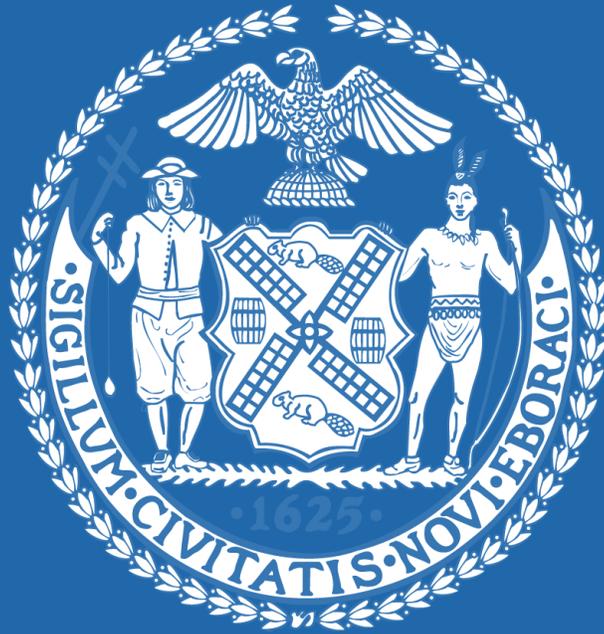




CIVILIAN COMPLAINT REVIEW BOARD

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



James Blake Fellow Report

2020

Table of Contents

Introduction	3
Section 1: CCRB Process & Investigations	5
Intake	5
Figure 01: Complaints within CCRB Jurisdiction by Complaint Mode, 2018	6
The Path of a Complaint: Investigations, Mediation, & Prosecutions	6
Figure 2: Outcomes of Complaints Closed in 2018	9
Section 2: Blake Fellow Methods & Approach	10
Research and Preparation	10
Hypothesized Solutions for Individual C/Vs	12
Precinct Selection Process	13
Figure 3: Percentage of Complaints Truncated per Precinct of Incident, FY 2018	14
Figure 4: Precinct Selection Data	15
Case Docket	16
Figure 5: Blake Fellow Case Process	16
Outreach	17
Section 3: Findings and Recommendations	18
Truncation Recovery Results	18
Case Studies: Truncation Recovery	19
Agency Process Observations	20
Recommendations: Suggested Retention of Practices	20
<i>Intake</i>	20
<i>Investigations</i>	20
<i>Outreach</i>	21
Recommendations: Suggested Changes	21
<i>Investigations</i>	21
<i>Training</i>	22
<i>Outreach</i>	22
Section 4: The James Blake Fellow Year 2 Goals	23
Year 2 Pilot Programs	23
Additional Year 2 Goals and Activities	23

INTRODUCTION

The New York City Civilian Complaint Review Board (CCRB or the Agency) is an independent agency, staffed entirely by civilians, empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action on civilian complaints filed against members of the New York City Police Department (NYPD or the Department) that allege the use of excessive or unnecessary Force, Abuse of Authority, Discourtesy, or the use of Offensive Language (often given the acronym “FADO”).¹

Not all complaints filed with the CCRB are fully investigated or mediated. A large percentage of complaints (58% in 2018) are “truncated,” meaning that they are closed without being investigated or mediated.² These truncations may take one of four forms:

- 1) **complainant/witness unavailable** - the Complainant was unable to be reached again after the initial complaint was filed;
- 2) **complainant/witness uncooperative** - the investigator was able to contact the Complainant and schedule an initial interview, but the interview never happened;
- 3) **complaint withdrawn** - the Complainant decided they did not want their complaint to be investigated and asked that it be withdrawn; and
- 4) **complaint closed pending litigation** - the Complainant withdrew their complaint because of an ongoing or pending criminal or civil case.³

The James Blake CCRB Fellowship program was created to help the CCRB reduce the number of truncated complaints. James Blake became interested in the truncation issue following an incident in which he was the subject of force used by a New York City police officer in a case of mistaken identity. Mr. Blake, an internationally known athlete, recent United States Tennis Association Chairperson, and philanthropist, had the resources to pursue his case to a satisfactory resolution. Recognizing that the vast majority of those arrested in New York City are people of color, most of whom do not have the resources to hire an attorney for their criminal cases, much less counsel for a civilian complaint, Mr. Blake used his case as a vehicle to address that situation rather than seek monetary damages. The fellowship funded through the settlement agreement he reached with the City will employ three Blake Fellows, each serving a term of two years, with the goal of analyzing the reasons for truncations and making recommendations aimed at increasing the number of complaints that receive a full, fair investigation.

Civilians play an essential role in improving police-community relations. The assistance provided by the Blake Fellow will help the CCRB fully investigate more complaints, which is critical to addressing instances of alleged police misconduct, and ultimately, improving public confidence in the police. The

¹ As of March 31, 2020, the CCRB also investigates and recommends action on the truthfulness of an official statement made by a subject officer during the course of a CCRB investigation.

² The 58% reflects the truncation rate during the 2018 calendar year.

³ CCRB investigators periodically check on the status of the complainant’s litigation. Once the case has been closed, the investigator will contact the complainant to see if they wish to reopen their complaints. Approximately 10% of cases closed pending litigation are subsequently reopened.

Fellow helps complainants navigate the CCRB investigative process and participate as witnesses in Administrative Prosecution Unit (APU) cases.

The Fellow also creates and fosters relationships with community partners and increases awareness of the CCRB across the City—particularly in neighborhoods with the highest truncation rates.⁴ At the conclusion of each year of service, the Blake Fellow is required to submit an annual report of findings and recommendations. This is the first of these reports.

The first, and current, Blake Fellow is Chelsea-Leigh Flucus. She is a native New Yorker from the Bronx and has an extensive background in law and public policy. This background helped shape the framework she used to approach this fellowship.

SECTION 1: CCRB PROCESS & INVESTIGATIONS

The Civilian Complaint Review Board (CCRB or the Agency) became independent from the New York City Police Department (NYPD or the Department) and established in its current all-civilian form in 1993. CCRB Board members review and make findings on all misconduct complaints filed by civilians once they have been fully investigated.

During the first year of the Fellowship, the composition of the CCRB’s Board was changed pursuant to an amendment of the New York City Charter to consist of 15 members. Five Board members are appointed by the Mayor, the City Council appoints five Board members (one from each borough); the Public Advocate appoints one member,⁵ and the Police Commissioner designates three members who are then appointed by the Mayor. The Mayor and the City Council Speaker jointly appoint the Chair of the Board.

