



CIVILIAN COMPLAINT REVIEW BOARD

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PRIDE, PREJUDICE AND POLICING:

**An Evaluation of LGBTQ-Related Complaints
from January 2010 through December 2015**

CCRB MISSION AND VALUES

The New York City Civilian Complaint Review Board (the “CCRB” or the “Board”) is an independent agency, created by Chapter 18-A of the New York City Charter. The Board is empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language.

In fulfillment of its mission, the Board has pledged:

To report apparent patterns of misconduct, relevant issues and policy matters to the Police Commissioner and the public.

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EXECUTIVE SUMMARY

In June of 1969, the New York City Police Department's (NYPD) Public Morals Squad raided the Stonewall Inn nightclub in order to enforce laws that criminalized being lesbian, gay, bisexual, transgender, and gender non-conforming. The protests and riots that followed initiated a long journey to reform the laws and societal mindset that marginalized lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) identities.¹ Despite recent legal gains ranging from overturned sodomy laws to legalized same-sex marriage, some in the New York City LGBTQ community argue that LGBTQ individuals have endured discrimination often imposed by institutions positioned to protect them.²

Forty years after the Stonewall riots, City Council Speaker Christine Quinn and Police Commissioner Raymond Kelly announced the formation of the LGBT Advisory Committee to the NYPD. Comprised of LGBTQ advocates and community stakeholders, the LGBT Advisory Committee worked with NYPD officials to develop recommendations that would ensure that members of service would treat the LGBTQ citizens they encountered with dignity and respect.³ In 2012, the NYPD adopted some of the LGBT Advisory Committee's recommendations, which required, amongst other things, that police officers address individuals according to their gender identity, refer to individuals by their preferred pronouns, refrain from profiling individuals simply because of their gender expression or sexual orientation, and stop searching individuals in order to make gender determinations. Some LGBTQ advocates and stakeholders argue that, despite these Patrol Guide changes, NYPD members continue to profile and unfairly police LGBTQ individuals, particularly transwomen of color and homeless LGBTQ youth.⁴

For many years, the CCRB did not rigorously monitor police misconduct in the LGBTQ community. Previously, there was a lack of capacity to monitor allegations of misconduct related specifically to the LGBTQ community. Only recently, in December 2015, did the CCRB add an option for complainants and/or victims to voluntarily disclose their sexual orientation or gender identity when filing a complaint. For gender identity, complainants can choose between male, female, transman (FTM), transwoman (MTF), or not described. There is also space provided for transgender individuals who would like to indicate a preferred name if it is different than the

¹ While the term "queer" is controversial, it is one of the myriad ways that an individual may choose to describe their attractional identity.

² Ryan Houlihan, "GLAAD Joins LGBTQ Orgs to Urge NYC Council to Ban Discriminatory Profiling, Despite Bloomberg Veto," *GLAAD*, July 29, 2013, <http://www.glaad.org/blog/glaad-joins-lgbtq-orgs-urge-nyc-council-ban-discriminatory-profiling-despite-bloomberg-veto>; Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*. <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.

³ The term Member of Service (MOS) refers to a NYPD sworn officer.

⁴ Carl Charles, "NYPD Needs More than Rainbows to Show its Support for LGBT Rights," *ACLU*, July 1, 2015, <https://www.aclu.org/blog/speak-freely/nypd-needs-more-rainbows-show-its-support-lgbt-rights>; Urban Institute. *Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YMSW Engaged in Survival Sex*. 2015. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000119-Surviving-the-Streets-of-New-York.pdf>.

name provided on their identification. For sexual orientation, complainants can choose between heterosexual or straight, gay or lesbian, bisexual, or other. While these options are not exhaustive, expanding categories of gender identity and sexual orientation beyond binary classifications can enhance tracking allegations of misconduct within the LGBTQ community. Additionally, in 2015, the CCRB increased efforts to work with communities that feel the Agency has been unresponsive. In recognizing the specific policing challenges that members of the LGBTQ community face, the CCRB's Outreach team expanded its reach to LGBTQ organizations in 2015, and in the same year, the CCRB hosted an event entitled "Let's Talk About It" which was a candid conversation between the CCRB leadership and members of LGBTQ advocacy groups. Therefore, the CCRB has taken recent steps to address allegations of police misconduct in the LGBTQ community.

On June 15, 2016, the CCRB hosted a symposium entitled, "The Rainbow Crossing: Police Accountability and the LGBTQ Community" at the Lesbian, Gay, Bisexual, Transgender Community Center in New York City. With four panels on Policy, Law Enforcement, Grassroots, and a Debrief session, this well-attended event produced a number of civilian-generated recommendations for improving LGBTQ community and police relations, including that: 1) local precincts make CCRB flyers visible and readily apparent, 2) the CCRB investigate allegations of sexual misconduct by members of the NYPD against civilians, 3) the Patrol Guide include a section specifically prohibiting sexual misconduct by members of service against civilians, 4) training on implicit bias be included within the NYPD's LGBTQ-specific training, 5) the NYPD training include particular attention to appropriate member of service responses to complaints of intimate partner violence within the LGBTQ community, 6) the NYPD and the CCRB capture and make available more data specifically on the LGBTQ community and issues related to police encounters, and 7) oversight bodies accept anonymous complaints in order to address LGBTQ complainants' fear of retaliation and/or outing.

It is against this backdrop that the CCRB presents the first quantitative and qualitative assessment performed by a police oversight agency in the United States, analyzing data regarding allegations of misconduct in the LGBTQ community. Using CCRB data from 2010 through 2015, this report has five goals: 1) to analyze complaint data regarding the New York City LGBTQ-community; 2) to assess characteristics of allegations regarding police misconduct; 3) to identify subgroups that may have a heightened risk of being subjected to police misconduct; 4) to delineate if NYPD efforts to address policing practices disproportionately impact LGBTQ individuals; and 5) to make recommendations to the Department and the CCRB based on these data assessments and findings.

The scope of investigation includes 466 complaints filed from 2010 through 2015 wherein members of the public reported experiencing police misconduct that involved discrimination or harassment based on sexual orientation, gender identity and/or gender expression. These complaints include either a) a CCRB allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity or gender expression.

The 466 complaints filed from 2010 through 2015 included 1,959 allegations in total. Nine hundred and fifty allegations were fully investigated and resulted in 74 substantiated

allegations of police misconduct, while 559 were unsubstantiated, 196 exonerated, and 121 unfounded. Examination of all LGBTQ-related complaints revealed overarching patterns that suggest some members of the LGBTQ community may experience misconduct due to their sexual orientation or gender expression. Many of the LGBTQ-related complaints examined specifically involved the use of slurs specific to sexual orientation, gender identity or gender expression that fall under CCRB's Offensive Language or Discourtesy jurisdictions. The presence of audio, rather than or in addition to, video is particularly important for verifying whether or not misconduct actually occurred. Of the substantiated allegations that contained independent verification, those that included audio were able to provide a more definitive account of the incident in question.

Among the CCRB's key statistical findings in this study:

- Between 2010 and 2015, the CCRB received 466 distinct complaints (with 1,959 allegations) related to or from members of the LGBTQ community. These complaints include either a) an allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity or gender expression. Text-based queries were used to identify complaints related to the use of slurs specific to sexual orientation, gender identity or gender expression, or a MOS disregarding of complainant's preferred gender pronoun and/or name.
- Out of the total 466 LGBTQ-related complaints examined from 2010 through 2015, 192 were fully investigated. These 192 fully investigated complaints included 950 allegations. The CCRB unsubstantiated 559 (59%) allegations, out of which discourtesy and offensive language allegations were most numerous – both types of allegations are difficult to prove without independent verification. The CCRB exonerated 196 (21%) allegations, while 121 (13%) allegations were unfounded. The CCRB substantiated 74 (8%) allegations of misconduct.
- Public space was the most common location for alleged police misconduct. An LGBTQ-related complaint was most likely to be filed after an encounter that occurred on the street/highway, with 57% of all complaints originating from this location.
- Similar to overall CCRB complaint data, Black people and Hispanics composed a disproportionate number of victims and alleged victims in LGBTQ-related complaints. When data on victims or alleged victims with unknown ethnicity is removed, 49% are Black, 34% Hispanic, 16% White, 1% Asian and less than 1% American Indian.⁵
- Prior to December 2015, CCRB complaint forms included a gender identification question that used a binary gender categorization. From 2010 through 2015, 64% of

⁵ This data pertains only to victims or alleged victims, not complainants or witnesses who are not victims.

victims or alleged victims within the complaints examined identified as male, while 19% identified as female. Sixteen percent of victims provided no gender information which could have been due to a variety of factors. When data on victims or alleged victims with unknown gender is removed, then the gender split is 77% who identified as male, and 23% who identified as female.⁶

- Members of service at the rank of police officer at the time of incident accounted for 72% of the subject officers in the LGBTQ-related allegations under examination. Subject officers had an average of nine years on the force at the time of incident.
- The distribution of complaints by borough is similar to overall CCRB trends. Brooklyn accounted for a third of the LGBTQ-related complaints examined (33%), followed by 31% from Manhattan, 20% from the Bronx, 13% from Queens, and 3% from Staten Island.
- For the period under examination, a greater number of complaints were generated in some precincts known to have visible LGBTQ populations.⁷ Precinct 6 encompasses the West Village and experienced the highest number of LGBTQ-related complaints between 2010 and 2015 (22 complaints). Precincts 73, 75 and 77, all located in Brooklyn, also generated a high number of complaints (17 complaints per precinct from 2010 through 2015), similar to CCRB complaint data overall.
- Video evidence continues to aid CCRB investigations. However, the presence of audio is important to prove the conclusiveness of allegations related to the use of LGBTQ-related slurs.

To address LGBTQ-related complaints of police misconduct, a summary of the CCRB's recommendations follow:

1. **Recommendation:** The Department's expansion of its body-worn camera program in 2016 should place a great emphasis on audio as well as video recordings. Independent verification can be critical to meeting a preponderance of the evidence standard used in CCRB determinations. Video has been especially instrumental in corroborating allegations of misconduct or exonerating the subject officer for using an appropriate response. However, not all video is equal when analyzing LGBTQ-related complaints, many of which involve the use of a slur. In several of these cases, capturing what is said via audio can be just as important, if not more important, than video. Therefore, video with audio capacity can be a useful tool to determine whether or not misconduct actually

⁶ This data pertains only to victims or alleged victims, not complainants or witnesses who are not victims.

⁷ The CCRB recognizes that there are many LGBTQ population and cultural centers throughout the city, other than those listed here, including Chelsea, Hell's Kitchen, and Downtown Brooklyn.

occurred. Specifically, the CCRB recommends that a) officers activate body-worn cameras early (before contact if possible) to allow for any buffer time to pass well in advance of any civilian interaction whenever possible, b) body-worn cameras be placed on an officer's body to ensure that all audio recordings are properly captured, and c) that a minimum volume should be standardized for audio.

2. **Recommendation:** The Office of the Inspector General for the NYPD (OIG), along with expert advisers, should conduct audits of the Department to ensure that the changes in the Patrol Guide regarding the treatment of transgender individuals are being properly and consistently implemented. In 2012, the NYPD became one of the first police departments in the United States to make changes to its Patrol Guide to include clearly defined procedures for interacting with transgender and gender non-conforming individuals. Without an assessment on implementation, there is no way to verify if the widely praised changes have been adopted in practice. Independent appraisals should assess officers' awareness of Patrol Guide changes on an individual level, and reviews at the precinct-level would ensure that procedures have been followed with respect to how transgender individuals are processed, housed, and treated.
3. **Recommendation:** The Department should increase the LGBT Liaison Unit's capacity to engage both the community and police officers. LGBTQ outreach is needed to increase trust within the community, as well as to raise the awareness of correct procedures when interacting with members of the LGBTQ community. We understand the need for the unit to be directed to work on other topics as needed by the Department, and recommend that the NYPD LGBT Liaison Unit be more autonomous so that it can focus more on the needs and concerns of LGBTQ individuals. This would allow the Department to have a consistent presence within the LGBTQ community. It also allows for more opportunities to conduct cultural competency trainings and refresher courses for police officers who may not have attended the Police Academy in recent years, or who may have been promoted before the 2012 Patrol Guide changes took effect.
4. **Recommendation:** The CCRB should continue to expand its investigative and outreach capacity to better serve the LGBTQ community. In 2015, the CCRB began specialized training for investigative staff in order to assist recognition of characteristics often associated with LGBTQ-related complaints. Investigators who are equipped with the skills to more readily detect patterns where subject officers profile individuals due to their actual or perceived LGBTQ status can more accurately classify police misconduct related to sexual orientation, gender identity or gender expression. In addition to recognizing patterns and courses of conduct where members of service are concerned, training should also include best practices in how to interact with individuals who have been victimized due to their sexual orientation or gender identity. Therefore, it is recommended that the CCRB continue to regularly provide this training. Additionally, the CCRB will continue to further its outreach efforts in the LGBTQ community.

5. **Recommendation:** The NYPD's new LGBTQ sensitivity training curriculum should be vetted by LGBTQ organizations such as the Anti-Violence Project, GLAAD, Lambda Legal, National LGBTQ Task Force, and the Sylvia Rivera Law Project for accuracy and best practices. There should also be an assessment of what Academy students have actually learned about their own biases, how seriously these students are taking the trainings, and whether these students have effectively identified the ways in which they need to put aside their own biases in order to comply with the Patrol Guide and professionally interact with LGBTQ individuals as a result of the training. The CCRB also recommends Department-wide training.

After an introduction to the CCRB, Section One of this report provides a historical and current context regarding the LGBTQ-community, both nationally and in New York City. Section Two reviews legal sources and procedural guidelines for the NYPD when interacting with members of the LGBTQ community. Section Three offers basic statistics on relevant CCRB complaint activity from 2010 through 2015, the type and disposition of allegations, and the methodology of the study. Section Four analyzes relevant characteristics of the LGBTQ-related complaints under examination, including the location of complaint by borough, precinct and setting, characteristics surrounding complaint activity, and demographic information of both victims or alleged victims, and subject officers. Section Five presents a qualitative description of substantiated complaints with a distinction made between complaints that contain independent verification and those that do not. Section Six provides a qualitative description of unsubstantiated and exonerated allegations. Finally, Section Seven outlines recommendations provided by this study.

INTRODUCTION: BACKGROUND OF CCRB AND GLOSSARY

The Charter of the City of New York establishes the Civilian Complaint Review Board and empowers it to receive and investigate complaints from members of the public concerning misconduct by officers of the NYPD. *See* NYC Charter § 440(a). 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.” *Id.* 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**.” *Id.* § 440(c)(1). The CCRB will also note “**other misconduct**” when it uncovers certain conduct by NYPD officers during the course of its investigation that falls outside its jurisdiction, but that the Department has requested be noted or remains important to bring to the Department’s attention. Examples of “other misconduct” include failures by officers to enter necessary information in their activity logs (memo books), failures to complete required documentation of an incident, and evidence suggesting that officers have made false official statements.

The “**Board**” consists of thirteen individuals. Of the 13 members, five are chosen by the Mayor, five are chosen by the City Council, and three members with experience as law enforcement professionals are chosen by the Police Commissioner. Apart from the members selected by the Police Commissioner, none of the Board members may have experience as law enforcement professionals or be former employees of the NYPD. The Mayor selects one of the thirteen members to serve as Board Chair.

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 180 employees. The Agency consists of an 110-member Investigations Division responsible for investigating allegations of police misconduct within the Agency’s jurisdiction (“FADO”), and for making investigative findings. The most serious police misconduct cases are prosecuted by a 16-member Administrative Prosecution Unit. The prosecutors within the Unit are responsible for prosecuting, trying and resolving the most serious misconduct cases before a Deputy Commissioner of Trials at One Police Plaza. The Agency also includes a Mediation Unit with trained mediators who may be able to resolve less serious allegations between a police officer and a civilian. The Outreach Unit acts as a liaison with various entities, and is responsible for intergovernmental relations, outreach presentations, and community events throughout the five boroughs of New York City.

Members of the public who file complaints regarding alleged misconduct by NYPD officers are referred to as “**complainants**.” Other civilians involved in the incident are categorized as “**victims**” or “**witnesses**.” Officers who commit the actions that are alleged to be

misconduct are categorized as “**subject officers**,” while those who witnessed or were present for the alleged misconduct are categorized as “**witness officers**.” The CCRB’s **Intake** team receives the complaints filed by the public in-person, or by telephone, voicemail, an online complaint form, or referred to the agency by the NYPD’s Internal Affairs Bureau.

When a complaint is filed with the CCRB, 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 “**allegations**” relating to force, abuse of authority, discourtesy, and/or offensive language. 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 is provided to the Board for 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 officers.

The “**Disposition**” is the Board’s finding of the outcome of a case (i.e. if misconduct occurred). The Board is required by its rules to use a “preponderance of the evidence” standard of proof in evaluating cases. Findings on the merits result when the CCRB is able to conduct a full investigation and obtain sufficient credible evidence for the Board to reach a factual and legal determination regarding 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 there was a preponderance of evidence that the acts alleged occurred and constituted misconduct. Exonerated cases are those where there was a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct. Unfounded cases are those where there was a preponderance of the evidence that the acts alleged did not occur. “**Unsubstantiated**” cases are those where the CCRB was able to conduct a full investigation, but there was insufficient evidence to establish whether or not there was an act of misconduct. In many cases, the CCRB is unable to conduct a full investigation or mediation and must “**truncate**” the case.⁸

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.

⁸ Fully investigated cases comprise complaints disposed of as “substantiated,” “unsubstantiated,” “exonerated,” “unfounded,” “officers unidentified,” or “miscellaneous.” Miscellaneous cases are those where an officer retires or leaves the Department before the Board receives the case for decision. Truncated cases are disposed of in one of the following ways: “complaint withdrawn,” “complainant/victim uncooperative,” “complainant/victim unavailable,” and “victim unidentified.”

The CCRB's **Administrative Prosecution Unit (APU)** prosecutes cases in which the Board has substantiated misconduct and recommended discipline in the form of Charges and Specifications. The APU began operating in April 2013, after the CCRB and the NYPD signed a Memorandum of Understanding establishing the unit.

