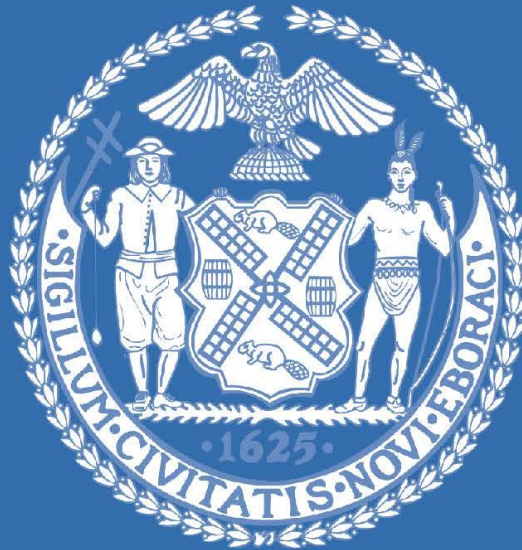




# CIVILIAN COMPLAINT REVIEW BOARD

BILL DE BLASIO, Mayor    FREDERICK DAVIE, Chair    JONATHAN DARCHE, Esq. Executive Director



*Annual Report*

2019

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## MISSION

The New York City Civilian Complaint Review Board (CCRB, the Agency, or the Board) is an independent agency that is empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action on civilian complaints filed against members of the New York City Police Department (NYPD or the Department) that allege the use of excessive or unnecessary Force, Abuse of Authority, Discourtesy, or the use of Offensive Language (FADO). It is also authorized to investigate, hear, make findings, and recommend action on the truthfulness of an official statement made by a subject officer during a CCRB investigation or prosecution of a FADO. The Board's staff, composed entirely of civilian employees, conducts investigations, mediations, and prosecutions in an impartial manner.

### **In fulfillment of its mission, the Board pledges to:**

- encourage members of the community to file complaints when they believe they have been victims of police misconduct;
- respect the rights of civilians and officers;
- encourage all parties involved in a complaint to come forward and present evidence;
- expeditiously investigate each allegation thoroughly and impartially;
- make fair and objective determinations on the merits of each case;
- offer civilians and officers the opportunity to mediate their complaints, when appropriate, in order to promote understanding between officers and the communities they serve;
- recommend disciplinary actions that are measured and appropriate, if and when the investigative findings substantiate that misconduct occurred;
- engage in outreach in order to educate the public about the Agency and respond to community concerns;
- report relevant issues and policy matters to the Police Commissioner and the public; and
- advocate for policy changes related to police oversight, transparency, and accountability that will strengthen public trust and improve police-community relations.

## LETTER FROM THE CHAIR



Dear Fellow New Yorkers,

The 2019 Annual Report of the Civilian Complaint Review Board (CCRB) is the first of our reports released since some of the most historic police reform legislation passed in recent memory. While this Report's timeframe precedes these legislative changes, its content is nonetheless impacted by them. Most transformative of these reforms was the historic repeal of New York State Civil Rights Law 50-a, which had sheltered all police disciplinary records from public scrutiny and prevented New York State's civilian oversight agencies from being as transparent as the public often wished us to be. While the final version of what will be publicly available is still a work in progress, and the subject of ongoing litigation, the repeal of one of the country's most draconian laws sheltering police misconduct from public view is a step toward better government accountability.

In New York City, our Mayor and Council Members have also heard and responded to the public's calls for law enforcement reform in the months since George Floyd was killed by Minneapolis police. Some of these reforms will directly influence the CCRB's work, including the new requirement for the NYPD to develop a disciplinary matrix. It is my hope that the NYPD's adoption of this matrix will increase the Department's rate of agreement with the CCRB's disciplinary recommendations and ensure that more officers who commit misconduct are held accountable.

Other new laws include the requirement that the shield number or rank designation of uniformed officers be visible. In the wake of protests in which the CCRB received complaints that such information was not always in view—making identification of officers far more difficult for the CCRB—this requirement is a welcome one. New legislation also created a new misdemeanor category for the use of chokeholds or the restriction of breathing or blood flow in the neck or compression of the chest in a way that prevents breathing. While the NYPD Patrol Guide prohibited the use of these maneuvers some time ago, the establishment of a criminal law creates a clear and immutable line that the Board can use going forward to determine whether misconduct occurred.

As the Agency moves into an unprecedented era of increased focus on police accountability, reform, and expanded civilian oversight, the CCRB intends to improve on our own processes. We have created an officer complaint history lookup tool called the Law Enforcement Accountability Database (LEAD), launched a social media campaign to collect public opinion on what kinds of data people want to see from the Agency, and created a working group to implement procedural changes resulting from all the new legislation. As we have over the past several years, we continue to increase the range of our outreach activities so that we can be ever more responsive to the public we serve. Our commitment to this service, and to the fair, impartial, and thorough investigation and prosecution of officers who commit misconduct, is unwavering. In this historic moment, we are prouder than ever to partner with the elected officials and activists in New York as we strive together toward a more just society.

Sincerely,



Fred Davie

# EXECUTIVE SUMMARY

## AGENCY HIGHLIGHTS IN 2019

### ***Changes to the New York City Charter impacting the Civilian Complaint Review Board***

On November 5, 2019, New Yorkers voted to implement a set of changes to the New York City Charter, grouped together under Ballot Question 2, that made the disciplinary process more transparent, strengthened the Civilian Complaint Review Board's (CCRB, the Agency, or the Board) oversight capabilities, and improved Agency efficiency. While many of these changes were not in effect during calendar year 2019—the time frame of this Report—at the time of publication, all Charter changes have gone into effect.

Previously, the Board consisted of 13 members who were all appointed by the Mayor. The City Council designated five Board members (one from each borough); the Police Commissioner designated three; and the Mayor designated five, including the Chair of the Board. As a result of the Charter revision, the Board now consists of 15 members: the City Council appoints five Board members (one from each borough); the Police Commissioner designates three; the Public Advocate appoints one; and the Mayor appoints five. The Chair of the Board is now jointly appointed by the Mayor and Speaker of City Council.

The CCRB's jurisdiction expanded to include untruthful statements made by police officers during the course of the CCRB investigations and prosecutions, an allegation previously referred to the New York City Police Department (NYPD) for investigation.<sup>1</sup> In addition, the CCRB's budgeted headcount is now linked to 0.65% of the NYPD's uniformed headcount, unless there is a certified fiscal emergency. Finally, the Police Commissioner is now required to provide written explanations for deviations from the Board's disciplinary recommendations, providing more transparency and accountability into disciplinary decision-making.<sup>2</sup>

Future Semi-Annual and Annual Reports will discuss the impact of many of these changes.

### ***The Body-Worn Camera (BWC) Footage Agreement***

On November 22, 2019, then-Police Commissioner James P. O'Neill and CCRB Chair Fred Davie signed a Memorandum of Understanding (MOU) aimed at improving the CCRB's access to BWC footage and addressing the backlog in BWC evidence sharing that has delayed CCRB investigations, agreeing to a new process for the CCRB to access BWC footage.<sup>3</sup> Under the terms of the agreement, the NYPD will establish a facility where CCRB investigators can search and review unredacted BWC video in collaboration with NYPD staff. Upon determining that footage is relevant to an allegation being investigated by the CCRB, the investigator may request a copy of the footage. The NYPD must honor all requests (excluding outlined exemptions) within 25 business days.<sup>4</sup>

Section Six of this Report details the delays in receipt of BWC footage in Q1/2 of 2019, along with the impact that BWC has had on CCRB investigations. Key findings from this section appear at the end of this Executive Summary.

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<sup>1</sup> See page 44 of this Report for the outcomes of these "false official statement" referrals.

<sup>2</sup> While the CCRB received a small handful of these letters in late 2019, the first analysis of these explanations will appear in the 2020 Semi-Annual Report, to give enough time to obtain a larger sample size.

<sup>3</sup> Memorandum of Understanding between the Civilian Complaint Review Board (CCRB) and the Police Department (NYPD) of the City of New York Concerning Body-Worn Camera Footage (Nov. 21, 2019), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/bwc\\_mou.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/bwc_mou.pdf).

<sup>4</sup> For more information on BWCs, see the CCRB's issue-based report, "Strengthening Accountability: The Impact of the NYPD's Body-Worn Camera Program on CCRB Investigations" (February 2020), available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/issue\\_based/20200227\\_BWCReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20200227_BWCReport.pdf).

## KEY FINDINGS: CCRB COMPLAINTS CLOSED IN 2019

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- In 2019, the CCRB received 4,959 complaints within its jurisdiction, an increase from the 4,745 complaints received in 2018, continuing a relatively steady climb in the number of complaints over the past three years (page 11). It is impossible to determine whether increases or decreases in complaints to the CCRB are the result of changes in actual police misconduct or in reporting rates. The Agency is exploring possible underlying reasons for this increase.
- In 2019, 35% of complaints received within the CCRB’s jurisdiction stemmed from alleged incidents that occurred in Brooklyn, which is home to approximately 31% of the city’s population (page 15). The highest number of complaints (265) stemmed from incidents in Brooklyn’s 75<sup>th</sup> Precinct (which serves East New York and Cypress Hills), but the highest complaint *rates* were in the 14<sup>th</sup> Precinct (“Midtown South”) at 23 complaints per 10,000 residents and the 25<sup>th</sup> Precinct (East Harlem) at 20 per 10,000 residents. The 75<sup>th</sup> Precinct’s complaint rate was 14 per 10,000 residents (page 16).
- In 2019, it took an average of 248 days to close a full investigation, and 269 days if that investigation resulted in substantiated misconduct (page 29). This is an increase from 2018 when it took 211 days to close a full investigation, and 230 days to close a substantiated investigation, and represents the third straight year of increasing investigation times. The CCRB believes this increase is due to several factors: 1) delays in the receipt of key evidence, especially responses to requests for BWC footage, which increased to a turnaround time of 36 business days in 2019, from 10 business days in 2018;<sup>5</sup> 2) the growing number of investigations containing BWC footage that must be systematically analyzed by investigators; 3) the continuing increase in the number of complaints received by the CCRB without a commensurate increase in the resources needed to investigate these complaints; and 4) the NYPD’s failure to provide, or providing only in a redacted form, certain documents previously available to the CCRB. While the Agency continues to review its own internal protocols to ensure efficiency, the previously discussed BWC MOU, once fully implemented, is expected to positively impact investigation times.
- The time between receipt of a CCRB complaint and the first member of service (MOS) interview has also increased, from 75 days in 2018 to 98 days in 2019—a level that has not been seen since 2015 (page 30). An increase in the amount of time it takes to receive BWC footage from the NYPD also impacts this metric, as CCRB investigators must review all BWC footage before scheduling the first MOS interview. As noted, there was an increase in the number of business days between request and receipt of BWC footage between 2018 and 2019, delaying each investigative benchmark in a case. Increased access to BWC footage would substantially reduce the delay in MOS interviews and decrease the overall time to close investigations.
- The truncation rate (the percentage of complaints that are closed without a full investigation, mediation, or attempted mediation) remained at 58% between 2018 and 2019 (page 31). Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the Agency. For example, 73% of complaints that originated with NYPD’s Internal Affairs Bureau (IAB) were truncated in 2019, compared with 46% of complaints that were filed with the CCRB (page 32).
- In 2019, the proportion of complaints closed “on the merits”—complaints closed as substantiated, exonerated, or unfounded—increased to 54% from 45% in 2018, largely due to the availability of BWC evidence (page 64). The substantiation rate (the

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<sup>5</sup> See Section Six of this Report for additional information on turnaround times for BWC footage requests.



percentage of full investigations in which at least one allegation of misconduct was substantiated) increased to 24% in 2019 from 19% in 2018. The exoneration rate (the percentage of full investigations in which the officer's actions were determined to have occurred, but to have been within the boundaries of the law and the Patrol Guide) went from 18% in 2018 to 22% in 2019. The unfounded rate (the percentage of complaints in which the incident was determined to not have occurred as the complainant described) remained at 8%. Complaints closed "not on the merits" decreased, with complaints in which none of the officers were able to be identified dropping from 8% to 7% between 2018 and 2019, and complaints unsubstantiated (the percentage of full investigations in which the Board was unable to determine whether the incident involved misconduct) declined from 48% in 2018 to 39% in 2019.

- In 2019, the Board substantiated 370 complaints against 536 police officers, an increase from the 226 substantiated complaints against 326 officers in 2018 (page 43). The Board recommended Charges and Specifications for 15% of the 536 officers against whom there was a substantiated allegation, Command Discipline B (a category which may result in penalties of up to 10 lost vacation days) for 17%, Command Discipline A (a category which may result in penalties of up to 5 lost vacation days) for 19%, Instructions for 25%, and Formalized Training for 24% (page 43).
- The Board most frequently recommended Charges and Specifications for substantiated Force allegations (64%), Formalized Training for substantiated Abuse of Authority allegations (27%), Instructions for substantiated Discourtesy allegations (34%), and Charges and Specifications for substantiated Offensive Language allegations (36%, page 44).
- In 2019, 28 of the 44 adjudicated cases<sup>6</sup> (64%) the CCRB's Administrative Prosecution Unit (APU) closed against MOS resulted in disciplinary action.<sup>7</sup> The most common penalty was a suspension or loss of vacation time. One officer was terminated, one received suspension for or loss of vacation time of 31 or more days and/or dismissal probation; three received suspension for or loss of vacation time of 21 to 30 days; five received a suspension or loss of vacation time of 11-20 days, and 15 received a suspension or loss of vacation time of one to 10 days (page 47).
- For complaints in which the Board recommended Command Discipline, Formalized Training, or Instructions, the Police Commissioner imposed some type of discipline 79% of the time. In those cases, the discipline imposed by the Police Commissioner concurred with the Board's recommendation 51% of the time in 2019, down from 53% in 2018. The number of cases in which the Board recommended some type of discipline, but no discipline was imposed by the Police Commissioner, decreased from 16% in 2018 to 15% in 2019 (page 50).
- For the 44 adjudicated cases closed by the APU in 2019, the Police Commissioner's final penalty determination concurred with the APU's requested penalty in three cases, making the concurrence rate 32%, though the most common reason for a lack of concurrence in APU cases in 2019 was actually that a "not guilty" verdict was ultimately rendered by the NYPD Trial Commissioner (13 cases, or 30%). In 13 cases (20%), the penalty imposed was lower than the APU had asked for at trial (page 50).
- In 2019, 56% of cases that went to the Mediation Unit were closed as completed mediations, up from 50% in 2018 (page). The remaining 44% of cases were closed as "mediation attempted," the designation for a case in which both the officer and the

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<sup>6</sup>The APU treats each officer as a separate "case," therefore all APU data discussed in this Report uses the same terminology. While there may be trials or incidents that involve multiple officers, the word "case" should be interpreted as "case against a single officer."

<sup>7</sup>These numbers include complaints in which the Board recommended Charges and Specifications in prior years that were closed by the APU in this Report's time frame.

civilian agree to mediate, but the civilian either fails to appear twice for the scheduled mediation session without good cause, or fails to respond to attempts to schedule a mediation session, and the civilian does not request that the investigation resume.

- In 2019, the Mediation Unit conducted 218 mediation sessions, with 187 cases (86%) successfully completing the mediation process. The remaining 31 complaints (14%) were returned to the Investigations Division. This is a decrease from the 93% successful completion rate of 2018 (page 53).

#### **KEY FINDINGS: RECONSIDERATIONS**

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- In 2019, the CCRB closed reconsideration requests submitted by the Department Advocate's Office for 88 MOS (a reconsideration request closed in 2019 may have stemmed from a complaint closed in a previous year). The Board downgraded the disposition for two officers (2%), downgraded the discipline recommendation for nine officers (10%), maintained the original decision for 63 officers (71%), and rejected the request for 15 officers (17%, page 58).

#### **KEY FINDINGS: BODY-WORN CAMERAS AND OTHER VIDEO EVIDENCE**

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- In 2019, 58% of all fully-investigated complaints had some kind of video evidence, with 34% of all fully-investigated complaints containing BWC evidence (page 64).
- In 2019, BWC request turnaround times increased to 36 business days, up from 10 business days in 2018 (page 62). In November of 2019, the CCRB and the NYPD entered into a MOU designed to streamline the BWC access procedure, allowing CCRB investigators to search BWC databases alongside NYPD staff and view unredacted footage. The CCRB will report further on this new process once it goes into effect.
- The availability of video evidence, which includes footage from BWCs, private and municipal security cameras, and video recorded by civilians, often minimizes the ambiguity of the events underlying the allegation, and allows for more complaints to be closed "on the merits" (i.e., substantiated, exonerated, or unfounded). In 2019, 60% of complaints were not closed "on the merits" (i.e. unsubstantiated or officer unidentified) when video was unavailable (page 63). This proportion shrinks to 49% when video evidence is available, and only 26% when BWC footage is available. In 2019, the Board substantiated 28% of full investigations where there was non-BWC video evidence and 35% of those with BWC, compared to 13% where there was no video evidence at all. BWC video increases the rate of exonerations to 25%, compared with 17% for non-BWC video and 22% for no video. The rate of unfounded complaints increases to 15% with BWC video, compared with 6% when only non-BWC video evidence is available, and 5% in cases with no video.
- In 2019, BWC video had the most significant impact on Abuse of Authority allegations, with only 23% not closed "on the merits," compared with 47% with non-BWC video evidence and 54% for allegations with no video evidence (page 63). Although BWC video has increased the exoneration rates for Force (47% compared with 35% when no video is available) and Abuse of Authority allegations (49% compared with 36% when no video is available), it has increased the substantiation rate for Discourtesy allegations (32% compared to 5% when no video evidence is available). This is primarily due to audio in BWC videos. The ability to hear what an officer is saying during a video recording allows for easier resolution of Discourtesy allegations.

## INTRODUCTION: THE BOARD AND AGENCY OPERATIONS

The Civilian Complaint Review Board (CCRB, the Agency, or the Board) is an agency of the City of New York. It became independent from the New York City Police Department (NYPD) and established in its current all-civilian form in 1993.

Board members review and make findings on all misconduct complaints once they have been fully investigated. The Board consists of 15 members: the City Council appoints five Board members (one from each borough); the Police Commissioner designates three; the Public Advocate Appoints one; and the Mayor appoints five. The Chair of the Board is jointly appointed by the Mayor and Speaker of City Council.<sup>8</sup>

Under the New York City Charter, the Board must reflect the diversity of the City's residents, and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner, who must have had prior experience as law enforcement professionals. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be renewed. They receive compensation on a per-session basis, although some Board members choose to serve pro bono.

From 1993 to 2013, all cases in which the Board determined that an officer committed misconduct were referred to the Police Commissioner with a discipline recommendation. Pursuant to a Memorandum of Understanding between the CCRB and the NYPD (effective April 11, 2013), a team of CCRB attorneys from the Agency's Administrative Prosecution Unit (APU) handles most of the cases in which the Board recommends that Charges and Specifications be brought against an officer. When the Board recommends discipline other than Charges and Specifications, the case is still referred directly to the Police Commissioner.

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<sup>8</sup> The 2019 New York City Charter Revision Commission, following an extensive public review process, proposed five amendments to Chapter 18A of the City Charter, which governs the operations of the CCRB. These amendments were passed by a majority of voters. One of the changes increased the size of the Board from 13 to 15 members by adding one member appointed by the Public Advocate and a Board Chair jointly appointed by the Mayor and Speaker of the City Council. The Final Report of the 2019 Charter Revision Commission can be accessed at <https://www.charter2019.nyc/finalreport>.

# SECTION 1: COMPLAINT ACTIVITY

## CCRB COMPLAINT INTAKE

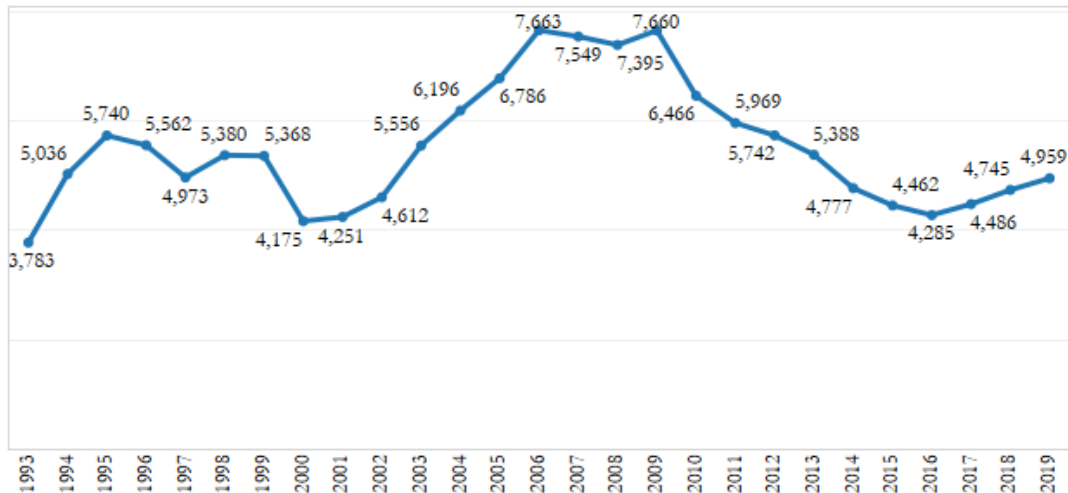
For most New Yorkers, contact with the Civilian Complaint Review Board (CCRB, the Agency, or the Board) begins with filing a complaint alleging police misconduct. This section covers the number of complaints received and their characteristics.

All complaints filed against New York City Police Department (NYPD) members of service are entered into the CCRB's Complaint Tracking System, but only complaints that fall within the Agency's Force, Abuse of Authority, Discourtesy, or Offensive Language

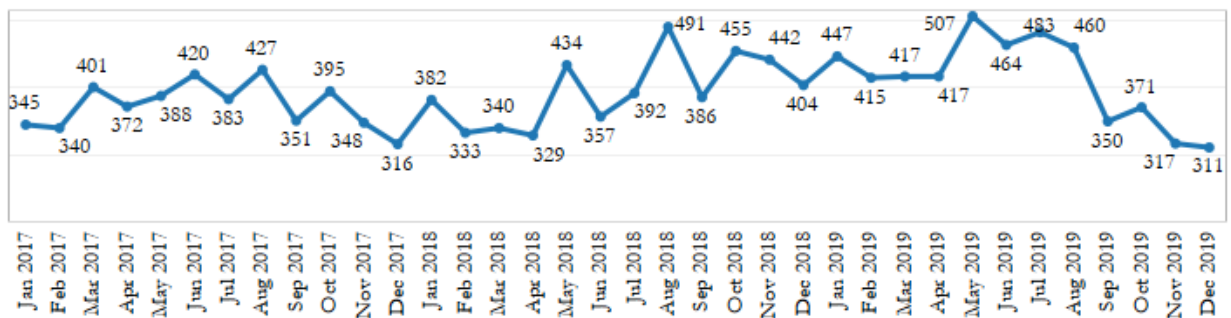
(FADO) jurisdiction are investigated by the CCRB.<sup>9</sup>

In 2019, the CCRB received 4,959 complaints within its jurisdiction (Fig. 01). This is a significant increase from the 4,745 complaints received in 2018 and is the highest number of complaints the CCRB has received in a single year since 2013. Fig. 02 depicts the number of FADO complaints received each month and reveals the seasonal nature of CCRB complaints.

**Figure 01: Complaints Received Within CCRB Jurisdiction, 1993 - 2019**



**Figure 02: Complaints Received Within CCRB Jurisdiction by Month, 2017 - 2019**



<sup>9</sup> The Charter revision also authorized the Board to investigate the truthfulness of an official statement made by a subject officer during the resolution of a CCRB complaint. This jurisdiction did not go into effect until March 31, 2020, therefore these investigations are not discussed in this Report.

## CCRB JURISDICTION AND TOTAL FILINGS

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Complaints outside of the Agency's FADO jurisdiction are referred to the governmental entities with the jurisdiction to process them. The two NYPD units that are the primary recipients of CCRB referrals are the Office of the Chief of Department (OCD), which investigates alleged lower-level violations of the NYPD Patrol Guide, and the Internal Affairs Bureau (IAB), which is tasked with investigating allegations like corruption or criminal behavior. Individuals whose complaints are referred by the CCRB are mailed a tracking number so that they can follow up on their complaints with the appropriate agency.

Examples of complaints the CCRB might receive that do not fall within the Agency's jurisdiction include: 1) complaints against Traffic Enforcement Agents and School Safety Agents; 2) complaints against an NYPD officer involving a summons or arrest dispute that

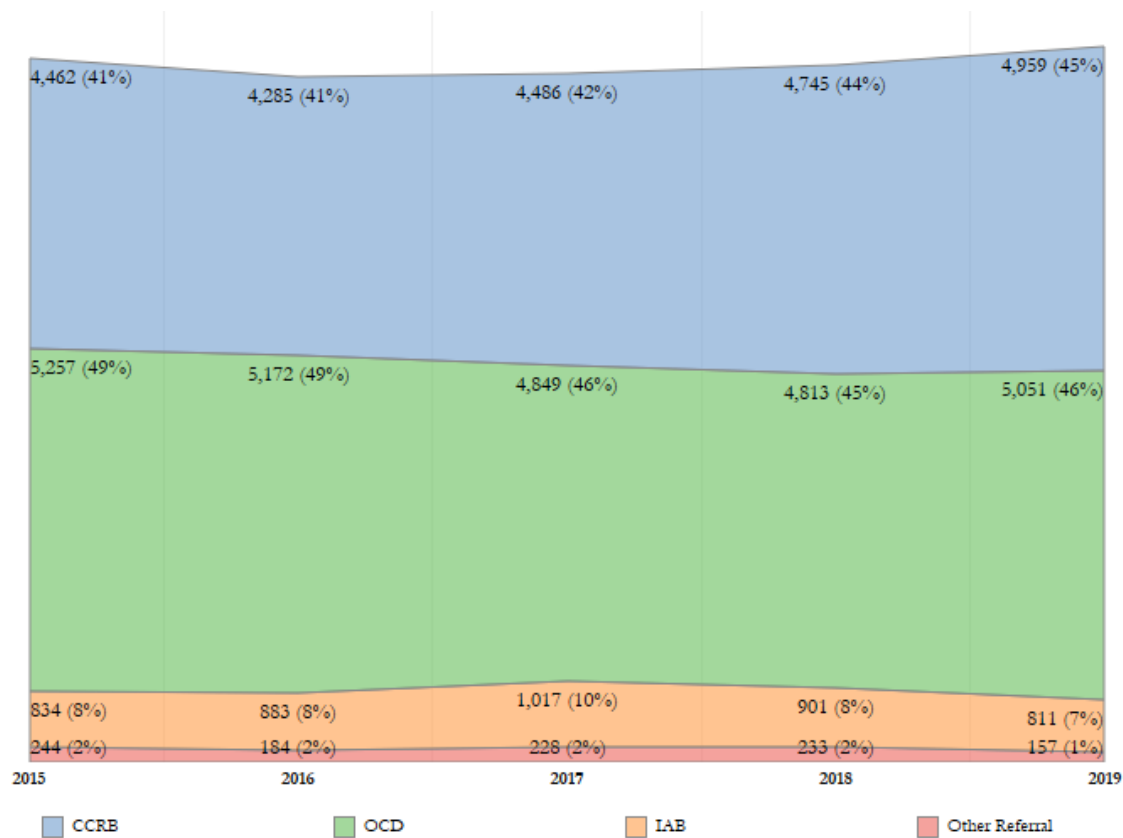
does not include a FADO allegation; 3) complaints against an NYPD officer involving corruption; and 4) complaints against individuals who are not members of the NYPD, such as law enforcement from other municipalities, state police, or members of federal law enforcement. In 2019, only 45% of the complaints received by the CCRB were within the Agency's jurisdiction, 46% were forwarded to OCD, 7% to IAB, and 1% to other agencies (Fig. 03). Over the past five years, more complaints filed with the CCRB have been within the Agency's jurisdiction. The CCRB attributes this to the Board's February 2018 decision to investigate sexual misconduct allegations pursuant to the Agency's Abuse of Authority jurisdiction,<sup>10</sup> and the CCRB's increased focus on its public education and outreach efforts, especially regarding the New York City Right to Know Act,<sup>11</sup> which went into effect in October 2018.

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<sup>10</sup> CCRB, Board Resolution (Feb. 14, 2018), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/20181402\\_boardmtg\\_sexualmisconduct\\_resolution.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/20181402_boardmtg_sexualmisconduct_resolution.pdf). Due to a decision made by the First Department regarding the CCRB's sexual misconduct resolution, the CCRB is undergoing the rulemaking process to restart sexual misconduct investigations.

<sup>11</sup> The Right to Know Act is made up of two components. The first outlines NYPD officers' obligation to identify themselves, including by providing their name, rank, command, and shield number to civilians at the beginning of certain interactions. The law also requires officers offer business cards that contain this information. The second component of the law addresses situations in which officers seek to perform a search but do not have legal justification to do so without consent. In these circumstances, officers are required to explain that a search will not be conducted if the person does not consent. Officers are required to document these search requests. For more information see: CCRB, What is the Right to Know Act? Frequently Asked Questions, <https://www1.nyc.gov/site/ccrb/complaints/right-to-know-act.page> (last updated Oct. 16, 2018).

