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**2019 Charter Revision Commission Public Forum Presentation of Jonathan Darche,
Executive Director, Civilian Complaint Review Board (CCRB)
Proposed Changes to Chapter 18-A of the New York City Charter
March 7, 2019**

My name is Jonathan Darche, and I am the Executive Director of the Civilian Complaint Review Board, or “CCRB,” an independent city Agency that investigates, prosecutes, and mediates complaints of misconduct filed by civilians against New York City Police Department (“NYPD”) officers. Thank you to the 2019 Charter Revision Commission for inviting me to speak about some of the proposed City Charter changes related to police accountability.

The CCRB is committed to a fair, transparent, and robust system of police accountability in New York. However, there are a number of challenges to achieving that goal that would be greatly diminished by making four changes to the City Charter: first, to codify the CCRB’s Administrative Prosecution Unit (“APU”); second, to enable the Board to designate subpoena signatory power to the agency’s highest ranking staff; third, to better define the Department’s duty to cooperate with Agency requests for information and documents related to policy, outreach, and operational support; and fourth, to amend the CCRB budget to be one percent of the NYPD’s budget. I can provide more detail on any of our recommendations—achievable Charter revisions that we think would help strengthen the CCRB, but for tonight, I’ll limit my focus to two important areas: codification of the APU and the NYPD’s duty to cooperate.

The work of the APU is governed by a 2012 Memorandum of Understanding between the NYPD and the CCRB. The first unit of its kind in the United States, and heralded as a significant step for police oversight by local elected officials and advocates, the APU prosecutes nearly all of the cases in which the Board recommends Charges and Specifications, the most serious disciplinary recommendation. Since the creation of the APU, the CCRB has administratively prosecuted officers for misconduct at 374 trials. As evidenced by the APU’s current prosecution in the Garner case, the APU is a vital part of the disciplinary process for officers who commit misconduct. Amending the City Charter to codify the APU will ensure that this independent and effective tool for civilian oversight will continue.

Similarly, better defining the NYPD’s duty to cooperate would enable the established cooperation between the agencies to continue, regardless of leadership changes at either agency. The Charter currently requires that the NYPD cooperate with CCRB investigations, but lacks any specific language requiring the Department to cooperate with prosecutions or the Agency’s operational capabilities. As a result, the CCRB lacks access to items like subject officers’ NYPD disciplinary histories or the specific penalties given to officers in non-APU cases, both of which would help the Board to make more informed decisions on disciplinary recommendations and

provide more transparent aggregate disciplinary data to the public creating the ability for CCRB policy reports to provide more context to the reported data.

Further, while there is no current legal requirement for the Police Commissioner to defer to the CCRB's findings of fact or recommendations for discipline, there is also no requirement for the Commissioner to explain his or her reasons when downwardly departing from the CCRB's findings and recommendations. Including a provision in the Charter to require the Police Commissioner to document to the CCRB the case-specific factual and legal reasoning for downward departures would help hold the Police Commissioner accountable for disciplinary decisions, regardless of the person in the role.

I welcome any further opportunity to discuss any of the proposed Charter changes with the Commission or its staff, and I am happy to answer any questions about the Agency or our Charter proposal.