

Civilian Complaint Review Board-Final  
August 14, 2019

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

AUGUST 14, 2019

4:00 p.m.

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100 Church Street  
New York, New York

TRANSCRIPT OF PROCEEDINGS

B E F O R E:

FREDERICK R. DAVIE, Chair

MATTHEW KADUSHIN, ESQ., Acting Executive Director

Transcribed by:

Deirdre Smith

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PUBLIC MEETING AGENDA

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1. Call to Order
2. Adoption of the Minutes
3. Report from the Chair
4. Report from the Executive Director
5. New Business
6. Old Business
  - a) Charter Revision Commission
    - i) Update from Policy Unit
7. Public Comment
8. Adjourn to Executive Session

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2 BOARD MEMBERS PRESENT

3 =====

4 Erica Bond, Board Member

5 Frederick Davie, Chair

6 Lindsay Eason, Board Member

7 Nathan Joseph, Board Member

8 Ramon Peguero, Esq., Board Member

9 Joseph Puma, Board Member

10 Michael Rivadeneyra, Esq., Board Member

11 John Siegal, Esq., Board Member

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SPEAKERS

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NAME	PAGE
Jordan Wouk .....	19
John Brian .....	22

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CHAIR DAVIE: I would like to call this meeting to order and to welcome all of you here for the August 2019 meeting of the Board, of the Civilian Complaint Review Board.

And before I get started, I would like for my colleagues, if they would to introduce themselves.

I'm Fred Davie and I'm the Chair of the board. And we can start with Mr. Siegal down here at the end.

MR. SIEGAL: I'm John Siegal.

MS. BOND: Erica Bond, mayoral designee.

ACTING EXEC. DIRECTOR KADUSHIN: Matthew Kadushin, I'm the General Counsel.

MR. JOSEPH: Nathan Joseph, I'm the designee from City Council from Staten Island.

MR. EASON: Good evening everyone, my name is Lindsay Eason. I'm a police commissioner designee.

MR. RIVADENEYRA: Good evening everyone, I am Michael Rivadeneyra, I am the Bronx City Council's designee.

MR. PEGUERO: Good evening, my name is Ramon Peguero, I am the City Council Designee

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2 for the borough of Queens.

3 CHAIR DAVIE: Thank you.

4 And before I begin my remarks, I think we  
5 need to approve the minutes from the last  
6 meeting. Is there a motion to approve the  
7 minutes?

8 MR. RIVADENEYRA: Motion.

9 CHAIR DAVIE: Is there a second?

10 MR. PEGUERO: Aye.

11 CHAIR DAVIE: Are there any additions or  
12 corrections to the minutes?

13 (No response.)

14 CHAIR DAVIE: All those in favor of  
15 approving the minutes please say, aye.

16 (A chorus of ayes.)

17 CHAIR DAVIE: Opposed, no.

18 (No response.)

19 CHAIR DAVIE: The ayes have it, the minutes  
20 are approved.

21 So we're meeting today about a week after  
22 receiving a verdict in the Pantaleo trial. I  
23 know that there have been a lot of questions  
24 among the public regarding how we got here.  
25 So, I think it would be helpful to take a few

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minutes to review and revisit that process.

Following Mr. Eric Garner's death on July 17, 2014, the CCRB received a complaint regarding the incident, regarding his death, which is the first step in any CCRB investigation.

In January 2015, following the Staten Island's Grand Jury's decision not to indict Officer Pantaleo, the Justice Department asked the CCRB to put its work on hold, a request that we honored in the interest of not compromising the Federal Government's investigation.

The CCRB without going public so as to honor the Justice Department's request, reviewed the evidence, and after a thorough review, the Board voted to substantiate the complaint and recommend charges, the most serious level of discipline, which meant the case would eventually go to trial.

After about, about a year ago in July, 2018, the NYPD finally determined that after four years of inaction from the Justice Department it would allow the CCRB to move

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forward. This gave the CCRB the greenlight to file the charges and prepare for the trial.

