

Civilian Complaint Review Board (CCRB)
Fact Sheet

Background on the CCRB and the Transfer of Prosecutorial Power

1. The New York City Police Department established the CCRB in 1953 as a committee of three deputy police commissioners to investigate civilian complaints. The board has existed in its current form, as an all-civilian body established in the City Charter, since 1993.
2. Mayor Giuliani formed the Commission to Combat Police Corruption following the death of Amadou Diallo in 1999. One of the Commission's recommendations was to transfer prosecutorial power from the NYPD to the CCRB.
3. Following an investigation by the U.S. Attorney's Office in Brooklyn and the Justice Departments' Civil Rights Division in D.C., Mayor Giuliani and Commissioner Kerik signed a Memo of Understanding (MOU) in April 2001 agreeing to transfer prosecutorial power to the CCRB.
4. The 2001 MOU was challenged in Court by several police unions in Lynch v. Giuliani.¹ The Court ruled that these types of cases cannot be brought before the Office of Administrative Trials and Hearings (OATH). But the court did affirm that CCRB had the authority under the MOU to prosecute cases if they were heard in front of an NYPD administrative judge.
5. Since the court challenge, the 2001 MOU has never been implemented.
6. Sections 38(5) of the NYC Charter and 23(2)(f) of the State Municipal Home Rule Law both require that any local law which "abolishes, transfers or curtails any power of an elective officer" must be approved by the voters by referendum. However, the transfer of prosecutorial power from the NYPD to the CCRB does not meet the standard for a referendum. In Lynch v. Giuliani, the court did not indicate that there was a problem with the CCRB prosecuting hearings against police officers. Rather, the appellate court decision noted that such a transfer to the CCRB would not "add to the CCRB's substantive power or diminish the Police Commissioner's authority to make the final determination as to appropriate disciplinary sanctions."

¹ 301 A.D.2d 351 (1st Dept. 2003)

7. In the 2007 case Mayor v. Council² the New York Court of Appeals argued that the Charter and Municipal Home Rule Law could not possibly be interpreted to mean that any “limitation on the Mayor’s Freedom” would require a voter referendum as this would require more referenda than “any community could well manage.” Instead the Court wrote that the requirement applies “only to legislation that impairs a power conferred on the officer as part of the framework of local government.” It is Citizens Union’s position that this change does not constitute a “transfer” so much as a “structural change.”

Relevant Statistics

1. The CCRB projects a record number of complaints in 2009, to upwards of 8,400. In the first six months of 2009, from January to June, the CCRB received 4,605 complaints, which contained 13,517 total allegations (each complaint can have more than one allegation). This represents an increase of 8% since 2008.
2. In comparison there were 26,648 allegations and 7,405 complaints to the CCRB in 2008. This is up from 2003 when there were 15,486 allegations and 5,556 complaints registered with the CCRB. Allegations fell by approximately 1,000 between 2007 and 2008, but have otherwise risen steadily, around 3,000 more per year, since 2003.
3. Of the 7,405 complaints the CCRB received in 2008, 265 complaints (3.5 percent) were substantiated, marking a steady decline from 2004 when 504 complaints (8 percent) were substantiated. The CCRB has stated that this is due to increased care being given to substantiations.
4. In 2008, the NYPD pursued no disciplinary action in 33 percent of substantiated cases (86 of 265). By contrast, in 2003, NYPD pursued disciplinary action in all but 1 percent of substantiated cases (no discipline was pursued in just 3 of 331 substantiated cases). In 2004, discipline was not pursued in 3 percent of cases (15 of 504).
5. The NYPD undertook only 19 administrative trials against officers in 2008, down from 90 in 2003, and 88 in 2004. This number is up, however, from 11 trials in 2007.

² 9 N.Y.3d 23 (2007)

6. When a substantiated case is referred to the NYPD, the department needs to decide if it can prosecute. The percentage of cases declared "Department Unable to Prosecute" (DUP) has increased over the last two years. In 2006 it was 5 percent; 2007, 47 percent; and 2008, 57%. 2008 is the highest year of DUPs on record.