

Public Board Meeting of the CCRB December 12, 2012

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3 Public Board Meeting of the

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5 Civilian Complaint Review Board

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8 Wednesday, December 12, 2012

9 10:00am

10 40 Rector Street - 2nd floor

11 New York NY 10006

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13 Daniel D. Chu, ESQ., Chair

14 Joan M. Thompson, Executive Director

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Public Board Meeting of the CCRB December 12, 2012

1 PUBLIC MEETING AGENDA:

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3 1. Call to Order

4 2. Adoption of Minutes

5 3. Report from the Chair

6 4. Report from the Executive Director

7 5. Committee Reports

8 6. Old Business

9 7. New Business

10 8. Public Comment

11

12 BOARD MEMBERS PRESENT WERE:

13 Dr. Mohammad Khalid

14 James Donlon, Esq.

15 Youngik Yoon, Esq.

16 Janette Cortes Gomez, Esq.

17 Rudolph Landin

18 Tosano J. Simonetti

19 David G. Liston, Esq.

20 Jules A. Martin, Esq.

21 Bishop Mitchell G. Taylor

22 Alphonzo A. Grant, Esq.

23 Hon. Mary Ellen Fitzmaurice, Esq.

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CHAIR CHU: All right guys we're gong  
to call this meeting to order. Because we are  
still homeless and displaced and the computer  
systems are still down we have not been able to  
adopt formally the minutes from our meeting in  
October and November. We will do that as soon  
as possible. We'll try to get that on our  
website even if it's an unadopted version for  
those that are interested. Report from the  
chair, I'm happy to report that we met with the  
Police Commissioner, Raymond Kelly yesterday at  
1 Police Plaza. 8 out of our 12 board members  
were able to be in attendance yesterday. We had  
a pretty productive meeting. We discussed  
issues surrounding certain policies and things  
that the two agencies can do to foster even  
greater communications. As everyone knows, the  
APU, we're on the cusp of beginning that  
formally, and certainly we anticipate continued  
cooperation from the Police Department, and  
specifically the Department Advocate's Office as  
we embark on that journey together. The success  
will certainly depend upon the ability to work  
together in prosecuting these cases and we look

1 forward to achieving that. In terms of 40  
2 Rector Street, we've been getting conflicting  
3 information. One day we're told that power and  
4 heat would be restored the next day or later on  
5 that same day. The message seems to change. I  
6 know that Brian Connell our Deputy Executive  
7 Director in charge of administration has been  
8 staying on top of that. Joan also, I guess, is  
9 in a better position to fill us in on exactly  
10 what the status is as of this minute, or this  
11 morning. Joan?

12 MS. THOMPSON: I'd say as of this  
13 minute we're probably a little bit better off  
14 than we were, but not much. There is  
15 electricity in the building. Two of the  
16 elevators on each side of the building are  
17 working. There is no heat. I'm not sure that  
18 there is some water running, but I don't know if  
19 it's consistent. There is no phone service.  
20 All of this copper wiring has to be replaced  
21 due to the salt water corrosion. Verizon said it will  
22 take months, absolutely months, not weeks, or days  
23 before they will be able to finish the job.  
24 They also had to look at the fire panel box and all  
25 the other technical things. Some of them were

1       working, some of them aren't. From what we  
2       gather the landlord is saying that  
3       we can move in. Move in means that you will be  
4       sitting there in a building that probably either  
5       has partial heat or no heat and lights, but  
6       definitely has no phones. So, obviously that's  
7       not move in to me. It has not been cleaned either  
8       although they have started the cleaning, but it  
9       hasn't been cleaned as of yet. What we're  
10      planning to do is to tomorrow we will be moving  
11      our computers. The lines have been dropped.  
12      They had no wires or cabling at 1 Metrotech. It  
13      was just desks, just a room full of desks. So  
14      we had to even go and drop wire and whatever,  
15      that took us quite a while. That's completed as  
16      of now and we will be moving our computers.  
17      They all have been tagged and they will be moved  
18      tomorrow. We will then hook them up on Friday,  
19      and hopefully that will be finished by the  
20      beginning of next week. Brian you can give us an  
21      update on the phones. I don't know about the  
22      phones there though.