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

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

⁴ https://www1.nyc.gov/site/ccrb/about/news/blakefellowship_release.page.

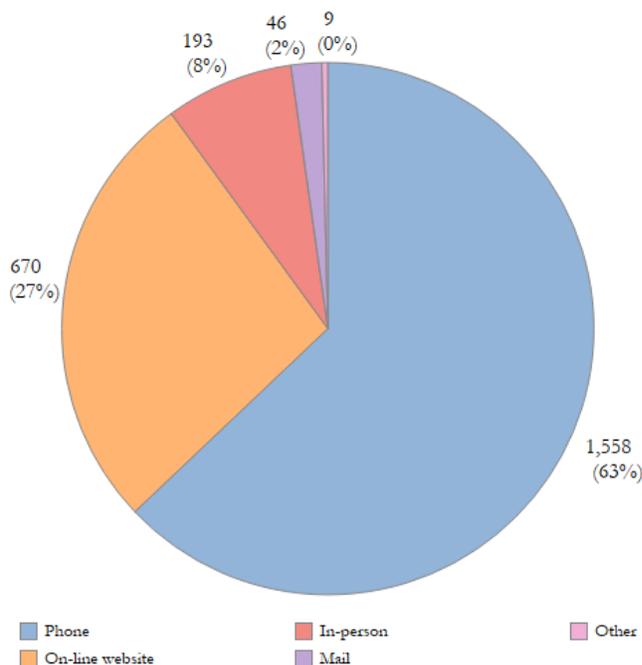
⁵ The Public Advocate appointee was scheduled to begin work on the Board on July 6, 2020.

INTAKE

For most New Yorkers, contact with the CCRB begins when they file a complaint alleging police misconduct. Most complaints in the CCRB’s jurisdiction that are filed directly with the Agency are filed by phone (63%)—either during business hours or via the Agency Call Processing Center, which handles calls after business hours—followed by the CCRB website (27%), and in-person visits to the CCRB’s offices in Tribeca (8%) (Fig. 01).⁶

In addition to complaints filed directly with the CCRB, many of the complaints investigated by the Agency (44% of cases in the CCRB’s jurisdiction in 2018) are referred by the NYPD’s Internal Affairs Bureau (IAB), which sends the CCRB complaints that are within the Agency’s jurisdiction.⁷ Notably, the truncation rate is much higher for cases that originate with IAB. In 2018, 73% of complaints that originated with IAB were truncated, compared with 46% of complaints that originated with the CCRB.

Figure 01: Complaints within CCRB Jurisdiction by Complaint Mode, 2018



Upon receipt of a complaint, the CCRB Intake Unit reviews the complaint to make an initial determination as to whether the complaint is within the Agency’s jurisdiction. All complaints against NYPD members of service (MOS) are entered into the CCRB’s Complaint Tracking System (CTS), but only complaints that fall within the Agency’s FADO jurisdiction are investigated by the CCRB. Complaints that an MOS acted outside of their official capacity (for instance, allegations involving non-law enforcement actions by off-duty officers), civilian employees of the NYPD, or misconduct that is outside of FADO (for instance, bribery), are referred to IAB.

THE PATH OF A COMPLAINT: INVESTIGATIONS, MEDIATION & PROSECUTIONS

Investigations are the core function of the CCRB. Every complaint in the Agency’s jurisdiction passes through the Investigations Division, even if it ultimately is resolved through mediation or is

⁶ July 1, 2018 through June 30, 2019. Fiscal year data was used for precinct selection due to the fact that my case docket would not begin to populate until June 2019, thus serving as an approximate midpoint in a pre-intervention and post-intervention comparison. The second Blake Fellow report will provide truncation data for fiscal year 2019 for comparison.

⁷ These referrals are not included in the data in Figure 1.

truncated. Once a complaint is determined to be within the CCRB's jurisdiction, it is assigned to an Investigator, who is required to contact the Complainant within 72 hours.

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

Once an interview is completed, the complaint cannot be *truncated* unless it is voluntarily withdrawn by the Complainant. From this point, there are two tracks a complaint can take: full investigation or mediation.⁸

At the beginning of a full investigation, the investigator interviews the C/V and any available witnesses, collects other evidence, and attempts to identify the police officer(s) involved in the encounter. Investigators also review any available video evidence and then interview all subject and witness officers. During the initial interview with the C/V, if the allegations involved in the complaint are potentially suitable for mediation, the investigator will inform the C/V about the CCRB's mediation program.

If the C/V agrees to mediation, the option is then presented to the subject officer, who must also agree in order for a mediation to take place. Mediated complaints are not recorded on an officer's disciplinary record at the NYPD, but the CCRB maintains records of all complaints filed, regardless of the outcome. The C/V can, at any point in the mediation process, request that their complaint be returned to the Investigations Division for a full investigation. If the mediation is completed, the complaint is closed as "mediated." If the C/V either fails to appear for one or more scheduled mediation sessions or fails to respond to attempts to schedule a mediation session, and does not request that the case be sent back for a full investigation, the complaint is closed as "mediation attempted."

For fully-investigated cases, once all necessary interviews are conducted and the collected evidence is reviewed, the investigative squad makes a disposition recommendation to the Board for each allegation investigated within the complaint. In the majority of cases, a panel of three Board members—comprised of one mayoral appointee, one City Council appointee, and one Police Commissioner designee—reviews the case and the Investigations Division's recommendations and then decides on an outcome. If any allegations are substantiated, the panel votes on a disciplinary recommendation for each officer with a substantiated allegation. In some circumstances, the full Board will consider a case.

⁸ There are also a small number of miscellaneous closures, which include administratively-closed complaints and complaints in which the subject officer left the Department before an investigation could be completed.

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

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

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

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

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

1. Instructions - guidance issued by a commanding officer.
2. Formalized Training - given at the Police Academy or the Legal Bureau.
3. Command Discipline A - issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting five vacation days. A Command Discipline A is automatically removed from a MOS' Central Personnel Index after one year.⁹
4. Command Discipline B - issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting 10 vacation days. A MOS can request that a Command Discipline B be removed from his or her Central Personnel Index after three years.

⁹ A Central Personnel Index is a MOS' NYPD personnel record.

5. Charges and Specifications - leads to an administrative prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT), who makes a guilty or not guilty determination. The Police Commissioner has final approval of all case dispositions.

