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MAYOR

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FREDERICK DAVIE  
CHAIR

March 21, 2023

The Honorable Keechant L. Sewell  
Police Commissioner of the City of New York  
New York City Police Department  
One Police Plaza  
New York, New York 10038

Re: **Report on the Administrative Prosecution Unit (“APU”) Fourth Quarter of 2021**

**Dear Commissioner Sewell:**

This report will address the following matters: (i - ii) eleven (11) finalized verdicts issued by an Assistant Deputy Commissioner of Trials (“ADCT”); (iii) the treatment of Administrative Prosecution Unit (“APU”) pleas by former Police Commissioner Shea; (iv) the retention of eight (8) cases under Provision Two of the April 2, 2012 Memorandum of Understanding (“MOU”); (v) the dismissal of zero cases by the APU; (vi) four (4) cases administratively closed by former Police Commissioner Shea; (vii) the size of the APU's docket; and (viii) the length of time to serve Respondents. The cases discussed in this report concern trial decisions rendered after the implementation of the 2021 NYPD Disciplinary Matrix.

**I. Guilty Verdicts Upheld and Guilty Verdicts Reversed by the Police Commissioner**

In the fourth quarter of 2021, eleven (11) CCRB verdicts for trials conducted before an ADCT were finalized. The APU treats each officer against whom an allegation is substantiated as a separate case.<sup>1</sup> Of the eleven (11) cases, three (3) resulted in guilty verdicts that were upheld by the former Police Commissioner, and four (4) resulted in guilty verdicts reversed by the former Police Commissioner. The guilty verdicts are discussed further below:

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<sup>1</sup> The APU treats each officer as a separate “case.” As such, all APU data discussed in this report uses the same terminology. While there may be trials or incidents that involve multiple officers, the word “case” should be interpreted as “case against a single officer.”

**Case One, Guilty Verdict, Penalty Downgrade<sup>2</sup> 202004437 SGT Edward Mullins**

In May 2020, Sergeant Edward Mullins [the Respondent] used the Sergeants Benevolent Association (SBA)'s verified Twitter account to retweet a newspaper article in which the Victim, who was the City's Health Commissioner and a Hispanic female, was quoted making a comment about NYPD officers receiving masks during the COVID-19 pandemic. Sgt. Mullins tweeted "Truth is this bitch has blood on her hands but why should anyone be surprised the NYPD has suffered under DeBlasio since he became mayor."

On February 10, 2021, the Board substantiated one (1) total allegation: one (1) Offensive Language allegation against Sgt. Mullins for making remarks to the Victim based upon the Victim's gender.<sup>3</sup> The APU filed and served Charges and Specifications with a penalty recommendation of termination for Sgt. Mullins — a recommendation available under the Disciplinary Matrix where the Board determines that there are aggravating factor(s). A trial was held on October 25, 2021, before ADCT Jeff Adler. On October 28, 2021, ADCT Adler issued his decision, finding Sgt. Mullins guilty of the Offensive Language allegation.

ADCT Adler found that it was "undisputed that Respondent, who at the time was the President of the SBA, did, in fact, post these tweets on the SBA's public twitter account." ADCT Adler stated that the Respondent testified that he was "seeking to draw attention to the perceived unjust treatment of his members," and found that "the slurs included in these public tweets have a profound impact, bringing discredit both to Respondent himself and the Department as a whole."

ADCT Adler recommended a penalty of twenty (20) days' vacation forfeiture for Sgt. Mullins, which is the presumptive penalty in the Disciplinary Matrix. On November 4, 2021, former Commissioner Shea approved ADCT Adler's recommendations and imposed the recommended penalty.

**Case Two, Guilty Verdict, Penalty Downgrade<sup>4</sup> 202006070 SGT Edward Mullins**

In September 2020, Sergeant Edward Mullins [the Respondent] used the Sergeants Benevolent Association (SBA)'s verified Twitter account to post a tweet by the Victim, a Hispanic male lawmaker. The Victim's tweet had called for an investigation into NYPD activities during the ongoing pandemic. Sgt. Mullins tweeted a response stating "He we go [*sic*] America this is what a first-class whore looks like [Victim] Passes laws to defund police, supports criminals, & now because he's running for office he blames the police to protect what he voted for. Remember Little Ritchie? Meet LYING [Victim] @[Victim]."

On February 10, 2021, the Board substantiated one (1) total allegation: one (1) Offensive Language allegation against Sgt. Mullins for making remarks to the Victim based upon the Victim's perceived sexual orientation.<sup>5</sup> The APU filed and served Charges and Specifications with a penalty recommendation of termination for Sgt. Mullins — a recommendation available

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<sup>2</sup> The ADCT's penalty recommendation was lower than the CCRB's penalty recommendation.

<sup>3</sup> Per Disciplinary matrix – offensive language has a mitigated penalty of 10 days' vacation forfeiture, a presumptive penalty of 20 days' vacation forfeiture, and an aggravated penalty of termination.

<sup>4</sup> The ADCT's penalty recommendation was lower than the CCRB's penalty recommendation.

<sup>5</sup> Per Disciplinary matrix – offensive language has a mitigated penalty of 10 days' vacation forfeiture, a presumptive penalty of 20 days' vacation forfeiture, and an aggravated penalty of termination.

under the Disciplinary Matrix where the Board determines that there are aggravating factor(s). A trial was held on October 25, 2021, before ADCT Jeff Adler. On October 28, 2021, ADCT Adler issued his decision, finding Sgt. Mullins guilty of the Offensive Language allegation.

ADCT Adler found that it was “undisputed that Respondent, who at the time was the President of the SBA, did, in fact, post these tweets on the SBA’s public twitter account.” ADCT Adler found that “even though the tweets were an attempt at zealous advocacy...that does not excuse derogatory and demeaning words he used as a part of that advocacy.” ADCT Adler found that “the slurs included in these public tweets have a profound impact, bringing discredit both to Respondent himself and the Department as a whole.” ADCT Adler found that Sgt. Mullins “was well within his rights to speak out on behalf of his members...it is, rather, the slurs he chose to include in his criticism that constitute misconduct.”

ADCT Adler recommended a penalty of twenty (20) days’ vacation forfeiture for Sgt. Mullins, which is the presumptive penalty under the Disciplinary Matrix. On November 4, 2021, former Commissioner Shea approved ADCT Adler’s recommendations and imposed the recommended penalty.

### **Case Three, Guilty Verdict, Penalty Downgrade**<sup>6</sup> 201808122 PO Anthony Cimmino

In September 2018, at approximately 1:00 p.m. in Staten Island, the Victim, a Hispanic male in his mid-twenties was at home when he heard a knock on his door. He opened the door partway and was met by Police Officer Vincent Trabulse [Respondent 1]. The incident was captured on BWC. The Victim was handcuffed and escorted out of the apartment by PO Trabulse. As the Victim was being led down some stairs to exit the building, the Victim cursed at the officers. Police Officer Anthony Cimmino [Respondent 2] who passed the Victim on the stairs told the Victim “shut the fuck up, you little shit.”

