



New York City

# Civilian Complaint Review Board

Status Report  
January – December 2008

Michael R. Bloomberg, Mayor  
Ernest F. Hart, Esq., Chair



**T***his is the thirtieth status report on the general operations of the New York City Civilian Complaint Review Board (CCRB), as reorganized pursuant to Local Law No. 1 of 1993, effective July 5, 1993.*

*This report covers the period of  
January 2008 through December 2008  
Volume XVI, No. 2*

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# CCRB Board Members, 2008



## 2008 Chair Franklin H. Stone, Esq.

In September of 2006, Mayor Bloomberg named Franklin Stone to be the first woman to chair the CCRB. From 2004 through 2006, Ms. Stone served as executive director of Common Good, a nonprofit, bipartisan coalition dedicated to restoring reliability, balance, and common sense to the law. Ms. Stone was previously a partner at the law firm of Hunton & Williams, where she specialized in commercial litigation and repeatedly was awarded the firm's pro bono service award. Ms. Stone was an associate at Patterson, Belknap, Webb & Tyler in New York City from 1977-1982, and from 1983-1987, she was an assistant United States attorney in the Southern District of New York, where she handled narcotics and major crime cases. Ms. Stone is very involved in community matters in the Cobble Hill Historic District in Brooklyn, where she resides. She is a member of the board of directors of the Brooklyn Youth Chorus and the Downtown Brooklyn Waterfront Local Development Corporation. She has served two terms as president of the Cobble Hill Association and is currently first vice president. Ms. Stone, a Mayoral designee, joined the board in December 1998.

*J.D., 1977, University of Virginia School of Law; B.A., 1974, Hollins College*



## Daniel D. Chu, Esq.\*\*

Mr. Chu is an attorney engaged in private practice in midtown Manhattan representing clients in state and federal matters. A Queens native, he began his legal career in 1997 as an assistant district attorney in the Queens County District Attorney's Office, where he prosecuted felony cases and handled appellate litigation. In 2001, he served as an administrative law judge with the New York City Taxi & Limousine Commission and later became a senior associate at Stern & Montana, LLP, where he conducted complex civil litigation relating to large-scale and systemic insurance fraud. His additional legal experience includes service at the New York State Attorney General's Office and the New York County District Attorney's Office, as well as a clerkship with the Honorable William Friedmann of the New York State Supreme Court Appellate Division, Second Department. He is a member of the Association of the Bar of the City of New York, the Asian American Bar Association of New York, and the Queens County Bar Association. Mr. Chu, a Mayoral designee, has been a board member since June 2008.

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



## Dennis deLeon, Esq.

Mr. deLeon worked as a law clerk for the California Court of Appeals; an associate at Los Angeles's Kadison, Pfaelzer, Woodward, Quinn & Rossi; a trial attorney for the United States Department of Justice in Washington, D.C.; and regional counsel to California Rural Legal Assistance. Mr. deLeon began his New York career at the Office of the Corporation Counsel, where as a senior assistant corporation counsel he focused on civil rights cases and supervised police misconduct actions. At the same time, in 1986, he was appointed director of the Mayor's Commission on Latino Concerns. In 1988, he became deputy Manhattan borough president, and in 1990, Mayor David Dinkins appointed Mr. deLeon chair of the New York City Commission on Human Rights. He returned to private practice in early 1994 and, since September of 1994, has served as president of the Latino Commission on AIDS. Currently a member of the New York State Bar Association and the Association of the Bar of the City of New York, Mr. deLeon is the City Council designee from Manhattan and has been a board member since October 2003.

*J.D., 1974, Stanford Law School; B.A., 1970, Occidental College*

\*resigned during 2008

\*\*joined during 2008



### **James F. Donlon, Esq.**

Mr. Donlon is an attorney engaged in private practice since 1980. He has broad-based experience in matters such as real estate, estate planning, wills and estates, and litigation involving family court, criminal, and personal injury cases. From 1974 to 1980, Mr. Donlon was employed as an assistant district attorney in the Richmond County District Attorney's Office, where he handled misdemeanors, felonies (including homicides), and from 1976 to 1977, narcotics cases for the Special Narcotics Prosecutor's Office. Immediately after graduating from law school, Mr. Donlon worked for the New York State Department of Law. Mr. Donlon is chair of the Richmond County Bar Association's Admissions Committee. He previously served as a board member of the Richmond County Bar Association.

He is currently a member of the Assigned Counsel Plan Advisory Committee (Appellate Division, Second Department) and of the New York State Defenders Association. Mr. Donlon, a City Council designee from Staten Island, has been a member of the CCRB since June 2004.

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



### **Dr. Mohammad Khalid**

Dr. Khalid has worked as a dentist in Staten Island since 1977. An active member of the Staten Island community, Dr. Khalid is president of the Iron Hill Civic Association of Staten Island and of the Pakistani Civic Association of Staten Island, the vice chairman of the Children's Campaign Fund of Staten Island, and the first vice president and a member of the board of directors of Friends for Hospice Care of Staten Island. In 2003, Dr. Khalid served as a member of the New York City Charter Revision Commission, which reviewed the entire city charter, held hearings in all five boroughs to solicit public input, and issued recommendations to amend the charter to reflect New York City's constantly evolving economic, social, and political environment. In 2004, Dr. Khalid was the

recipient of the Pakistan League of America Community and Leadership Award and in 2003 received the Governor George E. Pataki Excellence Award for community service on behalf of New York State. Dr. Khalid, a Mayoral designee, has been on the board since March 2005. In 2006, Governor George Pataki appointed Dr. Khalid to a six-year term on the State Minority Health Council.

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



### **William Kuntz II, Esq.**

With extensive experience in mergers and acquisitions, securities, banking, bankruptcy, and real estate litigation at the trial and appellate levels, Dr. Kuntz is a partner at Baker & Hostetler, LLP, where he specializes in commercial litigation. He was previously a partner at Torys, LLP; Seward and Kissel; and Milgrim Thomajan & Lee, PC. In addition to his practice, Dr. Kuntz has been an associate professor at Brooklyn Law School and is a member of the Executive Committee of the Association of the Bar of the City of New York and a member of the Advisory Committee on Civil Practice in the State of New York. Formerly, he was a board member at Legal Services for New York City and the secretary of the Federal Bar Foundation for the Second Circuit. Dr. Kuntz was appointed to the CCRB as one

of the first public members while it was part of the New York City Police Department in 1987 and served until 1992. Dr. Kuntz has been the New York City Council's designee from Kings County to the external CCRB since October 1993.

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

# CCRB Board Members, 2008



## **Singee L. Lam**

Ms. Lam has been the director of multicultural and international admissions at St. John's University since 1994. Before this, she was the director of multicultural student recruitment and the assistant director of institutional research, supervising activities on and off campus to recruit domestic minority and international students. She was born in Fuzhou City, China, arriving in the United States at age 13, and is fluent in three Chinese dialects. She serves on the board of Chinese Immigrant Services in Queens, where she provides help to newcomers. Ms. Lam, a City Council designee from Queens County, joined the board in September 1995.

*M.B.A., 1988, St. John's University; B.S., 1984, St. John's University*



## **Carol B. Liebman, Esq.**

Since 1992, Ms. Liebman has been a clinical professor at Columbia Law School, where she is director of the school's Mediation Clinic and Negotiation Workshop. Her principal areas of expertise include mediation, negotiation, and professional ethics. Ms. Liebman began her legal career in 1975, working in private practice in Boston. Between 1976 and 1979, she served as an attorney with the Massachusetts Department of Correction, and from 1979 to 1991, Ms. Liebman worked as a clinical professor at Boston College Law School. She is an internationally recognized speaker and trainer in conflict resolution, having taught about mediation in Israel, Brazil, Vietnam, and China. In the United States, Ms. Liebman has designed and presented mediation training for such groups as

Montefiore Hospital's Certificate Program in Bioethics and Medical Humanities; New York's First Department, Appellate Division, Attorney Disciplinary Committee; and the Association of the Bar of the City of New York. Ms. Liebman, a Mayoral designee, has been a board member since October 2003.

*J.D., 1975, Boston University School of Law; M.A., 1963, Rutgers University; B.A., 1962, Wellesley College*



## **Lawrence Loesch, Esq.\***

Mr. Loesch is a distinguished 30-year veteran of the New York City Police Department, retiring from the New York City Police Department in 1998 as deputy chief and the commanding officer of the Queens Detective Bureau. Mr. Loesch currently is the vice president and general manager in the New York City region for Allied Barton Security services, the nation's largest independently held contract services security company. In addition to his professional responsibilities, Mr. Loesch was the president of the American Academy of Professional Law Enforcement before becoming a member of its board of directors, and from 1994 to 1998, he was the vice president of the Police Management Institute Alumni Association. He is the current vice chairman of the New York City Chapter of

the American Society for Industrial Security. He also has attained his CPP designation as a Certified Protection Professional. He is recognized by the American Board for Certification in Homeland Security as a CHS – Level III. Mr. Loesch, a Police Commissioner designee, served on the board from September 2002 through May 2008.

*J.D., 1982, St. John's University School of Law; B.A., 1977, John Jay School of Criminal Justice, City University of New York; A.S., 1975, John Jay School of Criminal Justice, City University of New York*

\*resigned during 2008

\*\*joined during 2008



### **Jules A. Martin, Esq.**

Mr. Martin is the vice president for Global Security and Crisis Management at New York University. In addition to CCRB, Mr. Martin serves as a member of the New York State Committee on Character and Fitness, New York Appellate Division, First Department, and has been a member in good standing since his appointment on June 20, 2002. Before joining NYU, he served as chief of the Housing Bureau of the New York City Police Department from 1997 to 1998. Mr. Martin joined the police department in 1969 and held a number of positions prior to becoming the executive officer of the 113th Precinct in 1989. He was assigned to the Intelligence Division as head of the Municipal Security Section in 1990. Mr. Martin is a member of the International Chiefs of Police, the National Association of Black Law

Enforcement Executives, International Association of Campus Law Enforcement Administrators, the New York State Bar Association, the United States Supreme Court Bar, and the Committee on Character and Fitness of the New York Appellate Division, First Department, and served as a member of the 1997 White House fellowship panel. He attended the Police Management Institute at Columbia University in 1991. He served in the U.S. Navy from 1965-69. Mr. Martin, a Police Commissioner designee, has been a board member since March 1999.

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



### **Michael McCann, Esq.\*\***

Mr. McCann is a distinguished security services expert and 26-year veteran of the New York City Police Department. From 1993 through 2004, Mr. McCann served as Chief of Security of the United Nations, where he was responsible for the protection of national and international officials visiting New York City. Subsequently, he co-founded McCann Protective Services, LLC, where he currently serves as President. Mr. McCann began his career as a police trainee with the NYPD in 1967. His tenure included uniformed patrol assignments in Brooklyn and Manhattan and assignments as commanding officer of the Intelligence Division's Dignitary Protection and Threat Assessment Units, commanding officer of the 25th Precinct, and deputy inspector with the

newly created Internal Affairs Bureau. Mr. McCann is president of the John Jay College Alumni Association and serves on the International Policing Division Steering Committee of the International Association of the Chiefs of Police. He is also a member of the New York State Bar Association, the American Society of Industrial Security, and the National Law Enforcement Association. Mr. McCann, a Police Commissioner designee, has been a board member since September of 2008.

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

# CCRB Board Members, 2008



## **Victor Olds, Esq.\***

Mr. Olds is the managing director and general counsel of the Bedford-Stuyvesant Community Legal Services Corporation. Previously, Mr. Olds practiced for several years as a litigation partner at Holland & Knight, LLP, after which he worked for four years as a vice president and senior attorney in the law division of Morgan Stanley. From 1980 to 1988, he was the assistant attorney general in charge at the New York State Department of Law's Harlem Regional Office, and from 1988 to 2000, Mr. Olds was an assistant United States attorney in both the criminal and civil divisions of the United States Attorney's Office for the Southern District of New York. A trial advocacy instructor for the National Institute for Trial Advocacy, and currently an adjunct professor at both Brooklyn Law School and Fordham

University School of Law, Mr. Olds has also been an appellate advocacy instructor at the U.S. Department of Justice Advocacy Institute. He has served on the Second Circuit Task Force for Gender, Racial and Ethnic Fairness; was a Harvard Law School Wasserstein Public Interest Law Fellow; and currently serves on the New York State Supreme Court, Appellate Division (First Department)'s Indigent Defense Organization Oversight Committee. Mr. Olds, a Mayoral designee, joined the board in June 2002 and resigned in December of 2008.

*J.D., 1977, Brooklyn Law School; B.A., 1973, New York University*



## **Tosano Simonetti**

Mr. Simonetti began his law enforcement career in 1957 patrolling the streets of Manhattan's Midtown South Precinct. During his career, he commanded the 9th, 120th, Midtown North, and Midtown South Precincts as well as Patrol Boroughs Staten Island and Brooklyn South. He was appointed First Deputy Police Commissioner by Commissioner Howard Safir in 1996. After retiring from the police department, Mr. Simonetti became the security director for MacAndrew and Forbes, a holding company. Mr. Simonetti, a Police Commissioner designee, has been a board member since April 1997.

