

Civilian Complaint Review Board - Final  
June 14, 2017

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CIVILIAN COMPLAINT REVIEW BOARD

PUBLIC MEETING

June 14, 2017

6:30 p.m.

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100 Church Street  
10th Floor  
New York, New York 10007

TRANSCRIPT OF PROCEEDINGS

B E F O R E:

Deborah N. Archer, Esq., Acting Chairperson

Jonathan Darche, Esq., Executive Director

PUBLIC MEETING AGENDA

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1. Call to Order
2. Adoption of Minutes
3. Report from the Acting Chair
4. Report from the Executive Director
5. Public Comment
6. Report from Director of Training

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1 7. Old Business

2 8. New Business

3 9. Adjournment to Executive Session

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BOARD MEMBERS PRESENT:

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Deborah N. Archer, Esq., Acting Chairperson

John Siegal, Esq., Board Member

Salvatore F. Carcaterra, Board Member

Ramón Peguero, Esq., Board Member

Frederick Davie, Board Member

Angela Fernandez, Esq., Board Member

Deborah N. Archer, Esq., Board Member

Youngik Yoon, Esq., Board Member

Joseph A. Puma, Board Member

Frank J. Dwyer, Board member

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Jonathan Darche, Esq., Executive Director

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1 Proceedings

2 ACTING CHAIR ARCHER: Good  
3 evening everyone. I call to order this  
4 meeting of the New York City Civilian  
5 Complaint Review Board. My name is Deborah  
6 Archer, I'm a member of the Board, and I am  
7 stepping in and chairing this meeting  
8 because our Chair, Maya Wiley, cannot join  
9 us today so we're gonna start with an  
10 adoption of the minutes. Is there a motion  
11 to adopt the minutes of our May board  
12 meeting?

13 MR. DAVIE: So moved.

14 ACTING CHAIR ARCHER: A second?

15 MR. DWYER: Second.

16 ACTING CHAIR ARCHER: All in  
17 favor?

18 (Chorus of ayes.)

19 ACTING CHAIR ARCHER: Any  
20 opposed?

21 (No response.)

22 ACTING CHAIR ARCHER: Any  
23 abstentions?

24 (No response.)

25 ACTING CHAIR ARCHER: I don't

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2 have a report for this board meeting but I  
3 do want to mention that our next board  
4 meeting will be held Wednesday, July 12th  
5 at 6:30 p.m. and it's gonna be in Brooklyn  
6 at the Medgar Evers Oasis Beacon Program  
7 which is located at 210 Chester Street,  
8 Brooklyn, New York and we do hope that  
9 members of the community will come out and  
10 join us so we can hear about their  
11 experiences and their thoughts about  
12 community police relations in their  
13 neighborhood. Next, we're gonna move on to  
14 a report from our executive director,  
15 Jonathan Darche.

16 MR. DARCHE: Thank you, Madam  
17 Chair. I will now discuss matters  
18 pertaining to the operations of our agency  
19 and provide you with highlights from our  
20 monthly statistical report. For a full  
21 review of the agency's monthly statistics,  
22 please visit our website at  
23 [www.nyc.gov/ccrbreports](http://www.nyc.gov/ccrbreports), and to reiterate  
24 what Professor Archer said, please note  
25 that the July board meeting will take place

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1  
2 on Wednesday, July 12th, and will be held  
3 in Brooklyn at the Medgar Evers Oasis  
4 Beacon Program PS/IS 323 at 210 Chester  
5 Street.

6 In May 2017, the CCRB initiated  
7 392 new complaints which reflects an  
8 increase from 377 in May 2016, and 369 in  
9 April 2017. In May, the CCRB's total open  
10 docket was 1,122 cases. By the end of May,  
11 694 of these cases were in the  
12 investigations division, representing 62  
13 percent of the total which is up from 679  
14 in April 2017. Of the total docket, 298  
15 cases were pending board and/or executive  
16 staff review, representing 27 percent, down  
17 from 302 cases pending review in April.

18 The mediation program handled 116  
19 cases, representing ten percent with an  
20 open docket, down from 120 cases in April.  
21 There were an additional 14 cases on  
22 district attorney hold. The May 2017  
23 docket includes 14 reopened cases, five of  
24 these cases are active investigations and  
25 eight are pending board review. Of the

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cases that remain in the CCRB active docket, 90 percent have been open for four months or less, and 97 have been open seven months or less.

