1  Public Board Meeting
2  of the Civilian Complaint Review Board
3  Wednesday, June 8, 2016
4  100 Church Street, 10th Floor
5  New York, New York 10007
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8  DEBORAH N. ARCHER, ESQ., ACTING CHAIR
9  MINA Q. MALIK, ESQ., EXECUTIVE DIRECTOR
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11  Audio File Transcription
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14  PUBLIC MEETING AGENDA:
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16  1. Call to Order
17  2. Adoption of the Minutes
18  3. Report from Chair
19  4. Report from Executive Director
20  5. Committee Reports
21  6. Old Business
22  7. New Business
23  8. Public Comment
24
25
BOARD MEMBERS PRESENT:

DEBORAH N. ARCHER, ESQ.

FRANK DWYER

I. BENNETT CAPERS

JANETTE CORTES-GOMES, ESQ.

YOUNGIK YOON, ESQ.

JOSEPH A. PUMA

RAMON PEGUERO, ESQ.

LINDSAY EASON

SALVATORE F. CARCATERRA

MINA Q. MALIK, ESQ., EXECUTIVE DIRECTOR

Transcribed from an Audio File by:

Daniel Cavanagh
CHAIR DEBORAH ARCHER: Good evening, everyone. My name is Deborah Archer. I'm the Acting Chair of the Civilian Complaint Review Board and I'm going to call to order the June meeting of the Civilian Complaint Review Board.

We're going to start with an adoption of the minutes. Can I have a motion to adopt the minutes?

MR. CAPERS: So moved.

CHAIR ARCHER: Second.

MS. CORTES-GOMEZ: Second.

CHAIR ARCHER: All in favor?

(Chorus of Ayes.)

CHAIR ARCHER: All opposed?

(No response.)

CHAIR ARCHER: Any abstentions?

MR. DWYER: I abstain.

MR. PEGUERO: I abstain.

CHAIR ARCHER: Two abstentions.

All right. We have adopted minutes. I'm going to start by mentioning that we have two new board members joining us today. The first is Frank Dwyer and he is the new Police Commissioner designee.

Frank, do you want to say anything?

MR. DWYER: Sure. It's an honor to join
the Board. I'm Brooklyn born and raised. I live in Queens now. Is the mic working? I can't hear it.

In any case, I went into the Police Department in 1983 and I retired in 2012. I've worked in Queens, I've worked in Manhattan, I've worked in Brooklyn. And I do some teaching. I do some consulting. But it's just a real honor to join this group. So thank you.

CHAIR ARCHER: Thank you and welcome.

Also, Bishop Taylor had been on the Board waiting the appointment of a new -- a City Council designee from Queens. So first I want to just acknowledge Bishop Taylor's years of service to the Board and thank him for all that he has done for the agency.

And we now have a new City Council designee from Queens. Ramon Peguero, would you like to say something?

MR. PEGUERO: Sure. It's an honor to be appointed to this board. For the past 25 years I've worked all over the City of New York, in the Bronx and Manhattan, Queens, Brooklyn, in not-for-profit work dealing with the most needy. And I'm hoping to bring that experience as well as my law experience to the Board to work with the Board to make sure
that we are dealing with the issues that come before us in a very diligent and very objective manner. So I thank the Mayor for the appointment and I thank the City Council for designating me, and looking forward to working with this distinguished panel of board members.

CHAIR ARCHER: Thank you and welcome.

As I think everyone probably knows, on Monday the CCRB released our annual report for 2015. Copies of the report are currently available on our website and hard copies will be available here at the CCRB's office shortly. The annual report describes a few of the impacts that the major improvements that we've been trying to implement over the past year have had. I do want to highlight a few of the key trends that are also highlighted in the report.

The first is a continuing decline in complaints of police misconduct. A second is a rise in the number of substantiated cases. We also observed an increase in the availability and use of video evidence. We believe there is continued cooperation with the Police Department and there is also demonstrated positive results as a result of their -- on productivity as a result of some of the
reforms that we've been implementing.