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



## **Youngik Yoon, Esq.**

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

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

\*resigned during 2008

\*\*joined during 2008



## Executive Staff:

**Joan M. Thompson**  
Executive Director

**Meera Joshi, Esq.**  
First Deputy Executive Director

**Abigail Margulies, Esq.**  
Deputy Executive Director, Investigations

**Brian Connell**  
Deputy Executive Director, Administration

## Senior Staff:

**Denise Alvarez**  
Director of Case Management

**Lisa Grace Cohen, Esq.**  
Director of Mediation

**Graham Daw, Esq.**  
Director of Intergovernmental and Legal Affairs

**Dawn Fuentes**  
Director of Recruitment and Training

**Yuriy Gregorev**  
Director of Management and Information Services

**Sheshe Segar**  
Deputy Director of Operations

**Marcos Soler**  
Director of Research and Strategic Initiatives

**Beth Thompson**  
Director of Personnel

**Philip Weitzman**  
Press Secretary

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**Cecilia Holloway**

**Robert Lonergan**

**Denis McCormick**

**Robert Rodriguez**

**Richard A. Osmer**

**Winsome Thelwell**

**Dianne M. Weisheit**

## Assistant Deputy Executive Directors:

**Honey Cohen, Esq.**

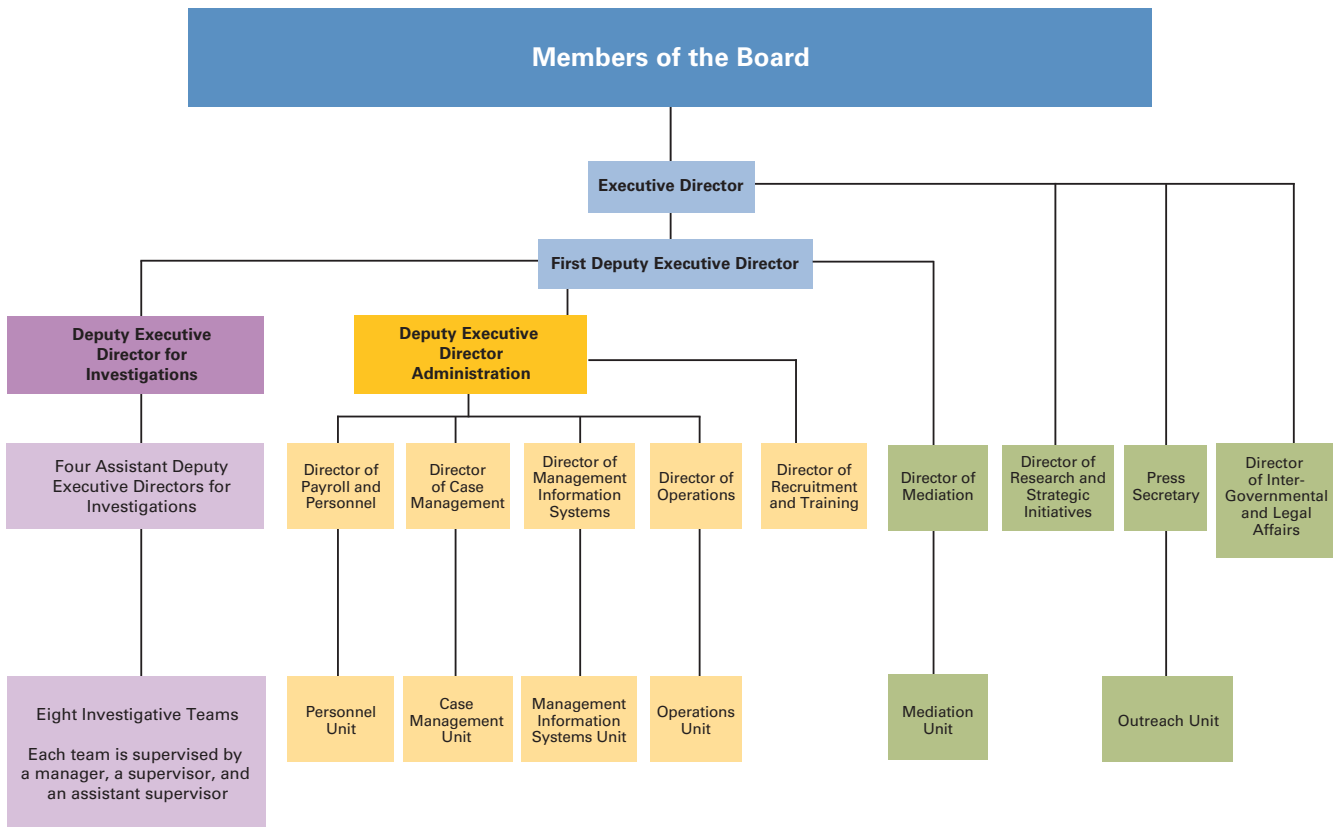
**Jessica Darpino, Esq.**

**Benjamin I. Schneider, Esq.**

**Roger Smith, Esq.**

*(as of December 31, 2008)*

## CCRB Organizational Chart





MICHAEL R. BLOOMBERG  
MAYOR



June 2009

Dear Members of the Public,

As Chair of the New York City Civilian Complaint Review Board, I am pleased to present our status report for calendar year 2008.

I recently joined the Board as Chair in April of 2009, following the departure of the former Chair, Franklin Stone. I would like to again thank Mayor Bloomberg for giving me the opportunity to serve, and to thank Ms. Stone for her ten years of service on the Board. I believe strongly in the CCRB's mission to provide civilian oversight of the NYPD, and I will continue to ensure that the agency operates with the utmost integrity and independence.

As with the CCRB's January-December 2007 report, this report is streamlined to include relevant data and information in a straightforward and accessible format. Readers interested in a more detailed statistical view of the CCRB may access tables containing the raw data used for this report at the agency website, [www.nyc.gov/ccrb](http://www.nyc.gov/ccrb), or call the CCRB at (212) 442-1629.

This report analyzes five years of data from calendar year 2004 through calendar year 2008 regarding complaint activity, agency performance, and CCRB investigative findings. The report discusses the location of incidents that led to complaints, the demographics of subject officers and civilians involved in complaints, and the NYPD dispositions of CCRB substantiated cases.

The CCRB received 7,405 complaints in 2008, marking a slight decline from the previous two years. However, complaint filings in 2008 remained 20% higher than the 6,196 complaints received in 2004. With fewer resources and a sustained high complaint rate, in 2008 the CCRB struggled to maintain its productivity, as the agency's open docket increased to 3,709 cases by year's end, up from 3,557 cases at the end of 2007. With future significant budget reductions on the horizon, our task going forward will be to maintain our current levels of productivity.

## CIVILIAN COMPLAINT REVIEW BOARD

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NEW YORK, NEW YORK 10006 ♦ TELEPHONE (212) 442-8833  
[www.nyc.gov/ccrb](http://www.nyc.gov/ccrb)

ERNEST F. HART  
CHAIR

JOAN M. THOMPSON  
EXECUTIVE DIRECTOR

In 2008, the rate at which the agency closed cases without a full investigation, or “truncated” cases, continued to rise, to 65%, up from 54% in 2004. This report’s section discussing truncated cases notes that part of the rise in truncated case closures stems from an increase in complaints filed by phone soon after the incident that led to the complaint. In 2008, the agency’s rate of closing fully investigated allegations as “unsubstantiated” rose sharply to 39%, up from a rate of between 24% and 26% from 2005 to 2007. The agency continues to examine the rise in unsubstantiated allegation closures in order to attempt to isolate causes for the change.

Since 2007, the rate at which the NYPD has declined to seek discipline in connection with substantiated CCRB cases has increased significantly. In 2007 and 2008, the Department declined to seek discipline in 104 and 86 cases, respectively, a departure from 2004, 2005, and 2006, when the Department declined to seek discipline in less than 15 cases each year. We are hopeful that the new NYPD-CCRB *second-seating* pilot project, launched in September of 2008, will help provide a basis to address this issue.

While this report focuses mostly on statistical data, the case profiles section provides a different view: six profiles of actual CCRB cases with varying dispositions.

The CCRB remains committed to its core mission of resolving allegations of police misconduct by conscientiously investigating and mediating civilian complaints. I look forward to working with agency staff and my fellow board members in continuing to serve the people and police of New York City.

Sincerely,



Ernest F. Hart

## Complaint Activity

In 2008, the CCRB received 7,405 complaints, slightly less than in the previous two years. The CCRB received 7,663 complaints in 2006 and 7,548 complaints in 2007. CCRB complaint filings in 2008 remained 20% higher than the 6,196 complaints filed in 2004.

The CCRB has identified two factors that have contributed to the agency's complaint increase. First, the data suggest that the 311 system, which routes telephone callers directly to the CCRB, contributed to the complaint increases after its introduction in 2003, as the CCRB's complaint increase has coincided with an increase in complaints filed by telephone directly with the agency. In addition, the impact of cell phones is reflected in the growing proportion of CCRB complaints filed within a week of the incident date. Second, the CCRB's complaint rate, along with the percentage of the agency's complaints involving the allegations "stop," "question," "frisk," or "search" (those allegations that indicate that a "stop-and-frisk" encounter occurred), has appeared to rise and fall along with the number of stops documented by NYPD officers.

There continue to be racial disparities among complainants and demographic data about New York City residents. As in previous years, complainants are disproportionately black and Hispanic, with over half of all complainants being black, with disproportionately low numbers of complainants being white, Asian, or other. These numbers, however, have remained consistent over the years.

The Complaint Activity section also includes data on the location of incidents, demographics of subject officers, the most common types of complaints received, and further analysis of the factors affecting the complaint rate.

## Case Processing

Individual investigator productivity remained high in 2008, with investigators closing an average of 51.6 cases. Despite this, staff cuts led to an increase in the size of the open case docket, as well as an increase in the average amount of time required to fully investigate a case, which reached 316 days in 2008. The open docket increased from 3,557 at the end of 2007 to 3,709 at the end of 2008.

The percentage of "truncated" cases, or those cases closed without a full investigation because the agency could not obtain a sworn statement from the complainant, has increased steadily, from 54% of all complaints closed in 2004 to 65% of all complaints

closed in 2008. In 2008, the CCRB closed almost 40% of all cases as "complainant/victim uncooperative" by the CCRB. Reasons for the increase in truncated investigations and correlating data are examined more closely later in the report.

## Investigative Findings

In 2008, the CCRB reached a "finding on the merits" less often than in past years. A "finding on the merits" includes those allegations resolved as "substantiated," "exonerated," or "unfounded." These are findings in which the agency obtained enough evidence to reach a factual and legal determination regarding the officer's conduct.

Of the 9,570 allegations the CCRB fully investigated in 2008, 4,645 allegations, or 49%, were closed with findings on the merits, as opposed to 2004, when 5,606, or 64%, were closed with findings on the merits. This rate remained roughly consistent through 2007, when the CCRB made findings on the merits on 7,175 of 11,489 allegations, or approximately 63%. The drop in findings on the merits was accompanied by an increase in the rate of unsubstantiated allegations. The Investigative Findings section of this report reviews the rise in unsubstantiated allegations in more detail.

The Investigative Findings section also covers the topic of "other misconduct," or reports of misconduct which do not fall within the CCRB's jurisdiction, and discusses a new development in this regard regarding officers' memo book entries. The section also discusses CCRB policy recommendations to the NYPD.

## Police Department Dispositions

In recent years, the rate at which the NYPD has declined to seek discipline in connection with substantiated CCRB cases has increased. In 2007 and 2008, the Department declined to seek discipline in 104 and 86 cases, respectively, a stark departure from 2004, 2005, and 2006, when the Department declined to seek discipline in less than 15 cases each year. In percentage terms, the NYPD declined to seek discipline in 3% of all CCRB cases the Department closed in 2004, 2% in 2005, 3% in 2006, 36% in 2007, and 33% in 2008.

On September 10, 2008, the NYPD and the CCRB jointly announced a pilot project in which CCRB attorneys will *second seat* NYPD prosecutors in disciplinary trials of CCRB cases. The program is intended to enhance constructive communication between both agencies. Under the pilot project, a CCRB attorney acts as supporting counsel to the assigned Department prosecutor.

