



NYCLU

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BY ELECTRONIC MAIL ONLY

January 17, 2017

Maya Wiley
Chair
New York City Civilian Complaint Review Board
100 Church Street
New York, N.Y. 10007

Re: 2016 Year-End Figures on Police Misconduct

Dear Maya:

On behalf of the New York Civil Liberties Union, I write about the year-end figures released by the CCRB last Wednesday. We are concerned about both the CCRB's handling of these figures and about the figures themselves. I ask that you circulate this letter to all members of the Board.

As an initial matter, I note that the CCRB did not mention, much less discuss, the year-end 2016 figures at its public meeting last Wednesday evening. This follows a troubling pattern of the agency failing to discuss publicly important developments central to the agency's work. For example, the CCRB "released" its report on NYPD taser usage by posting it on its website on a weekend in October 2016 and then never mentioned or discussed the report at a public meeting or otherwise informed the public of its existence.

The CCRB's failure to mention the year-end figures is particularly noteworthy because those figures contain important information about misconduct by police officers, about the oversight work of the CCRB, and about the disciplinary practices of the NYPD. From our review of the report released on Wednesday, several important findings stand out:

- Substantiated Cases of Police Misconduct Have Increased Dramatically Over the Last Three Years- In 2016 the CCRB found that NYPD officers had engaged in misconduct in 347 cases, having found misconduct in another 519 cases in 2015 and 313 in 2014, for a total of 1179 cases over the last three years. By contrast, in the prior three-year period (2011-13) the CCRB substantiated misconduct in 648 cases, meaning that substantiated cases of police misconduct increased by 82% in the most recent three-year period. This dramatic increase in substantiated

misconduct immediately raises the prospect of a jump in actual police misconduct and requires close attention from the CCRB and the NYPD.¹

- Few Officers Guilty of Misconduct Are Receiving Serious Punishment- As has been the case for many years, very few officers who had engaged in civilian misconduct received significant discipline in 2016. Of the 518 officers who were disciplined, none was dismissed and only 4% (20 officers) received discipline in the form of suspension or loss of vacation in excess of 10 days. Conversely, 54% (279 officers) received training, instructions, or warnings, none of which we consider to be discipline.

The 2016 figures closely track the figures from 2015, during which none of the 333 officers disciplined was dismissed, 2% (5 officers) received discipline in the form of suspension or loss of vacation in excess of 10 days, and 46% (153 officers) received training, instructions, or warnings. Similarly, in the 2011-13 period, during which 619 officers were disciplined, 4 were dismissed, 6% (40 officers) received discipline in the form of suspension or loss of vacation in excess of 10 days, and 65% (401 officers) received training, instructions, or warnings.

We recognize that the CCRB does not control disciplinary decisions made by the Police Commissioner. It does, however, have an important role in pressing for appropriate discipline, and the disciplinary figures reported by the CCRB last week highlight the need for the CCRB to take an active role in advocating for more meaningful discipline of officers who have engaged in civilian misconduct.

- CCRB Disciplinary Recommendations Have Lessened Dramatically Over the Last Three Years- While the CCRB can only recommend discipline in cases in which it finds misconduct, its recommendations are important both in terms of expressing the agency's view of the seriousness of misconduct and in terms of guiding the Police Commissioner's ultimate decision making. The 2016 figures highlight a dramatic trend over the last several years of the CCRB abandoning efforts to assure that officers receive significant discipline when they engage in civilian misconduct. Most dramatically, the CCRB has shifted from recommending charges -- the most serious type of discipline -- in a majority of cases to only a small fraction of cases:

2011	68%
2012	70%
2013	64%
2014	50%
2015	25%
2016	12%

¹ We are aware of the CCRB's claims that the increase may be due to the increased availability of video evidence and due to improved CCRB investigations. While these factors may contribute to increased substantiations, we are aware of no serious effort by the CCRB to analyze these factors, and our review of available CCRB data indicates that video evidence can account for only a portion of the increased number of substantiated cases.

At the same time that the CCRB has essentially halted proposing serious discipline, it has turned to recommending instructions or training – neither of which is discipline – in only a handful of cases to nearly a majority of them:

2011	8%
2012	5%
2013	9%
2014	23%
2015	33%
2016	44%

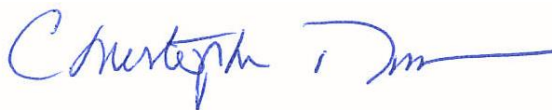
In our view, the dramatic changes in CCRB recommendations over the last three years raise serious questions about the CCRB’s commitment to meaningful civilian oversight. Simply put, the CCRB seems to have adopted the position that police mistreatment of civilians is no longer a serious matter.

- The CCRB Continues to Close Over Half of the Complaints It Receives Without Completing an Investigation- In 2016 the CCRB closed 2429 cases without completing an investigation (referred to as a “truncated” case), which represented 55% of all closed cases. For the three-year period 2014-16, the CCRB closed 7876 cases without completing an investigation, which represented 53% of all cases the agency closed. While this was a significant improvement over the prior 3-year period (when 64% of cases were truncated), the fact that most cases are being closed without a complete investigation is alarming. We fully recognize that some meaningful number of investigations may not be completed for reasons entirely beyond the CCRB’s control, but the ongoing situation of over half of the investigations not being completed warrants immediate attention.

* * *

We expect that the CCRB will discuss its own figures at next month’s public meeting and hope that the Board will address our concerns. To the extent you or other Board members wish to discuss this letter in advance of the meeting, I would be happy to do so.

Sincerely,



Christopher Dunn

c: Jonathan Darche, CCRB Interim Executive Director