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ARVA RICE
INTERIM CHAIR

Testimony of CCRB Interim Chair Arva Rice before New York City Council's Public Safety Committee March 1, 2023

Good afternoon,

My name is Arva Rice and I use she/her pronouns. I am grateful for my second opportunity to address this Council as the Interim Chair of the Civilian Complaint Review Board. I joined the CCRB as a board member in 2021 and have proudly led the Agency as Interim Chair for the last year.

I have spent most of my career serving New Yorkers. As current President and CEO of the New York Urban League, I work to enable underserved communities to secure a first-class education, economic self-reliance and equal respect of their civil rights through programs, services and advocacy. Under the last administration, I served as a commissioner for the NYC Equal Employment Practices Commission and Mayor DeBlasio's Commission for Gender Equity.

Before joining the CCRB, I worked with former Police Commissioner Shea and Mayor de Blasio on a department wide initiative to reform the NYPD. In March 2021, the City Council passed a resolution adopting our final Police Reform and Reinvention Collaborative Plan. After decades working to make New York City a fairer, more equitable, and safer city, I am pleased to use my expertise to lead the CCRB and improve police accountability.

The CCRB is the largest police oversight agency in the country and will mark its 30th anniversary this coming July. While the CCRB was established in the 1950s, it did not take on its independent and civilian form until 1993 under Mayor David Dinkins. Following the Thompson Square Park demonstrations, New Yorkers, outraged by the overt police misconduct and lack of repercussions for officers, began advocating for an all-civilian entity to oversee the NYPD. Since then, the CCRB has steadily grown and expanded its work.

The Board is made up of 15 members: 5 appointed by the Mayor, 5 appointed by the City Council, one from each borough, 3 designated by the Police Commissioner, 1 appointed by the Public Advocate, and 1, the Chair, jointly appointed by the Mayor and the Speaker of the City Council.

Today, the CCRB investigates, mediates, and prosecutes complaints filed by victims and witnesses of police misconduct. The CCRB's jurisdiction includes Force, Abuse of Authority, Discourtesy, Offensive Language, untruthful statements, and Bias Based Policing. People may

file complaints online, in person, over the phone, on social media, or at a police precinct. And thanks to this council, the CCRB now has the power to self-initiate complaints.

After a complaint is filed, our intake team determines if the complaint is within the Agency's jurisdiction and, if it is within our jurisdiction, assigns the case to an investigative unit. The assigned investigator then begins collecting and uncovering all possible evidence in a case. They often go to the scene of the incident, interview witnesses and victims, request CCTV and cell phone footage, as well as subpoena medical records. Investigators request NYPD documents, BWC footage, and other evidence in possession of the NYPD. Investigators will use sophisticated software to examine video footage, whether BWC or otherwise, watching a video carefully and repeatedly to determine what happened. Once all that evidence has been collected, investigators conduct detailed interviews with the officers who witnessed or were involved in the case. The final step of the investigation is when the investigators marshal that evidence and write a comprehensive report detailing the complaint with the collected evidence and examine the incident through the lens of the patrol guide. The board then gathers in panels to review the underlying documents of each case and the investigator's recommendation before voting on whether misconduct occurred, and if misconduct occurred, what level of discipline to recommend based on the NYPD's own Discipline Matrix.

There are four levels of discipline that the CCRB can recommend the NYPD impose on its members: Training or Instructions, Schedule A Command Discipline, Schedule B Command Discipline and the highest level, Charges and Specifications. Command Disciplines are shortcuts in the formal disciplinary process that the Department negotiated with the Police Unions, where members of service accept discipline within certain parameters and give up their rights to a formal disciplinary process. The maximum penalty for a Schedule A Command Discipline is forfeiture of up to five vacation days. Schedule A Command Disciplines automatically leave a member of service's disciplinary history after one year. The maximum penalty for a Schedule B Command Discipline is forfeiture of up to ten vacation days. Schedule B Command Disciplines must stay on a member of service's disciplinary history for at least three years. At that point, a member of service may request to have the Schedule B Command Discipline taken off their record, but that decision is at the discretion of the Department. Charges and Specifications are the Department's formal disciplinary process. Charges and Specifications may result in lost vacation days, suspension, or termination. When Charges and Specifications are recommended, the case immediately gets sent to the CCRB's Administrative Prosecution Unit or the APU. The APU was set up in 2012 and takes the most serious cases of misconduct to trial. The trials are presided over by an NYPD trial commissioner who writes their own recommendation to the police commissioner. In every CCRB case, the Police Commissioner has the final decision on discipline.

When looking at all CCRB cases, the NYPD's Strategic Response Group makes up less than 1% of complaints since the group's inception in 2015. 472 SRG officers have received a complaint and the CCRB has substantiated misconduct against 82 of them. The substantiation rate against SRG officers is approximately 10% higher than all CCRB complaints since 2015. Part of this can be explained by the 2020 protest cases.

The 2020 protests resulted in the highest rate of complaints the Agency has ever seen, with 300 complaints being filed in 48 hours. The CCRB received over 750 complaints that were then narrowed down to 321 cases after eliminating duplicates and incidents outside of our jurisdiction. Given the large deployment of SRGs to manage the protests, this resulted in a higher rate of complaints against SRGs. 15% of the protest cases involved an SRG officer, while regular CCRB cases involve an SRG officer less than 1% of the time. Fully investigated protest cases had resulted in 88 substantiated cases, 28 of which involved an SRG officer. The low rate of substantiation for regular officers is largely due to the issue of identification.

