CIVILIAN COMPLAINT REVIEW BOARD

BILL DE BLASIO, Mayor | RICHARD D. EMERY, Esq., Chair | MINA Q. MALIK, Esq., Executive Director

2014

Annual Report

JANUARY-DECEMBER

Mission and Values

The New York City Civilian Complaint Review Board (CCRB) is an independent Agency that is empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action upon complaints filed against members of the New York City Police Department (NYPD) that allege the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language. The Board's staff, composed entirely of civilian employees, conducts investigations, mediations, and prosecutions in an impartial manner. The City Charter gives the Police Commissioner final authority in matters of police discipline.

In fulfillment of its mission, the Board has pledged:

• To encourage members of the community to file complaints when they believe they have been victims of police misconduct;

• To respect the rights of civilians and officers;

• To encourage all parties involved in a complaint to come forward and present evidence;

• To expeditiously investigate each allegation thoroughly and impartially;

• To make fair and objective determinations on the merits of each case;

• To offer civilians and officers the opportunity to mediate their complaints when appropriate in order to promote understanding between officers and the communities they serve;

• To recommend disciplinary actions that are measured and appropriate, if and when the investigative findings substantiate that misconduct occurred;

• To engage in community outreach in order to educate the public about the Agency and respond to concerns relevant to the Agency's mandate;

• To report relevant issues and policy matters to the Police Commissioner and the public.

This report covers the period of January 2014 through December 2014, and, in some instances, to April 30, 2015.

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Table of Contents

Letters from the Chair and Executive Director 4

Executive Summary 9

Introduction: The Board, Agency Operations, and Resources 17

Section 1. Case Processing and Restructuring of the CCRB Investigations Division: Reforms in Progress 19

- *Average Case Closure Time* 20
- *Docket Size* 22
- *Age of the Docket* 24

Section 2. The Heart of the Reform: Collaboration and Improvement in the NYPD Disciplinary Process 25

- *CCRB Disciplinary Recommendations* 26
- *Department Advocate's Office Disciplinary Actions* 26
- *Administrative Prosecution Unit* 29
- *Reforming the Disciplinary Process* 31

Section 3. Complaint Activity 33

- Number of Complaints Received
  - *Complaints Received* 33
  - *Total Filings* 34
  - *Place and Method of Filing* 37
  - *Location of the Incident and Complaint Activity* 39
  - *Characteristics of Encounters* 40

- *Stop-and-Frisk Encounters* 41

- Characteristics of Complaints Received

- *Location of Incidents Resulting in Complaints* 43

- *Type of Allegations Received* 45

- *Characteristics of Alleged Victims* 47

- *Characteristics of Subject Officers* 49

Section 4. Investigative Findings

- *Disposition of Complaints* 50

- *Disposition of Allegations* 51

- *Other Misconduct Noted* 54

- *Misconduct Rate* 55

Section 5. Mediation 56

- *Mediation Statistics* 56

Section 6: Outreach 60

Section 7: Internal Audit: FOIL and New York Civil Rights Law Section 50-a 62

Section 8: Troubling Complaint Patterns: The Need for Further Scrutiny 64

- *The Problem of False Official Statements: A Review of 26 Cases in One Year* 64

- *Improper Search of a Person: Emerging Patterns from a Review of 48 Substantiated Search Cases* 73

- *Unnecessary and Excessive Force: Visible Patterns from a Review of 73 Substantiated Allegations* 85

Section 9: Update on 2014 Policy Reports 97

- *Vehicle Searches: While the number of complaints has declined, the substantiation rate is still unusually high when vehicle occupants are frisked and searched* 98

- *Chokehold Report Update: An Increase in Complaints in 2014* 99

Letter from the Chair

May 2015

Dear Fellow New Yorkers:

This Annual Report of the Civilian Complaint Review Board ("CCRB") is a bit different from others you have read. Instead of a self-proclamation of success and accomplishment, it is a report on some significant progress we have made over the last year and to date, as well as a report of CCRB failures and problems and an analysis of certain findings that emerge from troubling patterns in complaints to the CCRB. It will attempt to explain how the Board is implementing reform to make our investigations, decisions, and oversight dramatically more effective.

When Mayor Bill de Blasio appointed me as Chair of the Board in July 2014, I accepted the position because the Mayor gave me an explicit mandate to reform an agency that has long been troubled, dysfunctional, and mismanaged. But I underestimated two fundamental forces working against a turnaround: first, the lingering bureaucracy within the Agency; and, second, the failure of the CCRB to create a balance between thorough investigations and prompt decisions.

The headlines of this report are the preliminary results of our effort to confront these obstacles to reform. Our new Executive Director, Mina Malik, and senior staff have worked tirelessly on this turnaround. We now have unprecedented cooperation from the Police Department in quickly providing us the evidence for our investigations. We have restructured our investigative staff into smaller units with direct and accountable supervision. As a result, the time to conduct investigations has plummeted from 329 days in 2013 and 271 days in 2014 to 63 days so far this year for cases filed after the implementation of the reforms. This sea change, along with the decline in complaints against officers (which follows a trend over several years), and a new respect for CCRB decisions at the NYPD, has resulted in adherence to CCRB decisions in 89% of cases since last July as compared to 62% before my appointment. We are within striking distance of goals that promise truly effective civilian oversight of police misconduct. Our hope is that in our pursuit and achievement of these goals we will gain the trust of all New Yorkers.

The other good news is CCRB's commitment to accessibility and community outreach. All of our Board meetings since September have been evening

meetings in locations where we receive the most complaints. It is our mission to interview each complainant within a few days of the complaint. In order to decrease the burden on civilians, we have enlisted the cooperation of the City Council to provide offices for investigative interviews and outreach activities in outer borough locations. Our website now has interactive maps that tell the story of complaint patterns, and complainants and officers can track their cases and progress by logging on. We do hundreds of outreach presentations throughout the City each year.

The not-so-good news in this report is a systemic failure of the CCRB last year to respect the right of officers to not have their CCRB records provided to adversaries in lawsuits. This violation of Civil Rights Law section 50(a) occurred in 70 Freedom of Information Law requests involving 85 officers that resulted in letters with particular officers' CCRB records provided to the requestors when such records were confidential under the law. This CCRB failure is discussed in detail in this report in Section 7.

Finally, this report explores substantive issues concerning the patterns of complaints about force, cases of false official statements by officers, searches of persons and vehicles, all areas which the CCRB Policy Unit is studying for future reports to the public and the NYPD. These analyses of patterns follow the work of the Policy Unit which produced the extensive Chokehold study after Eric Garner's death. The CCRB will continue to mine its data of interactions between officers and civilians to detect trends and practices that can inform the NYPD and public so that future misconduct issues can be averted.

Our overarching goal must be to gain the trust of both complainants and officers. This is not an easy aspiration, but with the cooperation of the public, the hard work of our Board and staff, the support of the Mayor, the City Council, and the Police Commissioner, it can be attained. My hope is that this Agency can create a lasting culture of professionalism and fairness that will endure well into the future, beyond any particular administration, and establish a gold standard of what effective, independent police oversight can offer for New York City and the nation.

Sincerely,

Richard D. Emery, Esq.

Letter from the Executive Director

May 2015

Dear Fellow New Yorkers:

In February, when I became the Executive Director of the largest police oversight agency in the country, I inherited an agency that has failed to live up to its full potential over the last 22 years since it has been in existence. My role as chief executive officer has been to work with the Board in spearheading change and improving the organization at all levels to ensure that justice is swift and fair. My main objective is to restructure, upgrade, and transform this agency in order to make it one that is respected by both civilians and police officers.

I came to the CCRB with experience in criminal justice, team management, and community relations. For almost two decades, I have worked in the criminal justice system for various public service agencies: the District of Columbia Public Defender Service, the Queens District Attorney's Office, and the Brooklyn District Attorney's Office. In Brooklyn, as Special Counsel to the District Attorney, I was part of a new administration that brought about reform. It is this experience in organizational transformation that I bring to this agency.

In my first three reports to the Board during our monthly public meetings, I highlighted the main elements of my vision: timelier investigations and prosecutions, coupled with high quality work that both the public and the Police Department expect and deserve. Within days of my appointment, I worked strategically to reduce the number of backlogged cases in our open docket. With this approach, we reduced the open docket of the Investigations Division by 24% in the last three months from 961 to 735 cases as of April 30, 2015.

We continue to implement reforms that are improving our investigative procedures. As a result, we have reduced the time it takes to interview a complainant from an average of 31 days to an average of 11 days. The average number of days to conduct an officer interview is now 51 days compared to over 200 days just a year ago. Going forward, there will be more substantial changes to our investigative procedures in an effort to further reduce case processing times.

Another positive development is that our relatively new Administrative Prosecution Unit (APU) has conducted more trials than ever year-to-date. The APU conducted a total of 78 trials since its inception: 1 in 2013; 45 in 2014; and 32 trials to date in 2015. Currently, the APU has 32 trials involving 77 respondents already scheduled in the next few months. These numbers underscore the important work of the conscientious, meticulous, and dedicated prosecutors in this Unit. Equally important, last year's discipline rate for APU cases was below 50% in the first half of 2014, whereas the discipline rate is 77% year-to-date 2015.

We have held evening public meetings in every borough so that the community can fully participate in an open forum. The meetings are streamed live through the internet, and are archived on our website. Our decisions on matters pending before the Board now involve active participation by the public. For the first time, public opinion is actually considered, and at times factored into the decision-making process of the Board.

Additionally, under our newly-created Community Partners Initiative, we have joined with the City Council and other private entities to provide evening hours in each borough so that our services are more accessible to the public. Victims of police misconduct are no longer inconvenienced by having to travel to our lower Manhattan office to be interviewed by an investigator. Instead, we schedule interviews at off-site locations in the outer boroughs to accommodate those who have limited time due to work, school, or child care. These evening office hours in the surrounding counties also allow us to give informational presentations to the public on our services and on de-escalating police encounters. We are also expanding our Outreach Unit to collaborate with new communities and groups across the city.

This Annual Report also highlights the significant reduction in complaint activity in 2014, and features our new collaboration with the Police Department. This cooperation has translated into a fairer, more predictable, and more effective disciplinary process. Finally, the report identifies evolving patterns and developments that go beyond individual complaints so that the public and the Police Department can respond to significant trends.

These are all encouraging developments, but they are only a step in the right direction. The task at hand is far from complete; we are just starting.

My vision for this Agency is a lofty one, but one that can be achieved with team effort and like-minded individuals who share these important goals: (1) to ensure that the Civilian Complaint Review Board is a major component in helping to heal the damaged aspects of police-community relations across this city; and (2) to ensure that the CCRB is well-positioned for its greatest success in the future. As the largest police oversight agency in the country, I firmly believe the CCRB can be the premier model for the nation.

Warm regards,

Mina Q. Malik, Esq.

Executive Summary

Section 1. Case Processing and Restructuring of the CCRB Investigations Division: Reforms in Progress

- Since July, when Mayor de Blasio appointed Richard Emery to be Board Chair, the priority of the Administration and the Board has been to improve the efficiency and quality of investigations. The Mayor recognized that the CCRB had ample room for improvement and noted, "[P]olice officers and citizens alike deserve speedier justice, and deserve a more streamlined and effective process." Since then, the CCRB has become more efficient and is processing complaints more expeditiously. Plus, the Agency has substantially reduced its backlog of old cases.

- CCRB has restructured its Investigations Division by implementing direct supervisory responsibility in small teams rather than multi-layered and duplicative supervisory oversight of large teams. The result is faster, more thorough investigations. The direct accountability of supervisors for their small teams encourages involvement in and knowledge of cases at a granular level by the most experienced CCRB staff.

- The restructuring of the Investigations Division has resulted in a great reduction in the average number of days it takes to submit a case for Board review. The time to conduct investigations has plummeted from 329 days in 2013 and 271 days in 2014 to 63 days so far this year for cases filed after the implementation of the reforms.

- In analyzing the 751 fully investigated cases submitted for review from January through April 2015, the data reveal significant progress. For the 566 complaints filed prior to the implementation of the reorganization, the investigations took an average of 255 days. However, for the 185 complaints filed after the reorganization, the investigations took an average of 63 days.

- The year-end docket for 2014 consisted of 1,788 complaints, a decrease of 606 cases from 2013 when the open docket was 2,394. By the end of April 2015, the open docket consisted of 1,572 cases -- a 12% decrease in four months.

- At the end of 2014, 65% of open complaints were four months old or less from the date of filing, compared to 59% in 2013. At the end of April 2015, 68% of cases in the open docket were four months old or less.

Section 2. The Heart of the Reform: Collaboration and Improvement in the NYPD Disciplinary Process

- In August 2014, less than a month after he was appointed Chair of the Board, Mr. Emery met with Police Commissioner Bratton and his executive staff. In that meeting, all parties agreed that the discipline for CCRB cases had been given second-class status in the past. The parties also agreed that a transformed disciplinary system needed to be put in place, where the two agencies cooperated in order to ensure that complainants and police officers were treated fairly. One of the outcomes of this inter-agency collaboration has been the adoption, by the Board, of a formal "reconsideration process."

- This new spirit of collaboration has increased the percentage of cases in which the NYPD has given officers the discipline recommended by the Board. Previously, without the reconsideration process, these cases often led to an impasse, where the NYPD would not proceed with the discipline recommended by the Board.

- In 2013, the Department's disciplinary action rate on CCRB substantiated complaints was 57%. In 2014, the disciplinary action rate increased to 73%.

- There has been a notable difference between Police Department discipline on cases that were handled before the appointment of the new Chair and the implementation of the inter-agency working group (from January through August, 2014), and those cases that were handled afterwards (from September through December, 2014). The discipline rate under the old system was 62%. Notably, the discipline rate under the new system increased to 89%. In the first months of 2015, the rate remained at 89%.

Section 3. Complaint Activity

Number of Complaints Received

- The CCRB received 4,778 complaints within its jurisdiction in 2014. This is an 11% decrease from 2013, when members of the public filed 5,388 complaints, and a 26% decrease from 2010, when there were 6,466 complaints.

- To understand the long-term and short-term decrease in complaint activity, this report identifies five factors that have an effect on complaint levels. The decrease in law enforcement interactions, achieved without compromising public safety, is the most notable factor from a policy perspective.

- There is a high correlation between the number of complaints and the number of stop-and-frisk encounters, arrests, and criminal summonses issued. The relationship between these variables is so strong that it is likely the main factor contributing to the decrease in complaint activity.

- In recent years, more than one in four CCRB complaints involved allegations of improper stop, question, frisk or search (referred to as "stop-and-frisk" complaints). However, the percentage of such allegations has decreased during the last five years by nine percentage points, from 31% in the first half of 2010 to 22% in 2014.

Characteristics of Complaints Received

- Characteristics of alleged victims in terms of race and gender have been consistent over time. In 2014, 54% of alleged victims were African-American even though African-Americans comprise only 23% of New York City's population. Fourteen percent of alleged victims were white and 3% were Asian, although whites and Asians make up 34% and 12% of the city's population, respectively. Hispanics comprise 29% of the population and constituted 26% of alleged victims in CCRB complaints.

- Turning specifically to stop-and-frisk complaints, in 2014, 58% of the alleged victims in stop-and-frisk complaints were African-American, which is lower than the average of 63% from 2010 to 2013. The percentage of alleged white victims in stop-and-frisk complaints remained at less than 10% from 2010 to 2013, but increased to 12% in 2014. Hispanics comprised 25% of the purported victims in these cases, which was slightly lower than their numbers in overall complaints. Asians comprised 3% of alleged victims, which remained unchanged. Three percent of civilians were categorized as "other."

Section 4. Investigative Findings

- The substantiation rate has increased from 2010 to 2014. The 2014 substantiation rate of 17% was three percentage points higher than in 2013, and six percentage points higher than the substantiation rate in 2010. The case resolution rate for 2014 was 44% while the average case resolution rate from 2010 to 2013 was 37%.

- The highest substantiation rate, by allegation, was “retaliatory arrest” and “retaliatory summons.” These allegations were substantiated at a rate of 89% and 86%, respectively. The next highest substantiation rate was 29% for “refusal to process civilian complaints.” In 2014, the CCRB substantiated “question” allegations at a rate of 18%, “stop” allegations at 22%, “frisk” allegations at 28%, and “search” allegations at 14%. “Vehicle search” allegations were substantiated at a rate of 19% while “vehicle stop” allegations were substantiated at a rate of 11%.

- During investigations, the Agency also records misconduct that falls outside of its purview but notifies the NYPD so that such misconduct can be addressed. These types of misconduct are referred to as “other misconduct noted,” or OMN. The Board has referred an increasing number of OMNs to the NYPD in recent years. From 2010 to 2014, the Agency referred a total of 3,750 OMN allegations against 3,432 officers to the Police Department. In 2014, the Board referred 975 allegations against 906 officers.

- In 2014, 37% of cases in which the CCRB conducted a full investigation--716 out of 1,917 cases -- were forwarded to the Police Department for misconduct, either FADO or OMN. By comparison, the CCRB forwarded 478 of 2,424 cases (20%) in 2010; 413 of 1,926 (21%) in 2011; 433 of 1,279 (34%) in 2012; and 731 of 2,081 (35%) in 2013.

Section 5. Mediation

- In 2014, the CCRB successfully mediated the highest number of cases in the history of the mediation program: 182 cases. This number represents a 38% increase compared to 2013.

Section 6. Outreach

- In 2014, staff members gave 340 outreach presentations, an increase from 179 in 2013; 120 in 2012; 164 in 2011; and 95 in 2010.

Section 7. Internal Audit: FOIL and New York Civil Rights Law Section 50-a

- In 2014, an internal audit revealed a systemic failure to respect the confidential nature of officers' CCRB records by revealing officer's CCRB histories . This violation of New York Civil Rights Law section 50-a occurred repeatedly in response to 70 Freedom of Information Law requests involving 85 officers. Letters from the Agency to defense attorneys who made FOIL requests for officers' records revealed complaint histories even though such records are confidential under the law and should not have been disclosed.

Section 8. Troubling Complaint Patterns: The Need for Further Scrutiny

- In 2014, the Board adopted an agenda of reform that cuts across all agency programs and operations. One of these reform initiatives is to strengthen the CCRB's policy and data analysis by identifying patterns and trends that emerge across large numbers of complaints. The Agency identified three patterns that will be further analyzed in 2015: (1) the increase in the number of false official statements made by police officers in the course of CCRB investigations; (2) the persistence of improper searches despite the drop in stop-and-frisk encounters; and (3) the increase in the percentage of substantiated complaints of unnecessary or excessive force.

False Official Statements

- Notations for false official statements are statistically rare, however, they are extraordinarily important as they potentially jeopardize the integrity of the oversight process. A false official statement made by an officer, either to the CCRB or in an official document or some other proceeding that comes to light during a CCRB investigation, is one of the most serious types of misconduct allegations. Such allegations are outside of the CCRB's jurisdiction; however, the Agency notes and refers such allegations of misconduct to the Police Department for investigation.

- The Agency identified false official statements by different types of evidence that contradicted officers' statements: (1) video or audio evidence; (2) paperwork related to the incident; (3) other officers' testimony; and (4) independent civilian witness testimony. Some false official statements involved more than one of these categories. The report details specific examples for each category.

- From 2010 through 2013, the Board noted 26 allegations of false official statements: 2 in 2010; 3 in 2011; 8 in 2012; and 13 in 2013. However, in 2014, the Board noted just as many instances (26 allegations) as it did in the prior four years combined. All 52 instances stemmed from police-civilian interactions prior to 2014.

- False official statements are a form of serious misconduct that impacts the Agency's ability to conduct investigations. Further research and analysis will be done to assess the following issues: (1) the increasing reliance on video evidence to determine possible misconduct; (2) the Agency's access to NYPD records in a timely fashion; and (3) the need to further study the persistence of apparent false statements by officers and whether complaint-prone officers repeat this form of misconduct.

Improper Search of a Person

- In 2014, the CCRB received 584 complaints with at least one search allegation. According to NYPD data, police officers conducted 7,283 documented encounters where civilians were searched. The Agency received one complaint per twelve search incidents documented in the City (a 1:12 ratio).

- In 2014, the Board substantiated 60 allegations of improper search in 48 cases, or 14% of all fully investigated search allegations. Forty complaints stemmed from incidents that occurred in 2013 or prior years, and eight complaints stemmed from incidents that occurred in 2014.

- The reasons officers gave for conducting the improper searches can be divided into six categories: (1) a bulge was observed or felt during a frisk; (2) the victim was searched after being handcuffed, which officers believed to be proper procedure; (3) the officer claimed he or she was trained to conduct a search in the manner in which it was done during the incident; (4) the officer denied any recollection of conducting the search; (5) the search was done to retrieve a civilian's identification; and (6) officer confusion between a frisk and a search. The report details specific examples for each category.

- There are two issues that deserve further research and analysis: (1) the possible patterns that may be revealed by expanding the universe of cases; and (2) tracking the disciplinary outcomes in the Police Department.

Unnecessary and/or Excessive Use of Force

- In 2014, the Board exonerated 783 force allegations (42%) and unfounded an additional 310 force allegations (17%). During this period, the Board substantiated 73 force allegations (3.9%). By comparison, from 2010 to 2013, the Board exonerated 3,800 force allegations (51%), unfounded 1,244 force allegations (17%), and substantiated 134 force allegations(1.8%), half the 2014 rate.

- This report reviews 73 allegations of force within 59 complaints that were substantiated in 2014. Fifty of these 59 complaints stemmed from incidents that occurred in 2013 or prior years, and nine complaints stemmed from incidents that occurred in 2014. The report examines two key variables: (1) what provoked the police officer's use of force; and (2) how the officer responded during the encounter. In 62 of the 73 substantiated allegations, officers used more force than was warranted. Although appropriate force was justified in 11 of the allegations, the force actually used was found to be excessive and therefore improper.

- The circumstances that led to the use of unreasonable force can be broadly separated into five categories: (1) the civilian was handcuffed but offered minor or no physical resistance; (2) the civilian was handcuffed and was resistant or verbally offensive towards the officer; (3) the civilian fought the officer and the officer attempted to restrain the civilian; (4) the officer was in pursuit of the civilian; and (5) the officer attempted to address a violation and the civilian did not follow the officer's orders.

- In the reviewed cases, officers frequently allowed their emotions to fuel their use of force beyond what was appropriate. Given that 50 of the 59 cases examined here occurred before 2014, the Agency's next research step is to test the impact that the new NYPD training may have in reducing force complaints.

Section 9. Update on 2014 Policy Reports

Vehicle Search

- In 2014, the CCRB released a statistical study that analyzed two types of cases from 2009 to 2013. The first category involved cases where there was a “vehicle stop” and/or “vehicle search” with no allegations of a stop, frisk, or search of a person. This group was called “vehicle stop/search only.” The second category consisted of cases involving both “vehicle stop” and/or “vehicle search” allegations and stop, frisk and/or search of a person. This group was called “vehicle stop/search plus.”

- The main finding of the study was that the substantiation rate for these two groups varied greatly and the variation was statistically significant. From 2009 to 2013, the Board substantiated 155 cases of “vehicle stop/search plus” cases. The substantiation rate was, on average, 22%. By comparison, the Board substantiated 51 cases of “vehicle stop/search only” cases for an average substantiation rate of 10%.

- In 2014, the Board substantiated 42 out of 153 “vehicle stop/search plus” cases, a substantiation rate of 27%. By comparison, the Board substantiated 9 out of 88 “vehicle stop/search only” cases for a 10% substantiation rate.

Chokeholds

- In 2014, the CCRB issued a comprehensive study of 1,128 chokehold complaints that were investigated from 2009 through June 2014. The main finding of the report was the weakening of the chokehold prohibition, and the lack of discipline when a chokehold complaint was substantiated. The Board substantiated a total of 30 chokehold allegations from 1993 to 2013.

- In 2014, the CCRB received the highest number of chokehold complaints as a percentage of both force complaints and total complaints since 2001. For example, in 2001, for every 100 force complaints filed, 4 were chokehold complaints. In 2014, for every 100 force complaints, 9.6 were chokehold complaints.

- In 2014, the Board substantiated six chokehold allegations. From January through April 2015, the Board substantiated three chokehold allegations. Of these nine incidents in the last 16 months, seven incidents occurred in 2013 or prior years.

Introduction: The Board, Agency Operations, and Resources

The Civilian Complaint Review Board (CCRB) is an independent agency of the City of New York. The Board investigates, mediates, and prosecutes complaints of misconduct that members of the public file against police officers of the New York City Police Department (NYPD). The CCRB was established in its all-civilian form, independent from the Police Department, in 1993.

The Board consists of thirteen members. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair. All appointments are made by the Mayor, who also has the authority to select the Chair of the Board. Under the Charter, the Board must reflect the diversity of the City's residents and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner who must have had a law enforcement vocation. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be and often are renewed. They receive compensation on a per-session basis, although some Board members choose to serve pro bono.

In July 2014, Mayor Bill de Blasio appointed Richard Emery to the Board and selected him to be the Board Chair. In October 2014, Mayor de Blasio appointed Deborah Archer and Bennett Capers, while the Police Commissioner designated Michael O'Connor and Lindsay Eason to the Board. In January, the Police Commissioner designated Deborah Zoland in place of Michael O'Connor. With these appointments, Mayor de Blasio sought to build a more respectful relationship between police officers and the communities they serve. As of December 31, 2014, the Board had three vacancies: one Police Commissioner designee and two City Council designees, one for Staten Island and the other for Brooklyn.

Board members review and make findings on all misconduct complaints once they have been investigated by an all-civilian staff. They also evaluate trends emerging from these complaints and make policy recommendations to the Police Department.

From 1993 to 2013, when the Board found that an officer committed misconduct, the case was referred to the Police Commissioner with a discipline recommendation. Under a Memorandum of Understanding (MOU) between the CCRB and the NYPD (effective April 11, 2013), all substantiated cases in which the Board recommends that charges and specifications be brought against an officer, are prosecuted by a team of CCRB attorneys in the Agency's Administrative Prosecution Unit (APU). In 2014, the Board began making more

detailed recommendations on the level of discipline. The Board now distinguishes between two levels of command discipline (command discipline A or command discipline B); formalized training at the Police Academy or the NYPD's Legal Bureau; and instructions at the command level.

In October 2014, the Board appointed Deputy Executive Director for Administration Brian Connell to the position of Acting Executive Director. Mr. Connell replaced the Agency's former Executive Director, Tracy Catapano-Fox. The Board conducted a national search for a new Executive Director and hired Mina Q. Malik, then Special Counsel to the District Attorney in the Kings County District Attorney's Office. Ms. Malik joined the Agency in February, 2015. The Executive Director is the Chief Executive Officer and is responsible for the Agency's daily operations, including the hiring and supervision of the Agency's staff in all programs. The staff is organized according to the core functions they perform.

In addition to the Investigations Division and the APU, the CCRB has a Mediation Unit that gives people the opportunity to resolve their complaints face-to-face with police officers. There is also an Outreach Unit that increases public awareness of the CCRB's mission and programs through presentations to community groups, tenant associations, public schools, libraries and advocacy organizations throughout the five boroughs.

