

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MEETING OF
THE CIVILIAN COMPLAINT REVIEW BOARD

February 9, 2011

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

ERNEST F. HART, ESQ., CHAIR
JOAN M. THOMPSON, EXECUTIVE DIRECTOR

PUBLIC MEETING AGENDA:

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

1

2 BOARD MEMBERS PRESENT WERE:

3

4 DANIEL D. CHU, ESQ.

5 JAMES DONLON, ESQ.

6 DR. MOHAMMAD KHALID

7 DAVID G. LISTON, ESQ.

8 JULES A. MARTIN, ESQ.

9 BISHOP MITCHELL G. TAYLOR

10 YOUNGIK YOON, ESQ.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE CHAIR: Let's get started. First item
2 on the agenda is the adoption of the minutes of
3 last meeting. Is there is there a motion? Do I
4 hear a motion?

5 COMMISSIONER TAYLOR: So moved.

6 THE CHAIR: Can I hear a second?

7 COMMISSIONER KHALID: Second.

8 THE CHAIR: All in favor?

9 IN UNISON: Aye.

10 THE CHAIR: Let the record reflect that it
11 was unanimous.

12 Next item on the agenda, I would like to
13 give a year-end report. Bear with me. It's a
14 little long, but it kind of encapsulates our
15 last year.

16 I would like to take this opportunity to
17 thank the board and our very able staff for
18 performing extraordinarily well in 2010 under a
19 complex set of circumstances.

20 In this 2010 year-end report, I would like
21 to highlight both the most notable trends and
22 the areas in which the agency improved its
23 performance.

24 I would also like to mention aspects of our
25 operations in which we need to do better.

1 The board received fewer cases in 2010:
2 6,476 cases, a 15 percent decrease over 2009, or
3 1,184 fewer cases. This is the lowest number of
4 case filings since 2004 when 6,196 complaints
5 were filed.

6 The number of complaints within our
7 jurisdiction filed directly with the CCRB and by
8 phone decreased by more than 20 percent in the
9 last year.

10 Although the board closed 13 percent fewer
11 cases than in 2009, it closed more cases than it
12 received: 7,041. The second half of the year
13 had less activity: 3,151 cases were closed
14 versus 3,890 closures in the first half, a 19
15 percent decrease. Among other factors, the
16 three vacancies in the board could account for
17 the downturn.

18 As a result, the agency reduced its open
19 docket by 572 cases; a 17 percent reduction from
20 2009. Equally important, the number of cases in
21 the open docket 16 months or older, as measured
22 from date of incident, decreased 59 percent,
23 from 73 to 30 cases. We will continue to work
24 hard to reduce the agency's open docket.

25 The board now has 1,046 cases pending board

1 review, 37 percent of the open docket, and
2 reducing this number will be a priority for
3 2011. The board reduced its truncation rate
4 from 64.4 percent to 60.7 percent.

5 Last year the board authorized the
6 Executive Director to close complaint-withdrawn
7 cases and she closed 743 cases, or 10.6 percent
8 of all closures. The average time to complete a
9 full investigation decreased by 14 percent, from
10 349 cases in 2009, to 299 cases in 2010. In the
11 first half, the average time was 314 days; in
12 the second half, the average time was 277 days.

13 It is important that we, the board and the
14 staff, continue to do everything we can to
15 complete investigations in a timely way.

16 The length of time to complete a
17 substantiated investigation also fell, from 373
18 days in 2009, to 357 days in 2010, a 4 percent
19 reduction.

20 As a result, the percentage of
21 substantiated cases which were 15 months and
22 older fell from 71 in 2009, 36 percent of all
23 substantiated cases, to 45 in 2010, 17 percent
24 of all substantiated cases.

25 We only referred three cases to the Police

1 Department that were 18 months and older in
2 2010. These are important performance
3 indicators that we continually strive to
4 improve.

