



**THE POLICE COMMISSIONER  
CITY OF NEW YORK**

May 10, 2006

Hector Gonzalez  
Chairman  
Civilian Complaint Review Board  
40 Rector Street - 2<sup>nd</sup> Floor  
New York, New York 10006

Dear Chairman Gonzalez:

I'm writing to express my surprise and dismay at the letter I received from you and Executive Director Finkle yesterday afternoon, after already having received inquiries about it from the New York Times. It seems to be a remarkable coincidence that your letter to me appears in the press on the morning of the Board's public meeting, in scarcely enough time for the ink to dry.

Beyond the unprofessional manner of the letter's release, I am further dismayed by the letter's substance. I view the NYPD's policing of the 2004 Republican National Convention and the scores of demonstrations that accompanied it as one of the Department's finest hours. As you well know, the Convention served as a magnet for groups publicly committed to its disruption and to the disruption of life and commerce throughout the city. One needs only to look to prior demonstrations in Seattle, Philadelphia, Washington, D.C. and Miami to appreciate the risk to New York. Further, the Convention brought with it the very real risk of a major terrorist attack. Again, one needs only to consider the Herald Square subway plot currently at trial to appreciate that risk as well.

Nevertheless, the convention, an essential element of American democracy, was able to proceed unhindered, while hundreds of thousands of others were able to dissent freely and openly. It's disturbing that your letter concerning the Department's actions during the convention ignores this larger context. Your letter also fails to note the extensive pre-convention outreach efforts by the CCRB to some 700 groups and websites in order to make the filing of complaints as easy as possible.

Despite the Board's best efforts to facilitate complaints, only 63 were received. More remarkable, only 3 were substantiated. Yet despite this insignificant complaint volume, the Board has felt the need to generate substantial media interest in its recommendation that Deputy Chiefs should have been equipped with bullhorns. It would be appropriate for the Board to reconsider the facts of the two instances cited.

Regarding the Fulton Street demonstration:

1. the group had no permit
2. bullhorns were used to convey instructions to the demonstrators
3. the demonstrators did not follow those instructions
4. the group was offered a route northbound on Church Street (with the flow of traffic), but instead turned east on Fulton Street and moved to march north on Broadway (against the flow of traffic)
5. the Deputy Chief gave orders to disperse in a loud and authoritative voice, loud enough to be picked up by video cameras filming the events.

Regarding the Herald Square demonstration:

1. a bullhorn is unnecessary to address a group of about 15 people (as estimated in your letter).
2. there is little ambiguity in the term "street" when being ordered to disperse.

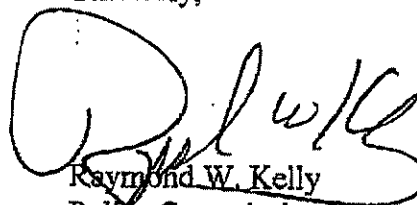
The Board would do well to consider the realities of policing large demonstrations. When probable cause for arrest exists, there is no legal requirement for a warning. When a warning is provided, after a crowd has failed to follow lawful directions, there is no obligation or practical way of polling each member of the crowd to clarify their intent.

As always, the Department seeks to learn from experience. We continuously strive to improve our policies and practices. Good faith recommendations from the CCRB and others are always welcome. What is not helpful is the Board's unbalanced treatment of the RNC issue, seemingly in an attempt to get media attention and to satisfy the protestations of special interests.

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I look forward to a more straightforward and productive relationship with the Board in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ray W. Kelly', written over the printed name.

Raymond W. Kelly  
Police Commissioner