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FREDERICK DAVIE
ACTING CHAIR

**Testimony of Frederick Davie, Chair of the Civilian Complaint Review Board
before the Public Safety Committee of the New York City Council
January 22, 2019**

Chairperson Richards, members of the Public Safety Committee, thank you for the opportunity to appear before you today. I am Reverend Frederick Davie, Chair of the New York City Civilian Complaint Review Board (“CCRB”).

The City Charter charges the CCRB with the fair and independent investigation of civilian complaints against sworn members of the New York City Police Department (“NYPD” or the “Department”). The CCRB is the largest police oversight entity in the country, overseeing the investigation, mediation, and administrative prosecution of misconduct in the largest police department in the country. Our jurisdiction includes allegations involving the use of force, abuse of authority, discourtesy and the use of offensive language (referred to as “FADO”). Where the evidence supports disciplinary action, the Board recommends specific categories of discipline to the Police Commissioner.

In 2018, the CCRB received 4,745 complaints within its jurisdiction, marking the second year of an increase in complaints following seven straight years of declining complaint numbers. While there are multiple possible reasons for what is driving this growth, one possible explanation is the Agency’s focused commitment to better serving vulnerable and diverse communities in New York. The last few years have seen a tremendous expansion of the work of the CCRB Outreach Unit, which delivered over 1,000 presentations in 2018—the largest number in Agency history—to audiences including high school students, immigrant populations, probationary groups, homeless service organizations, formerly incarcerated individuals, NYCHA residents, and LGBTQ groups. Outreach staff has met members of the public where they are, from marching in New York City’s Pride Parade alongside the City’s LGBTQ communities to developing productive partnerships with community service providers including homeless shelters, schools, and organizations servicing youth.

All Agency Board meetings are open to the public and half of those are conducted in the City’s various communities, where residents can attend and meet with our staff and express to the Board their issues and concerns in a local setting. Board meeting locations range from schools and faith centers to New York City Housing Authority (“NYCHA”)

facilities and senior centers.

Part of the CCRB's renewed efforts to better serve the public includes additional focus on its public education mandate. In anticipation of the Right to Know Act becoming effective in October of 2018, the CCRB constructed a full public education campaign in partnership with members of City Council that involved creation of educational materials and distribution of these materials via street team efforts, participation in press and social media efforts, and working with elected officials to help provide information to constituents. These efforts appear to have been timely: 2018 saw the highest number of fourth-quarter complaints received in the CCRB's jurisdiction (1,301) since 2013 (1,331). The proportion of complaints received in the fourth quarter compared with the rest of the year went from 23.6% of complaints received in 2017 to 27.4% of complaints received in 2018.

The CCRB strives to be a model in the field of police accountability, pursuing new initiatives to enhance the efficacy of investigations and prosecutions and to more effectively serve the people of New York City. One of these initiatives includes the Board's pilot program of its Disciplinary Framework, initiated in January 2018. The Framework is a non-binding matrix designed to guide Board Panel discussions on disciplinary recommendations for substantiated cases. The goal of the Framework is to achieve consistent and fair discipline recommendations for both civilians and members of service. The Framework outlines six allegation types that—if substantiated by a three-member Board Panel—typically would result in the panel recommending Charges and Specifications, the most severe level of discipline. These allegations include chokeholds, strip searches, warrantless entries, offensive language, excessive force with serious injury, and sexual misconduct. Under the Framework, Board Panels also discuss the subject officer's CCRB history and the totality of the circumstances of the case as a way to guide its determination of the appropriate disciplinary recommendation. As the pilot program reaches its first full year of implementation this month, Agency staff will examine data related to its impact and make recommendations to the Board based on these findings.

As a national leader in police oversight, the Board also periodically reviews its allegation categories to determine whether they fully serve the needs of the public. In February 2018, the Board adopted a resolution directing Agency staff to begin investigating certain allegations of sexual misconduct that had previously been referred to the NYPD's Internal Affairs Bureau ("IAB") and to develop a plan to investigate allegations of criminal sexual misconduct. Since then, the Agency has received complaints of more than 80 allegations of sexual harassment, sexual or romantic propositions, sexual humiliation, and sexually motivated strip searches, and has created an internal working group to determine how best to incorporate investigations and prosecutions of sexual assault into Agency operations.

The Agency takes seriously its commitment to protecting the mental health and well-being of these, and all, complainants. The CCRB serves some of New York's most vulnerable communities, including youth, the homeless, LGBTQ individuals, those with mental illnesses, people living with disabilities, and people of low income. In 2018, we have worked diligently to develop strong relationships with mental health and community

support service providers to more responsibly serve the needs of complainants, victims, and witnesses.

In April 2018, the CCRB adopted a new policy of providing civilians with information about NYC Well, a City program that provides free support and assistance to people experiencing stress and trauma as well as more serious mental, psychological, and emotional health challenges. The CCRB Training Unit collaborated with Dr. Lynn Kaplan, Psy. D, the director of training and public education for Vibrant Emotional Health, to develop training for the Investigations Division to learn additional skills for effective call management, and face-to-face communication skills, including active listening, emphatic response, the mechanics of making a warm-transfer to NYC Well, and the steps an investigator should take when a civilian presents an imminent risk to themselves or to others. Additionally, investigators learned how to engage civilians in conversations about mental wellness, including how to introduce NYC Well into conversations. Further, in accordance with best practices recommended by service providers to victims of violence, the Agency recently began providing forensic experiential trauma interview (“FETI”) training to the Investigations Division. This type of interview technique allows for interviewing complainants and victims in ways that empower them, providing investigators with better information and complainants with a more productive and caring experience at the CCRB.

Approximately 17% of the complaints received in 2018 in the CCRB’s jurisdiction involved complainants and victims between the ages of 14 and 24. Young people, particularly young people of color, have a disproportionately higher likelihood of contact with police. The Agency has begun a number of new initiatives aimed at giving younger complainants and victims a voice in how the CCRB investigates, prosecutes, and reports on police-youth interactions. In December 2018, the CCRB selected 20 New Yorkers between 11 and 24 years old to be members of its inaugural Youth Advisory Council (“YAC”) following an open citywide application process. This group, which meets quarterly, advises the Agency on its policies and outreach efforts to young members of the public. One of the YAC’s current tasks is to work with Agency staff to facilitate an event on February 26, 2019 entitled, “Speak Up, Speak Out: A Youth Summit on Policing in New York.” This summit will include panels of youth activists and advocates and breakout groups to discuss the types of interactions young people report having with police in New York, and brainstorming on next steps for police accountability efforts in this area. From this summit, the CCRB hopes to gain insight into aspects of police-youth relations to inform an upcoming Policy Unit report on complaints the Agency receives from people ages 14 through 24.

The CCRB is committed to providing strong, effective, and independent civilian oversight for the New York City Police Department, and to continuing to lead the way in civilian oversight nationally.

Thank you for your time and continued support.

The members of the Executive Staff and I will be happy to answer any questions you may have.

ELECTED CIVILIAN REVIEW BOARD

113 W. 128th St., New York, NY 10027 · 212-222-0633 · StopPoliceViolenceNYC@gmail.com · StopPoliceViolenceNYC.org

Testimony to the Public Safety Committee regarding Int. 1106 Council Chambers, City Hall, New York, NY. January 22nd, 2019

Council Members, thank you for the opportunity to testify today.

This is testimony on behalf of the Campaign for an Elected Civilian Review Board. We are a coalition of over 30 organizations and prominent individuals including unions, social justice organizations, and mothers and relatives of those killed by the NYPD.

We also testify today representing feedback from New Yorkers from over 3 years of organizing in neighborhoods suffering from police misconduct, harassment, lying, abuse, and violence.

Our campaign recognizes the efforts of this legislation to increase transparency in regards to truncated CCRB investigations. Civilians need to know that complaints are being taken seriously and fully investigated. It is a big problem that so many CCRB complaints aren't fully investigated. We agree that transparency is essential for accountability. However, transparency isn't enough.

We believe the improved data and scrutiny of the CCRB would prove what past reports have- that it fails to fundamentally hold police accountable.

This is not only due to the massive amount of complaints the CCRB doesn't investigate, but also because the complaints it *does* investigate and substantiate result only in recommendations for discipline to the NYPD commissioner, who is free to water down or throw out the recommendations entirely.

In 2017 the NYPD reduced the CCRB recommended penalties 73 percent of the time.

This is the reality of our city - that the department shields its officers who commit abuses and misconduct from public accountability- and that the agency that's tasked with representing us, the civilians, has no real power. This is the biggest problem we see.

We could use this time to read off more statistics that prove the CCRB needs fundamental improvement. However, the most valuable message we can give you is from the people on the streets that we've spoken to in all 5 boroughs. The truth is that people have lost faith in the CCRB. By and large New Yorkers who need it most, those in communities of color, do not trust the system currently in place, because they don't see results from their complaints.

