



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony before the City Council Committee on Public Safety
Preliminary Budget Hearing – FY2024

March 20, 2023

Good morning members of the New York City Council Committee on Public Safety. My name is Sam Kessler, and I am the Policy Manager at Citizens Union. I thank you for the opportunity to testify today.

Citizens Union is a nonpartisan good government group dedicated to reforming New York City and State government by fostering accountability, transparency, honesty, and a strong democracy. We have been studying police accountability and performance in New York City for more than a decade, and our reports have urged strengthening the Civilian Complaint Review Board, establishing meaningful public oversight over the NYPD, and ensuring proper discipline for police misconduct.

The Mayor's preliminary budget proposes reducing the CCRB's headcount by 22 positions, bringing the Board to 237 full-time budgeted positions. While this is above the minimum staffing level required by the City Charter, which is set at 227 positions this year, the Council has significantly expanded the CCRB's mandate since the staffing threshold was added to the Charter in 2019.¹ In 2021, the Council gave the agency jurisdiction over bias-based policing and racial profiling and empowered it to investigate officers' past professional misconduct related to bias or racial profiling.² Since early 2022, the CCRB has been granted the power to self-initiate complaints when there is evidence of police misconduct without needing to wait for formal complaints from citizens.³ In addition, the Board is required to respond to more FOIL requests regarding officers' records of misconduct since the Legislature repealed Civil Rights Law Section 50-a in 2020.

The Council has previously provided the CCRB with the funds to meet these new demands. Specifically, a 33-person unit to investigate bias-based policing was established through the Council's FY22 budget. This unit is being set up, agency rules have been promulgated, and over 100 allegations were received in 2022 alone.

The staffing cuts of the CCRB will be achieved entirely by vacancy reduction, attributed to the Mayor's Program to Eliminate the Gap (PEG), which required agencies to eliminate 50% of vacant positions. The CCRB has publicly stated that proposed cuts would come from the still-vacant positions in the new bias-

¹ In 2019, voters approved a charter amendment that set the CCRB's staffing level at least 0.65 percent of the number of New York Police Department uniformed personnel. In the FY24 preliminary budget, the NYPD is proposed to receive 35,030 full-time uniformed positions.

² Local Law 2021/47

³ Local Law 2022/24

based and racial profiling unit, leaving it with only 13 people out of the 33 originally provided by the Council.

Citizens Union believes the broad directive to eliminate half of all existing vacancies in each agency can negatively impact crucial programmatic needs. We urge the Council to provide the CCRB with the required funds to complete its new mandates.

Other legislative efforts to strengthen the CCRB

As mentioned before, the Council has already passed important measures to strengthen the CCRB. However, the Board's work is still being hamstrung by the Police Department, which often withholds significant information relevant to investigations of misconduct and ignores the disciplinary recommendations by the Board.

Council Members can improve the CCRB's power to effectively investigate police misconduct by providing it with prompt and full access to footage from body-worn cameras, police officers' employment history and disciplinary records, and all other documents and materials in possession of the NYPD relevant to its investigations. Access to body-worn camera footage increases the chances of an investigation being closed "on the merits."⁴ Proposed legislation before this committee (Int 0938-2023) would prevent the NYPD from providing limited access to such footage.

Council members can also strengthen police accountability by passing legislation that would ensure police discipline measures imposed are commensurate with the gravity of wrongdoing. A disturbing pattern of departures by the Police Commissioner from the findings and recommendations of the CCRB has continued for years. Despite efforts to increase collaboration between the two bodies around discipline, which included a 2021 MOU setting a joint "Discipline Matrix" and a Charter amendment requiring police commissioners to provide a detailed explanation of the reasons for deviating from the recommendation of the CCRB, the opposite has happened.

In fact, the "concurrency rate" around disciplinary recommendations has only dropped since those measures were implemented – from 73% in 2021 to 41% in 2022. For cases brought by the APU, the concurrency rate decreased from 45% in 2021 to 42% in 2022.⁵ In a December letter to officers, the Police Commissioner disclosed to have overturned over 70 disciplinary recommendations, priding herself on doing so more often than other recent police commissioners.⁶

The Council should advance changes to remove the Police Commissioner's exclusive authority over discipline. Citizens Union proposes providing the CCRB with the right to appeal the decisions of the

⁴ CCRB data shows that the rates of both "substantiated" and "unfounded" findings significantly increased in investigations with BWC footage. For example, in the first half of 2022, 78% of complaints without video evidence closed "not on the merits", i.e. because the CCRB did not have enough evidence to determine the outcome, compared to 24% of investigations with BWC evidence. (CCRB Semi Annual Report 2022)

⁵ Executive Director's Monthly Report March 2023, https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/monthly_stats/2023/03082023-monthlystats.pdf; see also: The New York Times, 3/16/2023, Police Commissioner Spurned Over Lack of Discipline Recommendations <https://www.nytimes.com/2023/03/16/nyregion/nypd-discipline-recommendations.html>

⁶ New York Daily News, 12/14/2022. NYC Police Commissioner Sewell overruled more than 70 CCRB discipline rulings in 2022; 'We should not punish good faith errors' <https://www.nydailynews.com/new-york/nyc-crime/ny-nypd-keechant-sewell-ccrb-overturned-decisions-20221214-7453y6qdrjhs5bk45opqpay6a-story.html>

Police Commissioner to a third party, in CCRB involving suspension or termination.⁷ This would require changes to state law.

We thank you for this opportunity to testify.

For more information, please contact Ben Weinberg, Director of Public Policy, at bweinebrg@citizensunion.org

⁷ Citizens Union, March 2021: Agenda for Police Reform – Governance and Accountability
<https://citizensunion.org/wp-content/uploads/2021/03/citizens-union-agenda-for-police-reform-part-1-governance-and-accountability-mar-2021.pdf>