2010
Annual Report

NYC | CIVILIAN COMPLAINT REVIEW BOARD

FORCE

ABUSE OF AUTHORITY

DISCOURTESY

OFFENSIVE LANGUAGE

MICHAEL R. BLOOMBERG, Mayor | ERNEST F. HART, Esq., Chair

CCRB Mission and Values

The New York City Civilian Complaint Review Board (CCRB) is an independent agency. It is empowered to receive, investigate, hear, make findings and recommend action on complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, discourtesy or the use of offensive language.

The Board's investigative staff, composed entirely of civilian employees, conducts investigations in an impartial fashion. The Board forwards its findings to the Police Commissioner.

In fulfillment of its mission, the Board has pledged:

- To encourage members of the community to file complaints when they feel they have been victims of police misconduct.
- To encourage all parties involved in a complaint to come forward and present evidence.
- To investigate each allegation thoroughly and impartially.
- To make objective determinations on the merits of each case.
- To recommend disciplinary actions that are fair and appropriate, if and when the investigative findings show that misconduct occurred.
- To respect the rights of the civilians and officers.
- To engage in community outreach to educate the public about the agency and to respond to concerns relevant to the agency's mandate.
- To report relevant issues and policy matters to the Police Commissioner.
- To offer civilians and officers the opportunity to mediate their complaints in order to promote understanding between officers and the communities they serve.

This report covers the period of January 2010 through December 2010
Volume XVIII, no. 2

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Letter from the Chair

CIVILIAN COMPLAINT REVIEW BOARD
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MICHAEL R. BLOOMBERG
MAYOR

ERNEST F. HART
CHAIR

JOAN M. THOMPSON
EXECUTIVE DIRECTOR

June 2011

Dear Members of the Public:

As Chair of the New York City Civilian Complaint Review Board (CCRB), I am pleased to present our status report for calendar year 2010.

The CCRB was established in 1993, as an independent entity, separate from the Police Department. The enabling legislation recognized that the linchpin of effective civilian oversight is the public's and the Police Department's confidence in the Board's investigations, confidence that its work is "complete, thorough and impartial." In 2010, there were three important milestones in our efforts to earn and maintain this confidence that I would like to highlight here.

First, there was an historic agreement between the CCRB and Police Commissioner Raymond R. Kelly to have CCRB attorneys act as lead prosecutors for a portion of the substantiated complaints that the Department Advocate's Office (DAO) brings to trial. This agreement builds on the Second Seat program, started in the fall of 2008, in which a CCRB attorney has been assisting the DAO's trial attorneys with some of their CCRB cases. In September 2010, the CCRB brought a former federal prosecutor on staff to head this pilot project, known as the Administrative Prosecution Unit (APU). Many in government and the non-profit sector have supported this initiative and I am optimistic that the benefit of CCRB's participation in the prosecutions of substantiated complaints will come to fruition in 2011.

Second, the Board is in a unique position to identify trends in misconduct complaints and make recommendations. In 2010, CCRB had discussions with the Department about an increase in the number of complaints it was substantiating from New York City Housing Authority (NYCHA) residents and visitors who said that they had been improperly stopped by police in and around NYCHA buildings. The agency recommended to the Police Department that officers who patrol NYCHA properties be retrained on the appropriate legal standard governing stops, specifically that an officer must have *reasonable suspicion* that a person has committed, is committing, or is about to commit a crime. In June, in response to our recommendation, the NYPD revised its Patrol Guide section governing patrols in NYCHA buildings. The new order makes clear that officers must have *reasonable suspicion* to stop a person who is inside, entering or exiting a NYCHA building. Plus, in the fall, the NYPD began special training for thousands of police officers who patrol NYCHA properties on the legal standard for stops.

Lastly, we continued to strengthen the dialogue between CCRB's legal staff and the DAO, which handles the initial evaluation of substantiated CCRB cases and the prosecution of those complaints that go to trial. This has contributed to the reversal of a three year trend in which the Department declined to seek discipline in roughly 30% of the substantiated misconduct complaints that the CCRB referred. In 2010, this rate dropped to 17%, which evinces increased Department confidence in CCRB investigations.

This report is streamlined to include relevant data and information in a straightforward and accessible format. Readers interested in a more detailed statistical view of the CCRB may access tables containing the raw data used for this report at the agency website, www.nyc.gov/ccrb, or call the CCRB at (212) 442-8848.

Sincerely,

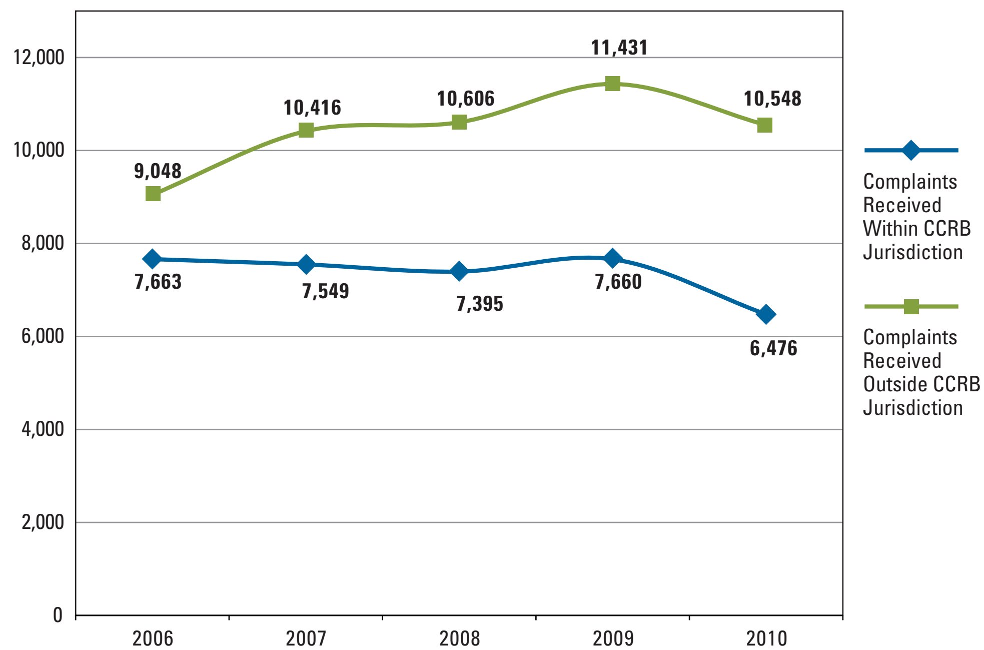
Ernest F. Hart, Esq.

Number of Complaints Received

The CCRB received 6,476 complaints within its jurisdiction in 2010. This is a 15% decrease from 2009, when 7,660 complaints were filed. It is also the lowest number filed since 2004 when the CCRB received 6,196 complaints. This decrease comes after four years of modest changes, with 7,663 complaints filed in 2006, 7,549 in 2007, and 7,395 in 2008.

In addition to complaints within its jurisdiction, the CCRB frequently receives complaints that fall outside its scope of authority. These complaints are entered into the agency's Complaint Tracking System (CTS) and referred to the appropriate offices – primarily the Police Department's Office of the Chief of Department (OCD) and the Internal Affairs Bureau (IAB). The agency made 10,548 referrals in 2010. This is a 7% decrease from 2009 when 11,431 referrals were made.

Total Complaints Received 2006–2010



See Complaint Activity Section - First Section: Number of Complaints Received

In 2010, the combined number of total filings (complaints handled by the CCRB and complaints referred elsewhere), fell 11%, from 19,091 in 2009 to 17,024 in 2010. (All numbers subsequently discussed in this report stem from only those complaints that are within the agency's jurisdiction.)

Fluctuations in the Complaint Rate

From the first quarter of 2006 to the third quarter of 2009, the CCRB received an average of 600 or more complaints per month, with the exception of one quarter. During this period, most quarters averaged between 630 and 640 complaints per month. Complaint activity reached its peak in the first quarter of 2009, when the agency received an average of 685 complaints per month. However, the trend reversed in the last quarter of 2009, when the monthly average fell below six hundred. Since then the trend is clearly downward. In the first quarter of 2010, the average was 515, second quarter – 588, third quarter – 563, and in the last quarter of 2010, the agency received an average of 490 complaints per month, the lowest number since 2004.

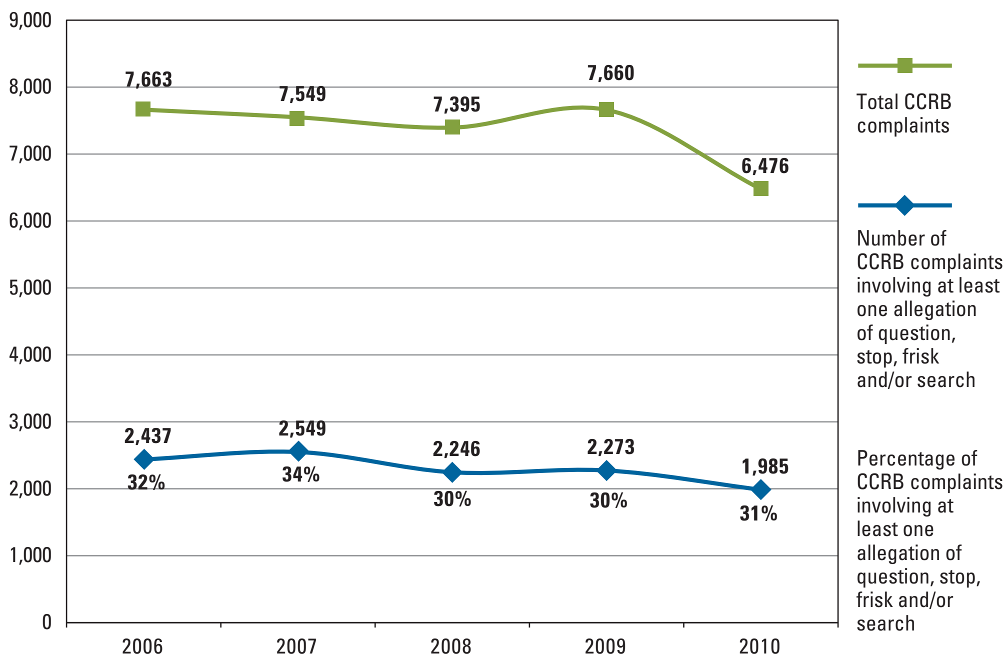
Method of Filing

In the past, the CCRB has noted that after its introduction in 2003, the City's 311-system contributed to the increase in complaints by facilitating more direct access to the agency. When the 311 Customer Service Center receives CCRB-related inquiries – the most important of which is the "police officer misconduct" inquiry – it transfers these calls to the CCRB intake center. Approximately 50% of all complaints are filed by phone with the CCRB.

An analysis of the five-year data shows that the public prefers using the 311 system over other methods for filing police misconduct complaints. In 2010, the 311 system transferred 14,167 calls to the CCRB. This is an 8% decrease from 2009 when the 311 system transferred 15,527 calls. In historical terms, the volume of phone calls transferred in 2010 is still high. The agency received 12,753 in 2006, 13,145 in 2007, and 13,831 in 2008.

The CCRB tracks complaint intake by another important yardstick – where complaints are reported.

Total CCRB Complaints Received vs. Percentage of CCRB Complaints Involving Stop, Question, Frisk and Search Allegations 2006–2010



There are two broad categories: one is a complaint filed directly with the CCRB (or 311) deemed CCRB-filed; and two, a CCRB complaint filed with the NYPD or NYPD-filed – primarily with the Internal Affairs Bureau, and also at police station houses. In 2010, 59% of all complaints were filed with the CCRB; in 2009, it was 60%.

The CCRB also tracks how civilians file complaints directly with the CCRB. There are four basic ways: in addition to by phone, people can file in person, by letter or fax, or online. Eighty-five percent of CCRB-filed complaints were reported by phone in 2010, 86% in 2009.

CCRB-filed complaints decreased 18%, from 4,630 in 2009 to 3,791 in 2010. More remarkably, that number is down 26% from 2006, when 5,152 complaints were CCRB-filed. The number of phone complaints decreased by 20%, from 3,998 in 2009 to 3,205 in 2010. That number is down 30% from 2006, when 4,549 complaints were reported directly to the CCRB by phone.

The impact of cell phones is reflected in the proportion of complaints filed directly with the CCRB on the same day or within the first 24 hours after the incident. In 2006, 35% of complaints were filed the same day and 55% within the first twenty-four hours after the incident. By 2010, 40% of CCRB-filed complaints were filed the same day and 60% within the first 24 hours.

