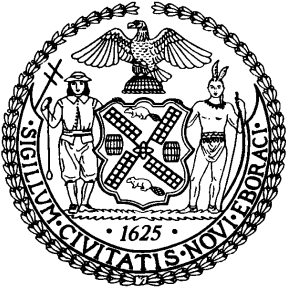


AUDIT REPORT

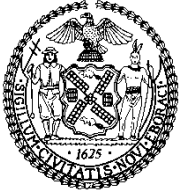


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Follow-up Audit Report on the Case Management Practices of the Civilian Complaint Review Board

MG09-060F

June 30, 2009



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has audited the Civilian Complaint Review Board (CCRB) to determine whether it has implemented the two recommendations made in an earlier audit issued in 2006.

The CCRB is an independent mayoral agency that is authorized to investigate complaints concerning misconduct by City police officers. It investigates allegations of excessive use of force, abuse of authority, discourtesy, or use of offensive language—including but not limited to slurs relating to race, ethnicity, religion, gender, sexual orientation, or disability. Audits such as this provide a means of ensuring that CCRB regularly monitor compliance with agency's internal procedures in order to ensure efficient, thorough, and fair investigations.

The results of our audit, which are presented in this report, have been discussed with CCRB officials, and their comments were considered in the preparation of this report. Their complete written response is attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/ec

Report: MG09-060F
Filed: June 30, 2009

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ADDENDUM CCRB Response

The City of New York
Office of the Comptroller
Bureau of Management Audit

**Follow-up Audit Report on the
Case Management Practices of the
Civilian Complaint Review Board**

MG09-060F

AUDIT REPORT IN BRIEF

This is a follow-up audit to determine whether the New York City Civilian Complaint Review Board (CCRB) has implemented the two recommendations made in the *Audit Report on the Case Management Practices of the Civilian Complaint Review Board* (ME06-060A), issued on June 30, 2006. The CCRB is an independent mayoral agency that was created in 1993. Under Chapter 18-A, §440(a), of the New York City Charter, the CCRB is authorized to investigate complaints concerning misconduct by City police officers. The Board, composed entirely of civilians, forwards its findings and recommendations to the New York City Police Department.

The previous audit concluded that while the CCRB ensured that a high percentage of its cases were completed in a timely manner, many case files lacked required investigative case plans and time-triggered progress reports. In addition, some of the plans and progress reports that were prepared lacked supervisory reviews. The audit recommended that the CCRB ensure that every investigation have an approved investigative case plan, as outlined in its procedures, and ensure that all required time-triggered progress reports be prepared and reviewed, as outlined in its procedures. According to the Mayor's Management Report, the CCRB received 7,488 complaints and closed 7,588 cases in Fiscal Year 2008.

Audit Findings and Conclusions

Of the two recommendations we made in the previous audit, the CCRB implemented one and partially implemented the other. In this follow-up audit, we noted marked improvement since our previous audit regarding completion and supervisory review of investigative case plans and time-triggered progress reports in our review of sample case files. The use of automated e-mails to remind investigative team management of cases requiring investigative case plans and progress reports appears to have been a generally effective tool for ensuring the completion of investigative case plans. However, the overall compliance rate for time-triggered progress reports began to decline in May 2008.

While examining the implementation status of the recommendations presented in the previous audit, we found that the CCRB Complaint Tracking System (CTS) has some

weaknesses. For instance, CTS does not require users to change access passwords periodically, it does not capture on a separate field whether a case plan or progress report has been reviewed by a supervisor, and the date fields automatically entered by the system can be altered during the investigations.

Audit Recommendations

To address the issue that still exists, we recommend that the CCRB should:

- Resume monitoring compliance rates on a regular basis to ensure that investigative staff are abiding by the established procedures regarding completion of case plans and time-triggered progress reports.
- Ensure that team managers are aware of their teams' compliance rates for investigative case plans and time-triggered progress reports.

To address new issues, we make the following recommendations. The CCRB should:

- Implement access controls for CTS that require users to change passwords periodically and that automatically lock out a user after a predetermined number of failed attempts to gain access.
- Enhance application controls to ensure the accuracy and reliability of CTS data.
- Enhance CTS by enabling it to capture and report whether investigative case plans and time-triggered progress reports have been reviewed, as required by internal procedures.

Agency Response

In its written response, CCRB generally agreed with four of the five audit recommendations but disagreed with the audit's methodology and findings. After carefully considering CCRB's arguments, we found them to be without merit.

INTRODUCTION

Background

The CCRB is an independent mayoral agency that was created in 1993. Under Chapter 18-A, §440(a), of the New York City Charter, the CCRB is authorized to investigate complaints concerning misconduct by City police officers. It investigates allegations of excessive use of force, abuse of authority, discourtesy, or use of offensive language—including but not limited to slurs relating to race, ethnicity, religion, gender, sexual orientation, or disability. The Board, composed entirely of civilians, forwards its findings and recommendations to the New York City Police Department.

The CCRB consists of 13 Board members: five members, one from each borough, are designated by the City Council; three members, each with experience as law enforcement professionals, are designated by the Police Commissioner; and the other five members are selected by the Mayor, who names the chairperson. The Mayor must formally appoint all members, including those designated by the City Council and Police Commissioner.

Complaints of police misconduct can be reported directly to the CCRB by telephone, letter, e-mail, in person, through the CCRB Web site, or through the City 311 telephone system. Complaints are logged in CTS and then forwarded to team managers and supervisors for review. If the complaint does not fall under the CCRB's jurisdiction, it is forwarded to the appropriate agency. A complaint falling under CCRB jurisdiction is forwarded to an investigator, who must attempt to contact the complainant within 24 hours after receipt of the complaint.

Complainants are asked to come in person for an initial interview and to give a sworn statement. After the initial civilian interview, investigators are required to prepare an investigative case plan detailing actions required to investigate the complaint. In addition, should the investigation remain open, a time-triggered progress report is required at the four-, eight-, and twelve-month stages of the investigation. These progress reports should identify investigative steps in the case plan that are completed, those that remain to be done, those that must be taken based upon new evidence, and the projected closure date.