As you all know the trial began in May. There were numerous efforts to prevent that from happening, including efforts to delegitimize the complaint, an effort that landed us before the Supreme Court. The Court ultimately affirmed what the Board knew when it substantiated its allegations against Officer Pantaleo, that this case, that this was a matter within the CCRB jurisdiction. As such, the trial commenced in May, and after a few delays prompted by Officer Pantaleo's attorneys, the trial concluded in June.

During the trial our prosecutors put forth evidence that was more than sufficient to prove Officer Daniel Pantaleo's guilt. The Judge, Deputy Commissioner of Trials, Rosemarie Maldonado, a Judge who is in fact employed by the NYPD, ruled that Officer Pantaleo's use of a prohibited chokehold was misconduct, and that chokehold was the cause of Eric Garner's tragic death on July 17, 2014, and that because of this, Officer Pantaleo must be terminated from

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1  
2 the police department.

3 Our prosecutors, as well as attorneys for  
4 Officer Pantaleo, have completed their  
5 responses to the verdict. Those responses  
6 along with the verdict itself are due to be  
7 submitted -- or were actually submitted to the  
8 Commissioner, Commissioner O'Neill today.

9 It is now time for Commissioner  
10 O'Neill to accept the outcome of what was a fair  
11 and judicious process and dismiss Daniel  
12 Pantaleo from the NYPD.

13 The CCRB has proved its case and  
14 recommended termination. The Judge agreed that  
15 Officer Pantaleo violated the patrol guide and  
16 should be dismissed from the force. And the  
17 whole world has seen video evidence that proves  
18 this officer is unfit to serve.

19 We respected, honored and advance due  
20 process in this case, as we do in all the cases  
21 that come before us, and the Commissioner owes  
22 it to the to cause of justice for Eric Garner's  
23 family, for all of New York, and to the cause  
24 of accountability in policing, to affirm the  
25 conclusion of both the CCRB and NYPD

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2 Commissioner of Trials, Judge Maldonado in this  
3 case, and terminate Officer Pantaleo.

4 The City's ability to restore confidence  
5 and transparency and accountability in  
6 police/community relations is contingent upon  
7 the Commissioner honoring that move.

8 I think I speak for the Board and for the  
9 staff in saying that after five long years,  
10 after watching the Staten Island Grand Jury  
11 decline to bring forth an indictment, after  
12 watching the Justice Department fail to act,  
13 the fact that the New York City Civilian  
14 Complaint Review Board has been able to push  
15 forward here says a great deal about the value  
16 of civilian oversight of police, and the value  
17 of this administrative prosecution process.

18 The verdict we received earlier this month  
19 was a big step forward, but this isn't over  
20 yet. We now insist that the Police  
21 Commissioner honor this fair and just process  
22 and remove -- remove Officer Pantaleo from the  
23 force.

24 It long has been said that justice delayed  
25 is justice denied. For far, far too long, for

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five years, that has the been the case here, justice has been delayed. My hope, both as Chair of the CCRB and as a New Yorker, my hope is that it will not be denied anymore.

There is one additional matter I would like to address which is the report that you will hear tonight about recommendations from the Charter Revision Commission. I think it's important for all of you to know that under the law, the CCRB and its board members are prohibited, as board members, from advocating for or against these provisions. We can however present the facts of how these provisions, these Charter Revision Provisions will impact the agency as best we can know at this point.

I would also like to say that Board members as private citizens, not using Board materials, Board staff, Board resources, can take positions on these provisions, but not as Board members, and not using any resources associated with the agency.

Before we move forward with the rest of the agenda, I believe our General Counsel, Matt

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Kadushin, who is serving as Acting Executive Director of CCRB in the absence of Jon Darche, who's on vacation, has a few remarks he would like to bring us, Matt.

ACTING EXEC. DIRECTOR KADUSHIN: Good afternoon everyone and welcome to the August 2019 Board Meeting at CCRB.

