

**STATEMENT OF
DEPUTY COMMISSIONER JULIE L. SCHWARTZ
DEPARTMENT ADVOCATE
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE
NEW YORK CITY COUNCIL
PUBLIC SAFETY COMMITTEE
JANUARY 29, 2009**

Good morning, Mr. Chairman and members of the Council. I am Deputy Commissioner Julie Schwartz, Department Advocate for the New York City Police Department, and with me today is Deputy Chief John Donohue, the Commanding Officer of the Office of Management Analysis and Planning. On behalf of Police Commissioner Raymond W. Kelly, we are pleased to be here today with Chairperson Stone and Executive Director Thompson to discuss the Police Department's interaction with the Civilian Complaint Review Board.

I would first like to express our respect for the mission of the Civilian Complaint Review Board and our regard for the hard work of the Board members and their staff. We share a common goal of ensuring that civilian complaints are investigated thoroughly, and that appropriate discipline is imposed where a police officer has committed an act of misconduct. In acknowledgment of the vital role the CCRB plays in helping to ensure that police officers perform their duties in a professional manner, I would like to briefly describe the types of assistance the Police Department provides to the Civilian Complaint Review Board, in the form of training, staffing, and information sharing.

The Police Department offers several types of training to newly-hired CCRB investigators: the investigators receive instruction on Police Department practices and procedures at the Police Academy; they receive a presentation from my office regarding the Department's disciplinary system; they visit the Department's Outdoor Range where they experience firearms training in the Tactics House; and they accompany patrol officers on ride-alongs to get a practical sense of police work. In addition, selected CCRB investigators attend the Internal Affairs Bureau's two-week Internal Investigations Course. We have also offered additional training opportunities to the four attorneys whom CCRB hired in late 2007, and have consistently invited and welcomed the attendance of investigators and attorneys at Department trials, so that they may directly observe the process flowing from substantiated cases.

We have permanently assigned a lieutenant, a sergeant, and two police officers full time to the CCRB Office, providing an on-site presence which assists CCRB staff in many ways. The Police Department staff has access to several different NYPD databases which facilitate the quick gathering of Police Department

documents requested by CCRB staff. In the past six years, as the Department has increased its own ability to utilize computerized databases, we have been able to provide real-time access to this information for the CCRB's investigative purposes as well. The database information available includes: photos, complaint and arrest reports, radio run printouts, stop, question and frisk forms, aided reports, precinct/unit roll calls, vehicle fleet information, accident reports, and search warrant execution locations. For other types of NYPD documents relevant to CCRB investigations, the request is made to the Internal Affairs Bureau, and the on-site NYPD personnel are able to assist the CCRB investigators in framing their requests and interpreting the documents they receive. The NYPD personnel also coordinate the appearances of police officers for official interviews at CCRB and address scheduling or other problems.

In addition to the Police Department personnel actually located at the CCRB Office, I have designated two members of my staff as Police Department liaisons to the CCRB, one, our most senior trial attorney, and the other, the Executive Officer of my office. They are available to provide information and insight about Police Department policies, procedures, and operations, and of course to address issues as they arise.

I am informed that the Council is particularly interested in how the Police Department handles substantiated civilian complaints, and so I would like to describe exactly what happens when the Civilian Complaint Review Board sends a substantiated case to the Police Department.

My office is the entity within the Police Department responsible for receiving substantiated cases from the Civilian Complaint Review Board. We conduct a comprehensive review of the case, including a thorough legal, procedural and factual analysis of the entire case file, as well as a review of the officer's CCRB history and disciplinary history, an evaluation and recommendation by the officer's commanding officer, and an examination of other similar cases. At the conclusion of this review, I will recommend one of four options: instruction for the officer, imposition of command discipline, service of charges and specifications, or no disciplinary action to be taken. My recommendation is forwarded to the First Deputy Commissioner and ultimately to the Police Commissioner for his determination, in the exercise of his exclusive jurisdiction over the discipline of the Police Department.

Many factors form the basis for the recommendation to select a particular level of discipline as the preferable option, or to decline to prosecute a substantiated complaint. They include: an analysis of whether the allegation constitutes misconduct; the appropriate level of discipline given the seriousness of the allegation; the strength of the case and how readily it may be proven before the Department's Trial Commissioners; the availability of the credible evidence; whether the misconduct would be better addressed by instructions as a learning

tool, rather than by another penalty; the officer's prior disciplinary and employment history; and dispositions in similarly situated cases.

In 2008, the Police Department closed 267 cases that were received from the Civilian Complaint Review Board. Of that number, 67 cases resulted in a command discipline, and 71 cases were resolved by instructions, with the source of the instructions tailored to the allegation, for example from the Department's Legal Bureau, the Police Academy, the Office of Equal Employment Opportunity, or the officer's Commanding Officer. The Department was unable to prosecute the case in a total of 91 instances, however, in 7 of those cases, members of the service received command disciplines for other misconduct that was noted during the course of the investigation.

Please note that since 2007 the two agencies have developed the practice where in every instance in which charges and specifications were served on the subject officer, my staff reaches out to the CCRB to enlist the assistance of their investigators in contacting complainants, so that the complainants are not surprised by a call from the Police Department. Instead, they are informed by the CCRB's investigator that they will get a call asking for their help in preparing the case for Department trial. Further, if my staff is having difficulty obtaining the cooperation of a party or witness, we will contact the CCRB investigator for their help in encouraging the individual to participate in the process.

In addition, we may contact CCRB for assistance in developing more information in a case, if additional investigation or clarification may help to bring a more appropriate resolution to the complaint. CCRB investigators may also be called upon to actually testify in a case, if we can not secure the availability of a complainant or witness.

My office provides to the CCRB on a monthly basis the dispositions of all substantiated allegations forwarded to the Department by the Board, as well as copies of all decisions by the Department's Trial Commissioners. In addition, we meet on a monthly basis with the CCRB's First Deputy Executive Director specifically to discuss the case dispositions in detail, to provide updates and status reports for ongoing cases, and to discuss the cases which the Department declined to prosecute.

As you may have observed, the CCRB and the Police Department collaborate in many ways at many levels, to accomplish the mutual goal of resolving civilian complaints. We have recently enhanced this communication by instituting a pilot project together, in which CCRB attorneys "second seat" Department prosecutors as they prepare for and conduct Department trials of substantiated civilian complaints. In selected cases, CCRB attorneys observe the negotiation of disciplinary charges and, where the case is scheduled for trial, participate in the preparation of the case. The CCRB Attorney and Assistant Advocate jointly review the case file and interview complainants and witnesses, and ultimately sit together at

the prosecutor's table at trial, where the CCRB attorney is able to make suggestions and provide insight to the Assistant Advocate during the trial. In fact, we have just concluded our first trial and found the collaboration to be very positive. We are hopeful that this project will benefit both agencies, in increasing the level of understanding between us and strengthening our disciplinary prosecutions.

Thank you for the opportunity to be here today, and we will be pleased to answer your questions.

**Testimony of Franklin Stone, Chair, Civilian Complaint Review Board
before the New York City Council Public Safety Committee
January 29, 2009**

Chairman Vallone, and members of the New York City Council, I welcome the opportunity to testify about the 2007 Annual Report of the Civilian Complaint Review Board. With me are the agency's executive director, Joan Thompson, and first deputy executive director, Meera Joshi Cattafesta, who will also be available to answer questions after my testimony.

First, I want to thank you for your consistent support of the CCRB. During past years, as the agency found itself confronting the prospect of handling more complaints with fewer resources, you on the Council provided necessary and much-appreciated funding in our adopted budgets.

The focus of my testimony today, though, is not on financial matters, but on our 2007 Annual Report and, in particular, on the changes in the way in which the police department has been handling allegations substantiated by the CCRB. The report covers activities and actions for 2007 but the statistical analysis of trends includes data from calendar years 2003 through 2007. I also have information available concerning developments since our report was published.

Background

Cities and other communities around the country have recognized the value that citizen oversight of the police can provide. Studies have identified at least four ways in which civilian oversight makes a valuable contribution: first, by holding officers accountable for past misconduct and so deterring future misconduct; second, by keeping a record, recognizing complaints as vital sources of information about a department; third, by identifying patterns and problems related to policies or supervision rather than individual misconduct; and fourth, by building public trust in the

police. The Board believes that the CCRB meets all four objectives in its work overseeing the New York City Police Department, the largest police force in the U.S.

CCRB Procedures

For the record, I will briefly describe our procedures for reviewing complaints from the public about police misconduct.

The Board of the CCRB is comprised of 13 members appointed by the mayor. Five of those members are individuals designated by the City Council, five by the Mayor, and three by the Police Commissioner. The CCRB currently has a staff of approximately 180, including 139 civilian investigators (and investigative supervisors), and a legal team of four attorneys. An investigator interviews complainants and civilian witnesses, obtains and analyzes police department and other documentary and other evidence, and interviews subject and witness police officers. Each investigator is assigned to an investigative team, containing at least one assistant supervisor, a supervisor and an investigative manager.

After completing an investigation, the investigator prepares in draft a detailed summary and analysis of the evidence obtained. That draft is then reviewed by members of the investigator's supervisory team and, in certain cases, since September 2007, also by one of our staff attorneys, each of whom is a former New York State prosecutor. If the recommendation is that an allegation be substantiated, the draft is also reviewed by at least one member of the agency's executive staff.

After any necessary changes are made, a report and recommendation is submitted to the Board of the CCRB for a decision as to the disposition of the case. In practice, most cases are decided by panels of the Board, each comprising one member designated by the City Council, one designated by the Police Commissioner and one designated by the Mayor, but any Board member can require that a case be considered

by the Board as a whole. Cases are decided using a "preponderance of the evidence" standard, which is sometimes described as a "more likely than not" or "51%" standard.

If an allegation is substantiated, the Board will in most circumstances recommend that the officer be disciplined. This may take the form of instructions (in which a superior officer instructs the officer as to appropriate conduct or sends the officer for retraining); a command discipline (the imposition at the command level of a penalty of up to ten days' loss of pay); or the issuance of formal charges and specifications against the officer ("Charges") (which may lead to up to 30 days' loss of pay, or termination). During the period 2003 through 2007, the Board recommended the issuance of Charges in 80% of all the cases which it substantiated. For 2008 the figure is 76%.

As soon as the Board reaches a decision on a case, the complainant, the subject officers and the NYPD are notified of its findings. A copy of each substantiated case is sent to the NYPD Advocate's Office, which reviews the case and determines how it should be handled within the Department. By statute, the Police Commissioner makes the final decision in all disciplinary matters concerning NYPD officers.

Board Dispositions

During the five-year period from 2003 to 2007, the Board substantiated allegations in 1,434 cases, against 1,967 officers, representing 11% of the cases in which it has carried out a full investigation. For 2008 the figure is 7%. Although the number of complaints received by the CCRB (and over which it has jurisdiction) has risen from 5,556 in 2003 to 7,548 in 2007, the number of substantiated cases has fallen, from 294 in 2003 to 217 in 2007. For 2008 the figure is 161.

NYPD Dispositions

As reflected in the 2007 Annual Report, two important trends are discernable for the period from 2003 to 2007. First there has been a decline in the number of cases in which Charges have been issued. Second, there has been an increase in the number of cases designated "Department Unable to Prosecute".

The decline in the number of cases leading to Charges comes during a period in which the Board has substantiated fewer cases. Charges were issued in 47% of cases disposed of by the NYPD in 2003 (160) and in 7% of such cases in 2007 (21). During the same period, the proportion of officers receiving Instructions increased from 26% in 2003 (62) to 54% in 2007 (95); and the proportion of officers losing more than 10 days' pay fell from 8% in 2003 (26), to 2% in 2007 (5).

In 2003, just 1% of the CCRB's substantiated cases were designated as "Department Unable to Prosecute" (3). By 2007, that figure had risen to 36% (104). During the same period, the proportion of cases taken to trial fell from 26% in 2003 (90) to just 4% in 2007 (11).

These changes are of great concern to the Board, which believes that a disciplinary process which provides predictable outcomes and appropriate punishments is more likely to deter future misconduct and lead to public confidence in such process. This objective can best be achieved by moving the CCRB's substantiated cases through the Department's disciplinary process by the issuance of Charges. When this is not done, the public does not get the full benefit of such process.

Recent Developments

Since issuing its 2007 Annual Report, the Board has engaged in discussions with the Department Advocate, and the CCRB's First Deputy Executive Director has met monthly with the Department Advocate to discuss the cases designated "Department

Unable to Prosecute". Additionally, a pilot project has been initiated under which CCRB attorneys are assisting the Department in relation to selected substantiated CCRB cases, including by "second seating" departmental trials.

The CCRB hopes that such co-operation may result in the issuance of Charges in more instances; and fewer cases being designated "Department Unable to Prosecute".

The CCRB welcomes these developments but recognizes that there remains much work to be done. We would like to have a more transparent disciplinary process that will achieve greater accountability on the part of police officers.

The figures for 2008 show a modicum of change. Charges were issued with respect to 13% of the CCRB's substantiated cases in 2008 (35), compared with 7% of such cases in 2007 (21); and 35% of the CCRB's substantiated cases were designated "Department Unable to Prosecute" in 2008 (91), compared with 36% in 2007 (104).

I am grateful to have the opportunity to discuss with you today the CCRB's 2007 Annual Report.

CCRB executive director Joan Thompson, and first deputy executive director Meera Joshi Cattafesta, will be happy to answer any of your questions.



LA UNIÓN HACE LA FUERZA
THE COMING TOGETHER OF
LATIN AMERICAN INTEGRATION CENTER
AND MAKE THE ROAD BY WALKING

Good day,

My name is Iris Martinez. I am a resident of Bushwick Brooklyn, a recent high school graduate and a member of Make the Road New York. I am speaking from first hand experience of being a victim of police misconduct. I fall under the age range that is mostly targeted, harassed and arrested and live in a community with one of the highest rates of police misconduct in the city.

When I was harassed, I was waiting to pick up my younger brother from school. At first, I was being verbally harassed because I was standing outside of the school waiting him where all the parents also wait. Then the abuse escalated into a physical assault. The experience was very traumatic. I was aware that I can file a complaint but did I not trust the process because officers protect one another and because I felt that what I felt didn't matter to the NYPD.

I began to meet with other community members to look into effective ways to hold police accountable for their actions and look into ways to make our community safer.

One of the options that we looked into was how can the (civilian complaint review board) CCRB become an effective way for community members to file an affective complaint against police officers.

Some of the recommendations that we came up with and agree with from our research are the following:

- Increase public awareness of what the CCRB is and where to file a complaint
- Among those who are aware of the CCRB, there is a lack of trust in the oversight system and a widespread belief that the agency is unfair, intimidating, and ineffective. We recommend that there be more accessible locations including community spaces that are not affiliated with the NYPD where the complaints for CCRB can be filed. If we are verbally or physically assaulted by the NYPD, the scariest location to make file of the incident is in the precinct where the officers involved work in.
- Also, we believe that school safety agents should be under the CCRB. There is currently no place to file complaints about school safety. School safety agents are a part of the NYPD umbrella; therefore, it makes sense that there is a system in place where students and the broader community can hold them accountable. We have proposed legislation called the "Student Safety Act" which has been supported by the majority of city council. If passed, it would help make this a reality.
- Lastly, we want the city council to transfer the authority to prosecute from the NYPD to the CCRB. There is a clear conflict of interest with the NYPD deciding if officers are prosecuted.

Thank you for having this public hearing. We at Make the Road are committed to helping make the CCRB an effective route to file complaints against NYPD and hold them accountable.

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My brother iman morales was killed on sept 24 2008, after the NYPD failed to follow protocol , iman fell from a 10 foot awning after being tazed by sergeant Nicolas marchisona. The lieutenant that gave the order to fire the tazer committed suicide a week later , while the other officer who actually fired the tazor recently been promoted to detective on Halloween 2008, the n.y.p.d say they are investigating , but how can they be investigating if they just promoted Nicolas marchisona, all thou he broke police procedure.

the Civilian complaint review board doesn't have any authority over the n.y.p.d, all they have is there opinion and at the end of the day it doesn't mean much, why is that?? The officers get a slap on the wrist , for a life taken .. that's unjustified

city council ... its up to you, you have the power

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**Testimony of
Vincent Southerland, Assistant Counsel
NAACP Legal Defense and Educational Fund, Inc.
to the
New York City Council
Committee on Public Safety
Oversight - The Civilian Complaint Review Board's 2007 Annual Report**

January 29, 2009

Thank you for providing me with the opportunity to testify before you today. My name is Vincent Southerland, and I am Assistant Counsel at the NAACP Legal Defense and Educational Fund, Inc. The Legal Defense Fund, since its founding by Thurgood Marshall in 1940, has engaged in a multilayered strategy of litigation, advocacy, public education and outreach in an effort to transform our constitutional promise of equality into a reality for African Americans and ultimately all individuals. LDF works to secure the full social, economic and cultural integration of all Americans into our society, to eradicate the influence of racism and prejudice on the criminal justice system and to break down the barriers that prevent African Americans from enjoying basic civil and human rights.

Systemic Failure to Respond to Police Misconduct Undermines Public Safety

We come before you today to address the New York City Police Department's (NYPD) failure to impose discipline in cases involving citizen complaints of police misconduct substantiated by New York City's Civilian Complaint Review Board (CCRB). Our concerns, however, are not limited to the failures of the NYPD in its handling of substantiated complaints of police abuse or misconduct. The CCRB has also faltered in its mission to adequately investigate and effectively reprimand abuses of police power, leading to what many in African-American and other minority communities have come to view as indifference to, if not tacit complicity with, police misconduct. In the end, the joint failures of the NYPD and CCRB leave African Americans, and often other minority communities, to suffer two corrosive violations of public will and rights: misconduct by police officers followed by the abdication of any effective government response to that misconduct.