A few of the statistical highlights, I won't go over all of them but I do want to mention a few of them. In 2015, civilians filed 4,460 complaints, and that's the lowest number since 2001 and it's a 7-percent decrease from the 4,775 complaints that we received in 2014.

Last year marked the highest substantiation rate in the agency's 23-year history. The complaint substantiation rate has increased from 14 percent in 2012, 15 percent in 2013, 17 percent in 2014, and then to the current 24 percent in 2015. We believe that the rise in the number of substantiations is largely due to faster and more effective investigations, but also as I mentioned to the availability and use of video evidence in a lot of the complaints we see.

We've seen many positive results due to the reforms that have been implemented. The entire staff of the CCRB and Mina Malik, our Executive Director, really should be acknowledged and deserve our appreciation for everything that they've done to come up with the ideas for reform and then to implement those reforms.

But in addition to thanking everyone, I do want
to highlight the work of a few units in particular. First, under the direction of Jonathan Darche, the Administrative Prosecution Unit conducted more trials and closed more cases than in any other year since its existence. The APU closed 186 cases in 2015 compared to 112 in 2014, and completed trials against 130 officers in 2015 compared to trials against 82 officers in 2014. And the APU's discipline rate for 2015 was 61 percent. The APU also implemented a new procedure to allow incarcerated witnesses to testify via video conference in department trials and instituted a streamlined court appearance system for our attorneys. A new system of benchmarks and an internal case-tracking system were both created to increase the speed and processing of cases and to increase efficiency within that unit.

This past year under the direction of our new Chief of Investigations Thomas Kim, the Investigations Division also restructured the intake unit, created evidence collection field teams to immediately respond to complaints that might include video evidence and to get that video evidence before it was spoiled. They streamline cooperation with the Internal Affairs Bureau to obtain documents more
quickly. These changes have enhanced both the feed and -- speed and efficiency of investigations, and I think it really does have something to do with the increased substantiation rate. Also in 2015, the Investigations Division implemented a comprehensive CCRB training academy with competency-based graduation requirements for the first time in the agency's history.

In 2015, the average number of days it took to mediate a case was the lowest in CCRB history. It took an average of 150 days to -- 115 days to mediate a complaint in 2015, which is a decrease of 40 percent from the average of 190 days in 2014. Lisa Cohen, the Director of Mediation, has been working really hard with that team to help meet new benchmarks that were set for that unit in 2015. So we're sure we'll see improved speed with which the cases are mediated.

During the past year under the direction of a new Deputy Executive Director of Policy and Strategic Initiatives, Dr. Robia Charles, the newly expanded policy unit has used data in ways that the agency had not before. Monthly reports had been restructured so the report is more accessible to all members of the public. The introduction of new
software has helped to enhance data visualization to track data internally in all CCRB teams and to create the new interactive complaint activity map on the website. And in 2015, the unit began to build an open-data initiative to make CCRB data more available to the public.

And finally, within the Administration Division, headed by Brian Connell, the Outreach Unit expanded and has helped the agency to become more visible and well-known throughout New York City than it has been in the past. With more strategic outreach efforts into all bureaus -- boroughs, the CCRB's Outreach team visited more educational institutions and precinct councils in 2015 than in any other year. And finally, the agency has also expanded outreach to New Yorkers in other ways. For example, in 2015 complaint walk-in forms became available in Arabic, Chinese, Haitian, Creole, and Russian, complementing forms that were already available in English and Spanish.

And I welcome comments from other board members on the annual report or questions from board members.

(No response.)

CHAIR ARCHER: So we will move on to the report
from the executive director.

MS. MINA Q. MALIK: Thank you.

