

# 2011

## Annual Report

**NYC**

**CIVILIAN  
COMPLAINT  
REVIEW  
BOARD**

Force

F

A

Abuse of  
Authority

D

Discourtesy

O

Offensive  
Language



MICHAEL R. BLOOMBERG, Mayor | DANIEL D. CHU, Chair



# Mission and Values

The New York City Civilian Complaint Review Board (CCRB) is an independent agency. It is empowered to receive, investigate, mediate, hear, make findings and recommend action upon complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, discourtesy or the use of offensive language. The Board's investigative staff, composed entirely of civilian employees, conducts investigations in an impartial fashion. The Board forwards its findings and recommendations to the Police Commissioner.

**In fulfillment of its mission, the Board has pledged:**

- To encourage members of the community to file complaints when they feel they have been victims of police misconduct.
- To encourage all parties involved in a complaint to come forward and present evidence.
- To investigate each allegation thoroughly and impartially.
- To make objective determinations on the merits of each case.
- To recommend disciplinary actions that are fair and appropriate, if and when the investigative findings show that misconduct occurred.
- To respect the rights of civilians and officers.
- To engage in community outreach to educate the public about the agency and to respond to concerns relevant to the agency's mandate.
- To report relevant issues and policy matters to the Police Commissioner.
- To offer civilians and officers the opportunity to mediate their complaints in order to promote understanding between officers and the communities they serve.



# Table of Contents

Letter from the Chair . . . . .	1
Complaint Activity . . . . .	2
Case Processing . . . . .	9
Investigative Findings . . . . .	11
Mediation . . . . .	15
Police Department Dispositions . . . . .	17
Case Profiles . . . . .	20
Board Members . . . . .	22
Executive and Senior Staff . . . . .	26
Enabling Legislation . . . . .	27



MICHAEL R. BLOOMBERG  
MAYOR

CIVILIAN COMPLAINT REVIEW BOARD  
40 RECTOR STREET, 2<sup>ND</sup> FLOOR  
NEW YORK, NEW YORK 10006 ♦ TELEPHONE (212) 442-8833  
[www.nyc.gov/ccrb](http://www.nyc.gov/ccrb)

DANIEL D. CHU  
CHAIR

JOAN M. THOMPSON  
EXECUTIVE DIRECTOR

July 2012

Dear Fellow New Yorkers:

As Chairman of the Civilian Complaint Review Board of the City of New York, I am pleased to present our status report for calendar year 2011.

In 2011, the CCRB's participation in the prosecution of police misconduct grew and matured from pilot projects that began years earlier. The seed for our participation in the trial room was planted in 2008, when the NYPD agreed to a seminal pilot project in which a CCRB attorney would observe administrative trials as the *second-seat* to Department Advocate's Office (DAO) attorneys. By July 2010, the collaborative relationship with the DAO had evolved and solidified and our *second-seat* attorney went from merely observing to actively assisting at trials. Building on the success of this second-seat project, in 2011, under a pilot program known as the *Administrative Prosecution Unit* (APU), the CCRB assumed the role of lead attorney and began conducting trials for a portion of the substantiated cases the Board referred to the police department.

The benefits derived from these programs emerged quickly. Civilian complainants and witnesses became increasingly more receptive about participating in departmental trials; our investigations grew stronger as a result of the evidentiary lessons learned at trial; and public confidence in the fairness and transparency of the NYPD's disciplinary process has been advanced.

In 2011, we also saw heightened attention to the pilot prosecution unit from the news media and growing support from elected officials and other stakeholders. Everything came together in November when the APU pilot program was given permanent funding. Going forward, I am confident that the APU's benefits and successes will continue to grow and flourish.

The Board remains committed to its core mission of thoroughly investigating and fairly resolving allegations of police misconduct. Our report includes relevant data and information that describes our actions in 2011 to that end. I look forward to working with my fellow Board members in continuing to serve the people of New York.

Sincerely,

Daniel D. Chu, Esq.

## Number of Complaints Received

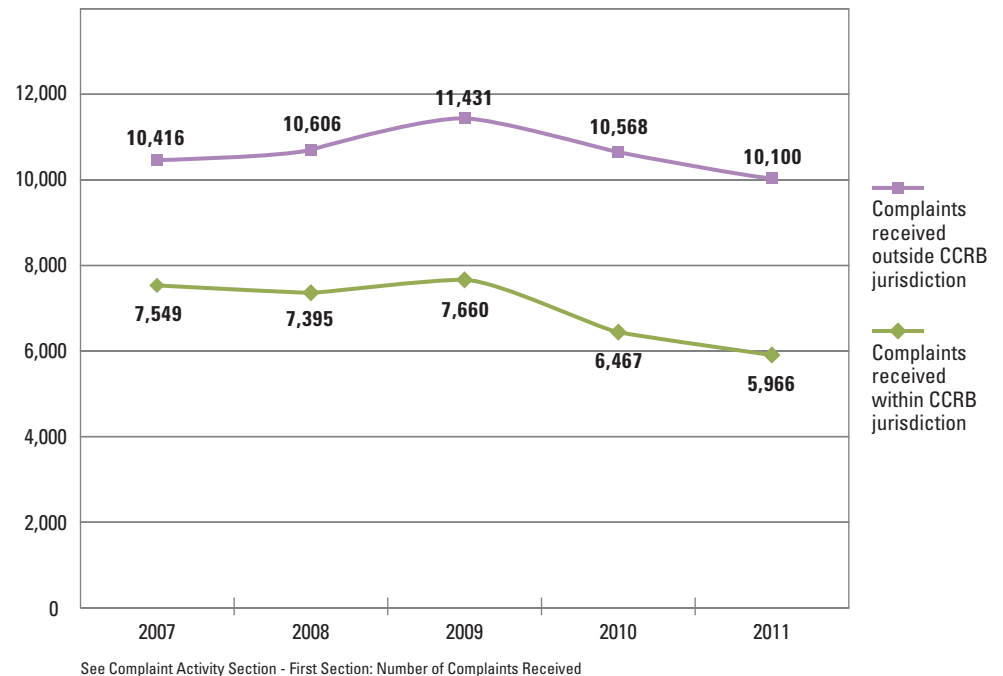
The CCRB received 5,966 complaints within its jurisdiction in 2011. This is an 8% decrease from 2010, when 6,467 complaints were filed, and a 22% decrease from 2009, when 7,660 complaints were filed. It is a 21% decrease compared to 2007, when the CCRB received 7,549 complaints.

The 2011 complaint level represents a decrease of over 20% when compared to the number of complaints filed from 2006 to 2009. During that period, the CCRB received, on average, 7,535 complaints. The number of complaints received in 2011 is the lowest number of complaints filed since 2003 when the CCRB received 5,556 complaints.

In addition to complaints within its jurisdiction, the CCRB receives complaints from members of the public that fall outside its scope of authority. These complaints are entered into the agency's Complaint Tracking System (CTS) and referred to the appropriate offices, primarily the Police Department's Office of the Chief of Department (OCD) and the Internal Affairs Bureau (IAB). Civilians are notified of this by letter and receive a tracking number. The agency made 10,100 referrals in 2011. This is a 4% decrease from 2010, when 10,568 referrals were made, and a 12% decrease from 2009, when 11,431 referrals were made. It is a 3% decrease from 2007, when the CCRB made 10,606 referrals. Also, the percentage of complaints received deemed to be within its jurisdiction, as a percentage of total filings, has decreased from 42% in 2007 to 38% in 2010 and to 37% in 2011. It is a difference of five percentage points that the agency will be further analyzing.

In 2011, the number of total filings made by the public (complaints handled by the CCRB and complaints referred elsewhere) decreased by 6%, from 17,035 in 2010 to 16,066 in 2011. The number of total filings in 2011 is the lowest number of filings since 2005 when the CCRB received 14,976 filings. (All numbers subsequently discussed in this report stem from only those complaints that are within the agency's jurisdiction.)

## Total Complaints Received 2007-2011



## Fluctuations in the Complaint Rate

From the first quarter of 2007 to the third quarter of 2009, with the exception of one quarter, the CCRB received an average of 600 or more complaints per month. During this period, most quarters averaged between 625 and 640 complaints per month. Complaint activity reached its peak in the first quarter of 2009 when the agency received, an average of 685 complaints per month. However, the trend reversed in the last quarter of 2009, when the monthly average fell below six hundred in 2010 and below five hundred in 2011. The trend has been downward since then. In the first quarter of 2011, the average was 498; second quarter – 536; third quarter – 496; and in the last quarter of 2011, the agency received an average of 459 complaints per month, the lowest number since 2003.

## Method of Filing

In the past, the CCRB has noted that after its introduction in 2003, the City's 311-system contributed to an upward trend in complaints by making it easier to contact the agency. When the 311 Customer Service Center receives CCRB-related inquiries, it transfers these calls to

the CCRB intake center. Approximately 52% of all complaints are filed by phone with the CCRB, including calls that originate with 311.

In 2011, the 311-system transferred 12,404 calls to the CCRB. This is a 12% decrease from 2010 when 14,167 calls were transferred and a 20% decrease from 2009, when there were 15,527 transferred calls, the highest ever. The agency received 13,145 calls in 2007 and 13,831 in 2008. In historical terms, the volume of phone calls transferred in 2011 is the lowest since 2005 when the 311-system transferred 10,103 calls. In 2011, 976 (32%) of the 3,020 phone complaints were transfers from the 311-system. Approximately 18% of total complaints filed with the CCRB in 2011 were the result of 311 transfers. Not all 311 calls transferred to the agency were complaints within the CCRB's jurisdiction.

The CCRB tracks complaint intake by another important yardstick – where complaints are reported. There are two broad categories: one is a complaint filed directly with the CCRB (including those transferred from 311) deemed “CCRB-filed”; and two, a complaint filed with the NYPD or “NYPD-filed.” From 2007 to 2011, 62% of all complaints were filed with the CCRB. Ninety-five percent of “NYPD-filed” complaints were made to IAB, with the rest mostly made at police station houses. From there, they were referred to the CCRB.

A comparison of the five-year trend for NYPD-filed and CCRB-filed complaints reveals diverging patterns. The number of complaints filed with the NYPD increased 10% during three years, from 2,742 in 2007 to 3,028 in 2009. Since 2009, the number of NYPD-filed has decreased by 25%, to 2,695 in 2010 and to 2,279 in 2011. The decrease in the past year was 15%. NYPD-filed complaints were 36% of the total in 2007; 37% in 2008; 39% in 2009; 42% in 2010; and 38% in 2011.

Not all IAB referrals were deemed to be complaints within the CCRB's jurisdiction. The number of referrals made by IAB increased by 33% in four years, from 2,918 in 2007 and 3,191 in 2008 to 3,790 in 2009 and to 3,881 in 2010. In 2011, IAB made 3,355 referrals – a 14% decrease.

During this period of increasing NYPD-filed complaints, the number of CCRB-filed complaints went down each year. The total aggregate decrease was 24%, from 4,823 in 2007 to 3,686 in 2011. There were 4,642 CCRB-filed complaints in 2008, 4,630 in 2009 and 3,774 in 2010. The decrease from 2010 to 2011 was 2%.

The CCRB tracks the four basic ways that civilians file complaints directly with the agency: by phone, in person, by letter or fax, or online. Eighty-two percent of CCRB-filed complaints were made by phone in 2011, 87% in 2007. The number of phone complaints decreased by 28% in five years, from 4,203 in 2007 to 3,021 in 2011. The proportion of complaints filed by emailed increased from 7% in 2007 to 13% in 2011, from 328 to 467.

The impact of technology in facilitating filing of a complaint is reflected in the proportion of complaints filed directly with the CCRB within the first 24 hours after the incident or the same day. In 2011, 57% of CCRB-filed complaints were made within 24 hours of the incident, while 37% were made on the same day.

### **“Stop and Frisk”**

Since 2007, approximately 30% of all CCRB complaints involved allegations of improper stop, question, frisk or search. From 2002 to 2009, we noted a correlation between street stops and complaint levels. From 2002 to 2005, CCRB complaints rose as stop-and-frisk encounters increased, from 97,837 to 398,191 documented police stops. From 2006 to 2009, complaint activity stabilized around 7,500 complaints per year as stop-and-frisk encounters stabilized around 500,000 per year (508,540 in 2006, 468,932 in 2007, 531,159 in 2008, and 575,304 in 2009).