## Number of Complaints Received

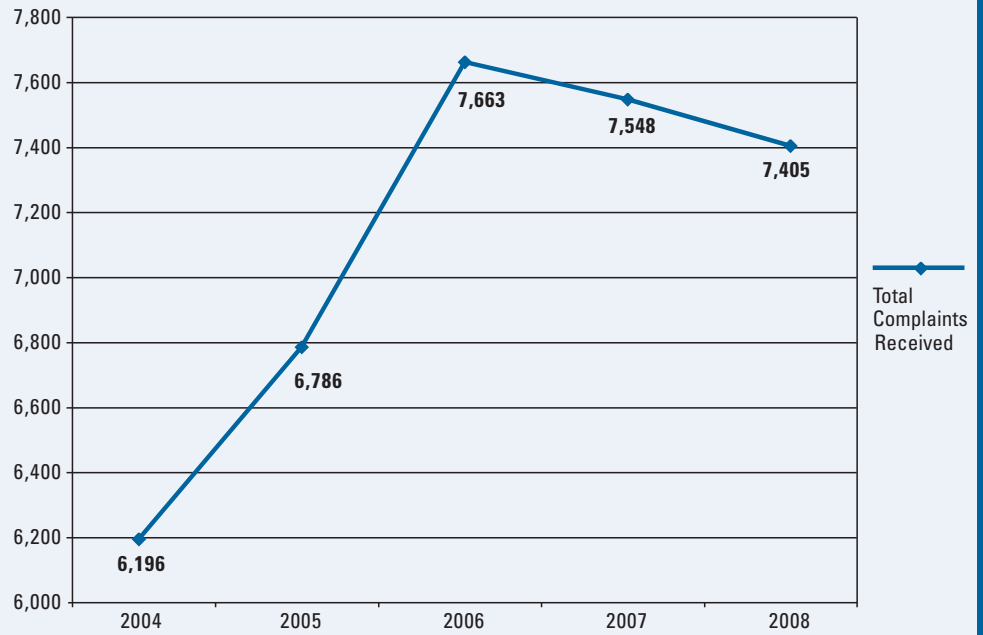
The CCRB received 7,405 complaints in 2008, marking a slight decline in CCRB complaint filings from the previous two years. The CCRB received 7,663 complaints in 2006 and 7,548 complaints in 2007. However, CCRB complaint filings in 2008 remained 20% higher than the 6,196 complaints filed in 2004. It should be noted that the aforementioned 7,405 complaints represent only complaints for which the agency retained jurisdiction; the CCRB's intake unit received and processed a total of 17,986 complaints in 2008 but referred the remainder to the appropriate outside agencies.

## Factors Affecting the Complaint Rate

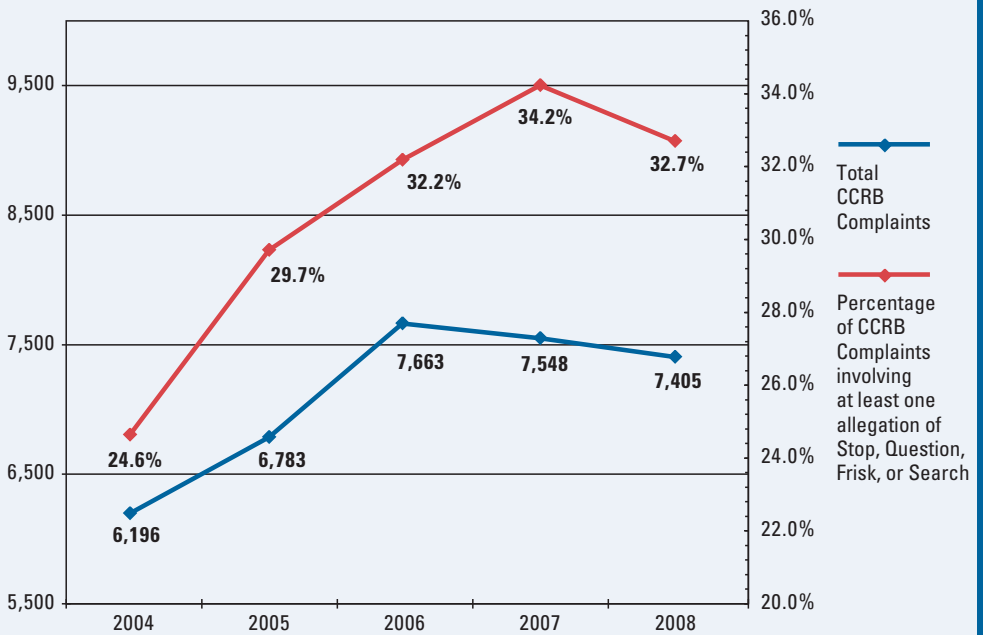
The CCRB continually examines its complaint rate in order to understand trends in complaint activity. Although it is difficult to isolate factors affecting changes in complaint rates, the CCRB has identified two important variables. First, the advent of the 311 system and increased cell phone usage appear connected to increases in the CCRB's complaint rate. Second, fluctuations in the NYPD's stop-and-frisk practices correlate to changes in the agency's complaint activity.

It appears that 311 has contributed to the CCRB complaint rate by facilitating direct and immediate access to the agency. The data suggest that the 311 system contributed to the complaint increases after its introduction in 2003. Per an agreement between CCRB and 311, all 311 calls falling within the CCRB's jurisdiction are transferred directly to the agency, where investigators, rather than the 311 operators, gather all complaint information. The CCRB's complaint increase has coincided with an increase in complaints filed by telephone

### Total Complaints Received 2004-2008



### Total CCRB Complaints Received vs. Percentage of CCRB Complaints Involving Stop, Question, Frisk, or Search Allegations 2004-2008



directly with the agency. In 2004, 3,551 of 6,196 complaints received by the CCRB (or 57%) were filed directly with the agency. By 2008, 4,666, or 67%, of the 7,405 complaints received in 2008, were filed directly with the CCRB.

Additionally, the impact of cell phones is reflected in the growing proportion of CCRB complaints filed within a week of the incident date, from 75% in 2004 to 83% in 2006 and 86% in 2008, as one would expect given that cell phones allow users to file a complaint immediately after an incident.

The CCRB’s complaint rate, along with the percentage of the agency’s complaints involving the allegations stop, question, frisk, or search (those

124,046 per quarter. During this same period, the CCRB complaint rate remained relatively stable, declining by 3%, and the proportion of CCRB complaints involving stops also remained relatively stable, between 32% and 34% each year, as seen in the chart on page 11.

In summary, it appears that the rise and subsequent stabilization of the CCRB’s complaint rate from 2004 through 2008 is connected to the increased use of phones to access the CCRB directly and to fluctuations in NYPD stop-and-frisk activity.

**Types of Allegations Received**

To better understand the statistics describing CCRB complaint activity, it is important to note

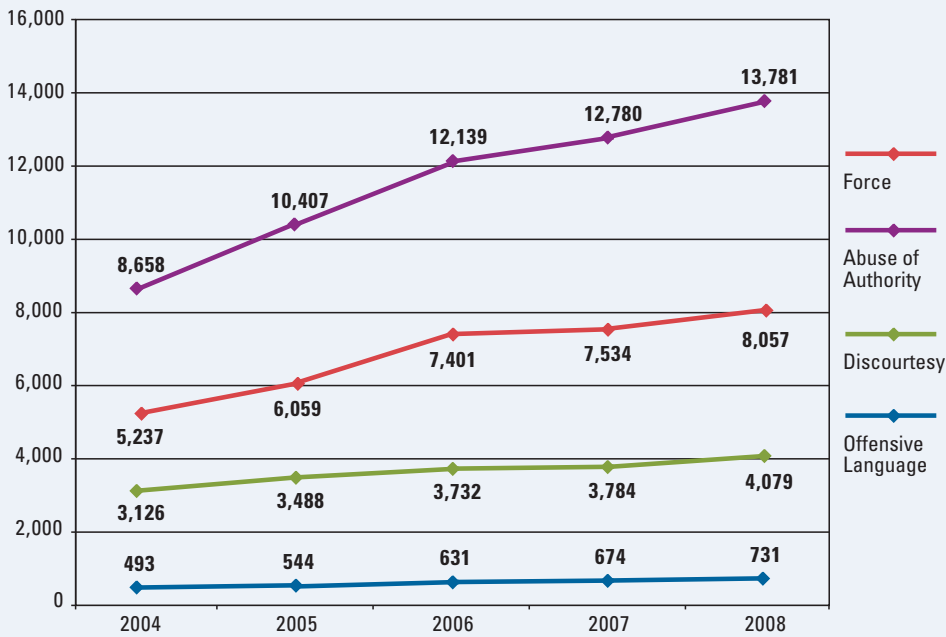
the distinction made between a “complaint” and an “allegation.” Each individual complaint received by the CCRB can contain multiple allegations against multiple officers. Each allegation the CCRB investigates falls within one of the CCRB’s four broad jurisdictional categories (Force, Abuse of Authority, Discourtesy, and Offensive Language).

While examining the number of complaints provides a sense of overall complaint activity, it can be difficult to characterize the nature of any complaint, because most complaints involve various types of allegations. An examination of the specific types of allegations received by the agency provides a more detailed look at the issues raised in CCRB complaints.

In the Abuse of Authority category, allegations of stop, question, frisk, and search make up the largest portion of all allegations.

As discussed above, the proportion of CCRB complaints involving these allegations has risen in recent years. Stop, question, frisk, and search allegations also increased as a portion of all Abuse of Authority allegations received, reaching 5,634 allegations, or 41% of all Abuse of Authority allegations received in 2008, up from 2,663 allegations, or 30%, in 2004 and 4,627 allegations, or 38%, in 2006. As a percentage of the total allegations received by the agency, stop, question, frisk, and search allegations comprised 21% in 2008 and 15% in 2004. Of note, allegations that fall into the category of “threats of arrest” comprised 9% of Abuse of Authority allegations in 2008. Other notable Abuse of Authority allegations

**Types of Allegations in Complaints Received 2004-2008**



allegations that indicate that a stop-and-frisk encounter occurred), has appeared to rise and fall along with the number of stops documented by NYPD officers. The number of stop, question, and frisk forms filled out by NYPD officers increased by 423% from 2002 through 2006, from 97,296 to 508,540. Over that same period, the CCRB complaint rate rose dramatically, and the proportion of CCRB complaints involving the allegations stop, question, frisk, or search also increased, from 19% (884 complaints) for 2002 to 25% (1,526 complaints) for 2004 to 32% (2,466 complaints) for 2006. From 2006 through 2008, the number of stops conducted by the NYPD remained relatively stable, near an average of

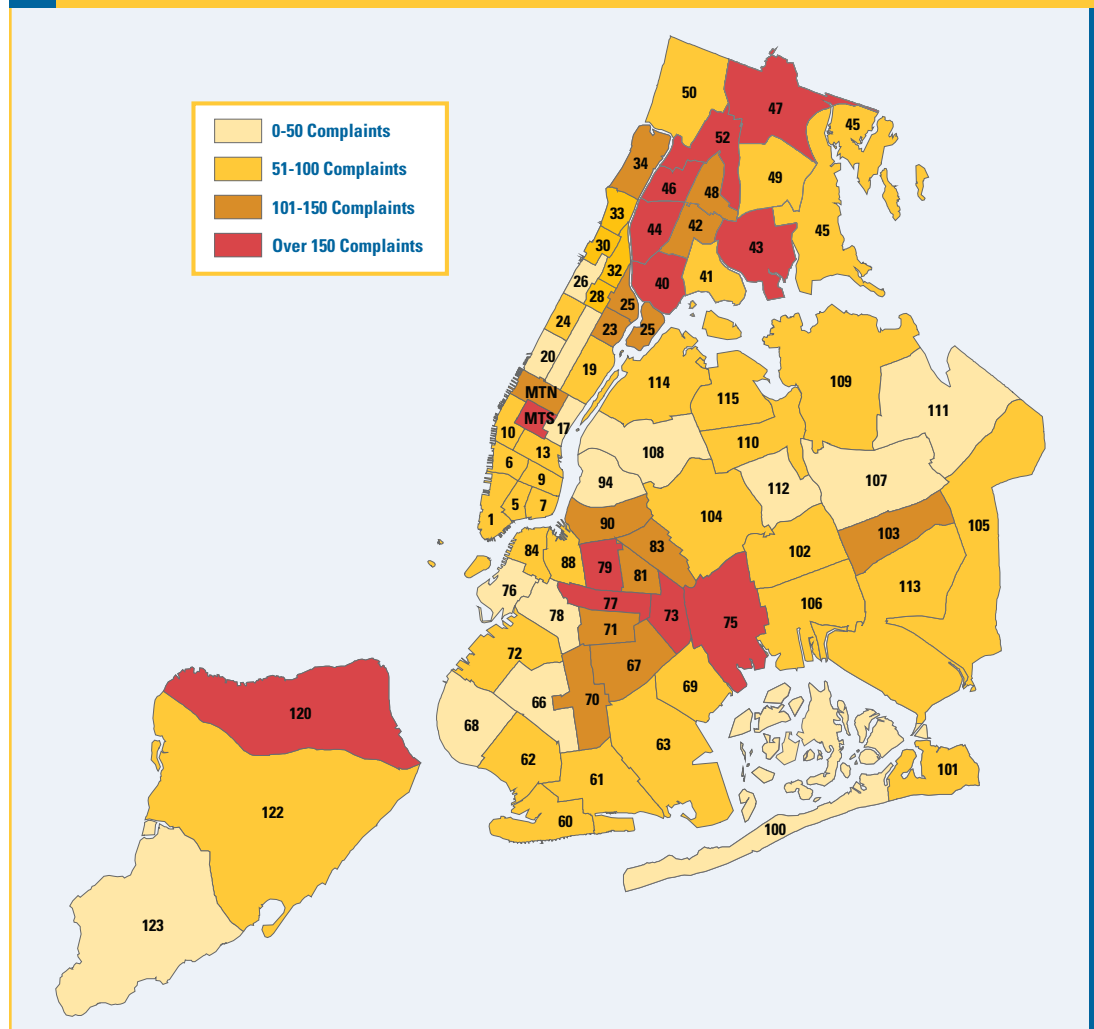
include “premises entered and/or searched,” comprising 8% of all allegations received in 2008, and “refusal to provide name and/or shield,” also representing 8% of allegations received in 2008.

