



# CIVILIAN COMPLAINT REVIEW BOARD

BILL DE BLASIO, Mayor | RICHARD D. EMERY, Chair



**2014**  
January - June  
R E P O R T

**This report is a draft** (September 10, 2014)

This preliminary report reflects the opinions of the Board. The Board welcomes public input and encourages comments on the draft report before its official publication. **Please send comments to:** [msoler@ccrb.nyc.gov](mailto:msoler@ccrb.nyc.gov)

The New York City Civilian Complaint Review Board (CCRB) is an independent agency, created by Chapter 18-A of the New York City Charter. The Charter sets forth the Board's jurisdiction, powers and duties. The Board is empowered to receive, investigate, mediate, hear, make findings, and recommend action on 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 shall also issue to the Mayor and the City Council a semi-annual report which shall describe its activities and summarize its actions.

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**Draft**  
**09-10-2014**

**Civilian Complaint Review Board**  
**January – June 2014 Report**

## CCRB 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 on 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, which is composed entirely of civilians, conducts investigations in an impartial fashion. The Board forwards its findings to the police commissioner.

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

- To encourage members of the community to file complaints when they believe 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 the investigation determines that misconduct occurred.
- To offer civilians and officers the opportunity to mediate complaints in order to resolve allegations and promote understanding between officers and the communities they serve.
- To prosecute serious cases of misconduct where the Board substantiated allegations and recommended Charges and Specifications be served.
- 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.

*This report covers the period of January 2014 through June 2014  
Volume XXII, no.1*

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## Letter from the Chair

Dear Fellow New Yorkers:

When Mayor Bill De Blasio appointed me Chair of the CCRB on July 17<sup>th</sup> it was with the express challenge to remake the agency, so that the CCRB would realize its potential. After 20 years, it is time to get it right. It's time for the CCRB to gain the respect and trust of the public and police officers.

The Mayor and the Police Commissioner have set a course to heal the fractured relationship between many of New York's communities and the police force. The CCRB often sees that fracture in the individual complaints we investigate and mediate. Improving the professionalism of the CCRB is our core challenge. Success will enable us to clarify what is acceptable police behavior and to be a part of that healing by effectively responding to civilian complaints.

I pledge as the new Chair to pursue a number of important reforms so that the CCRB becomes a model agency: quickly and fairly investigating and ruling on complaints with sensitivity to the need for complainants and police officers to get justice and to have allegations decided quickly.

First, our public meetings will be held in the evening and throughout the 5 boroughs so that the public can participate.

Second, CCRB will have offices and evening hours in each borough so that alleged victims are not inconvenienced by having to travel to our Manhattan office to be interviewed by an investigator.

Third, we're going to streamline the complaint intake process and prioritize complaints so that we are gathering evidence and responding faster to the most serious incidents.

Fourth, we will be regularly analyzing complaint patterns as a method of early warning to enhance prevention. We will routinely report our findings to the public and to the police department.

Fifth, due process and penalties for police officers in misconduct cases will be coordinated between the NYPD and the CCRB so that discipline is rational, even-handed and appropriate.

The goal is no less than the lofty aspiration to be a major component in helping to transform the poisonous aspects of community-police relations and to engender a new respect for civilian oversight and for the police disciplinary process.

Sincerely,

Richard D. Emery, Esq.



## Who We Are

### CCRB Board Members January – June 2014

#### Mayoral Designees

Chair (Vacant from January 1, 2014 to July 16, 2014) now filled by Richard D. Emery, Esq.  
Janette Cortes-Gomez, Esq.  
Daniel M. Gitner, Esq.  
Dr. Mohammad Khalid  
David G. Liston, Esq.

#### City Council Designees

James F. Donlon, Esq. (Staten Island)  
Alphonzo A. Grant Jr., Esq. (Brooklyn)  
Joseph A. Puma (Manhattan)  
Bishop Mitchell G. Taylor (Queens)  
Youngik Yoon, Esq. (Bronx)

#### Police Commissioner Designees

Rudolph Landin  
Jules A. Martin, Esq.  
Tosano Simonetti

## Agency Operations and Resources

The Civilian Complaint Review Board (CCRB) is an independent New York City agency that investigates, mediates and prosecutes complaints of misconduct that members of the public file against New York City Police Department (NYPD) officers. The CCRB was established in its all-civilian form, independent from the police department, in 1993.

The Board consists of thirteen members who are New York City residents and reflect the diversity of the City's population. The city council designates five Board members (one from each borough); the police commissioner designates three; and the mayor designates five, including the chair.

Board members review and make findings on all misconduct complaints once they have been investigated by an all-civilian staff. In the past, when the Board found that an officer committed misconduct, the case was referred to the police commissioner, usually with a disciplinary recommendation. Under a Memorandum of Understanding (MOU) between the CCRB and the NYPD, which took effect April 11, 2013, the CCRB's Administrative Prosecution Unit (APU) is authorized to prosecute cases in which the Board has voted to substantiate an allegation and recommended that charges and specifications be brought against the officer.

The Board also hires the Executive Director. The Executive Director is responsible for the agency's daily operations, including the hiring and supervision of the agency's staff. The staff is organized according to the core functions they perform.