Another important factor affecting the complaint rate is the number of NYPD-filed referrals alleging police misconduct. From 2006 to 2009, the number of NYPD-filed CCRB complaints increased by 20%, from 2,499 to 3,015. In 2010, this dropped 11% to 2,675.

"Stop and Frisk"

Since 2005, approximately one-third of all CCRB complaints involved allegations of improper stop, question, frisk or search. In past years, the CCRB noted a possible connection between fluctuations in the complaint rate and the number of stops documented by NYPD officers. From 2002 to 2005, CCRB complaints rose as stop-and-frisk encounters increased. Complaint activity stabilized around 7,500 complaints per year as stop-and-frisk encounters averaged approximately 500,000 per year, from 2006 to 2008, (508,540 in 2006, 468,932 in 2007, and 531,159 in 2008).

This connection between street stops and CCRB complaints was less clear in 2010. In 2009, complaints rose by 4% as stop-and-frisk encounters rose 8%, from 531,159 to 575,304. However, in 2010, stop-and-frisk complaints fell 15% as stop-and-frisk encounters increased 4% to an all time high of 601,055. Compared to 2006, complaints are down 15%, as stop-and-frisks are up 18%.

More notably, the ratio of stop-related complaints to stop-and-frisk encounters has changed. In 2006, the CCRB received one stop-and-frisk complaint per 207 encounters. The rate increased to one complaint per 183 encounters in 2007 when the CCRB received 2,559 stop-and-frisk complaints (the highest number ever). Since then, the complaint rate has dropped to one per 233 encounters in 2008, one per 253 in 2009, and one complaint per 303 encounters in 2010.

Characteristics of Encounters

When a complaint is being investigated, the CCRB tries to discern the initial reason for the contact between the civilian and the officer(s), which is clear in some encounters but not so clear in others. This "reason for contact" is one of the many variables that the CCRB tracks. The data show that fewer complaints stem from what is typically the most frequent reason for contact – an officer indicates that he or she suspected the civilian was committing a crime in the streets. In 2010, 26% of all complaints had this as the apparent reason for contact, which is the same proportion as in 2009. But the actual number of these complaints fell 15%, from 1,999 in 2009 to 1,692 in 2010.

Forty percent of all CCRB complaints stemmed from an encounter in which police apparently suspected that crime was occurring. Therefore, police activity as defined by the number of arrests, criminal court summonses issued, and stop, question and frisk reports provides a context in which to view changes in complaint activity. According to NYPD data, there has been an increase in these police-civilian encounters in recent years, from 1,438,403 in 2008 to 1,536,134 in 2009, to 1,557,655 in 2010.[1]

The data on the "attribution" of complaints also offers an insight into the drop in complaint activity. Attribution occurs when the CCRB can determine the assignment of the subject officer. From 2009 to 2010, there was an enormous decline, 25%, in complaints attributed to the category "undetermined command," usually because the officer was unidentified at the time the complaint was filed. This contrasts with complaints attributed to the Patrol Services Bureau – patrol boroughs, special operations, and other patrol services commands – which increased by 3%. Complaints attributed to specialized bureaus, such as Housing, Detectives, Organized Crime, and Transit declined by only 4%. (See the online appendices, Table 14, www.nyc.gov/ccrb.)

The CCRB also looks at whether an encounter leading to a complaint involved an arrest or summons. In 2010, 46% of all complaints involved no arrest or summons, which is the same proportion as in 2009. In actual number, these complaints fell 16%, from 3,537 in 2009 to 2,962 in 2010. Thirty-six percent of all complaints involved an arrest, which is the same proportion as in 2009. In actual number, these complaints fell 16%, from 2,746 in 2009 to 2,299 in 2010. Eighteen percent of all complaints involved the issuance of a summons, which is one percentage point higher than in 2009. In actual number, these complaints fell 11%, from 1,318 in 2009 to 1,170.

Types of Allegations Received

To better understand complaint activity, it is important to note the distinction between a "complaint" and an "allegation." Each individual complaint received by the CCRB can contain multiple allegations against multiple officers. Each allegation the CCRB investigates falls within one of the CCRB's four jurisdictional categories – Force, Abuse of Authority, Discourtesy and Offensive Language (FADO). The decline in the number of complaints is not reflected in any significant change in the nature of complaints and the patterns in allegations were generally consistent with the patterns reported in 2009.

In analyzing complaint activity by "types of allegations," the CCRB breaks down total complaints by the presence of one or more allegations of a particular FADO category. The distribution of complaints across these four categories remained the same from 2009 to 2010. In 2009, 52% of all complaints contained one or more Force allegations, compared to 51% in 2010. Sixty-three percent contained one or more Abuse of Authority allegations in 2009, compared to 62% in 2010. Forty-one percent of complaints contained one or more Discourtesy allegations in 2009 and 42% in 2010. The proportion of complaints containing one or more allegations of Offensive Language was 7% in 2009 and 2010. (See the online statistical appendices for a complete list of allegations, www.nyc.gov/ccrb.)

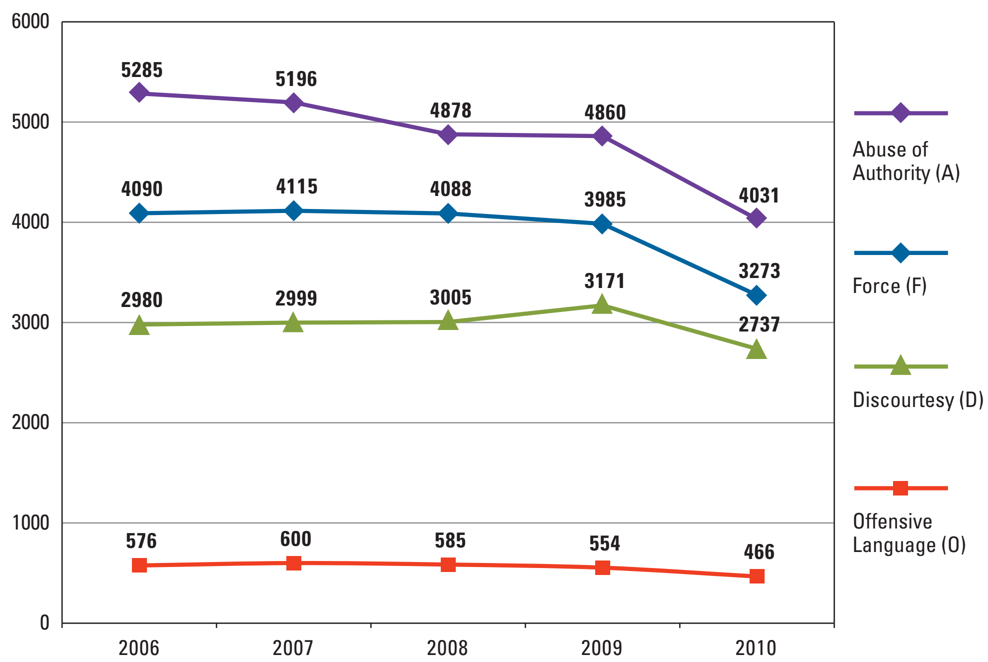
In the Force category, the CCRB designation of "physical force" remains the most common allegation by far. This refers to the officer's use of bodily force such as punching, shoving, kicking and pushing. In 2010, 71% of all allegations in the Force category, altogether 4,184 allegations, were physical force. The percentage of Force allegations characterized as physical force has remained roughly unchanged since 2005.

Another notable allegation in the Force category is "gun pointed," with 343 such allegations in 2010, or 6% of Force allegations. By contrast, "gun fired" allegations are quite rare, only 0.3% in 2010. Also of note, in 2010, the CCRB received 328 allegations

[1] Breakdown of these categories: Arrests – 400,381 in 2008; 420,095 in 2009; 421,179 in 2010. Summonses – 506,863 in 2008; 540,735 in 2009; 535,431 in 2010. Stop and Frisk Reports – 531,159 in 2008; 575,304 in 2009; 601,055 in 2010.

Complaints Received

Types of Allegations in Complaints Received 2006–2010



regarding improper use of pepper spray, or 6% of all Force allegations, and 323 allegations regarding the use of nightsticks, also comprising 6% of all Force allegations.

In the Abuse of Authority category, allegations of stop, question, frisk and/or search make up the largest portion of all allegations. As discussed above, the proportion of all CCRB complaints involving these allegations has remained unchanged in recent years. As a percentage of total allegations received by the agency, stop, question, frisk and search allegations comprised 21% in 2010, which is the same as in 2009. Stop, question, frisk and search allegations were 43% of all allegations in the Abuse of Authority category, nearly the same as 2009 when they were 42%. However, this has increased from 2006, when stop, question, frisk and search allegations were 38% of all Abuse of Authority allegations.

Of note, allegations that fall into the category "threat of arrest" were 9% percent of allegations in the Abuse of Authority category in 2010. Other notable allegations include "premises entered and/or searched," also 9%. "Vehicle stop" and "vehicle search" were a combined 10%. Likewise the allegation of "refusal to provide name and/or shield number," represented 10% of Abuse of Authority allegations.

In the Discourtesy category, the discourteous "word" category is most common, making up 94% of Discourtesy allegations, or 3,301 allegations in total. A small portion of allegations each year also involve discourteous "gestures," "actions" or "tone." In 2010, 4% or 146 allegations of discourteous "actions" were received, which is slightly lower than in previous years.

Distinct from the Discourtesy category is Offensive Language, which includes slurs, derogatory remarks and gestures based on a person's sexual orientation, race, ethnicity, religion, gender or disability. Offensive Language allegations make up a relatively small portion of all allegations received by the CCRB. In 2010, there were 554 allegations of Offensive Language, or 3% of all allegations across the four categories. By far the most common Offensive Language allegations are those regarding a complainant's race and/or ethnicity. In 2010, 70% or 386 of all Offensive Language allegations involved the use of racially offensive terms.

Location of Incidents Resulting in Complaints

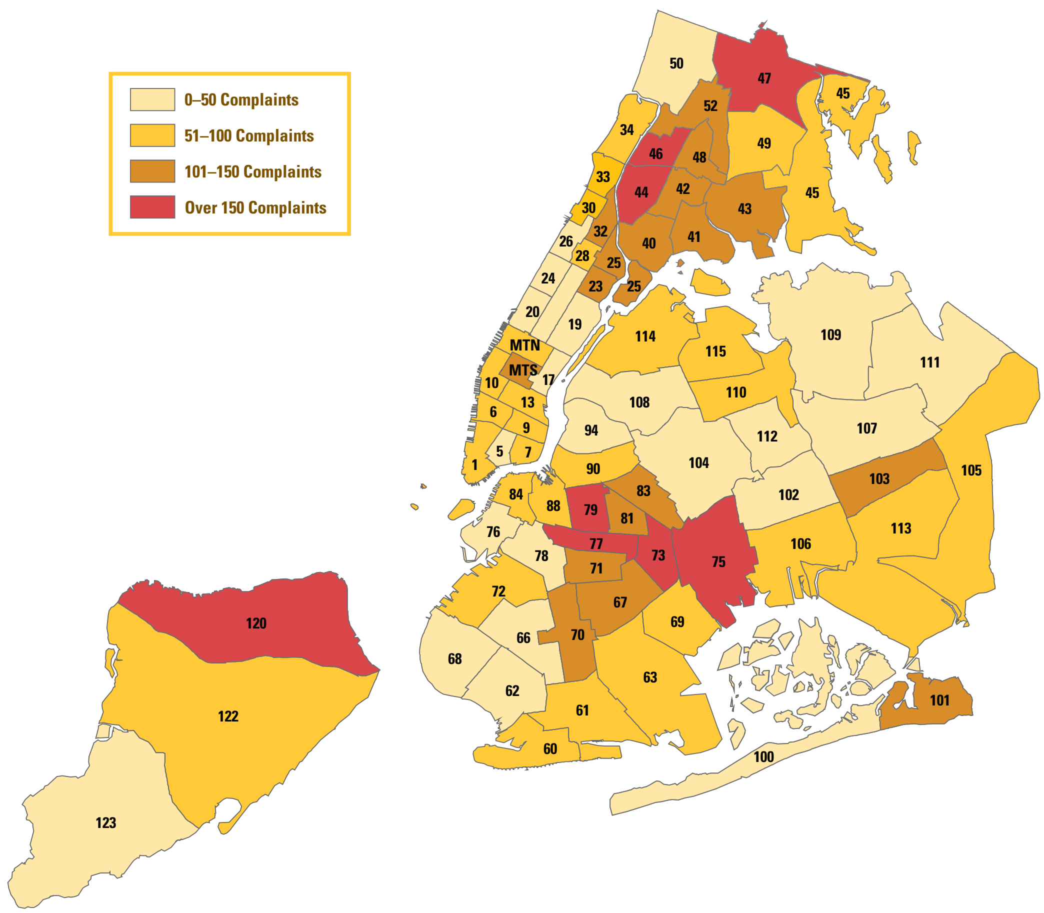
The map shows the density of complaints according to precinct of occurrence. It is important to note that the data presented does not reflect any factors that may influence the complaint rate, such as crime rate, precinct size, population density, or number of uniformed personnel assigned to a precinct or a specialized command within the precinct boundaries.

