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2 MEETING OF
3 THE CIVILIAN COMPLAINT REVIEW BOARD
4 -----x

5 October 12, 2011
6 10:15 a.m.

7
8 40 Rector Street
9 2nd Floor
10 New York, New York 10006

11
12 DANIEL D. CHU, ESQ., CHAIR
13 JOAN M. THOMPSON, 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 MARY E. MULLIGAN, ESQ.

7 TOSANO SIMONETTI

8 ALPHONZO A. GRANT, ESQ.

9 BISHOP MITCHELL G. TAYLOR

10 JULES A. MARTIN, ESQ.

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1 THE CHAIR: All right, we're going
2 to get underway.

3 First order of business, adoption of
4 the minutes from last month. Is there a
5 motion?

6 DR. KHALID: Motion to adopt the
7 minutes.

8 MR. SIMONETTI: Second.

9 THE CHAIR: Second. All those in
10 favor please say aye.

11 IN UNISON: Aye.

12 THE CHAIR: Anyone objecting?

13 Any abstentions?

14 Okay, motion is passed.

15 Well, the financial challenges that
16 we've been facing are continuing. We
17 recently got a memo from OMB indicating
18 that citywide there's about a 4.6 billion
19 dollar budget gap that now needs to be
20 filled. What that means to us,
21 apparently, is for fiscal year 2012 we're
22 going to need to cut our budget by
23 approximately 232,000 dollars, which is
24 two percent. And going forward for
25 fiscal year 2013, it is approximately

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1 a six percent cut, which amounts to
2 709,000 dollars.

3 So in terms of fiscal year 2012 the
4 232,000 dollars we should be able to
5 cover some of that by the attrition and
6 the accruals that will naturally happen
7 through the attrition. But in terms of the
8 709,000 dollars for fiscal year 2013 our
9 projections are it's going to cost us at
10 least another nine investigators at the
11 very least. Anywhere from nine to
12 possibly even twelve, depending on which
13 scenario ends up coming to pass.

14 We're exploring the different
15 scenarios. And, you know, again, it's
16 making a difficult situation even more
17 difficult. We certainly understand where
18 it's at. I'm looking at my own 401K,
19 which has lost about fifteen percent, so
20 I guess the city is not doing all that
21 much better.

22 There's also a hiring freeze. And,
23 regrettably, we made -- we've been
24 interviewing for a team attorney
25 position. We actually extended an offer

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1 to someone. And within I think about two
2 hours we got notice that there was a
3 hiring freeze. And so that offer, at
4 least temporarily, has now been rescinded
5 and cannot be filled until we hear any
6 new news from OMB.

7 I guess the irony there is as many
8 of you know we just lost our First Deputy
9 Meera Joshi to the TLC. And if we had
10 retained her a little longer, we'd probably
11 still have her. But timing is everything and
12 we're still in the process of interviewing for
13 a replacement for her. The interviews
14 are continuing. We're very hopeful that
15 we will be permitted to make that hire to
16 replace Ms. Joshi since she was the
17 number two at the agency and a very
18 critical position for us, particularly in
19 the time when we're already losing other
20 personnel. It really becomes a critical
21 situation for us to fill that position as
22 quickly as possible.

23 In terms of other personnel matters,
24 I want to welcome our new lieutenant,
25 Lieutenant Thomas Swanson. You want to

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1 just introduce yourself. And, again,
2 welcome aboard.

3 LT. SWANSON: Thank you very much.

4 THE CHAIR: Pertaining to the hot
5 button issues of the day, obviously
6 anyone who's walked past Zuccotti Park
7 now has seen that Occupy Wall Street
8 is still in full effect and unfolding as
9 we speak.

10 It's been a challenge for our agency
11 to stay on top of the number of contacts
12 from the public. But I've think we've
13 done a very good job in doing so. I
14 think much of that credit goes to our
15 team managers. And, in particular, I
16 think Denis McCormick , who has
17 given quite freely of has time to come in
18 and really stay on top of this. It's
19 clearly something where the numbers are
20 changing on a daily basis.