Investigators closed 128 full investigations in May 2017. Year-to-date, the average days to close a full investigation was 164 days compared to 139 days in 2016 and 223 days in 2015. In May 2017, the CCRB fully investigated 33 percent of the cases it closed and resolved, which means fully investigated, mediated or mediation attempted, 42 percent of the cases it closed. The truncation rate was 55 percent in May 2017.

Administrative closures accounted for two percent of closed cases.

I would like to highlight some other key statistics for the month of May. The May case substantiation rate was 17 percent. So far in 2017, the substantiation rate is 22 percent.

Investigations with video evidence either substantiated, exonerated or unfounded

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allegations and 76 percent of cases fully investigated in May 2017, and that compares to 32 percent of cases fully investigated in which video was not available.

The discipline rate for non-APU cases was 78 percent in May and 78 percent year-to-date for cases in which police misconduct was substantiated by the Board and sent to the Police Department's Advocate's Office with penalty recommendations other than charges. The Department's decline to prosecute rate of non-APU cases was 20 percent and is 19 percent year-to-date.

In May, the police commissioner finalized decisions against nine officers in APU cases. Two were guilty after trial, one was retained without discipline pursuant to Section 2 of the memorandum of an understanding between the Department and the Agency, two were resolved by plea, and four were not guilty after trial.

The APU conviction rate in May was 50 percent. The APU conducted trials



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1  
2 against four officers in May 2017 bringing  
3 the total number of respondents tried in  
4 2017 to 25. I would like to thank the  
5 Board for giving me the opportunity to  
6 serve as executive director of the agency.  
7 It is an honor for which I am truly  
8 grateful. I know how hard the staff works,  
9 doing their best for the people of this  
10 city. They are committed to the mission of  
11 this agency to provide a fair and effective  
12 civilian oversight for the New York City  
13 Police Department.

14 There is a lot of work in front  
15 of us as an agency reducing the truncation  
16 rate; adapting to make use of the ever  
17 increasing amounts of video evidence;  
18 improving our relationship with the  
19 community and members of service; making  
20 sure that people know that when they have  
21 complaints about members of the NYPD that  
22 the CCRB will give them a fair hearing;  
23 continue to provide a space for members of  
24 community and members of the Department to  
25 mediate the issues between them; and

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2 continuing to provide context for the  
3 information that we learn through the  
4 investigations that we conduct with  
5 thoughtful and careful reports. There's a  
6 lot left for this Agency to do, and I look  
7 forward to working with the Board and the  
8 members of staff to get it done. Thank  
9 you.

10 ACTING CHAIR ARCHER: Thank you  
11 and we look forward to working with you.  
12 Does anyone on the board have questions for  
13 the executive director report?

14 MR. PEGUERO: Have we been able to  
15 track the precincts where we have been going  
16 to hold our meetings to see if the complaints  
17 from those precincts have increased or  
18 decreased based on our presentations?

19 MR. DARCHE: So I know we can do  
20 that. If we have done it, I don't know so  
21 I'll find out for you, Mr. Peguero, and get  
22 that to you as soon as possible.

23 MR. PEGUERO: Thank you.

24 ACTING CHAIR ARCHER: Any other  
25 questions?

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(No response.)

ACTING CHAIR ARCHER: Then I'd like to move to public comment. I'm gonna ask that those who have signed up to speak try to limit your comments to two minutes and we're gonna start with Professor Pappas.

MR. PAPPAS: Good evening. A basic principle in our democracy is checks and balances over the branches of the government. Lamentably, there are no checks and balances of the Judiciary Branch. They have conferred immunity upon themselves in horrific decisions ranging from Stump V Sparkman where a judge sterilized a 15-year-old girl by tubal ligation, that's equivalent to castration for a male, and it's something that comes from antiquity but this happened in the United States in the 1970s. The case went up to the Supreme Court and it ruled five to three that Judge Stump had immunity. He could not be sued for the sterilization of Linda K. Sparkman. This horrible doctrine

1 Proceedings

2 prevents accountability over the judiciary  
3 and the Civilian Complaint Review Board and  
4 other agencies with a conscience should  
5 complain about it and bring about change  
6 and reform. Thank you.

