

COP OUT

**ANALYZING 20 YEARS
OF RECORDS PROVING
NYPD IMPUNITY**

NYCLU



About the NYCLU

The New York Civil Liberties Union (NYCLU) is one of the nation's foremost defenders of civil liberties and civil rights. Founded in 1951 as the New York affiliate of the American Civil Liberties Union, the NYCLU is a not-for-profit, nonpartisan organization with eight chapters and regional offices and more than 120,000 members across the state. The NYCLU's mission is to defend and promote the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution, including freedom of speech and religion, and the right to privacy, equality and due process of law for all New Yorkers.

For more information, please visit www.nyclu.org.

Acknowledgements

This report was authored by Research Analyst Jesse Barber and Senior Writer Simon McCormack. It was edited by Legal Director Christopher Dunn, Communications Director Diana Lee, Senior Policy Counsel Michael Sisitzky, Organizer Isabelle Leyva, and Communications Officer Katie Chmielewski. It was designed by Astrid Da Silva. The authors would also like to thank Mack Finkel for his assistance with the report.

Table of Contents

- ④ Executive Summary
- ⑥ Introduction: The NYPD's Open Secret
- ⑦ What the Database Reveals
 - The vast majority of complaints result in little or no discipline
 - The CCRB substantiates a small fraction of overall complaints
 - Those listed as injured parties are overwhelmingly people of color
 - There are more complaints in certain precincts and commands
- ⑰ Conclusion: The NYPD Can't Police Itself
- ⑱ Recommendations
- ⑳ Appendix: List of Database Information Used in the Report

Executive Summary

In the summer of 2020, the New York Civil Liberties Union obtained a comprehensive database of complaints made by the public to the New York City Civilian Complaint Review Board (CCRB), the independent agency charged with investigating complaints about NYPD misconduct. Then in May of 2021, the NYCLU added updated and more detailed information to the database, which now includes 180,700 unique misconduct complaints since 2000 involving 59,244 separate incidents and 35,435 active or former NYPD officers.

The analysis of the database in this report focuses on the time period beginning in 2000 – when the CCRB started recording several key pieces of information, including the race of the injured party identified in the complaints.

Through our analysis of the database, the NYCLU found:

The vast majority of police misconduct complaints never result in accountability.

*The use of “complaint” in this report refers to each discrete act of misconduct investigated by the CCRB, or what the CCRB calls “allegations.”

- Of the 180,700 complaints investigated by the CCRB since 2000, only two percent received some type of discipline from the NYPD, and less than one percent received serious discipline, like forfeiting vacation days, suspension, probation, or termination.
- The NYPD overrode the CCRB’s recommendation by imposing a lesser grade of discipline or imposing no discipline in 74 percent of substantiated cases (meaning cases in which

misconduct is found to be improper based on a preponderance of the evidence).

- Only three percent of force complaints and complaints involving a firearm investigated by the CCRB were substantiated.
- 80 percent of substantiated complaints that received a disciplinary recommendation of “Charges and Specifications” from the CCRB – the most serious recommendation – did not result in serious discipline (forfeiting vacation days, suspension, probation, or termination) from the NYPD.
- Black officers were 33 percent more likely to receive serious discipline than white officers.

Black and Brown people – especially children – are far more likely to be identified as the injured party in CCRB complaints than white people.

- People of color – Black, Latinx, Asian, Other race, American Indian – are three times more likely to be identified as the injured party in a police misconduct complaint than white people.
- Black people are six times more likely to be identified as the injured party in a complaint than white people.
- While white people account for 32 percent of the New York City population, they represent only 13 percent of those identified as injured parties in CCRB complaints.
- 93 percent of those identified as the injured party in complaints where the person was younger than 18 were children of color.

About the Database

The data in this report comes from the Civilian Complaint Review Board’s NYPD Misconduct Complaint Database. The database is a repository of complaints made by the public to the CCRB.

The database:

- Includes 180,700 unique police misconduct complaints received by the CCRB since 2000, involving 59,244 separate incidents and 35,435 active or former NYPD officers.
- Contains records of officers who have faced complaints from the public involving excessive force, abuse of authority, discourtesy, and offensive language.
- Includes the CCRB’s finding about the validity of the complaint and any discipline imposed by the NYPD.
- Contains officers’ name, race, gender, and rank; days on force; self-reported race and gender of the injured party identified in the complaint; dates when complaints were received and closed by the CCRB; complaint location; reason for contact; and the outcome of the encounter.¹
- Does not include pending complaints for which the CCRB has not completed an investigation as of April 2021, including many incidents that took place during the protests against police brutality in the summer of 2020.

It is not uncommon for a single incident to generate multiple complaints against the same officer or against multiple officers. When the CCRB reports data

on “complaints” they are referring to a group of sub-complaints (what the CCRB calls “allegations”) that occurred within the same incident. The analysis in this report treats complaints independently because each individual complaint receives its own CCRB investigative outcome. Because of this difference in methodology, the figures in the report may differ from the CCRB’s self-reported data.

While the database includes data since 1985, this report focuses on misconduct complaints received by the CCRB since January 1, 2000, when the CCRB began collecting several important pieces of information, including the race of the injured party identified in the complaints.

Limitations of the Database

Since the database is a decades-old administrative dataset, it contains some missing information and data-entry errors. The NYCLU has, when possible, corrected data-entry errors such as obvious misspellings and has noted when data is incomplete.

The CCRB database does not represent the entire universe of NYPD misconduct. Many people do not report police misconduct, and the CCRB is not the only avenue for reporting police misconduct.

The CCRB also offers a mediation process to people who file a complaint, instead of an official investigation.² Complaints that end up in mediation are not included in the database. Complaints where the CCRB is unable to identify the officer implicated in the incident are also excluded.

Introduction: The NYPD's Open Secret

New York City spends \$10 billion a year on policing, and with 36,000 officers and 19,000 civilian employees,³ the NYPD is the largest police department in the country.^{4,5} For decades, the Department has used its size, money, and political clout to maintain its enormous power and to shield some of its most violent and dangerous actions from the public.

The NYPD wields its influence to convince lawmakers to quash or water down legislation on police impunity.⁶ On the rare occasion when such a law does pass, the Department often simply ignores it.⁷ And when it comes to evidence that NYPD officers regularly abuse New Yorkers without consequence, the Department and its unions fight vehemently to keep it hidden.

