



CIVILIAN COMPLAINT REVIEW BOARD

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



Semi-Annual Report

2021

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MISSION

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

IN FULFILLMENT OF ITS MISSION, THE BOARD PLEDGES TO:

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

LETTER FROM THE CHAIR



Dear Fellow New Yorkers,

We made it through the first half of 2021 still amid the COVID-19 pandemic. The Agency continues to make progress in the realm of providing services to our community despite the challenges brought on by the pandemic. We welcomed two new Board members – Arva Rice, and Rev. Dr. Demetrius S. Carolina Sr. We hired our first ever Director of the newly created Racial Profiling and Bias Policing Unit and have grown our staff to over two hundred people. We continue to investigate civilian complaints – of particular note are the complaints we received surrounding the Black Lives Matter protests from last summer. To date, our Investigative Division have fully investigated 152 complaints related to the protests and of those 152 cases, 53 were substantiated. Those 53 complaints contain 108 allegations against 80 officers. Our Administrative Prosecution Unit will undertake prosecuting those cases as needed. Our Policy Unit is also analyzing these protest cases to better understand what type of policing was experienced by complainants at the protests and will provide recommendations to the NYPD to improve their planning and response to such events.

The Agency's Outreach Division successfully pivoted to remote outreach venues, and launched several initiatives in partnership with local, community-based organizations and trusted community members aimed at alerting New Yorkers to resources available to them. Some of the initiatives include CCRB Courtside, CCRB Cares, and CCRB Block by Block.

The Agency continues to work towards strengthening independent police oversight and increasing accountability of officers who commit misconduct. The City Council passed legislation granting the CCRB the ability to self-initiate complaints, and we continue to push for an exemption of the CCRB from sealing statutes, the ratification of the Dinkins Plan which provides for a systematic review of NYPD policy and practices, and the transfer of final disciplinary authority over CCRB cases to the Board. These changes, coupled with increased access to police documents, data, and footage, are integral to the CCRB's ability to hold officers accountable, enshrine civilian oversight, and protect the most vulnerable New Yorkers.

Sincerely,

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

Fred Davie

EXECUTIVE SUMMARY

KEY FINDINGS: CCRB ACTIVITY

In the first half of 2021, the CCRB received 1,749 complaints within its jurisdiction. The CCRB substantiated 74 complaints (31%), was unable to determine whether misconduct occurred in 67 complaints (28%), found that 37 (15%) complaints were within NYPD guidelines, and concluded that 16 (7%) complaints were unfounded.

The Agency's Administrative Prosecution Unit won disciplinary action against six officers who were found guilty after trial and three officers whose cases were resolved by plea.

The NYPD concurred with the CCRB's discipline recommendation in 104 (75%) non-APU complaints, and in four (36%) APU cases.

AGENCY HIGHLIGHTS IN 2021

Implementation of the Disciplinary Matrix

On February 4, 2021¹, the CCRB and the NYPD signed a new agreement to implement a new Disciplinary Matrix that laid out penalties for a wide range of police misconduct. The new matrix is a step towards greater transparency regarding the assessments that constitute discipline for officers who are found guilty of engaging in police misconduct. The matrix groups penalties into three categories: mitigated, presumptive, and aggravated. These categories escalate the level of penalty across multiple types of police misconduct. The goal of breaking down police misconduct into a defined range of categories is to enable both the CCRB and the NYPD to better prescribe penalties for misconduct and to increase coherence of penalties across all categories of substantiated police misconduct.

Racial Profiling and Bias Based Policing Unit

On April 25, 2021², the New York City Council passed Intro 2212-A, Resolution on Police Reform that expanded the CCRB's jurisdiction to investigate allegations that members of the NYPD engaged in racial profiling and bias-based policing and the CCRB was empowered to look back five years into NYPD conduct to determine whether a pattern of such practices of misconduct were present. The CCRB has assembled a brand-new Racial Profiling and Bias Based Policing Unit led by a newly appointed Director who is a foremost expert in the field of bias-based policing to lead this unit.

Outreach

In October 2020, the CCRB and the New York City Young Men's Initiative (YMI) announced a partnership that provides the CCRB with dedicated public education funding for the first time in the agency's 26-year history. The funds consist of \$50,000 for targeted radio and social media advertising. The first of such advertisements rolled out in July 2021. The CCRB also partnered with the New York City Department of Youth and Community Development (DYCD) internship programs to train youth education trainers who will in turn educate thousands of their peers on when and how to contact the CCRB.

Black Lives Matter Protests

As a result of the May 25, 2020 killing of George Floyd by former police officer Derek Chauvin in Minneapolis, the summer of 2020 saw a massive wave of protests in New York City. These protests were met by a militarized response by the NYPD. To date the CCRB has fully investigated 152 complaints from the protests and substantiated 53 complainants against 80 officers. The Board had

¹<https://www1.nyc.gov/office-of-the-mayor/news/082-21/nypd-ccrb-sign-mou-strengthening-discipline-matrix>

²https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/news/press-releases/2021/ADV_Sep2021.pdf

recommended serving Charges in 47 complaints, Command Discipline B in 12 complaints, and Command Discipline A in 23 complaints. The Agency will also publish its own report on the protest cases in the future.

INTRODUCTION: THE BOARD AND AGENCY OPERATIONS

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

Board members review and make findings on all misconduct complaints once they have been fully investigated. The Board consists of 15 members: the City Council appoints five Board members (one from each borough); the Police Commissioner designates three; the Public Advocate Appoints one; and the Mayor appoints five. The Chair of the Board is jointly appointed by the Mayor and Speaker of the City Council.³

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

From 1993 to 2013, all cases in which the Board determined that an officer committed misconduct were referred to the Police Commissioner with a discipline recommendation. Pursuant to a Memorandum of Understanding between the CCRB and the NYPD (effective April 11, 2013), a team of CCRB attorneys from the Agency's Administrative Prosecution Unit (APU) handle 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.

³ The 2019 New York City Charter Revision Commission, following an extensive public review process, proposed five amendments to Chapter 18A of the Charter, which governs the operations of the CCRB. These amendments were included in a ballot question, as enumerated below, for New Yorkers to vote upon, and on November 5, 2019, were passed by a majority of voters. One of the changes, which went into effect on March 31, 2020, increased the size of the Board from 13 to 15 members by adding one member appointed by the Public Advocate and adding one member jointly appointed by the Mayor and Speaker of the Council who will serve as CCRB Chair. The Final Report of the 2019 Charter Revision Commission can be accessed at <https://www.charter2019.nyc/finalreport>

SECTION 1: COMPLAINT ACTIVITY

CCRB COMPLAINTS RECEIVED

For most New Yorkers contact with the CCRB begins with filing a complaint alleging police misconduct. This section covers the number of complaints received and their characteristics.

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

Following passage of a ballot measure revising the New York City Charter on November 5, 2019, the CCRB is further authorized to investigate the truthfulness of an official statement made by a subject officer during a CCRB investigation into a FADO allegation. This expanded jurisdiction Force, Abuse of Authority, Discourtesy, Offensive Language, and Untruthful Statements (FADO&U) went into effect on March 31, 2020.

Figure 01: Complaints Received Within CCRB Jurisdiction

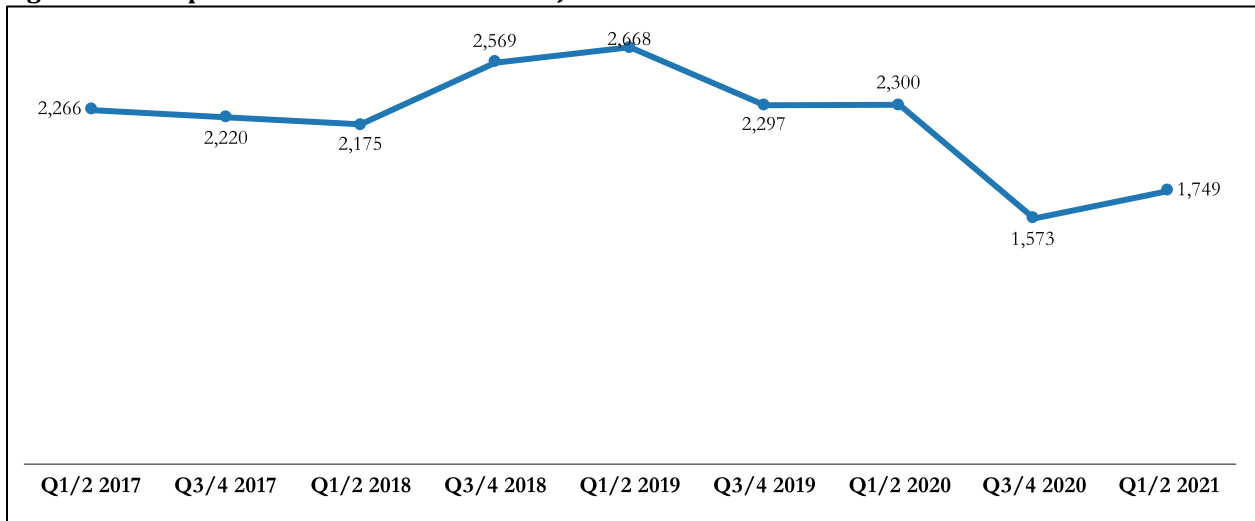
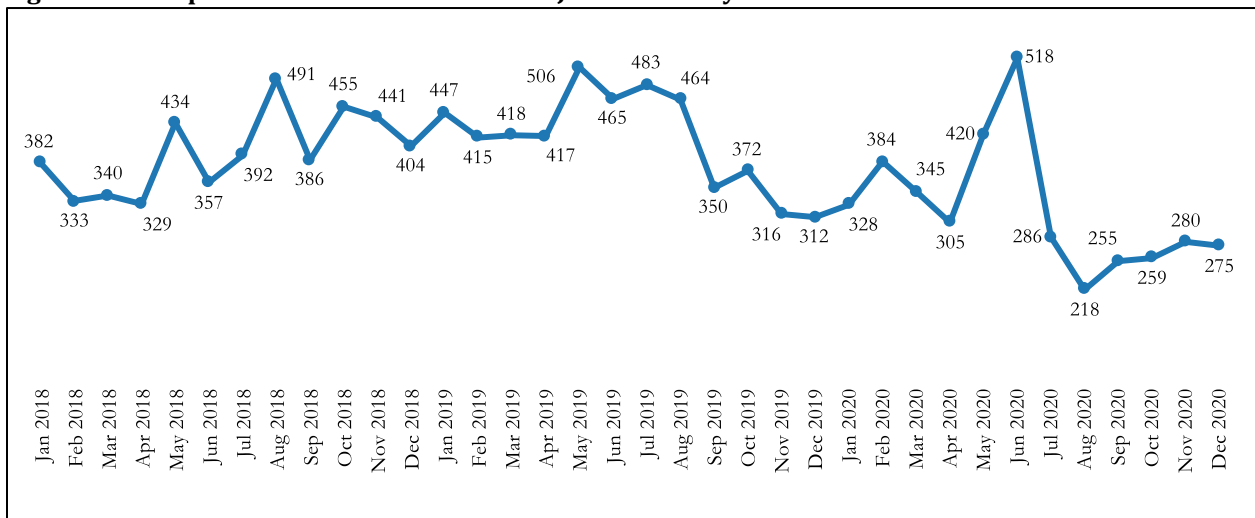


Figure 02: Complaints Received Within CCRB Jurisdiction by Month



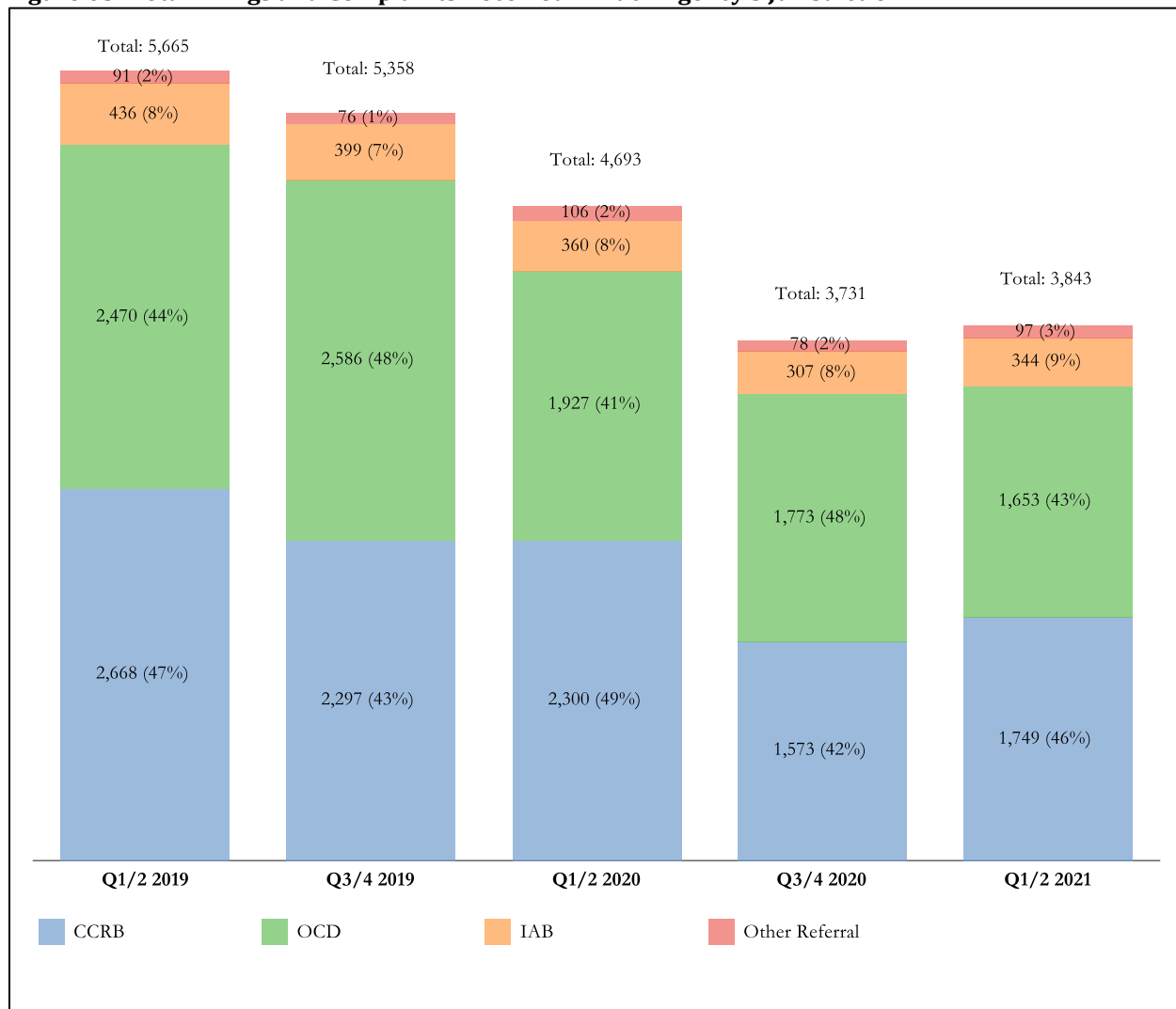
CCRB JURISDICTION AND TOTAL FILINGS

The CCRB receives a number of complaints that fall outside of the Agency’s FADO jurisdiction. These complaints are entered into the CCRB’s Complaint Tracking System and subsequently referred to the governmental entities with the jurisdiction to process them.

The NYPD has two divisions that are the primary recipients of the CCRB referrals - the Office of the Chief of Department (OCD), which investigates alleged lower-level violations of the NYPD Patrol Guide, and the Internal Affairs Bureau (IAB), which is tasked with investigating allegations such as corruption or criminal behavior. Individuals whose complaints are referred by the CCRB are mailed a tracking number so that they can follow up on their complaints with the appropriate agency.

Examples of complaints the CCRB might receive that do not fall within the Agency’s jurisdiction include: (1) complaints against Traffic Enforcement Agents and School Safety Agents; (2) complaints against an NYPD officer involving a summons or arrest dispute that does not include a FADO allegation; (3) complaints against an NYPD officer involving corruption; and (4) complaints against individuals who are not members of the NYPD, such as law enforcement from other municipalities, state police, or members of federal law enforcement, like the Federal Bureau of Investigation (FBI).

Figure 03: Total Filings and Complaints Received in Each Agency’s Jurisdiction



PLACE AND MODE OF FILING

The CCRB's Intake Unit receives and processes complaints filed directly with the CCRB. The Agency also receives complaint referrals from IAB and other government offices.

The Agency is better able to fully investigate complaints when they are filed directly with the CCRB (see Fig. 23). When complaints are not filed directly with the CCRB, the Agency must make initial contact with the complainant/victim, who may not have been informed that the complaint was referred to the CCRB for investigation.

Figure 04: Complaints Received by Complaint Place

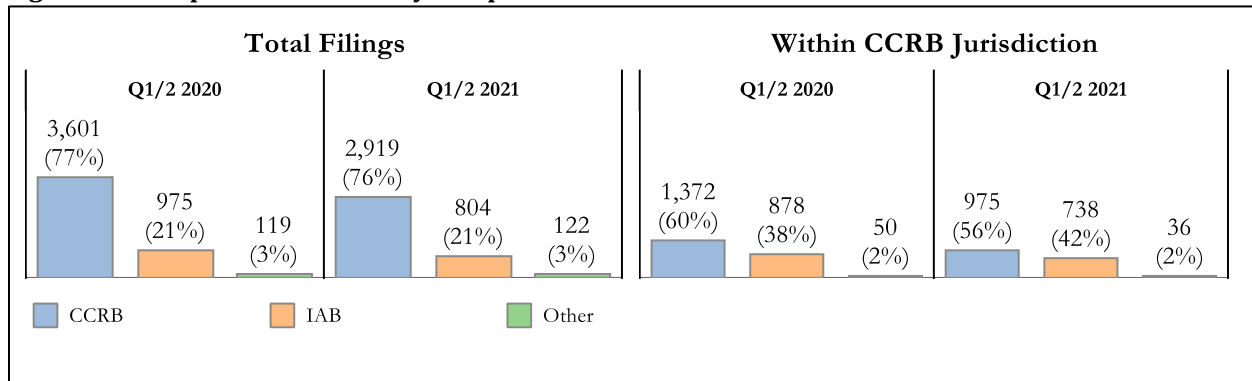
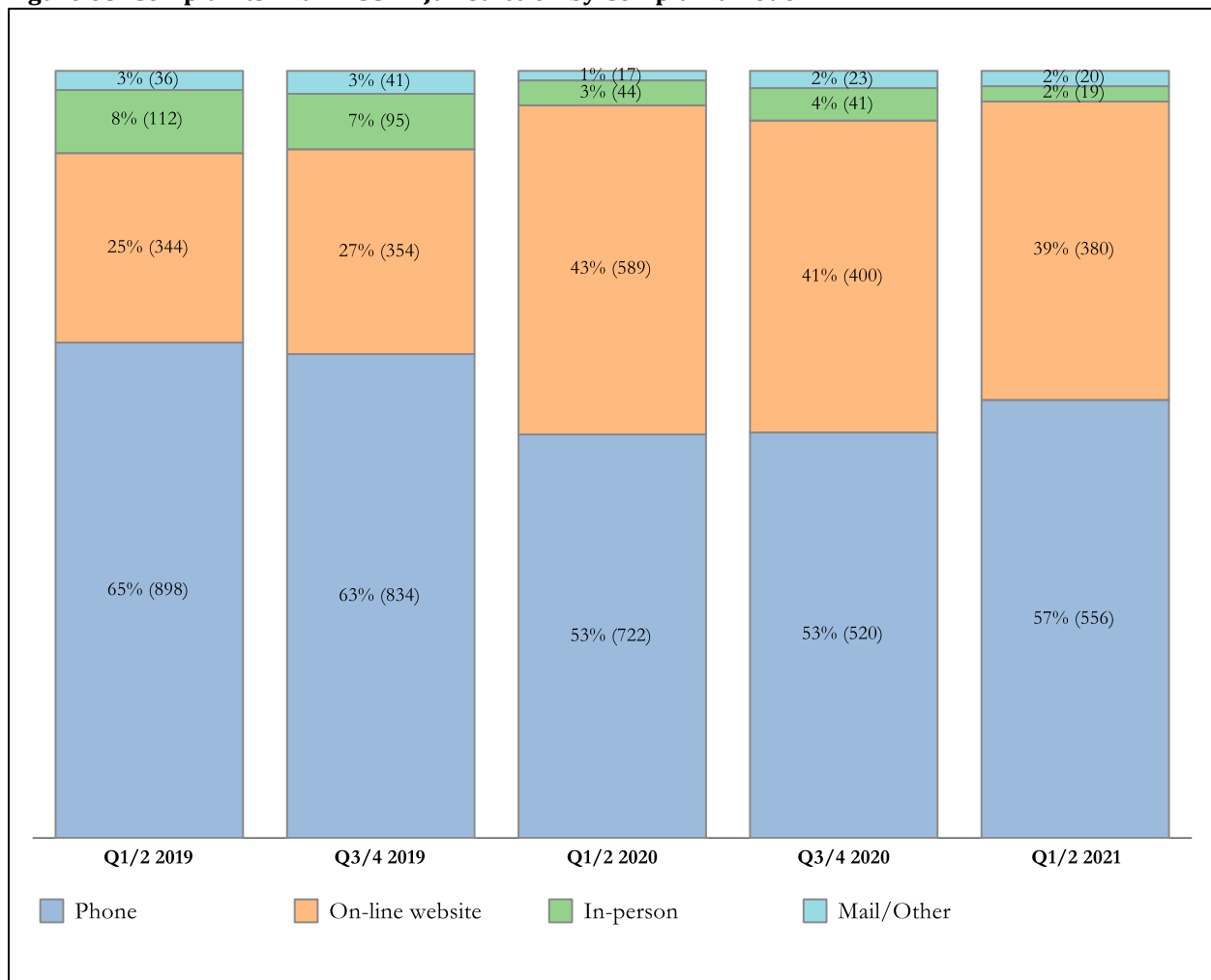
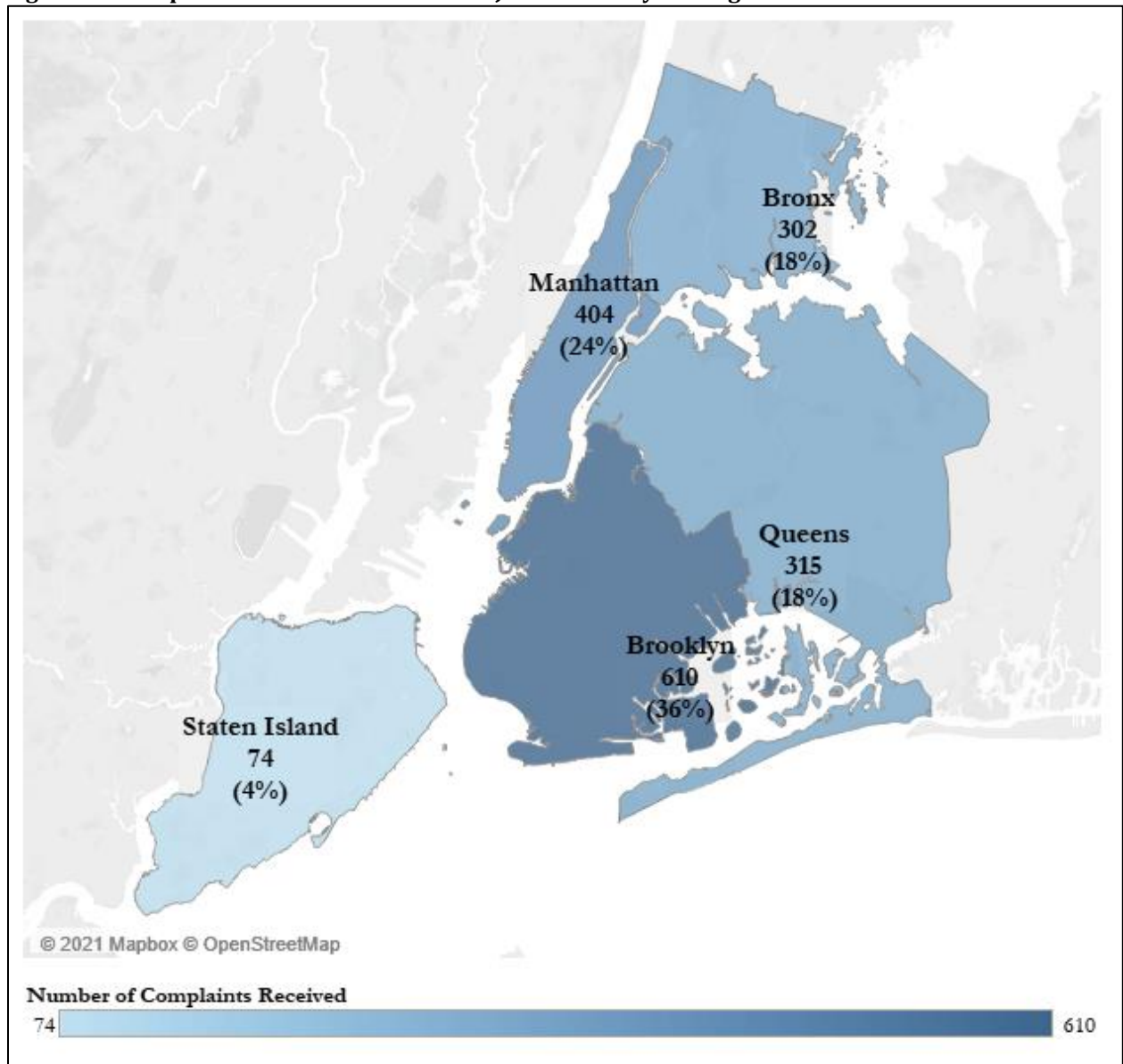