These were some of the most complicated cases the Agency has ever investigated and required senior investigators to take on most of the work. 43% of the allegations stemming from the 2020 protests had to be closed because the officers involved could not be identified, a jump from 11% in non-protest cases. Investigators had to put in much more work to identify officers and collect evidence from the wide ranging, chaotic events. SRGs did not have the same identification issue as they are better prepared for these types of events.

Last month, the CCRB released a comprehensive report analyzing the data from the 2020 protest cases. The report identifies the departmental failures, patterns of officer misconduct, the obstacles the CCRB faced while investigating these complaints, recommendations for the NYPD on how to better respond to protests in the future, and how to improve the disciplinary process. The full report can be found on the CCRB website.

Since the 2020 protests, the CCRB has had an ever-increasing amount of work. On top of the 321 protest cases, the CCRB has steadily been expanding the types of cases it investigates. In 2019, the City voted to change the charter to give the Agency jurisdiction over untruthful statements made by members of the NYPD to the CCRB. In 2021, this council changed the Charter to give the CCRB jurisdiction over Bias Based Policing and Racial Profiling. That same year, the Council adopted a resolution calling upon the state legislature to pass legislation that would give the CCRB final disciplinary authority over its cases. That resolution has not been acted upon. The Board itself responded to community concerns, changing our rules to be able to investigate sexual misconduct, body worn camera misuse, and untruthful statements made by officers to other entities. These changes increase the number of cases we investigate each year, adding nearly 800 cases in the last two years.

Between 2014-2021, the NYPD received 3,480 allegations of bias-based policing. Four of those allegations were substantiated. As a result, the City Council changed the City Charter in 2021, empowering the CCRB to investigate cases of racial profiling and bias-based policing. We are so grateful the City Council entrusted the CCRB with this responsibility. In 3 months, the agency already received more than 100 complaints involving bias policing or profiling. When the Council empowered the CCRB to undertake this responsibility, 33 new positions were added to the Agency to create a unit to handle these complicated investigations. Unfortunately, the proposed budget reduced the Agency headcount by 22 positions. Since this reduction must come from vacant positions, it is going to result in a racial profiling unit that only has 13 people, around 1/3 of the staffing level originally guaranteed. After those cuts take place, the CCRB will have an authorized headcount of 237 to oversee over 34,000 officers. While this is above the

charter mandated level, this mandate was established before the creation of the Racial Profiling and Bias Based Policing unit.

2020 marked another milestone for police reform with the repeal of Civil Rights Law Section 50-a. 50-a prohibited the CCRB from sharing most of its work with the public. Since its repeal, the Agency transformed how we share information with the public. Not only can one look up the number of complaints we receive and types of allegations within them, but we have published a comprehensive database of officers' CCRB histories. We fulfill hundreds of FOIL requests each year and we began posting deviation letters and closing reports to our website. This will be an ongoing process.

In 2019, the Agency established the Civilian Assistance Unit staffed by victims' advocates, licensed social workers and trauma services professionals, who provide free and confidential assistance. This service has been a necessary lifeline for victims who need further care and assistance and helps connect them to other city services.

While no longer new, one of the most significant changes in the CCRB was the creation of the Administrative Prosecution Unit or APU. Created in 2012 with the support of the City Council, the APU's prosecutors handle the most severe cases of police misconduct. The APU has been a key function in evaluating police misconduct and opening our process up to the public. Yet, in the last year, the docket of APU cases tripled. This is largely due to the protest cases and other new investigative powers, but it is also due to the NYPD's Disciplinary Matrix. The Disciplinary Matrix was created by the NYPD and specifies the appropriate discipline for each type of misconduct. Since the implementation of the matrix, the number of cases receiving the highest level of discipline and being sent to the APU jumped from 8% in 2020 to 48% in 2021. We thank OMB for the 4 additional prosecutors they allowed us to hire, but in order to keep up with 6 times the work, we will need additional prosecutors to get through these cases in a timely manner.

The CCRB followed the NYPD's Disciplinary Matrix in nearly every case in which it substantiated misconduct against a member of the NYPD since the 2021 Memorandum of Understanding signed by the former Police Commissioner and former CCRB Chair. Unfortunately, the NYPD continues to deviate from CCRB recommendations, even when we are following NYPD's own disciplinary guidelines. CCRB investigators painstakingly collect evidence that the Board carefully reviews. Most cases that come through the CCRB are not substantiated. The Board only recommends discipline when there is a preponderance of evidence that misconduct occurred. There will only be true accountability when the CCRB is given final authority over its disciplinary cases.

We hope for continued support from the City Council in empowering this Agency, which includes adequate budget and headcount to account for the new investigative powers, along with proper access to evidence of misconduct. To investigate cases as efficiently as possible, the CCRB needs direct access to BWC footage and all NYPD documents. Without it, CCRB cases are unnecessarily delayed which is unfair to both the victims and officers involved.

We also need to be exempt from sealing statutes. Evidence of police misconduct is hidden behind sealed records that we need access to if we are going to hold all misconduct accountable. We currently have had one case on hold for over a year as we wait for a judge to determine whether the CCRB should have access to the sealed evidence to a case we are taking to trial. The family of Delrawn Small deserves better than that. We hope the City Council will advocate for our right to direct access to NYPD evidence and sealed records.

In the meantime, we will continue working with NYPD to improve the current process and we expect the CCRB will be consulted as changes to the disciplinary matrix and the reform process are discussed. The CCRB is a uniquely important Agency, because, independent civilian oversight of the NYPD is key to fulfilling this City's mission to protect New Yorkers.

Thank you, Council Members, for your continued support and for your time today.