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2 MEETING OF

3 THE CIVILIAN COMPLAINT REVIEW BOARD

4 -----

5 January 11, 2012

6 10:08 a.m.

7

8 40 Rector Street

9 2nd Floor

10 New York, New York 10006

11

12 DANIEL D. CHU, ESQ., CHAIR

13 LAURA EDIDIN, DEPUTY EXECUTIVE DIRECTOR

14

15 PUBLIC MEETING AGENDA:

16 1. Call to Order

17 2. Adoption of Minutes

18 3. Report from the Chair

19 4. Report from the Executive Director

20 5. Committee Reports

21 6. Old Business

22 7. New Business

23 8. Public Comment

24

25 Reported By: Erwin Fried

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2 BOARD MEMBERS PRESENT WERE:

3 JAMES DONLON, ESQ.

4 DR. MOHAMMAD KHALID

5 YOUNGIK YOON, ESQ.

6 TOSANO SIMONETTI

7 ALPHONZO A. GRANT, ESQ.

8 JULES A. MARTIN, ESQ.

9 DAVID G. LISTON, ESQ.

10 JANETTE CORTES-GOMEZ, ESQ.

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1 THE CHAIR: All right. I'm going to
2 call this meeting to order.

3 First order of business is the adoption
4 of the December 2011 minutes. Do I hear a
5 motion?

6 MR. LISTON: So moved.

7 MR. DONLON: Second.

8 THE CHAIR: Okay. All those in
9 favor please say aye?

10 IN UNISON: Aye.

11 THE CHAIR: Any objections?

12 Any abstentions?

13 The minutes are adopted.

14 I want to welcome everyone to the
15 January meeting and wish everyone a happy
16 new year.

17 We're going to start off by
18 reporting briefly on a meeting we had
19 yesterday morning with Police
20 Commissioner Raymond Kelly. I'm happy to
21 report that the majority -- a very large
22 proportion of the board, in fact, nine
23 out of eleven active board members were
24 able to attend that meeting.

25 During the course of the meeting,

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1 which lasted well over an hour, we
2 discussed aspects of the APU being
3 baselined. We talked about issues going
4 forward in terms of the evaluation and
5 also whether there's going to be any
6 changes to the guidelines. We also
7 discussed the dup rate which is quite
8 favorable for the year, but we're always
9 looking in terms of how to improve it,
10 that is, further improve that number.

11 We also talked about the OMNs, which
12 stands for other misconduct noted.
13 That's something that we send over to the
14 department, and that's something that
15 they then use to discipline their own
16 officers. It's usually for things in the
17 nature of lack of a memo book entry, lack
18 of documentation of a strip search, stop
19 and frisk. And it's something that they
20 seem to be taking quite seriously.

21 During the course of our meeting we
22 also discussed information sharing,
23 access to their paperwork and video and
24 audio, improving overall communications
25 between the two agencies. Also, the

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1 possibility of having our board members
2 address police officers at the patrol
3 borough level.

4 And, finally, we talked about the
5 board vacancy which has been vacant since
6 Commissioner McCann resigned in September
7 of 2010. So I am happy to report that
8 there is someone who is being proffered
9 to City Hall. I believe the vetting
10 process should be taking place. And we
11 hope that he or she will be joining us in
12 short order.

13 I also wanted to give a brief update
14 on Occupy Wall Street. Since the
15 beginning of the Occupy Wall Street
16 demonstrations, the CCRB has received
17 approximately thirty-four complaints,
18 falling within the traditional FADO
19 jurisdiction. Twenty-seven other cases
20 have been determined to fall outside of
21 our jurisdiction. And, again, I want to
22 note, that these numbers are subject to
23 change as we continue to investigate
24 these matters. And as more complaints
25 possibly are being filed stemming from

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1 current Occupy Wall Street events.

2 We also previously reported that we
3 received a significant number of contacts
4 which approximate about 850 or so
5 contacts that originated from people who
6 observed things that they wanted to make
7 note of by watching TV or on the internet
8 or other alternative sources. And so
9 those are also being monitored by us as
10 well.

11 Of the thirty-four or so FADO
12 complaints, in nineteen of the cases,
13 neither arrests were made, nor were
14 summonses given. In fourteen cases
15 arrests were made for either a violation
16 or a crime. And in one instance
17 summonses were issued.

18 At present, although the number is,
19 of course, subject to change, the number
20 of identified complainants is
21 approximately seventy-four. The number
22 of current subject officers is about
23 forty-one. In terms of allegations being
24 investigated twenty-nine of the forty-two
25 allegations are for improper use of

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1 force. Non-specified complaints of
2 physical force are the most common.
3 There are also other force allegations,
4 including the use of the night stick,
5 improper use of a vehicle, use of blunt
6 instruments as a club, chokehold,
7 handcuffs being applied too tightly, use
8 of an animal and other forms of force.
9 Finally, in addition, there is an
10 offensive language allegation. And the
11 other twelve allegations are all for some
12 sort of abuse of authority.