SECTION ONE: CONTEXT OF LGBTQ CONCERNS

Twentieth Century New York City and the LGBTQ Community. On June 28, 1969, police raided the Stonewall Inn nightclub in Greenwich Village, New York City. Although police raids of bars frequented by LGBTQ members were routine during this period, this particular raid involved people who refused to provide identification, as well as transgender individuals who refused to allow NYPD officers to use searches in order to make gender assessments.⁹ The police began to make arrests as a crowd gathered outside, and it was not until force was used against a lesbian woman in custody that onlookers began to protest. Several days of rioting followed the raid, which many in the LGBTQ community and activists felt was provoked by collective police abuse and repression due to sexual orientation and gender expression.¹⁰ A year after Stonewall, the Christopher Street Liberation Day Committee planned the first Gay Pride March to commemorate the event in New York City. San Francisco, Los Angeles, and Chicago simultaneously held similar marches in solidarity.¹¹ Two years after Stonewall, Boston, Dallas, Milwaukee, London, Paris, West Berlin, and Stockholm followed with similar marches, and the annual tradition of Gay Pride Parades became firmly established. This visibility brought LGBTQ rights from non-sanctioned gatherings at the Stonewall Inn to the forefront of public conversation, and helped to begin shift policies that criminalized LGBTQ identity.

The Shift to Decriminalize LGBTQ Identity. Judicial systems in the United States have long policed perceived deviant behavior thought to be associated with LGBTQ identity.¹² One of the first steps to decriminalize previously viewed nonconforming behavior was to repeal anti-sodomy laws that classified certain sexual acts as crimes. In 1955, when the American Law Institute, a group comprised of legal scholars, practitioners, and judges, drafted the Model Penal Code, they voted to decriminalize consensual sodomy.¹³ Illinois later became the first state to adopt these changes, and repealed anti-sodomy laws in 1961.¹⁴ In New York, the decision of *People v. Onofre* in 1980 made it the 27th state to repeal anti-sodomy laws.¹⁵ Anti-sodomy laws would not be repealed nationally until the 2003 Supreme Court case of *Lawrence v. Texas*.

⁹ Dennis Hevesi, "Seymour Pine Dies at 91; Led Raid on Stonewall Inn," *The New York Times*, September 7, 2010, http://www.nytimes.com/2010/09/08/nyregion/08pine.html?_r=1.

¹⁰ Amnesty International. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*. 2005. <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>.

¹¹ "1969 Stonewall Riots," *San Francisco Pride*, 2012, <http://www.sfpide.org/heritage/1969.html>.

¹² Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Beacon Press, 2012).

¹³ Richard Weinmeyer, "The Decriminalization of Sodomy in the United States," *American Medical Association Journal of Ethics* 16, no. 11 (2014): 916–22, doi:10.1001/virtualmentor.2010.12.8.medu1-1008.

¹⁴ George Painter, "The History of Sodomy Laws in the United States," Last modified August 10, 2004. <http://www.glapn.org/sodomylaws/sensibilities/illinois.htm>.

¹⁵ PEOPLE V. ONOFRE, 51 N.Y.2d 476 (N.Y. 1980) | Casetext (1980).

Although these were the first steps to bring about equal treatment under the law, the LGBTQ community continued to be denied full equality.

The end of enforcement for New York anti-sodomy-era laws in the 1980s shifted to policing the LGBTQ community through the administration of “quality of life” statutes in the 1990s.¹⁶ While credited for reducing the crime rate throughout New York City, vague lewdness statutes that criminalized “public indecency”, “loitering with intent to solicit”, and “lewd conduct” provided wide latitude for the NYPD to selectively crack down on any behavior deemed to be sexually deviant by mainstream societal norms.¹⁷ A 2005 report by Amnesty International found that members of the LGBTQ communities in New York, Chicago, Los Angeles, and San Antonio continued to be targeted for police abuse and misconduct due to their sexual orientation.¹⁸ In a 2012 report, the Center for Constitutional Rights found LGBTQ and gender non-conforming communities were “heavily impacted by stops and frisks” carried out by the NYPD.¹⁹ Many in the LGBTQ community in New York City felt that they were victims of discriminatory policing that targeted sexual orientation and non-conforming gender expression.

On August 22, 2013, the New York City Council’s passage of the Community Safety Act created an independent Inspector General to review and recommend changes in operations, policies, programs and practices of the NYPD.²⁰ The legislation, which included sexual orientation and gender expression as protected classes, also amended the City’s Human Rights Law to ban bias-based profiling.²¹ This was considered a needed measure to end profiling that lead to initial police encounters.²²

The same year also involved a retreat from treating the possession of condoms, without anything more, as evidence of prostitution.²³ Prior to 2013, police could use the possession of

¹⁶ Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf.

¹⁷ Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Beacon Press, 2012).

¹⁸ Amnesty International. 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*. <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>.

¹⁹ Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*.

<https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.

²⁰ David Goodman, "City Council Votes To Increase Oversight Of New York Police". *New York Times*, June 27, 2013, http://www.nytimes.com/2013/06/27/nyregion/new-york-city-council-votes-to-increase-oversight-of-police-dept.html?_r=0.

²¹ The Official Website of the City of New York. 2016. *Mayor De Blasio Announces City Ending Lawsuit Challenging Racial Profiling Law*. <http://www1.nyc.gov/office-of-the-mayor/news/077-14/mayor-de-blasio-city-ending-lawsuit-challenging-racial-profiling-law>.

²² Andrea Ritchie, “Unfinished Business: Community Safety Act Needed to End Discriminatory Policing of LGBT New Yorkers,” *Gay City News*, October 22, 2012, <http://gaycitynews.nyc/unfinished-business-community-safety-act-needed-to-end-discriminatory-policing-of-lgbt-new-yorkers/>.

²³ Marc Santora, “New York Police to Limit Seizing of Condoms in Prostitution Cases.” *New York Times*, May 12, 2014, http://www.nytimes.com/2014/05/13/nyregion/new-york-police-to-limit-seizing-of-condoms-in-prostitution-cases.html?_r=0.

condoms alone as evidence to charge prostitution-related offenses that only required circumstantial evidence to support a criminal prosecution.²⁴ In 2012, Human Rights Watch surveyed around 197 current and former sex workers in four U.S. cities, including 77 in New York City, about their experiences being harassed and arrested by police for the possession of condoms. Many of the respondents were Latina transgender women living in Jackson Heights, Queens, an area that had the third highest rate of stop and frisk in New York City at the time of the report.²⁵

According to these respondents, transgender women of color are often profiled by police as engaging in sex work for simply being outside and going about their daily routines, generating the phrase come to be known as “walking while trans.” According to Make the Road New York’s 2012 report, “walking while trans” has become a common descriptor for the pattern of arbitrary stops, purportedly on suspicion of prostitution, which are frequently accompanied by physical, sexual and verbal harassment. In addition to Make the Road New York’s report, Amnesty International released a study almost a decade before. In its study, Amnesty International found that subjective and prejudiced perceptions of transgender women as sex workers often play a significant role in officers’ decisions to stop and arrest transgender women. As an example, Amnesty International cited a New York attorney who reported that 80% of transgender women of color he worked with had experienced police harassment or false arrest based on unfounded suspicions of engagement in sex work. Many of these arrests were based solely on gender identity and/or expression with possession of condoms as evidence of prostitution as the justifiable pretext. In January 2013, the New York State Assembly addressed the “walking while trans” issue when it passed a limited measure that prohibited law enforcement from using possession of condoms as the sole evidence of criminality in prostitution arrests, which was signed into law by the Governor.²⁶ This measure amended the criminal procedure law relating to the admissibility of condoms as trial evidence.²⁷

Although New York City has made progress to end discriminatory policing against the LGBTQ community, some studies have shown remaining concerns. For example, after surveying 305 outreach workers, volunteers and community members in Jackson Heights, Queens in 2011 and 2012, Make the Road New York released a report in 2013 stating that 51% of LGBTQ respondents in the study who were stopped by police reported experiencing verbal or physical harassment by officers, as opposed to only 33% of non-LGBTQ respondents in the study.²⁸

NYPD’s Shift to LGBTQ-Competent Policing. Although, institutionally, the NYPD has made significant strides in adopting LGBTQ sensitive practices and procedures, this progress

²⁴ Human Rights Watch. 2012. *Sex Workers At Risk: Condoms As Evidence Of Prostitution In Four US Cities*. https://www.hrw.org/sites/default/files/reports/us0712ForUpload_1.pdf.

²⁵ Ibid.

²⁶ Senate Bill S1379, accessed February 14, 2016; Assembly Bill A2736, accessed February 14, 2016; Assembly Bill A3007B, accessed February 14, 2016.

²⁷ Governor’s bill A3007B <http://www.nysenate.gov/legislation/bills/2015/A3007B>.

²⁸ Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*. http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf.

was a result of a long internal struggle. In 1982, a handful of NYPD members of service formed the Gay Officers Action League (GOAL) – a fraternal organization for active, retired, and allied law enforcement personnel to advocate for LGBTQ issues both within the Department and for the public. The Department initially prohibited GOAL from wearing official, Department-issued uniforms while marching in NYC gay pride parades, despite the reality that NYPD fraternal organization members were allowed to wear Department-issued uniforms in other NYC parades, such as the St. Patrick’s Day parade. As a result, GOAL filed suit and won a settlement in April 1997. That settlement not only allowed GOAL members the privilege to march in official uniform during the New York City Gay Pride Parade, but authorized June as Pride Month at 1 Police Plaza and allowed the opportunity for GOAL to conduct LGBTQ training to Police Academy recruits at the discretion of the Commissioner of Training.

The Department’s recruit training materials were drafted with the input and cooperation of the GOAL, and are constantly reviewed by GOAL to ensure the material is accurate and relevant. The new curriculum has also been reviewed and approved by the court-appointed Federal Monitor. As the only fraternal organization to conduct a workshop at the Academy, GOAL members who teach the course have been certified by the New York State Division of Criminal Justice Services as General Topics Instructors, with their certification in the Departments Methods of Instruction Course funded by the NYPD. The training is done for each recruit class and includes discussions, lectures and role-play scenarios to ensure recruit officers understand the needs of the LGBTQ community and to personally evaluate each recruit officers’ grasp of the materials. The training also includes sensitivity exercises, as well as instruction on the 2012 Patrol Guide changes related to the treatment of transgender individuals. GOAL’s facilitation of the Workshop gives recruit officers the opportunity to hear from and interact with LGBTQ individuals. This training has now developed into an accredited 4.5 hours of instruction. Since 2013, the Department has incorporated LGBTQ training into all three of its promotional classes (to the ranks of sergeants, lieutenant, and captains), including guest speakers from the Anti-Violence Project and the NYPD Liaison Unit.

The NYPD has also taken official steps to encourage more positive and supportive interactions between the NYPD and the LGBTQ community with an LGBT Liaison Unit. Operating out of the West Village under the jurisdiction of the Community Affairs Bureau, the unit has three officers assigned to improve relations between the NYPD and LGBTQ community. The assignment includes working with investigators when a victim is targeted due to sexual orientation or gender expression, visiting precincts to update officers on current LGBTQ guidelines upon request, and assisting with the LGBTQ training at the Police Academy. Additionally, there is an NYPD Police Commissioner’s LGBT Liaison Unit that comprises one individual who conducts similar community outreach and is also responsible for teaching a 1.5-hour LGBTQ refresher course each time an officer gets promoted.

Other departments throughout the country, such as Los Angeles, Chicago and New Orleans, to name a few, have enacted similar changes to their version of a Patrol Guide regarding the treatment of transgender individuals.²⁹ The Atlanta Police Department has also expanded guidelines on how to interact with transgender individuals. For example, personal items associated with a person's gender identity, including prosthetics, clothing and wigs, are subject to search, but can be retained by the individual if "reasonable safety concerns" are resolved.³⁰

Increased Recognition of LGBTQ-Identifying Individuals. A 2015 study by Gallup showed that individuals who identify as LGBTQ comprise 4% of the New York-Newark-Jersey City metro population.³¹ This accounts for an estimated 800,000 LGBTQ-identifying persons living in the region when compared to U.S. Census Bureau.³² As such, New York City has taken strides to expand inclusion to all members of society. In 2004, New York City became one of the first municipalities to recognize same-sex marriage and civil unions performed in other state and country jurisdictions, which resulted in the extension of pension benefits to recognized partners.³³ In 2011, New York became the seventh state to legalize same-sex marriage.³⁴ Steps taken to institute marriage equality in New York came years before the June 14, 2015 decision of the United States Supreme Court ruling that same-sex marriages must be recognized in every state in the U.S.³⁵

Although same-sex marriage was a large step for increased recognition of LGBTQ identity, true equality requires that LGBTQ individuals be able to access rights in many other realms, such as healthcare, the workplace, housing, and education. In many instances, New York adopted policies for increased equality in the LGBTQ community before it was nationally mandated. In 2004, New York State granted domestic partners the right to visit each other in public and private hospitals and nursing homes, which was not mandated nationally for public

²⁹ "Police Interactions with Transgender Individuals," 2012, <https://learningtrans.files.wordpress.com/2012/04/lapd-transgender-policies.pdf>; "Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals," December 31, 2015, <http://directives.chicagopolice.org/directives/data/a7a57b38-1394a4ae-75313-94a4-b606a68cfab99615.html?hl=true>; "New Orleans Consent Decree," *City of New Orleans*, 2016, <http://www.nola.gov/nopd/nopd-consent-decree/>.

³⁰ "Transgender Interactions," 2014, <http://posting.clatl.com/images/blogimages/2014/10/14/1413321985-transsop.pdf>

³¹ Frank Newport and Gary Gates, "San Francisco Metro Area Ranks Highest in LGBT Percentage," *Gallup*, March 20, 2015, <http://www.gallup.com/poll/182051/san-francisco-metro-area-ranks-highest-lgbt-percentage.aspx>. "Metropolitan and Micropolitan Data," *U.S. Census Bureau*, 2014, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

³² "Metropolitan and Micropolitan Data," *U.S. Census Bureau*, 2014, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

³³ Michael Cardozo, "Letter to Mayor from Law Department," November 17, 2004, http://www.nyc.gov/html/om/pdf/letter_samesex.pdf.

³⁴ Assembly Bill A8354, accessed February 15, 2016.

³⁵ Adam Liptak, "Supreme Court Ruling Makes Same-Sex Marriage a Right Nationwide," *New York Times*, June 26, 2015, <http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html>.

hospitals until 2010.³⁶ In 2002, New York passed the Sexual Orientation Non-Discrimination Act, which prohibited employment, housing, public accommodations, education, credit, and the exercise of civil rights discrimination based on sexual orientation.³⁷ That same year, the New York City Human Rights Law was amended to expand protections against discrimination on account of gender identity and expression. By January 2015, New York expanded discrimination protections to transgender individuals and became the first state to ban public and private workplace discrimination due to gender expression.³⁸ New York City has furthered policies of inclusion for transgender individuals and an Executive Order came into effect in March 2016 that provided employees and members of the public access to City single-sex facilities consistent with their gender identity.³⁹

Although the LGBTQ community has gained certain rights, there is a lack of trust that the NYPD will protect their existing rights, particularly when it comes to intimate partner violence. In New York City, a 2014 survey by the Anti-Violence Project of LGBTQ individuals affected by intimate partner violence found that out of those who shared information on their police encounter, 50% responded they involved the police in their situations, and out of these, 29% reported police misconduct stemming from the incident.⁴⁰ The primary complaint was that responding police officers misidentified the primary aggressor of violence and arrested the wrong individual. Respondents asserted that they did not want to involve law enforcement in intimate partner complaints because officers would arrive on the scene and make erroneous arrest decisions solely based on the gender expression and/or identities of the involved parties. For example, masculine-of-center cis-women lesbian complainants who suffered intimate partner abuse at the hands of their feminine-of-center cis-women lesbian partners were more often the subjects of criminal investigations, arrests and prosecutions, further subjecting them to victimization, despite overwhelming, objective, non-gender-based evidence that they were victims, not perpetrators, of criminality. Such negative perceptions of and experiences with law enforcement can hinder reporting and increase the risk of victimization.

³⁶ This mandate only applies to facilities that receive federal Medicare and Medicaid payments. Al Baker, "New Law Gives Gay Partners Visiting Rights in Hospitals," *New York Times*, October 2, 2004, <http://query.nytimes.com/gst/fullpage.html?res=9A00EED61338F931A35753C1A9629C8B63>; Susan Donaldson James, "Obama Orders Hospitals to Allow Gay Visitation, Medical Rights," *ABC News*, April 16, 2010, <http://abcnews.go.com/Health/HealthCare/obama-orders-hospitals-gay-partners-rights/story?id=10393478>.

³⁷ "The Sexual Orientation Non-Discrimination Act ("SONDA")," New York State Division of Human Rights, last modified 2015, <http://www.ag.ny.gov/civil-rights/sonda-brochure>.

³⁸ New York State Division of Human Rights. 2015. *Governor Cuomo Announces New Regulations Protecting Transgender New Yorkers from Discrimination*. http://www.dhr.ny.gov/gender_identity_regulations.

³⁹ The Official Website of the City of New York. 2016. *Mayor de Blasio Mandates City Facilities Provide Bathroom Access to People Consistent with Gender Identity*. <http://www1.nyc.gov/office-of-the-mayor/news/223-16/mayor-de-blasio-mandates-city-facilities-provide-bathroom-access-people-consistent-gender#/0>.

⁴⁰ Anti-Violence Project. 2014. *Intimate Partner Violence In 2014: Lesbian, Gay, Bisexual, Transgender, Queer, And HIV-Affected*. http://www.avp.org/storage/documents/NCAVP_IPV_2014_Report.pdf.

SECTION TWO: NYPD’S EFFORTS TO ADDRESS DISCRIMINATORY POLICING PRACTICES

While New York penal laws are facially neutral, some officers may make enforcement decisions based on homophobic and transphobic biases and intolerance. Individual prejudices held by some officers can lead to more frequent use of police action against LGBTQ individuals when compared to non-LGBTQ persons. Consequently, New York City LGBTQ advocates have looked to local law enforcement guidelines to eradicate unfair policing practices that have a disproportionately adverse impact on LGBTQ civilians. Those local law enforcement guidelines include the NYPD Patrol Guide and the NYPD Student’s Guide.

History of LGBT Advisory Committee and NYPD Patrol Guide. For decades, the relationship between NYPD Department officers and the New York City LGBTQ communities that they serve has been the subject of public scrutiny and debate. In response to concerns regarding discriminatory policing within the LGBTQ community, Mayor Edward Koch created the LGBT Advisory Committee. Although this committee was dissolved in the 1990s, concerns about policing within the LGBTQ community remained a frequent lightning rod for allegations of anti-gay, lesbian, and transgender prejudice.⁴¹ In August of 2009, City Council Speaker Christine Quinn trumpeted that she and Police Commissioner Raymond W. Kelly were taking steps to reactivate the defunct LGBT Advisory Committee to the NYPD.⁴²

The Committee, comprised of community stakeholders, would work with the NYPD’s LGBTQ Community Liaison in order to “strengthen the working relationship between the NYPD and the LGBTQ community.”⁴³ The aim was to ensure that lesbian, gay, transgender and gender non-conforming individuals were treated with dignity and respect during every police interaction. In order to accomplish this goal, the Committee was charged with recommending changes to the Department’s Patrol Guide. In 2012, after years of work between the LGBT Advisory Panel and senior police officials, changes were made to the Patrol Guide.⁴⁴

NYPD Patrol Guide Defines Gender. The Department’s Patrol Guide section 203-10 defines “gender” as “actual or perceived sex,” rather than sex assigned at birth.⁴⁵ It goes on to define “gender identity” as a person’s “self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the legal sex assigned to that person at birth.”⁴⁶ The Patrol Guide

⁴¹ Amnesty International. 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*. <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>.