At the core of the society envisioned by LDF is a real and enduring sense of trust and mutual respect between the people and their government – a government that is responsive to the voices of its entire citizenry. The police here in New York City, as in other major cities, play a vital role in ensuring public safety in all of its dimensions and this duty is one that no modern city should neglect or undermine. The failure of the NYPD and CCRB to properly ferret out and

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reprimand abusive police practices only serves to compound the mistrust bred by police misconduct. For far too long, African Americans have been disproportionately and, in an overwhelming number of cases, unjustifiably targeted by the police.

The Statistics Paint the Picture

Between 2005 and the first half of 2008, the NYPD recorded a total of 1.6 million stops.¹ A brief examination of New York City statistics reveals the stark and unjustifiable disparity in the NYPD's treatment of African Americans relative to other groups.² African Americans are disproportionately stopped in relation to any other racial or ethnic group. Despite being stopped more often, however, the rate of African Americans arrested as a result of police stops is comparable to that of Latinos and whites and is wholly inconsistent with the sharp disparity in stops among racial groups.³ African Americans accounted for approximately 50% of those stopped while comprising only 25% of the population.⁴ Meanwhile, whites accounted for 10% of stops and constituted roughly 44% of the population.⁵ Over the course of the same two and one-half year period, an average of nearly 5% of NYPD initiated stops of each racial group identified - African Americans, Latinos and whites - resulted in arrests.⁶

Consistent with the disproportionate number of interactions between the police and the African-American community, African Americans have filed approximately 50% – a figure that is double the African-American representation in the city population – of all police misconduct complaints with the CCRB and filed close to six times the number of street-stop complaints as their white counterparts.⁷ According to an NYCLU report reviewing the failures of the CCRB,

¹ Center for Constitutional Rights, Racial Disparity in NYPD Stops-and-Frisks: The Center for Constitutional Rights Preliminary Report on UF-250 Data from 2005 Through June 2008, 7-8 (2009) (providing population data as of 2006).

² Data from 1999 tells us that African Americans were stopped by the police 23% more often than whites. See Andrew Gelman, Jeffrey Fagan and Alex Kiss, *An Analysis of the New York City Police Department's by "Stop-and-Frisk" Policy in the Context of Claims of Racial Bias*, 102 J. AM. STAT. ASS'N 813, 822 (Sept. 2007).

³ See Racial Disparity in NYPD Stops-and-Frisks at 11.

⁴ Latinos comprised approximately 31% of stops and 25% of the population. See *id.* at 7-8

⁵ *Id.*

⁶ *Id.* at 10-11. The rate of summons issued for the same period fell within the range of 6 to 7% across racial groups. *Id.* at 11.

⁷ New York Civil Liberties Union, *Mission Failure: Civilian Review of Policing in New York City 1994-2006*, 41 (2007)

however, “even as complaints of police misconduct have increased sharply, the CCRB has been closing more than half of all complaints without an investigation. And of those complaints the CCRB has substantiated, the police commissioner has been rejecting the CCRB’s disciplinary findings and recommendations with great frequency.”⁸ Quite simply, while the volume of complaints from African Americans and others about police misconduct has risen, the failure to address those complaints undermines the legitimacy of our police force and political leaders, which in turn undermines public safety goals. This pattern must change immediately.

The CCRB’s Role

Compounding these failings is a tangible sense of skepticism about the independent nature of the CCRB. Given their experiences in making complaints, many are left with the lasting impression that the CCRB and NYPD are essentially the same agency – a perception that, over time, diminishes the chances that one will turn to the CCRB to complain about police misconduct. Therefore, the system that abuses the African-American community and the process that subsequently ignores complaints about that abuse has effectively undermined the willingness of African Americans to cooperate with the CCRB or NYPD. Anecdotal experience has been confirmed by the statistics detailing the failures of both agencies. Complaints either go unheard or are not thoroughly investigated. Police officers who commit acts of misconduct and abuse go unpunished. And all the while, faith in the government is eroded, lending support to the sense that many acts of misconduct go unreported because the victim feels the officer responsible will not be held accountable.

The overarching result is the emergence of a pattern that inevitably will lead rogue officers to feel emboldened to escalate their conduct and rights violations. We already see this phenomenon played out in a range of interactions between police and members of the communities they serve, from every day encounters which are ripe for abuse and harassment to unjustified police shootings and other deadly uses of force that generate significant media attention but seemingly never result in wholesale institutional reforms. The implementation of substantive improvements in the complaint process will garner the support of our communities and restore order to the behavior of those officers who find themselves breaking – rather than enforcing – the law.

Urgently Needed Reforms

Obviously, in these circumstances, the NYPD and CCRB’s approach for addressing complaints of police abuse and misconduct fall far short of that which would be required to earn the trust and win the confidence of African Americans. The City Council can promote significant reforms for the NYPD and CCRB that will help each agency to fulfill its obligations to the people of the city of New York. Improved training of CCRB investigators and staff will enhance the relative strength of the CCRB to fully and effectively respond to complaints of

⁸ *Id.* at 2.

police misconduct. The City Council should urge Mayor Bloomberg to divest the NYPD of its power to review, prosecute and adjudicate substantiated claims of misconduct and place that power in the hands of an independent agency. This action would help remove the cloud of suspicion cast over the NYPD's handling of complaints. The CCRB should also endeavor to create a policy and practice unit to identify patterns of misconduct by particular officers and precincts to enhance the potential for accountability. We also encourage the City Council to improve community accessibility to civilian oversight of the NYPD by creating a public education and outreach program to promote discourse around policing practices.

Rigorous civilian oversight is a critical component of an effective police force. True reforms will help the NYPD and CCRB earn the trust they need to have from the African-American community to provide a real measure of service for all. Comprehensive steps must be taken now to improve both the quality of the agency and strength of the process for responding to civilian complaints of police abuse and misconduct. Only then can the NYPD and CCRB effectively serve the community as a whole.



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Testimony of the New York Civil Liberties Union

before

**The New York City Council
Committee on Public Safety**

regarding

**NYPD Disciplinary Practices in Cases of Police Misconduct
Substantiated by the New York City Civilian Complaint
Review Board**

**Presented by NYCLU Executive Director Donna Lieberman and
Associate Legal Director Christopher Dunn**

January 29, 2009

The New York Civil Liberties Union submits this testimony in response to recent actions by the New York City Police Department that are effectively destroying the already woefully inadequate system of civilian oversight of police misconduct that has been in place since 1993. In light of the current oversight crisis, we specifically call on the Public Safety Committee and on the New York City Council to take steps necessary to transfer to the New York City Civilian Complaint Review Board (CCRB) responsibility for the prosecution of cases in which the CCRB concludes police misconduct in fact occurred.

Background

The NYCLU was instrumental in the creation of the CCRB. Since the City Council legislatively mandated an independent CCRB in late 1992 and since the CCRB began operating in July 1993, the NYCLU has been consistently and integrally involved in efforts to assure the agency's vigorous and effective oversight of the New York City Police Department.

As part of our ongoing work, we have published a number of reports examining the operations of the CCRB and examining the overall regime of civilian oversight of the NYPD. Most recently, in September 2007 we released "Mission Failure, Civilian Review of Policing in New York City, 1994-2006," a 63-page report that looked at the first thirteen years of independent civilian oversight of the NYPD.

A Dramatic Change in NYPD Prosecutorial Practices

Most complaints that are filed about police mistreatment of civilians are investigated by the Civilian Complaint Review Board, an official city agency outside the police department. In the cases in which the CCRB concludes a police officer engaged in misconduct – called "substantiated" cases – the agency forwards the case to the NYPD for further action.

Once CCRB-substantiated cases arrive at the NYPD, the Department Advocate's Office (DAO) assumes responsibility for it. As the prosecutor, the DAO can take a range of actions, including taking the case to trial, negotiating a plea agreement, or simply closing the case without any further action or discipline. In cases in which an officer is disciplined, the police commissioner ultimately is responsible for imposing the discipline, which can range from dismissal as the most severe to "instructions" as the most lenient. The commissioner is not

required to explain (and does not explain) why discipline is or is not imposed or why any particular penalty is imposed.

Between 2002 and 2004 -- the first three years of Raymond's Kelly most recent tenure as the NYPD's commissioner -- the Police Department's handling of cases referred by the CCRB was fairly consistent. During that period, about one-half of officers received discipline more severe than instructions, about one-quarter received instructions, and a tiny percentage of cases were closed by the Department without further action. (The remaining cases ended without discipline for miscellaneous other reasons.)

Starting in 2005, statistics on the department's disciplinary actions started to shift dramatically. From 2005 to 2007, officers receiving discipline more severe than instructions dropped by nearly a half to about one-quarter of the cases disposed of during those years. Meanwhile, officers receiving slaps on the wrist in the form of instructions increased substantially, jumping to over one-half of the cases disposed of in 2006.

Most troubling, the number of cases simply being closed by the Department without any action or discipline -- referred to as "DUP" cases, for Department Unwilling to Prosecute -- has spiked, from an annual rate of less than 4 percent between 2002 and 2006 to nearly 35 percent in 2007. And the abrupt change in 2007 has proved not to be an aberration. Indeed, figures released two weeks ago by the CCRB disclose that the NYPD dismissed without any action 34.1% of the cases it closed in of 2008. The annual DUP figures for the last seven years are as follows:

<u>Year</u>	<u>Cases Dropped by NYPD (% of all closed cases)</u>
2002	8 (3.9%)
2003	3 (.8%)
2004	15 (2.9%)
2005	11 (2.3%)
2006	12 (3.3%)
2007	102 (34.5%)
2008	91 (34.1%)

It is important to understand that many of the cases being dropped by NYPD prosecutors involve significant violations of civil rights. For instance, our review of CCRB reports about cases from 2007 reveals that about 45% percent of the cases dropped by the Department that year involved substantiated complaints of stop, question, and/or frisk; in 2008 the figure was about 35 percent for the reported cases.¹ As the Council is aware, Department stop-and-frisk practices have been the subject of substantial public controversy, given the huge number of stops in the last five years and the marked racial disparities of those being stopped.

Even more troubling is the NYPD dismissal out of hand of cases in which the CCRB has substantiated complaints of excessive force by police officers. Our analysis of CCRB reports reveals that in 2008 nearly a quarter of the reported cases dismissed by the NYPD involved substantiated force complaints.²

¹We have dispositional reports for every month except July and December, which is not yet available. Of the 66 reported cases the Department dismissed during those ten months, 24 involved this type of substantiated misconduct.

²For the ten months for which figures are available, 15 out of the 66 dropped cases involved substantiated allegations of excessive force.

Not only have NYPD prosecutors started to dismiss without any action a large portion of CCRB-substantiated cases, they also have, for the remaining cases, effectively stopped pursuing trials against officers. In 2007 for instance, Department prosecutors took only 2.7 percent (8 out of 296 cases) to trial. Just four years earlier, 24.5 percent (90 out of 367) cases went to trial. For the last seven years, the figures are as follows:

<u>Year</u>	<u>Cases Taken to Trial</u> (% of all closed cases)
2002	46 (22.7%)
2003	90 (24.5%)
2004	88 (17.1%)
2005	93 (19.6%)
2006	44 (12.2%)
2007	8 (2.7%)
2008*	18 (7.0%)

*Through 11/30/08

This sharp reduction in the DAO's willingness to try cases removes from the prosecutorial process the primary threat that would encourage officers to accept substantial plea bargains. If officers know that prosecutors simply will not take their cases to trial, officers are far more likely to be able to negotiate resolutions of their cases with far less discipline, further undermining the entire disciplinary process.

The Impact of the Changes in NYPD Disciplinary Practices

While the Department may contend the changes of the last two years are somehow attributable to the CCRB, neither NYPD officials nor anyone else has identified any change in

CCRB practices that could possibly account for the abrupt and dramatic shift in the NYPD's disciplinary practices. In light of the available figures, it is difficult to reach any conclusion other than that NYPD prosecutors have made a conscious decision -- or have been directed -- to stop pursuing cases of CCRB-substantiated police misconduct.

The failure to pursue discipline for officers found to have engaged in misconduct by the CCRB has a number of serious consequences, all of which undermine both the Department and public safety:

- Officers who have engaged in misconduct escape punishment;
- All police officers receive the very clear message that those who engage in misconduct may do so without fear of punishment.
- The public receives the very clear message that officers can engage in misconduct with impunity and that it is a waste of time to file a CCRB complaint.
- The entire CCRB process is undermined, with devastating consequences for the morale of the agency's staff.

A Needed Reform: CCRB Control of Prosecutions

The NYCLU believes that the entire system of civilian oversight is broken and requires fundamental reform, which would require the allocation of significant new resources and possible legislative changes at the local and state level. The dramatic changes in NYPD disciplinary practices over the last two years, however, have created an unprecedented crisis that can be addressed through more limited action that must be taken now.

Today, we call upon the Public Safety Committee and the full City Council to work with the Administration, the NYPD, and the CCRB to transfer to the CCRB the authority and responsibility for prosecuting cases in which the CCRB has found misconduct. While the

NYCLU long has endorsed this change, developments of the last two years make this reform imperative now.

As the Council is aware, during the administration of former Mayor Giuliani the NYPD and CCRB agreed to a Memorandum of Understanding (MOU) that effected this exact change. The City adopted this reform in light of concerns expressed then about problems with the Police Department being responsible for prosecuting its own members in cases of misconduct against civilians. Though the MOU's prosecutorial shift never went into effect because of successful litigation challenging a separate part of the MOU (moving trials out of the Police Department), the courts expressly upheld the authority of City officials to agree to transfer prosecutorial authority to the CCRB.

This reform can make an important difference, both in terms of addressing police misconduct and improving public confidence in the NYPD. From our perspective, this reform will have several important benefits:

- It will assure vigorous prosecution of all cases in which the CCRB has found an officer to have engaged in misconduct because it removes the NYPD from being able to decide how and whether to proceed in a case of one of its own officers.
- It will promote thorough and professional CCRB investigations because the CCRB will remain responsible for handling those cases in which it has found misconduct. Under this new arrangement, no longer will prosecutors be able to blame another agency for sloppy investigations as an excuse for not pursuing cases.
- It will expedite the resolutions of substantiated cases by eliminating the delays that inevitably follow when one agency hands a case off to another. (Indeed, on occasion the

NYPD has created huge delays by reinvestigating cases substantiated by the CCRB.)

Additional Reforms

By our testimony today, we do not mean to suggest that the sole problem in civilian oversight lies in the NYPD's prosecution of CCRB-substantiated cases. To the contrary, as we detailed in our Mission Failure report from 2007, we believe that systemic reform is needed. We do not discuss the details of our broader concerns at this time solely in the interest of focusing on the particular problem that has arisen from the recent changes in NYPD disciplinary practices.

Nonetheless, there are two other reforms we believe the Council can and should enact in the near term:

Mandate a Practice-Reform Unit at the CCRB- We long have believed that one of the most beneficial – and most cost-effective – reforms in the civilian-oversight process would be to create a dedicated unit within the CCRB that would (1) analyze NYPD policies and practices that are contributing to police misconduct and (2) recommend reforms in such policies and practices. As the City agency that processes the bulk of complaints about police officers, the CCRB is in a unique position to identify and respond to patterns of police misconduct. Even a relatively small unit could make an enormous difference in reducing police misconduct.

Create a Neighborhood CCRB Presence- We long have been concerned about the insularity of the CCRB. Agency staff work out of a single office in downtown Manhattan, which means that many complainants will not follow up on complaints because of the substantial inconvenience of having to travel to the CCRB office for interviews. This geographic isolation

also assures that the agency has little if any in-person contact with communities that are the victims of police misconduct. While we recognize that in the current fiscal climate satellite CCRB offices are likely not feasible, many steps can be taken to use existing neighborhood city facilities as points of contact for the CCRB. To take just two examples, local offices of Councilmembers and the Borough Presidents could be made available to CCRB staff to meet with civilians about complaints and with community members concerned about police misconduct.

* * *

New York City's system of civilian oversight is in crisis, as recent actions by the NYPD have created a situation in which police officers can engage in misconduct with virtual impunity. The NYCLU calls upon the Public Safety Committee and the City Council to take immediate steps to address this problem. We specifically call on Members of the Council to take immediate and concerted action to effect the transfer from the NYPD to the CCRB of the authority to prosecute complaints of police misconduct that the CCRB has substantiated.

Christopher Dunn
Associate Legal Director

Donna Lieberman
Executive Director

Robert Perry
Legislative Director

**Written Comments of The Bronx Defenders
Oversight - The Civilian Complaint Review Board's 2007 Annual Report
New York City Council
Committee on Public Safety
January 29, 2009**

My name is Susan Lee and I am a Criminal Defense Attorney at The Bronx Defenders. I submit these comments with Kate Rubin, our Policy Director, on behalf of The Bronx Defenders, and thank the Public Safety Committee and the City Council for the opportunity to testify.

The Bronx Defenders is a community-based public defender service that provides fully integrated criminal defense, family defense, civil legal services, and social services to indigent people charged with crimes in the Bronx. The Bronx Defenders views clients not as "cases," but as whole people: caring parents, hard workers, recent immigrants, native New Yorkers, and students with hope for the future. Day in and day out we represent individuals who have been arrested. We counsel their families through a series of incredibly stressful events and decisions.

It is rare to work an entire arraignment shift in Bronx criminal court without encountering someone with a story of police misconduct – unnecessary force, physical brutality, racial profiling, and completely groundless arrest are the stories we hear most frequently. But it's even more rare to meet someone with any faith that filing a claim with the Civilian Complaint Review Board will help their cause, provide a sense of justice served, or prevent future abuse.

