

**Testimony of Daniel D. Chu, Board Member  
Civilian Complaint Review Board  
Before the Public Safety Committee  
of the New York City Council**

**March 15, 2011**

Chairman Vallone, members of the Public Safety Committee, I am Daniel D. Chu, a Board Member of the Civilian Complaint Review Board. With me today is the agency's Executive Director, Joan M. Thompson. Ms. Thompson and I will be available to answer your questions at the conclusion of my testimony.

Three years ago, fiscal 2008, the CCRB had an approximate \$12 million budget and a headcount of 192, 153 of whom were investigative staff. This fiscal year our budget, excluding the Administrative Prosecution Unit, is just under \$10 million, \$9,903,921, and our total headcount is 149, 119 of whom are investigative staff. Our current fiscal 2012 budget includes a further headcount reduction of three investigators. Therefore, after June 30, 2011 our budget will be reduced to \$9,601,000, our total headcount to 146 and our investigative headcount to 116. Our fiscal 2011 budget also includes funding in the amount of \$366,313, for the Administrative Prosecution Unit, a pilot project which gives CCRB attorneys an active role in the NYPD trial room. However, this funding is for one year only and will cease after June 30, 2011 unless baselined.

Last week, we received a request for a further reduction of 4%, or \$463,000 for fiscal 2012 and the out-years. A recurring reduction at this level would require the CCRB to give up an additional 10 investigator lines. If implemented, the CCRB's budget for fiscal 2012 would be reduced to \$9,138,000, with a total headcount of 136 and an investigative headcount of 106. In three years our investigative staff will have been reduced by 47 positions, from 153 to 106. The continuous loss of staff is virtually impossible for our small

agency to absorb. Additionally, our pilot prosecution program is at risk. At present, we have no indication whether the funds for our Administrative Prosecution Unit will be baselined.

### **Loss of 13 Investigative Positions**

The loss of 13 investigative positions will erase our recent productivity gains and we will not be able to keep pace with complaint filings. By the end of 2009, the agency's open docket was 3,358 cases; while, by the end of 2010, it was only 2,786. This reduction was accompanied by a reduction in the average time it took to complete an investigation. In 2009, when efficiency was at low levels, it took an average of 349 days to complete a full investigation and 394 days to complete a substantiated investigation. However, in 2010 the average time to complete a full investigation decreased to 299 days, and the average time to complete a substantiated investigation decreased to 357 days. We predict that the loss of 13 investigators will result in the open docket rising by 845 cases each year. Additionally, for fiscal 2012 our average time to complete a full investigation will increase to 355 days and the average time to complete a substantiated investigation will climb to over 400 days for fiscal 2012. Consequently, 36% of substantiated cases referred to NYPD will be 15 months and older, which would be double the rate of 2010. This is very significant, as the NYPD has consistently indicated that the older a case, the more difficult it is to impose discipline. The rate at which the NYPD declined to prosecute CCRB cases was 17% for 2010, a significant reduction from the last three years when it has been on average 30%. If, however, the age of our substantiated cases increases, we can expect the decline to prosecute rate to rise.

In addition to the devastating effect the loss of investigators will have on the agency's investigative operations, with less staff the CCRB will be unable to continue its expansion of two important programs, Mediation and Outreach, as both are staffed through our investigator pool. In the beginning of 2010, the

Board reiterated its commitment to these programs and 2010 has been a success in this regard.

In 2010, the number of cases that the CCRB resolved through mediation rose by 33% from the prior year. In 2009, the CCRB mediated 118 cases and in 2010 the agency mediated 157 cases, the highest annual number of mediations since the program began in 1997. Additionally, in 2010, 82% of officers who were offered mediation, accepted it. This is a significant increase from prior years, 2008 and 2009, when the rates were 68% and 74%, respectively. The acceptance rate for civilians also increased, from 50% in 2008 to 53% in 2009 and 56% in 2010.

The Outreach Unit has almost doubled the number of outreach presentations it conducts annually. In 2009, the CCRB conducted 49, and in 2010 we conducted 95. Equally important, we have been careful to reach those groups whose members may have frequent encounters with police, such as Public Housing tenants associations, community groups and high schools in areas with high CCRB complaint rates. In addition, the Board has conducted its regular monthly meeting outside its offices in Manhattan. The Board has held its meeting in Brooklyn, Queens, and Staten Island and is scheduled to visit the Bronx this spring.

### **The Loss of the Administrative Prosecution Unit**

In February 2010, the Police Commissioner and the CCRB Chair announced a pilot program under which CCRB attorneys would be designated as lead prosecutor for a portion of the substantiated CCRB cases brought to trial.

The project was funded by the Administration for fiscal year 2011 through a one-time increase to the CCRB's budget. The funds provided for four new positions, two attorneys, one investigator and one clerical. In September 2010, we hired one attorney and later that month OMB instituted a hiring freeze. In

November 2010, OMB lifted the freeze, but required agencies to lose two people before it would approve one new hire, the “two-for-one hiring” requirement. In February 2011, we were able to fill the investigator position. Currently, we have two vacant positions, one attorney and one clerical. Given the constraints of the “two-for-one hiring” requirement and no guarantee of funding past June 30, 2011 we do not anticipate being able to hire for either position.

With our limited staffing we have already laid the foundation for a program that we believe is fundamental to improving civilian confidence in the New York City Police Department. The Administrative Prosecution Unit builds on our Second Seat program which started in the fall of 2008. Prior to 2008, despite much public pressure and debate the CCRB had no influence over substantiated cases once they were forwarded to the NYPD, let alone the prosecution of such cases. Today, we are proud to report that CCRB attorneys have assisted in the prosecution of eleven trials and participated in an additional six plea negotiations. Our active presence in the trial room through both programs is historic and increasing in frequency. So far in 2011, CCRB attorneys have participated in four trials, including one scheduled for today, and have nine more designated. Our lead prosecutor has completed three lead prosecution training trials and her first solo lead prosecution case is scheduled for May 24, 2011.

The benefits of the CCRB’s participation in the prosecution process are already evident. CCRB attorneys can explain to judges the crucial details of the investigative process, which in turn affects the weight a judge accords a particular piece of evidence or argument. Additionally, CCRB attorneys are successful at gaining cooperation from complainants to prepare for trial and ensuring their appearance at trial. Members of the CCRB’s prosecution program, who are independent from the NYPD, can build on the preexisting relationship between the complainant and the initial CCRB investigator, and can meet with complainants at our offices instead of One Police Plaza. Our investigations are also strengthened by our participation. CCRB prosecutors have incorporated

their trial room experience into investigator's training programs to fine tune case processing.

When we announced the Administrative Prosecution Unit in February 2010, we noted that at the end of 12 months, or June 2011, we would evaluate the program with the NYPD. Already, both agencies are clear that the benefits are significant and the NYPD has expressed confidence in our prosecution staff. With the additional assurance of adequate and stable funding, at this meeting we can confidently advocate for an increase in the number of lead prosecution cases handled by the CCRB. Accordingly, we will be requesting that the Administration continues funding the Administrative Prosecution Unit. If we are unsuccessful, we will be seeking the Council's support, which would allow us to continue the good and important work we have already begun.

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In closing, we will be seeking your support if any of the reductions I have described are implemented. We thank you for your time and for your continued interest. Ms. Thompson and I will be happy to answer any questions you may have.