Figure 05: Complaints within CCRB Jurisdiction by Complaint Mode



LOCATION OF INCIDENTS RESULTING IN COMPLAINTS BY BOROUGH

Figure 06: Complaints Received within CCRB Jurisdiction by Borough



LOCATION OF INCIDENTS RESULTING IN COMPLAINTS BY PRECINCT

Figure 07: Complaints Received within CCRB Jurisdiction by Precinct

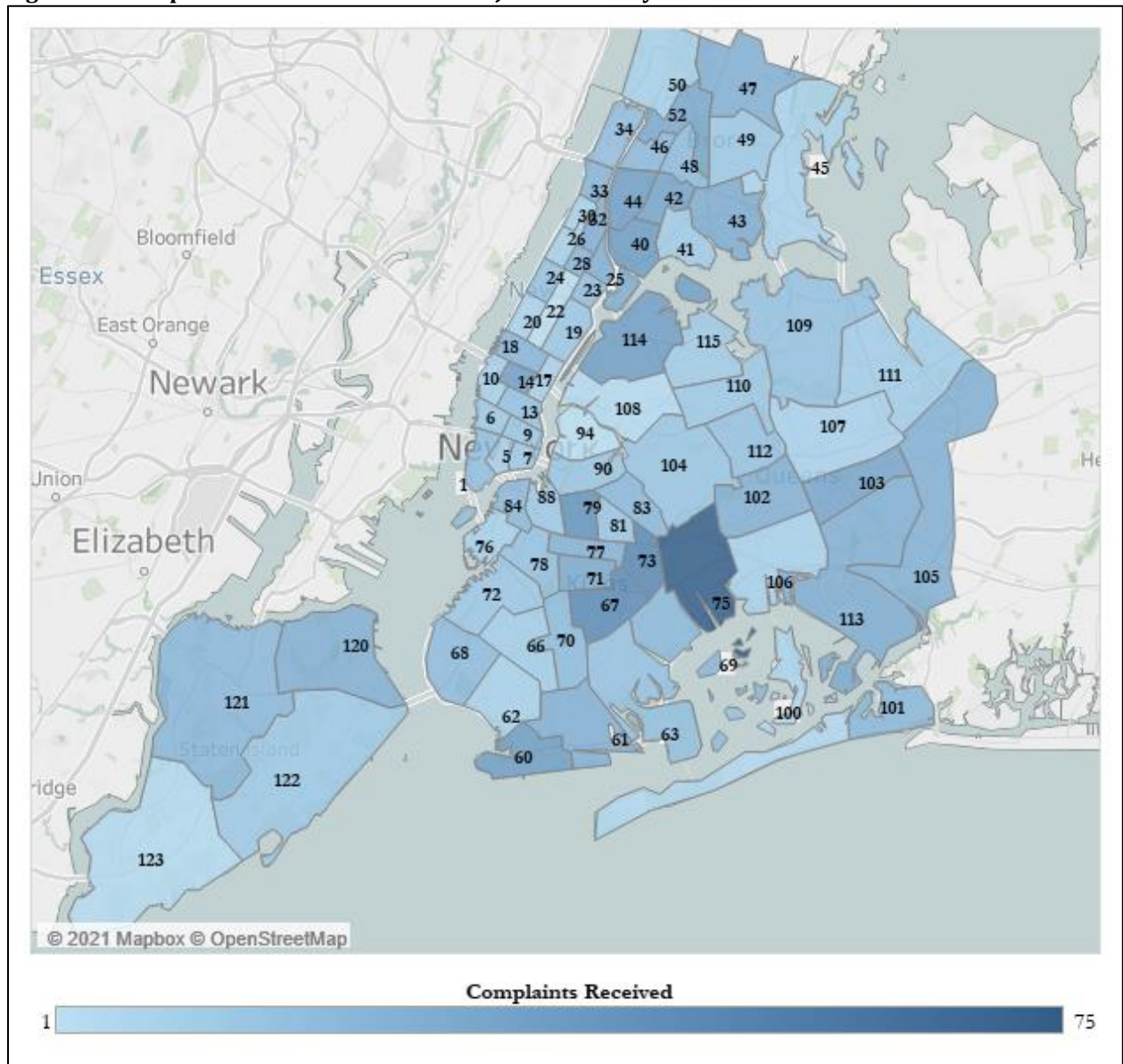


Figure 08: CCRB Complaints Received per Precinct of Occurrence⁴

Precinct	Q1/2 2020		Q1/2 2021	
	Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents
1	33	5	20	3
5	22	4	12	2
6	27	4	15	2
7	22	4	15	3
9	34	4	16	2
10	16	3	11	2
13	42	4	19	2
14	50	10	37	7
17	15	2	10	1
18	29	5	25	5
19	11	1	16	1
20	8	1	9	1
22			1	400
23	31	4	21	3
24	23	2	19	2
25	37	8	29	6
26	10	2	11	2
28	32	7	25	6
30	19	3	10	2
32	28	4	29	4
33	18	2	25	3
34	31	3	20	2
40	92	10	39	4
41	37	7	14	3
42	25	3	35	4
43	47	3	30	2
44	73	5	37	3
45	15	1	9	1
46	46	4	23	2
47	41	3	28	2
48	33	4	22	3
49	14	1	16	1
50	15	1	11	1
52	60	4	32	2
60	32	3	39	4
61	29	2	29	2
62	13	1	11	1
63	15	1	19	2
66	6	0	13	1
67	55	4	49	3
68	19	2	22	2
69	15	2	24	3
70	37	2	22	1
71	29	3	32	3
72	20	2	16	1
73	80	9	51	6
75	100	5	75	4
76	14	3	11	3
77	46	5	27	3
78	37	6	19	3
79	60	7	44	5
81	25	4	17	3
83	24	2	24	2
84	46	10	23	5
88	27	5	15	3
90	34	3	17	1
94	9	2	3	1
100	3	1	7	1
101	24	4	24	4
102	20	1	28	2
103	58	5	34	3
104	20	1	17	1
105	27	1	28	1
106	13	1	11	1
107	15	1	10	1
108	8	1	6	1
109	21	1	19	1
110	16	1	15	1
111	6	1	13	1
112	16	1	19	2
113	40	3	29	2
114	19	1	38	2
115	18	1	14	1
120	33	3	29	3
121	14	1	24	2
122	19	1	15	1
123	8	1	6	1

⁴ Precinct population estimates are drawn from the 2010 Census, the most recent year for which detailed block-level population data is available. Census data is available at <https://data.census.gov/cedsci/>.

CHARACTERISTICS OF ENCOUNTERS RESULTING IN A COMPLAINT

Figure 09: Top Reasons for Initial Contact

	Q1/2 2020		Q1/2 2021	
	Count	% Total	Count	% Total
PD suspected C/V of violation/crime - street	252	11%	166	10%
Moving violation	106	5%	67	4%
Report-dispute	149	7%	127	7%
Report of other crime	104	5%	65	4%
PD suspected C/V of violation/crime - auto	141	6%	132	8%
Other	227	10%	259	15%
PD suspected C/V of violation/crime - bldg	92	4%	95	6%
Report-domestic dispute	92	4%	70	4%
EDP aided case	82	4%	94	5%
Other violation of VTL	75	3%	57	3%
C/V requested investigation of crime	64	3%	56	3%
PD suspected C/V of violation/crime - subway	47	2%	58	3%
CV already in custody	49	2%	49	3%
Execution of arrest/bench warrant	47	2%	42	2%
Other categories combined	599	27%	338	20%
C/V intervened on behalf of/observed encounter w/3rd party	86	4%	36	2%
Total	2,212	100%	1,711	100%

Figure 10: Outcome of Encounters Resulting in CCRB Complaints

	Q1/2 2020		Q1/2 2021	
	Count	% Total	Count	% Total
No arrest made or summons issued	1,421	62%	1,084	62%
Arrest - other violation/crime	501	22%	406	23%
Moving violation summons issued	56	2%	48	3%
Summons - other violation/crime	120	5%	75	4%
Arrest - resisting arrest	32	1%	37	2%
Other VTL violation summons issued	29	1%	17	1%
Arrest - assault (against a PO)	16	1%	15	1%
NA	49	2%	34	2%
Parking summons issued	22	1%	19	1%
Summons - disorderly conduct	25	1%	4	0%
Arrest - OGA	12	1%	6	0%
Arrest - disorderly conduct	12	1%	2	0%
Juvenile Report	4	0%	2	0%
Arrest - harrassment (against a PO)	0	0%	0	0%
Summons - harrassment (against a PO)	1	0%	0	0%
Summons - OGA	0	0%	0	0%
Total	2,300	100%	1,749	100%

NUMBERS AND TYPES OF ALLEGATIONS CLOSED AND RECEIVED

An individual complaint may contain multiple allegations against one or more officers. While each complaint is associated with a distinct report date, the allegations associated with a complaint are not static and change over time. CCRB investigators may add or remove allegations associated with a complaint as the investigation proceeds.

Figure 11: Types of Allegations Closed

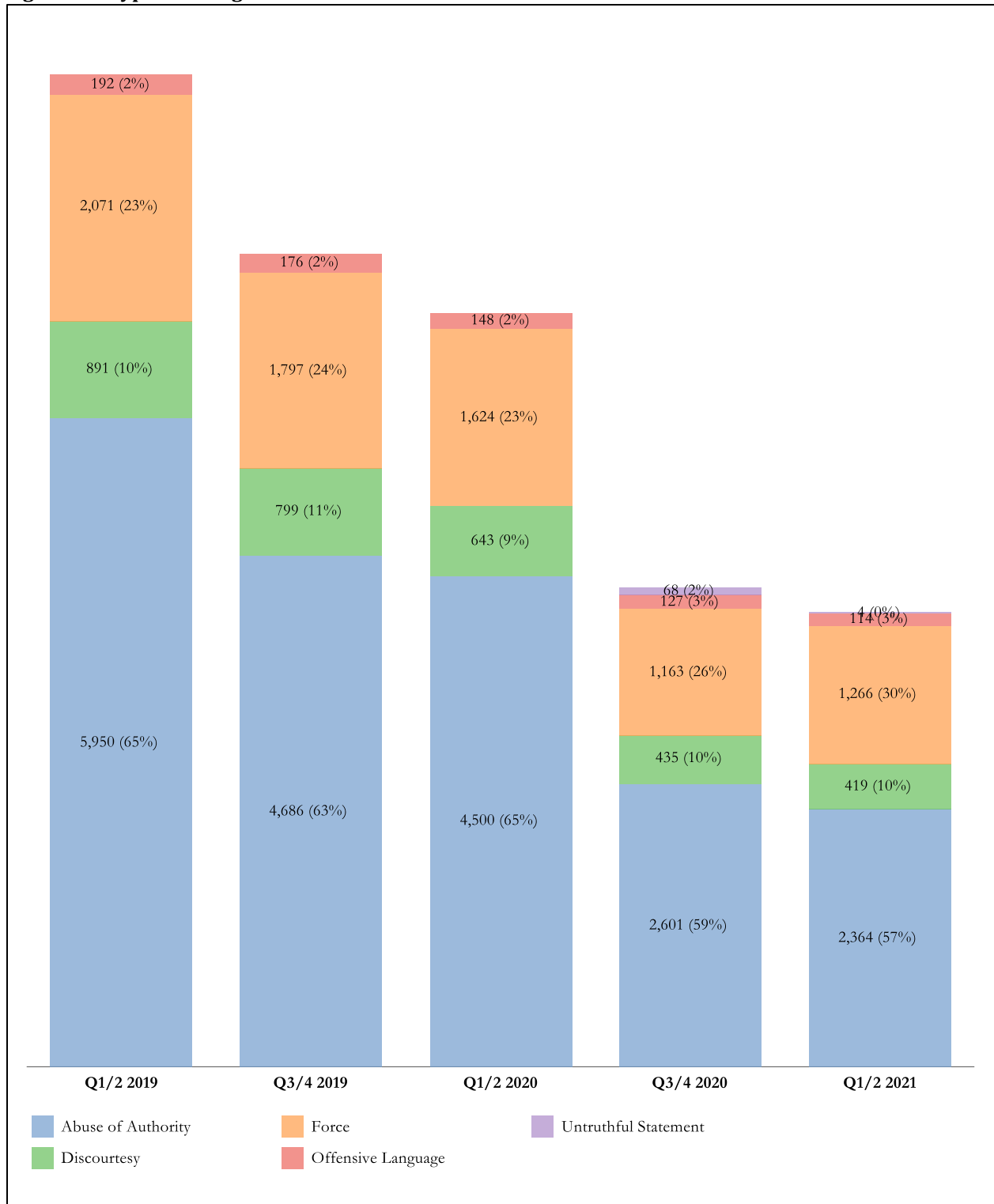


Figure 12: FADO&U Allegations in Complaints Received by Type

Force (F) Allegations	Q1/2 2020		Q1/2 2021	
	Count	% of Total	Count	% of Total
Physical force	1,997	68%	1,282	73%
Gun Pointed	174	6%	89	5%
Chokehold	71	2%	62	4%
Nonlethal restraining device	60	2%	62	4%
Hit against inanimate object	69	2%	64	4%
Restricted Breathing	82	3%	74	4%
Nightstick as club (incl asp & ba.)	230	8%	27	2%
Pepper spray	102	3%	27	2%
Handcuffs too tight	16	1%	16	1%
Other	43	1%	17	1%
Other blunt instrument as a club	20	1%	11	1%
Vehicle	28	1%	11	1%
Radio as club	2	0%	2	0%
Gun fired	14	0%	17	1%
Police shield	11	0%	1	0%
Gun as club	1	0%	3	0%
Flashlight as club	0	0%	1	0%
Animal	0	0%	0	0%
Less Than Lethal Force/Device	1	0%	0	0%

Discourtesy (D) Allegations	Q1/2 2020		Q1/2 2021	
	Count	% of Total	Count	% of Total
Action	152	13%	90	14%
Demecanor/ tone	11	1%	2	0%
Gesture	22	2%	16	2%
Other	9	1%	7	1%
Word	992	84%	542	82%

Offensive Language (O) Allegations	Q1/2 2020		Q1/2 2021	
	Count	% of Total	Count	% of Total
Race	64	25%	50	30%
Gender	89	34%	39	23%
Ethnicity	19	7%	5	3%
Other	50	19%	44	26%
Religion	6	2%	4	2%
Sexual orientation	23	9%	15	9%
Physical disability	5	2%	1	1%
Gender Identity	5	2%	10	6%

Untruthful Statement (U) Allegations	Q1/2 2020		Q1/2 2021	
	Count	% of Total	Count	% of Total
False official statement	29	53%	5	71%
Impeding an investigation	2	4%	0	0%
Inaccurate official statement	3	5%	0	0%
Misleading official statement	21	38%	2	29%

Abuse of Authority (A) Allegations	Q1/2 2020		Q1/2 2021	
	Count	% of Total	Count	% of Total
Body Cavity Searches	13	0%	8	0%
Disseminated immigration status	0	0%	0	0%
Electronic device information deletion	8	0%	5	0%
Enforcement Action	0	0%	0	0%
Entry of Premises	453	7%	519	11%
Failed to Obtain Language Interpretation	20	0%	20	0%
Failure to provide RTKA card	464	7%	320	7%
Forcible Removal to Hospital	254	4%	284	6%
Frisk	335	5%	199	4%
Gun Drawn	47	1%	43	1%
Improper dissemination of medical info	3	0%	2	0%
Interference with recording	120	2%	63	1%
Obstructed Rank Designation	0	0%	1	0%
Obstructed Shield Number	9	0%	19	0%
Other	97	2%	53	1%
Photography/Videography	34	1%	27	1%
Premises entered and/or searched	0	0%	0	0%
Property damaged	188	3%	190	4%
Question	160	2%	107	2%
Questioned immigration status	4	0%	1	0%
Refusal to obtain medical treatment	132	2%	64	1%
Refusal to process civilian complaint	104	2%	88	2%
Refusal to provide name	423	7%	268	6%
Refusal to provide name/shield number	0	0%	0	0%
Refusal to provide shield number	483	7%	205	4%
Refusal to show arrest warrant	16	0%	17	0%
Refusal to show search warrant	19	0%	22	0%
Retaliatory arrest	4	0%	1	0%
Retaliatory summons	11	0%	5	0%
Search (of person)	394	6%	256	5%
Search of Premises	198	3%	240	5%
Search of recording device	17	0%	18	0%
Seizure of property	124	2%	121	2%
Sex Miscon (Humiliation: fail to cover)	0	0%	15	0%
Sex Miscon (Sexual Harassment, Gesture)	2	0%	1	0%
Sex Miscon (Sexual Harassment, Verbal)	4	0%	14	0%
Sex Miscon (Sexual/Romantic Proposition)	2	0%	6	0%
Sex Miscon (Sexually Motiv Photo/Video)	0	0%	1	0%
Sex Miscon (Sexually Motiv Strip-Search)	0	0%	0	0%
Sex Miscon (Sexually Motivated Frisk)	2	0%	3	0%
Sex Miscon (Sexually Motivated Search)	4	0%	3	0%
Sexual Miscon (Forcible Touching)	0	0%	5	0%
Sexual Miscon (Inappropriate Touching)	0	0%	4	0%
Sexual Miscon (Penetrative Sex. Contact)	0	0%	0	0%
Sexual Miscon (Rape)	0	0%	0	0%
Sexual Miscon (Sexual Assault)	0	0%	1	0%
Sexual Misconduct (Sexual Humiliation)	8	0%	5	0%
Stop	547	8%	298	6%
Strip-searched	53	1%	27	1%
Threat of arrest	549	9%	377	8%
Threat of force (verbal or physical)	283	4%	198	4%
Threat of summons	55	1%	61	1%
Threat re: immigration status	1	0%	2	0%
Threat re: removal to hospital	46	1%	40	1%
Threat to damage/seize property	72	1%	87	2%
Threat to notify ACS	21	0%	15	0%
Unlawful Arrest	3	0%	0	0%
Unlawful Summons	1	0%	0	0%
Untruthful Statement	0	0%	3	0%
Vehicle search	327	5%	250	5%
Vehicle stop	341	5%	284	6%

The following case abstracts are taken from complaints closed in the first half of 2021 and serve as examples of the types of misconduct allegations that fall under the CCRB's jurisdiction:⁵

1. Force

An individual was walking to a subway station when he saw an unmarked SUV. He crossed the street and the vehicle pulled up to him and two officers exited the vehicle. They approached him and stopped him. Another officer arrived on the scene and was frisked the individual. The officer found a dime bag of marijuana in the left pants pocket of the individual. The officers asked for the individual's name and he refused to give it because the officers refused to tell him why he was stopped. The individual was handcuffed and transported to the precinct.