In our daily interactions with the people we serve, we hear their stories. In particular, we hear hopelessness about the possibility of change in the way their communities are treated by the police. Brimming with hurt, anger and resentment, their descriptions of police encounters and of their experience with police in their communities lay bare the ever-widening gap between the NYPD and the communities they are sworn to protect and serve.

For instance Ms. James, who nearly had a heart attack when officers broke down her door and ransacked her apartment before realizing they were searching the wrong unit.¹ Or Ms. Scott, who an officer called a "disgusting pig" and other expletives as she recorded a friend's arrest on her cell phone. Mr. Miller, whose leg was broken in three places after he asked officers to show him a search warrant before allowing them access to his home. Mr. Johnson, rounded up and falsely arrested for trespassing in the hallway of his cousin's building. Add to that the countless young men and women, and their families, who are routinely stopped, questioned, searched by the police, without cause, and without a subsequent arrest. The stories illustrate a growing problem of unchecked police

¹ Names have been changed to protect our clients' privacy.

misconduct that the CCRB can't solve alone, but that it can't even begin to address in its current form.

ACCOUNTABILITY

When our clients recount these kinds of experiences, we as their criminal defense attorneys advise them to report their claims with the CCRB. The standard response I receive from my clients is, "Oh, aren't they with Internal Affairs? They won't do anything." Or they'll say, "I called CCRB before. Nothing happened." Or, they'll say, "I want to file a lawsuit."

In the community that we serve, the general sense is that the police have nothing to fear from the CCRB. For members of the community who have been victims of police misconduct, the only justice they are likely to find lies at the end of a lawsuit.

Remember Ms. James? She was seventy years old when the police broke down her door and tore through her apartment. They eventually realized that their search warrant was actually for a different apartment. But not before they destroyed her apartment, and not before they had to call an ambulance for Ms. James, who collapsed out of fright and shock. Ms. James reported the incident to the CCRB. After a full investigation, the CCRB found her claim to be unsubstantiated. So Ms. James filed a civil lawsuit, and received a settlement of \$350,000 from New York City.

What happens when the CCRB cannot hold police officers accountable for their misconduct?

For one, this city ends up spending millions of dollars in personal injury settlements. A CCRB complaint puts the City on notice that an officer is acting unprofessionally and abusively. The more CCRB complaints, and the less action taken against the officer, the stronger the cause of action in a civil suit charging the City with negligent supervision or negligent hiring. Giving the CCRB real power to nip misconduct in the bud could save the City millions of dollars down the line.

While the CCRB does not possess disciplinary authority, police officers have good reason to believe they can continue to act with impunity. As other organizations will attest, and as the CCRB itself has reported, the NYPD rarely imposes disciplinary action as recommended by the Board for substantiated complaints. And more than one in three *substantiated* complaints is summarily dismissed by the NYPD.

The inability of the CCRB to hold officers accountable results in an even more significant and widely-felt consequence. The community loses faith in those who are sworn to serve and protect them. When the community does not trust the police, the police have a harder time doing their job. When the police can't do their jobs well, our communities are less safe. And we slide deeper into a cycle of mutual distrust and tension.

Giving the CCRB the authority to discipline police officers is a critical step towards rebuilding the trust between the police department and the communities they are supposed to keep safe.

ACCESSIBILITY

It's impossible to overestimate the power imbalance between the police and our clients. In a conflict between a police officer and a typical Bronx resident, the officer has the legitimacy that comes with the badge and uniform, as well as the support of the Police Department and the union. When a conflict happens in the context of an arrest and criminal charges are pending, the stakes can be incredibly high.

The role of the CCRB should be to create a measure of equity and the possibility of justice within the context of imbalance. Instead, many aspects of the current structure and process for filing a complaint are burdensome and intimidating.

People fear retaliation from police officers who they have named in complaints, and who in most cases continue to patrol the same neighborhoods. Our client Mr. Smith was acquitted of a robbery charge last year; his mug shot had been placed in a photo array for identification by an officer against whom he'd previously filed a complaint. Understanding that a proper investigation necessarily makes anonymity impossible, the CCRB could track the frequency of complaints made about certain officers and allow names of complainants to remain confidential. And, the agency must do more to protect people whose complaints lead to full investigations from retaliation.

If we advise a client not to speak with an investigator until their criminal case is over, the CCRB will often close their investigation because of the "unavailable witness." Some closed CCRB investigations can be re-opened, but there is no guarantee, and the process can be so lengthy that the statute of limitations prohibits further investigation. The process for filing complaints and seeing the investigations through should be tailored better to the needs of people making them.

CONCLUSION

The stated purpose of the CCRB is to provide thorough and impartial investigation of reports of police misconduct in a manner in which the public and the police department have confidence. Presently, the CCRB is far from fulfilling its mission. The police can be confident they won't face real consequences for abusive behavior. And the public is confident that if they want justice, they should file a lawsuit.

People in the Bronx and all over New York City want safe communities. But the NYPD can't keep us safe if we can't trust them to treat us with respect and honor. A more robust CCRB could be a catalyst for repairing the trust between the police and the public.

We strongly urge the City Council to enact recommendations that will enhance New Yorkers' access to justice and empower the CCRB to hold police officers accountable for misconduct.

**Testimony of Gabriel Arkles, Sylvia Rivera Law Project
Before the Committee on Public Safety of the Council of the City of New York
January 29, 2009**

Dear Members of the Council of the City of New York:

Thank you for the opportunity to address you today. I am pleased that the Council is holding a hearing that touches on the important subject of police accountability in our City.

I am a Staff Attorney for the Sylvia Rivera Law Project. The Sylvia Rivera Law Project is a community based organization that provides free legal services to low-income people and people of color who are transgender, intersex, or gender nonconforming. We also engage in public education, leadership development, support of community organizing, policy change, and impact litigation strategies to advance gender, racial, and economic justice in New York City and beyond. We have developed considerable expertise in criminal justice issues as they impact our communities over the years and as such have become aware of a deep lack of oversight of and accountability within the NYPD.

Police misconduct against transgender and gender nonconforming people

The impact of police misconduct on low-income transgender and gender nonconforming communities of color in this City cannot be understated. A conversation I had with Joanna,* an African American transgender woman in her 50s, struck me with particular force. Joanna lives a quiet life, caring for an ill family member in their apartment in the Bronx. When we met, she told me that harassment from the NYPD had been such a constant over the past few decades of her life that she is afraid to leave her home. While she has no criminal history and has never been arrested—which is something of a miracle given the pervasiveness of false arrest in transgender communities of color—she mentioned dozens of instances of police demanding to see her breasts when she was walking down the street, stopping and searching her for no reason, calling her a “faggot” and a “whore,” and threatening to beat, rape, or arrest her. She stays inside after dark and tries to limit the times she leaves her home even in daylight as much as possible, in order to try to avoid police violence.

Joanna’s experience is one of the more mild examples of the severe and persistent NYPD misconduct targeted at transgender and gender nonconforming people, particularly those who are also people of color, youth, homeless, or people with disabilities. Transgender people are disproportionately poor and homeless because of loss of family support, discrimination in housing, school, work, families, and healthcare, and lack of access to ID. They experience the heightened police surveillance, profiling, and arrests for “quality

* I have changed her name in order to protect her identity.

of life” crimes that all poor and homeless people do in this City. However, they are also especially singled out because of stereotypes that all trans and gender nonconforming people are prostitutes, deceptive, and/or violent.

Many transgender women of color are arrested simply for walking down the street and charged with loitering with intent to solicit. A cross-dresser client of mine was arrested for prostitution and told by the arresting officer that the only reason he arrested him was that he was wearing a dress.

Often transgender and gender nonconforming people are arrested when they themselves are the victims of hate violence or domestic violence. One of our clients, a Native American transgender woman in her seventies with disabilities, was arrested and charged with assault after throwing a drink at a man who gay bashed her in a bar.

Police frequently order trans and queer youth of color to “move on” in the Christopher Street pier area for no reason aside from their perceived gender identity, sexual orientation, age, and race.

Police harass and at times falsely arrest trans and gender nonconforming people for no more than using a restroom that the police think they do not look “right” for.

Trans and gender nonconforming people can also face harassment and/or arrest if they do not have ID or if they only have ID that does not match an officer’s perception of their gender. An NYPD officer demanded ID from a Latino trans man in the West Village. After he produced ID, the officer said that it was not “valid” and cited him for disorderly conduct.

Besides false arrest and profiling, other flagrant forms of police misconduct targeted at trans and gender nonconforming people are also common. Transgender, intersex, and gender nonconforming people frequently report experiencing unlawful and abusive searches from the police. These abusive searches take several forms. For example, many transgender people report officers inappropriately groping their breasts, buttocks, or genitals during pat downs and other searches. Multiple transgender people and people with intersex conditions have reported to me that they were repeatedly, unnecessarily strip searched after their arrest, sometimes several times within only a few hours, by officers who gawked at their genitals and humiliated them. Sometimes these searches are explicitly done not for any legitimate, contraband-related purpose, but for the stated purpose of “determining the gender” of the individual—a humiliating, abusive, unconstitutional, and counterproductive practice. They also often seem to be done in order to amuse, sexually gratify, or satisfy the curiosity of the officers. At times the person’s body is exhibited to multiple officers, who will engage in conduct such as

laughing, pointing, and making demeaning comments related to the person's body and/or gender.

Police brutality and beatings, which at times lead to serious injury, are another major area of concern. I saw one of my clients, a Latina transgender woman, just before and shortly after her arrest. Before her arrest, she appeared to be in good health. After her arrest, she walked with a limp, had an arm in a sling, and had visible swelling of the face and blood in her eye. She reported that police inflicted all of these injuries.

Verbal harassment is also extremely widespread. This harassment includes officers using epithets such as "dyke," "faggot," "homo," "it," or "freak;" threatening to rape or allow others to rape the person; asking invasive questions about the persons' body or sex life; mocking and ridiculing the person's gender identity; and/or referring to people with names, pronouns, and other gendered language that is inconsistent with their gender identity.

Detention practices are also highly problematic. Many trans, intersex, and gender nonconforming people are denied medical treatment they need. Trans men are often left cuffed to rails for extended periods of time rather than being placed in cells. Trans women are almost always placed in cells with non-transgender men, no matter how dangerous, unhealthy, inappropriate, and disrespectful that placement may be for them.

Many community members I have worked with see the NYPD, at every level in the chain of command, to be a danger to their dignity, their safety, their feeling of welcome in their own neighborhoods, and even their lives. Many advocates agree and fear for the physical safety of our clients any time they interact with the NYPD, even if they are reporting a crime.

Lack of accountability for police misconduct

It is well-known among low-income transgender and gender nonconforming communities of color that police officers are not held accountable for any of these or other abusive actions against them. Despite the great need for trans and gender nonconforming community members to have access to a reliable system for holding police accountable for misconduct, many community members do not know that the Civilian Complaint Review Board (CCRB) exists. Those that do know generally have such a low opinion of it that they will not consider filing a complaint. Frankly, when I talk to clients about filing complaints with the CCRB, many tell me that the CCRB is "bullshit." They explain that nothing ever happens with complaints that are filed and that nothing ever happens to the officers who are complained about.

Unfortunately, I cannot disagree with them. Those few of my clients who have filed CCRB complaints typically find the investigation process hostile, alienating, or

completely inaccessible. Many of my clients are homeless or marginally housed and often do not have any consistent phone access, much less internet access or car fare to travel around the city, making the types of follow up demanded in the current structure of CCRB investigations difficult or impossible. Because many of the assaults and other mistreatment my clients experience happen away from witnesses other than members of the NYPD, “corroborating evidence” other than my client’s testimony is often not available.

Ultimately, many transgender and gender nonconforming people who file complaints with the CCRB never learn what happened to their complaints at all. Most CCRB complaints are “truncated” and thus are never fully investigated. Most of those that are fully investigated are not substantiated. While the CCRB does not track any data related to complaints based on gender identity, I believe these statistics would likely be considerably higher for complaints filed by trans and gender nonconforming community members, despite the merit the vast majority of these complaints have. Given the fact that over a third of substantiated complaints still result in no discipline for the officers involved, my clients’ perception of the uselessness of the CCRB process is particularly well founded.

Based on my experience, I believe that transgender and gender nonconforming people of color overwhelmingly do not see the CCRB as an independent body that furthers police accountability for them or their communities. Rather, if they know of it at all, they see it as a body that has more in common with the NYPD than with people who are harmed by police misconduct; as just another hostile, transphobic government agency; and/or as a body that has neither the power nor the will to create any true accountability for police. In a survey conducted by FIERCE! of low-income lesbian, gay, bisexual, transgender, and questioning youth of color in the West Village, 62% of participants had experience police harassment, violence, or misconduct. Zero percent had reported that misconduct to the CCRB or any other official body.

Recommendations

The Sylvia Rivera Law Project makes the following recommendations for action to begin addressing some of the problems just described.

With regard to CCRB

- The CCRB must become truly independent of the NYPD. The Police Commissioner should not have the power to appoint any members of the CCRB. CCRB board and staff should include survivors of police misconduct and should reflect the diversity of communities most targeted for police misconduct, including transgender and gender nonconforming communities of color.
- The NYPD cannot be trusted to hold itself accountable. As a small measure to begin building genuine civilian oversight, the power to prosecute disciplinary

actions against NYPD officers should be removed from the NYPD and instead entrusted to the CCRB.

- The problems with police misconduct are systemic, not the result of a “few bad apples.” CCRB cannot effectively address systemic problems with an exclusively individualized approach to complaints. CCRB should have the resources and responsibility to analyze trends in police misconduct and recommend institutional changes to eliminate that misconduct. CCRB, NYPD, and when needed other parts of City government must take action to respond to the trends and recommendations so identified. Because policing without systemic accountability does more harm than good, any additional CCRB resources necessary to do this work should be taken from the current budget for the NYPD.
- The CCRB should begin tracking data about complaints in terms of gender identity and sexual orientation as well as other factors. Aggregate statistics about complaints from transgender and gender nonconforming people should be made available to the public.
- If transgender and gender nonconforming people experience some of the same transphobic attitudes and biases at the CCRB that they do from the NYPD, the CCRB will never be an avenue for redress that is genuinely available to these communities. The CCRB must contract with qualified, community-based providers to train CCRB staff and board on topics including transgender awareness and techniques for working with survivors of sexual and other violence with sensitivity.
- Because many members of communities particularly impacted by police misconduct do not know about the CCRB, the CCRB must do greater outreach to diverse communities including trans and gender nonconforming communities of color. CCRB complaint and investigation procedures must be made more easily accessible and flexible, so that even the most marginalized residents of New York City, including youth, people with disabilities, and people without permanent or stable housing, have a reasonable chance of receiving a meaningful response to their complaints. Investigators should be able and willing to travel to meet with complainants where they are whenever necessary. Investigations should continue to the utmost extent possible even when the complainant cannot be reached.
- Because victims of police misconduct are often arrested and charged criminally as a part of the same incident as the misconduct, it is profoundly unjust that people who have been harmed may have no opportunity to complain about that misconduct for fear that they could have their statements used against them in a criminal proceeding. Complainant’s statements to CCRB should not be permitted to be used against them in criminal proceedings. A grace period following the disposition of a criminal case should allow people to file complaints with CCRB even if the statute of limitations would normally have passed.

With regard to NYPD

- The NYPD must change its culture, from the top down, to one of genuine accountability to the people and communities it polices. Responding meaningfully to CCRB complaints is absolutely necessary, but is also no more than the tip of the iceberg in terms of the needed changes. The NYPD must engage meaningfully with marginalized communities, in ways determined by those communities, to address systemic problems. The NYPD must also improve its policies and practices in terms of both disciplining officers for misconduct and rewarding officers for excellence in working with communities in non-violent and respectful ways.
- The NYPD must put clearly defined policies into place protecting the rights of transgender people. While by no means an exhaustive list of the areas these policies should cover, at a minimum such policies should prohibit members of the force from:
 - engaging in searches solely to identify genitals
 - engaging in any other form of abusive, overly invasive, overly public, unnecessary, or unlawful search;
 - sexually harassing of members of the public;
 - verbally harassing transgender people, including referring to them by names and pronouns inconsistent with their expressed gender identity;
 - profiling based on any of the characteristics for which discrimination is prohibited in the NYC human rights law;
 - placing transgender people in cells with non-transgender men against their will;
 - detaining, arresting or charging people solely based on their presence in a particular gender restroom, lawful possession of hormone medications, or failing to present ID or presenting a name or ID that the officer perceives as inconsistent with the person's gender.
- The NYPD must conduct solid training of all members of the department on the above policies and on how to work in a positive way with transgender and gender nonconforming community members, as well as members of other marginalized communities including youth, people with disabilities including psychiatric disabilities, low-income people, homeless people, people of color, immigrants, people with limited or no English proficiency, and members of religious minorities.

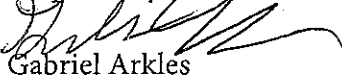
With regard to the City

- Overall, in order to create true public safety in all of our communities, and particularly in low-income transgender and gender nonconforming communities of color, our City must put less resources into policing our communities and more resources into supporting and strengthening them. Resources for voluntary, quality, trans-friendly, safe, affordable, and accessible services and opportunities such as drug treatment; health care; education; jobs; housing; community-based

social and legal services; public transit; and leadership development must be prioritized over resources for policing, prosecution, and punishment.

Thank you again for this opportunity. Should the Council be interested in learning more about many of the issues I have discussed, I suggest the reports and articles I list at the end of this testimony.

Respectfully submitted,



Gabriel Arkles

Staff Attorney

Sylvia Rivera Law Project

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Resources

Sylvia Rivera Law Project, *IT'S WAR IN HERE: A REPORT ON THE TREATMENT OF TRANSGENDER AND INTERSEX PEOPLE IN NYS MEN'S PRISONS (2007)* available at <http://www.srlp.org/files/warinhere.pdf>.