13 So, you know, as you will probably
14 know from watching the news there was
15 some more activity last night, and this
16 is a situation that we, of course, take
17 very seriously and continue to monitor.

18 Last -- during the last board
19 meeting I touched upon some of the
20 highlights of 2011. And I wanted to just
21 do a quick recap at the suggestion of
22 some of those in attendance, and also to
23 tee it up for any kind of public comments
24 after I'm done with my comments.

25 I noted that 2011 was a year of many

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1 accomplishments, I highlighted five in
2 particular. The APU, the disposition of
3 misconduct cases, mediation, outreach,
4 and case processing.

5 The first item was the APU pilot
6 program. And as I just said a moment
7 ago, the funding was now baseline. So it
8 is now no longer just a pilot project.
9 And, again, we thank all those involved
10 for helping us make that happen. And as
11 you know, on May 24th, 2011, for the
12 first time, one of our own attorneys
13 served as the solo lead prosecutor of a
14 misconduct case. And just recently the
15 Police Commissioner signed off and
16 approved the finding where the officers
17 were found guilty after trial. The two
18 officers involved in that complaint were
19 penalized with a loss of ten vacation
20 days each.

21 Through the APU and the second seat
22 program in 2011 the CCRB at this point
23 has participated in nine trials in the
24 Police Department's trial room, three of
25 which have been solo prosecution cases.

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1 The next item that I touched upon
2 was the disposition of our misconduct
3 cases. In terms of January -- from
4 January of 2011 through November of 2011,
5 the discipline rate was eighty-one
6 percent, which is a historical high. All
7 right, this is three points higher than
8 in 2010. And the percentage of cases in
9 which the department declined to
10 prosecute has decreased from an average
11 of thirty percent from 2007 through 2009,
12 to now sixteen percent in 2011.

13 In terms of the mediation program,
14 we continue to resolve an increasing
15 number of cases through mediation. We
16 closed 376 cases through mediation in
17 2011. The total cases resolved increased
18 from 2.5 percent of all of our closures
19 in 2009 to five percent in 2010, and
20 continues to increase to now six percent
21 in 2011.

22 In terms of outreach we've also
23 considerably expanded our outreach
24 efforts and programs. The CCRB's
25 outreach unit increased a number of

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1 public presentations from forty-nine in
2 2009, to ninety-five in 2010, and 164 in
3 2011. The focus of our outreach has also
4 diversified in terms of the audience that
5 we are trying to reach out to.

6 And, finally, case processing. We
7 resolved cases more quickly. And we've
8 lowered the number of cases that are in
9 our open docket. The average time now to
10 complete a full investigation has
11 decreased by nineteen percent from 349
12 days in 2009 to 299 days in 2010. And
13 further reduced to 283 days in 2011.

14 Also, the CCRB has reduced its open
15 docket twenty percent from 3,358 cases in
16 2009 to 2,786 in 2010, and, finally,
17 2,669 in 2011.

18 So as an agency, our goal is
19 obviously to maintain and keep up these
20 improved performance levels despite the
21 challenges and despite the loss of
22 revenue and personnel. However, I do
23 need to point out that the staff is
24 working at full capacity; they are
25 stretched to the limit. It's certainly

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1 not easy to maintain this level; we
2 appreciate the efforts -- the ongoing
3 efforts of the staff. But what I want to
4 avoid is the constant fear that if the
5 numbers spike and we hit a wall, they're
6 not going to be able to react as
7 necessary. And I also want to ensure,
8 obviously, that the quality of the cases
9 doesn't suffer because of the need for
10 them to do more with less.

11 In furtherance of that, in December
12 we reached out to City Hall. We wanted
13 to see if there was any kind of proposed
14 solution that they can assist us with to
15 address the approximate twenty percent
16 vacancy rate that we're now facing.

17 Towards that end, we are still
18 interviewing. We have candidates that
19 are clearly informed that there is a
20 hiring freeze in effect. But our goal is
21 to have people at the ready for when we
22 get the word that the hiring freeze will
23 be lifted.

24 And, finally, one of the focuses
25 that we've been working on as

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1 demonstrated through what I just spoke
2 about in the highlights, is better
3 communications, not only with the public
4 but also with the NYPD.

5 So that's just a quick recap of
6 2011. And we look forward to facing the
7 challenges that are coming down the pipe
8 in 2012. But I also want to thank, not
9 only the staff but also the board.

