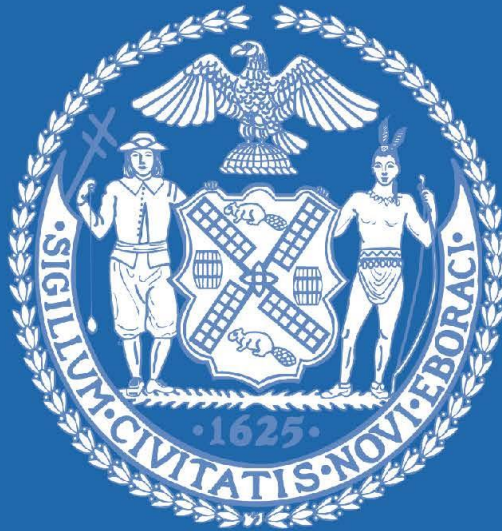




# CIVILIAN COMPLAINT REVIEW BOARD

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



## *Strengthening Accountability: The Impact of the NYPD's Body-Worn Camera Program on CCRB Investigations*

February 2020

# TABLE OF CONTENTS

AGENCY MISSION.....	3
LETTER FROM THE CHAIR.....	4
THE BOARD AND AGENCY OPERATIONS.....	5
EXECUTIVE SUMMARY.....	6
KEY FINDINGS.....	7
CCRB ACTIONS TAKEN AS A RESULT OF THIS ANALYSIS.....	9
RECOMMENDATIONS FOR THE NYPD.....	11
INTRODUCTION.....	14
BACKGROUND.....	14
<i>FIGURE 01. DEPLOYMENT OF BODY-WORN CAMERAS THROUGH DECEMBER 2018</i> .....	16
<i>FIGURE 02. BWC ROLL-OUT TIMELINE</i> .....	18
NYPD BODY-WORN CAMERAS POLICIES.....	19
RETENTION OF VIDEO FILES.....	21
OFFICER TRAINING ON BWC.....	21
NYPD’S BWC POLICY COMPLIANCE REVIEW PROCESS.....	23
METHODOLOGY AND SCOPE.....	24
FINDINGS.....	27
SECTION 1: CCRB PROTOCOLS ON BODY-WORN CAMERA FOOTAGE.....	27
HOW THE CCRB OBTAINS AND ANALYZES BODY-WORN CAMERA (BWC) FOOTAGE.....	27
RECEIPT OF BWC FOOTAGE.....	29
<i>FIGURE 03: AVG. NUMBER OF BUSINESS DAYS TO RECEIVE BWC FOOTAGE OR A FINAL NEGATIVE SEARCH RESULT</i> .....	30
<i>FIGURE 04: INDIVIDUAL BWC REQUEST CLOSE TIMES AND REQUESTS STILL OPEN AS OF JUNE 30, 2019</i> .....	31
ACCESS TO BWC FOOTAGE.....	33
<i>FIGURE 05: PERCENT OF COMPLAINTS WITH BWC CONTAINING AT LEAST ONE REDACTED VIDEO</i> .....	34
BWC AND CCRB INVESTIGATIONS.....	36
RETENTION OF VIDEO FILES AND NYPD BWC FOOTAGE.....	38
<i>FIGURE 06: ESTIMATED BWC STORAGE COSTS, FISCAL YEAR 2016-2022</i> .....	40
FORENSIC VIDEO ANALYSIS.....	41
CCRB POLICY: IMPROPER USE OF BODY-WORN CAMERAS.....	41
SECTION 2: BWC FOOTAGE RECEIVED.....	43
ANALYSIS OF CCRB DATA ON BWC REQUESTS.....	43
<i>FIGURE 07. BWC FOOTAGE REQUESTED AND RECEIVED BY COMPLAINT</i> .....	44
GEOGRAPHIC DISPERSION OF COMPLAINTS WITH BWC.....	45
<i>FIGURE 08. HEAT MAP OF BWC RECEIVED BY PRECINCT, 2017-2019 Q2</i> .....	45
<i>FIGURE 09. COMPLAINTS RECEIVED BY COMMAND IN WHICH BWC FOOTAGE WAS OBTAINED, 2017 – 2019 Q2</i> .....	47
BWC RECEIVED BY ALLEGATION.....	49
<i>FIGURE 10. BWC RECEIVED BY ALLEGATION, 2017 – 2019 Q2</i> .....	49
COMPLAINANT DEMOGRAPHICS.....	51
<i>FIGURE 11. COMPLAINANT DEMOGRAPHICS FOR BWC RECEIVED, 2017 – 2019 Q2</i> .....	51
SUBJECT OFFICER DEMOGRAPHICS.....	52
<i>FIGURE 12. SUBJECT OFFICER DEMOGRAPHICS FOR BWC RECEIVED</i> .....	52
FALSE NEGATIVES.....	53
<i>FIGURE 13. FALSE NEGATIVES, 2017-2019 Q2</i> .....	54
SECTION 3: BWC FOOTAGE RECEIVED.....	57
OFFICER AND TECHNICAL ISSUES.....	57

ACTIVATION .....	57
SIGNALING.....	61
OTHER VIDEO EVIDENCE.....	63
IMPACT ON OFFICER INTERVIEW .....	64
TECHNICAL ISSUES.....	64
SECTION 4: ANALYSIS OF CCRB DATA ON BWC-RELATED COMPLAINTS.....	67
BWC-RELATED COMPLAINTS AND ALLEGATIONS.....	67
<i>FIGURE 14. FULL INVESTIGATIONS CLOSED WITH AND WITHOUT BWC, 2017-2019 Q2</i> .....	68
<i>FIGURE 15. FULL INVESTIGATIONS CONTAINING VIDEO FOOTAGE, 2017 – 2019 Q2</i> .....	69
BWC-RELATED COMPLAINTS.....	70
<i>FIGURE 16. COMPLAINT DISPOSITIONS WITH BWC, OTHER VIDEO, NO VIDEO, 2017-2019 Q2</i> .....	70
BWC-RELATED ALLEGATIONS.....	73
<i>FIGURE 17. FADO BREAKDOWN WITH BWC, OTHER VIDEO, NO VIDEO, 2017-2019 Q2</i> .....	73
<i>FIGURE 18. DISPOSITION OF ALLEGATIONS IN FULL INVESTIGATIONS V. NO VIDEO, 2017-2019 Q2</i> .....	74
<i>FIGURE 19. DISPOSITIONS OF ALLEGATIONS IN FULL INVESTIGATIONS BY FADO, 2017-2019 Q2</i> .....	76
CCRB ACTIONS TAKEN AS A RESULT OF THIS ANALYSIS .....	79
RECOMMENDATIONS FOR THE NYPD.....	81
APPENDIX A: MOU CONCERNING BODY-WORN CAMERA FOOTAGE.....	84
APPENDIX B: PG § 212.123, USE OF BODY-WORN CAMERAS .....	93
APPENDIX C: MANUFACTURER DESCRIPTIONS OF BWC CAMERAS .....	101
BACKGROUND OF THE CCRB AND GLOSSARY.....	108
NEW YORK CITY CHARTER .....	110
CHAPTER 18-A.....	110
CIVILIAN COMPLAINT REVIEW BOARD.....	110
BOARD MEMBERS.....	113
MAYORAL DESIGNEES .....	113
CITY COUNCIL DESIGNEES .....	114
POLICE COMMISSIONER DESIGNEES.....	116
EXECUTIVE AND SENIOR STAFF.....	117
EXECUTIVE STAFF .....	117
SENIOR STAFF.....	117

## AGENCY MISSION

The New York City Civilian Complaint Review Board (CCRB) is an independent Agency that is empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action on complaints filed against members of the New York City Police Department (NYPD) that allege the use of excessive or unnecessary Force, Abuse of Authority, Discourtesy, or the use of Offensive Language. 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;
- To respect the rights of civilians and officers;
- To encourage all parties involved in a complaint to come forward and present evidence;
- To expeditiously investigate each allegation thoroughly and impartially;
- To make fair and objective determinations on the merits of each case;
- To offer civilians and officers the opportunity to mediate their complaints, when appropriate, in order to promote understanding between officers and the communities they serve;
- To recommend disciplinary actions that are measured and appropriate when the investigative findings substantiate that misconduct occurred;
- To engage in community outreach in order to educate the public about the Agency and respond to concerns relevant to the Agency's mandate;
- To report relevant issues and policy matters to the Police Commissioner and the public; and
- To 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,

Over the past two years, the rollout of the body-worn camera (BWC) program by the New York City Police Department (NYPD) has been nothing short of transformational for the Civilian Complaint Review Board (CCRB). As detailed in this Report, BWCs have significantly increased the probability that a complaint will be closed on the merits, i.e., that the Board can make a clear determination of fact. This is true for both substantiated allegations and exonerated allegations. BWC footage represents some of the most defining evidence in cases in which misconduct occurred and in cases in which the officer's actions were within the boundaries of the law and the NYPD Patrol Guide.

Obtaining BWC footage has not come without difficulties. As is the case in many jurisdictions, the process of getting police oversight agencies more streamlined access to BWC footage has been fraught with challenges. New York has the added complexity presented by the sheer volume of officers on its police force. To date, more than 24,000 members of the NYPD have been assigned BWCs, and an increasing proportion of the complaints processed by the CCRB each year now contain BWC evidence. This Report details the issues that the CCRB has had in obtaining BWC evidence from the onset of the BWC program through the first half of 2019, many of which were discussed at the public board meeting in July 2019.

Since then—in an effort to ensure that the CCRB was better able to obtain the information it needs to resolve complaints quickly and definitively—the CCRB and the NYPD have come to an agreement on a revised process by which the CCRB will receive BWC footage. These new protocols, set forth in a Memorandum of Understanding signed in November 2019, will allow CCRB investigators to search for videos alongside NYPD personnel, view unredacted footage, and more rapidly isolate and request the portions of video that are relevant to CCRB investigations. It is our hope that this new system will streamline CCRB's access to BWC footage, which is pivotal to our work.

While this Report represents an initial step in detailing how the CCRB has obtained, used, and relied upon BWC evidence in its cases, the BWC program in New York is still evolving. Future reports will continue to detail the role of BWC evidence in CCRB investigations and prosecutions.

Sincerely,

A handwritten signature in black ink, appearing to be 'FD' with a stylized flourish underneath.

Fred Davie

## THE BOARD AND AGENCY OPERATIONS

The Civilian Complaint Review Board (CCRB) is an agency of the City of New York. It became independent from the New York City Police Department (NYPD) and was established in its current all-civilian form in 1993. Board members review and make findings on misconduct complaints once they have been fully investigated.

The Board consists of 13 members who are all appointed by the Mayor. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair of the Board.

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 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 (e.g. Instructions, Formalized Training), the case is still referred directly to the Police Commissioner.

## EXECUTIVE SUMMARY

In 2013, the United States District Court for the Southern District of New York in *Floyd v. City of New York*,<sup>1</sup> found that the New York City Police Department's (NYPD) stop, question, and frisk practices violated the Fourth and Fourteenth Amendments of the Constitution. As a result, the Court ordered changes to certain policies, practices, and training curricula, as well as a one-year body-worn camera (BWC) pilot to determine whether BWCs were an effective oversight mechanism for reducing such unconstitutional stops. The court recognized that BWCs were "uniquely suited to addressing the constitutional harms at issue"<sup>2</sup>, and specifically mentioned the CCRB as a stakeholder in the reform process.<sup>3</sup>

In December 2014, before commencing the court-ordered pilot, the NYPD launched a volunteer BWC pilot program. In April 2017, after reviewing the results of the volunteer program, the NYPD began the larger-scale, court-ordered pilot. One month later, the CCRB made its first BWC request, and in June 2017, received its first BWC recording.

This Report's findings firmly establish that video footage is integral to determining whether an officer behaved professionally or engaged in misconduct. BWC evidence greatly increases the CCRB's ability to determine what happened during a police-civilian interaction, resulting in a greater number of cases being closed with a disposition of substantiated, unfounded, or exonerated, (on the merits). Between May 2017 and June 2019, the CCRB closed 76% of complaints "on the merits" where there was BWC evidence, compared to 39% where no video was available. In its analysis of fully-investigated cases with and without BWC, the CCRB found that the Board substantiated complaints in 31% of those where there was BWC footage as compared to 13% where there was no BWC or other type of video footage. Similarly, the Board exonerated complaints in 30% of fully-investigated cases where there was BWC footage, as compared to 20% where no video was available.

This Report looks at the impact of BWCs on the CCRB's operations and investigations. It examines the policies, protocols, and training of the NYPD and the CCRB, and analyzes the impact of BWC footage on CCRB cases. To explore these issues, this Report takes three approaches. First, it describes the process by which the CCRB obtains BWC footage, identifies key gaps in protocol that have led to inefficiency and error, and details the actions taken to address the gaps. Second, it uses descriptive statistics and extensive qualitative analysis to analyze all complaints in which the CCRB requested BWC footage from May 2017 to June 30, 2019 (2019 Q2). Third, the Report then examines those cases in which the Agency received and used such footage in its investigations.

During the first half of 2019, the CCRB noted an increase in the amount of time it took to receive BWC footage, as well as greater difficulty when attempting to access complete and relevant BWC

---

<sup>1</sup> *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

<sup>2</sup> *Id.* at 685.

<sup>3</sup> *Id.*



footage. In the first three quarters of 2018, on average, the overwhelming majority of BWC requests (>96%) were closed within 20 business days. In the first quarter of 2019, however, the percentage of BWC requests closed within 20 days plummeted to 43%. Changes in the NYPD's BWC access policies and procedures also led to an increase in the number of cases where BWC footage was either redacted or withheld in its entirety, negatively impacting the ability of the CCRB to conduct oversight. To address these concerns, the Agency and NYPD engaged in extensive conversations around the growing backlog of requests for footage and concerns around BWC access.

In November 2019, the CCRB and NYPD announced the signing of a Memorandum of Understanding concerning access to BWC footage (BWC MOU).<sup>4</sup> That agreement, signed by then-Police Commissioner James P. O'Neill and CCRB Chair Fred Davie, aims to improve the Agency's access to BWC footage and address the backlog in evidence sharing that has delayed investigations of police misconduct. Under the terms of the agreement, the NYPD will establish a facility where CCRB investigators can search and review BWC footage directly. Upon determining that footage is relevant to an allegation of police misconduct, the CCRB investigator may request a copy of the footage from the NYPD's Legal Bureau. The Legal Bureau must honor all requests (excluding outlined exemptions)<sup>5</sup> within 25 business days. Per the agreement, records and BWC recordings obtained from the NYPD will remain confidential and may not be disclosed or made public, except as may be mandated by court order or statute.

BWCs are important tools for civilian oversight of law enforcement. They make policing more transparent and increase accountability. The CCRB believes that greater access to BWC footage will lead to faster and more thorough investigations, solidify the public's confidence in the Agency's work, and ensure that the mission of the BWC program—oversight of the NYPD—is upheld.

## KEY FINDINGS

- 1. BWC footage enables the CCRB to reach a clear determination of fact far more frequently than when BWC footage is not available.** In the 318 fully-investigated complaints in which BWC footage was received, the Board was able to reach a clear determination of fact in 76% of all cases, compared to 39% when no video was available. BWCs also improved the ability of the Board to close individual allegations on the merits—with 76% of allegations with BWC evidence closed on the merits.
- 2. BWC footage allows the Agency to substantiate a greater proportion of Discourtesy and Offensive Language allegations.** Between 2017 and 2019 Q2, in cases where BWC footage was available, the CCRB substantiated 56% of Discourtesy allegations and 37% of

---

<sup>4</sup> Memorandum of Understanding between the CCRB and NYPD of the City of New York Concerning Body-Worn Camera Footage (BWC MOU) (Nov. 20, 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). See also Appendix A for a full version of the BWC MOU.

<sup>5</sup> *Id.* at § III(3)(d). NYPD shall not refuse to disclose or delay disclosure of footage on the grounds that it is conducting a concurrent or parallel investigation, except for those investigations being conducted by the Force Investigation Division and other sensitive force investigations not being conducted by FID. Notwithstanding, upon the conclusion of the investigation, the BWC footage will be shared with CCRB.



Offensive Language allegations. During that same time period, in cases where no BWC footage was available, the CCRB substantiated only 19% of Discourtesy cases and 15% of Offensive Language cases. This is, in part, because BWCs provide audio, which can definitively determine many Discourtesy and Offensive Language allegations—something that is more difficult when there is no video and is less likely to be available via other video footage (e.g., security camera footage, which may not have audio).

**3. Since the inception of the NYPD’s BWC program, the CCRB has submitted over 4,000 BWC requests and received footage in approximately half of those instances.**

Between May 23, 2017 and June 30, 2019, the Agency submitted a total of 4,413 BWC requests for 3,961 unique complaints. Of these 3,961 complaints, the CCRB received BWC footage for 2,033 complaints. In 2017, the CCRB made 192 requests for BWC footage. In 2018, this increased to 2,081. In the first half of 2019, the CCRB had already made 2,140 requests, reflecting the scale of the NYPD’s rollout of the BWC program to include all uniformed members of service (MOS) on patrol assignments.

**4. During the first half of 2019, the CCRB experienced progressively increasing delays in the amount of time it took to receive BWC footage.** In 2018 Q4, it took an average of 20 business days to receive a response to a BWC footage request, regardless of whether the response included footage. For requests made by June 30, 2019 (2019 Q2) and closed by July 31, 2019, that number jumped to an average of 42 business days for the CCRB to receive BWC footage, and 37 business days for the NYPD to tell the CCRB that no footage existed or that the request for footage was denied.<sup>6</sup>

**5. The space needed for CCRB to store BWC footage, and the associated costs, have increased dramatically.** From the beginning of the BWC program in the second quarter of 2017, through the second quarter of 2019, the CCRB received approximately 2.1885 terabytes (TB) of BWC footage. The Agency estimates that after Fiscal Year 2020, BWC storage will grow at a rate of 50% per year, with BWC storage costs alone rising to \$144,000 per year by FY2024.<sup>7</sup>

**6. In nearly 19% of all BWC requests, the CCRB identified an instance where a BWC request was returned with a negative response, but existing BWC footage was later identified (“false negative”).** False negatives may occur due to CCRB’s BWC requests providing limited or incomplete information, the completeness of search criteria used by the NYPD to identify BWC footage, or human error. Of the 2,033 complaints for which BWC footage was received, 377 complaints contained at least one false negative response (18.5%). This number may not reflect all instances of false negatives, as the CCRB only becomes aware of false negatives after they have been identified by its investigations or

---

<sup>6</sup> These increased wait times have impacted the metrics described throughout this Report, as the Agency has received responses for comparatively fewer requests for BWC in the second quarter of 2019. As such, all calculations involving 2019 Q2 data are skewed by the low number of fulfilled requests.

<sup>7</sup> Cost estimates are based on current commercial storage rates.

the NYPD Legal Bureau. In the spring of 2018, in an effort to decrease the number of requests for which the NYPD had to request more information in order to locate BWC footage, the CCRB created a BWC request template for all investigators to use. The template was positively received by both the CCRB and the NYPD and has reduced the number of clarification requests sent by the NYPD.

7. **CCRB identified several recurring technical issues that prevent BWCs from recording the entirety of police interactions with civilians.** In spring 2019, the CCRB analyzed investigators' experience with BWC footage and discussed issues they had encountered. The CCRB's analysis pointed to several recurring technical issues, largely involving the obstruction of the device, or cameras dislodging during incidents involving an apprehension or the use of force. In instances when BWCs became dislodged, the cameras frequently turned off or footage was interrupted, preventing a full incident recording.
8. **CCRB identified instances where officers failed to comply with NYPD policy with respect to when BWCs must be activated.** During its review of BWC footage, the CCRB found that officers often failed to properly use their cameras by turning on the BWC late, turning the BWC off early, or not turning the BWC on at all, in violation of PG § 212.123.
9. **Within the NYPD, officers are trained to inform other officers when their BWCs are active.** The CCRB's review found officers used verbal and non-verbal cues to indicate the presence of active BWCs. In addition to the required recording notifications provided to the public, officers were frequently heard using phrases such as, "I went Hollywood," "Green," "I'm/We're live," and "I'm hot," apparently designed to indicate to other officers that their BWCs were on and recording. Officers also used non-verbal cues, such as tapping motions, shoulder brushing, and gesturing apparently intended to indicate whether their cameras were turned off or on. The NYPD later confirmed that it was training officers to inform other officers at the scene of an incident of the presence of active BWCs.
10. **The percentage of closed CCRB cases involving BWC footage has increased significantly since 2017 and now comprise 33% of all fully investigated cases.** In November 2017, the CCRB closed its first investigation with BWC footage. While in 2017, complaints with BWC footage comprised only 1% of all fully investigated cases, in the second quarter of 2019, they comprised 33%—a 4533% increase—reflecting the growth of the NYPD's BWC program and the accelerated BWC rollout in 2018 and 2019.

## CCRB ACTIONS TAKEN AS A RESULT OF THIS ANALYSIS

1. **The CCRB and NYPD signed an MOU concerning BWC footage.** In November 2019, the CCRB and NYPD signed an agreement aimed at improving the CCRB's access to BWC footage and addressing a growing backlog of requests for footage. Under the terms of the agreement, the NYPD will establish a facility where CCRB investigators can search and review BWC footage directly. Upon determining that footage is relevant to an allegation of police misconduct, the CCRB investigator may request a copy of the footage from the NYPD's

Legal Bureau. The Legal Bureau must honor all requests (excluding outlined exemptions)<sup>8</sup> within 25 business days. Per the agreement, records and BWC recordings obtained from the NYPD will remain confidential and may not be disclosed or made public, except as may be mandated by court order or statute.

- 2. The CCRB updated its intake policies to obtain consent to view and use unredacted BWC footage at the start of its investigation.** As outlined under the BWC MOU, the CCRB will endeavor to obtain written waivers/consent from complainants, if possible, and will ensure that CCRB employees accepting complaints via telephone, in-person, or otherwise use scripted language seeking a verbal waiver/consent from complainants for recordings related to cases sealed pursuant to Criminal Procedure Law §§ 160.50/160.55<sup>9</sup> or Family Court Act §§ 375.1, 375.2, recordings containing the identity of the victim of a sex crime pursuant to Civil Rights Law § 50-b, or recordings depicting a juvenile.
- 3. The CCRB updated its internal guidelines and procedures to ensure that an officer's failure to use BWCs in accordance with NYPD policy is appropriately reported to the NYPD.** In summer 2019, the CCRB updated its internal guidelines to clarify when “Other Misconduct Noted” (OMN) allegations—actions uncovered during a CCRB investigation that are alleged violations of the Patrol Guide, but not within the CCRB’s jurisdiction—and letters to the NYPD Risk Management Bureau (RMB) identifying possible problematic patterns of behavior should be issued for improper use of BWCs. Under the current policy, when an investigator determines that an officer who has been issued a BWC for at least 90 days before the incident failed to turn on the device at the start of the tour, failed to activate the BWC during a mandatory event when it was feasible and safe to do so, or terminated the activation before an incident had concluded, such conduct will be referred to the NYPD as an OMN. Where an officer has committed the same misconduct but has been issued a BWC for less than 90 days before the incident, the CCRB will instead send a RMB letter. To better enforce this CCRB policy on improper use of BWCs, the CCRB will work with the NYPD to streamline the process by which it determines the date an officer was issued a BWC.
- 4. CCRB has improved training for CCRB staff on how best to utilize BWC footage during interviews of police officers.** In May 2019, the CCRB’s Training Department conducted a training on how to utilize video evidence during interviews. The training included discussion on who may be shown BWC footage, at what point during the interview BWC footage should be shown, the importance of getting full testimony before reviewing BWC footage, standard questions to ask regarding BWC footage, and what questions to ask when

---

<sup>8</sup> BWC MOU, *supra* note 4, at § III(3)(d). NYPD shall not refuse to disclose or delay disclosure of footage on the grounds that it is conducting a concurrent or parallel investigation, except for those investigations being conducted by the Force Investigation Division and other cases deemed sensitive force investigations not being conducted by FID. Notwithstanding, upon the conclusion of the investigation, the BWC footage will be shared with CCRB.

<sup>9</sup> Criminal Procedure Law §§ 160.50 and 160.55, both require that “all official records and papers . . . relating to the arrest or prosecution . . . be sealed and not made available to any person or public or private agency.” N.Y. Crim. Proc. Law §§ 160.50(1)(c); 160.55(1)(c).

BWC footage appears to conflict with officer testimony. The training was presented to all investigators and managers.

5. **CCRB staff will be trained on current BWC technology being used by NYPD.** The CCRB’s Training Department will organize a BWC refresher training so that CCRB staff is up-to-date on the BWC hardware and software currently in use by the NYPD. Prior to the implementation of the BWC MOU, CCRB staff will also be trained on both Viewu Solution and Axon Evidence.com, which are the BWC platforms used by the NYPD.
6. **CCRB is updating procedures and technology to ensure that the Agency can accurately track issues with BWC usage.** The CCRB’s Data Processing and New Application Development team are currently working to develop and better record standardized metrics on technical and officer usage issues with BWCs.

## RECOMMENDATIONS FOR THE NYPD

1. **CPL §§ 160.50 and 160.55 should not prevent disclosure of BWC footage to the CCRB.**<sup>10</sup> Unconstitutional stops sometimes lead to arrests and/or prosecutions that are later dismissed or terminated and sealed. Thus, it is important that complaints related to sealed cases are thoroughly investigated by the CCRB. While the CCRB hopes that the BWC MOU and its adoption of verbal and written waiver/consent procedures will largely alleviate issues associated with obtaining BWC footage related to sealed cases,<sup>11</sup> investigating these cases without the improved level of review provided by BWC footage would be a disservice to both the complainants and officers involved.<sup>12</sup>
2. **The NYPD should incorporate GPS tagging technology, which embeds location data in videos recorded by Axon cameras.** Location tracking, or geotagging technology, provides an additional mechanism to reduce false negatives and expedite BWC database searches. To simplify the search terms used to locate BWC footage, the CCRB recommends that the NYPD utilize the geotagging technology available on Axon View—an Axon mobile application that connects to Axon cameras and provides instant video playback and GPS tagging. Using this technology, video files uploaded to Viewu Solution and Evidence.com would automatically

---

<sup>10</sup> Criminal Procedure Law §§ 160.50 and 160.55, both require that “all official records and papers . . . relating to the arrest or prosecution . . . be sealed and not made available to any person or public or private agency.” N.Y. Crim. Proc. Law §§ 160.50(1)(c); 160.55(1)(c).

<sup>11</sup> BWC MOU, *supra* note 4, at § III (3)(f). CCRB will adopt procedures to obtain valid consent, when possible, to view and use BWC footage without redaction or blurring at the start of its investigation. Informed, verbal consent shall be sufficient.

<sup>12</sup> Although there are legitimate privacy concerns surrounding the general use, retention, and release of BWC footage, the privacy laws that apply to CCRB in its capacity as an independent city agency mitigate the potential for harm from disclosure of BWC recordings for the purposes of its investigations. Any officer information and documents obtained during the course of an investigation are considered personnel records and are protected from disclosure pursuant to Civil Rights Law § 50-a. The Freedom of Information Law (FOIL) also provides limitations on what information can be publicly disclosed.

include “location metadata,” allowing the NYPD to more easily identify relevant BWC footage by searching location tags or the GPS coordinates of identified officers.

3. **The NYPD should incorporate Axon technology that automatically activates all nearby Axon cameras, including BWC and dashboard cameras, when an officer triggers their Taser or draws their firearm.** Axon’s Signal Performance Power Magazine and Axon’s Signal Sidearm automatically enable an officer’s BWC to begin recording in critical situations. The incorporation and automation of this technology by the NYPD will ensure greater oversight—both internally by supervisors, and externally by the CCRB, other oversight agencies, and the public-at-large.
4. **The NYPD should continue working with Axon, the company from which NYPD purchases its BWCs, to ensure that mounting hardware can withstand all aspects of policing.** Given the importance of recorded interactions for law enforcement and oversight purposes, the CCRB encourages the NYPD to address issues of BWCs becoming dislodged.
5. **When conducting home visits and entries, officers should turn on their BWC prior to arrival at the residence to account for any lag time while in buffering mode.** Allegations related to entry into civilians’ homes comprised 10% of Abuse of Authority allegations closed by the CCRB in 2018.<sup>13</sup> To account for the 30-second and one-minute buffer period in BWC models, the CCRB recommends that officers conducting home visits/entries activate their BWCs prior to arrival at the civilian’s home or upon entering the building for apartment buildings. This will help to ensure that the officers’ entry into a civilian’s home is captured in its entirety. Capturing audio and video recordings of the totality of these interactions will allow BWCs to better serve both oversight and law enforcement purposes.
6. **The NYPD should amend the Patrol Guide to prohibit officers from intentionally interfering with the capturing of BWC footage, including, but not limited to, using signals to warn other officers that their BWC is active in an effort to obfuscate or facilitate police misconduct.** Currently, PG § 212.123(8) does not prohibit officers from intentionally hindering a BWC recording in any way. The CCRB’s review of cases with BWC video has identified a number of instances where officers have used signals to prevent or halt the recording of police misconduct. This specific use of signals undermines the purpose of the BWC program that is meant to, “provide a contemporaneous, objective record of stops and frisks, allowing for the review of officer conduct.”<sup>14</sup> Given these identified incidents of officer interference, the CCRB believes that the NYPD should amend its policy to

---

<sup>13</sup> CCRB, *Annual Report 2018* (2019), available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2018CCRB\\_AnnualReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018CCRB_AnnualReport.pdf)

<sup>14</sup> *Floyd*, 959 F. Supp. 2d. at 685.

prohibit officers from intentionally disrupting a BWC recording, including the use of signaling, to obfuscate or facilitate misconduct.

7. **The NYPD should publicly report its audits of officer compliance with BWC policy.** The NYPD currently conducts regular audits of BWC recordings to ensure officer compliance and address any performance or tactical deficiencies observed on camera.<sup>15</sup> However, due to the lack of public reporting, the number of audits conducted, and the extent to which the NYPD is aware of BWC usage issues or officer non-compliance, is unknown. The public reporting of these metrics, which have already been adopted in other jurisdictions,<sup>16</sup> would better support the mission of the BWC program and ensure greater transparency and oversight of the NYPD.
8. **The NYPD should include BWC searches on all Internal Affairs Bureau (IAB) referral logs and link digital memo book entries to the appropriate BWC footage.** Including all BWC footage reviewed by the NYPD in cases referred to the CCRB from IAB, or providing reference to BWC footage in documents provided to the CCRB, would cut down on the time needed for the CCRB to obtain BWC evidence in concurrent investigations.

---

<sup>15</sup> Letter from Ernest F. Hart, Deputy Commissioner, NYPD Legal Matters, to CCRB [hereinafter Legal Bureau Letter] (Jan. 13, 2020).

<sup>16</sup> See Chicago Police Department, Special Order S03-14 Body Worn Cameras (Apr. 30, 2018), <http://directives.chicagopolice.org/directives/data/a7a57b38-151f3872-56415-1f38-89ce6c22d026d090.pdf?hl=true>; City of Chicago Office of Inspector General, *Evaluation of the Chicago Police Department's Random Reviews of Body-Worn Camera Recordings* (July 30, 2019), <https://igchicago.org/2019/07/30/evaluation-of-the-chicago-police-departments-random-reviews-of-body-worn-camera-recordings/>.



# INTRODUCTION

## BACKGROUND

---

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>17</sup> found that the New York City Police Department's (NYPD) stop, question, and frisk practices violated the Fourth and Fourteenth Amendments of the Constitution. The Court also found that the NYPD had a “policy of indirect racial profiling” that disproportionately targeted Black and Hispanic individuals for stops.<sup>18</sup> As a result, the Court ordered changes to certain policies, practices and training curricula, and appointed a federal monitor (referred to in this Report as “NYPD Monitor”) to oversee these reforms. The Court also ordered a one-year body-worn camera (BWC) pilot to determine whether BWCs were an effective oversight mechanism for reducing unconstitutional stops, explaining:

Video recordings will serve a variety of useful functions. *First*, they will provide a contemporaneous, objective record of stops and frisks, allowing for the review of officer conduct by supervisors and the courts . . . *Second*, the knowledge that an exchange is being recorded will encourage lawful and respectful interactions on the part of both parties. *Third*, the recordings will diminish the sense on the part of those who file complaints that it is their word against the police, and that the authorities are more likely to believe the police . . . Video recordings will be equally helpful to members of the NYPD who are wrongly accused of inappropriate behavior.<sup>19</sup>

In September 2014, prior to the implementation of the court-ordered BWC pilot, then-NYPD Commissioner William J. Bratton announced the launch of a volunteer pilot program to test the use of BWCs in all five boroughs.<sup>20</sup> From December 2014 through March 2016, the NYPD conducted the small BWC pilot with 54 volunteer police officers across six different commands.<sup>21</sup> In addition to assessing the benefits of the cameras, the volunteer pilot sought to test different BWC equipment, while allowing the NYPD to develop its BWC-related technology infrastructure and policies.<sup>22</sup> In

---

<sup>17</sup> *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

<sup>18</sup> *Id.* at 540.

<sup>19</sup> *Floyd v. City of N.Y.*, 959 F. Supp. 2d 668 (S.D.N.Y. 2013) at 685.

<sup>20</sup> J. David Goodman, New York Police Officers to Start Using Body Cameras in a Pilot Program, N.Y. Times (Sept. 4, 2014), <https://www.nytimes.com/2014/09/05/nyregion/new-york-police-officers-to-begin-wearing-body-cameras-in-pilot-program.html>. See also OIG-NYPD, *Body-Worn Cameras in NYC: An Assessment of NYPD's Pilot Program and Recommendations to Promote Accountability* (July 2015), available at [https://www1.nyc.gov/assets/doi/reports/pdf/2015/2015-07-30-Nypdbodycamerareport\\_final.pdf](https://www1.nyc.gov/assets/doi/reports/pdf/2015/2015-07-30-Nypdbodycamerareport_final.pdf).

<sup>21</sup> The six commands that participated in the BWC Volunteer Pilot Program were the: 23<sup>rd</sup> precinct (East Harlem), 40<sup>th</sup> precinct (South Bronx), 75<sup>th</sup> precinct (East New York), 103<sup>rd</sup> precinct (Jamaica), 120<sup>th</sup> precinct (NE Staten Island), and Public Service Area (PSA) 2 (housing developments in Brownsville and Crown Heights).

<sup>22</sup> Peter L. Zimroth, *First Report of the Independent Monitor* (July 9, 2015), available at <http://nypdmonitor.org/wp-content/uploads/2015/08/MonitorsFirstReport-AsFiledInFloydDocket.pdf>.

June 2016, upon conclusion of the volunteer pilot, the NYPD commissioned the Policing Project at the New York University School of Law to conduct an online questionnaire for community input on the NYPD's proposed BWC policy.<sup>23</sup> Approximately 25,000 civilians and 5,000 police officers participated in the anonymous survey. Recommendations subsequently were presented and considered by the NYPD for adoption.<sup>24</sup>

In April 2017, after reviewing the results of the volunteer pilot, the NYPD began the larger-scale, court-ordered pilot with two goals: 1) to assess the costs and benefits of deploying cameras; and 2) to examine whether deployment resulted in reducing unconstitutional stops and frisks.<sup>25</sup> The NYPD contracted with BWC and technology provider Viewu,<sup>26</sup> and equipped officers with Viewu LE-4 cameras (LE-4). In May 2018, Viewu was acquired<sup>27</sup> by Axon.<sup>28</sup> Cameras were rolled out on a precinct-by-precinct basis, and the NYPD added Viewu LE-5 cameras (LE-5) to circulation in Fall 2018.<sup>29</sup> By December 31, 2018, BWC deployment reached 15,826 members of service (MOS) across 81 commands (Fig. 1).

---

<sup>23</sup> NYPD, *NYPD Response to Public and Officer Input on the Department's Proposed Body-Worn Camera Policy* (April 2017), available at [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).