Good evening. My name is Mina Malik and I am the Executive Director of the Civilian Complaint Review Board. Please note that the July board meeting will take place on Wednesday, July 13th and will also be located at the CCRB office here at 100 Church Street. I'm going to discuss matters pertaining to the operations of our agency and provide you with highlights from our monthly statistical report. For a full review of the agency's monthly statistics, please visit our website.

I'm going to direct the members of the audience to Figure 1. In May 2016, the CCRB initiated 373 new complaints, which reflects a decrease from 376 in April. With regard to complaints received by type of allegation comparing May 2015 to May 2016, complaints with a discourtesy allegation have decreased by 25 percent, complaints with an offensive language allegation have decreased by 39 percent, complaints with an abuse of authority allegation have increased by 7 percent, and complaints with a force allegation have remained the same.
With respect to Figure 2, the open docket analysis, in May the CCRB's total open docket was 1,104 cases. By the end of May, 596 of these cases were in the Investigations Division, representing 54 percent of the total, down from 647 in April of 2016. Of the total docket, 384 cases were pending board and/or executive staff review, representing 35 percent, up from 301 cases pending review in April. The Mediation Program handled 106 cases, representing 10 percent of the open docket, down from 108 cases in April. There were an additional 18 cases on DA hold in May. The May 2016 docket includes 14 reopened cases; 9 of these cases are active in Investigations and 5 are pending board review.

The CCRB continues to close its cases more efficiently. Of the cases that remain in the CCRB active docket, 94 percent have been open for four months or less and 99 percent have been open for seven months or less. These docket numbers continue to represent the best docket numbers in the agency's 23-year history. Investigators closed 637 full investigations from January through May 2016 compared to 878 for the same period last year, which resulted in 27 percent fewer full investigations.
Year to date, the average days to close a full investigation has decreased 56 percent from 2014 before the reforms. In May 2016, the CCRB fully investigated 27 percent of the cases it closed and resolved 42 percent of the cases it closed. The truncation rate was 56 percent in May 2016. This is primarily driven by complainant victim witness, uncooperative -- being uncooperative, which the CCRB's focused on examining in order to decrease the number of truncations.

A few other key statistics for the month of May, I'd like to direct your attention to Figure 3. The May case substantiation rate was 24 percent, marking the fourteenth straight month that the CCRB has substantiated more than 20 percent of the cases it fully investigates. With regard to fully investigated allegations in May, the Board substantiated 7 percent of force allegations, 14 percent of abuse of authority allegations, 13 percent of discourtesy allegations, and no offensive language allegations.

Investigations with video evidence substantiated allegations in 24 percent of cases, the same as the 24-percent substantiation rate for cases in which video was not available. The discipline rate for
non-APU cases was 93 percent in May for cases in which police misconduct was substantiated by the Board and sent to the Police Department Advocate's Office with penalty recommendations. The Department's decline-to-prosecute rate for non-APU cases for the same time period was 7 percent. In May, the police commissioner finalized decisions against 27 officers; 12 of these were guilty verdicts won by our Administrative Prosecution Unit. The Administration Prosecution Unit has conducted trials against 61 officers year to date and trials against 8 officers in May.

And as a final note, I welcome both Board Members Peguero and Dwyer. The staff and I look very much forward to working with both of you.

CHAIR ARCHER: Thank you.

Does anyone have any questions regarding the executive director's report?

(No response.)

CHAIR ARCHER: Now I'm going to turn to a discussion of the NYPD's use-of-force policy. On June 1st the NYPD issued its new use-of-force policy. And here at the CCRB we're continuing to review the policy to analyze it and seek clarification on some of the provisions. We
certainly see some positive developments in the new policy including deeming an officer's failure to intervene in the use of excessive force or the failure to report excessive force. But there are also some areas where we have some questions and have sought additional information; for example, there's a note in Interim Order 34 that some have said could be read to excuse prohibitive actions if they are deemed to be justified and under exigent circumstances. So we are certainly seeking additional clarification on that. And there's also some questions about the scope of authority of the new Use-of-Force Review Board. And we're going to have Jonathan Darche give us an overview of the new use-of-force policy and discuss some of its provisions, the new provisions and some changes as well.