At the precinct the individual was searched and eventually gave his name to the officers. It was discovered that he had an open I-card for a robbery. Lieutenant Eric Dym told officers to take the individual to a holding cell and strip-search him. Once inside the holding cell, the officers tried to undress the individual and the individual stiffened up his body. Police Officer Lorvin Fernandez and Lt. Dym punched the individual. The individual laid curled on the floor in a fetal position. Lt. Dym continued to punch the individual and placed his knees on various parts of the individual's body and performed a search of the individual's anal cavity. The officers alleged that the individual verbally refused to be searched and would stiffen his body, so they used force to gain the individual's compliance. The individual requested medical attention and was diagnosed with pain, a hematoma, abrasions to his face and body and sustained swelling to his face.

Patrol Guide Procedure 208-03 states that a strip search may only be conducted when there is a reasonable suspicion that weapons, contraband or evidence may be concealed upon the person or in their clothing in such a manner that they may not be discovered by the previous search. Patrol Guide Procedure 221-02 states that officers may use only the reasonable force necessary to gain control or custody of a subject. Video cameras at the precinct showed that the individual did not stiffen/pose his body in a manner that was consistent with him attempting to conceal contraband in his buttocks. The video cameras also showed the force used on the individual once he was in the holding cell. The investigation determined that the Lt. Dym and PO Fernandez's use of force was not reasonable given the circumstances and that strip search of the individual was also unreasonable given the circumstances. The Board substantiated the Use of Force and Abuse of Authority allegations.

2. Abuse of Authority

An individual was wheeling his bicycle as he participated in a Black Lives Matter demonstration when he was approached by Sergeant Alberto Espinal. Sgt. Espinal grabbed the individual's bicycle and the individual asked why his bike was been taken. Sgt. Espinal did not respond, and the individual took out his cellphone and began recording. He then approached another officer who was close by and asked why his bicycle was taken and that officer responded, "it's the curfew son." The individual kept recording and saw Sgt. Espinal and approached him and asked once again why he took his bicycle. The officer remained unresponsive and grabbed an unidentified individual's bicycle and took it to the same location as the individual's bicycle. The individual waited for approximately five minutes and was not arrested or issued a summons. The individual began to feel unsafe and rejoined the crowd of protestors.

Patrol Guide Procedure 218-01 states that all property seized in conjunction with arrest must be vouchered in the property category and documented via property Clerk Invoice Worksheet.

⁵ Each of the cases described in this section were substantiated complaints, intended to illustrate the difference between types of allegations the Board investigated and found to be misconduct.

Patrol Guide Procedure 208-26 states that property may be held for several other reasons such as investigatory purposes, if ownership cannot be determined, safekeeping, or for forfeiture. The individual's cellphone video shows the seizure of both his bike and that of the unidentified individual by Sgt. Espinal.

Sgt. Espinal stated that summons was issued to all protestors whose bicycles were seized except for one male protestor who ran away before he could be issued a summons and that he had been ordered to seize bicycles by Deputy Chief Michael Pilecki. Precinct documents shows that no such summons was issued to the individual and video evidence shows that the individual followed Sgt. Espinal and repeatedly asked about his bicycle – ample opportunity for a summons to be issued to him. The unidentified individual whose bicycle was also seized did not show up in any summons documents from around the time of the incident. The investigation determined that Sgt. Espinal improperly seized the bicycles from both the individual and the unidentified individual. The Board substantiated the Abuse of Authority allegations.

3. Discourtesy

An individual and her friend were evacuated from their high school due to a fire alarm. During the evacuation, fighting broke among some of the students. Police officers responded to the scene and started trying to address the multiple groups of fighting students. Detective Austin Denio was walking past civilians on the street and stated that they “fucking walk away.” None of the civilians had approached him during this time. NYPD Patrol Guide Procedure 200-02 states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Det. Denio was captured on BWC footage making the statement while civilians were walking away from him while he was making gestures to the students to disperse. Det. Denio could not provide a reason why he used the profanity. The Board substantiated the Discourtesy allegation.

4. Offensive Language

Two individuals filed a complaint through a letter sent to the CCRB chair. They stated that Sergeant Edward Mullins made a comment on his twitter account in response to an article published by the New York Post about a dispute between Chief of Department Terence Monahan and Dr. Oxiris Barbot the NYC Health Commissioner. Sgt. Mullins tweeted that “truth is this bitch has blood on her hands but why should anyone be surprised the NYPD suffered under DeBlasio since he became mayor”.

NYPD Patrol Guide procedure 200-02 states that the Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others, respect the dignity of each individual and render services with courtesy and civility and NYPD Patrol Guide procedure 203-10 states that officers are prohibited from using discourteous or disrespectful remarks regarding another person's ethnicity, race, religion, gender, gender identity/expression, sexual orientation or disability. The investigation determined “bitch” is an offensive word based on gender, which officers are not permitted to use, and that Sgt. Mullins use of the term is of public concern because his public use of derogatory and sexist language damages the relationship between the NYPD and the community. The Board substantiated the Offensive allegation.

5. Untruthful Statement

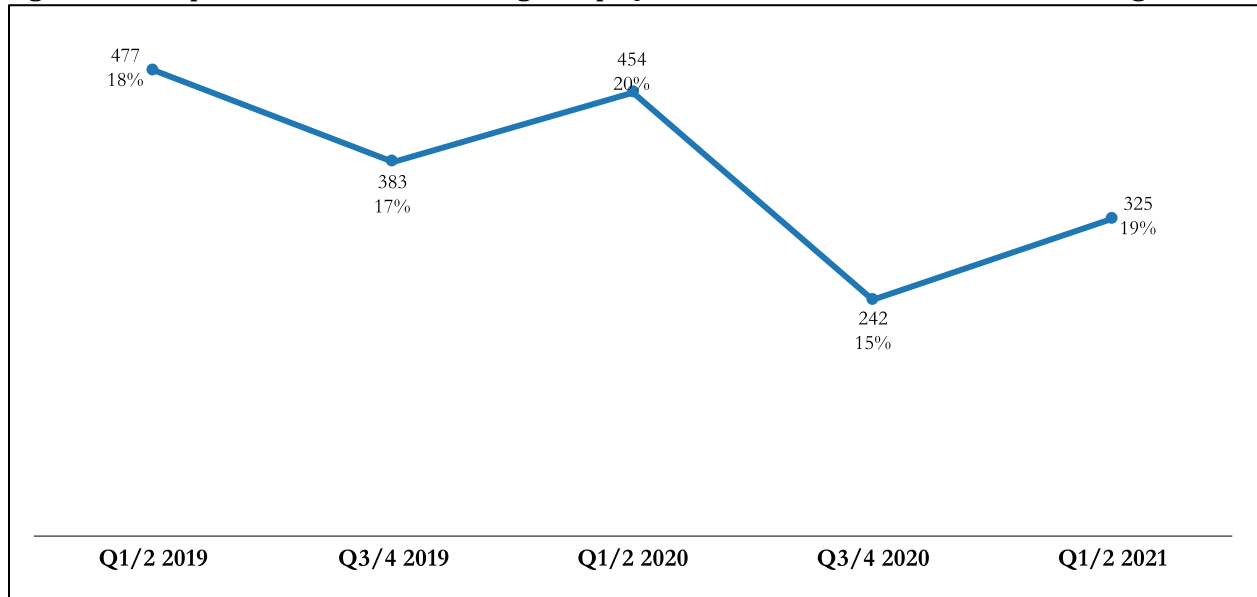
An individual filed a complaint about two publicly viewable videos on YouTube that featured Detective Won Chang and a Korean YouTuber on a YouTube channel. Det. Chang was discussing the summer protests speaking in Korean and made several statements that were demeaning to Black communities and referred to some protesters as anarchists and drug users.

When the Det. Chang was interviewed, he denied making the offensive and disparaging statements. Upon being shown the videos where he identified himself as a member of service and speaks from the perspective of an active-duty officer, Det. Chang identified himself as the officer making the disparaging statements. The investigation found that Det. Chang's appearance in both videos were a material fact to the allegations that he made offensive statements and that under reasonable circumstances, he would have recalled being in the videos. By denying making the statements and then being confronted with the videos, his initial statement was considered a misleading statement about material facts. The Board substantiated the Untruthful statement allegation.

STOP, QUESTION, FRISK AND SEARCH OF PERSON ALLEGATIONS

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

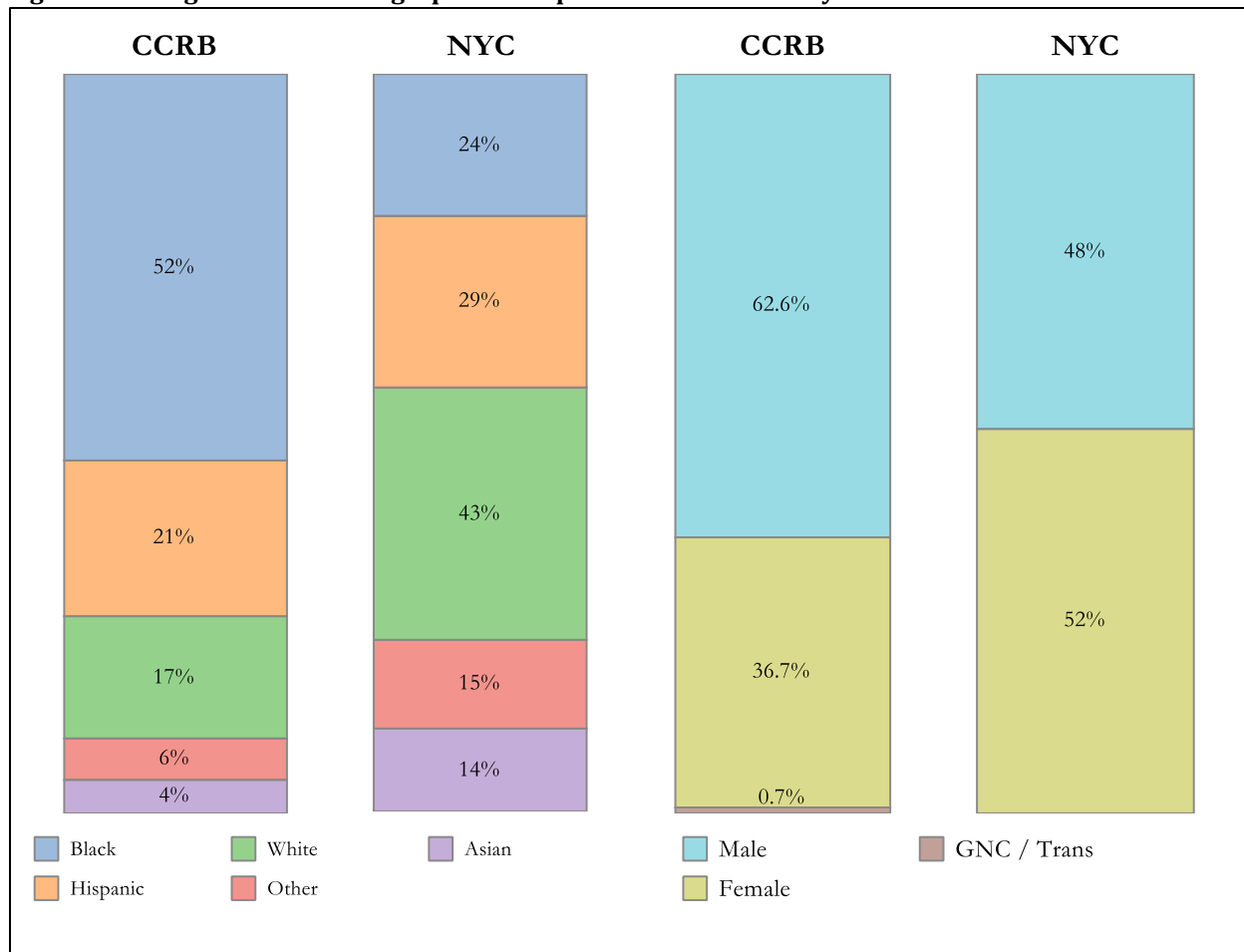
Figure 13: Complaints Received Containing a Stop, Question, Frisk, and Search of Person Allegation



CHARACTERISTICS OF ALLEGED VICTIMS

The CCRB compares the demographic profiles of the alleged victims to the demographics of the city as a whole, without controlling for any other factors such as the proportion of encounters with the police or the number of criminal suspects. The race and gender of alleged victims are disproportionate to the racial and gender makeup of New York City’s population (Fig. 14).⁶

Figure 14: Alleged Victim Demographics Compared to New York City^{7 8}



⁶ City demographic information is drawn from the 2019 United States Census estimate. All race demographics are inclusive of Hispanic origin. For example, “Black” includes both “Black Hispanic” and “Black Non-Hispanic.” Census data is available at <https://www.census.gov/quickfacts/newyorkcitynewyork>

⁷ The percentages for race of New York City residents do not add up to 100% because the Census allows respondents to self-report Hispanic ethnicity separate from race. Someone may, for instance, indicate that they are both Black and Hispanic. This means that some individuals are counted in these categories twice. Since current CCRB race/ethnicity categories are not precisely aligned with Census categories, comparisons should be made with caution.

⁸ “GNC” is an acronym that stands for Gender Nonconforming. “Trans” includes individuals who identify as Transmen and Transwomen in CCRB records.

CHARACTERISTICS OF SUBJECT OFFICERS

Figure 15: Subject Officer Demographics Compared to NYPD Officer Population

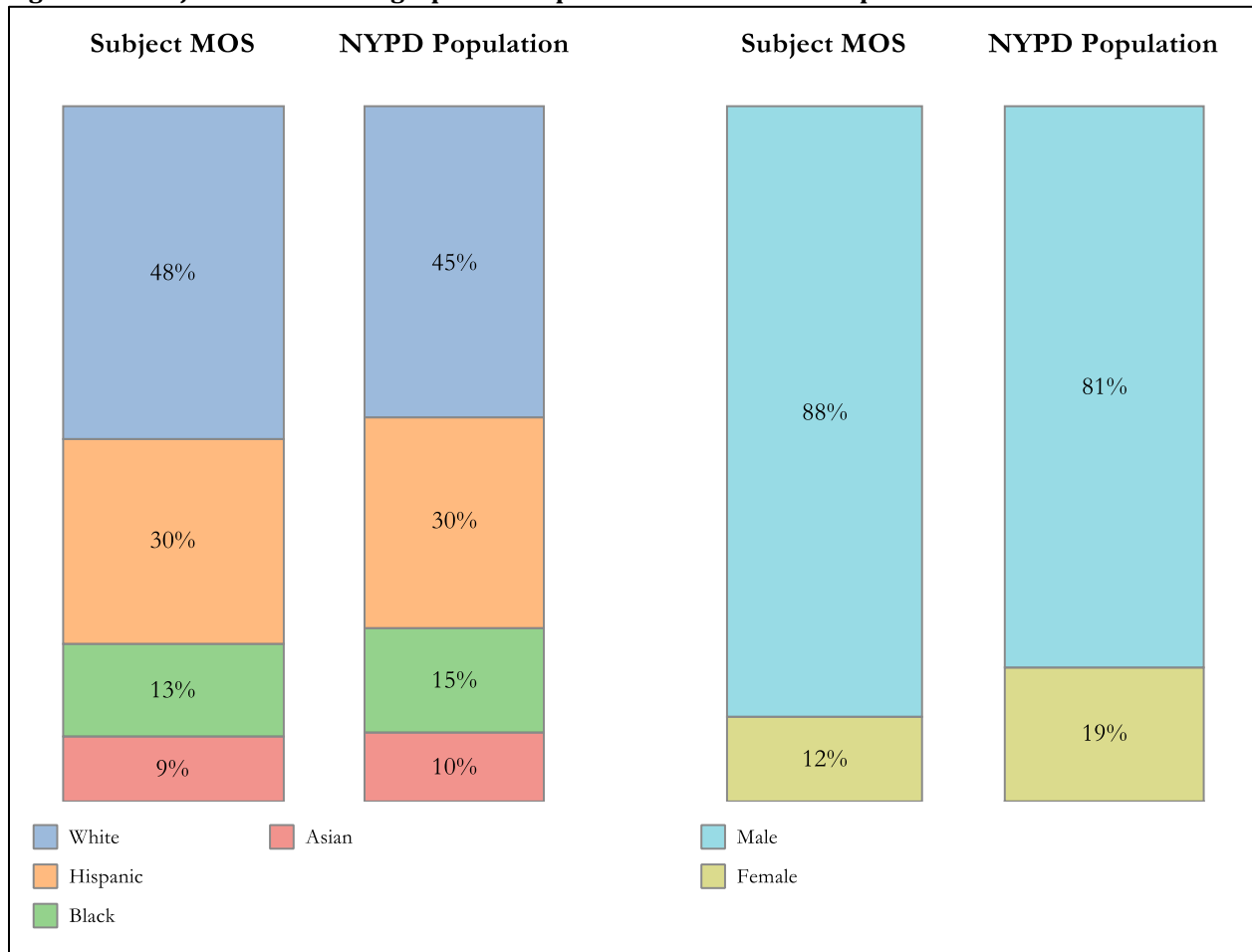


Figure 16: Rank and Tenure of Active MOS with Substantiated CCRB Complaints

Rank	Q1/2 2021	
	Count	Percent
Captain	2	2%
Chiefs and other ranks	2	2%
Deputy Inspector	1	1%
Detective	9	8%
Inspector	1	1%
Lieutenant	5	4%
Police Officer	75	65%
Sergeant	21	18%

Tenure	Q1/2 2021	
	Count	Percent
0-3 Years	16	14%
4-5 Years	34	29%
6-10 Years	23	20%
11-15 Years	26	22%
16-20 Years	8	7%
21+ Years	9	8%

TOTAL COMPLAINTS AGAINST ACTIVE MEMBERS OF SERVICE (MOS)

The charts below depict how complaints are distributed among active members of service.

Figure 17: Active MOS with CCRB Complaints

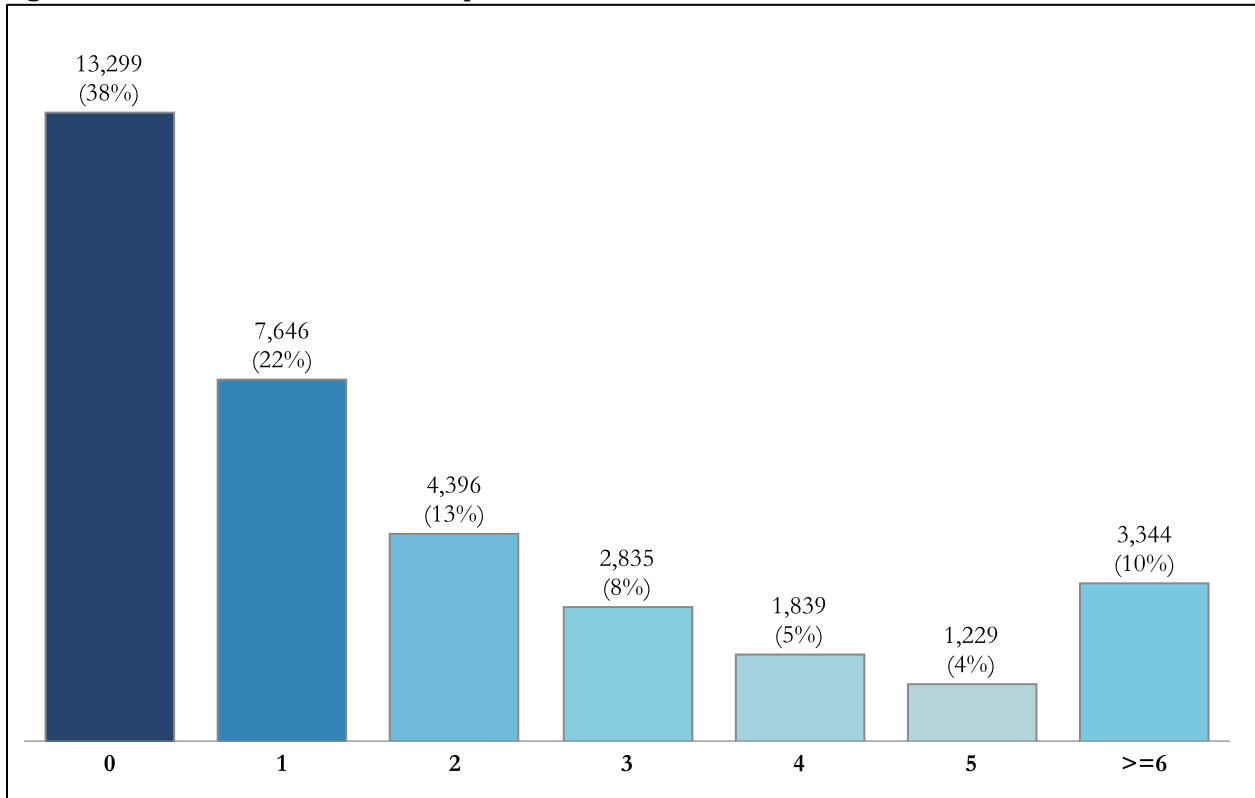
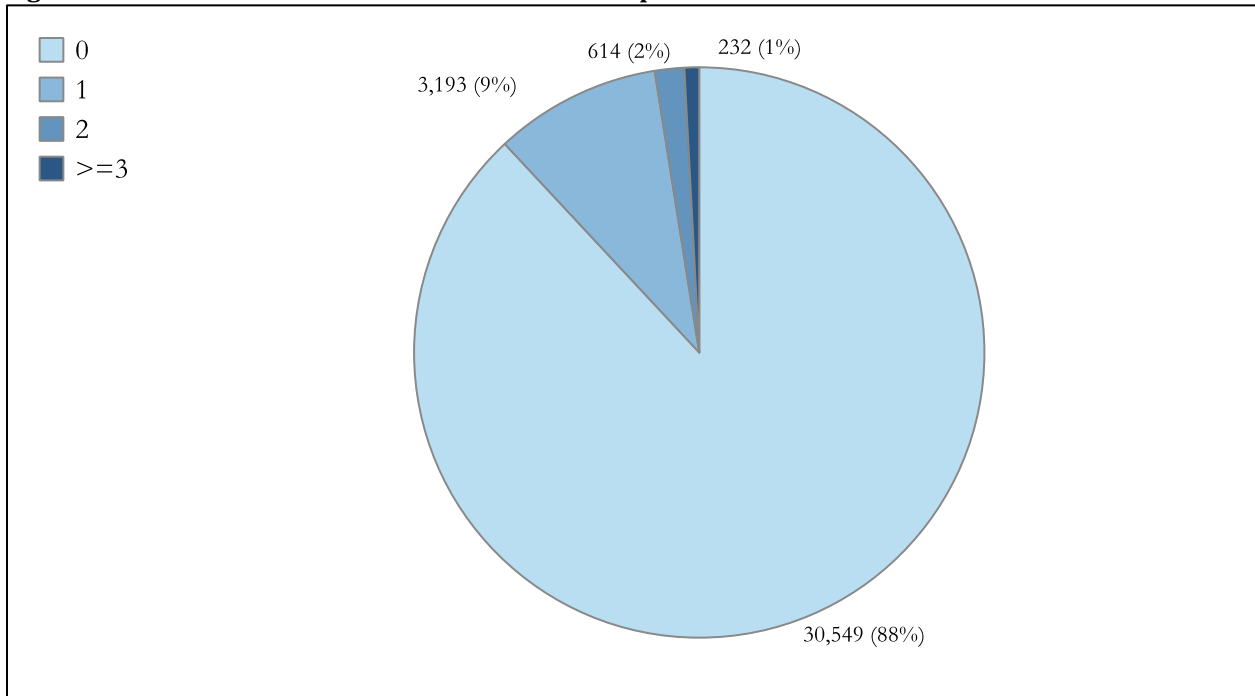


Figure 18: Active MOS with Substantiated CCRB Complaints



SECTION 2: INVESTIGATIONS

Investigation is the core function of the CCRB. Every complaint passes through the Investigations Division, even if it is ultimately resolved through mediation.