One revealing example is from Staten Island. Officer Pantaleo, the officer that ended Eric Garner's life with an illegal chokehold, had 14 allegations against him, 4 of which were substantiated by the

CCRB. However, the NYPD threw out their recommendations for discipline and all Officer Pantaleo got was a slap on the wrist - instruction, which is the weakest of penalties, and loss of 2 vacation days. This is a joke and an insult to those civilians he abused.

If we had an effective review board that could make binding discipline, Pantaleo's abusive conduct could have been corrected, and Eric Garner would likely still be alive today. Eric and his family paid the ultimate price for a system that can't hold the police accountable, while Pantaleo currently makes over \$100,000 a year on desk duty. This is a total travesty.

This untenable reality is why we advocate for a Charter Amendment that would replace the current CCRB with an oversight board elected by the people, and empowered to investigate and make binding decisions on discipline after thorough investigations. We call for an elected board to ensure independent oversight of the police that people in every neighborhood can trust.

We also advocate for a special prosecutor which would eliminate any conflicts of interest that may be present with the District Attorney's Office in criminal cases involving the NYPD.

We are asking that the Committee on Public Safety support us in our efforts in the current Charter Revision Commission. Dozens of groups and individuals have testified for an elected and empowered review board at recent CRC hearings. We had the most testimony for any single amendment proposed to the commission by far.

The city has to stop protecting abusive police. It's time to protect the people with an elected review board.

New York can be a leader in police accountability for the whole country and we hope we can take action together. If we fail to act, we're only waiting for another Eric Garner, Mohamed Bah, Deborah Danner, or Saheed Vassell.

Thank you for your time.

ELECTED CIVILIAN REVIEW BOARD

SOLUTION: A new board that's elected and empowered.

- An Elected Civilian Review Board (ECRB) would be elected for four-year terms by NYC voters
- Empowered & Independent to ensure fully investigated non-criminal cases. Can order disciplinary actions including retaining and dismissal. The police are required by law to cooperate with the Board, and the Police Commissioner must carry out its decisions.
- A Independent Elected Special Prosecutor would handle all criminal cases involving the NYPD.
- Elected for four-year terms and subject to voter recall, the Special Prosecutor is independent from the Police Commissioner, District Attorney, and other agencies, and can choose whether and how to prosecute the police. The police department must cooperate with investigations, including ensuring access to all police records.

About Our Campaign

The Campaign is working to pass the ECRB and Special Prosecutor Charter Amendment through one of two ways:

- Via the new Charter Revision Commission which will bring amendments to NYC voters in November 2019
- Passage by City Council Bill

Formed in 2015, the campaign for an Elected Civilian Review Board is a coalition of groups and individuals fighting for police accountability. We work democratically with participation and leadership from people most affected by police violence.

<https://www.stoppoliceviolencenyc.org/>

Facebook: [facebook.com/HoldPoliceAccountableNYC](https://www.facebook.com/HoldPoliceAccountableNYC)

Instagram: [@HoldPoliceAccountable](https://www.instagram.com/HoldPoliceAccountable) | Twitter: [@ECRBforNYC](https://twitter.com/ECRBforNYC)

Phone: 212-222-0633

Email: StopPoliceViolenceNYC@gmail.com

¹https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2017_annual.pdf

ELECTED CIVILIAN REVIEW BOARD

Hold Police Accountable with an Elected, Empowered Review Board

PROBLEM:

Police Violence and Impunity

NYPD officers use excessive force, conduct illegal searches, lie in testimony, and assault and kill New York City residents with little to no consequence. The NYPD disproportionately targets black and brown, and poor communities.

The city isn't protecting civilians

Our current Civilian Complaint Review Board has no real power - their findings are only recommendations to the commissioner with no binding power. The board is appointed and closely tied to the City establishment.

The DAs are too biased.

The District Attorney determines whether or not police officers are charged and prosecuted, when they work closely with the police and rely on the police for evidence and access. This is a direct conflict of interest and prevents unbiased prosecution.

2017 CCRB STATS¹

5,000:

Number of complaints filed by civilians against police

1/3:

Rate of complaints investigated by current board

5%:

Rate of complaints found to be valid by current board

73%:

Rate of discipline recommendations watered down or ignored by the NYPD.

0:

Number of NYPD Officers Fired as a result of Civilian Complaints

Proposed Legislation Creating an Elected Civilian Review Board (ECRB) to Replace the Current Civilian Complaint Review Board

Draft amendment to the NYC City Charter and NYC Administrative Code

Adopted by the Campaign for an Elected Civilian Review Board on March 23, 2017, as amended on October 7, 2017

CHAPTER 18-A OF THE NEW YORK CITY CHARTER IS DELETED IN FULL AND REPLACED BY:

CHAPTER 18-A ELECTED CIVILIAN REVIEW BOARD

§440. Public complaints against members of the police department.

(a) The people of the city of New York require a mechanism for the investigation of complaints of misconduct and possible uses of excessive force by officers and employees of the New York police department toward members of the public and determination of appropriate disciplinary actions that is comprehensive, thorough, and impartial. These investigations must be conducted fairly and independently. An independent Elected Civilian Review Board (“ECRB” or “Board”) is hereby established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct as provided in this Section.

(b) Elected Civilian Review Board.

1. The Elected Civilian Review Board shall consist of twenty-one (21) members of the public. One ECRB member shall be elected from each of seventeen (17) ECRB districts, each of which shall be comprised of three (3) adjacent city council districts as follows: Elected Civilian Review Board district (ECRBD) #1 corresponds to City Council districts (CD) 1, 2 and 3; ECRBD #2 corresponds to CDs 4, 5, and 6; ECRBD #3 to CDs 7, 9 and 10; ECRBD #4 to CDs 8, 16 and 17; ECRBD #5 to CDs 11, 14 and 15; ECRBD #6 to CDs 12, 13 and 18; ECRBD #7 to CDs 19, 23 and 27; ECRBD #8 to CDs 20, 24 and 29; ECRBD #9 to CDs 21, 22 and 25; ECRBD #10 to CDs 28, 31 and 32; ECRBD #11 to CDs 26, 30 and 34; ECRBD #12 to CDs 33, 35 and 36; ECRBD #13 to CDs 38, 39 and 40; ECRBD #14 to CDs 37, 41 and 42; ECRBD #15 to CDs 43, 44 and 47; ECRBD #16 to CDs 45, 46 and 48; ECRBD #17 to CDs 49, 50 and 51. Four additional members will be elected as follows: upon creation of the ECRB, Civilian Complaint Review Board data will be used to determine the four ECRB districts that contain police precincts with the highest number of complaints reported in the preceding two (2) calendar years. In subsequent elections, the four ECRB districts apportioned an additional representative will be based on ECRB data regarding the numbers of substantiated complaints received from residents of each ECRB district during the preceding two (2) calendar years prior to the election.

2. In order to stand for election to the ECRB, a prospective candidate is required to have resided in New York City for the preceding three (3) years, in the ECRB district for at least the preceding twelve (12) months, and must submit a petition supporting her or his candidacy signed by 25 residents (either registered voters or holders of IDNYC at least 18 years of age) of the ECRB district she or he seeks to represent.

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3. Residents of New York City 18 years of age or older are eligible to be a candidate for the Board in the district where they reside, without regard to sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, record of criminal conviction and incarceration, or physical ability. Persons who are currently employed by the NYPD, or who were employed by NYPD within the prior five (5) years, are not eligible to be candidates or to serve as ECRB members. No member of the Board shall hold any other public office or employment.

4. The members shall be elected for a term of four (4) years, coinciding with the terms of office and scheduled elections of the mayor and city council members. Upon completion of each term, each Board member shall be eligible to stand for reelection. ECRB members are not subject to charter provisions §1137 and §1138 on Term Limits.

5. In the event of a vacancy on the Board during the term of office of a member by reason of recall, death, resignation, or otherwise, a successor from the same district shall be selected by a majority vote of the ECRB members to serve until the next general election. At the next general election, the position will be filled by election as described in §440(b)2 and 3.

6. Board members are subject to recall by voter referendum. A recall vote may be initiated by a petition signed by 200 residents (either registered voters or holders of IDNYC at least 18 years of age) of the ECRB district the Board member represents. The recall vote will then take place within four months, either at the general election or a specially scheduled election. If the vote to recall is upheld, the ECRB member is immediately removed and replaced as described in §440(b)5. If the vote to recall is defeated, the ECRB member is not subject to an additional recall for the duration of that term and may seek election to additional terms.

(c) Powers and duties of the Elected Civilian Review Board.