This correlation between street stops and CCRB complaints has changed in the last two years. First, the proportion of CCRB complaints involving, at least, one street stop allegation has decreased by five percentage points, from 34% in 2007 to 29% in 2011. Second, the number of NYPD documented “stop-and-frisk” encounters has continued to rise as the number of “stop-and-frisk” complaints has decreased. In 2010, stop-and-frisk complaints fell 17% as stop-and-frisk encounters increased 4%, to 601,285. In 2011, stop-and-frisk complaints fell 10% as stop-and-frisk encounters increased 14%, to 685,724. From 2007 to 2011, stop-and-frisk complaints were down 34%, while NYPD documented stops were up 45%.

The ratio of stop-related complaints to stop-and-frisk encounters has also dramatically changed. In 2007, the CCRB received one stop-and-frisk complaint per 184 encounters. Since then, the ratio has increased each year: one per 237 encounters in 2008, one per 256 in 2009, one per 319 in 2010, and one complaint per 400 encounters in 2011.

However, establishing a ratio of complaints to overall documented stops provides an incomplete picture, because stop-and-frisk complaints have different characteristics than the universe of documented stops. The CCRB's data shows that a stop alone is not likely to result in a complaint, but rather that other factors contribute.

In 2011, of the 685,724 documented street encounters, 6% led to an arrest and 6% to the issuance of summons, in 56% there was a frisk, and a search was documented in 9% of encounters. By comparison, of the 1,716 stop-and-frisk complaints, 24% stemmed from an encounter leading to an arrest, 14% where a summons was issued, 37% where the complainant was frisked, and in 59% of these cases, the complainant was searched.

The data shows that while police appear to be conducting searches in only 9% of street encounters, CCRB's complainants are most likely to file a complaint when they have been searched. In 2011, 1,014 out of the 1,716 complaints stemming from a street encounter contained a search allegation. (599 had an allegation of search only and in 415 the civilian was complaining about the stop and a search.) On the other hand, while police document a frisk in 56% of their stops, only 87 complaints out of 1,176 (5%) stemmed from a frisk alone.

Our findings on search allegations are consistent with the overall downward trend in complaint activity and, in particular, in the area of stop-and-frisk complaints. In 2011, one complaint was filed for every 58 stops in which the suspect was searched. By comparison, in 2007, one complaint was filed for every 32 stops in which the suspect was searched.

### Occupy Wall Street Demonstrations

As of December 31, 2011, the CCRB had received 37 complaints within its jurisdiction stemming from the Occupy Wall Street demonstrations that began in September 2011. The complaints involved 78 alleged victims and 41 subject officers. There were

an additional 27 complaints stemming from the protests that were outside the CCRB's jurisdiction.

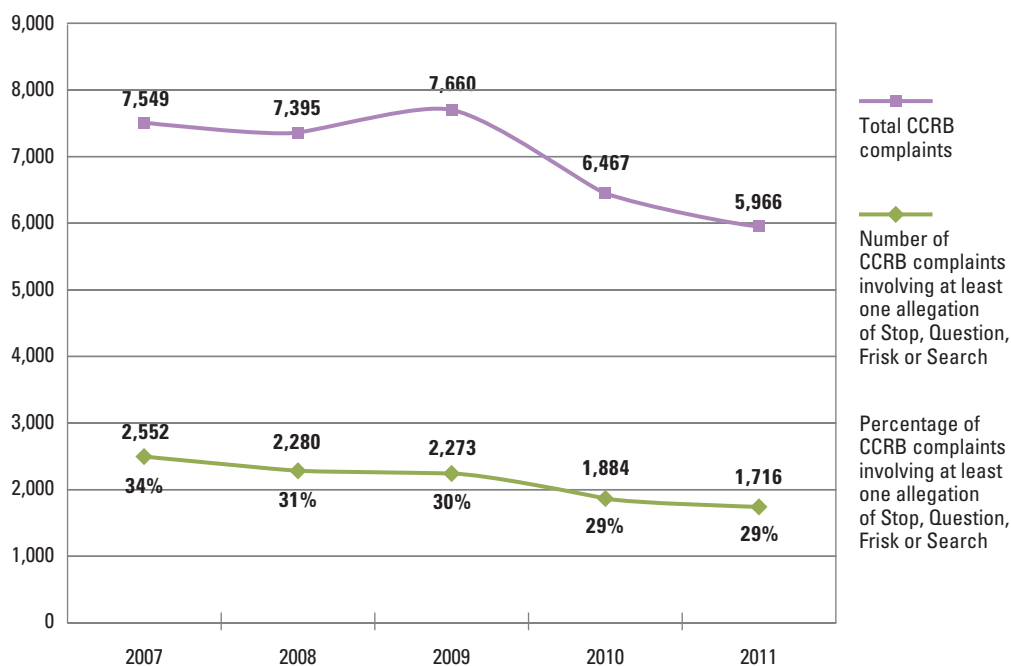
The majority of allegations involved the improper use of force, including physical force, use of a nightstick, use of a vehicle, use of a blunt instrument as a club, chokehold, handcuffs too tight, use of an animal and pepper spray. Complainants also made allegations involving abuse of authority and offensive language.

In addition to the 37 complaints, the CCRB received approximately 850 contacts by phone and through email, from people who were concerned about the incidents they saw on television and the internet.

### Characteristics of Encounters

When a complaint is being investigated, the CCRB tries to discern the initial reason for the contact between the civilian and the officer(s), which is clear in some encounters but not so clear in others. This "reason for contact" is one of the many variables that the CCRB tracks. The data show that fewer complaints stem from what is typically the most frequent reason for contact according to police officers, that he or she suspected the civilian was committing a crime in the streets. In 2011, 23% of all complaints had this as the apparent reason for contact, which is three percentage points lower than in 2009 and

**Complaints Received vs. Percentage of Complaints Involving Stop, Question, Frisk and Search Allegations 2007-2011**



2010. The actual number of these complaints fell 32%, from 1,999 in 2009 to 1,384 in 2010.

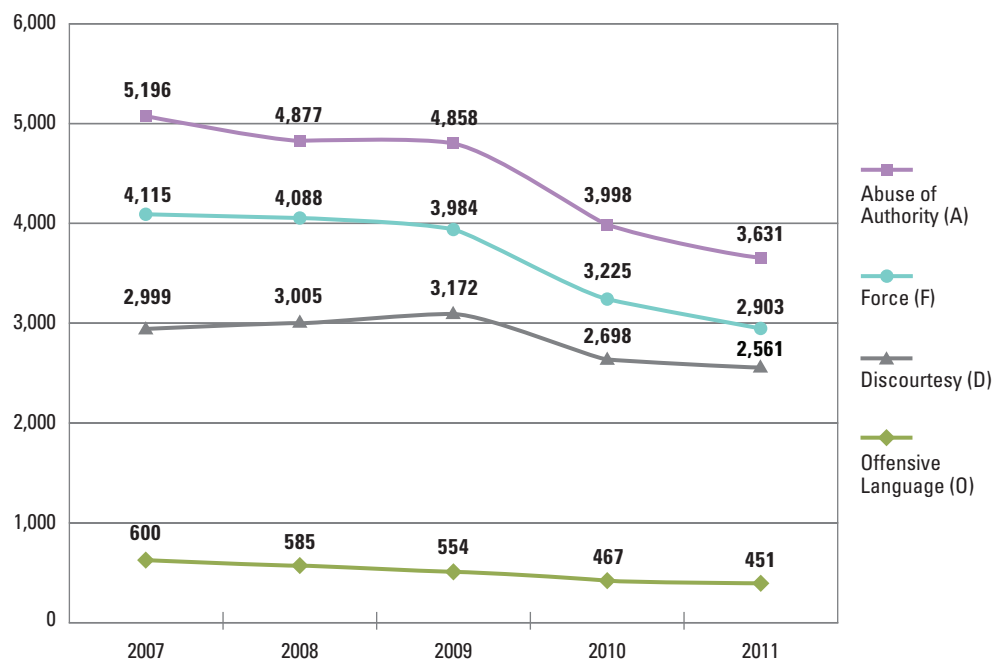
Approximately 40% percent of all CCRB complaints stemmed from an encounter in which police apparently suspected the civilian of committing a crime, other than in the streets. Therefore, police activity as defined by the number of arrests, criminal court summonses issued, and stop, question and frisk reports provides a context in which to view changes in complaint activity. According to NYPD data, there has been an increase in these police-civilian encounters in recent years, from 1,438,403 in 2008 to 1,536,134 in 2009, to 1,557,655 in 2010, and to 1,589,623 in 2011.<sup>1</sup>

The data on the “attribution” of complaints also offers an insight into the drop in complaint activity. Attribution occurs when the CCRB can determine the assignment of the subject officer. From 2007 to 2011, there was a significant decline, 34%, in complaints attributed to the category “undetermined command,” usually because the officer was unidentified at the time the complaint was filed. This contrasts with complaints attributed to the Patrol Services Bureau, which includes the patrol bor-

oughs, special operations, and other patrol services commands, which decreased by 3%. Complaints attributed to specialized bureaus, such as Housing, Detectives, Organized Crime, and Transit declined by 16%. (See the online appendices, Table 14, [www.nyc.gov/ccrb](http://www.nyc.gov/ccrb).) Only three patrol boroughs had higher complaint levels in 2011 than in 2007, Queens North (+23%), Bronx (+4%), and Staten Island (+2%). The Detective Bureau had the highest decrease in complaints attributed, a 29% decline.

The CCRB also looks at whether an encounter leading to a complaint involved an arrest or summons. In 2011, 46% of all complaints involved no arrest or summons, which is the same proportion as in 2009 and in 2010. In actual numbers, from 2009 to 2011, these complaints fell 22%, from 3,537 in 2009 to 2,962 in 2010 and to 2,762 in 2011. Thirty-seven percent of all complaints involved an arrest, nearly identical to the 36% in 2009 and in 2010. In actual number, these complaints fell 21%, from 2,746 in 2009 to 2,299 in 2010 and to 2,181 in 2011. Seventeen percent of all complaints involved the issuance of a summons, the same as in 2010. In actual number, these complaints fell 25%, from 1,318 in 2009 to 1,170 in 2010 and to 990 in 2011.

### Number of Cases Having at Least One Allegation in the Different Categories of Misconduct 2007-2011



### Types of Allegations Received

To better understand complaint activity, it is important to note the distinction between a “complaint” and an “allegation.” An individual complaint received by the CCRB can contain multiple allegations against multiple officers. Each allegation the CCRB investigates falls within one of four categories – Force, Abuse of Authority, Discourtesy and Offensive Language (FADO). Though the number of complaints has declined, there has been no significant change in the nature of complaints, and the patterns in allegations were generally consistent with the patterns reported from 2007 to 2010.

In analyzing complaint activity by “types of allegations,” the CCRB breaks down total complaints by the presence of one or more allegations of a particular FADO category.

<sup>1</sup> Breakdown of these categories: Arrests – 400,381 in 2008; 420,095 in 2009; 421,179 in 2010; 413,573. Summonses – 506,863 in 2008; 540,735 in 2009; 535,431 in 2010; 490,326 in 2011. Stop and Frisk Reports – 531,159 in 2008; 575,304 in 2009; 601,055 in 2010; 685,724 in 2011.

The distribution of complaints across these four categories remained nearly the same from 2010 to 2011. In 2011, 49% of all complaints contained one or more Force allegations, compared to 50% in 2010. Sixty-one percent contained one or more Abuse of Authority allegations in 2011, compared to 62% in 2010. Forty-three percent of complaints contained one or more Discourtesy allegations in 2010 and 42% in 2011. The proportion of complaints containing one or more allegations of Offensive Language was 7% in 2010 and 2011. (See the online statistical appendices for a complete list of allegations, [www.nyc.gov/ccrb](http://www.nyc.gov/ccrb).)

In the Force category, the CCRB designation of “physical force” remains the most common allegation by far. This refers to an officer’s use of bodily force such as punching, shoving, kicking and pushing. In 2011, 70% of all allegations in the Force category, all together 3,780 allegations were physical force. The percentage of Force allegations characterized as physical force has remained roughly unchanged since 2005.

