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NYC CIVILIAN COMPLAINT REVIEW BOARD ISSUES COMPREHENSIVE STUDY OF CHOKEHOLD COMPLAINTS FROM 2009 THROUGH JUNE 2014 AND FINDS THAT THE NYPD'S ABSOLUTE CHOKEHOLD BAN WAS OFTEN MISINTERPRETED OR DILUTED TO BE LESS PROTECTIVE FOR CIVILIANS

The Chair of the NYC Civilian Complaint Review Board (CCRB), Richard Emery today issued a report on the agency's comprehensive study of 1,128 chokehold complaints from the past five and half years. The report, titled "*A Mutated Rule: the Lack of Enforcement in the Face of Persistent Chokehold Complaints in New York City*" reveals troubling data that chokehold complaints are increasing; that there were times when the CCRB failed to appropriately investigate chokehold allegations; and that the NYPD failed to appropriately discipline officers who used chokeholds.

For more than 20 years, the NYPD has banned chokeholds, defined unequivocally as any pressure to the neck or throat that "may" prevent or hinder breathing. The report reveals that during the past decade, this prohibition mutated into a much less protective definition.

In addition to documenting and evaluating five and a half years of chokehold complaints and the likely reasons they persist, the report recommends ways in which the CCRB and NYPD can collaborate to reduce chokehold incidents and tragedies.

CCRB Chair Richard Emery commended the two key initiatives of the NYPD, announced in the wake of the death of Eric Garner. One is the retraining program for 36,000 officers and the second is a top-level review of all use of force guidelines, including the chokehold ban.

“Unilateral action is not enough. If there is one lesson to be learned from this study, one lesson that may even save lives, it is the need for a coordinated plan of action between the Civilian Complaint Review Board and the NYPD,” said Mr. Emery. “

The report recommends that the CCRB and NYPD form an inter-agency working group to enforce the chokehold ban and reduce chokehold incidents. Key areas the working group should focus on include: sharing strengthened data collection and analysis to create an early warning system that identifies offices, precincts and commands at risk for chokehold incidents; redefining and expanding the chokehold prohibition; training officers to use alternative methods for restraining suspects; and reaching an understanding on appropriate and even-handed discipline.

Report Statistical Highlights:

In the last 12 months, the CCRB received the highest number of chokehold complaints as a percentage of both force complaints and total complaints since 2001. For example in 2001, for every 100 force complaints filed, 4 were chokehold complaints; in January through June 2014, for every 100 force complaints, 8 were chokehold complaints.

When a civilian filed a complaint with the CCRB in the last twelve months, it was more likely to allege a chokehold than at any time in the recent past. These findings demonstrate that, at least from the point of view of the particular experience of *the complainants*, police officers continue to use chokeholds and the persistence of this practice puts civilians at physical risk.

Half of the subject officers in chokehold complaints had a history of six or more CCRB complaints, with 25% of officers having a history of ten or more complaints. On average, officers who allegedly used a chokehold, 7 misconduct complaints each. By comparison, officers with CCRB complaints, but never an allegation of a chokehold, had an average of 4 complaints each. When comparing these findings to the complaint history of all officers in the current roster, the differences were even more significant.

In the majority (64%) of chokehold cases there were 3 or more officers listed in the complaint. In a third of cases there were 5 or more officers present and in nearly a quarter of cases (24%) there were two or more officers. In 11% of cases, was there just one officer.

Report Highlights on NYPD Chokehold Discipline

Since the implementation of the chokehold ban, the CCRB has recommended the most serious form of discipline, Charges and Specifications, in all but one case.

During the last 10 years, judges in the NYPD’s trial room emasculated the plain language of the chokehold ban and repeatedly refused to apply the rule as written, decisions upheld by the Police Commissioner. As a result, officers who applied pressure to complainants’ necks were not disciplined and CCRB investigators and Department prosecutors responded by not pursuing

chokehold cases that should have been recognized as falling under the Department's prohibition.

Report Highlights in the Audit of CCRB's investigative Practices

The report finds that there were 156 chokehold incidents that were never alleged by the CCRB to be chokeholds cases or were categorized only as use of physical force. The evidence appears to show that this undercount was the result of the degraded interpretations of the Patrol Guide chokehold prohibition adopted by some of CCRB's investigative teams.

There was no greater area of inconsistency than the interplay between the pressure test and the breathing test for chokehold complaints. For some investigators, a chokehold existed if and only if breathing was restricted, while for others, it was correctly, the presence of pressure regardless of whether breathing is restricted.

The inconsistencies in the CCRB's Investigations Division were plainly the result of the degraded definition of a chokehold and a lack of coordination within CCRB to detect and respond to the altered definition. Elimination of these discrepancies and the unacceptable variations in applying the Patrol Guide's chokehold ban must be addressed through CCRB-wide re-training of investigators and better monitoring by team supervision and attorneys.

The entire report is available on the CCRB web site:

http://www.nyc.gov/html/ccrb/html/news/news_landing.shtml