10 Having said that I will now turn the
11 floor over to Laura Edidin, who is
12 standing in for Joan Thompson, who is
13 still recovering from a leg injury. So
14 take it away.

15 MS. EDIDIN: In December the CCRB
16 received 484 complaints. This is 115
17 more complaints than it received in
18 December of 2010 when the agency received
19 369 complaints. This represents a
20 thirty-one percent increase in month-to-
21 month complaint activity.

22 In 2011 the CCRB received 6,007
23 complaints, or 460 fewer complaints than
24 it received in 2010 when the agency
25 received 6,467 complaints. This

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1 represents a seven percent decrease in
2 annual complaint activity. This is the
3 lowest number of complaints received
4 since 2004 when the board received 6,196
5 complaints.

6 The decrease in the number of
7 complaints took place in all FADO
8 categories. However, the decrease in
9 cases, with at least one allocation of
10 force or abuse of authority, was greater
11 than a decrease in cases alleging
12 discourtesy or offensive language.

13 In December the board closed 499
14 cases. In 2011, the board has closed
15 6,109 cases. The board closed 1,926
16 cases as full investigations, and 3,807
17 as truncated cases. The number of cases
18 closed through the mediation program was
19 376.

20 In 2011, the truncation rate was
21 sixty-two percent, three points higher
22 than in the same period for 2010. The
23 substantiation rate is approximately
24 eight percent, three points lower than in
25 2010. The board substantiated 160 cases.

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1 In December 2011, nineteen mediations
2 were conducted, all of which were
3 successful. In 2011, there were 155
4 mediation sessions resulting in 145
5 successful mediations. The success rate
6 for mediation in 2011 was ninety-four
7 percent, the same as it was in the prior
8 year. In 2011, the board closed 231 cases
9 as mediation attempted. Six percent of
10 all board closures in 2011 were made
11 through our mediation program.

12 The docket at the end of 2011 stood
13 at 2,669 cases. But ninety-six percent
14 of our open investigations were filed
15 within the last year. And sixty-five
16 percent were filed in the last four
17 months. Of the open cases 545 are
18 awaiting panel review, or twenty percent
19 of all open cases. 1,876 cases are being
20 currently investigated. And 248 cases
21 are in the mediation program.

22 The increase in the investigation
23 divisions open docket is a result of our
24 high staff vacancy rate. In January 1,
25 2011, the investigation divisions had

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1 1,504 open investigations and ninety
2 active investigators. Hence, we finished
3 the year with an increase of 374 cases.
4 In addition, on January 1st, 2011, the
5 average case load per investigator was
6 seventeen cases per investigator. In
7 December 31st, 2011 our case load per
8 investigator was twenty-seven on average.

9 Date of occurrence of the incident
10 fourteen cases in the CCRB's open docket
11 are eighteen months or older, or .3
12 percent of the open docket. This is four
13 more cases than in the previous month.
14 Two cases are on DA hold. Six cases are
15 pending board review, including one which
16 was a late filing. Four other cases were
17 filed late in the process. One delay is
18 the result of the officer being on
19 military leave. And in one case the
20 board requested further investigation
21 after the case was submitted for board
22 panel review.

23 In November, the Police Department
24 disposed of eleven cases. In those
25 eleven cases the department disciplined

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1 ten officers and took no disciplinary
2 action against one officer. Four
3 officers were found guilty after trial,
4 one negotiated a plea of guilty. Two
5 officers received command discipline.
6 And four officers received instructions.
7 In one case an officer was found not
8 guilty after trial.

9 The department did not decline to
10 prosecute any cases in November 2011.
11 The year to date discipline rate for
12 January through November 2011 is eighty-
13 one percent. The department declined to
14 prosecute rate is sixteen percent for the
15 same period.

16 THE CHAIR: Thank you. Moving on to
17 committee reports. Are there any
18 committees that need to make any kind of
19 reporting?

20 MR. SIMONETTI: No. I'd like to
21 make a suggestion. We have -- we were
22 presented with a list of some of the
23 board reports that we had done in the
24 past. And if you look at the May 9th,
25 2006 report the one where we sent over

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1 recommendations on policing
2 demonstrations based on the RNC, there
3 may be something that we can garner from
4 that report. And I think the Operations
5 Committee should take a look at that to
6 see, after we're finished with the Occupy
7 Wall Street cases, if there are any
8 additional recommendations that we can
9 possibly make in terms of policing
10 demonstrations.

11 And we should look at the old
12 recommendations to see -- it could even
13 go back ,as far back as Tompkins Square
14 Park. And we had made a list of
15 recommendations regarding Tompkins Square
16 Park. So maybe we should resurrect
17 those, see if any of those are
18 appropriate and timely with the Occupy
19 Wall Street group.