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INCITE! Women of Color Against Violence, *POLICING GENDER (2008)* available at http://www.incite-national.org/media/docs/3515_toolkitrev-policinggenger.pdf.

New York Civil Liberties Union, *MISSION FAILURE: CIVILIAN REVIEW OF POLICING IN NEW YORK CITY (2006)*, available at http://www.nyclu.org/files/ccrb_failing_report_090507.pdf



TESTIMONY OF
CITIZENS UNION OF THE CITY OF NEW YORK
on the 2007 Annual Report of the Civilian Complaint Review Board
Before the New York City Council Committee on Public Safety
January 29, 2009

Good morning Chair Vallone and other members of the Committee on Public Safety. My name is Dick Dadey, and I am the executive director of Citizens Union of the City of New York, an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. I thank you for holding this hearing and giving me the opportunity to present Citizens Union's views on this important topic.

Citizens Union has reviewed the Civilian Complaint Review Board's (CCRB) 2007 Annual Report, and believe that its findings underscore the need to implement the recommendations we put forward last year in our Report and Recommendations on Public Oversight of Police Misconduct (Report) which was released in April 2008. Our Report was the product of an eighteen-month study of the issue, which included meetings with over two dozen individual stakeholders, including City Council members and staff, and intensive research into legal issues and recommendations of several government commissions that have studied the NYPD disciplinary system. Our testimony today represents Citizens Union's first presentation of these recommendations to the Council.

Though today's hearing is focused on the 2007 report, enough time has passed that information is now available about 2008. Given that, I will present some information that now covers almost two years of data.

The continued high number of complaints to the CCRB in 2007 and 2008 shows that police misconduct remains a problem in need of greater public action. The data also makes the case that there needs to be changes to the oversight process of how cases of police misconduct are handled by the City. The outrage in the City resulting from the aftermath of the *Bell* verdict, as well as the recent incidents of a police officer knocking a cyclist off his bike in Times Square and the death of a mentally ill man who was shot by a police officer with a taser, cries out for immediate action of a more substantive nature. We simply cannot afford to wait any longer until another incident occurs to respond as a City. Inaction continues to undermine the public's confidence in government's ability to appropriately handle police misconduct.

In response to this ever present public need, Citizens Union today presents a five point plan for legislation and regulations to reform the civilian oversight system, as first provided in our Report. Citizens Union believes that in looking at the functioning of the CCRB today, it is important that the committee look at ways in which to reform the system of civilian oversight. We believe that enactment of these five measures will improve the accountability and effectiveness of our civilian oversight system.

These five core recommendations are as follows:

1. Transfer prosecutorial power to CCRB attorneys to enable the CCRB to try the cases it substantiates;
2. Expand the range of penalties available to the Police Commissioner;
3. Reinstate the Zero Tolerance penalty for False Statements;
4. Provide the CCRB with the authority to prosecute officers found guilty of lying during CCRB investigations; and
5. Create of a permanent and stronger Commission to Combat Police Corruption.

1. Transfer prosecutorial power to CCRB attorneys to enable the CCRB to try the cases it substantiates

A strengthened CCRB is in the best interests of citizens, as they are most protected by a transparent system that facilitates accountability. CU also believes that transferring prosecutorial power to the CCRB would create more balance in the Department's disciplinary system. By eliminating the ability of the NYPD to function as an institutionally hostile gatekeeper through its triple role of serving as the prosecutor, judge and jury, it will remove the NYPD from unnecessarily seconding guess the work of the CCRB, while protecting the legitimate interests of the Department. By allowing the Department to retain the ultimate tribunal role, as well as the Commissioner's authority over disciplinary action, the interests of the Department and Commissioner would be preserved and protected, while allowing for greater accountability, transparency, and independence.

There is no doubt that the current oversight system is overburdened, and the number of complaints filed with the CCRB remains sizeable. Board and staff members of the CCRB have a great deal of responsibility, with board panels reviewing 175 cases in a single monthly meeting. The CCRB in 2007 substantiated 507 allegations of misconduct, some of which will be reviewed by the NYPD in 2008. According to the CCRB's 2007 Annual Report¹, 7,559 complaints were filed in 2007, representing a decrease of only one hundred since 2006, and an increase of 84% since 2000. A total of 7,421 complaints were received from January - December 2008, according to the most recent data available from the CCRB.² While complaints have decreased slightly, more allegations are being pled per complaint (a single complaint may contain several allegations). The CCRB has stated that this reflects a new policy favoring greater detail in pleading by investigators.

Allegations of misconduct fall in four areas of CCRB jurisdiction: force, abuse of authority, discourtesy, and offensive language (referred to together as "FADO"). The table below lists the number of complaints filed over the last three years, as well as allegations by type. This table also shows that each reported complaint can involve more than just one allegation against more than one police officer.

1 Data was obtained from the New York City Civilian Complaint Review Board's 2007 Annual Report, available at: http://nyc.gov/html/ccrb/pdf/ccrbann2007_A.pdf

2 Please see the January 2009 Executive Director's report, available on the CCRB's website at <http://www.nyc.gov/html/ccrb/html/reports.html>

* The most recent data from the CCRB on 2008 is contained in the January 2009 Executive Director's report. The data for 2005 - 2007 was obtained from the CCRB's 2007 Annual Report.

Table 1
COMPLAINTS RECEIVED BY THE CCRB & TYPE OF ALLEGATIONS: 2005 – 2008*

<u>Year</u>	<u>Total Number of Complaints</u>	<u>Allegations of Force</u>	<u>Allegations of Abuse of Authority</u>	<u>Allegations of Discourtesy</u>	<u>Allegations of Offensive Language</u>
2005	6,786	6,063	10,409	3,494	543
2006	7,662	7,442	12,182	3,733	632
2007	7,559	8,288	14,652	4,024	723
January-December 2008*	7,421	7,953	13,441	4,000	694

While the number of complaints and allegations remain high, discipline appears to be decreasing. Of the 296 cases that were substantiated by the CCRB either in 2007 or prior year and then reviewed by the Police Department in 2007:

- Discipline by the NYPD was only sought in 181 cases.
- No discipline was sought in 102 cases – nearly 35% of the substantiated CCRB cases handled by the department in 2007.
- For the remaining 13 cases, the officer was fired or resigned before action was taken on the case.

The lack of discipline for 102 cases in 2007 marked a *tenfold* increase from 2006 in the number of CCRB substantiated cases in which the department pursued no discipline for officers. The most recent data for 2008 demonstrates that 2007 was not an anomaly – of the 269 cases handled by the department in 2008, no discipline was sought in 114 cases or 42% of the CCRB substantiations. While the data is still being finalized for 2008, this trend of decreasing discipline is of increasing concern.

Of the 181 cases in 2007 in which discipline was sought, penalties were provided in 172 cases, but this is misleading given the nature of penalties meted out. For the other 9, charges were dismissed in 4 cases, and in 5 cases, the officer was found not guilty after a trial. “Instructions” are the most common punishment, amounting to little more than a slap on the wrist, and in 2007 represented 53% of all penalties levied by the Police Department on CCRB substantiated cases. Instructions also amounted to 48% of all penalties in 2008.³ They are the most minor form of sanctions in which the officer is merely cautioned not to repeat the misconduct. Command discipline is the second most common penalty. Citizens Union noted in its report that it is the second most minor penalty, and serves essentially to bypass more formal discipline. Command discipline represented 44.5% of all penalties in 2008. For Command Discipline A and B, the Department Advocate's Office refers a case to a commanding officer for the imposition of a command discipline. The range of penalty is normally suspension or loss of vacation days between 1 and 10 days: up to 5 days for Schedule A violations and up to 10 days for Schedule B violations. The NYPD considers the case closed after it is referred to the commanding officer, and then reports that closure to the CCRB. Subsequent to this closure date, the commanding officer decides upon a penalty consistent with the level of command discipline proscribed by the Department Advocate's Office. The first table below

³ The information for 2008 was obtained from the CCRB, and is in the process of being finalized.

* The most recent data on received allegations from the CCRB on 2008 is contained in the January 2009 Executive Director's report. The data for 2005 – 2007 was obtained from the CCRB's 2007 Annual Report.

illustrates the rates of discipline over the last four years, and the second table lists the penalties used by the department during that time period.

Table 2
POLICE DEPARTMENT DISPOSITIONS⁴
ON CCRB SUBSTANTIATED CASES: 2005 – 2008* (by year of NYPD closure)

<u>Year</u>	<u>Total Substantiated CCRB Cases Disposed by PD</u>	<u>Officer Resigns or is Fired before PD Action</u>	<u>PD Pursues no Discipline</u>	<u>PD Pursues Discipline</u>
2005	465	17	11	437
2006	356	17	12	327
2007	296	13	102	181
2008*	269	7	114	148

Table 3
TYPE OF DISCIPLINE SOUGHT
BY THE POLICE DEPARTMENT: 2005 – 2008* (by year of NYPD closure)

<u>Penalty</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>January- November 2008*</u>
Termination	0	0	0	0
Suspension for or loss of vacation time of 31 or more days and/or 1-year of probation	2	3	2	0
Suspension for or loss of vacation time of 21 to 30 days and/or 1-year of probation	2	1	1	3
Suspension for or loss of vacation time of 11 to 20 days	6	6	2	0
Suspension for or loss of vacation time of 1 to 10 days	21	7	3	8
Command discipline A	96	42	57	22
Command discipline B	10	11	12	44
Instructions	196	197	94	71
Warned and Admonished	3	0	0	0
Total:	336	267	172	148

Additionally, fewer cases were brought to trial by the Police Department in 2007 than in 2006; only 8 cases were brought to trial in 2007, while 44 were brought in 2006. Of the 8 cases brought to trial in 2007, in only 3 of them were the officers found guilty. The most recent data for 2008 shows that 4 officers were found guilty after trial, and 14 officers were found not guilty after trial. In commenting on the significant drop in cases going to trial, the CCRB points out that bringing fewer cases to trial has not resulted in greater success in the trial room, as would be expected if the practice was that the weaker cases were discarded. Citizens Union is troubled by both the low number of cases brought to trial and the large number of cases in which no discipline was sought.

⁴ Dispositions refer to NYPD determinations on substantiated cases such as pursuing discipline, dismissing the case, etc.

* The most recent data for 2008 was obtained from the CCRB and is in the process of being finalized.

While Citizens Union was encouraged to learn last September that the CCRB and the NYPD are entering into a pilot program that will allow CCRB prosecutors to act as second counsel or “second seat” to the assigned Police Department prosecutor, we believe that this program must not be seen as justification to preempt effectuating the transfer of prosecutorial power to the CCRB. The pilot program will bring the CCRB and the Police Department together to work for the successful prosecution of cases, which is a good step, but the ultimate authority over the means of prosecution will remain with the department and the program will thus not be the needed answer that will create better balance in the oversight system.

In response to questions and concerns over the lack of discipline of officers, the Police Department posits that the CCRB substantiates far more cases than which meet a necessary threshold for prosecution and often warrant additional investigation by the Department. However, Citizens Union’s Report notes that there has been continual finger pointing between the CCRB and the NYPD over the failure of prosecuting CCRB substantiations, as was noted by the Commission to Combat Police Corruption as far back as 2000. The CCRB has also noted in its 2007 Annual Report that while it has taken greater care substantiating cases of misconduct, officers have been subjected to discipline less frequently; however, the NYPD responded that this is merely a “self-serving statement” that “ignores the more obvious fact that uniformed officers are committing fewer acts of misconduct.”⁵ In further conversations with the CCRB, CU has learned that it has hired four former prosecutors to teach its investigators the best practices of how to assess credibility, marshal facts and apply the law, and that every case with substantiated allegations is reviewed by at least one attorney before it is submitted to the board.

Whatever the circumstances may be with regard to the failure in the prosecution of CCRB cases, Citizens Union believes that the citizens’ interests are best protected by a transparent system that facilitates accountability. This important goal is advanced by limiting the NYPD to a single gate keeping position by transferring prosecutorial power to the CCRB, rather than the double one that it currently maintains. Were the CCRB given full control of the presentation of a case, from investigation to prosecution, the failure of its cases could not be attributed to NYPD prosecutors, and citizens would have a better sense of the CCRB ability and success rate. As part of its mandate, the CCRB reports on the disciplinary results of its cases. If it were granted prosecutorial power over its cases, it would report the results of its prosecutions to the public, creating greater transparency.

The decrease in discipline of officers found guilty of misconduct by the CCRB also raises concerns over the public confidence in the hope for a fair process in which justice is served. While continuing to handle a large number of cases, the CCRB’s budget was decreased in the FY 2008 modified budget, and has proposed cuts for 2009 well below the initial budget adopted in FY 2008. Citizens Union believes that the CCRB must be afforded additional resources to carry out its currently mandated functions as effectively and efficiently as possible. The large caseload of the CCRB over the last several years illustrates continued demand from citizens to seek redress from allegations of police misconduct. It is important that this crucial service be provided effectively. Moreover, Citizens Union believes that granting the CCRB prosecutorial power will create better balance in the civilian oversight system, put greater onus on the CCRB to develop its cases more strongly, and put an end to the finger pointing over cases of police misconduct.

⁵ NYPD Response to the CCRB Report for 2007. http://www.nyc.gov/html/nypd/html/pr/ccrb_response.shtml

CU's report notes that the transfer of prosecutorial power could be effectuated in one of three ways.

1. The Mayor could simply order the implementation of the same MOU Mayor Giuliani authorized in 2001, or by issue of a new executive order pursuant to City Charter § 11 (a), and CU has asked the Mayor to do so. However, CU has been advised by the current police commissioner, Ray Kelly, that he opposes the transfer agreed to by Mayor Giuliani. Mayor Bloomberg has not yet responded to CU's request to implement the MOU.
2. The citizens of New York could pass an amendment to the City Charter as well. Mayor Bloomberg had previously stated that he would appoint a charter revision commission to examine city governmental issues broadly and place a referendum on the ballot, which may provide another avenue for this issue to be addressed, but that is not assured given the delay in forming such a commission.
3. The City Council could transfer the prosecutorial function to the CCRB as a legislatively-enacted Charter amendment.

The lack of action by the current Mayor or waiting until the possible but unsure consideration of this issue by the Charter Revision Commission should not in any way preclude the City Council from passing legislation now that enacts such a change. Therefore, Citizens Union calls upon the City Council to seize this moment of public concern over the way in which the city handles police misconduct, demonstrate needed leadership in effectuating stronger public oversight over the NYPD, and enact legislation granting the CCRB the power to prosecute the cases it substantiates.

Citizens Union has examined the legal basis for Council action in this regard, and we believe there is no doubt that the Council can by local law give the CCRB prosecutorial authority, as the Council is "vested with the legislative power of the City" (NYC Charter, § 21). Section 38(5) of the charter conditions the effectiveness of any local law that "abolishes, transfers or curtails any power of an elective officer" on voter approval in a mandatory referendum. Section 23(2)(f) of the state Municipal Home Rule Law provides in identical language that any local law that "abolishes, transfers, or curtails any power of an elective officer" must receive the approval of the voters in order to become effective. The question therefore is whether giving the CCRB prosecutorial authority "abolishes, transfers or curtails" the power of the Mayor, an elective officer. Citizens Union believes that giving the CCRB such authority does not abolish, transfer or curtail the power of the Mayor.

Our finding is supported by a number of legal cases including *Lynch v. Giuliani*, 301 A.D.2d 351 (1st Dept. 2003), which addressed the scope of power of the CCRB; *Mayor v. Council*, 280 A.D.2d 380 (1st Dept 2001), *Creation of the IPIAB*, and *Mayor v. Council*, 9 N.Y.3d 23 (2007), the *Uniform Status to Fire Alarm and EMT Employees*

We believe that the unprecedented amount of cases in which no discipline is sought demands immediate action by the City, and if necessary, the Council, to transfer prosecutorial power to the CCRB. While transferring this power to the CCRB would place greater onus on the CCRB in the development of its cases, this would create much needed balance and more effective prosecutions of substantiated cases. This change, more importantly, would not alter the Commissioner's charter mandated authority over discipline. This would increase the integrity of and public's confidence in the civilian oversight system, which has been undermined by the lack of action and pushback on CCRB substantiations from the Police Department.

2. Expand the range of penalties available to the Police Commissioner

The current penalty structure if an officer is found guilty in department disciplinary proceedings provides for nothing between (i) a maximum of thirty days suspension without pay and one year termination probation, and (ii) discharge from the service. More severe penalties involving suspension, loss of vacation time or a one-year probation are levied much less frequently, and officers are rarely terminated. No officers were terminated as a result of disciplinary proceedings in 2008 from substantiated CCRB cases.

Even worse, according to CCRB data, the most common forms of punishment are command discipline and instructions, which amount to little more than a slap on the wrist. Suspension or loss of vacation time is being used infrequently – in 2005 this penalty represented approximately 9% of all discipline, and in 2008 represented 7.4%. Instructions in 2007 represented 53% of all penalties levied by the Police Department on CCRB substantiated cases they handled in 2007. Command discipline represented 41% of all penalties in such cases. The most recent data from 2008 shows that the high levels of command discipline and instructions remain – instructions amounted to 48% of all penalties and command discipline 44.5% according to data from the CCRB.⁶ Citizens Union believes that a stronger message must be sent by the Commissioner regarding misconduct, and that the current lack of discipline does not demonstrate to the public that misconduct is being handled appropriately.

Several commissions over the last thirty-seven years have called for a greater range of discipline options to promote a more effective disciplinary system and a stronger message regarding misconduct. Citizens Union supports enactment of this recommendation. Mayor Giuliani introduced an administration program bill to make this change, and his Commission to Combat Police Corruption also supported the proposal. Even though these recommendations have been endorsed by the current and past Police Commissioners, they have never been actively treated as priorities.

