



New York City Alliance  
Against Sexual Assault



**New York State Coalition  
Against Sexual Assault**  
Working for a World Without Violence.

## **COMMENT TO THE CIVILIAN COMPLAINT REVIEW BOARD**

*Changes to Chapter 18-A § 440*

New York City Alliance Against Sexual Assault &  
New York State Coalition Against Sexual Assault

On behalf of the New York City Alliance Against Sexual Assault, its Executive Director and the Board of Directors, and New York State Coalition Against Sexual Assault, its Executive Director and the Board of Directors, I am here to express our support for changes to Chapter 18-A § 440 of the New York City Charter, expanding the CCRB's authority to encompass police sexual misconduct.

The New York City Alliance Against Sexual Assault (the Alliance) is dedicated to advocating for all survivors and victims of sexual violence in the NYC metropolitan area and across the state. The Alliance's mission is to prevent sexual violence and reduce the harm it causes through education, research and advocacy. The Alliance was founded by rape crisis centers in NYC to advocate for the needs of survivors and the programs that serve them. Through public education, cutting-edge programming, advocacy for survivors and the pursuit of legal and policy changes, the Alliance continues to expand as a hub for resources and information about sexual violence.

The New York State Coalition Against Sexual Assault (NYSCASA) is dedicated to advocating for survivors and victims of sexual violence across New York State. NYSCASA's mission is to end all forms of sexual violence and exploitation, and to address the impacts of sexual assault. NYSCASA has 83 member programs across the state of New York who offer support services to survivors of sexual violence.

We are grateful for the Board's commitment to investigating police sexual violence, a pervasive abuse of authority that requires oversight and accountability.

As both research and experience tells us, officers too often (consciously or unconsciously) leverage their authority to sexually harass, coerce and abuse the most vulnerable members of our community. Women of color, young people, individuals with criminal records, sex workers, homeless people, people who use substances, immigrants, people with disabilities, LGBTQ+ and gender non-confirming people, indigenous people, and victims of domestic violence are disproportionately sexually victimized by law enforcement.<sup>1</sup>

As you know, sexual violence is an abuse of power, and far too many of our clients have had the unfortunate, first-hand experience of abuse of power at the hands of the NYPD. Research bears out our anecdotal experience. In one instance, a teenage survivor of police sexual violence reported that nine NYPD officers ascended upon her hospital room, and discouraged her from

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<sup>1</sup> Stinson, Phillip; Liederbach, John; Brewer, Steven; Mathna, Brooke. Police Sexual Misconduct. A National Study of Arrested Officers. (2015). <https://www.bwjp.org/assets/documents/pdfs/webinars/dhhs-police-sexual-misconduct-a-national-scale-study.pdf>

completing a rape kit and pressing charges.<sup>2</sup> A 2010 study by the Cato Institute found that sexual misconduct by law enforcement is the second most common citizen complaints after excessive force nation-wide.<sup>3</sup> And in 2015, a national survey found that, on average, a police officer is reported for sexual misconduct at least every five days.<sup>4</sup> In NYC, a 2003 survey of young adults in NYC found that 2 in 5 young women reported sexual harassment by law enforcement, and half of those victimized were young women of color.<sup>5</sup> Survivors of police sexual misconduct deserve accountability, and it is our duty to advocate on their behalf.

Without independent oversight, police perpetrators often evade accountability. Internal reporting systems that represent law enforcement value internal, political and reputational protection and close cases above safeguarding the fundamental human rights of survivors. A 2018 report on discipline in the NYPD showed that only one percent of officers pleaded guilty or were convicted of disciplinary charges related to sexual misconduct.<sup>6</sup> This is a cyclical problem that without attention, continues to escalate. A 2012 study found that 41% of officers eventually convicted were repeat offenders, with between 2 and 21 prior allegations.<sup>7</sup> As a result of the current system's failure to protect survivors, many survivors do not report sexual misconduct by law enforcement due intimidation, threats, and fear of retaliation. In order for NYPD officers to serve and protect New York City residents, independent oversight is essential.

Voters have also expressed strong support for the expansion of CCRB's jurisdiction.<sup>8</sup> Currently, the NYPD does not publicly disclose information on sexual misconduct complaints. Accordingly, the CCRB's ability to document complaints is paramount to identifying patterns, and crafting data-driven policies, vetting processes, trainings, and interventions to prevent and redress the issue effectively and ensure that survivors' voices are heard. An independent review process can help create more agency for survivors whose power and voice have been stripped by the nature of this crime, and help build a bridge to supportive services.

