



CIVILIAN COMPLAINT REVIEW BOARD
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**Full Testimony of Arva Rice, Interim Chair of the Civilian Complaint Review Board,
 before the Public Safety Committee of the New York City Council March 20, 2024**

INTRODUCTION AND BACKGROUND

Chairperson Salaam, members of the Public Safety Committee, thank you for the opportunity to appear before you today. I am Arva Rice, I use she/her pronouns and I am the Interim Chair of the Civilian Complaint Review Board (CCRB). I am joined by the CCRB’s Executive Director Jonathan Darche. I joined the CCRB in June of 2021 and was named the Interim Chair of the Board in February of 2022. Prior to joining the CCRB I served as Co-Chair of the New York State Police Reform and Reinvention Collaborative commissioned by Governor Andrew Cuomo. In that role I spoke with New York Police Department (NYPD) leadership, rank and file, and community members on how to strengthen police-community ties and increase accountability. In my two years as Interim Chair, I have witnessed firsthand the exceptional level of work being produced by our small team. Executive Director Darche and I are here today to emphasize the critical importance of the CCRB to public safety in this city and the risks that could arise if the CCRB continues to be underfunded namely, not being able to investigate complaints, police misconduct going unaddressed, and the public losing faith in our public safety system.

The CCRB was created to ensure civilians had a recourse for justice and accountability if police officers abused their power. For decades, many New Yorkers felt police officers operated above the law and NYPD could not be relied upon to discipline their own officers. The CCRB was created as a vital part of public safety, to enforce officer accountability and ensure all New Yorkers felt the city was working to protect them. The CCRB is a vital component of New York City’s public safety ecosystem, and if it is not adequately funded, that ecosystem collapses.

30 years ago, New York City was at an inflection point. The City Council was faced with the decision to reimagine what safety and accountability should look like in this city and determined that the people of New York deserved more. Together that City Council and Mayor Dinkins created the CCRB. Today, this city is facing another inflection point. There is a fork in the road. One path leads us down the same trajectory we have followed for 30 years, incremental changes that still leave us with a chronic issue of misconduct and lack of accountability. The other path would allow this city to realize the vision that this council and Mayor Dinkins had 30 years ago when they went out on a limb to create this agency.

HISTORIC UNDERFUNDING AND FY25 BUDGET REQUEST

New York City has continuously underfunded the CCRB, making it almost impossible to keep up with the ever-increasing workload. With adequate funding, we would be able to close cases more efficiently, clear backlogs, promote investigators to retain talent, raise awareness, increase transparency, analyze data, educate and serve more people, and keep New Yorkers safer.

In order to function as a truly independent police oversight agency, the CCRB needs \$37.7 million and 376 personnel. This is \$13 million more than last year's budget and \$15 million more than OMB's proposed budget. This is just over 0.5% of the budget of the agency we are tasked with overseeing. The NYPD's proposed budget is \$5.4 billion with 35,000 uniformed officers.

We do not have enough funds to investigate all the complaints within our jurisdiction. A priority for the agency was to reduce investigation timelines, which last year, we were able to bring down by 22%. Yet, in 2023, civilians filed 50% more complaints than in 2022, a ten-year high. So far in 2024, we have received even more complaints, 14% more than the already increased rate of last year. We are on pace to receive 6,300 complaints in 2024 which will inevitably cause timelines to increase again, which is worse for officers and civilians alike.

In December, the CCRB announced for the first time that due to the cuts, we did not have the funding to investigate all complaints within our jurisdiction. This was a last resort and if it were possible, we would continue investigating all civilian complaints within our jurisdiction. Unfortunately, we know it is unfair to provide subpar services to the public, so we decided to focus our resources. Starting January 1, 2024, the CCRB stopped investigating the following allegations when they are not accompanied by other allegations within our jurisdiction: Failure to provide Right To Know Act cards; Refusal to provide name or shield number; Discourteous words or actions; Threats with no action; Refusal to process a civilian complaint; Forcible removal to a hospital; Untruthful statements; And any complaint that has only the above referenced allegations. I want to be very clear that if one of these allegations is part of a larger complaint that includes any other allegation outside this list, the agency will still investigate it. Thus far, the agency has had to close 459 complaints as budget closures and refer 73 cases back to NYPD. These might be only the first-round cuts if our budget is not restored.

