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ARVA RICE
INTERIM CHAIR

July 25, 2022

The Honorable Keechant L. Sewell
Police Commissioner of the City of New York
New York City Police Department
One Police Plaza
New York, New York 10038

Re: **Report on the Administrative Prosecution Unit (“APU”)
Second and Third Quarters of 2021**

Dear Commissioner Sewell:

This report will address the following matters: (i - ii) nine (9) finalized verdicts issued by an Assistant Deputy Commissioner of Trials (“ADCT”); (iii) the treatment of Administrative Prosecution Unit’s (“APU”) five (5) pleas by the former Police Commissioner; (iv) the retention of two (2) cases under Provision Two of the April 2, 2012 Memorandum of Understanding (“MOU”); (v) the dismissal of cases by the APU; (vi) seven (7) cases administratively closed by the former Police Commissioner; (vii) the size of the APU’s docket; and (viii) the length of time to serve Respondents. The cases discussed in this report concern trial decisions rendered before and after the implementation of the 2021 NYPD Disciplinary Matrix¹. Use of the Disciplinary Matrix in specific cases is discussed further below.

I. Guilty Verdicts Upheld by the Police Commissioner

In the second and third quarters of 2021, nine (9) CCRB verdicts for trials conducted before an ADCT were finalized. The APU treats each officer against whom an allegation is substantiated as a separate case.² Of the nine (9) cases, eight (8) cases resulted in guilty verdicts that were upheld by the former Police Commissioner. The guilty verdicts are discussed further below:

¹ https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/disciplinary-system-penalty-guidelines-effective-01-15-2021-competite-.pdf

² The APU treats each officer as a separate “case.” As such, 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.”

Case One, Guilty Verdict, Penalty Downgrade³ 201800398 SGT David Grieco

In January 2018, at approximately 1:20 a.m. in Brooklyn, Victim 1, a Black male in his mid-twenties, was operating a ridesharing vehicle driving two fares—Victim 2, a Black male in his late-twenties, and another passenger. Victim 1 was pulled over by two plainclothes officers in an unmarked silver sedan with flashing lights. Victim 1 stated that he had been driving under the speed limit and did not know why he was being pulled over. One of the officers, Sergeant David Grieco [the Respondent], approached Victim 1 and told him that he stopped him because the vehicle smelled like marijuana. Victim 1 asked how that was possible when no one in the car was smoking and the windows were closed. In response, Sgt. Grieco said that he would give Victim 1 a ticket for double parking. Sgt. Grieco took the driver's documents. Victim 2 and the second passenger were removed from the vehicle and Victim 2 left his backpack in the back seat. Victim 2 was searched by Sgt. Grieco. Victim 1 recorded the remainder of the incident with his dashboard-mounted cellphone. The video showed Sgt. Grieco searching the back seat with a flashlight and opening and searching Victim 2's backpack. After the search, Sgt. Grieco handed Victim 1 back his documents. When questioned, Sgt. Grieco stated that he had no recollection of the entire incident.

On November 29, 2018, the Board substantiated four (4) total allegations: four (4) Abuse of Authority allegations against Sgt. Grieco for stopping Victim 1's car, threatening to issue Victim 1 a summons, searching the back seat of Victim 1's car, and searching Victim 2. The APU filed and served Charges and Specifications with a penalty recommendation of twenty (20) days' vacation forfeiture—a recommendation that preceded the implementation of the Disciplinary Matrix. A trial was held on November 6, 2020, November 17, 2020, and December 9, 2020, before ADCT Josh Kleiman. On January 8, 2021, ADCT Kleiman issued his decision, finding Sgt. Grieco guilty of all four allegations. The decision was rendered before the implementation of the Disciplinary Matrix.

ADCT Kleiman found that “Respondent did not contest [Victim 1]’s version of events, only that he was the officer who [Victim 1] observed...based on [Victim 1]’s credible testimony, corroborated by the presence of Respondent’s assigned vehicle on scene, Respondent is more likely than not the officer that engaged with [Victim 1] at the scene of the charged misconduct.” ADCT Kleiman determined that “Respondent did not have reasonable suspicion to stop the vehicle, detain [Victim 1] and the two passengers, nor threaten [Victim 1] with the issuance of a summons...furthermore, [Victim 2] was also not within reach of his backpack that was placed on the backseat . . . when Respondent searched it.” ADCT Kleiman recommended a penalty of ten (10) days' vacation forfeiture because Sgt. Grieco had no formal disciplinary history and similar cases had penalty ranges of two (2) to five (5) days. On June 29, 2021, former Commissioner Shea approved ADCT Kleiman's recommendations and imposed the recommended penalty.

³ The ADCT's penalty recommendation was lower than the CCRB's penalty recommendation.

Case Two, Penalty Downgrade⁴ 201805409 PO Jose Rendon

In April 2018, at approximately 1:40 pm in Queens, the Victim, a Hispanic male in his mid-thirties, was driving his vehicle when officers in a marked police vehicle pulled him over. The Victim stated that he had not committed any traffic infractions and had made no modifications to his vehicle. Police Officer Jose Rendon [the Respondent] said that he was pulled over for having a loud exhaust and for driving recklessly. He asked for the car's documents. The Victim complied with the directive and in addition gave PO Rendon two (2) Police Benevolent Association (PBA) cards. PO Rendon took the documents back to his vehicle. PO Rendon returned a short while later and handed the Victim's documents back to him minus the PBA cards. PO Rendon told the Victim that he would mail the PBA cards back to the respective officers. The Victim told PO Rendon that the cards could not be mailed back. PO Rendon walked back to his vehicle and the Victim exited his vehicle and asked for PO Rendon's information and began recording on his cellphone. PO Rendon turned around, with his hand on his gun and told the Victim to return to his vehicle. The Victim complied and PO Rendon once again asked for and was given the car's documents. It started to rain, and PO Rendon instructed the Victim to lower all the windows of the vehicle, turn off the engine, and remove the keys from the ignition. The Victim stated that it was raining, and PO Rendon replied, "I don't care, give me your key and lower your windows." The Victim complied and PO Rendon placed the car key on the roof of the car. After approximately twenty minutes, PO Rendon returned to the Victim and issued him two summonses—one for a loud exhaust and another for reckless driving. As a result of the rain, the window switches on the driver side door stopped working. Both summonses were later dismissed.