Under New York State Civil Service Law, officers who are subjects of substantiated CCRB investigations must be disciplined or served with disciplinary charges within 18 months of the date of the incident. The only exception to the statute of limitations occurs when the alleged misconduct committed by the officer constitutes a crime.

According to the Mayor's Management Report, the CCRB received 7,488 complaints and closed 7,588 cases in Fiscal Year 2008. According to the CCRB, approximately 52 percent of all substantiated complaints were closed within 12 months of the incident date. No cases were closed after the statute of limitations had expired. In Fiscal Year 2008, the CCRB had 179 employees (including eight investigative teams, each consisting of a manager, two supervisors, and approximately 13 investigators) and an operating budget of \$11,958,265.

On June 30, 2006, our office issued *Audit Report on the Case Management Practices of the Civilian Complaint Review Board* (ME06-060A). That audit concluded that while the CCRB ensured that a high percentage of its cases were completed in a timely manner, many case files lacked required investigative case plans and time-triggered progress reports. In addition, some of the plans and progress reports that were prepared lacked supervisory reviews. The audit recommended that the CCRB ensure that every investigation have an approved investigative case plan, as outlined in its procedures, and ensure that all required time-triggered progress reports be prepared and reviewed, as outlined in its procedures.

Objective

The objective of this audit was to determine whether the CCRB implemented the two recommendations made in an earlier report, *Audit Report on the Case Management Practices of the Civilian Complaint Review Board* (ME06-060A, issued June 30, 2006).

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope period reviewed in this audit was January 1, 2007, through June 30, 2008. We expanded our audit scope to include more current data (October and November 2008) due to indications that compliance rates for time-triggered progress reports were decreasing.

To determine the implementation status of the prior audit's recommendations and to obtain an understanding of the CCRB's operations, we interviewed the Deputy Executive Director for Investigations, the Director of Research and Strategic Initiatives, and the Director of Case Management. To understand the complaint intake process and to determine the adequacy of the internal controls over the investigation process, we performed walkthroughs and interviewed team managers, supervisors, and investigators. Additionally, we reviewed CCRB investigative policies and procedures as well as relevant information in the Mayor's Management Report and on the CCRB Web site. The following sources were used as audit criteria:

- The CCRB Investigative Manual,
- Comptroller's Directive #1, "Principles of Internal Control," and
- Comptroller's Directive #18, "Guidelines for the Management, Protection and Control of Agency Information Processing Systems."

To obtain an understanding of CTS and to assess data reliability and system controls, we met with officials from the Management Information Systems (MIS) Unit, conducted data-entry observations, reviewed documentation on the CTS database, and performed tests of the accuracy,

completeness, and reliability of information in the database. Since approximately 90 percent of complaints are filed via phone calls and are directly entered into CTS without source documentation, we randomly selected 10 complaints that were filed with source documentation (e.g., via e-mail or regular mail) and compared the information in CTS to this source documentation to determine whether the information was entered accurately.

The CCRB provided a CTS database file of the 12,226 cases opened during our scope period. We sorted the file to identify those cases that had and those that lacked investigative case plans. We did likewise for the time-triggered progress reports.

For 4,214 cases of the 12,226 cases, the CTS database indicated that an initial interview took place. For the remaining 8,012 cases, the CTS database indicated that they were either truncated,¹ duplicate, or mediated² cases with no initial interview. Of the 4,214 cases where an initial interview took place, the database listed 3,975 (94%) as having an investigative case plan and 239 (6%) as not having a prepared plan (81 of these 239 cases were withdrawn by the complainant after the initial interview or were referred to the Mediation Unit).

To test the adequacy of the implementation plan for the previous audit's recommendation to ensure that cases have investigative case plans, we selected 50 cases from the 4,214 for which an initial interview reportedly took place. To determine whether the investigators indeed completed case plans in a timely manner and with the appropriate supervisory review, we reviewed the hard copy files for 25 randomly selected cases of the 3,975 that the CTS database indicated had a plan. We also reviewed the hard copy files for an additional 25 randomly selected cases of the 239 for which the CTS database indicated that an initial interview took place and a plan was not prepared, to determine whether the reasons given by CCRB officials were valid for not preparing a plan (e.g., the case went to mediation or was truncated).

To test the adequacy of the implementation plan for the previous audit's recommendation regarding the preparation of time-triggered progress reports, we reviewed 54 cases selected from the CTS database. To determine whether the investigators completed required progress reports in a timely manner and that the reports received appropriate supervisory review, we reviewed reports of 27 cases that the CTS database indicated had a progress report. We randomly selected nine of the 2,749 reports for the four-month review period, nine of the 1,162 reports for the eight-month review period, and nine of the 267 reports for the twelve-month review period.

In addition, for cases that lacked a progress report in each review period, we excluded those cases that were closed or submitted to the Board for disposition by the 4th, 8th, or 12th month of the investigation based on CCRB officials' explanations of when a time-triggered progress report is not required³. Thus, we randomly selected nine of 419 cases for the four-month review period, nine of 220 cases for the eight-month review period, and nine of 76 cases

¹ Cases are truncated when the complaint is withdrawn or the complainant or victim is unavailable or uncooperative. The Investigations Unit is required to submit truncated cases to the Board before these cases are closed.

² Mediation offers complainants and subject officers an opportunity to constructively resolve, without a full investigation, the dispute that led to the filing of the complaint.

³ The CCRB Manual does not specify in which circumstances a case plan or progress report is not required.

for the twelve-month review period. We reviewed the hard copy files for these 27 cases lacking progress reports to determine whether the reasons given by CCRB officials were valid for not preparing the progress reports (e.g., the investigator was in the process of drafting a closing report).

The result of the above tests, while not statistically projected to their respective populations, provided a reasonable basis for us to assess the CCRB's implementation of the two recommendations made in the prior report. It should be noted that neither the previous audit nor this audit attempted to assess the quality of CCRB investigations.

