responders.

Moreover, as a parallel oversight body, CORE is particularly sensitive to the structural constraints undermining the capacity for watchdog agencies to hold city officials and institutions accountable. In order to empower the CCRB to fulfill its mandate in the most meaningful sense, the city should follow the recommendations of the recently convened Commission to Strengthen Democracy and modify the minimum budget for the CCRB from its headcount-based model to model based on the personnel costs of the Police Department. It should also ensure that Board vacancies no longer pose a barrier to investigations by authorizing sitting members to fill seats left vacant by appointing officials.

On a related note, I would be remiss if I did not echo the recommendation voiced by other public and private stakeholders that the City's Police Commissioner should either be appointed subject to the advice and consent of the Council or be an elected position which will ensure greater transparency and accountability to all New Yorkers.

In closing, I would like to remind NYC Council that our city is uniquely supported by equity infrastructure in our NYC Charter through both the preamble and Chapter 78 to enact equity practices that will further accountability. We are legally required to reject the racist, transphobic, and xenophobic rhetoric stemming from federal government and some local government actors, and instead protect, and promote the well-being of our LGBTQIA+, immigrant, disabled communities along with Black, Latinx, Asian, Pacific Islander, and Middle East North African, and all Communities harmed by racism and social injustice. Therefore, we have a responsibility to the public to do everything in our power to ensure that all police officers are held accountable for their actions, families receive justice, and no further harm is enacted.

NYC CORE expects to see integration of these recommendations, and additional measures of accountability, specifically outlined in the NYPD Racial Equity Plan, which is charter mandated. We understand that NYPD along with 44 other city agencies have completed a plan and urge the mayor to release it without further delay. We stand ready to work with community partners and NYC City Council to move forward these recommendations and advance a city that is safe, and racially just for all.





**JUMAANE D.  
WILLIAMS**

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**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS  
TO THE NEW YORK CITY COUNCIL COMMITTEE ON PUBLIC SAFETY  
SEPTEMBER 22, 2025**

Good morning,

I am Jumaane Williams, Public Advocate for the City of New York. I thank Chair Salaam and the members of the Committee on Public Safety for holding this important hearing.

On October 17, 2019, Officer Jonathan Rivera shot and killed Allan Feliz during a traffic stop in the Bronx. Mr. Feliz was unarmed, and, following the shooting, was left lying exposed in the street. This disregard for Allan's life and dignity was unjustified—and that is not just my opinion. The NYPD Deputy Commissioner of Trials, Rosemarie Maldonado, concluded that now-Lieutenant Rivera's testimony was not credible and that he did not have reason to believe the lives of his fellow officers were at risk.<sup>1</sup> Commissioner Maldonado found Rivera guilty of first-degree assault of and violating NYPD department guidelines on the use of force and recommended that he be terminated. I want to be clear that Rivera, who in the time since killing Allan Feliz has been promoted, did not face any criminal charges; the only recommended consequence for unjustifiably taking a person's life was the loss of his job. Still, despite this finding and recommendation, Commissioner Tisch refused in July to terminate Rivera.<sup>2</sup> Allan was a father, a brother, a son, a partner, and a community member, and everyone in his life was left devastated by his death. This is not accountability, and it is certainly not justice.

What happened in the case of Allan Feliz is not unusual. Though the independent Civilian Complaint Review Board (CCRB) and the NYPD Internal Affairs Bureau (IAB) are responsible for investigating complaints of misconduct involving NYPD officers, the NYPD Commissioner has the final say on all officer discipline.<sup>3</sup> This means that even in the case of substantiated officer misconduct, the commissioner can unilaterally decide they should face no consequences. Under Mayor Adams and former NYPD Commissioner Edward Caban, this practice increased—even while misconduct complaints also rose.<sup>45</sup> Even in cases where the CCRB

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<sup>1</sup> <https://www.nytimes.com/2025/02/12/nyregion/jonathan-rivera-allan-feliz-police-discipline.html>

<sup>2</sup> <https://www.nytimes.com/2025/07/03/nyregion/tisch-rivera-nypd-firing-decision.html>

<sup>3</sup>

<https://www.naacpldf.org/press-release/civil-rights-organizations-issue-response-to-independent-monitors-latest-report-regarding-nypds-discipline-process-for-officer-misconduct/>

<sup>4</sup> <https://www.propublica.org/article/nypd-tossed-out-police-misconduct-discipline-cases-edward-caban>

<sup>5</sup>

<https://ny1.com/nyc/all-boroughs/news/2025/02/12/ccrb--nypd-complaints-rise--as-do-cases-with-no-discipline-issued>

concluded that officer misconduct likely amounted to crimes, Caban frequently “retained” cases and ordered little to no discipline.<sup>6</sup>

Last week, following a CCRB vote to substantiate the charges of misconduct against the officers who killed Win Rozario, a 19-year-old in mental health crisis shot in his home in Queens, Commissioner Tisch moved ahead with the departmental charges against the two officers.<sup>7</sup> This is a promising step toward some semblance of justice for the Rozario family, but as we have seen with the charges against the lieutenant who killed Allan Feliz, it is not guaranteed. I urge Commissioner Tisch to move the case forward without delay or obstruction.

It is important to note that this is not a problem of one mayor or one commissioner: it is indicative of a systemic, entrenched culture within the NYPD where anything goes, without consequence. The NYPD purposely thwarts misconduct investigations by refusing to cooperate, such as withholding important evidence like body-worn camera footage until the statute of limitations has passed.<sup>8</sup> A 2024 report from the independent monitor appointed to oversee the NYPD found that the NYPD rarely disciplines officers who conduct unconstitutional stop-and-frisk searches, primarily of Black and Latino New Yorkers, and supervisors largely look the other way while officers violate their civil rights.<sup>9</sup>

Under this administration, the CCRB has been critically underfunded and understaffed. At the end of 2023, the CCRB announced that, due to staffing shortages and budget cuts, it would no longer be investigating certain categories of police misconduct.<sup>10</sup> This included claims against NYPD officers for threats, property seizures, untruthful statements, discourteous words or actions, or refusal to provide their name or shield number. Mayor Adams has repeatedly sought to neutralize oversight on law enforcement—not just the NYPD, but the Department of Correction as well—including pushing out the former Interim Chair of the CCRB, Arva Rice, for criticizing the way the NYPD handled the investigations into the officers who killed Kawaski Trawick.<sup>11</sup> She was absolutely correct to be critical; the NYPD purposely ran out the clock on the statute of limitations, and the officers who unjustly killed Mr. Trawick should have, at a minimum, lost their jobs.

The CCRB is itself not without flaws. Two members of the board, as part of a three-person panel that reviewed misconduct cases earlier this year, were responsible for voting to overturn nearly half the cases of substantiated misconduct in March and 40 percent of the cases in May.<sup>12</sup> The typical “flip rate” is typically around 10 percent. These two members of the board refused to share why they voted to overturn so many cases when asked by the press.

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<sup>6</sup> <https://www.propublica.org/article/nypd-tossed-out-police-misconduct-discipline-cases-edward-caban>

<sup>7</sup> <https://www.thecity.nyc/2025/09/18/win-rosario-nypd-ccrb-case/>

<sup>8</sup>

<https://gothamist.com/news/nypd-misconduct-complaints-surge-but-many-cases-dismissed-watchdog-report-finds>

<sup>9</sup> <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf>

<sup>10</sup> <https://www.fox5ny.com/news/nypd-ccrb-budget-cuts-oversight>

<sup>11</sup>

<https://ny1.com/nyc/all-boroughs/public-safety/2024/04/25/mayor-adams-denies-reports-that-chairwoman-of-police-oversight-agency-was-pushed-out>

<sup>12</sup> <https://hellgatenyc.com/ccrb-members-wont-defend-actions/>

Here is another example of where the NYPD cannot be trusted to police itself. When officers know it is extremely unlikely they will face real discipline for misconduct, it creates a culture of abuse with impunity. Last year, the NYPD cost taxpayers over \$205 million in misconduct lawsuits.<sup>13</sup> I think we can all agree this would be better spent on other things. We must empower the CCRB to enact its own discipline recommendations, and ensure they have the funding and staff necessary to complete all investigations for misconduct under their jurisdiction. They also need direct access to body-worn camera footage and other evidence so the NYPD cannot sabotage investigations by running out the clock. The CCRB's decisions should also not be influenced by the administration; if investigators and prosecutors agree that the allegations are substantiated, additional political appointees' sign-off should not be needed.

I extend my condolences to the Feliz and Rozario families and all the loved ones of those killed or otherwise harmed by the NYPD. We must all work together to do better, and ensure that we have real accountability, transparency, and justice.

Thank you.

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<sup>13</sup> <https://legalaidnyc.org/news/nypd-misconduct-lawsuits-over-205-million-2024/>



September 25, 2025

New York City Council  
Committee on Public Safety

**Re: CCRB's Racial Profiling & Bias-Based Policing Investigations Unit**

Dear Council Members:

On behalf of the Legal Defense Fund (LDF),<sup>1</sup> we thank the committee for this opportunity to provide testimony regarding failures in the New York City Police Department's (NYPD) discipline and accountability systems. For decades, the NYPD has engaged in widespread racial profiling of Black and Latino residents, leading a federal court to find that the department "implement[ed] . . . policies regarding stop and frisk in a manner that intentionally discriminate[d] based on race."<sup>2</sup> These constitutional violations led to the appointment of an independent federal court monitor in 2013 ("the Monitor"). The Monitor's work continues and is specifically and narrowly focused on the City's compliance with reforming the NYPD's use of stop and frisk<sup>3</sup> and trespass enforcement practices, which encompasses training, supervision, monitoring, and discipline related to these issues.<sup>4</sup> The Court ordered the Monitor to "regularly conduct compliance and progress reviews."<sup>5</sup> Through recent reviews, the Monitor has found that NYPD officers consistently failed to document their stops, and NYPD supervisors fail to properly discipline officers who do not document their stops and/or conduct unlawful stops.<sup>6</sup>

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<sup>1</sup> LDF is the nation's first and foremost civil rights and human rights law organization. Since its founding in 1940 by Thurgood Marshall, LDF has worked at the national, state, and local levels to pursue racial justice and eliminate structural barriers for the Black community in the areas of criminal justice, economic justice, education, and political participation. As part of that work, LDF has also forged longstanding partnerships with local advocates, activists, and attorneys to challenge and reform unlawful and discriminatory policing in New York City. In 2010, LDF, with the Legal Aid Society and pro bono counsel, filed *Davis, et al. v. City of New York, et al.* on behalf of plaintiffs challenging the New York City Police Department's (NYPD) racially discriminatory policy and practice of unlawfully stopping and arresting New York City Housing Authority (NYCHA) residents and their visitors for trespass without the requisite level of suspicion. In 2015, the *Davis* plaintiffs reached a settlement with the City that included full participation in the federal court monitoring of the NYPD that was ordered in *Floyd v. City of New York*, the historic lawsuit that successfully challenged the NYPD's unconstitutional stop-and-frisk policies and practices.

<sup>2</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 540, 663 (S.D.N.Y. 2013).

<sup>3</sup> Opinion and Order at 11, *Floyd v. City of New York* ("Floyd"), No. 1:08-cv-1034 (S.D.N.Y. Aug. 12, 2013), ECF No. 372 [hereinafter Remedial Order], <https://ccrjustice.org/files/Floyd-Remedy-Opinion-8-12-13.pdf>.

<sup>4</sup> *Id.* at 13-14.

<sup>5</sup> *Id.* The Remedial Order was later incorporated into the settlement agreement with the plaintiffs in the Order of Approval of Settlement and Order of Dismissal, *Davis v. City of New York*, No. 1:10-cv-00699-AT (S.D.N.Y. Apr. 28, 2015), ECF No. 339.

<sup>6</sup> See Mylan Denerstein, Twenty-Second Report of the Independent Monitor (Oct. 7, 2024), in *Floyd*, No. 1:08-cv-1034 (S.D.N.Y. Oct. 7, 2024), ECF 937-1, <https://www.nypdmonitor.org/wp-content/uploads/2024/10/2024.10.07-937-1-NYPD-Underreporting-of-Terry-Stops-Report.pdf>; James Yates, Report to the Court on Police Misconduct

The NYPD’s failure to discipline officers for their unlawful conduct likely contributes to the persistence of unlawful stops. The Monitor recently published a report—authored by its consulting expert, former Judge James Yates—finding that the NYPD systematically refuses to discipline officers for their unlawful stops and frisks.<sup>7</sup> Between 2017 and 2019, only 10 percent of officers were penalized with “penalty days” for complaints of unlawful stops, frisks, or searches that have been substantiated by the CCRB. During that same period, 48 percent of officers with substantiated CCRB claims were referred to instructions or training, and the remaining 36 percent of substantiated cases were disposed of without penalty.<sup>8</sup> Officers who repeatedly made unlawful stops, frisks, or searches continued to receive the same training after each violation.<sup>9</sup> Supervisors who failed to monitor or compel their officers to comply with legal requirements faced “close to non-existent discipline.”<sup>10</sup> This failure to discipline officers and their supervisors for unlawful conduct sends a message to line officers, their supervisors, and the public that the NYPD does not take these constitutional violations seriously.

The NYPD’s inadequate discipline of officers and supervisors also fosters a culture that perpetuates and condones unlawful conduct. Just days before his own resignation under the shadow of a criminal investigation, Commissioner Caban released a new, watered-down iteration of the disciplinary matrix<sup>11</sup> that reduced the penalties for a wide variety of offenses, including the penalty for using racial slurs.<sup>12</sup> These downgrades occurred *after* the Discipline Report—with all of its damning findings<sup>13</sup>—had been shared with the City for comment. In other words, the NYPD responded to the Monitor’s findings of inadequate discipline of officers by lowering discipline standards, resulting in even more inadequate discipline. Because the NYPD has repeatedly failed to discipline officers adequately, the role of independent agencies like CCRB is integral. Though the CCRB lacks ultimate authority to impose discipline on NYPD officers, it plays a critical role in holding the NYPD accountable for officer misconduct by investigating complaints within its jurisdiction—including complaints for racial profiling and biased-based policing—and recommending discipline for substantiated misconduct. To fulfill its function,

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and Discipline (Sept. 19, 2024), in *Floyd*, No. 1:08-cv-1034, (Sept. 23, 2024), ECF No. 936, <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf> [hereinafter Discipline Report].

<sup>7</sup> *Id.*

<sup>8</sup> The term “penalty days” refers to the forfeiture of vacation days and/or the imposition of suspension without pay for a specified time period. The decision to suspend, deduct vacation days, or impose a combination of both penalties is based upon the severity of the misconduct, along with any relevant aggravating and mitigating factors. Discipline Report, *supra* note 6 at 60.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> The NYPD’s disciplinary matrix sets out penalties for different types of misconduct.

<sup>12</sup> See Reuven Blau, *Caban Watered Down NYPD Misconduct Rules as Final Act*, The City (Sept. 13, 2024), <https://www.thecity.nyc/2024/09/13/caban-watered-down-nypd-punishments-as-final-act/>.

<sup>13</sup> Among the findings laid bare in the scathing 503 page Discipline Report were that CCRB findings are not given the deference required by the Remedial Order and instead are often ignored; the NYPD police commissioners have consistently exercised their unfettered authority over discipline to excuse officers of stop and frisk misconduct by concluding they acted in “good faith” even when the misconduct is confirmed by independent investigation; and that officers found to have repeatedly broken the law and violated NYPD policy are promoted more often than punished. See Discipline Report, *supra* note 6 at 41, 149, 364-368.

CCRB must have sufficient resources and direct, unfettered access to all relevant data and information for its investigations. Otherwise, New Yorkers subject to unlawful NYPD conduct, who are disproportionately Black and Brown, will be left without recourse.

**I. The City Council must ensure that the CCRB's Racial Profiling & Bias-Based Policing Investigations Unit has adequate resources.**

The CCRB is an independent city agency staffed with experienced and trained lawyers and investigators. It is empowered to receive, investigate, and mediate complaints, make findings, and recommend action when complaints against NYPD officers are substantiated for excessive or unnecessary force, abuse of authority, discourtesy, and/or offensive language.<sup>14</sup> The CCRB's investigative power comes from the New York City Charter, Section 440(C).<sup>15</sup> In 2021, the City Council passed Local Law 47, which amended the Charter so that investigations of racial profiling and bias-based policing fall under the CCRB's abuse of authority jurisdiction.<sup>16</sup>

To exercise its new authority, the CCRB created the Racial Profiling and Bias Based Policing (RPBP) Unit in October 2022.<sup>17</sup> The RPBP investigates racial profiling and biased-based policing by uniformed members of the NYPD, based on one or more of 10 protected traits: race, national origin/ethnicity, color, religion, age, immigration or citizenship status, gender/gender identity, sexual orientation, disability, and housing status.<sup>18</sup> The RPBP unit's mandate is to investigate whether an NYPD officer's law enforcement actions against a complainant were based on one or more of that person's actual or perceived protected traits. The CCRB's 2025 Semi-Annual Report noted that the RPBP Unit had 787 open complaints as of the first half of the year,<sup>19</sup> demonstrating the clear need for the Unit's work.

The creation of the RPBP Unit has been a critical step in improving accountability for NYPD officers' racial profiling and biased-based policing. Prior to its creation, the CCRB referred all profiling and biased policing complaints to the NYPD's Internal Affairs Bureau (IAB).<sup>20</sup> The NYPD's institutional reluctance to investigate and discipline claims of racial profiling and biased-based policing is perhaps best exemplified by its failure to substantiate *even one single instance of racial profiling* during the period of time when IAB had exclusive jurisdiction to investigate racial profiling complaints, despite receiving thousands of such

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<sup>14</sup> *About the CCRB*, N.Y.C., <https://www.nyc.gov/site/ccrb/about/about.page> (last visited Sept. 24, 2025).

<sup>15</sup> N.Y. C. Charter, ch. 18-A §440(C), <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCcharter/0-0-0-1641> (last visited Sept. 24, 2025).

<sup>16</sup> Loc. L. 2021/047 (N.Y.C. Apr. 25, 2021), <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCadmin/0-0-0-132892>.

<sup>17</sup> Mylan Denerstein, Twenty-First Report of the Independent Monitor at 50, in *Floyd*, No. 1:08-cv-1034 (S.D.N.Y. Sept. 4, 2024), ECF 934-1.

<sup>18</sup> *Racial Profiling & Bias-Based Policing Investigations Unit*, N.Y.C., <https://www.nyc.gov/site/ccrb/complaints/file-a-complaint/RPBP.page> (last visited Sept. 24, 2025).

<sup>19</sup> Eric Adams et al., Civilian Compl. Rev. Bd., Semi-Annual Report at 34 (2025) [hereinafter 2025 CCRB Semi-Annual Report], [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2025CCRBsemi-AnnualReport.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2025CCRBsemi-AnnualReport.pdf).

<sup>20</sup> *Racial Profiling & Bias-Based Policing Investigations Unit*, *supra* note 18.



complaints.<sup>21</sup> Now, incidents of racial profiling and racial bias must be investigated by an independent agency—the CCRB—to ensure transparency and effective accountability.

Despite the urgency of its mandate, the RPBP Unit suffers from a lack of resources to effectively hold the NYPD accountable. To thoroughly and adequately investigate claims, the unit needs investigators, attorneys, data scientists, and support staff. Without adequate funding, the RPBP Unit cannot hire enough people to adequately staff its investigations. In 2024, CCRB received 5,663 complaints, an increase from 5,542 complaints in the previous year.<sup>22</sup> However, instead of increasing the CCRB’s budget to match the rising number of complaints, the CCRB’s headcount decreased from 231 positions in 2024 to 228 in the 2025 Preliminary Budget.<sup>23</sup> Notably, the City Council has pointed out that the CCRB headcount should be closer to 376 to handle the demanding workload.<sup>24</sup>

Inadequate staffing creates a backlog, which delays investigations and defers a timely resolution of cases that civilian complainants seek and deserve. These staffing-related delays have caused investigations to extend beyond the 18-month statute of limitations,<sup>25</sup> providing yet another obstacle to meaningful discipline. As a result, the NYPD often dismisses complaints on procedural grounds without investigating their merits, leaving discriminatory and unconstitutional conduct to remain unaddressed.<sup>26</sup>

Due to staffing shortages, in 2024, the CCRB decided to stop investigating certain types of complaints altogether, including threats, property seizures, and forcible removal to hospitals.<sup>27</sup> It also suspended investigations of officers allegedly using “discourteous words” or making “untruthful statements.”<sup>28</sup> In light of these troubling developments, the City Council noted, in 2024, the deficiencies of the CCRB’s funding level as civilian complaints continued to rise,<sup>29</sup> and

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<sup>21</sup> In 2019, the Office of the Inspector General for the NYPD released a report, finding that the NYPD had never substantiated a single case of biased-based policing (out of 2,495 complaints), nearly five years into the monitorship. Press Release, NYPD Off. of the Inspector Gen., N.Y.C. Dep’t of Investigation, Complaints of Biased Based Policing in New York City: An Assessment of NYPD’s Investigations, Trainings, and Policies at 17-19 (June 2019), [https://www.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt\\_62619.pdf](https://www.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt_62619.pdf).

<sup>22</sup> Eric Adams et al., Civilian Compl. Rev. Bd., Annual Report at 4 (2024) [hereinafter 2024 CCRB Annual Report], [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2024-CCRB-Annual-Report.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2024-CCRB-Annual-Report.pdf).

<sup>23</sup> Owen Kotowski et al., Report on the Fiscal 2025 Preliminary Plan and the Fiscal 2024 Preliminary Mayor’s Management Report for the Civilian Complaint Review Board (Mar. 20, 2024), <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2024/03/054-CCRB.pdf>.

<sup>24</sup> Adrienne E. Adams et al., New York City Council’s Response to the Fiscal 2025 Preliminary Budget and Fiscal 2024 Preliminary Mayor’s Management Report at 30 (Apr. 1, 2024) [hereinafter City Council Resp.], <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2024/04/Fiscal-2025-Preliminary-Budget-Response-4.pdf>.

<sup>25</sup> N.Y. Civ. Serv. Law § 75(4).

<sup>26</sup> The Monitor even found that the NYPD improperly dismissed complaints of misconduct simply because they were near, rather than beyond, the statute of limitations, even though they could have been resolved before the statute expired. See Denerstein, *supra* note 17.

<sup>27</sup> 2024 CCRB Annual Report, *supra* note 22.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

called on the Administration to hire all vacant positions to alleviate some of these concerns.<sup>30</sup> Accordingly, the City Council requested an increase of CCRB’s baseline budget by \$15 million in fiscal year 2025 so that the CCRB and its RPBP Unit could be fully funded with increased staff.<sup>31</sup> We applaud this request from the City Council in 2024 and urge continued efforts to ensure full funding of the RPBP Unit so that it can hire the necessary attorneys, investigators, data scientists, and support staff to accomplish its mandate.

## **II. To fulfill its mandate, the CCRB must have direct and unfettered access to NYPD databases and records.**

It is crucial for the CCRB to have unfettered access to all relevant data and information regarding officers’ conduct and records to conduct timely, thorough, and effective investigations of misconduct allegations. The National Association for Civilian Oversight of Law Enforcement (NACOLE) identifies “unfettered access to records” as a foundational principle for effective civilian oversight.<sup>32</sup> In a 2021 report, the Office of the Inspector General for the NYPD recommended that the CCRB receive direct access to body-worn camera (“BWC”) footage.<sup>33</sup> However, the case-specific information that is necessary for a complete investigation—*e.g.*, body camera footage, a subject officer’s complaint history, performance evaluations, adverse credibility assessments,<sup>34</sup> and data sets of an officer’s past arrests and conduct—is currently under the exclusive control of the NYPD, which has not been fully cooperative in ensuring adequate and timely access for CCRB investigators.

The CCRB’s lack of direct access to pertinent NYPD data and records, as well as the limited time duration of data made available, creates barriers to timely, thorough, and effective investigations, thus undermining the CCRB’s mandate. For example, only seven months after the launch of the RPBP Unit, it had more than one hundred open investigations of biased-based policing,<sup>35</sup> but the NYPD repeatedly stymied these investigations by refusing to provide certain evidence to CCRB investigators that were needed to complete their investigations.<sup>36</sup> Ultimately, the Monitor had to intervene, leading to an executed agreement between the NYPD and the

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<sup>30</sup> *Id.*

<sup>31</sup> City Council Resp., *supra* note at 24.

<sup>32</sup> Michael Vitoroulis et al., Civilian Oversight of Law Enforcement, Report on the State of the Field and Effective Oversight Practices at 66 (2021), <https://www.govinfo.gov/content/pkg/GOVPUB-J36-PURL-gpo159161/pdf/GOVPUB-J36-PURL-gpo159161.pdf>.

<sup>33</sup> Press Release, NYPD Off. of the Inspector Gen., N.Y.C. Dep’t of Investigation, Sharing Police Body Worn Camera Footage in New York (Nov. 2021), <https://www.nyc.gov/assets/doi/press-releases/2021/November/21BWCRRelease.Rpt.11.05.2021.pdf>.

<sup>34</sup> Credibility determinations are particularly critical in racial profiling and bias-based policing investigations.

<sup>35</sup> Denerstein, *supra* note 17 at 50.

<sup>36</sup> *Id.*

CCRB<sup>37</sup> that required the NYPD to disclose relevant data to the CCRB concerning its investigations into allegations of racially-motivated and bias-based policing.<sup>38</sup>

Because the CCRB lacks direct access to NYPD data and records, it must fill out a request form and wait for the NYPD to process that request for every complaint and allegation under investigation.<sup>39</sup> This cumbersome process unduly delays the CCRB's access to data that is necessary for its investigations. Moreover, the data the NYPD eventually provides to the CCRB is often insufficient.<sup>40</sup> The delay caused by this request process and the insufficiency of the data that the CCRB eventually receives undermines the investigations, which often go beyond the statute of limitations and cause complaints to be dismissed on procedural grounds.<sup>41</sup>

The RPBP Unit often analyzes past arrest records and *Terry* stop records of an officer under investigation to see if there is a trend of misconduct or racial bias. Investigations may also include an analysis of officers in the same unit or in similarly situated roles, to detect whether a particular officer's arrests and *Terry* stops differ significantly from other officers, which can be evidence of bias or profiling. However, the CCRB is currently only permitted to access one year of NYPD data preceding the events alleged in a complaint.<sup>42</sup> Evaluating one year of data is often insufficient for the RPBP Unit to conduct a meaningful analysis for trends or patterns, which is more apparent from data over longer periods of time. Given that much of the relevant information is now stored electronically, it would not be burdensome for the NYPD to provide access to additional years of data and records for the RPBP Unit's investigations. For the RPBP Unit, this additional information would dramatically improve its ability to identify patterns or trends in officer conduct and conduct timely and thorough investigations.

Major cities in the United States have enacted legislation to provide their civilian oversight boards with direct access to their police departments' data for the purpose of

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<sup>37</sup> Data Sharing Agreement Between the NYPD and the N.Y.C. Civilian Compl. Rev. Bd. for the Investigations of Allegations Regarding Bias-Based Policing or Racial Profiling (June 8, 2023) [hereinafter June 8, 2023, MOU], [https://www.nyc.gov/assets/ccrb/downloads/pdf/rpbbp\\_mou.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/rpbbp_mou.pdf).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Eric Umansky, *The NYPD Is Tossing Out Hundreds of Misconduct Cases—Including Stop-and-Frisks—Without Even Looking at Them*, ProPublica (Sept. 11, 2024). CCRB had handled cases slowly “due in large part to the NYPD withholding evidence from civilian investigators, a 2020 investigation by ProPublica found.” (citing Eric Umansky & Mollie Simon, *The NYPD Is Withholding Evidence from Investigations into Police Abuse*, ProPublica (Aug. 17, 2020)).

<sup>41</sup> According to the CCRB 2025 Semi-Annual Report, from 2021-2025, the NYPD reported cases as “No Disciplinary Action – Short SOL,” meaning “that the NYPD would not pursue disciplinary proceedings against an officer because the Board’s discipline recommendation was made too close to the expiration of the statute of limitations (SOL) period. In 2024, the Department’s use of “Short SOL” decisions skyrocketed, and the DAO dismissed 890 disciplinary cases as “Short SOL,” including cases that were closed by the CCRB more than 60 days before the expiration of the SOL date.” 2025 CCRB Semi-Annual Report at 4, *supra* note 19.

[https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2025CCRBsemi-AnnualReport.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2025CCRBsemi-AnnualReport.pdf)

<sup>42</sup> June 8, 2023, MOU, *supra* note 39 at art. III(D)(1).

investigating allegations of misconduct.<sup>43</sup> For example, Chicago created the Civilian Office of Police Accountability (COPA), which plays a similar role to the CCRB in investigating allegations of misconduct.<sup>44</sup> Initially, COPA had to file a form with the police department to obtain body camera footage and data, but it now has direct access to the data.<sup>45</sup> The COPA Chief of Investigations, Shannon Hayes, stated that the difference was “night and day.”<sup>46</sup> Craig Futterman, University of Chicago Law School Professor and Director of the Civil Rights and Accountability Project of the Mandel Legal Aid Clinic since 2000, called COPA’s investigations “the highest quality [he’s] ever seen in Chicago.”<sup>47</sup> Additionally, Washington D.C.’s Office of Police Complaints, an independent investigative civilian oversight agency, “has direct access to MPD body-worn camera footage; incident reports; and stop, search, and arrest reports.”<sup>48</sup>

The RPBP Unit can be a powerful tool<sup>49</sup> to ensure that NYPD officers engaging in discriminatory or otherwise unlawful conduct are receive discipline commensurate to their actions, thereby deterring future misconduct. Currently, however, the lack of direct and unfettered access to NYPD data and records impedes the RPBP Unit’s ability to conduct timely, thorough, and effective investigations, thus undermining its ability to fulfill its important mandate. The City Council must take immediate action to rectify this problem.

### **III. Strengthening the CCRB is critical to protecting Black and Brown New Yorkers who are disparately harmed by NYPD officers’ unlawful conduct.**

The NYPD’s unlawful stop and frisk practices historically targeted Black and Brown New Yorkers, and this disparate harm continues with unlawful police stops and enforcement actions, including by NYPD specialized units. From 2022-2023, the NYPD has dramatically increased the rate at which it stops New Yorkers, with Black and Latino people comprising a staggering 88 percent of all people stopped during that time.<sup>50</sup> Since Mayor Adams took office and established policing entities like Neighborhood Safety Teams (NSTs), the NYPD is making more arrests, mostly for non-violent offenses.<sup>51</sup> Most of this so-called “proactive” policing is

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<sup>43</sup> Michael Vitoroulis, NACOLE Case Studies on Civilian Oversight: Office of Police Complaints at 12 (2021), <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0961-pub.pdf> (“The OPC has direct access to MPD body-worn camera footage; incident reports; and stop, search, and arrest reports.”)

<sup>44</sup> Eric Umansky, *How Chicago Became an Unlikely Leader in Body-Camera Transparency*, ProPublica (January 23, 2024), <https://www.propublica.org/article/how-chicago-became-leader-body-camera-transparency-police>

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Vitoroulis, *supra* note 45 at 12.

<sup>49</sup> Under the current version of the disciplinary matrix, the mitigated penalty for racially-biased policing is forced separation, and the presumptive penalty is termination. N.Y. Police Dep’t, Disciplinary System Penalty Guidelines at 47 (Sept. 9, 2024),

[https://www.nyc.gov/assets/nypd/downloads/pdf/public\\_information/nypd\\_disciplinary\\_system\\_penalty\\_guidelines\\_effective\\_09-09-2024.pdf](https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd_disciplinary_system_penalty_guidelines_effective_09-09-2024.pdf).

<sup>50</sup> Stop-and-Frisk Data, NYCLU (May 27, 2025) <https://www.nyclu.org/data/stop-and-frisk-data>.