In addition to the Investigations division and the APU, the CCRB has a Mediation unit, which gives people the opportunity to resolve their complaints face-to-face with police officers. There is also an Outreach unit that increases public awareness of the CCRB's mission and programs through presentations to community groups, tenant associations, public schools, libraries and advocacy organizations throughout the five boroughs, and teaches community groups how to de-escalate situations that arise in the community between police officers and civilians.

The Administrative division supports the other units by managing the computerized complaint tracking system (CTS), processing cases for Board review, managing office operations, and performing budgeting, purchasing, personnel, and clerical services.

The adopted Fiscal 2015 budget (July 1, 2014 – June 30, 2015) is \$12,758,025, which is higher than the level of funding supported by the modified Fiscal 2014 budget, \$12,018,207. Personal Spending (PS) increased from \$9,468,744 to \$9,858,625 and Other Than Personal Spending (OTPS) also increased from \$2,549,463 to \$2,899,400. There is a FY 2014 Intra-City Sales item of \$101,253 for office relocation expenses that is no longer in the FY 2015 budget.<sup>1</sup>

The total authorized full-time headcount for Fiscal 2015 is 167 positions, 3 positions higher than in FY 2014. There are 120 employees in Investigations, including 4 investigators assigned to the Mediation unit, 27 employees in Administration, and 20 employees in the APU.

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<sup>1</sup> For budget information, see the website of the NYC Office of Management and Budget. The budget is a year round process that begins on July 1 and ends on June 30 of each year. During a fiscal year, the adopted budget is modified. In this report we refer to the adopted budget for Fiscal 2015, as of June 2014, and the modified budget for Fiscal 2014, which is different from the adopted budget for Fiscal 2014 that we reported in the 2013 Semi-Annual report.

# What We Do

## Jurisdiction and Case Processing

The CCRB investigates, mediates and prosecutes complaints against NYPD officers involving four types of allegations: Force, Abuse of Authority, Discourtesy, and Offensive Language (FADO). Complaints can be filed directly with the CCRB by phone, mail, through the agency website, in-person at CCRB's 100 Church Street office in Manhattan, or through the City's 311 system. Complaints can also be filed through the NYPD's Internal Affairs Bureau or at any police station house, where postage-paid, mail-in complaint forms are available.

Once the CCRB receives a complaint within its jurisdiction, a thorough investigation begins. This investigation typically includes: interviewing the alleged victim, witnesses and subject officers; obtaining all relevant documentary evidence, including medical records and any audio, video or still photography. Investigators also obtain and review police department documents such as roll calls, officer memo books, radio dispatch reports, precinct command logs, arrest reports and "stop, question and frisk" reports.

At the conclusion of an investigation, the investigative team drafts a report summarizing the results, relevant case law and police department regulations for review by the Board. If the Board substantiates an allegation of misconduct and recommends Charges and Specifications, the case is forwarded to the APU. If the Board substantiates an allegation of misconduct and recommends either Command Discipline or Instructions, the case is forwarded to the police commissioner. Under the MOU between the Police Department and the CCRB, the police commissioner may retain cases substantiated with Charges when the subject officer has no prior disciplinary history and no prior substantiated CCRB complaints. Ultimately, the commissioner, by law, has the sole authority to impose discipline.

Not all complaints are fully investigated – some cases are handled by the agency's Mediation unit. When a case is deemed suitable, mediation is offered to both the complainant and the subject officer, as an alternative to a completed investigation. A mediation is held with a trained, experienced mediator who provides the parties with the opportunity to address their perspectives on their encounter and engage in a meaningful dialogue to better understand each other's positions.

## Types of CCRB Allegations

- **Force** refers to the use of unnecessary or excessive force, up to and including deadly force.
- **Abuse of Authority** refers to improper street stops, frisks, searches, the issuance of retaliatory summonses, unwarranted threats of arrest, and other similar actions.
- **Discourtesy** refers to inappropriate behavior or language, including rude or obscene gestures, vulgar words, and curses.
- **Offensive Language** refers to slurs, derogatory remarks and/or gestures, including but not limited to, references to a person's sexual orientation, race, ethnicity, religion, gender, or disability.

## CCRB Investigation Outcomes

After an investigation is completed, Board members decide on the outcome of the complaint. In order to make findings on the allegations in the complaint, the Board reviews the investigative report and evaluates the evidence gathered during the course of the investigation. This case review is conducted by panels comprised of three Board members – one mayoral designee, one city council designee and one police commissioner designee, as required under the New York City Charter. A majority of the panel makes a determination that results in the following possible outcomes:

### Fully Investigated Investigations

**Findings on the Merits** reflect the Board's determination on whether or not an officer's actions constitute misconduct. There must be a preponderance of evidence to support a finding.

- **Substantiated:** There is sufficient credible evidence to believe that the subject officer committed the act charged in the allegation and thereby engaged in misconduct. Substantiated cases are sent to the police department with a disciplinary recommendation.
- **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.

**Other Findings** reflect the Board's decision that there is not enough evidence to determine what the officer did or whether what the officer did was wrong.

- **Unsubstantiated:** The evidence is insufficient to determine whether the officer committed acts which constitute misconduct.
- **Officer(s) Unidentified:** The agency was unable to identify the subject officer(s) involved in the alleged misconduct.
- **Miscellaneous:** Most commonly, the subject officer is no longer a member of the NYPD.