Discussion of Audit Results

The matters covered in this report were discussed with CCRB officials during and at the conclusion of this audit. A preliminary draft report was sent to CCRB officials and discussed at an exit conference held on April 07, 2009. On April 20, 2009, we submitted a draft report to CCRB officials with a request for comments. We received a written response from CCRB officials on April 30, 2009.

In their response to our draft report, CCRB officials generally agreed with four of the five audit recommendations. However, CCRB officials' response included objections to our criteria, methodology, scope and findings. After carefully reviewing CCRB's arguments, we found them to be without merit. Comments concerning our criteria, methodology, scope and findings are erroneous and appear to be an attempt to divert attention from our findings and recommendations.

Our audits—including this one—are conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). GAGAS §8.29 states "Effective recommendations encourage improvements in the conduct of government programs and operations." In agreeing with four of our five recommendations, CCRB officials confirm the benefit of this audit and their desire to improve their case management practices.

A detailed discussion of the CCRB response is included as an appendix to this report and the full text of the CCRB response follows the appendix as an addendum.

RESULTS OF FOLLOW-UP AUDIT

Of the two recommendations made in the previous audit, the CCRB implemented one and partially implemented the other. We noted marked improvement since our previous audit regarding completion and supervisory review of investigative case plans and time-triggered progress reports in our review of sample case files. The use of automated e-mails to remind investigative team management of cases requiring investigative case plans and progress reports appears to have been a generally effective tool for ensuring the completion of investigative case plans. However, the overall compliance rate for time-triggered progress reports began to decline in May 2008.

The audit concluded that CTS data for investigative case plans and progress reports were reliable, but noted some weaknesses in CTS access and input controls. The details of these findings are discussed in the New Issues section of this report.

Previous Finding: “Investigative Case Plans Are Not Consistently Prepared and Reviewed”

The previous audit found that out of a sample of 75 closed cases completed during Fiscal Year 2005, 44 cases required an investigative case plan. For these 44 cases, 21 (48%) of them lacked the required investigative case plan. In addition, there was no evidence of supervisory review for 5 of the remaining 23 cases that did have plans.

The previous audit made the following recommendation:

Previous Recommendation #1: “CCRB should ensure that every investigation has an approved investigative case plan as outlined in its procedures.”

Previous CCRB Response: “The CCRB is committed to improving its compliance with its own internal requirement that investigative case plans be prepared following the initial interview with the complainant and/or alleged victim. . . .

“The CCRB will reemphasize to its investigative supervisors the importance of investigative case plans. In addition, CCRB executive staff will review a report, generated on a quarterly basis, listing all cases in which investigative case plans were required to determine whether investigative supervisors are ensuring that case plans be prepared. CCRB executives will then discuss their findings with team supervisors.”

Current Status: IMPLEMENTED

In October 2006, the CCRB implemented an electronic reminder system for the investigative teams’ supervisory staff. CTS was programmed to forward automatic e-mails to each team manager, supervisor, and assistant supervisor listing cases that lacked an investigative case plan 14 days after the initial interview with the complainant or victim. Once the e-mail is received, the supervisory staff are to follow up those cases to determine whether there is a valid

reason the case plan has not been prepared and to ensure that one is prepared as soon as possible when required.

Of the 4,214 cases where an initial interview took place, the database indicated that 3,975 (94%) of them had an investigative case plan and 239 (6%) did not. We randomly selected a sample of 25 cases that, according to CTS, had investigative case plans. For this sample our review confirmed that plans had been prepared. We also found evidence of supervisory review for all 25 case plans. The CCRB's investigative manual states that case plans should be drafted within three days of interviewing the complainant, but CCRB officials told us that the case plans are due within a week of the interview. We decided to use as the standard for timeliness a 14-day period, which is the time period after which a reminder e-mail is sent to investigative team management indicating that a plan is overdue. We found that 3 of the 25 case plans were prepared more than 14 days after the initial civilian interview—an average of 9 days after the 14-day period.

In addition, we randomly selected a sample of 25 cases listed on the database as not having an investigative case plan. We determined that the reasons given by CCRB officials for 22 (88%) of these 25 cases not having a plan were valid (e.g., complainant withdrew the case after the interview or the case was referred for mediation). For the remaining three cases, CCRB officials acknowledged that due to a lack of management oversight, the investigations proceeded without the required investigative case plans.

We requested statistical management reports of compliance rates for investigative case plans for our entire scope period. According to these reports, CCRB achieved a compliance rate of 94 percent from January 1, 2007 to June 30, 2008⁴. In an effort to assess more current compliance rates, we requested October and November 2008 statistical reports, which indicated that the overall rate for investigative case plans remained at 94 percent.

However, CCRB officials told us that in 2007 they discontinued monitoring compliance rates for investigative case plans because they had noted improvements in these rates. Even though compliance rates for investigative case plans have remained at high levels, the failure to track compliance with the requirement that investigative case plans be prepared is a management control weakness at the CCRB. The CCRB should be certain that its investigators are providing timely and complete investigative case plans so that each case is properly planned and monitored. Properly planning and monitoring investigations helps to ensure that they are completed in an efficient, thorough, and fair manner.

Several times during the course of our audit, as well as during the exit conference, we explained to CCRB officials that we did not statistically project the results of our tests to their respective populations. Despite our explanations, after the exit conference, CCRB officials presented us with an analysis in which they extrapolated the results from our sample to the 4,214 cases mentioned above and argued that the “adjusted” compliance rate for case plans should be

⁴ CCRB's methodology for calculating the compliance rate for investigative case plans is to divide the number of cases for which the CTS indicates that a case plan was prepared by the total number of cases for which the CTS indicates that an initial interview took place.

99 percent. However, because our sample was limited in size, using this sample to project onto the population could very easily lead CCRB to overstate the level of compliance achieved.

