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In the Matter of the

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**MEETING OF THE  
CIVILIAN COMPLAINT REVEIW BOARD**

7

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8

October 10, 2007  
10:00 a.m.

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

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**B E F O R E :**

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**FRANKLIN H. STONE, ESQ.,**  
Chair

14

**ERIC DORSCH,**  
Acting Executive Director

15

16

**A G E N D A:**

17

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

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Sabine Faustin,  
Court Reporter

23

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**AMEERAMAC REPORTING INC.  
168 PUTNAM AVENUE 2ND FLR  
BROOKLYN, NEW YORK 11216**

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3                   A P P E A R A N C E S:

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7                   BOARD MEMBERS:

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                  TOSANO J. SIMONETTI

9

                  YOUNGIK YOON, ESQ.

10

                  VICTOR OLDS, ESQ.

11

                  WILLIAM F. KUNTZ II, ESQ.

12

                  JULES A. MARTIN, ESQ.

13

                  CAROL LEIBMAN, ESQ.

14

                  JAMES DONLON, ESQ.

15

                  LAWRENCE L. LOESCH, ESQ.

16

                  DR. MOHAMMAD KHALID

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                  DENNIS deLEON, ESQ.

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**P R O C E E D I N G S**

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10           **THE CHAIR:** I want to call this  
11 meeting to order. As a first order of  
12 business our board member, Dennis deLeon  
13 has asked for an opportunity to speak to  
14 us.

15           **MR. deLEON:** I have missed the last,  
16 I think, three board meetings and I want to  
17 apologize to the public and the members of  
18 the Board on the record.

19           I have been ill. New medications  
20 were not doing me well so -- you know, I  
21 have not missed a panel but I apologize for  
22 having missed the three board meetings and  
23 it won't happen again.

24           **THE CHAIR:** Dennis, we're delighted  
25 that you're feeling better and that you're

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2           back with us.

3                     **MR. deLEON:** Thank you.

4                     **THE CHAIR:** The next order of  
5           business is the adoption of minutes which  
6           have been circulated to the board and we've  
7           had an opportunity to review it.

8                     Do we have a Motion with respect to  
9           the minutes?

10                    **MS. LEIBMAN:** Motion.

11                    **THE CHAIR:** A second?

12                    **MR. DORSCH:** Second.

13                    **THE CHAIR:** Any discussion; any  
14           correction; comments?

15                    (No response.)

16                    **THE CHAIR:** Shall we put it to a  
17           vote then?

18                    All in favor of approving the  
19           minutes.

20                    (Board responds in the affirmative.)

21                    **THE CHAIR:** Any opposed?

22                    (No response.)

23                    **THE CHAIR:** Any abstentions?

24                    (No response.)

25                    **THE CHAIR:** All right, approved with

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2           no abstentions or --

3                     **MR. KUNTZ:** Nays?

4                     **THE CHAIR:** (Continuing) -- or nays.

5           I was struggling with the proper word and  
6           grammar on that, sorry.

7                     The next item we have is the report  
8           from the Chair. I have two matters to  
9           report. The first is that we have, as you  
10          all may be able to tell, a Korean  
11          television station, SBS with us here this  
12          morning.

13                    The station is doing a special on  
14          the issue of police oversight in Korea.  
15          We're delighted to have you with us and are  
16          happy to talk with you about police  
17          oversight in New York City.

18                    The second item I have on agenda is  
19          the report on the NACOLE conference, the  
20          National Association for Civilian Oversight  
21          of Law Enforcement. They had their annual  
22          meeting in September in San Jose. It was  
23          attended by two board members and three  
24          members of the staff.

25                    It was an incredibly productive

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2           meeting. Both the panels that were set up  
3           by NACOLE and the informal discussions that  
4           took place before and after the panel  
5           discussions were really very informative.  
6           It was the first time I had gone and I will  
7           plan on going again. I really thought it  
8           was terrific.

9                         One of the high points of the  
10           conference was the -- were the remarks of  
11           our staff member, Marcos Solar, who spoke on  
12           the use of statistics to aid in the  
13           oversight of law enforcement in New York  
14           City.

15                        It was a really well thought out and  
16           well delivered speech that was very, very  
17           well received by the other attendees at the  
18           conference. So I want to thank him again  
19           for taking the time and effort to do that  
20           on behalf of our organization and others  
21           that are interested in the same goals that  
22           we are; that being said that concludes my  
23           report.

24                        (Discussion held off the record.)

25                        **THE CHAIR:** I do have a third thing.

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2           After a lengthy search process that was  
3           participated in by the entire board, we  
4           have selected Joan Thompson to serve as the  
5           new Executive Director of the Civilian  
6           Complaint Review board.

7                       Ms. Thompson comes to us most  
8           recently from the Department of Education  
9           here in New York City. She has had  
10          extensive managerial experience, EEO  
11          experience and experience with both the New  
12          York City Police Department and the  
13          Baltimore Police Department.

14                      She will be starting with us on  
15          Monday. I know you all will provide her  
16          with a warm welcome and I will introduce  
17          her with a more lengthy introduction and  
18          specifics at our next board meeting when  
19          she will be sitting next to us; that I  
20          think concludes my report.

21                      **MR. deLEON:** Madam Chair?

22                      **THE CHAIR:** Yes.

23                      **MR. deLEON:** Is it possible -- do we  
24          plan to post some brief biographical  
25          information on the web site?

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2                   **MR. DORSCH:** We already have.

3                   **MR. deLEON:** We already have?

4                   **MR. DORSCH:** I believe we have. We  
5           have already posted some information about  
6           her arrival. When she comes here, if  
7           appropriate, we'll add additional  
8           information but there's already information  
9           about her background and the fact that  
10          she's coming.

11                   **THE CHAIR:** The next item is the  
12          report from the Executive Director.

13                   **MR. DORSCH:** I too, have the  
14          pleasure of announcing a new person at the  
15          CCRB. Jessica Darpino is one of the  
16          currently two Assistant Directors for  
17          investigations on staff. We hired a third  
18          but he will not start until next Monday.  
19          Jessica started on September 4th of this  
20          year.