As complaint filings have decreased, the relative distribution of complaints has changed slightly. The proportion of incidents that occurred in Manhattan declined from 24% of all complaints in 2009 to 21% in 2010. The Bronx, Brooklyn, and Queens each increased their share of complaints by one percent (25%, 35% and 15% respectively), while Staten Island remained at 4%.

Comparing 2009 to 2010, 24% fewer complaints stemmed from incidents taking place in Manhattan. The decline in Brooklyn was 13%, in the Bronx – 12%, Queens – 11%, and Staten Island – 17%. In actual numbers, there were 438 fewer complaints from Manhattan, 342 fewer from Brooklyn, 223 fewer from the Bronx, 106 fewer from Queens and 55 fewer from Staten Island.

As in past years, the borough generating the greatest number of complaints was Brooklyn, with 2,218 complaints. Brooklyn's neighboring 73rd and 75th Precincts continue to have the highest number anywhere in the City, with 230 and 330 complaints respectively. The Bronx had the second-highest number of complaints – 1,617. The 40th, 42nd, 44th, 46th, 47th, and 52nd Precincts continue to have a relatively high number, with at least 140 complaints each.

Density of Complaint Filings January–December 2010 by Precinct

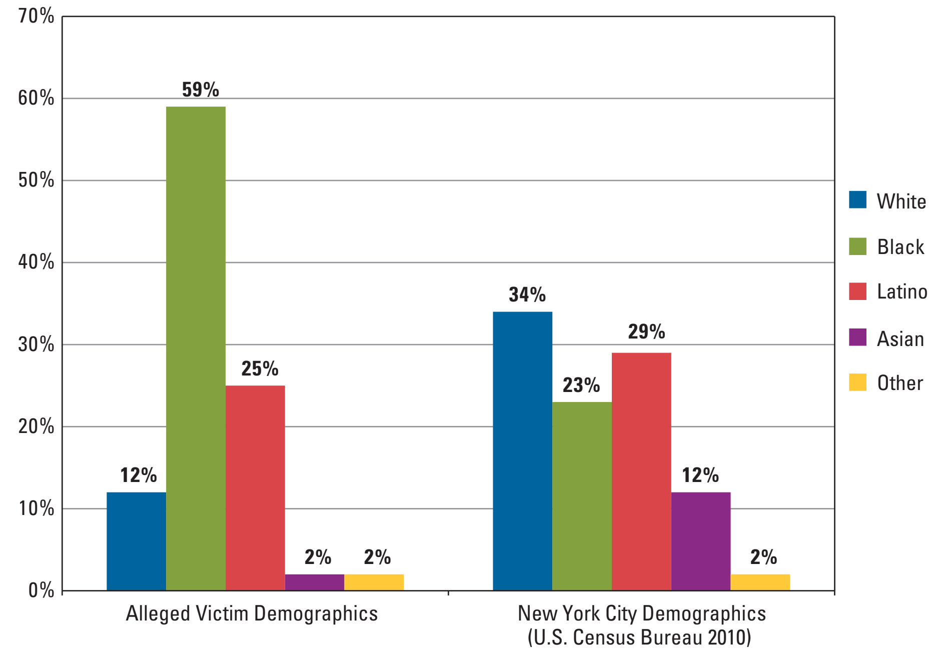


Characteristics of Alleged Victims

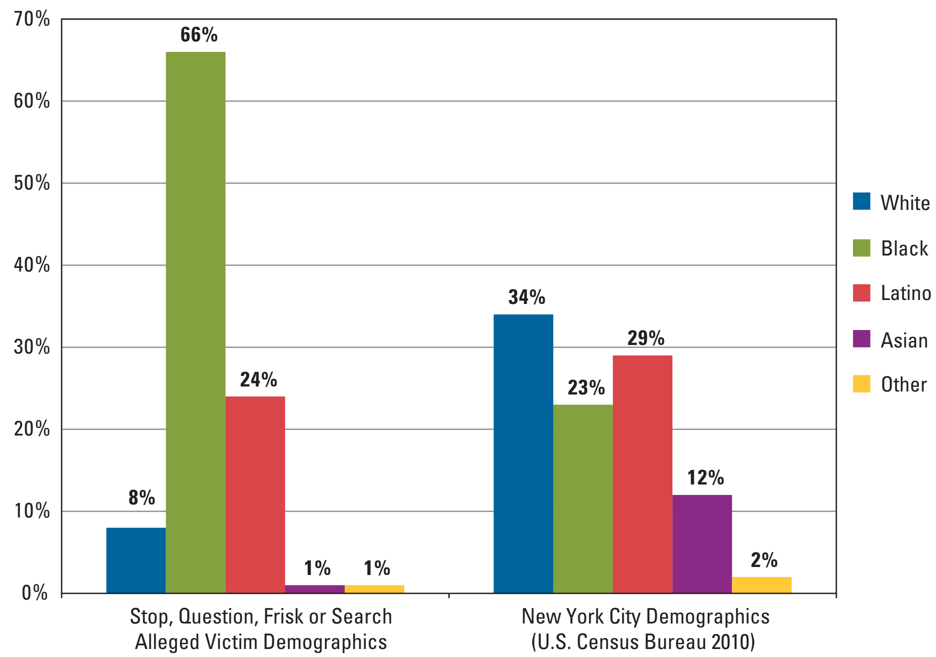
The percentage of alleged victims in CCRB complaints who are of a particular race or gender has been consistent over time and has differed from the City's population as reported in the United States Census or its updates. The CCRB compares the demographic profile of the alleged victims to the demographics of the City as a whole, without correcting for any other factors such as proportion of encounters with the police. In 2010, as in previous years, African-Americans were overrepresented as alleged victims. Although making up only 23% of New York City's population, they are 58.5% of the alleged victims in CCRB complaints. On the other hand, whites and Asians were a disproportionately low percentage of alleged victims. In 2010, 12% of alleged victims were white, and 2% were Asian, though they make up 34% and 13% of New York City's population, respectively. The percentage of Latino victims was comparable to the population. Latinos were 25% of alleged victims in CCRB complaints and 29% of the population.

These numbers have remained fairly consistent over the last five years, with between 56% and 58% of all alleged victims being African-American. Latinos have consistently made up between 23% and 26% of alleged victims, and Whites between 12% and 14%. Asians have never made up less than 2% or more than 3% of all alleged victims. Each year, approximately 3% of alleged victims are classified as "other."

2010 Alleged Victim Demographics Compared to New York City Demographics



2010 Alleged Victims by Race in Stop, Question, Frisk and Search Complaints vs. New York City Demographics



The difference between the CCRB's alleged victim population and the New York City population as a whole is even more pronounced when examining complaints of stop, question, frisk or search. The statistics for 2010 present differing variations depending on race. In 2010, 66% of the alleged victims in CCRB complaints involving stop, question, frisk or search were African-American, an increase from an average 63% during the period 2006 to 2009. In these same types of cases, the percentage of white alleged victims declined from 9% to 8%. Latinos were 24%, unchanged, and 1% were Asian, which is also unchanged. Two percent of civilians were categorized as "other." In actual numbers, African-American alleged victims in stop-and-frisk complaints decreased by 8%, from 1,582 in 2009 to 1,459. At the same time, the number of Latinos decreased by 15%, from 611 in 2009 to 521 in 2010. White alleged victims decreased 25%, from 230 to 178.

Characteristics of Subject Officers

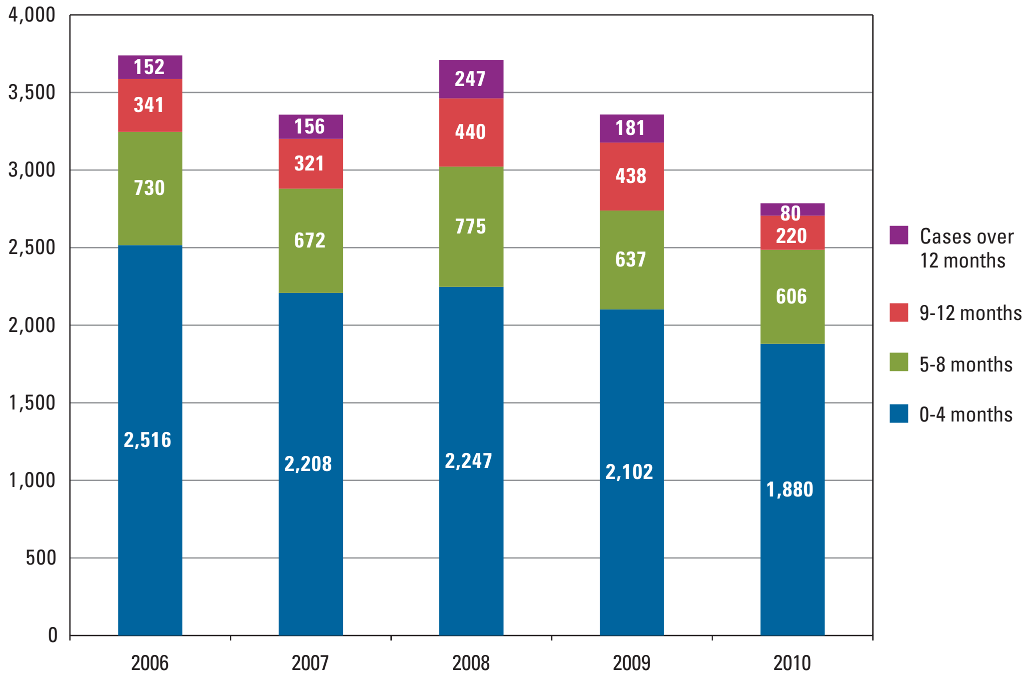
While the race of alleged victims in CCRB complaints differs from New York City's population, the subject officers have historically reflected the racial makeup of the Police Department. This trend continued in 2010 when 50% of subject officers were white, and whites are 53% of the Department; 17% of subject officers were black, while black officers are 16% of the Department; 29% were Latino, while Latinos make up 26% of the Department; and 4% were Asian, while Asians make up 5% of the Department.

Male officers are overrepresented as the subjects of CCRB complaints. In 2010, consistent with past years, male officers received 89% of all CCRB complaints while making up 83% of the Department.

Docket Size

The CCRB uses the term "open docket" to refer to the number of complaints that are not yet resolved and are being processed by the agency at a given point in time. The goal is to achieve the lowest possible number. The term "year-end docket" refers to the number of complaints still open as of December 31st of a given year. The size of the CCRB's year-end docket for 2010 was 2,786 complaints. This is 17% lower than the 2009 year-end docket of 3,358 complaints and 25% lower than 2006, when there were 3,739 open complaints.

Size and Age of Open Docket 2006–2010



Several factors explain the 2009 to 2010 decrease. Although the Board closed fewer complaints in 2010 than in 2009, 7,041 compared to 8,083, the Board closed more complaints than it received. This increase in closures kept the size of the year-end docket from growing. Equally important, the CCRB was able to reduce the number of cases that were five or more months old. As the docket fell by 572 cases, two-thirds – 358 – were five months and older.

Another reason for the decrease in the year-end docket is investigator productivity. In the past two years, despite staff reductions, the average number of cases completed per investigator has increased. On average, each investigator completed 72 cases per year in 2009 and 2010, 61 in 2008, 55 in 2007 and 51 in 2006. As a result, the docket of the Investigations Division (cases under current investigation before they are submitted for Board review) has decreased by 42% in the last two years. The Investigations Division open docket was 2,332 in 2006, 2,280 in 2007, 2,603 in 2008, 2,024 in 2009 and 1,504 in 2010. This is the lowest Investigations Division docket since 2002.

