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MEETING OF
THE CIVILIAN COMPLAINT REVIEW BOARD
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March 9, 2011

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

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

BOARD MEMBERS PRESENT WERE:

- DANIEL D. CHU, ESQ.
- JAMES DONLON, ESQ.
- DR. MOHAMMAD KHALID
- DAVID G. LISTON, ESQ.
- MARY E. MULLIGAN, ESQ.
- BISHOP MITCHELL G. TAYLOR
- YOUNGIK YOON, ESQ.

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1 THE CHAIR: Meeting is called to order. The
2 first item on the agenda is the approval
3 of the minutes from the last meeting. Is
4 there a motion?

5 COMMISSIONER DONLON: So moved.

6 THE CHAIR: Okay. Second?

7 MR. CHU: Second.

8 THE CHAIR: All in favor?

9 ALL SAY : Aye.

10 THE CHAIR: Unanimous. I would just
11 like to point out that it -- because of
12 difficulties in schedules and whatnot and
13 the vacancies on the board, it does cause
14 issues such as today. We needed
15 everybody here to make a quorum so I
16 would just like to point that out.

17 We have spoken to the various
18 appointing authorities that are
19 responsible for the vacancies.
20 Hopefully, they will be filled as quickly
21 as possible although there is a process.
22 So -- and it's difficult to carry the
23 work of the board because of the way the
24 board is -- you know, conducts its
25 business with a member from each of the

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1 different appointing authorities even
2 though technically the Mayor is the
3 appointing authority. But each of the
4 various interests, the Police Department,
5 the City Council and the Mayor. So
6 hopefully that will be somewhat mitigated
7 going forward in the very near future.

8 As you can see, this particular
9 meeting, there is no representative from
10 the Police Department because of the --
11 from the Police Commissioner because
12 there are schedule problems and there's a
13 vacancy so we have to wait, it just
14 makes the work of the board difficult.
15 So -- anyway, the next item on the agenda
16 is the report from the Executive
17 Director.

18 MS. THOMPSON: Okay. I just want to
19 start off by letting everybody know that
20 on Monday March 15th at 2 p.m. that we
21 will be testifying in front of the
22 Committee on Public Safety about our
23 budget. This happens every year and we
24 are scheduled to begin at 2 p.m.

25 CHRIS DUNN: JOAN?

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1 MS. THOMPSON: Yes?

2 CHRIS DUNN : Tuesday.

3 MS. THOMPSON: Tuesday. Make that
4 Tuesday, not Monday. It's Tuesday. The
5 15th. The day after Monday. I was
6 close!

7 Okay. The monthly stats. In
8 February of 2011 the CCRB received 500
9 complaints, or 44 more complaints than it
10 received in February of 2010 when the
11 agency received 456 complaints. This
12 represents a ten percent increase in
13 complaint activity.

14 In the first two months of the year,
15 the CCRB has received 940 complaints or
16 88 fewer complaints than it received for
17 the same period of 2010, when the agency
18 received 1,028 complaints. This
19 represents a ten percent decrease in
20 complaint activity. Total intake, which
21 is the sum of CCRB cases and referrals to
22 other jurisdictions, decreased by five
23 percent from 2,585 to 2,458.

24 In February of 2011, the board
25 closed 585 cases. 159 were full

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1 investigations, 389 were closed as
2 truncated and 37 cases were closed
3 through mediation. The year to date
4 substantiation rate is eight percent,
5 which is three points lower than in than
6 2010. The truncation rate is sixty-four
7 percent, which is four points lower than
8 in 2010.

9 With the board closing this month
10 108 case -- more cases, than it received,
11 the agency's open docket showed a four
12 percent decrease in relation to the
13 previous month's open docket. The docket
14 stands at 2,715 cases. About ninety-six
15 percent of our open investigations were
16 filed within the last year.

17 Of the open cases, 938 cases are
18 awaiting panel review or thirty-seven
19 percent of all open cases. 1,504 are
20 being currently investigated and 273
21 cases are in the CCRB's mediation
22 program. By date of occurrence of the
23 incident, only thirteen cases in the
24 CCRB's open docket are eighteen months or
25 older.