7 CHAIR ARCHER: Thank you. Next,  
8 we have Mr. O'Grady.

9 MR. O'GRADY: The following was  
10 taken from Volume 3 of the bankruptcy  
11 editions at 80 Centre Street. Let us say,  
12 fraudulent transfers. Introduction to  
13 fraudulent transfers. Rather than see  
14 their property seized by creditors, debtors  
15 sometimes transfer their property to  
16 friends or relatives for little or no  
17 consideration or with the understanding  
18 that the debtor should continue to have the  
19 use and benefit of the property.

20 Like the statute of 13 Elizabeth,  
21 both the UFCA and the UFTA condemned  
22 transfers of property that are actually  
23 fraudulent, meaning that the debtor makes  
24 the transfer with the actual subjective  
25 intention of defrauding, hindering or

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2 delaying her creditors. This bankruptcy  
3 approval was a great surprise for each and  
4 every tenant at the parcel and property.  
5 This location, Block, for anyone  
6 interested, 1830, Lot 29.

7 He got before a Chinese man  
8 there, referred to as bankruptcy director,  
9 and the Chinese bankruptcy director,  
10 obviously, he told them that Dr. Martin  
11 Luther King wants him to have the \$200,000  
12 donated to his organization. Male negro,  
13 he went before Chinese bankruptcy director  
14 and he tells the Chinese bankruptcy  
15 director Dr. Martin Luther King wants him  
16 to have the \$200,000 which was embezzled.

17 HPD knocked on all the tenants  
18 doors, knocked on my door, and said that  
19 this person has misappropriated, embezzled  
20 \$200,000 and they were taking him off the  
21 property and they introduced us to their  
22 building administrator but low and behold,  
23 he got the bankruptcy, and the money was  
24 donated to his organization. The  
25 corporation counsel indicated that the

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2 tenants were supposed to vote, 30 tenants  
3 were supposed to vote on whether or not he  
4 come back into the building if they found  
5 that the money was stolen.

6 CHAIR ARCHER: Mr. O'Grady, I'm  
7 sorry to interrupt, you're at three minutes  
8 so if you could try to complete your  
9 comments.

10 MR. O'GRADY: The user word,  
11 embezzled. Embezzled is a fancy word for  
12 pocketing. He say, embezzle means the same  
13 thing as pocketing money. Misappropriating  
14 the funds but HPD, people from corporation  
15 counsel, and they're in this building, they  
16 knocked on our doors and told us that this  
17 guy was embezzling money from them,  
18 \$200,000.

19 ACTING CHAIR ARCHER: Thank you.  
20 Is there anyone who would like to give  
21 comments who did not previously sign up?

22 (No response.)

23 ACTING CHAIR ARCHER: Then we're  
24 gonna move on to a report from our director  
25 of training. I'd like to invite Monte

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Givhan to come up.

MR. GIVHAN: Good evening fellow citizens, colleagues, members of the board. My name is the Monte Givhan, and I am the director of training staff development for the CCRB. In the run up to the 2016 fiscal year, the Board's training subcommittee submitted a \$470,000 proposal to City Council to create an inhouse training unit for CCRB.

The proposal began by noting that New York City Civilian Complaint Review Board is the largest civilian oversight agency in the United States. Investigating between 4,000 and 5,000 police misconduct complaints per year. It's investigators perform unusually complex and challenging tasks including interviewing witnesses, gathering and assessing various kinds of evidence, accessing witness credibility, researching applicable laws in Police Department rules and writing closing reports.

In addition, they have frequent

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2 interactions with the public where they  
3 must conduct themselves in a consistently  
4 professional manner often under stressful  
5 circumstances. The training subcommittee  
6 determined that effective performance of  
7 these duties required a training program  
8 equipped to convey and explain key job  
9 responsibilities, address performance  
10 problems, and build vital skills through  
11 repetition, practice and exposure to new  
12 information in the structure.

13 By creating a training unit, the  
14 Board sought to address unnecessary  
15 investigative delays, lack of consistency  
16 in uniform practices and to improve the  
17 quality of investigations and reliability  
18 of disposition recommendations.

