# NYC CIVILIAN COMPLAINT REVIEW BOARD (CCRB)

*November Update on Sexual Misconduct Investigations*

# The Investigation of Sexual Misconduct by the CCRB

On February 4, 2018 the CCRB Board unanimously voted to take on the investigation of sexual misconduct allegations as abuses of authority.

# The Investigation of Sexual Misconduct by the CCRB

On May 28, 2020, the First Department held that CCRB must go through the rulemaking process before exercising its abuse of authority jurisdiction to investigate sexual misconduct complaints.

# The Investigation of Sexual Misconduct by the CCRB

The CCRB codified new rules in January 2021, and the rule making process was upheld by the court in November of 2021.

# Definitions: Sexual Misconduct

The term "Sexual Misconduct" encompasses misconduct of a sexual nature alleged by a civilian against a member of the Police Department.

## Definitions: Sexual Misconduct

It includes, but is not limited to, the following examples of misconduct:

- verbal sexual harassment
- sexual harassment using physical gestures
- sexual humiliation
- sexually motivated police actions such as stops, summonses, searches, or arrests
- sexual or romantic propositions
- and any intentional bodily contact of a sexual nature, including but not limited to, inappropriate touching, sexual assault, rape, and on-duty sexual activity.

# CCRB Full Investigations

Since taking on sexual misconduct investigations the Agency has received 233 complaints within its jurisdiction containing 335 allegations of sexual misconduct.

# CCRB Full Investigations

So far, the CCRB has completed 62 full investigations against 86 officers.

# Referrals to IAB and the DAs Offices

The CCRB has made 384 sexual misconduct referrals to IAB and the DAs offices.

263 of the referrals have been Phase II referrals.

# Referrals to IAB and the DAs Offices

Since May of 2021, the CCRB has made no referrals to IAB, and has continued to refer criminal sexual misconduct to the DAs offices.

# Substantiated Complaints

The Board has substantiated 28 allegations against 23 officers. All of these cases were decided before the NYPD Matrix.

# Substantiated Complaints

The Board recommended:
- Charges against 12 officers
- Command B for 2 officers
- Command A for 5 officers
- Training for 1 officer
- Instructions for 3 officers

# NYPD Penalties

We have received NYPD penalties in cases against 14 officers.

| Case | Board Disposition | NYPD Penalty |
|------|-------------------|--------------|
| 1 | Substantiated (Charges) | No Discipline |
| 2 | Substantiated (Charges) | No Discipline |
| 3 | Substantiated (Charges) | CDA |
| 4 | Substantiated (CDB) | CDB |
| 5 | Substantiated (CDB) | CDB |
| 6 | Substantiated (CDA) | No Discipline |
| 7 | Substantiated (CDA) | No Discipline |
| 8 | Substantiated (CDA) | CDA |
| 9 | Substantiated (CDA) | CDA |
| 10 | Substantiated (CDA) | CDA |
| 11 | Substantiated (Training) | CDA |
| 12 | Substantiated (Instructions) | Instructions |
| 13 | Substantiated (Instructions) | Instructions |
| 14 | Substantiated (Instructions) | Forfeit vacation |

# NYPD Deviations from CCRB Recommendations

Of the 14 officers, the NYPD deviated downwards when imposing discipline against 5 officers.

4 of those officers were involved in the same incident.

## Case Synopsis:

## First Discipline Deviation

A sergeant and three officers were at a Duane Reade when a store employee screamed that someone was stealing items.

# Case Synopsis:

## First Discipline Deviation

The officers pursued the victim, pulled him down to the ground, punched him, pepper sprayed, and handcuffed him.

# Case Synopsis:

## First Discipline Deviation

The officers then stood near the victim, who was laying on his side with his pants lowered to his knees exposing his buttocks and genitals.

# Case Synopsis:

## First Discipline Deviation

No officer attempted to help pull up the victim's pants or cover his exposed private areas for approximately eight minutes until a transporting vehicle arrived on scene.

# Discipline Not Imposed by the NYPD

None of the officers received discipline for the allegations substantiated by the Board.

# NYPD Justification for the Deviation

The Department argued that there was no evidence to suggest that the officers had taken actions to expose the individual.

# NYPD Justification for the Deviation

Although the officers could be seen laughing and smiling, there was nothing to suggest they were laughing at the individual. Finally, the Department found that "there was no indication the officers were exposing the individual to public sexual humiliation."

# NYPD Justification for Deviation

The sergeant received a CDA from the Department for a distinct allegation of failure to render services with courtesy and civility.

## Case Synopsis:

## Second Discipline Deviation

A Detective engaged in a text message conversation with a domestic violence victim in regard to a case he was investigating. In the course of the text conversation, the Detective made a sexually suggestive remark to the victim, calling her a "hot" scientist.

# Discipline Not Imposed by the NYPD

The Department informed the Agency that the matter was handled at the borough level, therefore DAO did not serve the Charges recommended by the Board and administratively closed the case.

# Discipline Not Imposed by the NYPD

A captain instructed the Detective that "all MOS have a duty to uphold the standards of professionalism, courtesy and respect toward all individuals that they encounter in the course of performing their duties."

# Discipline Not Imposed by the NYPD

He was also informed that the text messages were inappropriate and misconduct of this nature would not be tolerated.

# Open Investigations

The Agency continues to investigate allegations of sexual misconduct and currently has over 80 open investigations into alleged sexual misconduct complaints.

# Discourtesy v. Gender-Based Offensive Language

# What Is the Difference Between Discourteous Language and Offensive Language?

Where does a word get its power from?

# What Is the Difference Between Discourteous Language and Offensive Language?

Slur or discourteous language related to gender, or gender expression, or gender identity.

Ex from cases: "bitch", "suck my balls"

# What Is the Difference Between Discourteous Language and Offensive Language?

Bitch (n): 1) A lewd or immoral woman; or 2) a malicious, spiteful, or overbearing woman—sometimes used as a generalized term of abuse.

# What Is the Difference Between Discourteous Language and Offensive Language?

In addition, to determine whether words are sexual in nature, the CCRB considers whether federal, state, and city EEO policies, prohibit the use of the terms.

# What Is the Difference Between Discourteous Language and Offensive Language?

For example the EEOC guidelines prohibit the use of words that can be used as "terms of endearment" such as "honey," "dear," "sweetheart," or similar expressions.