21                   She spent the previous two years at  
22          the Bronx County DA's office where she  
23          handled appeals cases. In addition, she  
24          ran -- I believe I have this term  
25          correct, -- the Mental Hygiene Unit.

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2                   **MS. DARPINO:** Yes, I ran the cases  
3                   for people found not responsible by reason  
4                   of mental defect or reason.

5                   **MR. DORSCH:** That's the next thing I  
6                   have written in my bio of her. She's a May  
7                   2003 graduate of Fordam Law School and May  
8                   2000 graduate of the University of  
9                   Pennsylvania.

10                   I notice upon looking at your resume  
11                   again that one of your major interest is  
12                   football. I never asked you your team and  
13                   you don't have to answer but it may affect  
14                   your relationship with people here if  
15                   you're an Eagles' fan.

16                   **MS. DARPINO:** Probably adversely, I  
17                   am an Eagles' fan but I'm married to a  
18                   Giants' fan, so I already have conflicts.

19                   **MR. DORSCH:** We can work with you on  
20                   this one. Welcome to the board. She's  
21                   already doing wonderful work but I'm  
22                   confident that will continue.

23                   Moving on to some of the more fiscal  
24                   issues. Our fiscal authorized head count  
25                   is 102. At the end of last month we had a

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2           head count of 185.

3                       At the last two board meetings  
4           there's been some discussion of the  
5           percentage of our cases that are over 18  
6           months old and because of that, the  
7           executive staff has conducted an audit of  
8           all cases that are fifteen months older or  
9           that were fifteen months or older as of  
10          September 14th of this year.

11                      What we've found by looking at  
12          that -- this is to report back to the board  
13          members concerned -- is that the vast  
14          majority of those cases are currently  
15          awaiting board review -- that they already  
16          are awaiting review by the board.

17                      Of the cases that are not -- almost  
18          all of the cases that are not currently  
19          awaiting board review either were filed at  
20          least ten months late or have been on DA  
21          hold for at least ten months.

22                      There was one case that had been  
23          closed and then was reopened at the request  
24          of the Complainant a significant amount of  
25          time after it was initially closed by the

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2           board.

3                       In a couple of cases the subject  
4           Officer was out on long term sick leave so  
5           we were unable to interview him and there  
6           are a trickle of cases where we had  
7           significant problems obtaining NYPD  
8           documents, either IAB case files or other  
9           documents that we needed to investigate the  
10          case. I've taken active roles in getting  
11          those documents.

12                      There are only a few cases which are  
13          currently being investigated where we don't  
14          see a big delay in the ones I've mentioned  
15          and we're attempting to close them as  
16          quickly as possible.

17                      With regard to the 2007 statistical  
18          report I did see there's actually a typo on  
19          the statistical report. On Page 4 in the  
20          first chart, the second column should read,  
21          I believe, September 2007 not 2006.

22                      We received 630 complaints in  
23          September 2007 which is actually down three  
24          complaints from September 2006.

25                      Year to date, we've received 5,783

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2           complaints which is up from the 5,764  
3           complaints we received year to date last  
4           year.

5                       In September we closed 73 full  
6           investigations, 101 truncated cases, six  
7           mediations and 29 cases were closed in a  
8           different manner for a total of 209 cases.

9                       As of October 1, 2007 our overall  
10          agency docket was up 421 cases since  
11          September of this year and we currently, as  
12          of October 1st, have 1,653 cases pending  
13          board review.

14                      The case dispositions for 2007 year  
15          to date: We have closed 1,967 full cases  
16          and of those cases we've substantiated one  
17          or more allegations in 8.9 percent of those  
18          cases.

19                      Out of the total allegations closed  
20          year to date we've substantiated 5.1  
21          percent, unfounded 18.6 percent, exonerated  
22          40.0 percent, unsubstantiated 25.3 percent,  
23          closed 8.7 case as Officer unidentified and  
24          2.1 percent of the cases we've closed with  
25          a miscellaneous disposition. I believe

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2           that concludes my report.

3                   **THE CHAIR:** Committee reports?

4                           (No response.)

5                   **THE CHAIR:** Do we have reports from  
6           any of our committees at this meeting?

7                           (No response.)

8                   **THE CHAIR:** No?

9                           (No response.)

10                  **THE CHAIR:** Okay, old business?

11                           (No response.)

12                  **THE CHAIR:** I'm not sure we have any  
13           opened old business.

14                   **MR. KUNTZ:** I think the only opened  
15           old business that we have is to let the  
16           public know that we are required to hold  
17           our panel meetings in person and are not  
18           authorized to have them by telephone  
19           conference.

20                  **THE CHAIR:** I'm delighted that you  
21           raised that. I actually intended to put  
22           that in my report but it was so long ago,  
23           before I went to NACOLE, and I forgot.

24                           Any other old business?

25                  **MR. deLEON:** Yes. I read with great

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2           interest the minutes of the last meeting  
3           concerning the NYCLU report. I think  
4           that -- I think that our reaction -- I  
5           think that the reaction of some of the  
6           board members was that there was a lot that  
7           we agreed on in that document.

8                        I -- just in talking to a couple --  
9           some board members I would like to  
10          recommend that we take the points where we  
11          find, you know, some level of convergence  
12          and begin to take on those points in turn,  
13          on the record or through the Operations  
14          Committee and to basically develop -- um,  
15          like can we ask ourselves is this a  
16          critique where we can take a positive --  
17          more positive stand on.

18                       I didn't view the report on the  
19          whole as an insult to the CCRB. I viewed  
20          the report as containing some ideas that  
21          were good and some ideas that weren't so  
22          good and I would like to suggest that the  
23          Operations Committee, you know, consider  
24          those ideas, where there was some interest  
25          in pursuing -- to consider them. I guess

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2           that's a Motion.

3                       **THE CHAIR:** If no one else wants to  
4           make a comment, I will make one. I  
5           completely agree with you that there were  
6           some very valid points that were made by  
7           the NYCLU in their report and if I did not  
8           emphasize that sufficiently at the last  
9           meeting I apologize.