MR. DARCHÉ: Thank you, Chair Archer.

Last week, the Department issued 10 interim orders that change how the Department uses force, how the Department memorializes the use of force by and against its officers, how the Department evaluates whether officers use force appropriately, and how the Department disciplines officers for violating the new force guidelines. The new orders
are listed on the screen in front of you. For the purposes of this presentation, I will be focusing on Interim Order 34, which replaces Patrol Guide Sections 203-11 Use of Force, and 203-12 Use of Deadly Force with newly created Patrol Guide Section 221-01 force guidelines. Under the old guidelines only the amount of force necessary to overcome resistance was allowed to make an arrest. In addition, members of the NYPD were required to use the minimum amount of force. The new force guidelines allow force to be used when it is reasonable to ensure the safety of a member of the service or a third person or otherwise protect life or when it is reasonable to place a person in custody or to prevent escape from custody. This change seems to permit officers to use force to make an arrest even if the person being arrested is offering no resistance as long as it is reasonable to do so.

It should be noted that the new standard is more in line with the standard for evaluating excessive force claims by the United States Supreme Court, which requires that officers' actions be objectively reasonable in light of the facts and circumstances without regard to their underlying intent or
motivation.

The new force guidelines introduce the concept of de-escalation. This is a positive development that will hopefully lead to the reduction in uses of force by members of the Department. The new guidelines then list the factors listed on the screen in front of you that an officer should use when evaluating whether use of force is reasonable. This list is not exhaustive. For example, I imagine that whether a subject has a weapon is a factor that isn't listed but would be relevant to determining whether a member of the service's use of force was reasonable. These factors were not previously enumerated in Patrol Guide Section 203-11. I think it is a step forward in educating officers and the public about when the use of force is permitted that they are now enumerated.

The new guidelines list a number of definitions including that of objectively reasonable standard. This was not previously defined in Patrol Guide Section 203-11. The new guidelines base the reasonableness of the use of force on the totality of the circumstances viewed from the perspective of a member with similar training and experience and placed into same circumstances. Again, this is in
line with the U.S. Supreme Court standard.

The new guidelines also require a member of service who becomes aware of the use of excessive force or a failure to request or ensure timely medical treatment for an individual to report that conduct to the Internal Affairs Bureau. While the old guidelines required members of service to intervene if the use of force against a subject became excessive, it did not impose a duty to report on members of service. This is a significant improvement over the old guidelines.

The new guidelines state that the use of deadly physical force against a person can only be used to protect members of service and/or the public from imminent serious physical injury or death. The old guidelines stated that police officers shall not use deadly physical force against another person unless they have probable cause to believe that they must protect themselves or another person present from imminent death or serious physical injury. The removal of the phrase "probable cause" is interesting. The new guidelines seem to allow an officer to use his or her firearm if it is reasonable under the totality of the circumstances viewed from the perspective of a member with similar
training and experience and placed into the same circumstances. We are working with the Department to clarify if this expands the ability of an officer to use deadly force.

There are two other substantive changes in the new guidelines covering the use of firearms. The first is the move from a subjective standard for judging whether an officer is unnecessarily endangering an innocent person to a more objective reasonable member-of-the-service standard.

In addition, the new guidelines impose a duty to retreat upon officers before using their firearms against an animal. This section also contains a note below the list of prohibited actions with a firearm that informs members of the service to only display or draw their firearms upon an articulable belief that the potential for serious injury is present and that was not in the old guidelines.

The new guidelines list six actions that are prohibited. They are listed on the screen right now. The new guidelines add three actions to the list that hadn't been included in the old guidelines. The new actions that are prohibited are using force to punish, retaliate or coerce a subject to make statements using force on handcuffed or
otherwise restrained subjects, and finally, using force to prevent a subject from swallowing a controlled substance or to remove a controlled substance from the subject's mouth or body cavity. By putting these prohibited actions in a single list and adding them to the list of prohibited actions, the new guidelines -- excuse me -- and adding to the list of prohibited actions, the new guidelines are a significant improvement.