On July 23, 2019, the Board substantiated one (1) total allegation: one Discourtesy allegation against PO Cimmino for speaking discourteously to the Victim.<sup>7</sup> The APU filed and served Charges and Specifications with a penalty recommendation of thirty (30) days’ vacation forfeiture. On April 22, 2021, and April 23, 2021, a trial was held before ADCT Nancy Ryan. On June 23, 2021, ADCT Ryan issued her decision finding PO Cimmino guilty on the sole Discourtesy allegation.

ADCT Ryan found that the Victim “was using profanity” towards the officers and that “Respondent Cimmino responded by saying “you shut the fuck up, you little shit.” ADCT Ryan found that although Respondent initially testified that he said “no, you shut up,” “after being shown the video, Respondent Cimmino conceded that he actually answered, ‘you shut the fuck up.’” According to ADCT Ryan, “the video makes clear that Respondent Cimmino made this statement.” ADCT Ryan noted that the Respondent testified that “I didn’t start it, I’m allowed to say it if somebody says it.” ADCT Ryan determined that “Respondent Cimmino swore at [the Victim] after he had been handcuffed. There were, at that time, no continuing exigent or stressful circumstances which might have excused a profane comment in the heat of the moment.”

ADCT Ryan recommended a penalty of thirty (30) days’ vacation forfeiture for PO Cimmino, a penalty that is beyond the aggravated category of the Disciplinary Matrix, stating that “an increase of 10 to 20 penalty days can be applied when (i) the same misconduct occurs

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<sup>6</sup> The PC’s penalty recommendation was lower than the CCRB’s penalty recommendation.

<sup>7</sup> Per Disciplinary matrix – discourtesy has a mitigated penalty of 1 vacation day forfeiture, a presumptive penalty of 5 vacation days’ forfeiture, and an aggravated penalty of 10 vacation days’ forfeiture.

within five years, and (ii) the prior misconduct had a penalty between 5 and 15 days.” On October 26, 2021, former Commissioner Shea approved ADCT Ryan findings but disapproved the recommended penalty, stating that “Police Officer Cimmino made a quick, discourteous remark to an individual during their brief encounter” and that he had “determined, while considering Police Officer Cimmino’s prior instance of discourteous misconduct, that the... aggravated penalty of ten (10) vacation days for discourtesy is appropriate in this matter... a penalty of thirty (30) vacation days...is excessive in light of cases with similar misconduct.” Former Commissioner Shea imposed a final penalty of ten (10) vacation days’ forfeiture, which is the aggravated penalty under the Disciplinary Matrix.

**Case Four, Five, and Six, Guilty Verdict (Verdicts Reversed)** 201806662 DT3 Manuel Cordova, DT3 Raymond Low and DT3 Xavier Reynoso

In August 2017, at approximately 3:15 a.m. in Manhattan, the Victim, a Hispanic male in his late twenties, was leaving a friend’s apartment when he was rushed and pushed up against a metal grate by Detective Xavier Reynoso [Respondent 1] and Detective Manuel Cordova [Respondent 2] who were dressed in plain clothes. The incident was captured on surveillance video with no audio. The Victim struggled as the Respondents pinned him against the metal grate. Det. Reynoso used his hand to press the back of the Victim’s neck against the metal grate and held on to one of his arms. Det. Cordova slammed the Victim’s head into the metal grate more than once. Detective Raymond Low [Respondent 3] exited a nearby building and ran up to Det. Reynoso and Det. Cordova. They wrestled the Victim to the ground, handcuffed him, and stood him up against the metal grate, facing the street. The officers searched through the Victim’s pockets and Det. Low pulled the Victim’s pants and underwear down and away from his body and searched around his buttocks. The Victim struggled away from the touch and Det. Cordova kned him in the thigh as Det. Low shone a flashlight into the Victim’s crotch area and continued his search.

On January 28, 2019, the Board substantiated four (4) total allegations: one (1) Use of Force allegation against Sgt. Reynoso for hitting the Victim against the metal grate,<sup>8</sup> two (2) Use of Force allegations against Sgt. Cordova for using a chokehold against the Victim<sup>9</sup> and for using physical force against the Victim,<sup>10</sup> and one (1) Abuse of Authority allegation against Sgt. Low for strip searching the Victim.<sup>11</sup> The APU filed and served Charges and Specifications with a penalty recommendation of ten (10) suspension days and ten (10) days’ vacation forfeiture for Sgt. Reynoso, a penalty recommendation of termination for Sgt. Cordova, and a penalty recommendation of twenty (20) suspension days and one (1) year dismissal probation for Sgt. Low. On March 4, 2021, March 9, 2021, and April 16, 2021, a trial was held before ADCT

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<sup>8</sup> Per Disciplinary matrix – non-deadly force against another that results in no injury has a mitigated penalty of 5 vacation days’ forfeiture, a presumptive penalty of 10 vacation days’ forfeiture, and an aggravated penalty of termination

<sup>9</sup> Per Disciplinary matrix – application of a chokehold has a mitigated penalty of forced separation and a presumptive penalty of termination.

<sup>10</sup> Per Disciplinary matrix – non-deadly force against another that results in no injury has a mitigated penalty of 5 vacation days’ forfeiture, a presumptive penalty of 10 vacation days’ forfeiture, and an aggravated penalty of termination

<sup>11</sup> Per Disciplinary matrix – an unauthorized/unwarranted strip search of a person has a mitigated penalty of 20 vacation days’ forfeiture, a presumptive penalty of 20 suspension days + one (1) year dismissal probation, and an aggravated penalty of termination.

Nancy Ryan. On June 8, 2021, ADCT Ryan issued a decision finding Sgt. Reynoso guilty on the Use of Force allegation for hitting the Victim against the metal grate, finding Sgt. Cordova guilty on the Use of Force allegation for using physical force against the Victim and not guilty of the Use of Force allegation for using a chokehold against the Victim, and finding Sgt. Low guilty on the Abuse of Authority allegation.

ADCT Ryan stated that the Victim “saw Respondent Reynoso running towards him and [the Victim] feared for his life because he was in an area that he knew to be ‘high in crime.’” ADCT Ryan stated that “Respondent Reynoso grabbed the [Victim]’s shirt and swung him into the gate, face first, at which point [the Victim] realized the men were police.” ADCT Ryan found that “based on the videos...at first, Respondent Cordova has his hand and radio up by [the Victim]’s jaw rather than his throat...this moment is also quite brief and was unlikely to have restricted breathing.” ADCT Ryan determined that “at the point when Respondent Cordova kned [the Victim], Respondents had all managed to bring [the Victim] away from the gate and handcuff him.” ADCT Ryan also determined that “at the time when Respondent Reynoso slammed [the Victim]’s head against the gate, Respondents had successfully pinned [the Victim] ...additionally, the three Respondents outnumbered the lone [Victim], further reducing his potential to cause harm or escape... [and by] slamming [the Victim]’s head into the metal gate repeatedly.... [Respondent Reynoso] created a significant risk of serious harm beyond any effort to control [the Victim]’s arms.” Finally, ADCT Ryan found that “according to Respondent Low’s own testimony at trial, he was searching for contraband near [the Victim]’s groin area because he had seen him remove apparent narcotics from the same area...the use of the flashlight, in particular, and the exposing of underwear, demonstrate both the intrusiveness of the search and the fact that he went far beyond an ordinary frisk and field search.”