Age of the Docket

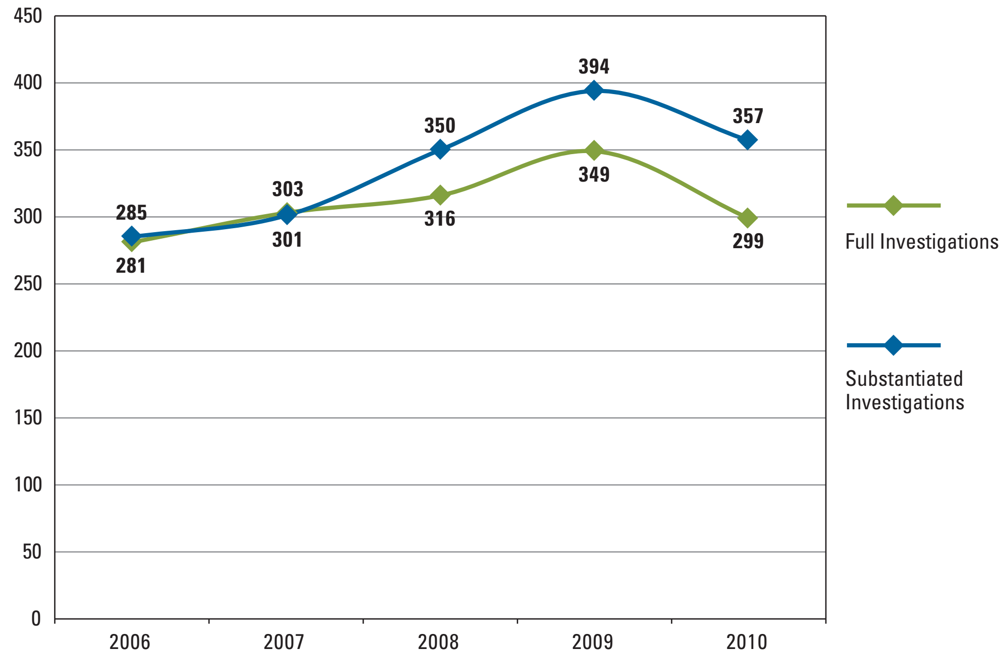
The greater the percentage of newer complaints in an open docket, the better the productivity. At the end of 2010, 68% of open complaints – 1,880 – were four months old or less from the date of filing. This is 5% higher than 2009, when 63% of open complaints were four months old or less.

At the same time, the percentage of "old" cases dropped. In 2009, complaints 12 months and older from the date of filing were 7% of the docket. This figure decreased to 4% in 2010. In 2006, it was 5%. Likewise, the percentage of complaints 15 months or older was reduced from 2.3% of the open docket in 2009 to 1.6% in 2010.

In looking at the age of the docket from the perspective of the date of incident, there was also improvement. This is relevant because the statute of limitations requires that charges be brought against a police officer within 18 months of the date of the incident. The number of cases aged 15 months or more fell from 104 in 2009, or 3.1% of the agency's open docket, to 52, or 1.9% in 2010.

Agency Productivity

Average Number of Days to Investigate 2006–2010



Average Case Closure Time

The average time it takes to close a CCRB complaint provides another lens through which to examine case processing productivity. This measure looks at the length of time from the date the CCRB receives a complaint to the date a complaint is closed by either a three-member panel of the Board or the full Board. The CCRB uses two yardsticks: the time to complete a full investigation and the time needed to close a substantiated investigation.

The CCRB took an average of 299 days to complete a full investigation in 2010, a decrease of 14% from the average of 349 days in 2009. The agency considers case closures as a two-step process. Step one is the investigation. Step two occurs after the investigation is completed and the case is prepared for and is reviewed by the Board. In 2010, the average time for step one – investigation – was 235 days, which was 51 days shorter than in 2009. Step two was 64 days, one more day than in 2009.

The time needed to close a substantiated investigation also decreased in 2010. The CCRB took an average of 357 days to close a substantiated investigation, a 9% drop from the average of 394 days in 2009. However, the 2010 case closure time is 25% longer than in 2006, when it was 285 days.

The decline in case closure time for substantiated cases resulted in a significant decrease in the number of cases referred to the Police Department that were 15 or more months from the date of incident. In 2009, 71 substantiated cases (36%) fell in this age range, compared to 2010 when there were 45 cases (or 17%) this age.

Understanding the CCRB's Disposition Statistics

To understand the CCRB's complaint dispositions, it is important to distinguish a "complaint" from an "allegation." A complaint is a case, stemming from a civilian encounter with police, in which the civilian believes the officer or officers committed acts of misconduct. In contrast, an allegation is the specific act or acts of misconduct that the civilian alleges occurred. It is an accusation, yet to be proven, that a police officer violated a policy, procedure, rule, regulation or law which may ultimately lead to discipline. In some instances, a complaint has a single allegation against a single officer. In most cases, however, a complaint has multiple allegations against one or more officers.

In 2010, as in 2009, 30% of complaints received by the CCRB consisted of one allegation only; 41% contained two or three allegations; 25% contained four-to-nine allegations; and 3% of all cases involved ten or more allegations. Sixty-one percent of complaints were made against one officer; 23% against two officers; and 16% against three or more officers.

While the Board evaluates a complaint in its totality, it makes findings on the specific misconduct allegations made in the complaint. For example, a complainant may allege that he was unfairly stopped and frisked, spoken to discourteously and that in the course of the stop the police officer used unnecessary force. Each of these – the stop, frisk, discourtesy and force – will be a separate allegation which will be investigated. When the investigation is done, the Board will assess individually the evidence and witness statements pertaining to each allegation. The Board could find that the stop and frisk were allowable given the circumstances, that there was inadequate evidence to determine whether the officer spoke discourteously and that the force used by the officer was unnecessary and therefore misconduct. Hence, the Board would find the stop and frisk allegation "exonerated," the discourtesy allegation "unsubstantiated" and the force allegation "substantiated."

In a complaint such as this example, the Board would forward the case to the Police Commissioner and recommend appropriate disciplinary action on the substantiated allegation, regardless of the findings on other allegations raised in the case. In addition, the CCRB will send a letter to the complainant and the officer informing them of the Board's findings. In those complaints where the Board does not find misconduct, the Board informs the parties of the disposition by letter, but it does not forward the case to the Police Commissioner.

It is also important to understand the difference between a "full investigation" and a "truncated case." A full investigation is a complaint in which an investigator is able to conduct a complete inquiry. A truncated investigation is one where the case has to be closed before it is fully investigated. Reasons for truncations include: the civilian withdraws the complaint; the civilian cannot be located; the civilian is uncooperative; and the civilian is unidentified.

Disposition of Complaints

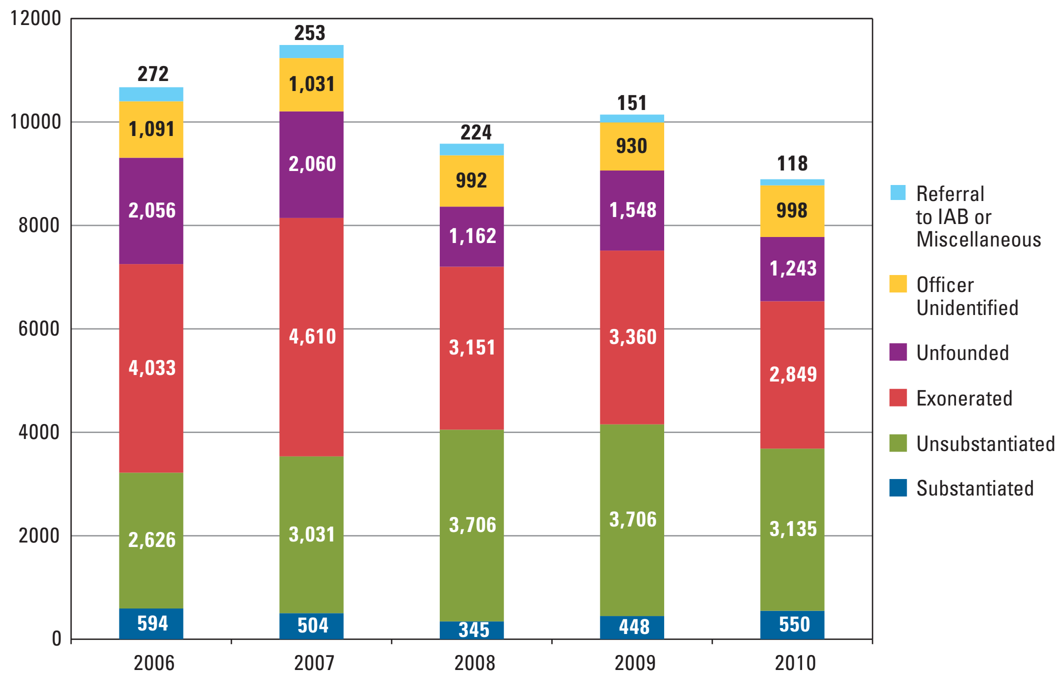
After a full investigation, if the Board finds misconduct in one or more of the allegations, then the complaint is deemed substantiated. Cases in which no allegation is substantiated are either deemed exonerated, unfounded, or unsubstantiated. In relatively few cases, the officers are unidentified, or the officer is no longer a member of the NYPD.

The CCRB's investigative findings are categorized by assigning a single disposition or outcome label to each complaint, allowing analysis by disposition. One figure of great consequence is the rate at which fully investigated complaints are substantiated, called the "substantiation rate." In 2010, the CCRB completed 2,424 full investigations, substantiating at least one allegation in 260 complaints, or 11%.

The 2010 substantiation rate was 4% higher than the 7% substantiation rates for 2008 and 2009. In 2010, in actual numbers, there were more substantiated cases – 260 – than in 2008 and 2009, when the Board substantiated 161 and 197 complaints, respectively. In 2007, the Board substantiated 216 complaints or 8% and in 2006, there were 264 substantiated complaints, 10%. The average substantiation rate for the five-year reporting period was 9%.

In the analysis of complaint dispositions, another relevant statistic is the truncation rate. This rate refers to the proportion of all case closures that are truncated. In 2010, the truncation rate was 61%, or 3% lower than in 2009. The rate was 60% in 2006, 62% in 2007, and 65% in 2008. The average truncation rate for the five-year reporting period was 63%.

Disposition of All Allegations in Full Investigations 2006–2010



allegations were deemed unsubstantiated.

By comparison, allegations closed as "officer(s) unidentified" were 11%. From 2006 to 2009, the proportion of officer(s) unidentified allegations fluctuated from 9% to 10%. An officer unidentified disposition may occur in cases in which all officers are unidentified or in cases in which some of the officers are unidentified. In 2010, there were 998 allegations closed as officer(s) unidentified, but only 128 cases, 5% of all full investigations, were closed as officer(s) unidentified because all officers in that complaint remained unidentified at the end of the investigation.

Disposition of Allegations

The CCRB's complaint dispositions can also be analyzed by tallying the individual disposition of each allegation the CCRB fully investigates. Two numbers are important. One is the rate at which the CCRB makes "findings on the merits." This number includes those allegations resolved as "substantiated," "exonerated," or "unfounded." These findings result when the agency obtained sufficient credible evidence for the Board to reach a factual and legal determination regarding the officer's conduct.

Of the 8,893 allegations the CCRB fully investigated in 2010, 4,642 allegations, or 52%, were closed with findings on the merits, compared to 53% in 2009. In 2006, the CCRB made findings on the merits 63% of the time, in 6,683 allegations.

One of the main reasons behind the drop in the rate of findings on the merits is an increase in the rate of unsubstantiated allegations. In 2010, 3,135 allegations were unsubstantiated or 35%. While this is lower than the 39% (3,706) in 2008 and 37% (3,706) in 2009, it is a significant rise from 2006 and 2007, when 25% (2,626) and 26% (3,031) of all fully investigated

The other key figure is the "substantiation rate by allegation," which was 6% in 2010. From 2006 to 2009, the rate averaged 4%. Small change or no change was seen in the substantiation rate for all four categories of CCRB allegations – Force, Abuse of Authority, Discourtesy, and Offensive Language. In 2010, 54 Force allegations, or 2% were substantiated, versus 50 allegations, also 2%, in 2009. For Abuse of Authority, 449 allegations, or 10% were substantiated, while in 2009, only 351, or 7% were substantiated. For Discourtesy, 46 or 3% were substantiated, while 40 or 3% were substantiated in 2009. Five Offensive Language allegations, or 2% were substantiated in 2010, compared to three such allegations, or 1% in 2009.

In the online statistical appendices (www.nyc.gov/ccrb), the CCRB includes extensive information concerning Board dispositions by allegation. For example, Tables 26 A-E show that in 2010, allegations of "vehicle search" were exonerated at a rate of 38%, the same as in 2006. However, these tables also show that vehicle search allegations were more likely to be unsubstantiated in 2010 (39%) than in 2006 (26%).

