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Meeting of

The Civilian Complaint Review Board

December 14, 2011
10:15 a.m.

40 Rector Street
2nd Floor
New York, New York 10006

DANIEL D CHU, ESQ., Chair
LAURA EDIDIN, Deputy Executive Director, Chief of
Investigations and Legal Affairs

PUBLIC MEETING AGENDA:

- 1: Call to order
- 2: Adoption of the minutes
- 3: Report from the Chair
- 4: Report from the Executive Director
- 5: Committee reports
- 6: Old business
- 7: New business
- 8: Public comment

Reported by Eileen Mulvenna, CSR/RMR

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BOARD MEMBERS PRESENT WERE:

Tosano J. Simonetti,
Youngik Yoon, Esq.
Bishop Mitchell G. Taylor,
Mary E. Mulligan, Esq.
Jules A. Martin, Esq.,
Janet Cortes-Gomez, Esq.
James Donlon, Esq.
David G. Liston, Esq.
Dr. Mohammad Khalid,
Alphonzo A. Grant, Esq.

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THE CHAIR: I'm going to call this meeting to order.

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Good morning, everyone. I look over and it looks like kind of a shallow bench this morning. I don't know if people are out doing holiday shopping or what it is, but for those who are here, faithful attendees, welcome.

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The first order of business is the adoption of the December minutes.

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MR. SIMONETTI: Make a motion.

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THE CHAIR: Do I hear a second?

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MR. DONLON: Well, I have a correction.

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THE CHAIR: Yes, you have the floor.

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MR. DONLON: Page 28, there is a reference to Public Safety Committee and the chairman, and the name is Peter Warren. Obviously, that's a typo, I think. So I would move to correct that to reflect the name Peter Vallone, Jr., as the chair of the Public Safety Committee of the City Council. Otherwise, I think that's the only issue with the minutes.

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THE CHAIR: Let's take a vote on

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that amendment.

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Do I hear a second for that?

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MR. KHALID: Second.

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THE CHAIR: All in favor?

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IN UNISON: Aye.

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THE CHAIR: It's unanimous.

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Any abstentions? Anyone out

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there? So one abstention.

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Just so the two board members

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joining us now know where we're at, we're

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in the middle of the adoption of minutes.

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Commissioner Donlon pointed out that

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there was a slight typographical mistake in

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the minutes. The chair of the Public

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Safety Committee should be correctly stated

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as Peter Vallone, Jr. And we took a vote

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on that.

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We're now ready to adopt the rest of

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the minutes. Do I have a motion?

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MR. KHALID: So moved.

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THE CHAIR: Any second?

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MR. DONLON: Second.

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THE CHAIR: All those in favor.

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IN UNISON: Aye.

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THE CHAIR: Any objections?

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Any abstentions? One abstention.

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And you'll note that the abstention

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is our newest board member Janette

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Cortes-Gomez. We want to welcome her here.

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She is an attorney in private

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practice. She holds an undergraduate

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degree from Canisius College and has a JD

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from SUNY Buffalo School of Law from 1999

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to 2004. She was an attorney with the

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Administration for Children Services with

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the City of New York. And since that time,

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she's in private practice with a focus, I

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believe, in family court matters.

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So I want to thank the Mayor's

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office for filling this very crucial and

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vital spot. Now we are only down to two

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vacancies which is a good thing.

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So again, welcome to

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Ms. Cortes-Gomez.

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(Applause from the audience.)

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MS. CORTES-GOMEZ: Thank you.

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THE CHAIR: You'll also notice that

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our Executive Director, Joan Thompson, is

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not here today. Regretfully she had an

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injury. She has a fracture in one of her

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ankles and a chipped bone in the other. So

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she's going to be out for a considerable

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period of time we foresee.

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And unfortunately, I can't say that

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she was chasing down bad guys or following

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up on investigative leads. My

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understanding is she was trying to

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negotiate steps while doing some holiday

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shopping.

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But we all wish her well. And if

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anyone wants to send her a card or

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something, feel free to send it here and we

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will make sure that it gets into her hands.

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But with us today is Laura Edidin,

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who is our newly minted Deputy Executive

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Director of Investigations and Legal

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Affairs, and the Executive Director's

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report we're sure will be very capably

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provided by Ms Edidin this morning.

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All right. Soon after our November

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meeting, the budget was announced by OMB.

