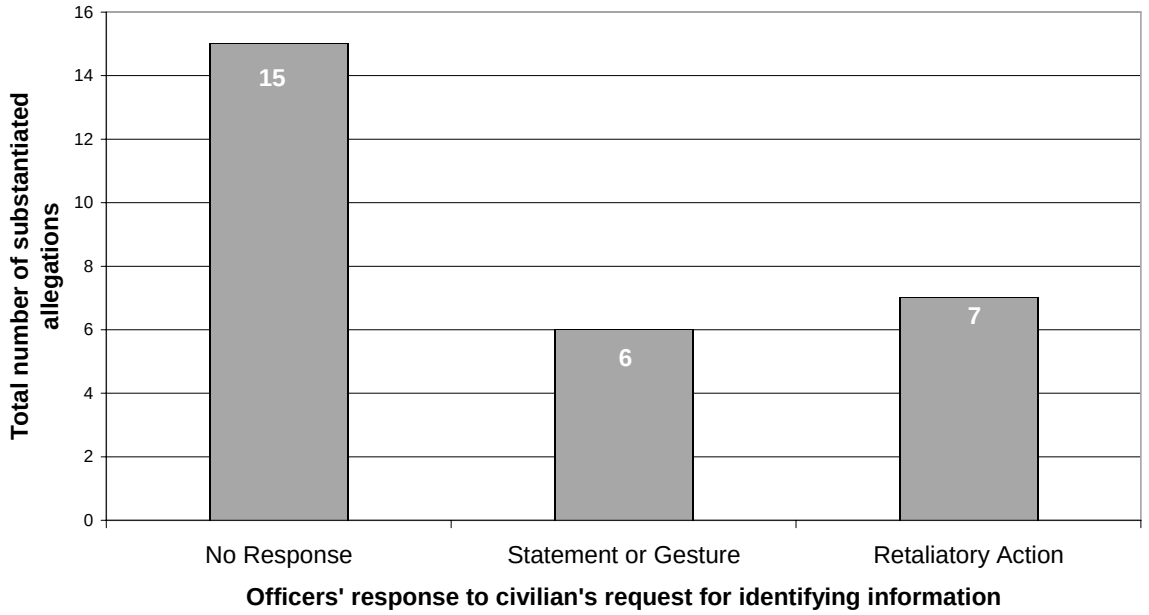
Refusal to Provide Name and/or Shield Number: An Analysis of an Allegation

Civilians filed 231 allegations of "refusal to provide name and/or shield number" in 1999, 349 in 2000, 468 in 2001, and 636 in 2002, a 175% increase in just four years and an 82% increase in the last three years.[16] During these same years, refusal to provide name and/or shield number constituted less than one percent, 5%, 8%, and 10% of all allegations the board substantiated. These increases led the CCRB to take a closer look at this allegation and summarize its findings in this report. As the basis for this mini-study, the agency chose to examine all complaints in which the civilian filed this allegation that the board closed after a full investigation between January 1 and June 30, 2002.

A word must first be said about the legal landscape in which this allegation exists. The New York City Police Department Patrol Guide, procedure 203-09 (Public Contact—General), states that officers must "give name and shield number to anyone requesting them." New York City's Office of Administrative Trials and Hearings ("OATH") has issued a number of recent opinions[17] that examine what this patrol guide procedure requires of officers. In essence, these cases have held that the patrol guide procedure imposes an "affirmative obligation" to "give name and shield number to anyone requesting them;"[18] in other words, a demand for a name or badge number demands an "affirmative response."[19]

Figure 14: Refusal to Provide Name and/or Shield—Substantiated Allegations
January - June 2002



[16] During 1998, the CCRB began for the first time to capture this allegation.

[17] Police Department v. Napoleoni, OATH Index Nos. 1815-16/00 (Jan. 9, 2001); Police Department v. Shepard, OATH Index No. 1412/00 (June 12, 2000); Police Department v. Tirado, OATH Index No. 1977/00 (Oct. 6, 2000); Police Department v. Matias, OATH Index. Nos. 1996-97/00 (Sept. 8, 2000).