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1 In January 2011, the Police
2 Department disposed of twenty-three
3 cases. The department disciplined
4 fifteen officers with command discipline
5 and instructions. Three officers plead
6 guilty to charges. In four cases, the
7 department declined to prosecute the CCRB
8 cases and in one case, the department
9 filed the charge as the subject officer
10 is no longer a member of the department.
11 The discipline rate is eighty-two percent
12 and the department decline to prosecute
13 rate is seventeen percent. That's it.

14 THE CHAIR: Thank you. Next item on
15 the agenda are the Committee
16 reports.

17 MR. CHU: Well, we're still in the
18 process of doing our first run with the
19 electronic voting sheets. Once we've
20 completed a run from soup to nuts
21 utilizing the new voting sheets, we'll
22 open it up to the rest of the panels and
23 try to work out whatever kinks we may
24 encounter. At this point, the voting
25 sheets, as I understand it, have been

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1 already completed. We're just waiting to
2 schedule for one of the panels to be able
3 to complete that first run.

4 Everything seems to be going fine.
5 It's -- if it is successful, we hope that
6 that will streamline the process, save us
7 a lot of time and -- and a lot of
8 resources insofar as messaging voting
9 sheets back and forth and hopefully that
10 will come to fruition in the very near
11 future.

12 THE CHAIR: Thank you. I know there
13 is a -- what's the status on the annual
14 report?

15 MS. THOMPSON: There is now a -- a
16 first draft has been completed and I will
17 forward it to the Reports and
18 Recommendations Committee today.

19 THE CHAIR: Did any -- anything
20 else?

21 MS. THOMPSON: (Inaudible).

22 THE CHAIR: Oh. Is that new
23 business? I've been reminded -- not that
24 I had to be -- that both Commissioner
25 Mulligan and myself will -- are scheduled

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1 to appear with Chuck Scarborough this
2 evening -- this evening to talk about
3 CCRB. So I'm sure everybody's going to
4 watch that with popcorn and soda and have
5 a real good time. It'll be three or four
6 minutes it's going to take. Any old
7 business?

8 DR. KHALID: What time is it on, Mr.
9 Chairman?

10 THE CHAIR: I believe it's scheduled
11 for 7 o'clock.

12 DR. KHALID: 7 o'clock? Live?

13 THE CHAIR: That's what I hear.

14 MS THOMPSON: Linda, is it live?

15 LINDA SACHS: It's live.

16 It is scheduled to start at 7.

17 LINDA SACHS: They're
18 probably not going to be on until 7:30.
19 The program is from 7 to 8. The guest
20 segments usually start around 7:30.

21 THE CHAIR: Yep. There
22 you go.

23 DR. KHALID: Thank you. We'll watch
24 it.

25 THE CHAIR: I'm sure you will. Any

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1 old business? Any new business?

2 I would like to -- to point out that
3 there was -- there was an article or a
4 few articles about stop and frisk issues
5 in the Times and I believe there was some
6 settlement of cases that were brought
7 against NYCHA residents -- I mean brought
8 by NYCHA residents against the city.

9 Mary, do you have any information?

10 MS. MULLIGAN: Sure. It was, has been
11 widely reported that there were been
12 several settlements with members of our
13 community who lived in public housing.
14 And there were settlements of more than
15 \$150,000 to nine of sixteen plaintiffs in
16 a lawsuit involving stop and frisk
17 activity in buildings operated by the
18 Housing Authority.

19 And as you know, stop and frisk --
20 they're the type of cases that we see
21 very frequently in front of the CCRB. I
22 believe our statistics show that
23 approximately thirty percent of our case
24 load through the years has been with stop
25 and frisk cases. And that's -- that

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1 number has been pretty consistent.
2 Overall, in 2010 there was a small
3 decline in the number of stop and frisk
4 cases but as you know, there was a -- a
5 small decline in our overall complaint
6 level.