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

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

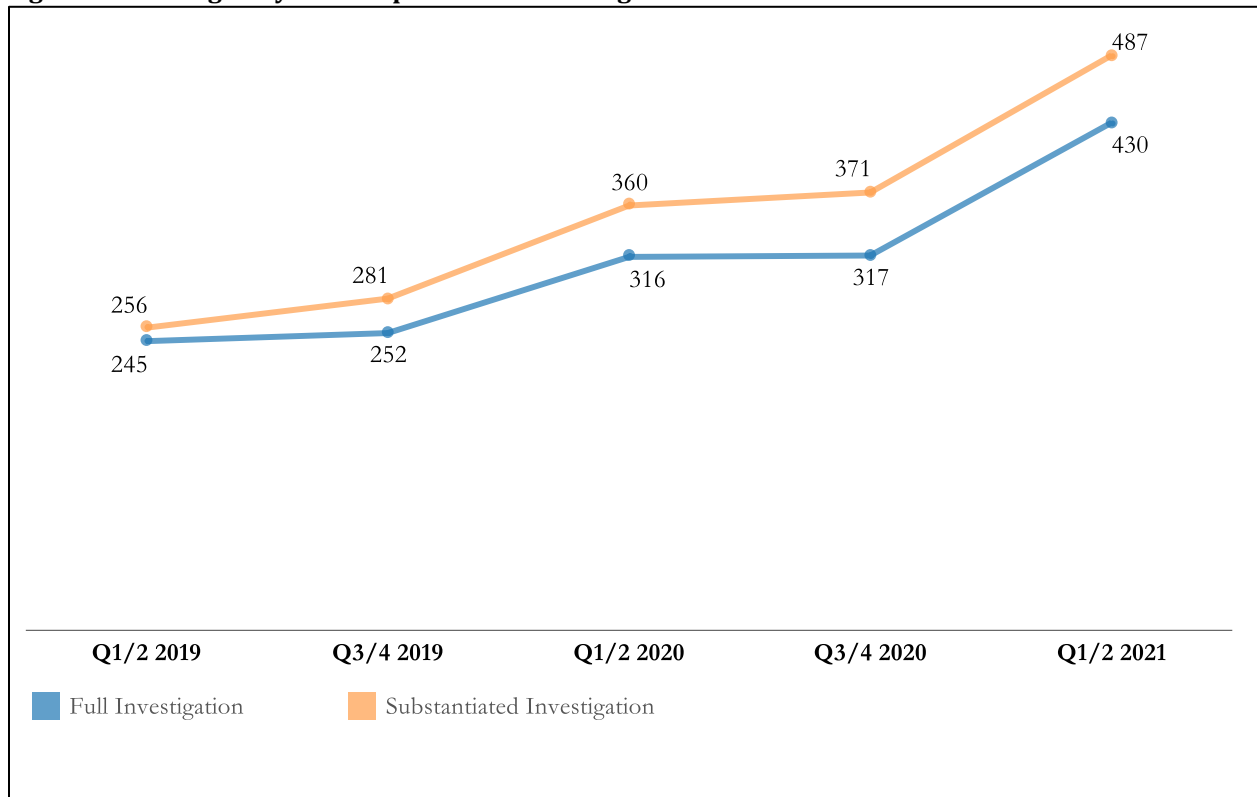
In order to resolve investigations fairly and in accordance with local law, the CCRB generally needs the cooperation of at least one civilian complainant/alleged victim related to the case. The New York City Charter states that CCRB's findings and recommendations cannot "be based solely upon an unsworn complaint or statement."⁹ When a complainant or alleged victim is available for an interview, the Agency deems the resulting investigation a "full investigation." If a complaint is withdrawn, or there is no complainant or alleged victim available for an interview and there is no additional evidence upon which the investigation can proceed, the investigation is closed as "Unable to Investigate." The Investigations Division makes every effort to avoid truncating cases; its primary goal is to complete full and fair investigations.

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

⁹ New York City Charter Chapter 18-A §440(c)(1).

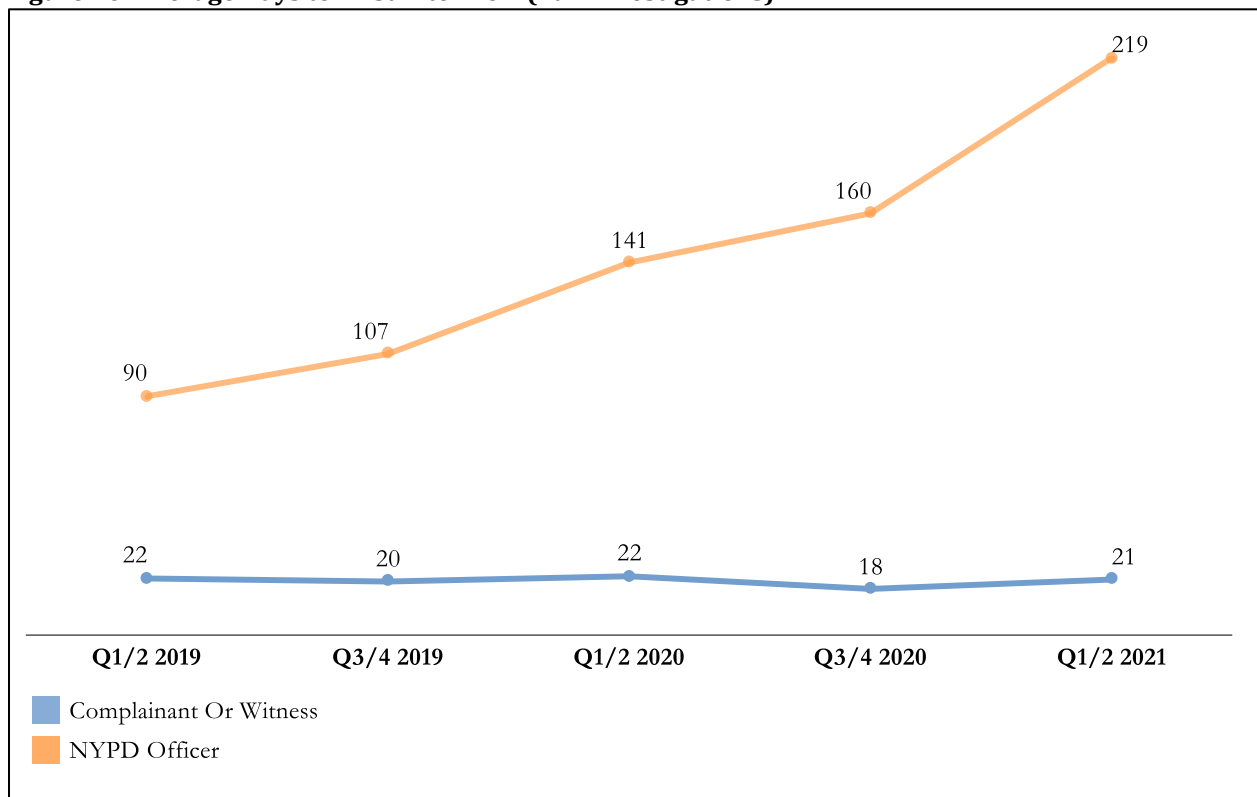
INVESTIGATIONS DIVISION BENCHMARKS

Figure 19: Average Days to Complete a Full Investigation



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

Figure 20: Average Days to First Interview (Full Investigations)



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

CASE RESOLUTION AND INVESTIGATIVE OUTCOMES

A complaint can be resolved in various ways. The complaint may be fully investigated, mediated, closed after mediation is attempted,¹⁰ or closed as “Unable to Investigate” (the complainant is unable or unwilling to cooperate with a full investigation or cannot be reached for an interview). There are also a small number of miscellaneous closures,¹¹ which include administratively closed complaints and complaints in which the subject officer left the Department before investigation or mediation was completed.

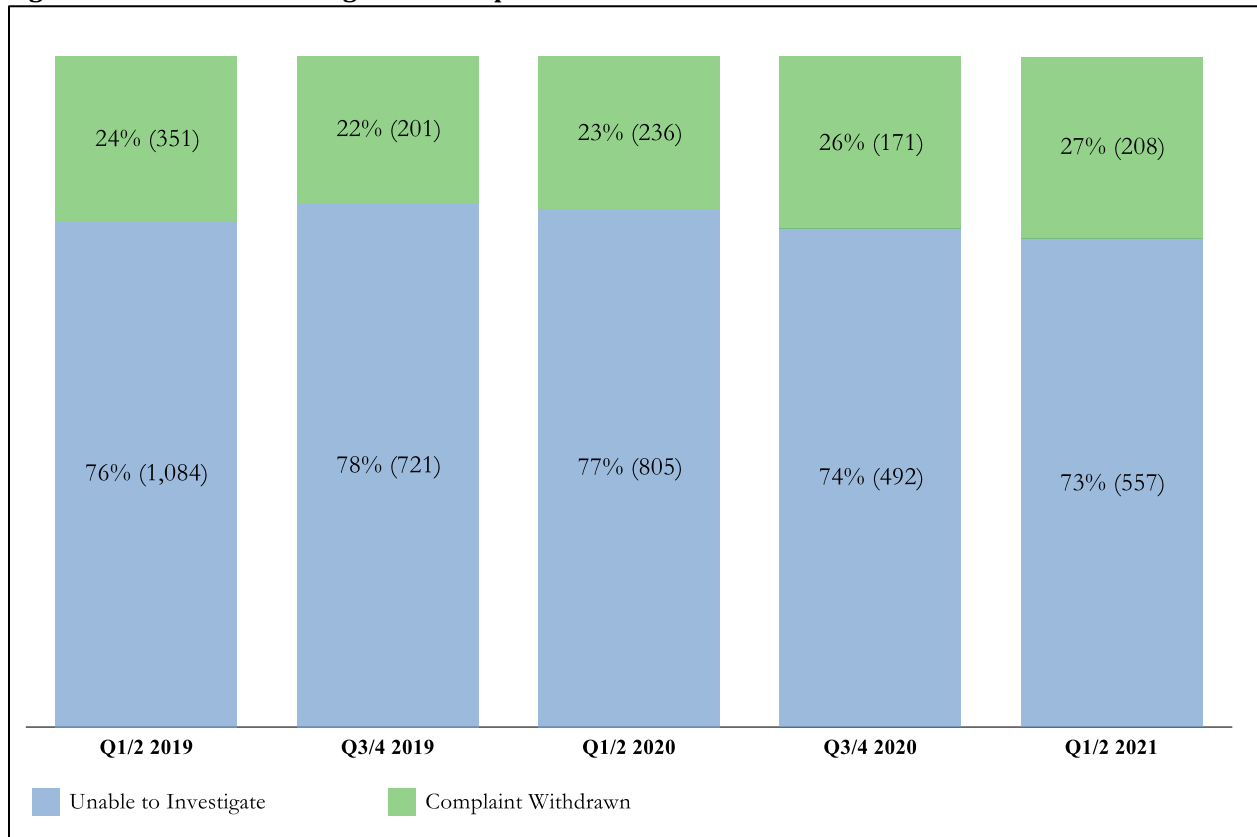
Figure 21: Case Resolutions

	Q1/2 2019		Q3/4 2019		Q1/2 2020		Q3/4 2020		Q1/2 2021	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Unable to Investigate	1,116	41%	747	36%	822	44%	513	37%	574	44%
Full Investigation	792	29%	747	36%	627	33%	354	25%	241	19%
Complaint Withdrawn	351	13%	201	10%	236	13%	171	12%	208	16%
Closed - Pending Litigation	191	7%	192	9%	158	8%	175	12%	167	13%
Mediation Attempted	151	6%	89	4%			109	8%	34	3%
Mediated	90	3%	97	5%	29	2%	1	0%	43	3%
Misc. Closure	16	1%	15	1%	9	0%	80	6%	25	2%

¹⁰ “Mediation attempted” is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for a scheduled mediation session without good cause, or fails to respond to attempts to schedule a mediation session, and does not request that the case be sent back for a full investigation.

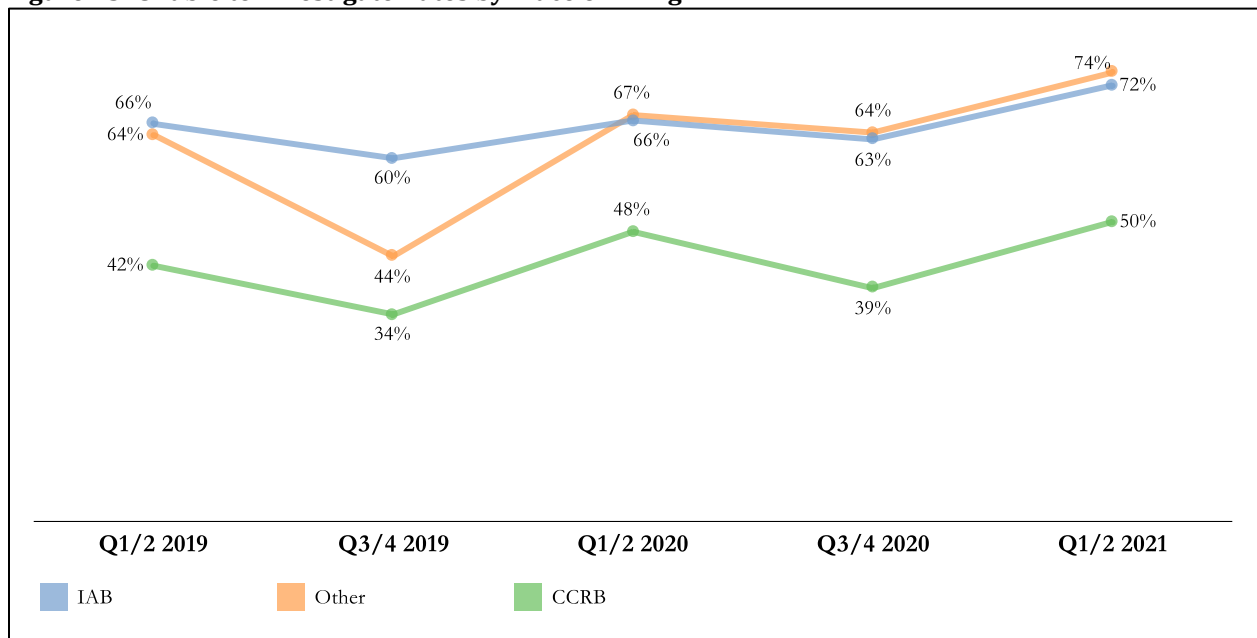
¹¹ Miscellaneous closures are not included in the Unable to Investigate rate.

Figure 22: Unable to Investigate vs. Complaint Withdrawn Closures



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

Figure 23: Unable to Investigate Rates by Place of Filing



COMPLAINT AND ALLEGATION DISPOSITIONS FOR FULLY INVESTIGATED CASES

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

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

- An allegation is **substantiated** if the alleged conduct is found by a preponderance to have occurred and is improper based on a preponderance of the evidence.¹²
- An allegation is **Within NYPD Guidelines** if the alleged conduct is found by a preponderance to have occurred but was not found to be improper by a preponderance of the evidence. Allegations may be Within NYPD Guidelines if the officer's behavior was found to be allowed under the law and/or the Patrol Guide. This does not mean that the complainant was untruthful in their account of the incident. Many members of the public are not aware of the range of law enforcement activities that are legally permissible and within the boundaries of proper NYPD protocol.
- An allegation is **unfounded** if the alleged conduct is found by a preponderance of the evidence not to have occurred as the complainant described.
- An allegation is closed as **officer unidentified** if the CCRB was unable to identify the officer accused of misconduct.
- An allegation is closed as **Unable to Determine** if there is insufficient evidence to determine whether or not misconduct occurred by a preponderance of the evidence.

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

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

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

¹² "Preponderance of the evidence" is an evidentiary standard used in civil cases, and is commonly interpreted to mean that the fact in question was determined to be "more likely than not," true. See *Foran v. Murphy*, 73 Misc.2d 486 (2d Dept 1973) ("In a disciplinary proceeding, . . . it is sufficient if respondent finds the specifications established by a fair preponderance of the evidence."); *Dep't of Correction v. Jones*, OATH Index No. 393/04 (May 3, 2004) ("burden of proof in this administrative proceeding to prove misconduct by a preponderance of the credible evidence").

The following case abstracts are taken from complaints closed in the first half of 2021 and serve as examples of what the different case dispositions mean in practice:

1. Substantiated

Two individuals filed a complaint on the Agency's website stating that using his twitter account, Sergeant Edward Mullins disseminated private information about an individual who was arrested during a protest against police violence. Sgt. Mullins made a twitter post accusing the protestor of being a "rioting anarchist" and attached the individual's arrest report which included her address and date of birth along with a photograph of her. Twitter took down the post because it violated their policies – but screenshots had been taken of the post and disseminated among members of the media. Sgt. Mullins stated that someone else had posted the individual's photo before he posted it on his own twitter account.

NYPD Patrol Guide Procedure 203-02 states that when accessing information obtained from the department's information system, an officer may only disclose that information as required in the lawful execution of their duty. They are also required to maintain the confidentiality of that information. When Sgt. Mullins made his post to social media – he disseminated the arrested individual's private information to a wide audience of people who would not have been privy to the confidential information contained in the arrest report. The Board substantiated the Abuse of Authority allegation.

2. Within NYPD Guidelines

An individual was watching a protest on her way home from work when she saw police start to arrest protestors that had gotten close to them. The police told everyone to leave the location. The individual stated that she refused to leave because she was concerned about people being arrested. Inspector Michele Irizarry came up to the individual, picked her up by both of her arms, pushed her back into a fence and told her, "when I tell you to get out of the park, get out of the fucking park". The incident was captured on BWC worn by other officers at the scene of the incident. It showed the individual standing approximately five to ten feet away from officers arresting people. It showed officers instructing people to leave the park. It showed Insp. Irizarry approach the individual, grab her arms, and push her lightly on the back in the direction of the stairs behind her and the individual walked towards the stairs. It also showed a large hostile crowd who were pushing officers and a trash can on fire. Insp. Irizarry's perception of a threat to the safety of people in the park and thus having everyone leave, and escorting people out who had stayed on despite police instructions to clear the area was reasonable. The investigation determined that Insp. Irizarry used a brief restraint to ensure that the individual followed the instructions in a loud and chaotic environment. The use of profanity while not captured on the BWC, given the stressful and chaotic environment which Insp. Irizarry was enmeshed in, and its use in conjunction with a lawful order, the patrol guide allows such language to be used in such a circumstance. The Board found that the Use of Force and Discourteous Word allegations were Within NYPD Guidelines.

3. Unfounded

An individual was under arrest for allegedly assaulting a person. As the individual was getting an injury treated by EMTs in an ambulance, Lieutenant Hameed Armani approached the individual and explained to him that he was to be taken to the precinct. The individual stated that when he argued that he did not commit an assault Lt. Armani

allegedly put his left hand above his bandaged elbow and squeezed it and said, “we can do this the easy way or the hard way”. Lt. Armani has his BWC on and it showed him explaining to the individual why he must come to the precinct and at no point did the officer make the statement or squeeze the individual’s elbow. The individual was then placed in handcuffs without incident. As a result, the investigation found by a preponderance of the evidence that Lt. Armani did not make the threatening remark to the individual or squeeze the individual’s elbow. The Board unfounded the Abuse of Authority and Use of Force allegations.