Other Misconduct

When a CCRB investigation uncovers evidence of certain types of misconduct that do not fall within the agency's jurisdiction, the Board will note "other misconduct" and refer the case to the NYPD for possible disciplinary action. From 2006 to 2010, the CCRB referred 786 complaints containing 1,279 instances of other misconduct to the Police Department. There were 79 such complaints in 2006, 68 in 2007, 299 in 2008, 310 in 2009, and 523 in 2010.

The most serious type of other misconduct that the CCRB refers to the Department is a false official statement by a police officer, either to the CCRB or in other official documents or proceedings that comes to light during CCRB's investigation. In 2010, the CCRB noted only two instances in which a CCRB investigation produced evidence that an officer made a false official statement. From 2006 through 2009, the CCRB noted a total of eleven instances of false official statements.

Aside from false official statements, the Board refers misconduct complaints to the Police Department in which officers also failed to document their actions as required by NYPD procedure. There are three major failures in this category. One is an officer's failure to fill out a stop and frisk form. In 2010, the Board referred 102 such instances and 347 in the last five years. The second is failure to document a strip-search in the precinct command log. The Board referred 11 such instances in 2010 and 74 in the last five years. The third is failure to make entries in memo books. The Board referred 392 such failures in 2010 and 812 in the last five years.

In addition to the four specific categories of other misconduct mentioned above, the Board also has a miscellaneous category for things such as "improper supervision" or "failure to complete an aided report." The Board referred 16 instances of other misconduct in this miscellaneous category in 2010 and 33 such instances in the last five years.

It is important to note that the decision of the Board to refer "other misconduct" to the NYPD is not necessarily connected to the disposition of the complaint. In 2010, 80 out of the 260, or 31% of cases substantiated by the Board contained an "other misconduct" allegation. In comparison, in 2006, 27 out of 264, or 10% of substantiated cases contained "other misconduct."

From 2006 to 2010, the CCRB referred 1,098 substantiated complaints to the Police Department, of which 221 complaints contained "other misconduct." Plus, during this five year period, there were 565 complaints that were not substantiated, but in which the CCRB found "other misconduct" and referred the case to the Police Department.

CCRB Dispositions

Substantiated: There is sufficient credible evidence to believe that the subject officer committed the act charged in the allegation and thereby engaged in misconduct.

Exonerated: The subject officer was found to have committed the act alleged, but the subject officer's actions were determined to be lawful and proper.

Unfounded: There is sufficient credible evidence to believe that the subject officer did not commit the alleged act of misconduct.

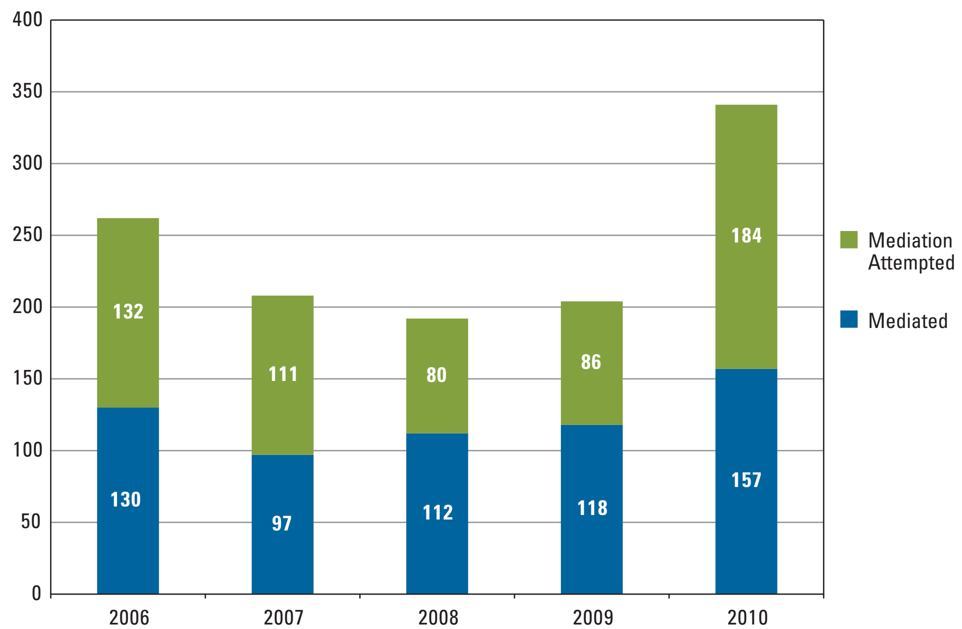
Unsubstantiated: The available evidence is insufficient to determine whether the officer did or did not commit misconduct.

Officer(s) Unidentified: The agency was unable to identify the subject(s) of the alleged misconduct.

Miscellaneous: Most commonly, the subject officer is no longer a member of the NYPD.

Mediation

Mediation Closures 2006–2010



When the CCRB was created in 1993, the enabling legislation (NYC Charter Chapter 18-A) mandated that the Board create a mediation program that would allow civilians to resolve their complaints "by means of informal conciliation," should they voluntarily choose to do so. In its first year, the CCRB's mediation program resolved just two complaints. It has grown enormously since then and in 2010 the agency conducted 167 mediations, out of which 157 were successful. Since 2009, one of the strategic priorities of the Board has been to continue to strengthen and expand the mediation program. The CCRB seeks to offer mediation to every civilian, in appropriate cases, as soon as they have been interviewed by an investigator. Cases involving property damage, serious physical injury, or death, or where there are pending criminal charges, are not eligible for mediation.

How Does Mediation Work at the CCRB?

Mediation provides a valuable alternative to investigation to resolve civilian complaints of police misconduct. Where an investigation is focused on evidence gathering, fact-finding and the possibility of discipline, a mediation session focuses on fostering discussion and mutual understanding between the complainant and the subject officer. Mediation gives civilians and officers the chance to meet as equals, in a private, quiet space, where a trained, neutral mediator facilitates a confidential dialogue about the circumstances that led to the complaint.

The mediation session ends when the parties agree that they have had an opportunity to discuss and, in the vast majority of cases, resolve the issues raised by the complaint. After a successful mediation, a complaint is closed as "mediated" – meaning that there will be no further investigation and the officer will not be further disciplined.

Successful mediations do not just benefit the two parties; they can also benefit communities because a measure of trust and respect often develops between the parties. That in turn can lead to better police-community relations.

Mediation Statistics

The number of successfully mediated cases rose 33% in 2010, the highest number since 1997 when the mediation program was created. In 2010, 157 out of 167 mediated cases were resolved. In ten cases the complaint was referred to investigations, resulting in a 94% resolution rate. In 2009, 118 out of 124 mediations were deemed successful; a 95% resolution rate. By comparison, in 2006, the CCRB facilitated 136 mediation sessions – which is 18% fewer sessions than in 2010 – with a 96% resolution rate.

The number of cases closed as "mediation attempted" increased from 86 in 2009 to 184 in 2010, or 114%. Mediation attempted is a designation for a case in which both officer and civilian agreed to mediate the complaint but the civilian fails twice to appear at the scheduled mediation session or fails to respond to attempts to set up the mediation session.

In 2010, mediation closures (mediations and mediations attempted) were 5% of all board closures, 2% higher than in 2009. Mediation closures rose by 67%, from 204 in 2009, to 341 in 2010. The Mediation Unit achieved these productivity gains even though its staffing level dropped for six months in 2010.

Another benefit of mediation is that it gives complainants a quicker resolution of their cases, compared to a full investigation. For example, in 2010, even though the time to mediate a case increased by

15 days, it was still only 177 days, which is 122 days shorter than a full investigation.

CCRB complaints often stem from a breakdown in communication, where the *way* an officer did his or her job, as opposed to *what* they did, turns events into an encounter where the civilian feels disrespected or abused. Listening to a civilian during a mediation session gives officers an important perspective on how the community perceives their actions. This in turn seems to have a positive influence on future behavior. An analysis of the complaint history of 1,197 police officers to whom mediation was offered shows that 51% of the officers who agreed to participate in mediation had not received an additional complaint. This was 6% higher than the number of officers who had rejected participation in mediation. This difference in the recidivism rate is statistically significant.

The CCRB's investigative staff is responsible for offering mediation to complainants and the agency has ongoing in-house trainings to enhance their knowledge of how it works and its benefits. In addition, the CCRB offers investigators the opportunity to attend 40-hour mediation training at the Columbia University School of Law. In 2010, 13 investigators attended this training.

In 2010, the Mediation Unit received 652 mediation referrals from the investigative teams, compared with 428 in 2009. This is a 54% increase. The main reason for this increase is the 47% jump in the number of cases in which the CCRB offered mediation to civilians, from 1,002 in 2009 to 1,472 in 2010.

During the past five years, the rate of complainant acceptance of mediation has been steadily increasing, with the exception of one year. The acceptance rate was 45% in 2006, 52% in 2007, 48% in 2008, 53% in 2009 and 56% in 2010. The number of civilians who accepted mediation increased from 501 in 2009, to 753 in 2010.

The percentage of subject officers who accepted the offer to mediate rose from 65% in 2006, to 67% in 2007, 68% in 2008, 74% in 2009, and to 82% in 2010. In 2010, the CCRB offered mediation to 702 officers and 573 accepted. By comparison, in 2009, 372 officers were offered mediation and 277 accepted. The CCRB believes that much of this increase in officer acceptance rates stems from the Police Commissioner's public support of the mediation program and also the increased presentations by Mediation Unit staff at various officer trainings, including at the Police Academy.

Mediation Survey

Since June of 2009, the CCRB has been giving a "customer satisfaction" survey to civilians and officers who participate in mediations. The survey is intended as a quality control measure and a way to better understand how mediation can benefit members of the public and the Police Department.

In 2010, the CCRB surveyed 102 civilians and 131 officers. The CCRB asked eleven different questions concerning satisfaction with the following: the mediation process; the outcome of the mediation; the role of mediators and the CCRB staff; and how valuable the experience was to the parties.

Those indicators are highlighted here. First, with respect to the mediation process, in 2010, 93% of both complainants and officers strongly or somewhat agreed with the statement "I am satisfied with the mediation session." In addition, 98% of complainants and 96% of officers strongly or somewhat agreed with the statement "the mediation process was fully explained before mediation."

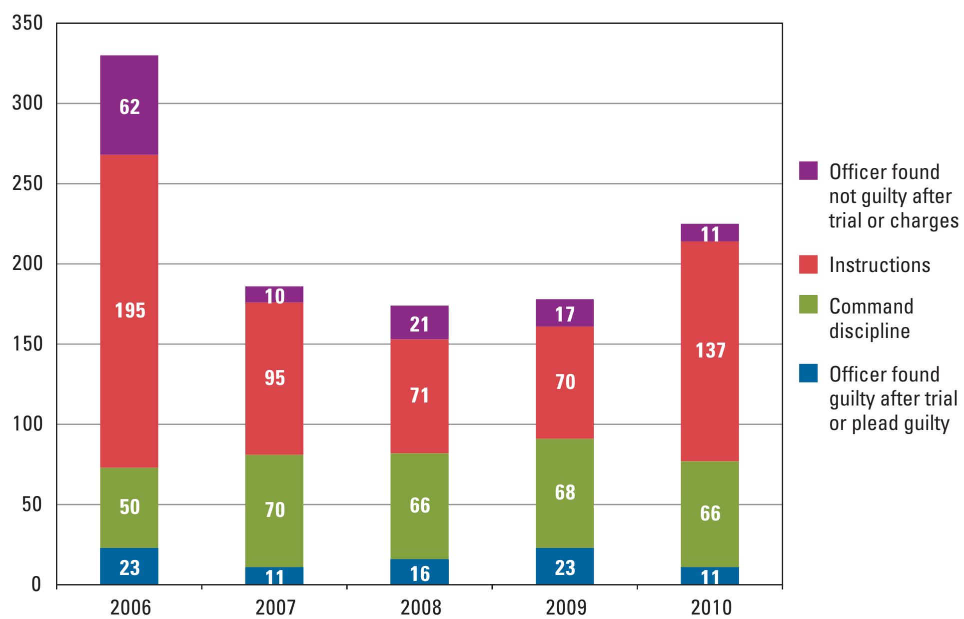
Second, we analyzed questions concerning the elements of the mediation. In 2010, 99% of complainants and 97% of officers strongly or somewhat agreed with the statement "I had an opportunity to explain my point of view." The numbers decrease somewhat when the participants in the mediation are asked whether they think "the other party understood my point of view." In 2010, 79% of complainants and 81% of officers strongly or somewhat agreed with that statement.