[18] Police Department v. Tirado, OATH Index No. 1977/00, at 6. See also Police Department v. Matias, OATH Index. Nos. 1996-97/00 (officer's refusal to respond to specific request for "information on you" [the officer] not excused by fact that civilian could see officer's shield).

[19] Police Department v. Napoleoni, OATH Index. No. 1815-16/00, at 11.

[20] Police Department v. Tirado, OATH Index No. 1977/00, at 6.

[21] Police Department v. Shepard, OATH Index No. 1412/00, at 9.

The OATH decisions give some guidance as to what does not constitute an affirmative response. For example, in Police Department v. Tirado, when the civilian demanded the officer's badge number, the officer did not respond and claimed that he believed the civilian was taking the information from his badge. The court stated, however, that "[a] mere belief that a civilian can see an officer's shield is insufficient to fulfill this obligation."[20] Similarly, in Police Department v. Shepard, though the officer failed to respond to the civilian's request for his name, the civilian did manage to note his name from the officer's nameplate. Yet the court stated that "the fact that [the civilian] noted [the officer's] name on his name plate does not justify his failure to respond to her inquiry."[21] In Police Department v. Napoleoni, four officers in a van stopped the civilian and her boyfriend. In response to requesting the officers' badge numbers from the van's driver, the van's driver demanded the civilian's license and other paperwork; he subsequently put summonses on top of the civilian's car. When the civilian asked again for the officers' badge numbers, the van's driver yelled out that they were on the summonses. The civilian persisted and went up to the van and asked for the driver's badge number and the badge number of the respondent, who had screamed at her earlier. Neither officer responded before the officers drove away. Unbeknownst to the civilian, the respondent had actually written the tickets. According to the court, "here respondent heard the demand for his badge number, but failed to provide any response. His failure to do so is not excused by the fact that his badge number was on the summons that he had issued[,]" "particularly … [because] the summons was [put] on the top of [the civilian's] car and [the civilian] had not read the summons, and did not know that the officer who had issued the summons was the same officer whose name she was then demanding."[22] Based upon these administrative judicial decisions, it is unclear under what circumstances, if any, an officer could fulfill his or her obligation to provide an affirmative response by referring to information provided in a summons.

During the first six months of 2002, the CCRB closed 142 fully investigated cases that contained 180 allegations of an officer refusing to provide his or her name and/or shield number. The number of allegations exceeds the number of cases because within a single complaint allegations are often made against more than one officer. The board substantiated 28 of those 180 allegations, a substantiation rate for this single allegation of 16%, almost three times the 6% rate the board substantiated other allegations in full investigations that it considered during this same six-month time period.

In most cases (15 out of 28 allegations, or 54%) where the board substantiated this allegation in the first half of 2002, the officer failed to respond at all when asked by the civilian for his or her name and/or badge number. In another six of the 28 cases where this allegation was substantiated, the officer made some kind of response, but in the board's view, an insufficient one. In five of those six cases the officer responded to the civilian's request for identifying information by telling the civilian that the information was on a summons. In the remaining case the officer gestured to his badge, without saying anything. With respect to the other seven substantiated allegations, the officers responded to the civilian's request by hiding their badges, striking the civilian, and arresting the civilian.

Within the 22 cases in which the board substantiated 28 allegations that the officer failed to provide his or her name and/or badge number upon request, in nine of these cases this was the only allegation that the board substantiated. In other words, in 41% of these 22 cases the board found fault with the officer's conduct only to the extent that the officer failed to provide to the civilian his or her name and badge number.

Administrative tribunals have not yet had the opportunity to clarify what constitutes "an affirmative response" to a civilian's request for the officer's name and/or badge number in a multitude of circumstances. As a result, uncertainty among officers regarding their affirmative obligation to "give" name and shield number to anyone requesting them may be contributing to high complaint and substantiation rates. Accordingly, the police department should consider clarifying what its patrol guide procedure specifically requires of an officer when a civilian requests the officer's name, badge number, or other identifying information.

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[22] Police Department v. Napoleoni, OATH Index Nos. 1815-16/00, at 10-11.