<sup>51</sup> Chip Brownlee, *The ‘Clearances Paradox’: Could Less Policing Actually Reduce Gun Violence in New York?*, The Guardian (June 22, 2022), [www.theguardian.com/us-news/2022/jun/22/nypd-fewer-arrests-reduce-crime-new-york](https://www.theguardian.com/us-news/2022/jun/22/nypd-fewer-arrests-reduce-crime-new-york).

highly concentrated in Black and Brown communities.<sup>52</sup> While Mayor Adams and the NYPD purport deploying these units to decrease gun violence, they mostly target Black and Brown New Yorkers for low-level offenses.<sup>53</sup> As the Monitor described in a report published earlier this year, these specialized units have constitutional compliance rates on stops, frisks, and searches that are “significantly below that of patrol officers” despite the specialized training provided to the experienced officers in those units.<sup>54</sup> In 2023, the Monitor found that 97 percent of people stopped by NSTs were Black or Latino, and that over one-third of stops conducted by NSTs were unlawful.<sup>55</sup> The Monitor also found that the NYPD’s Community Response Team (CRT)—purportedly established in 2022 to focus on quality-of-life offenses—conducted illegal stops at higher rates than patrol officers, and that 97 percent of people stopped, frisked, or searched by CRT officers were Black or Latino men.<sup>56</sup>

It is, therefore, no coincidence that an evaluation of CCRB complaints found Black, Latino, Asian, and other people of color to be three times more likely than white people to be the injured party.<sup>57</sup> Misconduct by the NYPD’s Strategic Response Group also disparately harms Black and Latino New Yorkers, who comprise 87 percent of all CCRB complainants against the unit from 2015 through 2021.<sup>58</sup>

The NYPD’s systemic failure to hold officers accountable for racial profiling and other misconduct is not only a matter of accountability but of cost. A recent report from New York City Comptroller Brad Lander evaluated complaints against NYPD officers for excessive force and concluded that, in Fiscal Year 2025, “Police Action” claims were the single largest source of tort claims against the City, totaling 6,082 claims and over \$113 million in settlement payments.<sup>59</sup> New York City residents are paying the price, both in justice denied and in taxpayer dollars drained, of the NYPD’s refusal to hold its officers accountable.

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<sup>52</sup> Aaron Katersky & Teddy Grant, *NYPD Safety Team Making High Number of Unlawful Stops, Mostly People of Color: Report*, ABC News (June 5, 2023), [www.abcnews.go.com/US/nypd-safety-team-making-high-number-unlawful-stops/story?id=99850699](http://www.abcnews.go.com/US/nypd-safety-team-making-high-number-unlawful-stops/story?id=99850699).

<sup>53</sup> Sara Dorn, *NYPD’s Neighborhood Safety Teams Are Mostly Making Low-Level Arrests, Data Shows*, City & State N.Y. (Apr. 8, 2022), [www.cityandstateny.com/politics/2022/04/nypds-neighborhood-safety-teams-are-mostly-making-low-level-arrests-data-show/365450/](http://www.cityandstateny.com/politics/2022/04/nypds-neighborhood-safety-teams-are-mostly-making-low-level-arrests-data-show/365450/).

<sup>54</sup> Mylan Denerstein, Twenty-Third Report of the Independent Monitor: The NYPD’s NST and PST Units’ Stop, Frisk, and Search Practices at 17-18 (Feb. 3, 2025), in *Floyd*, No. 1:08-cv-01034 (S.D.N.Y. Feb. 3, 2025), ECF No. 952-1.

<sup>55</sup> Mylan Denerstein, Nineteenth Report of the Independent Monitor: Monitor’s Audit of the Neighborhood Safety Teams at 2 (June 5, 2023), in *Floyd*, No. 1:08-cv-01034 (S.D.N.Y. June 5, 2023), ECF No. 915-1.

<sup>56</sup> Mylan Denerstein, Twenty-Fifth Report of the Independent Monitor: The NYPD’s Community Response Team’s Stop, Frisk, and Search Practices at 2-3 (June 3, 2025), *Floyd*, No. 1:08-cv-01034 (S.D.N.Y. June 3, 2025), ECF No. 915-1.

<sup>57</sup> NYCLU, *Cop Out: Analyzing 20 Years of Records Proving NYPD Impunity* at 4 (2021), [nycclu-2021-ccrbdata-report.pdf](https://nycclu-2021-ccrbdata-report.pdf) (“People of color – Black, Latinx, Asian, Other race, American Indian – are three times more likely to be identified as the injured party in a police misconduct complaint than white people.”)

<sup>58</sup> *Why We Must Disband the NYPD’s Strategic Response Group*, NYCLU (Sept. 2021), [www.nyclu.org/sites/default/files/field\\_documents/202109\\_nyclu\\_srg\\_2pager.pdf](http://www.nyclu.org/sites/default/files/field_documents/202109_nyclu_srg_2pager.pdf).

<sup>59</sup> Justyn Richardson et al., N.Y.C. Comptroller, *A Blueprint for Department-Wide Restraint: An Analysis of NYPD Excessive Force Complaints, Claims, and Lawsuits* (Sept. 22, 2025), <https://comptroller.nyc.gov/reports/a-blueprint-for-department-wide-restraint>.



Furthermore, the NYPD's failure to discipline officers, even when the CCRB has substantiated the allegations of misconduct, deepens the devastating trauma that complainants and their families experience. In 2022, the NYPD rejected the majority of disciplinary recommendations referred by the CCRB, leaving hundreds of officer misconduct cases unaddressed in that year alone. Recently, after Allan Feliz was fatally shot by NYPD officers during a 2019 traffic stop, NYPD's Deputy Trial Commissioner found the accused officer guilty of violating department guidelines on the use of force and recommended his termination.<sup>60</sup> Nonetheless, Mr. Feliz's family must now endure the NYPD's recent decision not to impose any discipline in the case.<sup>61</sup>

## CONCLUSION

The City Council, as the primary oversight body of the NYPD, must act to end these miscarriages of justice. As officer misconduct continues, New Yorkers are looking to this body to take swift and significant action. Without meaningful consequences, communities—particularly Black and Brown, marginalized communities—are left with only grief and the reinforced belief that the NYPD is immune from any repercussions for its actions. For far too long, New Yorkers have paid the price of NYPD's failure to discipline officers and supervisors. We urge the City Council to do everything within its power to hold the NYPD accountable for misconduct and unlawful behavior. This goal can be advanced by ensuring that the CCRB and its RPBP Unit have adequate staffing and resources, as well as direct access to department records, to operate effectively and efficiently. Only then can New Yorkers have any semblance of trust and confidence in systems of accountability for NYPD officers.

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<sup>60</sup> Maria Cramer, *N.Y.P.D. Officer Who Fatally Shot Driver Should Be Fired, Judge Says*, N.Y. Times (Feb. 12, 2025), <https://www.nytimes.com/2025/02/12/nyregion/jonathan-rivera-allan-feliz-police-discipline.html>.

<sup>61</sup> Yoav Gonen, *NYPD Commissioner Tisch Declines to Punish Cop Who Fatally Shot Fleeing Driver*, The City (Aug. 19, 2025) <https://www.thecity.nyc/2025/08/19/nypd-tisch-jonathan-rivera-overruled/>.



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**BROOKLYN DEFENDER SERVICES**

**Presented before**

**New York City Council**

**Committee on Public Safety**

**Oversight Hearing on NYPD Officer Discipline and the Civilian Complaint Review Board.**

**September 22, 2025**

My name is Jacqueline Gosdigian and I am a Senior Supervising Policy Counsel at Brooklyn Defender Services (BDS). BDS provides comprehensive public defense services to thousands of people each year who are accused of a crime, facing the removal of their children, or challenging deportation. Many of the people that we represent live in heavily policed and surveilled communities and are regularly subjected to abusive behavior on the part of the New York Police Department (NYPD). I want to thank the Committee on Public Safety, particularly Chair Salaam, for holding this critical hearing about NYPD oversight and accountability, officer discipline and the Civilian Complaint Review Board.

For 29 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. In July 2025, Brooklyn Defenders assumed the criminal defense contract previously held by Queens Defenders. We are proud to now provide excellent legal services in both Brooklyn and Queens. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with the educational needs of our clients or their children, housing and benefits advocacy, and immigration advice and representation.

### **Police Misconduct, Reporting, and Oversight**

Appropriate NYPD officer conduct is dictated by the law, court orders, and the NYPD Patrol Guide. There are several mechanisms for the public to report police misconduct. New Yorkers who have experienced police misconduct can file complaints with the Civilian Complaint

Review Board (CCRB), which hears only a small fraction of the disciplinary matters involving NYPD officers. The vast majority of misconduct reviews are handled internally by units within the NYPD, including the Internal Affairs Bureau (IAB). In addition to the CCRB and the NYPD, misconduct complaints can be filed with independent agencies that have limited jurisdiction over police conduct, including the Commission on Human Rights (CHR), the Commission to Combat Police Corruption (CCPC), and the Office of the Inspector General for the NYPD (NYPD-OIG). Additionally, NYPD receives notice of officer misconduct through internal reporting from other officers or supervisors, quality-assurance audits, and court decisions. While civilians can bring complaints to multiple bodies, the NYPD Commissioner can, and regularly does, reject or downgrade CCRB *and* internal NYPD recommendations for officer misconduct.

Recently there has been a surge of NYPD in-custody deaths. As public defenders we are horrified that people arrested are at risk of dying in our city precincts and the Central Booking spaces in our courthouses. NYPD has not been held accountable for the lives lost and New York City must take concrete steps to address and oversee the crisis of deaths taking place in police custody, including when individuals are arrested and awaiting arraignment. Below are recommendations to address the lack of oversight and accountability of NYPD practices and policies related to police-citizen encounters, custodial detention and arrest, and the crisis of deaths in NYPD custody.

## **Recommendations:**

### **1. Improve transparency, NYPD data collection, and City Council oversight**

Police transparency is an essential measure for holding the NYPD, and other law enforcement agencies, accountable for the discriminatory and abusive policing practices they employ. Discriminatory and abusive policing practices make all New Yorkers less safe. Practices like stop and frisk, for example, disproportionately impact Black and brown New Yorkers, LGBTQIA+ New Yorkers, and New Yorkers experiencing homelessness. A Report to the US District Court on Police Misconduct and Discipline by Hon. James Yates, dated September 19, 2024 (“Discipline Report”) stressed that, while the NYPD does expand resources and effort to investigate “misconduct claims in general...the same cannot be said of disciplinary efforts regarding compliance with the Fourth and Fourteenth Amendments.”<sup>1</sup> The report went on to further point out that “[d]iscipline for illegal stops and frisks, even when substantiated by CCRB, is not pursued with the same vigor and resolve as for other misconduct.” What’s more, “[p]enalties for wrongdoing involving stops, questions, frisks, or searches of persons (‘SQFS’) even when repeated, are rare.”<sup>2</sup>

Public defenders usually become aware of police misconduct in connection with an encounter that results in an arrest, when someone is brought to court and speaks with their attorney about what happened to them. The vast majority of police-citizen encounters that do not result in an arrest often go unreported and overlooked. That is why the How Many Stops Act (Local Law No. 43 of 2024), which went into effect January 20, 2024, is so critical. The law has already

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<sup>1</sup> James Yates, *Report to the Court on Police Misconduct and Discipline* (Sept. 19, 2024), at 1, <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf>

<sup>2</sup> *Id.* at 7

created greater transparency by requiring the NYPD to issue regular reports detailing information on three out of the four levels of police encounters between police and civilians (the framework established by the Court of Appeals in *People v. Debour* regulating police restriction on citizen freedom of movement), including the race/ethnicity, age, and gender of the civilian involved, the factors that led to the interaction, and whether the interaction led to a summons or use of force incident. The data obtained as a result of this law should be meaningfully reviewed by the Council in monitoring and regulating the actions of the NYPD. Unlawful police-citizen encounters and broken windows policing increases the risk of custodial arrest and the inability to access medical care in NYPD custody.

## **2. Recognize the crisis of in-custody deaths and end broken windows policing**

The NYPD is increasingly policing poverty and untreated behavioral health needs through its launch of “Q-Teams” across the city.<sup>3</sup> This undermines both safety and public health. Waitlists and backlogs to access social services that address the needs of people with mental health and substance use concerns, as well as the houselessness and food insecurity that are the underlying causes of many arrests, should be eliminated. As public defenders, we see people in crisis who are far too often met with legal system involvement, when they should have been met with care. The Council should continue to invest in and build upon the Progressive Caucus’s Crisis to Care platform<sup>4</sup>, to prioritize services and compassionate public health solutions, not criminal and family court involvement. This plan will make great strides to build up NYC’s mental health infrastructure to ensure people get the treatment, housing, and programs they need.

We call on the City Council to immediately use your oversight power to question NYPD Commissioner Tisch as to her ramping up of quality of life policing efforts and require her to justify these low-level arrests, which in the past six months have resulted in the unnecessary deaths of New Yorkers in NYPD custody.

## **3. Demand NYPD cease the illegal in-custody arrests of low-level offenses**

We call on the City Council to question NYPD on their overuse of in-custody arrest rather than issuing appearance tickets for low-level offenses as required by law. At least nine New Yorkers have died in NYPD custody in 2025, three of them inside local courthouses waiting to be arraigned on low-level charges.<sup>5</sup> NYPD routinely violates Criminal Procedure Law (CPL) §150.20, which requires them (with limited exceptions) to issue appearance tickets in lieu of arresting individuals charged with violations, infractions, misdemeanors, and certain class E felonies. Custodial arrests for low-level charges are on the rise, are illegal and unwarranted, and contribute to people with medical conditions and mental health issues entering precincts and jails in which NYPD is not equipped to provide needed medical attention.

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<sup>3</sup> Jacob Kaye, *NYPD’s quality-of-life units hit Queens’ streets* (Aug. 13, 2025), <https://queenseagle.com/all/2025/8/13/nypds-quality-of-life-units-hit-queens-streets>.

<sup>4</sup> New York City Council Progressive Caucus, *Crisis to Care* (n.d.), <https://nycprogressives.com/crisis-to-care/>

<sup>5</sup> Yoav Gonen and Reuven Blau, *Deaths in NYPD Custody Doubled in Recent Years* (Sept. 17, 2025), <https://www.thecity.nyc/2025/09/17/deaths-nypd-custody-doubled-2023-2024/>



Additionally, prosecutors' disparate handling of violation and misdemeanor complaints, combined with overly harsh emphasis on pre-arraignment detention rather than issuing appearance tickets as mandated by law (CPL 150.20), should be examined by the City Council. Many of these policies exacerbate NYPD's improper use of in-custody arrests and illegal stop and frisk practices, which can ultimately contribute to the deadly nature of pre-arraignment incarceration. The practice of denying appearance tickets on petit larceny cases because of a potential order of protection for allegations of theft alone should be examined and reformed. Prosecutors, in conjunction with the courts, should organize amnesty days so people can clear old bench warrants without fear, and prosecutors should dismiss outstanding summons part (SAP) warrants.

#### **4. Conduct inspections of NYPD central booking**

We call on City Council members to use your oversight powers to visit NYPD Central Booking locations to experience firsthand the squalid and unsafe conditions that New Yorkers are detained in 24 hours a day and witness the lack of coordination between medical staff in central booking and NYPD's management of requests for medical attention.

#### **5. Create independent EMS staffing in courthouses**

The city should staff independent EMS workers, whose authority does not stem from NYPD, in every arraignment court room and every court house, during all open hours, 9:00 am through 1:00 am. This should include emergency personnel on call for the entire courthouse, which would include incarcerated people on regular court appearances from Rikers Island and other City-controlled institutions that are not providing adequate medical care.

This placement of EMS workers would be in addition to the Enhanced Pre-Arraignment Screening Unit (EPASU) staff present in central bookings 24/7. Nurses in EPASU conduct pre-arraignment medical screenings, but they are dependent on the NYPD bringing the clients to them and their presence in central bookings has not been sufficient to prevent the deaths in NYPD custody in Central Booking this year. The City Council should expand the scope of medical personnel in EPASU units to include a duty of care to evaluate all people in custody and respond appropriately to emergent medical conditions, including self-requested, attorney requested, or officer observed.

We are critically concerned about the lack of transparency and communication after a request for medical assistance has been made by a person in NYPD custody or on their behalf by our staff. In practice, we see that the NYPD does not communicate with our staff—or court staff—in cases where EMS has been contacted, is on the way, or if a person in acute need of medical care. Attorneys and court staff do not know if the person in custody has been seen by an EPASU nurse in central booking and do not receive any information from NYPD if additional care is required. In recent instances, staff have seen ambulances ready and waiting outside the courthouses, should someone in NYPD custody need emergency medical attention, but have been told by NYPD that there is a lack of personnel available to escort the person to the hospital.

This “escort problem” should not relieve NYPD of their duty to provide medical treatment for those in their custody.

As an emergency stop-gap measure to address the city’s failure to care for New Yorkers in their custody, NYC defenders will create a form that memorializes our request to the NYPD for immediate medical attention. The defense attorney will sign and note the following: date and time of request to NYPD, name and badge number of the officer to whom request was made, as well as the officer overseeing the holding area. Copies will be given to the NYPD Sergeant on duty who should include the receipt of form in digital duty logs. NYPD should, as required by the Patrol Guide, keep records of these determinations and actions. This stop-gap emergency measure does not replace the city’s obligation to care for those it has taken into custody. We are happy to provide this information to the Council in furtherance of your oversight.

## **6. Engage in oversight on suicide prevention and mental health standards**

Serious inquiry should be made into NYPD failure to implement measures to prevent death by suicide in its precincts. Inquiries must be made into whether NYPD is trained on, and in due course implementing, [mental health minimum standards](#). This inquiry should include investigation into whether established standards found in the patrol guide (PG210-04) for people NYPD has in custody who require immediate medical or psychiatric treatment are being ignored or are simply inadequate to prevent escalation of the crisis leading to death.

## **7. Strengthen the CCRB’s authority to recommend disciplinary actions**

While civilians can bring complaints to multiple bodies, the NYPD Commissioner can, and regularly does, reject or downgrade CCRB *and* internal NYPD recommendations for officer misconduct. The NYPD Commissioner receives substantiated findings of misconduct via a referral from the CCRB or an internal department investigation.<sup>6</sup> “All other recommendations for discipline are referred to, and left to, the discretion of the Police Commissioner, who may accept or reject a finding and who will then decide whether to impose a penalty, guidance, or neither.”<sup>7</sup> This includes when an NYPD officer negotiates a plea with the NYPD Administrative Prosecution Unit (APU). One analysis of released CCRB data found 260 instances, between 2014 and 2018 alone, where the Commissioner overruled, downgraded, or dismissed cases where serious misconduct by police was substantiated by the CCRB and charges were recommended.<sup>8</sup> In 2019, the rate of agreement between the CCRB and the NYPD commissioner was 51% for most cases. In more serious cases of alleged misconduct, it was less than 32%. A New York Times investigation found that as of November 2020, former Police Commissioner Shae had imposed the CCRB’s recommended penalty in 2 out of 28 cases in which charges were brought.<sup>9</sup>

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<sup>6</sup> James Yates, *Report to the Court on Police Misconduct and Discipline* (Sept. 19, 2024), at 2, <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf>

<sup>7</sup> *Id* at 2.

<sup>8</sup> ProPublica, “What it Looks Like When the Police Commissioner has Unchecked Power” <https://projects.propublica.org/nypd-unchecked-power/>

<sup>9</sup> See, New York Times, “A Watchdog Accused Officers of Serious Misconduct. Few Were Punished” <https://www.nytimes.com/2020/11/15/nyregion/ccrb-nyc-police-misconduct.html>

When police are not held accountable, victims of police misconduct suffer twice over. First from the police practices inflicted on them, and then again through the city's failure to deliver any semblance of accountability to their abusers. As defenders, we see officers with long histories of civil rights abuses continue to police the same streets and harm community members. We also see these harms compounded by retaliatory actions taken by officers against people who lodge complaints against them or their colleagues, discouraging future victims from coming forward at all. This cycle of abuse has been repeated on the streets of New York for too long, the people we represent carry long-term psychological and emotional effects from being treated as subhuman by omnipresent police forces in their neighborhoods.

Whenever a person dies in NYPD custody, City Council should require CCRB to automatically initiate independent investigations into these deaths. Council must demand that CCRB is granted direct access to NYPD records and databases *alongside NYPD Force Investigation Division (FID)* to effectively investigate these serious incidents expeditiously. The City Council should demand that CCRB is adequately staffed and resourced to fulfill their mandate. FID investigations lack transparency, and, in our experience, are neither thorough nor timely. FID should not be the primary investigative entity for the public nor the loved ones of people who have died in custody.

In light of the demonstrated inefficacy of the current system at reining in police abuse and biased policing, the City Council should explore utilizing every option at its disposal to allow for a more active role for the City Council in the selection and approval of the NYPD Commissioner. Additionally, the City Council should take this opportunity to explore ways to empower the CCRB and implement meaningful police accountability measures, including requiring automatic investigations into in-custody deaths, and removing the Police Commissioner's final authority over NYPD discipline.

Additionally, we call on the City Council to issue a formal "must-investigate" to the DOI-OIG to ensure that they conduct an investigation and review of fatal deficiencies in NYPD policies, practices, and procedures as well as FID investigations of NYPD in-custody deaths and publish a report with their findings and recommendations to prevent future deaths. DOI-OIG must conduct an inquiry into NYPD failure to implement measures to prevent death by suicide in its precincts. We urge City Council to ensure that DOI-OIG is adequately staffed and resourced to meet their obligations as an independent oversight agency over NYPD patterns and practices.

## **8. Amend the NYPD Disciplinary Matrix**

We urge the NYPD to amend its Disciplinary Matrix to eliminate the category for "negligent failure to provide medical assistance." Any failure to provide medical assistance is serious misconduct and calls for severe presumptive penalties including termination. Creating a separate category for "negligent failure to provide medical assistance" serves only to weaken accountability. "Negligence" is inherently a mitigating factor that can be considered within the Disciplinary Matrix. Since a person in custody is under the complete control of NYPD and has no recourse if they are ill, there should be serious consequences for any officer who fails to take appropriate measures to obtain treatment when a person's life is in jeopardy.

When NYPD *action* results in civilian death (i.e. discharged firearm), a member of the service “may be suspended without pay for a period not exceeding thirty days.”<sup>10</sup> In cases of criminal allegations or other serious allegations of misconduct, a member of the service may also be suspended with pay during the pendency of the investigation and disciplinary process. NYPD *inaction* that results in death should also lead to an immediate suspension and disciplinary proceedings.

## 9. Review NYPD’s use of other racially biased tactics and technologies

The federal court found NYPD’s use of stop and frisk proliferated an unofficial policy of racially targeting Black and Latine New Yorkers. The NYPD’s racist tactics are not limited to basic stop and frisk street encounters. Notably, the NYPD has spent more than \$1 billion in military-grade surveillance resources, primarily in Black, Latine, immigrant, and low-income communities.<sup>11</sup> This technology is repeatedly infringing on New Yorkers’ dignity, privacy, and First Amendment freedoms by providing technical justification for disproportionate deployment to Black and Latine neighborhoods.<sup>12</sup> Transparency in funding for the NYPD’s use of surveillance technology is necessary for the city to have meaningful oversight of the department’s use of this technical justification for broken windows policing, especially when the technology fails to contribute to public safety.

For example, the NYPD spends millions annually on ShotSpotter, a gunshot detection technology. ShotSpotter operates through an extensive network of microphones mounted in targeted neighborhoods, predominantly in Black, Latine, and low-income communities, designed to detect percussive sounds and classify them as gunfire or not based on a combination of algorithmic analysis and human review. However, the NYC Comptroller’s recent audit found that ShotSpotter’s classifications were accurate only 13% of the time, meaning that 87% of alerts led police to non-gunfire events, often consuming officer resources without adding meaningful safety benefits.<sup>13</sup> Further, Brooklyn Defender Services’ own report analyzes nine years of the NYPD’s ShotSpotter performance data, confirming that over the entirety of its use in NYC, over 83% of alerts were not determined to be gunfire.<sup>14</sup>

ShotSpotter’s lack of accuracy is not only a potential drain on resources; since ShotSpotter alerts frequently lead to stops based on alerts we now know are highly inaccurate, the system increases the likelihood of stop and frisks without reasonable suspicion or legal justification. Essentially,

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<sup>10</sup> See New York Civil Service Law § 75(3) and New York City Administrative Code § 14-123.

<sup>11</sup> Ali Watkins, How the N.Y.P.D. is using Post-9/11 Tools on Everyday New Yorkers, *NYTimes* (Sept. 8, 2021)

<sup>12</sup> See, e.g., Elizabeth Daniel Vasquez, Dismantle NYC’s Mass Surveillance Project – Start with Jail Recordings, *Truthout.org* (June 1, 2021) at <https://truthout.org/articles/dismantle-nycs-mass-surveillance-project-start-with-jail-recordings/>

<sup>13</sup> Office of the N.Y.C. Comptroller, Audit Report on the New York City Police Department’s Oversight of Its Agreement with ShotSpotter Inc. for the Gunshot Detection and Location System (June 20, 2024), <https://comptroller.nyc.gov/reports/audit-report-on-the-new-york-city-police-departments-oversight-of-its-agreement-with-shotspotter-inc-for-the-gunshot-detection-and-location-system/>.

<sup>14</sup> Brooklyn Defender Services, Confirmed: ShotSpotter Technology Increases Surveillance and Policing of Black and Latine New Yorkers, While Failing to Reduce Gun Violence, (December 2024), <https://bds.org/assets/files/Brooklyn-Defenders-ShotSpotter-Report.pdf>

ShotSpotter functions like an unreliable informant, with police using its alerts to justify stops that lack the evidentiary support required for reasonable suspicion. This pattern not only leads to unjustified stops but also increases the chance that police responding to an alert will approach on heightened alert, raising the risk of escalation during interactions that are based on faulty information. Chicago, along with several other large cities, has since canceled its wasteful and dangerous ShotSpotter contract. New York City's own contract with ShotSpotter is up for renewal in December. While technological tools like ShotSpotter are marketed as simple ways to increase the NYPD efficiency, these tools fundamentally alter the landscape of policing and surveillance, disproportionately burdening communities that are already facing the brunt of police interaction and violence.

## Conclusion

Overall, the current level of stop and frisk abuses combined with a web of NYPD special response teams, task forces, and use of surveillance technology represents a covert return to the broken-windows policing of the late 1990s and early 2000s. Through them, the NYPD has created a new locus for police-citizen encounters, one that not only lacks oversight and increases the number of unnecessary stops New Yorkers are subjected to, but also one that poses an increased risk of violence and loss of life for New Yorkers. The data reporting, information sharing, and oversight measures included in the How Many Stops Act, the recommendations in the 2024 Discipline Report, and the recommendations in the 10 Point Plan to Address In-Custody Deaths<sup>15</sup> will assist the city in addressing the lack of oversight and accountability of NYPD practices and policies related to police-citizen encounters, custodial detention and arrest, and the crisis of deaths in NYPD custody.

If you have any questions about our testimony, please feel free to contact me at [jgosdigian@bds.org](mailto:jgosdigian@bds.org).

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<sup>15</sup> Learn more on our webpage at, <https://bds.org/latest/nyc-public-defenders-community-groups-unveil-ten-point-plan-to-address-growing-crisis-of-deaths-in-nypd-custody>



Oral Testimony by Claire Thomas, of the Legal Aid Society

Sept 22<sup>nd</sup>, 2025

New York City Council  
Public Safety Committee  
Chair Yusef Salaam

My name is Claire Thomas, I am a public defender with the Legal Aid Society Brooklyn Trial office, and I represented Mr. Nieves, who is the most recent person to die while in NYPD custody. Today, I will share my experience in arraignments on August 29<sup>th</sup> to highlight the impact of a culture of impunity and lack of accountability that creates a police department that refuses to recognize the dignity and humanity of the people they have dragged into their custody. Deprivation of liberty should not result in deprivation of life.

On August 29<sup>th</sup>, I arrived at criminal court arraignments that evening and picked up the file for Christopher Nieves who was being detained after being arrested for taking food from Whole Foods – a low-level offense. At around 5pm, I went to the holding area to speak with Mr. Nieves for the first time. This area is located behind the court room, which are the dark, dirty, grim holding cells that are generally crowded, smell bad, and lack seating, forcing people to sit on the floor. This area is run by NYPD and there were at least 3 officers in there that night.

As I had never met him before, I called out Mr. Nieves' name, and he came into the interview booth to speak with me. Before I could say my name, I immediately realized he was not well and felt that something wasn't right. His skin was a sickly yellow, he was disorientated and told me he had just been in the hospital for a few months being treated for a staph infection. He then showed me his foot, which was all bandaged up; he was clearly in pain.

Although Mr. Nieves was charged with taking food from Whole Foods, which is a low-level misdemeanor, there was a real possibility that bail could be set and he could be forced to Rikers. I told him the prosecutor was going to ask for bail, which is always hard to share. He was looking at me with very wide eyes and pleaded for me to find a way to get him out.

I wanted to ensure that Mr. Nieves was not brought to Rikers, and would instead go to the hospital, so I tried to work with the arraignment ADA and the supervising ADA, informing

them that he needed immediate medical assistance, but they both refused to offer anything that would resolve his case and insisted that they would request bail.

While trying to negotiate a favorable outcome for Mr. Nieves, I continued to check on him to make sure he was okay. A few times when I checked on him, he was laying on the ground on his side; a few people told me they were worried about him because he kept passing out.

If I could see his obvious plight, and others in the holding area could, surely the NYPD charged with his care could see the same.

It got to the point that I knew something had to be done about Mr. Nieves' medical condition, at around 645, I advised him to ask the NYPD who oversaw the cell to be taken to the hospital. Shortly thereafter, I went back to check on him and didn't see him. I was told by NYPD that they were handling it. At that point, I assumed that he was going to get the medical attention that he needed.

It wasn't until closer to midnight that one of the NYPD officers came into the courtroom requesting his file. I asked her, "What happened with him? He went to the hospital, right?" She looked at me and didn't say anything, but made this gesture like she was cutting her throat. Seeing that made my knees buckle and was like that feeling of getting punched in the gut. I asked her, "what are you talking about? Did he die?" The officer said something like "oh he's just downstairs and he's bad in more ways than one." Something cryptic and weird like that. Then she walked away and wouldn't tell us anything. I remember saying to my colleague in the shift that this couldn't have possibly been her way of telling us he died, because who would actually say it that way. I finished the shift and went home, we never heard anything. I found out he died the next day from an Instagram post.

Mr. Nieves died alone. In a cell. After 10 pm. He died after asking to be taken to the hospital. NYPD refused to get him the medical help that could have saved his life. Someone getting medical attention should never be an issue; it should never be a question. I am calling on city council to hold NYPD responsible for Mr. Nieves death. I am demanding that not another life is lost by NYPD's failure to act and by this city's inability to hold officers accountable and responsible for misconduct – especially when either action or inaction results in the death of one of our community members.

September 22, 2025

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**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

## ***NYC Public Defenders, Community Groups Unveil Ten-Point Plan to Address Growing Crisis of Deaths in NYPD Custody***

**(NEW YORK, NY) - The Legal Aid Society, Brooklyn Defender Services, The Bronx Defenders, New York County Defender Services, the Neighborhood Defender Service of Harlem, elected officials, local community groups, and impacted New Yorkers** rallied today on the steps of City Hall to announce a ten-point plan to address the recent deaths in New York City Police Department (NYPD) custody.

Today's announcement comes in response to the recent deaths of [Christopher Nieves](#), 46, who died in August at the Kings County courthouse despite showing signs of illness and repeated attempts by his defense counsel to secure him urgent medical care, and [Musa Cetin](#), 29, who also died in August after being found unconscious in a holding cell at the Midtown South Precinct station house. The City's medical examiner later determined that Mr. Cetin's death was a suicide.

In July, 18-year-old [Saniyah Cheatham](#) died while in NYPD custody at the 41st Precinct in the Bronx. Police told her mother that Saniyah had taken her own life in a holding cell, but the family has publicly questioned that account and demanded the release of surveillance footage.

On March 26, a [43-year-old man](#) died while awaiting arraignment at Manhattan Criminal Court. Reports indicate he had been arrested roughly 14 hours earlier and was being held in a courthouse holding cell at the time of his death. His identity was not released, and the cause of death remains unclear.

Days earlier, on March 21, [Soso Ramishvili](#), 32, died in police custody at Brooklyn Criminal Court while awaiting arraignment. He languished in pain for three days and was deprived of medical care despite repeated pleas from defense lawyers and other personnel to secure him the treatment he needed.

[At least nine people](#) have lost their lives in NYPD custody this year alone, according to the Department.