7 So, you know, we are aware of this.
8 It's been widely reported. I think it's
9 a matter that's being looked at by
10 various groups like the New York Civil
11 Liberties Union has raised various
12 concerns alleging racial profiling and
13 also Ms. Wilson, who's a plaintiff in --
14 the Randolph Houses in Manhattan.
15 You know, she alleged, you know, various
16 aspects that arose from race based
17 discrimination.

18 So we're -- you know -- we're aware
19 of these issues and we just wanted to
20 bring them to your attention.

21 THE CHAIR: Any comment?
22 (Indiscernible) I did notice that the
23 Times article did point our -- our
24 recommendation to the Police Department
25 based on what we saw and as a result that

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1 the Police Department did adjust some of
2 their training. And I know that was --
3 was welcomed by the Police Department and
4 I'm sure it made a positive impact but it
5 is a difficult issue. Any other new
6 business?

7 MR. DUNN: Okay. Good morning.

8 MS. THOMPSON: Good morning.

9 MR. DUNN: I'm glad you talked about
10 that; I'll come back to that. Let me
11 just talk about a couple of preliminaries.

12 First, in terms of the vacancies, I
13 spent some time criticizing you folks but
14 you certainly are not responsible for the
15 vacancies and I must say I am perplexed
16 as to why the City Council and the Police
17 Department has been unable to fill these
18 vacancies. I think the Manhattan
19 position has now been vacant for at least
20 one year --

21 MS THOMPSON: Over a year.

22 MR. DUNN: -- and perhaps longer.

23 And Dennis, of course, was actually off
24 the board, effectively, for a long time
25 before that. And I can just say that we

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1 have been talking to the City Council.
2 We have been urging them to try to deal
3 with this. The first Police Department
4 usually has been pretty quick about
5 filling its vacancies historically. This
6 has been a pretty long lapse. And it --
7 it's really a serious issue and I'm happy
8 to hear you are discussing it but
9 I'm hoping that you folks are talking to
10 them, as you seem to be, to try to press
11 them also.

12 With respect to the budget hearing,
13 I'm not going to come but, Joan, is there
14 going to be any testimony about the
15 Prosecution Unit? Because as I
16 understood it, the particulars of the
17 Prosecution Unit staffing a
18 Prosecution Unit are still quite
19 unresolved. And you, I know that you
20 have more of a -- you have a person
21 who's doing it but is there any further
22 update about whether that unit is
23 otherwise going to be staffed?

24 MS. THOMPSON: We have one other
25 person. We have the investigator and

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1 yes, there will be something in the
2 testimony. We're writing the testimony
3 now. So there will be something about
4 the APU in the testimony.

5 MR. DUNN: With respect to the
6 statistics that you provided, I do note
7 that there are still a pretty substantial
8 number of cases where the statute of
9 limitations is expired and there are ten
10 cases that are pending either board
11 review or are still being investigated.

12 And with the exception of one of
13 those cases, all of those cases were
14 reported in a timely fashion to the
15 board. So I know that people have
16 expressed concerns about the statute of
17 limitation of the cases as you should,
18 but I do wonder what is going on with
19 some of the cases that are not DA hold
20 cases I assume to be agency processing
21 delays.

22 There may be explanations for that
23 but those are all cases -- and of course
24 there's just no possibility of discipline
25 any more. And that's -- that's a serious

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1 concern. Also I want to reiterate my
2 concerns about the DUP rate having
3 come back up. It's -- it is something
4 that is a constant concern for us and I
5 just think that we now have enough months
6 of data where the DUP rate has come
7 back to much closer than where it was
8 that there need to something that can be
9 done about that.

10 Okay, stop and frisk. I'm glad you
11 mentioned that, Ernie. I don't know if
12 you're going to talk about it tonight
13 when you're on television, glad that you are
14 going to be on. I hope that you do
15 mention it. The question that I have is,
16 I mean, we were certainly pleased that
17 you have looked at this and you made
18 recommendations about it. And I wish
19 that we had known about it sooner but
20 that's fine.