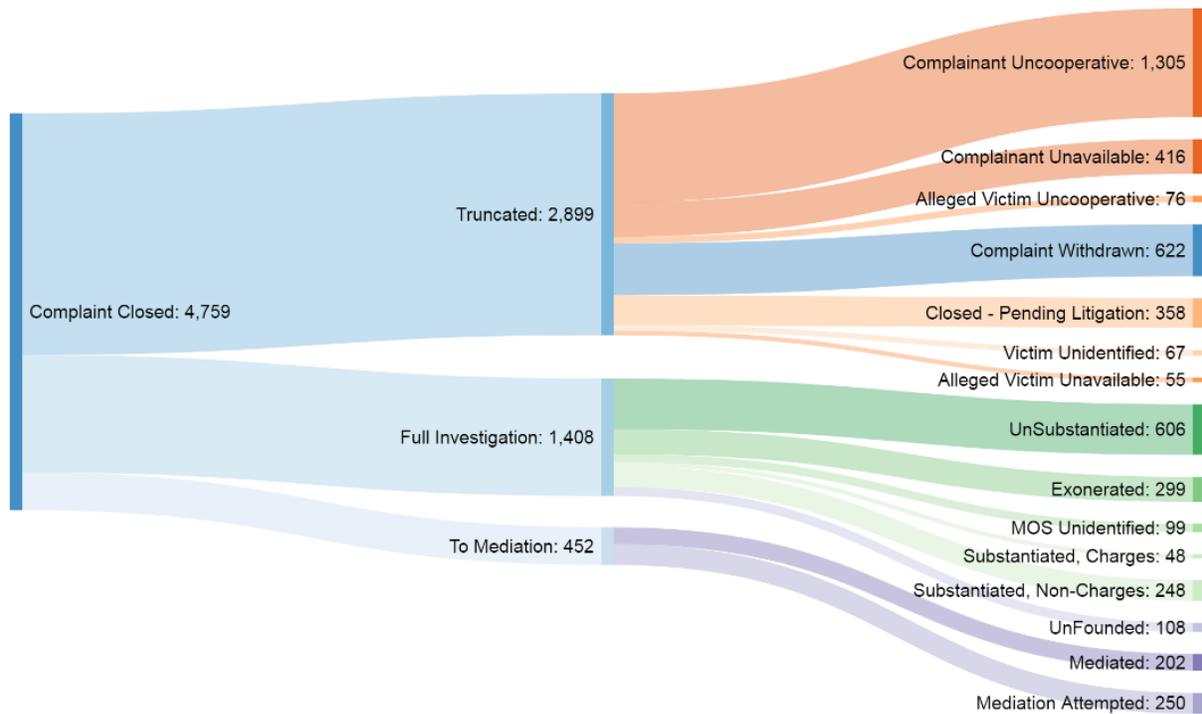
When the Board recommends Instructions, Formalized Training, or Command Discipline, that recommendation is sent to the Department Advocate's Office (DAO). The DAO is the unit within the NYPD that reviews these types of disciplinary recommendations and recommends to the Police Commissioner whether to impose or modify the discipline recommended by the CCRB.¹⁰

When the Board recommends Charges and Specifications, the substantiated allegations are generally prosecuted by the CCRB's 14-member Administrative Prosecution Unit (APU). Under the terms of a Memorandum of Understanding (MOU) between the CCRB and the NYPD, in effect since 2013, the APU prosecutes CCRB cases before the DCT or ADCT. The MOS can accept a plea offer from an APU prosecutor in lieu of a trial. If the MOS chooses to go to trial and is found guilty, the trial commissioner will recommend a penalty. The Police Commissioner may accept, reject, or modify any plea, trial verdict or penalty recommendation.

Figure 2, below, depicts the overall process of CCRB complaints as they proceed from intake to closure. The work of the Blake Fellow is concentrated on reducing the proportion of complaints that are truncated—in 2018, 2,899 of 4,759, or 61%.

¹⁰ Although the CCRB can recommend the discipline that it deems appropriate, under the New York City Charter, New York City Administrative Code, and New York State Civil Service Law, the Police Commissioner has final approval over MOS discipline. The Commissioner can accept, reject, or modify any discipline recommendation made by the CCRB.

Figure 2: Outcomes of Complaints Closed in Fiscal Year 2018



SECTION 2: BLAKE FELLOW METHODS & APPROACH

The Blake Fellow is expected to 1) participate in outreach events in order to develop relationships with the selected precincts, and 2) maintain a case docket comprised of complaints that truncated in the selected precincts, and attempt to turn these complaints from truncations into full investigations. As the inaugural Blake Fellow, my primary goals for the first year of the program were to learn more about truncations and any related issues, and to set up protocols to attempt to address them. I achieved these goals by:

- 1) conducting a review of civilian oversight literature and CCRB documents and data;
- 2) identifying process gaps that may lead to truncations, and hypothesize possible solutions;
- 3) selecting three precincts in which to focus attempts to reduce truncations based on these possible solutions; and
- 4) engaging in selected outreach and investigative activities and documenting the results.

RESEARCH AND PREPARATION

I began by taking steps to better understand civilian engagement with law enforcement oversight agencies across the United States and learn which methods produced the best results. I read annual reports published by the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization that assembles “individuals and agencies working to establish or improve oversight of police officers in the United States.”¹¹ The NACOLE reports provided foundational information about civilian oversight, including, but not limited to, the distinct types of oversight models used across the country, the size of departments with uniformed officers in various cities, and the ongoing outreach efforts aimed at increasing public education about the complaint process.

This review highlighted the reality that other oversight agencies do not formally track a “truncation” rate, nor do they adversely categorize cases in which complaints do not move forward with the investigatory process. Given that truncations are unique to the CCRB—and in an effort to develop my civilian engagement strategy—I expanded the purview of my research to learn more about the public’s perception of law enforcement, interactions between the police and communities of color, and behavioral studies about the public’s trust in the criminal justice system. Below are highlights from the most informative works, along with the specific lessons taken from them.¹²

*Pew Research Center Report: Behind the Badge*¹³

This report detailed the findings of a national survey of police and the perceptions that officers believe the public has about their work. The findings highlighted public perceptions on topics they held with similar and divergent perspectives, such as the use of body-worn cameras and the impartiality of their police department’s disciplinary process. This report provided important insight into some of the perspectives I was likely to encounter in my work with civilians, which was especially important given that the CCRB does not have an internal

¹¹ <https://www.nacole.org/about-us>.

