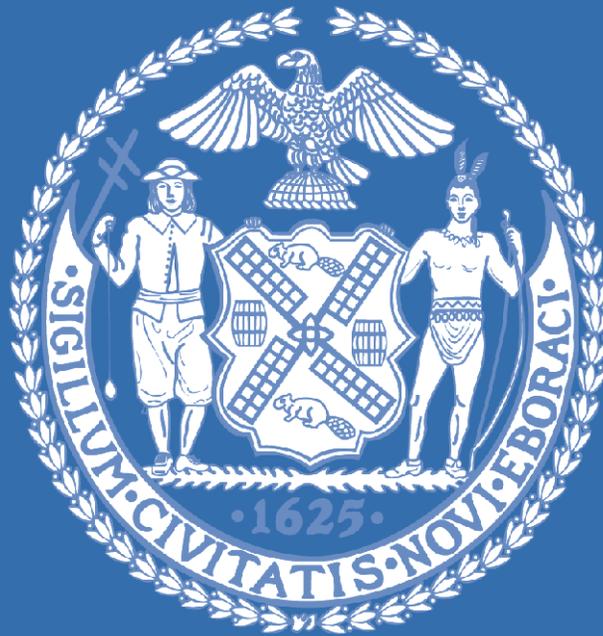




# CIVILIAN COMPLAINT REVIEW BOARD

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



## *Semi-Annual Report*

JANUARY-JUNE

# 2018

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## MISSION

The New York City Civilian Complaint Review Board (CCRB) is an independent agency that is empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action on civilian complaints filed against members of the New York City Police Department (NYPD or the Department) that allege the use of excessive or unnecessary Force, Abuse of Authority, Discourtesy, or the use of Offensive Language. The Board's staff, composed entirely of civilian employees, conducts investigations, mediations, and prosecutions in an impartial manner.

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

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

## LETTER FROM THE CHAIR



Dear Fellow New Yorkers,

I would like to take this opportunity to highlight some of the New York City Civilian Complaint Review Board's initiatives that were implemented in the first half of 2018 to better serve civilians in our City.

The Board began the year by instituting a pilot program aimed at building consensus in the discipline recommendation process for substantiated cases. The CCRB Disciplinary Framework, discussed in public session at the August 2018 Board Meeting, guides discussion on whether the Board should recommend Charges and Specifications, the most serious disciplinary recommendation. The Framework is a guide the Board considers—including the nature of the allegation, the officer's disciplinary history, and the totality of the circumstances—in making decisions about a case. This pilot will continue for the remainder of 2018, after which the Board will assess its success and discuss further steps.

In February 2018, the Board unanimously approved a resolution to begin investigating sexual harassment allegations made against members of the New York City Police Department, and instructed Agency staff to develop a financial and logistical plan to prepare to investigate sexual assault allegations. The Agency is collaborating with multiple entities, including Bellevue Hospital Center, the New York City Alliance for Sexual Assault, Forensic Experiential Trauma Interviewing, and End Violence Against Women International to address training needs. Additionally, mental health providers specializing in sexual violence, such as Safe Horizon and NYC Well, have agreed to be counseling providers for complainants and witnesses of sexual misconduct allegations.

Prior to the sexual misconduct resolution, we worked to improve the Agency's capacity to effectively serve all complainants. To that end—and as a result of collaboration with Thrive NYC and our ongoing dialogue with Here2Help Connect and the Mental Health Association of NYC—the Agency recently adopted a policy to connect civilians who present with mental or emotional health challenges with services through NYC Well, when appropriate.

Finally, in April 2018, trainers from the Perception Institute conducted an implicit bias training with all staff. The training, which the Agency intends to make a regular component of the staff training protocol, covered the neuroscience of implicit bias, the social science of how implicit bias manifests in society and the workplace, and its effects. The training was tailored to our staff and incorporated Agency-specific case studies with an eye toward practical solutions for identifying when our objectivity is compromised and how to mitigate our biases while conducting investigations, mediations, and prosecutions.

As an independent agency, the CCRB has a unique role in the community. As the Agency works to improve police-community relations and strengthen public trust in the CCRB, it is important that we continue to update our policies and strengthen our process to ensure that we are best serving our fellow New Yorkers. I am grateful to be leading a Board committed to working diligently toward accountability and justice.

Sincerely,

A handwritten signature in black ink, appearing to be 'Fred Davie', written over a light blue background.

Fred Davie

# EXECUTIVE SUMMARY

## SECTION 1: COMPLAINT ACTIVITY

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- In the first half of 2018, the CCRB received 2,177 complaints within its jurisdiction, a decrease from the 2,266 complaints received in the first half of 2017 (page 8).
- In the first half of 2018, 32% of complaints received within the CCRB’s jurisdiction stemmed from alleged incidents that occurred in Brooklyn, which is home to approximately 31% of the city’s population (page 11). The highest number of complaints stemmed from incidents occurring in Brooklyn’s 75<sup>th</sup> Precinct (which serves the East New York and Cypress Hills neighborhoods), but the highest rate of complaints occurred in Manhattan’s 25<sup>th</sup> Precinct (which serves the neighborhood of East Harlem), which had a complaint rate of 10 per 10,000 residents, compared with four per 10,000 residents for the 75<sup>th</sup> Precinct (page 12).
- Because of the longstanding public discussion surrounding “Stop and Frisk” policing, the CCRB keeps track of all complaints alleging the stop, question, frisk, or search of a person. Relative to the first half of 2017, these allegations have declined slightly, from 448 to 419 (page 17).

## SECTION 2: INVESTIGATIVE FINDINGS

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- Over the last three half-year periods, the substantiation rate (the percentage of full investigations in which the Board voted to substantiate at least one allegation) has remained stable at 19%. The unsubstantiation rate (the percentage of cases in which it could not be determined by a preponderance of the evidence whether the alleged misconduct occurred) was 49% in the first half of 2018—the same percentage as the first half of 2017 (page 28).
- The truncation rate (the percentage of complaints that are closed without a full investigation, mediation, or attempted mediation) remained fairly consistent between the first half of 2017 and the first half of 2018 (page 25). Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the Agency. For example, 69% of complaints that originated with NYPD’s Internal Affairs Bureau (IAB) were truncated in the first half of 2018, compared with 47% of complaints that originated with the CCRB (page 24).
- In the first half of 2018, the CCRB began tracking cases that were withdrawn by complainants or victims upon advice of their attorneys. Sometimes, when a complainant is involved in criminal or civil litigation, they are advised by counsel to avoid making any sworn statements in any other venue until the conclusion of the court case. Beginning in 2018, for complaints closed due to pending litigation, CCRB investigators periodically check court records to determine if the case has ended, and if so, attempt to reconnect with the complainant. In the first half of 2018, 12 cases were reopened after initially being closed due to pending litigation (page 24).

## SECTION 3: DISCIPLINARY PROCESS

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- In the first half of 2018, the Board substantiated 114 complaints against 173 police officers. The Board recommended Charges and Specifications for 28% of the 173 officers against whom there was a substantiated allegation, Command Discipline for 42%, Instructions for 18%, and Formalized Training for 12% (page 31).

- Cases in which the Board recommends Charges and Specifications are processed by the Administrative Prosecution Unit (APU). In the first half of 2018, 21 of the 24 cases the APU closed against members of service (MOS) resulted in disciplinary action. In 19 of those cases, the Police Commissioner imposed discipline of either forfeiture of between one and 20 vacation days or suspension (page 38).
- For complaints in which the Board did not recommend Charges and Specifications, the Police Commissioner imposed some type of discipline 84% of the time (page 39). In those cases, the discipline imposed by the Police Commissioner concurred with the Board’s recommendation 54% of the time in the first half of 2018. This is higher than the 45% concurrence rate (the percentage of the time that the discipline imposed by the NYPD concurs with that recommended by the CCRB) for the first half of 2017. The number of cases in which the Board recommended some type of discipline, but no discipline was imposed by the Police Commissioner, decreased from 21% in the first half of 2017 to 10% in the first half of 2018.
- For cases closed by the APU, the concurrence rate was 26% in the first half of 2018, a decrease from 37% in the first half of 2017 (page 40). The most common reason for a decrease in concurrence in the first half of 2018 was that when an officer pled guilty and agreed to a penalty, the NYPD requested a reduced penalty recommendation in order to finalize the plea agreement (eight cases, 35%). This is a significant increase from the first half of 2017, when zero cases fell into this category. This proportional increase appears to be the primary cause of the decreased concurrence rate for APU cases (page 40).

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#### **SECTION 4: MEDIATION**

- In the first half of 2018, 48% of cases in which mediation was attempted by the Mediation Unit were closed as completed mediations—a similar percentage to the 49% average over the last four half-year periods (page 42).
- In the first half of 2018, the Mediation Unit conducted 125 mediation sessions, resulting in 120 satisfactory resolutions, a 96% success rate. The remaining five complaints were returned to the Investigations Division (page 44).

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#### **SECTION 5: RECONSIDERATIONS**

- In the first half of 2018, the CCRB closed requests for reconsideration submitted by the Department Advocate’s Office for 35 MOS (a reconsideration request closed in the first half of 2018 may have stemmed from a complaint closed in a previous year). The Board changed the disposition for three officers (9%), downgraded the discipline recommendation for three officers (9%), maintained the original decision for 22 officers (63%), and rejected the other seven (20%) reconsideration requests. To date, the Department has requested reconsideration for 12 MOS against whom an allegation was substantiated in the first half of 2018 (page 47).

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#### **SECTION 6: THE IMPACT OF VIDEO**

- The availability of video evidence, which includes footage from body-worn cameras (BWC), private and municipal security cameras, and video recorded by witnesses, often minimizes the ambiguity of the events underlying the allegation. In the first half of 2018, 58% of allegations with video evidence were closed “on the merits” (substantiated, exonerated, or unfounded) compared to 44% without video. The Board substantiated 29% of full

investigations with video evidence compared to 13% where there was no video evidence (page 53).

## **SECTION 7: BODY-WORN CAMERAS**

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- By the first half of 2018, the NYPD had rolled out BWCs to at least one tour of duty at 51 different precincts citywide (Page 56). In the first half of 2018, the CCRB requested BWC footage in 611 complaints. The number of footage requests is sure to increase as the NYPD's program expands in the latter half of 2018 to provide BWCs to thousands more MOS on patrol assignments (page 58).

## **SECTION 8: OUTREACH**

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- In the first half of 2018, the Outreach and Intergovernmental Affairs Unit gave 523 presentations (page 59). Most presentations were given at community board meetings (14%) and libraries (14%) (page 60).

## **SECTION 9: NEW INITIATIVES**

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- In January 2018, the Board implemented a pilot program of its Disciplinary Framework, a non-binding matrix designed to guide Board Panel discussions on disciplinary recommendations for substantiated cases. Use of the Framework does not impact whether a complaint will be substantiated by the Board—it is used only in cases where misconduct has been substantiated. The goal of the Framework is to achieve consistent and fair discipline recommendations for both civilians and members of service. The Framework outlines six allegation types that—if substantiated—typically would result in the Board Panel recommending Charges and Specifications, the most severe level of discipline. These allegations include chokeholds, strip searches, warrantless entries, offensive language, excessive force with serious injury, and sexual misconduct. In addition, the Framework structures discussion around the subject officer's CCRB history, if any, and the totality of the circumstances of the case. During the initial six months of the pilot program, the Framework has led to more consistent recommendations of Charges and Specifications. The pilot program will continue through the end 2018, after which, the Board will determine whether to adopt the Framework as a permanent part of its review process.
- In the first half of 2018, following a vote by the Board, the CCRB initiated a two-phase program for investigating allegations of sexual misconduct. This action makes the CCRB a pioneer among law enforcement oversight agencies in the United States. Phase One involves sexual harassment allegations; Phase Two will involve sexual assault allegations. During the first half of 2018, investigators received training on handling sexual harassment allegations, and began investigating Phase One complaints. The CCRB currently is developing a plan to train and equip investigators to handle Phase Two complaints (page 60).
- In April 2018, trainers from the Perception Institute (<https://perception.org>) conducted an implicit bias training with all CCRB staff. The training, which the Agency intends to make a regular component of the staff training protocol, covered the effects of implicit bias in society and the workplace. The training incorporated CCRB-specific case studies and included discussions on practical solutions for identifying when an individual's objectivity is compromised and how to mitigate biases (page 62).

## INTRODUCTION: THE BOARD AND AGENCY OPERATIONS

The Civilian Complaint Review Board (CCRB) is an agency of the City of New York. It was made independent from the New York City Police Department (NYPD) and established in its current all-civilian form in 1993. The Board investigates, mediates, and prosecutes complaints of misconduct that members of the public file against uniformed members of the NYPD within four jurisdictional categories: Force, Abuse of Authority, Discourtesy, or Offensive Language (FADO).

The Board consists of 13 members who are all appointed by the Mayor. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair of the Board.

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 the members designated by the Police Commissioner, who must have 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 Board members may choose to serve pro bono.

Board members review and make findings on all misconduct complaints once they have been fully investigated. From 1993 to 2013, when the Board found that an officer committed misconduct, the case was referred to the Police Commissioner with a discipline recommendation. Pursuant to a Memorandum of Understanding (MOU) between the CCRB and the NYPD (effective April 11, 2013), in most cases where the Board recommends that Charges and Specifications be brought against an officer, the prosecution is handled by a team of attorneys from the CCRB's Administrative Prosecution Unit. Substantiated cases in which the Board recommends discipline other than Charges and Specifications (e.g. Instructions, Formalized Training) are still referred directly to the Police Commissioner.

# SECTION 1: COMPLAINT ACTIVITY

## CCRB COMPLAINT INTAKE

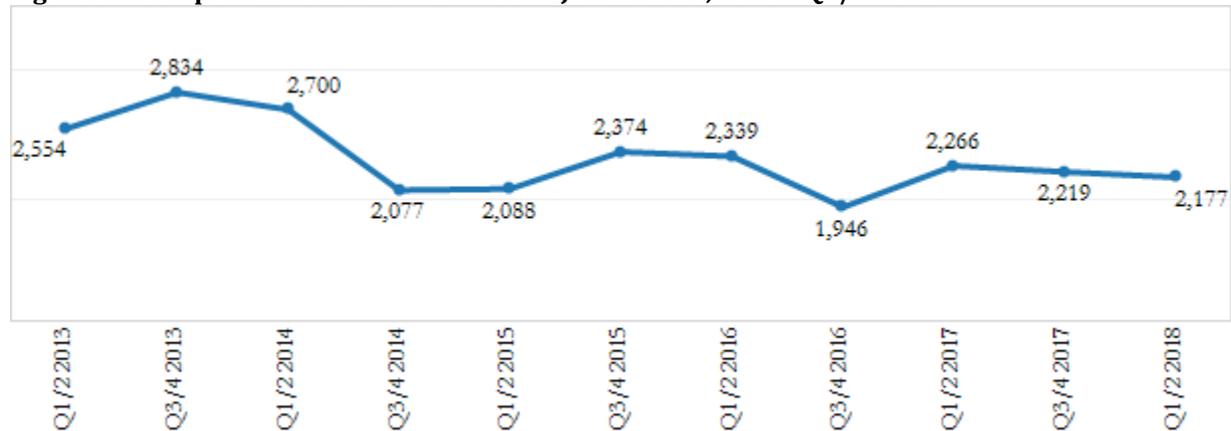
For most New Yorkers, contact with the Civilian Complaint Review Board (CCRB) begins when they file a complaint alleging police misconduct. This section covers the number of complaints received and their characteristics.

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

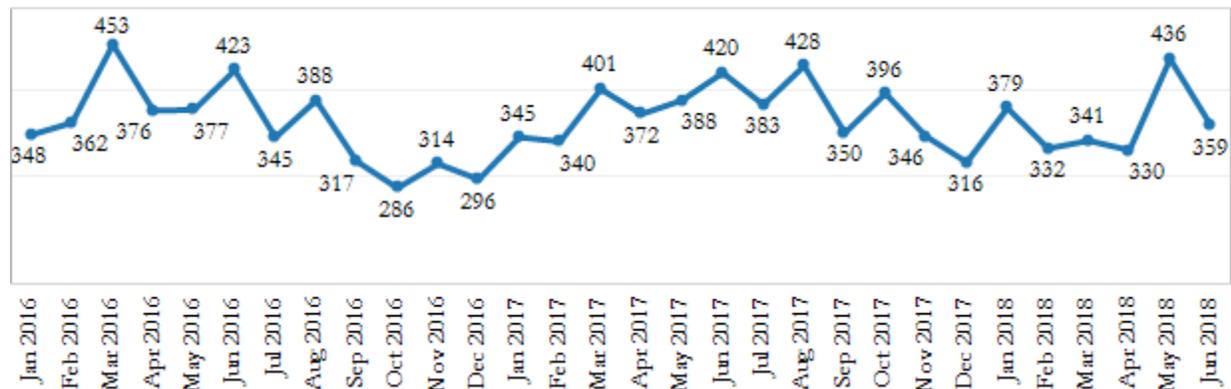
(FADO) jurisdiction are investigated by the CCRB.

In the first half of 2018, the CCRB received 2,177 complaints within its jurisdiction (Fig. 01). This is a decrease from the 2,266 complaints received in the first half of 2017. As depicted in Fig. 02, the number of complaints received fluctuates by month, and has seasonal patterns, with lower numbers of complaints received in late fall and winter months.

**Figure 01: Complaints Received Within CCRB Jurisdiction, 2013 – Q1/2 2018**



**Figure 02: Complaints Received Within CCRB Jurisdiction by Month, 2016 – Q1/2 2018**

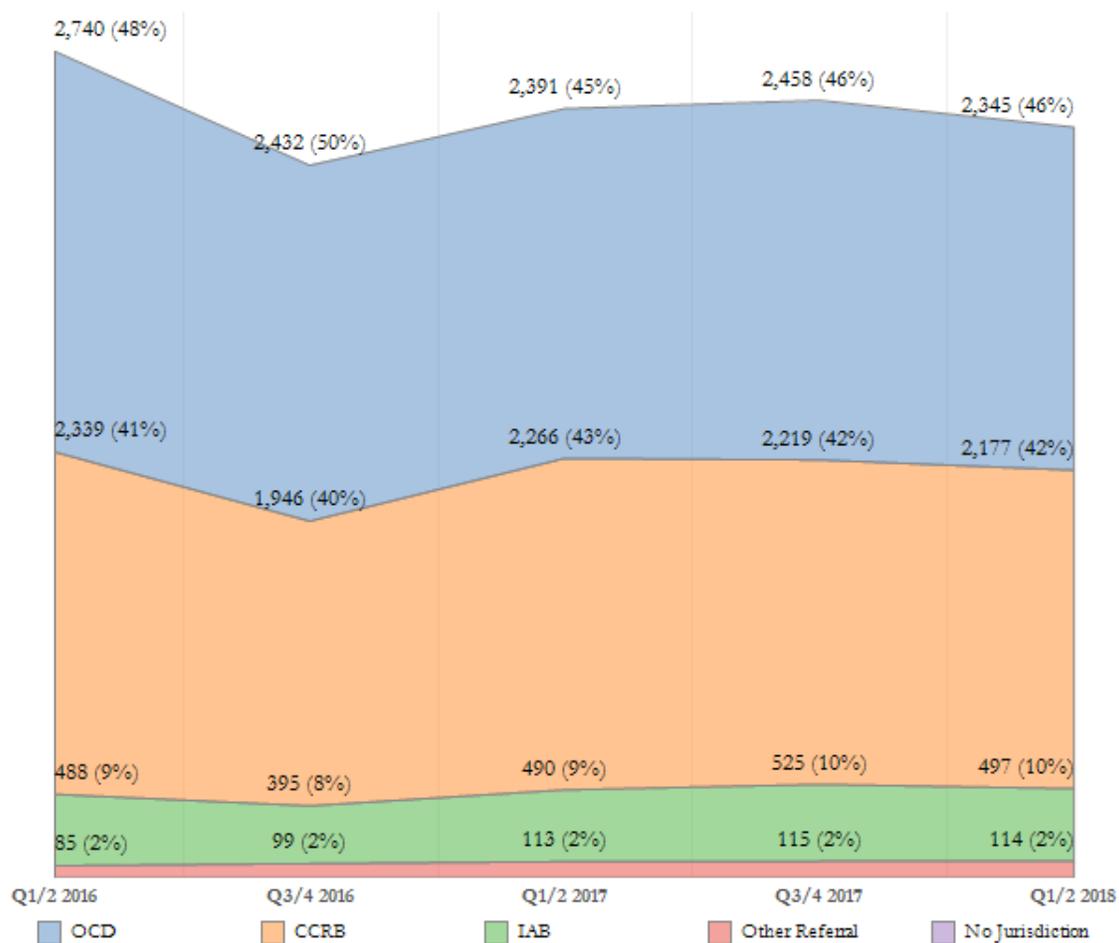


## CCRB JURISDICTION AND TOTAL FILINGS

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

Examples of complaints the CCRB might receive that do not fall within the Agency’s jurisdiction include: 1) complaints against Traffic Enforcement Agents and School Safety Agents; 2) complaints against an NYPD officer involving a summons or arrest dispute that does not include a FADO allegation; 3) complaints against an NYPD officer involving corruption; and 4) complaints against individuals who are not members of the NYPD, such as state police or members of federal law enforcement, including the Federal Bureau of Investigation (FBI) and U.S. Immigration and Customs Enforcement (ICE). In the first half of 2018, 58% of complaints received did not fall within CCRB’s jurisdiction (Fig. 03).

**Figure 03: Complaints Received Within All Jurisdictions, 2016 – Q1/2 2018**



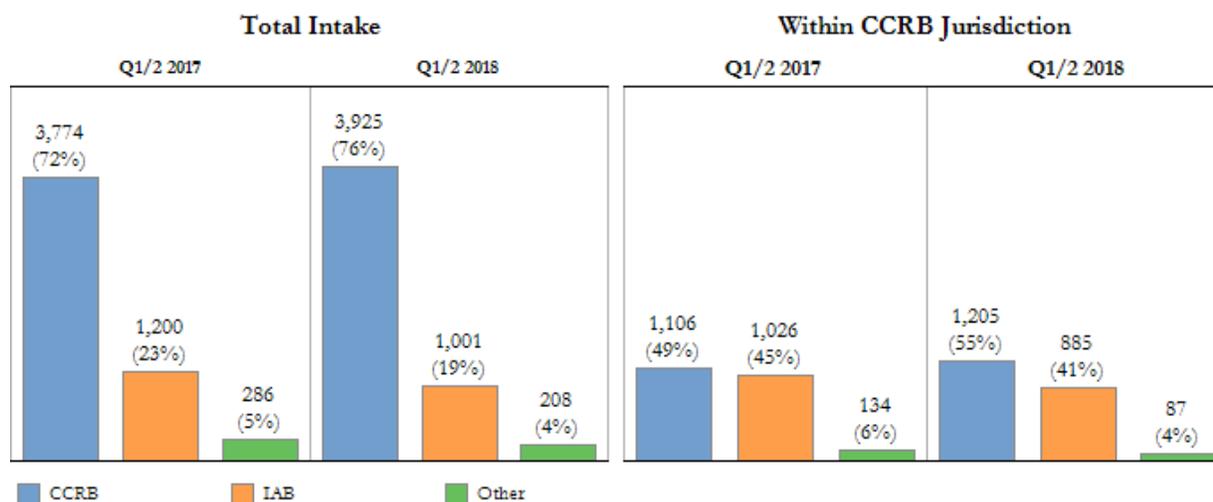


## PLACE AND MODE OF FILING

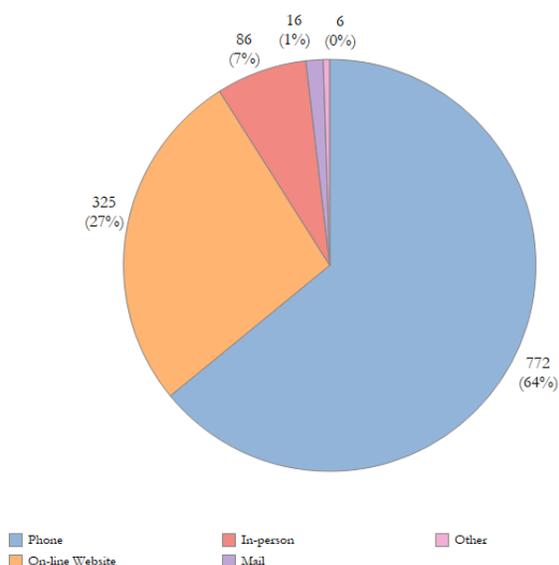
Most of the complaints filed within the CCRB’s jurisdiction are received and processed directly by the CCRB’s Intake Unit. The Agency also receives a high number of complaints from IAB. As depicted in Fig. 04, there has been an increase in the number of complaints made directly to the CCRB between the first half of 2017 and the first half of 2018.