"The thought of Christopher suffering while waiting to receive medical treatment for hours in a jail cell, before he passed away, breaks my heart," said **Candice Nieves, sister of Christopher Nieves, who passed away in NYPD custody last month.** "No matter the misconceptions about my brother, his life mattered and he didn't deserve to die! The system failed him! He was my baby brother and I loved him dearly. I wish I could have been there to wrap my arms around him during his last moments, so he could have felt he was loved and cared for. Instead he died on the cold hard jail cell floor, ignored and alone."

"These deaths are not accidents — they are the direct result of systemic neglect, failed policing practices, and the City's apathy to care for people in its custody," said **Tina Luongo, Chief Attorney of the Criminal Defense Practice at The Legal Aid Society.** "The people and communities we serve have long raised concerns about the

dangerous conditions inside NYPD custody, yet the City has failed to respond. Each death is a preventable tragedy, and we urge immediate action on this ten-point plan to help ensure that no more lives are lost.”

“At least nine people have already died this year while in NYPD custody. These are preventable tragedies, and every day without action risks more lives. Those responsible must be held accountable. The City must act now and launch full, independent investigations, guarantee access to immediate medical care in every precinct and every courthouse, and end the “broken windows” policing that targets people who are experiencing poverty, are unhoused, or are in need of mental health support. Lives are at stake today. One death in custody is already too many,” said **Piyali Basak, Managing Director, Neighborhood Defender Service of Harlem**.

“This summer, our Bronx community lost 18-year-old Saniyah Cheatham while she was in NYPD custody. Saniyah was just beginning her life, and her death should haunt every New Yorker. Families like Saniyah’s deserve answers, and automatic review by the CCRB is the very least we owe them. But justice for Saniyah must include justice for all New Yorkers who die in NYPD custody. This ten-point plan is a start, and we urge the City Council to consider it seriously and act swiftly to stop these preventable deaths,” said **Juval O. Scott, Executive Director of The Bronx Defenders**.

“There is a crisis of deaths in police custody in New York City. As public defenders, we cannot stand by as NYPD’s harmful policies, inaction, and callousness continue to claim the lives of New Yorkers,” said **Lisa Schrebersdorf, Executive Director of Brooklyn Defenders**. “NYPD’s pervasive policing of poverty and the illegal use of custodial arrests puts people in need of care into a system where their medical and mental health needs are far too often unaddressed leading to avoidable tragedies. We come together today to urge the New York Police Department, prosecutors, elected officials, and other stakeholders to take meaningful and immediate action on this ten-point plan so no more lives are lost.”

**Darren Mack, Co-Director of Freedom Agenda**, said “While New Yorkers have demanded real solutions for community safety and public health, Mayor Adams and Commissioner Tisch have turned to the failed playbook of broken-windows policing, and these tragic deaths in NYPD custody are the shameful and predictable result. Criminalizing poverty, addiction, and mental illness might play well with the billionaires Adams and Tisch want to appeal to, but it doesn’t serve New Yorkers.”

“Our members, legal service workers and attorneys representing vulnerable and working class New Yorkers, have been sounding the alarm about the life-threatening conditions in NYPD custody for years. Every New Yorker’s life is precious and yet, because those in custody are often poor or working class or Black or Brown, the NYPD feels entitled to disregard their health and safety with impunity,” said **Lisa Ohta, President of the Association of Legal Advocates and Attorneys, UAW Local 2325**. “This status quo and lack of accountability is unacceptable to us, our members, and to our clients. The time for the Mayor and the Council to stop these senseless deaths is now.”

**Council Member Tiffany Caban** said, “The fact that 9 people have died in police custody this year is a horrific indictment of our whole criminal legal system. These deaths aren’t an accident or an aberration. They are systemic failures that should outrage every New Yorker. No one should die waiting for medical care in a jail cell. The ten-point plan put forward by public defenders and advocates is urgent and deeply needed, and the Council must respond with action. We cannot allow another name to be added to this list.”

## **DEMANDS TO ADDRESS CRISIS OF IN-CUSTODY NYPD DEATHS**

**1. Recognize the crisis of in-custody deaths and end broken windows policing**  
The plan calls for ending “quality of life/broken windows” policing, which the NYPD has expanded through “[Q-Teams](#).” This approach targets poverty and untreated behavioral health needs, undermining both safety and public health. Instead, the City must eliminate waitlists and backlogs for mental health, substance use, housing, and food

support services. The budget should continue investing in the “[Crisis to Care](#)” platform advanced by the Progressive Caucus. The City Council should use its oversight power to question Commissioner Tisch on the escalation of low-level arrests, which have led to unnecessary New Yorker deaths in the past six months.

## **2. Demand NYPD cease the illegal in-custody arrests of low-level offenses**

The City Council must question the NYPD’s overuse of custodial arrests instead of issuing appearance tickets, as required by law. In 2025 alone, [at least nine New Yorkers have died](#) in NYPD custody — three while awaiting arraignment on low-level charges. The NYPD routinely violates CPL §150.20, which mandates appearance tickets for most minor offenses. These unlawful arrests are increasing, pushing people with medical and mental health needs into jails unequipped to provide proper care.

## **3. Request City Council inspections of NYPD central booking**

City Council members must use their oversight powers to visit NYPD central booking locations to experience, first hand, the squalid and unsafe conditions that New Yorkers are detained in 24 hours a day and the lack of coordination between medical staff in central booking and requests for medical attention.

## **4. Create independent EMS staffing in courthouses**

The City should station independent EMS workers — not under NYPD authority — in every arraignment courtroom and courthouse during all open hours (9am–1am), with emergency personnel also available for people brought from Rikers.

This would supplement the 24/7 [Enhanced Pre-Arraignment Screening Unit](#) (EPASU) staff in central booking, whose screenings depend on the NYPD bringing people to them and have not prevented deaths in custody. EMS must be readily available in central booking and arraignments, and the City Council should expand EPASU duties to include evaluating all people in custody and responding to medical needs — whether self-reported, attorney-requested, or officer-observed.

## **5. Engage in oversight on suicide prevention and mental health standards**

Serious inquiry is needed into the NYPD’s failure to implement measures to prevent suicides in its precincts. This should include whether officers are trained in, and consistently applying, [mental health minimum standards](#). The review must also examine whether existing patrol guide standards for people in custody who require immediate medical or psychiatric care are being ignored — or are simply inadequate to prevent crises from escalating into death.

## **6. Empower automatic CCRB investigations of in-custody deaths**

The City Council should require the Civilian Complaint Review Board (CCRB) to automatically initiate independent investigations into every NYPD in-custody death. CCRB must be granted direct access to NYPD records and databases, alongside the Force Investigation Division (FID), to ensure timely and effective investigations. The City Council should also guarantee that CCRB is adequately staffed and resourced to meet this mandate.

FID investigations lack transparency and, in public defenders’ experience, are neither thorough nor timely. For example, in the case of [Allan Feliz](#), FID kept its investigation open for more than two years, delaying CCRB’s review past the 18-month deadline for most disciplinary charges. FID should not be the primary investigative body for the public or for families of people who die in custody.

## **7. Demand DOI-OIG systemic investigation**

The plan calls on the City Council to issue a formal “must-investigate” directive to the Office of the Inspector General for the NYPD (DOI-OIG), requiring an investigation into fatal deficiencies in NYPD policies, practices, and procedures, including FID investigations of in-custody deaths. DOI-OIG should publish its findings and recommendations to prevent future deaths.

This inquiry must also address NYPD’s failure to implement suicide-prevention measures in its precincts and assess whether officers are trained on, and following, minimum mental health standards. For example, patrol



guide provision PG 210-04 requires immediate medical or psychiatric care for people in custody — standards that may not be applied.

The City Council must ensure DOI-OIG is adequately staffed and resourced to fulfill its mandate as an independent oversight body of NYPD patterns and practices.

**8. Amend the NYPD Disciplinary Matrix**

The NYPD must amend its Disciplinary Matrix to eliminate the separate category of “negligent failure to provide medical assistance.” Any failure to provide medical care to someone in custody — who is entirely under NYPD control — should be treated as serious misconduct, with severe presumptive penalties, including termination. Negligence can already be considered a mitigating factor within the Matrix; creating a separate category only weakens accountability. Just as NYPD action that causes death can trigger suspension and discipline, inaction that results in death must also lead to immediate suspension and full disciplinary proceedings.

**9. Demand Changes from Prosecutors**

The plan calls on all criminal legal system actors to take immediate steps to address their role in the crisis of in-custody deaths. Prosecutors’ disparate handling of violation and misdemeanor complaints, coupled with an excessive reliance on pre-arraignment detention instead of issuing appearance tickets as required by CPL 150.20, must be examined by the City Council. These practices contribute directly to the deadly conditions of pre-arraignment incarceration.

The policy of denying appearance tickets in petit larceny cases solely because of a potential order of protection should also be reformed. Prosecutors, working with the courts, should establish amnesty days to allow people to clear old bench warrants without fear, and should dismiss outstanding warrants.

**10. Support emergency stop-gap medical request process**

As an emergency stop-gap measure to address the City’s failure to care for people in its custody, NYC defenders will implement a formal written request form for medical attention, to be completed alongside any oral request to NYPD for emergency assistance. The defense attorney will sign the form and record the date and time of the request, the name and badge number of the officer receiving it, and the officer overseeing the holding area. Copies will be provided to the NYPD sergeant on duty, who must record receipt in the digital duty logs.

NYPD should then immediately investigate and report on the condition of the person in custody and determine what action will be taken. As required by the Patrol Guide, NYPD must also maintain records of these determinations and actions. This stop-gap measure does not replace the City’s obligation to provide adequate care for those it detains.

Read the full ten-point plan [here](#).

###



**New York City Council Hearing  
September 22, 2025  
Committee on Public Safety**

Testimony of the Legal Aid Society

*Oversight: NYPD Officer Discipline and the Civilian Complaint Review Board*

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## **EXECUTIVE SUMMARY**

The Legal Aid Society represents more people accused of crimes in New York City than any other entity and represents people in multiple major lawsuits against the NYPD for serious and unconstitutional misconduct. Through our client-centered work, we have direct access to the state of police misconduct and police discipline in New York. Based on our 149 years of experience, our recommendations to City Council are:

### **1. The Council's Immediate Response to Deaths in NYPD Custody**

- a. The Council should formally request that OIG-NYPD conduct a systemic review of NYPD's policies, practices, and procedures for protecting people in its custody; issue a report with its findings and recommendations; and hold a public hearing.
- b. The Council should formally request that OIG-NYPD review all Force Investigation Division investigations completed to date and assess their adequacy and accuracy.
- c. The Council should designate the CCRB as the primary investigative entity in serious uses of force and in-custody deaths, rather than NYPD internally investigating itself over these most serious forms of misconduct.
- d. The Council should demand NYPD remove the allegation category for "negligent failure to provide medical assistance" from the NYPD Disciplinary Matrix, which permits lower penalty levels than the "failure to provide medical assistance" allegation.

### **2. The Council's Role in Requiring NYPD To Comply With Data Transparency Laws**

- a. The Council should demand NYPD immediately publish, on the OpenData portal, all police discipline records including closing reports from its Internal Affairs Bureau and Force Investigation Division and complete, detailed individual officer misconduct records (including schedule A and B, guidance and training, and settlement agreements) in an accessible format with officer names and tax ID numbers, in compliance with the repeal of Police Secrecy Law § 50-a.

### **3. The Council's Work to Strengthen Independent Oversight and Authority Over the NYPD**

- a. The Council should work with the CCRB and the NYPD, via MOU or legislation, to provide CCRB direct access to NYPD databases housing investigative records like body-worn camera footage and to full race-based policing records, rather than limiting that access to one year of historical data.
- b. The Council should set the CCRB's budget, via legislation, at a minimum of 1% of the NYPD's total budget.
- c. The Council should pass legislation to move NYPD disciplinary trials from NYPD's own Trial Rooms back to OATH, a citywide neutral administrative tribunal empowered to conduct all city agency administrative hearings.

## **Introduction**

The Legal Aid Society (LAS), formed in 1876, provides free legal services to New Yorkers in more than 300,000 cases every year. As the largest public defender organization in New York City, we are witnesses to and experts on the impact of police misconduct on an individual's liberty and ability to live with dignity—as every one of our clients' criminal cases begins with a police interaction.

The Cop Accountability Project at LAS works to improve police accountability and transparency through litigation and advocacy against problematic policing policies affecting our criminal defense clients, their families, and communities. Our strong connection to those most impacted by police misconduct combined with our routine work on policing, racial justice, and the criminal legal system uniquely position us to provide testimony to this Committee.

LAS also represents a class of New Yorkers in *Davis et al v. City of New York et al.*, No. 10-cv-699 (S.D.N.Y.), one of three federal class action lawsuits challenging the New York City Police Department's stop-and-frisk and trespass enforcement practices. The federal monitor oversees NYPD's compliance with court-mandated reforms in these cases. Over the course of the monitorship, the federal monitor has filed a wide range of reports. Last September, The Honorable Judge James Yates recently submitted to the Court a detailed report on NYPD accountability and discipline, including 51 recommended changes to improve the system. In December 2024, numerous experts, organizations, and members of the public – including LAS as counsel in *Davis* with counsel in our companion cases, *Floyd* and *Ligon* – submitted public comment on the report and its recommendations. While our public comment While as counsel, we endorsed many of these recommendations, the federal monitor's power over NYPD discipline is limited. **We urge City**

**Council to step into its critical role in oversight over NYPD and take the remedial actions necessary to ensure accountability for police misconduct.**

With the return to broken windows policing under the current administration, immediate action is needed to stop NYPD's ongoing violations of New Yorkers' civil rights and prevent irreparable harm to their dignity and safety. This need is especially dire given the alarming number of deaths of people held in NYPD custody over the past several months. Specialized NYPD units focused on targeted and aggressive policing for low-level offenses, such as Public Safety Teams (PSTs), Neighborhood Safety Teams (NSTs), and Community Response Teams (CRTs), frequently engage in constitutional violations with little oversight or accountability.<sup>1</sup> Unsurprisingly, this has coincided with record levels of civilian complaints being filed with the Civilian Complaint Review Board (CCRB).<sup>2</sup> Meanwhile, budget cuts at the CCRB required the suspension of investigations into certain categories of alleged police misconduct<sup>3</sup> and prolonged board vacancies inhibited its ability to carry out ordinary business.<sup>4</sup>

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<sup>1</sup> Eric Umansky, *We Detailed Mayor Adams' Embrace of an Abuse-Ridden NYPD Unit. Now Lawmakers and Advocates Demand Change*, ProPublica (Mar 31, 2025) <https://www.propublica.org/article/nyc-nypd-community-response-team-eric-adams-police-abuse>; Mylan Denerstein, *Monitor's Twenty-Third Report- NYPD's NST and PST Units' Stop, Frisk, and Search Practices* (Feb 3, 2025) <https://www.nypdmonitor.org/wp-content/uploads/2025/02/2025.02.03-Floyd-Dkt.-952-1-Monitors-23rd-Report.pdf>; Mylan Denerstein, *Monitor's Twenty-Fifth Report- The NYPD's Community Response Team's Stop, Frisk, and Search Practices* (June 3, 2025) <https://www.nypdmonitor.org/wp-content/uploads/2025/06/963-Twenty-Fifth-Report-of-the-Independent-Monitor.pdf>.

<sup>2</sup> See, Ali Winston, *Complaints Against NYPD Hit 11-year High Under Pro-Police Mayor Adams*, The Guardian (Nov 9, 2023) <https://www.theguardian.com/us-news/2023/nov/09/nypd-complaints-police-eric-adams-new-york>; NYC Civilian Complaint Review Board, 2024 Annual Report, [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2024-CCRB-Annual-Report.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2024-CCRB-Annual-Report.pdf); 2025 Semi-Annual report, [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2025CCRB-Semi-AnnualReport.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2025CCRB-Semi-AnnualReport.pdf)

<sup>3</sup> Joe Anuta, *New York Police Oversight Body Warns of Curtailed Operations in Face of Budget Cuts*, POLITICO (Dec 13, 2023), <https://www.politico.com/news/2023/12/13/new-york-police-oversight-body-warns-of-curtailed-operations-in-face-of-budget-cuts-00131644>.

<sup>4</sup> Reuven Blau, *Police Complaint Panel Struggles to Get Work Done While Missing Members*, THE CITY (Sept 24, 2024), <https://www.thecity.nyc/2024/09/24/ccrb-civilian-complaint-vacancies-nypd-eric-adams-city-council/>.



A recent surge of in-custody deaths following arrests for low-level offenses highlight the devastating human cost of the Adams administration's embrace of aggressive quality-of-life policing. Soso Ramishvili should not have died while left in a holding cell for three days experiencing medical distress for alleged shoplifting. Nor should Christopher Nieves have tragically lost his life while in a NYPD holding cell after being arrested and accused of shoplifting food. Yet NYPD's failure to provide medical assistance meant a death sentence for these low-level accusations. Indeed, these deaths are just two among many that were totally preventable. Forty people have died in NYPD custody in 2023 and 2024 – the highest two-year toll in nearly a decade – due to the department's failure to protect and safeguard human lives.<sup>5</sup>

The historical reluctance of NYPD leadership to discipline officers has led to a culture of impunity that has thrived within the department for decades, signaling to the families and loved ones of those that have died in NYPD custody that there will be no justice. It has also bred mistrust and anger among New Yorkers affected by police violence and harassment who no longer trust NYPD leadership to keep them safe and ensure they are treated fairly. NYPD's particular reluctance to impose adequate penalties for substantiated improper stop-and-frisks and instances of racial bias also contribute to the persistent problem of meaningfully holding officers accountable.<sup>6</sup>

Independent experts have long documented how arbitrary, opaque, and delayed decision-making has contributed significantly to this lack of accountability.<sup>7</sup> The Police Commissioner's

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<sup>5</sup> Yoav Gonen and Reuven Bleu, *Deaths in NYPD Custody Nearly Doubled in Recent Years*, The City (Sept 17, 2025), <https://www.thecity.nyc/2025/09/17/deaths-nypd-custody-doubled-2023-2024/>.

<sup>6</sup> Report to the Court on Police Misconduct and Discipline, *Floyd et al. v. City of New York et al.* ("Floyd"), No. 1:08-cv-1034-AT, (S.D.N.Y. 2023), ECF No. 936 ("Discipline Report"), <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf>.

<sup>7</sup> MARY JO WHITE, ROBERT L. CAPERS & BARBARA S JONES, *The Report of the Independent Panel on the Disciplinary System of the New York City Police Department* (2019), <https://www.independentpanelreportnypd.net/assets/report.pdf>.

unfettered discretion has thwarted independent accountability efforts too often. Illustratively, the latest department-wide statistics also point to a considerable *decrease* in the overall number of penalty days issued per year, despite an increase in misconduct complaints.<sup>8</sup> In 2022, the department docked officers a total of 13,252 penalty days. In 2023, that figure was 12,768.<sup>9</sup> The recent reduction of penalties for various misconduct categories in the NYPD Disciplinary Matrix further reinforces a culture impunity within the Department.<sup>10</sup> Most recently in the case of the tragic death of Allan Feliz, both the Civilian Complaint Review Board (CCRB) and the NYPD Deputy Commissioner of Trials (DCT) recommended firing then-Sergeant Jonathan Rivera for shooting and killing Mr. Feliz point-blank in the chest. But Police Commissioner Tisch disregarded this recommendation, imposed zero discipline, and absolved Rivera of any wrongdoing, highlighting how accountability efforts by independent entities can be undermined, ultimately diminishing public trust in the police department.<sup>11</sup> In fact, Rivera has been promoted to Lieutenant in the years since Mr. Feliz’s death.

We submit this testimony with recommendations for immediate City Council action to strengthen accountability and discipline for police misconduct, along with a copy of our joint public comments on the September 2024 Discipline Report submitted in the federal monitorship. We will discuss our specific recommendations to address the urgent crisis of the deaths in NYPD custody before discussing our broader recommendations to improve independent oversight and

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<sup>8</sup> See Charles Lane and Samantha Max, *NYPD Misconduct Complaints Surge But Many Cases Dismissed, Watchdog Report Finds*, Gothamist (Feb 10, 2025) <https://gothamist.com/news/nypd-misconduct-complaints-surge-but-many-cases-dismissed-watchdog-report-finds>

<sup>9</sup> New York City Police Department, *Discipline in the NYPD 2023* (May 8, 2025), [https://www.nyc.gov/assets/nypd/downloads/pdf/analysis\\_and\\_planning/discipline/2023%20Discipline%20Report.pdf](https://www.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/discipline/2023%20Discipline%20Report.pdf).

<sup>10</sup> Reuven Bleu, *Caban Watered Down NYPD Misconduct Rules as Final Act*, The City (Sept 13, 2024) <https://www.thecity.nyc/2024/09/13/caban-watered-down-nypd-punishments-as-final-act/>

<sup>11</sup> Yoav Gonen, *NYPD Commissioner Tisch Declines to Punish Cop Who Fatally Shot Fleeing Driver*, The City (Aug 19, 2025), <https://www.thecity.nyc/2025/08/19/nypd-tisch-jonathan-rivera-overruled/>.

accountability for officer misconduct. While these recommendations are non-exhaustive, they are necessary steps to improve civilian oversight, accountability, and discipline to better protect against individual officer wrongdoing.

### **The Crisis of NYPD In-Custody Deaths Requires An Immediate Response**

This year alone, at least nine people have lost their lives in NYPD custody. The NYPD has yet to provide any comprehensive information about the circumstances leading up to these deaths or any steps being taken to prevent similar tragedies in the future. In short, the NYPD refuses to acknowledge this alarming string of deaths as a crisis that demands scrutiny of the department's policies, procedures, training, investigations, and accountability mechanisms.

In New York state, police agencies, including the NYPD, are required to report arrest-related deaths to the NYS Division of Criminal Justice Services (DCJS).<sup>12</sup> Since 2021, the NYPD failed to report *a single* in-custody death to DCJS, despite clear requirements under the law.<sup>13</sup> This failure to abide by the most basic reporting requirements is indicative of NYPD's disregard for their duty of care for those in their custody.

### ***OIG-NYPD Must Review How and Why NYPD Failed to Protect People In Custody***

An independent, systemic review into the NYPD's policies, practices, and procedures for ensuring the safety and well-being of people in NYPD custody is required – including a review of the provision of medical care and implementing safeguards against death by suicide. This Council should formally request that the Department of Investigation's Office of the Inspector General for

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<sup>12</sup> Executive Law § 837-v\*2

<sup>13</sup> New York State Department of Criminal Justice Services, *Arrest-Related Deaths: Incidents by Agency (1/1/2021-7/31/2025)*, September 2025. <https://www.criminaljustice.ny.gov/crimnet/ojsa/Arrest-Related%20Death%20Incidents%20reported%20as%20of%207-31-25.xlsx>

the NYPD (OIG-NYPD) conduct such review, issue a report with its findings and recommendations, and hold a public hearing to determine whether NYPD will change its practices to align with nationally accepted best practices.

***OIG-NYPD Must Conduct a Comprehensive Review of Deficient Investigations by the NYPD's Force Investigation Division (FID)***

While the City must act to prevent future deaths, it must also ensure accountability and justice for those who have already died. Every in-custody death, as well as every high-level use of force, requires a thorough and impartial investigation to determine whether any of the officers involved violated department policy, procedure, or the law.<sup>14</sup>

The creation of NYPD's Force Investigation Division (FID) was spurred by the death of Eric Garner in 2014, promising to restore public trust. NYPD FID is largely modeled after a similar unit created within the Los Angeles Police Department (LAPD)<sup>15</sup>, although with crucial differences, explained later in this testimony. The FID's purpose is to assume the role of primary investigator following most serious use-of-force incidents involving an NYPD officer, including all incidents where an officer discharges a firearm or where a person dies or is seriously injured while in police custody.<sup>16</sup>

Over ten years have passed since the creation of the FID, yet public trust has not been restored. Indeed, there is little evidence to support that it conducts objective and thorough investigations. There is a notable lack of transparency surrounding the outcomes of FID

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<sup>14</sup> “[I]t is plausible that an incident could occur when the application of force is permissible under New York State and/or federal law yet violates department policy.” NYPD 2023 Use of Force Report at 17, <https://www.nyc.gov/assets/nypd/downloads/pdf/use-of-force/use-of-force-2023.pdf>.

<sup>15</sup> John Annese, *EXCLUSIVE: NYPD Poised to Create Special Unit to Investigate Officer-involved Shootings*, *Sources Say*, SI Live (Mar 17, 2015), [https://www.silive.com/news/2015/03/exclusive\\_nypd\\_poised\\_to\\_creat.html](https://www.silive.com/news/2015/03/exclusive_nypd_poised_to_creat.html).

<sup>16</sup> New York City Police Department, *Use of Force Report 2023* (Dec 30, 2024), <https://www.nyc.gov/assets/nypd/downloads/pdf/use-of-force/use-of-force-2023.pdf>.

investigations. For example, while the department publishes an annual report on use of force<sup>17</sup>, none of these reports include information as to whether FID investigations determined that an officer violated the law or NYPD policy. In contrast, CCRB publishes closing reports for all completed investigations.

Reporting on several high-profile FID investigations shows that the Division's investigators frequently fail to adhere to the most basic investigative processes and techniques, exonerating officers who were determined to have engaged in wrongdoing by independent investigators. For example, in the case of the death of Kawaski Trawick, FID investigators failed to probe the involved officers on key exchanges prior Mr. Trawick's shooting or examine inconsistencies between officer statements and available video evidence.<sup>18</sup> In the case of Delrawn Smalls, FID exonerated Officer Wayne Issacs when CCRB substantiated three improper-use-of-force charges against Isaacs — one for each shot — that constituted the crime of assault in the second degree.<sup>19</sup> And in the case of the death of Allan Feliz, FID investigators exonerated now-Lieutenant Jonathan Rivera, who was later found to have been guilty of misconduct by both the CCRB and eventually the NYPD's own Deputy Commissioner of Trials (DCT).

These discrepancies between FID investigations and the findings of fact by other entities call into question whether FID can effectively investigate and make findings on matters of significant public concern. Therefore, we also call on this Council to formally request that OIG-NYPD review FID investigations completed to-date to determine if they are sufficiently thorough, objective, and impartial. OIG-NYPD should determine and assess whether FID can or should

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<sup>17</sup> See <https://www.nyc.gov/site/nypd/stats/reports-analysis/use-of-force.page>

<sup>18</sup> Mike Hayes and Eric Umansky, *Video Showed an Officer Trying to Stop His Partner From Killing a Man. Now We Know Police Investigators Never Even Asked About the Footage*, ProPublica (May 11, 2023), <https://www.propublica.org/article/nypd-kawaski-trawick-killing-investigation-questions>.

<sup>19</sup> Yoav Gonen, *Nine Years After Fatal Shooting, NYPD Cop to Face Disciplinary Trial*, The City (Apr 8, 2025) <https://www.thecity.nyc/2025/04/08/brooklyn-road-rage-cop-killed-discipline-delay/>

continue to serve as the primary investigator for high-level uses of force and in-custody deaths, and determine whether a more effective system, with additional independent oversight, should be implemented.

***Authorize the CCRB to Assume the Role of Primary Investigator into High-level Uses of Force and In-Custody Deaths***

This Council can and must take bold action to further strengthen independent oversight of NYPD and promote meaningful transparency. The numerous issues cited with FID investigations leads to our proposal to authorize the CCRB as the primary investigative entity in serious uses of force and in-custody deaths as the independent agency with the demonstrated experience and authority to fulfill this role. The absence of basic information about these deaths, the demonstrated deficiencies of FID investigations, and the lack of accountability in these matters has eroded public trust in the NYPD's ability and willingness to hold officers who have committed wrongdoing to account.

Accountability begins with a thorough and robust investigation adjudicated based on findings of fact and conclusions of law and policy. Despite being purportedly modeled on the LAPD's FID, NYPD's FID lacks a critical component of the LAPD model: strong independent, external oversight. The Los Angeles Board of Police Commissioner's Office of the Inspector General (OIG), which provides independent oversight of the LAPD, maintains a Use of Force Section staffed by representatives who are on-call at all hours of the day. OIG staff are immediately notified of any high-level use of force and respond immediately to the scene to oversee the initial investigation in "real time."<sup>20</sup> At the conclusion of the internal investigation, the OIG provides a

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<sup>20</sup> See <https://www.oig.lacity.org/use-of-force-section>



separate, independent analysis of the incident to present to the LAPD's Board of Police Commissioners.<sup>21</sup>

New York City's system for providing oversight of high-level use of force investigations lags behind not only Los Angeles, but many other large cities throughout the United States. In Chicago, their CCRB equivalent, the Civilian Office of Police Accountability (COPA), is notified of critical incidents and is also authorized to deploy investigators immediately to the scene to start an investigation.<sup>22</sup> In Seattle, the Office of Police Accountability monitors high-level force investigations and has unfettered access to the scene of the incident and all evidence.<sup>23</sup> Denver's Office of the Independent Monitor (OIM) is also similarly authorized to respond to the scenes of high-level uses of force and monitor investigations.<sup>24</sup>

In stark contrast, there is no such independent, external oversight of NYPD FID investigations.<sup>25</sup> While the CCRB has concurrent jurisdiction over the same incidents that may be investigated by FID, CCRB investigations have been repeatedly hampered by FID. In both the Kawaski Trawick and Allan Feliz cases, NYPD used FID's duplicative investigation as an excuse to withhold crucial evidence from the CCRB.<sup>26</sup> In the case of the shooting of Allan Feliz, NYPD's repeated delays in producing evidence to the CCRB resulted in the expiration of the statute of

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<sup>21</sup> *Id.*

<sup>22</sup> Chicago Municipal Code § 2-78-120. *See also* <https://www.chicagocopa.org/about-copa/rules-regulations/>

<sup>23</sup> Seattle Police Department Policy Manual 8.400 – Use of Force Reporting and Investigation; *see also* Seattle Office of Police Accountability, *Internal Operations and Training Manual* (October 25, 2021), <https://www.seattle.gov/documents/Departments/OPA/Policy/2022-OPA-Manual-Final.pdf>.

<sup>24</sup> Denver Revised Municipal Code § 2-373(a).

<sup>25</sup> The Use of Force Review Board, an internal NYPD entity composed of senior executive NYPD staff, reviews the most serious force cases, determines whether the actions of a member of the service were within policy and makes disciplinary recommendations to the Police Commissioner when uses of force fall outside policy.

<sup>26</sup> *See* Thomas Tracy, *Excessive Force or a Justified Shooting? A Fatal NYPD Encounter Nears a Long-awaited Resolution*, NEW YORK DAILY NEWS, (Nov. 13, 2024), <https://www.nydailynews.com/2024/11/13/excessive-force-or-a-justified-shooting-a-fatal-nypd-encounter-nears-a-long-awaited-resolution/>; Mike Hayes and Eric Umansky, *Video Showed an Officer Trying to Stop His Partner From Killing a Man. Now We Know Police Investigators Never Even Asked About the Footage*, PROPUBLICA, (May 11, 2023), <https://www.propublica.org/article/nypd-kawaski-trawick-killing-investigation-questions>.

limitations for discipline, resulting in additional obstacles for the CCRB to investigate and pursue accountability.<sup>27</sup>

The NYPD and CCRB have since entered a Memorandum of Understanding (MOU) to share evidence in FID cases within 90 days of a request by the CCRB.<sup>28</sup> In sensitive cases such as those involving the death of a civilian, the initial days of an investigation are often the most critical. A 90-day delay is a major impediment to the CCRB's ability to thoroughly and expeditiously investigate these cases.

A roster of senior CCRB investigators throughout the city should be authorized to immediately respond to and have full access to the scenes of any Level III or Level IV use of force incident.<sup>29</sup> These investigators shall be granted complete access to the scene, canvass for witnesses, interview officers, and have unfettered access to NYPD records, described further below, to support their investigation.

### ***Penalties for Any Failure to Render Medical Aid Must Reflect Serious Misconduct***

The penalties for police misconduct should be proportional to the severity of the offense, signaling to the public that serious violations are not disregarded. When officers are not held accountable, it reinforces a culture that tolerates misconduct, failing to deter future offenses. When

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<sup>27</sup> See Honorable Rosemarie Maldonado, NYPD Deputy Commissioner of Trials, *In the Matter of Charges and Specifications against Lieutenant Jonathan Rivera*, Tax Registry No. 949550, [https://nypdonline.org/files/949550\\_08152025\\_2025029.pdf](https://nypdonline.org/files/949550_08152025_2025029.pdf) at 3-4. (“An exception to this statutory deadline is permitted pursuant to the Civil Service Law where the misconduct “complained of and described in the charges

would, if proved in a court of appropriate jurisdiction, constitute a crime.” Relying on this crime exception to the limitations period, however, frequently results in a greater evidentiary burden for the administrative prosecutor.”)