1. The ECRB shall have the power to receive, investigate, hear, make findings, and take action upon complaints by members of the public, including employees of the NYPD or any NYC governmental agency or department, against members of the police department that allege police misconduct. These include:

- a. Using unnecessary or excessive force in the performance of duties;
- b. Conducting a false arrest or unlawfully detaining any person;
- c. Conducting an unlawful search or seizure, or unlawful surveillance;
- d. Tampering with evidence;
- e. Falsifying official and/or unofficial reports;
- f. Conducting unauthorized investigations, surveillance, infiltration, or disruption of lawful political, social, economic, religious organizations, or their members, for their political, social, economic, or religious views; or conducting unauthorized investigations or surveillance of individuals for their political, social, economic, or religious views;
- g. Threatening to arrest or to detain any person without a justifiable legal basis;
- h. Threatening to use force against any person without a justifiable legal basis;
- i. Discriminating on the basis of age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity

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- and expression, record of criminal conviction and incarceration, physical ability, or state of mental health in the enforcement of the law (evidence of a past or present pattern of discriminatory conduct shall be admissible on the question of the officer's intent);
- j. Using abusive or insulting language including, but not limited to derogating a person's age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, record of criminal conviction and incarceration, physical ability, or state of mental health;
 - k. Sexually harassing, verbally or physically, any person;
 - l. Engaging in abusive or offensive conduct in relation to a person's age, sex, race, ethnicity, religion, creed, national origin, immigration status, political views, union membership, sexual orientation, gender identity and expression, record of criminal conviction and incarceration, physical ability, or state of mental health;
 - m. Failing to provide any person their post-arrest rights as guaranteed by the laws and the constitutions of the state of New York and of the United States;
 - n. Committing perjury;
 - o. Engaging in, soliciting, or arranging for the harassment of or discrimination against any person in relation to a complaint she or he has filed with the ECRB; a family member or associate of such person; an individual who has provided or is about to provide any facts or evidence in any proceeding before the ECRB; or a member or staff of the Board, her or his family member, or associate because of the Board's performance of its duties;
 - p. Violating any police department policy or procedure that falls within the jurisdiction of the ECRB as set forth in this Section.
2. The Board shall investigate all cases of officer-inflicted serious bodily harm, officer-involved deaths, and officer-involved shootings.
3. The ECRB shall promulgate rules of procedure in accordance with the city administrative procedure act, including rules that prescribe the manner in which investigations are to be conducted and determinations made and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules may provide for the establishment of panels of no fewer than three (3) members of the Board, which shall be empowered to supervise the investigation of complaints, and to hear, make findings, and determine action on such complaints.
4. Determinations by the ECRB may include that allegations are unsubstantiated and no action is required, or that disciplinary action is warranted. Such disciplinary actions may include mandatory counseling and/or re-training; suspension; reassignment; or dismissal. When there is the potential for criminal charges against the police department officer or employee, the results of the ECRB investigation and findings will be submitted to the Special Prosecutor, as described in §440(g)3.
5. The findings and determinations of the Board and the basis therefore shall be submitted to the police commissioner for implementation. No finding or determination shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded,

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or withdrawn complaints be the basis for any such finding or recommendation.

6. The ECRB shall establish procedures and accessible means for members of the public residing throughout the city to report complaints against members of the police department on a 24-hour/day basis.

7. The ECRB may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints submitted pursuant to this Section, including the power to issue subpoenas.

8. The Board shall establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation.

9. The ECRB shall have the responsibility of informing the public about the Board and its duties and shall develop and administer an ongoing program for the education of the public regarding the provisions of this chapter, how to initiate a complaint, and the work accomplished by the Board.

10. Each member of the Board shall convene and organize, once each month, a Community Assembly in his or her district, open to all interested persons. Each public meeting will offer an opportunity for community members to discuss police- and community-related issues and to comment and present complaints and proposals relating to the Board and its work.

a. Each member shall publicly advertise the time and place of the Assembly and ensure that meeting notification and outreach gives particular emphasis to persons most affected by police misconduct, including people of color, women, LGBQ and transgendered persons, immigrants, the undocumented, persons who have been imprisoned, political and union activists, and the disabled.

b. At each Assembly, the Board member, or his or her designee, shall present a report on the work of the ECRB, including information and statistics on the number and type of complaints received and actions taken by the Board.

c. Minutes of each Assembly shall be taken by ECRB staff and shall be made available to the public upon request.

11. The ECRB shall issue to the mayor and city council a semi-annual report, which shall describe its activities and summarize its actions.

12. The Board is authorized, within appropriations available, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The ECRB will appoint a staff of special civilian investigators. Hiring of investigators and other staff shall ensure representation of groups most impacted by police misconduct.

(d) Cooperation of police department.

1. It shall be the duty of the police department to cooperate fully with investigations by the Elected Civilian Review Board and to provide to the ECRB and its investigators upon request

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records and other materials necessary for the investigation of complaints submitted pursuant to this Section, except such records or materials that cannot be disclosed by law.

2. The police commissioner shall ensure that officers and employees of the police department appear before and respond to inquiries of the Board and its civilian investigators in connection with the investigation of complaints submitted pursuant to this Section, provided that such inquiries are conducted in accordance with department procedures for interrogation of its members.

3. The police commissioner shall carry out the decisions made by the ECRB pursuant to their findings upon investigation of complaints as described in §440(c)1 and shall report the completion of each action to the Board.

(e) Authority of police commissioner.

The provisions of this Section shall not be construed to limit or impair the authority of the police commissioner to discipline members of the department, except as outlined in this Section pursuant to the ECRB's investigation and issuing of determinations regarding complaints submitted to it. Nor shall the provisions of this Section be construed to limit the rights of members of the department with respect to disciplinary action, including, but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise, except as specified in §440(c)1 and 2.

(f) Investigation or prosecution of members of the police department by other authorized parties. The provisions of this Section shall not be construed to prevent or hinder the investigation or prosecution of members of the police department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized officer, agency, or body.

(g) Establishment of a Special Prosecutor to work in conjunction with the ECRB.

1. The Special Prosecutor (SP) will be elected to serve for a term of four (4) years, coinciding with the terms of office and scheduled elections of the mayor and city council members. In order to stand for election as SP, the prospective candidate is required to have resided in New York City for at least the three (3) preceding years and must submit a petition supporting her or his candidacy signed by 100 residents (either registered voters or holders of IDNYC at least 18 years of age) of New York City.

2. The SP must be qualified to practice in all courts of this State and must have been so qualified for at least five (5) years preceding the election. The SP shall devote her or his entire time to the duties of the office.

3. The powers and duties of the Special Prosecutor shall be as follows:

a. The SP shall institute, attend, and conduct, on behalf of the people, all criminal cases against police officers acting under color of law arising in New York City and upon violation of the provisions of this Charter or the ordinances of the City in the court of original jurisdiction, and on appeal.

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- b. Whenever it shall be authorized by the laws of this state, the SP shall prosecute on behalf of the people, any or all offenses committed by police officers acting under color of law arising upon violation of the laws of the State and appeals arising therefrom.
 - c. The SP shall draw complaints for offenses committed against the laws of this State as described in §440(g)3, prosecute all recognizance and bail bonds forfeited in such offense cases, and prosecute all actions for the recovery of fines, penalties, and forfeitures accruing to New York City in said cases.
 - d. The SP shall give advice or opinions in writing to any member of the ECRB or to the Board itself upon request by such a member or by the Board.
 - e. The SP shall keep in her or his office proper books of record and registry of all actions in her or his charge in which the City or any member of the ECRB is a party or is interested.
4. The SP is authorized, within appropriations available, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The SP will appoint a staff of special civilian investigators. Hiring of investigators and other staff shall ensure representation of groups most impacted by police misconduct.
 5. The SP shall have access to the complaints, arrest reports, investigation reports, and evidence made, kept, or obtained by the New York police department, the ECRB, or other city agencies that maintain records or files concerning the actions of its employees when they act in the capacity of police officers within the scope or course of their employment.
 6. The SP shall request from the ECRB all cases considered by that Board for disciplinary action, for the purposes of review in deciding whether criminal prosecution is warranted.
 7. The office of the SP is separate, apart from, and independent of the City Attorney's office, the police department, and the City Council. The City Council shall not have control of litigation undertaken by the SP pursuant to this Charter.
- §457(c). Protocols is amended as follows: Wherever "Civilian Complaint Review Board" appears, it is to be replaced by "Elected Civilian Review Board."

Proposed Change in Chapter 18: POLICE DEPARTMENT

Amend § 434 as follows (proposed change capitalized):

§ 434. Commissioner; powers and duties. a. The commissioner shall have cognizance and control of the government, administration, disposition and discipline of the department, and of the police force of the department, EXCEPT AS LIMITED IN CHAPTER 18A, §440 (C) AND (D) AND THE NEW YORK CITY ADMINISTRATIVE CODE § 14-115.

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Amend § 457 c. to replace “Civilian Complaint Review Board” with ELECTED CIVILIAN REVIEW BOARD.

