

Civilian Complaint Review Board - Final
April 11, 2018

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

April 11, 2018

4:06 p.m.

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100 Church Street
New York, New York

TRANSCRIPT OF PROCEEDINGS

B E F O R E:

FREDERICK DAVIE, Acting Chair

JONATHAN DARCHE, ESQ., Executive Director

PUBLIC MEETING AGENDA:

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1. Call to Order
2. Adoption of Minutes
3. Report from Acting Chair
4. Report from the Executive Director
5. Public Comment
6. Old Business
 - * Non-NYPD Related Law Enforcement Referrals
7. New Business
8. Adjourn to Executive Session

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BOARD MEMBERS PRESENT:

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FREDERICK DAVIE, Acting Chair

RAMON PEGUERO, ESQ., Board Member

FRANK J. DWYER, Board Member

JOSEPH A. PUMA, Board Member

LINDSAY EASON, Board Member

MICHAEL RIVADENEYRA, ESQ., Board Member

ANGELA FERNANDEZ, ESQ., Board Member

JOHN SIEGAL, ESQ., Board Member

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JONATHAN DARCHE, ESQ., Executive Director

Reported By:

Nicole Ellis

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2 THE ACTING CHAIR: I'd like to
3 call to order this meeting of the Civilian
4 Complaint Review Board.

5 And I'd like to move for the
6 first item on the agenda being the
7 adoption of the minutes.

8 Chair entertains a motion for the
9 adoption of the minutes.

10 MR. DWYER: So moved.

11 MS. FERNANDEZ: Second.

12 THE ACTING CHAIR: All those in
13 favor please say aye.

14 (Chorus of ayes.)

15 THE ACTING CHAIR: Opposed?

16 (No response.)

17 THE ACTING CHAIR: Thank you.

18 I want to welcome all of you here
19 to the April board meeting of the Civilian
20 Complaint Review Board. Tomorrow we will
21 issue our 2017 annual report, and I'd like
22 to thank the staff, particularly members
23 of the Policy and Advocacy Unit for
24 putting this report together.

25 As acting chair, I'd also like to

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2 acknowledge the fact that in 2017, the
3 CCRB had made some significant investments
4 in ensuring that New Yorkers know that
5 this agency is a resource. I think that
6 has had an impact, and will continue to
7 have an impact, on how people interact
8 with the agency.

9 During 2017, the outreach team
10 conducted more than 300 presentations,
11 going to neighborhoods in every borough to
12 inform the public about what constitutes
13 police misconduct, how to file a
14 complaint, and what the CCRB's
15 investigation process entails.

16 While we can't pinpoint exactly
17 what explains the 5 percent increase in
18 complaints the agency received in 2017, it
19 is clear that more people know about the
20 CCRB -- it is clear that the more people
21 who know about the CCRB, the more likely
22 they are to report police misconduct
23 should they experience it. And the more
24 people who report police misconduct, the
25 better the CCRB will be able to understand

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2 what New Yorkers are experiencing and then
3 provide policy and training
4 recommendations to the department. That's
5 always been important, but it takes on a
6 new significance now.

7 Changes made in the recent past,
8 such as the decision to investigate police
9 sexual misconduct; and those to come in
10 the near future, such as the
11 implementation of the Right to Know Act;
12 as well as the full deployment of
13 body-worn cameras will effect policing in
14 New York City. And what opportunnies
15 they have to make their voices heard as we
16 make these changes.

17 As acting chair I know we have a
18 number of things to think about in the
19 months ahead, such as how the full
20 deployment of body-worn cameras will
21 effect investigations, the best methods
22 for training staff in advance of
23 investigating sexual assault, and how to
24 ensure that more complaints -- that more
25 complainants trust and stick with the

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2 investigation process.

3 That's sort of known as our
4 truncation process. So when we're putting
5 these remarks together, we talked about --
6 I had a sentence in here that said
7 something like, We want people to
8 understand the truncation process and how
9 the Blake Fellowship will affect it.