**Figure 03: Complaints Received in Each Agency's Jurisdiction, 2015 – 2019**



### PLACE AND MODE OF FILING

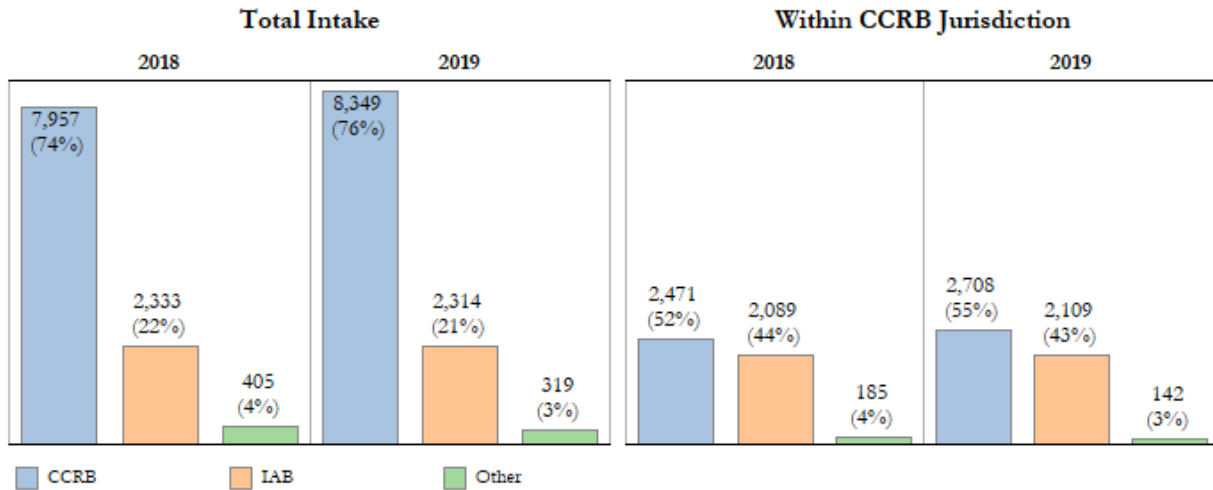
Complaints filed with the CCRB are received and processed directly by the CCRB's Intake Unit. The Agency also receives several complaints from IAB. As depicted in Fig. 04, the proportion of complaints filed directly with the CCRB increased between 2018 and 2019, and the proportion referred by IAB has decreased from 44% to 43%.

The Agency is better able to fully investigate complaints when they are filed directly with the CCRB (see Fig. 25). When complaints are

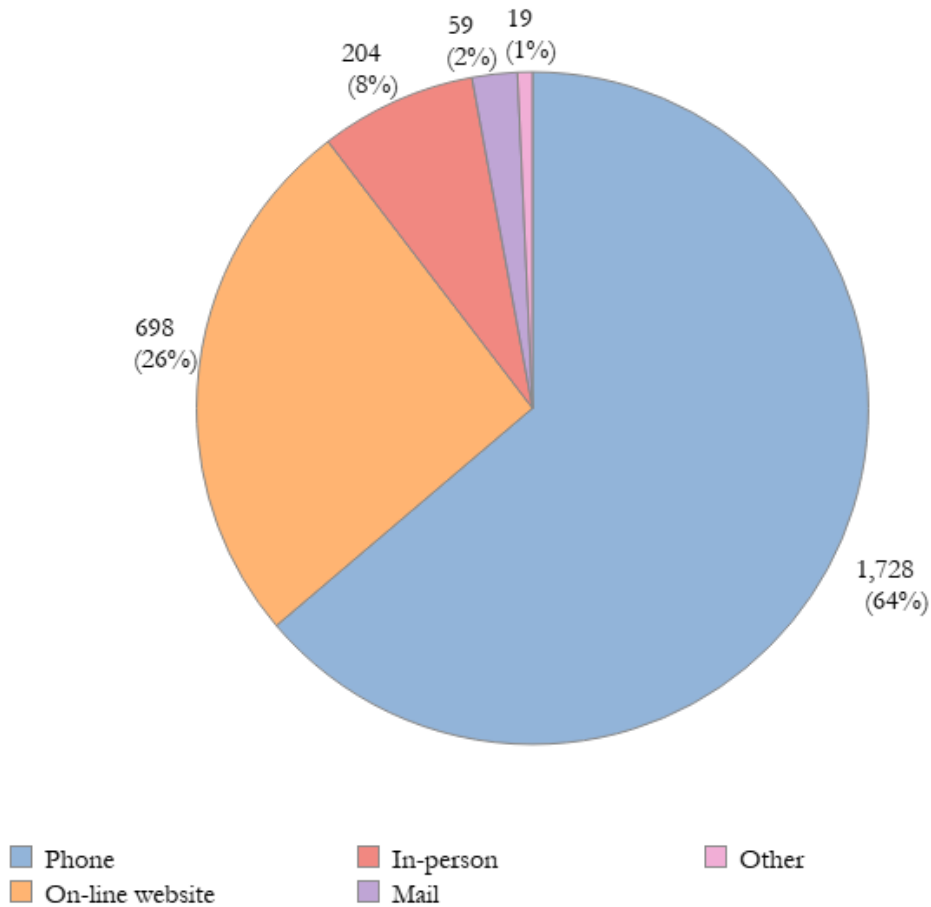
not filed directly with the CCRB, the Agency must make initial contact with the complainant/victim, who may not have been informed that the complaint was referred to the CCRB for investigation.

Most complaints filed directly with the CCRB are received by phone (64%), either during business hours or via the Agency Call Processing Center, which handles calls after business hours, followed by the CCRB website (26%), and in-person visits (8%) (Fig. 05).

**Figure 04: Complaints Received by Complaint Place, 2018 and 2019**



**Figure 05: Complaints within CCRB Jurisdiction by Complaint Mode, 2019**

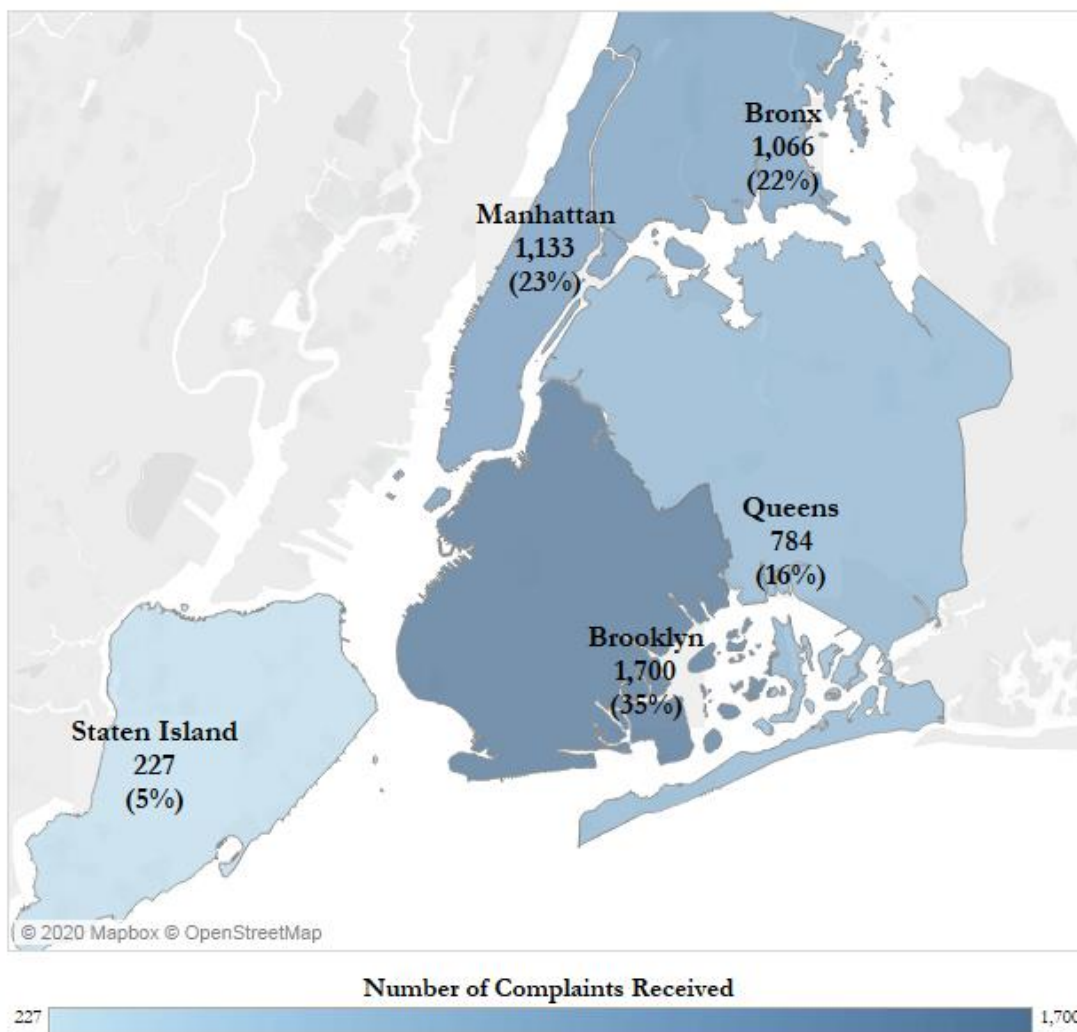


## LOCATION OF INCIDENTS RESULTING IN COMPLAINTS

In 2019, 35% of the complaints received within the CCRB's jurisdiction stemmed from alleged incidents that occurred in Brooklyn (Fig. 06), which is home to approximately 31% of the City's population.<sup>12</sup> Incidents occurring in the Bronx, which is home to 17% of the City's residents, made up 22% of complaints. Incidents occurring in Manhattan comprised 23% of complaints, while 20% of

New York's residents live in Manhattan. Queens is home to 27% of the City's population, but only 16% of complaints stemmed from this borough in 2019. The proportion of complaints received from Staten Island (5%) are similar to the borough's population (6%).

**Figure 06: Complaints Received within CCRB Jurisdiction by Borough, 2019**



<sup>12</sup> City demographic data was drawn from the United States Census by totaling the 2019 population estimates for the five counties that make up New York City (Bronx, Kings, New York, Queens, and Richmond). Census data is available at <https://data.census.gov/cedsci/>.



The CCRB’s website includes an interactive Complaint Activity Map that is updated daily with information on complaints by precinct of occurrence.<sup>13</sup> In 2019, as in many prior years, the 75<sup>th</sup> precinct in Brooklyn generated the highest number of complaints (265). Standardizing the number of complaints by residential population, however, allows for more accurate comparisons between precincts. The 75<sup>th</sup> Precinct’s complaint rate was 14 complaints per 10,000 residents.<sup>14</sup>

The highest rate of complaints in 2019, 23 per 10,000 residents, occurred in the 14<sup>th</sup> Precinct (“Midtown South”) in Manhattan, partially due to its low residential rate. The second highest rate was in East Harlem’s 25<sup>th</sup> Precinct, with a complaint rate of 20 per 10,000 residents. The map in Fig. 07 depicts the relative complaint rates in individual precincts, while raw number and rate of complaints received within each precinct are listed in Fig. 08.<sup>15</sup>

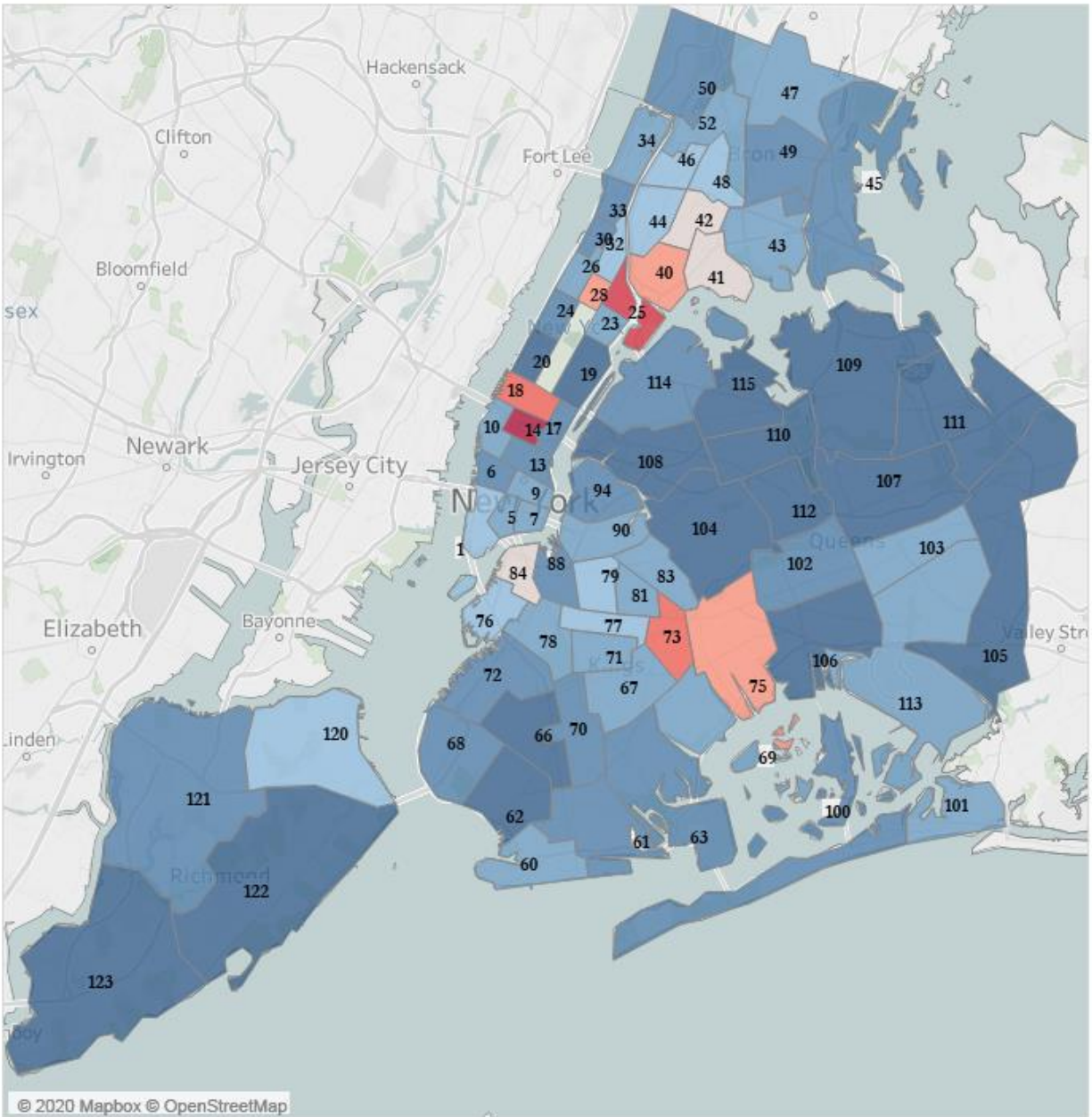
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<sup>13</sup> The CCRB’s “precinct” variable identifies the precinct in which the incident was alleged to have occurred and does not necessarily indicate the subject officer’s command or assignment. Visit the CCRB’s Data Transparency Initiative webpage, [www.nyc.gov/dti](http://www.nyc.gov/dti), to explore the Complaint Activity Map and other data relevant to complaints and allegations.

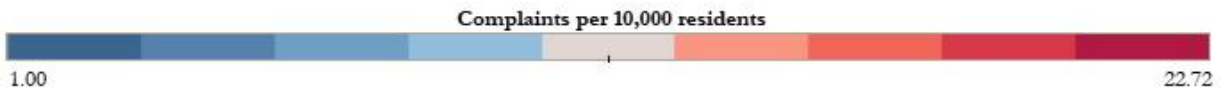
<sup>14</sup> Precinct population estimates are drawn from the 2010 Census, the most recent year for which detailed block-level population data is available. Census data is available at <https://data.census.gov/cedsci/>.

<sup>15</sup> According to the 2010 Census, there are 25 people living within the boundaries of the 22nd Precinct (Central Park Precinct), which is why the rate per 10,000 residents depicted in Fig. 08 is so high. For ease of viewing, data from the 22nd Precinct has been removed from Fig. 07.

**Figure 07: CCRB Complaint Rates by Precinct, 2019**



\*Precinct 22 (Central Park) is excluded due to the skew of its small Census-reported population of 25 residents.



**Figure 08: CCRB Complaints Received per Precinct of Occurrence 2018 & 2019**

Precinct	2018		2019	
	Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents
1	49	7	61	9
5	44	8	33	6
6	56	9	35	6
7	52	9	40	7
9	62	8	58	8
10	36	7	30	6
13	32	3	52	6
14	108	21	119	23
17	25	3	28	4
18	94	17	87	16
19	39	2	53	3
20	28	3	30	3
22	8	3,200	2	800
23	62	8	58	8
24	42	4	44	4
25	95	20	94	20
26	28	6	33	7
28	58	13	65	15
30	30	5	33	5
32	76	11	71	10
33	39	5	27	3
34	64	6	67	6
40	98	11	133	15
41	62	12	56	11
42	79	10	104	13
43	67	4	104	6
44	136	9	132	9
45	37	3	49	4
46	106	8	111	9
47	90	6	102	7
48	75	9	80	10
49	75	7	49	4
50	32	3	36	4
52	104	7	105	8
60	64	6	77	7
61	56	4	60	4
62	42	2	50	3
63	46	4	48	4
66	27	1	21	1

Precinct	2018		2019	
	Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents
67	115	7	117	8
68	33	3	51	4
69	60	7	58	7
70	82	5	75	5
71	75	8	79	8
72	38	3	59	5
73	119	14	147	17
75	178	10	265	14
76	31	7	42	10
77	95	10	101	10
78	35	6	37	6
79	85	9	81	9
81	67	11	53	8
83	60	5	65	6
84	64	13	61	13
88	34	7	25	5
90	58	5	86	7
94	24	4	27	5
100	27	6	23	5
101	91	14	51	8
102	52	4	51	4
103	72	7	84	8
104	48	3	53	3
105	85	5	63	3
106	38	3	37	3
107	44	3	34	2
108	27	2	31	3
109	39	2	42	2
110	38	2	40	2
111	29	2	15	1
112	30	3	33	3
113	107	9	82	7
114	101	5	94	5
115	36	2	46	3
120	98	9	106	9
121	48	4	51	4
122	41	3	42	3
123	35	4	26	3

## CHARACTERISTICS OF ENCOUNTERS RESULTING IN A COMPLAINT

**Figure 09: Top Reasons for Initial Contact, 2018 & 2019**

When a complaint is investigated, the CCRB tries to discern the initial reason for the contact between the civilian and the officer(s). In 2019, 12% of complaints received within the CCRB's jurisdiction stemmed from an officer suspecting a civilian of a violation or a crime while on a public street (Fig. 09).

The CCRB also tracks the outcome of police/civilian encounters that lead to complaints

being filed. In 2019, more than half (56%) of complaints received within the Agency's jurisdiction stemmed from encounters where ultimately no arrest was made or summons issued (Fig. 10).

	2018		2019	
	Count	Percent of Total	Count	Percent of Total
PD suspected C/V of violation/crime - street	645	14%	600	12%
Moving violation	370	8%	346	7%
Report-dispute	380	8%	365	8%
Report of other crime	386	8%	362	8%
PD suspected C/V of violation/crime - auto	263	6%	284	6%
Other	343	7%	434	9%
PD suspected C/V of violation/crime - bldg	207	4%	183	4%
Report-domestic dispute	186	4%	225	5%
EDP aided case	177	4%	151	3%
Other violation of VTL	166	4%	155	3%
Execution of search warrant	143	3%	146	3%
C/V requested investigation of crime	138	3%	136	3%
PD suspected C/V of violation/crime - subway	114	2%	143	3%
CV already in custody	112	2%	133	3%
Execution of arrest/bench warrant	120	3%	131	3%
Other categories combined	874	19%	1,013	21%
<b>Total</b>	<b>4,624</b>	<b>100%</b>	<b>4,807</b>	<b>100%</b>

**Figure 10: Outcome of Encounters Resulting in CCRB Complaints, 2018 & 2019**

	2018		2019	
	Count	Percent of Total	Count	Percent of Total
No arrest made or summons issued	2,649	56%	2,799	56%
Arrest - other violation/crime	1,257	26%	1,339	27%
Moving violation summons issued	242	5%	206	4%
Summons - other violation/crime	200	4%	207	4%
Arrest - resisting arrest	93	2%	99	2%
Other VTL violation summons issued	69	1%	76	2%
Arrest - assault (against a PO)	47	1%	34	1%
NA	55	1%	78	2%
Parking summons issued	53	1%	49	1%
Summons - disorderly conduct	29	1%	31	1%
Arrest - OGA	22	0%	16	0%
Arrest - disorderly conduct	23	0%	18	0%
Juvenile Report	4	0%	5	0%
Arrest - harrassment (against a PO)	2	0%	0	0%
Summons - harrassment (against a PO)	0	0%	0	0%
Summons - OGA	0	0%	2	0%
<b>Total</b>	<b>4,745</b>	<b>100%</b>	<b>4,959</b>	<b>100%</b>

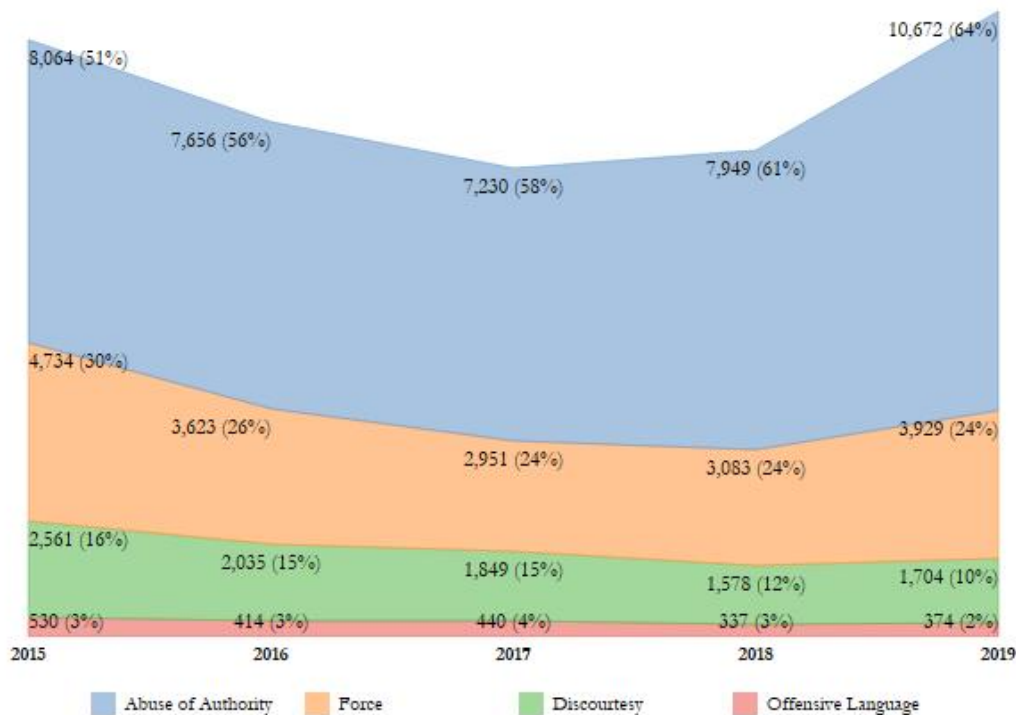
## NUMBERS AND TYPES OF ALLEGATIONS RECEIVED AND CLOSED

When a complaint is filed, the claims against the MOS are considered allegations. An individual complaint may contain multiple allegations against one or more officers. As the investigation continues, different allegations may be revealed.

The most common types of allegations are Abuse of Authority allegations. In 2019,

Abuse of Authority allegations comprised 64% of allegations closed (Fig. 11). These types of allegations have steadily increased in proportion over the last five years. Force allegations are the next most common, comprising 24% of all allegations closed in 2019 (Fig. 11).

**Figure 11: Types of Allegations Closed, 2015 – 2019**



In the Force allegation category, the designation of “Physical force” remained the most common allegation received by the CCRB in 2019, accounting for 80% of all Force allegations (Fig. 12). This refers to an officer’s use of bodily force, such as punching, shoving, kicking, or pushing. The most common Abuse of Authority allegations were “Threat of Arrest” and “Entry of premises,” each at 10%

of all Abuse of Authority allegations. The most common Discourtesy allegation was “Word” (e.g. profanity), accounting for 84% of those allegations. The most common Offensive Language allegation was “Race” (i.e. offensive language related to a person’s actual or perceived race), accounting for 31% of those allegations.

Figure 12: FADO Allegations Received by Type, 2018 & 2019<sup>16</sup>

Force (F) Allegations	2018		2019	
	Count	% of Total	Count	% of Total
Physical force	2,817	77%	3,392	80%
Gun Pointed	176	5%	173	4%
Chokehold	128	4%	127	3%
Nonlethal restraining device	101	3%	138	3%
Hit against inanimate object	103	3%	104	2%
Restricted Breathing	98	3%	102	2%
Nightstick as club (incl asp & ba.	45	1%	30	1%
Pepper spray	51	1%	39	1%
Handcuffs too tight	41	1%	40	1%
Other	24	1%	20	0%
Other blunt instrument as a club	22	1%	17	0%
Vehicle	25	1%	41	1%
Radio as club	7	0%	3	0%
Gun fired	10	0%	12	0%
Police shield	6	0%	8	0%
Gun as club	0	0%	5	0%
Flashlight as club	2	0%	0	0%
Animal	0	0%	0	0%

Discourtesy (D) Allegations	2018		2019	
	Count	% of Total	Count	% of Total
Word	1,619	87%	1,387	84%
Action	227	12%	220	13%
Gesture	14	1%	23	1%
Demeanor/ tone	10	1%	13	1%
Other	1	0%	5	0%

Offensive Language (O) Allegations	2018		2019	
	Count	% of Total	Count	% of Total
Race	135	33%	118	31%
Gender	117	29%	105	27%
Ethnicity	36	9%	38	10%
Other	39	10%	61	16%
Religion	20	5%	8	2%
Sexual orientation	42	10%	27	7%
Physical disability	8	2%	10	3%
Gender Identity	9	2%	17	4%

Abuse of Authority (A) Allegations	2018		2019	
	Count	% of Total	Count	% of Total
Threat of arrest	1,141	12%	1,233	10%
Entry of Premises	920	9%	1,163	10%
Stop	798	8%	902	7%
Vehicle stop	635	6%	648	5%
Search (of person)	566	6%	620	5%
Vehicle search	475	5%	628	5%
Forcible Removal to Hospital	485	5%	604	5%
Refusal to provide name	278	3%	746	6%
Search of Premises	427	4%	585	5%
Refusal to provide shield number	266	3%	717	6%
Frisk	446	5%	491	4%
Threat of force (verbal or physical)	407	4%	420	3%
Failure to provide RTKA card	117	1%	669	5%
Property damaged	291	3%	398	3%
Refusal to provide name/shield number	586	6%	0	0%
Question	239	2%	310	3%
Seizure of property	170	2%	257	2%
Refusal to obtain medical treatment	160	2%	232	2%
Refusal to process civilian complaint	153	2%	222	2%
Interference with recording	138	1%	194	2%
Threat to damage/seize property	157	2%	136	1%
Threat of summons	112	1%	118	1%
Other	131	1%	98	1%
Strip-searched	97	1%	113	1%
Refusal to show search warrant	75	1%	94	1%
Threat re: removal to hospital	92	1%	67	1%
Gun Drawn	81	1%	65	1%
Photography/Videography	56	1%	71	1%
Threat to notify ACS	58	1%	62	1%
Sex Miscon (Sexual Harassment, Verbal)	43	0%	39	0%
Search of recording device	40	0%	42	0%
Sexual Misconduct (Sexual Humiliation)	24	0%	45	0%
Refusal to show arrest warrant	24	0%	34	0%
Sex Miscon (Sexual/Romantic Proposition)	23	0%	32	0%
Premises entered and/or searched	52	1%	0	0%
Failed to Obtain Language Interpretation	0	0%	45	0%
Retaliatory summons	17	0%	24	0%
Electronic device information deletion	15	0%	15	0%
Body Cavity Searches	11	0%	19	0%
Retaliatory arrest	20	0%	7	0%
Sex Miscon (Sexual Harassment, Gesture)	6	0%	14	0%
Questioned immigration status	7	0%	10	0%
Threat re: immigration status	7	0%	4	0%
Sex Miscon (Sexually Motivated Frisk)	2	0%	3	0%
Sex Miscon (Sexually Motiv Strip-Search)	2	0%	2	0%
Improper dissemination of medical info	0	0%	3	0%
Sex Miscon (Sexually Motivated Search)	0	0%	1	0%
Disseminated immigration status	1	0%	0	0%

<sup>16</sup> Several changes have been made to allegation categorization in the last few years that inhibit cross-year

## CASE ABSTRACTS: FADO EXAMPLES

The following case abstracts are taken from complaints closed in 2019 and serve as examples of the types of misconduct allegations that fall under the CCRB's jurisdiction:<sup>17</sup>

### 1. Force

An individual told an officer of the 28th Precinct, who was assigned to the Telephone switchboard (a stationhouse role), that she wanted to file a criminal report. When the officer told the individual that he couldn't take her complaint, the individual asked for his name and shield number. The officer told the individual that she could take a photo of his nameplate and shield, and she did. When she then moved to take a photo of the poster on the precinct wall containing instructions on how to file a CCRB complaint, another officer told the individual that she could not take photos inside of a precinct. The officer also realized that the individual was recording video, rather than taking a photo, and told her that no video recording was permitted inside the precinct. The officer then put his hand in front of the individual's phone, preventing her from taking a picture of the poster.

The officer approached her, and after a brief physical struggle, grabbed her phone out of her hands, told her she could be arrested for recording in the stationhouse, and later told her to delete the recordings she made or she could be arrested. The officer then looked at the woman's phone while she deleted the pictures. The individual then wrote down the officer's name and shield number on a piece of paper and left the stationhouse. The investigation obtained stationhouse surveillance video that captured the entirety of this incident. The Board determined that the officer's use of force was not to ensure anyone's safety, eject the individual from the stationhouse, or place her in custody, but for the sole purpose of stopping the individual's photography, therefore the Force allegation was substantiated. Allegations for search of the individual's phone, threats of arrest, interference with video recording, and electronic information deletion were also substantiated.

### 2. Abuse of Authority

An individual was sitting inside his double-parked vehicle when four officers from PSA 4 approached him. An officer requested the individual's driver's license and other documentation, which the individual initially refused to provide, asking instead why he was being stopped. The officer then ordered the individual out of the vehicle, which he refused to do until the officer ultimately opened the driver's side door and took hold of the individual's arm. At the back of the vehicle, the individual was angrily questioning why he had been stopped and ordered to exit the vehicle. The officer stated that the individual had a "belligerent" demeanor and "aggressive" body language. For these reasons and no others, the officer frisked the individual to ensure that he did not possess a weapon. The officer did not see anything on the individual's clothing, vehicle interior, or vehicle vicinity that led him to believe that the individual may have had a weapon. The officer stated, as a general matter of procedure, that in each instance of his performing a car stop, if an individual is removed from the vehicle, he "automatically" performs a frisk.