10                    I do think a number of areas in  
11           which they -- where we agree that there's a  
12           problem, that some of those areas are not  
13           directly within our control so there's only  
14           but so much that we can do.

15                    I respectfully disagree with you  
16           with respect to the -- whether the report  
17           was an insult. I think that it insulted  
18           our investigative process and our  
19           investigative staff in some respect, and I  
20           reacted negatively to that because I think  
21           we have a very good process in place and  
22           very hard working investigators.

23                    My concern with the report is that  
24           it contains repeated conclusions based on,  
25           I believe, faulty data. The statement that

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2           our investigative process was flawed was  
3           not only incorrect but it diverted  
4           attention from and obfuscated the real  
5           issues regarding Police oversight in New  
6           York City, which are the larger points  
7           where we do share the NYCLU's concern.

8                         So I would just say that. My  
9           concern -- I don't have any problem with  
10          referring the matter to the Operations  
11          Committee for fuller study and  
12          recommendations. I'm not sure what the  
13          Operations Committee's study would do  
14          exactly.

15                        **MR. deLEON:** We could take those  
16          points where we find some common ground and  
17          see whether those points -- you know, what  
18          our response is; whether it merits further  
19          action by the Committee which is  
20          considering it, because I just read it once  
21          and then I lost it but I -- there were  
22          ideas that required some thought.

23                        Admittedly, some of them require  
24          City counsel follow-up but the City counsel  
25          will ask us at some point, `What

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2           recommendations do you have?' So we'll have  
3           to show them what we have. So it would be  
4           good to have something in place.

5                     You know, these may be some of  
6           the -- some of these ideas may be included  
7           in the recommendations that we have.

8                     **THE CHAIR:** I don't have any problem  
9           putting it on the Operations Committee's  
10          agenda. I'm not sure a Motion is required  
11          to do that, though.

12                    Any problems anyone?

13                    (No response.)

14                    **THE CHAIR:** I think we will accept  
15          your suggestion that the recommendations in  
16          the NYCLU report be put on the agenda of  
17          the next Operations Committee. Does that  
18          meet your request?

19                    **MR. deLEON:** Yes, yes, yes.

20                    **THE CHAIR:** Okay. Are we still on  
21          old business? Any other old business?

22                    (No response.)

23                    **THE CHAIR:** All right, new business.

24          Mr. Simonetti?

25                    **MR. SIMONETTI:** Madam Chair, I would

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2           like the board to consider adopting a  
3           policy where we submit our voting sheets,  
4           the panels to staff members so that they  
5           get an opportunity to pull out those vast  
6           majority of the 175 cases that we agree on,  
7           so we can spend the remaining portion of  
8           our time -- because I know there are some  
9           members who are concerned that we should be  
10          dwelling more on those cases that we  
11          disagree on and I couldn't agree more with  
12          that.

13                        So I would like us to adopt that  
14          policy, that we get in our voting sheets in  
15          a timely fashion so that the staff can pull  
16          out those on which we agree and we don't  
17          have to spend so much time going through  
18          those cases, devoting the remainder of our  
19          time to the cases we disagree on.

20                        I'd like to put that in the form of  
21          a Motion.

22                        **MR. deLEON:** I second the Motion.

23                        **THE CHAIR:** Discussion?

24                        **MR. KUNTZ:** Yes. I would be a  
25          opposed to that. For many years we had a

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2           system where commissioners certainly were  
3           free to deliver their voting sheets to the  
4           staff any time they wanted to but the  
5           notion that the staff will be going through  
6           and making their own cut on Commissioner  
7           votes with respect to what is agreed to and  
8           what's not I think is counter productive.

9                        We have panel meetings very often,  
10           such as the one we had yesterday with Mr.  
11           Simonetti where, in a very short period of  
12           time, we reviewed a number of cases and  
13           indeed the ones that we needed to discuss  
14           we discussed fully and there were no  
15           problems with that.

16                       So I think to artificially have  
17           cases -- voting sheets come in and reviewed  
18           by staff, segregated by staff would be  
19           inappropriate.

20                       **MR. SIMONETTI:** Well, in light of  
21           the fact that upwards of sixty percent of  
22           our cases were truncated I think would  
23           negate Commissioner Kuntz's argument, in  
24           terms of having the staff pull out the  
25           cases.

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2                   **MR. KUNTZ:** I don't think the staff  
3                   should be pulling out cases; that's the  
4                   work of the commissioners.

5                   What would be most helpful is to  
6                   have a full staff of commissioners. We've  
7                   had a vacancy for a number of years which  
8                   has contributed to our backlog as well.

9                   I think the real issue is not having  
10                  a full compliment of commissioners and not  
11                  a voting issue. The problem is not having  
12                  panel meetings scheduled as aggressively as  
13                  one would hope and perhaps rectifying that  
14                  issue is, I think, one way to address the  
15                  issue.

16                  **MR. SIMONETTI:** That would never  
17                  resolve the issue of only three police  
18                  members being on the board, which means on  
19                  many occasions I do 350 cases a month  
20                  maybe.

21                  It's a very selfish point of view  
22                  but I think if we adopt this policy it  
23                  would make it a lot easier to get through  
24                  those cases.

25                  **MR. KUNTZ:** Actually we got through

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2           over 175 cases in less than 15 minutes  
3           yesterday with no issue. I really don't  
4           understand the problem. We had the  
5           discussion on the cases we needed to have.

6                        There's no problems with the current  
7           process that we have, and as I said I think  
8           we have delays and we are down at least one  
9           Commissioner, and have been, I believe for  
10          over a year, perhaps two years; those are  
11          the problems.

12                      I believe it would be lovely to have  
13          more departmental representatives here. I  
14          said that before but that's a matter of  
15          changing the statute and it's not something  
16          that we can do. I think what we can do is  
17          have more panel meetings and have them more  
18          frequently. But having voting sheets in  
19          earlier and having the staff chew over the  
20          voting sheets would not accelerate in any  
21          way, shape or form the decisions.