In the Force category, “physical force,” which encompasses uses of bodily force such as “punched,” “shoved,” “kicked,” and “pushed against inanimate object,” remains the most common allegation by far. Combined, 5,814 allegations of “physical force” were received by the CCRB in 2008, comprising 72% of the allegations in the Force category. The percentage of Force allegations characterized as “physical force” has remained roughly unchanged since 2004. Another notable allegation falling in the Force category is “gun pointed,” with 454 allegations, or 6% of Force allegations received in 2008, while “gun fired,” by contrast, is quite rare. Also of note, in 2008 the CCRB received 386 allegations regarding the use of pepper spray, or 4% of all Force allegations, and 386 allegations regarding the use of nightsticks, also comprising 4% of all Force allegations.

In the Discourtesy category, the “discourteous word” allegation is most common, making up 93% of the Discourtesy allegations received in 2008, or 3,789 allegations total. A small portion of allegations each year also involve discourteous “gestures,” “actions,” or “tone.” In 2008, 231 allegations of discourteous actions were received, making up 6% of all Discourtesy allegations. This is consistent with the number received in previous years.

Distinct from Discourtesy allegations are Offensive Language allegations, which include slurs, derogatory remarks, and gestures based on a person’s sexual orientation, race, ethnicity, religion, gender, or disability. Offensive Language allegations make up a relatively small portion of all allegations received by the CCRB.

## Density of Complaint Filings January-December 2008 by Precinct



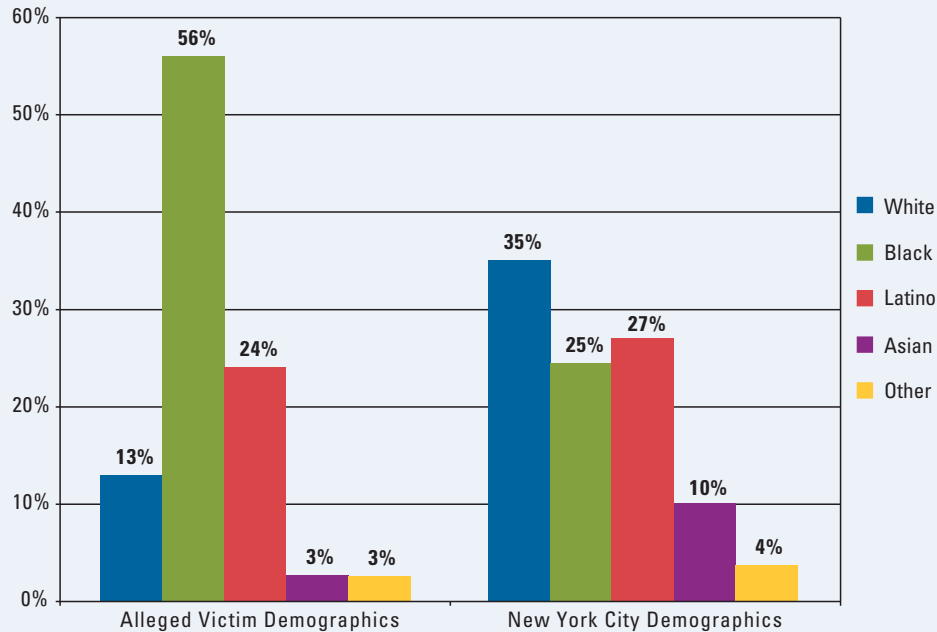
In 2008, the CCRB received 731 allegations of offensive language, or 3% of all allegations received. By far the most common Offensive Language allegations are those regarding the complainant’s race. In 2008, 383 allegations involved the use of a racially offensive term, making up 53% of all Offensive Language allegations.

### Location of Incidents Resulting in Complaints

The map above shows the density of CCRB incidents resulting in complaints organized by precinct. It is important to note that the data presented does not adjust for factors that may influence the complaint rate, such as crime rate, precinct size, precinct population density, or number of uniformed personnel assigned to a precinct.

The relative distribution of complaints has generally remained steady over time. As in past years, the borough

### 2008 Alleged Victims by Race in CCRB Complaints Compared to New York City Demographic Information (2000 US Census)



with the greatest number of incidents resulting in complaints was Brooklyn, with 2,438 complaints, or 34% of all complaints filed. Brooklyn's contiguous 73rd and 75th precincts continue to have the highest number of incidents resulting in complaints in the city, with 244 and 351, respectively.

Notably, in 2008 the Bronx experienced the second-highest complaint filings of all the boroughs, surpassing Manhattan for the first time in the five-year reporting period. Complaints filed regarding incidents in the Bronx have continued to rise over the last five years, from 1,256 to a peak of 1,781, or 25% of all complaints filed in 2008. The 40th, 43rd, 44th, 46th, 47th, and 52nd precincts continue to have a relatively high number of complaint incidents, with at least 160 each.

In 2008, Manhattan received 1,746, or 24% of all complaints, only slightly less than the Bronx.

Since 2004, the complaint rate in Manhattan has fluctuated within a range of 1,600 to 1,800 complaints per year. As in past years, the two boroughs with the fewest complaints in 2008 were Queens, with 1,069, or 15% of all complaints, and Staten Island, with 93, or 1% of all complaints.

### CCRB Jurisdiction

The CCRB has jurisdiction to investigate complaints filed against sworn members of the New York City Police Department. It does not have jurisdiction to investigate complaints against civilian members of the Department or members of other law enforcement agencies. It has the power to investigate four types of allegations:

**Force** refers to the use of unnecessary or excessive force, up to and including deadly force.

**Abuse of Authority** refers to abuse of police powers to intimidate or otherwise mistreat a civilian and can include improper street stops, frisks, searches, the issuance of retaliatory summonses, and unwarranted threats of arrest.

**Discourtesy** refers to inappropriate behavioral or verbal conduct by the subject officer, including rude or obscene gestures, vulgar words, and curses.

**Offensive Language** refers to slurs, derogatory remarks, and/or gestures based up on a person's sexual orientation, race, ethnicity, religion, gender, or disability.

### Characteristics of Alleged Victims

Historically, the percentage of the alleged victims in CCRB complaints who are of a particular race or gender is consistent over time and has differed from the city's population as reported in the United States Census. The CCRB compares the demographic profile of the alleged victims in complaints to the demographics of the city as a whole, without correcting for any other factors. As in previous years, in 2008 African-Americans were overrepresented as alleged victims in CCRB complaints compared with the population of New York City as a whole. Although comprising only 25% of New York City's population, they continue to represent over half of alleged victims in CCRB cases,



at 56% in 2008. Whites and Asians, on the other hand, compose a disproportionately low percentage of alleged victims. In 2008, 14% of alleged victims were white, and 3% were Asian. This is despite making up 35% and 10% of New York City's population, respectively. The percentage of Latino victims was comparable to the population. At 27% of the population, Latinos made up 24% of alleged victims named in CCRB complaints in 2008. These numbers are represented in the chart at left.

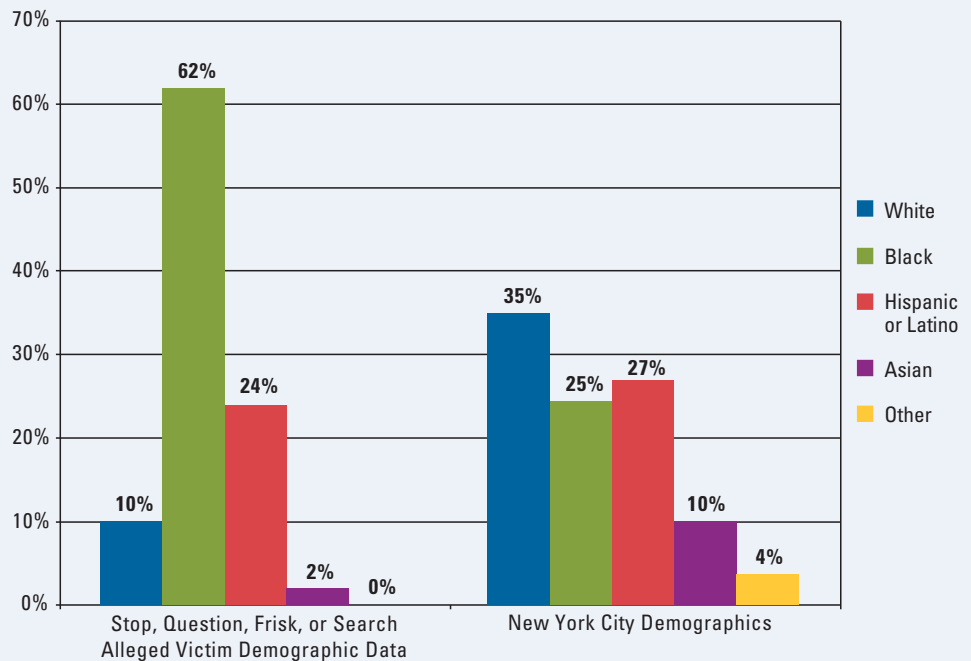
These numbers have remained fairly consistent over the last five years, with over 52% of alleged victims being black every year since 2004. Latinos have consistently made up between 23% and 26% of alleged victims, and whites between 13% and 18%. Asians have never made up less than 2% or more than 3% of alleged victims. Each year, approximately 3% of alleged victims are classified as "other."

As seen in the chart above, the difference between the CCRB's complainant/victim population and the New York City population as a whole is starker with respect to complaints regarding stop, question, frisk, or search practices. In 2008, 62% of the alleged victims in CCRB complaints involving allegations of stop, question, frisk, or search were African-American, 10% of alleged victims in these same cases were white, 24% were Latino, and 2% were Asian.

### Characteristics of Subject Officers

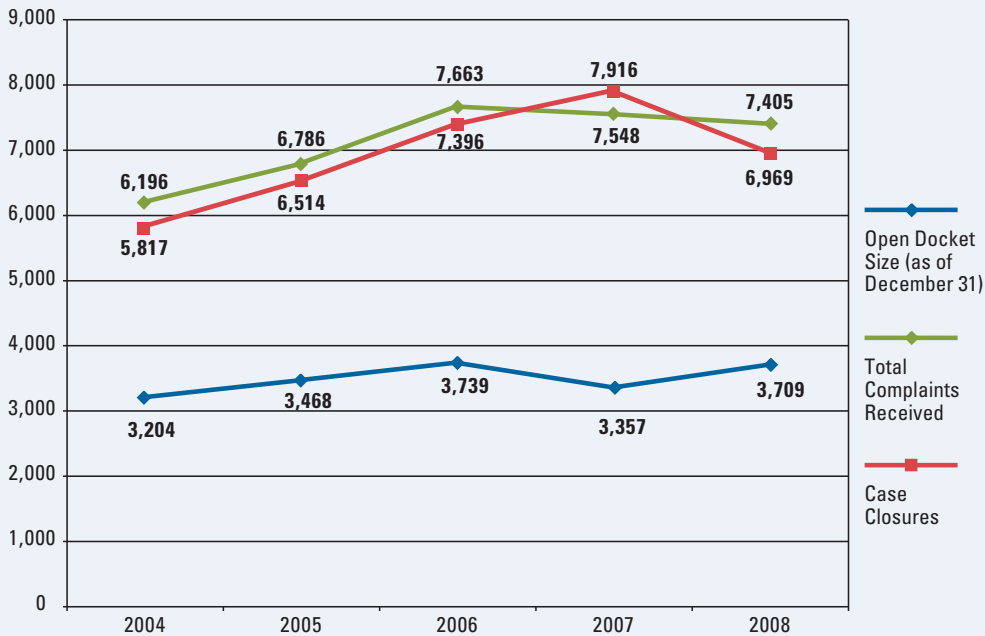
While the race of alleged victims in CCRB complaints differs from New York's population, the subjects of CCRB complaints have historically reflected the racial makeup of the Police Department as a whole. This trend continued in 2008: 51% of officers named as subjects in CCRB complaints were white, while white officers make up 54% of the Department; 16% of subject officers were black, while black officers make up 16% of the Department; 28% of subject officers were Latino, while Latinos

## 2008 Alleged Victims by Race in Stop, Question, Frisk, or Search Complaints vs. New York City Demographic Information (2000 US Census)



make up 28% of the Department; and 5% of subject officers were Asian, while Asians make up 4% of the Department. Men, however, are overrepresented as the subjects of CCRB complaints. Consistent with past years, in 2008 male officers received 90% of CCRB complaints, while making up 83% of the Department.

### Total Complaints Received, Size of Open Docket, and Case Closures 2004-2008



#### Docket Size

The CCRB uses the term “open docket” to refer to the number of open cases being processed by the agency. The size of the CCRB’s open docket as of December 31, 2008, was 3,709, up 11% from the 3,357 cases on the open docket as of December 31, 2007. Previously, the open docket had increased from 3,204 at the end of 2004 to 3,468 at the end of 2005 to 3,739 at the end of 2006, before dropping to 3,357 at the end of 2007, as seen on the chart above.