¹² Other helpful research included:

Siddiqi, Qudsia. 2009. “Pretrial Failure Among New York City Defendants.” *Research Brief* series, no. 19. New York: New York City Criminal Justice Agency, Inc. full report is available on the CJA website, found at: www.nycja.org/research/research.htm

Peter Finn, “Citizen Review of Police: Approaches and Implementation,” Office of Justice Programs, National Institute of Justice; NCJ 184430 (March 2001), <https://www.ncjrs.gov/pdffiles1/nij/184430.pdf>.

President’s Task Force on 21st Century Policing, Final Report of the President’s Task Force on 21st Century Policing (2015), p.1-30; 41-50 http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

Ofer, Udi (2016) “Getting It Right: Building Effective Civilian Review Boards to Oversee Police,” *Seton Hall Law Review*: Vol. 46: Iss. 4, Art. 2. <https://scholarship.shu.edu/cgi/viewcontent.cgi?article=1572&context=shlr>

New York City Mobile Services Study; New York City Department of Consumer Affairs-2015 Research Brief <https://www1.nyc.gov/assets/dca/MobileServicesStudy/Research-Brief.pdf>.

¹³ Pew Research Center, Jan. 2017, “Behind the Badge: Amid protests and calls for reform, how police view their jobs, key issues and recent fatal encounters between blacks and police.” https://assets.pewresearch.org/wp-content/uploads/sites/3/2017/01/06171402/Police-Report_FINAL_web.pdf.

feedback mechanism in place to gather responses from the public regarding the Agency's work and how it can improve on the services it provides.

Crime Lab New York's Using Behavioral Science to Improve Criminal Justice Outcomes Preventing Failures to Appear in Court¹⁴

This report detailed a study completed by the University of Chicago Crime Labs, in partnership with the Crime Lab New York and the New York City Mayor's Office of Criminal Justice (MOCJ), that sought to reduce the number of missed court dates, otherwise known as "failure to appear" (FTA) cases, for low-level offenses in New York City. The FTA issue in the study is comparable to the CCRB's truncation challenge because both events are triggered by similar timeline-specific benchmarks. A case is considered to have an FTA recipient once the first court date is missed. At the CCRB, a case is truncated once the C/V has not provided the investigator with an in-person verified statement regarding their complaint.

The Crime Lab study devised a two-part solution to solve FTA. The first part was to redesign the New York City summons form to make the most essential information easier for summons recipients to find and understand. The new form provides information regarding the next court date and location in a straightforward manner. It also uses language that urges the recipient of the summons to go to court. The second part reduced FTA by creating a series of text message reminders that utilized positive messaging and highlighted both the effects of failing to show up to court and plan-making notes about attending court.¹⁵ The behavioral science cited in this report came from an article published by the University of Nebraska-Lincoln¹⁶ that found that people who have more trust in government organizations and confidence in the criminal justice system are more likely to appear for subsequent court dates. The study also indicated that people who have less trust in the court system benefitted the most from the reminder system implemented by the study.

Another cornerstone for solving FTA involves incorporating communication styles and methods that are likely to put a person at ease. When an individual fails to do an activity, they often assume there will be a punitive response for their failure to act. The communication styles highlighted by the Crime Lab study indicate that focusing on reengagement instead of the lack of action or follow-through increases the odds of someone being willing to follow-through on subsequent opportunities. Framing the engagement in a positive and appreciative manner also increases the likelihood of having more positive interactions with the individual in the future. The study also highlighted that, if employed correctly, having empathy, actively listening, and repeatedly expressing gratitude for engagement in the process should be effective techniques even when done over the phone or via email/letter.

¹⁴ Projects Preventing Failures To Appear in Court <https://urbanlabs.uchicago.edu/projects/using-behavioral-science-to-improve-criminal-justice-outcomes>.

¹⁵ Projects Preventing Failures To Appear in Court <https://urbanlabs.uchicago.edu/projects/using-behavioral-science-to-improve-criminal-justice-outcomes>.

¹⁶ Bornstein, Brian H.; Tomkins, Alan; Neeley, Elizabeth; Herian, Mitchel; and Hamm, Joseph A., "Reducing Courts' Failure-to-Appear Rate by Written Reminders" (2013). Faculty Publications, Department of Psychology. 601. <https://digitalcommons.unl.edu/psychfacpub/601>.

In addition to the research mentioned above, I attended the CCRB's new investigator training, and had a series of internal meetings with the directors of every unit in the Agency to gain a better understanding of their roles and how those roles relate to providing service to civilians. I also met with each of the Agency's investigative squads to discuss truncations and any patterns they noticed among previously-truncated cases. These meetings allowed investigators to ask me questions regarding the process I planned to employ once my case docket started populating with cases.

HYPOTHESIZED SOLUTIONS FOR INDIVIDUAL C/Vs

From my research and agency process analysis, I hypothesized that there were several possible solutions to reduce truncations that might be accomplished by the work of the Blake Fellow:

- 1) Offering C/Vs Field Interviews during their initial conversation with the investigator or Intake staff, and scheduling those interviews in consideration of the C/Vs unique needs and circumstances;¹⁷
- 2) A communication style that thanks the CV for their time, indicates the Agency values their participation in the complaint process, and is willing to accommodate them.¹⁸
- 3) Utilizing empathy-focused listening and positive reengagement strategies, so communication with C/V's is personalized and targeted towards their specific complaint.

PRECINCT SELECTION PROCESS

To carry out the work of the Fellowship effectively, I focused my work in areas of the City with the highest truncation rates. Figure 3 depicts precinct-based¹⁹ truncation rates in fiscal year 2018 (i.e., the percentage of complaints truncated out of the number of complaints closed).²⁰ These rates, along with other data listed below, were examined and discussed in several precinct-selection meetings I held with CCRB staff in the Policy, Investigations, and Outreach units.

In order to populate a docket with both enough complaints and enough truncations to create a reasonable sample set to measure the impact of my work, if any, the following criteria was used to select the precincts for the focus of my two-year Fellowship:

- 1) 50 or more complaints within CCRB's jurisdiction closed in 2018;

¹⁷ Currently, C/Vs are first asked if they can make an interview appointment at the CCRB's offices in Manhattan, and are only offered Field Interviews if they express hesitation or convey that coming into the CCRB's offices would be difficult or impractical.

¹⁸ Although CCRB investigators receive training on how to communicate well with C/Vs, my findings indicate that tailoring communication styles to the C/V's unique situation, and prioritizing active listening and feedback in communications with C/Vs can be beneficial to building trust with C/Vs. My research indicates that these are advanced skills that require regularly-occurring, scenario-based trainings.