23                BRIAN: OK, the phones, they've just  
24      completed all the connections today. Verizon's over  
25      there, and I did mention that we're on the sixth

1 floor. The agency has most of the sixth floor at  
2 1 Metrotech Center North.

3 MS. THOMPSON: And we will take those same  
4 phones with us to 100 Church Street when we move  
5 at the end of 2013, right? So we're hoping that  
6 probably Monday, maybe Tuesday at the latest  
7 that we can get people back into a site. To reiterate,  
8 The agency will be located at 1 Metrotech on the sixth  
9 floor. It will be 1 Metrotech on the sixth floor.

10 We'll have to see about the Xerox machines and copier  
11 machines over, but Brian, Shay and I will work  
12 that out later, but at least there will be a  
13 place to go. What we have to do unfortunately,  
14 is that since there is not enough room, we have  
15 to rotate the teams, sharing desk and phones.  
16 So teams one, two, and three will be there  
17 Monday, Wednesday, and Friday, and four, five,  
18 and six will be there Tuesday, Thursday, and  
19 then start the rotation on the following week.

20 We just had to take this location. It was the best  
21 space they offered us. The other space they  
22 offered us had no heat, and no running water,  
23 but both the Chair, and I just didn't consider them  
24 adequate. We're in the best space possible. Brian?

25 BRIAN: - - 1-800 number - - Verizon - -

1 disconnected. So, we've issued a new number on  
2 the website, a 212 number whereby complainants  
3 can leave messages and it's being forwarded to  
4 us by email. So that's our only means right now  
5 of accepting complaints.

6 CHAIR CHU: My understanding is at this point  
7 we're still accepting new complaints, and that  
8 has not been affected by the phone service or  
9 anything else. We're still checking our mail  
10 regularly and accepting complaints by email.  
11 Our internal email servers are working even  
12 though CTS is still down.

13 MS. THOMPSON: Yes.

14 CHAIR CHU: Correct?

15 MS. THOMPSON: That's correct.

16 CHAIR CHU: Okay. As a result of the CTS  
17 being down there will be no report from the  
18 Executive Director, but those statistics will be  
19 provided once we're able to get those servers up  
20 and running. As you all know also there was a  
21 public hearing on November 28th on the APU rule  
22 changes. That was a joint meeting between our  
23 agency and the NYPD. We will be taking a vote  
24 on that shortly. The board members have been  
25 provided with copies of the comments that were

1 provided by the NYCLU as well as Citizens  
2 Union. Are there any committee reports at this  
3 time? I know that being displaced means  
4 probably no committees have met. Is there  
5 any old business? Is there any new business?

6 MR. SIMONETTI: Question do we have  
7 indication on the number of complaints we're  
8 receiving during that period of the hurricane?

9 MS. THOMPSON: Denis?

10 DENIS: 600.

11 MR. SIMONETTI: 600?

12 DENIS: Yes.

13 MS. THOMPSON: 650.

14 MR. SIMONETTI: Over a one month period?

15 DENIS: Six weeks.

16 MR. SIMONETTI: Six week period. Which is  
17 slightly down I think.

18 DENIS: Yes, slightly down.

19 CHAIR CHU: Okay. I'm also happy to report at  
20 this time that we have hired our Deputy Chief  
21 Prosecutor for the APU Unit. His name is  
22 Jonathan Darche. He joins us from the  
23 Queens County District Attorney's Office. I  
24 believe he has a start date of January 1st.

25 MS. THOMPSON: 2nd.



1                   CHAIR CHU: January 2nd, okay. So, we're  
2 excited about that. We're happy to have him  
3 join the team. In terms of investigations,  
4 again I'm going to turn the floor over to  
5 Denis. I know that everything is slowly going  
6 back to normal, but one of the issues I have I  
7 guess is still with interviews, is that right?