One check against the NYPD's near-total impunity is the Civilian Complaint Review Board – the City's independent agency charged with investigating New Yorkers' complaints about NYPD misconduct. The CCRB is disempowered, and regularly undermined by the Department, but its work nonetheless provides an important window into police abuse. The NYPD consistently battles to keep the CCRB's investigations out of the public eye.

For decades the City and its police department used Civil Rights Law Section 50-a – which prevented the release of certain public employee “personnel records” – as an excuse to keep almost all information about CCRB investigations under wraps.

Then, in the summer of 2020, state lawmakers were faced with historic protests against the

police killings of Black people. Legislators knew that they had to do something to show they heard the voices of New Yorkers participating in the largest protest movement since the civil rights era.⁸ In response, New York passed several police reforms, including a repeal of 50-a.

After 50-a was rescinded, the NYCLU filed a Freedom of Information Law request to get access to a trove of tens of thousands of CCRB complaints. The CCRB complied with our request, but NYPD unions sued to stop us from publishing this valuable information that had been hidden for too long. The NYCLU won the case, published the database, and set to work analyzing the massive amounts of newly revealed CCRB data.

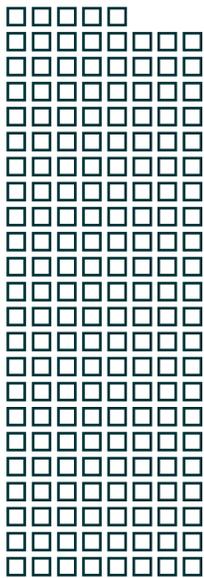
This report lays out what the NYPD and its unions were desperate to conceal: there is overwhelming evidence that the vast majority of NYPD police misconduct – including serious and violent acts – goes unpunished. Further, the abuse doled out by NYPD officers is overwhelmingly directed at New Yorkers of color, particularly young people of color.

These findings make clear that as long as the NYPD has the final say on discipline, very few officers will ever face consequences for their persecution of primarily Black and Brown people. That means officers – who know they will very likely face no consequences for their actions – will continue to mistreat, injure, or even kill New Yorkers.

Changing this destructive dynamic will bring us closer to the ultimate goal of transforming policing as we know it.

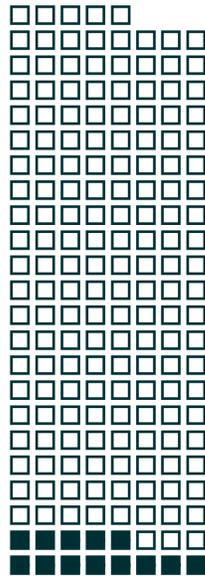
What the Database Reveals

□ = 1,000 Complaints



180,700

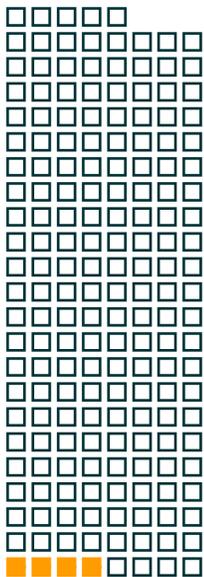
Total Complaints



12,980

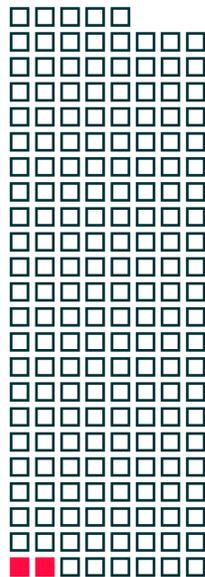
Substantiated by CCRB

Figure 1



4,283

Resulted in NYPD Imposing Any Discipline



1,530

Resulted in NYPD Imposing Serious Discipline

The Vast Majority of Complaints Result in Little or No Discipline

In the last 20 years, less than one percent of police misconduct complaints resulted in the officer being seriously disciplined.

An officer named in a CCRB complaint has almost no chance of being punished for misconduct, even when the CCRB determines that the officer seriously abused someone. The NYPD usually ignores the CCRB’s discipline recommendations, often imposing no discipline at all. On top of that, the various obstacles that hinder CCRB investigations contribute to the very low rate at which the CCRB substantiates complaints.

All of this means that when someone files a complaint with the CCRB, they are very unlikely to see any measure of accountability as a result of their efforts. This has a disproportionate impact on Black people and other people of color. Black people are identified as the injured party in 59 percent of cases that are substantiated by the CCRB, and people of color are identified as the injured party in 87 percent of cases.

The NYPD Rarely Imposes Discipline

When the CCRB does substantiate a complaint – meaning it finds that misconduct took place based on a preponderance of the evidence – it normally gives a brief recommendation for the type of discipline the NYPD should impose.⁹ In 2,175 (17 percent) of 12,980 substantiated complaints, the CCRB either did not make a recommendation or recommended an informal discipline like “Instructions” or “Formalized Training” that the NYCLU does not consider substantive discipline.¹⁰

In over 80 percent of substantiated cases, the CCRB recommended one of the following types of discipline:

- In 7,354 (57 percent) of 12,980 substantiated complaints, the CCRB recommended “Charges and Specifications” against the officer, its most serious recommendation. The “Charges” recommendation triggers an administrative prosecution in the NYPD Trial Room. An officer may lose vacation days, be suspended, or be terminated if they are found guilty.
- In 3,451 (27 percent) of 12,980 substantiated complaints, the CCRB recommended “Command Discipline” against the officer.¹¹ The “Command Discipline” recommendation is not as serious as Charges, but is more severe than other recommendations. An officer can lose up to 10 vacation days because of a Command Discipline.

After the CCRB investigates complaints, substantiated complaints are referred to the NYPD for disciplinary action. When the CCRB recommends Formalized Training or Command Discipline, the recommendation goes to the NYPD’s Department Advocate’s Office, which reviews the CCRB’s findings and makes a recommendation to the Commissioner on whether to impose, reject, or modify the recommended discipline. The Commissioner has total discretion over what, if any, discipline gets imposed.¹²

When the CCRB recommends Charges and Specifications, the allegations are usually prosecuted by the CCRB’s Administrative Prosecution Unit. The officer is sometimes

offered a plea deal, which they can either take or go to trial. If an officer is found guilty at trial or takes a plea, the trial commissioner recommends discipline, but the Commissioner ultimately decides what discipline the officer receives.¹³

In the instances in which the CCRB is able to determine that misconduct happened, the NYPD often ignores the CCRB and imposes less severe discipline or no punishment at all.