⁴² A LGBT Advisory Committee was in place during Mayor Edward I. Koch’s term, but later dissolved in the 1990s. Al Baker. “An Advisory Panel’s Rebirth, Crime Statistics and Shoes,” *The New York Times*, September 23, 2010 <http://cityroom.blogs.nytimes.com/2010/09/23/an-advisory-panels-rebirth-crime-statistics-and-shoes/>.

⁴³ August 14, 2009 <http://meetadamandsteve.blogspot.com/2009/08/from-office-of-speaker-quinn.html>

⁴⁴ Meet Adam and Steve Blog Spot. 2009. *From the Office of Speaker Quinn: NYPD to Reactivate LGBT Advisory Committee*. <http://meetadamandsteve.blogspot.com/2009/08/from-office-of-speaker-quinn.html>

⁴⁴ Julie Bolcer. “Transgender Reforms Announced for NYPD,” *The Advocate*, June 13, 2012, <http://www.advocate.com/politics/transgender/2012/06/13/transgender-reforms-announced-nypd-patrol-guide>

⁴⁵ NYPD Patrol Guide section 203-10, Public Contact - Prohibited Conduct. (eff. 07/01/2015).

⁴⁶ Id.

mandates that members of service respect the gender identities of the individuals they encounter by instructing that gender and identity are determined by the civilian, not by the state-issued identification possessed by the civilian or the officer's perception of the civilian's sex. These definitions of gender and gender identity are important to note, as they are used throughout the Patrol Guide.

NYPD Members Shall Not Use Anti-LGBT Slurs. Members of service are prohibited from using offensive language regarding "gender" and "gender identity/expression," as well as sexual orientation.⁴⁷ From 2010 through 2015, 856 non-distinct CCRB complaints have included allegations that police officers used anti-LGBTQ epithets, such as "faggot", "queer", "homo", "tranny", "dyke", and the misuse of a gender pronoun against them.⁴⁸ Because the Patrol Guide expressly prohibits officers from using these slurs, the CCRB is able to investigate and prosecute offensive language allegations that relate to gender identity, gender expression and sexual orientation.

At All Times, NYPD Members Shall Use Preferred Pronouns. Sometimes, LGBTQ civilians report being referred to as a "he-she" or with a pronoun that inaccurately reflected their gender identities and/or expressions. These verbal assaults against their identities not only made them feel devalued as people, but also victimized by persons employed to protect and serve them. Patrol Guide section 203-10 specifically requires that members of service "address the public using pronouns, titles of respect, and preferred name appropriate to the individual's gender identity/expression as expressed by the individual." As a result of this Patrol Guide section, the CCRB is able to investigate and prosecute violations of the rules prohibiting the use of offensive language, including gender identity, gender expression and sexual orientation slurs. Two complaints received by the CCRB between 2010 and 2015 include instances in which subject officers were alleged to have improperly used preferred pronouns.

When Effectuating an Arrest, NYPD Shall Use & Document Arrestee's Preferred Name. NYPD guideline section 208-02 instructs members of service to address and refer to an arrestee by the arrestee's preferred name and pronouns consistent with that name, regardless of whether the name on the arrestee's identification coincides with the arrestee's gender identity. "Preferred name" is defined as "The name an arrestee prefers to be called based on their gender identity. This name may be different from the name on identification documents in the arrestee's possession." Section 208-03 mandates that members of service record the arrestee's preferred name on arrest documents such as the Prisoner Pedigree Card, the Prisoner Movement Slip, and the Arrest Report (also known as the Online Booking Arrest Worksheet).

NYPD Shall Not Profile Based on Sexual Orientation, Gender Identity, or Gender Expression. In Patrol Guide section 203-25, the Department expressly prohibits the use of profiling based on gender, gender identity or sexual orientation as the sole determinative factor for initiating police action. This guideline was adopted to address the unlawful police encounters that members of the transgender community describe as "walking while trans," a common descriptor for the pattern of arbitrary police stops, purportedly on suspicion of prostitution, which are frequently accompanied by police-initiated physical, sexual and verbal harassment of

⁴⁷ Id.

⁴⁸ See Table 1.

transwomen (as described above). As noted earlier, under the Community Safety Act this policy is now City law. The CCRB received five complaints from 2010 through 2015 in which complainants conveyed they were targeted by the police because there were transgendered.

NYPD Shall Not Search for Sex. The LGBT Advisory Committee was concerned with more than the mere stops of individuals because of their perceived trans identities. The Committee was also troubled by the number of complaints made by transpersons indicating that NYPD members of service used frisks, searches and strip searches not to confiscate illicit weapons, evidence or drug paraphernalia, but rather, exclusively to identify and assign a sex to gender non-conforming civilians. Committee members, many of whom were LGBTQ advocates, recommended changes that would prevent such gross misapplications of legitimate police procedures from happening again. Consequently, Patrol Guide section 208-05 explicitly prohibits members of service from conducting a search in order to determine an arrestee's gender and from asking questions about an arrestee's anatomy without a reasonable basis to do so.⁴⁹ Violations of this guideline are subject to investigation and prosecution by the CCRB as abuses of authority. From 2010 through 2015, the CCRB received three complaints in which complainants stated they were strip searched and faced derogatory statements due to their sexual orientation or gender identity.

NYPD Members Shall Follow a Detailed Procedure When Conducting Searches. The Patrol Guide also addresses the procedure to be employed when conducting a search or strip search. It requires that individuals in NYPD custody be searched by an officer of the gender that the person in custody requests and, if that is not honored, it requires the NYPD to document the reasons for not doing so. It mandates that "where an arrestee's gender is not immediately apparent or an arrestee objects to the gender of the member [of service] assigned to perform the search," it is up to the desk officer or a supervisor supervising the search to assign a member of service of the gender requested by the arrestee to perform the search. It goes further by instructing that only officers reasonably needed to be present while the search is conducted. Section 208-05 also sets forth the caveat that, if the gender of the officer assigned to conduct the search differs from the gender requested by the arrestee, the desk officer or supervisor overseeing the search must detail the identity(ies) of the police officer(s) assigned to conduct the search, as well as the factors considered in assigning the searching member(s) of service to conduct the search.

NYPD Shall Not Strip Search Any (Including LGBTQ) Students. Studies show that homeless and street youth who identify as LGBTQ are more likely than their heterosexual and cisgender counterparts to be victimized by the police.⁵⁰ The Committee realized that the Department must take necessary steps to remedy the systemic victimization of LGBTQ youth. Consequently, in addition to section 208-05's instructions to members of service on how to conduct searches of adult arrestees, section 215-18 sets forth the procedure that school safety agents must follow when searching students. Section 215-18 models section 208-05 in that it mandates that all clothed searches of students be conducted by a school safety agent of the same

⁴⁹ NYPD Patrol Guide section 208-05.

⁵⁰ Amnesty International, 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*; Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

gender as the student being searched and “in situations where a student's gender is not immediately apparent or a student objects to the gender of the school safety agent assigned to perform the search, the school safety agent's supervisor will assign a school safety agent of gender requested by the student, consistent with school safety agent safety and resource availability.” However, unlike section 208-05, section 215-18 absolutely prohibits strip searches of students. It specifies that “[u]nder no circumstances will a strip search of a student be conducted.”

NYPD Shall Respect Gender Identity and Expression When Detaining Prisoners. While the Department of Corrections is responsible for housing inmates at correctional facilities, the NYPD is responsible for temporarily detaining inmates at local stationhouses prior to transferring them to Department of Corrections facilities. Jails are especially dangerous places for transgender and gender non-conforming people, no matter how temporary the accommodation. According to some reports, being transgender or gender non-conforming in jail often means daily humiliation, as well as physical and sexual abuse by other inmates and law enforcement officers.⁵¹

Aware of the safety concerns affecting transgender and gender non-conforming persons who are detained within NYPD command cells, the Committee recommended that transgender and gender non-conforming individuals be held in sex segregated police facilities according to their gender identity, even if that identity differs from their sex assigned at birth. Section 210-01 of the Patrol Guide instructs that, once a transgender or gender non-conforming arrestee has been processed, in order to safeguard that arrestee while said arrestee is in police custody, members of service must ensure that male and female prisoners are not detained in the same holding pen at any time, consistent with section 203-10 regarding the Department’s definition of “gender”. Where there is a concern for the person’s safety were that person to be housed with others who match the person’s gender identity, that person will be considered a “special category prisoner” and will be housed in the place safest for them. “Special category prisoners” include prisoners who should be removed from the general population because “placing that prisoner in a general population of prisoners may pose a safety risk to that prisoner or other prisoners.”⁵²

NYPD Police Student’s Guide. The NYPD’s Student Guide is a written curriculum for recruits in the Police Academy. The Student Guide contains a section titled “Policing a Multicultural Society” and includes a lesson plan geared towards providing LGBTQ competency training. Its thirty-page curriculum explicitly proffers terms to avoid, such as “homosexual” and “lifestyle.” It also breaks down the difference between gender and sexual orientation, and is replete with definitions of LGBTQ-related terms, ranging from “bisexual” to “biphobia, “gender identity” to “gender non-conforming,” and “transgender to transsexual.” The curriculum informs members of service on how to conduct lawful searches of transgender and gender non-conforming persons.⁵³ Moreover, the curriculum discusses domestic violence within the

⁵¹ Jaime Grant, Lisa Mottet, and Justin Tanis. 2011. *Injustice at Every Turn A Report of the National Transgender Discrimination Survey*. http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf.

⁵² NYPD Patrol Guide section 210-17, Arrest Processing of Pre-Arrestment Prisoners Designated as “Special Category.”

⁵³ NYPD Police Student’s Guide, p.79 citing Patrol Guide 208-05 (July 2014).

LGBTQ community, societal and legal issues specific to LGBTQ youth, as well as LGBTQ hate crimes.

In addition to addressing cultural competency, the curriculum instructs members of service on the Department's policies regarding LGBTQ encounters. For example, directly in line with Patrol Guide section 203-10, the curriculum explicitly details defamatory language that should not be used except when using a direct quote of someone suspected to have committed a hate crime, such as "faggot", "dyke", "homo", "sodomite", "she-male", "he-she", and "it."⁵⁴ The curriculum also teaches that it is not a crime to use certain restrooms and that officers should not tell transgender or gender non-conforming persons to leave a restroom or dressing room just because someone complains that they do not want to be around a transgender or gender non-conforming person.⁵⁵ Finally, the curriculum lists contact information for local LGBTQ organizations.

Current State of Affairs. While the 2012 Patrol Guide amendments have moved the dial forward by memorializing good versus prohibited police conduct, some LGBTQ community members assert that the guidelines and internal training are not enough to address police misconduct endured by LGBTQ New Yorkers.⁵⁶ Many complain that the guidelines do not explicitly state the penalty officers will receive for violating these procedures, that the training manual does not have a serious corresponding live program that really challenges officer prejudices while teaching competency, and that police officers are finding legitimate pretext to cover illegitimate encounters with civilians, thereby dodging CCRB prosecutions.⁵⁷

⁵⁴ Id. at 99 citing Patrol Guide 203-10.

⁵⁵ Id. at 78-79 citing New York City Human Rights Law.

⁵⁶ Carl Charles, "NYPD Needs More than Rainbows to Show its Support for LGBT Rights," *ACLU*, July 1, 2015,

⁵⁷ The current NYPD training addresses this issue.

SECTION THREE: THE SCOPE OF THE STUDY – METHODOLOGY AND STATISTICS⁵⁸

The CCRB receives complaints from individuals who believe members of service within the NYPD have used excessive or unnecessary force, abuse of authority, discourtesy or offensive language against them. The purpose of this report is to specifically examine complaints regarding police misconduct within FADO jurisdiction pertaining to a) a CCRB allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity and gender expression. Text-based queries were used to identify complaints related to the use of slurs specific to sexual orientation, gender identity and gender expression, or a disregarding of the complainant's preferred gender pronoun and/or name. The CCRB identified LGBTQ-related complaints within CCRB jurisdiction received between January 1, 2010 and December 31, 2015 using a text-based query using the search terms listed in Appendix A, as well as a search specifically for allegations related to sexual orientation.

It is important to note that the focus of this study is on the *behavior* of members of service, rather than *who* the victim or alleged victim is (meaning whether or not the victim or alleged victim has identified themselves as a member of the LGBTQ community). The reason for this is because until December 2015, the CCRB had no way of tracking the gender identity or sexual orientation of alleged victims or complainants. In December 2015, optional questions were added to CCRB complaint forms regarding gender identity and sexual orientation so that this information could be more accurately tracked in the future. However, the CCRB tracks a wide variety of data related specifically to misconduct. The CCRB has an allegation specifically for sexual orientation which can be pled when investigators find that a member of service has engaged in misconduct specifically related to a person's sexual orientation. In addition, closing reports, narrative summaries and any relevant associated files include specific language used during the incident and the investigative process. Therefore, a text-based search of slurs and specific language was conducted.

During the examination, the CCRB excluded 250 complaints after thorough case review, though they raised closely-related issues. First, complaints were dismissed from the scope of analysis when the civilian was the subject of the encounter, such as if the civilian used an LGBTQ-related slur or negative reference about sexual orientation or gender expression against the officer or another civilian involved in the incident. Second, instances where language regarding sexual orientation or gender expression were used in a descriptive fashion and not in a derogatory manner were omitted. Finally, complaints were not included within the scope of this

⁵⁸ This report uses descriptive statistics which do not speak to causality, and is not intended to generalize or represent all LGBTQ-related incidents. The 466 incidents discussed in this report are not representative of all LGBTQ-related incidents in New York City.

analysis if the LGBTQ-related keyword or phrase was part of a first or last name, or the name of a street or location.

In total, there were 466 complaints that fell within the scope of this study including a) a CCRB allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity and gender expression. These are all closed complaints. Each of the 466 complaints that were used in the scope of the study included either an allegation related to sexual orientation, or at least one of the search terms listed in Table 1. It is important to note that the data on complaints received from 2010 through 2015 to the CCRB do not represent the entire universe of LGBTQ-related complaints in the city. The data examined within the specific timeframe of this study does not show a broad pattern of NYPD policing practices that disproportionately have a negative impact on LGBTQ individuals.

Table 1: Total Number and Percentage of LGBTQ Slurs or Sexual Orientation Allegation (Complaints Received 2010-2015)

Type of Slur, Term or Sexual Orientation Allegation	Number of Non-distinct Complaints that Include the Term	Percentage of Non-distinct Complaints that Include the Term
Sexual Orientation Allegation Plead	295	35%
Faggot	266	31%
Gay	119	14%
Homo	67	8%
Tranny/ transgender/ transsexual	33	4%
Dyke	19	2%
Lesbian	20	2%
Gender identity	8	1%
Maricon	8	1%
Fag	7	1%
LGBT	5	1%
Prostitution and Condom	3	0%
Transvestite	3	0%
Queer	1	0%
Pronoun	2	0%
Total	856	100%

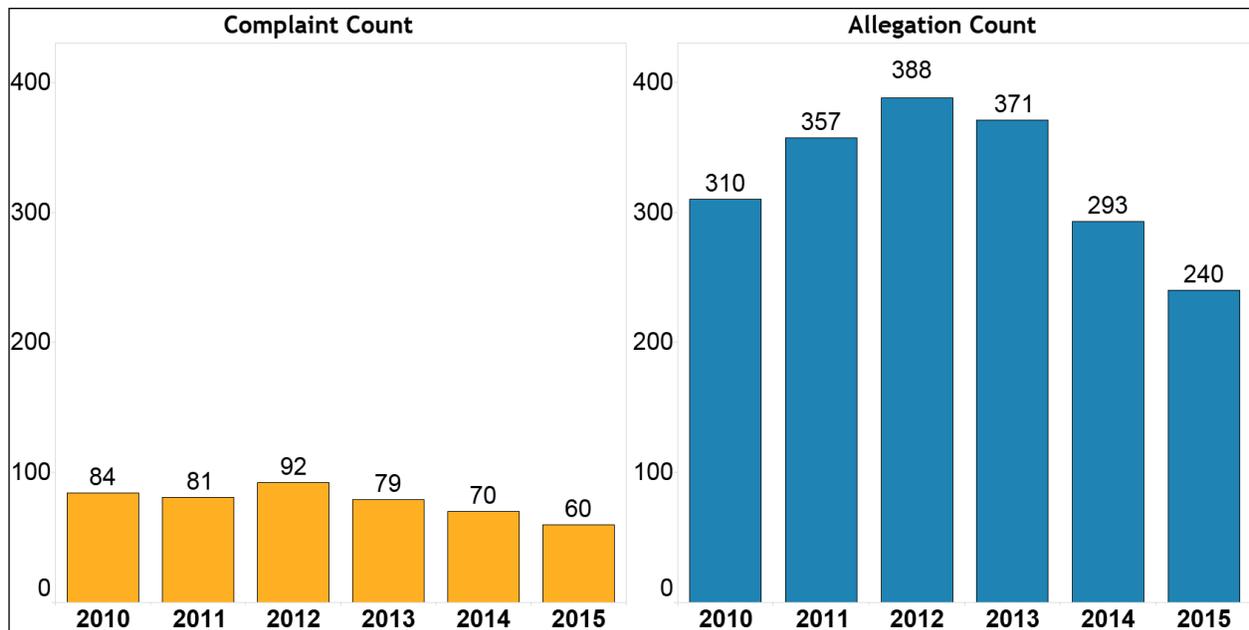
*The total number of non-distinct complaints sums to 856 rather than 466 because many complaints included more than one of the listed terms or sexual orientation allegation.

It is important to note that this examination includes both fully investigated and truncated complaints. This is because we sought to discuss all received incidents of alleged misconduct related to the LGBTQ-community because underreporting is high, many individuals within the

LGBTQ community do not know where to file complaints of police misconduct, they may fear retaliation, or they may not believe that their complaints will be taken seriously.⁵⁹ This section highlights characteristics of these complaints, including the number of complaints and allegations received, as well as a breakdown by FADO allegations, dispositions, and truncations.