### **Cases without a Full Investigation**

When investigations are not fully completed, no factual finding is made about whether misconduct occurred. Cases without a full investigation are closed for the following reasons:

- **Complainant/Victim Uncooperative:** The person does not respond to repeated attempts by the investigator to set up an interview or fails to attend two scheduled interviews. The investigator must send at least two letters and make five phone calls before a case is closed for this reason.
- **Complainant Unavailable:** The complaint was filed without any contact information or with inaccurate information, and the investigator is unable to locate the complainant. Investigators use various methods to try to find a complainant before a case is closed for this reason.
- **Complaint Withdrawn:** The complainant tells us that he/she no longer wishes to proceed with the case and asks to withdraw the complaint. No case is closed for this reason until the person states that he/she is voluntarily withdrawing the complaint.
- **Victim Unidentified:** This category addresses cases where the complaint is filed by someone other than the victim of the alleged misconduct, and there is insufficient evidence to identify and locate the victim.

## Complaints Received<sup>2</sup>

The CCRB received 2,739 complaints in the period from January through June of 2014. This was 187 more complaints than in the same period of 2013, when the CCRB received 2,552 complaints. This represented a 7% increase. By comparison, in the first six months of 2010, 2011, and 2012, the CCRB received 3,313, 3,104, and 2,858 misconduct complaints, respectively. The decline from 2010 was 17%.

With respect to total intake, which refers to complaints within the CCRB's jurisdiction and those complaints outside our jurisdiction that the agency also receives, there was also a year-to-year increase. Complaints outside our jurisdiction include allegations of corruption or misconduct by a non-NYPD law enforcement officer or other city employee. The total intake in the six month period was 6,390, compared to 5,410 from January through June 2013. By comparison, intake was 8,635 for the first six months of 2010, 8,261 for 2011, and 8,118 for 2012. The decline from 2010 to 2014 was 26%.

While the exact reasons for an increase or decrease in complaint activity are unknown, some of the contextual factors can be explained by reviewing complaint filings. The CCRB's toll free 800 number, which Hurricane Sandy disrupted in October 2012, was not restored until March 2013, and consequently complaints were significantly lower during the first months of 2013. In the first two months of 2013, the CCRB received 456 complaints in comparison to the same time in 2014, when the agency received 866 complaints – an increase of 410 complaints. However, from March to June 2013, after the 800 number was restored, the CCRB received 2,096 complaints and, for the same time of 2014, the agency received 1,873 – a decrease of 223 complaints. On average, the CCRB received 524 complaints per month from March through June 2013 after phone services were restored, while it received an average of 456 complaints per month in the first six months of 2014. A more detailed report on Hurricane Sandy's impact on complaint activity can be viewed on the CCRB's web site.

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<sup>2</sup> Complaint and allegation information is often updated during the course of an investigation. Thus, for example, a case that was originally identified as within our jurisdiction may be changed after a review by the investigative team management. Similarly, allegations are added or removed as the investigation proceeds and alleged victims and witnesses are interviewed.

With whom civilians initially filed complaints, either with the CCRB or with the police department is another factor affecting complaint activity. Compared to the first 6 months of 2013, the number of complaints filed with the NYPD in 2014, and referred to the CCRB, decreased by 25% from 1,435 to 1,083, while complaints filed directly with the CCRB increased by 48% from 1,112 to 1,645.

The proportion of complaints filed directly with the CCRB increased from 44% to 60% during the first six months of 2013 and 2014. This is a return to the historical trend where the proportion of complaints filed directly with the CCRB ranged from 59% to 64% during the same period in 2010, 2011 and 2012.

Another factor is the method civilians use to file complaints, which can either be in person, by phone, by mail or online. Complaint filing by phone continues to be the most common method, and in the first half of 2014, 78% of complaints were filed in this manner. This is an increase of 18 percentage points compared to the same period of 2013 when 60% of complaints were filed by phone but is consistent with the same time periods from 2010 to 2012 when 80% of complaints were filed by phone. From January through June 2014, 16% of all complaints were filed online, 4% were filed in person and 2% by mail. Compared to 2013, complaints filed online decreased by 13 percentage points (from 29% to 16%), complaints filed in person decreased by 3 percentage points (from 7% to 4%) and complaints by mailed decreased by 2 percentage points (from 4% to 2%).

An additional factor is the number of interactions between police officers and members of the public and the type of complaints civilians filed. Street encounters, or “stop, question and frisk” interactions, are the most common form of circumstances in which complaints are filed. In the first half of 2014, 23% of all complaints filed were “stop, question and frisk” complaints. This is a slight decrease from 2013 when these complaints accounted for 24% of all complaints. In the same period of 2010, 31% of all complaints were stop-and-frisk complaints. The number of stop and frisk complaints declined from 1,035 from January through June 2010, to 621 in the same period of 2013, and to 629 in the first six months of 2014. This is a decrease of 39% from 2010 to 2014.

There are two other categories of police and civilian interactions generating a significant percentage of complaints: home entries and car stops. In the first half of 2014, 12% of complaints filed involved homes being entered and/or searched compared to 10% in 2013. Similarly, 10% of all complaints filed involved vehicular stops and/or searches compared to 9% in the same period of 2013. The number of residential searches increased from 248 in 2013, to 338 in 2014 (an increase of 36%), and the number of vehicular complaints increased from 238 in 2013 to 261 in 2014 (an increase of 10%). We will discuss both categories of complaints in the policy section of this report.