On January 28, 2019, the Board substantiated three (3) total allegations: two (2) Abuse of Authority allegations against PO Rendon for stopping⁵ the Victim's vehicle and for issuing a retaliatory summons;⁶ and one (1) Discourtesy allegation⁷ for ordering the Victim to lower all four car windows in the rain for a prolonged period. The APU filed and served Charges and Specifications with a penalty recommendation of twenty-five (25) days' vacation forfeiture and one (1) year dismissal probation—a recommendation made after implementation of the Disciplinary Matrix and falls within the presumptive penalty category. On January 20, 2021, a trial was held before ADCT Jeff Adler. On March 2, 2021, ADCT Adler issued his decision finding PO Rendon guilty of the Discourtesy allegation and not guilty of the Abuse of Authority allegations.

ADCT Jeff Adler found that "the video footage [Victim's dash cam video] supports Respondent's testimony as to the reckless way [the Victim] was driving...[Victim]'s vehicle appears to accelerate at a high rate of speed through the intersection, and continues in that manner for about eight seconds, before being forced to slow down dramatically because of traffic in front of him. The footage also corroborates Respondent's account as to the raining conditions

⁴ The ADCT's penalty recommendation was lower than the CCRB's penalty recommendation.

⁵ Per Disciplinary matrix – a vehicle stop allegation has a mitigated penalty of training, a presumptive penalty of three (3) vacation days' forfeiture, and an aggravated penalty of fifteen (15) vacation days' forfeiture.

⁶ Per Disciplinary matrix – an enforcement action involving abuse of discretion or authority unlawful has a mitigated penalty of ten (10) vacation day's forfeiture, a presumptive penalty of twenty (20) vacation days' forfeiture, and an aggravated penalty of termination.

⁷ Per Disciplinary matrix – discourtesy has a mitigated penalty of one vacation day forfeiture, a presumptive penalty of five (5) vacation day's forfeiture, and an aggravated penalty of ten (10) vacation days' forfeiture.

and the heavily trafficked area.” ADCT Adler found that the “[Victim]’s testimony that a mechanic certified that the decibel level of his exhaust was within the legal level does not negate Respondent’s observations that on the date of the incident, from his experience the exhaust was unreasonably loud.” Finally, ADCT Adler found that when the Victim “requested to take a photograph memorializing Respondent’s name and shield number, Respondent moved the interaction into a new direction...he instructed him to sit in the car with the windows down even though it was raining...his actions came across as spiteful and vindictive...under these circumstances, Respondent’s conduct constituted discourteous behavior. He essentially penalized [Victim] for wanting to memorialize Respondent’s name and shield number which the motorist was well within his rights to do.” ADCT Adler recommended a penalty of ten (10) days’ vacation forfeiture for PO Rendon, a penalty that falls within the aggravated category of the Disciplinary matrix. On June 18, 2021, former Commissioner Shea approved ADCT Adler’s recommendations and imposed the recommended penalty.

Case Three, Guilty Verdict, Penalty Upgrade⁸ 201702740 PO Andrew Kellard

In April 2017, at approximately 6:00 p.m. in the Bronx, the Victim, a Hispanic male in his late twenties, was driving a UPS delivery truck when he noticed two marked police vehicles parked side-by-side blocking traffic on a one-way street. He parked his vehicle at the end of the street and walked towards the marked vehicles. Sergeant Tameika Goode [Respondent 1] and Police Officer Andrew Kellard [Respondent 2] were sitting in the vehicles when the Victim approached them and asked what was going on, stating that he had a delivery to make at the end of the block. The Respondents told the Victim to “get the fuck out of here.” The Victim returned to his vehicle and PO Kellard followed him several minutes later. The Victim saw PO Kellard standing in the doorway of the UPS truck. PO Kellard asked the Victim for his license. The Victim refused to provide his license and attempted to close the truck door to end the conversation with PO Kellard. PO Kellard used his hand to stop the door, stepped into the truck, and grabbed the back of the Victim’s neck. PO Kellard wrestled the Victim to the floor of the truck and punched him multiple times in the face. The Victim did not resist, and PO Kellard handcuffed the Victim. Cellphone video from bystanders showed the Victim on the floor of his vehicle with PO Kellard pressed down on top of him.

On November 27, 2016, the Board substantiated two (2) total allegations: one (1) Discourteous allegation against PO Kellard for telling the Victim to “get out the fuck out of here,”⁹ and one (1) Use of Force allegation for punching the Victim in the face.¹⁰ The APU filed and served Charges and Specifications with a penalty recommendation of twenty (20) days’ vacation forfeiture for PO Kellard—a recommendation that preceded the implementation of the Disciplinary Matrix. A trial was held on December 8, 2020, and December 22, 2020, before ADCT Paul Gamble. On March 11, 2021, ADCT Gamble issued his decision, finding PO Kellard guilty of the Use of Force allegation and not guilty on the Discourtesy allegation. The decision was rendered after the implementation of the Disciplinary Matrix.

⁸ The ADCT’s penalty recommendation was higher than the CCRB’s penalty recommendation because suspension days are a higher penalty than vacation day forfeitures even though both penalties are twenty (20) calendar days.

⁹ Per Disciplinary matrix – discourtesy has a mitigated penalty of one (1) vacation day forfeiture, a presumptive penalty of five (5) vacation days’ forfeiture, and an aggravated penalty of ten (10) vacation days’ forfeiture.

¹⁰ Per Disciplinary matrix – non-deadly force against another that results in physical injury has a mitigated penalty of ten (10) suspension days, a presumptive penalty of ten (10) suspension days and ten (10) vacation days’ forfeiture, and an aggravated penalty of termination.

ADCT Gamble found that a civilian at the scene of the incident “saw the officer punching the driver, who was on the floor of the UPS truck.” According to ADCT Gamble, another witness at the scene said that “she had seen a police officer ‘beating up’ a UPS driver, and that bystanders ran to try to stop him.” ADCT Gamble found that the Victim “was candid to the point of attesting to his own verbal confrontation with Respondents, including the use of profane language...further admitted to leaving his work truck in the street unattended and illegally parked...refusing to provide information or identification to Respondent Kellard.” ADCT Gamble found that the Victim “approached Respondents from a blind spot while they were engaged with another subject and was verbally confrontational. Given the existence of one already displeased motorist...their reaction, while harsh, was likely intended to dispatch [Victim] so that they could refocus on the traffic stop.” Finally, ADCT Gamble found that “Respondent Kellard did not deny that he threw punches and simply testified that he got [Victim] to the ground but could not remember what technique he used.” ADCT Gamble recommended a penalty of ten (10) days’ vacation forfeiture and ten (10) suspension days for PO Kellard, a penalty that falls within the presumptive category of the Disciplinary Matrix. On July 30, 2021, former Commissioner Shea approved ADCT Gamble’s recommendations and imposed the recommended penalty.