Relevant LGBTQ-Related Complaint Activity. Between 2010 and 2015, the CCRB received 466 distinct complaints with 1,959 allegations where a) a member of service used an LGBTQ-related slur when interacting with the public, and/or b) incidents occurred where an individual perceived they were being mistreated based on their sexual orientation or gender presentation. The CCRB has received less than one hundred LGBTQ-related complaints each year for the past six years, and the number of complaints has generally decreased, except for a slight increase from 81 complaints in 2011 to 92 complaints in 2012. There are 1,959 allegations associated with the 466 LGBTQ-related complaints, ranging from 310 allegations in 2010 to 240 allegations in 2015.

Figure 1: Number of LGBTQ-Related Complaints and Allegations (Complaints Received 2010-2015)



The following table compares LGBTQ-related complaints to the total number of complaints within CCRB jurisdiction received from 2010 through 2015. The data shows that LGBTQ-related complaints have made up around 1-2% of total complaints each year.

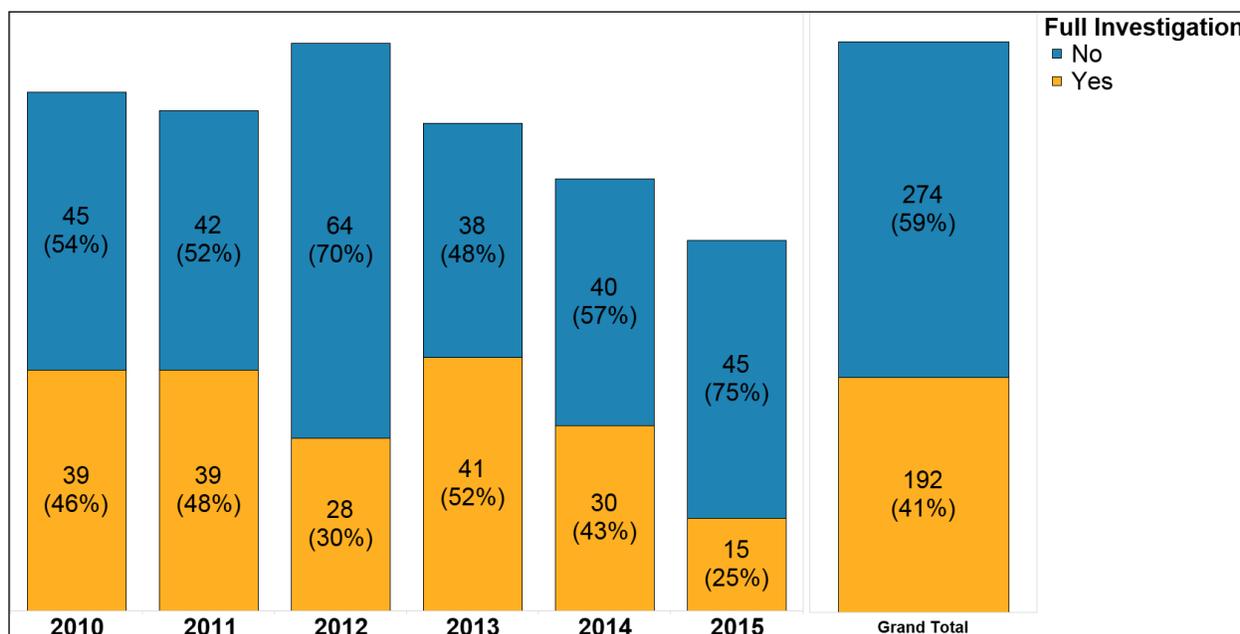
⁵⁹ These sentiments were frequently echoed in qualitative work done throughout the LGBTQ community for this report.

**Table 2: Total CCRB and LGBTQ-Related Complaints
(Complaints Received 2010-2015)**

Year	Total CCRB Complaints (#)	LGBTQ-Related Complaints (#)	LGBTQ-Related Complaints (%)
2010	6,466	84	1%
2011	5,969	81	1%
2012	5,742	92	2%
2013	5,388	79	1%
2014	4,776	70	1%
2015	4,461	60	1%

Full versus Truncated LGBTQ-Related Complaints. All 466 complaints examined are closed. Out of the total 466 relevant complaints received from 2010 through 2015, 192 complaints were fully investigated (41%).

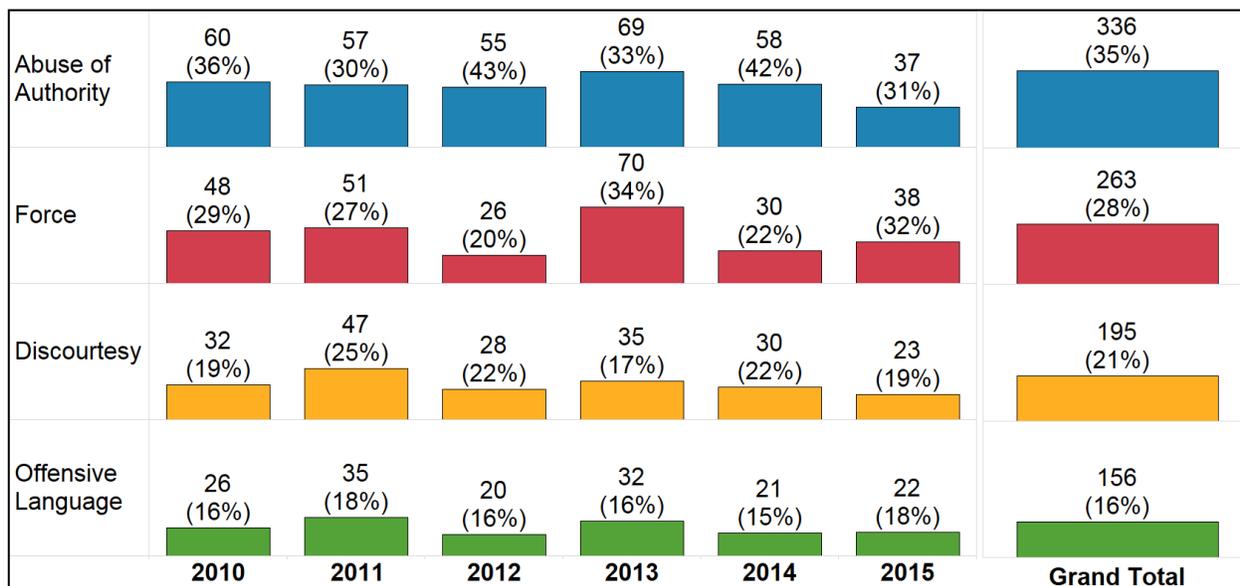
**Figure 2: Number and Percentage of LGBTQ-Related Complaints by Full Investigation
(Complaints Received 2010-2015)**



Type of Fully Investigated Allegations. Out of the total 1,959 allegations associated with the 466 LGBTQ-related complaints, 950 allegations were fully investigated. Among these fully investigated allegations, abuse of authority was consistently the highest FADO allegation each year from 2010 to 2015, except for 2013 and 2015 in which there were a few more force allegations. From 2010 through 2015 together, 35% of allegations were for abuse of authority, 28% for force, 21% for discourtesy, and 16% for offensive language.

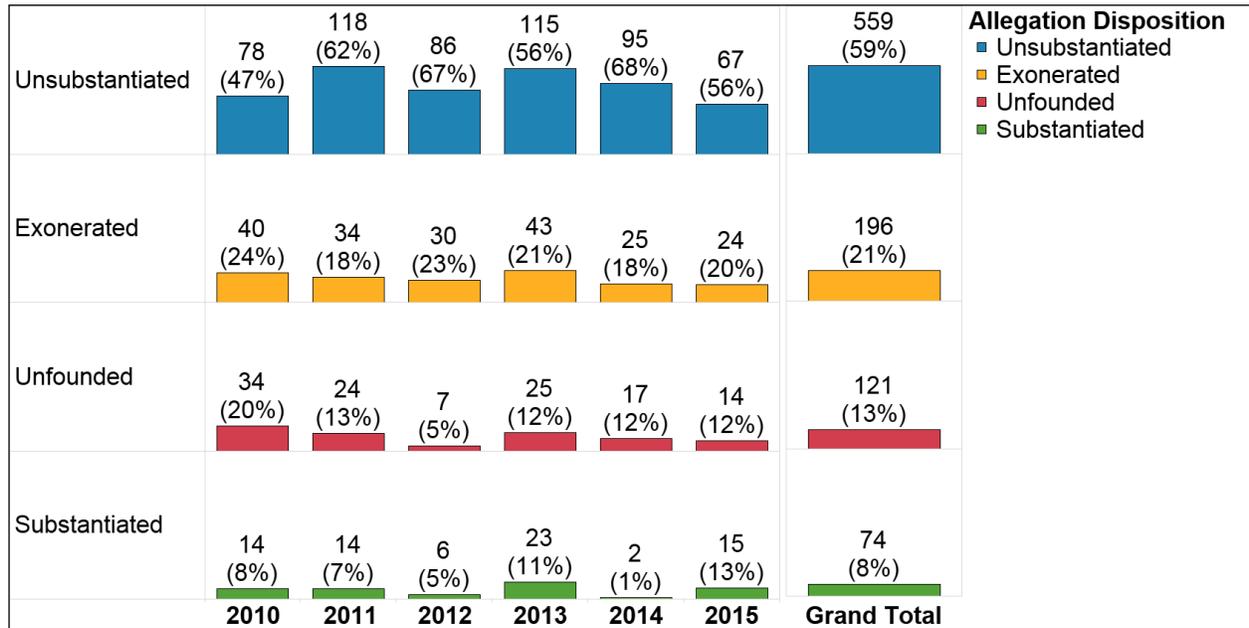
This result follows the trend of FADO allegations for CCRB complaints overall. Before the CCRB excluded 250 complaints with closely-related issues, force allegations were most numerous, followed by abuse of authority, discourtesy, and offensive language. This reversal of the general trend for CCRB complaints overall with respect to abuse of authority and force was largely driven by 156 complaints that were excluded from the analysis. In these excluded cases, the civilian used an LGBTQ-related slur or negative reference about sexual orientation or gender expression toward an officer or another civilian involved in the encounter.

Figure 3: Number and Percentage of Fully Investigated Allegations by FADO Type (Complaints Received 2010-2015)



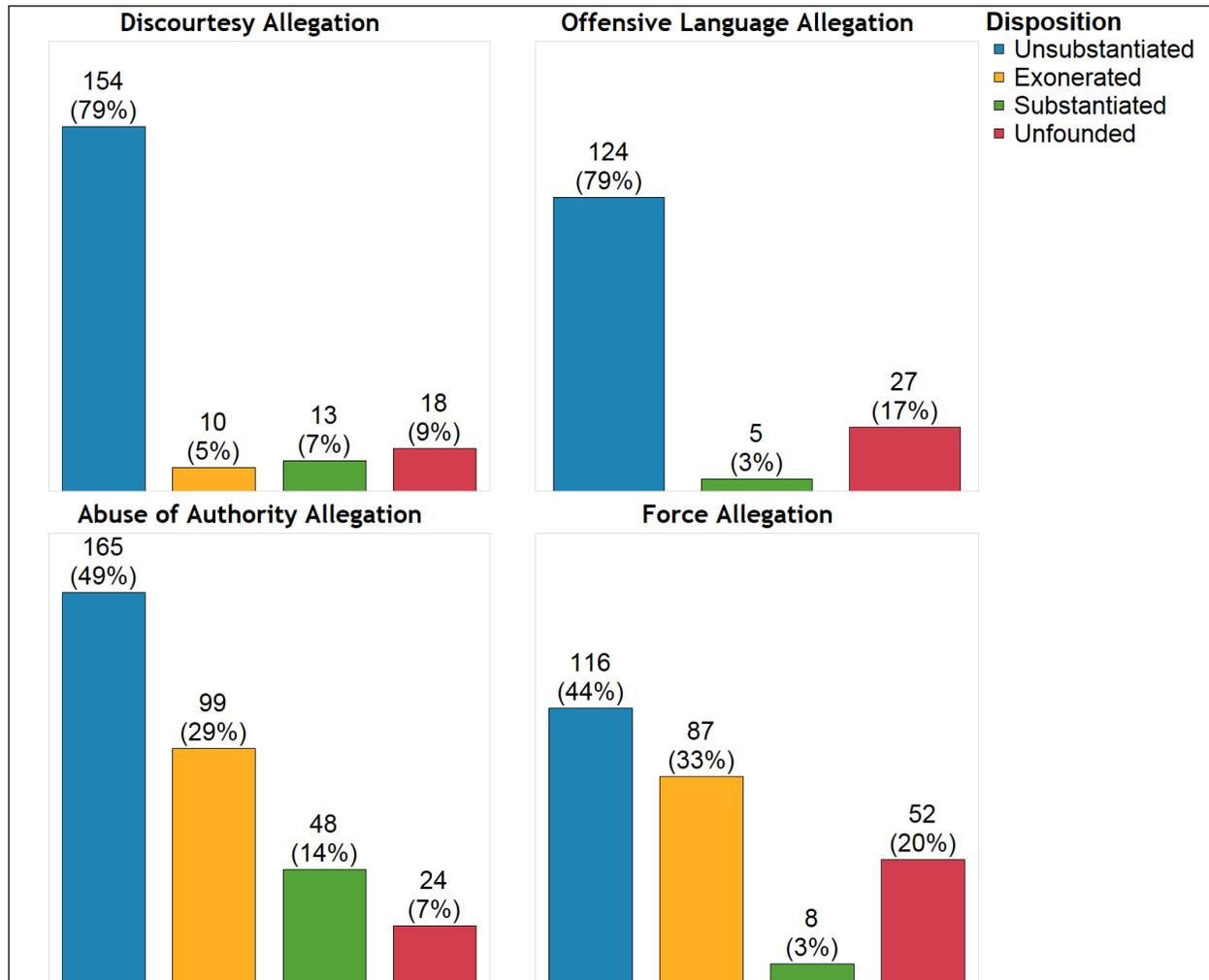
Disposition of LGBTQ-Related Fully-Investigated Allegations. Between 2010 and 2015, CCRB Board panels decided on 950 allegations from 192 full investigations. When examining the data from the past six years, 559 (59%) of allegations were unsubstantiated, 196 (21%) of allegations were exonerated, 121 (13%) of allegations were unfounded, and 74 (8%) of allegations were substantiated. It is important to note that although the related complaints were received by the CCRB from 2010 through 2015, CCRB Board panels may have decided upon these cases in subsequent years. For example, a complaint that was received in 2010 may have been decided upon in 2011. The significant time lag between date received and date closed has become rarer since late 2014 when case processing times were dramatically reduced due to faster and more efficient processes at the CCRB.

**Figure 4: Number and Percentage of Fully Investigated Allegation Dispositions by Year
(Complaints Received 2010-2015)**



The data shows several differences among the dispositions with respect to FADO allegations. Unsubstantiated discourtesy (79%) and offensive language (79%) allegations were more numerous than force (44%) and abuse of authority (49%) allegations. In contrast, exonerated force (33%) and abuse of authority allegations (29%) were more numerous than discourtesy (5%) and offensive language (0%) allegations. Discourtesy and offensive language cases are particularly difficult to prove without independent verification. This highlights one of the differences between discourtesy and offensive language cases on one hand, and force and abuse of authority cases on the other. At the center of discourtesy and offensive language cases is whether or not the act in question occurred, whereas in many force and abuse of authority cases, it is often undisputed that an act occurred and therefore the focus of these types of cases is whether or not the act was justified. Substantiated allegations were most numerous for abuse of authority cases (14%), while unfounded allegations were most numerous for force cases (20%).

**Figure 5: Number and Percentage of Fully Investigated Allegations by FADO
(Complaints Received 2010-2015 together)**

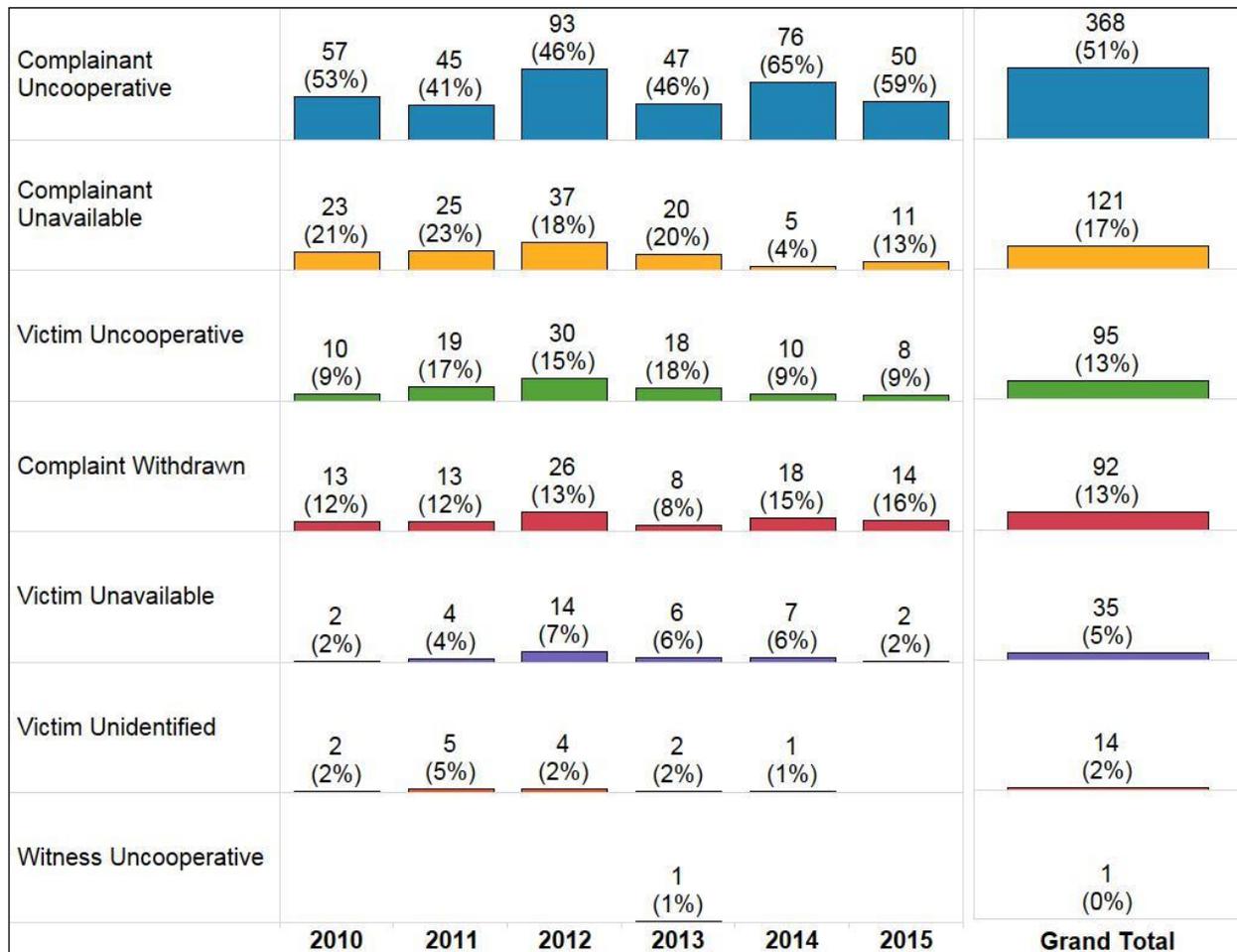


Truncated LGBTQ-Related Complaints. Out of the 466 relevant complaints received between 2010 and 2015, 274 complaints were truncated (59%). Truncations include the following categories: complainant/victim/witness uncooperative, complainant/victim/unavailable, complaint withdrawn, and victim unidentified.⁶⁰ Similarly, looking at all 32,802 complaints received within CCRB jurisdiction from 2010 through 2015, 61% were truncated. For the 466 complaints under examination within the past six years together, complainant uncooperative was three times more likely to be the cause of truncation (51%) than complainant unavailable (17%), the second most common reason. The other categories (victim uncooperative, complaint

⁶⁰ A truncated case is closed due to the victim's lack of interest or availability. A truncated case is closed as complainant/victim/witness uncooperative when their participation is insufficient to enable the board to conduct a full investigation. A truncated case is closed as complainant/victim/witness unavailable when they cannot be located. A truncated case is closed as complaint withdrawn when the complainant voluntarily withdraws the complaint. A truncated case is closed as victim unidentified when the CCRB is unable to identify the victim.

withdrawn, victim unavailable, victim unidentified and witness uncooperative) comprise the remaining 33% of truncations. For the complaints under examination, the number of overall truncations has decreased over the past six years.