## Characteristics of Encounters

In the first half of 2014, abuse of authority was alleged in 58% of cases. This is consistent with the same period of 2013, when it was alleged in 55% of cases. In the first half of 2014, excessive use of force was alleged in 53% of complaints which was the same as in 2013. Discourtesy was alleged in 35% of complaints in the first six months of 2014, as compared to 39% in 2013, and 7% of complaints involved allegations of offensive language in 2014, as compared to 8% in 2013.

From January to June 2014, an arrest or summons was involved in 59% of complaints – 43.5% were arrests and 15.5% were summonses. This is an increase of 3 percentage points from last year, when 56% of complaints involved an arrest or summons, with a breakdown of 41% arrests and 15% summonses. In the same time periods in 2012, 2011, and 2010, 52% to 54% of complaints stemmed from either summonses or arrests.

In 1,144 complaints, or 42%, the encounter occurred because the police officer suspected the complainant and/or victim had committed, was committing, or was about to commit, a violation and/or crime.

## Mediation

Mediation is a confidential, structured process where civilians and police officers meet with a trained, neutral mediator to address the issues raised by the complaint. The mediator guides discussion between the parties to help them resolve the complaint. Participation in mediation is voluntary for both complainants and officers.

The CCRB has the largest mediation program in the United States for complaints against police officers. In the first half of 2014, the mediation unit resolved a total of 164 complaints. The CCRB mediated 81 cases and closed 83 cases as mediation attempted. By comparison, in the first half of 2013, the CCRB mediated 34 cases and closed 76 cases as mediation attempted for total of 110 cases closed through the unit.

In the first six months of 2014, the total number of cases resolved through mediation as a percentage of total agency closures is 7% compared to 3% in the first half of 2013. The total number of cases closed as mediated increased from 1% to 3% this year.

In the first half of 2014, the number of cases referred to the mediation unit decreased slightly, as the investigative teams referred 269 cases compared to 286 cases in the same period of 2013.

The Board has established eligibility guidelines to determine which cases should be considered for mediation, with an emphasis on inclusiveness. However, there is a process for review by the Board's alternative dispute resolution (ADR) committee and the Department Advocate's Office, to determine whether a case is unsuitable for mediation, a rare exception. In the first half of 2014, the pool of cases considered for mediation was 1,253, or 46% of all received cases. By comparison, the pool of cases was 1,007, or 39% in 2013. During this time period, no eligible cases were found unsuitable by the ADR committee or DAO.

The number and proportion of cases in which investigators offered mediation increased. In the first half of 2014, mediation was offered in 741 eligible cases and 163 non-eligible cases, for a total of 904 cases. This was 72% of cases in the pool of considered cases. By

comparison, in the same period of 2013, mediation was offered in 508 eligible cases and 91 non-eligible cases, for a total of 599 cases. This was 59% of all considered cases.

The number and proportion of cases in which people agreed to mediate their complaints decreased by seven percentage points. In the first half of 2014, civilians agreed to mediate 414 cases – 48% of all cases in which mediation was offered. In the first half of 2013, civilians agreed to mediate 313 cases – 55.5% of all cases in which mediation was offered.

Finally, the rate at which officers agreed to participate in mediation increased from 82% to 84%. In addition, the number of officers that participated in mediation increased from 249 to 306.

## Location of Incidents Resulting in Complaints

In the first half of 2014, 33.3% of all incidents occurred in the borough of Brooklyn. Incidents in Manhattan and Bronx made up 21.9% and 21.6% of all complaints filed. Fewer incidents occurred in the other two boroughs: 16.8% in Queens and 5.7% in Staten Island. There was a small percentage of incidents, 0.7%, where the borough of the incident was unknown or they occurred outside city limits.

Incidents were up in all boroughs except for Manhattan, where complaints decreased by 4.9%, from 630 in the first six months of 2013 to 599 in the same period of 2014. The increase was 4.9% in Brooklyn, from 870 to 913; 7.7% in Queens, from 426 to 459; 19.6% in the Bronx, from 495 to 592; and 36.0% in Staten Island, from 114 to 155.

The map illustrates the distribution of complaints within our jurisdiction during the period from January to June 2014. This map does not reflect the number of uniformed personnel assigned to a precinct, crime statistics, precinct size, or population density.

There were two precincts where incidents alleged resulted in ninety or more complaints: the 75<sup>th</sup> Precinct in Brooklyn and the 40<sup>th</sup> Precinct in the Bronx. The highest number of complaints in the city came from the 75<sup>th</sup> Precinct in Brooklyn, where there were 137 complaints. This number is up from 124 in the same period of 2013. The 40<sup>th</sup> Precinct had 97 complaints up from 80 complaints during the same period of 2013.

Additional precincts with notable complaint activity include Staten Island's 120<sup>th</sup> Precinct and 121<sup>st</sup> Precinct with 58 and 57 complaints. The Bronx had four precincts in which 50 to 80 complaints were filed: the 44<sup>th</sup> Precinct had 73; the 43<sup>rd</sup> Precinct had 66; the 46<sup>th</sup> Precinct had 64; and the 47<sup>th</sup> Precinct had 61. Similarly, Brooklyn had five such precincts: the 73<sup>rd</sup> Precinct had 81; the 79<sup>th</sup> Precinct had 66; the 77<sup>th</sup> Precinct had 58; the 67<sup>th</sup> Precinct had 55; and the 81<sup>st</sup> had 51. The precinct with the highest number of complaints in Queens was the 113<sup>th</sup> Precinct with 78, followed by the 103<sup>rd</sup> Precinct with 55. The highest precincts in Manhattan were the 14<sup>th</sup> Precinct with 48 complaints and 32<sup>nd</sup> Precinct with 47 complaints.