20 Additionally, from the chairman's report,
21 maybe you want to comment further on sharing
22 the tapes, what I believe to be, a very
23 effective investigative tool for
24 investigators. The fact that the
25 commissioner said that he would allow us

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1 to have access to all of the tapings that
2 take place with the cameras, the ones out
3 in the public view, not the ones inside
4 the buildings, that the city has put up
5 below Canal Street. And he's also told
6 us about a new initiative that's going to
7 take place between 30th and 60th Street,
8 from river to river, where a similar
9 safety zone is going to be set up. And
10 he said we could have access to that
11 film if we apply for them in a timely
12 manner.

13 The problem with those films is that
14 they only last for thirty days. And then
15 they just play -- they don't erase them,
16 they play over them. So if you don't put
17 a request in a timely manner, they are gone.
18 if you do put in a request, IAB will make copies
19 of anything that you want.

20 So I think that's a very important
21 investigative tool available to the
22 investigators. And I guess Laura will be
23 talking to her staff in how to proceed
24 with that.

25 He also told us he'd make available

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1 the tapes. And, by the way,
2 all of that stuff that they should be
3 sending over, they do, according to
4 Chief Campisi , they do not edit
5 anything on the tapes. It comes over unedited,
6 what they have, we will get.

7 THE CHAIR: It's an excellent point.
8 I'm going to address initially what you
9 said about reviewing some of the prior
10 reports.

11 I have had an opportunity to look
12 at, for instance, the Tompkins Square
13 report, and that's available. Just so
14 the other board members know, as a point
15 of reference, that and also the RNC reports
16 are always available. And I think it
17 gives us some historical perspective in
18 terms of how these cases are handled, how
19 they unfold, and how we might be able to
20 improve on that going forward.

21 In terms of what you said with the
22 cameras, I agree. And, you know, we look
23 forward to getting the updated list of
24 camera locations. That should be a very
25 big aid to the investigators in terms of

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1 trying to narrow down the possibility of
2 something being on video.

3 Is there anything further from any
4 of the other commissioners?

5 If not, let's move on to old
6 business. You already touched upon the
7 Reports and Recommendations list that was
8 provided to us. And I think I would
9 encourage all board members to take a
10 look at a lot of these reports. They
11 really are very informational in terms of
12 some of the bigger policy issues. And I
13 think one thing that kind of gets lost in
14 a time when we're trying really hard to
15 make sure that the core mission of the
16 investigations doesn't fall in terms of
17 our performance levels, as it's harder to
18 do the additional elements, such as
19 looking deeper into policy issues and the
20 bigger picture. So, hopefully, as the
21 economic climate changes we'll have more
22 opportunities to do that. And hopefully
23 that will happen sooner rather than
24 later.

25 In terms of the hiring freeze, I had

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1 mentioned already that we've reached out
2 to City Hall. One of the positions that
3 is currently vacant, that I am concerned
4 about, is the APU. And so we are also
5 hoping that we might be able to fulfill
6 that spot as a critical hire. At this
7 point that hasn't been -- that hasn't
8 been approved as of this meeting, but
9 we're going to try to find a way to fill
10 that spot so that we can continue doing
11 the prosecutions in the department's trial
12 room. And, also, not miss out on second
13 seating opportunities.

14 Is there any other old business?

15 If not, we turn to new business.

16 No new business. Hearing no new
17 business, we will now open it up to
18 public comment. Let's start off with Mr.
19 Chris Dunn.

20 MR. DUNN: All right. Good morning,
21 everyone.

22 THE CHAIR: Good morning.

23 MR. DUNN: Dan, I want to thank you
24 at the outset. I've been complaining for
25 years about the lack of reporting about

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1 the meeting with the commissioner. That
2 was the most complete report I have ever
3 heard, I think. And I -- and it raises
4 some interesting things. And I was going
5 to get into this in terms of my response
6 to your comments about the year budget.

7 The tape issue. So as I understand
8 it, have your folks been denied access to
9 department video tape in the past, or it
10 just never arisen and now it's arisen and
11 resolved it?

12 MR. SIMONETTI: No. And, Laura,
13 maybe you could better address this. But
14 my understanding is that requests have
15 been made but the tapes are not available
16 because they've been played over.

17 MR. DUNN: Okay. So one thing --

18 MR. SIMONETTI: It's a thirty-day
19 timeframe.

20 MR. DUNN: Well, I'm encouraged to
21 hear them say that, I'm not so sure
22 that's really the truth of the matter.
23 But that's okay.

