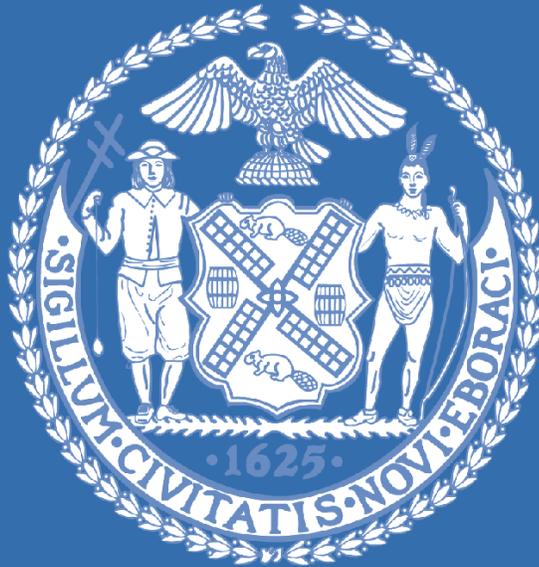




# CIVILIAN COMPLAINT REVIEW BOARD

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



*Semi-Annual Report*

2019

# TABLE OF CONTENTS

---

MISSION .....	2
LETTER FROM THE CHAIR.....	5
EXECUTIVE SUMMARY .....	6
INTRODUCTION: THE BOARD AND AGENCY OPERATIONS.....	11
SECTION 1: COMPLAINT ACTIVITY .....	12
SECTION 2: INVESTIGATIONS .....	29
SECTION 3: DISCIPLINARY PROCESS.....	42
SECTION 4: MEDIATION .....	52
SECTION 5: RECONSIDERATIONS.....	56
SECTION 6: THE IMPACT OF BODY-WORN CAMERA FOOTAGE AND OTHER VIDEO EVIDENCE .....	62
SECTION 7: OUTREACH AND INTERGOVERNMENTAL AFFAIRS .....	69
BACKGROUND OF THE CCRB AND GLOSSARY .....	72
NEW YORK CITY CHARTER.....	74
BOARD MEMBERS.....	78
EXECUTIVE AND SENIOR STAFF .....	83

## LIST OF FIGURES

---

Figure 01: Complaints Received Within CCRB Jurisdiction, 2014 – Q1/2 2019	12
Figure 02: Complaints Received Within CCRB Jurisdiction by Month, 2017 – Q1/2 2019	12
Figure 03: Complaints Received in Each Agency’s Jurisdiction, 2017 – Q1/2 2019	14
Figure 04: Complaints Received by Complaint Place, 2017 and 2018	15
Figure 05: Complaints within CCRB Jurisdiction by Complaint Mode, Q1/2 2019	15
Figure 06: Complaints Received within CCRB Jurisdiction by Borough, Q1/2 2019	16
Figure 07: CCRB Complaint Rates by Precinct, Q1/2 2019	18
Figure 08: CCRB Complaints Received per Precinct of Occurrence Q1/2 2018 & Q1/2 2019	19
Figure 09: Top Reasons for Initial Contact, Q1/2 2018 & Q1/2 2019	20
Figure 10: Outcome of Encounters Resulting in CCRB Complaints, Q1/2 2018 & Q1/2 2019	20
Figure 11: Types of Allegations Closed, 2017 – Q1/2 2019	21
Figure 12: FADO Allegations Received by Type, Q1/2 2018 & Q1/2 2019	22
Figure 13: Complaints Received Containing a Stop, Question, Frisk, and Search of Person Allegation, 2017 – Q1/2 2019	24
Figure 14: Alleged Victim Demographics Compared to New York City, Complaints Received in Q1/2 2019	26
Figure 15: Subject Officer Demographics Compared to NYPD, Q1/2 2019	27
Figure 16: Rank of Active MOS with Substantiated CCRB Complaints, Q1/2 2019	27
Figure 17: Tenure of Active MOS with Substantiated CCRB Complaints, Q1/2 2019	27
Figure 18: Active MOS with CCRB Complaints as of June 30, 2019	28
Figure 19: Active MOS with Substantiated CCRB Complaints	28
Figure 20: Average Days to Complete a Full Investigation, Complaints Closed, 2017 – Q1/2 2019	30
Figure 21: Average Days to First Interview (Full Investigations), Complaints Closed, 2017 – Q1/2 2019	31
Figure 22: Case Resolutions, 2017 – Q1/2 2019	32
Figure 23: Truncations and Full Investigations, 2017 – Q1/2 2019	32
Figure 24: Truncations by Type, 2017 – Q1/2 2019	32
Figure 25: Truncation Rates by Place of Filing, 2017 – Q1/2 2019	33
Figure 26: Truncation Rate by Precinct, Q1/2 2019	34
Figure 27: Disposition of Fully Investigated Complaints, 2017 – Q1/2 2019	39
Figure 28: Disposition of Fully Investigated Allegations, 2017 – Q1/2 2019	39
Figure 29: Other Misconduct Noted, 2017 – Q1/2 2019	40
Figure 30: False Official Statement OMNs, 2016 – Q1/2 2019	41
Figure 31: Complaints Substantiated & Officers with Substantiated Allegations, 2017 – Q1/2 2019	44
Figure 32 Board Recommendations for Officers with Substantiated Allegations, 2017 – Q1/2 2019	44
Figure 33: Board Dispositions by FADO Allegations, Q1/2 2018 & Q1/2 2019	45
Figure 34: Department Advocate’s Office Disciplinary Actions on CCRB Cases, 2017 – Q1/2 2019	46
Figure 35: APU Trials Conducted and Cases Closed, 2017 – Q1/2 2019	47
Figure 36: APU Case Closures Q1/2 2019	48
Figure 37: Discipline Imposed for Adjudicated APU Cases, Q1/2 2019	49
Figure 38: Non-Charges Discipline Rate, 2017 – Q1/2 2019	50
Figure 39: APU Discipline and Penalty Concurrence Rate, 2017 – Q1/2 2019	51
Figure 40: Mediation Closures, 2017 – Q1/2 2019	53
Figure 41: Average Days to Successful Mediation, 2017 – Q1/2 2019	53
Figure 42: Percentage of Cases in which Mediation was Offered, Cases Closed 2017 – Q1/2 2019	54
Figure 43: Number of Civilians and MOS that Accepted Mediation, 2017 – Q1/2 2019	54
Figure 44: Mediation Success Rate, 2017 – Q1/2 2019	55
Figure 45: Reconsiderations by Date of Case Reconsideration by the CCRB, 2017 – Q1/2 2019	57

<i>Figure 46: Number of Reconsideration Requests Received, 2017 – Q1/2 2019</i>	57
<i>Figure 47: Total Number of MOS with Substantiated Allegations for whom Reconsiderations Were Requested and Not Requested by Date of REquest, 2017 – Q1/2 2019</i>	58
<i>Figure 48: Top Listed Reasons for Reconsideration Request, 2018 –2019</i>	59
<i>Figure 49: Reconsideration Outcomes by Reconsideration Year 2017 – Q1/2 2019</i>	60
<i>Figure 50: Reconsideration Decision Detail, 2017 – Q1/2 2019</i>	60
<i>Figure 51: Reconsideration Outcomes Detail</i>	61
<i>Figure 52: Average BWC Request Turnaround Times, Requests Closed 2018 – Q1/2 2019</i>	63
<i>Figure 53: Fully Investigated CCRB Complaints With and Without Video, 2017 – Q1/2 2019</i>	64
<i>Figure 54: Impact of Video on Fully Investigated Complaints Closed on the Merits, 2018 – Q1/2 2019</i>	66
<i>Figure 55: Impact of Video on Fully Investigated Allegations Closed on the Merits, 2018 – Q1/2 2019</i>	67
<i>Figure 56: Impact of Video on Allegation Closures on the Merits by FADO, 2018 – Q1/2 2019</i>	68
<i>Figure 57: Number of Outreach Events, 2017 – Q1/2 2019</i>	70
<i>Figure 58: Outreach Events by Specific Organization Type, Q1/2 2019</i>	70
<i>Figure 59: Outreach Events by Borough, Q1/2 2019</i>	71

## 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 into a FADO. The Board's staff, composed entirely of civilian employees, conducts investigations, mediations, and prosecutions in an impartial manner.

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

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

## LETTER FROM THE CHAIR



Dear Fellow New Yorkers,

I am pleased to release the 2019 Semi-Annual Report of the New York City Civilian Complaint Review Board (CCRB, the Agency, or the Board). This Report, covering the first six months of 2019, contains a number of new data points that are aimed at increased transparency during a time of revitalized public demand for law enforcement oversight that reflects true justice and seeks to empower local oversight agencies to provide independent accountability.

In recent weeks, as people in New York City and all across America demand police reform, New York City and State leaders have been listening to the people who are calling out for change. Recently passed City Council legislation, including a ban on chokeholds, as well as Mayor de Blasio's new Body Worn Camera release policy, and reforms to create a faster and more transparent NYPD disciplinary system, along with the repeal of New York Civil Rights Law Section 50-a, will help yield a more accountable police force in New York City. These reforms mark a major step for increasing transparency and accountability within the NYPD, bolstering confidence in the system, and ultimately, changing the dynamic between police and civilians for the better. While none of these reforms are reflected in the data in this report, the CCRB's work will most certainly be impacted by these reforms going forward. Future reports will document this impact as well as the implementation of these reforms.

For the first time, this Report is able to publish the impact of NYPD body-worn cameras (BWCs) on CCRB investigations. BWCs, which were added to the NYPD technological repertoire as an oversight tool pursuant to the *Floyd v. City of New York*, litigation, have drastically increased the proportion of cases in which the Board can come to a clear resolution of fact. In the first half of 2019, the CCRB closed 77% of its complaints containing BWC evidence on the merits—in other words, to substantiate, exonerate, or close as unfounded—compared with only 46% of those complaints in which no video evidence is available. While this Report also notes the escalating delays that the CCRB experienced in obtaining BWC footage from the NYPD in the first half of 2019, in November of 2019 the CCRB and the NYPD signed a Memorandum of Understanding (MOU) to overhaul the way that the CCRB obtains BWC footage. Once implemented, this MOU will represent a significant improvement in the CCRB's ability to access BWC evidence, allowing investigators to directly search and view BWC footage. Future reports will detail the impact of this change on CCRB's work.

Additionally, the first half of 2019 included the CCRB's prosecution of one of the most publicly-discussed instances of police misconduct in recent history: the use of a prohibited chokehold by Daniel Pantaleo that led to the death of Eric Garner in 2014. Five years after this tragic event, the CCRB's Administrative Prosecution Unit obtained a guilty verdict against Officer Pantaleo and recommended that he be terminated. In August of 2019, the Police Commissioner did just that. Over the last five years, one by one, all other avenues for justice for the Garner family failed to penalize Officer Pantaleo, until only the CCRB remained. This case highlights the vital role that civilian oversight, especially prosecution, plays in police accountability.

As the Agency makes these positive steps, and as it continues to receive an increasing number of complaints from the public, the CCRB remains committed to steadfast independent civilian oversight of the NYPD.

Sincerely,  
Fred Davie

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

# EXECUTIVE SUMMARY

## AGENCY HIGHLIGHTS IN THE FIRST HALF OF 2019

---

### ***The Youth Advisory Council and the CCRB Youth Summit***

Initially launched in Winter 2018, the CCRB Youth Advisory Council (YAC) is a 19-member working committee made up of young leaders, aged 10-24, who are committed to addressing criminal justice issues and improving police-community relations. The members of the YAC serve as agency ambassadors in their communities and meet quarterly to advise CCRB staff about its efforts to engage young New Yorkers and join team-building activities.

On February 26, 2019, the Civilian Complaint Review Board (CCRB, Agency, or the Board), in conjunction with New York University's McSilver Institute for Poverty, Policy, and Research and the New York University Law Center on Race, Inequality and the Law, hosted "Speak Up Speak Out: A Youth Summit on Policing in New York City." This gathering was an opportunity for young people from across New York City to directly share their experiences with policing, identify problems in their communities, and make recommendations to public safety and police oversight practitioners and academics. The day was comprised of two youth-led panel discussions on policing in schools and stop-and-frisk, an art show, and 12 breakout sessions co-led by YAC members and academics, advocates, and attorneys. Over 250 young people were in attendance. Insights shared by participants from the event will inform CCRB's upcoming report on the New York City Police Department's (NYPD) interactions with youth.

### ***New York Oversight Symposium***

In March 2019, the CCRB gathered city and state stakeholders for a day-long symposium on oversight in law enforcement. Hosted by the CCRB and the Office for Advancement of Research at John Jay College of Criminal Justice, over 150 participants from community organizations, advocates, academics, practitioners, law enforcement, and elected officials gathered to discuss and explore solutions to the most pressing issues in civilian oversight of law enforcement and corrections officers. Panel topics focused on ways oversight agencies can better collaborate to build police accountability, how agencies can work with advocates, oversight in correctional and mental health treatment settings, the use of information and technology, and accountability through the courts. Keynote speaker Marilyn Mosby, Baltimore City State's Attorney, delivered an address about the importance of working to improve oversight.

### ***Body-Worn Camera (BWC) Delays***

First discussed publicly at the July 2019 CCRB Board Meeting, and further detailed in the CCRB Report, *Strengthening Accountability: The Impact of the NYPD's Body-Worn Camera Program on CCRB Investigations*,<sup>1</sup> the first half of 2019 saw significant delays in the CCRB's receipt of BWC footage from the NYPD.<sup>2</sup> These delays, in conjunction with an increase in the number of complaints

---

<sup>1</sup> CCRB, *Strengthening Accountability: The Impact of the NYPD's Body-Worn Camera Program on CCRB Investigations* (Feb. 2020),

[https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/issue\\_based/20200227\\_BWCReport.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20200227_BWCReport.pdf).

<sup>2</sup> See Memorandum from Olan Carayannis, CCRB Director of Quality Assurance and Improvement to the Members of the CCRB Board on BWC and Document Request Issues with the NYPD (July 5, 2019),

[https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/20190710\\_boardmtg\\_BWC\\_memo.p](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/20190710_boardmtg_BWC_memo.p)

filed with the Agency (see Figure 1, page 12), have contributed to the steady rise in CCRB case-investigation times (see Figure 20, page 30).

On November 22, 2019, the CCRB and the NYPD signed a Memorandum of Understanding (MOU) agreeing to a new process for the CCRB to access BWC footage.<sup>3</sup> Once this new protocol goes into effect, CCRB investigators will be able to search for BWC footage in collaboration with NYPD staff, view unredacted footage and take notes on content, and request a download of the sections of footage that are relevant to the investigation and prosecution of the allegations in their case.

Section 6 of this Report details the delays in receipt of BWC footage in Q1/2 of 2019, along with the impact that BWC has had on CCRB investigations. Key findings from this section appear at the end of this Executive Summary.

### ***The Trial of Officer Daniel Pantaleo***

In Spring 2019, the CCRB's Administrative Prosecution Unit (APU) prosecuted Daniel Pantaleo in a trial that ultimately resulted in his termination from the NYPD. After a grand jury declined to indict Officer Pantaleo and the federal government announced that it would not file charges, this administrative proceeding was the only remaining means of prosecuting Officer Pantaleo. APU prosecutors presented ample evidence at trial that resulted in NYPD Deputy Commissioner of Trials, Rosemarie Maldonado, issuing a guilty verdict and recommending Pantaleo's termination from the Department. Former Police Commissioner James P. O'Neill, concurring with Maldonado, subsequently terminated Pantaleo.

Established in 2012, the APU is an independent, all-civilian team of attorneys who prosecute members of the NYPD for the most egregious acts of misconduct. In the 18 months before the APU began trying officers, the NYPD held no trials stemming from a CCRB investigation. Officers who engaged in misconduct simply were not held accountable. Since the launch of the APU, nearly 400 members of the NYPD have been prosecuted.

### **KEY FINDINGS: CCRB COMPLAINTS CLOSED IN THE FIRST HALF OF 2019**

---

- In Q1/2 2019, the CCRB received 2,669 complaints within its jurisdiction, an increase from the 2,175 complaints received in Q1/2 2018, continuing a relatively steady climb in the number of complaints over the past three years (page 12). It is impossible to determine whether increases or decreases in complaints to the CCRB are the result of changes in actual police misconduct or in reporting rates. The Agency is exploring possible underlying reasons for this increase to help illuminate any related variables.
- In Q1/2 2019, 34% of complaints received within the CCRB's jurisdiction stemmed from alleged incidents that occurred in Brooklyn, which is home to approximately 31% of the city's population (page 16). The highest number of complaints stemmed from incidents in Brooklyn's 75<sup>th</sup> Precinct (which serves East New York and Cypress Hills), but the highest complaint *rates* were in the 14<sup>th</sup> ("Midtown South") and 25<sup>th</sup> Precincts (East Harlem), both with a complaint rate of 11 per 10,000 residents. The 75<sup>th</sup> Precinct's complaint rate was 6

---

[df.](#)

<sup>3</sup> Memorandum of Understanding between the Civilian Complaint Review Board (CCRB) and the Police Department (NYPD) of the City of New York Concerning the Processing of Substantiated Complaints (Apr. 2, 2012), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/apu\\_mou.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf).

per 10,000 residents (page 18).

- In Q1/2 2019, it took an average of 245 days to close a full investigation, and 256 days if that investigation resulted in substantiated misconduct (page 30). This is due to several factors: 1) the continuing increase in the number of complaints received by the CCRB without a commensurate increase in the number of resources needed to investigate these complaints; 2) additional allegations within the Board’s jurisdiction, including those related to investigations of alleged sexual misconduct and violations of the Right to Know Act; 3) the growing number of investigations containing body-worn camera (BWC) footage that must be systematically analyzed by investigators; 4) the NYPD’s failure to provide, or providing only in a redacted form, certain documents previously available to the CCRB; and 5) mounting delays<sup>4</sup> in the receipt of key evidence, especially BWC footage.<sup>5</sup>
- The truncation rate (the percentage of complaints that are closed without a full investigation, mediation, or attempted mediation) has continued to rise over the past two-and-a-half years, and is now 62% (page 32). These increases are driven by a rise in the number of complaints that are voluntarily withdrawn by complainants, and the number of complainants who file an initial complaint but do not respond to subsequent contact attempts (These complaints are closed as “complainant/victim unavailable”). Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the Agency. For example, 75% of complaints that originated with NYPD’s Internal Affairs Bureau (IAB) were truncated in Q1/2 2019, compared with 49% of complaints filed directly with the CCRB (page 33).
- In Q1/2 2019, the proportion of complaints closed “on the merits”—complaints closed with a clear determination of fact—increased to 53% from 43% in Q1/2 2018, largely due to the availability of BWC evidence (page 39). The substantiation rate (the percentage of full investigations in which at least one allegation of misconduct was substantiated by a preponderance of the evidence) increased to 23% from 19% in Q1/2 2018. The exoneration rate (the percentage of full investigations in which the officer’s actions were determined to have occurred, but to have been within the boundaries of the law and the Patrol Guide) went from 16% in Q1/2 2018 to 22% in Q1/2 2019. The unfounded rate (the percentage of complaints in which the incident was determined to not have occurred as the complainant described) remained at 8%. Complaints closed “not on the merits” decreased, with complaints in which none of the officers were able to be identified dropping from 8% to 7% between Q1/2 2018 and Q1/2 2019, and complaints unsubstantiated (the percentage of full investigations in which the Board was unable to determine whether the incident involved misconduct) declined from 48% in Q1/2 2018 to 40% in Q1/2 2019.
- In Q1/2 2019, the Board substantiated 182 complaints against 253 police officers, an increase from the 112 substantiated complaints against 170 officers in Q1/2 2018 (page 44). The Board recommended Charges and Specifications for 19% of the 253 officers against whom there was a substantiated allegation, Command Discipline B (a category which may result in penalties of up to 10 lost vacation days) for 17%, Command Discipline

---

<sup>4</sup> See Memorandum from Olas Carayannis, CCRB Director of Quality Assurance and Improvement to the Members of the CCRB Board on BWC and Document Request Issues with the NYPD (July 5, 2019), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/20190710\\_boardmtg\\_BWC\\_memo.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/20190710_boardmtg_BWC_memo.pdf).

<sup>5</sup> See Section 6 of this report for additional information on turnaround times for body-worn camera footage requests.

A (a category which may result in penalties of up to 5 lost vacation days) for 21%, Instructions for 22%, and Formalized Training for 21% (page 44).

- The Board most frequently recommended Charges and Specifications for substantiated Force (72% of substantiated Force allegations received this recommendation) and Abuse of Authority (27%) allegations, while the most common disciplinary recommendation for substantiated Discourtesy allegations was Instructions (30%), and recommendations for substantiated Offensive Language allegations were split among Charges and Specifications (29%), Command Discipline B (29%), and Command Discipline A (29%) (page 45).
- In Q1/2 2019, eight of the 14 adjudicated cases<sup>6</sup> (57%) the APU closed against members of service (MOS) resulted in disciplinary action.<sup>7</sup> In five of those cases, the Police Commissioner imposed discipline of either forfeiture of between one and 20 vacation days or suspension (page 48).
- For complaints in which the Board recommended Command Discipline, Formalized Training, or Instructions, the Police Commissioner imposed some type of discipline 80% of the time. In those cases, the discipline imposed by the Police Commissioner concurred with the Board's recommendation 52% of the time in Q1/2 2019, down from 54% in Q1/2 2018. The number of cases in which the Board recommended some type of discipline, but no discipline was imposed by the Police Commissioner, increased from 10% in Q1/2 2018 to 14% in Q1/2 2019 (page 50).
- For the 14 adjudicated cases closed by the APU in Q1/2 2019, the Police Commissioner's final penalty determination concurred with the APU's requested penalty in three cases, making the concurrence rate 21% (page 51). The most common reason for a lack of concurrence in APU cases in Q1/2 2019 was that a "not guilty" verdict was ultimately rendered by the NYPD Trial Commissioner, resulting in no discipline for the officer (six cases, or 43%). In three cases (21%), the penalty imposed was lower than what the APU had called for at trial. Finally, the NYPD retained two APU cases for its own internal prosecution (14%). Discipline was imposed by the Police Commissioner in both of these retained cases.
- In Q1/2 2019, 37% of cases that went to the Mediation Unit were closed as completed mediations—a sharp decline from the 48% of Q1/2 2018 (page 53). The remaining 63% of cases were closed as "mediation attempted," 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. The CCRB is examining the factors related to the decline in completed mediations.
- In Q1/2 2019, the Mediation Unit conducted 105 mediation sessions, with 90 cases (86%) successfully completing the mediation process. The remaining 15 complaints (14%) were returned to the Investigations Division. This is a decrease from the 96% successful completion rate of Q1/2 2018 (page 55).

---

<sup>6</sup> Because the APU treats each officer 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."

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

## KEY FINDINGS: RECONSIDERATIONS

---

- In Q1/2 2019, the CCRB closed requests for reconsideration submitted by the Department Advocate’s Office for 21 MOS (though a reconsideration request closed in Q1/2 2019 may have stemmed from a complaint closed in a previous year). The Board downgraded the disposition for one officer (5%), downgraded the discipline recommendation for five officers (24%), maintained its original decision for 10 officers (48%), and rejected the other five (24%) reconsideration requests (page 60).

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

---

- In Q1/2 2019, 69% of all fully-investigated complaints had some kind of video evidence, with 27% of all fully-investigated complaints containing BWC evidence (page 65).
- In Q1/2 2019, BWC request turnaround times increased, with requests closed in Q4 2018 taking, on average, 9.7 business days, requests closed in Q1 2019 taking 15 business days, and requests closed in Q2 2019 taking 41.3 business days (page 64).
- The availability of video evidence—which includes footage from BWCs, private and municipal security cameras, and video recorded by witnesses —often minimizes the ambiguity of the events underlying the allegation and allows for more complaints to be closed “on the merits” (i.e., substantiated, exonerated, or unfounded). In Q1/2 2019, 54% of complaints were not closed on the merits (i.e. unsubstantiated or officer unidentified) when video was unavailable (page 67). This proportion shrinks to 47% when video evidence is available, and only 23% when BWC footage is available. In Q1/2 2019, the Board substantiated 15% of full investigations where there was non-BWC video evidence and 17% of those with BWC, compared to 6% where there was no video evidence. BWC increased the rate of exonerations to 45%, compared with 31% for non-BWC video and 34% for no video. The rate of unfounded determinations also increased with BWC to 15%, compared with 6% in cases with no video and 7% when only non-BWC video evidence is available.
- In Q1/2 2019, BWC had the most significant impact on Abuse of Authority allegations, with 81% closed on the merits, compared with 58% with non-BWC video evidence and 49% when no video evidence was available (page 69). Although BWC footage increased the exoneration rates for Force (46% compared with 36% when no video is available) and Abuse of Authority allegations (52% compared with 39% when no video is available), it raised the substantiation rate significantly for Discourtesy allegations (32% compared to 10% when no video evidence is available). This is primarily due to the presence of audio in BWC videos. The ability to hear what an officer is saying during a video recording allows for a much easier resolution of Discourtesy allegations.

## INTRODUCTION: THE BOARD AND AGENCY OPERATIONS

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

Board members review and make findings on all misconduct complaints once they have been fully investigated. The Board currently consists of 13 members who are all appointed by the Mayor. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair of the Board. Beginning in July, due to a change in the New York City Charter, the Board will consist of 15 members, five appointed by City Council, five appointed by the Mayor, three appointed by the Police Commissioner, one appointed by the Public Advocate, and the Chair of the Board who will be dually appointed by the Mayor and City Council.<sup>8</sup>

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

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

---

<sup>8</sup> The 2019 New York City Charter Revision Commission, following an extensive public review process, proposed five amendments to Chapter 18A of the 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 in March 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 COMPLAINT INTAKE

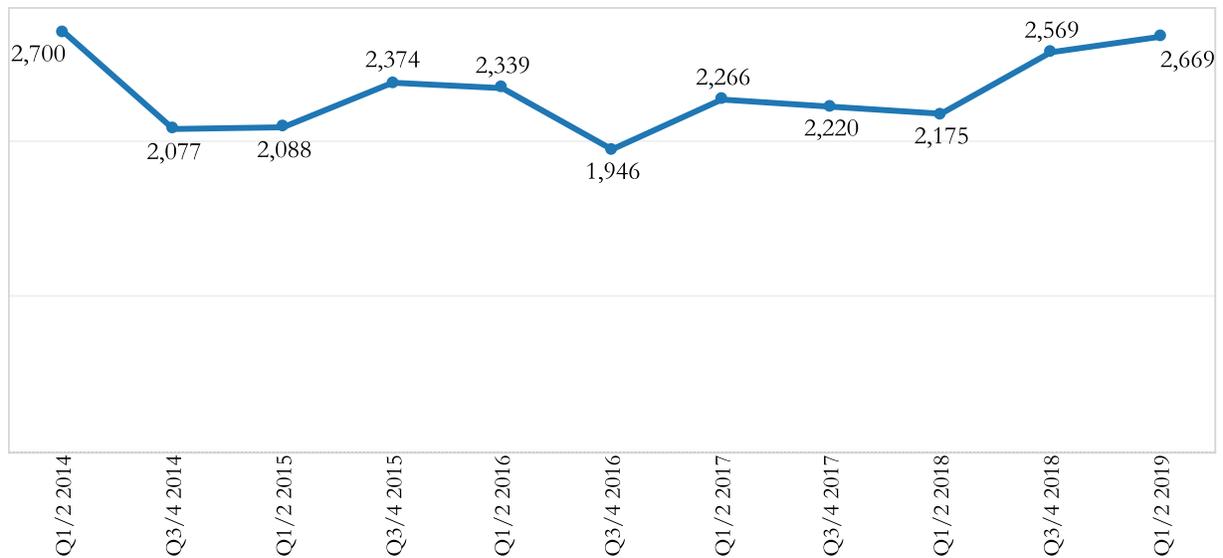
For most New Yorkers, contact with the Civilian Complaint Review Board (CCRB, the Agency, or the Board) begins with filing a complaint alleging police misconduct. This section covers the number of complaints received and their characteristics.