~~c. Civilian Complaint Review Board.~~ ELECTED CIVILIAN REVIEW BOARD Within ninety days after the ~~appointment of the last member~~ ELECTION of the board pursuant to section four hundred and fifty, the board and the ~~civilian complaint review board~~ ELECTED CIVILIAN REVIEW BOARD established pursuant to chapter eighteen-a of this charter shall establish a protocol pursuant to which (i) the board, if in the course of any assessment, audit or investigation undertaken pursuant to subdivision a of section four hundred and fifty-one, forms a reasonable belief that any act of misconduct, as defined in paragraph one of subdivision c of section four hundred and forty of this charter, has occurred or is occurring, shall as soon as practicable, report the facts that support such belief to the ~~civilian complaint review board~~ ELECTED CIVILIAN REVIEW BOARD; (ii) the ~~civilian complaint review board~~, ELECTED CIVILIAN REVIEW BOARD if in the course of an investigation authorized pursuant to chapter eighteen-a of the charter, forms a reasonable belief that any act of corruption has occurred or is occurring, shall as soon as practicable, report the facts that support such belief to the board; and (iii) information shall be exchanged and cooperation between the boards facilitated.

Proposed change in NYC Administrative Code to be implemented in concert with changes in City Charter establishing the Elected Civilian Review Board

Amend as indicated by ITEMS IN CAPS
New York City Administrative Code

Title 14, Chapter 1 POLICE DEPARTMENT

§14-115 Discipline of members.

a. The commissioner shall have power, in his or her discretion, on conviction by the commissioner, or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith into the police pension fund. THE COMMISSIONER SHALL HAVE POWER TO ENACT DISCIPLINARY DECISIONS OF THE ELECTED CIVILIAN REVIEW BOARD (ECRB) AS SPECIFIED IN THE NEW YORK CITY CHARTER, CHAPTER 18A, §440(c)1-5.

*Proposed Legislation Creating an Elected Civilian Review Board (ECRB)
to Replace the Current Civilian Complaint Review Board, p. 8*

- b. Members of the force, except as elsewhere provided herein, shall be fined, reprimanded, removed, suspended or dismissed from the force only:
- i) on written charges made or preferred against them, after such charges have been examined, heard and investigated by the commissioner or one of his or her deputies upon such reasonable notice to the member or members charged, and in such manner or procedure, practice, examination, and investigation as such commissioner may, by rules and regulations, from time to time prescribe ; OR
 - ii) AFTER WRITTEN COMPLAINTS HAVE BEEN EXAMINED AND INVESTIGATED; A HEARING HELD BY THE ECRB IN ACCORDANCE WITH THE MANNER AND PROCEDURE AS DETERMINED BY THE ECRB AND WITH DUE PROCESS FOR THE CHARGED MEMBER OF THE FORCE; AND A WRITTEN DETERMINATION AND DISCIPLINARY ACTION HAS BEEN PRESENTED TO THE POLICE COMMISSIONER FOR IMPLEMENTATION, AS SPECIFIED IN THE NEW YORK CITY CHARTER, CHAPTER 18A, §440(c)1-5.
- c. The commissioner is also authorized and empowered in his or her discretion, to deduct and withhold salary from any member or members of the force, for or on account of absence for any cause without leave, lost time, sickness or other disability, physical or mental; provided, however, that the salary so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence; and provided, further, that not more than one-half pay for three days shall be deducted on account of absence caused by sickness.
- d. Upon having found a member of the force guilty of the charges preferred against him or her, either upon such member's plea of guilty or after trial, the commissioner or the deputy examining, hearing, and investigating the charges, in his or her discretion, may suspend judgment and place the member of the force so found guilty upon probation, for a period not exceeding one year; and the commissioner may impose punishment at any time during such period. THIS DISCRETIONARY SUSPENSION OF JUDGMENT AND PLACEMENT ON PROBATION DOES NOT APPLY TO DISCIPLINARY ACTIONS DETERMINED BY THE ECRB, WHICH HAS THE SOLE AUTHORITY TO MAKE DETERMINATIONS AND MANDATE DISCIPLINARY ACTION ON COMPLAINTS INVESTIGATED AND HEARD BY THE ECRB.



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New York, New York 10012
212-614-6464
ccrjustice.org

**HEARING ON THE CIVILIAN COMPLAINT REVIEW BOARD
BEFORE THE PUBLIC SAFETY COMMITTEE OF THE NEW YORK
CITY COUNCIL**

**TESTIMONY OF NAHAL ZAMANI,
ADVOCACY PROGRAM MANAGER OF THE CENTER FOR
CONSTITUTIONAL RIGHTS**

January 22, 2019

JUSTICE TAKES A FIGHT.

I. Introduction

The Center for Constitutional Rights would like to thank the Public Safety Committee of the New York City Council for holding this important hearing on the Civilian Complaint Review Board (CCRB or Board).

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, we have taken on oppressive systems of power, including structural racism, gender oppression, economic inequity, and governmental overreach.¹

For nearly twenty years, we have been challenging abusive and discriminatory practices of the New York Police Department (NYPD or Department), the largest and most influential municipal police department in the United States, through litigation and advocacy.

In 2013, the federal judge in our landmark civil rights lawsuit, *Floyd v. City of New York*, found the NYPD liable for a widespread practice of unconstitutional and racially discriminatory “stop and frisks.”² We are currently in the remedial phase, working with a court-appointed monitor to see a vast number of changes to NYPD policies and practices to ensure they are in compliance with the law.

In this written submission, we address several aspects of Board’s mandate, as well as challenges and opportunities the CCRB faces.

I. Significance of CCRB’s Mandate

First, I want to underline the CCRB’s critical work, and mandate. The CCRB is one of the most powerful oversight agencies overseeing police misconduct in the nation. Despite this power, and opportunity, it can be hindered and challenged by a number of factors, which I will touch on today.

I also wish to draw the Committee’s attention to the relevance of this agency with regards to the work they do, shedding a light on the NYPD.

With regards to transparency and accountability, the work of the CCRB and its prosecution authority is crucial. By tracing the path of substantiated civilian complaints from the CCRB through final disposition by the NYPD, we have identified larger deficiencies and concerning

¹ Learn more at ccrjustice.org.

² Learn more about *Floyd v. the City of New York* at www.ccrjustice.org/floyd. See also *Floyd v. City of New York*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013) (“Liability Opinion”). Currently the NYPD is under the oversight of a court-appointed independent monitor to implement a series of concrete reforms to the NYPD’s policies, training, supervision, disciplinary systems, among other things, to ensure that individuals are stopped only based on the constitutionally required standard of “reasonable suspicion” and that the police no longer no longer systemically use race as a criteria for law enforcement actions. The court also ordered the City to engage in a “Joint Remedial Process,” currently underway, bringing together affected communities, elected officials, the NYPD, and other stakeholders to collaboratively develop reforms to the Department’s stop and frisk practices – and to provide a forum for a broader conversation about unfair policing practices.

practices within NYPD internal disciplinary processes. As such, certain CCRB phenomena are relevant to NYPD's disciplinary system.

II. Prosecution of Substantiated Police Misconduct Cases

Notably, the Board also plays a critical role with regards to administratively prosecuting substantiated cases of misconduct following the implementation of a 2012 Memorandum of Understanding (MOU) with the NYPD.³

This role of the CCRB cannot be understated, given the NYPD's own longstanding and well-documented inadequate disciplinary policies and procedures, which routinely fail to meaningfully discipline and deter officers who have committed incidents of misconduct, either by imposing no discipline at all or imposing penalties that are rarely in proportion with the misconduct in question, and offering no explanations for such disciplinary decisions.

In fact, it is through the authority of the 2012 MOU and the work of the CCRB's Administrative Prosecution Unit (APU), that the public is afforded a limited opportunity to learn more about the NYPD's disciplinary processes, the Department's implementation of disciplinary penalties, and the Commissioner's discretion under his afforded disciplinary authority.

III. NYPD Actions Hinder CCRB Meeting its Mandate

The Police Commissioner's exercise of his or her absolute disciplinary authority – that is, when deciding discipline will not be pursued, which penalties are ultimately imposed, or determining which cases in which he or she will retain oversight and authority, without necessary scrutiny and transparency, can ultimately hinder the CCRB from fulfilling its mandate and overall efforts for accountability.

IV. Key Developments

a. Increased APU Reporting

Since the last time I have testified before this Committee, we wish to commend the CCRB for its increased reporting on any modifications of pleas by the Commissioner. In particular, the Summer 2018 report on the APU's work is critical, and CCRB should report share the critical information contained therein regularly.

b. Development of CCRB and NYPD Disciplinary Framework

While we commend the CCRB and the NYPD working to develop a disciplinary framework,⁴ it is of the utmost imperative that *all* entities which oversee or have a role in discipline of members

³ See 2012 Memorandum of Understanding Between the Civilian Complaint Review Board (CCRB) and the Police Department (NYPD) of the City of New York Concerning the Processing of Substantiated Complaints, at paragraph 8 [noting, "The Police Commissioner shall retain in all respects the authority and discretion to make final disciplinary determinations"] (hereinafter "2012 CCRB MOU"). This MOU authorized the CCRB to prosecute administrative cases against officers who they recommended "charges and specifications," becoming the first civilian oversight agency in the U.S. with prosecutorial power.

of the NYPD follow a single, standard matrix to ensure uniformity and efficacy overall. That is, the NYPD should develop a single discipline matrix, one that is employed by the CCRB and the DAO, and other relevant Department entities and supervisors, when recommending and overseeing execution of penalties. We also seek more information about the use of this framework.

c. NYPD Reconsideration Requests and Nonconcurrency on the Rise

i. Reconsideration Requests

The NYPD should not hinder CCRB's ability to fulfill its mandate either by delaying reconsideration requests, by questioning the CCRB's findings of fact, and by, in any way, influencing the CCRB to recommend lower level penalties.