22                      As I said, we went through 175 cases  
23          yesterday and talked about the ones we  
24          needed to talk about. I think you would  
25          confirm that we didn't fail to discuss any

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2           cases that needed discussing; isn't that  
3           right?

4                   **MR. SIMONETTI:** Yes, there were only  
5           three cases that we had discussions on.

6                   **MR. KUNTZ:** And we discussed those  
7           cases and resolved them. I don't think we  
8           sent anything to the full board through our  
9           panel yesterday.

10                   **THE CHAIR:** All right, Dennis --

11                   **MR. deLEON:** Larry had something to  
12           say.

13                   **MR. LOESCH:** My comment is I think  
14           it's a much more efficient and effective  
15           way to do things and the only thing we're  
16           asking the staff to do is strictly  
17           administratively collate these things.

18                   The decisions are made by the  
19           commissioners -- the members. I think any  
20           administrative work, such as doing away  
21           with the boxes -- when we went through the  
22           disks, that made it easier for all of us  
23           and it was also cost saving for them.

24                   In one of my panels, we do it that  
25           way now and in the other panel we don't. I

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2           think in the one where we don't do it, I  
3           think time is wasted because we don't do it  
4           that way; because we're doing the  
5           administrative part of it, so I agree with  
6           Commissioner Simonetti.

7                       **THE CHAIR:** Dennis?

8                       **MR. deLEON:** I'd just like to say in  
9           my experience in panels where the  
10          commissioners all have the same point of  
11          view on the cases, in regards to the cases  
12          where we all had the same votes being  
13          screened out ahead of time, the cases where  
14          there were some notes -- in the event  
15          necessarily --

16                      In cases where we may have been  
17          voting the same but there were notes  
18          described by some commissioners on the  
19          sheets, there were -- those were screened  
20          in but I found that process produced really  
21          good, important discussions on issues,  
22          whereas the process that we have now --  
23          that I have now on the panel is we race  
24          through cases like a marathon, not really  
25          dwelling or trying to stop in the depth

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2           that I would like.

3                         This is strictly a personal  
4           preference and I believe that having more  
5           time with the cases in which -- where we do  
6           have issues, where it's indicated in  
7           writing that there are issues or we  
8           disagree, I think that would be much more  
9           productive.

10                        **MR. KUNTZ:** Just so the public  
11           understands, any Commissioner can stop, as  
12           you characterize it, and discuss any case  
13           so we are not racing through the cases.

14                        Any Commissioner can stop and talk  
15           about any of the cases that they wish to  
16           discuss. There is no impediment to talking  
17           about Case No. 37 and talking about that  
18           for as long as a period of time that one  
19           wants.

20                        **MR. deLEON:** I know that but the  
21           practical effect of it is that we have --  
22           because of the volume of cases that we have  
23           to get through, everybody seems to be in a  
24           big hurry to get through the session, in a  
25           manner that is likely to -- is likely to

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2           provide less deliberation.

3                       I think there would end up being  
4           more cases --

5                       **MR. KUNTZ:** So it's your view then  
6           that the cases that are voted on in advance  
7           of the meeting, those votes would be  
8           dispositive in effect?

9                       **MR. deLEON:** The cases where we  
10          don't disagree and there's no notes to --

11                      **MR. KUNTZ:** So if I vote -- for  
12          example, just to follow this up, if I write  
13          down on the sheet today -- for a case  
14          that's being determined in two weeks time,  
15          let's say -- on the panel that I think the  
16          case should be Complainant unavailable,  
17          that's it; that's the vote and if the other  
18          two commissioners agree that's dispositive?

19                      **MR. deLEON:** No. No, that comes  
20          into the panel.

21                      **MR. KUNTZ:** Sorry?

22                      **MR. deLEON:** That comes into the  
23          panel --

24                      **MR. KUNTZ:** Why?

25                      What if we all say it's a truncated

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2           case and it's Complainant uncooperative,  
3           that then is not before the panel when we  
4           meet --

5                   **MR. deLEON:** No, that would be  
6           because we have a disagreement --

7                   **MR. KUNTZ:** You're not hearing me.  
8           Let's say the Complainant is uncooperative;  
9           they've tried to reach him and they've sent  
10          the letters and that's the determination.

11                   Let's say all three of us on the  
12          panel have circled for Case No. 37,  
13          "Complainant unavailable"; is that it then;  
14          there's no further vote by the panel?

15                   The staff sees that and says, `Okay,  
16          this is a truncated case, Complainant  
17          unavailable case' and it's been decided --

18                   **MR. deLEON:** I agree with you --

19                   **MR. KUNTZ:** Here's my point: That  
20          violates the statute. The point is the  
21          vote -- this is why the question of  
22          telephone conference call and in-person  
23          meetings is important.

24                   The actual vote on the case, even a  
25          truncated case occurs when the panel meets.

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2           What you're proposing is a pre-vote where  
3           if we agree that it's Complainant  
4           uncooperative or complaint withdrawn --  
5           let's make this easy.

6                     The Complainant writes a letter and  
7           says `I'm withdrawing it by phone call', so  
8           then there's no question that it's  
9           withdrawn and -- or let's say there's an  
10          issue of coercion so it's withdrawn.

11                    You're saying because we voted on it  
12          today and the panel meets in a week, that  
13          the vote at the time that we take it won't  
14          deal with this issue?

15                    What I'm saying to you is we're  
16          required under the law to vote in person,  
17          on a case by case basis. Even on the  
18          truncated cases -- let me finish.

19                    If you take the position that you're  
20          not going to vote on those cases when you  
21          meet, the reality is the votes will not be  
22          valid.

23                    **THE CHAIR:** I --

24                    **MR. deLEON:** Actually, you can  
25          devise a mechanism where you formally, on

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2           the record, adopt the findings on those  
3           cases.

4                   **MR. KUNTZ:** How is that different  
5           than what we in effect do now?

6                   **THE CHAIR:** Let me get a comment  
7           from Mohammad, Carol and Tony.