Case Four, Penalty Downgrade¹¹ 201706351 PO Ronnie Caraccioli

In August 2017, at approximately 6:20 p.m. in Manhattan, the Victim, a white female in her late twenties was in the lobby of a residential building when she was commanded to leave by Police Officer Ronnie Caraccioli [the Respondent] and another officer due to a complaint that she had been smoking crack in the building. The incident was captured by the building’s security video. PO Caraccioli and his partner followed the Victim out of the building and words were exchanged as she walked through the lobby doors, followed by the vestibule doors that led to the street. PO Caraccioli and his partner walked back into the vestibule of the building and the Victim followed them, speaking, and pointing at the officers. PO Caraccioli turned around and pushed the Victim repeatedly in her upper body until she was back outside. The Victim fell to the ground and PO Caraccioli and his partner wrestled with the Victim on the ground. The Victim spun on her back as she pulled her legs closer to her body. PO Caraccioli attempted to flip the Victim on to her stomach with his partner’s assistance. The Victim tried to wiggle out of their grasp. PO Caraccioli restrained one of the Victim’s arms to forcefully turn her onto to her stomach and then PO Caraccioli and his partner heard a pop sound from the Victim’s arm. PO Caraccioli immediately released the Victim’s arm. The Victim sat up and began rocking her body, clutching her arm. She immediately told them that they had broken her arm, which was confirmed by subsequent hospital records.

On January 8, 2019, the Board substantiated two (2) total allegations: two (2) Use of Force allegations against PO Caraccioli for pushing¹² the Victim to the ground and for breaking

¹¹ The ADCT’s penalty recommendation was lower than the CCRB’s penalty recommendation.

¹² Per Disciplinary matrix – non-deadly force against another that results in no injury has a mitigated penalty of five (5) vacation days’ forfeiture, a presumptive penalty of ten (10) vacation days’ forfeiture, and an aggravated penalty of termination.

her arm by forcing it behind her back.¹³ The APU filed and served Charges and Specifications with a penalty recommendation of twenty (20) days' vacation forfeiture and twenty (20) suspension days—a recommendation made after implementation of the Disciplinary Matrix that falls between the presumptive and aggravated penalty categories. On March 8, 2021, a trial was held before ADCT Nancy Ryan. On April 26, 2021, ADCT Ryan issued her decision finding PO Caraccioli guilty on both Use of Force allegations.

ADCT Ryan found that the Victim “volunteered that she was ‘resisting’ and flailing’ on the ground but claimed that she did so because she was unaware that she was under arrest, and instinctively struggled against being grabbed.” ADCT Ryan found that the “hospital records were also admitted into evidence...showed that [the Victim] sustained a fractured left humerus. She had surgery to repair the fracture.” ADCT Ryan stated that the “Respondent’s use of force was unreasonable...Respondent failed to articulate any immediate threat or harm posed by [Victim] at the time of his push. To the contrary, he specifically testified that he did not believe she was a threat at the time before she went to the ground...in sum, it was Respondent who turned the encounter from a verbal confrontation with an agitated individual into a physical altercation.” Finally, ADCT Ryan found that “Respondent in wrongfully initiating the use of force and using an unreasonable amount of force in pushing [the Victim], led directly to [the Victim] being on the ground, this in turn lead directly to [Victim]’s arm being broken during Respondent’s attempt to handcuff her.” ADCT Ryan recommended a penalty of fifteen (15) days’ vacation forfeiture and ten (10) suspension days for PO Caraccioli, a penalty that falls in the presumptive category of the Disciplinary matrix. On August 23, 2021, former Commissioner Shea approved ADCT Ryan’s recommendations and imposed the recommended penalty.

Case Five, Penalty Unmodified¹⁴ 201709116 DI Elliot Colon

In October 2017, at approximately 10:00 a.m. in Brooklyn, Victim 1, a Black female in her mid-thirties received a call from her mother who stated that Victim 1’s brother had collapsed in his home and was not breathing. Victim 1, along with her boyfriend, Victim 2, a Black male in his early thirties, drove to the brother’s home where EMT and FDNY personnel were already on site. Police officers arrived as the EMTs worked on the Victim’s brother. The Victim’s brother was then transported to the hospital and Victim 1 and Victim 2 remained at the residence as more police officers arrived. Victim 3, Victim 1’s uncle—a Black male in his mid-seventies, arrived at the residence. Police officers told the Victims to remain in the downstairs portion of the residence. Victim 2 was informed that guns were discovered on the premises. Detective Inspector Elliot Colon [the Respondent] arrived on the scene and instructed officers to handcuff the Victims. DI Colon told the Victims that they were not under arrest but would be taken to the precinct for questioning. The Victims told the officers they were not residents of the house. At the precinct, the Victims were informed that they were under arrest. They were held at the precinct for approximately 12 hours before they were released without any charges being filed.

¹³ Per Disciplinary matrix – non-deadly force against another that results in physical injury has a mitigated penalty of ten (10) suspension days, a presumptive penalty of ten (10) suspension days and ten (10) vacation days’ forfeiture, and an aggravated penalty of termination.

¹⁴ The ADCT’s penalty recommendation was lower than CCRB’s recommendation, and the PC’s penalty was higher than CCRB’s recommendation.

On April 15, 2019, the Board substantiated three (3) Abuse of Authority allegations against DI Colon for arresting¹⁵ Victim 1, Victim 2, and Victim 3. The APU filed and served Charges and Specifications with a penalty recommendation of forty-five (45) days' vacation forfeiture—a recommendation made after implementation of the Disciplinary Matrix and in the aggravated penalty category. On April 5, 2021, April 6, 2021, and April 8, 2021, a trial was held before ADCT Nancy Ryan. On June 11, 2021, ADCT Ryan issued her decision finding DI Colon guilty on all three Abuse of Authority Use allegations.

ADCT Ryan found that “Respondent did not have reasonable cause to believe that [Victim 1], [Victim 2], and [Victim 3] committed the crime of criminal possession of a weapon...Respondent failed to articulate probable cause for any of the three arrests he ordered in this case.” ADCT Ryan found that “Respondent had no information that any of the three individuals had the guns on their person or were in direct physical control of them...it is also settled that a person's mere presence in an apartment or house where contraband is found is not a sufficient basis for a finding of constructive possession.” ADCT Ryan found that “rather than being based on probable cause that the three individuals possessed the two guns, the Respondent's primary reason for ordering the arrests was to be able to conduct an investigation to determine who the guns belonged to.” ADCT Ryan found that “based on the chronology of events, at the time Respondent arrived at the scene, there were the three civilians in the living room and some police officers present. The civilians were not causing chaos as Respondent testified.” ADCT Ryan recommended a penalty of fifteen (15) days' vacation forfeiture for DI Colon, a penalty that falls between the presumptive and aggravated penalty categories. On August 2, 2021, former Commissioner Shea approved ADCT Ryan's recommendations and departed upward and imposed a penalty of forty-five (45) days' vacation forfeiture stating that “based on Inspector Colon's rank, position and role during this particular event, I find that the aggravated penalty under the Disciplinary System Penalty Guidelines (“Matrix”) is appropriate in this matter.” The new penalty was in the aggravated penalty category.