They also stated that the overall compliance rate of 94 percent, which we obtained from their own statistical reports, would be higher if they had excluded those cases that had a “valid reason” for not having a case plan. However, we did not verify the validity of CCRB’s reported compliance rates or the impact that an exclusion of certain cases would have had on the overall compliance rate. We do acknowledge CCRB’s improvement from our previous audit to this current audit regarding compliance with the requirement that investigative case plans be prepared; however, CCRB officials’ arguments and analysis of the compliance rates are unfounded since we are presenting information obtained from their own reports.

Previous Finding: “Required Time-triggered Progress Reports Are Not Consistently Prepared and Reviewed”

The previous audit found that out of the sample of 75 closed cases completed during Fiscal Year 2005, 43 cases required a total of 108 time-triggered progress reports. The review found that investigators did not prepare 73 (68%) progress reports of the 108 that were required. In addition, there was no evidence of supervisory review for 8 of the 35 reports that were prepared.

The previous audit made the following recommendation:

Previous Recommendation #2: “CCRB should ensure that all required time-triggered progress reports are prepared and reviewed, as outlined in its procedures.”

Previous CCRB Response: “The CCRB agrees that time-triggered reviews must always be conducted when required by internal agency policy. In an effort to improve the consistency with which time-triggered reviews are completed, in January 2006, the CCRB programmed its Complaint Tracking System to generate an email on the 24th of each month to all investigative team supervisors. The email lists all the cases in a team’s docket in which time-triggered reviews are due the following month. The CCRB will reemphasize to its investigative supervisors the importance of conducting time-triggered reviews. In addition, CCRB executive staff will review a report, prepared on a quarterly basis, listing all cases in which time-triggered reviews were required to determine whether investigative supervisors are ensuring that time-triggered reviews are conducted. CCRB executives will discuss their findings with team supervisors.”

Current Status: PARTIALLY IMPLEMENTED

The e-mail reminder system was first implemented for time-triggered progress reports in January 2006. As stated in the CCRB’s response to the previous audit, CTS forwards automatic e-mails to each team’s supervisory staff listing all cases that will have a progress report due the following month. Accordingly, managers and supervisors are held accountable for ensuring that 4-, 8-, or 12-month progress reports on cases in their team’s list are prepared as required.

For a randomly selected sample of 27 cases that CTS indicated had time-triggered progress reports (9 reports for each review period), our review confirmed that the progress reports were prepared. However, one progress report provided little or no information, and four reports lacked evidence of supervisory review. CCRB officials told us that the progress reports are due by the end of the review period. We decided to use a grace period of 14 days after the end of the review period as our standard for timeliness. We found that four reports were prepared more than 14 days after the end of the review period—an average of seven days after the 14-day grace period.

In addition, we randomly selected 27 cases (9 cases for each review period) that CTS indicated lacked required progress reports. We determined that the reasons given by CCRB officials for the report not having been prepared for 23 (85%) of these 27 cases were valid (e.g., the investigator was in the process of drafting the closing report). There was no valid explanation for the remaining 4 cases. We noted that these 4 omitted reports were for the 4-month review period.

We requested statistical management reports of compliance rates for time-triggered progress reports for our scope period. CCRB officials provided us with statistics for the months of January 2007 through June 2008, for which the overall compliance rate average was 84 percent⁵. However, we noted that the overall compliance rates for progress reports began to decline in May and June 2008 to 68 percent on average. In an effort to assess more current compliance rates, we requested October and November 2008 statistical reports, which showed that the compliance rate continued to decline to an average of 62 percent.

Although CCRB officials prepared the statistics mentioned above for our review, they told us that in 2007 they discontinued generating statistical reports to monitor compliance rates for progress reports because they had noted improvements in these rates. In addition, investigative team managers told us that they had not been informed of the compliance rates for case plans and progress reports for their respective teams since 2007. Team managers will not know whether their teams are complying with internal procedures if statistical data are not presented to them. Comptroller's Directive #1 states that a sound internal control system must be supported by monitoring ongoing activity at various organizational levels and in the course of normal operations. The Directive stresses that agency management must perform continual monitoring of activities and programs.

In a written statement, CCRB officials argued that the decrease in the compliance rate of time-triggered progress reports was due to the loss of investigative staff, the elimination of 10 investigative positions by the Office of Management and Budget, and the sustained high number of complaints received during 2008. However, the CCRB's decision to discontinue the monitoring of compliance rates for plans and progress reports during this period hindered the agency from effectively monitoring the impact of these events on agency operations. While investigators provide information in CTS on the day-to-day investigative actions taken on each

⁵ CCRB's methodology for calculating the compliance rate for time-triggered progress reports is to first eliminate all cases that were closed during the given review period and cases going through mediation. Then they divide the number of cases for which the CTS indicates that a progress report was prepared by the total number of applicable cases for which a progress report is due.

case, the information does not provide a clear overview of the status and direction of the case. Time-triggered progress reports are an important mechanism by which investigators can provide such an overview. Experienced supervisors can then more readily provide guidance to help ensure efficient, thorough, and fair investigations.

At the exit conference, CCRB officials told us that the automatic e-mail reminders listing the cases that lacked an investigative case plan, as well as the e-mail reminders listing the cases that have a progress report due the following month should be enough data for managers to measure the compliance rates for their teams. However, the contents of these e-mails do not have any statistics that can enable managers to compute compliance rates. An adequate system for ensuring that investigative teams are complying with internal procedures would include informing the teams' managers of the compliance rates for their respective teams without making assumptions on whether the managers calculated these rates.

Additionally, we explained to CCRB officials, several times during the course of our audit and during the exit conference, that we did not statistically project the results of our tests to their respective populations. Regardless, after the exit conference, CCRB officials presented us with an analysis in which they extrapolated the results from our sample to 5,088 cases (this total appears to derive from the statistical reports presented by CCRB) and argued that the "adjusted" compliance rate for progress reports should be 98 percent. However, because our sample was limited in size, using this sample to project onto the population could very easily lead CCRB to overstate the level of compliance achieved.