In 8,697 (67 percent) of the 12,980 substantiated complaints, the NYPD imposed either no discipline or an “informal discipline.”¹⁴

In 4,283 (33 percent) of the 12,980 substantiated complaints, the NYPD imposed one of the following types of discipline:¹⁵

- 2,753 (64 percent) of 4,283 disciplinary determinations were for Command Discipline, a general category of discipline that encompasses technical violations and does not trigger a formal disciplinary hearing.
- 1,372 (32 percent) of disciplinary determinations resulted in the officer forfeiting vacation days.
- Only 158 (four percent) of disciplinary determinations involved the officer being suspended, put on probation, or being terminated.

In 1,530 (12 percent) of the 12,980 substantiated complaints, the NYPD imposed serious discipline (forfeiting vacation days, suspension, probation, or termination). The vast majority of discipline is much less significant.

NYPD Discipline Imposed for Substantiated Complaints

Figure 2



NYPD Severity of Discipline in Response to CCRB Disciplinary Recommendations

CCRB Recommendation		NYPD Disciplinary Action		
Recommendation Category	# Subst. Complaints	Serious	Command Discipline	None
Charges	7,354	20% (1,437)	18% (1,306)	63% (4,611)
Command Discipline	3,451	2% (75)	39% (1,344)	59% (2,032)
No recommendation or recommendation of informal discipline	2,175	1% (18)	5% (103)	94% (2,054)

Figure 3

The NYPD ignored the CCRB’s recommendation and imposed a lower grade of discipline or no discipline in 7,949 (74 percent) of 10,805 substantiated cases that included a disciplinary recommendation.¹⁶ Conversely, the Department accepted the CCRB’s disciplinary recommendation in 2,781 (26 percent) cases and imposed a more serious punishment in just 75 (less than one percent) of the substantiated cases that included a disciplinary recommendation.

Only 20 percent of substantiated complaints in which the CCRB recommended Charges resulted in serious discipline from the NYPD, and 63 percent of these complaints resulted in no discipline at all.

Figure 3 is a table showing the disciplinary outcomes imposed by the NYPD in response to each type of CCRB disciplinary recommendation.

Black Officers Are More Likely to be Seriously Punished

Though all officers named in complaints are unlikely to face discipline, Black officers are much more likely to face serious consequences.

While the rate at which the CCRB substantiated complaints is generally consistent regardless of officer race, Black officers are more likely to



Figure 4

receive discipline than white officers. Discipline was imposed in 38 percent of substantiated complaints naming Black officers, while discipline was imposed in only 32 percent of substantiated complaints naming white officers. In addition, 15 percent of substantiated complaints naming Black officers received serious discipline (forfeiting vacation days, probation, suspension, or dismissal), compared to only 11 percent of substantiated complaints naming white officers. In other words, Black officers were about 33 percent more likely to be given serious discipline for a substantiated complaint than white officers were.

The CCRB and its Limitations

New York City’s Civilian Complaint Review Board is the City agency that investigates complaints about NYPD police abuse of civilians. Established in 1993 as an independent agency outside the NYPD, the CCRB handles complaints from the public involving excessive force, abuse of authority, discourtesy, and offensive language. The Board investigates complaints and, if a complaint is “substantiated,” recommends discipline for the offending officer.

Filing and Investigating Complaints

People can file complaints to the CCRB online, by calling the CCRB’s hotline, via 311, or in person at their office. Anyone who witnesses or experiences police misconduct can file a complaint with the CCRB.

Once a complaint is filed, a CCRB investigator will try to get statements from the person identified as the injured party, interview witnesses, gather evidence including police body camera footage, and conduct interviews with the officers involved.

NYPD Obstruction

The NYPD often impedes CCRB investigations, including by withholding evidence. In 2019, for example, roughly a third of CCRB investigations had outstanding requests for body camera footage. Officials at the CCRB said this contributed to a burgeoning backlog that “threatened to derail ongoing investigations.”¹⁷

In 2020, police officers refused to take part in video interviews with CCRB investigators. This led to a backlog of more than a thousand investigations awaiting interviews.¹⁸

In part because of NYPD obstruction, once a complaint is filed, it takes months or even longer for CCRB investigators to complete an investigation. People who file complaints often give up on this tedious, drawn-out process before this happens.

Many CCRB investigations end without finding that misconduct took place, not because there was no abuse, but because the NYPD successfully stymied an investigation. Other complaints are stymied because of how difficult it is to track down eyewitnesses and reconstruct events, especially if they happened months ago.

The NYPD’s Final Say on Discipline

When the CCRB is able to overcome the hurdles to substantiating a complaint and recommends discipline for an offending officer, the NYPD commissioner has full discretion on whether and what punishment is imposed.

As our analysis of the CCRB database shows, the NYPD regularly imposes lighter discipline than the CCRB recommends, and often imposes no discipline at all.

The CCRB Substantiates a Small Fraction of Overall Complaints

The NYPD's frequent refusal to impose discipline when the CCRB substantiates complaints is a critical reason so few officers face punishment. But the vast majority of complaints never reach the NYPD's desk, because the CCRB rarely substantiates the complaints it investigates.

Of the 180,700 complaints investigated by the CCRB since 2000, only 12,980 (seven percent) were substantiated by the CCRB, meaning the misconduct was "found to be improper based on a preponderance of the evidence."¹⁹ Complaints that the CCRB did not substantiate fall into the following groups:

- 52,132 (29 percent) complaints were "unsubstantiated," meaning that there was "not enough evidence to determine whether or not misconduct occurred."
- 49,100 (27 percent) complaints were "truncated" because the complaint was withdrawn, the complainant was unavailable or uncooperative, or the victim could not be identified.

- 45,016 (25 percent) complaints resulted in the officer being "exonerated," meaning the "event did occur but was not improper by a preponderance of the evidence."
- 16,794 (nine percent) complaints were deemed "unfounded" meaning that a "preponderance of the evidence suggests that the event or alleged act did not occur."

