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COMMITTEE ON PUBLIC SAFETY

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

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February 16, 2021  
Start: 10:04 a.m.  
Recess: 2:44 p.m.

HELD AT: REMOTE HEARING (VIRTUAL ROOM 1)

B E F O R E: Adrienne E. Adams,  
Chairperson

COUNCIL MEMBERS:

- Justin L. Brannan
- Fernando Cabrera
- Chaim M. Deutsch
- Robert F. Holden
- Vanessa L. Gibson
- Carlos Menchaca
- I. Daneek Miller
- Keith Powers
- Kevin C. Riley
- Ydanis A. Rodriguez
- Stephen T. Levin
- Helen K. Rosenthal
- Kalman Yeger

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COMMITTEE ON PUBLIC SAFETY

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A P P E A R A N C E S

Elizabeth Rivera  
Mother of Tonie Wells

Chelsea Davis  
Chief Strategy Officer for the Office of First  
Deputy Mayor

Marcos Soler  
Chief of Staff for the Mayor's Office of Criminal  
Justice

Juanita Holmes  
Chief of Patrol for the New York City Police  
Department

Elizabeth Daitz  
Executive Director for Strategic Initiatives for  
the New York City Police Department

Oleg Chernyavsky  
Assistant Deputy Commissioner for Legal Matters  
for the New York City Police Department

Michael Clarke  
Managing Attorney at the Legislative Affairs Unit  
for the New York City Police Department

Frederick Davie  
Civilian Complaint Review Board

Molly Griffard  
Legal Fellow with the Legal Aid Societies  
Accountability Project

Scott Levy  
Chief Policy Counsel at the Bronx Defenders

Sergio De La Pava  
Legal Director of New York County Defender  
Services

Alexandra Fisher  
Senior Trial Attorney with the Criminal Defense  
Practice at Brooklyn Defender Services

COMMITTEE ON PUBLIC SAFETY

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A P P E A R A N C E S (CONT.)

1 Jimmy Meagher  
2 Policy Director at Safe Horizon

3 Michael Sisitzky  
4 Senior Policy Counsel at the NYCLU

5 Andrew Case  
6 Senior Counsel at Latino Justice PRLDEF

7 Hercules Reid  
8 Strategy for Black Lives

9 Chi Osse  
10 City District 36 in Brooklyn

11 Jeff Strabone  
12 Lifelong Resident New Yorker and Former Vice  
13 Chair of Community Board 6 in Brooklyn

14 Tonya Cruz  
15 Community Board and a Queens Traffic Safety Board  
16 Member

17 Kelly Grace Price  
18 Close Rosie's

19 Sarah Sitzler  
20 Resident of Brooklyn

21 Sonny Lawrence[SP?]  
22 Resident of New York City

23 Michael Matos  
24 Resident of Bay Ridge Brooklyn

25 Vicki Weinerman  
64-year-old woman and attends a lot of BLM  
protests

Peter Horan  
Resident of New York City

John Teufel  
An Attorney and a Former Investigator with the  
Civilian Complaint Review Board

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COMMITTEE ON PUBLIC SAFETY

A P P E A R A N C E S (CONT.)

Miquel Rayos-Velazquez

Betty Maloney  
Retired 30-year-Veteran of Public School as a  
Public School Guidance Counselor

Aditya Salagamay[SP?]  
Resident of New York

Melissa Michio  
Activist with the Campaign for an Elected  
Civilian Review Board

Michael Wetstone[SP?]

Robert Malek

1  
2 SERGEANT KOTOWSKI: Computer recording is  
3 started.

4 SERGEANT JONES: Cloud is recording.

5 SERGEANT PEREZ: Backup is rolling.

6 SERGEANT LEONARDO: Okay at this time Sergeant  
7 Martinez, your opening.

8 SERGEANT MARTINEZ: Good morning and welcome to  
9 today's remote New York City Council Hearing of the  
10 Committee on Public Safety. At this time, would all  
11 panelists please turn on their video. To minimize  
12 disruption, please silence your electronic devices  
13 and if you wish to submit testimony, you may do so at  
14 the following email address,  
15 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Once again, that's  
16 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Thank you very much for  
17 your cooperation, we are ready to begin.

18 CHAIRPERSON ADAMS: Good morning and thank you  
19 for joining today's virtual hearing of the Public  
20 Safety Committee. I am Council Member Adrienne  
21 Adams, Chair of the Public Safety Committee.

22 I would like to acknowledge that we are joined by  
23 my colleagues Council Member's Cabrera, Menchaca,  
24 Riley and I see Council Member Powers as well and I  
25 am sure many others will be joining momentarily.

1  
2 Last June, Governor Cuomo issued an Executive  
3 Order requiring that every city in New York engage  
4 their residents and develop a plan to reform policing  
5 by April 1<sup>st</sup> or possibly refusing billions of dollars  
6 in state funding. The order was prompted by the mass  
7 demonstrations that took place in New York City and  
8 around the world after George Floyd and Breonna  
9 Taylor were killed by police in 2020.

10 While there deaths may have been the catalysts, I  
11 would be remiss if I did not recognize that  
12 communities impacted by over policing have been  
13 organizing and demanding police accountability for  
14 decades. So, with that as a backdrop, you would  
15 think that the Administration would take their  
16 mandate to develop a meaningful reform plan  
17 seriously.

18 Instead, the Administration dragged its feet for  
19 months and rushed through a half heated community  
20 engagement process. I hope that the hearing this  
21 Committee held last month would have spurred them  
22 into real action. Instead, here we are today roughly  
23 six weeks away from the April 1<sup>st</sup> deadline and New  
24 Yorkers have yet to see a draft of the  
25 Administrations plan.

1  
2 For this reason, the Council has stepped in and  
3 introduced that initial slate of a dozen reforms that  
4 would make structural changes, increase transparency  
5 and reduce the NYPD's footprint.

6 At today's hearing, the Public Safety Committee  
7 will consider Intro. 2209, which I sponsored. This  
8 bill will require that the Police Commissioner be  
9 confirmed by the Council through the Advice and  
10 Consent process and reduce the Police Commissioners  
11 term from five years to four years.

12 I introduced this bill because New Yorkers  
13 deserve a Police Commissioner who has a zero  
14 tolerance policy when it comes to office misconduct.  
15 The current practice of simply docking vacation days  
16 when an officer's actions or inaction causes harm is  
17 a slap in the face to the victim, their families and  
18 to their communities. Take for example, the tragic  
19 death of Tonie Wells, whose mother Elizabeth is here  
20 with us today.

21 Tonie, a young woman who desperately sought help  
22 but was ultimately strangled by her abusive partner  
23 because the NYPD Officers assigned to the call never  
24 even got out of their patrol car. These officers  
25

1  
2 clearly failed to uphold their most basic duty and  
3 because of that, a bright young woman was viciously  
4 murdered. It is outrageous and infuriating that  
5 those officers were merely docked a few vacation days  
6 and placed on a short probation period. This  
7 disciplinary outcome makes it clear that no matter  
8 what they do, officers will be allowed to hide behind  
9 their badges.

10       Requiring that the Council confirmed the Police  
11 Commissioner can help ensure that anyone who fills  
12 that role is committed to real reform and  
13 accountability. Yes, accountability from day one.  
14 The Committee will also hear Intro. 1671 which I  
15 sponsored. This bill would require the NYPD to  
16 report quarterly on traffic and check point stops,  
17 including information on how many of those stops  
18 resulted in arrests or a summons being issued. The  
19 reporting requirement would allow us to clearly see  
20 if the NYPD is unfairly targeting certain communities  
21 for disparate enforcement.

22       The Committee is hearing several other bills  
23 which I will only mention briefly because I know that  
24 my colleagues will want to speak to the details in  
25 just a moment.

1  
2 Intro. 2220 sponsored by Council Member Steve  
3 Levin, would eliminate qualified immunity for police  
4 officers. Resolution 1538 sponsored by Majority  
5 Leader Laurie Cumbo, calls upon the state to remove  
6 the police commissioners exclusive authority over  
7 officer discipline, with regard to the CCRB's  
8 recommendations.

9 And a Pre-Considered Resolution sponsored by  
10 Council Member Francisco Moya, that calls upon the  
11 state to require that NYPD officers live within the  
12 five boroughs of New York City. We are very proud of  
13 this police reform legislation package and have  
14 already received great recommendations from advocates  
15 on ways to make them even stronger.

16 Today, we look forward to continuing the  
17 conversation with them, with members of the public  
18 and with representatives from the Administration.

19 With that, I will now let each sponsor speak  
20 briefly about their bill.

21 COMMITTEE COUNSEL: This is Daniel Ades, Counsel  
22 with Committee on Public Safety. Uhm, I see that  
23 Council Member Levin is present. Council Member  
24 Levin, do you wish to give an opening statement?  
25

1  
2 COUNCIL MEMBER LEVIN: I do. Thank you very  
3 much. I want to thank our Chair for bringing this  
4 package of legislation to this hearing. I think that  
5 this is in a very important series of bills to be  
6 hearing today and I think that this represents many  
7 months of work by Council and Council Staff to  
8 address the systemic issues that we have been seeing  
9 for far too long in our country and in our city.

10 And honestly, it is never the most opportune time  
11 to do reform. Uhm, you know, we don't deny that we  
12 have seen a spike in murders in the last year. We  
13 don't deny that we have seen a spike in shootings in  
14 the last year. But - and that's very concerning and  
15 we need to be working uhm, with every strategy that  
16 we can to address it. But it is important that we  
17 carry through with our commitment to do reform and  
18 that's what these bills are doing. Uhm, you know  
19 after the budget fight of this past summer when the  
20 parallel crisis of COVID and its economic fallout  
21 blighted with the racial justice reckoning following  
22 the death of George Floyd, I took a lot of criticism  
23 and tried to examine the ways in which the City  
24 Council could address some of the accountability

1  
2 issues with the NYPD and see if it could begin to  
3 repair the relationship between police and community.

4 I think with this package of reforms and I am  
5 very proud to be sponsoring the legislation to remove  
6 the defense of qualified immunity for police  
7 officers, we can make some progress in restoring that  
8 vital piece of public trust.

9 The need for this reform keeps repeating itself  
10 in that headlines. In Rochester earlier this year,  
11 officers pepper sprayed a nine year old girl having a  
12 mental health crisis. Last week, a Buffalo grand  
13 jury dismissed charges against the officer's who shot  
14 an elderly man to the ground and left him bleeding in  
15 need of hospitalization and I think we all saw the  
16 video of that.

17 Civil courts provide a much needed source of  
18 recourse and reparations for victims of egregious  
19 misconduct. This allows for a path of accountability  
20 for officers and repair and redress for victims. It  
21 allows the system to attempt to address the harm  
22 caused in these situations. The support for this  
23 reform and this is very important, spans the  
24 political spectrum. With criticisms from two supreme  
25 court justices, rarely on the same side, Justice

1  
2 Sonia Sotomayor and Justice Clarence Thomas. In  
3 addition, that we have seen that in legislation  
4 around the country, in Colorado for instance, the  
5 bipartisanship for this legislation, for this type of  
6 legislation is manifest.

7       The fourth amendment standard is that 2020  
8 hindsight should not be used to judge police actions  
9 if they acted reasonably. This bill does not change  
10 that and I hope that you will join me in supporting  
11 this necessary legislation. I want to thank my staff  
12 that worked on this legislation as well as Counsel  
13 Staff Kelly Taylor, Ed Atkin, Daniel Ades and Brian  
14 Crowe and I really am very appreciative to the Chair  
15 for bringing this to the Council today.

16       CHAIRPERSON ADAMS: Thank you very much Council  
17 Member Levin. We have also been joined by Council  
18 Members Powers, Holden, Yeger, Rodriguez and  
19 Rosenthal.

20       And I will now turn it over to our moderator,  
21 Committee Counsel Daniel Ades to go over some  
22 procedural items.

23       COMMITTEE COUNSEL: Thank you Chair Adams. As I  
24 said before, I am Daniel Adams, Counsel to the  
25

1  
2 Committee of Public Safety at the New York City  
3 Council.

4 Before we begin, I want to remind everyone that  
5 you will be on mute until you are called to testify.

6 At which point, you will be unmuted by the host.

7 Members of the Administration who are testifying will  
8 not be unmuted during the Q&A portion of the  
9 Administration testimony.

10 I will be calling on panelists to testify, please  
11 listen for your name to be called. I will call on  
12 you shortly for the oath then again when it is time  
13 to begin your testimony. During the hearing, if  
14 Council Members would like to ask a question of the  
15 Administration or a specific panelist, please use the  
16 Zoom raise hand function and I will call on you in  
17 order. We will be limiting Council Member questions  
18 to five minutes, which includes the time it takes to  
19 answer questions.

20 All hearing participants should submit written  
21 testimony to [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov), if you have  
22 not already done so. That's  
23 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). The deadline for written  
24 testimony is 72 hours after the hearing. Before we  
25

1  
2 hear from the representatives of the Administration,  
3 we will hear from Elizabeth Rivera, mother of Tonie  
4 Wells. Ms. Rivera, once your name is called, a  
5 member of our staff will unmute you and the Sergeant  
6 at Arms will set the timer, then give you the go  
7 ahead to begin. Please wait for the Sergeant to  
8 announce that you may begin delivering your  
9 testimony.

10 CHAIRPERSON ADAMS: Ms. Rivera, we welcome you.

11 ELIZABETH RIVERA: Thank you for having me guys.  
12 Thank you, is an honor to be here.

13 CHAIRPERSON ADAMS: Thank you very much.

14 ELIZABETH RIVERA: You are welcome. Well, I  
15 would like to say my story. Like I said, once again,  
16 thanks for having me. Basically, I would like to say  
17 what happened. I am a little nervous, so just you  
18 know bear with me. My nerves are bad.

19 So, as many of you must - I mean, by nightfall on  
20 December 27<sup>th</sup>, my daughter Tonie Wells made a call to  
21 911 for help. Excuse me guys. Acting, saying that  
22 her husband was acting weird and she feared for her  
23 life.

24

25

1  
2 A second call was made by the neighbors saying  
3 Tonie was screaming, saying he is going to kill me.  
4 Two NYPD officers were dispatched to do a wellness  
5 check, however, officers Wing Hong Lau and Wael Jaber  
6 refused to get out of the car because it was simply  
7 too cold. An hour later, a third call was made to go  
8 into Tonie's home where her body was found discovered  
9 unresponsive with one and half year old daughter  
10 crying over her lifeless body. As a mother, I am  
11 sad, I am hurt, I am angry, because my daughter made  
12 a call. Because she feared for her life and she was  
13 scared. She waited for help. She wanted to be  
14 rescued and it was never sent to her.

15 It is more difficult and more hurtful to know  
16 that these two officers who were sent to check on my  
17 Tonie, made a selfish decision to stay in the car.  
18 One that caused her her life. Tonie was a mother and  
19 a great daughter. Excuse me guys.

20 Sorry. It is just sad and it is disgrace that  
21 these two are how to keep their jobs after being  
22 found guilty by the Department to the failure to do  
23 police action and failure to probably investigate  
24 while responding to a call.

1  
2 As a result of the negligence, my daughter was  
3 murdered by her husband, while her daughter watched.  
4 The selfish position they left my daughter, my  
5 granddaughter traumatized without a mother, a family  
6 that's broken and woman's life that was lost forever.

7 As officers, you make an oath to protect and  
8 serve. However, my daughter was not protected.  
9 Those officers failed to do - Oh, God, I just can't  
10 you guys, I am so sorry.

11 CHAIRPERSON ADAMS: Ms. Rivera, thank you. I  
12 know how difficult this is.

13 ELIZABETH RIVERA: I am sorry guys, I am sorry.  
14 I am trying to finish but it's like whew, oh God.  
15 They have sent the message that Tonie's life did not  
16 matter. That Tonie pleaded for help and there wasn't  
17 enough action. That women suffer from domestic  
18 violence cannot rely on the one's that are supposed  
19 to protect us. You have made this message very clear  
20 that our lives are not worthy and it's okay. It's  
21 not okay that we would not until justice is served.  
22 I am so sorry you guys. I tried; I tried my best. I  
23 appreciate it.

24 CHAIRPERSON ADAMS: Thank you Ms. Rivera, thank  
25 you for being here this morning.

1  
2 ELIZABETH RIVERA: Thank you and I am so sorry.  
3 I tried to do my best but it's like oh gosh, it's  
4 like, my emotions are taking over.

5 CHAIRPERSON ADAMS: Understood, understood. I  
6 think my only question for you is has anyone at NYPD  
7 ever expressed remorse?

8 ELIZABETH RIVERA: No remorse even after, even  
9 after we heard about the tragedy. It was like  
10 basically all the officers say the facts. Nobody was  
11 sympathetic, nobody came out and you know, say their  
12 condolences to us. Like, I never seen a person so  
13 cold, so cold to be honest. Like, not one officer  
14 said nothing to us.

15 Like you said, it's a slap in the face. This is  
16 how I am seeing it and we got to do better.

17 CHAIRPERSON ADAMS: Accept my deepest  
18 condolences.

19 ELIZABETH RIVERA: Thank you so much.

20 CHAIRPERSON ADAMS: And heartfelt blessings for  
21 healing for your family.

22 ELIZABETH RIVERA: Thank you.

23 CHAIRPERSON ADAMS: And your precious  
24 granddaughter. Thank you so much for your testimony  
25 this morning.

1  
2 ELIZABETH RIVERA: Thank you so much for having  
3 me guys and I am sorry for breaking down. I tried to  
4 do my best but it's like, like I said, my emotions  
5 took over.

6 CHAIRPERSON RIVERA: You did just fine. Thank  
7 you.

8 Okay, uhm, I would like to acknowledge that we  
9 have also been joined by Council Member Brannan.  
10 Okay, I am going to hand it over to Committee Counsel  
11 at this time.

12 COMMITTEE COUNSEL: Thank you Chair. Next we  
13 will hear from representatives of the Administration.  
14 The panelists to give testimony will be the Chief  
15 Strategy Officer for the Office of First Deputy Mayor  
16 Chelsea Davis, Chief of Staff for the Mayor's Office  
17 of Criminal Justice Marcos Soler, Chief of Patrol for  
18 the New York City Police Department Juanita Holmes,  
19 Executive Director for Strategic Initiatives for the  
20 New York City Police Department Elizabeth Daitz,  
21 Assistant Deputy Commissioner for Legal Matters for  
22 the New York City Police Department Oleg Chernyavsky,  
23 Managing Attorney at the Legislative Affairs Unit for  
24 the New York City Police Department Michael Clarke.

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COMMITTEE ON PUBLIC SAFETY

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Before we begin testimony, I will administer the oath to all members of the Administration who will be offering testimony or will be available for questions, please raise your right hands. I will read the oath in the order that I just read your names, then call on you each individually for a response.

Do you swear or affirm to tell the truth, the whole truth and nothing but the truth before this Committee and respond honestly to Council Member questions? Chelsea Davis?

CHELSEA DAVIS: Yes, I do.

COMMITTEE COUNSEL: Marcos Soler?

MARCOS SOLER: Yes, I do.

COMMITTEE COUNSEL: Chief Juanita Holmes?

JUANITA HOLMES: I do.

COMMITTEE COUNSEL: Elizabeth Daitz?

ELIZABETH DAITZ: I do.

COMMITTEE COUNSEL: Deputy Commissioner Chernyavsky?

OLEG CHERNYAVSKY: I do.

COMMITTEE COUNSEL: And Michael Clarke?

MICHAEL CLARK: I do.

1  
2 COMMITTEE COUNSEL: Thank you. Now I invite — I  
3 am sorry, representative of the First Deputies  
4 Mayor's Office to begin their testimony.

5 CHELSEA DAVIS: Good morning Chair Adams and  
6 members of the Public Safety Committee. My name is  
7 Chelsea Davis, I am the Chief Strategy Officer in the  
8 Office of the First Deputy Mayor. I am joined by  
9 Marcos Soler from The Mayor's Office of Criminal  
10 Justice as well as colleagues from the New York City  
11 Police Department including: Juanita Holmes Chief of  
12 Patrol, Oleg Chernyavsky Assistant Deputy  
13 Commissioner for Legal Matters, Elizabeth Daitz  
14 Executive Director of Strategic Initiatives and  
15 Michael Clarke Managing Attorney of the Legislative  
16 Affairs Unit.

17 Thank you for inviting us today to discuss this  
18 topic. Creating a shared vision of public safety and  
19 rebuilding mutual trust between police and the people  
20 they serve requires substantial outreach and  
21 engagement. While a preliminary plan, as required by  
22 Executive Order 203, will be released in the coming  
23 days, we know that one plan alone, will not address  
24 long-standing concerns raised by communities that  
25 have historically borne the brunt of over-policing.

1  
2 We must and we will continue to seek public input  
3 and work to ensure that policing reflects the needs  
4 of communities long past the April 1st deadline to  
5 submit this reform plan. We understand that police  
6 must earn their legitimacy in the eyes of those they  
7 serve. Solidifying and strengthening new forms of  
8 engagement is central to how we created this plan.  
9 It is an essential aspect of the plan moving forward.

10 The Mayor has already announced some reforms  
11 including for the first time ever, giving communities  
12 a voice in choosing their precinct commanders. We  
13 will empower panels of residents to interview the  
14 Department's proposed candidates for commander in  
15 their local precinct. These panels will advise on  
16 the best person to serve them and produce annual  
17 performance reviews of the precinct commander,  
18 holding commanders accountable to the community.

19 Advocates, communities and NYPD members  
20 themselves spoke about their strong desire for  
21 officers to do a better job understanding the  
22 cultures of the neighborhoods they serve. In  
23 response, we announced that this spring we will  
24 expand the People's Police Academy, a community-led  
25 training program for local precinct personnel. In

1  
2 addition, whenever an officer starts working in a new  
3 precinct, they will undergo an intensive course,  
4 including field training, meeting with community  
5 leaders, service providers, small businesses and  
6 youth organizers. Embedding community engagement  
7 into training will help ensure that residents have a  
8 voice in determining what public safety means to them  
9 and looks like in their neighborhood.

10       It's vital that we create a community-wide  
11 response to one of our most serious public-safety  
12 challenges: gun violence. We will launch the NYC  
13 Joint Force to End Gun Violence, which will be  
14 comprised of NYPD members, Cure Violence groups,  
15 District Attorneys, the Mayor's Office of Criminal  
16 Justice, other City agencies and community-based  
17 organizations. This group will focus on the small  
18 number of people who drive most of the gun violence  
19 in our city by concentrating on the 100 blocks that  
20 have the highest numbers of shootings, as well as a  
21 disproportionate number of 311 and 911 calls.

22       Community stakeholders and advocates have  
23 emphasized the pressing need for greater police  
24 accountability. The Dinkins plan is a core component  
25 of our efforts and it will significantly increase

1  
2 accountability by expanding the oversight and  
3 investigative authority of the Civilian Complaint  
4 Review Board, CCRB. The Dinkins Plan expands the  
5 information the CCRB can access and the range of  
6 issues it can investigate. The Dinkins Plan also  
7 establishes the Patrol Guide Review Committee, which  
8 will use lessons learned from individual cases to  
9 drive policy reforms.

10 In the single largest structural change since the  
11 CCRB was formed, the Dinkins plan will also  
12 consolidate the Commission to Combat Police  
13 Corruption and the Office of the Inspector General of  
14 the NYPD with the CCRB. This historic reform will  
15 allow the CCRB to initiate investigations and will  
16 grant timely access to body worn camera footage, as  
17 well as grant full access to officers' disciplinary  
18 and employment histories for substantiated cases.

19 The plan will also give CCRB the authority to  
20 investigate individual instances of alleged bias-  
21 based policing misconduct. With expanded access to  
22 information and combined authority, the newly  
23 strengthened CCRB can do more to effectively hold  
24 officers accountable and improve public trust.

1  
2 We have also heard a lot about the need for  
3 further transparency and accountability in the  
4 disciplinary process, both from members of the  
5 community and members of service and we understand  
6 the need for reform. The administration, with  
7 Council's help, has made great strides in improving  
8 the disciplinary system, including the publication of  
9 the disciplinary matrix and the subsequent Memorandum  
10 of Understanding between the NYPD and the CCRB.

11 The matrix has been finalized and is posted  
12 online. The matrix is the culmination of more than  
13 two years of work, which required collaboration  
14 between the Department, CCRB and numerous advocacy  
15 organizations and community stakeholders. To give  
16 you a sense of scope, the NYPD received 560 comments  
17 on the preliminary draft of the matrix, from advocacy  
18 organizations, community-based organizations, clergy,  
19 oversight entities and members of the public, on its  
20 preliminary draft.

21 We took all of that in and worked to find the  
22 right balance and we believe that the Matrix is fair,  
23 transparent and applies appropriate penalties to a  
24 wide range of misconduct. However, it is also a  
25 living document that can be amended if necessary.

1  
2 The MOU takes the matrix a step further. It's an  
3 agreement that applies the matrix to all CCRB  
4 discipline cases and confirms that NYPD and CCRB will  
5 use the penalty guidelines to determine penalties for  
6 officer misconduct. It is only under extraordinary  
7 circumstances that NYPD or CCRB can depart from the  
8 Matrix and if they do, they must provide a publicly  
9 available justification. In addition, should the  
10 NYPD deviate from CCRB's disciplinary recommendation,  
11 it must provide a publicly available justification  
12 for doing so. This will allow the Council and  
13 members of the public to judge how fair the process  
14 is and whether appropriate punishment is being given  
15 out.

16 The agreement also empowers the CCRB by ensuring  
17 access to NYPD employment history in any case where  
18 the CCRB investigator recommends that an allegation  
19 of misconduct be substantiated. The agreement also  
20 outlines that there will be an annual review,  
21 starting in August 2021, of whether the agreement is  
22 accomplishing the mutual goal of consistent and fair  
23 discipline. I also want to note again of course,  
24 that the matrix is not set in stone. We are

1 continuing to review the matrix with partners and  
2 updating it if necessary.

3  
4 To conclude, I want to talk about the bills  
5 before us today. Introduction 1671 requires the  
6 Police Department to submit quarterly reports on all  
7 traffic encounters, including demographic information  
8 for those pulled over or stopped at checkpoints. The  
9 administration supports the goals of this legislation  
10 and thinks further transparency into who is stopped  
11 and where the stop occurs is important. Collecting  
12 some data may require coordination with the State but  
13 we look forward to these continued conversations with  
14 the Council.

15 Intro 2220 would create a new local civil right,  
16 providing protections against unreasonable search and  
17 seizure and create a private right of civil action  
18 for violations. It specifies that qualified immunity  
19 cannot be used as a defense and any violator would be  
20 personally liable for the lesser of \$25,000 or 5  
21 percent of the final judgement.

22 If that sum cannot be collected from the  
23 violator, the City would be required to pay. This  
24 bill seeks to address two perceived issues, that  
25 plaintiffs can't receive compensation when they

1  
2 suffer real harms and that officers are protected  
3 from paying out of pocket. However, existing law  
4 already affords plaintiffs just compensation. In  
5 addition, officers who violate law and policy must  
6 pay out of pocket for their defense, settlements and  
7 judgements based on New York State Law. The bill  
8 creates a strict liability offense even for officers  
9 acting in good faith. So, an officer who follows the  
10 patrol guide could be found personally liable for up  
11 to \$25,000 if the patrol guide is later found to be  
12 incorrect. This creates uncertainty for members of  
13 service and makes it difficult for them to  
14 effectively do their jobs and the administration  
15 opposes this legislation.

16 Intro 2209 would require the advice and consent  
17 of the Council for any new Police Commissioner. The  
18 administration opposes this piece of legislation.  
19 The Council already has oversight over the Department  
20 and we do not think that creating an additional  
21 political process for installing a new Commissioner  
22 will enhance that oversight. The Police Commissioner  
23 should report to the Mayor, as the chief executive of  
24 the City.

1  
2 I want to thank the Chair and the members of the  
3 Committee for inviting me to testify. We want to  
4 continue the conversation with the Council on these  
5 proposals as we move along in the reform process and  
6 I look forward to any questions you may have.

7 CHAIRPERSON ADAMS: Thank you again Ms. Davis for  
8 being here with us. You are with us and we really  
9 appreciate you and the work that you do of course.  
10 Before I get into question about the bill though, I  
11 just really want to acknowledge that once again, we  
12 are not joined by Commissioner Shea. Uhm, he didn't  
13 come to our hearing after the protest or our hearing  
14 in December on racism in the Police Department or our  
15 hearing last month on police reform. So, if he is  
16 not going to come to testify on legislation, that  
17 directly impacts the Commissioner. Their  
18 disciplinary authority and how they are appointed.  
19 Am I correct in assuming that he doesn't plan to show  
20 up unless it is a budget hearing?

21 CHELSEA DAVIS: I will let the Police Department  
22 speak to the Commissioner's plans but since we are  
23 here to talk about these bills and the Mayor's reform  
24 plan and carrying out Executive order 203 and  
25 generally improving public safety and policing, uhm,

1  
2 the Mayor's Office is leading this effort and so  
3 that's why I am here leading testimony today.

4 CHAIRPERSON ADAMS: Okay, fair enough. I wanted  
5 to get that on the record that once again, we are  
6 missing the Commissioner for another very important  
7 hearing specifically on police reform.

8 Okay, so advice and consent, this is something  
9 that I am sponsoring, this legislation on advice and  
10 consent. It is not a new concept. Right now,  
11 confirmation by the City Council is required for the  
12 head DOI, for the Corporation Counsel and for the  
13 members of nine different policy making bodies,  
14 including the City Planning Commission, TLC, and the  
15 Board of Health. Does the Mayor believe that his  
16 hands are tied when it came to those positions? Was  
17 the city harmed in any way? Because those nominees  
18 were required to come before the Council for a vote.

19  
20 CHELSEA DAVIS: So, I will - thank you for that  
21 question. I will start by saying that we of course  
22 agree that improving accountability is key to reform.  
23 It is key to building confidence amongst the public  
24 and members of service. We don't think that advice  
25 and consent would meaningfully improve accountability

1  
2 because the Council already has oversight over the  
3 Department. We don't think that this additional  
4 political process for installing a new Commissioner  
5 would enhance that oversight and the Police  
6 Commissioner should report to the Mayor.

7 In terms of corporation counsel and DOI and some  
8 of the other commissions that you mentioned, the  
9 Corporation Counsel represents the city including the  
10 City Council, so we think it makes sense for that  
11 position to have additional layers of approval.

12 In terms of some of the other commissions that  
13 you named, there are members that are appointed by  
14 Council and so, and as for DOI, that's you know, an  
15 independent agency so it is important to have an  
16 additional layer of approval there as well.

17 We think the Police Commissioner should report to  
18 the Mayor as Chief Executive of the City and that  
19 this process wouldn't really add any additional  
20 accountability.

21 CHAIRPERSON ADAMS: So, you see absolutely zero  
22 value in having the seal of approval from the  
23 Council? And actually having a Commissioner that not  
24 only has your support but has the support of other  
25 elected officials in the City.

1  
2 CHELSEA DAVIS: We certainly understand that  
3 having trust, confidence, legitimacy of the Police  
4 Commissioner is important for the Council and  
5 certainly for the public as well as all the members  
6 of service. We don't think that advise and consent  
7 is the most meaningful way to improve that  
8 accountability or that confidence.

9 CHAIRPERSON ADAMS: In 2019, did the Mayor's  
10 appointees to the Charter Revision Commission support  
11 requiring advise and consent of the Corporation  
12 Counsel?