The officer saw posters inside the individual's vehicle, walked to a nearby location, where he saw wet posters adhered to a wall. As the posters appeared to be the same as those

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comparisons. In 2018, the Agency split the allegation "Refusal to Provide name/shield" into two separate allegations, which are each reflected under Abuse of Authority. In late 2018, the allegation "Failure to provide RTKA card" was added to account for new requirements under the RTKA. These changes should be taken into account when interpreting the data in this figure.

<sup>17</sup> Each of the cases described in this section were substantiated complaints, intended to illustrate the difference between types of allegations the Board investigated and found to be misconduct. See pages 36-37 for case examples of other Board dispositions.

posted adhered nearby, the officer leaned his body inside every door of the vehicle and looked underneath each of its seats in the “lunge-able areas” where he believed the individual could have placed a weapon.

A frisk of a vehicle’s occupants cannot solely be based on their innocuous behavior and the officer’s desire to investigate possible criminal activity; it must be based on the officer’s reasonable belief that the individual is armed or may gain access to a weapon inside the vehicle. When a vehicle’s occupants have been removed and patted down without incident, officers generally may not search the vehicle in the absence of probable cause. The officer did not have reasonable suspicion for the frisk or probable cause for the vehicle search, therefore, both allegations were substantiated.

In addition, when the individual requested the names and shield numbers of the officers, two other officers at the scene refused to provide this information. Officer testimony in this investigation corroborated the individual’s assertion that he had requested names and shield numbers, and one of the officers noted that the individual had said something about names and shields, but later said he did not recall the individual asking for his name and shield. Given the officer testimonies, the investigation credited that the individual requested the names and shield numbers of all officers present, and these allegations were substantiated.

### **3. Discourtesy**

An individual was pulled over by two officers (“Officer 1” and “Officer 2”) of the 113th Precinct for failing to stop at a stop sign. In addition to providing his license and registration, the individual provided a Fraternal Order of Police membership card (which he received from his cousin, an officer). Shortly thereafter, Officer 1 handed the individual a summons and informed him that he would be keeping the membership card. During this time, Officer 2 shut off his body-worn camera (BWC) and asked the individual, “Who gave you that bullshit card?” The CCRB spoke to a representative from the Fraternal Order of Police, who stated that anyone who is a current or retired police officer or peace officer can become a member of the Fraternal Order of Police and receive cards which they may give to friends and family. While the officers stated they seized the card because they believed it was fake, the investigation determined that the individual obtained the card from his cousin and was not using it to defraud the officers. The Fraternal Order of Police membership card was not used as a means of committing, aiding, or furthering of a crime, therefore it would not have been permissible for the officer to seize the card as investigatory evidence. Regarding the discourtesy allegation, BWC footage obtained from Officer 2 captured him standing outside the individual’s vehicle and stating, “What the hell happened here. New York State Police. This is bullshit.” The camera then captured him approaching the individual’s driver-side and turning off his BWC. Officer 1’s camera, which was still recording, showed that Officer 2 continued to engage with the individual after turning off his BWC. Although Officer 2 denied saying the word “bullshit,” the investigation credited the individual’s statement, as his outline of events was consistent with the video footage, and video evidence captured Officer 2 saying “bullshit” while standing next to the individual’s open passenger window. The Board substantiated the seizure of property and discourtesy allegations and notified the NYPD about Officer 2’s improperly deactivated BWC.

### **4. Offensive Language**

An individual invited a woman over to his apartment, and while he was out of the room, she allegedly stole his wallet and a fur coat. He reported the theft to the NYPD and was interviewed by two officers of the 47<sup>th</sup> Precinct. Repeatedly during the audio-recorded



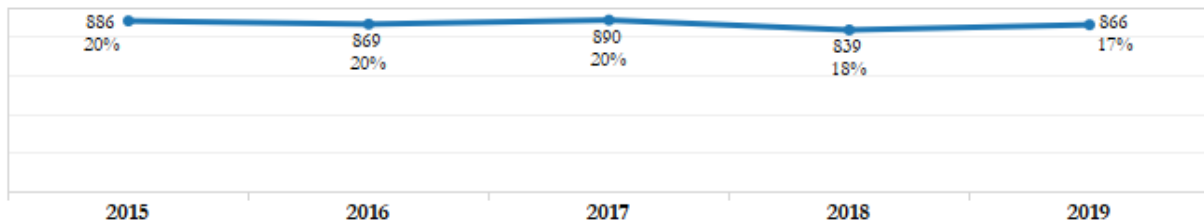
interview, both detectives used profanity and offensive language that could be heard clearly. Some of the language heard in the audio includes commentary about the report being “bullshit,” and statements like, “We get her, we bring you and her to the Bronx District Attorney, they ain’t prosecuting this shit, man. This is a fucking waste of time. You got beat and that’s the end of it.” The offensive language included statements questioning the woman’s gender identity: “There’s a guy from Manhattan, I have a case with him. He fucking brought a tranny up there to watch TV, then that person caught him, and once the tranny was going to get busy, He pulled out a gun on the tranny and kicked the tranny out because that’s what you do if (inaudible) fuck trannies. I’ll tell you right now, she probably was a tranny. That’s a tranny.” When the individual stated that the woman at his apartment wasn’t a man, the response recorded on audio was: “How do you know? You didn’t take a shower with her; how do you know? Looks like a guy to me. Two against one it looks like a guy.” The Board determined that this statement served no real investigative purpose and instead was made in a derisive way in order to demean the individual. Allegations of offensive language and discourtesy, in addition to abuse of authority: sexual humiliation, were substantiated by the Board for both officers.

### STOP, QUESTION, FRISK AND SEARCH OF PERSON ALLEGATIONS

Because of the longstanding public discussion surrounding “Stop & Frisk” policing, the CCRB keeps track of all complaints containing an allegation of stop, question, frisk, or search of

a person. Complaints containing at least one of these allegations have increased from 839 to 866 between 2018 and 2019. (Fig. 13).

**Figure 13: Complaints Received Containing a Stop, Question, Frisk, and Search of Person Allegation, 2015 - 2019**



## CHARACTERISTICS OF ALLEGED VICTIMS

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The CCRB compares the demographic profiles of the alleged victims to the demographics of the city, without controlling for any other factors such as the proportion of encounters with the police or the number of criminal suspects. The race and gender of alleged victims are disproportionate to the racial and gender makeup of New York City's population (Fig. 14).<sup>18</sup>

In 2019, individuals who self-identified as Black made up 50% of alleged victims, while, according to 2019 census estimates, Black residents make up only 24% of the City's population.

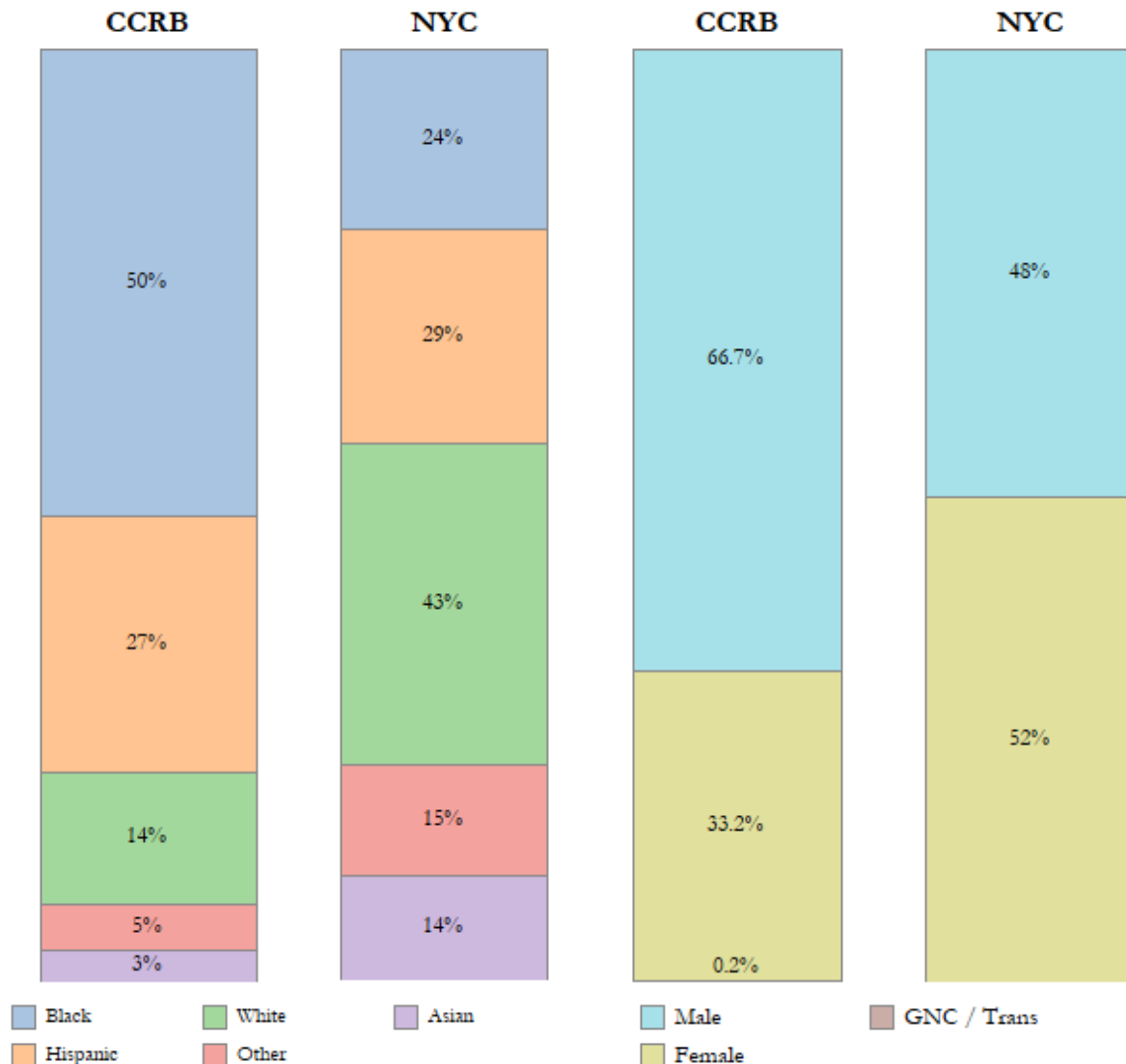
In 2019, just under 67% of alleged victims were male, while men make up only 48% of the City's population (Fig. 14).<sup>19</sup> In 2017, the Agency included "gender nonconforming" as an option when complainants/victims are reporting their gender, and revised its case management system to generate gender neutral honorifics, whenever appropriate, in communications to complainants. While not well-depicted in Fig. 14 due to small raw numbers, 0.2% of alleged victims self-identified as gender nonconforming or transgender in 2019.

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<sup>18</sup> City demographic information is drawn from the 2019 United States Census estimate. All race demographics are inclusive of Hispanic origin. For example, "Black" includes both "Black Hispanic" and "Black Non-Hispanic." Census data is available at <https://www.census.gov/quickfacts/newyorkcitynewyork>

<sup>19</sup> The census does not count gender, but instead counts biological sex of respondents (see <https://www.census.gov/topics/population/age-and-sex/about.html>). As such, comparisons between the CCRB's data and census data are not exact.

**Figure 14: Alleged Victim Demographics Compared to New York City, Complaints Received in 2019<sup>20 21</sup>**



### CHARACTERISTICS OF SUBJECT OFFICERS

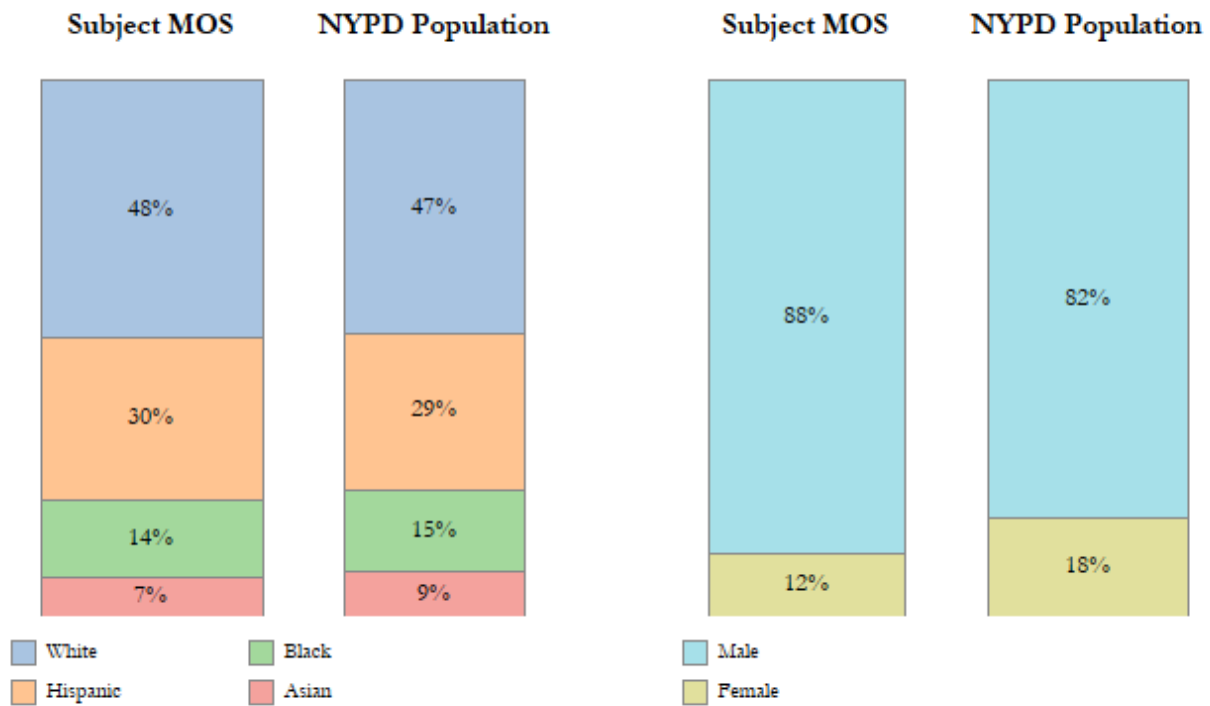
The race and gender makeup of officers who are the subject of CCRB complaints largely reflects the demographic composition of the NYPD (Fig. 15). In 2019, white officers accounted for 48% of subject officers in CCRB

complaints and 47% of the NYPD. Male officers accounted for 88% of the subject officers in CCRB complaints and 82% of the NYPD.

<sup>20</sup> The percentages for race of New York City residents do not add up to 100% because the Census allows respondents to self-report Hispanic ethnicity separate from race. Someone may, for instance, indicate that they are both Black and Hispanic. This means that some individuals are counted in these categories twice. Since current CCRB race/ethnicity categories are not precisely aligned with Census categories, comparisons should be made with caution.

<sup>21</sup> “GNC” is an acronym that stands for Gender Nonconforming. “Trans” includes individuals who identify as Transmen and Transwomen in CCRB records.

**Figure 15: Subject Officer Demographics Compared to NYPD, 2019**



**RANK OF SUBJECT OFFICERS**

In 2019, the CCRB substantiated allegations against 391 police officers, 81 sergeants, 33 detectives, 28 lieutenants, two captains, and

one deputy inspector (Fig. 16). Most of these officers had ten years or less on the job at the time of the incident (Fig. 17).

**Figure 16: Rank of Active MOS with Substantiated CCRB Complaints, 2019**

	2019
Police Officer	391
Sergeant	81
Detective	33
Lieutenant	28
Captain	2
Deputy Inspector	1

**Figure 17: Tenure of Active MOS with Substantiated CCRB Complaints, 2019**

	2019	
	Count	Percent
0-3 Years	113	21%
4-5 Years	139	26%
6-10 Years	107	20%
11-15 Years	123	23%
16-20 Years	39	7%
21+ Years	15	3%

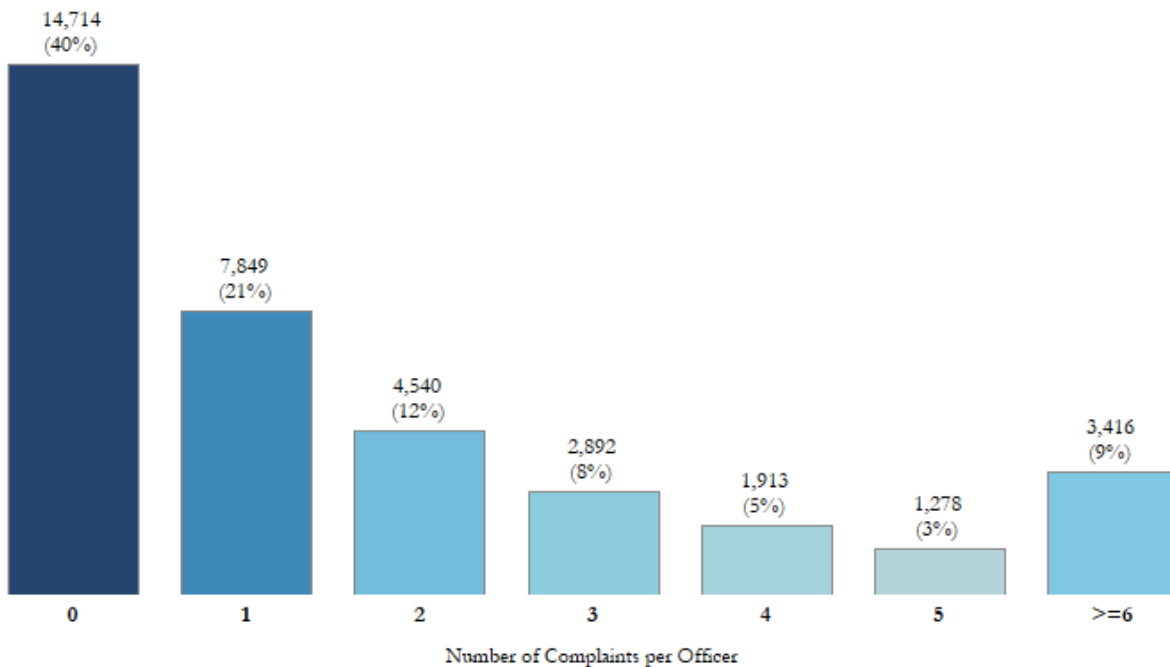
## TOTAL COMPLAINTS AGAINST ACTIVE MEMBERS OF SERVICE (MOS)

As of December 31, 2019, there were 36,602 active MOS on the NYPD roster. The charts below depict how complaints are distributed among these MOS.

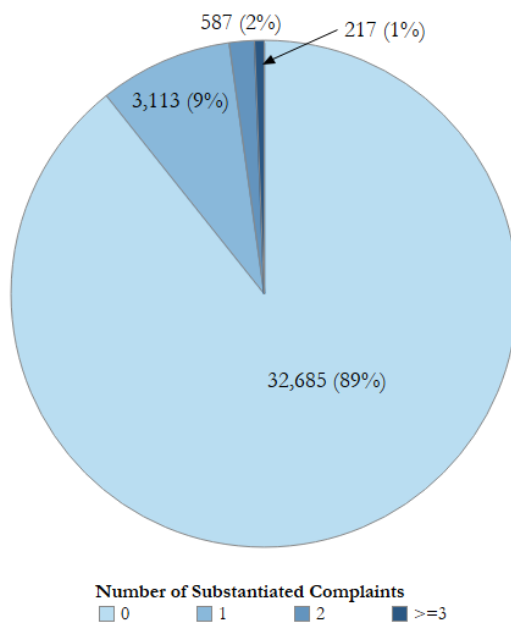
Of all active MOS at the end of 2019, 40% had never been the subject of a CCRB complaint at

all, 21% had been the subject of one complaint, 12% had two complaints, and 8% had three complaints (Fig. 18). Just under one in ten (9%) had been the subject of six or more CCRB complaints.

**Figure 18: Active MOS with CCRB Complaints as of December 31, 2019**



**Figure 19: Active MOS with Substantiated CCRB Complaints**



While 60% of MOS have had at least one CCRB complaint, the vast majority (89%) have never had any substantiated complaints (Fig. 19). Nine percent of MOS on duty at the end of 2019 had one substantiated complaint, 2% have had two substantiated complaints, and 1% have had three or more complaints substantiated.

## SECTION 2: INVESTIGATIONS

Investigation is the core function of the Civilian Complaint Review Board (CCRB, the Agency, or the Board). Every complaint passes through the Investigations Division, even if it is ultimately resolved through mediation.

At the beginning of an investigation, an investigator interviews the complainant and any witnesses, collects evidence, and attempts to identify the police officer(s) involved in the encounter. In many instances, the officers' identities are unknown at the outset of the investigation. Investigators interview any officers identified during their investigation.

Once all the necessary interviews are conducted and the collected evidence is reviewed, the investigative team makes a disposition recommendation to the Board for each allegation in the case. In most cases, a panel of three Board members, comprised of one mayoral designee, one City Council designee, and one Police Commissioner designee, reviews the case and votes on the investigator's recommendations. In certain

limited circumstances, the full Board will consider a case.

In order to resolve investigations fairly and in accordance with local law, the CCRB generally needs the cooperation of at least one civilian complainant/alleged victim related to the case. The New York City Charter states that CCRB's findings and recommendations cannot "be based solely upon an unsworn complaint or statement."<sup>22</sup> When a complainant or alleged victim is available for an interview, the Agency deems the resulting investigation a "full investigation." If a complaint is withdrawn, or there is no complainant or alleged victim available for an interview and there is no additional evidence upon which the investigation can proceed, the investigation is "truncated." The Investigations Division always seeks to keep truncated investigations to a minimum; its primary goal is to complete full and fair investigations.

This section covers the performance of the Investigations Division and the outcomes of complaints received by the CCRB.

### INVESTIGATIONS DIVISION BENCHMARKS

The CCRB tracks the amount of time that it takes to close a full investigation, measured from the date the CCRB receives a complaint to the date the complaint is closed by the Board. It also tracks the time that it takes to close a full investigation for substantiated cases, which are typically the most complicated and time consuming. For the past two years, the CCRB has experienced increasing investigation times. In 2019, it took an average of 248 days to close a full investigation, and 269 days if that investigation resulted in substantiated misconduct (Fig. 20). Factors contributing to this increase are: 1) delays in 2019 in the receipt of key evidence, especially responses to requests for body-worn camera (BWC)

footage, which increased to a turnaround time of 36 business days in 2019, from 10 business days in 2018;<sup>23</sup> 2) the growing number of investigations containing BWC footage that must be systematically analyzed by investigators; 3) the continuing increase in the number of complaints received by the CCRB without a commensurate increase in the resources needed to investigate these complaints; and 4) the NYPD's failure to provide, or providing only in a redacted form, certain documents previously available to the CCRB.

The above factors increase the average number of days before the first civilian and officer interviews take place in an investigation. In 2019, it took approximately

<sup>22</sup> New York City Charter Chapter 18-A §440(c)(1).

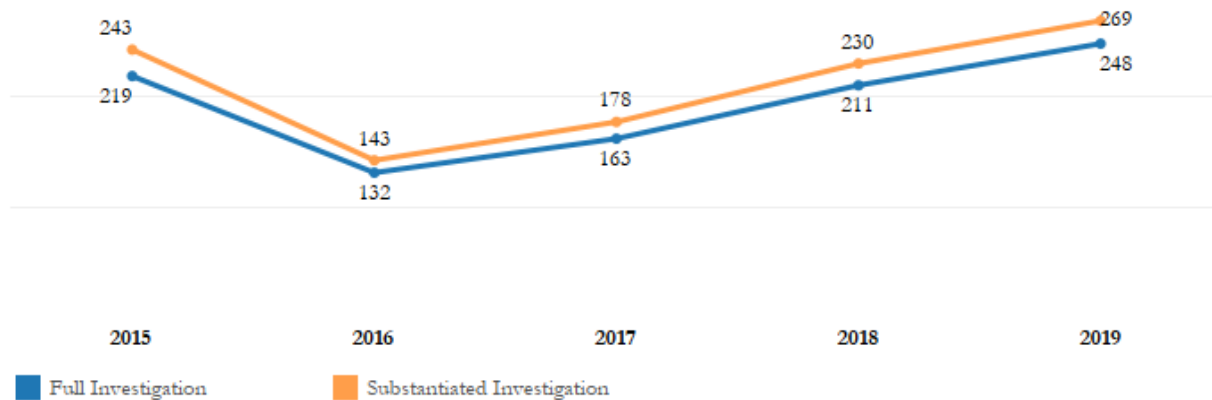
<sup>23</sup> See Section Six of this report for additional information on turnaround times for BWC footage requests.

21 days on average for an investigator to conduct the first civilian interview—two days more than the previous year, and five days longer than in 2017. This rise is a result of higher investigator caseloads.

The average number of days before the first member of service (MOS) is interviewed has risen much more steeply since CCRB investigators watch video evidence prior to scheduling officer interviews. In 2019, the first officer interview took place, on average, 98 days after the complaint was received—a massive jump from the 75-day average of

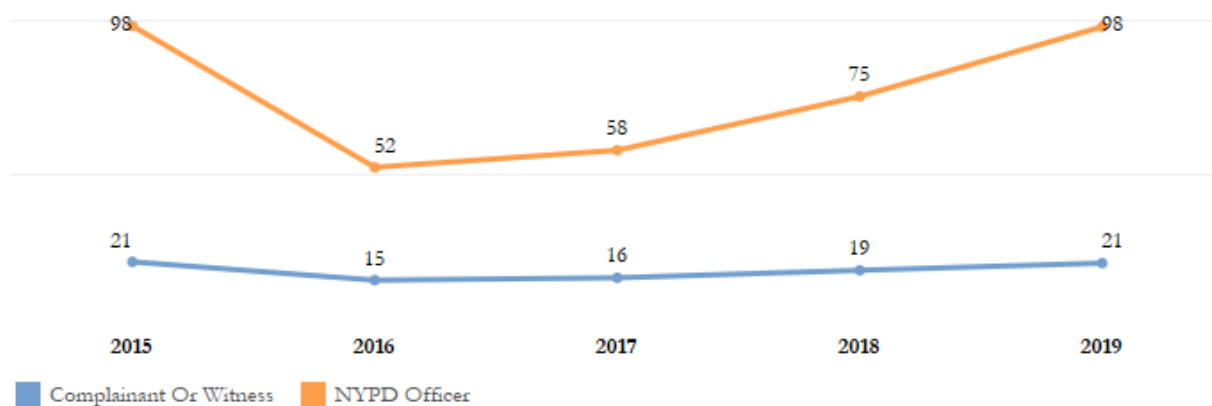
2018 and the 58-day average of 2017. This increase is a direct result of both the flood of video evidence the Agency has obtained since the expansion of the NYPD’s BWC program, and an increasing number of issues with accessing BWC evidence. The process of obtaining BWC video has been marked by delays, redactions of video content, and the NYPD’s refusal to provide certain BWC evidence to the CCRB. The Agency is hopeful that new processes outlined in the 2019 Memorandum of Understanding (MOU) with the NYPD will ameliorate some of these issues.

**Figure 20: Average Days to Complete a Full Investigation, Complaints Closed, 2015 - 2019**



*Average days excludes re-opened cases and cases that have been placed on hold by the District Attorney.*

**Figure 21: Average Days to First Interview (Full Investigations), Complaints Closed, 2015 - 2019**



*Average days excludes re-opened cases and cases that have been placed on hold by the District Attorney.*

## CASE RESOLUTION AND INVESTIGATIVE OUTCOMES

A civilian complaint can be resolved in various ways. The complaint may be fully investigated, mediated, closed after mediation is attempted,<sup>24</sup> or closed as “truncated” (complainant is unwilling to cooperate with a full investigation or cannot be reached for an interview). There are also a small number of miscellaneous closures,<sup>25</sup> which include administratively-closed complaints and complaints in which the subject officer left the Department before investigation or mediation was completed.<sup>26</sup>

For complaints closed in 2019, 32% of complaints were fully investigated and 58% were truncated (Figs. 22 & 23). Many truncations (48%) were closed as “Complainant/Victim/Witness Uncooperative” (Fig. 24). This occurs when the investigator contacted the complainant, victim, or witness, but was unable to obtain an official statement or other relevant evidence. This type of truncation has declined

from 51% in the same time frame last year. The proportion of complaints withdrawn by complainants remained the same between 2018 and 2019 (20%), and those truncated due to the complainant being unavailable after their initial complaint was filed increased from 15% to 17% (Fig. 24).

Sometimes when a complainant is involved in criminal or civil litigation, their attorney advises against making sworn statements until the conclusion of the court case. When a complaint is closed due to pending litigation, CCRB investigators periodically check court records to determine if the case has ended, and if so, attempt to reconnect with the complainant. In 2019, the CCRB re-opened 18 cases that had been closed due to pending litigation. Since the CCRB began tracking and following up on these cases in 2018, approximately 11% (63 of 597) of complaints that were closed pending litigation have been reopened.

**Figure 22: Case Resolutions, 2015 – 2019**

	2015		2016		2017		2018		2019	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Truncated	2,480	47%	2,417	55%	2,241	55%	2,318	58%	2,814	58%
Full Investigation	2,177	42%	1,514	34%	1,348	33%	1,208	30%	1,540	32%
Mediation Attempted	222	4%	227	5%	213	5%	231	6%	240	5%
Mediated	192	4%	208	5%	204	5%	232	6%	187	4%
Misc. Closure	161	3%	54	1%	44	1%	17	0%	32	1%

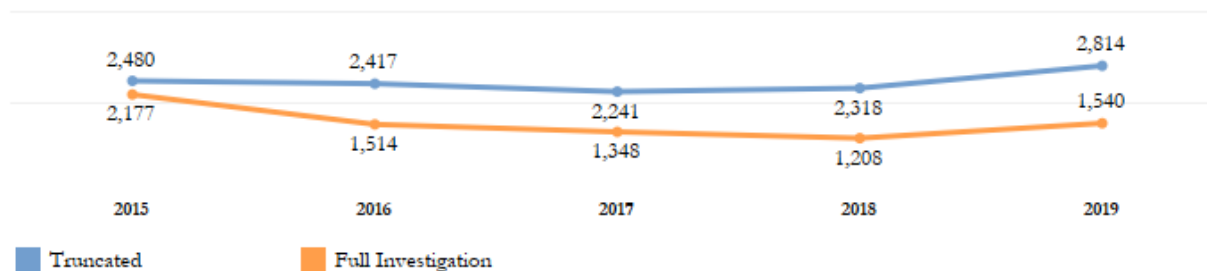
<sup>24</sup> “Mediation attempted” is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for a scheduled mediation session without good cause, or fails to respond to attempts to schedule a mediation session, and does not request that the case be sent back for a full investigation.