There were 33 precincts where incidents alleged resulted in 25 or fewer complaints between January 2014 and June 2014. There were 31 such precincts in 2013. Twelve of these precincts were in Manhattan: the 5<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 13<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, 22<sup>nd</sup>, 24<sup>th</sup>, 26<sup>th</sup>, and 30<sup>th</sup>. One precinct was in Staten Island: the 123<sup>rd</sup>. Ten precincts were in Queens: the 100<sup>th</sup>, 102<sup>nd</sup>, 106<sup>th</sup>, 107<sup>th</sup>, 108<sup>th</sup>, 109<sup>th</sup>, 110<sup>th</sup>, 111<sup>th</sup>, 112<sup>th</sup>, and the 115<sup>th</sup>. Seven were in Brooklyn: the 63<sup>rd</sup>, 66<sup>th</sup>, 68<sup>th</sup>, 72<sup>nd</sup>, 76<sup>th</sup>, 78<sup>th</sup>, and the 94<sup>th</sup>. The Bronx had three precincts with 25 or fewer complaints: the 45<sup>th</sup>, 49<sup>th</sup>, and 50<sup>th</sup>.

## Complainant Demographics

Historically, the breakdown by race of CCRB complainants has differed greatly from the racial demographics of the City's population as reported by the United States Census Bureau.<sup>3</sup>

According to Census Bureau population estimates, New York City's population increased from 8,175,133 in 2010 to 8,405,837 in 2013 – the most recent updated estimate available. This is an increase of 230,704 residents or about a 2.8% increase.

In the first half of 2014, blacks comprised the majority of identified CCRB alleged victims (54%), continuing a decade-long trend. Blacks are 23% of the total New York City population, a difference of 31 percentage points. Hispanics are the second largest group of alleged victims at 26%, and comprise 29% of the City's population. Whites are 13% of alleged victims in 2014, and make up 33% of the population. Asians were 3% of alleged victims in 2014, while they are 13% of the New York City population. Civilians who identified as members of another race, members of two or more races as well as Native Americans make up 4% of the alleged victims who chose to identify racially, and are 2% of the New York City population.

In the first half of 2014, males comprised the majority of identified CCRB alleged victims, continuing a long-term trend. Males were 70% of alleged victims in 2014, but make up 48% of the New York City population. By comparison, from 2010 to 2013, males were 71% of alleged victims.

In the first half of 2014, two age groups (as categorized by the U.S. Census) were the most prevalent identified alleged victims: those between 20 and 24 years old were 17% of alleged victims, and those between 25 and 34 years old were 29%. They were 8% and 17% of the City's population, respectively. There were two other groups that were overrepresented, as those between 15 and 19 years old were

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<sup>3</sup> Source: U. S. Census Bureau, 2012 American Community Survey; Population Division - New York City Department of City Planning (Jan. 2014)

9% of all alleged victims and 6% of the population, and those between 35 and 44 years old were 19% of alleged victims but 14% of the City's population.

## CCRB Dispositions<sup>4</sup>

### Board Dispositions

Each CCRB complaint consists of one or more FADO allegations. The cases may also include other types of police misconduct not within agency jurisdiction, such as failure to make a memo book entry or failure to document a stop and frisk interaction, as required by the Patrol Guide.

Case investigations follow one of three paths: some are fully investigated; some are mediated as an alternative to full investigations; and others are truncated because a full investigation cannot proceed.

Cases are categorized as full investigations when the Board reviews a case and determines whether, under the preponderance of the evidence standard, the officer(s) committed the alleged act of misconduct. This is the same standard required in most civil cases. The standard is met if the allegation is more likely to be true than not true. If the Board finds misconduct in at least one of the allegations, it closes the case as substantiated.

There are five other possible dispositions for fully investigated cases: *exonerated* (when the officer's actions are determined to be lawful and proper); *unfounded* (when the Board finds that the officer did not commit the alleged act); *unsubstantiated* (when the evidence is insufficient to make a determination); *officer unidentified* if officer identification cannot be made; and *miscellaneous* if the officer is no longer employed by the NYPD.

The merits of cases are not determined when a full investigation cannot proceed. This happens for several reasons: the complainant and/or alleged victim(s) withdraw the complaint, refuse to provide a formal statement, or cannot be located. The Board then closes the case as: complaint withdrawn; complainant/victim uncooperative; complainant/victim unavailable; or victim unidentified, depending on

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<sup>4</sup> Information about closed cases may change as a result of a civilian or an officer requesting that their closed case be re-opened or as a result of identifying an error in the database that required a correction.



the underlying circumstances. The Board has the discretion to re-open these cases, upon request by the complainant or officer and for good cause.

