



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 5, 2024

Jonathan Darche, Esq.
Executive Director
New York City Civilian Complaint Review Board
100 Church Street
New York, NY 10007

Re: Complaint Processing
Report 2024-F-8

Dear Mr. Darche:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Civilian Complaint Review Board to implement the recommendations contained in our initial audit report, *Complaint Processing* (Report [2020-N-9](#)).

Background, Scope, and Objective

The New York City Civilian Complaint Review Board (CCRB) receives, investigates, prosecutes, mediates, hears, makes findings, and recommends action on civilian complaints filed against members of the New York City Police Department (NYPD). CCRB has jurisdiction over complaints that allege the use of excessive or unnecessary force, abuse of authority, discourtesy, use of offensive language, and untruthful statements—collectively referred to as FADO&U. In 2021, the New York City Council passed Local Law 2212, clarifying that CCRB has the authority to investigate allegations of bias-based policing and racial profiling.

Once a civilian complaint is filed, investigators gather documentary and video evidence and conduct interviews with complainants, victims, civilian witnesses, and subject and witness officers to determine, based on guidance from CCRB legal counsel, whether there was misconduct pursuant to applicable laws and rules. Although CCRB investigators make recommendations to CCRB's Board on how each allegation should be resolved, the Board decides the disposition of each allegation based on the majority vote of a panel of three Board members. CCRB reported that it received 3,700 complaints within its jurisdiction in 2022 and 5,550 such complaints in 2023—an increase of 50%.

We issued our initial audit report on October 5, 2022. The audit objective was to determine if CCRB had an appropriate and sufficiently documented basis for the complaints referred to the NYPD and other agencies and for truncated complaints, and if CCRB was conducting investigations in compliance with New York City regulations and CCRB's internal policies and procedures. The audit, which covered the period from January 2018 through May 2021, found that CCRB did not complete investigations in a timely manner and did not have performance measures in place to effectively monitor lengthy investigations. CCRB reported that it took 211 and 248 days, on average, to fully investigate and close cases in 2018 and 2019,

respectively. Investigation durations significantly increased during the COVID-19 pandemic, with CCRB reporting averages of 317 and 430 days to fully investigate and close cases in 2020 and the first half of 2021, respectively. While CCRB officials attributed long investigation times in part to NYPD delays in providing information or access to members of service, they did not create effective ways to monitor causes of delays (whether internal or external) in order to proactively address and prevent them. Further, weaknesses in CCRB's oversight of timeliness of investigations and monitoring of delays could jeopardize its ability to hold officers accountable for misconduct. For example, while CCRB receives automated notifications of cases that are nearing the end of the 18-month statute of limitations (SOL), given the time it takes to address delays during investigations, these notifications may not occur timely enough for CCRB to effectively address such cases.

The objective of our follow-up was to assess the extent of implementation, as of July 24, 2024, of the four recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

CCRB has made some progress in addressing the problems we identified in the initial audit report. Of the initial report's four audit recommendations, two were partially implemented and two were not implemented.

Follow-Up Observations

Recommendation 1

Augment existing formal processes with appropriate controls to ensure that the NYPD responds to CCRB's requests for documentation and interviews in a timely manner, and improve the efficiency, thoroughness, and effectiveness of its investigations.

Status – Partially Implemented

Agency Action – CCRB has operated a Document Specialists Unit and Case Closing Squad since 2022 to help close cases in a more efficient manner. Further, in June 2023, CCRB reached a data sharing agreement with the NYPD regarding information requests from CCRB's Racial Profiling and Biased-Based Policing Unit. CCRB also signed a memorandum of understanding in December 2023, pursuant to which the NYPD will provide evidence from Force Investigation Division investigations within 90 days of request. While these agreements may help reduce the number of days the NYPD takes to respond to CCRB's requests for documentation, they do not include provisions to likewise help control the length of time it takes the NYPD to respond to CCRB's requests for interviews. In response, CCRB officials indicated that their efforts to ensure the NYPD responds sooner to document requests have led to officer interviews occurring earlier in the investigative process. This is because CCRB investigators do not start interviewing NYPD officers until CCRB collects other case evidence. Although we acknowledge that this may lead to the officer interview process starting sooner, CCRB did not augment existing formal processes with appropriate controls to ensure NYPD officers respond to and appear for CCRB-requested interviews in a timely manner.