Another notable allegation in the Force category is “gun pointed,” with 318 such allegations in 2011, or 6% of Force allegations. By contrast, “gun fired” allegations are quite rare, 17 allegations in 2011 – only 0.3%. Also of note, in 2011, the CCRB received 319 allegations regarding improper use of pepper spray, or 6% of all Force allegations, which is the same number as the year earlier. It also received 300 allegations regarding the use of nightsticks, 6% of all Force allegations.

In the Abuse of Authority category, allegations of stop, question, frisk and/or search make up the largest portion of all allegations. As discussed above, the proportion of all CCRB complaints involving these allegations has remained unchanged in recent years. As a percentage of total allegations received by the agency, stop, question, frisk and search allegations comprised 21% in 2011, which is the same as in 2010. Stop, question, frisk and search allegations were 43% of all allegations in the Abuse of Authority category, the same as 2009. However, this has increased from 2007, when stop, question, frisk and search allegations were 40% of all Abuse of Authority allegations.

Allegations categorized as “threats of arrest” were 9% percent of allegations in the Abuse of Authority category in 2011. Other notable allegations include “premises entered and/or searched,” which were 10%. “Vehicle stop” and “vehicle search,” were a combined 9%. Likewise the allegation of “refusal to provide name and/or shield number,” represented 9% of Abuse of Authority allegations.

In the Discourtesy category, “words” accounted for 94% or 3,141 allegations in total. Only 5% of Discourtesy allegations involved “actions,” which are defined as gestures, tone of voice or actions.

Distinct from the Discourtesy category is Offensive Language, which includes slurs, derogatory remarks and gestures based on race, ethnicity, religion, gender, sexual orientation or an apparent or real disability. Offensive Language allegations make up a relatively small portion of all allegations received by the CCRB. In 2011, there were 527 allegations of Offensive Language, or 3% of all allegations across the four FADO categories. By far the most common Offensive Language allegations are those regarding race and/or ethnicity. In 2011, 68% or 359 of all Offensive Language allegations involved the use of racially offensive terms. There were 64 gender-based Offensive Language allegations and 57 allegations were based on terms associated with sexual orientation. These numbers are consistent with past years.

### Location of Incidents Resulting in Complaints

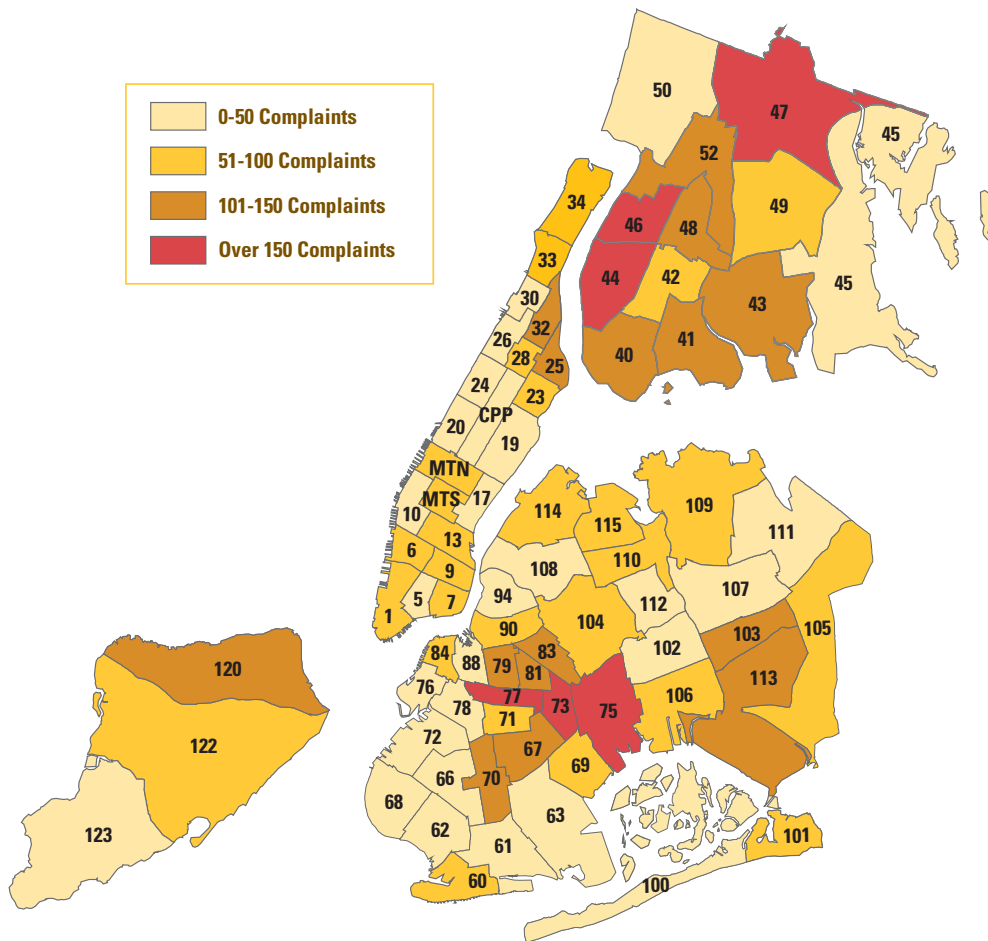
The map shows the density of complaints according to precinct of occurrence. It is important to note that the data presented does not reflect any factors that may influence the complaint rate, such as crime rate, precinct size, population density or number of uniformed personnel working within the precinct boundaries.

As complaint filings have decreased, the relative distribution of complaints has not changed significantly. The proportion of incidents that occurred in Manhattan increased from 21% of all complaints in 2010, to 22% in 2011. The Bronx, Queens and Staten Island had the same share of complaints (25%, 15%, and 4% respectively). The proportion of incidents that occurred in Brooklyn decreased from 35% in 2010 to 34% in 2011.

Comparing 2010 to 2011, 2% fewer complaints stemmed from incidents taking place in Queens. The decline in Manhattan was 4%, Brooklyn was 9%, the Bronx was 10%, and Staten Island was 13%. In actual numbers, there were 204 fewer complaints from Brooklyn, 163 fewer from the Bronx, 52 fewer from Manhattan, 33 fewer from Staten Island and 20 fewer from Queens.

As in past years, the borough generating the greatest number of complaints was Brooklyn, with 2,218 complaints. Brooklyn’s neighboring 73rd and 75th Precincts continue to have the highest number anywhere in the City, with 230 and 330 complaints respectively.

## Density of Complaint Filings January-December 2011 by Precinct



The Bronx had 1,617, the second-highest number of complaints. The 40th, 42nd, 44th, 46th, 47th and 52nd Precincts continue to have a relatively high number, with at least 140 complaints each.

### Characteristics of Alleged Victims

The percentage of alleged victims in CCRB complaints who are of a particular race or gender has been consistent over time and has differed from the City's population as reported in the 2010 United States Census. The CCRB compares the demographic profile of the alleged victims to the demographics of the City as a whole, without correcting for any other factors such as proportion of encounters with the police. In 2011, as in previous years, African-Americans were overrepresented as alleged victims. Although making up 23% of New York City's pop-

ulation, they are 56% of the alleged victims in CCRB complaints. On the other hand, whites and Asians were a disproportionately low percentage of alleged victims. In 2011, 12% of alleged victims were white, and 2% were Asian, though they make up 34% and 12% of New York City's population, respectively. The percentage of Latino victims was comparable to the population. Latinos were 27% of alleged victims in CCRB complaints and 29% of the population.

These numbers have remained fairly consistent over the last five years, with between 56% and 58% of all alleged victims being African-American. Latinos have consistently made up between 23% and 27% of alleged victims, and Whites between 10% and 14%. Asians have never made up less than 2% or more than 3% of all alleged victims. Each year, approximately 2-3% of alleged victims are classified as "other."

In 2011, consistent with past years, males were overrepresented as the alleged victims in CCRB complaints. While males make up 48% of the NYC population, they were 71% of alleged victims.

The difference between the CCRB's alleged victim population and the New York City population as a whole is even more pronounced when examining complaints of stop, question, frisk or search. The statistics for 2011 present differing variations depending on race. In 2011, 62% of the alleged victims in CCRB complaints involving stop, question, frisk or search were African-American, which is consistent with the average of 63% during the period 2007 to 2010. In these same types of cases, the percentage of white alleged victims stayed at 9%. Latinos were 25%, which is slightly higher, and 1% were Asian, which is unchanged. Three percent of civilians were categorized as "other." In actual numbers, African-American alleged

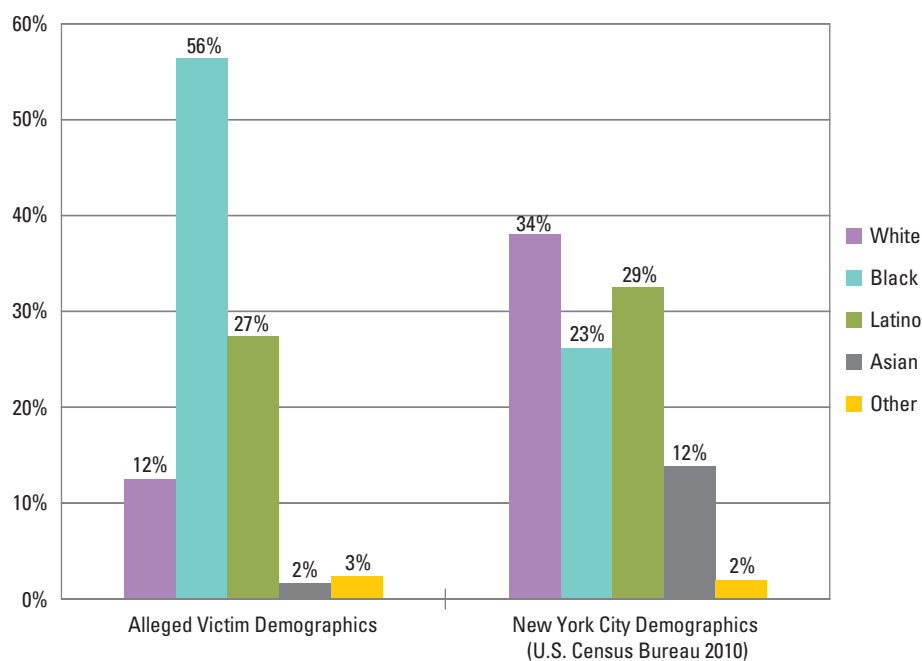
victims in stop-and-frisk complaints decreased from 1,459 in 2010 to 1,200. At the same time, the number of Latinos decreased from 521 in 2010 to 481 in 2011. White alleged victims decreased from 178 to 176. The demographic statistics were the same regardless of whether or not a frisk and search was part of the complaint.

### Characteristics of Subject Officers

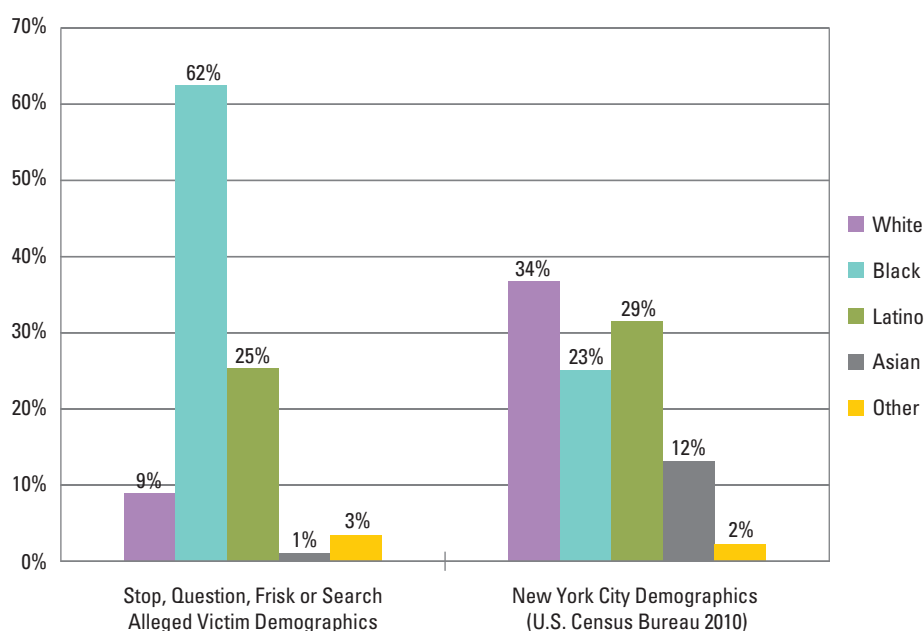
While the race of alleged victims in CCRB complaints differs from New York City's population, the officers who are subjects of CCRB complaints have historically reflected the racial makeup of the Police Department. This trend continued in 2011 when 50% of subject officers were white, and whites are 52% of the Department; 18% of subject officers were black, while black officers are 16% of the Department; 27% were Latino, while Latinos make up 26% of the Department; and 5% were Asian, while Asians make up 5% of the Department.