¹⁹ The CCRB's precinct data is the precinct in which the incident occurred, which may or may not be the command of the subject officer.

²⁰ Note the Fiscal year data started from July 2018 until June 2019, thus serving as an approximate midpoint in a pre-intervention and post-intervention comparison. The second Blake Fellow report will provide truncation data for fiscal year 2019 for comparison.

- 2) an overall truncation rate of 50% or higher (excluding pending litigation cases) in 2018; and
- 3) an equal-to or higher-than-average proportion of complaints filed directly with the CCRB that truncated (excluding pending litigation cases)²¹ in 2018 (the overall truncation rate for complaints filed directly with the Agency was 46% in 2018).

Applying the criteria listed above resulted in the precinct list in Figure 4.

²¹ Pending litigation closures represent a unique category of truncation that the work of the Blake Fellow is not likely to impact—nor should the CCRB seek to reduce the number of cases closed pending litigation, as C/Vs have the right to rely on the advice of counsel in the resolution of their criminal and civil court cases without attempting to balance another simultaneous investigation.

Figure 3: Percentage of Complaints Truncated per Precinct of Incident, FY 2018

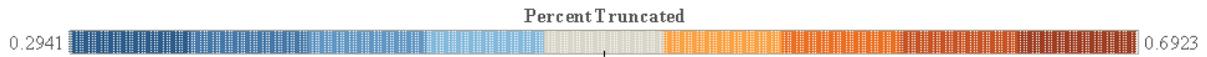
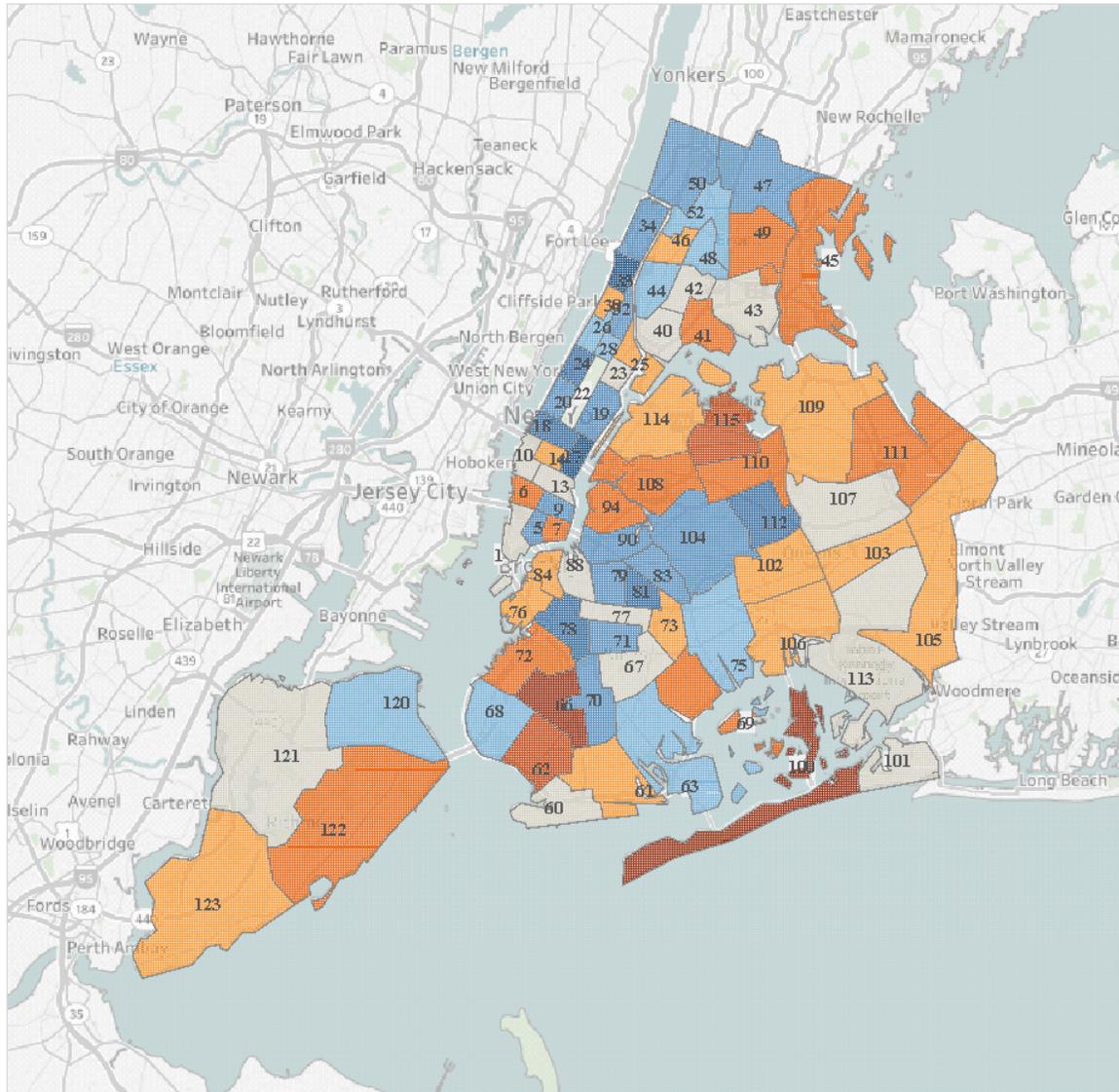


Figure 4: Precinct Selection Data²²

Precinct	Number of Complaints Filed Directly with the CCRB that Truncated	Direct-file Truncation Rate	Total Number of Complaints Truncated	Overall Truncation Rate	Total # of Complaints in CCRB Jurisdiction
25	16	50%	43	63%	74
40	14	47%	41	55%	85
42	17	53%	42	61%	77
43	13	46%	27	51%	57
46	15	50%	50	65%	84
48	19	54%	40	65%	67
52	25	68%	52	68%	87
67	19	48%	50	54%	102
70	19	48%	35	57%	66
73	24	48%	62	61%	108
75	40	51%	96	62%	170
84	17	50%	29	55%	55
105	21	66%	41	71%	63

After carefully reviewing this list and the corresponding selection criteria, the following precincts were chosen for my case docket: the 75th in Brooklyn, the 42nd in the Bronx, and the 105th in Queens. These precincts were chosen because the totality of their data points indicated both a significant problem with truncations as well as a large enough raw number of complaints to offer a sizeable case docket. Further, they were in three different boroughs, which allowed for broad city coverage, and each precinct has a diverse population.