4. Officer Unidentified

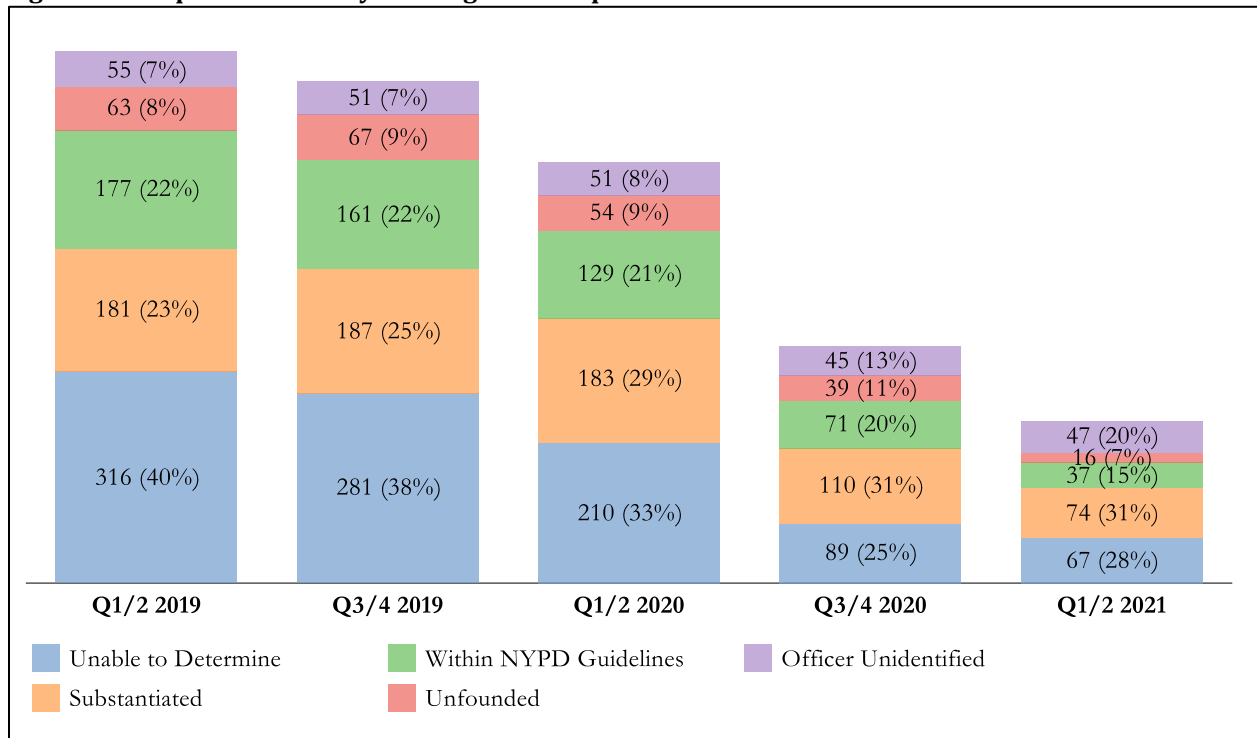
An individual stated that five officers came to her apartment and two of them entered the premises. She believed that the officers were there because of a complaint from her downstairs neighbor. She stated that the officers who were in plainclothes demanded that she show them her keys as proof that she lived at the apartment. She stated that as she went to look for her keys, the officers told her to forget it and they left. NYPD records shows that there were no search warrants issued for the individual’s home, nor arrest warrants for the individual. Without additional information the investigation was unable to identify a subject officer in this case. The Board closed the Abuse of Authority allegation as Officer Unidentified.

5. Unable to Determine

An individual was walking down a street and spat at a police scooter. Police Officer Martin Hayes exited his vehicle, identified himself as a police officer and grabbed the individual by his arm. He walked the individual over to the police scooter and the individual tried to remove his arm from his grip. The individual alleged that PO Hayes pushed him against a police vehicle and a wall. A TARU camera had a view of the individual and PO Hayes but its view was obstructed and showed PO Hayes holding the individual by his arm and shoulder. PO Hayes denied pushing the individual into a wall or police vehicle. Without additional independent evidence, the investigation was unable to determine by a preponderance of evidence whether PO Hayes pushed the individual against a wall or police vehicle. The Board closed the two (2) Use of Force allegations as Unable to Determine.

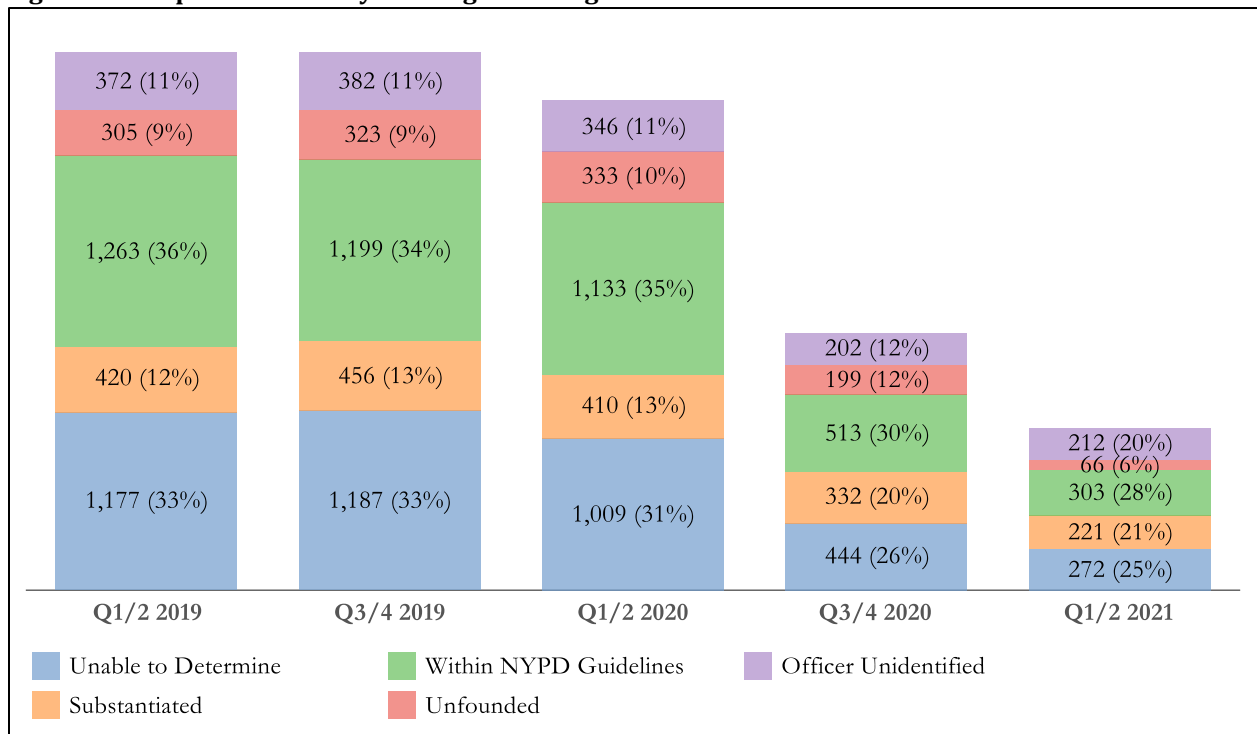
DISPOSITIONS OF COMPLAINTS AND ALLEGATIONS

Figure 24: Disposition of Fully Investigated Complaints



A CCRB complaint may contain one or more allegations. The complaint disposition is a composite of the dispositions of all the distinct allegations within the complaint (see page 27).

Figure 25: Disposition of Fully Investigated Allegations



UNTRUTHFUL STATEMENT ALLEGATIONS

On November 5, 2019, New Yorkers voted to revise the New York City Charter to explicitly include within the CCRB’s jurisdiction untruthful material statements made by NYPD members of service to the CCRB. The Charter revision reads as follows:

“The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, if such statement was made during the course of and in relation to the board’s resolution of such complaint.”

To comply with the charter revision, the CCRB created the “Untruthful Statement” allegation type. There are four distinct “Untruthful Statement” allegations:

1. **False Official Statement:** The false official statement allegation requires a showing of three elements by a preponderance of the evidence: (1) that the officer who was the subject of a CCRB complaint made an intentional statement during the course of the CCRB investigation; (2) that the officer knew to be untrue; and (3) the statement was material to the outcome of the investigation.
2. **Misleading Official Statement:** Misleading statements are statements in which the officer intends to misdirect the fact finder and materially alter the narrative by omitting material facts, states repeatedly that they do not recall the event or specific actions when a reasonable person would be expected to recall or have been aware, or when officers materially alter their statement after being confronted with evidence which contradicts the initial statement.
3. **Inaccurate Official Statement:** This allegation does not require an intent to deceive, but the officer’s testimony includes incorrect material information out of gross negligence about knowledge which the officer ought to possess.
4. **Impeding an Investigation:** CCRB will not doubly charge the officer for the same untruthful act. Instead this allegation shall be reserved for instances when “an officer engages in impeding actions” such as destroying digital or material evidence or refusing to provide said evidence.

Figure 26: Untruthful Statement Allegations

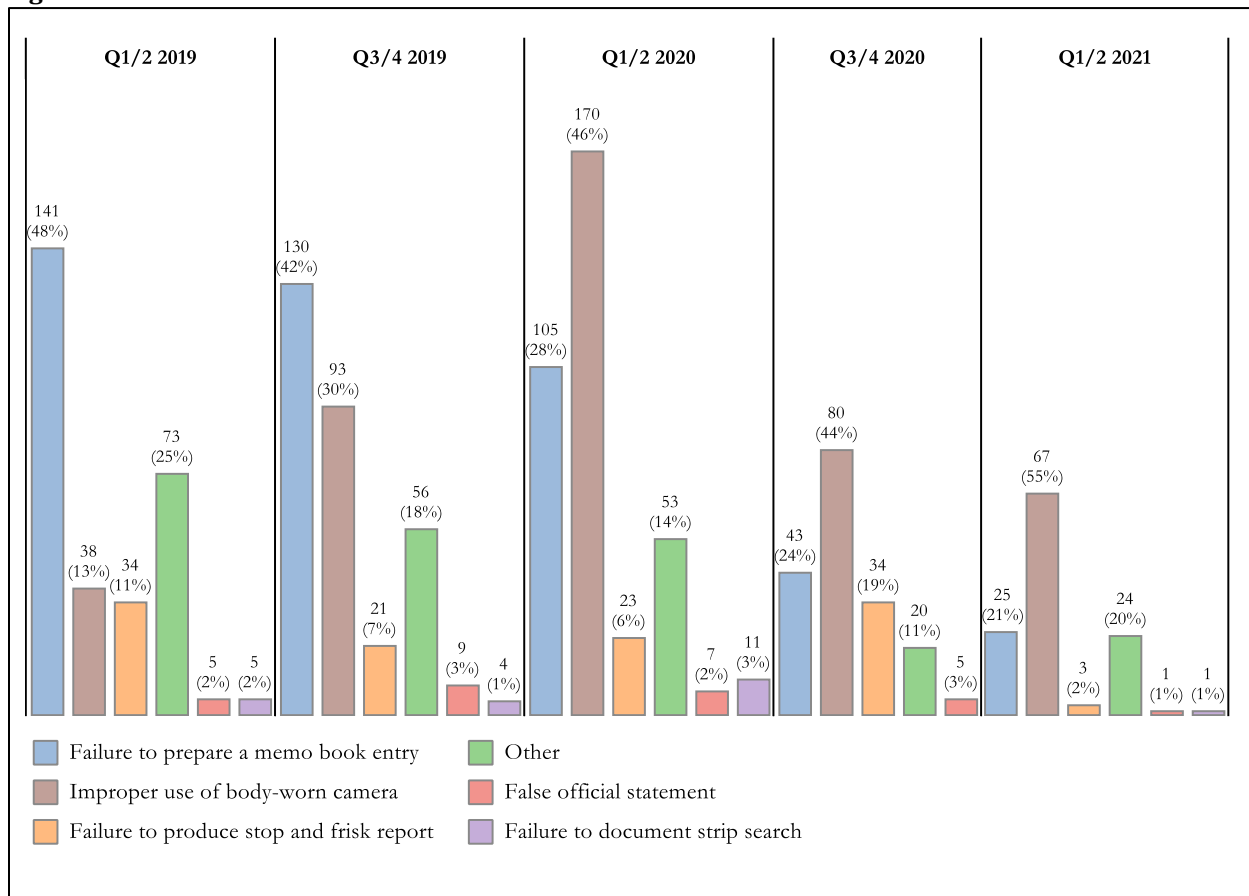
YearQtr	Board Disposition	Inaccurate Official Statement	Misleading Official Statement	Impeding an Investigation	False Official Statement
Q1/2 2021	Administratively Closed	0	0	0	0
	Substantiated (Charges)	0	2	0	1
	Substantiated (Command Discipline B)	0	0	0	0
	Substantiated (Formalized Training)	1	0	0	0
Q3/4 2020	Administratively Closed	0	0	66	0
	Substantiated (Charges)	0	0	0	1
	Substantiated (Command Discipline B)	0	1	0	0
	Substantiated (Formalized Training)	0	0	0	0

OTHER MISCONDUCT NOTED AND FALSE OFFICIAL STATEMENTS

When a CCRB investigation reveals evidence of a Patrol Guide violation that falls outside of the CCRB’s jurisdiction, the Board files this as “other misconduct noted” (OMN) and reports it to the NYPD for further investigation and possible disciplinary action.

OMN allegations should not be confused with allegations of corruption or potential criminal conduct, which are also referred to IAB.

Figure 27: Other Misconduct Noted



SECTION 3: DISCIPLINARY PROCESS

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

After the CCRB substantiates an allegation of misconduct, the NYPD portion of the disciplinary process begins. Although the CCRB recommends the discipline that it deems appropriate, pursuant to the New York City Charter, New York City Administrative Code, and New York State Civil Service Law,¹³ the Police Commissioner has final approval over all member of service (MOS) discipline. The Commissioner can accept, reject, or modify any discipline recommendation made by the CCRB.

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

1. **Instructions:** guidance issued by a commanding officer.
2. **Formalized Training:** given at the Police Academy or the Legal Bureau.
3. **Command Discipline A:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting five vacation days. A Command Discipline A is automatically removed from a MOS' Central Personnel Index after one year.¹⁴
4. **Command Discipline B:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting 10 vacation days. A MOS can request that a Command Discipline B be removed from his or her Central Personnel Index after three years.
5. **Charges and Specifications:** leads to a prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT), who makes a guilty or not guilty determination. The Police Commissioner has final approval of all dispositions, but generally follows the recommendation of the DCT or ADCT.¹⁵

¹³ NYS Civil Service Law § 75(3-a).

¹⁴ A Central Personnel Index is a MOS's personnel record.

¹⁵ In 2018, the Police Commissioner dismissed the trial verdict in one case (Fig. 33).

OVERVIEW OF DISCIPLINARY PROCESS

In January 2018, the Board began utilizing a Disciplinary Framework, a non-binding matrix designed to guide Board Panel discussions on discipline recommendations. Use of the Framework does not impact whether a complaint will be substantiated by the Board—it is only used once cases have been substantiated. The purpose of the Framework is to achieve consistent and fair discipline recommendations for members of service. The Framework outlines six allegation types that, if substantiated, typically would result in the recommendation of Charges and Specifications—the most severe level of discipline. These allegations include chokeholds, strip searches, warrantless entries, offensive language, excessive force with serious injury, and sexual misconduct. Under the Framework, the Board members are grouped into small work groups – called Panels, to consider the subject officer’s CCRB history and the totality of the circumstances of the case to guide its determination of the appropriate disciplinary recommendation.

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

When the Board recommends Charges and Specifications, in most instances the substantiated allegations are prosecuted by the Administrative Prosecution Unit (APU). Under the terms of a Memorandum of Understanding (MOU) between the CCRB and the NYPD, signed in 2012 and in effect since 2013, the APU prosecutes misconduct before the DCT or ADCT. The MOS can accept a plea offer from an APU prosecutor in lieu of a trial. If the MOS chooses to go to trial and is found guilty, the trial commissioner will recommend a penalty. The Police Commissioner may accept, reject, or modify any plea or trial verdict or penalty recommendation.

CCRB DISCIPLINARY RECOMMENDATIONS

Figure 28: Complaints Substantiated & Officers with Substantiated Allegations

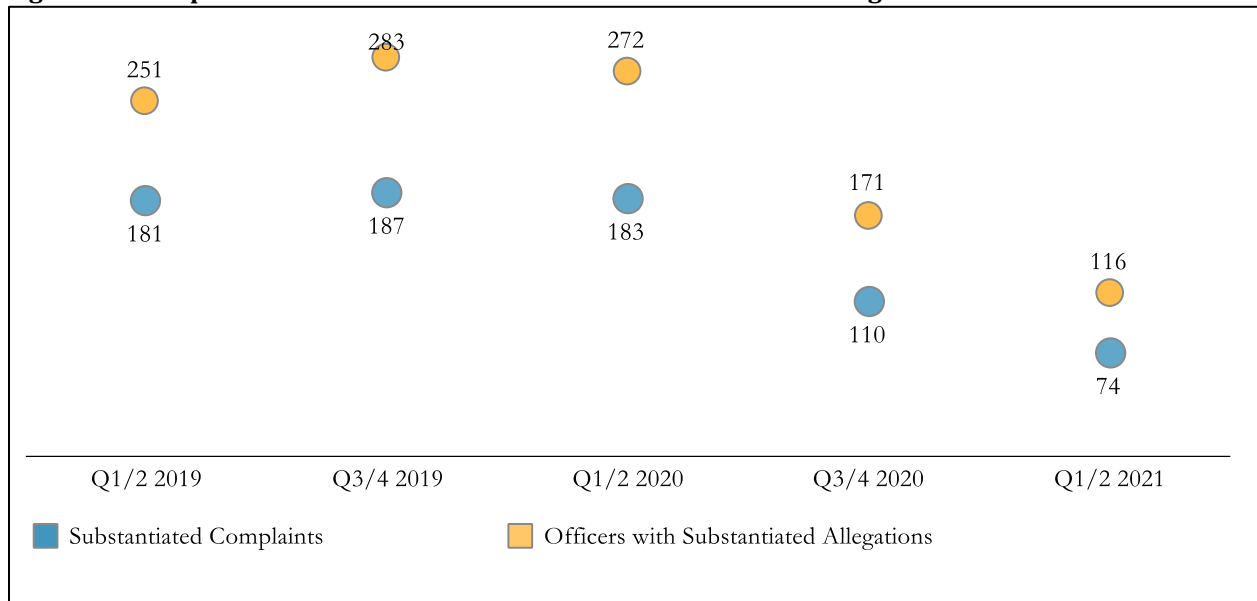


Figure 29: Board Recommendations for Officers with Substantiated Allegations

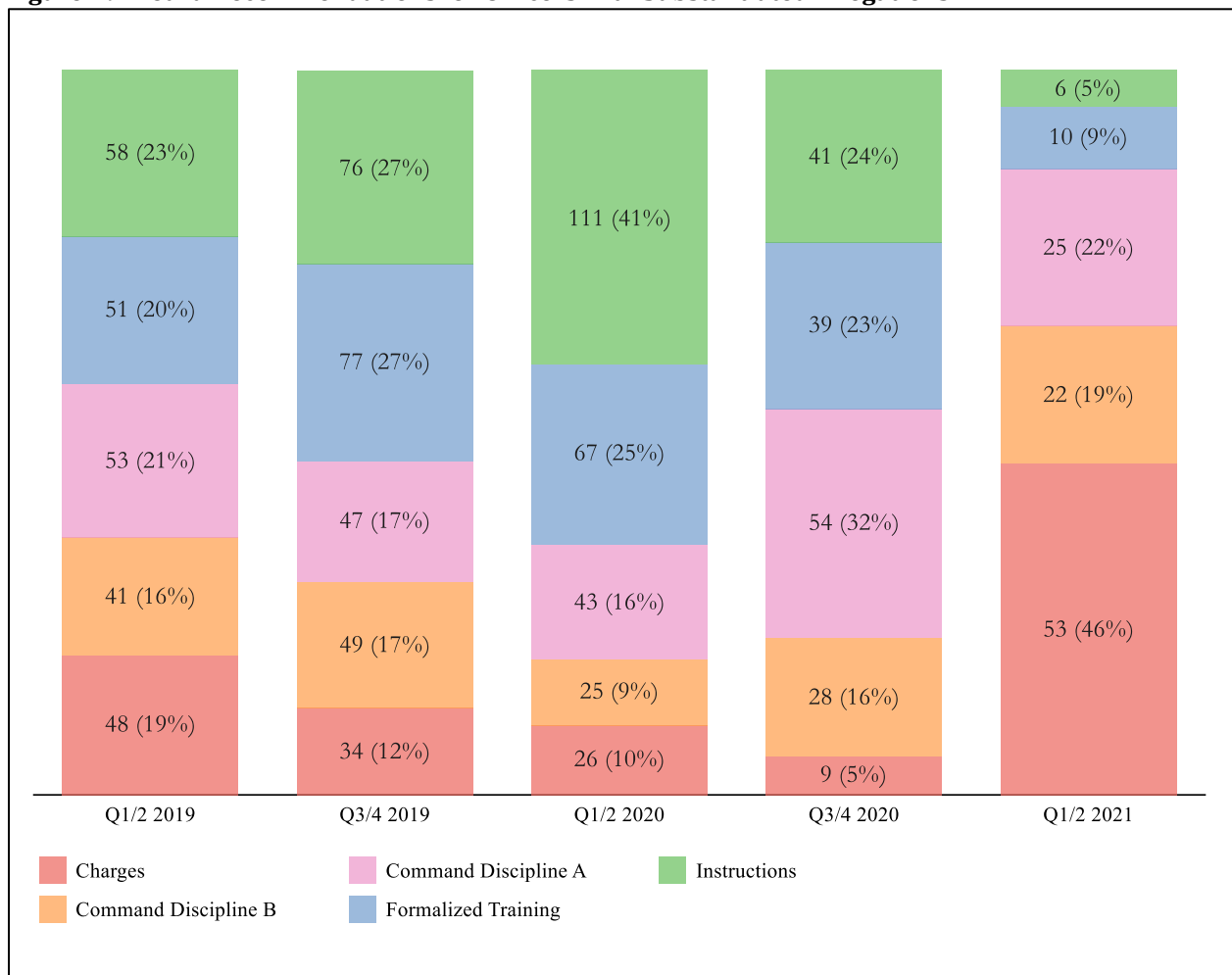
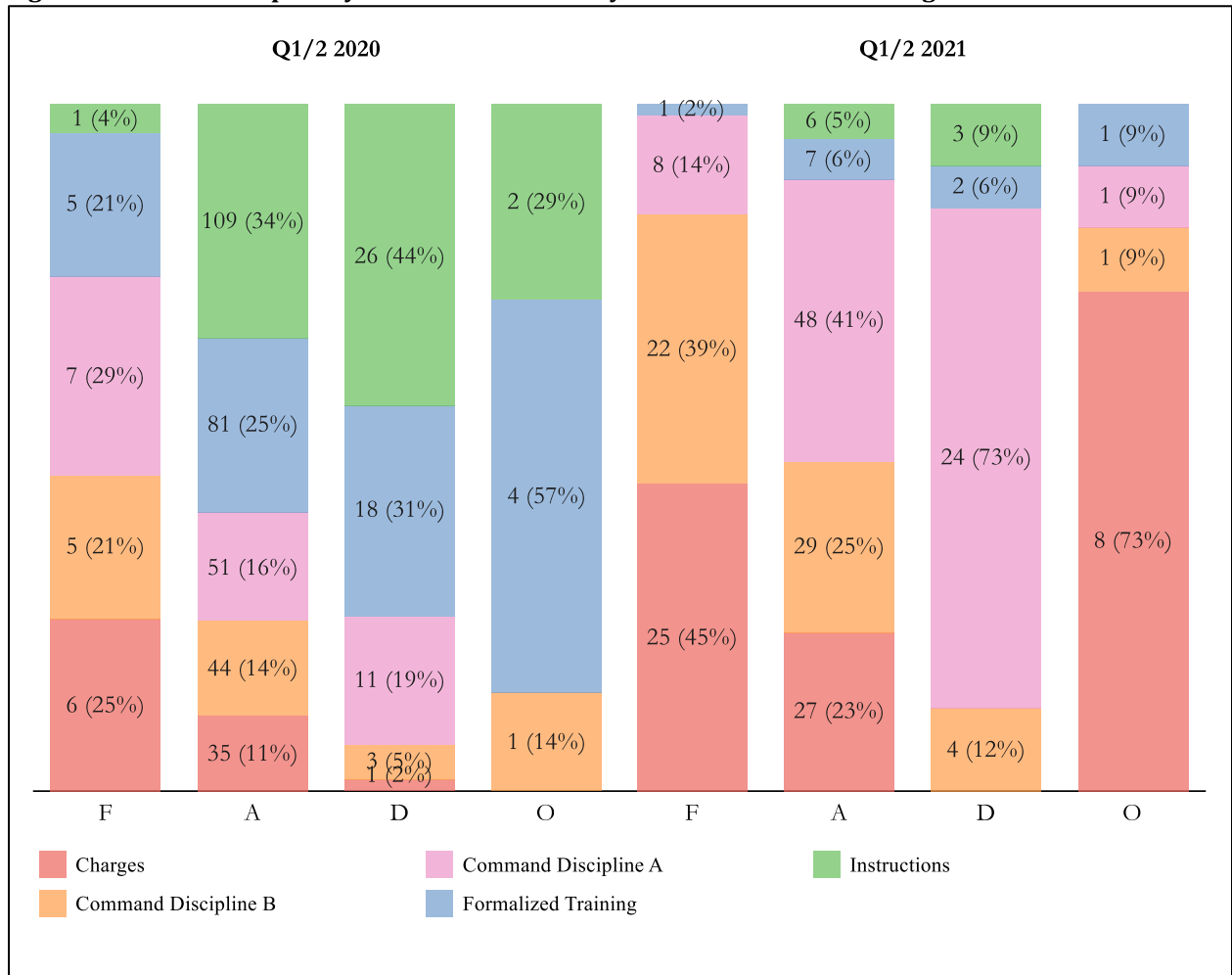