**Figure 6: Number and Percentage of Truncated LGBTQ-Related Complaints
(Complaints Received 2010-2015)**



LGBTQ-Related Complaints Mediated. The CCRB offers mediation to every civilian with appropriate cases.⁶¹ The goal of mediation is to allow civilians and officers to voluntarily resolve issues contained in the complaint through informal conciliation. The CCRB has generally increased the number of its successfully mediated cases on an annual basis. With respect to the 466 examined LGBTQ-related complaints; however, the number of mediations has been more inconsistent. Three complaints were mediated in 2010, none in 2011,

⁶¹ A case is suitable for mediation if there are no allegations of property damage or personal injury, the complainant/victim is not planning on filing a lawsuit, there is no current IAB investigation, and there are no underlying arrests (i.e., the subject officer is the arresting officer).

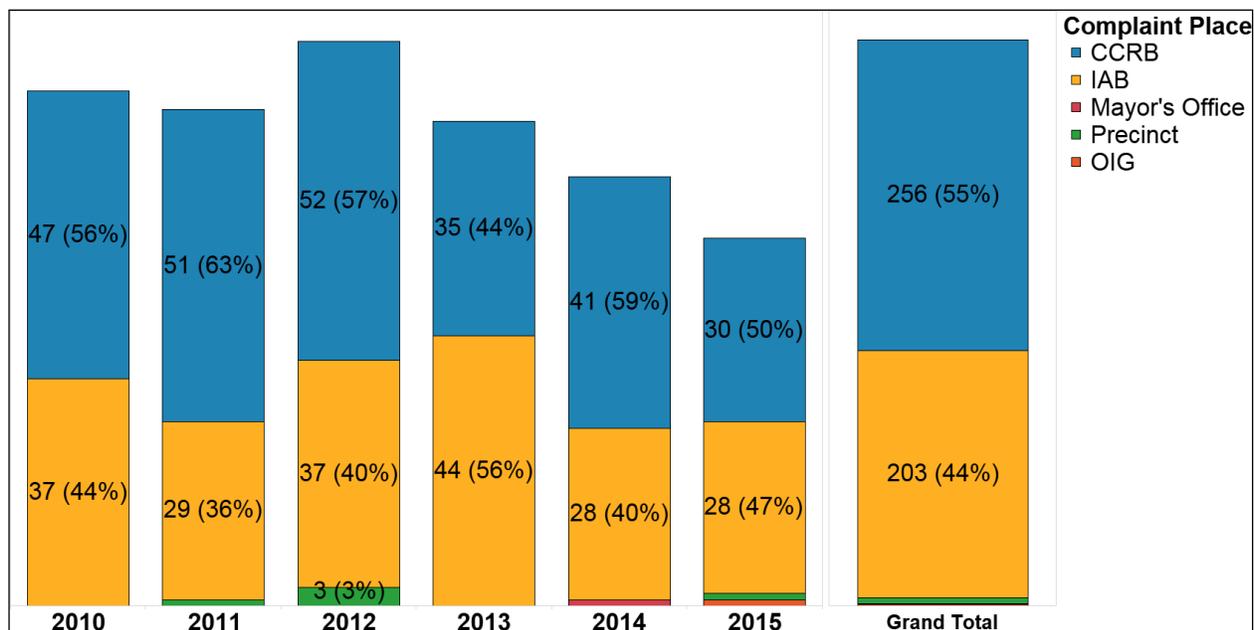
2 in 2012, 4 in 2013, 7 in 2014 and none in 2015. Five complaints were classified as mediation attempted in 2010, 7 in 2011, 11 in 2012, 4 in 2013, none in 2014, and 14 in 2015.⁶²

SECTION FOUR: CHARACTERISTICS OF LGBTQ-RELATED COMPLAINTS

The CCRB isolated relevant characteristics of LGBTQ-related complaints, including how where complaints were filed, location type, demographics of complainant/victims, victims, alleged victims and subject officers.

Location where LGBTQ-Related Complaints are Filed. The location of the 466 LGBTQ-related complaints examined have been largely split between CCRB and IAB, with 55% of complaints received by the CCRB and 44% received by the IAB from 2010 through 2015.

Figure 7: Number and Percentage of LGBTQ-Related Complaints by Location of Complaint (Complaints Received 2010-2015)

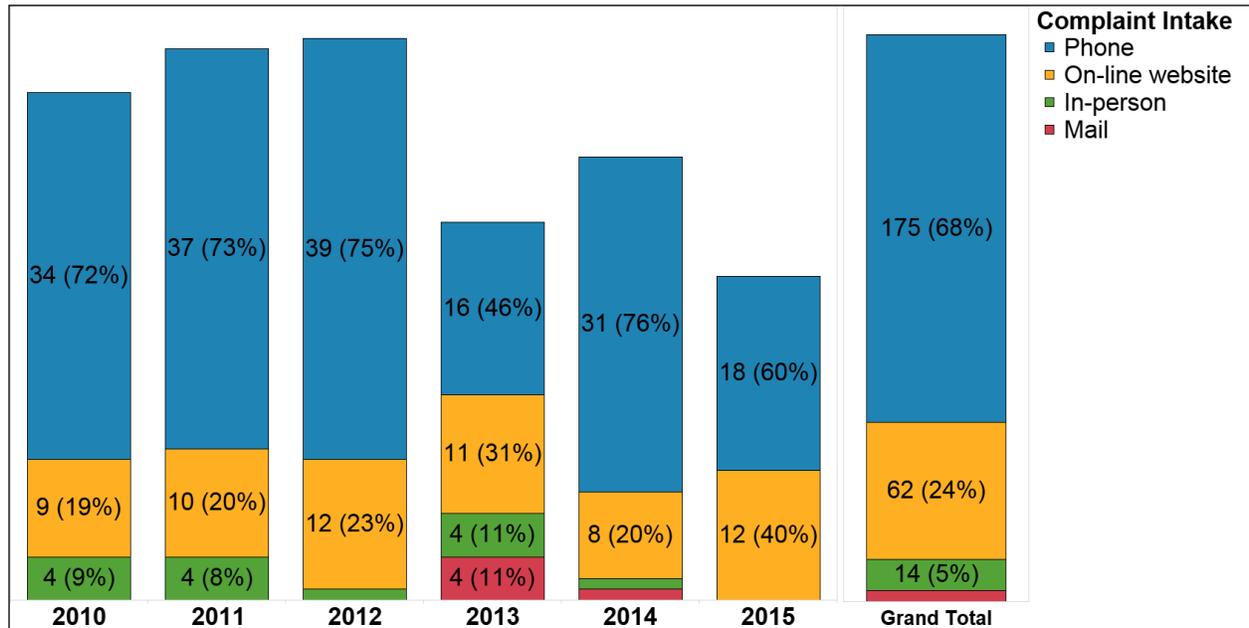


Intake of LGBTQ-Related Complaints. The majority of complaints made directly to the CCRB are via telephone. Between 2010 and 2015, the telephone has been the primary method for filling a complaint at the CCRB (68%). Filing complaints via the CCRB website was

⁶² Mediation Attempted refers to a situation in which an officer agrees to mediate and the complainant becomes unavailable after the complainant initially agreed to mediation.

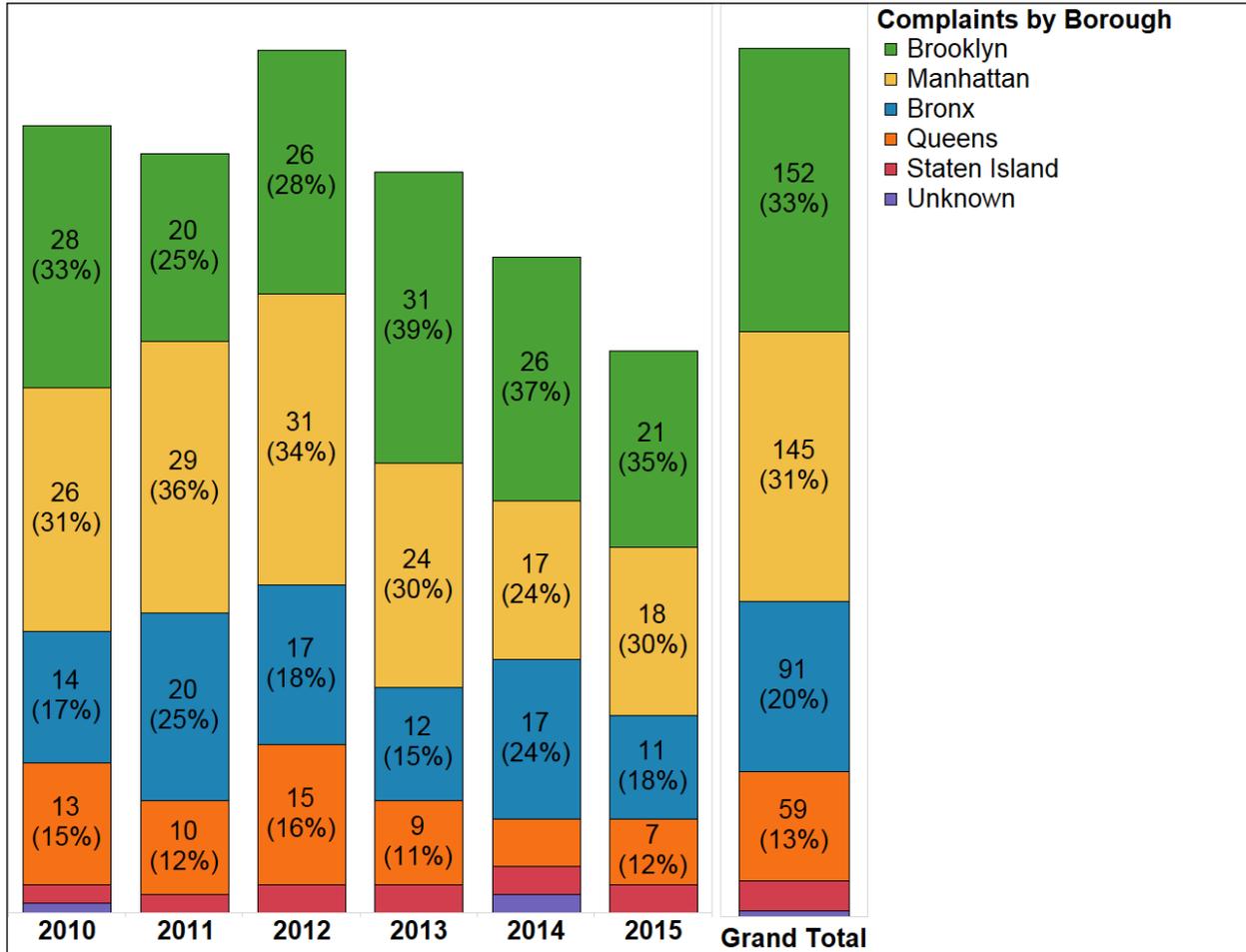
the second most common method with 24% of complaints from 2010 through 2015, followed by 5% in person.

**Figure 8: Total Number and Percentage of LGBTQ-Related Complaints by Mode of Complaint Made to the CCRB
(Complaints Received 2010-2015)**



Location of LGBTQ-Related Complaints. The CCRB maintains information on the borough, precinct and location where incidents that form the basis of complaints occur. At the borough level, the distribution of the 466 LGBTQ-related complaints between 2010 and 2015, together, follows a similar pattern to all CCRB complaints. It is important to note that borough and precinct-level data are not necessarily attributable to any one factor. About a third of LGBTQ-related complaints originated in Brooklyn (33%), followed by 31% in Manhattan, 20% in the Bronx, 13% in Queens, and 3% in Staten Island. In 1% of complaints, the CCRB received incomplete information on the location and was not able to identify where the alleged misconduct took place.

**Figure 9: Number and Percentage of LGBTQ-Related Complaints by Borough
(Complaints Received 2010-2015)**

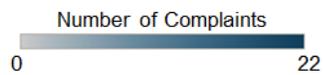
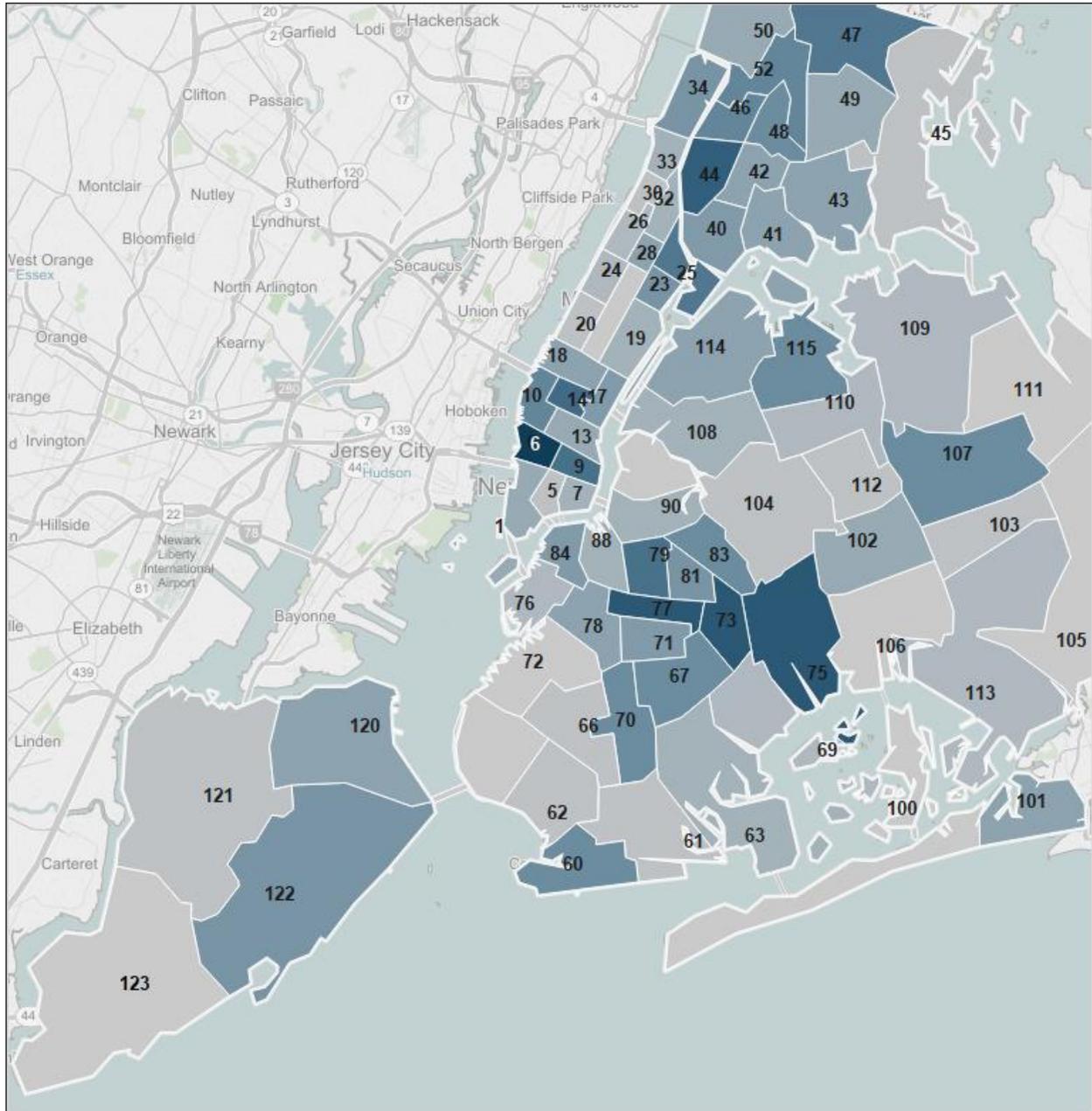


For the period under discussion, precincts with a visibly larger LGBTQ population generated a greater amount of complaints. Precinct 6 which encompasses the West Village, and is the former location of the Stonewall Inn, continues to experience the highest amount of LGBTQ-related complaints (22 from 2010 through 2015). According to the 2015 testimony for the President’s Task Force on 21st Century Policing from FIERCE, a West Village LGBTQ youth of color-led organization founded in response to the enforcement of Broken Window Policing policies, LGBTQ youth in the area have been “targeted” due to “age, race, gender identity and expression, class and individual status as homeless or marginally housed.”⁶³ Precincts 73, 75 and 77, located in Brooklyn, also generated a high number of complaints (17 complaints per precinct from 2010 through 2015), similar to trends that exist in CCRB complaint

⁶³ FIERCE. 2015. *A Testimony from FIERCE for the President’s Task Force on 21st Century Policing*. http://changethenypd.org/sites/default/files/docs/FIERCE_WrittenComments.pdf.

activity overall.⁶⁴ However, precinct 6 is not a high-complaint area with respect to overall CCRB complaints within the last six years in which precinct 6 ranks 30th.