10 So I said to the staff, Why don't
11 we write a couple sentences about what
12 that means? So what we did was we changed
13 the complete structure of the sentence.

14 But essentially what happens is
15 we have people who don't complete the
16 investigation process. And when that does
17 not happen, it's called truncation of a
18 case; a case is closed because we didn't
19 get the kind of involvement with the
20 complainant that we needed.

21 We hope to address that with the
22 Blake Fellowship. And those of you who
23 are here from the public, you probably
24 remember what that is. When the tennis
25 star James Blake was arrested erroneously,

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2 and what was involved in all of that, the
3 result of that was a fellowship here
4 that's going to support complainants in
5 their -- in this process of our
6 investigating those complaints.

7 So we see going forward in the
8 future to need to make sure that people
9 stay with this process and this fellowship
10 will help us do some of that.

11 But the reality is that without
12 an understanding of what we are and what
13 we do and why they should trust us,
14 members of the public simply won't bring
15 their complaints here. And that's what we
16 want to improve, we want to improve the
17 public trust in this agency and in the
18 work that we do.

19 And I think we want people to
20 understand the commitment that the staff
21 here have to this work. And that for many
22 people here, particularly folks in
23 leadership positions, this is more than
24 just a job in the sense it's a mission and
25 part of civic duty to be engaged in the

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2 things that we do as an agency.

3 So as we consider how to move
4 forward on a number of fronts as an
5 agency, I'm particularly pleased to see
6 the amount of effort that goes into
7 meeting people where they are, building
8 trust with the public; something that was
9 a focal point in 2017 and has been a focal
10 point so far in 2018, and I expect that it
11 will continue to be a focal point for this
12 agency, not only now, but well into the
13 future.

14 So thank you.

15 Any comments from my colleagues
16 on the board?

17 (No response.)

18 THE ACTING CHAIR: Thanks.

19 I will turn it now over to our
20 Executive Director, Mr. Darche.

21 EXEC. DIR. DARCHE: Thank you,
22 Chair Davie.

23 As the Chair noted, the 2017
24 annual report will be released tomorrow.
25 And as executive director, I'd just like

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to express how grateful I am to the staff, not only for putting the report together, but for all the work that's represented by the data it reflects.

I'm going to now go through a review of the monthly statistics. For a full review of our agency's monthly statistics, visit our website.

In March 2018 the CCRB initiated 343 new complaints, which reflects a decrease from 401 in March 2017 and an increase from 332 in February of 2018.

In March, the CCRB total's open docket was 1,380 cases. By the end of March, 856 of these cases were in the Investigations Division, representing 62 percent of the total and down from 859 in February 2018.

Of the total docket, 355 cases were pending board and/or executive staff review, representing 26 percent up from 319 cases pending review in February.

The mediation program handled 162 cases, representing 12 percent of the

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open docket and that was down from 172 cases in February.

There were an additional seven cases on DA hold in March.

The March 2018 docket includes 26 reopened cases, 20 of those cases are active investigations and six are pending board review.

Of the cases that remain in the active investigations docket, 77 percent have been open for four months or less and 94 percent have been open for seven months or less.

Investigators closed 49 full investigations in March 2018. Year to date, the average days to close a full investigation, excluding reopened and DA hold cases, was 183 days compared to 163 days in 2017 and 132 days in 2016.

In March 2018, the CCRB fully investigated 15 percent of the cases it closed and resolved 34 percent of the cases it closed.

The truncation rate was

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2 65 percent in March 2018.

3 The March case substantiation
4 rate was 16 percent compared to 17 percent
5 2018 year to date.

6 With regard to fully investigated
7 allegations in March, the board
8 substantiated 16 percent of force
9 allegations, 12 percent of abusive
10 authority allegations, 7 percent of
11 discourtesy allegations, and no offensive
12 language allegations.

13 Investigations with video
14 evidence, either substantiated, exonerated
15 or unfounded allegations in 42 percent of
16 fully investigated cases in March 2018,
17 compared to 43 percent of cases in which
18 video was not available.