The fact that only seven percent of complaints were substantiated does not mean that 93 percent of alleged misconduct did not take place. Many factors contribute to the low substantiation rate, including that the CCRB fails to complete an investigation in a large percentage of cases, the NYPD obstructs the investigation, or even a thorough investigation does not yield enough evidence to reach a final conclusion.²⁰

CCRB Investigation Outcomes

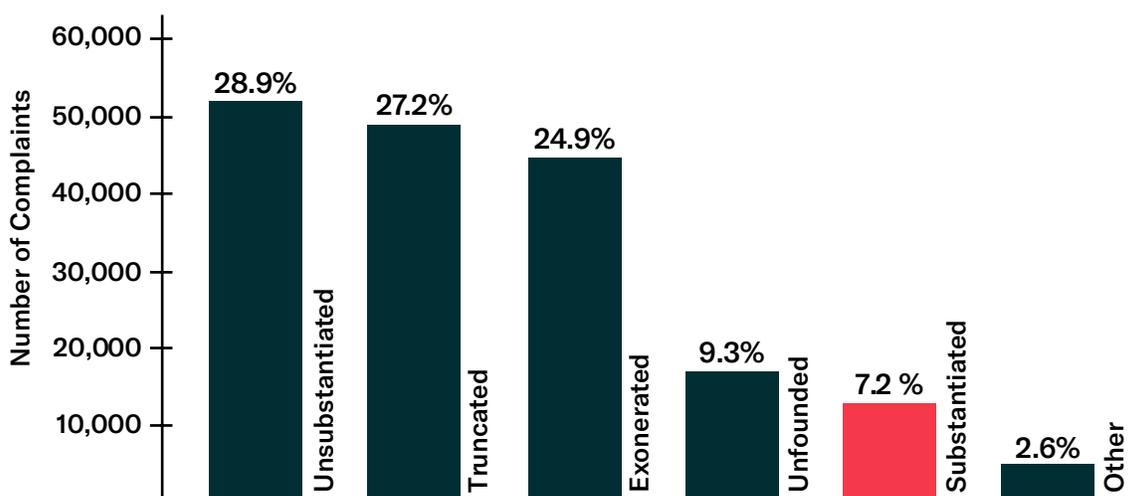


Figure 5

Force Complaints Are the Least Likely to be Substantiated

Violence is one of the most serious forms of police abuse. But – compared to other types of misconduct – these complaints are less likely to be substantiated.

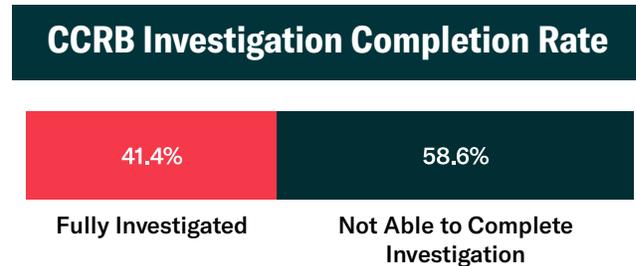
Each complaint in the database is filed as one of four types: Abuse of Authority, Discourtesy, Force, and Offensive Language.²¹ Fifty-one percent of complaints were filed as Abuse of Authority; 29 percent as Force complaints; 17 percent as Discourtesy complaints; and three percent as Offensive Language complaints.

Abuse of Authority complaints were the most likely to be substantiated by the CCRB (10 percent) while Force complaints were the least likely to be substantiated (three percent). People of color were identified as the injured party in 89 percent of Force complaints, which is slightly higher than the rate at which people of color were identified as the injured party in the database at large (87 percent).

Other Serious Allegations End With Similar Results

Each civilian complaint includes a short description of the underlying allegation (e.g.

Figure 6



“Gun drawn” or “Handcuffs too tight”). Figure 7 is a table showing allegation categories that had particularly low rates of CCRB substantiation:

Only 138 (three percent) of 4,836 allegations mentioning the threat of use or actual use of a police firearm were substantiated by the CCRB. Ninety percent of people identified as the injured party in this type of complaint are people of color.

Finally, a similar theme emerges with complaints citing the use of pepper spray, chokeholds, and officers improperly alluding to a person’s race, ethnicity, or religion. These three misconduct allegation types were less likely to be substantiated by the CCRB. People of color were disproportionately listed as the injured party in all three of these types of complaints.