<sup>28</sup> See [https://www.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/2023/MOU/NYPD-FID-CCRB-MOU.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/2023/MOU/NYPD-FID-CCRB-MOU.pdf)

<sup>29</sup> This is the equivalent investigative jurisdiction of FID. Level III uses of force include force readily capable of causing death or serious injury, except firearm discharges or alleged or suspected use of a chokehold or prohibited method of restraint or alleged/suspected excessive force (serious physical injury) or attempted prisoner suicide or serious physical injury to a non-member of service. Level IV uses of force include all police firearms discharge or any discharge of a member of service's firearm fired by someone other than the member or a non-member of the service dies or is seriously injured and likely to die. See 2023 NYPD Use of Force Report at 65, <https://www.nyc.gov/assets/nypd/downloads/pdf/use-of-force/use-of-force-2023.pdf>

NYPD action leads to a civilian death – as in cases involving the discharge of a firearm – immediate suspension is standard.<sup>30</sup> The same must apply when NYPD *inaction* results in death. Arresting officers, transport officers, or booking sergeants should face suspension pending an independent investigation and disciplinary proceeding for this serious misconduct if they fail to render medical aid.

Since 2021, CCRB substantiated 46 cases for “refusal to obtain medical care” and of those substantiated, the most common penalty was less than 5 penalty days and nearly half of all substantiated cases resulted in no NYPD discipline whatsoever.<sup>31</sup> Any failure to provide medical care to someone in custody — who is entirely under NYPD control — should be treated as serious misconduct, with severe presumptive penalties. While the Disciplinary Matrix treats the “intentional or reckless failure/refusal to provide medical assistance” as serious misconduct with a presumptive penalty of 30 days and dismissal probation, the inclusion of a separate category for “negligent failure” proscribes a presumptive penalty of a mere 5 days.<sup>32</sup> Yet, the Disciplinary Matrix already accounts for numerous aggravating and mitigating factors – the inclusion of “negligent failure to provide medical assistance” is, therefore, duplicative and redundant. Negligence is an inherently mitigating factor. The inclusion as a separate category with significantly less severe penalties merely serves to weaken accountability. We recommend that

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<sup>30</sup> See Administrative Guide procedure 318-05, *Cause for Suspension or Modified Assignment*, see also New York Civil Service Law § 75(3). A member of the service “may be suspended without pay for a period not exceeding thirty days.” See also, New York City Administrative Code § 14-123. In cases of criminal allegations or other serious allegations of misconduct, a member of the service may also be suspended with pay during the pendency of the investigation and disciplinary process.

<sup>31</sup> CCRB data available at [https://data.cityofnewyork.us/Public-Safety/Civilian-Complaint-Review-Board-Complaints-Against/2mby-ccnw/about\\_data](https://data.cityofnewyork.us/Public-Safety/Civilian-Complaint-Review-Board-Complaints-Against/2mby-ccnw/about_data)

<sup>32</sup> NYPD Disciplinary Matrix at 24-25, [https://www.nyc.gov/assets/nypd/downloads/pdf/public\\_information/nypd\\_disciplinary\\_system\\_penalty\\_guidelines\\_effective\\_09-09-2024.pdf](https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd_disciplinary_system_penalty_guidelines_effective_09-09-2024.pdf)

this Council demand the NYPD eliminate the separate allegation category for “negligent failure” to provide medical assistance. [REDACTED]

Tragic interactions between NYPD and the community are swept under the rug too often, with little recourse for victims and their families. The public deserves more robust oversight and meaningful transparency into not only high-level uses of force and in-custody deaths, but *all* forms of misconduct that officers have engaged in.

### **NYPD Must Publish Comprehensive Data of Misconduct and Disciplinary Records To NYC OpenData Portal**

Five years since the repeal of Police Secrecy Law § 50-a, NYPD continues to resist meaningful transparency of misconduct and disciplinary records. This is in stark contrast with the CCRB, which publishes comprehensive, relational data regarding police officers, civilian complaints, allegations, and penalties on the NYC OpenData Portal.<sup>33</sup> In addition, CCRB publishes investigative closing reports and departure letters on its website.<sup>34</sup>

The same cannot be said of the NYPD. Closing reports for any type of investigation — whether conducted by NYPD’s Internal Affairs Bureau or FID — are not freely available online, and NYPD frequently delays producing these documents in response to Freedom of Information Law (FOIL) requests.<sup>35</sup> While NYPD maintains a “Personnel” website<sup>36</sup> containing a limited subset of documents relating to discipline, the website is woefully incomplete, limited to a narrow

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<sup>33</sup> See [https://data.cityofnewyork.us/browse?sortBy=relevance&pageSize=20&Dataset-Information\\_Agency=Civilian+Complaint+Review+Board+%28CCRB%29](https://data.cityofnewyork.us/browse?sortBy=relevance&pageSize=20&Dataset-Information_Agency=Civilian+Complaint+Review+Board+%28CCRB%29).

<sup>34</sup> See <https://www.nyc.gov/site/ccrb/complaints/complaint-status/check-complaint-status.page>; <https://www.nyc.gov/site/ccrb/complaints/redacted-departure-letter.page>.

<sup>35</sup> “NYPD...takes an average of 134 days to respond to FOIL requests.” Alicia Abramson, *N.Y.’s Broken System of Government Transparency*, New York Daily News (Jun 10, 2025) <https://www.nydailynews.com/2025/06/10/n-y-s-broken-system-of-government-transparency/>

<sup>36</sup> See <https://nypdonline.org/link/personnel>.

subset of misconduct cases, and missing crucial context because of the lack of the accompanying investigative reports.

Transparency is essential to rebuilding community trust with the NYPD. The Department must demonstrate — rather than merely promise — that it is taking misconduct and discipline seriously by making available misconduct and discipline data that the public can download and analyze, and by making investigative documents publicly available for the public to scrutinize.

Until very recently, NYPD only published individual misconduct data on its “Officer Profile” database<sup>37</sup>, which journalists have called “shockingly unreliable” because “[c]ases against officers frequently vanish from the site for days—sometimes weeks—at a time.”. Indeed, between May 2021 and June 2024, “at least 88% of the disciplinary cases that once appeared in the data ha[d] gone missing at some point, though some were later restored.”<sup>38</sup> Weeks after a ProPublica report exposed the NYPD’s faulty database, the NYPD successfully “restored more than 2,000 missing discipline records” but “it also removed case numbers” which could “mak[e] future oversight more difficult.”<sup>39</sup>

The stability of the Office Profile database is only one of its many problems. While the database purportedly contains officer disciplinary histories, the records available are limited to a very narrow subset of discipline: discipline resulting from “charges and specifications” and schedule “C” command disciplines.<sup>40</sup> This excludes a substantial amount of misconduct: charges and specifications resulting in a finding of guilt at trial is among rarest form of discipline within

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<sup>37</sup> NYPD Online, *Officer Profile*, <https://nypdonline.org/link/1026> (last visited September 17, 2025)

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See <https://nypdonline.org/link/1026> (“Currently displays charges and specifications and corresponding penalties resulting from a plea of guilty, plea of nolo contendere, or a finding of guilty after trial. Cases from occurred 2010 – 2021 are displayed at this time. (Note: The date indicated is the date the charges were approved). The report also displays substantiated allegations resulting in a schedule “C” command discipline(s) and the amount of penalty days imposed.”).

the department and schedule “C” command disciplines are exceedingly rare compared to the much more frequently issued schedule “B” and “A” disciplines issued at the command level. It also excludes discipline resolved through settlement agreements. In addition, the database excludes the all-too-common instance where an officer was referred for guidance and training — the most common form of action taken in response to stop-and-frisk-related misconduct.<sup>41</sup>

The database often lacks any meaningful details about the disciplinary case. In most instances, the actual allegation(s) and penalty imposed are conspicuously absent. Case numbers and relevant dates — such as the date of the incident, when the investigation was started and completed, when a trial was completed, or when the actual penalty was imposed, are also absent. Further, the NYPD Officer Profile data is not available in a downloadable format, which prevents meaningful analysis of these records.

The importance of meaningful transparency cannot be overstated, especially for those who have been accused of crimes. In a criminal proceeding in the Bronx, one of our public defenders obtained a court ruling directing the prosecution to produce missing records of an officer’s disciplinary history, only to be informed that such records related to a Schedule B command discipline had been destroyed pursuant to NYPD practice. The existence of the record was only apparent because the investigation into the underlying misconduct was conducted by the CCRB, and the CCRB publishes a comprehensive data set of its investigations into alleged misconduct. This raises serious additional concerns about the retention of misconduct records, NYPD flouting *Brady* and discovery obligations, and destruction of evidence.

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<sup>41</sup> See generally Report to the Court on Police Misconduct and Discipline, Floyd et al. v. City of New York et al. (“Floyd”), No. 1:08-cv-1034-AT, (S.D.N.Y. 2023), ECF No. 936 (“Discipline Report”), <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf>.



This Council should legislate a requirement that NYPD publish more fulsome misconduct and discipline data on NYC OpenData. While the recent availability of downloadable data on NYC OpenData is a positive step, the limitations mentioned above evince an effort to obfuscate rather than illuminate. At a minimum, the data should take the form of a relational dataset, like the data published by the CCRB, that would allow the public to conduct meaningful analysis on officers, complaints, allegations, penalties, and other forms of remedial action such as training and instructions. The data should include all allegations, regardless of the investigating entity within the NYPD or the disposition of the allegation. Similarly, it should include *all* forms of discipline — including schedule “B” and “A” command disciplines. The data should also include tax identification numbers for officers so that records can be accurately attributed to the correct officers.

#### ***Mandate Public Disclosure of Internal NYPD Investigations Findings and Recommendations***

When the public can see the outcome of an investigation, including any disciplinary action, it helps validate the concerns of complainants and shows that misconduct is not tolerated. When a police department handles internal investigations, it can lead to perceptions of cover-ups and a lack of accountability. Meaningful public access to this type of information is essential for a productive dialogue about oversight and accountability. We recommend that closing reports for internal NYPD investigations be published to NYC OpenData Portal, like CCRB’s proactive posting of all investigative closing reports.

#### **Strengthening Independent Oversight & Accountability**

The erosion of public trust necessitates, at the very least, independent investigation into abuses of authority by police. Strong, independent oversight is essential to increased accountability.

### ***Provide CCRB Direct Access to NYPD Databases***

CCRB experiences persistent issues of delays and timeliness caused by a myriad of factors, often exacerbated by a lack of direct access to records. We urge the City to work with the two agencies to move towards providing CCRB direct access to NYPD records instead. Ensuring direct access for CCRB investigators would streamline processes as well as conform to best practices in civilian oversight of law enforcement.<sup>42</sup> A limited number of CCRB staff should be provided with direct access to NYPD databases housing records commonly used for investigations – including body-worn camera footage, roll calls, activity logs, stop reports, enforcement data, and disciplinary histories as maintained by the Department Advocate’s Office – to reduce any potential burdens of staff for both agencies.

Providing direct access eliminates unnecessary procedural steps.<sup>43</sup> For example, CCRB access to body-worn camera footage is governed by a process that first requires filing a formal request, awaiting a response from NYPD for such request that also entails an internal review and NYPD liaison, and NYPD finally granting access to the records requested. While recent reports show improved turnaround times for body worn camera video requests compared to previous years, the current process continues to risk that delays will persist. In cases involving multiple officers or in complex investigations, this process is repeated multiple times – a process that risks compounding any minor delays into much lengthier ones. Rather than maintaining unnecessary

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<sup>42</sup> See generally, Michael Vitoroulis, Cameron McEllhiney, and Liana Perez, *Civilian Oversight Of Law Enforcement: Discipline Report On The State Of The Field and Effective Oversight Practices*. (Washington, DC: Office of Community Oriented Policing Services 2021).

<sup>43</sup> See July 30, 2025 Civilian Complaint Review Board Public Board Meeting Minutes at 33-34, available at [https://www.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/2025/minutes/20250730-boardmtg-minutes.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/2025/minutes/20250730-boardmtg-minutes.pdf)

procedural hurdles, CCRB should be granted direct access. Indeed, OIG-NYPD recommended CCRB be granted direct access to body worn camera footage in a report published in 2021.<sup>44</sup>

Currently, the production of NYPD records to CCRB is governed by several MOUs. However, these MOUs can also create unnecessarily restrictive terms. Take for example a data sharing agreement between the CCRB's Racial Profiling and Biased Based Policing Unit (RPBP) and NYPD limit CCRB's request for historical records and enforcement data for a subject officer to 12 months preceding the subject incident of the misconduct investigation.<sup>45</sup> The time frame allotted for this particular request is arbitrarily restrictive and limits the efficacy of the data in assessing racial bias thus hindering the overall investigation. One year of historical enforcement data is not sufficiently representative of the behavior of any subject with more than one year of service. Even a subject officer with a short employment history can temporarily alter their behavior if they are aware they might be under scrutiny. The RPBP Unit must have the freedom to make a case-by-case determination of what constitutes a statistically representative sample of a given subject's enforcement history. Relying on such an arbitrarily small data set is akin to asking a bank to determine a person's credit score from only one year of financial activity. There is no stated reason to limit the time frame of this data so narrowly. This is particularly true when considering other historical data that is shared is not similarly restricted, like an officer's assignment, disciplinary or training history.

***Ensure that the CCRB Receives Adequate Funding and Resources to Meet Public Expectations***

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<sup>44</sup> New York City Department of Investigation, Office of the Inspector General for the NYPD, *Sharing Police Body Worn Camera Footage in New York City* (Nov 5, 2021) <https://www.nyc.gov/assets/doi/press-releases/2021/November/21BWCRRelease.Rpt.11.05.2021.pdf>

<sup>45</sup> Data Sharing Agreement Between the New York City Police Department and the New York City Civilian Complaint Review Board For the Investigation of Allegations Regarding Bias-Based Policing or Racial Profiling (Jun 8, 2023) available at [https://www.nyc.gov/assets/ccrb/downloads/pdf/rpbp\\_mou.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/rpbp_mou.pdf)

Fundamentally, CCRB must have adequate resources to be effective. In recent years, the CCRB has been unable to investigate all the complaints within its jurisdiction.<sup>46</sup> CCRB's total budget should be, at a *minimum* 1% of the NYPD's budget.<sup>47</sup> This budget floor is necessary given recent increases in the number of complaints to the CCRB, multiple expansions of CCRB's jurisdiction, the complexity of the types of allegations CCRB investigates, difficulties retaining staff due to noncompetitive salaries, and its obligations to fulfill FOIL requests for police misconduct records following the repeal of Civil Rights Law §50-a in 2020.

The CCRB's annual budget as a percentage of the NYPD's budget is also much smaller than similarly situated civilian oversight agencies throughout the country.<sup>48</sup> However, it is important that the City should be prepared to allocate additional funding as police tactics change and the CCRB's jurisdiction potentially expand to ensure that the CCRB can effectively carry out its mandate. Allocating sufficient resources to the CCRB is a crucial determinant to its overall effectiveness as an independent oversight agency. Providing adequate resources signals to the public the City's commitment to strong, independent civilian oversight of the NYPD.

### **Improve the Integrity of NYPD Disciplinary Processes**

Independence in the determination of police discipline is a necessary component of promoting the integrity of the NYPD disciplinary process. Any appearance of bias undermines

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<sup>46</sup> "[T]he Agency closed 22.5% of all complaints without investigation in 2024." CCRB 2025 Budget Testimony, available at [https://www.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/Speeches-Testimonies/CCRB2025BudgetTestimony.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/Speeches-Testimonies/CCRB2025BudgetTestimony.pdf)

<sup>47</sup> NYC Commission to Strengthen Local Democracy, *Preliminary Staff Report To The Commission* (April 21, 2025), at 35, <https://static1.squarespace.com/static/678ab684e1a2cb193dfc38af/t/68065a4585446c4b9cba176f/174524679010/0/Prelim+Report+April+21.pdf> ("Preliminary Report"); NYC Commission to Strengthen Local Democracy, Updated Recommendations (June 6, 2025), <https://static1.squarespace.com/static/678ab684e1a2cb193dfc38af/t/684897193b69af6b6e886301/1749587738022/6.6.25+Updated+Recommendations+Memo+Final.pdf> ("Updated Recommendations").

<sup>48</sup> Sharon Fairley, *The Impact of Civilian Investigative Agency Resources on the Timeliness of Police Misconduct Investigations*, 26 New York University Journal of Legislation and Public Policy 563, 590 (2024).

accountability systems. We propose returning NYPD disciplinary trials to a truly fair and neutral venue to avoid any appearance of bias.

### ***Return Disciplinary Trials to the Office of Administrative Hearings and Tribunals (OATH)***

From the late 1980s to 2003, NYPD disciplinary hearings stemming from CCRB cases were conducted by OATH.<sup>49</sup> OATH is a citywide administrative tribunal empowered to conduct hearings for “all agencies of the city” unless otherwise required.<sup>50</sup> The Council should pass legislation to move NYPD disciplinary trials from NYPD’s own Trial Rooms back to OATH. Returning NYPD disciplinary hearings to OATH would place NYPD officers before a neutral arbiter—an administrative law judge—rather than one associated with the NYPD that may give the appearance of bias.

NYPD disciplinary hearings were moved from OATH to the NYPD Trial Room in 2003 as a result of a First Department decision in *Lynch v. Giuliani*, 301 A.D.2d 359 (1st Dep’t 2003), which held that OATH could not preside over disciplinary trials involving complaints filed with the CCRB. However, experts, including the Honorable James Yates – a former New York State Supreme Court Justice and current member of the stop-and-frisk federal monitorship – have concluded that *Lynch*’s holding is not supported by law, and a new court reviewing *Lynch* would be unlikely to maintain its holding.<sup>51</sup> There is no discernable, justifiable reason why NYPD officers should not be subject to the same process as all other city employees for disciplinary hearings.

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<sup>49</sup> Commission to Combat Police Corruption, *The New York City Police Department’s Prosecution of Disciplinary Cases* (July 2000), <https://www.nyc.gov/assets/ccpc/downloads/pdf/The-NYPD-s-Prosecution-of-Disciplinary-Cases-July-2000.pdf> at 26.

<sup>50</sup> Chapter 45-A, N.Y.C. Charter § 1048.

<sup>51</sup> Report to the Court on Police Misconduct and Discipline, *Floyd et al. v. City of New York et al.* (“Floyd”), No. 1:08-cv-1034-AT, (S.D.N.Y. 2023), ECF No. 936 (“Discipline Report”) at 179, <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf>.

### **Conclusion**

We continue to urge the City's elected officials to significantly strengthen the oversight and accountability for NYPD officer misconduct with our enclosed recommendations. We remain available to this Committee to discuss our recommendations and proposals further. Thank you for the opportunity to submit our testimony.



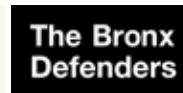
Joint Comment from the *Floyd, Davis, and Ligon* Plaintiffs

in Response to the

Report to the Court on Police Misconduct and Discipline

by the Honorable James Yates

December 25, 2024



The Department Advocate’s Office must improve its procedures for imposing discipline in response to the Civilian Complaint Review Board’s (“CCRB”) findings of substantiated misconduct during stops. This improvement must include increased deference to credibility determinations by the CCRB, an evidentiary standard that is neutral between the claims of complainants and officers, and no general requirement of corroborating physical evidence.

*Floyd* Remedial Order at 684

[E]xcusing established misconduct, such as a stop or frisk without objective reasonable suspicion, merely because the Police Commissioner declares that the officer meant well or acted in good faith, is in clear defiance of the opinions in *Floyd*.

The Honorable James Yates,  
Report to the Court on Police  
Misconduct and Discipline  
September 19, 2024

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## I. Introduction

Over eleven years ago, after a months-long trial, this Court found that the New York City Police Department (“NYPD”) maintained a policy and practice of engaging in unconstitutional stop, question, and frisk (“SQF”). The Court found that the NYPD’s SQF policies and practices condoned racially profiling Black and Latino New Yorkers in violation of the Fourteenth Amendment and stopping and frisking them without appropriate justification in violation of the Fourth Amendment. The Court explained the bases for these findings in a detailed Liability Opinion.<sup>1</sup> Simultaneously, the Court issued a Remedial Order directing the NYPD to take specific steps to bring its SQF policies and practices into compliance with the law.<sup>2</sup>

That Remedial Order required, among other things, that the City and the NYPD hold officers who commit SQF-related misconduct accountable by imposing meaningful discipline on them. To implement that remedy, the Court ordered the NYPD to improve its discipline processes and specifically ordered the NYPD to give more deference to the investigations being conducted by the Civilian Complaint Review Board (“CCRB”), an independent City agency staffed with experienced lawyers and investigators.

But the NYPD has failed to comply with this order, as is made clear in Judge James Yates’s Discipline Report.<sup>3</sup> In the Discipline Report, Judge Yates found, among other things, that CCRB findings are not given the deference required by this Court’s order and instead are often ignored; that NYPD police commissioners have consistently exercised their unfettered authority over discipline to excuse officers of SQF misconduct by determining they acted in “good faith,” even

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<sup>1</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013) (“Liability Opinion”).

<sup>2</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 668 (S.D.N.Y. 2013) (“Remedial Order”). The Remedial Order was later incorporated into the settlement agreement with the plaintiffs in the Stipulation of Settlement and Order, *Davis v. City of New York*, No. 1:10-cv-00699-AT (S.D.N.Y. Apr. 28, 2015), ECF No. 339 (“*Davis Settlement*”).

<sup>3</sup> Report to the Court on Police Misconduct and Discipline, *Floyd et al. v. City of New York et al.* (“*Floyd*”), No. 1:08-cv-1034-AT, (S.D.N.Y. 2023), ECF No. 936 (“Discipline Report”).

when the misconduct is confirmed by independent investigation and the officers have long disciplinary histories; and that officers found to have repeatedly broken the law and violated NYPD policy are promoted more often than punished. Indeed, while the Discipline Report was being finalized, it was reported that former Commissioners Sewell and Caban swept misconduct under the rug even more often than their predecessors.<sup>4</sup> And even now, with the evidence before it and a reasonable road map provided by Judge Yates after years of in-depth study, the City refuses to take responsibility for its failures, choosing instead to focus on meritless procedural challenges to the Discipline Report.<sup>5</sup>

The Court has the power to take action in response to the Discipline Report's findings. As a starting point, the Discipline Report provides 51 recommendations aimed at specific disciplinary failures. The Court can and should so-order those recommendations by directing the parties and the Monitor to meet and confer on a proposed order implementing them. To that end, this comment proceeds in three parts: First, Plaintiffs place the factual conclusions of the Discipline Report in the broader context of the history of these cases and more recent developments in NYPD disciplinary practices, in order to further inform the Court's consideration of the Report's recommendations. Second, Plaintiffs outline the Court's legal authority to order the Discipline Report's recommendations, which is grounded in the Court's power to respond to the City and the NYPD's long failure to comply with the Remedial Order, as well as its power to modify the original Remedial Order and order new relief. Third, Plaintiffs present the case that the Discipline Report's

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<sup>4</sup> Eric Umansky, *The NYPD Is Tossing Out Hundreds of Misconduct Cases—Including Stop-and-Frisks—Without Even Looking at Them*, PROPUBLICA (Sept. 11, 2024), <https://www.propublica.org/article/nypd-tossed-out-police-misconduct-discipline-cases-edward-caban>.

<sup>5</sup> See Ltr. from T. Zimmerman to J. Torres, (Dec. 9, 2024), *Floyd*, ECF No. 946 ("Zimmerman Letter"); Order (Dec. 22, 2024), *Floyd*, ECF No. 948.

recommendations should be ordered by the Court because they are well-supported measures to remedy ongoing causes of violations of the law.

Even should the Court so-order the Discipline Report's recommendations, that will not finish the job. The evidence establishes that the absolute authority of the Police Commissioner over discipline will remain a major obstacle to compliance. Plaintiffs hope that the new Commissioner—who Plaintiffs acknowledge enters the role with a reputation for efficiency and innovation—will see in the Discipline Report an opportunity to repair a broken system. Perhaps, while working to implement the remedies ordered by the Court, she will even exceed Judge Yates's recommendations. Perhaps she will recognize that imposing accountability on employees who break the law and violate NYPD policy is not only a way to end the City's decades-long practice of unconstitutional SQF but is also an effective management tool. We sincerely hope so. But the long historical record across numerous commissioners demonstrates that vesting the power of discipline solely in the commissioner impedes accountability even if the occasional commissioner proves an exception to the rule. The culture within the NYPD of failing to hold police officers accountable for their violations of the rights of the Plaintiff class has deep roots, no matter who the commissioner is. And previous commissioners have also begun their tenures promising reform. Meaningful disciplinary reform requires a court order implementing the Discipline Report's recommendations as a first step and may require more fundamental reform and further court orders before the City is able to achieve compliance with the discipline-related court orders, and before the City is able to achieve substantial compliance overall.

## **II. The Discipline Report Reflects the NYPD's Decade-Long Failure to Comply with the Remedial Order**

### **A. The Court Ordered Changes to NYPD Systems for Investigating and Disciplining Misconduct Due to Failures Tantamount to Condoning Racial Profiling**

From the outset of this litigation, Plaintiffs linked the NYPD's racial profiling of Black and Latino people in violation of the Fourth and Fourteenth Amendment to its "failure to properly and adequately monitor and discipline [its] officers." 2d Am. Compl., *Floyd*, ECF No. 50 at 35–36; *see also* Am. Compl., *Davis*, ECF No. 69 at 46, 48. While encouraging officers to stop and frisk increasing numbers of people in the early 2000s, the NYPD was simultaneously failing to properly discipline officers who stopped people unlawfully, even when independent investigations by the CCRB identified unconstitutional stops. As the number of stops conducted by the NYPD surged, from 98,000 in 2002 to over 500,000 in 2006,<sup>6</sup> the CCRB substantiated allegations of improper stops or frisks at nearly double the rate of any other allegations of officer misconduct.<sup>7</sup> At the same time, the NYPD was disposing of substantiated CCRB findings by issuing "instructions" at an unprecedented rate. In 2006, 70% of the allegations of abuse of authority substantiated by the CCRB resulted only in "instructions,"<sup>8</sup> which in practical terms means an officer is simply provided additional training, such as being directed to re-watch a training video. Discipline Report at 55 fn. 241.

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<sup>6</sup> *See Stop, Question and Frisk Data*, NYPD, <https://www.nyc.gov/site/nypd/stats/reports-analysis/stopfrisk.page> (last visited Dec. 24, 2024); *Stop-and-Frisk Data*, NYCLU (Mar. 14, 2019), <https://www.nyclu.org/data/stop-and-frisk-data>.

<sup>7</sup> CCRB substantiated 18.3% of the "frisk and/or search" allegations it investigated between 2002 and 2006, compared to 10.8% of all allegations. The only types of complaints substantiated at a higher rate were retaliatory arrest (25.5%) and retaliatory summons (24.6%). *See* New York City Civilian Complaint Review Board, *January-December 2006 Status Report*, 96 (May 2007), [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2006\\_annual.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2006_annual.pdf).

<sup>8</sup> *Id.* at 44.



The failure of the NYPD to punish officers appropriately for stopping people without reasonable suspicion and frisking them without reasonable suspicion of being armed or dangerous was integral to the NYPD's policy of racial profiling Black and Latino New Yorkers. Officers who conducted large numbers of stops were rewarded for productivity even when many of those stops were illegal. And officers were emboldened by that encouragement, dramatically increasing the number of stops nearly every year until the *Floyd* lawsuit was filed in 2008. As the Court wrote at the summary judgment stage, "it is difficult to imagine how the Department's disciplinary practices would be adequate . . . to ensure that its officers are conducting constitutional stops." *Floyd v. City of New York*, 813 F. Supp. 2d 417, 454 (S.D.N.Y. 2011).

The Court identified the NYPD's failure to discipline officers for unlawful SQF activity as one of the engines of its unconstitutional practices, writing that when "confronted with evidence of unconstitutional stops, the NYPD routinely denies the accuracy of the evidence, refuses to impose meaningful discipline, and fails to effectively monitor the responsible officers for future misconduct." Liability Opinion at 617–20. The Court specifically singled out the NYPD office that handled discipline at that time. In its Remedial Order, the Court ordered that the "Department Advocate's Office *must improve* its procedures for imposing discipline in response to the [CCRB's] findings of substantiated misconduct during stops. This improvement *must include increased deference to credibility determinations by the CCRB*, an evidentiary standard that is neutral between the claims of complainants and officers, and no general requirement of corroborating physical evidence." Remedial Order at 684 (emphasis added).

**B. The NYPD Has Thwarted Meaningful Discipline By Ignoring External Recommendations and Undermining Independent Oversight**

Over the past decade, the NYPD has undermined the Court's order on discipline by establishing a redundant investigative unit that delays the disciplinary process, backtracking on an

agreement granting the CCRB greater authority, failing to substantiate a single instance of racial profiling, and strategically ignoring and weakening its disciplinary matrix. These actions demonstrate that the failure to discipline is not the inadvertent result of a bureaucratic process. Instead, that failure stems from intentional institutional resistance to independent oversight built up over decades, whether that oversight comes from the CCRB, the City Council, the Monitor team, or ultimately this Court.

Three years after the Court ordered that more deference be shown to CCRB findings, the NYPD established the Force Investigative Division (“FID”), an investigative unit within the NYPD that has repeatedly contested CCRB findings.<sup>9</sup> While FID only investigates force cases, many street stops and investigative encounters escalate to a use of force, as the Discipline Report makes clear. *See* Discipline Report at 102–03. The FID has re-investigated cases already substantiated by the CCRB or launched parallel investigations into the same incidents—including the deaths of Kawaski Trawick and Allan Feliz—and reversed, rather than deferred to, the CCRB’s findings.<sup>10</sup> The duplicative investigations conducted by FID also result in the NYPD delaying to provide the CCRB with much-needed evidence,<sup>11</sup> all but ensuring that investigations extend beyond the 18-month statute of limitations<sup>12</sup> and providing yet another obstacle to imposing meaningful discipline.

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<sup>9</sup> When it established FID, the NYPD suggested the reason was that “officers often don’t trust investigators from the department’s Internal Affairs Bureau.” John M. Annese, *Exclusive: NYPD Poised to Create Special Unit to Investigate Officer-Involved Shootings, Sources Say*, STATEN ISLAND ADVANCE (Mar. 17, 2015), [https://www.silive.com/news/2015/03/exclusive\\_nypd\\_poised\\_to\\_creat.html](https://www.silive.com/news/2015/03/exclusive_nypd_poised_to_creat.html).

<sup>10</sup> *See* Mike Hayes and Eric Umansky, *Video Showed an Officer Trying to Stop His Partner From Killing a Man. Now We Know Police Investigators Never Even Asked About the Footage*, PROPUBLICA, (May 11, 2023), <https://www.propublica.org/article/nypd-kawaski-trawick-killing-investigation-questions>; Maria Cramer and Olivia Bensimon, *5 Years After Killing Driver, Officer Fights at Trial to Keep His Job*, NEW YORK TIMES (Nov. 12, 2024), <https://www.nytimes.com/2024/11/12/nyregion/nypd-shooting-trial-allan-feliz.html>.

<sup>11</sup> *See* Thomas Tracy, *Excessive Force or a Justified Shooting? A Fatal NYPD Encounter Nears a Long-awaited Resolution*, NEW YORK DAILY NEWS, (Nov. 13, 2024), <https://www.nydailynews.com/2024/11/13/excessive-force-or-a-justified-shooting-a-fatal-nypd-encounter-nears-a-long-awaited-resolution/>.

<sup>12</sup> N.Y. Civ. Serv. Law § 75(4).