CCRB officials also stated that the overall compliance rate of 84 percent, which we obtained from their own statistical reports, would be higher if they had excluded those cases that had a "valid reason" for not having a progress report. However, we did not verify the validity of CCRB's reported compliance rates or the impact that an exclusion of certain cases would have had on the overall compliance rate. We do acknowledge CCRB's improvement from our previous audit to this current audit regarding compliance with the requirement that progress reports be prepared; however, CCRB officials' arguments and analysis of the compliance rates are unfounded since we are presenting information obtained from their own reports.

CCRB Response: "As we noted in our April 7, 2009 exit conference there clearly was a misunderstanding among the managers and the auditors if the conclusion drawn from their conversations was that managers are not aware of which portion of their case load lacks timely TTRs. In the beginning of each month, managers receive a TTR report identifying which cases are ready for TTR and which cases are overdue. We fully expect our managers to understand their team's compliance rates with respect to TTRs as the rates are self evident from the monthly reports and thus require no additional computation to appreciate significance. To date we have received no request from your office for additional manager meetings to clarify this point, yet despite this confusion you continue to recommend that we ensure that team managers are aware of TTR compliance rates."

Auditor Comment: As we state in the report, CCRB officials told us during the exit conference that the automatic e-mail reminders should contain sufficient data for managers to measure the compliance rates for their teams. However, the compliance

rates are *not* “self evident” in the e-mail reminders for case plans and progress reports. The contents of these e-mails do not have any statistics that can enable managers to compute compliance rates. According to CCRB investigative supervisors and managers, each team has to find its own way to reformat the content of the file to differentiate each progress report listed. They also stated that it would make their supervisory tasks more efficient if they received their teams’ compliance rates for case plans and progress reports periodically.

Recommendations

The CCRB should:

1. Resume monitoring compliance rates on a regular basis to ensure that investigative staff are abiding by the established procedures regarding completion of case plans and time-triggered progress reports.

CCRB Response: CCRB failed to address this recommendation in its response.

2. Ensure that team managers are aware of their teams’ compliance rates for investigative case plans and time-triggered progress reports.

CCRB Response: “. . . We note that the CCRB’s computerized Case Tracking System (CTS) sends managers via e-mail an ICP report every Monday listing those cases that lack an ICPs. . . .

We will take the suggestions regarding . . . periodic distribution of reports to managers under consideration but we must also factor in the more urgent needs of the agency, our current limited resources and the anticipated loss in fiscal year 2010 of at least 30 investigative positions, including some supervisors.”

Auditor Comment: We strongly urge CCRB to implement this recommendation without delay as it would aid team managers in ensuring that their investigative teams comply with internal CCRB procedures regarding case plans and progress reports.

New Issues

While examining the implementation status of the recommendations presented in the previous audit, we found some areas that need to be addressed to improve the CCRB’s case-management processes. Though we have reasonable assurance regarding the reliability of CTS data, the computer system has some weaknesses. For instance, CTS does not require users to change access passwords periodically, it does not capture on a separate field whether a case plan or progress report has been reviewed by a supervisor, and the date fields automatically entered by the system can be altered during the investigations.

Our new findings are discussed in greater detail in the remaining sections of this report.

Various CTS System Controls and Functionality Need To Be Enhanced

CTS is a central electronic database and workflow tool that allows the CCRB to manage each complaint as it moves through the investigative process to final disposition by the Board. The system maintains data on each complaint (e.g., incident date, date of report) and all investigative actions, including the creation of investigative case plans and time-triggered progress reports. Statistical management reports are also generated through CTS.

Access Controls

CTS has a built-in workflow that depends on the level of access each employee is assigned according to their job function. CCRB personnel have the capability of changing their log-on password. However, they are not prompted by the system to do so, nor are they required to change passwords periodically. For example, a CCRB official has been using the same password to access CTS for five years. In addition, the system does not prevent repeated attempts to log-on after a predetermined number of failed attempts (an unauthorized user could attempt to gain access by guessing multiple passwords without an access control preventing it).

Comptroller's Directive #1 states that as the City stores increasing amounts of information in a computerized medium, it becomes increasingly important to assure that data are reliable and adequately protected from unauthorized access, manipulation, or destruction. Therefore, Directive #1 recommends changing passwords periodically and that the security software detect and prevent repeated attempts to log-on to the network.

When this issue was discussed with CCRB officials, they stated that the need to enhance CTS with this feature was not significant because the system does not contain sensitive information. However, we found that CTS does contain sensitive information, such as complainants' names, addresses, and dates of birth.

Application Controls

CTS necessitates application controls that cover data entry, data conversion, and data validation, as well as controls that ensure the timely preparation of investigative case plans and time-triggered progress reports.

During office observations, we noted that every step in the investigation is recorded in the system as an Investigative Action (IA) and that the dates of each IA are automatically recorded by the system. However, CTS does not prevent users from making changes to the dates of IAs while the investigation is open.

In addition, we noted that the system did not prevent the user from erroneously creating more than one time-triggered progress report per review period, or from initiating a progress report for the wrong review period. For example, one case had a four-month progress report prepared on October 24, 2007; however, another four-month progress report was prepared on December 13, 2007—the first progress report had a supervisory review, the second one did not.

In other instances, an investigative case plan was mislabeled as a four-month progress report, and an eight-month progress report was erroneously marked as a twelve-month report.

Comptroller's Directive #18 recommends that agencies ensure that there are adequate application controls, including input controls that cover data entry, data conversion, data validation, editing, and error handling, and that data-processing controls ensure complete and accurate transaction processing in the proper period or cycle. Proper controls preserve data file integrity.

The lack of proper access and application controls increases the risks of unauthorized access, manipulation of data, and data-entry errors, putting at peril the accuracy and reliability of the computerized database.

Functionality for Supervisory Reviews Needs Improvement

During our review of investigative case plans and time-triggered progress reports, we noted that CTS does not have the capability of capturing in an independent field whether a case plan or progress report has been reviewed by supervisory staff. Therefore, there is no means to monitor compliance with the internal procedure requiring supervisors to review and comment on the plan or progress report unless a case-by-case assessment is done.