Figure 30: Board Disciplinary Recommendations by Substantiated FADO Allegations



NYPD DISCIPLINARY DECISIONS

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

When a substantiated allegation against an officer is referred to the DAO, the CCRB makes a recommendation regarding what disciplinary action should be taken. The DAO reports the final discipline imposed by the Police Commissioner, if any, back to the CCRB.¹⁶

Figure 31: Department Advocate’s Office Disciplinary Actions on Non-Charges¹⁷ Cases

NYPD Disciplinary Action	Q1/2 2019		Q3/4 2019		Q1/2 2020		Q3/4 2020		Q1/2 2021	
	Count	% Total	Count	% Total	Count	% Total	Count	% Total	Count	% Total
NYPD Pursued Discipline: Charges	1	1%	1	1%			3	1%	4	3%
NYPD Pursued Discipline: Command Discipline	27	20%	43	26%	72	25%	46	23%	44	32%
NYPD Pursued Discipline: Formalized Training	46	33%	41	25%	64	22%	45	22%	38	28%
NYPD Pursued Discipline: Instructions	37	27%	45	27%	122	42%	90	44%	38	28%
NYPD Pursued No Discipline (DUP)	20	14%	26	16%	24	8%				
Statute of Limitations Expired			1	1%			3	1%	1	1%
Filed (officer resigned before PD action)	2	1%	5	3%	2	1%	12	6%	4	3%
Administratively Closed	5	4%	5	3%	7	2%	4	2%	9	7%

POLICE COMMISSIONER DOWNWARD DEPARTURE LETTERS

As a result of the November 2019 New York City Charter amendments, the Police Commissioner must submit a letter to the CCRB explaining any downward departures from the Board’s disciplinary recommendations. While these letters have always been part of cases closed by the APU, the Charter change extends this requirement to all CCRB cases.¹⁸

¹⁶ While the CCRB receives notification of the final category of discipline, the Agency does not receive specifics on the penalty that the Police Commissioner ultimately imposes.

¹⁷ In a small number of cases (labeled as “NYPD Pursued Discipline: Charges” in Figure 34), the CCRB does not recommend Charges and Specifications, but DAO determines that there should be an administrative trial. This may be due to many factors, including that the officer rejected a Command Discipline and elected to go to trial, or the DAO determines that the case is serious enough to rise to the level of charges.

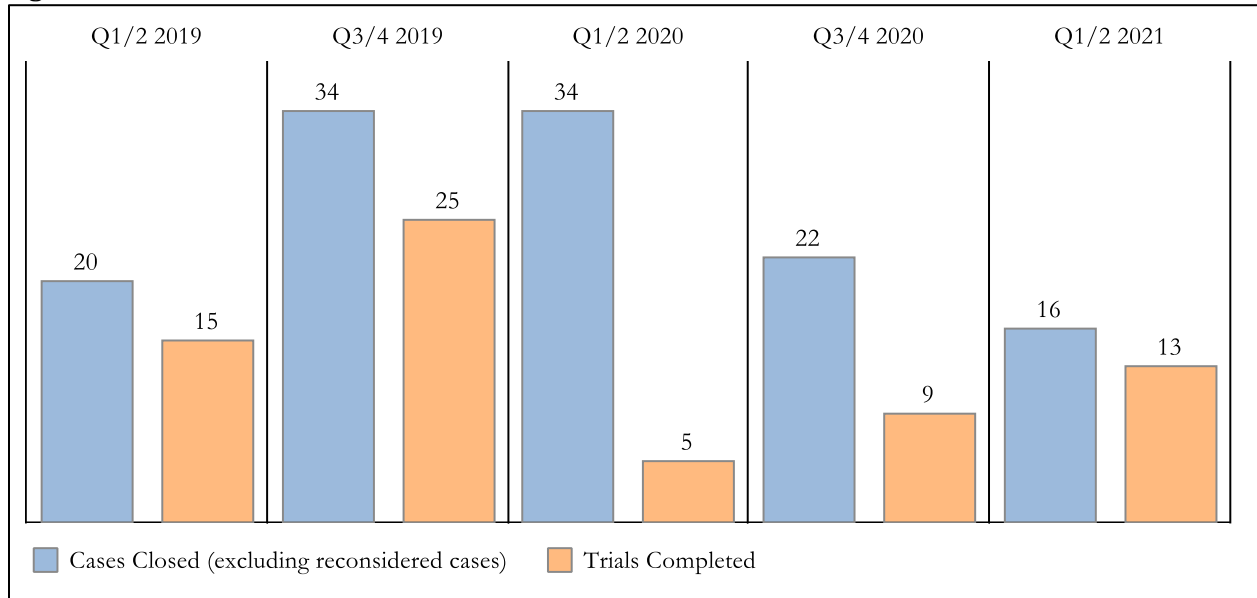
¹⁸ The Department informed the CCRB that it is their position that “Instructions from the Commanding Officer is a type of training as is Formal Training at the Academy or from the Legal Bureau. The type of “training”, is fact specific, based on the category of misconduct. Therefore, Departure letters are not required.” The CCRB is working with the Department to resolve this issue.

ADMINISTRATIVE PROSECUTION UNIT

When the Board recommends Charges and Specifications against an officer in a substantiated case, the APU prosecutes the case unless the NYPD retains the case. Retained cases are those in which the NYPD elects, pursuant to Section 2 of the MOU between the NYPD and the CCRB, to keep a case.¹⁹ When the NYPD keeps a case pursuant to Section 2, it may or may not impose discipline on the officer.

The APU treats each officer against whom an allegation is substantiated as a separate case.²⁰ A single CCRB complaint may generate more than one APU case depending on the number of officers against whom the Board recommends Charges and Specifications.

Figure 32: APU Trials Conducted and Cases Closed



¹⁹Section 2 of the MOU states, “...in those limited instances where the Police Commissioner determines that CCRB’s prosecution of Charges and Specifications in a substantiated case would be detrimental to the Police Department’s disciplinary process, the Police Commissioner shall so notify CCRB. Such instances shall be limited to such cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer’s record and disciplinary history the interests of justice would not be served.” For the full text of the MOU, see http://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf.

²⁰Because the APU treats each officer’s substantiated allegations as a separate “case,” all APU data discussed in this Report uses the same terminology. While there may be trials or incidents that involve multiple officers, the word “case” should be interpreted as “case against a single officer.”

Figure 33: APU Case Closures

Disciplinary Action	Not guilty after trial but Discipline Imposed	0
	Guilty after trial	6
	Trial verdict dismissed by PC, Comm. Disc. A imposed	0
	Trial verdict dismissed by PC, Comm. Disc. B imposed	0
	Trial verdict dismissed by PC, Formalized Training imposed	0
	Trial verdict dismissed by PC, Instructions imposed	0
	Trial verdict reversed by PC, Final verdict Guilty	0
	Resolved by plea	3
	Plea set aside, Comm. Disc. B	0
	Plea set aside, Comm. Disc. A	0
	Plea set aside, Formalized Training	0
	Plea set aside, Instructions	0
	*Retained, with discipline	1
	Total	10
No Disciplinary Action	Not guilty after trial	1
	Trial verdict reversed by PC, Final verdict Not Guilty	0
	Plea set aside, Without discipline	0
	**Retained, without discipline	1
	Dismissed by APU	0
	SOL Expired in APU	0
Total	2	
Not Adjudicated	Charges not served	0
	Deceased	0
	Other	0
	***Previously adjudicated, with discipline	2
	***Previously adjudicated, without discipline	0
	†Reconsidered by CCRB Board	0
	Retired	2
	SOL Expired prior to APU	0
Total	4	
Total Closures†	16	

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

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

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

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

Figure 34: Discipline Imposed for Adjudicated APU Cases

Terminated	0
Suspension for or loss of vacation time of 31 or more days and/or Dismissal Probation	1
Suspension for or loss of vacation time of 21 to 30 days	0
Suspension for or loss of vacation time of 11 to 20 days	1
Suspension for or loss of vacation time of 1 to 10 days	8
Command Discipline B	0
Command Discipline A	0
Formalized Training**	0
Instructions***	0
Warned & Admonished/Reprimanded	0
Disciplinary Action Total	10
No Disciplinary Action	2
Adjudicated Total	12
Discipline Rate	83%
Closed - Not Adjudicated	4
Total Closures	16

DISCIPLINE CONCURRENCE RATES

Figure 35: Non-Charges Discipline Rate

Penalty Outcome	Q1/2 2019		Q3/4 2019		Q1/2 2020		Q3/4 2020		Q1/2 2021	
	Count	% Total	Count	% Total	Count	% Total	Count	% Total	Count	% Total
Discipline Concurrence	72	52%	83	50%	205	70%	156	77%	104	75%
Discipline Difference	39	28%	47	28%	53	18%	28	14%	20	14%
No Discipline	20	14%	26	16%	24	8%				
Other	7	5%	11	7%	9	3%	19	9%	14	10%
Grand Total	138	100%	167	100%	291	100%	203	100%	138	100%

The "Other" category include cases in which the MOS resigned before discipline could be imposed, cases where the statute of limitations expired before discipline could be imposed, cases that were administratively closed, and cases where the Charges and Specifications were dismissed.

Figure 36: APU Discipline and Penalty Concurrence Rate

APU Penalty Outcome	Q1/2 2019		Q3/4 2019		Q1/2 2020		Q3/4 2020		Q1/2 2021	
	Count	% Total	Count	% Total	Count	% Total	Count	% Total	Count	% Total
Discipline Concurrence	7	39%	7	24%	4	12%	5	36%	4	33%
Not Guilty	6	33%	7	24%	10	30%			1	8%
Guilty Verdict Reversed - final verdict not guilty			1	3%	3	9%				
Penalty Lower Than Requested At Trial	3	17%	6	21%	6	18%	2	14%	5	42%
Plea Modified - penalty reduced			1	3%	3	9%	5	36%		
Retained - discipline imposed	2	11%	5	17%	7	21%	1	7%	1	8%
Retained - no discipline imposed			2	7%			1	7%	1	8%
Grand Total	18	100%	29	100%	33	100%	14	100%	12	100%

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

SECTION 4: MEDIATION

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

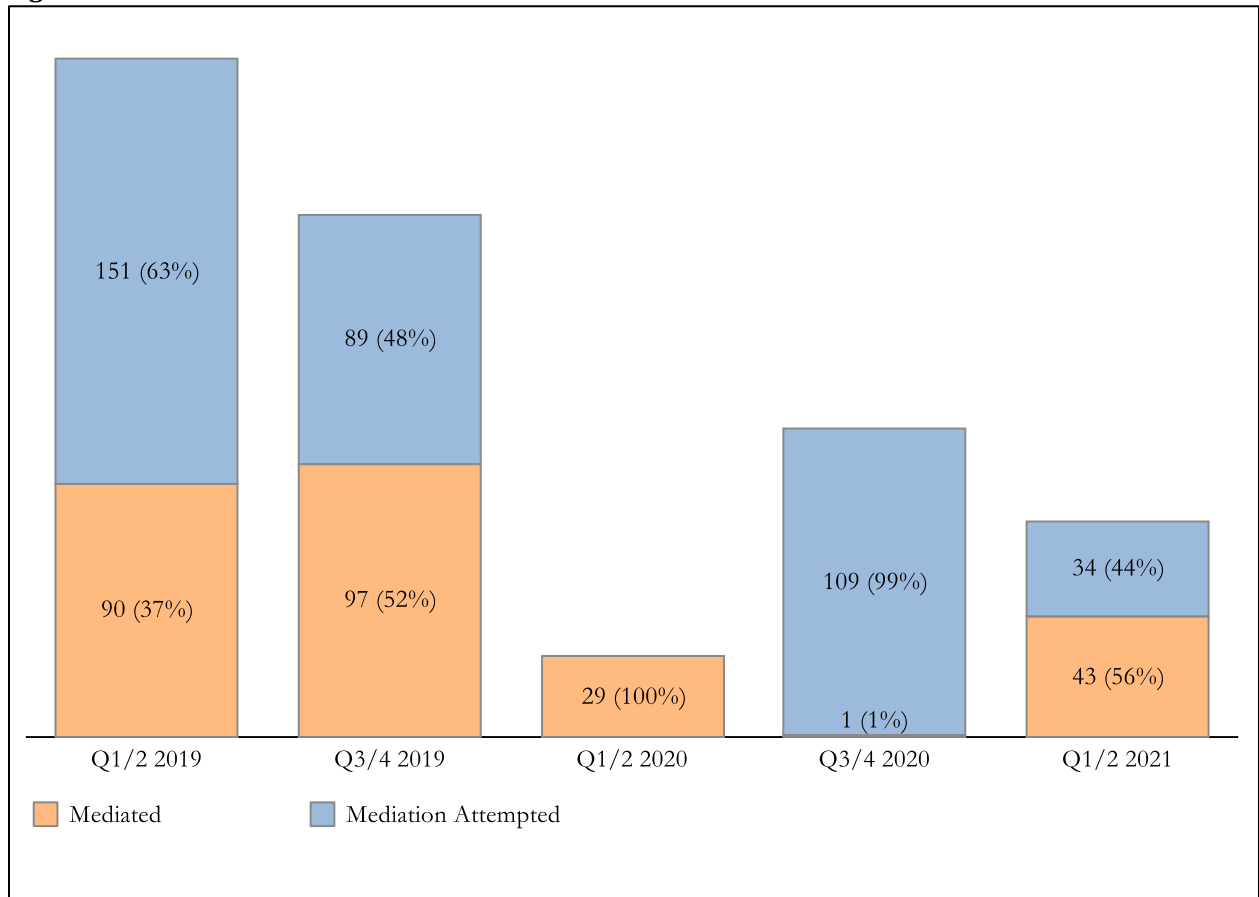
Mediation is not offered in all cases because there are some factors that render a complaint unsuitable for the Mediation Program. These include allegations of serious physical injury or property damage, a pending criminal case or a civil lawsuit, or a concurrent Internal Affairs Bureau investigation.

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

A mediation session ends when all parties involved agree that they have had an opportunity to discuss the issues in the case. In most mediated cases, the parties resolve the allegations raised in the complaint. After a completed mediation, the complaint is closed as “mediated,” meaning that there will be no further investigation and the officer will not be disciplined. If the mediation is not completed or not successful, the case returns to the Investigations Division for a full investigation.

The Mediation Unit provides members of the public with complaints against MOS an additional option for resolving their complaints. A trained, neutral mediator contracted by the CCRB guides the session and facilitates a confidential dialogue about the circumstances leading to the complaint.