The open docket rose for slightly different reasons in 2008 than in earlier years. The CCRB has previously attributed the open docket increases in 2004, 2005, and 2006 to a rise in complaints without a commensurate increase in staffing. In 2008, complaint filings declined slightly – the agency received 154 fewer complaints than in the previous year – but due to citywide budget reductions the agency’s authorized investigative staff headcount also dropped, to 147 from 151.

While case closures in 2008 were still higher than case closures in 2003, 2004, and 2005 (see chart above), the drop in productivity resulted in the rise in the agency’s open docket size.

Notably, individual investigator productivity remained consistent with the levels of 2007 even with the reduction in staffing. Despite the fact that the average investigator caseload rose to 23 in 2008, up from 18 in 2007, on average each investigator closed exactly the same number of cases per year in 2008 as in 2007: 52.

#### Average Case Closure Time

The average time required to close a CCRB case provides another lens through which to examine the agency’s productivity. In 2008, the average amount of time between receiving a complaint report and case closure was 170 days for all cases, a five-year low. This figure, however, largely reflected an increase in the percentage of all cases closed as truncated rather than investigated fully, as discussed on pages 18-20.

Budget cuts affected not only the agency’s staff levels, but the availability of overtime funds. In previous years, the agency has used mandatory paid overtime to create productivity gains, but in 2008, few funds were available for such programs. In order to maximize the impact of the limited paid overtime funds available in 2008, the CCRB initiated a targeted overtime project used specifically for work on designated full investigations. While this initiative was successful in increasing the impact of paid overtime, it could not fully compensate for the decrease in the overall number of paid overtime hours.

With fewer staff members and less funds for overtime programs, the agency closed 6,969 cases in 2008, less than the 7,916 cases closed in 2007.

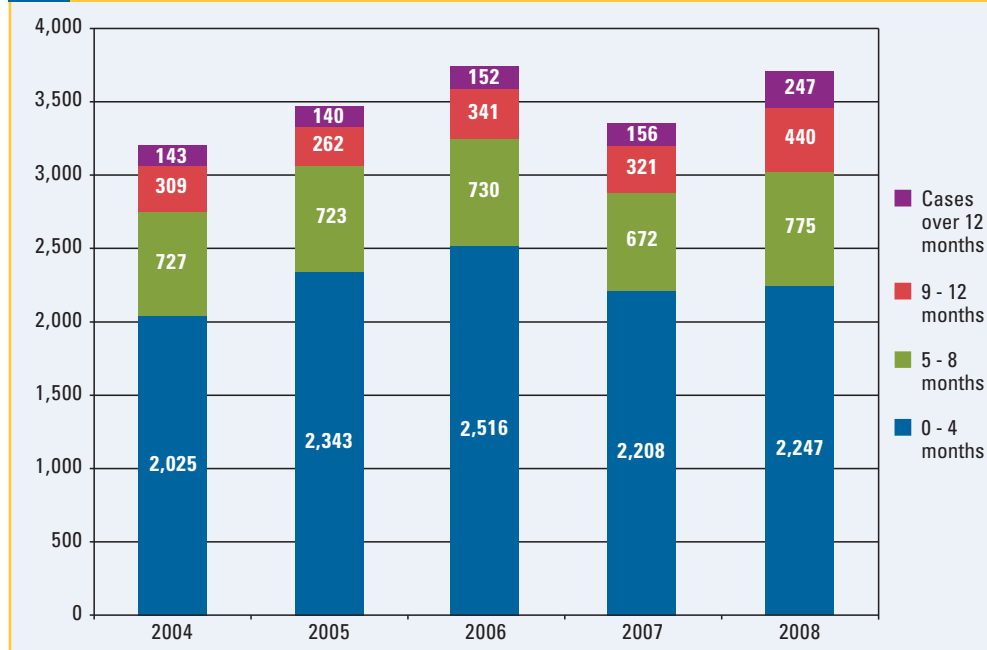
The time required to close a full investigation has continued on an upward trend. The CCRB took an average of 316 days to close a full investigation in 2008, an increase of 5% over the 303 days' average time in 2007 and 13% over the 260 average days in 2004. While in previous years, at least some of this rise could be attributed to a higher workload for the Board, in 2008 the increase was due to a rise in the average amount of time required for the Investigations Division to forward cases to the Board. In 2008, cases sat before the Board for an average of only 48 days, a 23% decrease from 2007, and the second-shortest amount of time since 2004.

### Age of Docket

The chart at right shows that at the end of 2008, 2,247, or 61% of open cases, were four months old or less. This percentage represents a decrease from 2005 and 2006, when more than 67% of cases were four months old or less, and 2007, when the percentage decreased to 66%.

At the same time, the number of open cases more than 12 months old increased. At the end of 2007, 5% of open cases were older than 12 months. By the end of 2008, that percentage had increased to 7%. Most significantly, the number of cases aged 15 months or older jumped from 111 in 2007, or 3% of the agency's open docket, to 168, or roughly 5% of the agency's open docket, in 2008, after remaining relatively constant near an average of 113 cases, or roughly 3% of the agency's open docket, from 2004 through 2007. Though representing a relatively small portion of CCRB cases, those aged 15 months or older are of special concern, as the statute of limitations on CCRB cases is 18 months from the date of the complaint incident, excluding those cases where the officer's misconduct might constitute criminal activity. In order to discipline an officer, the NYPD's Department Advocate's Office must file charges within 18 months of the incident date.

### Size and Age of Open Docket 2004-2008



### Conclusion

In the year to come, the CCRB will continue to face significant challenges in ensuring that its cases are closed in a timely fashion. Projected budget reductions taking effect in 2009 will result in the agency losing approximately 20 investigative positions in addition to other operational and non-investigative staff reductions. Given current and projected cuts to the CCRB's budget, the agency's main priority going forward will be maintaining current levels of productivity.

## Truncated Dispositions

**Complainant/Victim Uncooperative:** The complainant or victim did not reply to requests for an interview or failed to arrive for two scheduled interviews without calling in advance to reschedule. CCRB staff must send two letters and make five phone calls before determining that a complainant failed to reply to contact attempts.

**Complainant/Victim Unavailable:** The contact information provided when the complaint was filed does not lead the investigator to the complainant or victim. CCRB investigators attempt to locate complainants using reverse-number directories, Lexis-Nexis, inmate locators and subpoenas to confirm subscriber information for phone numbers.

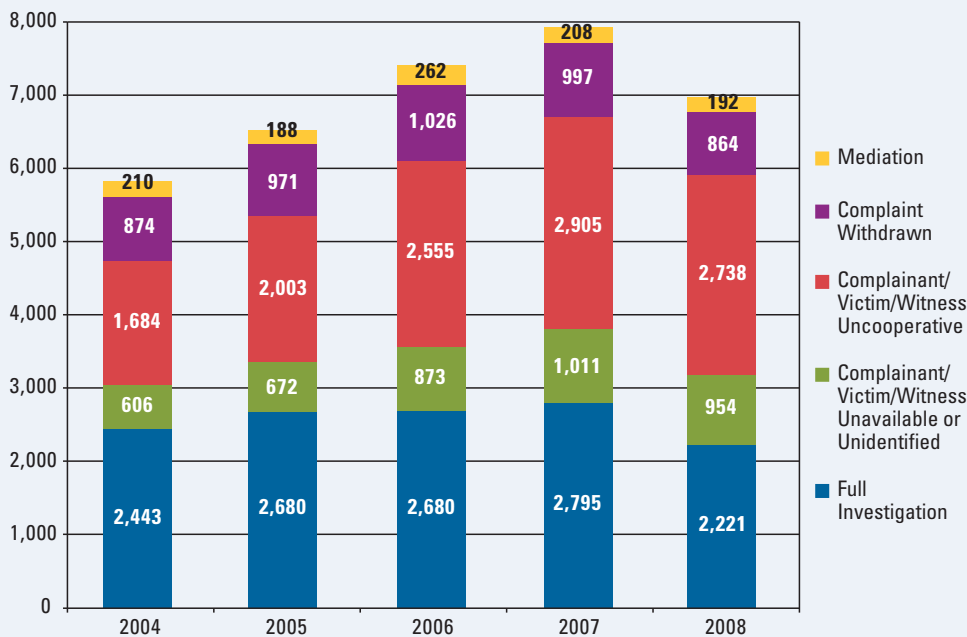
**Complaint Withdrawn:** The complainant affirmatively and voluntarily withdraws his or her complaint.

Truncated case closures are those in which an investigation is terminated before the investigative process is complete. Because the New York City Charter, Section 440(c)(1), prohibits the Board from making a finding or recommendation “based solely upon an unsworn complaint or statement,” the investigative process generally includes obtaining a sworn statement from the complainant and/or the alleged victim(s). When the complainant and/or the alleged victim(s) in a CCRB complaint withdraws the complaint, refuses to provide a formal statement, or cannot be located, the CCRB closes the case without completing a full investigation or mediating it. In such cases the Board assigns one of the four truncated dispositions to the closure: “complaint withdrawn,” “complainant/victim uncooperative,” “complainant/victim unavailable,” or “victim unidentified.” Should the complainant or alleged victim(s) contact the agency after the case has been closed, the case may be re-opened for full investigation.

The truncation rate has slowly but steadily increased for the five-year reporting period, rising from 54% of all complaints closed in 2004 to 62% in 2007 and a historical high of 65% of all complaints closed in 2008. The chart at left depicts these changes in CCRB case closures, showing that in 2008 truncated cases increased as a percentage of all case closures even as the agency closed fewer cases total.

The increase in truncated case closures has been driven by cases closed as “complainant/victim uncooperative.” In 2004, 1,684 complaints, or 29% of all complaints, were closed as “complainant/victim uncooperative.” As shown in the chart, this number has increased every year since, and in 2008, 2,738, or 39% of all cases, were closed because the victim or complainant was uncooperative.

Types of Case Closures 2004-2008



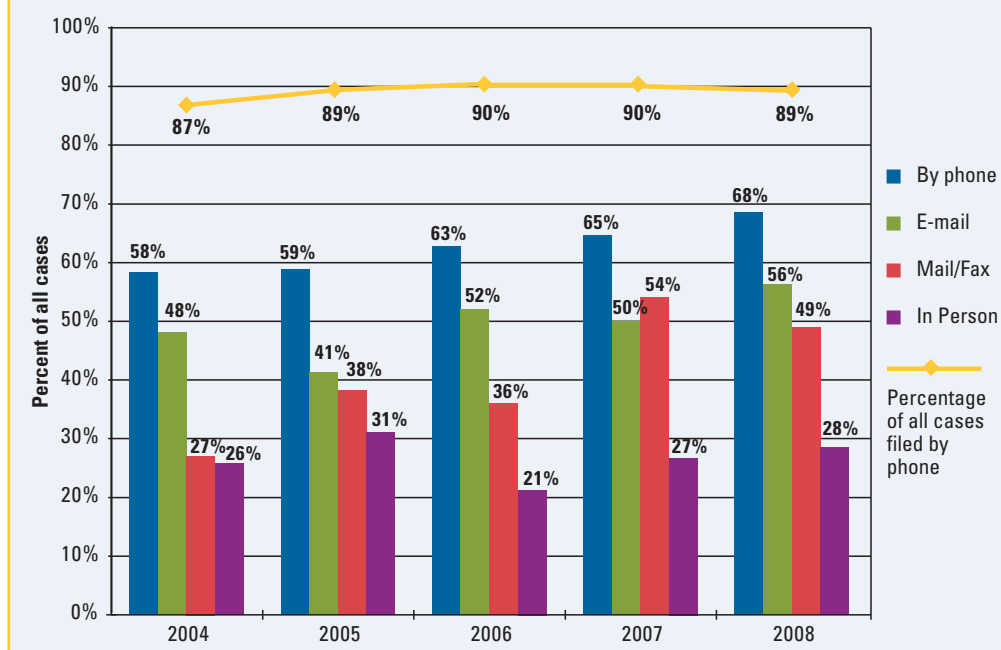
By comparison, since 2004 the number of withdrawn complaints has decreased slightly and the number of complaints closed as “complainant/victim unavailable” has increased slightly. Cases closed as “complaint withdrawn” have decreased slightly in number and percentage since 2004. In 2004, 874, or 15% of all truncated cases, were closed as “complaint withdrawn”; in 2008, 864, or 12% of all truncated cases, were closed as “complaint withdrawn.” Cases closed as “complainant/victim unavailable” increased only slightly, from 590 complaints, or 10% of all complaints closed, in 2004, to 897 complaints, or 13% of all complaints closed, in 2008.

The CCRB remains concerned about the rise in truncated cases, and has studied its complaint data in order to better understand why cases truncate. Through statistical analysis, the agency has determined that a number of factors do not significantly affect whether a complaint will be truncated. Specifically, the declared race and gender of the complainant, the complainant’s ZIP code of residence within the five boroughs, and the presence of a Force allegation within a complaint all do not significantly affect whether a case will be truncated.