The NYPD has also backslid in its agreement to allow the CCRB to prosecute misconduct hearings. As litigation against the NYPD’s SQF policy and practices was ongoing, the NYPD and the CCRB signed a Memorandum of Understanding providing that attorneys from the CCRB’s Administrative Prosecution Unit (“APU”) would prosecute officers against whom the CCRB had substantiated misconduct allegations in the NYPD Trial Room.<sup>13</sup>

While the CCRB’s prosecutors soon showed themselves capable,<sup>14</sup> the NYPD has recently slowed down APU prosecutions and, in a growing number of cases, simply denied the CCRB the right to prosecute cases at all. For example, the APU MOU requires that “[i]n order to formally commence the administrative prosecution of a substantiated civilian complaint, Charges and Specifications shall promptly be drafted by CCRB and thereafter be served upon the subject officer by the DAO on behalf of CCRB.” (APU MOU ¶ 15). Although the APU MOU provides that the CCRB must draft charges “promptly,” the NYPD has no complementary requirement to serve them “promptly” on officers. Consequently, the NYPD has delayed the ministerial process of serving these charges, sometimes failing to serve officers for multiple years.<sup>15</sup> And while the APU MOU contains a limited provision allowing the NYPD to “retain” or strip the CCRB of the right to prosecute cases in which there “are parallel or related criminal investigations” or when an officer has no disciplinary history (APU MOU ¶ 2), the Commissioner has stripped jurisdiction from the

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<sup>13</sup> CCRB Administrative Procedure Unit, *Memorandum of Understanding Between the CCRB and NYPD Concerning the Processing of Substantiated Complaints* (“APU MOU”) (April 2, 2012), [https://www.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/apu\\_mou.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf). Prior to the decision in *Lynch v. Giuliani*, 301 A.D. 351 (1st Dep’t 2003), cases against Police Officers were tried at the neutral Office of Administrative Trials and Hearings (“OATH”), while higher-ranking officers were tried in the trial room. As the Discipline Report makes clear, the decision requiring all trials to be held in the NYPD trial room is highly questionable. *See* Discipline Report at 178–79.

<sup>14</sup> The CCRB’s APU successfully prosecuted Daniel Panteleo for using an illegal chokehold on Eric Garner. *See* Ashley Southall, Daniel Pantaleo, *Officer Who Held Eric Garner in Chokehold, is Fired*, NEW YORK TIMES (Aug. 19, 2019), <https://www.nytimes.com/2019/08/19/nyregion/eric-garner-daniel-pantaleo-fired.html>.

<sup>15</sup> *See In Re Harvin*, 156887/2024 (July 29, 2024), NYSCEF Doc. No. 3 (detailing failure to serve charges for over two years).

CCRB in alarmingly high numbers, even when neither of these factors is met.<sup>16</sup> The NYPD publicly claims that an investigation by FID or the Internal Affairs Bureau—even one long closed—allows the Commissioner to retain a case because there “are parallel or related criminal investigations.”<sup>17</sup> This willful misreading of the APU MOU reveals what is really going on: multiple police commissioners have chosen to remove cases from the jurisdiction of an independent agency in order to not punish officers even in the face of overwhelming evidence.

Perhaps nowhere is the NYPD’s institutional reluctance to investigate and discipline more transparent than in its failure to substantiate *even one single instance of racial profiling* against an officer when it was responsible for these investigations, despite receiving thousands of racial profiling complaints. In 2019, the Office of the Inspector General for the NYPD released a report finding that the NYPD had never substantiated a single case of biased-based policing (out of 2,500 complaints), nearly five years into this monitorship.<sup>18</sup> The outcry over this notable failure was immediate: the City Council amended the City Charter to empower the CCRB to investigate allegations of “racial profiling and bias-based policing” under its “abuse of authority” jurisdiction.<sup>19</sup>

To exercise its new authority, the CCRB created the Racial Profiling and Bias-Based Policing Unit (“RPBP”) in October 2022.<sup>20</sup> By May 2023, the unit had more than one hundred open investigations of biased-based policing,<sup>21</sup> but the NYPD has stymied these investigations at

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<sup>16</sup> Umansky, *supra* note 4. The NYPD utilizes the term “retain” to describe the process in which the Commissioner assumes control over a matter, thus effectively ending the disciplinary process. *Id.*

<sup>17</sup> Memorandum of Law in Response, *In re Harvin*, No. 156887/2024, at 2–3 (describing a closed IAB investigation as grounds to “retain” a case).

<sup>18</sup> NYPD Office of the Inspector General, *Complaints of Biased Based Policing in New York City: An Assessment of NYPD’s Investigations, Trainings, and Policies*, June 2019 at 17–19, [https://www.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt\\_62619.pdf](https://www.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt_62619.pdf).

<sup>19</sup> See Local Law 47 of 2021, <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCAadmin/0-0-0-132892>.

<sup>20</sup> Monitor’s Twenty-first Report at 50 (September 4, 2024).

<sup>21</sup> *Id.*

every turn. For example, the NYPD refused to provide certain evidence to CCRB that the agency needed to complete comprehensive investigations.<sup>22</sup> Eventually, the Monitor was forced to intervene, and the NYPD and the CCRB executed another Memorandum of Understanding on June 8, 2023 (“RPBP MOU”), requiring that the NYPD provide the CCRB with data relevant to its investigations into allegations of racially-motivated and bias-based policing.<sup>23</sup> Further negotiations between the agencies resulted in an agreed-upon addendum to the RPBP MOU regarding the specific data fields to be shared by the NYPD with the CCRB.<sup>24</sup>

The preliminary results of the NYPD response to this expansion of the CCRB’s jurisdiction are not encouraging. As of December 17, 2024, the CCRB has substantiated all 67 of the bias-based policing allegations it has investigated. While the majority of the cases are still pending an administrative trial, twelve cases have been resolved so far. Among them, two of the subject officers resigned prior to discipline, one resulted in a “DUP” without discipline, and the rest were “retained” by the Police Commissioner. Of the nine “retained” cases, two resulted in no discipline, five resulted in a CD-A (only two of which included a three-day penalty), one resulted in a CD-B (without any penalty days), and one resulted in the officer forfeiting three vacation days.<sup>25</sup> Under the current version of the disciplinary matrix, the mitigated penalty for racially biased policing is forced separation and the presumptive penalty is termination. Also of note is that the Police Commissioner had used the “retention” provision in the APU MOU to prevent the CCRB from

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<sup>22</sup> *Id.*

<sup>23</sup> Additional discussions between the NYPD and CCRB resulted in an addendum to the Memorandum of Understanding on the exact data fields that NYPD would share with CCRB. *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> City of New York, *NYC Open Data: Civilian Complaint Review Board (CCRB) Datasets*, [https://data.cityofnewyork.us/browse?Dataset-Information\\_Agency=Civilian+Complaint+Review+Board+%28CCRB%29](https://data.cityofnewyork.us/browse?Dataset-Information_Agency=Civilian+Complaint+Review+Board+%28CCRB%29) (last visited Dec. 17, 2024).

prosecuting substantiated RPBP allegations. The first APU prosecution for RPBP misconduct to actually proceed to the NYPD Trial Room began on December 18, 2024.<sup>26</sup>

Finally, the NYPD has consistently revised the disciplinary matrix that the City Council required it to create in a manner that undermines its goal of meaningful progressive discipline.<sup>27</sup> At the press conference celebrating the creation of the matrix, then-Mayor de Blasio held up a copy of the document and said, “after a two-year process, including the Blue Ribbon Commission, then organized by Commissioner O’Neill, the NYPD is fully committed to this.”<sup>28</sup> But future commissioners were not so committed. Commissioner Sewell dismissed a large number of cases outright and imposed a lower level of discipline than the matrix recommended more often than not in the rest.<sup>29</sup> And just before his own resignation under the shadow of criminal investigation, Commissioner Caban released a new, watered-down version of the disciplinary matrix that reduced the penalties for a wide variety of offenses, including for racial slurs.<sup>30</sup> Incredibly, these downgrades took place after the Discipline Report had been shared with Defendants for comment. It is concerning and telling that the NYPD responded to findings by this Court’s appointed representative that it was failing to discipline officers by further lowering discipline standards.

These institutional actions provide context for the Discipline Report’s core finding: the reason the NYPD has rarely, if ever, punished an officer for unlawful SQF activity is that the

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<sup>26</sup> See Tandy Lau, *Three Officers Face Termination As First CCRB Racial Profiling Unit Investigation Reaches NYPD Disciplinary Trial*, AMSTERDAM NEWS (Dec. 22, 2024), <https://amsterdamnews.com/news/2024/12/22/ccrb-racial-profiling-unit-investigation-reaches-nypd-disciplinary-trial/>.

<sup>27</sup> See Local Law 69 of 2020, <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCadmin/0-0-0-124304>.

<sup>28</sup> Gloria Pazmino and Anna Lucente Sterling, *De Blasio Touts New NYPD Disciplinary Guidelines, but Critics Say It Lacks Legally Binding Power*, SPECTRUM NEWS (Jan 21, 2021), <https://ny1.com/nyc/all-boroughs/news/2021/01/21/nypd-launches-public-disciplinary-matrix>.

<sup>29</sup> Annie McDonough, *Under Adams and Sewell, Advocates Allege Rollbacks in Police Accountability*, CITY AND STATE (June 15, 2023), <https://www.cityandstateny.com/policy/2023/06/under-adams-sewell-advocates-allege-rollback-police-accountability/387600>.

<sup>30</sup> Reuven Blau, *Caban Watered Down NYPD Misconduct Rules as Final Act*, THE CITY (Sept. 13, 2024), <https://www.thecity.nyc/2024/09/13/caban-watered-down-nypd-punishments-as-final-act/>.

NYPD is historically resistant to holding officers accountable and refuses to respond to independent oversight or critique. This reluctance is fueled by the Police Commissioner's unilateral authority to impose or not impose discipline, which may be the single biggest obstacle to reform. As the Discipline Report notes, "the level of cooperation and response is ultimately up to the discretion of the Commissioner." Discipline Report at 460. The Discipline Report details prior, unsuccessful efforts to remove such authority and explains how that authority remains a final stumbling block for meaningful discipline regardless of the discipline recommendation's path to the Commissioner's desk.

**C. The Discipline Report Documents the Internal Mechanisms of the NYPD's Systemic Failure to Discipline Officers**

The NYPD's failure to punish officers who conduct unlawful stops and frisks or violate policies designed to prevent such unlawful actions—and consequently its failure to abide by the Remedial Order—has been a consistent theme in the Monitor's publicly-filed reports.<sup>31</sup> The Discipline Report, which documents in great detail the system's numerous interlocking failures, provides a comprehensive and in-depth review as to how and why. The Discipline Report relies on the "clear import of the Liability Opinion and the Remedies Opinion," namely that "findings of fact by CCRB should not be disregarded absent good cause." Discipline Report at 367. The Discipline Report concludes that such findings have clearly been disregarded: "officers rarely, if ever, receive a penalty for unconstitutional stops/frisks/or searches, even when substantiated by CCRB." *Id.* at 480 (cleaned up). To assist in laying the foundation for a Court order addressing the Discipline Report, Plaintiffs highlight the Report's key themes here.

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<sup>31</sup> See Monitor's 1st Report, *Floyd*, ECF No. 513 at 62; Monitor's 4th Report, *Floyd*, ECF No. 536 at 36–45; Monitor's 7th Report, *Floyd*, ECF No. 576 at 48, 54–55; Monitor's 9th Report, *Floyd*, ECF No. 680-1 at 56–58; Monitor's 10th Report, *Floyd*, ECF No. 754; Monitor's 11th Report, *Floyd*, ECF No. 795-1 at 94.

1. The NYPD Discipline Process Lacks Transparency and Deprives Stakeholders of Pertinent Officer Misconduct Records

The Discipline Report exposes the NYPD discipline process as one in which secrecy reigns. The NYPD hides critical information from the public and from key decisionmakers. For example, the City must make the NYPD Patrol Guide publicly available but is not required to release the NYPD Administrative Guide. Thus, evading disclosure of Patrol Guide provisions, the NYPD has moved sections of the Patrol Guide related to discipline, along with its policy against racial profiling that was developed as part of the remedies in *Floyd*, to the Administrative Guide. *Id.* at 33. Moreover, it did so without consultation with the Monitor or the parties to this litigation. Other internal NYPD publications that codify the NYPD's rules and regulations are similarly unavailable to the public, including the Detective Guide, FINEST Messages, and Reference Guides that the NYPD provides to members on an electronic portal. *Id.* at 33 fn. 150. The Patrol Guide and Administrative Guide are written and amended at the Police Commissioner's sole discretion, and the definitions of key terms differ from those used by the CCRB in ways that pose "significant risk of confusion." *Id.* at 42–46.

Furthermore, the Discipline Report highlights that the NYPD publishes a very limited subset of officer misconduct records on its "Officer Profile" website. *Id.* at 12, fn. 27. These records are limited to the rare instance when an officer is found guilty in the NYPD's Trial Room and a penalty was imposed by the Police Commissioner. *Id.* Rather than providing much-needed transparency about the misconduct histories of individual officers, the NYPD's "Officer Profile" website misleads the public by concealing the existence of a significant amount of substantiated misconduct as well as the fact that such misconduct more often than not is punished lightly or not at all.



The NYPD also prohibits the CCRB from gaining access to the full disciplinary files of the officers it investigates. This denies the CCRB evidence it needs to assess credibility, such as adverse credibility findings and previous interviews available only to the NYPD. *Id.* at 280–81, *see also id.* at 430–31 (noting the Department’s “historical reluctance to substantiate false statement findings”). The Deputy Commissioner of Trials (“DCT”) is similarly denied comprehensive access to an officer’s misconduct history. When evaluating a case, the DCT is not provided complete records of allegations of prior misconduct that was not formally charged. Nor is the DCT provided access to records of allegations of misconduct investigated by the CCRB. *Id.* at 164. This leads to penalty recommendations based on an incomplete picture of officers’ past actions and complaints lodged against them. *Id.*

Multiple police commissioners have also undermined transparency by publishing cursory deviation letters—letters required by law to inform the public and stakeholders of the reasons for any deviation by the Commissioner from CCRB findings or recommendations—or by refusing to publish them at all. *Id.* at 360, fn. 1518.<sup>32</sup> The few letters that have been published are “conclusory,” “boiler-plate,” and a “far cry from the ‘detailed explanation’” required by the City Charter. *Id.* at 415.

## 2. The NYPD Undermines CCRB Findings

The Discipline Report establishes that many deviation letters from NYPD Commissioners discount or overrule CCRB findings by concluding, without evidence, that officers who broke the law had made “good faith mistakes.” *Id.* at 366. As the Discipline Report makes clear, these summary conclusions violate the Remedial Order:

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<sup>32</sup> The Discipline Report quotes the 2019 Independent Panel report, which found that conclusory departure letters “undermine the confidence of the public and other constituencies in the integrity, fairness, and robustness of the NYPD’s disciplinary system.” Discipline Report at 403.

Frequent disregard for CCRB determinations simply because the Police Commissioner, without the benefit of hearing testimony, elects to arrive at a different factual finding or because the Police Commissioner believes the officer acted in good faith, or acted with good intent, *continues the very flawed process that underpinned the holding in Floyd*.

*Id.* at 368 (emphasis added). This conduct is not isolated. In a sample of 91 substantiated SQF investigations, the Discipline Report found that “no officer received penalty days for an A-CD recommended by the [CCRB] Board and no officer has received the presumptive three-day penalty for SQF misconduct.” *Id.* at 389. This pattern, Judge Yates concluded, “is in *clear defiance* of the opinions in *Floyd*.” *Id.* at 368 (emphasis added).

The consequences of the NYPD’s failure to defer to CCRB credibility findings are dire. For example, determining whether an officer made a false statement is “inextricably intertwined” with evaluating the officer’s explanation for the stop. *Id.* at 149. And credibility determinations are particularly critical in the racial profiling and bias-based policing investigations discussed above.

### 3. Disciplinary Failings Regarding Stops and Frisks Are Particularly Acute

In addition to ordering Defendants to defer to the CCRB, the Court ordered that every *Terry* stop conducted by the NYPD be documented. Remedial Order at 681–83. But the NYPD does not punish officers if they fail to complete a stop report, so underreporting rates continue to be unreasonably high.<sup>33</sup> As the Discipline Report found, “reported discipline is practically non-existent for the many cases where a stop or frisk occurred but was not reported.” Discipline Report at 131. This encourages officers to conceal their illegal stops and only report their legal ones, as failing to report a stop is an “easy way for misconduct to be veiled.” *Id.* at 429. Bolstering this assertion are the CCRB’s own statistics: the agency substantiates allegations of SQF misconduct

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<sup>33</sup> See Monitor’s Twenty-second Report, *Floyd*, ECF No. 937-1 at 1 (“The Monitor team’s audit of BWC videos found that only 59% of identified *Terry* stops were documented with stop reports in 2023. This is an even lower compliance rate than revealed in the Monitor team’s 2022 audit, finding that 69% of identified stops were documented.”).

at much higher rates when officers fail to file a stop report compared to when they properly document stops. *Id.* at 129–30. And despite knowing that it is failing to comply with several aspects of the Remedial Order, the NYPD does not proactively monitor or investigate street encounters to detect SQF-related misconduct, even if it engages in proactive efforts to identify other forms of misconduct. *Id.* at 141.

In addition, supervisors rarely identify officers who should have prepared stop reports or who engaged in related misconduct. The Discipline Report found no instances where supervisors initiated meaningful discipline for officers who conducted bad stops. *Id.* at 125. Instead, supervisors and internal audits sometimes “correct” the forms of an officer who conducted an illegal stop but take no further remedial action. *Id.* And supervisors almost never received discipline for their own SQF misconduct, including failures to identify illegal SQF activity when reviewing stop reports and failures to supervise subordinates who conduct improper SQFs or who failed to document their SQF activity. *Id.* at 132–134.

Even when officer misconduct is substantiated by a CCRB investigation, or in the rare instances identified by a supervisor, the current NYPD Discipline Matrix provides only minimal penalties for improper stops or frisks. The Discipline Report notes that, in the entire matrix, “the lowest range of penalties are reserved for stop/frisk/search related violations.” *Id.* at 358. And as discussed above, even this minimal penalty—a loss of three vacation days for a bad stop—has apparently never been imposed. *Id.* at 389.

#### **D. The NYPD’s Failures Have Continued Since Receipt of the Discipline Report Draft**

The NYPD’s refusal to punish officers who break the law or department policy, as detailed in the Discipline Report, is a core reason that Defendants are still not in compliance with other aspects of the Remedial Order more than ten years into this process. The fact that officers know

they will not be punished for illegal stops, including for racial profiling—and can disguise unlawful conduct behind a lack of documentation—is one of the most important reasons the NYPD has failed to remedy the constitutional violations identified by the Court and achieve the substantial compliance required to end the monitorship. These shortcomings have continued since the Defendants first received a draft of the Discipline Report in February 2023.<sup>34</sup> The Monitor highlighted the NYPD’s continued failure to discipline officers in its Twenty-first and Twenty-second Reports.<sup>35</sup> In the Twenty-first Report, the Monitor raised particular concern over the NYPD’s failure to discipline officers who filed incomplete or misleading stop reports. It noted that the failure to discipline officers for underreporting stops was serious and pervasive:

The Monitor team is unaware of any cases in which a member received penalty days or time *solely* for the failure to complete a stop report. Given the increase in underreporting, this is problematic: officers who fail to report should be disciplined for their failure to report, not only for a bundle of infractions.

Monitor’s Twenty-first Report at 52 (emphasis in original).

In addition, the Monitor found that the NYPD improperly dismissed complaints of misconduct simply because they were near, rather than beyond, the statute of limitations, even though they could have been resolved before the statute expired.<sup>36</sup> In 2022, the NYPD dismissed at least 425 such cases even though it had received complete investigations from the CCRB, including 48 cases where the CCRB made findings of improper stops, questions, or frisks.<sup>37</sup> Of the 425 cases the NYPD dismissed, 65 included a finding by the CCRB that an officer had failed to file a stop report. Instead of treating these findings with “increased deference to credibility

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<sup>34</sup> *Floyd*, ECF No. 948 at 2. While Defendants claim that a March draft was given to “the parties,” in fact it was only provided to Defendants; Plaintiffs first received a draft on June 1, 2023.

<sup>35</sup> See *Floyd*, ECF No. 934-1 (Monitor’s Twenty-first Report); *Floyd*, ECF No. 937-1 (Monitor’s Twenty-second Report).

<sup>36</sup> See Monitor’s Twenty-first Report at 47.

<sup>37</sup> *Id.*

determinations,” as the Court ordered, the NYPD dismissed them without reviewing their contents at all.<sup>38</sup> As flagged by the Monitor, CCRB’s referrals of cases involving a failure to file a stop report are examined by the precinct or command, and these investigations can be (and should be) conducted quickly without being dismissed on statute of limitations grounds.<sup>39</sup>

In its Twenty-second Report, the Monitor found that the “NYPD appears to be headed in the wrong direction and must take immediate steps, including discipline when appropriate, to correct this failure to properly document *Terry* stops.”<sup>40</sup> And it noted that the NYPD continues to (1) ignore the importance of tracking and reporting on discipline for stop report failure, and (2) seldomly issue penalty days for documentation failures even though the failure to file a stop report leads to community distrust in the NYPD.<sup>41</sup>

While these failures pre-date the issuance of the final Discipline Report, they do not pre-date the City and the NYPD’s knowledge of the Report’s clear findings, which were set out in the preliminary drafts of the Discipline Report that were made available to the City and the NYPD, demonstrating it will not take serious steps to address the failings outlined in the Discipline Report without the Court’s intervention.

#### **E. The NYPD’s Non-Disciplinary Accountability Systems Are No Substitute for Effective Discipline**

In response to long-standing critique that it fails to discipline officers, the NYPD has regularly touted non-disciplinary programs that it claims will increase compliance with the law, including an “Early Intervention System” (“EIS”), the Remediation of Identified Situations Key to Success (“RISKS”) program, and its most recent iteration “ComplianceStat.” All of these

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<sup>38</sup> Remedial Order at 684; Monitor’s Twenty-first Report at 47.

<sup>39</sup> *Id.* at 48.

<sup>40</sup> Monitor’s Twenty-second Report at 2.

<sup>41</sup> *Id.*

programs involve identifying officers, supervisors or precincts with records of misconduct and telling them not to do it again. But, as the history of this remedial process has established, that is not sufficient.

The Monitor noted in its review of the EIS that “some officers reviewed by the Committee have exhibited deeply troubling conduct. The interventions recommended (training, guidance, mentoring) were woefully inadequate.” Monitor’s Twenty-First Report at 40–41. During RISKS reviews, the NYPD used to meet regularly with commanding officers to review data in order to improve compliance in their command. But as the Monitor observed in September 2024, “without any notice to the Monitor, the NYPD discontinued RISKS Reviews in September 2022” and provided no immediate replacement.<sup>42</sup> After the NYPD discontinued RISKS, no entity within NYPD proactively pursued investigations for stop and frisk misconduct. Discipline Report at 141. The NYPD claims that its latest effort, called ComplianceStat, will be more effective. ComplianceStat was created nearly sixteen months after abruptly jettisoning RISKS, and was presented as a replacement.<sup>43</sup> According to the Monitor, ComplianceStat meetings are modeled after CompStat and attended by four Patrol Borough commanding officers and the precinct commanding officers from those Patrol Bureaus.<sup>44</sup> Beyond that, Plaintiffs still do not know the details of ComplianceStat firsthand, even as we near the one-year anniversary of its rollout: unlike with RISKS, Plaintiffs have been prohibited from observing even a recording of these meetings. There is, therefore, no basis at this stage to conclude that it will prove more effective than its failed and cancelled predecessors.

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<sup>42</sup> Monitor’s Twenty-first Report at 35.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

In any case, whether or not the NYPD implements a non-disciplinary program aimed, in part, at establishing accountability for misconduct, it remains under Court order to improve its disciplinary system as well.

### **III. The Court Has Authority to Order Implementation of the Discipline Report Recommendations**

Federal courts have broad and flexible equitable power to fashion remedies. *See Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971); *accord Association of Surrogates & Supreme Court Reporters Within City of New York v. State of New York*, 966 F.2d 75, 79 (2d Cir. 1992) (“[F]ederal courts have broad discretion in fashioning equitable remedies for . . . constitutional violations.”); *Berger v. Heckler*, 771 F.2d 1556, 1568 (2d Cir. 1985); *Hutto v. Finney*, 437 U.S. 678, 696 (1978). These powers include both the equitable authority to enforce court orders, *E.E.O.C. v. Loc. 580, Int’l Ass’n of Bridge, Structural & Ornamental Ironworkers, Joint Apprentice-Journeyman Educ. Fund*, 925 F.2d 588, 593 (2d Cir. 1991), and the ability to modify injunctions in light of changed circumstances, *United States v. Swift & Co.*, 286 U.S. 106, 114-15 (1932).

The Court should use this power to so-order the recommendations in the Discipline Report because the City has still not implemented the relief ordered by this Court more than a decade ago. Such an order is justified either (i) to enforce the Court’s existing orders requiring improvements to the NYPD’s discipline system or (ii) to order new relief based on the findings of the Discipline Report and the City’s ongoing failure to comply with the Remedial Order.

#### **A. The Court Has the Power to Enforce Its Existing Remedial Order**

The City has not met its obligations under the Court’s existing orders to remedy its discipline failures that cause unconstitutional policing to persist. “Until parties to [court-ordered reforms] have fulfilled their express obligations, the court has continuing authority and

discretion—pursuant to its independent, juridical interests—to ensure compliance.” *E.E.O.C. v. Loc. 580, Int’l Ass’n of Bridge, Structural & Ornamental Ironworkers, Joint Apprentice-Journeyman Educ. Fund*, 925 F.2d 588, 593 (2d Cir. 1991); *see also United States v. Loc. 359*, 55 F.3d 64, 69 (2d Cir. 1995). The Court’s power to enforce its orders rests on the principle that “judicial discretion in flexing its supervisory and enforcement muscles is broad.” *Davis v. New York City Hous. Auth.*, 278 F.3d 64, 80 (2d Cir. 2002) (internal citations omitted). The City’s consistent refusal to improve its disciplinary process, notwithstanding the Court’s orders, is precisely the sort of noncompliance that these broad enforcement powers should address.

The Court’s prior orders expressly require the City to address the flaws in its discipline system, particularly the NYPD’s long disregard for CCRB findings. As the Court’s Remedial Order in *Floyd* recognizes, “the development of an improved system for monitoring, supervision, and discipline” is “essential” to Plaintiffs’ relief. Remedial Order at 683; *see also Davis Settlement* at H(1)–(2), (5) (incorporating *Floyd*-ordered remedies on discipline and other issues in the *Davis* litigation).<sup>45</sup> As a result, the Remedial Order requires that the NYPD “improve its procedures for imposing discipline” and specifically orders that “[t]his improvement must include increased deference to credibility determinations by the CCRB[.]” Remedial Order at 684.

The Court does not need to conduct a second trial to determine any issue of ongoing liability; the Court’s interest in enforcing its existing remedial orders “justifies any reasonable action taken by the court to secure compliance with its orders.” *Berger*, 771 F.2d at 1568 (quoting *Gates v. Collier*, 616 F.2d 1268, 1271 (5th Cir. 1980)). The Discipline Report establishes that a general mandate to “improve its procedures for imposing discipline” was not sufficient direction

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<sup>45</sup> The parties to the *Davis* litigation stipulated that the provisions of the Remedial Order would be incorporated into the *Davis* case for the purpose of enforcing the settlement stipulation as it pertains to the NYPD’s discipline of officers related to trespass enforcement in or around NYCHA residents. *Davis Settlement* at H(5).



for the City to come into compliance. Remedial Order at 684. A more specific order—in the form of the Discipline Report recommendations—is therefore justified. As set forth above, the Discipline Report shows the NYPD fails to identify misconduct, lacks transparency, disregards independent investigative findings, and fails to punish officers who improperly stop, question, and frisk people without legal justification. Because the City has not fulfilled its obligations under the Court’s prior orders, the Court can and should take the steps outlined in the Discipline Report to effectuate that relief.

A contempt finding is not necessary for the Court to so-order the Report’s recommendations. *See Berger*, 771 F.2d at 1569 (“Ensuring compliance with a prior order is an equitable goal which a court is empowered to pursue even absent a finding of contempt.”). Nevertheless, the Court has the power to hold the NYPD in contempt for its failure to take the specific actions directed in the Remedial Order. *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827–29 (1994). This Court may find civil contempt for failing to comply with a court order if: “(1) the order the contemnor failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the contemnor has not diligently attempted to comply in a reasonable manner.” *Paramedics Electromedicina Commercial, Ltd. v. GE Med. Sys. Info. Techs., Inc.*, 369 F.3d 645, 655 (2d Cir. 2004); *see Telenor Mobile Commc’ns AS v. Storm LLC*, 587 F. Supp. 2d 594, 615 (S.D.N.Y. 2008) (defining “clear and unambiguous” as language that is “specific and definite enough to apprise those within its scope of the conduct that is being proscribed or required”) (quoting *N.Y.S. Nat’l Org. for Women v. Terry*, 886 F.2d 1339, 1352 (2d Cir. 1989)).

The Discipline Report presents clear and convincing evidence that Defendants are not in compliance with, at the very least, the Remedial Order’s “clear and unambiguous” requirement

that the NYPD provide “increased deference to credibility determinations by the CCRB[.]” Remedial Order at 684. As detailed above, the NYPD frequently overrules CCRB findings of liability, rejecting credibility determinations and other conclusions. *See above* at II.C and II.D; *see also Discipline Report* at 316 (“While a substantiated—or confirmed—stop, frisk, or search-related complaint is not uncommon from the CCRB, NYPD discipline for these confirmed complaints is rare.”). This failure to defer to the CCRB’s findings is a direct violation of the Remedial Order.

To be clear: although the record may support it, Plaintiffs do not presently seek a finding of contempt at this time. Plaintiffs’ hope is that additional clear and unambiguous court orders implementing the Discipline Report recommendations will be a productive first step to reverse the stagnancy and backsliding that has characterized the NYPD’s approach to discipline reform in the first decade and more of this remedial process.<sup>46</sup> Plaintiffs reserve their right to seek contempt if Defendants do not take immediate and effective action to come into compliance with existing and future court orders.

#### **B. The Court Has the Power to Order New Relief Based on the Findings of the Report**

Even if the Court considers an order implementing the Discipline Report recommendations as new relief, rather than enforcement of prior orders, such new relief is warranted here. Federal district courts have inherent authority to revise or modify their remedial orders. *See Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 381 (1992) (permitting courts to “exercise flexibility in considering requests for modification of an institutional reform consent decree”). Formal factual findings are not required. A Court may modify its own remedies even in the absence of additional violations or changes in law or fact as “guided by the sound exercise of [the judge’s] equitable

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<sup>46</sup> Plaintiffs also recognize that additional process may be required for the Court to consider imposing any relief stemming from a finding of contempt. *See Bagwell*, 512 U.S. 821.

discretion,” *Bridgeport Guardians, Inc. v. Delmonte*, 248 F.3d 66 (2d Cir. 2001) (quoting *E.E.O.C. v. Loc. 638, Sheet Metal Workers*, 753 F.2d 1172, 1185 (2d Cir.1985)). The Discipline Report and the City’s longstanding failures to come into substantial compliance establish more than sufficient grounds for the Court to exercise this discretion. As the Remedial Order recognized, beyond the specific relief contained in that order, “comprehensive reforms may be necessary;” the Discipline Report now confirms that necessity. Remedial Order at 683.

When fashioning a remedy to repair constitutional violations, “[t]he task is to correct, by a balancing of the individual and collective interests, the condition that offends the Constitution.” *Swann*, 402 U.S. at 15–16. As the remedial order states, “the burden on the plaintiff class of continued unconstitutional stops and frisks far outweighs the administrative hardships that the NYPD will face in correcting its unconstitutional practices.” Remedial Order at 672; *cf. Association of Surrogates & Supreme Court Reporters Within City of New York v. State of New York*, 966 F.2d 75, 79, *modified on reh’g*, 969 F.2d 1416 (2d Cir. 1992) (noting that “state budgetary processes may not trump court-ordered measures necessary to undo a federal constitutional violation,” provided that the equitable relief is proportional to the constitutional infraction). More than a decade after the Court found liability, the City is still not even close to substantial compliance, meaning that the burden of unconstitutional stops and frisks remains—unjustly—on the Plaintiff class of New Yorkers who experience officers’ misconduct during investigative encounters on an all too frequent basis. The Discipline Report demonstrates that flaws in the NYPD’s disciplinary process are preventing effective remedies for those unconstitutional acts and establishes with detailed analysis how that relief is proportional to the ongoing constitutional infractions.