The Administrative Division supports the other units, managing the large-scale computerized Complaint Tracking System (CTS), producing statistical analyses of complaint activity and case disposition, processing cases for Board review, managing office operations and vehicle fleet, and performing budgeting, purchasing, personnel, and clerical services.

The CCRB's Fiscal 2015 budget, which is in effect from July 1, 2014, to June 30, 2015, is $13,617,000. This is basically the same level of funding and staffing supported by the Fiscal 2014 budget. The total authorized full-time headcount for Fiscal 2015 was 167, with 119 employees in the Investigations Division, 5 in the Mediation Unit, 2 in the Outreach Unit, 20 in the APU, and 21 in the Administration Division. So far in 2015, the CCRB has also added 13 positions: 6 positions for outreach and communications, 2 for policy, 2 positions in administration, and 3 positions for the creation of a full-time, dedicated Training Unit.

Section 1. Case Processing and Reorganization of the CCRB Investigative Staff: Reforms in Progress [chapter heading]

Since the beginning of his term, Mayor Bill de Blasio has demonstrated a strong desire and commitment to improve relations between the NYPD and the community, and to ensure that the rights of New Yorkers are not infringed. In July, Mayor de Blasio appointed Chairman Richard Emery with the explicit mandate to transform agency operations, particularly on case processing.

As the City Charter mandates, the central mission of the CCRB is to investigate and resolve allegations of police misconduct "fairly and independently and in a manner in which the public and the police department have confidence." Since July, the priority of the Administration and the new Board has been to improve the efficiency and quality of investigations. During the press conference announcing the appointment of the new Chair, the Mayor noted that the CCRB had ample room for improvement. As he said, "[P]olice officers and citizens alike deserve speedier justice, deserve a more streamlined and effective process."

Historically, the average time to complete an investigation was astoundingly long, the size of the docket was unmanageably large, and the age of the docket was unacceptable. Following the new Chair's appointment, from July through October, the Board started to make progress. When comparing the period from July to October 2013 to July to October 2014, the average number of days to complete a full investigation decreased by 12%, from 343 days to 303 days. The average time to complete a substantiated investigation decreased by 11%, from 410 days to 365 days. The proportion of substantiated cases in which the statute of limitations expired decreased from 5% to 1% during the first four months of Fiscal 2015. These improvements stemmed from the quicker resolution of investigations.

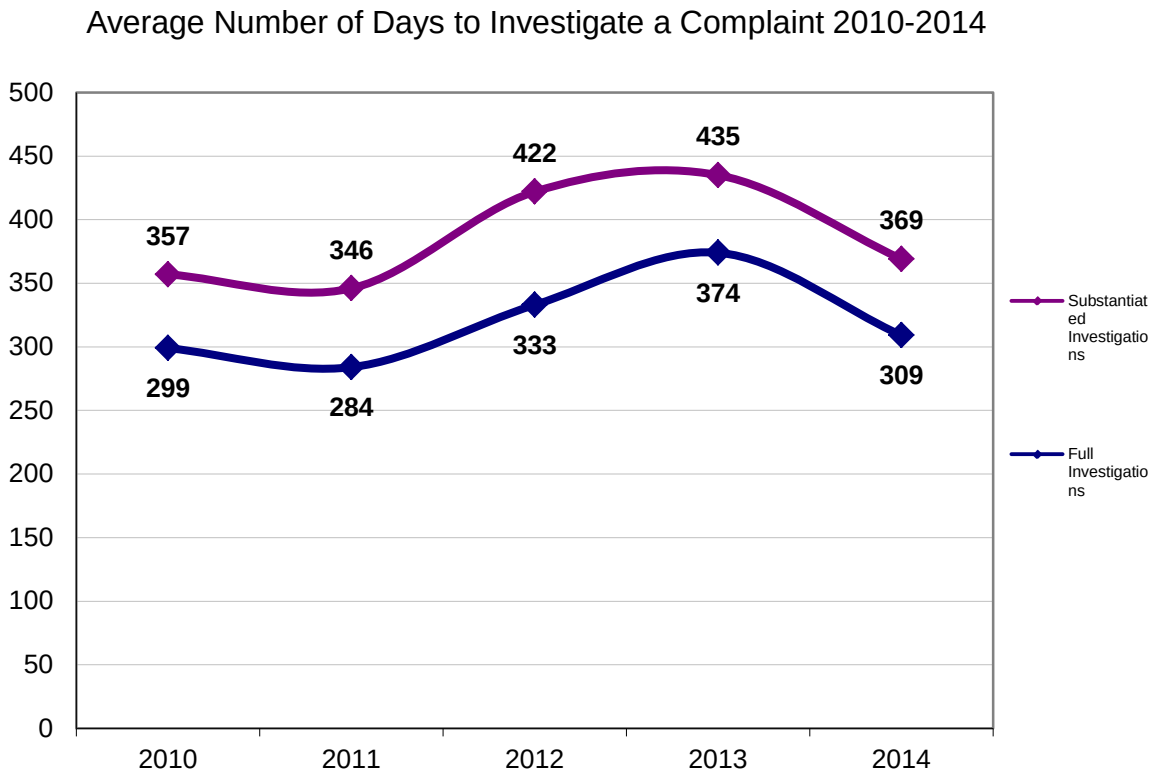
Those improvements were good but insufficient. In November 2014, the Board asked the executive staff to undertake the major process of restructuring the Agency's Investigations Division. The main goals were to reduce the time it took to complete investigations and the size of the open docket. In December, the Board implemented a comprehensive action plan developed by staff. The plan included the following key elements: (1) restructuring the Investigations Division from its hierarchical and vertical team structure to a horizontal structure based on smaller teams called pods; (2) creating a Case Closing/Transition Unit for old cases received prior to December 1, 2014, and the immediate implementation of the new Investigations Division pod structure that would receive only new cases; (3) creating new benchmarks and accountability instruments for the investigative process, including the creation of *CCRBstat* meetings; and (4) prioritizing resources to aggressively reduce the open docket,

including the creation of a Field Team for evidence gathering and a Strike Team to expedite cases that were moving too slowly.

The statistics for 2014 demonstrate that the overhaul is working. There is still a great deal of progress to be made, but the reforms are yielding positive results. Three indicators document positive changes in this overhaul.

Average Case Closure Time

The average time it takes to close an investigation is one of the key performance indicators the Agency uses to measure productivity. This indicator measures the length of time from the date the CCRB receives a complaint to the date a complaint is closed by the Board. The CCRB uses three metrics: (1) the time to complete a full investigation from the date of report; (2) the time to close a substantiated investigation from the date of report; and (3) the age of a substantiated case referred to the Police Department based on the date of incident. (Chart 1 – average number of days, 2010-2014)



Case completion is a two-step process: (1) investigation by the staff; and (2) review by the Board. The first indicator measures the average time it takes to investigate a complaint from the date the complaint is filed to the date the complaint is submitted for Board review. The second indicator measures the average time it takes to review a case investigation from the date of submission to the Board panel to the panel meeting date.

The CCRB took an average of 309 days to complete a full investigation in 2014, a decrease of 17% from the average of 374 days in 2013.[1] In 2010, the average number of days was 299. The lowest number during the last five years was 284 days in 2011.

From January through April 2015, the average number of days to complete a full investigation was 269.[2] More importantly, the reorganization of the investigative staff has resulted in a great reduction in the average number of days it takes staff to submit a case for Board review. In analyzing the 751 fully investigated cases submitted for review from January through April 2015, the data reveal real progress. For the 566 old complaints filed prior to the implementation of the new reforms, the investigations took an average of 255 days. However, for the 185 new complaints filed in 2015 after the implementation of the reorganization, the investigations took an average of 63 days.[3]

In 2014, the time needed to complete a substantiated investigation was an average of 369 days. This was a 15% decrease from the average of 435 days in 2013. In 2010, the average was 357 days and the average was 346 days in 2011.

From January through April 2015, the average number of days to complete a substantiated investigation was 336. In analyzing the 159 substantiated investigations submitted for Board review from January through April 2015, the data demonstrates real improvements. For the old 144 cases filed prior to the implementation of the new reforms in 2014 and prior years, a substantiated investigation took an average of 299 days. However, for the new 15 substantiated complaints filed in 2015 after the implementation of the new benchmarks, the investigations took an average of 67 days.

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[1] In 2014, the average time to conduct an investigation (from filing date to submission to the Board for review) was 276 days, and the time for Board review was 33 days.

[2] The Board closed 699 cases from January through April 2015. These cases include one case filed in 2011, one case filed in 2012, 61 cases filed in 2013, 604 filed in 2014 and 32 cases in 2015. Only 5% of cases were filed prior to the implementation of the restructuring of the Investigations Division. As we resolve the backlog of cases, the Agency's time to complete a full investigation will show drastic improvements as the 2015 preliminary data reveals.

[3] This preliminary data clearly shows that the Agency can meet both the Mayor's mandate for a more streamlined and effective investigative process and the Chair's aspiration to create a balance between thorough investigations and prompt decisions.

In 2014, 60.5% of cases referred to the Police Department for discipline were one year or older, as compared to 80% in 2013. This number contrasts with 54% of cases in 2010 and 45% of cases in 2011.

From January through April 2015, 55% of cases referred to the Police Department for discipline were one year or older. Year-to-date, this is five percentage points lower than in 2014 because the Agency's most immediate priority has been to complete all investigations of cases one year or older. While clearing this backlog, there is a temporary spike in the number of cases that are one year old or older.

The number of substantiated cases referred to the Police Department that were 15 months or older after the date of incident decreased from 57% in 2013 and 46% in 2012 to 24% in 2014. From January through April 2015, 19% of cases referred to the Police Department for discipline were 15 months or older.

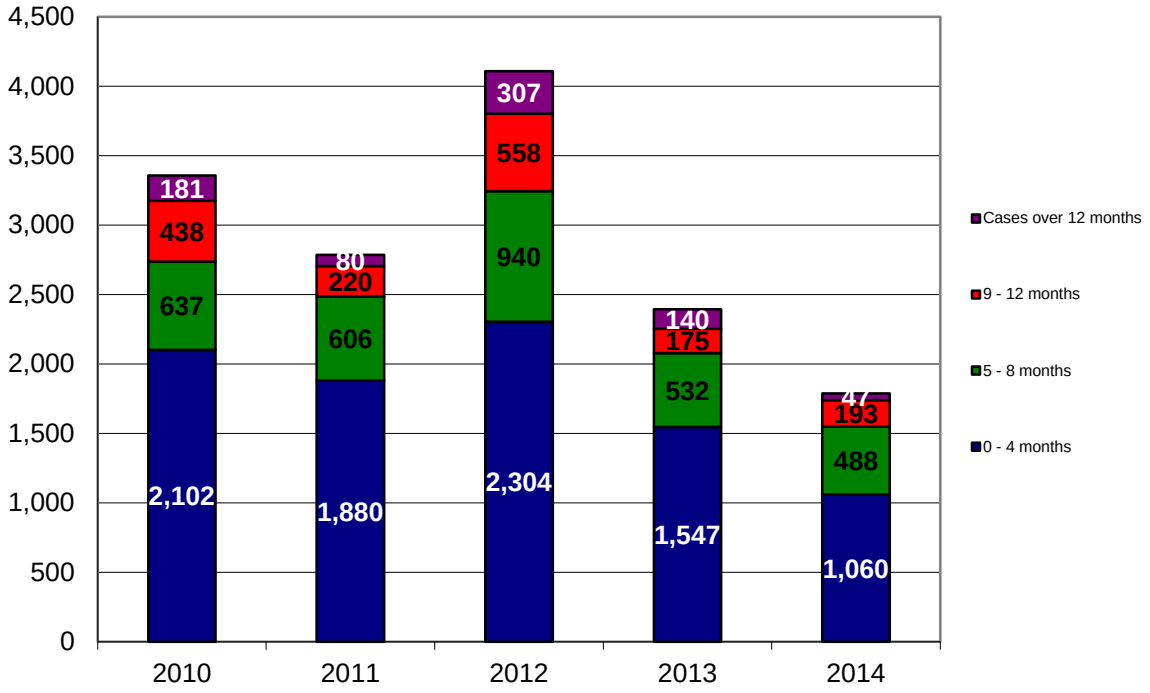
Finally, in 2014, the CCRB referred four substantiated cases to the Police Department in which the statute of limitations had expired, compared to 21 cases in 2013. The Board referred three such cases in 2010, none in 2011, and five in 2012. From January through April 2015, two substantiated cases were referred to the Police Department in which the statute of limitations had expired.

Docket Size

The size of the year-end docket for 2014 was 1,788 complaints, a decrease of 606 cases from 2013 when the open docket was 2,394.[4] This difference represents a 25% decrease. The 2014 open docket was the lowest since 2000. The goal is to achieve and maintain the lowest possible number. (Chart – age and size of open docket, 2010-2014)

[4] 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.

Size and Age of Open Docket, By Date of Report, 2010-2014



On June 30, 2014, when the Agency was six months without a Chair, the open docket was 2,662 cases. This was 11% higher than at the end of 2013. From the time the new Chair was appointed on July 17th, he made it a priority for the staff and the Board to reduce the open docket. As a result, the docket dropped from July to December by 874 cases, or 33%.

From January through April 2015, the open docket has been reduced further by 12%: from 1,788 to 1,572 cases on April 30, 2015.

The year-end docket of the Investigations Division decreased from 2,741 in 2012 to 1,858 in 2013, and 961 at the end of 2014. There was no significant change in the first half of 2014, but then the Agency's operations drastically improved during the last half of 2014.

From January through April 2015, the open docket of the Investigations Division has been further reduced by 24%, from 961 to 735 cases on April 30, 2015.

Age of the Docket

The greater the percentage of newer complaints in an open docket, the better the productivity. At the end of 2014, 1,060 open complaints (65%) were four months old or less based on the date of complaint filing. This number was six percentage points higher than it was in 2013 (59%).

At the same time, the percentage of old cases decreased. In 2014, less than 5% of complaints of the docket were 12 months and older. By comparison, in 2013, 7% of complaints were 12 months and older.

At the end of April 2015, 68% of cases in the open docket were four months old or less, and 3% of cases were 12 months and older.

In looking at the age of the docket based on the date of incident, there has also been an improvement in performance. This measure is particularly 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 increased from 50 in 2011 (2% of the open docket) to 202 (5%) in 2012, and then decreased to 103 (4%) in 2013. By the end of 2014, 31 cases were 15 months or older (2% of the open docket).

At the end of April 2015, 17 cases were 15 months or older (1% of the open docket).

Section 2. The Heart of the Reform: Collaboration and Improvement in the NYPD Disciplinary Process

Under the law the Police Commissioner has final authority to impose discipline and to decide the level of punishment for members of service. Notwithstanding this statutory authority, one of the most important initiatives of the new Board has been changing and enhancing CCRB's role in the Police Department's disciplinary process. In August 2014, less than a month after he was appointed Chair of the Board, Mr. Emery met with Police Commissioner Bratton and his executive staff. In that meeting, the parties all agreed that the discipline for CCRB cases had been given second-class status in the past. For example, although the Administrative Prosecution Unit (APU) was fully implemented, the Department retained many APU cases and imposed no discipline. APU pleas were set aside and charges dismissed. The Department continued to decline imposing discipline in one-quarter of CCRB cases. At the meeting there was also agreement that a transformed disciplinary system needed to be put in place, so that the two agencies could collaborate to ensure that complainants and police officers were treated fairly.

Since that initial meeting, the Chair and executive staff from the Police Department's Office of Legal Affairs and Department Advocate's Office (DAO) continued to meet to reform and improve the interactions between CCRB and the NYPD. Joined by the new CCRB Executive Director, the goal of these meetings is to enhance the NYPD's respect for both the CCRB's decision to substantiate a complaint and for the CCRB's disciplinary recommendations. These meetings have also set a goal to facilitate and expedite information and evidence sharing between agencies.

One of the outcomes of this process of inter-agency collaboration has been the adoption by the Board of a resolution implementing a formal "reconsideration process." The reconsideration process allows the NYPD's Advocate's Office (DAO) to request that the Board reconsider its findings and/or penalty recommendations of a previously substantiated case based on new evidence or reasons not known during the investigation. To initiate this process, the DAO must write a letter to the Board requesting that the Board reconsider the penalty and/or disposition of an allegation. The Board may reconsider the case if: (a) the penalty recommended for the case against any subject officer is determined upon reconsideration to be inappropriate or excessive; or (b) there exists new facts or evidence that were not previously known by the Board panel which could reasonably lead to a different finding or recommendation in the case; or (c) there are matters of fact or law which are found to have been overlooked or misapprehended by the deciding panel.[1]

[1] Within the Police Department, there are three basic disciplinary options. The first form of discipline is to compel an officer to receive formalized training at the Academy or at the Legal

CCRB Disciplinary Recommendations

In 2014, the Board substantiated 327 complaints against 489 police officers, as compared to 300 complaints against 442 officers in 2013. The Board recommended that administrative charges be brought against 265 officers in 167 cases (51%); command discipline for 130 officers in 92 cases (28%); formalized training or instructions for 90 officers in 66 cases (20%); and no recommendation was made for 4 officers in 2 cases (1%).

The percentage of officers for whom the Board recommended administrative charges, the most serious form of discipline, decreased from 69% in 2010; 70% in 2011; 68% in 2012; and 67% in 2013 to 54% in 2014. The Board's recommendation of command discipline has increased overall from 2010 to 2014: 20% of officers in 2010 and 2011; 26% in 2012; 24% in 2013; and 27% in 2014. Finally, the percentage of officers that received the recommendation of instructions has increased overall for this period: 5% of officers in 2010; 7% of officers in 2011; 5% of officers in 2012; 7% of officers in 2013; and 18% of officers in 2014. These trends appear to have consolidated in 2015 with the Board recommending charges for 25% of officers against whom allegations were substantiated.

The number of officers with substantiated allegations significantly increased after 2010. There were 375 officers with substantiated allegations in 2010; 213 in 2011; 265 in 2012; 442 in 2013; and 489 in 2014. In total, the Board substantiated 1,236 complaints against 1,784 officers from 2010 to 2014.

Department Advocate's Office Disciplinary Actions on CCRB Cases

In 2014, the Department Advocate's Office (DAO) reached a disposition in CCRB cases against 140 subject officers. This was the first year in which the Administrative Prosecution Unit was at full operation and hence, DAO's caseload for 2014 was smaller than in the past. Looking at the five-year trend, the DAO

Bureau, instructions or other mild forms of discipline. The second form of discipline is a command discipline A or B. The case is forwarded to the subject officer's commanding officer for discipline, and it can result in the loss of up to five vacation days for a Command Discipline A and up to ten vacation days for a command discipline B. The third and most severe disciplinary option is the filing of administrative charges and specifications. Charges and specifications may lead to an officer pleading guilty prior to trial, or prosecution in an administrative trial, where the officer can be found guilty or not guilty. The charges can also eventually be dismissed. In all cases, the Police Commissioner has final approval of all dispositions.

reached a disposition in cases against 292 officers in 2010; 283 in 2011; 351 in 2012; and 287 in 2013.[2]

This yielded a total of 1,353 subject officers in the five-year period from 2010 to 2014. These numbers do not include officers who may have been disciplined for allegations of other misconduct which the CCRB uncovered but fell outside of its jurisdiction (FADO). These allegations were described earlier as "other misconduct noted" (OMN).

The DAO's disciplinary action rate on substantiated complaints fluctuated in the past and remained at 73% in 2014. The rate was 78% in 2010; 81% in 2011; 70% in 2012; and 57% in 2013. The 2013 discipline level was the lowest of the last five years. In absolute numbers, disciplinary actions decreased from 243 in 2012, to 162 in 2013 and to 102 in 2014.

In 2014, the DAO conducted two administrative trials stemming from previously substantiated CCRB cases. The officers were found guilty in both cases. In 2010 and 2011, the DAO conducted 14 and 17 administrative trials respectively. In 2012, there were 21 trials. In 2013, the number of trials decreased to 12. During this five-year period, the rate of guilty verdicts obtained by the DAO gradually increased, although it slightly decreased from 2012 to 2013. The guilty rate was 29% in 2010; 59% in 2011; 71% in 2012; 67% in 2013; and 100% in 2014.

The number of plea negotiations handled by DAO has also fluctuated over time. The DAO negotiated 11 pleas in 2010; 19 in 2011; 16 in 2012; 12 in 2013; and five in 2014.

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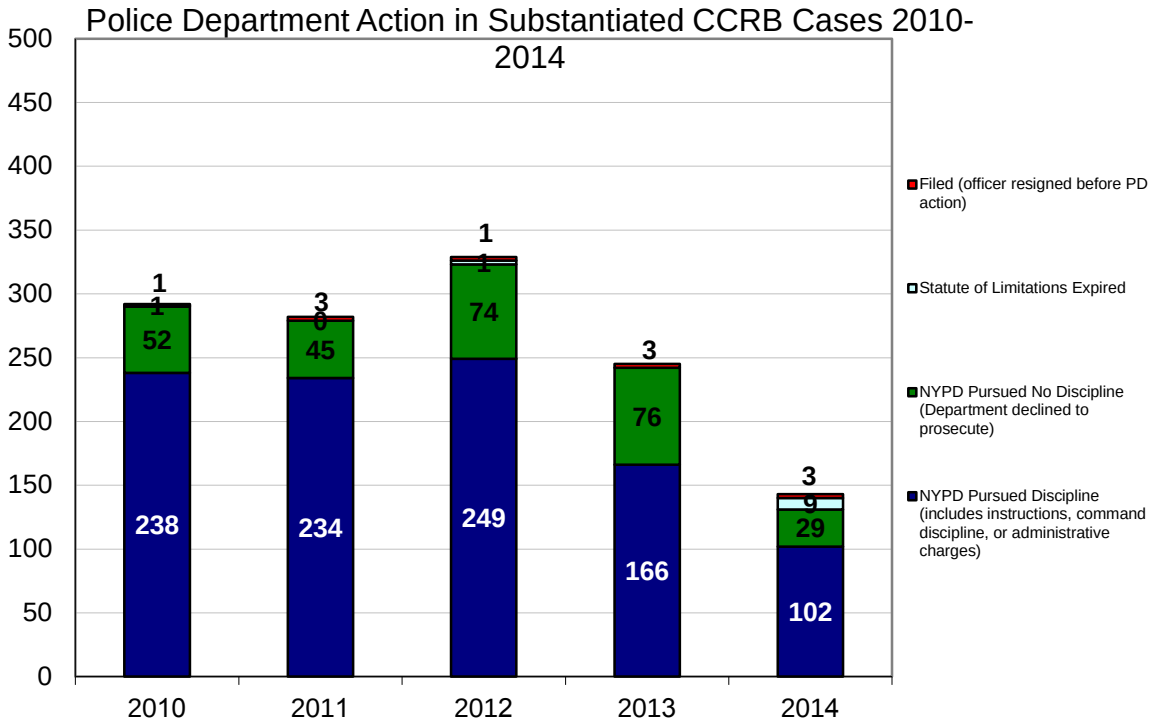
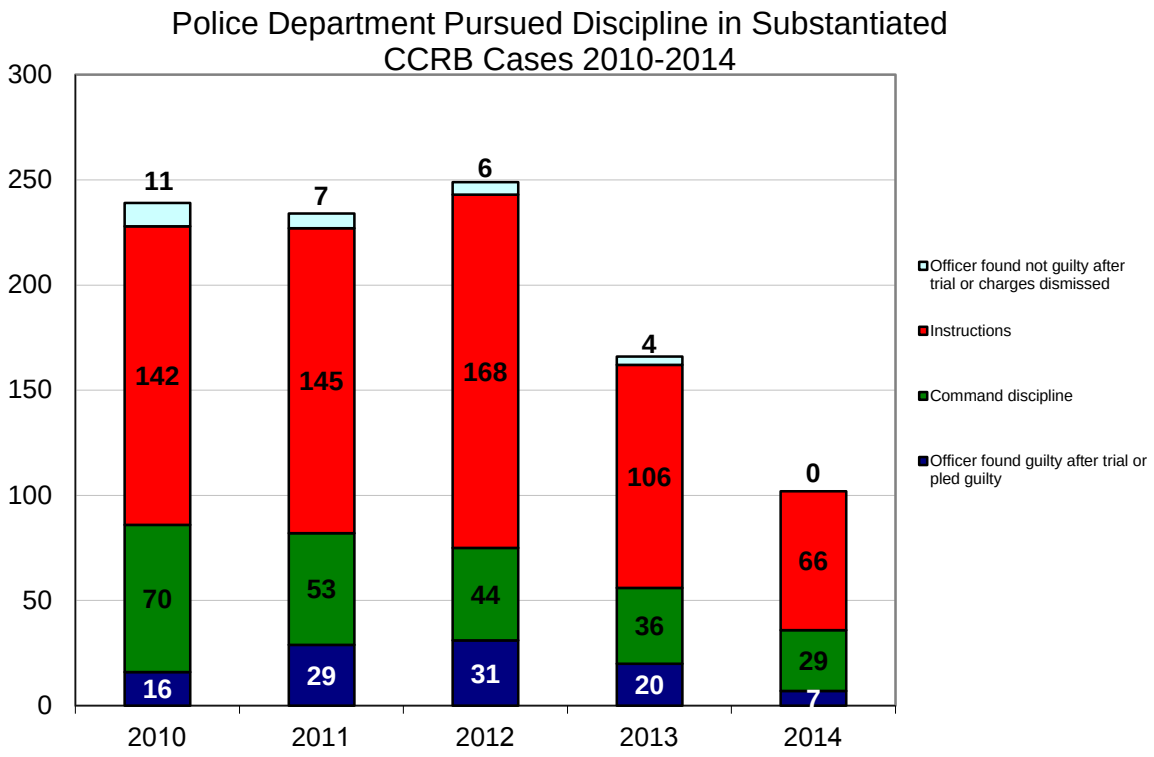
[2] The CCRB receives monthly reports from the Police Department detailing the discipline the Department has imposed on officers in substantiated CCRB cases. In 2014, the CCRB implemented a data reconciliation process in collaboration with the Department Advocate's Office. The purpose of this process was to reconcile records in the Agency's Complaint Tracking System, the monthly reports, and the database of the Department Advocate's Office. In particular, the CCRB asked the Department for a status update on 162 substantiated cases from 2009 to 2014 that were open in the CCRB's Complaint Tracking System. The Agency was able to update the information on 115 cases previously closed for which we had no information prior to the reconciliation. Based on that reconciliation, the CCRB updated its Police Department disciplinary information from 2009 to the present.
In the course of this reconciliation, the CCRB and the Police Department also identified 18 cases that had missing information. There were twelve cases where the DAO had no record on file of having received the CCRB case. In six additional cases, the DAO received incorrect memoranda from the CCRB that prevented the Department from assigning the case to the appropriate unit. As a result of these mistakes in the transmittal of substantiated case files, the statute of limitations expired in 14 cases. Upon learning of these facts, Chair Emery ordered an audit of the CCRB's Case Management Unit. The unit has been substantially restructured, including the appointment of a new unit director.

The DAO's conviction rate, which includes guilty findings after trial or a guilty plea, reached a historic high in 2014 of 100%. The rate was 58% in 2010; 81% in 2011; 84% in 2012; and 83% in 2013. (Chart – PD action)



In 2014, the Department could not seek discipline in nine cases because the statute of limitations (SOL) had expired. Although it was not the lowest number in the last five years, it has decreased significantly since 2013, from 41 cases to nine cases (78%). By comparison, the SOL expired in one case in 2010; zero cases in 2011; 23 in 2012; and 41 cases in 2013.

In 2014, the DAO declined to seek discipline in 21% of substantiated cases. This was the second highest rate since 2010. The Department declined to seek discipline in 18% of all cases in 2010; 16% in 2011; 21% 2012; and 27% in 2013. In absolute numbers, the Police Department has declined to discipline 276 officers in the last five years. So far in 2015, the Department has declined to seek discipline in three cases, which is 8% of cases aside from those that are pending. (Chart – PD pursued discipline)



In 2014, the Police Department imposed a command discipline or instructions against 93% of officers that DAO processed. The rate was 93% in 2010; 87% in 2011; 87% in 2012; and 88% in 2013.

Administrative Prosecution Unit (APU)

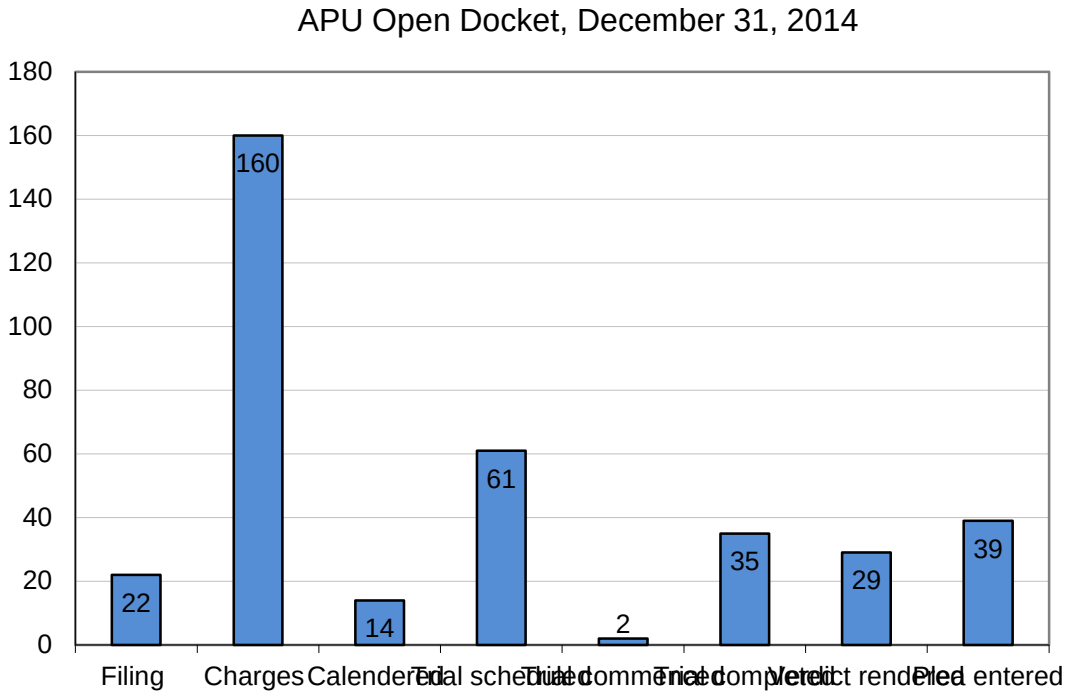
In January 2001, Mayor Rudy Giuliani and Police Commissioner Bernard Kerik announced a plan that would have authorized the Board to prosecute all substantiated CCRB cases at the NYC Office of Administrative Trials and Hearings (OATH) when the Board recommended charges and specifications. The police unions filed a lawsuit challenging this plan as an unconstitutional violation of the City Charter. Upon review, the appellate court determined that the prosecution of cases by the CCRB was properly authorized, but that the disciplinary hearings must take place before an employee of the Police Commissioner, and therefore, the hearings could not take place at OATH.

In 2010 the City Council, with the support of then Public Advocate Bill de Blasio, funded a pilot project in which a CCRB attorney served as lead prosecutor in disciplinary trials at the NYPD for a small number of cases in which allegations were substantiated by the Board. Initially staffed with one attorney

and one investigator, the pilot program was given permanent status and funding in November 2011.

The pilot APU program was subsequently expanded into a full-fledged unit with the signing of a Memorandum of Understanding (MOU) on April 2, 2012, by Police Commissioner Raymond Kelly and CCRB Chair Daniel Chu. The MOU authorized the CCRB to prosecute all substantiated CCRB allegations for which the Board recommended administrative charges, with limited exceptions. The NYPD's DAO continues to handle substantiated CCRB allegations for which the Board recommends a command discipline or instructions. The Board also notes misconduct that is outside the CCRB's jurisdiction and refers those allegations to the DAO, the NYPD's Internal Affairs Bureau (IAB), or the Office of the Chief of the Department (OCD) when appropriate.

In 2014, the APU received a total of 169 cases from the Board. At the end of December 31, 2014, the APU's total open docket stood at 362 cases, including cases received in 2013. This included 103 cases where the CCRB was awaiting a trial verdict or final determination of discipline by the Police Commissioner. (Chart – APU open docket)



In 2014, the Police Department reported the final disposition of 20 administrative trials. The Assistant Deputy Trial Commissioner (ADTC), presiding over the trial, found the officer guilty in nine of those cases and not guilty in 11 of those cases. In 13 instances, the cases were resolved by a guilty

plea. In 19 cases where there was originally a plea, the plea was set aside by the Police Commissioner and the charges dismissed. In 16 cases, the officer received a penalty, and in three cases, the officer did not receive a penalty. Similarly, the Police Department retained 21 cases under the limited exception provision of the MOU and imposed lesser discipline. In 12 retained cases the Police Commissioner imposed no discipline.

Reforming the Disciplinary Process

The collaboration between the CCRB and the Police Department has begun to change the way the Department handles discipline in CCRB cases. There has been a notable difference between the Police Department's discipline in cases that were adjudicated before July 2014, and in cases adjudicated since September after the implementation of inter-agency cooperation. This change is evidenced by the following statistics.

In 2014, the Department closed 140 DAO cases: 84 cases under the old system (through August) and 56 under the new system (September through December). DAO cases are substantiated cases where the Board recommended a command discipline and formalized training. For these cases, there was a significant change in the discipline imposed:

- The discipline rate under the old system was 62%. The discipline rate under the new system was 89%. So far in 2015, the rate is 89%.

- The rate of agreement when the Board recommended a command discipline was 19% under the old system and 33% under the new system. The rate of agreement for recommended instructions was 78% under the old system and 95% under the new system.

- The rate at which the Department was unable to prosecute cases was 27% under the old system and 11% under the new system. In the first months of 2015, the rate was 8%.

From January 1, 2014 through December 31, 2014, the Department closed 97 APU cases: 45 cases resolved under the old system and 52 cases under the new system.[3] (The following statistics show the changes:

- The discipline rate for cases under the old system was 47%. The discipline rate under the new system was 72%. In the first months of 2015, the rate was 77%.

[3] APU cases are cases in which the Board recommended administrative charges.

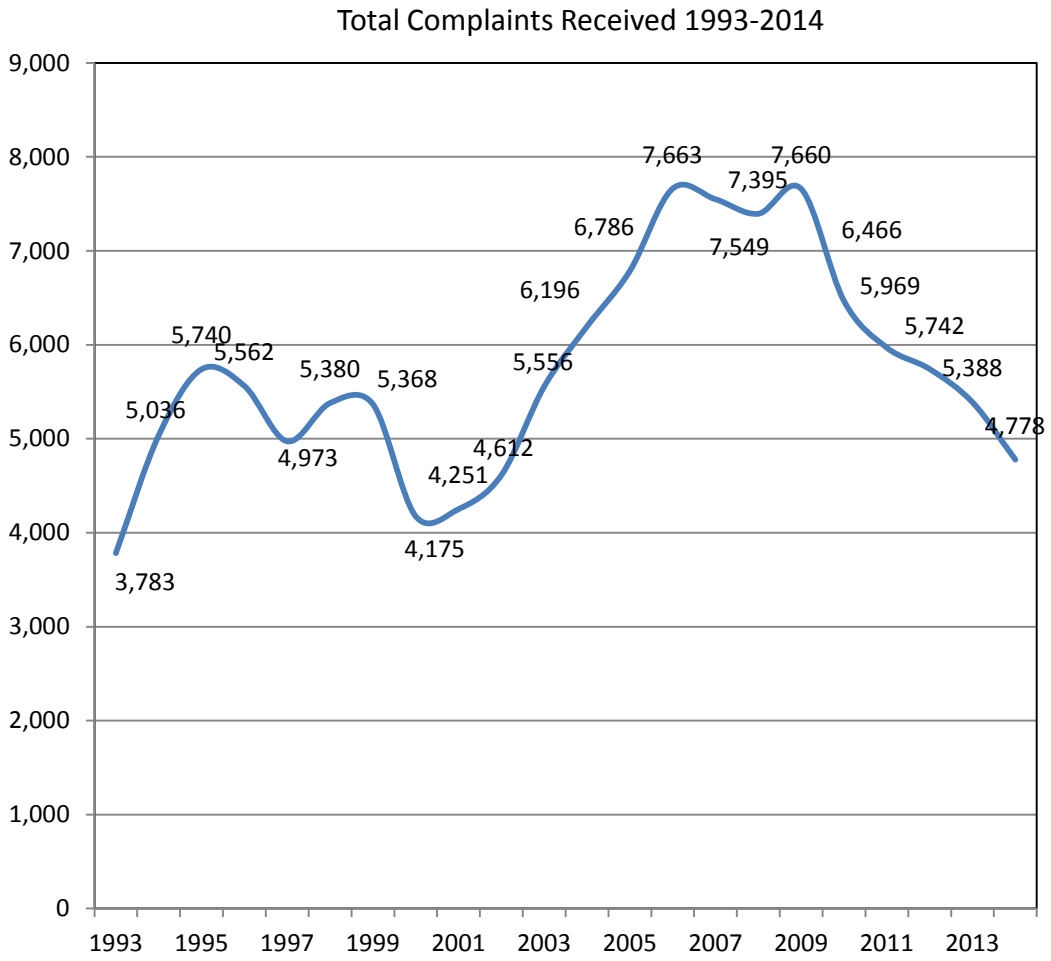
- The rate of agreement with the Board recommendation was 40% under the old system and 51% under the new system.

- The rate at which the APU declined to impose discipline was 16% under the old system and 11% under the new system. In the first months of 2015, the rate was 0%.

Section 3. Complaint Activity

Number of Complaints Received

The CCRB received 4,778 complaints within its jurisdiction in 2014.[1] This is an 11% decrease from 2013 when members of the public filed 5,388 complaints, and a 26% decrease from 2010 when civilians filed 6,466 complaints. The number of complaints received in 2014 is the lowest since 2002 when the CCRB received 4,612 complaints. Complaint activity has been steadily declining from the peak years of 2006 to 2009 when the Agency received over 7,000 complaints annually. (Chart - Total Complaints Received, 1993-2014)



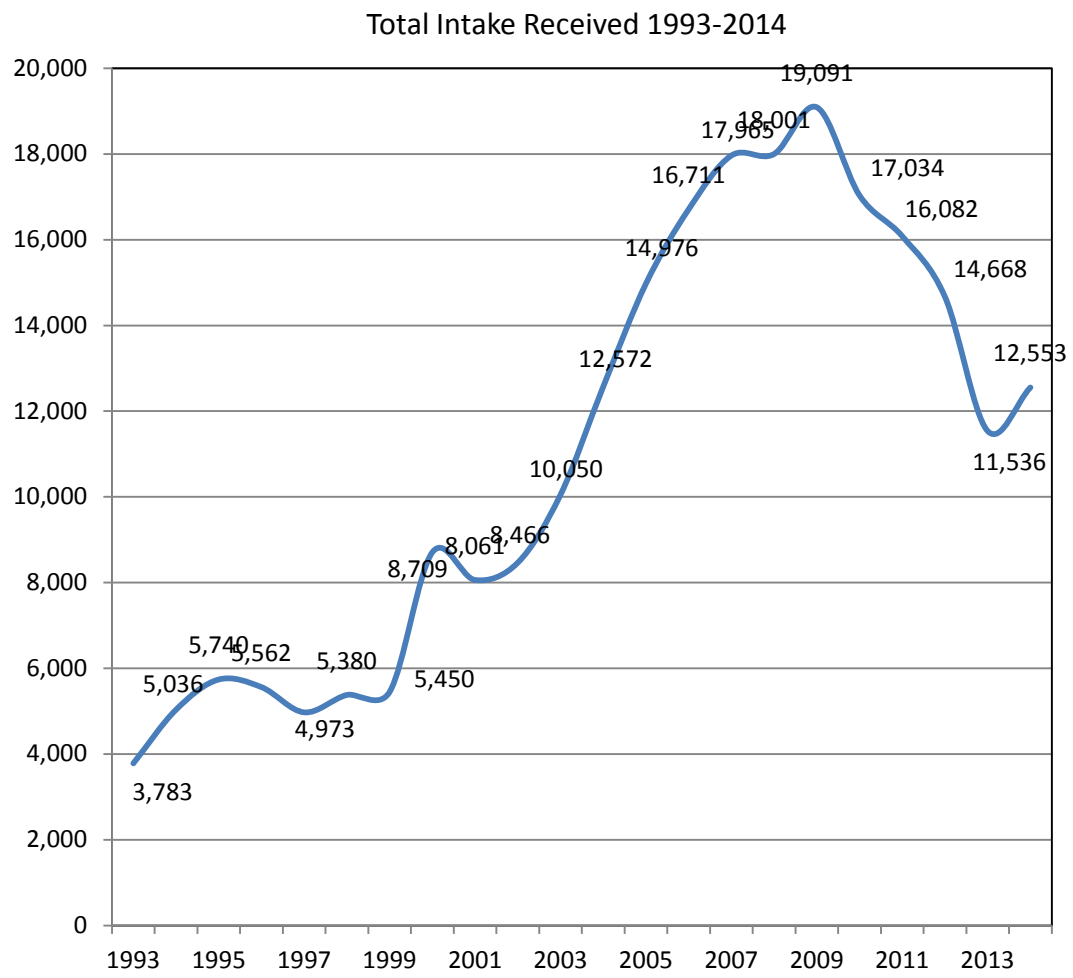
[1] The Agency's jurisdiction is limited to four categories of misconduct: force, abuse of authority, discourtesy, and offensive language. It is known by the acronym FADO.

From 2010 to 2014, complaints have been steadily declining. The best way to interpret this trend is to look at monthly complaint activity. Average monthly complaint activity has decreased from 539 complaints per month in 2010, to 497 in 2011, 479 in 2012, 449 in 2013, and 398 in 2014. Statistics show that the decline accelerated in 2014. Complaint activity decreased from an average of 474 complaints per month in the second half of 2013 to 451 complaints per month in the first half of 2014, and then to 349 complaints in the second half of 2014. Although the year-to-year decrease was 11% from 2013 to 2014, the decrease from the period of July to December of 2013 compared to the period of July to December 2014 was 28%.

To understand the long-term and short-term decrease in complaint activity, it is important to look at the factors that are most relevant and may have an effect on complaint levels. The decrease in law enforcement interactions with civilians, which was achieved without compromising public safety, appears to be the most likely cause of this steady decrease in complaint activity.

Total Filings

First it is important to look at the distinction between FADO complaints (complaints within the CCRB's jurisdiction) and total filings, which the CCRB also includes in its total intake of complaints. Total intake is the sum of FADO complaints plus complaints filed by members of the public that were determined to be outside CCRB jurisdiction. While these complaints are entered into the Agency's Complaint Tracking System (CTS), they are not investigated by the CCRB. They are referred to the governmental entities that have the jurisdiction to process them. There are two units at the Department that are the primary recipients of the Agency's referrals: the Office of the Chief of Department (OCD) and the Internal Affairs Bureau (IAB). All civilians are notified by letter that these referrals have been made and they receive a tracking number. The Agency made 7,775 referrals in 2014. This was a 26% increase from 2013 when the Agency made 6,148 referrals. It was a 26% decrease from 2010 when the Agency made 10,568 referrals. In 2014, CCRB referrals to IAB increased by 29% for allegations of corruption. (See Chart – Total Intake Received, 1993-2014)



From 2013 to 2014, the data reveals the following disparities: complaints within the CCRB's jurisdiction are down by 11%, from 5,388 complaints in 2013 to 4,778 in 2014, while total intake is up by 9%, from 11,536 to 12,553. In contrast, the longer-term trend is downward. From 2010 to 2014, total filings decreased by 26%, from 17,034 filings in 2010 to 12,553 filings in 2014. From 2010 to 2014, FADO complaints also decreased by 26%.

One possible explanation for this apparent contradiction between the short-term trend and the long-term trend is that the percentage of cases that the Agency determined to be outside its jurisdiction (the number of referrals) increased significantly from 2013 to 2014 with the creation of a special Intake Unit. In 2013, 46% of complaints were determined to be within the Agency's jurisdiction, while, in 2014, 38% of filings were determined to be within the Agency's jurisdiction. If the percentage of filings determined to be within the

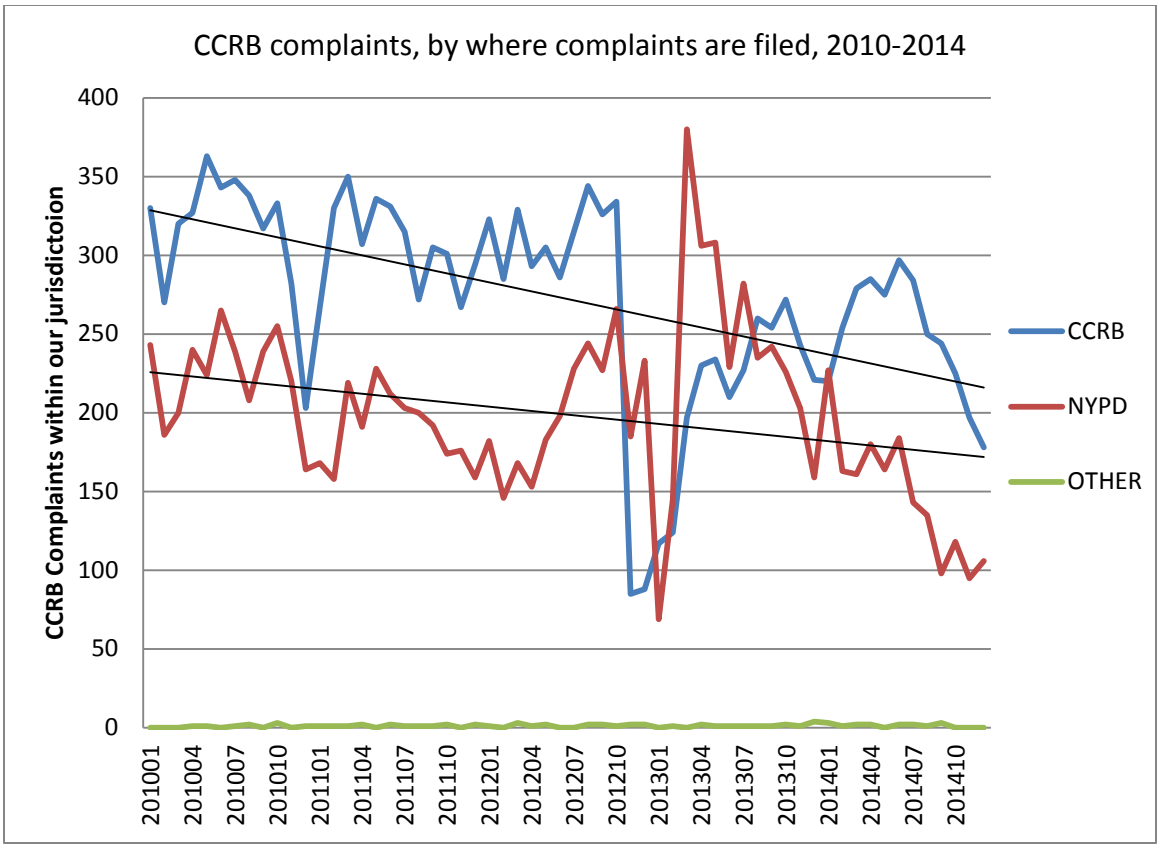
CCRB's jurisdiction would have been similar to 2013, the number of complaints within the Agency's jurisdiction would have increased. It is important to note that the 2014 referral rate was consistent with the 38% average from 2010 to 2012.

In 2014, that Intake Unit was disbanded and reorganized into a smaller unit that transmits cases to the newly formed investigative pods. Statistics for 2015 will determine whether the referral rates will be affected by this reform.

The CCRB also tracks complaints by the method of filing which indicates where civilians initially filed their complaint. There are two broad categories. One category is complaints filed directly with the CCRB (including phone calls transferred from the City's 311 service center to the CCRB's 1-800 number). The second category is complaints filed with the NYPD that are then referred to the CCRB.

In looking specifically at complaints filed directly with the CCRB, total intake has decreased from 12,908 filings in 2010 to 10,329 in 2014. This was a 20% decrease. From 2010 to 2012, the CCRB received, on average, 1,018 filings per month. In the months following Hurricane Sandy, filings decreased drastically to 592 filings per month in the first half of 2013. Complaint activity gradually increased to 738 in the second half of 2013, 847 in the first half of 2014, and 874 in the second half of 2014. In one month, July 2014, filings reached and exceeded the 1,000 filings per month mark for the first time since 2012.

In looking at complaints filed initially with the NYPD, intake has decreased from 4,098 filings in 2010 to 2,150 in 2014. This was a 47% decrease. In 2010, the CCRB received 341 cases per month filed directly with the NYPD. From 2011 to 2013, direct filings with the NYPD remained stable: 296 filings per month in 2011; 290 in 2012; and 292 in 2013. In 2014, direct filings with the NYPD decreased to 217 in the first half of 2014 and 141 filings in the second half of 2014. (See Chart – Monthly Complaints and Total Filings)



Place and Method of Filing Complaints within the CCRB's jurisdiction

From 2010 to 2012, approximately 60% of all complaints within our jurisdiction were filed directly with the CCRB. In 2013, this percentage decreased to 48% of all complaints. In 2014, 63% of all complaints were filed directly with the CCRB.

A comparison of the five-year trend for CCRB-filed and NYPD-filed complaints reveals diverging patterns. In the last five years except for 2014, the number of complaints filed with the CCRB decreased each year: 3,774 cases in 2010; 3,313 in 2012; and 2,589 in 2013. In 2014, complaints filed directly with the CCRB increased by 15%, or 399 complaints, from 2,589 complaints in 2013 to 2,988 in 2014.

By comparison, the number of FADO complaints filed with the NYPD and referred to CCRB decreased from 2,683 in 2010 to 2,280 in 2011, and then increased to 2,413 in 2012 and to 2,784 in 2013. In 2014, FADO complaints filed

directly with the Police Department and referred to CCRB decreased by 39%, or 1,010 complaints, from 2,784 in 2013 to 1,774 in 2014.

The CCRB also tracks the four basic ways in which civilians file complaints directly with the Agency: in person, by letter or fax, online, or by phone. If by phone, the Agency tracks whether: (a) the complainant spoke with an investigator upon calling the Intake Unit during business hours; or (b) left a message on the automated voice-messaging system. In 2014, 76% of CCRB complaints were made by phone compared to 85% in 2010. The proportion of complaints filed by email increased from 10% in 2010 to 18% in 2014, from 396 to 522 complaints.

In 2014, the number of complaints filed by phone increased significantly by 27%. However, the number of phone complaints has decreased by 29% in the last five years, from 3,188 in 2010 to 2,252 in 2014. The most significant long-term trend is the decline in the number of complaints made by phone through the automated voice-messaging system. While complaints by phone during business hours have declined from 1,797 in 2010 to 1,509 in 2014, a decrease of 16%, complaints by phone through the voice-messaging system, have declined from 1,391 in 2010 to 743 in 2014, a decrease of 47%. The Agency will study if the new voice-messaging system implemented after Hurricane Sandy has affected civilians' abilities or willingness to file complaints.[2]

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[2] For CCRB-filed FADO complaints, monthly data show the effect of the voice-messaging system before and after Hurricane Sandy. For the five months prior to Sandy, from May through October 2012, the CCRB received 318 FADO complaints per month which were filed directly with the Agency. In the six months after Sandy, the decrease was significant. From November 2012 through January 2013, the CCRB received 97 complaints per month and from February through April 2013, the CCRB received 183 complaints per month. The average for the five-month period after Sandy from November 2012 through April 2013 was 140 complaints per month which were filed directly with the CCRB. This was almost 180 fewer complaints per month than the prior five-month period. From May through October 2013, the Agency received 242 complaints per month. The statistics show that CCRB-filed FADO complaints post-Sandy did not return to the pre-Sandy levels.
Data for total filings supplements the analysis. For the five months prior to Sandy, from May through October 2012, 1,058 filings per month were reported directly with the CCRB. There was a significant decrease in the five months after Sandy. From November 2012 through January 2013, the CCRB received 316 filings per month and from February through April 2013, the CCRB received 572 filings per month. The average for the five-month period after Sandy from November 2012 through April 2013 was 444 complaints per month filed directly with the CCRB. This was 600 fewer filings per month than in the prior six-month period. From May through October 2013, the CCRB received 754 filings per month. Even after agency operations were fully normalized, the CCRB received 29% fewer filings compared to the five months before Hurricane Sandy.

Location of the Incident and Complaint Activity

In analyzing complaint activity, the CCRB looks at the police precincts where incidents occurred. The data for both CCRB-filed and NYPD-filed complaints was examined.

To explore the reasons for the decrease of CCRB-filed and NYPD-filed complaints and total intake, the CCRB looked at complaint activity by precinct.

For NYPD-filed total complaints, there were four precincts where total filings increased, and there were 71 precincts where total filings decreased or remained unchanged. The analysis further focused on the decrease from July through December 2013, and the subsequent decrease from July through December 2014. There were three precincts where complaints increased, and 74 precincts where complaints decreased or remained unchanged. In particular, there were 19 precincts where the decrease was 60% or higher, and there were 18 precincts where the decrease was between 50% and 59%. A comparison was also made for the period July through December 2013 to the period July through December 2014 and historical data from 2011 through 2014 was reviewed using a standardization technique known as standard score.

The analysis shows that there are certain geographic areas where NYPD-filed complaints and total filings deviated significantly from both the historical pattern and from the prior year. For example, complaints that occurred within the confines of the 48th Precinct and were filed directly with the NYPD decreased from 27 during July to December of 2013 to three during July to December of 2014. The same precinct generated an average of 12.3 complaints every three months from 2011 to June 2014, and it then had two complaints from July through September 2014 and one complaint from October through December of 2014. This was no exception and there were 19 precincts with similar patterns. This dataset is an appendix of this report.

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. In 2014, complaints attributed to specialized bureaus such as Housing, Detectives, Organized Crime, and Transit declined by 16%. Similarly, complaints attributed to the Patrol Services Bureau, which includes the Patrol Boroughs, Special Operations, and other patrol services commands, decreased by 21%. The patrol boroughs of Brooklyn North, Queens South, Manhattan North and Manhattan South decreased by 25% or higher. Only one patrol borough, Patrol Borough Staten Island, had higher complaint levels (a 4% increase from 2013 to 2014).

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 more complaints stem from what is typically the most frequent reason for contact according to police officers, that is, the officer suspects that the civilian was about to commit or was committing a crime. This suspected crime takes place on the street, in the subway, in buildings or automobiles. In 2014, 44% of all complaints had suspicion of a crime listed as the main reason for contact. This factor represented 36% of all complaints in 2014, which was eight percentage points higher than in 2013. These complaints increased from 1,954 in 2013 to 2,092 in 2014.

Given that more than one-third of all CCRB complaints stemmed from an encounter in which police suspected the civilian of committing a crime, police activity, as defined by the number of arrests, criminal court summonses issued, and stop, question and frisk reports, provides a very valuable context in which to view changes in complaint activity.

In the last five years, the number of police-civilian encounters (arrests, criminal summonses, and stop-and-frisk documented encounters) decreased by 50%, from 1,559,429 in 2010 to 791,976 in 2014. There were 1,009,509 encounters in 2013, or a 21% decrease.

From 2013 to 2014, the number of documented stop-and-frisk encounters decreased by 76%; the number of arrests decreased by 2%; and the number of criminal summonses decreased by 15%. Arrests decreased from 394,539 in 2013 to 387,461 in 2014; criminal summonses issued decreased from 423,119 in 2013 to 358,728 in 2014; and documented stop, question and frisk encounters decreased from 191,851 in 2013 to 45,787 in 2014.[3]

There is a high correlation between the number of CCRB complaints and the number of stop-and-frisk encounters, arrests, and criminal summonses issued.[4] The Agency has conducted a monthly analysis, but a longer-term analysis is needed to conclude the strength of the relationship between complaint activity and enforcement data. In the meantime, the relationship between these

[3] Breakdown of these categories: Arrests – 422,982 in 2010; 413,575 in 2011; 397,166 in 2012; 394,539 in 2013; and 387,461 in 2014. Summonses – 535,162 in 2010; 490,579 in 2011; 476,363 in 2012; 423,119 in 2013; and 358,728 in 2014. Stop and Frisk Reports – 601,285 in 2010; 685,724 in 2011; 532,911 in 2012; 191,851 in 2013; and 45,787.

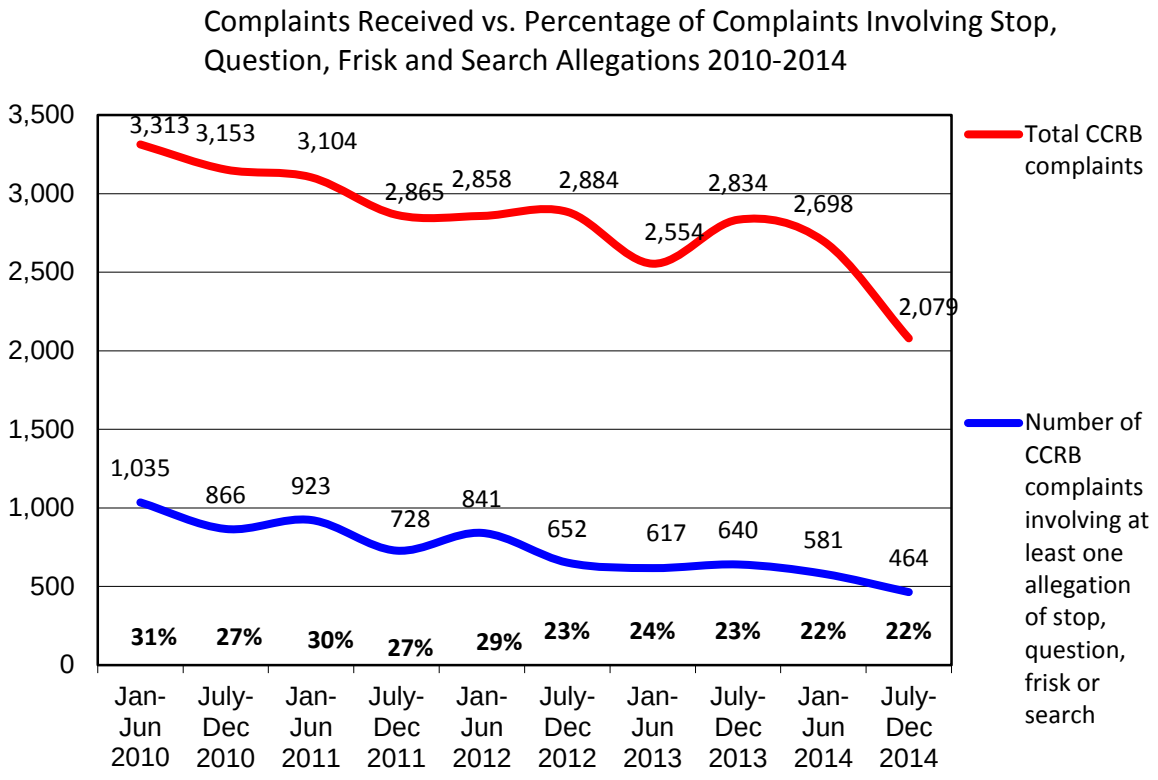
[4] The monthly correlation is R =0.9. A perfect correlation is 1.0. No correlation is 0.

two variables is so strong that it is worth noting it as the main factor contributing to the decrease in complaint activity.

Valuable information is gained by looking at whether an encounter leading to a complaint involved an arrest or summons. In 2014, 41% of all complaints involved no arrest or summons, while from 2010 to 2013, 46% of all complaints involved no arrest or summons. The statistics also show that the percentage of complaints involving an arrest is gradually increasing. In 2010, 36% of all complaints involved an arrest, while in 2014, 43% of all complaints involved an arrest. In 2014, 16% of all complaints stemmed from an incident where a summons was issued. This is two percentage points lower than in 2010 when 18% of all complaints involved the issuance of summons.

Stop-and-Frisk Encounters

In recent years, more than one in four CCRB complaints involved allegations of improper stop, question, frisk or search (referred to as stop-and-frisk complaints). However, the actual percentage of such allegations has decreased during the last five years by nine percentage points, from 31% in the first half of 2010 to 22% in both six-month periods of 2014. (Chart – stop-and-frisk allegations)



In 2014, the number of stop-and-frisk complaints continued to decrease. The CCRB received 1,038 stop-and-frisk complaints as compared to the 1,263 received in 2013. This was a 17% decrease. Since 2010, when the Agency received 1,910 complaints, the number of stop-and-frisk complaints has decreased by 46%.

From 2010 to 2014, the number of NYPD documented stop-and-frisk encounters has decreased substantially, from 601,285 encounters in 2010 and 685,724 in 2011 to 191,851 in 2013 to 45,787 in 2014. The number of documented encounters in 2014 was the lowest since 2000.

In the last five years, the ratio of stop-related complaints to documented stop-and-frisk encounters has drastically changed. In 2010, the CCRB received one stop-and-frisk complaint per 315 encounters. The ratio increased further in 2011, but decreased in subsequent years. There was one complaint per 426 documented encounters in 2011; one complaint per 355 encounters in 2012; one complaint per 152 encounters in 2013; and one complaint per 44 encounters in 2014. This 2014 statistic begs the question of whether officers are consistently filling out UF-250s in the wake of the high profile stop-and-frisk controversy and criticism. More study is needed on this question.

However, establishing a ratio of complaints to overall documented stops provides an incomplete picture because stop-and-frisk complaints have different characteristics than the universe of documented stops. The CCRB's data show that a stop alone is not likely to result in a complaint, but rather that other factors contribute to a civilian's decision to file a complaint.

Of the 1,038 stop-and-frisk complaints, 26% stemmed from an encounter leading to an arrest and 15% stemmed from an encounter where a summons was issued. In 37% of complaints, the complainant was frisked, and in 56% of complaints the complainant was searched.

The statistics show that while police officers appear to be conducting searches in only 9% of street encounters, complaints indicate that people are most likely to file a complaint when they have been searched. In 2014, 584 out of the 1,038 complaints (56%) stemmed from a street encounter that involved a search allegation. Since 2010, 50% or more of all stop-and-frisk complaints contained a search allegation. While there was one complaint for every 51 documented encounters in which the civilian was searched in 2010, in 2014 there was one complaint for every 12 documented encounters in which the civilian was searched.

Finally, in 2014, 33% of stop-and-frisk complaints included an allegation of improper force. This percentage is a decrease from 2010 when force was present in approximately 40% of all stop-and-frisk cases.

Characteristics of Complaints Received

Location of Incidents Resulting in Complaints

In 2014, the CCRB announced the first stage of a new web-based mapping feature that shows information about complaints in a timely, visual and targeted format. Entitled "CAM" (Complaint Activity Maps) the webpage went live on the CCRB's web site in December.[5] The information is updated weekly and includes interactive features. CAM is part of the Agency's effort to increase the transparency of its investigative process and to make its data about police misconduct complaints readily accessible and understandable.

Among other information, CAM also shows maps, by precinct, where complaints are concentrated; where they have increased or decreased from 2013 to 2014; the number of complaints by precinct of incident per 10,000 residents in 2013 and 2014; and where complaints per 10,000 residents have increased or decreased. In addition, the CCRB publishes weekly charts, which have been provided to the Police Department since 2000, that show the command assignment of each officer who is the subject of a complaint, and the type of complaints filed against officers in each command.

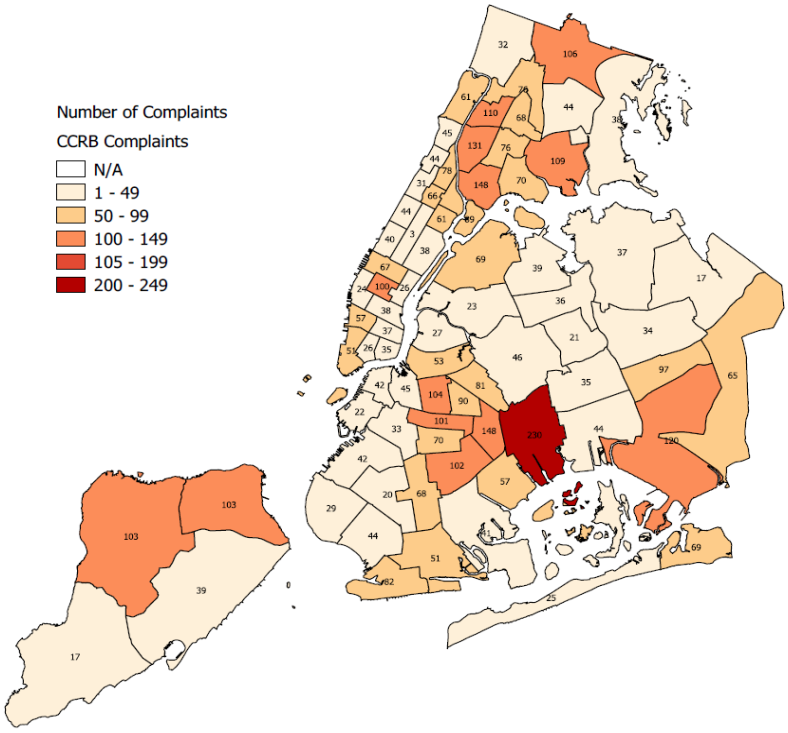
The longer-term purpose of CAM is to identify emerging trends in alleged misconduct by officers within commands and precincts, and to quickly alert the Police Department to these warning signs as soon as they become apparent.

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, or number of uniformed personnel working within the precinct boundaries.

While complaint filings have decreased, the relative distribution of complaints has not changed significantly. The proportion of complaints that occurred in Queens increased from 15% in 2010 to 17% in 2014. Bronx complaints decreased from 25% in 2010 to 21% in 2014. The proportion of incidents that occurred in Brooklyn, Manhattan and Staten Island remained relatively the same: in Manhattan, from 22% in 2010 to 23% in 2014; in Brooklyn, from 35% in 2010 to 34%; and in Staten Island, from 4% in 2010 to 6%. (See Map)

[5] http://www.nyc.gov/html/ccrb/html/news/complaint-maps.shtml

Complaints Received in 2014 by Precinct Location of Incident



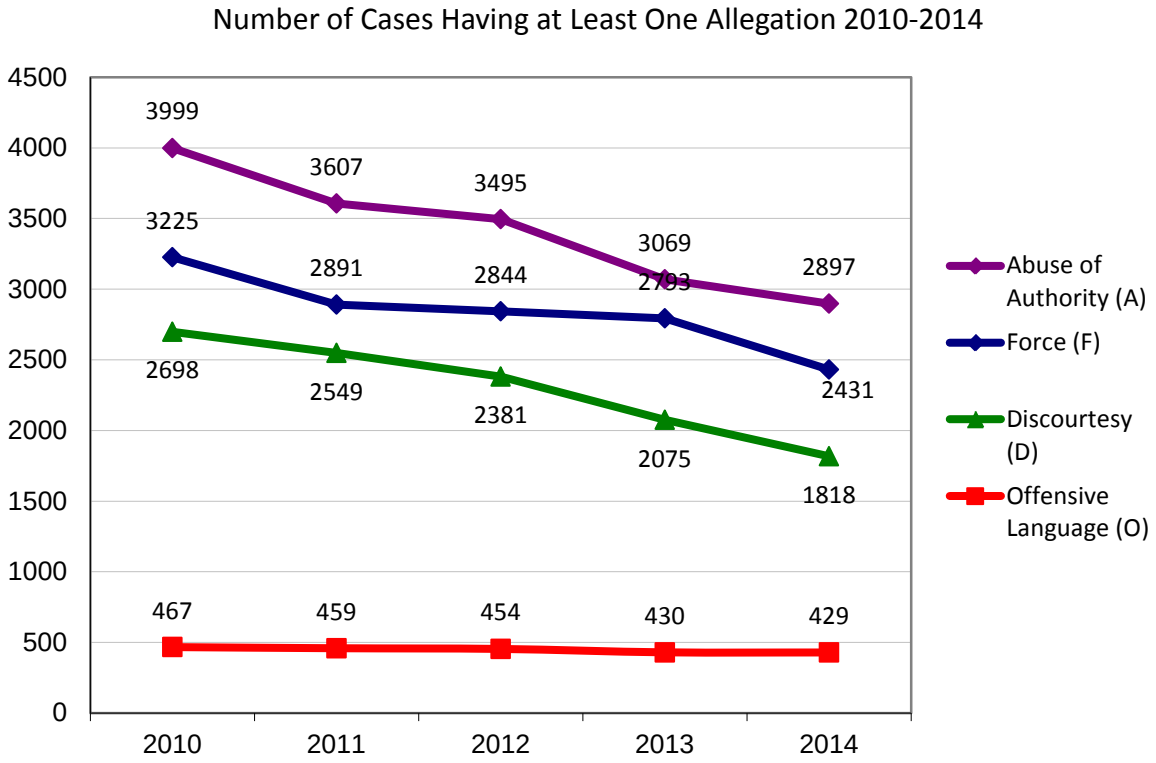
Comparing total number of incidents in 2013 to 2014, 8% more complaints stemmed from incidents taking place on Staten Island. There was a decline in the other boroughs: in Manhattan it was 15%; Bronx was 6%; Brooklyn was 13%; and Queens was 15%. In actual numbers, there were 21 more complaints from Staten Island; 68 fewer from the Bronx; 246 fewer from Brooklyn; 191 fewer from Manhattan; and 143 fewer from Queens.

As in past years, the borough which generated the highest number of complaints was Brooklyn with 1,595 complaints. Manhattan had 1,074 complaints which was the second-highest number. Brooklyn's 75th Precinct continues to have the highest numbers in the city with 230 complaints. There are two other precincts with high activity: the 73rd Precinct and the 40th Precinct.

Types of Allegations Received

To better understand complaint activity, it is important to note the distinction between a "complaint" and an "allegation." An individual complaint received by the CCRB may contain multiple allegations against one or more officers. Each allegation the Agency investigates falls within one of four categories: force, abuse of authority, discourtesy and offensive language (FADO). Though the number of complaints and allegations has declined, there has been no drastic change in the characteristics of the complaints and the patterns in allegations were generally consistent from 2010 to 2014.

The CCRB analyzes total complaints by the presence of one or more allegations of a particular FADO category. The distribution of complaints across these four categories remained nearly the same from 2010 to 2014. In 2014, 51% of all complaints contained one or more force allegations, compared to 50% in 2010, and 61% contained one or more abuse of authority allegations, compared to 62% in 2010. Also, in 2014, 38% contained one or more discourtesy allegations, down from 42% in 2010. The proportion of complaints containing one or more allegations of offensive language was 9% in 2014 and 7% in 2010. (Chart – Types of allegations)



In the force category, the designation of “physical force” remains the most common allegation by far. This refers to an officer’s use of bodily force such as punching, shoving, kicking and pushing. In 2014, there were 3,074 physical force allegations, accounting for 68% of the general force category. This percentage has remained roughly unchanged since 2010.

Another common allegation in the force category is “gun pointed,” with 294 such allegations in 2014, or 6% of force allegations. By contrast, “gun fired” allegations are quite rare: 12 allegations in 2014 or .4%. Also of note, in 2014, the CCRB received 152 allegations regarding improper use of pepper spray, or 3% of all force allegations, the same percentage as a year earlier.

In 2014, the CCRB issued a special report on chokeholds. During that year, the Agency received 232 complaints involving 273 chokehold allegations. There were 207 chokehold complaints in 2010; 157 in 2011 and in 2012; and 179 in 2013. Since 1993, when the CCRB became an independent agency, there was only one year when more chokehold complaints were filed: 240 complaints in 2009.

In the abuse of authority category, allegations of stop, question, frisk and/or search make up the largest portion of all allegations. As discussed earlier, the proportion of all complaints with these allegations has remained unchanged in recent years. As a percentage of total abuse of authority allegations received by the Agency, stop-question-frisk and search allegations comprised 17% in 2014, which is 5 percentage points lower than in 2010. Stop, question, frisk and search allegations were 34% of all allegations in the abuse of authority category in 2014. This statistic is representative of the most recent five-year average beginning in 2010 when stop, question, frisk and search allegations were approximately 40% of all abuse of authority allegations.

Allegations categorized as “premises entered and/or searched” comprised 13% of allegations in the abuse of authority category in 2014. The allegations of “vehicle stop” and “vehicle search” were a combined 11%. Other notable allegations include “threats of arrest” which were 8% and “refusal to provide name and/or shield number” which represented 11% of abuse of authority allegations.

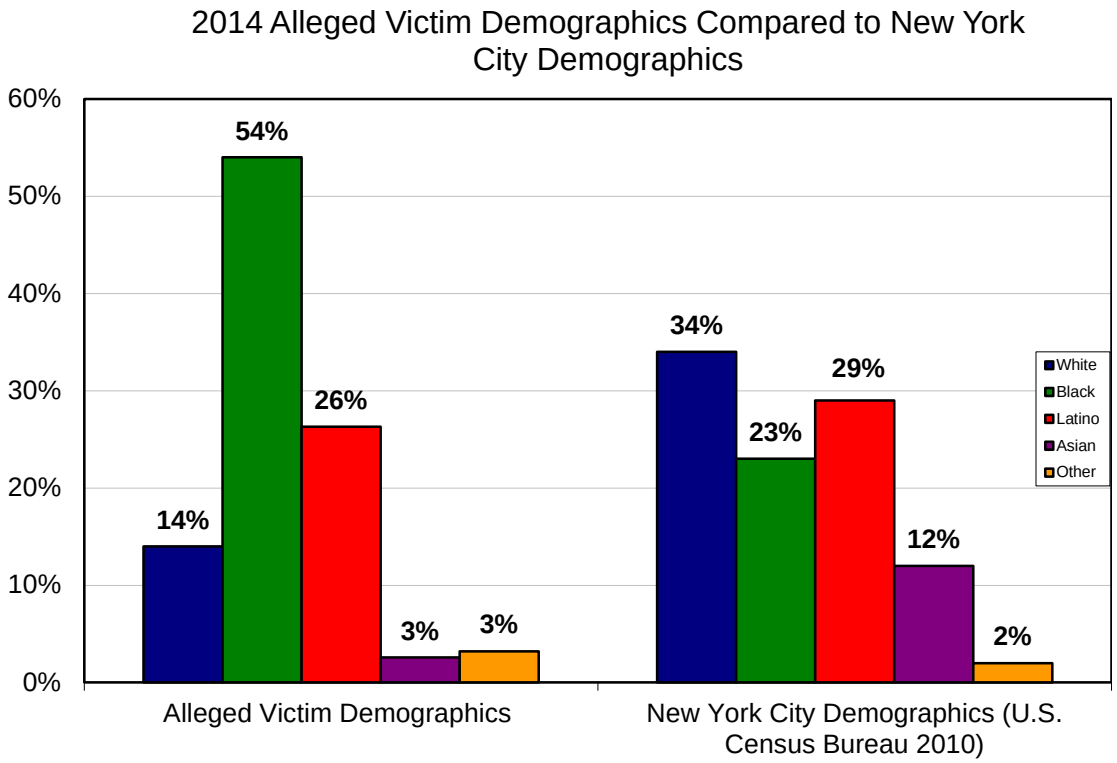
In the discourtesy category, “words” accounted for 90% of all discourtesy allegations, or 2,150 allegations in total. Also, 9% of discourtesy allegations involved “actions,” which are defined as gestures, actions or tone of voice.

Distinct from the discourtesy category is offensive language, which includes slurs, derogatory remarks, and gestures based on race, ethnicity, religion, gender, sexual orientation or perceived orientation and disability. Offensive language allegations make up a relatively small portion of all allegations received by the CCRB. In 2014, there were 500 allegations of offensive language, or 3% of all allegations. By far the most common offensive language allegations are those regarding race and/or ethnicity. In 2014, 64% or 319 of all offensive language allegations involved the use of racially or ethnically offensive terms. There were 93 gender-based offensive language allegations and 50 allegations were based on the perceived or actual sexual orientation of the complainant. These numbers are consistent with past years.

Characteristics of Alleged Victims

Characteristics of alleged victims in terms of race and gender have been consistent over time and have categorically differed from the New York City population as reported in the most recent United States Census. The CCRB compares the demographic profile of the alleged victims to the demographics of the City as a whole, without controlling for any other factors such as proportion of encounters with the police or percentage and number of criminal suspects.

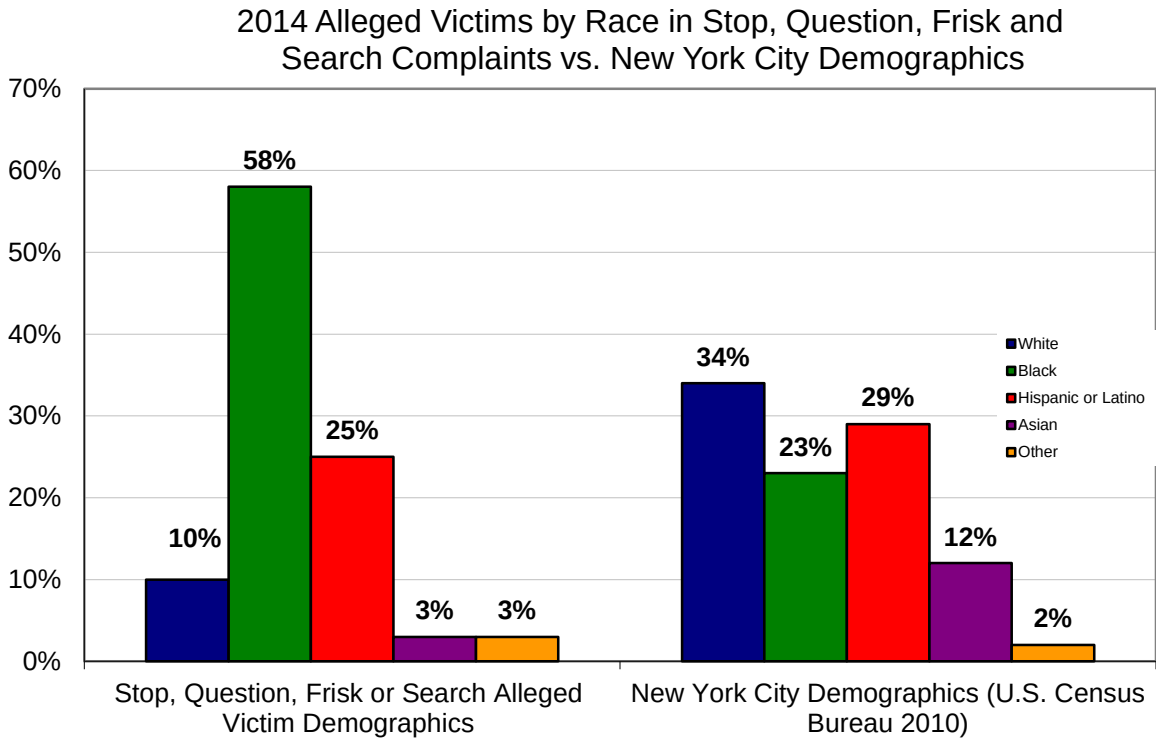
In 2014, as in previous years, African-Americans constituted the majority of alleged victims. Although only comprising 23% of New York City's population, they accounted for 54% of alleged victims. Whites and Asians were a disproportionately low percentage of alleged victims. In 2014, 14% of alleged victims were white and 3% were Asian, though they make up 34% and 12% of the city's population, respectively. The percentage of Hispanic alleged victims was slightly below the City's population. Hispanics constituted 26% of alleged victims in CCRB complaints and 29% of the population. (Chart – Victim demographics)



These numbers have remained fairly consistent over the last five years, with approximately 55% of all alleged victims being African-American. Hispanics have consistently comprised between 24% and 27% of alleged victims, and whites between 9% and 13%. Asians made up less than 3% of all alleged victims. Each year, approximately 2-3% of alleged victims are classified as "other."

In 2014, consistent with past years, males were overrepresented as the alleged victims in CCRB complaints. While males make up 48% of the NYC population, they constituted 69% of alleged victims.

In the past, the CCRB reported a difference between the alleged victim population and the City population as a whole when examining complaints of stop, frisk, question, and/or search. The statistics for 2014 present similar numbers for stop-and-frisk complaints and overall complaints. In 2014, 58% of the alleged victims in stop-and-frisk complaints were African-American, which is lower than the average of 63% during the period 2010 to 2013. The percentage of white alleged victims remained at less than 10% from 2010 to 2013, but it increased to 12% in 2014. Hispanics comprised 25%, which is slightly lower than their numbers in overall complaints, and 3% were Asian, which is unchanged. Three percent of civilians were categorized as "other." The demographic statistics were the same regardless of whether or not a frisk and search was part of the complaint. (Chart – SQSF demographic data)



Characteristics of Subject Officers

While the race of alleged victims in CCRB complaints is disproportionate to New York City's population percentages, the officers who are subjects of complaints have historically reflected the racial makeup of the Police Department. This trend continued in 2014 when 50% of subject officers were white and whites were 51% of the Department; 16% of subject officers were black, while black officers were 15% of the Department; 29% were Hispanic, while Hispanics comprised 27% of the Department; and 5% were Asian, while Asians were 6% of the Department.

Male officers are overrepresented as the subjects of CCRB complaints. In 2014, consistent with the past five years, male officers were subjects of 91% of all complaints while making up 83% of the Department.

Section 4. Investigative Findings

Disposition of Complaints

From 2010 to 2014, the substantiation rate fluctuated: it was 11% in 2010; 8% in 2011; 15% in 2012; 14% in 2013; and 17% in 2014. The 2014 substantiation rate was three percentage points higher than in 2013, and six percentage points higher than the substantiation rate in 2010. In actual numbers, there were more substantiated cases in 2014 than at any point in the last five years. The Board substantiated 260 complaints in 2010; 160 in 2011; 189 in 2012; 300 in 2013; and 327 in 2014.

In addition to the substantiation rate, the Board uses two other rates to report on complaint dispositions. One of these indicators is the "case resolution rate," which is the percentage of all closed complaints received in a given year that are resolved either through a full investigation or through the mediation program. The case resolution rate excludes cases which are deemed "complainant withdrawn," "complainant uncooperative, "complainant unavailable," and "victim unidentified." The average case resolution rate from 2010 to 2013 was 37%, while the case resolution rate for 2014 was 44%. The rate was 39% in 2010; 38% in 2011; 36% in 2012; and 35% in 2013. The 2014 rate is the highest resolution rate of the last five years.

The other important rate is the truncation rate. The truncation rate includes cases that are deemed "complaint withdrawn," "complainant uncooperative," "complainant unavailable," and "victim unidentified." The truncation rate was 61% in 2010; 62% in 2011; 64% in 2012; 65% in 2013; and 56% in 2014. The 2014 rate was the first rate since 2006 that was below 60%.

In past reports, the Agency analyzed determinant factors, including the characteristics of complaint filings, demographics, incident-related variables, and internal operational factors. Past studies found that there was a significant difference in the truncation rate based on whether the complaints were initially filed with the CCRB or with the Police Department.

From 2010 to 2014, the truncation rate for complaints filed with the CCRB was 54%. The truncation rate for complaints filed with the Police Department was 75%. Although the difference between complaints filed with the CCRB and complaints filed with the NYPD is minimal for the categories of "complaint withdrawn" and "complainant uncooperative," the difference was prominent for

those cases closed as "complainant unavailable."[1] A case was nearly three times more likely to be closed as "complainant unavailable" if it was filed with the Police Department. From 2010 to 2013, 7% of all cases filed with the CCRB were closed as "complainant unavailable" compared to 22% of all cases initially filed with the NYPD.

As a result of greater cooperation with the Police Department in 2014, the difference between truncation rates by place of filing is decreasing. In 2014, 10% of complaints filed with the CCRB directly and 8% of complaints filed with the NYPD were closed as "complaint withdrawn.' Similarly, 36% of complaints filed with the CCRB and 36% filed with NYPD were closed as "complainant uncooperative." Finally, 5% of all cases filed with the CCRB were closed as complainant unavailable, compared to 20% of all cases filed with the NYPD.

Analysis shows that the method by which complaints are filed with the CCRB is an important factor affecting the truncation rate. Only 5% of all complaints filed in-person were truncated. By comparison, 55% of all complaints filed by phone and 46% filed online were truncated. In 2014, 76% of complaints filed with the CCRB were filed by phone.

The location of a complainant's residence played no significant role in the truncation rate. From 2010 to 2013, the five boroughs had similar truncation rates: Manhattan, 53%; Brooklyn and Staten Island, 55%; Queens and the Bronx, 57%. In 2014, complaints from the Bronx had a slightly greater truncation rate (59%) than complaints from other boroughs: Staten Island, 51%; Manhattan, 55%; Brooklyn, 55%; Queens, 58%.

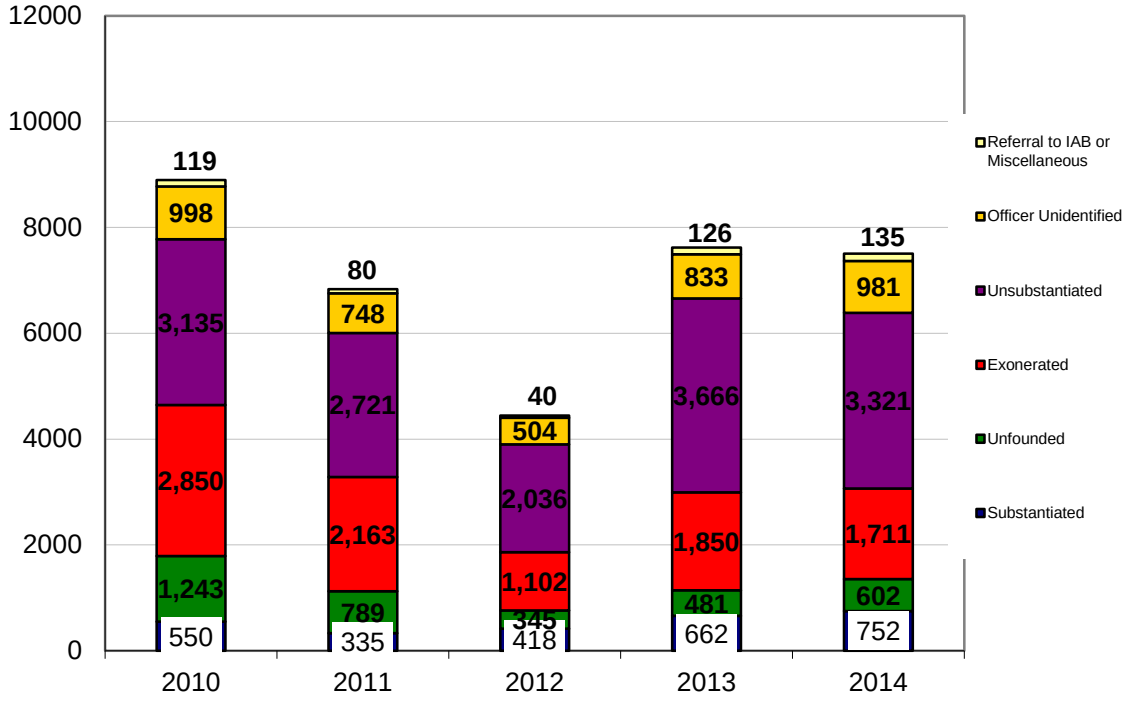
Disposition of Allegations

Case dispositions are analyzed by tallying the individual disposition of each allegation within a complaint that is fully investigated. Two rates are important: (1) the rate at which the CCRB makes "findings on the merits;"[2] and (2) the "substantiation rate" by allegation. (Chart – disposition of allegations)

[1] A complainant is unavailable when the Agency has or receives incomplete or inaccurate identifying and contact information, or when the information is complete and investigators cannot make contact because the complainant is unavailable.

[2] Findings on the merits result when the Agency obtains sufficient credible evidence for the Board to reach a factual and legal determination regarding the officer's conduct. These findings include those allegations resolved as substantiated, exonerated, or unfounded.

Disposition of Allegations in Full Investigations 2010-2014



Of the 7,502 allegations the CCRB fully investigated in 2014, 3,065 allegations (41%) were closed with findings on the merits, compared to 52% in 2010 and 39% in 2013. The rate was 48% in 2011 and 42% in 2012.

The high rate of unsubstantiated findings -- not a finding on the merits -- is the main reason for the low rate of findings on the merits. In 2014, 3,321 allegations were unsubstantiated (44%). This is a decrease from 48% of 2013, but an increase over the 35% rate of 2010.

In 2014, 13% of allegations were closed as “officer(s) unidentified.” From 2010 to 2014, the proportion of officer(s) unidentified allegations was 11% every year. 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 2014, there were 981 allegations closed as “officer(s) unidentified,” but only 134 cases (7% of all full investigations) were closed as “officer(s) unidentified” because all officers in that complaint remained unidentified at the end of the investigation.

The other key figure is the “substantiation rate by allegation,” which was 10% in 2014. From 2010 to 2013, the rate averaged 7%. The rate was 6% in 2010; 5% in 2011; 9% in 2012; and 9% in 2013. A small change was seen in the substantiation rate for all four categories of allegations – force, abuse of

authority, discourtesy and offensive language. In 2014, 73 force allegations, (3%) were substantiated, versus 40 allegations (2%) in 2013. For abuse of authority, 588 allegations (15%) were substantiated, compared to 556 (15%) in 2013. For discourtesy, 76 (6%) were substantiated, while 58 (4%) were substantiated in 2013. In 2014, 15 (6%) offensive language allegations were substantiated compared to nine such allegations (4%) in 2013.

The highest substantiation rate by allegation is for retaliatory arrest and retaliatory summons, which were substantiated at a rate of 89% and 86%, respectively. The next highest substantiation rate is for refusal to process civilian complaints, 29%. In 2014, the CCRB substantiated improper question allegations at a rate of 18%, stop allegations at 22%, frisk allegations at 28% and search allegations at 14%. Vehicle search allegations were substantiated at a rate of 19% while vehicle stop was substantiated at a rate of 11%.

In 2014, the Board closed 2,566 stop-and-frisk allegations: 1,337 of which were fully investigated; 1,064 were truncated; and 165 were mediated or there was an attempted mediation. These allegations were contained in 1,196 complaints, including 557 full investigations. Of the 557 stop-and-frisk complaints that were fully investigated, 169 were substantiated. That is, the Board found misconduct in 31% of fully investigated stop-and-frisk complaints. By comparison, in 2010 and in 2011, the Board found misconduct in 16% of fully investigated stop-and-frisk complaints. In 2012, the Board found misconduct in 27% of stop-and-frisk complaints.

Two characteristics help put investigated stop-and-frisk complaints into context. The first characteristic is a significant reduction in the proportion of stop-and-frisk complaints that are associated with a force allegation. In 2010, approximately 50% of all fully investigated stop-and-frisk complaints contained a force allegation. In 2014, 31% of stop-and-frisk complaints had force allegations.

The second characteristic is the increasing proportion of stop-and-frisk complaints that have not been properly documented. In 2010, approximately 8% of all fully investigated stop-and frisk complaints revealed a failure by the officer to produce a stop-and-frisk report as required by the NYPD's Patrol Guide. By 2011, the Board documented failure by an officer to produce a stop-and-frisk report in 12% of fully investigated complaints. This failure to document was 19% in 2012; 17% in 2013; and 18% in 2014.

In 2014, officers failed to prepare a stop-and-frisk report in 29% of all substantiated stop-and-frisk complaints, representing a decrease from 36% in 2013.

Other Misconduct Noted

Where an investigation reveals that the police officer committed misconduct that falls outside of the CCRB's jurisdiction, as defined in Chapter 18-A § 440 (c)(1) of the New York City Charter, the Board notes the "other misconduct" (OMN), and reports such alleged misconduct to the NYPD for possible disciplinary action. Examples of OMN allegations include an officer's failure to properly document an encounter or other activity in his or her memo book as required by Patrol Guide procedure. Allegations of other misconduct should not be confused with allegations of corruption, which are referred to the Police Department's Internal Affairs Bureau (IAB).

From 2010 to 2014, the CCRB referred to the Police Department 2,076 cases of other misconduct against 3,432 officers involving 3,750 allegations. The Board referred 299 cases in 2010; 310 cases in 2011; 333 cases in 2012; 596 cases in 2013; and 538 cases in 2014. When measured by the number of officers, there were 492 officers in 2010; 513 officers in 2011; 555 officers in 2012; 966 officers in 2013; and 906 officers in 2014. During the five-year period, the total number of allegations of other misconduct referred to the Police Department was 3,750, of which there were 975 allegations in 2014 alone.

There are two distinct categories of OMN cases. The first type is when other misconduct occurs in a complaint where the Board substantiates an allegation of force, abuse of authority, discourtesy, or offensive language (FADO). The case is categorized as an OMN with a substantiated FADO allegation, and the OMN is part of the case file that is sent to the Department Advocate's Office (DAO) for disciplinary action. In recent years, there has been a steady increase in the number of substantiated complaints that also contain OMN allegations. That upward trend ended in 2014. In 2014, 149 out of 327 substantiated cases contained allegations of other misconduct, or 46% of cases. The rate was 31% in 2010; 36% in 2011; 47% in 2012; and 55% in 2013.

The second type of OMN case is when there is other misconduct noted, but the Board has not substantiated any FADO allegation. In this type of case, only the other misconduct is referred to the Police Department for possible discipline. In the last five years, the number of cases in this category has also steadily increased. The Board referred 1,537 OMN cases without a substantiated FADO from 2010 to 2014.

In addition to false official statements, which this report discusses in a separate section, the Board refers cases to the Police Department in which officers failed to document their actions as required by the NYPD. There are three major categories of failure to document. The first category is an officer's failure to fill out a stop-and-frisk form. In 2014, the Board referred 142 such

instances. The second type is an officer's failure to document a strip-search in the precinct's command log. In 2014, the Board referred six such allegations. The third category is an officer's failure to make memo book entries. The Board referred 781 such failures in 2014.

In addition to the four specific categories of other misconduct mentioned above, the Board also has a miscellaneous category for categories such as "improper supervision" or "failure to complete an aided report." The Board referred 20 instances of other misconduct in this miscellaneous category in 2014.

Misconduct Rate

The proportion of cases forwarded to the Police Department for discipline that contained either a substantiated FADO allegation or an OMN has increased over time. Of the 9,627 cases that were fully investigated from 2010 to 2014, 2,771 contained at least one form of misconduct.

In 2014, 37% of cases in which the CCRB conducted a full investigation were forwarded to the Police Department for misconduct. By comparison, the CCRB forwarded 20% in 2010; 21% in 2011; 34% in 2012; and 35% in 2013. In absolute numbers, the Board forwarded 716 cases to the Police Department in 2014: 149 substantiated cases with other misconduct noted allegations attached to the case; 178 substantiated cases without other misconduct noted; and 389 cases where other misconduct was noted but the underlying complaint was not substantiated.

Section 5. Mediation

The City Charter mandates that the Board offer mediation to both civilians and police officers. The goal of the mediation program is to allow civilians and officers to resolve the issues contained in the complaint "by means of informal conciliation" should they voluntarily choose to do so. The Agency 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 suitable for mediation. Prior to 2014, the Board had a list that differentiated between allegations eligible for mediation and allegations ineligible for mediation. In 2014, the Board eliminated the distinction between eligible and ineligible cases so that all cases are eligible for mediation pending an assessment of their suitability.

The Mediation Unit provides a valuable alternative method of resolving civilians' complaints of police misconduct. While 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 civilian and the subject officer. Mediation gives civilians and officers the chance to meet as equals, in a private, neutral, quiet space. A trained, neutral mediator guides the session and 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 the issues. In the vast majority of cases, the parties resolve the issues raised by the complaint. Since 2000, more than 90% of mediations have been successful. After a successful mediation, a complaint is closed as "mediated," meaning that there will be no further investigation and the officer will not be disciplined. If the mediation is not successful, the case returns to the Investigations Division for a full investigation.

Another benefit of mediation is that it offers the parties a swifter resolution of their cases as compared to a full investigation. In 2014, it took 191 days to mediate a complaint, which was 118 days less than a full investigation. Successful mediations 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

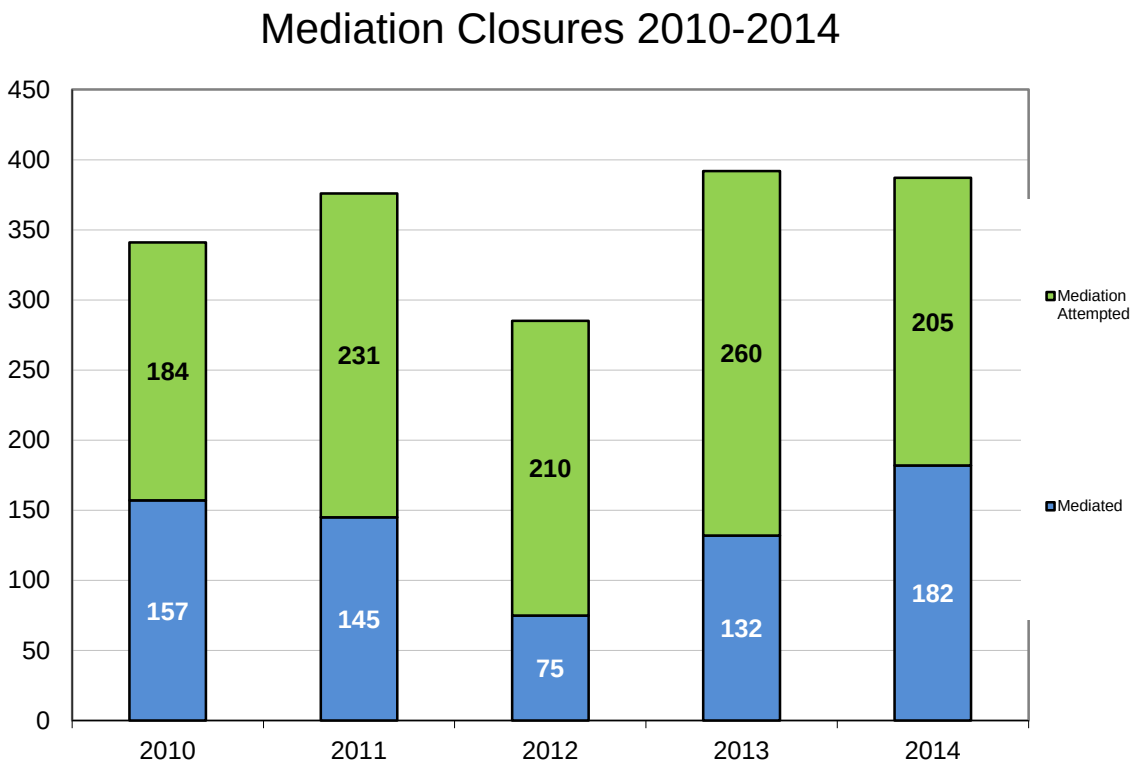
In 1997, the year the CCRB's mediation program began, only two complaints were resolved through mediation. The program has grown

significantly since then. Beginning in 2009, one of the strategic priorities of the Board has been to strengthen and expand the mediation program.

In 2014, the Mediation Unit mediated 182 cases, the highest number of cases in the history of the program. This represents a 38% increase compared to 2013. It is also 16% more cases than the prior highest year, 2010, when the CCRB mediated 157 cases.

In 2014, it took an average of 191 days to mediate a complaint, a decrease of 30% from the average of 274 days in 2013. In 2010, the average number of days was 177, which was the lowest number of days during the last five years. From January through April 2015, the average number of days to mediate a complaint was 156.

The number of mediation closures (cases closed as mediated and mediation attempted) decreased by 1%, from 392 in 2013 to 387 in 2014, the second highest number of cases closed through mediation in the history of the program. Since 2010, the number of closures through the mediation program has increased by 13%. There were 341 mediation closures in 2010; 376 in 2011; and 285 in 2012. (Chart – mediation closures)



In 2014, the number of cases resolved by the mediation program was approximately 17% of the total number of cases resolved by the Agency, either through the mediation process or a full investigation. By comparison, the mediation resolution rate was 12% in 2010; 16% in 2011; 18% in 2012; and 17% in 2013.

In 2014, the Mediation Unit conducted 198 mediation sessions. Civilians and officers failed to satisfactorily address 16 complaints, resulting in a 92% success rate. In 2013, the success rate was 88%.

The number of cases closed as “mediation attempted” decreased from 260 cases in 2013 to 205 cases in 2014. “Mediation attempted” is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian fails to appear twice at the scheduled mediation session, or fails to respond to attempts to schedule the mediation session. In 2013, 66% of all mediation closures were attempted mediations; in 2014, 53% of all mediation closures were attempted mediations.

The CCRB’s investigative staff is responsible for offering mediation to complainants, while the Police Department is responsible for offering it to officers in coordination with the Agency’s staff. The Mediation Unit has ongoing trainings, for both investigative staff and Police Department representatives, to teach them the nature and benefits of mediation.

The proportion of cases in which an investigator offered mediation in eligible and suitable cases increased from 48% in 2010 to 55% in 2013 and to 69% in 2014. While the universe of eligible and suitable cases decreased by 33% (from 3,215 in 2010 to 2,369 in 2013 and 2,143 in 2014) the number of cases in which mediation was offered increased. In 2014, the CCRB offered mediation in 1,488 cases --180 cases more than in 2013.

In 2014, the Mediation Unit received 493 mediation referrals from the Investigations Division compared with 539 in 2013. The Investigations Division made 652 referrals in 2010. Although referrals had decreased by 32% from 2010 to 2014, the number of mediation sessions and attempted mediations has increased steadily. In 2010, 62% of cases referred to mediation were mediated and attempted mediations while 38% were returned to the Investigations Division. By 2014, 69% of cases referred to mediation were mediated and attempted mediations.

For the past five years, the rate of complainants that accepted the offer of mediation has been approximately 50%. The mediation acceptance rate for civilians was 54% in 2010; 53% in 2011; 56% in 2012; 50% in 2013; and 48% in

2014. The number of civilians who accepted mediation increased from 609 in 2013 to 675 in 2014.

The percentage of subject officers who accepted the offer to mediate was 82% in 2010; 77% in 2011; 74% in 2012; 83% in 2013; and 84% in 2014. In 2014, the CCRB offered mediation to 706 officers and 596 accepted. By comparison, in 2010, 702 officers were offered mediation and 573 accepted.

Section 6. Outreach

The Outreach Unit makes public presentations to increase awareness of the Agency's mission and to build public confidence in the complaint process. The outreach director, as well as investigators, attorneys and other agency staff, visit schools, public libraries, tenant associations, advocacy organizations, community groups, churches, community Boards, and precinct community councils, among others, in all five boroughs.

In 2014, the CCRB strengthened its commitment to increasing its outreach and communications efforts. There are three key goals: (1) to ensure the people who need the Agency services know how to access them; (2) to educate the general public and the news media on the importance of having a strong civilian oversight agency in New York City; and (3) to make sure that people throughout the five boroughs understand their rights during police/civilian encounters and to educate them on staying safe during these encounters.

In late June 2014, the Agency launched an initiative called CCRB in the Boroughs and the Board made this a priority program. In December 2014, this program was elevated by the involvement of the City Council Speaker. The initiative is now known as CCRB Community Partners. The Agency is collaborating with the Speaker's office and with individual council members to designate district offices in the boroughs that can be used to interview candidates, conduct presentations and take complaints. Ultimately, the CCRB hopes to establish a routine presence in council members' district offices in all the boroughs, and not just in Manhattan where our office is located.

In 2014, staff members gave 340 presentations, an increase from 179 in 2013; 120 in 2012; 164 in 2011; and 95 in 2010.

In 2014, most presentations were given at schools, adult learning centers, churches, community groups and at New York City Housing Authority (NYCHA) locations. By type of organization,34% of all presentations were made at non-governmental organizations; 39% at educational institutions; 25% at governmental entities; and 2% at religious organizations. The CCRB reached an audience of more than 7,500 City residents.

The CCRB continues to offer the immigrant community its language assistance services for victims and witnesses. The Agency provided translations on 651 occasions in nine different languages in 2014. The vast majority of translations provided were in Spanish (90%), followed by Arabic and Chinese (3% each), and Russian (2%). The number of translations was 16% higher than in 2013 when the CCRB provided translations on 562 occasions. This is a significant increase from the 234 translations provided in 2010 when the Agency began tracking translation and interpretation services. Since then, the Agency has provided translation services in 18 different languages.

Section 7. Internal Audit: CCRB FOIL and New York Civil Rights Law Section 50-a Violations

During the CCRB's internal review of past practices, it came to light that for approximately one year, from October 2013 until October 2014, an employee of the CCRB had been improperly responding to Freedom of Information Law (FOIL) requests from attorneys for CCRB records pertaining to the complaint histories of specific police officers. During the audit, the Agency discovered that in response to 70 FOIL requests, an employee provided details of officer complaint histories involving 95 officers, even though this information is confidential and protected from public disclosure.

As a result, in the case of 82 officers, the number of complaints, specific allegations and the disposition of allegations -- whether they were substantiated, unsubstantiated, unfounded, exonerated or pending -- was revealed in violation of New York State Civil Rights Law section 50-a and FOIL. In the case of 13 officers, the number of complaints -- although not the specific allegations and the disposition of allegations -- was also revealed in violation of the law.

In addition, the Agency is reviewing more than 44 additional requests where records were not properly kept.

Civil Rights Law Section 50-a protects from public disclosure all police officer personnel records used to evaluate performance toward continued employment or promotion. The only exceptions are when a police officer gives consent, a mandate by court order, or when records are sought by officials such as a district attorney in the course of official duties.

New York courts have held that officers' complaint histories, maintained by the CCRB -- which by their very nature are used to evaluate police officer performance -- are restricted by Civil Rights Law 50-a. This prevailing interpretation requires non-disclosure of these records.

It is clear from the plain language of the statute that these CCRB responses to the 70 FOIL requests during 2014 had three problems: (1) they released confidential information; (2) there was no written consent of the police officer; and (3) the disclosures were not mandated by lawful court order.

Until October 2013, the CCRB had been routinely denying requests for police officer histories, a response that was aligned with the prevailing view of the courts, that such records are confidential.

In early October 2014, after discovering this misapprehension of the law and the improper revelation of confidential information concerning police officer complaint histories, the Board Chair took action that ensured that the CCRB's FOIL procedures accurately reflect the letter and spirit of the law, preventing any further improper disclosure. The person responsible for these breaches is no longer an employee of the CCRB.

Section 8. Troubling Complaint Patterns: The Need for Further Scrutiny

In 2014, with the appointment of a new Chair and four new Board Members, the Civilian Complaint Review Board began a major transformation. Under its new leadership, the Board was given the explicit mandate from Mayor de Blasio to reform an Agency that had not lived up to expectations. Chair Emery, the Board, and Executive Director Mina Malik, who joined the Agency in February of 2015, have adopted an agenda of reform that cuts across all agency programs and operations.

One of the ways in which the Agency seeks to improve police practices and improve the relationship between communities and the Police Department is by looking at the whole picture painted by the resolution of individual complaints. By identifying patterns and trends that emerge across large numbers of complaints, the Agency is seeking ways in which policing can become more respectful of civilians. In an unprecedented collaborative effort, the Board and the staff have analyzed hundreds of complaints through newly implemented internal communication processes. This effort has enabled the Agency to identify developing patterns and trends that deserve attention and further review.

The following three patterns merit scrutiny and will be analyzed further in 2015: (1) the increase in the number of false official statements made by police officers during the course of CCRB investigations; (2) the persistence of improper searches despite the drop in stop-and-frisk encounters; and (3) the increase in the percentage of substantiated complaints of unnecessary or excessive force.

Trends and Patterns for Future Research [Heading]

The Problem of False Official Statements: A Review of 26 Cases in One Year

One of the most serious types of “other misconduct noted” that is outside of the CCRB’s jurisdiction and referred to the Police Department is an alleged false official statement made by an officer, either to the CCRB, in an official document, or during some other proceedings which is discovered during the CCRB investigation. Notations for false official statements are statistically rare. However, they are extraordinarily important as they potentially jeopardize the integrity of the oversight process.

The Patrol Guide is clear that intentionally making a false official statement is prohibited. Patrol Guide 203-08 states the following:

> "The intentional making of a false statement is prohibited, and will be subject to disciplinary action, up to and including dismissal. Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances. Exceptional circumstances will be determined by the Police Commissioner on a case by case basis."

It further adds that:

> "Examples of circumstances in which false statements may arise include, but are not limited to, an interview pursuant to Patrol Guide 211-14, Investigations by Civilian Complaint Review Board, and lying in an official Department document or report."

Under the City Charter, the CCRB's jurisdiction is limited to complaints in four categories: force, abuse of authority, discourtesy, and offensive language, known by the acronym FADO. During the course of an investigation, if the CCRB becomes aware of misconduct falling outside its jurisdiction, such as a false official statement by an officer, the Board notes the misconduct and refers it to the Police Department for further investigation. In CCRB jargon, these notations and referrals to the Police Department are known by the acronym, OMN, for "other misconduct noted."

An alleged false statement is a separate and distinct act of serious misconduct for which there should be specific fact finding and analysis, and for which a ruling from the Police Commissioner on the merits is required. For this reason, when investigators can document that a false official statement appears to have been made, the Agency prepares a detailed analysis of the alleged misconduct in the investigative closing reports and the Board must vote on that allegation. If the vote is to affirm the possible misconduct, the Board will note the other misconduct and will refer the case to the Department for fact finding, analysis and proper adjudication.

The Rise in the Number of False Official Statements: Basic Statistics

From 2010 through 2013, the CCRB noted 26 allegations of false official statements: 2 in 2010; 3 in 2011; 8 in 2012; and 13 in 2013. However, in 2014, the number increased dramatically, and the Board noted 26 instances in just one year where investigations uncovered possible false official statements. In 23

instances, the underlying FADO complaint was substantiated. All 52 complaints occurred prior to 2014.

This report analyzes all allegations of false official statements from 2010 through 2014. For control purposes, it also examines seven allegations in 2009, and an additional eight allegations voted by the Board from January through March of 2015. In sum, the total number of OMNs for false official statements examined in this report is 67. In order to better understand the quality of the information gathered in all 67 of these cases, Agency staff reviewed all case files, investigative closing reports, and civilian and officer interviews. Administrative case law holds that, in order to sustain a false official statement allegation, it must be proven that: (1) an officer made a statement; (2) the statement was material; and, (3) the statement was intentionally false. Department of Correction v. Biland & Joyner, OATH Index No. 569-70/89.

This analysis focuses specifically on the evidentiary basis for the Board noting the false official statements. It is important to highlight that the Board does not substantiate the OMN. Rather, the Board simply notes and refers the alleged misconduct, which is outside its statutory jurisdiction. The basis for the Board noting these false official statements can be divided into four categories of evidence that contradicted officer statements: (1) video or audio evidence; (2) paperwork related to the incident; (3) other officer testimony; and (4) independent civilian witness testimony. Some of the false official statements involved more than one of these categories.

(1) Video or Audio Evidence

The most common way in which the CCRB determined that a statement was intentionally false was by evaluating video footage or audio recordings that contradicted the statement of the officer. In 30 cases, 13 of which were received in 2014, the subject officers provided statements about the incident which were contradicted by the video or audio evidence. If the video footage or audio recordings were obtained before the interview took place, the officers were shown this evidence after they gave their initial statements. The officers either reaffirmed their initial false statements, or recognized the inconsistencies between their statements after viewing or listening to the recordings. In both scenarios, a false official statement was noted.

In one incident, two officers stopped a driver whose car was missing a registration sticker and license plates. The windows of the car were tinted so the temporary plate displayed in the back window was not visible until the officers were already approaching the car. The driver asked the officer who approached him for his name, which the officer refused to provide in violation of Patrol Guide

203-09. The CCRB investigated the allegation of refusal to provide name and/or shield number. In his CCRB interview, the officer claimed that the civilian never asked for his name during the encounter. The audio recording made by the driver clearly established that the civilian asked for the officer's name and said that he wanted the name of the officer so he could file a CCRB complaint. The officer is heard saying, "Go ahead," and claimed that his name was "Smith." The recording was clear and the officer's last name was not Smith. After listening to the recording during his CCRB interview, the officer claimed he said, "Good night Mr. Smith," not because he was giving his name, but because he thought Smith was the civilian's name. This occurred less than a minute after the officer looked at the civilian's identification and vehicle registration, which clearly indicated that the civilian's last name was not Smith.

There was another officer present at the scene who also was interviewed. The witness officer admitted that when the subject officer got back into the car, the subject officer stated that he knew the civilian's true name, and he admitted that he had just given the civilian a false name.

In another case, the Board noted a false official statement by an officer who denied what was clear on a video after viewing it during his interview. The subject officer and other officers entered the lobby of a residential building where they said men and women were seen loitering. The officers asked the group whether any of them lived there, and because only one person did, the subject officer stopped and frisked all civilians, including the complainant. The subject officer said that he frisked the complainant but did not search inside of his pants. The video clearly established that the facts differed from the officer's account. The video shows the civilians had not been loitering. Rather, the complainant came out of the elevator alone after the officers were already in the lobby. It also showed the officer putting his hand under the complainant's waistband to search inside of his pants. When the officer viewed the video during his interview, he claimed that he did not remember what the complainant looked like and did not know if the complainant was the person who came from the elevator. The officer denied seeing his hand go into the complainant's pants and insisted that he was just frisking him, adding that, "He [the civilian] can say whatever he wants, that's not what happened." Several other cases also involved officers who persisted in denying the video and audio evidence presented to them during their CCRB interviews.

In another recorded incident, the subject officer ultimately acknowledged the video evidence despite his initial statements and denials. The subject officer described an incident in which civilian bystanders were recording. The officer claimed he turned around and saw a civilian bystander holding what he perceived as a possible weapon or firearm extended towards his face in the dim lighting. The officer said that he drew his firearm and pointed it at the civilian because he feared for his life, but did not remember using any profanity when he

told the civilian to get back. The video showed the civilian holding his cell phone up as the subject officer turned around and lunged at him. The subject officer yelled, “Get that f*cking sh*t out of here,” and, “Go ahead ni***r,” as he swung his hand and the civilian backed up.

After viewing the video, the officer acknowledged that it sounded like he said, “ni***r,” but told the investigator that he would never say that word because he had lived in the South Bronx for three years. After watching the video for a second time, the officer confirmed that he used the alleged profanities and racial epithet, but did so because he feared for his life.

There were five cases that involved officers who eventually admitted to misconduct after reviewing the audio recording or video of the incident during the CCRB interview.

Three cases had video or audio files that were not available at the time the officers were interviewed. In one case the subject officer, along with other officers, responded to a bar fight. The subject officer described handcuffing a non-compliant civilian whose struggling made it difficult to escort him out of the bar. He said that he and the civilian accidently bumped into each other and fell into the door of the bar together. The subject officer maintained that the civilian tripped into the door with him and was more compliant after tripping. The video showed the officer shoving the civilian into the bar door, in direct contradiction to the officer’s statement that no intentional force was used. The Board substantiated the excessive use of force.

(2) Documentary Evidence

In some instances, police paperwork, such as memo book entries, command logs, and other event information, contradicted officers’ statements. There were 19 other cases of such instances involving 21 subject officers.

In one case, the CCRB investigator specifically addressed a memo book contradiction with the subject officer during the officer’s interview. In that case, the involved officers observed what they believed to be a hand-to-hand drug transaction between two civilians, and the subject officer and his partner stopped one of the civilians. The civilian became “irate” and made “furtive movements” toward a bulge in her pocket, so she was frisked and searched, according to the subject officer’s memo book. The memo book clearly stated, “I did then hold [her] hand to prevent [her] from refusing the frisk of the bulge to which a lighter was recovered.” In the subject officer’s interview, he stated that he did not make any physical contact with the civilian, and it was an accident that he wrote “I” in his memo book because it was his partner that held the civilian’s hands down and

frisked her. In this case, the frisk and search were deemed improper, and the Board noted other misconduct for the false official statement.

In another case, a subject officer responded to a dispute between civilians. The officer insisted during his interview that he had finished his memo book entry at the time of the incident, and it was then that his sergeant verified the entry. The memo book he brought to the CCRB interview showed that there were two entries regarding the incident. However, the CCRB received a copy from IAB that had only one entry in the memo book. When the subject officer was questioned about these two different versions of the memo book, the officer stated that he had made both entries on the same day. At that point, the officer's legal counsel went off the record to discuss legal advice with the officer. When the subject officer came back into the interview room, he was prompted by his attorney to state that he meant to say that he wrote the second entry after the sergeant signed his memo book, which was after he was notified that he had to appear at the CCRB for an investigation regarding the incident.

During this time period from 2010 to 2014, five cases involved officers who were contradicted by memo book entries regarding the incidents that were under investigation.

Officers' statements were also contradicted by command logs that disputed the officer's version of events. In one case, the subject officer was named in the station house command log as the arresting officer, and a supervisor was the superior officer who verified the arrest. When they were interviewed, the subject officer and the supervisor stated that they were in the building where the arrest took place, but not on the floor where the arrest took place, and they did not know why their names were written in the command log for the arrest. The desk sergeant in the precinct at the time of this incident testified that he made the command log entries of the civilian's arrest, and that the names and tax identification numbers of the officer and the supervisor in the command log entries were in his handwriting. The desk sergeant also testified that he did not know the subject officer and the supervisors well enough to know their names, tax identification information or shield numbers, and would not have falsely or erroneously recorded them unless they had been present and identified themselves. The desk sergeant testified that he did not cross out the subject officer's name and tax identification number from the command log, replacing them with another subject officer's name, Officer A. Both the subject officer and the supervisor stated that they had no knowledge of the command log entry or how their names and information were recorded in the command log. In addition, it was corroborated that the name of Officer A could not have been the officer who arrested the civilian because he was off duty at the time of the arrest.

The event information for an incident is known as a SPRINT, and in one case the SPRINT contradicted the statements made by the officer. The case stemmed from an allegation that the officer entered an apartment (Address A) without a warrant. During the interview, the officer claimed that she responded to a SPRINT for Address A. She claimed that she went to this address to respond to an alarm that was going off. When questioned why the SPRINT listed Address B rather than Address A, the subject officer placed the blame on the police dispatcher. The subject officer said the operator first told her one street number corresponding with Address B, but then corrected it to the address on Street A. She claimed that she probably forgot to correct the proper address on the SPRINT print-out.

Eight other cases involved officers whose statements were inconsistent with information found in official documents pertaining to the incidents.

(3) Other Officer Testimony

During interviews, officers would occasionally deny or state that they did not recall an incident or allegation, but were subsequently contradicted by one or more subject or witness officers who were involved in the incident as well. From 2009 to the present, 19 officers in 17 cases made statements that were noted as false based on other officers' CCRB interviews.

In one case, an officer stopped two civilians, and one of them made an audio recording of the incident during which the officer called him a "retard." During his CCRB interview, the subject officer denied being at the location or stopping any civilians during his tour. After hearing the audio recording in which he called the civilian a retard, the subject officer insisted that he did not recognize the voices and was not at that location. Another officer was interviewed and confirmed that the subject officer was his partner on that day, and that the interaction with the civilians took place. The witness officer also confirmed that the voice in the audio recording was that of the subject officer. He said that while he did not recall the subject officer calling the civilian a retard, he apparently had done so because the voice on the recording was that of his partner.

Another example stems from an incident where the subject officer and a sergeant searched a civilian's car. The civilian had been blocking traffic in a crosswalk and started to back up until the subject officer told him to stop to avoid hitting pedestrians. According to the officer, the civilian became uncooperative and was arrested for disorderly conduct. The subject officer drove the civilian's car to the station house, but denied searching it beforehand at the scene. However, when the sergeant was interviewed, he stated that the car was searched at the scene to check for anything dangerous that may have been in

the car before driving it to the station house. The sergeant confirmed that he and the subject officer conducted the search of the car.

Sixteen other cases also involved officers who denied or did not recall events but were contradicted by fellow officers' statements.

(4) Independent Civilian Witness Testimony

Less common was the situation where officers' statements were contradicted by independent civilian witnesses. These cases include eight officers in eight separate incidents where the officers denied or claimed not to recall an allegation, and their denials were inconsistent with statements from civilians who were also present. In most cases, the civilian statements were corroborated by other officer statements or incident paperwork that contradicted the subject officers' statements.

In one of these cases, the subject officer and his partner responded to a burglary at a residential building. The subject officer stated that he and his partner conducted their investigation by knocking on all of the doors in the building, but did not enter any of the apartments. When the subject officer's partner was interviewed, he stated that they had entered numerous apartments because he thought it was proper investigative procedure. Multiple civilians testified that the officers had entered numerous apartments. These civilian statements, combined with the partner's statement, led the Board to note that the subject made a false official statement.

Lastly, in one case, the subject officer stated that he did not interact with a civilian who had called the precinct several times while he was on duty as the desk sergeant. The civilian alleged that the sergeant would not provide his name, and ultimately gave him an incorrect name. The sergeant denied this, but the Police Administrative Aide (PAA) who was working that tour testified that she had been transferring the civilian's calls to him. The sergeant told the PAA to give the civilian a false name, and tell the civilian that the sergeant was not in the station house for his tour. The PAA stated that she was confused, but followed orders.

Six other cases involved officers who denied or did not recall an allegation or incident and were contradicted by civilian-witness statements.

False Official Statements are Primary Misconduct

FADO allegations are the reason for a CCRB investigation into a civilian complaint. However, in view of the strong Departmental policy against making false statements, CCRB must treat such allegations as a serious form of misconduct. Given the impact of such statements on Agency investigations, the integrity of the Department, and the lives of the civilians who filed the complaints, the CCRB strongly believes that a false official statement to the CCRB is a primary, not secondary, form of police misconduct.

Three cases were selected to outline the relationship between the officers' alleged false statements, and how these alleged false statements can directly affect the investigation of FADO allegations. In these cases, the statements were material to the investigations, were intentionally false, and were made to affect the outcome of the investigation.

In one case, an officer approached a known gang member whom he observed on the stoop of a residential building. Video footage showed the civilian remained facing the officer during the interaction. Without justification, the officer pulled the civilian off the stoop in order to frisk him and searched his sweatshirt pocket. The officer then turned the civilian around and frisked his pant legs. During the officer's interview, the officer denied the search. She claimed that the civilian was not facing her, but had his back toward her. She also stated that the civilian did not face her until she frisked him, despite her giving multiple orders for him to turn around. Additionally, the officer denied putting her hand inside of the civilian's sweatshirt pocket. She stated that she frisked the civilian, but never searched him.

In another case, a civilian was stopped for riding his bicycle on the sidewalk. A bystander asked the officers what was going on and refused to obey their order to back away. Video footage showed an officer bringing the civilian to the ground after punching him. At that point, the officer began kicking the civilian in the side while another officer was punching him and "attempting to gain control." The officers kicked the civilian in the head, and hit him in the head multiple times with handcuffs. During the officer's interview, the officer denied using the handcuffs and having anything in his hand while striking the civilian. The officer was shown video evidence and continued to deny striking the civilian with handcuffs, stating that he could not see what the investigator was referring to when the handcuffs were pointed out to him.

In a third case, officers tracked a stolen iPhone to a civilian's backyard. The officers did not have a search warrant to enter the backyard or the house. Video footage showed a supervisor and two officers standing on the stoop of the house. The video also showed that both officers walked into the house and the

supervisor closed the door after them. The supervisor talked to the house owner on the stoop until the officers came back out of the house. During his interview, the supervisor stated that the officers had gone into the house before he arrived to the front stoop, denying his responsibility in approving an entry without a search warrant.

Issues for Further Research on the Pattern of False Statements

Truthfulness is not only a Departmental mandate, it is a crucial element in police credibility and accountability. The Agency is committed to further research and analysis on issues this report has brought to light. The first issue is the increasing importance that video evidence has on the CCRB's discernment of false official statements. The cooperation of both the Department and civilians is needed to gain access to this often critical evidence in a timely manner and preferably before an officer's interview. There is no doubt that video footage will play an ever greater role in the evaluation of officers' statements. Of the 26 OMN's for false official statements in 2014, 13 cases had video footage which was crucial in making the determination to note that the officer had committed possible misconduct.

Equally important is the CCRB access to Departmental records in a timely fashion. In eight cases, the testimony of the officer was contradicted by Department documents.

Finally, CCRB will study the persistence of apparent false statements by officers, and whether complaint-prone officers repeat this form of misconduct that is so important to credible policing and police accountability.

Improper Search of a Person: Emerging Patterns from a Review of 48 Substantiated Search Cases

In 2014, civilians continued to file complaints with the CCRB about improper searches, a violation of one of the most fundamental rights guaranteed by the Constitution of the United States. Complaints of improper searches persist even as: (1) the number of documented stop-and frisk encounters has decreased substantially; and (2) the Police Department statistics show that police conducted searches only in a small number of documented street encounters.

The factual scenarios described below tell two stories. The most obvious is the violation of people's right to be free from unjustified intrusions by law enforcement. The second, equally important story is that police officers working

during the apex of this city's stop-and-frisk activity were determined by the Court to be performing this activity without adherence to the strict standards of constitutional action.

At the same time, police officers were often put in the unenviable position of having to understand and abide by the complex standards set by the New York Court of Appeals and years of case law, something even experienced attorneys find difficult to comprehend.

The federal court, in the recent *Floyd* decision not only spotlighted pervasive constitutional violations, it has drawn a bright line of guidance for the Police Department which has been embraced by the City's new Police Commissioner.

The CCRB has historically always adhered to the strict letter and spirit of the laws that elucidate what is constitutional. The CCRB has also historically recommended the most serious discipline when the Board substantiated allegations of improper search --administrative charges, which result in disciplinary trials. This was the normal outcome during the stop-and-frisk era until 2014.

Given the changed policing landscape, the Board began, with the appointment of its new Chair, to take a different approach in its disciplinary recommendations. The Board has begun to make recommendations that move away from severe punishment to less serious discipline and, most importantly, to formalized training. This approach, as evidenced by the statistics below, acknowledges the pressure officers were under to conduct unconstitutional frisks, which often morphed into improper searches. It also acknowledges the lack of adequate and clear training, and the complexities of the law. Thus, the CCRB is recommending formalized training and command discipline more often than not for frisk and search misconduct, especially when the stop itself was lawful. The Board's evaluation of misconduct has not changed, and remains consistent with constitutional and legal principles.

The statistics are as follows:

Substantiated Search Allegations	January-July 2014	August-December 2014	January-April 2015
Substantiated (Charges)	20	16	1
Substantiated (Command Discipline)	3	13	13
Substantiated (Formalized Training)	1	7	6
Total search allegations	24	36	20
% of cases with Charges	83%	44%	5%
% of cases with Command Discipline	13%	36%	65%
% of cases with Instructions	4%	19%	30%

In 2014, the CCRB received 584 complaints with at least one search allegation. Approximately six out of ten stop-and-frisk complaints contained a search related allegation. In 2014, according to NYPD data, police officers conducted 7,283 documented encounters where the civilian was searched. This means that the CCRB received one complaint per twelve search incidents documented in the City (a 1:12 ratio). This is not a representative sample, but the number of cases is large enough that it requires attention. More importantly, the investigations of these complaints provide rich textual and contextual information that a statistical analysis would not be able to adequately capture.

The following table presents the basic statistics:

	2010	2011	2012	2013	2014
Number of search complaints	1,094	981	870	697	584
Number of stop-and-frisk complaints	1,910	1,610	1,500	1,263	1,038
Total CCRB complaints	6,466	5,969	5,742	5,388	4,778
Documented encounters	601,285	685,724	532,911	191,851	45,787
Documented search encounters	55,597	58,363	44,248	18,369	7,283
Search as a percentage of Stop-and-frisk complaints	**57.3%**	**60.9%**	**58.0%**	**55.2%**	**56.3%**
Search as a percentage of all complaints	**16.9%**	**16.4%**	**15.2%**	**12.9%**	**12.2%**
Ratio documented stops to complaints	1:315	1:426	1:355	1:152	1:44
Ratio documented searches to complaints	1:51	1:59	1:51	1:26	1:12

In 2014, the CCRB fully investigated 419 search allegations, mediated or attempted to mediate 49 search allegations, and was unable to investigate 370 allegations that were closed as “complaint withdrawn,” “complainant uncooperative” or “complainant unavailable.” The Board substantiated 60 allegations in 48 cases, or 14% of all fully investigated allegations. Forty cases stemmed from incidents that occurred in 2013 and eight occurred in 2014.

The Board also exonerated 36 search allegations, unsubstantiated 236 search allegations, and unfounded seven search allegations. The Board was not

able to identify the officer in 73 search allegations, and the officer was no longer a member of the force in seven search allegations.

In addition to the improper search, the Board also found other misconduct during the course of the investigations. In the 48 substantiated cases, the Board substantiated a total of 136 allegations: 60 improper search allegations and 76 allegations in other FADO categories.

The Board also noted and referred to the Police Department cases where the subject officer failed to prepare the required stop-and-frisk report (UF-250), which must be completed after each encounter involving a stop, frisk or search. These failures are considered OMNs, which also get forwarded to the NYPD. In 2014, the Board noted other forms of misconduct in 17 out of the 48 substantiated cases. It should also be noted that, in reviewing the investigative case files, there were seven cases where police officers did not prepare a stop-and-frisk report, but the CCRB did not note the officers for the other misconduct.

In order to better understand the information relative to these 48 substantiated cases, staff reviewed all case files, closing reports, and civilian and officer interviews. In total, these cases involved the analysis of 363 allegations. Specifically, they included the 60 search allegations that are the subject of this analysis and 27 OMN allegations. There were 24 OMN allegations for failure to prepare a stop-and-frisk report; one OMN for failure to supervise; one OMN for a false official statement; and one OMN for failure to produce a memo book as required.

In reviewing the files, the focus was on the reasons the officers gave for conducting the improper searches. These reasons can be divided into six categories: (1) a bulge was observed or felt during a frisk; (2) after being handcuffed, the victim was searched, which officers believed to be proper procedure; (3) the officer claimed he or she was trained to conduct a search under the circumstances; (4) the officer denied any recollection of conducting the search; (5) the search was done to retrieve a civilian's identification; and (6) the line between a frisk and a search was not clear. The following key cases exemplify the insufficiency of such justifications.

(1) The "Suspicious" Bulge or "Suspicious" Actions

The interviews revealed that in some instances when an officer observed or felt a bulge on a civilian, it was assumed to be an adequate level of suspicion to conduct a search. Similarly, there were instances where the officer claimed to assume that the bulge was a weapon in order to validate the search.

An officer must have reasonable suspicion that a suspect is armed to conduct a frisk. People v. De Bour, 40 N.Y.2d 210 (1976). In instances where a frisk reveals a bulge, that bulge must look and feel like a weapon before the officer can conduct a further and more intrusive search. People v. Robinson, 125 A.D.2d 259 (App. Div. 1st Dep't 1986).

There were 18 CCRB interviews in which officers claimed there was either a suspicious bulge, a suspected weapon sighted, or a suspicious action that influenced the decision to search a civilian or the civilian's property. The Patrol Guide empowers officers to conduct searches if, in the course of a frisk, they feel an object they think is a weapon. The officer must articulate an actual and specific danger to his safety to justify the further intrusive action of a search. The mere presence of an object, without the substantial likelihood that the object is a weapon, is not sufficient justification for a search.

In one case, the civilian was holding what looked like a large metal object in his hand and making circular motions in front of a fence. An officer suspected the civilian of writing graffiti and approached him. The civilian refused to take his hand out of his jacket pocket, where the officer saw a large bulge. The officer suspected the large bulge to be contraband, and when he frisked the person, he stated that he felt a large cylindrical metal object with a rubber grip, which he assumed to be a knife or firearm. The officer searched the civilian and recovered a wand. The officer then continued to search the civilian and removed the civilian's wallet without consent. It is undisputed that the only object that caused the officer to fear for his safety was the wand. Once that object was removed, it was not permissible for the officer to search any of the civilian's other pockets. The courts have ruled that a search of an individual's pocket is unjustified if the purpose is not to remove an object that poses a threat to the officer's safety. People v. Williams, 217 A.D. 2d 1007 (4th Dept. 1995).

Similarly, civilians in four cases were frisked, and the officers continued to search the civilians based on the so-called suspicious objects that were felt during the frisk. For example, an officer approached a man who was illegally parked. The man started swearing at the officer. The officer described the cursing as aggressive behavior, which made him think the civilian was a public safety risk. The so-called aggressive behavior continued, and the officer asked the man if he had any weapons. The civilian replied that he did not, but the officer said he was going to check to make sure. The officer frisked him and felt a "hard, rectangular object" in his back pocket. According to the officer, he pulled out the civilian's wallet because he could not identify the object that he felt during the frisk and feared for his safety. People v. Clark, 213 A.D. 2d 946 (3d Dept. 1995). In this case, nothing occurred to elevate the suspicion of the officer and the officer failed to demonstrate an actual and specific danger to his own safety from a hard rectangular object.

There were instances where an officer observed a civilian making what he deemed to be suspicious moves that caused the officer to perform a search. In People v. Miller, 121 A.D. 2d 335 (1st Dept. 2004), the Court established that furtive movements and or innocuous "suspicious" behavior alone does not generate reasonable suspicion, let alone a basis for a search. Actions must be combined with some other objective factor suggesting that the subject is armed and dangerous. People v. Rodriguez, 856 N.Y. 2nd 502 (Sup. Ct. Bronx Co. 2008). While the courts have found civilians' refusal to comply with an officer's directive to be suspicious, the context surrounding that refusal must be shown to suggest a threat to the officer's safety before a frisk can take place. People v. Discroll, 101 A.D. 3d 1466 (3d Dept. 2012).

In one case, the officer searched the civilian and his car because he saw the civilian holding a small, silver metal object in his hand when he was pulled over. The investigation revealed that the officer searched rather than frisked the civilian. According to the officer, the civilian had been fidgeting and reached his arm under his seat approximately three times while the officer approached the car. Because the civilian made these suspicious movements under his seat, the officer searched the civilian, searched the car, and recovered a marijuana grinder. It was the decision to search the civilian without conducting a frisk that led to the decision of the Board to substantiate an improper search. Even if the officer reasonably feared that the civilian had a weapon, a frisk and not a search should have first been conducted to confirm or dispel that fear.

In a traffic stop where the police lack probable cause to arrest, the driver can only be frisked if the officers have reasonable suspicion that the suspect is armed. Arizona v. Johnson, 555 U.S. 323 (2009). Once a frisk is conducted and any reasonable basis of fear for safety has abated, the officer cannot continue to search a suspect. People v. Williams, 217 A.D. 2d 1007 (4th Dept. 1995). Further, once a suspect has been removed from a vehicle, and nothing has occurred to elevate suspicion, an officer must demonstrate an actual and specific danger to his own safety in order to justify further intrusive action. People v. Torres, 74 N.Y. 2d 224 (1989).

In another case, the officer observed an approaching civilian with what the officer said he believed looked like a black gun. The civilian angled his body away from the officer, concealed his hands towards his pocket, and reached inside his jacket. Video footage shows that the officer started to frisk the civilian and then almost simultaneously searched the civilian's pocket. Although the officer did not see or feel a bulge anywhere on the civilian during the frisk, he said he searched his jacket and pants pockets because of the seemingly suspicious action that he had observed. The officer said he did not recover anything from the search. However, the video recording showed the officer pulling an object out of the civilian's pocket and handing it to him.

(2) The Arrest Justification

The police are entitled to conduct a search of an individual incident to that individual's lawful arrest. People v. Hurdle, 2012 N.Y. App. Div. Lexis 1507 (1st Dept. 2012) . A lawful arrest is one that is supported by probable cause.

In a substantial number of CCRB interviews, officers cited NYPD protocol as the reason for the search. The officers cited Patrol Guide 208-03 that states that an officer may conduct a field frisk and/or search for weapons, evidence, and/or contraband after an arrest has been effected and a prisoner has been handcuffed. However, consistent with People v. Hurdle, two important conditions apply: (1) there must be an actual arrest, and (2) the officer must have probable cause to make the arrest.

Twelve officers, in ten separate cases, justified searches stating that it was routine to search a detainee after handcuffing, as they were presumed arrested at that point. However, only four of the ten cases resulted in formal arrests. Additionally, if a search was said to be done incident to an arrest, the search could still be improper if there was not probable cause to effect the arrest in the first place.

In one case, an officer searched a civilian before placing him into the police van after he was arrested for obstruction of governmental administration. The civilian matched the description of someone who had been reported as yelling that an undercover officer, who was part of a buy-and-bust narcotics operation, was a police officer. However, the civilian had not physically interfered with, attempted to intimidate, or prevented the officer from performing his duties. During the interview, the officer stated that the civilian was searched incident to arrest as the only basis for the search. However, the CCRB found that the officer did not have probable cause to arrest the civilian, but rather did so out of anger at his behavior. Consequently, the officer not justified in searching him.

Similarly, an officer performed a search incident to an arrest for disorderly conduct, which is a violation. In this case, the arrest was carried out but deemed improper because the civilian had only raised his voice to ask why he was being stopped. The investigation determined that the mere expression that one feels aggrieved by the police does not constitute an offense. People v. Square, 872 N.Y.S. 2d 693 (Crim. Ct. NY Co. 2008). There was nothing that the civilian was doing prior to being stopped that could have been interpreted as disorderly by any reasonable person. The circumstance under which the civilian raised his voice was created by the officer's improper action of stopping him without reasonable suspicion, and arresting him without probable cause. The officer's

own narrative of the incident demonstrated that the situation never rose to a level that risked creating breach of the peace or a public disturbance.

The following two cases also involved officers' explanations for searches incident to arrests that lacked probable cause, thus eliminating the justification for the searches.

In one case, the officer said the arrest was the reason for the search while simultaneously claiming he did not perform the search, and that he had not seen anything that made him think the civilian had a weapon. In this case, the decision to arrest stemmed from the civilian's refusal to provide his identification. Because the civilian ultimately was not arrested but given summonses, the search was improper.

In another case, the officer stated that the civilian was handcuffed because he got "a little too close for comfort" after refusing to provide his identification. According to the officer, he searched the civilian's front pocket because he was going to arrest him. The officer stated that he searched the civilian for his safety, "but really was just trying to find his identification." The officer also searched the civilian's glove compartment "to retrieve his registration" after the civilian told him it was there. Given that a registration is neither a weapon nor contraband, the police officer had no basis under current search and seizure law to search the glove compartment. The officer stated that he did not ultimately make the arrest out of courtesy because the man's wife and child were in the back seat of the car. The lack of arrest invalidated the search. In three other cases, the officers also used the intent to arrest as justification to perform a search, though ultimately no arrests were made. In all these cases, the searches were improper.

Finally, on a UF-250 form, an officer noted that he conducted the search of a civilian because he thought the civilian possibly possessed a firearm. However, during the CCRB interview, the officer stated that he did not see anything that led him to believe that the civilian had a weapon or was engaging in violent crime. During the interview, the officer reasoned that the discrepancy between his testimony and the UF-250 was a clerical error that occurred when the UF-250 was entered into the Departmental database.

(3) The Training Excuse

In four CCRB interviews, officers not only gave inadequate justifications, but also claimed the searches stemmed from the training they received from the Police Department.

In two cases, the subject officers explained that they were trained to reach into a suspect's pocket if a hard object was felt during a frisk. They said they performed the searches because of this training. In one case, the officer said that when a summons was given, it was NYPD procedure to pat down the civilian and to search for contraband.

In one case, an officer claimed he did not search the civilian's vehicle because he defined a search as "looking inside the trunk," which he did not do. The officer stated that he "just looked in plain view areas for contraband," describing "plain view" as under the seat and inside the center console.

(4) The Lack of Recollection

Frequently when officers are interviewed at the CCRB, they do not remember incidents and certain aspects of an incident. Sometimes the lack of recollection has the ring of truth, other times it does not, and sometimes an officer's recollection can be legitimately refreshed. A lack of recollection or the claim that the officer did not perform a search was stated by 27 officers involved in 23 cases. Some examples follow.

In one case, an officer initially said that he did not take part in the search. However, after viewing a video of the incident where he is seen searching the civilian, the officer said he did lift the flap of the civilian's bag to search for a possible gun. In another example, an officer first stated that no search was conducted but, later in the interview, when presented with evidence to the contrary, the officer admitted that he retrieved the civilian's identification from the civilian's pocket after he was told it was there.

In some circumstances, the officers seemed to recall the incident, but then claimed not to recall very important parts of the incident related to the search. In these instances, they claimed that they had not performed the search or that no search was done. For example, an officer did not recall the search in question in one incident but later said he "checked" the civilians because of the possible risk of violence and the high crime area. He did not elaborate on how the civilians were "checked" or what he meant by "checking." According to the complainant, the officer searched him. The investigation determined that the officer searched the civilian, and he received an OMN citation for failure to prepare a UF-250.

Similarly, thirteen additional officers stated that they did not perform a search or did not recall a search being done. However, the CCRB investigation uncovered evidence that contradicted the officers' assertions, and demonstrated that the officers searched the civilians. Eight of the officers had not filled out a UF_250 and six officers received an OMN citation.

In some instances, the issue was not whether the subject officer filled out the UF-250, but the reliability of the information in the UF-250. There were cases in which, the officers had completed the UF 250, but the actual UF 250 indicated that no search was done. In one case, the UF 250 from the subject officer did not document the search even though the UF-250 from another officer confirmed that a search was conducted. In this case, although the preponderance of the evidence showed that both officers conducted the search, the subject officer stated that he only observed his fellow officer searching the civilian, and he did not take part in the search.

(5) The Identification Retrieval Justification

There were five substantiated cases that involved officers stating that the civilian was searched in order to retrieve identification or some other known item that was not contraband. Specifically, in three cases the officers did searches after handcuffing the civilians. However, the officers said that the searches were only done for the purpose of obtaining the civilian's identification. In these situations, the officers' intent to recover an item that is not considered contraband goes beyond what is lawfully permissible. Although the actions of the officers may appear reasonable, the fact is that the officer had no legal authority to conduct such a search.

In one case, the officer said that his intention in searching the glove compartment of the civilian's vehicle was only to look for the insurance card that the civilian had allegedly refused to supply. However, case law says a police officer may intrude upon the person or personal effects of a suspect only to the extent that it is actually necessary to protect herself from harm, People v. Torres, 74 N.Y.2d 224 (1989). The officer's stated purpose for searching the car's glove compartment to retrieve an insurance card was not justified.

In another case involving a landlord/tenant dispute, the officer handcuffed the tenant and then searched his pockets and removed his apartment keys, driver's license and other items. During his CCRB interview, the officer said the landlord had asked him to retrieve the keys and that he requested permission from the tenant to do so. The tenant denied consenting to the search, and the officer stated during the interview that he could not recall the tenant's response. There was nothing to indicate that the civilian was not the lawful tenant of the apartment and his driver's license listed the address as his residence. The Board found that the search of the civilian's pockets was improper.

(6) Definition of Frisk versus Search Confusion

In reviewing these 48 search cases, the Agency found that some officers blurred the distinction between the justification for a frisk and that for a search. More specifically, in some instances, officers said they conducted a frisk, but what they described doing was actually a search.

In one case, officers stopped a civilian based on the description of a robbery suspect. When the officers realized the civilian was not the suspect and explained the situation to him, the civilian became irate and loud, and was handcuffed and given a summons. When the civilian was handcuffed, an officer frisked him, felt a hard object, and then pulled out the man's wallet. In the officer's interview, he specified that he was trained to reach into a civilian's pocket if a hard object was felt during a frisk. The officer believed the search was part of the frisk and should not have been considered a search.

In another case, officers approached a civilian for trespassing, and the civilian began to run while holding his waistband. The officers chased the civilian, and one of them said he observed the civilian throw something into the bushes. According to the officers, the civilian began flailing his arms so they took him to the ground in order to handcuff him. The civilian denied throwing anything, so the officer frisked his waistband and pockets. The officer then felt an object in the civilian's waistband, lifted up the civilian's shirt, and saw it was a cell phone. The officer denied searching the civilian's pockets or shoes, though the civilian said the officer had done so and the search allegations were substantiated. The officer believed his actions only involved frisking the civilian. He did not believe that lifting the civilian's shirt, and reaching into his pockets and shoes constituted a search.

Issues for Further Research on Search and Training

Although these preliminary findings are relevant, the Agency will conduct further research into this subject matter. It is important to expand the universe of cases and to look at additional information, such as officer complaint histories, to see to what extent officers are allegedly repeating the same misconduct. Another element for further investigation is to what extent the officer is able to articulate his/her actions and the basis for taking such action

It is also important to examine the disciplinary outcomes of prior cases, and to look at the final discipline in these cases. To date, the vast majority of these 60 allegations are still open in the disciplinary system, and it will be prudent to review the entire record before reaching solid conclusions. Thus far, the

Department Advocate's Office originally received 24 substantiated allegations. The Department has closed 11 cases; and 13 cases remain open. Of the 11 closed cases, the Department imposed command discipline in three cases; officers received instructions in three cases; and the Department declined to impose any discipline in five cases.

The CCRB's Administrative Prosecution Unit (APU) has been proceeding with the remaining 36 allegations in which the Board recommended administrative charges. The APU has closed 6 cases and 30 cases remain open. The Police Commissioner imposed a penalty of five forfeited vacation days on one officer after he pleaded guilty; two officers were found not guilty after trial; the Department withheld one case from prosecution and declined to impose any discipline; the officer in another case was no longer a member of service; and in the sixth case, the Board reconsidered the initial decision to recommend charges and recommended formalized training instead.

Unnecessary and/or Excessive Force: Visible Patterns from a Review of 73 Substantiated Allegations

The New York City Police Department defines its use of force policy in two main sections of the Patrol Guide: Use of Force under PG 203-11 and Use of Deadly Force under PG 203-12. The CCRB has made these and other provisions available on its website. In order to understand the use of force numbers for 2014, it is important to understand the specifics of Departmental policy, the overall framework and values of the Department's use of force policy, and its context.

The central goal of any use of force policy is to define the limits of the legitimate coercive use of force. This implies a differentiation between proper and improper use of force. There are instances in which the use of force is improper because it is unnecessary, and there are other instances in which the use of force is necessary but its use as applied to the specific situation is excessive. There are of course situations where the use of force is both unnecessary and excessive. However, defining these precise boundaries between necessary and unnecessary, and between acceptable and excessive, is the central issue in any internal or external force investigation. It is a fact that there is no single, accepted policy definition among police departments and police oversight practitioners on the precise limits between legitimate coercive use of force and excessive use of force. With minor exceptions, such as absolute prohibitions against chokeholds, the limits are established on a case-by-case basis.

Although police departments share model policies and best practices, their differences in guidelines are significant. The authority, the training of officers,

and the frequency of the use of force vary substantially from jurisdiction to jurisdiction. The levels of restraint in the use of force also vary greatly. However, based only on the very limited universe of complaints that the CCRB fully investigates, the Agency can make a contribution in determining the level of restraint police officers exercise in New York City.

From 2010 to 2013, the CCRB fully investigated 8,273 allegations of excessive and/or unnecessary force. In 2,211 allegations, or 30% of all fully investigated allegations, there was insufficient evidence to establish whether or not there was an act of misconduct and the allegation was unsubstantiated. The Board exonerated 3,800 allegations, or 51.4%, and unfounded an additional 1,244 allegations, or 16.8%. During this period, the Board substantiated 134 force allegations, or 1.8%.

In 2014, the Agency fully investigated 2,145 allegations of excessive and/or unnecessary force. In 702 allegations, or 37.6%, there was insufficient evidence to establish whether or not there was an act of misconduct. The Board exonerated 783 allegations, or 41.9%, and unfounded an additional 310 allegations, or 16.6%. During this period, the Board substantiated 73 force allegations, or 3.9%, double the rate from 2001 through 2013.

Viewing the data through the narrow lens of civilian complaints that the CCRB has fully investigated, the statistics show that police officers used force lawfully and within Departmental guidelines in 98 out of 100 instances from 2010 to 2013; and in 96 out of 100 instances in 2014. It is thus infrequent for the CCRB to find and substantiate misconduct in use-of-force complaints.

As noted in the CCRB's 2014 chokehold report, however, the real issue in evaluating use-of-force statistics is not how frequent or infrequent the use of force is, but rather the impact these "rare [statistical] events" have, and more importantly, whether or not there is a performance target to further reduce its frequency. Discussions about frequency of events are sterile without an accompanying vision or strategy to reduce these events. As Professor Kenneth Adams identified with great precision, "[R]egardless of how prevalence is measured, the use of force by police, whether excessive or not, is, from a statistician's point of view, an infrequent event. From a police department's or community's point of view however, one cataclysmic abuse of force can preempt addressing other crucial problems."[1]

Professor Adams' statement makes a simple but important point: a single "cataclysmic" incident of police violence has the potential to damage the

[1] Kenneth Adams, "Measuring the Prevalence of Abuse of Force," in William A. Geller and Hans Toch, eds. *Police Violence: Understanding and Controlling Police Abuse of Force* (New Haven, CT: Yale University Press, 1996): 52-93, 81.

reputation of a department while substantially eroding its community support. The behavior of police officers is not acceptable merely because it is statistically infrequent. The public demands that police departments set targets to reduce defective, unprofessional police behavior, and actively manage their problem-prone officers.

It is this idea of setting targets to reduce improper use of force that guides the Agency's analysis. Although police officers have used force with restraint and only when necessary in the vast majority of fully investigated cases, the numbers from 2014 show that there is room for improvement. In 2014, the Board substantiated a greater number of force allegations as a percentage of all fully investigated cases than at any time since 2004 when the Board substantiated 5.7% of all full allegations of force.

The statistics for 2014 also show that there are categories where the proportion of substantiated cases is well below the average, and categories that are well above the average. The Department should focus its priorities on addressing the problem categories.

There were seven categories of force where the Board did not substantiate allegations against a single police officer: (1) gun fired; (2) gun as club; (3) radio as club; (4) nightstick as club; (5) flashlight as club; (6) use of animal; and (7) other unspecified use of force. Two other categories where the Board rarely substantiated the allegation of force include: nightstick as club (1%) and gun pointed (2%). Gun pointed is important because it is the second most frequent allegation of unnecessary and excessive use of force with 200 fully investigated allegations in 2014. It is also one of the allegations that the Board is more likely to exonerate. The Board exonerated 71% of gun pointed allegations from 2010 to 2013, and 66% in 2014.

There were two categories of allegations that the Board substantiated at a very high rate. The Board substantiated three allegations of unnecessary and/or excessive use of a vehicle (21%), and five allegations that police officers hit the civilian against an inanimate object in a manner that was unnecessary or excessive (10%).

There were five categories where the Board substantiated the force allegations slightly above average: 4% of allegations that handcuffs were deliberately too tight; 5% of allegations regarding use of a non-lethal restraining device (Taser) and use of a blunt instrument; and 6% of allegations regarding use of pepper spray and chokehold. Thus, for example, the Board substantiated six chokehold allegations, unsubstantiated 58 allegations, and unfounded 40 allegations.

The final and most relevant category of force, from a statistical standpoint, is generic physical force. This includes allegations of a punch, kick, knee, drag, pull, push, shove, throw, slap, bite, and fight. The Board substantiated 46 physical force allegations, unsubstantiated 493 allegations, exonerated 528 allegations, and unfounded 182 allegations. The substantiation rate was 3.7% in 2014 as opposed to 1.7% from 2010 to 2013.

Analysis of Substantiated Force Allegations

This annual report examines 59 cases involving 73 allegations of force that were substantiated in 2014. Fifty of these 59 complaints stemmed from incidents that occurred in 2013 or prior years.

In order to better understand the quantitative information relative to these substantiated cases, staff reviewed all case files, closing reports, and civilian and officer interviews. In reviewing the files, the focus was on the circumstances leading to the use of force, specifically two key variables: (1) the provocation or condition; and (2) the police officer's use of force in response to the condition.

In addition to the Department's guidelines outlined earlier, federal and state courts have provided a general framework for the proper use of force which is respectful of constitutional rights and consistent with the notion of constitutional policing. The current national legal standard for differentiating between legitimate and illegitimate use of coercive force is, broadly defined, "whether the police officer reasonably believed that such force was necessary to accomplish a legitimate police purpose." This is known as the "objectively reasonable" standard.

Although there are no universally accepted definitions of "reasonable" and "necessary" and all determinations must be made on a case-by-case basis, the courts have provided some guidance. In 1973, in Johnson v. Glick, 481 F. 2d 1028, 1029 (2d Cir. 1973), the courts established the initial standard with which to evaluate claims of abuse of force. The Glick standard set four criteria: (a) the need for the application of force; (b) the relationship between the need and the amount of force used; (c) the extent of injury inflicted; and (d) whether the force was applied maliciously and sadistically for the very purpose of causing harm (known as the "shocks the conscience" standard).

In 1989, in Graham v. Connor, 490 U.S. 386 (1989), the United States Supreme Court refined the Glick standard. The Court addressed the fourth element of the Glick test and replaced the "shocks the conscience" standard, which was based on substantive due process doctrine, with a standard based on "reasonableness" under the Fourth Amendment, which guarantees the right of

citizens to “be secure [. . .] in their persons.” With this decision, the evaluation of abuse of force no longer rested on the intention of the officer and whether the officer acted in good or bad faith, but rather on what a “reasonable officer on the scene” would do in such a situation.

Consistent with this policy and legal framework, the use of force policy of the New York City Police Department rests upon two pillars: authority and accountability. All uniformed members of the NYPD have the authority and discretion to use force when the situation calls for it, but, as the Patrol Guide clearly states, police officers are also “responsible and accountable for the proper use of force under appropriate circumstances.” This is where the role of oversight, both internal and external, is central to the implementation of the policy -- the use of force is not left to the unfettered discretion of an officer.

To limit officers’ unreasonable and subjective determinations and provide more consistent and objective guidelines, most police departments have use of force guidelines. It is a basic principle that for an individual action involving choice to be reviewable, there must be rules or precedents that constrain the choice of the individual police officer making that choice.

The goal of any departmental policy and training is to teach the police officer to make the right choice under all possible scenarios. To support the implementation of these rules and precedents that constrain the officer and guide him or her to make the right choice, the NYPD takes several measures: (1) promulgates clear and precise policies; (2) affords training; (3) provides supervisory controls; (4) engages in data collection and analysis for the purpose of developing risk management strategies; and (5) establishes procedures to correct improper conduct. The CCRB primarily participates in the use-of-force disciplinary process through its investigations and most recently, through the Administrative Prosecution Unit (APU). It also fully shares its complaint database with the Police Department.

Along with these protocols, police departments develop training scenarios that teach what is commonly known as the “continuum of force.” Policies and training manuals describe an escalating series of actions an officer may take to resolve a conflict. New York City is no exception. Over time the NYPD has developed an “escalating scale of force” model that matches acceptable force to the nature of the situation.

All New York City police officers are trained in the “escalating scale of force” model. This training provides officers and their supervisors with a guide to measure the appropriateness of force. They are also trained that, as the Patrol Guide states, a police officer’s use of force “must be consistent with existing law and the values of the New York Police Department.” These key values are the preservation of human life and respect for “the dignity of each individual.”

In many of the incidents reviewed, there was a certain condition that generated a force response, which was either appropriate or inappropriate. There were conditions where police officers encountered provocations in which force was necessary to control civilians. There were also conditions where force was unnecessary and, hence, misconduct occurred. However, in all of these situations, officers were required to abide by the reasonable and necessary standard during every incident. We reviewed every case from the perspective of the "reasonably objective standard" as defined in the "escalating scale of force model."

The Agency reviewed 59 cases that the Board substantiated in 2014. Within the 59 cases, 73 force allegations were substantiated. In 62 allegations, we found that officers used unreasonable force because they applied a higher level of force than the provocation or condition required. Although officers appropriately used force as a response for 11 of the allegations, the force was found to be excessive in its use, and therefore unreasonable as well.

These statistics are outlined in the following chart showing force responses in substantiated cases:

		Force Response									Total
		Professional Presence	Verbal Persuasion	Command voice	Firm Grips	Compliance Techniques: wrestling holds and grips	Pepper Spray	Impact Techniques	Drawn and/or display firearm	Deadly force	
Condition or Provocation	Orderly Public Places	0	0	0	0	0	0	2	0	0	2
	Minor Violations or disorderly conditions	0	0	0	1	5	1	10	2	0	19
	Refusal to comply with requests	0	0	0	1	2	0	5	1	2	11
	Verbal resistance	0	0	0	0	2	2	4	0	0	8
	Minor physical resistance	0	0	0	0	1	1	14	1	0	17
	Threatened or potential physical assault likely to cause physical injury	0	0	0	0	0	1	6	0	0	7
	Physical assault to cause physical injury	0	0	0	0	0	0	9	0	0	9
	Threatened or potential lethal assault	0	0	0	0	0	0	0	0	0	0
	Imminent threat or death or serious physical injury	0	0	0	0	0	0	0	0	0	0
Total		0	0	0	2	10	5	50	4	2	73

With the understanding that officers need to make quick judgments and sometimes split-second decisions, the Agency focused on what occurred immediately before the force was used. From that point, one can deduce whether the force used was a reasonable response based on the civilian's actions.

Based on a review of cases substantiated by the Board, the circumstances that led to the use of unreasonable force can be broadly separated into five categories: (1) the civilian was handcuffed with minor or no physical resistance; (2) the civilian was handcuffed and the civilian was verbally offensive towards the officer or physically resistant; (3) the civilian fought the officer while the officer was attempting to restrain the civilian; (4) the officer chased the civilian; and (5) the officer attempted to address a violation and the civilian did not follow the officer's orders.

Notably, there was video for 26 out of the 73 allegations. Video footage helped clarify whether the force used was necessary and reasonable. In the remainder of the cases, officer interviews, independent witness testimony, complainant interviews, review of medical documentation and histories, and Police Department records provided the necessary evidence.

(1) Civilian handcuffed with minor or no physical resistance

Ideally, handcuffs reduce the level of force required to control a civilian. However, in 11 cases, there were 13 allegations of excessive force where the civilian was handcuffed and was not physically resisting.

In one case, officers responded to a bar fight and a struggle ensued when an intoxicated civilian was handcuffed. Surveillance video showed multiple officers on the scene, and as one of the officers escorted the civilian out of the bar, the civilian slowly turned his head toward the officer. In response, the officer pushed the civilian into the front door, causing the civilian to hit his head. Immediately after the civilian was pushed, the officer forced the civilian to the floor and punched him. The civilian was already handcuffed and did not make any threatening movements, and as such, the officer's use of force was deemed to be unreasonable.

In another representative case, the civilian was arrested for violating an order of protection. Officers attempted to escort him out of the building after handcuffing him, and additional officers were requested because the civilian went limp and refused to walk. Surveillance video showed two officers carrying the civilian's limp body (a form of minor resistance), while a third officer assisted and

two other officers stood by. Before going through a doorway, the assisting officer punched the civilian three times in the torso. While there is no question that the civilian was not cooperating by refusing to walk, it is undisputed that the civilian was already handcuffed with five officers present. There were two additional cases with similar circumstances where the civilian refused to walk while handcuffed, and the officer reacted with an unreasonable impact technique.

Five other cases also involved an officer using unreasonable force on a handcuffed civilian who was relatively calm and not physically resisting. In one case, officers responded to a disorderly group and handcuffed a civilian after she resisted. The civilian was put into a police van, and an officer told her she could not have her phone which she held in her hand. The civilian dropped her phone and the officer reacted by punching her.

In another example, the Board substantiated allegations of force against an officer for punching and putting his hands around a civilian's neck. The civilian was handcuffed in the back of a police car, and an officer used the impact technique even though the civilian was not a threat.

(2) Civilian was handcuffed and was physically resistant or verbally offensive towards the officer

There were seven allegations where officers also used unreasonable force when a civilian was handcuffed, but the civilian resisted slightly or made rude comments. In one case, an officer escorted a civilian to his apartment to get a change of clothes before transporting him to the precinct. Elevator surveillance video showed that the civilian made a spitting motion toward one of the officers. In response, the other officer put an article of clothing over the civilian's mouth to prevent the civilian from spitting. The officer covered the civilian's mouth a second time, and wrapped his arm around the civilian's neck while doing so. The civilian was handcuffed and did not resist aside from the attempt to spit. Putting the civilian in a chokehold was unreasonable, and in any event, use of a chokehold is banned under all circumstances.

In another case, officers stopped a civilian for carrying an open container of alcohol, and placed him under arrest due to an outstanding warrant. The civilian was placed in the police van and began kicking the window. Video provided by a bystander revealed the civilian making an obscene and derogatory remark to the officer. Immediately after the civilian made the comment, the officer casually reached for his pepper spray and turned around to spray the civilian before closing the van door. Use of the pepper spray was unreasonable because the civilian was handcuffed and not physically threatening or resisting. Five other cases involved officers inappropriately using force on civilians who

were handcuffed and spitting, or verbally provoking, complaining, or yelling at the officer.

(3) Civilian fought the officer while the officer attempted to restrain the civilian

Force allegations also resulted when civilians fought officers' attempts to handcuff or restrain them. These instances involved civilians who kicked, punched, stiffened or flailed their arms, or pulled away from the officers. There were 20 allegations in 15 cases where the investigation determined that the civilian used a combination of fighting and other physical actions that provoked an officer into using an unreasonable level of force.