ADCT Ryan recommended a penalty of ten (10) suspension days and ten (10) vacation days’ forfeiture for Sgt. Reynoso, a penalty of fifteen (15) vacation days’ forfeiture for Sgt. Cordova, and a penalty of twenty-five (25) suspension days and one (1) year dismissal probation for Sgt. Low. All three penalties were in the presumptive category of the Disciplinary Matrix. On November 30, 2021, former Commissioner Shea reversed ADCT Ryan’s verdict and found all three Respondents not guilty on all counts, stating that “based on the totality of the circumstances, a finding of not guilty with regard to each specification is warranted.” The former Commissioner stated that “a thorough review of the surveillance video, supported by the testimony of the Detectives, demonstrates that the force used in order to effect the arrest was both reasonable and necessary in order to safely place the resisting suspect into handcuffs.” According to former Commissioner Shea, “the force used by Detective Cordova was measured but very limited, but sufficient to enable the Detectives to complete the Frisk/Field Search ...a Detective will frisk an arrested individual, and then perform a limited search to remove unusual objects that are present *under* the individual’s clothing, precisely as happened in this matter...I have noted that the surveillance video clearly shows that there was no exposure of the arrestee’s private parts to any member of the public during the Frisk/Field Search.”

### **Case Seven, Guilty Verdict (Verdict Reversed) 201708620 PO Mark Ruppert**

In October 2017, at approximately 10:45 p.m. in Manhattan, the Victim, a Hispanic male in his late thirties, was driving on a highway headed to New Jersey. He noticed two vehicles immediately behind him one of which was an unmarked black, four door Ford behind him with turret lights. The Victim stated that he had not committed any traffic infractions such as speeding

or littering. After crossing into New Jersey, the vehicle's turret lights went on, which led the Victim to believe that the vehicle was a police vehicle attempting to pull him over. He pulled over and laid face down on the sidewalk with his arms stretched out on either side of his body as a sign of surrender. Police Officer Mark Ruppert [Respondent 1] and Police Officer Christopher Arena [Respondent 2] exited the unmarked vehicle. PO Ruppert pointed his gun at the Victim and yelled out "freeze." PO Ruppert and PO Arena kicked the Victim in his face and head. The Victim stated that he was bleeding profusely from his head and that his left ear was partially hanging off his head. He was transported to a precinct back in New York but received no medical attention for over four hours. When he was finally taken to the hospital, he was diagnosed with two skull fractures, back injuries, and a partially severed ear that required reconstructive surgery.

On March 28, 2019, the Board substantiated four (4) total allegations: two (2) Abuse of Authority allegations against PO Ruppert for pursuing a vehicle in which the Victim was an occupant<sup>12</sup> and for failing to secure medical treatment for the Victim<sup>13</sup> and, two (2) Use of Force allegations for pointing his gun at the Victim<sup>14</sup> and using force against the Victim.<sup>15</sup> The APU filed and served Charges and Specifications with a penalty recommendation of twenty (20) days' vacation forfeiture for PO Ruppert. On March 5, 2021, a trial was held before ADCT Nancy Ryan. On April 21, 2021, ADCT Ryan issued a decision finding PO Ruppert guilty of the Use of Force allegation for pointing his gun at the Victim and not guilty on the remaining three (3) allegations.

ADCT Ryan stated that the Respondents testified that "they saw [the Victim]'s vehicle, which had no lights on, pass their van...while they were about one car length behind [the Victim], his car took off at a high rate of speed...Respondents saw a black bag thrown out of the driver's side window." ADCT Ryan found that "video evidence from a camera...captures [the Victim]'s car arriving...and shows it rolling backwards...Respondents' vehicle arrives seconds behind [the Victim]'s car." ADCT Ryan found that "[the Victim]'s testimony concerning the force used by the officers to be incredible... [the Victim]'s version of what happened is also called into question due to his acknowledgement that he used drugs on the day of the incident and was experiencing withdrawal shortly after the time of the incident about which he testified." ADCT Ryan found that "[the Victim]'s explanation that he simply doesn't bruise does not credibly explain why there are no visible facial lacerations, except to his ear, nor why there is no facial swelling...the only signs of what may possibly be blood on [the Victim]'s clothing are a few spots on his shirt and shorts." ADCT Ryan found that "medical records also do not...support... [the Victim]'s version of events...the hospital released [the Victim] with simply suturing his ear and prescribing an antibiotic, acetaminophen and an inhaler and referring him for

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<sup>12</sup> Per Disciplinary matrix – enforcement action involving Abuse of Discretion or Authority has a mitigated penalty of 10 vacation days' forfeiture, presumptive penalty of 20 vacation days' forfeiture, and an aggravated penalty of termination.

<sup>13</sup> Per Disciplinary matrix – intentional/reckless failure to obtain medical attention in the face of apparent or visible injury/illness has a mitigated penalty of 20 vacation days' forfeiture, a presumptive penalty of 30 vacation days' forfeiture + one (1) year dismissal probation, and an aggravated penalty of termination.

<sup>14</sup> Per Disciplinary matrix –deadly physical force (incl. use of a deadly weapon or dangerous instrument) against another that results in no injury has a mitigated penalty of 30 suspension days + 30 vacation days' forfeiture+ 1 year dismissal probation and a presumptive penalty of termination

<sup>15</sup> Per Disciplinary matrix – non-deadly force against another that results in physical injury has a mitigated penalty of 10 suspension days, a presumptive penalty of 10 suspension days + 10 vacation days' forfeiture, and an aggravated penalty of termination.

suture removal.” ADCT Ryan found that “the officers had no reason to request an ambulance to the scene for [the Victim] based on their observations of him. It was extremely dark at the scene...the small spots of possible blood on [the Victim]’s clothing would first of all have been difficult to see and secondly were of such small size that they would not indicate a need for an ambulance or immediate medical attention to a reasonable person.” ADCT Ryan stated that Respondent Ruppert “admitted he unholstered his gun because he was in fear for his safety, since he could not see [the Victim]’s hands when [the Victim] was faced down towards the ground,” but “Respondent Ruppert did not articulate a reasonable belief that the potential for serious physical injury was present in the situation in this case...[the Victim] was laying with his body facing down to the ground with two fellow officers approaching him at the time Respondent Ruppert had his weapon aimed in their general direction.”

ADCT Ryan recommended a penalty of ten (10) vacation days’ forfeiture for PO Ruppert, which is less than the mitigated penalty under the Disciplinary Matrix. ADCT Ryan explained that the recommendation was “a more reasonable penalty...because of the mitigating factors of the extremely brief duration that Respondent’s gun was drawn, and the heightened security concerns surrounding a lawful vehicle stop that followed an interstate vehicle pursuit on a dark evening.” On October 14, 2021, former Police Commissioner Shea reversed the guilty verdict and found Respondent Ruppert not guilty, stating that “based on the totality of the circumstances, a finding of not guilty with regard to each specification is warranted.” The former Commissioner stated that “the situation in which Officer Ruppert found himself, along with his fellow officers, when he attempted to arrest an individual who had refused to stop his vehicle and fled, and who ultimately jumped out of his still-moving vehicle and ran into a dark wooded area in order to evade arrest was extremely dangerous...I found it clear that Officer Ruppert’s choice to cover the individual with his firearm, but not to actually use deadly force in discharging his firearm, was both appropriate and prudent, as well as authorized, under these circumstances.”

