CCRB'S RACIAL PROFILING, BIAS-BASED POLICING AND PAST PROFESSIONAL CONDUCT INVESTIGATIONS

Historically, the CCRB has <u>not</u> investigated racial profiling or biased policing

- Before now, when CCRB received civilian complaints of profiling and bias-based policing against NYPD MOS, it referred them to the **NYPD's Internal Affairs Bureau**

- From 2014-2021, NYPD received and investigated **<u>over 3400</u>** profiling/ biased policing allegations and **<u>substantiated a total of 4</u>**.

LOCAL LAW 47 (April 25, 2021)

Local Law 47 Amended Chapter 18-A of the N.Y. City Charter to:

- "Clarify" that CCRB's "Abuse of Authority" jurisdiction covers civilian complaints of racial profiling and bias-based policing against NYPD MOS (Charter §440(c)(1));

- Give CCRB jurisdiction to investigate the "past professional conduct" of NYPD members who have previously been found by the CCRB or certain other "covered entities" to have committed an "act of bias" or "severe act of bias" (Charter § 441)

LOCAL LAW 47 (contin.)

Local Law 47 itself defines the terms "act of bias," and "covered entities." Those definitions now appear in §1-01 of the Proposed Agency Rules:

- Act of Bias- an act by a member of the NYPD that is motivated by or based on animus against any person on the basis of that person's:
  - race, ethnicity
  - religion
  - gender
  - sexual orientation, or
  - disability

- Covered entities- include the NYPD, CCRB, City Commission on Human Rights, DOI, NY State and Federal Courts, the NY State Attorney General and Division on Human Rights, and the US DOJ and EEOC.

What are "Racial Profiling" and "Bias-Based Policing"?

- Local Law 47 does <u>not</u> define the terms "racial profiling and "bias-based policing"

- The Proposed Rules use the definition of <u>racial profiling</u> found in <u>NYPD Administrative Guide § 304-17</u> (formerly NYPD Patrol Guide § 203-25) and the federal court rulings in <u>*Floyd v. City of New York*</u>.

- The Proposed Rules' definition of <u>bias-based policing</u> comes from Local Law 71 (2013) (now codified in N.Y.C. Admin. Code § 14-151)

- Together, these two definitions cover law enforcement actions that discriminate on the basis of actual or perceived:
  - race, ethnicity, national origin, color
  - religion
  - age
  - gender
  - sexual orientation
  - disability
  - citizenship, immigration, or housing status

"Racial Profiling /Bias-Based Policing" vs. "Act of Bias"

- "Racial Profiling" and "Bias-Based Policing" cover more protected identity categories than does "Act of Bias"

- Under LL 47, certain off-duty "Acts of Bias" can trigger past professional conduct investigations.

- These three terms are used for different purposes:

  "Act of bias" ➡ past professional conduct investgations under Charter § 441

  "Racial Profiling/Bias-Based Policing" ➡ current complaints of discriminatory law enforcement action investigated as "abuse of authority" under Charter § 440(c)(1).

THE CCRB'S RACIAL PROFILING/ BIASED POLICING INVESTIGATIONS UNIT

Following the passage of Local Law 47, CCRB created the **Racial Profiling/Biased Policing Investigations Unit** to execute its new investigative authority

Housed within the Investigations Division, the **RPBP Unit**:

- Will conduct all CCRB racial profiling, bias based policing and past professional conduct investigations

- Work closely with other Investigations Division staff to jointly investigate cases involving both traditional FADO and profiling/biased policing allegations

THE RPBP UNIT STAFF

At present, the RPBP Unit Includes:

- **1 Director** (experienced civil rights/police misconduct attorney, former lead counsel in *Floyd v. City of NY*)

- **1 Deputy Director** (former senior policy counsel at CCHR)

- **1 Chief Data Scientist**-More than 9 yrs of quantitative research experience, focus on racial and other inequalities

- **2 Investigative Managers**- Experienced CCRB investigators who will each supervise a team of investigators and investigating attorneys

- **3 Investigators**

- **3 Investigating Attorneys**

In addition, the Unit intends to hire by the fall:

- **2 Investigators, 4 Investigating Attorneys, and 1 Data Analyst**