



THE POLICE COMMISSIONER
CITY OF NEW YORK

March 11, 2008

Franklin Stone
Chair
Civilian Complaint Review Board
40 Rector Street - 2nd Floor
New York, NY 10006

Dear Chairperson *Franklin* Stone,

It has come to my attention that the NYCLU is urging the CCRB to assume responsibility for prosecuting the cases that it refers to the New York City Police Department. The NYCLU claims that if the CCRB assumes responsibility for prosecution of these cases, fewer cases will be dismissed and the quality of CCRB investigations will improve. The NYCLU also contends that the New York City Police Department should not be responsible for prosecuting its members who have committed misconduct because we cannot properly evaluate these matters in an independent and unbiased manner.

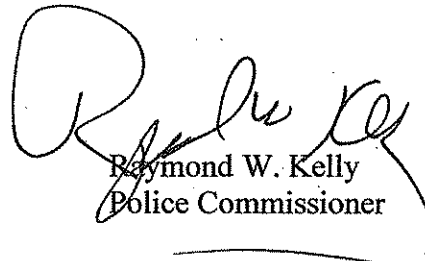
These assertions are specious. The Department Advocate's Office is a very professional team of prosecutors which acts vigorously against misconduct within the New York City Police Department. Since 2002, I have been committed to increasing the level of professionalism within the Department Advocate's Office. Currently, Deputy Commissioner Schwartz, who formerly served as the Bureau Chief of the Kings County District Attorney's Sex Crime/Special Victims Bureau, leads a staff of twenty-five attorneys. The Department has made a concerted effort to increase the depth of experience among the attorneys. Presently, all attorneys are civilian employees and 84% have prior criminal law experience. There are six attorneys assigned to prosecute CCRB related misconduct, three of which are prior Legal Aid Society attorneys. In addition, the team leader is a former Senior Assistant District Attorney, with six years of experience prosecuting CCRB cases. Clearly, the Police Department attorneys possess the requisite expertise and objectivity to handle disciplinary prosecutions.

The New York City Police Department doesn't simply refuse to prosecute members of the service, as is alleged by the NYCLU. In both 2006 and 2007, the Department Advocate's Office prosecuted over 1100 cases of misconduct committed by members of the Department. In the same time period, the Department has not been able to pursue disciplinary action in an increasing number of substantiated CCRB allegations, largely due to a change in the nature of those allegations. As we have discussed in the past, these allegations reflect an increase in the number of cases that fall within the Abuse of Authority category, and a decrease in substantiated cases with Force allegations. For example, in 2006, less than 8% of the CCRB substantiated allegations involved force as compared to over 20% in 2002. Abuse of Authority cases are often complex and require an in-depth analysis and credibility assessment. The experienced attorneys assigned to the Department Advocate's Office are best suited to make this analysis.

I believe that in the past few years, we have made great strides in achieving more open communication between the two agencies. The Department has expanded its training program at the Police Academy to include both CCRB investigators and legal staff. We have established a liaison within the Department Advocate's Office to explain police procedures and the information needed for successful prosecutions. The executive staff of both agencies meet on a regular basis. I believe these measures will continue to improve the quality of CCRB investigations and the Department's ability to prosecute police misconduct.

I would be happy to discuss this issue with you in more detail, at your convenience.

Sincerely,



Raymond W. Kelly
Police Commissioner