Case Six, Penalty Downgrade¹⁶ 20180220 PO Noel Rulx

In March 2018, at approximately 5:10 p.m. in Manhattan, the Victim, a Black female teenager was with a friend inside a subway station. Police Officer Noel Rulx [the Respondent] told the Victim's friend to leave the subway station. The incident was captured on a cellphone video. It showed PO Rulx using his body to keep open the emergency exit door and the Victim's friend walked through the gate first. The Victim followed her and as she walked by PO Rulx, he shoved her hard in her back.

On January 29, 2019, the Board substantiated one (1) total allegation: one (1) Use of Force allegation against PO Rulx for pushing¹⁷ the Victim. The APU filed and served Charges and Specifications with a penalty recommendation of twenty-five (25) days' vacation forfeiture and one (1) year dismissal probation—a recommendation made after implementation of the Disciplinary Matrix and falls between the presumptive and aggravated penalty categories. On

¹⁵ Per Disciplinary matrix – an improper/wrongful search/seizure of a person/property has a mitigated penalty of training, a presumptive penalty of three (3) vacation days' forfeiture, and an aggravated penalty of fifteen (15) vacation days' forfeiture.

¹⁶ The ADCT's penalty recommendation was lower than the CCRB's penalty recommendation.

¹⁷ Per Disciplinary matrix – non-deadly force against another that results in no injury has a mitigated penalty of 5 vacation days' forfeiture, a presumptive penalty of 10 vacation days' forfeiture, and an aggravated penalty of termination.

February 2, 2021, a trial was held before ADCT Josh Kleiman. On March 15, 2021, ADCT Kleiman issued his decision finding PO Rulx guilty of the Use of Force allegation.

ADCT Kleiman found that “the reasonableness factors, common to use of force inquiries, do not justify Respondent’s push... [the Victim] was 16 years old at the time, and as apparent in the video evidence, was substantially smaller in size than Respondent... Respondent testified that he was not concerned for his safety when he stopped the group of teenagers.” ADCT Kleiman found that “in the two seconds prior to the push, [the Victim] does not appear to be engaging in any activity that would justify any use of force.” ADCT Kleiman recommended a penalty of ten (10) days’ vacation forfeiture for PO Rulx, a penalty that falls within the presumptive category of the Disciplinary matrix. On July 19, 2021, former Commissioner Shea approved ADCT Kleiman’s recommendation and imposed the recommended penalty.

Case Seven, Penalty Unmodified¹⁸ 201908170 SGT Melonie Minott

In September 2019, at approximately 10:00 p.m. in Brooklyn, the Victim, a Black male in his mid-forties, was arrested for criminal mischief and was transported to a precinct. At the precinct an officer recovered a small plastic bag from one of his pockets. The Victim stated that the bag contained tobacco leaves used to roll cigarettes and denied having illegal drugs on his person. Sergeant Melanie Minott [the Respondent] alleged that the bag contained contraband and authorized a strip search of the Victim. No contraband was recovered during the search.

On April 27, 2020, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegation against Sgt. Minott for authorizing the strip search¹⁹ of the Victim. The APU filed and served Charges and Specifications with a penalty recommendation of twenty (20) days’ suspension and one (1) year dismissal probation—a recommendation made after the implementation of the Disciplinary Matrix and is in the presumptive penalty category. On April 27, 2021, a mitigation trial was held before ADCT Jeff Adler because Sgt. Minott pled guilty to the single count. On June 1, 2021, ADCT Adler issued his decision recommending a penalty.

ADCT Adler found that “Respondent accepted responsibility for making the decision to authorize the strip search and admitted that she did not consult the Patrol Guide regarding the requirements for a strip search procedure. She candidly acknowledged that the strip search was not appropriate for this situation.” ADCT Adler recommended a penalty of twenty (20) days’ vacation forfeiture for Sgt. Minott, a penalty that falls within the mitigated and presumptive categories of the Disciplinary matrix. On August 24, 2021, former Commissioner Shea approved ADCT Adler’s recommendations but departed upward and imposed a penalty of twenty (20) days’ suspension and one (1) year dismissal probation stating that “based on the severity of the Respondent’s misconduct, which consisted of authorizing the strip search of an individual without sufficient legal authority, a higher penalty is warranted.” The penalty imposed is the presumptive penalty in the Disciplinary Matrix.

¹⁸ The ADCT’s penalty recommendation was lower than CCRB’s recommendation, but PC’s penalty matched CCRB’s recommendation.

¹⁹ Per Disciplinary matrix – an unauthorized/unwarranted strip search of a person has a mitigated penalty of 20 vacation days’ forfeiture, a presumptive penalty of 20 suspension days & one (1) year dismissal probation, and an aggravated penalty of termination.

Case Eight, Penalty Upgrade²⁰ 201706354 PO Jose Cordero

In July 2017, at approximately 12:30 a.m. in the Bronx, Victim 1, a woman in her late twenties, was driving her vehicle with Victim 2, a Hispanic male in his late twenties, in the passenger seat, and their five-month-old infant in the back seat. Victim 1 stated that as she drove, a black sedan sped from behind her on the right-hand side and cut her off before it moved to the left-hand side of the road. Victim 1 stated that she honked her horn at the car. The police lights on the car were activated and Victim 1 was pulled over. Police Officer Jose Cordero [the Respondent] and two other officers exited the unmarked vehicle. Victim 2 was removed from the vehicle and PO Cordero was captured on cellphone video entering the vehicle through the open passenger door. With a flashlight in his hand, he searched the vehicle and retrieved a yellow envelope that contained the vehicle's documents and a PBA card. Victim 1 stated that Victim 2 was talking loudly to the officers and was taken into custody. Victim 1 stated that she followed the officers to the precinct. At the precinct PO Cordero issued Victim 2 two summonses for disorderly conduct.

On February 1, 2018, the Board substantiated two (2) total allegations: two (2) Abuse of Authority allegations against PO Cordero for searching Victim 1's vehicle²¹ and for issuing two summonses²² to Victim 2. The APU filed and served Charges and Specifications with a penalty recommendation of two (2) days' vacation forfeiture—a recommendation made after the implementation of the Disciplinary Matrix and is in the mitigated penalty category. On February 4, 2021, a trial was held before ADCT Josh Kleiman. On April 7, 2021, ADCT Kleiman issued his decision finding PO Cordero guilty of the two Abuse of Authority allegations.