It is of the utmost importance that the NYPD officers are held accountable for substantiated unconstitutional conduct. The CCRB's work can be hindered by actions of the NYPD when recommended disciplinary penalties by the Board, as well as its credibility determinations and weighing of testimonial evidence are contested by the Department through the reconsideration process. Moreover, the reconsideration process cannot be employed in order to contravene the rulings of the federal court in the *Floyd* litigation or otherwise prevent NYPD officers from being held truly accountable for FADO-related misconduct.

ii. NYPD Nonconcurrency

We are also deeply concerned about recent reports indicating that concurrence between the CCRB and the NYPD is at an all-time low. The concurrence rate (the percentage of the time that the discipline imposed by the NYPD aligns with the sanction recommended by the CCRB) for cases in which the CCRB recommended discipline other than Charges and Specifications declined from 65% to 42% in 2017.⁵ The CCRB also flagged that concurrence declined in Administrative Prosecution Unit cases from 40% in 2016 to 27% in 2017.⁶ The Ninth Status Report of the *Floyd* Monitor discussed this phenomenon extensively;⁷ the New York Times also reported on this issue.⁸

⁴ See CCRB Semi-Annual Report: January – June 2018, December 21, 2018, accessed January 14, 2019 at 71, noting the development of “a pilot program of its Disciplinary Framework, a nonbinding matrix designed to guide Board Panel discussions on disciplinary recommendations on substantiated cases,” which has led to “more consistent recommendations of Charges and Specifications.”

https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/20181221_Semi-Annual%20Report.pdf.

⁵ CCRB 2017 Annual Report, available at https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2017_annual.pdf [hereinafter “CCRB 2017 Annual Report”] at 4.

⁶ *Id.* at 5, 35.

⁷ Ninth Report of the Independent Monitor, *Floyd v. City of New York*, No. 1:08-cv-01034-AT, at 49–62, Jan. 11, 2019 (hereinafter “Ninth Monitor’s Report”).

⁸ See Mueller, Benjamin, *Police, at Odds with Oversight Board, Reject More of Its Penalties*, NY TIMES, Apr. 12, 2018, <https://www.nytimes.com/2018/04/12/nyregion/police-at-odds-with-oversight-board-reject-more-of-its-penalties.html> (“The police commissioner, James P. O’Neill, is now reducing or rejecting the Civilian Complaint Review Board’s disciplinary recommendations in a substantial majority of cases, even though the board is pursuing more lenient penalties, according to an annual report the board released on Thursday.”).

This phenomenon is important. In particular, any cases in which the CCRB recommends “Charges and Specifications” and the penalty is ultimately downgraded by the NYPD will remove CCRB-initiated complaints, which would be normally prosecuted by the Board’s Administrative Prosecution Unit (APU) to be handed over to the NYPD DAO for resolution.

More importantly, the goal is not to have entire concurrence. Rather, it is that the NYPD must not hinder the CCRB from meeting its mandate and from holding their officers truly accountable, in a meaningful way, when they engage in misconduct.

d. Lowering of Recommended Penalties

Since 2015, the Board has issued more command discipline recommendations and fewer Charges and Specifications recommendations against officers.⁹ Moreover, in 2013, 66% of complaints led to recommendations for Charges and Specifications, in 2017, however, this penalty was only recommended 11% of the time.¹⁰

While officer conduct may have improved, we are concerned that this decline in the recommendation of stronger and proportional disciplinary penalties by the oversight authority could indicate that the Board is lowering such penalties in order to avoid future rejections by the NYPD.

V. Investigation of Civilian Racial Profiling Complaints

The Internal Affairs Bureau of the NYPD currently handles investigation of racial profiling and biased policing complaints. Given the CCRB’s “FADO” mandate, we also believe this should include investigation of racial profiling complaints, particularly as we believe they fall under “abuse of authority.” The CCRB should affirmatively have primary investigative responsibility for these cases, as part of its jurisdiction over such complaints as granted by statute.¹¹

On a practical level, the CCRB may receive a complaint, which contains several allegations of misconduct, including profiling. Under current functioning, it may not make sense to have the IAB and the CCRB concurrently investigating separate allegations and potentially coming to completely different conclusions about the exact same officer conduct.

VI. Conclusion

We thank you for hearing our testimony today and urge the CCRB to continue to fulfill its critical mandate.

⁹ CCRB 2017 Annual Report, *supra* note 6.

¹⁰ *Id.* at 31.

¹¹ N.Y. City Charter § 440(c)(1) (specifying that the CCRB has jurisdiction to investigate civilian complaints that “allege misconduct involving. . .abuse of authority”).

Girls for Gender Equity Testimony
The New York City Council's Committee on Public Safety
Delivered by: Kylynn Grier
January 22, 2019

Good morning, Committee Chair Richards and members of the Committee on Public Safety. My name is Kylynn Grier. I work as the Policy Manager at Girls for Gender Equity (GGE), an organization challenging structural forces that work to obstruct the freedom, full expression, and rights of girls, transgender, and gender non-conforming (TGNC) youth of color. We are also proud members and leaders of a number of coalitions and joint campaigns that advance our work - pertinent to today's hearing, the Dignity in Schools Campaign, the Sexuality Education Alliance of New York, and Communities United for Police Reform. Thank you for the opportunity to speak today.

We work daily with young women and girls of color who are policed at every juncture of their lives, on the way to school by NYPD officers, in school by NYPD School Safety Agents, and while accessing City services as seen with Jazmin Headley at Department of Social Services. As such, we applaud the Civilian Complaint Review Board (CCRB) for its vital work to hear and act on cases where New Yorkers have been mistreated by the New York Police Department, sometimes taking action while NYPD takes no action as seen with Officer Pantaleo in the case of Eric Garner for many years. We also recognize the pivotal first step taken by the Civilian Complaint Review Board (CCRB) in adopting a resolution¹ to immediately begin to investigate claims of NYPD sexual harassment and extortion, and look forward to this being one step of many.

¹ Memorandum Accompanying Public Vote Re: Sexual Misconduct Allegations
https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/20181402_boardmtg_sexualmisconduct_memo.pdf

As an agency, Girls for Gender Equity stands with Anna Chambers², an 18-year-old girl who was raped and sexually assaulted by two NYPD officers in Brooklyn and who is one of many survivors of NYPD gender-based violence, including police sexual violence. These experiences and narratives are often unheard in mainstream media or conversations about policing. This silence exist alongside a multitude of systemic barriers to reporting and survivor supports. This is absolutely and unequivocally rooted in racial and gender discrimination.

We know that the survivors most impacted by police sexual violence are often the very survivors that are not believed, young people, TGNC and queer people, and/or women of color. In New York City, 2 in 5 young women reported experiencing sexual harassment by police officers³ and according to CATO Institute, gender-based violence is the second most frequently reported form of police misconduct with more than half of the reports including minors⁴.

We stand with *all* survivors and must emphasize the urgency of CCRB phasing in *all* reports of sexual misconduct, including rape and sexual assault. Until the option exists for all forms of sexual misconduct to be heard by the CCRB, survivors in and out of school are forced to report to the Internal Affairs Bureau (IAB) of the NYPD. This is the very same agency with officers wearing the very same uniform as the officers who harmed the survivor seeking support. We call on New York City to take action with community input and to stand alongside women and girls of color in the fight to end discriminatory and abusive policing.

Additionally, Girls for Gender Equity calls for the immediate expansion of CCRB's authority to explicitly include school safety agents, and other "peace officers" who operate under the

² Two New York Detectives Are Charged With Rape and Kidnapping
<https://www.nytimes.com/2017/10/30/nyregion/nypd-detectives-rape-kidnapping-charges.html>

³ Brett G. Stoudt, Michelle Fine, and Madeline Fox, Growing Up Policed in the Age of Aggressive Policing Policies, 56 N.Y.L. Sch. L. Rev. 1331 (2011); Fine, M., N. Freudenberg, Y. Payne, T. Perkins, K. Smith, and K. Wanzer, "Anything can happen with police around": Urban youth evaluate strategies of surveillance in public places. *Journal of Social Issues* 59:141-58 (2003).