5 In 2010, the number of mediated cases rose
6 from 118 to 157, or 33 percent. The number of
7 cases closed as mediation-attempted increased
8 from 86 to 184, or 114 percent. Mediation
9 closures made up for 4.8 percent of all board
10 closures, 2.3 percentage points higher than in
11 2009. We will continue to work towards
12 increasing these numbers in 2011.

13 In addition, the Mediation Unit received
14 652 mediation referrals in 2010 compared with
15 424 in 2009. The percentage of officers who
16 accepted the offer to mediate rose from 74 in
17 2009 to 82 percent in 2010. That's up from 68
18 percent in 2008. The acceptance rate for
19 civilians also increased, from 50 percent in
20 2008 to 53 in 2009 and 56 percent in 2010.

21 I want to thank the Executive Director,
22 Joan Thompson, and the Director of Mediation,
23 Lisa Cohen, for their leadership in this area
24 and for the hard work of the staff in the
25 Mediation Unit.

1 The Outreach Unit increased the number of
2 outreach meetings from 49 in 2009 to 95 in 2010,
3 a 94 percent increase. Equally important, these
4 meetings target a more diverse audience than in
5 the past. The board itself visited three
6 boroughs and members of the board participated
7 in many events.

8 I would like to thank our Director of
9 Community Relations, Dawn Fuentes, for her good
10 work. I would also like to thank our
11 investigative staff for their excellent
12 performance in 2010.

13 As we all know, the number of front-line
14 investigators has fallen in recent years as a
15 result of reductions in our budget. In December
16 of 2009, the CCRB had 123 active investigators,
17 including supervisory and managerial staff. In
18 December of 2010, the number was 109.

19 In spite of this, investigators have
20 reduced their docket by 520 cases, or 26
21 percent, and closed cases 18 percent faster. As
22 a result, the number of cases pending
23 investigation aged 13 months or older was just 1
24 percent of the docket.

25 First Deputy Executive Director, Meera

1 Joshi, Roger Smith, Laura Edidin, Cecelia
2 Holloway, Dennis McCormick, Robert Rodriguez,
3 Bob Lonergan, Winsome Thelwell and the entire
4 staff in the Investigations Division deserve our
5 thanks for this tremendous performance.

6 The success of the agency in 2010 is also
7 due to the support staff: Deputy Executive
8 Director for Administration Brian Connell, MIS
9 Director Yuriy Gregorev, General Counsel Graham Daw,
10 Marcos Soler Director of Strategic Initiatives, Director of
11 Case Management Denise Alvarez, and last but not least, our new
12 Director of Communications Linda Sachs.

13 That is my year-end report.

14 Next on the agenda is the report from the
15 Executive Director.

16 MS. THOMPSON: In January 2011, the CCRB
17 received 456 complaints, or 116 fewer complaints
18 than it received in January of 2009 when the
19 agency received 572 complaints. This represents
20 a 20 percent decrease in complaint activity.

21 Total intake, the sum of CCRB cases and
22 referrals to other jurisdictions, decreased by
23 12 percent, from 1,379 to 1,209.

24 In January 2011, the board closed 411
25 cases. 158 cases were full investigations, 244

1 were closed as truncated cases, and 9 cases were
2 mediated. The year-to-date substantiation rate
3 was 11 percent. The truncation rate is 60
4 percent.

5 With the board closing this month 37 fewer
6 cases than it received, the agency's open docket
7 shows a 1 percent increase in relation to the
8 previous month's open docket. The docket stands
9 at 2,823 cases.

10 About 97 percent of our open investigations
11 were filed within the last year. Of the open
12 cases, 1,046 cases are awaiting panel review, or
13 37 percent of all open cases; 1,546 cases are
14 being currently investigated; and 231 cases are
15 in the CCRB's mediation program.

16 By date of occurrence of the incident, only
17 13 cases in the CCRB's open docket are 18 months
18 or over, or .3 percent of the docket.