A number of identifiable factors do affect the likelihood that a complaint will truncate. First, the likelihood of a truncated case decreases with the age of the complainant. By way of example, 52% of all cases filed by complainants between the ages of 15 and 24 resulted in truncation in 2008, as compared with 46% where complainants were aged 35 to 44 and 32% of all cases filed by complainants between the ages of 55 and 64.

Second, factors connected to the manner of complaint filing affect truncation rates, specifically the method, time, and to whom the complaint was filed. Complaints filed by phone are far more likely than other complaints to eventually be truncated. In 2008, 68% of complaints filed by phone were eventually truncated, compared to 55% of those filed via e-mail, 49% of those filed via regular mail, and 28% of those filed in person. As shown in the chart above, the relative likelihood of truncation for

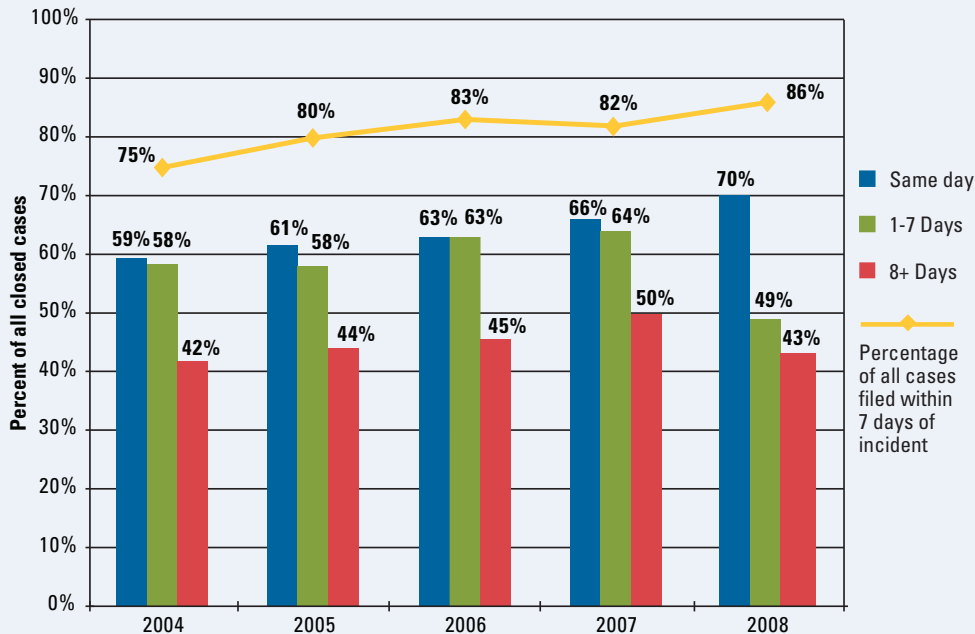
### Truncation Rate by Mode of Filing 2004-2008



each manner of filing has remained more or less consistent, allowing for the steady increase in the truncation rate for all categories over this time period. The higher likelihood that phone complaints will truncate may partially account for the agency’s rising truncation rate, since phone complaints have consistently risen as a percentage of all complaints, from 75% in 2004 to 86% in 2008. In-person complaints comprise a notable exception to the increase in the truncation rate. The rate at which in-person complaints truncate has remained stable over the past five years at an average of 27%.

The elapsed time between the complaint incident and the filing of the complaint also has an effect on truncation rates, as shown in the chart on page 20. In 2008, complaints filed the day of the incident were truncated at a five-year-high rate of 70%, while those filed 1-7 days after the incident were truncated 49% of the time and complaints filed 8 or more days after the incident were truncated 43% of the time. Notably, the disparity in truncation rates based on the time between the incident and complaint filing has increased over time, as shown in the chart. In 2004, complaints filed on the same day of the incident and complaints filed 1-7 days after the incident truncated at essentially the same rate, 49% and 48%, respectively. Although it is difficult to draw firm conclusions about this change, the rise in phone

### Truncation Rate by Elapsed Time Between Incident and Complaint Filing 2004-2008



complaints described above, along with the increased prevalence of cell phones and the 311 system, may provide some explanation. Since 311 and cell phones provide immediate access to the agency, they may increase the number of complainants who reach the CCRB immediately after the incident, before reconsidering whether they have the time or inclination to further pursue the complaint process.

Disparities in truncation rates for complaints filed within different amounts of time also provide some explanation for the increase in the agency truncation rate, as the percentage of cases filed within 7 days of the incident giving rise to the

complaint has increased. In 2004, 75% of complaints were filed within 7 days of the incident; by 2008, that percentage had increased to 86% of all complaints.

In conclusion, the CCRB's studies indicate that the rise in the truncation rate is at least partially attributable to the increase in phone complaints filed quickly after the incident, since these complaints are more likely to be truncated than complaints filed in different manners. The CCRB remains concerned about this issue and will continue to monitor the truncation rate going forward.

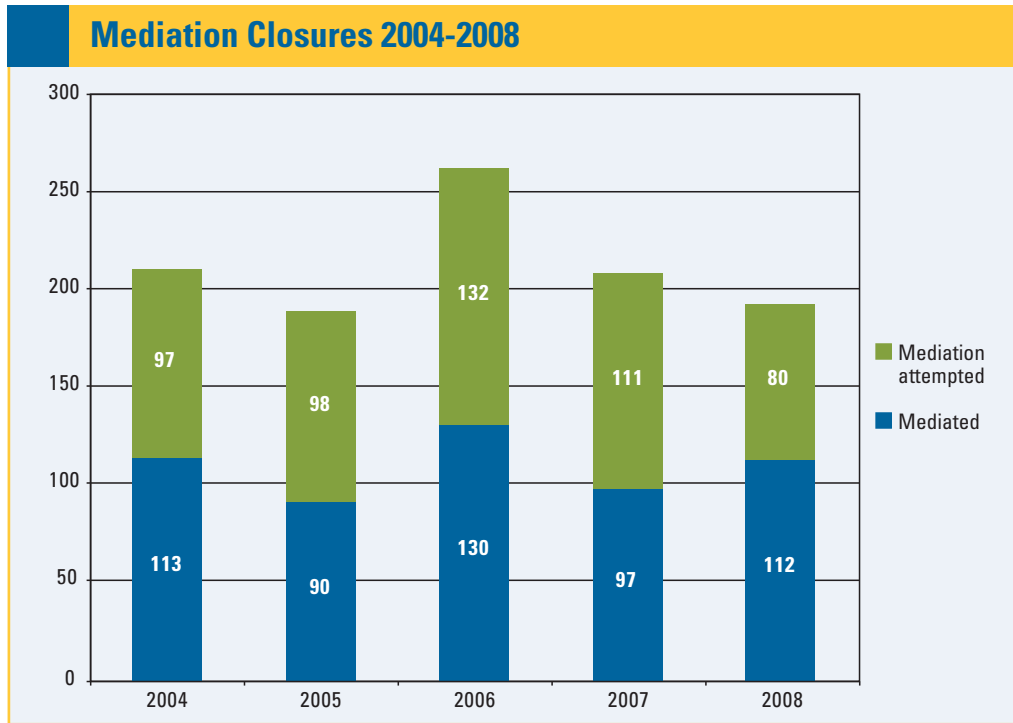
The CCRB has the largest voluntary mediation program for complaints against the police in the United States. The program allows civilians and police officers to sit down with neutral, trained mediators and discuss the issues that led to the complaint. The mediation session ends when both parties are satisfied that they have had an opportunity to discuss and, in most cases, resolved the issues raised by the complaint.

Mediation offers a very different option for resolving complaints than investigation. Where an investigation is focused on fact-finding and the possibility of discipline, a mediation session focuses on fostering discussion and mutual understanding between the officer and complainant. The CCRB has found that satisfaction among participants in the mediation process is generally higher than satisfaction with the investigation process – officers have a better sense of what causes a civilian to file a complaint, and civilians have a better sense of what officers do and why they do it.

Mediation is limited to those complaints in which there is no injury or damage to property, and to complaints in which a civilian was not arrested. Most mediations involve verbal disputes or street or traffic encounters that did not lead to an arrest or summons. Mediation provides an excellent basis to address situations where miscommunications or misunderstandings led to a complaint. After a successful mediation, a complaint is closed as “mediated” – there will be no further investigation, and the officer will not be disciplined.

In 2008, the CCRB’s Mediation Unit welcomed a new director, Lisa Grace Cohen, following the departure of her predecessor, Victor Voloshin. Before joining the CCRB, Ms. Cohen, a graduate of Columbia Law School, served as director of the Brooklyn Mediation program at Safe Horizon, a nonprofit victim-assistance organization, where she mediated and arbitrated numerous disputes in addition to her work directing the program.

The CCRB’s mediation program is voluntary, and officers retain the option to reject mediation just as civilians do. In 2008, 68% of officers who were offered mediation accepted it. In order to increase awareness



of the mediation process among officers, which may result in an increase in acceptance rates, in 2008 the CCRB and the NYPD worked together to more effectively inform officers about the professional benefits of mediation. Where substantiated complaints may be obstacles for transfer or promotion, a complaint that is resolved as “mediated” is viewed favorably by the Department. In 2008, the CCRB conducted informational presentations regarding mediation at police training sessions, and the NYPD and CCRB jointly drafted a “Frequently Asked Questions About Mediation” fact sheet, which will be distributed to every member of the Department.

Although the CCRB continues to focus resources on expanding its mediation program, the mediation unit’s total case closures have declined, from 262 in 2006 to 208 in 2007 and 192 in 2008, as depicted in the chart above. Notably, however, the number of cases actually mediated increased from 97 in 2007 to 112 in 2008. The decline from 2007 to 2008 was due to a drop in “mediation attempted” closures (cases in which a mediation is scheduled, but the complainant misses the appointment twice without calling to reschedule or fails to respond to phone calls, e-mails, or letters to set up a session). Because mediation is a uniquely valuable opportunity for both police officers and civilians, the CCRB will continue to focus significant resources on promoting and expanding its program.

## CCRB Dispositions

**Substantiated:** There is sufficient credible evidence to believe that the subject officer committed the act charged in the allegation and committed misconduct. The Board can recommend to the Police Commissioner appropriate disciplinary action.

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

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

**Unsubstantiated:** The available evidence is insufficient to determine whether the officer committed misconduct.

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

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

## Understanding the CCRB's Disposition Statistics

To better understand the statistics describing CCRB case dispositions, it is important to first understand the distinction made between a "complaint" and an "allegation." Each individual complaint received by the CCRB can contain multiple allegations against multiple officers. A complainant may allege that he or she was unfairly stopped and frisked, spoken to discourteously, and that in the course of the stop an officer used unnecessary force. Each of these is a separate allegation, and after the investigation, the Board would address each individually, perhaps finding that the stop and frisk were allowable given the circumstances, that there was inadequate evidence to determine whether the officer spoke discourteously, and substantiating the force complaint. The Board would find the stop-and-frisk allegation "exonerated," the discourtesy allegation "unsubstantiated," and the force allegation "substantiated." (Please see page 12 for an explanation of the different CCRB allegation dispositions.)

## Disposition of Complaints

CCRB investigative findings can be analyzed by assigning a single disposition label to each complaint. When analyzing the disposition of complaints, the

most significant statistic is the rate at which fully investigated cases are substantiated. A substantiated complaint is defined as a complaint which has at least one allegation substantiated. Any complaint with a substantiated allegation is forwarded to the NYPD with a recommendation for discipline, regardless of the disposition of any other allegations raised in the complaint. In 2008, the CCRB completed 2,221 full investigations, substantiating at least one allegation in 161, or 7% of these cases. The 2008 substantiation rate represents the lowest substantiation rate in the five-year reporting period, and a significant decrease from 2004, when there were 399 substantiated complaints, representing 16% of all fully investigated cases.

## Disposition of Allegations

The CCRB's findings can also be analyzed by tallying the individual dispositions of each allegation the CCRB fully investigates. One key statistic is the rate at which the CCRB makes "findings on the merits." A "finding on the merits" includes those allegations resolved as "substantiated," "exonerated," or "unfounded." These are findings in which the agency obtained enough evidence to reach a factual and legal determination regarding the officer's conduct.

Of the 9,570 allegations the CCRB fully investigated in 2008, 4,645 allegations, or 49%, were closed with findings on the merits. This rate of findings on the merits represents a drop from previous years. Of the 8,831 fully investigated allegations in 2004, the CCRB made findings on the merits in 5,506 allegations, or 64%. This rate remained roughly consistent through 2007, when the CCRB made findings on the merits on 7,175 of 11,489 allegations, or approximately 63%.

The drop in findings on the merits was accompanied by an increase in the rate of unsubstantiated allegations. In 2008, 3,714 allegations were unsubstantiated, or 39% of all fully investigated allegations. This represents a sharp rise from previous years: from 2004 through 2007, between 24% and 26% of all fully investigated allegations were disposed as "unsubstantiated." By comparison, allegations closed, "officer(s) unidentified" remained relatively constant between 8% and 10% from 2004 through 2008.

As has been noted in previous years, the change in findings on the merits can be partially attributed to an increased number of allegations being pled in each case, due largely to the CCRB's decision to separate the allegations "stop" and "question" in 2007.