24 Keep in mind, as I think you know,
25 the LMSI system, which is the system that

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1 is below Canal Street, is as much a
2 digital system as a video system. So its
3 not tapes that they are taping over, it's
4 a database that they have. And those
5 cameras are keeping digital images.

6 And so unlike, for instance, on
7 various places, where's there's a
8 videotape and they just tape what
9 happens and you get that day,
10 whatever, and then the loop starts again.
11 That's not really the case with LMSI.
12 Nor does the database have an extension
13 (indiscernible).

14 But I think that's terrific. I
15 think pursuing that is a great idea. And,
16 you know, of course, we're not big on
17 cameras, but they're here, and if they
18 can get used to help investigate
19 complaints of police misconduct, all the
20 better.

21 One little fly in that ointment, of
22 course, is those are not the locations
23 where you are getting most of the
24 complaints from. And with that door
25 having been opened, I would encourage you

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1 to pursue the department's
2 agreement where they have videotape
3 evidence that pertains to other parts of
4 the city where you were getting a larger
5 volume of complaints. Because that's
6 where some of them may become more
7 useful.

8 With the bit to Occupy Wall Street.
9 Dan, again, I appreciate you raising
10 this, I've been asking for the last
11 several meetings if there were more
12 attention to that. And, you know, as
13 I've said several times I think all of
14 you recognize Occupy Wall Street has been
15 the biggest civilian policing event since
16 the convention. And it has raised many
17 of the similar issues that was raised
18 with the convention. And I think that
19 going back to the recommendations made
20 from the Republican convention, about
21 policing mass demonstrations particularly apt.
22 Tony I'm happy when you say let's go back
23 and look at that report that you already
24 have.

25 Because I will tell you it has been

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1 a constant problem with the Occupy Wall
2 Street events. Police officers were
3 arresting people on sidewalks, in the
4 streets, where inappropriate warnings, or
5 no warnings have been given. And we have
6 seen this on videotape frequently, we
7 have been present frequently, we've
8 gotten a lot of reports about this. It
9 has been a constant problem. And I
10 understand fully the challenges the
11 department's facing with Occupy Wall
12 Street, they've been out on the street
13 with them a lot, but there have just been
14 a huge number of arrests. We think, as
15 with the convention, it could have been
16 avoided, with appropriate warnings to
17 people. The department's concerned about
18 (indiscernible) disorderly conduct.

19 Now one thing I should warn you
20 about, and some of you remember this
21 because you were here and Tony is really
22 one person I could think of as being
23 here. And after the board issued
24 that recommendation then Commissioner
25 Ray Kelly went nuts.

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1 He did not receive that well, he
2 thought that was a -- I don't know what
3 his thinking was, all I know was what he
4 said. And what he said did not
5 suggest -- forget contrition, any
6 introspection about whether or not they
7 should be rethinking their approach to
8 warnings before they made mass arrests.
9 And I'm hoping that maybe the dynamic has
10 changed or his thinking has changed, or
11 your relationship with him has changed.
12 But that was not a particularly fruitful
13 enterprise when it happened then. I hope
14 it is more effective this time.

15 And then a couple of other things.
16 I'm interested about the meetings with
17 the borough level. When he was talking
18 about board members perhaps meeting with
19 officers of the borough, he was talking
20 about commander meetings, police officer
21 meetings, like roll calls?

22 MR. SIMONETTI: Police officer.

23 MR. DUNN: Police officer.

24 MR. SIMONETTI: And he suggested
25 that we just missed an opportunity

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1 because of the graduating class.

2 MR. DUNN: Yes.

3 MR. SIMONETTI: And they have an
4 orientation -- when they go to the field
5 there's an orientation that takes place.
6 It lasts somewhere around a week, and we
7 just missed out on that because that has
8 passed. So that's basically what they
9 were talking about.

10 MR. DUNN: Okay. Well, I think that
11 would be terrific. If Al Sharpton gets
12 to talk to all the cops coming out of the
13 academy, so does Dan Chu.

14 MR. SIMONETTI: Absolutely.

15 THE CHAIR: I'm informed that we
16 currently do speak to them at that very
17 same event that Al Sharpton attends.

18 MR. SIMONETTI: All up at the Apollo
19 Theater.

20 MR. DUNN: Is that right, up on the
21 stage, the whole thing. Okay. Who does
22 that?

23 MR. SMITH: I do.

24 MS. EDIDIN: And Lisa Cohen.

25 MR. DUNN: Great.

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1 MR. SIMONETTI: Oh, good.