ADCT Kleiman found that Respondent "crossed the threshold of [Victim 1]'s vehicle to look for the card...while Respondent's search for the PBA card inside [Victim 1]'s vehicle was limited and brief his actions nonetheless constituted an unlawful search." ADCT Kleiman found that "[Victim 2]'s behavior did not rise to the level of disorderly conduct. It is more likely than not that the officers, upset at being honked at, pulled [Victim 1] over and, further annoyed by [Victim 2]'s comment that 'he understands why cops get shot,' issued him a summons for disorderly conduct." ADCT Kleiman found that "Respondent's description of [Victim 2]'s behavior was not corroborated by the record evidence... [Victim 2]'s voice, as heard in the video evidence...is reasonably calm." ADCT Kleiman recommended a penalty of ten (10) days' vacation forfeiture and formalized training for PO Cordero, a recommendation that is in the mitigated penalty category. On July 27, 2021, former Commissioner Shea approved ADCT Kleiman's recommendations but departed downward and imposed a penalty of two (2) days' vacation forfeiture with formalized training, stating that "the fact that the search of the vehicle was conducted, and the summonses were issued in the presence and with approval of a supervisor is an extraordinary mitigating factor—one that was left unaccounted for in the Department's trial decision." The penalty imposed is lesser than the mitigated penalty in the Disciplinary Matrix.

²⁰ The ADCT recommendation was higher than both the CCRB's recommendation and PC recommendation. The PC's recommendation was higher than the CCRB recommendation.

²¹ Per Disciplinary matrix – a vehicle search has a mitigated penalty of training, a presumptive penalty of 3 vacation days' forfeiture, and an aggravated penalty of 15 vacation days' forfeiture.

²² Per Disciplinary matrix – an enforcement action involving abuse of discretion or authority unlawful has a mitigated penalty of 10 vacation days' forfeiture, a presumptive penalty of 20 vacation days' forfeiture, and an aggravated penalty of termination.

II. Not Guilty Verdicts Upheld by the Police Commissioner

In the second and third quarters of 2021, nine (9) CCRB verdicts for trials conducted before an ADCT were finalized. The APU treats each officer against whom an allegation is substantiated as a separate case.²³ Of the nine (9) cases, one (1) resulted in a not guilty verdict that was upheld by former Police Commissioner Shea. The not guilty verdict is discussed further below:

Case One, Not Guilty Verdict 201702740 SGT Tameika Goode

This case is from the same incident described in Case Three (3) (from the Guilty Verdicts section). In April 2017, at approximately 6:00 p.m. in the Bronx, the Victim, a Hispanic male in his late twenties, was driving a UPS delivery truck when he noticed two marked police vehicles parked side by side blocking traffic on a one-way street. He parked his vehicle at the end of the street and walked towards the marked vehicles. Sergeant Tameika Goode [Respondent 1] and Police Officer Andrew Kellard [Respondent 2] were sitting in the vehicles when the Victim approached them and asked what was going on, stating that he had a delivery to make at the end of the block. The Respondents told the Victim to “get the fuck out of here.” Sgt. Goode told the Victim that she would issue him a summons if he did not return to his vehicle. The Victim returned to his vehicle.

The Board substantiated three (3) total allegations: two (2) Abuse of Authority allegations against Sgt. Goode for stopping the Victim and threatening to issue him a summons and one (1) Discourteous allegation for telling the Victim to “get the fuck out of here.” The APU filed and served Charges and Specifications with a penalty recommendation of twelve (12) days’ vacation forfeiture. A trial was held on December 8, 2020, and December 22, 2020, before ADCT Paul Gamble. On March 11, 2021, ADCT Gamble issued his decision, finding Sgt. Goode not guilty on all counts.

ADCT Gamble found that “Respondent Goode did not stop [Victim] herself... [the Victim] asserted that he was approached by Respondent Kellard and made no mention of respondent Goode.” ADCT Gamble found that “Respondents were placed in a tactically-exposed position with an unidentified male suddenly appearing in a blind spot, and that this circumstance excuses their surprised – if profane – reaction.” Finally, ADCT Gamble found that “Respondent Goode did not abuse her authority by threatening to issue [the Victim] a summons, because there was a legal basis to do so: he had left his vehicle unattended in the middle of the street.” ADCT Gamble finally found that “Respondents told [the Victim] that there had been a traffic stop but [the Victim] continued swearing... Respondents told [the Victim] that he could be given a summons for leaving his vehicle parked and unattended in an unsafe location.” On July 30, 2021, former Commissioner Shea approved the not guilty verdict.

²³ The APU treats each officer as a separate “case.” As such, 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.”

III. Treatment of APU Pleas

In the second and third quarters of 2021, the Department finalized five (5) pleas. The APU makes penalty recommendations for all cases in which Charges and Specifications are substantiated by the Board. The APU uses several factors to determine these recommendations, including, but not limited to a member of service’s (“MOS”) length of service, MOS rank, MOS disciplinary history, the facts of the instant case, the strength of the instant case, the vulnerability of the victim, the extent of injury—if any, the number of Complainants, and the precedent cases of analogous charges. The APU penalty recommendations tend to be consistent for MOS who are similarly situated. The APU will measure their recommendations against the NYPD Disciplinary Matrix²⁴ to ensure that they fall within the same penalty range.

Pleas Closed				
Period	Plea Approved	Pleas Closed At Discipline Level Below Agency Recommendations		
		Plea Penalty Reduced	Plea Set Aside, Discipline Imposed	Plea Set Aside, No Discipline Imposed
3 rd Quarter 2018	6	0	0	0
4 th Quarter 2018	4	0	0	0
1 st Quarter 2019	1	0	0	0
2 nd Quarter 2019	4	0	0	0
3 rd Quarter 2019	2	1	0	0
4 th Quarter 2019	1	0	0	0
1 st Quarter 2020	1	1	0	0
2 nd Quarter 2020	2	2	0	0
3 rd Quarter 2020	2	2	0	0
4 th Quarter 2020	0	0	0	0
1 st Quarter 2021	0	0	0	0
2nd Quarter 2021	3	0	0	0
3rd Quarter 2021	2	0	0	0

As seen in the chart above, in the second and third quarters of 2021, there were five (5) cases in which a guilty plea was agreed to by the CCRB. In all five (5) cases the former Police Commissioner accepted the pleas without modification. The cases are discussed below.