The proposed cuts undermine the important role that civilian oversight plays in public safety. For people to trust in the police, they must have faith that there is a system that holds police officers responsible for misconduct. The CCRB is an unbiased, independent, civilian voice in the police disciplinary system, and failing to adequately fund the CCRB shortchanges public safety in this city.

EXPANDED RESPONSIBILITIES

Over the years, the CCRB's responsibilities have grown exponentially, while the budget and staffing levels have not kept pace. This council has been instrumental in enacting some of the most meaningful changes in the CCRB's jurisdiction. In 2019, 74% of New Yorkers voted for a proposition that gave the CCRB jurisdiction to investigate untruthful statements. In 2021, this council passed a bill that shifted the responsibility of investigating Racial Profiling and Bias-Based Policing from the police department to the CCRB. In the 8 years leading up to this bill,

NYPD investigated 3,480 cases of bias and only found four officers guilty, highlighting the necessity of having an outside body investigate these allegations. In 2020, the City Council even passed a resolution calling on Albany to give us final disciplinary authority in the complaints that are substantiated by the Board.

The CCRB also voted internally to change the rules that define our jurisdiction. In 2021, we voted to begin investigating Untruthful Statements made to other entities and Sexual Misconduct as Abuses of Authority. In 2022, we voted to implement the charter changes regarding Profiling and Bias-Based Policing and investigate Body-Worn Camera (BWC) misuse as an Abuse of Authority.

These changes are all key steps toward improving accountability in New York City and ensuring all police misconduct is addressed. Yet with these expanded powers, some of which are charter mandated responsibilities, comes the need for more budget and staff.

Since 2021, the CCRB investigated 305 allegations of untruthful statements, 160 of which it substantiated. Additionally, the agency received 1,127 allegations of sexual misconduct during that time and substantiated 67 of those allegations. Since October 2022, we investigated 1,388 allegations of BWC misuse, 56 of which were substantiated. During that same period, the CCRB investigated 1,005 allegations of racial profiling or bias-based policing.

BUDGET NEEDS BY TEAM

The 50% increase in complaints last calendar year overwhelmed investigator's dockets, causing the number of cases assigned to investigators to increase. As stated earlier, the trend continues, as January and February 2024 saw a further 14% increase in complaints compared to the same period last year. This would put the CCRB on track to receive 6,300 complaints in this calendar year, numbers not seen since 2010. This makes it hard for investigators to meet the 18-month statute of limitations, let alone reduce investigation timelines. We need 73 additional investigators of a variety of experience levels to manage the current workload. This does not account for the 20 investigators who have had their promotions and pay raises delayed due to budget cuts. Without timely promotions and fair compensation, we are at risk of losing many of our most experienced and talented investigators.

In 2020, when New Yorkers filled the streets and exercised their right to protest in the wake of George Floyd's murder, police officers responded en masse. The CCRB was inundated with hundreds of cases in just a few days. We found 146 officers committed misconduct during the protests, but many officers were not held to account because of statute of limitations disputes. If the CCRB received the same influx of cases now, the agency would not be able to investigate those complaints. New Yorkers continue to protest across this city and they deserve to know that the agency created to protect their rights is actually able to do so.