As you know, we are on the 12th floor at OATH today and the CCRB has moved the board meeting today because we are making a determination as to whether or not we would like to do some renovations in our office, and we expect to be at OATH for our next two board meetings that we're going to hold at CCRB.

As Chair Davie mentioned, we will have a presentation today by Harya Tarekegn, of the CCRB, she's going to do a brief overview of all four proposals that the Charter Commission recommended. And I'd ask that you wait here for her presentation and you will learn more about the Charter Revision Process.

I'd like to thank the staff on behalf of Mr. Darche for their work on The Right To Know Day Of Action. Our staff and the CCRB was in

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2 all five boroughs on July 24th.

3 We would also like to thank Council Member  
4 Richards, who was with us in Queens, and  
5 Council Member Reynoso who was with us in  
6 Brooklyn.

7 Finally, for the ground rules of the  
8 commenting today, we'd ask that everybody limit  
9 their comments to four minutes, and we're going  
10 to have a timer up in front. We are also  
11 asking that our staff members also limit their  
12 comments to four minutes as well, and so we're  
13 trying to do a good job about giving everyone  
14 an opportunity to speak who would like to speak  
15 today and being respectful of everyone else  
16 who's present.

17 Finally, if you are going to speak today,  
18 and you do have a case, we'd ask that you not  
19 discuss the case number or the name of the  
20 officers during any comments that you'd like to  
21 make about CCRB.

22 And we have two investigators here, if you  
23 could raise your hands --

24 UNIDENTIFIED AUDIENCE MEMBER: Excuse me,  
25 respectfully, that is unacceptable.

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2 I have to go to the emergency room -- I'm  
3 having chest pains and another stroke.

4 Elements is a wonderful investigator. I  
5 just reached out to Chairman Darvey -- how dare  
6 you -- this is -- I reported this in May --  
7 Commissioner O'Neill had me assaulted by his  
8 bodyguard on May 8th in Brooklyn -- how dare  
9 you.

10 I am constituent, Deborah Connolly, and I  
11 am starting to think that the Board is corrupt.  
12 I'm going to New York Presbyterian -- shame on  
13 you. Shame on you.

14 ACTING EXEC. DIRECTOR KADUSHIN: Thank  
15 you.

16 We have two investigators who are here if  
17 you can raise your hands?

18 (Investigators raise hands.)

19 ACTING EXEC. DIRECTOR KADUSHIN: We have  
20 Tessa and Magdelina, and they're both here. If  
21 anyone here would like to make a complaint, you  
22 can ask to speak to either one of the  
23 investigators and they would be happy to step  
24 outside and take any complaints that you have.

25 Thank you very much, and have a good

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2 evening.

3 CHAIR DAVIE: Thank you, Matt.

4 This is all a part of the public process,  
5 so here we are.

6 Is there any New Business to come before  
7 the Board?

8 (No response.)

9 CHAIR DAVIE: All right. For Old Business  
10 we will have Harya, thank you.

11 MS. TAREKEGN: Thank you, good evening, my  
12 name is Harya Tarekegn, and I am Senior Counsel  
13 for Policy and Advocacy at the CCRB.

14 I just want to do a presentation to keep  
15 everyone up to date as to what has been  
16 happening with the Charter Revision Commission  
17 and the Charter Revision Process.

18 So the Charter Revision Commission has  
19 decided to present voters with proposed  
20 amendments to the Charter, and those ballot  
21 questions will be on the ballot at the November  
22 5th general election. The second ballot  
23 question will contain five amendments that  
24 relate to the CCRB.

25 So, the first one will discuss the

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2 structure of the Board. It recommends an  
3 increase in the size of the Civilian Complaint  
4 Review Board from thirteen members to fifteen.  
5 That would add one member appointed by the  
6 Public Advocate, and one member jointly  
7 appointed by the Mayor and the Speaker of the  
8 Council, who would serve as Chair.