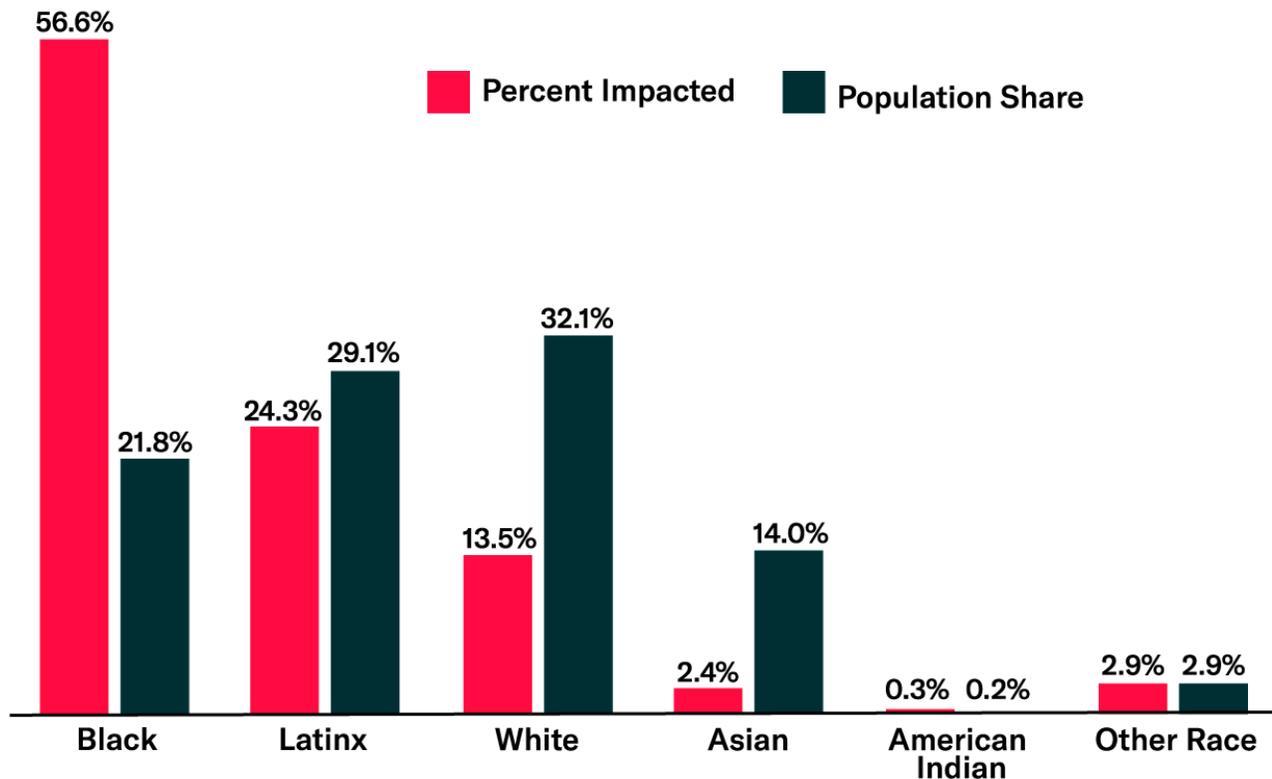
Selected Complaint Allegation Types

Allegation Type	Complaints	Substantiated Complaints	% Complaints Substantiated	% POC Injured Party
Involving a gun ³¹	4,836	138	2.9%	90.5%
Race/ethnicity/ religion-based allegation ³²	3,795	126	3.3%	89.1%
Pepper spray	2,347	87	3.7%	92.4%
Chokehold ³³	1,877	89	4.7%	90.9%

Figure 7

Race of Identified Injured Parties in CCRB Complaints vs. NYC Population Share

Figure 8



Those Listed as Injured Parties Are Overwhelmingly People Of Color

The impact of the NYPD is not felt evenly across the City. Previous research has shown that people of color – particularly Black people – are much more likely to experience abuse from the NYPD.²² And the database shows that they are much more likely to be identified as the injured party in CCRB complaints.²³

Black people in New York City were about six times more likely to be listed as the injured party in a complaint than white people were. While the Black share of the City's population is 22 percent, 57 percent of those listed as the injured party in the database are Black.

Latinx people were about two times more likely to be identified as the injured party in a police misconduct complaint than white people.

Since 2000, people of color are three times more likely to be listed as the injured party in NYPD police misconduct complaints than white people. And though people of color represent 68 percent of the City's population, they account for 87 percent of those identified as the injured party in complaints.²⁴

In contrast, 13 percent of those listed as the injured party in complaints are white, but white people make up 32 percent of the City's population.

The Ten NYPD Precincts Where the Most Complaints Occurred

NYPD Precinct ³⁴	Neighborhoods	Number of Complaints	People of Color Injured Party (%)
75th Precinct	East New York, Cypress Hills	8,431	96.5%
44th Precinct	Highbridge, Mt. Eden, Concourse	5,610	95.8%
73rd Precinct	Brownsville, Ocean Hill	5,489	98.9%
46th Precinct	Fordham, Morris Heights, Mount Hope	4,662	96.5%
120th Precinct	North Shore of Staten Island	4,654	78.2%
67th Precinct	East Flatbush	4,636	98.6%
40th Precinct	Mott Haven, Melrose	4,630	97.2%
79th Precinct	Bedford-Stuyvesant	4,352	97.2%
47th Precinct	North Bronx	4,338	96.9%
43rd Precinct	Soundview, Castle Hill, Parkchester	4,289	97.4%

Figure 9

More Complaints in Certain Precincts and Commands

CCRB complaints are not distributed evenly across the city. Certain precincts have much higher numbers of complaints than others. The 75th precinct (East New York and Cypress Hills in Brooklyn) – a predominantly Black and Latinx area – had the most complaints of any precinct with 8,431. That is more than the entire borough of Staten Island (8,416). The 111th precinct (Bayside and Little Neck in Queens) had the fewest of any precinct (not including the Central Park precinct), with 620 complaints.

The precincts with the most complaints were also ones in which the vast majority of those listed as injured parties were people of color. In nine of the 10 precincts with the largest number of complaints, 95 percent of people listed as

Number of Complaints Filed in NYPD Precincts

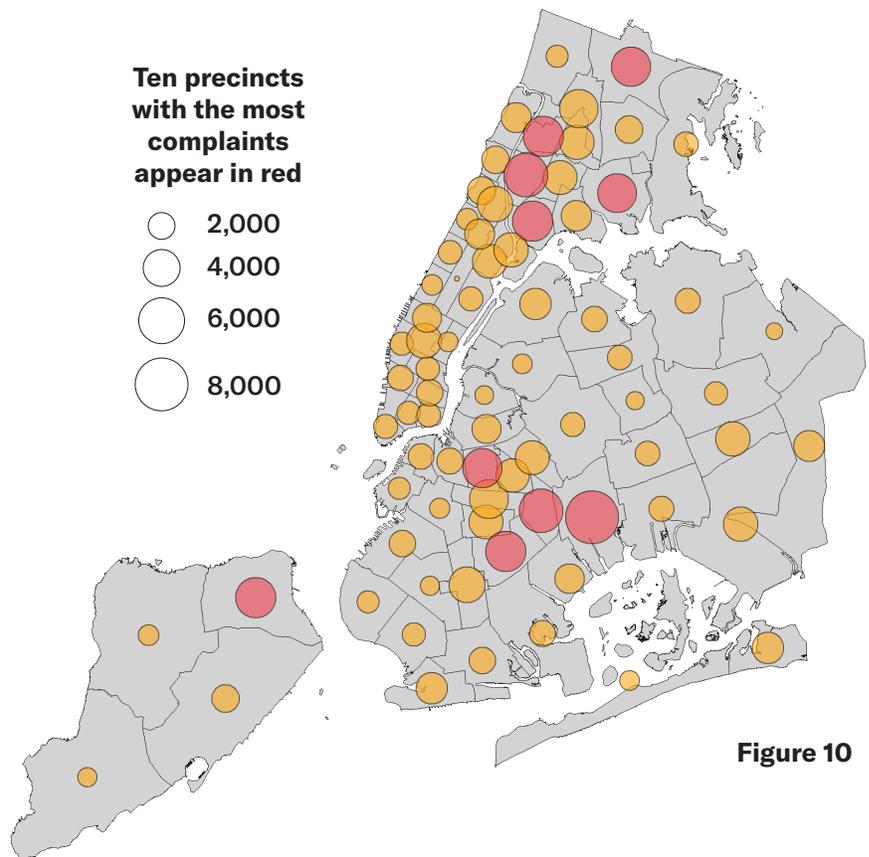


Figure 10

Number of Complaints by Command and Percent People of Color

Command	Complaints	People of Color Injured Party (%)
Narcotic Divisions	12,226	85.2%
Housing Bureaus	11,149	96.5%
Warrant Section	2,807	89.9%
Gang Divisions	2,485	92.8%

Figure 11

the injured party in complaints were people of color. In other words, in the precincts with the most complaints – indicative of the most abusive policing – those listed as injured parties are almost exclusively people of color. The precincts with the most complaints include neighborhoods like East New York, Highbridge, Brownsville, Mount Hope, Mott Haven, East Flatbush, and Bedford-Stuyvesant – all predominantly Black and Brown communities.