<sup>24</sup> *Id.*

<sup>25</sup> In August 2016, the NYPD Monitor released a report outlining a research design for a randomized control trial (RCT) of BWCs in the NYPD, to be implemented pursuant to *Floyd*. See NYPD Monitor, *Third Report: Interim Briefing on Body-Worn Camera Pilot Program*. In June 2016, the NYPD Monitor released the research and evaluation design for the NYPD's BWC pilot program, involving officers with BWCs in 20 precincts matched with officers not assigned BWCs in 20 other precincts. See NYPD Monitor, *Sixth Report: The NYPD's Body-Worn Camera Pilot: Research and Evaluation Plan*.

<sup>26</sup> About Us, VIEWU, <http://www.viewu.com/about-us/> (last visited Apr. 5, 2019).

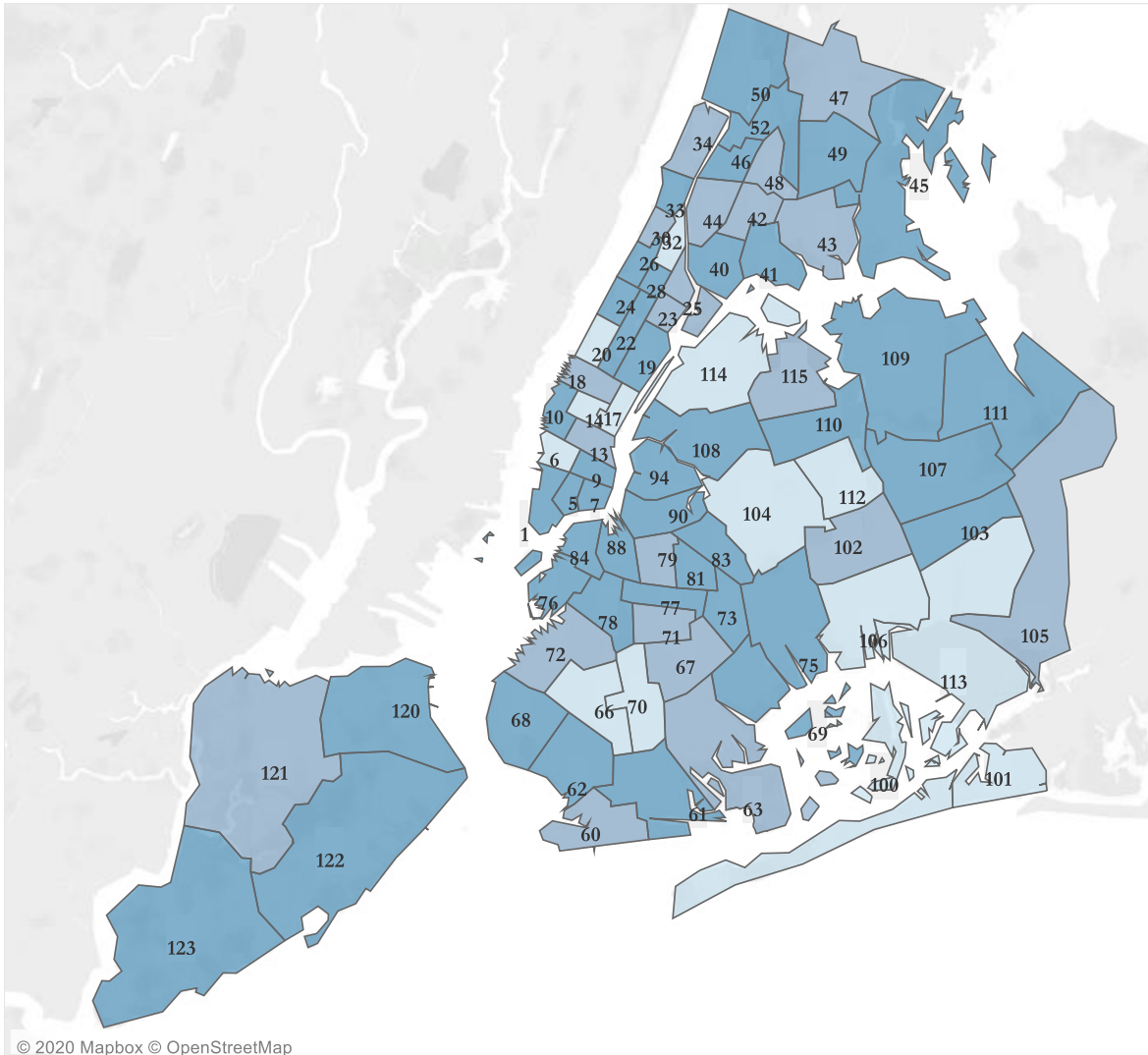
<sup>27</sup> Joshua Brustein, *The Biggest Police Body Cam Company is Buying Its Main Competitor*, BLOOMBERG, May 4, 2018, <https://www.bloomberg.com/news/articles/2018-05-04/the-biggest-police-body-cam-company-is-buying-its-main-competitor>.

<sup>28</sup> For more information about Axon, see AXON, <https://www.axon.com/> (last visited Apr. 5, 2019).

<sup>29</sup> NYPD, *NYPD Completes Rollout of Body-Worn Cameras to All Officers on Patrol* (March 6, 2019), <https://www1.nyc.gov/site/nypd/news/pr0306/nypd-completes-rollout-body-worn-cameras-all-officers-patrol#/0>.

**Figure 01. Deployment of Body-Worn Cameras through December 2018**

- No BWCs as of December 2018
- BWCs in at least one tour by December 2018
- BWCs in at least one tour as of December 2017



The NYPD originally projected all patrol officers, transit districts and housing public services areas would be equipped with BWCs by the end of 2018. On October 21, 2018, however, an LE-5 model exploded, leading the NYPD to recall 2,900 LE-5s—approximately 20% of all assigned BWCs—from service,<sup>30</sup> delaying the projected roll-out.<sup>31</sup> Following the recall, the NYPD replaced the LE-5 models

<sup>30</sup> Peter L. Zimroth, *Ninth Report of the Independent Monitor* (Jan. 11, 2019) at 25, available at <http://nypdmonitor.org/wp-content/uploads/2019/01/2019-01-11-Combined-Ninth-Report-4.pdf>.

<sup>31</sup> On October 21, 2018, Viewu model LE-5 BWC camera caught on fire at the 121<sup>st</sup> precinct in Staten Island. In response to the explosion, the NYPD decided to shelve all 2,990 Viewu model LE-5 cameras. On October 22, 2018, NYPD Deputy Commissioner for Information Technology, Jessica Tisch, stated that the incident was likely

with LE-4s and Axon Body-2 cameras (AB-2).<sup>32</sup> In December 2019, the NYPD also began to deploy Axon Body-3 cameras (AB-3).<sup>33</sup>

In February 2019, the NYPD announced a complete BWC roll-out to all uniformed patrol officers—approximately 20,000 cameras distributed to police officers, detectives performing patrol functions, sergeants and lieutenants assigned to precincts, transit districts, and public housing police services areas.<sup>34</sup> In total, 79 commands were equipped with LE-4s (16,000 cameras) and 19 commands were equipped with AB-2s (4,000 cameras). In November 2019, the NYPD announced a complete BWC roll-out of “Phase 3” of the pilot,<sup>35</sup> which equipped specialized units, including the Emergency Services Unit, Strategic Response Group, and Critical Response Command, with approximately 4,000 BWCs.<sup>36</sup> Through the remainder of 2019, NYPD also continued its rollout of BWC to specialty units and executive uniformed personnel assigned to commands employing BWC.<sup>37</sup>

To date, the NYPD “has accumulated over eight million videos, of which each video averages approximately eight minutes. Nearly 130,000 videos are uploaded to the Department’s cloud-based storage each week.”<sup>38</sup>

---

to result in the NYPD missing the January 1, 2019 mark for equipping all 22,000 officers on patrol in precinct, transit, and housing units. Mark Toor, *Body-Camera Explosion Means Missed Deadline*, THE CHIEF-LEADER (New York, NY), Oct. 30, 2018, available at [http://thechiefleader.com/news/news\\_of\\_the\\_week/body-camera-explosion-means-missed-deadline/article\\_3c7ed9c2-d881-11e8-8a3f-bbbd608883fb.html](http://thechiefleader.com/news/news_of_the_week/body-camera-explosion-means-missed-deadline/article_3c7ed9c2-d881-11e8-8a3f-bbbd608883fb.html).

<sup>32</sup> See Appendix C for manufacturer descriptions of all BWC cameras currently in circulation.

<sup>33</sup> *Oversight - NYPD's Roll-Out of Body Worn Cameras*, NYC Council Committee on Public Safety, (Nov. 18, 2019) (statement of Matthew Pontillo, NYPD Assistant Chief and Commanding Officer of the First Deputy Commissioner), <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=735835&GUID=84D658B7-4202-487F-877F-BB05006147ED&Options=&Search=>.

<sup>34</sup> NYPD, *Body-Worn Cameras*, <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page> (last visited Nov. 25, 2019).

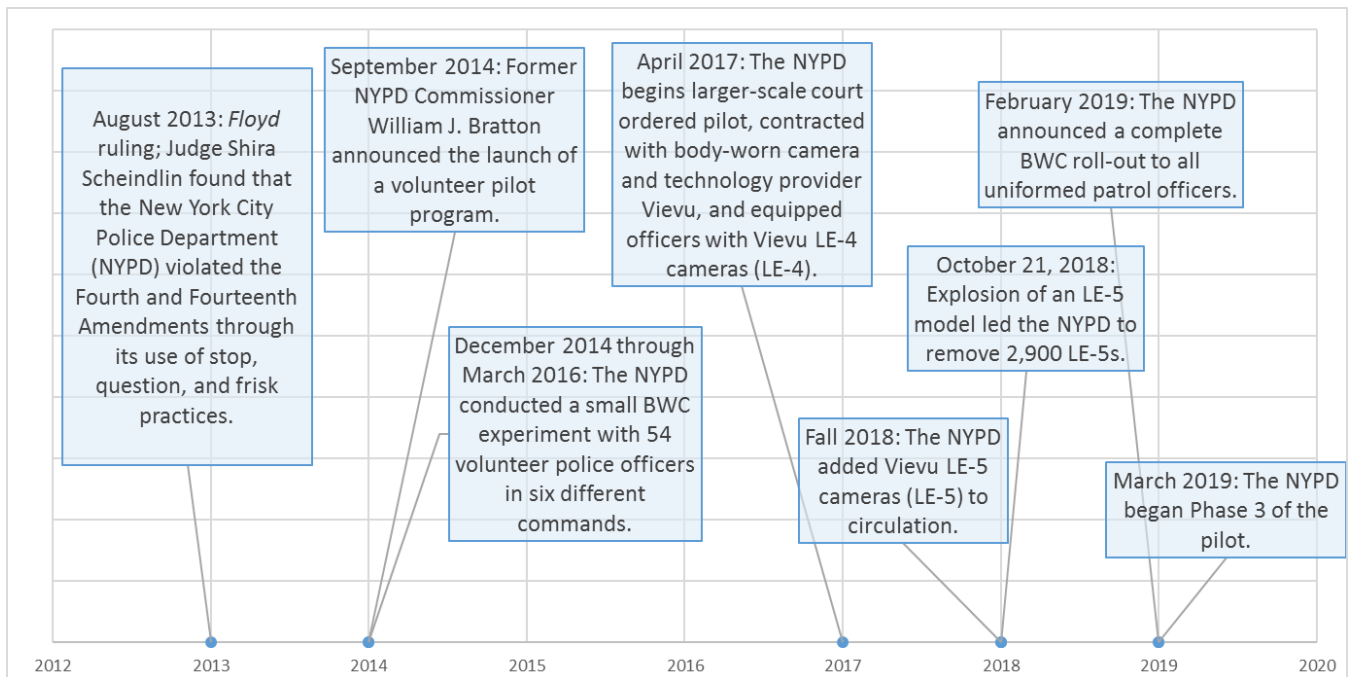
<sup>35</sup> *Oversight - NYPD's Roll-Out of Body Worn Cameras*, NYC Council Committee on Public Safety, (Nov. 18, 2019) (statement of Oleg Chernyavsky, NYPD Ass’t Deputy Commissioner of Legal Matters) , <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=735835&GUID=84D658B7-4202-487F-877F-BB05006147ED&Options=&Search=>.

<sup>36</sup> NYPD, *Body-Worn Cameras*, <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page> (last visited Nov. 25, 2019).

<sup>37</sup> Legal Bureau Letter, *supra* note 15.

<sup>38</sup> *Id.*

**Figure 02. BWC Roll-Out Timeline**



As required under the court-ordered pilot, the NYPD Monitor is currently evaluating the NYPD’s BWC procedures, as well as the effectiveness of the one-year BWC pilot. In November 2018, the NYPD began working with the NYPD Monitor team to collect data for the evaluation’s outcome measures. In November 2018, the NYPD Monitor also submitted its proposed evaluation plan<sup>39</sup> to Judge Analisa Torres of the United States District Court for the Southern District of New York for approval. The matter is currently pending before the court.<sup>40</sup>

<sup>39</sup> ECF No. 660-1, Outline of Proposed Pilot Study for Court-Ordered Pilots on Documenting Police-Citizen Level 1 and Level 2 Encounters and Activation of BWCs for Level-1 Encounters (Nov. 8, 2018).

<sup>40</sup> Zimroth, *supra* note 30.

## NYPD BODY-WORN CAMERAS POLICIES

---

The NYPD provides informational videos in several languages, including sign language, about the BWC rollout on its website. The NYPD website also includes a “frequently asked questions” (FAQ) section, links to its policies on BWCs, and policies related to the release of BWC footage of critical incidents.<sup>41</sup> A link is provided for members of the public to request BWC video through a Freedom of Information Law (FOIL) request.<sup>42</sup>

Under the Right to Know Act (RTKA),<sup>43</sup> which went into effect on October 19, 2018, during certain civilian interactions, officers are required to provide the civilian a business card that includes information on how to request BWC footage. Members of the public also may go to the NYPD’s “Police Encounters” webpage, which provides information on obtaining BWC footage of their interactions with police officers.<sup>44</sup>

The NYPD BWC policy is articulated in Patrol Guide (PG) § 212.123, Use of Body-Worn Cameras.<sup>45</sup> PG § 221.123 explains:

To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

The Department is issuing Body-Worn Cameras (BWCs) to certain uniformed members of service.

PG § 221.123 discusses the BWC operating procedure, including BWC activation and deactivation, prohibited BWC recordings, documentation and case use, officer viewing of BWC footage, firearms discharges, level 3 use of force, death/serious injury in custody incidents, and supervisory and

---

<sup>41</sup> NYPD, Operations Order: Public release of Body-Worn Camera (BWC) Footage of Critical Incidents (Oct. 18, 2019), available at: [https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/oo-46-19-bodyworn-camera-footage.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/oo-46-19-bodyworn-camera-footage.pdf).

<sup>42</sup> NYPD, *Body-Worn Cameras*, <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page> (last visited Apr. 16, 2019).

<sup>43</sup> The Right to Know Act has two components. The first outlines 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 to have business cards that contain this information. The second component of the law addresses situations in which officers seek to perform a search and do not have legal justification to do so without a person’s consent. In these situations, the RTKA requires that officers explain that a search will not be conducted if a person refuses to provide consent. The law requires officers to document these requests for consent. For more information: 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).

<sup>44</sup> NYPD, *Police Encounters*, <https://www1.nyc.gov/site/nypd/about/about-nypd/police-encounters.page> (last visited Apr. 10, 2019).

<sup>45</sup> NYPD, *Patrol Guide Section 212.123, Use of Body-Worn Cameras* (Jan. 08, 2018), available at: [https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/public-pguide2.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide2.pdf).



administrative functions for BWCs.<sup>46</sup> PG § 221.123 applies to all members of service issued BWCs, “irrespective” of whether they are “on traditional patrol or has duties in a plainclothes capacity.”<sup>47</sup>

Specific operating procedures pertinent to the scope of this report are summarized below:

*Mandatory Activation of BWC: Uniformed officers are required to activate their BWCs prior to engaging in, or assisting another uniformed officer with the following police actions:*

- (a) Potential crime-in-progress assignments, including: (1) possible crimes (e.g., suspicious person, shots fired, person with a gun, person selling drugs, etc.), (2) a disorderly person/group/noise, (3) a robbery/burglary/larceny/ report of explosives/assault, etc., (4) jobs involving police officer assistance and additional units needed, (5) any incident involving a weapon, and (6) ShotSpotter activation;*
- (b) Interior patrols of New York City Housing Authority (NYCHA) buildings as well as any privately-owned buildings. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action;*
- (c) Public interactions that escalate and become adversarial;*
- (d) Interactions with an emotionally disturbed person;*
- (e) Interactions with persons suspected of criminal activity;*
- (f) A search of an individual and/or his/her belongings, except for strip searches;*
- (g) Vehicle stops;*
- (h) Summonses, except for a Notice of Parking Violation;*
- (i) Use of force;<sup>48</sup> and*
- (j) Arrests.*

*BWC Activation: Uniformed officers are directed to begin recording prior to or immediately upon arrival at the incident location. In the event of an unanticipated or exigent circumstances, activate the BWC as soon as it is feasible and safe to do so...*

*Deactivation of BWC: Once BWC has been activated, uniformed officers should continue recording until the investigative, enforcement, or other police action is concluded. In the case of arrest, officers should continue recording until the prisoner is lodged at the command for arrest processing. Uniformed officers may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances.*

*Prohibited BWC Recordings: Uniformed officers are instructed not to activate their BWC during performance of administrative duties or non-enforcement functions, routine activities*

---

<sup>46</sup> See Appendix B for a full version of PG § 212.123, Use of Body-Worn Cameras.

<sup>47</sup> Legal Bureau Letter, *supra* note 15.

<sup>48</sup> As defined in NYPD, *Patrol Guide Section 221.03, Reporting and Investigation of Force Incident or Injury to Persons during Police Action* (Jun. 01, 2017), available at: [https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/public-pguide3.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide3.pdf).

*within Department facilities, departmental meetings or training, off-duty employment including paid detail assignments, interviewing a current or potential confidential informant, undercover officers, interviewing the victim of a sex crime (as soon as the nature of the event becomes apparent), strip searches, in a court facility (except for the immediate lodging of a prisoner), and inside of a medical facility. Officers are instructed to notify their patrol/unit supervisor if a “prohibited event” was recorded.*

*Supervisory Review: The Training Sergeant will periodically review BWC as appropriate to provide positive feedback and address any performance or tactical deficiencies observed. The Training Sergeant will also assess compliance with the procedure and take necessary remedial action to correct deficiencies.*

*The Integrity Control Officer will supervise review of BWC video by supervisors assigned to the command. They will also periodically review BWC video as appropriate, to provide positive feedback and address any performance deficiencies observed.*

## **Retention of Video Files**

The Patrol Guide in section 212.123 notes that the default preservation period for BWC video is one year, at which time it will be automatically deleted.”<sup>49</sup> According to the NYPD, however, the default retention period for all video recordings is 18 months, with certain categories of videos, i.e., the issuance of a summons, an arrest, or homicide retained for longer periods of time.<sup>50</sup> The NYPD currently stores all BWC footage on Viewu Solution, a cloud-based evidence management system,<sup>51</sup> and Axon Evidence (Evidence.com), a secure cloud-based storage system designed to “store, streamline, and share all your evidence and Axon device data.”<sup>52</sup>

## **Officer Training on BWC**

In April 2016, the NYPD, in consultation with the NYPD Monitor, drafted training materials to instruct personnel on how to wear BWCs, as well as maintain cameras and video footage.<sup>53</sup> The NYPD also met with internal and external stakeholders, including local elected officials, police unions, civil liberties organizations, police reform advocacy groups, and district attorneys’ offices to

---

<sup>49</sup> In a communication with the CCRB on January 13, 2020, the NYPD’s Legal Bureau asserted that “while PG 212-123 states the ‘default preservation period for BWC video is one year,’ this provision is in the process of being corrected.” Legal Bureau Letter, *supra* note 15.

<sup>50</sup> “For footage capturing the issuance of a summons, the video will be retained for two years. For footage capturing an arrest or homicide investigation, the video will be retained for five years.” *Id.*

<sup>51</sup> Viewu, Software Plans Hosted-Government, <http://www.viewu.com/software-plans-hosted-government/> (last viewed Oct. 9, 2019).

<sup>52</sup> Axon, *Axon Evidence*, <https://www.axon.com/products/evidence> (last viewed May 17, 2019).

<sup>53</sup> Letter from Nancy Hoppock, Assistant Deputy Comm’r & Gen. Counsel, NYC Police Dept., Risk Mgmt. Bureau, to Peter L. Zimroth, NYPD Monitor (Nov. 24, 2015), available at: <http://nypdmonitor.org/wp-content/uploads/2016/02/NYPDletterBWC.pdf>.

assist in the development of its final BWC policy.<sup>54</sup> In 2017, the NYPD established a BWC Unit within its Risk Management Bureau (RMB BWC Unit) to “implement BWC policy, deliver instruction on BWCs to uniformed personnel, and review BWC footage to enhance police investigations and crime control strategies.”<sup>55</sup> Command training began in April 2019. At present:

*Risk Management’s BWC Unit works jointly with the Police Academy to conduct comprehensive training as well as continuous subject matter training for members of service. Officers are given guidance on use and functionality of body-worn cameras during a full day training program at the Police Academy. The training at the Police Academy consists of a half day of classroom lectures followed by a half day of live scenarios to educate their use of body-worn cameras while performing their duties. Officers then have a 90-day period of field training at the command. If there are deficiencies observed, the member of service will be addressed with instruction from a supervisor.*<sup>56</sup>

Command Training Sergeants and Integrity Control Officers receive training on “best practices in regard to the use of BWCs and supervisory oversight.” The RMB BWC Unit also conducts “training sessions at command-level trainings, executive conferences, recruit orientations, and tactical communications.”<sup>57</sup>

As specified by PG § 212.123, officers are directed to position their BWC to facilitate the optimal recording field of view.<sup>58</sup> The Patrol Guide recommends uniformed officers attach their BWC to their outermost garment, in the center of their chest, using the mounting hardware provided.<sup>59</sup> No guidance is presently provided to plainclothes officers. Where conditions may require recording from a different point of view, officers have discretion to move their cameras, e.g., placing the camera on the vehicle dashboard during transport of prisoners. Officers are directed to notify individuals with whom they are interacting that the officer is wearing a camera and that the interaction is being recorded, unless notification could compromise the safety of any person or impede the investigation.

Public guidance on training and use of BWCs is provided via a link on the NYPD’s website to the Bureau of Justice Assistance’s Body-Worn Camera Toolkit, which aims to provide law enforcement agencies with BWC resources, including technical and training assistance.<sup>60</sup>

---

<sup>54</sup> Peter L. Zimroth, *Memorandum: Approval of Body-Worn Camera Policies* (Apr. 11, 2017), <http://nypdmonitor.org/wp-content/uploads/2018/02/2017-04-11-Floyd-Ligon-Davis-Monitors-Ltr.-to-Court-Encl.-Memo-re-Approval-of-Policies-for-NYPD-BWC-Pilot-as-filed.pdf>.

<sup>55</sup> Legal Bureau Letter, *supra* note 15.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> See PG § 212-123(1)(c).

<sup>59</sup> *Id.*

<sup>60</sup> The Body Worn-Camera Toolkit was created by the U.S. Department of Justice’s Office of Justice Programs’ Bureau of Justice Assistance as a resource for law enforcement agencies across the country and around the world. This toolkit consolidates and translates the developing body of knowledge on BWCs for law enforcement, criminal justice professionals, advocacy organizations, and community members. For more

## NYPD's BWC Policy Compliance Review Process

The NYPD has instituted processes to ensure compliance with its BWC policy. Currently, the RMB BWC Unit uses analytical tools to measure the compliance of BWC users by command, in regard to mandatory recording events, and shares its findings with the command and Department executives.<sup>61</sup> As communicated to the CCRB, the NYPD currently ensures compliance as follows:

*The Department has multi-tiered levels of review and engages in self-initiated auditing to ensure that officers are properly using cameras and recording when required. Sergeants review a sampling of police officers' footage on a monthly basis, which is then reviewed by lieutenants within the command, which is then reviewed by the relevant patrol borough. Once approved, those documents which contain the reviewed files, are sent back to the BWC Unit from an executive's email address, which serves as a digital signature that the files were reviewed. Upon receiving the files they are logged and reviewed for completeness.*

*In addition, body-worn camera compliance is analyzed on a larger scale as a compliance analysis is incorporated into COMPSTAT and from weekly assessments by Risk Management's BWC Unit. The Unit will also conduct visits to commands experiencing compliance issues to reinforce policy and address any procedural questions that arise. The BWC Unit also informs the commands when it identifies a mandatory activation incident that was not recorded. The Commanding Officer is mandated to investigate the incident and report back to the BWC Unit with their findings including disciplinary action taken, if necessary. BWC Unit also informs commands with their compliance rates over extended periods of time to enable them to track their overall compliance in increments.<sup>62</sup>*

---

information, see: Bureau of Justice Assistance, *Body-Worn Camera Toolkit*, <https://www.bja.gov/bwc/index.html> (last visited Apr. 16, 2019).

<sup>61</sup> Legal Bureau Letter, *supra* note 15.

<sup>62</sup> *Id.*

## METHODOLOGY AND SCOPE

---

While previous BWC studies have largely focused on the effect of BWCs on police departments and police-civilian encounters,<sup>63</sup> this Report looks specifically at the impact of BWCs on police misconduct investigations and the CCRB in its role as an investigative oversight agency, by examining:

1. The NYPD's publicly-available BWC policies, protocols, and training documents;<sup>64</sup>
2. The CCRB's BWC policies, protocols, and training; and
3. The CCRB's cases:
  - a. To examine the efficiency of the BWC request and receipt process through conducting a review of all BWC requests made, from the time of the request to CCRB's receipt and upload of the requested video;
  - b. To identify technical and recurring issues pertaining to the NYPD's BWC footage and officer use of BWCs; and
  - c. To examine the impact of BWCs on the CCRB's investigations and case outcomes.

---

<sup>63</sup> See Barak Ariel, William Farrar & Alex Sutherland, *The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Control Trial* 31 J. OF QUANT. CRIMINOLOGY 3 (Sept. 2015); David Yokum, Anita Ravishankar, & Alexander Coppock, *Evaluating the Effect of Police Body-Worn Cameras: A Randomized Control Trial*, (The Lab @DC, Working Paper, October 20, 2017); *The Impacts of BWC on Police-Citizen Encounters, Police Proactivity, and Police-Community Relations in Boston: A Randomized Controlled Trial* (School of Criminology and Criminal Justice, Northeastern University, July 27, 2018); Wesley G. Jennings, Matthew D. Lynch & Lorie A. Fridall, *Evaluating the Impact of Police Officer Body-Worn Cameras (BWCS) on Response-to-Resistance and Serious External Complaints: Evidence From the Orlando Police Department (OPD) Experience Utilizing a Randomized Controlled Experiment*, 43 J. OF CRIM. JUST. 6 (Nov. 2015); Daniel Trimble, *Body Worn Cameras: The Implementation of Both the Police Department's Rollout of Cameras and the State's Attorney's Office's Processing of Data for Discovery*, 47 U. BALT. L. REV. 379 (Summer 2018); Dave McClure, et. al., *How Body Cameras Affect Community Members' Perceptions of Police: Results of a RCT of One Agency's Pilot* (Urban Inst, June 2017); *The Denver's Police Department's Body Worn Camera Pilot Project: A Focus on Policy and Lessons Learned*, POL'Y HIGHLIGHT (Denver Off. of the Ind. Monitor, Denver, CO) March 2015; Anthony A. Braga et. al, *Criminology: The Effects of Body-Worn Cameras on Police Activity and Police-Citizen Encounters: A Randomized Controlled Trial*, 108 J. CRIM. L. & CRIMINOLOGY 511 (Summer 2018); Barak Ariel, et. al., *Contagious Accountability: A Global Multisite Randomized Controlled Trial on the Effect of Police Body-Worn Cameras on Citizens' Complaints Against the Police*, 44 J. OF CRIM. JUST. AND BEHAVIOR 2 (Feb. 2017); Michael D. White, Natalie Todak & Janne E. Gaub, *Examining Body-Worn Camera Integration and Acceptance Among Police Officers, Citizens, and External Stakeholders*, 17 CRIMINOLOGY AND PUB. POL'Y 3 (2018); Cynthia Lum, et. al., *Research on Body-Worn Cameras: What We Know, What We Need to Know*, 18 CRIMINOLOGY AND PUB. POL'Y 1, 93 (Mar. 24, 2019); David Yokum, Anita Ravishankar, & Alexander Coppock, *A Randomized Control Trial Evaluating the Effects of Police Body-Worn Cameras*, 116 PNAS 21 (May 21, 2019); Daniel S. Lawrence & Bryce E. Peterson, *How do Body-Worn Cameras Affect the Amount and Makeup of Police-Initiated Activities? A Randomized Controlled Trial in Milwaukee, Wisconsin*, J. OF EXPERIMENTAL CRIMINOLOGY, (Oct. 26, 2019). <https://link.springer.com/article/10.1007/s11292-019-09385-y>.

<sup>64</sup> Despite repeated requests, the CCRB was provided with only limited access to internal NYPD BWC-related materials.

To explore these issues, this Report takes two approaches. First, it describes the process by which the CCRB obtains BWC footage and identifies key gaps in protocol that have led to inefficiency and error. Second, it analyzes all complaints in which the CCRB requested BWC footage, further examining those cases in which the Agency received and used such footage in its investigations.

In order to examine the efficiency of the BWC request and receipt process, the CCRB's Policy and Advocacy Unit compiled all CCRB complaints in which BWC footage was requested from May 2017 to June 30, 2019 (2019 Q2). Of the 3,961 complaints in which BWC footage was requested as of July 31, 2019, BWC footage was received in 2,033 (51%) complaints. To explain the types of cases in which BWC footage was received, all 2,033 complaints with BWC footage were included in general descriptive statistics, including allegation types, and available demographic data available for complainants and subject officers.

To assess the impact of BWCs on the CCRB's investigations and case outcomes, the Policy and Advocacy Unit compiled all CCRB complaints containing BWC footage that were closed between 2017 and June 30, 2019.<sup>65</sup> Of the 2,033 complaints where BWC was received, 1,353 (67%) complaints were closed as of June 30, 2019.<sup>66</sup> Of the 1,353 complaints closed, 318 (24%) were full investigations, 871 (64%) were truncated<sup>67</sup> (195, or 22% of cases that were truncated, were closed pending ongoing litigation involving the complainant/victim),<sup>68</sup> 111 (8%) went through the mediation process, and the remainder (53, or 4%) were administratively closed.

The CCRB does not currently record standardized metrics on officer and technical usage issues with BWC footage—though in response to this review, the Agency is working on better ways to record this data. Therefore, in order to examine these issues, the Policy and Advocacy Unit conducted moderated focus groups with CCRB investigators to inquire about their experiences with BWC

---

<sup>65</sup> For calculations involving the number of BWC requests closed, this Report uses a cutoff period of all requests made by June 30, 2019, but received by July 31, 2019, which gives the NYPD a more than reasonable turnaround time of over 30 days to return either BWC footage or a final negative response to a CCRB BWC request. This is because the key question for these calculations – “What happens after the CCRB requests BWC footage?” – is prospective. The one-month “buffer” in these calculations also eliminates the overstatement of open requests that may have been sent at the end of June, and therefore would reasonably not have been received by June 30. For all other calculations, however, including examinations of Board recommendations, this Report uses a case closure date of June 30, 2019, since the key question involved – “What happened in complaints in which the CCRB had received BWC footage, and how does it compare to complaints with no BWC or other video evidence?” – is retrospective, and no buffer is needed to keep these analyses more accurate.

<sup>66</sup> A CCRB complaint can be resolved in a number of ways. The complaint may be fully investigated, mediated, closed as a truncated investigation, or closed after mediation is attempted. There are also a small number of miscellaneous closures, which include administratively-closed complaints and complaints in which the subject officer left the Department before an investigation could be completed.

<sup>67</sup> An investigation is truncated when it is closed without a full investigation (generally because the complainant withdraws the complaint, the complainant is uncooperative or unavailable, or the victim could not be identified).

<sup>68</sup> Prior to Fall 2019, the CCRB did not have a formal policy regarding the treatment of cases where there was BWC footage available but no verified statement. In light of this Report's findings, when the investigation has footage depicting officer conduct with enough clarity and context that, combined with other evidence—such as officer statements—it is likely to come to a disposition on the merits, the Agency will proceed to a full investigation even if the civilian(s) involved does not provide a verified statement.



footage, and asked them to forward for review cases in which 1) they noted technical malfunctions, 2) officers appeared to signal to other officers that BWCs were recording, or 3) BWCs were apparently turned off prior to the end of an interaction that, under the NYPD's BWC policy, was required to be filmed for its duration. The notes from these interviews and a sample of the 2,033 complaints in which BWC footage was received were then thematically and qualitatively reviewed. Only the 318 fully investigated complaints were included in the analysis of how BWC footage impacts the outcomes of CCRB investigations.

# FINDINGS

## SECTION 1: CCRB PROTOCOLS ON BODY-WORN CAMERA FOOTAGE

### How the CCRB Obtains and Analyzes Body-worn Camera (BWC) Footage

The New York City Police Department's (NYPD) rollout of body-worn cameras (BWC) presents both an opportunity and a challenge for the work of the Civilian Complaint Review Board (CCRB). With the recent completion of "Phase 3" of the BWC pilot,<sup>69</sup> over 24,000 police officers now have BWCs. The CCRB expects that the amount of video evidence received by the Agency will continue to rise, as virtually every CCRB complaint is likely to have some form of video evidence.

Footage from BWCs often improves investigations by helping to definitively resolve complaints on the merits that might otherwise be closed as unsubstantiated or officer unidentified.<sup>70</sup> However, the increase in the amount of video evidence (in the second half of 2014, the CCRB received 393 video files of roughly 137 GB, while in the first half of 2018, the CCRB received 2,198 video files of roughly 908 GB—a 563% increase),<sup>71</sup> and the extended wait times for BWC footage to be provided by the NYPD,<sup>72</sup> have placed additional stress on the Agency's investigators, investigation times, and budget. The CCRB believes that the continued effectiveness of its investigations depends upon the Agency's ability to obtain BWC footage relevant to its investigations in a timely manner.

Requests for BWC footage from the CCRB currently comprises a "substantial majority" of the NYPD BWC Unit's workload.<sup>73</sup> As the NYPD works to complete its rollout of BWCs, the CCRB will continue its work with the Department to streamline the methods by which it receives and processes BWC

---

<sup>69</sup> *Oversight - NYPD's Roll-Out of Body Worn Cameras*, NYC Council Committee on Public Safety, (Nov. 18, 2019) (statement of Oleg Chernyavsky, NYPD Ass't Deputy Commissioner of Legal Matters), <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=735835&GUID=84D658B7-4202-487F-877F-BB05006147ED&Options=&Search=>.

<sup>70</sup> Allegations that are fully investigated by the CCRB generally result in one of five outcomes: 1) An allegation is substantiated if the alleged conduct is found to have occurred and be improper based on a preponderance of the evidence; 2) 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; 3) An allegation is unfounded if the alleged conduct is found not to have occurred by a preponderance of the evidence; 4) An allegation is closed as officer unidentified if the CCRB was unable to identify any of the officers accused of misconduct; and 5) An allegation is unsubstantiated if there is not enough evidence to determine whether or not misconduct occurred by a preponderance of the evidence.

<sup>71</sup> Memorandum from Olan Carayannis, CCRB Director of Quality Assurance and Improvement to the Members of the CCRB Board on Investigations Divisions Benchmarks (Oct. 10, 2018), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/20181010\\_boardmtg\\_investigations\\_benchmarks.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/20181010_boardmtg_investigations_benchmarks.pdf).