Pursuant to the City Charter, the Police Commissioner retains the final authority over discipline within the NYPD ranks. In order to exercise effectively this control, while fostering greater public confidence in the disciplinary system of the NYPD, Citizens Union urges the Council to amend Section 14-115 the New York Administrative Code to allow the Police Commissioner to impose the following penalties in addition to those in current law:

- i. suspension without pay for up to one year for officers who have been found guilty of or pleading guilty to charges and specifications;
- ii. a monetary fine of up to \$25,000 with no option to substitute vacation or compensatory days of equivalent work;
- iii. a demotion in grade, title or rank with a commensurate reduction in salary.

After analyzing the lack of and severity of discipline of substantiated allegations of misconduct, as provided in the CCRB's reports, Citizens Union believes that the current penalty structure must be changed, for example, as provided in the manner above. Such a change will bolster the Commissioner's ability to impose more effective and adequate penalties for the charged offenses that are more equivalent to the transgression without altering his final disciplinary authority.

⁶ Information for 2008 was obtained from the CCRB and is in the process of being finalized.

Citizens Union also notes that the lack of transparency regarding police discipline must also be corrected. If the Police Commission deviates from the Trial Judge's recommendations in levying penalties, he is currently is not required to provide formal written decisions that state plainly and in a timely manner his reasons for doing so. The CCRB and the public also receive no information as to the ultimate penalty imposed by the commanding officer under command discipline. The lack of transparency with regard to deviations from trial judge recommendations and penalties provided through commanding officers undermines the credibility of the civilian oversight system. Citizens Union recommends that in addition to creating additional penalties, legislation be passed requiring full explanation of the Commissioner's deviations from the trial judge's recommendations to provide increased transparency.

3. Reinstate of the Zero Tolerance penalty for False Statements

Citizens Union believes that all allegations of misconduct must be handled with integrity if the public is to put its trust in the City's civilian oversight system. In analyzing the CCRB's 2007 report, Citizens Union found that from 2003 through 2006, 31 officers made a total of 32 false official statements in their CCRB interviews, and that 25 of these officers were still on the police force as of January 1, 2008. For these officers to not receive any penalties for lying under oath is particularly troubling, as the police are responsible for upholding the law, and must not be allowed skirt it by lying under oath during investigations and disciplinary proceedings.

Citizens Union recommends that the Commissioner reinstate the zero tolerance policy as enacted by Commissioner Safir in 1996, which required dismissal absent exceptional circumstances. The policy covered all false statements, without exception, and explicitly included "lying under oath during a civil, administrative or criminal proceeding," including CCRB investigative interviews. However, it was not enforced effectively and was weakened in 2005. The revised § 2-308 of the Patrol Guide now specifies that the policy does not apply where the officer "merely ... denies a civil claim or an administrative charge of misconduct." This exception is subject to misinterpretation, potentially allowing officers to deny with impunity misconduct in CCRB interviews. It should be narrowed to apply solely to pleas of not guilty in administrative proceedings or Answers in civil cases denying paragraphs of Complaints.

4. Provide the CCRB with the Authority to Prosecute Officers Found Guilty of Lying During CCRB investigations

Following from our previous recommendation, though misconduct such as false official statements are not within the CCRB's jurisdiction, the CCRB reports its findings of this type of misconduct to the police department. The police department does not regularly report on the outcome of recommendations that the CCRB makes with regard to false official statement, as it does with ordinary substantiated cases for force, abuse, discourtesy, and offensive language cases. Citizens Union believes that the CCRB should be able to prosecute officers guilty of lying during its investigations, in addition to misconduct currently under its jurisdiction.

5. Create of a Permanent, Stronger Commission to Combat Police Corruption

The City should enact legislation recreating the Commission to Combat Police Corruption (it is currently conceived only through Executive Order) and expanding its mandate to serve as a permanent monitoring commission. The "reconstituted" CCPC should be granted the clear authority to monitor all aspects of the Police Department's disciplinary system, including not only

the NYPD Internal Affairs Bureau, but also all the policies and procedures which influence the culture of the Department as it affects corruption and other forms of misconduct. While it is important that the Commissioner maintain the final say on matters pertaining to internal discipline, how that authority is exercised should be subject to review and monitoring by an independent entity, such as the recreated CCPC. To best accomplish the goals of an expanded mandate, the CCPC should be afforded greater resources and the power to issue subpoenas when appropriate.

We thank you for the opportunity to testify today at this important hearing and look forward to working with you to accomplishing meaningful reform. Citizens Union plans to work to advance legislation transferring prosecutorial power over substantiated cases to the CCRB, and urges the council to enact the changes presented in our testimony to create a system in which the public can trust that allegations of police misconduct are being handled properly, and restore needed balance and accountability in the civilian oversight system.

**Testimony at the City Council Hearing on the CCRB
January 29, 2009**

Lower East Side Call for Justice

William Antalics, Member

Members of the Lower East Side Call for Justice have attended CCRB Meetings quite regularly since its inception. I myself have attended quite regularly for four years. It is abundantly clear that the Board members are quite deferential to the police. They appear to believe that Commissioner Kelly and Mayor Bloomberg are watching over their shoulders monitoring what they say. Indeed they say very little. Their meetings are extremely short.

Chris Dunn of the New York Civil Liberties Union is the only consistent voice representing the public. He tries mightily to hold Board members' feet to the fire. We suggest that an informed member of the Public Safety Committee's staff attend CCRB meetings, speak up forcefully when appropriate, and report back to the Committee Chair. The report should include the voices of the public. The Committee Chair should share the report with members of the Committee and with the entire Council.

During the last 12 years the Lower East Side Call for Justice has conducted nearly 200 workshops with young people about what to do when stopped by the police. Whether they are in residences, alternatives to incarceration programs, high schools or community centers, the reactions of the young people are consistent. They have many complaints about the police abusing them, but they almost never file complaints. Many are ignorant of the complaint process and they are all deeply skeptical that anything will be done for them.

We suggest the distribution of complaint forms to places of worship, young adult residences, community centers and schools. Instruction sheets should be provided. We also suggest that members of the CCRB Board and its staff give presentations about the complaint process at places young people gather, churches, residences, community centers and schools.

We have examined the complaint statistics for the 7th and 9th precincts in our neighborhood. Although we believe filed complaints are but the tip of the iceberg, when filed complaints are high, we meet with the precinct commanders. If necessary, we meet with them repeatedly until the complaints are reduced. We suggest that community groups in other neighborhoods do the same. We believe that until the Police Commissioner takes substantiated complaints more seriously or those complaints are prosecuted by the CCRB, and until the City Council and the Mayor strengthen the disciplinary measures, the CCRB will have little purpose and little effect.

TESTIMONY OF PAUL L. MILLS BEFORE THE PUBLIC SAFETY COMMITTEE
1/29/2009

My name is Paul Lance Mills. I am a civil rights trial attorney who has concentrated on police misconduct issues over more than a decade. I have litigated a number of cases arising from allegations of use of excessive force, and edit and publish an online publication, *L.A. Police Watch*. I reside in New York and I am a member of the New York City Policing Roundtable.

I urge the City Council to adopt plans for:

- establishing a prosecution unit within the CCRB (removing that authority from the NYPD)
- creating a policy and practice unit within the agency
- establishing CCRB satellite offices – or finding space in the offices of council members or borough presidents – where people can file complaints

The New York Civil Liberties Union has asked me to testify briefly today on the similarities between problems with the handling of civilian complaints about police, as reported by the NYCLU in *Mission Failure: Civilian Review of Policing in New York City*, and by the Christopher Commission in its *Report of the Independent Commission on the Los Angeles Police Department* in the wake of the Rodney King uprising.

I will not take up time rehearsing today the details of the Los Angeles disturbances in the wake of the state court exoneration of officers involved in the videotaped beating of Rodney King. I only will note that these disturbances took place in April, 1992, and that New York City Mayor David Dinkins announced his support for an all-civilian police complaint review panel, two months later in June, 1992.

NYCLU: “Mission Failure”	Christopher Commission Report
P. 25: There is typically little or no consequence for officers when CCRB sustains a complaint alleging use of excessive force against a civilian	P. 21: sustained complaints are not considered in promotion decisions
P. 13: complainants’ face difficulties because they must travel to CCRB’s office in lower Manhattan for an intake interview during business hours on a workday	P. 22: people who wish to file complaints face significant hurdles in the complaint filing process
P. 33: police officials actively discourage and interfere with filing civilian complaints	P. 22: intake officers actively discourage filing complaints by being uncooperative or requiring long waits
P. 25: 59% no discipline for substantiated complaints <i>not of excessive force</i> ; 18% no discipline <i>for excessive force</i>	P. 23: excessive force violations are treated more leniently than other types of officer misconduct
P. 34-35: NYPD does not take seriously the problem of false officer statements in the course of a misconduct investigation	P. 23: greatest single barrier: officers’ code of silence – an officer will not provide adverse information against a fellow officer

There is also a striking similarity between the Rodney King beating by police with nightsticks while lying face down, and the recent allegations by Michael Mineo that he was held down by two officers and sodomized by a third NYPD officer using his nightstick. Significantly, New York City had previously paid \$50,000 in settlement of excessive force allegations against the same NYPD officer – charges the CCRB cleared as being within NYPD guidelines.

I will close by noting that Los Angeles has largely failed to address the problems identified by the Christopher Commission, and remains, since 2000, under the control of the Los Angeles US Federal District Court, as the result of a consent decree mandating such reforms in an action brought by the U.S. Justice Department, *USA v. City of Los Angeles*, which, after 8 years, continues to cost the City of Los Angeles approximately \$50 million a year.

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TESTIMONY OF ANDRIANA PAGANO
Before the Committee on Public Safety of the Council of the City of New York
January 29, 2009

Hi everyone and thank you for being here today. My name is Andriana Pagano and I filed a complaint with the CCRB last year. I work as an advocate for victims of violent crime, particularly human trafficking. As many of you may know, we have a new state law against human trafficking, to be enforced here by the NYPD. The first step in utilizing this law is to go into the precinct and file a report.

I accompanied one of my trafficking clients into the precinct and informed the receptionist that I would like to help my client file a police report. I identified myself, said it was a sensitive case, offered a business card, and asked to speak with an officer. An officer came out saying, in front of everyone, "What do you want, why are you here?" I identified myself and offered my business card, which he would not take. I said we need to sit down with someone and report a serious crime and offered to provide translation as well. He demanded to know the details right there in the lobby and just then a lieutenant overheard him and came out in plain clothes. He screamed at my client "Why are you here?" I translated for her and he ordered me not to speak another language in front of him. I told him I am her advocate and began to explain that she does not speak English but that I could translate and that she has been a victim of a serious crime. I offered my business card, which he would not take, and again told him I would like to help my client file a report and they could provide another translator if they preferred but he interrupted me yelling out "Why would you bring a Spanish-speaker to Chinatown?? This is a scam! You are a scammer!!!" I again asked him to please allow us to file a report and we would be happy to sit down with an officer and explain the nature of crime and he screamed louder "SCAMMER! GET OUT OF MY PRECINCT! I'M NOT DOING ANYTHING FOR YOU!" I tried one last time to provide him with my card and began to explain quietly that my client is a victim of human trafficking and the state law requires us to report it in the precinct instead of directly to the federal government. He screamed so loudly "THIS IS A SCAM!!! I WILL REPORT YOU!" I calmly asked to speak to a supervisor and he said that he is the boss and physically chased my already traumatized client and I out of the precinct, down the stairs, and a few paces down the street, all the while screaming "SCAMMERS! Get out!!!"

We were not allowed to file a police report or even explain human trafficking. The lieutenant had never heard of it. I filed a report with the CCRB and received a follow-up call 3 months later, only after using a personal connection to contact another officer in that precinct. During the phone call all they did was verify my complaint and ask if I left anything out. Nothing happened. Nothing was done about it.

A significant part of my job is to help my clients, victims of violent crimes, work with law enforcement. If law enforcement further humiliates them as well as I, we need the CCRB to provide recourse for that, especially when the officer's offense is not specifically against the law.



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**TESTIMONY OF ANDREA J. RITCHIE
DIRECTOR, SEX WORKERS PROJECT AT THE URBAN JUSTICE CENTER**

Before The Committee On Public Safety Of The Council Of The City Of New York
January 29, 2009

Dear Members of the Council of the City of New York:

The Sex Workers Project at the Urban Justice Center very much appreciates the opportunity to testify before you today concerning the CCRB's 2007 Annual Report. In light of the widespread police abuse and misconduct our clients experience on a daily basis, we welcome the Council's renewed attention to the issue of police accountability.

Using human rights and harm reduction approaches, the Sex Workers Project (SWP) works to protect and promote the rights of individuals who by choice, circumstance, or coercion engage in sex work. We provide direct legal services to over a hundred individual clients a year in criminal legal, immigration, and police misconduct matters. We also conduct dozens of "know your rights" trainings for community organizations, outreach programs, and service providers working with sex workers, as well as through the Manhattan Midtown Community Court. Based on the experiences and concerns of our clients and constituents, SWP engages in policy advocacy at the local, state, federal and international level aimed at securing systemic changes which protect and promote human rights, self determination, and increased opportunities. Our direct service and human rights documentation work enables us to provide unique and critical information, analysis, and practical recommendations to policy makers, service providers, and the media concerning the human rights abuses faced by sex workers and trafficked persons, as well as by individuals at risk of being profiled as sex workers.

My testimony today is based not only on the experiences of the Sex Workers Project's clients and constituents, but also on my experience as a research expert and co-author for Amnesty International's report *Stonewalled: Police Abuse and Misconduct Against Lesbian, Gay, Bisexual and Transgender People in the U.S.*, my preparation of a report on police misconduct and abuse in the US for the UN Committee Against Torture, the UN Human Rights Committee, and the UN Committee on the Elimination of Racial Discrimination, my own extensive research over the past decade on physical and sexual abuse of women by law enforcement agents, and my experience as a police misconduct attorney in New York City.

The Sex Workers Project shares the concerns of Council members and many of the organizations and individuals you have heard from today with respect to the significant proportion of substantiated CCRB complaints which are going unpunished by the NYPD. Not only does the NYPD's failure to pursue administrative charges or impose meaningful discipline in these cases contribute to creating a climate of impunity with respect to abuses of the rights of New Yorkers by the police, it significantly erodes public confidence in the civilian oversight process.

Of equal concern to us is the fact that countless incidents of police misconduct experienced by women and transgender people – including sexual harassment and misconduct by NYPD officers, unwarranted and often abusive strip searches, false arrests for prostitution, refusal to

investigate complaints of interpersonal violence, and other gender specific forms of police misconduct - are never even reported to the CCRB in the first place. SWP and other community-based organizations hear of such abuses on an almost daily basis – for instance, just this week, we received three separate complaints of police misconduct: the first involving use of excessive force causing serious injury during an arrest for prostitution, the second an unwarranted public strip search in a police precinct in full view of male arrestees and police officers, and the third an inappropriate and abusive police response to a woman attempting to make a police report after she was drugged, tied up, and raped. However, the vast majority of our clients do not see reporting such police misconduct to the CCRB as a viable option.

Sexual harassment and abuse of members of the public by NYPD officers is an alarmingly common, but significantly underreported, form of police misconduct which disproportionately impacts women and transgender people. For instance, according to two studies conducted by The Sex Workers Project, up to 17% of sex workers interviewed reported sexual harassment and abuse by police.ⁱ One of our clients who ran away from an abusive home at 14 reported to us that she was subsequently picked up by a police officer who forced her to have oral sex. Many more have reported police sexually harassment on a daily basis, overly intrusive, abusive and sometimes public searches, extortion of sexual favors in exchange for avoiding arrest or violence at the hands of police officers. As documented in our 2003 report *Revolving Door* and emphasized today by my colleague from the Sylvia Rivera Law Project, in addition to such generalized sexual harassment, transgender women frequently experience unwarranted, unlawful, and abusive searches of their chest and genital areas, often accompanied by homophobic, transphobic, racist, and misogynist verbal abuse.

In addition to a widespread lack of public trust in the civilian oversight process, which is only further fueled by the NYPD's failure to discipline officers against whom complaints are substantiated, additional barriers prevent effective redress for such abuses. As an initial matter, although the types of police misconduct I have described fall well within the the CCRB's mandate, practically speaking, the CCRB is not set up to properly accept, investigate, or track these types of complaints. For instance, CCRB investigators are neither trained to screen for, nor be sensitive to, gender specific forms of police misconduct, nor are they made aware of, or attentive to, patterns of abuse targeting specific populations, including, for instance, transgender women and sex workers. Moreover, the CCRB's current data collection methods and statistical analysis of complaints received does not allow for detecting and tracking such patterns.ⁱⁱ

Additionally, although the type of police misconduct I have described here today represents a clear violation of constitutional rights – and cannot be the subject of a “good faith” defense - it is nevertheless not expressly prohibited by any NYPD policy. While NYPD officers receive training concerning the law and NYPD policies governing sexual harassment of fellow NYPD employees, no such training is provided concerning sexually inappropriate conduct with members of the public. Similarly, the NYPD's strip search policy does not expressly prohibit overly invasive or abusive searches of transgender individuals conducted for the purpose of touching or viewing their chest or genital areas, and no training is provided concerning the appropriate basis and procedures for police searches of transgender people. It therefore stands to reason that people who experience such abuses believe they will obtain no remedy from either the CCRB or the NYPD.

Moreover, many women and transgender people who experience such abuses are wary of reporting them for fear of retaliation by the officers involved. Such fears are often based in experience: for instance, one of our clients reported that she was beaten by police after making a complaint. As a result, she is now afraid to walk down the street for fear of violent reprisal by police. Many more have told us they are afraid of being arrested, beaten, or killed by police officers if they report sexual harassment and abuse. Needless to say, even if an individual officer does not retaliate, many sex workers and women who use controlled substances nevertheless risk arrest by reporting misconduct which occurred in a context in which they were engaging in criminalized conduct.