2 MR. DUNN: Okay.

3 THE CHAIR: Just so the record's
4 clear, that's Roger Smith and also Lisa
5 Grace Cohen.

6 MR. DUNN: I still want the ink.
7 You got to fly the flags.

8 THE CHAIR: I'm part of the bridge
9 and tunnel crowd, I don't know if I'm
10 welcome up there.

11 MR. DUNN: You're part of the bridge
12 and tunnel crowd?

13 THE CHAIR: Queens baby.

14 MR. DUNN: Now the Apollo's
15 involved. See, there we go.

16 Okay. All right, the State of the
17 Union. So I'm glad to recap. Dan, I'm
18 going to be Michelle Bachman and -- I'm
19 not going to be entirely -- Fred called
20 out what President Obama had to say about
21 the State of the Union. But I don't
22 entirely agree. And I want to correct
23 something.

24 There is going to be an APU -- I think
25 it's an important development in 2011. It

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1 was something that I think was more
2 symbolic than anything given the small
3 number of cases. But similarly symbolic
4 is that this is an important step
5 towards independence, and its important
6 steps for being in trial rooms, and
7 important steps towards CCRB getting
8 any work done in the process. I
9 think that's terrific. It is undercut by
10 the fact that there's nobody in the
11 internet display, at least there's a
12 small number of people and you can continue
13 proceeding. I certainly hope that our
14 City Council gets a chance to deal
15 with that because that's your real
16 issue.

17 You mentioned the dup rate. I
18 think you did a little cherry picking of
19 the numbers. You are right that the dup
20 rate is down from 2009. But it is still
21 historically a very high number. In fact
22 it is up from last year, but we have one
23 more month to go. Laura, I see you
24 looking at our -- I believe it's 16.9
25 percent, and you're currently brought to

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1 the end of December. And last year it
2 was 15.6 percent. So we'll see what
3 happens by the end of the year because
4 they lag by a month.

5 But I don't think anyone should be
6 under the impression that the dup rate
7 has somehow died. And I want to point
8 out for those of you who have not been
9 around as long as I was. The dup rate
10 prior to 2007 and 08 was three percent, two
11 percent in 06, one percent in 05 .5 percent in 06.
12 And then it shot up to a third of the cases.
13 And now it has been coming back down.
14 But no one should think that the dup
15 rate is in a good place, it is not. And
16 I do not consider it to be an agency
17 accomplishment.

18 Mediation. We have differences of
19 view about mediation, but I believe there
20 are some cases that could be mediated in
21 less time.

22 Outreach. Dan, you mentioned the
23 number of events, and that's great. As I
24 mentioned last month it's something that
25 you pointed to in your comments today.

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1 Audience matters. And I think you got
2 every reporting about audience. And you
3 can think of all the events if you got
4 three people there, it doesn't amount to
5 a whole lot and you're just spending a
6 lot of resources for not a lot of gain.

7 So turning to some other things. A
8 couple of the positives that I see at
9 least, I feel like you've gotten a much
10 better on the eighteen month old plus
11 cases. There are still too many. Any
12 cases that break the statute of
13 limitations are a concern. And you still
14 got cases that are breaking the statute
15 of limitations for no apparent good
16 reason.

17 If someone files a complaint 300
18 days late I understand it, they've got
19 military services understandably. It's
20 in DA hold, you got that, but I understand
21 it. You have got I think five cases that
22 just look like they've been here forever.
23 And those are five cases that belong on
24 the statute of limitations list. And that
25 just shouldn't happen.

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1 And one other thing I would point
2 out is your rights pamphlet, which I
3 think is a terrific resource. And I
4 understand that they're going like
5 hotcakes. I haven't seen them, I didn't
6 get it yet, but I'm sure they'll show
7 eventually. But I thought that that was
8 a very positive step.

9 Concerns. The truncation rate. The
10 truncation rate continues to be alarming.
11 There are huge numbers of cases that are
12 not being fully investigated. I talk
13 about this every single month, I know
14 it's important. I just think you have
15 got to take more on this issue.
16 The truncation rate is too high, it's
17 over sixty percent. Something has to
18 happen.

19 Vacancies. This is not your fault,
20 but I'm just suggesting this generally.
21 You guys are under a greater burden
22 because of the vacancies that exist.
23 There is still a City Council vacancy for
24 how long now? Three years. And, you
25 know, my friends in City Council having

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1 been saying this, it's really horrible
2 that they have that vacancy so long. I'm
3 happy you said the department vacancy is
4 going to get filled.

5 MR. SIMONETTI: Maybe. All right.

6 MR. DUNN: Maybe.

7 MR. SIMONETTI: We didn't say that.

8 MR. DUNN: Okay.

9 MR. SIMONETTI: All we said is that
10 somebody is being vetted at City Hall.

11 MR. DUNN: All right, okay.

12 THE CHAIR: We have our fingers
13 crossed.

14 MR. DUNN: I'm glad to hear you
15 think there's a possibility that someday
16 that vacancy will be filled. But
17 anyway -- okay, the dup rate I
18 mentioned. The dups continues to be a
19 problem.