<sup>72</sup> Memorandum from Olan Carayannis, CCRB Director of Quality Assurance and Improvement to the Members of the CCRB Board on BWC and Document Request Issues with the NYPD (July 5, 2019), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/20190710\\_boardmtg\\_BWC\\_memo.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/20190710_boardmtg_BWC_memo.pdf). See also Yasmeeen Khan, *More Than a Third of Police Misconduct Investigations Waiting for Body Camera Footage*, WNYC (June 17, 2019), [https://www.gothamist.com/2019/06/17/ccrb\\_body\\_camera\\_videos.php](https://www.gothamist.com/2019/06/17/ccrb_body_camera_videos.php).

<sup>73</sup> Legal Bureau Letter, *supra* note 15.

footage. In a joint effort between the agencies, the CCRB and NYPD signed a memorandum of understanding (BWC MOU) aimed at improving the CCRB's access to BWC footage in November 2019.<sup>74</sup> Under the terms of the BWC MOU, the NYPD will establish a facility at which CCRB investigators can search and review BWC footage directly. The new facility will include a minimum of 10 secure computer terminals where NYPD and CCRB representatives will simultaneously oversee and execute search requests for video. Upon identifying and reviewing footage relevant to a CCRB investigation, an investigator may request a copy of the footage from the NYPD's Legal Bureau. Under the terms of the agreement, the Legal Bureau must fulfill all requests, including requests for footage that require redactions, within 25 business days.<sup>75</sup> The CCRB also will work to monitor the MOU's implementation.

Until the facility is established pursuant to the BWC MOU, the CCRB will continue to access BWC footage as follows:

1. If a misconduct complaint stems from a precinct in which BWCs have been deployed, the CCRB investigator will submit a records request to the CCRB's NYPD Liaison Unit, which coordinates and tracks all requests for BWC footage.
2. The NYPD Liaison Unit forwards the request to both the Internal Affairs Bureau (IAB) of the NYPD, which logs the request, and the NYPD Legal Bureau (Legal),<sup>76</sup> which is responsible for approving the request and locating the footage.
3. After Legal receives the request, it searches for relevant BWC footage. If BWC footage is recovered, Legal reviews the video to determine whether there is a legal basis to withhold the video evidence. If, for instance, the footage is of a sealed arrest or depicts juveniles, Legal will alert IAB that the video cannot be released without the CCRB providing a signed release from the civilians involved.
4. Once Legal determines the footage can be released to the CCRB, authorization is given to IAB to release the video. The video is then sent to IAB with a BWC receipt containing the names and tax IDs of the officers associated with the record request, the corresponding video file names, and video size. On some occasions, the video receipt will also include the search terms and tags used by Legal to identify the footage. IAB then sends an email to the CCRB with either a Viewu Solution or Evidence.com link to the BWC footage, and a copy of the BWC receipt.

---

<sup>74</sup> BWC MOU, *supra* note 4.

<sup>75</sup> In a communication with the CCRB on January 13, 2020, the NYPD's Legal Bureau stated that: "The Department will honor the requests within enumerated time periods, subject to the terms of the MOU." Legal Bureau Letter, *supra* note 15.

<sup>76</sup> The NYPD Legal Bureau's BWC Unit is responsible for responding to requests for BWC footage from government agencies and the public through FOIL requests. The BWC Unit searches, locates, reviews all responsive footage, and makes all redactions. *Id.*

5. The CCRB's NYPD Liaison Unit then downloads the footage and places the video and BWC receipt in a temporary storage area on the CCRB's network.<sup>77</sup>

6. The assigned investigator reviews the footage, determines if it is a complete accounting of the footage related to the case, and saves the footage in the CCRB's Complaint Tracking System. If an investigator determines that there is additional footage of the incident that was not covered in the initial request, or finds evidence suggesting that the BWC Unit's search may have resulted in a false negative, the CCRB investigator must submit a new request specifying the additional BWC footage that is needed.

The CCRB will continue to work with the New York City's Mayor's Office and the City Office of Management and Budget (OMB) to address the challenges posed by BWC storage capacity and associated costs—an issue for police oversight agencies worldwide.

### **Receipt of BWC Footage**

Between May 2017 and June 30, 2019, the CCRB requested BWC footage in 3,961 complaints, of which 328 still had outstanding requests as of July 31, 2019.<sup>78</sup> Of the 4,413 BWC requests made in these 3,961 complaints, 1,964 returned a negative search result,<sup>79</sup> 2,182 returned a positive result, and 267 requests were still open as of July 31, 2019. In 377 complaints in which BWC requests were made (9.5%), multiple requests for BWC footage were required—representing, amongst other factors, the identification of additional officers, false negatives, and requests for more information.<sup>80</sup>

---

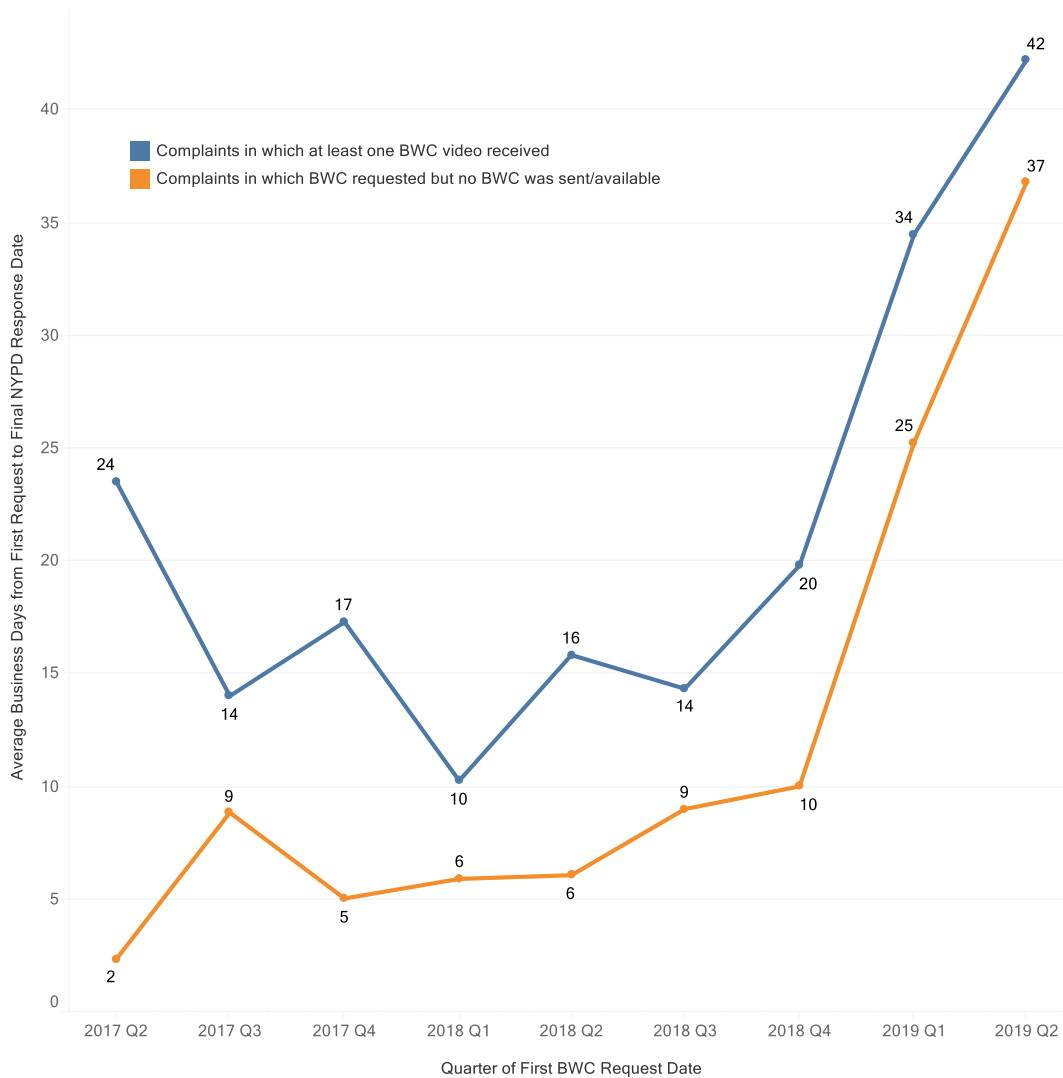
<sup>77</sup> According to an attorney with the NYPD's BWC Unit, by the end of 2020, the NYPD estimates that all MOS will use Axon BWC's and all BWC footage will be stored on Evidence.com.

<sup>78</sup> See footnote 65 for an explanation of time frames for analysis.

<sup>79</sup> A negative search result for one request may have been followed by another request if the CCRB later learned during the course of the investigation that BWC indeed existed for the incident in question.

<sup>80</sup> False negatives and requests for more information are discussed in detail in Section II of the report on page 53.

**Figure 03: Average Number of Business Days to Receive BWC Footage or a Final Negative Search Result**

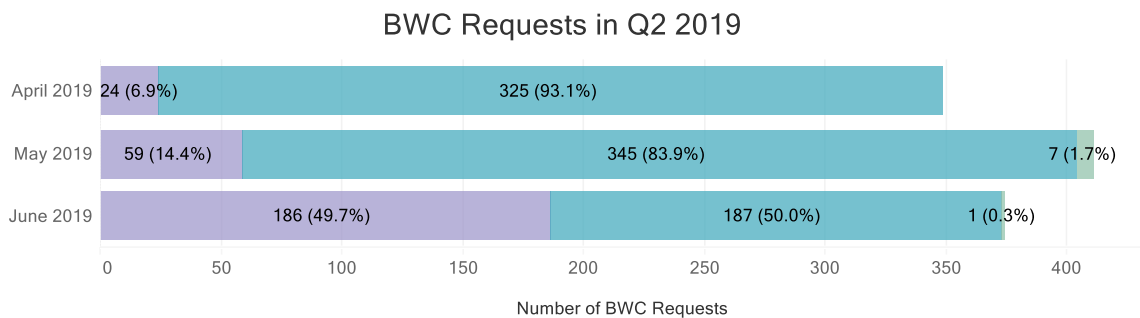
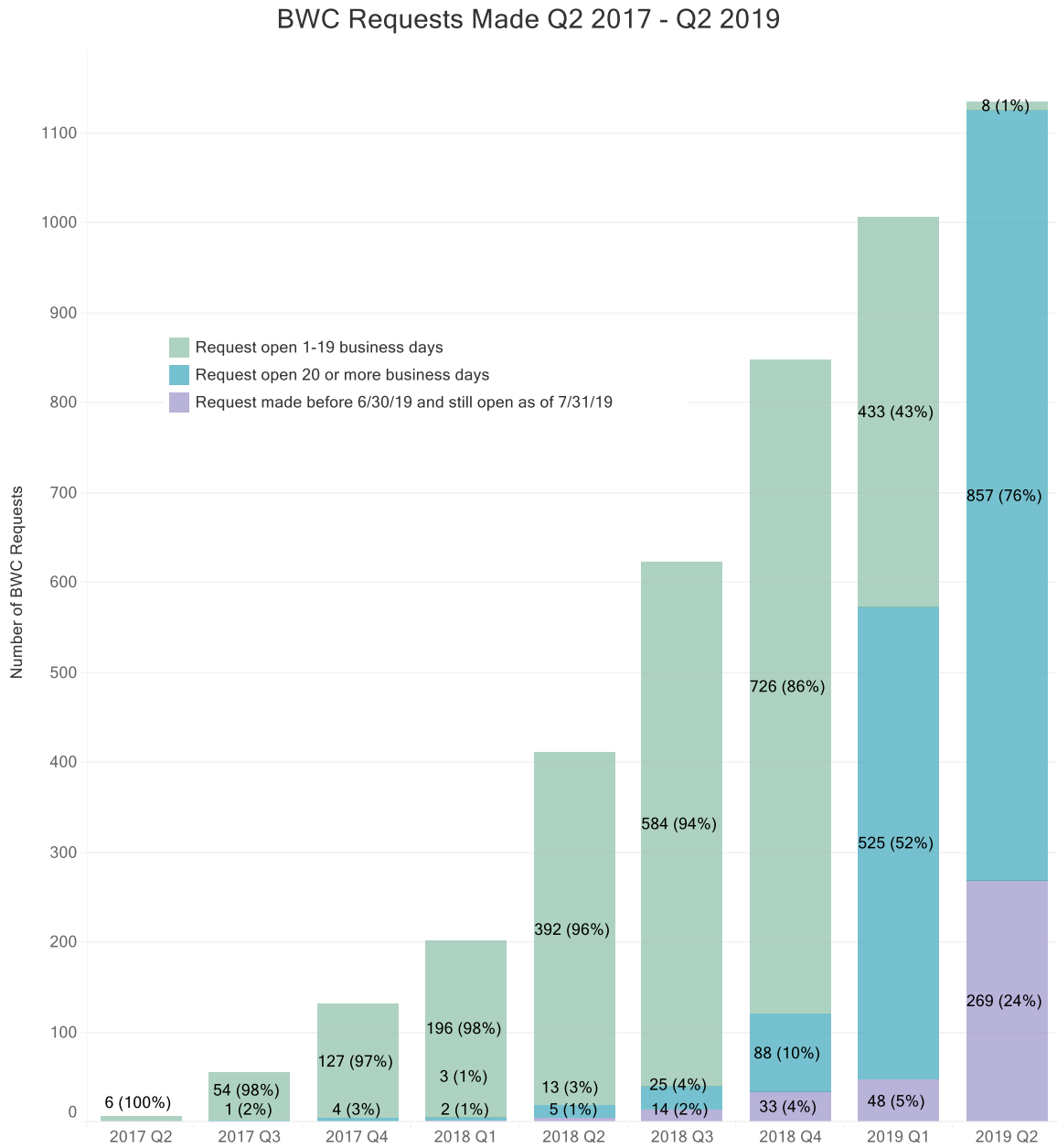


For requests made in 2018 Q4, it took an average of 20 business days to receive the BWC footage, a response that no footage was found, or a response that the footage was not being provided by the NYPD.<sup>81</sup> For requests made by June 30, 2019 (2019 Q2) and closed by July 31, 2019, that number jumped to an average of 42 business days when the CCRB received BWC footage, and 37 business days for the NYPD to tell the CCRB that either no footage existed or that the request for footage was denied (Fig. 03).<sup>82</sup>

<sup>81</sup> Due to the 267 open requests that remained unfulfilled in Q2 2019, the average number of days to receive a response from NYPD is calculated with a smaller raw number of completed requests in Q2 2019 compared with prior quarters. It is impossible to know what the average number of days to receive a response from NYPD would have been for requests closed in Q2 2019 had the NYPD fulfilled all or most of the requests that were still open as of July 31, 2019.

<sup>82</sup> The data in Figure 3 is calculated by the quarter in which the CCRB initially requested the footage.

**Figure 04: Individual BWC Request Close Times and Requests Still Open as of June 30, 2019**





During the first three quarters of 2019, the CCRB saw an increase in the amount of time taken to receive BWC footage. As seen in Fig. 04, in the first three quarters of 2018, on average, the vast majority of BWC requests (upwards of 96%) were closed within 20 business days. In 2018 Q4, the percentage of BWC requests closed within 20 days declined to 86%, and in 2019 Q1, the percentage of BWC requests closed within 20 days fell sharply to 43%. Between 2018 Q4 and 2019 Q1, the percentage of requests closed after 20 business days rose from 10% to 52%. Between 2019 Q1 and 2019 Q2, the number of open BWC requests made before June 30, 2019 and still open as of July 31, 2019, jumped from 5% to 24%.

Looking specifically at 2019 Q2 (Fig. 04), only 1.7% of BWC requests were closed within 20 business days. In April 2019, 93.1% of all BWC requests remained open for 20 or more business days; 6.9% of BWC requests were still pending at the end of July 2019. Over 14.4% of all May 2019 BWC requests and 49.7% of all June BWC requests remained pending as of July 31, 2019, reflecting the steadily increasing wait time for BWC footage.

The NYPD attributed the backlog of response to the CCRB's BWC requests to litigation impacting the release of BWC videos.<sup>83</sup> The NYPD noted that in 2018, an injunction obtained by the New York Patrolmen's Benevolent Association prevented the release of BWC footage to the public without a court order.<sup>84</sup> During this time-period, "CCRB requests were prioritized, given nearly undivided attention, and fulfilled well within 20 business days."<sup>85</sup>

In February 2019,<sup>86</sup> the appellate court held that BWC footage was not a personnel record considered confidential under Civil Rights Law § 50-a,<sup>87</sup> allowing edited versions of BWC footage to be released to the public without a court hearing. The Court, in coming to its conclusion, stated that to withhold BWC recordings, "would defeat the purpose of the body-worn-camera program to promote increased transparency and public accountability."<sup>88</sup> According to the NYPD, upon the lifting of the injunction, the BWC Unit "had to address a significant accumulation of over 1,000 FOIL requests that were previously prohibited from release and sitting unfulfilled for nearly nine months. As a foreseeable consequence, processing times for all requests, including those from the

---

<sup>83</sup> Legal Bureau Letter, *supra* note 15.

<sup>84</sup> *Matter of Patrolmen's Benevolent Association of the City of N.Y., Inc. v. De Blasio*, 169 A.D. 3d 518 (2019).

<sup>85</sup> Legal Bureau Letter, *supra* note 15.

<sup>86</sup> *Matter of Patrolmen's Benevolent Association of the City of N.Y., Inc.*, 169 A.D. 3d 518.

<sup>87</sup> New York State Civil Rights Law § 50-a, available at <https://www.nysenate.gov/legislation/laws/CVR/50-A>.

<sup>88</sup> *Matter of Patrolmen's Benevolent Association of the City of N.Y., Inc. v. De Blasio*, 94 N.Y.S.3d 52, 55 (2019); see also *N.Y. Lawyers for the Pub. Interest v. N.Y.C. Police Dep't*, 103 N.Y.S.3d 275 (2019), where the court ordered the NYPD to provide access to the full, unredacted BWC footage of a 2017 shooting in the Bronx. In coming to its determination, the court reiterated the role of BWC in promoting police accountability, writing that "the stated objectives of the BWC pilot program is to promote transparency, accountability, and public trust-building and to provide a contemporaneous, objective record of the encounters between the public and the police."

CCRB, did increase when compared to the delivery times that existed while the injunction was in place.”<sup>89</sup>

The BWC MOU<sup>90</sup> is the first step toward addressing this backlog. Under the terms of the new agreement, the NYPD must honor all requests, including requests for footage that require redactions within 25 days. Absent exceptional circumstances, BWC videos not requiring redaction shall be provided to the CCRB within ten business days.<sup>91</sup> The CCRB believes that the reduction of steps that the CCRB must undertake to gain access to BWC footage will significantly decrease the turnaround time for CCRB requests and ultimately allow for better police oversight.

### **Access to BWC Footage**

During the first three quarters of 2019, fluctuations in the NYPD’s BWC access policy led to an increasing number of situations where BWC footage was redacted or denied. Of the 2,033 total complaints containing BWC footage, 874 (43%) returned redacted video footage (Fig. 05), with a noticeable rise in the amount of redacted BWC footage received over the past year. Whereas between 2017 Q2 and 2018 Q2, redacted footage received each quarter ranged from zero to 17%, in 2018 Q4, redacted footage comprised 42% of all BWC footage received. This number has increased steadily through 2019, with redacted video now making up over half of all BWC footage the Agency receives. In the second quarter of 2019, redacted video comprised 63% of all BWC footage received.

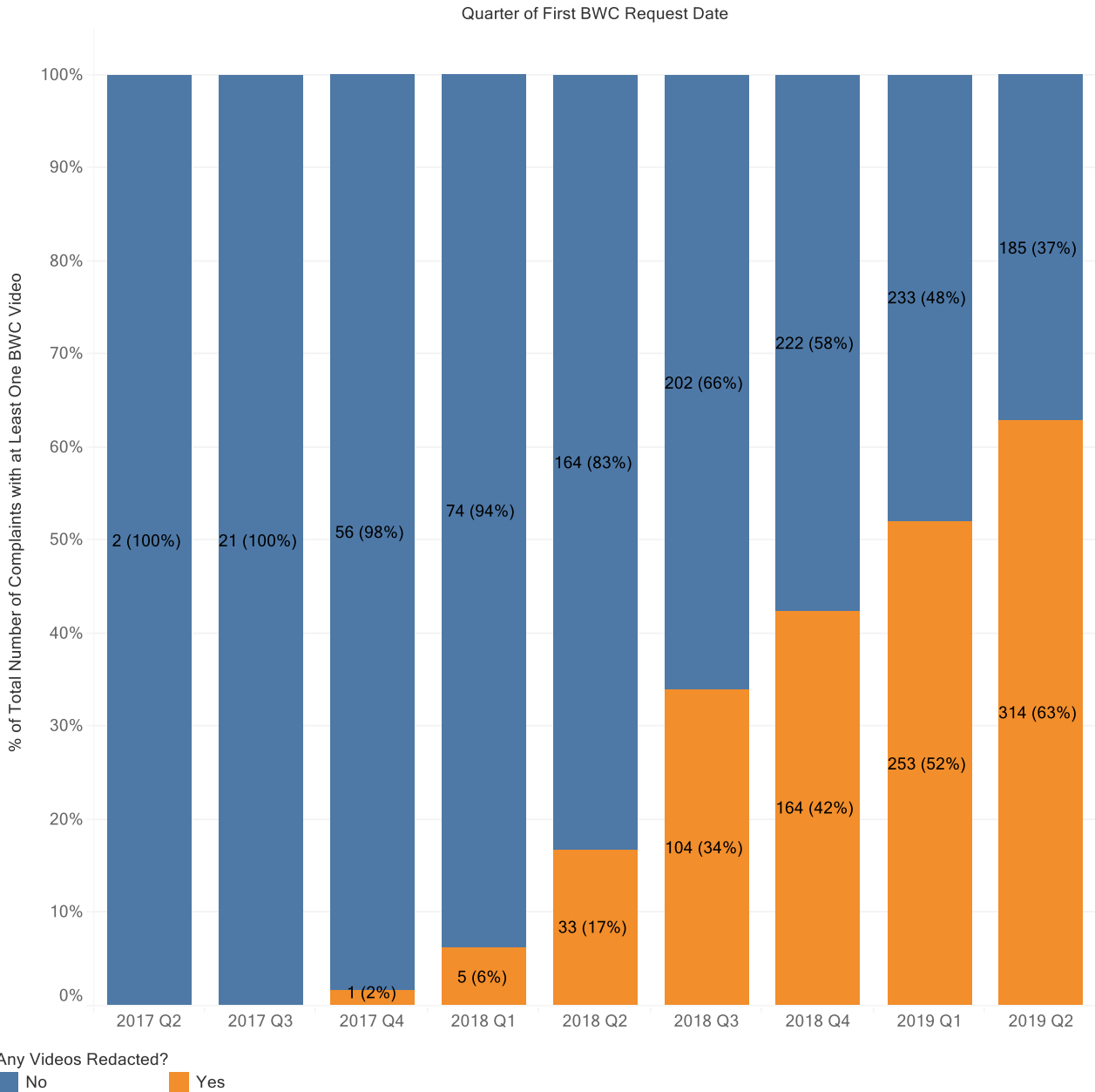
---

<sup>89</sup> Legal Bureau Letter, *supra* note 15.

<sup>90</sup> BWC MOU, *supra* note 4.

<sup>91</sup> *Id.* at § III(2).

**Figure 05: Percent of Complaints with BWC Containing at Least One Redacted Video**



BWC footage received by the CCRB is redacted by Legal for several reasons, including the presence of digital records, paper records, individuals with sealed arrests, prisoners, and minors. While BWC receipts accompanying videos have often noted if the BWC footage was redacted, but on multiple occasions the CCRB was not notified of the redactions or provided an explanation for the redactions.

During the first three quarters of 2019, BWC requests were also increasingly denied on statutory grounds, including New York Civil Rights Law § 50-b,<sup>92</sup> New York Social Services Law § 473,<sup>93</sup> and New York Family Court Act § 166.<sup>94</sup> The Agency also saw an increase in the NYPD’s reliance on the decision in *R.C. v. City of New York*<sup>95</sup> as the basis for denying CCRB access to BWC footage pertaining to sealed arrests under Criminal Procedure Law §§ 160.50 and 160.55,<sup>96</sup> which both require that “all official records and papers . . . relating to the arrest or prosecution . . . be sealed and not made available to any person or public or private agency,”<sup>97</sup> despite the fact that the footage was not being used for a law enforcement purpose.

Restrictions in gaining access to BWC footage can significantly compromise the integrity of CCRB’s investigations and negatively impact the use and effectiveness of BWCs for oversight. As such, in 2019, the Agency worked with the NYPD to address concerns around the Agency’s ability to investigate complaints in a timely and thorough manner.

The BWC MOU takes steps to address the Agency’s concerns around access to BWC video. Under the agreement, the CCRB will work with its Intake Unit to update its internal policies and scripted language so that CCRB employees accepting complaints via telephone, in-person, or otherwise may seek a verbal waiver/consent from complainants for recordings that the NYPD might otherwise withhold pursuant to Criminal Procedure Law §§ 160.50/160.55, Family Court Act §§ 375.1, 375.2, Civil Rights Law § 50-b, or because the recordings depict a juvenile.<sup>98</sup>

The CCRB will also, at secure terminals, be able to review videos that are not redacted, clipped, edited, deleted, or altered in any way. Upon identifying applicable footage, investigators may request a copy of the video footage from the NYPD’s Legal Bureau. If all or any portion of the requested footage is redacted, clipped, altered, or deleted in any way, the changes must be specified in writing by the NYPD along with an explanation and rationale, and specific citation to the statute and/or legal provision relied upon, if applicable.

Under the BWC MOU, the entirety of the requested BWC footage shall be provided, subject to the following provisions:<sup>99</sup>

---

<sup>92</sup> New York Civil Rights Law § 50-b. Right of privacy; victims of sex offenses or offenses involving the transmission of the human immunodeficiency virus. For more information: <https://www.nysenate.gov/legislation/laws/CVR/50-B>.

<sup>93</sup> New York State Social Services Law § 473 Protective Services. For more information: <https://www.nysenate.gov/legislation/laws/SOS/473>

<sup>94</sup> New York Family Court Act § 166 states that: The records of any proceeding in the family court shall not be open to indiscriminate public inspection. <https://www.nysenate.gov/legislation/laws/FCT/166>.

<sup>95</sup> *R.C. v. City of N.Y.*, 64 Misc. 3d 368 (2019) (holding that the plain language of N.Y. Crim. Proc. Law §§ 160.50 and 160.55 prohibits the NYPD from using sealed arrest information in its possession for law enforcement purposes without first obtaining court permission).

<sup>96</sup> The CCRB does not believe that CPL §§ 160.50 and 160.55 cover BWC footage, and the *R.C.* decision does not provide otherwise because the footage is not being used for a law enforcement purpose.

<sup>97</sup> N.Y. Crim. Proc. Law §§ 160.50(1)(c); 160.55(1)(c).

<sup>98</sup> “The NYPD shares the CCRB’s optimism in obtaining waiver and consent from affected complainants in order to streamline the sharing of information.” Legal Bureau Letter, *supra* note 15.

<sup>99</sup> BWC MOU, *supra* note 4 at § III(3)(b-d).

- *NYPD may redact and/or clip BWC footage according to the following considerations:*
  - *Medical treatment being provided to any private citizen or UMOS.*
  - *Any NYPD computer, mobile data terminal, cell phone, or other equipment depicting: (a) confidential databases or other (b) confidential information.*
  - *Any UMOS cell phone depicting personal photos, phone numbers or social media accounts unrelated to the investigation.*
  - *Any key pad code entries for Department facilities.*
  - *Protecting the identity of any undercover officer or confidential informant. In cases where an undercover officer's image is redacted, NYPD will inform CCRB of the individual's UC Number.*
- *For recordings related to cases sealed pursuant to Criminal Procedure Law §§ 160.50/160.55 or Family Court Act §§ 375.1, 375.2, recordings containing the identity of the victim of a sex crime pursuant to Civil Rights Law § 50-b, or recordings depicting a juvenile questioned or detained by the Department, if the CCRB does not have a release from the individual(s) whose case has been sealed, from the victim(s) of the sex crime, or the parent/guardian of the juvenile, the NYPD will blur the faces and redact the audio of all personally identifying information such as name, date of birth, and address, as well as the audio of any admission of a sex offense pursuant to CRL 50-b of the individual(s) from whom the CCRB has not obtained consent or a release.*
- *NYPD shall not refuse to disclose or delay disclosure of footage on the ground that it is conducting a concurrent or parallel investigation, except for those investigations being conducted by the Force Investigation Division and other sensitive force investigations not being conducted by FID. Notwithstanding, upon the conclusion of the investigation, the BWC footage will be shared with CCRB.*

If the CCRB disagrees with the NYPD's denial, redaction, or clipping of requested BWC video, the parties shall confer to try to resolve the dispute.

The CCRB believes that addressing the backlog of BWC videos and ensuring access to all videos relevant to a case under investigation is important to promoting transparency in oversight. Greater access to BWC videos will lead to more thorough CCRB investigations and prosecutions, which are vital to solidifying the public's confidence in the Agency's work and to ensuring that the mission of the BWC program—oversight of the NYPD—is upheld.

## **BWC and CCRB Investigations**

The exponential increase in the amount of BWC recordings received by the CCRB, as well as delays in obtaining footage, have led to a corresponding increase in case times and docket sizes as CCRB investigators work to complete more investigative tasks. Though in the future<sup>100</sup> investigators will be able to view unedited BWC footage from a secure room, currently, upon receipt of a case, the CCRB investigator consults the NYPD's BWC deployment roster and requests video footage if the officer has been issued a BWC. Once video evidence is obtained, it is analyzed in conjunction with

---

<sup>100</sup> BWC MOU, *supra* note 4.

other evidence in the case. Video analysis allows the investigator to identify other possible victims and witnesses, including other officers who also may have BWC footage of the incident. Some video evidence requires processing through video analysis software to analyze the meta-data, link and synchronize videos from different sources, and enhance the images. Investigators also prepare video evidence for the Board to review, which requires clipping and providing explanatory notes.

Under CCRB policy, investigators are required to plead all misconduct pertaining to the incident depicted on the video. Where the investigation has footage depicting officer conduct with enough clarity and context that, combined with other evidence such as officer statements, it is likely to reach a disposition on the merits, the Agency will proceed to a full investigation even if the civilians involved do not provide a verified statement.<sup>101</sup> Under the BWC MOU, where an investigator recognizes or believes they have observed potential NYPD misconduct unrelated to the incident under investigation, the alleged misconduct will be referred to IAB.<sup>102</sup>

Pursuant to the Patrol Guide,<sup>103</sup> officers can view their BWC video prior to making a statement to IAB. The Department applies this same rule to CCRB cases. Thus, for cases where BWC footage is identified, investigators may only schedule officers for interviews after video footage is received and/or reviewed.

Sometimes investigators show relevant BWC footage to officers at the conclusion of their CCRB interview in order to:

1. offer them an opportunity to explain a perceived inconsistency between the video evidence and statements made during the interview;
2. gain insight as to what the video depicts and how it relates to their statement;
3. have the officer identify other officers or civilians;
4. address an allegation captured on the footage that the officer did not address during the interview; or
5. gain insight as to what the video does not depict, what is happening outside the frame, etc.

Likewise, when available and appropriate, CCRB investigators may, after receiving the civilian's verified statement, show civilians BWC footage to establish a foundation for evidence, refresh memory, assist in identification or clarification, or address any inconsistencies.

---

<sup>101</sup> Prior to fall 2019, the CCRB did not have a formal policy regarding the treatment of cases where there was BWC footage available but no verified statement. In light of this Report's findings, when the investigation has footage depicting officer conduct with enough clarity and context that, combined with other evidence—such as officer statements—it is likely to come to a disposition on the merits, the Agency will proceed to a full investigation even if the civilian(s) involved do not provide a verified statement.

<sup>102</sup> BWC MOU, *supra* note 4, § II(7)(a).

<sup>103</sup> PG §212-123(18)(c).



## Retention of Video Files and NYPD BWC Footage

The CCRB currently retains video segments that are deemed relevant to a particular case after review by the investigator and at least one investigative supervisor. Relevance is based on whether the video helps determine the case on its merits. The Agency retains all video files and BWC footage deemed relevant for a period of at least seven years.

At present, the CCRB stores its BWC footage in-house and access to all video footage requires a system user ID and password that are separate and unique to all individual programs and users. Although in the future, under the BWC MOU, the CCRB will also be able to view BWC from a secure viewing room prior to requesting video footage,<sup>104</sup> the Agency will continue to retain BWC footage deemed relevant to a case. The CCRB is working with NYC Cyber to enhance security methods for this data, including encryption.

One of the most oft-discussed concerns surrounding BWCs pertains to its associated costs.<sup>105</sup> In its 2018 cost-benefit analysis of BWCs, the Police Executive Research Forum (PERF) found that the financing of BWC programs involved “substantial” costs, due not only to initial up-front expenses (e.g., purchasing BWC-related equipment), but extensive long-term expenses that include: 1) storage costs that could require the purchase of new equipment or a subscription to a cloud-based storage solution; 2) personnel costs associated with maintaining, sharing and reviewing video data; and 3) the administrative costs of operating a BWC program, including contracts, equipment, and personnel.<sup>106</sup> PERF also estimated that video data storage alone could cost law enforcement agencies up to \$4,000,000 per year for large agencies and up to \$50,000 for small agencies.<sup>107</sup>

---

<sup>104</sup> BWC MOU, *supra* note 4.

<sup>105</sup> See e.g., Abi Dymond & Matthew Hickman, *Body-Worn Cameras, Use of Force and Police-Civilian Interactions*, 12 POLICING 1, 1 (2017); Jason Kotowski, *Money, Storage Primary Obstacles in Police Body Camera Implementation*, THE BAKERSFIELD CALIFORNIAN, March 8, 2016, available at: <http://www.govtech.com/em/safety/Police-Body-Cam-Installation.html>; Roberto Torres, *The Biggest Hurdle for the Police Department’s Body Worn Camera Program is in the Cloud*, TECHNICAL.LY, March 14, 2017, available at: <https://technical.ly/philly/2017/03/14/body-camera-program-cloud-storage-costs/>; Police Executive Research Forum (PERF), *Costs and Benefits of Body-Worn Camera Deployments* (April 2018), available at: <https://www.policeforum.org/assets/BWCCostBenefit.pdf>.

<sup>106</sup> PERF researchers conducted a qualitative case study to gather information about the costs of BWCs. The three sites selected were Mesa and Phoenix, AZ and Dallas, TX. In calculating the costs of BWC programs, PERF researchers looked at: the purchase price of cameras and controllers, camera maintenance costs, data storage costs, costs of reviewing and tagging film of incidents recorded on the cameras, costs of staff time administering the body camera program, cost of IT staff time involved in supporting the camera program, and costs of responding to FOIA requests. Due to the potential variability of calculations, researchers were unable to project costs for full BWC deployment. See Police Executive Research Forum, *Costs and Benefits of Body-Worn Camera Deployments* (April 2018) at 16, available at: <https://www.policeforum.org/assets/BWCCostBenefit.pdf>.

<sup>107</sup> For large agencies containing 250+ sworn officers, the maximum agency cost for BWC storage was \$4,000,000 and median agency cost was \$29,450. For small agencies containing less than 250 sworn officers, the maximum agency cost for BWC storage was \$50,000 and median agency cost was \$500. *Id.* at 30.