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And as of the November 2011 financial plan,

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there are three items that have a direct

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effect on this agency's budget and

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operations.

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First of all, the administration

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granted our request to baseline the

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Administrative Prosecution Unit. So we're

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really thrilled about that. That's

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something that we were just very hopeful

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would happen. It has now happened. We

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want to thank all those people that

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supported us, people in the Council, civic

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groups and other people that took on that

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issue and really made it happen.

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The administration has funded two of

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the positions, that being the lead

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prosecutor as well as an investigative line

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for an investigator dedicated to that unit.

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Secondly, I want to report that we

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did receive some cuts. We received cuts of

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about \$353,000 for fiscal 2012; \$121,000

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for fiscal 2013; and 95,000 in 2014 and the

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out-years. The cuts for 2013 and the

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out-years turn out to be lower than the

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target of 709,000 which is what we

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anticipated facing before the official

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announcement.

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And finally, another bit of bad news

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for us is the administration has at this

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point mandated that all hiring continue to

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be frozen except under some very narrow

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circumstances. And at this point, those

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exemptions have not been deemed to apply to

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our agency and we are working on trying to

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get some hires. Because at this point, the

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CCRB, as many of you know, has a vacancy

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rate agency wide of 18 percent, which is at

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a historical high at this point.

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All right. You'll also note that

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today is the last meeting of the board for

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calendar year 2011. So I want to touch on

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some of the highlights.

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It's been a year of many

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accomplishments and I'd like to focus on

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five major areas: The APU, the disposition

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of misconduct cases, the mediation,

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outreach and case processing.

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But before I get to that, I want to

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take a moment to thank the members of the
board for their continued commitment and
their continued hard work.

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In 2011, this board closed nearly
6,000 case, met during 75 panel sessions,
had 12 board meetings and conducted
numerous committee meetings.

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I also want to thank the staff. The
staff has been asked to do more with much
less in terms of resources and manpower,
and it's something that is not always
mentioned, but we on the board and the
senior staff do take note that the
performance numbers speak for themselves.
And it really is a testament to the fact
that everyone is pulling together in these
difficult times and I hope for continued
success in that regard. So thank you very
much to the staff.

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Moving on, I want to talk first
about the APU. As I mentioned earlier
during the budget discussion, the APU pilot
program is now officially the
Administrative Prosecution Unit. All

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right. It was put into effect, as many of you guys know, in the fall of 2010. It has been deemed a success now and we have permanent funding for the two positions that I've previously mentioned.

As most of you also know, prior to 2011, only NYPD attorneys prosecuted civilian complaints substantiated by this agency. So in 2011, with administration funding for the pilot program, the CCRB APU pilot program was established along with support from the NYPD.

May 24th, 2011, for the first time, Laura Edidin, who is our APU attorney at the time before she was promoted to Deputy Executive Director, served as the lead solo prosecutor for the misconduct cases stemming from one of our substantiated cases. I'm happy to report that last week the Police Commissioner, upon the recommendation of the Deputy Commissioner of Trials, found that officer guilty. That's the first official outcome of one of her solo trials.

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And for the calendar year 2011, the CCRB has participated in a total of nine trials in the Police Department's Trial Room. Three of those nine have been solo prosecution cases. And we hope and expect that there will be more to come.

The next issue I want to touch upon is the Police Department disposition of CCRB misconduct cases. In 2011, the NYPD imposed disciplinary action in a higher proportion of civilian complaint cases substantiated by this board than it did in previous years.

The percentage of cases in which the Police Department imposed discipline has increased from 61 percent in 2009 to 78 percent in 2010 and to 80 percent in 2011.

We attribute a lot of this to better communication between the two agencies and also the hard work of the staff, and we expect that to continue.

The next area I want to talk about is our mediation program headed by Lisa

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Grace Cohen. This agency continues to

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resolve increasing numbers of cases through

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that program and it continues to provide

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civilians with the opportunity to speak

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with an officer in a facilitated discussion

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in an attempt to resolve the underlying

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conflicts that generate these complaints.

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The total number of cases resolved

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through the mediation program increased

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from 2.5 percent of all closures in 2009,

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moved up to 5 percent in 2010, and reached

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6 percent in 2011.

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In 2009, the CCRB closed 204 cases

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through mediation.

