

Civilian Complaint Review Board-Final
December 14, 2016

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

December 14, 2016

6:30 p.m.

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100 Church Street
New York, New York 10007

TRANSCRIPT OF PROCEEDINGS

B E F O R E:

Maya D. Wiley, ESQ., Chairperson

Jonathan Darche, ESQ., Interim Executive Director

PUBLIC MEETING AGENDA

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1. Call to Order
2. Adoption of Minutes
3. Report from the Chair
4. Report from the Interim Executive Director
5. Public Comment
6. Old Business
7. New Business

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BOARD MEMBERS PRESENT:

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- Maya D. Wiley, Esq., Chairperson
- Youngik Yoon, Esq., Board Member
- Angela Fernandez, Esq., Board Member
- John Siegal, Esq., Board Member
- Marbre Stahly-Butts, Board Member
- Frederick Davie, Board Member
- Lindsay Eason, Board Member
- Salvatore F. Carcaterra, Board Member
- Ramon Peguero, ESQ., Board Member
- Frank J. Dwyer, Board Member
- Joseph A. Puma, Board Member
- Deborah N. Archer, Esq., Board Member

- Jonathan Darche, Esq., Interim Executive Director

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CHAIR WILEY: Good evening. I call to order the December board meeting of the CCRB. It is 6:33. We will start with the adoption of the minutes. Do I have a motion?

MR. CARCATERRA: So moved.

CHAIR WILEY: Second?

MR. DWYER: Aye.

CHAIR WILEY: All those in favor?

(Chorus of ayes)

CHAIR WILEY: All those opposed?

(No response)

CHAIR WILEY: Abstentions?

(No response)

CHAIR WILEY: Great. Thank you very much. I will have only a very, very brief report tonight but a bittersweet one. bittersweet one. One, I just want to acknowledge that this is our -- that Mina Malik, the executive director for the CCRB has left. We are excited about the new opportunities that she has, grateful for the commitment that she had to the CCRB. We know that she's going to do wonderful

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things up at Harvard as a lecturer in law and all the other things she's going to contribute to nationally.

I am very, very pleased to welcome Jon Darche, who's agreed to be interim executive director for the CCRB. Jon has worked diligently for the agency for three years on the senior team leading both the APU but also an interim, for a period of time leading investigations so he comes with a lot of knowledge of the agency and with, I think, fair to say, the full support of the board and the gratitude of the board in being willing to take this acting role so thank you, Jon.

I would just like to also thank the staff for the way in which the staff has really stepped up in a time of transition. It's been very important to the agency that we have the staff that we have and that the staff has also taken on a lot of additional work, so thank you staff.

We're looking forward to 2017. I will say that I would suggest that everyone

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who can look at the minutes because in December it was our first initial effort to have board meetings outside of this office and in other boroughs that were conversations about what was happening in particular communities around policing. In other words, not just around policing in general but really looking more specifically.

There are three precincts that receives the majority of CCRB cases and we started with the 75 in Brooklyn for that reason. We also had discussions with the precinct, both with current precinct commander who is fairly new and former precinct commander before we had the meeting and invited them and also expressed to them that we would share the results of those conversations we had with the community, which we will do, and follow-up conversation but it was I think a very helpful meeting for the board as well as, I hope, a helpful meeting for the community to have the ability to raise some of the

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questions and concerns that they had around
policing in their community.

We will have the January board
meeting, hopefully, in the Bronx, for the
same reason, as an area where we also have
a high number of complaints in order to
have more targeted conversations about
policing. We will be announcing where that
location will be, although, we do not have
it yet so I just ask that you all please
keep your eyes open for the announcement of
where that site will be. I know our
director of outreach will be working
actively on it as she did in our convening
that we had in the 75 so thank you, Ms. Medley.

I'm going to stop there and
actually turn it over to our interim
executive director for a brief report.

MR. DARCHE: Thank you. I'd like
to thank the Chair and the board for
trusting me with this responsibility. I'd
also like to thank the entire staff for the
support they've given me over the last
several weeks.

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The agency initiated 320 complaints last month. The open docket at the close of November was 898 cases, a decrease of 60 cases or approximately 6.7 percent from the month before. Of those 898 cases 92 percent have been open for four months or less. So far, in 2016 the agency closed 1,467 full investigations. Of those investigations, it has substantiated 338 or 23 percent; unfounded 136 or 9 percent and exonerated 247 or 17 percent.