13 CHELSEA DAVIS: I am not sure, I don't know if  
14 uhm, Marcos or anyone at the Police Department knows.  
15 I can get back to you with that answer.

16 CHAIRPERSON ADAMS: Does anyone on the NYPD side  
17 know the answer to that? In 2019, did the Mayor's  
18 appointees to the Charter Revision Commission support  
19 requiring advise and consent of the Corporation  
20 Counsel?

21 OLEG CHERNYAVSKY: We can certainly look into it  
22 and get back to you.

23 CHELSEA DAVIS: Yeah, we will let you know.

24 CHAIRPERSON ADAMS: Okay, so Ms. Davis, if this  
25 bill does pass the Council, it would still need to go

1 before the voters in November before it takes effect.

2 So, I am still curious as to what the harm would be  
3 in letting the public weigh in on this.

4 CHELSEA DAVIS: I think it is important that we  
5 focus on some of the — you know as part of this plan  
6 on somethings that we think will have a really  
7 genuinely big impact on improving accountability.

8 I don't know if I can speak to the specific harms  
9 of this but we don't think that this would  
10 meaningfully improve accountability in the way it is  
11 intended. And we think that the Police Commissioner  
12 should report to the Mayor and that the other  
13 positions were there is a confirmation or advising  
14 consent process are different kinds of roles.

15 CHAIRPERSON ADAMS: I think I am going to turn to  
16 the NYPD for this particular question that I have in  
17 mind. It has to do with uhm, my bill on vehicle  
18 stops.

19 Studies have shown that nationally, Black drivers  
20 are not likely to be targeted in traffic stops. Do  
21 you think that the data would show that in New York  
22 City this is any different?

23 JUANITA HOLMES: Good morning Madam Chair.

24 CHAIRPERSON ADAMS: Good morning.  
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JUANITA HOLMES: How are you?

CHAIRPERSON ADAMS: Good.

JUANITA HOLMES: First, I would like to publicly, if you don't mind, apologize to Ms. Rivera for what she had to go through. I could not image a more traumatic ordeal than losing a child and you know, I returned to the Department December 31<sup>st</sup>, 2020 and I formerly was the Chief of Domestic Violence and it was – I can honestly say dear to my heart. I was very passionate about it. So, the mere thought that no one apologetically responded to Ms. Rivera, it's mind boggling. But I just wanted to start with that.

CHAIRPERSON ADAMS: Chief Holmes, what do you think about the punishment that was not administered for that crime?

JUANITA HOLMES: Well, I know now the punishment is different. I think what was in place now has been expanded upon and in addition to that, you know, the failure to what they were charged with, the failure to properly respond. The failure to properly investigate, now has been – the penalty has increased. In addition to that, any aggravating factors will be looked at with a different eye.

1  
2       So, I can sit here and say well, I am happy to  
3 that in place now as far as the Matrix, as far as  
4 discipline. I don't have the particular full nature  
5 of the crime. Like I said, I wasn't here and it  
6 first came to my attention last week as a matter of  
7 fact. I guess, when the penalties were  
8 substantiated.

9       But I know moving along in the future, you will  
10 see full transparency and there will be a difference  
11 I think as far as penalties. But with that, speaking  
12 about the traffic stats, currently now as it stands,  
13 the moving summonses to not capture race, they  
14 capture actually with the driver's license, with the  
15 date of birth, gender, name, things of that nature.  
16 But I don't see a problem with us reporting on that.

17       In order to achieve that, I do think maybe like  
18 we did with the criminal summonses, how we had to go  
19 back and had to add it. It is probably something  
20 that we would have to with the state. Uhm, other  
21 than that, we would be probably led to creating some  
22 sort of form and training and a database which is  
23 something, I don't know if that's something we want  
24 to do, especially when it is capturing race and  
25 gender.

1  
2 But we do have stats, specific stats when it  
3 comes to enforcement that we can report to but it's  
4 really gender based, precinct based, you know, area  
5 based, sector based but really doesn't capture race  
6 as it stands now.

7 CHAIRPERSON ADAMS: Do you think that legislation  
8 like this is going to uh, benefit the NYPD?

9 JUANITA HOLMES: I think it does and will benefit  
10 the NYPD.

11 CHAIRPERSON ADAMS: I would also like to  
12 acknowledge that we have been joined by Council  
13 Member Deutsch.

14 Uhm, I think I am going to go to my colleagues at  
15 this time. I am going to come back for another round  
16 though.

17 CHELSEA DAVIS: Thank you.

18 CHAIRPERSON ADAMS: Counsel?

19 COMMITTEE COUNSEL: First up we are going to turn  
20 to the sponsors of the legislation. I see Council  
21 Member Levin is the sponsor that is currently here.  
22 Council Member Levin, would you like to begin?

23 COUNCIL MEMBER LEVIN: Thank you very much  
24 Committee Counsel. Uhm, uhm, so I want to thank  
25 members of the Administration for testifying. Uhm,

1  
2 uh, I guess my first question would be around uhm,  
3 police discipline uhm, and this could go for any  
4 member of the Administration.

5 So, the New York Times uhm, reported late last  
6 year that there are in instances of serious  
7 misconduct, uhm, involving the CCRB that the Police  
8 Commissioner diverts from the recommended sanctions  
9 71 percent of the time. So, 7 times out of 10, uhm  
10 the process at CCRB or I imagine also in  
11 administrative trials, goes forward with an  
12 investigation, a prosecution. Sometimes even a  
13 settlement, although I understand that this issue was  
14 addressed in this MOU but 71 percent of the time that  
15 happens. That's status quo. That's status quo.

16 Why does the Police Commissioner need to retain  
17 final disciplinary authority in light of that fact?

18 CHELSEA DAVIS: I want to thank you for bringing  
19 this up, especially this issue of concurrence. I  
20 will speak to that and then I will come back to the  
21 question of final disciplinary authority. Uhm,  
22 because I think you know, concurrence between CCRB  
23 and NYPD in terms of convictions and penalties is  
24 extremely important for public trust and confidence  
25

1  
2 in the oversight system, which is necessary for  
3 accountability.

4 And so, uhm, you know, that lack of concurrence  
5 is a major issue that this administration has been  
6 working to address and you know something that we are  
7 really focusing on in this reform plan. Both the  
8 Commissioner, the Police Commissioner and the Chair  
9 of CCRB have a firmly committed to sticking to the  
10 disciplinary matrix. Which is designed exactly to  
11 address the issues that you are talking about.

12 So, any and all deviations from the Matrix, which  
13 should be extremely rare would be made public  
14 including an explanation directly from the Police  
15 Commissioner as to the basis for that deviation. All  
16 changes to the Matrix itself will be made public.  
17 Uhm, there will be no question that the Council and  
18 the public will be able to continually exam at  
19 hearings.

20 COUNCIL MEMBER LEVIN: If I may to interrupt, I  
21 am sorry, but if it is supposed to be extremely rare  
22 as you say, uhm, I mean there is a big difference  
23 between extremely rare and 71 percent. That's a  
24 world apart. That is a - that's not even on the same  
25 planet. And so, you know, just - you know you can

1  
2 forgive I imagine the skepticism that an MOU, an MOU  
3 which is non-legally binding that can be dissolved at  
4 any time or amended at any time, unilaterally uhm,  
5 you know by the Administration, essentially dissolves  
6 at the end of this year with the new administration.

7 I just don't understand, what's the argument  
8 against saying, why not have an independent body,  
9 have final disciplinary? Why should it remain?  
10 What's the affirmative case for it remaining with the  
11 Commissioner as opposed to an independent body? Why  
12 does the Commissioner need that authority? Why does  
13 the Commissioner even want that authority?

14 OLEG CHERNYAVSKY: So, if I -

15 CHELSEA DAVIS: So, I want to answer this  
16 question but I first want to clarify that the  
17 statistics that you are citing are from before this  
18 Matrix was put into effect and we agree that this is  
19 a huge concern, which is you know, why we worked with  
20 Council to -

21 COUNCIL MEMBER LEVIN: But the Matrix doesn't  
22 actually - the Matrix itself does not address  
23 concurrent. The CCRB could recommend one discipline  
24 within the Matrix and the Commissioner could divert  
25 from within the Matrix. So, the Matrix is good. It

1  
2 was our idea. We passed legislation to make you do  
3 the Matrix. Sorry, it wasn't the Administrations -  
4 the Administration didn't do it on their own, they  
5 did it as per legislation.

6 CHELSEA DAVIS: So, I am going to describe a  
7 little bit more for clarity what the MOU does in  
8 relation to the Matrix and then I will answer your  
9 question about ultimate discretion.

10 So, I want to be clear that we agree that this  
11 concern about concurrence is extremely important and  
12 that's you know why we are also looking forward to  
13 you know from now on, utilizing this Matrix. NYPD  
14 and CCRB signed this MOU, which is like a written  
15 legal agreement regarding the implementation of the  
16 Matrix.

17 It applies to all CCRB discipline cases.

18 SERGEANT AT ARMS: Time expired.

19 CHELSEA DAVIS: It refers to the guidelines to  
20 determine penalties for misconduct and that only  
21 under extraordinary circumstances, can they depart.  
22 If so, if there is a departure from the Matrix or if

23 -

24 COUNCIL MEMBER LEVIN: Chelsea, I know you said  
25 this in your testimony. I know, I got it. You said

1 it in your testimony. I understand that. It is  
2 going to have a public letter; I get all of that.  
3 Why affirmatively does the Police Commissioner need  
4 this authority? Why does he want this authority and  
5 why should it not be with an independent body?  
6 Frankly, I don't even know if it has to be with the  
7 CCRB, it could be with an independent body, truly  
8 independent body. Why, why, what's the problem with  
9 that?  
10

11 CHELSEA DAVIS: So, I do think that there is kind  
12 of a natural inclination to look to the top when we  
13 are looking to implement reform. We want to do that  
14 in every area but not all problems related to  
15 discipline are a function of the Police Commissioner.  
16 So, we need to focus on consistency, transparency,  
17 just and fair penalties throughout the whole process.

18 I don't want to talk about it more detail but the  
19 Matrix and the MOU are really huge steps in that  
20 direction.

21 COUNCIL MEMBER LEVIN: Why have they diverted 71  
22 percent of the time? I mean, past this prolog, you  
23 know, so it's great to hear that there is this  
24 Matrix, that we made you guys do last year with  
25 legislation. So, I get that but why is there a

1  
2 diversion rate of 71 percent? Because extremely  
3 rare, I would think that that's like 2-3 percent, not  
4 71 percent.

5 CHELSEA DAVIS: And that's absolutely the goal  
6 and that's why the MOU -

7 COUNCIL MEMBER LEVIN: But why? Why has it been  
8 a 71 percent?

9 OLEG CHERNYAVSKY: So, Council Member, if I - let  
10 me jump in here. So, a couple of points. One, is  
11 when you talk about the diversions rate and the  
12 consistency rate, that does fluctuate. I know you  
13 are gravitating towards the 71 but that's not a  
14 comprehensive 71. It doesn't mean - it's based on  
15 the charges right. So, the Police Commissioner can  
16 agree on certain charges in a case and could disagree  
17 on another charge in a case. What the discipline  
18 Matrix does is uses historic penalties, opened it up  
19 for public comment. We worked with Council Member  
20 Donovan Richards who introduced the bill. This bill,  
21 he raised the issue with the blue ribbon panel that  
22 we empanel to take a look at our uh, discipline  
23 process. Then you ultimately codified the idea that  
24 Council Member Richards discussed during the blue  
25 ribbon panel review of our discipline process, okay.

1  
2 We designed a discipline matrix with the input of  
3 the public, with the input of all of the  
4 stakeholders. What it creates is a range of  
5 penalties with aggravating and mitigating factors and  
6 the divergent on any particular charge is therefore  
7 going to be minimized if not pretty much eliminated  
8 in almost all cases. Now, when you talk about -

9 COUNCIL MEMBER LEVIN: But why has it happened  
10 Oleg? And you know I respect you but why has it been  
11 - sorry, there are two questions that you guys  
12 haven't answered yet. First off, why was it at 71  
13 percent and the other question is, I appreciate it  
14 but why, why should the police commissioner retain  
15 this authority? Why?

16 CHELSEA DAVIS: Council Member, I will speak to  
17 the last question and then we can go back to PD to  
18 talk more about concurrence. I want to stress that  
19 we understand kind of what a big ticket item this is  
20 and how important it is; however, the impact of  
21 moving final decision making isn't clear and because  
22 of some of the potential unintended consequences -

23 COUNCIL MEMBER LEVIN: Like what?

24 CHELSEA DAVIS: We need to be extremely  
25 thoughtful about that.

1  
2 COUNCIL MEMBER LEVIN: What are the potential  
3 unintended consequences?

4 CHELSEA DAVIS: I am getting to it.

5 COUNCIL MEMBER LEVIN: Okay.

6 CHELSEA DAVIS: So firstly, changing the process  
7 through state law now could open up this major reform  
8 to collective bargaining negotiations and new  
9 litigation.

10 COUNCIL MEMBER LEVIN: Let me interject. Sorry,  
11 sorry, let me interject there because state law is –  
12 state law would in effect could preclude a collective  
13 bargaining. The collective bargaining is under –  
14 collective bargaining is assured under existing – for  
15 public employees is as per state law. If new state  
16 law precludes collective bargaining in police  
17 discipline cases, which is the status quo right now  
18 under 14115. There is no collective bargaining under  
19 disciplinary cases. If the state law changes it  
20 itself, that's a red herring. That's a red herring.  
21 I haven't heard a single serious argument that the  
22 state does not retain the authority under state  
23 legislation or even honestly if they could grant the  
24 city that authority through state legislation. That  
25 collective bargaining is then triggered because

1  
2 again, status quo under 14115 for the last 83 years  
3 has been that collective bargaining is not triggered.  
4 So, the state and the city could retain the same  
5 right that they have had for the last 83 years to not  
6 have collective bargaining with council police  
7 discipline.

8  
9 CHELSEA DAVIS: Before we get into that, I am  
10 going to finish the rest of the answer to your  
11 question. I want to make sure that it is clear that  
12 other jurisdictions have lots of different kinds of  
13 models for final discipline with final decision  
14 making power located outside of the police  
15 commissioner and also have really major problems with  
16 accountability and discipline. And so, we think that  
17 the actual next best step is moving forward with  
18 implementation of this matrix and the MOU as well as  
19 all of the oversight reforms laid out in the Dinkins  
20 plan.

21 COUNCIL MEMBER LEVIN: But they are not mutual  
22 exclusive. Moving the disciplinary, final  
23 disciplinary authority away from the police  
24 commissioner doesn't prevent the matrix from moving  
25 forward and it doesn't like, what's the harm?

1  
2 Explain the harm. Other than this nebulous potential  
3 collective bargaining that we don't think is actually  
4 a real issue. Aside from that, what's the harm?

5 CHELSEA DAVIS: There really is no perfect model  
6 and other jurisdictions that have these different  
7 kind of authority, still have really, really big  
8 problems.

9 COUNCIL MEMBER LEVIN: Who is saying they were  
10 perfect. I am not saying they were perfect. We  
11 strive for its perfection, we never attained it. We  
12 never attain it, we are fallible but I don't  
13 understand, what is the downside? What is the  
14 downside other than this, this kind of argument about  
15 collective bargaining?

16 OLEG CHERNYAVSKY: Council member, if I may chime  
17 back in. Uhm, what you have is a system that's set  
18 up now that has input from an independent body which  
19 is CCRB that does an investigation of a complaint  
20 that makes recommendations based on board members  
21 that are appointed by the Council, the Mayor and the  
22 public advocate.

23 COUNCIL MEMBER LEVIN: Yeah.

24 OLEG CHERNYAVSKY: Making recommendations, the  
25 recommendations ultimately will go to the police

1 commissioner inside of the department that has  
2 experience in policing and evaluates those  
3 recommendations. Those recommendations have been I  
4 would say fine tuned now through a matrix that  
5 basically should bring all of us into alignment but  
6 ultimately, it's the agency head having control over  
7 the personnel in their organization. Which every  
8 organization effectively has.

9  
10 I mean, I am not necessarily sure in the example  
11 where your personnel and your staff is sticking the  
12 removal or the disciplining of your staff is dictated  
13 by somebody else. For example, even in the City  
14 Council, you don't outsource the discipline of  
15 Council Members to an outside body. You do it in  
16 house through your ethics committee correct?

17 COUNCIL MEMBER LEVIN: That's true, yeah.

18 OLEG CHERNYAVSKY: Yeah.

19 COUNCIL MEMBER LEVIN: Right, okay, I am not sure  
20 it is quite analogous.

21 CHELSEA DAVIS: Council Member, I think Police  
22 Commissioner authority means that Police Commissioner  
23 is accountable and we think that the Matrix, the MOU  
24 and the Police Commissioner can figure out the best  
25 ways to improve -

1  
2 COUNCIL MEMBER LEVIN: Accountable to whom?  
3 Accountable to the Mayor? Certainly not to the  
4 Council, we can't fire them. We can't even question  
5 them frankly. So, we haven't questioned them since  
6 June.

7 Anyway, the need to me - I mean, again, I've  
8 worked with both of you for a long time. I respect  
9 both of you. It seems, it is - I have seen no  
10 argument for why - I just haven't heard an argument  
11 about why affirmatively - you said Oleg about keeping  
12 uhm, you know, discipline within you know, having the  
13 discretion to discipline members and I don't think  
14 anyone is saying that the Commissioner can't  
15 discipline members but having the final authority to  
16 divert from the findings of CCRB investigated body or  
17 an administrative trial judge, which they - I mean,  
18 it's not like the Mayor has been the Mayor for seven  
19 years and one month and a half. So, you know, that's  
20 a long time.

21 So, to say that the discipline - oh this a  
22 problem we have been addressing, you haven't been  
23 addressing it. 71 percent is not uh, you know that's  
24 the vast majority. That's over two-thirds of the  
25 time.

1  
2 OLEG CHERNYAVSKY: Without the context of we  
3 talked about it, I don't think it's right but the  
4 other point that should be recognized is the  
5 difference that happened over the last I would say  
6 year and a half is 58 was repealed right. Now with  
7 the end of this litigation, that's probably going to  
8 be a upon us soon. There is going to be a lot of  
9 transparency into the discipline -

10 COUNCIL MEMBER LEVIN: But what does that have to  
11 do with the disciplinary authority?

12 OLEG CHERNYAVSKY: Excuse me. It would give  
13 transparency into the process that didn't exist for  
14 decades and decades. Two, there has been a matrix  
15 put forward with public input that gives everybody  
16 both police officers and the public insight into how  
17 the disciplinary process works. Not only the  
18 outcomes. So, now there are presumptive penalties.  
19 We know what the aggravating and mitigating factors  
20 are. The public knows what they are. These are  
21 ground breaking massive changes to a process that's  
22 existed the same way for decades. What you are  
23 saying is let's not wait to see how all of this is  
24 going to work. Because you are saying yourself that  
25 it is us that pass this discipline matrix law right,

1  
2 but you are not waiting to see if this works. You  
3 just want to go and abandon it and throw it aside and  
4 say -

5  
6 COUNCIL MEMBER LEVIN: I am out of here in 11  
7 months. I am out of here in less than 11 months. We  
8 have been waiting 7 years. I don't see any - other  
9 than a theoretical uhm, control of the agency by you  
10 know, within the chain of command argument, I don't  
11 see an argument against it.

12 I am going to pass it, I know my colleagues have  
13 question about it, so I will come back to it on the  
14 second round if that's okay.

15 COMMITTEE COUNSEL: Thank you Council Member  
16 Levin. Next up is going to be Council Member  
17 Rosenthal followed by Council Member Holden.

18 SERGEANT AT ARMS: Time starts now.

19 COUNCIL MEMBER ROSENTHAL: Great, thank you so  
20 much. Thank you so much for this hearing Chair  
21 Adams, really appreciate that and I really want to  
22 also say to Ms. Rivera that my heart goes out to you.  
23 There are no words but absolutely you deserve every  
24 ounce of respect for what you are doing, for what you  
25 have been through, what you have had to handle. So,

1  
2 uhm, you are a very brave, very strong woman and I am  
3 really impressed. Thank you.

4  
5 I want to ask a different set of questions that  
6 really go to the heart of what happened to Tonie  
7 Wells. And that is talking about the crime victim  
8 treatment CVAPS that were at the precinct itself and  
9 I am curious to know if the CVAPS were involved at  
10 all around Ms. Wells case.

11 CHELSEA DAVIS: I appreciate bringing this up.  
12 Uhm, the Crime Victim Assistance Program is certainly  
13 something that is extremely important. We are always  
14 looking to improve and make sure that we can work  
15 with community organizations and give people  
16 services.

17 I will let PD speak to this specific case.

18 JUANITA HOLMES: I can't specifically because I  
19 really don't have that information whether or not  
20 they were involved. Should they have been?  
21 Absolutely. All victims of crimes including the  
22 surviving victims like Ms. Rivera should have been  
23 contacted and services offered. But I apologize, I  
24 can't get that information but currently don't have  
25 that.

1  
2 COUNCIL MEMBER ROSENTHAL: I mean what's  
3 heartbreaking is that you wouldn't think to ask that  
4 question yourself.

5 JUANITA HOLMES: I apologize, I am asking that  
6 question but I need the information.

7 COUNCIL MEMBER ROSENTHAL: With all due respect  
8 and knowing that you are new to this job, so I really  
9 am not holding you personally accountable.

10 JUANITA HOLMES: You can, because I am not new to  
11 the Department. I have been here 30 some what years  
12 but like I spoke earlier to Madam Chair, I was  
13 recently briefed on this you know, as recent as  
14 Friday. I was not aware of it and I apologize. I  
15 was not here for a year, so even when I heard about  
16 it, it was surprising to me. But I will have that  
17 information and no, I am accountable, I am  
18 responsible. I know that job.

19 COUNCIL MEMBER ROSENTHAL: Thank you very much  
20 and I can't tell you how much I respect you and I am  
21 interrupting only because I am on a clock. So, no  
22 disrespect meant Chief and honestly, thank goodness  
23 for you. I hope you stay. I hope you continue to  
24 get a warm welcome from Commissioner Shea and I hope  
25 to see more people who have the dedication just like

1  
2 you in the top level positions. You are the — you  
3 are the breath of fresh air.

4 So, what I am getting to giving the fact that no  
5 one around the table even the people who were  
6 briefed, never thought to ask this question and never  
7 got the answer. It really goes to the heart of  
8 independent review; independent investigations and I  
9 say this not only because it wasn't your first  
10 question. Which is the question of what has been our  
11 trauma informed response and how are we serving any  
12 survivors, which by the way, that is the point of the  
13 crime victim assistance program, the CVAPS. You have  
14 two in every precinct and there job is to do exactly  
15 that.

16 Uhm, it speaks to why there has to be independent  
17 investigations, independent of the police department.  
18 My time is running up but I am going to just remind  
19 everyone that I say this based on the 2018 DOI  
20 report. Where there was honest.

21 CHAIRPERSON ADAMS: [INAUDIBLE 59:14]

22 COUNCIL MEMBER ROSENTHAL: Thank you, if I could  
23 just finish Chair, a half a minute. Where there was  
24 an honest review with honest information that has to

1  
2 this day, even with legislation passed, been  
3 fundamentally disregarded.

4       So, if the Special Victims division whose job it  
5 is to deal with sexual assaults does not operate from  
6 a position of trauma informed investigations, boy are  
7 we in trouble. Because we had this hearing two years  
8 ago. It shouldn't be a surprise to anyone but the  
9 training still isn't happening and you know, I will  
10 reach out to Chair Adams separately about the  
11 possibility of a hearing about the special victims  
12 division. I don't mean to distract from this one but  
13 the point being that you can't fix it if it is not  
14 independent and if you don't have buy in from the  
15 NYPD, which is why Chair Adams is asking for the  
16 Commissioner to be engaged in these hearings. Thank  
17 you very much Chair, I appreciate the opportunity.

18       CHELSEA DAVIS: Just to respond. I really want  
19 to thank you for those comments and just broadly, I  
20 want to reiterate that we have been really working  
21 really closely with PD you know, in general and as  
22 part of this reform process with the office to end  
23 domestic and gender based violence. To make sure  
24 that their community partners, that the people they  
25

1  
2 work with in the community are involved and that we  
3 are hearing their voices and I also want to reiterate

4  
5 our agreement in support that external  
6 independent oversight is extremely important. And  
7 that's why you we have you know, announced the  
8 Dinkins plan as well as implementing the DOI's  
9 recommendation to consolidate oversight. Which we  
10 think will have a really large role in improving  
11 accountability.

12 CHAIRPERSON ADAMS: I am going to let Council  
13 Rosenthal throw in here one more time and I am also  
14 going to acknowledge that we have been joined by  
15 Council Member Gibson.

16 COUNCIL MEMBER ROSENTHAL: Last point but  
17 every single day there are attacks on women and I  
18 have never heard out of the Mayor's mouth let alone  
19 the Commissioners mouth that we need to take trauma  
20 informed - we need to have trauma informed solutions.  
21 We are sending out a letter today to the Mayor in  
22 response to the fact that in the Victor Rivera case,  
23 where he sexually, we came to light last week that he  
24 sexually assaulted ten women. We have not heard a  
25 peep out of the Mayor's mouth about reaching out to

1  
2 the victims and asking them what they need and  
3 connecting them to survivor groups.  
4

5 This is why we have a problem. You can't say we  
6 have been working on the Matrix. We have been  
7 working with the office to end domestic and gender  
8 based violence and say, oh, my gosh, there is a  
9 crisis. Let's do two things. One, shift back to the  
10 Board of Directors for them to fix it in Brown's  
11 housing network case and ask for an independent audit  
12 of how we procure contracts.

13 Not a peep about what this Administration does  
14 for the victims. Not even saying the phone number,  
15 the city funded phone number of the sexual assault  
16 hotline. Why does it not cross the Administration's  
17 mind to think about the victims? There is no excuse  
18 and we will follow up on this letter later. I  
19 appreciate you Chair for giving me a second go  
20 around.

21 CHAIRPERSON ADAMS: Absolutely. Thank you  
22 Council Member Rosenthal. Counsel.

23 COMMITTEE COUNSEL: Thank you Council Member  
24 Rosenthal. Next, we will turn to Council Member  
25 Holden. Before we do, I just want to remind members

1  
2 of the public not to use the Zoom raise hand  
3 function, you will be called after the  
4 Administrations testimony and questioning has  
5 completed.

6 We will turn to Council Member Holden now  
7 followed by Council Member Powers.

8 SERGEANT AT ARMS: Time starts now.

9 COUNCIL MEMBER HOLDEN: Thank you so much Chair  
10 for this important hearing. I guess this is for NYPD  
11 but the Mayor's Office can weigh in. Let's talk  
12 about qualified immunity for a second.

13 Under Intro. 2220, qualified immunity is  
14 eliminated. Qualified immunity only comes into play  
15 where there is not a clear statute or a  
16 constitutional right. So, what evidence has been  
17 presented that qualified immunities being used  
18 incorrectly? And how many times is it used?

19 ELIZABETH DAITZ: Thank you Council Member for  
20 that question. My name is Lizzy Daitz, I am the  
21 Executive Director of Strategic Initiatives for the  
22 New York City Police Department. I previously served  
23 as Executive Director of Civil Litigation in the  
24 Departments Legal Bureau and I have spent my career  
25 litigating issues related to qualified immunity.

1  
2  
3 I can provide some data regarding the use of  
4 qualified immunity in New York State under avoider  
5 study called by immunity defenses were raised in the  
6 second circuit, raised and granted in the second  
7 circuit on 25 total appeals between 2005 and 2019,  
8 which is less than two cases per year.

9 I could also say that under a study done by  
10 Joanna Swartz at Yale University, she examined 1,183  
11 28 USC 1983 cases brought in federal court involving  
12 police action. Only 38 or 3.9 percent of those cases  
13 were dismissed because of the qualified immunity  
14 defense at summary judgement or on a motion to  
15 dismiss.

16 So, qualified immunity is a defense that has very  
17 limited applicability on a limited number of federal  
18 claims fought in federal court.

19 COUNCIL MEMBER HOLDEN: So, it's not really -  
20 it's not a huge issue. So, this is what I am - I  
21 don't understand the whole concept of trying to  
22 punish officers who are - who think they are doing  
23 their job.

24 So, these are the concerns I have. So, I will  
25 ask NYPD. What concerns do you have that this policy

1  
2 will only accelerate retirements? You know, also  
3 considering the number of retirements we had in 2020.

4 OLEG CHERNYAVSKY: I think Council Member, you  
5 know, I will say it this way, that it's - this bill  
6 is a very huge issue for its impact on public safety  
7 and our ability to recruit and train police officers.

8 So, imagine that the way this bill is written and  
9 I know Council Member Levin used Colorado as a model,  
10 mind you Colorado State Laws are different than New  
11 York State Laws, so the gaps that they were filling  
12 are not necessarily the gaps that we had here. Well,  
13 what this bill would do is would create a \$25,000  
14 liability, personal liability. Not only for the  
15 police officer but for every police officer at the  
16 scene that failed to intervene when the police  
17 officer acted in accordance with the law.

18 So, how in the world do you train your police  
19 force to do their job? You are clearly training them  
20 to follow the law but what this bill would do would  
21 be penalizing them personally for following the law,  
22 right.

23 And, I mean, just to counter one point, I know  
24 during the opening statement, Council Member Levin

1  
2 mentioned that it create accountability for egregious  
3 misconduct.

4 Well, if there is egregious misconduct under  
5 current law in New York City and New York State, a  
6 police officer would not be indemnified. A police  
7 officer could be held liable and would not be  
8 represented by the law department. Would have to  
9 represent themselves.

10 And then another point that was made during the  
11 opening is for officers that act reasonably, they are  
12 not covered by the bill. So, I am going to redo the  
13 language of the bill. It is not a defense to  
14 liability that a police officer, a covered individual  
15 has any kind of immunity for discretionary acts  
16 involving the exercise of reasoned judgement taken  
17 during the performance of their duties.

18 It is also not a defense to liability pursuant to  
19 this bill that the officer was acting in good faith  
20 or believed reasonably or otherwise that the conduct  
21 of such individual was lawful at the time it was  
22 committed.

23 MICHAEL CLARKE: And Oleg made the point but I  
24 can add onto it as a comparison to the Colorado bill.

1  
2       The Colorado bill has similar levels of liability  
3 but officers are indemnified by the state of locality  
4 of they are acting in reasonable and in good faith  
5 that they are following the law, which is not a case  
6 in this bill.

7       So, it's more harsh than what Colorado has done  
8 and as Oleg said, Colorado is dealing with a much  
9 different situation where they – their state has not  
10 –

11       SERGEANT AT ARMS: Time expired.

12       MICHAEL CLARKE: Like ours has. In addition,  
13 they had caps on the total payouts that we don't have  
14 here, a \$900,000 cap. Even in the limited  
15 circumstances where you could sue a police officer in  
16 Colorado. They were dealing with a much different  
17 issue when they passed their law than what we are  
18 doing this year.

19       OLEG CHERNYAVSKY: In short, I mean the public  
20 safety impact of this bill is really immeasurable but  
21 I think the best example I can give you is, we had  
22 about 1,860 shooting victims last year. That was 102  
23 percent increase over the year before. Under this  
24 bill if it is enacted, if a police officer arrests an  
25

1  
2 individual that's in possession of an illegal gun and  
3 that gun gets suppressed, that officer could be held  
4 liable personally for \$25,000. And so will every  
5 fellow officer at the scene of that gun recovery.  
6 So, the question is, do we really believe that if  
7 this bill passes, officers would be able to stop  
8 anybody that they believe is in possession of a gun  
9 when they are weighing, do I take a gun off the  
10 street and could I afford a \$25,000 personal  
11 liability hit.