19 The discipline rate for non-APU
20 cases -- I just want to note that that's
21 actually unusual, normally that percentage
22 is much higher for cases with video than
23 without video.

24 The discipline rate for non-APU
25 cases was 93 percent in March and

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77 percent year to date for cases in which police misconduct was substantiated by the board and sent to the Police Department Advocate's Office with penalty recommendations.

The department's declined to prosecute rate for non-APU cases in March was 7 percent and is 18 percent year to date.

In March, the police commissioner finalized decisions against three officers in APU cases, two were found guilty after trial and one plea was set aside; in that case, the police commissioner imposed command level instructions on that member of service.

The conviction rate in March was 67 percent.

Thank you very much, Mr. Chair.

THE ACTING CHAIR: Thank you, Mr. Darche.

Are there questions or comments from the members of the board?

(No response.)

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THE ACTING CHAIR: All right.

Hearing none, we'll go to the next item on our agenda which is public comment. I think we have three people who have signed up to speak.

The first one I have on my list is Ellis Belfore.

MR. BELFORE: I think you answered my question.

I'm just waiting for a case over six months. I've attached a federal RICO charge -- not federal -- federal civil complaint.

EXEC. DIR. DARCHE: If you wait until after, we'll have someone talk to you about the status of your case.

MR. BELFORE: Okay, thanks.

THE ACTING CHAIR: Second on the list is Brian Cramer.

MR. CRAMER: I have a question about reporting.

I was at the last meeting up on 125th Street and there was a report put out, I guess it was complaints, only for

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Manhattan complaints and dispositions and things.

And I was wondering if you have that for other boroughs other than just Manhattan?

THE ACTING CHAIR: I'm sure we do.

Nicole.

MR. CRAMER: Could you put it on the website or something?

MS. NAPOLITANO: So on our website we have the Data Transparency Initiative which is a separate section that has ongoing updated graphics citywide.

At all of the board meetings where we are out in the community, so there's one in each borough over the course of the year, that's the particular borough that I usually focus on.

So I'm downloading the same data from the website which has all of the different complaint numbers and I can give you the URL for that.

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2 MR. CRAMER: Sure.

3 MS. NAPOLITANO: nyc.gov/DTI. I
4 can write it down for you if you'd like.

5 MR. CRAMER: If you could, that's
6 wonderful. Thanks.

7 And my other question. I just
8 read something about a new version of
9 Compstat, Compstat II. I don't know
10 if you can answer this or not, it has
11 information on community involvement and
12 how safe community members feel, and how
13 they feel about the police.

14 Do you have any information on
15 where that is and if it's really a thing
16 and if it's moving forward?

17 THE ACTING CHAIR: So that's
18 outside of the scope of our jurisdiction.
19 We can do a little bit of digging and see
20 what we can find out, and we'll get your
21 information if you'll share it and see
22 what we can do.

23 MR. CRAMER: Sure. It sounds
24 like a good thing.

25 THE ACTING CHAIR: Thank you.

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2 And then the final name I have on
3 my list is Robert Acosta.

4 MR. ACOSTA: Hi. I'm a private
5 citizen. I'm not exactly -- I'm not
6 exactly in a program or a movement.

7 The reason why I'm here -- and I
8 seen your ad on MSN and Google. But the
9 reason why I'm here is because I'm
10 unfortunately in the shelter situation in
11 New York City.

12 And I need to bring to your
13 attention the frustration that's been
14 going on in the shelters, especially when
15 it comes to the abuse of authority, and
16 the fact that there are a lot of
17 unqualified workers in there, including
18 females and including the fact that they
19 can also use the females as a weapon to
20 get the department of homeless police to
21 arrest people.

22 It has been a frustration of mine
23 because just recently I was asked to leave
24 a shelter when I couldn't resolve an issue
25 with one of the workers, and as it turned

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2 out, the New York City law, they could use
3 the equivalent of what McDonalds does, an
4 at-will type of employment, meaning we
5 could just let you go with no reasoning.