8                   **DR. KHALID:** I respectfully  
9           disagree. I can understand the mechanism  
10          of the panel being present but we're three  
11          members manually signing the voting sheet,  
12          agreeing on the cases. So when we meet on  
13          the non-truncated cases we vote anyway.

14                   So I agree with should be able to  
15          submit the votes on truncated case, which  
16          the three of us --

17                   **MR. deLEON:** It isn't just truncated  
18          cases that we're talking about.

19                   **MR. KUNTZ:** The proposal --

20                   **THE CHAIR:** Wait a minute; it's  
21          Carol's turn.

22                   **MR. KUNTZ:** Just a clarification?

23                   **THE CHAIR:** You've had your chance.

24                   **MR. KUNTZ:** I've had my chance?  
25          Thank you for giving me my chance.

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2           I appreciate your courtesy in giving me my  
3           chance..

4                   **THE CHAIR:** You'll have another  
5           opportunity to speak.

6                   **MR. KUNTZ:** Thank you very much. I  
7           appreciate your courtesy.

8                   **MS. LEIBMAN:** I just want to clarify  
9           for the public on all the substantiated  
10          cases, even if we agree on the  
11          substantiation and agree on the mechanism  
12          in which all of those cases were discussed  
13          individually, even when the voting sheets  
14          are submitted ahead of time and separated  
15          so that only the cases we disagree on are  
16          the subject cases, whether there's  
17          disagreement on them or not the cases where  
18          there's disagreement on, where there's any  
19          indication that one of panel members would  
20          like to discuss the case are discussed.

21                   I think in the second or third panel  
22          that I was a part of, we switched from  
23          reading out every single vote sheet and  
24          having the vote taken one by one to -- it  
25          was assumed -- we in effect ratified en

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2           mass the ones we agreed on and it just  
3           seemed to me to save time and to save  
4           energy, to really allow us to focus on the  
5           things that needed our attention.

6                        So I was actually surprised to hear  
7           this morning that most panels don't do that  
8           because it seems a much more efficient and  
9           effective way to deal with the most serious  
10          issues before the board.

11                      I think the point is we need to  
12          formally ratify and adopt the votes at the  
13          meeting, that makes sense. But I don't see  
14          any other problem.

15                      **THE CHAIR:** Tony?

16                      **MR. SIMONETTI:** I yield to  
17          Commissioner Kuntz.

18                      **MR. KUNTZ:** The concern that I  
19          have -- and I understand the need for  
20          efficiency -- is if you take for example an  
21          unsubstantiated case, if that's the  
22          recommendation of the panel and the three  
23          commissioners have voted, under the system  
24          being proposed there would be no discussion  
25          about that case.

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2                   **MR. deLEON:** Not necessarily. One  
3           person can say in a note there's something  
4           that bothers me about this case.

5                   **MR. KUNTZ:** Assuming they don't and  
6           they just vote on it as an unsubstantiated  
7           case, it would not be before the panel  
8           except perhaps in the way Commissioner  
9           Leibman has suggested, which is in some  
10          global confirmation of the cases; is that  
11          the phrase?

12                   **MR. deLEON:** Verbal?

13                   **MR. KUNTZ:** A global reaffirmation  
14          of the cases when they're before the panel;  
15          is that the proposal?

16                   **THE CHAIR:** Any further discussion?

17                   **MR. KUNTZ:** I just want to further  
18          say that I don't think it would be lawful  
19          to do that. In the past we've had periods  
20          when we've had discussions at panel about,  
21          for instance, why are there so many  
22          truncated cases; are we in fact reaching  
23          out appropriately to complainants; the  
24          structure that we have now; how many times  
25          do we have to call a complainant or write a

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2           complainant before we determine that a case  
3           is indeed complainant uncooperative.

4           Discussions like this have emerged from  
5           panel discussions about truncated cases.

6                         So I think it would be dangerous to  
7           move in the direction that's been  
8           suggested, in regards to truncated case.  
9           I'm surprised even, Commissioner deLeon, to  
10          hear you support that because you, of all  
11          people wanted to know why we have so many  
12          truncated cases.

13                        The place you learn why is when we  
14          have an opportunity to look at them and see  
15          whether we've been calling them often  
16          enough and writing to them often enough;  
17          that comes from panel discussions. We  
18          don't discuss particular cases anywhere  
19          else.

20                        So again, I think it's a mistake to  
21          move to the structure that is being  
22          proposed.

23                        **THE CHAIR:** Tony?

24                        **MR. SIMONETTI:** I spend a  
25          considerable amount of time on these 350

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2           cases a month in my office, and I have to  
3           tell you I was probably the most outspoken  
4           person on truncated cases. I look very  
5           carefully to make sure that the  
6           Investigator has gone through the steps  
7           that we've adopted as policy; that a number  
8           of attempts were made very carefully to  
9           contact that complainant.

10                    This is really a spill over from my  
11           work in the Police Department. We used to  
12           look very carefully to make sure that those  
13           attempts were made. Very sincere attempts  
14           were made, including sending out registered  
15           letters, not just phone calls where you  
16           left some voice mail but also visits to the  
17           location.

18                    So I think -- and by the way, I make  
19           a lot of notations on truncated cases that  
20           I'm not satisfied with the attempts made.  
21           Having said that, having spent all that  
22           time -- and I'm assuming that the other  
23           commissioners spend a like amount of time,  
24           if we say that that is the way the case  
25           should go, that's the way it should go.

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2           Why should we have any further discussion  
3           about it?

4                   **MR. KUNTZ:** We don't discuss  
5           further.

6                   **MR. SIMONETTI:** You know, with the  
7           truncated cases generally if there's some  
8           new policy we should be adopting we take  
9           that up as a separate issue.

10                   **MR. deLEON:** That's my point. I am  
11           very concerned about the truncated cases,  
12           not so much the individual -- an individual  
13           case because we tend to follow the same  
14           procedure in every case, which if a person  
15           doesn't have a mailbox and doesn't have a  
16           phone they lose out; they completely lose  
17           out.

18                   I can't remember a case where we did  
19           a visit, in my memory. We used to but that  
20           kind of outreach for -- not just for any  
21           case but for cases where there's been that  
22           kind of seriousness I just don't believe --  
23           I believe that needs to be reformed.