12 COUNCIL MEMBER HOLDEN: Right, Chair if I may,  
13 just a quick you know, comment or question. Are  
14 there any other classes of employees that are held  
15 personally liable for violating a rule that was not  
16 clearly established or conduct was in good faith.

17 So, this is what I am saying, we are singling out  
18 officers. They have a very difficult job and we are  
19 making it tougher and it is not going to help the  
20 policing of New York City. It is going to make New  
21 York City more dangerous. So, you know what, there  
22 is a point here where we just have to stop and step  
23 back a bit and realize that we have a great police  
24 force. And yes, okay, we can come up with some

25

1  
2 changes in reform and we should but not just go too  
3 far and we have seen the results of some of our  
4 policies already or changes.

5       So, I just think Chair, this is dangerous by  
6 obviously we want to have hearings and we want to  
7 have these things vetted and obviously asked but what  
8 I am hearing qualified immunity, there could be 20  
9 officers standing around who don't know what is going  
10 on, they are just with the whole detail and they  
11 could be personally liable and they don't even see  
12 what is happening. And this is so, so dangerous.  
13 Thank you Chair.

14       COMMITTEE COUNSEL: Thank you Council Member  
15 Holden. We will now turn to Council Member Powers  
16 followed by Council Member Riley.

17       SERGEANT AT ARMS: Time starts now.

18       COUNCIL MEMBER POWERS: Thank you. Thanks  
19 everyone for the testimony. I had an opportunity to  
20 just hear some of the earlier questions, but I want  
21 to just go back to some of the points I think Council  
22 Member Levin was pointing out. But I want to just a  
23 more broad topic here, what is the harm to moving  
24 accountability here? We have multiple systems  
25

1  
2 accountabilities, multiple agencies and areas for  
3 accountability when it comes to NYPD. You have  
4 internal affairs for your department, you have DOI  
5 Inspector General, you have CCRB. What would be – I  
6 just, I want to hear maybe the feedback on why it  
7 would not make sense or why not move or maybe even  
8 centralize all that into one accountable place and  
9 take it out of the Commissioner's hands. Why would  
10 as a New Yorker, a tax payer, why would you not want  
11 your sort of police force to have an independently  
12 accountable entity you know, that's not politically  
13 motivated? That's not maybe less persuaded by you  
14 know, what is public opinion but you know, provides  
15 independent oversight and accountability.

16 Can I just hear the Mayor's Office and maybe NYPD  
17 just restate what is the harm of that?

18 CHELSEA DAVIS: Sure, sure, thank you for asking.  
19 I do want to reiterate that we think changing this  
20 authority through state law could open this major  
21 issue to collective bargaining negotiations and new  
22 litigation and we do take that concern very  
23 seriously.

24

25

1  
2 Specifically because we have seen in other  
3 jurisdictions how having these different models uhm,  
4 doesn't necessarily improve accountability for  
5 discipline. This is not an issue that's just a  
6 function of the police commissioner but of the entire  
7 process and that's what we want to be focused on.

8 COUNCIL MEMBER POWERS: I am sorry to interrupt  
9 you. Just for a limited time here, do you think  
10 accountability is going to get worse if you shift it  
11 away from the Commissioner to an independent, is that  
12 what you are saying? You think it is going to get  
13 worse?

14 CHELSEA DAVIS: I think there is the potential  
15 for a lot of unintended consequences which just means  
16 we have to be extremely thoughtful and deliberative  
17 about this and we also have to make sure that we  
18 actually see whether the reforms that we have put in  
19 place, which we think are major steps forward are  
20 working.

21 I think as Oleg said before, there is certainly  
22 going to be a level of transparency into this process  
23 that we have never seen that will have really big  
24 impacts.

1  
2       You also mentioned a lot about general structures  
3 of oversight and I would like the opportunity to have  
4 Marcos Soler from the Mayor's Office of Criminal  
5 Justice speak to how important it is going to be to  
6 consolidate the oversight entities and why we think  
7 that also is going to have such a positive impact for  
8 accountability. Marcos?

9       MARCOS SOLER: Right, so right now what we have  
10 as you know is a system with really three different  
11 entities, three different things. One, investigates  
12 once price basically audits the other monitoring the  
13 police department. We think it's a time to move from  
14 individual instances of previous conduct to have  
15 systemic reviews of the department.

16       I think that is the area where we have done less  
17 as an administration, as a city, and the  
18 consolidation that we think is going to be obviously  
19 thoughtfully thought about with different partners  
20 and try to precisely address that issue. How we  
21 bring greater levels of accountability that not only  
22 focus on individual misconduct, but greater areas  
23 where we see systemic problems in the department.

24

25

1  
2 That is the emphasis of consolidation and that is  
3 going to be the emphasis in bringing greater  
4 accountability into this process by having as you  
5 say, a one independent entity and can look across  
6 different parts of the department from different  
7 perspectives.

8 COUNCIL MEMBER POWERS: Look, I am just - I am  
9 going to move onto other questions. I think it is  
10 just so crystal clear to me that having independent  
11 and clear you know, entities for oversight  
12 accountability is part of this conversation that we  
13 are having right now. Whether wherever you fall on  
14 the spectrum of issues here, it almost feels  
15 universal to me that you should have both more  
16 centralized and clear sort of visibility into the  
17 process by centralizing some of these discipline  
18 authorities. But also, it is so universal that, and  
19 I actually do think, I bring this to the City Council  
20 to that you should have independent oversight and  
21 accountability. That should be shifted away from the  
22 folks that are operating within that. I think that  
23 applies to all of us.

24

25

1  
2 Uhm, I want to just go to residency for a second.  
3 There is a resolution around it. I don't know if I  
4 heard it, did the administration have an opinion on  
5 the residency requirement that is in proposed in a  
6 resolution here?

7 CHELSEA DAVIS: I haven't spoken to it yet but I  
8 am happy to. Uhm, this is a really important issue.  
9 We are certainly still reviewing -

10 SERGEANT AT ARMS: Time expired.

11 CHELSEA DAVIS: Related to residency. Uhm, I  
12 want to make it clear that New York City residency is  
13 uhm, already among a number of factors that's  
14 considered in determining the strength of a  
15 candidates application for acceptance of the police  
16 academy.

17 So, in recent years, applicants who are New York  
18 City residents receive a five point bump in their  
19 overall score and moving them upwards on the civil  
20 service list. Uhm and aside from military service,  
21 this is the only factor that can uhm, raise a  
22 candidates score in this way.

23 But I also you know, want to point out that the  
24 goal behind a residency requirement is ensuring that  
25 we have a police force that's representative of the

1  
2 communities that it serves and our – we want to focus  
3 our reform plan on this goal in a much more holistic  
4 way than just residency.

5 So, making sure that officers are immersed and  
6 educated by the communities that they serve, taking a  
7 larger look at recruitment, promotions, initial  
8 qualifications, uhm, you know, are going to be a lot  
9 more effective than just considering residency at  
10 achieving that ultimate goal.

11 COUNCIL MEMBER POWERS: Okay but it doesn't sound  
12 like you have a stated opinion on it at this point or  
13 is there – you are opposed to it or uh –

14 CHELSEA DAVIS: It is certainly something that we  
15 are still considering and looking at. We have heard  
16 from both officers and communities you know, a  
17 significant desire for members to better understand  
18 and represent uhm, the communities that they are  
19 serving in.

20 COUNCIL MEMBER POWERS: Okay, I will finish on  
21 this question just out of respect for the time here.  
22 I heard a little bit of dialogue around advice and  
23 consent earlier in regard to the bill that would  
24 require, I think it is actually a Charter they had,  
25

1  
2 make a Charter amendment to require advice and  
3 consent when it comes to the police commissioner. I  
4 heard a little bit of discussion. But maybe you  
5 could just clarify for all of us, your sort of  
6 operating theory here on when advice and consent  
7 should apply and when it shouldn't because I did hear  
8 some talk about well, we appoint certain members so  
9 that's where advice and consent lays. You don't  
10 believe it for this case, so what is the, maybe when  
11 should it apply? When do you think advice and  
12 consent should apply to a commissioner of a city  
13 agency?

14 CHELSEA DAVIS: Sure, so I can speak to when it  
15 has been applied and why that was appropriate. You  
16 know DOI is an independent agency, so an additional  
17 level of you know, from Council certainly  
18 appropriate. Uhm, TLC has members appointed by the  
19 Council. Corporation Counsel represent that City  
20 including City Council. I don't have a full  
21 comprehensive list of all the commissions where there  
22 is the same process. I am happy to follow up with  
23 that but the Police Commissioner should report to the  
24 Mayor you know, who is accountable to all voters and

25

1  
2 that this process for the Police Department would not  
3 represent an improvement and meaningful  
4 accountability which is you know, what we are focused  
5 on in this plan.

6 COUNCIL MEMBER POWERS: So, let me offer just one  
7 last - wouldn't it make more sense to have  
8 Commissioners? Like, we appoint Commissioners to the  
9 taxi limousine Commission that's our version of sort  
10 of accountability within the agency. Wouldn't it  
11 make inverse sense to have an agency where we have no  
12 appointments to that agency to be actually the places  
13 where we would have advice and consent being that we  
14 have no other method for input on the decision making  
15 after the appointment?

16 CHELSEA DAVIS: I mean, we don't think that this  
17 would be a meaningful way to combat that no, but we  
18 are also of course always open to continued  
19 discussions about that.

20 COUNCIL MEMBER POWERS: Okay, I will leave it at  
21 that. Thank you Chair, thank you for taking - sorry  
22 for taking too much time but I appreciate your  
23 consideration.

24

25

1  
2 CHAIRPERSON ADAMS: No, you didn't take too much  
3 time at all, you actually brought something back to  
4 mind Council Member Powers, so thank you for that  
5 last question. My question earlier to Ms. Davis was  
6 whether or not the Mayor's appointees to the Charter  
7 Revision Commission in 2019, whether or not they  
8 supported requiring advice and consent of the  
9 Corporation Counsel. And the answer was uhm, I don't  
10 know. The answer is yes, they did.

11 So, I want to make that perfectly clear. It  
12 wasn't a loaded question at all but the answer was  
13 yes. In 2019, the Mayor's appointees, the Charter  
14 Revision Commission, supported requiring advice and  
15 consent of the Corporation Counsel.

16 Thank you Council Member Powers and Counsel, I go  
17 back to you for questions.

18 COMMITTEE COUNSEL: Next up is Council Member  
19 Riley followed by Council Member Miller.

20 SERGEANT AT ARMS: Time starts now.

21 COUNCIL MEMBER RILEY: Thank you Chair Adams and  
22 I appreciate the administration for coming today and  
23 giving this presentation. I share the same  
24 sentiments as the majority of my colleagues with  
25 stating that an independent overseer will do much

1  
2 better with transparency but I want to go back to Ms.  
3 Davis to talk about the reform. I didn't hear  
4 anything about the peaceful protesting on reform that  
5 the Mayor's Office and NYPD should be implementing.  
6 As we saw last June up till now, there has been  
7 suppression where peaceful protestors have been  
8 violently harassed by NYPD while peacefully  
9 protesting social injustice. So, I just want to talk  
10 to the reform or is there a plan to address that huge  
11 issue because as we are seeing, I am pretty sure  
12 after this budget and a lot of these legislations  
13 with be passed, we will be seeing a lot more  
14 protesting. So, is there any reform to address this  
15 concern moving forward?

16 CHELSEA DAVIS: Absolutely and we very much  
17 appreciate the reports from both DOI and the law  
18 department on policing protests and fully plan to  
19 implement all 20 recommendations from DOI and 10  
20 recommendations from the law department and that  
21 includes the recommendations to consolidate oversight  
22 which as we discussed is the biggest structural  
23 change to police oversight since CCRB was founded and  
24 we think that that will have all those, the

25

1  
2 implementation of all those 30 recommendations will  
3 have a really big impact.

4 COUNCIL MEMBER RILEY: Okay, my next question is  
5 the crime prevention programs within each police  
6 district. Can you just elaborate more on how NYPD  
7 plans on partnering with these crime prevention  
8 programs to eliminate or deescalate gun violence  
9 within our communities?

10 CHELSEA DAVIS: Sure, I am going to ask Marcos to  
11 take that question about, I think you are asking  
12 about the crisis management system.

13 COUNCIL MEMBER RILEY: Yes, correct.

14 MARCOS SOLER: Thank you for your question. So,  
15 first I want to say as you know, the administration  
16 has been completely committed to the expansion of  
17 CMS. This is not only an expansion of program; this  
18 is expansion of philosophy. A philosophy in which we  
19 believe and the responsibility of public safety doesn't  
20 fall just in the hand of police department.  
21 Certainly it falls in the hands of citizens  
22 particularly through this network of violence  
23 interrupter.

24

25

1  
2       So, our idea is to continue that expansion. I  
3 mentioned that the Mayor announced his address to the  
4 city this year. We are going to continue to bring  
5 additional resources to double the workforce of  
6 people dedicated to gun violence. Part of that is  
7 obviously to establish new respondents of  
8 collaboration with the police department and  
9 specifically focus on the joint force to end gun  
10 violence in the City of New York.

11       We are starting to implement that program. We  
12 are starting to partner with the police department  
13 with many city agencies, with the DA's etc., in order  
14 to make sure that we can accommodate and bring all  
15 those community partners into a very comprehensive  
16 plan citywide.

17       COUNCIL MEMBER RILEY: Thank you. And last but  
18 not least, I would like to extend my condolences to  
19 Ms. Rivera. What she has went through is very  
20 painful and for her to even come in today to give  
21 this testimony is very admirable and I just want to  
22 inquire, how can we make sure that this does not  
23 happen again?

24

25

1  
2 I believe what she went through was very painful  
3 and what you want is answers and how can we make sure  
4 and how does the NYPD make sure that these issues  
5 won't be happening again, especially with a person  
6 who has been called to a residency for domestic  
7 violence on countless occasions. How can we make  
8 sure that this does not happen again moving forward?

9 CHELSEA DAVIS: I really want to thank you for  
10 that question. I think absolutely, you know, that  
11 case highlights the way that we need to think about  
12 members of service being held to a higher standard  
13 and that through this reform process, we need to  
14 fundamentally rethink what makes a good police  
15 officer. What the expectations for that role are and  
16 how we create accountability on individual levels and  
17 systemic levels to respond to incidents like that and  
18 prevent anything like from happening in the future.

19 We talk about the disciplinary matrix as a living  
20 document. One of the reasons is because we can't  
21 foresee every incident that can happen and so we need  
22 to make sure that we can go back and make changes as  
23 transparently as possible. The Mayor also announced  
24 as part of the Dinkins plan, the Patrol Guide Review  
25

1  
2 Committee which will make sure that incidents that  
3 might you know, have been okay according to current  
4 policy and procedure, that we can highlight them when  
5 the policy and procedure is actually a thing that  
6 needs to change.

7 SERGEANT AT ARMS: Time expired.

8 CHELSEA DAVIS: To prevent that happening in the  
9 future.

10 COUNCIL MEMBER RILEY: Okay, thank you. Thank  
11 you Chair.

12 COMMITTEE COUNSEL: Thank you Council Member  
13 Riley. We will now turn to Council Member Miller.

14 SERGEANT AT ARMS: Time starts now.

15 COUNCIL MEMBER MILLER: Thank you Madam Chair. I  
16 apologize for missing the testimony and which is  
17 pivotal to any contributions that I could make with  
18 similar things that uh, you know, that we have  
19 discussed internally over the past year as it relates  
20 to police reform that stands out. In particular, the  
21 police commissioner being the final arbiter of  
22 discipline within the department.

23 What the Administration agrees that the police  
24 commissioner is responsible for upholding the  
25 integrity of the department?

1  
2 CHELSEA DAVIS: I do think it is essential that  
3 police commissioner be held accountable and -

4 COUNCIL MEMBER MILLER: No, is it responsible for  
5 upholding the integrity of the department? And I  
6 would add the image integrity of the department.  
7 Would you say that that was a role and responsibility  
8 and task of the police commissioner?

9 CHELSEA DAVIS: I certainly agree with that. I  
10 also -

11 COUNCIL MEMBER MILLER: And if that is the task  
12 and the role of the police commissioner, would that  
13 be compromised by him implementing discipline to his  
14 subordinates in any shape, form or fashion? Would  
15 that uh, sometimes highlight things that may  
16 compromise the integrity of the police department and  
17 by doing so, would it not be in the best interest to  
18 have an independent arbiter to make those decisions?

19 CHELSEA DAVIS: Sorry, I don't think that the  
20 best uhm, way to make the decision is external to the  
21 department. I think we have to be sure that  
22 consistency and transparency and fair penalties  
23 happen throughout the entire discipline process.

24

25

1  
2 COUNCIL MEMBER MILLER: Yeah, I get that but that  
3 wasn't the question that I asked. I said, did that  
4 undermine, potentially undermine the integrity of the  
5 process by having someone engaged, someone who is  
6 charged with maintaining the integrity and the image  
7 of the department being the sole arbiter?

8 CHELSEA DAVIS: I am not sure -

9 COUNCIL MEMBER MILLER: So, that was the question  
10 and you can mall that answer it but the second part  
11 would be because you mentioned collective bargaining.  
12 Uhm, in my experience, uh, the independent arbiter's  
13 were selected by - during contract negotiations  
14 between the union and management. Uh, that they  
15 collectively decided on an independent arbiter based  
16 on experiences in a particular industry and with the  
17 dynamics that will be related that folks thought that  
18 might make him, not just him or her, not disqualified  
19 arbiter but one that would be fair for both parties.

20 You know, could you expand on what would be  
21 different from that - from a labor perspective that  
22 would not be permissible because it was kind of  
23 eluded that collective bargaining would not allow for  
24 this and some of the other Intro.'s that we are  
25

1 discussing today to happen. Is there a reason why it  
2 cannot be done? Because you intimated that because  
3 of collective bargaining, it wasn't possible. I  
4 would submit the exact opposite. That it is a  
5 process of terms and conditions of employment in my  
6 experience as a president and a business agent, we  
7 selected along with management as part of the  
8 collective bargaining process and independent  
9 arbitering. What would be different and why of all  
10 the industries, of all the agencies, of all the  
11 professions would this be different?  
12

13 CHELSEA DAVIS: Sure, I am going to ask the  
14 police department to speak to this question because  
15 of their expertise over the collective bargaining  
16 process.

17 OLEG CHERNYAVSKY: Yeah, so Council Member if I  
18 may, look, I think the issue is and I answered it in  
19 response to I think it was Council Member Levin's  
20 question, that ultimately the goal is to create a  
21 process right.

22 SERGEANT AT ARMS: Time expired.

23 OLEG CHERNYAVSKY: That is transparent. That has  
24 stakeholders both within the department that have  
25 significant expertise in policing and could evaluate

1  
2 a police officers actions through that lens. But  
3 equally as important is the external stakeholder that  
4 can review the case independently and that could  
5 offer their insight and their recommendations, give  
6 them to the police commissioner who ultimately is in  
7 control of the agency. Just like -

8 COUNCIL MEMBER MILLER: With all due respect,  
9 that hasn't happened in the past.

10 OLEG CHERNYAVSKY: Excuse me?

11 COUNCIL MEMBER MILLER: With all due respect,  
12 that hasn't happened in the past. None of the  
13 recommendations, the majority of the recommendations  
14 around discipline from CCRB and others have not been  
15 consistent with discipline that had ultimately been  
16 dispensed by the police commissioner.

17 OLEG CHERNYAVSKY: I think Council Member, we are  
18 in a different place now, right and I think we could  
19 all agree on that. You know, we had -

20 COUNCIL MEMBER MILLER: This is a process that  
21 works for other folks. The question is why wouldn't  
22 it work for the police department? And there are  
23 other police agencies that certainly, law enforcement  
24 agencies that use independent arbiter. In fact, the  
25

1  
2 NYPD is anomaly even in this region in doing so in  
3 this manner.

4 OLEG CHERNYAVSKY: Well, you were asking for our  
5 opinion on this, on this move. We are moving the  
6 police -

7 COUNCIL MEMBER MILLER: What makes us so  
8 different from other municipalities, other law  
9 enforcement agency even within its own municipality?

10 ELIZABETH DAITZ: Sir, I think, if I may, I think  
11 a lot of the jurisdictions around the state and  
12 around the country that use an independent arbiter  
13 that are selected by a combination as you said, union  
14 and management have come under heavy criticism  
15 because those arbitrator's predominantly side with  
16 the officer and impose to a substantially less or no  
17 discipline than what is reflected by the will to the  
18 community -

19 COUNCIL MEMBER MILLER: Can you be specific?  
20 Could you be specific? Because that's the same  
21 situation that we are seeing now with the police  
22 commissioner being the final arbiter. That's kind of  
23 arbitrary to throw out there to say that Rochester or  
24 Buffalo or Connecticut somewhere like, could you be

1  
2 specific and saying that that has happened  
3 industrywide.

4 OLEG CHERNYAVSKY: To answer your point. I know  
5 the example that you are using is - this is what's  
6 been done and I think that discounts what's being  
7 done now, right. So, -

8 COUNCIL MEMBER MILLER: But it hadn't worked up  
9 till now.

10 OLEG CHERNYAVSKY: But we don't know it hasn't  
11 worked.

12 COUNCIL MEMBER MILLER: I mean, why do we keep  
13 doing the same thing and expecting different results?

14 OLEG CHERNYAVSKY: Well, we are not. Council  
15 Member, we are not doing the same thing and you can't  
16 say it hasn't worked because what we are doing now is  
17 -

18 COUNCIL MEMBER MILLER: It has not worked. We  
19 can absolutely say it has not worked.

20 OLEG CHERNYAVSKY: Council Member, I think you  
21 passed a legislation. You voted on the legislation.  
22 Council Member Richards at the time introduced the  
23 legislation after speaking to an independent blue  
24 ribbon panel that reviewed our discipline process and  
25

1  
2 suggested that we have presumptive penalty  
3 guidelines.

4       So, we did that. We worked on it. It just was  
5 finalized. It just came online less than a month  
6 ago. So, it's not fair to say that we are doing the  
7 same old thing and that's failing. I think the fair  
8 way to look at it is, that we all agreed at the  
9 Council's behest that we create presumptive penalty  
10 guidelines. We created them. They were not easy to  
11 create but we did. We looked at best practices for  
12 around the nation and we created our own. We left it  
13 open for public comment. We struck at MOU with CCRB,  
14 which is an independent body to stick with those  
15 guidelines. Let's see if it works. I mean, it was  
16 your legislation. It was our work together.

17       COUNCIL MEMBER MILLER: So, essentially that's  
18 your answer, right. Essentially that's your answer  
19 because that's a much better answer than what we were  
20 doing in the past works because clearly, what we were  
21 doing in the past did not work. Clearly, the police  
22 commissioner having the authority as an independent  
23 arbiter was not often times consistent with that  
24 represented by CCRB and others and also, there was  
25

1  
2 not the existing transparency that we are talking  
3 about now.

4 I again, just submit that to say to dismiss what  
5 everybody else is doing or other law enforcement or  
6 other municipal and governmental agencies are doing  
7 in terms of discipline and collective bargaining that  
8 it has to be exclusively different when it comes to  
9 NYPD. I dismiss that but I also would say that if  
10 there is a mechanism in place that was agreed to that  
11 you know that perhaps it can be given the chance.

12 But I would submit that there has to be a change and  
13 hopefully between now and whatever happens and any  
14 cases that subsequently come before the Commissioner,  
15 I hope that they are consistent with legislation that  
16 is currently being practiced.

17 So, my time is up. I want to thank you for that  
18 and I do want to take a deeper dive into the entire  
19 package and uh, and uh, hear from you guys. So,  
20 thank you. Thank you Madam Chair.

21 OLEG CHERNYAVSKY: Thank you.

22 CHAIRPERSON ADAMS: Thank you Council Member  
23 Miller. Go ahead Chelsea.

24 CHELSEA DAVIS: No, I just want to thank you for  
25 those comments and we do think that the best next

1  
2 steps here are to move forward with implementation of  
3 the matrix and the MOU with full transparency. And  
4 that just to reiterate you know how thoughtful we  
5 have to be about any changes over final authority  
6 considering some of the potential unintended  
7 consequences. So, appreciate those questions.

8 CHAIRPERSON ADAMS: Thank you and you know I just  
9 want to jump in here because a comment just jumped  
10 out at me and it has to do with the perception of  
11 things being seen through the lens of a police  
12 officer.

13 And it would seem to me that we would learn some  
14 lessons particularly to my colleague Council Member  
15 Riley's point that the actions of the BLM protestors  
16 over the summer should make a stink in an entirely  
17 different way as far as any perceptions are  
18 concerned. Why should offenses against the members  
19 of the public be viewed through the lens of  
20 enforcement instead of through the lens of a  
21 civilian?

22 OLEG CHERNYAVSKY: I think it should be viewed  
23 through all lenses. I mean, a review of a police  
24 officer's actions or the allegation of improper  
25

1  
2 actions should be viewed in its totality. That's due  
3 process, that's fairness. There is no way to have a  
4 fair process - you know, it is very much about having  
5 the public trust, the discipline process and trust  
6 police officers and have faith in how the discipline  
7 process works. But it is also equal - it is also  
8 important, equally as important I would say to have  
9 officers coming on the job considering a career in  
10 law enforcement that they have faith in the process  
11 as well. That they don't think it is viewed against  
12 them in some way.

13       So, looking at it through an officers  
14 perspective, I think is part of the comprehensive  
15 investigation into an allegation of impropriety.  
16 It's certainly not a disproportion be given  
17 disproportionate weight, but it certainly should be  
18 looked at. I think fairness would call for that.

19       CHAIRPERSON ADAMS: I would agree but you know,  
20 if the Commissioner is the final decision maker, you  
21 said yourself he is going to look at it as a law  
22 enforcement officer and that has clearly been an  
23 issue, correct?  
24  
25

1  
2 OLEG CHERNYAVSKY: Well, I think before it gets  
3 to the Police Commissioner, there are multiple layers  
4 within the department when the recommendations for  
5 discipline come over from an outside entity like  
6 CCRB. Where before it gets to the Police  
7 Commissioner, it is reviewed by the First Deputy  
8 Commissioner who is overall in charge of training in  
9 our discipline process and there is an agreement that  
10 has to happen there and there is an independent  
11 review before it gets to the Commissioner, so without  
12 saying the – having somebody taking a look at you  
13 know, through the lens of law enforcement, it's being  
14 done as part of the comprehensive process. But  
15 ultimately, it lands on the lack of the agency  
16 whether the Police Commissioner that's in charge of  
17 the personnel that fall under his or her agency, has  
18 to be in charge ultimately of those personnel.

19 JUANITA HOLMES: Chair, I would like to add to  
20 that. When you are thinking about that perspective  
21 and I want to relate it back to all the mishaps,  
22 where we went wrong at with the protest this past  
23 summer.

24

25

1  
2       So, once those protests have occurred and things  
3 kind of calm down some and even when we missed it  
4 because I am managing protests every week. You know,  
5 yesterday, the day before yesterday, uhm, with that  
6 being said, the police department as a whole sat down  
7 without any independent, anyone say this is what you  
8 need to do. And we sat down as a whole at the table,  
9 took a look back at what could we have done better?  
10 Where did we go wrong at? And out of that, came the  
11 retraining of several thousand members of the  
12 service. Because we realized they just weren't as  
13 trained in disorder patrol as they should have been.  
14 They were making independent decisions. They were  
15 making decisions based on that they responded to a  
16 different type of event and if someone threw a bottle  
17 over to attempt assault on me, my reaction is to  
18 arrest them.

19       So, since then this training is ongoing, we have  
20 mock drills every week. We put a chief, a chief in  
21 place of operations where we had a deputy chief that  
22 held that position along time ago, not just a chief,  
23 someone I know personally, a very experienced chief  
24 you know to oversee the response in SRG as well as  
25 the officers and ensuring that they have the proper

1  
2 training, the proper message goes out. I have weekly  
3 calls to address the protests every week. I have an  
4 inspector that's overseeing that but I am personally  
5 involved. We have community affairs at the helm now.

6 So, without officially having the DOI report  
7 implemented into the form reinvention, it's been  
8 implemented. Because I am sure that we have a strong  
9 community affairs presence out there. We know what  
10 we are dealing with. We know the bad actors now.  
11 Whereas before we were met with this vast amount of  
12 people and you know, it was complete chaos and you  
13 know, sense then, you could see the progress. There  
14 is less arrests made.

15 I mean, the other night unfortunately we had a  
16 reporter assaulted and there were a few arrests made  
17 behind that. But you know, now you see the  
18 difference. The demonstration last night,  
19 uneventful, people went from Manhattan to the Bronx  
20 and then they went home and I really think that comes  
21 from the retraining, the advice that we got from you  
22 know the reports, feedback from the community,  
23 especially during a lot of these listening sessions  
24 that's been being held, different forms, related to  
25

1 reform that we had mentioned and also especially, the  
2 retraining of the officers and the supervised re-  
3 oversight that's out there.  
4

5 So, I truly believe that moving forward it can  
6 only get better because structure and systems are in  
7 place. I just think needed that structure regarding  
8 demonstrations and protests which we deal with all  
9 the time and never something of that magnitude and  
10 you know, the young job that it is ensuring that four  
11 hours of training was not enough. And that's what  
12 they were receiving in a police scan.

13 So, that has since changed and I think you will  
14 feel and see the change with that.

15 MICHAEL CLARKE: And if I may, a little bit about  
16 the disciplinary matrix, we did put up a public  
17 comment and we did work with CCRB, so the civilian in  
18 view of discipline is baked into the guidelines that  
19 we now have to use going forward, right? So that  
20 helps - has helped the PC, helped the department  
21 figure out what is appropriate penalties for a wide  
22 variety of misconduct and we have made some changes  
23 based on that feedback.

24

25

1  
2 And as Chelsea said, it is a living document. We  
3 will continue getting feedback and updating it and  
4 making it as strong as possible.

5 CHAIRPERSON ADAMS: Thank you. I am going to go  
6 back to Counsel. I believe that my colleagues have  
7 more questions. Thank you.

8 COMMITTEE COUNSEL: Yes, we have Council Member  
9 Deutsch and then I believe we are on the second  
10 rounds. Council Member Deutsch.

11 SERGEANT AT ARMS: Time starts now.

12 COUNCIL MEMBER DEUTSCH: Thank you very much.  
13 Good afternoon, good afternoon everyone, almost  
14 afternoon. But first, I want to speak about the  
15 residency issue that was brought up with the  
16 Resolution. So, firstly, I heard from NYPD that they  
17 are looking into possibly making the change and  
18 that's why I understood of looking to see if the  
19 officers should live in New York City.

20 You know, just not too long ago, we had a  
21 majority of New York City Council Members asking for  
22 fair market pay for officers. So, I disagree with  
23 the fact that officers that live in New York City  
24 should only be allowed to be a New York City Officer  
25 because we all know that the cost of living for an

1  
2 officer would be very low starting salary compared to  
3 other states. It is not feasible for that individual  
4 who protects us 24/7 and when you have an officer who  
5 becomes a cop and is a resident of New York City and  
6 then gets married then has a family, it's probably  
7 almost impossible for that officer to live in New  
8 York City with the cost of living. And to prove it,  
9 the majority of the City Council did ask for fair  
10 market pay and if we get the fair market pay then it  
11 is a discussion to talk about because no one should  
12 have to struggle how the next meal will be put on the  
13 table, so I just wanted to bring that point up.