While sexual harassment and improper searches by NYPD officers have been reported by women and girls from all walks of life in New York City -- including young women in New York City schools and women who experienced such misconduct during routine traffic stops -- officers tend to prey on women and transgender people who face significant risks if they report such abuses, including youth, poor and homeless people, people of color and immigrants, and transgender people, as well as sex workers, people who use controlled substances, and other criminalized populations. Threats of retribution and retaliation against women and transgender people who report sexual harassment or abuse by police officers are commonplace, while prosecutions of law enforcement officers for such acts are rare, creating a strong disincentive to report in light of very real risks of arrest, deportation, further police violence and abuse, or public disclosure of sexual orientation or transgender status. Moreover, it is estimated that overall only a little over a third of all cases of sexual violence are ever reported to the authorities.ⁱⁱⁱ One can only imagine that this rate is far lower among those who are sexually harassed or abused by the very law enforcement agents charged with protecting them from violence. As Penny Harrington, former Portland Chief of Police and founder of the National Center for Women and Policing has pointed out "The women are terrified. Who are they going to call? It's the police who are abusing them."^{iv}

Our clients' experiences also indicate that false arrests for prostitution - and particularly profiling of transgender women as sex workers - are endemic, as is extortion of sexual favors on threat of arrest on prostitution or drug related charges. Many clients report that police simply arrest them because they recognize them, telling them "I haven't arrested you in a while," or "it's your turn," regardless of whether there is probable cause to believe they are engaged in sex work at that time. For instance, one client who was no longer engaged in sex work and was trying to pursue other employment told us that she nevertheless continued to be arrested whenever she was on the street in her neighborhood. Others tell of officers demanding that they provide sexual favors or be arrested - and then arresting them anyway after they have complied with the officer's demands.

Even when women and transgender people come forward to report gender specific police misconduct despite the considerable risks involved, action is rarely taken. Sexual harassment and misconduct, strip searches, extortions of sexual acts, and false arrests for prostitution often take place outside the public view, in private locations, squad cars, or precinct houses. As a result, as is the case with many forms of violence against women, including domestic violence and sexual assault, more often than not there are no third party witnesses to corroborate the complainant's account of the abuse. The CCRB's practice of not substantiating complaints in instances where "it is the word of the complainant against the word of the officer" essentially ensures that the vast majority of such complaints will never see the light of day or lead to further action. And, as we've heard repeatedly today, even if they were to be substantiated,

such complaints would rarely lead to meaningful discipline, allowing officers to engage in such misconduct with impunity.

Recommendations

The Sex Workers Project wholly adopts and endorses the detailed recommendations made by the Sylvia Rivera Law Project, which are reproduced verbatim below.

Additionally, in light of the considerable obstacles preventing women and transgender people from engaging police oversight mechanisms which rely on individuals to come forward and make a complaint, we ask the City Council, in its capacity as the governmental body responsible for overseeing the NYPD, to consider measures aimed at preventing, improving detection of, and developing effective and systemic responses to the types of abuses we have discussed today.

Proactive measures to root out gender specific forms of police violence and misconduct are critical, particularly where sexual harassment or abuse is concerned, in light of the significant barriers to reporting gender-based violence. Targeted exit interviews for individuals released from police custody, free and independent access to police lock-ups and jail facilities for community groups, and careful follow-up with individuals with whom any officer who has been the subject of any complaint of sexual misconduct has had contact appear to increase the likelihood that sexual misconduct will be detected. Allowing for anonymous complaints or amnesty from any criminal charges that may arise from the context in which the sexual harassment or abuse takes place has also proven effective in uncovering cases and patterns of sexual misconduct by law enforcement officers. Stings conducted by internal affairs agencies have also been useful in building evidence against officers alleged to have engaged in sexual abuse – for instance, in 2004, upon receiving complaints that an officer was raping sex workers in South Central Los Angeles, the LAPD internal affairs department set up a sting operation which ultimately led to the officer's conviction on rape charges. Similarly, at a King County jail in Seattle where guards were found to have reached into a woman's pants and groped her and forced her to perform oral sex, the woman's complaint was later corroborated when investigators enabled her to return to the facility wearing a wire.^v

The Sylvia Rivera Law Project makes the following recommendations for action to begin addressing some of the problems just described

With regard to CCRB

- The CCRB must become truly independent of the NYPD. The Police Commissioner should not have the power to appoint any members of the CCRB. CCRB board and staff should include survivors of police misconduct and should reflect the diversity of communities most targeted for police misconduct, including transgender and gender nonconforming communities of color.
- The NYPD cannot be trusted to hold itself accountable. As a small measure to begin building genuine civilian oversight, the power to prosecute disciplinary actions against NYPD officers should be taken from the NYPD and instead entrusted to the CCRB.
- The problems with police misconduct are systemic, not the result of a “few bad apples.” CCRB cannot effectively address systemic problems with an exclusively individualized

approach to complaints. CCRB should have the resources and responsibility to analyze trends in police misconduct and recommend institutional changes to eliminate that misconduct. CCRB, NYPD, and when needed other parts of City government must take action to respond to the trends and recommendations so identified. Because policing without systemic accountability does more harm than good, any additional CCRB resources necessary to do this work should be taken from the current budget for the NYPD.

- The CCRB should begin tracking data about complaints in terms of gender identity and sexual orientation as well as other factors. Aggregate statistics about complaints from transgender and gender nonconforming people should be made available to the public.
- If transgender and gender nonconforming people experience some of the same transphobic attitudes and biases at the CCRB that they do from the NYPD, the CCRB will never be an avenue for redress that is genuinely available to these communities. The CCRB must contract with qualified, community-based providers to train CCRB staff and board on topics including transgender awareness and techniques for working with survivors of sexual and other violence with sensitivity.
- Because many members of communities particularly impacted by police misconduct do not know about the CCRB, the CCRB must do greater outreach to diverse communities including trans and gender nonconforming communities of color. CCRB complaint and investigation procedures must be made more easily accessible and flexible, so that even the most marginalized residents of New York City, including youth, people with disabilities, and people without permanent or stable housing, have a reasonable chance of receiving a meaningful response to their complaints. Investigators should be able and willing to travel to meet with complainants where they are whenever necessary. Investigations should continue to the utmost extent possible even when the complainant cannot be reached.
- Because victims of police misconduct are often arrested and charged criminally as a part of the same incident, it is profoundly unjust that people who have been injured through police misconduct may have no opportunity to complain about that misconduct for fear that they could have their statements used against them in a criminal proceeding. Complainant's statements to CCRB should not be permitted to be used against them in criminal proceedings. A grace period following the disposition of a criminal case should allow people to file complaints with CCRB even if the statute of limitations would normally have passed.

With regard to NYPD

- The NYPD must change its culture, from the top down, to one of genuine accountability to the people and communities it polices. Responding meaningfully to CCRB complaints is absolutely necessary, but is also no more than the tip of the iceberg in terms of the needed changes. The NYPD must engage meaningfully with marginalized communities, in ways determined by those communities, to address systemic problems. The NYPD must also improve its policies and practices in terms of both discipline of officers for misconduct and positive incentives for excellence in working with communities in non-violent and respectful ways.
- The NYPD must put clearly defined policies into place protecting the rights of transgender people. While by no means an exhaustive list of the areas these policies should cover, at a minimum such policies should prohibit members of the force:
 - from engaging in searches solely to identify genitals or from engaging in any other form of abusive, overly invasive, overly public, unnecessary, or unlawful search;
 - from engaging in sexual harassment of members of the public;

- from engaging in profiling based on any of the characteristics for which discrimination is prohibited in the NYC human rights law;
 - from engaging in verbal harassment of transgender people, including referring to them by names and pronouns inconsistent with their expressed gender identity;
 - from placing transgender people in cells with non-transgender men against their will;
 - from detaining, arresting or charging people solely based on their presence in a particular gender restroom, lawful possession of hormone medications, failing to present ID or presenting a name or ID that the officer perceives as inconsistent with the person's gender.
- The NYPD must conduct solid training of all members of the department on the above policies and on how to work in a positive way with transgender and gender nonconforming community members, as well as members of other marginalized communities including youth, people with disabilities including psychiatric disabilities, low-income people, homeless people, people of color, immigrants, people with limited or no English proficiency, and members of religious minorities.

With regard to the City

- Overall, in order to create true public safety in all of our communities, and particularly in low-income transgender and gender nonconforming communities of color, our City must put less resources into policing our communities and more resources into supporting and strengthening them. Resources for voluntary, quality, trans-friendly, safe, affordable, and accessible services and opportunities such as drug treatment; health care; education; jobs; housing; community-based social and legal services; public transit; and leadership development must be prioritized over resources for policing, prosecution, and punishment.

Resources

INCITE! Women of Color Against Violence, *POLICING GENDER (2008)* available at http://www.incite-national.org/media/docs/3515_toolkitrev-policinggender.pdf.

Sex Workers Project, *BEHIND CLOSED DOORS (2005)*, available at: <http://www.sexworkersproject.org>

Sex Workers Project, *REVOLVING DOOR: AN ANALYSIS OF STREET-BASED PROSTITUTION IN NEW YORK CITY, (2003)*, available at: <http://www.sexworkersproject.org>

Sylvia Rivera Law Project, *IT'S WAR IN HERE: A REPORT ON THE TREATMENT OF TRANSGENDER AND INTERSEX PEOPLE IN NYS MEN'S PRISONS (2007)* available at <http://www.srlp.org/files/warinhere.pdf>.

Amnesty International, *STONEWALLED: POLICE ABUSE AND MISCONDUCT AGAINST LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE IN THE US (2005)*
<http://www.amnestyusa.org/outfront/stonewalled/report.pdf>.

New York Civil Liberties Union, *MISSION FAILURE: CIVILIAN REVIEW OF POLICING IN NEW YORK CITY (2006)*, available at http://www.nyclu.org/files/ccrb_failing_report_090507.pdf

ⁱ Sex Workers Project, *Behind Closed Doors* (New York City: 2005); Sex Workers Project, *Revolving Door: An Analysis of Street-Based Prostitution in New York City*, (New York City: 2003).

ⁱⁱ For instance, while the 2007 CCRB Annual Report which is the subject of today's hearing provides statistics concerning complaints based on NYPD officers' use of offensive language relating to the complainant's sex – which, incidentally, reflect that the percentage of such complaints has more than doubled over last year – there is no indication of whether such language was used in a context rising to the level of sexual harassment, or was accompanied by other misconduct such as threat of arrest, unwarranted strip search, sexual assault, or extortion of sexual favors in exchange for leniency, all of which are commonly reported by our clients. Similarly, while the number and percentage of complaints concerning strip searches has risen steadily over the past five years – notwithstanding a 2004 letter from the CCRB to the NYPD raising serious concerns with respect to NYPD officers' use of strip searches in violation of New Yorkers' rights which resulted in additional instruction of all NYPD officers concerning the Department's search policies – there is no indication of the circumstances or targets of such searches. As a result, there is no awareness of or accountability for systemic patterns and practices of gender specific police misconduct.

ⁱⁱⁱ See Bureau of Justice Statistics, *Criminal Victimization, 2004*, US Department of Justice, Office of Justice Programs, NCJ 210674, September 2005; Bureau of Justice Statistics, *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000*, US Department of Justice, Office of Justice Programs, NCJ 194530, August 2002 (74% of completed and attempted sexual assaults against women were not reported to the police)

^{iv} Craig R. McCoy and Nancy Phillips, *Extorting Sex With a Badge*, Philadelphia Inquirer, August 13, 2006 A01.

^v H. Castro, *Jail Sex Abuse Allegations Detailed*, Seattle Post-Intelligencer, May 24, 2005; S. Green, *Two County Jail Guards Charged in Sex Case*, Seattle Times, December 8, 2005. Three other officers were subsequently charged with sexual misconduct at the same facility. S. Green, *Two County Jail Guards Charged in Sex Case*, Seattle Times, December 8, 2005.

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Good day Councilmembers. My name is Marc Krupanski from the Center for Constitutional Rights. The Center for Constitutional Rights -- or CCR -- is a non-profit legal and educational organization, based in New York City that is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights.

We have been active throughout the years in the efforts and movement to combat police misconduct in New York City. This has included many things, such as hosting a police misconduct hotline, conducting know your rights workshops, and of course litigation.

We have heard and will hear a good deal of testimony concerning police misconduct and brutality and the lack of accountability for officers who engage in such conduct. I would like to focus specifically on the NYPD's stop-and-frisk practices. CCR is currently involved in class-action litigation against the NYPD challenging this practice -- chiefly the overwhelming occurrence of unlawful stops that particularly targeting Black and Latino New Yorkers. As a result of this on-going litigation, we have received 10 years of the raw stop-and-frisk data from the NYPD -- more than what has been provided to the City Council, I believe. Along with statistical experts, we are in the process of analyzing this data (and the new data we will receive). In the meantime, we've issued a preliminary report looking at the data from 2005 through the first half of 2008 which I have brought copies for your review.

I know my time is brief so I want to raise 3 main points. The first concerns NYPD's stop-and-frisk practice; the second concerns the Department Advocate's Office failure to discipline stop-

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and-frisk related cases substantiated by the CCRB; and third our recommendations for an Independent Special Prosecutor and Independent Police Auditor.

Stop-and-frisk is of particular to concern to us, as well as most New Yorkers, due to its alarming rate of occurrence. In the first half of 2008, the NYPD conducted over 270,000 stops which put them on pace for 540,000 for the year – the highest total ever. Of these stops, 81% were of Blacks and Latinos and just 11% of Whites. This disparity increases in regards to frisks. If I may bring it home for two of you: Councilmember Dilan – the precinct nearest your office - #75, recorded the most stops in the City for the 1st half of 2008, with 13,868 – when the average stop city wide by precinct was about 3,000. Also, Committee Chair Valone, your nearest precinct - #114 recorded the most in Queens with 6,148.

Some people may not be bothered by these high numbers claiming stop-and-frisk is a legitimate practice to get criminals, weapons and drugs off the street. However, in the first half of 2008, only 6% of those stopped were arrested and 7% received a summons. Weapon and contraband yield rates were even lower – with just 1% of stops yielding a weapon and 2% yielding contraband. On the other hand, 24% - or 1 out of every 4 - stops result in some use of physical force by the officer. This rate is nearly double the combined rate of arrests and summons.

Based on these and other figures in the report, it is our strong belief that a large number of these stops were unjustified and very likely illegal.

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Stop-and-frisks are the main form of contact between civilians and police officers. It is no surprise then, that as stop-and-frisks have increased citywide so have the complaints to the CCRB. In fact, stop-and-frisk related complaints now make up the majority of complaints received by the CCRB. So it is of particular concern to us that the NYPD is not disciplining officers in the incredibly few complaints that the CCRB substantiate. In fact, it has come to our attention that the Department Advocate's Office's current procedure is to not pursue any disciplinary action against officers who are named in substantiated CCRB stop-and-frisk allegations altogether. In such cases, the DAO credits police officers' versions of events in full without any further review.

As I've mentioned, CCR is currently litigating these unlawful practices and we hope that through our litigation combined with grassroots organizing efforts, we can actually institute meaningful systems of transparency and accountability of the NYPD. But I'd like to note – we, CCR and others in the civil and human rights community, should not have to do this. But we are doing this because the structures that are put in place for the NYPD's self-monitoring and self-discipline are broken. They are not just broken but intentionally flipped on their head where misconduct and illegal activity are ignored and thereby, encouraged. Consequently, the DAO fails to meet minimum standards of competence and in the end, condones police misconduct. The NYPD cannot police itself.

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For these reasons, we support efforts to move prosecutorial authority out of the hands of the NYPD and the Department Advocate's Office and to the CCRB. However, we want to emphasize that this is just one step and by no means is our ideal end. Instead, we need a truly independent body – independent from the NYPD and the Mayor's office and directly accountable to the people of New York through the City Council. That is why we would like to see both an Independent Special Prosecutor to investigate and prosecute cases of police brutality and an Independent Police Auditor to investigate and monitor departmental-wide policies and initiatives, such as stop-and-frisk. Independence in investigation and prosecutorial authority is key to achieving accountability.


I look forward to working on this with all of you more in the future. Thank you.

Racial Disparity in NYPD Stops-and-Frisks:

THE CENTER FOR CONSTITUTIONAL RIGHTS
PRELIMINARY REPORT ON UF-250 DATA
FROM 2005 THROUGH JUNE 2008



Released January 15, 2009

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Racial Disparity in NYPD Stops-and-Frisks:

**The Center for Constitutional Rights Preliminary Report
on UF-250 Data Obtained for 2005 through June 2008**

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I. EXECUTIVE SUMMARY

On September 9, 2008, the United States District Court in Manhattan ordered the New York Police Department (NYPD) to provide all of its UF-250, or “stop-and-frisk,”¹ data from 1998 through the first half of 2008 to the **Center for Constitutional Rights (CCR)**. Judge Shira Scheindlin ruled that the NYPD failed to prove that the law enforcement privilege protects the NYPD from having its questionable stop-and-frisk practices exposed to public scrutiny and further, that all of the data other than personal identifying information of police officers and persons stopped, could be made available to the public.

The order was the result of a discovery request served on the City of New York in April 2008 seeking production of the data as part of an ongoing civil rights lawsuit filed by CCR on behalf of plaintiffs who allege they were illegally stopped and frisked on one or more occasions by NYPD officers without reasonable suspicion and because of their race. The lawsuit, *Floyd v. City of New York* was filed on January 31, 2008 and alleges that the NYPD engages in racial profiling and suspicionless stop-and-frisks of law-abiding New York City residents. The named plaintiffs in the litigation – David Floyd, Lalit Clarkson, David Ourlicht and Deon Dennis – represent hundreds of thousands of New Yorkers who over the past several years have been stopped on the way to work, in front of their homes, or just walking down the street, without any cause, primarily because of their race or ethnicity.