The Agency is better able to fully investigate complaints when they are filed directly with the CCRB (Fig. 25). When complaints are not filed directly with the CCRB, the Agency must make initial contact with the complainant/victim, who may not have been informed by other agencies that the complaint was referred to the CCRB for investigation.

**Figure 04: Complaints Received by Complaint Place, Q1/2 2017 and Q1/2 2018**



**Figure 05: Complaints within CCRB Jurisdiction by Complaint Mode, Q1/2 2018**



Most complaints are filed with the CCRB by phone, either during business hours or via the Agency Call Processing Center, which handles calls after business hours (64%), followed by the CCRB website (27%), and in-person visits (7%) (Fig. 05).

## LOCATION OF INCIDENTS RESULTING IN COMPLAINTS

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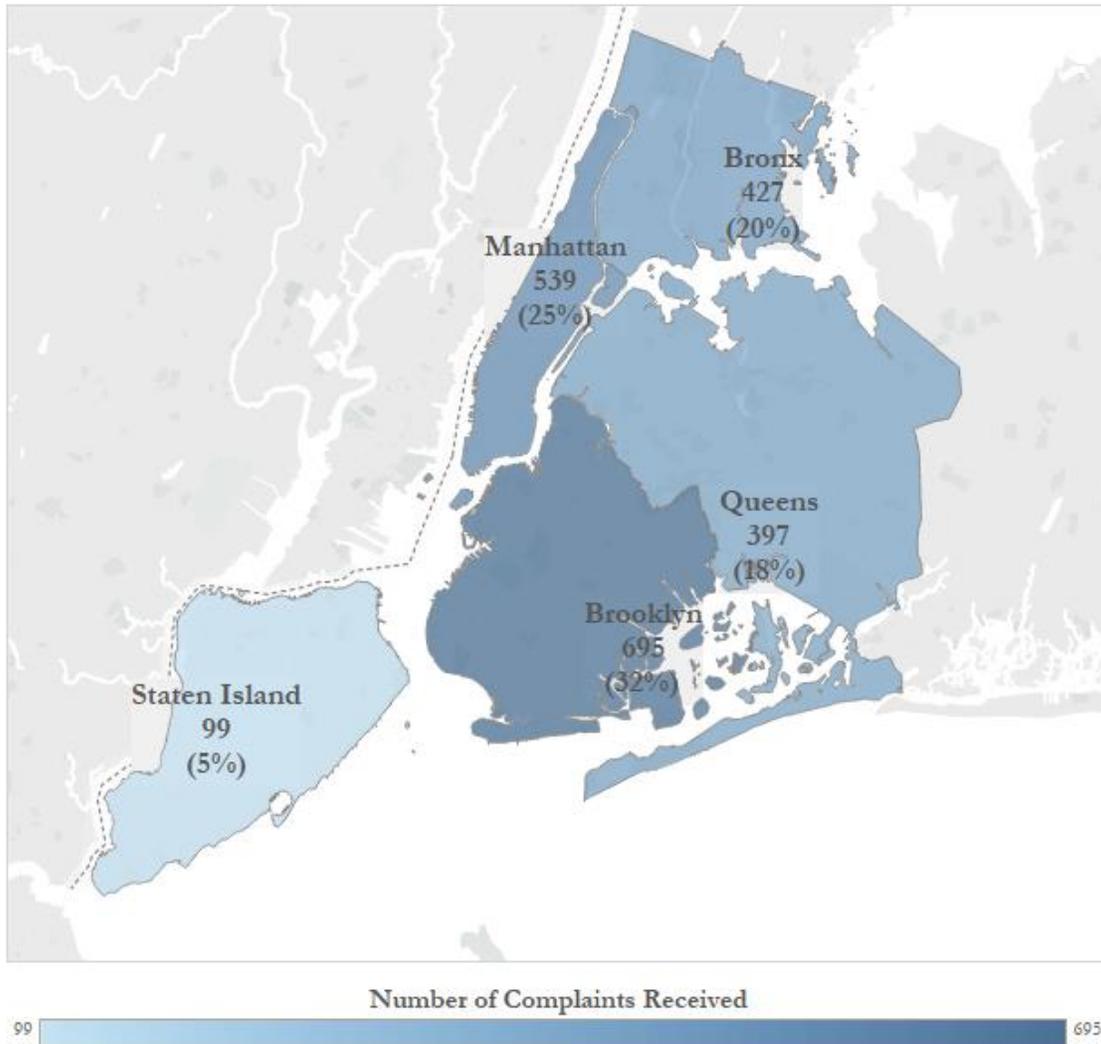
In the first half of 2018, 32% of the complaints received within the CCRB's jurisdiction stemmed from alleged incidents that occurred in Brooklyn, which is home to approximately 31% of the City's population (Fig. 06).<sup>1</sup> Both the Bronx and Manhattan had complaint numbers that were disproportionately higher than their respective populations, while the complaint numbers in Queens were disproportionately lower. Incidents occurring in the Bronx, a borough which is home to 17% of the City's residents, made up 20% of complaints. Incidents occurring in Manhattan comprised 25% of complaints, though only 19% of New York's residents live in Manhattan. Queens is home to 27% of New York City's population, but only 18% of complaints stemmed from this borough in the first half of 2018.<sup>2</sup>

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<sup>1</sup> City demographic data was drawn from the United States Census by totaling the 2017 population estimates for the five counties that make up New York City (Bronx, Kings, New York, Queens, and Richmond). Census data is available at <http://factfinder.census.gov/>.

<sup>2</sup> Staten Island makes up 6% of the city's population.

**Figure 06: Complaints Received within CCRB Jurisdiction by Borough, Q1/2 2018**



The CCRB’s website includes a frequently-updated interactive Complaint Activity Map that provides information on complaints by precinct of occurrence.<sup>3</sup> In the first half of 2018, as in many prior years, the 75<sup>th</sup> precinct in Brooklyn generated the highest number of complaints. However, standardizing the number of complaints by residential population allows for more accurate comparisons between precincts. The highest rate of complaints in the first half of 2018 occurred in the 25<sup>th</sup> Precinct in Manhattan, which had a complaint rate of 10 per 10,000 residents compared with the 75<sup>th</sup> Precinct’s rate of four per 10,000 residents.<sup>4</sup> The second highest complaint rate for the first half of 2018 occurred in Manhattan’s 14<sup>th</sup> Precinct with a complaint rate of nine per 10,000 residents. The map in Fig. 07 depicts the relative complaint rates in individual precincts, while raw number and rate of complaints received within each precinct are listed in Fig. 08.<sup>5</sup>

<sup>3</sup> Visit the CCRB’s Data Transparency Initiative webpage, [www.nyc.gov/dti](http://www.nyc.gov/dti), to explore the Complaint Activity Map and other data relevant to complaints and allegations.

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

<sup>5</sup> According to the 2010 Census, there are 25 people living within the boundaries of the 22<sup>nd</sup> Precinct (Central Park Precinct), which is why the rate per 10,000 residents depicted in Fig. 08 is so high. For ease of viewing,



**Figure 08: CCRB Complaints Received per Precinct of Occurrence, Q1/2 2017 and Q1/2 2018<sup>6</sup>**

Precinct	Q1/Q2 2017		Q1/Q2 2018		Precinct	Q1/Q2 2017		Q1/Q2 2018	
	Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents		Complaint Count	Complaints per 10,000 residents	Complaint Count	Complaints per 10,000 residents
1	10	1	21	3	67	51	3	47	3
5	22	4	18	3	68	29	2	16	1
6	25	4	28	4	69	21	2	33	4
7	23	4	22	4	70	40	2	38	2
9	19	2	34	4	71	33	3	30	3
10	19	4	19	4	72	23	2	16	1
13	31	3	15	2	73	50	6	61	7
14	35	7	45	9	75	84	5	82	4
17	11	1	10	1	76	27	6	16	4
18	34	6	41	8	77	43	4	50	5
19	28	1	23	1	78	11	2	11	2
20	15	1	7	1	79	33	4	41	5
22	1	400	1	400	81	29	5	40	6
23	41	6	32	4	83	30	3	24	2
24	14	1	22	2	84	37	8	36	7
25	36	8	48	10	88	24	5	15	3
26	15	3	11	2	90	15	1	20	2
28	30	7	29	6	94	7	1	13	2
30	21	3	15	2	100	9	2	12	3
32	55	8	31	4	101	46	7	48	7
33	19	2	24	3	102	24	2	20	1
34	27	2	38	3	103	31	3	34	3
40	56	6	47	5	104	17	1	17	1
41	34	7	25	5	105	39	2	43	2
42	44	6	38	5	106	24	2	19	2
43	51	3	30	2	107	29	2	22	1
44	50	3	53	4	108	23	2	10	1
45	18	1	20	2	109	10	0	18	1
46	47	4	42	3	110	17	1	19	1
47	47	3	40	3	111	8	1	11	1
48	42	5	42	5	112	14	1	15	1
49	20	2	29	3	113	38	3	45	4
50	23	2	15	1	114	46	2	53	3
52	50	4	45	3	115	19	1	8	0
60	39	4	26	2	120	46	4	37	3
61	27	2	25	2	121	26	2	20	2
62	24	1	20	1	122	15	1	23	2
63	16	1	20	2	123	17	2	18	2
66	17	1	12	1					

<sup>6</sup> According to the 2010 Census, there are 25 people living within the boundaries of the 22<sup>nd</sup> Precinct (Central Park Precinct), which is why the rate per 10,000 residents depicted in Fig. 08 is so high.

## CHARACTERISTICS OF ENCOUNTERS RESULTING IN A COMPLAINT

**Figure 09: Top 15 Reasons for Initial Contact, Q1/2 2017 and Q1/2 2018**

When a complaint is investigated, the CCRB tries to discern the initial reason for the contact between the civilian and the officer(s). In the first half of 2018, the highest percentage of complaints received within the CCRB’s jurisdiction stemmed from an officer suspecting a civilian of a violation or a crime while on a public street (Fig. 09).

The CCRB also tracks the outcome of encounters that lead to complaints being filed. In the first half of 2018, more than half (54%) of complaints received within the Agency’s jurisdiction stemmed from encounters where no arrest was made or summons issued (Fig. 10). This is approximately the same as the first half of 2017, when 55% of the complaints received stemmed from these types of encounters.

	Q1/2 2017		Q1/2 2018	
	Count	Percent of Total	Count	Percent of Total
PD suspected C/V of violation/crime - street	319	14%	274	13%
Report of other crime	177	8%	192	9%
Moving violation	161	7%	184	9%
Report-dispute	169	8%	158	7%
Other	159	7%	134	6%
PD suspected C/V of violation/crime - auto	139	6%	131	6%
Report-domestic dispute	106	5%	106	5%
PD suspected C/V of violation/crime - bldg	124	6%	85	4%
Other violation of Vehicle & Traffic Law (VTL)	63	3%	83	4%
Execution of search warrant	98	4%	75	4%
Emotionally Disturbed Person (EDP) aided case	74	3%	70	3%
C/V already in custody	57	3%	60	3%
C/V requested investigation of crime	64	3%	59	3%
PD suspected C/V of violation/crime - subway	64	3%	58	3%
C/V intervened on behalf of/observed encounter w/3rd party	44	2%	55	3%
Other categories combined	395	18%	385	18%
<b>Total</b>	<b>2,213</b>	<b>100%</b>	<b>2,109</b>	<b>100%</b>

**Figure 10: Outcome of Encounters Resulting in CCRB Complaints, Q1/2 2017 and Q1/2 2018**

	Q1/2 2017		Q1/2 2018	
	Count	Percent of Total	Count	Percent of Total
No arrest made or summons issued	1253	55%	1177	54%
Arrest - other violation/crime	543	24%	599	28%
Moving violation summons issued	125	6%	136	6%
Summons - other violation/crime	90	4%	74	3%
Other VTL violation summons issued	53	2%	33	2%
Arrest - resisting arrest	40	2%	40	2%
Arrest - assault (against a PO)	42	2%	29	1%
Parking summons issued	34	2%	25	1%
Summons - disorderly conduct	39	2%	12	1%
NA	27	1%	26	1%
Arrest - Obstructing Govt. Admin.	6	0%	11	1%
Arrest - disorderly conduct	8	0%	8	0%
Juvenile Report	5	0%	2	0%
Summons - harassment (against a PO)	1	0%	0	0%
Arrest - harassment (against a PO)	0	0%	1	0%
<b>Total</b>	<b>2266</b>	<b>100%</b>	<b>2173</b>	<b>100%</b>

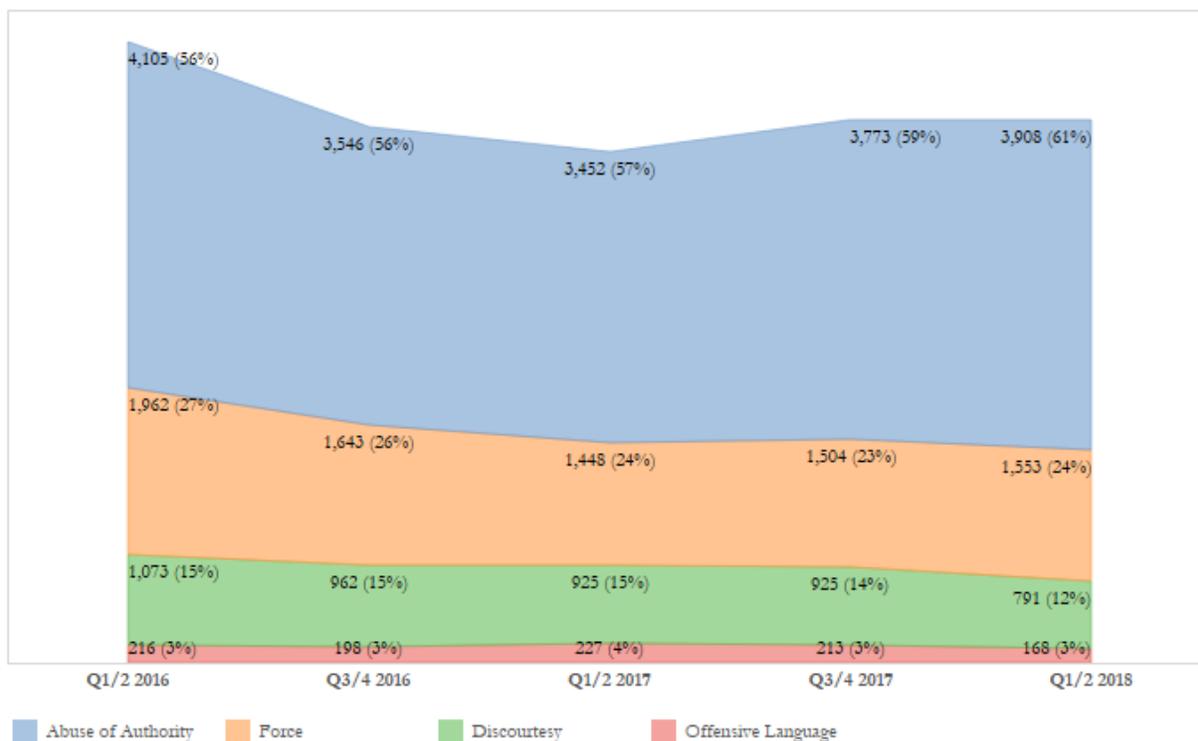
## NUMBERS AND TYPES OF ALLEGATIONS RECEIVED AND CLOSED

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

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

of 2018, Abuse of Authority allegations comprised more than half (61%) of allegations closed (Fig. 11). These types of allegations have increased in proportion over the last four years. Force allegations are the next most common, comprising 24% of all allegations closed in the first half of 2018 (Fig. 11).

**Figure 11: Types of Allegations Closed, 2016 - Q1/2 2018**



The CCRB also keeps track of the specific type of sub-allegations within each FADO category (Fig. 12). In the Force category, the designation of “Physical force” remains the most common allegation received by the CCRB in the first half of 2018. This refers to an officer’s use of bodily force, such as punching, shoving, kicking, or pushing. In the first half of 2018, “Physical force” accounted for 77% of all the Force category allegations.

With respect to the other FADO Categories, in the first half of 2018, the most common Abuse of Authority allegations were “Refusal to provide name and/or shield” and “Threat of arrest.” The most common Discourtesy allegation was “Word” (e.g. profanity), accounting for 86% of those allegations. The most common Offensive Language allegation was “Race,” accounting for 35% of those allegations.

**Figure 12: FADO Allegations Received by Type, Q1/2 2017 and Q 1/2 2018<sup>7</sup>**

Force (F) Allegations	Q1/2 2017		Q1/2 2018	
	Count	% of Total	Count	% of Total
Physical force	1,240	73%	1,363	77%
Gun Pointed	113	7%	84	5%
Chokehold	64	4%	65	4%
Nonlethal restraining device	47	3%	46	3%
Hit against inanimate object	60	4%	46	3%
Restricted Breathing	6	0%	47	3%
Nightstick as club (incl asp & ba)	36	2%	26	1%
Pepper spray	27	2%	21	1%
Handcuffs too tight	14	1%	23	1%
Other	58	3%	14	1%
Other blunt instrument as a club	7	0%	13	1%
Vehicle	11	1%	8	0%
Radio as club	6	0%	5	0%
Gun fired	5	0%	5	0%
Police shield	6	0%	3	0%
Gun as club	4	0%	1	0%
Flashlight as club	1	0%	1	0%
Animal	0	0%	0	0%

Discourtesy (D) Allegations	Q1/2 2017		Q1/2 2018	
	Count	% of Total	Count	% of Total
Word	925	84%	728	86%
Action	147	13%	114	13%
Gesture	18	2%	1	0%
Demeanor/tone	5	0%	3	0%
Other	1	0%	0	0%

Offensive Language (O) Allegations	Q1/2 2017		Q1/2 2018	
	Count	% of Total	Count	% of Total
Race	85	32%	72	35%
Gender	84	31%	66	32%
Ethnicity	50	19%	20	10%
Other	15	6%	20	10%
Religion	11	4%	14	7%
Sexual orientation	20	7%	12	6%
Physical disability	3	1%	1	0%
Gender Identity	0	0%	2	1%

Abuse of Authority (A) Allegations	Q1/2 2017		Q1/2 2018	
	Count	% of Total	Count	% of Total
Refusal to provide name / shield number	517	12%	479	10%
Stop	412	10%	460	9%
Threat of arrest	520	12%	464	10%
Entry of Premises	6	0%	442	9%
Vehicle stop	351	8%	356	7%
Search (of person)	361	8%	333	7%
Forcible Removal to Hospital	15	0%	252	5%
Vehicle search	234	5%	235	5%
Frisk	269	6%	227	5%
Search of Premises	6	0%	209	4%
Threat of force (verbal or physical)	187	4%	176	4%
Property damaged	110	3%	139	3%
Question	110	3%	145	3%
Premises entered and/or searched	470	11%	83	2%
Other	148	3%	82	2%
Refusal to obtain medical treatment	78	2%	71	1%
Interference with recording	75	2%	69	1%
Seizure of property	52	1%	68	1%
Refusal to process civilian complaint	56	1%	66	1%
Strip-searched	66	2%	37	1%
Gun Drawn	47	1%	42	1%
Threat: removal to hospital	2	0%	40	1%
Threat to damage/seize property	57	1%	80	2%
Refusal to show search warrant	30	1%	39	1%
Threat of summons	47	1%	39	1%
Photography/Videography	0	0%	30	1%
Threat to notify ACS	23	1%	30	1%
Sex Miscon (Sexual Harassment, Verbal)	0	0%	25	1%
Refusal to show arrest warrant	9	0%	16	0%
Search of recording device	12	0%	14	0%
Sexual Misconduct (Sexual Humiliation)	0	0%	14	0%
Sex Miscon (Sexual/Romantic Proposition)	0	0%	14	0%
Retaliatory summons	18	0%	11	0%
Electronic device information deletion	5	0%	9	0%
Threat: immigration status	0	0%	7	0%
Questioned immigration status	0	0%	6	0%
Body Cavity Searches	0	0%	4	0%
Retaliatory arrest	9	0%	4	0%
Sex Miscon (Sexual Harassment, Gesture)	0	0%	3	0%
Disseminated immigration status	0	0%	2	0%
Improper dissemination of medical info	1	0%	1	0%

<sup>7</sup> In late 2017, the CCRB separated the Abuse of Authority allegation category of “Premises entered and/or searched” into “Entry of premises” and “Search of premises,” impacting comparison across years, but improving accuracy of data. This change results in the false appearance of an increase in these allegations in the first half of 2018. Additionally, due to the fact that the CCRB only began investigating sexual misconduct allegations in 2018, the absence of these allegations in Q1/2 2017 appears as a zero.

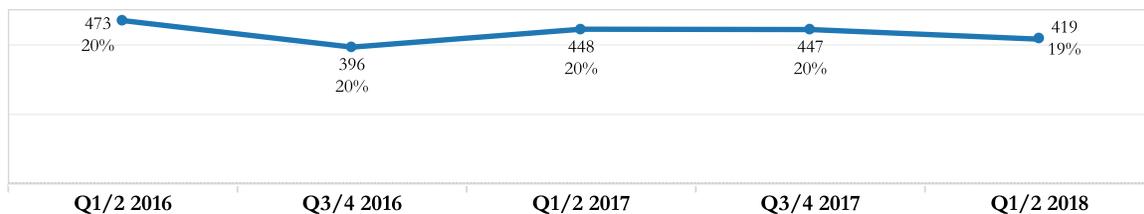


## STOP, QUESTION, FRISK AND SEARCH (SQF) OF PERSON ALLEGATIONS

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

allegation. Relative to the first half of 2017, these allegations have declined slightly, from 448 to 419 (page 17 & Fig. 13).