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2010, that number was 341.

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And for January through November of

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2011, this agency closed 357 cases through

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mediation.

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So just to really bring that home,

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that's a 5 percent increase in just two

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years and it's very remarkable, and we hope

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and expect that to continue as well.

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Moving on to outreach, we've also

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expanded our outreach program. The

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Outreach Unit increased a number of public presentations from 49 in 2009 to 95 in 2010 to a whopping 152 for the period between January and November 2011. The majority of these presentations were held at schools, churches, community groups, and with particular focus on the New York City Housing Authority and its locations.

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For the first time, also, we received a grant to enhance the scope of outreach and the grant was from the New York Community Trust which funded the CCRB's Ambassador Internship Program. This was partnered up with the East River Developmental Alliance and provided internships to young college-bound residents of public housing developments in District 1 in West Queens. And for that, we have Bishop Taylor to thank as well as Dawn Fuentes who headed the efforts in the Outreach Unit.

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We also redesigned our basic brochure and the annual report to make them more engaging to the public. The brochure

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is now available in Spanish, Russian,

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Chinese and Italian. We expect to complete

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a Korean version, Arabic, Haitian Creole

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and others in the near future. So that's

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really been spearheaded by Linda Sachs, and

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we thank her for her efforts in that.

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In terms of creating a new and youth

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friendly palm card in Spanish and English,

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that's also credited to Ms Sachs. It's

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entitled What to do if a Police Officer

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Stops You. And again, that was a big hit

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when we went to the conference down in New

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Orleans, the NACOLE conference. It's

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something that many jurisdictions do not

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have. People took great interest in that,

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and I believe that the knowledge that is in

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that placard is going to be shared in other

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jurisdictions as well, and that's certainly

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something that we applaud.

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Finally, I want to talk about our

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case processing performance. The CCRB has

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resolved cases more quickly and lowered the

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number of cases in its open docket. We've

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reduced our open docket by 21 percent, from

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3,358 cases in 2009 to 2,786 cases in 2010 and finally to 2,637 cases as of November of 2011.

The average time to complete a full investigation has decreased by 19 percent, from 349 days in 2009 to 299 days in 2010 and finally to 283 days in 2011.

The average time to complete a substantiated investigation has also decreased by 12 percent, from 394 days in 2009 to 357 days in 2010 and to 345 days in 2011.

So as a result, the percentage of substantiated complaints closed at 15 months or older has decreased by half, from 36 percent in 2009 to only 18 percent in 2010 and 2011.

Again, I think what needs to be emphasized and cannot be overemphasized is that the performance numbers are going up while the resources and personnel numbers have been going down, so I think that's great and we hope to be able to continue that.

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Finally, in terms of the focus for the future, we want to focus on maintaining the improved performance levels that I just spoke of. We're also going to be reaching out to the administration to see how we can find a solution to our historically high vacancy rates. And also, in particular, I want to try to address three initiatives here.

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The first would be the strength in our presence in the Police Department's Trial Room through the APU. The second is to expand the CCRB's training of investigators by enhancing the on-the-job training and also increasing the frequency of on-site training programs.

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And for that, we look to Roger Smith to spearhead that initiative, to will try to make sure that the lessons that are learned in the Department Trial Room are used to fine-tune our investigations, and that our investigators are at the top of their game at all times.

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And finally, the third point to

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continue to broaden the reach of our CCRB

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mediation and outreach programs. I think

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particularly in this kind of economic

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environment where we're being asked to do

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the same if not more with less resources,

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the mediation program and the outreach

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program are very good programs to increase

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the efficiency while not sacrificing the

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quality of resolving these disputes.

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So sorry for the long-windedness,

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but that's the highlights for 2011.

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And now I'm going to --

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MR. SIMONETTI: I want to compliment

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you on some of the good things that the

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agency is doing. And I think the staff

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deserves a hand really for the decrease in

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the number of people we now have compared

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to what we used to have.

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(Applause from the audience.)

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MR. SIMONETTI: Mr. Chairman, when

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you were going over that list of things, it

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kind of reminded me the number of reports

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we have done in the past, you know, and

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instead of trying to remember it and

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2 enumerating them, what I would like to ask
3 Marcos to do is he can give us a list of
4 the reports that we did in the past to see
5 if any of them need updating, because some
6 of them may still be relevant to what's
7 happening today in terms of our cases. And
8 maybe we can have that discussion at the
9 next board meeting.