<sup>25</sup> Miscellaneous closures are not included in the truncation rate.

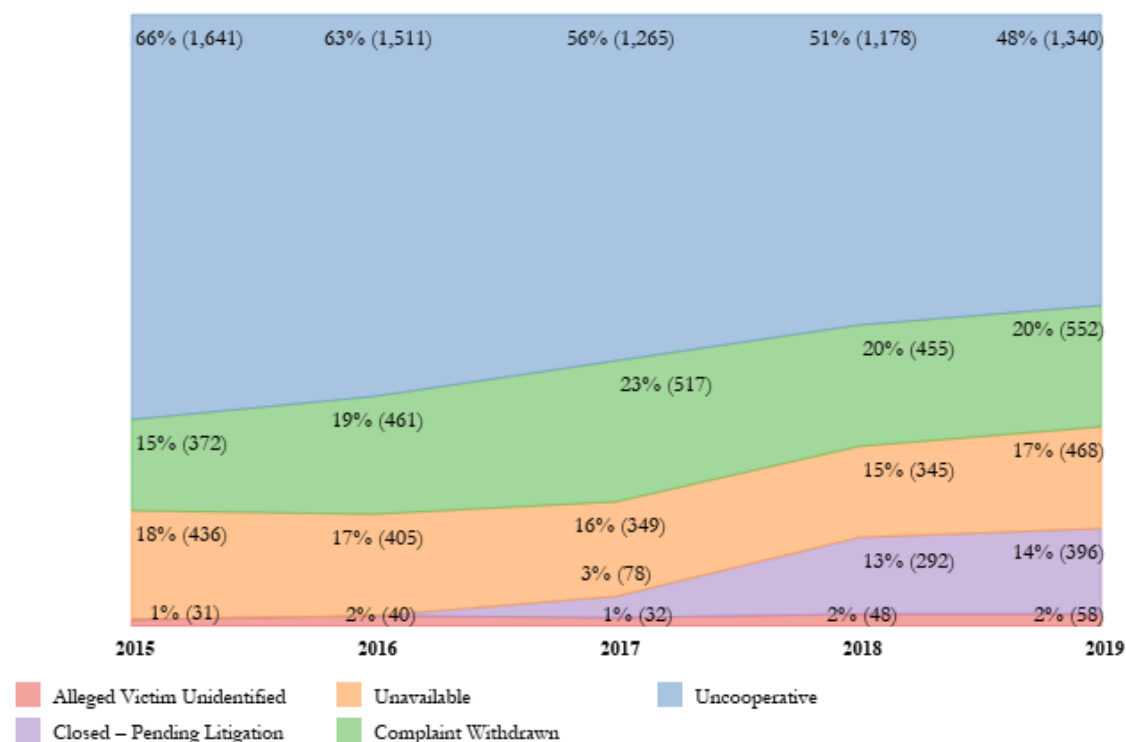
<sup>26</sup> The New York City Charter only gives the CCRB jurisdiction over current uniformed members of service.



**Figure 23: Truncations and Full Investigations, 2015 - 2019**



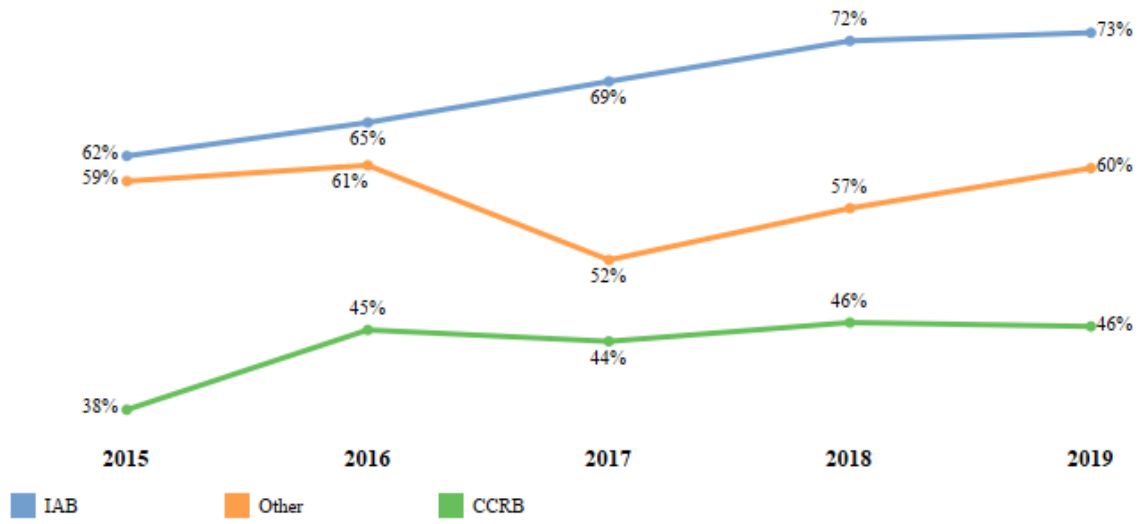
**Figure 24: Truncations by Type, 2015 - 2019**



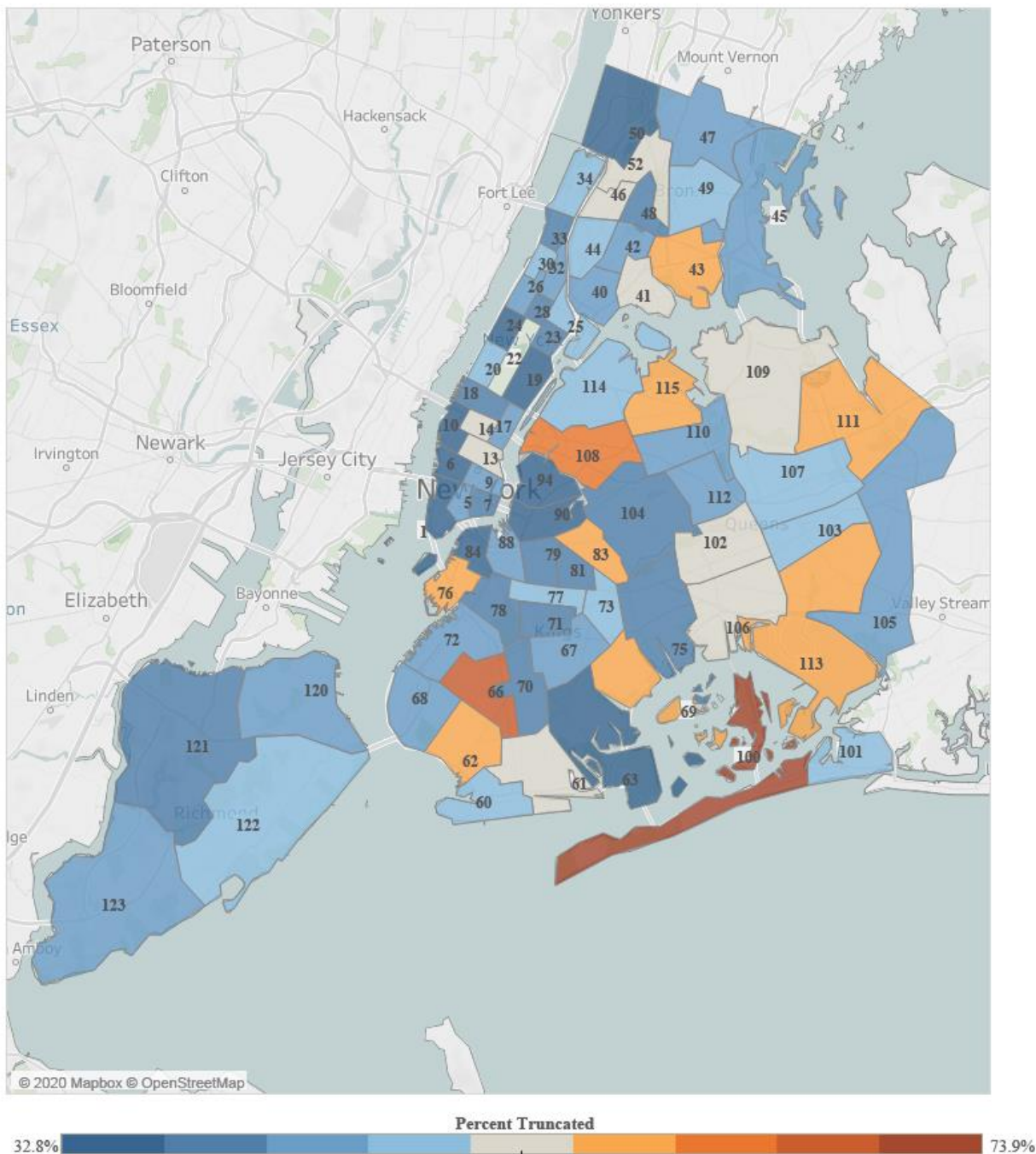
Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the CCRB by another agency (Fig. 25). In 2019, 46% of complaints filed with the CCRB were truncated, compared with 73% of complaints referred to the CCRB by IAB, and 60% of the complaints that were referred from other government

agencies and organizations. When complaints are filed elsewhere, it is often difficult to contact the complainant or victim, as other agencies may not have notified them that their complaint was referred to the CCRB. This can cause confusion and may reduce the likelihood that complainants will cooperate when contacted by CCRB investigators.

Figure 25: Truncation Rates by Place of Filing, 2015 - 2019



**Figure 26: Truncation Rate by Precinct, 2019**



Truncation rates vary widely by precinct (Fig. 26). Distance from the CCRB offices and proportion of complaints filed directly with the CCRB appear to impact these rates, but more analysis is needed.

The Agency is currently working on reducing truncations via two initiatives begun in 2018. In February 2018, the Agency’s Blake Fellow

began working on an analysis of the factors contributing to truncations and will be issuing a report detailing findings and recommendations based on this work. Additionally, the Agency hired a Civilian Witness Assistance Unit Director, who works to support complainants and witnesses through CCRB processes and connect them to needed support services.

## COMPLAINT AND ALLEGATION DISPOSITIONS FOR FULLY INVESTIGATED CASES

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To understand the data presented in the following section, it is important to understand the CCRB terminology used in determining complaint and allegation dispositions.

Allegations that are fully investigated by the CCRB generally result in one of five outcomes:

- An allegation is **substantiated** if the alleged conduct is found to have occurred and be improper based on a preponderance of the evidence.<sup>27</sup>
- An allegation is **exonerated** if the alleged conduct is found to have occurred but was not found to be improper by a preponderance of the evidence. Allegations may be exonerated if the officer's behavior was found to be allowed under the law and/or the Patrol Guide. This does not mean that the complainant was untruthful in their account of the incident. Many members of the public are not aware of the range of law enforcement activities that are legally permissible and within the boundaries of proper NYPD protocol.
- An allegation is **unfounded** if the alleged conduct is found by a preponderance of the evidence not to have occurred as the complainant described.
- An allegation is closed as **officer unidentified** if the CCRB was unable to identify the officer accused of misconduct.
- An allegation is **unsubstantiated** if there is not enough evidence to determine whether or not misconduct occurred by a preponderance of the evidence.

The disposition of a fully-investigated complaint depends on the disposition of the fully-investigated allegations within the complaint:

- A complaint is substantiated if any allegation within the complaint is substantiated.
- A complaint is exonerated if all the allegations made against identified officers are exonerated.
- A complaint is unfounded if there are no substantiated or unsubstantiated allegations and there is at least one unfounded allegation.
- A complaint is closed as officer unidentified if the CCRB was unable to identify any of the officers accused of misconduct.
- A complaint is unsubstantiated if there are no substantiated allegations and there is at least one unsubstantiated allegation.

The following section provides anonymized case abstracts to help readers better understand the distinctions between the different dispositions of fully-investigated allegations.

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<sup>27</sup> "Preponderance of the evidence" is an evidentiary standard used in civil cases, and is commonly interpreted to mean that the fact in question was determined to be "more likely than not," true. *See Foran v. Murphy*, 73 Misc.2d 486 (2d Dept 1973) ("In a disciplinary proceeding, . . . it is sufficient if respondent finds the specifications established by a fair preponderance of the evidence."); *Dep't of Correction v. Jones*, OATH Index No. 393/04 (May 3, 2004) ("burden of proof in this administrative proceeding to prove misconduct by a preponderance of the credible evidence").

## CASE ABSTRACTS

The following case abstracts are taken from complaints closed in 2019 and serve as examples of what the different case dispositions mean in practice:

### 1. Substantiated

The complainant, his brother, and six individuals were standing in front of the complainant's residence when four officers from the 44<sup>th</sup> Precinct arrived in a police van and approached them for double-parking their vehicle in front of the building. As the officers spoke to the individuals, a crowd of civilians gathered. Officer 1 threatened to arrest the crowd for blocking pedestrian traffic. BWC footage of the incident showed a group of approximately seven individuals standing in a line on the curb. Officer 2 is heard over the loudspeaker saying, "If you don't move from in front of the building, you're obstructing pedestrian traffic ... That's my first and final warning ... If not, you'll come back to the precinct with us." While Officer 2 makes this statement, two individuals walk by. The passersby do not have to move around the crowd.

During his CCRB interview, Officer 1 stated that when the officers exited their vehicle to speak with the complainant, a crowd formed. Members of the crowd recorded the officers and stepped off the sidewalk into the street. Officer 2 instructed the members of the crowd to remain on the sidewalk, and while some individuals complied with his command, others did not. Officer 1 then told the crowd that they could be arrested. Officer 1 noted in his CCRB interview that he believed they could be arrested for obstruction of governmental administration (OGA) for failure to comply with police commands. The investigation determined that the officer could not arrest the individuals on the sidewalk for OGA as BWC footage showed that, at the time of the threat, the individuals were in no way impeding pedestrian traffic or otherwise causing an inconvenience. The Board substantiated the threat to arrest allegation.

### 2. Exonerated

Officers from the 81<sup>st</sup> Precinct responded to a dispute involving an individual and an unidentified female cyclist. The female cyclist had locked her bicycle to the exterior fence surrounding the individual's home, and the individual had placed a second lock on the bicycle. An officer repeatedly requested that the individual remove the second lock, but she refused to do so. This officer then informed the individual that if she did not remove the bicycle lock, he would get bolt cutters to cut the lock. A person commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully, takes, obtains, or withholds such property from an owner thereof. Officers must give due respect to property and may only damage property if doing so is reasonably necessary to carry out their duties. Based on the above, the investigation determined that the officer was justified in his statement as he had few options to resolve the dispute and this statement was a reasonable attempt to get the individual to unlock the bicycle lock so that the cyclist could retrieve her bike. The Board exonerated the abuse of authority allegation.

### 3. Unfounded

An individual and his wife engaged in a loud verbal dispute inside of their apartment. A third-party called 911 regarding the dispute. Officers from the 84<sup>th</sup> Precinct responded and knocked on the individual's door. The individual opened the door and informed the officers he would let them in shortly, as his wife was changing. In response, an officer allegedly placed his right hand on the individual's chest and pushed him against the wall. BWC footage obtained from both the officer and his partner captured the incident and showed the officer standing in the doorway and speaking to the individual. Then the officer stepped inside the apartment and looked around a wall with his flashlight. It did not show the

officer making any physical contact with the individual while entering the apartment. Given that the BWC footage refuted the individual's allegation that the officer used physical force against him, the Board unfounded the allegation.

#### **4. Officer Unidentified**

Two officers in an unmarked police vehicle stopped an individual for an alleged traffic violation. After searching the individual and his vehicle, the officers left the incident location. The individual was not arrested or issued a summons during the incident. Surveillance footage, which was obtained from a commercial building, depicted a vehicle being stopped by a police vehicle at the incident location, and additional police vehicles later arriving at that same location. Although the video confirmed the incident date and time, a tree impeded most of the view of the incident, and due to the distance of the camera, the video did not clearly show any individuals who were present. The investigation gathered all relevant documentation pertaining to any warrant audits conducted on the individual and any police vehicles in the vicinity of the incident location around the time of the incident. Police records received did not yield any evidence which aided in the identification of the subject officer. Without any witnesses or documentation of the incident, and because the officers did not turn on their BWC or provide their Right to Know Act (RTKA) business cards, the investigation was unable to identify the subject officers in this case. The Board closed the allegation as officer unidentified.

#### **5. Unsubstantiated**

An individual was arrested and brought to the 46<sup>th</sup> Precinct stationhouse for processing. While there, he alleged that an officer in Bronx Narcotics called him a "fucking cockroach." No video footage was retrieved, and all four officers on scene provided contradictory testimony, stating that the officer never called the individual a "fucking cockroach." Without any independent witnesses or video footage, the investigation was unable to reach a conclusive finding. The Board unsubstantiated the discourtesy allegation.

## DISPOSITIONS OF COMPLAINTS AND ALLEGATIONS

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In 2019, the substantiation rate (the percentage of fully-investigated complaints in which the Board substantiated at least one allegation) increased to 24% from 19% in 2018 (Fig. 27, next page). The exoneration rate (the percentage of cases in which all allegations in the complaint were exonerated) also rose, from 18% in 2018 to 22% in 2019. The rate of unfounded case closures (the percentage of cases in which there were no substantiated or exonerated allegations, but at least one unfounded allegation) remained the same at 8%. When a complaint is closed with a disposition of substantiated, unfounded, or exonerated, it is deemed to be a finding “on the merits,” meaning that the Board was able to make a determination of fact based on a preponderance of the evidence.

The unsubstantiation rate (the percentage of cases in which the Board could not determine whether the alleged misconduct occurred) dropped to 39% from 48% in last year.<sup>28</sup> The percentage of cases the Board closed without being able to identify any of the officers involved also declined, from 8% to 7%. Complaints closed as unsubstantiated or officer unidentified are cases in which the Board could not determine whether misconduct occurred, either because the

officers could not be identified or because there was not enough evidence to make a finding of fact.

A single complaint may contain one or more allegations. The complaint disposition, as previously noted, is a composite of the dispositions of all the distinct allegations within the complaint. In addition to complaint dispositions, the CCRB also tracks the disposition of each individual allegation. Allegations closed on the merits also increased between 2018 and 2019, with 12% of allegations substantiated compared with 10% the year prior and exonerations increasing from 31% to 36% (Fig. 28, next page). Unfounded allegations increased from 8% to 9% during that time period.<sup>29</sup> Unsubstantiations decreased from 40% to 33%, and officer unidentified allegations held steady at 11%.

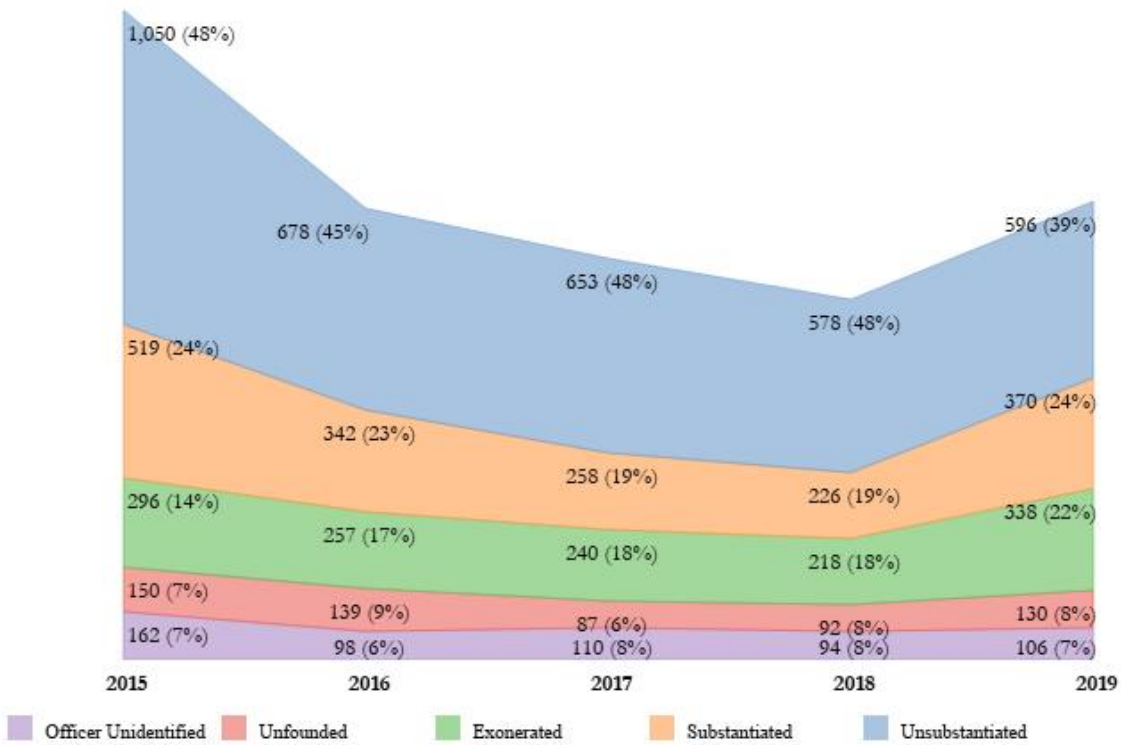
The general increase in the proportion of complaints and allegations closed on the merits, and the corresponding decrease in the cases closed without a clear determination of fact, are largely connected to the improved quality of evidence the Board has as a result of BWCs. Section Six of this Report further details the impact that BWCs have had on CCRB investigations.

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<sup>28</sup> As a point of comparison to other NYPD oversight, in 2018, the Internal Affairs Bureau’s most serious cases, “corruption” cases, had an 11.3% substantiation rate, an 18.2% partial substantiation rate, and a 61.4% unsubstantiation rate. See NYC Commission to Combat Police Corruption, Nineteenth Annual Report of the Commission (December 2019, p. 22), <https://www1.nyc.gov/assets/ccpc/downloads/pdf/Annual-Nineteen-Report.pdf>

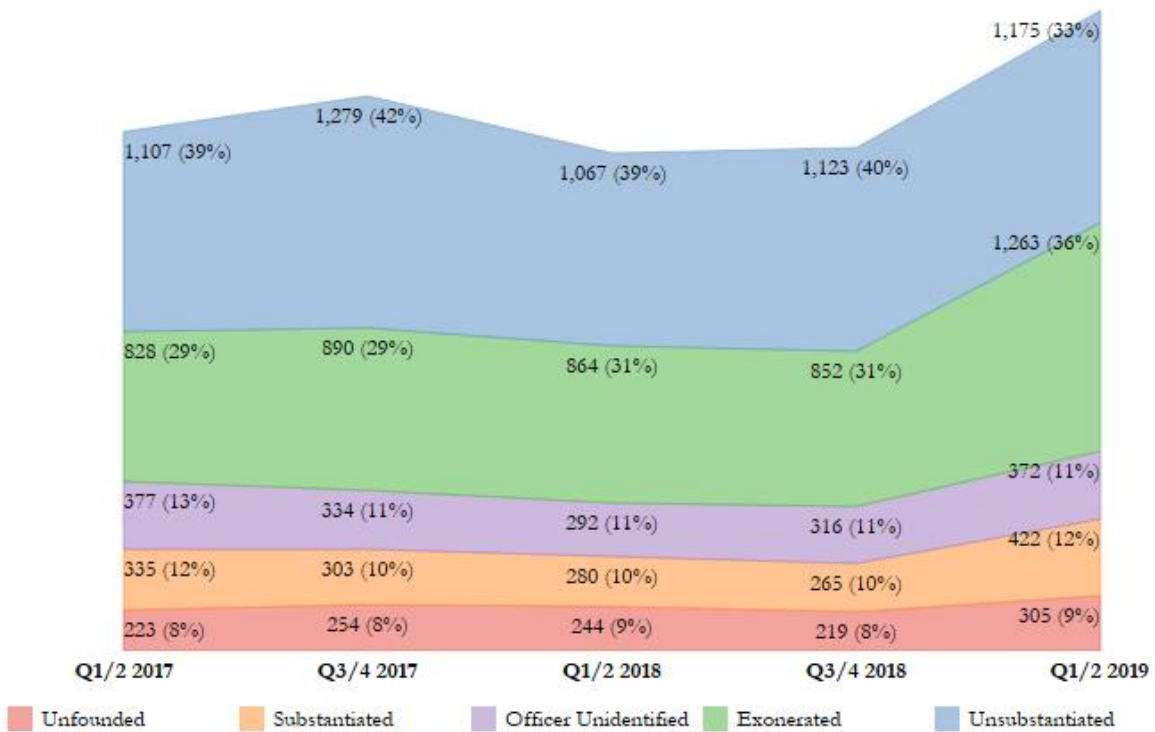
<sup>29</sup> A low substantiation rate for allegations is not unusual—in order to consider all possible allegations, investigators thoroughly document each allegation separately, though upon a full investigation, not all of these allegations can be proven.

**Figure 27: Disposition of Fully-Investigated Complaints, 2015 - 2019**



*Due to the reconsideration process, some counts are subject to change. See Section 5.*

**Figure 28: Disposition of Fully-Investigated Allegations, 2015 - 2019**



*Due to the reconsideration process, some counts are subject to change. See Section 5.*

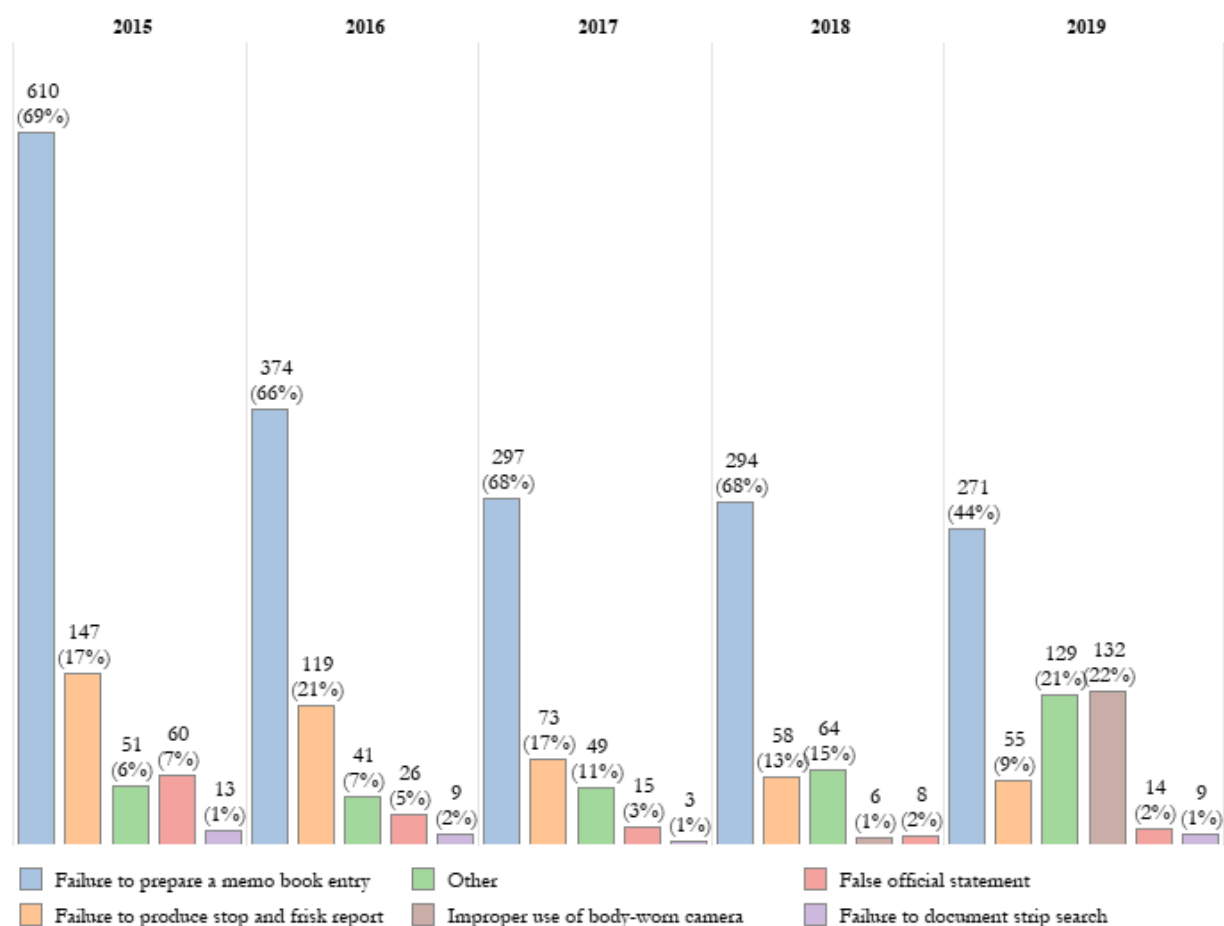


## OTHER MISCONDUCT NOTED AND FALSE OFFICIAL STATEMENTS

Where a CCRB investigation reveals evidence of possible misconduct that falls outside of the CCRB’s jurisdiction, the Board refers this as “other misconduct noted” (OMN), for further investigation by the NYPD. OMN allegations should not be confused with allegations of corruption or potential criminal conduct, which are also referred to IAB. Figure 29 lists the top categories of OMN referrals. An officer’s failure to properly document an encounter or other activity in

his or her memo book as required by the Patrol Guide<sup>30</sup> accounted for 44% of all OMN allegations in cases closed in 2019. In late 2018, the CCRB began tracking instances in which evidence indicated an officer was in violation of the NYPD’s BWC policy. These OMN referrals, which were 22% of the total in 2019, were sent to the NYPD when BWC footage revealed, for instance, that officers had turned their cameras off in the middle of an incident.