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

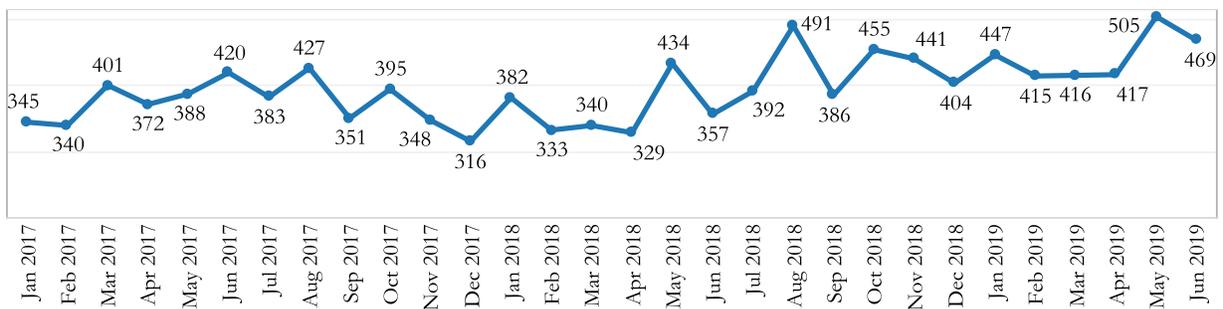
(FADO) jurisdiction are investigated by the CCRB.

In the first half of 2019, the CCRB received 2,669 complaints within its jurisdiction (Fig. 01). This is a significant increase from the 2,175 complaints received in the first half of 2018, and is the highest number of complaints the CCRB has received in the first half of the year since 2014. Fig. 02 depicts the number of FADO complaints received each month and reveals a steady increase in complaints since October 2018.

**Figure 01: Complaints Received Within CCRB Jurisdiction, 2014 – Q1/2 2019**



**Figure 02: Complaints Received Within CCRB Jurisdiction by Month, 2017 – Q1/2 2019**



## CCRB JURISDICTION AND TOTAL FILINGS

---

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

Examples of complaints the CCRB might receive that do not fall within the Agency's jurisdiction include: 1) complaints against Traffic Enforcement Agents and School Safety Agents; 2) complaints against an NYPD officer involving a summons or arrest dispute that does not include a FADO allegation; 3)

complaints against an NYPD officer involving corruption; and 4) complaints against individuals who are not members of the NYPD, such as law enforcement from other municipalities, state police, or members of federal law enforcement, like the Federal Bureau of Investigation (FBI). In the first half of 2019, only 47% of the complaints received by the CCRB were within the Agency's jurisdiction, 44% were forwarded to OCD, 8% to IAB, and 2% to other agencies (Fig. 03). Over the past two-and-a-half years, more complaints filed with the CCRB have been within the Agency's jurisdiction. The CCRB attributes this to the Board's February 2018 decision to investigate sexual misconduct allegations pursuant to the Agency's Abuse of Authority jurisdiction,<sup>9</sup> and the CCRB's increased focus on its public education and outreach efforts, especially surrounding the New York City Right to Know Act,<sup>10</sup> which went into effect in October 2018.

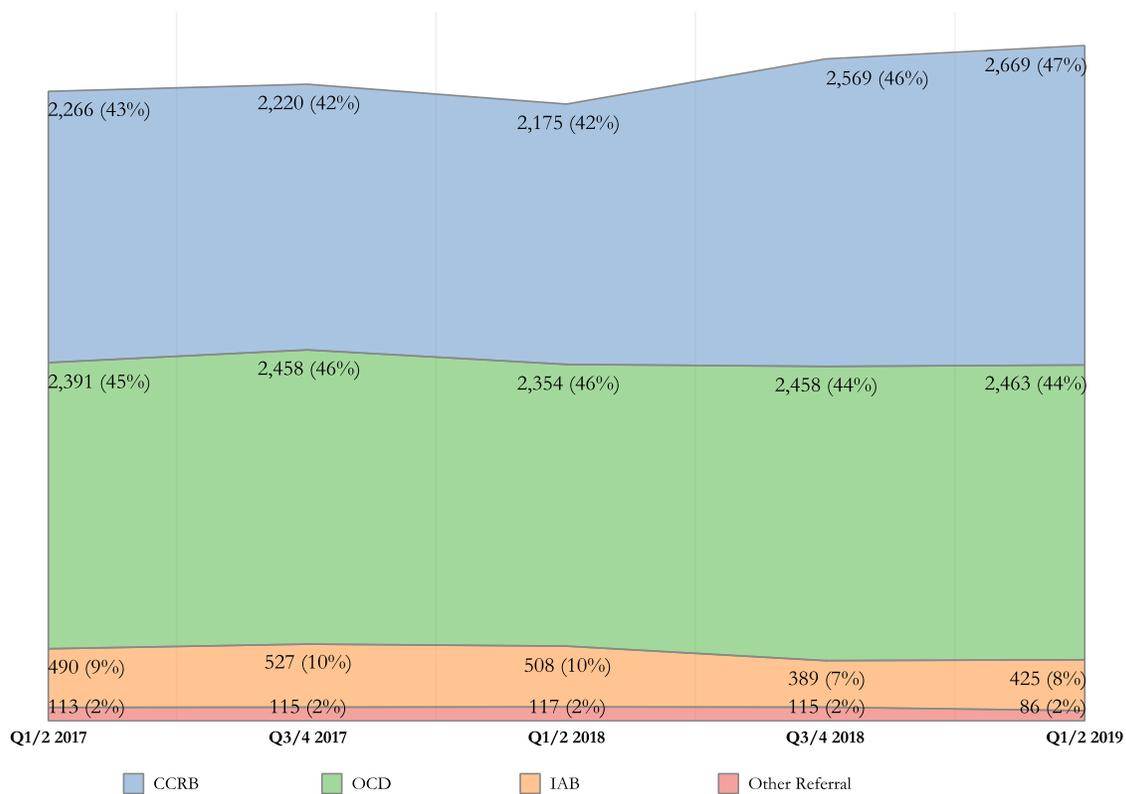
---

<sup>9</sup> CCRB, Board Resolution (Feb. 14, 2018),

[https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/20181402\\_boardmtg\\_sexualmisconduct\\_resolution.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/20181402_boardmtg_sexualmisconduct_resolution.pdf).

<sup>10</sup> The Right to Know Act is made up of two components. The first outlines NYPD officers' obligation to identify themselves, including by providing their name, rank, command, and shield number to civilians at the beginning of certain interactions. The law also requires officers to have business cards that contain this information. The second component of the law addresses situations in which officers seek to perform a search but do not have legal justification to do so without consent. In these circumstances, officers are required to explain that a search will not be conducted if the person does not consent. Officers are required to document these search requests. For more information see: CCRB, *What is the Right to Know Act? Frequently Asked Questions*, <https://www1.nyc.gov/site/ccrb/complaints/right-to-know-act.page> (last updated Oct. 16, 2018).

**Figure 03: Complaints Received in Each Agency's Jurisdiction, 2017 - Q1/2 2019**



### PLACE AND MODE OF FILING

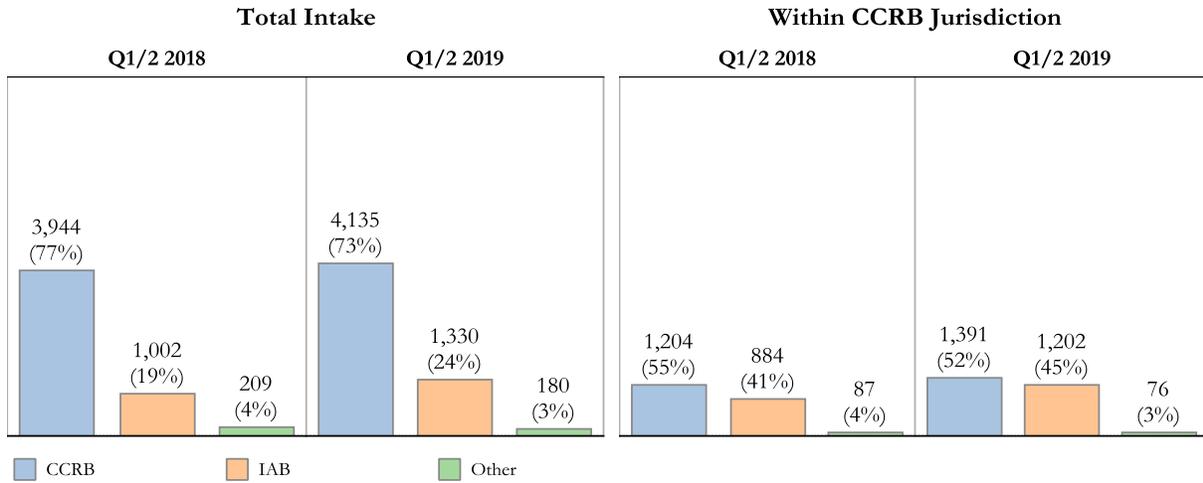
Complaints filed with the CCRB are received and processed directly by the CCRB's Intake Unit. The Agency also receives a high number of complaints from IAB. As depicted in Fig. 04, both the number of complaints filed directly with the CCRB and the number of complaints forwarded to the Agency by IAB have increased between Q1/2 2018 and Q1/2 2019, but the proportion referred by IAB has increased more drastically.

The Agency is better able to fully investigate complaints when they are filed directly with

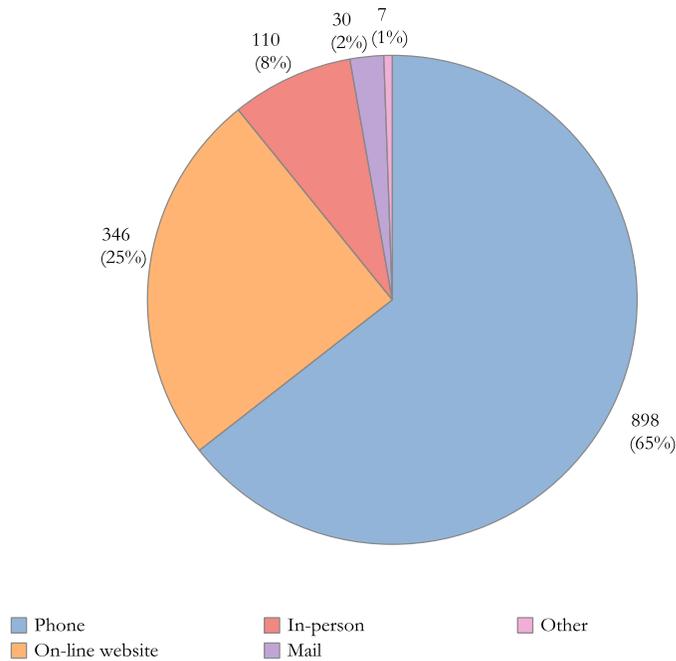
the CCRB (see Fig. 25). When complaints are not filed directly with the CCRB, the Agency must make initial contact with the complainant/victim, who may not have been informed that the complaint was referred to the CCRB for investigation.

Most complaints filed directly with the CCRB are received by phone (65%), either during business hours or via the Agency Call Processing Center, which handles calls after business hours, followed by the CCRB website (25%), and in-person visits (8%) (Fig. 05).

**Figure 04: Complaints Received by Complaint Place, 2017 and 2018**



**Figure 05: Complaints within CCRB Jurisdiction by Complaint Mode, Q1/2 2019**

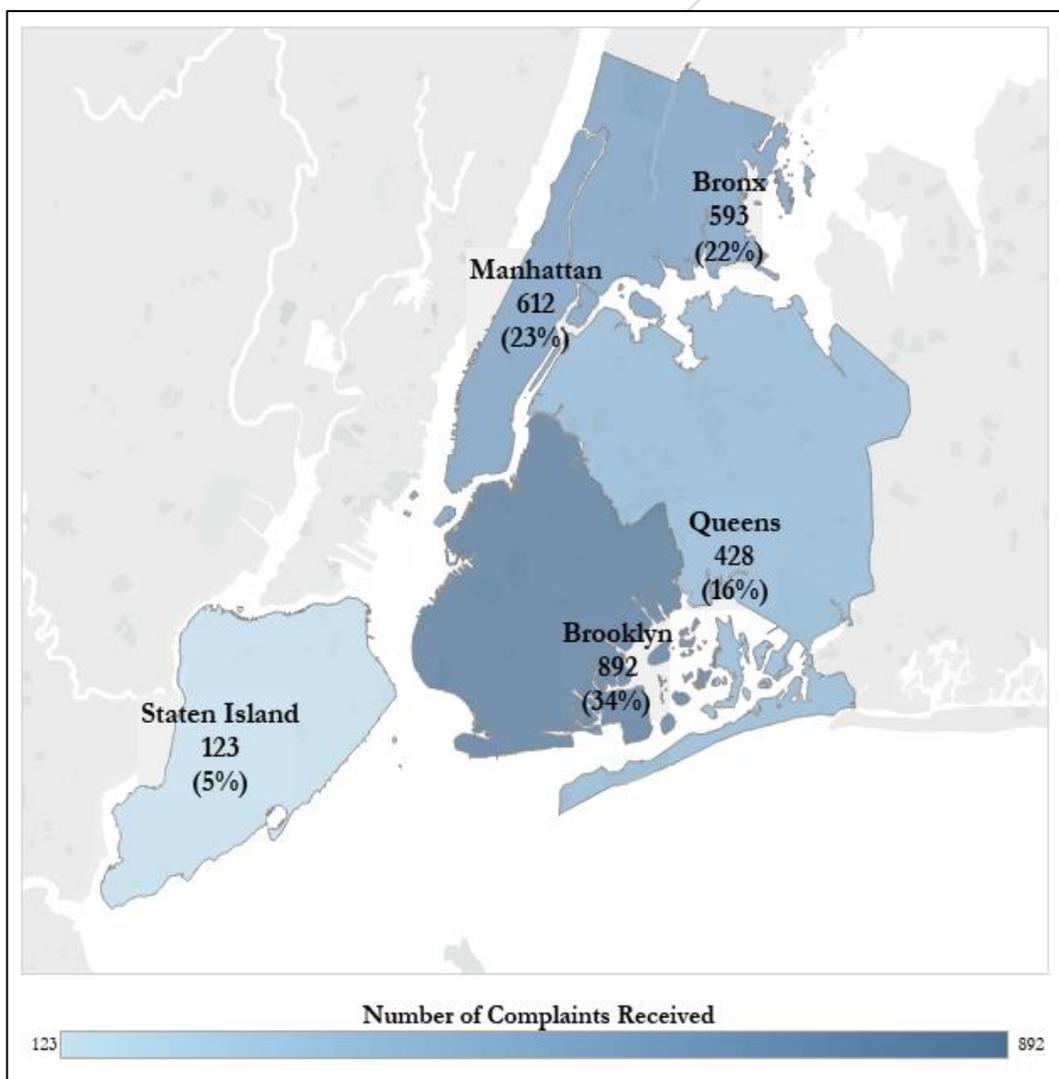


## LOCATION OF INCIDENTS RESULTING IN COMPLAINTS

In the first half of 2019, 34% of the complaints received within the CCRB’s jurisdiction stemmed from alleged incidents that occurred in Brooklyn (Fig. 06), which is home to approximately 31% of the City’s population.<sup>11</sup> Incidents occurring in the Bronx, which is home to 17% of the City’s residents, made up 22% of complaints. Incidents occurring in Manhattan comprised

23% of complaints, though only 19% of New York’s residents live in Manhattan. Queens is home to 27% of the City’s population, but only 16% of complaints stemmed from this borough in Q1/2 2019. The proportion of complaints received from Staten Island (5%) are similar to the borough’s population (6%).

**Figure 06: Complaints Received within CCRB Jurisdiction by Borough, Q1/2 2019**



<sup>11</sup> City demographic data was drawn from the United States Census by totaling the 2017 population estimates for the five counties that make up New York City (Bronx, Kings, New York, Queens, and Richmond). Census data is available at <https://data.census.gov/cedsci/>.

The CCRB’s website includes an interactive Complaint Activity Map that is updated daily with information on complaints by precinct of occurrence.<sup>12</sup> In Q1/2 2019, as in many prior years, the 75<sup>th</sup> precinct in Brooklyn generated the highest number of complaints. Standardizing the number of complaints by residential population, however, allows for more accurate comparisons between precincts. The highest rate of complaints in Q1/2 2019 occurred in the 14<sup>th</sup> (“Midtown

South”) and 25<sup>th</sup> Precincts (East Harlem), both in Manhattan, and both with a complaint rate of 11 per 10,000 residents, compared with the 75<sup>th</sup> Precinct’s rate of 6 complaints per 10,000 residents.<sup>13</sup> The 18<sup>th</sup> Precinct (“Midtown North”) also had a high complaint rate at 10 per 10,000 residents. The map in Fig. 07 depicts the relative complaint rates in individual precincts, while raw number and rate of complaints received within each precinct are listed in Fig. 08.<sup>14</sup>

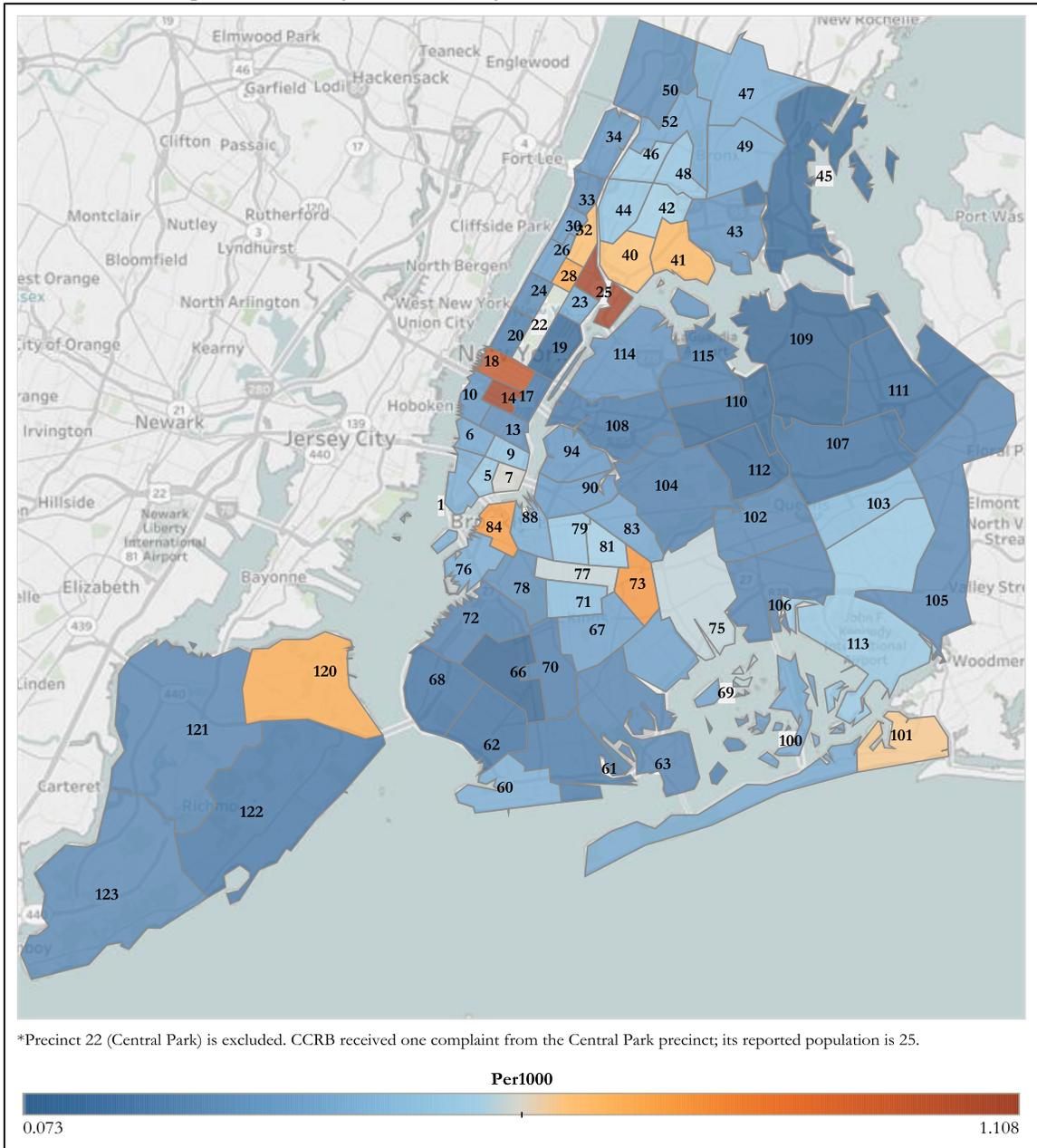
---

12 Visit the CCRB’s Data Transparency Initiative webpage, <https://www1.nyc.gov/site/ccrb/policy/data-transparency-initiative.page>, to explore the Complaint Activity Map and other data relevant to complaints and allegations.

13 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/>.

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

**Figure 07: CCRB Complaint Rates by Precinct, Q1/2 2019**



**Figure 08: CCRB Complaints Received per Precinct of Occurrence Q1/2 2018 & Q1/2 2019<sup>15</sup>**

Precinct	Q1/2 2018		Q1/2 2019		Precinct	Q1/2 2018		Q1/2 2019	
	Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents		Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents
1	19	3	27	4	67	55	4	53	3
5	23	4	27	5	68	16	1	19	2
6	20	3	23	4	69	28	3	29	3
7	21	4	33	6	70	25	2	31	2
9	21	3	37	5	71	25	3	45	5
10	21	4	15	3	72	18	1	26	2
13	10	1	24	3	73	52	6	66	8
14	34	6	58	11	75	86	5	104	6
17	14	2	14	2	76	25	6	17	4
18	28	5	54	10	77	40	4	55	6
19	23	1	20	1	78	8	1	16	3
20	12	1	20	2	79	33	4	45	5
22	4	1,600	7	2,800	81	31	5	34	5
23	33	5	28	4	83	23	2	41	4
24	15	1	26	2	84	24	5	36	7
25	31	7	52	11	88	12	2	20	4
26	13	3	17	3	90	16	1	37	3
28	26	6	32	7	94	7	1	17	3
30	17	3	19	3	100	10	2	18	4
32	30	4	46	6	101	36	5	42	6
33	18	2	19	2	102	19	1	33	2
34	32	3	33	3	103	34	3	47	4
40	42	5	59	6	104	16	1	34	2
41	19	4	35	7	105	32	2	45	2
42	33	4	43	5	106	21	2	26	2
43	26	2	50	3	107	27	2	22	1
44	61	4	71	5	108	9	1	20	2
45	19	2	14	1	109	15	1	22	1
46	45	4	65	5	110	20	1	17	1
47	33	2	60	4	111	8	1	15	1
48	35	4	41	5	112	9	1	12	1
49	19	2	45	4	113	46	4	61	5
50	20	2	25	2	114	34	2	57	3
52	40	3	52	4	115	10	1	33	2
60	20	2	41	4	120	39	3	80	7
61	25	2	29	2	121	19	2	26	2
62	20	1	25	1	122	24	2	23	2
63	18	2	24	2	123	13	1	23	2
66	10	1	14	1					

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

## CHARACTERISTICS OF ENCOUNTERS RESULTING IN A COMPLAINT

When a complaint is investigated, the CCRB tries to discern the initial reason for the contact between the civilian and the officer(s). In Q1/2 2019, 13% of complaints received within the CCRB’s jurisdiction stemmed from an officer suspecting a civilian of a violation or a crime while on a public street (Fig. 09).

The CCRB also tracks the outcome of police/civilian encounters that led to complaints being filed. In the first half of 2019,

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

**Figure 09: Top Reasons for Initial Contact, Q1/2 2018 & Q1/2 2019**

	Q1/2 2018		Q1/2 2019	
	Count	Percent of Total	Count	Percent of Total
PD suspected C/V of violation/crime - street	277	13%	325	13%
Moving violation	194	9%	217	8%
Report-dispute	184	9%	212	8%
Report of other crime	163	8%	196	8%
PD suspected C/V of violation/crime - auto	136	6%	172	7%
Other	131	6%	196	8%
PD suspected C/V of violation/crime - bldg	107	5%	84	3%
Report-domestic dispute	86	4%	121	5%
EDP aided case	86	4%	78	3%
Other violation of VTL	76	4%	82	3%
Execution of search warrant	72	3%	94	4%
C/V requested investigation of crime	59	3%	59	2%
PD suspected C/V of violation/crime - subway	59	3%	68	3%
CV already in custody	61	3%	71	3%
Execution of arrest/bench warrant	51	2%	81	3%
Other categories combined	387	18%	531	21%
Total	2,129	100%	2,587	100%

**Figure 10: Outcome of Encounters Resulting in CCRB Complaints, Q1/2 2018 & Q1/2 2019**

	Q1/2 2018		Q1/2 2019	
	Count	Percent of Total	Count	Percent of Total
No arrest made or summons issued	1,181	54%	1,489	56%
Arrest - other violation/crime	596	27%	730	27%
Moving violation summons issued	137	6%	133	5%
Summons - other violation/crime	73	3%	109	4%
Arrest - resisting arrest	40	2%	43	2%
Other VTL violation summons issued	33	2%	48	2%
Arrest - assault (against a PO)	31	1%	14	1%
NA	22	1%	43	2%
Parking summons issued	25	1%	24	1%
Summons - disorderly conduct	12	1%	14	1%
Arrest - OGA	12	1%	9	0%
Arrest - disorderly conduct	9	0%	7	0%
Juvenile Report	3	0%	4	0%
Arrest - harrassment (against a PO)	1	0%	0	0%
Summons - harrassment (against a PO)	0	0%	0	0%
Summons - OGA	0	0%	2	0%
Total	2,175	100%	2,669	100%

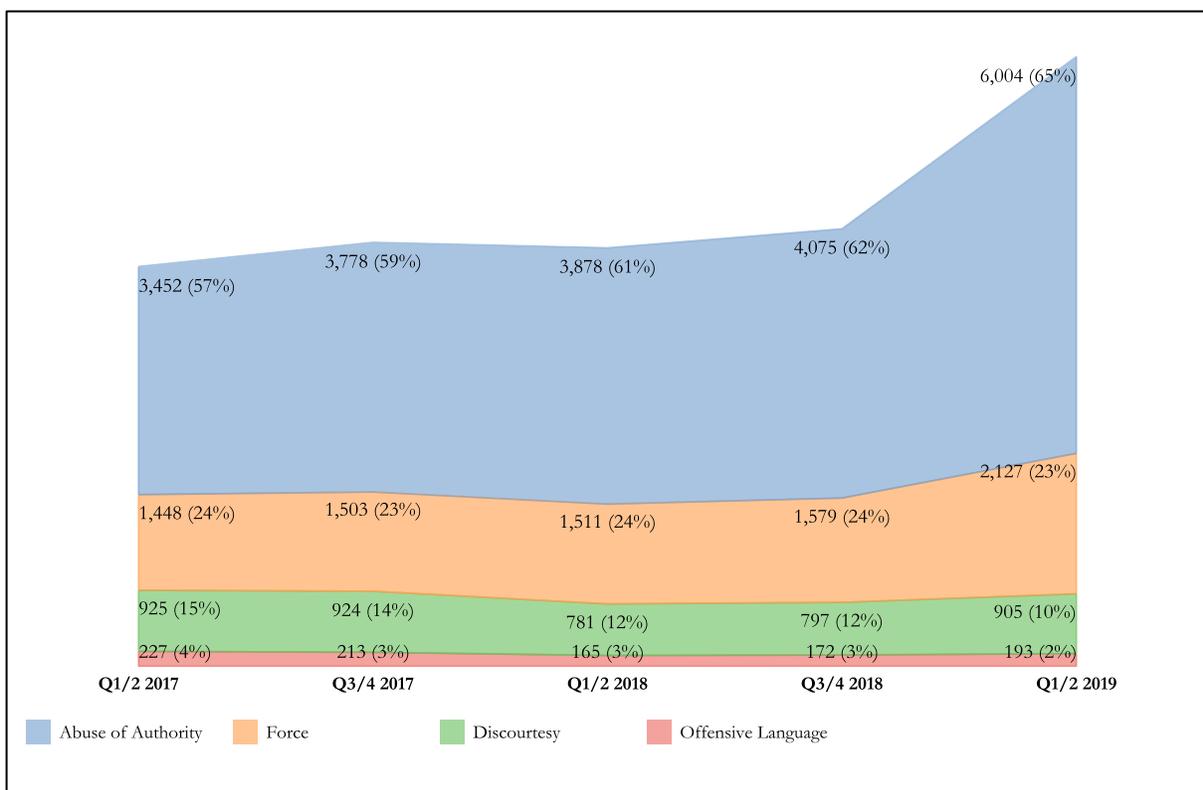
## NUMBERS AND TYPES OF ALLEGATIONS RECEIVED AND CLOSED

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

The most common types of allegations are Abuse of Authority allegations. In the first half

of 2019, Abuse of Authority allegations comprised 65% of allegations closed (Fig. 11). These types of allegations have steadily increased in proportion over the last two-and-a-half years. Force allegations are the next most common, comprising 23% of all allegations closed in Q1/2 2019 (Fig. 11).