10 THE CHAIR: That's an excellent
11 point. And to address that, we have been
12 speaking also with some of the
13 investigative staff, the team managers and
14 whatnot and getting some of their ideas in
15 terms of updating and coming up with a new
16 report. That's something I think
17 definitely the board can get behind.

18 Mr. Soler will take note of
19 that and follow up on that.

20 MR. TAYLOR: Mr. Chairman, the
21 report is very robust. Thank you for that.

22 I also want to highlight that you
23 mentioned that resources are down and
24 performance is up. I don't want to send
25 the message that we're able to perform our

1
2 best work under these conditions, so that
3 we should definitely still push to make
4 sure that we can fill those vacancies and
5 not give the impression to the
6 administration or anybody else that we're
7 performing at optimum performance levels
8 with this kind of vacancy rate, although
9 the staff, as Tony pointed out and you
10 pointed out, are probably working
11 double-time and harder to keep up with
12 caseloads. I want to make that point for
13 the record.

14 THE CHAIR: I think that's an
15 excellent point. And I would say that
16 particularly in the recent absence of the
17 Executive Director, I have been down at
18 40 Rector Street more than usual. I've
19 spoken to some of the staff members, and I
20 can tell you that to your point, these
21 people, the investigators and some of their
22 managers and supervisors, are really taking
23 on the challenge. I know for a fact that
24 some of these people are actually taking
25 their own time not getting compensated in

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doing that.

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So particularly in a city agency such as ours, which is small and facing these very trying times, I think that's to be really applauded. And when times get better, we hope to give them more than just lip service recognition, but to reward them accordingly, because there are a couple of standouts really that come to mind where these people have been taking their own time just to get the job done.

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So, you know, in terms of the public and the administration and City Council, I certainly don't want to give the false impression that we're running under optimal conditions, but we are showing that when we're put in a corner, we're fighters as an agency and we are maintaining this level of performance. But this is not the optimum situation and hopefully we will get those vacancies filled as soon as possible.

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MR. SIMONETTI: Mr. Chairman, in light of the fact that they gave us authorization to go ahead with the

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Prosecution Unit is indicative of their

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confidence in this agency. It certainly

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appears that way to me. And I think that's

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a great sign.

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This could be a real big turning

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point in this agency. I got to tell you,

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when this thing first came as an idea, that

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we're going to get a prosecution unit, Bill

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and I used to say -- Judge Bill and I used

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to say that never going to happen in our

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lifetimes. I certainly didn't think it was

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going to happen in my lifetime, but I got

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to tell you, I think this is a major

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turning point for this agency.

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And I don't think -- it's going to

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be in pretty short order if they continue

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to give us resources even if only for that

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unit -- by the way, which is not our bread

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and butter. Our bread and butter is doing

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investigations. But if they continue to do

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that, you may see a dramatic shift in the

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numbers of cases that we're going to be

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handling over in the trial room, which

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would be good. Maybe we can come back and

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take the facilities of the old in this

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building and be used in those trial rooms,

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then we can have the whole operation under

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one roof.

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THE CHAIR: And to your point,

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there's a lot more that we can do not only

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in terms of the Administrative Prosecution

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Unit but also the policy recommendations

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and the reports and other things, but the

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budget crunch has really made us focus on

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the core mission, which is to do the

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investigations. And, hopefully, when

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things get better, we'll be able to get a

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full house going and really expand in those

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different areas so that we're not just

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processing cases. And so I couldn't agree

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more with your point.

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DR. KHALID: I want to thank,

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Mr. Chairman, Laura that she has run the

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first case in the police trial room.

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And I applaud you for that,

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Ms. Edidin.

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THE CHAIR: Anyone else?

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All right. In that case, I'm going

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to turn the floor over now to Laura Edidin

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to give the Executive Director report.

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MS. EDIDIN: And just briefly, with

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the permission of the Chair, I wanted to

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introduce another new member of the

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investigative staff. Lauren Allerti

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started last month as the new Assistant

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Deputy Director for Investigations. Lauren

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prosecuted juvenile cases in family court

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before coming here, which gives her an

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excellent grounding in other criminal law

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issues that we face here. Lauren will be

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providing legal view for the teams and also

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will be second seating cases in the trial

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room.