²⁴ https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/disciplinary-system-penalty-guidelines-effective-01-15-2021-competite-.pdf

Case One, Resolved by Plea, Penalty Unmodified 201903484 PO Daniel Calixte

In March 2019, at approximately 8:40 a.m. in Brooklyn, the Victim, a Black male in his mid-twenties was sitting in a parked car with a friend. The incident was captured on BWC. Police Officer Daniel Calixte [the Respondent] opened the driver's door where the Victim was seated and repeatedly stated loudly "come out" to the Victim as he used his left hand to grab and pull the Victim's left wrist and used his right hand to grab onto the front of the Victim's neck. PO Calixte released his hold on the Victim's neck and then placed his right hand on the Victim's chest. PO Calixte then quickly moved his right hand back to the front of the Victim's neck, wrapping his index finger and thumb around the Victim's neck. The Victim exited the vehicle as PO Calixte continued to pull on his wrist.

On October 18, 2019, the Board substantiated one (1) total allegation: one (1) Use of Force allegation against PO Calixte for using a chokehold on the Victim. On November 19, 2020, in front of ADCT Paul Gamble, PO Calixte pled guilty to the sole count and agreed to accept ten (10) days' vacation forfeiture—a recommendation that preceded the implementation of the Disciplinary Matrix. On June 17, 2021, former Commissioner Shea accepted the negotiated plea and did not modify the negotiated penalty.

Case Two, Resolved by Plea, Penalty Unmodified 201706354 SGT Jose Caban

This case is from the same incident described in Case Eight (8) (from the Guilty Verdicts section). In July 2017, at approximately 12:30 a.m. in the Bronx, Victim 1, a woman in her late twenties, was driving her vehicle with Victim 2, a Hispanic male in his late twenties, in the passenger seat, and their five-month-old infant in the back seat. Victim 1 stated that as she drove, a black sedan sped from behind her on the right-hand side and cut her off before it moved to the left-hand side of the road. Victim 1 stated that she honked her horn at the car. The police lights on the car were activated and Victim 1 was pulled over. Sergeant Jose Caban [the Respondent] and two officers exited the unmarked vehicle. Both Victims were removed from the vehicle and Sgt. Caban used a flashlight to look into the vehicle through the open window of the closed front passenger door.

On February 1, 2018, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegation against Sgt. Caban for searching the vehicle in which Victim 1 and Victim 2 were occupants. On September 24, 2020, in front of ADCT Jeff Adler, Sgt. Caban, pled guilty to the sole count and agreed to accept four (4) days' vacation forfeiture — a recommendation that preceded the implementation of the Disciplinary Matrix. On June 17, 2021, former Commissioner Shea accepted the negotiated plea and did not modify the negotiated penalty.

Case Three, Resolved by Plea, Penalty Unmodified 201805526 LT Filastin Srour

In July 2018, at approximately 9:00 p.m. in Manhattan, the Victim, a Black female in her mid-fifties was at the scene of one her relatives being arrested for getting into a physical confrontation with Lieutenant Filastin Srour [the Respondent]. As she tried to intervene, several officers, including the Respondent, were trying to disperse the crowd of civilians and arrested the Victim. As the Victim was placed under arrest, Lt. Srour shouted "hold me the fuck back before I kill this bitch" and "I want you all to fucking kill her."

On November 21, 2019, the Board substantiated three (3) total allegations: one (1) Abuse of Authority allegation against Lt. Srouer for threatening to use force against the Victim, one (1) Discourteous allegation for using profanity against the Victim, and one (1) Offensive Language allegation for making remarks to the Victim based on her gender by calling her “bitch.” On January 8, 2021, in front of ADCT Josh Kleiman, Lt. Srouer pled guilty to the three counts and agreed to accept five (5) days’ vacation forfeiture—a recommendation that preceded the implementation of the Disciplinary Matrix. On June 9, 2021, former Commissioner Shea accepted the negotiated plea and did not modify the negotiated penalty.

Case Four, Resolved by Plea, Penalty Unmodified 201803798 PO Amet Vrzivoli

In May 2018, at approximately 4:20 a.m. in Brooklyn, the Victim, a Hispanic male in his late twenties, was on his way home from a bar. Two unidentified women pointed him out to a police officer. The officer approached the Victim, who ran because he was on parole. The incident was captured on both MTA surveillance video and BWC footage. Police Officer Amet Vrzivoli [the Respondent] chased the Victim into a subway station. He put his arms around the Victim’s neck and wrestled him down to the ground and held onto his neck while other officers got on the ground to hold the Victim down. As the Victim lay face down, he shouted that he wasn’t resisting as the officers pulled his arms to rear cuff him. PO Vrzivoli told the Victim “if you touch me again, I’m a fuck you up.”

On June 13, 2019, the Board substantiated three (3) total allegations: one (1) Use of Force allegation against PO Vrzivoli for using a chokehold on the Victim, one (1) Discourteous allegation for telling the Victim, “if you touch me again, I’m a fuck you up” and one (1) Abuse of Authority allegation for threatening to use force against the Victim by saying, “if you touch me again, I’m a fuck you up.” On November 5, 2020, in front of ADCT Josh Kleiman, PO Vrzivoli pled guilty to all counts and agreed to accept twenty (20) days’ vacation forfeiture. On July 23, 2021, former Commissioner Shea accepted the negotiated plea and did not modify the negotiated penalty.

Case Five, Resolved by Plea, Penalty Unmodified 201708620 SGT Jose Perez

In October 2017, at approximately 10:45 p.m. in Manhattan, the Victim, a Hispanic male in his late thirties, was arrested by officers after a struggle. The Victim stated that he was bleeding profusely from his head and that his left ear was partially hanging off his head. Sergeant Jose Perez [the Respondent] was the senior officer present at the scene of the arrest. The Victim was brought to their precinct and received no medical attention for over four hours. Sgt. Perez eventually had the Victim transported to the hospital via RMP. The Victim was diagnosed with two skull fractures, back injuries, and a partially severed ear that required reconstructive surgery.

On March 28, 2019, the Board substantiated one (1) total allegation: one (1) Abuse of Authority allegations against Sgt. Perez for failing to secure medical treatment for the Victim. On January 26, 2021, in front of ADCT Nancy Ryan, Sgt. Perez pled guilty to all counts and agreed to accept five (5) days’ vacation forfeiture. On July 30, 2021, former Commissioner Shea accepted the negotiated plea and did not modify the negotiated penalty.

IV. Cases Retained by the Police Commissioner

In the second and third quarters of 2021, the New York City Police Department (“NYPD” or the “Department”) retained two (2) cases pursuant to Provision Two of the MOU between the CCRB and NYPD.

Provision Two of the MOU states:

in those limited circumstances 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.