14       Secondly, I just wanted to mention that uhm, you  
15 know, we spoke about – we are talking about now how  
16 to take away the discretion from the police  
17 commissioner, giving it to an independent agency and  
18 oversight. Well, while I agree that if we are going  
19 to – you know, I have many issues as well as my  
20 colleagues have issues in the district where I have  
21 traffic intersections that kill people literally  
22 every single week, every single month and when I  
23 reach out to Department of Transportation and they  
24 don't make those intersections safe, right? I wish  
25

1  
2 that there was an independent agency that has  
3 oversight on that commissioner. When I am trying to  
4 stop the counting in homeless shelter in my district  
5 because there is not enough mental health services  
6 for the people, the homeless community living there,  
7 where we have just seen a person who was homeless  
8 with a mental health issue stab people on our trains.

9 I wish that there was oversight on the  
10 Commissioner of HRA, of DHS who will be an  
11 independent person or agency to have oversight on  
12 that Commissioner but lets not single out one agency  
13 because we have many issues with all the agencies  
14 where peoples lives depend on it.

15 So, if we are going to do something, let's do it  
16 to every single agency across the board. Let's not  
17 single out one agency where we are taking away that  
18 power from the Commissioner. I as a Council Member,  
19 I have oversight of my office, my colleagues have  
20 oversight in their offices. So, why is the NYPD  
21 different than anyone else?

22 But while I agree that maybe we should have an  
23 independent agency to have oversight, let's do this  
24 across the board. Not just single out the NYPD and  
25 that's where I disagree. And another thing I wanted

1  
2 to mention, is that we have passed police reforms  
3 bills over the last six years and I served in the  
4 Public Safety Committee. Now, I respect my  
5 colleagues, I respect the work that they do but what  
6 I disagree with is that we have bills that we have  
7 passed in the City Council where we have regressed.  
8 For example the diaphragm bill, we have regressed  
9 where we are tying officers hands from doing their  
10 jobs.

11 I gave up my car to take a train two years ago.  
12 I am terrified now to take a train. I am terrified  
13 to take a train. So, before we go into other police  
14 reform bills and keeping all those previous bills  
15 that we have put in place, right? We shouldn't work  
16 by peace mill, we shouldn't say okay, we are going to  
17 put two bills today. Okay, they don't work, let's  
18 put another two bills in tomorrow or next month,  
19 let's put another two bills in. We constantly pass  
20 police reform bills and we see that New York is not  
21 happy. They are not happy. They don't feel safe.

22 So, before we continue with more police reform  
23 bills and holding the NYPD or other agencies  
24 accountable, let's repeal some of those bills. Let's  
25

1 repeal the diaphragm bill which is not working.

2 [LOST AUDIO 1:50:53] individuals, they came out.

3 Bring Kevin McCall against the diaphragm bill.

4 SERGEANT AT ARMS: Time expired.

5 COUNCIL MEMBER DEUTSCH: I need another two  
6 minutes. And I think that before we continue and  
7 before we hold the NYPD and single them out and hold  
8 them accountable, let's look at the full picture  
9 because we, as elected officials, we owe it to New  
10 Yorkers.  
11

12 And finally, I want to make one more point, my  
13 colleague Council Member Riley mentioned about the  
14 peaceful protestors and I agree, when peaceful  
15 protestors go out in the streets and I have joined  
16 them, that we need to have oversight. We need to  
17 have police reform, we need to have training, we need  
18 to have sensitivity training. Everyone needs to be  
19 held accountable when there are peaceful protestors  
20 out on the streets.

21 Why aren't my colleagues speaking about the non-  
22 peaceful protestors? Such as what we had this past  
23 Friday night and if you are going to hold, if we are  
24 going to hold the NYPD accountable, let's hold  
25

1  
2 ourselves accountable on the non-peaceful protestors.

3 Thank you very much.

4 COMMITTEE COUNSEL: Okay, we are going to go back  
5 to Council Member Levin and I will just ask any other  
6 Council Members who would like to come back for a  
7 second round to please use the Zoom raise hand  
8 function. Council Member Levin.

9 SERGEANT AT ARMS: Time starts now.

10 COUNCIL MEMBER LEVIN: Thank you very much.  
11 Thank you very much and uh, so my first question, I  
12 am going direct it to the Intro. that I mentioned  
13 just around qualified immunity. I know this was  
14 discussed before but I wasn't a part of this. So, I  
15 want to read into the record Code Section 1983, which  
16 is civil action for deprivation of rights. This is  
17 from 1871, post-Civil War, three years after the  
18 passage of the 14<sup>th</sup> amendment. Every person who  
19 under collars to any statute, ordinance, regulation,  
20 customer usage of any state or territory or the  
21 District of Columbia, subjects or classes to be  
22 subjected. Any citizen of the United States or other  
23 persons within the jurisdiction thereof, to the  
24 deprivation of any rights, privileges or immunities,

1  
2 secured by the constitution and laws shall be liable  
3 to the person injured in an action lawsuit inequity  
4 or other proper proceeding for redress. Except that  
5 in any action brought against an additional officer  
6 for an act or omission taken, of such officers  
7 judicial capacity, injunctive relief shall be granted  
8 unless a declaratory decree was violated or  
9 declaratory relief was unavailable.

10 For the purposes of this section, an act, any act  
11 of congress who simply the District of Columbia  
12 should be considered would be a statute of the  
13 District of Columbia.

14 That's the relevant statute. That is the  
15 statute, federal statute 1871 governing the  
16 deprivation of anybody. Of anybody in the United  
17 States, by anybody in the United States. The  
18 deprivation of their constitutional rights, their 4<sup>th</sup>  
19 amendment rights.

20 So, I want to ask, I will give an example. I  
21 will give an example from the police protests earlier  
22 this year and I will leave it as a hypothetical  
23 because I imagine you don't want to comment on  
24 specific cases. A hypothetical, which we have on  
25 video, a police officer unprovoked uhm, pushing an

1  
2 unarmed protestor who is not threatening that  
3 officer. We see it clearly in the video, pushing  
4 them to the ground or punching them in the head.

5 Uhm, is that officer entitled to qualified  
6 immunity in your opinion?

7 ELIZABETH DAITZ: So, sir, thank you for that  
8 question and you are right, we will decline a comment  
9 on pending investigations or pending litigation but I  
10 should say unequivocally, that a police officer who  
11 violates the NYPD's Patrol Guide, is not entitled to  
12 representation or identification by the City of New  
13 York under state law regardless of what defenses  
14 maybe asserted in federal court.

15 So, that's the first point. The first point is  
16 that that person -

17 COUNCIL MEMBER LEVIN: Okay, okay, wait, wait,  
18 let's - because I want that to be, let's test that  
19 out a little bit. So, you said regard - so, they are  
20 not entitled to defense by the City, so they have to  
21 hire their own defense attorney and they are not  
22 entitled to indemnification. Are they entitled to  
23 qualified immunity under federal statute?

24 ELIZABETH DAITZ: So, again -  
25

1  
2 COUNCIL MEMBER LEVIN: I'm sorry, not under  
3 federal statute, excuse me, under the qualified  
4 immunity doctrine, the judicial doctrine of qualified  
5 immunity?

6 ELIZABETH DAITZ: So, qualified immunity would  
7 only apply in the second circuit if there were no  
8 disputed issues of facts. So, in the first instance,  
9 if the plaintiff in that case said, this happened to  
10 me and the officer said, no it didn't. The qualified  
11 immunity defense is inapplicable in the second  
12 circuit. So, assuming under your hypothetical that  
13 the incidence is captured on video, so that there is  
14 no dispute fact. The court would then look at two  
15 things. One, whether the second circuit or Supreme  
16 Court of the United States Supreme Court where the  
17 New York State Court of Appeals has clearly  
18 established that an unprovoked physical assault  
19 violates the 4<sup>th</sup> amendment. If -

20 COUNCIL MEMBER LEVIN: Okay, wait, wait, wait,  
21 wait, excuse me, excuse me. Let's just halt it right  
22 there. That the criticism of qualified immunity is  
23 that that is a very narrow band and in fact, as it  
24 has been interpreted by the courts, it has to be an  
25

1 exact replication and that's what they find as  
2 clearly defined uhm, fact pack. Is that it is not  
3 just an unprovoked assault. It has to be, it has to  
4 be a clearly established uhm, precedent and what we  
5 find is that the precedent never gets established.

6  
7 SERGEANT AT ARMS: Time expired.

8 COUNCIL MEMBER LEVIN: The precedent never gets  
9 established because it is always reliant on another  
10 precedent.

11 So, that's under the 1983 Supreme Court decision  
12 which is the problem with qualified immunity to begin  
13 with, which is the reason why around the country,  
14 republicans and democrats have taken issue with  
15 doctrine of qualified immunity. It is because this  
16 is not some crazy left wing uh, uh, way to kind of  
17 punish cops.

18 I am going to read you a quote. This is a quote,  
19 this is a quote and I will say, I agree with this  
20 quote. I agree with this quote.

21 "I don't want the cops to lose their house but I  
22 do want people to have to think twice. That's when  
23 change will happen is when people feel the sting of  
24 bad policies."

1  
2 One thing I can tell you, if you subject to being  
3 sued, you act differently than if you are not. Let's  
4 take a look it. If, being qualified immunity  
5 doctrine statutorily. That quote is from South  
6 Carolina Republican Senator Lindsey Graham last year,  
7 last year.

8 ELIZABETH DAITZ: Sir, you are identifying a  
9 federal problem that requires a federal solution and  
10 your bill not only does not solve for that problem  
11 but it create a new series of problems that directly  
12 impacts folks safety.

13 So, I do want to speak specifically to -

14 COUNCIL MEMBER LEVIN: Excuse me, excuse me but  
15 you just acknowledged a federal problem.

16 OLEG CHERNYAVSKY: Council Member -

17 COUNCIL MEMBER LEVIN: I'm sorry, I'm sorry, I'm  
18 sorry -

19 OLEG CHERNYAVSKY: We're in New York City. First  
20 of all, listen, we need to be able to answer these  
21 questions because I think your colleagues will  
22 benefit from actually understanding our -

23 COUNCIL MEMBER LEVIN: Oleg, accept Oleg, excuse  
24 me, excuse me. I am interjecting you. I am trying  
25 to assess out -

1  
2 OLEG CHERNYAVSKY: I know you are assessing out  
3 and interrupting -

4 COUNCIL MEMBER LEVIN: Excuse me, I am assessing  
5 out - these are to be defined.

6 OLEG CHERNYAVSKY: Can you please let us finish  
7 our answer and you can follow up assess out as much  
8 as you would like to assess out, okay?

9 COUNCIL MEMBER LEVIN: Okay.

10 OLEG CHERNYAVSKY: We need to be able to answer  
11 these questions and without being interrupted.

12 That's the point. So -

13 COUNCIL MEMBER LEVIN: Okay then do me a favor  
14 and don't repeat the same answer 15 times like the  
15 last time.

16 OLEG CHERNYAVSKY: We are not repeating the same  
17 answer 15 times. We are making points that clearly  
18 weren't visited in drafting this legislation. We  
19 certainly weren't consulted or asked for input. This  
20 certainly was not an inclusive process before this  
21 bill was introduced yet you have introduced this  
22 bill, okay?

23 COUNCIL MEMBER LEVIN: Okay.

24

25

1  
2 OLEG CHERNYAVSKY: You have acknowledged that the  
3 city is having a homicide spike. It is having a  
4 human spike and this bill directly impacts that  
5 homicide and shooting rate in this city because what  
6 you are doing in this bill, based on the way this  
7 bill is drafted, is penalizing police officers for  
8 acting lawfully. And penalizing every other police  
9 officer at the scene for not intervening when their  
10 colleague is acting lawfully. That's what this bill  
11 does.

12 Now, if you want to talk about these problem in  
13 the federal statute, [INAUDIBLE 2:01:03] federal law  
14 based on this conversation.

15 COUNCIL MEMBER LEVIN: There is no problems in  
16 the federal statute. There is no problems in the  
17 federal statute. Qualified immunity is not  
18 statutory.

19 Qualified Immunity is a judicial doctrine  
20 interpreting the federal statute that goes back 130  
21 years, 150 years.

22 ELIZABETH DAITZ: It is the same way and I  
23 appreciate your concern sir. I know a lot of it is  
24 driven and makes reference to the Cato Institute

25

1  
2 Peace and the quotes from Justice Scalia and Justice  
3 Thomas. I think you know, going back to revisit the  
4 emergence of the doctrine of qualified immunity and  
5 the judicial history as you put it, behind that  
6 doctrine is important and again part of a broader  
7 conversation about federal law. But I will say  
8 again, in the second circuit, the second circuit does  
9 not take the approach to clearly establish standard  
10 that you are decrying that exists in some of the  
11 other circuits.

12 You could look at that lawyers analysis, the  
13 second circuit has dismissed fewer than 25 cases,  
14 excessive force cases on qualified immunity grounds  
15 in over 15 years.

16 So, we -

17 COUNCIL MEMBER LEVIN: But -

18 ELIZABETH DAITZ: Excuse me sir.

19 COUNCIL MEMBER LEVIN: I mean, if they reject it?

20 ELIZABETH DAITZ: We do have a growing body of  
21 case law in the second circuit that clearly  
22 establishes for our officers boundaries that we use  
23 to work, policy and training. We look very closely  
24 on federal civil rights litigation in this  
25 jurisdiction to ensure that our officers have the

1 best policy and the best training and that you are  
2 informed by those litigation. They are not stumped  
3 in New York City by the Qualified Immunity Defense.

4 COUNCIL MEMBER LEVIN: Excuse me, let me  
5 interject that that's not taking into account cases  
6 that are not brought because of qualified immunity as  
7 a deterrence to bringing suit. So, you are just  
8 citing the number of cases where qualified immunity  
9 is granted but not the cases that are never brought  
10 in federal court because of an attorney, a  
11 plaintiff's attorney says, listen, you can't bring  
12 suit due to qualified immunity. How many cases was  
13 qualified immunity rejected as a defense in the  
14 second circuit?

15 ELIZABETH DAITZ: Probably thousands. I can't  
16 give you an exact number but qualified immunity must

17 -

18 COUNCIL MEMBER LEVIN: Consider invoked and  
19 rejected by the courts.

20 ELIZABETH DAITZ: Qualified immunity is not -

21 CHAIRPERSON ADAMS: I am going to interrupt  
22 because I am going to ask you to wrap Council Member  
23 Levin, so we can get our other colleague in here.  
24 So, I am just going to ask you to wrap.  
25

1  
2 COUNCIL MEMBER LEVIN: Okay, thank you very much  
3 Chair. This is — your saying that thousands of times  
4 in the second, in the second circuit, uh, that  
5 officers have sought to invoke qualified immunity as  
6 a — this is an immunity defense. It's not a defense  
7 against uhm, this is a way to be immune from sued.

8 You are saying that in stances — there have been  
9 thousands of instances where they have brought up  
10 that defense and of course have rejected. The  
11 federal courts have rejected that defense explicitly,  
12 is that right?

13 ELIZABETH DAITZ: Well, first of all, I want to  
14 point out that 74.4 percent of lawsuits brought  
15 against members of the NYPD resolved the settlement.  
16 So, it's a full —

17 COUNCIL MEMBER LEVIN: Settlement?

18 ELIZABETH DAITZ: To assume that they are  
19 litigated to this issue of qualified immunity.

20 COUNCIL MEMBER LEVIN: A settlement is a  
21 different question.

22 ELIZABETH DAITZ: Right.

23 COUNCIL MEMBER LEVIN: There are plenty of cases  
24 that the city settled because they don't want to deal

1  
2 with a public fallout or they don't want to deal with  
3 prolonged litigations. Let take settlements and put  
4 them aside.

5 I am asking about cases in the second circuit  
6 which were revoked and rejected.

7 ELIZABETH DAITZ: But I would like to answer that  
8 question. So, qualified immunity is affirmative  
9 defense that must be pleaded and proved by police  
10 officers.

11 The answer to your question is yes. All  
12 qualified immunities pleaded as an affirmative  
13 defense in probably the majority of the you know  
14 1,800 or so complaints filed against the police and  
15 our officers per year and in a great majority of  
16 those cases, those cases perceive through discovery  
17 and often times trial before the question of  
18 qualified immunity is adjudicated and I am not aware  
19 of really any case where the - I am sorry, I am just,  
20 I am confused by your question. Are you assuming  
21 that the officers are not raising qualified immunity  
22 or you are assuming that's it's always -

23 COUNCIL MEMBER LEVIN: I am asking you if they  
24 raise qualified immunity, how many times? How many  
25

1 instances? You cited the number of instances in  
2 which qualified immunity is as a defense.

3 ELIZABETH DAITZ: Yes.

4 COUNCIL MEMBER LEVIN: But you did not cite the  
5 number of times when qualified immunity is invoked by  
6 the officer as a defendant and that defense is then  
7 rejected by the courts.

8 ELIZABETH DAITZ: So, I would say probably  
9 hundreds of times a year and again that's a good  
10 faith guesstimate. Go back to Bradley versus the City  
11 of New York is the second circuit case that says that  
12 if the plaintiff and the defendant disagree on the  
13 backs, qualified immunity doesn't apply, which is a  
14 primary reason in the second circuit why qualified  
15 immunity is rarely granted.

16 Qualified immunity -

17 COUNCIL MEMBER LEVIN: I was just looking at the  
18 case from -

19 ELIZABETH DAITZ: Let me finish, I have got to  
20 finish here.

21 COUNCIL MEMBER LEVIN: Okay.

22 ELIZABETH DAITZ: Qualified Immunity does not  
23 protect the city from liability, which means the city  
24 can continue to be litigated even if the officer is  
25

1  
2 entitled to qualified immunity. And qualified  
3 immunity also does not apply to state in state court.  
4 So, the point where you are saying it is a deterrent  
5 from people seeing redress because of this offered  
6 qualified immunity. People bring claims in state  
7 court and receive full redress -

8 COUNCIL MEMBER LEVIN: Negligence claims - I was  
9 reading last night -

10 ELIZABETH DAITZ: Battery assault and wrongful  
11 death can be brought and are brought in state court  
12 with great frequency against this agency and our  
13 employees and people receive full and fair just  
14 compensation in those cases.

15 So, it's -

16 COUNCIL MEMBER LEVIN: From the city but the  
17 officer themselves are immune from any liability.

18 ELIZABETH DAITZ: Sir, that's not only false but  
19 it fails to take into account interplay with  
20 indemnification. If officers violate department  
21 policy or the law, they are not entitled to  
22 indemnification of the states general municipal law  
23 50K. So, immunity does not bear on whether or not  
24 the officer pays out of pocket. They are two  
25 completely different issues.

1  
2       The officer pays out of pocket for his or her own  
3 defense settlement and judgement if they violate  
4 department policy or the law under today's standard.  
5 That is what happens. Whether or not their own  
6 attorney raises a qualified immunity defense in  
7 federal court does not bear upon whether or not that  
8 person is financially liable. For the cost at least  
9 of their own defense if not for the judgment.

10       And I am happy to go deeper on these issues at  
11 any time. It is complex, the intersection between  
12 federal and state law but I just want to again point  
13 out to the extent that there are issues, 2009,  
14 Pearson versus Callahan, sequencing, you could all  
15 the way through that but they are not resolved by  
16 your bill.

17       COUNCIL MEMBER LEVIN: Let me ask you a question  
18 and the last, final question. So, you read through  
19 the Cato Institute paper on qualified immunity. What  
20 is your response to the assertions in that paper?  
21 Are they invalid?

22       ELIZABETH DAITZ: I think there are lots of  
23 assertions in the Cato Institute paper that are valid  
24 but what it doesn't do, is it doesn't cite to a  
25

1  
2 single second circuit case, let alone a case  
3 involving the NYPD. It does not advocate for strict  
4 liability with no available affirmative defenses for  
5 law enforcement officers. It doesn't argue against  
6 indemnification as a matter of policy. It doesn't  
7 consider outcomes in state courts like in New York  
8 where parallel claims are readily available and it  
9 does not pause it that municipalities can step in,  
10 instead of Congress to pass new laws that replace  
11 Section 1883. Nor does it argue that state courts  
12 are all equipped to grow the body of federal  
13 constitutional law that came to an abrupt halt  
14 following the decision of Pearson versus Callahan.

15       So, if we are sitting in Congress right now  
16 having a conversation about Section 1883, we could go  
17 through what the Cato Institutes fault for Pearson  
18 versus Ray and it's you know prodigy that followed  
19 but simply, it's not a City Council issue and it is  
20 not something that your bill addresses.

21       COUNCIL MEMEBR LEVIN: Wait, it's not a City  
22 Council issue because why? Because we don't have  
23 jurisdiction?

24       ELIZABETH DAITZ: Over 28 USC 1983 in Federal  
25 Court, correct.

1  
2 COUNCIL MEMBER LEVIN: We don't have the  
3 jurisdiction to create a city based civil law that is  
4 based on the civil rights law that is verbatim the  
5 4<sup>th</sup> amendment to the U.S. Constitution? We don't  
6 have the authority to do that?

7 ELIZABETH DAITZ: I am not saying that you don't  
8 have the authority to create yet another parallel  
9 cause of action in State Court. What I am saying is  
10 that it is unnecessary and that the way that you  
11 drafted the bill has unintended consequences that are  
12 at odds with what the Cato Institute is recommending  
13 and are grossly at odds with what the State of  
14 Colorado did to address the issues in jurisdiction.

15 COUNCIL MEMBER LEVIN: Okay, but you don't  
16 dispute that we have the authority. The jurisdiction  
17 to create a State Civil Rights Law cause of action in  
18 State Court - because [MANY TALKING AT ONCE 2:10:51-  
19 2:10:55.

20 I let you speak. I want to just get this out,  
21 that you acknowledged prior in the record that there  
22 is a problem "problem" existing in federal law right  
23 now, in the federal courts doctrine of qualified  
24 immunity. That is a problem. I am quoting you  
25 verbatim. Excuse me, you said problem.

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ELIZABETH DAITZ: In other jurisdictions.

COUNCIL MEMBER LEVIN: Excuse me, excuse me, let me finish. If that is a problem and it is a problem for Congress to fix, essentially is what you are saying and -

ELIZABETH DAITZ: In other jurisdictions that impacted by the problem that I described in circuits that are not ours, yes.

COUNCIL MEMBER LEVIN: But we don't have a problem here is what you are saying. Is that what you are saying? You don't have a problem? There is no problem to solve here?

ELIZABETH DAITZ: We do have a problem here but I mean, I don't understand the question.

COUNCIL MEMBER LEVIN: You are saying there is a problem federally. You are saying that there is a problem federally but there is not a problem - but that problem doesn't exist in the second circuit is what you are saying.

ELIZABETH DAITZ: And in the State of New York because here, plaintiffs can receive full, fair and just compensation when they suffer harm and our cops are not protected and paying out of pocket by the

1 states identification law. So, yes, the problem that  
2 exists in other jurisdictions that the federal  
3 legislature needs to solve, does not exist in New  
4 York State and in the second circuit because our  
5 combination of state and federal laws and practices  
6 under general municipal law 50K and 28 USC 1983, as  
7 applied by the second circuit, do not create barriers  
8 for plaintiff's to receive just compensation and do  
9 not allow police officers to get away without paying  
10 when they violate police policy.

12 So, yes, I am saying -

13 COUNCIL MEMBER LEVIN: Excuse me, that's a good  
14 place to start this conversation. That you believe  
15 that there is no problem in the second circuit in the  
16 New York State Courts around qualified immunity. So,  
17 lets leave it there. You believe that there is not a  
18 problem and we can have that discussion of whether  
19 there is a problem. There is not a problem in New  
20 York City when it comes to qualified immunity. We  
21 will leave it there.

22 CHAIRPERSON ADAMS: Final question.

23 OLEG CHERNYAVSKY: Before, you know, I just want  
24 to - I am not going to subscribe to that

25

1  
2 characterization — I think Executive Director Daitz  
3 made a very compelling case. We are going to make  
4 ourselves available to all Council Members that are  
5 entertaining this legislation. It's fatally flawed.  
6 It is completely unfair and it will endanger New  
7 Yorkers as written.

8 CHELSEA DAVIS: I also just want to clarify  
9 especially for many who that don't have the obviously  
10 expertise on this issue that Liz has, that we  
11 absolutely do think there should be liability for  
12 reasonable action, what we are trying to avoid is  
13 having someone be punished for something that they  
14 couldn't have known was a problem. If someone's  
15 actions are legal, there are state and federal  
16 remedies. Officers who engage in activity that  
17 violates that procedure are not indemnified by the  
18 city, are liable in state and federal court. This  
19 bill would punish officers when following a policy  
20 and procedures who couldn't have known that their  
21 actions were prohibited and that's what we are  
22 concerned with.

23 So, I know we are being asked to wrap up and  
24 thank you for this dialogue but I wanted to clarify  
25 and those are the major concerns.

1  
2 COMMITTEE COUNSEL: Thank you Ms. Davis. We will  
3 now turn to Council Member Yeger for questions.

4 SERGEANT AT ARMS: Time starts now.

5 COUNCIL MEMBER YEGER: Thank you. Good  
6 afternoon. Uhm, first I just on the last exchange, I  
7 don't think anyone would reasonably believe that the  
8 statute mirrors Section 1983 and I think I will  
9 illustrate that from the following.

10 I am going to read from Section 8-804 of this  
11 Introduction. It is also not a defense to liability  
12 pursuant to Chapter that the individual was acting in  
13 good faith or reasonably or otherwise that the  
14 conduct of such an individual lawful at the time that  
15 it was committed. In Sub-section 3 of that is that  
16 the state of law was otherwise such that the covered  
17 individual could not reasonably have been expected to  
18 know whether the conduct of such covered individual  
19 was lawful.

20 So, with that background and in Section 1983 is  
21 very clear that it comes into play when the  
22 constitution and the jurisprudence of the 5<sup>th</sup>  
23 Amendment, 4<sup>th</sup> Amendment constitutional protections  
24 are violated. So, with that in play, I would like to  
25

1  
2 ask NYPD and the Mayor's Office the following  
3 hypothetical. A parks department employee is on the  
4 bucket of his truck pruning a tree and uh, half way  
5 through cutting the branch, he picks up his cellphone  
6 to respond to text from a family member and the  
7 branch comes down and crashes on something or their  
8 property. Is there a law in this city that holds  
9 that Parks Department personally liable to the  
10 plaintiff in the lawsuit?

11 ELIZABETH DAITZ: Sir, I am not sure I can answer  
12 that question on behalf of the city's Law Department  
13 or the Parks Department. I simply don't know the  
14 answer to that. I do not believe that there is  
15 anything in the city that holds city employees  
16 personally liable without coverage by general  
17 municipal law 50K. That is my understanding.

18 COUNCIL MEMBER YEGER: So, with that, let me give  
19 you another scenario. A 911 call comes through and  
20 the caller says that they hear blood curdling screams  
21 coming from a home. It sounds like somebody is being  
22 stabbed. Two officers are dispatched, they show up  
23 at the door and sure enough they hear exactly that.  
24 They call for backup and in the meantime the screams

25

1  
2 keep on going. The knock on the door, they ring the  
3 bell, there is no answer. They look at each other  
4 and they decide that they are going to go through the  
5 door. They are going to save a life. They walk in  
6 and in the front room is nightmare on Elm Street  
7 playing at full volume. And then they look around  
8 and right in the corner is a guy sitting at a desk  
9 and counting out 400 envelopes of heroin. They  
10 arrest him for possession of drugs with intent to  
11 sell and the judge decides in Queens County Criminal  
12 term that the circumstances exceptions to the 4<sup>th</sup>  
13 amendment didn't exist. So, the evidence is out. So  
14 the defendant goes free.

15 Under this statute, correct me if I am wrong, the  
16 defendant now has a claim against the City of New  
17 York and up to a \$25,000 claim against the officers  
18 individually.

19 OLEG CHERNYAVSKY: Correct.

20 COUNCIL MEMBER YEGER: Okay. So, having put this  
21 down and I know that you know, sometimes I go for the  
22 hyperbole to make the point but how frequently in  
23 this city is evidence thrown out? Not because it was  
24 unlawfully obtained. Not because it was without  
25 warrant but because a reasonable officer in the

1  
2 circumstances of these two officers in the mind of  
3 the particular judge who is hearing the case at that  
4 point on a close call 50.1 to 49.9 sides in favor of  
5 the constitution and says the search is out. The  
6 evidence is out. The stop is out, therefore with  
7 nothing else, the case is out.

8 We all know that that actually happened. That  
9 the evidence was there on the table. That they saw  
10 the guy with a gun in his waistband. That the gun  
11 was in plain view on the passenger seat of the car  
12 during the stop for going through a red light. But  
13 the judge says, close call, the constitution wins on  
14 a close call.

15 On all of these cases, the officer is personally  
16 on the hook, notwithstanding from this proposed bill  
17 that the individual was acting in good faith,  
18 believed that the conduct was lawful at the time it  
19 was committed and that the state of law was such that  
20 the individual could not reasonably have been  
21 expected to know whether the conduct of such  
22 individual was lawful.

23 And the City Council -

24 SERGEANT AT ARMS: Time expired.

1  
2 COUNCIL MEMBER YEGER: Is proposing a bill, a  
3 legislation that would ask officers to make that  
4 judgement call before they go into an apartment that  
5 they hear blood curdling screams, they turn to each  
6 other and say, why is this our problem?

7 Where they stop a guy for going through a red  
8 light and they see a hand gun. They say, you know  
9 what, you go. Why? Is that worth our public safety  
10 in anyone's estimation? We are talking now about a  
11 scenario where its very clear that crime is up in  
12 this city. It's very clear. We are coming through a  
13 weekend where a guy stabbed four people, murdered two  
14 of them. 17 days after he was in police custody for  
15 felony assault. I didn't put him back out on the  
16 street. The police didn't decide that he is going to  
17 go back out on the street. He was in police custody.  
18 The judge had put him away for the public's safety.  
19 Two people would be alive today, two others would not  
20 have injuries.

21 We are asking cops to understand that we are  
22 going to pass a law in this Council that is going to  
23 put them personally, personally at risk, making a  
24 good judgment call that any one of us would want done  
25

1 if the possible people was a member of our family.

2 How much sense does this make?

3 That's not a question by the way. I understand  
4 the notion that we have gone through in the last  
5 couple of months here in this Council and the  
6 national conversation as well, about police and the  
7 relationships with communities. And it's a  
8 particular balancing act because obviously police are  
9 faced with enormous powers. They can stop somebody  
10 against their will.

11 I see somebody doing something I don't like; I  
12 can't tell them to stop. I can tell them to stop,  
13 they don't have to listen to me. The Police have the  
14 ability to take away somebodies freedom. In New  
15 York, the number of people, the number of entities or  
16 professions that have the ability to do that are  
17 limited to the police, a psychiatrist and a judge.  
18 Nobody else can do that. A firefighter can't do  
19 that. Nobody else can do that.