Comptroller's Directive #1 maintains that pertinent operational information must be identified, routinely captured, and distributed in a form and time frame that permits people to perform their duties efficiently. Moreover, it asserts that effective information technology management is critical to achieving the useful, reliable, and continuous recording and communication of information.

The review of case plans and progress reports is essential to the investigative process because team supervisors can offer investigators practical and objective guidance to improve performance and thus enhance the quality of each investigation. Without available compliance rates for supervisory reviews of case plans and progress reports, the risk of weak supervisory oversight of the investigative process increases.

Recommendations

The CCRB should:

3. Implement access controls for CTS that require users to change passwords periodically and that automatically lock out a user after a predetermined number of failed attempts to gain access.
4. Enhance application controls to ensure the accuracy and reliability of CTS data.

5. Enhance CTS by enabling it to capture and report whether investigative case plans and time-triggered progress reports have been reviewed, as required by internal procedures.

CCRB Response: “We will take the suggestions regarding CTS changes . . . under consideration but we must also factor in the more urgent needs of the agency, our current limited resources and the anticipated loss in fiscal year 2010 of at least 30 investigative positions, including some supervisors. We note that during the audit period the agency added a lock out function to all desktop computers which requires that a password be entered to access a computer that has been left idle for more that a few minutes.”

Detailed Discussion of the CCRB Response

During the course of the audit, we had numerous meetings and correspondence with CCRB officials to discuss the issues addressed in this report. All of our analyses of the monitoring and tracking of case management practices were based on criteria and documentation provided to us by CCRB itself. Nevertheless, in its response, CCRB strongly objected to our methodology and our findings. We disagree with CCRB officials' arguments and therefore have added this Appendix to record the main issues raised in the CCRB response and our comments. (For the full text of CCRB's response, see the Addendum of this report.)

Although CCRB is disputing our criteria, methodology, scope, and findings, it nevertheless agreed to implement four of the five recommendations made in the audit.

Re Overall Audit Methodology and Criteria

CCRB Response

"Information about criteria for evaluation is required by the Comptroller's guidelines.

"Despite requests, the CCRB never received a description of the methodology or basis for the Comptroller's office's finding regarding compliance or implementation (i.e., what percentage range is considered acceptable and therefore compliant.) Without this level of transparency it is difficult for the agency to understand the significance of its own internal interim reviews, which your office recommends that we regularly conduct of the ICP and TTR processes. . . . For example, what level of compliance 80%, 90% or 100% would be considered fully implemented?"

"We would suggest stating the audit results in terms of the level of 'compliance' instead of 'implementation.'"

Auditor Comment

The "criteria" used to evaluate CCRB's operations to determine implementation of our previous recommendations is clearly stated in the Scope and Methodology section and is also described throughout the body of this report. During the course of the audit we had regular and open communication with CCRB officials, including discussions of the audit methodology and findings. Consequently, their reference to never receiving a "description of the methodology or basis for the Comptroller's office's finding regarding compliance or implementation" and the reference to a "level of transparency" or lack thereof are unfounded.

During the exit conference CCRB officials asked us to replace the term "implemented" with "in compliance" to signify the current status of a previous recommendation. They also asked that we provide them with an "acceptable" range for compliance. We informed them that the term "implemented" relates directly to the audit objective, which is to determine the

implementation status of recommendations made in a previous audit report. CCRB's request for an "acceptable" percentage range for compliance appears to be an attempt to divert attention away from the audit's findings. It should be noted that for the recommendation we determined to be partially implemented, the audit found that CCRB's compliance rates for time-triggered progress reports started to decline in May and June 2008 to 68 percent on average and kept declining to an average of 62 percent during October and November 2008. It is of concern to us that CCRB officials apparently desires that we revise our standards so that noncompliance rates in the 60th percentile could be seen as satisfactory.

Re Audit Sample

CCRB Response

"We were previously informed that the sample size used for testing of the ICP and TTR processes was not statistically projected to the population thus the fact that the sample sizes were relatively small . . . was irrelevant. However, the second paragraph on page 6 of the Draft Report contradicts this statement. It states:

"The result of the above tests, while not statistically projected to their respective populations, provided a reasonable basis for us to assess the CCRB's implementation of the two recommendations made in the prior report."

Auditor Comment

CCRB's statement regarding a contradiction in the report is incorrect. Generally Accepted Government Auditing Standards (GAGAS) do not require that audit sample results be statistically projected to the populations from which the samples were drawn, merely that the audit sample be of sufficient size to provide a reasonable basis for our findings and conclusions. It should be noted that our analysis identified no reportable conditions for these two processes.

Re Audit Scope

CCRB Response

"Until receipt of the Draft Report on April 20, 2009, the agency was continuously informed that the audit period was the 18 months from January 2007 through June 2008. In the Draft Report your office states for the first time that the audit period is expanded through November 2008. . . . We are troubled by this post audit expansion and are concerned that it may not be in compliance with standard accepted audit practices. . . . Thus, the validity of conclusions drawn from testing less than complete database is questionable."

Auditor Comment

There was no “post audit expansion” of the audit period. As a matter of practice, we advise agency officials at the audit entrance conference as to what we anticipate will be the audit period reviewed; however, we also state that it may be revised as needed during the course of the audit depending on audit findings, which is acceptable as per GAGAS. In November 2008, during audit fieldwork, we expanded the audit scope for our review of compliance rates for investigative case plans and time-triggered progress reports to include Fiscal Year 2009 through November 2008. This expansion was necessary because CCRB did not have data covering the full 2008 fiscal year (as discussed in further detail in the body of the report).

Re Methodology for Compliance Rates for Investigative Case Plans and for Time- Triggered Progress Reports

CCRB Response:

“As previously noted, the CCRB’s actual compliance rate for ICPs is higher than the 94% reported in the Draft Report. The agency provided your office with a report that indicated that out of 4,214 cases, 239 or 6% did not contain an ICP. Despite further qualification provided about these percentages, your office maintains that the agency’s ICP compliance rate is 94%. . . .