Concerns about BWC costs were recently addressed in a *Washington Post (Post)* article focusing on the impact of high BWC costs on law enforcement agencies.<sup>108</sup> The *Post* found that a number of police departments in small jurisdictions, including Madison, WI and Arlington County, VA, were “dropping or delaying their programs, finding it too expensive to store and manage the thousands of hours of footage.” The *Post* also highlighted that two district attorneys’ offices—Wayne County, MI (which covers Detroit) and Virginia Beach Commonwealth—had increased their budgets to accommodate personnel costs associated with storing, prepping, and reviewing BWC recordings.<sup>109</sup>

In 2018, the Commonwealth of Virginia’s Compensation Board assembled a working group to study the impact of BWCs on the workload in the Commonwealth’s Attorneys’ offices.<sup>110</sup> It found that BWCs significantly impacted existing workload factors, staffing, and change factors. It recommended a “minimum staffing requirement” of one attorney position for every 75 BWCs—a total of 102 new attorneys and 57 paralegal and administrative positions statewide.<sup>111</sup> The Virginia Beach Commonwealth subsequently announced it would hire 14 additional employees to “handle the added workload” brought on by BWCs.<sup>112</sup>

The CCRB is working with OMB to support the long-term needs of the Agency and address personnel costs associated with the ever-increasing amount of BWC footage reviewed during the investigative process.

---

<sup>108</sup> Kimberly Kindy, *Some U.S. Police Departments Dump Body-Camera Programs Amid High Costs*, WASHINGTON POST (Jan. 21, 2019), [https://www.washingtonpost.com/national/some-us-police-departments-dump-body-camera-programs-amid-high-costs/2019/01/21/991f0e66-03ad-11e9-b6a9-0aa5c2fcc9e4\\_story.html?utm\\_term=.cda034114336](https://www.washingtonpost.com/national/some-us-police-departments-dump-body-camera-programs-amid-high-costs/2019/01/21/991f0e66-03ad-11e9-b6a9-0aa5c2fcc9e4_story.html?utm_term=.cda034114336).

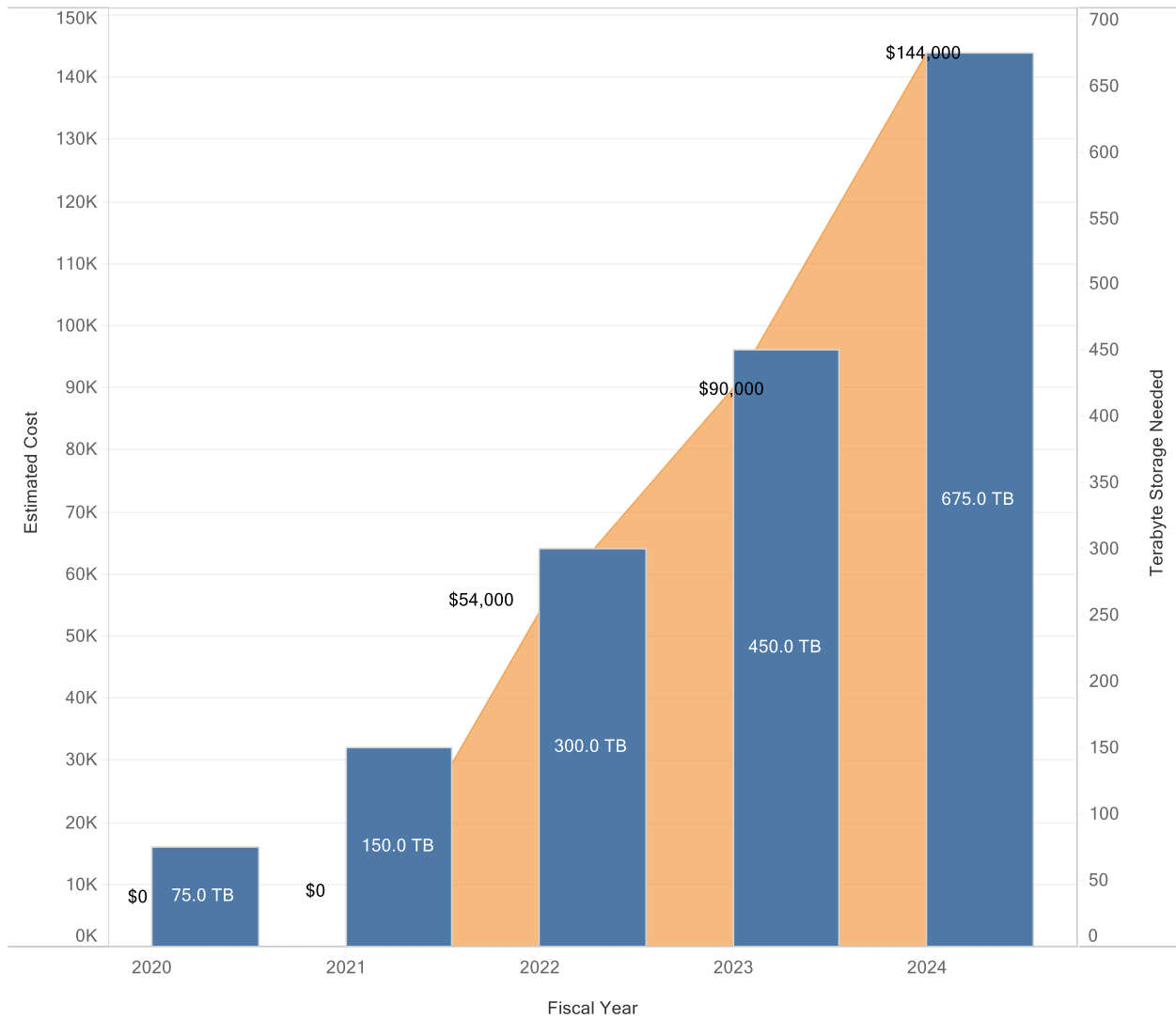
<sup>109</sup> *Id.*

<sup>110</sup> Compensation Board, *Report to the General Assembly: Workgroup Study of the Impact of Body Worn Cameras on Workload in Commonwealth’s Attorneys’ Offices* (Dec. 1, 2018), available at <https://rga.lis.virginia.gov/Published/2019/RD68/PDF>.

<sup>111</sup> *Id.* at p. 20.

<sup>112</sup> *Id.*

**Figure 06: Estimated BWC Storage Costs, Fiscal Year 2016-2022**



The CCRB currently has 150 TB of in-house storage for BWC. The Estimated Additional Cost reflects storage that will be needed once this space is full.

- Estimated Additional Cost
- Terabyte Storage Needed

From the beginning of the BWC program through June 30, 2019, the CCRB received approximately 2.1885 TB of BWC footage. This number has been increasing at a consistent and exponential rate. The Agency estimates that after Fiscal Year (FY) 2020, BWC storage will grow at a rate of 50% per year, with BWC storage costs alone rising to \$144,000 per year by FY2024 (Fig. 06).<sup>113</sup>

<sup>113</sup> Cost estimates are based on current commercial storage rates.

## Forensic Video Analysis

To address the growing amount of video footage received by the Agency, in Fall 2017, senior investigators underwent a two-day training course focused specifically on video examinations relating to use of force, motion, timing, image refresh rate reliability, and the interpretation of police body-worn and in-car video systems. In October 2018, CCRB investigators, members of the Training Unit, and Administrative Prosecution Unit attorneys participated in a similar two-day training on forensic video analysis, conducted by Occam Video Solutions, a digital video analysis company.<sup>114</sup> The CCRB also hired additional employees in the Agency's NYPD Liaison Unit to assist in the timely acquisition of BWC footage and other NYPD-owned video sources.

In 2018, the CCRB acquired licenses for iINPUT-ACE Video Analysis Software, a multimedia workflow engine for police investigators that assists in streamlining the analysis and processing of video evidence.<sup>115</sup> In early 2019, the Agency completed a full rollout of iINPUT-ACE.

Prior to the implementation of the BWC MOU, CCRB staff will also obtain training from both the Viewu Solution and Axon Evidence.com system's vendor. This training will allow CCRB staff to better identify and review BWC footage on the NYPD's BWC platforms.<sup>116</sup>

## CCRB Policy: Improper Use of Body-Worn Cameras

Prior to April 2018, the CCRB did not have a formal policy regarding the reporting of improper use of BWCs by members of service, though Investigative Managers could, at their discretion, request that a letter be sent to the NYPD's Risk Management Bureau (RMB) notifying it of the improper usage. In April 2018, after extensive conversations with investigators and affiliates at the NYPD, the CCRB implemented a process for reporting instances of improper use of BWCs, as outlined in PG § 212.123,<sup>117</sup> to the NYPD as "Other Misconduct Noted" (OMN).<sup>118</sup>

Under current Agency policy, the investigator recommends that the Board issue an OMN when an investigator determines that an officer who has been issued a BWC for at least 90 days before the incident<sup>119</sup> failed to turn on the device at the start of the tour, failed to activate the BWC during a

---

<sup>114</sup> Forensic Video Solutions, *Home Page*, <https://www.forensicvideosolutions.com/> (last visited June 18, 2019).

<sup>115</sup> iINPUT-ACE, *Home Page*, <https://input-ace.com/> (last visited September 20, 2018).

<sup>116</sup> BWC MOU, *supra* note 4, § I(6).

<sup>117</sup> See PG §212-123.

<sup>118</sup> Where a CCRB investigation reveals evidence of possible misconduct that falls outside of the CCRB's jurisdiction, as defined in Chapter 18-A § 440 (c)(1) of the New York City Charter, the Board notes the "other misconduct," and reports it to the NYPD for further investigation. OMN allegations should not be confused with allegations of corruption or potential criminal conduct, which are referred to the Internal Affairs Bureau.

<sup>119</sup> The CCRB's 90-day policy was created as the result of negotiations with the NYPD. Currently, the CCRB provides all officers a 90-day grace period from the date of BWC assignment to acclimate to their cameras. After the 90-days, the CCRB may issue an OMN for "Improper Use of BWC." The 90-day period parallels the NYPD's 90-day BWC grace period. Investigators currently calculate the date of BWC assignment from the BWC

mandatory event when it was feasible and safe to do so, or terminated the activation before an incident had concluded. Where an officer has committed the same misconduct, but has been issued a BWC for less than 90 days before the incident, the CCRB will send a RMB letter.<sup>120</sup> Between April 2018 and June 30, 2019, the CCRB issued 53 BWC-related OMN allegations for 51 unique officers and drafted two RMB letters for two individual officers.

In order to enforce this policy uniformly, the CCRB began working with the NYPD to streamline the process for identifying an officer's BWC issue date. In summer 2019, the Agency also updated its internal guidelines to clarify when OMN allegations and RMB letters should be issued to avoid any potential confusion among CCRB investigators.

---

deployment rosters provided weekly by the NYPD. The 90-day grace period does not apply to FADO allegations; it applies only to non-FADO Patrol Guide violations.

<sup>120</sup> RMB letters are a mechanism by which the CCRB alerts the NYPD's Risk Management Bureau to issues outside of the CCRB's jurisdiction that are not necessarily actionable misconduct, but reflect concerning behavior that the NYPD should monitor.

## SECTION 2: BWC FOOTAGE RECEIVED

---

### Analysis of CCRB Data on BWC Requests

On May 23, 2017, the CCRB submitted its first BWC request. On June 14, 2017, the Agency received its first BWC footage from the NYPD, comprising 1.64GB of video footage. As seen in Fig. 07, between May 23, 2017 and June 30, 2019, the CCRB submitted a total of 4,413 BWC requests for 3,961 unique complaints. Of these 3,961 complaints, the CCRB received BWC footage for 2,033 complaints by July 31, 2019.

The number of BWC requests has sharply increased, reflecting the full NYPD rollout of BWCs to include all uniformed members of service (MOS) on patrol assignments. In 2017, the CCRB made only 166 requests for BWC footage. In 2018, that number increased to 1,883. In just the *first half* of 2019, the CCRB made 1,913 requests for BWC footage.

Between 2017 Q2 and 2019 Q1, the number of requests returning BWC footage also showed a steady increase as the number of BWCs deployed by the NYPD increased. For complaints with initial BWC requests made in 2019 Q2 and closed by July 31, 2019,<sup>121</sup> however, the CCRB had only received BWC footage in 48% of complaints, reflecting both the NYPD's backlog in fulfilling BWC requests and its increasing practice of refusing to provide the CCRB with BWC footage in some complaints (Fig. 07).<sup>122</sup>

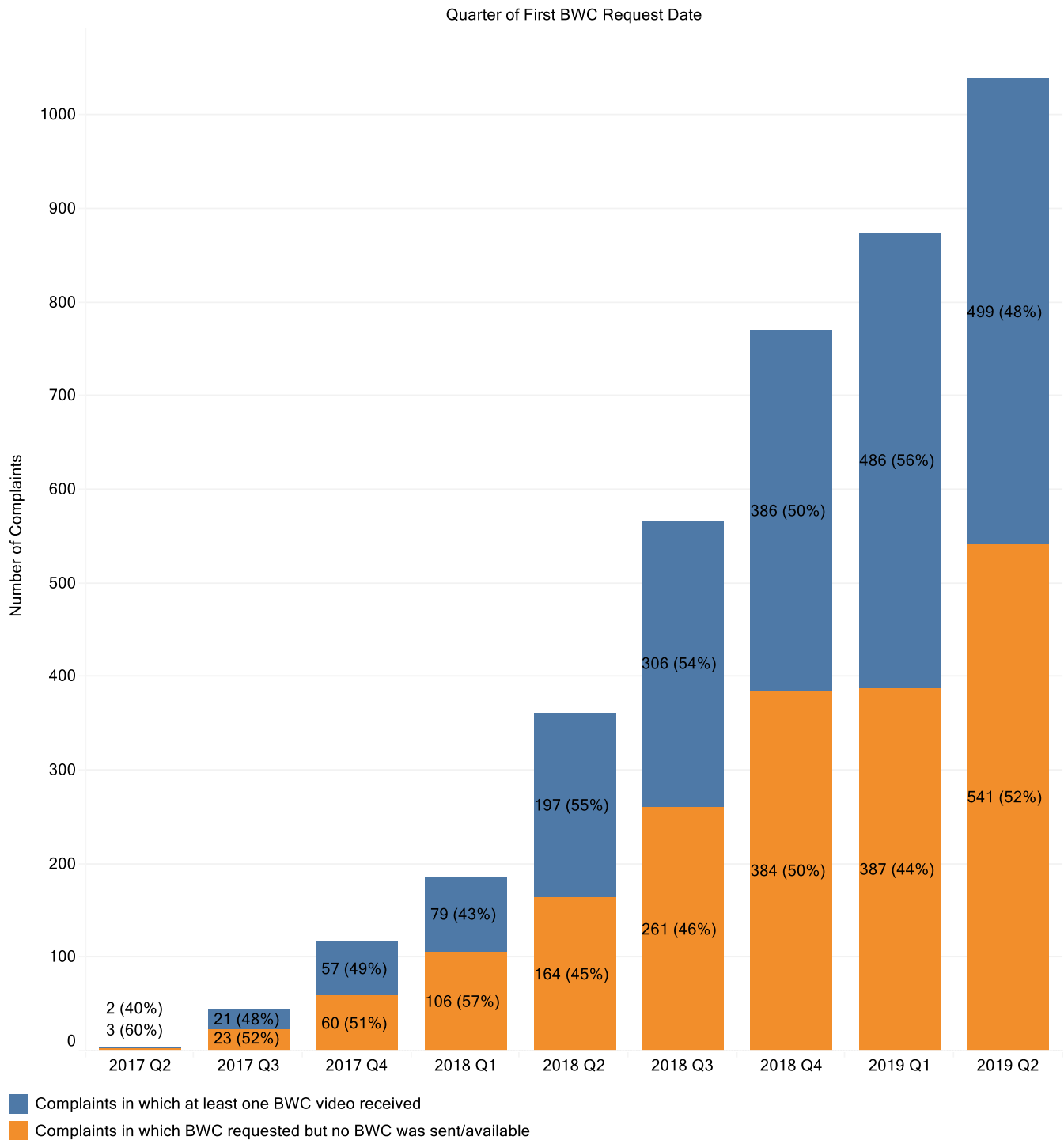
---

<sup>121</sup> See footnote 65 for an explanation of the time frames used in the calculations in this Report.

<sup>122</sup> The majority of complaints in which BWC footage was requested but none was received reflects incidents for which no BWC was found following a search by NYPD's BWC Unit, but also includes complaints in which the NYPD refused to turn over the BWC footage due to legal reasons or open investigations. Given that the CCRB is not conducting its own searches, it is impossible to know how many searches that fail to uncover BWC footage in fact have no BWC footage available for the incident (i.e. how many negative responses are "true negatives").

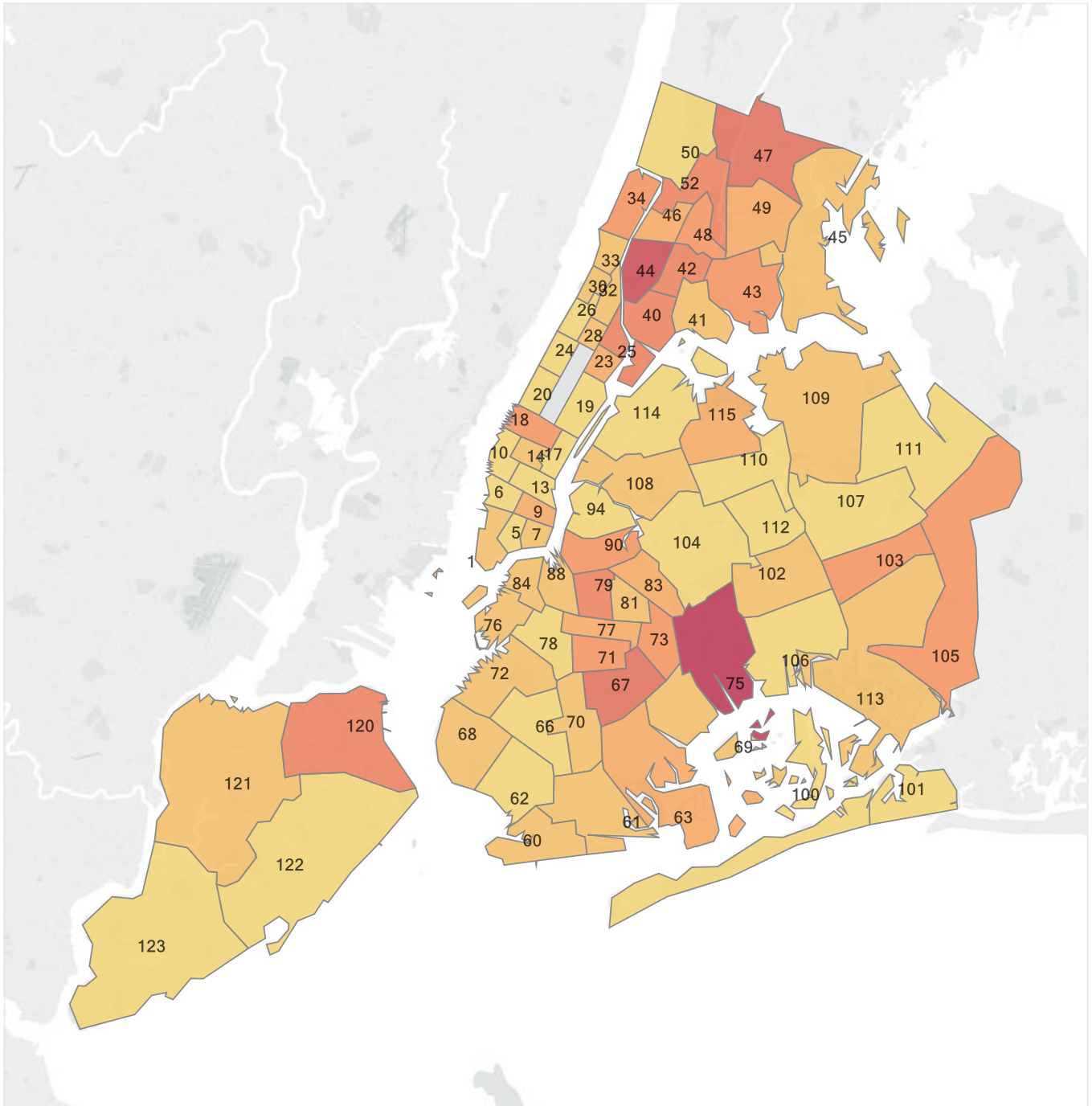


**Figure 07. BWC Footage Requested and Received by Complaint**



# Geographic Dispersion of Complaints with BWC

Figure 08. Heat Map of BWC Received by Precinct, 2017-2019 Q2



Number of Complaints



As seen in the map in Fig. 08,<sup>123</sup> between 2017 and 2019 Q2, the largest number of complaints with BWC received by the CCRB stemmed from the 75<sup>th</sup> Precinct in Brooklyn (which serves the East New York and Cypress Hill neighborhoods). This, in part, reflects the Agency's general complaint pattern, which in 2018 found that the 75<sup>th</sup> precinct generated the highest number of complaints.<sup>124</sup> Between January 2015 and June 2018, the 75<sup>th</sup> Precinct also received the largest number of lawsuits against police officers citywide.<sup>125</sup>

---

<sup>123</sup> Due to the NYPD's phased rollout, these data points do not necessarily represent rates of misconduct or complaints of misconduct in these precincts. As in all CCRB's reports, these are provided as descriptive data only. No statistical comparisons have been drawn that can indicate statistical significance or any other patterns.

<sup>124</sup> CCRB, *Annual Report 2018* (2019), available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2018CCRB\\_AnnualReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018CCRB_AnnualReport.pdf).

<sup>125</sup> Noah Goldberg, More Than 50 Brooklyn Cops Have Been Sued at Least Four Times, Data Shows, BROOKLYN DAILY EAGLE (Apr. 8, 2019), <https://brooklyneagle.com/articles/2019/04/08/david-grieco-bullethead-lawsuits/>, (citing CAPSTAT: NYC Federal Civil Rights Lawsuit Data, 2015 to 2018, <https://www.capstat.nyc/>).

**Figure 09. Complaints Received by Command in which BWC Footage Was Obtained, 2017 – 2019 Q2**

Command Name	Received Complaints with BWC		Received Complaints with No BWC		Command Name	Received Complaints with BWC		Received Complaints with No BWC	
	Number	Percent	Number	Percent		Number	Percent	Number	Percent
001 PCT	9	18%	40	82%	075 PCT	87	40%	128	60%
005 PCT	10	19%	42	81%	076 PCT	15	27%	41	73%
006 PCT	4	6%	61	94%	077 PCT	19	14%	119	86%
007 PCT	10	27%	27	73%	078 PCT	5	13%	34	87%
009 PCT	9	14%	56	86%	079 PCT	45	37%	77	63%
010 PCT	4	11%	31	89%	081 PCT	11	13%	72	87%
013 PCT	10	25%	30	75%	083 PCT	19	24%	59	76%
014 PCT	35	38%	58	62%	084 PCT	17	22%	60	78%
017 PCT	3	14%	18	86%	088 PCT	15	28%	39	72%
018 PCT	5	6%	75	94%	090 PCT	32	46%	38	54%
019 PCT	5	8%	55	92%	094 PCT	8	22%	29	78%
020 PCT	5	11%	42	89%	100 PCT	5	11%	39	89%
023 PCT	18	30%	42	70%	101 PCT	7	6%	108	94%
024 PCT	9	20%	36	80%	102 PCT	24	32%	51	68%
025 PCT	38	40%	56	60%	103 PCT	36	36%	65	64%
026 PCT	10	34%	19	66%	104 PCT	10	15%	58	85%
028 PCT	14	16%	71	84%	105 PCT	40	40%	60	60%
030 PCT	16	31%	36	69%	106 PCT	2	3%	56	97%
032 PCT	7	8%	82	92%	107 PCT	8	17%	40	83%
033 PCT	15	21%	58	79%	108 PCT	10	23%	33	77%
034 PCT	45	41%	64	59%	109 PCT	13	30%	30	70%
040 PCT	39	38%	65	63%	110 PCT	10	22%	35	78%
041 PCT	13	14%	80	86%	111 PCT	5	15%	29	85%
042 PCT	41	45%	50	55%	112 PCT	3	7%	42	93%
043 PCT	26	30%	61	70%	113 PCT	20	15%	114	85%
044 PCT	77	43%	104	57%	114 PCT	4	4%	103	96%
045 PCT	19	40%	29	60%	115 PCT	21	40%	32	60%
046 PCT	26	18%	118	82%	120 PCT	43	36%	75	64%
047 PCT	54	38%	89	62%	121 PCT	17	29%	41	71%
048 PCT	41	36%	72	64%	122 PCT	5	8%	59	92%
049 PCT	31	33%	64	67%	123 PCT	11	22%	39	78%
050 PCT	12	22%	42	78%	PSA 1	10	26%	29	74%
052 PCT	41	27%	112	73%	PSA 2	10	12%	72	88%
060 PCT	15	23%	50	77%	PSA 3	8	23%	27	77%
061 PCT	16	23%	55	77%	PSA 4	19	30%	44	70%
062 PCT	2	3%	56	97%	PSA 5	8	14%	49	86%
063 PCT	27	42%	38	58%	PSA 6	8	20%	32	80%
066 PCT	0	0%	36	100%	PSA 7	16	21%	60	79%
067 PCT	58	37%	100	63%	PSA 8	13	27%	36	73%
068 PCT	15	25%	45	75%	PSA 9	3	6%	45	94%
069 PCT	20	22%	73	78%	Detective Squads	17	7%	219	93%
070 PCT	19	16%	103	84%	Narcotics Units	8	3%	237	97%
071 PCT	48	44%	60	56%	Strategic Response Groups (SRG)	9	12%	66	88%
072 PCT	19	29%	47	71%	Transit	58	18%	267	82%
073 PCT	22	18%	98	82%	Other	68	7%	851	93%

Looking at the breakdown of BWC recordings received by command in Fig. 09,<sup>126</sup> the CCRB received 87 videos from the 75<sup>th</sup> Precinct between 2017 and 2019 Q2, followed by 77 videos from the 44<sup>th</sup> precinct in the Bronx (which serves the southwest portion of the Bronx, including Grand Concourse, Bronx Terminal Market, and Yankee Stadium), and 58 videos from the 67<sup>th</sup> Precinct in Brooklyn (which serves East Flatbush and Remsen). These precincts were among the earliest commands to roll out BWCs. The 47<sup>th</sup> Precinct received BWC training in August 2017, the 67<sup>th</sup> Precinct in November 2017, and the 75<sup>th</sup> Precinct in January 2018. All three precincts had deployed BWCs by early 2018.

---

<sup>126</sup> Due to the NYPD's phased rollout, these data points do not necessarily represent rates of misconduct or complaints of misconduct in these precincts. As in all CCRB's reports, these are provided as descriptive data only. No statistical comparisons have been drawn that can indicate statistical significance or any other patterns.

## BWC Received by Allegation

Figure 10. BWC Received by Allegation, 2017 – 2019 Q2

Force Allegations	With BWC		No BWC	
	Number	Percent	Number	Percent
Chokehold	61	6%	225	7%
Flashlight as club			3	0%
Gun as club			9	0%
Gun fired	1	0%	14	0%
Gun Pointed	65	6%	282	8%
Handcuffs too tight	21	2%	55	2%
Hit against inanimate object	50	5%	155	5%
Nightstick as club (incl asp & baton)	19	2%	92	3%
Nonlethal restraining device	76	7%	113	3%
Other	16	1%	97	3%
Other blunt instrument as a club	5	0%	38	1%
Pepper spray	21	2%	57	2%
Physical force	975	90%	2,992	87%
Police shield	2	0%	17	0%
Radio as club	4	0%	12	0%
Restricted Breathing	56	5%	102	3%
Vehicle	12	1%	52	2%
<b>Grand Total</b>	<b>1,084</b>	<b>100%</b>	<b>3,441</b>	<b>100%</b>

Discourtesy Allegations	With BWC		No BWC	
	Number	Percent	Number	Percent
Action	78	14%	478	17%
Demeanor/tone	4	1%	14	1%
Gesture	7	1%	48	2%
Other	2	0%	5	0%
Word	491	90%	2,437	87%
<b>Grand Total</b>	<b>544</b>	<b>100%</b>	<b>2,790</b>	<b>100%</b>

Offensive Language Allegations	With BWC		No BWC	
	Number	Percent	Number	Percent
Ethnicity	14	11%	100	14%
Gender	35	28%	208	29%
Gender Identity	3	2%	10	1%
Other	22	18%	78	11%
Physical disability	2	2%	19	3%
Race	48	38%	267	38%
Religion	6	5%	30	4%
Sexual orientation	14	11%	71	10%
<b>Grand Total</b>	<b>125</b>	<b>100%</b>	<b>706</b>	<b>100%</b>

Abuse of Authority Allegations	With BWC		No BWC	
	Number	Percent	Number	Percent
Body Cavity Searches	7	0%	10	0%
Disseminated immigration status			1	0%
Electronic device information deletion	11	1%	27	0%
Entry of Premises	277	17%	797	11%
Failure to provide RTKA card	81	5%	203	3%
Forcible Removal to Hospital	261	16%	404	5%
Frisk	167	11%	656	9%
Gun Drawn	22	1%	162	2%
Improper dissemination of medical info			5	0%
Interference with recording	81	5%	257	3%
Other	47	3%	318	4%
Photography/ Videography	16	1%	70	1%
Premises entered and/or searched	9	1%	588	8%
Property damaged	129	8%	523	7%
Question	97	6%	412	6%
Questioned immigration status	4	0%	11	0%
Refusal to obtain medical treatment	87	5%	236	3%
Refusal to process civilian complaint	53	3%	281	4%
Refusal to provide name	146	9%	387	5%
Refusal to provide name/shield number	59	4%	1,182	16%
Refusal to provide shield number	140	9%	334	4%
Refusal to show arrest warrant	4	0%	54	1%
Refusal to show search warrant	11	1%	134	2%
Retaliatory arrest	7	0%	13	0%
Retaliatory summons	18	1%	45	1%
Search (of person)	196	12%	914	12%
Search of Premises	136	9%	480	6%
Search of recording device	17	1%	69	1%
Seizure of property	107	7%	274	4%
Sex Miscon (Sexual Harassment, Gesture)	3	0%	12	0%
Sex Miscon (Sexual Harassment, Verbal)	14	1%	40	1%
Sex Miscon (Sexual/Romantic Proposition)	3	0%	27	0%
Sex Miscon (Sexually Motiv Strip-Search)	1	0%	1	0%
Sex Miscon (Sexually Motivated Frisk)	1	0%	2	0%
Sexual Misconduct (Sexual Humiliation)	11	1%	23	0%
Stop	198	12%	1,043	14%
Strip-searched	55	3%	163	2%
Threat of arrest	370	23%	1,830	25%
Threat of force (verbal or physical)	179	11%	675	9%
Threat of summons	33	2%	190	3%
Threat re: immigration status	2	0%	9	0%
Threat re: removal to hospital	34	2%	86	1%
Threat to damage/seize property	55	3%	253	3%
Threat to notify ACS	11	1%	103	1%
Vehicle search	241	15%	715	10%
Vehicle stop	201	13%	834	11%
<b>Grand Total</b>	<b>1586</b>	<b>100%</b>	<b>7439</b>	<b>100%</b>



When a complaint is filed, the claims against the officer are considered allegations. An individual complaint may contain multiple allegations against one or more officers. As the investigation continues, different allegations may be revealed. Fig. 10<sup>127</sup> displays the specific type of sub-allegations within each FADO category where BWC footage was received. In the Force category, BWC footage was most commonly received for allegations with the designation of “Physical force.” In the Discourtesy category, BWC footage was overwhelmingly received for allegations with the designation of “Word” (e.g., profanity). These findings reflect the CCRB’s general complaint pattern, which found that from 2017 to 2019 Q2, “Physical force” accounted for 76% of all the Force category allegations, and Discourtesy “Word” accounted for 86% of all the Discourtesy allegations.<sup>128</sup>

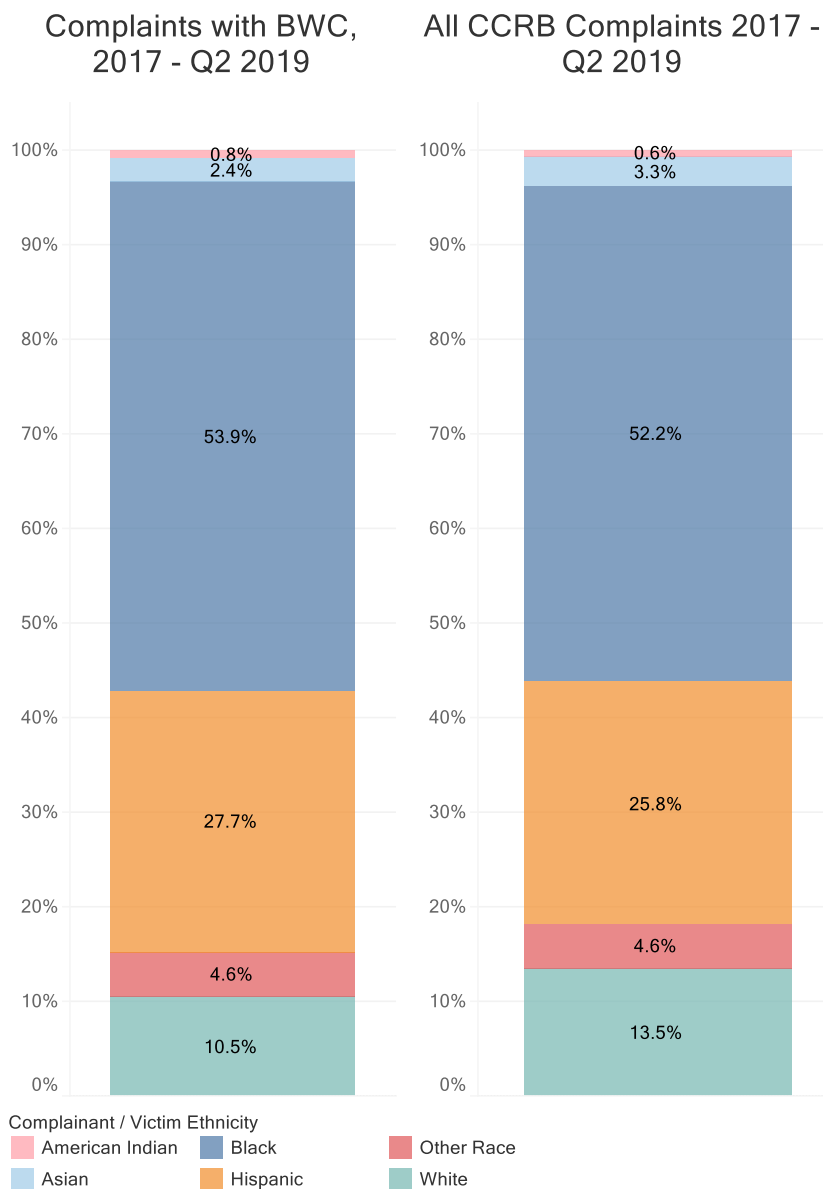
---

<sup>127</sup> Due to the NYPD’s phased rollout, these data points do not necessarily represent rates of misconduct or complaints of misconduct in these precincts. As in all CCRB’s reports, these are provided as descriptive data only. No statistical comparisons have been drawn that can indicate statistical significance or any other patterns.

<sup>128</sup> CCRB, *Annual Report 2018* (2019), available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2018CCRB\\_AnnualReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018CCRB_AnnualReport.pdf).