20 And then there's my big complaint,
21 which I keep making, although I was
22 encouraged by the conversation today.
23 Which is the lack of the agency focusing
24 on policy practice issues. Because it
25 wasn't just focusing on processing. It

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1 is the single biggest failing of the
2 agency and it manifests itself in several
3 ways. All of which I think are
4 completely or (indiscernible).

5 First, it's kind of evidenced by
6 these board meetings. I cannot tell you
7 how many board meetings there have been
8 in the last year, year and a half where
9 basically absolutely nothing has happened
10 at all. And whether people just go out
11 and go to the meetings and have the
12 monthly discussions behind the scenes, or
13 whether nothing's really happening on the
14 policy side, I don't know. But I will
15 tell you as someone who keeps -- who's
16 been coming to these meetings, and as you
17 know from people who have been here, I
18 come to every single one of these
19 meetings for ten years. There is just
20 virtually no substantive discussion about
21 policy and practice issues of the Police
22 Department. And that sends a clear
23 signal to the staff, it sends a clear
24 signal to the public, it sends a clear
25 signal to the press, it sends a clear

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1 signal to the City Council, it sends a
2 clear signal to my friends in the Police
3 Department. Gene, who is back in the corner,
4 is understandably ignoring me.

5 It is something that has to be dealt
6 with. And tied to that are the lack of
7 policy recommendations. You look at the
8 list. I know there is the Housing
9 Authority recommendations that came out
10 in 2010. But prior to that, we're going back
11 to 2006. There's just nothing coming out of the
12 agency of personal public policy
13 recommendations. I think that has to
14 change.

15 And then, frankly, I just think I'm
16 constantly troubled by the lack of the
17 CCRB's presence in the public discourse
18 about policing conduct.

19 I mean, these are tumultuous times
20 in the Police Department, they have a lot
21 of things happening. There's a ton of
22 reporting about the Police Department.
23 There's been a ton of discussion about
24 the Police Department. All the levels of
25 misconduct. And you guys just were not in

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1 the conversation.

2 So in terms of going forward I think
3 you need to look at truncations. And the
4 ability to look at the process for which
5 you are -- you're asking civilians to come
6 and file complaints. And that includes
7 things like making it much easier for
8 them to participate. And one thing they
9 have to do after they filed the
10 complaint, which is to participate in
11 an interview. And right now they have
12 to come down here during working hours,
13 during the workweek. And if they don't
14 their case goes truncated.

15 And we talked about providing
16 neighborhood options and creating other
17 spaces in City Council offices, or
18 someplace else. The agency should be
19 alternatively creating some different
20 hours here so people can come in the
21 evenings or perhaps the weekends.

22 Or even thinking about video
23 conferencing. You know, you folks are
24 moving toward a model where you do video
25 conferencing for your panel meetings.

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1 Maybe someone should think about whether
2 or not there's a way to take advantage of
3 the technology for around lightings, to
4 have -- without having to shoot down
5 here. Okay. That day is coming, and
6 that technology is there.

7 And then I was just saying, this is
8 kind of a small point. But I came in
9 yesterday with a complainant. We got VIP
10 treatment and I appreciate that. But you
11 get downstairs to the desk, they won't
12 let you upstairs. You want to come to
13 CCRB you have to have an appointment, you
14 have to have somebody come down and get
15 it -- to bring you up.

16 Okay. And then you go into your
17 waiting room and -- I don't know how many
18 of you have recently been in the waiting
19 room. It is not a joyful place. And
20 I -- you know, it's your public space,
21 it's what everyone sees who comes and as
22 a complainant. They sit in that room
23 over there. And small thing, but if you
24 just walk in there and looked at it, you
25 might say well, maybe we could a few

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1 things to make this place look a little
2 more welcoming.

3 So there's truncations, there's the
4 department dispositions. I want to
5 reiterate dups I think continue to be a
6 problem. And as I said last time the
7 discipline issue you always report
8 instructions as discipline. Instructions
9 are huge percentage of what the
10 department is doing by way of what gets
11 described as discipline. Instructions
12 are not disciplinary. And I think you
13 need to look at the department about the
14 mix between real discipline and
15 instructions with respect to
16 substantiated cases.

17 And then, finally, there's this
18 issue about the policy issues. I just
19 think we really have to -- and, Tony, you
20 started this at the last meeting. Let's
21 look at the policy work that you can do.
22 I think you should meet with staff about
23 it, the staff is a terrific resource.
24 They investigate cases all the time.
25 It's an abundance of issues, and all

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1 kinds of topics. You have a terrific
2 database, I think you can take
3 advantage of that database. Now, you
4 have the best database outside the Police
5 Department. Perhaps including
6 data about police misconduct.
7 And I think it's an enormous resource,
8 and I think that could inform a lot of
9 what you were thinking about procedure
10 and policy issues.