19 In December 2010, the Police Department
20 disposed of 19 cases. The Department
21 disciplined 11 officers with Command Disciplines
22 and Instructions. In eight cases, the
23 Department declined to prosecute the CCRB cases.

24 In 2010, the Department closed cases
25 against 275 officers. 214 officers were

1 disciplined, 60 officers were not disciplined,
2 and one case was filed. The discipline rate was
3 78 percent.

4 The Department-declined-to-prosecute rate
5 was 17 percent.

6 THE CHAIR: Are there any committee
7 reports? Any old business?

8 COMMISSIONER TAYLOR: Yes, the Outreach
9 Committee and, again, I'm glad that you
10 highlighted the work of Dawn Fuentes, because
11 she's been doing a great job. We are, as you
12 know, working on a program to create CCRB
13 ambassadors, that we believe will be a very
14 important peer-to-peer tool for communities.

15 We have a meeting set up with the New York
16 Community Trust in a week or so with the funding
17 agent that will be looking at our proposal and
18 we feel confident that they are going to be
19 favorable in terms of our award.

20 THE CHAIR: Bishop, what exactly, just to
21 highlight, what exactly is the objective of the
22 program?

23 COMMISSIONER TAYLOR: Right. So the
24 objective, as we see it, when you look at
25 it, it's really interesting because it's going

1 to give inner city kids a chance to become
2 affiliated by internship with a City agency.

3 And what these young people in the 11th and
4 12th grade will do, is they are going to learn
5 -- in Public Housing neighborhoods there's a
6 different culture. Young people feel that the
7 police are antagonistic towards them rather than
8 being helpful or public servants to the
9 community.

10 So part of it is really changing that
11 culture and helping them understand what stop
12 and frisk is, what community policing is, why
13 someone would have to have identification if
14 they run out of their apartment and run down to
15 the corner store, why that may be important.
16 How they should be poised if they are questioned
17 or stopped by officers. And understanding that
18 these public servants work for the community.

19 Now, arming these young people with this
20 kind of information, giving them this kind of
21 leadership training and skills will then allow
22 us to deploy them into communities of color and
23 allow them to have peer-to-peer interventions
24 and group meetings with young people, sharing
25 with them how they should posture themselves in

1 interacting with the Police Department.

2 THE CHAIR: The purpose of it is to
3 basically improve community/police relations?

4 COMMISSIONER TAYLOR: Yes. The objective
5 is to improve community/police relations through
6 peer-to-peer intervention. Because young people
7 listen to young people. And if young people are
8 having these conversations in the playground, if
9 they are having these conversations in the
10 cafeteria, if they are having these
11 conversations on the park bench in the
12 development, you know, it's different than us
13 having the town hall and saying this is what you
14 need to do.

15 So training the CCRB ambassadors, you know,
16 gives us a voice in these urban communities.

17 THE CHAIR: So if that is funded then I
18 guess we will have more discussion as to how
19 that is going to work.

20 COMMISSIONER TAYLOR: Yes.

21 THE CHAIR: Just in passing, I was in
22 Albany last month and I ran into a public
23 official, who in the past, has been somewhat
24 critical of CCRB.

25 And really he complimented the -- he

1 complimented me, but basically complimented CCRB
2 in the fine work that we have done for the past
3 year.

4 I mentioned that to Joan in passing and a
5 couple of board members, but it was really
6 gratifying that even folks who are not -- who
7 are sometimes critics, which is certainly the
8 way we learn how to do our jobs better, that
9 it's recognized, not only by you, but by others,
10 that CCRB is a vital, hard-working organization
11 that is doing the job that it has been mandated to
12 do.

13 Notwithstanding all the politics and other
14 issues surrounding it, but we are -- the job
15 that we've been asked to do, I think is
16 recognized, that we are doing well.

17 Is there any new business?

18 COMMISSIONER DONLON: I'm not sure it's new
19 business, but I see we have the semiannual
20 report. I haven't asked anyone, is it
21 available?

