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FREDERICK DAVIE
CHAIR

Full Testimony as Submitted:

**Rev. Frederick Davie, Chair of the Civilian Complaint Review Board
before the Public Safety Committee of the New York City Council
March 4, 2020**

Chairperson Richards, members of the Public Safety Committee, thank you for the opportunity to appear before you today. I am Rev. Frederick Davie, Chair of the Civilian Complaint Review Board (CCRB). I am joined by Jonathan Darche, our Executive Director.

There have been several significant developments for the CCRB over the past year, including the CCRB's prosecution of Daniel Pantaleo for the killing of Eric Garner and Mr. Pantaleo's subsequent termination from the New York City Police Department (NYPD), November's successful ballot initiative resulting in several changes to the New York City Charter that have an impact on the CCRB's work, the completion of a Memorandum of Understanding (MOU) between the CCRB and the NYPD to help improve the CCRB's access to Body-Worn Camera (BWC) footage, and the launch of the Agency's Civilian Assistance Unit (CAU), which seeks to provide our complainants with assistance and connection to needed city services. In addition, in 2019, the CCRB received 4,959 complaints in its jurisdiction – the highest number of complaints received since 2013, and a 4.5% increase over last year's 4,745. CCRB's complaints have risen nearly 16% since 2016, a rise that is at least partly attributable to the Agency's recent focus on community outreach and public education.

Each of these turns of events have had considerable influence on the practice of police accountability at the CCRB.

The Pantaleo trial, which took place in spring of last year, highlights how vital independent oversight and civilian prosecutions are for police accountability. During the trial last year, the CCRB's Administrative Prosecution Unit (APU) attorneys showed video evidence initially recorded on a cell phone that clearly showed Mr. Pantaleo's use of a prohibited chokehold on Mr. Garner. APU prosecutors presented this and other evidence at trial that led NYPD Deputy Commissioner of Trials Rosemarie Maldonado to issue a guilty verdict and recommend Pantaleo's termination from the Department. Former Police Commissioner James P. O'Neill, concurring with Maldonado, subsequently terminated Pantaleo. After a grand jury previously

declined to indict Pantaleo and the federal government announced that it would not file charges, the administrative proceeding was means of securing some semblance of justice for the death of Eric Garner.

On November 5, 2019, New Yorkers voted to implement a set of Charter changes, grouped together under Ballot Question 2, that make the disciplinary process more transparent, strengthen the CCRB's oversight capabilities, and improve Agency efficiency. The CCRB's Board structure will change, as we will have one member appointed by the Public Advocate, and my position, that of Board Chair, will be jointly appointed by the Mayor and the Speaker of the City Council. The City Council will also have the power to appoint CCRB members, rather than designate members subject to Mayoral approval. Among other changes are: a requirement for the Police Commissioner to provide written explanations for deviations from the Board's disciplinary recommendations; expanding the CCRB's jurisdiction to include false official statements made to the CCRB; and a linking the CCRB's headcount to 0.65% of the NYPD's uniformed officer headcount.

The CCRB has been in close communication with the city's Office of Management and Budget (OMB) to determine exactly how many additional staff members this will mean for the Agency. At the close of FY2019, the CCRB's authorized headcount was raised by almost 16% from 183 to 212 people, and as a result of the revised Charter language, another 17 staff members were added in the January Plan. While the Charter guarantees headcount, there are no specific funding levels attached to that headcount, and so we have worked closely with OMB to determine what these new personnel lines will be. Similarly, we continue to discuss with OMB what level of support is available for infrastructure items like work space, computers, desks, external training modules, and office network access (all covered under the budget categories other than Personnel Services), specific funding for which is also not guaranteed by the new Charter language.

In 2019, 58% of the CCRB's fully investigated complaints featured video evidence. Nearly 60% of these cases with video featured BWC footage, and 74% of the cases involving BWC evidence are closed "on the merits" – in other words, as substantiated, exonerated, or unfounded – because the facts of these cases are more clearly determined. In complaints with no video evidence, only 40% are closed on the merits. This shows how vital BWC evidence is to CCRB's investigations. This also highlights the importance of the MOU between the CCRB and the NYPD on how to access BWC recordings. Once this new protocol goes into effect, CCRB investigators will be able to search for BWC footage in collaboration with NYPD staff, view unredacted footage and take notes on content, and request for download the sections of video that are relevant to the investigation and prosecution of the allegations of misconduct in the case.