It is the gap between the statements "opportunity to explain my point of view" and did the "other party understand my point of view" that we attempt to measure through two additional statements: "the mediation helped me understand the actions of the other party" and "I learned things that would likely cause me to behave differently in a similar situation." In 2010, 77% of both complainants and officers strongly or somewhat agreed with the notion that mediation helped them to make sense of the other party's behavior. Similarly, 72% of complainants and 60% of officers strongly or somewhat agreed with the idea that they will behave differently in a similar situation because of the mediation session.

Finally, we explored questions concerning the outcome. In 2010, 88% of complainants and 92% of officers strongly or somewhat agreed with the statement "I am satisfied with the outcome." Ninety percent of complainants and 88% of officers would recommend mediation to others.

Police Department Dispositions

Police Department Pursued Discipline in Substantiated CCRB Cases 2006–2010



When the CCRB determines that an officer has committed misconduct, it forwards the case to the Police Department, generally with a disciplinary recommendation. In 2010, the Board forwarded 260 substantiated complaints against 377 police officers to the Department, as compared to 197 complaints against 276 officers in 2009. The Board recommended Charges be brought against 261 subject officers (69%), Command Discipline for 74 (20%), Instructions in 19 cases (5%), and for 23 no recommendation was made (6%). In 2010, the number of subject officers in substantiated complaints sent to the Department was the highest it's been since 2006. There were 347 subject officers in 2006; 300 in 2007; and 221 in 2008. In total, the Board forwarded 1,098 substantiated complaints against 1,521 officers from 2006 to 2010.

Under the law, only the Police Commissioner has the authority to impose discipline and to decide the level of punishment. The Police Commissioner generally delegates responsibility for initial evaluation of CCRB misconduct cases, including the decision of whether or not to seek disciplinary action, to the Department Advocate's Office (DAO), which processes all other Department disciplinary matters in addition to CCRB cases. If the DAO decides to pursue discipline, there are three disciplinary options. The Advocate can compel an officer to receive Instructions – the mildest form of discipline; forward the case to the subject's commanding officer for imposition of a Command Discipline (which may result in the loss of up to ten vacation days); or file Charges and Specifications, the most serious option. Charges and Specifications may lead to: prosecution in an administrative trial; an officer pleading guilty prior to trial, usually the result of plea negotiations; or eventual dismissal of the charges, either by an Assistant Deputy Commissioner for Trials or a DAO attorney if the office determines that the case can no longer be prosecuted.

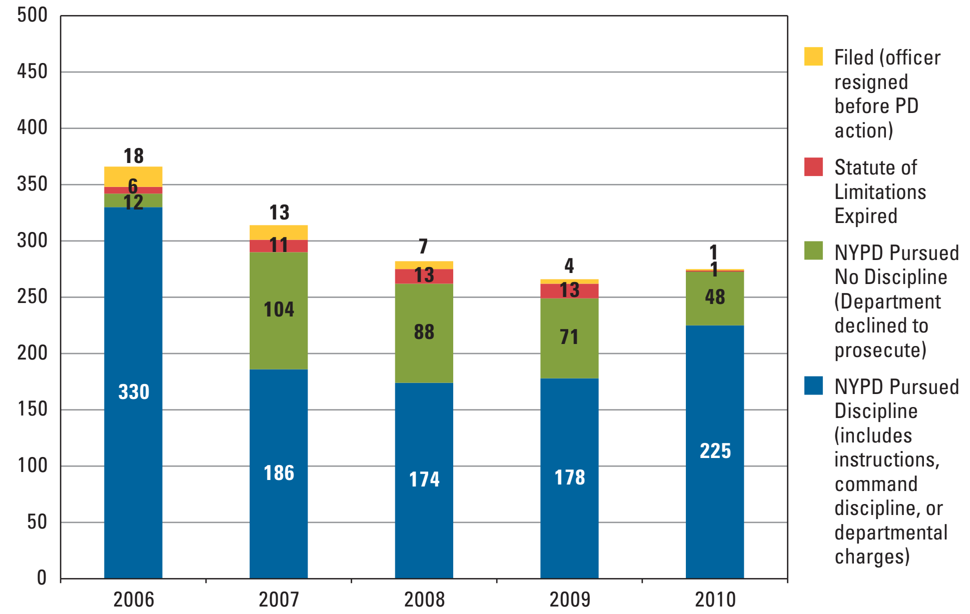
In 2010, the Police Department disposed of CCRB complaints against 275 subject officers, compared to 266 subject officers in 2009. Looking at the five-year trend, the Department reached a disposition on complaints against 366 officers in 2006, 314 officers in 2007, and 282 officers in 2008, for a total of 1,503 subject officers in the five year period. The decreasing number of departmental dispositions is related to the decreasing number of cases forwarded by the CCRB in 2008 and 2009. Overall, the Department closed almost as many cases against officers (1,503) as it received (1,521) from the CCRB in the five year period.

In 2010, there was a notable change in the rate at which the Department declined to seek any discipline in substantiated CCRB complaints. In 2006, the Department declined to seek discipline in just 12 cases or 3%. By 2007, the rate grew considerably. In 2007, 2008, and 2009 the Department declined to seek discipline in 104, 88, and 71 cases (33%, 31%, and 27%), respectively. The trend reversed in 2010, with the Department declining to seek discipline in 48 cases (17%), a big drop from the prior three years.

Along with the drop in the number of cases that the Department declined to prosecute, there was only one dismissal in 2010. Instructions were given in 137 cases (50%), an increase compared to 2007, 2008 and 2009, when Instructions were given in 95, 71 and 70 cases (30%, 25% and 26%), respectively. In 2006, Instructions were given in 195 cases or 53%. In 2010, Command Discipline was given in 66 cases (24%), compared to 2007, 2008, and 2009 when Command Discipline was given in 70, 66, and 68 cases (22%, 23%

and 26%), respectively. In 2006, Command Discipline was given in 50 cases or 14%.

Police Department Action in Substantiated CCRB Cases 2006–2010



Overall, the Department's disciplinary action rate on substantiated CCRB complaints increased to 78% in 2010, about the same level as in 2006 level (77%), which represents a significant increase when compared to 2007, 2008, and 2009, when it was 58%, 56%, and 61%, respectively.

An area of continued decline is the number of cases the Department takes to trial. In 2006, the Police Department conducted 46 administrative trials stemming from substantiated CCRB cases, or 13% of all such cases. In 2007, 2008, and 2009, the Department conducted 11, 19, and 20 administrative trials, or 4%, 7%, and 8% of all cases, respectively. In 2010, there were 14 trials, or 5% of all cases. Throughout this time, the rate of guilty verdicts obtained by the Department has fluctuated. In 2006, it was 20%; in 2007 when the fewest cases were tried (11), it was 45%; in 2008 – 21%; 2009 – 30%; and in 2010 – there were 14 trials and 29% resulted in guilty verdicts. The overall conviction rate, which includes guilty verdicts and guilty pleas, increased from 38% in 2006 to 52% in 2010.

Administrative Prosecution Unit

In order to enhance the likelihood of meaningful discipline and successful prosecutions, the CCRB continued to strengthen communication with the Police Department through the DAO. A significant result was the historic agreement, announced in February 2010, by Board Chair Ernest F. Hart and Police Commissioner Raymond W. Kelly, to have CCRB attorneys act as lead prosecutors for a portion of the substantiated misconduct complaints that the DAO brings to trial. In the fall of 2010, the CCRB brought a former federal prosecutor on staff to head this pilot project, known as the Administrative Prosecution Unit (APU). The APU builds on the Second Seat program, started in the fall of 2008, in which a CCRB attorney has been assisting the DAO's trial attorneys with some of their CCRB cases. As of December 2010, CCRB attorneys had participated in the prosecution of seven substantiated cases, along with six plea negotiations.

The benefits of the CCRB's participation in misconduct prosecutions are manifold. One clear advantage held by CCRB attorneys is their familiarity with the intricacies of the investigative process. They can educate the court about the nature of CCRB's investigations, which in turn can positively affect the weight that judges accord particular evidence and arguments presented by the prosecution. Additionally, CCRB attorneys are well positioned to secure the trial testimony of complainants and civilian witnesses, who are generally more willing to cooperate with an independent agency with whom they have an established relationship.

Plus, CCRB lawyers have gained invaluable insight from participating in Departmental trials that has in turn enabled them to enhance the agency's investigator training programs. For example, in 2010, CCRB lawyers became aware of challenges that emerged at trial to officer identification and as a result strengthened guidelines for investigators conducting photo identification of subject officers. In addition, time spent at trial enhances the legal review agency lawyers conduct of all complaints where an investigator has recommended that an allegation be substantiated.

Case Profiles*

Exonerated

A woman was involved in a dispute at her bank over the availability of funds in her account. She acknowledged arguing loudly with bank employees for over an hour and demanding her money. She alleged that a police officer who had been summoned threw her out of the bank by putting her in a "full nelson," which is a painful wrestling hold.

A CCRB investigator obtained video footage from four different bank security cameras that provided multiple perspectives on the incident. The video clearly revealed that the officer never used a "full nelson" on the complainant and used only minimal and necessary force to escort her out of the bank. Accordingly, the Board determined that the allegation of improper use of force was "Exonerated."

Unfounded

An MTA bus driver was pulling away from a stop, inching into the center lane of a busy Bronx street, when he struck a police car. The bus driver alleged that the officer who'd been driving the car, jumped out, banged on his door and started screaming obscenities at him and threatening to put him in "f*****g cuffs."

The CCRB interviewed three passengers who were seated in the front of the bus and witnessed the interaction between the bus driver and the officer. While they said the officer banged on the door to get the bus driver's attention, they refuted the driver's allegations that the officer used an obscenity and threatened him with arrest. Because this preponderance of evidence indicated that no discourtesy or abuse of authority occurred, the Board deemed the complaint "Unfounded."

Substantiated

It was 9:30 PM and two friends were driving to a McDonalds in a 2006 Tan Honda Civic when they were pulled over by a police patrol car. Two officers ordered the friends out of the car, frisked them both, searched the driver and searched the interior of the car, without the driver's permission.

One of the officers told the driver that they stopped him because his car fit the description of a vehicle that was used by a suspect to flee the scene of an earlier shooting. This was also the officers' testimony when they were interviewed at the CCRB. The CCRB investigator obtained the complaint report (UF-61) on the shooting and it contained no mention of a vehicle. The investigator also interviewed the woman who had filed the report and she never knew whether the shooter fled in a car and never saw a car flee the scene after the shooting.

Courts have deemed that "police may stop a vehicle based upon a reasonable suspicion that the driver or occupants of the vehicle have committed, are committing or are about to commit a crime." Since the investigation found that there was no connection between any shooting and the vehicle, the officers lacked sufficient cause to establish reasonable suspicion justifying the stop. Because the officers did not observe anything on the civilians to indicate the presence of a weapon, such as a bulge, they lacked cause to frisk and search them. There was also nothing to indicate a substantial likelihood that there was a weapon in the car or that an "actual and specific danger" to the police existed, and therefore the car search was also deemed improper. Accordingly, the complaint was Substantiated.

Unsubstantiated

The complainant had been involved in a fender bender and called for police assistance. A patrol car responded, and the complainant alleged that the officers were reluctant to write an accident report. He said that he walked up to the patrol car and spoke through an open window to the officer sitting on the passenger side, asking for her name and badge number. The officer responded by rolling up the window.

Both officers denied in their CCRB interviews that the driver had ever asked for a name and badge number. There were no other witnesses. Because the accounts of the driver and the officers were generally consistent about the other circumstances surrounding the incident, the CCRB could not credit one account over the other concerning the abuse of authority allegation (failure to provide name and badge number) and the case was closed as Unsubstantiated.

Mediated

On July 27, 2010, Officers Greene and Smith responded to a call about two neighbors who were fighting. When they climbed to the fifth floor of the Bronx walk-up, they found Ms. Adams and Ms. Brook in the hallway screaming at each other. Ms. Adams's 4-year old son, Jack, was also in the hallway. In her complaint to the CCRB, Ms. Adams. alleged that Officer

*Some details, unrelated to the substance of the complaints, such as names, dates and location, have been changed to protect identities.

Greene yelled at her in an abusive tone and used profanity. She says he screamed “Get in your f***king apartment, or I am going to arrest you.” She agreed to mediation because she wanted to tell Officer Greene that it’s wrong to speak to people the way he did to her. Subsequently Officer Greene agreed to participate in a mediation session.

At the start of the mediation, Ms. Adams explained that she and Ms. Brooks were arguing because Ms. Brooks was banging on her door and “acting crazy” and that a neighbor had called the police. Ms. Adams said that it was traumatic enough just dealing with Ms. Brooks whom she thought was on drugs, and then when Officer Greene started to yell at her she had had enough. Ms. Adams said she felt that the officer was taking Ms. Brook’s side and that Officer Greene had no right to yell at her that way, especially in front of her son, Jack.