**Figure 11: Types of Allegations Closed, 2017 – Q1/2 2019**



In the Force allegation category, the designation of "Physical force" remained the most common allegation received by the CCRB in the first half of 2019, accounting for 79% of all Force allegations (Fig. 12). This refers to an officer's use of bodily force, such as punching, shoving, kicking, or pushing. The most common Abuse of Authority allegations were "Entry of premises" at 10% of all Abuse

of Authority allegations and "Threat of arrest" at 9%. The most common Discourtesy allegation was "Word" (e.g. profanity), accounting for 83% of those allegations. The most common Offensive Language allegation was "Race" (i.e. offensive language related to a person's actual or perceived race), accounting for 33% of those allegations.

Figure 12: FADO Allegations Received by Type, Q1/2 2018 & Q1/2 2019<sup>16</sup>

Force (F) Allegations	Q1/2 2018		Q1/2 2019	
	Count	% of Total	Count	% of Total
Physical force	1,328	78%	1,770	79%
Gun Pointed	70	4%	102	5%
Chokehold	58	3%	65	3%
Nonlethal restraining device	43	3%	77	3%
Hit against inanimate object	50	3%	62	3%
Restricted Breathing	38	2%	64	3%
Nightstick as club (incl asp & ba.)	25	1%	20	1%
Pepper spray	21	1%	7	0%
Handcuffs too tight	18	1%	22	1%
Other	10	1%	14	1%
Other blunt instrument as a club	14	1%	6	0%
Vehicle	8	0%	20	1%
Radio as club	4	0%	2	0%
Gun fired	5	0%	6	0%
Police shield	4	0%	2	0%
Gun as club	0	0%	1	0%
Flashlight as club	1	0%	0	0%
Animal	0	0%	0	0%

Discourtesy (D) Allegations	Q1/2 2018		Q1/2 2019	
	Count	% of Total	Count	% of Total
Word	788	86%	675	83%
Action	118	13%	117	14%
Gesture	1	0%	18	2%
Demeanor/ tone	5	1%	4	0%
Other	1	0%	4	0%

Offensive Language (O) Allegations	Q1/2 2018		Q1/2 2019	
	Count	% of Total	Count	% of Total
Race	74	36%	63	33%
Gender	64	31%	48	25%
Ethnicity	16	8%	18	10%
Other	20	10%	31	16%
Religion	8	4%	1	1%
Sexual orientation	15	7%	15	8%
Physical disability	6	3%	7	4%
Gender Identity	2	1%	6	3%

Abuse of Authority (A) Allegations	Q1/2 2018		Q1/2 2019	
	Count	% of Total	Count	% of Total
Entry of Premises	412	9%	703	10%
Threat of arrest	466	10%	621	9%
Vehicle stop	300	7%	465	7%
Stop	417	9%	463	7%
Refusal to provide name	42	1%	447	6%
Refusal to provide shield number	40	1%	403	6%
Failure to provide RTKA card	0	0%	388	6%
Forcible Removal to Hospital	217	5%	378	5%
Vehicle search	223	5%	372	5%
Search of Premises	182	4%	354	5%
Search (of person)	302	7%	337	5%
Frisk	237	5%	273	4%
Threat of force (verbal or physical)	187	4%	220	3%
Property damaged	119	3%	211	3%
Question	109	2%	207	3%
Seizure of property	58	1%	143	2%
Refusal to obtain medical treatment	76	2%	143	2%
Refusal to process civilian complaint	63	1%	126	2%
Interference with recording	61	1%	106	2%
Other	78	2%	77	1%
Threat to damage/seize property	74	2%	75	1%
Strip-searched	60	1%	67	1%
Threat of summons	37	1%	63	1%
Refusal to show search warrant	40	1%	48	1%
Gun Drawn	52	1%	45	1%
Threat to notify ACS	33	1%	38	1%
Threat re: removal to hospital	35	1%	38	1%
Photography/Videography	33	1%	37	1%
Sexual Misconduct (Sexual Humiliation)	8	0%	28	0%
Refusal to show arrest warrant	9	0%	28	0%
Search of recording device	19	0%	24	0%
Sex Miscon (Sexual Harassment, Verbal)	26	1%	22	0%
Retaliatory summons	7	0%	18	0%
Sex Miscon (Sexual/Romantic Proposition)	12	0%	10	0%
Electronic device information deletion	7	0%	10	0%
Sex Miscon (Sexual Harassment, Gesture)	2	0%	9	0%
Body Cavity Searches	4	0%	9	0%
Improper dissemination of medical info	0	0%	8	0%
Questioned immigration status	4	0%	6	0%
Threat re: immigration status	5	0%	4	0%
Retaliatory arrest	10	0%	2	0%
Sex Miscon (Sexually Motivated Frisk)	0	0%	1	0%
Sex Miscon (Sexually Motiv Strip-Search)	2	0%	1	0%
Refusal to provide name/shield number	419	9%	0	0%
Premises entered and/or searched	70	2%	0	0%
Disseminated immigration status	1	0%	0	0%

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

## **CASE ABSTRACTS: FADO EXAMPLES**

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

### **1. Force**

Officers observed an individual enter the subway without paying a fare. The officers stopped the individual, who then attempted to flee. Video footage, captured by a MTA surveillance camera located inside the station, shows the individual attempting to run through a turnstile. As he is halfway through the turnstile, an officer grabs his shirt and attempts to pull him back. The individual attempts to push his body forward, and in response, the officer places his right arm around the individual's neck and right shoulder region, and pulls him back between the turnstile in a chokehold position. After reviewing the video footage, the officer acknowledged his arm was placed around the individual's neck.

The NYPD Patrol Guide states that officers shall not use a chokehold. Based on the video evidence, the investigation determined the officer used a chokehold. The Board substantiated the allegation.

### **2. Abuse of Authority**

An individual was stopped by officers for public urination. Shortly thereafter, the officers frisked and searched the individual's pockets. None of the officers could articulate any indication that the individual engaged in any criminality besides public urination, nor could they express any reasonable belief that the individual was carrying a weapon on his person at the time he was frisked and searched. Based on the admissions of the officers, the investigation determined by a preponderance of the evidence that the officers did not have reasonable suspicion to frisk and search the individual. The Board substantiated the frisk and search allegations.

### **3. Discourtesy**

An individual stopped to record officers driving down a pedestrian walkway in a park. In response, an officer held up his middle finger toward the camera. This action was captured via cell phone video footage. During his interview, the officer admitted that the gesture was rude, but explained that he made it because he was frustrated by the individual's criticism that officers should not drive their vehicle on pedestrian walkways. As this gesture had no legitimate law enforcement purpose and was intended only to express the officer's frustration, the Board substantiated the allegation.

---

comparisons. In late 2017, the CCRB separated the Abuse of Authority allegation category of "Premises entered and/or searched" into "Entry of premises" and "Search of premises." In 2018, the Agency split the allegation "Refusal to Provide name/shield" into two separate allegations, which are each reflected under Abuse of Authority. In late 2018, the allegation "Failure to provide RTKA card" was added to account for new requirements under the New York City Right to Know Act (RTKA). These changes should be taken into account when interpreting the data in this figure. Further, while the CCRB only began investigating sexual misconduct allegations in February 2018, there were a number of open cases that originated in 2017 to which these allegations were retroactively applied. This should be considered when interpreting numbers for both 2017 and 2018.

<sup>17</sup> Each of the cases described in this section were substantiated complaints.

#### 4. Offensive Language

An officer responded to a dispute between two individuals. While speaking to one of the individuals, a transgender female, the officer asked if her breasts were real. The officer initially testified to the CCRB that he did not recall the complainant's gender. When asked what the complainant said to him, the officer stated, "He got into a fight with the other individual." During a subsequent interview, however, the officer stated that he was aware that the complainant was transgender, but he did not recall when or how he received this information. In contrast, the officer's partner stated that the complainant identified herself as a "transsexual" woman multiple times during the incident, including when they were inside the police vehicle. Additionally, the complainant's account of where she was lodged inside the stationhouse was consistent with the officers' account of where a female prisoner is generally lodged. Thus, the investigation determined by a preponderance of the evidence that the officer was aware of the complainant's gender identity while at the scene of incident. Additionally, the investigation determined that the complainant consistently identifies as female.

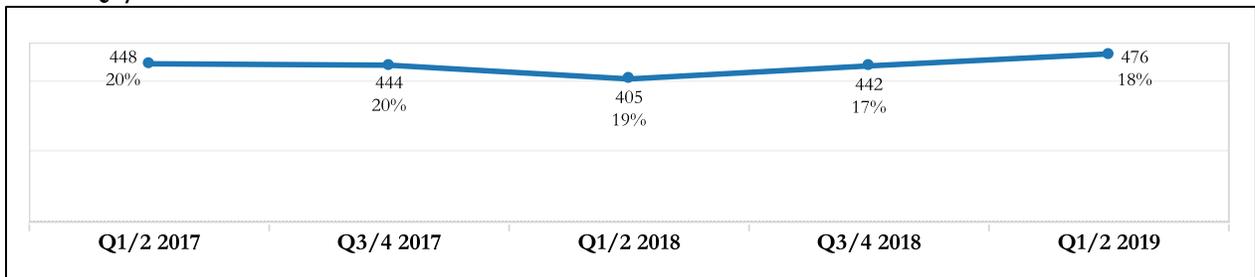
Given that the officer referred to the complainant as "he" during his CCRB interview, recorded the complainant's gender as male in the arrest report, arrest photo, and prisoner pedigree card, and the officer's lack of knowledge of the procedure regarding how to record the gender of a prisoner who does not provide the information, the investigation determined by a preponderance of the evidence that the officer did not use the individual's preferred pronoun while speaking to her. The Board substantiated the offensive language 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. Complaints containing at least one

of these allegations have increased over the past year and a half, commensurate with the overall increase in the number of complaints received by the CCRB. (Fig. 13).

**Figure 13: Complaints Received Containing a Stop, Question, Frisk, and Search of Person Allegation, 2017 - Q1/2 2019**



## 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, next page).<sup>18</sup>

In Q1/2 2019, individuals who self-identified as Black made up 50% of alleged victims, while, according to 2017 census estimates, Black residents make up only 24% of the City's population.

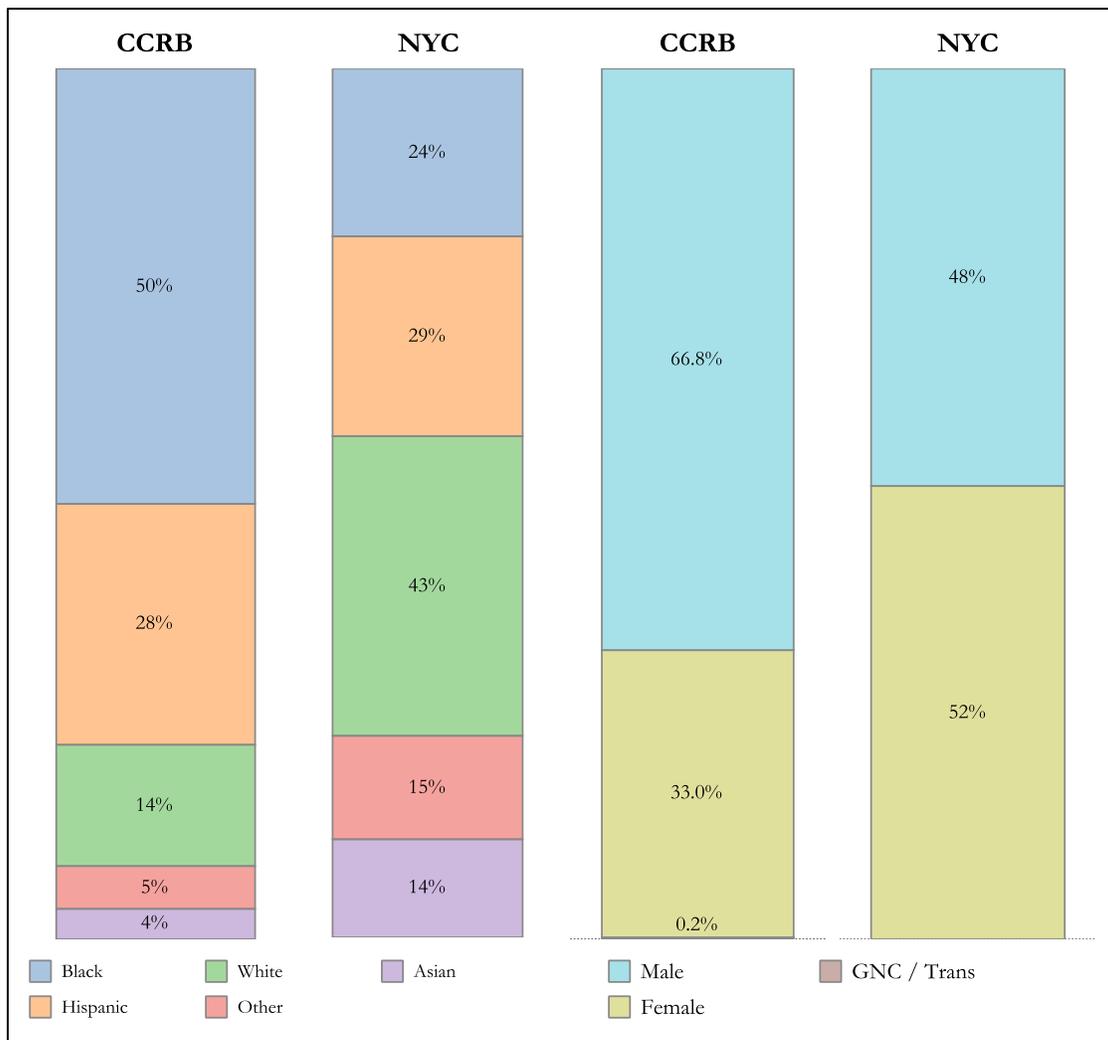
In Q1/2 2019, 67% of alleged victims were male, while men make up only 48% of the City's population (Fig. 14, next page).<sup>19</sup> In 2017, the Agency included "gender nonconforming" as an option when complainants/victims are reporting their gender, and revised its case management system to generate gender-neutral honorifics, whenever appropriate, in communications to complainants. While not well-depicted in Fig. 14 due to small raw numbers, 0.2% of alleged victims self-identified as gender nonconforming or transgender in the first half of 2019.

---

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

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

**Figure 14: Alleged Victim Demographics Compared to New York City, Complaints Received in Q1/2 2019<sup>20</sup> 21**



**CHARACTERISTICS OF SUBJECT OFFICERS**

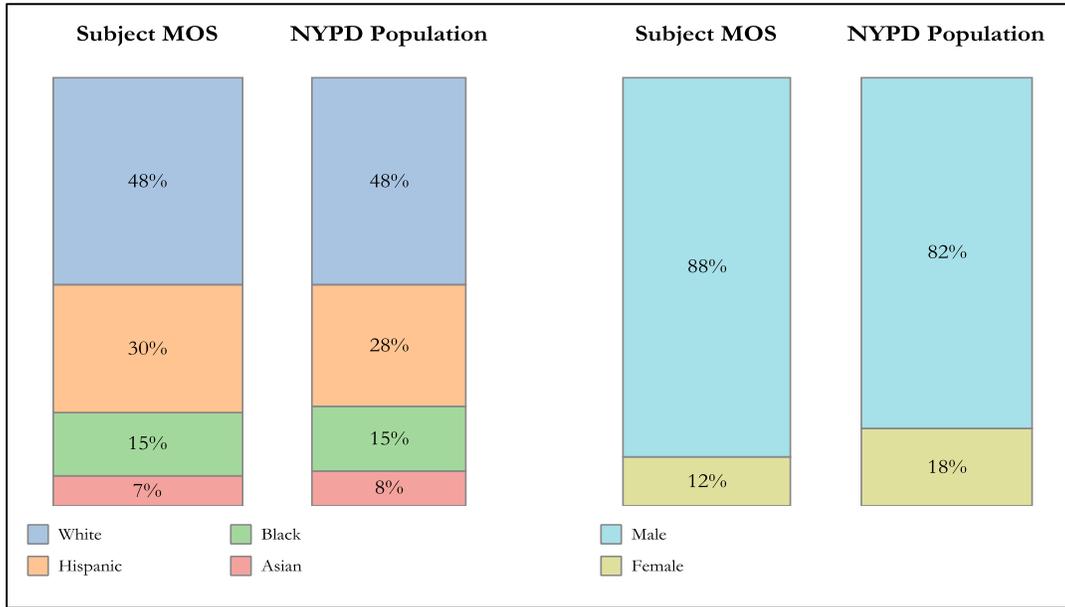
The race and gender makeup of officers who are the subject of CCRB complaints largely reflects the demographic composition of the NYPD as a whole (Fig. 15). In Q1/2 2019, white officers accounted for 48% of both the

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

20 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.

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

**Figure 15: Subject Officer Demographics Compared to NYPD, Q1/2 2019**



**RANK OF SUBJECT OFFICERS**

In the first half of 2019, the CCRB substantiated allegations against 185 police officers, 39 sergeants, 15 lieutenants, 13 detectives, and one deputy inspector (Fig.

16). Approximately 44% of these officers had five years or less on the job at the time of the incident (Fig. 17).

**Figure 16: Rank of Active MOS with Substantiated CCRB Complaints, Q1/2 2019**

	Q1/2 2019
Police Officer	185
Sergeant	39
Lieutenant	15
Detective	13
Deputy Inspector	1

**Figure 17: Tenure of Active MOS with Substantiated CCRB Complaints, Q1/2 2019**

	Q1/2 2019	
	Count	Percent
0-3 Years	52	21%
4-5 Years	59	23%
6-10 Years	48	19%
11-15 Years	59	23%
16-20 Years	25	10%
21+ Years	10	4%

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

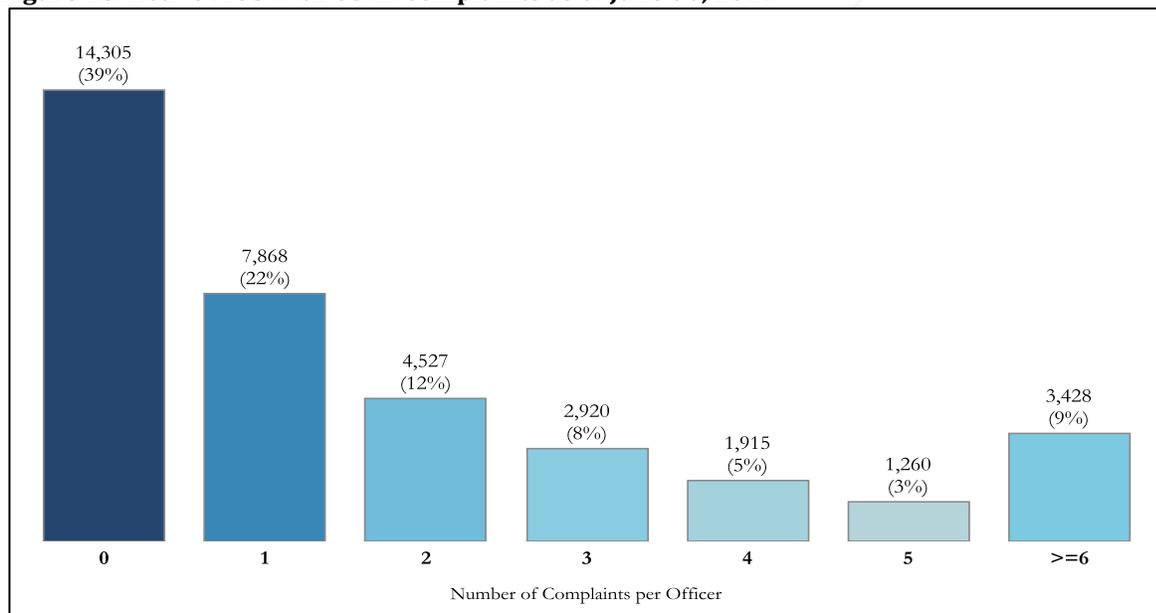
As of June 30, 2019, there were 36,223 active MOS on the NYPD roster. The charts below depict how complaints are distributed among these MOS.

Of all active MOS at the end of Q1/2 2019, 39% had never been the subject of a CCRB complaint at all, 22% had been the subject of one complaint, 12% had two complaints, and 8% had three complaints (Fig. 18). Just under

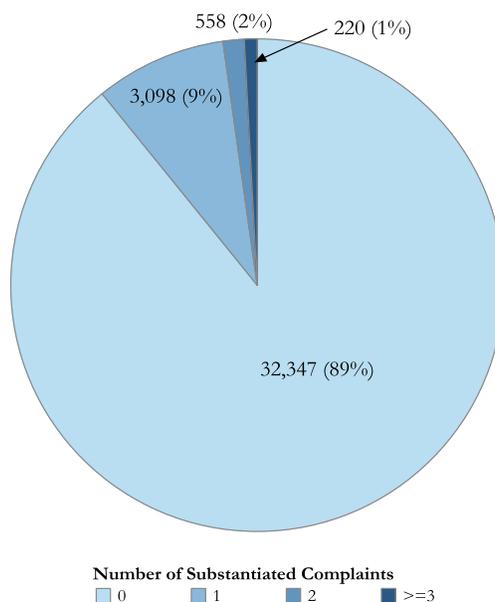
one in ten (9%) had been the subject of six or more CCRB complaints.

While most MOS have had at least one CCRB complaint, the vast majority (89%) have never had any substantiated complaints (Fig. 19). Nine percent of MOS on duty at the end of Q1/2 2019 had one substantiated complaint, and 220 (approximately 1%) have had three or more complaints substantiated.

**Figure 18: Active MOS with CCRB Complaints as of June 30, 2019**



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



## SECTION 2: INVESTIGATIONS

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

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

### INVESTIGATIONS DIVISION BENCHMARKS

The CCRB tracks the amount of time that it takes to close a full investigation, measured from the date the CCRB receives a complaint to the date the complaint is closed by the Board. It also tracks the time that it takes to close a full investigation for substantiated cases, which are typically the most complicated and time-consuming. For the past two years, the CCRB has experienced increasing investigation times. In Q1/2 2019, it took an average of 245 days to close a full investigation, and 256 days if that investigation resulted in substantiated

In certain limited circumstances, the full Board will consider a case.

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

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

misconduct (Fig. 20). Factors contributing to this increase are: 1) the continuing rise in the number of complaints received by the CCRB without a commensurate increase in the number of resources needed to investigate these complaints; 2) the investigation of new allegations, such as alleged sexual misconduct and violations of the Right to Know Act; 3) the growing number of investigations containing body-worn camera (BWC) footage that must be systematically analyzed by investigators; 4) the NYPD's failure to provide, or providing only in a redacted form, certain documents

---

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

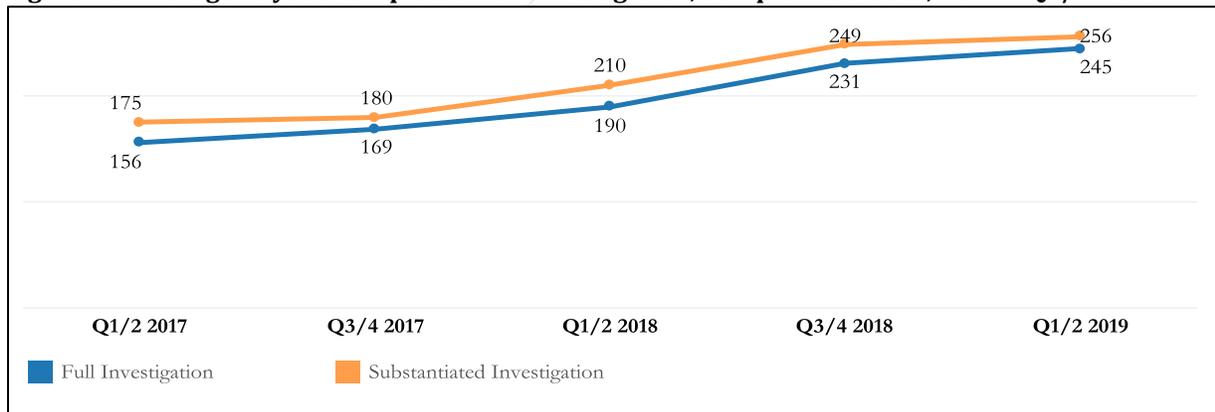
previously made available to the CCRB; and 5) mounting delays<sup>23</sup> in the receipt of key evidence, especially BWC footage.<sup>24</sup>

The above factors increase the average number of days before the first civilian and officer interviews take place in an investigation. In the first half of 2019, it took approximately 22 days on average for an investigator to conduct the first civilian interview—four days more than the same time last year, and six days longer compared with Q1/2 2017. This rise is a result of higher investigator caseloads.