6 And they did that when I was in
7 my last shelter and it's really
8 frustrating because I cannot address
9 anything, a lot of complaints of pressure
10 is going to take place within the shelter
11 and it's like they has to be the
12 jurisdiction that it's either too violent
13 or too restrictive, there can't be a
14 middle ground.

15 And when I ask any one of the
16 shelter residence -- when I go to a
17 shelter residence, all they ask me is, Are
18 you on welfare or on Social Security?
19 They don't ask me, Do you want to get into
20 a program? Unless they get benefits from
21 the City or the State -- I don't know
22 who's in charge of it, that's not my
23 jurisdiction -- but unless they get paid,
24 I cannot go into the shelter. I cannot go
25 into unless I'm making Social Security and

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welfare, I can't get into a shelter. Now is that true? I don't know, but a lot of it seems that way.

And I feel like I need to bring it to your attention because, No. One, there's -- there are too many females working in there; No. Two, a lot of them are unqualified; No. Three, the policing they have to protect the workers, but the workers are over abusive in their authority; and No. Four, there's a lot of at-will, the comprehension of what McDonalds does with employment they are doing it in the shelter, meaning at-will stay, meaning we could kick you out just to kick you out and it's really frustrating.

I'm going right back into the shelter system by the end of this month, I'm staying with family. But I just wanted to bring it to your attention because it's just too much, too much nonsense. And the police, the department of homeless police they know about it and

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Bellevue knows about it and they don't want to do anything to resolve it, just get private funds and see how much we can -- especially in the men's shelter. I don't know about other shelters but the men's shelter it's like the worst of the worst when things are being operated.

THE ACTING CHAIR: Thank you.

Any other comments from the public?

(No response.)

THE ACTING CHAIR: All right.

Then we'll move to old business. We have one item under old business, and that's referrals that we get from the public about law enforcement that is not NYPD. Nicole? Thanks.

MS. NAPOLITANO: Thank you. So this is in response to a question that Mr. Puma had about whether there had been any increase in complaints that the CCRB had referred to other law enforcement agencies, particularly the State police or ICE. So to determine this, the policy

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2 unit pulled all agencies to which we had
3 referred complaints, we eliminated those
4 that were sent to IAB, that's the
5 majority, generally, IAB's -- NYPD, rather,
6 IAB or the office of chief department for
7 the things in their jurisdiction but not
8 FADO necessarily.

9 And we aggregated the rest into
10 the accompanying chart, and so this is the
11 chart that's up on the screens in front of
12 you.

13 So the agency receives many calls
14 that are unrelated to the work that we do
15 here. So sometimes callers will call
16 looking for other agencies in the city or
17 complainants might not realize that we
18 only cover NYPD and not all police or all
19 New York City agencies.

20 In those situations, we may give
21 additional information to a complainant to
22 tell them where they can go for help or we
23 may directly refer those complaints to the
24 appropriate organization or agency. And
25 that's what those numbers reflect, are

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2 those actual direct referrals.

3 So you'll notice that ICE is not
4 on this list. Currently our case tracking
5 system does not track ICE as a separate
6 referral agency. To determine the answer
7 to that portion of Mr. Puma's question, we
8 ran a keyword search and then read all of
9 the results and complaint narratives to
10 eliminate false positives. So in cases
11 where the word "ice" was referring to actual
12 ice, or situations in which someone
13 mentioned that they were on their way to
14 an ICE office but the complaint wasn't
15 related to that.

16 So using that method we were able
17 to locate five complaints involving
18 possible ICE agents and those occurred
19 between 2007 and 2015. So cases that had
20 enough information to be referred went to
21 two different places: The New York City
22 ICE office, those were two cases; or the
23 Department of Homeland Security's
24 Inspector General, that was one case.