Accordingly, the Court can and should order the implementation of the reforms as a modification to the Remedial Order or as enforcement of the Remedial Order itself.

**C. The Discipline Report is Final and No Further Process is Required for the Court to Order the Recommendations**

As this Court correctly observed, contrary to the City's assertions, the filed Discipline Report is the final report of "five years of committed research by a highly respected former jurist." *Floyd* Doc. No. 948 at 2 (rejecting the City's inaccurate characterization of the Discipline Report as the "Draft Report"). The City and Plaintiffs had the opportunity to comment on multiple drafts of the Discipline Report and its recommendations during a years-long process. The City, like every other stakeholder and every member of the public, now has the opportunity to comment further during the period afforded by the Court, to inform the Court's response to the Discipline Report.

The Court rightly rejected the City's complaint that it has been deprived of sufficient process to contest the factual conclusions of the Discipline Report. *Id.* Due process is not implicated by drafting and submitting the Discipline Report. *See Handberry v. Thompson*, No. 96 CIV. 6161 (CBM), 2003 WL 1797850, at \*2 (S.D.N.Y. Apr. 4, 2003) (rejecting City's argument that due process is implicated by a court-appointed monitor's reporting to the court). And, as the preceding sections establish, the Court's equitable authority to determine appropriate remedies is broad and flexible, grounded in the Court's previous finding of liability, and does not require a formal fact-finding process. *See above* at II.A and B.

Beyond its spurious concerns about due process, the City also objects that the Discipline Report and its recommendations go beyond the scope of these cases. Not so. The express provisions of the Remedial Order and *Davis* Settlement addressing the NYPD's discipline system as well as the fact that the Court's liability findings turned, in part, on factual findings that failures of discipline caused the unconstitutional acts at issue, *see* Liability Opinion at 617–20, definitively

refute the City’s contention that the Discipline Report and its recommendations go beyond the scope of this litigation. While the Discipline Report necessarily gives an overview of the entire NYPD disciplinary system, its focus and its recommendations are anchored in the four corners of the Liability Opinion and Remedial Order. *See* Part II.A and B, *supra*. The Court directed Judge Yates to create an “in-depth” and “granular” study that sets forth, “in detail, recommendations as to the specific ways in which such policies, practices, and procedures can be improved in order to promote constitutional policing.” Discipline Report at 13; *see also Floyd* Doc. No. 948 at 2. Providing necessary context to how the NYPD disciplines officers for SQF misconduct amply complies with the Court’s instructions.

Further, the City is wrong to suggest that the Discipline Report’s recommendations are not within the scope of this litigation because some of them may impact areas other than SQF misconduct.<sup>47</sup> Each recommendation’s effect does not need to be exclusive to SQF to be within the scope of the Monitorship given that the interconnected issues of “accountability, transparency, [and] speed” are germane to how “policies, practices, and procedures can be improved, in order to promote constitutional policing.” Discipline Report at 13–14. A recommendation may naturally affect other aspects of the disciplinary process unrelated to SQF investigations. For example, a recommendation stemming from alleged misconduct involving a stop or an investigative encounter may have some effect on how NYPD handles violations of use of force.

Thus, there are no procedural obstacles to the Court exercising its authority to so-order the Discipline Report recommendations.

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<sup>47</sup> Zimmerman Letter at 2–3; *See also* Sept. 1, 2023 Ltr. from City Defendants, attached to Zimmerman Letter as Exhibit A, at 2.

#### **IV. The Court Should Order Implementation of the Recommendations to Address the City's Noncompliance and Ensuring Ongoing Monitoring of the NYPD's Discipline System**

The Discipline Report includes 51 recommendations targeted to specific findings linked to a lack of meaningful discipline for SQF-related misconduct. Given the NYPD's long-standing resistance to reform, it cannot be entrusted to implement these recommendations on its own. The Court should therefore exercise the powers described above to so-order the recommendations, by directing the parties to meet and confer with the Monitor on a proposed order detailing their implementation.

The Discipline Report characterizes the disciplinary system as a “moving target,” and acknowledges that reform efforts must be tailored and re-tailored to hit that target. Discipline Report at 14. For that reason, the Court should in addition ensure that the NYPD's disciplinary system is closely overseen by the Monitor with the input of the Plaintiffs. Should the NYPD fail to abide by an order to follow the recommendations—or if it follows such an order but continues to violate the Remedial Order—further action, as described above, may be necessary.

As set out below, the Discipline Report recommendations represent significant progress toward a more effective NYPD system for imposing meaningful discipline. Effective police accountability systems are proactive, impartial, and consistent.<sup>48</sup> First, potential misconduct must be identified internally and referred for investigation swiftly, or the opportunity to promote behavioral change is lost. Second, investigations must be thorough and impartial: allegations must be adjudicated on findings of fact and conclusions of law. Independent investigative agencies must

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<sup>48</sup> See generally U.S. DEP'T OF JUST., STANDARDS AND GUIDELINES FOR INTERNAL AFFAIRS: RECOMMENDATIONS FROM A COMMUNITY OF PRACTICE (2009); TIM PRENZLER, POLICE CORRUPTION: PREVENTING MISCONDUCT AND MAINTAINING INTEGRITY (2009); SAMUEL WALKER & CAROL ARCHBOLD, THE NEW WORLD OF POLICE ACCOUNTABILITY (2d ed. 2014).

have adequate staffing, resources, and access to department records to operate effectively.<sup>49</sup> Third, the imposition of discipline and associated penalties must be timely, consistent, and progressive.

As the Discipline Report and prior sections of this comment make clear, the NYPD's current system is not proactive, impartial, or consistent. Without diminishing the full impact of all 51 recommendations, Plaintiffs discuss some of the key recommendations below to set forth how they will specifically address the NYPD's failings, providing more than ample justification for the Court to exercise its authority to order their implementation. In addition, Plaintiffs suggest two areas where the Court's order could improve upon the Discipline Report's important recommendations related to transparency and CCRB investigations.

#### **A. Recommendations to Promote Transparency**

Recommendations 1–8 would promote internal and external transparency in what is now a secretive process. They would require the NYPD to post internal rules that have been hidden from the public and disclose more details regarding officer misconduct histories. Plaintiffs recommend expanding these recommendations to include all information about officer misconduct. The NYPD Officer Profile Portal includes a very limited subset of misconduct records and lacks information on the number of separate investigations, the allegation types, findings for each allegation, related disciplinary recommendations, and final penalty imposed by the Police Commissioner. Entire misconduct histories should be easily accessible to the public, including unsubstantiated allegations, via the NYC Open Data Portal. In addition, all procedures regarding discipline could be collected in a single publication, as is done by the Denver Police Department.<sup>50</sup> The Law

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<sup>49</sup> See generally, MICHAEL VITOROULIS, CAMERON MCELLHINEY, AND LIANA PEREZ, CIVILIAN OVERSIGHT OF LAW ENFORCEMENT: DISCIPLINE REPORT ON THE STATE OF THE FIELD AND EFFECTIVE OVERSIGHT PRACTICES. (Washington, DC: Office of Community Oriented Policing Services 2021).

<sup>50</sup> See City of Denver, *Denver Police Department Discipline Handbook: Conduct Principles and Disciplinary Guidelines* (eff. Jan. 12, 2022), <https://www.denvergov.org/files/assets/public/v/2/police-department/documents/discipline-handbook/discipline-handbook.pdf>.

Department would be required to post more information about misconduct litigation, and communication and notice within the NYPD and with outside agencies would be improved. The Court should order these recommendations be implemented.

### **B. Recommendations for NYPD to Proactively Investigate Misconduct**

Recommendations 33, 36, 37, 38, and 43 would require the NYPD or the CCRB to initiate investigations rather than simply react to civilian complaints. If these recommendations are implemented, the NYPD must proactively investigate when it finds that a stop report should have been created but was not, along with initiating investigations in other specified circumstances. Investigating, rather than correcting, inaccurate or missing stop reports is particularly important: the CCRB substantiates allegations of improper stops and frisks at much higher rates when stop reports are not filed. Discipline Report at 129–30.<sup>51</sup>

These recommendations further require an investigation to consider the total circumstances of the encounter, not merely the discrete act about which a civilian complained, in keeping with best investigative practices. Finally, these recommendations would ensure that supervisors on the scene of an improper stop are investigated to see if they were aware of the improper action and failed to address it.

### **C. Recommendations to Strengthen CCRB Investigations and Increase Deference to its Findings**

Recommendations 10, 12–13, and 17–19 would presumptively provide CCRB access to information—IAB interviews, materials related to civil actions, complete officer disciplinary histories, and adverse credibility findings—that would provide necessary context to its investigations and improve its ability to make decisive findings. These recommendations would

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<sup>51</sup> As of 2019, CCRB substantiated 59% of the investigations where an officer made a stop but did not file a report. This is a significantly higher rate of substantiation than the overall 12% substantiation rate of stop, question, and frisk allegations at CCRB in 2019. Discipline Report at 129–130.



provide CCRB with additional evidence to bolster its conclusions, strengthening its investigative findings and potentially increasing the likelihood of deference to the CCRB by the NYPD.

Recommendations 15, 21, 25, and 27 would increase documentation of CCRB findings and the Commissioner's response, creating the potential for greater deference to the CCRB. These recommendations would require the CCRB to issue findings of fact in substantiated stop, question, and frisk cases and require the Police Commissioner to address these findings when drafting a departure letter, deviation memo, or justification for retaining a case.

Recommendations 19 and 24 are aimed more directly at the NYPD's failure to defer to the CCRB as required by the Remedial Order. Recommendation 24 sets forth reasonable and objective criteria for determining whether an officer was acting in "good faith," and Recommendation 19 ensures that the CCRB has access to complete disciplinary histories of officers who claim they acted in good faith. Commissioners repeatedly excuse officers from discipline by claiming, without evidence, that they acted with "good faith;" eliminating this practice would promote compliance with the Remedial Order.

#### **D. Recommendations to Ensure Swift, Consistent, and Appropriate Discipline**

Recommendations 49–51 would improve the timeliness of investigations and promote timely discipline. The recommendations would require the CCRB to close stop and frisk investigations within 120 days and close loopholes that have allowed the NYPD to let the statute of limitations expire by failing to act on completed CCRB investigations. While Plaintiffs agree with these recommendations' intent to improve the timeliness of investigations, direct access to BWC footage and other NYPD document databases, considered best practice in the field of civilian

oversight of law enforcement,<sup>52</sup> would also further reduce these delays. *See* Discipline Report at 251.

The City makes little sense when it suggests that the recommendations proposing more coordination between the NYPD and the CCRB during investigations are contrary to the statutory purpose of having an independent review board separate and apart from NYPD.<sup>53</sup> Independence is commonly understood to refer to being free from external influence over decision-making and operations. It has nothing to do with the NYPD refusing to collaborate with other city agencies in a manner needed to conduct thorough and timely SQF misconduct investigations. Completing cases more quickly and ending delay tactics to run out the clock will provide more assurance that officers who commit misconduct are actually disciplined.

Additional recommendations would contribute to a system that imposes consistent and progressive discipline. Recommendation 48 strengthens the definition of progressive discipline, and Recommendations 44–47 make it harder for the NYPD to ignore prior misconduct by the same officer when issuing discipline. These recommendations would address some of the more egregious examples of repeat offenders.

#### **E. Recommendations to Bolster Racial Profiling Investigations**

Recommendations 30–31 would require the CCRB to consider past allegations of racial profiling against an officer as a part of its racial profiling investigations even when those allegations were not substantiated. The Court should order these recommendations because it will make it easier to assess when patterns of racial profiling exist, as opposed to only individual instances. Plaintiffs note that when the CCRB uncovers a pattern of racial profiling, previously closed cases should be reopened after notice to the complainant.

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<sup>52</sup> *See* Vitoroulis, *supra*, at 94–99.

<sup>53</sup> Zimmerman Letter, Exhibit B at 2–3.

## V. Conclusion

For the reasons stated above, Plaintiffs request that the Court so-order the Report's recommendations, with the modification proposed by the Plaintiffs, *see* Part IV.A. *supra*, order the parties to meet and confer with the Monitor to draft a proposed order implementing those recommendations, and instruct the Monitor to continue to actively monitor the NYPD's imposition of discipline in SQF cases and its reforms to its disciplinary system. Without the involvement of the Monitor and the Plaintiffs, the history of these cases has demonstrated that the City and the NYPD cannot be entrusted to faithfully implement the orders of this Court on their own.

Respectfully submitted,



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**STATEMENT OF  
ALISSA JOHNSON, LEGAL FELLOW  
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**BEFORE THE COMMITTEE ON PUBLIC SAFETY,  
NEW YORK CITY COUNCIL**

**SHORTCOMINGS OF NYPD DISCIPLINARY PROCEDURES**

**PRESENTED  
September 22, 2025**

Good morning Chair Salaam and members of the New York City Council Committee on Public Safety. Thank you for organizing this important hearing. We appreciate the opportunity to testify today on the shortcomings of NYPD's existing mechanisms for officer discipline.

The Surveillance Technology Oversight Project ("S.T.O.P.") is a New York-based civil rights and anti-surveillance group that advocates and litigates against discriminatory surveillance.

In practice, the lack of meaningful, independent mechanisms for officer discipline means that misconduct goes unanswered, and New Yorkers are left without recourse. This problem is most acute in the cases of police use of force, as other testimony today has emphasized. It also hampers attempts to hold police accountable for misuse of surveillance technologies, such as pervasive over policing of communities of color using technologies like Shotspotter,<sup>1</sup> identification and tracking of protestors using drones,<sup>2</sup> circumventions of prohibitions on facial recognition technology by outsourcing requests to other departments like FDNY,<sup>3</sup> and continued noncompliance with the POST Act's reporting requirements.<sup>4</sup> We would like to take this opportunity to highlight several aspects of NYPD's disciplinary process which hamstring efforts to hold officers accountable for their misconduct.

## **I. Statute of Limitations Issues**

First, the 18-month statute of limitations on discipline for officer misconduct often results in dismissal of complaints, even when sufficient time remains for those complaints to be investigated.

Complaints against NYPD officers for misconduct, including accusations of excessive force, offensive language, sexual misconduct, and a plethora of other policy violations, have surged in recent years.<sup>5</sup> The CCRB received 5,663 complaints against officers in 2024, the highest number since the stop-and-frisk era in 2012.<sup>6</sup>

But, only a small fraction of these reports led to meaningful accountability for NYPD officers. Due to staffing shortages, the CCRB closed 1,440 of these complaints without conducting a full investigation.<sup>7</sup> The police department dismissed an additional 890 misconduct complaints after officials claimed there was no longer enough time before the 18-month statute of limitations expired—a figure which has been steadily increasing since 2022 and more than tripled between 2023

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<sup>1</sup> Gabriel Sandoval and Rachel Holliday Smith, "'ShotSpotter' Tested as Shootings and Fireworks Soar, While Civil Rights Questions Linger," The City, 14 March 2024, <https://www.thecity.nyc/2020/07/05/shotspotter-nyc-shootings-fireworks-nypd-civil-rights/>.

<sup>2</sup> Yasmin Elmasry, "NYC is Becoming a Drone Dystopia," Surveillance Technology Oversight Project, 9 April 2024, <https://www.stopspying.org/latest-news/2024/4/9/nyc-is-becoming-a-drone-dystopia>.

<sup>3</sup> Samantha Maldonado, "Probe NYPD Misuse of Facial Recognition, Legal Aid Urges Inspector General," The City, 26 August 2025, <https://www.thecity.nyc/2025/08/26/nypd-inspector-general-facial-recognition/>.

<sup>4</sup> *Report Assessing NYPD's Compliance with the Public Oversight of Surveillance Technology Act*, City of New York Department of Investigation Office of the Inspector General, 18 December 2024, <https://www.nyc.gov/assets/doi/reports/pdf/2024/49PostActRelease.Rpt.12.18.2024.pdf>.

<sup>5</sup> *Annual Report*, NYC Civilian Complaint Review Board, 2024, [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2024-CCRB-Annual-Report.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2024-CCRB-Annual-Report.pdf).

<sup>6</sup> Charles Lane and Samantha Max, "NYPD misconduct complaints surge, but many cases dismissed, watchdog report finds," Gothamist, 10 February 2025, <https://www.nycpba.org/news-items/gothamist/2025/nypd-misconduct-complaints-surge-but-many-cases-dismissed-watchdog-report-finds/>.

<sup>7</sup> CCRB 2024 Report, Page 3.

and 2024.<sup>8</sup> 337 of those complaints were closed 60 days or more prior to the statute of limitations deadline.<sup>9</sup> A 2024 ProPublica investigation found that the NYPD further stalls the disciplinary process by failing to notify officers that the CCRB has filed charges against them—a necessary step before a departmental trial can begin—running out the clock on the statute of limitations.<sup>10</sup>

We ask that NYPD be required to promptly charge officers upon confirmation of charges by the CCRB. Currently, NYPD's charging delays often leads to officers going unpunished due to the expiration of the 18-month statute of limitations.

## **II. Lack of External & Independent Accountability Processes**

Second, even when complaints are substantiated by the CCRB and not dismissed by the NYPD, they rarely lead to disciplinary action because the police commissioner retains final authority to dismiss or modify the CCRB's recommended penalty.<sup>11</sup>

Ultimate authority over officer discipline rests with the Commissioner, who has already chosen to disregard the rulings of administrative judges in cases like the 2019 shooting of Alan Feliz.<sup>12</sup> Disciplinary proceedings can result in suspension or dismissal, but most often result only in retraining or lost vacation days.<sup>13</sup>

The City Council previously passed Res. 1538-2021, calling on the State Legislature to eliminate the requirement that the police commissioner have final disciplinary authority.<sup>14</sup> We ask the Council to reissue a similar resolution urging that the Legislature pass Senate Bill S4354/Assembly Bill A126, this session's version of the bill.<sup>15</sup> Once the State so permits, CCRB must also be given final adjudicatory authority over discipline.

## **III. Insufficient Access to Material Needed to Evaluate Complaints**

Third, the Police Department's control over potential evidence of misconduct, such as body worn camera (BWC) footage, slows down the process of CCRB review and creates risks of selective

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<sup>8</sup> Charles Lane and Samantha Max, "NYPD misconduct complaints surge, but many cases dismissed, watchdog report finds," Gothamist, 10 February 2025, <https://www.nycpba.org/news-items/gothamist/2025/nypd-misconduct-complaints-surge-but-many-cases-dismissed-watchdog-report-finds/>.

<sup>9</sup> CCRB 2024 Report.

<sup>10</sup> Eric Umansky, "New Yorkers Were Choked, Beaten and Tased by NYPD Officers. The Commissioner Buried Their Cases.," ProPublica, 27 June 2024, <https://www.propublica.org/article/nypd-commissioner-edward-caban-police-discipline-retention-eric-adams>.

<sup>11</sup> Letter to Mayor Adams regarding NYPD discipline departures, 15 March 2023, <https://legalaidnyc.org/wp-content/uploads/2023/03/2023-3-14-Letter-to-Mayor-re-NYPD-Discipline-Departures.pdf>.

<sup>12</sup> Ryan Schwach, "Police brass charges officers who shot Queens teen, but discipline may not come," Queens Daily News, 18 September 2025, <https://queenseagle.com/all/2025/9/18/police-brass-charges-officers-who-shot-queens-teen-but-discipline-may-not-come>.

<sup>13</sup> Christopher Maag, "N.Y.P.D. Officers Face Misconduct Charges in Fatal Shooting of Man, 19," The New York Times, 18 September 2025, <https://www.nytimes.com/2025/09/18/nyregion/nypd-win-rozario-charges.html>; Yoav Gonen, "NYPD Commissioner Touts Tougher Discipline for Officers Who Commit Misconduct," The City, 11 March 2025, <https://www.thecity.nyc/2025/03/11/nypd-tisch-discipline-misconduct/>.

<sup>14</sup> Resolution to *Remove the NYC Police Commissioner's exclusive authority over police discipline*, Committee on Public Safety, 11 February 2021, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4770966&GUID=E46D2B5C-5036-4206-BFFA-C6F7114D4F6C>.

<sup>15</sup> Senate Bill S4354/Assembly Bill A126, <https://www.nysenate.gov/legislation/bills/2025/S4354>.

disclosure. As CCRB Director Jonathan Darche noted in a Committee hearing in March of 2023, NYPD control of access to evidence on their own potential misconduct undermines public confidence in the impartiality of the CCRB’s review process.<sup>16</sup>

Though NYPD’s sharing of evidence with CCRB in support of instigations has improved in recent years—with the CCRB asserting that the NYPD turned over BWC footage an average of 8 days after requests in 2023 and 2024, compared to previous response times of tens or upwards of a hundred days—CCRB still does not have direct access to BWC footage or other evidence.<sup>17</sup>

Direct access to evidence needed to investigate complaints would make CCRB investigations more efficient and increase public confidence in their fairness and accuracy. We recommend that CCRB be granted direct access to NYPD camera footage, including but not limited to body-worn camera footage, rather than having to request it from the Police Department.

#### **IV. Insufficient Staffing**

Fourth, staffing shortages at the CCRB have restricted the Board’s capacity to fully investigate a significant proportion of complaints. Citing a “a shortage of investigators and the need to allocate resources strategically,” the CCRB suspended investigations into several types of complaints altogether, including: failure to provide officers’ business cards, name, or shield number, threats or property seizures with no other allegations, and refusal to process civilian complaints with no other allegations.<sup>18</sup> In 2024, the CCRB closed 2,872 complaints as “Unable to Investigate,” of which half (1,440) were listed as Strategic Resource Allocation Determination (SRAD) closures.<sup>19</sup>

We recommend that the Council allocate funds to increase staffing at the CCRB, to ensure that CCRB has the resources to investigate and address the increasing volume of complaints about officer misconduct.

#### **V. Qualified Immunity**

Finally, qualified immunity continues to restrict New Yorkers’ ability to seek redress in court for officer misconduct. Introduction 2220-A, passed in 2021, was a critical step forward in promoting officer accountability, creating a civil cause of action for officer use of excessive force or unreasonable search and seizure. The council could continue down this path by eliminating qualified immunity for other City law causes of action, such as abuse of authority, false arrest or unjust imprisonment, reckless driving, or witness tampering.

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<sup>16</sup> Samantha Max, “NYC Council weighs giving police oversight group direct access to body camera video,” Gothamist, 27 March 2023, <https://gothamist.com/news/nyc-council-weighs-giving-police-oversight-group-direct-access-to-body-camera-video>.

<sup>17</sup> CCRB Director Jonathan Darche, speaking at the Fiscal Year 2026 Preliminary Budget Hearing: Committee on Public Safety, 11 March 2025, at around -5:48:00, <https://citymeetings.nyc/meetings/new-york-city-council/2025-03-11-0930-am-committee-on-public-safety/chapter/ccrb-access-to-nypd-body-worn-camera-footage/>.

<sup>18</sup> CCRB 2024 Report, Page 4.

<sup>19</sup> *Id.*



## **VI. Conclusion**

Lack of meaningful oversight for NYPD misconduct harms all of us, and costs lives. Under existing, toothless disciplinary processes, NYPD officers feel empowered to violate our civil liberties, secure in the knowledge that it will likely cost them, at worst, a handful of vacation days.

Thank you for the opportunity to testify today.

**TESTIMONY OF SAMAH SISAY  
CENTER FOR CONSTITUTIONAL RIGHTS**

Presented to the New York City Council Committee on Public Safety Hearing  
Regarding NYPD Officer Discipline and the Civilian Complaint Review Board

**September 22, 2025**

Good morning, Chair Salaam and Members of the City Council,

My name is Samah Sisay, and I am an attorney at the Center for Constitutional Rights. Thank you for the opportunity to testify today regarding the NYPD's refusal to adequately discipline officers who engage in unconstitutional stop and frisk practices.

The Center for Constitutional Rights has served, along with co-counsel at the law firm of Beldock, Levine, and Hoffman, for over a decade as lead plaintiffs' counsel in *Floyd v. City of New York*, the federal civil rights class action lawsuit that successfully challenged the NYPD's stop-and-frisk practices. In August 2013, following a nine-week trial, a federal judge found the NYPD liable for a pattern and practice of racial profiling and unconstitutional stops.

The Court's decision in *Floyd*, along with the resolution of two other federal lawsuits, resulted in a federal court monitorship requiring various changes to the NYPD's practice of stopping civilians—including that the City and the NYPD hold officers who commit SQF-related misconduct accountable by imposing meaningful discipline on them. To implement that remedy, the Court specifically ordered the NYPD to give more deference to the investigations being conducted by the Civilian Complaint Review Board ("CCRB"), an independent City agency staffed with experienced lawyers and investigators. But over 11 years later, the NYPD has failed

to comply with this order. NYPD officers are rarely disciplined for unconstitutional stops and frisks, even when substantiated by the CCRB.

As was detailed in a recent Discipline Report submitted to the judge overseeing the SQF monitorship, CCRB findings are not given the deference required by this Court's order and instead are often ignored; NYPD police commissioners have consistently exercised their unfettered authority over discipline to excuse officers of SQF misconduct by determining they acted in "good faith," even when the misconduct is confirmed by independent investigation and the officers have long disciplinary histories; and officers found to have repeatedly broken the law and violated NYPD policy are promoted more often than punished.

Furthermore, the current NYPD discipline matrix only recommends a three-day penalty for an illegal stop, frisk, or search of person, yet even this level of discipline is a rarity – with supervisors and Police Commissioners excusing illegal stops, frisks, and searches of New Yorkers constantly. We are seeing a rise in car stops and street encounters and a revamping of broken windows policing rebranded as a "quality of life" initiative. The NYPD's specialized units make a majority of unlawful stops. These allegedly highly-trained Neighborhood Safety Teams or "NSTs" – Mayor Adam's revamped version of former Mayor Giuliani's notorious Street Crime Unit – are also engaged in a high number of unlawful stops: the federal monitor's review of NST stops deemed over 24% of them as unlawful, with nearly everyone stopped (97%) Black or Latino, and found that supervisors were routinely approving bad stops by NST officers.

In October 2019, then-officer Jonathan Rivera shot Allan Feliz in the chest and killed him during a car stop, and his family and community have been fighting ever since

– for over 6 years – for accountability. Despite this and other misconduct allegations and lawsuits, the NYPD promoted Rivera to lieutenant. And after numerous delays, NYPD Commissioner Tisch ultimately disregarded the findings by the Deputy Commissioner overseeing the NYPD Trial that Rivera was not a credible witness and should be fired.

This is only one example of how NYPD officers are not being held accountable, furthering a culture of impunity. The NYPD must follow the *Floyd* court’s order by imposing meaningful discipline and giving the CCRB more deference. There are many ways this can be accomplished. Plaintiffs’ counsel in the federal monitorship have provided many different recommendations that can be reviewed and the NYPD is always welcome to choose to implement them.

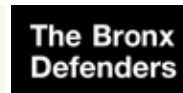
Joint Comment from the *Floyd, Davis, and Ligon* Plaintiffs

in Response to the

Report to the Court on Police Misconduct and Discipline

by the Honorable James Yates

December 25, 2024



The Department Advocate’s Office must improve its procedures for imposing discipline in response to the Civilian Complaint Review Board’s (“CCRB”) findings of substantiated misconduct during stops. This improvement must include increased deference to credibility determinations by the CCRB, an evidentiary standard that is neutral between the claims of complainants and officers, and no general requirement of corroborating physical evidence.

*Floyd* Remedial Order at 684

[E]xcusing established misconduct, such as a stop or frisk without objective reasonable suspicion, merely because the Police Commissioner declares that the officer meant well or acted in good faith, is in clear defiance of the opinions in *Floyd*.

The Honorable James Yates,  
Report to the Court on Police  
Misconduct and Discipline  
September 19, 2024

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## I. Introduction

Over eleven years ago, after a months-long trial, this Court found that the New York City Police Department (“NYPD”) maintained a policy and practice of engaging in unconstitutional stop, question, and frisk (“SQF”). The Court found that the NYPD’s SQF policies and practices condoned racially profiling Black and Latino New Yorkers in violation of the Fourteenth Amendment and stopping and frisking them without appropriate justification in violation of the Fourth Amendment. The Court explained the bases for these findings in a detailed Liability Opinion.<sup>1</sup> Simultaneously, the Court issued a Remedial Order directing the NYPD to take specific steps to bring its SQF policies and practices into compliance with the law.<sup>2</sup>

That Remedial Order required, among other things, that the City and the NYPD hold officers who commit SQF-related misconduct accountable by imposing meaningful discipline on them. To implement that remedy, the Court ordered the NYPD to improve its discipline processes and specifically ordered the NYPD to give more deference to the investigations being conducted by the Civilian Complaint Review Board (“CCRB”), an independent City agency staffed with experienced lawyers and investigators.

But the NYPD has failed to comply with this order, as is made clear in Judge James Yates’s Discipline Report.<sup>3</sup> In the Discipline Report, Judge Yates found, among other things, that CCRB findings are not given the deference required by this Court’s order and instead are often ignored; that NYPD police commissioners have consistently exercised their unfettered authority over discipline to excuse officers of SQF misconduct by determining they acted in “good faith,” even

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<sup>1</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013) (“Liability Opinion”).

<sup>2</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 668 (S.D.N.Y. 2013) (“Remedial Order”). The Remedial Order was later incorporated into the settlement agreement with the plaintiffs in the Stipulation of Settlement and Order, *Davis v. City of New York*, No. 1:10-cv-00699-AT (S.D.N.Y. Apr. 28, 2015), ECF No. 339 (“*Davis Settlement*”).

<sup>3</sup> Report to the Court on Police Misconduct and Discipline, *Floyd et al. v. City of New York et al.* (“*Floyd*”), No. 1:08-cv-1034-AT, (S.D.N.Y. 2023), ECF No. 936 (“Discipline Report”).

when the misconduct is confirmed by independent investigation and the officers have long disciplinary histories; and that officers found to have repeatedly broken the law and violated NYPD policy are promoted more often than punished. Indeed, while the Discipline Report was being finalized, it was reported that former Commissioners Sewell and Caban swept misconduct under the rug even more often than their predecessors.<sup>4</sup> And even now, with the evidence before it and a reasonable road map provided by Judge Yates after years of in-depth study, the City refuses to take responsibility for its failures, choosing instead to focus on meritless procedural challenges to the Discipline Report.<sup>5</sup>

The Court has the power to take action in response to the Discipline Report's findings. As a starting point, the Discipline Report provides 51 recommendations aimed at specific disciplinary failures. The Court can and should so-order those recommendations by directing the parties and the Monitor to meet and confer on a proposed order implementing them. To that end, this comment proceeds in three parts: First, Plaintiffs place the factual conclusions of the Discipline Report in the broader context of the history of these cases and more recent developments in NYPD disciplinary practices, in order to further inform the Court's consideration of the Report's recommendations. Second, Plaintiffs outline the Court's legal authority to order the Discipline Report's recommendations, which is grounded in the Court's power to respond to the City and the NYPD's long failure to comply with the Remedial Order, as well as its power to modify the original Remedial Order and order new relief. Third, Plaintiffs present the case that the Discipline Report's

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<sup>4</sup> Eric Umansky, *The NYPD Is Tossing Out Hundreds of Misconduct Cases—Including Stop-and-Frisks—Without Even Looking at Them*, PROPUBLICA (Sept. 11, 2024), <https://www.propublica.org/article/nypd-tossed-out-police-misconduct-discipline-cases-edward-caban>.

<sup>5</sup> See Ltr. from T. Zimmerman to J. Torres, (Dec. 9, 2024), *Floyd*, ECF No. 946 ("Zimmerman Letter"); Order (Dec. 22, 2024), *Floyd*, ECF No. 948.

recommendations should be ordered by the Court because they are well-supported measures to remedy ongoing causes of violations of the law.