Male officers are overrepresented as the subjects of CCRB complaints. In 2011, consistent with past years, male officers received 90% of all CCRB complaints while making up 83% of the Department.

### 2011 Alleged Victim Demographics Compared to New York City Demographics



### 2011 Alleged Victim by Race in Stop, Question, Frisk and Search Complaints vs. New York City Demographics



## Average Case Closure Time

The average time it takes to close a CCRB complaint is one of the indicators the agency uses to measure productivity. This measure looks at the length of time from the date the CCRB receives a complaint or the date of occurrence of the incident, to the date a complaint is closed by the Board. The CCRB uses three yardsticks: the time to complete a full investigation from date of report; the time needed to close a substantiated investigation from date of report; and the age of a substantiated case referred to the Police Department based on the date of incident.

The CCRB took an average of 284 days to complete a full investigation in 2011, a decrease of 5% from the average of 299 days in 2010. This was the shortest time since 2006, when it took 281 days to complete a full investigation. The agency considers case completion as a two-step process. Step one is the investigation. After the investigation, step two occurs, in which the case is transferred to a panel of three Board members who then review it and make findings on whether or not misconduct was committed. In 2011, the average time for step one was 227 days, which was eight days shorter than in 2010. Step two was 57 days, seven fewer days than in 2010.

The time needed to complete a substantiated investigation also decreased in 2011. It took an average of 346 days to complete a substantiated investigation, a 3% drop from the average of 357 days in 2010. Still, the 2011 case closure time was 15% longer than in 2007, when it was 301 days. Since 2008, all substantiated cases have had an additional layer of review by a team of seasoned attorneys, which has increased completion times.

The decline from 2010 to 2011 in case closure time for substantiated cases resulted in a decrease in the number of cases referred to the Police Department that were a year or older. In 2011, 45% of cases referred were one-year or older. By comparison, it was 55% of cases in 2010, 61% in 2009, 50% in 2008, and 35% in 2007.

The agency has also seen a significant drop in the number of cases referred to the Police Department that were 15 or more months from the date of incident. In 2008 and in 2009, 24% and 36% of substantiated cases fell in this age range respectively. This went down in 2010 and 2011, to 17% and 19% of referred cases.

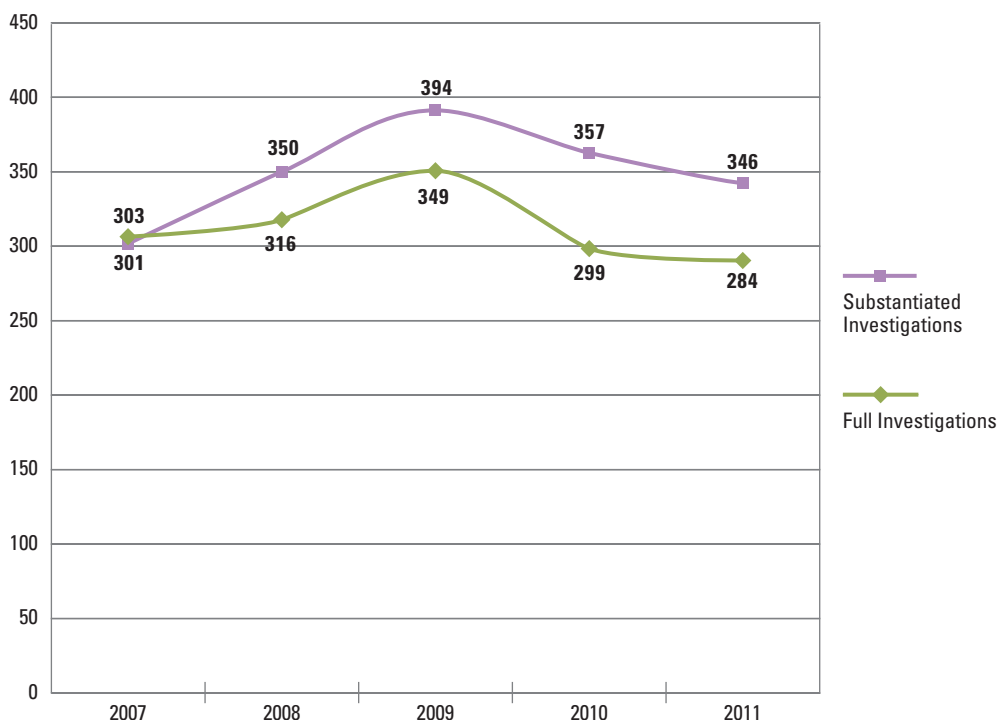
For the first time in the agency's history, the CCRB did not refer any substantiated case to the Police Department in which the Statute of Limitations had expired. The Board referred three such cases in 2010 and eleven in 2009.

In 2011, all referred cases were 16 months old or less, giving the Department two or more months to decide whether or not to pursue prosecution.

## Docket Size

The CCRB uses the term "open docket" to refer to the number of complaints that are not yet resolved and are being processed by the agency at a given point in time. The goal is to achieve the lowest possible number. The term "year-end docket" refers to the number of complaints still open as of December 31st of a given year. The size of the year-end docket for 2011 was 2,669 complaints, a decrease of 117

**Average Number of Days to Investigate a Complaint 2007-2011**



cases (4%) from 2010 and a 21% decrease from five years ago when the year-end docket was 3,357 cases. The 2011 open docket was the lowest since 2002.

Two factors explain the decrease in the year-end open docket. First, although the Board closed fewer complaints in 2011 than in 2010, the Board closed more complaints than it received. The Board closed 6,108 cases in 2011 compared to 7,039 cases in 2010. If we adjust the number of Board closures by the number of cases available for closure (cases received in that year plus the open docket from the prior year), the Board closed 70% of all cases available in 2011, while it closed 72% in 2010.

The second reason for the decrease in the year-end docket is investigator productivity. Despite a hiring freeze and a high vacancy rate, the average number of cases completed per investigator continued to be high. In 2011, the average number of cases completed per investigator was 67. By comparison, each investigator completed 72 cases per year in 2009 and 2010.

The docket of the Investigations Division (cases under current investigation before they are submitted for Board review) increased by 25% in just one year, from 1,504 in 2010 to 1,876 in 2011. The Investigations Division

open docket was 2,280 in 2007, 2,603 in 2008, and 2,024 in 2009.

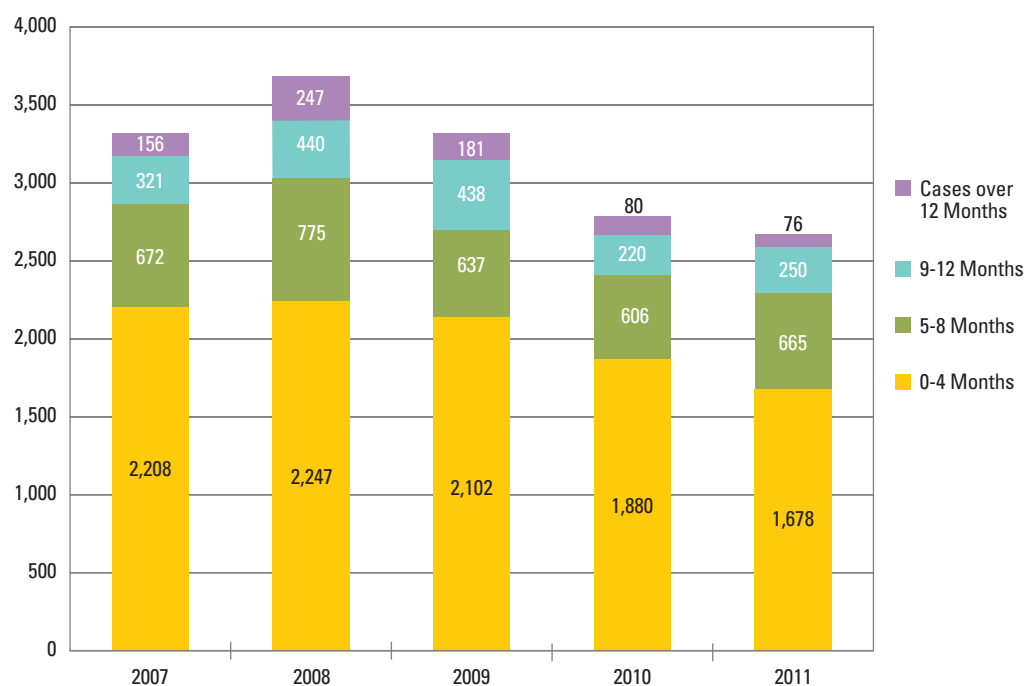
### Age of the Docket

The greater the percentage of newer complaints in an open docket, the better the productivity. At the end of 2011, 63% of open complaints – 1,678 – were four months old or less from the date of filing. This is 5% lower than 2010, when 68% of open complaints were four months old or less.

At the same time, the percentage of “old” cases dropped. In 2011, complaints 12 months and older from the date of filing were 4% of the docket. This is the same as in 2010. In 2007, it was 6%. Likewise, the percentage of complaints 15 months or older was reduced from 1.6% of the open docket in 2010 to 1.5% in 2011.

In looking at the age of the docket from the perspective of the date of incident, there was also improvement. This is relevant because the Statute of Limitations requires that charges be brought against a police officer within 18 months of the date of the incident. The number of cases aged 15 months or more fell from 104 in 2009, or 3.1% of the agency's open docket, to 50, or 1.9%, in 2010 and 2011.

**Size and Age of Open Docket 2007-2011**



# Investigative Findings

## Understanding Disposition Statistics

To understand the CCRB's complaint dispositions, it is important to distinguish a "complaint" from an "allegation." A complaint is a case stemming from a civilian encounter with police, in which the civilian believes the officer(s) committed acts of misconduct. In contrast, an allegation is the specific act(s) of misconduct that the civilian alleges occurred. It is an unproven accusation that a police officer violated a policy, procedure, rule, regulation or law which may ultimately lead to discipline. In some instances, a complaint has a single allegation against a single officer. However, in most cases a complaint has multiple allegations against one or more officers.

In 2011, 32% of closed complaints contained one allegation only; 42% contained two or three allegations; 25% contained four to nine allegations; and 1% of all cases involved ten or more allegations. Seventy-eight percent of complaints were made against one officer; 16% against two officers; and 6% against three or more officers.

While the Board evaluates a complaint in its totality, it makes findings on the specific misconduct allegations. For example, a person may allege that during one incident, he or she was unfairly stopped and frisked, spoken to discourteously, and that in the course of the stop the police officer used unnecessary force. Each of these – the stop, frisk, discourtesy and force – will be a separate allegation which will be investigated. When the investigation is done, the Board will assess individually the evidence and witness statements pertaining to each allegation. The Board could find that the stop and frisk were allowable given the circumstances, that there was inadequate evidence to determine whether the officer spoke discourteously and that the force used by the officer was unnecessary and therefore misconduct. So, the Board would find the stop and frisk allegation "exonerated," the discourtesy allegation "unsubstantiated" and the force allegation "substantiated."

In a complaint such as this example, the Board would forward the case to the Police Commissioner and recommend appropriate disciplinary action on the substantiated allegation, regardless of the findings on other allegations. In addition, the CCRB would send a letter to the complainant and the officer informing them of the Board's findings. In those cases where the Board does not find misconduct, the Board informs the parties of the

disposition by letter, but it does not forward the case to the Police Commissioner.

It is also important to understand the difference between a "full investigation" and a "truncated case." A full investigation is a case in which an investigator is able to conduct a complete inquiry. A truncated investigation is one where the case has to be closed before it is fully investigated. Reasons for truncations include: the civilian withdraws the complaint; the civilian cannot be located; the civilian is uncooperative; or the alleged victim cannot be identified.

## Disposition of Complaints

After a full investigation, if the Board finds misconduct in one or more of the allegations, then the complaint is deemed substantiated. Cases in which no allegation is substantiated are either deemed exonerated, unfounded, or unsubstantiated. In relatively few cases, the officers are unidentified, or the officer is no longer a member of the NYPD.