Beyond these neighborhoods, police misconduct complaints disproportionately involved people of color across the City. They accounted for more than half of all those listed as the injured party in complaints in 70 of 77 NYPD precincts.

Figure 10 is a map showing the number of complaints investigated by the CCRB in each NYPD precinct. Each precinct is represented by a circle that shows the number of complaints in the geographic region since 2000. The 10 precincts with the most complaints, concentrated in the South Bronx and East Brooklyn, appear in red.

The database shows that officers assigned to focus on enforcing our nation’s failed drug laws, and those who police people in public

housing, account for a relatively large amount of complaints.²⁵ There are hundreds of police commands, but officers belonging to just two – the Narcotics Divisions and Housing Bureaus – are named in about seven percent and six percent of all misconduct complaints, respectively. Complaints naming officers in the Housing Bureaus, Gang Divisions, and Warrant Section disproportionately identified injured parties who are people of color.²⁶

Children of Color Are Disproportionately Identified as Injured Parties

The database provides stark proof of what community members, advocates, researchers, and the people most hurt by police misconduct have been saying for years: young people of color are far more likely to be impacted by policing than white children.²⁷ More than nine-in-ten (93 percent) of those identified as the injured party in complaints where the person was younger than 18 were children of color.²⁸

Number of Complaints and Percent People of Color by Age

Age Range	Complaints	People of Color Injured Party (%)
Less than 18	11,152	92.8%
18 to 24	34,549	89.5%
25 to 34	47,142	88.2%
35 to 44	32,027	86.0%
45 to 54	18,868	81.1%
55 to 64	6,461	73.4%
65 to 74	1,593	63.2%
75 or older	473	55.8%

Figure 12

Disciplinary Records Kept Secret for Decades

New York Civil Rights Law Section 50-a was passed by the State Legislature in 1976. It stated that “personnel records [of police officers] used to evaluate performance toward continued employment or promotion” were confidential and could not be disclosed without an officer’s permission or a court order.²⁹ Over the decades, 50-a would prove to be the most secretive police misconduct law in the country.

Police departments and law enforcement unions – with the help of several court decisions – used 50-a to hide almost all disciplinary records. In a particularly critical case, the NYCLU sued the NYPD after the Department refused to disclose certain records, even when these documents had the names of individual officers redacted. In 2018, New York’s highest court agreed with the NYPD that 50-a prevented even these records from being released to the public.³⁰

After the court’s decision, it was clear state lawmakers would need to act if police disciplinary records were ever going to be

made public. For years, a bill to repeal 50-a stalled in Albany. Then, in the wake of massive protests sparked by the police murder of George Floyd, New York finally eliminated 50-a.

The repeal of 50-a was a critical step towards transparency, and it is what allowed the NYCLU to obtain the NYPD records in the CCRB database. But police departments and unions continue to fight to keep police abuse secret.

Since 50-a was repealed, the NYCLU has sent numerous Freedom of Information Law requests to law enforcement agencies across the state to review previously hidden police disciplinary records. All the departments failed to turn over all the requested information, and the NYCLU has had to sue eight police departments, with more litigation planned.

The continuing efforts to hide police misconduct show how far New York still has to go to hold police officers accountable.

Conclusion: The NYPD Can't Police Itself

Analysis of the information revealed by the database makes clear that the NYPD often fails to discipline officers when they engage in misconduct. And we know from the Department's long history that misconduct disproportionately falls on people of color. Despite this failure to hold officers accountable and despite this history, the NYPD's response is always the same: "trust us."

"We ask for the public's trust – and the public must know we are worthy of it," NYPD Commissioner Dermot Shea said in a press release last year that defended the current disciplinary structure.³⁵

No matter how damning the facts are, the NYPD and its leaders will always steadfastly defend the status quo and fight to protect their power to decide what happens when officers trample on the rights of New Yorkers. They will always ask for the public's blind faith.

But the database provides one more piece of evidence for why the NYPD does not deserve this trust. The Department has shown over and over again that it cannot police itself. With this in mind, we offer the following recommendations:

Recommendations

The NYPD must proactively provide the public with more detailed information on police discipline.

The repeal of Section 50-a removed the central obstacle that prevented public access to police misconduct records, but other barriers remain in place. While the CCRB and – to a far lesser extent – the NYPD have made some baseline information on officer misconduct available on their websites, the level of analysis contained in this report was only possible because of a FOIL request. And while the CCRB produced the records we requested, we’ve seen the NYPD refuse to turn over similar information about the misconduct records in its possession. This continued degree of secrecy is unacceptable. So is forcing members of the public to jump through legal hoops and to endure endless delays through multiple FOIL requests and appeals in order to access basic information to which they are now legally entitled.

The NYPD must stop dodging its legal responsibility to be transparent. The Department must proactively publish information on all misconduct allegations against its officers,

regardless of the level of discipline and regardless of whether the underlying allegations are substantiated. A full accounting of the disciplinary system, in its entirety, is necessary in order to evaluate the impact of police practices and abuse. And if the NYPD and other departments around the state continue to shirk their responsibilities to make these records public, the State Legislature must take action to compel them to do so.

The NYPD’s monopoly over discipline must come to an end.

Even with the CCRB’s ability to independently investigate and prosecute misconduct charges, it operates within a system that is entirely under the NYPD’s control. When disciplinary trials happen, they take place inside NYPD headquarters, in a trial room presided over by an NYPD employee, applying rules and guidelines written by the NYPD. And when it is time to impose discipline, the Commissioner has complete discretion over what it should be, including whether any discipline gets imposed at all. Ending this monopoly over discipline will require action by both City and State officials, and must include the following:

- Move police misconduct cases outside the NYPD trial room.** The Office of Administrative Trials and Hearings (OATH) handles disciplinary trials for more than 300,000 City workers with one glaring, categorical exception: NYPD officers. This is, in part, because of a state law that requires police disciplinary trials to take place within the Department itself and that prevents OATH's administrative law judges from hearing these cases. When police officers are accused of misconduct, the public does not and should not have confidence in a process governed by police department rules and overseen by police department-employed judges to vindicate the public's interest in accountability. State lawmakers must pass legislation to enable police disciplinary trials to take place in an independent and impartial setting, just like all other New York City employees.³⁶
- Strengthen the NYPD's disciplinary matrix.** In January 2021, following a City Council mandate, the NYPD issued a disciplinary matrix. The matrix is a set of non-binding guidelines that purport to make disciplinary decision-making more objective and predictable by providing for a presumptive range of penalties across different categories of misconduct. While this matrix was long overdue, its usefulness is entirely dependent on the Commissioner's willingness to abide by it. It is one thing for a matrix to say that officers will presumptively be terminated for serious misconduct, but this is meaningless if the matrix places no real

limits on how the Commissioner reaches a final determination in those cases. For the matrix to work, its penalties must be predictable and consistent in practice, not just on paper, and the NYPD must provide the public with information on how it is being applied, along with detailed justifications in any instance where the Department departs from its recommendations.