The average number of days before the first member of service (MOS) is interviewed has risen much more steeply due to the fact that CCRB investigators watch video evidence

prior to scheduling officer interviews. In Q1/2 2019, the first officer interview took place, on average, 90 days after the complaint was received—a massive jump from the 71-day average of Q1/2 2018 and the 55-day average of Q1/2 2017. This increase is a direct result of both the flood of video evidence the Agency has obtained since the expansion of the NYPD’s BWC program, and an increasing number of issues with accessing BWC evidence. The process of obtaining BWC video has been marked by delays, redactions of video content, and the NYPD’s refusal to provide certain BWC evidence to the CCRB. The Agency is hopeful that new processes outlined in the recently-signed Memorandum of Understanding (MOU) with the NYPD will ameliorate some of these issues.

**Figure 20: Average Days to Complete a Full Investigation, Complaints Closed, 2017 – Q1/2 2019**

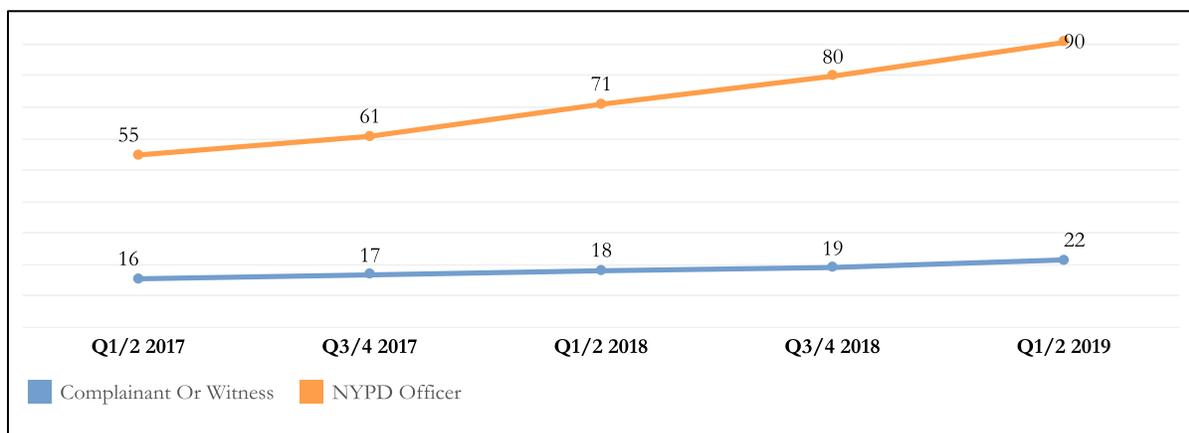


*Average days excludes re-opened cases and cases that have been placed on hold by the District Attorney.*

<sup>23</sup> Memorandum from Olas Carayannis, CCRB Director of Quality Assurance and Improvement to the Members of the CCRB Board on BWC and Document Request Issues with the NYPD (July 5, 2019), [https://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/board/20190710\\_boardmtg\\_BWC\\_memo.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/20190710_boardmtg_BWC_memo.pdf).

<sup>24</sup> See Section 6 of this Report for additional information on turnaround times for BWC footage requests.

**Figure 21: Average Days to First Interview (Full Investigations), Complaints Closed, 2017 – Q1/2 2019**



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

## CASE RESOLUTION AND INVESTIGATIVE OUTCOMES

A civilian complaint can be resolved in various ways. The complaint may be fully investigated, mediated, closed after mediation is attempted,<sup>25</sup> or closed as “truncated” (complainant is unwilling to cooperate with a full investigation or cannot be reached for an interview). There are also a small number of miscellaneous closures,<sup>26</sup> which include administratively-closed complaints and complaints in which the subject officer left the Department before the investigation or mediation was completed.<sup>27</sup>

For complaints closed in the first half of 2019, 29% of complaints were fully investigated and 62% were truncated (Figs. 22 & 23). The majority of truncations (48%) were closed as “Complainant/Victim/Witness Uncooperative” (Fig. 24). This occurs when the investigator made initial contact with the complainant, victim, or witness, but was unable to obtain an official statement or other relevant evidence. This type of truncation has

declined from 55% in the same time frame last year. The proportion of complaints withdrawn by complainants (21%) and those truncated due to the complainant being unavailable after their initial complaint was filed (17%) have both increased (Fig. 24).

Sometimes when a complainant is involved in criminal or civil litigation, their attorney advises against making sworn statements until the conclusion of the court case. When a complaint is closed due to pending litigation, CCRB investigators periodically check court records to determine if the case has ended, and if so, attempt to reconnect with the complainant. In the first half of 2019, the CCRB re-opened 18 cases that had been closed due to pending litigation. Since the CCRB began tracking and following up on these cases in 2018, approximately 10% (45 of 579) of complaints that were closed pending litigation have been reopened.

<sup>25</sup> “Mediation attempted” is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for a scheduled mediation session without good cause, or fails to respond to attempts to schedule a mediation session, and does not request that the case be sent back for a full investigation.

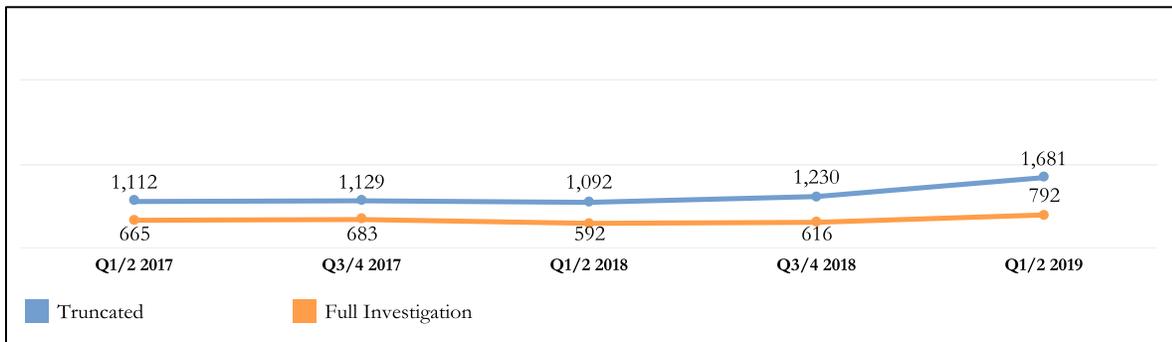
<sup>26</sup> Miscellaneous closures are not included in the truncation rate.

<sup>27</sup> The New York City Charter only gives the CCRB jurisdiction over current uniformed members of service.

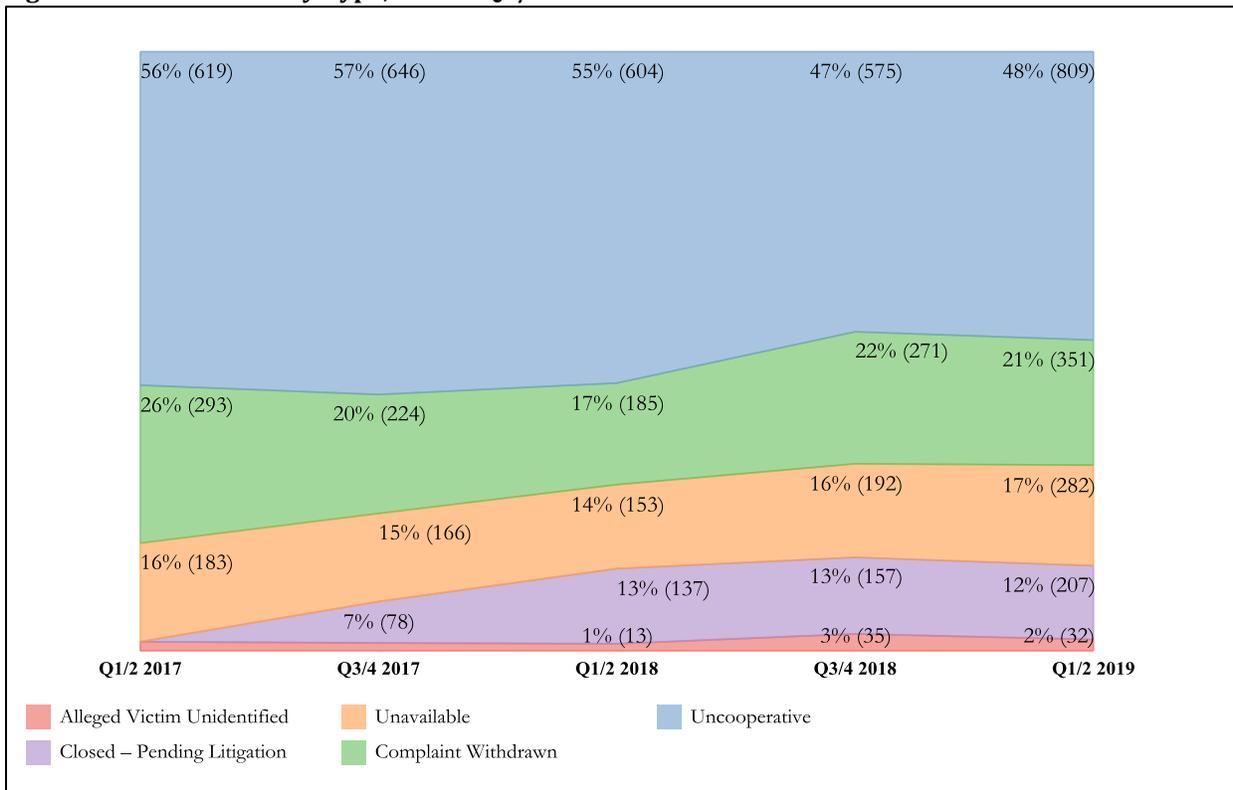
**Figure 22: Case Resolutions, 2017 – Q1/2 2019**

	Q1/2 2017		Q3/4 2017		Q1/2 2018		Q3/4 2018		Q1/2 2019	
	Count	% of Total								
Truncated	1,112	57%	1,129	54%	1,092	56%	1,230	60%	1,681	62%
Full Investigation	665	34%	683	33%	592	30%	616	30%	792	29%
Mediation Attempted	82	4%	131	6%	132	7%	99	5%	151	6%
Mediated	91	5%	113	5%	120	6%	112	5%	90	3%
Misc. Closure	17	1%	27	1%	8	0%	9	0%	17	1%

**Figure 23: Truncations and Full Investigations, 2017 – Q1/2 2019**



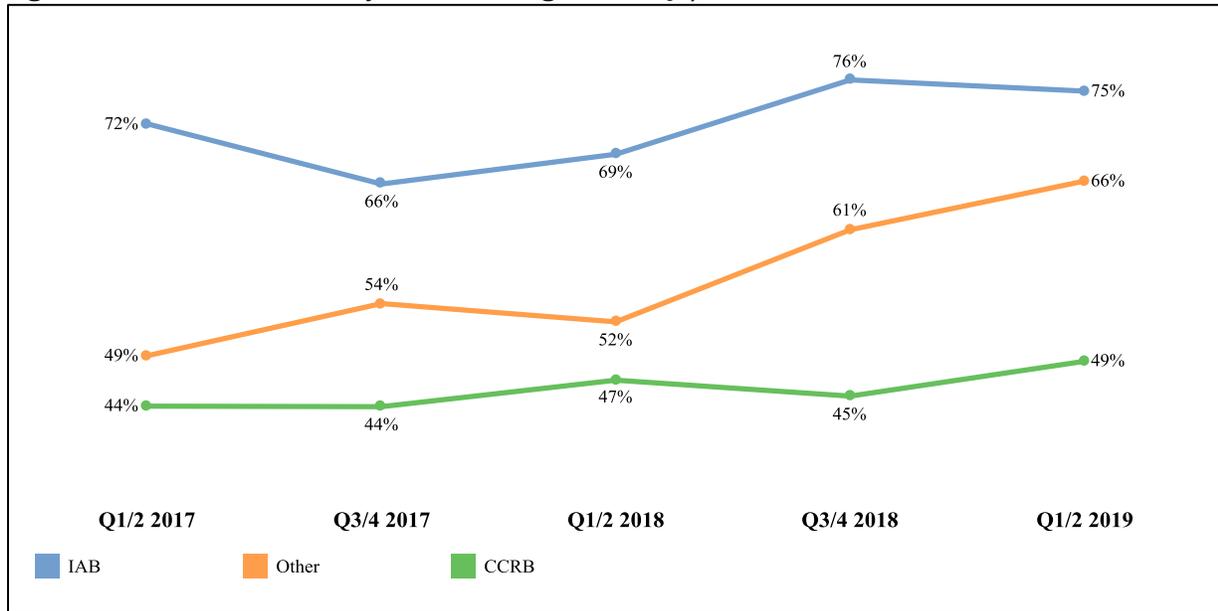
**Figure 24: Truncations by Type, 2017 – Q1/2 2019**



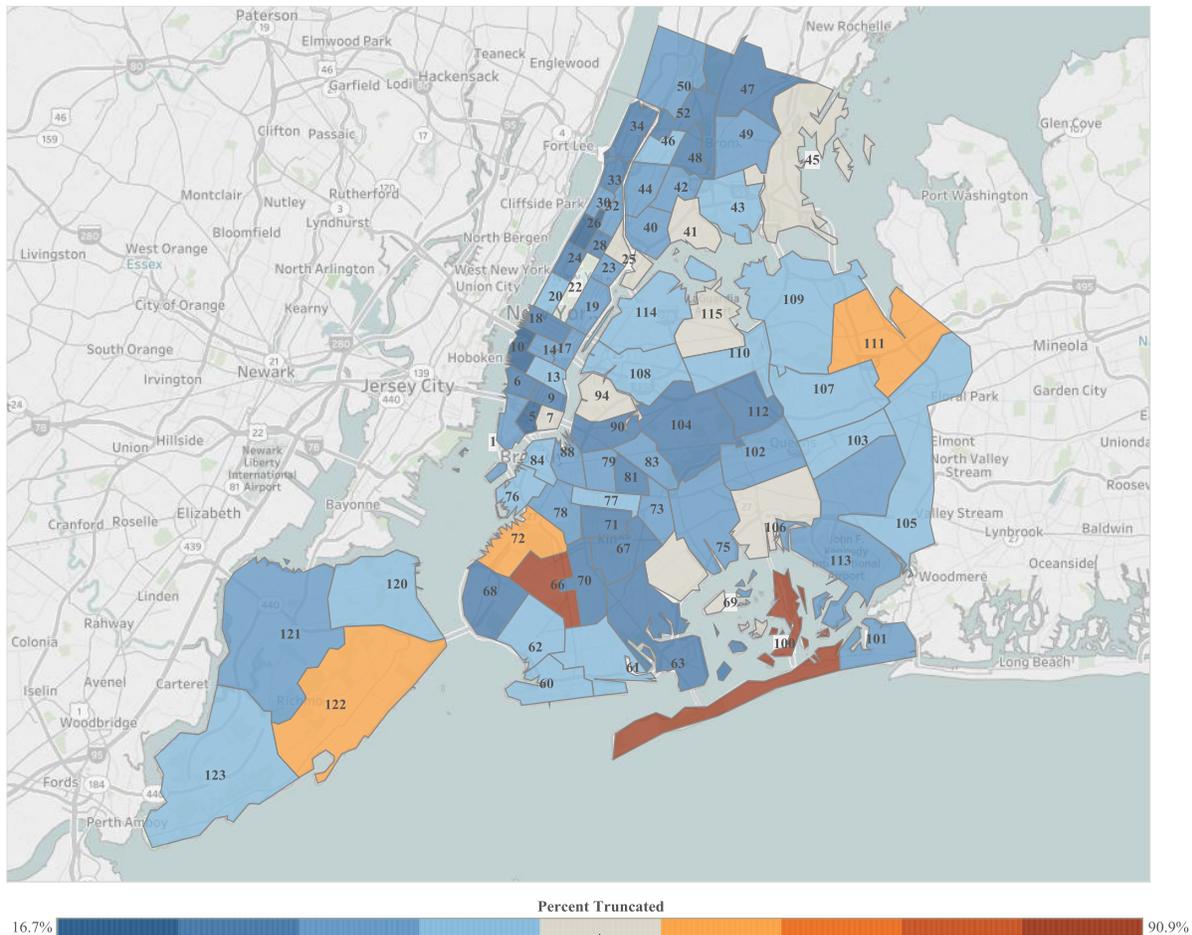
Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the CCRB by another agency (Fig. 25). In Q1/2 2019, 49% of complaints filed with the CCRB were truncated, compared with 75% of complaints referred to the CCRB by IAB, and 66% of the complaints that were referred from other

government agencies and organizations. When complaints are filed elsewhere, 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 may reduce the likelihood that complainants will cooperate when contacted by CCRB investigators.

**Figure 25: Truncation Rates by Place of Filing, 2017 - Q1/2 2019**



**Figure 26: Truncation Rate by Precinct, Q1/2 2019**



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

The Agency is currently working on reducing truncations via two new initiatives. In February 2018, the Agency’s Blake Fellow began working on an analysis of the factors contributing to truncations, and will be

issuing a report in the coming months detailing findings and recommendations based on the first year of this work. Additionally, the Agency hired a Director of its newly-formed Civilian Witness Assistance Unit, which aims to better support complainants and witnesses through the investigation and prosecution processes. More information on both of these initiatives will be found in the CCRB’s 2019 Annual Report.

## 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 to have occurred and be improper based on a preponderance of the evidence.<sup>28</sup>
- An allegation is **exonerated** if the alleged conduct is found to have occurred but was not found to be improper by a preponderance of the evidence. Allegations may be exonerated if the officer's behavior was found to be allowed under the law and/or the Patrol Guide. This does not mean that the complainant was untruthful in their account of the incident. Many members of the public are not aware of the range of law enforcement activities that are legally permissible and within the boundaries of proper NYPD protocol.
- An allegation is **unfounded** if the alleged conduct is found by a preponderance of the evidence not to have occurred as the complainant described.
- An allegation is closed as **officer unidentified** if the CCRB was unable to identify the officer accused of misconduct.
- An allegation is **unsubstantiated** if there is not enough evidence to determine whether or not misconduct occurred by a preponderance of the evidence.

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

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

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

---

<sup>28</sup> "Preponderance of the evidence" is an evidentiary standard used in civil cases, and is commonly interpreted to mean that the fact in question was determined to be "more likely than not," true. *See E.g., Brown v. Bowen*, 847 F.2d 342, 345 (7th Cir. 1988) (stating that under the preponderance standard, "the trier of fact rules for the plaintiff if it thinks the chance greater than 0.5 that the plaintiff is in the right"); *Althen v. Sec'y of Dep't of Health & Human Servs.*, 58 Fed. Cl. 270, 283 (2003).

## CASE ABSTRACTS

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

### 1. Substantiated

Officers observed an individual enter the subway without paying a fare. The officers stopped the individual, who then attempted to flee. Video footage, captured by a MTA surveillance camera inside the station, shows the individual attempting to run through a turnstile. When he is halfway through the turnstile, an officer grabs his shirt and attempts to pull him back. The individual attempts to push his body forward and the officer places his right arm around the individual's neck and right shoulder region, and pulls him back between the turnstile in a chokehold position. After reviewing the video footage, the officer acknowledged his arm was placed around the individual's neck.

The NYPD Patrol Guide states that officers shall not use a chokehold. Based on the video evidence, the investigation determined the officer used a chokehold. The Board substantiated the allegation. *(Note: this is the same case discussed in the FADO Case Descriptions on page 23.)*

### 2. Exonerated

An individual was stopped by officers for committing a moving violation on his bicycle. Body-worn camera footage showed the individual verbally admitting to running a red light at the intersection. By refusing to obey a traffic light, the individual violated the New York State Vehicle and Traffic Law, therefore it was reasonable for the officers to stop the individual. The Board exonerated the allegation.

### 3. Unfounded

An individual was stopped in his vehicle by officers for failure to signal. An officer asked the individual for his license and registration. When the individual asked the officer if he was serious, the officer allegedly replied, "Yeah, nigga, give me your license." Body worn camera footage of the incident, which captured the conversation between individual and officer, established that the officer did not use offensive language toward the individual. The Board unfounded the allegation.

### 4. Officer Unidentified

An individual reported that on an unknown date in May 2018, he called 911 and requested officers respond to his apartment. An officer allegedly told the individual that he would be arrested if he called the police again. No arrest or summons resulted from this incident and no video footage was found. Police records returned eight separate occasions in May 2018 where officers responded to the individual's apartment after a 911 call. Three officers fitting the generic physical description provided by the individual were interviewed by the CCRB. None of the officers independently recollected the incident, and all denied threatening to arrest the individual. Given the number of times officers responded to the individual's 911 calls, without the specific date and only a generic physical description of the subject officer, the investigation was unable to identify the subject officer in this alleged incident. The Board closed the allegation as officer unidentified.

### **5. Unsubstantiated**

Officers responded to a 911 call regarding a dispute. Upon arriving on scene, a witness approached an officer, who allegedly told him to, "Shut the fuck up." During his interview, the subject officer denied the allegation, as did the other officers on scene. Given the conflicting statements and lack of video footage or documentary evidence regarding the allegation, the investigation was unable to determine by a preponderance of evidence whether the officer spoke discourteously to the individual. The Board unsubstantiated the allegation.

## DISPOSITIONS OF COMPLAINTS AND ALLEGATIONS

---

In the first half of 2019, the substantiation rate (the percentage of fully-investigated complaints in which the Board substantiated at least one allegation) increased to 23% from 19% in Q1/2 2018 (Fig. 27, next page). The exoneration rate (the percentage of cases in which all allegations in the complaint were exonerated) also rose, from 16% in Q1/2 2018 to 22% in Q1/2 2019. The rate of unfounded case closures (the percentage of cases in which there were no substantiated or exonerated allegations, but at least one unfounded allegation) remained the same at 8%. When a complaint is closed with a disposition of substantiated, unfounded, or exonerated, it is deemed to be a finding “on the merits,” meaning that the Board was able to make a determination of fact based on a preponderance of the evidence.

The unsubstantiation rate (the percentage of cases in which the Board could not determine whether the alleged misconduct occurred) dropped to 40% from 48% in the first half of last year.<sup>29</sup> The percentage of cases the Board closed without being able to identify any of the officers involved also declined, from 8% to 7%. Complaints closed as unsubstantiated or officer unidentified are cases in which the Board could not determine whether misconduct occurred, either because the

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

A single complaint may contain one or more allegations. The complaint disposition, as previously noted, is a composite of the dispositions of all the distinct allegations within the complaint. In addition to complaint dispositions, the CCRB also tracks the disposition of each individual allegation. Allegations closed on the merits also increased between Q1/2 2018 and Q1/2 2019, with 12% of allegations substantiated compared with 10% the year prior and exonerations increasing from 31% to 36%. Unfounded allegations remained steady at 9% during that time period (Fig. 28, next page).<sup>30</sup> Unsubstantiations decreased from 39% to 33%, and officer unidentified allegations held steady at 11%.

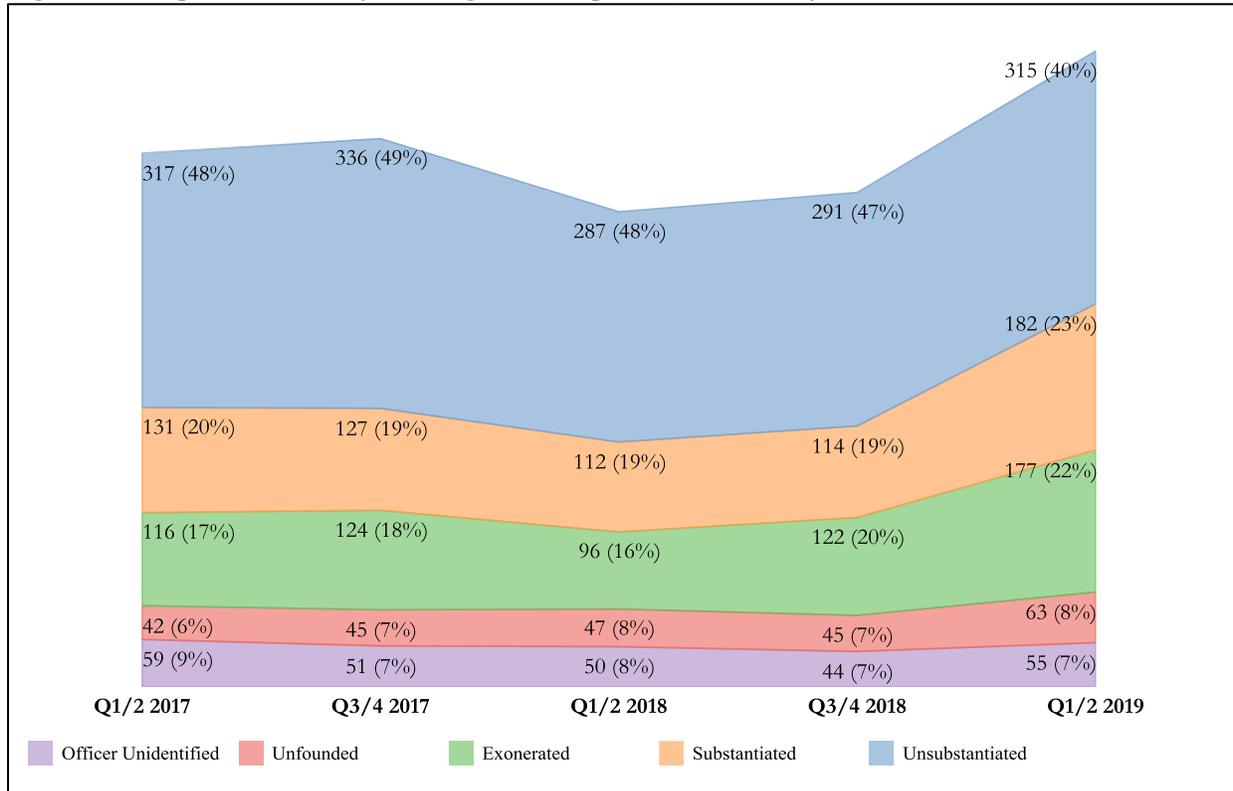
The general increase in the proportion of complaints and allegations closed on the merits, and the corresponding decrease in the cases closed without a clear determination of fact, are largely connected to the improved quality of evidence the Board has as a result of BWCs. Section 6 of this Report further details the impact that BWCs have had on CCRB investigations.

---

<sup>29</sup> As a point of comparison to other NYPD oversight, in calendar year 2015 and the first eight months of 2016, the Internal Affairs Bureau’s most serious cases, “corruption” cases, had an 8.5% substantiation rate, a 16.5% partial substantiation rate, and a 50.8% unsubstantiation rate. See NYC Commission to Combat Police Corruption, *Eighteenth Annual Report of the Commission* (Aug. 2017), <https://www1.nyc.gov/assets/ccpc/downloads/pdf/18th-Annual-Report.pdf>.