The note below the list of prohibited conduct is unclear. It seems to imply that the prohibited actions listed above the note could be reviewed on a case-by-case basis by the Department. It seems to say that in exigent or exceptional circumstances the Department could find actions on the list of prohibited conduct within guidelines. We are working with the Department to clarify when and how this review will take place. The note also seems to allow members of service who are facing disciplinary actions or civilian complaints to request the Use-of-Force Review Board review allegations against them. The note also states that the Use-of-Force Review Board's determination is final. Again, the agency is working with the Department to clarify how this process will differ from the process noted
earlier in the note, whether the process will only apply to allegations of the listed prohibited conduct, and how this review will impact the disciplinary process.

    MS. MALIK:  Thank you very much.

    Do any board members have any questions for Jonathan or any observations about the new use-of-force policy?

    CHAIR ARCHER:  Now we'll have a report from the Outreach Committee. Hello.

    MS. MEDLEY:  Good evening. Thank you. In May 2016 the Outreach Unit completed 115 presentations. This is the highest monthly total on record since these statistics have been maintained. This has raised the 2016 year-to-date total to 443 presentations. Of the 115 presentations in May, we completed 44 in Brooklyn, 29 in Queens, 25 in Manhattan, 15 in the Bronx and 2 in Staten Island. We have now presented at the close of May to every precinct of the city.

    The Outreach Unit initiated presentations to the constituent services units of elected officials in Manhattan. This month the Outreach Unit completed presentations for staff in the Offices of State Senator Rivera in the Bronx; State Senator Squadron
in Manhattan; Council Member Mark Levine, also in Manhattan; and Council Member Helen Rosenthal, also in Manhattan.

In the first five months of this year we have surpassed the 2015 annual totals for many of the specific organization types that we reach out to. In particular, we have more than doubled numbers for NYCHA events as they have risen from 15 in all of 2015 to 38 this year to date. For community board meetings, it totaled 10 in 2015 compared to 44 so far this year. And in 2015, we presented to 1 homeless organization and we've stood before 16 thus far this year.

Thank you.

CHAIR ARCHER: Thank you.

Any questions or comments?

(No response.)

CHAIR ARCHER: All right. So we'll turn to public comment. We have two folks signed up for public comment. We're going to start with Mr. O'Grady.

MR. O'GRADY: New York City Government awarded a plumbing contract to O'Grady, Inc. to repair the sewage line in Apt 5. O'Grady mechanics were racially attacked by the developer. Run off job.
There are some typos in the May 11th. Page 12, line 4, delete the letter A. It should read Chairman David Zornow. And the next word is another chairman, Chairman Mel, M-E-L, Barkan, B-A-R-K-A-N. I don't know where they got that Bartan. It's Barkan. That's another chairman. They are leadership. I guess that's considered as a typo.

And also, page 13, line 19, it should read N-I-G-R-I, N-I-G-R-I. That's the preferred spelling. I see they preferred a provocative there. They're going -- rather use a provocative spelling. I don't think they should use the unnecessary provocation.

Page 14, line 3, arm manservant, A-R-M-E-D, referring to the sheriff manservant. I noticed that they were armed, both of them.

Line 8, armed manservant.

Line 12, armed manservant.

Line 13, the correct spelling is N-I-G-R-I. They're using the -- I see the provocative spelling got through. It should be N-I-G-R-I.

Line 15, again N-I-G-R-I. They're using the provocative spelling.

Line 18, N-I-G-R-I. They're using -- I don't know how the provocative spelling got through.
N-I-G-R-I.

Line 22, armed manservant, the sheriff manservant.

On page 15, line 2, N-I-G-R-I. They're using the provocative spelling.