8                   DENIS: Yes. We don't have a location.

9                   CHAIR CHU: Okay, and that's because  
10 Metrotech will not allow it.

11                  MS. THOMPSON: [Interposing] They said that  
12 we can't have outside people in because of security.

13                  CHAIR CHU: Okay. So, we're working on  
14 addressing that. We're accepting new  
15 complaints. We're trying to find a place where  
16 civilian interviews can be conducted. Metrotech  
17 apparently has a clause in the lease that  
18 prevents us from bringing the public into the  
19 building. Do you have anything else to report  
20 Denis in terms of investigations?

21                  DENIS: No.

22                  CHAIR CHU: Okay. Let's move to the vote on  
23 the changes to our rules. You've all been  
24 provided with draft copies of the proposed  
25 rules, as well as the comments from the

1 different civic groups. Do I hear a motion at  
2 this time for a vote on the rule changes?

3 MR. DONLON: So moved.

4 CHAIR CHU: Is there a second?

5 MR. SIMONETTI: Seconded.

6 CHAIR CHU: Ok. It's moved and seconded that  
7 we vote on the rule changes. Again, everyone  
8 has had an opportunity to read the comments and  
9 to discuss prior to the vote. Obviously, this  
10 is the internal rules which don't affect the MOU  
11 which is already in place, signed between myself  
12 and the Police Commissioner. These internal  
13 rules reflect guiding rules for our agency and  
14 is there any commissioner right now that has any  
15 additional comments that they want to place on  
16 the record after reviewing what was provided in  
17 terms of the public comment? All right seeing  
18 and hearing no comments, I'm going to move the  
19 question on the motion as to whether or not to  
20 adopt the rules changes as they are proposed.  
21 All those in favor please say Aye.

22 [CROSSTALK]

23 CHAIR CHU: Any one opposed please say no.  
24 Here comes Commissioner Liston.

25 MS. THOMPSON: Why don't we just wait one

1 second.

2 CHAIR CHU: Yeah, wait one second. He's got  
3 his water.

4 MR. LISTON: I guess - - . Where do you  
5 want me to sit?

6 MS. THOMPSON: Right there.

7 CHAIR CHU: Anywhere.

8 MR. LISTON: How are you? Nice to see you.

9 CHAIR CHU: Timing is everything. We're  
10 voting now on the proposed rule changes. I'm  
11 going to do it again, all those in favor of the  
12 motion please say aye.

13 [CROSSTALK]

14 CHAIR CHU: Any in opposition say no. Any  
15 abstentions? All right, that motion is carried.  
16 The rules of the CCRB are amended to reflect the  
17 rules changes which have just been adopted by  
18 unanimous vote. At this time if there are no  
19 further comments from the commissioners I will  
20 open it up to public comment. We don't have a  
21 sign in, but I anticipate that Mr. Dunn will  
22 have something to say.

23 MR. DUNN: I wouldn't want to  
24 disappoint you. Okay, first I'm happy to hear  
25 you met with the commissioner yesterday. You,

1 in the past, I've commended you for some more  
2 details you've provided about the meeting with  
3 Commissioner Kelly last time. That level of  
4 detail was lacking in your report this time, so  
5 I'm hoping maybe you could provide us with a  
6 little more detail of what the certain policies  
7 were that were discussed at the meeting  
8 yesterday?

9 CHAIR CHU: I don't really recall more  
10 details. I'll have to check the transcript from  
11 a year ago and get back to you. I think that  
12 you commented last time, and you praised me for  
13 giving more than my predecessors, but I don't  
14 think--

15 MR. DUNN: [Interposing] It was certainly  
16 more than we discussed certain policies, let met  
17 assure you. We can go back and look at the  
18 transcript, but I'll bet you a breakfast you're  
19 going to be wrong on that one.