**Figure 13: Complaints Received Containing a Stop, Question, Frisk, and Search of Person Allegation, 2016 - Q1/2 2018**



## CHARACTERISTICS OF ALLEGED VICTIMS

The CCRB compares the demographic profiles of the alleged victims to the demographics of the City as a whole, without controlling for any other factors such as the proportion of encounters with the police or the number of criminal suspects. The race and gender of alleged victims are disproportionate to the racial and gender makeup of New York City’s population (Fig. 14, next page).<sup>8</sup>

In the first half of 2018, individuals who self-identified as Black made up over half (54%) of alleged victims, while, according to 2017 census estimates, Black residents make up only 24% of the City’s population.

In the first half of 2018, 65% of alleged victims were male, while men make up only 48% of the City’s population (Fig. 14, next page).<sup>9</sup> In 2017, the Agency included “gender

nonconforming” as an option when complainants/victims are reporting their gender, and revised its case management system to generate gender neutral honorifics, whenever appropriate, in communications to complainants.<sup>10</sup> While not depicted in Fig. 14 due to rounding, 0.2% of alleged victims self-identified as gender nonconforming or transgender in the first half of 2018. The Agency is committed to working on building trust with the transgender and gender nonconforming community, and intends to focus additional resources on outreach in 2018 and beyond.

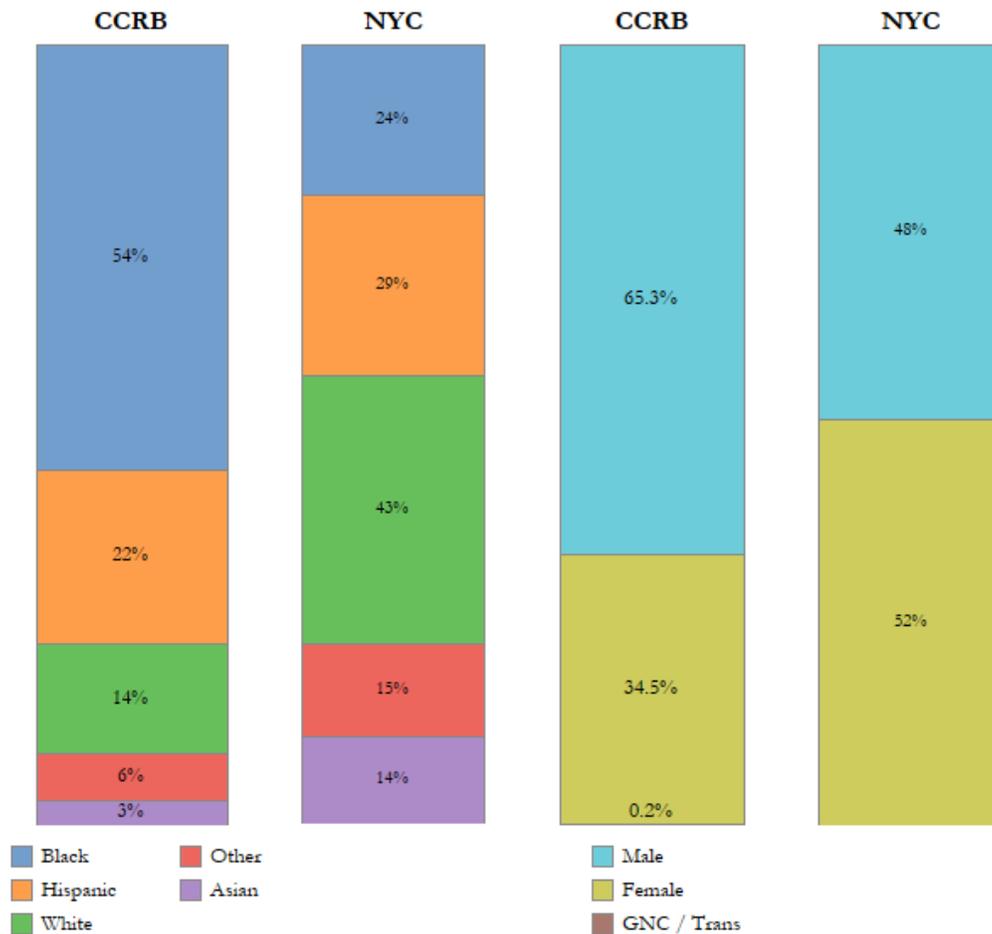
<sup>8</sup> City demographic information is drawn from the 2017 United States Census estimate—the most recent year for which such data is available. All race demographics are inclusive of Hispanic origin. For example, “Black” includes both “Black Hispanic” and “Black Non-Hispanic.” Census data is available at <http://factfinder.census.gov/>.

<sup>9</sup> The census does not count gender, but instead counts biological sex of respondents (see <https://factfinder.census.gov/help/en/gender.h>

[tm](#)). As such, comparisons between the CCRB’s data and census data are not exact.

<sup>10</sup> The number of gender nonconforming and transgender CCRB complainants is less than 1%.

**Figure 14: Alleged Victim Demographics Compared to New York City, Complaints Received in Q1/2 2018<sup>11 12</sup>**



<sup>11</sup> The percentages for race of New York City residents do not add up to 100% because the Census allows respondents to self-report Hispanic ethnicity separate from race. Someone may, for instance, indicate that they are both Black and Hispanic. This means that some individuals are counted in these categories twice. Since current CCRB race/ethnicity categories are not precisely aligned with Census categories, comparisons should be made with caution.

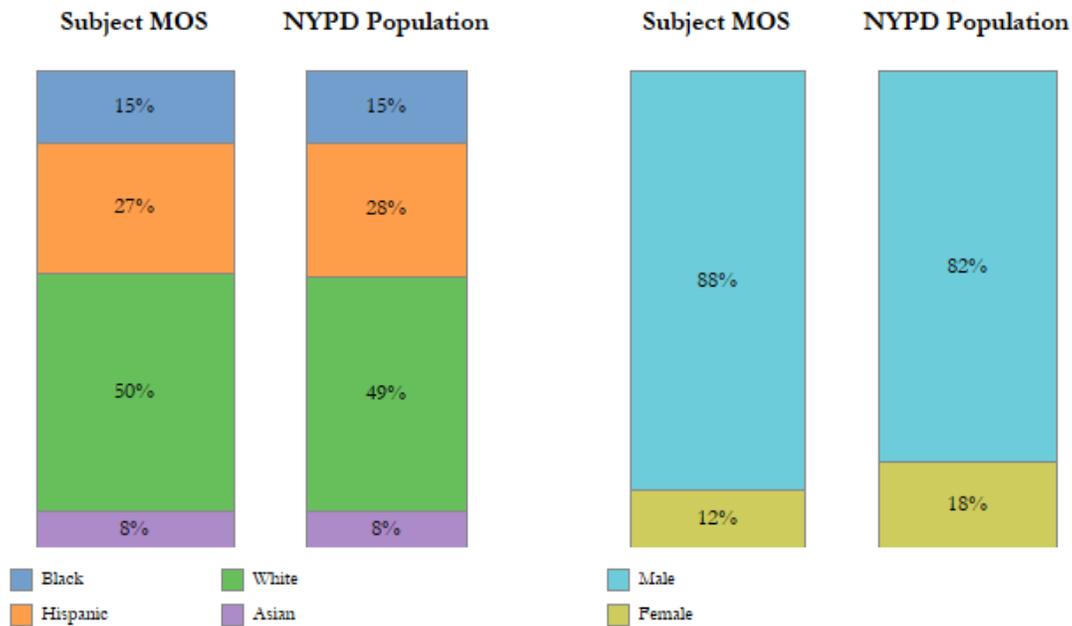
<sup>12</sup> GNC is an acronym that stands for Gender Nonconforming. Trans includes individuals who identify as Transmen and Transwomen.

## CHARACTERISTICS OF SUBJECT OFFICERS

The race and gender makeup of officers who are the subject of CCRB complaints largely reflects the demographic composition of the NYPD as a whole (Fig. 15). In the first half of 2018, white officers accounted for 50% of the

subject officers in CCRB complaints and 49% of the NYPD as a whole. Male officers accounted for 88% of the subject officers in CCRB complaints and 82% of the NYPD as a whole.

**Figure 15: Subject Officer Demographics Compared to NYPD, Q1/2 2018**



In the first half of 2018, the CCRB substantiated allegations against 132 police officers, 30 sergeants, six lieutenants, and five

detectives (Fig. 16). Approximately 66% of these officers had between zero and 10 years on the job at the time of the incident (Fig. 17).

**Figure 16: Rank of Active MOS with Substantiated CCRB Complaints**

	Q1/2 2018
	Count
Police Officer	132
Sergeant	30
Lieutenant	6
Detective	5

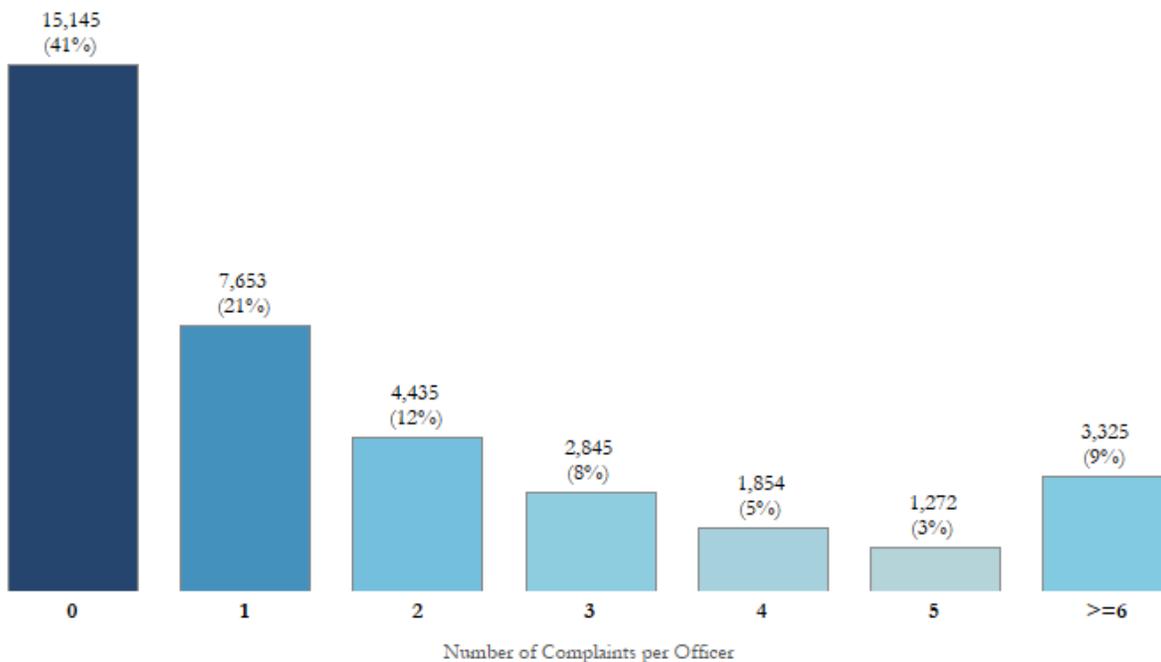
**Figure 17: Tenure of Active MOS with Substantiated CCRB Complaints**

	Q1/2 2018	
	Count	Percent
0-3 Years	26	15%
4-5 Years	43	25%
6-10 Years	45	26%
11-15 Years	38	22%
16-20 Years	12	7%
21+ Years	9	5%

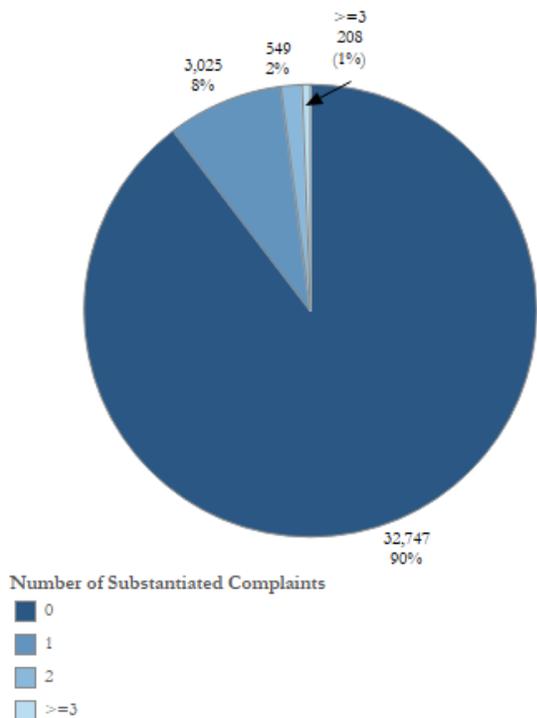
## TOTAL COMPLAINTS AGAINST ACTIVE MEMBERS OF SERVICE (MOS)

As of June 30, 2018, there were 36,529 active MOS on the NYPD roster. The charts below depicts how complaints are distributed among MOS.

**Figure 18: Active MOS with CCRB Complaints**



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



The vast majority of active MOS (90%) have never had a CCRB complaint substantiated. Of all active MOS, 41% have never been the subject of a CCRB complaint, and 41% have been the subject of between one and three complaints (Fig. 18). Just under one-tenth (9%) have been the subject of six or more CCRB complaints. For MOS who have been the subject of a complaint, 8% have had one complaint substantiated, and 208 MOS (1%) have had three or more complaints substantiated (Fig. 19).

## SECTION 2: INVESTIGATIONS

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

At the beginning of an investigation, the investigator interviews the complainant and any witnesses, collects evidence, and attempts to identify the police officer(s) involved in the encounter. In many instances, the officers' identities are unknown at the outset of the investigation. Once all the necessary interviews are conducted and the collected evidence is reviewed, the investigative team makes a recommendation to the Board. In the majority of cases, a panel of three Board members, comprised of one mayoral designee, one City Council designee, and one Police Commissioner designee, reviews the case and votes on the Investigations Division's recommendations. In some circumstances, the full Board will consider a case.<sup>13</sup>

In order to resolve investigations fairly and in accordance with local law, the CCRB generally needs the cooperation of at least one civilian complainant/alleged victim related to the case. The New York City Charter states that CCRB's findings and recommendations cannot "be based solely upon an unsworn complaint or statement."<sup>14</sup> When a complainant/alleged victim is available for an interview, the Agency deems the resulting investigation a "full investigation." However, when a complaint is withdrawn or there is no complainant/alleged victim available for an interview, and there is no additional evidence

upon which the investigation can proceed, the investigation is "truncated." The Investigations Division always seeks to keep truncated investigations to a minimum; its primary goal is to complete full and fair investigations.

This section covers the performance of the Investigations Division and the outcomes of complaints made to the CCRB.

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<sup>13</sup> In the first half of 2018, no cases were reviewed by the full Board.

<sup>14</sup> New York City Charter Chapter 18-A § 440(c)(1).

## INVESTIGATIONS DIVISION PERFORMANCE

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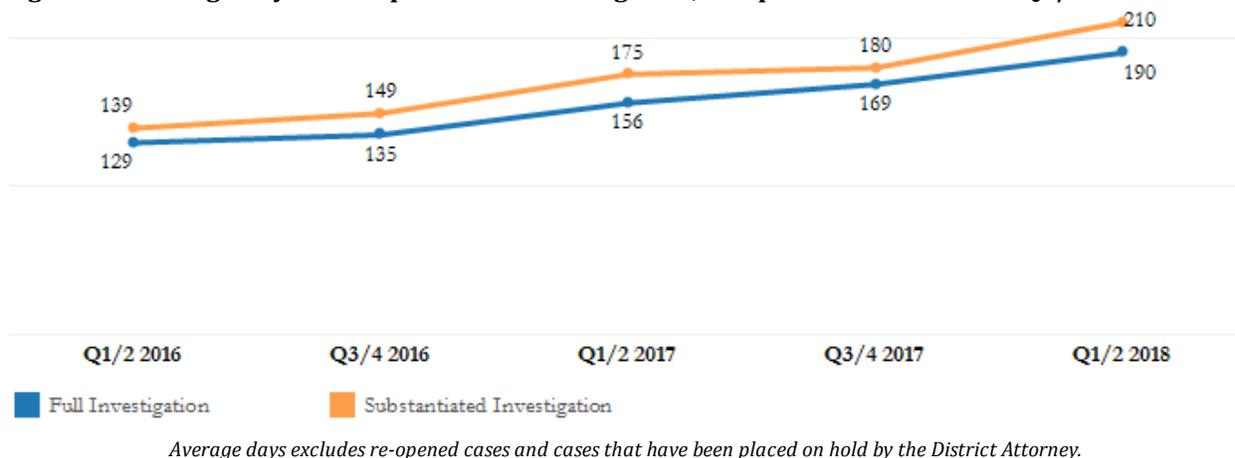
The CCRB tracks the amount of time that it takes to close a full investigation, measured from the date the CCRB receives a complaint to the date the complaint is closed by the Board, and the time that it takes to close a full investigation for substantiated cases, which are typically the most complicated and time consuming. In the first half of 2018, full investigations were closed in an average of 190 days (Fig. 20). Full investigations that resulted in at least one allegation being substantiated were closed in an average of 210 days (Fig. 20).

Another key metric is the number of days before the first civilian and officer interviews take place. In the first half of 2018, the first civilian interview in a full investigation took place, on average, 18 days after the CCRB received the complaint (Fig. 21). The first officer interview took place, on average, 71 days after the complaint was received. These numbers are higher than they have been in the recent past. This is due to several factors, including the Agency improving the quality of video evidence analysis by providing investigators with advanced training in forensic analysis techniques,<sup>15</sup> the Board's decision to begin investigating allegations of sexual misconduct, requiring additional processing time for these cases during the transition, and due to the NYPD's decision not to provide, or providing only in a redacted form, several documents previously made available to the CCRB unaltered.

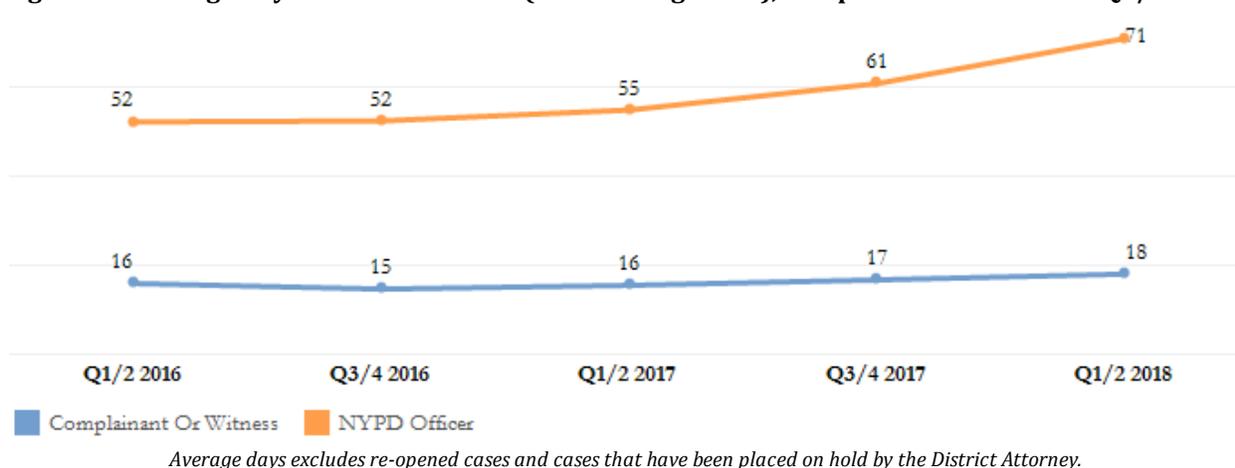
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<sup>15</sup> The CCRB's investigative protocols require that all immediately available video evidence be analyzed and all relevant documents be reviewed prior to conducting subject and witness officer interviews. The figures in both Fig. 20 and Fig. 21 are impacted by delays resulting from the increased amount of video evidence that investigators must review and the time it takes to obtain relevant documents.

**Figure 20: Average Days to Complete a Full Investigation, Complaints Closed 2016 – Q1/2 2018**



**Figure 21: Average Days to First Interview (Full Investigations), Complaints Closed 2016 – Q1/2 2018**



## CASE RESOLUTION AND INVESTIGATIVE OUTCOMES

A CCRB complaint can be resolved in a number of ways. The complaint may be fully investigated, mediated, closed as a truncated investigation, or closed after mediation is attempted. 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.

An investigation is truncated when it is closed without a full investigation (generally because the complainant withdraws the complaint, the complainant is uncooperative

or unavailable, or the victim could not be identified).<sup>16</sup> “Mediation attempted” is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for a scheduled mediation session 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.

For complaints closed in the first half of 2018, 30% of complaints were fully investigated and 57% were truncated (Figs. 22 & 23). The majority of truncations (55%) are closed as

<sup>16</sup> Miscellaneous closures are not included in the truncation rate.

“Complainant/Victim/Witness Uncooperative” (Fig. 24). This occurs in cases in which the investigator made initial contact with the complainant, victim, or witness, but was unable to obtain either an official statement or other evidence.

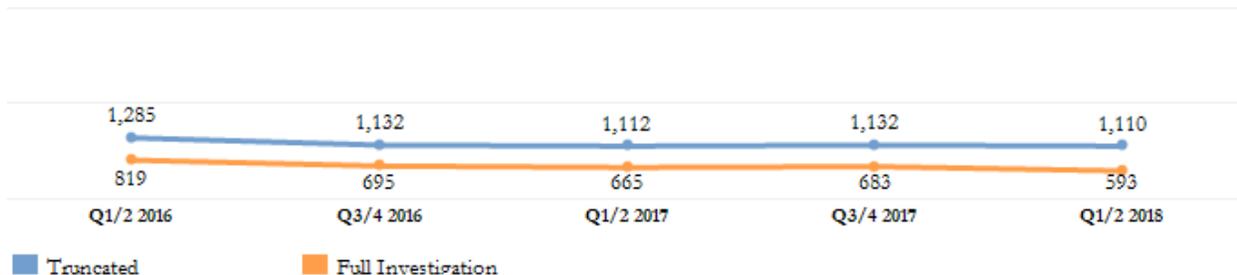
In 2018, the CCRB began tracking cases that were withdrawn by complainants or victims upon the advice of counsel. Sometimes when a complainant is involved in criminal or civil

litigation, their attorney advises against making sworn statements in another venue until the conclusion of the court case. When a complaint is closed due to pending litigation, CCRB investigators will periodically check court records to determine if the case has ended, and if so, attempt to reconnect with the complainant. In the first half of 2018, the CCRB re-opened 12 cases that had previously been closed due to pending litigation.