The CCRB closed in total 2,442 cases in the first half of 2014, which is a 34% decrease from the same time period last year when the CCRB closed 3,679 cases. Of these cases, 901 (37%) were full investigations, 164 (7%) were closed by the mediation unit, and 1,377 (56%) were cases closed as complaint withdrawn, complainant uncooperative, complainant unavailable or victim unidentified. By comparison, of the 3,679 cases closed in the first half of 2013, 1,130 (31%) were full investigations, 110 (3%) were closed by the mediation unit, and 2,439 (66%) were closed as complaint withdrawn, complainant uncooperative, complainant unavailable or victim unidentified.

In 2014, of the 901 cases that were full investigations, 137 were substantiated. For the same period of 2013, the CCRB substantiated 176 cases. The substantiation rate decreased slightly, from 15.6% to 15.2%.

In the first six months of 2014, 8.6% of total allegations that were fully investigated were substantiated, or 294 out of 3,409 allegations. Of the 294 allegations that were substantiated, 24 were force, 229 were abuse of authority, 30 were discourtesy, and 11 were offensive language. This was a decrease from 9.9% (415 out of 4,168) in the first six months of 2013.

The percentage of allegations that were unsubstantiated decreased by 4 percentage points from 47.7% in the first half of 2013 to 43.7% in the same period of 2014. Also, 7.6% of allegations were unfounded this year, while 7.5% were unfounded last year. Additionally, 24.5% of allegations were exonerated in the first six months of 2014 and 24% in the same period of 2013. The percent of allegations with unidentified officers increased from 9.8% in 2013 to 13.4% in 2014.

## Agency Productivity

To improve agency productivity, the CCRB created an Intake Unit in January 2014. The unit receives complaints, makes jurisdictional decisions, reviews preliminary evidence, requests investigative documents, and schedules interviews with complainants. The goal of the new unit is to reduce the truncation rate, decrease the time it takes to conduct investigations, and improve the quality and thoroughness of fully investigated cases.

### **Truncation Rate**

As defined in the section for investigative outcomes, a complaint is not fully investigated when the complainant withdraws the complaint or the complainant is uncooperative, unavailable, or unidentified. When compared to the period of January through June of 2013, in 2014 the CCRB increased the percentage of fully investigated cases, from 30.6% to 36.8%, and has decreased the percentage of cases not fully investigated, from 57.4% to 49.4%.

### **Completion Time**

During the first six months of 2014, the average number of days to complete a full investigation (excluding substantiated cases which are a sub-category of full investigations) decreased to 296 days, from 396 days in the first half of 2013. This was a 25% decrease in completion time.

The average number of days it took to complete a substantiated investigation was 381 days as compared to 453 days in the first half of 2013. This was a 16% decrease in the time it takes to complete a substantiated investigation.

### **Docket Size and Age**

The CCRB uses the term open docket to refer to the number of cases being processed by the agency at a given time. There were 2,662 open cases as of June 30, 2014, compared to 2,809 as of June 30, 2013. The difference of 147 cases represents a 5% decrease in the open docket.

On June 30, 2013, as measured by the date the incident occurred, investigators were investigating 298 cases that were one year or older. By June 30, 2014, the CCRB had reduced that number by 30%, with investigators investigating 208 cases that were one year or older.

On June 30, 2014, only 13 cases were 18 months or older based on the dates of incident or 0.5% of the open docket. The breakdown of these cases is as follows: 5 cases were pending Board review. Of these 5 cases, 1 case was previously returned by the Board for further investigation, 1 case was re-opened, 1 case was on DA hold, one case was filed late and in one case there was an investigative delay. In 2 of these cases, the statute of limitations crime exception applied so that the statute of limitations did not terminate the case.

Of the remaining 8 open investigations, the SOL crime exception applied to 5 cases. Three cases were on DA hold; 3 cases were filed months after the date of incident; 1 case was re-opened months after it was originally closed; and 1 case in mediation was delayed due to issues relating to the identification of the subject officer.

## Outreach

The CCRB Outreach Unit is tasked with fulfilling the agency's mandate to "engage in community outreach to educate the public about the agency." To do so, the Outreach unit makes public presentations to increase awareness of the agency's mission and to build public confidence in the complaint process. The presentations also provide civilians with information about their rights and responsibilities during police encounters. At the conclusion of the presentation, the agency distributes informational material including a brochure available in five languages and a poster outlining the complaint filing process in six languages.

Throughout the year, the agency focuses its outreach efforts on precinct areas with high levels of complaints and reaches out to various communities in all parts of the city to bring awareness of the agency's services. The manager of community outreach and partner engagement and the outreach unit, as well as investigators and other agency staff, visit schools, community Boards, advocacy organizations, community groups, public libraries, tenant associations, and churches in all five boroughs. In the first six months of 2014, staff members gave 167 presentations. By comparison, in the same period of 2013, the CCRB gave 76 presentations, for an increase of 91 presentations, or 120%. During this period, 56 presentations were made to non-governmental and non-profit organizations, 55 to educational institutions, 51 to government entities, and 5 to religious organizations. Presentations occur at locations throughout the city to ensure that the agency has a presence in every community. Presentations have been made before 55% of the city's community Boards. Further, outreach presentations have been held in 61 of the city's 77 police precincts.

In June 2014, after months of preparation, the CCRB launched the "CCRB in the Boroughs" initiative. The goal of the program is for CCRB outreach staff to give out information about the CCRB as well as having investigators available in each borough and during evening hours to take in-person complaints and interview civilian witnesses in cases already under investigation. For more information about the program and a schedule of outreach events, see the CCRB website.