20 It's in that light, it makes sense for us to look  
21 at situations and scenarios where individually there  
22 has been a police officer who may have not acted  
23 properly individually. But this idea in New York  
24

1  
2 City that we have 35,000 cops and the people need  
3 protection from the police, we have to really stop  
4 doing that. It's not true. I am a lifelong New  
5 Yorker and lived in this city my entire life. I know  
6 yes, Steve you can laugh if you want. I know you are  
7 also a lifelong New Yorker and you are muted I know.  
8 If we were in the chambers we would be going back and  
9 forth and enjoying it.

10 The idea that the cops are our enemy and that the  
11 city's legislature is perpetuating this as a  
12 falsehood to the public is so wrong. So  
13 unacceptable, we need to do a little bit better.  
14 There are things we could do to make our communities  
15 have better relationships. The City Council has done  
16 that. City Council did it in the last session by  
17 requiring the right to know law. By requiring that  
18 police officer identify themselves, hand over a  
19 business card. There are things this Council has  
20 done that in some people's estimation made sense and  
21 some peoples estimations didn't make sense but on  
22 balance, we are getting to a better place than we had  
23 in the past.

24

25

1  
2 But this idea that the 35,000 members of New York  
3 City Police Department are the enemies of the people  
4 is such an outrage and just because you don't use  
5 those words, doesn't mean that's not what you are  
6 saying. And we are doing this in this Council for  
7 the last couple of months. I am not really sure that  
8 there is a good public policy reason to do it but we  
9 are doing it.

10 I don't really, beyond the question that I had  
11 for the city, I don't really have any more questions.  
12 But I have listened to this this morning. I have  
13 listened to the debate on this and I think that we  
14 can take a step back and really think about whether  
15 or not for example, a right of private action against  
16 an individual cop who makes a good judgement call is  
17 really the best thing we can do to promote public  
18 safety in New York City.

19 The question of whether or not the City Council  
20 should have advice and consent on the Police  
21 Commissioner is a fair question and we do have advice  
22 and consent on some Commissioners. I would argue  
23 that this City Council, this particular City Council,  
24 this session of the Council in which I am privileged  
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1  
2 to serve, ought not have that privilege. It doesn't  
3 mean that the Council offended as a body, as a  
4 legislature shouldn't have consent. But I would also  
5 suggest that there are a lot of Commissioners in this  
6 city and their jobs are very important to a lot of  
7 places in the city.

8 For example, the Department of Transportation, I  
9 would like to have an opinion on who the Commissioner  
10 ought to be. Uhm, the School's Chancellor and I know  
11 that we can't legislate that in the city but the  
12 school's Chancellor is a very important job and I  
13 don't think there is a member in this Council that  
14 doesn't think we should have the right to appoint on  
15 who the School's Chancellor ought to be.

16 The Corrections Commissioner, the Fire  
17 Commissioner, these are all very important jobs and  
18 it's one department that we are making this proposal  
19 for, one department. Police Commissioner, if somehow  
20 the Police Commissioner is the enemy of the people  
21 but the 51 plus are going to stand up and protect the  
22 people from the Police Commissioner. It is  
23 disgusting. You are going to say that you didn't do  
24 that and it is okay. This is not targeted to any  
25

1  
2 particular member. It's targeted to the conversation  
3 in general.

4 And with that, Madam Chair, thank you for giving  
5 me the extra time. I appreciate it and I yield back.

6 COMMITTEE COUNSEL: Thank you Council Member  
7 Yeger. I see no other Council Member hands raised,  
8 so I will turn it back to the Chair for final  
9 questions. If any other Council Members do have – do  
10 wish to ask anymore questions, please use the Zoom  
11 hand raise function.

12 CHELSEA ADAMS: Sorry, I just wanted to state  
13 before that the hearing concludes that changing the  
14 culture of policing, defining the role of police and  
15 creating trust and legitimacy with communities really  
16 reconceptualizing needs to be more than just about  
17 law enforcement but about community resources and  
18 working with communities to define public safety for  
19 themselves is really not a simple or a quick task and  
20 so, we deeply appreciate the partnership of the  
21 Council in putting together this reform plan and I  
22 want to thank you for having us here to talk about  
23 this today.

24

25

1  
2 CHAIRPERSON ADAMS: Thank you very much. Thank  
3 you Chelsea. I just had one more question for you  
4 before we dismiss the panel and it has to do with the  
5 plan itself. Because it has been more than a month  
6 since we were here to talk about the plan. So, my  
7 question is, have you reached out to any of the  
8 groups that testified last month?

9 CHELSEA DAVIS: Uhm, we have been continuing  
10 engagement and we can follow up with a list of  
11 meetings that we've had. I know that we have spoken  
12 to some of the people that testified though not all  
13 of them. We also are still you know, hoping to speak  
14 to people if they reach out to us. We are always  
15 willing to meet. We have been working very  
16 diligently to write up the report and we are working  
17 you know, with you Council Member in the Speakers  
18 Office and continue to do so over the next few weeks.  
19 We are very committed to this. The Mayor is very  
20 committed to this as has already been announced and  
21 the report will be coming out in the coming days.  
22 Uhm, we hope that the first report as well as the  
23 final report will not be the end of our engagement  
24 with community members. Uhm, including members that  
25 we heard from last month.

1  
2 CHAIRPERSON ADAMS: Okay, thank you very much.  
3 Uhm, thank you to the first panel. We have been on  
4 for a while and really I just wanted to state this  
5 because I think that it's important. This is the  
6 purpose of hearings. This is the purpose of  
7 legislative hearing. So, the robust conversation and  
8 debate that goes on during hearings is necessary. It  
9 is necessary that we are transparent in our hearings.  
10 It is necessary that we allow all sides to get their  
11 sides known to the public, so that we know there are  
12 no surprises. No one can say that we didn't hear  
13 this in the hearing. Everybody has an opportunity to  
14 speak and while we know that the public, your input  
15 is important and we look forward to your testimony.  
16 Everyone, we look forward to your testimony but the  
17 testimony between the agencies and the Council is  
18 critical, critical to getting information and debate,  
19 honest debate on the table when it comes to  
20 legislation of the City Council.

21 So, with that, I thank you panel for being here.  
22 Thank you for your testimony this morning and uh,  
23 Counsel, I will defer to you at this point.  
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COMMITTEE COUNSEL: Thank you Chair. The next panelist to give testimony – thank you to the Administration. The next panelist will be another member of the Administration, the Chair of the Civilian Complaint Review Board Frederick Davie. Before we begin testimony, I will administer the oath.

FREDERICK DAVIE: Hi, can you hear me okay?

COMMITTEE COUNSEL: Yes, I was just about to check in with you. If you may, please raise your right hand. I will read the oath and then call on you for a response. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth before this Committee and to respond honestly to Council Member questions?

FREDERICK DAVIE: Yes, I do.

COMMITTEE COUNSEL: Thank you. You may begin your testimony.

FREDERICK DAVIE: Thank you. Uhm and thank you all. Thank you Chair Adams and thanks to the rest of the Council Members for inviting me to testify today on behalf of the Civilian Complaint Review Board.

1  
2 I am testifying in support of the Resolution  
3 calling on New York State legislature to pass  
4 legislation that gives CCRB final authority over  
5 discipline in CCRB cases.

6 As stated in the Resolution, allowing the CCRB to  
7 impose discipline in certain cases would be a  
8 concrete step in increasing accountability and public  
9 trust in the city's commitment to hold officers  
10 accountable when they commit misconduct.

11 Over the past month, the CCRB has adopted the  
12 NYPD Matrix, signed an MOU with the NYPD ensuring  
13 CCRB's access to officer employment history in  
14 substantiated cases and committing the department to  
15 CCRB's recommendations except in extraordinary  
16 circumstances.

17 Adopted new rules allowing us to investigate  
18 cases of sexual misconduct and untruthful statements  
19 and continued to fight for the release of all police  
20 disciplinary records after the repeal of 50A. City  
21 Hall and the Mayor have encouraged these changes and  
22 others, including the Mayor's announcement of the  
23 David Dinkins Plan, to expand and strengthen the  
24 CCRB.  
25

1  
2 While all of these changes represent significant  
3 steps to improving transparency and greater  
4 accountability, I believe that granting the CCRB  
5 final authority to impose discipline in CCRB cases is  
6 a concrete change that can truly transform police  
7 accountability in New York City.

8 Every investigation entails a thorough evaluation  
9 of the conduct in question with the Board ultimately  
10 scrutinizing the evidence to determine whether a  
11 member of the NYPD violated the law, the patrol guide  
12 or both.

13 However, New Yorkers continue to see examples of  
14 substantiated misconduct that ultimately resulted in  
15 little to no penalty from the NYPD. In an effort to  
16 change this dynamic, New Yorkers voted to change  
17 their Charter and require the Police Commissioner to  
18 provide an explanation to the CCRB whenever the NYPD  
19 does not follow the Board's disciplinary  
20 recommendations.

21 Similarly, the newly appointed, the newly adopted  
22 matrix and MOU, also include provisions requiring the  
23 Police Commissioner to provide an explanation when  
24 the NYPD does not follow the agencies  
25 recommendations. However, even these steps in the

1  
2 right direction and even with these steps in the  
3 right direction, many people in this city and I count  
4 myself among them, believe final authority for CCRB  
5 cases resting with the CCRB is the only sure way to  
6 restore and maintain the public's trust in this  
7 disciplinary process.

8 I have made this point to the Police  
9 Commissioner; the Mayor and I make it here again  
10 today. I believe the Proposed Resolution calling on  
11 the state legislature to grant the CCRB final  
12 disciplinary authority would be the culmination of  
13 the initial steps taken by these other reforms.

14 Absent legislative changes in Albany; I believe  
15 the city has done the extent of what it can to solve  
16 the problems that contribute to the lack of  
17 concurrence between the CCRB's recommendations and  
18 the Departments final decisions.

19 The Disciplinary Matrix published in January and  
20 a memorandum of understanding, Commissioner Shea and  
21 I signed on February 4<sup>th</sup> are steps the city was able  
22 to take on its own and were the right significant and  
23 even breakthrough steps to improve the NYPD's  
24 concurrence with the CCRB's recommendations.

1  
2           However, until we address the issue of the Police  
3 Commissioners broad discretion over discipline, in an  
4 impartial independent civilian investigations, these  
5 issues will persist regardless of the composition of  
6 the board, the City Council, the Police Department or  
7 City Hall.

8           It is my concern that until the issue of final  
9 disciplinary authority is dealt with, any additional  
10 efforts to improve police community relations through  
11 oversight will falter and we cannot let that happen.

12           I want to thank all of you for having me here  
13 today to discuss this important issue. I want to  
14 echo the language within the Proposed Resolution that  
15 is to those lawmakers in Albany who may be  
16 contemplating this change. The time to act is now.

17           Complete the work begun by New York City's first  
18 and only Black Mayor, a man I am proud to work for,  
19 the late Mayor David Dinkins who created the Civilian  
20 Complaint Review Board as we know it. Complete that  
21 work. That is to provide the agency with binding  
22 disciplinary authority. I thank you.

23           COMMITTEE COUNSEL: Thank you Chair Davie and we  
24 do have a few questions from several Council Members,  
25 so please do remain unmuted for now.

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Uhm, I will turn it over to the Chair.

CHAIRPERSON ADAMS: Thank you Counsel. Chair Davie, it is good to see you as always. Thank you for being here.

FREDERICK DAVIE: Thank you.

CHAIRPERSON ADAMS: I just had one question along the lines of what your testimony pretty much just stated and I will just say for the record, I am hopeful about the Disciplinary Matrix and MOU, although ultimately, all doors still lead to final authority by the Police Commissioner.

So, I am going to ask you this. In your tenure as Chair of the CCRB, how often have you seen your decisions and the decisions of your body disregarded in lieu of the final decision by the Police Commissioner?

FREDERICK DAVIE: Well, if we focus just on the APU and we can get you the Administrative Prosecution Unit and we can get you the numbers on the more general cases, the less serious cases. But if we focus just on the APU, the latest data I saw suggested that for 2020, uh, there was an 8 percent concurrence rate for APU cases and then I think the average APU concurrence rate overall the years since

1  
2 the APU has been in existence since 2013 is about 40  
3 percent.

4 CHAIRPERSON ADAMS: Okay, that's what I heard. I  
5 had heard the 40 percent as well. I just wanted to  
6 get that on the record. Thank you very much. I am  
7 going to turn it back over to Counsel to get  
8 questions from my colleagues. Thank you.

9 COMMITTEE COUNSEL: Council Member Levin followed  
10 by Council Member Miller.

11 SERGEANT AT ARMS: Starting time.

12 COUNCIL MEMBER LEVIN: Thank you Counsel. I just  
13 want to thank Chair Davie for being here and  
14 testifying today and for uhm, uh, you know,  
15 establishing the prerogative of the CCRB in this  
16 process. Uhm and for speaking out publicly on this  
17 issue in a way that might not necessarily uhm, be  
18 comfortable for him but it is necessary and I greatly  
19 appreciate his standard and his willingness to speak  
20 on this issue publicly in a way that moves this  
21 conversation forward. And so, I just really  
22 appreciate it.

23 FREDERICK DAVIE: Thank you.

24 COMMITTEE COUNSEL: Council Member Miller?

25 SERGEANT AT ARMS: Starting time.

1  
2 COUNCIL MEMBER MILLER: Uhm, good afternoon Mr.  
3 Chair. Uhm, I have a question and that is uh, what  
4 is the total number of cases that go on to be  
5 recommended for discipline?

6 FREDERICK DAVIE: I would say it is several  
7 thousand but again Council Member, I will have our  
8 staff get you those specific numbers right away.

9 COUNCIL MEMBER MILLER: Okay and, and, and uh,  
10 and those numbers, would it identify the variant  
11 levels of discipline and fractions that have  
12 occurred? And could you aggregate them accordingly?

13 FREDERICK DAVIE: Yes, we can provide that pretty  
14 quickly I am sure.

15 COUNCIL MEMBER MILLER: Wow and how many cases  
16 did CCRB hear last year?

17 FREDERICK DAVIE: That is a very good question.  
18 I am going to guess in the low thousands but again,  
19 we will get you that specific number.

20 COUNCIL MEMBER MILLER: Okay and uhm, your  
21 investigators and those within the purview, what do  
22 those numbers look like? I am trying to get at the  
23 level of investigation uhm, the man hours included,  
24 uhm, and then ultimately you know how – could you  
25 just speak to what that investigative process and

1  
2 what the process looks like determining to get you to  
3 the point to suggest after uhm, determining guilt,  
4 what the level of discipline should be?

5       FREDERICK DAVIE: Sure, it's a really involved  
6 process. Uhm, in that we get - the agency gets a  
7 complaint. Uhm, it is turned over to an  
8 investigator. Obviously the investigator reaches out  
9 to the complainant. If the complainant is not the  
10 victim, the investigator will also reach out to the  
11 victim. The investigator will see if there are any  
12 witnesses. If there any video or other evidence  
13 involved as you know, there is - the agency does have  
14 subpoena power, so it can subpoena evidence.

15       Uhm, all that evidence is a mask. Victims are  
16 interviewed. Officers involved are interviewed.  
17 Then the investigator writes up what we call a  
18 closing report, that's obviously in consultation with  
19 their supervisors and the legal team at the CCRB.  
20 And then that information is shared with a panel of  
21 made up of members of the board who then make a  
22 decision based on the evidence that has been a mass  
23 and the recommendations that come from the  
24 investigators.

1  
2 And our task is by the two substantiate,  
3 unsubstantiated, exonerate or find unfounded within  
4 our jurisdiction, the information that comes before  
5 us. Assign a penalty to it which would now be  
6 governed by the Matrix that we've all talked about  
7 and that's now being used and then those  
8 recommendations both in terms of the disposition of  
9 the cases and the penalties that are attached to them  
10 go over to the department for the departments review  
11 and then the Police Commissioners final decision.

12 COUNCIL MEMBER MILLER: Has there been any cases  
13 thus far that have met the criteria of the Matrix and  
14 have you moved forward with those suggestions and  
15 then further, in the interest of well, I do have a  
16 minute. Uhm, in the interest of time, is that the  
17 Administration implied that because of the Police  
18 Commissioners experience that it uniquely qualified  
19 him to uh, uh, be the final arbiter of discipline  
20 that because of the nuances of the Police Department,  
21 that it required a specific expertise. Would you  
22 agree and if you do, do you, would you say that CCRB  
23 and those investigators have that level of expertise  
24 and if you don't, why?

1  
2           FREDERICK DAVIE: So, I do believe that the CCRB  
3 has a level of expertise to have final disciplinary  
4 authority. I think that's made it even stronger by  
5 this matrix. Although as we have all said and as the  
6 Department said, the Matrix is a living document and  
7 we will have to pay attention to it and see how it  
8 works you know, over time and make whatever  
9 adjustments we need to make.

10           SERGEANT AT ARMS: Time expired.

11           FREDERICK DAVIE: It works as well as it possibly  
12 can. But uhm, I have great confidence in the ability  
13 of the CCRB to make good and sound decisions about  
14 recommended police discipline. Particularly again,  
15 using this matrix as its been established and  
16 actually, and you know, under the MOU that we have  
17 signed with the Police Commissioner and the  
18 Department, there would be no changes in CCRB's  
19 recommendations going forward except under  
20 extraordinary circumstances and I don't think there  
21 is anything in the past year that any decision that's  
22 been overturned that the CCRB has made that would  
23 qualify as an extraordinary circumstance.

24

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1  
2           So, the conclusion there is that the decisions  
3 that the CCRB made were uh, logical and reasonable  
4 and defensible, justifiable decisions as an oversight  
5 body.

6           I think that that would be acknowledged under  
7 this new arrangement and so why wouldn't the agency  
8 then have final authority on its cases.

9           COUNCIL MEMBER MILLER: Thank you so much. Thank  
10 you Madam Chair.

11           CHAIRPERSON ADAMS: Thank you Council Member.

12           COMMITTEE COUNSEL: Okay, I don't see any other  
13 Council Members that are using the hand raise  
14 function. Chair, if you have any other questions?

15           FREDERICK DAVIE: Sorry, you meant that Chair. I  
16 am sorry Chair Adams.

17           CHAIRPERSON ADAMS: Just to Council Member  
18 Miller's point and this may help you out Chair Davie,  
19 if there is anyone still here that heard Council  
20 Member Miller's question with regard to the  
21 statistics of the CCRB and can perhaps help with any  
22 of those numbers. If you can just state that now.  
23 If not, we will dismiss our Chair for CCRB.

24

25

1  
2 So, either Ms. Davis or any member of the NYPD if  
3 you were listening to Council Member Miller's  
4 questions, if you have got uhm, and response to when  
5 certain records would be released.

6 Okay, I hear no response.

7 CHELSEA DAVIS: Sorry, this is Chelsea. I am  
8 still here and we can get back to you with the  
9 answers.

10 FREDERICK DAVIE: And I can tell you that in the  
11 - Chair, Chair Adams?

12 CHAIRPERSON ADAMS: Yes.

13 FREDERICK DAVIE: The uhm, CCRB received 3,875  
14 complaints in our jurisdiction in the agencies  
15 jurisdiction in 2020. That was down some because of  
16 COVID and during regular years, there are between  
17 4,500 and 5,000 cases within the CCRB.

18 CHAIRPERSON ADAMS: Okay, Council Member, I think  
19 you heard that. It is pretty much as the Chair said,  
20 a little over 3,000. Okay, thank you very much.  
21 Thank you Chair Davie and Committee Counsel, we will  
22 move onto the next panel. Counsel, you are muted.

23 COMMITTEE COUNSEL: Thank you. We will now turn  
24 to public testimony. I would like to remind everyone

1 that, unlike our typical Council hearings, we will be  
2 calling individuals one by one to testify. Each  
3 panelist will be given three minutes to speak.  
4 Please begin your testimony once the Sergeant has  
5 started the timer.  
6

7 Council Members who have questions for a  
8 particular panelist should use the Zoom raise hand  
9 function and I will call on you in the order you have  
10 raised your hand after the panelist has completed  
11 their testimony.

12 For panelists, once your name is called, a member  
13 of our staff will unmute you and the Sergeant at Arms  
14 will set the timer, then give you the go ahead to  
15 begin. Please wait for the Sergeant to announce that  
16 you may begin before delivering your testimony. I  
17 will now read the names of the first few witnesses  
18 and then I will come back to the first. The first  
19 four will be Molly Griffard from Legal Aid, Scott  
20 Levy from Bronx Defenders, Sergio De La Pava New York  
21 County Defender Services and Alexandra Fisher from  
22 Brooklyn Defender Services. Molly Griffard Legal  
23 Aid.

24 SERGEANT AT ARMS: Starting time.

25 CHAIRPERSON ADAMS: Ms. Griffard, you may begin.

1  
2 MOLLY GRIFFARD: I apologize if I was just  
3 called, I had an issue with my headphones. Am I up?

4 CHAIRPERSON ADAMS: Yes you are, you may begin.

5 MOLLY GRIFFARD: Alright, so sorry about that. I  
6 thank you Chair Adams and the Public Safety Committee  
7 and all other Council Members who have joined us  
8 today.

9 My name is Molly Griffard; I am a Legal Fellow  
10 with the Legal Aid Societies Accountability Project.  
11 We have submitted written testimony with our detailed  
12 positions and suggested amendments on each of the  
13 bills being considered today. And while we support  
14 some of the bills brought forth today, we must  
15 emphasize that these proposals do fall short of what  
16 is necessary to bring about the fundamental changes  
17 to policing that New Yorkers are demanding.

18 Our Legal Aid Society clients come from some of  
19 the most over policed and under resourced communities  
20 in our city. Our clients regularly experience the  
21 worst of police misconduct and I want to share one  
22 such example with you today.

23 One summer night in 2018, Tomas Medina[SP?] was  
24 listening to music with his friends in Washington  
25 Heights. Detective Fabio Nunez heard the music and

1  
2 approached. He quickly escalated the situation,  
3 putting Mr. Medina in chokehold and Tasing him 13  
4 times.

5 Almost two years ago, the CCRB investigated and  
6 substantiated the chokehold and taser abuse  
7 allegations against Nunez. However, the NYPD has yet  
8 to schedule a disciplinary trial or issue so much as  
9 a reprimand to Detective Nunez. Detective Nunez in  
10 the meantime has continued abusing civilians accruing  
11 additional CCRB complaints, including yet another  
12 substantiated chokehold allegation.

13 To the NYPD and de Blasio Administration  
14 representatives here today, who have told us over and  
15 over again, that we need to give the disciplinary  
16 matrix time to work. We would like to see it. Show  
17 us that it works. Why are officers like Fabio Nunez,  
18 Wayne Isaacs, David Greco and so many others  
19 notorious for abusing civilians still on the force?  
20 Schedule their trials. Follow through with  
21 terminating them. If they are going to claim  
22 additional reforms are not necessary, then show us  
23 that the system is fixed. Meanwhile, we welcome the  
24 Council's efforts to increase police accountability.

1  
2           Something that Mr. Medina's case illustrates is  
3 sorely lacking. And this brings me to two very  
4 specific issues regarding the bills under  
5 consideration today that I will highlight here but  
6 otherwise our feedback is in our written testimony.

7           First, on Council Member Cumbo's Resolution 1538  
8 on NYPD Discipline, we support the Council calling  
9 upon Albany to take the necessary steps to remove the  
10 Police Commissioner's exclusive authority over police  
11 discipline.

12           However, the Council will be responsible for the  
13 next steps and we encourage the Council to consider  
14 options for moving not just final disciplinary  
15 determinations but also adjudication to an  
16 independent non-NYPD agency. We cannot expect the  
17 NYPD disciplinary system to work when NYPD employees  
18 serve as judge and jury in all disciplinary trials.

19           When they alone have the power to schedule  
20 trials.

21           SERGEANT AT ARMS: Time expired.

22           MOLLY GRIFFARD: Uh, thank you. May I wrap up?  
23 Thank you so much. And they alone have the power to  
24 schedule trials and they serve as prosecutor in most  
25 cases, which also allows them to reach settlement

1  
2 agreements that aren't in keeping with the  
3 disciplinary matrix.

4       Second, on Council Member Levin's Qualified  
5 Immunity Bill, the NYPD's pattern of racist and  
6 abusive policing is not limited to 4<sup>th</sup> amendment  
7 violations and neither should this legislation. As  
8 currently drafted, the bill doesn't actually  
9 eliminate qualified immunity in important context  
10 like racial discrimination and assaults on protestors  
11 rights.

12       While this bill is clearly a step forward, we  
13 urge the Council to expand the bill to truly  
14 eliminate qualified immunity for all civil rights  
15 violations and thank you so much to the Council for  
16 having us here today. I am happy to take questions  
17 on our written testimony or testimony today. Thank  
18 you so much.

19       CHAIRPERSON ADAMS: Thank you for your testimony  
20 Ms. Griffard. Thank you.

21       COMMITTEE COUNSEL: Next up will be Scott Levy  
22 followed by Sergio De La Pava.

23       SERGEANT AT ARMS: Starting time.  
24  
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1  
2 SCOTT LEVY: Thank you. My name is Scott Levy  
3 and I am Chief Policy Counsel at the Bronx Defenders.  
4 I want to echo the testimony of the Legal Aid Society  
5 and my fellow public defenders and also just want to  
6 highlight how critical it is that we center the  
7 voices of impacted people in this conversation.

8 I am going to focus my testimony today on the  
9 legislation requiring comprehensive data collection  
10 on vehicle stops. Vehicle stops are some of the most  
11 common interactions New Yorkers have with the NYPD  
12 and in 2020 alone, the NYPD issued over a half a  
13 million moving violations. Many traffic stops don't  
14 end with a warning or a ticket though. Our clients  
15 are arrested, placed in handcuffs, their vehicles  
16 confiscated and forced to come to court. Each stop  
17 creates the risk of family separation, job loss,  
18 housing instability, missed school, drivers license  
19 suspension and police violence, such as in the tragic  
20 case of Alan Police.

21 And every police interaction puts non-citizen New  
22 Yorkers at risk of negative immigration consequences  
23 and even deportation. The current data provided by  
24 the NYPD is inadequate and doesn't cover thousands of  
25

1  
2 police contacts that don't result in a summons or  
3 arrests. It is critical that the city track all  
4 traffic stops, regardless of whether traffic summons  
5 is issued or an arrest is made.

6 The data collected and analyzed by the Driven by  
7 Justice Coalition or the Bronx Defenders is a leader  
8 in which lead to the successful effort to pass state  
9 legislation ending the cruel and counter productive  
10 practice of suspending drivers licenses for unpaid  
11 traffic debt, shows why a thorough accounting of  
12 traffic stops is so critical in the city.

13 From 2015 to 2019, the Bronx Defenders  
14 represented close to 12,000 people charged with  
15 driving on a suspended license alone. License is  
16 suspended for traffic debt, force people into an  
17 impossible decision. To miss work or lose a job,  
18 miss medical appointments and school or disrupt  
19 family obligations or risk arrest. The harms of  
20 these traffic stops as with all things in the  
21 criminal legal system fall overwhelmingly and  
22 disproportionately on communities of color. People  
23 of color are pulled over, ticketed, arrested, charged  
24 and convicted at higher rates than their White  
25 counterparts.

1  
2 While 76 percent of drivers in New York City are  
3 White, 80 percent of people arrested for driving on a  
4 suspended license in New York City were Black or  
5 Latinx. In the City, the drivers license suspension  
6 rate in the zip codes with the highest concentration  
7 of people of color is two and a half times higher  
8 than in the zip codes with the most concentrated  
9 White populations.

10 The problem is particularly pronounced in the  
11 Bronx where we practice, which is home to many of the  
12 most severely impacted zip codes in the city but we  
13 need to take a step back. The conversation today  
14 makes clear that the bills under consideration, while  
15 many of them are positive additions and important  
16 improvements, are insufficient to bring about the  
17 deep structural and transformative -

18 SERGEANT AT ARMS: Time expired.

19 SCOTT LEVY: Change that the NYPD truly needs.

20 Data collection about traffic stops is important  
21 but we need to dramatically reduce the footprint of  
22 policing and traffic stops and across the board and  
23 make massive investments in our communities. Thank  
24 you.

1  
2 COMMITTEE COUNSEL: Thank you. Next up will be  
3 Sergio De La Pava followed by Alexandra Fisher  
4 followed by Jimmy Meagher from Safe Horizon.

5 SERGEANT AT ARMS: Starting time.

6 SERGIO DE LA PAVA: Good afternoon, I am the  
7 Legal Director of New York County Defender Services,  
8 a public defender office in Manhattan. I want to  
9 thank you, both for this hearing and for this  
10 opportunity to give the perspective of our client  
11 communities.

12 We certainly welcome and we will give specific  
13 feedback on what's under consideration today in our  
14 written testimony but I would just rather take my  
15 oral opportunity here to speak about the general  
16 issues that are being brought up today. I think it  
17 is a welcome realization on our part that you know,  
18 we are starting to realize that policing in this  
19 country is broken. The number of people arrested,  
20 the number of people incarcerated, the amount of  
21 force including deadly force far out strips what we  
22 see in other countries and New York is no exception.

23 Certainly we welcome the late coming reforms to  
24 New York that began or at least are highlighted by  
25 the Governors Executive Order last year. By many of

1 the things under consideration today, which we  
2 support but there is also a sense as somebody who has  
3 been on the ground for a quarter century in the  
4 criminal justice system of this city. That these are  
5 band aids that aren't really going to address the  
6 overwhelming issue that New York finds itself in,  
7 which is the NYPD is a one of a kind police  
8 department in this country. The NYPD's budget for  
9 example is about 5.5 billion dollars a year.  
10

11 This is a budget that exceeds the state budget of  
12 four states in this country. NYPD is massive. It's  
13 33,000 officers, about 18,000 other employees. Uhm,  
14 they have great power and I think a lot of what we  
15 are seeing today is what happens, a lot of the  
16 animosity that's being brought up, a lot of the  
17 opposition to these reforms is what happens when you  
18 challenge absolute power and for the decades that I  
19 have been first hand witness to it, that's what the  
20 NYPD has had, absolute power.

21 I can tell you that I know there is a lot of  
22 discussion about public safety. You can't have  
23 public safety without the trust of the community and  
24 in my experience in dealing with my clients, you  
25

1 know, our office has probably dealt with 300,000  
2 people charged with crimes in the city. The trust  
3 between the communities that are overpoliced and the  
4 NYPD is negligible to zero. It really is and when  
5 from the perspective of a public defender, you know,  
6 we are the adversary of the NYPD. We understand  
7 that.  
8

9 We are the ones who are charged with the sacred  
10 obligation to ensure that our clients constitutional  
11 rights are not violated. And while we are you know  
12 going up against this behemoth, we find our resources  
13 can't possibly compete with this entity in any way.  
14 In any meaningful way, so I ask you to remember as  
15 well and to start addressing -

16 SERGEANT AT ARMS: Time expired.

17 SERGIO DE LA PAVA: Thank you, I will sum up real  
18 quickly. The special role that public defender  
19 offices play in our adversarial system and the need  
20 to properly fund them and give them the tools. Thank  
21 you.

22 COMMITTEE COUNSEL: Thank you. Next up will be  
23 Alexandra Fisher.

24 SERGEANT AT ARMS: Time starts now.  
25

1  
2 ALEXANDRA FISHER: My name is Alexandra Fisher.  
3 I am a Senior Trial Attorney with the Criminal  
4 Defense Practice at Brooklyn Defender Services. I  
5 want to thank the Committee on Public Safety and  
6 Chair Adams for holding this hearing today. I want  
7 to thank you for allowing Ms. Rivera to speak first.  
8 Thank you Ms. Rivera.