21 I do have a question of what follow-
22 up the board has done about its
23 recommendations. And I ask that because
24 there's a history of the board sending
25 over recommendations to the department

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1 and then things not happening. Perhaps
2 the most conspicuous example of that was
3 around strip searches where the board
4 found serious problems with strip
5 searches arising from complaints they had
6 gotten. They had recommendations about
7 that. The department said it was going
8 to do things and then a long, long, long
9 time elapsed before it actually did
10 something.

11 And, at least from what I
12 understand, the department is very slow
13 to do retraining on the vertical patrol
14 issue about which you made
15 recommendations. So I'm wondering, has
16 there been any further exchanges with the
17 department since you sent over the
18 recommendations so that as you know what
19 the status is. Are they actually
20 implementing those recommendations?

21 MS. THOMPSON: I do know that part
22 which part of -- is it the patrol part
23 that has gone through retraining for
24 vertical patrol, Meera?

25 Ms JOSHI: The housing.

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1 MS. THOMPSON: Yes, in housing.

2 MS. JOSHI: The housing has gone
3 through.

4 MS. THOMPSON: They have gone
5 through the retraining.

6 MR. DUNN: The Housing Bureau. All
7 the cops in Housing have gone through the
8 retraining? Okay. That's -- okay,
9 that's a big step. Let's hope that
10 that is true.

11 The final thing I want to mention is
12 something, Mary, that you raised several
13 months ago, which you were commenting on
14 some reporting about Police
15 Department shootings. And as some
16 of you may have seen, we want to submit
17 in the case against the department
18 requiring them to produce to us reports
19 about individual shootings going back to
20 1997.

21 And I must say, I got calls from
22 various places around the country asking
23 me about those reports. Given the
24 interest that you expressed, Mary, I was
25 a little disappointed that you didn't

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1 call me to say that the CCRB wants to see
2 those reports also. I think shootings
3 are something the CCRB should be paying
4 attention to. And I noticed over the
5 weekend there were reports of two
6 civilian oversight agencies, one in Miami
7 and one in Los Angeles, both of which are
8 significantly involved in shooting issues
9 there.

10 The one in Miami has ordered the
11 Police Department to produce various
12 shooting reports to it and the one in
13 Miami has been looking at incidents --
14 excuse me, in Los Angeles, where there
15 have been some controversial shootings.

16 MS. MULLIGAN: I have a question,
17 for you.

18 MR. DUNN: Yes.

19 MS. MULLIGAN: In those cities were
20 the incidents of discharges by the police
21 force increasing or decreasing?

22 MR. DUNN: I don't know the
23 number -- I don't the answer to that. My
24 guess is that they're probably decreasing
25 because I think police shootings across

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1 the country have been going down. And
2 don't get me wrong, I fully recognize
3 that the Police Department numbers here
4 have gone down and we have been on record
5 as commending the department about its
6 restraint.

7 That doesn't mean there don't
8 continue to be issues about police
9 shootings. And I think that you,
10 rightly, when you were talking about the
11 new numbers about shootings, were, I
12 think indicating to the board has an
13 institutional interest in police
14 shootings, one way or the other. I don't
15 think the examination of shootings begins
16 and ends with the number of shootings.

17 MS. MULLIGAN: Um-hum.

18 MR. DUNN: And so again, I can't
19 answer your -- answer your question
20 specifically. I'm just saying that
21 shootings are something this board should
22 be paying some attention to and other
23 than your comment a couple of months ago about
24 the number of shootings, I have not ever
25 heard any discussion on this board about

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1 department shootings and I think that's
2 something the board should be paying attention to.
3 And Mary, since you're the press person on the
4 board, here are the reports.