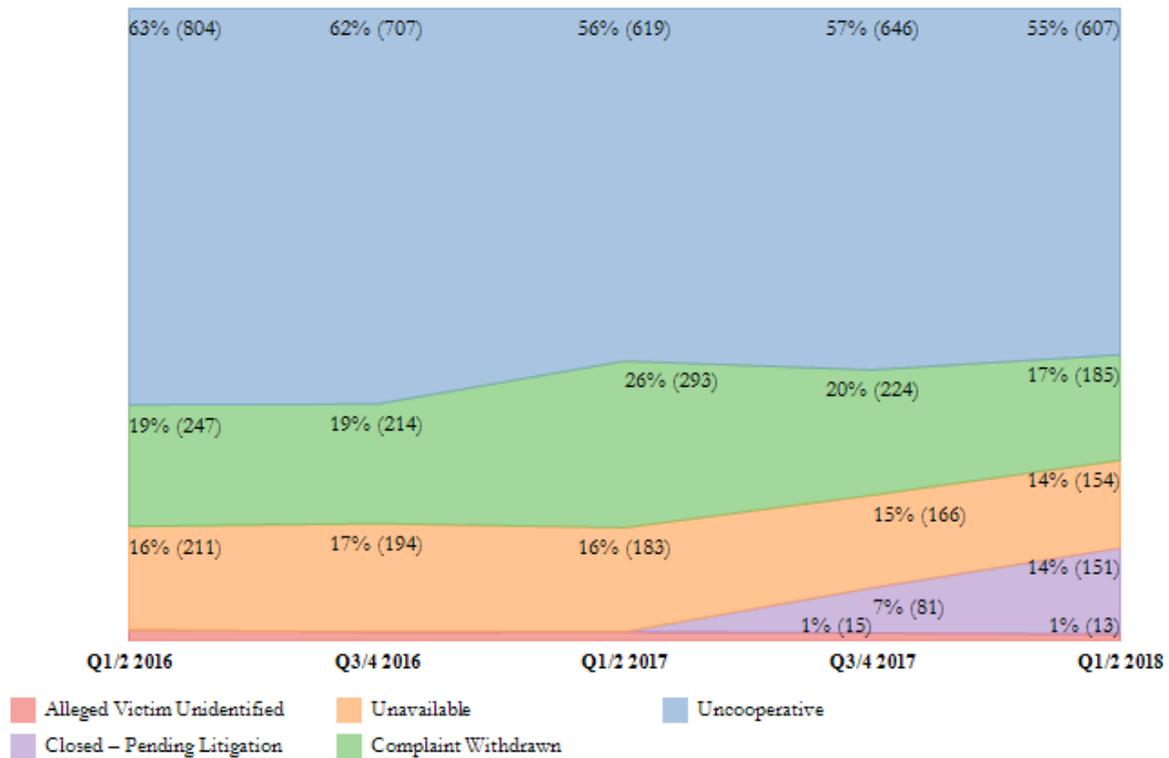
**Figure 22: Case Resolutions, 2016 – Q1/2 2018**

	Q1/2 2016		Q3/4 2016		Q1/2 2017		Q3/4 2017		Q1/2 2018	
	Count	% of Total								
Truncated	1,285	54%	1,132	55%	1,112	57%	1,132	54%	1,110	57%
Full Investigation	819	35%	695	34%	665	34%	683	33%	593	30%
Mediation Attempted	120	5%	107	5%	82	4%	131	6%	132	7%
Mediated	112	5%	96	5%	91	5%	113	5%	120	6%
Misc. Closure	32	1%	22	1%	17	1%	27	1%	8	0%

**Figure 23: Truncations and Full Investigations, 2016 – Q1/2 2018**



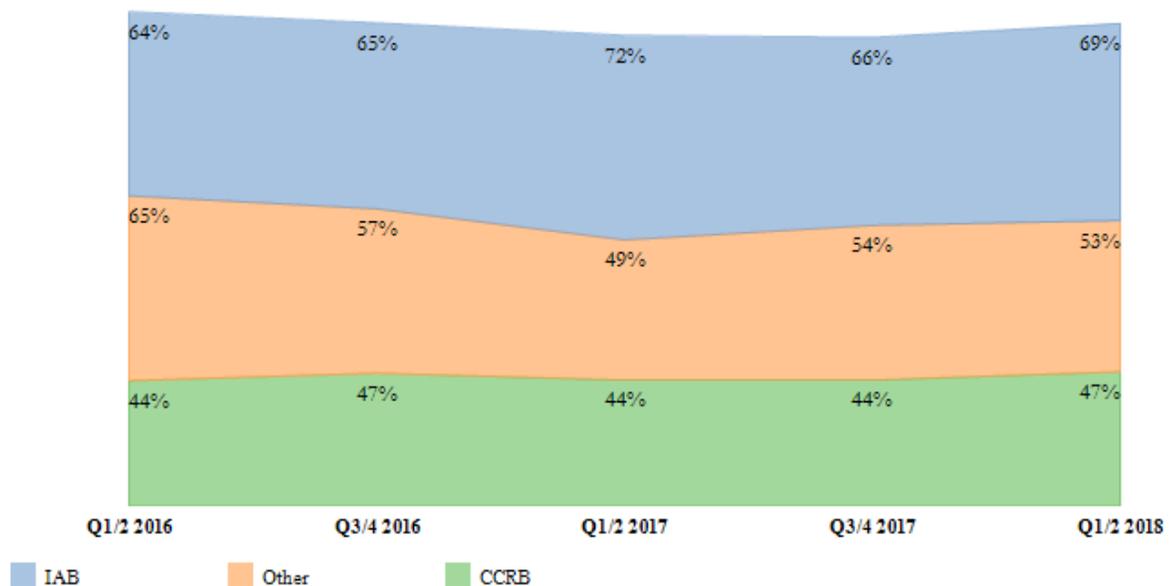
**Figure 24: Truncations by Type, 2016 – Q1/2 2018**



Complaints filed directly with the CCRB are less likely to be truncated than complaints that are referred to the CCRB by another agency (Fig. 25). When complaints are filed elsewhere, it is often difficult for the CCRB to make contact with the complainant or victim.

In some cases, other agencies do not notify complainants and victims that their complaint was referred to the CCRB. This can cause confusion, and may reduce the likelihood that complainants will cooperate when contacted by CCRB investigators.

**Figure 25: Truncation Rates by Place of Filing, 2016 – Q1/2 2018**



The Agency is dedicated to lowering the truncation rate, where possible, and initiated several steps toward achieving that goal in the first half of 2018. The CCRB began 1) increasing outreach efforts in precincts with high rates of police interactions, but incongruously low rates of complaints, which will help community members better understand the CCRB investigative process and 2) examining how outreach efforts may be better targeted to vulnerable communities

that traditionally have had lower rates of reporting misconduct, such as youth, people who are transgender and/or gender nonconforming, and the homeless. Finally, the CCRB continues to be committed to working with agencies that refer complaints to the CCRB in order to improve interagency communication with complainants who may be unaware that their allegations were referred.

### **COMPLAINT AND ALLEGATION DISPOSITIONS FOR FULLY INVESTIGATED CASES**

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

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

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

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

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

## **CASE ABSTRACTS**

The following case abstracts are taken from complaints closed in the first half of 2018 and serve as examples of what the different case dispositions mean in practice:

### **1. Substantiated**

An officer pushed and struck a man in the face several times. It is undisputed that the man was intoxicated and consuming alcohol in a public space. After interacting with the man several times, the officer poured the man's beer on the floor and shoved him in the chest multiple times while saying, "What are you going to do?" To which the man replied, "Nothing. I'm gonna take my ticket and walk away, and get another beer." In response, the officer struck the man in the face five times and placed him in custody. The officer said he pushed the man because he did not want the man to get close to him. He also said that the man punched him in the face first. Video evidence confirmed that the man did not resist the officer aside from placing his hands in the air when he was shoved, and blocking his head with his hands when the officer struck him with a closed fist. The investigation determined the force used by the officer was more than was reasonable to gain control of the man. As a result, the Board substantiated a force allegation against the officer.

### **2. Exonerated**

Officers entered and searched an apartment pursuant to a valid search warrant. The warrant allowed them to search the property, arrest one of the individuals who resided at the location, and seize evidence. Officers apprehended the individual named on the warrant, who was present in the apartment, and seized evidence. Given that the officers executed the warrant in accordance with the law, the entry to the residence, the subsequent search of the premises, and the seizure of property were lawful. As a result, the Board exonerated the entry and search allegations against the officers.

### **3. Unfounded**

An individual was exiting a subway station and as he approached an emergency exit gate, an officer allegedly pushed his head into the gate causing him to fall to the ground. The officer allegedly punched and kicked the individual, causing injuries for which the individual allegedly received medical treatment. The individual provided inconsistent statements to medical personnel and CCRB investigators. An MTA employee who witnessed the incident, stated that he called 911 to report that the individual was sleeping on the station platform. According to the MTA employee, the individual was unable to provide officers with his identification or MetroCard, and he was escorted out of the station by the officers. The MTA employee contradicted the individual's claims that the officers used force during the incident. The officers also denied that they used force. Based on the consistent statements from the officers and the independent witness, the Board determined that the force allegations were unfounded.

### **4. Officer Unidentified**

A man said he was driving his vehicle and found the road closed due to a parade. An officer directed all traffic to turn left onto a detour. The man turned left as instructed, but then briefly idled on the corner. The officer allegedly used profanity and told the man to keep

moving. The man recorded the incident via a dashboard camera. The video’s audio captured the discourteous statements, but the recording produced a pixelated image that made the officer’s face, hair color, height, name plate, and shield number indiscernible. Fifteen commands and several hundred officers were assigned to the parade. With no adequate basis to determine which of those officers made the discourteous statement, the investigation was unable to identify a subject officer. As a result, the Board closed the complaint as officer unidentified.

### 5. Unsubstantiated

Officers arrested an individual pursuant to an arrest warrant. The individual alleged that when he questioned his arrest and asked why he needed to enter the police vehicle, the officers responded using profanity. The officers interviewed acknowledged that the individual resisted their efforts to place him into the police vehicle, but none of them recalled any officers using profanity. Due to the conflicting statements and absent additional evidence, the investigation was unable to determine if the officers used profanity during the incident. As a result, the Board unsubstantiated the discourtesy allegation.

## DISPOSITION OF COMPLAINTS AND ALLEGATIONS

Over the last three half-year periods, the substantiation rate (the percentage of full investigations in which the Board votes to substantiate at least one allegation) has remained stable at 19% (Fig. 26, next page). The unsubstantiation rate (the percentage of cases in which the Board could not determine whether the alleged misconduct occurred) was 49% in the first half of 2018.<sup>17</sup>

When a complaint is closed with a disposition of substantiated, unfounded, or exonerated, it is deemed to be a “finding on the merits.” This is in contrast to complaints closed as unsubstantiated or officer unidentified. Of the complaints closed in the first half of 2018,

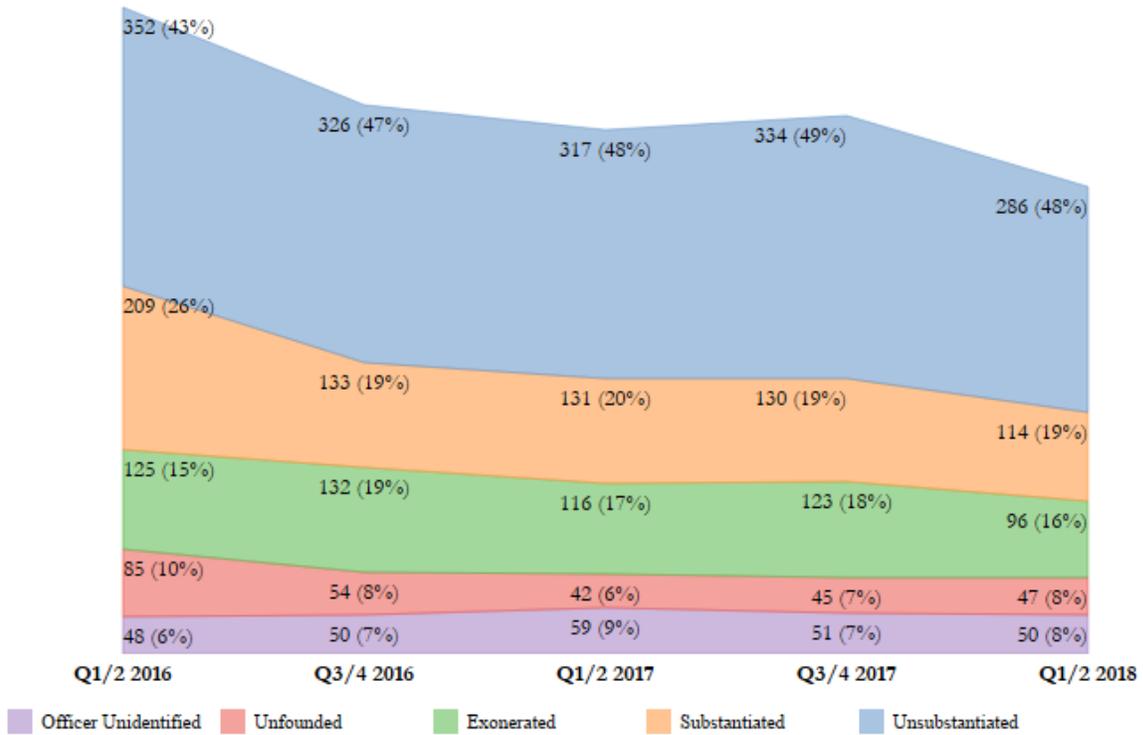
43% were closed on the merits, of which 19% were substantiated, 8% were unfounded, and 16% were exonerated (Fig. 26, next page).

A complaint may contain one or more allegations. The complaint disposition is a composite of the dispositions of all the distinct allegations within the complaint. In addition to complaint dispositions, the CCRB also tracks the disposition of each individual allegation. Of the allegations closed in the first half of 2018, 50% were closed on the merits, of which 10% were substantiated, 9% were unfounded, and 31% were exonerated (Fig. 27, next page).<sup>18</sup>

<sup>17</sup> As a point of comparison to other NYPD oversight, in calendar year 2015 and the first eight months of 2016, the Internal Affairs Bureau’s most serious cases, “corruption” cases, had an 8.5% substantiation rate, a 16.5% partial substantiation rate, and a 50.8% unsubstantiation rate. See the 18<sup>th</sup> Annual Report of the New York City Commission to Combat Police Corruption, <http://www1.nyc.gov/assets/ccpc/downloads/pdf/18th-Annual-Report.pdf>.

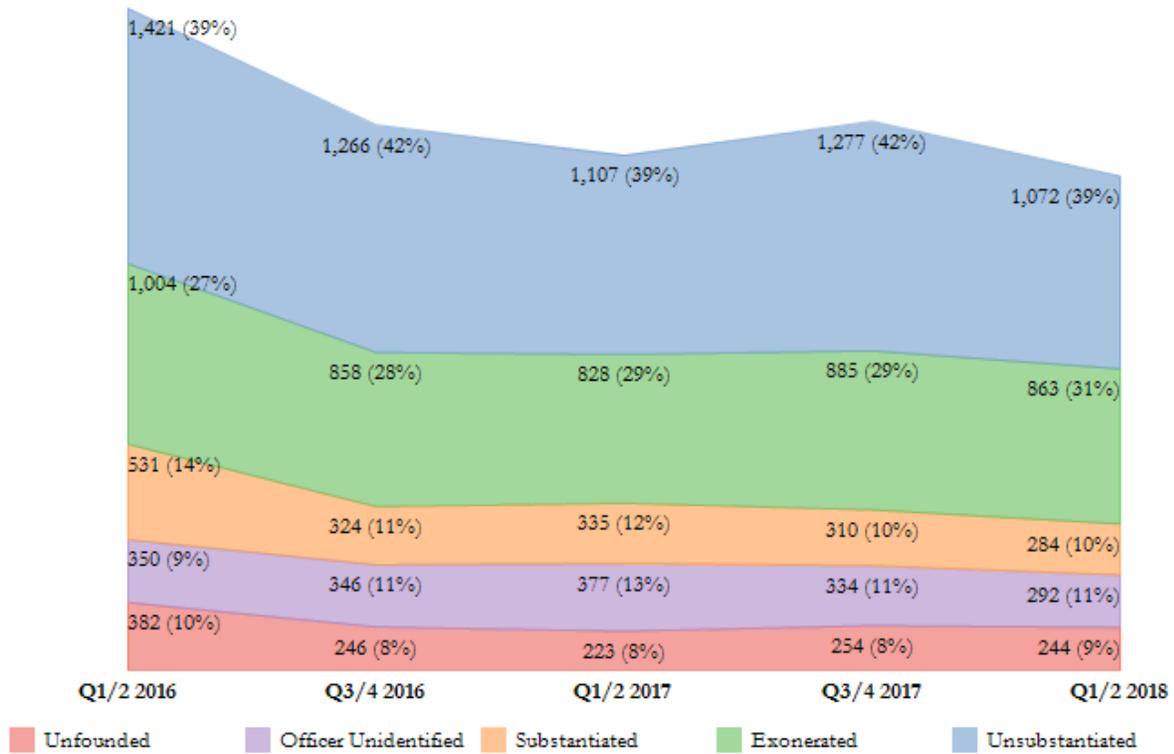
<sup>18</sup> A low substantiation rate for allegations is not unusual—in order to consider all possible allegations, investigators thoroughly document each allegation separately, though upon a full investigation, not all of these allegations can be proven.

**Figure 26: Disposition of Fully Investigated Complaints, 2016 – Q1/2 2018**



*Due to the reconsideration process, counts for 2017-2018 are subject to change. See Section 5.*

**Figure 27: Disposition of Fully Investigated Allegations, 2016 - Q1/2 2018**



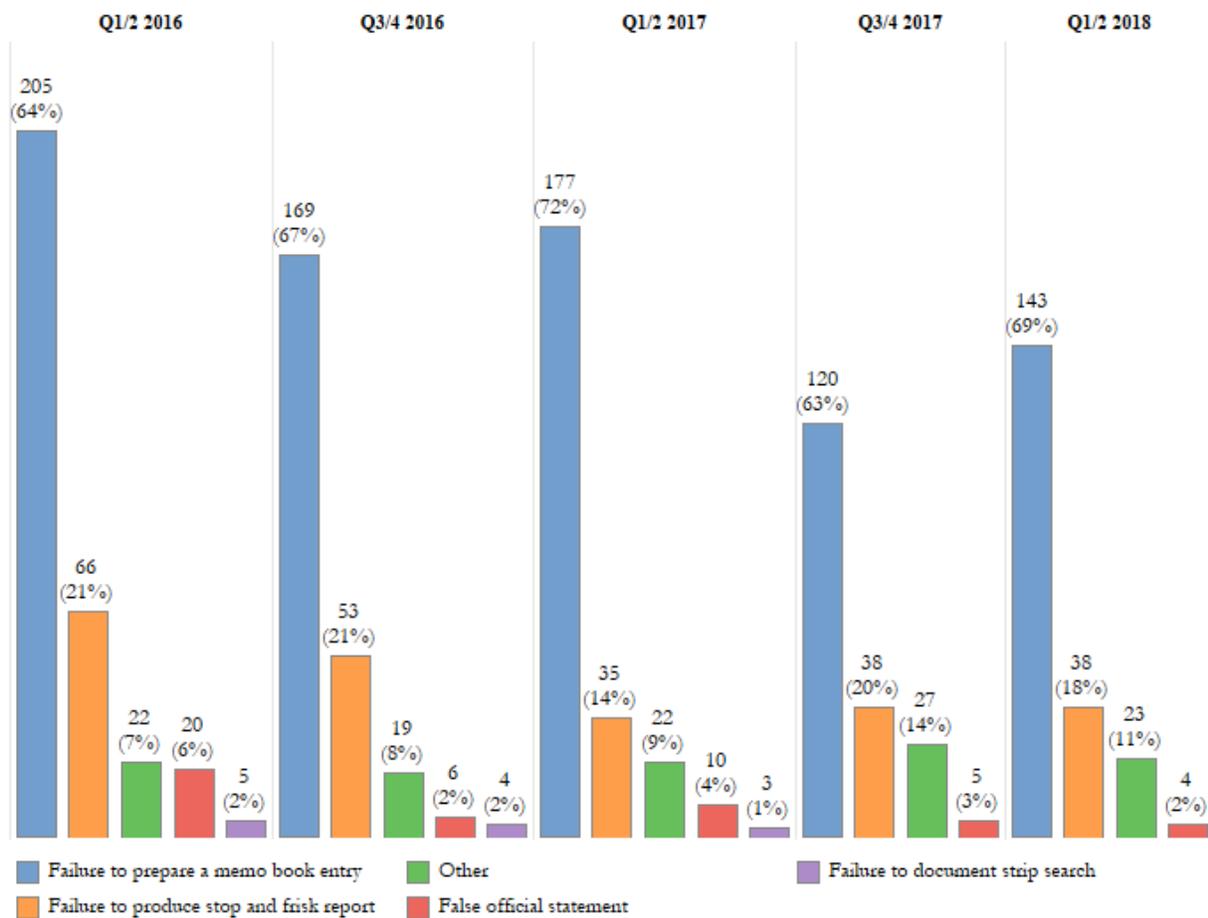
*Due to the reconsideration process, counts for 2017-2018 are subject to change. See Section 5.*

**OTHER MISCONDUCT NOTE**

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Where a CCRB investigation reveals evidence of possible misconduct that falls outside of the CCRB’s jurisdiction, as defined in Chapter 18-A § 440 (c)(1) of the New York City Charter, the Board notes the “other misconduct” (OMN), and reports it to the NYPD for further investigation and possible disciplinary action. OMN allegations should not be confused with allegations of corruption or potential criminal conduct, which are referred to Internal Affairs Bureau. Figure 28 lists the top categories of OMN referrals over the past five years. An officer’s failure to properly document an encounter or other activity in his or her memo book as required by the Patrol Guide<sup>19</sup> accounted for 69% of all OMN allegations in cases closed in the first half of 2018.

**Figure 28: Other Misconduct Noted, 2016 – Q1/2 2018**



<sup>19</sup> [http://www1.nyc.gov/assets/nypd/downloads/pdf/public information/public-pguide1.pdf](http://www1.nyc.gov/assets/nypd/downloads/pdf/public%20information/public-pguide1.pdf)

## SECTION 3: DISCIPLINARY PROCESS

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

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When the Civilian Complaint Review Board (CCRB) substantiates an allegation of misconduct, it initiates a disciplinary process that ultimately leads to the penalty, if any, that the member of service (MOS) will face. 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<sup>20</sup>, the Police Commissioner has final approval over MOS discipline. The Commissioner can accept, reject, or modify any discipline recommendation made by the CCRB.

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<sup>20</sup> NYS Civil Service Law 75 § 3-a.

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

1. **Instructions:** guidance issued by a commanding officer.
2. **Formalized Training:** given at the Police Academy or the Legal Bureau.
3. **Command Discipline A:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting five vacation days.<sup>21</sup> A Command Discipline A is automatically removed from a MOS' Central Personnel Index after one year.<sup>22</sup>
4. **Command Discipline B:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting 10 vacation days. A MOS can request that a Command Discipline B be removed from his or her Central Personnel Index after three years.
5. **Charges and Specifications:** leads to a prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT), who makes a guilty or not guilty determination. In all cases, the Police Commissioner has final approval of all dispositions, but generally follows the recommendation of the DCT or ADCT.<sup>23</sup>

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<sup>21</sup> Prior to 2014, the Board did not distinguish between "Command Discipline A" and "Command Discipline B." The corresponding disciplinary recommendation was simply "Command Discipline."

<sup>22</sup> A Central Personnel Index is a MOS' personnel record.

<sup>23</sup> In 2017, the Police Commissioner dismissed the trial verdict in four cases (4%, Fig. 34 on p. 35).

## OVERVIEW OF DISCIPLINARY PROCESS

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

When the Board recommends Charges and Specifications, the substantiated allegations are prosecuted by the APU, which became

operational in 2013. The development of the APU increased the CCRB's role in determining discipline for officer misconduct.