**Figure 10: LGBTQ-Related Complaints by Precinct
(Complaints Received 2010-2015)**

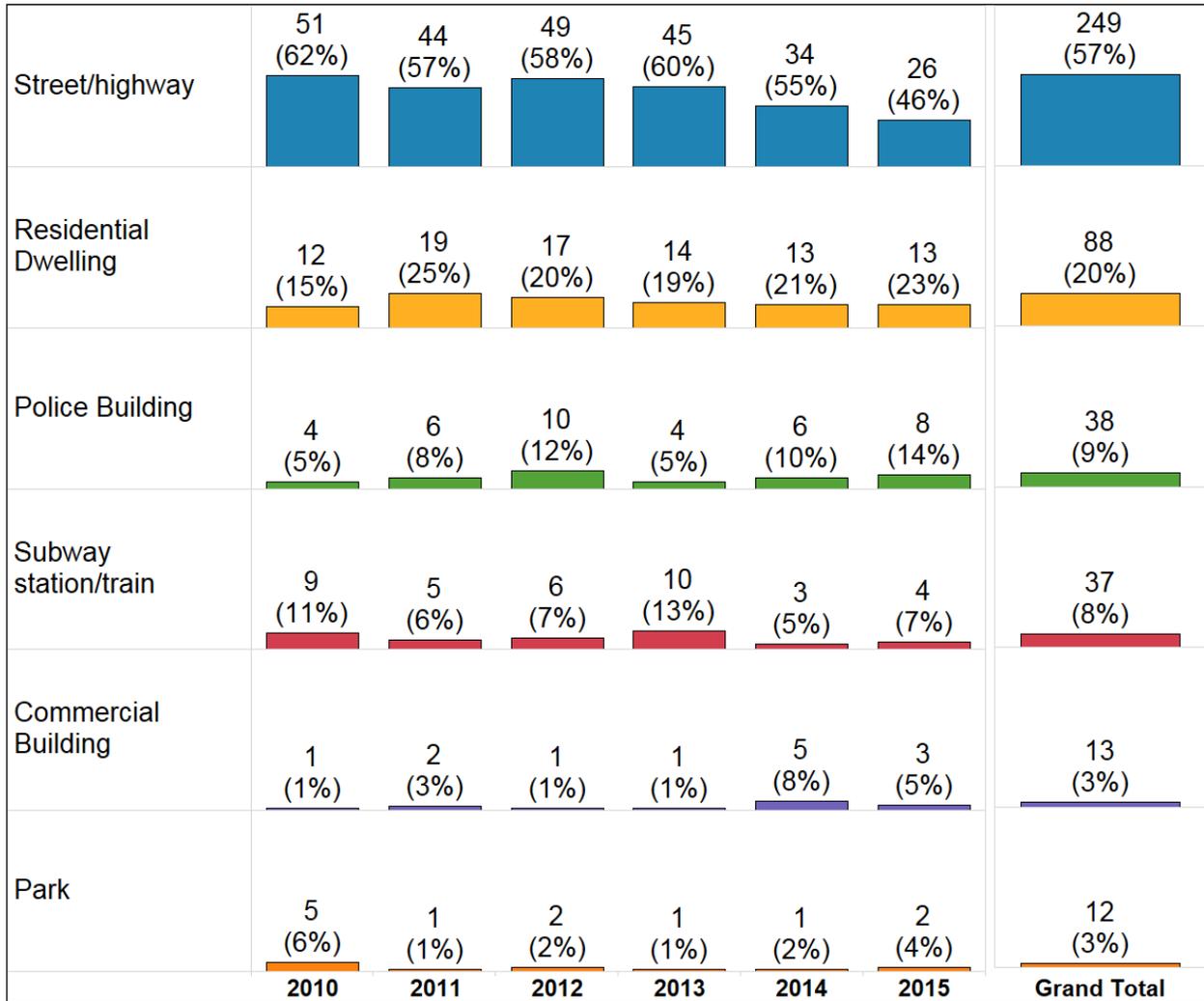


⁶⁴ Regarding the precinct distribution of overall complaints between 2010 and 2015, together, precincts 73, 75 and 77, rank fifth, fourteenth and first, respectively.

The majority of known locations for LGBTQ-related complaints originate from encounters occurring in public space. An LGBTQ-related complaint was most likely to be filed from an encounter that occurred on the street/highway, with 57% of all the overall complaints originating from this location. This is similar to overall CCRB complaints from 2010 through 2015 in which the most common location of incidents is on the street/highway.⁶⁵ On an annual basis, complaints that originate from the street or highway have declined from 62% in 2010 to 46% in 2015, a possible result of the updated guidelines on stop and frisk policies. At 20% of overall complaint activity, residential dwellings accounted for the second most common location of incidents, and these figures have remained relatively constant between 2010 and 2015.

⁶⁵ Here are numbers for the location of incidents regarding all CCRB complaints received from 2010 through 2015: Street/highway 19,746 (60%), Residential dwelling 8,054 (25%), Police Building 2,192 (7%), Subway/train 1,277, (4%), Commercial Building 1,000 (3%), Park 471 (1%).

**Figure 11: Number and Percentage of LGBTQ-Related Complaints by Location
(Complaints Received 2010-2015)**



Characteristics Surrounding LGBTQ-Related Complaint Activity. The CCRB analyzed the reasons for contact within the 466 total complaints. Suspicion of a violation of a crime was the most common justification provided for initiated contact (39% of complaints overall). “Other” is the second most popular motive for contact initiated at 24%. This classification is provided when CCRB investigators find it difficult to categorize the nature of the stop. Use of this “Other” category has generally declined since 2010 due to increased investigative training and the addition of new categories to define the contact reason for stops. Some of these new categories include: victim was already in custody, victim reports an officer even if they did not directly engage each other, or an officer calls a victim and the interaction results with alleged misconduct. Of particular interest are the 37 cases (8%) in which a complainant contacted the precinct or requested an investigation that resulted in filing an LGBTQ-related complaint. As an example, in a 2014 incident that was ultimately mediated, a

complainant called a precinct inquiring about her transgendered son who was in custody. She filed a complaint alleging that the officer who answered the phone made LGBTQ-related slurs regarding her son’s gender identity.

Figure 12: Number and Percentage of LGBTQ-Related Complaints by Contact Reason (Complaints Received 2010-2015)

	2010	2011	2012	2013	2014	2015	Grand Total
PD Suspects Violation of Crime	34 (40%)	30 (37%)	35 (38%)	33 (42%)	28 (40%)	20 (33%)	180 (39%)
Other	29 (35%)	23 (28%)	19 (21%)	18 (23%)	10 (14%)	15 (25%)	114 (24%)
PD Responds to Reported Crime	9 (11%)	10 (12%)	14 (15%)	10 (13%)	14 (20%)	9 (15%)	66 (14%)
C/V Contacts PD	4 (5%)	4 (5%)	9 (10%)	5 (6%)	11 (16%)	4 (7%)	37 (8%)
PD Response to Violation	6 (7%)	5 (6%)	6 (7%)	6 (8%)		3 (5%)	26 (6%)
PD Executes Warrant	1 (1%)	3 (4%)	4 (4%)	4 (5%)	4 (6%)	1 (2%)	17 (4%)
C/V at PCT for Property, Information or File Complaint		2 (2%)	3 (3%)	1 (1%)	2 (3%)	4 (7%)	12 (3%)
EDP Aided Case		2 (2%)	2 (2%)	1 (1%)		1 (2%)	6 (1%)
C/V Intervenes on Behalf of/observed Encounter	1 (1%)	1 (1%)		1 (1%)		2 (3%)	5 (1%)
Parade or Special Event		1 (1%)			1 (1%)	1 (2%)	3 (1%)

In general, outcomes that follow contact can result in an arrest, a summons or neither. Following a similar trend to CCRB data overall, no summons was issued or arrest was made in almost half of the total LGBTQ-related complaints (207 complaints or 45%). This is followed by 39% of encounters including an arrest (179), and 16% of encounters resulting in a summons issued (76).⁶⁶

⁶⁶ The outcome description for four complaints were classified as other.

**Figure 13: Number and Percentage of LGBTQ-Related Complaints by Outcome Description
(Complaints Received 2010-2015)**

	2010	2011	2012	2013	2014	2015	Grand Total
No Summons or Arrest	34 (41%)	32 (40%)	49 (54%)	31 (39%)	36 (51%)	25 (43%)	207 (45%)
Arrest	33 (40%)	32 (40%)	32 (35%)	34 (43%)	23 (33%)	25 (43%)	179 (39%)
Summons Issued	16 (19%)	17 (21%)	10 (11%)	14 (18%)	11 (16%)	8 (14%)	76 (16%)

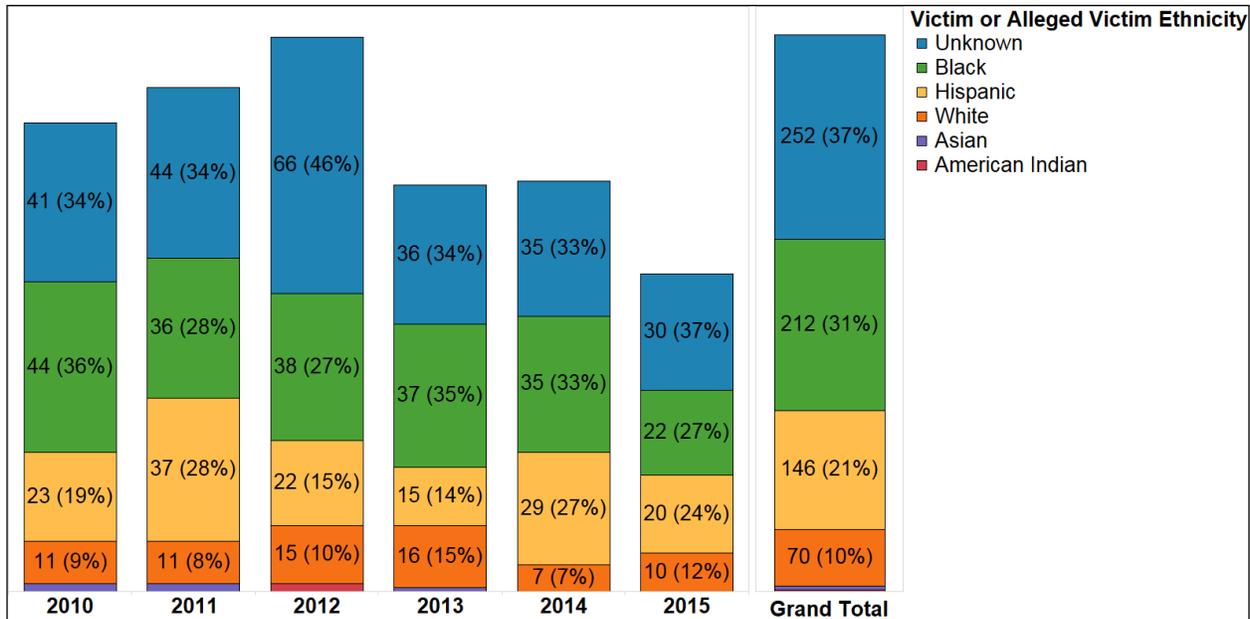
Socio-demographics of Victims and Alleged Victims in LGBTQ-Related Complaints. Interactions between law enforcement and the LGBTQ community are not monolithic. Each instance can be viewed through the lens of race, class, age, immigration status, gender identity or expression.⁶⁷

Ethnicity of Victims and Alleged Victims in LGBTQ-Related Complaints. In 2012, the Center for Constitutional Rights found that race was the primary factor for determining who was stopped by the NYPD during stop and frisk policies, even in racially diverse neighborhoods.⁶⁸ The 466 LGBTQ-related complaints involved 687 victims or alleged victims. Looking at the past six years as a whole, 37% of victims or alleged victims did not report a specific race or ethnicity. Black people comprised 31% of the LGBTQ-related victims and are the largest group of victims or alleged victims that reported their ethnicity. Hispanics represent the second highest reporting demographic at 21%. White individuals comprise an overall 10%, and Asians comprise 1%. When data on victims or alleged victims with unknown ethnicity is removed, then 49% are Black, 34% Hispanic, 16% White, 1% Asian and less than 1% American Indian.

⁶⁷ Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Beacon Press, 2012). Page xviii.

⁶⁸ Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*. <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>. Page 11.

Figure 14: Number and Percentage of Victims and Alleged Victims in LGBTQ-Related Complaints by Ethnicity (Complaints Received 2010-2015)



Gender of Victims and Alleged Victims in LGBTQ-Related Complaints. Between 2010 through 2015, 64% of victims or alleged victims identified as male, while 19% identified as female. Sixteen percent of victims provided no gender information which could have been due to a variety of factors. First, the complaint could have been closed before the victim or alleged victim provided their gender. Second, some individuals may not have been able or desired to classify themselves within the binary “male” or “female” categorization. This is especially true since the CCRB had no way of tracking the gender identity or sexual orientation of individuals until December 2015, when optional questions were added to CCRB complaint forms to better accommodate those who do not fit within binary categories. When data on victims or alleged victims with unknown gender is removed, then the gender split is 77% who identified as male, and 23% who identified as female.

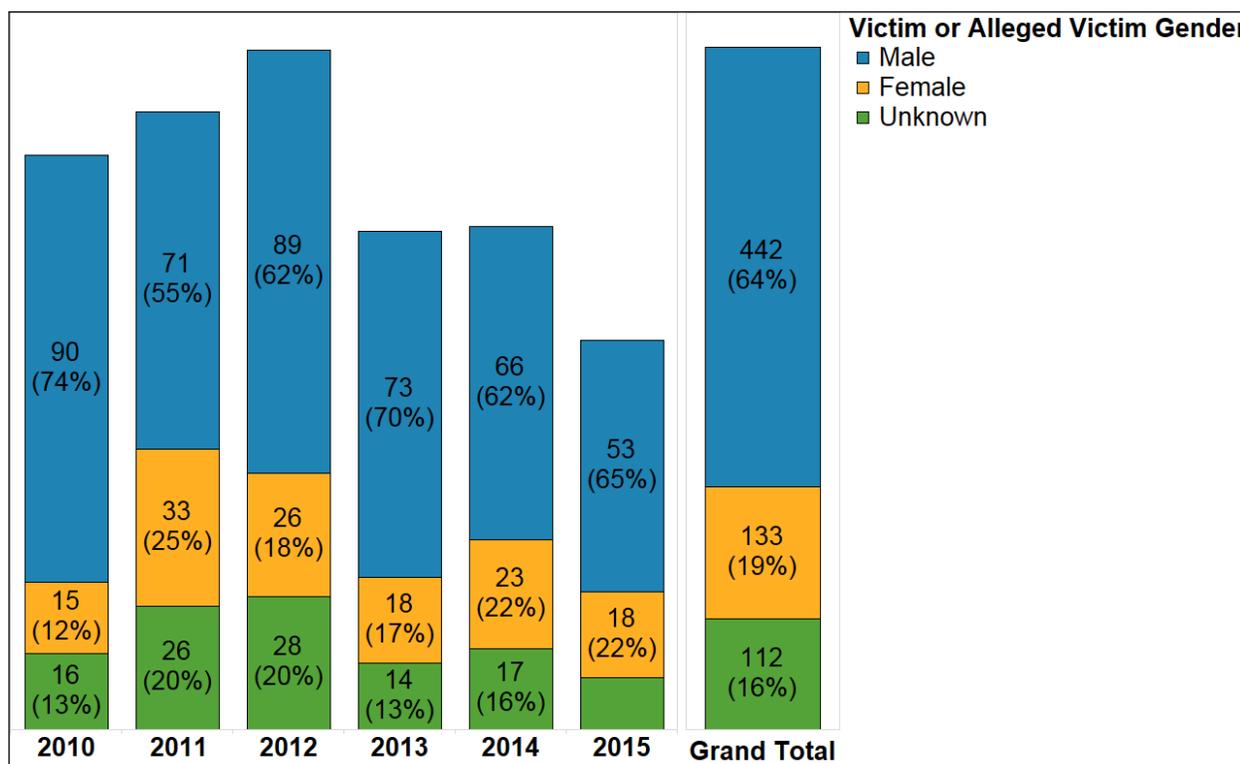
Transgender individuals are particularly at risk for harassment as highlighted by the “Walking while trans” common descriptor.⁶⁹ As discussed previously, until 2012, stop, question and frisk policies allowed police officers to stop transgender individuals for prostitution-related offenses and subsequently charge them if there were any condoms in their possession.⁷⁰ The 2013 survey of residents in Jackson Heights, Queens by Make the Road New York found that 61% of transgender respondents reported being stopped and harassed by the police for

⁶⁹ Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*. <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.

⁷⁰ Ibid.

prostitution related offenses or for their ID not matching their gender presentation. This is in contrast to 33% of non-LGBTQ individuals surveyed.⁷¹ While this report indicates higher rates of police misconduct within the transgender community than non-LGBTQ counterparts in Jackson Heights, Queens, the relationship between this community and law enforcement is a national challenge. A 2011 national survey of 6,450 transgender and gender non-conforming participants conducted by the National Center for Transgender Equality and National Gay and Lesbian Task Force found that 46% of respondents reported they were uncomfortable seeking police assistance in any circumstance, and 22% said they felt harassed due to police bias.⁷²

**Figure 15: Number and Percentage of Victims and Alleged Victims in LGBTQ-Related Complaints by Gender
(Complaints Received 2010-2015)**



Although there were more victims who identified as male from 2010 through 2015, the proportion of FADO allegations within each gender is different. Individuals who identified as male were connected to 55% of abuse of authority allegations, 20% of discourtesy, 13% of force, and 13% of offensive language allegations within the past six years. In contrast, individuals who

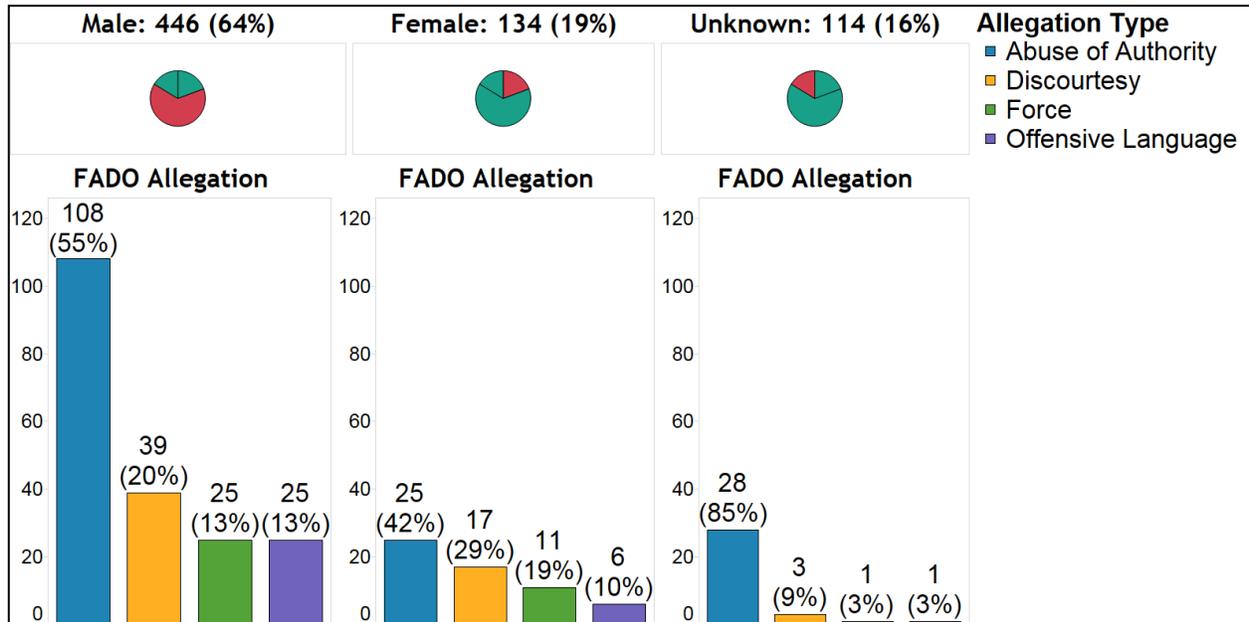
⁷¹ Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf.