Figure 37: Mediation Closures



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

Figure 38: Average Days to Completed Mediation

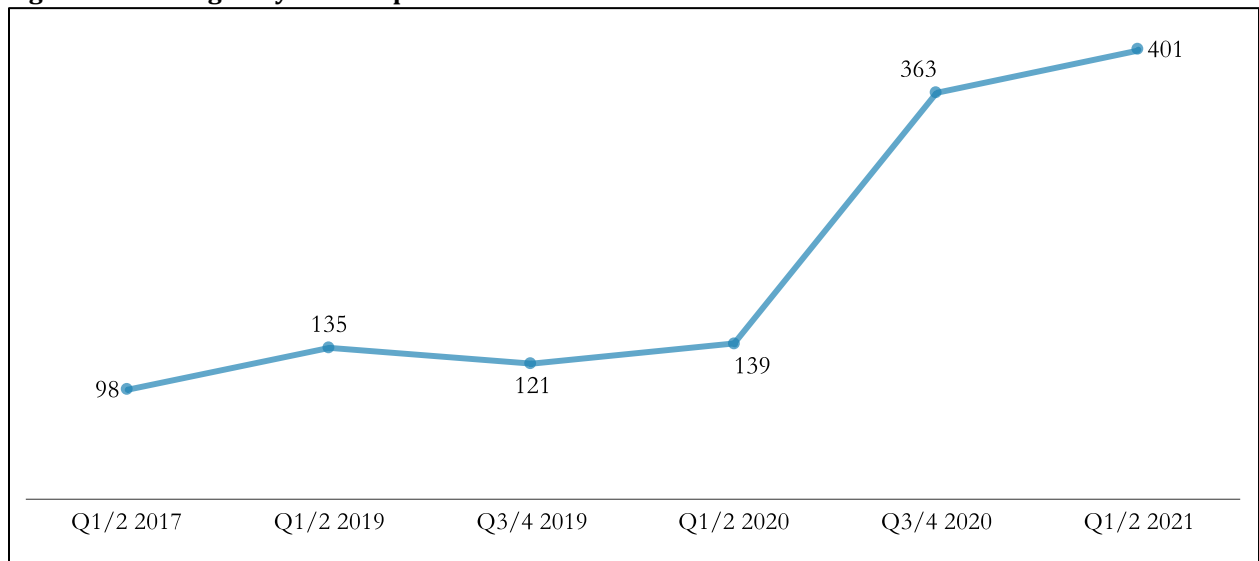


Figure 39: Percentage of Cases in which Mediation was Offered

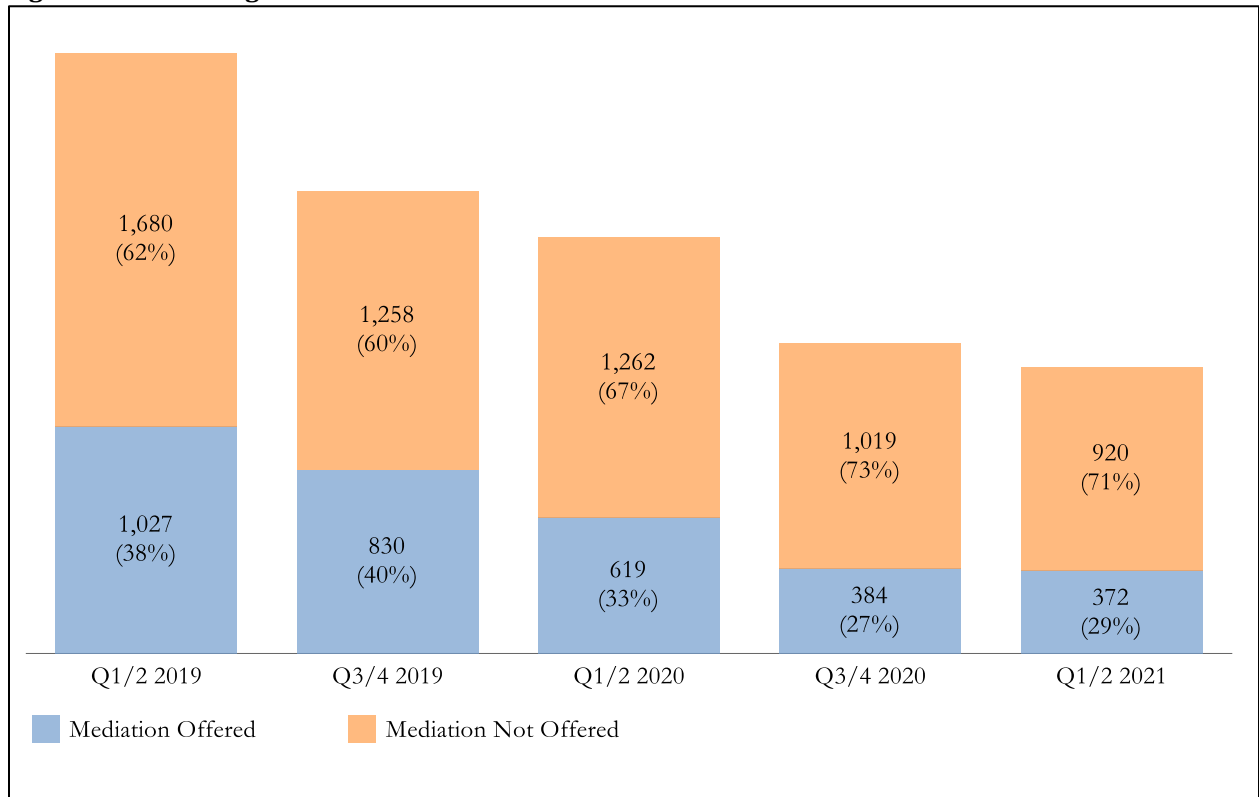


Figure 40: Number of Civilians and MOS that Accepted Mediation

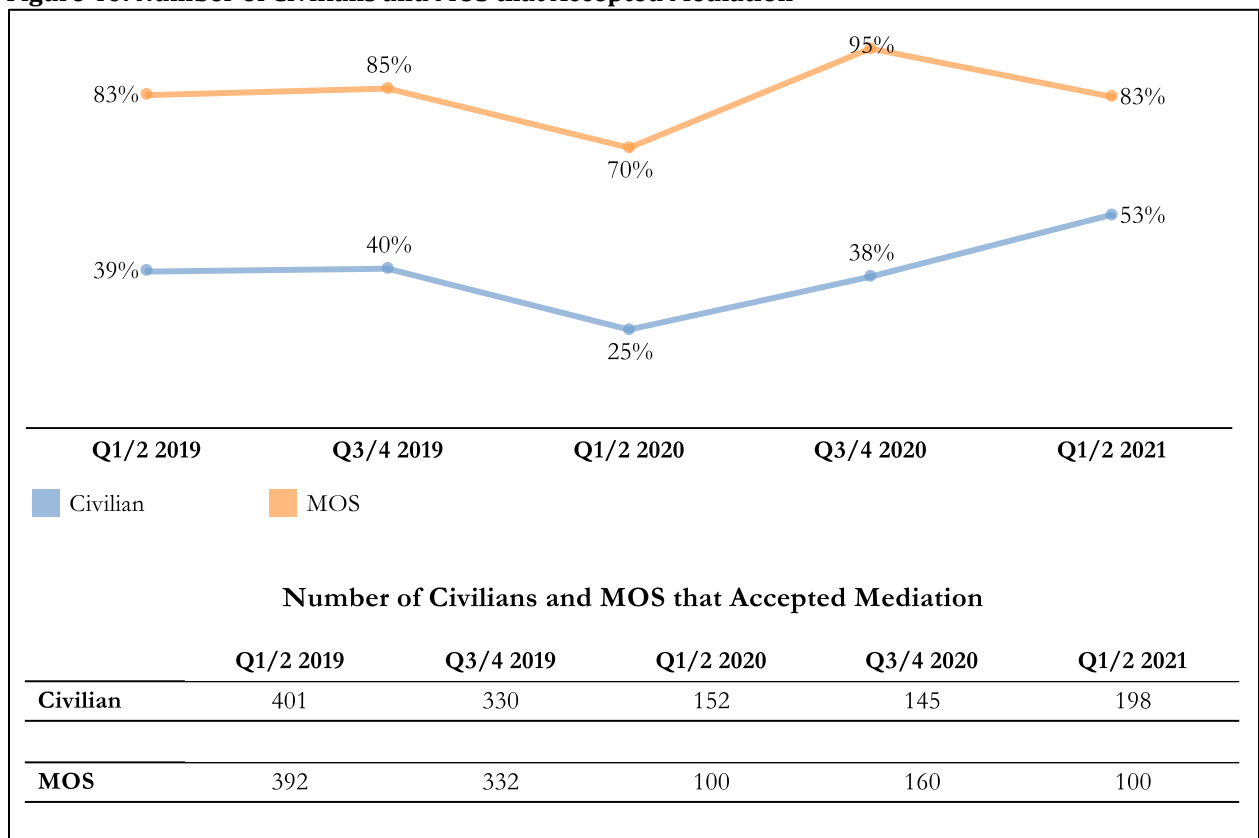
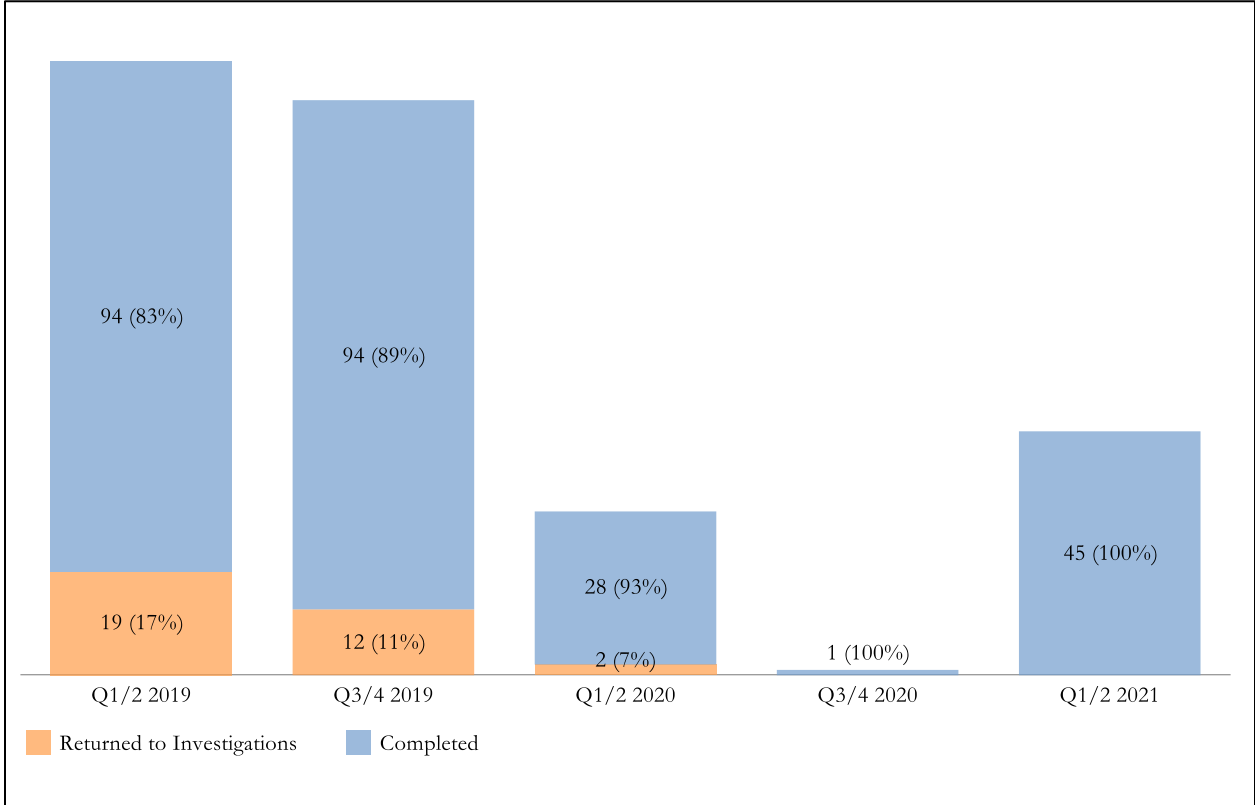


Figure 41: Mediation Completion Rate



SECTION 5: RECONSIDERATIONS

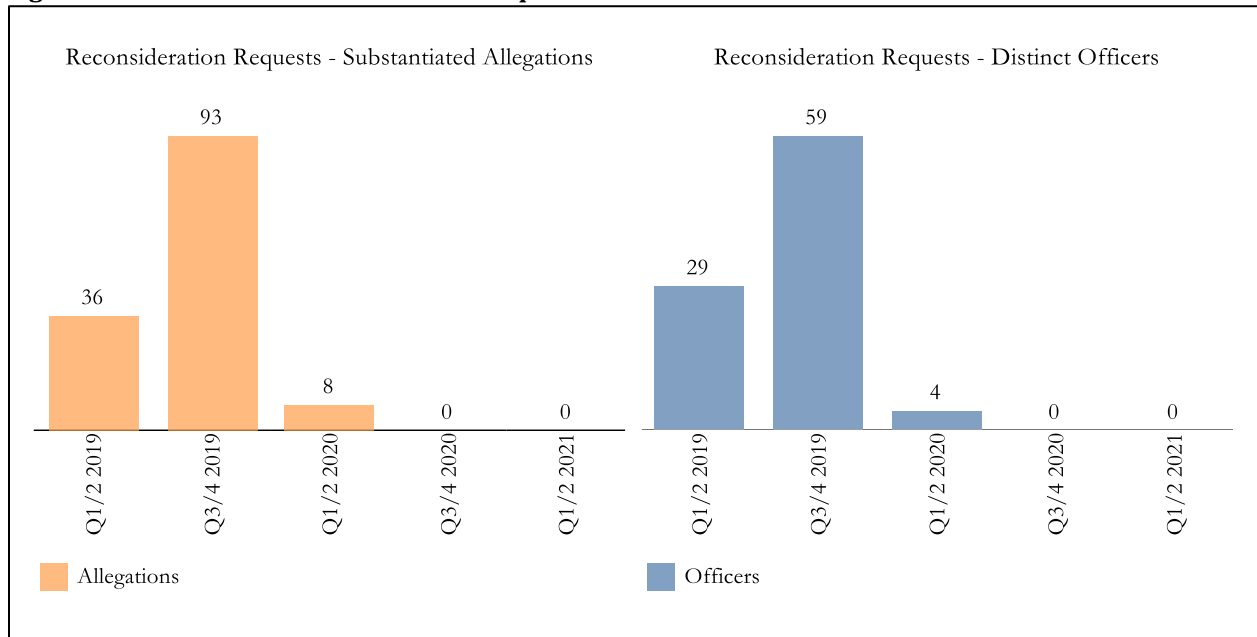
CCRB-NYPD RECONSIDERATION PROCESS

Since December 2014, the CCRB and the NYPD have engaged in a formal reconsideration process. The process allows the Department Advocate’s Office (DAO) to write a letter requesting that the Board reconsider its findings and/or discipline recommendations for a substantiated allegation or case. The Board does not automatically reverse its decision upon the NYPD’s request. As an independent oversight agency, the CCRB only changes its case disposition determination or discipline recommendation when doing so is in the interest of fairness.

- The Board may change its decision on a previously substantiated case if:
 - (a) The discipline recommended against any subject officer is determined upon reconsideration to be inappropriate or excessive²¹;
 - (b) There are new facts or evidence that were not previously known to the Board Panel, and such facts or evidence could reasonably lead to a different finding or recommendation in the case; or
 - (c) There are matters of law that were overlooked, misapprehended, or incorrectly applied by the Board Panel.

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

Figure 42: Number of Reconsideration Requests Received



²¹ In some cases, the Board may reconsider a decision based upon additional disciplinary information provided by the NYPD. Board members may consider a MOS’ CCRB history when they initially vote, but reconsideration requests typically include a summary of the MOS’ entire disciplinary history within NYPD.

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

In 2013, Judge Shira Scheindlin of the United States District Court for the Southern District of New York, presiding over *Floyd v. City of New York*,²² found that NYPD violated the Fourth and Fourteenth Amendments through its use of unconstitutional stop, question, and frisk practices. The court also found that the NYPD had a “policy of indirect racial profiling” that disproportionately targeted Black and Hispanic individuals for stops. As a result, the court ordered changes to certain policies, practices, and training curricula, and appointed a monitor to oversee these reforms. The court also ordered a one-year Body-Worn Camera (BWC) pilot to determine whether BWCs were effective in reducing unconstitutional stops.

From December 2014 through March 2016, the NYPD conducted a small BWC experiment utilizing 54 volunteer police officers. After reviewing the results of this experiment, the NYPD began the larger-scale court-ordered pilot on a precinct-by-precinct basis starting in April 2017. By December 31, 2018, BWCs had been deployed to 15,826 members of service (MOS) across 81 commands, and at present, the rollout of BWCs across all intended recipients is complete.

The NYPD provides informational videos in several languages, including sign language, about the BWC rollout on its website,²³ and a copy of the Draft Operations Order governing the use of BWCs is included in Appendix B of the NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy report.²⁴

²² *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

²³ NYPD, Body-Worn Cameras, <http://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>.

²⁴ NYPD, NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy (Apr. 2017), https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/body-worn-camera-policy-response.pdf.

HOW THE CCRB OBTAINS BWC EVIDENCE

In 2020, the CCRB obtained BWC footage from the NYPD via the following process:

1. The CCRB investigator submits a records request to the NYPD Relations Unit for BWC footage.
2. The NYPD Relations Unit then forwards the request to the Internal Affairs Bureau (IAB) and the NYPD Legal Bureau, which is responsible for approving the request and locating the footage.
3. Once the Legal Bureau has approved the request and located the BWC footage, the video is sent back to IAB, which then uploads the footage to a network drive shared with the CCRB.
4. The CCRB downloads the footage from the shared network drive.
5. If, upon examination, the BWC footage reveals the existence of additional officers on the scene who had BWCs, or other evidence suggests that the NYPD's response that it was unable to locate BWC footage, may have been a false negative, the CCRB investigator must submit a new request specifying the additional BWC footage that is needed

Figure 43: Average BWC Request Turnaround Times, Requests Closed

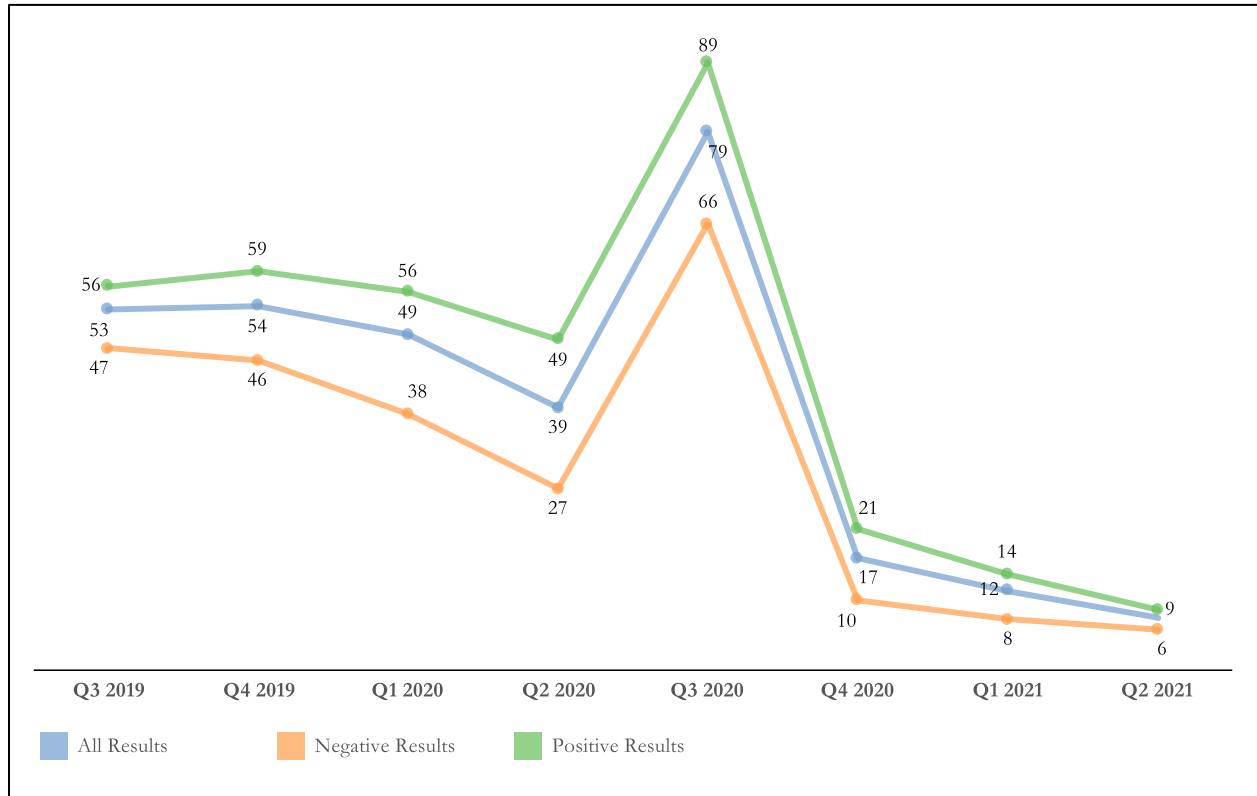


Figure 44: Complaints with Video

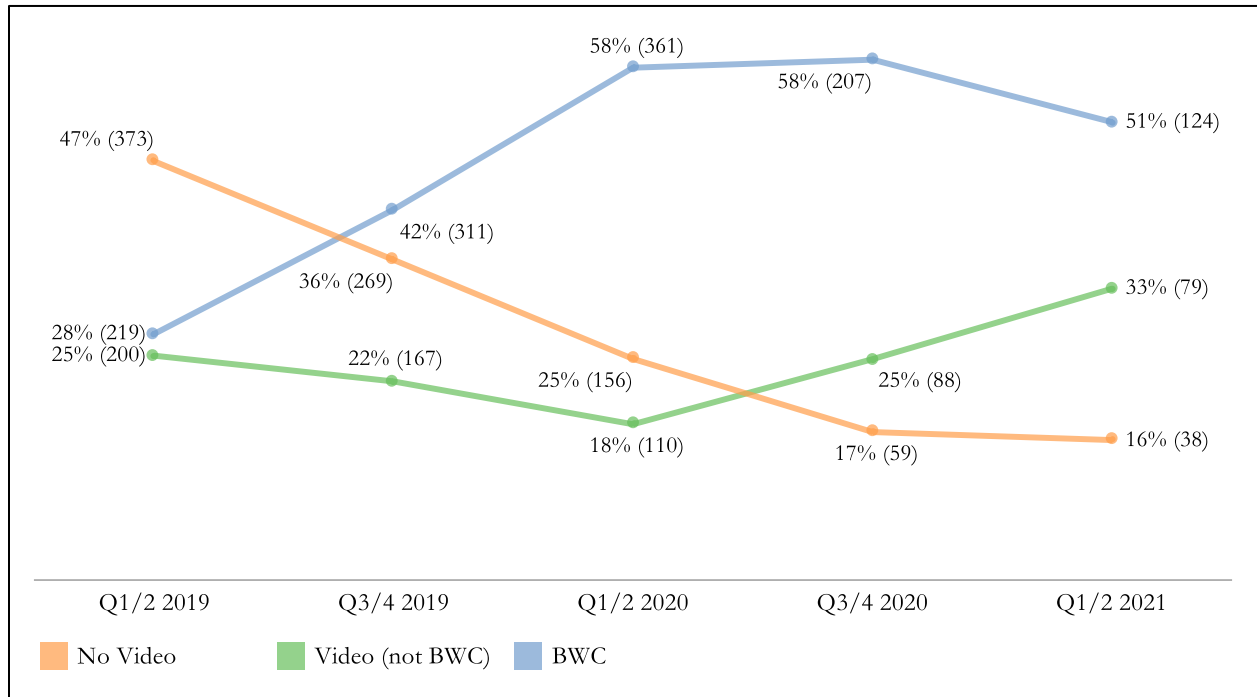
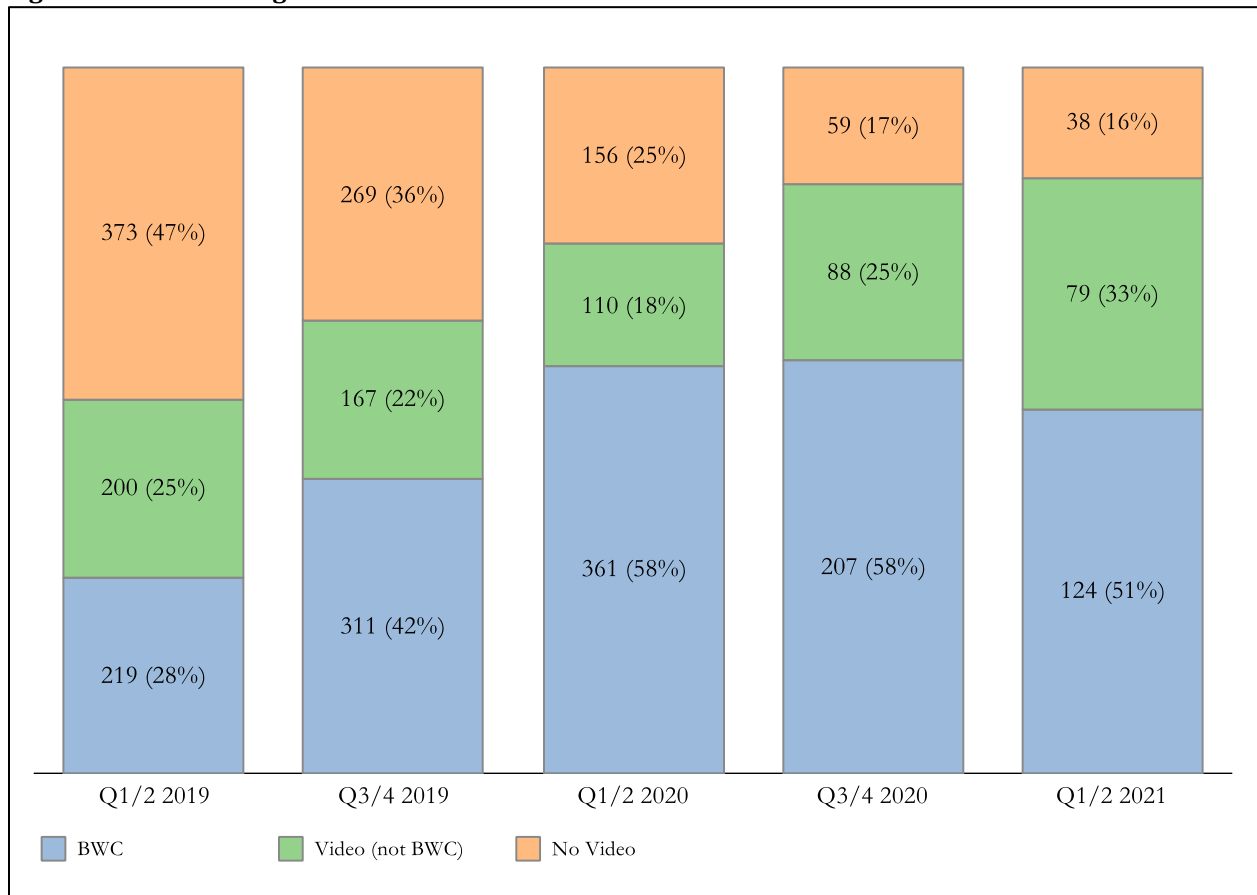