In addition, the agency closed 398 cases this year as either mediated or mediation attempted. So far this year the agency closed, either through a full investigation or mediation, 45 percent of its cases. Of the remaining cases, the largest category was complainant, victim or witness uncooperative with 1,395 cases or 33 percent. The full statistical report is available on the website.

My goals while serving as the acting executive director include:
maintaining the progress that the agency

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2 has made in the speed of investigations.
3 The improvement to the investigative model
4 over the last two years is impressive;
5 changing the structure of the
6 investigations division; the overhaul of
7 the investigative manual and the
8 implementation of benchmarks all helped cut
9 investigative time substantially.

10 I want to continue to take steps
11 to ensure the quality of investigations.
12 The agency cannot sacrifice quality in it's
13 quest to conduct investigations in an
14 expeditious manner. We must build on the
15 improvements of the last several years
16 which include the creation of the training
17 unit and use of prosecutors to consult on
18 open investigations so that the public can
19 be confident in the quality of the work
20 being done at the agency.

21 We also need to build upon the
22 agency's achievements in public education
23 and engagement. The agency made great
24 strides in sharing the CCRB's mission and
25 services with citizens all across our

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2 diverse city. The data transparency
3 initiative gave the public the ability to
4 view and use data the CCRB has gathered
5 over the years in new and innovative ways.
6 We will continue to find new and innovative
7 ways to work with the public on the
8 important issue of civilian oversight of
9 law enforcement.

10 The future of the CCRB is bright.
11 I recently sat down with a new class of
12 investigators and I was impressed by their
13 enthusiasm and commitment to public
14 service. I will work to make sure that
15 they receive the training and tools they
16 need to accomplish their very important
17 mission, to fairly and impartially
18 investigate allegations of police
19 misconduct.

20 In closing, I'd like to thank you
21 again, the Chair, all the members of the
22 board and the staff for their support.

23 CHAIR WILEY: Thank you. One
24 thing I had intended to say is that the
25 board will be doing a full public search

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for a new executive director. We will be putting together a board subcommittee that will help lead that effort. It will be a full board decision obviously. We hope to have a posting up before the end of the year and we'll move forward from there. So thank you. I will now turn to the public comment part of the meeting. We do have a sign-up sheet. If anyone wants to speak who didn't sign up, please let us know. But the first person I have on the list is Mr. Derek Ward. I have his questions.

MR. WOOD: Wood.

CHAIR WILEY: Mr. Wood, I'm sorry.

MR. WOOD: I'm actually gonna read this first because this might answer some of my questions.

CHAIR WILEY: Okay. Fine. What I'll do is I'll come back to you after we go through others and see if you still have any questions.

MR. WOOD: Okay.

CHAIR WILEY: And I have Mr. O'Grady.

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MR. O'GRADY: Nina Mickens, succeeded woman named Alvarez. Alvarez sent me a form letter advising mail -- make known any racial element in case. I got this letter from Alvarez advising me to make known any racial element in case. Martin O'Grady. Martin O'Grady daughter Maryann in concert with male plumbing mechanic named Scamus. That's an Irish spelling. S-C-A-M-U-S. Scamus indicated nigree developer embezzled \$200,000 i.e., Corporation Counsel. That's how I met the Corporation Counsel because this developer, nigree developer, took some of their money that they felt he wasn't entitled to. Maryann said that this developer attacked them racially in the courtyard.

Grant's Tomb, Ulysse and Julia Dent Grant provides information on Mary Surratt, John Wilkes Booth nothing but sex partners. Information provided by Grant. Julia Dent Grant. Mary Surratt. Mary Surratt was subdued, and prevented from a conference with Roman Catholic priest until

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2 the daytime. A hanging rope, a hanging
3 rope was placed around Mary Surratt's neck.
4 Information provided by Grant's tomb.
5 Julia Dent Grant. I got this stuff from
6 Google. I don't know if anybody would be
7 interested in it.

8 CHAIR WILEY: Thank you
9 Mr. O'Grady.

10 MR. O'GRADY: Yeah. I only have
11 one copy.

12 CHAIR WILEY: Thank you. Okay.
13 Next we have Chris Dunn.

14 MR. DUNN: Okay. Good evening
15 everyone. Jon, congratulation. Are you
16 also running the APU at the same time?

17 MR. DARCHE: Yes.

18 MR. DUNN: Well, I trust you're
19 getting paid to do two jobs and not just
20 one.

21 CHAIR WILEY: You, obviously,
22 have never worked for the city government.

23 (Laughter)

24 MR. DUNN: And that's right.
25 I work in the non-profit sector. I'm well

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2 aware of that phenomenon. Then the other
3 John, John Siegal is not new to the board
4 tonight, I realize you were here at last month's
5 meeting, I apologize for missing it, the
6 election knocked me out but John, welcome.
7 As I do with all new board members, I would
8 like to ask you to say a little bit about
9 your interest in police oversight and kind
10 of the perspective you bring to the board.