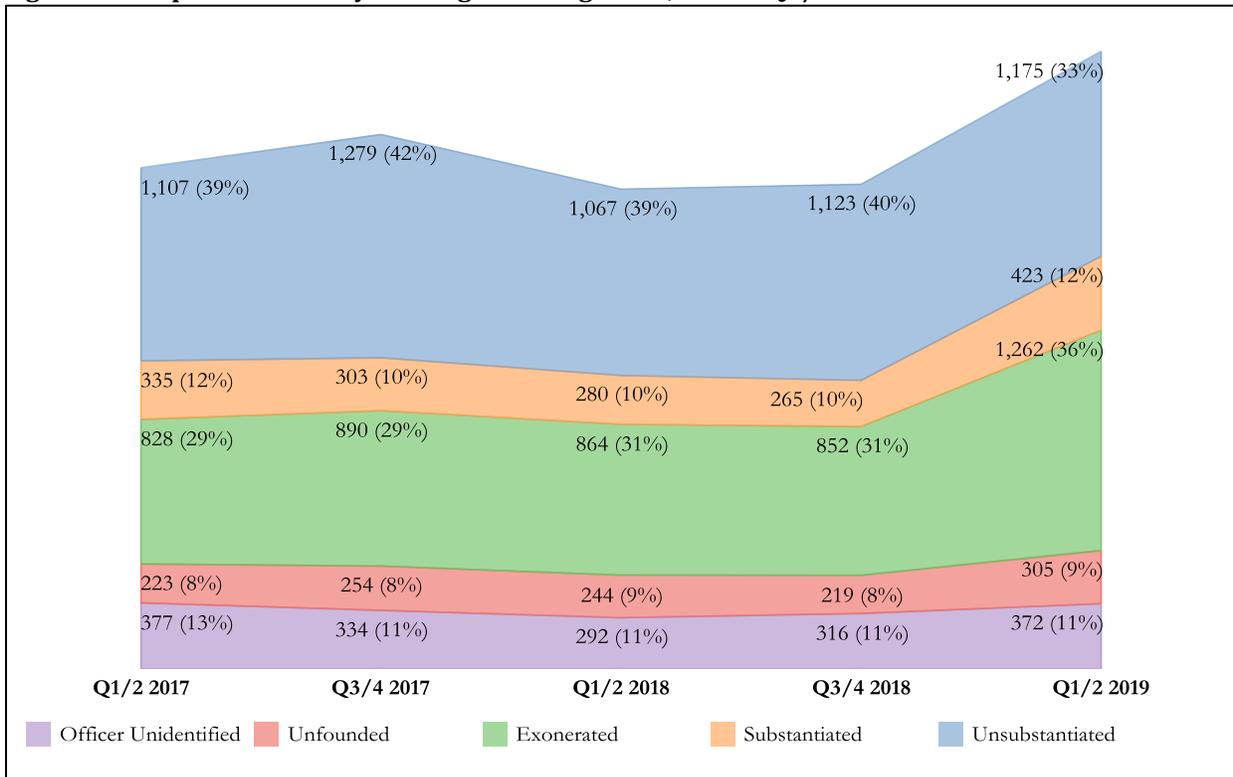
<sup>30</sup> A low substantiation rate for allegations is not unusual—in order to consider all possible allegations, investigators thoroughly document each allegation separately, though upon a full investigation, not all of these allegations can be proven.

**Figure 27: Disposition of Fully Investigated Complaints, 2017 - Q1/2 2019**



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

**Figure 28: Disposition of Fully Investigated Allegations, 2017 - Q1/2 2019**



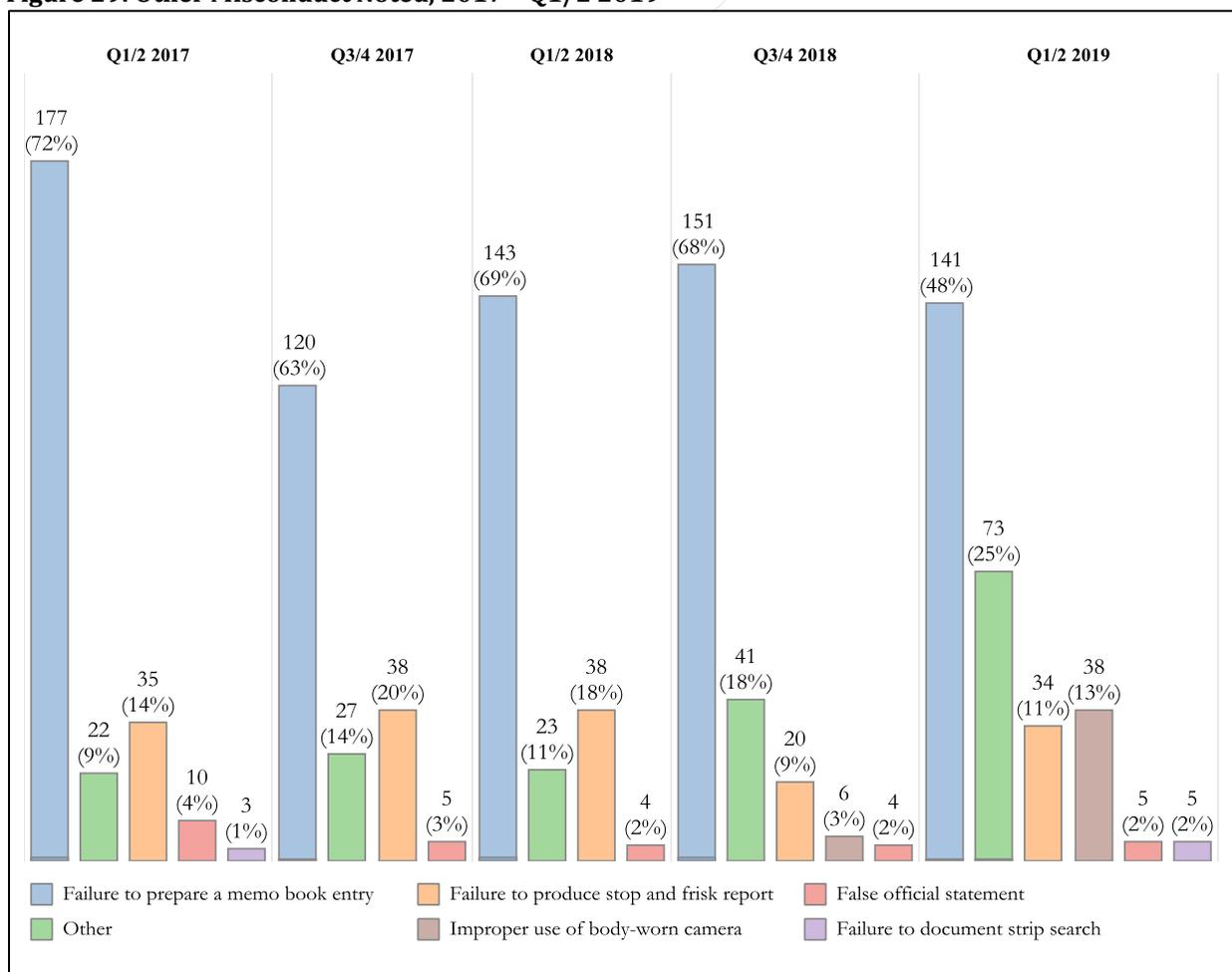
*Due to the reconsideration process, some counts are subject to change. See Section 5.*

## OTHER MISCONDUCT NOTED AND FALSE OFFICIAL STATEMENTS

Where a CCRB investigation reveals evidence of possible misconduct that falls outside of the CCRB’s jurisdiction, the Board 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 29 lists the top categories of OMN referrals. An officer’s failure to properly document an encounter or other activity in his or her

memo book as required by the Patrol Guide<sup>31</sup> accounted for 48% of all OMN allegations in cases closed in the first half of 2019. In late 2018, the CCRB began tracking instances in which evidence indicated an officer was in violation of the NYPD’s BWC policy. These OMN referrals, which were 13% of the total in Q1/2 2019, were sent to the NYPD when BWC footage revealed, for instance, that officers had turned their cameras off in the middle of an incident.

**Figure 29: Other Misconduct Noted, 2017 – Q1/2 2019**



In February of 2016, the CCRB began receiving IAB dispositions of the false official

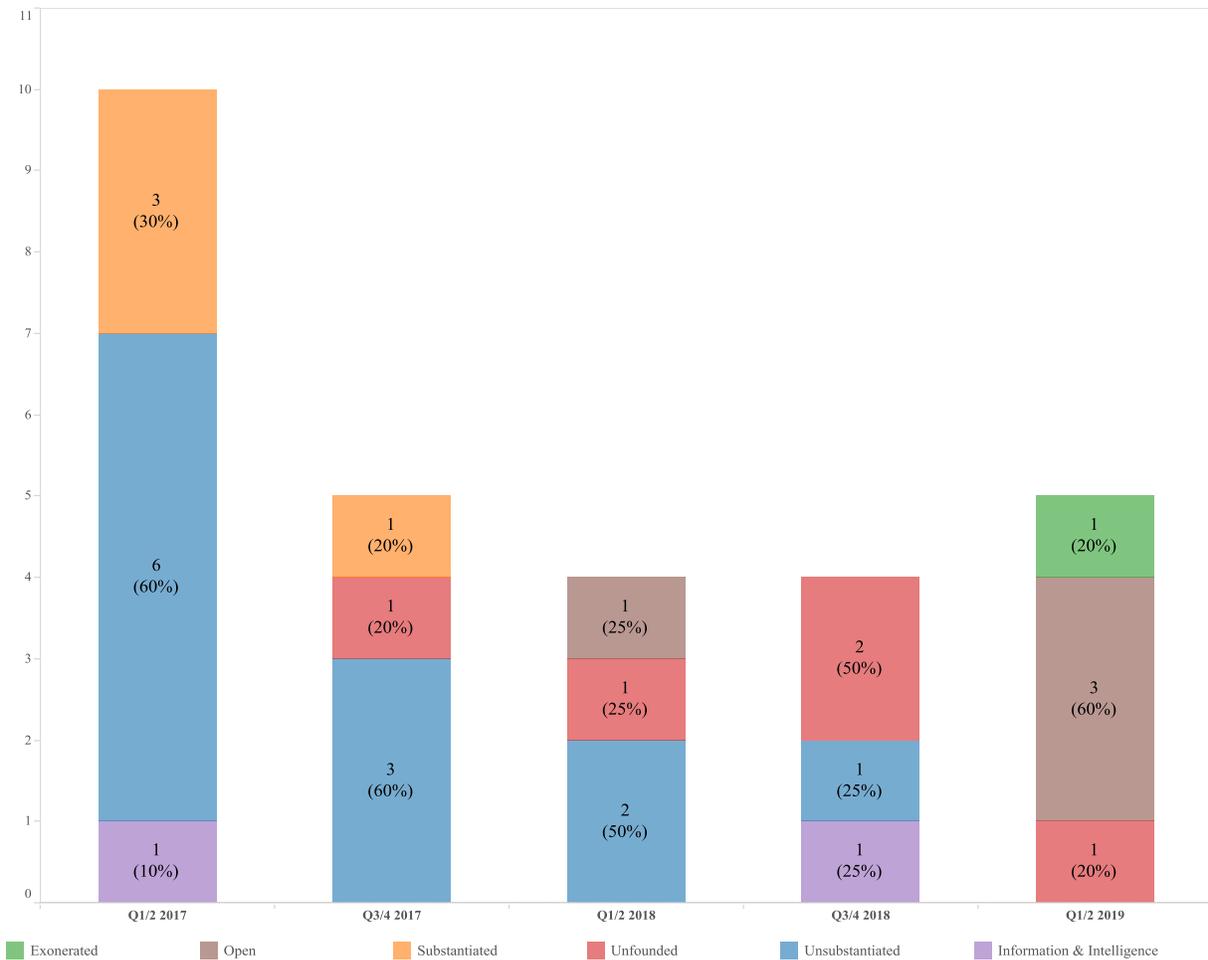
statement OMNs that the CCRB had referred to the NYPD for investigation. These

<sup>31</sup> NYPD, Patrol Guide Section 200-02, *Mission, Vision, and Values of the New York City Police Department* (Apr. 03, 2019), [http://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/public-pguide1.pdf](http://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf).

statements, while relatively rare (see Fig. 29), are instances in which an officer makes a statement in the course of a CCRB investigation that is demonstrably false. These statements had not been within the CCRB’s jurisdiction to investigate until the approval of Charter revision proposals by voters in November 2019.<sup>32</sup> As of March 31, 2020, the CCRB has the authority to

investigate the truthfulness of official material statements made by subject officers during the course of a CCRB investigation. Figure 30 depicts the IAB dispositions of all false official statement OMNs referred to the NYPD since 2016, when the Agency first began receiving disposition reports on these referrals.

**Figure 30: False Official Statement OMNs, 2016 – Q1/2 2019**



32 Rebecca C. Lewis, *New York City Ballot Questions Approved Overwhelmingly*, CITY & STATE NY (Nov. 5, 2019), <https://www.cityandstateny.com/articles/politics/campaigns-elections/ballot-proposal-results-11-05-2019.html>.

## SECTION 3: DISCIPLINARY PROCESS

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

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

to the New York City Charter, New York City Administrative Code, and New York State Civil Service Law,<sup>33</sup> the Police Commissioner has final approval over all member of service (MOS) discipline. The Commissioner can accept, reject, or modify any discipline recommendation made by the CCRB.

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

1. **Instructions:** guidance issued by a commanding officer.
2. **Formalized Training:** given at the Police Academy or the Legal Bureau.
3. **Command Discipline A:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting five vacation days.<sup>34</sup> A Command Discipline A is automatically removed from a MOS' Central Personnel Index after one year.<sup>35</sup>
4. **Command Discipline B:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting 10 vacation days. A MOS can request that a Command Discipline B be removed from his or her Central Personnel Index after three years.
5. **Charges and Specifications:** leads to a prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT), who makes a guilty or not guilty determination. The Police Commissioner has final approval of all dispositions, but generally follows the recommendation of the DCT or ADCT.<sup>36</sup>

### OVERVIEW OF DISCIPLINARY PROCESS

In January 2018, the Board began utilizing a Disciplinary Framework, a non-binding matrix designed to guide Board Panel discussions on discipline recommendations. Use of the Framework does not impact whether a complaint will be substantiated by

the Board—it is only used once cases have been substantiated. The goal of the Framework is to achieve consistent and fair discipline recommendations for both civilians and MOS. The Framework outlines six allegation types that, if substantiated,

<sup>33</sup> NYS Civil Service Law § 75(3-a).

<sup>34</sup> Prior to 2014, the Board did not distinguish between "Command Discipline A" and "Command Discipline B." The corresponding disciplinary recommendation was simply "Command Discipline."

<sup>35</sup> A Central Personnel Index is a MOS' personnel record.

<sup>36</sup> In 2018, the Police Commissioner dismissed the trial verdict in one case (Fig. 33).

typically would result in the recommendation of Charges and Specifications—the most severe level of discipline. These allegations include chokeholds, strip searches, warrantless entries, offensive language, excessive force with serious injury, and sexual misconduct. Under the Framework, Board Panels discuss the subject officer’s CCRB history and the totality of the circumstances of the case as a way 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 these disciplinary recommendations and recommends to the Police Commissioner whether to impose or modify the discipline recommended by the CCRB.

When the Board recommends Charges and Specifications, in most instances the substantiated allegations are prosecuted by the Administrative Prosecution Unit (APU). The development of the APU increased the CCRB’s role in determining discipline for officer misconduct.

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

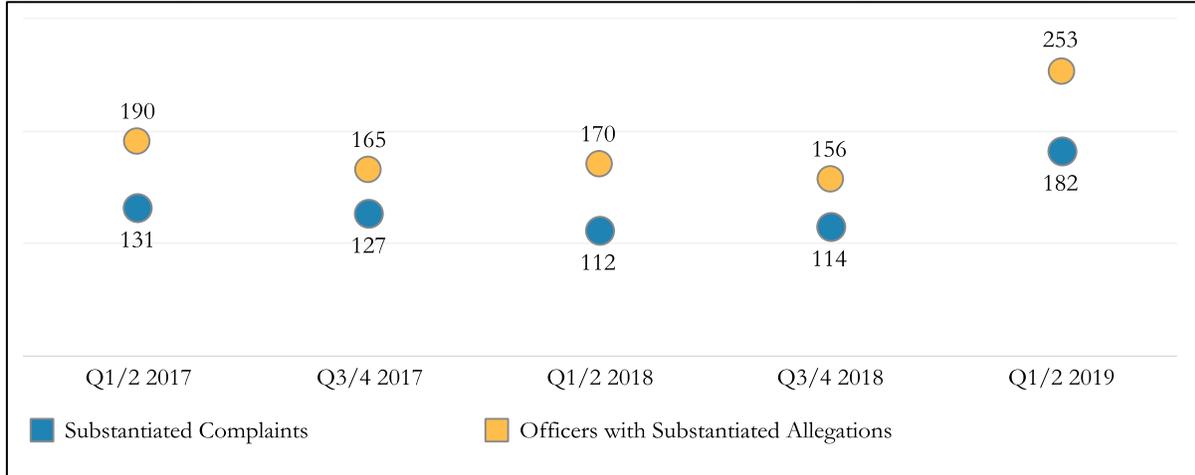
## **CCRB DISCIPLINARY RECOMMENDATIONS**

---

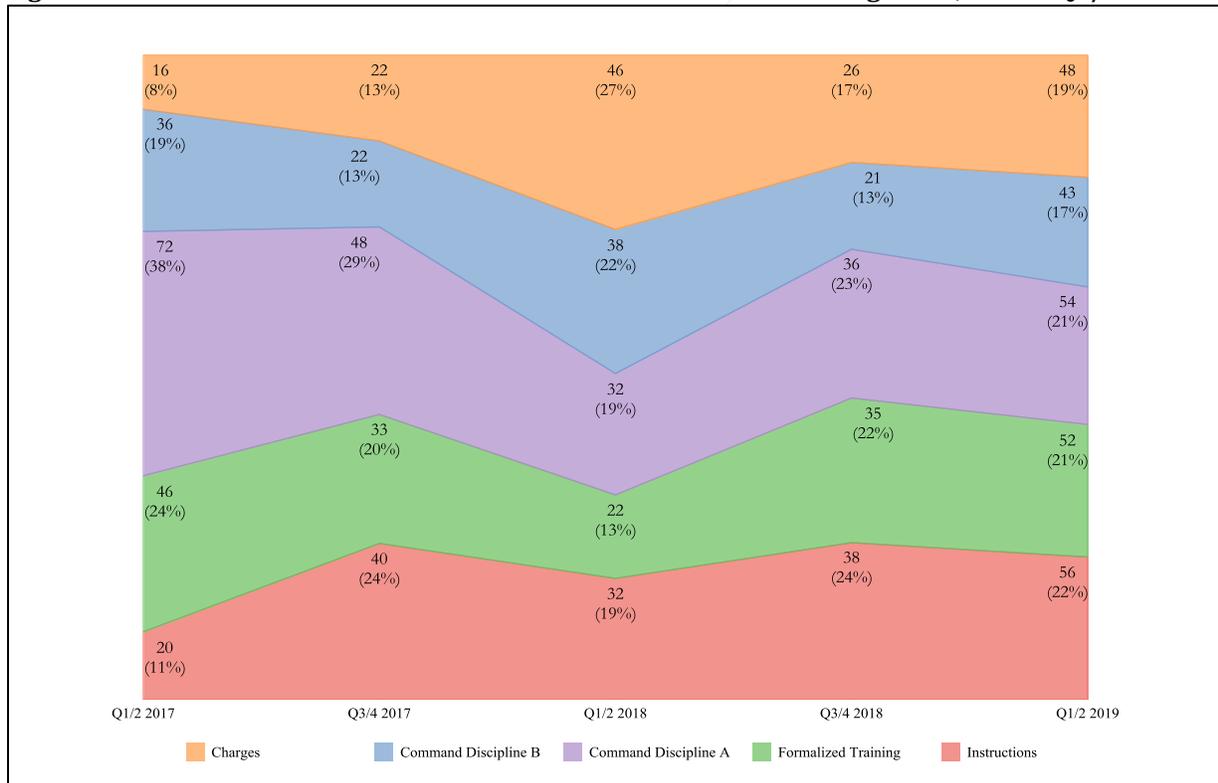
In the first half of 2019, the Board substantiated 182 complaints against 253 police officers (Fig. 31). This is a sizeable increase from Q1/2 2018, when the Board substantiated 112 complaints against 170 police officers. A single substantiated complaint may contain substantiated allegations against more than one officer, or multiple substantiated allegations against a single officer.

In the first half of 2019, the Board recommended Command Discipline for 38% (97) of the 170 officers against whom there was a substantiated allegation, compared with 41% in Q1/2 2018 (Fig. 32, next page). The Board recommended Charges and Specifications for 19% of officers against whom there was a substantiated allegation in Q1/2 2019, compared with 27% in Q1/2 2018.

**Figure 31: Complaints Substantiated & Officers with Substantiated Allegations, 2017 - Q1/2 2019<sup>37</sup>**



**Figure 32 Board Recommendations for Officers with Substantiated Allegations, 2017 - Q1/2 2019<sup>38</sup>**



As depicted in Fig. 33 on the following page, the Board recommended Charges and Specifications for 72% of the excessive Force allegations it closed in Q1/2 2019. Charges and Specifications was also the most frequent recommendation for Abuse of Authority allegations at 27%. The top disciplinary

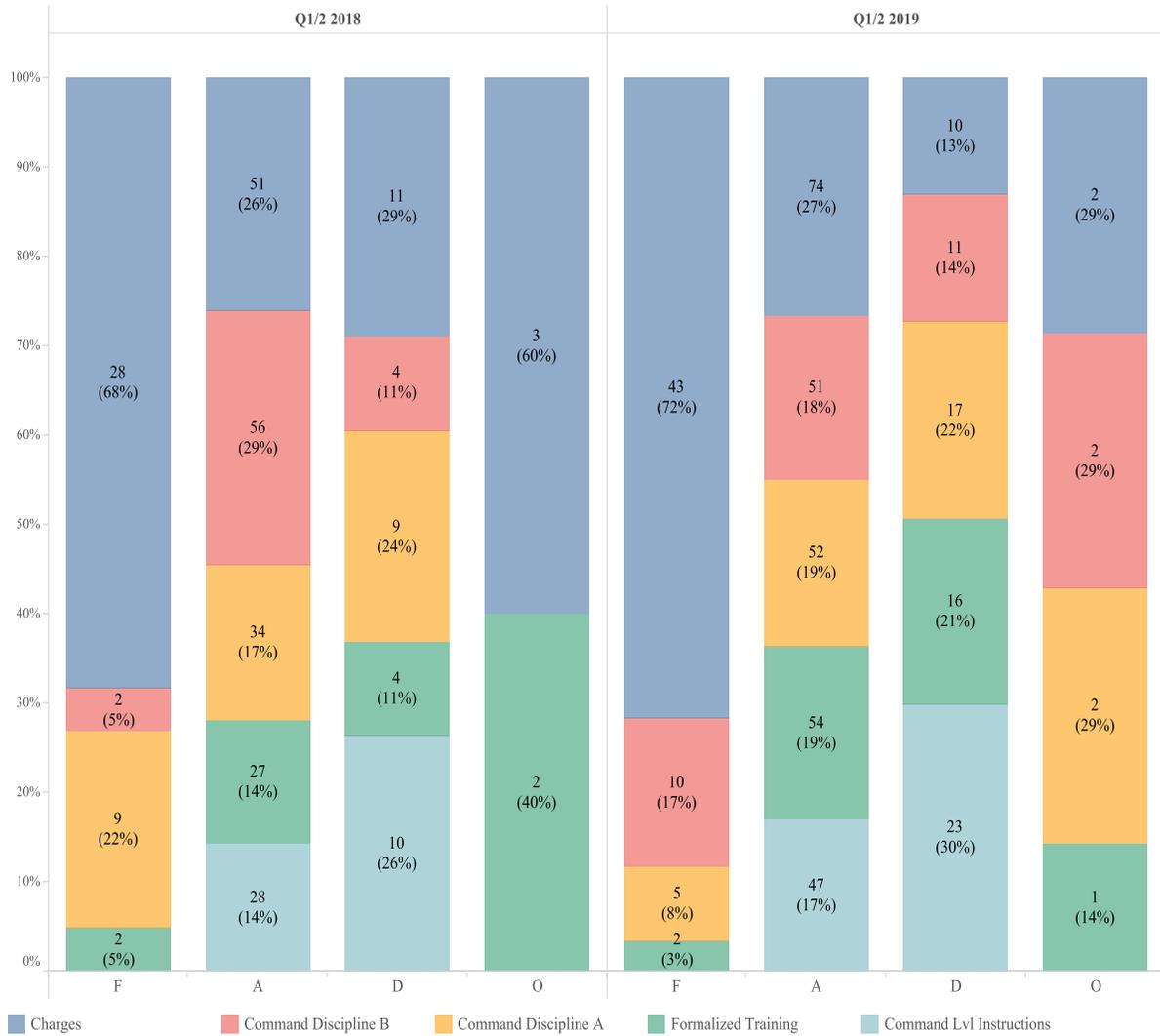
recommendations for Discourtesy allegations were Command Level Instructions at 30% and Command Discipline A at 22%. The recommendations for the small handful of Offensive Language allegations were evenly split among Charges and Specifications, Command Discipline A, and Command

<sup>37</sup> Due to the reconsideration process, counts are subject to change (see Section 5).

<sup>38</sup> Due to the reconsideration process, 2018 counts are subject to change (see Section 5).

Discipline B at 29% each, with one case (14%) receiving a recommendation for Formalized Training.

**Figure 33: Board Dispositions by FADO Allegations, Q1/2 2018 & Q1/2 2019**



## NYPD DISCIPLINARY DECISIONS

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

When a substantiated allegation against an officer is referred to the DAO, the CCRB makes a recommendation regarding what disciplinary action should be taken. The DAO reports the final discipline imposed by the Police Commissioner, if any, back to the CCRB.<sup>39</sup> In the first half of 2019, the NYPD took some form of disciplinary action

(Charges, Command Discipline, Formalized Training, or Instructions) against 81% of the officers for whom discipline was recommended by the CCRB (including APU cases), down from 84% in Q1/2 2018 (Fig. 34). In cases where the NYPD imposed discipline, the most common form of discipline imposed was Formalized Training (33%), followed by Instructions (27%).<sup>40</sup> Compared with the same time frame last year, the NYPD imposed Instructions in more cases (16% of cases in Q1/2 2018), and Command Discipline and Formalized Training in fewer cases (Command Discipline declined from 26% to 20% and Formalized Training was imposed in 41% of cases in Q1/2 2018).