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So we welcome you, Lauren.

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(Applause from the audience.)

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MS. EDIDIN: Now for the Executive

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Director's report. In November, the CCRB

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received 457 complaints. This is 45 fewer

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complaints than it received in

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November 2010 when the agency received 502

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complaints, or a 9 percent decrease in

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complaint activity.

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From January to November 2011, the CCRB received 5,529 complaints, or 569 fewer complaints than it received for the same period of 2010 when the agency received 6,098 complaints. This represents a 9 percent decrease in complaint activity during that time. This is the lowest number of complaints received for this period since 2004 when the board received 6,196 complaints by year end.

In November, the board closed 572 case. There were 143 full investigations and 353 truncated investigations. Year-to-date, the board has closed 5,610 cases. Last year the board closed 6,058 cases at this same time.

The year-to-date truncation rate is 62 percent, three points higher than in the same period in 2010. The year-to-date substantiated rate is 8 percent, three points lower than in the same period in 2010. Year-to-date, the board has substantiated 144 cases.

Officers and civilians participated

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in 14 mediations, of which 13 were

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successful. Year-to-date, there have been

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136 mediation sessions resulting in 126

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successful mediation. The success rate for

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mediation is 93 percent. The rate for last

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year was 94 percent. Year-to-date, the

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board closed 231 cases as mediation

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attempted. Approximately 6 percent of all

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board closures have been through our

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mediation program.

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In November, the board closed 182

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more cases than it received resulting in a

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6 percent decrease in the size of the

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docket. The docket stands at 2,637 cases.

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About 96 percent of our open investigations

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were filed within the last year and

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65 percent were filed in the last four

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months. Of the open cases, 634 are

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awaiting panel review, or 24 percent of all

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open cases; 1,797 cases are being currently

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investigated; and 206 cases are in the

23

mediation program.

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By date of occurrence of incident,

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ten cases in the CCRB's open docket are

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18 months or over, or .3 percent of the

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open docket. This is four fewer cases than

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the previous month. Two cases are on DA

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hold; three cases are pending board review;

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three were filed late in the process; one

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delayed as a result of an officer being on

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military leave; and in one case the board

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requested further work after the case was

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submitted to the board panel.

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In October, the Police Department

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disposed of 17 cases. The Department

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disciplined 16 officers, including two who

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were found guilty at trial, and did not

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discipline one officer who was found not

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guilty at trial. Two officers negotiated a

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plea of guilty and 13 officers received

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either Command Discipline or Instructions.

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The year-to-date discipline rate is

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80 percent.

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The Department did not decline to

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prosecute any cases in October. This is

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the first time since April 2010 that there

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had been no so-called DUPs. The department

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declined-to-prosecute rate year to date is

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17 percent.

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MR. SIMONETTI: Mr. Chairman, I was remiss before. If I can just ask that maybe we can have a moment of silence for the officer who was killed in the line of duty in Brooklyn.

THE CHAIR: Sure.

(Moment of silence.)

MR. SIMONETTI: Thank you.

THE CHAIR: Thank you.

MR. SIMONETTI: You know, in Laura's report, I'm sorry to hear that we're down 3 percent in the number of substantiated cases from last year, but I think the good news is that the cases we're sending over, the substantiation rate -- the substantiated cases we're sending over, the DUP rate has decreased dramatically in its last report down to zero. And I think that was a big concern not only of the board, but I know Chris has expressed that concern over a number of months.

So I mean, that's the good news. So I think it points to the fact that the

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2 investigations are being done much more
3 thoroughly and they're much more complete.

4 Maybe we can -- we can deal with the
5 substantiation rate being a little lower,
6 but the fact that we're being much more
7 successful in the cases we're sending over
8 is very important.

9 THE CHAIR: Absolutely.

10 Turning now to committee reports,
11 are there any committees making reports?

12 MR. DONLON: I was going to say
13 Reports and Recommendations Committee that
14 the semiannual report is done. It looks
15 terrific, I think. And it should be
16 available I'm sure for anyone attending.
17 There it is.

