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TO: Board Members

FROM: Marcos F. Soler, Deputy Executive Director for Policy  
Civilian Complaint Review Board

RE: Truncation Rate – Reporting

DATE: December 11, 2013

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The purpose of this memo is to provide the board with a new format for reporting the so-called truncation rate.

Truncation rate – definition and history

The term “truncation rate” is not used in our rules. Section §1-34 of the rules speaks of “cases closed without a Full Investigation.” This section states that “[T]he Board or the Executive Director may close without conducting a full investigation any case falling within categories (5) through (17) of §1-33.”<sup>1</sup> Categories (5) through (9), complaint withdrawn, complaint or victim unavailable, complaint or victim uncooperative and victim unidentified, are what we colloquially called truncated dispositions.

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<sup>1</sup> “(d) The following categories of case investigation dispositions shall be used in reports to the Police Commissioner: (1) Substantiated: the acts alleged did occur and did constitute misconduct. (2) Unsubstantiated: there was insufficient evidence to establish whether or not there was an act of misconduct. (3) Exonerated: the acts alleged did occur but did not constitute misconduct. (4) Unfounded: the acts alleged did not occur. (5) Complaint Withdrawn: the complainant voluntarily withdrew the complaint. (6) Complainant Unavailable: the complainant could not be located. (7) Victim Unavailable: the victim could not be located. (8) Complainant Uncooperative: the participation of the complainant was insufficient to enable the Board to conduct a full investigation. (9) Victim Uncooperative: the participation of the victim was insufficient to enable the Board to conduct a full investigation. (10) Officer Unidentified: the board was unable to identify the officer who was the subject of the allegation. (11) Referral: the complaint was referred to another agency. (12) No Jurisdiction: the complaint does not fall within the jurisdiction of the Board. (13) No Prima Facie Case: the complaint does not state a prima facie case. (14) Mediated: the parties to the mediation agreed that the complaint should be considered as having been resolved through mediation. (15) Mediation Attempted: the parties agreed to mediate the complaint but the civilian subsequently did not participate in the mediation. (16) Miscellaneous: the subject of the complaint is not currently employed by the Police Department as a police officer. (17) Other: as from time to time determined by the Board.”

The term “truncation rate” is a statistical concept that the CCRB adopted for the first time in the 1995 annual report. Since then, by truncation rate, the agency annual and monthly reports described three types of case investigation dispositions: (a) complaint withdrawn, (b) complainant and/or victim uncooperative and (c) complainant and /or victim unavailable. In 2002, the board added an additional category, victim unidentified.

### Complaint Withdrawn – rules and reporting

In May 2013, the Board voted to treat complaint withdrawn as a separate category, not to be included in the truncation rate. Complaint Withdrawn: the board closes a case as “complaint withdrawn” when the complainant and/or victim voluntarily decides against pursuing the complaint either verbally or in writing.

This case investigation disposition is broken down into separate subcategories to be systematically documented in our Complaint Tracking System.

These subcategories include reasons for withdrawing the complaint. They include the following:

- Complaint withdrawn - upon advice of counsel
- Complaint withdrawn - complainant had no desire to follow through
- Complaint withdrawn - complainant did not want to take time for interview
- Complaint withdrawn - complainant just wanted to report complaint
- Complaint withdrawn - complainant feared retaliation
- Complaint withdrawn - complainant provided no reason
- Complaint withdrawn - other

### Truncated case investigations – rules and reporting

Our reports define the specifics categories of truncated case investigations as follows:

1. Complainant unavailable: the board closes the case as “complainant unavailable” when the agency cannot locate or find the complainant.
2. Victim unavailable: the board will close the case as “victim unavailable” when the investigation cannot be conducted without a statement from the victim, who cannot be located.
3. Complainant uncooperative: The board closes the case as “complainant uncooperative” when the CCRB contacted the complainant, who refused to cooperate with the investigation.
4. Victim uncooperative: The board closes the case as “victim uncooperative” when the investigation cannot be conducted without a statement from the victim, who has not cooperated with contact attempts to schedule an interview.
5. Victim unidentified: The board closes the case as “victim unidentified” when the investigation cannot be conducted without a statement from the victim, who has not been identified.

The decision to truncate an investigation is made only after the investigative staff has followed a set protocol. First, the investigator must takes steps to insure that he/she has the correct address and telephone number(s) for the complainant/victim. In general, the investigator must make a minimum of telephone calls (and send e-mails) to the

complainant/victim over a period of two or three weeks at different times of the day and evening. If the initial attempt to reach the complainant/victim is unsuccessful, the investigator should immediately send the CTS formatted “first please call letter.” If, within two weeks, the investigator receives no response, a telephone call must be made and the “final please call letter” must be sent. Only if there is no response in two or more additional weeks can the case be submitted to a panel for closure. If the complainant/victim misses a scheduled appointment, the investigator should call (and email) the individual to reschedule and, if unsuccessful, send a “missed appointment letter.” If the complainant/victim misses a second scheduled appointment, the investigator can generally proceed and truncate the case.

### New Reporting

I propose that in our statistical reports we adopt the following reporting:

#### *Complaint filed with the CCRB*

Complainant/victim uncooperative – after initial contact was made, civilian either did not return calls, respond to correspondence, or failed to appear at scheduled interview

Complainant/victim uncooperative – after initial contact was made, civilian stated that he/she did not want to take time for interview

Complainant/victim uncooperative – after initial contact was made and interview was conducted, civilian failed to further cooperate with our investigation (i.e., failed to show for photo array)

Complainant/victim uncooperative – after initial contact was made, civilian states that issue has been resolved with police officer subject of the complaint

Complainant/victim uncooperative – after initial contact was made, civilian states that s/he believes officer did not commit misconduct

Complainant/victim uncooperative – after initial contact was made, civilian states that s/he does not want the officer to be the subject of discipline

Complainant/victim unavailable – unidentified or anonymous civilian

Complainant/victim unavailable – civilian did not return calls or respond to correspondence and contact was never established

#### *Complaint filed with NYPD*

Complainant/victim unavailable – civilian filed complaint with Police Department and no sufficient contact information was gathered

Complainant/victim unavailable – Complaint referred from Police Department, civilian did not initiate complaint and civilian is unavailable

In addition, I recommend that the Board closes as “no jurisdiction” complaints referred from Police Department in which the civilian did not initiate complaint and the civilian does not want to pursue complaint.

Finally, I recommend that in its reports the Board discards references to the truncation rate and it adopts the case disposition resolution rate, full investigations and mediation as a percentage of all case closures