21 We have had to also ask Yuriy,
22 our information systems person, to fine-
23 tune our system to keep track of all the contacts
24 and information. I think we've been doing a
25 good job of keeping on top of that as well. But

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1 it is still early in the process, it is
2 still unfolding. And at this point we
3 have started our investigation. And Joan
4 is going to speak more to what the
5 numbers are as of, I guess, last night or
6 this morning. And as I've stated
7 everyday we're getting more. So it's
8 still very much a work in progress.

9 What I do want to stress is that,
10 you know, certainly we are taking all of
11 these allegations very seriously.
12 Whether they are from people who were
13 actually witnesses who, you know, made
14 observations on their own, or whether
15 they're coming from outside of the area.
16 There are many people, as you know, that
17 are watching videos on YouTube and seeing
18 other media outlets and just expressing
19 their concern. And it's something where
20 we are keeping track of everyone who's
21 making contact. If the contact has
22 anything to add to the investigation we
23 are certainly following up those
24 investigative leads. And it really is
25 the incidents that are important to us.

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1 But we certainly don't want to have any
2 indication that we're not interested in
3 hearing from people who don't have
4 firsthand knowledge. Anything that they
5 can add to our investigation is certainly
6 encouraged. And the leads are being
7 following and we are keeping a close eye
8 on what's going on there.

9 Joan, do you want to tell us a
10 little more about the numbers and the
11 specifics?

12 MS. THOMPSON: Well, that was part
13 of the report, so why don't I just begin.

14 THE CHAIR: Okay.

15 MS. THOMPSON: I will start where Dan
16 left off.

17 THE CHAIR: Yeah.

18 MS. THOMPSON: Okay. We've included
19 the information as provided by the stats
20 so you'll get an overall view of the
21 amount of cases that monthly we have received
22 in addition to the Occupy Wall Street contacts.

23 The CCRB received 517 cases during
24 September. This is thirty-nine fewer
25 cases than we received in September 2010

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1 when the agency received 556 cases, or
2 its seven percent decrease in complaint
3 activity.

4 Among the 517 cases there was a
5 small number of cases stemming from
6 events related to the recent Occupy Wall
7 Street demonstration.

8 In addition, the CCRB received 474
9 contacts from people complaining on-line,
10 by telephone, either about specific
11 events they watched on the internet or
12 television, or about policing of mass
13 demonstrations in general. About ninety
14 percent of these contacts were made by
15 e-mail and they were about specific
16 incidents.

17 We've commenced an investigation
18 into specific allegations of misconduct
19 stemming from the recent demonstrations.
20 Our investigators are presently engaged
21 in evidence gathering, interviewing
22 witnesses and following-up on
23 investigative leads.

24 All complaints have been entered
25 into our complaint tracking system, and

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1 the comments and evidence included are
2 being evaluated.

3 When any of the contacts from the
4 public contained complaints of misconduct
5 that fell within our jurisdiction the
6 information about the complainants and
7 all pertinent information were included
8 in the investigative file.

9 From January to September of 2011
10 the CCRB received 4,608 complaints or 396
11 fewer complaints than it received for the
12 same period of 2010, when the agency
13 received 5004 complaints. This
14 represents an eight percent decrease in
15 complaint activity year-to-date.

16 In September, the board closed 515
17 complaints; 188 were full investigations,
18 317 were truncated investigations, and
19 ten cases were mediated.

20 The year-to-date substantiation rate
21 is eight percent, which is three points
22 lower than in the same period of 2010.

23 Year-to-date the board has
24 substantiated 120 cases. The truncation
25 rate is sixty-one percent, two points

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1 higher than in the same period of 2010.

2 In September, the board closed
3 twenty-six more cases than it received.

4 The agency's open docket had what was one
5 percent lower than the August open
6 docket. The docket stands at 2,657
7 cases.

8 About ninety-six percent of our open
9 investigations were filed within the last
10 year, and sixty-nine percent were filed
11 in the last four months. Of the open
12 cases 600 are awaiting panel review or
13 twenty-three percent of all cases. 1,827
14 cases are being currently investigated.
15 And 230 cases are in the mediation
16 program.