## Complainant Demographics

**Figure 11. Complainant Demographics for BWC Received, 2017 – 2019 Q2**

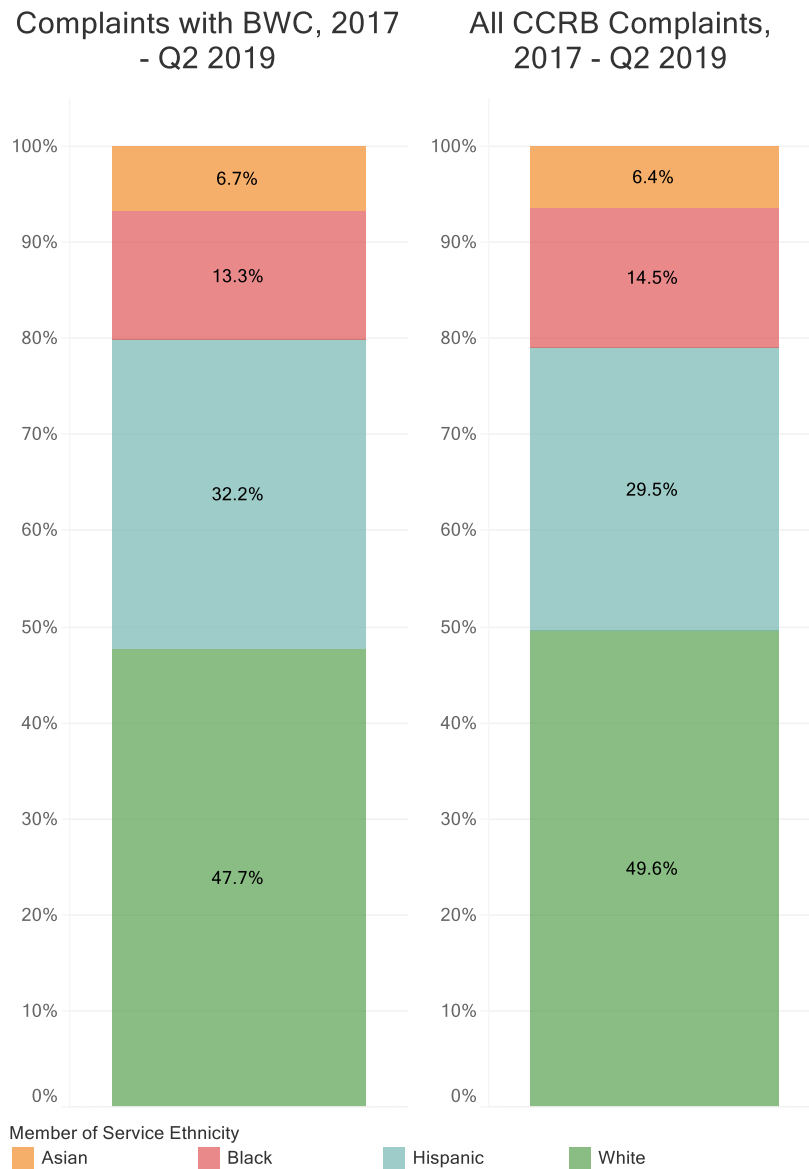


As shown in Fig. 11,<sup>129</sup> individuals who self-identified as Black made up over half of the alleged victims in complaints with BWC footage (53.9%), followed by individuals who identified as Hispanic (27.7%). The racial breakdown of complainants in cases with BWC footage are comparable to those in all CCRB complaints for the same time period.

<sup>129</sup> As in all CCRB’s reports, demographic data for complainants and subject officers is provided as descriptive data only. No statistical comparisons have been drawn that can indicate statistical significance or any other patterns.

## Subject Officer Demographics

**Figure 12. Subject Officer Demographics for BWC Received**



The racial makeup of officers who were the subject of CCRB complaints containing BWC footage largely reflects the demographic composition of the NYPD as a whole, and is comparable to that of all CCRB complaints in the same time period (Fig. 12).<sup>130</sup> Between 2017 and 2019 Q2, white officers accounted for 47.7% of the subject officers in CCRB complaints with BWC video and 49.6% of the NYPD as a whole.<sup>131</sup>

<sup>130</sup> As in all CCRB’s reports, demographic data for complainants and subject officers is provided as descriptive data only. No statistical comparisons have been drawn that can indicate statistical significance or any other patterns.

<sup>131</sup> *Id.* at 21.

## False Negatives

As previously discussed, there are situations in which the CCRB will receive a false negative response from the NYPD when asking for BWC footage. The CCRB categorizes false negatives as instances where a BWC request is returned as having no responsive footage, but existing BWC footage is later identified. False negatives may arise due to BWC requests providing limited or incomplete information, the completeness of search criteria used by the NYPD to identify BWC footage, or human error.

The Patrol Guide<sup>132</sup> provides instruction for the documentation of BWC footage. MOS are instructed to “categorize” or “tag” BWC videos in the NYPD’s video management system based on the “nature of the event” using an “Edit Details” feature. While the default category for BWC video is “uncategorized,” officers may select a more specific case category from a drop-down list of (1) arrest, (2) homicide, (3) summons, or (4) investigative encounter. After selecting a category, officers are then instructed to “select all applicable ‘tags’ from the dropdown list provided,” as well as include any arrest or stop report information. When a CCRB request is made for BWC footage, the BWC Unit searches for relevant footage by reviewing the applicable tags and arrest/stop information, as well as a limited number of search terms,<sup>133</sup> against the information provided in the CCRB request.

In 2017, the CCRB found that many false negatives were the result of BWC requests that contained limited or incomplete information pertaining to an incident. As a result, the NYPD oftentimes requested more information, which included clarifications on incident dates, precinct information, or vague language. In the spring of 2018, in an effort to decrease the number of requests for which the NYPD had to request more information in order to locate BWC footage—and the subsequent need for the investigator to re-request the video—the CCRB created a BWC request template for all investigators to use. This template asked for all available information, including: incident date and time, officers, incident type, outcome, related paperwork, civilians, locations, and any available distinguishing information. The template was positively received by both the CCRB and the NYPD and has reduced the number of clarification requests sent between the agencies.

Location tracking, or geotagging technology, is an additional mechanism that would reduce false negatives and expedite BWC searches.<sup>134</sup> Axon View, an Axon mobile application that connects to Axon cameras, provides instant video playback and GPS tagging.<sup>135</sup> Axon View provides Configuration Location Tracking, which automatically pulls location data from officers’ mobile devices and embeds it in videos recorded by Axon cameras (including BWC and dashboard

---

<sup>132</sup> See PG §212-123(14).

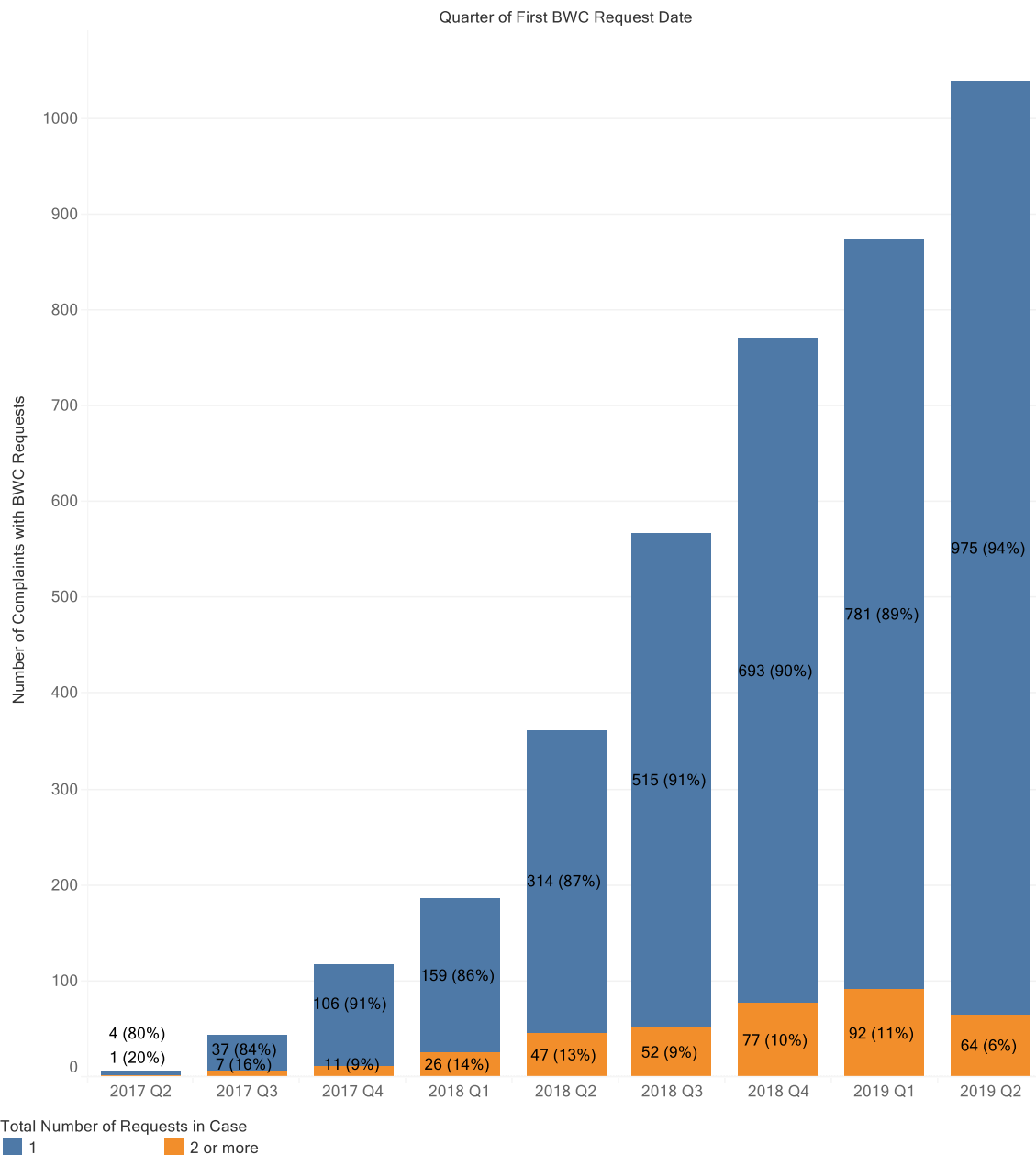
<sup>133</sup> The search terms currently used by the NYPD to search for BWC footage are: arrest number, summons number, or desk arrest ticket (DAT) number, date, time, and precinct number.

<sup>134</sup> In regard to the question of GPS tagging technology, the NYPD has stated concern that, “while GPS functionality is available through Axon’s smart phone application, New York City’s density and topography present unique challenges for GPS that may hinder its accuracy.” Legal Bureau Letter, *supra* note 15.

<sup>135</sup> Axon, Axon View, <https://www.axon.com/products/view> (last viewed Oct. 10, 2019).

cameras).<sup>136</sup> Despite Axon’s software capabilities, the NYPD currently does not use geotagging technology. It instead relies on human input, making it difficult to identify incident locations as well as the location of officers during an incident.

**Figure 13. False Negatives, 2017-2019 Q2**



<sup>136</sup> Axon, Configuring Location Tracking, <https://help.axon.com/hc/en-us/articles/221367828-Configuring-Location-Tracking> (last viewed Oct. 10, 2019).

At present, when the CCRB becomes aware of a false negative, investigators submit a follow-up BWC request and notify the NYPD Relations Unit, which tracks the false negative.<sup>137</sup> In some circumstances, the NYPD Relations Unit may contact IAB directly. As seen in Fig. 13, of the 2,033 complaints returning BWC footage, there were 377 complaints containing at least one false negative response (18.5%).<sup>138</sup> This number, however, may only represent a minimum, as the CCRB is only made aware of false negatives once they have been identified by investigations or the NYPD Legal Bureau.

The CCRB found that investigators often learned about false negatives, and the subsequent existence of BWC footage, haphazardly—from reading about BWC assignments in police documents, during officer interviews, and, in at least two instances, via video footage provided to the news media. Investigators also noted that search terms and tags used to identify BWC recordings were not regularly included on BWC receipts, creating questions about the completeness of the search criteria used by the NYPD to identify BWC footage. An example of a false negative and its impact on Agency investigations is described in more detail in *BWC Snapshot Sidebar 1*. More recently, the CCRB learned of 19 false negatives after the NYPD Legal Bureau conducted an internal audit.

### BWC Snapshot Sidebar 1: False Negatives At-a-Glance

---

An investigator submitted a BWC request for a complaint related to the execution of a search warrant. The request included the name and tax ID of the subject officer. The CCRB received videos for two witness officers, but no BWC video for the subject officer. Several months later, during the subject officer's CCRB interview, the investigator learned there was additional BWC footage of the incident. In response, the investigator re-requested the subject officer's BWC footage. Upon receipt of the BWC footage, the investigator re-interviewed the subject officer, causing delays in case closure.

The CCRB and NYPD have engaged in ongoing efforts to reduce the number of false negatives. The NYPD has committed to including all search terms and tags used to identify video footage on its receipts. Search terms may include searches by date/time, officer, precinct, unit, or arrest number.<sup>139</sup> Additionally, under the terms of the BWC MOU,<sup>140</sup> the CCRB and NYPD will simultaneously be allowed to oversee and execute search requests for video footage. CCRB investigators shall take as many investigatory steps as reasonable to locate the information necessary to conduct a BWC search.<sup>141</sup> This will better allow the CCRB to conduct a thorough search of relevant footage without relying on an intermediary. While the CCRB believes this is a big step

---

<sup>137</sup> The NYPD notes that it is “absolutely committed to providing all necessary footage to the CCRB in order for it fulfill its Charter-mandated responsibilities and it will facilitate such access.” Legal Bureau Letter, *supra* note 15.

<sup>138</sup> The number of false negatives depicted for 2019Q2 is lower due to the large number of requests still open as of June 30, 2019.

<sup>139</sup> Legal Bureau Letter, *supra* note 15.

<sup>140</sup> BWC MOU, *supra* note 4.

<sup>141</sup> *Id.*

towards decreasing the number of false negatives, in order to reduce the number even further, the CCRB also recommends the following:

1. The NYPD utilize the geotagging technology available on Axon View.<sup>142</sup> Using this technology, video files uploaded to Viewu Solution and Evidence.com would automatically include “location metadata,”<sup>143</sup> which would reduce the number of search terms used to identify BWC and enable CCRB investigators to more readily identify relevant BWC footage through location tag searches or the GPS coordinates of identified officers.
2. That when responding to BWC requests, the NYPD include BWC footage identified on its IAB referral logs.<sup>144</sup> The NYPD should also link digital memo book entries with any relevant BWC footage.

---

<sup>142</sup> Axon, Axon View, <https://www.axon.com/products/view> (last viewed Oct. 10, 2019).

<sup>143</sup> *Id.*

<sup>144</sup> Aside from police precincts, the CCRB receives referrals from a variety of police sources, most frequently from IAB. Civilians or police personnel can file a complaint by telephone with the IAB command center; the majority of these telephone complaints are recorded. Civilians who call 911 about a police officer’s conduct are usually referred directly to the IAB command center. IAB also receives reports of incidents or complaints that the reporting police command deems criminal, serious, or falling outside the CCRB’s jurisdiction. Ultimately, IAB commanders review the complaints IAB receives and determine whether referral to the CCRB is appropriate. Complaints received by IAB that fall within the CCRB’s jurisdiction are forwarded to the CCRB in the form of an IAB log.



## SECTION 3: BWC FOOTAGE RECEIVED

---

### Officer and Technical Issues

In spring 2019, the CCRB analyzed investigators' experience with BWC footage. Keeping in mind the infancy of the NYPD's BWC program, the discussions focused on the effect, if any, BWC footage had on investigators' case outcomes, with the goal of bringing awareness to any technical or officer-related issues that investigators may have encountered. Overall, investigators found BWC footage helpful, noting that BWC footage added context to interactions between civilians and MOS, assisted in officer identification, and provided details on background, timing, and tone. The officer usage and technical issues they encountered are discussed below.

#### **Activation**

PG § 212.123 provides guidance to officers regarding BWC activation. It outlines police actions requiring mandatory BWC activation and provides officers discretion (outside of prohibited recordings) to "record other official activities when, in the uniformed member's judgment, it would be beneficial to record."<sup>145</sup> Once their BWC is activated, officers are instructed to "continue recording until the investigative, enforcement, or other police action is concluded."<sup>146</sup>

One of the largest issues identified by investigators pertained to BWC activation. Investigators found that officers failed to properly use their BWCs by turning them on late, turning them off early, or not turning them on at all. Examples of these types of activation issues are discussed in *BWC Snapshot Sidebars 2 and 3*.

For policing activities requiring mandatory activation, investigators discussed multiple instances where officers did not immediately activate their BWCs prior to engaging or assisting in police actions, as required by the Patrol Guide.<sup>147</sup> Investigators cited numerous examples involving vehicle stops, searches of individuals or their belongings, and interactions with an emotionally disturbed person<sup>148</sup> that were not fully recorded by responding officers, including the initial officers on scene.

---

<sup>145</sup> PG § 212-123(4-10).

<sup>146</sup> PG § 212-123(10).

<sup>147</sup> In its review, the CCRB found a number of reasons why BWCs only captured part of the incident, including issues surrounding activation, officers arriving as back-up and uninvolved officers leaving the scene of the incident.

<sup>148</sup> NYPD uses the term "Emotionally Disturbed Person" or "EDP" to refer to individuals suffering from mental illnesses or psychological distress related to either mental health concerns or substance use.

## BWC Snapshot Sidebar 2: Activation

For policing activities requiring activation, investigators felt that Patrol Guide language stating: “begin recording prior to or immediately upon arrival at the incident location,”<sup>149</sup> left too much room for discretion. Investigators reported repeated instances where officers did not immediately activate their BWCs, or only did so partway through the interaction, when police actions escalated or turned contentious.

Investigators also returned feedback regarding BWC activation during incidents involving entry into a residence. Under PG § 212.123(6), officers are instructed to “begin recording prior to or immediately upon arrival at an incident location.” Investigators, however, noted several instances where the entry was not captured by BWC audio, due to an activation buffer in BWC models.<sup>150</sup> As noted by Axon, when BWC cameras are turned on, the cameras are placed in “buffering mode.”<sup>151</sup> When buffering begins, “[t]he operation LED cameras will blink green; the camera will be capturing video

1. Two officers conducted a vehicle stop, during which they frisked, searched, and handcuffed an individual before bringing him to the stationhouse. As provided by the Patrol Guide, vehicle stops require mandatory BWC activation, and officers are instructed to begin recording prior to the vehicle stop. BWC footage from the first officer played for 32 minutes and 55 seconds. The footage covered the complete stop as well as the interaction with the individual at the stationhouse. In contrast, BWC footage from the second officer consisted of only 6 minutes and 27 seconds of recorded footage. It began partway through the vehicle stop and only captured the two officers running a warrant check on the individual.
2. Four officers responded to a radio run involving an armed trespasser at a school. During the incident, only one of the four officers activated their BWC. A complainant subsequently filed a complaint alleging that during the incident, an officer pointed a gun at him and told him to, “Put your fucking hands up.” When interviewed, all four officers denied speaking to, or even encountering, the complainant. Due to missing BWC footage from three of the responding officers, the investigator was unable to verify whether any of the officers spoke discourteously to the individual, and if so, which officer.

Under the Patrol Guide, uniformed members of service are also required to activate their BWC while engaging in any potential crime in progress assignments, including reports of a suspicious person and reports of a person with a gun. As the officers failed to activate their BWCs during this incident, the Board recommended an OMN for failure to record.

---

<sup>149</sup> PG § 212-123(6).

<sup>150</sup> “When turned on, Taser’s Axon cameras record in buffer mode, which consists of video—but not audio—that is deleted after 30 seconds. The police officer then double-clicks the camera to start recording both . . . The resulting clip includes the preceding 30 seconds of buffer video footage—a tool meant to protect the privacy of officers going about their daily business, while at the same time allowing police to catch footage of a crime that occurs moments before they hit the record button.” *Digital Partner: Here’s How Police Body Cameras Work*, NBC NEWS (updated Dec. 1, 2014), available at <https://www.nbcnews.com/tech/innovation/digital-partner-heres-how-police-body-cameras-work-n259211>.

<sup>151</sup> AXON, Operating Modes, <https://help.axon.com/hc/en-us/articles/221365988-Operating-modes> (last viewed Nov. 26, 2019).

but no audio, and will not record to permanent memory while in buffering mode.”<sup>152</sup> The NYPD currently uses both a 30-second and 1-minute buffer in its BWC models.<sup>153</sup>

In one CCRB complaint, for example, officers conducting a home visit at an apartment activated their BWCs upon arriving at the apartment door, resulting in a 30-second buffer without audio. During this time, the officers spoke to two civilians at the door. By the time the audio activated and began recording, the officers were already inside the apartment. Two civilians later filed a complaint, alleging that officers entered the apartment without permission. The officers denied the allegation. Without the initial audio, the investigation could not determine if the officers entered without consent. To account for the buffer period and better ensure that future residential entries are captured in their entirety, the CCRB recommends that officers conducting home visits/entries activate their BWCs prior to approaching the civilian’s home, or in the case of an apartment, upon entering the building, as opposed to upon arrival at the apartment door. Activating BWCs prior to arriving for home visits also may assist officers with their investigations.<sup>154</sup>

Investigators also expressed concern around officers turning their BWCs off too early. PG § 212.123(10) instructs officers not to deactivate their cameras “until the investigative, enforcement, or other police action is concluded.” Investigators saw great variance in officers’ interpretations of when police actions were “concluded,” impacting the length and amount of BWC footage received. They discussed examples where police action had “concluded,” but police and civilian interactions continued. In some cases, these interactions resulted in FADO allegations not captured by the BWC.

During its review, the CCRB also discovered instances of officer interference, which involved officers manually turning off their BWCs prior to the conclusion of the police action in violation of PG § 212.123. Officer interference is of great concern to the CCRB, as it runs counter to the goal of using BWCs as an oversight mechanism and impacts the ability of BWC footage to further “transparency, accountability and fairness.”<sup>155</sup> Examples of officer interference are provided in *BWC Snapshot Sidebar 3*, below.

---

<sup>152</sup> *Id.*

<sup>153</sup> Viewu cameras have a 30-second buffer mode, while Axon cameras have a one-minute buffer mode. *Oversight - NYPD’s Roll-Out of Body Worn Cameras*, NYC Council Committee on Public Safety, (Nov. 18, 2019) (statement of Matthew Pontillo, NYPD Assistant Chief and Commanding Officer of the First Deputy Commissioner).

<sup>154</sup> As noted by the NYPD in its communication with the CCRB on January 13, 2020, “In conducting home visits, many of which occur in the context of domestic violence, there are instances where domestic violence officers will encounter the victim, witness or the offender prior to knocking or entering a home visit location. Having the BWC activated at this point helps provide positive *Rosario* material, assists in capturing any victim or offender spontaneous utterances, which ultimately assists in the prosecution of cases, or possibly exonerating any allegations made against the officers.” Legal Bureau Letter, *supra* note 15.

<sup>155</sup> Letitia James, NYC Pub. Advoc., *The Cost of Improper Procedures: Using Police Body Cameras to Reduce Economic and Social Ills*, (August 2014) at p. 3, available at <https://pubadvocate.nyc.gov/body-cameras>.

## BWC Snapshot Sidebar 3: Officer Interference

---

1. Seven officers stopped and allegedly frisked a group of individuals suspected of gambling within the confines of a NYCHA complex. Perspective is shown from the BWC of a female officer. Shortly after arrival, but prior to the alleged frisk, the female officer's partner instructs her to, "Turn it off, turn it off, turn it off!" The female officer turns off her BWC immediately. During her CCRB interview, the officer stated she did not have any recollection of this incident. As BWC footage recovered from the incident did not capture the officers' interaction with the civilians, the investigation was unable to determine whether the officers had reasonable suspicion to stop and frisk the individuals.
2. BWC footage captured two officers, PO1 and PO2, inside of a gas station, speaking discourteously to a black male. PO1 throws the man's cellphone on the ground while saying to him, "I'm going to fuck you up, you motherfucker. You're an idiot, you fucking moron. I let you go, you stupid motherfucker. What do you think, I'm fucking retarded?" PO1 and PO2 continue to taunt and curse at the male until PO1 tells someone off screen that they are "off." A voice informs PO1 and PO2 that they are not "off," and PO1 immediately turns off his BWC. The civilian alleged that during this time, the officers used physical force against him. The alleged force, however, was not captured by PO1's BWC, which did not resume recording until after the officers and the civilian left the gas station and arrived at the precinct stationhouse.
3. An individual called 911 regarding a landlord-tenant dispute. Four officers responded to the residence, but allegedly refused to take her complaint. As captured on BWC, upon arriving on scene and recognizing the complainant, an officer says, "I've been here before . . . All right, I'm turning the cameras off . . . here's what's gonna happen. I'm turning the cameras off. All right, I've been here before for this. She said the exact..." He and the other officers then turned off their BWCs, concluding the footage.

Given the activation issues identified through the CCRB's BWC review, the NYPD should continue to provide guidance to MOS on when BWCs should be activated and deactivated. Sergeants, Integrity Control Officers, and the RMB BWC Unit should also continue to conduct regular audits of BWC video to ensure officer compliance and "address any performance or tactical deficiencies observed" on camera.<sup>156</sup> In addition, the NYPD should publicly report its audits to ensure officer compliance with the BWC policy and promote better transparency and oversight. This type of public reporting has already been adopted in Chicago, where Special Order S03-14,<sup>157</sup> "requires watch operations lieutenants, across all watches, to review one recording daily . . . to assess, among other areas, whether certain Department members are properly using BWCs and conducting themselves in accordance with CPD policy."<sup>158</sup> In July 2019, drawing on this data, the City of Chicago Office of

---

<sup>156</sup> *Oversight - NYPD's Roll-Out of Body Worn Cameras*, NYC Council Committee on Public Safety, (Nov. 18, 2019) (statement of Oleg Chernyavsky, NYPD Ass't Deputy Commissioner of Legal Matters).

<sup>157</sup> Chicago Police Department, Special Order S03-14 Body Worn Cameras (Apr. 30, 2018), <http://directives.chicagopolice.org/directives/data/a7a57b38-151f3872-56415-1f38-89ce6c22d026d090.pdf?hl=true>.

<sup>158</sup> City of Chicago Office of Inspector General, Evaluation of the Chicago Police Department's Random Reviews of Body-Worn Camera Recordings (July 30, 2019), <https://igchicago.org/2019/07/30/evaluation-of-the-chicago-police-departments-random-reviews-of-body-worn-camera-recordings/>.

Inspector General was able to conduct an evaluation of the CPD's compliance with Special Order S03-14.<sup>159</sup> The CCRB is working to clarify internal guidelines as to when OMN allegations and RMB letters should be issued for activation failures.

As discussed in the CCRB's 2019 Taser Report,<sup>160</sup> the NYPD should also incorporate Axon technology that automatically activates all nearby Axon cameras (including BWCs and dashboard cameras) when an officer triggers their Taser or draws their firearm.<sup>161</sup> Axon's Signal Performance Power Magazine<sup>162</sup> and Axon's Signal Sidearm<sup>163</sup> (which is currently used by the Atlanta Police Department)<sup>164</sup> automatically enables an officer's BWC to begin recording during critical situations, ensuring that officers, "can confidently capture the scene from start to finish, without pressing a button."<sup>165</sup> The incorporation and automation of this technology by the NYPD will ensure greater oversight—both internally by supervisors, and externally by the CCRB, other oversight agencies, and the public-at-large.

## Signaling

One of the most common issues highlighted by investigators was the use of signals amongst officers to indicate the presence of active BWCs. CCRB investigators in focus groups reported that officers in videos they watched frequently used phrases such as, "I went Hollywood," "Green," "I'm/We're live," and "I'm hot," to indicate to other officers that their BWCs were on and recording. Officers also used non-verbal cues, such as tapping motions, shoulder brushing, and gesturing to indicate whether their cameras were turned on or off.

Pursuant to PG § 212.123(8), officers are instructed, as soon as safe and reasonably practical, to "notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation." The NYPD also trains officers to "inform officers at the scene of an incident that a camera is active if the officer is not equipped with a BWC, and alert them that they are recording in order to ensure that the sensitive law enforcement conversations are not inadvertently captured on BWC video."<sup>166</sup>

---

<sup>159</sup> *Id.*

<sup>160</sup> CCRB, *Taser Use in CCRB Complaints, 2014-2017* (Dec. 2019) at p. 56, available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/issue\\_based/20191205\\_TaserReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20191205_TaserReport.pdf).

<sup>161</sup> The NYPD stated that it is open to reviewing and adapting emerging technology. Legal Bureau Letter, *supra* note 15.

<sup>162</sup> The signal performance power magazine is a Taser battery that reports to Axon cameras when Tasers are armed so they can start recording. Axon, *Signal Performance Power Magazine*, <https://www.axon.com/products/signal-ppm> (last viewed Aug. 15, 2019).

<sup>163</sup> The signal sidearm alerts the primary user's Axon camera and other nearby cameras to begin recording when a sidearm is removed from its holster. Axon, *Signal Sidearm*, <https://www.axon.com/products/signal-sidearm> (last viewed Aug. 15, 2019).

<sup>164</sup> Morse Diggs, Atlanta Police Using New Holsters That Turn on Body Cam When Firearm is Drawn, Fox 5 (Aug. 13, 2019), <http://www.fox5atlanta.com/news/atlanta-police-using-new-holsters-that-turn-on-body-cam-when-firearm-is-drawn>.

<sup>165</sup> *Id.*

<sup>166</sup> Legal Bureau Letter, *supra* note 15.

PG § 212.123 does not prohibit officers from intentionally interfering with the ability of a BWC to accurately record footage. However, the CCRB has identified instances where officers have used signals to prevent or halt the recording of police misconduct. This specific use of signals to interfere with BWC recordings undermines the purpose of the BWC program, which is meant to, “provide a contemporaneous, objective record of stops and frisks, allowing for the review of officer conduct.”<sup>167</sup>

Policies prohibiting officer interference with BWC recordings exist in other jurisdictions. For instance, the Parker, CO Police Department’s body-worn camera policy states in relevant part:<sup>168</sup>

*If an enforcement member fails to activate their MVR or BWC, fails to record the entire contact, or interrupts the recording, the enforcement member shall document why the recording was not made, interrupted or terminated. Appropriate disciplinary action shall be taken against any enforcement member who is found to have intentionally failed to adhere to the recording or retention requirements contained in this policy, or to have intentionally interfered with a BWC’s ability to accurately capture video footage.*

Similarly, the Minneapolis, MI Police Department’s policy states:<sup>169</sup>

*Disabling BWC equipment, intentionally interfering with audio or video recording capabilities, and altering, duplicating, deleting or destroying BWC recordings are prohibited, except by Authorized Personnel in the course and scope of their lawful job duties and in accordance with record retention laws and policies and the provisions of this policy.*

As does the Atlanta, GA Police Department’s, stating:<sup>170</sup>

*Sworn employees shall not interfere or intentionally block the ability of the BWC to record an encounter. This shall include the deactivation of the BWC or the obstruction of the BWC photographic lens.*

Given these identified incidents of officer interference, and the lack of any language in PG § 212.123 prohibiting officers from intentionally interfering with BWC recordings for any reason, the CCRB believes that the NYPD should amend its BWC policy to prohibit such interference, including the use of signaling.

---

<sup>167</sup> *Floyd*, 959 F. Supp. 2d. at 685.

<sup>168</sup> Parker Police Department Policy and Procedures Manual, *Recording Devices and Imaging Equipment* (Nov. 1, 2016), <https://parkerpolice.org/DocumentCenter/View/22925/PPD-BWC-NOV-2016?bidId=>.

<sup>169</sup> Minneapolis Police Department Policy and Procedure Manual, *4-223 Body Worn Cameras* (July 29, 2017), <https://www.insidempd.com/wp-content/uploads/2017/07/Update-Body-Worn-Camera-Policy.pdf>.

<sup>170</sup> Atlanta Police Department Policy Manual, *Body Worn Cameras (BWC)*, (Sept. 25, 2019), <https://www.atlantapd.org/Home/ShowDocument?id=2921>.



## Other Video Evidence

While BWC video represents an important investigative tool, the CCRB is cognizant that BWC video may be limited by the perspective it provides and can be potentially impacted by viewer bias.<sup>171</sup> In addition to BWC video, the CCRB currently obtains video evidence from a myriad of other sources, including, but not limited to, NYPD-owned cameras, city-owned cameras, social media platforms, private surveillance systems, and personal recording devices. These forms of video evidence, like BWC footage, often provide different points of view. When combined with BWC video, other types of video evidence can provide better context for an officer's actions, as seen in the *BWC Snapshot Sidebar 4*, below.

### BWC Snapshot Sidebar 4: Other Videos At-a-Glance

1. An individual exited a department store with a pair of sandals he had not paid for. He was stopped by three security guards, who brought him to the ground. Several minutes later, officers arrived on the scene. The individual, who was still on the ground, actively resisted arrest. In response, an officer removed his Taser from its holster, spark-tested it, and said, "If you don't stop, I'm going to fucking tase you. Turn the fuck around." Video surveillance footage from the department store and BWC footage each captured different aspects of the threat of Force and Discourteous language allegations. The security footage, which did not contain audio, captured the beginning of the interaction and the individual's resistance to arrest. The BWC footage, which did contain audio, captured the subject officer's discourteous language and threat to use the taser. These sources of video evidence assisted the investigator in determining both allegations on the merits.
2. An individual and his friends were approached by two officers for a noise violation. After a series of exchanges with the officers, the individual was arrested by an officer who attempted to handcuff him against the side of a vehicle. While doing so, the officer placed the individual in a chokehold, causing his breathing to be restricted. The officer repeatedly tased the individual using drive stun mode before allegedly using a second chokehold. The incident was captured on BWC as well as surveillance and civilian cell phone cameras. Surveillance footage provided a bird's-eye view of the incident and context to the interaction. BWC footage showed the officers' interactions and provided audio of the exchange between the police and individuals. BWC footage also depicted the first chokehold and taser usage. After two of the officers' BWCs became dislodged, security footage captured the remainder of the interaction. These sources of video evidence assisted the investigator in determining the case on the merits.

---

<sup>171</sup> See Remi Bolvin, et. al., *The Body-worn Camera Perspective Bias*, 13 J. OF EXPERIMENTAL CRIMINOLOGY 1, 125 (Mar. 2017); Broder L. Turner, et. al., *Body Camera Footage Leads to Lower Judgments of Intent Than Dash Camera Footage*, 116 PNAS 4, 1201 (Jan. 22, 2019), available at <https://doi.org/10.1073/pnas.1805928116>; Timothy Williams, James Thomas, Samuel Jacoby & Damien Cave, *Police Body Cameras: What Do You See?*, N.Y. TIMES, Apr. 1, 2016, <https://www.nytimes.com/interactive/2016/04/01/us/police-bodycam-video.html?searchResultPosition=25>.



## Impact on Officer Interview

Interviewing police officers is one of the most important and sensitive aspects of conducting CCRB investigations.<sup>172</sup> These interviews are one of the primary investigative methods utilized by the CCRB, as they allow an investigator to obtain a detailed account of the incident from an officer's perspective, gather information relevant to the officer's credibility, and uncover the identities of civilian and police witnesses.

As previously discussed, under the Patrol Guide, officers may watch their BWC recordings at their command, prior to their CCRB interview.<sup>173</sup> Under CCRB policy, relevant BWC footage may be shown to the officers—at the discretion of the investigator and when appropriate—at the conclusion of their CCRB interview. Many investigators expressed concern regarding the impact of viewing BWC recordings in or during officer interviews, as well as the increasing trend in officer statements tied directly to BWC footage. During their focus groups, investigators noted an increase in the number of officers who provided detailed accounts of their BWC footage—in lieu of their own recollection—in addition to representatives advising officers not to provide any statements until BWC video was shown. Investigators also cited several instances where officers attempted to show BWC footage, recorded onto their department cell phones, during CCRB interviews.

While BWC evidence plays an important role in CCRB investigations, in many instances, footage alone does not explain the full extent of the civilian interaction, nor does it mitigate the information derived from testimonial evidence. In May 2019, the CCRB Training Department conducted a training on how to present video evidence during interviews. The training provided information on who may be shown BWC footage, at what point in the interview BWC footage should be shown, the importance of getting full testimony before reviewing BWC footage, standard questions to ask regarding BWC footage, and what questions to ask when the BWC footage appears to contradict officer testimony. The training was presented to all investigators and managers.

## Technical Issues

The CCRB's analysis pointed to several recurring technical issues, largely involving the obstruction of video or cameras dislodging during incidents involving an apprehension or the use of force.