The decline in the substantiation rate has affected all categories of CCRB allegations. In 2004, 679 of all



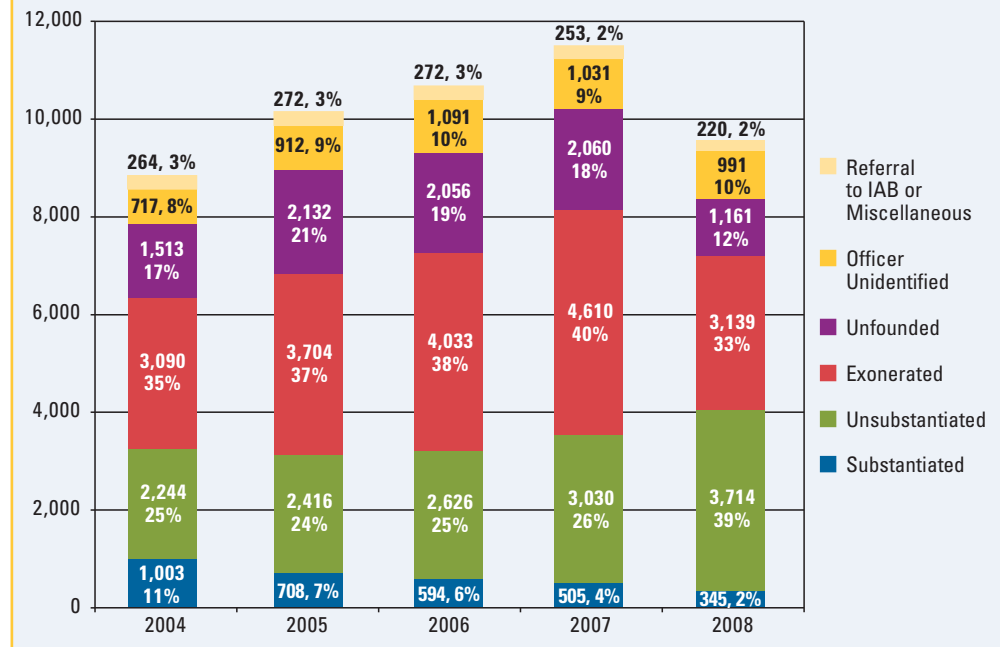
Abuse of Authority allegations closed, or 16%, were substantiated, while in 2008, only 271, or 6%, were substantiated. In 2004, 137 of the force allegations closed, or 5%, were substantiated, while less than half that number, or 68 (1%), were substantiated in 2008. In 2004, 163 discourtesy allegations, or 11% of all discourtesy allegations closed, were substantiated, a number which declined to 32, or 2%, in 2008. In 2008, 2, or 1%, of offensive language allegations were substantiated, compared to 24, or 9%, in 2004.

Recently, the CCRB reviewed its dispositions by allegation and has isolated allegations that may be causing the change in disposition rates. The agency is currently in the process of reviewing investigative practices concerning these allegations in order to see whether there are any changes in practice that could account for some of the shift. The CCRB will continue to study this issue and report its findings to the public going forward.

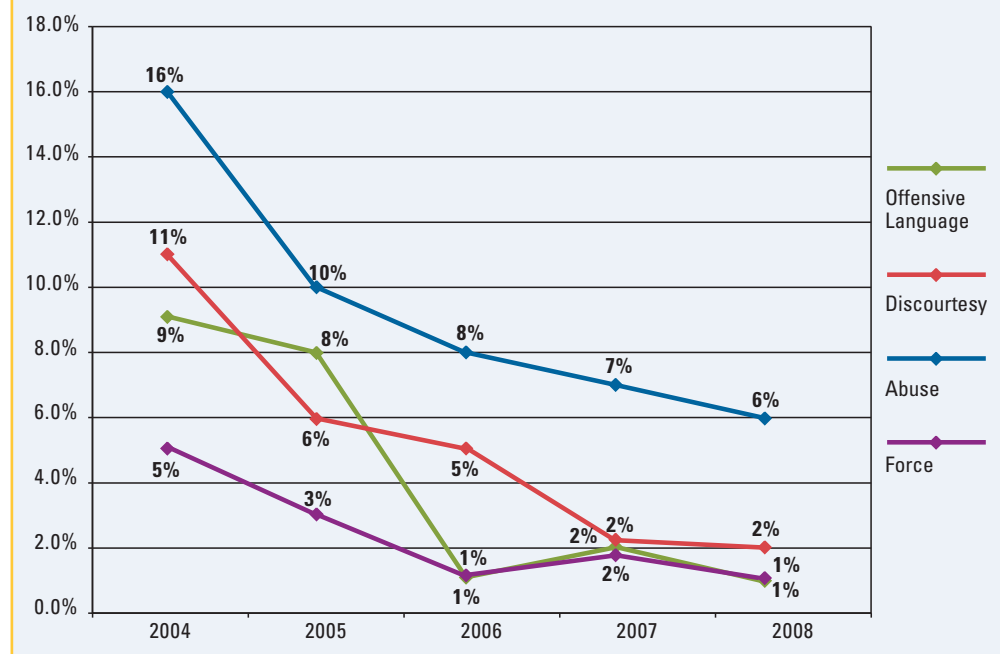
### Characteristics of Alleged Victims and Officers Involving Substantiated Complaints.

Each year, the population of officers and civilians involved in substantiated CCRB complaints does not differ significantly from the general population of civilians who file CCRB complaints and officers who receive them. For more on these patterns, see the Complaint Activity section on page 14 of this report, and refer to the charts available online in the appendix to this report.

## Disposition of All Allegations in Full Investigations 2004-2008



## Substantiation Rate by Allegation Category 2004-2008



## Other Misconduct

When a CCRB investigation uncovers evidence of certain types of misconduct that do not fall within the agency's jurisdiction, the Board will determine to note "other misconduct" and refer the misconduct to the NYPD for action. The NYPD does not systematically provide the CCRB with the results of "other misconduct" referrals.

The most serious category of "other misconduct" that the CCRB regularly refers to the Department is a false official statement by an officer, either to the CCRB or in other official documents or proceedings. In 2008, the CCRB noted one instance in which a CCRB investigation produced evidence that an officer made a false official statement. From 2004 through 2007, the CCRB noted 22 false official statements total.

Aside from false official statements, most additional CCRB "other misconduct" categories involve officers failing to document their actions as required by NYPD procedure (failing to fill out a stop-and-frisk form, failing to document a strip search in the precinct command log, etc.).

One new development regarding other misconduct in 2008 involved officers' entries in "memo books." NYPD regulations require police officers to document their on-duty activities chronologically in small logbooks called "memo books." Memo book entries often prove important in official proceedings at which officers testify, including CCRB interviews. At the beginning of 2008, the Board, in consultation with the Police Commissioner, initiated a new policy of referring "other misconduct" in cases where an officer failed to make required documentation in his or her memo book. As a result, the CCRB made 83 referrals in this new category in 2008. In September 2008, the NYPD issued Operations Order #44/2008, reminding officers of their obligation to document their official activities in their memo books.

## Policy Recommendations

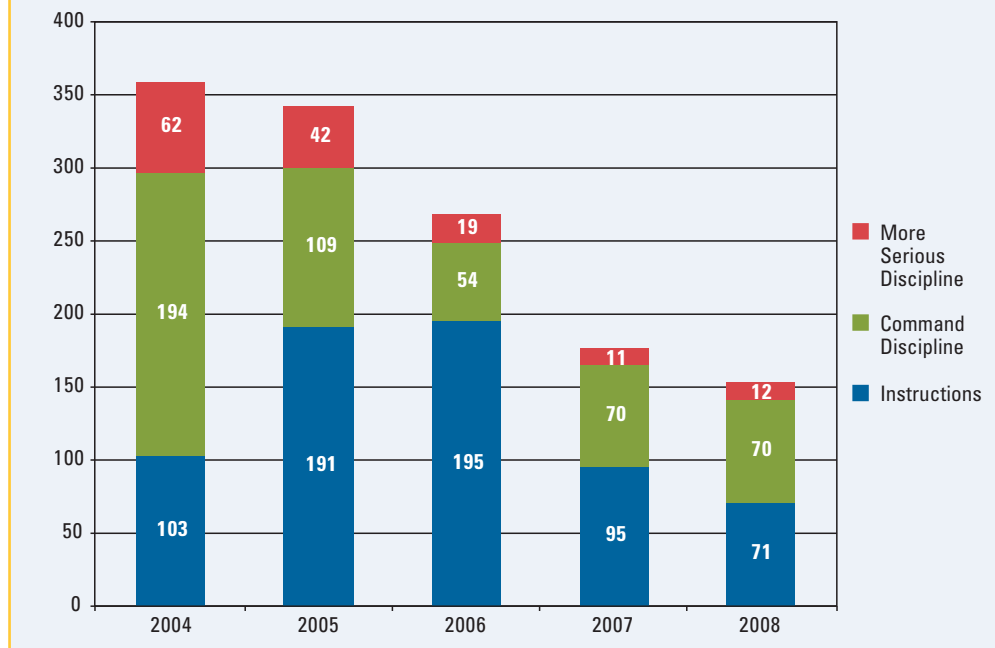
In addition to reviewing and issuing findings on individual cases, from time to time the CCRB notifies the NYPD of information uncovered during its investigation and review of complaints that raises issues regarding Department policies, procedures, and training, rather than individual officers. Recently, the CCRB brought to the attention of the NYPD several 2008 cases in which the involved officers' statements to the CCRB demonstrated inconsistent knowledge of the applicable rules governing civilians' photographing and/or videotaping New York City subway stations. Soon thereafter the NYPD issued Operations Order # 14/2009 clarifying, among other issues, those circumstances in which photography in the New York City subway stations would be impermissible.

Additionally, in November 2006 the CCRB recommended that the issue of actual ownership of police union "courtesy" cards be clarified. This recommendation stemmed from a series of cases in which officers seized police union cards from civilians during encounters and did not return them. In each case, the card was not evidence of a crime. In response to this recommendation, in 2008 the Patrolmen's Benevolent Association (PBA) added language to its courtesy card stating that the PBA is the exclusive owner of the card and that the card is revocable upon demand of any law enforcement officer or agent.

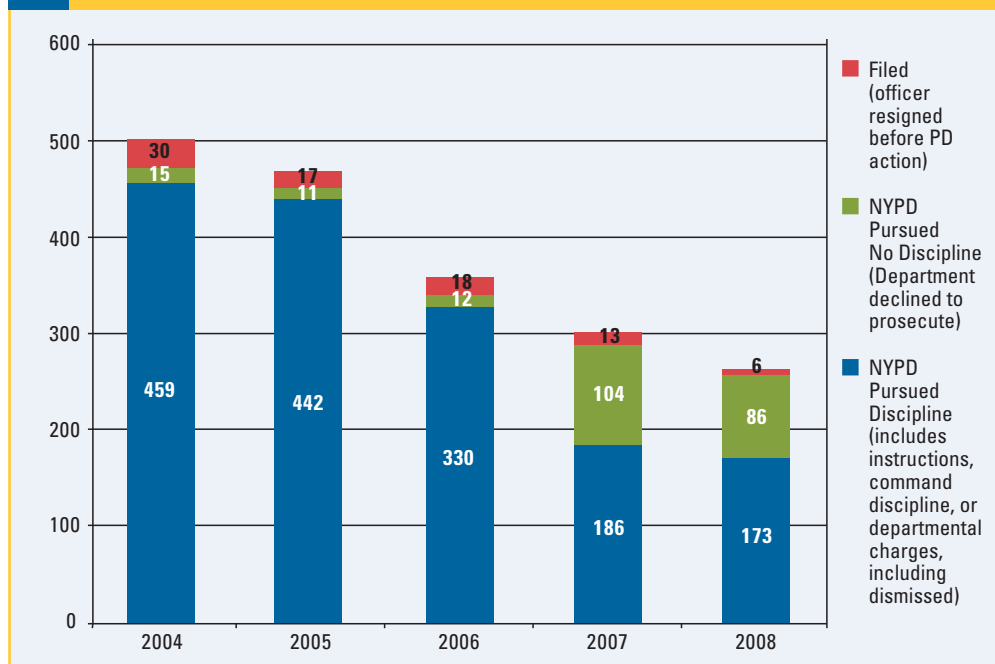
When the CCRB determines that an officer committed misconduct, it forwards the case to the NYPD. The Police Commissioner retains sole discretion over whether to impose discipline and the level of punishment when discipline is imposed. The Police Commissioner generally delegates responsibility for initial evaluation of disciplinary cases, including the decision of whether to seek an administrative trial, to the Department Advocate's Office, which processes all other Department disciplinary matters in addition to CCRB cases. If the determination is made to pursue discipline, the Department Advocate's Office has three disciplinary options. The advocate can compel an officer to receive instructions (or retraining), forward the case to the subject's commanding officer for imposition of a command discipline (if an officer does not consent to a command discipline, the case is returned to the advocate for prosecution), or file charges and specifications. Charges and specifications may result in an administrative trial, in an officer pleading guilty prior to trial (usually following plea bargain negotiations), or in eventual dismissal of the case if the Department subsequently determines that the case can no longer be prosecuted.