The CCRB provided language translations and interpretations on 315 occasions in 6 different languages in the first half of 2014. The vast majority of translations provided were in Spanish but we also provided translations in Russian, Polish, Chinese, Hebrew and Arabic. This

figure is higher than last year, when the CCRB provided translations on 264 occasions. The CCRB also developed a multi-language poster in English, Spanish, Italian, Russian, Haitian Creole, Arabic, Chinese and Korean to assist civilians who want to file a complaint.

## Administrative Prosecution Unit

In January 2001, Mayor Rudy Giuliani and Police Commissioner Bernard Kerik announced a plan that would have authorized the Civilian Complaint Review Board to prosecute all substantiated CCRB cases where the Board recommended charges and specifications in the NYC Office of Administrative Trials and Hearings (OATH). The police unions filed a lawsuit challenging this plan as an unconstitutional violation of the City Charter. Upon review, the appellate court determined that the prosecution of cases by the CCRB was properly authorized, but that the disciplinary hearings must be take place before an employee of the Police Commissioner and therefore could not take place at OATH.

In 2010, the City Council, with the support of then Public Advocate Bill de Blasio, funded a pilot project in which a CCRB attorney served as lead prosecutor in disciplinary trials at the NYPD for a proscribed number of cases in which allegations were substantiated by the Board. Initially staffed with one attorney and one investigator, the pilot program was given permanent status and funding in November 2011. It was subsequently expanded into a full-fledged unit with the signing of a Memorandum of Understanding (MOU) on April 2, 2012 by Police Commissioner Raymond Kelly and CCRB Chairman Daniel D. Chu. This was the first time that a civilian oversight agency in the United States had been given prosecutorial power and to date the CCRB remains the only agency empowered with prosecutorial authority.

The MOU authorized the CCRB to prosecute all substantiated CCRB allegations in which the Board recommended administrative charges, with limited exceptions. The NYPD's Department Advocate's Office (DAO) continues to handle substantiated CCRB allegations for which the Board recommends command discipline or instructions. The Board also notes misconduct occurring outside the CCRB's jurisdiction and refers those allegations to DAO or NYPD's Internal Affairs Bureau (IAB) where appropriate.

The APU became operational on April 11, 2013 and is comprised of legal, investigative and administrative staff. The 12 APU lawyers include the Chief Prosecutor, Deputy Chief Prosecutor and ten line prosecutors. All APU attorneys are former local or federal prosecutors. The APU's investigative staff includes a Supervising Investigator and four investigators, all of whom previously worked in the CCRB's Investigative Division. The APU's budget also funds an administrative assistant, a policy analyst and an information technology officer. All APU staff members engaged in intensive training regarding police procedures and disciplinary proceedings, which included observing DAO trials, participating in NYPD ride-a-longs, training at the NYPD shooting range and DAO legal training.

During the first half of 2014, the APU received a total of 83 cases from the Board. At the end of June 2014, the APU's total open docket stood at 207 cases. APU prosecutors tried 24 cases to completion during the first half of the year and commenced 8 others. In two cases, the Police Commissioner had rejected a final disposition and the cases needed to be re-calendared. 20 guilty pleas were pending the Police Commissioner's review. In one case, a trial verdict had been rendered and was pending review by the Police Commissioner. 41 cases were calendared for trial. 30 cases were calendared for a court appearance. In 53 cases charges had been served on the respondent Member of Service (MOS) and the case was awaiting its initial court appearance. In 3 cases, APU charges were filed but awaiting service on the MOS. 28 cases were awaiting the filing of charges. The APU dismissed charges in one case. One case was closed by the APU without any action by the unit because the case had been previously adjudicated by the NYPD.

In the first six months of 2014, the Police Department reported the final disposition of four APU trials involving four MOS. In two of those cases, the Assistant Deputy Trial Commissioner (ADTC) presiding over the trial found the MOS not guilty. In one case, the ADTC found the Member of Service (MOS) guilty on one charge and not guilty on a second charge. In the remaining case, the ADTC found the MOS guilty of the sole charge. The Police Commissioner approved the verdicts in all four cases, as well as the penalties recommended by the respective ADTC in the two cases with guilty findings.

The NYPD retained two cases under paragraph two of the MOU, the so-called "carve out" provision. The Police Commissioner disapproved five plea agreements negotiated by the APU. In four cases, the Police Commissioner reduced the penalty from the forfeiture of vacation days to instructions. In one case, he increased the penalty from the forfeiture of six vacation days to the forfeiture of ten vacation days.

## **Police Department Dispositions**

### **Department Advocate's Office and Disposition of Substantiated Cases**

The NYPD provides monthly reports to the CCRB on the police commissioner's disposition of substantiated CCRB cases. The CCRB then makes this information available to the public during our monthly public Board meetings and in monthly statistical reports posted on the CCRB's web site.

From January through June 2014, the police department closed cases against 53 officers in which allegations had previously been substantiated by the CCRB. The department disciplined 31 officers and did not discipline 22 officers. The discipline rate was 58.5%.

Of the 31 cases in which the department disciplined officers, 2 officers were found guilty after trial. Also, 8 officers received command discipline and 21 received instructions.

Of the 22 cases where the police department took no disciplinary action, the department declined to prosecute 13 cases. The rate at which the Department Advocate's Office declined to prosecute substantiated cases was 24.5% in the first half of 2014. In 9 cases, the statute of limitations expired.