**Figure 34: Department Advocate's Office Disciplinary Actions on CCRB Cases, 2017 - Q1/2 2019<sup>41</sup>**

NYPD Disciplinary Action	Q1/2 2017		Q3/4 2017		Q1/2 2018		Q3/4 2018		Q1/2 2019	
	Count	% Total								
NYPD Pursued Discipline: Charges	2	1%	6	3%	1	1%	2	1%	1	1%
NYPD Pursued Discipline: Command Discipline	73	37%	35	18%	49	26%	32	19%	27	20%
NYPD Pursued Discipline: Formalized Training	57	29%	71	36%	77	41%	65	38%	46	33%
NYPD Pursued Discipline: Instructions	17	9%	25	13%	29	16%	26	15%	37	27%
NYPD Pursued No Discipline (DUP)	41	21%	50	25%	19	10%	39	23%	20	14%
Statute of Limitations Expired					4	2%				
Filed (officer resigned before PD action)	5	3%	6	3%	2	1%	3	2%	2	1%
Administratively Closed	1	1%	4	2%	5	3%	4	2%	5	4%
Dismissed			2	1%			1	1%		

<sup>39</sup> While the CCRB receives notification of the final category of discipline, the Agency does not receive specifics on the penalty that the Police Commissioner ultimately imposes. For instance, the NYPD reports to the CCRB whether an officer was given a Command Discipline A, but not the number of vacation days forfeited. Similarly, the Agency is made aware of the fact that training was given to an officer, but not the exact training module.

<sup>40</sup> In a small number of cases, the CCRB does not recommend Charges and Specifications in cases that DAO determines should be tried in an administrative trial. This may be due to many factors, including that the officer rejected a Command Discipline and elected to go to trial, or the DAO determines that the case is serious enough to rise to the level of charges.

<sup>41</sup> The cases in this table are depicted by the penalty report date, not the year in which the cases were closed. In other words, the numbers reported in this Report are cases in which NYPD reported final discipline in this time frame, though the CCRB may have closed these cases in prior years. Prior to 2014, the CCRB did

## ADMINISTRATIVE PROSECUTION UNIT

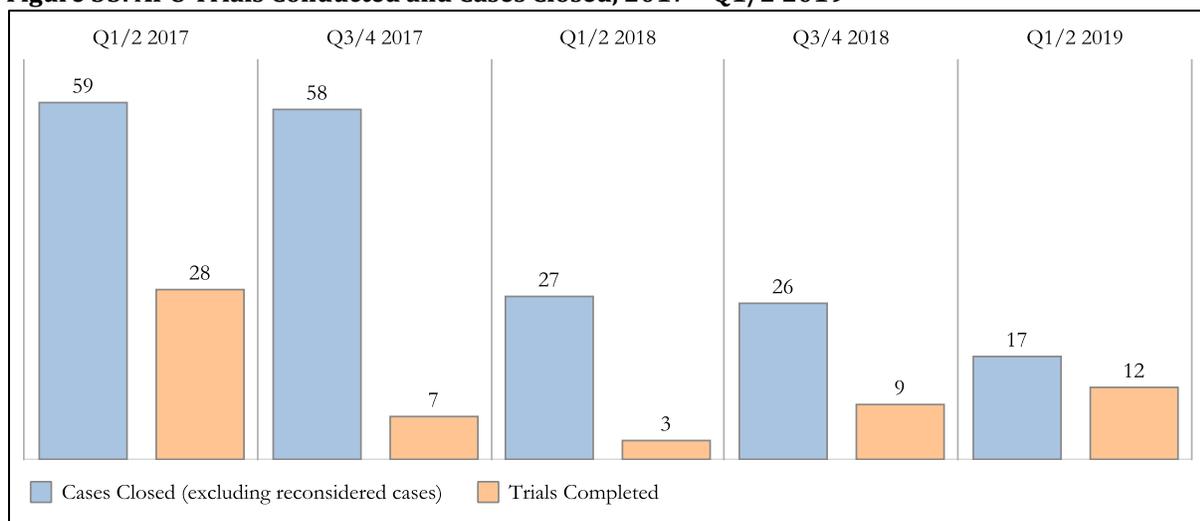
When the Board recommends Charges and Specifications against an officer in a substantiated case, the APU prosecutes the case, unless the NYPD retains the case. Retained cases are those in which the NYPD elects, pursuant to Section 2 of the MOU between the NYPD and the CCRB, to keep a case.<sup>42</sup> When the NYPD keeps a case pursuant to Section 2, it may or may not impose discipline on the officer.

The APU treats each officer against whom an allegation is substantiated as a separate case.<sup>43</sup> A single CCRB complaint may generate more than one APU case depending on the number of officers against whom the Board recommends Charges and Specifications. As seen in Fig. 35, in the first half of 2019, the

APU completed 12 trials and closed a total of 17 cases, excluding cases reconsidered by the Board. Of the cases closed by the APU in Q1/2 2019, 14 were adjudicated, and eight (57%) of those resulted in some form of disciplinary action (Fig. 36, next page). Five of the closed cases resulted in guilty verdicts following trial, one was resolved by plea agreement, and two were retained by the NYPD and discipline was imposed.

Of the eight APU cases in which discipline was imposed in Q1/2 2019, the most common penalty was a suspension or loss of vacation time; three resulted in a suspension or loss of vacation time of one to 10 days, and two resulted in a suspension or loss of vacation time of 11 to 20 days (Fig. 37).

**Figure 35: APU Trials Conducted and Cases Closed, 2017 - Q1/2 2019**



not distinguish between Instructions and Formalized Training. “Administratively closed” typically indicates that DAO is already investigating the incident itself.

<sup>42</sup> Section 2 of the MOU states, “...in those limited instances where the Police Commissioner determines that CCRB’s prosecution of Charges and Specifications in a substantiated case would be detrimental to the Police Department’s disciplinary process, the Police Commissioner shall so notify CCRB. Such instances shall be limited to such cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer’s record and disciplinary history the interests of justice would not be served.” For the full text of the MOU, see [http://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/apu\\_mou.pdf](http://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf).

<sup>43</sup> Because the APU treats each officer 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 36: APU Case Closures Q1/2 2019**

Disciplinary Action	Not guilty after trial but Discipline Imposed	0
	Guilty after trial	5
	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	1
	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	2
	<b>Total</b>	<b>8</b>
No Disciplinary Action	Not guilty after trial	6
	Trial verdict reversed by PC, Final verdict Not Guilty	0
	Plea set aside, Without discipline	0
	**Retained, without discipline	0
	Dismissed by APU	0
	SOL Expired in APU	0
	<b>Total</b>	<b>6</b>
Not Adjudicated	Deceased	0
	Other	3
	***Previously adjudicated, with discipline	0
	***Previously adjudicated, without discipline	0
	†Reconsidered by CCRB Board	5
	Retired	0
	SOL Expired prior to APU	0
	<b>Total</b>	<b>8</b>
<b>Total Closures†</b>		<b>22</b>

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

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

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

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

**Figure 37: Discipline Imposed for Adjudicated APU Cases, Q1/2 2019**

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	2
Suspension for or loss of vacation time of 1 to 10 days	3
Command Discipline B	0
Command Discipline A	1
Formalized Training**	0
Instructions***	1
Warned & Admonished/Reprimanded	0
Disciplinary Action Total	8
No Disciplinary Action	6
Adjudicated Total	14
Discipline Rate	57%
Closed - Not Adjudicated	8
Total Closures	22

\*\* Formalized training is conducted by the Police Academy, the NYPD Legal Bureau, or other NYPD Units.  
 \*\*\* Instructions are conducted at the command level

## DISCIPLINE CONCURRENCE RATES

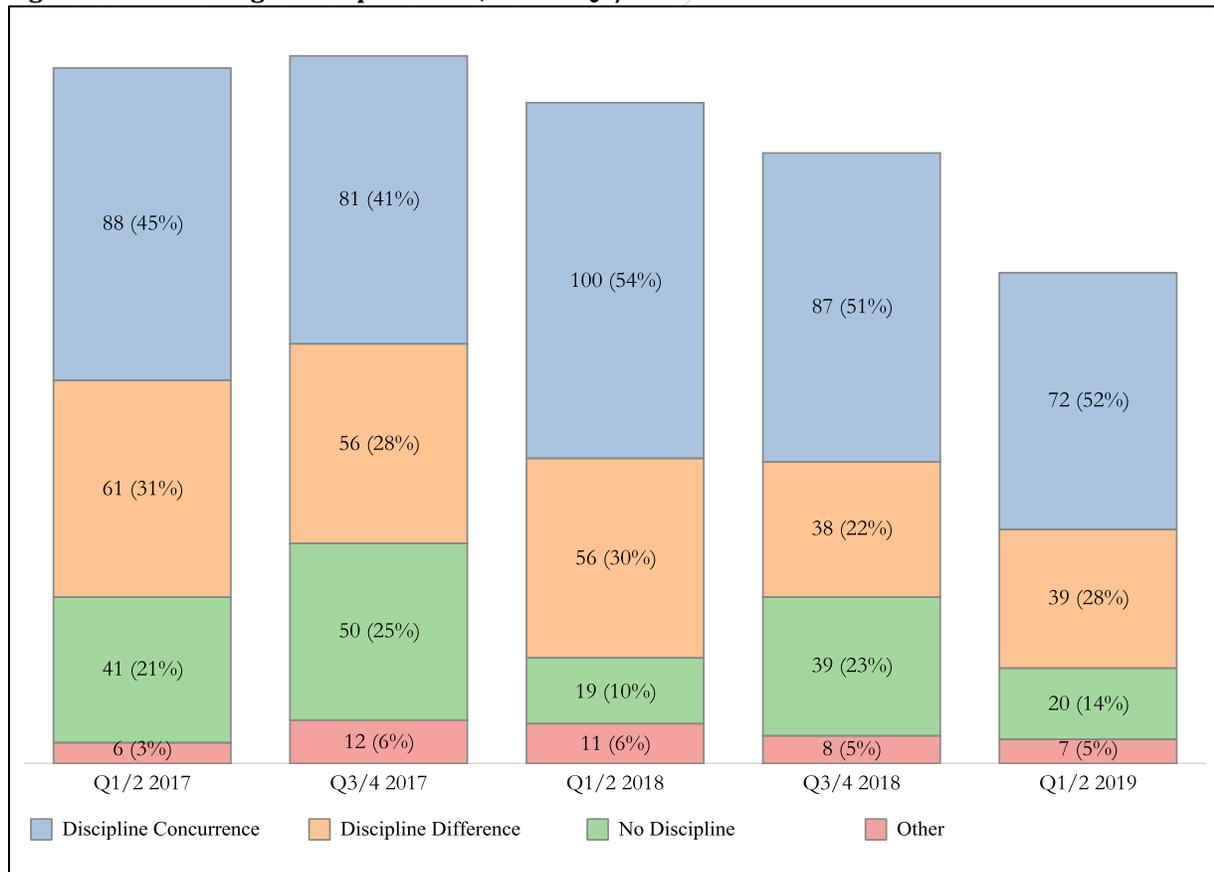
In addition to the overall rate of discipline imposed by the Police Commissioner, the Agency tracks whether the discipline imposed was in concurrence with the recommendation of the Board. When the Police Commissioner's discipline is less severe than the Board's recommendation, the discipline is not in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

For cases in which the Board recommended Command Discipline, Formalized Training, or Instructions, the Police Commissioner imposed the discipline recommended by the Board 52% of the time in the first half of

2019, compared with 54% in Q1/2 2018 (Fig. 38).<sup>44</sup> Cases in which the Board recommended discipline but no discipline was imposed by the Police Commissioner increased to 14% from 10% in Q1/2 2018.

For cases in which Charges and Specifications were recommended by the Board and were subsequently prosecuted by the APU, the concurrence rate was 21% in Q1/2 2019 (Fig. 39). In 43% of the cases, this was due to a "not guilty" verdict at trial, and in 21% of cases, the penalty imposed was lower than what was requested at trial (Fig. 40).<sup>45</sup>

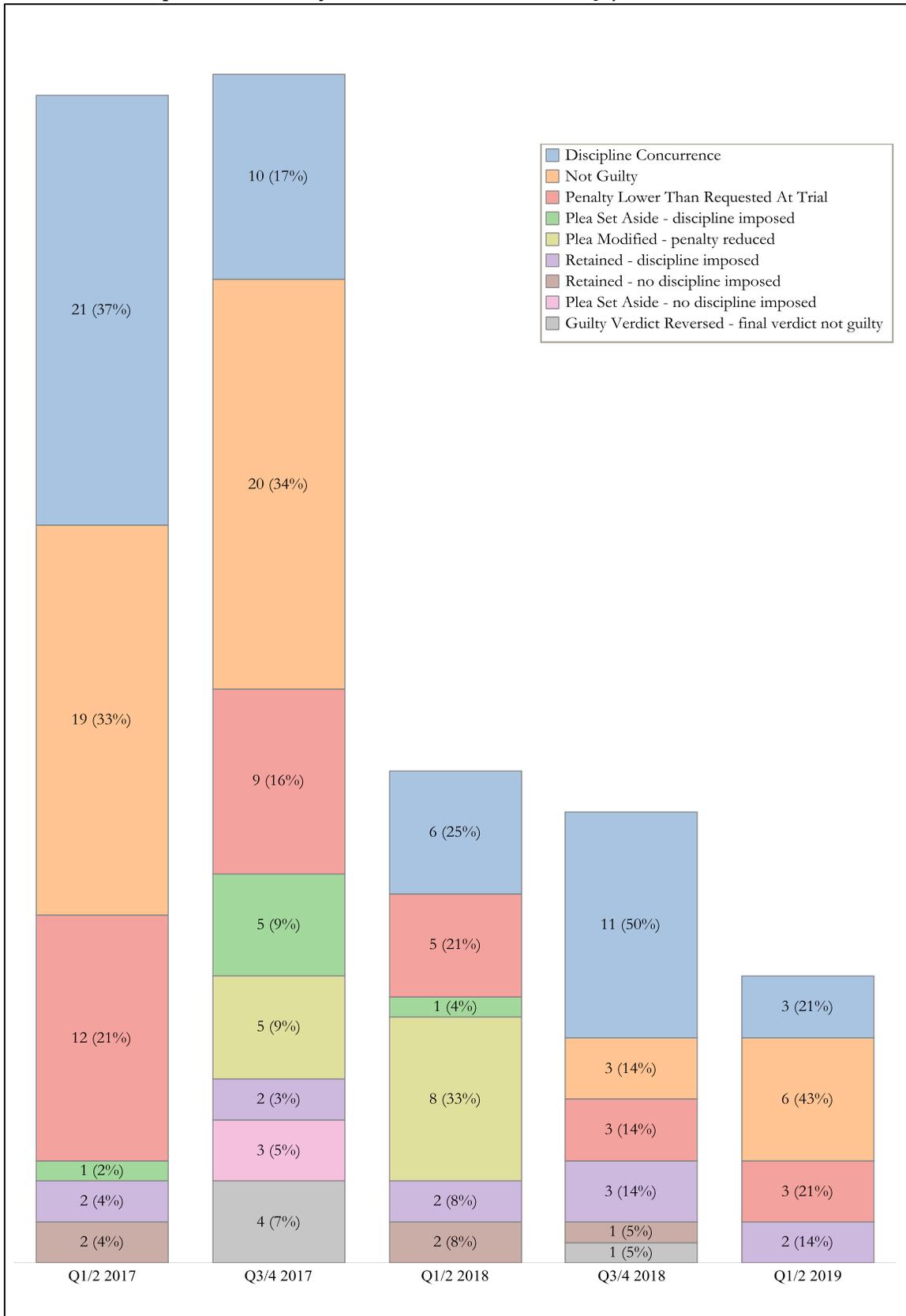
**Figure 38: Non-Charges Discipline Rate, 2017 - Q1/2 2019**



<sup>44</sup> The "Other" category include cases in which the MOS resigned before discipline could be imposed, cases where the statute of limitations expired before discipline could be imposed, cases that were administratively closed, and cases where the Charges and Specifications were dismissed. See Figure 33 for a numeric breakdown of those cases.

<sup>45</sup> Cases in which the Police Commissioner modified a plea but increased the penalty are included in the concurrence rate. The "Penalty Lower than Requested at Trial" category also includes cases in which the officer was found not guilty of some (but not all) allegations, leading to the overall reduction of penalty.

**Figure 39: APU Discipline and Penalty Concurrence Rate, 2017 - Q1/2 2019**



## SECTION 4: MEDIATION

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

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

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

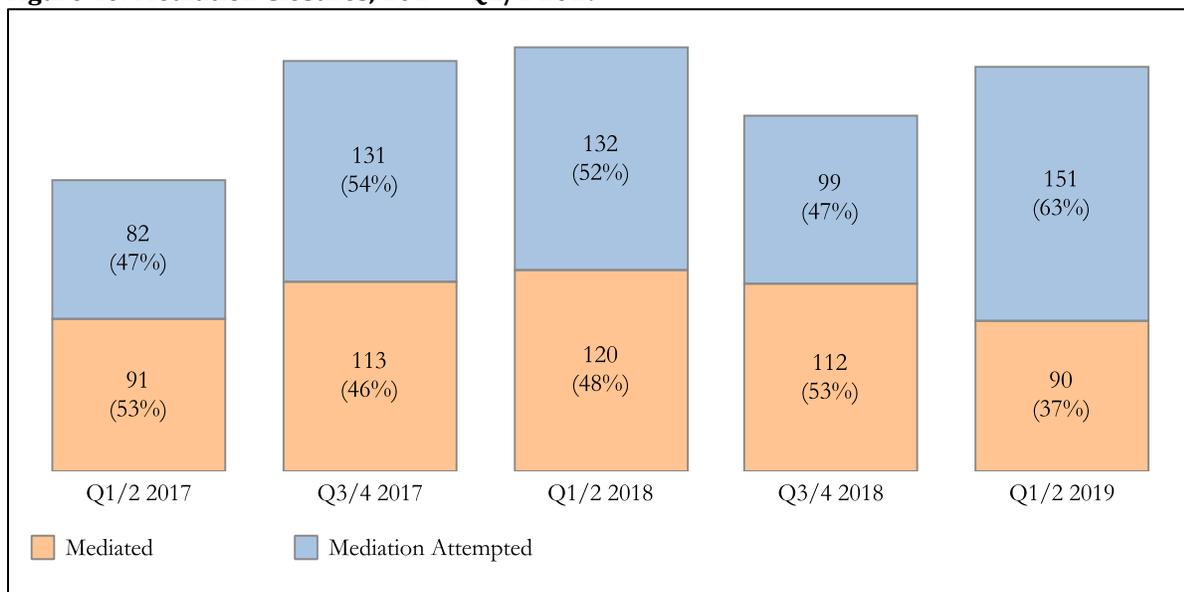
A mediation session ends when all parties involved agree that they have had an

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

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

In the first half of 2019, the Mediation Unit successfully mediated 151 cases (63%) and 90 cases (37%) were closed as “mediation attempted” (Fig. 40, next page). Mediation attempted is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for the scheduled mediation session without good cause, or fails to respond to attempts to schedule a mediation session, and the civilian does not request that the investigation resume.

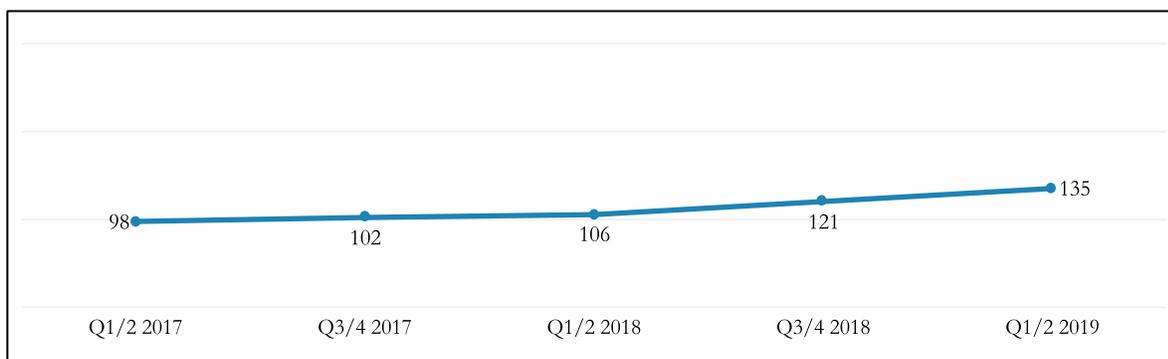
**Figure 40: Mediation Closures, 2017 – Q1/2 2019**



In the first half of 2019, it took an average of 135 days to mediate a complaint (Fig. 41). This continues the steady increase in mediation completion times since Q1/2 2017. This is related both to the previously-

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

**Figure 41: Average Days to Completed Mediation, 2017 – Q1/2 2019**

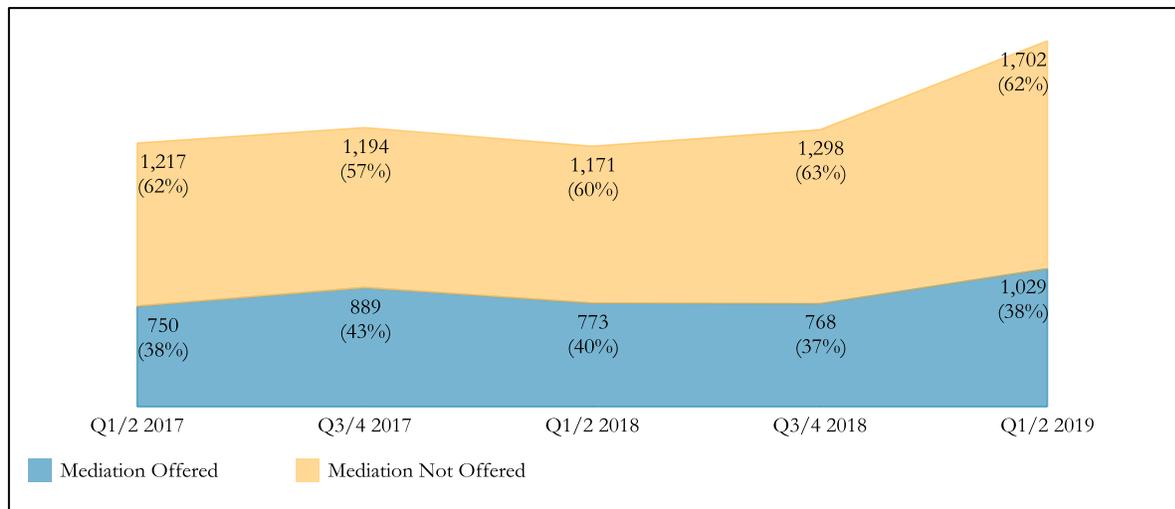


As noted, mediation is not offered in all cases. Mediation was offered in 38% of cases closed in Q1/2 2019 (Fig. 42, next page). For cases closed in the first half of 2019, the mediation acceptance rate for civilians was 39%, down

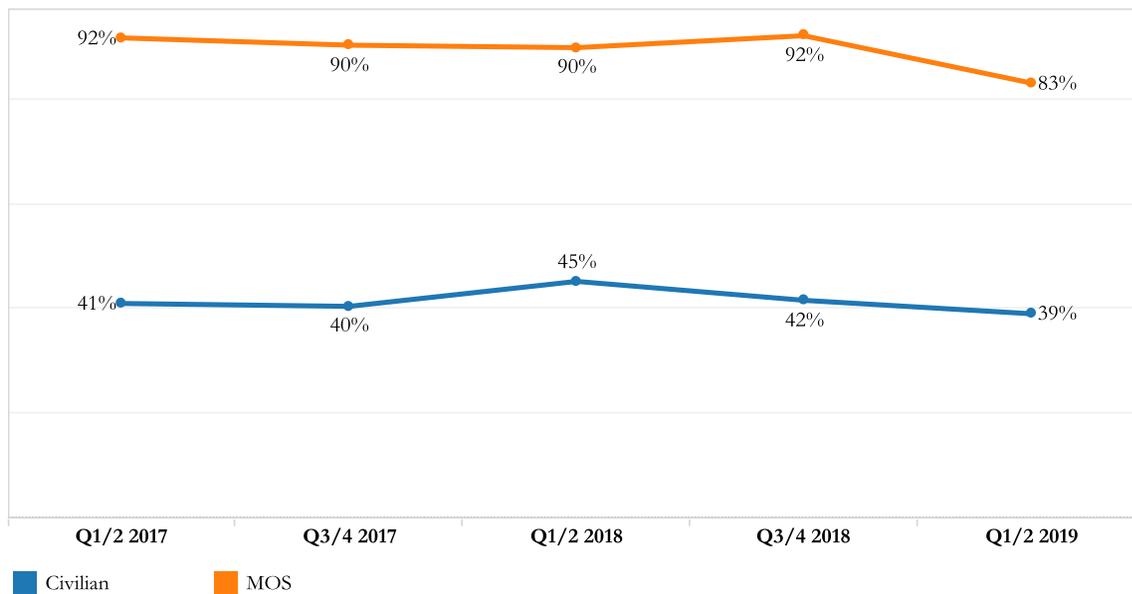
from 43% the previous year (Fig. 43, next page). Officers who were offered the chance to mediate a complaint accepted mediation 83% of the time, down from 90% a year prior.<sup>46</sup>

<sup>46</sup> Allegations contained in mediated complaints are not reflected in the officer’s NYPD disciplinary record.

**Figure 42: Percentage of Cases in which Mediation was Offered, Cases Closed 2017 – Q1/2 2019**



**Figure 43: Number of Civilians and MOS that Accepted Mediation, 2017 – Q1/2 2019**

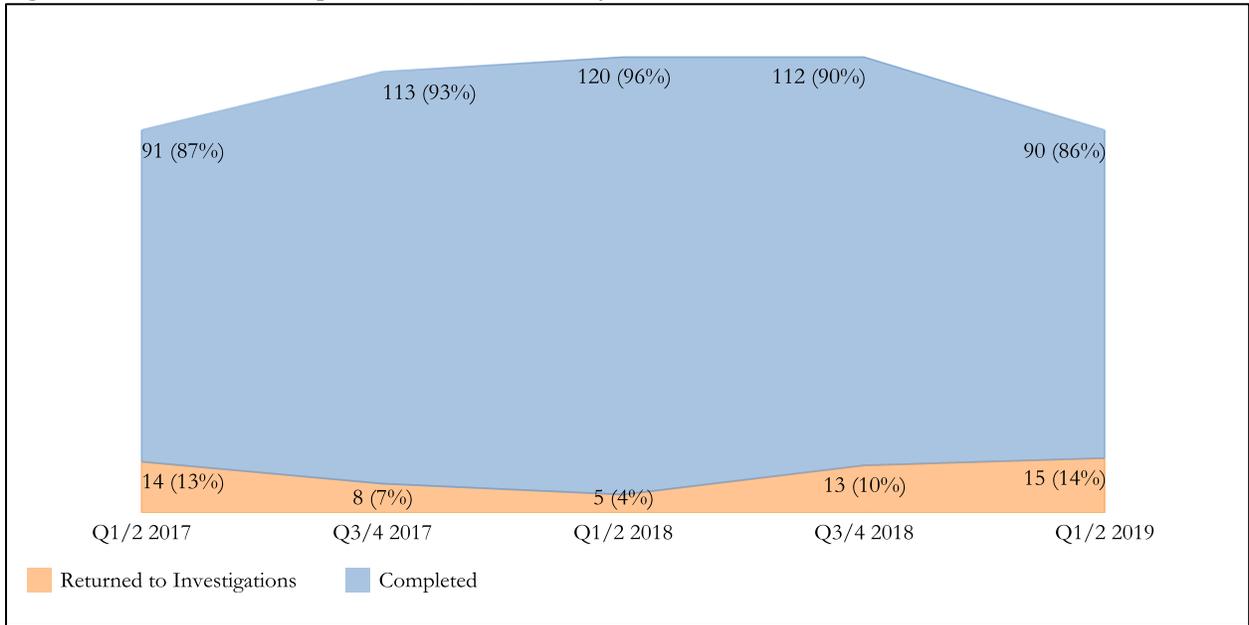


	Q1/2 2017	Q3/4 2017	Q1/2 2018	Q3/4 2018	Q1/2 2019
Civilian	307	359	349	319	401
MOS	275	362	370	349	392

When both parties agree to mediate, mediation is a very effective way of resolving complaints and facilitating productive discussion between complainants and officers. In Q1/2 2019, the Mediation Unit conducted 105 mediation sessions, resulting

in 90 satisfactory resolutions, an 86% success rate, which is lower than the success rates of the prior four quarters (Fig. 44). The remaining 15 complaints were returned to an investigator and closed by the Investigations Division.