18 THE CHAIR: Thanks.

19 MR. DONLON: It's a good job.

20 THE CHAIR: Thank you.

21 MR. SIMONETTI: The MIS committee,
22 I'd like to report that we did a trial
23 videotape conferencing and it's a great
24 improvement. Yuriy, thank you very much.
25 It's a great improvement over the last set

1
2 of video conferencing that we attempted, and
3 this one went rather smoothly. And you can
4 see all the participants and you can talk,
5 and I thought it's certainly a great idea,
6 particularly for people who can't get here.

7 THE CHAIR: My sense is the
8 technology is finally catching up. There's
9 far less in the way of glitches. I don't
10 think that it's an equivalent or a
11 substitute for face-to-face panel meetings,
12 but I do think that particularly when
13 certain board members are absent or have an
14 extended absence for any reason, this is a
15 great way to get these panels done without
16 holding up the panel and just killing off
17 the stats in terms of the delays.

18 I believe that Brian Connell has
19 already indicated that it's in the works in
20 terms of making that accessible to all the
21 board members, and I know that the MIS Unit
22 here will be reaching out to all the board
23 panelists and in instructing them how to
24 log on, how to utilize it. And we
25 certainly think that it's a new tool in our

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2

arsenal. So kudos to that.

3

Any other committees?

4

Is there any old business?

5

Any new business?

6

In terms of new business, I will

7

share that we tentatively have a meeting

8

with the Police Commissioner scheduled for

9

the first half of January. So hopefully at

10

that point, Joan Thompson will be back on

11

her feet or at least be able to make it in

12

for that as well, but we look forward to

13

meeting with the Police Commissioner.

14

And for the members of the board, if

15

there are any issues that you would like to

16

take up with the Commissioner, please start

17

thinking about them and putting them

18

together so that we can have as

19

constructive a discussion and productive

20

discussion as possible.

21

All right. If there's nothing new

22

from any of the board members, we're going

23

to open this up to public comments.

24

Mr. Dunn.

25

MR. DUNN: Good morning, everyone.

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2

Welcome, Miss Cortes-Gomez, welcome to the

3

CCRB.

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MS. CORTES-GOMEZ: Thank you.

5

MR. DUNN: Since I don't know you

6

and I heard your biography, but I would be

7

just interested in hearing a little bit

8

about your experience dealing with police

9

issues and your interest on being on the

10

board.

11

MS. CORTES-GOMEZ: I'm very thankful

12

for the Mayor for hiring me, obviously, for

13

the Board and the staff for welcoming me.

14

At this time, I do not wish to take

15

up anyone's time. As the Chair indicated

16

my experience, I worked at ACS. I'm

17

currently in private practice in family law

18

issues.

19

So other than that, I'm free to

20

speak with you I guess afterwards if you

21

wish; but I don't want to bore everyone

22

with my experience or lack thereof.

23

MR. DUNN: Well, I don't want to put

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you on the spot and I'll be happy to talk

25

to you afterwards. I do hope you

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2

understand this is a public board, it's a

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city agency, and my guess is no one would

4

be bored by hearing about your interest in

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police issues, but I'll take you up on your

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invitation to talk to you afterwards.

7

With respect to the semiannual

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report, I think it looks terrific, also.

9

And I see the agency is pushing hard to get

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these reports out more quickly, which is

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great.

12

And the one comment I would have is

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that I think that the reports have gotten

14

much better in terms of being presentable

15

to the public and to their readability.

16

The one thing they are missing

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substantively is any discussion about

18

broader issues beyond case processing.

19

And I talked about this repeatedly

20

and, Tony, I'm sure we'll hear your plug

21

about reports and maybe that plug will turn

22

into some new reporting that will turn into

23

some new text in the semiannual reports,

24

but I think that's an important omission.

25

A couple of things I would say about

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2

the reports. One, on the average

3

numbers -- and, Dan, you mentioned this and

4

this comes up every time -- it's clear that

5

there have been more outreach events and

6

that's great. What's not reported and what

7

I think would be helpful to know is how

8

many people actually participating in those

9

outreach events. I know that's a difficult

10

thing to get people to show up for these

11

things. And I know that you're trying hard

12

in that, but I think it's important to know

13

not only how many events are actually

14

happening, but how many people are showing

15

up and receiving intervention. And I would

16

encourage you to add that to the reporting.

17

The other thing that I think is

18

important -- and Tony and Jules in

19

particular, I'm interested in knowing your

20

thoughts about this -- one thing that the

21

semiannual highlights, and it's an issue --

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it's been an issue for a long time, is the

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high percentage of cases where instructions

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are being given to officers and that counts

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as discipline.