19 In June 2016, Jennifer Jarett was  
20 promoted from investigative manager to  
21 deputy director of training, bringing a  
22 decades worth of CCRB investigative  
23 experience, including hundreds of officer  
24 interviews and deep engagement of all  
25 facets of case investigation. She is as



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2 knowledgeable about CCRB investigations as  
3 anyone at the organization.

4 In July 2016, I was hired to  
5 serve as director of training and staff  
6 development. Following nearly a decade in  
7 legal academia which overlapped with more  
8 than two decades working in a variety of  
9 criminal justice initiatives.

10 In October 2016, I hired Andre  
11 Applewhite from CCRB's administrative  
12 prosecution unit to fill the other deputy  
13 of training director position. Both Andre  
14 and I are proud former public defenders  
15 with extensive experience cross-examining  
16 police officers and leading investigations  
17 in criminal cases.

18 In addition, we both have  
19 experience teaching legal research,  
20 analysis and writing. Andre, at the  
21 undergraduate level and me, at the law  
22 school level. Together, Jennifer, Andre  
23 and I are primarily responsible for  
24 training CCRB investigators and teaching  
25 and reinforcing investigative skills and

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2 techniques throughout investigators tenure  
3 at CCRB. I'll briefly describe was that  
4 looks like. As you know, CCRB employs more  
5 than 90 investigators each of whom is  
6 responsible for managing and investigating  
7 their own caseload of police misconduct  
8 complaints.

9 At the beginning of their tenure,  
10 all new investigators participate in a  
11 comprehensive multi-week inhouse training  
12 program that utilizes multiple teaching  
13 modalities and techniques consistent with  
14 what is now considered best practices in  
15 facilitating adult learning.

16 New investigators are introduced  
17 to key concepts and taught to execute  
18 investigative tasks through a combination  
19 of substantive lectures and assignments,  
20 simulations and exercises designed to  
21 replicate common scenarios that they will  
22 face once they receive their own cases,  
23 shadowing and observing experienced  
24 investigators and frequent structured  
25 debriefing and reflexion.

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2 The new investigator training  
3 program covers all aspects of the job in  
4 which investigators are expected to be  
5 proficient through the duration of their  
6 probationary period and beyond. This  
7 includes interviewing skills, video  
8 analysis, 4th Amendment doctrine, cultural  
9 competency, fundamentals of legal research  
10 and analysis and much more.

11 In addition to the new  
12 investigator training, we also provide or  
13 facilitate ongoing training and  
14 professional development trainings for  
15 experienced investigators. This ongoing  
16 training reinforces and supplements both  
17 the new investigator training curriculum as  
18 well as the lived experiences of CCRB  
19 investigators. Content is approached in a  
20 progressively more sophisticated manner  
21 appropriate for the investigator's level of  
22 experience.

23 Like members of service, the most  
24 valuable and enduring learning that CCRB  
25 investigators will gain is through their

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2 own experience handling cases. Even as  
3 investigators bank their own investigative  
4 experiences, the training unit provides  
5 continuous training to supplement,  
6 compliment and clarify those work  
7 experiences. Examples of topics include  
8 discussions of substantive law, advance  
9 interview skills, video analysis, police  
10 and community perspectives and much more.

11 It's worth noting that training  
12 is inevitably both proactive and reactive.  
13 There are certain subjects that my team is  
14 able to anticipate and proactively plan for  
15 on our own but just as often, trainings are  
16 developed as a result of unit heads,  
17 supervisors, quality assurance or even the  
18 Board identifying a deficiency and asking  
19 our assistance to address it.

20 In addition to inhouse trainings,  
21 the training unit also works  
22 collaboratively with other New York City  
23 entities to leverage free resources that  
24 build our investigators skill sets. One  
25 key collaborative relationship that I know

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2 is of interest to you is with the New York  
3 City Police Department. We regularly  
4 collaborate with NYPD so that our  
5 investigators understand how members of  
6 service are trained. This perspective in  
7 context is valuable when evaluating  
8 complaints against members of service.