⁴The CATO Institutes National Police Misconduct Reporting Project 2010 Annual Report
<https://www.leg.state.nv.us/Session/77th2013/Exhibits/Assembly/JUD/AJUD338L.pdf>

direction of the NYPD though they are not themselves NYPD officers, with explicit inclusion of gender-based violence and sexual harassment through the 2019 New York City Charter Revision process. Currently, pathways for reporting harmful experiences with school safety agents and other peace officers must also go to the NYPD Internal Affairs Bureau. Young people who have experienced reportable harm by school safety agents must have their reports handled by the NYPD. CCRB can and should be the primary agency for these reports and should have the authority to make final disciplinary decisions in cases in which they already have oversight power, including “other related misconduct” which includes false statements, lying in official statements, and more.



Kelly Grace Price • co-creator, Close Rosie's • 534 w 187th st #7 New York, NY 10033
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January 22, 2019

NYC Council Committee on Public Safety

To: Councilmen Donovan J. Richards, Chair; Councilman Justin L. Brannan; Councilman Fernando Cabrera; Councilman Andrew Cohen; Councilman Chaim M. Deutsch; Councilwoman Vanessa L. Gibson; Councilman Rory I. Lancman; Councilman Carlos Menchaca; Councilman I. Daneek Miller; Councilman Keith Powers, Councilman Paul A. Vallone and; Councilman Jumaane D. Williams

cc: Public Advocate Corey Johnson; Councilwoman Helen Rosenthal; Councilman Daniel Dromm; Manhattan Borough President Gale A. Brewer.

via email

Ref: Oversight – CCRB Reporting; Intro 1106

Dear Chair Richards, Committee Members and Committee Counsel(s):

I thank you for holding this hearing and also the other members of the council and staff for allowing me to submit this testimony today. I am Kelly Grace Price of Close Rosie's (<http://www.CloseRosies.org>) and I ask you to listen to three topics regarding CCRB workflow that I urge you to prioritize:

- 1) Potential Reporting Provisions to Intro 1106;**
- 2) Sexual Assault and Harassment complaints;**
- 3) The CCRB does NOT respond to initial complaint allegations within 48 hours**

As a survivor of sexual violence (many times over) who was re-victimized by the "criminal justice" system when I turned to police for assistance in extracting myself from a life-threatening situation and denied justice I have made many CCRB complaints. As a result of my false arrests, unlawful detention on Rikers Rose M Singer Center, and malicious prosecutions (I had all false 324 charges DISMISSED) I have been demarcated in all NYPD databases as a person that is not to receive police services and subject to denial of services, refusal of protections, unlawful surveillance, ridicule, shame, sexual harassment, sexual assault and physical assault at the hands of the NYPD. These harms have arisen because of the NYPD's policy of State Created Danger toward me

and I literally have no one to turn to complain to except for the CCRB and the SDNY. Frankly I have had more progress in the SDNY than the CCRB is producing answers and outcomes to my byzantine situation. At every interaction with the police and DA's office now I am denied services and protections, harassed sometimes because of my disability or ordered to go to the psych ward even when my mental health diagnosis is not presenting symptoms. Because of this and I continually make CCRB complaints. I have a lot to share and I hope you find my comments useful:

Potential Reporting Provisions to Intro 1106:

- a. The council could consider adding a provision that **requires the CCRB to document the number of complaints converted/on-passed to the NYPD for investigation** that are initially investigated by the CCRB and deemed to fall outside of the agency's charter. Currently I have made several complaints that fall outside of the charter of the CCRB and have NEVER been informed that my complaint has been on-passed to IAB for investigation. Also, I have never been given a determination as to the outcome of many of my requests. Please see a recent correspondence from November of 2018 (between myself and the CCRB) regarding this issue (See Exhibit 1).
- b. The council could consider adding a provision to Intro 1106 that requires the CCRB to **report on the duration between individual complaints and the when the complainant is informed of that investigatory outcome;**
- c. The Council could consider adding a provision to Intro 1106 that requires the CCRB to **report on the number of complaints pending by duration;**
- d. The Council could consider adding a provision to Intro 1106 that requires the CCRB to report on **the number of investigative outcome notification letters returned to the CCRB that never reach complainants.** Currently there is no data available about how long a complainant has to wait before being updated about the status of their complaint. This is particularly harmful to survivors of sexual assault and harassment who often have to flee their homes and relocate into temporary living situations without forwarding addresses. I encourage the Council to mandate better reporting processes and guarantees before the CCRB is allowed to proceed with stage II of its sex harassment and assault investigations into complaints made by civilians of uniformed and ununiformed members of the NYPD. This is an HUGE issue that I have tried to flag to the Downstate Coalition vs. Sexual Violence and the Women's Issue Committee but it has not taken hold.
- e. The Council could consider adding a provision to Intro 1106 that **requires the CCRB to provide a full and complete accounting of an individual's previous/pending CCRB complaints** upon request to that individual that includes: date of initial report; date of conclusion; date complainant was informed of income; method of reporting to complainant and outcome of the complaint(s).
- f. The Council could consider adding a provision to Intro 1106 that **requires the CCRB to provide**

- a full and complete accounting of the time between receiving the initial complaint and responding to the complainant.**
- g. There are many people who have been banned from the “Mediation” option with the NYPD instead of choosing a full CCRB investigation. I am one of these people and this practice is selective and exclusionary and denies me many constitutional rights. The NYC Council could consider adding a provision to Intro 1106 that requires the CCRB to provide a full and complete accounting of all people who have been denied the ability to enter into mediation with the NYPD as an option instead of a full CCRB investigation.
- 4) **Sexual Assault and Harassment complaints: aside from the comments I have already provided the board in previous years about the need for the introduction of FETI techniques and investigators into the CCRB workflow I have major concerns about the back-end reporting procedures and responsibilities that the agencies has to complainants alleging sex assault and or harassment at the hands of the NYPD.** Because my abuser was an asset to the NYPD and the MDAO and I was demarcated on the NYPD “do not serve list” under the instruction of the MDAO, I have complained numerous times to the CCRB about the NYPD refusing to take my complaints b/c I have been demarcated falsely as a “fabricator” in the NYPD’s Palentir/Cobalt databases (please see attached Exhibit 2 a letter from retired NYPD Lt Marc C Larocca who reports that the NYPD was instructed NOT to extend me services or investigate my claims of abuse at the hands of my intimate partner.)

Many on the City Council know my story already; as an innocent survivor of intimate partner violence and trafficking I was refused assistance in extracting myself from a relationship with a man who was involved in aiding the NYPD and MDAO in making large RICO busts of “gangs” in my neighborhood of gentrifying Southwest Harlem in the jurisdiction of the 28th precinct. In short: my abuser was useful to the authorities in providing proffer and assisting as a complainant in various fashions that forced testimony prescient to law enforcement’s gang enforcement program in my neighborhood. Many times I have been denied services, maligned by the NYPD and complained to the CCRB. A few examples of this harassment:

- a. In 2011 when I was arrested by the NYPD’s 28th pct. squad and held in the tank in their squad room I beseeched Detective Linda Simmons as to why she had never questioned my neighbors (two blocks from the precinct) about the abuse unhandred to me; never pulled my emergency room records proving my abuse or: asked to review photos of the many life-threatening injuries my abuser inflicted on me. Detective Linda Simmons responded to me: ***“Kelly, when you lay [sic] on your back and spread your legs I don’t stand over you and tell you how to do your job and I sure don’t expect you to tell me how to do mine.”*** At the time I was being viciously pimped and trafficked by my abuser and had gone to the NYPD asking for help in extracting myself from that situation...
- b. Later that day when Dt. Flowers of the 28th pct. escorted me through the tombs for intake into

the arraignments part at 100 Centre street he said to me: **"Miss Price you got between your legs something the dudes uptown and the dudes downtown want—I never seen anything like it."**

- c. Officers from the 28th pct. used to lean out of their second floor squad room window and "MOO" like a cow whenever I walked by the precinct when I still lived in the neighborhood.
- d. At an earlier date in 2010 a man who portrayed himself as an undercover police officer pretended to arrest me when I was being pimped and told me after he stripped me naked and handcuffed me that he would "let me go" if I "did him a favor." Later in 2013 I finally had the resolve to make a complaint about the incident to the DOI (the CCRB ignored me). The DOI on-passed my allegations to the NYPD SVU who in turn punted the investigation to the NYPD's IAB "squad 30." **The squad actually sent a NYPD IAB SGT who had been a client of mine when I was trafficked to investigate my allegation!** I never heard anything back about these allegations or the outcome after much back and forth with members of IAB squad 30 who were much more interested in investigating my relationship with disgraced NYPD Lt. Adam Lamboy and other members of the NYPD who had potentially been my client(s) when I was being trafficked (Lamboy had NOT been). But one of the people they sent to question me had actually been himself a client!!!