Case One, Retained without Discipline 201706461 SGT Thomas Demkiw

In June 2017, at approximately 8:00 p.m. in the Bronx, the Victim, a Black male in his early twenties, was walking near a park when he heard gunshots. The Victim was not carrying a weapon and did not see anyone else with a gun. The Victim, along with several others, fled from the sound of the gunshots. Sergeant Thomas Demkiw [the Respondent] and another officer were in a police vehicle at the time. One of them told the Victim to stop but he kept running. The officer exited the vehicle and pursued the Victim on foot while Sgt. Demkiw gave chase in his vehicle. Sgt. Demkiw used the vehicle to strike the Victim against a sanitation dumpster. Surveillance video captured Sgt. Demkiw striking the Victim.

On November 30, 2018, the Board substantiated one (1) Use of Force allegation against Sgt. Demkiw for using a vehicle to strike the Victim. Former Commissioner Shea retained the case and chose not to pursue any disciplinary action against Sgt. Demkiw stating that “the entirety of this matter was fully investigated by both the Bronx District Attorney’s Office and the NYPD Internal Affairs Bureau. The Bronx District Attorney’s office declined to prosecute Sergeant Demkiw and the Internal Affairs Bureau found that no misconduct could be substantiated in connection with Sergeant Demkiw’s actions in this matter. A review of the CCRB’s investigative file revealed no new or additional evidence, or any allegations of other misconduct, that would cause the Department to question or revisit these findings.”

Case Two, Retained with Discipline 201805943 DTS Fabio Nunez

In July 2018, at approximately 11:40 p.m. in Manhattan, the Victim, a Hispanic male in his late thirties, was listening to music from a knee-high speaker outside a friend’s auto shop business with his girlfriend. The speaker was powered by two extension cords plugged into an electrical outlet in the auto shop. Detective Fabio Nunez [the Respondent] and his partner approached the group and told them to turn the music off. They complied and the Victim and his friend began unplugging the speaker. Det. Nunez asked the Victim for identification and the Victim said he had none. Det. Nunez physically seized the speaker and took it to his double-

parked vehicle and the Victim remained on the sidewalk. Det. Nunez returned to the sidewalk and he and the Victim continued speaking heatedly, the Victim's girlfriend stating that the speaker was hers. The Victim picked up his folding chair to place into the auto shop when Det. Nunez pushed him face first into a vehicle in the auto shop. He put the Victim in a chokehold. Det. Nunez's partner grabbed onto one of the Victim's hands, and the Victim held his baseball cap in his other hand, above his head. Det. Nunez spun the Victim around with the chokehold and pulled out his taser. The Victim kept his hands up and Det. Nunez proceeded to taser him. The Victim pushed away from the Det. Nunez and moved further into the shop, the taser prongs still attached to his body. Det. Nunez proceeded to taser him several more times. The incident was captured on the auto shop's surveillance camera.

On February 25, 2019, the Board substantiated seventeen (17) total allegations: fourteen (14) Use of Force allegations against Det. Nunez for using his taser on the Victim, one (1) Use of Force allegation for using a chokehold on the Victim, one (1) Use of Force allegation for restricting the breathing of the Victim, and one (1) Use of Force allegation for using physical force against the Victim. The IAB filed its own charges and on March 29, 2021, Det. Nunez pled guilty and agreed to forfeit all of his time and leave balances and be placed on a one (1) year dismissal probation. On April 6, 2021, former Commissioner Shea approved the penalty.

V. Dismissal of Cases by the APU

If, while investigating a case, the APU discovers new evidence that makes it improper to continue to prosecute misconduct against a MOS, the APU dismisses the Charges against that Respondent. The APU did not dismiss any cases against an officer in the second and third quarters of 2021.

VI. Cases Administratively Closed by the Police Commissioner

In the second and third quarters of 2021, the former Police Commissioner administratively closed seven (7) cases.

Case One, Administratively Closed 201906489 LT Kevin Maloney

In July 2019, at approximately 5:35 p.m. in the Bronx, the Victim, a Black male in his late forties, was driving a motorized scooter with his wife as a passenger. He was stopped by police officers. Lieutenant Kevin Maloney [the Respondent] attempted to move the Victim's scooter, which was laying on its side on the sidewalk. The scooter fell and its under-seat compartment opened, and two bags fell out—a white plastic bag and a gray cardboard bag. The incident was captured on Lt. Maloney's BWC. The plastic bag's contents fell into the street. Lt. Maloney searched the gray bag and searched a small black plastic bag that had been inside the white plastic bag. When Lt. Maloney was interviewed about the incident, he stated that he did not search the bags and only put back the items that had spilled out of the white plastic bag. He made this statement even after viewing his BWC footage showing the search.

The Board substantiated two (2) total allegations: one (1) Abuse of Authority allegation against Lt. Maloney for searching the Victim's property and one (1) Untruthful Statement

allegation for provided a false official statement to the CCRB. The APU filed charges and was informed by the Department that Lt. Maloney had retired before further action could be taken.

Case Two, Administratively Closed 202003706 PO Craig McGrath

In May 2020, at approximately 9:00 p.m. in Brooklyn, an unidentified victim was standing in a street with protestors. The incident was captured on cellphone video. A line of police vehicles with lights and sirens activated were driving down a one-way street with protestors lining the street. The unidentified victim was standing a few steps off the sidewalk as a procession of police vehicles drove past the protestors. One of the vehicles in the procession was an unmarked silver sedan. The vehicle remained in motion as the front passenger door of the sedan was opened by Police Officer Craig McGrath [the Respondent], and the door struck the unidentified victim around their hip and legs. The vehicle drove on as PO McGrath shut the vehicle door closed. On December 15, 2020, IAB filed their own charges against PO McGrath, and he pled guilty. He was given a Department penalty of ten (10) days' vacation forfeiture.

Case Three, Administratively Closed 201802518 PO Kyle Erickson

In February 2018, at approximately 12:30 p.m. in Staten Island, the Victim, a Black male in his early twenties, was driving his vehicle with three friends when he was pulled over by Police Officer Kyle Erickson [the Respondent] and his partner. The Victim asked why he had been pulled over and PO Erickson's partner allegedly responded that the vehicle smelled like marijuana. PO Erickson and his partner proceeded to remove all the vehicle's occupants and began searching the vehicle. PO Erickson's partner searched the backseat area of the vehicle and declared it clear. This search was captured on the partner's BWC. PO Erickson then searched the same area. PO Erickson's BWC cut off and when it came back on, he allegedly retrieved a lit marijuana cigarette from the same backseat area. PO Erickson arrested the Victim for criminal possession of marijuana. The criminal possession charge was later dismissed. On August 1, 2019, the Board substantiated one (1) Abuse of Authority allegation against PO Erickson for arresting the Victim. The APU filed charges and was informed by the Department that PO Erickson retired from the Department before further action could be taken.