9 BDS fully supports the Preconsidered proposals  
10 and we echo the positions of advocates calling for a  
11 fully independent investigation and disciplinary  
12 process. When the police are not held accountable,  
13 victims of police misconduct, primarily Black and  
14 Brown New Yorkers suffer twice. First from the  
15 police practices inflicted upon them and then again  
16 through the city's failure to deliver any semblance  
17 of accountability to their abusers.

18 As defenders, we see officers with long histories  
19 of civil rights abuses continue to police the same  
20 streets, harm the same community members and bring  
21 new cases for the prosecution. We also see these  
22 harms compounded by retaliatory actions taken by  
23 officers against people who lodge complaints against  
24 them or their colleagues. Discouraging future  
25 victims from coming forward at all.

1  
2 This behavior is enabled in part due to the  
3 complicity of the police commissioner who can and  
4 regularly does project and downgrade CCRB and  
5 internal recommendations for disciplining officers.  
6 One analysis of CCRB released data found that in 260  
7 instances between 2014 and 2018 alone the  
8 Commissioner overruled, downgraded or dismissed cases  
9 where serious misconduct by police was substantiated  
10 by the CCRB and charges were recommended.

11 In 2019, the rate of disagreement, uh sorry, the  
12 rate of agreement between the CCRB and NYPD was 51  
13 percent for most cases but in more serious cases of  
14 alleged misconduct, it was less than 32 percent.

15 Individual officers engage in and perpetuate  
16 racism, bias, physical abuse and the use of hate  
17 speech with the knowledge the department will not  
18 hold them accountable. With confidence, the legal  
19 system is designed to prioritize them above their  
20 victims.

21 Police misconduct persists at both an  
22 institutional and individual level from the very top  
23 of NYPD's hierarchy to the very bottom. The police  
24 will always refuse to police themselves and there are  
25

1  
2 currently few meaningful legal protections for  
3 victims of their abuse. It is also important to  
4 remember that the modern NYPD has been reformed many  
5 times to negligible results.

6 Removing the police commissioners final authority  
7 over NYPD discipline is one step towards  
8 accountability. However, CCRB complaints and the  
9 Commissioner involvement is only a fraction of the  
10 bigger picture of NYPD abuse, misconduct, impunity  
11 and only one part of NYPD's disciplinary process when  
12 there even is one.

13 We must not allow this issue to be framed -

14 SERGEANT AT ARMS: Time expired.

15 ALEXANDRA FISHER: Of needing to discipline a few  
16 police officers in individual cases. The culture of  
17 abusive policing and typically towards policed  
18 communities and unaccountability are pervasive within  
19 the NYPD.

20 We commend the City Council for taking important  
21 steps to remove disciplinary authority from NYPD  
22 which has continued to make a mockery of the  
23 accountability process. These reforms however must  
24 not be seen as a substitute for working to shrink the  
25

1  
2 scope of policing, reduce NYPD budgets and invest in  
3 proven community solutions.

4 Thank you for the opportunity and I welcome any  
5 questions.

6 COMMITTEE COUNSEL: Thank you for your testimony.  
7 Next up will be Jimmy Meagher from Safe Horizon  
8 followed by Michael Sisitzky from NYCLU followed by  
9 Andrew Case from Latino Justice and I will just  
10 remind the Council Members to use the Zoom hand raise  
11 function if they have any questions.

12 SERGEANT AT ARMS: Time starts now.

13 JIMMY MEAGHER: Good afternoon and thank you for  
14 the opportunity to provide testimony before the  
15 Committee on Public Safety. My name is Jimmy  
16 Meagher, my pronouns are he, him, his and I am Policy  
17 Director at Safe Horizon, the nations largest  
18 nonprofit victim services organization.

19 Safe Horizon offers a client centered trauma  
20 informed response to 250,000 New Yorkers each year  
21 who have experienced violence or abuse. And we are  
22 increasingly using a lens of racial equity to guide  
23 our work with clients, with each other and in  
24 developing the positions we hold.

1  
2 For more than 40 years, Safe Horizon has existed  
3 to support victims of violence and abuse. We have  
4 always been an organization that recognizes and helps  
5 survivors to heal from many types of violence. We  
6 have staff and programs in every borough in every  
7 community across New York City including during  
8 normal times at every police precinct, every family  
9 justice center and every child advocacy center.

10 Throughout our history, we have found value in  
11 partnering with law enforcement. Through those  
12 partnerships, we have worked with police officers and  
13 prosecutors to keep victims safe and hold those who  
14 cause harm accountable. We have advocated for policy  
15 and practice changes to make these systems more  
16 responsive to our clients and we have prided  
17 ourselves on bringing greater respect, compassion and  
18 self determination to survivors involved in a  
19 criminal justice process through our client centered  
20 approach to advocacy.

21 Because of our partnership with the NYPD, Safe  
22 Horizon was able to engage and support more than  
23 50,000 victims of crime last year alone. Yet the  
24 reality is that our law enforcement partners have  
25

1  
2 also caused harm and we have not done all we could to  
3 stop that harm, breath and name it for what it is,  
4 racism, systemic and sometimes individual racism.

5 Black and Brown people especially men and  
6 transgender women are far more likely to be killed by  
7 the police and to experience violence at the hands of  
8 police officers. And they face bias inequity in  
9 every aspect of the criminal justice system. We  
10 didn't just learn this because of the murders of  
11 George Floyd, Breonna Taylor and so many, too many,  
12 other Black men and women. Our clients have been  
13 telling us about these realities for years.

14 Too many of the victims and survivors we serve  
15 and too many of our colleagues and loved ones have  
16 encounters with police officers that were  
17 dehumanizing. We know that these experiences are a  
18 profound barrier to safety and healing. We hear for  
19 example from Black women experiencing domestic  
20 violence who agonize over whether to call the police  
21 because their experience tells them their response  
22 may include excessive force. We hear from Black and  
23 Brown men and boys who will not turn to the police  
24 when they are in danger because in their experience,  
25 it has not been a safe or viable option.

1  
2 Safe Horizon's mission is to provide support,  
3 prevent violence and promote justice for victims of  
4 crime an abuse, their families and communities. We  
5 believe that confronting and ultimately dismantling  
6 systemic racism is necessary to fulfilling our  
7 mission because systemic racism denies justice and is  
8 rooted on violence.

9 We are grateful that the City Council has  
10 introduced this package of police reform bills.  
11 These bills are a promising start and we agree with  
12 the spirit of this package of legislation. But the  
13 way we as a city operate must adapt in change to meet  
14 this moment. Our systems, the ones we rely on to  
15 respond to harm and violence must fundamentally  
16 change and approach this work with nonviolence,  
17 compassion and understanding, rather than escalation  
18 and additional violence.

19 Safe Horizon supports Reso. 1539; we support  
20 Intro. 2209; we support Intro. 1671; and we support  
21 Intro. 2220 and we also support bills -

22 SERGEANT AT ARMS: Time expired.

23 JIMMY MEAGHER: And we also support bills with  
24 the reform package.

1  
2 This is only the beginning. These are only  
3 initial steps in building a better, safer and more  
4 just future for all of us. Thank you for the  
5 opportunity to testify today.

6 COMMITTEE COUNSEL: Thank you for your testimony.  
7 Next up will be Michael Sisitzky followed by Andrew  
8 Case.

9 SERGEANT AT ARMS: Time starts now.

10 MICHAEL SISITZKY: Thank you. My name is Michael  
11 Sisitzky, Senior Policy Counsel at the NYCLU. Uhm, I  
12 just want to focus on a few of the items on the  
13 hearing agenda and make some recommendations as to  
14 additional items for the Council to consider.

15 First, on Resolution 1538, the NYPD has proven  
16 and capable of policing itself but by law that's the  
17 current paradigm and this is an issue not just in New  
18 York City, our offices throughout the state face  
19 similar challenges in trying to bring independent  
20 accountability to police disciplinary systems. So,  
21 we support the Resolution and we welcome the  
22 Council's advocacy with the state legislature but we  
23 also want to emphasize that the best way to protect  
24 New Yorkers is to reduce the number of contacts  
25

1  
2 between police and the public that lead to misconduct  
3 in the first place. Disciplinary authority matters  
4 but it comes in after the harm has already been  
5 caused, which is why it is so essential to continue  
6 identifying ways to reduce the size, scope and power  
7 of the NYPD and to invest in nonpolice alternatives.

8       Next, on Intro. 1671, it's crucial to get a  
9 complete picture on disparities and vehicle stops,  
10 given the potential for escalation and abuse in these  
11 encounters and back in 2017, one of the reasons the  
12 NYCLU withdrew support from the Police Identification  
13 Bill was because it maintained this higher level of  
14 secrecy and impunity in vehicle stops.

15       So, we support this bill but we also called for  
16 amendments to make it more comprehensive and the data  
17 that we have made available to the public including  
18 by providing more detailed information on all types  
19 of vehicles that are stopped and to cover all types  
20 of enforcement actions arising from vehicle stops and  
21 traffic encounters.

22       So, not just traffic infractions but also  
23 ensuring that we are getting data on any criminal  
24 enforcement that arises in connection with a vehicle  
25

1 stop. Uhm, on Intro. 2220, qualified immunity is a  
2 major obstacle in federal litigation to holding  
3 officers accountable and while federal action is  
4 ultimately needed to fully address this issue, local  
5 measures like this can help by providing a second  
6 channel for relief. But we also must ensure that  
7 they are broad enough to cover the full range of  
8 police abuse.  
9

10 As my colleague at Legal Aid noted, the NYPD  
11 violates much more than just the 4<sup>th</sup> Amendment  
12 protections in this bill, including 14<sup>th</sup> Amendments  
13 guarantee of equal protection, the 1<sup>st</sup> Amendments  
14 protections for protest, speech, things like  
15 recording police activities. So, the bill should be  
16 equally comprehensive to take account of those  
17 violations.

18 And we also note that even with the partial  
19 identification structure outlined here, the city  
20 still pays and taxpayers will remain on the hook for  
21 hundreds of millions of dollars each year in police  
22 misconduct cases. So, we encourage the Council to  
23 find ways to ensure that those costs are more  
24 directly born by the police department itself,  
25

1  
2 including by reducing the agencies budget to account  
3 for the cost of police misconduct. It's not just  
4 about holding individual officers accountable; it  
5 also needs to be about holding the department as a  
6 whole accountable for the culture promotes and  
7 condones among its officers.

8 And lastly, we suggest a few additions to the  
9 Council's overall legislative package. We urge the  
10 Council to amend and pass Intro. 1551. This bill was  
11 first heard at a Public Safety Committee Hearing back  
12 in 2019 and remains pending.

13 SERGEANT AT ARMS: Time expired.

14 MICHAEL SISITZKY: It was meant to codify - I  
15 will briefly wrap up on this with just one other  
16 quick point.

17 It was meant to codify an agreement to expand  
18 reporting on all consent searches under the Right to  
19 Know Act but at that hearing, the NYPD confirmed that  
20 its officers were not actually following the Right to  
21 Know Act requirements in cases where officers were  
22 conducting DNA searches on the basis of so-called  
23 consent.

24

25

1  
2 And that the NYPD could be collecting DNA  
3 information from the public without following basic  
4 guidelines in local law or reporting on those  
5 encounters is alarming and we need the Council to act  
6 to swiftly amend and pass Intro. 1551 to clarify that  
7 these instances need to be documented.

8 And last point, we also urge the Council to  
9 introduce and pass legislation to require reporting  
10 on investigative encounters before the formal level  
11 of the legal stop. So, what are known as level 1 and  
12 level 2 encounters. These encounters are not  
13 documented in the same way as stop and frisk, despite  
14 the fact that in many peoples experience of these  
15 encounters aren't all that different.

16 We know and the court appointed monitor has in  
17 the stop and frisk litigation that's confirmed that  
18 NYPD is underreporting the total number of stops that  
19 continue to take place and the only way that we are  
20 going to understand the full picture of what these  
21 practices look like in communities is to ensure that  
22 the department doesn't have an out in what kind of  
23 encounters it is required to report on or not.

24

25

1  
2       So, we hope to see the Council introduce and pass  
3 legislation on these encounters as part of its  
4 overall police reform package.

5       Thank you and thank you for your indulgence in me  
6 going over time.

7       CHAIRPERSON ADAMS: Thank you Michael. Thank you  
8 for the recommendations as well. Thank you, I have  
9 written everything down.

10       COMMITTEE COUNSEL: Thank you for your testimony.  
11 Next up will be Andrew Case followed by Hercules Reed  
12 followed by Chi Osse.

13       SERGEANT AT ARMS: Time starts now.

14       ANDREW CASE: Good afternoon Chair Adams, members  
15 of the Public Safety Committee. My name is Andrew  
16 Case, I am Senior Counsel at Latino Justice PRLDEF  
17 and I want to thank you for giving us the opportunity  
18 to testify today.

19       Over policing harms communities and particularly  
20 harms communities of color. Procedural reforms to  
21 how New Yorkers are policed while beneficial will not  
22 solve the policing crisis in this city. In our  
23 written testimony, we will address all the bills  
24 including the two items that Michael mentioned, the  
25

1  
2 Level 1 and Level 2 stop and the DNA bill. But  
3 today, I only want to speak about Resolution 1538 and  
4 Intro. 2220.

5       Regarding 1538, since the CCRB was created in its  
6 current form, six police commissioners under three  
7 mayor's have systemically downgraded CCRB's  
8 recommended punishment for officers who broke the  
9 law. This happened when I started working at the  
10 CCRB in 1997 and has continued to this day. The new  
11 NYPD disciplinary matrix will not change matters.  
12 The penalties suggested by the matrix are uniformly  
13 low. If an officer is found to have stopped and  
14 searched someone illegally for example, the standard  
15 matrix punishment is to forfeit three vacation days  
16 and in any event, the NYPD has granted itself the  
17 power to depart from the matrix if it so chooses.

18       The city and the NYPD say they will only depart  
19 from the Matrix, "in extraordinary circumstances".  
20 But the NYPD's treatment of cases where the CCRB  
21 proves that officers lie show how frequently the  
22 Department invokes such exceptions. Section 203-08  
23 of the NYPD Patrol Guide states that "intentionally  
24 making a false official statement regarding a  
25

1 material matter will result in dismissal from the  
2 Department, absent exceptional circumstances. But  
3 the NYPD ignores the vast majority of cases in which  
4 the CCRB finds an officer lied.  
5

6 There is no reason to think it will act any  
7 differently under the disciplinary matrix. Latino  
8 Justice therefore strongly supports removing  
9 disciplinary authority from the NYPD and I want to  
10 add, I heard earlier someone talk about how outside  
11 people don't generally discipline. The State Bar can  
12 discipline me regardless of what my employer says and  
13 every attorney in the state. So, it is quite common  
14 for people to have outside discipline for their  
15 professions.

16 The proposed Resolutions however, even if passed  
17 will not solve the problem entirely even if the state  
18 legislature changes the law, the Council must revise  
19 Administrative Code Section 14115. Likely must amend  
20 Section 434 of the Charter for disciplinary authority  
21 to change hands. Latino Justice PRLDEF calls upon  
22 the Council to do so, so that authority may pass a  
23 soon as the state acts.

24 Qualified Immunity, protects officers who engage  
25 in gross acts of misconduct Justice Sotomayor has

1  
2 written that the doctrine was "sanctions a shoot  
3 first, think later approach to policing." Latino  
4 Justice unequivocally supports the repeal of  
5 qualified immunity.

6 As others have stated, this bill will not fully  
7 repeal qualified immunity.

8 SERGEANT AT ARMS: Time expired.

9 ANDREW CASE: I want to make one additional point  
10 very quickly. That it does not require the NYPD to  
11 implement lessons of litigation. The OIG for the  
12 NYPD has requested repeatedly that the NYPD use data  
13 from lawsuits to revise its policies and practices  
14 and the NYPD has been slow to adapt.

15 Only one example of this, in 2004, the NYPD  
16 surrounded and arrested a group of demonstrators who  
17 were protesting the republican national convention.  
18 The department was sued. The City paid millions of  
19 dollars and on June 4<sup>th</sup> of this summer, the NYPD  
20 supervised by the same officer, once again kettled  
21 peaceful demonstrators and according to the DOI  
22 report on last summer's protest, it continues to use  
23 kettling as a policy while calling it encirclement.

24

25

1  
2 Any litigation data should in addition to issues  
3 of qualified immunity be used to revise policies and  
4 practices. I want to thank you for your time and  
5 thank you for allowing me to go a little bit over.

6 COMMITTEE COUNSEL: Thank you for your testimony.  
7 Next up will be Hercules Reid followed by Chi Osse  
8 followed by Jeff Strabone.

9 SERGEANT AT ARMS: Time starts now.

10 HERCULES REID: Hello, my name is Hercules Reid  
11 and I speak on behalf of Strategy for Black Lives. A  
12 youth lead organizing group in New York City fighting  
13 for Black liberation.

14 A collective of current and former student  
15 leaders, we understand the need to be strategic. To  
16 succeed and in maintaining this fight. We continue  
17 to both march in the streets and advocate for policy  
18 in the halls of power. The imaginations and voices  
19 of change for generations have powered the tides to  
20 bring us to this point as a city and nation.

21 Civil rights hero's like Harriet Tubman and  
22 Frederick Douglas fought, bled and died for the  
23 abolition of slavery. Often people hear the word  
24 abolition and cringe. We understand that there is no  
25 public safety without trust. We do not trust

1  
2 Commissioner Shea as a leader and believe his  
3 resignation would also assist in the healing the city  
4 needs right now. His lack of leadership and neglect  
5 over time led to the continued false arrests and  
6 violations of our rights as protestors protected by  
7 the 1<sup>st</sup>, 4<sup>th</sup> and 14<sup>th</sup> amendments and yet he is  
8 protected by immunity not accountability.

9 A 2020 article read just last year qualified  
10 immunity was granted to Fresno officers accused of  
11 stealing more than 225,000 during the search. Idaho  
12 police who bombarded an innocent woman's home with  
13 teargas and grenades and a Georgia officer who tried  
14 to kill a families dog but accidentally shot a 10-year-  
15 old boy instead. All because the rights involved  
16 weren't clearly established.

17 Police should not be a Donald Trump to public  
18 safety. Finding ways to overt the law and  
19 disenfranchise people at will. We have seen what  
20 happens when people believe they are above the law.  
21 Absolute or qualified immunity granted to public  
22 safety officers, a defense and practice that is  
23 operant presents clear conflict for people they are  
24 sworn to protect.

1  
2 The murders of Mike Brown, George Floyd, Breonna  
3 Taylor, Eric Garner at the hands of police reflect a  
4 flawed system to discipline and/or hold accountable  
5 officers for malpractice.

6 Having civil protections as a citizen is  
7 essential to building trust and a cornerstone of  
8 democracy. Having the ability to hold police  
9 accountable by a fair trial is the only clear sign  
10 that no one is above the law. Countless videos of  
11 police abusing their authority exists and yet here we  
12 are endeavoring to have human rights.

13 It is already their word against ours and if  
14 their action didn't violate clearly established  
15 rights, they walk free. Historically, it has created  
16 a pattern where officers feel legally and politically  
17 protected from being held liable for violating human  
18 rights. This is not about restitution. It is about  
19 building trust back. Everyone needs boundaries with  
20 consequences and make them second guess before acting  
21 irrational. End qualified immunity now. It is not a  
22 defense.

23 We look forward to working with the Public Safety  
24 Committee to reform and reimagine public safety as we  
25 support the current proposal.

1  
2 SERGEANT AT ARMS: Time expired.

3 HERCULES REID: Thank you.

4 COMMITTEE COUNSEL: Thank you.

5 CHAIRPERSON ADAMS: Thank you Mr. Reid and I just  
6 want to say, Mr. Reid, you represent youth very well.  
7 I appreciate your time today and I appreciate you  
8 appearing before this Committee and providing your  
9 testimony. Thank you so much.

10 COMMITTEE COUNSEL: Thank you for your testimony.  
11 Thank you Chair. I will now turn to Chi Osse  
12 followed by Jeff Strabone followed by Tonya Cruz.

13 SERGEANT AT ARMS: Time starts now.

14 CHI OSSE: Thank you. Since 1845, the culture of  
15 policing in New York City has been confusing. The  
16 finest are here to protect and serve. The finest are  
17 trained to stop crime and apprehend people who commit  
18 crimes but to achieve these respectable goals, the  
19 NYPD has allowed itself to become too big to admit  
20 failures with personnel. So arrogant it has to  
21 believe its officers cannot be punished for  
22 misconduct and still treat the citizens of challenged  
23 communities as criminals.

24

25

1  
2 My name is Chi Osse from City District 36 in  
3 Brooklyn and this is why I marched and organized  
4 during the summer protest of 2020. No one in New  
5 York City wants violence and chaos. There are  
6 criminals in this city, however, some of these  
7 criminals are badged and armed. Two of the bills  
8 presented in the hearing today are good first steps  
9 for change. They will help set the stage for culture  
10 change and accountability. Requiring confirmation of  
11 the police commissioner by the City Council, allows  
12 the representatives of the city a say in shaping the  
13 culture of law enforcement.

14 Confirmation hearings give the legislature and  
15 the people a chance to know the appointees positions  
16 on key issues enforces the Mayor to consider not  
17 personal agenda but the will of the people. I ask  
18 the City Council to consider codifying provisions to  
19 ensure the hearings will not be political  
20 performances or ceremonial charades but amplification  
21 of the voices of the people the Council represents.

22 Additionally, will the vote be plurality or two  
23 thirds. The former gives all appointees a fair path  
24 for while the later forces the Mayor to present the  
25 superb candidate.

1  
2           These simple measures will help to put the right  
3 person at the helm of the NYPD and we will hope the  
4 Resolution to remove the police commissioners final  
5 disciplinary authority will pass in the City Council.

6           We hope our state senators and assembly members  
7 will take the important fight to Albany. A fight to  
8 give the people of New York City a true instrument of  
9 departmental justice by empowering the CCRB. We hope  
10 the Council now or in the future will mandate the  
11 CCRB, findings be distributed to the City Council's  
12 Committee on Public Safety.

13           The Police Commissioner, the Mayor's Office and  
14 the appropriate DA's office. We hope the Resolution  
15 will lead to legislation and codifies discipline  
16 options for legitimate misconduct, including when  
17 necessary dismissals, expulsions and  
18 recondemmodifications of criminal charges.

19           Checks and balances is one of the cornerstone  
20 philosophies of an American. It is accountability in  
21 action. For too long, the NYPD has allowed a culture  
22 of bullying and bias disrupt its mission to protect  
23 and serve. This culture means officers who act and  
24 move with violent impunity. The interest presented  
25

1  
2 in this hearing are good steps to ensuring all people  
3 are protected and served. And will parallel the  
4 Mayor's attempt to reform the NYPD from within.

5 I often mantra we want a police department that  
6 catches criminals but does not criminalize  
7 communities. Next steps, budget changes reducing the  
8 NYPD to bully social agencies and passing reform  
9 bills that reduce their noncriminal duties. I look  
10 forward to hearing how the Bill mature and becoming  
11 an advocate for their passage into law. Thank you.

12 COMMITTEE COUNSEL: Thank you. Next up will be  
13 Jess Strabone followed Tonya Cruz followed by Kelly  
14 Grace Price.

15 JESS STRABONE: Good afternoon Chair Adams and  
16 members of the Committee on Public Safety. My name  
17 is Jeff Strabone, I am a lifelong resident New Yorker  
18 and former Vice Chair of Community Board 6 in  
19 Brooklyn. I thank the Committee for its time and for  
20 listening.

21 First, I support all 12 bills announced last  
22 month to redefine public safety and strengthen police  
23 accountability. Because of time limits, I will focus  
24 on one bill. Resolution 1538 2021, calling on the  
25

1  
2 New York State Legislature to remove the New York  
3 City Police Commissioner's power to waive police  
4 discipline.

5 To put it simply, I don't want Donald Trump to be  
6 our Police Commissioner. Trump abused the  
7 presidential pardon power. The last thing the city  
8 needs is a Commissioner Trump to pardon officer Roger  
9 Stone and his buddies. I am using colorful language  
10 but I stand by the point. No Commissioner should  
11 have pardon power. The power to pardon is a license  
12 to commit abuse and corruption. It's already hard  
13 enough for the CCRB to investigate police misconduct  
14 and decide on actual discipline.

15 For the Commissioner, to then overrule the Board  
16 in half the cases decided in 2019, only a 51 percent  
17 concurrence rate, according to the Resolution, adds  
18 citywide insults to individual injury. And the  
19 concurrence rate is substantially lower for the most  
20 serious cases.

21 Let adjudicated discipline stand. Let discipline  
22 be discipline. Please, pass this Resolution. Take  
23 the pardon power away from the office of the  
24 Commissioner.

1  
2 Finally, I want to solute Ms. Rivera. Her  
3 strength today empowers all of us. Thank you and  
4 thank you to the members of the Committee. That  
5 concludes my testimony.

6 COMMITTEE COUNSEL: Thank you for your testimony.  
7 Next up will be Tonya Cruz followed by Kelly Grace  
8 Price and Sarah Sitzler.

9 SERGEANT AT ARMS: Time starts now.

10 TONYA CRUZ: Greetings Madam Chair and committee  
11 members. My name is Tonya Cruz, a Community Board  
12 and a Queens Traffic Safety Board Member. I am  
13 personally coming before the Public Safety Committee  
14 to testify in strong support of Intro. 1671 and how  
15 far reaching it needs is.

16 This step is in correlation with the U.S. House  
17 Resolution 255, Co-sponsored by Congressman Rose  
18 along with five additional New York Reps that passed  
19 December 2019. Whereas resolved that the house  
20 representatives promotes increased public awareness  
21 on the issue of motorcycle profiling.

22 Two, encourages collaboration and communication  
23 with the motorcycle community and law enforcement to  
24 engage in efforts to end motorcycle profiling.

1  
2 Three, urges state and law enforcement officials  
3 to include statements condemning motorcycle profiling  
4 in written policies and training of materials.

5 I am concerned with the motorcycle only  
6 checkpoints executed by NYPD for safety enforcement  
7 responses. Yet they refused to share timely  
8 information pertaining to said checkpoints to  
9 governmental agencies even New York City Motorcycle  
10 Advisory Council that is tasked with saving lives and  
11 meeting with the Mayor's priority of Vision Zero.

12 We are seeing checkpoints being used to profile  
13 certain individuals that reminds them of stop and  
14 frisk. Not the interaction that modifies behaviors  
15 that saves lives. I think in light of 51 fatality in  
16 2020, that's an 87 percent increase. Checkpoints  
17 doesn't work. Again, reports help not only our  
18 oversight of NYPD's action but helps us use best  
19 practices that saves lives, not loss of vehicle or  
20 means to search.

21 Again, I support Intro. 1671 and its reporting  
22 being comprehensive. Thank you for your time and  
23 your service.

24

25

1  
2 CHAIRPERSON ADAMS: Thank you so much Ms. Cruz.  
3 Thank you for representing Transportation Committee  
4 and the great work of Community Board 13. Thank you.

5 TONYA CRUZ: Thank you.

6 COMMITTEE COUNSEL: Next up will be Kelly Grace  
7 Price followed by Sarah Sitzler and Sonny Lawrence.

8 KELLY GRACE PRICE: Hi, good afternoon. I am  
9 Kelly Grace Price from Close Rosie's. I would like  
10 to testify about the bills on the table today and  
11 also, I would like to reinforce what Councilwoman  
12 Rosenthal had to say about shifting the focus of  
13 reform onto the Special Victims Unit.

14 First, I would like to quickly talk about uhm, of  
15 course, I would like to endorse all of the bills and  
16 I would like to give a couple perspectives specific  
17 to my own experience as a woman entangled with the  
18 criminal legal system and a woman who has been  
19 actively litigating against the NYPD and against the  
20 City of New York in Federal Court as a prose litigant  
21 over these specific issues of immunity.

22 Uhm, of course I would love it if the City  
23 Council Could have a voice in who is given the Police  
24 Commissioner role. The backroom deals cut between  
25 the Mayor and the PC have plagued reform efforts in

1  
2 the past and a third layer of oversight by this  
3 governing body would go a long way into curbing this  
4 practice.

5 Second, I would like to talk about Intro. 221  
6 establishing an individual right of security versus  
7 police officer illegal search and seizure and  
8 eliminating an absolute and qualified immunity  
9 defense. Three quick points. I want to first say  
10 that the fastest way to curb qualified immunity is to  
11 set a precedent in the Southern District. You heard  
12 it yourself today from the mouths of the NYPD  
13 Attorney's. They watch carefully the "complicated  
14 case precedent set in the Southern District". A  
15 more efficacious solution to this legislation while  
16 it's not bad, but a more efficacious solution would  
17 be undoubtably tied up in supporting ways to uhm, to  
18 lay down the case law in the Southern District.

19 So, you need to find ways to support prose  
20 litigants and to support Section 1983 litigants  
21 because this legislation will be undoubtably tied up  
22 in litigation and in appeals for years. So, maybe  
23 create an office in the State court equal to the  
24 NYLAG Prose Clinic in federal court to help people.  
25 There needs to be budgeting but the Prose Clinic came

1  
2 out of the HRA budget. So, there is already a  
3 precedent to do this. I also want to say that its  
4 ludicrous for the Mayor's Office and the NYPD to  
5 state that this legislation is problematic because  
6 what is in the Patrol Guide may not be reflective of  
7 the language of this bill.

8 I know I didn't hear that wrong. I know I heard  
9 several people say that and one PP and I just - I  
10 want to say, I have been to many City Council  
11 hearings NYPD reform and I have heard many NYPD  
12 lawyers in White shirts offer many excuses for why  
13 they don't support legislative efforts led by members  
14 of this legislative body but this is a first. If the  
15 NYPD is unable to synthesize City Council laws and  
16 authority into the Guide Book of Protocols and  
17 Procedures that govern NYPD actions, I believe  
18 this is an issue -

19 SERGEANT AT ARMS: Time expired.

20 KELLY GRACE PRICE: This is an issue far greater  
21 than the capacities of this hearing may offer. Uhm,  
22 thank you. I didn't really want to talk about  
23 focusing reform on special victims. In fact it is in  
24 my written testimony and I will submit that this  
25 afternoon. Thank you so much.

1  
2 COMMITTEE COUNSEL: Thank you -

3 CHAIRPERSON ADAMS: Thank you. Uh, Counsel -

4 COMMITTEE COUNSEL: Chair, if you have a  
5 question, go ahead.

6 CHAIRPERSON ADAMS: I was yielding the floor to  
7 Council Member Levin; his hand is raised.

8 COUNCIL MEMBER LEVIN: Thank you so much Chair.  
9 I just want to thank uhm, uh, uh, the members of the  
10 public for their testimony on this and the very  
11 thoughtful testimony. Thank you very much, under  
12 advisement when we vote on this legislation. It did  
13 remind me that there was a point that I did not raise  
14 with the Administration uhm, that I would like to be  
15 in the record, which is that uhm, if there are  
16 aspects of the Patrol Guide that are violating  
17 people's 4<sup>th</sup> amendment rights, uhm, that would be  
18 shocking to me. So, this argument that an officer  
19 could be following the Patrol Guide and the law and  
20 somehow that would run afoul of people's  
21 constitutional rights does not seem uhm - then we  
22 have as I agree with the individual that just  
23 testified that that would you know, we would have  
24 bigger problems obviously. The Patrol Guide, you  
25

1  
2 know, if the judiciary found that aspect of the  
3 Patrol Guide itself violated 4<sup>th</sup> amendment right.  
4 Because we know there is plenty attorney's at the  
5 Police Department working on the Patrol Guide to make  
6 sure that that very thing does not happen. Thank  
7 you.