24                   But independent of that, until we  
25           decide to make that reform, you know, and

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2           demand that the investigators actually  
3           undertake a more rigorous follow through on  
4           serious truncated cases, which I believe is  
5           absolutely necessary, I just think that  
6           this -- that this would end up -- and not  
7           just in terms of time -- raising the  
8           quality of the discussions, in my  
9           experience. I'm talking about my  
10          experience as to the quality of the  
11          discussions.

12                   **THE CHAIR:** I think it's time to put  
13          this to a vote. I think everything that  
14          could be said has been said.

15                   **MR. SIMONETTI:** It's been seconded.

16                   **THE CHAIR:** Okay, all in favor of  
17          Tony's Motion?

18                   One --

19                   **MR. deLEON:** May I add, there was a  
20          question made about a legal opinion. Do we  
21          need to seek a legal --

22                   **MR. KUNTZ:** I will seek a legal  
23          opinion. I'm going to vote against it. I  
24          don't think it's lawful and I'll direct  
25          Corp. counsel to look into it and direct us

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2           not to do it.

3                   **MR. YOON:** I have a comment. I  
4           agree with Commissioner Simonetti's opinion  
5           but my opinion is it should be left up to  
6           each Commissioner's discretion.

7                   So you know, like what if somebody  
8           is busy and does not submit?

9                   That could delay things more. If  
10          Commissioner Kuntz does not agree with this  
11          process and then does not submit, you know,  
12          the voting sheets on time, then it could  
13          even delay the process further, you know.

14                  We already have complaints from the  
15          public that the process is being delayed  
16          too much.

17                  **MR. KUNTZ:** I wouldn't worry about a  
18          Commissioner not submitting on time; if  
19          that's the policy, that's the policy.

20                  **MR. YOON:** That's one practical  
21          aspect, that can happen to anyone of the  
22          commissioners.

23                  My other point is I don't want to be  
24          forced. I don't want another board member  
25          to tell me what to do in terms of the

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2           process. I believe it should be left up to  
3           each panel member. Why should each  
4           Commissioner be told what to do?

5                   **THE CHAIR:** Let's take this back to  
6           a vote but think I may need to restate the  
7           Commissioner's Motion. The Motion is  
8           basically to make it a board policy -- to  
9           make a board policy out of a practice that  
10          is followed today by most of the  
11          commissioners, which is to submit their  
12          voting sheets ahead of time to the staff so  
13          they can then collate the voting sheets  
14          between those where there are -- there is  
15          either a substantiation or a notice to have  
16          a discussion or a disagreement; to collate  
17          those and put those in a separate stack for  
18          discussion.

19                   I'm not -- I had also understood  
20          that we ratified our written voting sheets  
21          as of each board meeting, so I would say --

22                   **MS. LEIBMAN:** Each panel.

23                   **THE CHAIR:** (Continuing) -- each  
24          panel.

25                   **MR. SIMONETTI:** I would also include

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2           those cases on which we agree but someone  
3           has a note.

4                   **THE CHAIR:** Yes, extending the  
5           practice. It's been the practice of  
6           virtually every panel that I've been on, in  
7           the nine years I've been on the board.

8                   All right, are we ready now for a  
9           vote?

10                   All in favor of this Motion?

11                   One, two three, four, five, six  
12           seven in favor.

13                   All opposed. Two opposed. Any  
14           abstentions?

15                   (No response.)

16                   **THE CHAIR:** The Motion carries. Is  
17           there any other new business?

18                   **MR. deLEON:** This is just a point  
19           of -- a question. I -- before coming to  
20           the meeting today, I read the statute  
21           regarding how the board members are to be  
22           described. I didn't see in there anything  
23           referring to the board members as  
24           commissioners so I'm wondering why is it  
25           that we referred to ourselves as



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2           we're board members and I think that the  
3           more opportunity that we have to correctly  
4           refer to ourselves as board members we  
5           should take that opportunity. But that's  
6           not a big point. It's just a small thing.

7                   **MR. SIMONETTI:** Franklin, you should  
8           be the Chief board member.

9                   **THE CHAIR:** I'm the Chair or as The  
10          New York Times refers to me, the Chair  
11          Woman.

12                   **MR. deLEON:** Isn't that weird.

13                   **THE CHAIR:** Any other new business?  
14          (No response.)

15                   **THE CHAIR:** All right, I think we're  
16          finally ready for public comment. Mr.  
17          Dunn, Commissioner Dunn, Board Member Dunn?

18                   **MR. DUNN:** You know I want to be  
19          part of this. It's a love/hate thing.  
20          Self loathing. There's been an opening for  
21          years? What is the opening for years?

22                   **THE CHAIR:** There's a mayoral  
23          opening. I'm not sure it's been a year.

24                   **MR. KUNTZ:** It's been at least a  
25          year.

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2                   **MS. LEIBMAN:** Since Hector left.

3                   **MR. DUNN:** On a lighter note, since  
4           Dennis pointed out that you guys are  
5           misrepresenting who you are, I don't know  
6           if you're planning on an interview. You  
7           might want to check with James Otto, of  
8           National Film Crews and Interviews.

9                   In regards to the 18 month cases I  
10          appreciate, Eric, you having taken a look  
11          at that and done some analysis. I would  
12          say from what I understood you to say, the  
13          vast majority of cases are awaiting board  
14          review which goes back to another thing  
15          that I've been harping on recently, which  
16          is the number of cases awaiting board  
17          review.

18                  I continue to agree that it's  
19          important to give public reporting about  
20          the backlog -- I won't say backlog, but the  
21          number of cases pending before panels and  
22          how long they've been pending.

23                  Again, I'm not talking about naming  
24          names -- not that I'm averse to that -- but  
25          I think there needs to be someone else

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2           determining how long cases have been  
3           waiting.

4                     If it turns out you have cases that  
5           are 15 months old that have been waiting  
6           for board review for five months or three  
7           months, I think everyone would be  
8           concerned.