11 MR. SIEGAL: Are you doubling as
12 a law professor?

13 MR. DUNN: No, no, no. Not at
14 all. The staff likes to hear it, I like to
15 hear it I think the public likes to hear it
16 every time there's a new board member.

17 MR. SIEGAL: So what's the
18 question?

19 MR. DUNN: You know, what your
20 perspective is on your role here at the
21 CCRB and what you're bringing in terms of
22 police oversight to your position.

23 MR. SIEGAL: Yeah. So I'm new
24 and I've had my orientation and just
25 getting my feet on the ground and trying to

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understand the workings of the agency and the caseload and how to review cases and whatnot.

In terms of my background, which I think is what you're asking me, there are two elements of it, I think, that are relevant. One is that I've practiced law in New York for 30 years and I hope I've learned something in the process of that about how to analyze facts and apply law but I will acknowledge that I've always been an advocate, Chris, and I suspect it may be a little bit different to be a fact-finder but I'll find out.

Secondly, on terms of issues of policing and civil rights and whatnot, I've had an earlier stint in city government working in City Hall including for the deputy mayor for public safety and had the opportunity in the course of that to help develop the public safety agenda for prior administration, including writing the campaign platform with others for Mayor Dinkins, much of which was implemented and

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much of which, I think, history tells us
27 years later started a -- helped to start
what has really been a very phenomenal
turnaround in terms of public safety in
this city, which to me, is tantamount.
Public safety and civil rights go hand in
hand and I'm very proud of that and the
people I worked with on that and I have
tried to stay involved in those issues
including, as you know, working with you in
the Floyd case. You had the companion case
in the housing case but I had the
opportunity to represent public advocate
Bill de Blasio in the appeal of the
remedies phase in the Floyd case which I
think most would agree is also contributed
to some major changes that I think are
impacting the work of this board beneficially.
So that's a little bit about my background,
what I bring to this and how I arrive here.

MR. DUNN: Okay. As you
mentioned, we've worked together and I'm
thrilled that you are on the board and I
look forward to your participation.

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MR. SIEGAL: Thank you.

MR. DUNN: So I guess often times spend a fair amount of time criticizing the CCRB. I'm not gonna do that. I recognize it is a new board and new staff in many ways. So Jon talked about looking forward to 2017 and I'm looking forward to 2017 also.

I do want to just note two things, however, in terms of the -- and these are things to look forward to in terms of 2017. In terms of the monthly report, I see that the percentage of cases year-to-date where charges were recommended by the board is down to 12 percent. I think that percentage two years ago was 75 percent and we have a very strong concern about the level of discipline the officers are receiving for civilian misconduct and that level of discipline starts with recommendations coming out of the CCRB and I've mentioned that before, and I'm particularly concerned because the numbers have come down even further this

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2 year.

3 The second thing I want to
4 mention, and Maya and I have talked about
5 this, and as many of you have heard we have
6 a lot of interest in the CCRB issuing
7 policy reports and talking to the public
8 about policy issues and being in the policy
9 mix beyond investigating individual cases
10 and I expect that there will be more in the
11 way of that.

12 I will tell you that I recently
13 learned that you issued the taser report that
14 has been long percolating and that in part
15 got leaked last summer to the press and I
16 am concerned about the fact that apparently
17 it got put on your website on a weekend
18 and there was no press release about it, I
19 don't think there was any public discussion
20 about it and in looking at the report when
21 I look at the executive summary of the
22 report that was released and compare it to
23 the report that was originally drafted, it
24 feels to me like very important and perhaps
25 controversial things were taken out of the

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2 front of the report that everyone would see,
3 and the front of the report got written in
4 a way to, shall we say, make the report much
5 less interesting looking and I am concerned
6 about that. I don't think that's the way
7 the agency should be putting out its
8 reports. I am concerned about what appears
9 to be a conscious effort to, in my view, to
10 hide things that perhaps are controversial
11 and are critical to the police department
12 and I would just encourage all of you, as
13 future reports come out, that that not be
14 the way in which they come out.