## **II. Not Guilty Verdicts Upheld by the Police Commissioner**

In the fourth quarter of 2021, eleven (11) CCRB verdicts for trials conducted before an ADCT were finalized. The APU treats each officer against whom an allegation is substantiated as a separate case.<sup>16</sup> Of the eleven (11) cases, four (4) resulted in not guilty verdicts upheld by the former Police Commissioner. The not guilty verdicts are discussed further below:

### **Case One, Not Guilty Verdict 201808122 PO Vincent Trabolse**

This case is from the same incident described in Case Three (3) (from the Guilty Verdicts section), for PO Vincent Trabolse [Respondent 1]. In September 2018, at approximately 1:00 p.m. in Staten Island, the Victim, a Hispanic male in his mid-twenties was at home when there was a knock on his door. He opened the door partway and was met by Police Officer Vincent Trabolse [Respondent 1]. The incident was captured on BWC. Respondent Trabolse told the Victim to open the door and when the Victim refused Respondent Trabolse said that he would get officers to force their way into the apartment. The Victim opened the door and PO Trabolse along with other officers entered the apartment. PO Trabolse pushed the Victim against his bed

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<sup>16</sup> The APU treats each officer as a separate “case.” As such, all APU data discussed in this report uses the same terminology. While there may be trials or incidents that involve multiple officers, the word “case” should be interpreted as “case against a single officer.”

and tried to handcuff him while the Victim's friend who had been recording the incident on his cellphone yelled at the officers telling them to leave the apartment. The Victim was several inches smaller and thinner than the officers and they held on to him while he squirmed his body. PO Trabolse struck the Victim on his arms as he pushed him into the bed, telling the Victim to give him his hands. The Victim did not do as instructed and PO Trabolse, while he still had the Victim pressed to the bed, deployed his taser in dry stun mode (the electrical contacts are pressed to make direct contact with the skin). The Victim's friend told the Victim to stop resisting and the Victim was handcuffed and escorted out of the apartment by PO Trabolse.

On July 23, 2019, the Board substantiated four (4) total allegations: two (2) Abuse of Authority allegations against PO Trabolse for entering the Victim's home<sup>17</sup> and for threatening to damage the Victim's property<sup>18</sup> and two (2) Use of Force allegations for using physical force against the Victim<sup>19</sup> and for using a taser against the Victim.<sup>20</sup> The APU filed and served Charges and Specifications with a penalty recommendation of forty-five (45) suspension days and one (1) year dismissal probation. On April 22, 2021, and April 23, 2021, a trial was held before ADCT Nancy Ryan. On June 23, 2021, ADCT Ryan issued a decision finding PO Trabolse not guilty on all counts.

ADCT Ryan found that "at the time that he was speaking to [the Victim] at the threshold of the apartment, Respondent Trabolse lacked an arrest warrant. However, there was probable cause to believe that [the Victim] had assaulted Person A, based on the description of the incident and the ID of the perpetrator, the injuries on Person A and the argument taking place when officers arrived. Therefore, Respondent Trabolse could have obtained a search warrant and called for ESU to come forcibly open the door so that he could arrest [the Victim]." ADCT Ryan found that PO Trabolse was in "a continuous pursuit" and that "Respondent Trabolse tried to make a threshold arrest. When [the Victim] again pulled back into the apartment, Respondent Trabolse followed him inside in order to arrest him." ADCT Ryan found that "based on the videos...I find that [the Victim] was indeed actively resisting at the time force was used, as described by the Patrol Guide...the videos make plain that Respondent Trabolse first used punches and then the Taser in order to handcuff [the Victim]. Once [the Victim] was handcuffed, Respondent Trabolse stopped using force." On October 26, 2021, former Commissioner Shea approved ADCT Ryan's recommendations and the not guilty verdict.

### **Case Two, Not Guilty Verdict 201705352 PO Douglas Gerber**

In July 2017, at approximately 4:40 a.m. in Manhattan, the Victim, a Black male in his late thirties was sitting outside his building with a friend. There was a beer can on the ground

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<sup>17</sup> Per Disciplinary matrix – an improper/wrongful search/entry while remaining on the premises has a mitigated penalty of 5 vacation days' forfeiture, a presumptive penalty of 10 vacation days' forfeiture, and an aggravated penalty of 20 vacation days' forfeiture.

<sup>18</sup> Per Disciplinary matrix – enforcement action involving Abuse of Discretion or Authority has a mitigated penalty of 10 vacation days' forfeiture, presumptive penalty of 20 vacation days' forfeiture, and an aggravated penalty of termination.

<sup>19</sup> Per Disciplinary matrix – non-deadly force against another that results in no injury has a mitigated penalty of 5 vacation days' forfeiture, a presumptive penalty of 10 vacation days' forfeiture, and an aggravated penalty of termination.

<sup>20</sup> Per Disciplinary matrix – less lethal force/device against another that results no injury has a mitigated penalty of 10 vacation days' forfeiture, a presumptive penalty of 20 vacation days' forfeiture, and an aggravated penalty of termination.

close to the Victim and his friend. Police Officer Douglas Gerber [the Respondent] approached the Victim and his friend and pointed out the beer can on the ground. The Victim stated that PO Gerber took his identification and issued him a summons for the open beer can.

On January 25, 2018, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegation against PO Gerber for issuing a summons to the Victim.<sup>21</sup> The APU filed and served Charges and Specifications with a penalty recommendation of twenty (20) vacation days forfeiture. On September 16, 2021, a trial was held before ADCT Paul Gamble. On October 13, 2021, ADCT Gamble issued a decision finding PO Gerber not guilty on all counts.

ADCT Gamble found that “the hearsay statements of [the Victim] and [the Victim’s friend] were illogical, self-serving and inconsistent with each other in material aspects.” ADCT Gamble found that “according to Respondent’s credible testimony...[he] observed a can which was in a paper bag, sitting on the ground near both men. He eventually examined the can... and found that it: (1) was open; (2) was cold to the touch; (3) had ‘Plisner’ on the label; and (4) had liquid inside it. There is no dispute that the location where Respondent encountered [the Victim] was and is a public place...based upon those observations, he had reasonable cause to believe that the can contained beer, which would fall under N.Y.C. Administrative Code 10-125’s proscription of alcoholic beverages. As such, Respondent had sufficient legal authority to issue [Victim] a summons for violating this local ordinance.” On November 10, 2021, former Commissioner Shea approved ADCT Gamble’s recommendations and the not guilty verdict.

### **Case Three, Not Guilty Verdict 201802773 DT3 Jovaniel Cordova**

In March 2019, at approximately 5:00 a.m. in Brooklyn, the Victim, a Hispanic female in her mid-twenties was asleep at her home with her boyfriend. They were awakened by a knock at the door. The Victim went to answer the door and was met by Detective Jovaniel Cordova [the Respondent] and another officer. Det. Cordova told the Victim that he had a parole warrant for her boyfriend. The Victim refused to grant entry into her apartment. Det. Cordova stated that he knew that the Victim’s boyfriend was in the apartment. The Victim refused several times to allow Det. Cordova into her apartment. Det. Cordova pushed his way into the apartment.