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

## CCRB DISCIPLINARY RECOMMENDATIONS

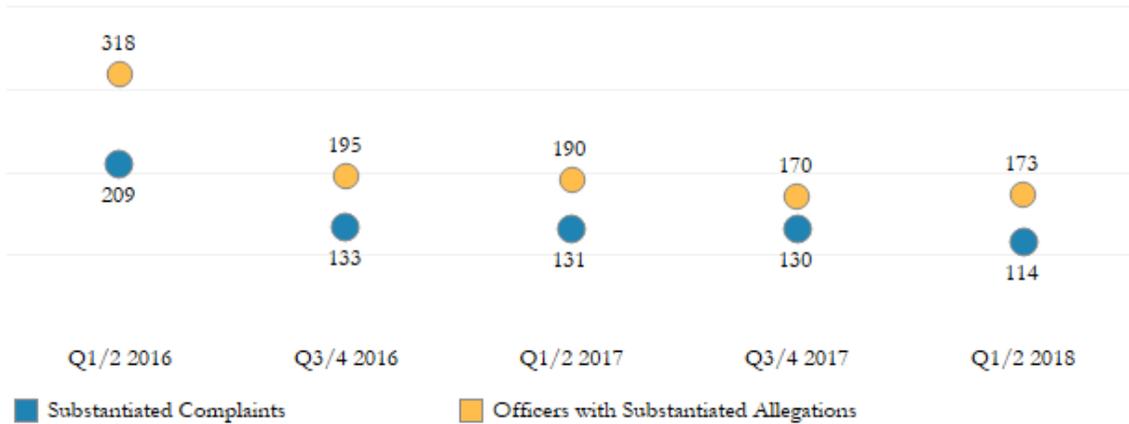
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In the first half of 2018, the Board substantiated 114 complaints against 173 police officers (Fig. 29). This is down slightly from the first half of 2017, when the Board substantiated 131 complaints against 190 police officers. A single substantiated complaint may contain substantiated allegations against more than one officer.

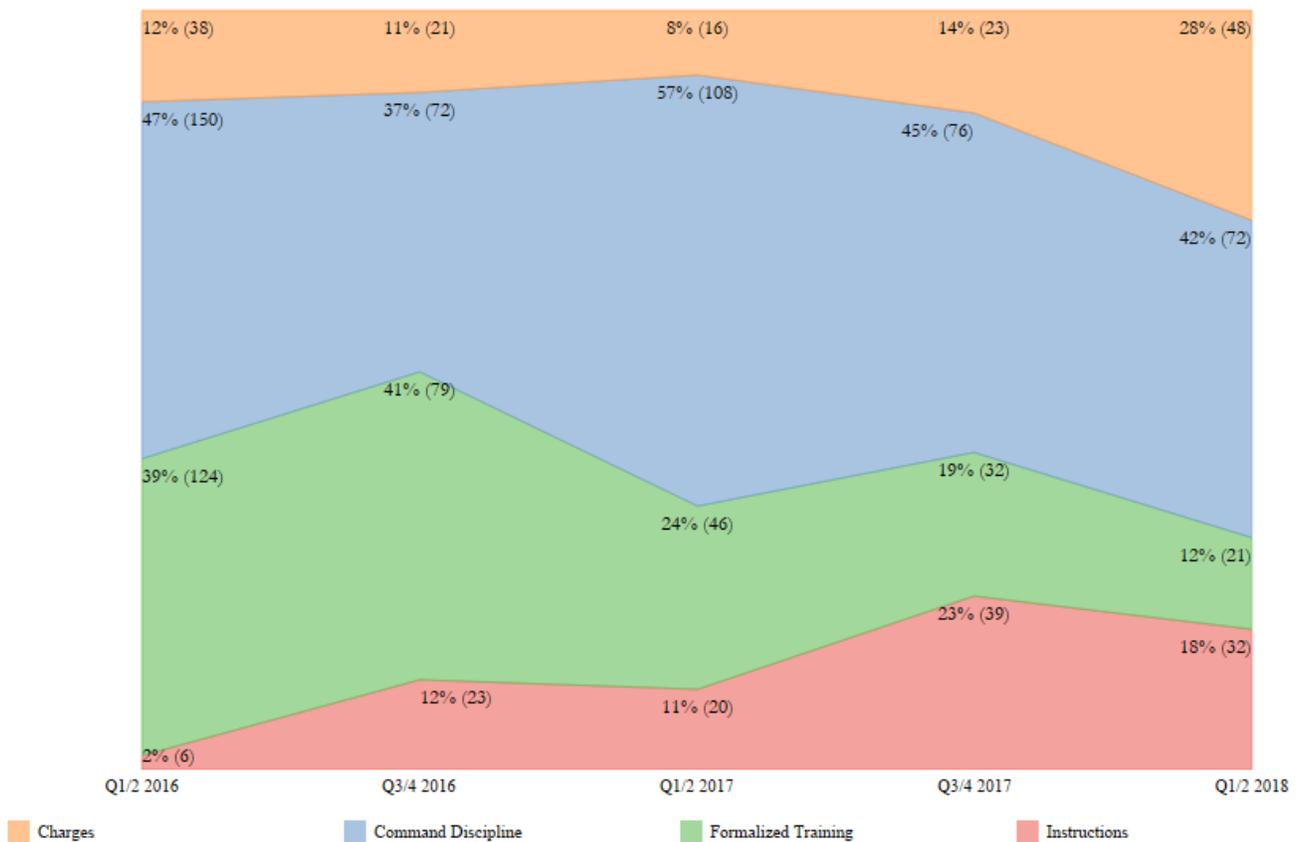
In the first half of 2018, the Board recommended Command Discipline for 42% (72) of the 173 officers against whom there was a substantiated allegation, compared with 57% in the first half of 2017 (Fig. 30,

next page). The Board recommended Charges and Specifications for 28% of officers against whom there was a substantiated allegation in the first half of 2018, compared with 8% in the first half of 2017. As depicted in the CCRB's 2017 Annual Report, the proportion of cases for which the Board recommends Charges and Specifications has fluctuated over the past five years, with this year's 28% rate approximating the five-year average of 34%. The Agency attributes this return to the median to the pilot program of the CCRB Disciplinary Framework (see Section 9).

**Figure 29: Complaints Substantiated & Officers with Substantiated Allegations, 2016 – Q1/2 2018<sup>24</sup>**



**Figure 30: Board Recommendations for Officers with Substantiated Allegations, 2016 – Q1/2 2018<sup>25</sup>**



<sup>24</sup> Due to the reconsideration process, counts for the first half of 2018 are subject to change (see Section 5).

<sup>25</sup> Due to the reconsideration process, counts for the first half of 2018 are subject to change (see Section 5).

## NYPD DISCIPLINARY DECISIONS

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

When a substantiated allegation against an officer is referred to the DAO, the CCRB makes a recommendation to the Police Commissioner regarding what, if any, disciplinary action should be taken. The DAO then reports the Commissioner's final decision back to the CCRB.<sup>26</sup> In the first half of 2018, the NYPD took some form of disciplinary action against 84% of the officers for whom discipline was recommended by the CCRB, compared with 76% in the first half of 2017 (Fig. 31).<sup>27</sup> In cases where the NYPD pursued discipline, the most common form of discipline imposed was Formalized Training (42%), followed by Command Discipline (26%).<sup>28</sup>

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<sup>26</sup> While the CCRB receives notification of the final category of discipline, the Agency does not receive specifics on the penalty that the Police Commissioner ultimately imposes. For instance, the NYPD reports to the CCRB whether an officer was given a Command Discipline A, but not the number of vacation days forfeited. Similarly, the Agency is made aware of the fact that training was given to an officer, but not the exact training module.

<sup>27</sup> Prior to 2014, the CCRB did not distinguish between Instructions and Formalized Training.

<sup>28</sup> In a small number of cases, the CCRB does not recommend Charges and Specifications in cases that DAO determines should be tried in an administrative trial. This may be due to many factors including, that the officer rejected a Command Discipline and elected to go to trial.

**Figure 31: Department Advocate’s Office Disciplinary Actions on CCRB Cases, 2016 – Q1/2 2018<sup>29</sup>**

NYPD Disciplinary Action	Q1/2 2016		Q3/4 2016		Q1/2 2017		Q3/4 2017		Q1/2 2018	
	Count	% Total								
NYPD Pursued Discipline: Charges	2	1%	1	1%	2	1%	6	3%	1	1%
NYPD Pursued Discipline: Command Discipline	60	28%	62	31%	73	37%	35	18%	49	26%
NYPD Pursued Discipline: Formalized Training	100	46%	90	45%	57	29%	71	36%	77	42%
NYPD Pursued Discipline: Instructions	35	16%	31	16%	17	9%	26	13%	29	16%
NYPD Pursued No Discipline (DUP)	14	6%	14	7%	41	21%	50	25%	19	10%
Statute of Limitations Expired	4	2%	1	1%					4	2%
Filed (officer resigned before PD action)	3	1%	1	1%	6	3%	8	4%	3	2%
Administratively Closed									3	2%
Dismissed							2	1%		

*Prior to 2014, the CCRB did not distinguish between Instructions and Formalized Training.  
 “Administratively closed” typically indicates that DAO is already investigating the incident itself.*

<sup>29</sup> The cases in this table are depicted by the penalty report date, not the year in which the cases were closed. In other words, the numbers reported for the first half of 2018 are cases in which NYPD reported final discipline in the first half of 2018, though the CCRB may have closed these cases in prior years.

## ADMINISTRATIVE PROSECUTION UNIT

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When the Board recommends Charges and Specifications against an officer in a substantiated case, the APU prosecutes the case unless the NYPD retains the case. Retained cases are those in which the NYPD keeps jurisdiction pursuant to Section 2 of the MOU between the NYPD and the CCRB.<sup>30</sup> When the NYPD keeps jurisdiction pursuant to Section 2, it may or may not impose discipline on the officer.

The APU treats each officer against whom an allegation is substantiated as a separate case.<sup>31</sup> A single CCRB complaint may generate more than one APU case depending on the number of officers against whom the Board recommends Charges and Specifications. As seen in Fig. 32, in the first half of 2018, the APU completed three trials and closed a total of 24 cases (excluding cases reconsidered by the Board). Of the cases closed by APU in the first half of 2018, 21 (84%) resulted in some form of disciplinary action (Fig. 33, next

page). Five of the closed cases resulted in guilty verdicts following trial, while 14 were resolved by plea agreement.

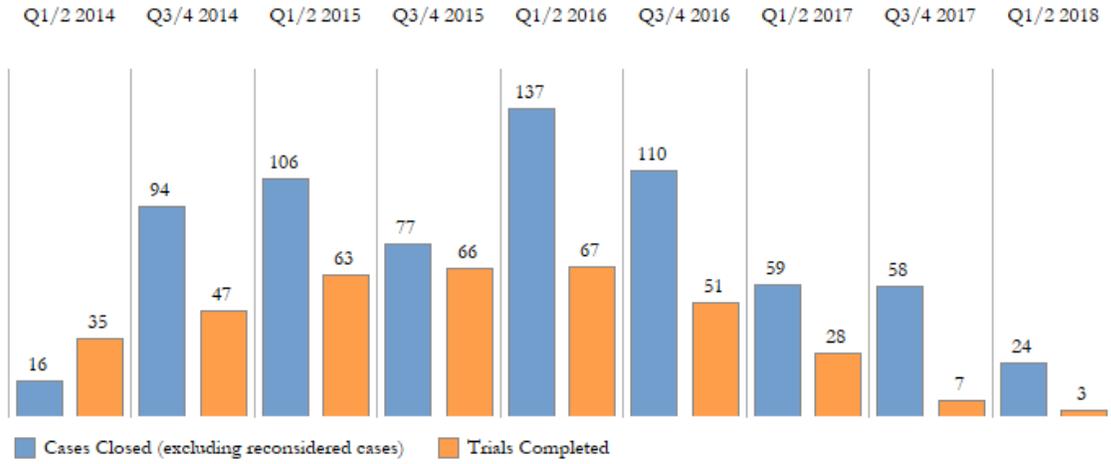
Of the 21 APU cases in which discipline was imposed in the first half of 2018, 19 resulted in a suspension or loss of vacation time of one to 20 days (Fig. 34).

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<sup>30</sup> Section 2 of the MOU states, “...in those limited instances where the Police Commissioner determines that CCRB’s prosecution of Charges and Specifications in a substantiated case would be detrimental to the Police Department’s disciplinary process, the Police Commissioner shall so notify CCRB. Such instances shall be limited to such cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer’s record and disciplinary history the interests of justice would not be served.” For the full text of the MOU, see [http://www1.nyc.gov/assets/ccrb/downloads/pdf/about\\_pdf/apu\\_mou.pdf](http://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf)

<sup>31</sup> Because the APU treats each officer as a separate “case,” all APU data discussed in this Report uses the same terminology. While there may be trials or incidents that involve multiple officers, the word “case” should be interpreted as “case against a single officer.” This means, for example, that Figure 33’s depiction of 25 cases closed in the first half of 2018 refers to the 25 officers against whom the APU prosecuted charges.

**Figure 32: APU Trials Conducted and Cases Closed, 2014 – Q1/2 2018**



**Figure 33: APU Case Closures Q1/2 2018**

Disciplinary Action	Not guilty after trial but Discipline Imposed	0
	Guilty after trial	5
	Trial verdict dismissed by PC, Comm. Disc. A imposed	0
	Trial verdict dismissed by PC, Comm. Disc. B imposed	0
	Trial verdict dismissed by PC, Formalized Training imposed	0
	Trial verdict dismissed by PC, Instructions imposed	0
	Trial verdict reversed by PC, Final verdict Guilty	0
	Resolved by plea	14
	Plea set aside, Comm. Disc. B	0
	Plea set aside, Comm. Disc. A	0
	Plea set aside, Formalized Training	0
	Plea set aside, Instructions	0
	*Retained, with discipline	2
	<b>Total</b>	<b>21</b>
No Disciplinary Action	Not guilty after trial	0
	Trial verdict reversed by PC, Final verdict Not Guilty	0
	Plea set aside, Without discipline	0
	**Retained, without discipline	2
	Dismissed by APU	0
	SOL Expired in APU	0
<b>Total</b>	<b>2</b>	
Not Adjudicated	Charges not filed	0
	Deceased	0
	Other	1
	***Previously adjudicated, with discipline	0
	***Previously adjudicated, without discipline	0
	†Reconsidered by CCRB Board	1
	Retired	0
	SOL Expired prior to APU	0
<b>Total</b>	<b>2</b>	
<b>Total Closures†</b>	<b>25</b>	

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

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

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

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

**Figure 34: Discipline Imposed for Adjudicated APU Cases, Q1/2 2018**

Terminated	0
Suspension for or loss of vacation time of 31 or more days and/or Dismissal Probation	0
Suspension for or loss of vacation time of 21 to 30 days	0
Suspension for or loss of vacation time of 11 to 20 days	1
Suspension for or loss of vacation time of 1 to 10 days	18
Command Discipline B	0
Command Discipline A	0
Formalized Training**	2
Instructions***	0
Warned & Admonished/Reprimanded	0
Disciplinary Action Total	21
No Disciplinary Action	2
Adjudicated Total	23
Discipline Rate	91%
Closed - Not Adjudicated	2
Total Closures	25

\*\* Formalized training is conducted by the Police Academy, the NYPD Legal Bureau, or other NYPD Units.

\*\*\* Instructions are conducted at the command level

## DISCIPLINE CONCURRENCE RATES

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

For cases in which the Board did not recommend Charges and Specifications, the Police Commissioner imposed the same discipline recommended by the Board 54% of the time in the first half of 2018 (Fig. 35).<sup>32</sup> This is higher than the 45% concurrence rate for the first half of 2017. Cases in which the Board recommended some type of discipline, but no discipline was imposed by the Police Commissioner, decreased from 21% in the first half of 2017 to 10% in the first half of 2018.

For cases in which Charges and Specifications were recommended by the Board and were subsequently prosecuted by the APU, the concurrence rate was 26% in the first half of 2018 (Fig. 36, next page).<sup>33</sup>

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<sup>32</sup> The "Other" category include cases in which the MOS resigned before discipline could be applied, the statute of limitations on the case expired before discipline could be applied, cases that were administratively closed, and cases where the Charges and Specifications were dismissed. See Figure 31 for a numeric breakdown of those cases.

<sup>33</sup> Cases in which the Police Commissioner modified a plea but increased the penalty are included in the concurrence rate. There were no such cases closed in 2018 or 2017. There were four in 2016 and one in 2014. The "Penalty Lower than Requested at Trial" category also includes cases in which the officer was found not guilty of some (but not all) allegations, leading to the overall reduction of penalty.

**Figure 35: Non-Charges Discipline Rate, 2016 – Q1/2 2018**

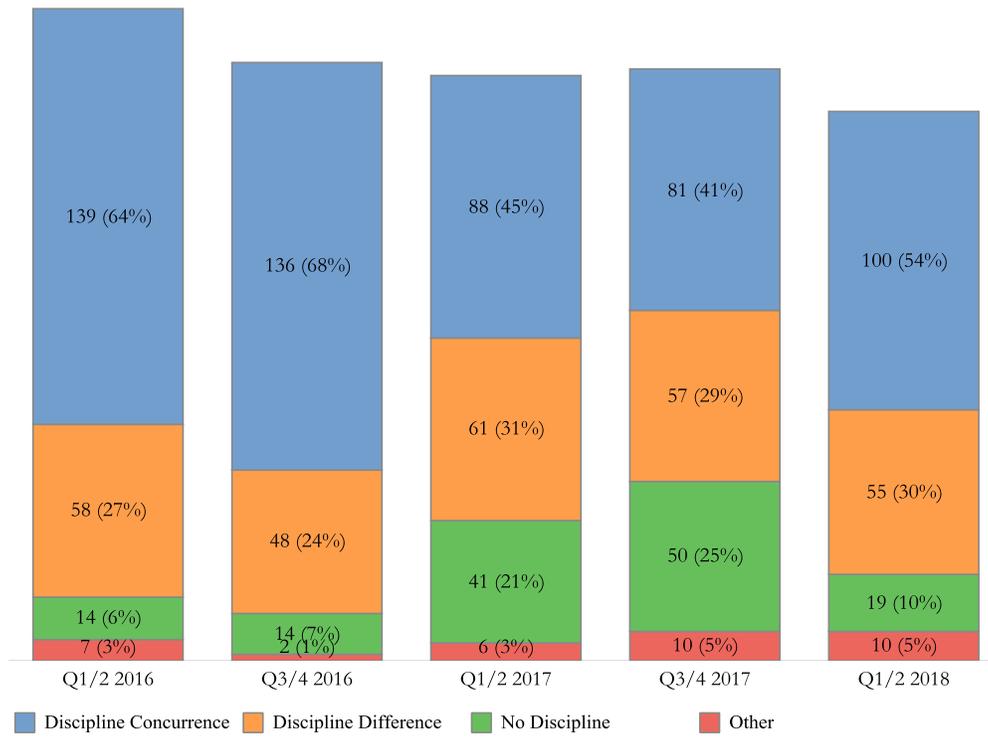
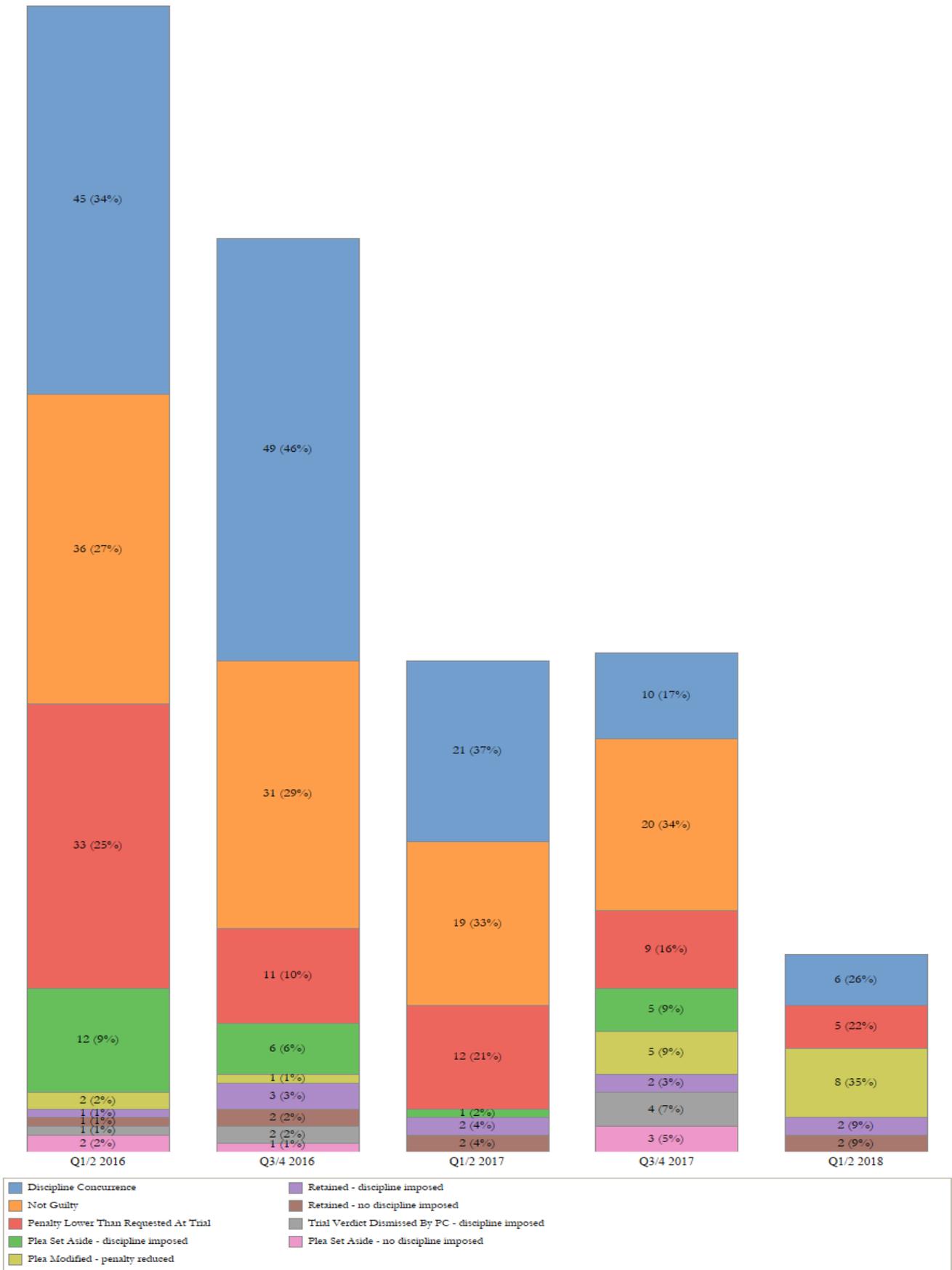


Figure 36: APU Discipline and Penalty Concurrence Rate, 2016 – Q1/2 2018



## SECTION 4: MEDIATION

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

The Agency seeks to offer mediation to a civilian in every suitable case. Mediation is not offered in all cases because there are some factors that render a complaint unsuitable for the Mediation Program. These include allegations of serious physical injury or property damage, a pending criminal case or a civil lawsuit, or a concurrent Internal Affairs Bureau investigation. Since 2009, one of the strategic priorities of the Board has been to strengthen and expand the Mediation Program.