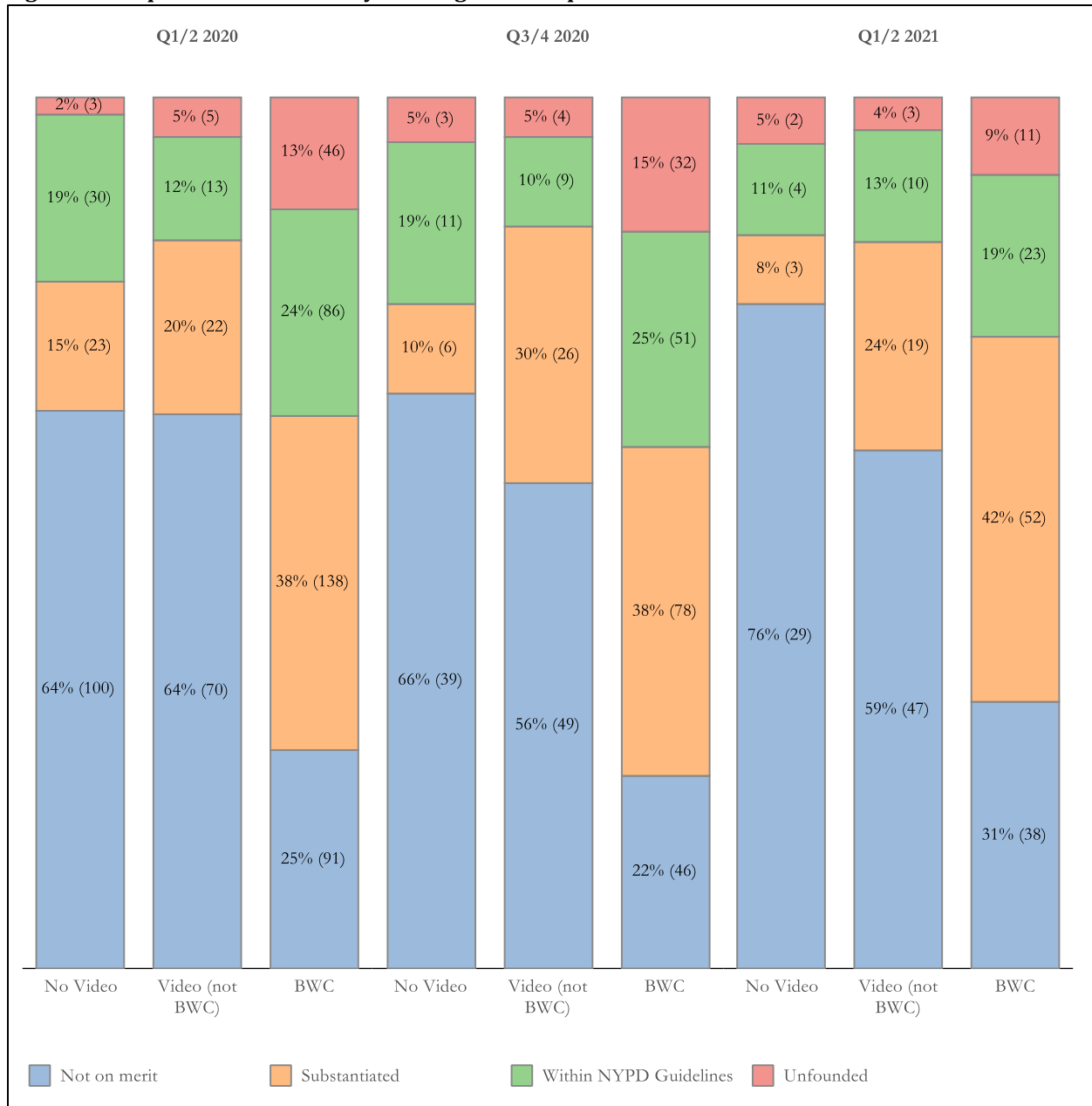
Figure 45: Full Investigations with and without video



THE IMPACT OF BWC AND OTHER VIDEO EVIDENCE

The availability of video evidence allows for clearer interpretation of the circumstances surrounding an encounter. Video evidence, especially BWC footage, can have a substantial impact on the outcome of a CCRB investigation, particularly the rate of allegations closed “on the merits” (i.e. substantiated, Within NYPD Guidelines, or unfounded).

Figure 46: Impact of Video on Fully Investigated Complaints Closed on the Merits



The availability of BWC evidence has a particularly significant impact on the Board’s ability to make a decision on the merits regarding Discourtesy and Offensive Language allegations. In the absence of video, and its accompanying audio, the Board often has no means of resolving the conflicting testimony of officers and complainants about what was said during an encounter.

Figure 47: Impact of Video on Allegation Closures on the Merits by FADO

FADO Type	Board Disposition	Q1/2 2020						Q3/4 2020						Q1/2 2021					
		No Video		Video (not BWC)		BWC		No Video		Video (not BWC)		BWC		No Video		Video (not BWC)		BWC	
Force	Not on merit	43	52%	37	40%	135	29%	13	72%	31	61%	52	23%	17	100%	84	78%	98	40%
	Substantiated	1	1%	8	9%	15	3%			7	14%	25	11%			8	7%	48	20%
	Within NYPD Guidelines	21	25%	40	43%	224	49%	5	28%	9	18%	127	55%			15	14%	79	32%
	Unfounded	18	22%	8	9%	85	19%			4	8%	26	11%			1	1%	20	8%
Abuse of Authority	Not on merit	323	63%	200	59%	385	29%	91	71%	134	48%	198	27%	50	69%	66	52%	69	22%
	Substantiated	51	10%	29	9%	240	18%	7	5%	71	25%	165	22%	1	1%	19	15%	97	31%
	Within NYPD Guidelines	129	25%	104	31%	563	42%	23	18%	44	16%	283	39%	17	24%	35	27%	127	41%
	Unfounded	8	2%	5	1%	149	11%	7	5%	32	11%	89	12%	4	6%	8	6%	20	6%
Discourtesy	Not on merit	55	87%	53	76%	72	35%	26	90%	30	60%	30	28%	14	93%	33	85%	31	32%
	Substantiated	4	6%	7	10%	48	23%	1	3%	15	30%	34	32%			2	5%	31	32%
	Within NYPD Guidelines	1	2%	4	6%	47	23%			1	2%	19	18%			4	10%	25	26%
	Unfounded	3	5%	6	9%	40	19%	2	7%	4	8%	24	22%	1	7%			10	10%
Offensive Language	Not on merit	20	95%	10	77%	22	61%	11	100%	16	100%	14	47%	3	60%	10	77%	8	47%
	Substantiated	1	5%	1	8%	5	14%					4	13%	2	40%	3	23%	6	35%
	Within NYPD Guidelines											1	3%					1	6%
	Unfounded			2	15%	9	25%					11	37%					2	12%

SECTION 7: OUTREACH AND INTERGOVERNMENTAL AFFAIRS

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

The Outreach and Intergovernmental Affairs (IGA) Unit’s presentations provide an overview of the CCRB complaint process, explain the basic legal contours of police encounters, and stress the importance of de-escalation when interacting with the police.

In typical years, the Outreach and IGA Unit visits schools, public libraries, tenant associations, advocacy organizations, cultural groups, religious organizations, community boards, and precinct community councils, among other groups, in all five boroughs. Through the Agency’s Community Partners Initiative, CCRB investigators and outreach staff would typically hold monthly office hours at City Council Members’ offices, allowing the Agency to reach civilians in their communities.

Figure 48: Number of Outreach Events

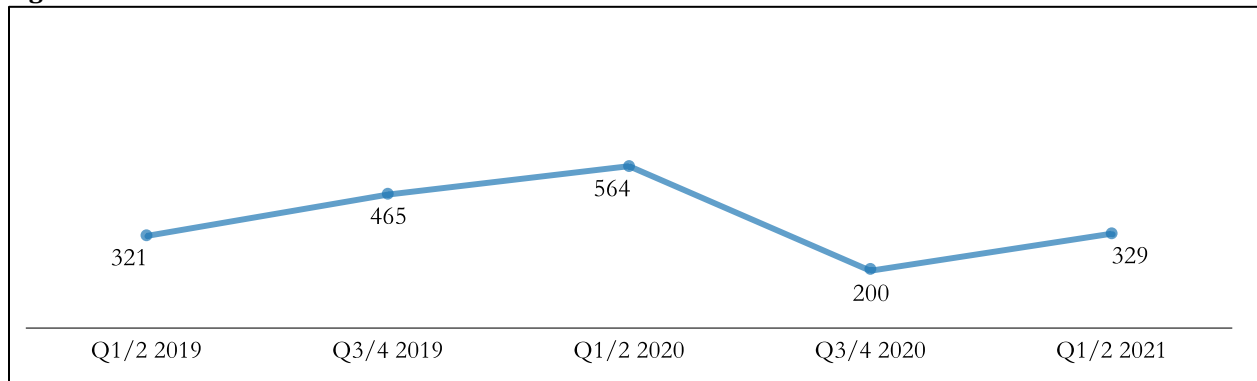


Figure 49: Outreach Events by Borough

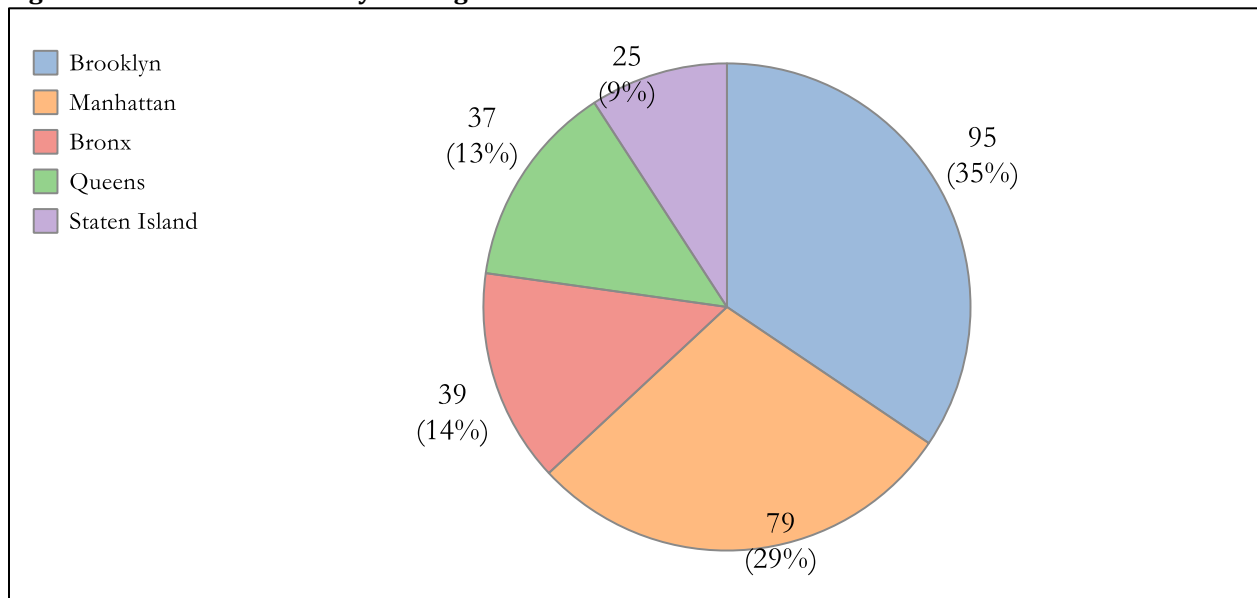
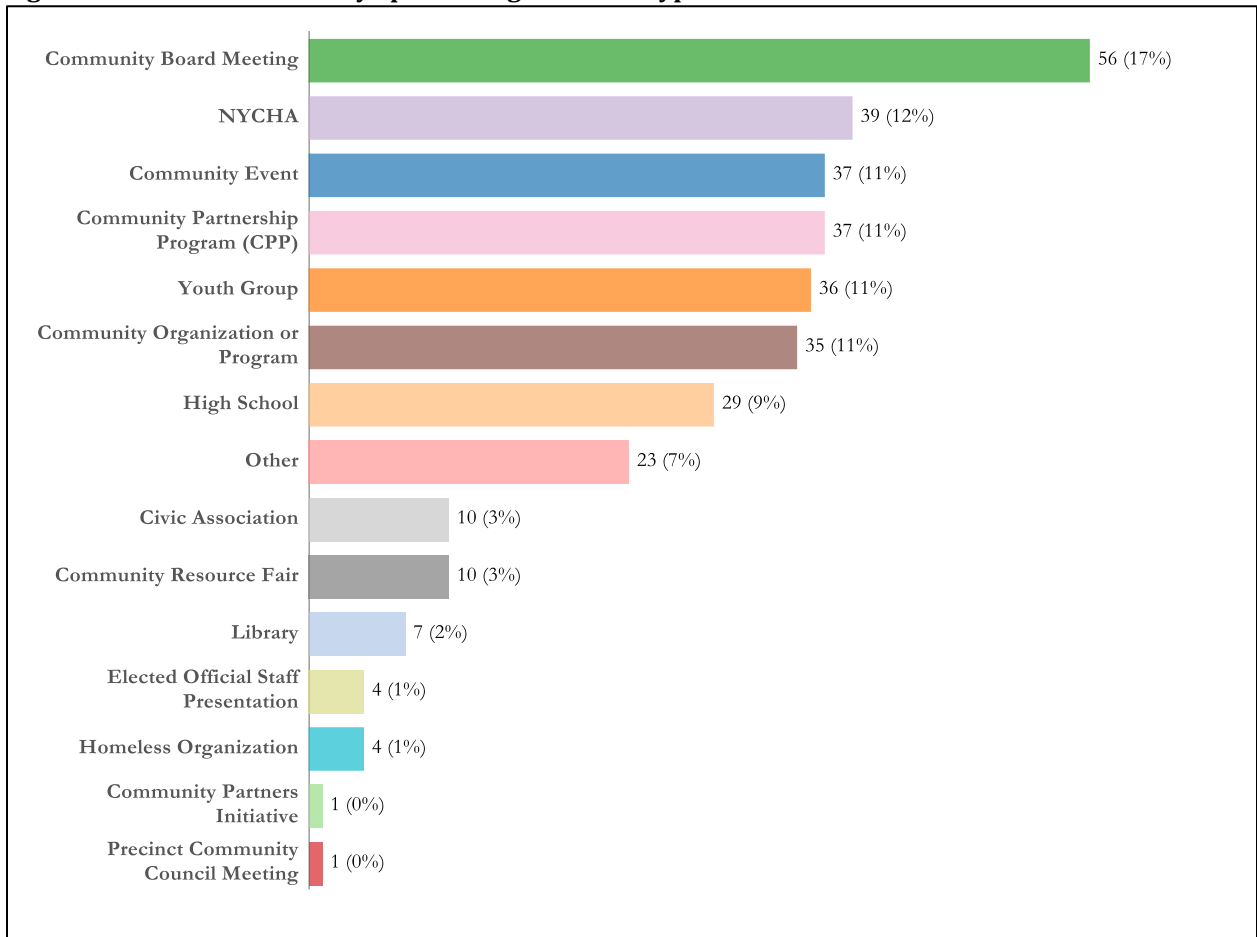


Figure 50: Outreach Events by Specific Organization Type



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 now has jurisdiction to investigate the following categories of police misconduct: **Force**, **Abuse of Authority**, **Discourtesy**, and **Offensive Language**, and **Untruthful Statement** collectively known as **FADO&U**. The CCRB also notes other **misconduct** when it uncovers conduct by officers that is outside its jurisdiction but warrants the attention of the Department. Examples of other misconduct include failures by officers to enter necessary information in their activity logs (memo books), and failures to complete required documentation of an incident. The CCRB also has the authority to investigate and make recommendations about the truthfulness of material statements made by a subject officer during a CCRB investigation of a FADO allegation.

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

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

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

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

Allegations regarding improper entries, searches, or failures to show a warrant are considered allegations falling within the CCRB's Abuse of Authority jurisdiction. 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. The Board is required 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, Within NYPD Guidelines, 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. Within NYPD Guidelines cases are those where it was shown by a preponderance of the evidence that the alleged acts occurred, but the acts did not constitute misconduct. Unfounded cases are those where there was a preponderance of the evidence that the alleged acts did not occur. **Unable to Determine** 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.²⁵

²⁵ Fully-investigated cases comprise complaints disposed of as substantiated, unsubstantiated, Within NYPD Guidelines, 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. Unable to Investigate cases are disposed of in one of the following ways: complaint withdrawn, complainant/victim uncooperative, complainant/victim unavailable, and victim unidentified.

NEW YORK CITY CHARTER

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

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

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

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

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender,

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

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

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

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

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

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

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

(d) Cooperation of police department.

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

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

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

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

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

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

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

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

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BOARD MEMBERS

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

Fred Davie, Chair of the Board

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

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

MAYORAL APPOINTEES

Erica Bond, Esq.

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

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

Corinne A. Irish, Esq.

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

John Siegal, Esq.

John Siegal is a partner in BakerHostetler, a national business law firm, where he handles litigation, arbitrations, and appeals for clients in the financial services, media, and real estate industries. Mr. Siegal's practice also includes constitutional law, civil rights, Article 78, and other cases both for and against government agencies and authorities. 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

Rev. Dr. Demetrius S. Carolina

Reverend Dr. Carolina currently serves as Senior Pastor at First Central Baptist Church and as Executive Director of the Central Family Life Center on Staten Island, where he develops corporate, public and private relationships, and oversees and administers strategies to ensure the operation and sustainability of the Life Center. Rev. Dr. Carolina was previously appointed as a commissioner of Human Rights in 2015 by Mayor Bill de Blasio and is the recipient of the 2017 New York City Council MLK Community Award, 2017 Stapleton UME Dreamers award, 2017 Black History City Council recognition, and various other awards and recognitions. He founded The Staten Island Black History Town Hall Meeting, served as lead advocate in bringing the nationally recognized Eagle Academy to Staten Island, organized the only Cure Violence Initiative on Staten Island, known on Staten Island as True 2 Life, and has grown the nonprofit community partnership connecting Staten Island with the other boroughs.

Ph.D. University of Phoenix ; A.D., B.S., M.A. Temple University

Arva Rice

Arva Rice has more than 15 years experience in the non-profit arena, ranging from working with New York City entrepreneurs in a micro lending program to working with young people as a counselor, mentor and tutor. She has extensive experience in collaboration building, strategic planning, fundraising and marketing. Arva is President & CEO of the New York Urban League (NYUL) and organization that has a rich history and long legacy of service to New Yorkers. Today, the mission of the NYUL is to enable African Americans and other underserved communities to secure a first class education, economic self-reliance and equal respect of their civil rights through programs, services and advocacy.

Prior to joining the League she served as the Executive Director of Project Enterprise, an organization that provides business loans, technical assistance and peer support to New York City entrepreneurs who lack adequate access to business financing.

Arva is a Commissioner for the NYC Equal Employment Practices Commission and Mayor DeBlasio's Commission for Gender Equity. She is also a member of the Women's Forum and Greater New York Chapter of The Links Incorporated. She is on the Board of Trustees of First Corinthians Baptist Church. In the past she has served on the Board of Directors of the Central Brooklyn Partnership (CBP) a non-profit dedicated to financial literacy and education in Bedford-Stuyvesant.

B.A. Northwestern University

CITY COUNCIL APPOINTEES

Joseph A. Puma

Joseph Puma's career in public and community service has been exemplified by the various positions he has held in civil rights law, community-based organizations, and local government. As a paralegal with the NAACP Legal Defense and Education Fund, Puma handled cases involving criminal justice, voting rights, employment discrimination, and school desegregation. Prior to joining NAACP LDF, he worked for over six years at the NYC Office of Management and Budget, where he served in roles in intergovernmental affairs, policy, and budget.

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

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

Michael Rivadeneyra, Esq.

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

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

Marbre Stahly-Butts, Esq.

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

Herman Merritt

Herman Merritt is a lifelong New Yorker who has served the city throughout his career. Mr. Merritt worked for the Department of Education (DOE) for 36 years, first as a teacher, then an assistant principal and finally served as an elementary school principal for 18 years. After leaving the DOE, Mr. Merritt joined the Council of School Supervisors and Administrators as their Political Director, where he is currently the Assistant Political Director.

Born and raised in Brooklyn, Mr. Merritt attended New York University on a Martin Luther King scholarship and has long considered himself an activist. He joined the DOE right after graduating, aspiring to reform the New York public education system. He is deeply proud of the work he accomplished working for the city and hopes to continue his activism by bringing a fair, impartial perspective to the board. He is excited to give his community a voice and help the CCRB gain awareness. Mr. Merritt is a City Council designee from Brooklyn.

Professional Diploma, City College of New York; M.A., New York University; B.A., New York University

PUBLIC ADVOCATE APPOINTEE

Esmerelda Simmons, Esq.

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

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

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

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

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

POLICE COMMISSIONER DESIGNEEES

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, 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 70th Precinct and as Deputy Inspector in the 66th

Precinct. After retiring from the NYPD, 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 7th precinct on the lower eastside 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, Dwyer is currently pursuing a doctorate in Criminal Justice. He has consulted for several police departments including Newark, New Jersey, and Wilmington. He has also taught at or consulted to the following educational institutions: John Jay College of Criminal Justice, Teachers College, Boston College, Morgan State University, and the University of San Diego. Mr. Dwyer is a Police Commissioner designee to the Board appointed by Mayor Bill de Blasio.

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

Willie Freeman

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

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

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

EXECUTIVE AND SENIOR STAFF

EXECUTIVE STAFF

Executive Director: Jonathan Darche, Esq.

General Counsel: Matt Kadushin, Esq.

Chief Prosecutor: Andrea Robinson, Esq.

Deputy Executive Director of Administration: Jeanine Marie

Chief of Investigations: Mercer (“Monte”) Givhan, Esq.

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

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

SENIOR STAFF

Deputy Chief Prosecutor: Suzanne O’Hare, Esq.

Director of Case Management: Eshwarie Mahadeo

Senior Communications Advisor: Clio Calvo-Platero

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

Director of Analytics and Application Development: Lincoln MacVeagh

Director of Human Resources: Jennelle Brooks

Director of Information Technology: Carl Esposito

Director of Mediation: Lisa Grace Cohen, Esq.

Director of NYPD Relations: Jayne Cifuni

Director of Operations and Budget: David B. Douek

Director of Recruitment: LaShawn Lindsey

Deputy Chief of Special Operations: Olas Carayannis

Director of Investigative Training and Deputy Director of Investigative Training: Jennifer Jarett