The Patrol Guide provides guidance to officers on BWC placement. It recommends officers position their BWC to facilitate the optimal recording field of view. The Patrol Guide also provides officers discretion to move their cameras when conditions call for a different point of view.<sup>174</sup> For example, when officers remove their BWCs during vehicle transports and placing them on dashboard mounts to better focus the cameras on vehicle passengers.

CCRB investigators noted that in some instances, BWC footage was obstructed by clothing—particularly in the winter months, due to the officer's outer garments. In one instance, an officer

---

<sup>172</sup> CCRB rules governing the conduct of interviews are found in CCRB Rules, subchapter C, section 1-24(a)-(k).

<sup>173</sup> PG § 212.123(18)(c).

<sup>174</sup> See PG §212-123(1)(c).

stated during his CCRB interview that he usually stored his BWC in his pocket until he needed to use it.

Investigators also highlighted best practices observed on BWC footage or incidentally reported by officers during their CCRB interviews, including officers taking efforts throughout an enforcement action to maintain an optimal field of view. The case studies outlined in *BWC Snapshot Sidebar 5* demonstrate how camera placement may affect the quality of a BWC recording.

## BWC Snapshot Sidebar 5: Camera Placement

---

1. The BWC footage opens with a dark screen. At 25 seconds, the officer unzips his outerwear uncovering his BWC. An elevator bank, three other officers, and a female civilian come into view.
2. An officer instructs a male to stop, capturing the request on their BWC. The male ignores the request and continues to walk. Shortly thereafter, the BWC becomes obstructed by the officer's clothing. The video footage remains obstructed for over two minutes until the male is placed in handcuffs.
3. An officer begins running after an individual with BWC recording. Immediately, the camera view becomes obstructed and remains so for the entire duration of the incident. BWC received from other officers on scene show that the officer did not mount his camera on his chest, but instead placed the BWC in his right chest pocket. BWC footage shows one officer making a point to move his camera to fully capture all aspects of the encounter. While responding to the incident, the officer's BWC is mounted on his chest, capturing the stop, frisk, and arrest of an individual for larceny. While driving the individual to the stationhouse, the officer takes the camera off his chest and places it on his dashboard so the camera lens faces the backseat, providing a clear view of the complainant kicking the cage. After arriving at the stationhouse, the same officer puts the camera back on his chest and captures the individual being escorted through the stationhouse. Upon reaching the front desk, the officer takes his camera off and places it on the desk, so the camera captures the vouchering process.

Investigators also highlighted the frequency of cameras dislodging or falling as the result of physical police action, e.g., while running, during the apprehension of a suspect, or in instances of force. They noted that when cameras became dislodged they frequently turned off or the footage was interrupted, preventing a full incident record. On several occasions, BWCs fell in large crowds, creating dangerous conditions for officers searching for their cameras. In one CCRB case, a bystander picked up an officer's BWC from the ground and began running off with it. Further examples of BWCs dislodging are described in *BWC Snapshot Sidebar 6*.

## BWC Snapshot Sidebar 6: Dislodging

---

1. The video opens with an officer exiting her vehicle. As she runs toward an unknown location, the camera dislodges and the video ends.
2. An officer attempts to place a male under arrest. As he approaches the male, the man instructs the officer not to touch him. A struggle ensues and the officer's BWC is knocked off. The screen goes dark, but the BWC continues to record audio as the struggle continues. The subsequent arrest is heard, but not seen.
3. Officers conducted a home visit in search of an individual who had an open I-Card (an "investigation card," which is a type of document issued by the NYPD to denote when a suspect or person of interest is wanted for questioning). Upon arriving at the residence, the officers activated their BWCs. After officers entered the residence and positively identified the individual, they informed him that he was under arrest. The individual refused to comply with the officers and a struggle ensued. During this time, an officer's BWC became dislodged. After the camera fell, the BWC footage alternated from black to a view of the ceiling, then back to black. As this was occurring, officers allegedly used Force against the individual. When asked about the use of force during her CCRB interview, one officer stated that she did not know if any officers used force against the individual because she had been focused on locating her fallen BWC.

The NYPD has communicated that while previous BWC models "had a tendency to deactivate or dislodge during a struggle or pursuit," the NYPD "has now begun using Axon cameras which have improved hardware mounts that make it more difficult for them to accidentally deactivate or to become dislodged."<sup>175</sup> Some members of the NYPD have also adopted Axon vests with a BWC locking mechanism to "better secure the body cameras."<sup>176</sup> Given the importance of recorded interactions for law enforcement and oversight purposes, the CCRB encourages the NYPD to continue working with Axon to "explore enhanced hardware mounts"<sup>177</sup> and address dislodging to ensure BWCs work to their maximum utility.

---

<sup>175</sup> Legal Bureau Letter, *supra* note 15.

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

## SECTION 4: ANALYSIS OF CCRB DATA ON BWC-RELATED COMPLAINTS

---

### BWC-Related Complaints and Allegations

In order to resolve its investigations, the CCRB generally needs the cooperation of at least one civilian complainant/alleged victim related to the case.<sup>178</sup> The New York City Charter states that CCRB’s findings and recommendations cannot “be based solely upon an unsworn complaint or statement.”<sup>179</sup>

When the CCRB is able to complete its investigation of a complaint, the case is closed as a “full investigation.” At the conclusion of an investigation, the Investigative Division recommends a disposition for each allegation in the complaint. Except for instances when the full Board considers a case,<sup>180</sup> a panel of three Board Members comprised of a Mayoral designee, a City Council designee, and a Police Commissioner designee, reviews the investigative findings and recommendations and then votes to determine final allegation dispositions.

There are five possible dispositions the Board may assign to fully-investigated allegations:

- An allegation is **substantiated** if the alleged conduct is found to have occurred and be improper based on a preponderance of the evidence.
- 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.
- An allegation is **unfounded** if the alleged conduct is found not to have occurred by a preponderance of the evidence.
- An allegation is closed as **officer unidentified** if the CCRB was unable to identify any of the officers accused of misconduct.
- An allegation is **unsubstantiated** if there is not enough evidence to determine whether or not misconduct occurred.

Currently, upon receipt of a case, the CCRB investigator consults the NYPD’s BWC assignments, and if the officer is listed as having a BWC, requests the relevant footage from the NYPD. Once that BWC footage is obtained, CCRB investigators process and analyze the footage. Between 2017 and 2019 Q2, the CCRB received BWC footage in 2,033 complaints, of which 1,353 (67%) were closed as of June 30, 2019. Of these complaints, 318 were closed as full investigations (Fig.14).

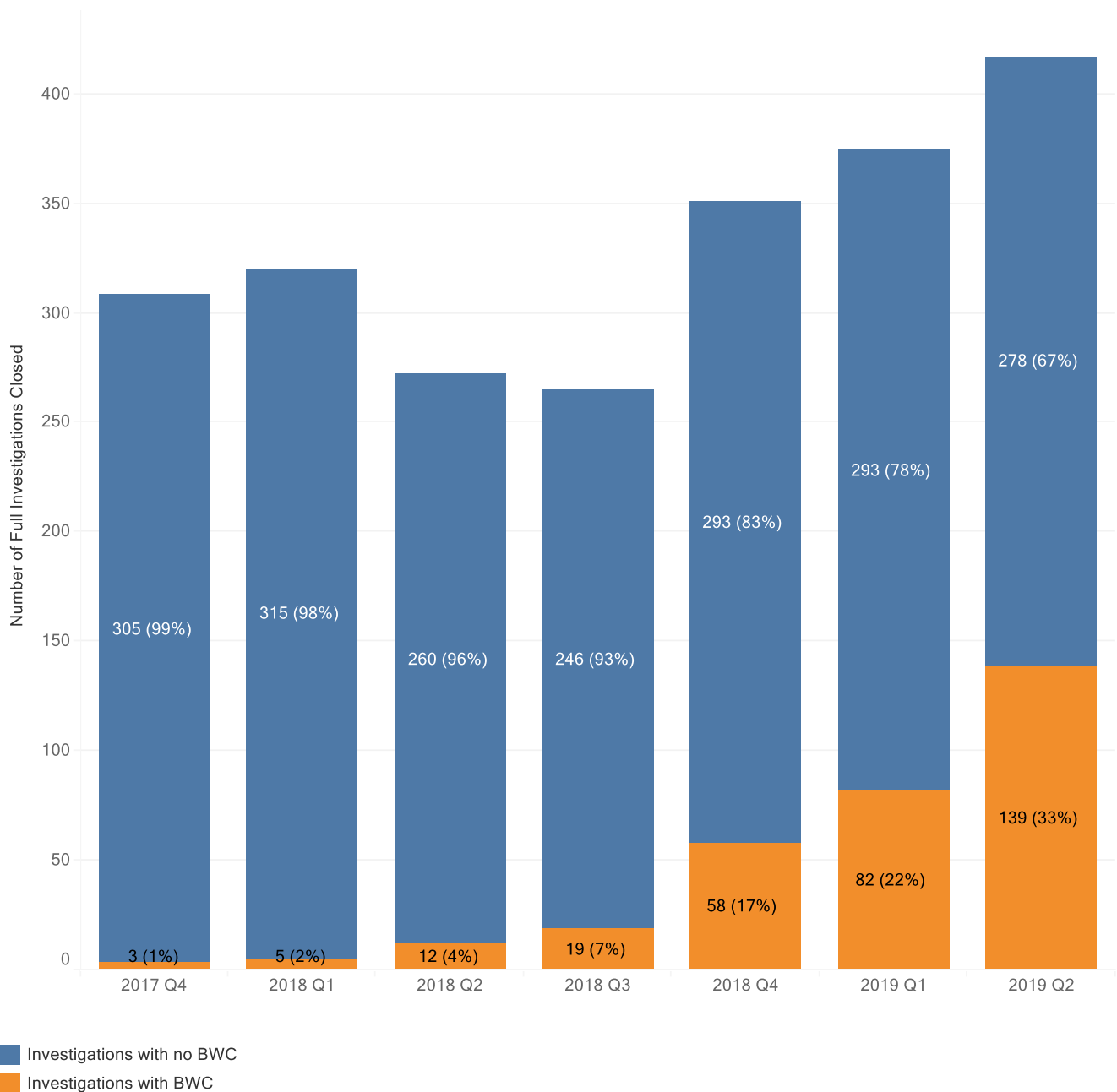
---

<sup>178</sup> Where the investigation has footage depicting misconduct with enough clarity and context that, combined with other evidence—such as officer statements—it is likely to reach a disposition on the merits, the Agency will proceed to a full investigation even if the civilian(s) involved do not provide a verified statement.

<sup>179</sup> New York City Charter Chapter 18-A § 440(c)(1).

<sup>180</sup> In highly sensitive cases or in cases in which the Board Panel is split, the full Board meets to vote on dispositions and disciplinary recommendations.

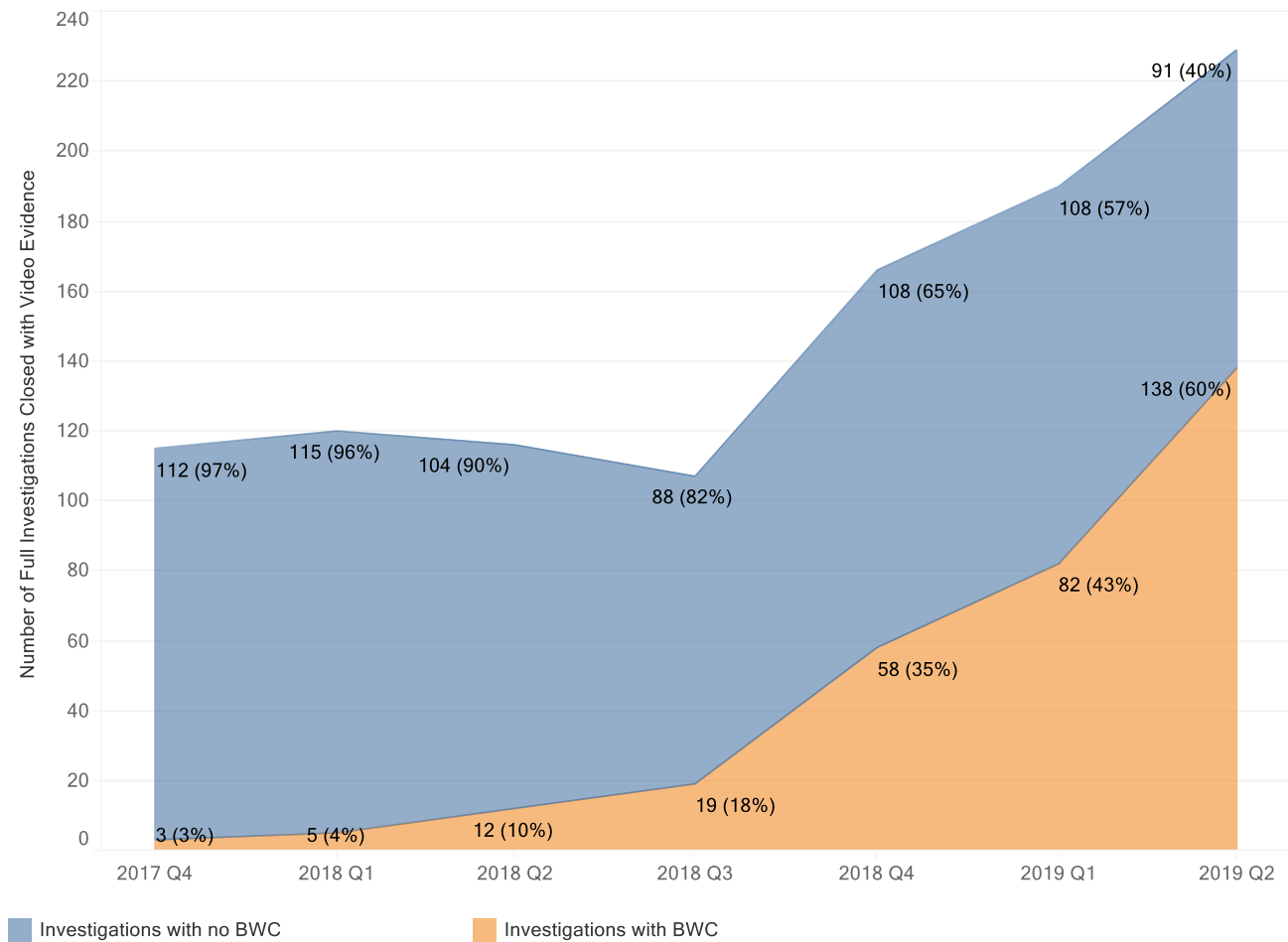
**Figure 14. Full Investigations Closed with and without BWC, 2017-2019 Q2**



In November 2017, the CCRB closed its first fully-investigated complaint that contained BWC footage. As seen in Fig. 14, in 2017 complaints with BWC footage comprised only 1% of all full investigations, but by the second quarter of 2019, complaints with BWC footage comprised 33% of all full investigations—a 4533% increase, commensurate with the growth of the NYPD’s program and the accelerated BWC rollout in 2018 and 2019.

Over the last few years, the amount of video evidence collected by the CCRB has increased dramatically. Video evidence includes, but is not limited to, BWC footage, city-owned cameras, private surveillance systems, and personal recording devices.

**Figure 15. Full Investigations Containing Video Footage, 2017 – 2019 Q2**

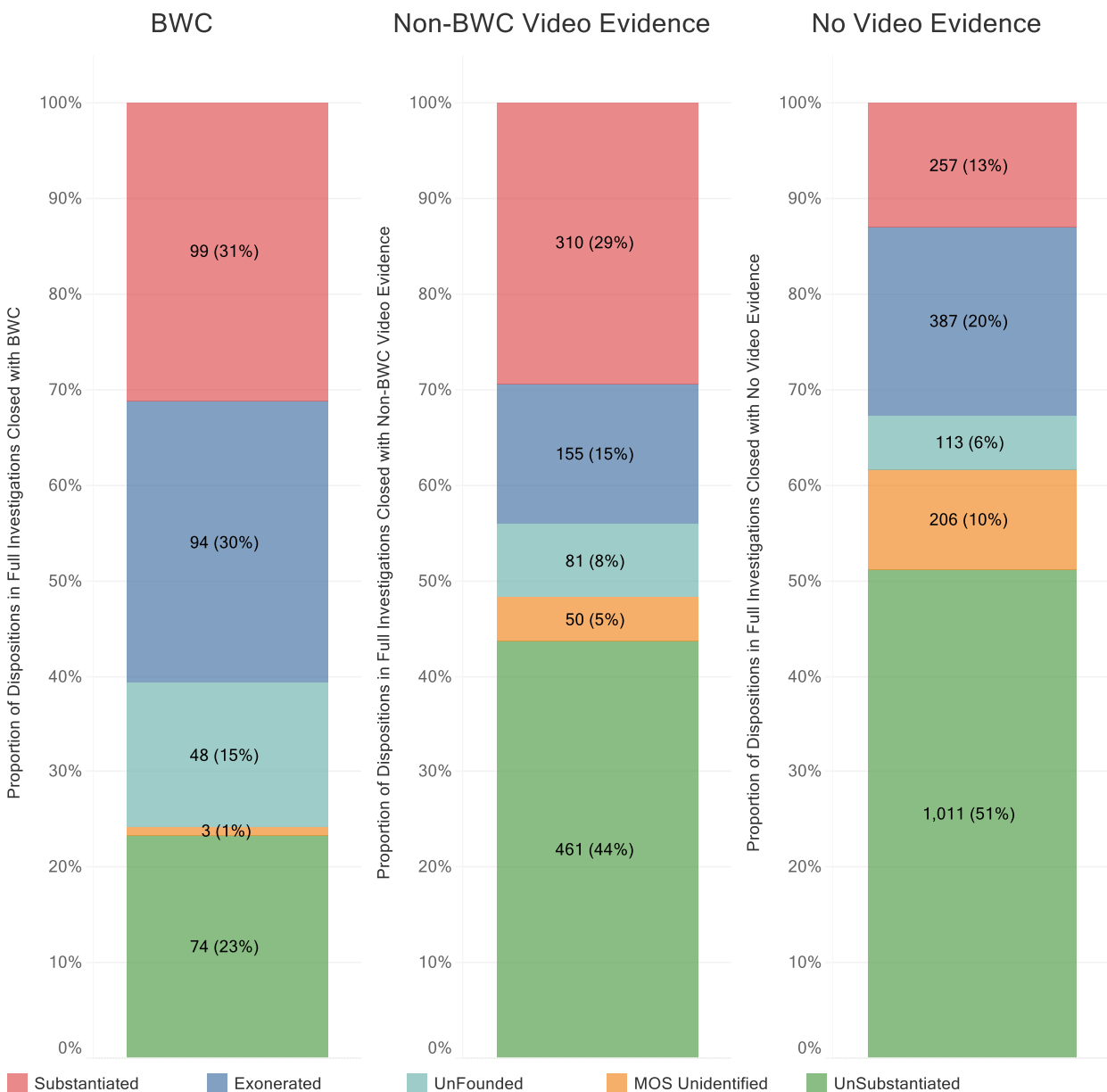


As shown in Fig. 15, the proportion of full investigations closed with BWC video evidence has grown significantly. Whereas in 2017, BWC footage comprised only 3% of video evidence in fully-investigated complaints closed with video, by 2019 Q2, BWC footage represented the majority of video evidence, comprising 60% of video evidence in full investigations closed with video evidence.

## BWC-related Complaints

CCRB data demonstrates the widespread impact of BWC video on the final outcomes of its investigations. BWC footage allows for a greater number of cases to be closed with a disposition of substantiated, unfounded, or exonerated, i.e. on the merits, in contrast to complaints closed as unsubstantiated or officer unidentified. Findings on the merits result when the CCRB is able to conduct a full investigation and obtain sufficient credible evidence for the Board to reach a factual and legal determination regarding an officer’s conduct.

**Figure 16. Complaint Dispositions with BWC, Other Video, No Video, 2017-2019 Q2**





CCRB data shows that BWC evidence can have a substantial impact on the final outcome of an investigation. As depicted in Fig. 16, between November 2017 and June 30, 2019, the Board substantiated complaints in 31% of full investigations where there was BWC footage as compared to 13% where there was no BWC or other type of video footage, and exonerated 30% of complaints with BWC compared with 20% of those that had other video evidence or no video evidence at all. The Board unsubstantiated complaints in 23% of full investigations where there was BWC footage as compared to 51% where there was no BWC footage—a near 50% reduction in cases in which the Board could not conclusively determine the facts of the case. The number of fully-investigated complaints that received a disposition of officer unidentified are also significantly lower with BWC evidence—from 10% where there was no BWC footage to only one case (slightly under 1%) when there was BWC footage. This is because the availability of BWC evidence allows for clearer interpretation of circumstances as well as officer identification, which increases the rate of substantiated, unfounded, and exonerated complaints.

CCRB data also has the potential to show how BWC evidence, in comparison to other types of video evidence, may have an impact on the outcome of an investigation. To examine the disposition of fully-investigated complaints with video between November 2017 and June 30, 2019, the CCRB filtered out BWC video from other types of video evidence (Fig. 16). The data showed that while substantiation rates between the fully-investigated complaints with BWC and fully-investigated complaints with video (excluding BWC video) were the same (31% for BWC video and 29% for non-BWC video evidence), there were marked differences in other case dispositions. The Board exonerated complaints in 30% of full investigations where there was BWC footage as compared to 15% of full investigations with video (excluding BWC video). The Board also unfounded 15% of full investigations with BWC footage, but only 8% of full investigations with video (excluding BWC video). BWC footage also reduces the likelihood that cases will be closed without identifying the subject officers involved (“MOS Unidentified”). Only three complaints where BWC video was available (1%) were closed with this disposition in 2017-2019 Q2, compared with 50, or 5%, for complaints with non-BWC video evidence. BWC evidence is also less likely to result in an unsubstantiated complaint disposition than other types of video evidence (23% for BWC video complaints compared with 44% for complaints with non-BWC video evidence), indicating that BWC footage is even more important and helpful to determining the factual circumstances of cases than other types of video evidence.

*BWC Snapshot Sidebar 7* demonstrates the ways BWC footage can be used to corroborate individual statements and provide the preponderance of the evidence necessary<sup>181</sup> to show whether the alleged acts occurred and if the acts constituted misconduct.

---

<sup>181</sup> The disposition is the Board’s finding of the outcome of a case, i.e., if misconduct occurred. The Board is required to use a preponderance of the evidence standard of proof in evaluating cases.

## BWC Snapshot Sidebar 7

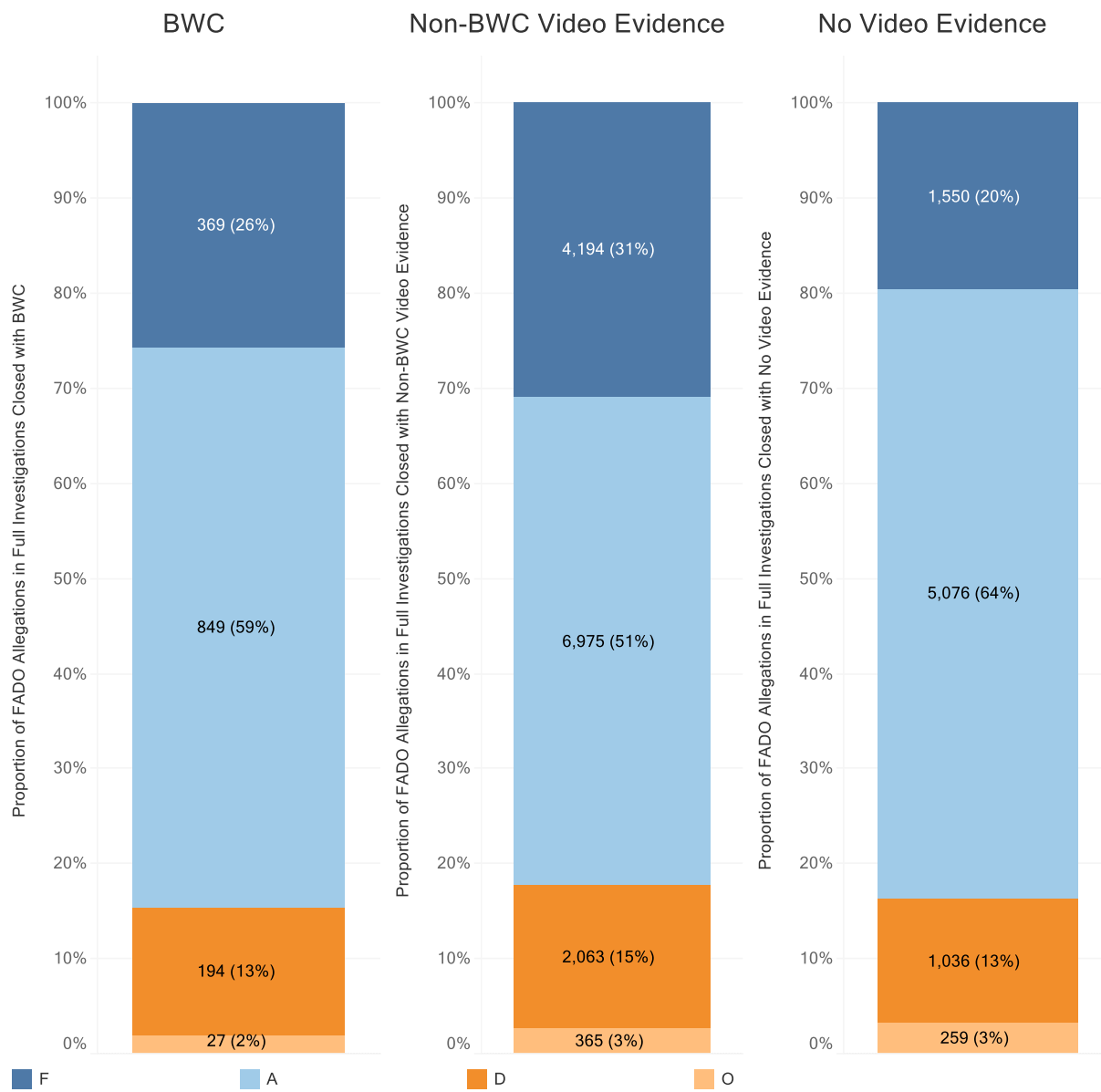
---

1. An individual collided with a bicyclist and fell to the ground. As the individual confronted the cyclist, he was approached by two police officers. During their interaction, the individual attempted to take a photograph of the officers in order to obtain their names and shield numbers. He was prohibited from doing so by one of the officers who told the individual that he was not allowed to photograph the officers' faces. BWC footage corroborated this version of events. In his interview, the officer was unable to provide a reason why he prohibited photographs of his face. As individuals have the right to record police activity, and the officer's actions constituted interference with the individual's right to record and photograph police activity, the Board substantiated the claim.
2. Officers approached an individual with an open I-card (an "investigation card," which is a type of document issued by the NYPD to denote when a suspect or person of interest is wanted for questioning), who provided a false name before running away. Officers proceeded to chase the individual until an officer took him to the ground. BWC footage and surveillance video captured the incident. Because the individual ran from officers to evade lawful arrest, the investigation determined it was reasonable for the officers to forcibly take him down in order to effectuate the arrest. As a result, the Board exonerated the Force allegation.

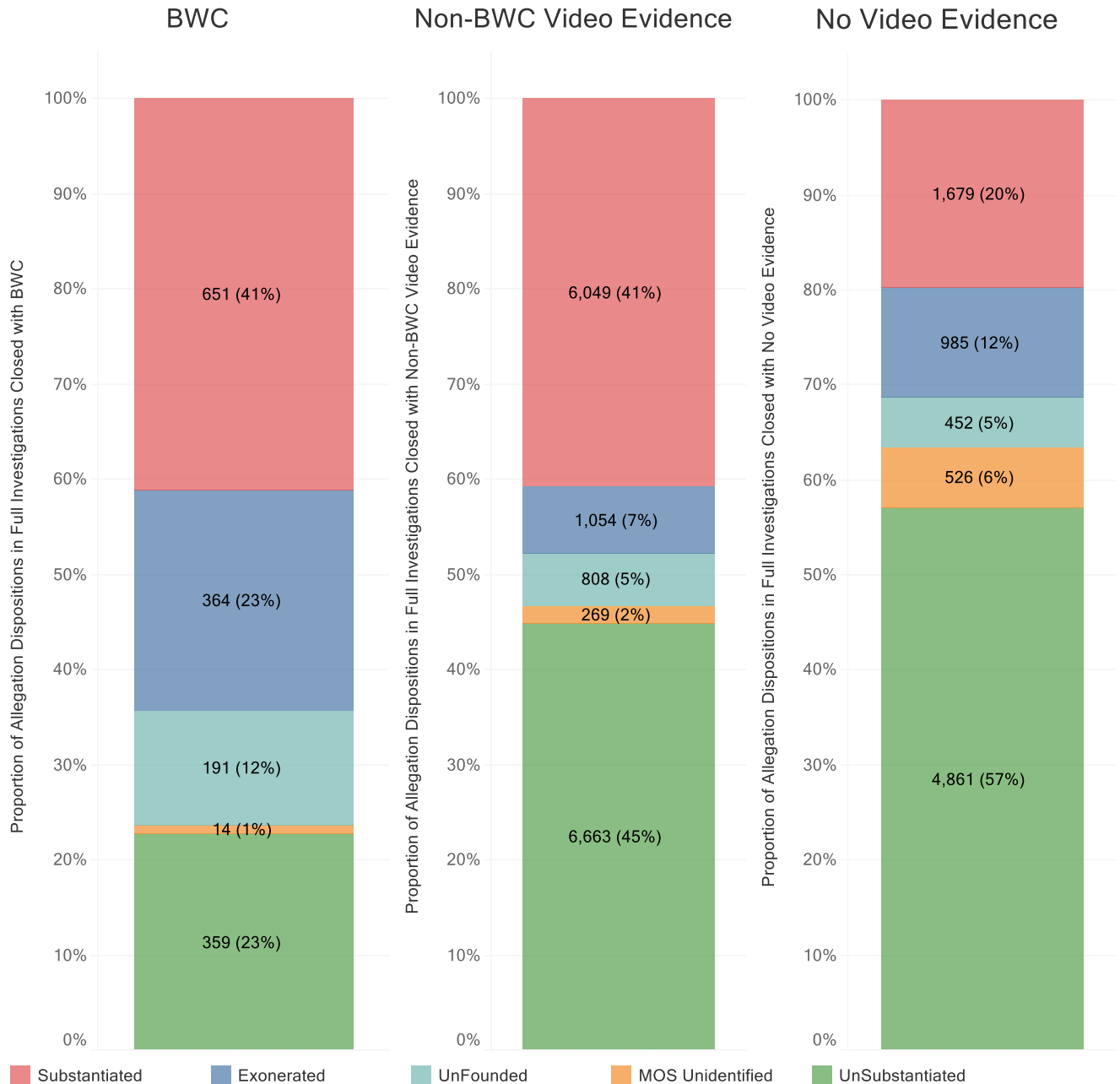
## BWC-Related Allegations

At the conclusion of an investigation, the Investigative Division recommends a disposition for each allegation to the Board. Because there may be multiple allegations in a single complaint, the CCRB tracks allegation closures. In the 318 complaints that were fully investigated, there were a total of 1,439 combined allegations: 369 (26%) Force allegations, 849 (59%) Abuse of Authority allegations, 194 (13%) Discourtesy allegations, and 27 (2%) Offensive Language allegations. These proportions are very similar to those in CCRB full investigations in the same time period without BWC evidence (Fig. 17).

**Figure 17. FADO Breakdown with BWC, Other Video, No Video, 2017-2019 Q2**



**Figure 18. Disposition of Allegations in Full Investigations v. No Video, 2017-2019 Q2**



As seen in Fig. 18, for the 1,579 allegations in the 318 fully-investigated complaints in which BWC footage was received, the Board was overwhelmingly able to reach a clear determination of fact. Between November 2017<sup>182</sup> and 2019 Q2, 76% of allegations with BWC evidence were closed “on the merits” (substantiated, exonerated, or unfounded).

<sup>182</sup> The first CCRB complaint with BWC closed in November 2017.

This is particularly stark when compared to allegation outcomes where no video evidence was available. Of the 8,503 allegations in fully-investigated complaints closed in 2017 and 2019 Q2, only 3,116 (37%) allegations were closed “on the merits.” Moreover, whereas 57% of allegations without video evidence were closed as unsubstantiated, only 23% of allegations were closed as unsubstantiated when BWC video was available. It is clear that the availability of BWC footage greatly improves the CCRB’s ability to more definitively determine what happened during an incident (Fig. 18).

In full investigations closed between 2017 and 2019 Q2, BWC evidence also improved the ability of the Board to close individual allegations on the merits in comparison to non-BWC video evidence. For allegation closures on the merits, 41% of allegations with BWC video and other video evidence were substantiated; 23% were exonerated, compared with 7% for other video; and 12% were unfounded, compared with 5% for other video. BWC evidence cut the proportion of allegations closed as MOS unidentified in half (1% for BWC video compared with 2% for other video). Similarly, the likelihood that the Board would need to close an allegation as unsubstantiated was cut by nearly half (23% for allegations with BWC video compared with 45% for allegations in complaints with non-BWC video evidence) (Fig. 18).

BWC and other video footage can provide valuable documentary evidence of the incident that occurred. The case example in *BWC Snapshot Sidebar 8*, in which an individual alleged that officers used Force against him, illuminates why. BWC footage received contradicted the individual’s statement and showed that officers did not use any force against him. The Board unfounded the allegation.

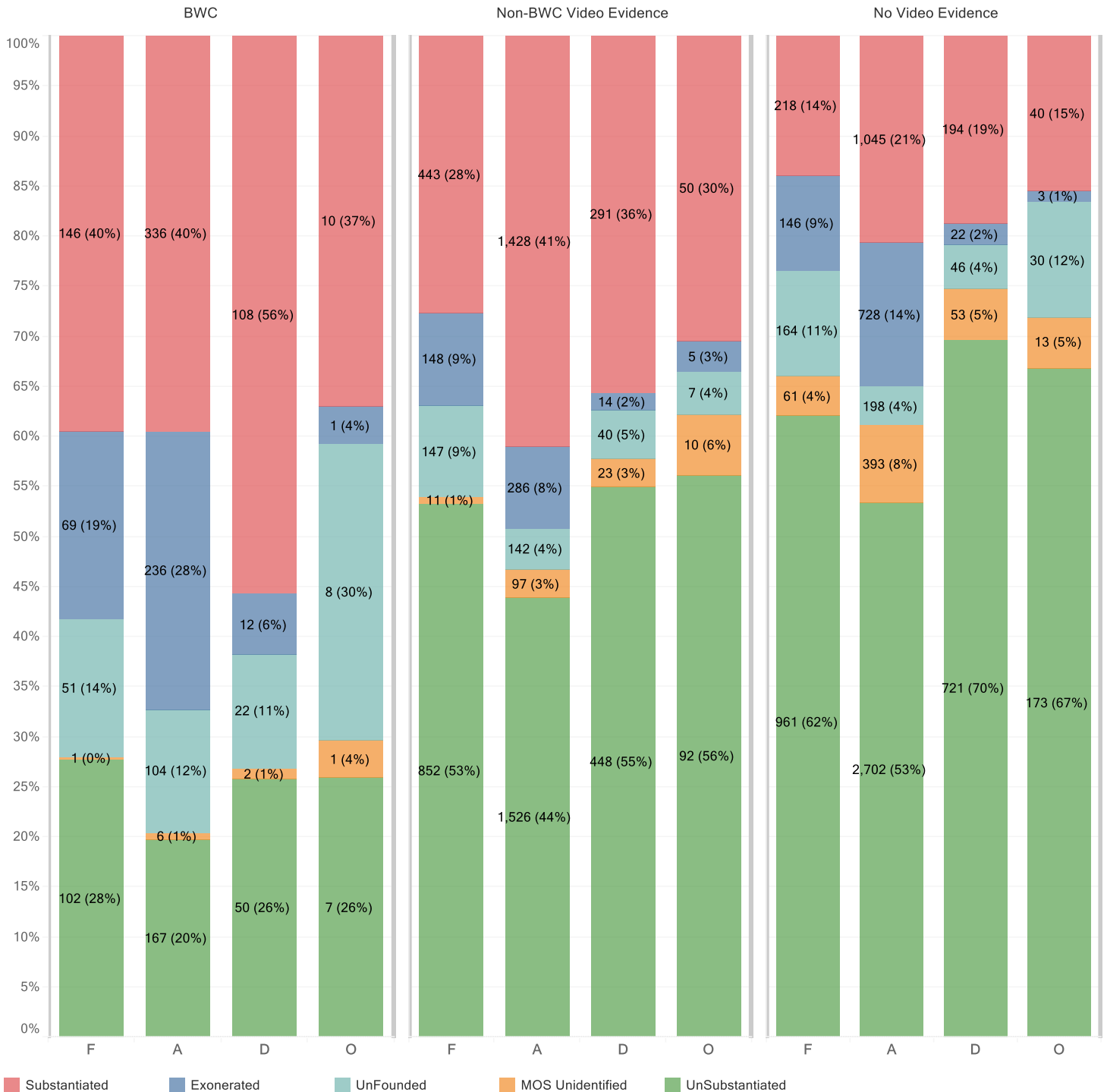
### BWC Snapshot Sidebar 8

---

Officers attempted to arrest an individual for criminal possession of a weapon and menacing. In his phone statement to the CCRB, the individual alleged that while attempting to place him under arrest, officers slammed him against a wall, causing bleeding to his left jaw.