In a preliminary review of the UF-250 data from 2005 through the first half of 2008, CCR made the following findings:

¹ “Stop-and-frisk,” also referred to as “stop-question-and-frisk,” is a practice by which an NYPD officer initiates a stop of an individual on the street. Stops are supposed to occur when the officer has a reasonable suspicion that a crime has occurred, is occurring, or is likely to occur. Frisks are legally permitted only when the officer believes the individual poses an immediate threat to the officer or people in the immediate area. Stops may result in arrest or the issuance of a summons to the individual. Stops-and-frisks are often used in “quality of life” policing models.

The NYPD's use of stop-and-frisk is on the rise. In 2005, the NYPD made less than 400,000 stops in comparison to a projected 543,982 stops in 2008. Over a period of 3.5 years, the NYPD has initiated nearly 1,600,000 stops of New Yorkers.

The NYPD continues to disproportionately stop-and-frisk Black and Latino individuals. From 2005 to 2008, approximately 80 percent of total stops made were of Blacks and Latinos, who comprise 25 percent and 28 percent of New York City's total population, respectively. During this same time period, only approximately 10 percent of stops were of Whites, who comprise 44 percent of the city's population.

Blacks and Latinos are more likely to be frisked after a NYPD-initiated stop than Whites. Between 2005 and June 2008, Whites comprised 8 percent and Blacks comprised 85 percent of all individuals frisked by the NYPD. In addition, 34 percent of Whites stopped during this time period were also frisked, while 50 percent of Blacks and Latinos stopped were also frisked.

Blacks and Latinos are more likely to have physical force used against them during a NYPD-initiated stop than Whites. The data reveals that a significant number of stops result in the use of force by the NYPD. Of those stops, a disproportionate number of Blacks and Latinos have physical force used against them. Between 2005 and June 2008, 17 percent of Whites, compared to 24 percent of Latinos and Blacks, had physical force used against them during NYPD-initiated encounters.

Stops-and-frisks result in a minimal weapons yield and/or contraband yield. The data demonstrates a paucity of stops resulting in weapons and/or contraband yield across racial lines. Of the cumulative number of stops made since 2005, only 2.6 percent resulted in the discovery of a weapon or contraband. Though rates of contraband yield were minute across all

racial groups, stops made of Whites prove to be slightly more likely to yield contraband. This suggests stop-and-frisk is not an effective crime fighting tactic.

The proportion of stops-and-frisks by race does not correspond with rates of arrest or summons. Arrest and summons rates for persons stopped during the period of 2005 through the first half of 2008 were low for all racial groups, with between 4 and 6 percent of all NYPD-initiated stops resulting in arrests and 6 and 7 percent resulting in summons being issued during this period. This further suggests stop-and-frisk is not an effective crime fighting tactic.

The UF-250 data provided by the NYPD plainly demonstrate that Black and Latino New Yorkers have a greater likelihood of being stopped-and-frisked by NYPD officers at a rate significantly disproportionate to that of White New Yorkers. That NYPD officers use physical force during stops of Blacks and Latinos at an exceedingly disproportionate rate compared to Whites who are stopped, and that this disparity exists despite corresponding rates of arrest and weapons or contraband yield across racial lines, further supports claims that the NYPD is engaged in racially-biased stop-and-frisk practices. The findings of this preliminary review of the data are presented in greater detail herein.

II. INTRODUCTION

Floyd v. the City of New York stems from CCR's landmark racial profiling case, *Daniels v. City of New York* – filed in the wake of the Amadou Diallo shooting – that led to the disbanding of the NYPD's infamous Street Crime Unit and a settlement with the City in 2003. The *Daniels* settlement agreement required the NYPD to create and maintain a written anti-racial profiling policy that complies with the United States and New York State Constitutions, as well as to provide stop-and-frisk data to CCR on a quarterly basis from the last quarter of 2003 through the first quarter of 2007. A prior internal analysis of the data received from *Daniels* strongly suggested that the NYPD engaged in stop-and-frisks without suspicion and based on race. While CCR was in possession of the UF-250 data for these years, all the data and the analysis of it were under a protective order that prohibited release to the public.

This preliminary report² presents: 1) key findings from CCR's initial analysis of the recently obtained portions of the NYPD's UF-250 stop-and-frisk data for 2005 through the first half of 2008; and 2) several policy recommendations and community-based responses to counter racial profiling by local law enforcement.

² This analysis of the data does not necessarily reflect the conclusions, evidence and arguments that will be presented by plaintiffs in the *Floyd* litigation.

III. KEY FINDINGS OF THE UF-250 DATA

The UF-250 data was produced to CCR as database files for each year required under Judge Scheindlin's Order. Each file contained data from the stops-and-frisks recorded by NYPD officers for one of relevant years. Each database file contains approximately 250 fields, corresponding with fields from the paper-based UF-250 forms that NYPD officers are required to complete each time a stop is initiated. This report includes an analysis of key data fields relevant to the *Floyd* litigation. Fields analyzed include stops, frisks, arrests, summons, weapons and contraband yield, use of physical force and combinations of these. Non-integer percentage numbers, e.g. 32.72 percent and 32.49 percent, were rounded up by the hundredths decimal to the nearest integer. For example, 32.99 percent is calculated as 33 percent, as is 32.49 percent.

A. Stops

The mean number of total stops for years 2005, 2006 and 2007 was 458,926; however, in the first half of 2008, the NYPD made 271,991 stops. If the NYPD continued to make stops at a similar rate during the second half of the year, it will have made 543,982 by the end of 2008, a figure which surpasses the previous record number of 506,491 of total stops in 2006. *See Figure 1.*

The disproportionate number of stops of Black and Latino civilians by the NYPD continues unchanged. From 2005 through the first half of 2008, the NYPD recorded a cumulative total of 1,648,769 stops, 81 percent of which were stops of Blacks and Latinos, with just 11 percent of stops of Whites. Specifically, Whites comprised 10 percent of stops in 2005 and 11 percent of stops in 2006, 2007 and the first half of 2008. Latinos, however, comprised 29 percent of stops in 2005 and 2006, 30 percent in 2007 and 32 percent in the first half of 2008.

Approximately 50 percent of all stops in 2005 through the first half of 2008 were of Blacks. See Figures 2 and 3. The disparity in the percentages of individuals stopped by race is even more dramatic when compared to the relative populations of these groups in New York City. As of 2006, Whites comprised 44 percent of the population of New York City, Latinos and African Americans comprised 28 and 25 percent, respectively.³

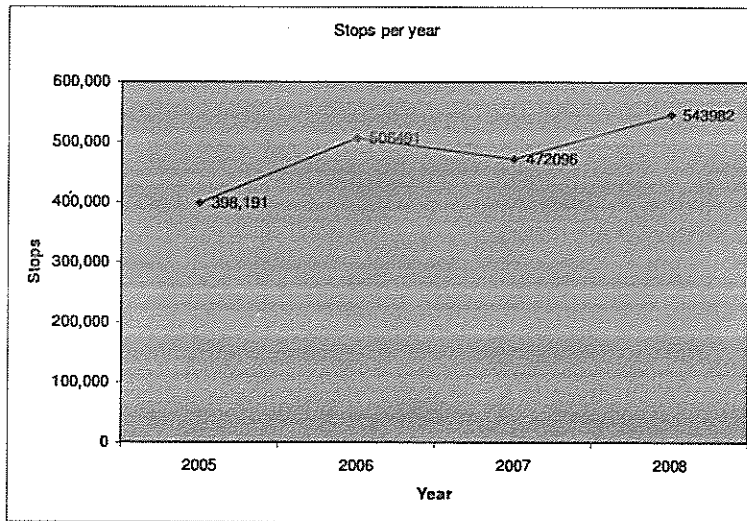


Figure 1

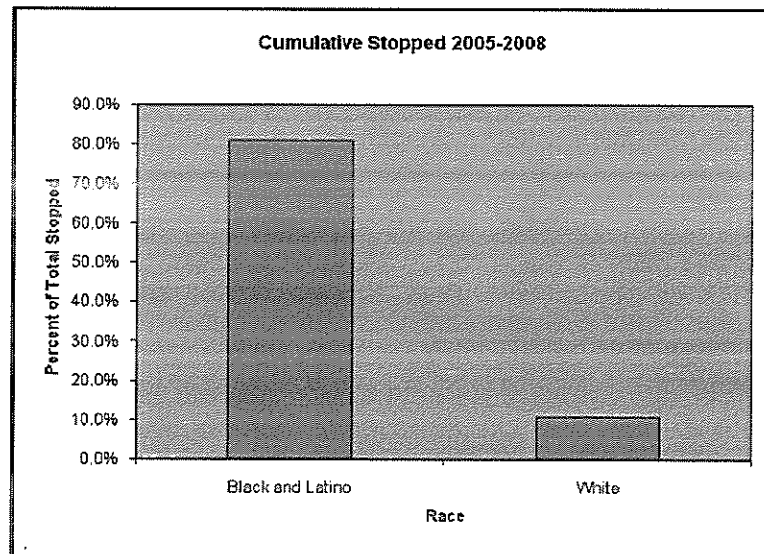


Figure 2

³ U.S. Census Bureau. *American Community Survey 3-Year Estimates, New York*. ACS Demographic and Housing Estimates (2005-2007)

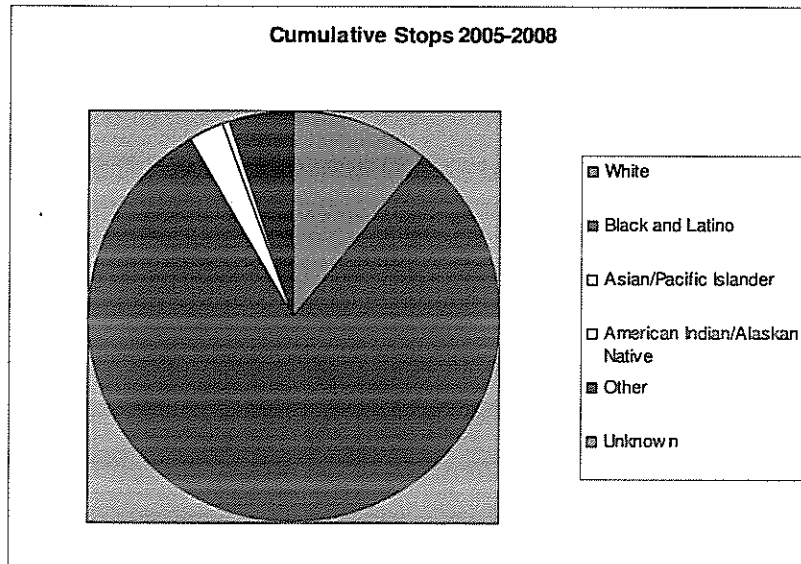


Figure 3

B. Frisks

The number of frisks conducted by the NYPD continues to increase. In 2007, although the NYPD made 34,000 fewer stops than in the previous year, nearly 28,000 more frisks were conducted for a total of 245,033. During the first half of 2008, the NYPD made 145,323 frisks; based on this trend, it can be projected that over 290,000 frisks will have been conducted by the end of 2008 – a record number of NYPD-initiated street encounters resulting in frisks for any single year of publicly available data.

Already, individuals stopped had a 42 to 43 percent likelihood of being frisked by the NYPD in 2005 and 2006, respectively. Since 2007 however, this likelihood increased by 10 percent. This denotes a steady increase in stops resulting in frisks by the NYPD. This is true even for Whites, of whom approximately 28 percent were frisked in 2005 and 2006 and 41 percent were frisked in 2007 and the first half of 2008.

Latinos and Blacks also had an increased likelihood of being frisked in 2007 and the first half of 2008. Latinos had a 44 percent chance of being frisked in 2005 and 45 percent in 2006,

increasing to 55 percent in 2007 and the first half of 2008. Similarly, Blacks had a 46 percent chance of being frisked in 2005 and 2006, rising to 54 percent in 2007 and 56 percent in the first half of 2008. See Figure 4.

Between 2005 and June 2008, a cumulative total of 775,428 of stops made by the NYPD resulted in frisks. Of the individuals frisked during this period, 59,967, or 8 percent, were White and 660,936, or 85 percent, were Black and Latino.

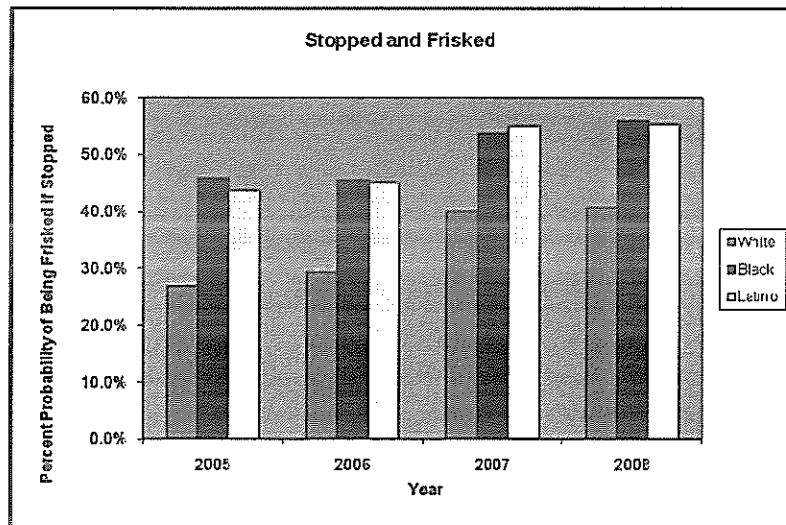


Figure 4

C. Arrests, Summons, Weapons & Contraband Yield

1. Arrests

The arrest rates for NYPD-initiated stops have remained markedly low for all racial groups during the period of 2005 through the first half of 2008. In total, just 27,632 arrests were made out of the 472,096 stops in 2007, and only 16,784 arrests resulted from the 271,991 stops made in the first half of 2008. In 2005, only 5 percent of all stops of Whites, 5 percent of all stops of Blacks and 5 percent of all stops of Latinos conducted by the NYPD resulted in arrests. In 2006, 4 percent of stops of Whites, 5 percent of stops of Latinos and 4 percent of stops of Blacks resulted in arrests. The arrest rate increased to 6 percent for all three racial groups in 2007

and the first half of 2008. Based on this data, relatively equal arrest rates for all racial groups are completely inconsistent with the striking disparity in stops of Blacks and Latinos versus Whites.

See Figure 5.

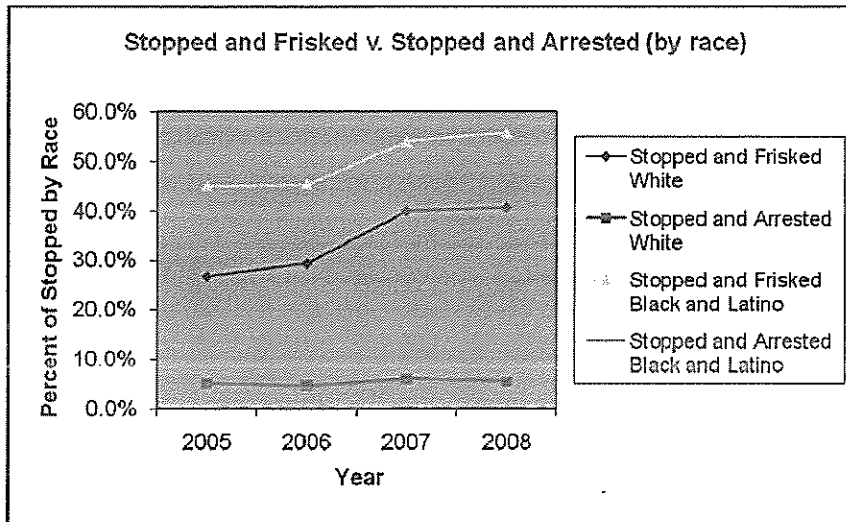


Figure 5

2. Summons

The rate of summons issued for NYPD-initiated stops made from 2005 to the first half of 2008 remained in the range of 6 to 7 percent of stops. Like the rate of stops resulting in arrests, the rate of summons issued after an NYPD-initiated stop are equal across racial lines.

3. Weapons Yield

Since 2005, the weapons yield rate has remained equal across racial lines, despite the fact that Latinos and Blacks consistently comprise over 80 percent of total stops. The mean weapons yield rate of stops from 2005 through the first half of 2008 was 0.75 percent of all stops. In 2005, the weapons yield rate was 1.1 percent; in 2006, the weapons yield rate was 0.4 percent of all

stops; in 2007, it stood at 0.5 percent of all stops; and, in the first half of 2008 the yield was 1 percent. See Figure 6.