And also line 5, sheriff is spelled S-H-E-R-I-F-F.

And also, line 7 -- line 7 -- well, line 6 is N-I-G-R-I. Again, the provocative spelling, they're using it, N-I-G-R-I.

And also, line 7 -- or is that line 8? Sheriff is spelled S-H-E-R-I-F-F.

So that's it for the typos.

So I wanted to say that Tracy Catapano-Fox indicated her family had voted to relocate to the state of Florida. My CCRB investigator, Stephen Joel Rackmill, I was told, relocated to Florida. Winsome Thelwell, I was told, inherited or was assigned Stephen Joel Rachmill's caseload work. My attorney told me to tell Winsome Thelwell the attorney wanted to speak to her. I had this strange kind of feeling Winsome Thelwell was evading contact with my attorney. The officer who succeeded Alvarez, I don't see her here tonight but I would like to strongly welcome her to respond to
the fact that my attorney told me to tell Winsome Thelwell that he wanted to speak to her. And she successfully evaded speaking to my attorney or she ducked, or whatever she did, she never spoke to my attorney. She ducked, evaded. I don't know why she did. If she's my investigator, she's inherited the caseload from Rackmill, who went to Florida. And Tracy -- Tracy Catapano, she told me on her last day that her family was going to Florida, had voted to go to Florida. But Rackmill -- Rackmill told me that he wanted to speak to that sheriff manservant. I asked the sheriff manservant -- they're also known as deputies, but in the criminal procedure they're referred to as manservant -- and Rackmill, he did interview the sheriff manservant. That's what he did. He said he wanted to talk to him. The sheriff told me that the correct -- the correct -- when the manservant goes to the bank and takes money out, it's not garnishee, it's called an attachment.

But any case -- in any case, the sheriff told me that the woman came into his office and cursed him out for taking the money out of her account. It was done by the sheriff manservant. The sheriff manservant went to her bank and took money out and gave it to me and put it in my account. The sheriff
himself told me that she cursed him out, she cursed him out for that. So you know, I'm wondering if the officer who succeeded Alvarez -- I mean, my attorney told me to tell her that he wanted to talk to her but evidently, she evaded -- she evaded any contact with my attorney.

CHAIR ARCHER: Thank you very much, Mr. O'Grady.

Next we have Chris Dunn from the NYCLU.

MR. DUNN: Good evening. To the new board members, my name is Chris Dunn. I'm with the New York Civil Liberties Union. I've been around here longer than anyone would care to recall. And for the other board members, of course I missed the last couple meetings. I was out of the country. And as you may know, I had made a decision to stop coming to board meetings because nothing was happening. But given the new leadership, I have come back. My faith has been rewarded. That presentation by John was -- where did he go -- there he is, okay -- was the single most useful presentation I have seen in two years. And I am immensely pleased that the agency is paying attention to the use-of-force policy, which is an enormous development with the NYPD, and there are a lot of questions about that. One question I have is I know that you folks have talked
at one point about posting the Patrol Guide, I believe on your website, and I think right now you have sections of the Patrol Guide on your website. Have you put up the new policy and the new interim orders?

MS. MALIK: Yes.

MR. DUNN: You have? Okay.

MS. MALIK: The old ones are up as well as the new ones.

MR. DUNN: Okay. Good for you. I believe that is the first public disclosure of the policies themselves. The Department did not release them last week when they announced the new policy and had a briefing with Kevin Ward, Commissioner Bratton's Chief of Staff. Nobody got the policy at that point. So if you have yours up, good for you. I look forward for everyone being able to see it. And I hope that you will continue to report back about what the Department has to say about these questions. You do raise important questions, particularly in terms of the interaction between the CCRB and the Department around force allegations.