Then Officer Greene spoke. He said that when he got to the scene both women were screaming and pushing each other. He said he repeatedly told the women to go back to their apartments but they wouldn’t stop fighting. Officer Greene also said that Jack had started to cry and he felt the situation was escalating. Officer Greene explained to Ms. Adams that police procedure in these types of situations is to try to separate the parties and get them back to their apartments. Once things had quieted down he had planned to speak to each woman separately. Officer Greene also explained that rather than taking Ms. Brook’s side, he was focusing on Ms. Adams because he perceived her to be the more rational of the two women. He told Ms. Adams that his primary concern was for her and Jack’s safety.

Officer Greene’s repeated assertions about his concern for Ms. Adams’s and her son’s safety shifted the focus of the mediation from the alleged obscenity and threat of arrest to a broader conversation about the intent of one’s actions versus how those actions are perceived. Officer Greene came to understand that, although his intention was to safeguard civilians by de-escalating the situation, Ms. Adams perceived his actions as disrespectful. Ms. Adams came to understand that Officer Greene’s concern for her and her son’s safety were the reasons behind his actions and that he did not intend to disrespect her. Although no apologies were made, at the end of the mediation, Ms. Adams stood up, extended her hand and thanked Officer Greene for his time. Both parties signed a resolution agreement and the CCRB closed the case as mediated.

Policy Recommendation

In addition to mediating and investigating misconduct complaints against individual police officers, the CCRB also notifies the Police Department when it finds credible information that raises concerns about Departmental policies, procedures and training.

In early 2010, the CCRB informed the Police Department of an emerging pattern in which police officers patrolling New York City Housing Authority (NYCHA) buildings and property were improperly stopping and even arresting residents and visitors. During their CCRB interviews, officers voiced the erroneous belief that they could stop people simply because they were inside of, entering or exiting a NYCHA building, and that these stops did not require *reasonable suspicion*. As a result, the allegations of improper stop and/or question on NYCHA property were being substantiated by the Board at a rate that was three times higher that the overall substantiation rate.

New York State law allows a police officer to stop a person if the officer has *reasonable suspicion* the person has committed, is committing or is about to commit a crime. Knowledge of this standard is so critical that it is printed on the inside cover of every NYPD officer's memo book, along with the legal standards for stop, question, search and arrest. The reasonable suspicion standard for a stop applies whether the stop occurs on the street or on NYCHA property.

The agency met several times with the NYPD and provided examples of improper stops where subject officers were unaware that the mere observation of someone inside of, entering or leaving a NYCHA building was not a lawful reason to stop that person. The CCRB recommended to the Department that officers who patrol NYCHA properties be retrained on the appropriate legal standard governing stops. In response, the Department made several important changes. First, in June 2010, it revised its Patrol Guide section governing patrols in NYCHA buildings. The new order makes clear that officers must have *reasonable suspicion* to stop a person inside of, entering or exiting a NYCHA building. Additionally, by the end of 2010, thousands of police officers who patrol NYCHA properties received special training on the legal standard governing stops.

More information on this policy recommendation and agency testimony at a city council hearing on policing NYCHA, is available online: www.nyc.gov/ccrb. Click on the New Developments link.

Chair Ernest F. Hart, Esq.

Mr. Hart currently serves as Chair of the Civilian Complaint Review Board, to which he was appointed in 2009. He also serves as a member of the NYC Charter Revision Commission and is an adjunct Professor of Business at Queensborough Community College. Mr. Hart's career extends across private industry and many agencies of government, including Columbia University, the New York City Departments of Citywide Administrative Services, Sanitation, Personnel, the Public Employment Relations Board, and the Manhattan District Attorney's office. Mr. Hart also served as Chief of Staff and Counsel to Deputy Mayor Dennis Walcott, Chair of the New York City Equal Employment Practices Commission and as a member of the New York City Board of Collective Bargaining. He currently serves on the Supreme Court Appellate Division, First Department's Committee on Character and Fitness and on the Queens Library Board of Trustees. He has also been an adjunct Professor of Law at New York Law School. Mr. Hart lives in Queens.

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Daniel D. Chu, Esq.

Mr. Chu is an attorney engaged in private practice in midtown Manhattan representing clients in state and federal matters. A Queens native, he began his legal career as an Assistant District Attorney in the Queens County District Attorney's Office, where he prosecuted felony cases and handled appellate litigation. He subsequently served as an Administrative Law Judge with the New York City Taxi & Limousine Commission and later became a senior associate at Stern & Montana, LLP, where he litigated civil cases relating to large-scale and systemic insurance fraud. His additional legal experience includes service at the New York State Attorney General's Office and the New York County District Attorney's Office, as well as a clerkship with the Honorable William Friedman of the New York State Supreme Court Appellate Division, Second Department. He is a member of the Association of the Bar of the City of New York, the Asian American Bar Association of New York and the Queens County Bar Association. Mr. Chu, a Mayoral designee, has been a Board member since June 2008.

B.A., 1994, State University of New York at Buffalo; J.D., 1997, St. John's University School of Law

James F. Donlon, Esq.

Mr. Donlon is an attorney engaged in private practice since 1980. He has broad-based experience in matters such as real estate, estate planning, wills and estates, and litigation involving family court, criminal, and personal injury cases. From 1974 to 1980, Mr. Donlon was employed as an Assistant District Attorney in the Richmond County District Attorney's Office where he handled misdemeanors and felonies (including homicides) and from 1976 to 1977, narcotics cases for the Office of the Special Narcotics Prosecutor. Immediately after graduating from law school, Mr. Donlon worked for the New York State Department of Law. He previously served as a Board member of the Richmond County Bar Association. He is currently a member of the Assigned Counsel Panel Advisory Committee (Appellate Division, Second Department) and is a member of the New York State Defenders Association. Mr. Donlon, a City Council designee from Staten Island, has been a Board member since June 2004.

B.A.,1970, Manhattan College; J.D.,1973, Albany Law School

Dr. Mohammad Khalid

Dr. Khalid has worked as a dentist in Staten Island since 1977. An active member of the Staten Island community, Dr. Khalid is President of the Iron Hill Civic Association of Staten Island and of the Pakistani Civic Association of Staten Island, and has been a member of the Land Use Committee of Staten Island Community Board 2 since 1998. He has also served since 2006 on the Board of Trustees for the Staten Island Children's Museum and is the former Vice-Chairman of the Children's Campaign Fund of Staten Island. In 2003, Dr. Khalid served as a member of the New York City Charter Revision Commission, which reviewed the entire city charter, held hearings in all five boroughs to solicit public input, and issued recommendations to amend the charter to reflect New York City's constantly evolving economic, social and political environment. In 2009, Congressman Michael McMahon honored Dr. Khalid with the Dr. Martin Luther King Jr. Community Service Award. In 2004 Dr. Khalid was the recipient of the Pakistan League of America Community and Leadership Award and in 2003 received the Governor George E. Pataki Excellence Award for community service on behalf of New York State. In 2006, Governor George Pataki appointed Dr. Khalid to a six-year term on the New York State Minority Health Council. Dr. Khalid, a Mayoral designee, has been on the Board since March 2005.

B.D.S., 1971, Khyber Medical College (Pakistan); D.D.S., 1976, New York University

William Kuntz II, Esq.*

With extensive experience in mergers and acquisitions, securities, banking, bankruptcy, and real estate litigation at the trial and appellate levels, Dr. Kuntz is a partner at Baker & Hostetler, LLP, where he specializes in commercial litigation. He was previously a partner at Torys LLP, Seward and Kissel LLP, and Milgrim Thomajan & Lee P.C. In addition to his law practice, Dr. Kuntz has been an Associate Professor at Brooklyn Law School, and is a former member of the Executive Committee of the Association of the Bar of the City of New York and a member of the Advisory Committee on Civil Practice in the State of New York. Formerly he was a Board member at Legal Services for New York City and the secretary of the Federal Bar Foundation for the Second Circuit. Dr. Kuntz was appointed to the CCRB in 1987 as one of the first public members while it was part of the New York City Police Department, and served until 1992. Dr. Kuntz was the City Council's Brooklyn CCRB designee from October 1993 to October 2010. On October 14, 2010, Senator Charles Schumer recommended him to President Obama to be nominated as a District judge for the Eastern District of New York. On March 9, 2011, the President nominated Dr. Kuntz. He is awaiting Senate confirmation.

B.A., 1972, magna cum laude, Harvard College; M.A., 1974, Harvard Graduate School of Arts & Sciences; J.D., 1977, Harvard Law School; Ph.D., 1979, Harvard Graduate School of Arts & Sciences

David G. Liston, Esq.

Mr. Liston is Litigation Counsel at Hughes, Hubbard & Reed LLP, where he specializes in securities and banking matters, internal corporate investigations, SEC representation, white-collar criminal defense, and complex civil litigation. Previously, Mr. Liston worked as an Assistant District Attorney in the New York County District Attorney's Office from 1994 through 1999, and served as a law clerk for the Honorable Richard S. Cohen of the Superior Court of New Jersey from 1993 through 1994. From 2004 through 2006, Mr. Liston served on the Election Law Committee of the Association of the Bar of the City of New York. In addition to his legal career, Mr. Liston is an active participant in community matters in his Upper East Side neighborhood. Mr. Liston is a member of Manhattan Community Board 8, where he served as Board Chair from 2005 to 2008 and where he presently serves as Co-Chair of the Landmarks Committee. He is also President of the Holy Trinity Neighborhood Center, a community service program that provides shelter and a weekly dinner for homeless people and a weekly lunch for senior citizens, among other services. He served as Vice President of the 19th Precinct Community Council from 2002 to 2005. Mr. Liston, a Mayoral appointee, has been a Board member since May 2009.

B.A., 1990, Rutgers College; J.D., 1993, Rutgers School of Law (Newark)

Jules A. Martin, Esq.

Mr. Martin is the Vice-President for Global Security and Crisis Management at New York University. In addition to his service with the CCRB, Mr. Martin serves as a member of the New York State Committee on Character and Fitness, for the Supreme Court, Appellate Division First Department, and has been a member in good standing since his appointment on June 20, 2002. Before joining NYU, he served as Chief of the Housing Bureau of the New York City Police Department from 1997 to 1998. Mr. Martin joined the Police Department in 1969, and held a number of positions prior to becoming the Executive Officer of the 113th Precinct in 1989. He was assigned to the Intelligence Division as Head of the Municipal Security Section in 1990. Mr. Martin is a member of the International Chiefs of Police, the National Association of Black Law Enforcement Executives, International Association of Campus Law Enforcement Administrators, the New York State Bar Association, the United States Supreme Court Bar, and served as a member of the 1997 White House fellowship panel. He attended the Police Management Institute at Columbia University in 1991. He served in the U.S. Navy from 1965-1969. Mr. Martin, a Police Commissioner designee, has been a Board member since March 1999.

B.A., 1976, John Jay College of Criminal Justice, City University of New York; M.P.A., 1979, C.W. Post, Long Island University; J.D., 1984, Brooklyn Law School

Michael McCann, Esq.*

Mr. McCann is a security services expert and a former member and 26-year veteran of the New York City Police Department. From 1993 through 2004, Mr. McCann served as Chief of Security of the United Nations, where he was responsible for the protection of national and international officials visiting New York City. Subsequently, he co-founded McCann Protective Services, LLC, where he currently serves as President. Mr. McCann began his career with the NYPD in 1967. His tenure included uniformed patrol assignments in Brooklyn and Manhattan, and assignments as Commanding Officer of the Intelligence Division's Dignitary Protection and Threat Assessment Units, Commanding Officer of the 25th Precinct, and Deputy Inspector with the newly-created Internal Affairs Bureau. Mr. McCann is President of the John Jay College Alumni Association, and serves on the International Policing Division Steering Committee of the International Association of Chiefs of Police (IACP). He is also a member of the New York State Bar Association, the American Society of Industrial Security (ASIS), and the National Law Enforcement Association. Mr. McCann, a Police Commissioner designee, was a Board member from September of 2008 to September of 2010.

B.S., 1974, John Jay College of Criminal Justice, City University of New York; J.D., 1981, New York Law School

Mary E. Mulligan, Esq.