The CCRB's investigative findings are categorized by assigning a single disposition or outcome label to each complaint, allowing analysis by disposition. One figure of consequence is the rate at which fully investigated complaints are substantiated, called the "substantiation rate." In 2011, the CCRB completed 1,926 full investigations, substantiating at least one allegation in 160 complaints, or 8%.

This 2011 substantiation rate was 3% lower than the substantiation rate in 2010. From 2007 to 2009, the average substantiation rate was 7%. In 2011, in actual numbers, there were fewer substantiated cases than at any point from 2007 to 2010. The Board substantiated 216 complaints in 2007, 161 in 2008, 197 in 2009, and 260 in 2010.

In the analysis of complaint dispositions, another relevant statistic is the truncation rate. In 2011, the truncation rate was 61%. This was 1% higher than in 2010 and 3% lower than in 2009, which had the highest rate during the past five years. The rate was 62% in 2007. The average truncation rate for the past five years was 63%.

## Disposition of Allegations

Case dispositions are also analyzed by tallying the individual disposition of each allegation within a complaint that the CCRB fully investigates. Two numbers are important. One is the rate at which the CCRB makes "findings

on the merits.” Findings on the merits result when the agency obtains sufficient credible evidence for the Board to reach a factual and legal determination regarding the officer’s conduct. These findings include those allegations resolved as “substantiated,” “exonerated” or “unfounded.”

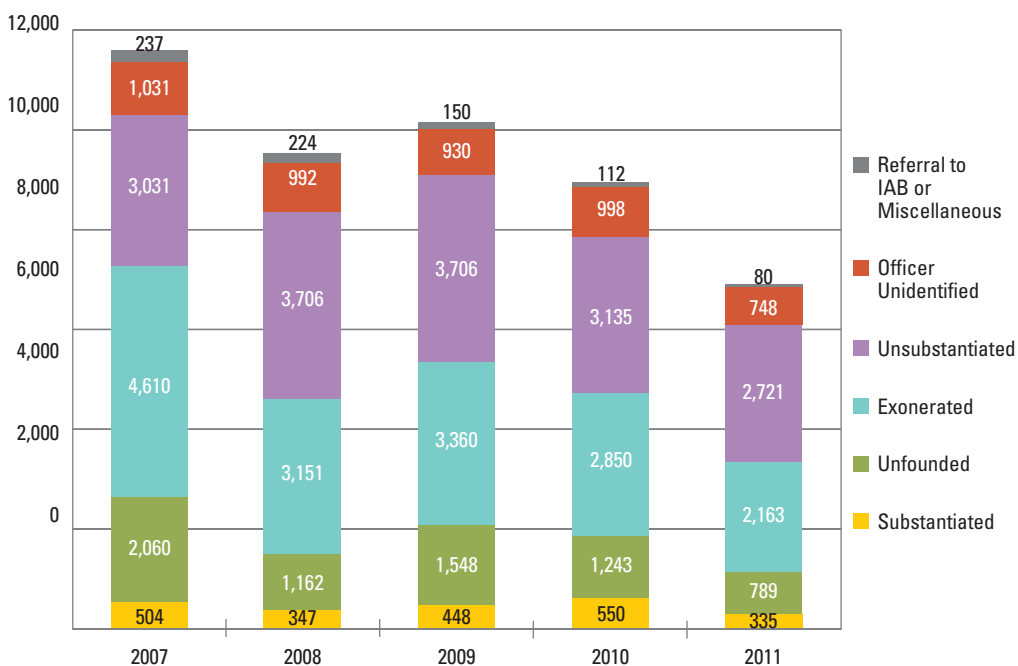
Of the 6,836 allegations the CCRB fully investigated in 2011, 3,827 allegations, or 48%, were closed with findings on the merits, compared to 52% in 2010 and 53% in 2009. In 2007, the CCRB made findings on the merits 62% of the time, in 7,174 allegations.

The main reason for the drop in the rate of findings on the merits is an increase in the rate of unsubstantiated allegations. In 2011, 2,721 allegations were unsubstantiated or 40%. This is higher than the 35% (3,135) in 2010, 37% (3,706) in 2009 and 39% (3,706) in 2008. It is also a significant rise from 2007, when 26% (3,031) of all fully investigated allegations were deemed unsubstantiated.

By comparison, allegations closed as “officer(s) unidentified” were 11%. From 2007 to 2010, the proportion of officer(s) unidentified allegations fluctuated from 9% to 11%. An officer unidentified disposition may occur in cases in which all officers are unidentified or in cases in which some of the officers are unidentified. In 2011, there were 748 allegations closed as officer(s) unidentified, but only 119 cases, 6% of all full investigations, were closed as officer(s) unidentified because all officers in that complaint remained unidentified at the end of the investigation.

The other key figure is the “substantiation rate by allegation,” which was 5% in 2011. From 2007 to 2010, the rate averaged 4%. Small change or no change was seen in the substantiation rate for all four categories of allegations – Force, Abuse of Authority, Discourtesy and Offensive

### Disposition of Allegations in Full Investigations 2007-2011



Language. In 2011, 13 Force allegations, or 1% were substantiated, versus 54 allegations, 2%, in 2010. For Abuse of Authority, 297 allegations, or 9% were substantiated, compared to 449, or 10% in 2010. For Discourtesy, 23 or 2% were substantiated, while 23 or 3% were substantiated in 2010. No Offensive Language allegations were substantiated in 2011, compared to five such allegations, or 2% in 2010.

In the online statistical appendices ([www.nyc.gov/ccrb](http://www.nyc.gov/ccrb)), the CCRB includes extensive information concerning Board dispositions by allegation. For example, Tables 26 A-E show that in 2011, allegations of “search” were exonerated at a rate of 11%, the same as in 2010. However, these tables also show that vehicle search allegations were more likely to be unsubstantiated in 2011 (59%), compared to 39% in 2010.

### Other Misconduct Noted

When a CCRB investigation uncovers evidence of certain types of police misconduct that do not fall within the agency’s jurisdiction, the Board notes “other

misconduct" ("OMN") and refers the case to the NYPD for possible disciplinary action. An example of an OMN allegation is the officer's failure to properly document an incident in his or her memo book. Cases of other misconduct should not be confused with corruption cases, which are referred to the Internal Affairs Bureau for investigation.

From 2007 to 2011, the CCRB referred 1,025 cases of other misconduct to the Police Department, against 1,634 officers. In 2008, after consultation with the Police Department, the Board began routinely referring cases in which other misconduct was noted. The Board referred cases against 71 officers in 2007, 276 in 2008, 297 in 2009, 477 in 2010, and 513 in 2011. During the five-year period, the total number of allegations of other misconduct referred to the Police Department was 1,767.

### CCRB Dispositions

**Substantiated:** There is sufficient credible evidence to believe that the subject officer committed the act charged in the allegation and thereby engaged in misconduct.

**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 did or did not commit misconduct.

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

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

There are two distinct types of OMN cases. The first type is when other misconduct occurs in a case in which an allegation of force, abuse of authority, discourtesy, or offensive language (FADO) is substantiated. The case is categorized as an OMN with a substantiated FADO allegation and the OMN is part of the case file sent to the Department Advocate's Office for discipline. In recent years, there has been a steady increase in the number of substantiated complaints with OMN allegations. In 2007, 32 out of 301 officers against whom the Board substantiated complaints were also noted for other misconduct, or 11%. In 2008, it was 27%; 30% in 2009; and, 36% in 2010. In 2011, 99 out of 213 officers that the Board found committed misconduct were also noted for other misconduct, or 46%.

The second type of OMN case is when no FADO allegation is substantiated. The case is categorized as an OMN without a substantiated FADO allegation. In this type of cases, only the other misconduct noted is referred to the Police Department for possible disciplinary action. In the last five years, the number of cases in this category has also steadily increased. In 2011, the Board referred 414 officers while, in 2007, the Board referred 39 officers. The Board referred 276 officers in 2008, 297 in 2009, and 477 in 2010.

The proportion of cases forwarded to the Police Department for discipline that contained either a substantiated FADO allegation or an OMN has increased over time. In 2011, 21% of cases in which the CCRB conducted a full investigation were forwarded to the Police Department. By comparison, the CCRB forwarded 9% in 2007, 13% in 2008, 13% in 2009, and 20% in 2010.

A case involving other misconduct may have of one or more allegations. From 2007 to 2011, 91% of OMN cases consisted of one allegation and 9% consisted of two allegations.

The most serious type of other misconduct that the CCRB refers to the Police Department is a false official statement by an officer, either to the CCRB or in an official document or other proceedings that comes to light during CCRB's investigation. In 2011, the CCRB noted three instances in which an investigation produced evidence that an officer made a false official statement. In all three instances, the underlying complaint was substantiated. From 2007 through 2011, the CCRB noted a total of fifteen instances of false official

statements – one third of which were not associated with a substantiated complaint.

In addition to false official statements, the Board also refers cases to the Police Department in which officers failed to document their actions as required by NYPD procedure. There are three major categories of failure to document. The first category is an officer's failure to fill out a stop-and-frisk form. In 2011, the Board referred 120 such allegations, an 18% increase from 2010, and it has referred 464 in the last five years. The second type is an officer's failure to document a strip-search in the precinct's command log. In 2011, the Board referred three such allegations, a 73% decrease, and 67 in the last five years. The third category is an officer's failure to make memo book entries. The Board referred 440 such failures in 2011, a 12% increase, and it referred 1,613 in the last five years.

These types of failures are significant because a CCRB investigation needs a preponderance of evidence for the

Board to make a finding on the merits and an officer's documented actions can tip the balance. On the other hand, the failure to document can result in a lack of evidence which causes the complaint to be unsubstantiated. In 83% of cases in which there was other misconduct noted, and no FADO allegation was substantiated, the Board unsubstantiated the FADO portion of the complaint, rather than reaching a finding on the merits. In 15% of these cases, the complaint was either exonerated or unfounded.

In addition to the four specific categories of other misconduct mentioned above, the Board also has a miscellaneous category for things such as "improper supervision" or "failure to complete an aided report." The Board referred one instance of other misconduct in this miscellaneous category in 2011 and 45 such instances in the last five years.

When the CCRB was created in 1993, the enabling legislation (NYC Charter, Chapter 18-A) mandated that the Board create a mediation program that would allow civilians to resolve their complaints “by means of informal conciliation,” should they voluntarily choose to do so. The CCRB seeks to offer mediation to every civilian, in appropriate cases, as soon as they have been interviewed by an investigator. Cases involving property damage, serious physical injury or death, or where there are pending criminal charges, are not eligible for mediation.

In its first year, the CCRB’s mediation program resolved just two complaints. It has grown significantly since then. Since 2009, one of the strategic priorities of the Board has been to continue to strengthen and expand the mediation program. In 2011, the agency closed 376 cases through the mediation program, the highest number ever.

Mediation provides a valuable alternative to investigation to resolve civilian complaints of police misconduct. While an investigation is focused on evidence gathering, fact-finding and the possibility of discipline, a mediation session focuses on fostering discussion and mutual understanding between the complainant and the subject officer. Mediation gives civilians and officers the chance to meet

as equals, in a private, quiet space. A trained, neutral mediator guides the session and facilitates a confidential dialogue about the circumstances that led to the complaint.

The mediation session ends when the parties agree that they have had an opportunity to discuss and, in the vast majority of cases, resolve the issues raised by the complaint. After a successful mediation, a complaint is closed as “mediated” – meaning that there will be no further investigation and the officer will not be disciplined.

Another benefit of mediation is that it offers the parties a quicker resolution of their cases, compared to a full investigation. For example, in 2011, even though the time to mediate a case increased by 2 days, it was still only 177 days, which is 105 days shorter than a full investigation. Successful mediations also benefit communities because a measure of trust and respect often develops between the parties. That, in turn, can lead to better police-community relations.