Once the precincts were selected, but before getting a case docket, I researched all three precincts to better understand the composition of the surrounding neighborhoods and communities in each area. This included making note of the successful nonprofits, social services, and educational programs in each precinct. I also noted where all the public housing, churches, and libraries were in each precinct and documented which communities may have trouble accessing these resources. Given that the geographic layout of each precinct is unique, I also identified where the closest public transportation hubs were in relation to the CCRB’s offices. Using maps from the City’s capital planning division, I noted the locations of distinct types of facility and program sites,²³ and what languages other than English are widely spoken in each precinct.²⁴ I also read the “State of New York City’s Housing &

²² These data do not count cases closed pending litigation.

²³ <https://capitalplanning.nyc.gov/map#11.03/40.6413/-74.0678>.

²⁴ <https://www1.nyc.gov/assets/planning/html/data-maps/nyc-population/viz.html>.

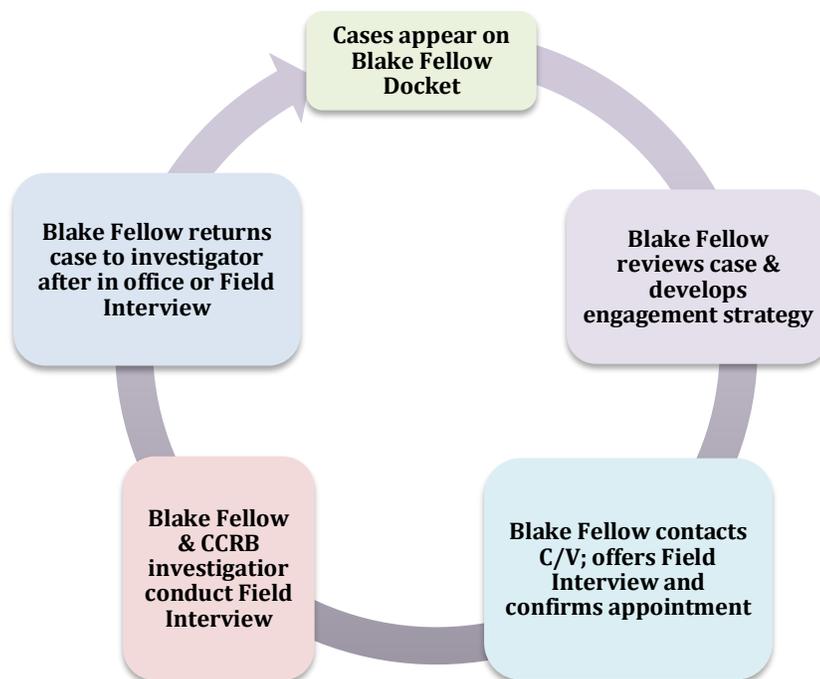
Neighborhoods – 2018 Report” published by the NYU Furman Center.²⁵ This report provides an annual analysis of the housing, demographics, and quality of life in each of the City’s community districts.²⁶ Gathering all of this information before my docket populated with cases allowed me to have a catalog of foundational knowledge about my assigned precincts.

CASE DOCKET

My case docket opened on Monday, June 3rd, 2019. Cases truncated in the 75th, 42nd, and 105th Precincts began appearing on my docket on Thursday, June 13th, 2019.

When a new case is assigned to me, I collect the physical case file from the assigned investigator and discuss methods the investigator previously used to reach out to the C/V. The investigator also notes whether there are any extenuating factors regarding the C/V’s life that are relevant to my work. I then review both the case file for any additional information that could potentially explain the C/V’s unreachability, including previous CCRB case history, age, gender, and incident location. I reach out to the C/V by the contact information they have provided (e.g. phone, email, mail), and attempt to secure an interview either at the CCRB offices or in the field. Interviews are conducted in partnership with a CCRB investigator. After the interview is concluded, the case file is returned to the original Investigator, who completes the remainder of the investigation. Figure 5 summarizes this process.

Figure 5: Blake Fellow Case Process



²⁵State of New York City’s Housing and Neighborhoods in 2018-NYU Furman Center <https://furmancenter.org/files/sotc/2018 SOC Full 2018-07-31.pdf>.

²⁶ *Id.*

SUPPORTING AND AUGMENTING COMMUNITY OUTREACH

Over the past several years, the CCRB has sought to increase the scope and scale of its outreach program to raise awareness of the Agency's mission and foster the public's trust in the CCRB's investigative process. The CCRB's Outreach and Intergovernmental Affairs (IGA) Unit consists of a director, deputy director, and outreach coordinators who act as the main liaisons for the Agency.

The Outreach Unit visits schools, public libraries, tenant associations, advocacy organizations, cultural groups, religious organizations, community boards, and precinct community councils, among other groups, in all five boroughs. Outreach Unit presentations provide an overview of the complaint process, explain the basic legal contours of police encounters, and stress the importance of de-escalation. Through the Agency's Community Partners Initiative, CCRB investigators and Outreach staff hold monthly office hours at participating City Council Members' offices, allowing the Agency to reach individuals where they live and/or work.

I also coordinated with the Outreach Unit in my selected precincts and the surrounding communities in furtherance of my efforts to reduce truncations. Along with an Outreach coordinator, I have given presentations or participated in various programs across the City, including a town hall meeting, a youth workshop, and a family-focused event. I also assisted the Deputy Director of the Outreach Unit with establishing partnerships with social service providers in different areas of the City.

These partnerships led to the Outreach Unit conducting more presentations for youth groups throughout the five boroughs.

SECTION 3: FINDINGS AND RECOMMENDATIONS

TRUNCATION RECOVERY RESULTS

As of December 31, 2019, there were 82 cases on my docket. Between June 13, 2019, and December 31, 2019, I converted 17 cases from truncations into full investigations:

- About 46% from the 75th Precinct
- About 33% from the 42nd Precinct
- About 20% from the 105th Precinct

Each of the hypothesized solutions employed were effective at returning truncations to full investigations:

- 1) Focusing on the C/V's preferred method/time of communication

I found a combination of calling, emailing or texting to be the most effective method of reaching and sustaining contact with C/V's. I also made myself available during various times of the day because many C/Vs expressed that the times at which investigators were immediately available for communication were

too limited (a situation that is not remediable under current staffing limitations, given that investigators cannot always answer calls, texts, or emails while conducting other work including scheduling and conducting officer interviews). Some C/Vs could only communicate after business hours or on weekends.