As the Board has attested, police acts of sexual violence undermine the public trust in law enforcement's ability to keep New Yorkers safe. The inherent bias and conflict of interest present in the internal reporting system undermines survivors' ability to pursue justice and healing, disproportionately impacting people of color and the underserved. In order to strengthen trust between civilians and law enforcement, sexual misconduct by law enforcement must be addressed in an impartial and thorough manner. Establishing an independent review process

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<sup>2</sup> Nolan Brown, Elizabeth. *Teen Suing Two Cops for Rape Gets Hospital Visit From Nine Others on Force*. (2017). <https://reason.com/2017/11/27/nine-nypd-cops-visited-teen-in-hospital/>

<sup>3</sup> The Cato Institute. *2010 National Police Misconduct Statistics and Reporting Project (NPMSRP) Police Misconduct Statistical Report*. (2010). <https://www.leg.state.nv.us/Session/77th2013/Exhibits/Assembly/JUD/AJUD338L.pdf>

<sup>4</sup> Spina, Matthew. *When a Protector Becomes a Predator*. (2015). <https://s3.amazonaws.com/bncore/projects/abusing-the-law/index.html>

<sup>5</sup> Fine, M., Freudenberg, N., Payne, Y., Perkins, T., Smith, K. and Wanzer, K., *Anything Can Happen With Police Around: Urban Youth Evaluate Strategies of Surveillance in Public Places*. *Journal of Social Issues*, 59: 141-158. (2003). <https://doi.org/10.1111/1540-4560.t01-1-00009>

<sup>6</sup> NY Gov. *Discipline in the NYPD*. 2018. [https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis\\_and\\_planning/discipline/discipline-in-the-nypd-2018.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/discipline/discipline-in-the-nypd-2018.pdf)

<sup>8</sup> McCormack, Simon. *Three Takeaways From This Year's Election*. (9 November 2019). <https://www.nyclu.org/en/news/three-takeaways-years-elections>

could deter police sexual misconduct, uphold police integrity and accountability, and ensure safeguards are put in place to protect our community.

As the CCRB moves towards taking on this responsibility, we further recommend that the Council consider the following needs:

Effectively addressing cases of sexual violence requires training that allows investigators to center the unique needs of survivors through an inclusive, anti-oppressive and trauma-informed framework. The CCRB can turn to communal expertise in these areas to prepare staff who will be taking on cases of sexual misconduct. The Alliance has had the privilege of providing trauma-informed training to CCRB over the past year, has hired an executive director with expertise in intersectionality and SV, and we have seen that CCRB staff are eager to gain adequate training to approach these difficult and nuanced cases with care.

The CCRB must consider the nuances of the many factors that can prevent survivors from reporting police sexual misconduct. To dismantle these barriers, CCRB investigators must ensure that the reporting process is clear, conspicuous, and accessible to the public. This must also include access to translators familiar with trauma-informed care. Furthermore, the CCRB must formulate internal and external procedures to protect the privacy of survivors, while upholding the due process rights of those accused. Investigations must be executed in a timely manner, with a thorough communication system that keeps complainants informed throughout.

Survivors of police sexual misconduct require unique resources. Any investigative process must ensure that they are afforded thorough safety and healing protections and resources. It is vital that survivors are connected to resources such as hospital services, mental health counseling, and supportive advocacy groups. To achieve this end, the CCRB could implement a coordinated response among these providers. Additionally, the CCRB could provide information and referrals to survivors. These endeavors would serve to address the holistic needs of survivors, minimize re-traumatization and re-victimization, and advance public welfare.

Under rule §1-01 (Definitions, under Sexual Humiliation), we suggest the removal of the word “gratuitously” from the definition, in order to avoid making complainants reach an arbitrary standard of humiliation. Any and all shaming or degradation by police in relation to sexual misconduct is unjustifiable and an affront to human rights, and must be duly investigated.

With regards to §1-01 (Definitions, under Mediation) and categories 17 and 18 of 38-A RCNY § 1-33(e), mediation is often not appropriate in cases of sexual harassment and assault because of the inherent power imbalance and often a feel intimidated or coerced into an agreement. This causes additional harm, when the purpose is to address the harm already exacted. Even if the alleged victim, victim, and complainant consents to this process initially they may feel reluctant to complete it.

In that vein, we request that alleged victims, victims and complainants be given the opportunity to rescind their agreement to move forward with mediation before, during or after the mediation process. In cases such as these, alleged victims, victims and complainants should be allowed to have their cases reconsidered or reopened (§ 1-34 Cases Closed without a Full Investigation).

As organizations dedicated to advancing civil and human rights, eliminating violence, and advocating for survivors, the New York State Coalition Against Sexual Assault and the New York City Alliance Against Sexual Assault overwhelmingly support the new policies and procedures related to changes to Chapter 18-A § 440 of the New York City Charter and the expansion of its authority, jurisdiction, composition, duties, and power to encompass sexual misconduct by police officers. Allowing an entity to investigate claims of sexual misconduct outside of NYPD or another entity where a conflict of interest presents itself is a major step in the right direction. In addition to investigating claims of sexual misconduct, all law enforcement agencies, including NYPD should have a sexual harassment and misconduct policy pertaining to their interactions with the public that is strictly enforced. Appendix B of the U.S Department of Justice, Office of Community Oriented Policing Services (COPS Office) report, [Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community](#) includes a sample policy developed by Andrea J. Ritchie, and the Policing Subgroup of the LGBT/HIV Federal Criminal Justice Policy Working Group.<sup>9</sup> We firmly believe that expanding the CCRB's jurisdiction to include police sexual misconduct is essential to serving and protecting both survivors and the residents of New York City.

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<sup>9</sup> This [sample policy](#) was created by Andrea J. Ritchie, and the Policing Subgroup of the LGBT/HIV Federal Criminal Justice Policy Working Group.