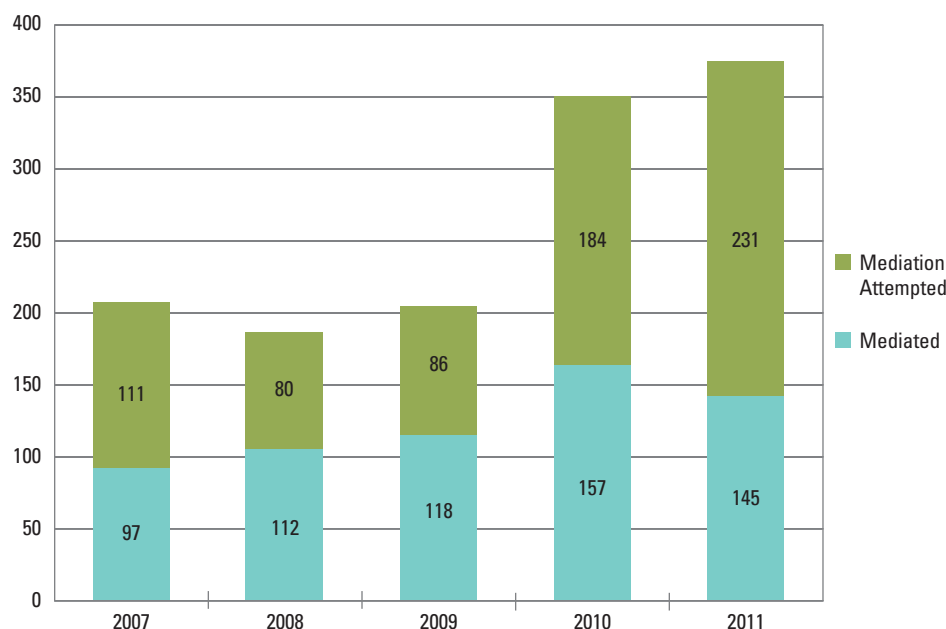
### Mediation Statistics

In 2011, the number of cases resolved by the Mediation Unit was approximately 16% of the total number of cases resolved by the CCRB, either through the mediation process or a full investigation. By comparison, the mediation resolution rate was 7% in 2007, 8% in 2008, 7% in 2009, and 12% in 2010.

The number of mediation closures (mediations and mediations attempted) increased by 10%, from 341 in 2010 to 376 in 2011. From 2007, the number of closures through the mediation program has increased 81%. In 2011, mediation closures were 6% of all board closures, 3% higher than in 2007. The Mediation Unit achieved these productivity gains even though its staffing level has remained unchanged.

In 2011, the number of cases successfully mediated decreased by 8%. In five years, the number of successful mediations increased by 49%. In 2011, the CCRB conducted 167 mediation sessions. Civilians and officers satisfactorily addressed 157 complaints, resulting

### Mediation Closures 2007-2011



in a 94% resolution rate. In ten cases, one of the participants was not satisfied and the case was referred for investigation. By comparison, in 2007, the resolution rate was 98%.

The number of cases closed as “mediation attempted” increased from 184 in 2010 to 231 in 2011, or 26%. In five years, the number of attempted mediations increased by 108%. Mediation attempted is a designation for a case in which both officer and civilian agreed to mediate the complaint but the civilian fails twice to appear at the scheduled mediation session or fails to respond to attempts to set up the mediation session.

The CCRB’s investigative staff is responsible for offering mediation to complainants. The Police Department is responsible for offering it to officers, in coordination with the CCRB’s staff. The CCRB has ongoing trainings, for both investigative staff and Police Department representatives, to teach them how mediation works and about its benefits.

In 2011, the proportion of cases in which an investigator offered mediation in eligible and suitable cases increased, from 54% in 2010, to 60%. The offering rate was 39% in 2007. As a result, even while the universe of eligible and suitable cases decreased by 9%, from 2,616 in 2010 to 2,376 in 2011, the number of cases in which mediation was offered increased slightly. In 2011, the CCRB offered mediation in 1,415 cases, three more than in 2010 and 348 more than in 2007 (when the universe of eligible and suitable cases was 14% smaller).

In 2011, as for the past five years, with the exception of one year, the rate of complainant acceptance of mediation has been above 50%. The mediation acceptance rate for civilians was 52% in 2007, 48% in 2008, 53% in 2009, 57% in 2010 and 53% in 2011. The number of civilians who accepted mediation increased from 511 in 2007 to 753 in 2010 and 713 in 2011. However, from 2010 to 2011, the number of civilians who accepted mediation decreased by 5%.

In 2011, the Mediation Unit received 574 mediation referrals from the investigative teams, compared with 652 in 2010. This is a 12% decrease. As previously noted, the reasons for this decrease are the fall in the number of civilians who accepted mediation and the fact that a substantial number of civilians withdrew their complaint or became uncooperative after having initially agreed to mediate the complaint.

The percentage of subject officers who accepted the offer to mediate rose for four years, from 67% in 2007, 68% in 2008, 74% in 2009, and to 82% in 2010. However, in 2011, the officer acceptance rate fell to 77%. The CCRB offered mediation to 657 officers and 505 accepted. By comparison, in 2007, 369 officers were offered mediation and 249 accepted. The CCRB believes that much of the five-year increase in the officer acceptance rate stems from the Police Commissioner’s public support of the mediation program and also the increased presentations by Mediation Unit staff at various officer trainings, including at the Police Academy. The CCRB is exploring the reasons behind the decrease from 2010.

## Police Department Dispositions

When the Board determines that an officer engaged in misconduct, its findings and disciplinary recommendations are submitted to the Police Commissioner. These findings and recommendations are made on each individual officer who is part of a case and on each individual allegation separately. No finding or recommendation is ever based solely upon an unsworn statement or an officer's complaint history.

In 2011, the Board forwarded 160 substantiated complaints against 213 police officers to the Department, as compared to 260 complaints against 375 officers in 2010. The Board recommended Charges be brought against 149 subject officers (70%), Command Discipline for 42 (20%), Instructions in 15 cases (7%), and for seven officers no recommendation was made (3%). In 2011, the number of subject officers in substantiated complaints sent to the Department was the lowest for the five-year period. There were 301 subject officers in 2007; 219 in 2008; and 277 in 2009. In total, the Board forwarded 994 substantiated complaints against 1,385 officers from 2007 to 2011.

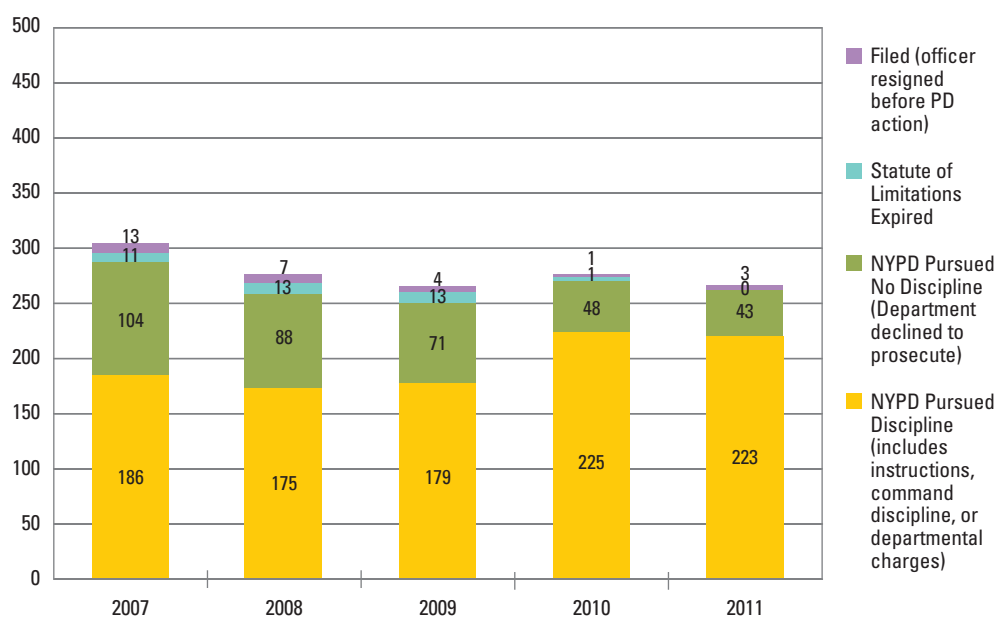
Under the law, only the Police Commissioner has the authority to impose discipline and to decide the level of punishment. The Police Commissioner generally delegates responsibility for initial evaluation of CCRB misconduct cases, including the decision of whether or not to seek

disciplinary action, to the Department Advocate's Office (DAO), which processes all other Department disciplinary matters in addition to CCRB cases.

If the DAO decides to pursue discipline, there are three disciplinary options. The Advocate can compel an officer to receive Instructions – the mildest form of discipline; forward the case to the subject's commanding officer for imposition of a Command Discipline (which may result in the loss of up to ten vacation days); or file administrative Charges and Specifications, the most serious option. Charges and Specifications may lead to: an officer pleading guilty prior to trial, usually the result of plea negotiations; or prosecution in an administrative trial. The charges can also eventually be dismissed, either by an Assistant Deputy Commissioner for Trials or a DAO attorney if the office determines that the case can no longer be prosecuted.

In 2011, the Police Department disposed of CCRB cases against 266 subject officers, compared to 274 subject officers in 2010. Looking at the five-year trend, the Department reached a disposition on cases against 314 officers in 2007, 283 officers in 2008, and 267 officers in 2009. This was a total of 1,408 subject officers in the five year period, 2007 to 2011. These numbers do not include any cases that were not substantiated yet the Department imposed discipline for "other miscon-

### Police Department Action in Substantiated CCRB Cases 2007-2011



duct” referred by the Board. During this period, the DAO closed more cases against officers (1,408) than it received (1,385) from the CCRB.

The Department’s disciplinary action rate on substantiated complaints reached its highest level in 2011. The Department disciplined 81% of all officers referred by the CCRB. This was three points higher than the 2010 level (77%), which represented the previous historical high. The discipline level was significantly higher than in the period from 2007 to 2009, when the disciplinary rate was 58%, 56%, and 62%, respectively. In absolute numbers, disciplinary actions increased from 176 in 2007 to 216 in 2011, the highest number during the five-year period.

An area of relative change was the number of cases in which the Department brought administrative Charges and Specifications and pursued prosecution. In 2007, the Police Department prosecuted 21 cases, or 7% of all disciplinary actions. In 2008 and 2009, the proportion and the number of prosecutions increased as the Department prosecuted 38 and 41 cases, or 14% and 16% of all actions, respectively. In 2010, the number and proportion of prosecutions decreased as the Department prosecuted 22 cases, or 8% of all actions. In 2011, the number and proportion of cases in which the Department prosecuted the officer increased again. It was 35 officers, or 13% of all disciplinary actions.

In 2007, the Police Department conducted 11 administrative trials stemming from substantiated CCRB cases. In 2008, 2009 and 2010, the Department conducted 19, 20 and 14 administrative trials, respectively. In 2011, there were 17 trials. During this five year period, the rate of guilty verdicts obtained by the Department has fluctuated. The guilty rate was 46% in 2007, 21% in 2008, 30% in 2009, 29% in 2010 and 59% in 2011. The guilty rate for 2011 is a historical high.

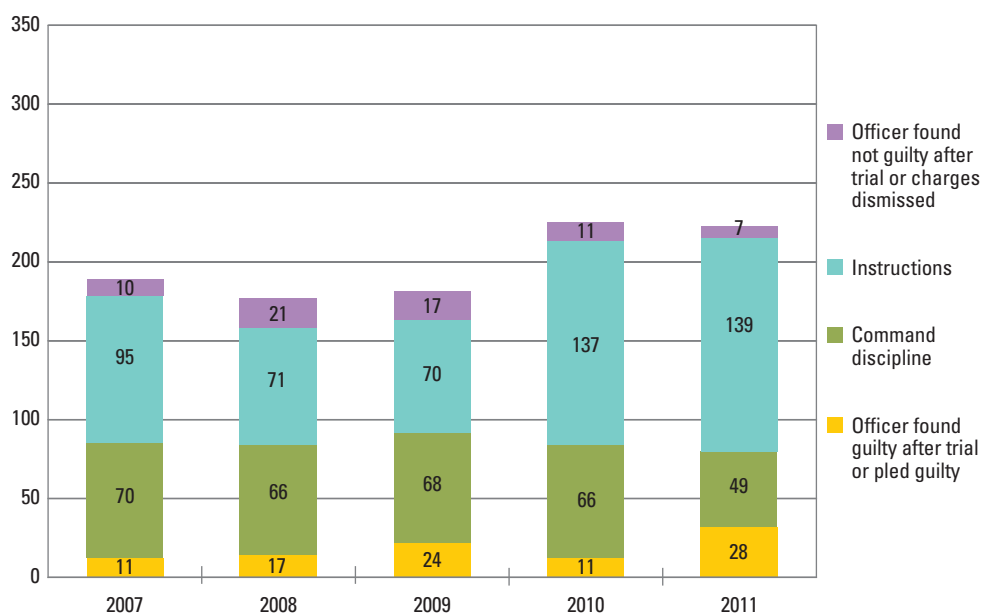
The number of plea negotiations has also fluctuated over time. The Department negotiated six guilty pleas in 2007, 13 in 2008, 18 in 2009, 7 in 2010 and 18 in 2011. Out of all actions, the percentage of cases negoti-

ated increased from 2% in 2007 to 7% of disciplinary actions in 2011. The number of cases in which the charges were dismissed decreased from four and six in 2007 and 2008, respectively, to one in 2010 and none in 2011.