Even should the Court so-order the Discipline Report's recommendations, that will not finish the job. The evidence establishes that the absolute authority of the Police Commissioner over discipline will remain a major obstacle to compliance. Plaintiffs hope that the new Commissioner—who Plaintiffs acknowledge enters the role with a reputation for efficiency and innovation—will see in the Discipline Report an opportunity to repair a broken system. Perhaps, while working to implement the remedies ordered by the Court, she will even exceed Judge Yates's recommendations. Perhaps she will recognize that imposing accountability on employees who break the law and violate NYPD policy is not only a way to end the City's decades-long practice of unconstitutional SQF but is also an effective management tool. We sincerely hope so. But the long historical record across numerous commissioners demonstrates that vesting the power of discipline solely in the commissioner impedes accountability even if the occasional commissioner proves an exception to the rule. The culture within the NYPD of failing to hold police officers accountable for their violations of the rights of the Plaintiff class has deep roots, no matter who the commissioner is. And previous commissioners have also begun their tenures promising reform. Meaningful disciplinary reform requires a court order implementing the Discipline Report's recommendations as a first step and may require more fundamental reform and further court orders before the City is able to achieve compliance with the discipline-related court orders, and before the City is able to achieve substantial compliance overall.

## **II. The Discipline Report Reflects the NYPD's Decade-Long Failure to Comply with the Remedial Order**

### **A. The Court Ordered Changes to NYPD Systems for Investigating and Disciplining Misconduct Due to Failures Tantamount to Condoning Racial Profiling**

From the outset of this litigation, Plaintiffs linked the NYPD's racial profiling of Black and Latino people in violation of the Fourth and Fourteenth Amendment to its "failure to properly and adequately monitor and discipline [its] officers." 2d Am. Compl., *Floyd*, ECF No. 50 at 35–36; *see also* Am. Compl., *Davis*, ECF No. 69 at 46, 48. While encouraging officers to stop and frisk increasing numbers of people in the early 2000s, the NYPD was simultaneously failing to properly discipline officers who stopped people unlawfully, even when independent investigations by the CCRB identified unconstitutional stops. As the number of stops conducted by the NYPD surged, from 98,000 in 2002 to over 500,000 in 2006,<sup>6</sup> the CCRB substantiated allegations of improper stops or frisks at nearly double the rate of any other allegations of officer misconduct.<sup>7</sup> At the same time, the NYPD was disposing of substantiated CCRB findings by issuing "instructions" at an unprecedented rate. In 2006, 70% of the allegations of abuse of authority substantiated by the CCRB resulted only in "instructions,"<sup>8</sup> which in practical terms means an officer is simply provided additional training, such as being directed to re-watch a training video. Discipline Report at 55 fn. 241.

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<sup>6</sup> *See Stop, Question and Frisk Data*, NYPD, <https://www.nyc.gov/site/nypd/stats/reports-analysis/stopfrisk.page> (last visited Dec. 24, 2024); *Stop-and-Frisk Data*, NYCLU (Mar. 14, 2019), <https://www.nyclu.org/data/stop-and-frisk-data>.

<sup>7</sup> CCRB substantiated 18.3% of the "frisk and/or search" allegations it investigated between 2002 and 2006, compared to 10.8% of all allegations. The only types of complaints substantiated at a higher rate were retaliatory arrest (25.5%) and retaliatory summons (24.6%). *See* New York City Civilian Complaint Review Board, *January-December 2006 Status Report*, 96 (May 2007), [https://www.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2006\\_annual.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2006_annual.pdf).

<sup>8</sup> *Id.* at 44.

The failure of the NYPD to punish officers appropriately for stopping people without reasonable suspicion and frisking them without reasonable suspicion of being armed or dangerous was integral to the NYPD's policy of racial profiling Black and Latino New Yorkers. Officers who conducted large numbers of stops were rewarded for productivity even when many of those stops were illegal. And officers were emboldened by that encouragement, dramatically increasing the number of stops nearly every year until the *Floyd* lawsuit was filed in 2008. As the Court wrote at the summary judgment stage, "it is difficult to imagine how the Department's disciplinary practices would be adequate . . . to ensure that its officers are conducting constitutional stops." *Floyd v. City of New York*, 813 F. Supp. 2d 417, 454 (S.D.N.Y. 2011).

The Court identified the NYPD's failure to discipline officers for unlawful SQF activity as one of the engines of its unconstitutional practices, writing that when "confronted with evidence of unconstitutional stops, the NYPD routinely denies the accuracy of the evidence, refuses to impose meaningful discipline, and fails to effectively monitor the responsible officers for future misconduct." Liability Opinion at 617–20. The Court specifically singled out the NYPD office that handled discipline at that time. In its Remedial Order, the Court ordered that the "Department Advocate's Office *must improve* its procedures for imposing discipline in response to the [CCRB's] findings of substantiated misconduct during stops. This improvement *must include increased deference to credibility determinations by the CCRB*, an evidentiary standard that is neutral between the claims of complainants and officers, and no general requirement of corroborating physical evidence." Remedial Order at 684 (emphasis added).

**B. The NYPD Has Thwarted Meaningful Discipline By Ignoring External Recommendations and Undermining Independent Oversight**

Over the past decade, the NYPD has undermined the Court's order on discipline by establishing a redundant investigative unit that delays the disciplinary process, backtracking on an

agreement granting the CCRB greater authority, failing to substantiate a single instance of racial profiling, and strategically ignoring and weakening its disciplinary matrix. These actions demonstrate that the failure to discipline is not the inadvertent result of a bureaucratic process. Instead, that failure stems from intentional institutional resistance to independent oversight built up over decades, whether that oversight comes from the CCRB, the City Council, the Monitor team, or ultimately this Court.

Three years after the Court ordered that more deference be shown to CCRB findings, the NYPD established the Force Investigative Division (“FID”), an investigative unit within the NYPD that has repeatedly contested CCRB findings.<sup>9</sup> While FID only investigates force cases, many street stops and investigative encounters escalate to a use of force, as the Discipline Report makes clear. *See* Discipline Report at 102–03. The FID has re-investigated cases already substantiated by the CCRB or launched parallel investigations into the same incidents—including the deaths of Kawaski Trawick and Allan Feliz—and reversed, rather than deferred to, the CCRB’s findings.<sup>10</sup> The duplicative investigations conducted by FID also result in the NYPD delaying to provide the CCRB with much-needed evidence,<sup>11</sup> all but ensuring that investigations extend beyond the 18-month statute of limitations<sup>12</sup> and providing yet another obstacle to imposing meaningful discipline.

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<sup>9</sup> When it established FID, the NYPD suggested the reason was that “officers often don’t trust investigators from the department’s Internal Affairs Bureau.” John M. Annese, *Exclusive: NYPD Poised to Create Special Unit to Investigate Officer-Involved Shootings, Sources Say*, STATEN ISLAND ADVANCE (Mar. 17, 2015), [https://www.silive.com/news/2015/03/exclusive\\_nypd\\_poised\\_to\\_creat.html](https://www.silive.com/news/2015/03/exclusive_nypd_poised_to_creat.html).

<sup>10</sup> *See* Mike Hayes and Eric Umansky, *Video Showed an Officer Trying to Stop His Partner From Killing a Man. Now We Know Police Investigators Never Even Asked About the Footage*, PROPUBLICA, (May 11, 2023), <https://www.propublica.org/article/nypd-kawaski-trawick-killing-investigation-questions>; Maria Cramer and Olivia Bensimon, *5 Years After Killing Driver, Officer Fights at Trial to Keep His Job*, NEW YORK TIMES (Nov. 12, 2024), <https://www.nytimes.com/2024/11/12/nyregion/nypd-shooting-trial-allan-feliz.html>.

<sup>11</sup> *See* Thomas Tracy, *Excessive Force or a Justified Shooting? A Fatal NYPD Encounter Nears a Long-awaited Resolution*, NEW YORK DAILY NEWS, (Nov. 13, 2024), <https://www.nydailynews.com/2024/11/13/excessive-force-or-a-justified-shooting-a-fatal-nypd-encounter-nears-a-long-awaited-resolution/>.

<sup>12</sup> N.Y. Civ. Serv. Law § 75(4).

The NYPD has also backslid in its agreement to allow the CCRB to prosecute misconduct hearings. As litigation against the NYPD’s SQF policy and practices was ongoing, the NYPD and the CCRB signed a Memorandum of Understanding providing that attorneys from the CCRB’s Administrative Prosecution Unit (“APU”) would prosecute officers against whom the CCRB had substantiated misconduct allegations in the NYPD Trial Room.<sup>13</sup>

While the CCRB’s prosecutors soon showed themselves capable,<sup>14</sup> the NYPD has recently slowed down APU prosecutions and, in a growing number of cases, simply denied the CCRB the right to prosecute cases at all. For example, the APU MOU requires that “[i]n order to formally commence the administrative prosecution of a substantiated civilian complaint, Charges and Specifications shall promptly be drafted by CCRB and thereafter be served upon the subject officer by the DAO on behalf of CCRB.” (APU MOU ¶ 15). Although the APU MOU provides that the CCRB must draft charges “promptly,” the NYPD has no complementary requirement to serve them “promptly” on officers. Consequently, the NYPD has delayed the ministerial process of serving these charges, sometimes failing to serve officers for multiple years.<sup>15</sup> And while the APU MOU contains a limited provision allowing the NYPD to “retain” or strip the CCRB of the right to prosecute cases in which there “are parallel or related criminal investigations” or when an officer has no disciplinary history (APU MOU ¶ 2), the Commissioner has stripped jurisdiction from the

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<sup>13</sup> CCRB Administrative Procedure Unit, *Memorandum of Understanding Between the CCRB and NYPD Concerning the Processing of Substantiated Complaints* (“APU MOU”) (April 2, 2012), [https://www.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/apu\\_mou.pdf](https://www.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf). Prior to the decision in *Lynch v. Giuliani*, 301 A.D. 351 (1st Dep’t 2003), cases against Police Officers were tried at the neutral Office of Administrative Trials and Hearings (“OATH”), while higher-ranking officers were tried in the trial room. As the Discipline Report makes clear, the decision requiring all trials to be held in the NYPD trial room is highly questionable. *See* Discipline Report at 178–79.

<sup>14</sup> The CCRB’s APU successfully prosecuted Daniel Panteleo for using an illegal chokehold on Eric Garner. *See* Ashley Southall, Daniel Pantaleo, *Officer Who Held Eric Garner in Chokehold, is Fired*, NEW YORK TIMES (Aug. 19, 2019), <https://www.nytimes.com/2019/08/19/nyregion/eric-garner-daniel-pantaleo-fired.html>.

<sup>15</sup> *See In Re Harvin*, 156887/2024 (July 29, 2024), NYSCEF Doc. No. 3 (detailing failure to serve charges for over two years).

CCRB in alarmingly high numbers, even when neither of these factors is met.<sup>16</sup> The NYPD publicly claims that an investigation by FID or the Internal Affairs Bureau—even one long closed—allows the Commissioner to retain a case because there “are parallel or related criminal investigations.”<sup>17</sup> This willful misreading of the APU MOU reveals what is really going on: multiple police commissioners have chosen to remove cases from the jurisdiction of an independent agency in order to not punish officers even in the face of overwhelming evidence.

Perhaps nowhere is the NYPD’s institutional reluctance to investigate and discipline more transparent than in its failure to substantiate *even one single instance of racial profiling* against an officer when it was responsible for these investigations, despite receiving thousands of racial profiling complaints. In 2019, the Office of the Inspector General for the NYPD released a report finding that the NYPD had never substantiated a single case of biased-based policing (out of 2,500 complaints), nearly five years into this monitorship.<sup>18</sup> The outcry over this notable failure was immediate: the City Council amended the City Charter to empower the CCRB to investigate allegations of “racial profiling and bias-based policing” under its “abuse of authority” jurisdiction.<sup>19</sup>

To exercise its new authority, the CCRB created the Racial Profiling and Bias-Based Policing Unit (“RPBP”) in October 2022.<sup>20</sup> By May 2023, the unit had more than one hundred open investigations of biased-based policing,<sup>21</sup> but the NYPD has stymied these investigations at

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<sup>16</sup> Umansky, *supra* note 4. The NYPD utilizes the term “retain” to describe the process in which the Commissioner assumes control over a matter, thus effectively ending the disciplinary process. *Id.*

<sup>17</sup> Memorandum of Law in Response, *In re Harvin*, No. 156887/2024, at 2–3 (describing a closed IAB investigation as grounds to “retain” a case).

<sup>18</sup> NYPD Office of the Inspector General, *Complaints of Biased Based Policing in New York City: An Assessment of NYPD’s Investigations, Trainings, and Policies*, June 2019 at 17–19, [https://www.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt\\_62619.pdf](https://www.nyc.gov/assets/doi/reports/pdf/2019/Jun/19BiasRpt_62619.pdf).

<sup>19</sup> See Local Law 47 of 2021, <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCAadmin/0-0-0-132892>.

<sup>20</sup> Monitor’s Twenty-first Report at 50 (September 4, 2024).

<sup>21</sup> *Id.*



every turn. For example, the NYPD refused to provide certain evidence to CCRB that the agency needed to complete comprehensive investigations.<sup>22</sup> Eventually, the Monitor was forced to intervene, and the NYPD and the CCRB executed another Memorandum of Understanding on June 8, 2023 (“RPBP MOU”), requiring that the NYPD provide the CCRB with data relevant to its investigations into allegations of racially-motivated and bias-based policing.<sup>23</sup> Further negotiations between the agencies resulted in an agreed-upon addendum to the RPBP MOU regarding the specific data fields to be shared by the NYPD with the CCRB.<sup>24</sup>

The preliminary results of the NYPD response to this expansion of the CCRB’s jurisdiction are not encouraging. As of December 17, 2024, the CCRB has substantiated all 67 of the bias-based policing allegations it has investigated. While the majority of the cases are still pending an administrative trial, twelve cases have been resolved so far. Among them, two of the subject officers resigned prior to discipline, one resulted in a “DUP” without discipline, and the rest were “retained” by the Police Commissioner. Of the nine “retained” cases, two resulted in no discipline, five resulted in a CD-A (only two of which included a three-day penalty), one resulted in a CD-B (without any penalty days), and one resulted in the officer forfeiting three vacation days.<sup>25</sup> Under the current version of the disciplinary matrix, the mitigated penalty for racially biased policing is forced separation and the presumptive penalty is termination. Also of note is that the Police Commissioner had used the “retention” provision in the APU MOU to prevent the CCRB from

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<sup>22</sup> *Id.*

<sup>23</sup> Additional discussions between the NYPD and CCRB resulted in an addendum to the Memorandum of Understanding on the exact data fields that NYPD would share with CCRB. *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> City of New York, *NYC Open Data: Civilian Complaint Review Board (CCRB) Datasets*, [https://data.cityofnewyork.us/browse?Dataset-Information\\_Agency=Civilian+Complaint+Review+Board+%28CCRB%29](https://data.cityofnewyork.us/browse?Dataset-Information_Agency=Civilian+Complaint+Review+Board+%28CCRB%29) (last visited Dec. 17, 2024).

prosecuting substantiated RPBP allegations. The first APU prosecution for RPBP misconduct to actually proceed to the NYPD Trial Room began on December 18, 2024.<sup>26</sup>

Finally, the NYPD has consistently revised the disciplinary matrix that the City Council required it to create in a manner that undermines its goal of meaningful progressive discipline.<sup>27</sup> At the press conference celebrating the creation of the matrix, then-Mayor de Blasio held up a copy of the document and said, “after a two-year process, including the Blue Ribbon Commission, then organized by Commissioner O’Neill, the NYPD is fully committed to this.”<sup>28</sup> But future commissioners were not so committed. Commissioner Sewell dismissed a large number of cases outright and imposed a lower level of discipline than the matrix recommended more often than not in the rest.<sup>29</sup> And just before his own resignation under the shadow of criminal investigation, Commissioner Caban released a new, watered-down version of the disciplinary matrix that reduced the penalties for a wide variety of offenses, including for racial slurs.<sup>30</sup> Incredibly, these downgrades took place after the Discipline Report had been shared with Defendants for comment. It is concerning and telling that the NYPD responded to findings by this Court’s appointed representative that it was failing to discipline officers by further lowering discipline standards.

These institutional actions provide context for the Discipline Report’s core finding: the reason the NYPD has rarely, if ever, punished an officer for unlawful SQF activity is that the

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<sup>26</sup> See Tandy Lau, *Three Officers Face Termination As First CCRB Racial Profiling Unit Investigation Reaches NYPD Disciplinary Trial*, AMSTERDAM NEWS (Dec. 22, 2024), <https://amsterdamnews.com/news/2024/12/22/ccrb-racial-profiling-unit-investigation-reaches-nypd-disciplinary-trial/>.

<sup>27</sup> See Local Law 69 of 2020, <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCadmin/0-0-0-124304>.

<sup>28</sup> Gloria Pazmino and Anna Lucente Sterling, *De Blasio Touts New NYPD Disciplinary Guidelines, but Critics Say It Lacks Legally Binding Power*, SPECTRUM NEWS (Jan 21, 2021), <https://ny1.com/nyc/all-boroughs/news/2021/01/21/nypd-launches-public-disciplinary-matrix>.

<sup>29</sup> Annie McDonough, *Under Adams and Sewell, Advocates Allege Rollbacks in Police Accountability*, CITY AND STATE (June 15, 2023), <https://www.cityandstateny.com/policy/2023/06/under-adams-sewell-advocates-allege-rollback-police-accountability/387600>.

<sup>30</sup> Reuven Blau, *Caban Watered Down NYPD Misconduct Rules as Final Act*, THE CITY (Sept. 13, 2024), <https://www.thecity.nyc/2024/09/13/caban-watered-down-nypd-punishments-as-final-act/>.

NYPD is historically resistant to holding officers accountable and refuses to respond to independent oversight or critique. This reluctance is fueled by the Police Commissioner's unilateral authority to impose or not impose discipline, which may be the single biggest obstacle to reform. As the Discipline Report notes, "the level of cooperation and response is ultimately up to the discretion of the Commissioner." Discipline Report at 460. The Discipline Report details prior, unsuccessful efforts to remove such authority and explains how that authority remains a final stumbling block for meaningful discipline regardless of the discipline recommendation's path to the Commissioner's desk.

**C. The Discipline Report Documents the Internal Mechanisms of the NYPD's Systemic Failure to Discipline Officers**

The NYPD's failure to punish officers who conduct unlawful stops and frisks or violate policies designed to prevent such unlawful actions—and consequently its failure to abide by the Remedial Order—has been a consistent theme in the Monitor's publicly-filed reports.<sup>31</sup> The Discipline Report, which documents in great detail the system's numerous interlocking failures, provides a comprehensive and in-depth review as to how and why. The Discipline Report relies on the "clear import of the Liability Opinion and the Remedies Opinion," namely that "findings of fact by CCRB should not be disregarded absent good cause." Discipline Report at 367. The Discipline Report concludes that such findings have clearly been disregarded: "officers rarely, if ever, receive a penalty for unconstitutional stops/frisks/or searches, even when substantiated by CCRB." *Id.* at 480 (cleaned up). To assist in laying the foundation for a Court order addressing the Discipline Report, Plaintiffs highlight the Report's key themes here.

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<sup>31</sup> See Monitor's 1st Report, *Floyd*, ECF No. 513 at 62; Monitor's 4th Report, *Floyd*, ECF No. 536 at 36–45; Monitor's 7th Report, *Floyd*, ECF No. 576 at 48, 54–55; Monitor's 9th Report, *Floyd*, ECF No. 680-1 at 56–58; Monitor's 10th Report, *Floyd*, ECF No. 754; Monitor's 11th Report, *Floyd*, ECF No. 795-1 at 94.

1. The NYPD Discipline Process Lacks Transparency and Deprives Stakeholders of Pertinent Officer Misconduct Records

The Discipline Report exposes the NYPD discipline process as one in which secrecy reigns. The NYPD hides critical information from the public and from key decisionmakers. For example, the City must make the NYPD Patrol Guide publicly available but is not required to release the NYPD Administrative Guide. Thus, evading disclosure of Patrol Guide provisions, the NYPD has moved sections of the Patrol Guide related to discipline, along with its policy against racial profiling that was developed as part of the remedies in *Floyd*, to the Administrative Guide. *Id.* at 33. Moreover, it did so without consultation with the Monitor or the parties to this litigation. Other internal NYPD publications that codify the NYPD's rules and regulations are similarly unavailable to the public, including the Detective Guide, FINEST Messages, and Reference Guides that the NYPD provides to members on an electronic portal. *Id.* at 33 fn. 150. The Patrol Guide and Administrative Guide are written and amended at the Police Commissioner's sole discretion, and the definitions of key terms differ from those used by the CCRB in ways that pose "significant risk of confusion." *Id.* at 42–46.

Furthermore, the Discipline Report highlights that the NYPD publishes a very limited subset of officer misconduct records on its "Officer Profile" website. *Id.* at 12, fn. 27. These records are limited to the rare instance when an officer is found guilty in the NYPD's Trial Room and a penalty was imposed by the Police Commissioner. *Id.* Rather than providing much-needed transparency about the misconduct histories of individual officers, the NYPD's "Officer Profile" website misleads the public by concealing the existence of a significant amount of substantiated misconduct as well as the fact that such misconduct more often than not is punished lightly or not at all.

The NYPD also prohibits the CCRB from gaining access to the full disciplinary files of the officers it investigates. This denies the CCRB evidence it needs to assess credibility, such as adverse credibility findings and previous interviews available only to the NYPD. *Id.* at 280–81, *see also id.* at 430–31 (noting the Department’s “historical reluctance to substantiate false statement findings”). The Deputy Commissioner of Trials (“DCT”) is similarly denied comprehensive access to an officer’s misconduct history. When evaluating a case, the DCT is not provided complete records of allegations of prior misconduct that was not formally charged. Nor is the DCT provided access to records of allegations of misconduct investigated by the CCRB. *Id.* at 164. This leads to penalty recommendations based on an incomplete picture of officers’ past actions and complaints lodged against them. *Id.*

Multiple police commissioners have also undermined transparency by publishing cursory deviation letters—letters required by law to inform the public and stakeholders of the reasons for any deviation by the Commissioner from CCRB findings or recommendations—or by refusing to publish them at all. *Id.* at 360, fn. 1518.<sup>32</sup> The few letters that have been published are “conclusory,” “boiler-plate,” and a “far cry from the ‘detailed explanation’” required by the City Charter. *Id.* at 415.

## 2. The NYPD Undermines CCRB Findings

The Discipline Report establishes that many deviation letters from NYPD Commissioners discount or overrule CCRB findings by concluding, without evidence, that officers who broke the law had made “good faith mistakes.” *Id.* at 366. As the Discipline Report makes clear, these summary conclusions violate the Remedial Order:

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<sup>32</sup> The Discipline Report quotes the 2019 Independent Panel report, which found that conclusory departure letters “undermine the confidence of the public and other constituencies in the integrity, fairness, and robustness of the NYPD’s disciplinary system.” Discipline Report at 403.

Frequent disregard for CCRB determinations simply because the Police Commissioner, without the benefit of hearing testimony, elects to arrive at a different factual finding or because the Police Commissioner believes the officer acted in good faith, or acted with good intent, *continues the very flawed process that underpinned the holding in Floyd*.

*Id.* at 368 (emphasis added). This conduct is not isolated. In a sample of 91 substantiated SQF investigations, the Discipline Report found that “no officer received penalty days for an A-CD recommended by the [CCRB] Board and no officer has received the presumptive three-day penalty for SQF misconduct.” *Id.* at 389. This pattern, Judge Yates concluded, “is in *clear defiance* of the opinions in *Floyd*.” *Id.* at 368 (emphasis added).

The consequences of the NYPD’s failure to defer to CCRB credibility findings are dire. For example, determining whether an officer made a false statement is “inextricably intertwined” with evaluating the officer’s explanation for the stop. *Id.* at 149. And credibility determinations are particularly critical in the racial profiling and bias-based policing investigations discussed above.

### 3. Disciplinary Failings Regarding Stops and Frisks Are Particularly Acute

In addition to ordering Defendants to defer to the CCRB, the Court ordered that every *Terry* stop conducted by the NYPD be documented. Remedial Order at 681–83. But the NYPD does not punish officers if they fail to complete a stop report, so underreporting rates continue to be unreasonably high.<sup>33</sup> As the Discipline Report found, “reported discipline is practically non-existent for the many cases where a stop or frisk occurred but was not reported.” Discipline Report at 131. This encourages officers to conceal their illegal stops and only report their legal ones, as failing to report a stop is an “easy way for misconduct to be veiled.” *Id.* at 429. Bolstering this assertion are the CCRB’s own statistics: the agency substantiates allegations of SQF misconduct

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<sup>33</sup> See Monitor’s Twenty-second Report, *Floyd*, ECF No. 937-1 at 1 (“The Monitor team’s audit of BWC videos found that only 59% of identified *Terry* stops were documented with stop reports in 2023. This is an even lower compliance rate than revealed in the Monitor team’s 2022 audit, finding that 69% of identified stops were documented.”).

at much higher rates when officers fail to file a stop report compared to when they properly document stops. *Id.* at 129–30. And despite knowing that it is failing to comply with several aspects of the Remedial Order, the NYPD does not proactively monitor or investigate street encounters to detect SQF-related misconduct, even if it engages in proactive efforts to identify other forms of misconduct. *Id.* at 141.

In addition, supervisors rarely identify officers who should have prepared stop reports or who engaged in related misconduct. The Discipline Report found no instances where supervisors initiated meaningful discipline for officers who conducted bad stops. *Id.* at 125. Instead, supervisors and internal audits sometimes “correct” the forms of an officer who conducted an illegal stop but take no further remedial action. *Id.* And supervisors almost never received discipline for their own SQF misconduct, including failures to identify illegal SQF activity when reviewing stop reports and failures to supervise subordinates who conduct improper SQFs or who failed to document their SQF activity. *Id.* at 132–134.

Even when officer misconduct is substantiated by a CCRB investigation, or in the rare instances identified by a supervisor, the current NYPD Discipline Matrix provides only minimal penalties for improper stops or frisks. The Discipline Report notes that, in the entire matrix, “the lowest range of penalties are reserved for stop/frisk/search related violations.” *Id.* at 358. And as discussed above, even this minimal penalty—a loss of three vacation days for a bad stop—has apparently never been imposed. *Id.* at 389.

#### **D. The NYPD’s Failures Have Continued Since Receipt of the Discipline Report Draft**

The NYPD’s refusal to punish officers who break the law or department policy, as detailed in the Discipline Report, is a core reason that Defendants are still not in compliance with other aspects of the Remedial Order more than ten years into this process. The fact that officers know

they will not be punished for illegal stops, including for racial profiling—and can disguise unlawful conduct behind a lack of documentation—is one of the most important reasons the NYPD has failed to remedy the constitutional violations identified by the Court and achieve the substantial compliance required to end the monitorship. These shortcomings have continued since the Defendants first received a draft of the Discipline Report in February 2023.<sup>34</sup> The Monitor highlighted the NYPD’s continued failure to discipline officers in its Twenty-first and Twenty-second Reports.<sup>35</sup> In the Twenty-first Report, the Monitor raised particular concern over the NYPD’s failure to discipline officers who filed incomplete or misleading stop reports. It noted that the failure to discipline officers for underreporting stops was serious and pervasive:

The Monitor team is unaware of any cases in which a member received penalty days or time *solely* for the failure to complete a stop report. Given the increase in underreporting, this is problematic: officers who fail to report should be disciplined for their failure to report, not only for a bundle of infractions.

Monitor’s Twenty-first Report at 52 (emphasis in original).

In addition, the Monitor found that the NYPD improperly dismissed complaints of misconduct simply because they were near, rather than beyond, the statute of limitations, even though they could have been resolved before the statute expired.<sup>36</sup> In 2022, the NYPD dismissed at least 425 such cases even though it had received complete investigations from the CCRB, including 48 cases where the CCRB made findings of improper stops, questions, or frisks.<sup>37</sup> Of the 425 cases the NYPD dismissed, 65 included a finding by the CCRB that an officer had failed to file a stop report. Instead of treating these findings with “increased deference to credibility

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<sup>34</sup> *Floyd*, ECF No. 948 at 2. While Defendants claim that a March draft was given to “the parties,” in fact it was only provided to Defendants; Plaintiffs first received a draft on June 1, 2023.

<sup>35</sup> See *Floyd*, ECF No. 934-1 (Monitor’s Twenty-first Report); *Floyd*, ECF No. 937-1 (Monitor’s Twenty-second Report).

<sup>36</sup> See Monitor’s Twenty-first Report at 47.

<sup>37</sup> *Id.*



determinations,” as the Court ordered, the NYPD dismissed them without reviewing their contents at all.<sup>38</sup> As flagged by the Monitor, CCRB’s referrals of cases involving a failure to file a stop report are examined by the precinct or command, and these investigations can be (and should be) conducted quickly without being dismissed on statute of limitations grounds.<sup>39</sup>

In its Twenty-second Report, the Monitor found that the “NYPD appears to be headed in the wrong direction and must take immediate steps, including discipline when appropriate, to correct this failure to properly document *Terry* stops.”<sup>40</sup> And it noted that the NYPD continues to (1) ignore the importance of tracking and reporting on discipline for stop report failure, and (2) seldomly issue penalty days for documentation failures even though the failure to file a stop report leads to community distrust in the NYPD.<sup>41</sup>

While these failures pre-date the issuance of the final Discipline Report, they do not pre-date the City and the NYPD’s knowledge of the Report’s clear findings, which were set out in the preliminary drafts of the Discipline Report that were made available to the City and the NYPD, demonstrating it will not take serious steps to address the failings outlined in the Discipline Report without the Court’s intervention.

#### **E. The NYPD’s Non-Disciplinary Accountability Systems Are No Substitute for Effective Discipline**

In response to long-standing critique that it fails to discipline officers, the NYPD has regularly touted non-disciplinary programs that it claims will increase compliance with the law, including an “Early Intervention System” (“EIS”), the Remediation of Identified Situations Key to Success (“RISKS”) program, and its most recent iteration “ComplianceStat.” All of these

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<sup>38</sup> Remedial Order at 684; Monitor’s Twenty-first Report at 47.

<sup>39</sup> *Id.* at 48.

<sup>40</sup> Monitor’s Twenty-second Report at 2.

<sup>41</sup> *Id.*

programs involve identifying officers, supervisors or precincts with records of misconduct and telling them not to do it again. But, as the history of this remedial process has established, that is not sufficient.

The Monitor noted in its review of the EIS that “some officers reviewed by the Committee have exhibited deeply troubling conduct. The interventions recommended (training, guidance, mentoring) were woefully inadequate.” Monitor’s Twenty-First Report at 40–41. During RISKS reviews, the NYPD used to meet regularly with commanding officers to review data in order to improve compliance in their command. But as the Monitor observed in September 2024, “without any notice to the Monitor, the NYPD discontinued RISKS Reviews in September 2022” and provided no immediate replacement.<sup>42</sup> After the NYPD discontinued RISKS, no entity within NYPD proactively pursued investigations for stop and frisk misconduct. Discipline Report at 141. The NYPD claims that its latest effort, called ComplianceStat, will be more effective. ComplianceStat was created nearly sixteen months after abruptly jettisoning RISKS, and was presented as a replacement.<sup>43</sup> According to the Monitor, ComplianceStat meetings are modeled after CompStat and attended by four Patrol Borough commanding officers and the precinct commanding officers from those Patrol Bureaus.<sup>44</sup> Beyond that, Plaintiffs still do not know the details of ComplianceStat firsthand, even as we near the one-year anniversary of its rollout: unlike with RISKS, Plaintiffs have been prohibited from observing even a recording of these meetings. There is, therefore, no basis at this stage to conclude that it will prove more effective than its failed and cancelled predecessors.

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<sup>42</sup> Monitor’s Twenty-first Report at 35.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

In any case, whether or not the NYPD implements a non-disciplinary program aimed, in part, at establishing accountability for misconduct, it remains under Court order to improve its disciplinary system as well.

### **III. The Court Has Authority to Order Implementation of the Discipline Report Recommendations**

Federal courts have broad and flexible equitable power to fashion remedies. *See Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971); *accord Association of Surrogates & Supreme Court Reporters Within City of New York v. State of New York*, 966 F.2d 75, 79 (2d Cir. 1992) (“[F]ederal courts have broad discretion in fashioning equitable remedies for . . . constitutional violations.”); *Berger v. Heckler*, 771 F.2d 1556, 1568 (2d Cir. 1985); *Hutto v. Finney*, 437 U.S. 678, 696 (1978). These powers include both the equitable authority to enforce court orders, *E.E.O.C. v. Loc. 580, Int’l Ass’n of Bridge, Structural & Ornamental Ironworkers, Joint Apprentice-Journeyman Educ. Fund*, 925 F.2d 588, 593 (2d Cir. 1991), and the ability to modify injunctions in light of changed circumstances, *United States v. Swift & Co.*, 286 U.S. 106, 114-15 (1932).