**Figure 44: Mediation Completion Rate, 2017 - Q1/2 2019**



## SECTION 5: RECONSIDERATIONS

### CCRB-NYPD RECONSIDERATION PROCESS

Since December 2014, the Civilian Complaint Review Board (CCRB, the Agency, or the Board) and the New York City Police Department (NYPD) have engaged in a formal reconsideration process. The process allows the Department Advocate's Office (DAO) to 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 excessive; and<sup>47</sup>
- (b) There are new facts or evidence that were not previously known to the Board Panel, and such facts or evidence could reasonably lead to a different finding or recommendation in the case; or
- (c) There are matters of law that were overlooked, misapprehended, or incorrectly applied by the Board Panel.

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

In 2017, the reconsideration process required that reconsideration requests be submitted to the CCRB within 90 days of the Department's receipt of the case. In February 2018, new Board rules went into effect, and the time limit to submit a reconsideration request is

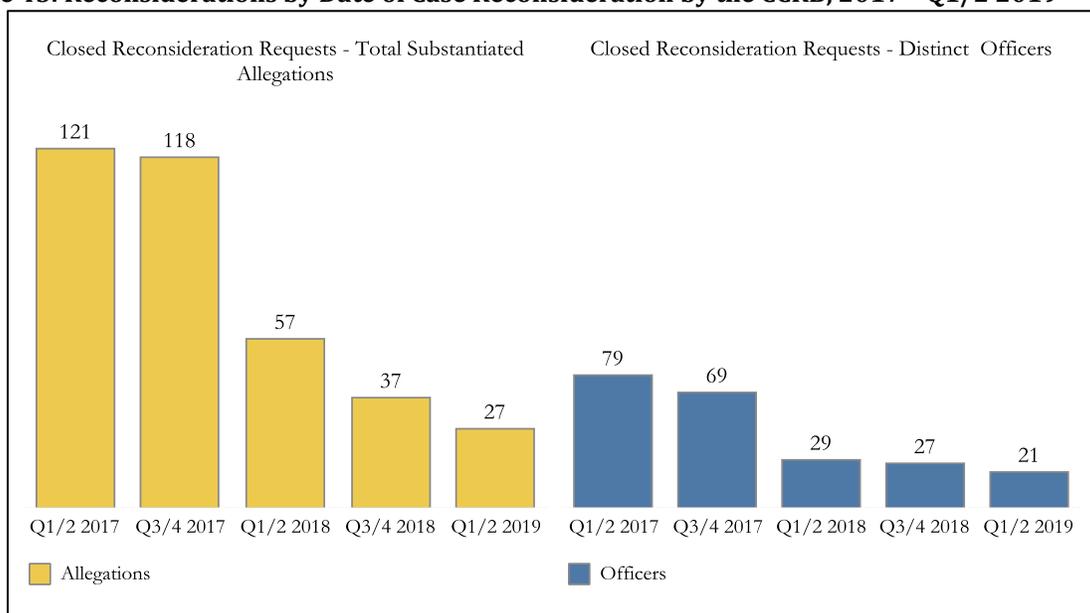
now 30 business days. If a reconsideration request is submitted after the 30-business day deadline, the CCRB will deny the Department's request unless the NYPD submits new facts or applicable laws.

In the first half of 2019, the Board closed reconsideration requests for 21 officers (a reconsideration request closed in Q1/2 2019 may have stemmed from a complaint closed in a previous year), a decrease from 29 in Q1/2 2018 (Fig. 45). Because the Department may request reconsideration of multiple substantiated allegations against a single officer involved in a complaint, the total number of allegations reconsidered exceeds the number of officers who have had allegations reconsidered.

---

<sup>47</sup> 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.

**Figure 45: Reconsiderations by Date of Case Reconsideration by the CCRB, 2017 – Q1/2 2019<sup>48</sup>**



When the NYPD requests reconsideration, it first sends a notification of such to the CCRB, and then sends a letter to the CCRB outlining the case and the underlying reasons for the request. In Q1/2 2019, the CCRB received a total of 44 reconsideration requests for members of service (MOS) with substantiated allegations (Fig. 45).<sup>49</sup> These reconsideration requests concerned substantiated allegations made against 44 of the 253 MOS against whom the CCRB substantiated allegations in Q1/2 2019 (Fig. 47).

The table in Fig. 47<sup>50</sup> depicts the most common reasons given for reconsideration

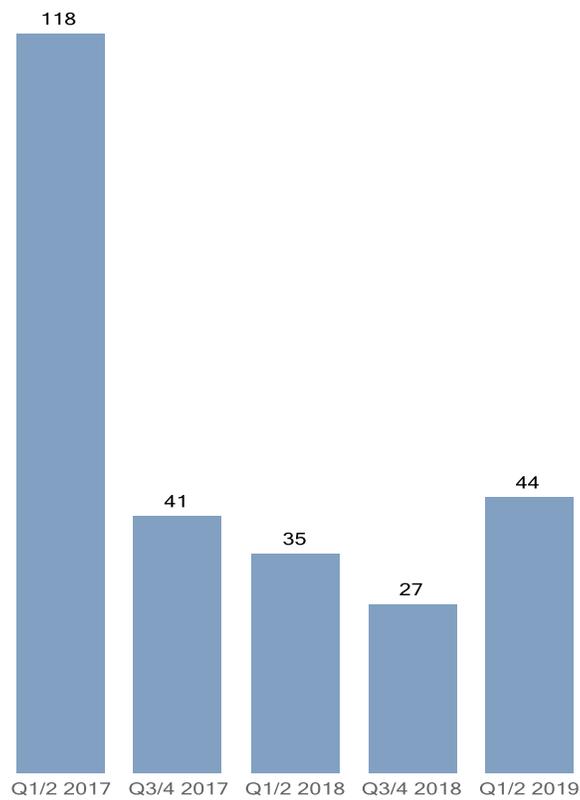
requests, broken down by year. While each request may feature several reasons, up to three reasons provided for each officer and allegation pair are represented in Fig. 48. In Q1/2 2019, the most common reason given for a reconsideration request received by the CCRB was the absence of prior substantiations (occurring as a “top three” reason 19 times, or 36% of the 53 reasons recorded in this time frame). The second highest category was “Disagree with CCRB findings” at 28% (15), a category that means that the NYPD disagreed with the facts or legal interpretation applied in the case without citing new laws or new facts

<sup>48</sup> Due to the length of time it takes for the NYPD to submit requests for reconsideration, the CCRB expects the Reconsideration Requested numbers for cases closed in this Report’s time period to rise.

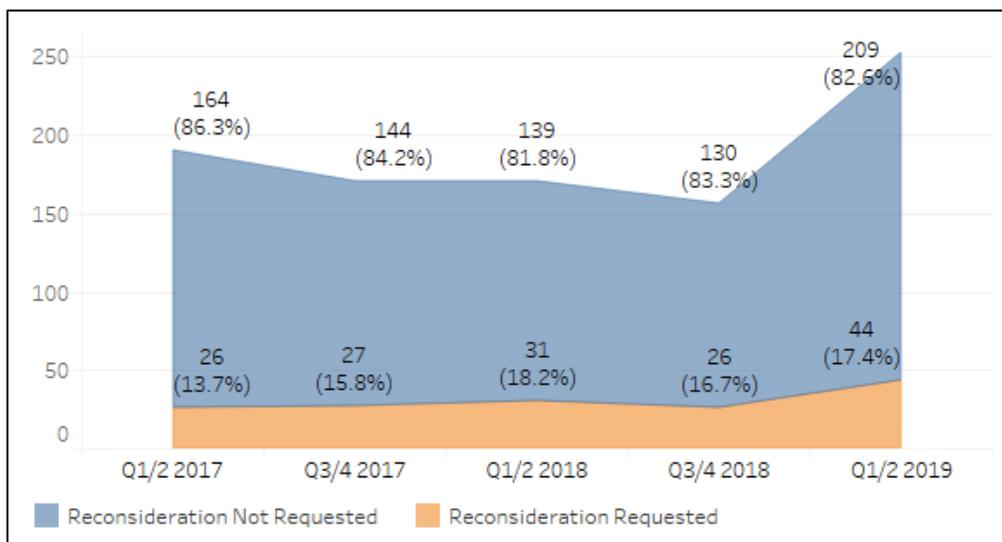
<sup>49</sup> One complaint may feature multiple allegations against multiple MOS. Reconsideration requests received in 2018 may be related to complaints closed in prior quarters.

<sup>50</sup> The reasons given by the DAO for the reconsideration requests depicted in Fig. 48 do not match the number of total requests received because multiple reasons may be given in the same request.

**Figure 46: Number of Reconsideration Requests Received, 2017 - Q1/2 2019**



**Figure 47: Total Number of MOS with Substantiated Allegations for whom Reconsiderations Were Requested and Not Requested by Date of Request, 2017 - Q1/2 2019**



**Figure 48: Top Listed Reasons for Reconsideration Request, 2018 -2019**

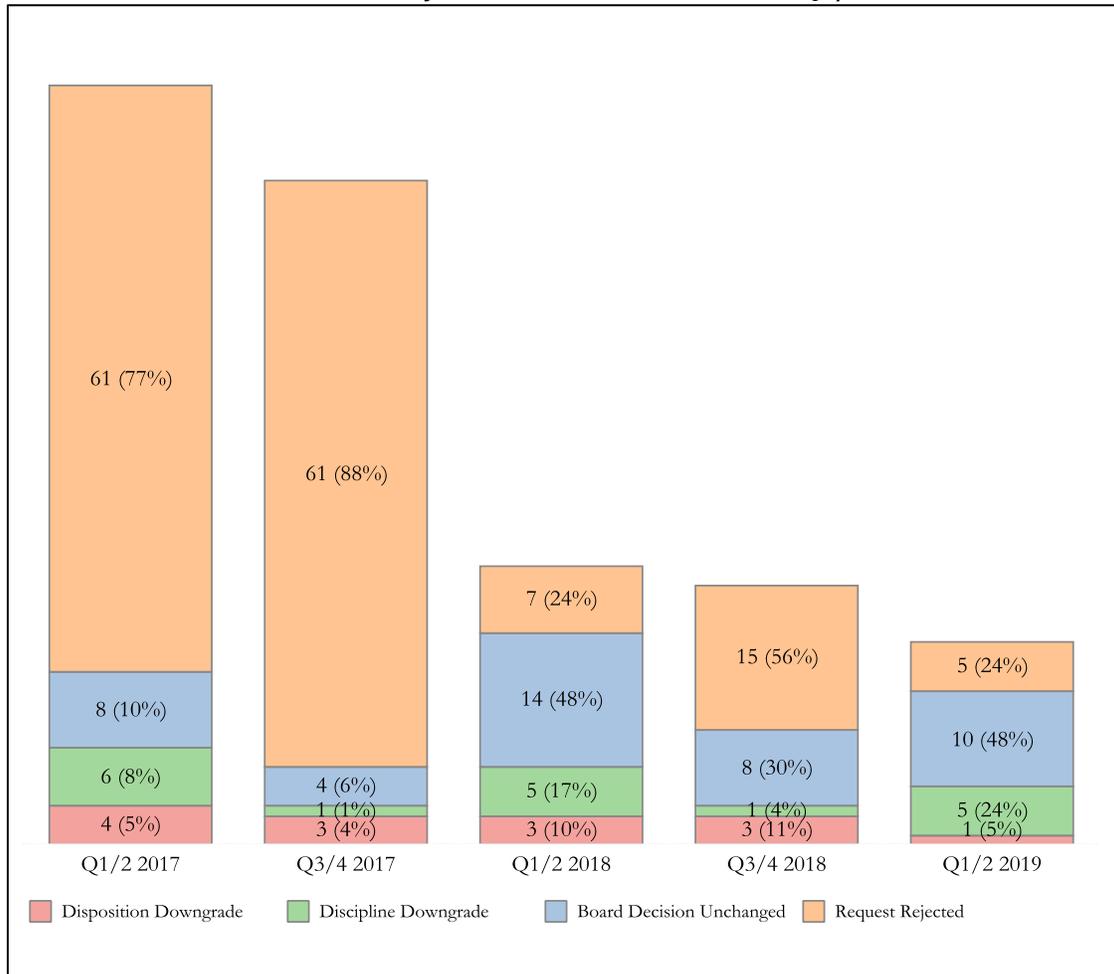
	Q1/2 2018		Q3/4 2018		Q1/2 2019	
	Number	Percent of Total	Number	Percent of Total	Number	Percent of Total
<b>New Fact</b>						
New Evidence						
Specific Facts and Circumstances of Case			1	1%	2	4%
<b>New Law</b>						
Case Precedent			1	1%		
Improper case law applied						
Improper interpretation of Patrol Guide						
Incorrect pleading of allegation	2	3%				
<b>Disciplinary History</b>						
No related disciplinary history	2	3%				
No departmental disciplinary history	9	11%	20	24%	11	21%
No related CCRB history	3	4%				
No prior CCRB complaints/disciplinary history	7	9%	6	7%		
No prior CCRB substantiations	19	24%	19	23%	19	36%
CCRB allegation history does not show pattern of similar conduct			2	2%		
Highly rated officer			4	5%	1	2%
<b>Other</b>						
Disagree with CCRB findings	20	25%	21	26%	15	28%
Not sufficient evidence	5	6%				
Previously investigated by PD						
Officer was not acting in bad faith	10	13%	8	10%	5	9%
Outside CCRB jurisdiction	2	3%				
No sworn statement from complainant						
Civilian abuse of CCRB						
<b>Total</b>	<b>79</b>	<b>100%</b>	<b>82</b>	<b>100%</b>	<b>53</b>	<b>100%</b>

## OUTCOMES OF RECONSIDERATION REQUESTS

One of the most common questions about the reconsideration process is how many MOS with substantiated allegations have those allegations reconsidered. Of the 21 officers whose reconsideration requests were closed by the CCRB in Q1/2 2019, the Board downgraded the disposition for one officer (5%), downgraded the discipline recommendation for five officers (24%), maintained the original decision for 10

officers (48%), and rejected the request for five officers (24%) (Fig. 49). Figure 50 details the Board's decision changes for each officer for whom the Board made a recommendation change. Figure 51 details the specific change in either disposition or disciplinary recommendation that the NYPD requested, and compares this request with the Board's final decisions.

**Figure 49: Reconsideration Outcomes by Reconsideration Year 2017 - Q1/2 2019**



**Figure 50: Reconsideration Decision Detail, 2017 - Q1/2 2019**

Initial Disposition to Final Disposition (after Reconsideration)	Q1/2 2017	Q3/4 2017	Q1/2 2018	Q3/4 2018	Q1/2 2019
Substantiated (Charges) to Substantiated (Command Discipline A)	1				1
Substantiated (Charges) to Substantiated (Formalized Training)			1		
Substantiated (Charges) to Unsubstantiated					1
Substantiated (Command Discipline A) to Exonerated		1			
Substantiated (Command Discipline A) to Substantiated (Formalized Training)	2	1			
Substantiated (Command Discipline A) to Unsubstantiated	1	1			
Substantiated (Command Discipline B) to Exonerated			1		
Substantiated (Command Discipline B) to Substantiated (Command Discipline A)	1			1	2
Substantiated (Command Discipline B) to Substantiated (Formalized Training)	1		3		2
Substantiated (Command Discipline B) to Substantiated (Instructions)			1		
Substantiated (Command Discipline B) to Unfounded	1				
Substantiated (Command Discipline B) to Unsubstantiated			1	3	
Substantiated (Command Discipline) to Substantiated (Formalized Training)	1				
Substantiated (Command Lvl Instructions) to Unsubstantiated		1			
Substantiated (Formalized Training) to Unsubstantiated	2		1		
<b>Grand Total</b>	<b>10</b>	<b>4</b>	<b>8</b>	<b>4</b>	<b>6</b>

**Figure 51: Reconsideration Outcomes Detail**

Disposition Change Requested by NYPD	Total Requests in Q1/2 2019	Number of Dispositions Unchanged	CCRB Disposition Changes	Board Change, Any
Substantiated to Exonerated	8	7	0	1
Substantiated to Unfounded	0	0	0	0
Substantiated to Unsubstantiated	0	0	0	1
Discipline Recommendation Change Requested by NYPD	Total Requests in Q1/2 2019	Number of Discipline Recommendations Unchanged	CCRB Discipline Recommendation Change	Board Change, Any
Charges to Command Discipline B	0	0	0	0
Charges to Command Discipline A	2	1	0	1
Charges to Training	3	3	0	0
Charges to Instructions	0	0	0	0
Command Discipline B to Command Discipline	1	1	0	0
Command Discipline B to Training	5	4	0	1
Command Discipline B to Instructions	1	0	0	1
Command Discipline A to Training	0	0	1	1
Command Discipline A to Instructions	1	1	1	1
Training to Instructions	0	0	0	0
<b>TOTALS</b>	<b>13</b>	<b>10</b>	<b>2</b>	<b>3</b>

**CASE ABSTRACT: RECONSIDERATION REQUESTS**

*The following case abstract is taken from a reconsideration request from the NYPD received in the first half of 2019, and serves as an example of how the Board evaluates reconsideration requests and how reconsideration request reasons are categorized by the CCRB:*

A civilian called 311 and 911 numerous times to complain that he was being harassed by a neighbor and that the noise from his neighbor’s apartment was causing him to lose sleep. The 911 call came over as an “ambulance case-EDP inside” call. When officers responded to the complainant’s apartment, they asked if he was okay. After the civilian stated that he was okay, the Respondent officer entered the residence without asking for consent and looked around. Neither the Respondent nor her partner documented the entry and had no recollection of the incident. The Respondent stated that there was nothing that led her to believe that the complainant was not safe inside his apartment. The officers did note that they had responded to the location numerous times in the past and the officer was familiar with the complainant’s mental condition.

As there was nothing to suggest that the complainant was a danger to himself or anyone else, and the Respondent could not articulate a reason for entering the premises, the Board substantiated an allegation of improper entry. In its reconsideration request, the DAO argued that the Respondent was justified in entering the complainant’s apartment to conduct a limited search for the civilian’s safety, asserting that since the purpose of 911 is to get immediate assistance in times of emergencies, individuals who call 911 for assistance are essentially consenting to officers entering their homes.

The law does not support the argument that someone calling 911 for assistance is consenting to officers entering their home. Therefore, the Board denied the reconsideration request and upheld the substantiation.

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

In 2013, Judge Shira Scheindlin of the United States District Court for the Southern District of New York, presiding over *Floyd v. City of New York*,<sup>51</sup> found that the New York City Police Department (NYPD) violated the Fourth and Fourteenth Amendments through its use of unconstitutional stop, question, and frisk practices. The court also found that the NYPD had a “policy of indirect racial profiling” that disproportionately targeted Black and Hispanic individuals for stops. As a result, the court ordered changes to certain policies, practices, and training curricula, and appointed a monitor to oversee these reforms. The court also ordered a one-year Body-Worn Camera (BWC) pilot to determine whether BWCs were effective in reducing unconstitutional stops.

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

NYPD began the larger-scale court-ordered pilot on a precinct-by-precinct basis starting in April 2017. The NYPD, in collaboration with the court-appointed monitor, is working to evaluate its procedures and the effectiveness of the program, but has also voluntarily expanded deployment of BWCs to additional commands during the pilot program. By December 31, 2018, BWCs had been deployed to 15,826 members of service (MOS) across 81 commands, and as of June 30, 2019, the rollout of BWCs across all intended recipients was nearly complete.

The NYPD provides informational videos in several languages, including sign language, about the BWC rollout on its website,<sup>52</sup> and a copy of the Draft Operations Order governing the use of BWCs is included in Appendix B of the NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy report.<sup>53</sup>

### HOW THE CCRB OBTAINS BWC EVIDENCE

---

In Q1/2 2019, the Civilian Complaint Review Board (CCRB) obtained BWC footage from the NYPD via the following process:

1. If a misconduct complaint stems from a precinct in which BWCs have been deployed, the CCRB investigator submits a records request to the NYPD Relations Unit for BWC footage.
2. The NYPD Relations Unit 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.

---

<sup>51</sup> *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013).

<sup>52</sup> NYPD, *Body-Worn Cameras*, <http://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page> (last visited Apr. 7, 2020).

<sup>53</sup> NYPD, *NYPD Response to Public and Officer Input on the Department’s Proposed Body-Worn Camera Policy* (Apr. 2017), [https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/body-worn-camera-policy-response.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/body-worn-camera-policy-response.pdf).

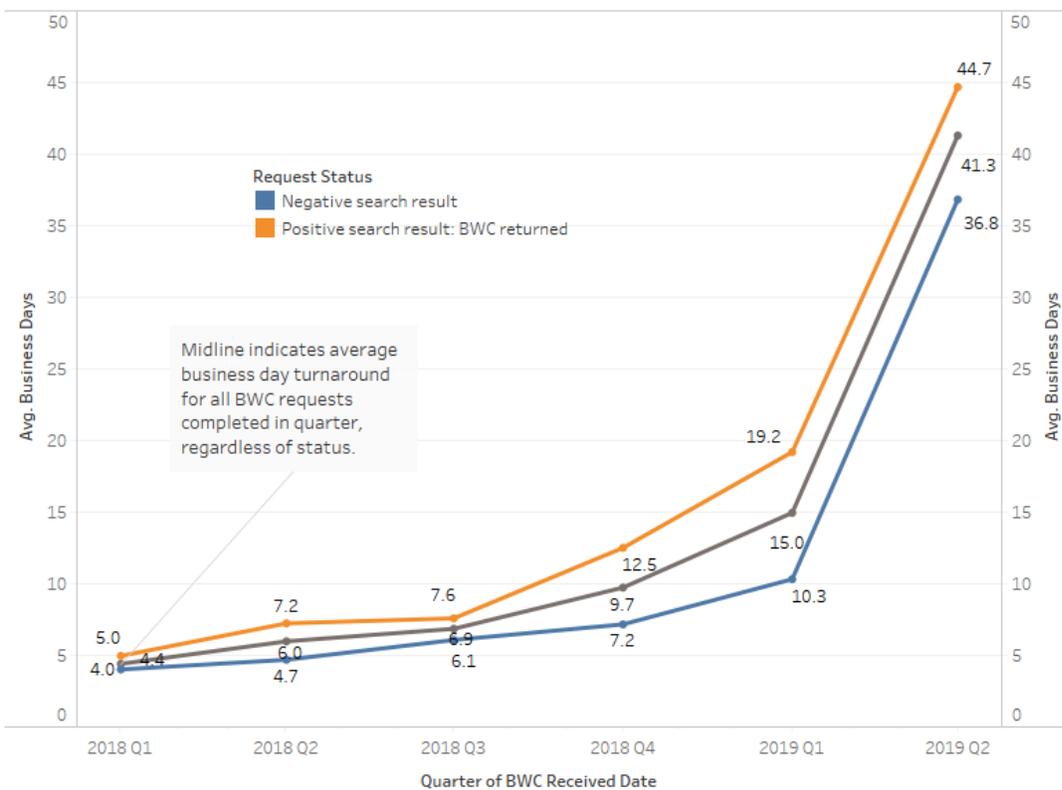
4. The CCRB downloads the footage from the shared network drive.
5. If, upon examination, the BWC footage reveals the existence of additional officers on the scene who had BWCs, or other evidence suggests that the NYPD's response that it was unable to locate BWC footage, may have been a false negative, the CCRB investigator must submit a new request specifying the additional BWC footage that is needed.

In Q1/2 2019, the CCRB requested BWC footage in 2,140 complaints. In 2018, it took an average of 10 business days for the CCRB to receive BWC footage from the NYPD—a significant increase from the 6.6 days reported in the CCRB 2017 Annual Report. This turnaround time has since grown worse, with requests closed in Q1 of 2019 averaging a turnaround time of 15 business days, and in Q2 2019, 41.3 business days (Fig. 52). These averages are expected to rise, as there are hundreds of pending requests that were made in 2018 and 2019 that remain

unfulfilled as of the publication of this Report. For more information, see the CCRB Monthly Statistical Reports.<sup>54</sup>

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

**Figure 52: Average BWC Request Turnaround Times, Requests Closed 2018 – Q1/2 2019**



55

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

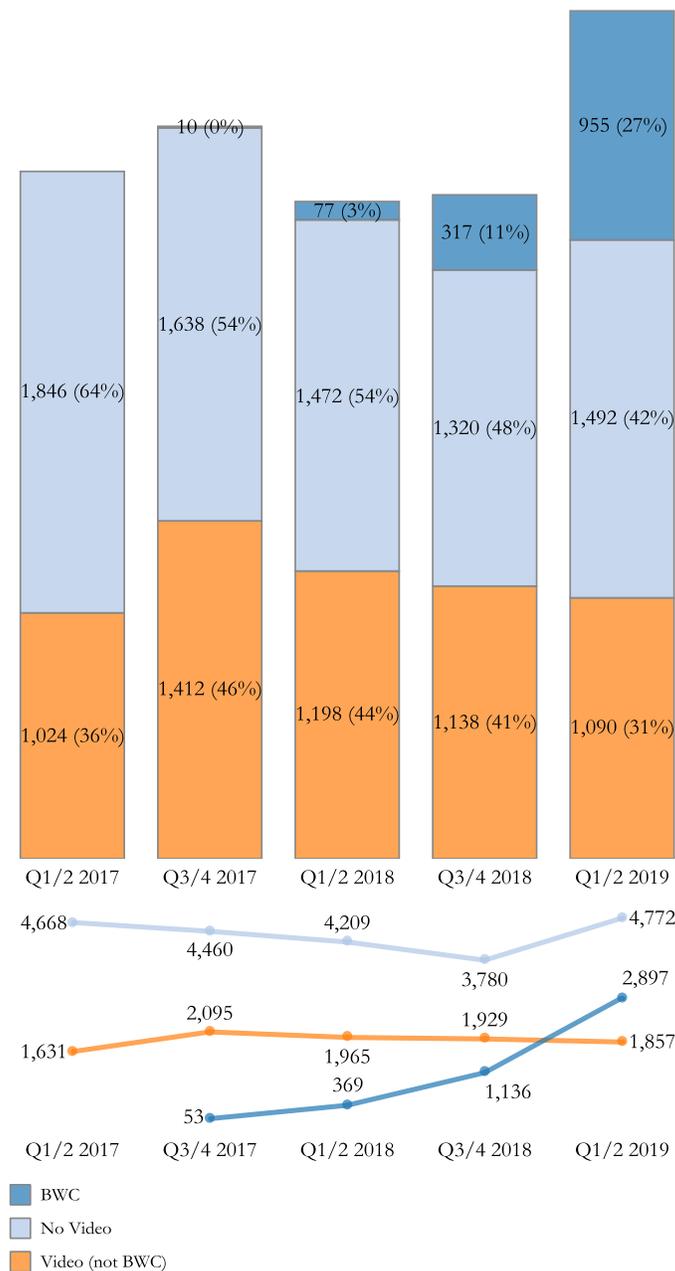
55 Requests included in this graphic are depicted by quarter the request was closed.