The CCRB must take on broader responsibility in regard to sex assault and harassment allegations made against uniformed and ununiformed NYPD staff but it must change its own workflow before taking on these new investigative roles.

e) **First the CCRB MUST find a better back-end methodology to keep survivors informed about allegations.** I have moved MANY times as I struggle to restore myself to the status I enjoyed before my false arrests and malicious prosecutions and keeping a steady address or a safe mailbox has been an huge issue for me. I don't believe I have ever heard the results of any of these complaints I have made because the CCRB only mails a physical letter when they have closed a case. This process MUST be updated. Survivors MUST know there is a path to justice and that those who assault, ridicule and mock us under the guise of protecting us will be held accountable. Maybe a secure database with a client-sided portal could be explored? Or a yearly summary of CCRB complaints could be posted within such a system for review by complainants? A single paper letter being sent out at an undetermined point in the future is NOT sufficient.

3. The CCRB does NOT respond to complaints within 48 hours despite the testimony presented earlier today by CCRB Board Members. This is an untruth. As proof I offer as example that just last week I made a complaint about a NYPD officer blocking my entrée onto the subway because I had my service dog, Frank Sinatra, with me and the officer, a member of TB 3, Officer Paluch, did not know the ADA or Frank's rights to accompany me everywhere I go under it. I made this complaint a week ago and still have not heard anything back from the CCRB (please find the complaint attached at Exhibit #3 to this testimony). I look forward to working with the

CCRB to investigate the discriminatory actions of this officer who had no right to handle me or prevent my egress on to the subway but I need to hear from investigators first.

Thank you for taking the time to read my concerns about the CCRB's current and future plans to address sex assault and harassment complaints by NYPD members vs. civilians and for considering my suggestions to improve Intro 1106.

Kelly Price

EXHIBIT 1

CCRB Intake (CCRB) Thu, Jan 3, 9:32 AM

CCRB Intake (CCRB)
<intake@ccrb.nyc.gov>

to: Grace <gorgeous212@gmail.com>

cc: "CCRB Intake (CCRB)" <intake@ccrb.nyc.gov>

date: Jan 3, 2019, 9:32 AM

subject: RE: 34 pct. refusing to take report april 16 2018

mailed-by: ccrb.nyc.gov

security: Standard encryption (TLS) [Learn more](#)

: Important mainly because you often read messages with this label.

Ms. Price,

Please be advised that the CCRB received the below mentioned complaint on April 17, 2018 and after careful review it was determined that it did not fall under our jurisdiction and was referred to The Office of the Chief of Department (OCD) under case number 201802997. You may contact them at 212-741-8401 in regard to the status of your complaint. Thank you.

CCRB Intake Unit

From: Grace [mailto:gorgeous212@gmail.com]
Sent: Thursday, January 03, 2019 9:16 AM
To: CCRB Intake (CCRB) <intake@ccrb.nyc.gov>
Subject: Re: 34 pct. refusing to take report april 16 2018

WHY HAVEN'T I HEARD ANYTHING BACK ABOUT THIS COMPLAINT???

On Mon, Jul 23, 2018 at 2:20 PM Grace <gorgeous212@gmail.com> wrote:

I haven't heard anything about this complaint.

OFFICIAL TEXT OF COMPLAINT.

Thank You For Filling Out This Form

Shown below is your submission to [NYC.gov](http://nyc.gov) on Tuesday, April 17, 2018 at 15:12:14

This form resides at <https://www1.nyc.gov/site/ccrb/complaints/file-online.page>

Name of Fields	Data
cfirstname:	Kelly
clastname:	Price
caddr:	534 w 187th st 7
ccity:	New York
cstate:	NY
czip:	10033
ccountry:	USA
cbirthmonth:	11
cbirthdate:	27
cbirthyear:	1970
chphone:	646
cbphone:	676
ccellphone:	1940
textpermission:	yes

mobilecarrier: Metro PCS
has_email: yes
cemail: gorgeous212@gmail.com
sex: Female
preferred_name: NA
referral: Other
howdidyouhear_other: I am a frequent reciepiant of NYPD abuse and courtesy.
AreYouAVictim: Yes
DidYouWitnessTheIncident: Yes
lmonth: 04
ldate: 16
lyear: 2018
ltimehr: 06
ltimeamin: 00
ltimeAMPM: PM
llocation: 34th pct. lobby
lborough: Manhattan
summons_arrest_associated
: No

story:

1. Reason for NYPD Contact: I have information from DHCR that on two separate occasions someone submitted false/fraudulent rent reduction requests on my behalf. The application process requires someone to fill out my personal information on a form, list the reasons a reduction is requested, and to SIGN my name on the form. This was done TWICE: once in September and once in Late October of 2017 on my behalf. I have suspicion that my landlord submitted these applications in order to try to thwart the process of me asserting warranty of habitability defenses in housing court. (In brief you cannot pursue rent reductions coterminiously w DHCR and Housing Court--so to initiate such a process would prohibit me from attaining resolution from housing court where we are currently embroiled in multiple litigations against my slumlord). I have the copies of the confirmation of request for investigation from DHCR but not the actual forms the landlord (or someone) forged my name on. The DHCR investigator told me I cannot have those that it i DHCR policy to only give out

copies of materials in their files when either a law enforcement request is made or a court subpoena is issued. I had copies of the letters from DHCR on my phone with the investigators contact information. 2. What Occurred After I went to the 34th pct. to report after texting with my squadron leader, DT Troppman about how to proceed: The community Service officer at the 34th pct., Perez, saw me sitting waiting to make a complaint and pulled the desk sergeant outside and told him not to help me. I overheard him telling the desk sgt that I had just had a CCRB complaint substantiated against another SGT in the 34th, Mateo. Perez commented to me as he passed by me that he was glad to see me smiling and that he had noticed that I had tweeted that I had my CCRB complaint substantiated against Mateo. Then I saw the Desk Sergeant pull aside officer Cumberbach who had not been helping people in the lobby with their complaints prior--another young latina woman was doing the triage with people trying to make complaints. After the desk sgt pulled aside Cumberbach officer Cumberbach: shield 22517 motioned to me to tell him about my complaint. He was very rude and curt and told me that since no harm had resulted from my landlords forgery that he couldnt take my complaint. I was incredulous. I argued that a forgery is a forgery and that I will be going to law school and have been studying diligently and that I know the NYS CPLR states that it is 1) a felony to forge my name on a document, 2) it is a felony to possess the forgery, and 3) a felony to submit the document in an official capacity. I pointed out that there is no stipulation in the statutory language that harm needs to result to the victim of the forgery for the statute to be enforced. Then Cumberbach told me that since I didnt have the letters from DHCR printed out that he couldnt take my complaint. I told him I was happy to email them to Perez to share with him as I had Perezs email already. Then Cumberbach told me that I couldnt be sure that my landlord had been the forger and I agreed that I didnt know who had done it but that my landlord had forged my name before on another document that the housing court judge had ruled he had forged three years ago and that this pattern was highly likely to have continued in this case. Then Cumberbach gave me MORE double talk and I asked to speak with his supervisor. He sneered at me and

huffed away. 3.) what transpired at the 34th pct. when I asked to speak with a supervisor about my complaint of SIX counts of felony forgery my landlord committed: I sat on the bench for another 45-50 minutes and then politely asked the desk SGT, SGT Long Badge 2487 if he was going to speak to me. He had been at his desk talking and guffawing with a red-haired uniformed officer the entire time. He stomped over and started giving me the business. I casually turned on my cell phone to video tape him midway through his skree about how the agency probably just made a filing mistake. Here is the link to the video: <https://youtu.be/4iyFewdHYMc> see how he uses his police training to keep switching the conversation back and forth always keeping one step ahead of my answers to his questions by gaslighting and reversing? This technique that the SGT employed feels like it was taught as an NYPD academy maneuver in its Intro to Policing 101 class... I informed the sgt that I had him on video with his doubletalk, called him a cocksucker to his face and left the precinct. THIS COMPLAINT IS ABOUT COMMUNITY SERVICE OFFICER PEREZ, SGT LONG AND P.O. CUMBERBACH REFUSING TO TAKE MY COMPLAINT AND BEING DISCOURTEOUS AND DENYING ME MY DUE PROCESS AND EQUAL PROTECTION CONSTITUTIONAL RIGHTS. COURTESY PROFESSIONALISM RESPECT?????