In 2011, there was a notable change in the rate at which the Department declined to seek any discipline in substantiated CCRB complaints. In 2007, the Department declined to seek discipline in 104 cases or 35%. In 2008 and 2009, the Department declined to seek discipline in 88 and 71 cases (32% and 27%), respectively. The trend began to change in 2010, with the Department declining to seek discipline in 48 cases (18%), a big drop from the prior three years. In 2011, the Department declined to pursue discipline in 43 cases (16%).

In looking at the substantiated allegations in the cases where the Department declined to pursue discipline in 2011, the analysis reveals three findings. First, two categories of misconduct account for 57% of all allegations in which the Department declined to pursue discipline: stops and frisks and refusal to provide name and/or shield number. Second, the Department declined to prosecute threat of arrest or threat of force at a rate of 50% or more. Third, the Department declined to prosecute the following three types of substantiated allegations 25% of the time or more: search (28%), physical force (31%), and refusal to provide name and/or shield (46%).

### Police Department Pursued Discipline in Substantiated CCRB Cases 2007-2011



In 2011, Instructions and Command Discipline were given in 188 cases (71% of all actions). This is a decrease compared to 2010, when Instructions and Command Discipline were given in 203 cases (74%). In 2007, Command Discipline and Instructions were given in 165 cases or 55% of cases.

### **Administrative Prosecution Unit**

In order to enhance the likelihood of meaningful discipline and successful prosecutions, the CCRB continued to strengthen communication with the Police Department through the Department Advocates Office. In 2011, the agency began conducting lead prosecutions of officers whose cases went to trial, under the pilot Administrative Prosecution Unit (APU). Creation of the APU grew out of an earlier project established in 2008 in which CCRB attorneys were second seats at Department trials. Beginning in July 2010, CCRB's second seat attorney went from being an observer to active participant, assisting the DAO attorneys by helping to prepare witnesses prior to trial and conducting at least one direct and one cross examination of witnesses during trials.

In November 2011, the Administration authorized permanent funding for the APU, which is expected to handle lead prosecutions and second seats going forward. As of December 2011, the budget provided funds for two positions, a lead attorney and an investigator, not the second attorney and investigator the agency requested.

From July 2010 to December 2011, CCRB attorneys prosecuted fifteen officers in eleven trials. In three trials the CCRB attorney was the lead prosecutor and in eight trials, the CCRB attorney second seated Police Department attorneys. Of the 15 officers prosecuted, ten were found guilty after trial, one officer pled guilty at trial, two officers were found not guilty and decisions were pending in cases against two others.

There have been four key benefits of the cooperation between the two agencies. The first is better civilian cooperation. Historically, civilians have been reluctant to testify at NYPD disciplinary trials, in part because they wrongly perceived that NYPD prosecutors represent the interests of officers. The APU prosecutor has been able to obtain a high level of civilian cooperation, by virtue of working for an independent, all civilian agency and because of the existing rapport established with victims during CCRB's investigation of their complaints. The benefit of this rapport

with civilians extends to the Second Seat program. For example, after the NYPD had unsuccessfully attempted to obtain the cooperation of two civilian witnesses for trial, the APU investigator convinced them to testify by assuring them that the CCRB would be directly involved in the case. The CCRB has also offered its offices to the Department, rather than using the NYPD's headquarters for meetings with civilian witnesses in order to make them feel more comfortable and increase the likelihood of their participation at trial.

Second, the CCRB's attorneys have provided the Police Department's judges (Deputy Commissioner for Trial and Assistant Deputy Commissioners for Trial) with important insights into the nature of CCRB investigations, thereby strengthening prosecutions. In the past, defense attorneys successfully impeached prosecution witnesses on seeming inconsistencies or omissions from the multiple statements given to the CCRB, from the initial intake interview to the formal in-person statement. In one case the APU prosecutor was able to educate the Court that what appeared to be inconsistent statements were in fact a reflection of the three types of CCRB interviews, which are designed to elicit different kinds of information and levels of detail. In another case, the CCRB prosecutor was able to rebut a defense attorney's claim that officers are not allowed to tell their side of the story during CCRB interviews.

Third, the CCRB's experience in the NYPD Trial Room has enriched the training provided to the agency's staff. Based on lessons learned at trial, the agency gave investigators more training on topics such as investigating strip search allegations and photo identification procedures. Plus, each CCRB investigative team is required to send investigators and supervisors to observe APU trials. They participate in a post-trial debriefing with APU staff in order to develop best practices based on what they observed in court.

Fourth, the APU enhanced the CCRB's legal review of substantiated allegations. The agency's attorneys now review investigations resulting in substantiated allegations with an eye towards what is needed to prevail at trial. They also spot and resolve potential obstacles to prosecution early on in an investigation and can anticipate what defenses will be raised at trial so that investigators can collect necessary rebuttal evidence before closing the investigation.

**Substantiated**

A 17-year old Bronx boy had just reached home from school and was getting his keys out, he when he was stopped by a plainclothes officer who was part of a Street Narcotics Enforcement Unit (SNEU). The officer asked him what he was doing, and then searched his pockets. When the boy's grandmother came outside to see what was going on, the officer walked away. Video footage from an outside surveillance camera captured the interaction and showed two other plainclothes officers, part of the same SNEU team. The video enabled the investigator to establish positive IDS of the three officers. The officer who searched the boy said he couldn't remember whether or not he had seen a drug transaction and couldn't recall any other the reason for the stop or justification for the search. He had made no memo book entry, nor documented his reasons on the required stop and frisk form. The other two officers on the videotape said they had no recollection of the incident. The case was substantiated because the officer who stopped and searched the boy hadn't seen a drug transaction, lacked reasonable suspicion of any other kind for the stop, and had no probable cause to justify the search.

**Exonerated**

A young woman filed a complaint against a police officer for using excessive force when he handcuffed her outside a Chelsea nightclub on New Year's Eve. The woman had been part of a large crowd trying to enter an oversold event when club owners called police for assistance. The investigation revealed that the relevant facts in the case were not in dispute. In her CCRB interview the woman admitted disobeying an officer's multiple orders to leave, repeatedly screaming at the officer not to f\*cking touch her and pushing him away as he motioned her out of the crowd. The officer said because the woman's behavior was making the crowd's behavior worse, he brought her to the ground to handcuff and arrest her for disorderly conduct. The CCRB exonerated the officer of misconduct because the woman's behavior clearly constituted disorderly conduct and the force used to arrest her was minimal and necessary.

**Unfounded**

Two Brooklyn officers responded to a call of an assault in progress and found two sisters in a physical fight on the sidewalk. One of the sisters was the aggressor. She was extremely intoxicated and began screaming and swinging

at the officers. The other sister had called 911. She was crying and told the officers that she was afraid of her sister, who was on medication for a psychiatric disorder and had a history of domestic violence. Unable to calm down the intoxicated woman, the officers called an ambulance to take her to the hospital. In her complaint to the CCRB, the woman claimed that one of the officers had put her in a chokehold in the ambulance and again at the hospital. The officers said the woman resisted being handcuffed and had to be restrained and strapped to the stretcher when she started kicking at them. Though the officers admitted using minor force to restrain and secure her, they denied choking her or restricting her breathing at any point. Other witnesses, including the emergency medical technician, corroborated the officers' version of events. The chokehold allegation was therefore deemed unfounded.

**Unsubstantiated**

A young man had just gotten out of his BMW after parking in upper Manhattan, when a patrol car pulled up. One of the officers allegedly asked the man whose car he was driving. He said it was his mother's and the officer asked him for his license and the car's registration. When the man hesitated and asked what he'd done wrong, the officer ordered him to get into his car. After checking the man's documents, the officer gave them back and drove off without issuing a ticket. Based on the complainant's description of the officers, the number on the patrol car and the date and time of day, the investigator identified the officers involved. A query of the New York State Police database confirmed that one of them had checked the man's ID for warrants at the time he said he was stopped, thus confirming an interaction.

When they were interviewed at the CCRB, both officers said they didn't remember the incident and neither of the officers had made the memo book entry required for a vehicle stop and warrant check. A memo book entry might have provided insight into whether or not the stop was justified. The case was closed as unsubstantiated because even though there was no reason to question the complainant's credibility, there was also no evidence to corroborate the allegation that he was stopped without justification. However, because the officers failed to document the stop in their memo books as required by the Police Department, the board found that they committed "other misconduct" and referred the case to the Department for discipline.

\*Some details, unrelated to the substance of the case, such as names, dates and locations, have been changed to protect identities.

## Mediated

On Friday morning, March 18, 2011, at approximately 8:30 am, Officer One and Officer Two were on assignment at the West 72nd Street subway station in Manhattan, when they observed five teenage boys, about ten yards away, shoving each other near the edge of the crowded subway platform. The officers walked towards the boys and Officer One shouted for them to stop shoving each other, but the boys kept at it. When Officer Two got close, he yelled “Freeze, if you know what’s good for you.” At that point the boys stopped shoving each other and began talking with Officer Two.

Ms. Smith, a 42 year-old woman who was standing on the subway platform, tapped Officer One on the shoulder and asked him why they were bothering the boys. Officer One spun around and said to her, “Back off or I’ll take you in also. I’m busting my ass to save your ass.” Officer Two, who had finished speaking with the teenagers, then approached Officer One and Ms. Smith. Hearing her continue to question his partner, Officer Two said, “We don’t need this type of crap. Let’s go.” Ms. Smith recorded their names and badge numbers on her cell phone and the officers walked away and continued their patrol.

Ms. Smith then filed a complaint with the CCRB, alleging that both officers were discourteous and that Officer One threatened to arrest her. She also stated that she believed the officers had stopped and questioned the teenagers because they were black and Hispanic and for no other reason. Ms. Smith agreed to mediate her complaint after being offered the opportunity to do so by the CCRB investigator. The officers also agreed to mediate.

At the mediation session, after explaining the mediation process to the participants, the mediator gave Ms. Smith and the two officers the opportunity to speak. Ms. Smith said that she was standing on the subway platform waiting for her train to go to work when she heard the officers shouting at the boys. She said that she had been watching the boys, who seemed to be acting like typical teenagers, so she wanted to know why the officers were yelling at them. Then she stated that she was stunned by the way the officers treated her and spoke to her. She concluded by stating that it seemed that the officers were just hassling the boys because they were minorities and that that was wrong.

Then Officer One spoke. He said that he wasn’t paying attention to the boys’ race when he yelled for them to stop shoving each other. He said that his primary concern was to have them stop so that no one got pushed onto the subway tracks. He said that he and his partner were on the platform that day because there had been an incident the day before (St. Patrick’s Day), when person had been shoved onto the tracks and had to be rescued by another officer from their precinct. Officer One also explained that when Ms. Smith tapped him on the shoulder and started to question him, he still didn’t know for sure what was going on between the boys and his partner and had wanted to keep his focus on them and not Ms. Smith. He also said again that he wanted to avoid at all costs having a repeat of the prior day’s incident when an officer had to jump onto the tracks to rescue someone.

Officer Two then spoke and said he didn’t recall what he had said to Ms. Smith, echoing Officer One’s comments. Officer Two said he remembered feeling very relieved that the boys were only fooling around and not really fighting and that no one ended up on the subway tracks.