The Court should use this power to so-order the recommendations in the Discipline Report because the City has still not implemented the relief ordered by this Court more than a decade ago. Such an order is justified either (i) to enforce the Court’s existing orders requiring improvements to the NYPD’s discipline system or (ii) to order new relief based on the findings of the Discipline Report and the City’s ongoing failure to comply with the Remedial Order.

#### **A. The Court Has the Power to Enforce Its Existing Remedial Order**

The City has not met its obligations under the Court’s existing orders to remedy its discipline failures that cause unconstitutional policing to persist. “Until parties to [court-ordered reforms] have fulfilled their express obligations, the court has continuing authority and

discretion—pursuant to its independent, juridical interests—to ensure compliance.” *E.E.O.C. v. Loc. 580, Int’l Ass’n of Bridge, Structural & Ornamental Ironworkers, Joint Apprentice-Journeyman Educ. Fund*, 925 F.2d 588, 593 (2d Cir. 1991); *see also United States v. Loc. 359*, 55 F.3d 64, 69 (2d Cir. 1995). The Court’s power to enforce its orders rests on the principle that “judicial discretion in flexing its supervisory and enforcement muscles is broad.” *Davis v. New York City Hous. Auth.*, 278 F.3d 64, 80 (2d Cir. 2002) (internal citations omitted). The City’s consistent refusal to improve its disciplinary process, notwithstanding the Court’s orders, is precisely the sort of noncompliance that these broad enforcement powers should address.

The Court’s prior orders expressly require the City to address the flaws in its discipline system, particularly the NYPD’s long disregard for CCRB findings. As the Court’s Remedial Order in *Floyd* recognizes, “the development of an improved system for monitoring, supervision, and discipline” is “essential” to Plaintiffs’ relief. Remedial Order at 683; *see also Davis Settlement* at H(1)–(2), (5) (incorporating *Floyd*-ordered remedies on discipline and other issues in the *Davis* litigation).<sup>45</sup> As a result, the Remedial Order requires that the NYPD “improve its procedures for imposing discipline” and specifically orders that “[t]his improvement must include increased deference to credibility determinations by the CCRB[.]” Remedial Order at 684.

The Court does not need to conduct a second trial to determine any issue of ongoing liability; the Court’s interest in enforcing its existing remedial orders “justifies any reasonable action taken by the court to secure compliance with its orders.” *Berger*, 771 F.2d at 1568 (quoting *Gates v. Collier*, 616 F.2d 1268, 1271 (5th Cir. 1980)). The Discipline Report establishes that a general mandate to “improve its procedures for imposing discipline” was not sufficient direction

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<sup>45</sup> The parties to the *Davis* litigation stipulated that the provisions of the Remedial Order would be incorporated into the *Davis* case for the purpose of enforcing the settlement stipulation as it pertains to the NYPD’s discipline of officers related to trespass enforcement in or around NYCHA residents. *Davis Settlement* at H(5).

for the City to come into compliance. Remedial Order at 684. A more specific order—in the form of the Discipline Report recommendations—is therefore justified. As set forth above, the Discipline Report shows the NYPD fails to identify misconduct, lacks transparency, disregards independent investigative findings, and fails to punish officers who improperly stop, question, and frisk people without legal justification. Because the City has not fulfilled its obligations under the Court’s prior orders, the Court can and should take the steps outlined in the Discipline Report to effectuate that relief.

A contempt finding is not necessary for the Court to so-order the Report’s recommendations. *See Berger*, 771 F.2d at 1569 (“Ensuring compliance with a prior order is an equitable goal which a court is empowered to pursue even absent a finding of contempt.”). Nevertheless, the Court has the power to hold the NYPD in contempt for its failure to take the specific actions directed in the Remedial Order. *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827–29 (1994). This Court may find civil contempt for failing to comply with a court order if: “(1) the order the contemnor failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the contemnor has not diligently attempted to comply in a reasonable manner.” *Paramedics Electromedicina Commercial, Ltd. v. GE Med. Sys. Info. Techs., Inc.*, 369 F.3d 645, 655 (2d Cir. 2004); *see Telenor Mobile Commc’ns AS v. Storm LLC*, 587 F. Supp. 2d 594, 615 (S.D.N.Y. 2008) (defining “clear and unambiguous” as language that is “specific and definite enough to apprise those within its scope of the conduct that is being proscribed or required”) (quoting *N.Y.S. Nat’l Org. for Women v. Terry*, 886 F.2d 1339, 1352 (2d Cir. 1989)).

The Discipline Report presents clear and convincing evidence that Defendants are not in compliance with, at the very least, the Remedial Order’s “clear and unambiguous” requirement

that the NYPD provide “increased deference to credibility determinations by the CCRB[.]” Remedial Order at 684. As detailed above, the NYPD frequently overrules CCRB findings of liability, rejecting credibility determinations and other conclusions. *See above* at II.C and II.D; *see also Discipline Report* at 316 (“While a substantiated—or confirmed—stop, frisk, or search-related complaint is not uncommon from the CCRB, NYPD discipline for these confirmed complaints is rare.”). This failure to defer to the CCRB’s findings is a direct violation of the Remedial Order.

To be clear: although the record may support it, Plaintiffs do not presently seek a finding of contempt at this time. Plaintiffs’ hope is that additional clear and unambiguous court orders implementing the Discipline Report recommendations will be a productive first step to reverse the stagnancy and backsliding that has characterized the NYPD’s approach to discipline reform in the first decade and more of this remedial process.<sup>46</sup> Plaintiffs reserve their right to seek contempt if Defendants do not take immediate and effective action to come into compliance with existing and future court orders.

#### **B. The Court Has the Power to Order New Relief Based on the Findings of the Report**

Even if the Court considers an order implementing the Discipline Report recommendations as new relief, rather than enforcement of prior orders, such new relief is warranted here. Federal district courts have inherent authority to revise or modify their remedial orders. *See Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 381 (1992) (permitting courts to “exercise flexibility in considering requests for modification of an institutional reform consent decree”). Formal factual findings are not required. A Court may modify its own remedies even in the absence of additional violations or changes in law or fact as “guided by the sound exercise of [the judge’s] equitable

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<sup>46</sup> Plaintiffs also recognize that additional process may be required for the Court to consider imposing any relief stemming from a finding of contempt. *See Bagwell*, 512 U.S. 821.

discretion,” *Bridgeport Guardians, Inc. v. Delmonte*, 248 F.3d 66 (2d Cir. 2001) (quoting *E.E.O.C. v. Loc. 638, Sheet Metal Workers*, 753 F.2d 1172, 1185 (2d Cir.1985)). The Discipline Report and the City’s longstanding failures to come into substantial compliance establish more than sufficient grounds for the Court to exercise this discretion. As the Remedial Order recognized, beyond the specific relief contained in that order, “comprehensive reforms may be necessary;” the Discipline Report now confirms that necessity. Remedial Order at 683.

When fashioning a remedy to repair constitutional violations, “[t]he task is to correct, by a balancing of the individual and collective interests, the condition that offends the Constitution.” *Swann*, 402 U.S. at 15–16. As the remedial order states, “the burden on the plaintiff class of continued unconstitutional stops and frisks far outweighs the administrative hardships that the NYPD will face in correcting its unconstitutional practices.” Remedial Order at 672; *cf. Association of Surrogates & Supreme Court Reporters Within City of New York v. State of New York*, 966 F.2d 75, 79, *modified on reh’g*, 969 F.2d 1416 (2d Cir. 1992) (noting that “state budgetary processes may not trump court-ordered measures necessary to undo a federal constitutional violation,” provided that the equitable relief is proportional to the constitutional infraction). More than a decade after the Court found liability, the City is still not even close to substantial compliance, meaning that the burden of unconstitutional stops and frisks remains—unjustly—on the Plaintiff class of New Yorkers who experience officers’ misconduct during investigative encounters on an all too frequent basis. The Discipline Report demonstrates that flaws in the NYPD’s disciplinary process are preventing effective remedies for those unconstitutional acts and establishes with detailed analysis how that relief is proportional to the ongoing constitutional infractions.

Accordingly, the Court can and should order the implementation of the reforms as a modification to the Remedial Order or as enforcement of the Remedial Order itself.

**C. The Discipline Report is Final and No Further Process is Required for the Court to Order the Recommendations**

As this Court correctly observed, contrary to the City's assertions, the filed Discipline Report is the final report of "five years of committed research by a highly respected former jurist." *Floyd* Doc. No. 948 at 2 (rejecting the City's inaccurate characterization of the Discipline Report as the "Draft Report"). The City and Plaintiffs had the opportunity to comment on multiple drafts of the Discipline Report and its recommendations during a years-long process. The City, like every other stakeholder and every member of the public, now has the opportunity to comment further during the period afforded by the Court, to inform the Court's response to the Discipline Report.

The Court rightly rejected the City's complaint that it has been deprived of sufficient process to contest the factual conclusions of the Discipline Report. *Id.* Due process is not implicated by drafting and submitting the Discipline Report. *See Handberry v. Thompson*, No. 96 CIV. 6161 (CBM), 2003 WL 1797850, at \*2 (S.D.N.Y. Apr. 4, 2003) (rejecting City's argument that due process is implicated by a court-appointed monitor's reporting to the court). And, as the preceding sections establish, the Court's equitable authority to determine appropriate remedies is broad and flexible, grounded in the Court's previous finding of liability, and does not require a formal fact-finding process. *See above* at II.A and B.

Beyond its spurious concerns about due process, the City also objects that the Discipline Report and its recommendations go beyond the scope of these cases. Not so. The express provisions of the Remedial Order and *Davis* Settlement addressing the NYPD's discipline system as well as the fact that the Court's liability findings turned, in part, on factual findings that failures of discipline caused the unconstitutional acts at issue, *see* Liability Opinion at 617–20, definitively



refute the City’s contention that the Discipline Report and its recommendations go beyond the scope of this litigation. While the Discipline Report necessarily gives an overview of the entire NYPD disciplinary system, its focus and its recommendations are anchored in the four corners of the Liability Opinion and Remedial Order. *See* Part II.A and B, *supra*. The Court directed Judge Yates to create an “in-depth” and “granular” study that sets forth, “in detail, recommendations as to the specific ways in which such policies, practices, and procedures can be improved in order to promote constitutional policing.” Discipline Report at 13; *see also Floyd* Doc. No. 948 at 2. Providing necessary context to how the NYPD disciplines officers for SQF misconduct amply complies with the Court’s instructions.

Further, the City is wrong to suggest that the Discipline Report’s recommendations are not within the scope of this litigation because some of them may impact areas other than SQF misconduct.<sup>47</sup> Each recommendation’s effect does not need to be exclusive to SQF to be within the scope of the Monitorship given that the interconnected issues of “accountability, transparency, [and] speed” are germane to how “policies, practices, and procedures can be improved, in order to promote constitutional policing.” Discipline Report at 13–14. A recommendation may naturally affect other aspects of the disciplinary process unrelated to SQF investigations. For example, a recommendation stemming from alleged misconduct involving a stop or an investigative encounter may have some effect on how NYPD handles violations of use of force.

Thus, there are no procedural obstacles to the Court exercising its authority to so-order the Discipline Report recommendations.

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<sup>47</sup> Zimmerman Letter at 2–3; *See also* Sept. 1, 2023 Ltr. from City Defendants, attached to Zimmerman Letter as Exhibit A, at 2.

#### **IV. The Court Should Order Implementation of the Recommendations to Address the City's Noncompliance and Ensuring Ongoing Monitoring of the NYPD's Discipline System**

The Discipline Report includes 51 recommendations targeted to specific findings linked to a lack of meaningful discipline for SQF-related misconduct. Given the NYPD's long-standing resistance to reform, it cannot be entrusted to implement these recommendations on its own. The Court should therefore exercise the powers described above to so-order the recommendations, by directing the parties to meet and confer with the Monitor on a proposed order detailing their implementation.

The Discipline Report characterizes the disciplinary system as a “moving target,” and acknowledges that reform efforts must be tailored and re-tailored to hit that target. Discipline Report at 14. For that reason, the Court should in addition ensure that the NYPD's disciplinary system is closely overseen by the Monitor with the input of the Plaintiffs. Should the NYPD fail to abide by an order to follow the recommendations—or if it follows such an order but continues to violate the Remedial Order—further action, as described above, may be necessary.

As set out below, the Discipline Report recommendations represent significant progress toward a more effective NYPD system for imposing meaningful discipline. Effective police accountability systems are proactive, impartial, and consistent.<sup>48</sup> First, potential misconduct must be identified internally and referred for investigation swiftly, or the opportunity to promote behavioral change is lost. Second, investigations must be thorough and impartial: allegations must be adjudicated on findings of fact and conclusions of law. Independent investigative agencies must

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<sup>48</sup> See generally U.S. DEP'T OF JUST., STANDARDS AND GUIDELINES FOR INTERNAL AFFAIRS: RECOMMENDATIONS FROM A COMMUNITY OF PRACTICE (2009); TIM PRENZLER, POLICE CORRUPTION: PREVENTING MISCONDUCT AND MAINTAINING INTEGRITY (2009); SAMUEL WALKER & CAROL ARCHBOLD, THE NEW WORLD OF POLICE ACCOUNTABILITY (2d ed. 2014).

have adequate staffing, resources, and access to department records to operate effectively.<sup>49</sup> Third, the imposition of discipline and associated penalties must be timely, consistent, and progressive.

As the Discipline Report and prior sections of this comment make clear, the NYPD's current system is not proactive, impartial, or consistent. Without diminishing the full impact of all 51 recommendations, Plaintiffs discuss some of the key recommendations below to set forth how they will specifically address the NYPD's failings, providing more than ample justification for the Court to exercise its authority to order their implementation. In addition, Plaintiffs suggest two areas where the Court's order could improve upon the Discipline Report's important recommendations related to transparency and CCRB investigations.

#### **A. Recommendations to Promote Transparency**

Recommendations 1–8 would promote internal and external transparency in what is now a secretive process. They would require the NYPD to post internal rules that have been hidden from the public and disclose more details regarding officer misconduct histories. Plaintiffs recommend expanding these recommendations to include all information about officer misconduct. The NYPD Officer Profile Portal includes a very limited subset of misconduct records and lacks information on the number of separate investigations, the allegation types, findings for each allegation, related disciplinary recommendations, and final penalty imposed by the Police Commissioner. Entire misconduct histories should be easily accessible to the public, including unsubstantiated allegations, via the NYC Open Data Portal. In addition, all procedures regarding discipline could be collected in a single publication, as is done by the Denver Police Department.<sup>50</sup> The Law

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<sup>49</sup> See generally, MICHAEL VITOROULIS, CAMERON MCELLHINEY, AND LIANA PEREZ, CIVILIAN OVERSIGHT OF LAW ENFORCEMENT: DISCIPLINE REPORT ON THE STATE OF THE FIELD AND EFFECTIVE OVERSIGHT PRACTICES. (Washington, DC: Office of Community Oriented Policing Services 2021).

<sup>50</sup> See City of Denver, *Denver Police Department Discipline Handbook: Conduct Principles and Disciplinary Guidelines* (eff. Jan. 12, 2022), <https://www.denvergov.org/files/assets/public/v/2/police-department/documents/discipline-handbook/discipline-handbook.pdf>.

Department would be required to post more information about misconduct litigation, and communication and notice within the NYPD and with outside agencies would be improved. The Court should order these recommendations be implemented.

### **B. Recommendations for NYPD to Proactively Investigate Misconduct**

Recommendations 33, 36, 37, 38, and 43 would require the NYPD or the CCRB to initiate investigations rather than simply react to civilian complaints. If these recommendations are implemented, the NYPD must proactively investigate when it finds that a stop report should have been created but was not, along with initiating investigations in other specified circumstances. Investigating, rather than correcting, inaccurate or missing stop reports is particularly important: the CCRB substantiates allegations of improper stops and frisks at much higher rates when stop reports are not filed. Discipline Report at 129–30.<sup>51</sup>

These recommendations further require an investigation to consider the total circumstances of the encounter, not merely the discrete act about which a civilian complained, in keeping with best investigative practices. Finally, these recommendations would ensure that supervisors on the scene of an improper stop are investigated to see if they were aware of the improper action and failed to address it.

### **C. Recommendations to Strengthen CCRB Investigations and Increase Deference to its Findings**

Recommendations 10, 12–13, and 17–19 would presumptively provide CCRB access to information—IAB interviews, materials related to civil actions, complete officer disciplinary histories, and adverse credibility findings—that would provide necessary context to its investigations and improve its ability to make decisive findings. These recommendations would

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<sup>51</sup> As of 2019, CCRB substantiated 59% of the investigations where an officer made a stop but did not file a report. This is a significantly higher rate of substantiation than the overall 12% substantiation rate of stop, question, and frisk allegations at CCRB in 2019. Discipline Report at 129–130.

provide CCRB with additional evidence to bolster its conclusions, strengthening its investigative findings and potentially increasing the likelihood of deference to the CCRB by the NYPD.

Recommendations 15, 21, 25, and 27 would increase documentation of CCRB findings and the Commissioner's response, creating the potential for greater deference to the CCRB. These recommendations would require the CCRB to issue findings of fact in substantiated stop, question, and frisk cases and require the Police Commissioner to address these findings when drafting a departure letter, deviation memo, or justification for retaining a case.

Recommendations 19 and 24 are aimed more directly at the NYPD's failure to defer to the CCRB as required by the Remedial Order. Recommendation 24 sets forth reasonable and objective criteria for determining whether an officer was acting in "good faith," and Recommendation 19 ensures that the CCRB has access to complete disciplinary histories of officers who claim they acted in good faith. Commissioners repeatedly excuse officers from discipline by claiming, without evidence, that they acted with "good faith;" eliminating this practice would promote compliance with the Remedial Order.

#### **D. Recommendations to Ensure Swift, Consistent, and Appropriate Discipline**

Recommendations 49–51 would improve the timeliness of investigations and promote timely discipline. The recommendations would require the CCRB to close stop and frisk investigations within 120 days and close loopholes that have allowed the NYPD to let the statute of limitations expire by failing to act on completed CCRB investigations. While Plaintiffs agree with these recommendations' intent to improve the timeliness of investigations, direct access to BWC footage and other NYPD document databases, considered best practice in the field of civilian

oversight of law enforcement,<sup>52</sup> would also further reduce these delays. *See* Discipline Report at 251.

The City makes little sense when it suggests that the recommendations proposing more coordination between the NYPD and the CCRB during investigations are contrary to the statutory purpose of having an independent review board separate and apart from NYPD.<sup>53</sup> Independence is commonly understood to refer to being free from external influence over decision-making and operations. It has nothing to do with the NYPD refusing to collaborate with other city agencies in a manner needed to conduct thorough and timely SQF misconduct investigations. Completing cases more quickly and ending delay tactics to run out the clock will provide more assurance that officers who commit misconduct are actually disciplined.

Additional recommendations would contribute to a system that imposes consistent and progressive discipline. Recommendation 48 strengthens the definition of progressive discipline, and Recommendations 44–47 make it harder for the NYPD to ignore prior misconduct by the same officer when issuing discipline. These recommendations would address some of the more egregious examples of repeat offenders.

#### **E. Recommendations to Bolster Racial Profiling Investigations**

Recommendations 30–31 would require the CCRB to consider past allegations of racial profiling against an officer as a part of its racial profiling investigations even when those allegations were not substantiated. The Court should order these recommendations because it will make it easier to assess when patterns of racial profiling exist, as opposed to only individual instances. Plaintiffs note that when the CCRB uncovers a pattern of racial profiling, previously closed cases should be reopened after notice to the complainant.

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<sup>52</sup> *See* Vitoroulis, *supra*, at 94–99.

<sup>53</sup> Zimmerman Letter, Exhibit B at 2–3.

## V. Conclusion

For the reasons stated above, Plaintiffs request that the Court so-order the Report's recommendations, with the modification proposed by the Plaintiffs, *see* Part IV.A. *supra*, order the parties to meet and confer with the Monitor to draft a proposed order implementing those recommendations, and instruct the Monitor to continue to actively monitor the NYPD's imposition of discipline in SQF cases and its reforms to its disciplinary system. Without the involvement of the Monitor and the Plaintiffs, the history of these cases has demonstrated that the City and the NYPD cannot be entrusted to faithfully implement the orders of this Court on their own.

Respectfully submitted,



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*/s/ Guadalupe Aguirre*

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# Testimony

New York City Council Committee on Public Safety

September 22, 2025

Samy Feliz

Brother of Allan Feliz

Justice Committee Program Advisor

My name is Samy Feliz. I am the younger brother of Allan Feliz, who was killed by NYPD Lt. Jonathan Rivera during an unjust traffic stop in 2019.

I am here to make sure that Commissioner Tisch has not tricked any of you into believing she cares about police accountability or the safety of New Yorkers. Last month, she made it very clear that she only cares about protecting her own interests and shielding abusive officers when she refused to fire Lt. Jonathan Rivera, who murdered my brother, in spite of her own Deputy Commissioner's guilty verdict.

Many of you know Allan's story. He was pulled over by then-sergeant Rivera and Officers Michelle Almanzar and Edward Barrett on October 17, 2019, for allegedly not wearing his seatbelt, which he was. In mere minutes, the officers escalated; threatening, beating and tasing my brother. Then Rivera shot Allan point-blank in the chest and let him bleed out in the street.

For almost six years, my family and I have fought to overcome countless obstacles and delays to get a sliver of accountability for Allan's murder: missing work, rallying and protesting instead of mourning. We thought our struggle was finally coming to an end when Deputy Commissioner Rosemarie Maldonado saw through Rivera's lies at the discipline trial, found him guilty and recommended he be fired earlier this past February. It seemed like finally we would be able to tell Allan's six-year-old son that the officer who murdered his father would no longer have a badge and gun.

Then, after Commissioner Tisch dragged her feet for another six months, she overturned her own Deputy Commissioner's guilty verdict. Tisch's preliminary decision was first reported in the New York Post alongside quotes from the sergeants, detectives and lieutenant police unions, all singing her praises. Tisch made her decision without sitting through the trial, without witnessing Lt. Rivera's live testimony. She tossed Maldondo's credibility finding using a five-year-old report

that was based on a different legal standard. At best that seems like an arbitrary joke, at worst it is catering to the whims of the police unions for political gain.

It's hard to put into words how devastated, disappointed, and hurt my family and I were at this shameful, corrupt decision. My family and our community has endured so much anguish, fighting for the bare minimum of accountability for years - only for Tisch to throw it all away.

We had been hopeful that Commissioner Tisch would hear the cries of community members, organizations, and elected officials, asking, very simply, for Rivera to be fired, especially because of all her promises to clean up the NYPD. Instead, she proved she is just like all the other police commissioners we've had and just like Mayor Adams: more interested in protecting themselves and their political goals than New Yorkers. Tisch's decision proves - the sole authority to discipline officers must be stripped from the Commissioner so families like my own have a fair chance at achieving some semblance of accountability.

My family no longer has any trust in the NYPD. The prospect of getting pulled over is terrifying. We are scared to call 911, because it could be Lt. Jonathan Rivera who answers the call. When I see a cop on the street, I don't feel secure or safe - I feel anxious and scared for my life. I still have nightmares of my brother screaming in pain as Rivera beat and tased him. This fear is not an overstatement: since killing Allan, Rivera has continued to harm New Yorkers. In 2023 the CCRB substantiated a fireable misconduct charge against him, adding to the laundry list of nearly 39 misconduct allegations against him. The question remains: why is he still on the force?

Thank you.

NYC Public Safety Hearing  
250 Broadway 8<sup>th</sup> Flr. Hrg. Rm. 1  
N.Y., N.Y. 10007

To: Chairman, Yusef Salaam

From: D’Juan Collins

[REDACTED]  
N.Y., N.Y. 10032

Email: [REDACTED]

Subject: Testimony against NYPD,  
Lorraine Ramos Fabricated  
Felony Complaint

Date: September 25, 2024

**Affirmation of Facts regarding, NYPD Lorraine Ramos [REDACTED] fabricating the  
felony complaint and supporting deposition under Indictment # 3510/18.**

**I, D’Juan Collins, affirm under penalty of perjury that the following statements made  
herein are based upon personal knowledge of the affiant, are true and accurate, unless  
stated upon information and belief and as to those matters, I reasonably believe them to be  
true.**

**NYPD LORRAINE RAMOS [REDACTED] HANDCUFFED ME AND ESCORTED  
ME TO THE 34<sup>TH</sup> PRECINCT**

On September 22, 2018, I, D’Juan Collins was physically handcuffed by NYPD Police  
Officer Lorraine Ramos, [REDACTED] Badge # 20126 of the 34<sup>th</sup> Precinct, while outside  
my former fiancée’s apartment located at 125 Post Ave, in the County of New York around 01:06  
(1:06am) and escorted to the 34<sup>th</sup> Precinct.

I was arraigned on a felony complaint later that day, in Judge Joanne Watters court.  
During the arraignment, Judge Watters gave a directive to the prosecution that the supporting  
deposition needed to be signed. Present at the felony arraignment was NYPD Police Officer (at  
the time) Lorraine Ramos and Ramos’s partner, Tiffany Perez, Yvonne Nix, Esq (The Legal Aid  
Society) and A.D.A. Mark Murphy.

At the felony arraignment, I requested and was never provided a copy of the felony  
complaint by Ms. Nix, she only allowed me to read it, telling me it was her only one she had. I

was being charged with Strangulation Penal Law 121.12 and Assault 120.00 (1). It stated in sum that I repeatedly punched and kicked my ex-fiancée in the face and head, and that I strangled her to the point of unconsciousness. This never happened.

### **MALICIOUS PROSECUTION OF A STRANGULATION THAT NEVER HAPPENED**

I have the complainant's medical records and Dr. notes and according to Dr. Willshetak the ER doctor, there was "absolutely no evidence in photos or medical record of strangulation." Despite this evidence, the Manhattan District Attorney's Office being aware of this, continued to maliciously prosecute the strangulation count for 5 ½ years, (request, investigative notes by investigator, Imari).

### **RAMOS VIOLATED 2018 NYPD PATROL GUIDE BY DEACTIVATING HER BODY WORN CAMERA DURING AN ACTIVE INVESTIGATION**

Ramos testified during the Sirois hearing, that she was present with me for a few hours at the precinct and the incident (pg. 45) though her NYPD issued body-worn camera footage is only 15 minutes in length and not hours.

During the questioning of the complaining witness in her room, it can be visibly seen on Ramos's bwc that Ramos intentionally deactivated her camera while in the room without being asked to deactivate the camera.

According to the 2018 NYPD Patrol Guide on Deactivating body worn cameras, Ramos was to ONLY deactivate her bwc once the suspect was properly detained at the precinct. In this case, Ramos deactivated her bwc in the room with the complaining witness, a violation of departmental guidelines, (request, Ramos's bwc footage).

### **EVIDENCE OF RAMOS'S FABRICATING FELONY COMPLAINT/SUPPORTING DEPOSITION**

According to Ramos's felony complaint and supporting deposition in which Ramos is the deponent, Ramos swore that she was present with the complaining witness, Melinda Owens at the hospital allegedly obtaining a statement from the complainant on 9-22-18 at 02:30, (request, supporting deposition and felony complaint).

The sworn statement by Ramos in the supporting deposition and felony complaint, was that she was present with the complainant at the hospital obtaining a statement from her is false. Ramos never spoke to the complainant on 9-22-18 at 02:30 at the hospital because Ramos was never there. Ramos was present with me throughout the entire arrest process, to escorting me to Central Booking.

Ramos's testified on cross-examination during a Sirois hearing on August 11, 2022, that she escorted me to the 34<sup>th</sup> precinct, where she pedigreed me and logged me in a cell, (pgs. 53-54), (request August 11, 2022, Sirois transcripts).

According to Ramos's Prisoner Pedigree Card, we arrived at the 34<sup>th</sup> Precinct at 01:24 (1:24am), (request, PPD Card).

To corroborate this, I have a Sprint 911 log report of the time the ambulance was en route to the hospital. Based upon the Sprint log report for 9-22-18, the EMS was transporting the complainant to the hospital at 01:24 (1:24am), (request, Sprint Log Report,).

However, on direct examination in Judge Farber's court, after ADA, John Cheever gave a leading question to Ramos, of "did there come a time that you went with the complainant to the hospital?" Ramos responded, "I believe we followed behind the ambulance in our cruiser and met with them (cw and EMS) there at the hospital (pgs. 39, 40).

Based upon Ramos's hearing testimony, Ramos testified to a physical impossibility of being two places at the same time. Allegedly following behind the ambulance at 01:24am to the hospital with the complaining witness, while simultaneously arriving at the 34<sup>th</sup> precinct at 01:20am where Ramos then pedigreed me, logged me in a holding cell and vouchered my property.

### **RAMOS HAS A HISTORY OF FABRICATING FELONY COMPLAINTS**

I learned from the prosecution, albeit late, of Garrett material of a civil complaint that alleged Ramos as a defendant of fabricating a felony complaint of one, *Malik Stewart, 19-CV-05499 Stewart v. City of New York, NYPD Lorraine Ramos (2019)*. Unbeknownst to me in 2019 of the Stewart complaint, I filed a 42 USC 1983 against NYPD, Lorraine Ramos, *19-CV-7156 Collins v. City of New York, NYPD, Lorraine Ramos (2019)* for fabricating my felony complaint while being detained on Riker's Island.

Since September 22, 2018, I have been persistently litigating the fabricated criminal case against me that has caused me much anguish and has been a bar to employment due to the allegations of domestic violence.

I am currently representing myself on my criminal appeal due to the unavailability of conflict-free counsel.

I have actual documentation and video footage of Ramos's deactivating her body worn camera.

I can provide evidence upon request by a member of the City Council. I have complained to CCRB, Attorney General, and a City Council Members all to no avail. I make my appeal to this Committee for a impartial investigation and a conference with the committee to present my claims in further detail if possible.

Thank you again for allowing me the opportunity to testify. I remain truly humbled for the experience.

Respectfully,

D'Juan Collins

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Deputy Commissioner  
Michael L. Lerner

Address: 1 PP

I represent: NYPD

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Deputy Commissioner  
Tarek Rahman

Address: NYPD

I represent: NYPD

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 09/22/85

(PLEASE PRINT)

Name: Dr. Mohammad Khaliq

Address: 100 Church Street, NY NY 10007

I represent: Civilian Complaint Review Board

Address: \_\_\_\_\_



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 09/22/20

Name: Jon Darche (PLEASE PRINT)

Address: 100 Church Street NY NY 1007

I represent: Civilian Complaint Review Board

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9-22-25

Name: Samy Feliz (PLEASE PRINT)

Address: [REDACTED] Yonkers NY 10705

I represent: Justice Committee / Allan Feliz

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/22

Name: Brian Ehrenpreis (PLEASE PRINT)

Address: 100 William Street

I represent: New York County Defender Services

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: NESAR BHUIYAN (On behalf of Rozinson Family)

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: YVONNE D. JENNINGS

Address: 1022

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/22/25

(PLEASE PRINT)

Name: Claire Thomas

Address: 111 Livingston Street, Brooklyn

I represent: LAS

Address: 111 Livingston Street, Brancy

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Public Safety Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9/22/2025

(PLEASE PRINT)

Name: Jennine Wang

Address: 49 Thomas Street, NY, NY

I represent: Legal Aid Society

Address: 49 Thomas St, NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 9-22-25

(PLEASE PRINT)

Name: D'Juan Collins

Address: \_\_\_\_\_

I represent: myself / VOCAL NY

Address: 300 Douglass St

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: BARBARA

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Linda Tigani

Address: 22 Rade St 6th Floor

I represent: NYC CORE

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: LINDA TIGANI

Address: 22 RADE STREET

I represent: COMMISSION ON RENTAL EQUITY (CORE)

Address: SAME AS ABOVE

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. oversight Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: Sept. 22

(PLEASE PRINT)

Name: Jackie Gosoligian

Address: 177 Livingston, Brooklyn

I represent: Brooklyn Defender Services

Address: 177 Livingston, Brooklyn

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alissa Johnson

Address: [REDACTED] Brooklyn NY 11238

I represent: Surveillance Technology Oversight Project

Address: 40 Rector St

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Josh Levin

Address: 1 PP

I represent: NYPD

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Carlton Carbajal LDF

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms