



BILL DE BLASIO
MAYOR

CIVILIAN COMPLAINT REVIEW BOARD
40 RECTOR STREET, 2ND FLOOR
NEW YORK, NEW YORK 10006 ♦ TELEPHONE (212) 912-7235
www.nyc.gov/ccrb

TRACY CATAPANO-FOX, ESQ.
EXECUTIVE DIRECTOR

From: Marcos F Soler, Deputy Executive for Policy and Strategic Initiatives

To: Board Members

Re: CCRB Policy Recommendations and Reports 2000-2013

Date: January 8, 2014

I herein summarize the main policy recommendations and reports that the CCRB has made public since 2000. This memorandum does not include findings made in our regular reports, monthly executive reports, semi-annual reports or mayor's management reports.

POLICY RECOMMENDATIONS

Recommendation to Strengthen Patrol Guide Procedures and Retrain Officers on Vertical Patrols Based on Criminal Trespass-Related Complaints Stemming from Patrolled Housing

Issued: October 2010

Since 2009, the Board has analyzed allegations of improper stop and question in which criminal trespass is cited as a reason for the police encounter. These complaints are filed by members of the public who have been questioned and/or stopped by police officers in and around New York City Housing Authority (NYCHA) buildings or private buildings participating in the Formal Trespass Affidavit Programs (FTAP), also known as Clean Halls buildings. Both are subject to interior vertical patrols by the NYPD and we refer to both as "patrolled housing."

In public testimony before the City Council, the Board informed council members that we identified 76 criminal trespass related complaints that contained at least one allegation of improper stop and/or question at a patrolled housing location. In 23 cases, the allegations of improper stop and/or question were substantiated. This was a substantiation rate of 30%. In two additional criminal trespass cases, the board exonerated the allegations of improper stop and/or question but substantiated other allegations such as improper frisk or search.

We also informed council members of various meetings with the NYPD where CCRB staff provided information about these improper stops and recommended retraining of police officers. In June 2010, the police department accepted our recommendations and did the following: revised its Patrol Guide provisions governing vertical patrols in NYCHA buildings. The new order makes clear that officers must have *reasonable suspicion* to stop a person in, entering or exiting a NYCHA building. Later that year, the department began retraining housing police officers who patrol NYCHA buildings. By the end of November 2010, all NYPD officers assigned to the Housing Bureau and certain patrol officers received training on the specific legal standards governing stops in NYCHA buildings.

Follow-Up Report on Criminal Trespass-Related Complaints Stemming from Patrolled Housing

Issued: May 2013

In 2012, the Board determined that it was important to conduct a follow-up study of the 2009-2010 report on complaints stemming from patrolled housing. This report did not include additional recommendations to the police department. However, the Board made two important findings.

First, the number of improper stop and question complaints decreased by 22%, from 76 complaints in the 2010 study to 59 complaints in the 2012 study. Also, civilians filed fewer and fewer complaints as time progressed. If one divides the 16 month follow-up study into four four-month periods, a significant 50% reduction is found when the first two periods (July 2010-February 2011) are compared to the last two periods (March-October 2011). Civilians filed 18 complaints in the first period; 19 complaints in the second; 13 in the third period; and 9 complaints in the fourth.

Second, in 23 cases out of the 58 fully investigated complaints, the allegations of improper stop and/or question were substantiated. This is a substantiation rate of 40%. It is a 10% higher rate than the substantiation rate reported in the 2010 study. In four additional criminal trespass cases, the board did not substantiate the allegations of improper stop and/or question, but did substantiate other allegations such as improper frisk or search.

Recommendation to Clarify Guidelines and Prevent Improper Seizure from Civilian of Police Union Courtesy Cards

Issued: November 2006

From May 2005 to June 2006, the CCRB substantiated allegations relating to the seizure of police union cards against eleven officers in ten cases. During their CCRB interviews, the officers expressed their belief that the union cards were police department property subject to seizure. For ten of the eleven officers, the CCRB substantiated no allegations other than the improper seizure of property.

The CCRB recommended that the police department issue an order or directive regarding the proper handling of police union cards in order to reduce the number of complaints concerning improper seizure of property.