9 I want to be careful to emphasize  
10 that NYPD does not train CCRB  
11 investigators. However, as a result of  
12 efforts by former and current CCRB and NYPD  
13 leadership to improve overall  
14 communication, cooperation and information  
15 sharing, our investigators have  
16 opportunities to hear from NYPD trainers  
17 about how members of service are trained.  
18 This relationship is a two-way street. For  
19 instance, at NYPD's request, our own  
20 Jennifer Jarett presents regularly to  
21 members of service with high numbers of  
22 complaints filed against them to educate  
23 these members of service about CCRB's  
24 complaints process.

25 While NYPD represents one

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2 valuable collaborative relationship, it is  
3 certainly not the only one. In recent  
4 weeks, we have worked with the New York  
5 City Department of Health and Mental  
6 Hygiene to get 60 of our investigators  
7 certified in Mental Health First Aid.  
8 Another 60 staff members are currently  
9 midway through the same training so by the  
10 end of this month, 120 CCRB staff members  
11 will be Mental Health First Aid certified.

12 This training came about as a  
13 direct result of the feedback from the  
14 investigators that they frequently  
15 experience challenges effectively assisting  
16 members of the public with emotional and  
17 mental health challenges. The  
18 investigators express the desire for  
19 additional tools to help them to navigate  
20 these situations in an appropriate,  
21 respectful and productive manner. We  
22 believe that Mental Health First Aid  
23 training is an important first step in the  
24 right direction.

25 Similarly, the training unit has

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2 been working collaboratively with the New  
3 York City Office of Corporation Counsel and  
4 our own general counsel to develop  
5 trainings for CCRB staff designed to  
6 educate staff about privacy and  
7 transparency issues related to New York  
8 Civil Rights Law 50A and the Freedom of  
9 Information Law. We hope that these  
10 trainings will be delivered sometime in the  
11 next few weeks.

12 Moreover, the training unit  
13 regularly hosts external speakers to share  
14 their experience with CCRB staff. The  
15 primary vehicle through which these  
16 discussions take place is the crucial  
17 conversation series that we launched at the  
18 beginning of 2017. Crucial conversation  
19 guest speakers, I'm sorry, guest presenters  
20 include noted academics activists,  
21 scholars, thinkers and practitioners with  
22 expertise in policing, forensics,  
23 investigative skills, police community  
24 relations, criminal justice, civil rights,  
25 cultural competency, mental health and many

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2 other areas. These outside speakers serve  
3 the dual function of providing concrete and  
4 practical instruction related to  
5 investigators day-to-day work as well as  
6 broadening investigators perspectives about  
7 the many ways that CCRB's work intersects  
8 with a range of other issues in the lives  
9 of individuals and communities most  
10 directly impacted by policing practices.

11 Board Member Archer has attended  
12 many of these sessions and I would  
13 encourage all of you to attend and you can  
14 get information about these sessions  
15 through senior advisor Richardson. So  
16 that's a good summary of what we've been  
17 doing. I think it's natural, however, that  
18 there will also be challenges for an agency  
19 as complex as ours to incorporate a new  
20 unit so I'll just say a few words about  
21 challenges related to turnover,  
22 communications and budgeting.

23 Regular and rapid turnover at all  
24 levels of the agency including key  
25 leadership positions has impacted the rate



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2 of the training unit's progress. For  
3 instance, prior to Nicole Junior's recent  
4 departure, we were working with her to  
5 improve on boarding for APU attorneys and  
6 to identify, I'm sorry, to improve on  
7 boarding for APU attorneys and to identify  
8 and meet APU training needs. That work is  
9 momentarily stalled while Andrea forms her  
10 own assessment of the APU now that she's  
11 been named chief prosecutor. Each  
12 leadership change involves a new learning  
13 curve incorporating new ideas, philosophies  
14 and perspectives, establishing rapport and  
15 trust in route to a productive work  
16 relationship.

17 Regarding communication, the  
18 training unit does not make organizational  
19 or departmental policy nor should we.  
20 Still, it is important that leadership be  
21 mindful to include the training unit at the  
22 early stages of discussions around  
23 creating, changing or implementing policy.  
24 Obviously, as the entity responsible for  
25 educating investigators, the more we know,

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2 the better we can teach and explain.

3 While progress has been made in  
4 improving internal communication, continued  
5 progress breaking down well fortified silos  
6 within the agency will inure to everyone's  
7 benefit and certainly will benefit the  
8 training unit.