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

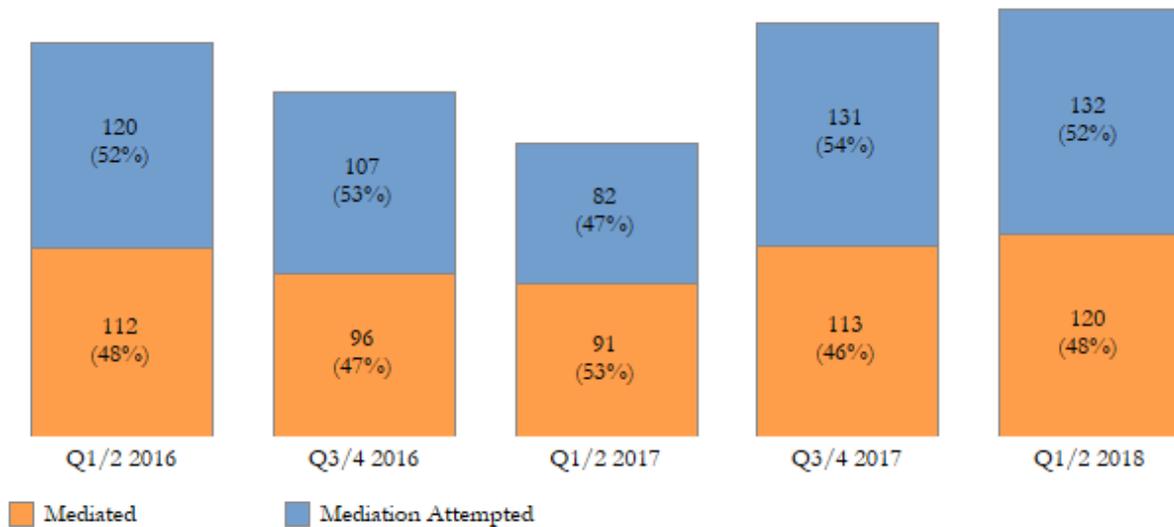
A mediation session ends when all parties involved agree that they have had an

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

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

In the first half of 2018, the Mediation Unit successfully mediated 120 cases while 132 cases were closed as “mediation attempted” (Fig. 37, next page). Mediation attempted is a designation for a case in which both the officer and the civilian agree to mediate, but the civilian either fails to appear twice for the scheduled mediation session or fails to respond to attempts to schedule a mediation session, and the civilian does not request that the investigation resume. In the first half of 2018, 52% of all mediation closures were attempted mediations.

**Figure 37: Mediation Closures, 2016 – Q1/2 2018**



In a similar manner to how the CCRB tracks the number of days to close a full investigation, the Agency also measures the average number of days it takes to close a successfully mediated case. In the first half of

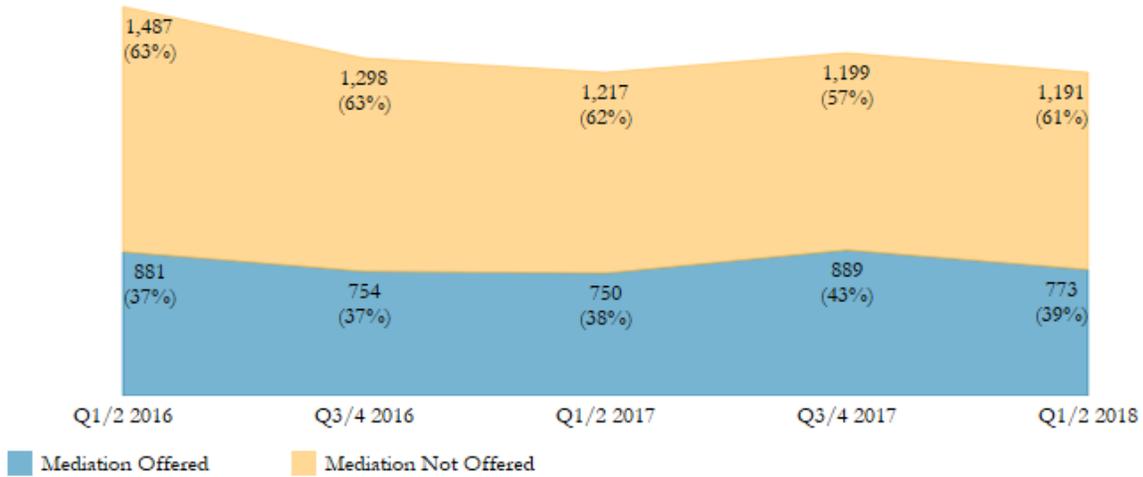
2018, it took an average of 106 days to mediate a complaint (Fig. 38).

As noted, mediation is not offered in all cases. Mediation was offered in 39% of cases closed in the first half of 2018 (Fig. 39, next page).

**Figure 38: Average Days to Successful Mediation, 2016–Q1/2 2018**



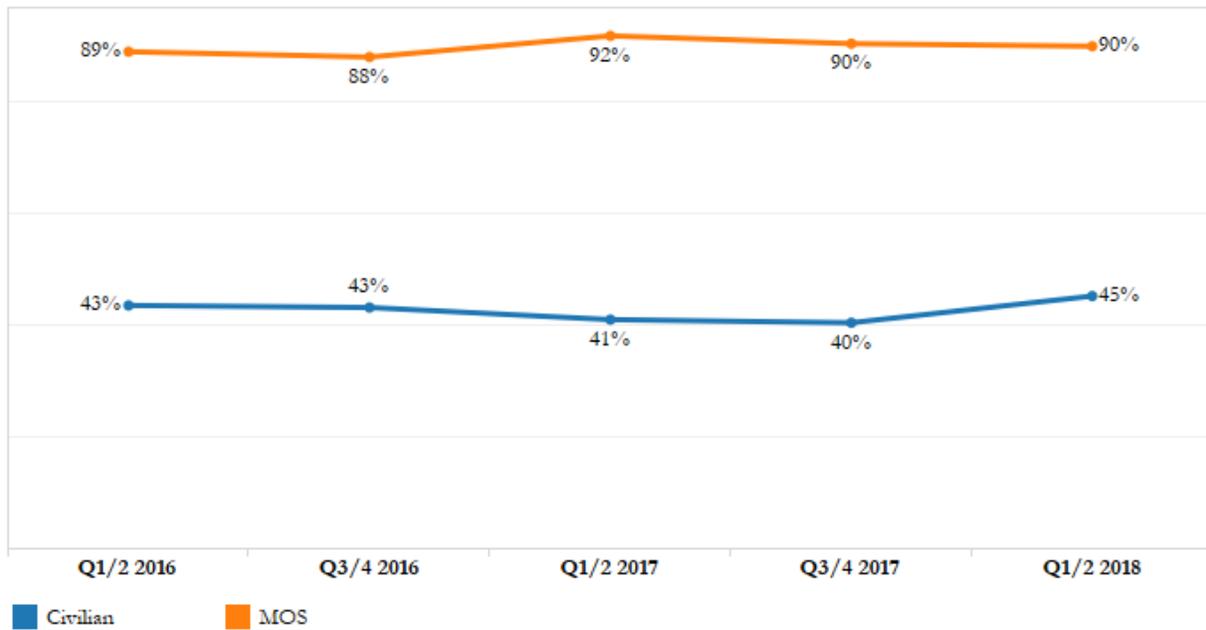
**Figure 39: Percentage of Cases in which Mediation was Offered, Cases Closed in 2016 – Q1/2 2018**



For a mediation to occur, both the complainant and the officer must agree to the session. For cases closed in the first half of 2018, the mediation acceptance rate for civilians was 45% (Fig. 40, next page). Officers who were offered the chance to mediate a complaint accepted mediation 90% of the time.<sup>34</sup>

<sup>34</sup> Allegations contained in mediated complaints are not reflected in the officer's NYPD disciplinary record.

**Figure 40: Civilian and MOS Acceptance of Mediation, Cases Closed in 2016–Q1/2 2018**



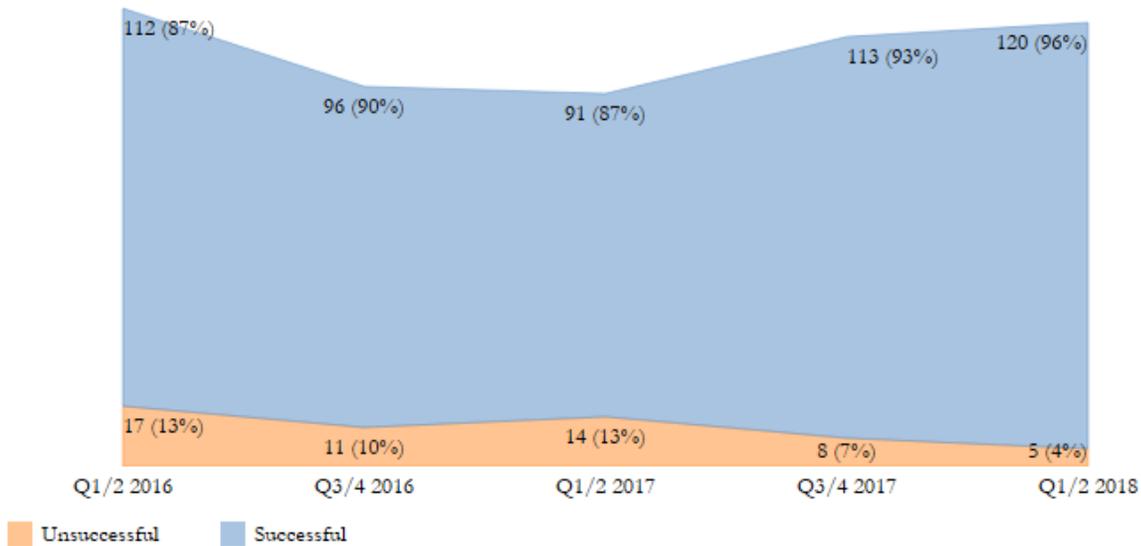
**Number of Civilians and MOS that Accepted Mediation**

	Q1/2 2016	Q3/4 2016	Q1/2 2017	Q3/4 2017	Q1/2 2018
<b>Civilian</b>	383	325	307	359	349
<b>MOS</b>	350	290	275	362	370

When both parties agree to mediate, mediation is a very effective way of resolving complaints and facilitating productive discussion between complainants and officers. In the first half of 2018, the Mediation Unit conducted 125 mediation

sessions, resulting in 120 satisfactory resolutions, a 96% success rate—an all-time high (Fig. 41, next page). The remaining five complaints were returned to an investigator and closed by the Investigations Division.

**Figure 41: Mediation Success Rate, 2016 – Q1/2 2018**



## SECTION 5: RECONSIDERATIONS

### CCRB-NYPD RECONSIDERATION PROCESS

Since December 2014, the Civilian Complaint Review Board (CCRB) and the New York City Police Department (NYPD) have engaged in a formal reconsideration process. The CCRB-NYPD reconsideration process allows the Department Advocate’s Office (DAO) to request that the Board reconsider its findings and/or discipline recommendations for a previously-substantiated allegation.

To initiate this process, the DAO must write a letter requesting that the Board reconsider the case. This does not mean, however, that the Board will automatically reverse its decisions upon the DAO’s request. As an independent oversight agency, the CCRB is committed to changing substantiation decisions only when doing so is in the interest of fairness.

The Board may change its decision on a previously substantiated case if:

- (a) The discipline recommended against any subject officer is determined upon reconsideration to be inappropriate or excessive; and<sup>35</sup>
- (b) There are new facts or evidence that were not previously known to the Board Panel, and such facts or evidence could reasonably lead to a different finding or recommendation in the case; or
- (c) There are matters of law that were overlooked, misapprehended, or incorrectly applied by the Board Panel.

<sup>35</sup> In some cases, the Board may reconsider a decision based upon additional disciplinary information provided by the NYPD. Board members may consider a MOS’ CCRB history when they initially vote, but reconsideration requests typically include a summary of the MOS’ entire disciplinary history within NYPD.

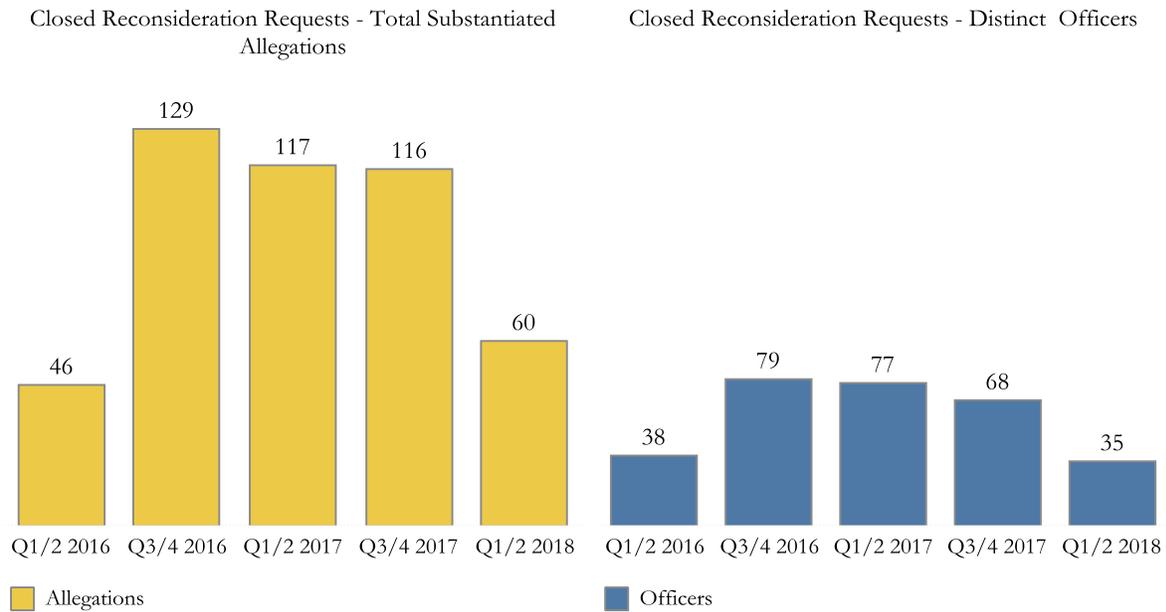
Although some reconsideration requests are the product of new information that was unavailable to the CCRB at the time of the original investigation, others may represent differing views between the CCRB and NYPD with respect to legal standards, civilian credibility, or appropriate discipline. The CCRB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

In 2017, the reconsideration process required that reconsideration requests be submitted to the CCRB within 90 days of the Department's receipt of the case. In February 2018, new Board rules went into effect, and the time limit to submit a reconsideration request is now 30 business days. However, if there is enough time to reconvene a panel before the Statute of Limitations expires and there are extenuating circumstances, such as a misinterpretation or misapplication of the law or new evidence provided by the Department, the process allows for exceptions, and a Board Panel can be reconvened to reconsider the case. As a matter of practice, if a reconsideration

request is submitted after the 30-business day deadline and merely requests reconsideration of the CCRB's disciplinary recommendation, the CCRB will automatically deny the Department's request.

In the first half of 2018, the CCRB closed reconsideration requests for 35 officers (a reconsideration request closed in the first half of 2018 may have stemmed from a complaint closed in a previous year), a decrease from 77 in the first half of 2017 (Fig. 42). The decline in requests is a result of the CCRB and the NYPD restructuring the submission process for reconsideration requests in order to facilitate the Department's compliance with the new 30-business day deadline. As this process is finalized and the Department reduces its backlog of pending reconsideration requests, the Agency expects that additional reconsideration requests will be filed in the second half of 2018. Because the Department may request reconsideration of multiple substantiated allegations against a single officer involved in a complaint, the total number of allegations reconsidered exceeds the number of officers who have had allegations reconsidered.

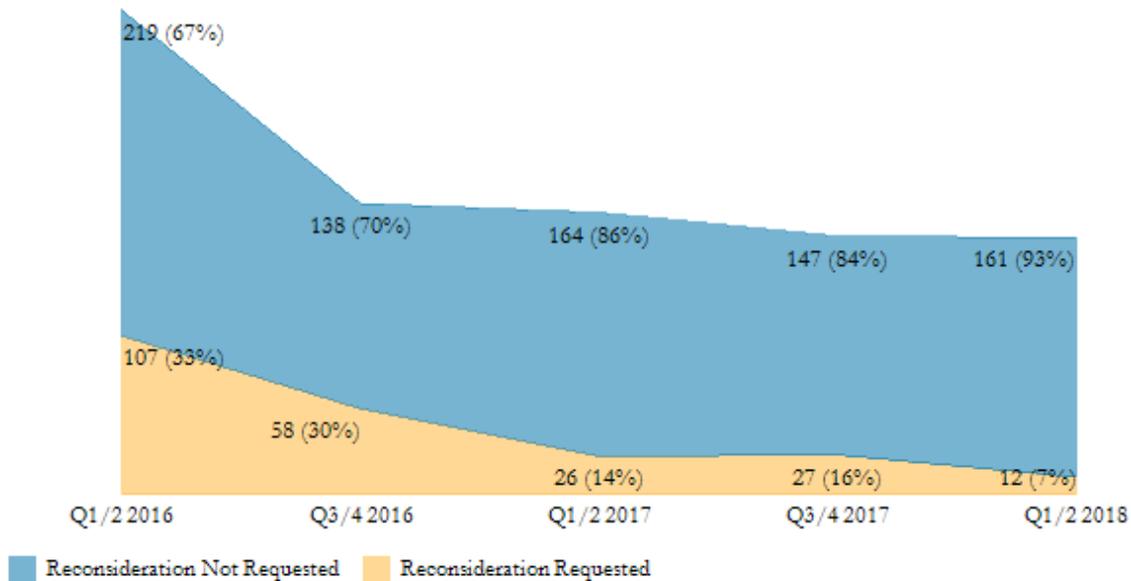
**Figure 42: Reconsiderations by Date of Case Reconsideration, 2016 – Q1/2 2018**



### OUTCOMES OF RECONSIDERATION REQUESTS

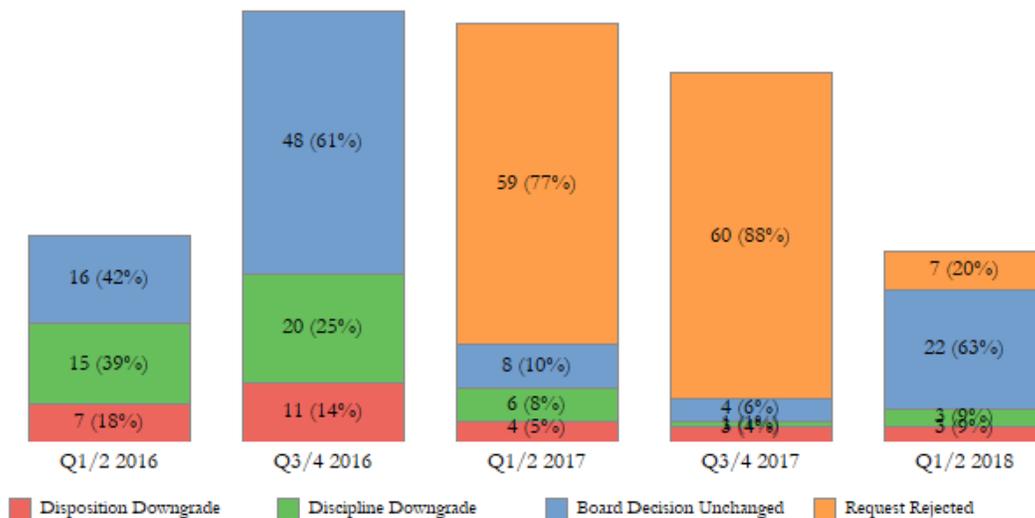
One of the most common questions about the reconsideration process is how many members of service (MOS) with substantiated allegations have those allegations reconsidered. Of the 173 distinct MOS against whom an allegation was initially substantiated in the first half of 2018, the Department has requested reconsideration for 12 of those officers (7%, Fig. 43).

**Figure 43: Total Number of MOS with Substantiated Allegations for whom Reconsiderations Were Requested and Not Requested in the Same Half-Year, 2016 – Q1/2 2018<sup>36</sup>**



Of the 35 officers whose reconsideration requests were closed in the first half of 2018, the Board downgraded the disposition for three officers (9%), downgraded the discipline recommendation for three officers (9%), maintained the original decision for 22 officers (63%), and rejected the request for seven officers (20%) (Fig. 44). As the NYPD’s requests are filed in accordance with the new protocols, reconsideration requests that otherwise may have been filed and rejected in the first half of 2018 will instead appear in the data for the second half of the year.

**Figure 44: Reconsideration Outcomes by Reconsideration Year 2016 – Q1/2 2018**



<sup>36</sup> Due to the length of time it takes for the NYPD to submit requests for reconsideration, the CCRB expects the Reconsideration Requested numbers for cases closed in 2017 and Q1/2 2018 to rise.

The table in Fig. 45 gives a complete breakdown of the changed Board decisions over the last five quarters. For example, the first row of the table shows that in Q 3/4

2016, the Board changed the vote on substantiated allegations from “Substantiated (Charges)” to “Substantiated (Command Discipline B)” with respect to one MOS.

**Figure 45: Reconsideration Decision Detail, 2016 – Q1/2 2018**

Initial Disposition to Final Disposition (after Reconsideration)	Q1/2 2016	Q3/4 2016	Q1/2 2017	Q3/4 2017	Q1/2 2018
Substantiated (Charges) to Substantiated (Command Discipline B)		1			
Substantiated (Charges) to Substantiated (Command Discipline A)	1		1		
Substantiated (Charges) to Substantiated (Formalized Training)		4			1
Substantiated (Charges) to Substantiated (Instructions)	1				
Substantiated (Charges) to Exonerated	1	1			
Substantiated (Charges) to Unsubstantiated		1			
Substantiated (Command Discipline) to Substantiated (Formalized Training)			1		
Substantiated (Command Discipline) to Substantiated (Instructions)	2				
Substantiated (Command Discipline B) to Substantiated (Command Discipline A)	5	5	1		
Substantiated (Command Discipline B) to Substantiated (Formalized Training)	5	2	1		2
Substantiated (Command Discipline B) to Exonerated					1
Substantiated (Command Discipline B) to Unfounded			1		
Substantiated (Command Discipline B) to Unsubstantiated		1			1
Substantiated (Command Discipline A) to Substantiated (Formalized Training)	1	3	2	1	
Substantiated (Command Discipline A) to Substantiated (Instructions)		2			
Substantiated (Command Discipline A) to Exonerated		2		1	
Substantiated (Command Discipline A) to Unsubstantiated	1	3	1	1	
Substantiated (Formalized Training) to Substantiated (Instructions)		3			
Substantiated (Formalized Training) to Exonerated	3	1			
Substantiated (Formalized Training) to Unsubstantiated	2	2	2		1
Substantiated (Command Lvl Instructions) to Unsubstantiated				1	
<b>Grand Total</b>	<b>22</b>	<b>31</b>	<b>10</b>	<b>4</b>	<b>6</b>

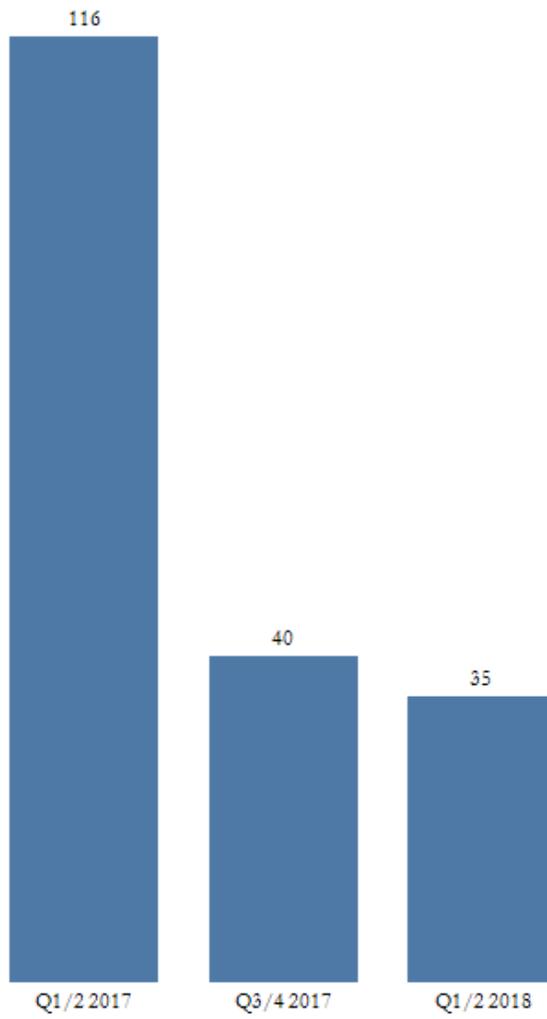
When the NYPD requests reconsideration, it sends a letter to the CCRB outlining the case and the underlying reasons for the request. In the first half of 2018, the CCRB received a total of 35 reconsideration requests for MOS with substantiated allegations (Fig. 46).<sup>37</sup> The table in Fig. 47<sup>38</sup> depicts the reasons given for reconsideration requests, broken down by the quarter in which the request was received by the CCRB. While each request may feature several reasons, up to three reasons provided for each officer and allegation are represented in Fig. 47. In the first half of 2018, the most common reason given for a reconsideration request received by the CCRB was that the DAO disagreed with the Board's findings.