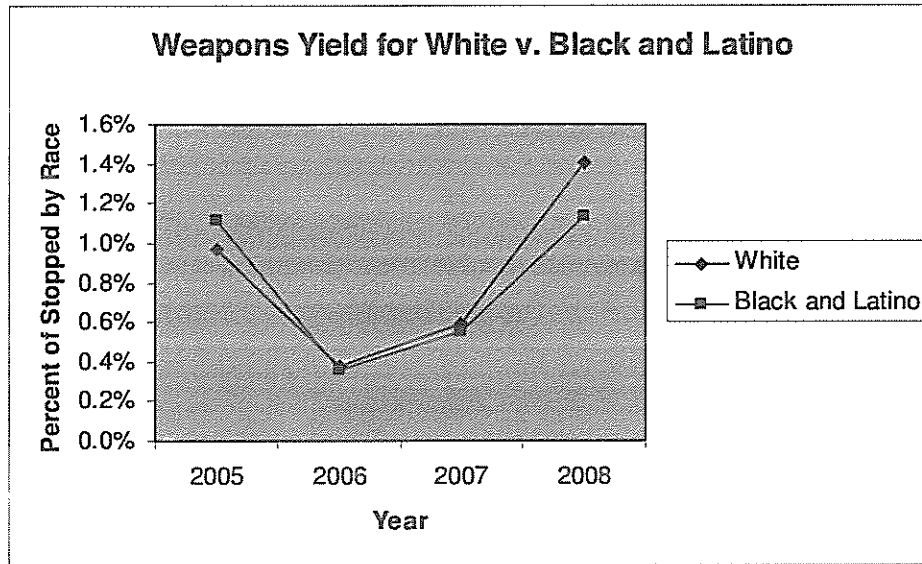


Figure 6

4. Contraband Yield

The rate of contraband yield from stops made by the NYPD have stayed level and at a minuscule percentage across racial groups. The total percentages of stops resulting in contraband yield are as follows: 1.8 percent in 2005, 1.4 percent in 2006; and, 2 percent in 2007 and the first half of 2008. See Figure 7.

While the percentages are low throughout racial groups, Whites demonstrate slightly higher rates of contraband yield. In 2005, 2.3 percent of Whites stopped resulted in a contraband yield compared to 1.8 percent for Latinos and Blacks; in 2006, the percentage for Whites was 1.9 percent compared to 1.4 percent for Latinos and Blacks; in 2007, the percentage for Whites was 2.4 percent versus 1.9 percent for Latinos and Blacks; and, in the first half of 2008 the percentage for Whites was 2.1 percent versus 1.8 percent for Latinos and Blacks.

Regardless of race, an average of 97.6 percent of stops made by the NYPD from 2005 through the first half of 2008 resulted in neither weapons nor contraband yield.

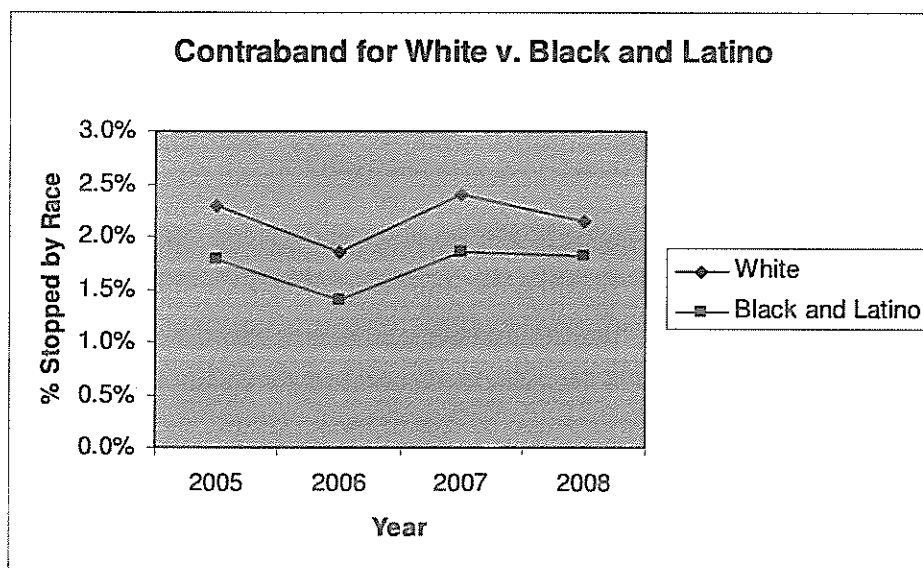


Figure 7

5. Use of Physical Force

The UF-250 form describes the use of physical force as the use of the following weapons and tactics:

- Hands
- Suspect on ground
- Suspect against wall
- Weapon drawn
- Weapon pointed
- Baton
- Handcuffs
- Pepper Spray
- Other

Physical force was self-reported by NYPD officers in 23 percent, or 373,233, of the 1,600,000 stops conducted by the NYPD between 2005 and June 2008. The use of physical force by police officers has a greater likelihood of occurring than arrests or the issuance of a summons combined. The percentage of stops resulting in the use of physical force by an officer was 25 percent in 2005; 20 percent in 2006; 23 percent in 2007; and, 24 percent in the first half of 2008.

There is an evident racial disparity in the use of physical force used by NYPD officers during stops. In 2005, 19 percent of Whites stopped had physical force used against them, compared to 26 percent of Latinos and Blacks; in 2006, 15 percent of Whites, compared to 21 percent of Latinos and Blacks, endured physical force; in 2007, 18 percent of Whites, compared to 24 percent of Latinos and Blacks, had physical force used against them; and, in the first half of 2008, 18 percent of Whites, compared to 24 percent of Latinos and Blacks, had physical force used against them by the NYPD. *See Figure 7.*

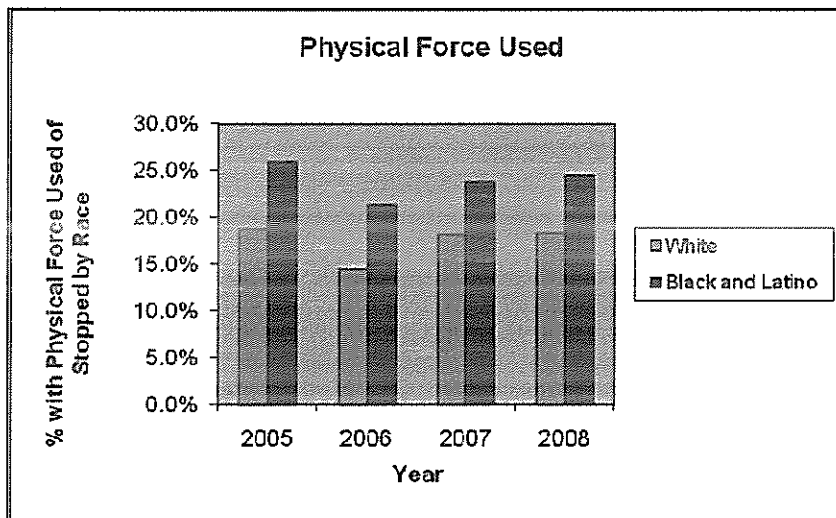


Figure 7

6. Physical Force and Arrest

Between 2005 and June 2008, the mean percentage of stops involving the use of physical force by the officer that resulted in an arrest was 12 percent. In other words, 88 percent, or 328,589 of the 373,233 encounters in which physical force was used, the individual was not arrested. See Figure 8.

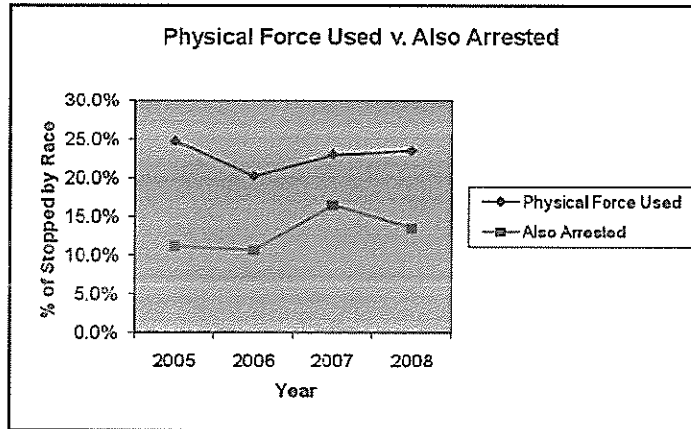


Figure 8

IV. RECOMMENDATIONS

As illustrated in this preliminary report, the NYPD's UF-250 data plainly demonstrate that Black and Latino New Yorkers have a significantly greater likelihood of being stopped and/or frisked by NYPD officers than White New Yorkers. The racial disparity in the rate at which NYPD officers use physical force during stops-and-frisks further substantiate *Floyd's* claims of racial profiling. The disparity is even more distressing when compared to corresponding rates of arrest and weapons or contraband yield by race. CCR seeks judicial remedies through the *Floyd* case, which will be defined through the course of the litigation. At the same time, CCR advocates for a range of institutional and community-based changes that may overlap, but are independent from, the litigation remedies.

A. Department and Policy Reform

- **Release additional policing and crime data.** Greater transparency about NYPD policies and procedures is essential in combating the racial profiling of hundreds of thousands of New Yorkers. Only with publicly available data can the community-at-large determine whether or not the NYPD is acting under the rule of law. Publicly available data should include not only NYPD activities, but data, such as COMSTAT, that informs the NYPD's policies and procedures.
- **Enforce existing NYPD reporting requirements.** The NYPD is currently required to report to the City Council quarterly on the number of stop-and-frisks in every precinct by race and gender. This requirement must be enforced and met consistently.
- **Increase the scope and authority of the CCRB.** The Civilian Complaint Review Board (CCRB) was formed in 1993 to receive and review civilian complaints of police misconduct. The CCRB's scope of review, however, is limited to incidents not

resulting in arrest. Furthermore, the CCRB's authority is limited to offering recommendations and does not include the authority to take disciplinary action against officers who have engaged in misconduct. While the CCRB is a positive step towards greater accountability from the NYPD, its current capacity prohibits an independent review of misconduct. An effective CCRB requires the increased authority to impose more effective disciplinary sanctions based on the findings of their investigation, independent of any input or influence by the NYPD. More effective disciplinary penalties, including a greater number of days of desk duty or lost pay, retraining and even termination, would deter officers from future violations of a policy prohibiting racial profiling.

B. Individual and Community Response

- **Know your rights.** The Fourth Amendment gives individuals the right to be free of arbitrary search and detention. As the UF-250 data presented in this report suggests, this fundamental right is often violated in the name of safety or purportedly effective police practices. It is imperative that individuals and communities know their rights and how to effectively and safely exercise and protect those rights in interactions with law enforcement agents. For more information, visit www.ccrjustice.org/stopandfrisk.
- **Advocate for a permanent Independent Police Auditor.** Communities and advocates can urge policy makers to create a position for a public official or body that would review NYPD practices, policies and data in order to issue recommendations for systemic, department-wide changes. An auditor would assess the failure or success of the police department in implementing policing policies and practices that

are specifically designed to eliminate racial profiling. The auditor would also have the official capacity to investigate compliance with such policies.

- **Organize a community-based CopWatch program.** CopWatch programs act as community foot or vehicle patrols, or watch groups that lawfully monitor local law enforcement and observe police stops, searches and arrests. These programs aim to reduce police violence and misconduct by exercising the community's right and ability to hold police directly accountable for their actions. Communities in which the NYPD engages in racial profiling and other rights violations can use the CopWatch programs as an effective way to help deter police misconduct, or expose it when it occurs. For more information, visit www.peoplesjustice.org or <http://iwitnessvideo.info>.

V. CONCLUSION

An initial review of the data provides plain evidence that the NYPD has continued to stop, question and frisk an alarmingly high number of New Yorkers each year. The NYPD claims that initiating and conducting nearly 1,600,000 stops-and-frisks over a period of almost 4 years is an effective and legitimate means of crime reduction. The NYPD's own stop-and-frisk data, however, does not support its aggressive stop-and-frisk practices.

While Blacks and Latinos are far more likely than Whites to be frisked during an NYPD initiated stop, the percentage of frisks resulting in arrests or summonses is correspondingly low across all racial groups. This provides strong evidence that the NYPD is not only exceedingly indiscriminate in its frisks of Blacks and Latinos, but also conducts such frisks without reasonable suspicion, raising legitimate concerns that such frisks may be racially pretextual.

The remarkably low rates of NYPD initiated stops-and-frisks that result in arrest, summons, weapons and/or contraband yield make evident the ineffectiveness of this unconstitutional practice. In addition to the illegality and unconstitutionality of unwarranted stops, the racial disparity exhibited in the NYPD's aggressive stop-and frisk practices only serve to strain an already complex relationship between the NYPD and communities of color. The excessive use of physical force in nearly 1 out of 4 stops – particularly when the majority of stops-and-frisks of Latinos and Blacks do not result in arrest – promote continued mistrust, doubt and fear of police officers in communities of color already scarred by major incidents of police brutality.

Racial profiling is a violation of fundamental rights and protections of the United States Constitution and the Civil Rights Act of 1964. Both the judicial remedies CCR will seek through the *Floyd* case and the recommended institutional and community-based initiatives have the

common goal of restoring and protecting constitutional rights and quality of life for all communities.



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THE CITY OF NEW YORK**

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Name: Deputy Chief John Dondave

Address: Commanding Officer - OMAP

I represent: NYPD

Address: _____

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Name: Deputy Commissioner Julie Schwartz

Address: Department Advocate

I represent: NYPD

Address: _____

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Name: Donna Lieberman/Chris Duan

Address: 125 Broad Street, 19th Floor

I represent: NYCLU

Address: _____

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Name: ANDRIANA PAGANO

Address: 123 William St, 16th fl, NY, NY 10038

I represent: ~~Myself~~ Myself

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Name: Susan Lee

Address: 860 Courtlandt Ave, Bronx, NY

I represent: The Bronx Defenders

Address: same as above

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Name: VINCENT SOUTHERLAND

Address: 99 HUDSON STREET SUITE 1200

I represent: NAACP LEGAL DEFENSE FUND

Address: SAME AS ABOVE

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Name: ANDREA RITCHIE

Address: 123 William St, 16th fl NY NY 10038

I represent: ~~to~~ Sex Workers Project at Urban Justice

Address: Same as above Center

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Name: Pick Dadey - Citizens Union

Address: 299 Broadway

I represent: CITIZENS UNION

Address: _____

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Name: Z Gabriel Arkles

Address: 387 1644 E. 10th St, Brooklyn NY 11223

I represent: Sylvia Rivera Law Project

Address: 3728th Ave 3rd Fl NY NY 10001

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Name: Meera Joshi Cottafenta

Address: First Deputy Executive Director

I represent: Civilian Complaint Review Board

Address: _____

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Name: Jean Thompson

Address: Executive Director

I represent: Civilian Complaint Review Board

Address: _____

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Date: _____

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Name: Franklin Stone

Address: Chair

I represent: Civilian Complaint Review Board

Address: _____

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Name: DIANE BARRY

Address: 155 WOODRUFF AVE

I represent: RIPPED

Address: _____

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Name: Wafis Rashed

Address: 123 William St (6th Fl)

I represent: Rights for Imprisoned People

Address: with Psychiatric Disabilities

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(PLEASE PRINT)

Name: KEVIN COENEN

Address: 16 Smith Street Roseton NY

I represent: Voice of the People Democratic Candidate 11767

Address: For Mayor

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Date: 29 JAN, 2009

Name: ^{ULIAN} ^{TIC} **MARYSA DOUGHERTY** 10th FL
(PLEASE PRINT)

Address: 123 WILLIAM ST

I represent: RIGHTS FOR IMPRISONED PEOPLE

Address: NY & THE COUNCIL

THE CITY OF NEW YORK

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Date: 01/29/09

Name: Iris Martinez
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Address: 301 Grove Street, Brooklyn, NY 11237

I represent: Make the Road New York

Address: _____

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I intend to appear and speak on Int. No. _____ Res. No. _____

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Date: 1-29-2009

Name: JAVIER SUNG
(PLEASE PRINT)

Address: _____

I represent: KEEP THE NY FROM NEW YORK

Address: 228 Broadway

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Name: Danny Hernandez

Address: 425 main Street Apt 65

I represent: _____

Address: _____

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in favor in opposition

Date: 01-29-09

(PLEASE PRINT)

Name: DAVID NEWTON

Address: 14 EAST 28TH ST, 732

I represent: RIPPD, NYC, NYSARS

Address: NYC 10016

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in favor in opposition

Date: 29 JAN, 2009

(PLEASE PRINT)

Name: LISA ORTEGA

Address: 123 WILLIAM ST 18th FL

I represent: RIGHTS FOR IMPRISONED PEOPLE

Address: NY NT PSYCHIATRIC

ICC 388 DISABILITIES

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Date: _____

(PLEASE PRINT)

Name: DANETE CHAVIS

Address: 250 Chatham St. N.Y. N.Y. 10002

I represent: Justice Committee

Address: _____

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I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Ms Lillian G. Rivera Community, Disabled

Address: 845 Columbus Ave #12-G

I represent: The City of New York Frederick Douglass House

Address: 845 Columbus Ave

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THE CITY OF NEW YORK**

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in favor in opposition

Date: Jan 29 08

Re out of control R.I.s
Public "SAFETY" Dept (PLEASE PRINT)

Name: Deirdre McNAMARA

Address: 556 Main St. NY NY 10044

I represent: SELF and CCR1 (Concerned Citizens for Public Safety)

Address: As above.

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL THE CITY OF NEW YORK

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in favor in opposition

Date: 1/29/09

(PLEASE PRINT)

Name: Dee Lazersmith

Address: 42-45 Corporal Kennedy St. #16

I represent: myself

Address: THE COUNCIL

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Appearance Card

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in favor in opposition

Date: 1/29/09

(PLEASE PRINT)

Name: Paul Lance (MINDS)

Address: 37 W 93 ST APT 18 NYC 10025

I represent: NYC Policing Roundtable

Address: _____

I intend to appear and speak on Int. No. _____ Res. No. _____

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in favor in opposition

Date: 01/29/2009

(PLEASE PRINT)

Name: Marc Krupanski

Address: 666 Broadway at the Plaza NY NY 10012

I represent: Center for Constitutional Rights

Address: _____

in favor in opposition

Please complete this card and return to the Sergeant-at-Arms

(PLEASE PRINT)

Name: WILLIAM ANTALICS

Address: 304-06 E 8TH ST #4 NY NY 10009

I represent: LOWER EAST SIDE CALL FOR JUSTICE

Address: _____

Please complete this card and return to the Sergeant-at-Arms