9 Finally, and significantly, as I  
10 referenced at the beginning of my remarks,  
11 the original proposal for an inhouse  
12 training unit recognized limits to inhouse  
13 training and allocated \$150,000 for  
14 material and outside instruction. While  
15 the agency has requested those funds from  
16 the City, the current proposed budget does  
17 not include them. Candidly, that creates a  
18 challenge.

19 In conclusion, in the first year  
20 of it's existence, the training unit has  
21 made significant progress towards the  
22 Board's vision of centralizing and  
23 improving the investigative divisions  
24 training and preparation to do their work  
25 effectively. Training is approached in a

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2 more systematic and purposeful way than it  
3 was previously. We've laid a foundation  
4 that we will continue to build upon.  
5 Notwithstanding some challenges, I'm  
6 confident that we will see continued  
7 improvement in the overall training and  
8 preparation of the investigative division  
9 to do the critical and challenging work  
10 that we ask of them, and I'm happy to take  
11 any questions that you might have.

12 ACTING CHAIR ARCHER: Thank you  
13 very much. I'm gonna start with a  
14 question. The work that you're doing is  
15 obviously very important to the overall  
16 work of CCRB but how will you measure  
17 success? How will you determine whether or  
18 not your efforts at improving training and  
19 understanding are actually having an  
20 impact?

21 MR. GIVHAN: So as I said, some  
22 of the important metrics that were  
23 identified in the process of creating the  
24 training units, we're bringing down  
25 investigative time and more reliability.

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2 There's really an ongoing dialogue between  
3 the training unit and investigative  
4 division leadership about the preparation,  
5 readiness and of course, we hear from the  
6 Board regularly. We get feedback from the  
7 Board concerning questions, and we're  
8 constantly working to modify and do things  
9 better.

10 ACTING CHAIR ARCHER: Thank you.  
11 Any other questions?

12 (No response.)

13 ACTING CHAIR ARCHER: Thank you  
14 very much.

15 MR. GIVHAN: Thank you.

16 ACTING CHAIR ARCHER: So I think  
17 we're going to have to make a few  
18 adjustments to our agenda. We had an item  
19 of new business, discussion of criminal  
20 history but one of the board members who  
21 requested that that discussion take place  
22 is caught in traffic and not here, and we  
23 don't want to move forward with that  
24 discussion without her. Is there anyone on  
25 the board who wants to raise other items of

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2 new business?

3 (No response.)

4 ACTING CHAIR ARCHER: Okay. So  
5 then we will table the discussions of  
6 criminal histories until our next board  
7 meeting when the board members can be here,  
8 and for logistical reasons, we also need  
9 to -- the next -- the board meeting that is  
10 not in the community. The next board  
11 meeting that is gonna be held here at the  
12 CCRB, and we're also going to table our  
13 discussion of the proposed rules until our  
14 next board meeting that will be held at the  
15 CCRB offices here, 100 Church. So with  
16 that, I would like to request a motion that  
17 we adjourn to executive session. Is there  
18 a motion?

19 MR. SIEGAL: So moved.

20 ACTING CHAIR ARCHER: A second?

21 MR. PEGUERO: Aye.

22 ACTING CHAIR ARCHER: All in  
23 favor?

24 (Chorus of ayes.)

25 ACTING CHAIR ARCHER: All

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opposed?

(No response.)

ACTING CHAIR ARCHER:

Abstentions?

(No response.)

ACTING CHAIR ARCHER: So with  
that, we conclude the public session of our  
board meeting and we will reconvene  
executive session. Thank you all for  
joining us.

(Time noted: 7:00 p.m.)

Civilian Complaint Review Board - Final  
June 14, 2017

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C E R T I F I C A T E

STATE OF NEW YORK     )  
  ) ss. :  
COUNTY OF KINGS     )

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

I reported the proceedings in the  
within-entitled matter, and that the foregoing  
transcript is a true record of such proceedings.

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 21st day of June 2017.

\_\_\_\_\_

JOANNA GARCIA

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	<b>7</b>	<b>9 (1)</b> 2:3 <b>90 (2)</b> 7:3 18:5 <b>97 (1)</b> 7:4