20 CHAIR CHU: I'll get back to you.

21 MR. DUNN: Okay. Disappointed about that.  
22 We deserve a little more disclosure about at  
23 least the policies without the particulars of  
24 the discussion that you had discussed with the  
25 commissioner. With respect to the problems on

1       40 Rector Street I'm completely sympathetic  
2       with that. We're in the same boat where we're  
3       at our office; although, we're going back next  
4       week. I am a little alarmed that there are no  
5       interviews taking place which means that the  
6       investigation process has completely stopped at  
7       least in terms of all new complaints. I would  
8       think it would be a top priority for the agency  
9       of the city to find some place where interviews  
10      could take place. It wouldn't seem like it  
11      would be that complicated. I would just say  
12      that none of this would be a complete solution,  
13      but the fact that the CCRB has no community  
14      presence physically. All of its operations are  
15      in 40 Rector Street. I understand you are  
16      moving, but it just highlights the problem we  
17      have had with that arrangement whereby  
18      everything you have, all those things are in one  
19      basket. If something happens in that office,  
20      the agency essentially shuts down. Not that we  
21      had ever thought about community offices being a  
22      solution to a potential hurricane, but I just  
23      think it highlights the fact that the CCRB  
24      exists in one place in the entire city of New  
25      York, and one place only, and that should be

1       rectified. In terms of the rule changes, we  
2       made our comments, you saw them. I do want to  
3       note that it is a little misleading to just talk  
4       about this in terms of the APU because you also  
5       made some internal changes to your processes  
6       having nothing to do with the APU. I would just  
7       reiterate that I think it is a serious mistake  
8       for the agency to be cutting back on it's  
9       contact with complainants and for you to abandon  
10      the process for which you were at least at 45  
11      days, 90 days, telling complainants about the  
12      status of their cases. I just think it's a huge  
13      mistake. Whatever the magic of the 45 days, and  
14      the 90 days, this agency has a problem with it's  
15      public interaction. It as a problem with the  
16      public perception about its public interaction.  
17      For the rule change for you guys to make to say  
18      we're going to have less involvement with our  
19      complainants, that's a terrible message, and  
20      it's a mistake. It's also a mistake in the  
21      context of the APU because you get to prosecute  
22      in these cases, and is Laura here?

23               FEMALE VOICE: She's right here. She's back  
24      in the doorway.

25               MR. DUNN: She's going to be in there

1 prosecuting these cases, you need the  
2 complainant. The complainant is a key part of  
3 those prosecutions. If you're not paying  
4 attention to that complainant, and keeping that  
5 complainant involved in things, you're going to  
6 have someone who's going to be much less likely  
7 to participate in and show up for a prosecution.  
8 I just think it is a serious mistake for you to  
9 have adopted this rule change, and I would  
10 encourage you to immediately start thinking  
11 about what you need to do to, in lieu, of  
12 everything you were doing in 45 and 90 days,  
13 makings sure you have a process by which  
14 complainants are regularly informed about what's  
15 happening with their complaints.

16 CHAIR CHU: Chris, I will say just to be  
17 clear, the change in the 45 and 90 day rules  
18 does not preclude complainants from calling and  
19 following up, which from my understanding is how  
20 information is generally updated with  
21 complainants in the first place. Secondly, I  
22 think the APU from the advent of it's  
23 introduction has done a tremendous job in  
24 building rapport, and maintaining that report,  
25 and I think there's certainly flexibility there.

1       They're not looking to the rules and saying  
2       "Oh, it hasn't been 45 days. I can't speak to  
3       you," or, "Oh, it's 50 days. I've got to wait  
4       until 90 days." I think that the APU has done a  
5       tremendous job. I think the investigators also  
6       are very responsive to the extent allowable by  
7       law to any kind of inquiries in the interim.  
8       So, these rules are certainly not preventing any  
9       communications.