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As I understand it, the department does not treat instructions as formal discipline. I stand to be corrected on that; but in my mind, there's a question particularly given the large percentage of cases that are being disposed of through instructions and are being treated by the agency as discipline, like a CD or a finding of guilty after trial.

I would like there to be a little more discussion about the appropriate categorization of instructions. And that doesn't have to be a conversation now, but it's something that I would like for there to be some conversation about.

The APU, that's great. Good for you, Dan. Congratulations. The bad news, of course, is the hiring freeze is in place, so it's a bit of an apparent victory. Let's hope that they release hiring for that particular unit and get more people in there.

I think Laura's experience there is terrific for the agency. I thought it

1
2 was -- Tony, you described it as a major
3 turning point. I personally thought it was
4 great to sit in the trial room and to see
5 Laura there and the CCRB will be there
6 doing a trial in May. It just completely
7 changes the dynamic around these
8 prosecutions, I think.

9 And whether or not it will mark a
10 major shift in Police Department/CCRB
11 public relations, Tony, I don't have any
12 idea. It's nice to hear you think that's
13 possible. I hope that turns out to be the
14 case, but we will see. Getting people in
15 there, obviously, in those positions so
16 they can do the trials is going to make a
17 huge difference. I hate to say it, but I
18 don't think the fight is over and let's
19 hope City Hall can do something about
20 raising those positions.

21 Tony, I think it's -- maybe you and
22 I are the only ones that can appreciate the
23 irony of your saying you and Bill talked
24 and were commenting about how you thought
25 it might not ever happen in your lifetimes.

1

2

I'm not entirely sure, I believe that Bill was a supporter of this, but whatever the situation, here we are, it's terrific that we have it and I appreciate the sardonic smile on your face.

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MR. SIMONETTI: He had some legal issues with it because as you know, the Court of Appeals said all cases had to go to the trial room, and I believe that was his concern.

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MR. DUNN: It did indeed say that.

MR. SIMONETTI: It did indeed say that?

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MR. DUNN: Yes, it absolutely said that. That wasn't the issue. It wasn't the issue where they were going to be tried. The issue was who was going to try them.

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MR. SIMONETTI: Right, but I think we've come a long way in that in the fact that they've authorized us to hire both a lead prosecutor and an investigator, I think that's a very important step.

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MR. DUNN: Don't get me wrong, I

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think that's completely progress.

MR. SIMONETTI: By the way, in response to your question about instructions, instructions, by the way, is tailored after the military discipline. You know, in the military you have everything from a general court martial all the way down to a company commander admonishing someone. And I think it's a very, very important step or very important element in discipline, because no one knows their people better than their commanding officers. And if a person has mis-stepped and committed a minor violation, the first thing -- you don't want to slap him with a command discipline and take a day's vacation or two days or whatever the case may be. You reserve that the offenses that are a little more serious.

So I think giving somebody an admonishment or a warning or instructions is a very, very important thing. Positive discipline works. Retraining people, which is part of instruction, by the way,

1
2 retraining, very, very important. And I
3 think you have to leave that up to the
4 discretion of the commanding officers of
5 those people because they're in the best
6 position to call it.

7 MR. DUNN: Well, I don't disagree
8 with any of that. I'm not sure that means
9 either, one, that an instruction is a form
10 of discipline like the other categories of
11 discipline it is being lumped with.

12 And secondly, what you are saying
13 raises a question about how much
14 instructions actually correspond to the
15 severity of the offense.

16 And that's a reasonable question.
17 And I think it would be interesting to see,
18 for instance, how instructions correspond
19 to the severity of the offense as
20 determined by the CCRB.

21 My guess is there's probably not a
22 very strong correlation between the sort of
23 discipline you're proposing or the severity
24 that you view the offenses being and the
25 situations in which people are getting

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instructions as opposed to other things. I

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don't know that. And that is something I

4

think -- I think it's important not in

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principle, but because such a large

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percentage of the sub cases are resulting in

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instruction. The single biggest category

8

of disposition by far.

9

So I think we're in the same place.

10

I just think it warrants some further

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examination.