On July 11, 2019, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegation against Det. Cordova for entering the Victim’s apartment.<sup>22</sup> The APU filed and served Charges and Specifications with a penalty recommendation of twenty-two (20) vacation days forfeiture. On September 22, 2021, a trial was held before ADCT Jeff Adler. On October 20, 2021, ADCT Adler issued a decision finding Det. Cordova not guilty on all counts.

ADCT Adler stated that “Respondent testified that before entering the apartment, he spoke with the building’s superintendent in the hallway who informed him that the [Victim’s boyfriend] did, in fact, reside there with [the Victim], and that he was often in the hallway smoking cigarettes. ADCT Adler stated that “Respondent knocked on the apartment door, which was answered by [the Victim]. Respondent informed her that he had a parole warrant for the parolee, and asked him to come out.” ADCT Adler found that “Respondent did have a

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<sup>21</sup> Per Disciplinary matrix – enforcement action involving Abuse of Discretion or Authority has a mitigated penalty of 10 vacation days’ forfeiture, presumptive penalty of 20 vacation days’ forfeiture, and an aggravated penalty of termination.

<sup>22</sup> Per Disciplinary matrix – an improper/wrongful search/entry while remaining on the premises has a mitigated penalty of 5 vacation days’ forfeiture, a presumptive penalty of 10 vacation days’ forfeiture, and an aggravated penalty of 20 vacation days’ forfeiture.

reasonable belief that the parolee was residing at [the Victim's address] at the time the warrant was executed...and that the parolee was actually present inside at the time...after the parolee absconded from the men's shelter, it was not unreasonable for Respondent to go the [Victim's] apartment to investigate whether the parolee had returned to live there with his fiancée, at the very same address he had specifically requested to be his residence." Finally, ADCT Adler found that "Detective Desideri who was watching the rear window in case the subject tried to escape, observed the parolee inside the apartment and relayed that information to Respondent...based on the totality of circumstances, it was reasonable for Respondent to believe that the parolee was living at the [Victim's] apartment, and that he was present inside at the time the warrant was executed." On November 16, 2021, former Commissioner Shea approved ADCT Adler's recommendations and the not guilty verdict.

#### **Case Four, Not Guilty Verdict** 201708620 PO Christopher Arena

This case is from the same incident described in Case Seven (7) (from the Guilty Verdicts section), for PO Christopher Arena [Respondent 2]. In October 2017, at approximately 10:45 p.m. in Manhattan, the Victim, a Hispanic male in his late thirties, was driving on a highway headed to New Jersey when he saw an unmarked black, four door Ford activated turret lights behind him. The Victim believed the vehicle was a police vehicle, so he pulled over and laid face down on the ground with his arms stretched out on either side of his body as a sign of surrender. Police Officer Mark Ruppert [Respondent 1] and Police Officer Christopher Arena [Respondent 2] exited the unmarked vehicle. PO Arena kicked the Victim in his face and head. The Victim stated that he was bleeding profusely from his head and that his left ear was partially hanging off his head. He was transported back to a precinct in New York but received no medical attention for over four hours. When he was taken to the hospital, he was diagnosed with two skull fractures, back injuries, and a partially severed ear that required reconstructive surgery.

On March 28, 2019, the Board substantiated three (3) total allegations: two (2) Abuse of Authority allegations against PO Arena for pursuing a vehicle in which the Victim was an occupant<sup>23</sup> and for failing to secure medical treatment for the Victim<sup>24</sup> and, one (1) Use of Force allegation for using force against the Victim.<sup>25</sup> The APU filed and served Charges and Specifications with a penalty recommendation of fifteen (15) days' vacation forfeiture for PO Arena. On March 5, 2021, a trial was held before ADCT Nancy Ryan. On April 21, 2021, ADCT Ryan issued a decision finding PO Arena not guilty on all counts.

ADCT Ryan stated that the Respondents testified that "they saw [the Victim]'s vehicle, which had no lights on, pass their van...while they were about one car length behind [Victim], his car took off at a high rate of speed...Respondents saw a black bag thrown out of the driver's side window." ADCT Ryan found that "video evidence from a camera...captures [the Victim]'s car arriving...and shows it rolling backwards...Respondents' vehicle arrives seconds behind [the

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<sup>23</sup> Per Disciplinary matrix – enforcement action involving Abuse of Discretion or Authority has a mitigated penalty of 10 vacation days' forfeiture, presumptive penalty of 20 vacation days' forfeiture, and an aggravated penalty of termination.

<sup>24</sup> Per Disciplinary matrix – intentional/reckless failure to obtain medical attention in the face of apparent or visible injury/illness has a mitigated penalty of 20 vacation days' forfeiture, a presumptive penalty of 30 vacation days' forfeiture + one (1) year dismissal probation, and an aggravated penalty of termination.

<sup>25</sup> Per Disciplinary matrix – non-deadly force against another that results in physical injury has a mitigated penalty of 10 suspension days, a presumptive penalty of 10 suspension days + 10 vacation days' forfeiture, and an aggravated penalty of termination.

Victim]’s car.” ADCT Ryan found that “[the Victim]’s testimony concerning the force used by the officers to be incredible... [the Victim]’s version of what happened is also called into question due to his acknowledgement that he used drugs on the day of the incident and was experiencing withdrawal shortly after the time of the incident about which he testified.” ADCT Ryan found that “[the Victim]’s explanation that he simply doesn’t bruise does not credibly explain why there are no visible facial lacerations, except to his ear, nor why there is no facial swelling...the only signs of what may possibly be blood on [the Victim]’s clothing are a few spots on his shirt and shorts.”

ADCT Ryan found that “medical records also do not...support... [the Victim]’s version of events...the hospital released [the Victim] with simply suturing his ear and prescribing an antibiotic, acetaminophen and an inhaler and referring him for suture removal.” ADCT Ryan found that “the officers had no reason to request an ambulance to the scene for [the Victim] based on their observations of him. It was extremely dark at the scene...the small spots of possible blood on [the Victim]’s clothing would first of all have been difficult to see and secondly were of such small size that they would not indicate a need for an ambulance or immediate medical attention to a reasonable person.” ADCT Ryan stated that Respondents “described the difficulty they had in attempting to handcuff [the Victim]. They acknowledged wrestling with the [Victim], who was resisting arrest. The force they described using in grabbing [the Victim]’s arms was reasonable in a situation where he refused to uncover his hands to be handcuffed.” On October 14, 2021, former Commissioner Shea approved ADCT Ryan’s recommendations and the not guilty verdict.

### **III. Treatment of APU Pleas**

In the fourth quarter of 2021, the Department finalized zero (0) pleas. The APU makes penalty recommendations for all cases in which Charges and Specifications are substantiated by the Board. The APU uses several factors to determine these recommendations, including, but not limited to a member of service’s (“MOS”) length of service, rank, disciplinary history, the facts of the instant case, the strength of the instant case, the vulnerability of the victim, the extent of injury – if any, the number of Complainants, precedent cases involving analogous charges, and the NYPD Disciplinary Matrix. The APU penalty recommendations tend to be consistent for MOS who are similarly situated.

