



BILL DE BLASIO
MAYOR

CIVILIAN COMPLAINT REVIEW BOARD
100 CHURCH STREET 10th FLOOR
NEW YORK, NEW YORK 10007 ♦ TELEPHONE (212) 912-7235
www.nyc.gov/ccrb

RICHARD D. EMERY, ESQ.
CHAIR

MINA Q. MALIK, ESQ.
EXECUTIVE DIRECTOR

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Contact: Edison Alban

212-912-7200

press@ccrb.nyc.gov

**CIVILIAN COMPLAINT REVIEW BOARD ISSUES REPORT ON NYPD IMPROPER
HOME ENTRIES AND SEARCHES**

***Findings include failure to obtain warrants, entering and searching without consent, and
forceful and intimidating behavior to obtain consent***

The NYC Civilian Complaint Review Board (CCRB) today issued a comprehensive report on unjustified entries and searches by the NYPD. The report, "Crossing the Threshold: An Evaluation of Civilian Complaints of Improper Entries and Searches by the NYPD from January 2010 to October 2015" analyzes 180 civilian complaints substantiated by the CCRB from among the 1,762 the CCRB fully investigated over this period. The Report identifies recurring practices and misapplication of the law that have led to violations of individuals' civil liberties and privacy. The report also makes recommendations to the NYPD for reducing misconduct and increasing protections for civilians and police officers.

"Intrusion into people's homes is among the most serious violations of basic constitutional protections and really a basic human right," said Richard Emery, CCRB Board Chair. "Substantiated complaints of this nature confirm the profound harm to people and families in their homes, usually in the early morning hours of extreme privacy and, as a consequence, seriously erode public trust and confidence in the police."

The report examines police conduct in 180 substantiated complaints and cites specific circumstances and procedures that led to improper or unjustified conduct. The report notes that home entries are often chaotic and fraught with dangers to civilians and police officers, even when they are done lawfully. The analysis found that improper entries and searches

generally occurred for two main reasons: 1) officers' misunderstanding of the circumstances that would justify a warrantless entry; or 2) the improper use of old warrants and NYPD investigation cards (known as I-Cards) to enter and search a home.

"CCRB's findings on unlawful entries and searches shed light on the improper and recurring practices currently utilized by members of the police force." stated Mina Malik, CCRB Executive Director. "Police legitimacy is damaged and community relations suffer when officers act unlawfully, especially when they cross the threshold of a person's home. This report serves as a wake-up call for a review of the current practices and the need for adequate training of police officers on search and seizure law."

The Report notes that, even though the NYPD conducted many thousands of home entries during the period of study, improper entries and searches too frequently arise from misunderstanding or misapplication of the legal standards for consent, exigent and emergency circumstances. The report notes that the NYPD Patrol Guide fails to include the basic constitutional requirement that searches and seizures at homes must be conducted with probable cause or a warrant, and the Guide neglects to provide instructions on exigent or emergency circumstances that would justify a warrantless entry. Absent consent, exigent or emergency circumstances, an officers' warrantless entry into a residence is presumptively unreasonable and violates the Fourth Amendment of the US Constitution.

Additionally, the report tracks data on specific areas where an incident occurred and demographics of victims and subject officers. The data shows that 49 percent of substantiated complaints occurred in Brooklyn. In addition, African Americans comprise 55 percent of the victims in improper entry and search incidents, twice their proportion of the population in New York City.

The CCRB makes the following recommendations to the NYPD:

- The Department should expand its body-worn camera program to include home entries, with rules to protect privacy. Video would help to clarify key issues in home entry and search complaints – including consent, exigent or emergency circumstances and the facts leading to hot pursuit.
- The Department should strictly enforce the current policy requiring certain officers to use the consent to search form and the Department should expand the use of the form.
- The Patrol Guide and NYPD training curriculum should be revised to include a stand-alone comprehensive section on home entries and searches. This section must clearly state that investigation cards are not warrants and confer no right of entry to make an arrest.

- The Department should make a series of roll-call announcements reminding officers that Patrol Guide 214-23 (noise complaints) requires that a precinct commander or duty captain authorize an entry to correct a noise violation and only as a last resort.
- The discipline imposed by the Department on officers with substantiated complaints should reflect the serious harm suffered by civilians and deter future misconduct.

Highlights of Substantiated Complaints – January 1, 2010 to October 1, 2015:

- The agency fully investigated 1,762 complaints and substantiated 180 complaints containing a total of 297 distinct substantiated allegations involving improper premise entries, searches and failures to show warrants (as required by the Patrol Guide).
- The 180 substantiated complaints involved 263 subject officers. In more than 50% of cases the officers were assigned to Patrol and Housing Bureau Commands. Those assigned to the Warrant Squad and Detective Bureaus were involved in 26%; narcotics officers in 16% and anti-crime officers in 9%.
- 58 subject officers found to have committed misconduct were members of the Warrant Squad - a unit that specializes in warrants.
- 42 substantiated complaints of premise entry and search involved a dispute between officers and civilians over consent. In 19 substantiated complaints the CCRB found consent provided by an occupant to be involuntary and produced by coercion including threats, intimidation and physical force.
- Of the 180 complaints containing a substantiated allegation of improper entry, search, or failure to show a warrant, 30 substantiated complaints (17%) included video, audio, or photographs that depicted some aspect of the improper entry or search.
- Substantiated incidents of improper premise entries and searches frequently involve discourtesy and excessive force, in addition to offensive language. 87% included discourtesy; 46% included excessive force with 24% of victims reporting injuries; 15% included offensive language.
- Of the 263 subject officers involved in the 180 substantiated complaints of improper entry, search, and failure to show a warrant, the CCRB referred 14 instances of a false official statement to the Department's Internal Affairs Bureau (IAB).

The CCRB is the largest police oversight agency in the nation and is empowered to investigate prosecute, mediate, , make findings and recommend action upon complaints alleging misconduct by NYPD officers. See NYC Charter § 440(c)(1). The agency's jurisdiction includes: Excessive and unnecessary force, abuse of authority, discourtesy and use of offensive language. To further this mission, CCRB issues monthly, biannual, and special statistical and qualitative reports

analyzing trends and recurring issues arising from the many thousands of civilian complaints it receives. These reports act as a barometer of police-civilian encounters in a number of ways, including the police practices that civilians find most troubling. In its role as an independent investigator of misconduct allegations, CCRB is uniquely positioned to identify the circumstances that generate civilian complaints, to assess whether officer conduct is improper, and to offer recommendations to redress misconduct.

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