8 COMMITTEE COUNSEL: Thank you Council Member  
9 Levin. Next up will be Sarah Sitzler followed by  
10 Sonny Lawrence followed by Michael Matos. And I will  
11 just remind any other Council Members, if you would  
12 like to ask a question of the panelist, please use  
13 the Zoom raise hand function.

14 SARAH SITZLER: Hi, good afternoon. My name is  
15 Sarah Sitzler, I am a resident of Brooklyn. I have  
16 resided in New York City since 2007 and I am  
17 testifying today in support of all of the proposed  
18 legislation but I am going to focus on Resolution  
19 1538. I also just want to acknowledge that the  
20 Commissioner absence from this hearing speaks  
21 volumes, as well as all of the representatives and  
22 all sorts of the NYPD who are now absent or had their  
23 cameras turned off as well as Ms. Davis. I don't  
24 know maybe you are getting lunch. Maybe you just  
25 aren't ready to listen to the public.

1  
2 That being said, the NYPD Commissioner can  
3 ultimately flash any disciplinary suggestions that  
4 the Civilian Complaint Review Board offers in order  
5 to protect officers from facing any repercussions for  
6 their misconduct. So, as it stands, the CCRB appears  
7 to be more of a tool for political posturing than an  
8 agency with any tangible authority. And we really  
9 need the Board to have real input and influence over  
10 cases of misconduct within the NYPD because when  
11 there are little to no repercussions for misconduct,  
12 this just perpetuates a culture of lawlessness within  
13 the very agency responsible for upholding the law.

14 And when the sole disciplinary authority of said  
15 agency is also the head of its governing body, then  
16 there is a greater potential for collision than there  
17 is for accountability and for justice. And I must  
18 acknowledge the work of all the activists and  
19 organizers in the Black Lives Matter Movement because  
20 the actions and demonstrations of the past year  
21 specifically have directly influenced this  
22 legislation at this hearing that we are having today.  
23 And also, thank you Chair Adams and for the Council  
24 Members for pushing this legislation forward.

1  
2 And as much as I am asking you to pass this  
3 legislation, I also urge you to do even more because  
4 simply providing public access to them is kind of for  
5 the NYPD. Such as the disciplinary matrix does not  
6 actually do anything to address that misconduct and  
7 corruption itself and further action must be taken to  
8 curb the behavior of the NYPD who currently operate  
9 as a racist, transphobic, lawless, militarized mod  
10 whose salaries are paid for by us, the taxpayers, for  
11 having a force that doesn't even reside in our  
12 communities.

13 So, transparency and true accountability are  
14 requirements for the potential for justice. For the  
15 potential for trust and for healing. Thank you so  
16 much for your time.

17 COMMITTEE COUNSEL: Thank you for your testimony.  
18 Next up will be Sonny Lawrence followed by Michael  
19 Matos followed by Vicki Weinerman.

20 SONNY LAWRENCE: Can I start? Okay, hi everyone.  
21 Thank you for hearing my testimony here today. My  
22 name is Sonny and I have lived in New York City for  
23 my whole life. Uhm, I am 25-years-old and in those  
24 25-years, I have seen too many abuses from the NYPD  
25 to count. From racist stop and frisk searches to

1  
2 violence against peaceful protestors, to the murders  
3 carried out against Eric Garner, Mohamad Bah and many  
4 others.

5 Just this morning in the New York Times there was  
6 an article about how racist ineffective policing led  
7 to innocent people being incarcerated. The reason  
8 that these abuses keep happening is because the NYPD  
9 protects itself. The policies currently in place  
10 ensure that there are no real consequences for abuses  
11 by police and no meaningful oversight or control of  
12 the NYPD by the people they serve.

13 That is why I support all of the bills under  
14 discussion here today. These bills would require  
15 more transparency and accountability from the NYPD,  
16 making it harder for them to cover up abuses. They  
17 would require more oversight for the City Council,  
18 giving New Yorkers more control over who is policing  
19 them.

20 They would also make it possible for officers who  
21 commit abuses to actually face consequences, which  
22 currently they are protected from by qualified  
23 immunity and the police commissioners ability to  
24 waive discipline.

1  
2           Currently, those policies make officers feel  
3 entitled to mistreat the people of New York because  
4 they know they won't face consequences. We need  
5 officers to know that they will be liable for the  
6 harm they cause and not just protected by a well-  
7 funded boys club. We have to stop the largely  
8 unchecked uses by the NYPD and make sure that there  
9 are actually systems in place to keep the NYPD  
10 accountable, otherwise, they will continue to do what  
11 they have been doing which is inflicting harm and  
12 violence on the people of New York.

13           I want to take a moment to thank all of the  
14 activists from the Black Lives Matter movement  
15 especially Riders for Black Lives who have been doing  
16 the work of getting the information out about these  
17 hearings and from organizing people to show up.

18           I also want to thank Councilman Adams and Council  
19 Member Levin, who are both advocating so passionately  
20 for these bills and I really appreciate the work that  
21 you are doing and I would feel – neither of you are  
22 my Council Member but I would feel very represented  
23 by you if you were. SO, thank you for your work.

24           I will yield the rest of my time. Thank you.  
25

1  
2 COMMITTEE COUNSEL: Thank you for your testimony.  
3 Next up will be Michael Matos followed by Vicki  
4 Weinerman followed by Peter Horan.

5 MICHAEL MATOS: Good afternoon, my name is  
6 Michael Matos. I am a resident of Bay Ridge  
7 Brooklyn, a constituent of Councilman Brannan and a  
8 Veteran of the U.S. Coast Guard. I would first like  
9 to thank you for the opportunity to address this  
10 Committee in regard to matters of public safety.

11 I would like to begin by presenting an issue of  
12 buyer urgency regarding the state or public safety  
13 system as it currently operates. We have an  
14 incredible lack of accountability regarding acts of  
15 misconduct and gross negligence by officers of the  
16 NYPD. As it stands, matters of discipline are made  
17 under the exclusive authority of one individuals. To  
18 balance this authority, we have the Civilian  
19 Complaint Review Board appointees provide oversight  
20 on complaints received, make recommendations in  
21 regard to courses of action.

22 In theory, it sounds like an effective way when  
23 ensuring a fair and sufficient means of procedure.  
24 In reality, this is not the case. According to the  
25

1  
2 CCRB's 2019 annual report, police commissioner  
3 concurred of only 51 percent recommendations made by  
4 the CCRB. With the most serious cases receiving a  
5 concurrence rate of 32 percent. According to  
6 analysis by the New York Times, NYPD "really ignored  
7 the CCRB's recommendations, overruled them or  
8 downgraded the punishments. We've warned police  
9 officials confirmed that the officers had violated  
10 regulations.

11 This in act of negligence maintained for about 71  
12 percent of the 6,900 misconduct charges filed against  
13 officers of the NYPD. It is clear, the current  
14 system of disciplinary action is ineffective and a  
15 poor joke to communities whose these officers swear  
16 to protect and serve.

17 I have served 6 years in the Coast Guard, most  
18 of that time in a Law Enforcement capacity. I have  
19 worked with morally sound and dedicated individuals  
20 from a variety of law enforcement agencies serving to  
21 the public. The continued acts of misconduct,  
22 unprofessionalism, blatant disregard of public  
23 opinion and a devastating lack of integrity by the  
24 officers of the NYPD disrespect a very [INAUDIBLE  
25

1  
2 3:40:12]. This absence of accountability stains a  
3 legacy of the officers who have served with honor and  
4 selfishness. Leadership is about doing what is  
5 right, even in the most difficult of situations. Our  
6 Police Commissioner has forgotten.

7 Resolve its exemption from responsibility.  
8 Remove it's exclusive authority from the police  
9 commissioner and allow the CCRB who impose fair but  
10 necessary discipline officers who defy their oath.

11 Let me be clear, this alone will not instill  
12 public trust in the NYPD but it is a step in the  
13 right direction. Public servants work for their  
14 communities, not the other way around. Thank you.

15 COMMITTEE COUNSEL: Thank you. Next up will be  
16 Vicki Weirnerman followed by Peter Horan followed by  
17 John Teufel.

18 VICKI WEINERMAN: Hi everybody. Thank you to  
19 everyone who has spoken before me. All the amazing  
20 activists who are so well spoken. I am very proud of  
21 you all for being so eloquent unlike myself.

22 I am a 64-year-old, oh, my birthday is in two  
23 days. A 64-year-old woman and I attend a lot of BLM  
24 protests and I am astonished at the anger and the  
25

1  
2 vehement and violence that the NYPD is constantly  
3 providing. I have seen as you all have young people,  
4 old people, pulled off the streets. I don't need to  
5 go on about that but I will say that I also am  
6 disappointed that Commissioner Shea could not be here  
7 today. I am not sure what was way too important for  
8 him. I am also not sure why the NYPD is maybe  
9 listening or not listening. They were here before  
10 but they are not.

11 I just want to speak about again, not so  
12 eloquent, I want to speak about the four hour  
13 trainings that was mentioned that the NYPD had in  
14 order to take care of this summer protests, which has  
15 supposedly gotten better. No, it has not gotten  
16 better. It has gotten worse. They are wearing Trump  
17 badges; they are still violating laws.

18 I have been fired from jobs for being late and  
19 having a bad attitude yet an NYPD officer can  
20 violently harm, arrest, kick, whatever, whatever they  
21 do a lot of bad things and still not be fired. I  
22 don't understand this police union nonsense. I have  
23 support of all these bills of reform and what else am  
24 I going to say. That's all, that's all. I am pissed

25

1  
2 off that's all. That's what I want to say. I am  
3 pissed.

4 I have been fired from jobs for having a bad  
5 attitude and being late. I think the NYPD should be  
6 held accountable for their actions. This is not  
7 good. I am not going to curse because then you will  
8 just see oh, an old lady with a bad mouth but I yield  
9 the balance of my time. Thank you everyone.

10 CHAIRPERSON ADAMS: You are not so old Vicki  
11 Weinerman.

12 VICKI WEINERMAN: I wish I was 65. I wish I was  
13 turning 65 on Thursday and then I could get a vaccine  
14 but no. So, I will continue wearing my mask unlike  
15 many of the NYPD who do not wear masks. They were  
16 bandanas. Bandanas are not masks by the way. That's  
17 all.

18 CHAIRPERSON ADAMS: Thank you. Council Member  
19 Levin, I see your hand.

20 SERGEANT AT ARMS: Time starts now.

21 COUNCIL MEMBER LEVIN: Thank you Chair. I just  
22 actually wanted to ask Mr. Matos, because he spoke  
23 about his time in Law Enforcement in the Coast Guard.

24

25

1  
2 If he could speak a little bit about uhm, uh,  
3 discipline structure in the military and how they  
4 differ from what we see in policing in our civilian  
5 police force.

6 MICHAEL MATOS: Thank you Councilman. So, I  
7 served 6 years in the Coast Guard. I did federal law  
8 enforcement. Discipline that I have seen in our  
9 system, we can be charged if we do mess up civilly,  
10 criminally and against the UCMJ. We have no unions  
11 to protect us. We don't do any of that. We all know  
12 that when we go into the job. We make our training  
13 very specific and basically in the way of uh, we all  
14 understand that we take the responsibility on  
15 ourselves. If we mess up, it's our problem and we  
16 personally deal with - we have to deal with the  
17 accountability for it.

18 We can be docked in pay. We can be reduced in  
19 grade. We can also be uhm, charged via Court Marshal  
20 and imprisoned. There is a lot more of what I see  
21 accountability on our side of the military than there  
22 is on the side of NYC.

23 COUNCIL MEMBER LEVIN: Is there issues around - I  
24 mean it's in the military, I mean there is always  
25

1  
2 issues but are there issues specifically uhm, you  
3 know, I mean, uh, to be frank, there is an issue that  
4 we have in police departments around the country of  
5 the "blue wall of silence" that officers loyalty to  
6 each other often trumps loyalty to the force in that  
7 sense or to the truth. They don't want to rat each  
8 other out. I mean that's a well-documented cultural  
9 aspect including in the police department in New York  
10 City going back to before.

11 So, can you speak to just the culture of  
12 accountability? If a member of the Coast Guard uhm,  
13 sees another member of the Coast Guard engaging in  
14 conduct unbecoming or prohibited conduct, whats the  
15 kind of culture within the service for that?

16 MICHAEL MATOS: Thank you, so of course I can  
17 only speak on a personal level. I can't speak for  
18 the Coast Guard as a whole but from my personal  
19 experience from what I have seen when people do mess  
20 up, you do have that kind of - it's required for us  
21 to act. Regardless of any kind of loyalty to have  
22 with other - like our loyalty is to the American  
23 people first and to the Constitution.

24

25

1  
2 So, when things happen that we know are in the  
3 wrong, regardless of any kind of blue wall or  
4 anything, that doesn't - well, you know doesn't  
5 happen to us.

6 Personally, you know, if I see anyone that  
7 violates their oath, that does something wrong.  
8 There is no blue wall of silence. There is you know,  
9 no account of brothers in blue for me. If you  
10 personally violate your oath, you are no sibling.  
11 You depraved the public trust and I am going to take  
12 the measures needed to make sure you are held  
13 accountable and to make sure the standard of us,  
14 performing law enforcement within the Coast Guard is  
15 held to that high standard to ensure that the public  
16 trust us to do our jobs.

17 COUNCIL MEMBER LEVIN: Would you say that the  
18 same holds in federal law enforcement?

19 MICHAEL MATOS: Again, I am sorry.

20 COUNCIL MEMBER LEVIN: Would you say that the  
21 same holds in federal law enforcement in the task you  
22 serve there?

23 MICHAEL MATOS: I can't speak to it Councilman,  
24 just because I have only seen the Coast Guard. I  
25 apologize.

1  
2 COUNCIL MEMBER LEVIN: Oh, I see, okay. Okay,  
3 thank you very much. I appreciate your answers.  
4 Thank you Chair.

5 COMMITTEE COUNSEL: Thank you for your testimony.  
6 Uhm, next up will be Peter Horan followed by John  
7 [INAUDIBLE 3:47:56] followed by Miquel Rayos-  
8 Velasquez.

9 SERGEANT AT ARMS: Time starts now.

10 PETER HORAN: Good afternoon Committee Members.  
11 My name is Peter Horan, my pronouns are he, him and I  
12 am a long time resident of New York currently living  
13 in District 40. Thank you for taking the time to  
14 listen to the public and I appreciate those who spoke  
15 before me for energy and their inspiration.

16 I want to say that I support any and all bills  
17 put forward to increase police accountability,  
18 specifically I would like to talk about my support  
19 for Resolution 1538. It makes no sense to me that  
20 the Commissioner has this power at all. I come from  
21 a large family. I have six siblings and with the way  
22 the system works now is the equivalent of asking my  
23 sister, the oldest, to have power of how the rest of  
24 the children are disciplined.

1  
2       The NYPD doesn't ask those they arrest how long  
3 they would like to be in jail or how much of a fine  
4 they would like to pay. The Commissioner should have  
5 no say or authority about how, why or whether  
6 discipline to officers is administered.

7       The argument made earlier in this forum by the  
8 NYPD about recovery of illegal guns off the street  
9 can be summed up this way. If police are not sure  
10 that they can't do whatever they want, they won't do  
11 their jobs and no other profession on earth can  
12 function under such backwards logic.

13       The NYPD not only functions under this logic now  
14 but does so while lethally armed. There seems to  
15 have been little to no discipline administered to  
16 officers who committed egregiously violent acts seen  
17 during the protesting last summer, including  
18 assaulting demonstrators assaulting and arresting  
19 media and legal observers. Stealing bicycles of  
20 protestors and one in late May. Two NYPD vehicles  
21 running down protestors on camera.

22       These are not opinions I am stating but the plain  
23 facts that have been reported and that are not in  
24 dispute. It is clear the Commissioner feels that

1  
2 docking vacation days or assigning desk duty counts  
3 as sufficient discipline for incompetent officers.  
4 Clearly this is not the case as police misconduct  
5 continues to be a major and perhaps increasing  
6 problem in the NYPD.

7 If the head of the Sergeants union can Tweet  
8 personal information about de Blasio and in fact  
9 compromising yet again the safety of a Black woman  
10 with virtual impunity, it is clear the even the  
11 city's highest office cannot be trusted to administer  
12 justice properly.

13 Finally, I want to take this time to thank  
14 Council Member Menchaca for voting against the police  
15 budget last year and for being an ally in this fight  
16 for accountability of public safety. I ask the  
17 Committee passes Resolution to remove the pardon  
18 power from the Office of the Commissioner. Thank  
19 you.

20 COMMITTEE COUNSEL: Thank you for your testimony.  
21 Next up will be John Teufel followed by Miguel Rayos-  
22 Velazquez followed by Betty Maloney.

23 SERGEANT AT ARMS: Time starts now.  
24  
25

1  
2 JOHN TEUFEL: Good morning Council Members. My  
3 name is John Teufel, I am an Attorney. I am a Former  
4 Investigator with the Civilian Complaint Review Board  
5 and I am a member of the Legislation Working Group of  
6 the Campaign for an elected civilian review board.

7 Preliminarily I would like to thank the Council  
8 for addressing this urgent issue of the Police  
9 Commissioner systematically overturning CCRB  
10 findings. When I worked at the CCRB, investigators  
11 would every month, wait to receive the Commissioners  
12 report, so we could find out to what extent our  
13 investigative findings would be ignored and  
14 dismissed. I was tremendously disheartening.

15 As Council Members have eloquently noted today,  
16 the Disciplinary Matrix does nothing to fix this  
17 critical problem. I am speaking today to make the  
18 case that despite this proposed bill calling on the  
19 state to act, the City Council's hands are not tied.  
20 Indeed, it is within the full legal authority of the  
21 City Council to remove the Commissioners discretion  
22 regarding discipline and bind the Commissioner to  
23 enacting disciplinary recommendations from a civilian  
24 review board.

1  
2 Civil Service Law Article 75 and 76, generally  
3 govern public employee disciplinary procedures in New  
4 York. However, Civil Service 764 states that nothing  
5 contained in this chapter shall repeal or modify any  
6 Local Law or Charter Provision relating to the  
7 removal of employees. The state initially committed  
8 discipline to the Commissioner when it enacted the  
9 New York City Charter and Administrative Code in the  
10 19<sup>th</sup> Century.

11 As the New York City Charter and Administrative  
12 Code predate the enactment of Article 75 and 76,  
13 Police discipline in New York City is exempt from the  
14 procedures defined in the Civil Service Law, which  
15 has been upheld by the Court of Appeals in multiple  
16 cases. This grant of home rule has been actually  
17 codified in the state statute in clear language.  
18 Civil Service Law 75-3A specifically holds, "if such  
19 officers found guilty of misconduct, the Police  
20 Commissioner of such department may punish the Police  
21 Officer pursuant to the provisions of Sections of 14-  
22 115 and 14-123 of the Administrative Code of the City  
23 of New York. Notably, New York City is the only  
24 locality to see this home rule granted codified by  
25 statute.

1  
2           Additionally, relevant law indicates that the  
3 state did not intend to limit its grant of authority  
4 to any specific official or to the Commissioner but  
5 intend to delegate – but instead intended to delegate  
6 power generally to local officials including the City  
7 Council.

8           The state adopted the Charter in 1897, granting  
9 the Commissioner control over discipline. In 1923,  
10 the state constitution was amended to let  
11 municipalities change Local Law relating to the  
12 removal, terms of office and compensation of all  
13 officers and employees of the city.

14           Then in 1958, the legislature enacted the  
15 disciplinary provisions of the Civil Service Law  
16 including Civil Service Law 764 which exempted  
17 localities with preexisting laws. When this  
18 exemption was passed, the state had already granted  
19 New York City, both control over police discipline in  
20 the Charter and the power to amend Charter Provisions  
21 related to the removal and terms of office for its  
22 employees including the Commissioner.

23           SERGEANT AT ARMS: Time has expired.  
24  
25

1  
2 JOHN TEUFEL: One moment please, I am very sorry.  
3 The legislature intended to allow New York City  
4 officials to amend Charter Provisions related to  
5 police discipline.

6 In conclusion, the New York State Legislature has  
7 exempted New York City from state laws regarding  
8 police discipline and this grant of home rule to New  
9 York City has been codified in the Civil Service Law  
10 both in Article 75 and 76. Interestingly, the Police  
11 Department agrees in the recent memorandum of  
12 understanding regarding the so-called Disciplinary  
13 Matrix, the Commissioner cited only City Law, not  
14 State Law as granting him final disciplinary  
15 authority. The City Council has the legal power to  
16 make review board disciplinary referrals binding on  
17 the police commissioner and no request for home rule  
18 is necessary.

19 I have submitted to the Council a memorandum  
20 expanding on this issue and including citations to  
21 relevant statutes and Case Law. Thank you for your  
22 time.

23 COMMITTEE COUNSEL: Thank you for your testimony.  
24 Next up will be Miguel -

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COMMITTEE ON PUBLIC SAFETY

202

CHAIRPERSON ADAMS: Council, I see Council Member Deutsch has his hand raised.

COMMITTEE COUNSEL: Thank you Council Member Deutsch and then I believe also Council Member Levin.

SERGEANT AT ARMS: Time starts now.

COUNCIL MEMBER DEUTSCH: Yeah, hi, I have a question for John.

JOHN TEUFEL: Yes Council Member.

COUNCIL MEMBER DEUTSCH: So, you formerly worked for the CCRB correct?

JOHN TEUFEL: I did, yes.

COUNCIL MEMBER DEUTSCH: You did. So, do you believe that the NYPD as an agency should exist here in New York City?

JOHN TEUFEL: Do I believe that the NYPD as an agency should exist in New York City? Uhm, not as it is currently constituted but I would say yes, probably.

COUNCIL MEMBER DEUTSCH: So, you would say yes. Why do you say yes?

JOHN TEUFEL: Well, I mean, the NYPD is a long standing institution. Getting rid of it entirely would require a massive overhaul of city law.

1  
2 I think right now what we are focusing on is  
3 reforming the most problematic aspects of the NYPD.

4 COUNCIL MEMBER DEUTSCH: So, is that the only  
5 reason why the NYPD should not exist because it would  
6 take a lot of work to take an agency like the NYPD  
7 out or do you believe that we as New Yorkers, we need  
8 to have protection and the NYPD is there to protect  
9 New Yorkers.

10 JOHN TEUFEL: Well, Council Member, I think as a  
11 majority of this city can tell you and especially our  
12 Black and Brown residents, the NYPD does not protect  
13 so much as it threatens.

14 COUNCIL MEMBER DEUTSCH: So, one second, so much.  
15 What is the so much? Does the NYPD does give New  
16 Yorkers some protection?

17 JOHN TEUFEL: Uh, I guess I am a little confused  
18 as to how we got derailed from a legal discussion of  
19 why the Police Commissioner continuously overturns  
20 CCRB recommendations. 71 percent of the time in  
21 fact.

22 So, I am a little curious why you want to deflect  
23 from that issue and speak of some theoretical kind of  
24 college level discussion of whether we can reform

1  
2 police or whether we can replace them with a  
3 different agency.

4 COUNCIL MEMBER DEUTSCH: Because I have been on  
5 the hearing since the beginning and I like listening  
6 to people. I like to get feedback from individuals  
7 and from advocates and from New Yorkers. And all I  
8 have been hearing all day from the testimonies is how  
9 bad the NYPD is and how terrible and they are like  
10 the devils. And I have not heard not one single word  
11 from anyone testifying saying that you know,  
12 something, there are good things about the NYPD.

13 And when there is a discussion, we need to look  
14 at the positive and negative. So, you know, I  
15 haven't heard anything from anyone and we keep  
16 talking about accountability but when you look at an  
17 agency and you talk about an agency in a negative  
18 way, especially someone who worked formerly for the  
19 CCRB knows the ends and outs. When you have  
20 discussions, you should be hearing the positive and  
21 then you could bring up the negative and then we need  
22 to work together as New Yorkers as how we put reform  
23 uhm, the NYPD and make it better for like you  
24 mentioned, the Black and Brown community.

1  
2 But without having a sincere discussion and  
3 asking people that we need accountability and we want  
4 New Yorkers to trust the men and women of the New  
5 York City Police Department. But if we are only  
6 speaking negative about an agency, even after any  
7 reform, how can we teach New Yorkers to have trust  
8 when all we are hearing today is in the testimony,  
9 the negative? I haven't heard anything positive. Of  
10 all those cops who are out there 24/7 wearing bullet  
11 proof vests and putting their lives on the line and  
12 many who don't come home. They have families. They  
13 are all human beings just like you and I. They are  
14 all human beings.

15 JOHN TEUFEL: Could I respond to that Council  
16 Member?

17 COUNCIL MEMBER DEUTSCH: Yeah, I would like to  
18 have an educated discussion.

19 JOHN TEUFEL: Sure, uh, so I think what I would  
20 like to say is the reason I am here today and  
21 speaking about this issue rather than heaping praise  
22 in the NYPD. I will give you a very specific example  
23 of my time at CCRB, which you asked about.

24 COUNCIL MEMBER DEUTSCH: No, no, I am not  
25 interested in hearing your time.

1  
2 JOHN TEUFEL: Council Member, you asked about my  
3 time at CCRB.

4 COUNCIL MEMBER DEUTSCH: I am asking the  
5 questions. I have heard all the negative - because  
6 you had your testimony. But let me hear a few  
7 positive things about the NYPD from you.

8 JOHN TEUFEL: Well, I would say this, when I  
9 worked at the CCRB, there was a matter in which a  
10 Sergeant asked a kid, a teenager to get off his bike.  
11 The kid said Fuck you and the Sergeant punched him in  
12 the jaw and broke his teeth. Broke his jaw actually,  
13 he had to get his jaw wired shut. That was my  
14 investigation.

15 We recommended the charges be brought against  
16 that officer. We proved that it happened. We  
17 recommended that charges be brought against that  
18 officer. The Police Commissioner rejected that and  
19 do you know what the punishment was? It was the loss  
20 of two vacation days for breaking a jaw that required  
21 it to be wired shut. And when I saw that, from that  
22 moment on, this was the cause that I wanted to  
23 dedicate myself to, is reforming police discipline in  
24 New York City. And this is why I think it is so  
25 urgent that the City Council act and act right away.

1  
2 COUNCIL MEMBER DEUTSCH: And I am very sorry what  
3 happened to that kid.

4 SERGEANT AT ARMS: Time has expired.

5 COUNCIL MEMBER DEUTSCH: No, no, can I get  
6 another minute? Chair, can I get another minute?

7 CHAIRPERSON ADAMS: One minute.

8 COUNCIL MEMBER DEUTSCH: Okay, I would just like  
9 to ask John if there is a positive story that you  
10 have or a positive side of the NYPD?

11 JOHN TEUFEL: Uh, me personally, no. I have  
12 never had a positive interaction with the NYPD.

13 COUNCIL MEMBER DEUTSCH: You have never had  
14 anything? Did you hear of any positive stories about  
15 the NYPD? Is every cop that is out there in uniform  
16 bad? Is that what you are saying?

17 JOHN TEUFEL: Is every cop that's out there in  
18 uniform bad? I wouldn't want to make such a sweeping  
19 judgement, no. I would say that I mean in my own  
20 personal life, I had one interaction with the NYPD,  
21 it was years ago. They showed up at my house and  
22 took a statement after I was mugged and then they  
23 never contacted me again.

24

25

1  
2 COUNCIL MEMBER DEUTSCH: I am not asking you - I  
3 am not asking you about the negative stories but  
4 working, formerly working for the CCRB and being a  
5 New Yorker right? Is there anything positive about  
6 the agency as a whole?

7 JOHN TEUFEL: Council Member respectfully, I am  
8 not here to give you propaganda.

9 COUNCIL MEMBER DEUTSCH: Because you are here  
10 giving propaganda and you have -

11 JOHN TEUFEL: No, I am here giving legal -

12 COUNCIL MEMBER DEUTSCH: And so just come out and  
13 say, we don't want the NYPD.

14 SERGEANT AT ARMS: Time has expired.

15 COUNCIL MEMBER DEUTSCH: Thank you very much.

16 COMMITTEE COUNSEL: Council Member Levin, do you  
17 have a question?

18 COUNCIL MEMBER LEVIN: Yes, thank you Chair. I  
19 just want to first of all, stipulate that you know,  
20 the vast majority of police officers in New York City  
21 are good people. I have known a lot of them in my  
22 time in public life and I have seen a lot of really,  
23 decent good cops. So, I don't anybody really is here  
24 to impugn the integrity of the vast majority of  
25

1  
2 police officers. And that's certainly not been the  
3 front of the legislation I have been involved with.

4 I do want to just acknowledge John in researching  
5 this particular topic, John and I have been in  
6 conversation since the summer specifically about the  
7 structure of accountability within the police  
8 department.

9 So, you know, just in terms of I mean, I have had  
10 maybe a couple of hours of conversation with John  
11 over the last seven or eight months and it has been  
12 exclusively you know, never I guess trash the NYPD  
13 like to me. We have talked specifically about the  
14 statutory relationship between 14-115 the City Code.  
15 That the history of - the legislative history of 14-  
16 115. The relationship between 14-115 and Civil  
17 Service Law 75. The subsequent case history going up  
18 to New York State Court of Appeals uhm and the  
19 relationship between those two statutes and how we  
20 could go about altering the final disciplinary  
21 authority.

22 So, in my conversations with John, going back to  
23 probably July of 2020, it's been exclusively about -  
24 not about you know, whether police are good or bad.

1  
2 I think that again, I stipulate that there is  
3 35,000 police officers, the vast majority are good  
4 people and they are doing their job honorably and are  
5 not out to deny anybody of their civil rights. But  
6 again, I just want to make sure it is in the record  
7 that – and I want to express my appreciate for the  
8 legal questions around disciplinary authority.

9 JOHN TEUFEL: Thank you Council Member and yes, I  
10 mean, my testimony today is about those legal  
11 questions. So, and I appreciate so much working with  
12 you on this.

13 CHAIRPERSON ADAMS: Thank you Council Member  
14 Levin for that. I was going to chime in along the  
15 same lines. You know, the purpose of our hearings is  
16 to discuss the merits of the legislation as I said  
17 earlier, to get all dialogue out, both sides. You  
18 know, agree, disagree but this is what a hearing is  
19 for, to discuss the merits of legislation and to see  
20 where we go from here.

21 So, just for the record, I have family members  
22 who are members of the NYPD and I am very, very proud  
23 of them. I am proud of the work that they do.  
24 However, that does not preclude my involvement in  
25

1  
2 needing to reform and they themselves realize and  
3 know that they must have reform, so that we can have  
4 accountability and so that we get some semblance of  
5 trust, particularly in communities of color.

6 So, I wanted to put that on the record as well.  
7 John, thank you for your testimony. Uh, I will come  
8 back to Counsel. Thank you.

9 JOHN TEUFEL: Thank you Council Members.

10 COMMITTEE COUNSEL: Thank you Chair. Next up  
11 will be Miquel Rayos-Velazquez followed by Betty  
12 Maloney followed by Albert Fox Cahn.