5 MS. MULLIGAN: Thank you.

6 MR. DUNN: -- there are the reports
7 about Miami and LA. Thank you.

8 MS. MULLIGAN: Thank you very much,
9 Chris. I appreciate it.

10 THE CHAIR: A comment that I would
11 make, that the -- the oversight agencies
12 in Miami and Los Angeles don't
13 necessarily have the same mandate that we
14 do. And their ability to look into
15 things like shootings is a little
16 different. I think it's more a
17 responsibility of theirs that we
18 just say -- which would be -- you know,
19 that's not part of our -- our charter
20 mandate so -- Marcos, do you have
21 anything since you're a member -- an
22 active member of NACOLE. Do you
23 know what the difference is in terms of
24 the responsibility of the oversight in
25 those two cities? Off-hand?

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1 MARCOS SOLER: As you said,
2 the jurisdiction nationally -- the
3 jurisdiction of the different civilian
4 oversight agencies are very diverse. In
5 Los Angeles they have a much broader
6 jurisdiction than we do as a result of
7 the fact that they are an Inspector
8 General's office.

9 THE CHAIR: Um-hum.

10 MARCOS SOLER: And the Los
11 Angeles Police Department was for a long
12 time under a consent decree with
13 the Department of Justice. The situation
14 there does not apply to New York. So
15 they have a much greater of involvement
16 in on these things.

17 And one thing is correct, that is
18 basically different about them and ours
19 is that they have a risk assessment unit
20 that evaluates the risks to the city in
21 terms of payment, liabilities, etcetera,
22 not just simply the pure legal analysis
23 but also what is the cause of some -- of
24 these incidents to the city.

25 So their type of analysis is quite

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1 different and the type of involvement in
2 jurisdiction is very different. It's
3 more similar to what an Inspector General
4 would be here in New York. Let's say the
5 Inspector General of the Department of
6 Corrections or the Inspector General of
7 other city agencies. So it's much
8 broader jurisdiction than ours.

9 The situation in Miami is slightly
10 different because Miami was a
11 jurisdiction that went through a lot of
12 changes, including the firing of the
13 Executive Director there a couple of
14 years ago. Now they are restructuring
15 the agency. I'm not -- I'm not so
16 familiar with what are the specifics of
17 their jurisdiction. I can get back to
18 the board and report on that.

19 I can tell you that in April every
20 year, in the conference, the issue of
21 police shootings is a core issue. It is
22 a central issue. We always have two or
23 three panels involving either the use of
24 force, shootings, what happens death in
25 custody, situations like that. And we

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1 learn a lot from different jurisdictions
2 and the experience also is the different
3 jurisdictions have different approaches
4 to this matter.

5 But this matter is central to all
6 the jurisdictions in the United States.
7 In that sense, Mr. Dunn is correct, that
8 this is certainly a core issue for many
9 oversight agencies. As big as it is,
10 obviously, it is perhaps the most
11 important event that can happen in the
12 life of an individual. Getting shot.
13 So --

14 THE CHAIR: That will hurt.

15 MARCOS SOLER: -- you know,
16 some people will say, it is
17 extraordinarily important for us. It is
18 a main cause in our organization and we
19 always review that issue. We can also
20 share with the board, past panel's
21 information that has been disseminated
22 out of those panels to see how the
23 jurisdictions do it and as to whether or
24 not that might fit within our jurisdiction,
25 our mandate.

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1 THE CHAIR: What -- what might be a
2 good idea, now that you mention it
3 Marcos, is to maybe prepare for the board
4 some sort of general overview of how the
5 various jurisdictions across the country
6 that do have civilian oversight, how they
7 operate and what their mandate is, just
8 for general interest and see if -- see if
9 there's anything that can come out of
10 that.

11 But I think it would be very
12 interesting for members of the board to
13 see how the cities operate. Thank you.
14 Seeing nobody else wishing to testify,
15 the meeting is adjourned.

16 MR. JONES: I'd like to
17 speak Mr. Chair.

18 THE CHAIR: No. We'll adjourn to
19 Executive Session. Five minutes please.
20 (Whereupon proceedings were concluded)

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

I, Zipporah Geralnik, 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:
March 18, 2011

Zipporah Geralnik (CET**D-489)
AAERT Certified Electronic Transcriber