Figure 29: Other Misconduct Noted, 2015 – 2019

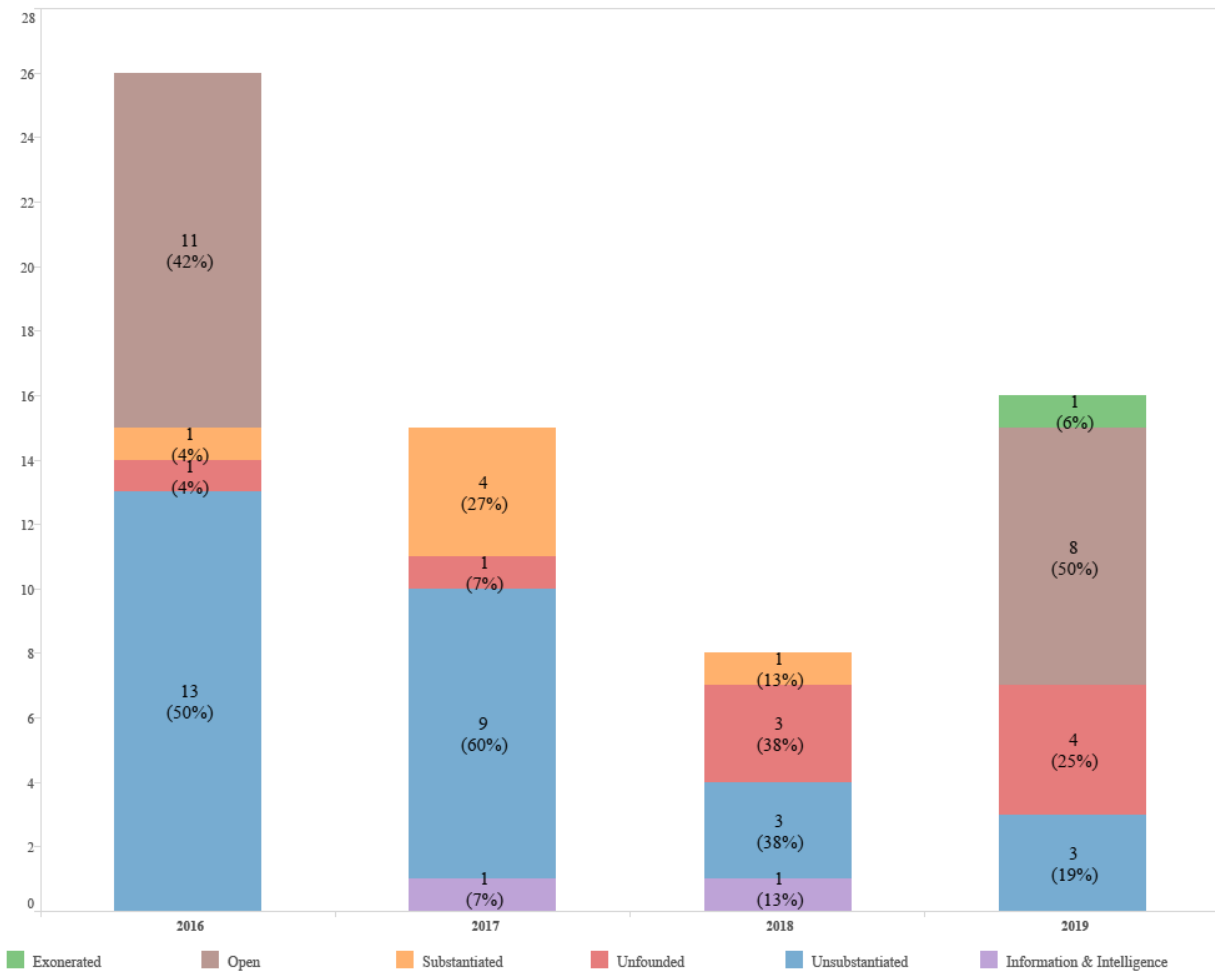


<sup>30</sup> NYPD, Patrol Guide Section 200-02, Mission, Vision, and Values of the New York City Police Department (Apr. 03, 2019), [http://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/public-guide1.pdf](http://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-guide1.pdf).

In February of 2016, the CCRB began receiving IAB dispositions of the false official statement OMNs that the CCRB had referred to the NYPD for investigation. These statements, while relatively rare (see Fig. 29), are instances in which an officer makes a statement during a CCRB investigation that is demonstrably false. These statements had not been within the CCRB’s jurisdiction to investigate until the approval of Charter

revision proposals by voters in November 2019. As of March 31, 2020, the CCRB has the authority to investigate the truthfulness of official material statements made by subject officers during a CCRB investigation. Figure 30 depicts the IAB dispositions of all false official statement OMNs referred to the NYPD since 2016, when the Agency first began receiving disposition reports on these referrals.

**Figure 30: False Official Statement OMNs, 2016 – 2019**



## SECTION 3: DISCIPLINARY PROCESS

### DISCIPLINARY PROCESS AND THE CCRB'S ADMINISTRATIVE PROSECUTION UNIT (APU)

After the Civilian Complaint Review Board (CCRB, the Agency, or the Board) substantiates an allegation of misconduct, the New York City Police Department (NYPD) portion of the disciplinary process begins. Although the CCRB can recommend the discipline that it deems appropriate, pursuant

to the New York City Charter, New York City Administrative Code, and New York State Civil Service Law,<sup>31</sup> the Police Commissioner has final approval over all member of service (MOS) discipline. The Commissioner can accept, reject, or modify any discipline recommendation made by the CCRB.

For each allegation of misconduct, the Board recommends one of five basic types of discipline, listed below in ascending order of severity:

1. **Instructions:** guidance issued by a commanding officer.
2. **Formalized Training:** given at the Police Academy or the Legal Bureau.
3. **Command Discipline A:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting five vacation days.<sup>32</sup> A Command Discipline A is automatically removed from a MOS' Central Personnel Index after one year.<sup>33</sup>
4. **Command Discipline B:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting 10 vacation days. A MOS can request that a Command Discipline B be removed from his or her Central Personnel Index after three years.
5. **Charges and Specifications:** leads to a prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT), who makes a guilty or not guilty determination. The Police Commissioner has final approval of all dispositions, but generally follows the recommendation of the DCT or ADCT.<sup>34</sup>

### OVERVIEW OF DISCIPLINARY PROCESS

In January 2018, the Board began utilizing a Disciplinary Framework, a non-binding matrix designed to guide Board Panel discussions on discipline recommendations. Use of the Framework does not impact whether a complaint will be substantiated by the Board—it is only used once cases have been substantiated. The goal of the Framework is to achieve consistent and fair discipline recommendations for both civilians and MOS. The Framework outlines six

allegation types that, if substantiated, typically would result in the recommendation of Charges and Specifications—the most severe level of discipline. These allegations include chokeholds, strip searches, warrantless entries, offensive language, excessive force with serious injury, and sexual misconduct. Under the Framework, Board Panels discuss the subject officer's CCRB history and the totality of the circumstances of the case to guide its

<sup>31</sup> NYS Civil Service Law § 75(3-a).

<sup>32</sup> Prior to 2014, the Board did not distinguish between "Command Discipline A" and "Command Discipline B." The corresponding disciplinary recommendation was simply "Command Discipline."

<sup>33</sup> A Central Personnel Index is a MOS' personnel record.

<sup>34</sup> In 2018, the Police Commissioner dismissed the trial verdict in one case (Fig. 33).

determination of the appropriate disciplinary recommendation.

When the Board recommends Instructions, Formalized Training, or Command Discipline against a MOS, that recommendation is sent to the Department Advocate’s Office (DAO). The DAO is the unit within the NYPD that reviews these disciplinary recommendations and recommends to the Police Commissioner whether to impose or modify the discipline recommended by the CCRB.

When the Board recommends Charges and Specifications, in most instances the substantiated allegations are prosecuted by the Administrative Prosecution Unit (APU).

The development of the APU increased the CCRB’s role in determining discipline for officer misconduct.

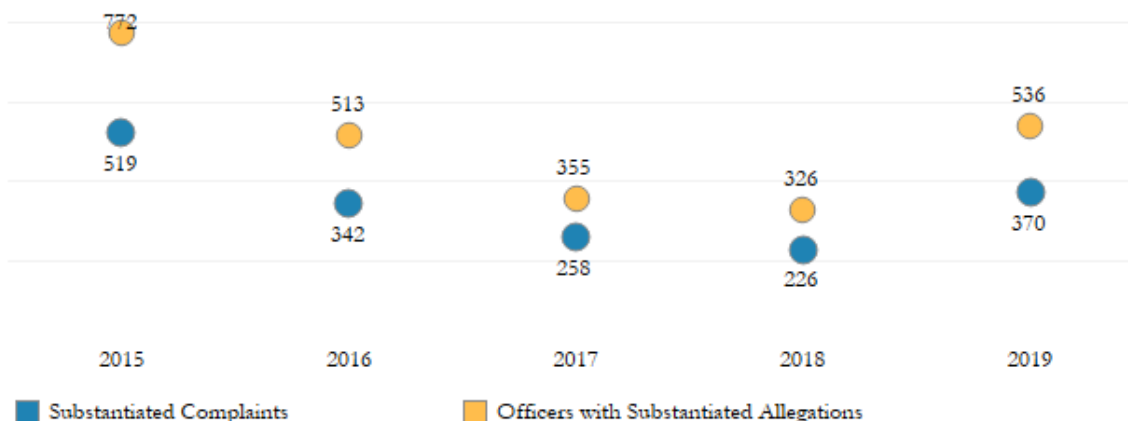
Under the terms of a Memorandum of Understanding (MOU) between the CCRB and the NYPD, signed in 2012 and in effect since 2013, the APU prosecutes misconduct before the DCT or ADCT. The MOS can accept a plea offer from an APU prosecutor in lieu of a trial. If the MOS chooses to go to trial and is found guilty, the trial commissioner will recommend a penalty. The Police Commissioner may accept, reject, or modify any plea or trial verdict or penalty recommendation.

### CCRB DISCIPLINARY RECOMMENDATIONS

In 2019, the Board substantiated 370 complaints against 536 police officers (Fig. 31). This is a sizeable increase from 2018, when the Board substantiated 226 complaints against 326 police officers. A single substantiated complaint may contain substantiated allegations against more than one officer, or multiple substantiated allegations against a single officer.

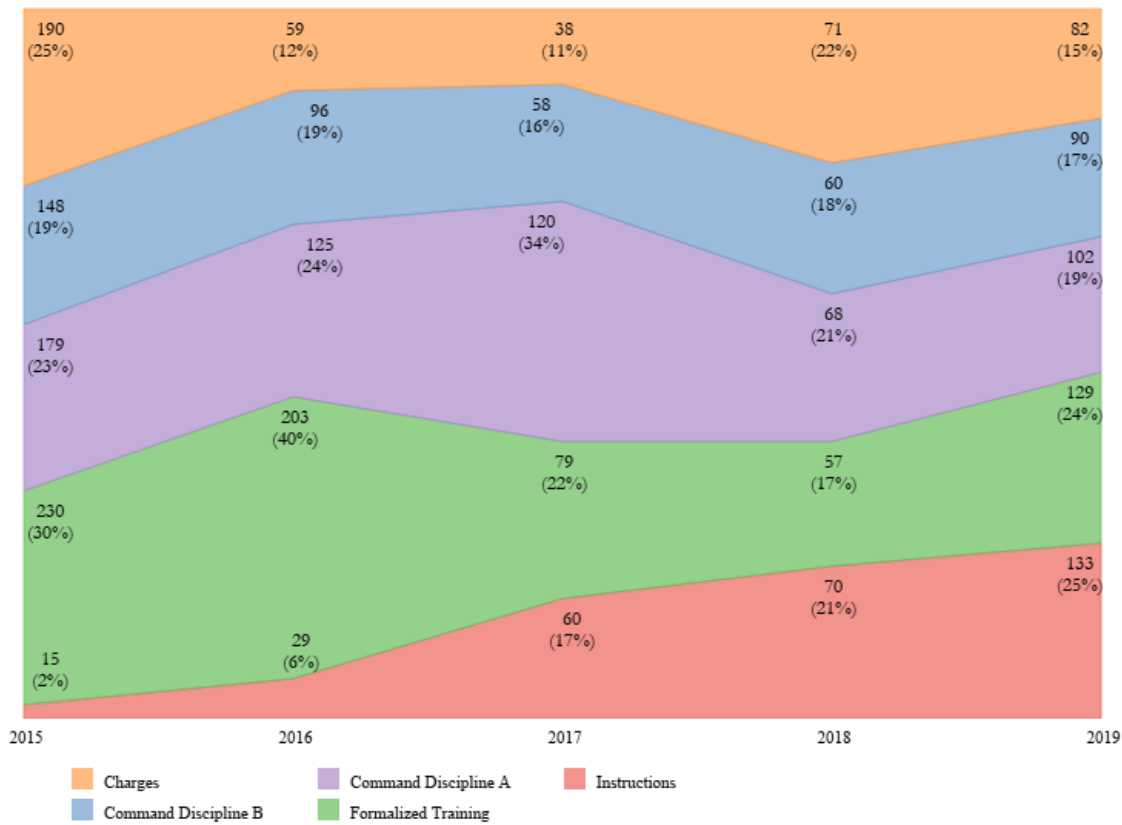
In 2019, the Board recommended Command Discipline A for 19% (102) and Command Discipline B for 17% (90) of officers against whom there was a substantiated allegation, down from 21% and 18% respectively in 2018 (Fig. 32, next page). The Board recommended Charges and Specifications for 15% of officers against whom there was a substantiated allegation in 2019, compared with 22% in 2018.

**Figure 31: Complaints Substantiated & Officers with Substantiated Allegations, 2015 – 2019<sup>35</sup>**



<sup>35</sup> Due to the reconsideration process, these counts are subject to change (see Section 5).

**Figure 32: Board Recommendations for Officers with Substantiated Allegations, 2015 – 2019<sup>36</sup>**

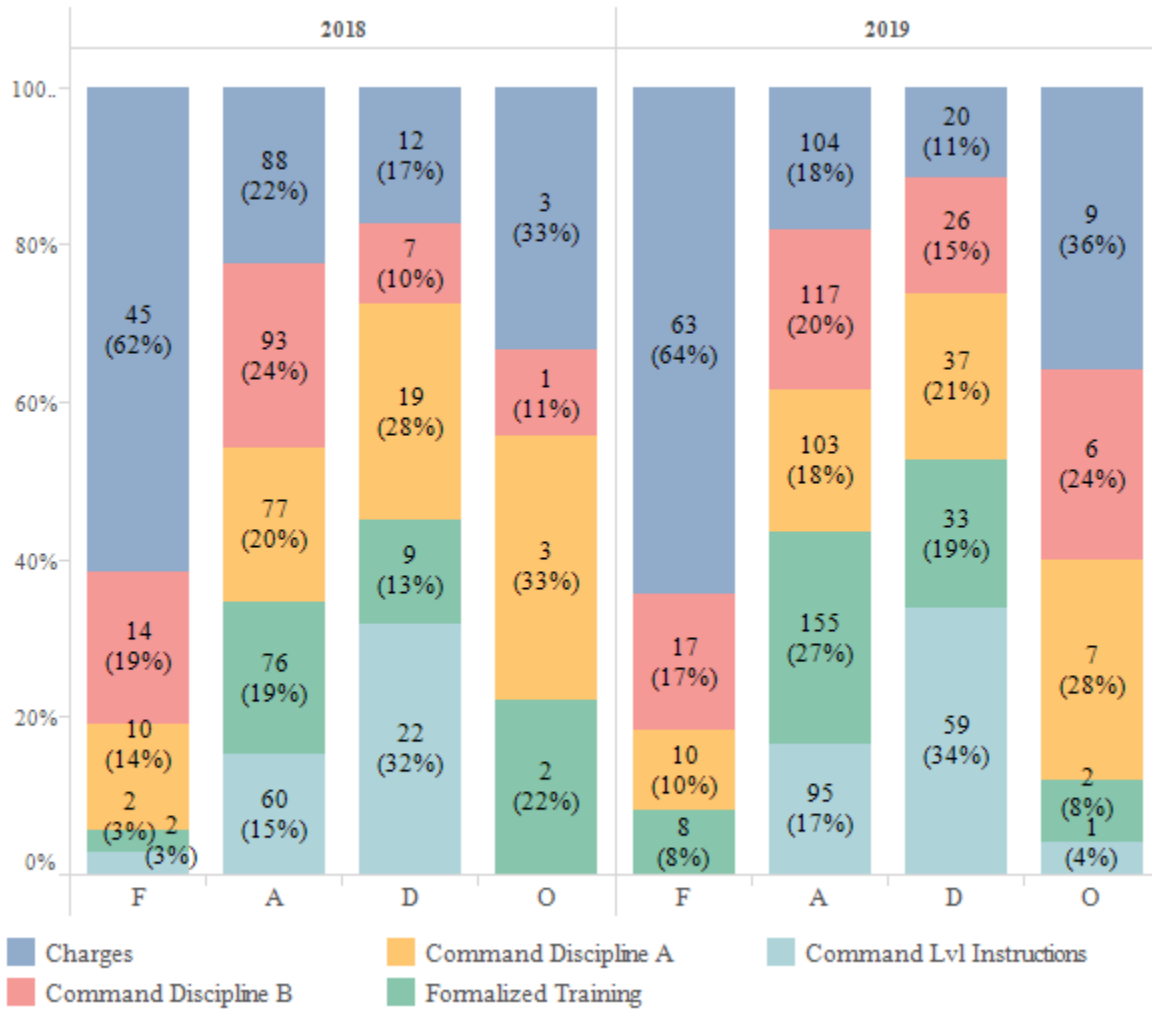


As depicted in Fig. 33, the Board recommended Charges and Specifications for 64% of the excessive Force allegations it substantiated in 2019. Charges and Specifications was also the most frequent recommendation for Offensive Language

allegations at 36%. The most common recommendation for Abuse of Authority allegations was Formalized Training at 27%. The top disciplinary recommendations for Discourtesy allegations was Command Level Instructions at 34%.

<sup>36</sup> Due to the reconsideration process, these counts are subject to change (see Section 5). In order to simplify viewing of this graphic, a previously-used CCRB category of “Command Discipline” has been excluded. There were seven officers with substantiations who received this disciplinary recommendation in 2015 and one in 2016.

**Figure 33: Board Disciplinary Recommendations by Substantiated FADO Allegations, 2018 & 2019**



## NYPD DISCIPLINARY DECISIONS

There are two paths for discipline after the Board substantiates misconduct, depending on the type of discipline recommended for the officer. The DAO handles cases where the Board recommends Command Discipline, Formalized Training, or Instructions. The APU handles most cases where the Board recommends Charges and Specifications.

When a substantiated allegation against an officer is referred to the DAO, the CCRB makes a recommendation regarding what disciplinary action should be taken. The DAO reports the final discipline imposed by the

Police Commissioner, if any, back to the CCRB.<sup>37</sup> In 2019, the NYPD took some form of disciplinary action (Charges, Command Discipline, Formalized Training, or Instructions) against 80% of the officers for whom discipline was recommended by the CCRB (including APU cases), down from 81% in 2018 (Fig. 34). In cases where the NYPD imposed discipline, the most common form of discipline imposed was Formalized Training (29%, down from 40% in 2018), followed by Instructions (27%, up from 15% in 2018).<sup>38</sup> Command Discipline was imposed 23% of the time in both 2018 and 2019.

**Figure 34: Department Advocate’s Office Disciplinary Actions on CCRB Cases, 2015 – 2019<sup>39</sup>**

NYPD Disciplinary Action	2015		2016		2017		2018		2019	
	Count	% Total	Count	% Total	Count	% Total	Count	% Total	Count	% Total
NYPD Pursued Discipline: Charges	2	1%	3	1%	8	2%	4	1%	2	1%
NYPD Pursued Discipline: Command Discipline	105	39%	122	29%	108	27%	81	23%	70	23%
NYPD Pursued Discipline: Formalized Training	75	28%	190	45%	128	32%	142	40%	87	29%
NYPD Pursued Discipline: Instructions	64	24%	66	16%	42	11%	55	15%	82	27%
NYPD Pursued No Discipline (DUP)	19	7%	29	7%	90	23%	57	16%	46	15%
Statute of Limitations Expired	1	0%	5	1%			4	1%	1	0%
Filed (officer resigned before PD action)	4	1%	4	1%	12	3%	5	1%	7	2%
Administratively Closed					5	1%	9	3%	10	3%
Dismissed					2	1%	1	0%		

## ADMINISTRATIVE PROSECUTION UNIT

<sup>37</sup> While the CCRB receives notification of the final category of discipline, the Agency does not receive specifics on the penalty that the Police Commissioner ultimately imposes. For instance, the NYPD reports to the CCRB whether an officer was given a Command Discipline A, but not the number of vacation days forfeited. Similarly, the Agency is made aware of the fact that training was given to an officer, but not the exact training module.

<sup>38</sup> In a small number of cases (labeled as “NYPD Pursued Discipline: Charges” in Figure 34), the CCRB does not recommend Charges and Specifications, but DAO determines the case should be tried in an administrative trial. This may be due to many factors, including that the officer rejected a Command Discipline and elected to go to trial, or the DAO determines that the case is serious enough to rise to the level of charges.

<sup>39</sup> The cases in this table are depicted by the penalty report date, not the year in which the cases were closed. In other words, the numbers reported in this Report are cases in which NYPD reported final discipline in this time frame, though the CCRB may have closed these cases in prior years. “Administratively closed” typically indicates that DAO is already investigating the incident itself.

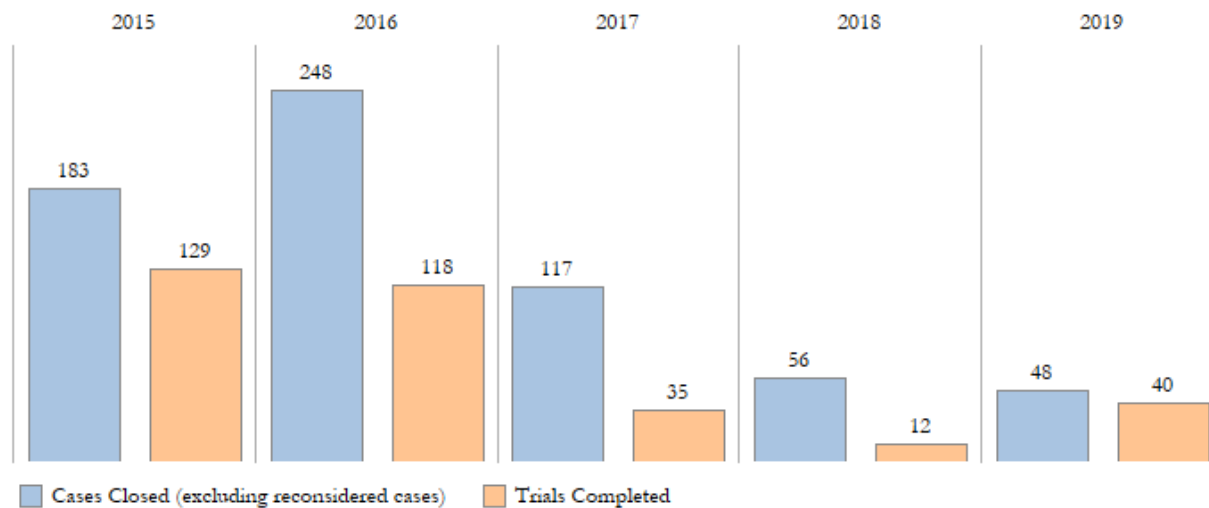
When the Board recommends Charges and Specifications against an officer in a substantiated case, the APU prosecutes the case unless the NYPD retains it. Retained cases are those in which the NYPD elects, pursuant to Section 2 of the MOU between the NYPD and the CCRB, to keep a case.<sup>40</sup> When the NYPD keeps a case pursuant to Section 2, it may or may not impose discipline on the officer.

The APU treats each officer against whom an allegation is substantiated as a separate case.<sup>41</sup> A single CCRB complaint may generate more than one APU case depending on the number of officers against whom the Board recommends Charges and Specifications. As seen in Fig. 35, in 2019, the APU completed

40 trials and closed a total of 48 cases, excluding cases reconsidered by the Board. Of the cases closed by the APU in 2019, 44 were adjudicated, and 28 (64%) of those resulted in some form of disciplinary action (Fig. 36, next page).

Of the 28 APU cases in which discipline was imposed in 2019, the most common penalty was a suspension or loss of vacation time. One officer was terminated, one received suspension for or loss of vacation time of 31 or more days and/or dismissal probation; three received suspension for or loss of vacation time of 21 to 30 days; five received a suspension or loss of vacation time of 11-20 days, and 15 received a suspension or loss of vacation time of one to 10 days (Fig. 37).

**Figure 35: APU Trials Conducted and Cases Closed, 2015 – 2019**



<sup>40</sup> Section 2 of the MOU states, “...in those limited instances where the Police Commissioner determines that CCRB’s prosecution of Charges and Specifications in a substantiated case would be detrimental to the Police Department’s disciplinary process, the Police Commissioner shall so notify CCRB. Such instances shall be limited to such cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer’s record and disciplinary history the interests of justice would not be served.” For the full text of the MOU, see [http://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/apu\\_mou.pdf](http://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf).

<sup>41</sup> The APU treats each officer as a separate “case,” therefore all APU data discussed in this Report uses the same terminology. While there may be trials or incidents that involve multiple officers, the word “case” should be interpreted as “case against a single officer.”



**Figure 36: APU Case Closures 2019**

Disciplinary Action	Not guilty after trial but Discipline Imposed	0
	Guilty after trial	15
	Trial verdict dismissed by PC, Comm. Disc. A imposed	0
	Trial verdict dismissed by PC, Comm. Disc. B imposed	0
	Trial verdict dismissed by PC, Formalized Training imposed	0
	Trial verdict dismissed by PC, Instructions imposed	0
	Trial verdict reversed by PC, Final verdict Guilty	0
	Resolved by plea	9
	Plea set aside, Comm. Disc. B	0
	Plea set aside, Comm. Disc. A	0
	Plea set aside, Formalized Training	0
	Plea set aside, Instructions	0
	*Retained, with discipline	4
	<b>Total</b>	<b>28</b>
No Disciplinary Action	Not guilty after trial	13
	Trial verdict reversed by PC, Final verdict Not Guilty	1
	Plea set aside, Without discipline	0
	**Retained, without discipline	2
	Dismissed by APU	0
	SOL Expired in APU	0
<b>Total</b>	<b>16</b>	
Not Adjudicated	Charges not served	1
	Deceased	0
	Other	3
	***Previously adjudicated, with discipline	0
	***Previously adjudicated, without discipline	0
	†Reconsidered by CCRB Board	5
	Retired	0
	SOL Expired prior to APU	0
<b>Total</b>	<b>9</b>	
<b>Total Closures†</b>	<b>53</b>	

\*Retained cases are those in which the Department kept jurisdiction pursuant to Section 2 of the April 2, 2012 Memorandum of Understanding between the NYPD and the CCRB.

\*\* When the Department keeps jurisdiction pursuant to Section 2 and does not impose any discipline on the officer, it is the equivalent of a category referred to as "Department Unable to Prosecute" (DUP). Cases are referred to as DUP when the Department decides that it will not discipline an officer against whom the Board recommended discipline other than charges.

\*\*\* In some cases, the Department conducts its own investigation and prosecution prior to the completion of the CCRB's investigation. In those cases, the APU does not conduct a second prosecution.

† Under the Board's reconsideration process, an officer who has charges recommended as the penalty for a substantiated allegation may have the recommended penalty changed to something other than charges or have the disposition changed to something other than substantiated. In those cases, the APU ceases its prosecution.

**Figure 37: Discipline Imposed for Adjudicated APU Cases, 2019**

Terminated	1
Suspension for or loss of vacation time of 31 or more days and/or Dismissal Probation	1
Suspension for or loss of vacation time of 21 to 30 days	3
Suspension for or loss of vacation time of 11 to 20 days	5
Suspension for or loss of vacation time of 1 to 10 days	15
Command Discipline B	0
Command Discipline A	2
Formalized Training**	0
Instructions***	1
Warned & Admonished/Reprimanded	0
Disciplinary Action Total	28
No Disciplinary Action	15
Adjudicated Total	43
Discipline Rate	65%
Closed - Not Adjudicated	8
Total Closures	51

\*\* Formalized training is conducted by the Police Academy, the NYPD Legal Bureau, or other NYPD Units.

\*\*\* Instructions are conducted at the command level

## DISCIPLINE CONCURRENCE RATES

In addition to the overall rate of discipline imposed by the Police Commissioner, the Agency tracks whether the discipline imposed was in concurrence with the recommendation of the Board. When the Police Commissioner's discipline is less severe than the Board's recommendation, the discipline is not in concurrence.

For cases in which the Board recommended Command Discipline, Formalized Training, or Instructions, the Police Commissioner imposed the discipline recommended by the Board 51% of the time in 2019, compared

with 53% in 2018 (Fig. 38).<sup>42</sup> Cases in which the Board recommended discipline but no discipline was imposed by the Police Commissioner decreased to 15% from 16% in 2018.

For cases in which Charges and Specifications were recommended by the Board and were subsequently prosecuted by the APU, the concurrence rate was 32% in 2019 (Fig. 39). In 30% of the cases, this was due to a "not guilty" verdict at trial, and in 20% of cases, the penalty imposed was lower than what was requested at trial (Fig. 40).<sup>43</sup>

**Figure 38: Non-Charges Discipline Rate, 2015 – 2019**

	2015	2016	2017	2018	2019
Discipline Concurrence	167 (62%)	275 (66%)	169 (43%)	188 (53%)	155 (51%)
Discipline Difference	78 (29%)	106 (25%)	117 (30%)	94 (26%)	85 (28%)
No Discipline	19 (7%)	29 (7%)	90 (23%)	57 (16%)	46 (15%)
Other	5 (2%)	9 (2%)	19 (5%)	19 (5%)	18 (6%)
<b>Grand Total</b>	<b>269 (100%)</b>	<b>419 (100%)</b>	<b>395 (100%)</b>	<b>358 (100%)</b>	<b>304 (100%)</b>

**Figure 39: APU Discipline and Penalty Concurrence Rate, 2015 – 2019**

	2015	2016	2017	2018	2019
Discipline Concurrence	47 (29%)	94 (39%)	31 (27%)	17 (35%)	14 (32%)
Not Guilty	62 (39%)	67 (28%)	39 (34%)	3 (6%)	13 (30%)
Penalty Lower Than Requested At Trial	44 (27%)	44 (18%)	21 (18%)	8 (17%)	9 (20%)
Plea Set Aside - discipline imposed	4 (2%)	18 (8%)	6 (5%)	1 (2%)	
Plea Modified - penalty reduced		2 (1%)	5 (4%)	10 (21%)	1 (2%)
Retained - discipline imposed	3 (2%)	5 (2%)	4 (3%)	6 (13%)	4 (9%)
Retained - no discipline imposed		3 (1%)	2 (2%)	2 (4%)	2 (5%)
Plea Set Aside - no discipline imposed		4 (2%)	3 (3%)		
Guilty Verdict Reversed - final verdict not guilty	1 (1%)	3 (1%)	4 (3%)	1 (2%)	1 (2%)
<b>Grand Total</b>	<b>161 (100%)</b>	<b>240 (100%)</b>	<b>115 (100%)</b>	<b>48 (100%)</b>	<b>44 (100%)</b>

## SECTION 4: MEDIATION

<sup>42</sup> The "Other" category include cases in which the MOS resigned before discipline could be imposed, cases where the statute of limitations expired before discipline could be imposed, cases that were administratively closed, and cases where the Charges and Specifications were dismissed. See Figure 33 for a numeric breakdown of those cases.