Recommendation that NYPD Review its Training for Policing Large Demonstrations

Issue: May 2006

Based on the complaints the Board received from the 2004 Republican National Convention, the Board recommended that the police department review the training it provides officers regarding the clarity and specificity of orders to demonstrators in the context of large demonstrations. After reviewing numerous complaints, the Board found that if high-ranking police supervisors had employed different tactics, the department could have avoided arresting large numbers of people.

In two incidents, senior police officials spoke to a large number of people participating in street demonstrations without the assistance of a bullhorn or other amplification devices, raising concerns that arrested civilians were unable to hear the orders to disperse.

In addition, in the two incidents, police officials ordered the marchers to stop and to disperse without a precise directive and, shortly thereafter, they ordered officers to arrest all the marchers. The Board found that the people arrested had limited time and means by which to leave the area and also that the dispersal orders were given in a manner that made difficult it for civilians to understand what directions to follow.

Recommendation that the NYPD Take Measures to Facilitate its Identification of Subject Officers during Mass Demonstrations

Issued: June 2004

Based on the complaints the Board received from the anti-war protest, the Board recommended that the department review its procedures to better document police actions in the context of large demonstrations.

This report also contains a special study of the 70 complaints the CCRB received stemming from events surrounding the February 15, 2003 anti-war demonstration at the United Nations. The study contains three recommendations. First, that the NYPD provide complete and unedited video footage that it shoots at demonstrations when the CCRB requests it. Second, the agency recommended that mounted officers' identifying information be clearly visible from street level. Third, the agency recommended that the NYPD put in place measures by which the assignment and location of officers called to a mobilization can be traced.

Recommendation that NYPD Enhance Strip-Search Training

Issue: May 2004

From January 2002 to April 2004, the Board substantiated 16 strip-search cases. During this period, the substantiation rate for strip-search allegations was two-times higher than the average case substantiation rate.

The review of the investigations showed that, even when the Board did not substantiate the specific strip-search allegation in a case, during the CCRB interviews officers and supervisors told our investigators that they routinely conducted the type of searches the Board found in violation of the Patrol Guide. Also, the CCRB's review of cases indicated that officers did not appreciate the differences between a police facility search and a strip search.

The CCRB recommended additional training for all officers, including that the department produce a training video to clarify that, even if officers did not appear to have intentionally violated the Patrol Guide, they often failed to comply with departmental strip search procedures.

NYPD Response: Roll Call Message, Training and Dissemination of Training Video

Recommendation that Officers Show No-Knock Search Warrants to Premise Occupants

Issue: November 2003

From January 2002 to October 2003, the Board reviewed complaints stemming from the execution of search warrants. The Board found that showing a copy of a search warrant to the occupants of a searched premise reduces the number of complaints. The CCRB recommended that a no-knock warrant be shown to premise occupants once a premise is secured.

Recommendation that NYPD Creates a Database to Track Search Warrants

Issued: January 2003

The CCRB recommended that the police department develop a central, comprehensive database to track search warrant executions. The development of such a database was important for two reasons. First, computerized and centralized data help police executives assess their officers' and units' performance. Second, such a database eliminates delays in identifying the officers who obtained and executed search warrants.

NYPD Response: July 1, 2003 Interim Order announcing new database

Recommendation that NYPD Clarify Procedures Concerning the Obligation to Provide Name and Badge Number

Issued: 2003

From 1999 to 2002, there was a 175% increase in the number of allegations of refusal to provide name and or shield number. The proportion of substantiated complaints including allegations of refusal to provide name and badge number also increased.

The Board recommended that the police department clarify what constitutes an “affirmative” response to a civilian’s request for the officer’s name and/or badge number in a multitude of circumstances.

NYPD Response: June 27, 2003 Patrol Guide Revision

Report and Recommendations on Complaints Stemming from Stop and Frisk Practices

Issue: June 2001

In March 1999, the Board formed the Street Encounter Committee to review complaints filed by people who had been stopped on the street and frequently frisked and/or searched by a New York City police officer. This report was the result of that review. The Committee examined only CCRB complaints and only those complaints related to street stops that were closed by the Board during the period between January 1, 1997 and March 31, 1999. During the period of this study, the CCRB closed 1,346 street stop cases. During the same period, the department informed the agency that the NYPD recorded over 250,000 stops—indicating that complaints are made in only a fraction of cases in which stops take place.

Among the committee's many findings, six deserved particular attention.

- (1) African-Americans filed more than twice as many complaints about street stops as Latinos and nearly six times the number that whites filed. Compared with all other CCRB complaints filed during the same period, African-Americans were over-represented in this sample of street-stop complaints while whites were underrepresented.
- (2) Compared with whites who filed complaints with the CCRB, African-Americans and Latinos more often filed complaints about stops that involved the use of physical force. Among African-Americans, Latinos and whites, the African-Americans who filed complaints were more likely to have been stopped by officers who stated that they used a gun to effectuate the stop.
- (3) Most of the street stops that led to complaints were based on the officers' own observations and not on third party information. Whites who filed complaints were more often stopped at least in part for being in a "high crime" area, according to the officers involved, while in complaints filed by African-Americans and Latinos, officers in CCRB

investigations more often proffered as rationales for the stops that they noticed a bulge or saw the person shift his or her waistband.

(4) In almost a third of the stops in the study's fully investigated cases, a supervisor was present during the stop that resulted in a complaint.

(5) Compared with all other complaints about police-civilian encounters closed during the period of this study, the CCRB was more likely to substantiate complaints stemming from street stops.

(6) Although officers during the period of this study were required to submit UF-250 forms whenever they frisked, searched, or arrested a civilian after a stop, these forms were missing from many of the case files the committee reviewed.

(Although the CCRB has not conducted a formal follow-up report, these six key findings have continued to be documented in subsequent annual reports.)

As a result of this study of complaints stemming from street stops, the CCRB recommended the following five actions to the NYPD:

(1) Issue "stop receipts." Documenting all stops is necessary to track police activity and performance, and foster public accountability. In this study, there were a substantial number of cases in which the CCRB could not identify the officers involved. Therefore, the CCRB recommended that police officers issue a "stop receipt" to every civilian they detain for investigative purposes. The "stop receipt" would contain information about the time and place of the encounter, the names of the officers involved, and a brief explanation of why the officer made the stop. The "stop receipt" would give civilians a record of the encounter and a way to hold officers accountable for the decision to stop them.

(2) Offer a reason for the stop. The CCRB received significantly fewer complaints from civilians where an explanation or apology was offered by officers performing a stop. In over 60% of the fully investigated cases that did not result in an arrest, however, no explanation was forthcoming, according to the civilians involved. The CCRB recommended that the police department require officers to offer such explanations.

(3) Spend more time observing civilians before stopping them. Because officers based two-thirds of the stops that led to complaints on observing something that appeared suspicious, not on visible criminal activity or third-party information, the CCRB recommended that officers, particularly officers in plainclothes in unmarked cars, should try to observe civilians for a longer period before stopping them.

(4) Complete UF-250 forms. Because police officers in this study often did not document stops by submitting the required UF-250 forms, the CCRB recommended that the police department continue to work to better capture data regarding its stop and frisk practices.

(5) The CCRB also recommended that UF-250 forms be computerized.

NYPD Response: we were informed by the police department that it was in the process of implementing a system in which stop-and-frisk data was comprehensively computerized and made readily accessible to line supervisors for use in supervision.

Report and Recommendations on Complaints Stemming from the Use of Pepper Spray

Issue: October 2000

This report discussed the NYPD's policy on pepper spray, reviewed the scientific literature on the effectiveness and health hazards of this substance, analyzed CCRB complaints in which officers used pepper spray and formulated recommendations to the NYPD.

From 1996 to June 1999, the Board reviewed 141 complaints, of which the Board found misconduct in 22 cases (16%). The substantiation rate was 3 percentage points above the average. The CCRB made three recommendations with a particular emphasis on the use of pepper spray in dealing with emotionally disturbed people.