I just wanted to mention a couple of things. First, in terms of the annual report, of course it came out this week. It suffered the fate of any
annual report that comes out in June of the following year, which it pretty much was ignored. And I will just say for future reference there had been a couple years when you had had a lot of success getting your annual report out close to the end of the year. And I would really encourage you to get back to that because you're going to get a lot more attention if it's actually a fresh report. And at least a couple years ago I think in part in my insistence or suggestion, a lot of the work was able to get done near the end of the calendar year. Since you were in the position I think in the first week of February you released a report that was much more up to date.

With respect to the report itself, I have not yet had a chance to read all of it but I did notice one thing which I do want to alert everyone to. And I've said this before, so I'm repeating myself. But there is much agency praise about the substantiation rate. There's precious little attention paid to the huge increase in the number of cases and police officers involved in substantiated cases, which went up about 70 percent last year. And the police officer number went from like 450 to almost 800. This is during a time when, as you oftentimes point
out, complaints are going down, and yet we had this huge increase in substantiated cases and officers involved in those cases. And that is a phenomenon that I feel both you are bearing and that you are trying to discount. So the line that is in the press release and the line that is in the report, and that was -- well, the lines in those two places note the increase and immediately say that's due to increased prevalence of video and improved CCRB investigative practices. If you do the math, that doesn't quite add up. The video cases, if you look at the fully investigated video cases and you multiply the substantiation rate for those cases, you get about 100 cases. You don't get the 212 cases. That was an increase last year. And maybe some of those were because you're investigating faster but my point is this: That there is a huge increase. It is probably the single most significant statistical development in the annual report, is a huge increase in the number of police officers in cases that were substantiated last year. And from my perspective, this agency first should be saying, Okay, what is going on here, and really exploring that because that is a dangerous signal. And it has been much too quick to
discount that by relying upon this video business
which just does not add up in terms of the numbers
and the issue of improved investigations.

One thing that did of course get emphasized and
was mentioned again here tonight was the drop in the
complaint numbers last year, and the complaint
numbers, to be sure, have gone down. I assign less
importance to complaint numbers than other people
because the complaint numbers, they go up, they go
down; maybe they mean something, maybe they don't.
I do feel though that there's too much of an
inclination to highlight complaint numbers when
they're going down and not when they're going up.
Complaint numbers this year are up 15 percent. That
has not been mentioned. And you can only figure that
out by doing a little bit of digging in the report.
So again, I'm not assigning a lot of significance to
complaint numbers but you do have to note the
numbers going up when they go up.

The final thing I will mention is going back to
the force issue. As all New York now knows but
maybe all of you knew before the Daily News story,
there's a draft Taser report. It is sitting at City
Hall. Doing what, I don't know. People in the
Police Department apparently are taking shots at it
now and have decided they can have their spin with the Daily News and try to call into question the report. I will simply say to you that makes the agency look bad. That makes the City look bad. You need to get that report out so everyone can see what it says. And I guess I'm not addressing this to you as much as to those in City Hall to whom you speak but you need to be saying to City Hall, let us release our report.

Thank you.

CHAIR ARCHER: You raised a few statistical questions and I'm wondering if Dr. Charles can come up and respond to any of the issues raised.

DR. CHARLES: Sure. So I will talk very briefly about the second question that was raised regarding the substantiated complaints. And once you take a look at the annual report, you'll see section 1, page 16 has some numbers on officers that are included within complaints. So the punch line is that the increase in the substantiation rate is it is largely due to, as acting Chair Archer mentioned, better and faster investigations and increased cooperation video evidence and whatnot. We do not think that the substantiation rate is necessarily a direct indicator of what's going on on the ground in
terms of increased police misconduct. We do think that the number of complaints each year is a more accurate reflection of what's going on on the ground. So this is point one.

Point two is that when we look at the number of officers who are connected to complaints each year, especially between 2014 and 2015, they're quite similar and there has not been a substantial increase there. There has been a substantial increase in substantiated allegations towards officers, which is a different issue.

So I think that there are three different points there. Once you take a look at the annual report, we'd be very happy to get your feedback on those.