In one case, several officers attempted to arrest a civilian who had been involved in an assault. Surveillance video showed the civilian lashed out by swinging his arms and throwing objects as the officers tried to handcuff him. Officers proceeded to use a Taser, pepper spray, and asps on the civilian who continued to fight back and resist. Approximately seven officers brought the civilian to the ground, and continued to hit the civilian with asps. An officer then stood on the back of the civilian's head and neck area, and stomped nine times before another officer motioned for him to stop. He then walked away from the scene and the other officers handcuffed the civilian. Use of force by the officers who were working together to handcuff the resisting and fighting civilian was deemed necessary by the Board. However, stomping on the civilian's head and neck was deemed to be an unreasonable and excessive use of force.

In another case, a civilian was in a cab outside of a precinct station house and refused to pay her fare, prompting the cab driver to request police assistance. The civilian resisted arrest and was brought to the ground by officers in order to handcuff her. An officer walked the civilian into the station house, and the civilian slipped out of one of the handcuffs. At that point, her primary form of resistance was refusing to surrender her hands to be handcuffed. The officer threw the civilian onto the floor, and a supervisor came to assist in reapplying the handcuffs. The officer began to gain control of the civilian's arms, which she had been holding under her body when the supervisor used his Taser on her lower back. The civilian was also hit twice in the face. Even though the combined strength of three officers had been insufficient to force the civilian's arms behind her back, a variety of other compliance techniques, such as strikes to the arms or body could have been used to secure her. The use of strikes to the face and the Taser were determined to be unreasonable considering that the measures taken were not proportionate to the threat and the resistance. In 13 cases, the Board substantiated force allegations that stemmed from similar circumstances where the officers' reactions to the civilian's resistance were deemed unreasonable and excessive, especially strikes to the face as an initial response to resistance.

(4) Force after Police Pursuit

When a civilian runs or flees from an officer, it is reasonable for the officer to develop a heightened caution in regards to the civilian. Seven allegations in six cases involved an officer using unreasonable force when attempting to apprehend a fleeing civilian.

In one case, an officer stopped a civilian and asked to see the pedometer that was exposed and clipped onto his waistband, beneath his belt. The civilian did not comply with this request and walked away from the officer. The officer threatened to pepper spray the civilian and hit him with an asp.

The officer testified that he stopped the man in order to investigate a black metal clip that was attached to his waistband and visible underneath his belt. The officer described the clip as an inch in width and two to three inches long. The civilian claimed that he wore a black pedometer under his belt, two inches to the right of his zipper. The officer additionally noted that the civilian had a bump or bulge in his belt, caused by the object clipped onto his pants. However, the officer could not describe the dimensions or shape of the bump or bulge. The officer stated that he tapped the man's shoulder and asked him to identify the object clipped to his waistband. During his CCRB interview, the officer stated that any object that is clipped to an individual's waistband is presumed to be a weapon. The officer stated that he ran after the civilian because he did not know if the civilian had drugs or a weapon on him and a "normal" civilian would comply with an officer's request.

In People v. Cruz, 39 Misc. 3d 52 (App. Term, 2d Dept. 2013), an officer observed a clip attached to the defendant's left side pants pocket and immediately searched that pocket, recovering a gravity knife. The court held that the officer's observation of a clip attached to the defendant's pocket, without more, did not give rise to reasonable suspicion to justify the search and seizure of the gravity knife from the defendant. In this CCRB case, the officer stopped the civilian and asked to see the pedometer because he believed that it was a weapon. The law clarifies that a clip attached to an individual's pants is not presumed to be a weapon. This subject officer erroneously believed that any object clipped to an individual's waistband is presumed to be a weapon.

The investigation determined that the officer did not have reasonable suspicion to stop the civilian. The investigation further revealed that the officer threatened to pepper spray the civilian, and struck the civilian with a baton during the pursuit.

The officer did not have reasonable suspicion to stop the civilian, and therefore, the civilian was justified in walking away from the officer. None of the

civilian's actions during his interaction with the officer justified the officer's use of force.

In four other cases, the officers' use of force against fleeing civilians was deemed to be unreasonable based on the lack of reasonable suspicion.

In two other cases, the officers chased civilians using their police cars. In one example, officers spotted a civilian operating an unregistered dirt bike. Surveillance video showed the officer driving the police car in order to intercept the civilian. The officer drove into the civilian who was riding the dirt bike and the civilian fell on the sidewalk. Thereafter, the civilian jumped on the back of his friend's dirt bike as one officer pursued them in the police car, and the other officer pursued them on foot. The officer in the police car swerved the car into the second dirt bike, and the dirt bike crashed into a street pole killing one of the civilians. The use of deadly force with a police car was not reasonable in this instance because the civilians did not pose an imminent threat of death or serious physical injury to the officers.

(5) The officer attempted to address a violation and the civilian did not comply with the officer's orders.

The remainder of the cases that were reviewed consisted of officers using unreasonable force in response to suspected violations or non-compliant civilians. There were 26 allegations in 24 cases that fell within this category.

In one case, officers executed a search warrant and found narcotics in the apartment. Two civilians approached the apartment, but they changed direction when they saw an officer guarding the apartment door. The officer told one of the civilians to put his hands against the wall, but the civilian refused several times. The officer, who was significantly bigger than the civilian, pushed the civilian against the wall face first. The civilian became upset and waved his arms. The officer punched the civilian in order to handcuff him. The civilian did not try to assault the officer; he only disobeyed the officer's orders. The officer did not have any difficulty handcuffing the civilian, and therefore, it was deemed unreasonable that the officer resorted to pushing and punching the civilian in order to gain compliance. Thirteen cases involved force allegations in which the officer used unreasonable force after a civilian would not comply with orders.

The remaining four cases within this category involved officers using unreasonable force in response to bystanders who were not interfering with police actions. In one case, surveillance video showed an officer who stopped a civilian in a subway station because the civilian had used a student Metrocard to enter the platform instead of a standard Metrocard. Another civilian bystander

was videotaping the interaction with his cell phone, remaining at a reasonable distance throughout the incident. The bystander complied each time the officer told him to back up. As the bystander began to back further away, the officer lunged at him, shoved him against a wall, and pulled him to the ground to handcuff him. While the bystander ignored the officer's demands to leave the station, he did not physically interfere with the officer in any way. Therefore, it was deemed unreasonable for the officer to have pulled the bystander to the ground.

Issues for Further Research on Physical Force

As can be expected, scholars and police experts suggest that the way in which an officer responds to a situation and whether the officer uses force greatly depends on the civilian's reaction to the officer. In the cases reviewed, it was not uncommon to find officers who allowed their emotions to fuel their use of force beyond what was appropriate.

Police officers are not immune to emotional overreactions. However, given an officer's role, it is his or her responsibility to respond to situations and conflicts in a reasonable manner. It should be every officer's aim to use the appropriate level of force as required by the Patrol Guide. These incidents show that training on de-escalating situations without using force is critical and that de-escalation tactics should be exercised regularly by officers. Fifty of the 59 cases that we examined in this report occurred before 2014. It is, therefore, important to test whether the new NYPD training methods are effective in reducing force complaints.

Section 9. Update on 2014 Reports

Throughout the year, the CCRB issues a number of reports to fulfill its mandate to inform the public and New York City elected officials about the Agency's operations, complaint activity, case dispositions and Police Department discipline. In addition, the CCRB issues *ad hoc* reports and recommendations on NYPD policies, procedures, and training.

The CCRB also issues a detailed monthly statistical report to the Board which details complaint activity and complaint types, Agency productivity, Board findings, and Police Department action on substantiated complaints. That report is entitled, The Executive Director's Report. It consists of both a narrative and a statistical document, and it is posted online every month.[1]

Twice a year the CCRB publishes comprehensive reports, the semi-annual and the annual report. In September 2014, the CCRB issued its semi-annual report. The report can be found on our website with all previous reports issued since 2001.[2]

In addition, the CCRB testifies at least twice a year before the City Council on budget and policy matters. In 2014, the CCRB testified twice before the City Council. On March 21, 2014, Board Member Bishop Taylor testified before the Public Safety Committee of the New York City Council. Again, on May 20, 2014, Bishop Taylor testified before the Finance and Public Safety Committees of the New York City Council regarding the Fiscal 2015 Executive Budget.[3] In the two 2014 testimonies, the CCRB discussed its new "Field Investigative Team" and the "CCRB in the Boroughs" outreach initiative, which is now called the CCRB Community Partners Initiative. Both initiatives have been implemented with the support of the Administration and the City Council.

Finally, the CCRB issues *ad hoc* reports and policy recommendations where the Board discusses trends and statistics or makes official recommendations to the Police Department based on findings that raise concerns about departmental policies, procedures, and training.

During the first six months of 2014, the CCRB issued a special statistical report on vehicle stops. In the second six months of 2014, the CCRB issued a special and comprehensive report on chokeholds: *A Mutated Rule: Lack of Enforcement in the Face of Persistent Chokehold Complaints in NYC*.[4] Basic updates on both reports are below.

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[1] http://www.nyc.gov/html/ccrb/html/news/statistics.shtml
[2] http://www.nyc.gov/html/ccrb/html/news/reports.shtml
[3] http://www.nyc.gov/html/ccrb/html/news/news_landing.shtml
[4] http://www.nyc.gov/html/ccrb/downloads/pdf/Chokehold%20Study_20141007.pdf

Vehicle Searches: While the number of complaints has declined, the substantiation rate is still high when vehicle occupants are also frisked and searched.

One of the complaint categories to which the CCRB has paid particular attention in recent years has been vehicle stops and vehicle searches. After two years of consecutive increases, the number of complaints involving "vehicle stop" and/or "vehicle search" complaints decreased in 2014. Looking at the past five years, the CCRB received 532 complaints in 2010; 459 in 2011; 479 in 2012; 498 in 2013; and 452 in 2014. This is a decrease of 9% from 2013 to 2014, and 15% from 2010 to 2014. Approximately, one out of every 10 complaints that the CCRB received annually involved a vehicle stop and/or vehicle search.

In 2014, the CCRB fully investigated 474 allegations of vehicle stop and/or search. The Board substantiated 77 allegations; unsubstantiated 220 allegations; exonerated 111 allegations; unfounded two allegations; and the officers remained unidentified in 52 allegations. Officers were no longer members of service in 12 allegations. The substantiation rate was 11% for vehicle stop and 19% for vehicle search.

Additionally, the February 2014 study documented that there were many vehicle stop and search cases where people were also frisked and searched. The study also documented a failure to file required UF-250 reports more than half of the time.

The study analyzed two types of cases from 2009 to 2013. The first category consists of cases where there was a vehicle stop and/or search, but there were no allegations of a stop, frisk or search of a person. This group is called "vehicle stop/search only," and it consisted of 699 fully investigated cases. The second category consists of cases where both vehicle stop and/or search allegations and stop, frisk and/or search of a person were present. This group is called "vehicle stop/search plus" and it consisted of 504 fully investigated cases.

The substantiation rate for these two groups varied greatly and this variation was statistically significant. The study only measured the substantiation rate for vehicle stop and vehicle search allegations. From 2009 to 2013, the Board substantiated 155 cases of "vehicle stop/search plus" cases. The average substantiation rate was 22%. By comparison, the Board substantiated 51 cases of "vehicle stop/search only" cases for an average substantiation rate of 10%. During this period, the average substantiation rate for the entire universe of CCRB fully investigated cases was 11%.

The substantiation rate for the "vehicle stop/search plus" cases was 14% in 2009; 22% in 2010; 23% in 2011; 26% in 2012; and 32% in 2013.

In 2014, the Board substantiated the vehicle search and/or vehicle stop allegations in 42 out of 153 “vehicle stop/search plus” cases, a substantiation rate of 27%. By comparison, the Board substantiated the vehicle search and/or vehicle stop allegations in 9 out of 88 “vehicle stop/search only” cases for a 10% substantiation rate. During this period, the average substantiation rate for the entire universe of CCRB fully investigated cases was 17%. The statistics for 2014 continue to show a much higher substantiation rate for vehicle stops and searches where civilians were also frisked and searched when compared to other type of incidents.

Chokehold Report Update: Complaints Increased in 2014

In October 2014, the CCRB issued a comprehensive study of 1,128 chokehold complaints investigated from 2009 through June 2014. That report, *A Mutated Rule: the Lack of Enforcement in the Face of Persistent Chokehold Complaints in New York City,”* exposed the following troubling realities: chokehold complaints were increasing; there were times when the CCRB failed to appropriately investigate chokehold allegations; and the NYPD failed to appropriately discipline officers who used chokeholds.

In 2014, the CCRB received the highest number of chokehold complaints as a percentage of force complaints as well as a percentage of total complaints, since 2001. For example in 2001, there were four chokehold complaints for every 100 force complaints filed. In 2014, there were 9.6 chokehold complaints for every 100 force complaints. In 2014, there were 4.8 chokehold complaints for every 100 complaints filed. This meant that when a civilian filed a complaint with the CCRB in 2014, it was more likely to allege a chokehold than at any time in the recent past. The CCRB received 232 chokehold complaints in 2014. In absolute numbers, 2014 was the year with the second highest number of chokehold complaints since the creation of the Agency in 1993. In 2009, the CCRB received 240 chokehold complaints, but that year the Agency received 7,660 complaints for a ratio of 3.1 chokehold complaints per every 100 complaints.

In 2014, the Board substantiated 5% of all chokehold allegations that it fully investigated. The CCRB substantiated six chokehold allegations against six officers: one allegation in the first half of the year, and five allegations in the second half. From January through March 2015, the Board substantiated three additional chokehold allegations. Of these nine incidents, seven incidents occurred prior to 2014.

The CCRB substantiated nine allegations in the last 15 months. By comparison, the CCRB substantiated a total of 30 chokehold allegations over a twenty-year time period from 1993 to 2013.

Board Members and Executive Staff

CCRB Board Members

Mayoral Designees

Chair Richard D. Emery, Esq.

Mr. Emery was appointed by Mayor Bill de Blasio to serve as Chair of the CCRB on July 17, 2014. Mr. Emery is a founding partner of Emery Celli Brinckerhoff & Abady LLP. His practice focuses on commercial litigation, civil rights, election law and litigation challenging governmental actions. Mr. Emery enjoys a national reputation as a litigator, trying and handling cases at all levels, from the U.S. Supreme Court to federal and state appellate and trial courts in New York, Washington, D.C., California, Washington State, and others. While a partner at Lankenau Kovner & Bickford, he successfully challenged the structure of the New York City Board of Estimate under the one-person, one-vote doctrine, resulting in the U.S. Supreme Court's unanimous invalidation of the Board on constitutional grounds. Before then, he was a staff attorney at the New York Civil Liberties Union and director of the Institutional Legal Services Project in Washington State, which represented persons held in juvenile, prison, and mental health facilities. He was also a law clerk for the Honorable Gus J. Solomon of the U.S. District Court for the district of Washington. He has taught as an adjunct at the New York University and University of Washington schools of law. Mr. Emery was a member of Governor Mario Cuomo's Commission on Government Integrity, created under the Moreland Act, and served on the New York State Commissions on Judicial Conduct and Public Integrity. He is a founding member of the City Club, which addresses New York City preservation issues. Mr. Emery is a founder and president of the West End Preservation Society, which has achieved the landmarked West End-Riverside Historic District.

His honors include Landmark West's 2013 Unsung Heroes Award for his preservation work; the 2008 Children’s Rights Champion Award for his civil rights work and support of children's rights; the Common Cause/NY, October 2000, "I Love an Ethical New York" Award for recognition of successful challenges to New York's unconstitutionally burdensome ballot access laws and overall work to promote a more open democracy; the Park River Democrats Public Service Award, June 1989; and the David S. Michaels Memorial Award, January 1987, for Courageous Effort in Promotion of Integrity in the Criminal Justice System from the Criminal Justice Section of the New York State Bar Association.

J.D. 1970, Columbia University School of Law, cum laude, Harlan Fiske Stone Scholar; B.A., 1967, Brown University

Board Member Janette Cortes-Gomez, Esq.

Ms. Cortes-Gomez is an attorney who has been engaged in private practice in Queens and the Bronx since 2004. In addition to representing private clients, she serves as court appointed counsel in Family Court cases relating to juvenile delinquency, abuse and neglect, parental rights, custody, child support, paternity, family offense, visitation, persons in need of supervision and adoption matters. From 1999 to 2004, Ms. Cortes-Gomez was an attorney with the New York City Administration for Children's Services (ACS). At ACS, she litigated child abuse and neglect cases, including termination of parental rights petitions. Ms. Cortes-Gomez is a member of the New York City Bar Association, the Puerto Rican Bar Association, the Bronx County Bar Association, the Hispanic National Bar Association, and the American Bar Association. In 2010, she was appointed as President of the Bronx Family Bar Association for a two year term. She is a Mayoral designee and was appointed to the Board in November 2011.

B.A., 1996, Canisius College; J.D. 1999, Buffalo School of Law, the State University of New York.

Board Member Daniel M. Gitner, Esq.

Mr. Gitner has been a partner at Lankler Siffert & Wohl LLP since 2005. His practice is concentrated in white-collar criminal and regulatory litigation, and he also represents clients in complex federal and state civil matters. Mr. Gitner sits on the Board of Directors of The Fund for Modern Courts and is also an Adjunct Professor at the New York Law School, where he teaches a course on sentencing. He is a member of the New York City Bar Association's Criminal Law Committee and Council on International Affairs. Mr. Gitner is also a lead author of *Business Crime*, a comprehensive treatise on white-collar criminal matters, and is the co-author of several published articles concerning white-collar criminal and regulatory issues. He began his legal career in 1995 as a law clerk to the Honorable Naomi Reice Buchwald, then-Chief United States Magistrate Judge, and then as a law clerk to the Honorable Barbara S. Jones, United States District Judge, both in the Southern District of New York. After his clerkships, Mr. Gitner served from 1997 to 2005 as an Assistant United States Attorney for the Southern District of New York, in the Criminal Division. From 2003 to 2005, he was the Chief of the General Crimes Unit. Mr. Gitner was a recipient of the Justice Department's Director's Award for Superior Performance and, in 2003, was named the Federal Prosecutor of the Year by the Federal Law Enforcement Foundation. Mr. Gitner began his 3-year term as a Board member in June 2013. He is a Mayoral appointee.

J.D., 1995, Columbia University School of Law; B.A., 1992, cum laude with distinction in all subjects, Cornell University

Board Member Deborah N. Archer, Esq.

Ms. Archer is the Associate Dean for Academic Affairs at New York Law School and a Professor of Law. Dean Archer was previously an assistant counsel at the NAACP Legal Defense and Educational Fund, Inc. where she litigated at the trial and appellate level in cases involving affirmative action in higher education, employment discrimination, school desegregation, and voting rights. She was also a Marvin H. Karpatkin Fellow with the American Civil Liberties Union, where she was involved in federal and state litigation on issues of race and poverty. Prior to joining New York Law School, Dean Archer was a litigation associate at Simpson, Thacher & Bartlett LLP. Dean Archer is also Director of the New York Law School Racial Justice Project, Co-Director of the Impact Center for Public Interest Law, the Civil Rights Clinic, and has participated as amicus counsel in several cases before the U.S. Supreme Court and U.S. Courts of Appeal, including Ricci v. DeStefano, Fisher v. University of Texas, and Shelby County v. Holder. Dean Archer clerked for Judge Alvin Thompson in the United States District Court for the District of Connecticut. She is a mayoral designee and was appointed to the Board by Mayor Bill de Blasio on October 1, 2014.

J*.D., 1996, Yale Law School; B.A., 1993, Smith College*

Board Member Bennett Capers, Esq.

Mr. Capers is the Stanley A. August Professor of Law at Brooklyn Law School. Prior to teaching, Capers worked as an Assistant U.S. Attorney in the Southern District of New York. Mr. Capers' work trying several federal racketeering cases earned him a nomination for the Department of Justice's Director's Award in 2004. He also practiced with the firms of Cleary, Gottlieb, Steen & Hamilton and Willkie Farr & Gallagher. He clerked for the Honorable John S. Martin, Jr. of the Southern District of New York, and has also taught at Hofstra University School of Law and Fordham Law School. Mr. Capers is an elected member of the American Law Institute, an appointed member of the New York State Judicial Screening Committee, and he served as Chairperson of the American Association of Law Schools (AALS) 2013 Conference on Criminal Justice. In September 2013, Mr. Capers was named Chair of the 13-member Academic Advisory Council formulated by Judge Shira Scheindlin to help the court-appointed monitor and facilitator implement reforms to NYPD stop-and-frisk practices. He is a mayoral designee and was appointed to the Board by Mayor Bill de Blasio on October 1, 2014.

J*.D. 1991, Columbia University School of Law; B.A., 1988, Princeton University*

City Council Designees

Board Member Joseph A. Puma (Manhattan)

Mr. Puma's career in public and community service has been exemplified by the various positions he has held in civil rights law, community-based organizations and local government. As a paralegal with the NAACP Legal Defense and Education Fund (LDF), Mr. Puma worked on litigation teams handling cases involving criminal justice, voting rights, employment discrimination and school desegregation. Prior to joining LDF, he worked for over six years at the NYC Office of Management and Budget (OMB), where he served as an intergovernmental liaison, policy and budget analyst, and legislative reference assistant. At OMB he monitored the potential effect of proposed federal, state, and city legislation on New York City's budget and coordinated OMB's response to myriad bills. From 2003 to 2004, he served as a community liaison for former City Council member Margarita López. Since 2007 Mr. Puma has been involved with Good Old Lower East Side (GOLES), a community organization helping residents with issues of housing, land use, employment, post-Sandy recovery and long-term planning, and environmental and public health. A lifelong New York City public housing resident, Mr. Puma currently serves on GOLES's Board of Directors, and has participated in Washington DC-based national efforts related to public housing preservation. Mr. Puma is now pursuing full-time a Master of Arts degree at Union Theological Seminary. Mr. Puma is the City Council designee from Manhattan and was appointed to the Board in December 2013.

Certificate (Legal Studies), 2009, Hunter College; B.A., 2003, Yale University

Board Member Bishop Mitchell G. Taylor (Queens)

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 the President and CEO of Urban Upbound (formerly the East River Development Alliance), 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 former Commissioner on the NYC Charter Revision Commission. He has been the City Council designee from Queens since January of 2009.

B.A., United Christian College, 1986.

Board Member Youngik Yoon, Esq. (Bronx)

Mr. Youngik 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 designee from the Bronx since December 2003.

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

Police Commissioner Designees

Board Member Lindsay Eason

Mr. Lindsay Eason currently works as Director of Field Operations for Grand Central Partnership, a private 501(c)(3) not-for-profit organization. From 2011-2012, Mr. Eason served as an International Police Training Manager for The Emergence Group in Tajikistan, where he was contracted to design and implement training for Police Departments. Mr. Eason was appointed to New York City Sherriff in 2002, where he developed and implemented *SherriffStat*, leading to new procedures that promoted greater accountability and professional development. Mr. Eason began his career in law enforcement as a uniformed member of the NYPD. He earned his B.S. from John Jay College of Criminal Justice, and is a graduate of the New York Police Academy and the FBI's National Academy. Mr. Eason is a Police Commissioner designee, appointed to the Board by Mayor Bill de Blasio on October 1, 2014.

B.S., 2005 John Jay College of Criminal Justice, City University of New York; 1991, F.B.I. National Academy

Board Member Deborah L. Zoland, Esq.

Ms. Deborah Zoland began her career with the NYPD in 1973, as a civilian Police Administrative Aide at the 100th Precinct. She began her career as an NYPD attorney in June 1981. Between 1988 and 1995, Ms. Zoland served as a

Deputy Managing Attorney and then Managing Attorney in the Civil Section of the NYPD's Legal Bureau, as well as Executive Officer of the Legal Bureau. She was promoted to Director, Office of the Deputy Commissioner for Legal Matters in 1995. Ms. Zoland was promoted to Assistant Deputy Commissioner for Legal Matters in 1999 and served in that capacity until her retirement from the NYPD in February, 2014. Throughout her tenure with the NYPD, Ms. Zoland developed expertise in various civil policy matters including personnel, officer discipline, civil rights, Equal Employment Opportunity and ethics in government relating to the NYC Charter and the NYC Conflicts of Interest Law. She also served as a representative on the NYPD's Firearms Discharge Review Board.

Additionally, beginning in 1990 until her retirement, Ms. Zoland acted as counsel to the Police Commissioner and to the Chief of Department for the Police Relief Fund. She served as the key NYPD advisor during the formation of the Police Museum, and remained the museum legal advisor until her retirement. Working with the Police Foundation, Ms. Zoland developed guidelines to protect the licensing of the NYPD logo and insignia and manage marketing strategies.

Ms. Zoland is a graduate of the City's Leadership Institute and the Police Management Institute, Class III. In 2003 she was awarded the Hemmerdinger Award for Excellence by the Police Foundation. The Policewoman's Endowment Association presented her with its Award of Merit in 2009 and she was the first civilian to receive this award.

J.D., 1979, Brooklyn Law School; B.A. 1974, cum laude, Brooklyn College

CCRB Executive Staff

<u>CCRB Executive Director</u>

Mina Q. Malik, Esq. Executive Director

Ms. Malik was appointed by the Board to serve as the Executive Director in February, 2015. She is a strong leader with exceptional organizational and interpersonal skills who has been able to implement positive changes in the agencies in which she has worked. Ms. Malik has been a life-long dedicated public servant with a proven track record as a superb prosecutor and creative innovator.

Most recently, Ms. Malik served as Special Counsel to the District Attorney in the Kings County District Attorney’s Office where she counseled and assisted the newly-elected Brooklyn District Attorney in the day-to-day operations of the

agency consisting of 1,200 employees. Ms. Malik was a vital member of the executive team and advised the District Attorney on the restructuring and reorganization of the agency, personnel matters, policy issues and wrongful conviction cases.

Prior to her work in Brooklyn, Ms. Malik served as a Senior Assistant District Attorney in the Queens County District Attorney's Office where she prosecuted a broad range of felony cases and argued numerous appeals. Her concentration was in Special Victims where she oversaw the investigation, prosecution, and litigation of child homicides, child physical and sexual abuse, sex trafficking, and adult sex crimes. Ms. Malik was a law clerk in the Law Offices of Plato Cacheris in Washington, D.C.; a judicial law clerk for the Honorable Reggie B. Walton of the District of Columbia Superior Court; and a Criminal Investigator for the D.C. Public Defender Service. Ms. Malik also serves as a faculty member of the Trial Advocacy Workshop at Harvard Law School's Criminal Justice Institute.

J.D. 1998, The American University Washington College of Law; B.A., 1993, Bates College

Executive Staff

Brian Connell Deputy Executive Director, Administration
Jonathan Darche, Esq. Deputy Executive Director/Chief Prosecutor, Administrative Prosecution Unit
Marcos Soler Deputy Executive Director, Policy and Strategic Initiatives

"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..."

(NYC Charter, Chapter 18-A, effective July 4, 1993)

ROSA LEE, Cover Designer

CIVILIAN COMPLAINT REVIEW BOARD
100 Church St., 10th Floor, New York, NY 10007
Complaints: 1-800-341-2272 or **311 | Outside NYC: 212-New-York**
General Information: 212-912-7235
www.nyc.gov/ccrb