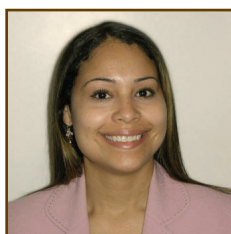
Under the mediator’s guidance, the two officers and Ms. Smith were soon talking directly with each other. By the end of the mediation session, Ms. Smith said that she had a much better understanding of what had happened and what the officers were thinking, and that she now believed that the officers had not been profiling the teenagers. She also stated that she sympathized with the officers and appreciated that they were out there trying to protect the public. Yet despite these things, she said she still felt that the officers had spoken to her in an improper manner. The officers said that they appreciated Ms. Smith’s words and agreed that they could have acted more professionally in the way they had spoken to her. The officers and Ms. Smith agreed that the mediation session had addressed the concerns Ms. Smith raised in her initial complaint and had been a valuable learning experience.



**Chair 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 as an Assistant District Attorney in the Queens County District Attorney's Office, where he prosecuted felony cases and handled appellate litigation. He subsequently 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 litigated civil cases 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 Friedman 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.

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



**Janette Cortes-Gomez, Esq.**

Ms. Cortes-Gomez is an attorney who has been engaged in private practice in Queens and the Bronx since 2004. In addition to representing private clients, she serves as court appointed counsel in Family Court cases relating to juvenile delinquency, abuse and neglect, parental rights, custody, child support, paternity, family offense, visitation, persons in need of supervision and adoption matters. From 1999 to 2004, Ms. Cortes-Gomez was an attorney with the New York City Administration for Children's Services (ACS). At ACS, she litigated child abuse and neglect cases, including termination of parental rights petitions. Ms. Cortes-Gomez is a member of the New York City Bar Association, the Puerto Rican Bar Association, the Bronx County Bar Association, the Hispanic National Bar Association, and the American Bar Association. In 2010, she was appointed as President of the Bronx Family Bar Association for a two year term. She is a Mayoral designee and was appointed to the board in November 2011.

*B.A., 1996, Canisius College; J.D. 1999, Buffalo School of Law, the State University of New York.*



**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 and felonies (including homicides) and from 1976 to 1977, narcotics cases for the Office of the Special Narcotics Prosecutor. Immediately after graduating from law school, Mr. Donlon worked for the New York State Department of Law. He previously served as a board member of the Richmond County Bar Association. He is currently a member of the Assigned Counsel Panel Advisory Committee (Appellate Division, Second Department) and is a member of the New York State Bar Association, Richmond County Bar Association, and the New York State Defenders Association. Mr. Donlon, a City Council designee from Staten Island, has been a Board member since June 2004.

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



### **Alphonzo Grant Jr., Esq.**

Mr. Grant is an Executive Director in Morgan Stanley's Legal and Compliance Division, Special investigations Unit, where he oversees and conducts internal investigations of financial, securities, regulatory, criminal and employment-related matters. He is also a faculty member at the National Institute for Trial Advocacy and an Adjunct Professor at the Benjamin N. Cardozo School of Law. Before joining Morgan Stanley, Mr. Grant served as Special Counsel at the law firm of Sullivan and Cromwell from 2006 to 2010, representing clients in criminal, regulatory and civil matters involving securities fraud, money laundering, insider trading, tax fraud, antitrust and employment. During that time he was also Sullivan & Cromwell's Director of Diversity and guided the firm's leadership on its diversity and inclusion efforts. Mr. Grant's career began as a law clerk for the Honorable Edward R. Korman, a federal judge in the Eastern District of New York, followed by three years as a Litigation Associate at Sullivan and Cromwell. From 2002 to 2005, he served as an Assistant United States Attorney for the Eastern District of New York, prosecuting money laundering, corruption, fraud, foreign bribery, terrorism, racketeering, narcotics, immigration and tax offenses.

*B.A., 1993, M.P.S., 1994, the State University of New York at Stony Brook; J.D., 1998 Brooklyn Law School*



### **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, and has been a member of the Land Use Committee of Staten Island Community Board 2 since 1998. He has also served since 2006 on the Board of Trustees for the Staten Island Children's Museum and is the former Vice-Chairman of the Children's Campaign Fund 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 2009, Congressman Michael McMahon honored Dr. Khalid with the Dr. Martin Luther King Jr. Community Service Award. 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. In 2006, Governor George Pataki appointed Dr. Khalid to a six-year term on the New York State Minority Health Council. Dr. Khalid, a Mayoral designee, has been on the Board since March 2005.

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



### **David G. Liston, Esq.**

Mr. Liston is Litigation Counsel at Hughes, Hubbard & Reed LLP, where he specializes in securities and banking matters, internal corporate investigations, SEC representation, white-collar criminal defense, and complex civil litigation. Previously, Mr. Liston worked as an Assistant District Attorney in the New York County District Attorney's Office from 1994 through 1999, and served as a law clerk for the Honorable Richard S. Cohen of the Superior Court of New Jersey from 1993 through 1994. From 2004 through 2006, Mr. Liston served on the Election Law Committee of the Association of the Bar of the City of New York. In addition to his legal career, Mr. Liston is an active participant in community matters in his Upper East Side neighborhood. Mr. Liston is a member of Manhattan Community Board 8, where he served as Board Chair from 2005 to 2008 and where he presently serves as Co-Chair of the Landmarks Committee. He is also President of the Holy Trinity Neighborhood Center, a community service program that provides shelter and a weekly dinner for homeless people and a weekly lunch for senior citizens, among other services. He served as Vice President of the 19th Precinct Community Council from 2002 to 2005. Mr. Liston, a Mayoral appointee, has been a Board member since May 2009.

*B.A., 1990, Rutgers College; J.D., 1993, Rutgers School of Law (Newark)*



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

Mr. Martin is the Vice-President for Global Security and Crisis Management at New York University. In addition to his service with the CCRB, Mr. Martin serves as a member of the New York State Committee on Character and Fitness, for the Supreme Court, 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 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- 1969. Mr. Martin, a Police Commissioner designee, has been a Board member since March 1999.

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



### **Mary E. Mulligan, Esq.**

With extensive experience in white-collar criminal defense and internal investigations as well as intellectual property litigation, Ms. Mulligan is a partner at Friedman, Kaplan, Seiler and Adelman LLP. After law school, she served as a law clerk to the Honorable Henry A. Politz of the U.S. Court of Appeals for the Fifth Circuit and was a litigator at Patterson Belknap Webb & Tyler LLP. She served from 1997 to 2002 as an Assistant United States Attorney for the Southern District of New York, directing investigations and prosecutions of fraud, narcotics, public corruption, and organized crime. Ms. Mulligan also served as Senior Director, Business and Legal Affairs, of Universal Music Group, the world's largest music company. Ms. Mulligan is a member of the New York State Bar Association's Committee on White Collar Criminal Litigation. She also serves on the Criminal Justice Act panel for the Southern District of New York representing indigent defendants in federal criminal proceedings. Ms. Mulligan began a three-year term as a Board member in August 2009. She is a Mayoral designee.

*B.A., 1983, magna cum laude, Vanderbilt University; J.D., 1989, cum laude, New York University Law School*



### **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 Police Commissioner Howard Safir in 1996. During his last month with the Police Department, Mr. Simonetti served as Acting Police Commissioner while Commissioner Safir recovered from heart surgery. After retiring from the Police Department, Mr. Simonetti became the Security Director for MacAndrew & Forbes Holdings Inc. Mr. Simonetti, a Police Commissioner designee, has been a Board member since April 1997.

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



### **Bishop Mitchell G. Taylor**

A forty-year resident of Long Island City and former resident of the Queensbridge public housing development, Bishop Taylor has dedicated his pastoral career to serving his community. Bishop Taylor is the Senior Pastor of Center of Hope International, a non-denominational church located near the Queensbridge Houses. In addition to his work as a pastor, He is CEO of the East River Development Alliance (ERDA), a not-for-profit organization he founded in 2004 to expand economic opportunity for public housing residents. Bishop Taylor has received the New York Public Library's 2005

Brooke Russell Astor award for his work with ERDA, and the Jewish Community Relations Council of New York's 2008 Martin Luther King, Jr. award, among many other awards. He has been profiled by leading media outlets for his leadership on public housing issues and is the author of *Unbroken Promises*. Bishop Taylor is a Commissioner on the NYC Charter Revision Commission. He has been the City Council's Queens designee on the Board since January of 2009.

*B.A., United Christian College, 1986*



### **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 has provided legal services to the diverse communities of Queens and beyond since 1994. Mr. Yoon has been the City Council's Bronx designee on the Board since December 2003.

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

## Executive Staff:

**Joan M. Thompson**

Executive Director

**Brian Connell**

Deputy Executive Director, Administration

**Laura Edidin, Esq.**

Deputy Executive Director, Investigations and Legal Affairs

**Marcos Soler**

Deputy Executive Director, Policy and Strategic Initiatives

## 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 Community Relations

**Carolene George**

Director of Personnel

**Yuriy Gregorev**

Director of Management and Information Services

**Linda Sachs**

Director of Communications

## Investigative Managers:

**Cecelia Holloway**

**Robert Lonergan**

**Denis McCormick**

**Robert Rodriguez**

**Winsome Thelwell**

## Legal Team:

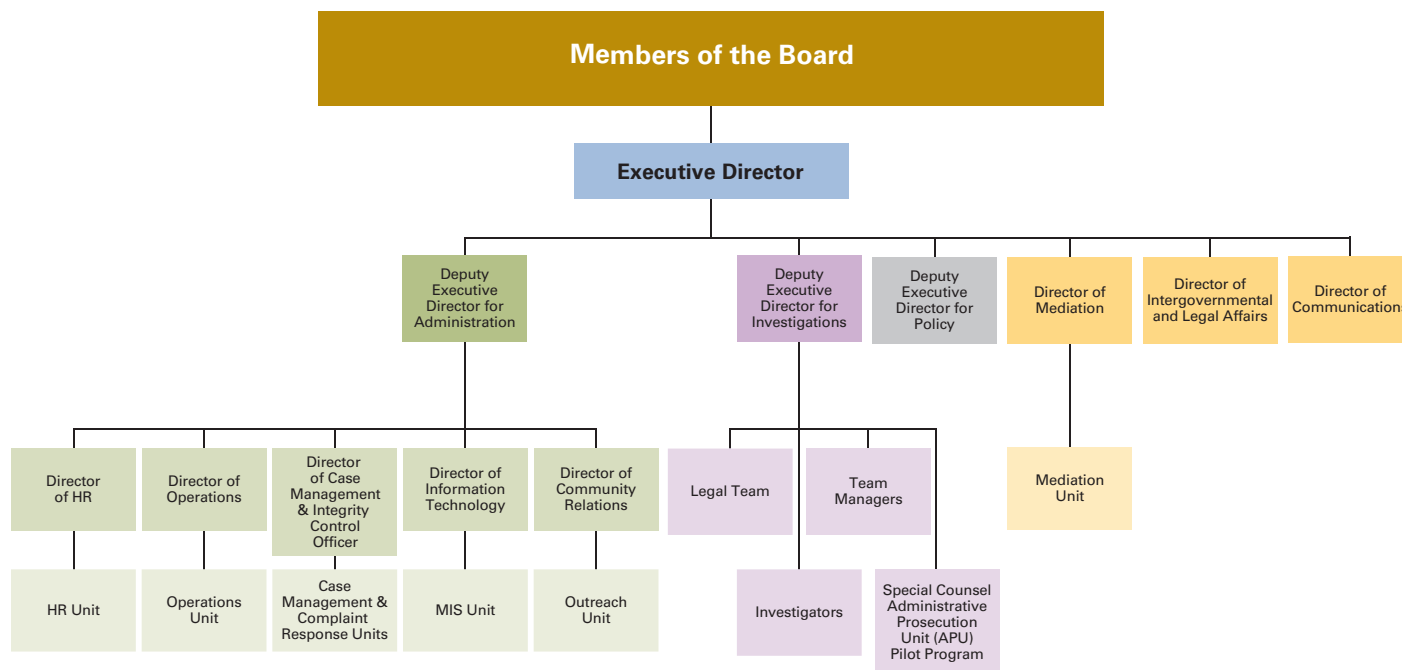
**Laurent Allerti, Esq.**

Executive Agency Counsel

**Roger Smith, Esq.**

Executive Agency Counsel and Director of Training

## Organizational Chart



## 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.



**CIVILIAN COMPLAINT REVIEW BOARD**

40 Rector Street, 2<sup>nd</sup> Floor, New York, NY 10006

**Complaints and General Information**

1-800-341-2272 or 311 | Outside NYC: 212-NEW-YORK | TTY/TDD: 212-504-4115

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