- Remove the Commissioner's final authority over all disciplinary decisions.** At the core of these issues is the unchecked power of the Commissioner, who holds complete and total control over disciplinary outcomes. The unilateral authority of the Commissioner to make disciplinary decisions must come to an end. This incredible, unaccountable, and easily abused authority makes the NYPD less effective and more dangerous because it leads to misconduct going unpunished and allows officers who have harmed New Yorkers to continue to patrol the streets.

The Mayor and City Council must reduce the scope of policing and invest in alternative approaches to community safety.

The NYPD's refusal to discipline officers who engage in misconduct further supports reducing the scope of policing and moving responsibilities to other agencies where misconduct is less likely to occur and more likely to be disciplined.

As this report shows, it is overwhelmingly communities of color who bear the brunt of police misconduct in New York City. While the disparities are appalling, they may not be surprising, given the NYPD's history of discriminatory and abusive policing in Black and Brown communities. The Department has long over-policed and criminalized entire communities and has failed to hold its officers to account, even for obvious violations of New Yorkers' constitutional rights. Reducing the degree of police misconduct in New York City requires reducing the number of unnecessary and counterproductive interactions between NYPD officers and members of the public in the first place.

For years, New York City has increased spending on law enforcement at the expense of investments in the kinds of public health and social service infrastructure that can better address New Yorkers' basic needs. As police have taken on an ever-expanding role, the number of interactions between police and members of the public have necessarily increased. Even though they are neither mental health professionals, nor social workers, nor school counselors, police officers have become the default response to various social problems. Instead of continuing

to flood communities with police officers, City officials must look for ways to remove police from scenarios where their presence could do more to escalate – rather than resolve – the situation.

Removing police from mental health responses and replacing them with trained, licensed, civilian professionals will get New Yorkers the care they need while decreasing the all-too-frequent potential for police escalation and use of force. Disbanding the NYPD's Strategic Response Group and ending the hyper-aggressive policing of protest will drive down the number of protest-related misconduct complaints while strengthening the city's commitment to First Amendment principles. Defunding the notorious Vice Squad will bring an end to that unit's long history of corruption, while freeing up funding for services that can meet sex workers' urgent needs for things like housing, job training, healthcare, and other basic economic survival programs.

Ultimately, reducing the scope of policing – particularly in those areas where alternative approaches can better meet people's basic needs – is a necessary step in reducing police misconduct and impunity.

Appendix: List of Database Information Used in the Report

Field Name	Description
Allegation	Short description of the action covered by the complaint.
CCRB Disposition	CCRB's final evaluation of the complaint.
Complaint ID	Unique number the CCRB assigns to each incident about which it receives a complaint(s).
FADO Type	Category of misconduct within the CCRB's jurisdiction, which includes Force, Abuse of Authority, Discourtesy, and Offensive Language.
Injured Party Age	Self-reported age of the injured party in the complaint.
Injured Party Race	Self-reported race/ethnicity of the injured party in the complaint.
Incident Borough	NYC borough where the incident took place.
Incident Command	NYPD unit where the named officer was assigned at the time of the complaint.
Incident Precinct	NYPD precinct where the incident took place.
Officer ID	Unique number the CCRB creates and assigns to each officer about whom it has received a complaint.
Officer Race	Race of officer named in the complaint.
Penalty Desc	NYPD penalty given to the officer named in the complaint.
Penalty Rec	Short description of CCRB disciplinary recommendation for substantiated complaints.
Received Date	Date on which the CCRB received the complaint.

Endnotes

- 1 For a list of the specific database fields used in this report, see Appendix A.
- 2 Information about CCRB mediation: <https://www1.nyc.gov/site/ccrb/mediation/mediation.page>
- 3 “About NYPD.” New York City Police Department, <https://www1.nyc.gov/site/nypd/about/about-nypd/about-nypd-landing.page>.
- 4 Pietrzak, Adrian. “Seven Facts about the NYPD Budget.” Citizens Budget Commission of New York, 12 June 2020, <https://cbcny.org/research/seven-facts-about-nypd-budget>.
- 5 This number includes the NYPD’s operating budget as well as fringe benefits such as pensions and other non-operating expenses. The budget can be viewed here: <https://ibo.nyc.ny.us/iboreports/how-much-did-the-2021-adopted-budget-reduce-spending-for-the-new-york-city-police-department-btn-august-2020.pdf>
- 6 <https://www.nyclu.org/en/news/backroom-deal-threatens-weaken-real-police-reform-new-york-city>
- 7 Parascandola, Rocco. “NYPD Flouts Law Requiring Disclosure of Surveillance Technology: Advocates.” New York Daily News, 10 Aug. 2021, <https://www.nydaily-news.com/new-york/nyc-crime/ny-post-act-nypd-surveillance-20210810-3yut5kbnrf5dgy5kefaesayfe-story.html>.
- 8 Buchanan, Larry, et al. “Black Lives Matter May Be the Largest Movement in U.S. History.” The New York Times, 3 July 2020, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>.
- 9 Information about the categories of recommendation can be found here: <https://www1.nyc.gov/site/ccrb/prosecution/police-discipline.page>.
- 10 The specific recommendation values that NYCLU evaluated as informal, non-substantive recommendations for discipline are the following: 357 recommendation values of “Instructions,” 536 instances of “Command Lvl Instructions,” 1187 instances of “Formalized Training,” and 95 instances of “No Recommendations.”
- 11 The specific recommendation values included in the “Command Discipline” category are the following: “Command Discipline,” “Command Discipline B,” “Command Discipline A.”
- 12 “Civilian Complaint Review Board Annual Report 2020.” Civilian Complaint Review Board, 2020, https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2020_Annual.pdf.
- 13 Ibid.
- 14 If the “NYPD Penalty Description” field of the database was left empty, the NYCLU assumed that the NYPD did not impose discipline as a result of the CCRB complaint. For the purpose of this analysis, the following informal disciplinary actions are classified as non-disciplinary actions since they do not trigger substantive discipline: 2,567 instances of “Instruction,” 128 instances of “Command Level Instructions,” 24 instances of “Reprimand,” 1,219 instances of “Formalized Training,” and 27 instances of “Warned and admonished.” There are also 160 database entries where the NYPD penalty value refers to the officer named in the substantiated complaint retiring or resigning. In 260 entries the NYPD penalty value reads “APU Decision Pending” suggesting that discipline may be imposed in the future. All entries with these values are categorized as no discipline.
- 15 If the NYPD penalty description contained two categories of discipline for one substantiated complaint (e.g. “Command Discipline A + Vacation Days: 3”), the NYCLU classified the complaint according to the more serious penalty.
- 16 In 17 percent (2,175) of substantiated cases the CCRB either did not give a recommendation or gave a recommendation for informal discipline such as “Instructions,” “Formalized Training,” or “Command Level Instructions.” Those cases are excluded from this evaluation because discipline was not recommended.
- 17 Geringer-Sameth, Ethan. “Oversight Board Stymied by NYPD Denial of Body Camera Footage Requests.” Gotham Gazette, 17 Nov. 2019, <https://www.gothamgazette.com/city/8928-reasons-nypd-wont-provide-body-camera-video-to-oversight-board-ccrb>.
- 18 Grench, Eileen, Reuven Blau. “Police Say They’ll Refuse to Submit to Video Interviews for Misconduct Investigations.” THE CITY, 12 June 2020, <https://www.thecity.com>.