9                     It may or not may not be the case  
10          but if it's true that the vast majority of  
11          cases fifteen months or older are currently  
12          waiting for board review, given that  
13          there's been some delays in board review, I  
14          think it's worth looking at and I would  
15          encourage you to do so.

16                    Which leads us to the second point  
17          with regard to Tony's Motion, which goes to  
18          a much larger issue that I mentioned in the  
19          report. I think -- which does not seek to  
20          beat up on the investigators, Franklin, but  
21          eludes to how the board is actually  
22          managing the investigation of cases.

23                    There's an extraordinary amount  
24          of -- volume of cases, it seems, that have  
25          stabilized at the moment but there's still

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2           only twelve of you. Tony, as much as you  
3           and I disagree on every substantive issue I  
4           would hate for you to leave because I think  
5           you're quite good in panel reviews but I  
6           think the police might be feeling like  
7           they're being buried in the volume of case.

8                        I think given the volume of cases  
9           and given that the number of board members  
10          are not increasing but in fact has  
11          decreased, I think it's worth it to look  
12          systemically at how the cases are being  
13          investigated by the board.

14                      Some groups suggest that the board  
15          should not be deciding cases at all. Some  
16          groups suggest a smaller group of cases.  
17          Your suggestion is let's look to  
18          efficiency, Mr. Simonetti, but I think  
19          that's a subject that should have broader  
20          discussion.

21                      I just don't think you guys can keep  
22          handling cases in the volume that you have  
23          and Bill, while I'm sure that every single  
24          one of 175 cases you reviewed in fifteen  
25          minutes got very close scrutiny, I must say

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2           I'm alarmed when I hear of cases being  
3           reviewed that quickly.

4                       I'm alarmed because I assume it's  
5           the case that you're reviewing cases that  
6           fast, as Dennis eluded to, because that's  
7           become a necessity. I'm urging you to put  
8           on someone's agenda -- I don't know who's;  
9           I don't know if it should be the Operations  
10          Committee or if it should be a full blown  
11          discussion -- the topic of does there need  
12          be a discussion about rethinking the  
13          board's role in reviewing cases. That's  
14          all I have.

15                      **MR. deLEON:** Can you elaborate on  
16          that point?

17                      When you say rethinking the role.  
18          If you had your way, what would you have  
19          the board do with individual cases?

20                      **MR. DUNN:** I would say I don't know  
21          that we have a position on that yet. A  
22          bunch of things have been said. As was  
23          mentioned, it's been suggested that we  
24          should making this a staff process  
25          entirely.

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2                         There's an issue of truncated cases  
3                         and finding out whether we can find a way  
4                         to shield you guys from that. We have, as  
5                         you know, a lot of problems with the  
6                         truncated cases. It's not a problem with  
7                         the initial review but a problem with the  
8                         fact that sixty percent of cases are  
9                         truncated.

10                        Assuming we're all comfortable with  
11                        the truncated process, if that was being  
12                        done in an appropriate way, my guess is  
13                        most people would say we don't need the  
14                        board members to review truncated cases.

15                        It's a perfectly good argument to do  
16                        away with the truncated cases and have you  
17                        review the cases that you actually need to  
18                        work on; but that's the big problem, the  
19                        truncated cases.

20                        There's an issue right now that  
21                        every panel has to have a police  
22                        representative on it. I believe that's by  
23                        practice?

24                        **MR. KUNTZ:** That's by practice and  
25                        according to the bylaws.

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2                   **MR. DUNN:** Unlike bylaws, practice  
3 is easily changed.

4                   **MR. KUNTZ:** Well, we're not going to  
5 change that.

6                   **MR. DUNN:** Well, Bill, you're one of  
7 many.

8                   **MR. KUNTZ:** It's not going to  
9 happen.

10                  **MR. DUNN:** Over your dead body?

11                  **MR. KUNTZ:** Not my dead body but the  
12 police.

13                  **MR. DUNN:** Sometimes circumstances  
14 get changed dramatically. There were 3,000  
15 cases five years ago. Today there's 75  
16 cases. Maybe Tony might say, 'Maybe I  
17 don't need to have my finger on every  
18 single case'; maybe he won't --

19                  **MR. KUNTZ:** I can't speak for anyone  
20 else but I'll say this: Part of the  
21 legitimacy of the CCRB is in every panel  
22 there's a Mayoral designee, Counsel  
23 designee and a Police Department designee,  
24 and that was established to make sure that  
25 there would not be a situation where either

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2           party can say that this was a cop panel, a  
3           counsel panel or a Mayoral panel.

4                     It was designed that way to insure  
5           the legitimacy of the board. When I say  
6           that is not going to change that is my  
7           perception of the fact that the Police  
8           Department would be adamantly opposed as  
9           the counsel would be and as, I'm sure, the  
10          Mayor would be as well otherwise.

11                    It is structurally very important to  
12          have balance on the panels, structurally  
13          important to the fabric of the CCRB and I  
14          do not believe we would be doing anyone any  
15          favours by changing that, and I've never  
16          heard anyone on this side of table suggest  
17          that it be changed for the reasons we  
18          talked about.

19                    **MR. DUNN:** I understand the  
20          legitimacy argument. The point is simply  
21          that there are a number of concerns now  
22          about the way the board handles cases that  
23          may be contributing to the fact that you  
24          can't keep up with all the cases, and I  
25          think that you know, maybe the cases will

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2           drop by forty percent in the next few  
3           years.

4                     You may disagree, but I'm personally  
5           concerned. We're institutionally concerned  
6           about the pressure on the board in terms of  
7           what it means in regards to you all being  
8           effective board members, and what it means  
9           as far as individual case reviews, given  
10          the fact that -- the current cases and the  
11          current volume of cases.

12                    All I'm saying -- and Dennis I'm  
13          trying to answer your question -- I think  
14          there's a number of changes that can be  
15          made that would lesson the pressure on the  
16          board and increase the board's ability to  
17          pay attention to the cases that really are  
18          most deserving of your scrutiny and would  
19          be more acceptable.