9 It also provides for the Council to  
10 directly appoint its members rather than the  
11 designate them from the Mayor's consideration  
12 and appointment.

13 Second, the amendment would protect the  
14 CCRB budget. The CCRB's annual personnel  
15 budget would equal .65% of the Police  
16 Department's uniformed officer headcount, and  
17 this would stand unless the Mayor determines  
18 that fiscal necessity requires a lower budget.

19 Third, it would require that the Police  
20 Commissioner provide the CCRB with a written  
21 explanation when the Commissioner intends to  
22 depart, or has departed, from discipline  
23 recommended by the CCRB.

24 So this would be true in cases where the  
25 CCRB has recommended discipline and the Police



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2 www.charter2019.nyc. Thank you.

3 CHAIR DAVIE: Thank you.

4 Let's see if there are any clarifying  
5 questions. We won't get into advocacy, but we  
6 see if we can get some clarifying information.

7 MR. SIEGAL: Do we have the ballot  
8 language in our materials?

9 MS. TAREKEGN: Yes, you have it in your  
10 materials. The ballot language is also up  
11 online, but they should also be in your  
12 materials.

13 CHAIR DAVIE: Any other questions for  
14 Harya?

15 MR. PUMA: Perhaps the ballot language and  
16 the staff report clarifies this, but, I wanted  
17 to clarify whether, what the effective date of  
18 any of the reforms would be if the voters  
19 approve the measures?

20 MS. TAREKEGN: Sure. So, proposal one,  
21 which is structure, would go into effect on  
22 March 31, 2020.

23 The budget would go into effect for fiscal  
24 budget 2021.

25 The deviation from disciplinary

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recommendations would take effect immediately.

And then false official statements and delegation of subpoena power would also take into effect March 31st of 2020.

MR. PUMA: Thank you.

CHAIR DAVIE: Thank you. You want to introduce yourself, Mr. Puma?

MR. PUMA: Yes. Good afternoon everyone, my name is Joseph Puma, I'm the City Council designee on the Board from the borough of Manhattan.

CHAIR DAVIE: Thank you.

Any other questions?

(No response.)

CHAIR DAVIE: Okay. Thank you, Harya.

Now, we will have Public Comment, and I have three people signed up, we'll start with Mr. Wouk, Jordan Wouk?

(No response.)

CHAIR DAVIE: He's coming up? Okay.

MR. WOUK: Jordan Wouk, he and him.

As some of you know, I've been to many borough meetings of the Board, and sitting there in the audience there are a number of

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things that I think are not clear to people in the audience.

And the first one is who is it, actually? Now, every board member introduces him or herself, there's sign in the front, and the Chair always refers to the person by name, but if you have come in late, or if you're sitting in the back, or if you can't memorize ten names that's not so helpful.

So, I'm suggesting that a list of the Members of the Board, which would include the name, the designation and the headshot be included in each meeting, possibly fitting on the back of the agenda.

The second item is it's clear that the community groups have been asked to address a question or two, but it's not clear to the public what the question is. And I think that it would be fair to explain to the public what these questions are. Why hide them? And so one way to do them it, if it's short enough text, would be to actually include it on the agenda.

Third item, I have not yet figured out how

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community groups are chosen to present, and I suspect I'm not the only one in the audience who feels that way so I would suggest that the Board somehow explain how these groups are chosen. I would suggest doing that orally.

And the final point is the Executive Session. Why? What is it? What is that we may not hear? And usually that's a pretty simple list, it has to do with personnel, it might have to do with budget or policy, or in this case deciding the disposition of a recommendation, but I think it would be worth explaining that type of thing to public to increase the transparency of the actions of the Board.

CHAIR DAVIE: Thank you, Mr. Wouk.

And let's just say, we will review the suggestions. I do think the suggestion -- by the way great job on the photos -- I do think the suggestion about explaining why we go into Executive Session is a good one, and I'll talk to colleagues about and we'll see how we move forward with that.