<sup>43</sup> Cases in which the Police Commissioner modified a plea but increased the penalty are included in the concurrence rate. The "Penalty Lower than Requested at Trial" category includes cases in which the officer was found not guilty of some (but not all) allegations, leading to the overall reduction of penalty.

The New York City Charter mandates that the Civilian Complaint Review Board (CCRB, the Agency, or the Board) offer mediation as an option for resolving allegations of police misconduct. The goal of the Mediation Program is to allow civilians and officers the opportunity to voluntarily resolve the issues contained in the complaint by means of a face-to-face meeting, with the assistance of a neutral mediator.

The Agency seeks to offer mediation to a civilian in every suitable case. Mediation is not offered in all cases because there are some factors that render a complaint unsuitable for the Mediation Program. These include allegations of serious physical injury or property damage, a pending criminal case or a civil lawsuit, or a concurrent Internal Affairs Bureau investigation.

Mediation is complainant-driven and voluntary; a case will only go to the Mediation Unit if the complainant wants to participate in mediation. Investigators are required to fully describe both the mediation process and the investigative process to complainants in mediation-suitable cases. After being provided with both options, the complainant can choose the process in which to participate. Once the complainant agrees to mediation, the option is then presented to the officer. Mediations only take place when both the complainant and the officer have voluntarily agreed to mediate the complaint. Complainants reserve the right to have the case sent back to the investigation process if they are unsatisfied with mediation.

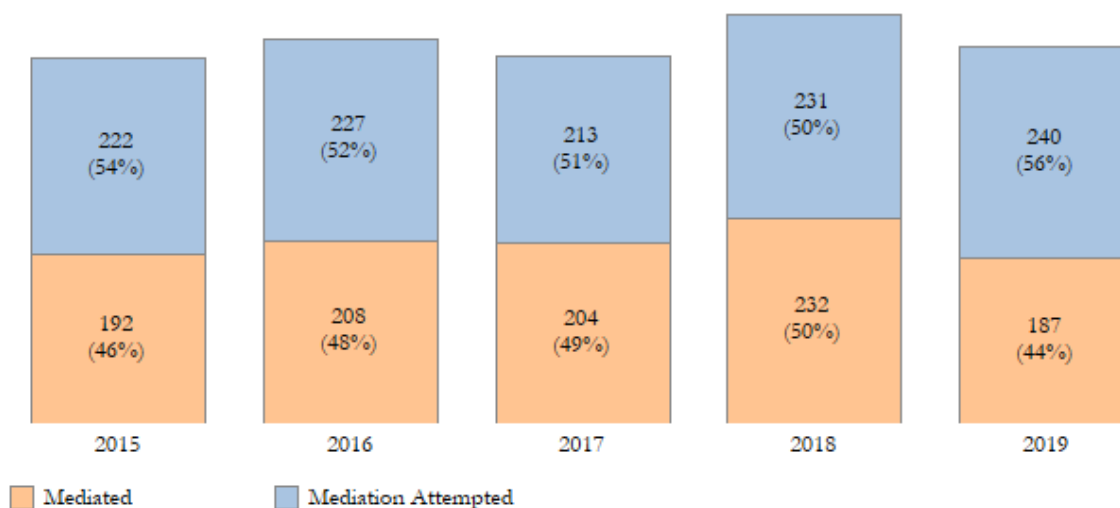
A mediation session ends when all parties involved agree that they have had an

opportunity to discuss the issues in the case. In most mediated cases, the parties resolve the allegations raised in the complaint. After a completed mediation, the complaint is closed as “mediated,” meaning that there will be no further investigation and the officer will not be disciplined. If the mediation is not completed, the case returns to the Investigations Division for a full investigation. Mediations can lead to better police-community relations because a measure of trust and respect often develops between the parties during the mediation.

The Mediation Unit provides a valuable alternative method for resolving complaints. While an investigation is focused on evidence-gathering, fact-finding, and the possibility of discipline, a mediation session is forward-looking with the goal of fostering discussion and mutual understanding between the civilian and the officer. Mediation gives civilians and officers the chance to meet as equals, in a private, neutral, and quiet space. A trained, neutral mediator contracted by the CCRB guides the session and facilitates a confidential dialogue about the circumstances leading to the complaint.

In 2019, the Mediation Unit successfully mediated 187 cases (56%) and 187 cases (44%) were closed as “mediation attempted” (Fig. 40, next page). Mediation attempted is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for the scheduled mediation session without good cause, or fails to respond to attempts to schedule a mediation session, and the civilian does not request that the investigation resume.

**Figure 40: Mediation Closures, 2015 – 2019**



In 2019, it took an average of 128 days to mediate a complaint (Fig. 41). This continues the steady increase in mediation completion times since 2016. This is related both to the previously-discussed increase in overall

investigation times at the CCRB, and the increase in the proportion and raw number of mediated cases, leading to higher caseloads and longer processing times for Mediation Unit staff.

**Figure 41: Average Days to Completed Mediation, 2015 – 2019**

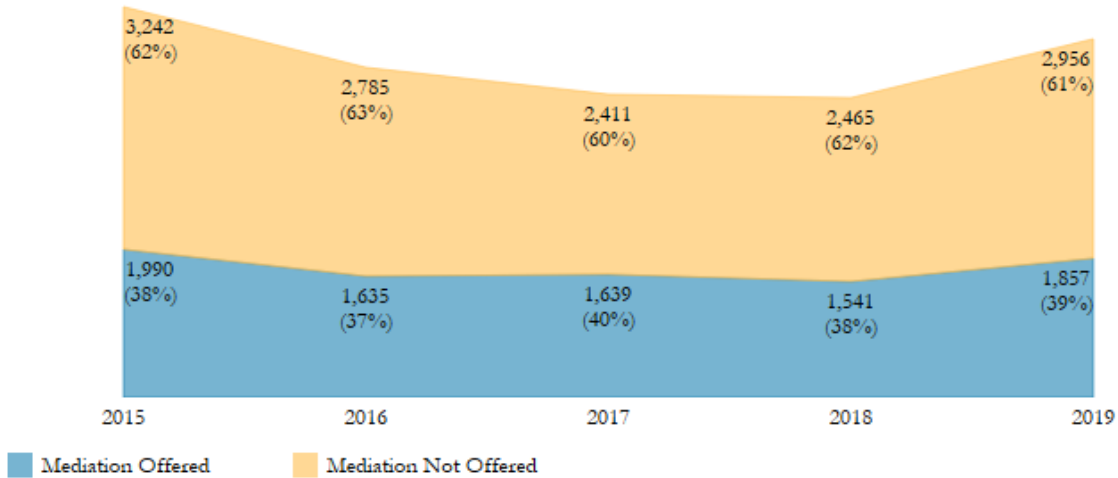


As noted, mediation is not offered in all cases. Mediation was offered in 39% of cases closed in 2019 (Fig. 42, next page). For cases closed in 2019, the mediation acceptance rate for civilians was 39%, down from 43% the

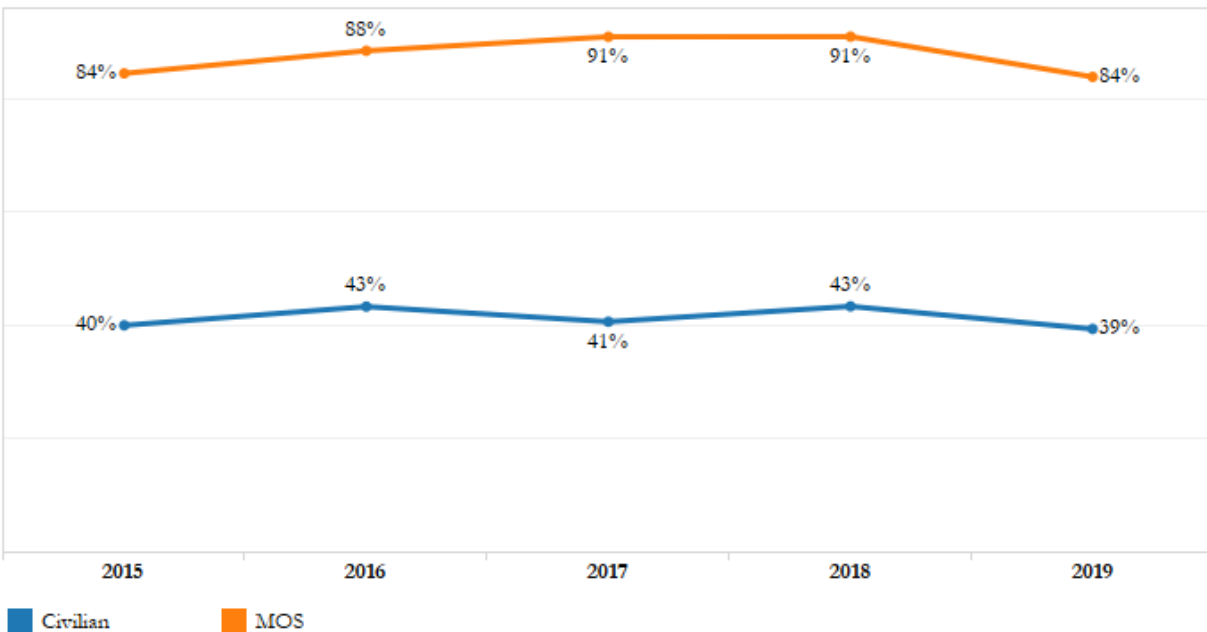
previous year (Fig. 43, next page). Officers who were offered the chance to mediate a complaint accepted mediation 84% of the time, down from 91% a year prior.<sup>44</sup>

<sup>44</sup> Allegations contained in mediated complaints are not reflected in the officer’s NYPD disciplinary record.

**Figure 42: Percentage of Cases in which Mediation was Offered, Cases Closed 2015 – 2019**



**Figure 43: Number of Civilians and MOS that Accepted Mediation, 2015 – 2019**



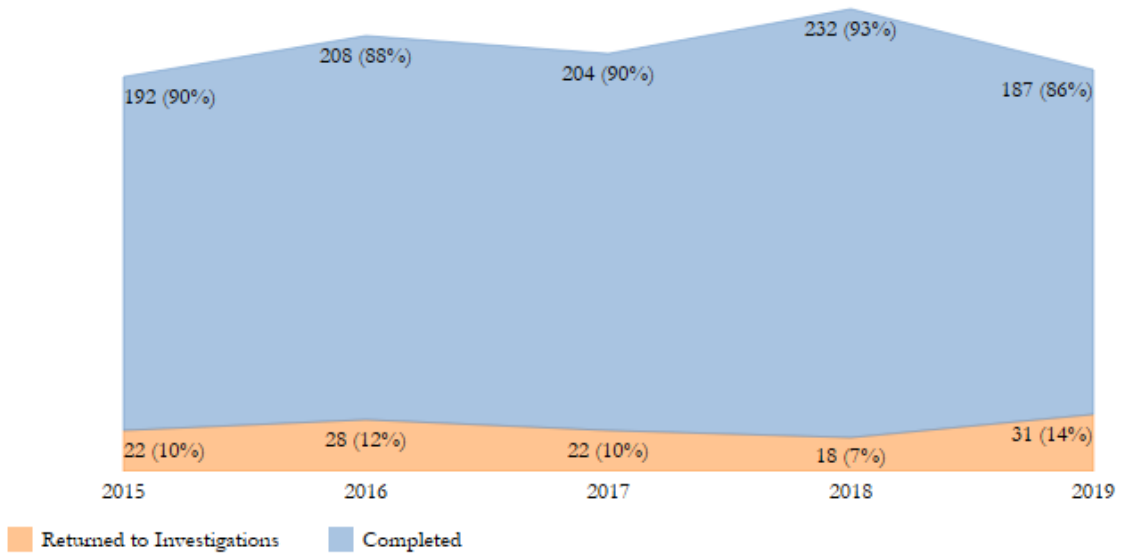
**Number of Civilians and MOS that Accepted Mediation**

	2015	2016	2017	2018	2019
<b>Civilian</b>	796	708	666	668	731
<b>MOS</b>	601	640	637	719	724

When both parties agree to mediate, mediation is a very effective way of resolving complaints and facilitating productive discussion between complainants and officers. In 2019, the Mediation Unit conducted 218 mediation sessions, resulting

in 187 satisfactory resolutions, an 86% success rate, which is lower than the success rates of the prior four years (Fig. 44). The remaining 31 complaints were returned to an investigator and closed by the Investigations Division.

**Figure 44: Mediation Completion Rate, 2015 – 2019**



## SECTION 5: RECONSIDERATIONS

### CCRB-NYPD RECONSIDERATION PROCESS

Since December 2014, the Civilian Complaint Review Board (CCRB, the Agency, or the Board) and the New York City Police Department (NYPD) have engaged in a formal reconsideration process. The process allows the Department Advocate's Office (DAO) to request that the Board reconsider its findings

and/or discipline recommendations for a substantiated allegation or case. The Board does not automatically reverse its decision upon request. The CCRB only changes its case disposition or discipline recommendation when doing so is in the interest of fairness.

The Board may change its decision on a previously-substantiated case if:

- (a) The discipline recommended against any subject officer is determined upon reconsideration to be inappropriate or excessive; and<sup>45</sup>
- (b) There are new facts or evidence that were not previously known to the Board Panel, and such facts or evidence could reasonably lead to a different finding or recommendation in the case; or
- (c) There are matters of law that were overlooked, misapprehended, or incorrectly applied by the Board Panel.

Although some reconsideration requests are the product of new information that was unavailable to the CCRB at the time of the original investigation, others may represent differing views between the CCRB and NYPD with respect to legal standards, civilian credibility, or appropriate level of discipline. The Board takes reconsideration requests very seriously and does not compromise the integrity of its independent investigative findings when deciding whether to change its recommendations.

In 2017, reconsideration requests had to be submitted to the CCRB within 90 days of DAO's receipt of the case. In February 2018, new Board rules went into effect, and the

time limit to submit a reconsideration request was changed to 30 business days. If a reconsideration request is submitted after the 30-business day deadline, the CCRB will deny the request unless the DAO submits new facts or applicable laws regarding the case.

When the NYPD requests reconsideration, it first sends a notification of such to the CCRB, and then follows up with a letter explaining the reasons for the request. In 2019, the CCRB received a total of 44 reconsideration requests for members of service (MOS) with substantiated allegations (Fig. 45).<sup>46</sup> These reconsideration requests concerned substantiated allegations made against 52 of the 536 MOS against whom the CCRB substantiated allegations in 2019 (Fig. 46).<sup>47</sup>

<sup>45</sup> In some cases, the Board may reconsider its decision based upon additional disciplinary information provided by the NYPD. Reconsideration requests typically include a summary of the MOS' entire NYPD disciplinary history—information that is not available to the Board at the time of its initial vote.

<sup>46</sup> One complaint may feature multiple allegations against multiple MOS. Reconsideration requests received in 2018 may be related to complaints closed in prior quarters.

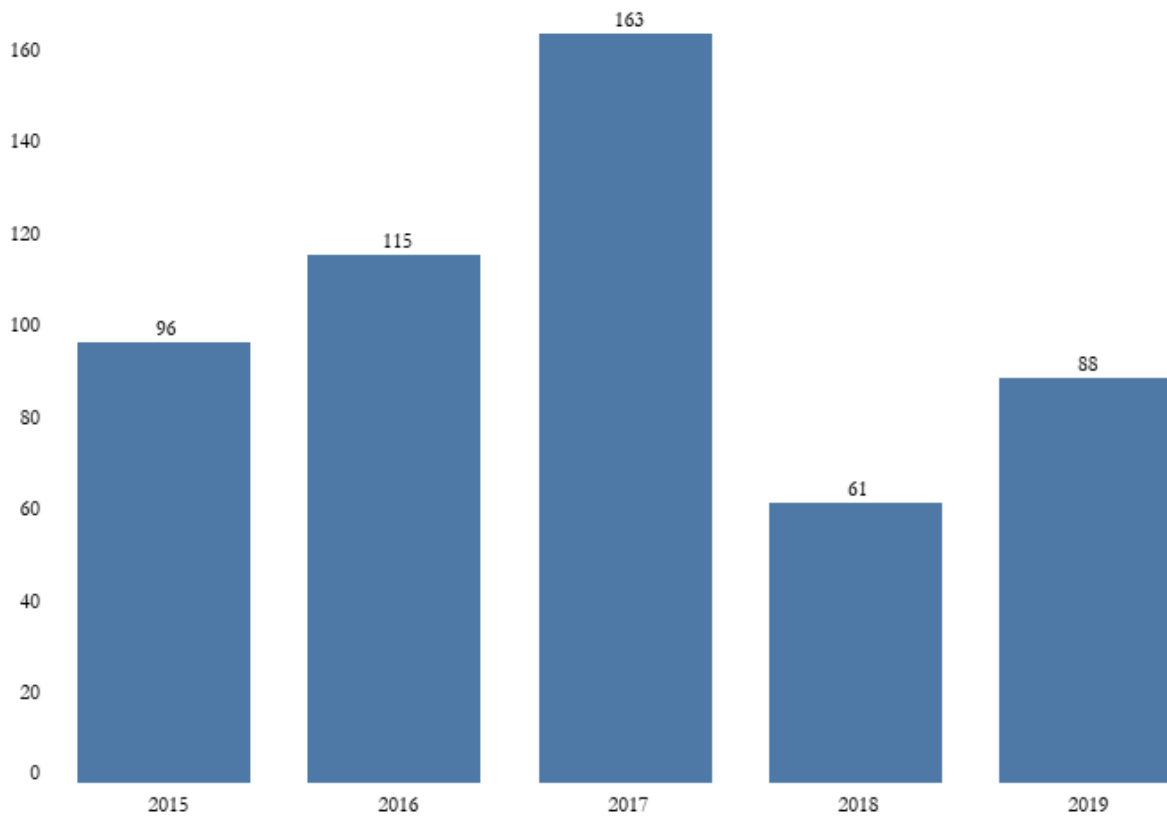
<sup>47</sup> In 2020, the CCRB upgraded its Case Tracking System, an internally-programmed piece of software that



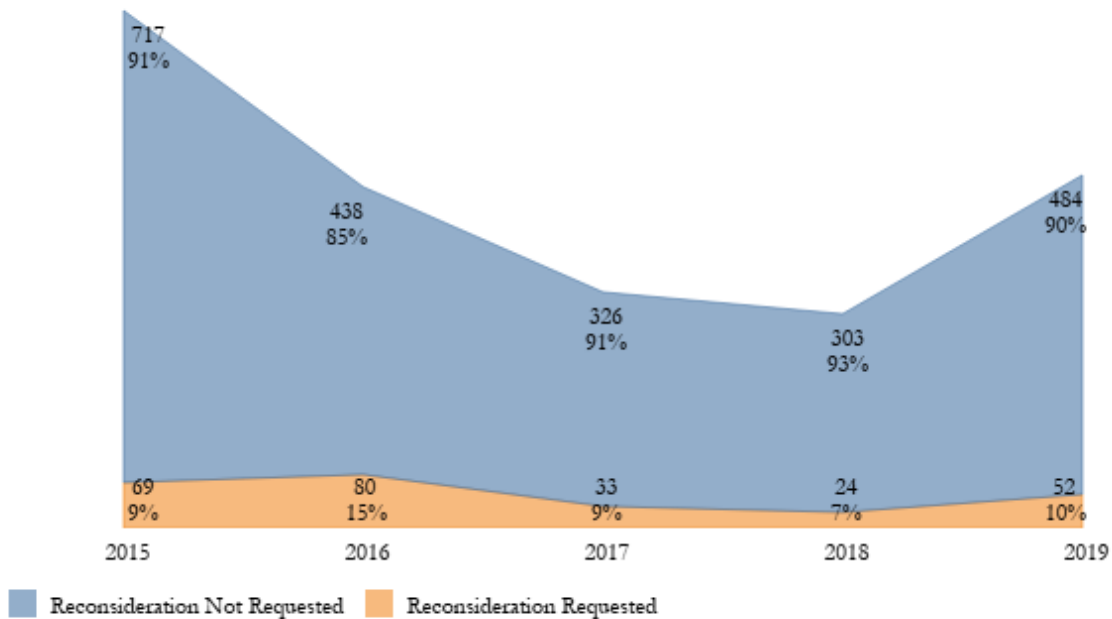
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tracks all of the Agency's investigations, mediations, and prosecutions, and holds all of the CCRB's data. During this process, corrections were made to previously manually-tracked reconsideration request numbers to ensure accuracy. As such, some of the numbers in this section may be close, but not identical, to those reported in previous Annual and Semi-Annual Reports.

**Figure 45: Number of Reconsideration Requests Received, 2015 - 2019**



**Figure 46: Total Number of MOS with Substantiated Allegations for whom Reconsiderations Were Requested and Not Requested by Case Closing Date, 2015 - 2019**



The table in Fig. 47<sup>48</sup> depicts the most common reasons given for reconsideration requests, broken down by year. While each request may feature several reasons, up to three reasons provided for each officer and allegation pair are represented in Fig. 47. In 2019, the most common reason given for a

reconsideration request received by the CCRB fell into the category of “Disagree with CCRB findings” at 38% (48), a category that means that the NYPD disagreed with the facts or legal interpretation applied in the case without citing new laws or new facts.

**Figure 47: Top Listed Reasons for Reconsideration Request, 2018 –2019**

Reasons for Reconsideration		2018		2019	
		Number	Percent of Total	Number	Percent of Total
<b>New Fact</b>					
	New Evidence			6	5%
	Specific Facts and Circumstances of Case	1	1%		
<b>New Law</b>					
	Case Precedent	1	1%		
	Improper case law applied				
	Improper interpretation of Patrol Guide			1	1%
	Incorrect pleading of allegation	2	1%		
<b>Disciplinary History</b>					
	No related disciplinary history	2	1%		
	No departmental disciplinary history	29	19%	19	15%
	No related CCRB history	3	2%		
	No prior CCRB complaints/disciplinary history	13	9%	9	7%
	No prior CCRB substantiations	28	19%	25	20%
	CCRB allegation history does not show pattern of similar conduct	2	1%		
	Highly rated officer	4	3%	1	1%
<b>Other</b>					
	Disagree with CCRB findings	41	27%	48	38%
	Not sufficient evidence	5	3%		
	Previously investigated by PD				
	Officer was not acting in bad faith	18	12%	15	12%
	Outside CCRB jurisdiction	2	1%	1	1%
	No sworn statement from complainant				
	Civilian abuse of CCRB				
<b>Total</b>		151	100%	125	100%

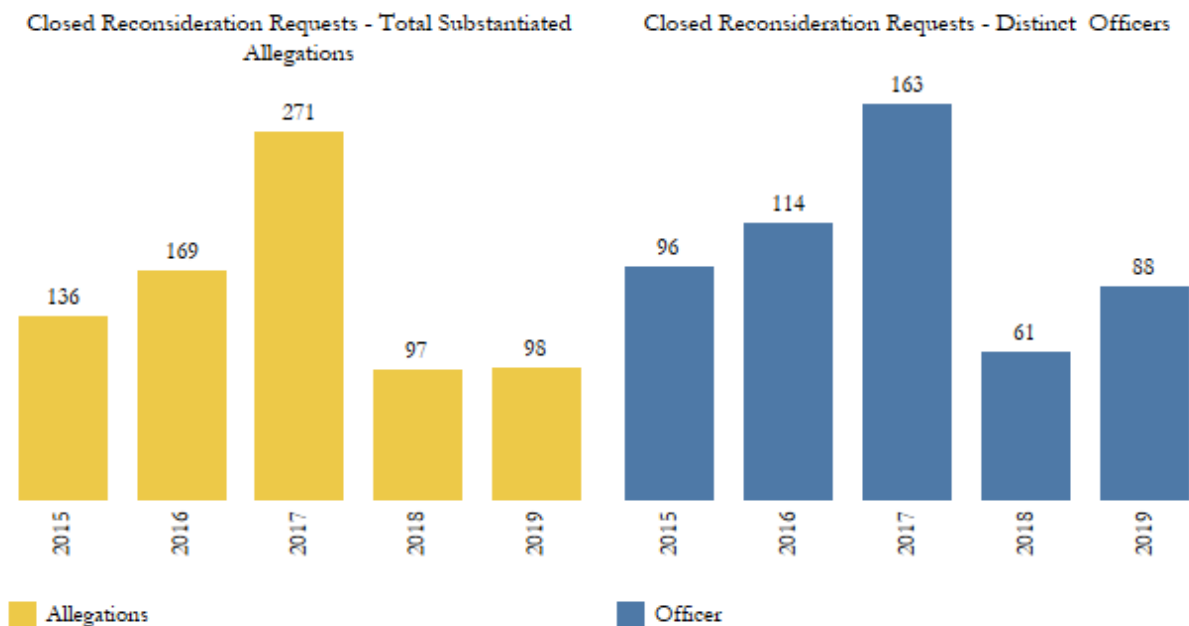
## OUTCOMES OF RECONSIDERATION REQUESTS

In 2019, the Board closed reconsideration requests for 88 officers (a reconsideration request closed in 2019 may have stemmed from a complaint closed in a previous year), an increase from 61 in 2018 (Fig. 48). Because the Department may request

reconsideration of multiple substantiated allegations against a single officer involved in a complaint, the total number of allegations reconsidered exceeds the number of officers who have had allegations reconsidered.

<sup>48</sup> The reasons given by the DAO for the reconsideration requests depicted in Fig. 48 do not match the number of total requests received because multiple reasons may be given in the same request.

**Figure 48: Reconsiderations by Date of Case Reconsideration by the CCRB, 2015 – 2019<sup>49</sup>**

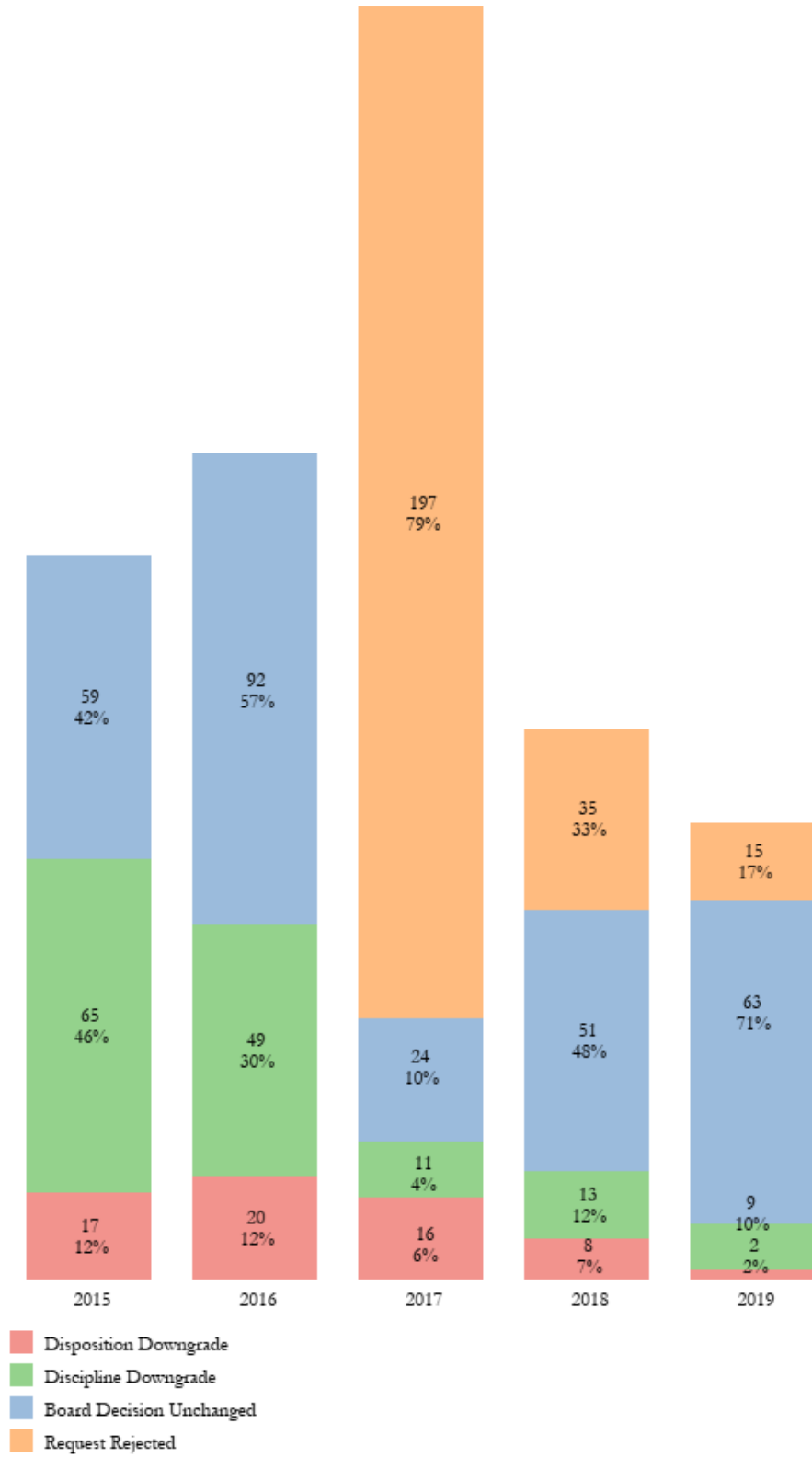


One of the most common questions about the reconsideration process is how many MOS with substantiated allegations have those allegations reconsidered. Of the 89 officers whose reconsideration requests were closed by the CCRB in 2019, the Board downgraded the disposition for two officers (2%), downgraded the discipline recommendation

for nine officers (10%), maintained the original decision for 63 officers (71%), and rejected the request for 15 officers (17%) (Fig. 49). Figure 50 details the specific change in either disposition or disciplinary recommendation that the NYPD requested, and compares this request with the Board’s final decisions.