With extensive experience in white-collar criminal defense and internal investigations as well as intellectual property litigation, Ms. Mulligan is a partner at Friedman, Kaplan, Seiler and Adelman LLP. After law school, she served as a law clerk to the Honorable Henry A. Politz of the U.S. Court of Appeals for the Fifth Circuit and was a litigator at Patterson Belknap Webb & Tyler LLP. She served from 1997 to 2002 as an Assistant United States Attorney for the Southern District of New York, directing investigations and prosecutions of fraud, narcotics, public corruption, and organized crime. Ms. Mulligan also served as Senior Director, Business and Legal Affairs, of Universal Music Group, the world's largest music company. Ms. Mulligan is a member of the New York State Bar Association's Committee on White Collar Criminal Litigation. She also serves on the Criminal Justice Act panel for the Southern District of New York representing indigent defendants in federal criminal proceedings. Ms. Mulligan began a three-year term as a Board member in August 2009. She is a Mayoral designee.

B.A., 1983, magna cum laude, Vanderbilt University; J.D., 1989, cum laude, New York University Law School

*Board member resigned during 2010

Tosano Simonetti

Mr. Simonetti began his law enforcement career in 1957 patrolling the streets of Manhattan's Midtown South Precinct. During his career, he commanded the 9th, 120th, Midtown North and Midtown South Precincts, as well as Patrol Boroughs Staten Island and Brooklyn South. He was appointed First Deputy Police Commissioner by Police Commissioner Howard Safir in 1996. During his last month with the Police Department, Mr. Simonetti served as Acting Police Commissioner while Commissioner Safir recovered from heart surgery. After retiring from the Police Department, Mr. Simonetti became the Security Director for MacAndrew & Forbes Holdings Inc. Mr. Simonetti, a Police Commissioner designee, has been a Board member since April 1997.

B.A., 1965, Baruch College, City University of New York; M.A., 1975, John Jay College of Criminal Justice, City University of New York

Bishop Mitchell G. Taylor

A forty-year resident of Long Island City and former resident of the Queensbridge public housing development, Bishop Taylor has dedicated his pastoral career to serving his community. Bishop Taylor is the Senior Pastor of Center of Hope International, a non-denominational church located near the Queensbridge Houses. In addition to his work as a pastor, He is CEO of the East River Development Alliance (ERDA), a not-for-profit organization he founded in 2004 to expand economic opportunity for public housing residents. Bishop Taylor has received the New York Public Library's 2005 Brooke Russell Astor award for his work with ERDA, and the Jewish Community Relations Council of New York's 2008 Martin Luther King, Jr. award, among many other awards. He has been profiled by leading media outlets for his leadership on public housing issues and is the author of *Unbroken Promises*. Bishop Taylor is a Commissioner on the NYC Charter Revision Commission. He has been the City Council's Queens designee on the Board since January of 2009.

B.A., United Christian College, 1986.

Youngik Yoon, Esq.

Mr. Yoon is a partner at Yoon & Hong, a general practice law firm in Queens. His areas of practice include immigration, matrimonial, real estate and business closings, and criminal defense. Mr. Yoon has provided legal services to the diverse communities of Queens and beyond since 1994. Mr. Yoon has been the City Council's Bronx designee on the Board since December 2003.

B.A., 1991, City College, City University of New York; J.D., 1994, Albany Law School

Executive and Senior Staff

Executive Staff:

Joan M. Thompson
Executive Director

Meera Joshi, Esq.
First Deputy Executive Director

Brian Connell
Deputy Executive Director, Administration

Senior Staff:

Denise Alvarez
Director of Case Management

Lisa Grace Cohen, Esq.
Director of Mediation

Graham Daw, Esq.
Director of Intergovernmental and Legal Affairs

Dawn Fuentes
Director of Community Relations and Training

Yuriy Gregorev
Director of Management and Information Services

Linda Sachs
Director of Communications

Marcos Soler
Director of Research and Strategic Initiatives

Beth Thompson
Director of Personnel

Investigative Managers:

Cecilia Holloway

Robert Lonergan

Denis McCormick

Robert Rodriguez

Winsome Thelwell

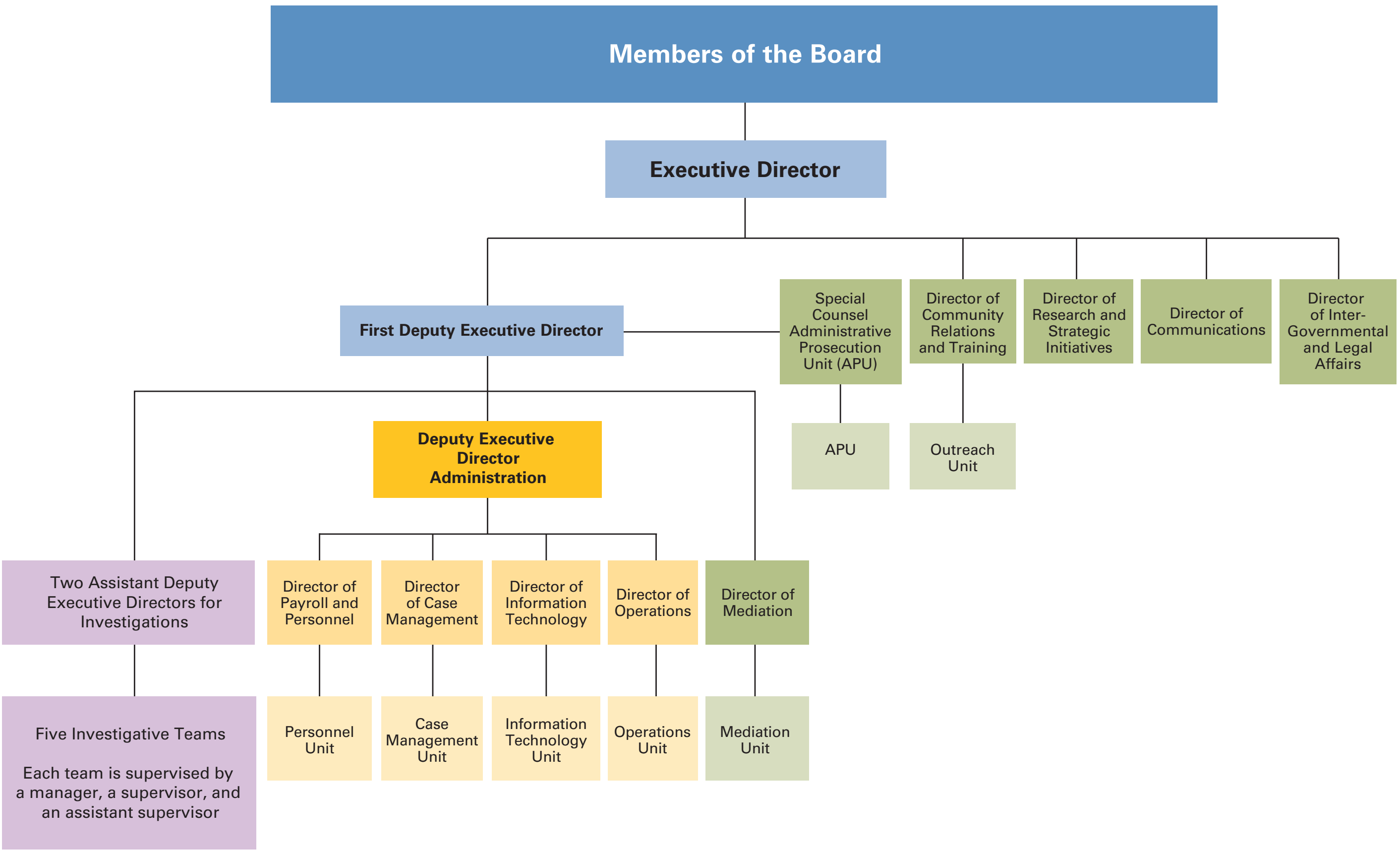
Legal Team:

Laura Edidin, Esq.

Roger Smith, Esq.

(as of December 31, 2010)

CCRB Organizational Chart



NEW YORK CITY CHARTER
CHAPTER 18 - A
CIVILIAN COMPLAINT REVIEW BOARD

§ 440. Public complaints against members of the police department. (a) It is in the interest of the people of the city of New York and the New York City police department that the investigation of complaints concerning misconduct by officers of the department towards members of the public be complete, thorough and impartial. These inquiries must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review 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) Civilian complaint review board

1. The civilian complaint review board shall consist of thirteen members of the public appointed by the mayor, who shall be residents of the city of New York and shall reflect the diversity of the city's population. The members of the board shall be appointed as follows: (i) five members, one from each of the five boroughs, shall be designated by the city council; (ii) three members with experience as law enforcement professional shall be designated by the police commissioner; and (iii) the remaining five members shall be selected by the mayor. The mayor shall select one of the members to be chair.

2. No members of the board shall hold any other public office or employment. No members, except those designated by the police commissioner, shall have experience as law enforcement professionals, or be former employee of the New York City police department. For the purposes of this section, experience as law enforcement professionals shall include experience as a police officer, criminal investigator, special agent, or a managerial or supervisory employee who exercised substantial policy discretion on law enforcement matters, in a federal, state, or local law enforcement agency, other than experience as an attorney in a prosecutorial agency.

3. The members shall be appointed for terms of three years, except that of the members first appointed, four shall be appointed for terms of one year, of whom one shall have been designated by the council and two shall have been designated by the police commissioner, four shall be appointed for terms of two years, of whom two shall have been designated by the council, and five shall be appointed for terms of three years, of whom two shall have been designated by the council and one shall have been designated by the police commissioner.

4. In the event of a vacancy on the board during term of office of a member by a reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such findings or recommendation.

2. The board shall promulgate rules of procedures in accordance with the city administrative procedure act, including rules that prescribe the manner in which investigations are to be conducted and recommendations 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, which shall consist of not less than three members of the board, which shall be empowered to supervise the investigation of complaints, and to hear, make findings and recommend action on such complaints. No such panel shall consist exclusively of members designated by the council, or designated by the police commissioner, or selected by the mayor.

3. The board, by majority vote of its members 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.

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

5. The board is authorized, within appropriations available therefor, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The board shall employ civilian investigators to investigate all complaints.

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

7. The board shall have the responsibility of informing the public about the board and its duties, and shall develop and administer an on-going program for the education of the public regarding the provisions of its chapter.

(d) Cooperation of police department.

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide to the board upon request records and other materials which are 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 members.

3. The police commissioner shall report to the board on any action taken in cases in which the board submitted a finding or recommendation to the police commissioner with respect to a complaint.

(e) 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. 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.

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

THE CITY OF NEW YORK

OFFICE OF THE MAYOR

NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 40

October 21, 1997

NOTIFICATION AND PROCESSING OF CIVILIAN COMPLAINTS

WHEREAS, the Civilian Complaint Review Board is charged with the legislative mandate to fairly and independently investigate certain allegations of police misconduct toward members of the public; and

WHEREAS, it is of the utmost importance that members of the public and the New York City Police Department have confidence in the professionalism and impartiality of the Civilian Complaint Review Board; and

WHEREAS, pursuant to the Charter, and the Rules of the CCRB the individuals who have filed complaints with the Civilian Complaint Review Board have the right to be kept apprised of both the status and results of their complaints brought against members of the New York City Police Department; and

WHEREAS, it is important to investigate and resolve civilian complaints in a timely manner; and

WHEREAS, the sharing of information between the Civilian Complaint Review Board and the New York City Police Department is essential to the effective investigation of civilian complaints;

NOW THEREFORE, by the power invested in me as Mayor of the City of New York, it hereby is ordered:

Section 1 - Notice to Civilian Complainants. The Commissioner of the New York City Police Department and the Civilian Complaint Review Board shall expeditiously:

A. Establish standards for providing timely written notice to civilian complainants regarding the status of civilian complaints during the stages of the Civilian Complaint Review Board's review and investigation process, including final Board action on the pending complaint.

B. Establish standards for providing timely written notice to civilian complainants regarding the disposition of all cases referred for disciplinary action by the Civilian Complaint Review Board to the Commissioner for the New York City Police Department, including the result of all such referred cases.

C. The standards established shall require that complainants be given a name, address and telephone number of an individual to contact in order to give or obtain information.

Section 2. The Police Commissioner and the Civilian Complaint Review Board shall establish standards for the timely processing and resolution of civilian complaints and the sharing of necessary information between the agencies.

Section 3.This order shall take effect immediately.

Rudolph W. Giuliani
MAYOR

CIVILIAN COMPLAINT REVIEW BOARD
40 Rector Street, 2nd Floor, New York, NY 10006

Complaints and General Information
1-800-341-2272 or **311** | Outside NYC: **212-NEW-YORK** | TTY/TDD: **212-504-4115**

www.nyc.gov/ccrb