11 And then, finally, I'm just saying
12 for next year, or this coming year, you
13 know, get into public debate, it's really
14 important. If you're invisible you don't
15 matter when you're a public agency like
16 this. The public needs to see you, hear
17 about you, and read about you. As far as
18 what's happening at these meetings, it
19 starts with having more neighborhood
20 presence I think, and it starts in making
21 recommendations and taking actions the
22 city will see.

23 So I encourage you to think about
24 all these things. And I look forward to
25 2012.

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1 MR. SIMONETTI: I just have one
2 comment about instructions. Instructions
3 is absolutely a form of discipline, it's
4 positive discipline. Okay. And it is a
5 form of discipline. Don't forget, the
6 Police Department is quasi military, and
7 it's run like a military model. And
8 this -- actually, the discipline system
9 comes from the military, they have a very
10 similar system.

11 You know what always puzzles me.
12 Did anybody ever hear of what the Fire
13 Department does to discipline any people?
14 I've never heard anything. I've never seen
15 any reports come out. Or the Sanitation
16 Department, or Corrections --

17 MR. DUNN: Tony, the Police
18 Department says if you want to be a hero
19 go work for the Fire Department.

20 MR. SIMONETTI: Listen, I'm just
21 making a point. They report that. And I
22 got to tell you instructions is a very
23 important part of the discipline system.
24 Because you have to have that -- the
25 commanders have to have that discretion.

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1 They know their people. And if it
2 doesn't call for a command discipline or
3 a five-day loss of pay or a ten-day or a
4 thirty-day loss of pay, instructions is a
5 very important tool. And we learned
6 yesterday that many of them, they're
7 directing either precinct commanders and
8 in some cases -- in most cases precinct
9 commanders. In some cases the borough
10 commander to interview that police
11 officer. And have you -- were you in the
12 military?

13 MR. DUNN: I was not.

14 MR. SIMONETTI: No. Okay. When you
15 got called to the colonel's office, or
16 the general's office, you know, it was
17 kind of like a frightening experience.
18 And that's like being called to the
19 chief's office. You know, nobody wants
20 to go to the chief's office and be told
21 you shouldn't be doing these kinds of
22 things. So I think it's a very important
23 part of the discipline system. And we
24 have to leave that discretion up to the
25 department. And, by the way, the charter

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1 also mandates that. That they're the
2 final arbiter of discipline.

3 MR. DUNN: I understand that. And
4 I'm not saying instructions have no role.
5 What I am saying is that when they're
6 eighty percent of what is happening with
7 officers I think that raises questions.
8 Particularly since -- I think that does
9 not line with -- I believe it's eighty
10 percent, when you look at dispositions
11 where there's discipline. So we throw
12 out dups, and you're left with guilty
13 after trial, pleas and instructions. I
14 think instructions are running close to
15 eighty percent.

16 MR. SIMONETTI: I think there's also
17 some evidence, and I don't know that if
18 we can resurrect those stats. But
19 there's some evidence that indicates that
20 if an officer has been spoken to that
21 rarely do they get a second command
22 discipline.

23 MR. DUNN: Well, you know, that's
24 the sort of thing actually -- that would
25 be an interesting thing to know.

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1 MR. SIMONETTI: Well, I mean, I
2 don't have that -- I don't know if we have
3 those stats

4 MR. LISTON: During our meeting with
5 the commissioner we were given -- I don't
6 remember the statistics, but there are
7 statistics on that. And maybe at the
8 next meeting we can come back to that.

9 THE CHAIR: We'll discuss it at the
10 next meeting.

11 MR. DUNN: I'm all in favor of
12 sharing them with the public.

13 THE CHAIR: Okay. Thank you for
14 those comments.

15 Next on our list is Michelle Moore.

16 MS. MOORE: I'm going to pass based
17 on what Mr. Dunn said.

18 THE CHAIR: Okay, thank you.

19 Seeing and hearing no other
20 speakers, we will now break -- we'll take
21 a short break, a recess, and then go into
22 Executive Session.

23 (Meeting concluded)

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C E R T I F I C A T I O N

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I, Esther Accardi, hereby certify that

the foregoing is a true and correct

transcription, to the best of my ability, of

the sound recorded proceedings submitted for

transcription.

I further certify that I am not employed

by nor related to any party to this action.

In witness whereof, I hereby sign this

date:

January 19, 2012

ESTHER ACCARDI (CET**D-485)

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