17 By date of occurrence of the
18 incident fourteen cases in the CCRB's
19 open docket are eighteen months or older.
20 These cases, three are on DA hold, eight
21 are pending board review, two were filed
22 more than a year after the incident took
23 place, and one case involved multiple
24 officers and a complex set of circumstances.

25 In August, the Police Department

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1 disposed of twenty-one cases. The
2 department disciplined sixteen officers
3 and did not discipline five officers.
4 Two officers were found guilty after
5 trial. Two officers negotiated a please
6 of guilty resulting in termination. And
7 twelve officers received command
8 discipline and instructions. In five
9 CCRB substantiated cases the department
10 declined to prosecute. The year-to-date
11 discipline rate is seventy-eight percent
12 and the department declined to prosecute
13 rate is twenty percent.

14 That's it.

15 THE CHAIR: Thank you, Joan.

16 Are there any committee reports
17 today?

18 From Reports and Recommendations I
19 can say that we're very close to sending
20 the final product to the printer. I'm
21 giving it a final review, and that should
22 happen shortly.

23 Is there any old business?

24 Any new business?

25 Mr. Simonetti.

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1 MR. SIMONETTI: Joan --

2 MS. THOMPSON: Yes.

3 MR. SIMONETTI: Did I hear correctly
4 you saying that the substantiation rate
5 decreased by three percent from last
6 year?

7 MS. THOMPSON: Yes.

8 MR. SIMONETTI: From eleven percent
9 to eight percent.

10 I wonder if staff can give us a
11 breakout in what category of cases we
12 substantiated cases, to see if there's
13 any particular area; like stop, frisk,
14 search, if there's any particular area
15 where the numbers went down. I think it
16 would be important for us when we read
17 the cases to know -- I would like to know
18 that information.

19 MS. THOMPSON: Okay, we'll have
20 Marcos get the information to the board.

21 (Pause)

22 THE CHAIR: Is there anything else?

23 Okay. We're opening it up now to
24 public comment. Mr. Dunn.

25 MR. DUNN: Okay, good morning.

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1 THE CHAIR: Good morning.

2 MR. DUNN: So before I talk about
3 Camp Z. I'm just curious, you
4 introduced Lieutenant Swanson.

5 MS. THOMPSON: Yes.

6 MR. DUNN: Like you didn't mention
7 what his role is, I was actually curious
8 about that. Is he just a new staffer?

9 MS. THOMPSON: No, Lieutenant -- the
10 Police Department has a lieutenant, a
11 sergeant, and two police officers that
12 are stationed here. The old -- the
13 former lieutenant left and retired and
14 this is the replacement.

15 MR. DUNN: Okay. All right. And on
16 the budget, which is a disaster for
17 everyone, but is there any specific word
18 about where things are in the
19 administrative prosecution agreement?

20 MS. THOMPSON: No, nothing yet.

21 MR. DUNN: Okay. Zuccotti Park.
22 Again, I'm glad to hear you talking about
23 that. That's obviously the biggest
24 police event that's happening in the city
25 now.

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1 I don't know how many of you have
2 been up to the park, but there are, at
3 times, hundreds of cops who are there.
4 And, you know, being -- I think this
5 presents an important opportunity for the
6 board to be addressing potential concerns
7 about misconduct and also equally
8 importantly being part of a public
9 discussion about police misconduct.

10 During the convention, which I think
11 was probably the last time we had protest
12 activity that was drawing the sort of
13 police attention in a sustained way, the
14 board made some efforts in terms of
15 positive outreach to the public to
16 educate them about how to file
17 complaints.

18 I also believe that the board has a
19 physical presence on the street for some
20 of the convention activity. And I think
21 that's an important thing to do, and I
22 would strongly encourage the board to
23 start thinking about it if it has not
24 done so, putting some staffers on the
25 street, particularly when there are big

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1 days. This Saturday I think there's
2 going to be a lot of activity from the
3 protesters. And we have had two
4 Saturdays that have been marred by a lot
5 of arrests. And I think it would be
6 important, possibly from the board, to
7 have some people out on the street,
8 particularly when -- such as this
9 Saturday. There's a reason to believe
10 there's going to be a lot of activity by
11 the protesters and, therefore, a lot of
12 police interaction to the protesters.