Whether compliance is analyzed through extrapolation or by testing the entire database, the fact remains . . . that a significant percentage of cases are exempt from the ICP process. Characterizing this group as non-compliant, despite clear evidence to the contrary, results in artificially decreasing the agency’s compliance rate, and more importantly calls into question the soundness of the audit methodology and findings.”

Auditor Comment:

We are puzzled by the CCRB’s response. As we state in the report, the overall compliance rate of 94 percent is obtained from CCRB’s own statistical reports. If this figure is incorrect, the error lies with the CCRB itself. For our sample of 25 cases without an investigative case plan, we took into account the various reasons CCRB officials gave us for not requiring a plan in certain circumstances. We do understand that there are exceptions, even when they are not clearly stated in the CCRB Investigative Manual. However, as we state in the methodology section of this report, we are not statistically projecting the results of our analysis of the 25 sampled cases to the entire population of cases for which an ICP was not prepared. Accordingly, we disagree with the CCRB’s attempt to do just that and extrapolate our test results, which could very easily lead the CCRB to overstate the level of compliance achieved.

CCRB Response:

“We are particularly concerned about the accuracy of the ‘partial implementation’ finding with respect to the second recommendation [of the previous audit report] in the Draft

Report. As we have previously noted, the CCRB's actual compliance rate . . . is significantly higher than the 84%, and therefore the recommendation regarding TTRs should be changed to fully implemented.

The CCRB provided, at your office's request, statistical reports indicating that 84% of cases included required TTRs for 18 months from January 2007 through June 2008. Despite further qualification provided about this percentage, your office maintains that the agency's TTR rate for January 2007 through June 2008 is 84% . . .

Whether compliance is analyzed through extrapolation or by testing the entire database, the fact remains . . . that a significant percentage of cases are exempt from the TTR process. Characterizing this group as non-compliant, despite clear evidence to the contrary, results in artificially decreasing the agency's compliance rate, and more importantly calls into question the soundness of the audit methodology and findings."

Auditor Comment:

Again, the CCRB appears to be finding fault with its own figures. As clearly stated in this report, we obtained the overall compliance rate of 84 percent from the CCRB's own statistical reports. Moreover, in their response to our Draft Report, CCRB officials omit the fact that compliance rates for time-triggered progress reports started to decline in May and June 2008 to 68 percent on average and kept declining to an average of 62 percent during October and November 2008.

Conclusion

In conclusion, CCRB officials' concern about our methodology and findings regarding the compliance rates for investigative case plans and for time-triggered progress reports is unsubstantiated. In addition, their statements about our office "artificially" decreasing the overall compliance rate of progress reports are unfounded since we are presenting information obtained from their own statistical reports. Instead, it appears as if CCRB is attempting to increase its overall compliance rate by inappropriately extrapolating the numbers and findings from our sample.

Overall, after carefully reviewing CCRB's arguments, we found them to be without merit. Accordingly, we stand by our methodology and our findings.



CIVILIAN COMPLAINT REVIEW BOARD
40 RECTOR STREET, 2ND FLOOR
NEW YORK, NEW YORK 10006 • TELEPHONE (212) 442-8833
www.nyc.gov/ccrb

MICHAEL R. BLOOMBERG
MAYOR

ERNEST F. HART
CHAIR

JOAN M. THOMPSON
EXECUTIVE DIRECTOR

TO: John Graham, Deputy Comptroller
FROM: Joan Thompson, Executive Director
RE: CCRB's Response Draft of the Follow-up Audit Report on the Case Management Practices of the Civilian Complaint Review Board (MG-09-060F)
DATE: April 30, 2009

Following our April 7, 2009 exit conference and review of the second draft of the "Follow-up Audit Report on the Case Management Practices of the Civilian Complaint Review Board" which we received on April 20, 2009 (hereinafter the "Draft Report") we have noted below certain outstanding issues that we would like to bring to your attention.

* * *

The objective of the Draft Report was to determine the agency's compliance with the following two recommendations from the initial case management audit dated June 16, 2006:

1. The CCRB should ensure that every investigation has an approved investigative case plan ("ICP") as outlined in its procedures.
2. The CCRB should ensure that all time-triggered progress reports ("time triggered reviews" or "TTRs") are prepared and reviewed, as outlined in its procedures.

The Draft Report concludes that the CCRB has implemented the first recommendation and has partially implemented the second. As described in more detail below, we have concerns about the accuracy of several aspects of the audit and disagree with the partial implementation conclusion with respect to recommendation two.

* * *

Overall Draft Report.

- Information about criteria for evaluation is required by the Comptroller's guidelines. Specifically, chapter 2.10 of the Office of the Comptroller's *Audit Policy and Instruction Manual* requires that after describing the problem or condition, the auditors must describe the ideal condition and provide the agency being audited with the standard or criteria for evaluation

Despite requests, the CCRB never received a description of the methodology or basis for the Comptroller's office's finding regarding compliance or implementation (i.e., what percentage range is considered acceptable and therefore compliant.) Without this level of transparency it is difficult for the agency to understand the significance of its own internal interim reviews, which your office recommends that we regularly conduct of the ICP and TTR processes. (See Draft

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Report pg. 2 first bullet.) For example, what level of compliance 80%, 90% or 100% would be considered fully implemented?

- We would suggest stating the audit results in terms of the level of "compliance" instead of "implementation." There is no dispute that the practice of ICPs and TTRs has been implemented, so the primary question for the audit was the level these practices were adhered to. In fact, your office's first recommendation is stated in terms of compliance rather than implementation. You specifically recommend that we monitor compliance rates of ICPs and TTRs. (See Draft Report pg. 2 first and second bullets.)
- We were previously informed that the sample size used for testing of the ICP and TTR processes was not statistically projected to the population thus the fact that the sample sizes were relatively small, 50 cases for ICP analysis (or 1.2% of database of 4,214 cases) and 54 cases for TTR analysis (or 1.3% of database of 4,214 cases) was irrelevant. However, the second paragraph on page 6 of the Draft Report contradicts this statement. It states:

"The results of the above tests, while not statistically projected to their respective population, provided a reasonable basis for us to assess the CCRB's implementation of the two recommendations made in the prior report."