13 SERGEANT AT ARMS: Time starts now.

14 MIQUEL RAYOS-VELAZQUEZ: Thank you Council.  
15 Thank you Chair and thank you to the Committee.  
16 Following the previous discussion around the legal  
17 issues, I would like to add my testimony as a private  
18 citizen, a resident of District 26 and just say that  
19 uhm, all of the interactions that I have had with the  
20 NYPD as a person of color, have been negative. The  
21 Council Members you know, request for positive you  
22 know, illustrations and anecdotes, notwithstanding, I  
23 mean, if the vast majority of the interactions to the  
24 communities are sharing have been negative, that's  
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1  
2 what there is and that's what the hearing and the  
3 legislation are aimed at improving because they are  
4 the consequence of systemic decisions that have been  
5 made. And I fully support all of the legislations  
6 and second the voices of the advocates including  
7 Griffard, Sisitzky, to all the ones that have gone  
8 before and urge the Council to do more. Because what  
9 we have seen is you know, a systemic abuse of power  
10 from the NYPD.

11       It's not lost on me that the NYPD is you know,  
12 their cameras are off. Who knows if they are here.  
13 I was protesting last summer and have been protesting  
14 since and attending hearings and I see every time  
15 that the NYPD shows up. They show up with their  
16 lawyers, they show up in a conference room. They  
17 give their testimony; they are supported by a couple  
18 of Council Members and then they leave. And then  
19 then the public here is to tell them what we need and  
20 you know, to share our testimony, they are not  
21 accountable even then. How are we to expect them to  
22 be accountable when no one is looking. Of course  
23 not, what are they going to do, they are going to you  
24 know - uh, sorry.

1  
2 In any case, I think I support these legislations  
3 and I would definitely, definitely urge the Council  
4 to move further. In my written testimony, I will be  
5 sharing specifically the model legislations that I  
6 have been doing research on and that I know I have  
7 shared with my Council Member Van Bramer and uhm,  
8 will continue to follow up on this. This is a very  
9 important issue and I think that uhm, the kind of  
10 discussions that Council Member Deutsch and Council  
11 Member Holden have tried to elevate don't necessarily  
12 paint the picture of how it has been for most of us.

13 So, I yield the remainder of my time and thank  
14 you very much.

15 COMMITTEE COUNSEL: Thank you. Next up will be  
16 Betty Maloney followed by Albert Fox Cahn followed by  
17 Aditia Salagamay.

18 SERGEANT AT ARMS: Time starts now.

19 BETTY MALONEY: Good afternoon City Council  
20 Members and especially to Ms. Rivera for her  
21 courageous testimony. And also to the public that is  
22 watching this live stream at home.

23 My name is Betty Maloney, I am a Retired 30-year-  
24 Veteran of Public School as a Public School Guidance  
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1  
2 Counselor, member of American Federation of Teachers  
3 and a former rape crisis counselor staff member.

4 I am here as a representative of Radical Women  
5 and the Freedom Socialist Party. We are hear in  
6 support of Resolution 1538 on removing Police  
7 Commissioner's exclusive authority over police  
8 discipline and also, to point out that it does not go  
9 far enough to make police more accountable and to  
10 curb police violence.

11 We are a multiracial organization engaged in  
12 grassroots activism, aimed at eliminating sexism,  
13 racism, homophobia and labor exploitation. It was on  
14 this basis that our two organizations based in Harlem  
15 allied with the Campaign for an Elected Civilian  
16 Review Board.

17 Over the past five years, we have been listening  
18 and organizing in all the communities of those that  
19 have suffered the most from police brutality and in  
20 fusing their suggestions into the Community Power  
21 Act, which stands for police oversight with elected  
22 review. This legislation will provide a more  
23 comprehensive solution and the ways our lives are  
24 effected by rampant police misconduct and address the  
25

1  
2 ways our lives are effected by rampant police  
3 misconduct and violence.

4 Women, women of color and gender or sex role  
5 nonconforming women are often seen as targets for  
6 sexual harassment by the police. Our reports when we  
7 are victims of crime are not believed or ignored.  
8 Worst of all, too many of us have lost our children  
9 to police violence. Structural racism and sexism  
10 make it virtually impossible for women and especially  
11 women of color to report.

12 Immigrant women rightly fear being deported if  
13 they make a complaint. Transwomen of color are  
14 acutely vulnerable to the torture of being  
15 misgendered and held in male facilities where they  
16 are subject to further abuse. This lack of trust in  
17 the reporting process and the consequences of facing  
18 an unjust court system shows that we need the  
19 Community Power Act.

20 I just have a few more paragraphs. Women are not  
21 silent. African American has always been the  
22 fiercest fighters against brutality of the New York  
23 City police. In the 80's, Elinor Bumpur's daughter  
24 and the mother of 17-year-old Edmund Perry, joined  
25

1 forces to combat police violence and state sanction  
2 murder. They pursued legislation then to curb police  
3 violence in New York City.  
4

5 Today, 40-years later, Wanita Young, mother of  
6 Malcolm X, Malcolm Ferguson who was murdered by  
7 police over 20 years ago and heads up Mothers Cry for  
8 Justices. A strong supporter of the Community Power  
9 Act.

10 SERGEANT AT ARMS: Time has expired.

11 BETTY MALONEY: Can I just have a few minutes, a  
12 minute? The time is right for City Council Members  
13 that align with women, people of color, LGBTQ folks,  
14 immigrants, poor people and all those effected by  
15 police violence to push for an empowered elected  
16 Civilian Review Board that will put the power over  
17 the police in the hands of the community and give us  
18 an elected independent prosecutor that answers to the  
19 people and not to the Mayor or Police Commissioner.

20 Such a bill is outlined in the Community Power  
21 Act and sponsored by Inez Barron, Council Member Inez  
22 Barron and we ask the Public Safety Committee to turn  
23 your political power towards supporting this  
24 comprehensive bill and away from a piecemeal  
25 approach.

1  
2 Historically the time is now for elected  
3 officials to speak truths of power. Thank you very  
4 much.

5 COMMITTEE COUNSEL: I see Council Member Deutsch  
6 that your hand is raised. Do you have a question?

7 SERGEANT AT ARMS: Time starts now.

8 COUNCIL MEMBER DEUTSCH: Yeah, thank you. I just  
9 have a question for Miquel. What was the comment you  
10 made before about Bob Holden and I? This is for  
11 Miquel.

12 MIQUEL RAYOS-VELAZQUEZ: Yes, yes, thank you  
13 Council Member. I was referring to comments you made  
14 specifically, like I know that Council Member – for  
15 example, Council Member Holden earlier during the  
16 hearing brought up that there might be an impact by  
17 the liability legislation in prompting early  
18 retirements in the force.

19 When we know that also last year after there was  
20 a huge amount of overtime due to the over policing of  
21 protests, there was a large wave of retirements from  
22 the police force.

23 So, it's just that one side-ism that I was  
24 noticing that I was pointing out. That you know, you

1 brought up yourself as well earlier on talking about  
2 you know how the police – you know, why can't we  
3 bring up positive things? It's not you know, in  
4 question that the police department has a positive  
5 impact in certain communities but we are talking here  
6 about how to improve and mitigate the negative  
7 aspects of it.

8  
9 So, that's what I would say. You know a  
10 philosophical discussion about what the point of a  
11 police department can be useful but it is not going  
12 to you know improve and actually concretely help the  
13 problems that we are talking about here.

14 COUNCIL MEMBER DEUTSCH: Yeah, thank you very  
15 much. I just want to say that uhm, Councilman Holden  
16 might not be on right now but I have been listening  
17 to the advocates and that's extremely important and I  
18 also see Council Member Yeger on and he is not part  
19 of the Public Safety Committee and he is still on  
20 this hearing listening. And you have many of my  
21 colleagues who scream about police reform and I don't  
22 see any of them on.

23 So, I want to thank our Chair and Steve Levin who  
24 are still on listening to the advocates and including  
25 Councilman Yeger.

1  
2       So, it's extremely important to listen and not  
3 just to pass laws and I just want to say for the  
4 record, the comment you made before that myself and  
5 Bob Holden you know are not always on listening,  
6 which is I have seen many of my colleagues who are  
7 not on right now listening to the voices of people  
8 such as you Miquel and that's extremely important.  
9 Not just to come out and vote for a certain bill but  
10 it's about working together and getting the job done.

11       Okay, so I appreciate your advocacy and I  
12 appreciate your comments. Thank you very much. I  
13 just wanted to say it for the record that my  
14 colleague Council Member Yeger is on the hearing  
15 listening. Thank you.

16       MIQUEL RAYOS-VELAZQUEZ: Thank you and I  
17 appreciate you being here and listening to us as  
18 well.

19       COUNCIL MEMBER DEUTSCH: Thank you so much.  
20 Thank you Miquel.

21       CHAIRPERSON ADAMS: Thank you Council Member  
22 Deutsch. If we are taking attendance, Council Member  
23 Yeger is also on with us. Counsel?  
24  
25

1  
2 COMMITTEE COUNSEL: Next up is Albert Fox Cahn  
3 followed Aditya Salgamay[SP?] followed by Melissa  
4 Michio.

5 SERGEANT AT ARMS: Time starts now.

6 ALBERT FOX CAHN: Hello, my name is Albert Fox  
7 Cahn and I am the Executive Director of the  
8 Surveillance Technology Oversight Project, a New York  
9 based privacy and Civil Rights group and we commend  
10 the Council for taking a number of the actions that  
11 are outlined today. And quite frankly, it should not  
12 be controversial that in a democratic city, not in  
13 the partisan term but simply in a city where we  
14 believe in the democratic process and having our  
15 elected officials hold those who act on behalf of the  
16 people accountable to the people. That we would take  
17 these steps. That we would ensure that at the NYPD  
18 Commissioner is confirmed by the Council. As all  
19 high ranking City officials should be.

20 But beyond that, that we begin to actually  
21 address the decades long need to ensure that our  
22 police accountability process, our discipline  
23 process, the Patrol Guide is worth the paper its  
24 printed on. We have so systemically ignored the  
25 rules that we put on paper that it is unclear what

1 meaning they have for the vast majority of officers.  
2 It is unclear what rules we truly have in effect and  
3 we have a pattern here with the NYPD of failing to  
4 abide by the rules and the laws that it is entrusted  
5 to uphold.  
6

7 And that to me is chilling. It's not just  
8 chilling because of the violence we have seen. It's  
9 not just chilling because of the ways that it impacts  
10 civil rights and the ways that it impacts so many  
11 overpoliced communities. It is chilling because it  
12 calls into question the very legitimacy and integrity  
13 of our form of government.

14 And I think as an example of this, we can take  
15 the NYPD's attempts to circumvent and invade some of  
16 the legislation this very Council has enacted in  
17 recent months and years. We have seen a state of new  
18 laws go into effect, trying to push back against  
19 documented police abuse only for the PD to evade  
20 them.

21 One that I particularly want to highlight is the  
22 public oversight of Surveillance Technology Act or  
23 post-Act, which was passed by this Committee and this  
24 Council last year. Which put into place the first  
25

1  
2 set of reforms on NYPD surveillance in a generation  
3 which went into effect just last month and now in  
4 nine days, the deadline for this current comment  
5 period will run out.

6 And part of why I am fighting this is because the  
7 NYPD rather than abiding by the law that this Council  
8 passed, once again tried to hold itself out there as  
9 a force that only is entrusted to police itself.  
10 They published comments that circumvent the law which  
11 do not tell the public what they are supposed to tell  
12 us. Which really make a mockery of the Council's  
13 effort to order it. To engage in the most baseline  
14 transparency exercise.

15 This should not be partisan. This should not be  
16 polarizing. This should not be something which is  
17 dividing us along these lines. This should be the  
18 most fundamental commitment that any of us have as  
19 people who believe in this city and believe in the  
20 power of this form of government that every agency,  
21 even our police agency, will be held accountable at  
22 the end of the day.

23 Thank you so much for the opportunity to testify.

24 COMMITTEE COUNSEL: Thank you for your testimony.  
25

1  
2 Next up will be Aditya Salagamay followed by Melissa  
3 Michio followed my Robert Malek.

4 SERGEANT AT ARMS: Time starts now.

5 ADITYA SALAGAMAY: Thank you Council and thank  
6 you Chair Adams for convening the hearing and for  
7 giving me the opportunity to testify. My name is  
8 Aditya. I am speaking solely in the capacity of a  
9 long time Manhattan resident. I am not officially  
10 affiliated with any other advocacy organization  
11 although I very much appreciate all their  
12 perspectives offered here.

13 I would like to highlight just two terms I think  
14 that really crystalize what this issue means to me  
15 and in particular why I support every bill on the  
16 table today.

17 One is impunity and the other is trust. Impunity  
18 is something that I feel the NYPD operates with on a  
19 daily basis and it is something that I as a person of  
20 color and as a person who has participated in  
21 protests throughout the city over the last several  
22 months, have seen with my own two eyes.

23 Impunity means seeing a protestor shout a curse  
24 word at you and beating them with a baton without

1  
2 even considering what that means for reprimand later  
3 on. Impunity is the way that Commissioner Shea uhm,  
4 can publicly show his distain for this process, for  
5 this democratic process by refusing to show his face  
6 at any hearing on an important topic like this that  
7 concerns as people have said, his very job itself.

8 I would like to point, in particular to a point  
9 that Mr. Chernyavsky made earlier, Oleg from the NYPD  
10 that I thought was made almost in a bit of bad faith.  
11 He said, with regard to the Commissioner being  
12 approved by the Council, why should that happen for  
13 the NYPD and not for another agency. He pointed to  
14 City Council members.

15 I ask you one question; can a City Council Member  
16 shoot a man? Can a City Council Member beat someone  
17 up on the street? Can a City Council Member do  
18 something like that violates somebodies basic  
19 physical safety? Can a City Council Member threaten  
20 somebodies life? I don't think so but the NYPD can  
21 and that is why the NYPD must be treated as its own  
22 organization. That's why the NYPD must have  
23 authority that sends not from its own Commissioner  
24 but from the people who it serves. And the second  
25

1  
2 point here is trust. I think I speak for many other  
3 New Yorkers, a majority in fact, say that I don't  
4 trust the NYPD when it comes to dealing with my own  
5 personal safety. That comes from my own experience  
6 and it comes from the vast wealth of data we have.  
7 That show the abuses of power. That continue to  
8 happen on a daily basis in this city.

9       And one way to restore that trust is  
10 transparency. You know how do we get transparency?  
11 One example is right here on the table is having  
12 reports on every single traffic stop that happens.  
13 That's only one small way to get further transparency  
14 but that's the sort of thing we need to be doing to  
15 build trust. Another thing I would say is we don't  
16 trust Mayor de Blasio on the police issue. After  
17 what happened to his own daughter, we have seen how  
18 Mayor de Blasio is under the thumb of the PBA and the  
19 Commissioner and has refused to enact significant  
20 reform. As we can see from Chelsea Davis earlier  
21 today, totally unable to provide an affirmative  
22 reason why the Commissioner should have the authority  
23 over punishment. Why the Commissioner should not be  
24 approved by the Council.

1  
2 Another example, I was protesting with the Black  
3 Lives Matter Movement over this summer – sorry I have  
4 one more minute. On 6<sup>th</sup> Avenue by Bryant Park, steps  
5 away from my own office building and I, with my own  
6 eyes observed officers kettle an entire group of  
7 protestors and proceed to beat them. None of whom  
8 were armed or violent in any way, beat them with  
9 their batons. And I was stunned to see two months  
10 later Wanita Holmes, who is claiming to be a voice of  
11 the people here, say publicly that the NYPD has never  
12 used kettling.

13 I am not sure if I am supposed to not believe my  
14 own eyes or what but that's just another example of  
15 how the trust has continued to be eroded over the  
16 last few years with the NYPD. Finally, Council  
17 Member Deutsch, you made a point about sincerity  
18 earlier. As someone who uses the NYC Subway every  
19 single day and without much concern, I was very sorry  
20 to hear that you feel unsafe on the Subway. That's  
21 really hard and I hope we can work together to make  
22 that a little easier for you. But I will say that's  
23 not really what's on the table here. What's on the  
24 table is how we can stop Black and Brown people

1  
2 getting killed and abused every day by this police  
3 department.

4 It's not about helping you come up with  
5 propaganda. How can you come up with positive ways  
6 that we have interacted with the NYPD even if none  
7 exists. It's about debating the bills on the table  
8 that are here to prevent police abuses to create  
9 accountability. To rebuild trust with the community  
10 and to increase transparency so the police officers  
11 can no longer operate with impunity against their own  
12 citizens. Thank you.

13 COMMITTEE COUNSEL: Thank you for your testimony.  
14 Next up will be Melissa Michio followed by Robert  
15 Malek followed by Michael Wetstone.

16 SERGEANT AT ARMS: Time starts now.

17 COMMITTEE COUNSEL: Just one moment, those are  
18 all the witnesses we have on the list at the moment.  
19 If there any other witnesses who wish to testify,  
20 please use the Zoom raise hand function. Thank you.

21 SERGEANT AT ARMS: Time starts now.

22 COMMITTEE COUNSEL: Melissa Michio?

23 MELISSA MICHIO: I am sorry. Good afternoon  
24 Council Members. My name is Melissa Michio. I am an  
25

1  
2 Activist with the Campaign for an Elected Civilian  
3 Review Board. We would like to speak today in favor  
4 of the Resolution which calls on the state to remove  
5 the sole disciplinary authority from Police  
6 Commissioner. Since the NYPD cannot police itself  
7 without bias. However, we want to make clear that we  
8 believe the situation is dire for the city's people  
9 of color. Many of whom face police misconduct and  
10 brutality with very few officers held accountable by  
11 the department or the appointed and powerless CCRB.

12 For every well-known tragedy like the killing of  
13 George Floyd, there are scores of nameless victims  
14 who never see the justice they deserve. For this  
15 reason, much more is needed than this resolution in  
16 order to truly hold police accountable.

17 In the coming weeks, Council Members Inez Barron  
18 and Alicka Ampry Samuel, and Jimmy Van Bramer will  
19 introduce the Community Power Act. Power stands for  
20 Police Oversight with Elective Review. This Act  
21 create a community elected board that finally has the  
22 power to do what is needed to discipline or fire  
23 abusive cops and to truly represent communities that  
24 suffered for far too long.

1  
2           The Act also establishes an independent  
3 prosecutor to prosecute criminal acts by NYPD without  
4 bias. We do not believe it is necessary to wait for  
5 the state to act for reasons that are explained in  
6 detail by a legal brief that we are submitting.

7           We can revolutionize the CCRB now and balance the  
8 scales of power back to the people of the city. This  
9 crisis is a building on fire and reforms such as the  
10 resolution being discussed today, although a step in  
11 the right direction, like bringing a bucket of water  
12 to the fire.

13           The Community Power Act is a fire engine. It  
14 will provide a powerful mechanism for communities to  
15 have a voice in policing and truly hold police  
16 accountable when there are abuses. No one step will  
17 solve the problem we are facing but when it comes to  
18 systemic racism, police brutality, we need to make  
19 sure the steps we are taking are big steps and that  
20 we take them boldly.

21           With that in mind, we ask that you help us  
22 empower communities most impacted by this failing  
23 system and support the Community Power Act. Thank  
24 you.

1  
2 COMMITTEE COUNSEL: Thank you. Next up will be  
3 Robert Malek followed by Michael Wetstone.

4 SERGEANT AT ARMS: Time starts now.

5 COMMITTEE COUNSEL: I don't believe we have  
6 Robert Malek. Let's turn to Michael Wetstone.

7 SERGEANT AT ARMS: Time starts now.

8 MICHAEL WETSTONE: Good afternoon. New York City  
9 Council expected guests and fellow concerned citizens  
10 of New York City, I find a privilege, an honor and  
11 responsibility to address you today. My name is  
12 Michael Rock Wetstone. I am retired MTA New York  
13 City Transit employee who is responsible for  
14 procurement and material distribution throughout New  
15 York City operations.

16 I am a member of a nationwide paid membership for  
17 Motorcycle Rights organization, a more than 3,500  
18 members known as ABATE, which is American Bikers Aim  
19 Toward Education. I am the current President in New  
20 York City of Five Boroughs Chapter of ABATE in New  
21 York State.

22 I support the passing of Bill 1671, also house  
23 resolution 255, which speaks to anti-motorcycle  
24 profiling. Also, in support of bill 1538. I have  
25

1  
2 been an avid motorcycle rider for 40 years and a  
3 motorcycle rights advocate for 12 years. I am  
4 currently working with New York City DOT and NYPD and  
5 fellow New York City motorcycle advocacy groups to  
6 find the cores and to reduce the extremely high  
7 number of motorcycle deaths in New York City, 51 in  
8 2020 despite COVID.

9       However, we have not been able to gain access to  
10 crash data that has the potential to help us to  
11 determine the cause of the crashes and the fatality.  
12 We, the unpaid members of the New York City MAC or  
13 Motorcycle Advisory Council have not been allowed to  
14 see this much needed information from New York City  
15 PD or New York City DOT. If we as experienced riders  
16 and a lot of coaches that some of us are, do not have  
17 access to this data, how can we in light of being  
18 invited to the table for this specific reason, how  
19 can we realistically help reduce the motorcycle  
20 fatalities of which the bulk of them are in South  
21 East Queens.

22       Let me enter a word though of thanks for New York  
23 City NYPD. Their assisted and escorted ABATE of New  
24 York Five Boroughs Chapter to Bar Place Center over  
25

1  
2 the Summer and the Black Lives Matter ride and  
3 protest.

4 Today, I am here also to address the matter and  
5 issue of New York City Police Department traffic  
6 stops and the need for quarterly reports and all  
7 traffic stops. Whether they be vehicles at  
8 roadblocks or checkpoints which seem to be geared  
9 mostly directly toward motorcycles. These reports  
10 should reflect the exact number of stops. The reason  
11 for the stops and the number of tickets and arrests  
12 during these stops and a reasonable and lawful  
13 explanation of the stops. Summonses and/or arrests  
14 should be reported. All reports should be made  
15 available by the end of the last following day of the  
16 next of the next month.

17 In reference to Bill 2220, this is a bill that  
18 sits close to my heart.

19 SERGEANT AT ARMS: Time has expired.

20 MICHAEL WETSTONE: In Brooklyn East New York in  
21 Brownsville area of New York City, I am 60 plus years  
22 of age and have lived under this unjust culture all  
23 of my life and as well as my now grown children and  
24 grandchildren. Thank you for allowing me to address  
25 this Council on Public Safety.

1  
2 COMMITTEE COUNSEL: Thank you for your testimony.  
3 If your name has not been called and you still wish  
4 to testify, please raise your hand using the Zoom  
5 raise hand function.

6 Seeing no hands, I will now turn it back to Chair  
7 Adams for closing remarks.

8 CHAIRPERSON ADAMS: Thank you so much Counsel.  
9 Thank you to everyone, we are now four in a half  
10 hours in and for those of you that hung out with us  
11 today, we have had a very, very good time during this  
12 hearing I think.

13 I would like to thank everyone who participated  
14 in this hearing. Everyone from the public, all the  
15 Administration, NYPD, I would like to thank my  
16 Committee Staff Daniel Ades, Kelly Taylor, Indiana  
17 Porta and Evan [INAUDIBLE 4:33:02] and again, all of  
18 my colleagues who hung out today. Thank you so much  
19 for enjoying this hearing with me. Have a great day.  
20 This -

21 SERGEANT AT ARMS: Chair, Chair? I am sorry.  
22 Can you just give us one second. I have someone in  
23 attendees, I just need to confirm who they are. Just  
24 hold on. We may have -

1  
2 CHAIRPERSON ADAMS: I also see Council Member  
3 Miller has raised his hand.

4 COUNCIL MEMBER MILLER: The Council can go on  
5 with the official business. I would be remiss if I  
6 did not to say – talk about the great leadership that  
7 you exhibited this afternoon on such a critical  
8 topic. I want to thank you for bringing this before  
9 us. I want to thank all those who testified before  
10 this Committee. The fortitude that is required to  
11 sit and listen that you demonstrated for all of us.  
12 The leadership that you demonstrated for all of us is  
13 much appreciated and is what is necessary for us to  
14 really give this the gravity that it deserves and I  
15 think that you articulated the reason why we are here  
16 today. To hear from all sides, to hear how  
17 communities are impacted. All communities are  
18 impacted. I want to thank you again for your  
19 leadership and I just, I needed to say that. Thank  
20 you Madam Chair.

21 CHAIRPERSON ADAMS: Thank you so much Council  
22 Member Miller, my Co-Chair of the Black, Latino and  
23 Asian Caucus. Shameless plug.

24

25

1  
2 COMMITTEE COUNSEL: We do have one more witness  
3 Chair. So, we are going to turn to the caller that  
4 we have.

5 CHAIRPERSON ADAMS: Okay, thank you Counsel.

6 SERGEANT AT ARMS: Time starts now.

7 ROBERT MALEK: Yes, hello? Hello?

8 COMMITTEE COUNSEL: You may begin your testimony.

9 ROBERT MALEK: Oh, great thank you, thank you.  
10 Okay, hey, as far as CCRB, uhm, you know anytime they  
11 I have called CCRB, they weren't particularly  
12 [INAUDIBLE 4:35:15].

13 They sent me over to internal affairs and then  
14 internal affairs kicks it over to the precinct and  
15 then I didn't hear from the precinct and then you  
16 call back internal affairs and they just ignore you.  
17 And the precinct ignores you and I have also had  
18 other experiences where they just kick it back to the  
19 same officers that are part of the wrong doing to  
20 begin with.

21 So, as far as CCRB figure as being down, I am  
22 sure I am not the only one who said, oh, we are not  
23 taking a report call, call internal affairs.

24 And also, I just want to say you know, my name is  
25 Robert Malek and uhm, I have two websites,

1  
2 NYPDcomplaints.org and ACScomplaints.org and I am  
3 developing them on the websites. So, anyone is  
4 welcome to contact me or to see the development. I  
5 have a lot that I am going to be putting up.

6 Also, my input as far as the immunity is this.  
7 You know, uhm, it's not so easy to sue someone. It  
8 just doesn't work that easy. You call up a lawyer  
9 and say hey, I want to sue this person and you are  
10 going to take it on contingency right? Uhm, the fact  
11 of the matter is unless you have a really good case,  
12 a lawyer is not going to take it. And how much is  
13 that going to cost you to hire that lawyer \$50,000?  
14 Especially if you are going up against a police  
15 officer or the government or \$50,000, \$100,000. You  
16 have to understand the government targets not just  
17 Black people. The reason why it works into Black  
18 people I think as a White person is because of class,  
19 of money.

20 They also target the poor. They target the poor.  
21 They target White people, Black people because they  
22 know that they are defenseless. And you know what,  
23 if you try and fight the government in the court as a  
24 prose, the judges don't want prose's there. I tried  
25 this. I studied the law. I have been in federal

1  
2 court. I've been in Court Appeals. I have been in  
3 Appeals. I have been in Article 78. Good luck  
4 filing as a prose against the government or against  
5 some of these people.

6 So, the whole idea of oh, you know, my God there  
7 is going to be a flood of all these lawsuits. I am  
8 sorry, it doesn't work that way. Okay, so you know,  
9 let me also continue over here. Uhm, that let me  
10 give you an example of how corrupt law enforcement is  
11 and it is not just there is a main target of men  
12 between 18-50 but children as well. Any children  
13 under ACS jurisdiction such as foster care are at  
14 risk and then they are abused. The evidence of which  
15 is concealed by New York City and ACS have their own  
16 police.

17 October 2018, I saw my 3-year-old daughter at ACS  
18 Brooklyn 19 Lodges Avenue. She had a week old head  
19 injury. I asked her what happened, she said her  
20 half-brother Joe threw her because she was crying.  
21 That Joe threw her into a wall. This entire visit  
22 and our statements were on audio tape. At the time  
23 she said this in the presence of ACS. You can hear  
24 ACS supervisor tell her to take away my phone since I  
25

1  
2 now had evidence of my child being injured under  
3 their jurisdiction and responsibility because her  
4 family was in a New York City shelter.

5 SERGEANT AT ARMS: Time has expired.

6 ROBERT MALEK: Alright, just a little bit more  
7 please. And my daughter was taken by ambulance to  
8 the hospital. There was an incident report and 77  
9 Precinct closed the incident within 24 hours. Does  
10 no investigation and makes no arrest.

11 ACS then files in court to suspend my visits with  
12 my child because I called 911 for my daughter. The  
13 request from the judge said I would be granted from  
14 recording to obtain any further evidence of my  
15 daughters abuse. Judge Williams then writes an order  
16 I can write, record, or have any witnesses with me  
17 when I see my daughter and further tells me that she  
18 has no jurisdiction through family [INAUDIBLE  
19 4:38:47] either.

20 ACS then places - this is key here. ACS then  
21 places signs up and they have their own police  
22 department. ACS then places signs up - not just me,  
23 but all parents. All parents from having any  
24 evidence of harm to their children while under the  
25

1  
2 ACS jurisdiction. Just come and see on my website,  
3 ACScomplaints.com.

4 Now, Brooklyn Child Abuse Squad does not pick up  
5 this case with my daughter until 47 days later.  
6 Obviously, the head injury could no longer be seen at  
7 this point and they stated in the investigation that  
8 there were no witnesses, no reporters, close the case  
9 and writes on their report that my daughter was  
10 living with me, when my daughter was injured when  
11 meanwhile my daughter was living in the ACS shelter  
12 for at least 70 days. My daughter was not even with  
13 me for all that time.

14 CHAIRPERSON ADAMS: Mr. Malek, I have to  
15 interrupt you and ask you to please wrap up.

16 ROBERT MALEK: Okay, okay, yeah, it's just this  
17 last paragraph here. [INAUDIBLE 4:39:41] ACS were  
18 referenced or concealed furthermore because my  
19 daughter was afraid to say a word as to what happened  
20 to her and kept silent during the forensic interview  
21 when she was now four. They say in their report that  
22 she was a retarded mute.

23 When I had spoken with Detective [INAUDIBLE  
24 4:39:54] Child Abuse Squad, I am told and this is key  
25

1 here. I am told that they can only accept evidence  
2 if it comes from the government. From the Government  
3 or hospital and will not view photos of my daughters  
4 injury nor audio tape regardless of the fact that  
5 they placed in the report, we will reopen if more  
6 information becomes available.  
7

8 So, I just wanted to show that, that they also  
9 want their own government evidence in their own  
10 investigations to do their own investigations and not  
11 have evidence from outside sources to control the  
12 outcome.

13 And once again Rob Malek,  
14 [NYPDcomplaints@albanyacscomplaints.com](mailto:NYPDcomplaints@albanyacscomplaints.com). Thank you.

15 COMMITTEE COUNSEL: Thank you and I will turn it  
16 back to the Chair for closing remarks.

17 CHAIRPERSON ADAMS: Okay, I think I gave some  
18 already but I can give them again. I am just going  
19 to say again thank you to everyone who participated  
20 in this hearing today. My colleagues, the Admin,  
21 NYPD and of course the public. A special thank you  
22 to Elizabeth Rivera for coming on at the top of this  
23 hearing to express herself and to give her story and  
24 the story of her daughter Tonie and her unfortunate  
25 loss. And my heartfelt condolences once again to you

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COMMITTEE ON PUBLIC SAFETY

241

Ms. Rivera. Thank you again to my Committee Staff.  
Daniel, thank you. Daniel Ades, Kelly Taylor, Deanna  
Porter and Ebony Meeks[SP?].

This hearing is now adjourned. [GAVEL]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 7, 2021