CCRB officials also reported that the average number of days to complete a full investigation fell from 561 days in 2022 to 438 days in 2023. However, officials anticipate that investigation times will increase in 2024. In March 2024, the Interim Chair reported to the New York City Council that the rising number of complaints—estimated to reach

6,300 for 2024—will make it difficult for investigators to reduce investigation times and meet the SOL. Further, the Interim Chair stated that CCRB does not have enough funds to investigate all the complaints within its jurisdiction and, as of January 1, 2024, stopped investigating complaints that have only the following allegations: untruthful statements; forcible removal to a hospital; refusal to process a civilian complaint; threats with no action; discourteous words or actions; refusal to provide name or shield number; and failure to provide Right To Know Act cards. As part of the March 2024 testimony, CCRB reported that it had already closed 459 complaints and referred 73 cases back to the NYPD due to budget constraints.

Recommendation 2

Enhance formal processes to help ensure that cases approaching the 18-month statute of limitations are identified and prioritized more timely, allowing sufficient time to resolve them and recommend penalties as appropriate.

Status – Not Implemented

Agency Action – CCRB officials indicated that CCRB’s investigative leaders and executive management receive automated, biweekly emails with the status of all open cases that are within 120 days of the SOL. They also stated that these staff meet weekly to ensure that investigations approaching the SOL are expedited. Officials provided copies of meeting invitations and a screenshot of a spreadsheet, color coded to identify cases that are 6 months and 3 months away from the SOL. However, they did not provide meeting agendas or meeting minutes, nor did they provide documentation demonstrating how CCRB prioritizes such cases.

Notably, in July 2024, CCRB reported that, for 480 decisions since January 1, 2023, the NYPD did not pursue disciplinary proceedings against an officer because the NYPD’s Department Advocate’s Office determined CCRB’s discipline recommendation was made too close to the SOL expiration. This consisted of 106 decisions where CCRB closed the case fewer than 30 days before the expiration date, 123 decisions where CCRB closed the case 30 to 59 days prior to the expiration date, and 251 cases where CCRB closed the case 60 to 89 days prior to the expiration date. In addition, we found that CCRB closed at least 107 substantiated cases (68 cases in 2022 and 39 cases in 2023) after the SOL had already expired. Therefore, the NYPD did not pursue the recommended disciplinary proceedings against officers in these cases. Given the rising number of complaints, which CCRB reported will ultimately make the SOL even more challenging in 2024, we encourage CCRB to take robust actions to help ensure that cases approaching the 18-month SOL are identified, prioritized, and addressed in a more timely manner.

Recommendation 3

Enhance formal processes to assess the extent to which various causes of delays affect the timeliness of investigations and take appropriate remedial action.

Status – Partially Implemented

Agency Action – As we found during our original audit, CCRB continues to assess and report on the extent to which certain NYPD response times affect the timeliness of CCRB investigations. However, CCRB has not enhanced formal processes to assess the extent to which other causes of delays, both internal and external, affect the timeliness of its

investigations. Notwithstanding, CCRB officials have developed procedures that may address other causes of delay. For example, they developed procedures for determining whether or not a case should be reassigned to CCRB's Case Closing Squad. This may help prevent reassignments that cause investigative delays and identify reassignments that speed up the process. In addition, CCRB has entered into agreements with the NYPD to help reduce the number of days the NYPD takes to respond to CCRB's requests for documentation. However, the agreements do not include provisions to help reduce the length of time it takes the NYPD to respond to CCRB's requests for interviews.

Recommendation 4

Improve formal review processes to promote greater consistency, and transparency, of recommendations across the Investigations Division and the Board, including but not limited to:

- *Evaluating the reasons for Board flips of investigators' recommendations; and*
- *Sharing lessons learned with investigators and panelists.*

Status – Not Implemented

Agency Action – CCRB officials did not take any action in response to this recommendation. They stated that CCRB already has sufficient processes in place, including providing investigators with “flip memos” explaining the reasons for disagreement. However, our original audit found that explanations were not always sufficiently descriptive for the investigator to understand the reasoning behind the flip. While investigators have the opportunity to submit a response memo to better explain the basis for their initial recommendation, perhaps a better, more effective—and transparent—approach would be for the Board to ensure at the outset that its flip memos to investigators provide a thorough explanation. Such a comprehensive memo would also be a more helpful “lesson learned” to guide future investigations.

Major contributors to this report were Rita Verma-Kumar and Margarita Ledezma.

CCRB officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of CCRB for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Joseph Gillooly
Audit Manager

cc: Kerry Jamieson, Esq., NYC Civilian Complaint Review Board
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