BWC footage obtained showed officers turning the individual around to handcuff him. Contrary to the individual’s allegation, the individual’s head and face did not contact the wall. Furthermore, while the individual stated that his jaw was bleeding, video footage did not show him bleeding or making any complaints about an injured jaw. Photos obtained from the stationhouse also showed no blood, swelling, or injury. Based on the evidence, the investigation concluded by a preponderance of the evidence that the officer did not slam the individual’s face into a wall, and the Board unfounded the allegation.

**Figure 19. Dispositions of Allegations in Full Investigations by FADO, 2017-2019 Q2**



As seen in Fig. 19, between 2017 and 2019 Q2, BWC video made substantiation of Force (40%), Discourtesy (56%), and Offensive language (37%) allegations more likely than allegations that contain other video evidence (28% for Force, 36% for Discourtesy, and 30% for Offensive language) or no video evidence at all (14% for Force, 19% for Discourtesy, and 15% for Offensive language).

BWC video contains audio, which is crucial to determining Discourtesy and Offensive Language allegations, a factor that does not exist when there is no video or the only available evidence is non-audio video footage. When a CCRB investigator can hear what an officer is saying, clear resolutions of these allegations are far easier. As seen in *BWC Snapshot Sidebar 9*, the profanity captured by BWC audio provided evidence that allowed the investigator to verify that an officer spoke discourteously towards a civilian. The BWC evidence, coupled with the officer's failure to justify his use of profanity, allowed the Board to substantiate the Discourtesy allegation.

Interestingly, while BWC evidence makes substantiation of Abuse of Authority allegations (40%) more likely than when there is no video evidence (21%), other types of video evidence also make substantiation of Abuse of Authority (41%) more likely.

Conversely, when BWC video is available, closure of allegations as exonerated or unfounded are much more likely for Force and Abuse of Authority allegations. In complaints with BWC footage, 19% of Force allegations were exonerated and 14% were unfounded, compared with 9% and 9%, respectively, when the complaint involves non-BWC video evidence, and 9% and 11%, respectively, when there is no video evidence at all. In Abuse of Authority complaints with BWC video, 28% were exonerated and 12% were unfounded, compared with 8% and 4%, respectively, for complaints with other types of video evidence, and 14% and 4%, respectively, when there is no video evidence (Fig. 19). BWC video also makes it more likely that an investigator may unfound allegations of Discourtesy (11%), and Offensive Language (30%) than complaints that contain no video evidence at all (4% for Discourtesy and 12% for Offensive Language), demonstrating that BWC video may also, as discussed in *Floyd*, aid officers "who are wrongly accused of inappropriate behavior."<sup>183</sup>

## BWC Snapshot Sidebar 9

Officers responded to a radio run regarding a disorderly person in a playground. As captured on BWC, upon arrival, the officers saw a homeless individual matching the description provided. The officers approached the individual and one of the officers stated, "It's the fucking guy that walks the dogs. And every fucking day he's calling, saying there's someone in the park. I don't care that you're sleeping here, but he fucking does... Just so you know, I'm not giving you a summons. I don't give a fuck; but, so you know, you're not allowed to be here." During his CCRB interview, when asked why he used profanity while addressing the civilian, the officer stated that he used the word "fuck" because the individual was homeless and the officer was trying to relate to them. As the BWC and officer's testimony demonstrated that the officer used profane language that was not issued within the context of a lawful command and served no apparent law enforcement purpose, the Board substantiated the Discourtesy allegation.

<sup>183</sup> *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).



BWC footage offers a unique opportunity to view all law enforcement activity and more accurately assess the appropriateness of the officer's actions in any given incident. For example, BWC footage often provides one, if not many, close-up angles of both the officer's use of force as well as any resistance the officer faced during the interaction. Frame-by-frame analysis of the footage allows the investigator to more clearly determine whether the force used by the officer was in accordance with what was reported by the complainant, and whether it was within the boundaries of the law and the Patrol Guide. This frame-by-frame analysis also aids the determinations of Abuse of Authority allegations.

## CCRB ACTIONS TAKEN AS A RESULT OF THIS ANALYSIS

- 1. The CCRB and NYPD signed a MOU concerning BWC footage.** In November 2019, the CCRB and NYPD signed an agreement aimed at improving the CCRB's access to BWC footage and addressing a growing backlog of requests for footage. Under the terms of the agreement, the NYPD will establish a facility where CCRB investigators can search and review BWC footage directly. Upon determining that footage is relevant to an allegation of police misconduct, the CCRB investigator may request a copy of the footage from the NYPD's Legal Bureau. The Legal Bureau must honor all requests (excluding outlined exemptions)<sup>184</sup> within 25 business days. Per the agreement, records and BWC recordings obtained from the NYPD will remain confidential and may not be disclosed or made public, except as may be mandated by court order or statute.
- 2. The CCRB updated its intake policies to obtain consent to view and use unredacted BWC footage at the start of its investigation.** As outlined under the BWC MOU, the CCRB will endeavor to obtain written waivers/consent from complainants, if possible, and will ensure that CCRB employees accepting complaints via telephone, in-person, or otherwise use scripted language seeking a verbal waiver/consent from complainants for recordings related to cases sealed pursuant to Criminal Procedure Law §§ 160.50/160.55<sup>185</sup> or Family Court Act §§ 375.1, 375.2, recordings containing the identity of the victim of a sex crime pursuant to Civil Rights Law § 50-b, or recordings depicting a juvenile.
- 3. The CCRB updated its internal guidelines and procedures to ensure that an officer's failure to use BWCs in accordance with NYPD policy is appropriately reported to the NYPD.** In summer 2019, the CCRB updated its internal guidelines to clarify when "Other Misconduct Noted" (OMN) allegations—actions uncovered during a CCRB investigation that are alleged violations of the Patrol Guide, but not within the CCRB's jurisdiction—and letters to the NYPD Risk Management Bureau (RMB) identifying possible problematic patterns of behavior should be issued for improper use of BWCs. Under the current policy, when an investigator determines that an officer who has been issued a BWC for at least 90 days before the incident failed to turn on the device at the start of the tour, failed to activate the BWC during a mandatory event when it was feasible and safe to do so, or terminated the activation before an incident had concluded, such conduct will be referred to the NYPD as an OMN. Where an officer has committed the same misconduct, but has been issued a BWC for less than 90 days before the incident, the CCRB will instead send an RMB letter. To

---

<sup>184</sup> BWC MOU, *supra* note 4, at § III(3)(d). NYPD shall not refuse to disclose or delay disclosure of footage on the grounds that it is conducting a concurrent or parallel investigation, except for those investigations being conducted by the Force Investigation Division and other cases deemed sensitive force investigations not being conducted by FID. Notwithstanding, upon the conclusion of the investigation, the BWC footage will be shared with CCRB.

<sup>185</sup> Criminal Procedure Law §§ 160.50 and 160.55, both require that "all official records and papers . . . relating to the arrest or prosecution . . . be sealed and not made available to any person or public or private agency." N.Y. Crim. Proc. Law §§ 160.50(1)(c); 160.55(1)(c).

better enforce this CCRB policy on improper use of BWCs, the CCRB will work with the NYPD to streamline the process by which it determines the date an officer was issued a BWC.

- 4. CCRB has improved training for CCRB staff on how best to utilize BWC footage during interviews of police officers.** In May 2019, the CCRB's Training Department conducted a training on how to utilize video evidence during interviews. The training included discussion on who may be shown BWC footage, at what point during the interview BWC footage should be shown, the importance of getting full testimony before reviewing BWC footage, standard questions to ask regarding BWC footage, and what questions to ask when BWC footage appears to conflict with officer testimony. The training was presented to all investigators and managers.
- 5. CCRB staff will be trained on current BWC technology being used by NYPD.** The CCRB's Training Department will organize a BWC refresher training so that CCRB staff is up to date on the NYPD's current BWC hardware and software. Prior to the implementation of the BWC MOU, CCRB staff will also be trained on both Viewu Solution and Axon Evidence.com—the NYPD's BWC platforms.
- 6. CCRB is updating procedures and technology to ensure that the Agency can accurately track issues with BWC usage.** The CCRB's Data Processing and New Application Development team are working to develop and better record standardized metrics on technical and officer usage issues with BWCs.

## RECOMMENDATIONS FOR THE NYPD

Given the findings of this Report, the CCRB recommends the following actions:

- 1. CPL §§ 160.50 and 160.55 should not prevent disclosure of BWC footage to the CCRB.**<sup>186</sup> Unconstitutional stops sometimes lead to arrests and/or prosecutions that are later dismissed or terminated and sealed. Thus, it is important that complaints related to sealed cases are thoroughly investigated by the CCRB. While the CCRB hopes that the BWC MOU and its adoption of verbal and written waiver/consent procedures will largely alleviate issues associated with obtaining BWC footage related to sealed cases,<sup>187</sup> investigating these cases without the improved level of review provided by BWC footage would be a disservice to both the complainants and officers involved.<sup>188</sup>
- 2. The NYPD should incorporate GPS tagging technology, which embeds location data in videos recorded by Axon cameras.** Location tracking, or geotagging technology, provides an additional mechanism to reduce false negatives and expedite BWC database searches. To simplify the search terms used to locate BWC footage, the CCRB recommends that the NYPD utilize the geotagging technology available on Axon View—an Axon mobile application that connects to Axon cameras and provides instant video playback and GPS tagging. Using this technology, video files uploaded to Viewu Solution and Evidence.com would automatically include “location metadata,” allowing the NYPD to more easily identify relevant BWC footage by searching location tags or the GPS coordinates of identified officers.
- 3. The NYPD should incorporate Axon technology that automatically activates all nearby Axon cameras, including BWC and dashboard cameras, when an officer triggers their Taser or draws their firearm.** Axon’s Signal Performance Power Magazine and Axon’s Signal Sidearm automatically enable an officer’s BWC to begin recording in critical situations. The incorporation and automation of this technology by the NYPD will ensure greater oversight—both internally by supervisors, and externally by the CCRB, other oversight agencies, and the public-at-large.

---

<sup>186</sup> Criminal Procedure Law §§ 160.50 and 160.55, both require that “all official records and papers . . . relating to the arrest or prosecution . . . be sealed and not made available to any person or public or private agency.” N.Y. Crim. Proc. Law §§ 160.50(1)(c); 160.55(1)(c).

<sup>187</sup> BWC MOU, *supra* note 4, at § III (3)(f). CCRB will adopt procedures to obtain valid consent, when possible, to view and use BWC footage without redaction or blurring at the start of its investigation. Informed, verbal consent shall be sufficient.

<sup>188</sup> Although there are legitimate privacy concerns surrounding the general use, retention, and release of BWC footage, the privacy laws that apply to CCRB in its capacity as an independent city agency mitigate the potential for harm from disclosure of BWC recordings for the purposes of its investigations. Any officer information and documents obtained during the course of an investigation are considered personnel records and are protected from disclosure pursuant to Civil Rights Law § 50-a. The Freedom of Information Law (FOIL) also provides limitations on what information can be publicly disclosed.

4. **The NYPD should continue working with Axon, the company from which NYPD purchases its BWCs, to ensure that mounting hardware can withstand all aspects of policing.** Given the importance of recorded interactions for law enforcement and oversight purposes, the CCRB encourages the NYPD to address issues of BWCs becoming dislodged.
  
5. **When conducting home visits and entries, officers should turn on their BWC prior to arrival at the residence to account for any lag time while in buffering mode.** Allegations related to entry into civilians' homes comprised 10% of Abuse of Authority allegations closed by the CCRB in 2018.<sup>189</sup> To account for the 30-second and one-minute buffer period in BWC models, the CCRB recommends that officers conducting home visits/entries activate their BWCs prior to arrival at the civilian's home or upon entering the building for apartment buildings. This will help to ensure that the officers' entry into a civilian's home is captured in its entirety. Capturing audio and video recordings of the totality of these interactions will allow BWCs to better serve both oversight and law enforcement purposes.
  
6. **The NYPD should amend the Patrol Guide to prohibit officers from intentionally interfering with the capturing of BWC footage, including, but not limited to, using signals to warn other officers that their BWC is active in an effort to obfuscate or facilitate police misconduct.** Currently, PG § 212.123(8) does not prohibit officers from intentionally hindering a BWC recording in any way. The CCRB's review of cases with BWC video has identified a number of instances where officers have used signals to prevent or halt the recording of police misconduct. This specific use of signals undermines the purpose of the BWC program that is meant to, "provide a contemporaneous, objective record of stops and frisks, allowing for the review of officer conduct."<sup>190</sup> Given these identified incidents of officer interference, the CCRB believes that the NYPD should amend its policy to prohibit officers from intentionally disrupting a BWC recording, including the use of signaling, to obfuscate or facilitate misconduct.
  
7. **The NYPD should publicly report its audits of officer compliance with BWC policy.** The NYPD currently conducts regular audits of BWC recordings to ensure officer compliance and address any performance or tactical deficiencies observed on camera.<sup>191</sup> However, due to the lack of public reporting, the number of audits conducted, and the extent to which the NYPD is aware of BWC usage issues or officer non-compliance, is unknown. The public reporting of these metrics, which already have been adopted in other jurisdictions,<sup>192</sup> would

---

<sup>189</sup> CCRB, *Annual Report 2018* (2019), available at [https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/2018CCRB\\_AnnualReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018CCRB_AnnualReport.pdf)

<sup>190</sup> *Floyd*, 959 F. Supp. 2d. at 685.

<sup>191</sup> Letter from Ernest F. Hart, Deputy Commissioner, NYPD Legal Matters, to CCRB [hereinafter Legal Bureau Letter] (Jan. 13, 2020).

<sup>192</sup> See Chicago Police Department, Special Order S03-14 Body Worn Cameras (Apr. 30, 2018), <http://directives.chicagopolice.org/directives/data/a7a57b38-151f3872-56415-1f38->

better support the mission of the BWC program and ensure greater transparency and oversight of the NYPD.

- 8. The NYPD should include BWC searches on all Internal Affairs Bureau (IAB) referral logs and link digital memo book entries to the appropriate BWC footage.** Including all BWC footage reviewed by the NYPD in cases referred to the CCRB from IAB, or providing reference to BWC footage in documents provided to the CCRB, would cut down on the time needed for the CCRB to obtain BWC evidence in concurrent investigations.

---

[89ce6c22d026d090.pdf?hl=true](https://www.nyc.gov/ccrb/89ce6c22d026d090.pdf?hl=true); City of Chicago Office of Inspector General, *Evaluation of the Chicago Police Department's Random Reviews of Body-Worn Camera Recordings* (July 30, 2019), <https://igchicago.org/2019/07/30/evaluation-of-the-chicago-police-departments-random-reviews-of-body-worn-camera-recordings/>.

# APPENDIX A: MOU CONCERNING BODY-WORN CAMERA FOOTAGE

## MEMORANDUM OF UNDERSTANDING

### MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW YORK CITY POLICE DEPARTMENT AND THE NEW YORK CITY CIVILIAN COMPLAINT REVIEW BOARD

Memorandum of Understanding (“MOU”) entered into on this 21 day of Nov, 2019, between the New York City Police Department (“NYPD”), with headquarters at One Police Plaza, New York, New York 10038; and the New York City Civilian Complaint Review Board (“CCRB”), with offices at 100 Church Street, New York, New York 10007 (collectively the “Parties”).

**WHEREAS**, Section 440 of the New York City Charter gives CCRB 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 (“FADO”); and

**WHEREAS**, in accordance with Section 440 of the New York City Charter, CCRB’s investigators collect and review all available evidence, such as documents and video and audio recordings, including footage from body worn cameras (“BWC”), and interview all available victims, witnesses, subject officers, and witness officers, among others, as part of its investigative process, and

**WHEREAS**, Section 1-23(e) of Title 38-A of the Rules of the City of New York states that the CCRB may obtain records and other materials from NYPD which are necessary for the investigation of complaints submitted to the CCRB, except such records and materials that cannot be disclosed by law, and the CCRB may issue subpoenas for those requests; and

**WHEREAS**, the CCRB’s Administrative Prosecution Unit (“APU”), which was created pursuant to a separate Memorandum of Understanding between CCRB and NYPD dated April 2, 2012, is authorized to prosecute substantiated cases where the CCRB has recommended that Charges and Specifications be brought against a subject officer, except in those cases where the Police Commissioner retains jurisdiction; and

**WHEREAS**, Section 440 of the New York City Charter requires that NYPD provide assistance as CCRB may reasonably request, cooperate fully with CCRB investigations, and provide the CCRB, upon request, records and other materials necessary for the investigation of



complaints submitted to CCRB, except such records or materials that cannot be disclosed by law; and

**WHEREAS**, Section 434 of the New York City Charter gives the Police Commissioner cognizance and control over the disposition and discipline of the department and police force; and

**WHEREAS**, Section 14-115 of the New York City Administrative Code gives the Police Commissioner discretionary power to discipline members of the department for criminal offenses, neglect of duty, violation of rules, neglect or disobedience of orders, conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming of an officer, by reprimand, suspension, with or without pay, or dismissal; and

**WHEREAS**, while the CCRB investigates civilian complaints independent from NYPD, CCRB's Charter-mandated jurisdiction over FADO complaints brought by civilians against members of NYPD makes the CCRB an integral component of NYPD's disciplinary process;

**WHEREAS**, the NYPD has provided body-worn cameras ("BWC") to police officers on patrol and has begun wider deployment of BWCs to officers throughout the department, and the camera footage routinely captures interactions between police officers and members of the public whom they encounter while on patrol;

**WHEREAS**, the CCRB routinely requests BWC footage from the NYPD in connection with investigations it conducts and it is in both parties' interests to create an efficient process by which CCRB can request such footage from NYPD and NYPD can provide such footage to CCRB;

**WHEREAS**, CCRB and NYPD agree that premature submission of a search request, without information that can be obtained through a diligent investigation prior to submission of the form, is counterproductive and contrary to the intent of this agreement as it will routinely result in multiple requests in the same case causing delays in providing video footage to the CCRB by the NYPD;

**WHEREAS**, by signing this agreement the NYPD intends to expeditiously process requests for BWC footage it receives from CCRB and to provide relevant footage to CCRB, and CCRB intends to make diligent efforts to collect and identify relevant facts and information in connection with complaints it receives before requesting BWC footage so that requests made to

the NYPD will contain as many facts as possible, making it easier for NYPD to identify relevant footage and significantly reducing the need for NYPD to conduct multiple searches for each case;

**NOW THEREFORE**, upon the mutual agreement of the Parties, it is agreed as follows:

#### **I. CREATION OF BWC SEARCH AND REVIEW FACILITY**

1. NYPD will set up a secure search and viewing room at 100 Church Street, 12<sup>th</sup> Floor, New York, NY, 10007, or some other mutually convenient location, with at least ten (10) computer terminals (“Secure Room”). A sufficient number of computer terminals will be staffed by an NYPD employee and a CCRB employee during all operating hours specified below, for the purpose of entering search criteria and identifying BWC video(s) responsive to search requests submitted by the CCRB. The remaining computers will be available for CCRB staff to view BWC videos that were responsive to CCRB’s particular search requests.
2. The NYPD and CCRB will each make a supervisor available to address issues that may arise in the Secure Room.
3. The Secure Room will be accessible to CCRB personnel during normal business hours—Monday to Friday, specific times to be agreed upon by the NYPD and the CCRB.
4. Each CCRB investigator and staff member granted access to the secure room will sign a confidentiality and non-disclosure agreement in regard to the information observed or obtained in the Secure Room.
5. Each CCRB investigator will have their own unique user name and password for both the Viewu Solution and Axon Evidence.com systems, which can only be logged into on computers located in the Secure Room dedicated for this purpose. All logins under each user name will be recorded and subject to audit by the NYPD. Misuse of a user name and/or access privileges or improper dissemination of any information obtained from search results shall be grounds for revocation or suspension of the offender’s access privileges by the NYPD.
6. CCRB investigators will obtain the same training for both the Viewu Solution and Axon Evidence.com systems, by each system’s vendor, as is provided to NYPD personnel for the searching and retrieval of video evidence, including all updates and refresher courses. Costs for such training will be borne by CCRB.

#### **II. SEARCHING AND REVIEW OF BWC FOOTAGE**

1. CCRB investigators may submit search requests for BWC video in any case where the CCRB has received a complaint from a member of the public against a uniform member of the NYPD for alleged incidents of misconduct which fall under CCRB’s jurisdiction.

2. In order to initiate a search, the CCRB investigator must complete a BWC search request form, providing as much information as is available to the investigator at the time of the request. Prior to submitting the search request, the CCRB investigator shall review all records that already have been provided by the NYPD, to determine if those records contain information needed for the search request form and shall diligently conduct as many investigatory steps as reasonable to locate additional information necessary to conduct a comprehensive search. After the request form is complete, the CCRB investigator shall email the search request form to [BWC-Legal@nypd.org](mailto:BWC-Legal@nypd.org).
3. After receiving the BWC search request form, the NYPD, in the presence of a CCRB employee, will search both the Viewu Solutions and Axon Evidence.com software to locate any videos responsive to the search criteria.
  - a. The NYPD will use the search terms listed on the search form provided by the CCRB investigator. The search terms submitted by CCRB must be reasonably related to the information provided in the complaint or information obtained during CCRB's investigation. Except in exceptional circumstances, CCRB shall submit no more than ten (10) search terms in a search request.
  - b. If the search criteria is too broad or too narrow to reasonably identify relevant BWC video(s), the NYPD and CCRB employees shall confer to adjust the search parameters, and, if necessary, request additional information from the CCRB investigator who submitted the search request.
  - c. The CCRB employee will determine which BWC video(s) returned by the search are relevant and should be made available for viewing by the investigator making such request.
  - d. Once a video is determined to be relevant:
    - i. In Viewu Solutions, each video will be tagged in the event field with the corresponding CCRB number.
    - ii. In Axon Evidence.com, a case will be created and titled with the corresponding CCRB case number.
  - e. The entire NYPD BWC database shall be available for search. To the extent that certain videos are on "lockdown" and are unavailable, the search results shall reflect that the video exists, but that it is unavailable, or NYPD personnel with access to "lockdown" videos will perform an independent search of such videos and represent to CCRB that the requested video exists, but is not accessible.
4. BWC video(s) deemed relevant and responsive to a search request will be shared in its entirety by NYPD staff and accessible by CCRB via the terminals in the Secure Room designated for video review.



- a. None of the video(s) uploaded for review purposes shall be redacted, clipped, edited, deleted or altered in any way.
  - b. The CCRB investigator who submitted the BWC search request shall be notified when the BWC video(s) becomes accessible in the Secure Room. The CCRB investigator will appear at the Secure Room, at a time convenient for the investigator, and review the uploaded video(s) to determine which video(s), or portion(s) thereof, is relevant and needed for the CCRB investigation.
5. CCRB investigators are strictly prohibited from making any sound or video recordings of any BWC video, or segments thereof, on cell phones or other recording devices.
  6. CCRB investigators may take notes during the review of BWC video.
  7. CCRB investigators shall not use any information obtained during this process that is unrelated to the incident under investigation.
    - a. If, while reviewing video related to a complaint, the CCRB investigator recognizes or believes that he or she has observed potential misconduct by an NYPD uniform member of the service ("UMOS") unrelated to the incident under investigation by the CCRB, the investigator shall refer the incident to the NYPD's Internal Affairs Bureau. The CCRB investigator shall not commence an investigation into the unrelated incident.
    - b. The NYPD IAB Liaison will inform the CCRB of the actions, including dispositions, it has taken in response to any such referral.
    - c. If CCRB subsequently receives a complaint from a member of the public regarding the incident that was referred to Internal Affairs Bureau, the NYPD will provide the footage related to the initial referral, pursuant to a new request from CCRB, and subject to the subsequent provisions of this agreement.

### **III. PRODUCTION OF RESPONSIVE FOOTAGE**

1. After the CCRB investigator determines which shared BWC video(s), or portion(s) thereof, is relevant to the CCRB investigation, the CCRB investigator shall send an email to [BWC-Legal@nypd.org](mailto:BWC-Legal@nypd.org) requesting the specific footage to be shared with the CCRB for download purposes.
  - a. The email shall include, the CCRB case number, the requested file name(s), name(s) of the UMOS, if known, and the time stamps for the specific portion of the BWC video(s) being requested, in those instances where the entire video is not being requested.

2. Absent exceptional circumstances, requested BWC video(s) not requiring redaction shall be provided to the CCRB within ten (10) business days. The NYPD shall make best efforts to provide redacted video(s) within twenty-five (25) business days.
3. The entirety of the requested footage shall be provided, subject to the following provisions and subsection (d) of subdivision (3) of this section.
  - a. If the BWC video request is denied or all or any portion of the requested footage is redacted, clipped, altered, or deleted in any way, the changes must be specified in writing by the NYPD along with an explanation and rationale for the denial, redaction, or clipping, including specific citation to the statute (including subdivision(s), where applicable) and/or legal provision relied upon, if applicable.
  - b. NYPD may redact and/or clip the provided footage according to the following considerations, as well as subsection (d) below:
    - i. Medical treatment being provided to any private citizen or UMOS.
    - ii. Any NYPD computer, mobile data terminal, cell phone, or other equipment depicting: (a) confidential databases or (b) confidential information.
    - iii. Any UMOS cell phone depicting personal photos, phone numbers or social media accounts unrelated to the investigation.
    - iv. Any key pad code entries for Department facilities.
    - v. Protecting the identity of any undercover officer or confidential informant. In cases where an undercover officer's image is redacted, NYPD will inform CCRB of the individual's UC Number.
  - c. For recordings related to cases sealed pursuant to Criminal Procedure Law §§ 160.50/160.55 or Family Court Act §§ 375.1, 375.2, recordings containing the identity of the victim of a sex crime pursuant to Civil Rights Law § 50-b, or recordings depicting a juvenile questioned or detained by the Department, if the CCRB does not have a release from the individual(s) whose case has been sealed, from the victim(s) of the sex crime, or the parent/guardian of the juvenile, the NYPD will blur the faces and redact the audio of all personally identifying information such as name, date of birth, and address, as well as the audio of any admission of a sex offense pursuant to CRL 50-b of the individual(s) from whom the CCRB has not obtained consent or a release.
  - d. NYPD shall not refuse to disclose or delay disclosure of footage on the ground that it is conducting a concurrent or parallel investigation, except for those investigations being conducted by the Force Investigation Division and other sensitive force investigations not being conducted by FID. Notwithstanding, upon the conclusion of the investigation, the BWC footage will be shared with CCRB.

- e. Disputes over whether a video is relevant to a CCRB investigation will be resolved through the procedure described in Section IV, entitled “Dispute Resolution.”
  - f. CCRB will adopt procedures to obtain valid consent, when possible, to view and use BWC footage without redaction or blurring at the start of its investigation. Informed, verbal consent shall be sufficient. CCRB investigators shall affirm in writing on their search request form that they have obtained valid consent from the proper party, including the name of the individual providing consent.
    - (i) CCRB will endeavor to obtain written waivers/consent from depicted complainants, if possible, and will ensure that CCRB employees accepting complaints via telephone, in-person or otherwise use scripted language seeking a verbal waiver/consent from depicted complainants for recordings related to cases sealed pursuant to Criminal Procedure Law §§ 160.50/160.55 or Family Court Act §§ 375.1, 375.2, recordings containing the identity of the victim of a sex crime pursuant to Civil Rights Law § 50-b, or recordings depicting a juvenile..
4. NYPD shall share the requested footage via the Viewu Solutions or Axon Evidence.com software systems with the CCRB staff designated in both systems, which will only include members of the CCRB NYPD Liaison Unit. The footage may be downloaded by members of the CCRB NYPD Liaison Unit which has the necessary download capabilities.

#### **IV. DISPUTE RESOLUTION**

- 1. If the CCRB disagrees with the NYPD’s denial, redaction or clipping, of requested BWC video, the Parties shall meet and confer to try to resolve the dispute.
- 2. If the Parties are unable to resolve the dispute, the dispute will be referred to the New York City Law Department (“Law Department”) for review. Disputes will be resolved by the Corporation Counsel or his or her designee. The dispute resolution request shall include a copy of the NYPD’s denial, the CCRB’s explanation for why the recording should have been disclosed, and any other relevant information. A person designated by the NYPD’s Deputy Commissioner, Legal Matters shall be copied on any dispute resolution request sent by the CCRB to the Law Department.
- 3. Both parties agree to timely provide the Law Department with any materials or information it requests in order to resolve the dispute. The NYPD and CCRB agree to accept the determination of the Law Department.
- 4. If prior to the Law Department issuing a determination, the NYPD reconsiders its denial, redaction, editing, deletion or clip, it shall immediately provide the CCRB with the



recording and notify the Law Department that the dispute has been resolved and no determination is necessary. If the CCRB withdraws its challenge to the NYPD's denial, redaction, or clip, prior to the Law Department issuing a determination, it shall promptly notify the NYPD and the Law Department that no determination is necessary.

## **V. CONFIDENTIALITY**

1. The CCRB agrees that records and BWC recordings obtained from the NYPD, and any materials created therefrom, are confidential, must be kept secure and may not be disclosed or made public, except as may be mandated by lawful order of a court of competent jurisdiction or statute.
2. The Parties shall comply with all applicable laws, rules, regulations, and agreements pertaining to the confidentiality, privacy and security of the information accessed pursuant to this MOU.
3. In the event that the CCRB receives a subpoena, judicial order, or other legal process for copies of records related to a sealed case, the CCRB shall notify the NYPD, in writing as soon as practicable. The CCRB shall not release the records without first notifying the NYPD.
4. In the event that the CCRB receives a Freedom of Information Law ("FOIL") request for records that include NYPD records obtained pursuant to this MOU, the CCRB shall consult and cooperate with NYPD in responding to the FOIL request. Both NYPD and CCRB shall each designate a FOIL representative for the purpose of resolving any disagreements. If the Parties cannot agree on which, if any, records should be disclosed pursuant to FOIL, the records in dispute shall not be disclosed until the Law Department issues a determination.
5. Nothing in this Agreement shall prevent the CCRB from notifying complainants and/or victims of the findings of the CCRB's investigation.

## **VI. TERM AND TERMINATION**

1. Termination of this Agreement requires thirty (30) days written notice to the other Party. Subdivision (1) of Section I of this MOU shall become effective immediately upon the execution of this agreement by the Parties, however, the remaining portions of this

agreement shall not take effect until the satisfaction of Subdivision (1) of Section I. This agreement shall remain in effect until terminated in writing by either party.

**VII. NOTICES**

1. Notices to be sent pursuant to this Agreement shall be sent to:

If to CCRB:  
NYC Civilian Complaint Review Board  
General Counsel  
100 Church Street, 10<sup>th</sup> Floor  
New York, NY 10007

If to NYPD:  
Deputy Commissioner, Legal Matters  
New York City Police Department  
One Police Plaza, Room 1406  
New York, NY 10038

**VIII. MERGER AND MODIFICATION**

1. This MOU constitutes the entire agreement among the Parties, and merges all prior discussions, agreements or understandings regarding its subject matter into it. No prior agreements, oral or otherwise, regarding the subject matter of this MOU, shall be deemed to exist or to bind either of the Parties hereto.
2. This MOU shall only be modified in a writing signed by the Parties.

**IX. NO THIRD-PARTY BENEFICIARY**

1. This MOU shall be binding upon and for the benefit of the Parties hereto and their respective successors and permitted assigns. The provisions of this MOU shall be for the sole benefit of the Parties hereto and no other person or entity shall be a third-party beneficiary thereof.

**IN WITNESS THEREOF**, the Parties have executed this MOU by the signatures of duly authorized officials.

NEW YORK CITY  
CIVILIAN COMPLAINT REVIEW BOARD

  
Fred Davie  
CHAIR, CCRB

NEW YORK CITY  
POLICE DEPARTMENT

  
James P. O'Neill  
POLICE COMMISSIONER



# APPENDIX B: PG § 212.123, USE OF BODY-WORN CAMERAS



## PATROL GUIDE

Section: Command Operations		Procedure No: 212-123	
<b>USE OF BODY-WORN CAMERAS</b>			
DATE ISSUED: 10/07/19	DATE EFFECTIVE: 10/08/19	REVISION NUMBER:	PAGE: 1 of 8

**PURPOSE** To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

**SCOPE** The Department is issuing Body-Worn Cameras (BWCs) to certain uniformed members of the service. This procedure applies to all uniformed members of the service issued a BWC as well as personnel responsible for supervising, supporting and maintaining the use of BWCs.

**PROCEDURE** When a uniformed member of the service is assigned a Body-Worn Camera (BWC):

- UNIFORMED MEMBER OF THE SERVICE**
1. Prior to roll call:
    - a. Retrieve the personally assigned BWC from the docking station
    - b. Turn power on and inspect the BWC to ensure that the battery is charged and the device is operational
    - c. Position the BWC to facilitate the optimal recording field of view. This will normally entail attaching it to the outermost garment in the center of the chest using the mounting hardware provided.
  2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
    - a. The use of any non-Department issued recording device is strictly prohibited.
  3. Notify the desk officer if a BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during the tour and document notification in **ACTIVITY LOG (PD112-145)**.

### MANDATORY ACTIVATION OF BWC

- UNIFORMED MEMBER OF THE SERVICE**
4. Activate BWC prior to engaging in, or assisting another uniformed member of the service with the following police actions:
    - a. Potential crime-in-progress assignments, including:
      - (1) 10-10 (e.g., suspicious person, shots fired, person with a gun, person selling drugs, etc.)
      - (2) 10-50 disorderly person or group
      - (3) 10-30 series
      - (4) 10-85 (excluding administrative assistance) and 10-13
      - (5) Any incident involving a weapon
      - (6) ShotSpotter activation.
    - b. Interior patrols of New York City Housing Authority buildings as well as any privately owned buildings. The BWC must be activated upon entering the building and will not be deactivated until exiting the building and terminating the interior patrol along with any associated police action
    - c. Public interactions that escalate and become adversarial

**NEW • YORK • CITY • POLICE • DEPARTMENT**

## PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-123	10/08/19		2 of 8

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

- d. Interactions with an emotionally disturbed person
  - e. Interactions with persons suspected of criminal activity
  - f. A search of an individual and/or his/her belongings, except for strip searches
  - g. Vehicle stops
  - h. Summonses, except for a Notice of Parking Violation (parking violation summons) unless the owner/operator is present
  - i. Use of force as defined in P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action"
  - j. Arrests.
5. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step "4."
- a. Document notification in **ACTIVITY LOG**.