Case Four, Administratively Closed 201903597 PO James Ferrufino

In April 2019, at approximately 8:30 p.m. on the Bronx, the Victim, a Black male in his mid-twenties, was exiting an apartment building with some friends when he was approached by Police Officer James Ferrufino [the Respondent]. The Victim walked around PO Ferrufino who grabbed onto his vest and pushed him up against a nearby wall. The Victim yelled that he hadn't done anything wrong, and PO Ferrufino replied, "shut the fuck up, nigga." PO Ferrufino pulled out his taser and wrestled with the Victim and said, "don't fucking play, nigga." The incident was captured on BWC. On April 22, 2021, the Board substantiated one (1) Offensive Language allegation against PO Ferrufino for making remarks to the Victim based upon race. The agency was informed that PO Ferrufino retired from the Department before further action could be taken.

Case Five, Administratively Closed 202100445 PO Luis Alicea

In June 2020, at approximately 10:30 p.m. in Brooklyn, the Victim, an Asian female in her mid-twenties, was observing a protest when she saw Police Officer Luis Alicea [the Respondent] using his personal cellphone to take photos and videos of the crowd. The Victim captured the incident on her cellphone. On May 12, 2021, the Board substantiated two (2) Abuse of Authority allegations against PO Alicea for taking photos and or videos of the Victim and other individuals. The agency was informed that PO Alicea retired from the Department before further action could be taken.

Case Six, Administratively Closed 201906036 LT Javad Valad

In July 2019, at approximately 7:00 p.m. in Manhattan, the Victim, a Black male in his mid-sixties, received a call from his son who had been driving his vehicle. The Victim and his daughter arrived at the location where Lieutenant Javad Valad [the Respondent] and other officers had stopped his son. A crowd of people had gathered to watch what was going on. The Victim told Lt. Valad that the vehicle was his and that the driver was his son. Lt. Valad took his driver's license and walked towards the vehicle. The Victim asked for his driver's license back and Lt. Valad pushed him on his shoulders. As Lt. Valad arrested the Victim's son, he pointed his taser at the crowd of onlookers. The incident was captured on BWC. On June 21, 2021, the Board substantiated two (2) Use of Force allegations against Lt. Valad for pushing the Victim and for pointing his taser at the crowd. The agency was informed that PO Valad retired from the Department before further action could be taken.

Case Seven, Administratively Closed 202004550 DTS Won Chang

In June 2020, at approximately 12:00 p.m. in New York City, Detective Sergeant Won Chang [the Respondent] participated in two interviews with a Korean YouTuber that were uploaded to the YouTuber's public channel. Speaking in Korean, DTS Chang discussed the summer protestors and made several comments that were demeaning to Black communities. DTS Chang positioned himself as a member of service when he made the comments. When DTS Chang was interviewed by the CCRB about the incidents, he denied making the offensive statements. It was only when confronted with the videos that DTS Chang identified himself as the one making the offensive statements. His denial was a material fact to the investigation. On June 28, 2021, the Board substantiated two (2) Offensive Language allegations against DTS Chang for making derogatory remarks about Black people and one (1) Untruthful Statement allegation for denying making the statements. The agency was informed that DTS Chang retired from the Department before further action could be taken.

VII. The APU's Docket

As seen in the following table, the APU’s docket grew in the second and third quarters of 2021.

Cases in Open Docket²⁵					
Period	Start of Quarter	Received During Quarter	Closed During Quarter	End of Quarter	Growth
3 rd Quarter 2018	99	11	17	93	-6.1%
4 th Quarter 2018	93	16	12	97	4.3%
1 st Quarter 2019	97	28	5	120	23.7%
2 nd Quarter 2019	120	22	20	122	1.7%
3 rd Quarter 2019	122	11	10	123	0.8%
4 th Quarter 2019	123	23	20	126	2.4%
1 st Quarter 2020	122	5	8	119	-2.5%
2 nd Quarter 2020	119	21	23	117	-1.7%
3 rd Quarter 2020	115	3	6	114	-0.9%
4 th Quarter 2020	114	6	3	117	2.6%
1 st Quarter 2021	115	4	7	112	-2.6%
2nd Quarter 2021	100	52	8	142	42.0%
3rd Quarter 2021	142	68	15	191	34.5%

VIII. Time to Serve Respondents

As shown in the following chart, the length of time the Department took to serve Respondents after the APU filed charges with the Charges Unit increased slightly between the second and third quarters of 2021. The service time stayed relatively unchanged between the second and third quarters of 2021. As of September 30, 2021, there were thirty-one (31) Respondents who had not been served with Charges. The average wait time for Respondents to be served charges between the second quarter of 2021 at sixteen (16) days and the third quarter of 2021 at twenty-two (22) days marks a slight increase.

²⁵ The number of cases in the open docket were updated to reflect additional data received from the Department with regards to the closure of long-standing cases as well as the implementation of the Disciplinary matrix.

Time to Serve Respondents			
Period	Number of Respondents Served	Average Length to Serve Respondents	Average Length to Serve Respondents (Business Days)
3 rd Quarter 2018	17	89	63
4 th Quarter 2018	15	105	75
1 st Quarter 2019	24	115	82
2 nd Quarter 2019	11	76	54
3 rd Quarter 2019	17	67	48
4 th Quarter 2019	7	68	48
1 st Quarter 2020	10	129	92
2 nd Quarter 2020	18	62	44
3 rd Quarter 2020	16	88	63
4 th Quarter 2020	6	71	51
1 st Quarter 2021	2	66	47
2nd Quarter 2021	15	16	12
3rd Quarter 2021	46	22	15

In the second and third quarters, the ADCTs used the Disciplinary Matrix in evaluating the penalties recommended by CCRB. In the three (3) cases²⁶ where the PC penalty was lower than the CCRB recommendation, two (2) of the cases had presumptive penalties and the other had an aggravated penalty. In the three (3) cases²⁷ where the PC penalty matched the CCRB recommendation, two (2) of the cases had penalties in the aggravated category and the other was below the mitigated category. Finally in one (1) case²⁸ where the PC penalty was higher than the CCRB recommendation, the penalty was in the presumptive category. We hope that in guilty cases the PC strives to achieve penalty coherence with CCRB's recommendations.

Thank you for your consideration.

Sincerely,

Jonathan Darche
Executive Director

Cc: Acting CCRB Chair Arva Rice
Deputy Commissioner Rosemarie Maldonado
Department Advocate Chief Amy Litwin

²⁶ Cases Two, Four, and Six in the Guilty Verdicts Section

²⁷ Cases Five, Seven, and Eight in the Guilty Verdicts Section

²⁸ Case Three in the Guilty Verdicts Section