When this Council passed the bill empowering CCRB to investigate racial profiling and bias-based policing, the Council also agreed to fund the creation of a dedicated team to conduct these investigations. The CCRB's testimony before the Council regarding the bill explained the agency would need a team of 50 investigators, attorneys, and data scientists to conduct this work

properly. The FY2022 budget funded a new unit for these investigations with 33 positions. OMB only authorized us to hire 19 people. Just in 2023, the RPBP unit received 364 cases. These are extremely complicated cases that require a comprehensive team. 19 people is not sufficient. We need budget and headcount to hire a minimum of ten additional qualified investigators, attorneys, and data scientists to do this work.

In 2012, the CCRB and the NYPD signed a memorandum of understanding that the CCRB would prosecute cases with the highest level of misconduct, referred to as charges and specifications. This created the Administrative Prosecution Unit or the APU. The APU takes on some of the most serious cases of misconduct that come through this agency and prosecutes them in an administrative trial before an NYPD trial commissioner. We need to be able to offer competitive salaries to attract high quality talent to take on these cases.

The APU needs additional prosecutors. The CCRB and the NYPD signed a memorandum of understanding a few years ago agreeing to abide by NYPD's disciplinary matrix, which led to the Board recommending that many more members of service receive charges & specifications. In 2019, the Board only sent 82 members of service to the APU. In 2023, that number was 282 officers, an increase of more than 300%. Currently, the APU has 8 prosecutors, and each prosecutor has approximately 83 cases on their docket. In order to close these cases in a timely fashion and keep up with the growing docket, the APU needs to hire two more prosecutors. It is unfair to officers and civilians to have cases languishing for years because the CCRB is not funded for an appropriate number of high-level prosecutors.

The Case Management Unit (CMU) is responsible for the coordination of all CCRB complaints. It facilitates and records Board panel votes, manages case closures, and communicates the final disposition of investigations to both complainants and officers. The CMU is in need of extra support to manage the thousands of extra cases that came in last year.

While the CCRB's Outreach team connected with more New Yorkers than ever last year by implementing strategic planning, fostering meaningful partnerships, building community trust, and embedding diversity in our outreach methods. These initiatives display a holistic approach to outreach that involves creative methods of providing information, canvassing, volunteerism, and the use of dynamic settings. This includes our CCRB Courtside initiative where we interact with New Yorkers on basketball courts and other organized sports games; CCRB Barbershop and Salon Series where outreach coordinators connect with New Yorkers in their local barbershop; CCRB Cares, a volunteer initiative where CCRB staff partner with community-based organizations to provide public education while physically engaging in charitable activities that serve the public, including community cleanups and food pantries; CCRB Block by Block; and more. Community feedback through our outreach efforts emphasizes the need for further education and awareness around the city to ensure New Yorkers are aware the CCRB exists and know their rights when interacting with police officers. This success only emphasizes the need for further education and awareness around the city. The agency needs more outreach coordinators and additional budget to host events in order to maintain and enhance public education for New Yorkers.

We are also requesting \$1,000,000 for advertising. It is the city's responsibility to reach New Yorkers and meet people where they are. And that means advertising on social media, on radio, on city streets and more. People don't know to file a complaint of police misconduct if they don't know an agency exists to investigate police misconduct. Some people are not even aware of their right when interacting with a police officer. The city must invest in educating New Yorkers. Only once most cases of misconduct receive a complaint will New York City understand the full scope of police misconduct that we are facing and be able to address it. We are also requesting 100,000 in language access services to ensure we can reach New Yorkers of all languages and accessibility levels. And, of course, increased public awareness and accessibility will further increase the agency's workload.