20                    **MR. deLEON:** It would be useful to  
21          me if you can put that into some kind of  
22          writing. I'm speaking to everyone  
23          actually. Anybody can put those ideas into  
24          writing.

25                    **MR. KUNTZ:** I just have a question.

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2           Would your institute consider adding two  
3           more police representatives to this board  
4           so we can have 15 board members serving in  
5           panels of three to address the backlog  
6           entries, so the police representatives, who  
7           are burdened in the handling of up to 350  
8           cases a month would have their burden  
9           lessened; would you consider that?

10                   **MR. DUNN:** That's Tony's ace in the  
11           hole but I appreciate you raising that.  
12           We'll have to think about that.

13                   **MR. SIMONETTI:** Just an  
14           institutional memory -- and Bill was here  
15           in those days. Eleven years ago, when I  
16           came on the board we were doing 75 cases a  
17           month and because of an increase in the  
18           docket we went to 100 and then 175 cases.

19                   But clearly -- I don't know if the  
20           board members will agree -- clearly 311 had  
21           some impact on that. That's why I think we  
22           now have so many truncated cases by the  
23           way. My own personal opinion is with the  
24           convenience of everyone having a cell phone  
25           and people getting stopped for whatever

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2           reason, whatever the case may be, it's very  
3           convenient to pick a phone up and dial 311.  
4           The 311 operator has no obligation to take  
5           a complaint, all they do is transfer it  
6           over here.

7                        I understand we got last year 12,000  
8           referrals from 311. I think that's the  
9           reason why the truncated rate is so high,  
10          its because people for the moment may be  
11          annoyed but after they sit back and think  
12          about it they decide, 'Oh, I'm not going  
13          through the process'. They either withdraw  
14          the case, become unavailable or  
15          uncooperative; witnesses fall by the way  
16          side and that's why we have the truncation  
17          rate we have today.

18                      I'm very concerned about the  
19          truncated cases but historically, the  
20          docket has gone up dramatically and I think  
21          that motion that has passed and I want to  
22          thank the board members. This may  
23          alleviate some tension.

24                      **MR. deLEON:** Madam Chair?

25                      I'm sorry, what --

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2                   **THE CHAIR:** Larry, you have not had  
3 a chance to speak.

4                   **MR. LOESCH:** One of things I want to  
5 say is I thank you for your concerns and we  
6 welcome suggestions as to how we can do  
7 this better. I don't want to leave a  
8 perception -- I may not change your mind,  
9 Chris, but the perception to the  
10 investigators in the room that we're  
11 thumbing through cases, that's not the  
12 case. Even the truncated cases are looked  
13 at. We talk about all of them. Member  
14 Simonetti talked about --

15                   **MR. KUNTZ:** Member?

16                   **MR. SIMONETTI:** Colleague.

17                   **MR. LOESCH:** The point is we go  
18 through the cases. What we go through  
19 quickly are the voting on the cases, just  
20 to say it's truncated. There's no cases  
21 that are gone through quickly; I don't want  
22 the investigators to think that.

23                   The investigators put a lot of work  
24 and energy into the cases -- to come to a  
25 conclusion in doing these investigations.

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2                         So am I right, what we're talking  
3           about are the voting sheets, correct?

4                         **MR. deLEON:** I did not mean to imply  
5           that we had not read and gone through them.  
6           We all do. The investigators could not be  
7           better. I just wish we'd go the extra mile  
8           institutionally on truncated cases.

9                         But I have another question --

10                        **THE CHAIR:** Another question?

11                        You're making up for lost time.

12                        **MR. deLEON:** I know. A lawyer --  
13           I'm not sure because I've been gone so long  
14           but I raised this before. Please tell me  
15           to stop if I am repetitive.

16                        A lawyer who argued in Federal Court  
17           on a 1992 police brutality case said in the  
18           case she was litigating -- she you didn't  
19           tell me the name of the case so I have no  
20           idea, but she said the law department stood  
21           up and said this case is currently before  
22           the CCRB and therefore asked the Judge to  
23           delay ruling on the case until the CCRB  
24           made its decision.

25                        Now I was never aware of the fact

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2           that we had an administrative exhaustion  
3           requirement in our laws.  If that's the  
4           case I think we need to write a letter to  
5           the department asking about the process;  
6           how frankly it's used and --

7                       **THE CHAIR:**  I am totally unfamiliar  
8           with there being any such policy.

9                       **MR. KUNTZ:**  As am I.  I would  
10          suggest that perhaps you might ask the  
11          lawyer, if she didn't give you any  
12          authority for that, in terms of statute and  
13          state law regulation, to provide it to you.

14                      I would suggest she might have  
15          misapprehended the law.

16                      **MR. deLEON:**  I can't.  The lawyer  
17          is --

18                      **MR. KUNTZ:**  I'm not saying you need  
19          to tell me.  It might be appropriate for  
20          her to provide you and this board with  
21          authority for that proposition.

22                      **MR. deLEON:**  I think it's inherently  
23          outrageous.

24                      **MR. KUNTZ:**  I think the lawyer is  
25          perhaps mistaken.

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2                   **MR. deLEON:** It wasn't a lawyer I  
3 spoke to. If I told you who he was, I  
4 would be mistaken.

5                   **THE CHAIR:** It would certainly be  
6 easier to go to the law department, if we  
7 had an example of the case. I suspect we  
8 could complain and they would say they're  
9 not doing it.

10                   **MR. deLEON:** Okay, what I can do is  
11 ask the lawyer for a transcript of where  
12 that was done.

13                   **THE CHAIR:** This concludes our  
14 public board meeting. See you all at the  
15 next one.

16

17                   **(Time Noted: 11:05 p.m.)**

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**C E R T I F I C A T E**

**STATE OF NEW YORK        )**  
**)  ss.:**  
**COUNTY OF NEW YORK     )**

I, **SABINE FAUSTIN**, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That I reported the proceedings in the within-entitled matter, and that the within transcript is a true record of such proceedings.

I further certify that I am not related, by blood or marriage, to any of the parties in this matter and that I am in no way interested in the outcome of this matter.

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
**SABINE FAUSTIN**