### BWC ACTIVATION, NOTICE OF RECORDING AND EXIGENT CIRCUMSTANCES

**UNIFORMED  
MEMBER OF  
THE SERVICE**

6. Begin recording prior to or immediately upon arrival at incident location.
7. In the event of an unanticipated or exigent occurrence, activate the BWC as soon as it is feasible and safe to do so after taking necessary police action to preserve human health and safety. At no time should proper tactics be compromised to begin a recording.
8. As soon as reasonably practical, notify members of the public that an interaction is being recorded, unless notification could compromise the safety of any person or impede an investigation.
  - a. Suggested notification: "Sir/Ma'am, I am wearing a body-camera and this encounter is being recorded."
  - b. Consent is not required to start or continue recording.

### DISCRETIONARY ACTIVATION OF BWC

**UNIFORMED  
MEMBER OF  
THE SERVICE**

9. Uniformed members of the service may record other official activities when, in the uniformed member's judgment, it would be beneficial to record, so long as it is not one of the prohibited recordings described in step "11."

### DEACTIVATION OF BWC

**UNIFORMED  
MEMBER OF  
THE SERVICE**

10. Once the BWC has been activated, continue recording until the investigative, enforcement, or other police action is concluded.
  - a. In the case of an arrest, continue recording until the prisoner is lodged at the command for arrest processing.

**NEW • YORK • CITY • POLICE • DEPARTMENT**

## PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-123	10/08/19		3 of 8

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

- b. The uniformed member of the service may choose to deactivate the BWC upon the request of a member of the public if a suspect is not present, and it is safe and advisable to do so after considering all the circumstances, including the requester's desire for privacy or confidentiality.

### PROHIBITED BWC RECORDINGS

**UNIFORMED  
MEMBER OF  
THE SERVICE**

11. Do not activate the BWC for any of the following:
  - a. Performance of administrative duties or non-enforcement functions
  - b. Routine activities within Department facilities
  - c. Departmental meetings or training
  - d. Off-duty employment including paid detail assignments
  - e. Interviewing a current or potential confidential informant
  - f. Undercover officers
  - g. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent
  - h. Strip searches
  - i. When present in a court facility, except for the immediate lodging of a prisoner
  - j. The inside of a medical facility.
12. Notify patrol/unit supervisor if a prohibited event as described in step "11" was recorded.
  - a. Document notification in **ACTIVITY LOG**.

### DEMONSTRATIONS AND CIVIL DISOBEDIENCE

**UNIFORMED  
MEMBER OF  
THE SERVICE**

13. Record only if engaged in one of the actions listed in step "4" above (Mandatory Activation of BWC) and in uniform.
  - a. The Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

### DOCUMENTATION, MAINTENANCE AND NOTICES FOR CASE USE

**UNIFORMED  
MEMBER OF  
THE SERVICE**

14. Access the video management system on the Department intranet to "categorize" and or "tag" videos based upon the nature of the event utilizing the "Edit Details" feature.
  - a. The default category for BWC video is "Uncategorized."
  - b. Select one category, if any or all are applicable, from the dropdown list in the following priority order:
    - (1) Arrest
    - (2) Homicide
    - (3) Summons
    - (4) Investigative Encounter.

**NEW • YORK • CITY • POLICE • DEPARTMENT**



## PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-123	10/08/19		4 of 8

### UNIFORMED MEMBER OF THE SERVICE (continued)

- c. Select all applicable “Tags” from the dropdown list provided under the “Add tag” feature.
  - d. If related to an arrest, enter the complete arrest number, beginning with the borough letter designation, in the field labeled “Report Number.”
  - e. If related to a Terry Stop/Level 3 Encounter not involving an arrest, enter the Stop Report number in the field labeled “Report Number.”
15. Document in **ACTIVITY LOG** and the appropriate caption or in the narrative of any Department report prepared (e.g., **STOP REPORT [PD383-151]**, **THREAT, RESISTANCE OR INJURY [T.R.I.] INTERACTION REPORT**, **AIDED REPORT**, **COMPLAINT REPORT [PD313-152]**, **ON LINE BOOKING SYSTEM ARREST WORKSHEET [PD244-159]**, etc.) when an incident has been captured on a BWC recording.
- a. Include the identity of member(s) recording the event.
16. Insert the BWC into the docking station in the station house for transfer of data and to recharge the battery at the completion of the tour.
17. Notify the following when necessary:
- a. Appropriate prosecutor when a member of the service has knowledge that any portion of an incident relating to an arrest, prosecution, or other criminal matter before the court is captured by a BWC
    - (1) Identify other members of the service who captured all or part of the event on their BWC
    - (2) Provide copies of related BWC video utilizing the appropriate features of the video management system
  - b. Legal Bureau any time a member of the service becomes aware of potential or actual civil litigation involving a matter captured by a BWC
  - c. Assigned detective/investigator anytime that any portion of an incident under investigation is captured by a BWC.

### VIEWING OF BWC RECORDINGS

### UNIFORMED MEMBER OF THE SERVICE

18. In the performance of their duties, members of the service may view the following BWC recordings:
- a. Their own BWC recordings, subject to steps “18(c)” and “18(d)”
  - b. BWC recordings made by other members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps “18(c)” and “18(d)”
  - c. When a member of the service is the subject of an official Departmental investigation, or is a witness in an official Departmental investigation, the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13, “Interrogation of Members of the Service,”* at a time and place deemed appropriate by the supervisor in charge of the investigation

**NEW • YORK • CITY • POLICE • DEPARTMENT**

## PATROL GUIDE

PROCEDURE NUMBER	DATE EFFECTIVE	REVISION NUMBER	PAGE
212-123	10/08/19		5 of 8

### UNIFORMED MEMBER OF THE SERVICE (continued)

- d. When a recording is related to a police firearms discharge, a Level 3 use of force, or a serious injury/death in custody as defined in *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action,"* the member may view his/her own BWC recording of the incident prior to making a statement under the provisions of *P.G. 206-13, "Interrogation of Members of the Service,"* at a time and place deemed appropriate by the supervisor in charge of the investigation.

### FIREARMS DISCHARGES, LEVEL 3 USE OF FORCE, AND DEATH/ SERIOUS INJURY IN CUSTODY INCIDENTS

### PATROL SUPERVISOR/ UNIT SUPERVISOR

19. Respond to police firearms discharges, Level 3 uses of force, and serious injury/death in-custody incidents and assume command.
  - a. In addition to other necessary actions, obtain and secure BWCs from all members of the service who were on the scene, documenting which officer had each camera.
  - b. Provide BWCs to Force Investigation Division, Internal Affairs Bureau, or other supervisor in charge of the investigation.
20. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.

### SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC

### SUPERVISOR CONDUCTING ROLL CALL

21. Provide members performing duty with the platoon sufficient time after the start of their tour but prior to roll call to retrieve their individually assigned BWC from the docking station.
22. Inspect members who are issued BWCs for their personally assigned BWCs and ensure that they are properly affixed to their uniform or outermost garment, powered on, and functioning properly.

### PATROL SUPERVISOR/ UNIT SUPERVISOR

23. Visit members of the service equipped with BWCs while on assignment and ensure they are recording events and activities as required.
24. Instruct members of the service to deactivate BWC if enforcement action has terminated, the event has been stabilized and interaction with the subject(s) of the police activity has concluded.
25. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step "4."
  - a. Make determination regarding the propriety of the circumstances surrounding the failure to record and notify the desk officer to document results in Command Log.
  - b. Ensure that any resulting failure to record is documented in the uniformed member's **ACTIVITY LOG**.

NEW • YORK • CITY • POLICE • DEPARTMENT

## PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-123	10/08/19		6 of 8

**PATROL  
SUPERVISOR/  
UNIT  
SUPERVISOR  
(continued)**

- c. Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
  - (1) Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

- 26. Notify the desk officer whenever notified that a member made a prohibited recording as described in step "11."
- 27. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.

**DESK OFFICER**

- 28. Account for all BWCs assigned to the command at the start of the tour.
  - a. Enter details in the Command Log.
- 29. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with *P.G. 217-10, "Accidents – Department Property"* or *P.G. 219-20, "Loss or Theft of Department Property,"* as appropriate, and record discrepancies in the Command Log.
  - a. Notify the Information Technology Bureau Service Desk and follow guidance for obtaining a replacement BWC.
- 30. Ensure that all BWCs are returned to their docking station for video upload and/or recharging at the end of tour.
- 31. Ensure that all BWC videos related to an arrest are provided to the arresting officer and the appropriate District Attorney's office by utilizing the "Share" function in the video management system.
  - a. Ensure that all BWC videos related to a previous tour's arrest are provided to the arresting officer and the appropriate District Attorney's office prior to the end of tour.
  - b. Enter details in the Command Log.
- 32. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step "11."

**TRAINING  
SERGEANT**

- 33. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.
- 34. Assess compliance with the procedure and take necessary remedial action to correct deficiencies.

**INTEGRITY  
CONTROL  
OFFICER**

- 35. Be responsible for the integrity and security of the BWCs, related hardware and the video management system.
- 36. Supervise review of BWC video by supervisors assigned to the command.
- 37. Periodically review BWC video as appropriate, to provide positive feedback and address any performance deficiencies observed.

**NEW • YORK • CITY • POLICE • DEPARTMENT**

## PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-123	10/08/19		7 of 8

- COMMANDING OFFICER**
38. Designate a secure area within the muster room/desk area and under the control of the desk officer for storage of BWCs not being used.
  39. Ensure compliance with the BWC procedure.
  40. Conduct an investigation when notified of the recording of an event which is prohibited in step "11."
    - a. Prepare and forward a report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Chief of Department (through channels).
    - b. Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Risk Management Bureau.

- PATROL BOROUGH ADJUTANT/ COUNTERPART**
41. Be responsible and provide oversight for the BWC program.
  42. Evaluate compliance with the procedure and manage systems to address deficiencies.

### **ADDITIONAL DATA**

#### OPERATIONAL CONSIDERATIONS

*When entering a Department facility equipped with an electronic access control system, uniformed members of the service should cover the lens of their BWC while entering the access code into the keypad to prevent the inadvertent recording of access information.*

*The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., arresting officers processing an arrest, detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. Furthermore, members of the service may not edit, delete or alter any video or audio captured by the BWC or stored on the Department's network or approved storage media. The video management system maintains an audit trail for all transactions conducted in the system.*

*The default preservation period for BWC video is one year, at which time it will be automatically deleted. Depending upon the "category" assigned to the video, certain videos (e.g., arrests) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.*

#### LEGAL CONSIDERATIONS

*The Department is required by law to disclose certain information and material related to criminal and civil proceedings pursuant to the New York Criminal Procedure Law, People v. Rosario, rules governing discovery in civil cases, The Freedom of Information Law (F.O.I.L.), subpoenas, and court orders. The Legal Bureau's Document Production*

**NEW • YORK • CITY • POLICE • DEPARTMENT**



## PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-123	10/08/19		8 of 8

**ADDITIONAL  
DATA  
(continued)**

*Unit will respond to subpoenas, court orders, and F.O.I.L. requests as per P.G. 211-17, "Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law." The Internal Affairs Bureau will process requests from the Civilian Complaint Review Board for body-worn camera video as per P.G. 211-14, "Investigations by Civilian Complaint Review Board." Arresting officers will provide the assigned prosecutor with access to all BWC video related to an arrest utilizing the BWC video management system.*

*Confirmatory identifications ("show-ups") must be done in person and not by the witness viewing a BWC video of the suspect. Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau's Document Production Unit. Requests for BWC recordings can be made by emailing [FOIL@NYPD.ORG](mailto:FOIL@NYPD.ORG) or by making a request on New York City's FOIL website at <https://a860-openrecords.nyc.gov>.*

**RELATED  
PROCEDURES**

*Accidents – Department Property (P.G. 217-10)  
Firearms Discharge by Uniformed Members of the Service (P.G. 221-04)  
Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations (P.G. 212-71)  
Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activities (P.G. 212-72)  
Interior Patrol of Multiple Dwelling Buildings Enrolled in the Trespass Affidavit Program (P.G. 212-59)  
Interior Patrol of Housing Authority Buildings (P.G. 212-60)  
Interrogation of Members of the Service (P.G. 206-13)  
Investigations by Civilian Complaint Review Board (P.G. 211-14)  
Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)  
Loss or Theft of Department Property (P.G. 219-20)  
Processing Legal Bureau Requests for Department Records Including Requests Under the Freedom of Information Law (P.G. 211-17)  
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)*

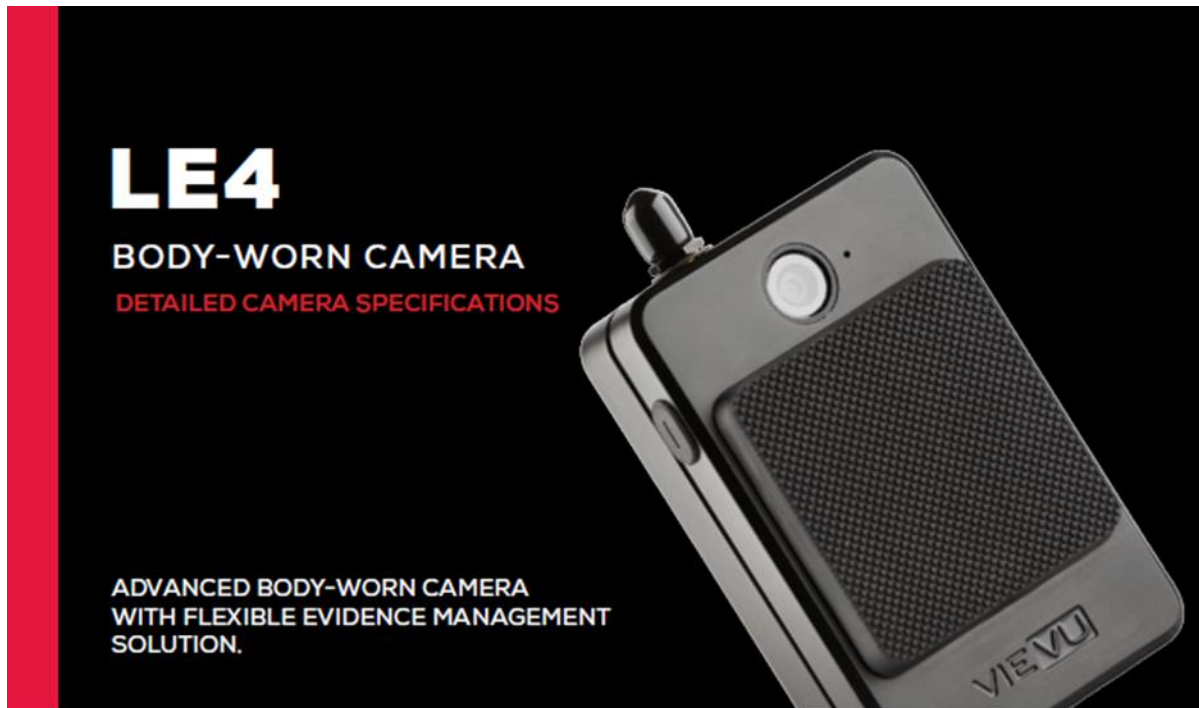
**FORMS AND  
REPORTS**

**ACTIVITY LOG (PD112-145)**  
**COMPLAINT REPORT (PD313-152)**  
**ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)**  
**STOP REPORT (PD383-151)**  
**THREAT, RESISTANCE OR INJURY (T.R.I.) INTERACTION REPORT**  
**AIDED REPORT**  
**Typed Letterhead**

**NEW • YORK • CITY • POLICE • DEPARTMENT**



## APPENDIX C: MANUFACTURER DESCRIPTIONS OF BWC CAMERAS



### LE4 TECHNICAL SPECIFICATIONS

VIDEO	
Video Resolution	1920x1080 (FHD), 1280x720 (HD) or 848x480 (Widescreen SD)
Recording Speed	30 Frames Per Second
Recording Format	MPEG-4, H.264 Codec, AVI Container
Lens Field of View	95 Degrees (Diagonal)
Date and Time Stamp	GMT or Local Time. Embedded on Video
Prerecord	Yes, 30 Second Buffer (no audio)
AUDIO	
Recording Format	PCM
Mute	Ability to Disable/Enable Audio Recording
WI-FI	
Wi-Fi Protocol	802.11 G
Security	WPA2
Antenna	Up to 10 ft. Without Antenna. Up to 200 ft. with Optional Removable Long Range Antenna (included)

**SAFARILAND®**  
VIEWU™

## LE4 TECHNICAL SPECIFICATIONS [CONTINUED]

ENVIRONMENTAL CONDITIONS	
Minimum Working Temperature	- 4° F (- 20° C)
Maximum Working Temperature	+ 122° F (+ 50° C)
Recommended Storage	+ 68° F (+ 20° C) < 75% Relative Humidity
Dust/Water Ingress Testing	IP65, Waterproof, Non-Submersible with Antenna or Antenna Cover Fitted
Drop Testing	10' Onto Hard Surface
BATTERY	
Type	Lithium-Ion (Non-Removable)
Recording Life	Up to 10 hrs at FHD, 11 hrs at HD, 12 hrs. at SD with Pre-record Buffer Disabled*
Standby Life	Up to 14 Hours*
Charge Cycles	500 Cycles > 75% Capacity*
Recharge Time from Empty	7 Hours*
External Battery Pack Compatible	Yes
STORAGE	
Raw Storage Capacity	64 GB (Non-Removable)
Video Storage Capacity	Up to 10 hrs. FHD, 25 hrs. at HD, 50 hrs. at SD*
DESIGN	
Dimensions (without clip)	3.3" x 2.1" x 1.1" (83 mm x 54mm x 28mm)
Weight (without clip)	5.5 oz (Without Clip and Antenna Cover Fitted)
CERTIFICATIONS	
FCC Class B	Yes
CE 2004/108	Yes
RoHS	Yes
WEEE	Yes
SOFTWARE COMPATIBILITY	
VIEVU Solution (Hosted)	Yes
VERIPATROL (On-Site/Hybrid)	Yes
VIEVU Solution Smartphone App	Yes
ACCESSORIES	
Metal MOLLE Clip Standard	Included
Metal MOLLE Clip, Extended	Included
Spring Clip	Included
Computer Cable	Included
Additional Clips	Optional
Wall charger	Included
Multi Dock	Optional
Manufacture Warranty	90 Days
Pre-record and auto-activation capable	Yes
Phone and email tech support available	Yes

\* Camera Feature Configuration, Environmental Conditions and Age May Increase or Decrease Specification

©2017 Safariland, LLC 041817A

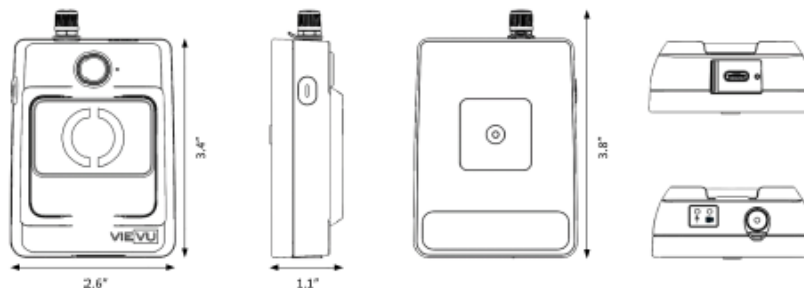
**THE SAFARILAND GROUP**

LE4 SALES  
Phone / 888.285.4548  
www.vievu.com

THE SAFARILAND GROUP  
Phone / 800.347.1200  
Outside of the USA / 904.741.5400  
www.safariland.com

## DETAILED SPECIFICATIONS

### LE5 BODY-WORN CAMERA



#### VIDEO

Video Resolution	1920x1080 (FHD), 1280x720 (HD), Or 848x480 (WVGA)
Recording Speed	30 Frames Per Second
Recording Format	MPEG-4, H.264 Codec, AVI Container
Field Of View	Selectable 70, 95, 120 Degrees
Date And Time Stamp	Embedded On Video
Identification On Video	Camera Serial Number Embedded On Video
Pre-Record	Yes, Selectable Up To 3 Minutes
Post-Record	Yes, Selectable Up To 1 Minute

#### AUDIO

Mute	Yes, Selectable Disable/Enable Audio Recording
------	--

#### ENVIRONMENTAL CONDITIONS

Operating Environment	-4° F (-20° C) to +122° F (+50° C)
Recommended Storage	+68° F (+20° C), <75% Relative Humidity
Dust/Water Protection	IP68, Weatherproof, Non-Submersible with Antenna or Antenna Cap fitted
Drop Testing	10' onto Hard Surface

#### DESIGN

Dimensions (without Clip)	2.6" x 3.4" x 1.1" (65mm x 87mm x 29mm)
Weight (without Clip)	4.9 oz
USB Type	USB C (Reversible)
Lanyard Loop	Yes

#### LIGHTS AND FEEDBACK

Vibration	Yes
Covert Mode	Yes

#### WIRELESS COMMUNICATION

Wifi	Yes, 802.11 G, WPA2
Low Power Radio	IEEE 802.15.1 ver. 4.0
Antenna	External (Optional)

#### BATTERY

Type	Lithium-Ion (Non-Removable)
Recording Life	12+ Hours*
Charge Cycles	500 Cycles > 75% Capacity*
Recharge Time From Empty	4 Hours*
External Battery Pack Compatible	Yes

#### STORAGE

Raw Storage Capacity	64GB (Non-Removable)
Video Storage Capacity	Up to 10 hrs at FHD, 25 hrs at HD, 50 hrs at SD

#### CERTIFICATIONS

FCC Class B	Yes
CE 2004/108	Yes
RoHS	Yes
WEEE	Yes

\*Environmental Conditions and Age May Increase or Decrease Specification



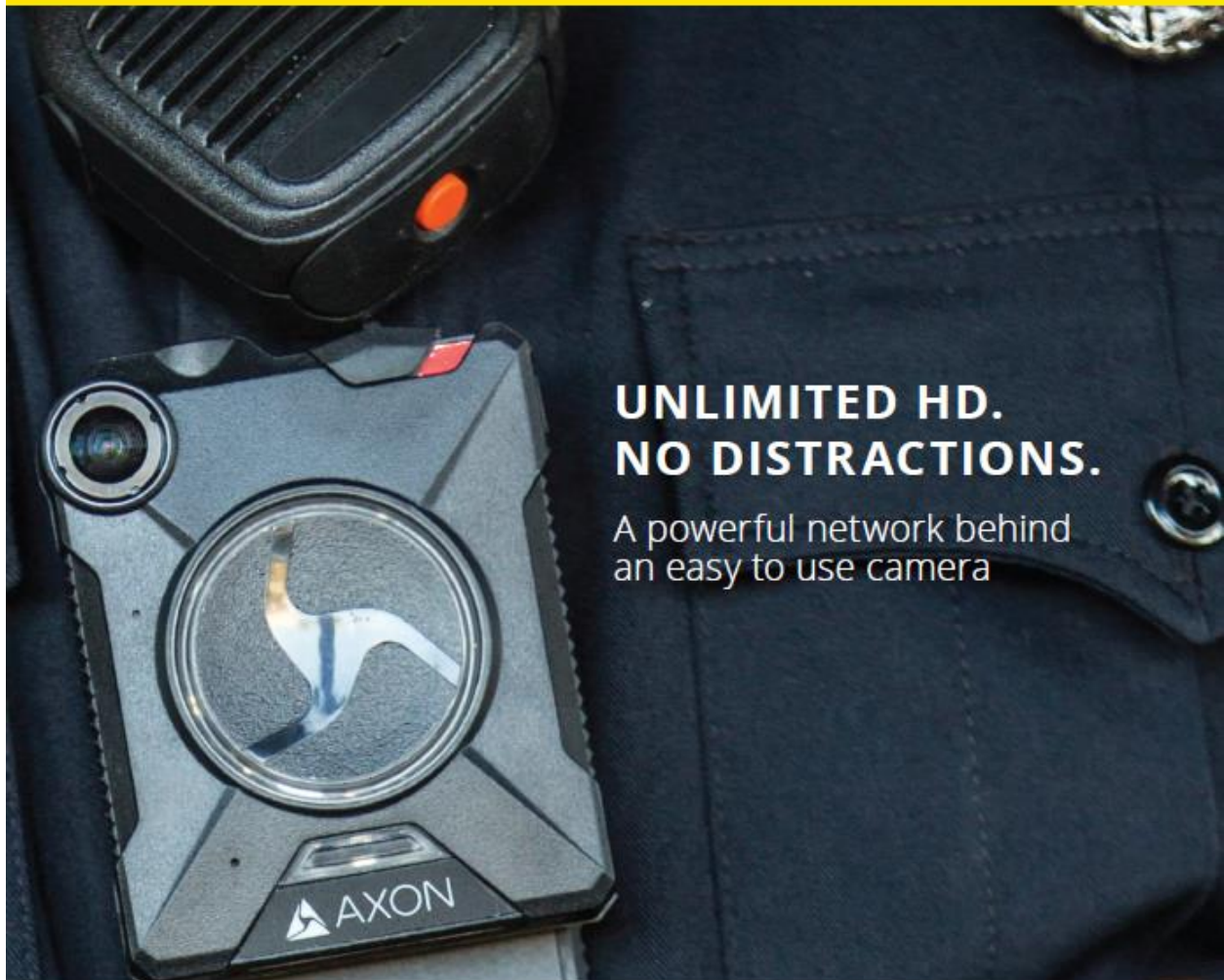
A BRAND OF THE SAFARILAND GROUP

370-645 Elliott Ave W  
Seattle, WA 98119  
www.vievu.com

Phone: 1-888-285-4548  
Fax: 206-299-3380

© 2017 Safariland LLC 10/17

 AXON Body 2



**UNLIMITED HD.  
NO DISTRACTIONS.**

A powerful network behind  
an easy to use camera

**BEYOND A CAMERA AND BEYOND COMPARE**

The #1 Video Platform | Unlimited HD | Constant Upgrades

Axon Body 2 takes powerful simplicity to the next level. The single-unit design is equipped with capabilities like unlimited HD video, advanced audio, Wi-Fi video connectivity and industry-leading security enhancements. It's part of the growing network that lets you act with confidence by connecting devices, apps, and people.

800-978-2737 [axon.com/body2](http://axon.com/body2)

## AXON BODY 2 FEATURES AND BENEFITS

**RETINA HD VIDEO:** The industry's best low-light video now records in HD.

**FULL-SHIFT BATTERY:** 12+ hours

**PRE-EVENT BUFFER:** Configure your pre-event buffer time to capture up to 2 minutes before an event.

**WIRELESS ACTIVATION:** Axon Signal reports events, like when you open the car door or activate the light bar, so your camera can detect them and start recording.

**OPTIONAL MUTE:** Ability to disable audio in the field to support dual party consent.

**IN-FIELD TAGGING:** Add a marker to important points in your video.

**UNMATCHED DURABILITY:** Built to withstand extreme weather and brutal conditions.

**RAPIDLOCK MOUNTS:** Versatile mounts keep the camera steady during tough situations.

**MOBILE APP:** Stream, tag, and replay videos right on your phone with Axon View.

**MULTI-CAM COMPATIBILITY:** Review up to four videos, including Axon Body 2, Axon Flex 2 and Axon Fleet footage, on one screen through Evidence.com.



## AXON BODY 2 SPECIFICATIONS

**VIDEO RESOLUTION** Configurable up to 1080p

**WEATHER RESISTANCE** IP67 (IEC 60529)

**CORROSION RESISTANCE** MIL-STD-810G METHOD 509.5 (SALT FOG)

**FIELD OF VIEW** 143 degrees

**OPERATING TEMPERATURE** -4 °F to 122 °F / -20 °C to 50 °C

**DROP TEST** 6 Feet

**HUMIDITY** 95% non-condensing

**WARRANTY** 1 year from date of receipt with extended full five-year warranty options

**RECORDING CAPACITY** Up to 70 hours depending on resolution

Android is a trademark of Google, Inc., IOS is a trademark of Cisco Technology, Inc., and Apple, the Apple logo, iPhone, iPad and iPod touch are trademarks of Apple, Inc. The Android robot is reproduced or modified from work created and shared by Google and used according to terms described in the Creative Commons 3.0 Attribution License. Wi-Fi is a trademark of the Wi-Fi Alliance.

▲, ▲ AXON, Axon, Axon View, Axon Body 2, Axon Flex 2, and Evidence.com are trademarks of Axon Enterprise, Inc., some of which are registered in the US and other countries. For more information, visit [www.axon.com/legal](http://www.axon.com/legal). All rights reserved. © 2017 Axon Enterprise, Inc.

MPC0227 REV I





## AXON Body 3



# SEE THE TRUTH AT ANY MOMENT

### LAW ENFORCEMENT'S #1 CAMERA, NOW WITH REAL-TIME TECHNOLOGY

CLEARER EVIDENCE | REAL-TIME AWARENESS | AI-POWERED WORKFLOWS

Axon Body 3 isn't just a camera: it's a rugged communications beacon front-and-center on every call. Featuring our new Axon Aware technology and an LTE connection that enables real-time features like live streaming, Body 3 empowers officers with more support in the moment. Coupled with enhanced low-light performance and reduced motion blur, that means clearer evidence in the now, more efficient AI-powered processes after the fact, and most importantly, safer communities in the long run.

[AXON.COM/BODY3](https://www.axon.com/body3)



## FEATURES AND BENEFITS

**IMPROVED VIDEO QUALITY:** With video evidence, image quality is everything. Axon Body 3's reduced motion blur and improved low-light performance enable you to better see the truth at any moment.

**MULTI-MIC AUDIO:** Featuring multiple microphones, wind noise reduction and other advancements, Axon Body 3 lets you play back crystal-clear audio for a better sense of what happened at the scene.

**HANDSFREE ACTIVATION & ALERTS:** Axon Body 3 can send real-time alerts, like when a weapon is deployed, allowing your agency to act fast during critical situations.

**LIVE STREAMING\*:** Axon Body 3 can stream audio and video to Axon Evidence (Evidence.com), so officers and command staff can pull up a real-time view and act with greater awareness.

**LIVE MAPS\*:** See officers' locations when recording within Axon Evidence with GPS.

**ON-DEVICE ENCRYPTION:** Axon Body 3 features disk encryption.

**FULL-SHIFT BATTERY:** Axon Body 3 will last for 12 hours, so you can depend on it for your entire shift. You can even recharge it while the camera is on.

**PRE-EVENT BUFFER:** To help ensure key moments aren't missed, Axon Body 3 supports up to a two minute pre-event buffer with configurable audio.

**SLEEK & RUGGED DESIGN:** The camera hardware strikes the perfect balance between a clean and super-strong design that can survive even the harshest conditions.

**EXPANDING CAPABILITIES\*:** In the future, take advantage of new features like live evidence preview, "Find My Camera," seamless post-event transcription & reporting, priority offload, and more.

## SPECIFICATIONS

**VIDEO RESOLUTION:** 1080, 720H, 720L, 480

**VIDEO FORMAT:** MPEG-4

**BATTERY LIFE:** 12 hours

**STORAGE:** 64 GB

**PRE-EVENT BUFFER:** Configurable up to 120 seconds

**IP RATING:** IP67

**US MILITARY STANDARD:** MIL-STD-810G

**DROP TEST:** 6 feet

**OPERATING TEMPERATURE:** -20 C to 50 C

**DISK ENCRYPTION:** AES-XTS 128-bit

\*Requires Axon Aware purchase and activation  
LTE is a registered trademark of Institut Européen des Normes; de Télécommunication.

▲, ▲ AXON, Axon, Axon Body 3, and Evidence.com are trademarks of Axon Enterprise, Inc., some of which are registered in the US and other countries. For more information, visit [www.axon.com/legal](http://www.axon.com/legal). All rights reserved. © 2019 Axon Enterprise, Inc.



## WHAT IS AXON AWARE TECHNOLOGY?

Picture this: An officer is in a foot chase away from her vehicle, alone. She's heading into unfamiliar terrain fast. The suspect has drawn a weapon. It's life or death.

Thankfully, command staff back at HQ are with her every step of the way. With her camera already recording, they can pull up her live-stream from a precise map and send backup to her exact location. Together they apprehend the suspect, and everyone is unharmed. That's Axon Aware. With a combination of sensors, embedded GPS and an LTE connection, Aware brings new possibilities to keep officers safe.

## BACKGROUND OF THE CCRB AND GLOSSARY

---

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 will also note **other misconduct** when it uncovers conduct by NYPD officers during the course of its investigation that falls outside its jurisdiction, which the Department has requested be noted or is considered important to bring to the Department’s attention. Examples of other misconduct include failures by officers to enter necessary information in their activity logs (memo books), failures to complete required documentation of an incident, and evidence suggesting that officers have made false official statements.

The **Board** consists of 13 members all appointed by the Mayor. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair of the Board. 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 within the Agency’s jurisdiction (**FADO**), 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. The prosecutors within the unit 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** with trained third-party mediators who may be able 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 of New York City.



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**. The CCRB's investigators in the **Intake Unit** receives complaints filed by the public in-person, by telephone, voicemail, an online complaint form, or 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. The vast majority of 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 (i.e., if misconduct occurred). The Board is required by its rules to use a **preponderance of the evidence** standard of proof in evaluating cases. Findings **on the merits** result when CCRB is able to conduct a full investigation and obtain sufficient 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 acts alleged 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>193</sup>

---

<sup>193</sup> Fully investigated cases comprise complaints disposed of as substantiated, unsubstantiated, exonerated,

# NEW YORK CITY CHARTER

---

## 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 manner in which 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 thirteen members of the public appointed by the mayor, who 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 designated by the city council; (ii) three members with experience as law enforcement professionals shall be designated by the police commissioner; and (iii) the remaining five members shall be selected by the mayor. The mayor shall select one of the members to be chair.

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, except that of the members first appointed, four shall be appointed for terms of one year, of whom one shall have been designated by the council and two shall have been designated by the police commissioner, four shall be appointed for terms of two years, of whom two shall have been designated by the council, and five shall be appointed for terms of three years, of whom two shall have been designated by the council and one shall have been designated by the police commissioner.

4. 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. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend

---

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.

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 findings and recommendations of the board, and the basis therefore, 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 complaints, and to hear, make findings and recommend action on such complaints. No such panel shall consist exclusively of members designated by the council, or designated by the police commissioner, or selected 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 complaints submitted pursuant to this section.

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 therefore, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The board shall employ civilian investigators to investigate all complaints.

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 the investigation of complaints submitted 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 the investigation of complaints submitted 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 on any action taken in cases in which the board submitted a finding or recommendation to the police commissioner with respect to a complaint.

(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.

# BOARD MEMBERS

---

## MAYORAL DESIGNEES

### **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*

### **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 against government agencies. 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*

### **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.**

Corrine 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*

### **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 DESIGNEEES**

### **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, Mr. Puma handled cases involving criminal justice, voting rights, employment discrimination, and school desegregation. Prior to joining NAACP LDF, he worked for more than 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, he served as a community liaison for former NYC Council Member Margarita López. Since 2007, Mr. Puma 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, Mr. Puma currently serves on GOLES's Board of Directors, and has participated in national public housing preservation efforts. Mr. Puma is a City Council designee to the Board first appointed by Mayor Michael Bloomberg and reappointed by Mayor Bill de Blasio.

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

### **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*

### **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*

### **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*

## **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*



## EXECUTIVE AND SENIOR STAFF

---

### Executive Staff

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

**Senior Advisor & Secretary to the Board:** Jerika L. Richardson

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

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

**Co-Chief of Investigations:** Chris Duerr

**Co-Chief of Investigations:** Winsome Thelwell

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

### Senior Staff

**Deputy Chief of Investigations:** Dane Buchanan, Esq.

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

**Director of Case Management:** Eshwarie Mahadeo

**Director of Communications:** Colleen Roache

**Director of Data Processing:** Lincoln MacVeagh

**Acting 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, Esq.

**Director of Outreach and Intergovernmental Affairs:** Yojaira Alvarez

**Director of Policy and Advocacy:** Nicole M. Napolitano, Ph.D.

**Deputy Director and Senior Counsel of Policy and Advocacy:** Harya Tarekegn, Esq.

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

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