15 CHAIR WILEY: Thank you. I will
16 just -- on the taser report just to outline
17 a couple of facts also because some board
18 members were not on the board for some
19 of this history. Unfortunately, a draft
20 report was leaked publicly. I say,
21 "unfortunately" because it was a draft, it
22 was not a final. All of the, sort of,
23 high points of data were reported publicly
24 in the press reports in June. The data has
25 not changed. The data that was reported in

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the report that was released is the same data. The amount, if you go and look -- and the report was posted on the website so it was fully available to the public.

We committed to one of the things that happened in the taser report is that, there are very few cases in the taser report. I believe, if my memory serves, we had 48 cases that had been seen through investigation and finalized which is a very, very small number. I think the overall number, if I recall correctly, I'm doing this from memory so if it's different from what you see on the website, don't hold it against me but I think it is something like 3 percent of complaints overall were taser complaints so the numbers were very small. So what -- and we think the issue and the issue for public discussion is very important.

So what we committed to do was to release the data and update it on a regular basis, how much, Dr. Charles isn't here, that's a question about the volume and where

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we get to the point where we have enough data to update but the idea is that we would be tracking it as tasers are rolling out and tasers are increasingly used in the police department so that we're actually having a conversation about what's happening as we get more data. So that's just as a background for the board, and we will be releasing further reports as we collect more data.

I just want to say one other thing I think you raised this, Chris, and rightly said that you and I have had this conversation and I've also had this conversation with others but we are very interested in policy and in policy reports and we will be continuing to write them.

One of the things that I'm asking the board to do moving into 2017 is actually think strategically about where we should be focusing our efforts. I mean, we would love to have unlimited resources but we don't so we want to be more collectively as a board directing the attention of the

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staff where we think it's strategic in terms of report writing and policy and that's something we'll be discussing more over time.

Do you have any questions

Mr. Wood?

MR. WOOD: Yes.

CHAIR WILEY: Can you come to the mic because we want to capture the meeting.

MR. WOOD: I see a lot of statistics that you have and one of the statistics that I don't see that would have been useful for me is the discipline that you recommended against the discipline that actually comes to pass, you know, with the commissioner. I think it would be useful to know, you know, this is -- the board recommended, you know, so many days suspension or so many whatever, and this is what the commissioner turned that into.

It would be useful for us to know, you know, because on -- there is a little bit of it in the report but it doesn't really get into the specifics of

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2 it, if you know what I mean.

3 CHAIR WILEY: Yes. I believe I
4 do. Again, Dr. Charles who compiles the
5 reports is not here. I don't know if you
6 have anything that you want to say to that,
7 Jon.

8 MR. DARCHE: I think it's
9 something we could look at because I'm
10 fairly certain we give the individual case
11 information but maybe we should aggregate
12 it better and we'll look at it as a staff
13 and --

14 MR. WOOD: I want to say it's on
15 page 28. Yeah, the administrative
16 prosecution unit. It breaks it down but it
17 doesn't --

18 CHAIR WILEY: You mean, say if
19 there -- how many cases that we had command
20 discipline B and it's a different --

21 MR. WOOD: Well, more
22 specifically, like, the board recommended
23 this but then actually it ended up being
24 this. Just to know how much --

25 CHAIR WILEY: Right. If there's

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2 a difference in the actual --

3 MR. WOOD: Yes.

4 CHAIR WILEY: If there's
5 discipline, there's a difference in the
6 actual discipline that's given.

7 MR WOOD: Yeah, between
8 recommendations and discipline.

9 CHAIR WILEY: I understand.
10 Okay. Thank you, that's helpful.

11 Do we have -- yes, Mr. O'Grady.
12 Mr. O'Grady, we have a little time so
13 you're welcome to come just for two
14 minutes.

15 MR. O'GRADY: I just want to
16 point out that Grant's tomb is saying that
17 Mary Surratt was not allowed to talk to her
18 Roman Catholic priest, however, that Google
19 information says that she drank coffee with
20 the priest all through the night for a
21 long time.

22 CHAIR WILEY: Thank you,
23 Mr. O'Grady.

24 We're closing the public
25 comment portion of the meeting and turning

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to old business. Is there any old
business?

(No response)

CHAIR WILEY: Hearing none. Is
there any new business?

(No response)

CHAIR WILEY: All right. Hearing
none, is there a motion to adjourn to
executive session?

MS. ARCHER: So moved.

CHAIR WILEY: Do I have a second?

MR. CARCATERRA: Second.

CHAIR WILEY: Thank you very much.
That closes the public portion of the meeting.
Thank you all for coming. We hope to see you in
January and at future meetings, and have a
wonderful holiday.

(Time noted 6:57 p.m.)

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