<sup>49</sup> Due to the length of time it takes for the NYPD to submit requests for reconsideration, the CCRB expects the Reconsideration Requested numbers for cases closed in this Report’s time period to rise.

**Figure 49: Reconsideration Outcomes by Reconsideration Year 2015 – 2019**



**Figure 50: Reconsideration Decision Detail, 2015 – 2019**

Initial Disposition to Final Disposition (after Reconsideration)	2015	2016	2017	2018	2019
Substantiated (Charges) to Substantiated (Command Discipline B)	4	4			1
Substantiated (Charges) to Substantiated (Command Discipline A)	3	1	1		1
Substantiated (Charges) to Substantiated (Formalized Training)	4	6		1	
Substantiated (Charges) to Substantiated (Command Lvl Instructions)		1			
Substantiated (Charges) to Substantiated (No Recommendations)	1				
Substantiated (Charges) to Exonerated		2			
Substantiated (Charges) to Unsubstantiated	2	1			1
Substantiated (Command Discipline) to Substantiated (Command Discipline)	21				
Substantiated (Command Discipline) to Substantiated (Command Discipline A)	3				
Substantiated (Command Discipline) to Substantiated (Formalized Training)	26		1		
Substantiated (Command Discipline) to Substantiated (Instructions)	2	2			
Substantiated (Command Discipline) to Exonerated	1				
Substantiated (Command Discipline) to Unsubstantiated	7				
Substantiated (Command Discipline B) to Substantiated (Command Discipline B)	5	16	7	20	24
Substantiated (Command Discipline B) to Substantiated (Command Discipline A)	3	14	1	2	3
Substantiated (Command Discipline B) to Substantiated (Formalized Training)	6	11	3	8	3
Substantiated (Command Discipline B) to Substantiated (Command Lvl Instructions)				2	
Substantiated (Command Discipline B) to Substantiated (Instructions)	1				
Substantiated (Command Discipline B) to Substantiated (No Recommendations)	1				
Substantiated (Command Discipline B) to Exonerated				2	
Substantiated (Command Discipline B) to Unfounded			1		
Substantiated (Command Discipline B) to Unsubstantiated		1		5	
Substantiated (Command Discipline A) to Substantiated (Command Discipline A)	10	34	10	11	10
Substantiated (Command Discipline A) to Substantiated (Formalized Training)	14	5	5		
Substantiated (Command Discipline A) to Substantiated (Command Lvl Instructions)		2			1
Substantiated (Command Discipline A) to Exonerated		2	1		
Substantiated (Command Discipline A) to Unsubstantiated	3	4	11		
Substantiated (Formalized Training) to Substantiated (Command Discipline A)	3				
Substantiated (Formalized Training) to Substantiated (Formalized Training)	8	16	7		3
Substantiated (Formalized Training) to Substantiated (Command Lvl Instructions)		3			
Substantiated (Formalized Training) to Exonerated		5			1
Substantiated (Formalized Training) to Unsubstantiated		5	2	1	
Substantiated (Instructions) to Substantiated (Command Discipline A)	1				
Substantiated (Instructions) to Substantiated (Formalized Training)	1				
Substantiated (Command Lvl Instructions) to Substantiated (Command Lvl Instructi..					1
Substantiated (Instructions) to Substantiated (Instructions)	7				
Substantiated (Command Lvl Instructions) to Unsubstantiated			1		
Substantiated (Instructions) to Exonerated	1				
Substantiated (Instructions) to Officer(s) Unidentified	1				
Substantiated (Instructions) to Unsubstantiated	2				
<b>Grand Total</b>	<b>141</b>	<b>135</b>	<b>51</b>	<b>52</b>	<b>49</b>

## SECTION 6: THE IMPACT OF BODY-WORN CAMERA FOOTAGE AND OTHER VIDEO EVIDENCE

In 2013, Judge Shira Scheindlin of the United States District Court for the Southern District of New York, presiding over *Floyd v. City of New York*,<sup>50</sup> found that the New York City Police Department (NYPD) violated the Fourth and Fourteenth Amendments through its use of unconstitutional stop, question, and frisk practices. The court also found that the NYPD had a “policy of indirect racial profiling” that disproportionately targeted Black and Hispanic individuals for stops. As a result, the court ordered changes to certain policies, practices, and training curricula, and appointed a monitor to oversee these reforms. The court also ordered a one-year Body-Worn Camera (BWC) pilot to determine whether BWCs were effective in reducing unconstitutional stops.

From December 2014 through March 2016, the NYPD conducted a small BWC experiment utilizing 54 volunteer police officers. After reviewing the results of this experiment, the

NYPD began the larger-scale court-ordered pilot on a precinct-by-precinct basis starting in April 2017. The NYPD, in collaboration with the court-appointed monitor, is working to evaluate its procedures and the effectiveness of the program but has also voluntarily expanded deployment of BWCs to additional commands during the pilot program. By December 31, 2018, BWCs had been deployed to 15,826 members of service (MOS) across 81 commands, and at present, the rollout of BWCs across all intended recipients is complete.

The NYPD provides informational videos in several languages, including sign language, about the BWC rollout on its website,<sup>51</sup> and a copy of the Draft Operations Order governing the use of BWCs is included in Appendix B of the NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy report.<sup>52</sup>

### HOW THE CCRB OBTAINS BWC EVIDENCE

In 2019, the Civilian Complaint Review Board (CCRB) obtained BWC footage from the NYPD via the following process:

1. If a misconduct complaint stems from a precinct in which BWCs have been deployed, the CCRB investigator submits a records request to the NYPD Relations Unit for BWC footage.
2. The NYPD Relations Unit forwards the request to the NYPD’s Internal Affairs Bureau (IAB) and Legal Bureau.
3. Once the Legal Bureau approves the request and locates the BWC footage, the video is sent back to IAB, which uploads the footage to a network drive shared with the CCRB. If the Legal Bureau is unable to locate footage matching the request, it notifies IAB that no footage was found.
4. The CCRB downloads the footage from the shared network drive.
5. If the BWC footage reveals the existence of additional officers on the scene who had BWCs, or other evidence suggests that the NYPD’s response that it was unable to locate BWC

<sup>50</sup> *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

<sup>51</sup> NYPD, *Body-Worn Cameras*, <http://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page> (last visited Apr. 7, 2020).

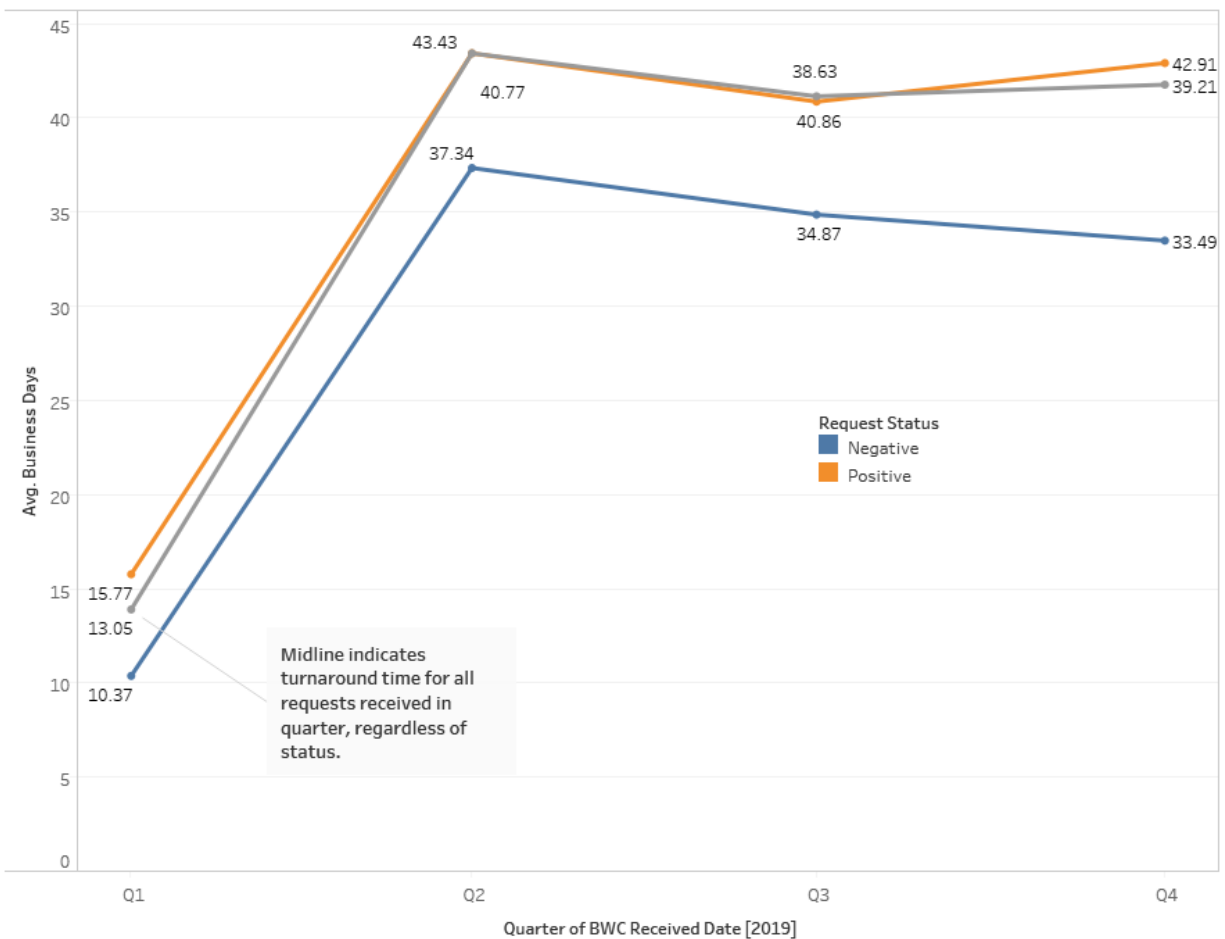
<sup>52</sup> NYPD, *NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy* (Apr. 2017), [https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/body-worn-camera-policy-response.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/body-worn-camera-policy-response.pdf).

footage, may have been a false negative, the CCRB investigator must submit a new request specifying the additional BWC footage that is needed.

In 2019, the CCRB requested BWC footage in 3,745 complaints. In 2019, it took an average of 36 business days for the CCRB to receive BWC footage from the NYPD—a significant increase from the 10 days reported in the CCRB 2018 Annual Report. This turnaround time was longest in Q2 2019 (Fig. 52). For more information on the unfolding and current status of open BWC requests, see the CCRB Monthly Statistical Reports.<sup>53</sup>

In November of 2019, the CCRB and the NYPD entered into a Memorandum of Understanding (MOU) designed to streamline the BWC access procedure, allowing CCRB investigators to search BWC databases alongside NYPD staff and view unredacted footage. The CCRB will report further on this new process once it goes into effect.

**Figure 51: Average BWC Request Turnaround Times, Requests Closed 2019**



## THE IMPACT OF BWC AND OTHER VIDEO EVIDENCE

Over the last few years, the amount of video evidence collected by the CCRB has increased

dramatically. As seen in Figure 53, complaints without video evidence are now in the

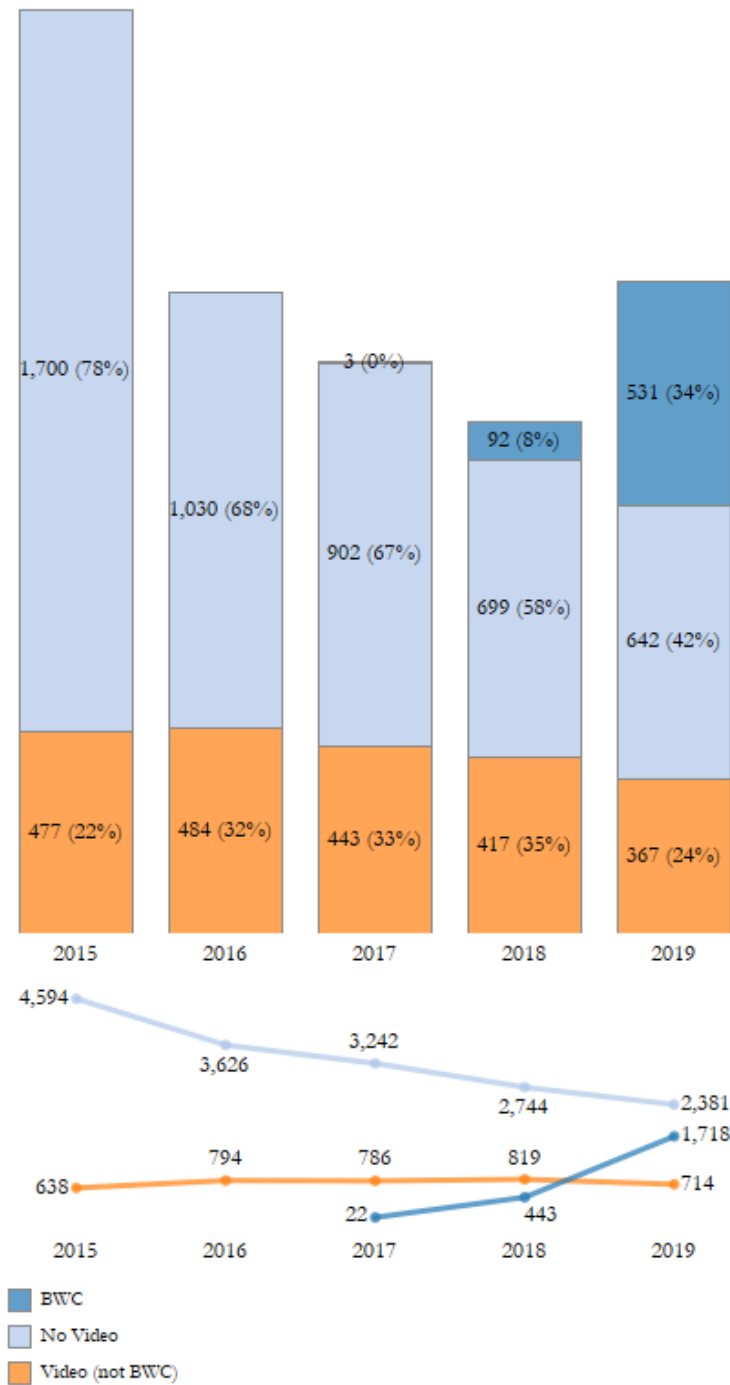
<sup>53</sup> CCRB, Monthly Statistical Reports, <https://www1.nyc.gov/site/ccrb/policy/monthly-statistical-reports.page>.



minority, having decreased to 42% of the full investigations closed, compared with 78% in 2015. In 2019, BWC video has surpassed

other types of video evidence to be the most common kind of video evidence used in CCRB investigations (Fig. 52).

**Figure 52: Fully-Investigated CCRB Complaints With and Without Video, 2015 - 2019**



The availability of video evidence allows for clearer interpretation of the circumstances surrounding an encounter. Video evidence, especially BWC footage, can have a substantial impact on the outcome of a CCRB

investigation, particularly the rate of allegations closed “on the merits” (i.e. substantiated, exonerated, or unfounded). In 2019, 60% of complaints were not closed on the merits (i.e. unsubstantiated or officer

unidentified) when video was unavailable. This proportion shrinks to 49% when video evidence is available, and only 26% when BWC footage is available (Fig. 53, next page).

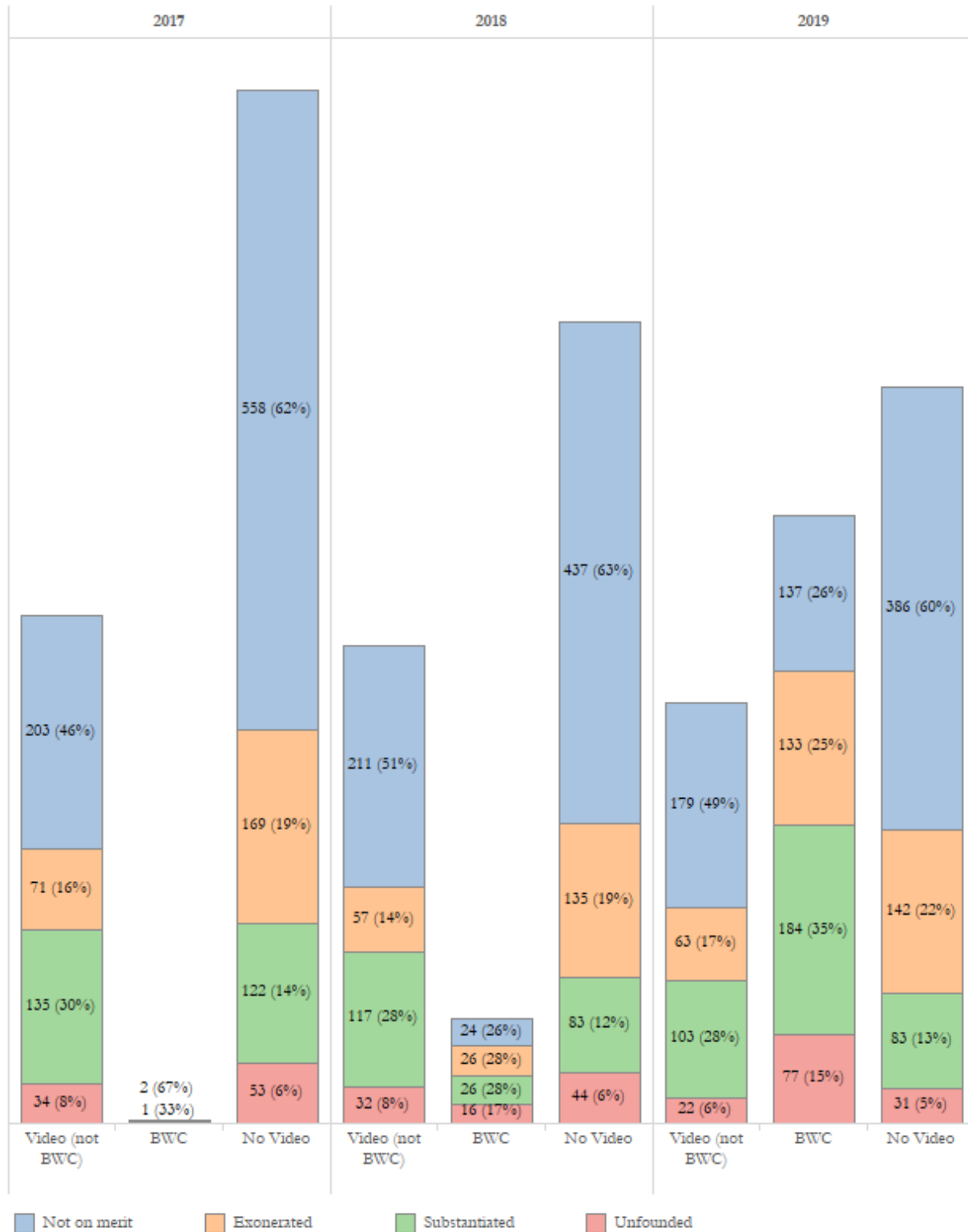
Of the complaints closed on the merits in 2019, the Board substantiated 28% of full investigations where there was non-BWC video evidence and 35% of those with BWC video, compared to 13% where there was no video evidence (Fig. 53). BWC video increases the rate of exonerations to 25%, compared with 17% for non-BWC video and 22% for no video. The rate of unfounded complaints increases to 15% with BWC video, compared with 5% in cases with no video and 6% when only non-BWC video evidence is available.

Because there may be multiple allegations in a single complaint, the CCRB also tracks allegation closures with and without video. In 2019, the Board substantiated 13% of fully-investigated allegations where there was non-BWC video evidence and 18% of those with BWC, compared to 6% where there was no video evidence (Fig. 54). BWC increases the rate of exonerations to 42%, compared

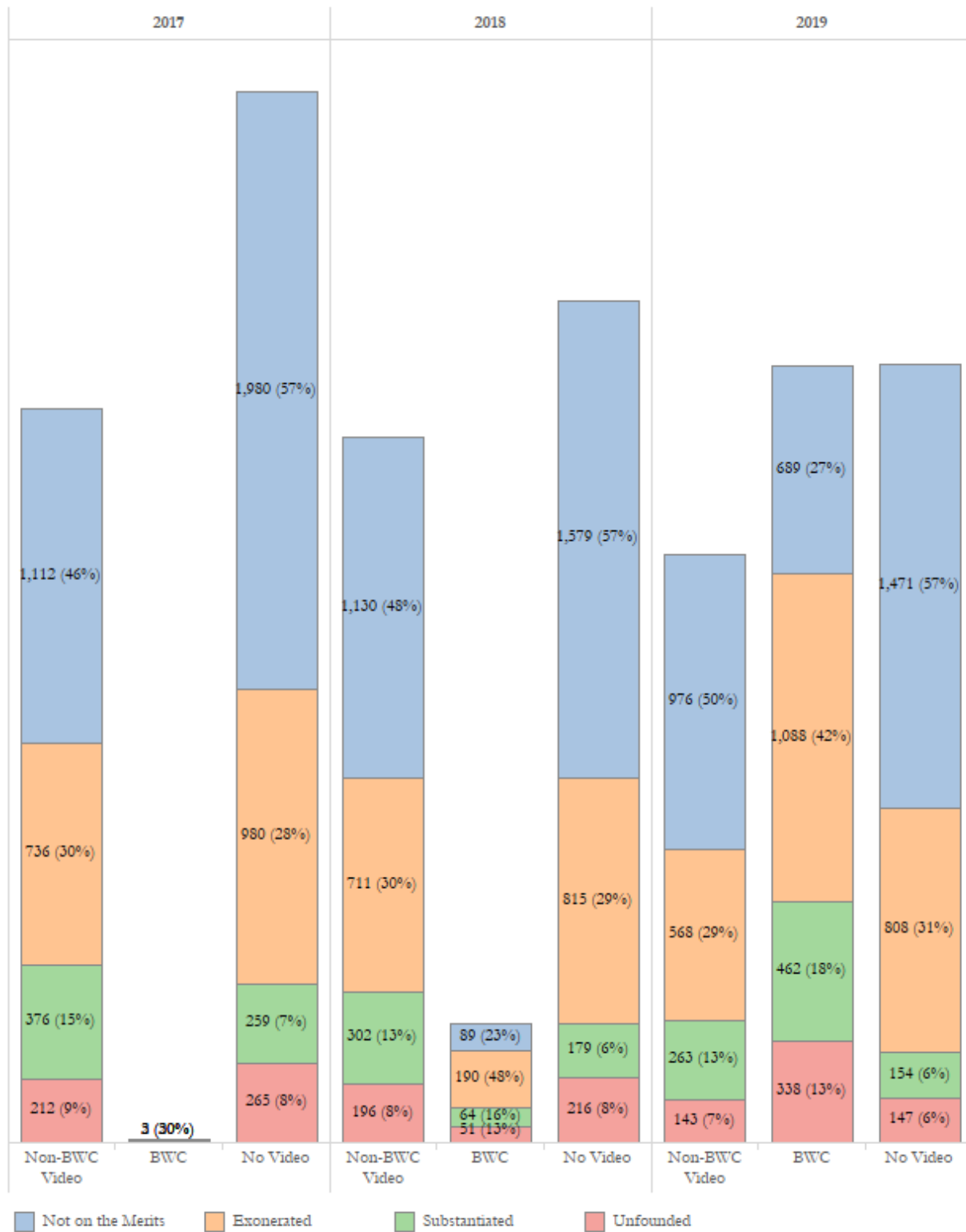
with 31% for non-BWC video and 29% for no video. The rate of unfounded allegations increases to 13% with BWC video, compared with 6% in cases with no video and 7% when only non-BWC video evidence is available.

In 2019, BWC video had the most significant impact on Abuse of Authority allegations, with only 23% not closed on the merits, compared with 47% with non-BWC video evidence and 54% for allegations with no video evidence (Fig. 55). Although BWC video has increased the exoneration rates for Force (47% compared with 35% when no video is available) and Abuse of Authority allegations (49% compared with 36% when no video is available), it has increased the substantiation rate for Discourtesy allegations (32% compared to 5% when no video evidence is available). This is primarily due to the CCRB investigator being able to hear what an officer is saying during a BWC recording. With the NYPD's expansion of its BWC initiative, the Agency expects that the percentage of cases closed on the merits will continue.

**Figure 53: Impact of Video on Fully-Investigated Complaints Closed on the Merits, 2017- 2019**



**Figure 54: Impact of Video on Fully-Investigated Allegations Closed on the Merits, 2017 - 2019**



**Figure 55: Impact of Video on Allegation Closures on the Merits by FADO, 2017 - 2019**

FADO Type	Board Disposition	2017						2018						2019					
		Non-BWC Video		BWC		No Video		Non-BWC Video		BWC		No Video		Non-BWC Video		BWC		No Video	
Force	Not on the Merits	245	36%	2	100%	360	49%	245	40%	17	19%	296	56%	193	44%	167	28%	205	51%
	Exonerated	284	42%			234	32%	227	37%	53	60%	149	28%	142	33%	280	47%	139	35%
	Unfounded	93	14%			120	16%	87	14%	15	17%	66	13%	63	15%	97	16%	49	12%
	Substantiated	57	8%			24	3%	55	9%	3	3%	15	3%	36	8%	54	9%	8	2%
Abuse of Authority	Not on the Merits	575	43%			1061	51%	597	44%	60	24%	935	51%	585	47%	341	23%	995	54%
	Exonerated	440	33%	1	50%	729	35%	469	35%	133	53%	661	36%	412	33%	746	49%	659	36%
	Unfounded	67	5%			91	4%	70	5%	25	10%	88	5%	50	4%	161	11%	69	4%
	Substantiated	262	19%	1	50%	212	10%	213	16%	32	13%	149	8%	185	15%	261	17%	128	7%
Discourtesy	Not on the Merits	243	71%	3	60%	460	86%	239	75%	11	22%	284	86%	158	69%	149	38%	210	81%
	Exonerated	12	4%	1	20%	17	3%	15	5%	4	8%	5	2%	13	6%	60	15%	10	4%
	Unfounded	35	10%			38	7%	32	10%	11	22%	31	9%	23	10%	57	15%	24	9%
	Substantiated	50	15%	1	20%	17	3%	33	10%	25	49%	11	3%	36	16%	125	32%	14	5%
Offensive Language	Not on the Merits	49	67%			99	82%	49	86%	1	20%	64	65%	40	75%	32	44%	60	88%
	Exonerated													2	3%				
	Unfounded	17	23%			16	13%	7	12%			31	31%	7	13%	22	31%	5	7%
	Substantiated	7	10%	1	100%	6	5%	1	2%	4	80%	4	4%	6	11%	16	22%	3	4%

## SECTION 7: OUTREACH AND INTERGOVERNMENTAL AFFAIRS

Over the past several years, the Civilian Complaint Review Board (CCRB, the Agency, or the Board) has sought to increase the scope and scale of its Outreach Program to raise awareness of the Agency's mission and foster the public's trust in its investigative process. With an outreach team of seven, the CCRB has a director, deputy director, and one outreach coordinator for each borough to act as that borough's main liaison for the Agency.

The Outreach and Intergovernmental Affairs (IGA) Unit visits schools, public libraries, tenant associations, advocacy organizations, cultural groups, religious organizations, community boards, and precinct community councils, among other groups, in all five boroughs. Through the Agency's Community Partners Initiative, CCRB investigators and outreach staff hold monthly office hours at City Council Members' offices, allowing the Agency to reach civilians in their communities. The Outreach and IGA Unit's presentations provide an overview of the CCRB complaint process, explain the basic legal contours of police encounters, and stress the importance of de-escalation when interacting with the police.

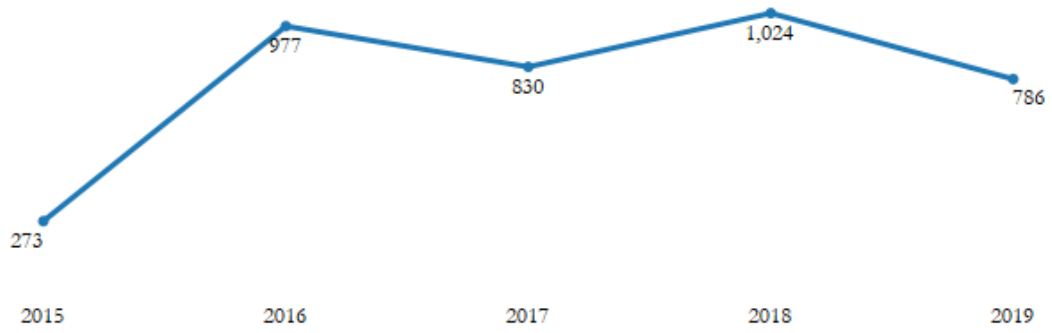
In 2018, the Outreach and IGA Unit focused on expanding its reach to as many areas of New York City as possible, with staff members giving a record 1,024 presentations (Fig. 56). In 2019, however, the Outreach and IGA Unit scaled back the number of presentations and focused its attention on reaching larger audiences and building relationships with community stakeholders, service providers, elected officials, and advocates. These partnerships will foster improvements in how the CCRB interacts

with members of various communities in New York City.