## THE IMPACT OF BWC AND OTHER VIDEO EVIDENCE

Over the last few years, the amount of video evidence collected by the CCRB has increased dramatically. As seen in Figure 52, just two years ago in Q1/2 2017, complaints with video evidence accounted for only 36% of the full investigations closed, compared with

58% in Q1/2 2019—nearly half of which is from NYPD BWCs. In the first half of 2019, BWC video has surpassed other types of video evidence to be the most common kind of video evidence used in CCRB investigations (Fig. 53).

**Figure 53: Fully Investigated CCRB Complaints With and Without Video, 2017 - Q1/2 2019**



The availability of video evidence allows for clearer interpretation of the circumstances surrounding an encounter. Video evidence, especially BWC footage, can have a substantial impact on the final outcome of a CCRB investigation, particularly the rate of allegations closed “on the merits” (i.e. substantiated, exonerated, or unfounded). In Q1/2 2019, 60% of complaints were not closed on the merits (i.e. unsubstantiated or officer unidentified) when video was unavailable. This proportion shrinks to 49% when video evidence is available, and only 23% when BWC footage is available (Fig. 54, next page).

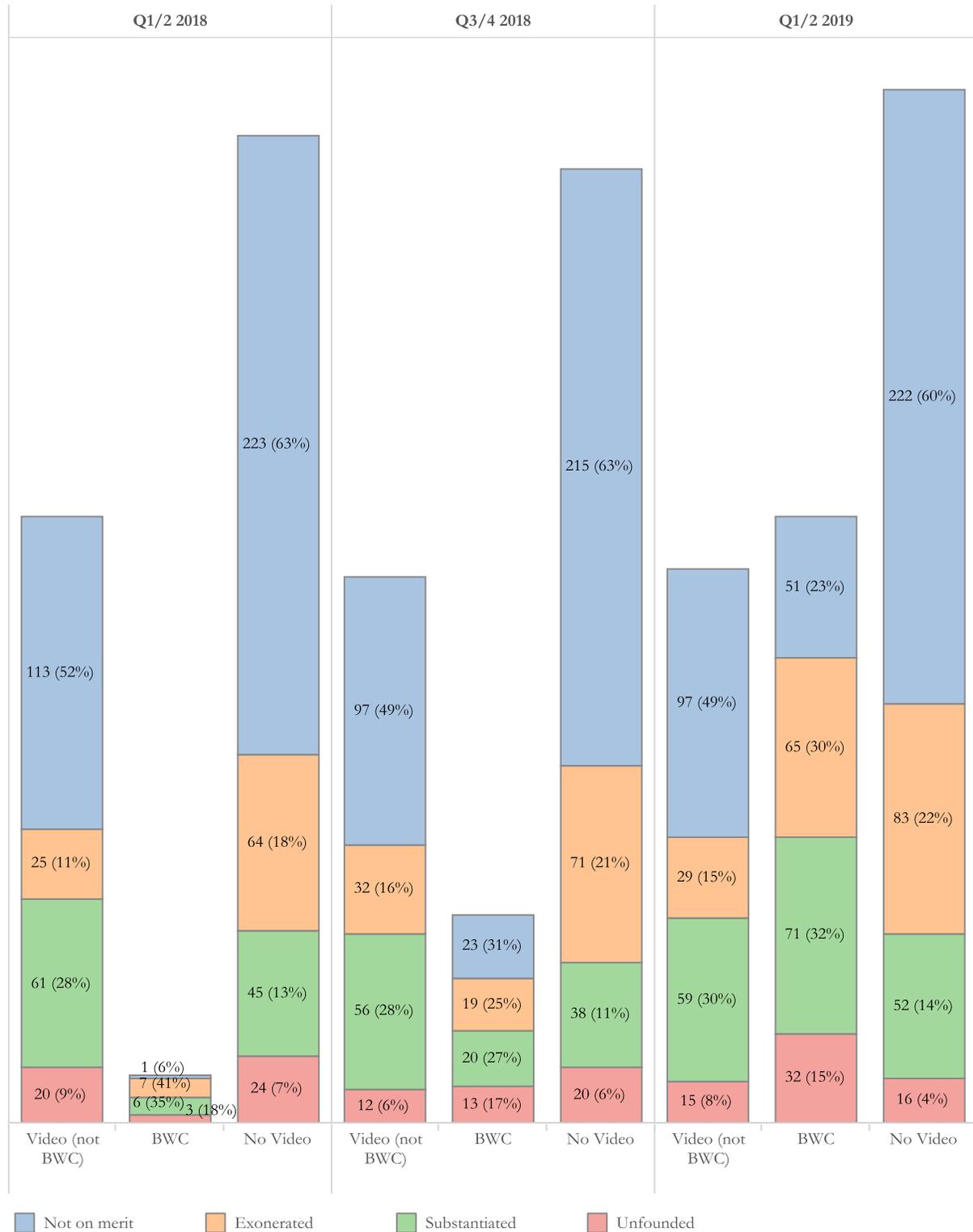
Of the complaints closed on the merits in Q1/2 2019, the Board substantiated 30% of full investigations where there was non-BWC video evidence and 32% of those with BWC video, compared to 14% where there was no video evidence (Fig. 54). BWC video increases the rate of exonerations to 30%, compared with 15% for non-BWC video and 22% for no video. The rate of unfounded complaints increases to 15% with BWC video, compared with 4% in cases with no video and 8% when only non-BWC video evidence is available.

Because there may be multiple allegations in a single complaint, the CCRB also tracks allegation closures with and without video. In

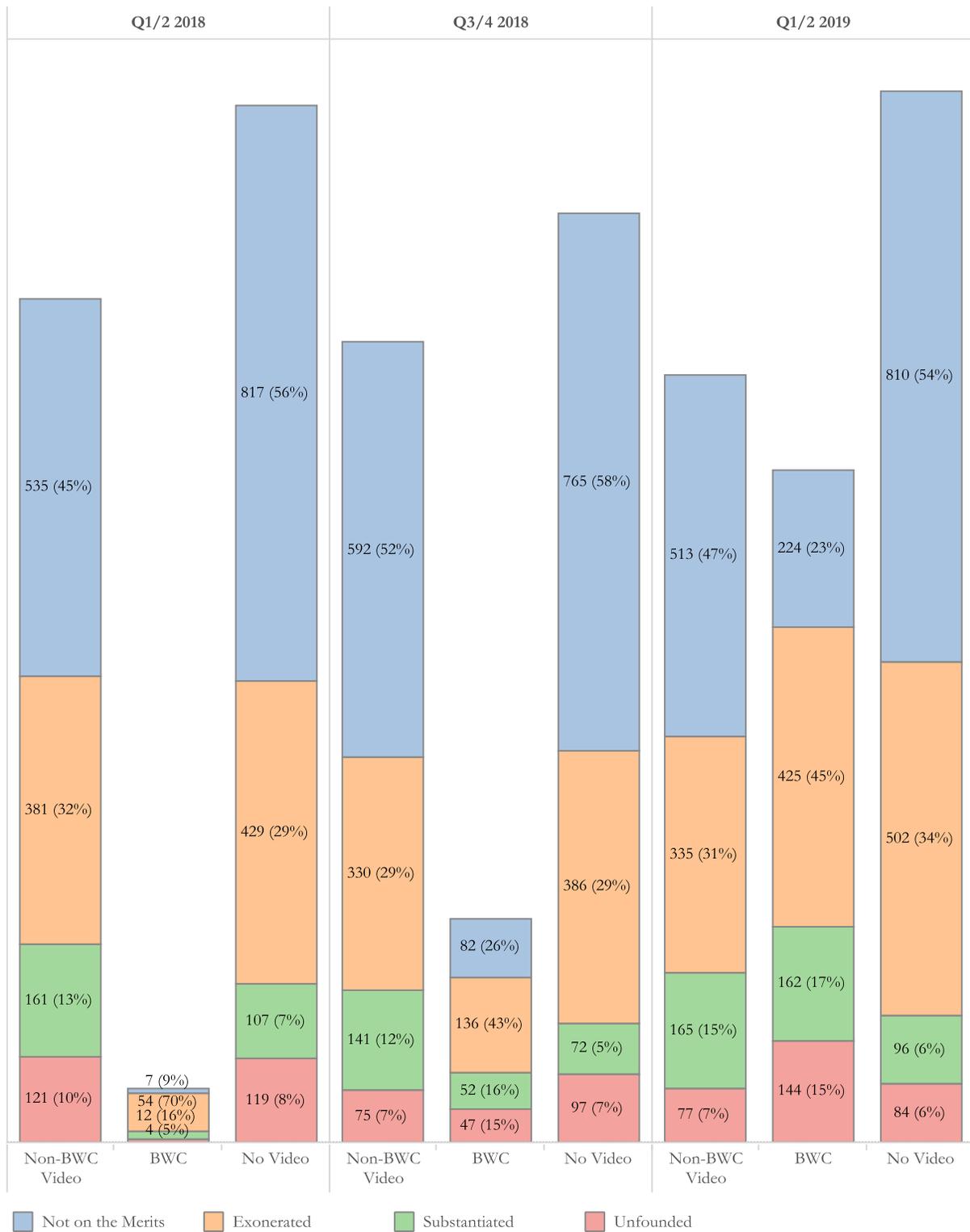
Q1/2 2019, the Board substantiated 15% of fully-investigated allegations where there was non-BWC video evidence and 17% of those with BWC, compared to 6% where there was no video evidence (Fig. 55). BWC increases the rate of exonerations to 45%, compared with 31% for non-BWC video and 34% for no video. The rate of unfounded allegations increases to 15% with BWC video, compared with 6% in cases with no video and 7% when only non-BWC video evidence is available.

In Q1/2 2019, BWC video had the most significant impact on Abuse of Authority allegations, with only 19% not closed on the merits, compared with 42% with non-BWC video evidence and 51% for allegations with no video evidence (Fig. 56). Although BWC video has increased the exoneration rates for Force (46% compared with 36% when no video is available) and Abuse of Authority allegations (52% compared with 39% when no video is available), it has increased substantiation rate for Discourtesy allegations (32% compared to 10% when no video evidence is available). This is primarily due to the CCRB investigator being able to hear what an officer is saying during a BWC recording. With the NYPD’s expansion of its BWC initiative, the Agency expects that the percentage of cases closed on the merits will continue.

**Figure 54: Impact of Video on Fully Investigated Complaints Closed on the Merits, 2018 - Q1/2 2019**



**Figure 55: Impact of Video on Fully Investigated Allegations Closed on the Merits, 2018 – Q1/2 2019**



**Figure 56: Impact of Video on Allegation Closures on the Merits by FADO, 2018 – Q1/2 2019**

FADO Type	Board Disposition	Q1/2 2018						Q3/4 2018						Q1/2 2019					
		Non-BWC Video		BWC		No Video		Non-BWC Video		BWC		No Video		Non-BWC Video		BWC		No Video	
Force	Not on the Merits	103	32%	2	6%	164	54%	142	48%	15	27%	132	59%	106	41%	69	26%	126	51%
	Exonerated	125	39%	27	84%	90	30%	102	34%	26	46%	59	26%	85	33%	124	46%	88	36%
	Unfounded	58	18%	2	6%	39	13%	29	10%	13	23%	27	12%	43	16%	46	17%	29	12%
	Substantiated	31	10%	1	3%	9	3%	24	8%	2	4%	6	3%	27	10%	29	11%	4	2%
Abuse of Authority	Not on the Merits	300	43%	5	14%	481	51%	295	46%	55	26%	456	51%	285	42%	103	19%	545	51%
	Exonerated	250	36%	26	74%	334	35%	219	34%	107	50%	327	37%	246	37%	278	52%	411	39%
	Unfounded	46	7%	1	3%	44	5%	24	4%	24	11%	44	5%	25	4%	61	12%	32	3%
	Substantiated	104	15%	3	9%	89	9%	109	17%	29	13%	60	7%	115	17%	88	17%	75	7%
Discourtesy	Not on the Merits	113	72%			139	81%	126	78%	11	26%	145	91%	96	76%	44	32%	108	75%
	Exonerated	6	4%	1	11%	5	3%	9	6%	3	7%			4	3%	22	16%	3	2%
	Unfounded	13	8%	1	11%	21	12%	19	12%	10	24%	10	6%	7	6%	27	20%	19	13%
	Substantiated	25	16%	7	78%	6	4%	8	5%	18	43%	5	3%	20	16%	43	32%	14	10%
Offensive Language	Not on the Merits	19	79%			33	65%	29	91%	1	25%	32	65%	26	84%	8	38%	30	83%
	Exonerated															1	5%		
	Unfounded	4	17%			15	29%	3	9%			16	33%	2	6%	10	48%	4	11%
	Substantiated	1	4%	1	100%	3	6%			3	75%	1	2%	3	10%	2	10%	2	6%

## SECTION 7: OUTREACH AND INTERGOVERNMENTAL AFFAIRS

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

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

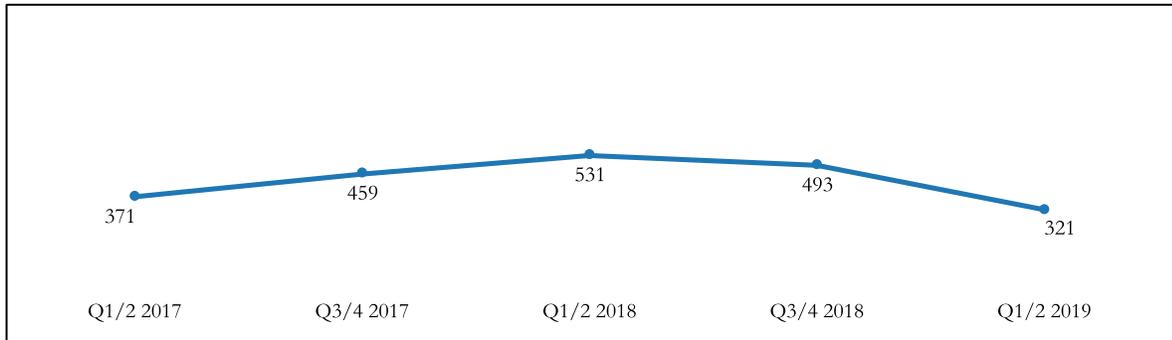
In 2018, the Outreach and IGA Unit focused on expanding its reach to as many areas of New York City as possible, with staff members giving a record 1,024 presentations (Fig. 57). In the first half of 2019, however, the Outreach and IGA Unit scaled back the number of presentations and focused its attention on reaching larger audiences and building relationships with community stakeholders, service providers, elected officials, and advocates. These partnerships will foster improvements in how the CCRB

interacts with members of various communities in New York City.

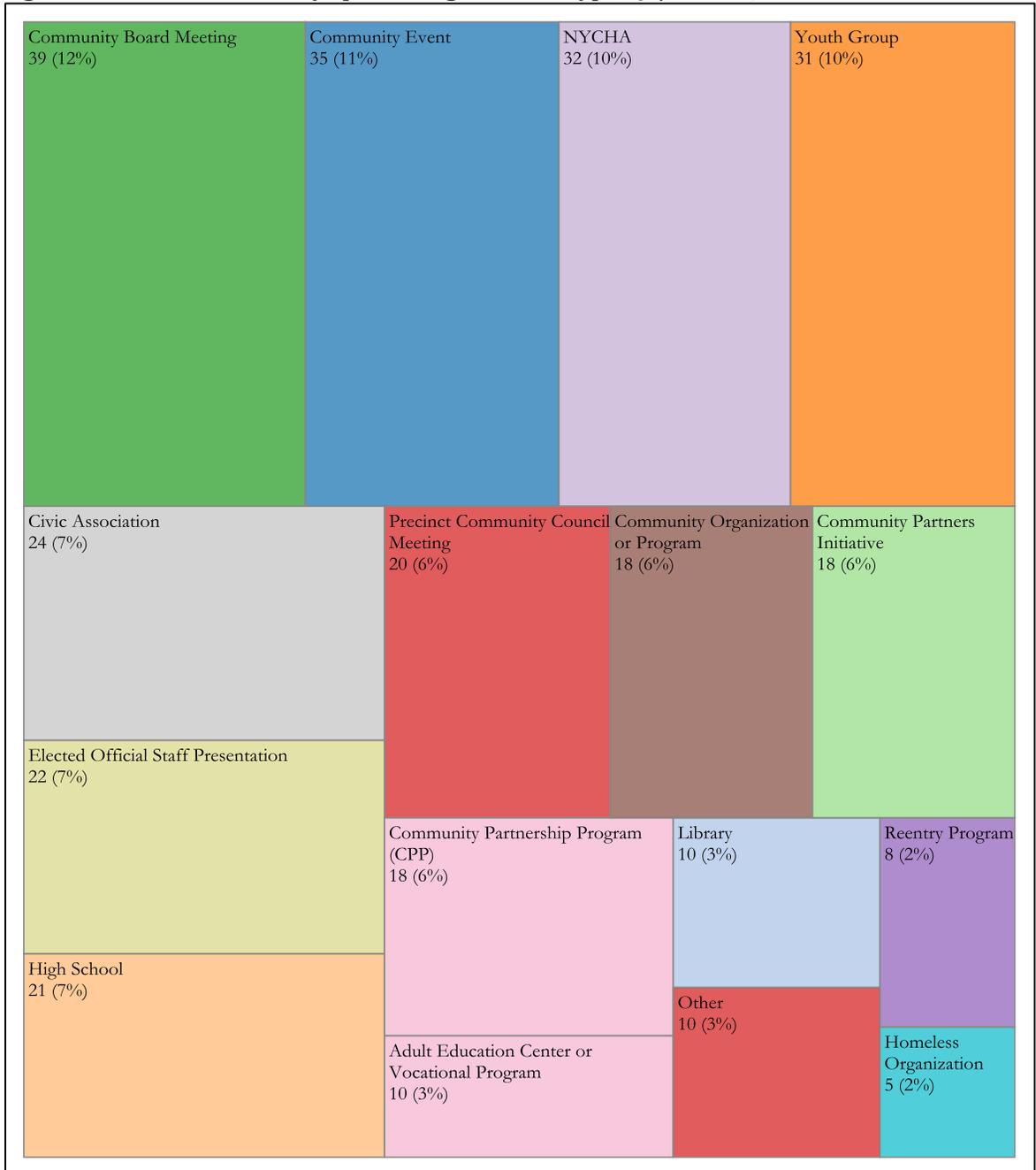
One such initiative is the CCRB Youth Advisory Council (YAC). Launched in winter of 2018, the YAC is a 19-member working committee made up of young leaders, aged 10-24, who are committed to addressing criminal justice issues and improving police-community relations. The members of the YAC serve as agency ambassadors in their communities, and meet quarterly to advise CCRB staff about its efforts to engage young New Yorkers and join team-building activities. The YAC also served as part of the planning committee for the CCRB's spring 2019 event, "Speak Up, Speak Out: A Youth Summit on Policing in NYC," the CCRB's first ever summit focused exclusively on youth. The CCRB will use information learned from the YAC and the Youth Summit to inform the Agency's issue-based report on police interactions with young people in New York City.

While the Outreach and IGA Unit continues to make presentations to a large variety of audiences, including high school students, immigrant populations, precinct community council meeting attendees, probationary groups, homeless service organizations, formerly-incarcerated individuals, NYCHA residents, and lesbian, gay, bisexual, transgender, and queer (LGBTQ) groups (Fig. 58, next page), the Unit's new approach to reaching New Yorkers shifted the types of events that staff members attend. In Q1/2 2019, the most frequent presentations were given at Community Board meetings, community events, NYCHA facilities, and youth groups. These presentations were given in all five boroughs (Fig. 59).

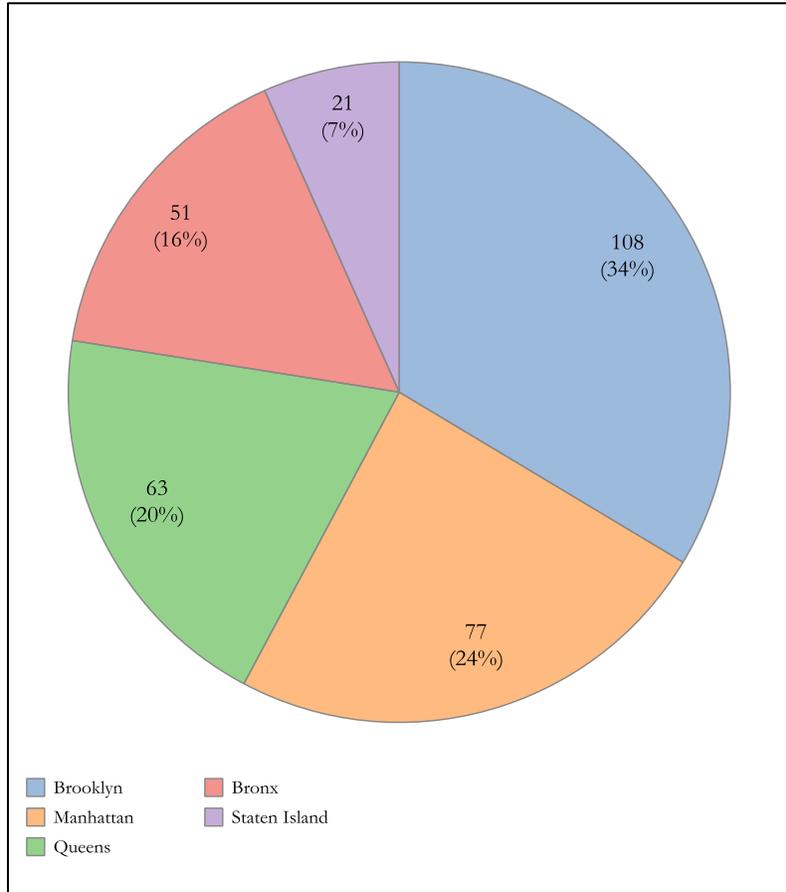
**Figure 57: Number of Outreach Events, 2017 – Q1/2 2019**



**Figure 58: Outreach Events by Specific Organization Type, Q1/2 2019**



**Figure 59: Outreach Events by Borough, Q1/2 2019**



# BACKGROUND OF THE CCRB AND GLOSSARY

---

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

The **Board** currently consists of 13 members who are all appointed by the Mayor. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair of the Board. Beginning in July, due to a change in the New York City Charter, the Board will consist of 15 members, five appointed by City Council, five appointed by the Mayor, three appointed by the Police Commissioner, one appointed by the Public Advocate, and the Chair of the Board who will be dually appointed by the Mayor and City Council. Under the City Charter, the Board must reflect the diversity of the city’s residents and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner, who must have had a law enforcement vocation. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be, and often are, renewed.

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

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

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

Allegations regarding improper entries, searches, or failures to show a warrant are considered allegations falling within the CCRB's Abuse of Authority jurisdiction. 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**, **exonerated**, or **unfounded**. Substantiated cases are those where it was proven by a preponderance of evidence that the alleged acts occurred and the acts constituted misconduct. Exonerated cases are those where it was shown by a preponderance of the evidence that the alleged acts occurred, but the acts did not constitute misconduct. Unfounded cases are those where there was a preponderance of the evidence that the alleged acts did not occur. **Unsubstantiated** cases are those where the CCRB was able to conduct a full investigation, but there was insufficient evidence to establish by a preponderance of the evidence whether or not an act of misconduct occurred. In some cases, the CCRB is unable to conduct a full investigation or mediation and must **truncate** the case.<sup>56</sup>

---

<sup>56</sup> Fully-investigated cases comprise complaints disposed of as substantiated, unsubstantiated, exonerated, unfounded, officers unidentified, or miscellaneous. Miscellaneous cases are those where an officer retires or leaves the Department before the Board receives the case for decision. Truncated cases are disposed of

# 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

---

in one of the following ways: complaint withdrawn, complainant/victim uncooperative, complainant/victim unavailable, and victim unidentified.

vacancy shall serve for the balance of the unexpired term. During any period in which the office of the chair is vacant, the mayor shall select a member of the board to serve as interim chair until such vacancy has been filled.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, if such statement was made during the course of and in relation to the board's resolution of such complaint. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or recommendation.

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

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

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

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

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

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

(d) Cooperation of police department.

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

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

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

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

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

(g) 1. Beginning in fiscal year 2021 and for each fiscal year thereafter, the appropriations available to pay for the personal services expenses of the civilian complaint review board during each fiscal year shall not be less than an amount sufficient to fund personal services costs for the number of full-time personnel plus part-time personnel, calculated based on full-time equivalency rates, equal to 0.65 percent of the number of uniform budgeted headcount of the police department for that

fiscal year, as determined consistent with published budgeted headcount documents of the office of management and budget. The calculation to determine the minimum appropriations for the personal services expenses of the civilian complaint review board pursuant to this paragraph shall be set forth in the preliminary expense budget, the executive expense budget, and the adopted budget.

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

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

# BOARD MEMBERS

---

## MAYORAL DESIGNEES

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

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

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

### **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 against government agencies. He has been admitted to practice law in New York since 1987. Mr. Siegal's public service experience includes working as an Assistant to Mayor David N. Dinkins and as a Capitol Hill staff aide to Senator (then Congressman) Charles E. Schumer. Throughout his legal career, Mr. Siegal has been active in New York civic, community, and political affairs. Mr. Siegal is a

mayoral designee to the Board appointed by Mayor Bill de Blasio.

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

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

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

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

### **Angela Sung Pinsky**

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

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

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

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

## **CITY COUNCIL DESIGNEES**

### **Joseph A. Puma**

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

joining NAACP LDF, he worked for over six years at the NYC Office of Management and Budget, where he served in roles in intergovernmental affairs, policy, and budget.

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

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

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

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

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

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

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

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

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

### **Nathan N. Joseph**

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

Prior to working as a facility administrator, Mr. Joseph was an associate director for ambulatory services at Kings County Hospital Center, where he previously was a physician assistant. Mr.

Joseph's experience in health care also includes work in detention facilities within New York City, including the Manhattan Detention Complex, the Spofford Juvenile Detention Center, and Rikers Island Prison, where he provided daily sick call and emergency treatment of inmates. Mr. Joseph is the Staten Island City Council designee to the Board appointed by Mayor Bill de Blasio.

*A.A.S Staten Island Community College*

## **POLICE COMMISSIONER DESIGNEES**

### **Salvatore F. Carcaterra**

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

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

### **Frank Dwyer**

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

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

### **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 AND SENIOR STAFF

---

#### Executive Staff

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

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

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

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

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

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

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

#### Senior Staff

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

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

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

**Director of Case Management:** Eshwarie Mahadeo

**Director of Communications:** Colleen Roache

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

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

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

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

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