In recent years, the rate at which the NYPD has declined to seek discipline in connection with substantiated CCRB cases has increased significantly. In 2007 and 2008, the Department declined to seek discipline in 104 and 86 cases, respectively, a stark departure from 2004, 2005, and 2006, when the Department declined to seek discipline in less than 15 cases each year. In

## Police Department Penalties in Cases Where Discipline Was Imposed 2004-2008



## Police Department Action in Substantiated CCRB Cases 2004-2008



# Police Department Dispositions

percentage terms, the NYPD declined to seek discipline in 3% of all CCRB cases the Department closed in 2004, 2% in 2005, 3% in 2006, 36% in 2007, and 33% in 2008.

The decrease in the Department's pursuit of discipline for CCRB cases has resulted in a reduction in the number of cases for which the Department holds an administrative trial. In 2007 and 2008, the Department conducted 11 and 19 administrative trials, respectively, where in 2004, 2005, and 2006 the Department conducted 88, 83, and 46 trials, respectively. Throughout this time, the Department's rate of obtaining a guilty finding in connection with administrative trials fluctuated between 20% and 45%.

In 2008, the NYPD took an average of 315 days to resolve substantiated CCRB cases, an increase from the 287-day average in 2007 and 240-day average in 2006, but a significant decrease from the NYPD's 2004 average case closure time of 350 days.

On September 10, 2008, the NYPD and the CCRB jointly announced a pilot project in which

CCRB attorneys will "second seat" NYPD prosecutors in disciplinary trials of CCRB cases. Previously, only civilian lawyers employed by the NYPD's Department Advocate's Office prosecuted Department disciplinary cases. Under the pilot project, a CCRB attorney acts as supporting counsel to the assigned Department prosecutor. This joint venture was undertaken to ensure that both agencies work cooperatively towards the successful adjudication of cases referred from the CCRB. The goal of the project is to provide a foundation for enhancing cooperation and dialogue between the CCRB and NYPD regarding the prosecution of CCRB's substantiated cases and, ultimately, through this communication and understanding, decrease the number of cases that the Department declines to prosecute.

The case profiles included at the end of this report provide examples of actual substantiated CCRB cases that were closed by the NYPD.

## Substantiated Case Profile: Charges and Specifications

Shortly after 6:00 PM on a winter evening, three officers working in a plainclothes unit in a Queens precinct received a radio report of a man threatening people with a firearm, described as a short Hispanic male with a goatee and a black jacket and red pullover sweatshirt. At approximately 6:30 PM, the officers observed a 5'10" white male with a goatee and a red jacket exiting a parked vehicle.

The officers stopped the man at gunpoint, frisked him, and searched his vehicle, revealing metal ball bearings in a compartment on the driver's side door and a can of pepper spray (which is illegal in New York State) in the center console. One of the officers stated, at this point, that the ball bearings could be used as ammunition in a barrel-loaded weapon such as a musket, and the man was handcuffed. An officer then searched the man's pockets and found a pipe with marijuana residue.

After finding the marijuana pipe, the officers told the man that they would release him if he provided them with information about narcotics activity in the area – otherwise, he would spend the weekend in jail. The officers drove the man around for several minutes, repeating their offer, until the man agreed. They brought him to his apartment one block away, where the man's landlord let the officers in. At the officers' request, the man made several phone calls in an attempt to set up a drug deal, all while the officers searched his apartment. When the man was unable to set up a drug deal, the officers released him and left, refusing to give names or badge numbers as they did so.

The CCRB determined that, because the man sufficiently resembled the description given by the 911 caller and the officers observed the man close to the time and place of the original report of a crime, the officers had reasonable suspicion and were justified in stopping and frisking him. However, the agency determined that the officers' subsequent actions were improper. The officers claimed that they searched the vehicle after noticing the metal ball bearings, which could be ammunition for a front-loaded, musket-style gun, in plain view within the car. Ball bearings, however, have many innocuous and lawful uses and would not give the officers the probable cause necessary to search the car. In addition, the officers' accounts of other events were contradicted by evidence. The officers denied ever finding a pepper-spray canister or marijuana pipe in the man's possession, yet the man made self-incriminating admissions that he possessed both. The officers claimed that they drove the man to his apartment at his suggestion so that he could retrieve his ID, yet they acknowledged that they were not required to obtain his ID before releasing him from the stop. In addition, although the officers claimed not to enter the man's apartment and ask him to set up a drug deal, the man's landlord confirmed to the CCRB that the officers had entered the apartment, while phone records confirmed that the man called several individuals while being detained by the officers as he had claimed. The CCRB substantiated allegations that the officers improperly detained the man while searching his pockets, car, and apartment and forcing him to attempt to arrange a drug deal and failed to provide their name and shield number when requested to do so, as required by NYPD regulation. The NYPD's Department Advocate's Office brought disciplinary charges against the officers, and in 2008 all three officers pled guilty and each forfeited eight vacation days.

### Substantiated Case Profile: Department Declines to Prosecute

At approximately 11:30 PM on a Friday night, two married couples in their mid-20s were walking in downtown Manhattan after sharing a few drinks at local bars. A plainclothes NYPD lieutenant drove his unmarked car close by the group while turning a corner. One husband, who did not realize he was dealing with a police officer, became angry at the lieutenant's driving. He approached the open passenger side window and raised his middle finger, saying, "F\*\*k you, why don't you watch where you're going?" Upon noticing the lieutenant's police shield, he rapidly walked away.

The lieutenant called for backup, double-parked the car, and exited. The lieutenant then walked up to the man and allegedly pushed him in the chest, causing him to bump into the glass front window of a restaurant and attracting the attention of the restaurant patrons. The other three friends stood by and protested the lieutenant's behavior. In response, the lieutenant allegedly said, "Shut the f\*\*k up," turned toward the other husband, and allegedly punched him in the face. Backup arrived, and the lieutenant arrested both men, charging the man he had punched with obstruction of governmental administration and resisting arrest, and the man who had initially raised his middle finger with menacing and disorderly conduct. Meanwhile, the men's wives noticed that restaurant patrons had observed the incident and obtained contact information from two witnesses.

The man who initially raised his middle finger ultimately pled guilty to disorderly conduct and received a conditional discharge; the man who was punched pled not guilty and was acquitted of all charges after trial.

The Board determined that the witness statements and the victim's and lieutenant's account of the alleged push against the restaurant window left unresolved issues of fact and accordingly unsubstantiated this allegation. The Board also determined that a preponderance of the evidence showed that the lieutenant used excessive force when he punched the second man and used discourteous language during the interaction. Therefore, the Board substantiated these two allegations. The NYPD declined to prosecute these substantiated allegations.

### Substantiated Case Profile: Command Discipline "A"

At 4:00 PM on a fall afternoon, three uniformed police officers assigned to patrol a Manhattan precinct pulled over a Hispanic female in her mid-30s. The officers frisked the woman and her co-passenger, a male friend, at gunpoint and searched through the woman's vehicle, explaining that they suspected she was driving a vehicle stolen from an impound lot. Six days earlier, the woman had retrieved her car from an impound lot. The officers ignored the receipt from the impound lot when the woman presented it. After a roughly ten-minute wait, a sergeant arrived on the scene and spoke to the officers, at which point the woman was released with no summonses or additional police action taken. The woman filed a complaint with the CCRB the next day.

In their CCRB interviews, the two officers who initiated the stop, frisked the woman, and searched the vehicle acknowledged that they suspected the vehicle was stolen, based upon results from a license plate check on the officers' Mobile Digital Terminal (MDT) computer in their car. Because the digital records had not yet been updated, the MDT screen had shown that the woman's car should have been in an impound lot, rather than out on the street. However, the CCRB obtained a copy of the original readout from the MDT, which said, "The following has been reported as an impounded vehicle. It should not be treated as a stolen vehicle hit. No further action should be taken based solely upon this impounded response." In addition, although both officers claimed that the car had also committed a traffic law violation, providing a possible additional justification for the stop, their testimony was contradicted by the third officer, the woman, and the sergeant who responded to the scene, none of whom recalled any mention of a traffic law violation.

The CCRB found that the two officers had acted improperly in stopping and frisking the woman and her co-passenger and searching her car, based upon a negligent reading of the MDT screen. The NYPD imposed a Command Discipline "A" on both officers.

### Unsubstantiated Case Profile

In the summer of 2008, a Queens man was driving quickly in order to get home from work when a uniformed police officer doing routine patrol stepped into the street, motioned for the man to pull over, and issued him a summons for speeding. The officer showed the man the display from his radar gun, which showed that the man had been driving 57 miles per hour in a 30-mile-per-hour zone. Upset at receiving the summons, the man said, "Is this what you do all day long?" According to the man, who subsequently filed a complaint with the CCRB, the officer responded by saying, "F\*\*k you." Both men argued further, and the officer allegedly concluded the exchange by saying, "Don't worry about it, I'll be laughing at you in court."

The CCRB interviewed the man and the police officer, who denied ever cursing at the man. Both the officer and man provided consistent, plausible statements to the CCRB. There were no witnesses: the officer was assigned to work alone, the man was driving alone, and no bystanders stopped to observe the incident. With no additional evidence, the CCRB had no basis to credit the testimony of either party over the other, and the CCRB closed the allegation that the officer spoke discourteously as "unsubstantiated."

### Truncated Case Profile

In the spring of 2008, a woman filed a complaint with the CCRB regarding her arrest on charges of obstructing governmental administration, disorderly conduct, driving without a license, failure to produce her insurance card, and driving without a seatbelt. The woman stated that, as she was being escorted to the hospital in police custody due to low blood sugar levels, a police officer cursed at her, using the phrase, "Get the f\*\*k in the car," and punched her when she failed to comply.

The woman cancelled her first scheduled interview appointment and then missed two subsequent appointments without calling the CCRB in advance to cancel. Because the woman failed to appear for two scheduled appointments, the investigator recommended that the case be closed as "complainant uncooperative," and the Board agreed. In fact, during the course of corresponding with the woman, the investigator had also made five phone calls to the woman's confirmed phone number and sent her two letters, satisfying a separate agency requirement for truncating a case as well. The woman never contacted the CCRB to reopen her case.

### Exonerated Case Profile

Shortly after 11:15 AM on a weekday morning in the fall of 2008, several officers arrived at a Brooklyn apartment complex in response to a 911 call of a domestic assault. The female 911 caller described the perpetrator as a 6'0" black male with a missing tooth, who was wearing a black shirt with writing on it. At about the same time, a different man was paying a visit to his mother-in-law in an apartment in the same building, near the reported dispute. The man, a 6'1" black male with a severely chipped tooth, was wearing a grey shirt with writing on it. As he left his mother-in-law's apartment, he walked toward the elevator and the arriving officers, who stopped him. Upon seeing that one of his teeth appeared to be missing or chipped, one of the officers handcuffed the man. A woman then emerged from a nearby apartment and informed the officers they had the wrong person. The man was released and contacted the CCRB later that day. The man filed a complaint based on his belief that the officers would have falsely arrested him without the intervention of the woman in the apartment.

Because the man closely resembled the description given by the 911 caller, and because he was in the vicinity of the reported dispute within minutes of receipt of the 911 call, the CCRB determined that the officer had reasonable suspicion to detain him in order to investigate the 911 call. In addition, the officers released the man as soon as they verified that he was not the suspect. The allegation was closed as "exonerated."

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

§ 440. Public complaints against members of the police department. (a) It is in the interest of the people of the city of New York and the New York City police department that the investigation of complaints concerning misconduct by officers of the department towards members of the public be complete, thorough and impartial. These inquiries must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct as provided in this section.

(b) Civilian complaint review board

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

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

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

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

(c) Powers and duties of the board.

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

2. The board shall promulgate rules of procedures in accordance with the city administrative procedure act, including rules that prescribe the manner in which investigations are to be conducted and recommendations made and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules may provide for the establishment of panels, which shall consist of not less than three members of the board, which shall be empowered to supervise the investigation of complaints, and to hear, make findings and recommend action on such complaints. No such panel shall consist exclusively of members designated by the council, or designated by the police commissioner, or selected by the mayor.

3. The board, by majority vote of its members may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints submitted pursuant to this section.



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

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

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

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

(d) Cooperation of police department.

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide to the board upon request records and other materials which are necessary for the investigation of complaints submitted pursuant to this section, except such records or materials that cannot be disclosed by law.

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

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

(e) The provisions of this section shall not be construed to limit or impair the authority of the police commissioner to discipline members of the department. Nor shall the provisions of this section be construed to limit the rights of members of the department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

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

THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007  
EXECUTIVE ORDER NO. 40  
October 21, 1997

## NOTIFICATION AND PROCESSING OF CIVILIAN COMPLAINTS

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

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

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

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

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

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

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

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

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

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

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

Section 3. This order shall take effect immediately.



Rudolph W. Giuliani  
MAYOR





## **Civilian Complaint Review Board**

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New York, N.Y. 10006

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[www.nyc.gov/ccrb](http://www.nyc.gov/ccrb)