10               MR. DUNN: I understand the rule does not  
11       say "Thou shalt not talk to a complainant."

12               CHAIR CHU: Absolutely not.

13               MR. DUNN: But, again, with all due respect  
14       I think it was a mistake to believe that it is  
15       sufficient that a complainant can all the CCRB  
16       when they want to find out more information  
17       about their case. One, it's not necessarily  
18       such a simple matter of getting hold of an  
19       investigator. Secondly, and more importantly,  
20       putting the onus on a complainant, I think is a  
21       mistake. There's already a huge problem with  
22       truncated cases, and what that reflects I think,  
23       at some level, is just the general matter a lack  
24       of complainant involvement in cases.

25               CHAIR CHU: Again, just on the truncation



1 point, I just want it to be very clear for the  
2 record that we do not truncate cases without  
3 doing due diligence, and that usually includes  
4 at least, I believe it's three phone calls,  
5 mailings, and it's too a point where obviously  
6 we want to be able to follow up on every case,  
7 but given the realities there are certain people  
8 who for all intents and purposes, have abandoned  
9 the case. Those are the bulk of the  
10 truncations, and ample opportunity is given,  
11 even to those, for later reopening when there's  
12 something there. Just to be clear, I know you  
13 know. I just want everyone else to know.

14 MR. DUNN: Fair enough. There is a record,  
15 and it's right to make the record. I understand  
16 the truncation issue is a complicated issue.  
17 What I'm saying is I feel like the agency can  
18 and should to a better job of engaging with  
19 complainants, and whatever may turn out to be  
20 the reality, complainants being able to call on  
21 their own, and get an investigator on the phone  
22 who will tell them something about their case.  
23 The fact of the matter is, in my mind it sends a  
24 terrible message to the public who - - . The  
25 one real rule change that CCRB made to its own

1 procedures was to say we are going to stop  
2 doing the one formal communication by rule which  
3 we were required to do before. I understand  
4 maybe the 45 day, 90 day cycle, there's no magic  
5 to that, but I think it was incumbent upon the  
6 agency to make some affirmative step to make it  
7 clear to the public, and in fact make it true  
8 and true that there is an affirmative effort by  
9 the agency made to keep complainants informed of  
10 what's happening in their cases. I just think  
11 this is a step in the wrong direction. - - .  
12 The final thing I wanted to mention was, is  
13 there any update about the Executive Director  
14 search?

15 CHAIR CHU: I think at this point the struggle  
16 to get back to normalcy has taken front and  
17 center. While the process certainly is  
18 continuing and we continue to get resumes, we  
19 are reviewing those resumes and we are doing the  
20 early round interviews, that has taken a back  
21 seat to, as you mentioned, getting interview  
22 space, getting enough so we can accommodate our  
23 entire staff, which is very difficult to do  
24 because as the stewards of limited resources we  
25 also don't want to spend our entire budget on

1 something that may turn out to be temporary  
2 space, but it certainly is an ongoing process,  
3 and we will provide updates. I believe that any  
4 transition and any selection at least until  
5 we're back at 40 Rector, or at least operating  
6 at a normal occupancy. Any candidate that we  
7 bring in at this time I think is really in for  
8 something that they probably did not anticipate,  
9 and I don't think it would be fair to put  
10 someone in at this time until we're back on our  
11 feet.

12 MS. THOMPSON: And I will be remaining until  
13 then.

14 MR. DUNN: All right. That was all. Thank  
15 you.

16 CHAIR CHU: Thank you very much. Anyone else?  
17 Seeing and hearing no one else, we're going to  
18 break into Executive Session. I guess we'll  
19 take five minutes.

20 MALE VOICE: Will the meeting be held here  
21 next month?

22 CHAIR CHU: We don't know. Chances are we're  
23 going to change it up for you we did Staten  
24 Island Borough Hall.

25 [END RECORDING]

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C E R T I F I C A T E

The prior proceedings were transcribed from  
audio files and have been transcribed to the  
best of my ability.

Signature

Date December 17, 2012