22 MS. THOMPSON: Yes.

23 COMMISSIONER DONLON: I thought I would
24 mention that on behalf of the Reports Committee

25 THE CHAIR: How fast can we do that? Did

1 we get it out any faster?

2 COMMISSIONER DONLON: Honestly, I don't
3 know that we did.

4 MS. THOMPSON: I don't know the exact time,
5 but we did get it out faster.

6 THE CHAIR: How are we going on the next
7 report that is due already?

8 COMMISSIONER THOMPSON: I know the staff
9 is working on a draft, but I haven't
10 seen the draft yet.

11 THE CHAIR: Well, if that comes out soon
12 that will definitely be a lot faster. That's
13 good. We are getting there.

14 COMMISSIONER THOMPSON: We will make a
15 concerted effort, however, these things take time.

16 COMMISSIONER TAYLOR: I don't know if this
17 is new business or old business, but I want to
18 mention that the report that you gave was very
19 comprehensive and insightful and I wish that
20 which could circulate that more widely.

21 I don't know if there's a plan to or
22 whatnot, but I felt that it really outlined in
23 detail what has happened over the last year.

24 You, as being Chair, certainly, I think,
25 increased our capacity in helping us to think

1 outside of the box. We want to congratulate
2 you, Mr. Chair.

3 THE CHAIR: Thank you, Bishop. We will be
4 sending out some press release at some point in
5 the future. Just waiting for a little more
6 information to see how we are going to craft
7 that.

8 We sent out a press release last week or
9 the week before about the prior report. So as
10 we catch up, we will be more timely with these,
11 not only with our report, but with our press
12 releases to reflect realtime hopeful.

13 Anything else? Mr. Dunn?

14 MR. DUNN: Okay. Good morning. As a
15 sometimes sceptic or critic, I suppose -- Ernie,
16 you can't say a public official and not tell us
17 who it is. All right. Well, after the
18 Executive Session, hopefully somebody will let
19 it out.

20 Let me, in terms of the ambassadors
21 program, I do think there are a lot of questions
22 about the details of this. We are certainly
23 very supportive of the CCRB working with you.
24 But I do think a lot of questions get raised
25 about deploying youth to represent the CCRB to

1 go out and deal with the public.

2 I, for one, am looking forward to hearing
3 more of the specifics. And I think if there is
4 a written document that spells out the specifics
5 I would really encourage the board to make that
6 available because I think the public will have a
7 real interest in that.

8 Going to the reporting, the semiannual
9 report, I do want to thank you for putting it
10 out. I will start with the thing that I know
11 some people rolled their eyes last two times
12 when I mentioned this: The cover is great.

13 Nice to see something without the police on
14 the cover, not the Parks Department, not the
15 Tourism Department, but the Police Department,
16 that's great.

17 THE CHAIR: Mr. Dunn, it was like the
18 Statute of Liberty.

19 MR. DUNN: It was. But we are into
20 liberty, part of our name. This is great. And
21 I do appreciate -- I hear what you were saying
22 loudly and clearly, that you are working to get
23 these things out more quickly.

24 I think that the public will have a lot
25 more interest in these things and the press will

1 have a lot more interest in these things if they
2 are current.

3 With that, let me actually turn to the 2010
4 numbers. And for now I want thank you for doing
5 a review, but I think it's important that there
6 be a year-end review.

7 The one thing, the big area you left out,
8 and I don't want to assign too much significance
9 to this, but this is part of my occasional
10 critique of the board. But you spend a lot time
11 of time talking about board activity and no time
12 talking about the Police Department, which is
13 obviously a big part of what you are supposed to
14 be doing.

15 Let me start with the board activity. I do
16 see that the complaints are down significantly
17 last year. And we don't assign any particular
18 significance to mid-year swings in numbers, and
19 we will see how the trend continues. It's
20 actually hard to figure out what to read into
21 complaint activity.