wwho1: Victim
wfirstname1: Kelly
wlastname1: Price
waddr1: 534 w 187th
wcity1: New York
wstate1: NY
wzip1: 10033
wbirthmonth1: 11
wbirthdate1: 27
wbirthyear1: 1970
wcountry1: USA
whphone1: 646
wbphone1: 676
wcellphone1: 1940

wemail1: gorgeous212@gmail.com

lrank1: Sergeant

llastname1: PEREZ

lgender1: Male

lrace1: Hispanic

lpct1: 34

lplcth1: Plainclothes

lftcar1: On Foot

ldescrip1: LATINO LATE 30S EARLY 40S PUDGEY, HEAVY SET
RECEDING HAIRLINE OILY SKIN SNEER ON HIS FACE.
HE IS THE COMMUNITY SERVICE OFFICER FOR TH 34TH
PCT

lrole1: PLEASE READ PRIOR: PEREZ THWARTED MY
COMPLAINTS BEING FILED BY INSTRUCTING THE DESK
SGT NOT TO ASSIST ME

lrank2: Police Officer

llastname2: CUMBERBACH

lgender2: Male

lrace2: Black

lpct2: 34

lshld2: 22517

lplcth2: In Uniform

lftcar2: On Foot

ldescrip2: LATE 20S OR 30S PO AFRICAN AMERICAN MALE
APPROX 62, 230 LBS BROWN EYES BLACK HAIR LOTS
OF DENTALWORK

lrole2: OFFICER CUMBERBACH REFUSED TO GIVE ME A
PRIVATE PLACE TO EXPLAIN MY COMPLAINT SO I HAD
TO SPILL MY PERSONAL DETAILS IN FRONT OF 15
PEOPLE WAITING IN THE SMALL AEDICULE IN THE 34TH
PCT LOBBY. HE WAS COMBATITIVE AND TRIED TO
CONVINCE ME THAT SINCE MY LANDLORDS ILLEGAL
FORGERY SCHEME BROUGHT ME NO HARM B/C I
CAUGHT HIS FORGERY IN TIME TO PREVENT HARM
THAT IT WASNT A CRIME. THEN HE TRIED TO TELL ME
THAT I HAD TO POSESS A COPY OF THE FORGERY FOR
THERE TO BE AN INVESTIGATION. PLEASE SEE PRIOR

OUTLINE FOR COMPLETE RUNDOWN OF
CUMBERBACHS VIOLATIONS OF MY CIVIL RIGHTS

lrank3: Sergeant

llastname3: LONG

lgender3: Male

lrace3: White

lpct3: 34

lshld3: 2487

lplcth3: In Uniform

lftcar3: On Foot

ldescrip3: <https://youtu.be/4iyFewdHYMc>

lrole3:

what transpired at the 34th pct. when I asked to speak with a supervisor about my complaint of SIX counts of felony forgery my landlord committed: I sat on the bench for another 45-50 minutes and then politely asked the desk SGT, SGT Long Badge 2487 if he was going to speak to me. He had been at his desk talking and guffawing with a red-haired uniformed officer the entire time. He stomped over and started giving me the business. I casually turned on my cell phone to video tape him midway through his skree about how the agency probably just made a filing mistake. Here is the link to the video: <https://youtu.be/4iyFewdHYMc> see how he uses his police training to keep switching the conversation back and forth always keeping one step ahead of my answers to his questions by gaslighting and reversing? This technique that the SGT employed feels like it was taught as an NYPD academy maneuver in its Intro to Policing 101 class... I informed the sgt that I had him on video with his doubletalk, called him a cocksucker to his face and left the precinct.

true/false: true

Email:

EXHIBIT 2

12/18/2015 09:23 7273754584

SILVIA LAROCCA

PAGE 01/01

DECEMBER 18, 2015

My name is Mark Christopher LaBee. I worked as a Lieutenant in the New York City Police Department from 1997 to 2013 assigned to the 028 Precinct in Manhattan. Circa 2010 and 2011, I had several conversations with Mrs. Kelly Price in which she claimed to be a crime victim, specifically a victim of domestic violence.

During my interviews of Mrs. Price, I found her allegations of abuse, to be credible and with merit. I felt there was sufficient evidence to prepare Complaint Reports to document these allegations which would then be further investigated by the Precinct Domestic Violence Officers and/or the Precinct Detective Squad.

After speaking with the Detectives regarding Mrs. Price's allegations, I was informed that prior to a report being further investigated, a phone call to someone in the Manhattan District Attorney's Office who was familiar with Mrs. Price's history of reporting crimes needed to be consulted.

Mrs. Price informed me that she felt that hindered her ability to receive fair treatment regarding the investigation of her complaints. I informed her that as a victim, she should speak with the supervisor of the person at the Manhattan District Attorney's Office handling her complaints if she felt her complaints were being stonewalled and not acted upon in a fair manner.

MARK C. LaBee
Mark C. LaBee

EXHIBIT 3

Thank You For Filling Out This Form

Shown below is your submission to **NYC.gov** on Wednesday, January 16, 2019 at 16:46:25

This form resides at <https://www1.nyc.gov/site/ccrb/complaints/file-online.page>

The following files were uploaded to the NYC.gov Portal:

Drvc_VGX0AAPHgW.jpg

Name of Fields	Data
first name:	Kelly
last name:	Price
address:	534 w 187th st 7
city:	New York
state:	NY
zip:	10033
country:	USA
birth month:	11
birth date:	27
birth year:	1970
phone:	6465130587

phone:	676
cellphone:	1940
textpermission:	no
mobilecarrier:	N/A
is_email:	yes
email:	gorgeous212@gmail.com
sex:	Female
preferred_name:	NA
referral:	Other
howdidyouhear_other:	Regular Customer
areYouAVictim:	Yes
didYouWitnessTheIncident:	Yes
month:	11
date:	10
year:	2018
time:	10
time_memin:	45
timeAMPM:	PM

Location: uptown 2/3 track platform in the 42nd st subway station

Neighborhood: Manhattan

Incidents associated with arrest: No

Incident description: While trying to embark onto the uptown 2/3 track in the 42nd st station P.O. Paluch came up behind me and grabbed my arm and attempted to detain me prevent me from boarding car 1397 around 10:45 p.m. bc I was accompanied by my AmericanDisabilityAct ServiceDog, FrankSinatra . I asked him to let go of my right elbow and to allow me to proceed onto the train (I was halfway in the car when he grabbed my arm and refused to let go). Paluch refused to let go of my arm until I provided proof that Frank is an ADA ServiceDog- which is an illegal request under the Federal ADA. Frank has a tag from Health department which is NOT required that he wears but I did NOT show it to him because I dont have to. It is not required by law. I asked why Paluch didnt know the ADA he he sneered me with ridicule and asked if I had been DRINKING! The car was filled with passengers and I was humiliated. I yelled at Paluch to let go of me and to learn the ADA and his partner motioned for him to let me go. I recently saw Paluch AGAIN on the uptown 1 train last Tuesday January 9th. I was on the uptown 1 train and Paluch and his partner spotted me and stood in the next car watching me and my service dog laughing and making faces. When we reached 86th st on the uptown 1 train Paluch and his partner disembarked and stood outside of my subway car watching me and my service dog making jokes and whispering. I wasnt going to make this complaint because I looked up Paluch and saw he is a veteran but I will not be STALKED, MOCKED and Ridiculed by the people paid to protect me. Fck them!

Officer name: Police Officer

Officer last name: Paluch

Officer gender: Male

Officer race: White

ct1: Transit NYPD

hld1: ?

lcth1: In Uniform

car1: On Foot

escrip1: approx 62 to 64 shaved buzz cut light eyes and hair 220 lbs late 20s

role1: Please see above

rank2: Police Officer

gender2: Male

race2: Hispanic

ct2: Transit Bureau (3??)

hld2: ??

lcth2: In Uniform

car2: On Foot

escrip2: shorter, maybe 58 to 510: age 30s weight: 220 ish. Kind of a dick.

role2: This officer actually obstructed my passage down the platform when he spied me with my service dog. He gave me an incredulous look and literally snorted when I made my way around him to proceed down the platform. It appeared to me that he was supervising Paluch and that he was the one who instructed Paluch to illegally detain me. When I yelled at Paluch to let me go this officer nodded at Paluch.

is/false: true

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/22/19

(PLEASE PRINT)

Name: Nahal Zamani

Address: _____

I represent: Center for Constitutional Rights

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1261 Res. No. _____

in favor in opposition

Date: 1/22/19

(PLEASE PRINT)

Name: Jordan Jordan Wolk (Wolke)

Address: 301 E 87 St 125

I represent: Self

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/22/2019

(PLEASE PRINT)

Name: Kylyn Grier

Address: ~~177~~

I represent: Girls for Gender Equity

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Janetle Monroe - Elected Civilian Review

Address: Board #ECRB

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 01/22/2019

(PLEASE PRINT)

Name: PATRICIA OKOUMOU

Address: _____

I represent: ECRB

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/22/19

(PLEASE PRINT)

Name: ELIAS HOLTZ

Address: _____

I represent: CAMPAIGN FOR ELECTED CIVILIAN

Address: REVIEW BOARD

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Chair FREDERICK DAVIE (CCRB)

Address: 100 Church Street 10th Fl. NYC

I represent: CIVILIAN COMPLAINT REVIEW BOARD

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Executive Director Jonathan Davche

Address: 100 Church Street 10th Fl. NYC

I represent: CIVILIAN COMPLAINT REVIEW BOARD

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/22/19

(PLEASE PRINT)

Name: Synthia Conti-Cook

Address: 199 Water St, 6th Floor

I represent: Legal Aid Society, Special Litigation Unit

Address: 199 Water St, 6th Floor

Please complete this card and return to the Sergeant-at-Arms