MR. WOUK: And putting together the list

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of photos. It's obvious why the Chair was chosen to be the Chair of this group.

(Audience laughs.)

CHAIR DAVIE: I'll take that as a compliment and move on. And so it goes.

Is there anymore Public Comment? I think we have Mr. John Brian?

MR. BRIAN: Hi. At last month's Board meeting you addressed the request for body cam footage, and one of the issue was about the false negatives, where you ask for body cam footage, they say they don't have, but they actually do have it, and you found out later.

A similar instance happened to me when I requested information from CCRB. I requested the audio recording of my interview that they have every -- when they, after you file a complaint. I was denied it and then about a year, a year and three months later I received it.

So, basically that's an issue that I just want to bring to the board, that basically it's the same situation that you have with NYPD.

I also, at one time, asked for copies of



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2 So basically -- and when -- just going  
3 back to the original issue about the audio  
4 recordings, is that accurate? Once you file a  
5 complaint and a person from CCRB contacts you,  
6 that telephone conversation is recorded, is  
7 that accurate? Does anybody know on the Board?

8 ACTING EXEC. DIRECTOR KADUSHIN: Typically  
9 it is recorded, but our policy, we don't turn  
10 over anything related to an open investigation.

11 MR. BRIAN: Okay. But, so typically is  
12 what -- a hundred percent of the time? Fifty  
13 percent of the time? What does that mean?

14 ACTING EXEC. DIRECTOR KADUSHIN: When our  
15 phone system works correctly.

16 MR. BRIAN: Okay. So, when I received the  
17 audio recording of the telephone conversation  
18 back in June of 2018, I spoke to Executive  
19 Director, Jonathan Darche, and informed him  
20 that basically I originally asked to -- I filed  
21 a FOIL request to obtain it, I was denied it,  
22 they said they didn't have the recording, and  
23 then when I received it, I said -- basically,  
24 he interrupt me and he said I shouldn't have  
25 gotten it. And Matthew Kadushin was at, during

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this conversation, and he corrected him and said that I should have received it.

So it was an immediate response from Mr. Darche that I shouldn't have receive it, which I found really concerning.

Do you recall that conversation?

ACTING EXEC. DIRECTOR KADUSHIN: I don't recall the specifics of the conversation but it is our policy, to give, if someone has conducted an interview we give them a copy back of their interview but not until the investigation is closed.

MR. BRIAN: But my -- when I originally filed the FOIL request, they said there was no recording and my case was already closed at that point already, I had it reopened, subsequently.

Thank you very much, my time is up.

And if you -- if I can contact somebody regarding Mr. Darche and some of the issues that I brought up I would greatly appreciate it. Thank you.

CHAIR DAVIE: Thank you.

That's all that I have on the list for

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Public Comment. Is there anybody else here who would like to speak?

(No response.)

CHAIR DAVIE: All right. Hearing none, is there a motion that we adjourn to Executive Session?

MR. SIEGAL: So moved.

CHAIR DAVIE: Is there a second?

MS. BOND: Second.

CHAIR DAVIE: All the those in favor of adjourning to Executive Session, please say, aye.

(A chorus of ayes.)

CHAIR DAVIE: Opposed, no.

(No response.)

CHAIR DAVIE: The ayes have it. We are adjourned, thank you all.

(Time noted 4:30 p.m.)

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STATE OF NEW YORK        )  
                                  ) ss.  
COUNTY OF WESTCHESTER )

I, DEIRDRE SMITH, Court Reporter and  
Notary Public with and for the County of  
Westchester, State of New York, do hereby certify  
that I reported the proceedings that are  
hereinbefore set forth, and that such transcript is  
a true and accurate record of said proceedings.

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

WITNESS MY HAND, this 28th day of August, 2019.

Deirdre Smith  
Deirdre Smith  
Notary Public

My commission expires:  
April, 2020

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