13 In terms of the specific
14 controversies that have arisen, there are
15 two, obviously, big controversies that
16 the board has paid attention to in the
17 past. The first is pepper spraying
18 incident, the board has reported about
19 these pepper spray by the police
20 officers. And the second is the arrest
21 that took place on the Brooklyn Bridge on
22 Saturday night.

23 And for those of you who were not
24 here, and that is many of you, after the
25 convention where there were similar mass

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1 arrests and there were concerns about the
2 failure of the department to provide
3 adequate warnings to protesters, the
4 board actually made a -- they made a
5 recommendation to the department about
6 clearer warnings. And, unfortunately,
7 Commissioner Kelly received that in very
8 hostile fashion and he had expressed
9 public displeasure, at the least, about
10 the board having made the recommendations
11 that it did.

12 And the tragedy is that that problem
13 played out again with what happened on
14 the Brooklyn Bridge. There may well have
15 been people who were on the bridge who
16 should not have been here, and who may
17 have heard warnings, but there were
18 hundreds of people who were on that
19 bridge, from everything I could tell,
20 including having been there, who heard no
21 warnings, who had no reason to think
22 there was any reason it could not go on
23 the bridge. They walked on the bridge
24 without any police officers giving them
25 any indication they could not do that.

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1 And, as you know, there were
2 approximately 700 people that were
3 arrested. That was the single biggest
4 mass arrest in (indiscernible) history,
5 bigger than any of the arrests -- mass
6 arrests that took place during the
7 convention. And, frankly, if the
8 department had been paying attention to
9 the specific recommendations that this
10 board made now seven -- six years ago,
11 many of those arrests probably been
12 avoided.

13 And my point being that in addition
14 to that observation (indiscernible) that
15 as it did for the convention the board
16 shouldn't -- wasn't at this event with an
17 opportunity to think about policy
18 recommendations again. I hope that the
19 board will go beyond some of the issues
20 of investigating complaints, as important
21 as they are, and deciding what to do
22 about that. And to also focus on what
23 broader lessons we can learn from the
24 policing of these events.

25 And I think the issue about warnings

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1 of large groups of people who are engaged
2 in protest activity, including marches,
3 is something that's particularly
4 important. It is the type of thing that
5 easily can eliminate a lot of arrests.
6 Frankly, if that happened as it should have
7 that Saturday night there would have been
8 hundreds of fewer arrests. And I just
9 think it was really important that the
10 agency think about this event in terms of
11 its role, in terms of it being proactive,
12 in terms of it being out there
13 personally, physically, and hopefully
14 visibly, so the public knows that CCRB is
15 out there, the Police Department knows
16 that the CCRB is out there. That doesn't
17 mean we're getting confrontational with
18 anyone. But the mere fact that you are
19 seen, that you are part of the
20 conversation, I think is important in
21 terms of restoring the public confidence
22 in the agency or the perception that the
23 CCRB is a central player in terms of
24 official misconduct here in the city.
25 Thank you.

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1 THE CHAIR: Thank you.

2 MR. SIMONETTI: Chris, just a point
3 of information. I'm sure you've looked
4 at some of the video that was posted on
5 YouTube. And at the bottom they have
6 direct links to CCRB. So they did have
7 the linkage to CCRB.

8 MR. DUNN: (Indiscernible).

9 MR. SIMONETTI: Just so you're aware
10 of it.

11 MR. DUNN: Yeah.

12 THE CHAIR: There's nothing further
13 in terms of public comment. We're going
14 to break into Executive Session. Thank
15 you.

16 (Meeting concluded)

17 (Time noted: 10:45 a.m.)

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

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:

October 24, 2011

ESTHER ACCARDI (CET**D-485)
AAERT Certified Electronic Transcriber