

**Testimony of Bishop Mitchell G. Taylor, Board Member,
Civilian Complaint Review Board
Before Finance and Public Safety Committees
of the New York City Council**

May 17, 2012

Chairs Recchia and Vallone, members of the Finance and Public Safety Committees, my name is Bishop Mitchell G. Taylor. I am the City Council designee from the borough of Queens to the Civilian Complaint Review Board. With me today are the agency's Executive Director, Joan M. Thompson, and members of our executive and senior staff. Ms. Thompson and I will be available to answer your questions at the conclusion of my testimony.

The CCRB is an independent board that investigates and mediates police misconduct complaints involving excessive force, abuse of authority, discourtesy, and use of offensive language (or, FADO). The board also conducts public outreach as well as public reporting on the information we gather.

With the agreement between Mayor Bloomberg, City Council Speaker Quinn, the Police Department, and the CCRB, the board was granted prosecutorial authority over all substantiated police misconduct cases in which the board has recommended Charges and Specifications. Under the agreement, the CCRB will establish a unit, known as the Administrative Prosecution Unit (or, APU).

The APU will consist of a chief prosecutor who will serve as the unit head; a deputy chief prosecutor; 10 attorneys who will be handling the cases; five investigators to assist the attorneys with trial and witness preparation; one

clerical staffer; and a programmer and a policy analyst to manage a new database and produce regular reports that increases transparency with respect to prosecution of misconduct complaints.

The 2013 budget stands at \$10,549,398. It authorizes a headcount of 164 full-time positions, of which 20 positions will be in the APU.

I will now outline two issues that the board wants to bring to the attention of the committees. The first is the status of the new prosecution unit and the second is an update on the high vacancy rate affecting the Investigations Division.

The Administrative Prosecution Unit

On April 2, 2012, the APU agreement between the mayor and the speaker was formalized in a Memorandum of Understanding between the Police Department and the CCRB. The agency then submitted a "New Need" request to the Office of Management and Budget. In that memorandum, we requested funding for 18 positions in addition to the two that were already funded through the pilot program. We also made a one-time capital budget request to upgrade our Complaint Tracking System.

On May 3, 2012, Mayor Bloomberg included a portion of our new need request into the Executive Budget for 2013. Although the Executive Budget authorizes the APU positions the CCRB requested, it only contains half the recurring funding the board requested to pay for these positions. The board requested a recurring funding of \$1,561,449 and the Executive Budget included half the funding requested. It included \$799,755 for fiscal 2013 and \$780,725 for fiscal 2014 and the out-years.

We understand that the administration and the City Council are committed to ensuring that all the resources needed for the CCRB to carry out the APU's responsibilities will be reflected in the Adopted Budget. The board appreciates the commitment of the speaker and the council to the mission of the CCRB.

In addition, the Capital Budget provides the CCRB with \$700,000 to pay for a one-time upgrade to the CCRB's complaint tracking system. The database update will facilitate management of, and public reporting on, the cases that the APU handles. It will also update a 12-year old database that has served the agency well but requires some necessary upgrading.

The actual transfer of prosecutorial power will occur after the CCRB and the NYPD amend their respective rules. The rules take effect 30 days after they are published in the City Record.

The gap between authorized and actual headcount in the CCRB's Division of Investigations

I would now like to discuss with you how the hiring restrictions enacted since September 2010 have had an adverse impact on the agency's investigative operations. I want to bring to your attention that our situation is critical, particularly in light of the implementation of the APU. The success of the APU rests on the strength of our Investigations Division and, as I will show, our high vacancy rate is having a detrimental effect on our ability to thoroughly and timely investigate complaints.

Since the start of fiscal 2012, the CCRB's vacancy rate has been over 10%. In March, with a vacancy rate over 20%, the CCRB received authorization

from City Hall to hire 20 investigators. Fifteen investigators have been hired and five additional investigators are scheduled to start on June 4, 2012.

As of May 1, 2012, the authorized headcount was 142 positions but we had an actual headcount of 123. This is a 13% vacancy rate. Given our normal double-digit attrition rate, we are concerned that the vacancy rate will continue to increase. Last year we lost 20 investigators from May to September and the year before that we lost 27 within the same timeframe.

Our data shows that, to close as many cases as we currently receive, we need 93 line investigators with no vacancies. We currently have 75 on staff while the authorized headcount for fiscal 2013 stands at 92.

The effect of the hiring restrictions is already noticeable in our fiscal 2012 performance. The high vacancy rate has resulted in a 32% increase in the open docket of the Investigations Division, from 1,551 cases in July 2011 to 2,051 cases at the end of April 2012.

The increase in the open docket has resulted in an increase in the average number of days it takes the agency to investigate a substantiated complaint. The average number of days is now 373, which is 36 days longer than at the end of fiscal 2011 – an 11% increase. As a result, the percentage of substantiated cases referred to the Police Department for discipline that were 15 months or older has increased from 14% to 29%. The Statute of Limitations is 18 months and the concern of the Board is that investigative delays may make the prosecution of police officers who commit misconduct ever more difficult because of the time constraints associated with our investigations.

In summary, we are seeking your support to ensure that the APU is fully funded. The board respectfully requests that the council restore to the CCRB's fiscal 2013 budget that portion of the APU funding not included in the Executive Budget. Specifically, the amount of restoration for the APU we seek is \$799,755 in fiscal 2013. In addition, we also ask the council to discuss the matter of our vacancy rate with the administration. The goal is to receive authorization to hire investigators at the authorized headcount level at the same time we are staffing the prosecution unit.

Thank you for your time and continued support. Ms. Thompson and I will be happy to answer any questions you may have.