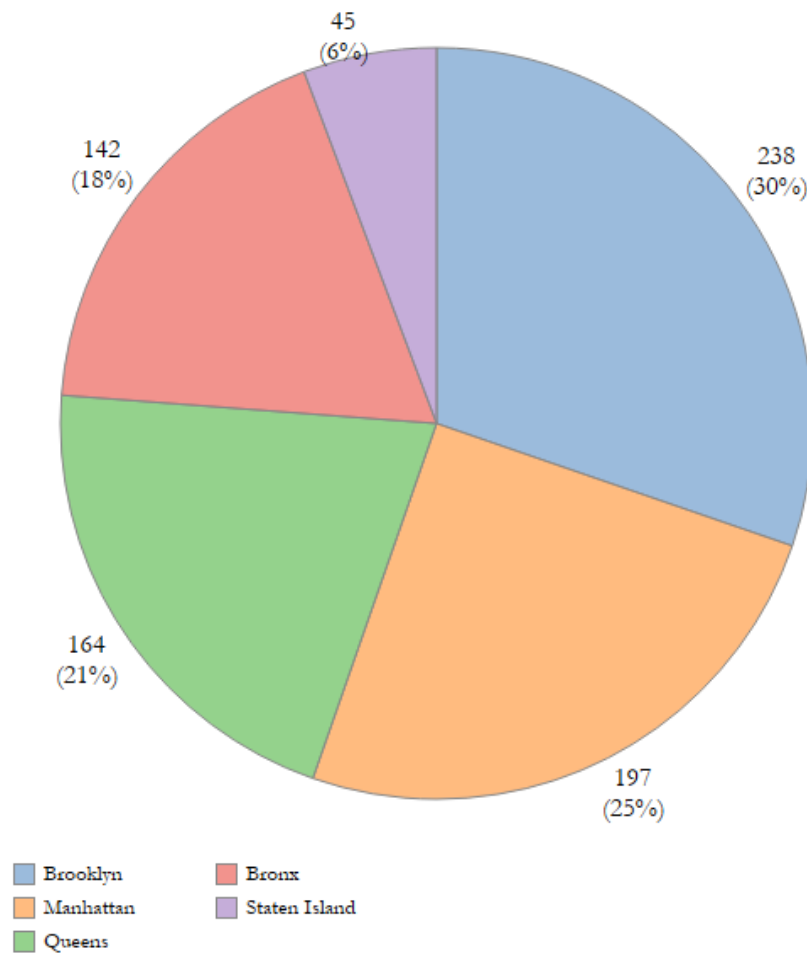
One such initiative is the CCRB Youth Advisory Council (YAC). Launched in winter of 2018, the YAC is a working committee made up of young leaders, aged 10-24, who are committed to addressing criminal justice issues and improving police-community relations. The members of the YAC serve as agency ambassadors in their communities and meet quarterly to advise CCRB staff about its efforts to engage young New Yorkers and join team-building activities. The YAC also served as part of the planning committee for the CCRB's spring 2019 event, "Speak Up, Speak Out: A Youth Summit on Policing in NYC," the CCRB's first ever summit focused exclusively on youth. The CCRB used information learned from the YAC and the Youth Summit to inform the Agency's issue-based report on police interactions with young people in New York City, "Youth and Police," released in June 2020.

While the Outreach and IGA Unit continues to make presentations in all five boroughs (Fig. 57) to a large variety of audiences, including high school students, immigrant populations, precinct community council meeting attendees, probationary groups, homeless service organizations, formerly-incarcerated individuals, NYCHA residents, and lesbian, gay, bisexual, transgender, and queer (LGBTQ) groups (Fig. 58), the Unit's new approach to reaching New Yorkers shifted the types of events that staff members attend. In 2019, the most frequent presentations were given at community events, community organizations or programs, Community Board meetings, youth groups, and NYCHA facilities.

**Figure 56: Number of Outreach Events, 2015 - 2019**



**Figure 57: Outreach Events by Borough, 2019**



**Figure 58: Outreach Events by Specific Organization Type, 2019**





## BACKGROUND OF THE CCRB AND GLOSSARY

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The Charter of the City of New York established the CCRB and empowered it to receive and investigate complaints from members of the public concerning misconduct by members of the NYPD. The CCRB is required to conduct its investigations “fairly and independently, and in a manner in which the public and the police department have confidence.” Under the City Charter, the CCRB has jurisdiction to investigate the following categories of police misconduct: **Force**, **Abuse of Authority**, **Discourtesy**, and **Offensive Language**, collectively known as **FADO**. The CCRB also notes other **misconduct** when it uncovers conduct by officers that is outside its jurisdiction but warrants the attentions of the Department. Examples of other misconduct include failures by officers to enter necessary information in their activity logs (memo books), and failures to complete required documentation of an incident. The CCRB also has the authority to investigate and make recommendations about the truthfulness of material statements made by a subject officer during a CCRB investigation of a FADO allegation.

The **Board** consists of 15 members, five appointed by City Council, five appointed by the Mayor, three designated by the Police Commissioner, and one appointed by the Public Advocate. The Chair of the Board is dually appointed by the Mayor and City Council. Under the City Charter, the Board must reflect the diversity of the city’s residents and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner, who must have had a law enforcement vocation. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be, and often are, renewed.

The **Executive Director** is appointed by the Board and is the Chief Executive Officer, who is responsible for managing the day-to-day operations of the Agency and overseeing its nearly 200 employees. The Agency consists of a 90-member **Investigations Division** responsible for investigating allegations of police misconduct and for making investigative findings. The most serious police misconduct cases, for which the Board has substantiated misconduct and recommended discipline in the form of Charges and Specifications, are prosecuted by a 14-member **Administrative Prosecution Unit (APU)**. The APU began operating in April 2013, after the CCRB and the NYPD signed a **Memorandum of Understanding** establishing the unit. APU attorneys are responsible for prosecuting, trying, and resolving cases before a Deputy Commissioner of Trials or Assistant Deputy Commissioner of Trials at One Police Plaza.

The Agency also includes a **Mediation Unit** that works to resolve less serious allegations between a police officer and a civilian. A complainant may **mediate** his or her case with the subject officer, in lieu of an investigation, with the CCRB providing a neutral, third-party mediator. The **Outreach and Intergovernmental Affairs Unit** acts as a liaison with various entities and is responsible for intergovernmental relations, outreach presentations, and community events throughout the five boroughs.

Members of the public who file complaints regarding alleged misconduct by NYPD officers are referred to as **complainants**. Other civilians involved in the incident are categorized as **victims** or **witnesses**. Officers who are alleged to have committed acts of misconduct are categorized as **subject officers**, while officers who witnessed or were present for the alleged misconduct are categorized as **witness officers**. Investigators in the **Intake Unit** receive complaints from members of the public, which are filed in-person, by telephone, voicemail, an online complaint form, or are referred to the Agency by the NYPD. When a **complaint** is filed, the CCRB assigns it a unique complaint identification number. The CCRB also refers to complaints as **cases**. A single complaint or case may contain multiple FADO **allegations**.

Allegations regarding improper entries, searches, or failures to show a warrant are considered allegations falling within the CCRB's Abuse of Authority jurisdiction. Most complaints regarding improper entries, searches, or warrant executions involve only a single incident of entry or search, but some complaints involve more than one entry or search (occurring on the same day or on different days). Each allegation is reviewed separately during an investigation.

During an **investigation**, the CCRB's civilian investigators gather documentary and video evidence and conduct interviews with complainants, victims, civilian witnesses, subject officers, and witness officers in order to determine whether the allegations occurred and whether they constitute misconduct. At the conclusion of the investigation, a **closing report** is prepared, summarizing the relevant evidence and providing a factual and legal analysis of the allegations. The closing report and investigative file are provided to the Board before it reaches a disposition. A panel of three Board members (a **Board Panel**) reviews the material, makes findings for each allegation in the case, and if allegations are substantiated, provides recommendations as to the discipline that should be imposed on the subject officer(s).

The **Disposition** is the Board's finding of the outcome of a case. The Board is required to use a **preponderance of the evidence** standard of proof in evaluating cases. Findings **on the merits** result when CCRB can conduct a full investigation and obtain enough credible evidence for the Board to reach a factual and legal determination regarding the officer's conduct. In these cases, the Board may arrive at one of the following findings on the merits for each allegation in the case: **substantiated**, **exonerated**, or **unfounded**. Substantiated cases are those where it was proven by a preponderance of evidence that the alleged acts occurred, and the acts constituted misconduct. Exonerated cases are those where it was shown by a preponderance of the evidence that the alleged acts occurred, but the acts did not constitute misconduct. Unfounded cases are those where there was a preponderance of the evidence that the alleged acts did not occur. **Unsubstantiated** cases are those where the CCRB was able to conduct a full investigation, but there was insufficient evidence to establish by a preponderance of the evidence whether or not an act of misconduct occurred. In some cases, the CCRB is unable to conduct a full investigation or mediation and must **truncate** the case.<sup>54</sup>

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<sup>54</sup> Fully-investigated cases comprise complaints disposed of as substantiated, unsubstantiated, exonerated, unfounded, officers unidentified, or miscellaneous. Miscellaneous cases are those where an officer retires or leaves the Department before the Board receives the case for decision. Truncated cases are disposed of in one of the following ways: complaint withdrawn, complainant/victim uncooperative, complainant/victim unavailable, and victim unidentified.

# NEW YORK CITY CHARTER

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## Chapter 18-A

### Civilian Complaint Review Board

**§440** Public complaints against members of the police department.

(a) It is in the interest of the people of the city of New York and the New York city police department that the investigation of complaints concerning misconduct by officers of the department towards members of the public be complete, thorough and impartial. These inquiries must be conducted fairly and independently, and in a way the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct as provided in this section.

(b) Civilian complaint review board.

1. The civilian complaint review board shall consist of 15 members of the public. Members shall be residents of the city of New York and shall reflect the diversity of the city's population. The members of the board shall be appointed as follows: (i) five members, one from each of the five boroughs, shall be appointed by the city council; (ii) one member shall be appointed by the public advocate; (iii) three members with experience as law enforcement professionals shall be designated by the police commissioner and appointed by the mayor; (iv) five members shall be appointed by the mayor; and (v) one member shall be appointed jointly by the mayor and the speaker of the council to serve as chair of the board.

2. No member of the board shall hold any other public office or employment. No members, except those designated by the police commissioner, shall have experience as law enforcement professionals, or be former employees of the New York city police department. For the purposes of this section, experience as a law enforcement professional shall include experience as a police officer, criminal investigator, special agent, or a managerial or supervisory employee who exercised substantial policy discretion on law enforcement matters, in a federal, state, or local law enforcement agency, other than experience as an attorney in a prosecutorial agency.

3. The members shall be appointed for terms of three years. The public advocate shall make the public advocate's first appointment to the board on or before May 6, 2020. The board member so appointed shall assume office on July 6, 2020. The mayor and the speaker of the council shall make their initial joint appointment to the board on or before May 6, 2020. The member so appointed shall serve as the board's chair and shall assume office on July 6, 2020.

4. Members of the board shall serve until their successors have been appointed and qualified. In the event of a vacancy on the board during the term of office of a member by reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment within 60 days from the date such vacancy occurred. A member appointed to fill a vacancy shall serve for the balance of the unexpired term. During any period in which the office of the chair is vacant, the mayor shall select a member of the board to serve as interim chair until such vacancy has been filled.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving 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 and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, if such statement was made during the course of and in relation to the board's resolution of such complaint. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or recommendation.

2. The board shall promulgate rules of procedure in accordance with the city administrative procedure act, including rules that prescribe the manner in which investigations are to be conducted and recommendations made and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules may provide for the establishment of panels, which shall consist of not less than three members of the board, which shall be empowered to supervise the investigation of matters within the board's jurisdiction pursuant to this section, and to hear, make findings and recommend action on such matters. No such panel shall consist exclusively of members appointed by the council, or designated by the police commissioner, or appointed by the mayor.

3. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of matters within its jurisdiction pursuant to this section. The board may request the corporation counsel to institute proceedings in a court of appropriate jurisdiction to enforce the subpoena power exercised pursuant to this section, and the board itself may, subject to chapter 17 of the charter, institute such proceedings. The board may, subject to any conditions it deems appropriate, delegate to and revoke from its executive director such subpoena authority and authority to institute proceedings.

4. The board shall establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation.

5. The board is authorized, within appropriations available therefor, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The board shall employ civilian investigators to investigate all matters within its jurisdiction.

6. The board shall issue to the mayor and the city council a semi-annual report which shall describe its activities and summarize its actions.

7. The board shall have the responsibility of informing the public about the board and its duties and shall develop and administer an on-going program for the education of the public regarding the provisions of this chapter.

(d) Cooperation of police department.

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations by the board, and to provide to the board upon request records and other materials which are necessary for investigations undertaken pursuant to this section, except such records or materials that cannot be disclosed by law.

2. The police commissioner shall ensure that officers and employees of the police department appear before and respond to inquiries of the board and its civilian investigators in connection with investigations undertaken pursuant to this section, provided that such inquiries are conducted in accordance with department procedures for interrogation of members.

3. The police commissioner shall report to the board in writing on any action taken, including the level of discipline and any penalty imposed, in all cases in which the board submitted a finding or recommendation to the police commissioner with respect to a matter within its jurisdiction pursuant to this section. In any case substantiated by the board in which the police commissioner intends to impose or has imposed a different penalty or level of discipline than that recommended by the board or by the deputy commissioner responsible for making disciplinary recommendations, the police commissioner shall provide such written report, with notice to the subject officer, no later than 45 days after the imposition of such discipline or in such shorter time frame as may be required pursuant to an agreement between the police commissioner and the board. Such report shall include a detailed explanation of the reasons for deviating from the board's recommendation or the recommendation of the deputy commissioner responsible for making disciplinary recommendations and, in cases in which the police commissioner intends to impose or has imposed a penalty or level of discipline that is lower than that recommended by the board or such deputy commissioner, shall also include an explanation of how the final disciplinary outcome was determined, including each factor the police commissioner considered in making his or her decision.

(e) The provisions of this section shall not be construed to limit or impair the authority of the police commissioner to discipline members of the department. Nor shall the provisions of this section be construed to limit the rights of members of the department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

(f) The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized officer, agency or body.

(g) 1. Beginning in fiscal year 2021 and for each fiscal year thereafter, the appropriations available to pay for the personal services expenses of the civilian complaint review board during each fiscal year shall not be less than an amount sufficient to fund personal services costs for the number of full-time personnel plus part-time personnel, calculated based on full-time equivalency rates, equal to 0.65 percent of the number of uniform budgeted headcount of the police department for that fiscal year, as determined consistent with published budgeted headcount documents of the office of management and budget. The calculation to determine the minimum appropriations for the personal services expenses of the civilian complaint review board pursuant to this paragraph shall be set forth in the preliminary expense budget, the executive expense budget, and the adopted budget.

2. Notwithstanding paragraph 1 and in addition to any action that may be undertaken pursuant to section 106, the appropriations available to pay for the personal services expenses of the civilian complaint review board may be less than the minimum appropriations required by paragraph 1 provided that, prior to adoption of the budget pursuant to section 254 or prior to the adoption of a budget modification pursuant to section 107, the mayor determines that such reduction is fiscally necessary and that such reduction is part of a plan to decrease overall appropriations or is due to unforeseen financial circumstances, and the mayor sets forth the basis for such determinations in writing to the council and the civilian complaint review board at the time of submission or adoption, as applicable, of any budget or budget modification containing such reduction.

(Am. L.L. 2019/215, 12/11/2019, eff. 12/11/2019 and 3/31/2020)

# BOARD MEMBERS

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## CHAIR OF THE BOARD: JOINT MAYORAL/CITY COUNCIL SPEAKER APPOINTEE

### **Fred Davie, Chair of the Board**

Fred Davie serves as the Executive Vice President for the Union Theological Seminary located in New York City, which prepares students to serve the church and society. Additionally, he is a member of the Mayor's Clergy Advisory Council (CAC) and is co-convener of its Public Safety Committee, which is focused on building community safety and improving police-community relations. Before working at Union Theological Seminary, Mr. Davie served as Interim Executive Director and Senior Director of Social Justice and LGBT Programs at the Arcus Foundation, which funds organizations worldwide that advance an inclusive, progressive public policy agenda. Mr. Davie served on President Barack Obama's transition team and was later appointed to the White House Council of Faith-based and Neighborhood Partnerships. Mr. Davie has served the City as Deputy Borough President of Manhattan and Chief of Staff to the Deputy Mayor for Community and Public Affairs. Mr. Davie is a mayoral designee to the Board appointed by Mayor Bill de Blasio.

*M. Div., Yale Divinity School; B.A., Greensboro College*

## MAYORAL APPOINTEES

### **Erica Bond, Esq.**

Erica Bond has experience in the government, non-profit, public policy, and legal sectors. Most recently, Ms. Bond served as Special Advisor for Criminal Justice to the First Deputy Mayor of New York City. In this role, she advised and supported the First Deputy Mayor in management of the City's criminal justice agencies. Prior to joining city government, Ms. Bond was a Director of Criminal Justice at the Laura and John Arnold Foundation, where she worked to develop new research, policy reforms, and evidenced-based innovations with the goal of transforming criminal justice systems nationwide. In this role, she partnered with criminal justice practitioners, researchers, and policymakers on initiatives to improve community safety, increase trust and confidence in the criminal justice system, and ensure fairness in the criminal justice process. After graduating from law school, Ms. Bond began a legal career as a Litigation Associate at Kaye Scholer (now Arnold & Porter Kaye Scholer LLP), an international law firm where she represented clients on a variety of matters, including government investigations, regulatory compliance issues, and commercial disputes. Ms. Bond is a mayoral designee to the Board appointed by Mayor Bill de Blasio.

*J.D. Fordham University School of Law; B.A., Wesleyan University*

### **Corinne A. Irish, Esq.**

Corinne Irish is an attorney with the international law firm Squire Patton Boggs, where she litigates and counsels clients on a variety of complex commercial matters, ranging from contract disputes to enforcing intellectual property rights to advising clients on regulatory compliance. Ms. Irish is also a founding member of the firm's Public Service Initiative, where she has litigated death penalty, criminal, and civil rights cases involving a miscarriage of justice or a denial of fundamental rights on behalf of indigent clients. She also has served as counsel for amici clients before the U.S. Supreme Court in important cases of criminal constitutional law. Ms. Irish previously served as a law clerk, first to the Honorable William G. Young of the U.S. Court for the District of Massachusetts and then to the Honorable Barrington D. Parker of the U.S. Court of Appeals for the Second Circuit. Ms. Irish is a lecturer-in-law at Columbia Law School, where she has taught since 2012. She was also an adjunct professor at Brooklyn Law School in 2008 and 2009. Ms. Irish was recognized for six consecutive years as a Rising Star in New York Super Lawyers and recently has been named to The National

Black Lawyers – Top 100. Ms. Irish is a mayoral designee to the Board appointed by Mayor Bill de Blasio.

*J.D. Harvard Law School; B.A., University of Pennsylvania*

### **John Siegal, Esq.**

John Siegal is a partner in BakerHostetler, a national business law firm, where he handles litigation, arbitrations, and appeals for clients in the financial services, media, and real estate industries. Mr. Siegal's practice also includes constitutional law, civil rights, Article 78, and other cases both for and against government agencies and authorities. He has been admitted to practice law in New York since 1987. Mr. Siegal's public service experience includes working as an Assistant to Mayor David N. Dinkins and as a Capitol Hill staff aide to Senator (then Congressman) Charles E. Schumer. Throughout his legal career, Mr. Siegal has been active in New York civic, community, and political affairs. Mr. Siegal is a mayoral designee to the Board appointed by Mayor Bill de Blasio.

*J.D., New York University School of Law; B.A., Columbia College*

### **Angela Sung Pinsky**

Angela Sung Pinsky is a dedicated public servant who is committed to the promotion of civic dialogue in New York City. Most recently, Ms. Pinsky serves as Executive Director for the Association for a Better New York (ABNY), where she drove public policy and managed a \$1.8 million budget.

Prior to joining ABNY, Angela served as Senior Vice President for Management Services and Government Affairs at the Real Estate Board of New York (REBNY), where she was responsible for REBNY's commercial and residential Management Divisions, and was the lead on building code, sustainability and energy, and federal issues that impact New York City real estate.

Ms. Pinsky also previously served as Deputy Chief of Staff at the Office of the Deputy Mayor for Economic Development and Rebuilding during the Bloomberg administration. While at the Deputy Mayor's office, she designed and created the Mayor's Office of Environmental Remediation, an innovative office dedicated to remediation of contaminated land in economically-disadvantaged areas of New York City.

*M.A. New York University; B.A. Johns Hopkins University*

## **CITY COUNCIL APPOINTEES**

### **Nathan N. Joseph**

Nathan N. Joseph is a retired physician assistant who served New York City as a health care administrator and practitioner. Mr. Joseph most recently was a facility administrator at DaVita South Brooklyn Nephrology Center in Brooklyn, where he conducted budget analysis and staff training and development.

Prior to working as a facility administrator, Mr. Joseph was an associate director for ambulatory services at Kings County Hospital Center, where he previously was a physician assistant. Mr. Joseph's experience in health care also includes work in detention facilities within New York City, including the Manhattan Detention Complex, the Spofford Juvenile Detention Center, and Rikers Island Prison, where he provided daily sick call and emergency treatment of inmates. Mr. Joseph is the Staten Island City Council designee to the Board appointed by Mayor Bill de Blasio.

*A.A.S. Staten Island Community College*

### **Joseph A. Puma**

Joseph Puma's career in public and community service has been exemplified by the various positions he has held in civil rights law, community-based organizations, and local government. As a paralegal with the NAACP Legal Defense and Education Fund, Puma handled cases involving

criminal justice, voting rights, employment discrimination, and school desegregation. Prior to joining NAACP LDF, he worked for over six years at the NYC Office of Management and Budget, where he served in roles in intergovernmental affairs, policy, and budget.

From 2003 to 2004, Puma served as a community liaison for former NYC Council Member Margarita López. Since 2007, he has been involved with Good Old Lower East Side (GOLES), a community organization helping residents with issues of housing, land use, employment, post-Sandy recovery and long-term planning, and environmental and public health. A lifelong City public housing resident, Puma currently serves as GOLES's Board President and has participated in national public housing preservation efforts.

Puma is the Manhattan City Council designee to the Board first appointed by Mayor Michael Bloomberg and reappointed by Mayor Bill de Blasio.

*M.A., Union Theological Seminary; Certificate, Legal Studies, Hunter College, City University of New York; B.A., Yale University*

### **Michael Rivadeneyra, Esq.**

Michael Rivadeneyra is the Senior Director of Government Relations at the YMCA of Greater New York, where he develops the legislative and budgetary agenda for the organization. Prior to this role, Mr. Rivadeneyra served in various capacities as a legislative staffer to Council Members James Vacca, Annabel Palma, and Diana Reyna. While in law school, Mr. Rivadeneyra served as a legal intern at Main Street Legal Services, where he represented immigrant survivors of gender violence and advocated on behalf of undergraduate students from disadvantaged backgrounds. Mr. Rivadeneyra also worked to advance immigrants' rights as an intern at the New York Legal Assistance Group during law school. Mr. Rivadeneyra is a City Council designee to the Board appointed by Mayor Bill de Blasio.

*J.D., CUNY School of Law, Queens College; B.A., State University of New York at Albany*

### **Marbre Stahly-Butts, Esq.**

Marbre Stahly-Butts is a former Soros Justice Fellow and now Policy Advocate at the Center for Popular Democracy. Her Soros Justice work focused on developing police reforms from the bottom up by organizing and working with families affected by aggressive policing practices in New York City. Ms. Stahly-Butts also works extensively on police and criminal justice reform with partners across the country. While in law school, Ms. Stahly-Butts focused on the intersection of criminal justice and civil rights, and gained legal experience with the Bronx Defenders, the Equal Justice Initiative, and the Prison Policy Initiative. Before law school, Ms. Stahly-Butts worked in Zimbabwe organizing communities impacted by violence and taught at Nelson Mandela's alma mater in South Africa. Ms. Stahly-Butts is a City Council designee to the Board appointed by Mayor Bill de Blasio.

*J.D., Yale Law School; M.A., Oxford University; B.A., Columbia University*

## **PUBLIC ADVOCATE APPOINTEE**

### **Esmerelda Simmons, Esq.**

Esmeralda Simmons is an accomplished lawyer and public servant who has spent decades fighting for human and civil rights on the federal, state, and municipal levels. Ms. Simmons founded the Center for Law and Social Justice at Medgar Evers College, a community-based racial justice advocacy center that focuses on legal work and research on civil rights and domestic human rights violations. Recently retired, she advocated for equity in public education, voting, policing, and the child welfare system as the Center's executive director for 34 years. Through the Center, Simmons provided community organizations with legal counsel and research assistance.



Before founding and directing the Center for Law and Social Justice, Ms. Simmons served as First Deputy Commissioner at the New York State Division of Human Rights, where she developed and led the implementation of policy in support of New Yorkers' human and civil rights, and as an Assistant Attorney General for the State of New York. In addition, she has served on several major public boards in New York City government, including the NYC Board of Education and the NYC Districting Commission.

Ms. Simmons also volunteers her skills and currently serves on the board of directors of UPROSE, a climate justice organization; the Council of Elders for African Cultural Heritage; and Little Sun People, an African-centered early childhood education center. In the recent past, she has served on several boards of national organizations: the Applied Research Center (now "Race Forward"); Vallecitos Mountain Retreat Center; the Child Welfare Fund; and, the Poverty and Race Research Action Council (PRRAC).

Ms. Simmons has served as counsel or co-counsel on numerous major federal Voting Rights Act cases and election law cases and has secured victories before the United States Supreme Court. She is a member of the Metropolitan Black Bar and American Bar associations, Ile Ase, Inc., and the New York Voting Rights Consortium.

*J.D. Brooklyn Law School, B.A. Hunter College, City University of New York*

## **POLICE COMMISSIONER DESIGNEES**

### **Salvatore F. Carcaterra**

Salvatore F. Carcaterra began his law enforcement career in 1981 with the NYPD, where he served for 21 years. Starting as a Patrol Officer, he was promoted through the ranks to the position of Deputy Chief. As a Deputy Chief, he served as the Executive Officer to the Chief of Department, where, among many duties, he organized and implemented the NYPD's overall response to the threat of terrorism following the 9/11 attack on the World Trade Center. Prior to that, Mr. Carcaterra was a Deputy Inspector in command of the Fugitive Enforcement Division. As a Deputy Inspector, he also served in the Office of the Deputy Commissioner for Operations, managing COMPSTAT, and commanding the Hate Crimes Task Force, increasing its arrest rate by over 50 percent. He served in the NYPD Detective Bureau as a Captain in the 70<sup>th</sup> Precinct and as Deputy Inspector in the 66<sup>th</sup> Precinct. After retiring from the NYPD, Mr. Carcaterra became the president of a security firm and now heads his own security company, providing personal and physical protection to individuals and corporations. Mr. Carcaterra is a police commissioner designee to the Board appointed by Mayor Bill de Blasio.

*B.S., John Jay College of Criminal Justice, City University of New York; Graduate, Federal Bureau of Investigation National Academy; Graduate, Columbia University Police Management Institute*

### **Frank Dwyer**

Frank Dwyer, a Brooklyn native and current Queens resident, consults with and teaches at police departments and educational institutions throughout the United States. In 1983, he joined the NYPD and served in Queens, Brooklyn, and Manhattan in a variety of assignments including as a Police Academy Law Instructor, the Commanding Officer of the 7<sup>th</sup> Precinct on the Lower East Side of Manhattan, and the Commanding Officer of the Office of the Deputy Commissioner for Operations. He worked in Lower Manhattan on 9/11 and in months that followed. Retiring in 2012 at the rank of Deputy Inspector, Mr. Dwyer is currently pursuing a doctorate in Criminal Justice. He has consulted for several police departments, including Newark, New Jersey and Wilmington, Delaware. He has also taught at or consulted for the following educational institutions: John Jay College of Criminal Justice, Teachers College, Boston College, Morgan State University, and the

University of San Diego. Mr. Dwyer is a police commissioner designee to the Board appointed by Mayor Bill de Blasio.

*M.S.W., Hunter College, City University of New York; M.St., Cambridge University; M.P.A., Harvard University; M.A., Fordham University; B.A., Cathedral College*

### **Willie Freeman**

Willie Freeman began his 22-year law enforcement career in 1974 as a Patrol Officer in the New York City Police Department. He served in the 78th and 84th Precincts in Brooklyn. In 1979, he was assigned to the Police Academy, where he taught physical education, police science, and performed administrative duties as a Squad Commander. He was promoted to Sergeant and, subsequently, assigned to the Organized Crime Control Bureau. Mr. Freeman served in the 70th Precinct as a Platoon Commander and Integrity Control Lieutenant. He worked in myriad divisions in Brooklyn and Manhattan including Narcotics and the Internal Affairs Bureau. Mr. Freeman retired in the rank of Lieutenant.

During his tenure with the NYPD, Mr. Freeman recruited and trained thousands of officers and taught police instructions, policy, and procedure. The Department recognized his service with Excellent Police Duty and Meritorious Police Duty medals. After retiring from the Department, Mr. Freeman spent 17 years as the Director of Security Services/Chief Investigator for the Newark Public School District, where he managed security personnel and served as the primary liaison between the police, the community and the schools. He has since worked as a public-school security consultant for Newark, Hempstead, and New York State. He successfully assists large urban districts in designing and evaluating school safety plans, performing facility audits, and initiating community-based violence prevention programming.

Mr. Freeman is a Police Commissioner designee to the Board appointed by Mayor Bill de Blasio.

*M.S., Long Island University; B.S., Saint John's University; Graduate, Federal Bureau of Investigations National Academy, 182nd Session*

# EXECUTIVE AND SENIOR STAFF

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## ***Executive Staff***

**Executive Director:** Jonathan Darche, Esq.

**General Counsel:** Matt Kadushin, Esq.

**Chief Prosecutor:** Andrea Robinson, Esq.

**Deputy Executive Director of Administration:** Jeanine Marie

**Acting Senior Advisor to the Executive Director and Director of Outreach and Intergovernmental Affairs:** Yojaira Alvarez

**Acting Senior Counsel to the Executive Director and Director of Policy and Advocacy:** Harya Tarekegn, Esq.

**Acting Chief of Investigations and Director of Training and Staff Development:** Monte Givhan, Esq.

## ***Senior Staff***

**Deputy Chief Prosecutor:** Suzanne O'Hare, Esq.

**Director of Case Management:** Eshwarie Mahadeo

**Acting Senior Advisor, Communications:** Ethan Teicher

**Director of Civilian Witness Assistant Unit:** Baiana Turat, LCSW, CCM

**Director of Data Analytics:** Lincoln MacVeagh

**Director of Human Resources:** Jennelle Brooks

**Director of Information Technology:** Carl Esposito

**Director of Mediation:** Lisa Grace Cohen, Esq.

**Director of NYPD Relations:** Jayne Cifuni

**Director of Operations and Budget:** David B. Douek

**Director of Recruitment:** LaShawn Lindsey

**Deputy Chief of Special Operations:** Olas Carayannis