22 I do note, however, just as an historical
23 matter, the complaint activity from last year is
24 still 50 percent above the complaint activity
25 from 2001, when the new administration came in.

1 And we will see how complaints go. But there
2 still continues to be a relatively very high
3 number of complaints.

4 And we continue to be concerned about the
5 stop and frisk numbers, as you point out in the
6 semiannual report, and I think this is reflected
7 in the ongoing reporting: Stop and frisk
8 remains the biggest source of complaints to the
9 agency.

10 And as I said before, I hope the agency
11 continues to pay more and more attention to stop
12 and frisk because I just think that is a big
13 part of your business.

14 The truncation rate, while it went down
15 from last year to be sure, I think this
16 continues to be a huge source of concern. It's
17 the fifth year in a row when you've had a
18 truncation rate over 60 percent.

19 There are now, for the last five years,
20 over 23,000 complaints that have not been fully
21 investigated. And I know there is, you know, a
22 lot of discussion about how to handle truncated
23 cases, but I do think, given the huge number of
24 complaints that are being truncated, and the
25 huge percentage of cases that have been

1 truncated, that the agency really should be
2 spending time trying to figure out why such a
3 large percentage of cases are being truncated.
4 I think that is an ongoing concern.

5 I also know about the substantiations,
6 Ernie, and you didn't mention this: You
7 substantiated the highest number of complaints
8 against police officers since 2006. There were
9 260 cases where these substantiation complaints
10 are sent over the Police Department.

11 That is the highest percentage of
12 substantiations in many years, going back to
13 before 2005, with a 10.7, almost 11 percent
14 substantiation rate.

15 So I think it's important to keep in mind
16 the actual number of cases where police officers
17 are found by the board to have engaged in
18 misconduct. And that number is quite
19 significant from last year.

20 Looking at the Police Department, I think
21 there continue to be sources of serious concern.
22 I want to start with the DUP rate, which for the
23 first half of the year the DUP rate went way
24 down, and I think people recognize I was saying
25 very good things about the Police Department in

1 terms of the percentage of cases where they were
2 declining to prosecute.

3 Your report, and, Joan you mention this in
4 your report: I think you were talking about
5 December, but you reported the 17 percent DUP
6 rate. That is for all of 2010, I believe.

7 MS. THOMPSON: Yes, it is.

8 MR. DUNN: And that compares to a 27
9 percent DUP rate from the year before, which
10 looks like a significant decline. The problem
11 is for the first half of the year the DUP rate
12 was about 6.7 percent. And then it went up to
13 almost 25 percent for the second half of the
14 year, culminating in a DUP rate in December of
15 42 percent of the cases that were closed by the
16 Department in December.

17 And so it looks like the first six months
18 of last year were an aberration in terms of the
19 DUP rate coming down. And I think the board has
20 been concerned about that. And I think there's
21 been a fair amount of interactions with this
22 Police Department around the DUP rate.

23 But I think there's a fair amount of
24 success for the first half of the year. It
25 looks to me like that has eroded substantially.

1 And I worry that we are going back to where we
2 were the last three years when the DUP rate was
3 close to 1/3 of all the cases you sent over.

4 And I think that it's really important
5 that, not that you're not, but that we pay close
6 attention to that and that that be noted.

7 In terms of discipline, Joan, you also
8 mentioned the 78 percent discipline rate.
9 Again, I think that was for all of 2010.

10 MS. THOMPSON: Yes.

11 MR. DUNN: And I just think it's important
12 to understand that the discipline rate that you
13 were calculating includes instructions. I do
14 not view, we do not view instructions as being a
15 form of discipline. It's not formal discipline
16 within the Police Department.

17 That accounts for a huge number of the
18 cases that are counted as discipline. You take
19 out instructions, the discipline rate for the
20 last year drops to 28 percent. Because there
21 were so many case of instructions.