⁷² Jaime Grant, Lisa Mottet, and Justin Tanis. 2011. *Injustice at Every Turn A Report of the National Transgender Discrimination Survey*.

identified as female were connected to 42% of abuse of authority allegations, 29% of discourtesy, 19% of force, and 10% of offensive language allegations.

Figure 16: Number and Percentage of FADO Allegations in LGBTQ-Related Complaints by Gender of Victim and Alleged Victims (Complaints Received 2010-2015)⁷³



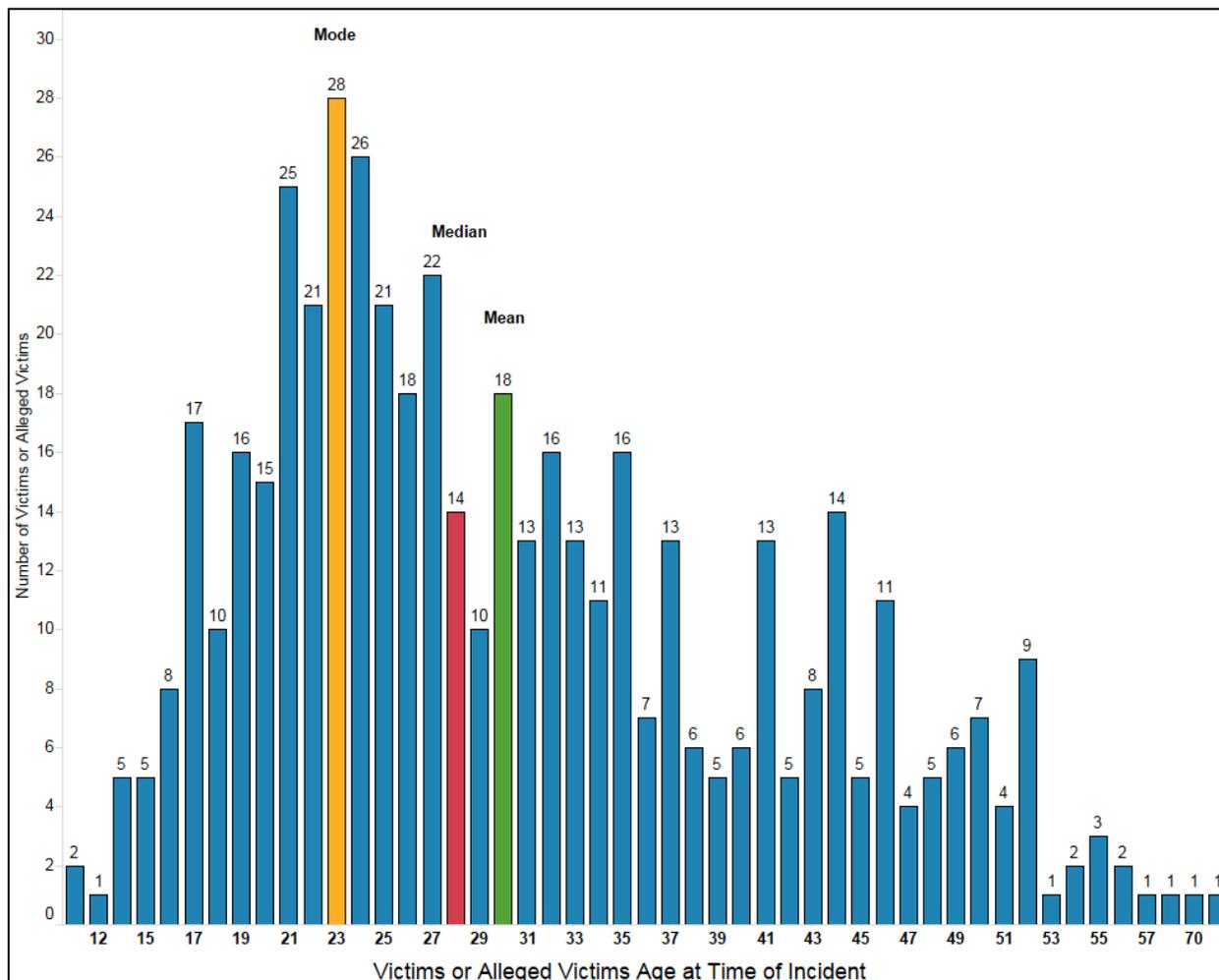
Age of Victims and Alleged Victims in LGBTQ-Related Complaints. The known ages of 491 victims or alleged victims within the 466 total LGBTQ-related complaints ranged from 11 to 71.⁷⁴ The average age for filing a report was 30 years old, while the median was 28 years old, and the most frequent age was 23 years old. Data over the past six years shows a skew towards younger individuals in complaints received by the CCRB. This finding coincides with local and national research that identifies LGBTQ youth as having a higher likelihood of negative police contact.⁷⁵

⁷³ The red sectors in the pie charts refer to the male, female and unknown gender of victims or alleged victims, respectively.

⁷⁴ Complaint Victim/Victims that file multiple complaints at different ages have been counted as unique complaints in different age groups.

⁷⁵ Hannah Bruckner and Kathryn Himmelstein. 2010. "Criminal-Justice And School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study". *American Academy Of Pediatrics*. <http://pediatrics.aappublications.org/content/pediatrics/early/2010/12/06/peds.2009-2306.full.pdf>; Carolyn Reyes, Jody Marksamer and Katayoon Maid. 2009. "Hidden Injustice Lesbian, Gay, Bisexual, And Transgender Youth In Juvenile Courts," *The Equity Project*. http://www.equityproject.org/wp-content/uploads/2014/08/hidden_injustice.pdf; Brett Stoudt, Michelle Fine, and Madeline Fox, "Growing up Policed in the Age of Aggressive Policing Policies," <http://www.indiana.edu/~atlantic/wp-content/uploads/2011/11/Stoudt-Fine-Fox-Growing-Up-Policed.pdf>.

**Figure 17: Age of Victims and Alleged Victims in LGBTQ-Related Complaints at Time of Incident
(Complaints Received 2010-2015 together)**



Homeless LGBTQ youth are particularly at risk. A 2013 survey by the New York City Coalition on the Continuum of Care of 182 homeless youth at drop-in centers and supportive housing in New York City found that 34% of respondents identified as lesbian, gay or bisexual, and 6% identified as transgendered.⁷⁶ Research has found that antagonistic family relationships, discord, parents forcing their children out of the house, high dropout rates, incarceration and unemployment were many problems often associated with homelessness. These problems are more striking for youth who identify as LGBTQ, and are a growing concern as the age for coming out gets lower.⁷⁷ Moreover, lack of social and material support can lead youth to

⁷⁶ Lance Freeman, and Darrick Hamilton. 2013. *A Count Of Unaccompanied Homeless Youths In New York City*. New York City Coalition on the Continuum of Care. http://www.nychomeless.com/downloads/pdf/2013_NYC_Homeless_Youth_Report.pdf.

⁷⁷ Christian Grovab, David Bimbiab, Jeffery Parsons and Jose Naninbc. “Race, Ethnicity, Gender, And Generational Factors Associated With The Coming-Out Process Among Gay, Lesbian, And Bisexual Individuals”. *Journal Of Sex Research* 43 no. 2 (2006) <http://www.ncbi.nlm.nih.gov/pubmed/16817058>;

participate in survival sex that can increase the likelihood that they will come into direct contact with law enforcement. In the same 2013 study by the New York City Coalition on the Continuum of Care, lesbian, gay and bisexual homeless youth in New York City were found to be seven times more likely, and transgender youth eight times more likely, to engage in survival sex than their homeless heterosexual counterparts.⁷⁸

Age-restricted venues or a home environment where gender identity or sexual orientation cannot be freely expressed limits the spaces where LGBTQ youth can socialize or interact publicly.⁷⁹ LGBTQ youth have routinely protested alleged harassment and targeting by police throughout public spaces in the West Village and Chelsea.⁸⁰ It is important to note that the data from the 466 complaints received from 2010 through 2015 within CCRB jurisdiction examined in this report does not show that LGBTQ youth have routinely faced or have been targeted by the NYPD in public spaces in the West Village and Chelsea. However, there is a great body of research cited within this report indicating real concerns with respect to this specific population, especially in light of lack of reporting, due to fear of retaliation and little belief that the concerns of LGBTQ youth will be taken seriously. In 2011, the Polling for Justice survey, a study designed by youth and adult researchers in New York City, found that LGBTQ youth ranging in age between 14 and 21 years old reported more negative police contact (61%) than their straight counterparts (47%). LGBTQ youth also had more negative verbal experiences (54% versus 39%, respectively), increased negative physical interactions (24% versus 15%, respectively) and were more likely to have negative sexual encounters (28% versus 10%, respectively)⁸¹ than their non-LGBTQ counterparts.⁸²

Characteristics of Subject Officers in LGBTQ-Related Complaints. There were 579 known subject officers associated with the 466 LGBTQ-related complaints. Between 2010 and 2015, a majority of subject officers in LGBTQ allegations were male (92%) and 8% were

Caitlin Ryan, David Huebner, Jorge Sanchez, Rafael Diaz and Stephen Russell. "Family Acceptance In Adolescence And The Health Of LGBT Young Adults". *Child And Adolescent Psychiatric Nursing* 23 no 4 (2014) <http://www.ncbi.nlm.nih.gov/pubmed/21073595>; Geoffrey Ream and Nicolas Forge, "Homeless Lesbian, Gay, Bisexual And Transgender (LGBT) Youth In New York City: Insights From The Field". *Child Welfare* 93 (2) http://scholarworks.gsu.edu/ssw_facpub/61/; Nico Sifra Quintana, Josh Rosenthal, and Jeff Krehely. 2010. "On the Streets, The Federal Response to Gay and Transgender Homeless Youth." *Center for American Progress*. <https://www.americanprogress.org/issues/lgbt/report/2010/06/21/7983/on-the-streets/>.

⁷⁸ Lance Freeman and Darrick Hamilton. 2013. *A Count Of Unaccompanied Homeless Youths In New York City*. New York City Coalition on the Continuum of Care.

http://www.nychomeless.com/downloads/pdf/2013_NYC_Homeless_Youth_Report.pdf. Page 26

⁷⁹ Amnesty International. 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*.

⁸⁰ FIERCE. 2011. *LGBTQ Youth Of Color Organization - FIERCE - Demands Immediate End To The Targeting And Harassment Of LGBTQ Youth In The West Village*.

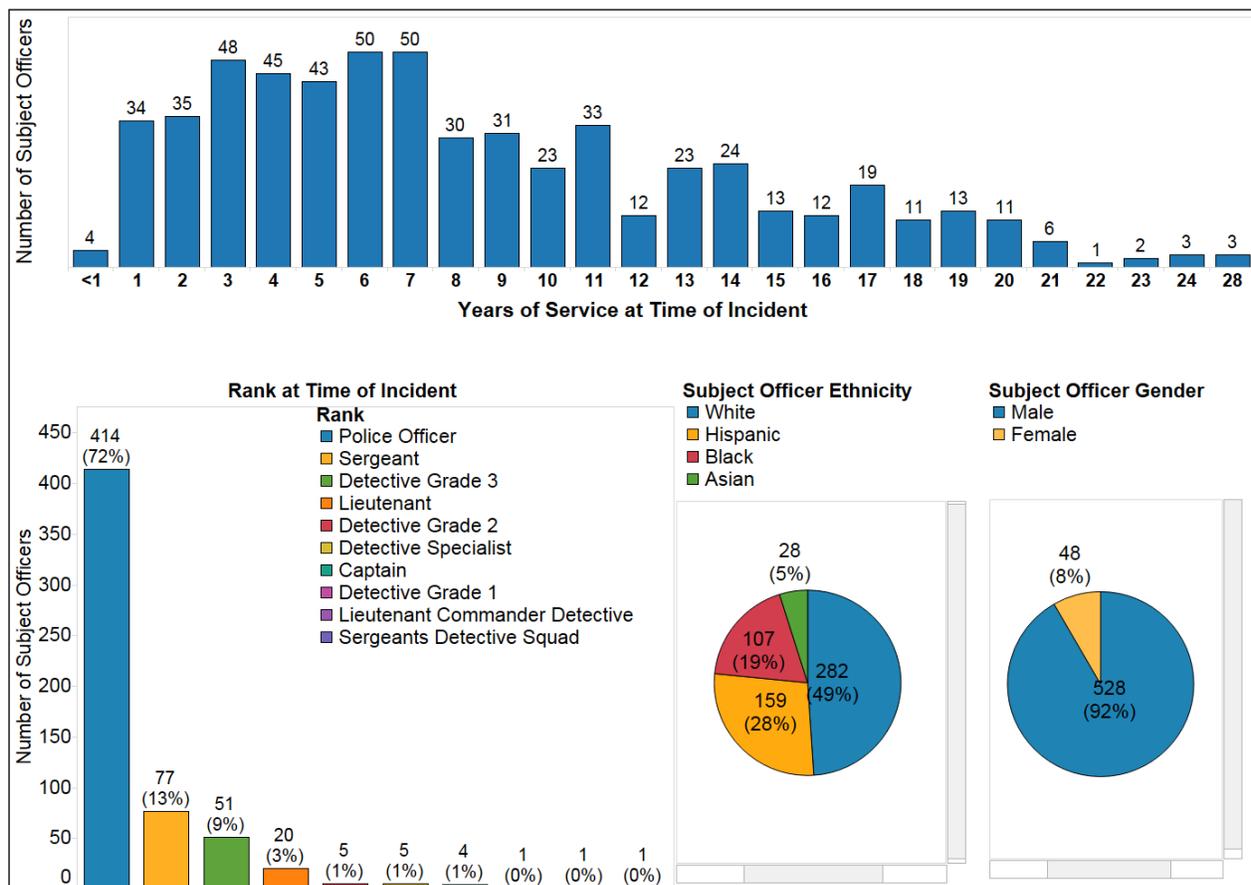
http://www.fiercenyc.org/sites/default/files/releases/632011_FIERCE_EndQualityofLife_PressRelease.pdf.

⁸¹ Brett Stoudt, Michelle Fine, and Madeline Fox, "Growing up Policed in the Age of Aggressive Policing Policies," <http://www.indiana.edu/~atlantic/wp-content/uploads/2011/11/Stoudt-Fine-Fox-Growing-Up-Policed.pdf>.

⁸² Ibid.

female. The ethnic breakdown of these officers was 49% White, 28% Hispanic, 19% Black, and 5% Asian. These officers had an average of nine years on the force at the time of incident, with a median of seven years. The majority of complaints were for officers with seven years or less on the force at the time of incident. With respect to rank from 2010 through 2015 together, the majority of subject officers were police officers (72%), followed by sergeants (13%).

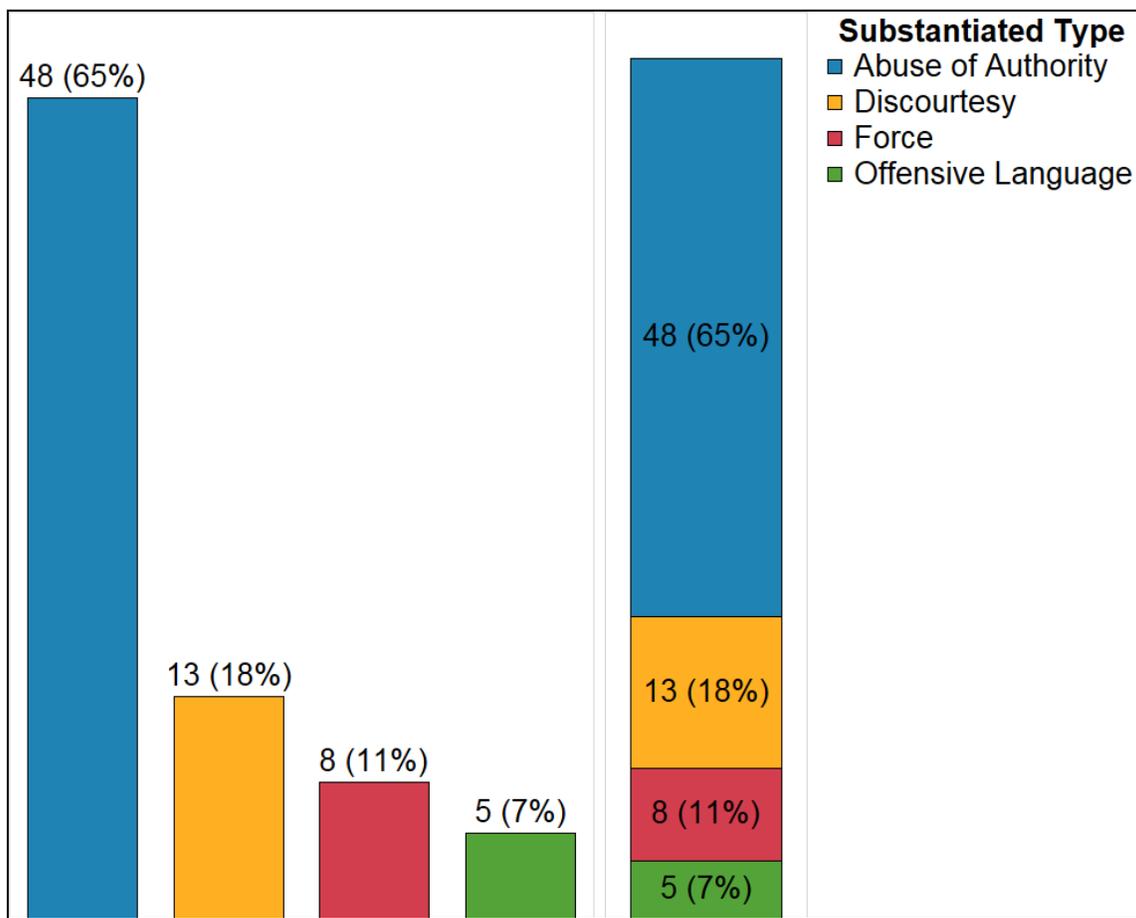
Figure 18: Number and Percentage of Members of Service in LGBTQ-Related Complaints by Years on the Force at Time of Incident, Gender and Ethnicity (Complaints Received from 2010-2015 together)



SECTION FIVE: A REVIEW OF SUBSTANTIATED ALLEGATIONS

The CCRB reviewed all complaints involving LGBTQ-related misconduct that contained at least one substantiated allegation between 2010 and 2015. There are a total of 74 substantiated allegations within 33 distinct complaints. Of the 33 distinct complaints with at least one substantiated allegation, 45% occurred in Manhattan, 33% in Brooklyn, 15% in the Bronx, and 6% in Queens. There were no complaints with at least one substantiated allegation in Staten Island. With respect to precincts, precinct 9 had the most unique complaints with at least one substantiated allegation (3). There were two unique complaints with at least one substantiated allegation each from Precinct 6, 23, 25, 75, 78, 82, and 102. Precincts 1, 10, 14, 18, 20, 24, 41, 42, 43, 44, 49, 69, 70, 73, 79, 88 each had one complaint. Over half of the 74 substantiated allegations (65%) were for abuse of authority, 18% for discourtesy, 11% for force, and 7% for offensive language.