It should be noted that the 2006 audit used a larger sample size (150 cases), which also was not large enough for the results to be considered representative of the whole.

- As discussed in more detail below, the estimated compliance percentages of cases for ICPs and TTRs did not exclude cases that were exempt from the ICP and TTR processes. When the exempt cases are taken out of the analysis the agency's actual compliance rates are higher than those reported in the Draft Report.
- Until receipt of the Draft Report on April 20, 2009, the agency was continuously informed that the audit period was the 18 months from January 2007 through June 2008. In the Draft Report your office states for the first time that the audit period is expanded through November 2008. Though members of your staff mentioned at our exit conference that they had reviewed data outside of the scope of the audit, in reference to reports on the TTR process, they never explicitly stated that the actual audit scope had been expanded. We are troubled by this post audit expansion and are concerned that it may not be in compliance with standard accepted audit practices. For instance, at the outset the auditors requested and the CCRB provided for testing the full databases of cases opened during the period from January 2007 to June 2008, the stated time period of the audit. Had all parties been aware that the time period of the audit was to extend to November 2008 logically the database provided for testing would have been much larger. Thus, the validity of conclusions drawn from testing of a less than complete database is questionable. (See Draft Report page 3, paragraph 4.)
- The Draft Report does not fully take into account the agency's achievements since the 2006 audit. In 2006 compliance for the ICP process was 48% and for the TTR process, merely 32%. By any account, current compliance levels are much higher. According to the Draft Report ICP compliance is 94% and TTR compliance for the 18 month January 2007 to June 2008 period is 84%. These increases demonstrate laudable improvement in a short span of time and through a

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period of declining resources. Page 7 and 11 of the Draft Report contain general acknowledgements of improvement, but neither specifically conveys the magnitude of the agency's achievements in this area.

Recommendation 1

- As previously noted, the CCRB's actual compliance rate for ICPs is higher than the 94% reported in the Draft Report. The agency provided your office with a report that indicated that out of 4,214 cases, 239 or 6% did not contain an ICP. Despite further qualification provided about these percentages, your office maintains that the agency's ICP compliance rate is 94%. Specifically, as demonstrated by your own testing, the CCRB pointed out that many of the cases do not have an ICP because they are exempt from the process. In fact your auditors quantified this category; your audit found that out of 25 cases that did not have an ICP, 88% of them were exempt from the ICP process.

Whether compliance is analyzed through extrapolation or by testing of the entire database, the fact remains there is no dispute between our office and yours that a significant percentage of cases are exempt from the ICP process. Characterizing this group as non-complaint, despite clear evidence to the contrary, results in artificially decreasing the agency's compliance rate, and more importantly calls into question the soundness of the audit methodology and findings.

- As to the recommendation that managers be provided with compliance reports regarding the ICP process, we note that the CCRB's computerized Case Tracking System ("CTS") sends managers via e-mail an ICP report every Monday listing those cases that lack an ICPs. (See Draft Report pg. 2, second bullet.)

Recommendation 2

- We are particularly concerned about accuracy of the "partial implementation" finding with respect to the second recommendation in the Draft Report. As we have previously noted, the CCRB's actual compliance rate for the audit period as defined up until April 20, 2009, is significantly higher than 84%, and therefore the recommendation regarding TTRs should be changed to fully implemented.

The CCRB provided, at your office's request, statistical reports indicating that 84% of cases included required TTRs for 18 months from January 2007 through June 2008. Despite further qualification provided about this percentage, your office maintains that the agency's TTR rate for January 2007 through June 2008 is 84%. Specifically, as demonstrated by your own testing, the CCRB pointed out that many of the cases do not have a TTR because they are exempt from the process. In fact your auditors quantified this category; your audit found that out of 27 cases that did not have a TTR, 85% of them were exempt from the TTR process.

Whether compliance is analyzed through extrapolation or by testing of the entire database, the fact remains there is no dispute between our office and yours that a significant percentage of cases are exempt from the TTR process. Characterizing this group as non-complaint, despite clear evidence to the contrary, results in artificially decreasing the agency's compliance rate, and more importantly calls into question the soundness of the audit methodology and findings.

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- As we noted in our April 7, 2009 exit conference there clearly was a misunderstanding among the managers and the auditors if the conclusion drawn from their conversations was that managers are not aware of which portion of their case load lacks timely TTRs. In the beginning of each month, managers receive a TTR report identifying which cases are ready for TTR and which cases are overdue. We fully expect our managers to understand their team's compliance rates with respect to TTRs as the rates are self evident from the monthly reports and thus require no additional computation to appreciate significance. To date we have received no request from your office for additional manager meetings to clarify this point, yet despite this confusion you continue to recommend that we ensure that team managers are aware of TTR compliance rates. (See Draft Report pg. 2 second bullet.)
- The audit does not adequately contextualize the TTR process. In 2000 the CCRB implemented the TTR process to support the agency in meeting its goal to complete investigations, particularly substantiated investigations, before the expiration of the applicable 18 month statute of limitation. Thus, the TTR process must be evaluated based on its effectiveness in curtailing substantiated cases from being closed after the expiration of the statute of limitations and in this respect it has been successful. During the period January 2007 to June 2008 period .9% of substantiated cases were closed after expiration of the statute of limitation a marked improvement from the comparable 3.7% of post statute substantiated closures in 2000 when the process was introduced.

New Findings and Recommendations

- We will take the suggestions regarding CTS changes and periodic distribution of reports to managers under consideration but we must also factor in the more urgent needs of the agency, our current limited resources and the anticipated loss in fiscal year 2010 of at least 30 investigative positions, including some supervisors. We note that during the audit period the agency added a lock out function to all desktop computers which requires that a password be entered to access a computer that has been left idle for more than a few minutes

* * *