2) Offering C/V's a Field Interview during the first interaction

As noted in the case studies below, C/V's had unique circumstances that prevented them from scheduling interviews with the assigned investigator. Some had unstable housing situations, childcare issues, health concerns, challenging work schedules, or lived and worked far from the CCRB offices. By specifically offering the option of a Field Interview (instead of an in-office interview) during our first interaction, I was able to interview C/Vs in locations and at times that were convenient to them. It is not currently possible for the CCRB to employ this tactic more broadly as the Agency lacks the personnel to have investigators spending large swaths of time in the field traveling to and conducting interviews.

3) Utilizing empathy-focused listening and positive reengagement strategies

I employed several communication tactics, including active listening, repetition, and issue-focused empathy while speaking to the C/Vs. I also called to confirm interviews the day before and the day of, thanked them for taking the time to speak with me, sent personalized text messages with appointment details, and often worked collaboratively with C/Vs to find appropriate interview locations, sometimes spending over an hour on the phone with one person, (a situation that is not remediable, given that investigators cannot always answer calls, texts, or emails while conducting other work including scheduling and conducting officer interviews).

All of the above strategies helped build a rapport with the C/V, which often led to them disclosing for the first time the issues that had previously interfered with their ability to participate in the investigation. Once I had a fuller picture of the C/V's circumstances, I was better able to accommodate their needs so that I could obtain an interview.

The case studies below depict examples of the hypothesized solutions in effect.

Case Studies: Truncation Recovery

I called a C/V on the phone, introduced myself, and inquired if he was interested in moving forward with his complaint. When he indicated that he was, I offered to meet him at a day, time, and location that worked best for him. He indicated that early afternoon was his preferred time, and that he needed a location near his job. I canvassed the area online while on the phone with him and found a quiet location two blocks from the area he identified. I met the C/V at the designated location and conducted the interview. At the end of the interview, he thanked me for being flexible and disclosed that he and his family were having housing issues, and that when he was not working nights, he was responsible for child care and dealing with social services applications and appointments. This C/V did not identify this as an issue until the interview had concluded, and had not asked for a field, but accepted and appreciated my earnest offer to conduct the interview in a convenient location.

I called a C/V on the phone, introduced myself, and inquired if she was interested in moving forward with his complaint. When she indicated that she was, I offered to meet her at a day, time, and location that worked best for her. She said that afternoon near her home was best. During our conversation, I could hear a child in the background, so I focused my location search on child-friendly restaurants, in case she might need to bring her child along to the interview. After canvassing the area, we confirmed the location and time. When I met the C/V at the designated location, her toddler was also present. I conducted the interview, at the end of which, she thanked me for being accommodating.

I called a C/V on the phone, introduced myself, and inquired if he was interested in moving forward with his complaint. He indicated that he was, but said that coming to the CCRB's offices was difficult for him. When I offered to do a , he suggested a time and location in his neighborhood. After confirming the date and time, I met the C/V at the designated location. At the conclusion of the interview, he thanked me for being accommodating and noted several personal health issues that prevented him from coming into the office to do an interview.

While the efforts I detailed above have been fruitful, there are a number of obstacles hindering the broad application of these tactics to the CCRB's truncation-reduction strategies. The next section of this report details observations I have made about the CCRB's processes and limits.

AGENCY PROCESS OBSERVATIONS

Working with every unit at the CCRB over the last year has underscored one main conclusion: in order for the Agency to achieve a significant reduction in truncations they need to adopt a more individualized approach to C/V engagement and be given the resources that allow the staff to do so.

Additionally, withdrawn complaints should not be considered within the Agency's truncation calculations. To be categorized as "complaint withdrawn," a C/V needs to speak with the investigator, communicate that they no longer want to continue their case, and confirm that they are autonomously choosing not to move forward with their complaint. Including withdrawals as a part of the overall truncation rate, especially in light of the required questioning, appears to penalize the

Agency when C/Vs voluntarily discontinue the complaint process. Treating this category the same as the other types of truncations artificially inflates the truncation rate and gives the misimpression that the Agency provides fewer potential C/Vs an opportunity to pursue a claim than is accurate.

RECOMMENDATIONS: SUGGESTED RETENTION OF PRACTICES

The following are a list of areas in which the CCRB excels and should continue these best practices to provide exceptional service to C/Vs:

Intake

- The Intake Unit is staffed Monday to Friday during regular business hours with live personnel who take complaints. Research shows that interacting with a person instead of an automated service increases engagement with a long-term process.²⁷
- The Field Evidence Team consists of five investigators who collect video evidence once a complaint is made to the Agency. The average turnaround time for a Field Team request for the production of evidence is 24 hours.

Investigations

- The Investigations Division conducts thorough and detailed investigations for all cases in which a C/V provides a verified statement. This includes interviewing witnesses and collecting and reviewing documents and audio/visual evidence.
- The Investigations Division is able to identify members of service (MOS) in a majority of cases that are within the CCRB's jurisdiction. Once the MOS are identified, the investigator schedules them for an interview as soon as possible.

Outreach

- The Outreach Unit has developed innovative programs to reach community members across the city in “non-traditional” spaces. This includes the new CCRB Courtside Program that engages youth at basketball games in various neighborhoods across the City, and the Barbershop Series that brings outreach presentations to local barbershops, salons, and apprenticeship programs.

RECOMMENDATIONS: SUGGESTED CHANGES

The following is a list of recommendations that, if implemented, would improve upon the services that the CCRB provides to C/Vs. The list is divided into short-term recommendations that the Agency should be able to implement without additional resources, and long-term recommendations that would require increased personnel and Other Than Personnel Services (OTPS) budgets.

²⁷ Schnacke, Timothy R.; Jones, Michael R.; and Wilderman, Dorian M., "Increasing Court-Appearance Rates and Other Benefits of Live-Caller Telephone Court-Date Reminders: The Jefferson County, Colorado, FTA Pilot Project and Resulting Court Date Notification Program" (2012). *Court Review: The Journal of the American Judges Association*. 393. <http://digitalcommons.unl.edu/ajacourtreview/393>.

Investigations - Short Term

- The Investigations Division uses form letters to notify C/Vs about the various stages of their cases. These letters are not engaging and do not utilize any positive messaging. The FTA study piloted with live-callers using positive messaging when interacting with the public decreased the county's FTA by over 30%.²⁸ Modifications to the letters to include positive messaging could help reduce the truncation rate because C/Vs might feel more comfortable with the CCRB complaint process and be encouraged to continue with the investigation.
- Some C/Vs may wish to be contacted in specific ways for a variety of reasons. For instance, other household members might not know the C/V filed a complaint, and letters from the CCRB to these C/Vs homes could prove problematic and potentially increase the risk of truncation. The CCRB should revise its processes and Case Tracking System (CTS) to automatically update if there are any preferred or prohibited modes of communication.