<b>Pleas Closed</b>				
<b>Period</b>	<b>Plea Approved</b>	<b>Pleas Closed At Discipline Level Below Agency Recommendations</b>		
		<b>Plea Penalty Reduced</b>	<b>Plea Set Aside, Discipline Imposed</b>	<b>Plea Set Aside, No Discipline Imposed</b>
4 <sup>th</sup> Quarter 2018	4	0	0	0
1 <sup>st</sup> Quarter 2019	1	0	0	0
2 <sup>nd</sup> Quarter 2019	4	0	0	0
3 <sup>rd</sup> Quarter 2019	2	1	0	0
4 <sup>th</sup> Quarter 2019	1	0	0	0
1 <sup>st</sup> Quarter 2020	1	1	0	0
2 <sup>nd</sup> Quarter 2020	2	2	0	0

3 <sup>rd</sup> Quarter 2020	2	2	0	0
4 <sup>th</sup> Quarter 2020	0	0	0	0
1 <sup>st</sup> Quarter 2021	0	0	0	0
2 <sup>nd</sup> Quarter 2021	0	0	0	0
3 <sup>rd</sup> Quarter 2021	1	0	0	0
<b>4<sup>th</sup> Quarter 2021</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

As seen in the chart above, in the fourth quarter of 2021 there were no cases in which a guilty plea was finalized.

**IV. Cases Retained by the Police Commissioner**

In the fourth quarter of 2021, former Police Commissioner Shea retained eight (8) cases pursuant to Provision Two of the MOU between the CCRB and NYPD.

Provision Two of the MOU states:

in those limited circumstances where the Police Commissioner determines that CCRB’s prosecution of Charges and Specifications in a substantiated case would be detrimental to the Police Department’s disciplinary process, the Police Commissioner shall so notify CCRB. Such instances shall be limited to such cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer’s record and disciplinary history the interests of justice would not be served.

**Cases One and Two, Retained Without Discipline** 202003712 PO Evan Angels & PO Vincent Harris

In May 2020, at approximately 10:00 p.m. in Manhattan, Police Officer Evan Angels [Respondent 1] and Police Officer Vincent Harris [Respondent 2] were following a large protest. The incident was captured on BWC, and video clips posted to the internet. PO Harris deployed pepper spray in the direction of protesters and other officers. PO Harris moved to a scaffolding structure and continued to disperse pepper spray. An orange traffic cone was thrown from behind PO Harris by an unidentified individual and it struck PO Harris’s right hand. PO Harris turned to his right and charged towards an unidentified civilian. PO Harris shoved the civilian off their feet, and they fell to the ground. PO Harris turned, and pepper sprayed a nearby civilian. Neither civilian had made any movements towards PO Harris. PO Harris then approached the Victim, a white non-binary individual in their late thirties. The Victim noticed the pepper spray canister in PO Harris’s hand and moved away. PO Harris proceeded to join another officer who was keeping the crowd away from a civilian who was being arrested. PO Harris pepper sprayed the crowd. PO Angels was at another section of the protest and was walking backwards as protestors

walked towards him and other officers. One of the protestors had both hands up in the air as they walked, and PO Angels pepper sprayed the group of protestors.

On May 12, 2021, the Board substantiated six (6) total allegations: five (5) Use of Force allegations against PO Harris for using pepper spray against individuals, using physical force against an individual, using pepper spray against an individual, threatening the Victim with use of force, and using pepper spray against individuals; one (1) Use of Force allegation against PO Angels for using pepper spray against individuals. On December 24, 2021, former Commissioner Shea retained the cases and chose not to pursue any disciplinary action against either Respondent stating that “notwithstanding the concerns expressed in your response letter, the Police Commissioner maintains that it would be detrimental to the Police Department’s disciplinary process.”

### **Case Three, Retained Without Discipline** 2020003920 INS Steven Ortiz

In June 2020, at approximately 8:30 p.m. in Manhattan, the Victim, a Hispanic male in his mid-twenties, was returning to his home base restaurant after completing a food delivery order. He was riding his bicycle by a group of protestors and saw a group of officers arresting a female jogger whom the Victim had seen earlier in the day. He stopped his bicycle and yelled at the officers that the jogger had done nothing wrong. One of the officers told the Victim to leave. As the Victim proceeded to leave, Inspector Steven Ortiz [the Respondent] instructed an officer to arrest the Victim. The arrest was captured on video.

On April 23, 2021, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegation against Ins. Ortiz for detaining the Victim. On December 31, 2021, former Commissioner Shea retained the case and chose not to pursue any disciplinary action against the Respondent stating that “Inspector Ortiz directed the arrest of an individual for a curfew violation and for causing public alarm during the arrest of a female individual...Inspector Ortiz stated that the male individual was a mere arm’s length away from the officers and had initially refused multiple orders to disperse...as the male individual began to ride away he was stopped and arrested. It was determined a short time later that the individual was a bicycle delivery worker, and was exempt from the curfew law under the essential worker exception.” The former Commissioner determined that “the arrest was valid at the time it was made.”

### **Case Four, Retained Without Discipline** 202003969 SGT Robert Wong

In May 2020, at approximately 9:00 p.m. in Manhattan, officers attempted to disperse a crowd of protestors. Sergeant Robert Wong [the Respondent] approached an individual who was standing away from the crowd of protestors. The individual was holding up a sign with both hands. Sgt. Wong approached the individual and pepper sprayed them. The incident was captured on BWC.

On October 1, 2021, the Board substantiated one (1) total allegation: one Use of Force allegation against Sgt. Wong for using pepper spray against an individual. On December 22, 2021, former Commissioner Shea retained the case and chose not to pursue any disciplinary action against the Respondent stating that “during the volatile incident Sergeant Wong was faced with a hostile crowd that was launching projectiles- including rocks and bottles- against him and his fellow officers. Members of the crowd were verbally instructed by Sergeant Wong and his fellow officers to disperse...the crowd were then physically directed...to vacate the

area...several members of the crowd still refused to disperse, Sergeant Wong deployed his Oleoresin Capsicum Pepper Spray in order to ensure a safe retreat for him and his fellow officers.”

**Case Five, Retained Without Discipline** 202003980 CPT Tarik Sheppard

In June 2020, at approximately 8:00 p.m. in Brooklyn, the Victim, a Black female in her late twenties, was participating in a protest. The Victim and approximately fifty (50) other protestors were engaged in a standoff with police officers. The Victim and the protestors walked away from the officers when they realized that they couldn’t get past the officers. As the crowd dispersed, officers began to tackle and arrest the protestors. The Victim made it to an apartment building and began filming the officers, focusing on an officer who struck a protestor with his baton. The Victim yelled at the officer to leave the protestor alone. A friend called the Victim and the Victim started walking and yelling out her name to try to locate her. Captain Tarik Sheppard [the Respondent] tackled the Victim to the ground without issuing her any commands. Two other officers held the Victim on the ground as she screamed for help as they rolled her onto her stomach and handcuffed her. Cpt. Sheppard stood up, told the officers to stand back and then deployed his taser on the Victim. The incident was captured on a bystander cellphone video.