25 Two cases were non-FADO and also

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2 involved NYPD. There was one complainant
3 who twice claimed that both NYPD and ICE
4 were jointly stalking him and so those
5 were sent to the Office of Chief
6 Department because of its NYPD connection.
7 There was no temporal pattern there. And
8 nothing since 2015.

9 The only notable pattern in
10 referral agencies that you see here, was a
11 slight uptick in the number of complaints
12 that we've sent to municipal law
13 enforcement agencies that are outside of
14 New York City. So Yonkers Police
15 Department or Mount Vernon. But we've had
16 cases in other states; Bethlehem,
17 Pennsylvania; Rochester. There's no
18 particular agency or set of agencies that
19 accounts for that increase, rather it
20 seems to be a bit of a shift in the way
21 that we send these complaints out.

22 So rather than folks who call in
23 just sending them to the appropriate
24 department for their complaint, we've been
25 referring complaints that have enough

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2 information to go to a separate agency.
3 And that might be particularly true when
4 we get information from the website
5 complaints. And that is also true when we
6 have information that comes in, but for
7 which we know the agency, the law
8 enforcement agency, but don't have contact
9 information for the complainant, so they
10 don't provide an e-mail address for
11 example, or return phone number, but we
12 know that the complaint needs to go
13 somewhere.

14 And so those are the responses to
15 that particular question. Unfortunately,
16 it's no pattern that I can tell, but we'll
17 keep an eye on it.

18 Did anyone have any questions on
19 that?

20 MR. PUMA: I wanted to thank you
21 for digging into these referrals and, you
22 know, it's not -- the agency certainly has
23 a lot of data, you're the person
24 responsible for presenting it, and I
25 appreciate your taking the time to

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2 entertain this question.

3 We don't -- it wasn't meant to
4 be, I guess, a futile exercise, but I hope
5 that it was helpful, you know, to the
6 agency.

7 And, you know, again, I think
8 what data -- we can have a large, sort of,
9 discussion about, at a high level, about
10 what data does and what it doesn't do.
11 But, you know, I guess all of this to say
12 that this agency, you know, only can
13 report on what we hear about, right, and
14 can only, you know, only field and can
15 report on the matters that come our way.

16 So that isn't to say that there
17 isn't any, you know, thing, you know, any
18 remarkable pattern regarding other law
19 enforcement agencies in the city, it's
20 just what this agency has come across.

21 So I just wanted to, you know,
22 put that out there and thank you again for
23 doing the work on this.

24 MS. NAPOLITANO: Thank you.

25 And just on that note, just a

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2 reminder that these were cases that were
3 closed that were already referred. But
4 there may be open cases that come up that
5 involve other law enforcement agencies
6 which is why we're going to continue to
7 take a look.

8 MR. PUMA: Thank you.

9 THE ACTING CHAIR: Thank you.

10 Are there any other questions or
11 comments on this report?

12 (No response.)

13 THE ACTING CHAIR: All right.

14 The next thing we have on our agenda is
15 new business.

16 Do we have any new business to
17 come before?

18 (No response.)

19 THE ACTING CHAIR: All right.

20 Hearing none, let me thank the
21 staff again for all of your hard work, and
22 thank the members of the public who have
23 come to speak and address issues, and
24 thank my colleagues here on the board for
25 their dedication and commitment to this

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agency and its work as well.

And the chair will entertain a
motion to adjourn to executive session.

Is there a motion?

MR. SIEGAL: So moved.

MR. PUMA: Is there a second?

THE ACTING CHAIR: All those in
favor?

(Chorus of ayes.)

THE ACTING CHAIR: Opposed? No?

(No response.)

THE ACTING CHAIR: The meeting is
adjourned to executive session. Thank you
for coming.

(Time noted: 4:29 p.m.)

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C E R T I F I C A T E

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

I, NICOLE ELLIS, a Notary Public for and within
the State of New York, do hereby certify:

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 to any
of the parties to this action by blood or by
marriage and that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand
this 16th day of April 2018.

Nicole Ellis

NICOLE ELLIS

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