Investigations - Long Term

- The CCRB should explore the creation of specialized units to take on particular tasks that are currently being performed by Investigators. Diverting work to these specialized units would allow Investigators to spend more time on Field Interviews. The CCRB may also wish to explore the creation of a Truncation Recovery Unit, a specially-trained team that could maintain a case docket of truncations in a particular area and seek to recover these truncations using strategies similar to the ones I employed. This will require the hiring of additional investigators with varying skill sets, and a policy of initially offering and conducting more Field Interviews of C/Vs.

Training - Long Term

- The CCRB's Training Unit should continue to develop training and instruction on how to cope with working in a traumatic environment. Multiple studies indicate that individuals who work with populations who have experienced trauma over sustained periods of time are prone to undergo stress.²⁹ This stress manifests itself in the form of "residual trauma," "compassion fatigue," and increased employee turnover. Creating training that focuses on these issues could provide investigators with an outlet for some of the work-related stress that comes with assisting people who are victims of police misconduct. This would improve the

²⁸ *Id.*

²⁹ Cieslak, R., Shoji, K., Douglas, A., Melville, E., Luszczynska, A., & Benight, C. C. (2014). A meta-analysis of the relationship between job burnout and secondary traumatic stress among workers with indirect exposure to trauma. *Psychological Services, 11*(1), 75–86. <https://doi.org/10.1037/a0033798>.

outcomes for the C/V's, the quality of life for the staff members, and the overall stability of the Agency.

Outreach - Short Term

- The Outreach Unit is responsible for coordinating the community-based public Board meetings six times a year. These meetings are open to the public, rotate between each of the five boroughs, and allow people to voice their opinions regarding police and community relations in their neighborhood. Currently, these meetings can only be held in spaces that do not have a facility fee. In order to offer a larger, communally-receptive, and convenient space to accommodate members of the public, the Outreach Unit needs an annual budget dedicated to reserving public board meeting space. Additionally, the City should support the CCRB in leveraging relationships with other agencies or other partner entities that might be able to offer appropriate space for no or reduced costs, given the public service nature of this program.
- Additionally, the Outreach Unit needs to hire more staff so the team can have a consistent and effective presence across the city. Ideally, the unit would have a Director, Deputy Director, two Regional Coordinators, and five Coordinators who would be responsible for providing presentations and resources across the five boroughs. Currently, the Unit only consists of four Coordinators, a Deputy Director, and a Director.

Outreach - Long Term

- One of the issues that impacts truncations is that C/Vs are often unaware of the process involved in an investigation after they file a complaint. Public education that explains the importance of responding to investigators and following through with interviews would help close this gap. The CCRB, however, in its 26-year history, has never had a dedicated public education budget. If the CCRB were to be given such a budget, the Outreach Unit and Communications Unit staff could collaborate on materials to advertise locally, such as on public transportation, and in partnership with advocacy and service provider organizations.

SECTION 4: THE JAMES BLAKE FELLOW YEAR 2 GOALS

YEAR 2 PILOT PROGRAMS

The following initiatives, which I hope to pilot during the second year of the fellowship, are designed to test methods to help C/Vs better engage in the CCRB's complaint process:

C/V Feedback Form

- Currently, the CCRB does not have a method of obtaining comments from the public regarding its complaint process. Critiques from the public will provide the Agency with invaluable insight into how to make improvements to its process

moving forward. I plan to conduct a survey of previous C/Vs asking what they liked, if anything, about their experience with the CCRB and how the Agency should revise its process. These responses will be analyzed separately for C/Vs whose cases were truncated, those who came to the office for an interview, and those who had an interview in the field. The goal is to use this information to enhance the complaint process and make it more helpful as possible.

CCRB Complaint Form

- The CCRB's current complaint form as presently designed does not provide enough clarity regarding the Agency's complaint process. The form is confusing and does not indicate what are the next steps after someone makes their initial complaint. It does not indicate that an investigator will follow-up with the C/V nor does it say that an in-person interview is required to complete an investigation. Using the revised summons created by the University of Chicago Crime Labs as a guide, I made changes to the CCRB's internal complaint form that clearly indicate what information a C/V needs to provide and what happens after they have completed the form. The goal is to increase public trust and make our process more transparent to the public-at-large.

ADDITIONAL YEAR 2 GOALS AND ACTIVITIES

In addition to the pilot programs listed above, I also plan to work with the Administrative Prosecution Unit (APU) to assist with witness cooperation in preparation for upcoming trials, and the Director of the Civilian Witness Assistance Unit (CWAU)—which is a new CCRB unit providing C/Vs with support and connection to social services—to develop long-term engagement strategies that help C/Vs feel more comfortable with the Agency's processes.

Another way to increase transparency and public trust is to make the Agency's website as user-friendly as possible. One of the best ways to track this is to look at the website's "bounce rate."³⁰ The higher the number, the more clicking or "bouncing" a visitor did on the webpage. After a certain period of time, a user will either locate what they are looking for or leave the site. The lower a website's bounce rate, the more likely it is that a wide variety of users find it manageable to use. Based on data provided by NYC DOITT, the CCRB website has a high bounce rate. Working alongside the Communications Unit, I plan to make some web page layout changes designed to decrease the bounce rate and increase visitor retention.

Lastly, my work, findings, and recommendations for this year focused on the Agency's internal truncation rate, i.e., on cases that originate with the CCRB and then truncate. The truncation rate is much higher for cases that originate with NYPD's Internal Affairs Bureau (IAB). In 2018, 73% of complaints that originated at IAB were truncated, compared with 46% of complaints that originated at the CCRB. Reasons I have observed that account for this disparity include:

³⁰ "Bounce rate" is a measurement of how many people arrive at a homepage and leave immediately. "A Review of Methodologies for Analyzing Websites." Handbook of Research on Web Log Analysis. Booth, D. (2009) https://faculty.ist.psu.edu/jjansen/academic/jansen_website_analysis.pdf.

- missing or incorrect identifying demographic information provided to the CCRB from IAB;
- a delay in time between when IAB receives a case and sends it to the CCRB; and
- IAB's failure to notify the C/V when it is referring their case to the CCRB.

During my second year, I would like to meet with IAB to discuss the items mentioned above and ways IAB and CCRB can collaborate more efficiently to provide optimal service to the complainants/victims of police misconduct.