## Policy

The CCRB issues a number of reports throughout the year to fulfill its mandate to inform the public and New York City elected officials about agency operations, complaint activity, case dispositions and police department discipline. In addition, the agency issues reports and recommendations on NYPD policies, procedures and training.

Each month, the CCRB issues a detailed statistical report to the Board which details complaint activity and complaint types, agency productivity, Board findings and police department action on substantiated complaints. The report is known as the Executive Director's Report.

Twice a year the CCRB publishes comprehensive reports; one covers the first six months of the year, the other, the full twelve month period.

The CCRB also issues ad hoc reports and policy recommendations where the Board discusses trends and statistics or the Board makes official recommendations to the police department when it finds credible information that raises concerns about departmental policies, procedures, and training.

In addition, the CCRB testifies at least twice a year before the City Council on budget and policy matters.

During the first six months of 2014, the CCRB issued a special statistical report on vehicle stops and announced a new study on bystanders and videotaping of police-civilian encounters.

## Vehicle Stops and Searches: Data Analysis Update

One of the complaint categories to which the CCRB has paid particular attention in 2014 was vehicle stops and searches. As noted in the complaint activity section, the number of complaints involving vehicle stop and/or vehicle search allegations increased 10% from 238 complaints in the first half of 2013, to 261 complaints in the first half of 2014. In the last five years, from January to June, the CCRB received an average of 265 complaints in this category. Approximately one out of 10 complaints that the CCRB received annually involved a vehicle stop and/or vehicle search.

In the first half of 2014, the CCRB fully investigated 182 allegations of vehicle stop and/or search. The Board substantiated 27 allegations; exonerated 41; unfounded 1; the officer remained unidentified in 22 cases; in 6 instances the allegations were closed as miscellaneous; and 85 allegations were unsubstantiated. The substantiation rate was 15%. Of those 27 substantiated allegations, the Board recommended Charges and Specifications for 22 allegations, a Command Discipline for 4 allegations and for one allegation there was no penalty recommendation.

In the first half of 2014, the Department Advocate's Office disposed of 5 allegations of vehicle stop and/or search. The department declined to prosecute 4 allegations against 4 officers and was unable to proceed in one case because the statute of limitations had expired. There was a final determination in two APU cases pertaining to three vehicle search allegations. In one case involving a vehicle search, the APU recommended 8 vacation days for a guilty pleas, but the police commissioner modified the penalty to a guilty plea with retraining. In another case involving two allegations of vehicle search, the police commissioner retained the case involving two officers, pursuant to the terms of the MOU.

In February 2014, the CCRB released a study analyzing vehicle stops and searches. The study showed a high substantiation rate for vehicle stops and searches when people are also frisked and searched. The study also showed a failure to file required UF 250 reports more than half of the time.

The study analyzed two type of cases from 2009 to 2013. The first category was cases where there was a vehicle stop and/or search but there were no allegations of a stop, frisk or search of a person. We called this group "vehicle stop/search only" and it consisted of 699 fully investigated cases. The second category was cases where both vehicle stop and/or search allegations and stop, frisk and/or search of a person were present. We called this group "vehicle stop/search plus" and it consisted of 504 fully investigated cases.

The main finding of the study was that the substantiation rate for these two groups varied greatly and this variation was statistically significant. From 2009 to 2013, the Board substantiated 155 cases of “vehicle stop/search plus” cases. The substantiation rate was 22%. By comparison, the Board substantiated 51 cases of “vehicle stop/search only” cases for a 10% substantiation rate. During this period, the average substantiation rate for the entire universe of CCRB fully investigated cases was 11%. The substantiation rate for the “vehicle stop/search plus” cases was 14% in 2009, 22% in 2010, 23% in 2011, 26% in 2012 and 32% in 2013.

In the first half of 2014, the Board substantiated 14 out of 65 “vehicle stop/search plus” cases, a substantiation rate of 21.5%. By comparison, the Board substantiated 3 out of 32 “vehicle stop/search only” cases for a 9% substantiation rate. During this period, the average substantiation rate for the entire universe of CCRB fully investigated cases was 15%. The data for the first six months of 2014 continue to show a higher substantiation rate for vehicle stops and searches when people are also frisked and searched.

### **Bystanders and Videotaping of police-civilian encounters**

At the May 2014 public Board meeting, Board members raised questions about how officers should react to a bystander who is not involved in the actual event and is memorializing a police-civilian encounter that is the subject of a civilian complaint by audio, video or photography. The discussion focused on Patrol Guide 208-03 that regulates this type of encounters and the training officers receive. The Board asked staff to prepare a report addressing the police department’s policy, procedures and training on this issue.

At the June Board meeting, the executive director reported that preliminary work was done to ascertain the methodology and contours of a meaningful study. To locate cases in the CCRB’s database, a search was conducted for key words, such as “record,” “film,” “video” and “camera” in case closing reports. Staff found and read 908 closing reports for cases from November 13, 2013 to April 30, 2014 that contained these words. Of the 908 case, there were 42 that fell within the selected parameters of civilians recording of police activity. The Board then determined that the study should focus on data available for the first six months of 2014 and should focus on information that could enhance police training.

After reviewing the preliminary report, Chair Richard D. Emery proposed expanding the parameters of the report beyond the first six months of 2014, a proposal that will be presented at the September Board meeting.