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<sup>37</sup> One complaint may feature multiple allegations against multiple MOS. Reconsideration requests received in Q1/2 of 2018 may be related to complaints closed in prior quarters.

<sup>38</sup> The reasons given by the DAO for the reconsideration requests depicted in Fig. 47 do not match the number of total requests received because multiple reasons may be given in the same request, and some requests do not have reasons enumerated at all.

**Figure 46: Number of Reconsideration Requests Received, 2017 – Q1/2 2018**



**Figure 47: Top Listed Reasons for Reconsideration Request, 2017 – Q1/2 2018**

	Q1/2 2017		Q3/4 2017		Q1/2 2018	
	Number	Percent of Total	Number	Percent of Total	Number	Percent of Total
CCRB Precedent					1	2%
Civilian abuse of CCRB			4	4%		
Disagree with CCRB findings	90	31%	29	25%	14	31%
Eligible for Provision II case retention						
Highly Rated Officer	52	18%	16	14%	4	9%
Improper case law applied	16	6%	7	6%		
Improper interpretation of Patrol Guide	4	1%	1	1%	3	7%
Incorrect Pleading of Allegation						
Length of Service						
Limited CCRB disciplinary history	3	1%	2	2%		
New evidence	2	1%				
Minimal CCRB Disciplinary History			2	2%		
Minimal CCRB history			1	1%		
No departmental disciplinary history						
No prior CCRB complaints	2	1%				
No prior CCRB disciplinary history	68	24%	12	11%		
No prior CCRB substantiations	1	0%	9	8%	9	20%
No reason provided	3	1%	1	1%		
No related CCRB history			3	3%	1	2%
No related disciplinary history						
No Sworn Statement from Complainant	4	1%	4	4%		
Not in CCRB Jurisdiction	1	0%				
Not sufficient evidence	4	1%	10	9%	1	2%
Officer was not acting in bad faith	35	12%	11	10%	11	24%
Outside CCRB Jurisdiction	1	0%	1	1%		
Previously Investigated by PD	1	0%	1	1%		
<b>Total</b>	<b>287</b>	<b>100%</b>	<b>114</b>	<b>100%</b>	<b>44</b>	<b>98%</b>

### TIMING OF RECONSIDERATION REQUESTS

As of February 2018, the deadline to submit a reconsideration request is 30 business days from the date the Board recommendation is received by the Department. In the first half of 2018, the average length of time between the Board’s initial decision and the DAO’s request for reconsideration was 155 days in the first half of 2018 (Fig. 48a), this translates to 111 business days (Fig. 48b).<sup>39</sup>

The DAO continues to reduce its backlog of requests by processing old cases at the same time that it is processing new cases. This, combined with the CCRB’s new method of assessing cases received after the expiration of the 30-business day period, should reduce the time it takes to complete the review process. The 2018 Annual Report will explore the impact, if any, that the new case-assessment method has on reconsideration request times.

<sup>39</sup> Because there are sometimes multiple members of service (MOS) per complaint, as of this Report, the CCRB has begun calculating reconsideration request times by MOS rather than by complaint. This methodological change

may impact comparison of past numbers with the numbers included in this report.

**Figure 48a: Average Days from Case Closing to Reconsideration Request Date, 2016 – Q1/2 2018**



**Figure 48b: Average Business Days from Case Closing to Reconsideration Request Date, 2016 – Q1/2 2018**

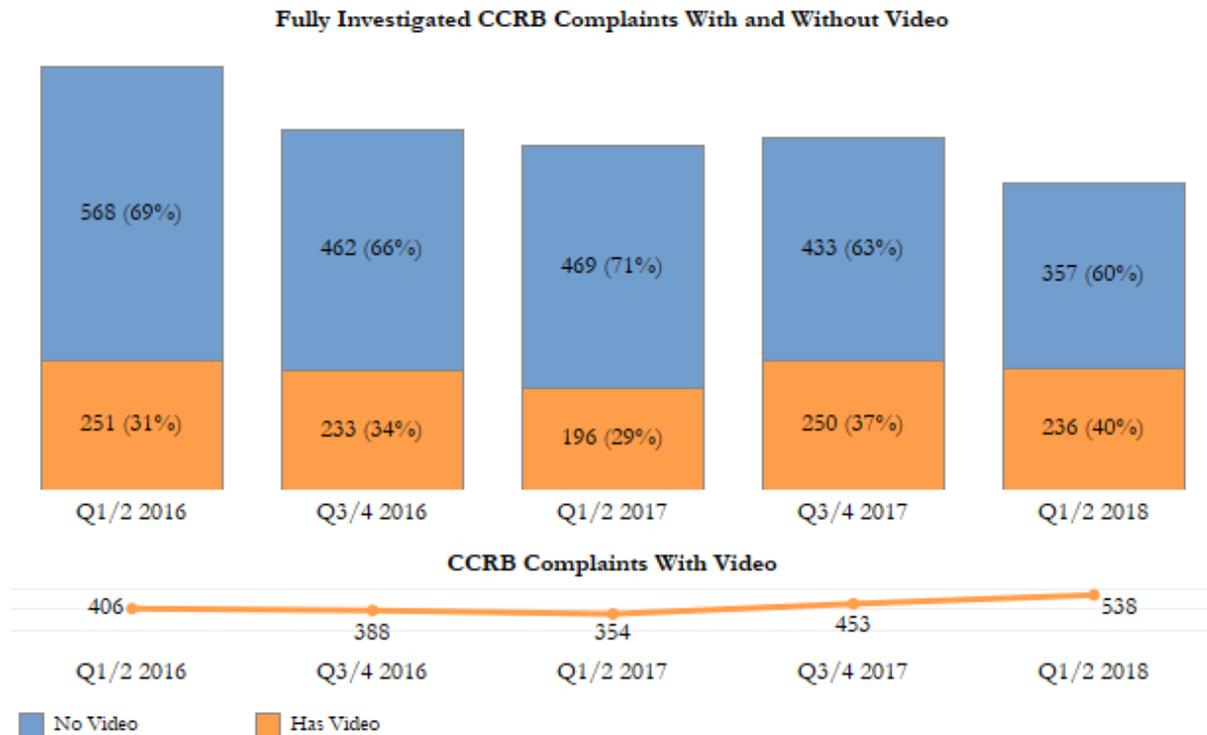


## SECTION 6: THE IMPACT OF VIDEO

Over the last few years, the amount of video evidence collected by the Civilian Complaint Review Board (CCRB) has increased dramatically. In 2013 (not depicted), 10% of the fully-investigated complaints closed

included video evidence. In the first half of 2018, complaints with video evidence accounted for 40% of the full investigations closed (Fig. 49).

**Figure 49: Fully Investigated CCRB Complaints With and Without Video, 2016 – Q1/2 2018**



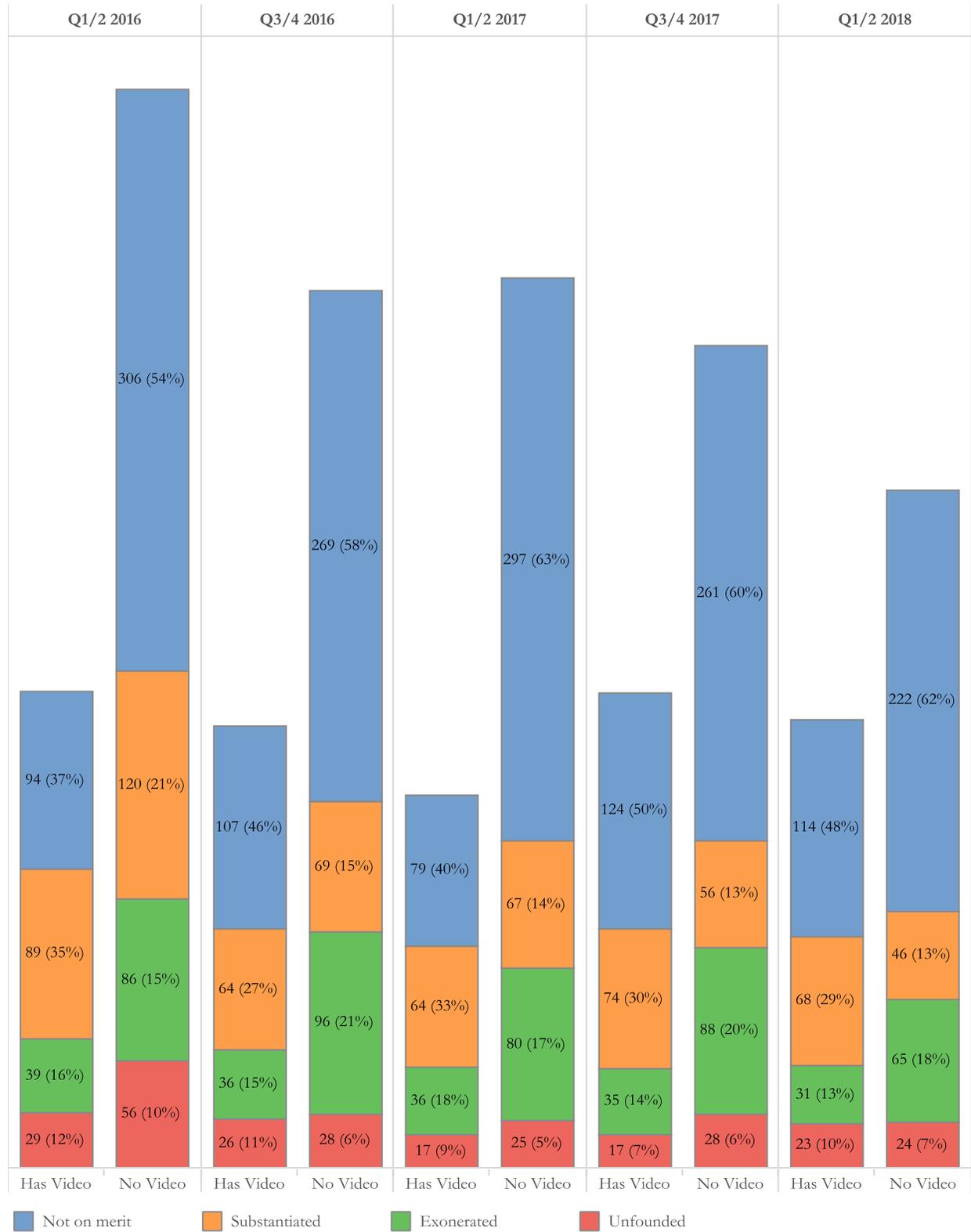
CCRB data suggests that video evidence can have an impact on the final outcome of an investigation. In the first half of 2018, the Board substantiated 29% of full investigations where there was video evidence as compared to 13% where there was no video evidence (Fig. 50, next page). Video evidence has not only influenced substantiation rates. In the first half of 2018, 52% of allegations with video evidence were closed “on the merits” (substantiated, exonerated, or unfounded) compared to 38% without video (Fig. 50, next page).<sup>40</sup> Because

there may be multiple allegations in a single complaint, the CCRB also tracks allegation closures with and without video. In the first half of 2018, 58% of allegations were closed on the merits when the investigation involved video, compared with 44% for those without video (Fig. 51). The availability of video evidence allows for clearer interpretation of circumstances surrounding the encounter, and thus increases the rate of substantiated, unfounded, and exonerated allegations.

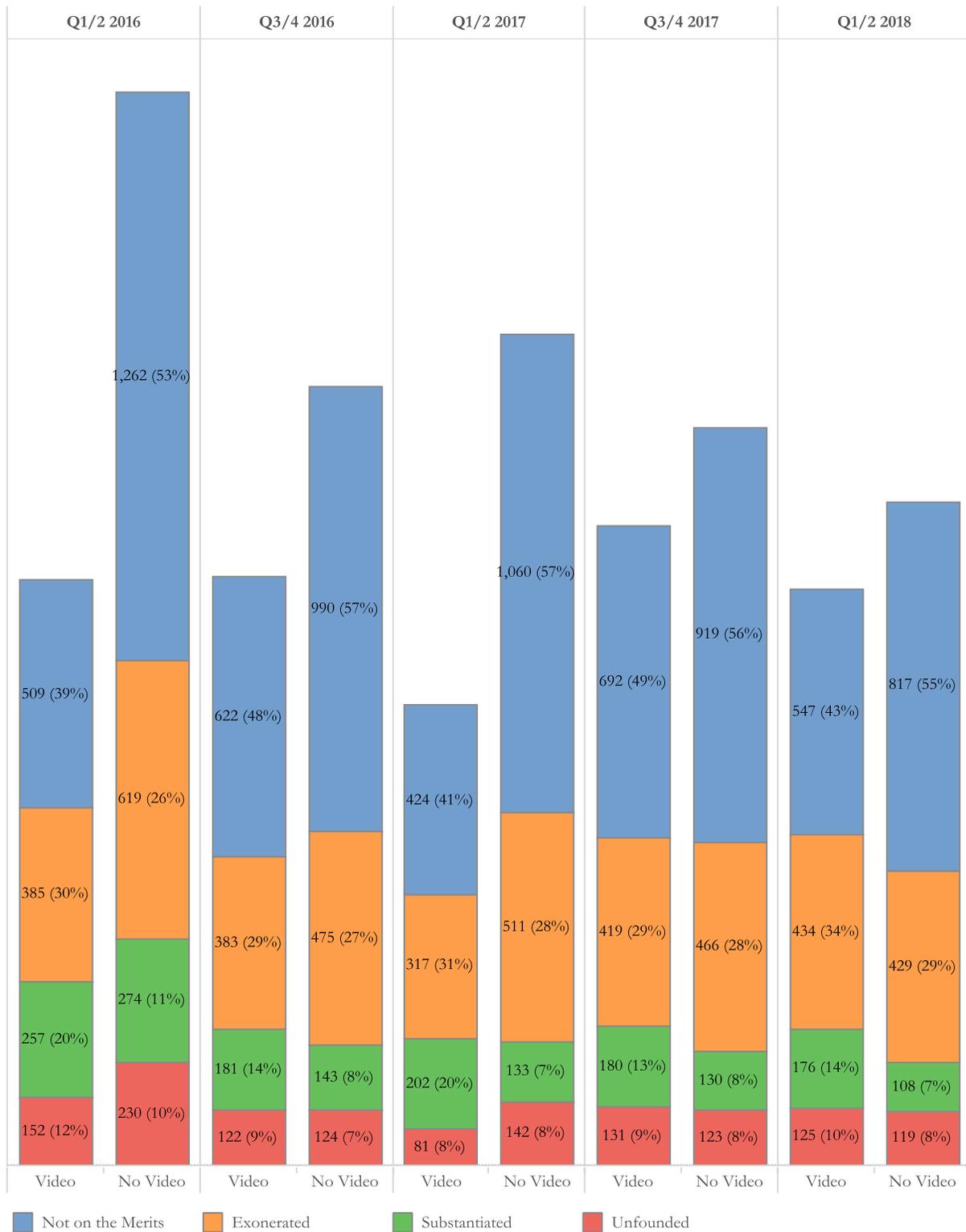
<sup>40</sup> Investigations closed “not on the merits” are

those closed as unsubstantiated or officer unidentified.

**Figure 50: Complaint Closures on the Merits With and Without Video, Full Investigations 2016 – Q1/2 2018**



**Figure 51: Allegation Closures on the Merits With and Without Video, Full Investigations 2016 – Q1/2 2018**



Video evidence seems to have the biggest impact on allegations of excessive force, with 70% of those allegations closed on the merits in the first half of 2018 when video is involved, compared with only 46% when video is not involved (Fig. 52). Video has also played an increasing role in helping the CCRB close discourtesy allegations on the merits. In the first half of 2018, 31% of allegations of this type were closed on the merits with

video, compared to 19% of allegations without video. The ability of a CCRB investigator to hear what an officer is saying during a video recording allows for a much easier resolution of discourtesy allegations. With the NYPD's expansion of its BWC initiative, the Agency expects that the percentage of cases closed on the merits due to the availability of video evidence will also rise.

**Figure 52: Allegation Closures on the Merits With and Without Video by FADO, 2016 – Q1/2 2018**

FADO Type	Board Disposition	Q1/2 2016				Q3/4 2016				Q1/2 2017				Q3/4 2017				Q1/2 2018			
		Video		No Video		Video		No Video		Video		No Video		Video		No Video		Video		No Video	
Force	Not on the Merits	131	34%	258	48%	174	42%	198	48%	94	33%	219	52%	152	39%	141	45%	105	30%	164	54%
	Exonerated	149	39%	162	30%	157	38%	148	36%	132	46%	128	30%	152	39%	106	34%	152	43%	90	30%
	Unfounded	69	18%	100	19%	60	14%	57	14%	39	14%	62	15%	54	14%	58	18%	60	17%	39	13%
	Substantiated	33	9%	12	2%	24	6%	12	3%	22	8%	13	3%	36	9%	11	3%	35	10%	9	3%
Abuse of Authority	Not on the Merits	218	32%	690	47%	295	44%	528	52%	218	39%	536	50%	357	46%	524	51%	307	42%	481	51%
	Exonerated	229	34%	454	31%	217	32%	324	32%	178	32%	377	35%	261	33%	349	34%	275	37%	334	35%
	Unfounded	42	6%	73	5%	33	5%	44	4%	20	4%	48	4%	47	6%	43	4%	47	6%	44	5%
	Substantiated	194	28%	239	16%	125	19%	119	12%	147	26%	110	10%	118	15%	106	10%	107	15%	90	9%
Discourtesy	Not on the Merits	138	66%	263	81%	135	68%	217	88%	87	62%	257	88%	159	78%	203	85%	116	69%	139	81%
	Exonerated	7	3%	3	1%	9	5%	3	1%	7	5%	6	2%	6	3%	11	5%	7	4%	5	3%
	Unfounded	35	17%	40	12%	26	13%	18	7%	19	13%	21	7%	16	8%	17	7%	14	8%	21	12%
	Substantiated	29	14%	20	6%	28	14%	10	4%	28	20%	8	3%	23	11%	9	4%	32	19%	6	4%
Offensive Language	Not on the Merits	21	75%	51	72%	18	72%	47	87%	25	76%	48	79%	24	59%	51	85%	19	76%	33	65%
	Unfounded	6	21%	17	24%	3	12%	5	9%	3	9%	11	18%	14	34%	5	8%	4	16%	15	29%
	Substantiated	1	4%	3	4%	4	16%	2	4%	5	15%	2	3%	3	7%	4	7%	2	8%	3	6%

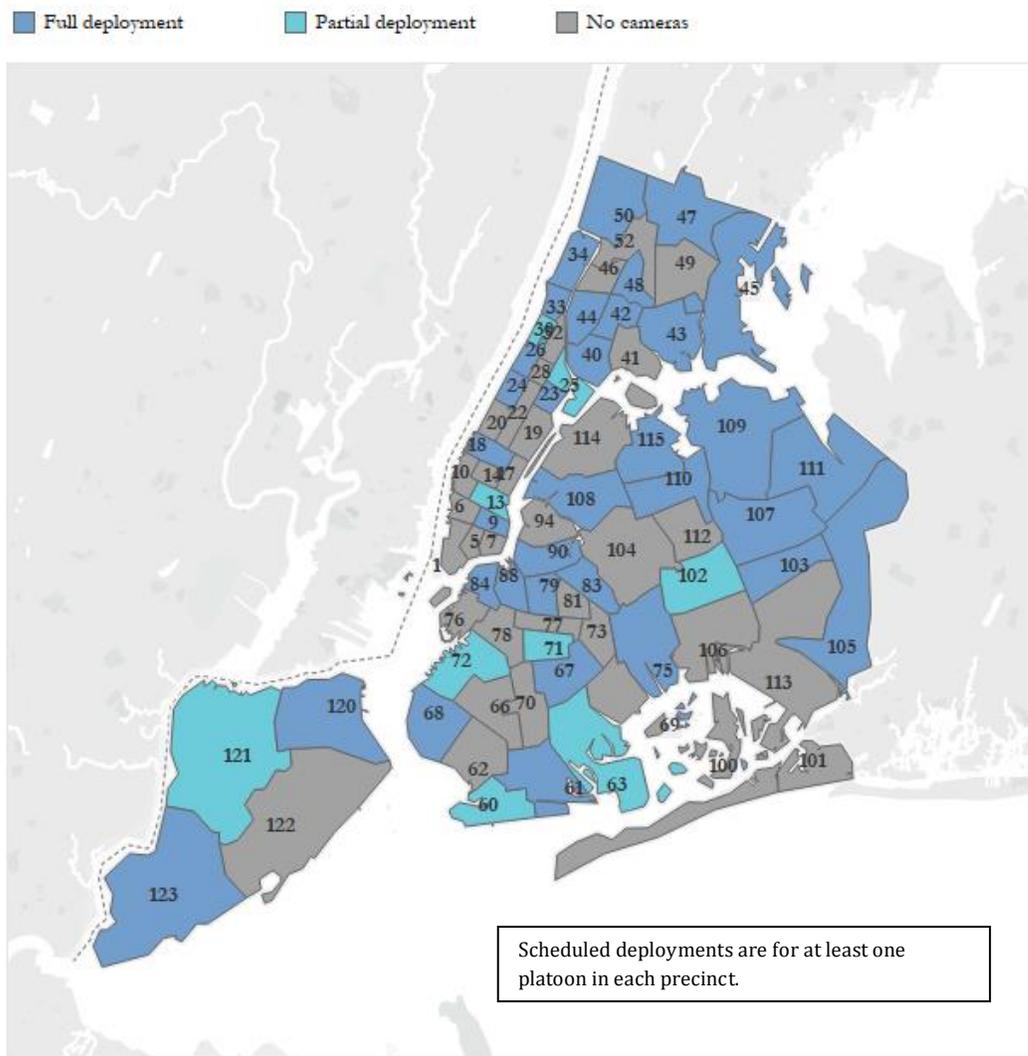
## SECTION 7: BODY-WORN CAMERAS

In 2013, Judge Shira Scheindlin of the United States District Court for the Southern District of New York, presiding over *Floyd v. City of New York*, found that the New York City Police Department (NYPD) violated the Fourth and Fourteenth Amendments through its use of unconstitutional stop, question, and frisk practices. The court also found that the NYPD had a “policy of indirect racial profiling” that disproportionately targeted Black and Hispanic individuals for stops. As a result, the court ordered changes to certain policies, practices, and training curricula, and appointed a monitor to oversee these

reforms. The court also ordered a one-year Body-Worn Camera (BWC) pilot to determine whether BWCs were effective in reducing unconstitutional stops.