The Civilian Assistance Unit (CAU) has become an integral part of CCRB services offered to New Yorkers. The CAU is staffed by victims' advocates, licensed social workers, and trauma services professionals who provide free and confidential assistance. They work diligently to connect our most vulnerable civilians with desperately needed city resources, such as social and psychological support services. Last year, the CAU helped over 800 New Yorkers. It is important to remember that some of these New Yorkers are in need of trauma care because of their encounters with the criminal justice system while others might have entered the criminal justice system due to previous, unresolved traumas. CAU helps people address their needs from the root causes, hopefully preventing further need for law enforcement intervention. The CAU is a key component of the CCRB, yet two members of the CAU are currently funded by a grant, which means the employees are given no benefits and the grant is not guaranteed beyond 2026. As the agency is moving towards implementing a trauma-informed approach and services, CAU needs one full-time therapist that can allocate time to work with civilians and internally with staff. There has been a high need to assist civilians who struggle with the aftermath of trauma and staff internally who suffer from vicarious trauma and burnout as a result of interacting with traumatized civilians and viewing hundreds of hours of graphically violent video in the ordinary course of their work. Currently, we have a grant-funded therapist, but her hours are limited to 7 hours a week and the grant doesn't allow the specialist to meet the demand for these kinds of services.

Since the repeal of New York State's Civil Rights Law 50a, the CCRB has put a large emphasis on transparency. We created a member of service database where civilians can look up all NYPD officers' CCRB history. We have created data tables that allow civilians to search through the number of complaints and type of allegations the CCRB is receiving on a day-to-day basis. In the last year, we started publishing closing reports from cases online along with NYPD departure letters, letters which explain why the Police Commissioner is rejecting the CCRB's disciplinary recommendation. While we are being incredibly proactive to increase transparency, redacting documents to protect civilians takes a huge amount of work and time. We have only scratched the surface of what we can share because we have so many years of documents to redact before we can publish them. We also receive hundreds of complicated and time-consuming Freedom Of Information Law (FOIL) requests a year and we are now down to one staff member responsible for all this work. We identified a candidate and submitted them to OMB in November and are still waiting for that approval. In order to fulfill FOIL requests in the

timely manner that the Freedom of Information Law intended, the CCRB needs several more staff members working to redact and publicize our documents.

We are also asking for \$600,000 in funding for software licenses, subscriptions, data processing software and more. In order to get the most out of the data and information the CCRB has access to, we need adequate tools to help us analyze and maintain our information systems. The NYPD is considered of the most technically advanced police departments in the world. In order to serve as their oversight body, we need technological advancements to keep up.

NOTABLE CASES AFFECTED BY LEGAL OBSTACLES

In April of 2023, the APU finally tried the case of Kawaski Trawick, the young man who was killed in his home in April 2019 by two NYPD officers. This case was particularly complicated because it took the NYPD over a year and a half to fulfill the CCRB's request for BWC footage and other evidence. The NYPD would not share evidence while they were concurrently investigating the incident, and this made it impossible for the CCRB to complete the investigation within the statute of limitations. We therefore had to use the crime exception to try the case. This means that we no longer had to prove that the conduct was a violation of the NYPD patrol guide but that it actually violated criminal law. While the CCRB believes it was able to prove the crime exception and that both officers should face discipline for their conduct, the Deputy Trial Commissioner recommended no discipline for both officers on all counts. She did, however, note that the officers' conduct and the NYPD's investigation into the incident thereafter were concerning. Essentially, the NYPD did not thoroughly investigate the killing of Kawaski Trawick, cleared the officers of any wrongdoing, refused to share evidence until it was beyond the statute of limitations, and then has once again tried to avoid holding the officers accountable because the case was not closed within the statute of limitations. This circumvention of the disciplinary system is unacceptable and further proof why the CCRB is such an important entity for public safety. We hope that Commissioner Caban will still hold these officers accountable as we wait for his final decision. Largely due to this incident, the CCRB and the NYPD have now signed a memorandum of understanding that the NYPD will share evidence within 90 days of a CCRB request, whether or not they are still investigating the incident.