Regarding the report, it's not published. You know, it's not public. It's confidential and we can't really make a comment on that. You're right to say that it is at City Hall and a number of places and, you know, we do hope that all of our reports are able to be released in due time.

CHAIR ARCHER: Thank you. Rebuttal?

MR. DUNN: One, I appreciate the response. I got to tell you that what you're saying is a better measure of police misconduct or allegation as opposed to complaints or substantiated --
MS. MALIK: Can I just ask -- sorry to interrupt, Chris -- can you use the podium so the mic picks up --

MR. DUNN: I'm sorry. I apologize for that.

The suggestion that the better measure of what's happening on the street in terms of misconduct is complaints that you received as opposed to cases that you substantiate after a full investigation I'm having a very difficult time with. As we all know, people can file complaints for a million different reasons. And the Police Department year in and year out says, Eh, forget about complaints, the only thing that counts is substantiations. And they spent a lot of time in prior years talking about, not wrongly, decreases in the numbers of substantiated cases as the most important indicator. So I do not accept that allegations are a better or complaints are a better measure of police misconduct on the street. With respect to the number of officers, your complaint, and I'm looking at -- excuse me -- your report says there are 467 officers who had substantiated complaints in 2014 and 790 last year. That's a 69-percent increase. Maybe I misunderstood what you said but that is a big number. It's the same percentage increase on
complaints. It actually correlates completely.

And I appreciate what you're saying about the Taser report. I look forward to City Hall telling you you can release it.

CHAIR ARCHER: Thank you.

Is there anyone else who would like to make public comment?

MR. O'GRADY: I just wanted to say that the Corporation Counsel had put this developer off the property. At least that's what they -- they knocked on the tenants' doors and they say that this developer was put off the property because he pocketed $200,000 of their money. So why was this developer back on the property to racially attack a plumbing contractor?

CHAIR ARCHER: Do any board members have any other issues they want to raise?

COMM. SALVATORE F. CARCATERRA: I have one question for Chris. I missed you, Chris, when you were away.

MR. DUNN: I missed you, Sal.

COMM. CARCATERRA: Just on the complaints, and I thought Dr. Robia did an excellent job explaining that. So my question would be if the complaints were up, whether it's 40, 50 percent, as opposed to
down, would you find that troubling? Because you
don't find it worthy that they're down. Would you
find it troubling if they were up?

    MR. DUNN: I have for years and years and years
said I do not assign a lot of significance to
complaint numbers. They go up, they go down. Where
I balk is when you folks assign a lot of
significance to it and then I only hear the agency
talking about the complaint numbers going down and
not acknowledging when they go up. So for instance,
I think the press release -- I don't have it in
front of me -- leads off by saying complaint numbers
went down in 2014. Okay. Complaint numbers are up
15 percent in 2016. That was not mentioned. And
I'm just saying I don't pay attention to that. So I
don't assign significance if they go up or they go
down. I'm just saying that for those who are
discussing them, it goes both ways.

    CHAIR ARCHER: So we'd like to move into
executive session to discuss some subpoena-related
matters and some other issues. I'd like to get a
motion to move into executive session.

    MR. CAPERS: So moved.

    CHAIR ARCHER: Second.

    MS. CORTES-GOMEZ: Second.
CHAIR ARCHER: All in favor?
(Chorus of Ayes.)
CHAIR ARCHER: Any opposed?
(No response.)
CHAIR ARCHER: Thank you, everyone.
CERTIFICATION

STATE OF NEW YORK )
) SS.: 
COUNTY OF RICHMOND )

I, DANIELLE CAVANAGH, a Notary Public within and for the State of New York, do hereby certify:

I transcribed the proceedings in the within-entitled matter from an audio file, and that the within transcript is a true record of such proceedings transcribed to the best of my ability.

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.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of June, 2016.

_________________________
DANIELLE CAVANAGH

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