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MR. SIMONETTI: Well, I think this

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board should take credit, they should

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applaud themselves. And I want to be

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excluded from that applause for the fact

16

that we went -- and you were the person

17

that used to come in here every month and

18

lay it out to us about the DUP cases and

19

there's been a vast improvement. Whether

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it's instructions -- and by the way, I

21

notice a tremendous amount of command

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disciplines being given out, which we never

23

had in the past.

24

So I think -- and that was because

25

of this board, and the Executive Director

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asking and requesting, us meeting with the

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Police Commissioner and expressing our

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feelings about some of this, and Bill was

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very vocal about this when we went. So

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we've come a long way in a short period of

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time.

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MR. DUNN: Well, I don't want to

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burst any bubbles at this time, but when

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you look actually at the DUP rate, it is up

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for the year considerably over last year.

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It is true they had the benefit of a very

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good November. I not sure how that --

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actually, I think it's October. I'm not

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quite sure how it came to pass. I agree

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there are zero DUPs in that month.

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The DUP rate for the year,

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17 percent, that's a big number. So I

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agree they had a good October. I'm not

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sharing your view about how the DUP process

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changed fundamentally.

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MR. SIMONETTI: I'll pay close

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attention to it.

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MR. DUNN: I know you will. You

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always do, Tony.

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I do also want to say about the monthly report, another area I think there's been considerable progress, the 18-month statute of limitation cases, there has been a consistent decline in that, and I think that's terrific. And I assume that's a product not of happenstance, but a conscious effort to address those cases.

And you're not at zero, but we're pretty close to zero over the cases over which you have some control, and that's a terrific number.

A couple other things. In the videotape conferencing, I'm interested in that. I'm glad to hear that it is better.

But, Dan, as you suggested, there is a concern perhaps about that -- about some of the limitations even if the technology is perfect. I don't know if the board has a policy about the circumstances in which people are allowed to have panel meetings in lieu of by videotape conference as opposed to meeting in person. I can easily see that it would be very tempting to stop

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traveling to meet with each other and just
do these videotape conferences, and I think
that would not be for the better.

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So I don't know if you have any
guidelines about that, but I would
encourage you, if you don't, to think about
something that makes it clear that that can
only happen in unusual circumstances.

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The PC meeting, I always love to
hear about the PC meeting. Unfortunately,
what we typically hear is that it is
happening or has happened and nothing about
the particulars of it.

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And I don't expect anyone to say I
said this and he said that, but I will
say -- and I'll raise it again at the next
monthly meeting -- I think it is incumbent
upon the board to report to the public in
advance of the meeting about some of the
topics that are going to be discussed. I
think that should be a topic of public
discussion and not Executive session.

24

25

And I think after the meeting, it is
incumbent upon the board to do some

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reporting about the meeting. Again, not

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expecting, though I would welcome it, he

4

said, we said; but I think there needs to

5

be some reporting about that.

6

Finally, on the highlights for the

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year, Dan, it's unfortunate that our press

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friends are not here today. And I think

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that's, of course, because of the tragic

10

shooting earlier this week and they are

11

covering that.

12

You don't need me to be giving you

13

advice about public relations or press

14

relations; however, at the next meeting in

15

January, I am going to wait to respond to

16

what you describe as the highlights of the

17

year. I'm not going to come back with the

18

lowlights, but I will respond to all that

19

and I would to talk about the performance

20

of the agency over the year.

21

You might want to consider doing a

22

slightly different version of that in

23

January with a larger group of people here,

24

because I think what you said is very

25

important. I think the broader public

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2

needs to hear that. And I think it is

3

terrific that you are taking the initiative

4

to talk both about the highlights of the

5

year and the sort of priorities for the

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coming year in particular. And I think

7

that's something people should hear and

8

would like to hear, and I certainly intend

9

to address it at the next meeting.

10

Thank you very much.

11

THE CHAIR: Thank you.

12

If there are no other members of the

13

public looking to make a statement, this

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will conclude the public session and we'll

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break into Executive session after a brief

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recess.

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C E R T I F I C A T E

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

I, Eileen Mulvenna, CSR/RMR, and Notary Public within and for the State of New York, do hereby certify that the foregoing proceedings were taken before me on December 14, 2011;

That the within transcript is a true record of said proceedings;

That I am not connected by blood or marriage with any of the parties herein nor interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of December, 2011.

Eileen Mulvenna, CSR/RMR