- nyc/justice/2020/6/11/21288820/police-say-theyll-refuse-to-submit-to-video-interviews-for-ccrb-investigations.
- 19 CCRB Investigation Outcome Categories: <https://www1.nyc.gov/site/ccrb/policy/data-transparency-initiative-allegations.page>. Three percent (4,678) of complaints were disrupted during the investigative process for reasons such as the allegation was part of pending litigation or the officer named in the complaint resigned during the CCRB process.
- 20 CCRB investigative outcomes that indicate the complaint was fully investigated and a determination was made are “Substantiated,” “Unfounded,” and “Exonerated.” Outcomes that indicate the CCRB was unable to complete investigation or where a determination was not made are “Unsubstantiated,” “Truncated,” and cases where the named officer retired or there is pending litigation.
- 21 Three database entries have a FADO type of “Untruthful Statement” which are excluded.
- 22 “Shattered: The Continuing, Damaging, and Disparate Legacy of Broken Windows Policing in New York City (2018).” New York Civil Liberties Union, 16 Oct. 2018, <https://www.nyclu.org/en/publications/shattered-continuing-damaging-and-disparate-legacy-broken-windows-policing-new-york>.
- 23 The race of the identified injured party in the complaint is missing, “unknown”, or “refused” in 36,152 (about 20 percent) of the database entries. When summarizing the race of identified injured parties in this report, the missing, “unknown”, and “refused” values are excluded. Probability ratios are calculated using the number of complaints in the database and NYC population statistics.
- 24 According to table B03002 of the 2015-2019 5-year American Community Survey, the racial composition of the estimated 8,419,316 New York City residents is: 2,702,286 white, 1,837,549 Black, 2,447,862 Latinx, 1,176,762 Asian, 14,463 American Indian or Alaskan Native, 240,394 a racial group other than the previous five categories.
- 25 The command of the named officer at the time of the incident is missing in 29 database entries.
- 26 “Narcotics Divisions,” “Housing Bureaus,” and “Gang Divisions” all refer to a compilation of several subcommands. For instance, there is an individual Narcotics Division for each borough. Complaint histories for subcommands were combined into umbrella commands for the purpose of the report.
- 27 Rovner, Joshua, et al. “Racial Disparities in Youth Commitments and Arrests.” The Sentencing Project, 14 Apr. 2016, <https://www.sentencingproject.org/publications/racial-disparities-in-youth-commitments-and-arrests/>. see also “Stop-and-Frisk Data.” New York Civil Liberties Union, 11 Mar. 2020, <https://www.nyclu.org/en/stop-and-frisk-data>.
- 28 The age of the identified injured party in the complaint is missing or erroneously recorded in 31,832 (about 18 percent) of the database entries. Any age values that were less than 0 or greater than 120 are assumed to be errors. When summarizing the age of the identified injured parties in this report, the missing values and the values that were obvious errors are excluded.
- 29 Wykstra, Stephanie. “The Fight for Transparency in Police Misconduct, Explained.” Vox, 16 June 2020, <https://www.vox.com/2020/6/16/21291595/new-york-section-50-a-police-misconduct>.
- 30 Robbins, Liz. “Discipline Records of New York Police to Stay Secret, Court Rules.” The New York Times, 12 Dec. 2018, <https://www.nytimes.com/2018/12/11/nyregion/police-disciplinary-records-court-ruling-nyc.html>.
- 31 The allegation category “Involving a gun” is a grouping of the following allegation descriptions: “Gun as club”, “Gun Drawn”, “Gun fired”, “Gun pointed”, and “Gun pointed/gun drawn.”
- 32 The allegation category “Race/ethnicity/religion-based allegation” is a grouping of the following allegation descriptions: “Ethnicity”, “Race”, and “Religion.”
- 33 The allegation category “Chokehold” is a grouping of the following allegation descriptions: “Chokehold”, and “Restricted Breathing.”
- 34 NYPD Precinct” refers to a geographic area where the incident associated with the complaint occurred rather than the NYPD unit in which the named officer belongs (“Command”). The NYPD precinct is missing or erroneously recorded in 802 database entries. When summarizing statistics for precincts in this report, the missing values and the values that were obvious errors are excluded
- 35 “NYPD Vision for Fair and Effective Discipline.” New York City Police Department, 10 Nov. 2020, <https://www1.nyc.gov/site/nypd/news/pr1110/nypd-vision-fair-effective-discipline>.
- 36 “Legislative Memo: Removal of Certain Police Officers.” New York Civil Liberties Union, 17 July 2020, <https://www.nyclu.org/en/legislation/legislative-memo-removal-certain-police-officers>.