Another high-profile case that is at a standstill is the killing of Delrawn Smalls. In July of 2016, Officer Wayne Isaacs killed Delrawn Smalls in his car, in front of his four-month-old baby, stepdaughter and girlfriend. While Officer Isaacs was cleared in criminal court, the CCRB has found that he violated the patrol guide and committed misconduct when he killed Mr. Smalls. After this case was substantiated, the CCRB requested the court documents and evidence involved in Officer Isaacs' trial. Unfortunately, these documents were sealed which required the CCRB to file an unsealing motion in court to access the necessary evidence to prosecute this case. We then waited over a year and a half for the judge to make a decision and in March of last year, he granted the CCRB's unsealing motion and determined that we should access the evidence. However, the PBA immediately filed an appeal which blocked the unsealing motion, and this case continues to stall as we await another court decision. Delrawn Smalls' family has been waiting nearly eight years to see accountability for their son's death and this unnecessary delay of the disciplinary system should not be allowed. Unfortunately, this problem cannot be

solved by an MOU but needs legislative change. The CCRB has long advocated to be exempt from sealing statutes and we hope for your support as we ask for the state legislature to pass a bill that would exempt the CCRB from sealing statutes. This would guarantee us access to all relevant evidence for our cases and avoid needless delays.

Last year, Speaker Adams introduced legislation that would allow the CCRB to access NYPD's full BWC database. NYPD's main criticism of the bill was that it would be illegal to share sealed evidence with the CCRB without proper unsealing motions. If the CCRB is exempt from sealing statutes, it will make access to BWC footage faster and more efficient, allowing whatever budget is allocated to the CCRB to go further.

BWC footage is crucial to CCRB cases. More so than any other type of evidence, the presence of BWC footage allows the CCRB to close a case based on the merits 75% of the time. Without BWC, cases are closed on the merits 29% of the time. Being closed on the merits means there is a definitive conclusion as to whether or not there was misconduct. This is better for civilians and officers alike. While we have worked closely with NYPD to improve the BWC footage request process, direct access would be revolutionary to the efficiency of our investigations and agency as a whole. Investigators, who have the most detailed understanding of what footage they are looking for, should be the ones to search for the video they need.

Other cities such as Chicago and Washington DC have already given direct access to their oversight bodies. Relying on the Police Department for all documents and BWC footage necessary to completing our investigations compromises our independence. We are supposed to be a completely independent entity from the NYPD, yet we are dependent on them for access to any paperwork, transcripts, evidence, and footage. With direct access, investigations and the agency would be more efficient with its time and resources. We appreciate the City Council taking this issue on last year and we hope you will continue to work for such important reforms.

CONCLUSION

The CCRB conducts oversight of the largest police force in the United States. There are over 34,000 members of the NYPD. Other cities such as Chicago and Miami have their budget tied to their local police department's budget. They are guaranteed to maintain at least 1% of the budget of the entity they are overseeing. If New York were to adopt this same rule, the CCRB's projected budget for FY25 would be \$54 million, more than double what the proposed budget is. Even other cities in New York State commit to higher levels of funding for police oversight. Rochester's Police Accountability Board has a staff of 30 and a budget of \$3.5 million to conduct oversight over a police force of approximately 850 officers. The NYPD is 43 times the size of Rochester Police Department, which is appropriate given New York's population is 41 times greater than Rochester. If the CCRB's budget was 41 times the size of Rochester's Police Accountability Board, our budget would be \$146 million, 7 times our current size. While we are often looked to as a national leader in police oversight, we fall starkly behind when it comes to direct access and budget.

While I understand our city is facing a difficult fiscal situation, this is a pivotal moment for public safety in New York. If the city sets the CCRB's budget at the level requested – \$37.7

million, an increase of more than \$15 million over the proposed budget – we will follow through on the promises made when this agency was created, the promises made in 2020 when I sat on a police reform commission within the NYPD, and the promises made in 2021 when this council passed the racial profiling bill. New Yorkers should not be policed differently because of their zip code or their skin color. Adequately funding the CCRB is necessary to give the people of this city confidence that misconduct will not be tolerated. Thank you for your time. Mr. Darche and I are happy to answer any questions you might have.