From December 2014 through March 2016, the NYPD conducted a small BWC experiment utilizing 54 volunteer police officers. After reviewing the results of this experiment, the NYPD began the larger-scale court-ordered pilot on a precinct-by-precinct basis starting in April 2017. By June 30, 2018, BWCs had been deployed to 8,596 members of service (MOS) across 51 precincts (Fig. 53).

**Figure 53: Deployment of Body-Worn Cameras as of June 30, 2018**



The NYPD, in collaboration with the court-appointed monitor, will evaluate its procedures and the effectiveness of the program at the end of its first year, but will continue deployment of BWCs to new precincts while the pilot program is ongoing.

The NYPD provides informational videos in several languages, including sign language, about the BWC rollout on its website,<sup>41</sup> and a copy of the Draft Operations Order governing the use of BWCs is included in Appendix B of the NYPD Response to Public and Officer Input on the Department's Proposed Body-Worn Camera Policy report.<sup>42</sup>

The NYPD's rollout of BWCs presents both an opportunity and a challenge for the work of the CCRB. Footage from BWCs has the potential to improve investigations, helping to definitively resolve a large number of complaints that might otherwise be closed as unsubstantiated or officer unidentified.

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<sup>41</sup> <http://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>

<sup>42</sup> [http://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/body-worn-camera-policy-response.pdf](http://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/body-worn-camera-policy-response.pdf)

At present, the CCRB gains access to BWC footage as follows:

1. If a misconduct complaint stems from a precinct in which BWCs have been deployed, the CCRB investigator submits a records request to the NYPD Relations Unit for BWC footage.
2. The NYPD Relations Unit then forwards the request to the Internal Affairs Bureau (IAB) and the NYPD Legal Bureau, which is responsible for approving the request and locating the footage.
3. Once the Legal Bureau has approved the request and located the BWC footage, the video is sent back to IAB, which then uploads the footage to a network drive shared with the CCRB.
4. The CCRB downloads the footage from the shared network drive and forwards it to the investigator.
5. If, upon examination, the BWC footage reveals the existence of additional BWCs on the scene that were not covered in the initial request, or other evidence suggests that a negative response to an initial NYPD search for BWC footage may be a false negative, the CCRB investigator must submit a new request specifying the additional BWC footage that is needed.

In the first half of 2018, the CCRB requested BWC footage in 548 complaints—a number that will only grow as the NYPD’s program expands in the latter half of 2018 to include thousands more MOS on patrol assignments. Currently, it takes an average of seven business days for the CCRB to receive BWC footage from the NYPD—a very small increase from the 6.6 days reported in the CCRB 2017 Annual Report.

ability to obtain footage relevant to its investigations directly from the NYPD’s BWC video storage systems. Direct access to BWC footage in some form, with appropriate safeguards, will lead to faster and more thorough CCRB investigations, which is vital to ensuring the public’s confidence in the Agency’s work.

The CCRB is working with the NYPD to streamline the access procedure, including its

## SECTION 8: OUTREACH

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

The Outreach and Intergovernmental Affairs 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. The Unit’s outreach presentations provide an overview of the complaint process, explain the basic legal contours of police encounters, and stress the importance of de-escalation.

In the first half of 2018, staff members gave 523 presentations (Fig. 54). The Outreach Unit has made presentations to a large variety of audiences, including high school students, immigrant populations, precinct community council meeting attendees, probationary groups, homeless service organizations, formerly-incarcerated individuals, NYCHA residents, and lesbian, gay, bisexual, transgender, and queer (LGBTQ) groups (Fig. 55, next page). The largest categories of presentations were given at community board meetings (14%) and libraries (14%).

In the first half of 2018, Outreach made presentations in all five boroughs, reaching much of the City’s diverse demographic. The largest number of presentations were made in Manhattan (182), followed by Brooklyn (154) (Fig. 56).

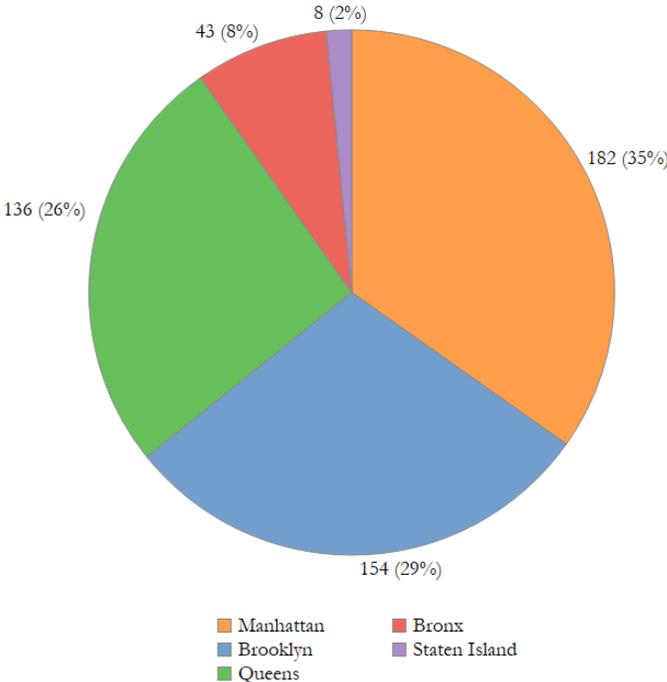
**Figure 54: Number of Outreach Events, 2016 – Q1/2 2018**



**Figure 55: Outreach Events by Specific Organization Type, Q1/2 2018**



**Figure 55: Outreach Events by Borough, Q1/2 2018**



## SECTION 9: NEW INITIATIVES

The Civilian Complaint Review Board (CCRB) always strives to improve its responsiveness and effectiveness. In the first half of 2018, the Agency expanded the scope of its investigations, conducted a number of trainings to develop staff capacity, and adopted a new policy to connect civilians with mental health resources.

### CCRB Disciplinary Framework

In January 2018, the Board implemented a pilot program of its Disciplinary Framework, a non-binding matrix designed to guide Board Panel discussions on disciplinary recommendations on substantiated cases. Use of the Framework does not impact whether a complaint will be substantiated by the Board—it is only used in cases that have been substantiated. The goal of the Framework is to achieve consistent and fair discipline recommendations for both civilians and New York City Police Department (NYPD) members of service. The Framework outlines six allegation types that—if substantiated by a three-member Board Panel—typically would result in the panel recommending Charges and Specifications, the most severe level of discipline. These allegations include chokeholds, strip searches, warrantless entries, offensive language, excessive force with serious injury, and sexual misconduct. Under the Framework, Board Panels also should discuss the subject officer’s CCRB history and the totality of the circumstances of the case as a way to guide its determination of the appropriate disciplinary recommendation.

During the initial six months of the pilot program, the Framework has led to more consistent recommendations of Charges and Specifications. As discussed in public session at the CCRB’s August 2018 Board Meeting,<sup>43</sup> the pilot will continue for another six months before the Board determines whether to adopt the Framework as a permanent part of its review process.

### Sexual Misconduct

In February 2018, pursuant to a resolution passed by the Agency’s Board, the CCRB began investigating allegations of sexual misconduct against NYPD officers. This action makes the CCRB a pioneer among law enforcement oversight agencies in the United States. Prior to this change in CCRB policy, the NYPD’s Internal Affairs Bureau (IAB), a unit whose members are employees of the Department, was responsible for investigating all allegations of sexual misconduct by members of the NYPD. As such, the Agency referred sexual misconduct complaints to IAB upon receipt. Following the Board’s vote, the CCRB embarked on a two-phase program: Phase One called for the Agency to immediately begin investigating allegations of sexual harassment; Phase Two allows for the Agency to begin investigating sexual assault allegations once the CCRB staff is properly trained to handle those types of allegations. During the first half of 2018, investigators received training on allegations of sexual harassment and began investigating Phase One complaints. The Agency currently is developing a plan to investigate and prosecute Phase Two complaints.

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<sup>43</sup> Video of this meeting can be found at: <https://www1.nyc.gov/site/ccrb/about/news/previous-board-meetings.page>

## **Implicit Bias Training**

In April 2018, experienced trainers from the Perception Institute (<https://perception.org>) conducted multiple three-hour interactive training sessions on implicit bias for all staff members. The training, which the Agency intends to make a regular component of the CCRB staff training protocol, covered the neuroscience of implicit bias, the social science of how implicit bias manifests in society and the workplace, and its effects. The training incorporated CCRB-specific case studies and included discussions on practical solutions for identifying when our objectivity is compromised and how to mitigate our own biases.

## **Mental Health Referral Policy**

In April 2018, the CCRB adopted a new policy of providing civilians with information about NYC Well, a City program that provides free support and assistance to people experiencing stress and trauma as well as more serious mental, psychological, and emotional health challenges. The policy further authorizes investigators, when appropriate, to actively assist civilians with accessing NYC Well services. In anticipation of the policy's adoption and implementation, the Training Unit collaborated with Dr. Lynn Kaplan, Psy. D, the director of training and public education for Vibrant Emotional Health (formerly the Mental Health Association of NYC), to develop training for the Investigations Division. This training was delivered immediately upon adoption of the policy. Day one consisted of a "train-the-trainers" for Investigative Managers, and during day two, the managers assisted in delivering the content to their investigative squads. The substance of the training included an overview and discussion of the new policy, skills for effective call management, and face-to-face communication skills, including active listening, emphatic response, the mechanics of making a warm-transfer to NYC Well, and the steps an investigator should take when a civilian presents an imminent risk to themselves or to others. Additionally, investigators learned how to engage civilians in conversations about mental wellness, including how to introduce NYC Well into conversations. These skills were practiced utilizing simulations that mirrored a variety of scenarios that commonly occur in CCRB investigations.

## **Training Unit**

During 2018, the Training Unit facilitated on-going training and professional development programs for the CCRB staff. For instance, in February 2018, Professor Steve Zeidman of CUNY Law School conducted a training on Fourth Amendment search and seizure and the use of force doctrine, how courts evaluate "reasonableness" and "totality of the circumstances" related to various police-civilian encounters, what steps officers are permitted to take to confirm a civilian's identity, and recent court decisions involving cell phone searches.

Additionally, a select group of Investigative Managers have already attended a two-day program entitled "Managing to Change the World." The Training Unit has arranged for all managers to participate in a two-day, offsite training program called "Building Coaching Competency" offered by the ACS Workforce Institute. This training is designed to strengthen the skills of supervisors by introducing "coaching" strategies to integrate into staff supervision. In this course, participants learn and practice skills that empower, build capacity, improve performance, and facilitate development of supervisees. By late 2018, all investigative managers will have attended this training.

## **Forthcoming 2018 Policy Reports**

Throughout the year, the Civilian Complaint Review Board (CCRB) issues monthly, semi-annual, and annual reports to fulfill its mandate to inform the public and New York City elected officials about the Agency's operations, complaint activity, case dispositions, and Police Department discipline. The CCRB also issues special subject reports on points of interest concerning NYPD policies, procedures, and training.

In the coming months, the CCRB plans to release an update to its October 2016 Taser report, "Tasers: An Evaluation of Taser-Related Complaints from January 2014 Through December 2015." In addition, the Agency currently is working on reports on NYPD's use of body-worn cameras and police interactions with the New York City homeless population.

## BACKGROUND OF THE CCRB AND GLOSSARY

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The Charter of the City of New York established the CCRB and empowered it to receive and investigate complaints from members of the public concerning misconduct by members of the NYPD. The CCRB is required to conduct its investigations “fairly and independently, and in a manner in which the public and the police department have confidence.” Under the City Charter, the CCRB has jurisdiction to investigate the following categories of police misconduct: **Force**, **Abuse of Authority**, **Discourtesy**, and **Offensive Language**, collectively known as **FADO**. The CCRB will also note **other misconduct** when it uncovers conduct by NYPD officers during the course of its investigation that falls outside its jurisdiction, which the Department has requested be noted or is considered 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 13 members all appointed by the Mayor. The City Council designates five Board members (one from each borough); the Police Commissioner designates three; and the Mayor designates five, including the Chair of the Board. Under the City Charter, the Board must reflect the diversity of the city’s residents and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner, who must have had a law enforcement vocation. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be, and often are, renewed.

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

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

**subject officers**, while officers who witnessed or were present for the alleged misconduct are categorized as **witness officers**. The CCRB's investigators in the **Intake Unit** receives complaints filed by the public in-person, by telephone, voicemail, an online complaint form, or referred to the Agency by the NYPD. When a **complaint** is filed, the CCRB assigns it a unique complaint identification number. The CCRB also refers to complaints as **cases**. A single complaint or case may contain multiple FADO **allegations**.

Allegations regarding improper entries, searches, or failures to show a warrant are considered allegations falling within the CCRB's Abuse of Authority jurisdiction. The vast majority of complaints regarding improper entries, searches, or warrant executions involve only a single incident of entry or search, but some complaints involve more than one entry or search (occurring on the same day or on different days). Each allegation is reviewed separately during an investigation.

During an **investigation**, the CCRB's civilian investigators gather documentary and video evidence and conduct interviews with complainants, victims, civilian witnesses, subject officers, and witness officers in order to determine whether the allegations occurred and whether they constitute misconduct. At the conclusion of the investigation, a **closing report** is prepared, summarizing the relevant evidence and providing a factual and legal analysis of the allegations. The closing report and investigative file are provided to the Board before it reaches a disposition. A panel of three Board members (a **Board Panel**) reviews the material, makes findings for each allegation in the case, and if allegations are substantiated, provides recommendations as to the discipline that should be imposed on the subject officer(s).

The **Disposition** is the Board's finding of the outcome of a case (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 CCRB is able to conduct a full investigation and obtain sufficient credible evidence for the Board to reach a factual and legal determination regarding the officer's conduct. In these cases, the Board may arrive at one of the following findings on the merits for each allegation in the case: **substantiated**, **exonerated**, or **unfounded**. Substantiated cases are those where it was proven by a preponderance of evidence that the alleged acts occurred and the acts constituted misconduct. Exonerated cases are those where it was shown by a preponderance of the evidence that the alleged acts occurred, but the acts did not constitute misconduct. Unfounded cases are those where there was a preponderance of the evidence that the 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 by a preponderance of the evidence whether or not an act of misconduct occurred. In some cases, the CCRB is unable to conduct a full investigation or mediation and must **truncate** the case.<sup>44</sup>

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<sup>44</sup> Fully investigated cases comprise complaints disposed of as substantiated, unsubstantiated, exonerated, unfounded, officers unidentified, or miscellaneous. Miscellaneous cases are those where an officer retires or leaves the Department before the Board receives the case for decision. Truncated cases are disposed of in one of the following ways: complaint withdrawn, complainant/victim uncooperative, complainant/victim unavailable, and victim unidentified.

# NEW YORK CITY CHARTER

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## Chapter 18-A

### Civilian Complaint Review Board

**§ 440** Public complaints against members of the police department.

(a) It is in the interest of the people of the city of New York and the New York City police department that the investigation of complaints concerning misconduct by officers of the department towards members of the public be complete, thorough and impartial. These inquiries must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct as provided in this section.

(b) Civilian complaint review board.

1. The civilian complaint review board shall consist of thirteen members of the public appointed by the mayor, who shall be residents of the city of New York and shall reflect the diversity of the city's population. The members of the board shall be appointed as follows: (i) five members, one from each of the five boroughs, shall be designated by the city council; (ii) three members with experience as law enforcement professionals shall be designated by the police commissioner; and (iii) the remaining five members shall be selected by the mayor. The mayor shall select one of the members to be chair.

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

3. The members shall be appointed for terms of three years, except that of the members first appointed, four shall be appointed for terms of one year, of whom one shall have been designated by the council and two shall have been designated by the police commissioner, four shall be appointed for terms of two years, of whom two shall have been designated by the council, and five shall be appointed for terms of three years, of whom two shall have been designated by the council and one shall have been designated by the police commissioner.

4. In the event of a vacancy on the board during the term of office of a member by reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of Force, Abuse of Authority, Discourtesy, or use of Offensive Language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the board, and the basis therefore, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded

or withdrawn complaints be the basis for any such finding or recommendation.

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

3. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints submitted pursuant to this section.

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

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

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

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

(d) Cooperation of police department.

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

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

3. The police commissioner shall report to the board on any action taken in cases in which the board submitted a finding or recommendation to the police commissioner with respect to a complaint.

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

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

# BOARD MEMBERS

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## MAYORAL DESIGNEES

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

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

### **Angela Fernández, Esq.**

Angela Fernández is the Executive Director and Supervising Attorney of the Northern Manhattan Coalition for Immigrant Rights. Ms. Fernández is a first-generation Dominican whose mother migrated to the United States from Baitoa of Santiago de los Caballeros, Dominican Republic. She brings to the Board 20 years of experience in law, media, non-profit management, government, policy development, and advocacy. Her legal experience has been primarily focused on representing and advocating for immigrants and refugees in the United States and abroad. Ms. Fernández founded and managed elementary schools in the South Bronx and in Washington D.C., taught Women's Studies in Spanish to female detainees at Rikers Island Correctional Center, and was a staffer for U.S. Senator Bill Bradley and District Chief of Staff for U.S. Representative José Serrano. Ms. Fernández co-led the effort to end New York State's participation in the Secure Communities program, and co-developed the first-in-the-nation universal court-appointed representation program for detained immigrants. She is Chair of the Dominican Day Parade, an Executive Committee Member of the New York Immigration Coalition, and an Executive Committee Member of CommonWise Education. Fernandez is a mayoral designee to the Board appointed by Mayor Bill de Blasio.

*J.D., Columbia University School of Law; B.A., Boston University*

### **John Siegal, Esq.**

John Siegal is a partner in BakerHostetler, a national business law firm, where he handles litigation, arbitrations, and appeals for clients in the financial services, media, and real estate industries. Mr. Siegal's practice also includes constitutional law, civil rights, Article 78, and other cases against government agencies. He has been admitted to practice law in New York since 1987. Mr. Siegal's public service experience includes working as an Assistant to Mayor David N. Dinkins and as a Capitol Hill staff aide to Senator (then Congressman) Charles E. Schumer. Throughout his legal career, Mr. Siegal has been active in New York civic, community, and political affairs. Mr. Siegal is a mayoral designee to the Board appointed by Mayor Bill de Blasio.

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

## **Erica Bond**

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

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

## **CITY COUNCIL DESIGNEES**

### **Joseph A. Puma**

Joseph Puma's career in public and community service has been exemplified by the various positions he has held in civil rights law, community-based organizations, and local government. As a paralegal with the NAACP Legal Defense and Education Fund, Mr. Puma handled cases involving criminal justice, voting rights, employment discrimination, and school desegregation. Prior to joining NAACP LDF, he worked for more than six years at the NYC Office of Management and Budget, where he served in roles in intergovernmental affairs, policy, and budget. From 2003 to 2004, he served as a community liaison for former NYC Council Member Margarita López. Since 2007, Mr. Puma has been involved with Good Old Lower East Side (GOLES), a community organization helping residents with issues of housing, land use, employment, post-Sandy recovery and long-term planning, and environmental and public health. A lifelong city public housing resident, Mr. Puma currently serves on GOLES's Board of Directors, and has participated in national public housing preservation efforts. Mr. Puma is a City Council designee to the Board first appointed by Mayor Michael Bloomberg and reappointed by Mayor Bill de Blasio.

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

### **Ramon A. Peguero, Esq.**

Ramon Peguero is the Executive Director of The Committee for Hispanic Children and Families, Inc. Prior to this role, Mr. Peguero served as Executive Director of Southside United HDFC (Los Sures), the largest multi-service organization in Williamsburg, Brooklyn focused on developing affordable housing, preventing tenant displacement, running a senior center and food pantry, and managing affordable housing projects. Mr. Peguero spent 15 years working in grassroots organizations that tackled the most challenging issues facing low-income residents in New York: HIV and AIDS awareness, child and substance abuse, child development issues, and health and nutrition education. Mr. Peguero also serves on the boards of several organizations focused on enhancing the lives of New Yorkers. He is a mayoral appointee to the Board of Directors of the Brooklyn Navy Yard

Development Corporation; founder and director of an annual community Thanksgiving dinner; founder and director of an Annual Dominican Independence Day Celebration; Board Chair of Nuestros Niños Preschool Center; and was the first President of the Community Education Council (formerly the School Board); and past Board Member of Brooklyn Legal Services Corporation A. Mr. Peguero is a City Council designee to the Board appointed by Mayor Bill de Blasio. *J.D. CUNY School of Law, Queens College; M.A., Metropolitan College; B.A., Stony Brook University, State University of New York*

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

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

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

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

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

## **POLICE COMMISSIONER DESIGNEES**

### **Lindsay Eason**

Lindsay Eason currently works as Director of Field Operations for Grand Central Partnership, a not-for-profit organization. From 2011 to 2012, Mr. Eason served as an International Police Training Manager for The Emergence Group in Tajikistan, where he was contracted to design and implement training for police departments. Mr. Eason was appointed to New York City Sheriff in 2002, where he developed and implemented SheriffStat, leading to new procedures that promoted greater accountability and professional development. Mr. Eason began his career in law enforcement as a uniformed member of the NYPD. Mr. Eason is a police commissioner designee the Board appointed by Mayor Bill de Blasio.

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

### **Salvatore F. Carcaterra**

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

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

### **Frank Dwyer**

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

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

# EXECUTIVE AND SENIOR STAFF

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## Executive Staff

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

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

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

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

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

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

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

## Senior Staff

**Deputy Chief of Investigations:** Dane Buchanan

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

**Director of Case Management:** Eshwarie Mahadeo

**Director of Communications:** Vincent Paolo Villano

**Director of Data Processing:** Lincoln MacVeagh

**Director of Human Resources:** Naeem Pervaiz

**Director of Information Technology:** Carl Esposito

**Director of Intake and Field Evidence Collection:** Jacqueline Levy

**Director of Mediation:** Lisa Grace Cohen, Esq.

**Director of NYPD Relations:** Jayne Cifuni

**Director of Operations and Budget:** David B. Douek

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

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

**Director of Quality Assurance and Quality Improvement:** Olas Carayannis

**Director of Training and Staff Development:** Monte Givhan