As the number of complaints involving BWC footage continues to rise, the CCRB is naturally concerned with how increasing electronic storage of this crucial evidence impacts the Agency's budget. In 2017, the year the BWC program launched, the CCRB received 158 BWC video files of roughly 37 gigabytes. In 2019, the CCRB received nearly 8,000 BWC video files of roughly

1.3 *terabytes* – a 3,385% increase. To date, video footage occupies more than 7.5 terabytes of space. We are working with both OMB and the city’s Department of Information Technology and Telecommunication (DOITT) to adapt the CCRB’s technology infrastructure to the BWC program. The CCRB’s technology infrastructure is outmoded and over 25 years old.

CCRB added training in forensic evidence analysis in order to ensure Agency staff properly utilize body worn camera footage. Forensic video analysis techniques involve intensive transcription notations and multiple viewings of videos, increasing the length of time it can take to close all investigations – not just those with video. Investigators must identify each of the individuals in video footage to identify witnesses, and take detailed notes as to the statements made and events that occur, often requiring frame-by-frame review. Among the Agency’s other training initiatives are proposed and ongoing modules on leadership and implicit bias, advanced interview skills – including Forensic Experiential Trauma Interviewing (FETI), a particular concern as the Agency investigates sexual misconduct allegations – and advanced trial skills for new prosecutors. The influx of video evidence and new personnel, however, means that there is a need for additional training in these, and other, areas.

Sexual misconduct, an allegation category the CCRB took on in February 2018, was one of the reasons the Agency worked to create a Civilian Assistance Unit (CAU). This innovative unit will support complainants by assisting them in understanding and navigating the investigatory and disciplinary processes and provide complainants with connections to critical city resources like housing assistance and mental health services. Advocates for at-risk populations often cite the fact that the CCRB’s process is too difficult for their members to navigate; members of the public at board meetings often speak about the fact that the CCRB’s process is too difficult and emotionally taxing; and investigators and prosecutors anecdotally report that witnesses claim that the process causes them emotional stress and they decline to follow through with their complaint. The CAU will pair complainants with social workers and counselors who help them mitigate post-event trauma and aid them in navigating New York’s network of support services in a meaningful way.

The CCRB’s complainants come from all communities, including some of the most vulnerable populations. These partnerships are building toward improvements in how the CCRB interacts with members of various communities in New York City. One such initiative is the CCRB Youth Advisory Council (YAC). Initially launched in winter of 2018, the YAC is a working committee made up of young leaders, ages 10-24, who are committed to criminal justice issues and improving police-community relations. The YAC meets quarterly, advising CCRB staff on how to engage young New Yorkers and serving as ambassadors to their communities about the Agency. The YAC also served as part of the planning committee for the CCRB’s spring 2019 event, "Speak Up, Speak Out: A Youth Summit on Policing in NYC," the CCRB’s first ever summit focused exclusively on youth, and is currently working on the final stages of planning for our April 1 event. During this event, the CCRB will release a report on NYPD interactions with

young people in New York and debut a Public Service Announcement aimed at helping local youth understand what the CCRB is.

As part of its oversight and accountability work under its Charter mandate, the CCRB engages in a wide variety of public awareness efforts like this. Since the beginning of the current Administration, the CCRB's Outreach Unit has expanded significantly both in the size of its staff and in its baseline funding. The Unit has diligently focused on reaching larger audiences and building relationships with community stakeholders, service providers, elected officials, and advocates. Furthermore, the CCRB constructed a full public education campaign to inform thousands of New Yorkers about the Right to Know Act (RTKA), a law that went into effect on October 19, 2018 and mandates that NYPD officers provide members of the public who have been involved in a police encounter with a business card that directs civilians to where they can comment or complain about an encounter with an officer. CCRB staff created RTKA education materials and distributed these resources outside of subway stations, schools and at street festivals in all five boroughs. However, the Agency continues to face challenges regarding public awareness of the CCRB and its powers and resources. We know that this awareness is extremely consequential. While many members of the public who encounter our Outreach staff continue to report a previous lack of knowledge of the Agency, we'll continue to work with other City agencies to discuss ways to spread public awareness of the CCRB.

With the support of the Administration and the Council, the Agency continues to be better able to accomplish its mission, to provide strong, effective, and independent civilian oversight for the New York City Police Department, but there is far more to be done. I am confident that with your help, the CCRB will continue to flourish, improve, and lead the way in civilian oversight nationally. Thank you for your time and continued support.