REPORTS

Truncation Rate and Complaints Filed with the Police Department

Issued: December 2013

This is the most recent analysis of the main factors affecting the CCRB's complaint resolution rate. The report distinguishes between cases that cannot be resolved either through a full investigation or mediation. The report is a follow- to earlier reports.

The report concludes that there is a significant difference in the complaint resolution rate between complaints filed with the CCRB and complaints filed with the police department. In 2013, the complaint resolution rate for complaints filed with the CCRB is 49%. The complaint resolution rate for complaints filed with the Police Department is 20%. In particular, the report notes that a complaint is nearly three times more likely to be closed as complainant unavailable if the civilian filed it with the police department.

For a full discussion of the complaint resolution rate/truncation rate, see also memoranda to the Board of September 2012.

Analysis of the Police Department's Declined to Prosecute Rate

Issued: October 2013

The report analyzes the increase in the police department's declined to prosecute rate. From January to August, the police department declined to prosecute 28% of all substantiated CCRB cases that it closed. The rate of 28% was 13 percentage points higher than the rate in the same period of 2012 (15%).

The report also documents that the department is more likely to decline prosecution of a substantiated case when the Board penalty recommendation is the least severe. During this period, the department declined to prosecute 25% of cases in which the Board recommended Charges and Specifications (33 out of 134), 33% of cases in which the Board recommended Command Discipline (22 out of 67) and 38% of cases in which the Board recommended Instructions (9 out of 24).

Increase in the Use of Mediation

Issued: March 2012

In 2011, the total number of cases closed through the CCRB mediation program as a percentage of total complaint closures rose by 121% over the four year period 2008 (192 cases) to 2011 (376 cases).

The report highlights three important statistics. First, the rate at which mediation was offered to complainants increased from 31% in 2008 to 59.5% in 2011. Second, the rate at which mediation was accepted by complainants increased from 48% in 2008 to 53% in 2011. Third, the MOS acceptance rate has increased from 68% in 2008 to 77% in 2011 (which was a decrease from an all-time high of 82% in 2010).

Quantitative Analysis of the Pilot Administrative Prosecution Unit (APU) and Second-Seat Program

Issued: March 2012

Before the City Council's Public Safety committee, Chairman Daniel D. Chu reported on the pilot APU and second-seat programs.

The report highlighted that, from July 2010 to March 2012, agency attorneys participated actively in the trial process as we moved from observers to participants. Our APU attorney was the lead prosecutor on three trials and we prosecuted together with the police department an additional eight trials in which our lawyers actively assisted as the second seat. . Of the 15 officers prosecuted in these eleven trials, twelve officers were found guilty after trial, one officer pleaded guilty at trial, two officers were found not guilty.

The effects of the cooperation were evident from the police department disposition of CCRB substantiated cases in 2011. The discipline rate reached a historical high, 81% of officers. With the assistance of CCRB attorneys and better cooperation between the two agencies, the department guilty-after-trial rate rose to 59%. This was a historical high for CCRB substantiated cases. Finally, the department went to trial or negotiated a guilty plea with an officer in 13% of all disciplinary cases. This was the highest rate since 2006.

Quantitative Analysis of the CCRB Misconduct and Substantiation Rate

Issued: November 2011

The report analyzes changes in the substantiation and “misconduct rates” 2010 to 2011. It is supplemented with a chart discussing the misconduct rate from 2006 to 2011. (The “misconduct rate is the combined rate at which officers are found to have committed a FADO allegation and an OMN, which stands for Other Misconduct Noted and refers to departmental violations such as failure to prepare a stop-and-frisk report or memo book entry.)

The report found that the substantiation declined from 11% in 2010 to 7% in 2011. (It increased to 15% in 2012 and 14% in 2013). The report found that, although the substantiation rate declined, the misconduct rate was at a historic high of 21% in 2011. Misconduct rate is the combined rate at which officers are found guilty of misconduct in both FADO and OMN (Other Misconduct Noted) cases. The misconduct rate increased from 11% in 2006 to 21% in 2011. (The current misconduct rate has decreased from 21% in 2012 to 16% in 2013)