22 And I think that's important to keep in
23 mind, because as part of what you send over to
24 the Department, of course, you send a
25 recommendation for discipline. It's very rare

1 that you send over recommendations for
2 instructions. And instructions constitute the
3 biggest portion of what the Department is doing
4 in the cases that it claims it is imposing
5 discipline.

6 And then finally, and this is going back to
7 the board, Ernie. You have rightly pointed out,
8 I think the board has done a terrific job on the
9 age of the docket and getting rid of the 18-plus
10 cases. That had been a very significant
11 problem.

12 I do note, however, and I'm sure that you
13 have noticed this, at the end of November there
14 were five 18-plus-month cases on the agency's
15 docket. The last two months there have been 10.
16 And so I don't know if things are creeping up a
17 little bit, but I know that you worry, but I
18 think it is essential that you try to get down
19 to zero, if at all possible, the 18-plus-month
20 cases that you have.

21 And the fact that there were three
22 substantiated cases, I understand, that went
23 over last year in the Department that were
24 18-months-plus. And those are three cases, of
25 course, they can't do anything to the officer.

1 And I don't have any idea what the circumstances
2 were of those three cases. And it might have
3 been outside of your control. But obviously the
4 prospect of having some cases for which the
5 statute of limitations has expired is a serious
6 concern and I think you need to pay close
7 attention to that. Thank you very much.

8 THE CHAIR: Mr. Hardy?

9 MR. HARDY: Good morning. I would like to
10 start off by saying I filed two complaints. One
11 last year and one the year before last. And I
12 don't feel my complaints were answered. I had
13 certain concerns. They were not addressed. And
14 also I feel that they didn't investigate
15 thoroughly. And when I called the investigator
16 they didn't give me information that I
17 requested.

18 Also, my wife, who works for the Police
19 Department, however, is not a police officer,
20 when they came to our house, they did not send a
21 captain to the apartment like they should have,
22 and I get assaulted on one of the occasions, and
23 we don't know who the officers was. We do want
24 them to be identified.

25 And also on another occasion when they came

1 into my house they broke down my bedroom door.
2 That has not been addressed. I was concerned
3 about if they had a warrant or not. That has
4 not been addressed.

5 So it's like they showed up and they did
6 whatever they want and, according to this, they
7 said they were unidentified.

8 THE CHAIR: Sir, what I'll ask you to do,
9 after the meeting, if you would speak to Rob
10 Rodriguez and give him the information and see
11 what we can do about it, okay? Okay. Thank
12 you.

13 THE CHAIR: Yes?

14 MR. JONES: Mr. Chairman, I heard you say
15 that you were a prosecutor. Then it's a small
16 world. The name Andonis Morfesis should ring a
17 bell, by the satellite, the District Attorney's
18 satellite in Harlem, told me that Andonis
19 Morfesis is of Greek extraction, not Italian
20 extraction. He was successfully prosecuted for
21 his activities while owning that property.
22 Although, I don't know if it's necessarily
23 related to this property, or ownership of this
24 property, but I understand he served some --
25 Andonis Morfesis served some serious time. I

1 mention that because Esther Scheckman acquired
2 the property from Andonis Morfesis. There's
3 another typing error on page 61 --

4 THE CHAIR: Well, we can deal with that
5 later.

6 MR. JONES: -- line 12. I did not use the
7 word S-H-O-T. That is a typo. I did not say
8 S-H-O-T. Esther Scheckman, she commandeered the
9 meeting, though.

10 THE CHAIR: Thank you, sir.

11 MR. JONES: I never said S-H-O-T.

12 THE CHAIR: Thank you. Anybody else wish
13 to speak? After adjournment of this meeting we
14 will go into Executive Session in about 10
15 minutes. Thank you.

16

17 (Whereupon proceedings were concluded).

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, Dale W. Tice, RPR, do hereby certify that the within transcript is a true record of the proceedings.

I further certify that I am not employed by nor related to any of the party to this action.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of February, 2011.

Dale W. Tice, RPR