On June 28, 2021, the Board substantiated two (2) total allegations: two (2) Use of Force allegations against Cpt. Sheppard for using physical force against the Victim, and for using a taser against the Victim. On December 27, 2021, former Commissioner Shea retained the case and chose not to pursue any disciplinary action against the Respondent stating that “the underlying incident was already investigated by IAB, and the allegation of misconduct with regard to Captain Sheppard’s actions was unsubstantiated. Nothing that was uncovered by CCRB and provided to the Department warrants a departure from the findings of IAB.”

**Cases Six, Seven, and Eight, Retained With Discipline** 201909547 LT John Dasaro, PO Shingru Wang, DI Megan O’Malley

In October 2019 at approximately 8:20 p.m. in Brooklyn, Victim 1 – a 14-year-old Black male, Victim 2 – a 15-year-old Black male, Victim 3- a 14-year-old Black male, Victim 4 – a 15-year-old Black male, and Victim 5 – a 12-year-old Black male were out trick-or-treating with a group of approximately 10 other teenagers when they were approached by multiple police vehicles from which multiple plainclothes police officers exited. The incident was captured on BWC. Victim 1 and Victim 2 stayed still while the rest of the Victims and their friends fled. Lieutenant John Dasaro [Respondent 1] chased Victim 3 on foot and pulled his gun on the teen, and said “stop right now bro, get on the fucking floor.” Victim 3 stopped running, put his hands out in front of his body and got on the ground. Other officers handcuffed him. When Victim 3 spoke to the officers, Lt. Dasaro told him “shut up” and “the fuck up.” Police Officer Shingru Wang [Respondent 2] caught and took Victim 4 to the ground. After Victim 4 was handcuffed, PO Wang frisked his waistband and removed his backpack by cutting one of its straps with a knife even as Victim 4 asked him not to damage his backpack. Lt. Dasaro frisked Victim 3’s pants pockets —from which Lt. Dasaro removed a cellphone that he examined before handing it back to Victim 3, frisked Victim 4’s pant pockets, and supervised the frisking of Victim 1 and Victim 2 and the search of Victim 4 by another officer. The five Victims asked several officers why they had been stopped, pursued, and handcuffed. The senior officer on the scene, Deputy

Inspector Megan O'Malley [Respondent 3], provided no answers to their inquiries. DI O'Malley then had Victim 3, Victim 4, and Victim 5 arrested for obstructing governmental administration.

On November 9 2021, the Board substantiated seventeen (17) total allegations: seven (7) Abuse of Authority allegations against Lt. Dasaro for stopping Victim 1 and Victim 2, pointing his gun at Victim 3, frisking Victim 1 and Victim 2, and searching Victim 3 and Victim 4, and one (1) Discourtesy allegation for speaking discourteously to Victim 3; two (2) Abuse of Authority allegations against PO Wang for frisking Victim 4 and damaging his property; eight (8) Abuse of Authority allegations against DI O'Malley for failing to explain the reason for a law enforcement activity to Victim 1, Victim 2, Victim 3, Victim 4, and Victim 5 and for arresting Victim 3, Victim 4, and Victim 5.

On December 14, 2021, former Commissioner Shea retained the case and imposed discipline on some allegations. The former Police Commissioner imposed training on all the allegations concerning DI O'Malley, stating that it was "the most appropriate manner to address the allegations" and that he "considered the length of time that has passed since the underlying incident, and the realm of discretion and judgment that is addressed in the substantiated allegations." The former Police Commissioner imposed no penalty on Lt. Dasaro for pointing his gun stating that "the decision to briefly point his firearm at the suspect was...at that moment in time, within his reasonable discretion and does not amount to misconduct." The former Police Commissioner imposed a Command Discipline B on Lt. Dasaro for his remaining allegations. The former Police Commissioner imposed no discipline on PO Wang for property damage stating that "Officer Wang's decision regarding how to remove the handcuffed individual's backpack was reasonable and appropriate in connection with the performance of his police duties and was, at that moment, selected as the least dangerous alternative to address a potential risk to all parties." The Police Commissioner imposed a Command Discipline A on PO Wang on his remaining allegation.

## **V. Dismissal of Cases by the APU**

If, while investigating a case, the APU discovers new evidence that makes it improper to continue to prosecute misconduct against a MOS, the APU dismisses the Charges against that Respondent. The APU did not dismiss any cases against an officer in the fourth quarter of 2021.

## **VI. Cases Administratively Closed by the Police Commissioner**

In the fourth quarter of 2021, former Commissioner Shea administratively closed five (5) cases.

### **Case One, Administratively Closed 201910774 PO Miguel Leon**

In December 2019, at approximately 1:00 p.m. in Queens, the Victim, a male in his mid-forties, was being detained in an ambulance with a knee injury he obtained from a dispute with an employee of a dealership. He was strapped down on a stretcher when Police Officer Miguel Leon [the Respondent] stepped into the ambulance as the Victim was speaking to another officer

about the dispute. PO Leon told the Victim “I have no fucking clue who this guy is, and I don’t care, and he doesn’t care about you. I’m here because I was called.” Two days later, the Victim was at the precinct at his lawyer’s direction to obtain a copy of the police report related to his dispute with the dealership employee. He saw PO Leon and approached him to ask about the report. PO Leon told him that there was no report but that he could file a harassment report instead. The Victim stated that he was assaulted, not harassed at the dealership. The Victim told PO Leon that he was treating him badly because of his race and religion and PO Leon replied that he “did not give a fuck.”

On October 6, 2021, the Board substantiated two (2) total allegations: two (2) Discourteous allegations against PO Leon for speaking discourteously to the Victim on two different days. The APU filed charges and was informed by the Department that PO Leon retired from the Department before further action could be taken.

**Case Two, Administratively Closed 202003822 SGT Edward Mullins**

In May 2020, at approximately 11:30 p.m. Sergeant Edward Mullins [the Respondent] used the Sergeants Benevolent Association (SBA)’s verified Twitter account to post a message that included a screenshot of the Victim (the adult child of a prominent New York politician)’s, arrest report, which contained personal information including date of birth and address. The post was taken down by Twitter because it was in violation of its policies, but the post had already been preserved via screenshot and disseminated to people in the media.

On February 10, 2021, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegation against Sgt. Mullins for disseminating information regarding the Victim’s arrest. On February 22, 2021, the IAB filed charges against Sgt. Mullins. The Agency was informed that Sgt. Mullins retired from the Department before further action could be taken.

**Case Three, Administratively Closed 201909573 PO Joseph Singh**

In November 2019, at approximately 4:30 a.m. in Brooklyn, the Victim, a mid-twenties female was at a precinct after being arrested for DWI. She was escorted to the booking location by Police Officer Joseph Singh [the Respondent]. The Victim had her Halloween costume confiscated as part of arrest procedures and was given a hooded sweatshirt to wear over her shorts. Her face makeup, a black eye was left untouched. PO Singh escorted the Victim past holding cells housing male prisoners who made rude comments and romantic overtures to the Victim. They also made reference to her black eye makeup. The Victim was taken to a medic for examination. She left the line, while PO Singh stayed close by as she vomited into a nearby trashcan. She rejoined the line and PO Singh told her, “all the men in those holding cells over there want me to bring you over there, but I told them I have first dibs.”