Figure 19: Number and Percentage of Substantiated FADO Allegations in LGBTQ-Related Complaints (Complaints Received 2010-2015 together)



Under the “preponderance of the evidence” standard that the CCRB Board uses to evaluate cases, there must be sufficient credible evidence for the Board to reach a factual and legal determination regarding an officer’s conduct. Cases related to the LGBTQ community often involve allegations around spoken language that can be incredibly difficult to prove. As mentioned above, one of the differences between discourtesy and offensive language cases versus force and abuse of authority cases is that the focus of the former is often on whether or not the act in question occurred, whereas focus of the latter is on whether or not the act was justified and correct procedures were followed. This section groups the 74 substantiated allegations within the LGBTQ-complaints under examination into two categories: allegations that included independent verification, and allegations that did not.

Table 3: Number and Percentage of Substantiated Allegations in LGBTQ-Related Complaints (Complaints Received 2010-2015 together)

Verification Type	Number of Substantiated Allegations	Percentage of Substantiated Allegations
Procedural*	34	46%
Witness Verification**	21	28%
Video with Audio Verification**	10	14%
Video without Audio Verification**	6	8%
Witness and Video Verification**	3	4%
Total Substantiated Allegations	74	100%

* Allegations that did not contain independent verification.

** Allegations that contained independent verification.

Forty Substantiated Allegations Contained Independent Verification. Independent verification, such as supporting videos or independent testimony, can be incredibly helpful in substantiating allegations. In a 2011 case, a witness recorded the subject officer outside an apartment complex and an off-camera civilian having a verbal altercation in a building. Although both parties used offensive language, the subject officer was recorded saying, “So shut the fuck up and come downstairs you faggot.” The subject officer denied using an LGBTQ-related slur, and it was not until after the CCRB interview that the previously mentioned video proved otherwise. As a result of independent video evidence with audio, the allegation of offensive language based on sexual orientation was substantiated.

Two complaints with substantiated LGBTQ-specific offensive language allegations occurred in 2013. In the first complaint, a witness walked past a verbal altercation where the subject officer called the civilian a “faggot,” “faggot-ass” and told him to “Go back to the hood.”

During the subsequent investigation, the officer remembered the incident, but did not recall if he used any LGBTQ-related slurs throughout the encounter. While the officer did not directly deny making the LGBTQ-related slurs, the testimony of an independent individual rendered the officer's testimony unreliable. The offensive language allegation based on sexual orientation was substantiated.

In the second incident, an individual filed a complaint following their arrest alleging abuse of authority for a stop and frisk, use of force and offensive language regarding sexual orientation. The abuse of authority allegations for the stop and frisk were both exonerated due to circumstances surrounding the incident, and there was insufficient evidence to determine if excessive force was used. However, an additional officer on the scene corroborated the victim's testimony that the subject officer had used multiple LGBTQ-related slurs, leading to a substantiated allegation.

Testimony provided by independent witnesses helped to substantiate 21 of the 74 substantiated allegations. In a 2014 incident, a civilian alleged that an officer used excessive force and uttered LGBTQ-related slurs. An independent witness observed an officer throw the individual to the ground during the Gay Pride Parade. That testimony was subsequently used to deem the use of force was excessive and substantiate the force allegation. However, the independent witness was not close enough to the altercation to hear any of the dialogue, and the LGBTQ-related slurs were unsubstantiated in the absence of a preponderance of the evidence.

Thirty-Four Substantiated Allegations without Independent Verification. The CCRB also analyzed complaints that contained an LGBTQ-related allegation with at least one substantiated allegation without independent verification. In these incidents, the substantiation was a result of officers failing to follow correct procedures during their interaction with the victim. The resulting substantiations ranged from allegations of improper stop, frisk, search, home entry, summons issued or arrest made.

In a 2010 incident, an officer patted down an individual's pocket and felt what he later described as a wallet or paperwork which he subsequently removed from the pocket. The subject officer testified that civilians sometimes hide razor blades in paperwork, and upon checking that there were no razor blades inside the paperwork, the officer returned the paperwork to the victim. According to *People v. Diaz*, 81 N.Y.2d 106 (1993) (encl.1D-H), if an officer feels an object she/he knows is not a gun or any other weapon but believes to be other contraband, the officer is not permitted to remove the object if the frisk is to remain lawful. In this instance, the subject officer had no reasonable suspicion to conclude that the victim was carrying a razor blade amongst the paperwork and should have ceased the frisk before it became a search. The CCRB Board Panel determined the subject officer was not justified in searching the victim.

SECTION SIX: A REVIEW OF UNSUBSTANTIATED AND EXONERATED ALLEGATIONS

The CCRB reviewed exonerated and unsubstantiated allegations of LGBTQ-related complaints to contextualize its findings. Exonerated allegations are those where there is a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct. Unsubstantiated allegations are those where the CCRB is able to conduct a full investigation, but there was insufficient evidence to establish whether or not there was an act of misconduct.

Exonerated Allegations in LGBTQ-Related Complaints

Between 2010 and 2015, the CCRB exonerated 196 (21%) of the 950 fully investigated allegations regarding an LGBTQ-related complaint. The CCRB reviewed these allegations by the type of FADO that was alleged, namely abuse of authority, discourtesy, and force. The CCRB then selected a random sample of 10% of these allegations that comprised eleven force, seven abuse of authority and two discourtesy allegations.

Force complaints, unlike offensive language complaints, often involve analysis about whether or not the force used was excessive, as opposed to whether it occurred. In 2013, for example, a complainant alleged that he was the victim of excessive use of force. The complainant claimed that one evening while he was home, two detectives came to his Brooklyn apartment to arrest him. When the complainant demanded to know why he was being arrested, he said that both detectives called the complainant a “faggot.” The complainant, who was undressed at the time the officers arrived, picked out a pair of underwear to put on and asked the detectives to turn around while he put them on. The complainant alleged that one detective said, “If you don’t get your fucking clothes on, we’re gonna drag you out the same fucking way you are,” referring to the tank top and shorts the complainant had been wearing. The complainant said that the detectives eventually grabbed and handcuffed him. The complainant said he told the second detective to “[g]et the fuck off of me” and attempted to spit at the detectives. According to the complainant, the second detective proceeded to place his hands about the complainant’s chin and neck in an effort to prevent the complainant from spitting on him. The second detective admitted to this use of force, but said that it was necessary in order to prevent the complainant from spitting on him. While both the complainant and second detective admitted that force was used, ultimately the second detective was exonerated for this use of force because he had a lawful reason to apply said force in order to prevent the complainant from spitting on him.

Force allegations had the highest amount of exonerations in the scope of analysis. An appropriate use of force accounted for eight of exonerated force allegations. At the conclusion of the investigation for this type of allegation, the CCRB decided that the subject officer used

appropriate and minimal amount of force necessary in the incident. For example, in a 2012 incident, both the subject officers and the alleged victim admitted that force was used to effect an arrest. While the civilian alleged that the subject officer attempted to poke him in the eye, punched, kicked and kneed him in the face, the subject officer admitted to using their body weight to get the alleged victim on the ground. A physical struggle continued until more officers were able to handcuff the alleged victim. The CCRB investigation compared the alleged victim's medical records and testimony of a witness that corroborated the officers' account of the incident and determined the appropriate amount of force was used to arrest the alleged victim.

One of the remaining nine force allegations was exonerated in which the subject officer was considered to have followed the correct procedure. In a 2013 instance, the subject officer was investigated for pointing a firearm at the alleged victim. Leading up to the force allegation, the subject officer responded to a 911 call that reported multiple individuals were attempting to break down the door of a convenience store, one of which had a gun. Upon police arrival to the scene, the store owner identified the alleged victim as one of the individuals in question. The subject officer pursued the individual and pointed a firearm until they were able to obtain the person's compliance. The officer was exonerated for the force allegation due to a perceived threat to their safety and reasonable suspicion that the alleged victim had committed a crime, which was exacerbated by the individual fleeing the scene.

Abuse of authority was the second most common type of exonerated allegation. Out of the seven allegations examined in the sample, video was material to exonerating the conduct in one of the allegations. In the remaining six abuse of authority allegations, the CCRB Board concluded the subject officer followed proper procedure. In a 2014 incident, a subject officer smelled the odor of marijuana and was warranted in his search of the vehicle. In a 2013 incident, a subject officer was deemed to have justifiably stopped an individual who was suspected of unauthorized use of a student Metrocard because the suspect had a beard and appeared older than a student.⁸³ When the subject officer asked for identification and was refused, this increased the officer's suspicion that a crime was taking place and he was authorized to detain the victim for the purpose of identifying him, which justified the stop.

Two exonerated discourtesy allegations were examined in which subject officers spoke rudely to civilians. In a 2011 incident, a large crowd began to confront officers after the officers used physical force to restrain an individual. In order to gain compliance of the crowd, it was alleged the subject officer used rude words when ordering the crowd to back up. Although the subject officer who received the discourtesy allegation did not admit to using rude words during his CCRB interview, the circumstances that surrounded the incident would have justified their use regardless, as a result of the precedent set by *NYPD v. White*, OATH Index No. 78667/03 (October 7, 2004) (encl. 1 A-D), which authorizes officers to use expletive statements in stressful situations in order to gain compliance through verbal commands.

⁸³ *People v. Debour*, 40 N.Y.2d 210 (1976) (encl. [1A-K]).

In a 2012 incident, there was a large fight between multiple civilians and officers. The subject officer sought to have the crowd disperse and used profanity when issuing commands in order to gain compliance. For this instance, precedent *Police Department v. Milne*, OATH Index number 222/00 (March 14, 2000) (encl.1-2) states, “A police officer may use profanity in the heat of a highly dangerous situation or in order to punctuate an order given under extremely stressful circumstances to obtain compliance.”

Video evidence was material to exonerate three of the exonerated allegations in the sample. In a 2014 case that involved a force allegation, officers responded to a domestic violence call in which the subsequent alleged victim of police misconduct was the purported aggressor. Upon arrival, officers attempted to place the individual in custody and ultimately used pepper spray to effect an arrest. Although the individual denied resisting arrest, which if substantiated would not have warranted the use of pepper spray, video footage showed that a struggle ensued with officers in which the individual twisted his body and flailed his arms. After a sustained period of time, the subject officer dispensed pepper spray and the individual then allowed officers to secure the handcuffs. Video footage as material evidence provided a preponderance of the evidence to exonerate the force allegation. However, since the video footage lacked audio and other misconduct allegations occurred off camera, conflicting testimonies resulted in 7 other allegations within this same complaint being decided as unsubstantiated.

Unsubstantiated Allegations in LGBTQ-Related Complaints

Between 2010 and 2015, the CCRB unsubstantiated 559 (59%) of the 950 fully investigated allegations regarding an LGBTQ-related complaint. The CCRB reviewed a random sample of 10% of these unsubstantiated allegations. In these instances, the CCRB did not have a preponderance of the evidence to definitively substantiate, exonerate or unfound the allegation in question. For example, in some of these unsubstantiated allegations, the civilian reported that the subject officer used an LGBTQ-related slur, but it was 1) solely their testimony against the subject officer’s, 2) independent verification corroborated other allegations in the complaint but was absent for the claim in question, or 3) another witness was present yet not able to corroborate the alleged victim’s testimony. In contrast, officers denied using an LGBTQ-related slur or profiling based on sexual orientation or gender expression.

Thirty-two (53%) of the 59 unsubstantiated allegations reviewed stemmed from instances where the resulting testimony was solely from the alleged victim and subject officer.⁸⁴ In a 2011 case, the subject officer responded to what was believed to be a crime in progress in which the alleged victim denied being a part. When questioning the alleged victim about his involvement, the subject officer claimed the alleged victim used offensive language in his answers. On the other hand, the alleged victim admitted to using offensive language, but said it was only after the subject officer called him a “bitch” and “faggot”, that resulted in discourtesy and offensive

⁸⁴ In three of these instances, other witnesses were present but CCRB was not able to contact them after several attempts.

language allegations. During this time, the subject officer and alleged victim were engaged in a conversation where no one else was present. Later in the incident, the subject officer used force to arrest the alleged victim that resulted in a force allegation. Although the CCRB unsubstantiated the offensive language and discourtesy allegations due to conflicting testimonies of the subject officer and alleged victim, the CCRB panel found that excessive and unreasonable force was used and substantiated the allegation.

Lack of independent verification can often result in an unsubstantiated allegation. In one CCRB complaint, the complainant alleged that after leaving a party at approximately 4:00 am, the complainant and her girlfriend had an argument while outside in the Bronx. She stated that two uniformed police officers approached them, and that one of the officers grabbed her. According to the complainant, she told the officer not to touch her because she was a female. She stated that the officer said, "I don't give a fuck if you're a female you gay bitch. I will arrest you right now if you think you're a man." The complainant's girlfriend ultimately did not cooperate with the CCRB investigation. Consequently, the CCRB investigator was unable to obtain independent corroboration of the complainant's allegations and the matter was closed as "Unsubstantiated."

SECTION SEVEN: CCRB RECOMMENDATIONS

1. **Recommendation:** The Department's expansion of its body-worn camera program in 2016 should place a great emphasis on audio as well as video recordings. Independent verification can be critical to meeting a preponderance of the evidence standard used in CCRB determinations. Video has been especially instrumental in corroborating allegations of misconduct or exonerating the subject officer for using an appropriate response. However, not all video is equal when analyzing LGBTQ-related complaints, many of which involve the use of a slur. In several of these cases, capturing what is said via audio can be just as important, if not more important, than video. Therefore, video with audio capacity can be a useful tool to determine whether or not misconduct actually occurred. Specifically, the CCRB recommends that a) officers activate body-worn cameras early (before contact if possible) to allow for any buffer time to pass well in advance of any civilian interaction whenever possible, b) body-worn cameras be placed on an officer's body to ensure that all audio recordings are properly captured, and c) that a minimum volume should be standardized for audio.
2. **Recommendation:** The Office of the Inspector General for the NYPD (OIG), along with expert advisers, should conduct audits of the Department to ensure that the changes in the Patrol Guide regarding the treatment of transgender individuals are being properly and consistently implemented. In 2012, the NYPD became one of the first police departments in the United States to make changes to its Patrol Guide to include clearly defined procedures for interacting with transgender and gender non-conforming individuals. Without an assessment on implementation, there is no way to verify if the widely praised changes have been adopted in practice. Independent appraisals should assess officers' awareness of Patrol Guide changes on an individual level, and reviews at the precinct-level would ensure that procedures have been followed with respect to how transgender individuals are processed, housed, and treated.
3. **Recommendation:** The Department should increase the LGBT Liaison Unit's capacity to engage both the community and police officers. LGBTQ outreach is needed to increase trust within the community, as well as to raise the awareness of correct procedures when interacting with members of the LGBTQ community. We understand the need for the unit to be directed to work on other topics as needed by the Department, and recommend that the NYPD LGBT Liaison Unit be more autonomous so that it can focus more on the needs and concerns of LGBTQ individuals. This would allow the Department to have a consistent presence within the LGBTQ community. It also allows for more opportunities to conduct cultural competency trainings and refresher courses for police officers who may not have attended the Police Academy in recent years, or who may have been promoted before the 2012 Patrol Guide changes took effect.

4. **Recommendation:** The CCRB should continue to expand its investigative and outreach capacity to better serve the LGBTQ community. In 2015, the CCRB began specialized training for investigative staff in order to assist recognition of characteristics often associated with LGBTQ-related complaints. Investigators who are equipped with the skills to more readily detect patterns where subject officers profile individuals due to their actual or perceived LGBTQ status can more accurately classify police misconduct related to sexual orientation, gender identity or gender expression. In addition to recognizing patterns and courses of conduct where members of service are concerned, training should also include best practices in how to interact with individuals who have been victimized due to their sexual orientation or gender identity. Therefore, it is recommended that the CCRB continue to regularly provide this training. Additionally, the CCRB will continue to further its outreach efforts in the LGBTQ community.

5. **Recommendation:** The NYPD’s new LGBTQ sensitivity training curriculum should be vetted by LGBTQ organizations such as the Anti-Violence Project, GLAAD, Lambda Legal, National LGBTQ Task Force, and the Sylvia Rivera Law Project for accuracy and best practices. There should also be an assessment of what Academy students have actually learned about their own biases, how seriously these students are taking the trainings, and whether these students have effectively identified the ways in which they need to put aside their own biases in order to comply with the Patrol Guide and professionally interact with LGBTQ individuals as a result of the training. The CCRB also recommends Department-wide training.

APPENDIX A

“Sexual Orientation Allegation Plead”
“Faggot”
“Gay”
“Homo”
“Tranny/ transgender/ transsexual”
“Dyke”
“Lesbian”
“Gender identity”
“Maricon”
“Fag”
“LGBT”
“Prostitution and Condom”
“Transvestite”
“Queer”
“Improper pronoun use”

“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...”

(NYC Charter, Chapter 18-A, effective July 4, 1993)



CIVILIAN COMPLAINT REVIEW BOARD

100 Church St., 10th Floor, New York, NY 10007

Complaints: 1-800-341-2272 or 311 | Outside NYC: 212-New-York

General Information: 212-912-7235

www.nyc.gov/ccrb

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