On November 9, 2021, the Board substantiated two (2) total allegations: one (1) Discourteous allegation against PO Singh for speaking discourteously to the Victim and one (1) Abuse of Authority for threatening the Victim with the use of force. The CCRB was informed by the Department that they would not serve charges on PO Singh.

**Case Four, Administratively Closed 202000872** LT David Sansone

In January 2020, at approximately 10:30 p.m. in Manhattan, Victim 1, an early thirties Black male was on the ground while being handcuffed. Lieutenant David Sansome [the Respondent] called in the arrest over the radio. Victim 2, a mid-forties male was recording the arrest with his cellphone and captured the entire incident. Lt. Sansome told Victim 1, “you suck, and you are a fucking asshole.” Lt. Sansone then repeatedly yelled at Victim 2 to step back from the officers and stop moving closer. Victim 2 was standing approximately three to four feet away from the officers arresting Victim 1. Victim 2 told Lt. Sansone that he was standing still and not moving closer. Victim 2 asked Lt. Sansone for his name. Lt. Sansone replied “do you think now is the time to ask me for my fucking name?” Victim 2 continued filming to capture Lt. Sansome’s shield number and Lt. Sansone yelled at him and advanced towards Victim 2. Another officer stopped Lt. Sansone by placing a hand on his chest and standing between Victim 2 and Lt. Sansone. On December 5, 2020, Lt. Sansone was issued a Command Discipline B and two (2) days’ vacation forfeiture by his precinct commander. The Department closed CCRB’s case, as it was previously adjudicated with discipline.

**Case Five, Administratively Closed 201908017** LT Forrest Hirsch

In September 2019 at approximately 10:20 p.m. in Brooklyn, Victim 1, a Black female in her early forties arrived at a precinct stationhouse seeking information regarding an arrested family member. She did not receive any assistance and she attempted to take photos when officers told her that she couldn’t do so. She began to exit the precinct stationhouse and officers followed her and handcuffed her. Lieutenant Forrest Hirsch [the Respondent] was captured on BWC holding Victim 1’s glasses and Victim 1 telling him “don’t throw my fucking glasses” and Lt. Hirsch responded, “they’re broken already.” The glasses are then thrown towards a desk. Victim 1 was arrested and charged with disorderly conduct, criminal trespass and resisting arrest. Approximately an hour later, Victim 2, a Black male in his mid-twenties along with two other individuals arrived at the same precinct stationhouse. Victim 2 stated that he was looking for his mother, Victim 1. As they tried to get information, officers told them to leave. Victim 2 and his companions left and Victim 2 was on the phone with an attorney when the officers followed them out of the precinct stationhouse. The officers tried to arrest them, and Victim 2 asked for Lt. Hirsch’s name and shield number and in response Lt. Hirsch told him “You say a fucking word inside that precinct you’re going to have a long fucking night.” The incident was captured on BWC and stationhouse footage.

On September 22, 2021, the Board substantiated two (2) total allegations: two (2) Discourteous allegations against Lt. Hirsch for acting discourteously towards Victim 1 and for speaking discourteously to Victim 2. The Agency was informed by the Department that they would not serve charges on Lt. Hirsch.

**VII. The APU's Docket**

As seen in the following table, the APU’s docket had significant growth in the fourth quarter of 2021 compared to the fourth quarter of 2020. This can be attributed to the substantiation of Charges and Specifications of allegations arising from complaints filed during the summer protests of 2020 and the use of the Disciplinary matrix.

<b>Cases in Open Docket<sup>26</sup></b>					
Period	Start of Quarter	Received During Quarter	Closed During Quarter	End of Quarter	Growth
4 <sup>th</sup> Quarter 2018	93	16	12	97	4.3%
1 <sup>st</sup> Quarter 2019	97	28	5	120	23.7%
2 <sup>nd</sup> Quarter 2019	120	22	20	122	1.7%
3 <sup>rd</sup> Quarter 2019	122	11	10	123	0.8%
4 <sup>th</sup> Quarter 2019	123	23	20	126	2.4%
1 <sup>st</sup> Quarter 2020	122	5	8	119	-2.5%
2 <sup>nd</sup> Quarter 2020	119	21	23	117	-1.7%
3 <sup>rd</sup> Quarter 2020	115	3	6	114	-0.9%
4 <sup>th</sup> Quarter 2020	114	6	3	117	2.6%
1 <sup>st</sup> Quarter 2021	115	4	7	112	-2.6%
2 <sup>nd</sup> Quarter 2021	113	50	3	159	40.7%
3 <sup>rd</sup> Quarter 2021	151	65	14	198	31.1%
<b>4<sup>th</sup> Quarter 2021</b>	<b>193</b>	<b>51</b>	<b>25</b>	<b>217</b>	<b>12.4%</b>

### VIII. Time to Serve Respondents

As can be seen in the following chart, the length of time the Department took to serve Respondents after the APU filed charges with the Charges Unit increased between the third and fourth quarters of 2021. As of December 31, 2021, there were thirty-seven (37) Respondents who had not been served with Charges. The average wait time for Respondents to be served charges between the third quarter of 2021 at twenty-two (22) days and the fourth quarter of 2021 at forty (40) days marks a significant increase.

<b>Time to Serve Respondents</b>			
Period	Number of Respondents Served	Average Length to Serve Respondents	Average Length to Serve Respondents (Business Days)
4 <sup>th</sup> Quarter 2018	15	105	75
1 <sup>st</sup> Quarter 2019	24	115	82
2 <sup>nd</sup> Quarter 2019	11	76	54
3 <sup>rd</sup> Quarter 2019	17	67	48
4 <sup>th</sup> Quarter 2019	7	68	48

<sup>26</sup> The number of cases in the open docket were updated to reflect additional data received from the Department with regards to the closure of long-standing cases.

1 <sup>st</sup> Quarter 2020	10	129	92
2 <sup>nd</sup> Quarter 2020	18	62	44
3 <sup>rd</sup> Quarter 2020	16	88	63
4 <sup>th</sup> Quarter 2020	6	71	51
1 <sup>st</sup> Quarter 2021	2	66	47
2 <sup>nd</sup> Quarter 2021	13	20	14
3 <sup>rd</sup> Quarter 2021	46	22	15
<b>4<sup>th</sup> Quarter 2021</b>	<b>40</b>	<b>40</b>	<b>28</b>

In this quarter, the ADCTs used the Disciplinary Matrix in evaluating the penalties recommended by CCRB. There were four (4) guilty verdict reversals by former Commissioner Shea, driving down the concurrence rate. We hope that future guilty verdicts are upheld by the Police Commissioner.

Thank you for your consideration.

Sincerely,

Jonathan Darche  
Executive Director

Cc: CCRB Interim Chair Arva Rice  
Deputy Commissioner Rosemarie Maldonado  
Deputy Commissioner Amy Litwin