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SHIELDED FROM ACCOUNTABILITY

How NYPD Officers Get Away with Lying to the CCRB

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Executive Summary

On January 28, 2022, after a sixteen-year-old boy had posted bail in a gun case, the mayor of New York stated that “New Yorkers should all be outraged” that he was allowed to await trial at home instead of at Rikers Island. Police had claimed that the boy had refused their commands, hidden his hands, and fired a weapon at a police officer. Upon reviewing the body-worn camera footage a little more than a month later, a Bronx Criminal Court judge was also outraged—but not for the reasons the mayor suggested.

Instead, the court noted that the video showed there was no legitimate reason for the officers to stop the boy, that he had complied with all their commands, and that the weapon had gone off during an illegal search. She called the officer’s testimony “incredible and unreliable.” Despite the video evidence and the court’s findings, when asked about the case by a city councilmember, Police Commissioner Keechant Sewell stated that “We see that incident

differently.” The mayor has continued to defend the officers even though a judge found they lied on the stand.

On paper, the policy of the New York Police Department (NYPD) is that “[i]ntentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances.” But it has long been an open secret that the NYPD almost never disciplines officers who lie, particularly in those cases where officers lie during an interview before the Civilian Complaint Review Board (CCRB).

The NYPD has publicly defended its refusal to discipline these officers by claiming that the CCRB forwarded shoddy investigations and acted with bias. New York Civil Rights Law 50-a—which has since been repealed—shielded these cases from disclosure, making it impossible to independently refute the NYPD’s claims.

With the repeal of 50-a, LatinoJustice PRLDEF has been able to obtain the full case files, interview statements, or both, in the 144 cases involving 181 officers who lied to the CCRB. The results show that the NYPD has utterly failed to take lying by officers seriously, refusing to discipline officers in the face of incontrovertible evidence that they lied. We found that:

- In more than one-half the cases the CCRB forwarded to the NYPD, an officer’s testimony was contradicted by recorded video or audio evidence.
- In most of the remaining cases, the officer’s statement was contradicted by NYPD paperwork or the testimony of another NYPD officer.
- Nearly one-half of the officers who lied to the CCRB were never disciplined at all, even for the underlying misconduct they lied about.
- In the five cases in which the NYPD disciplined the officer for the statement made to the CCRB, the allegation was downgraded to

“misleading.” No officer was fired. The NYPD has provided inadequate information about officers who lie to criminal defendants and their attorneys.

The NYPD’s refusal to act when its officers lie has serious ramifications. Officers who receive no consequences for lying will continue to do so. Individuals who are never told that an officer testifying against them is known as a liar cannot receive fair trials.

LatinoJustice proposes policy changes to the NYPD, the New York City Council, and the New York State Legislature—including recommendations regarding discipline and disciplinary authority—to ensure that police are held accountable for lying, and to protect the public from further abuse.



False Official Statements to the CCRB: A History

The CCRB Investigative Process

The [Civilian Complaint Review Board](#) (CCRB) is a city agency empowered to investigate, make findings, and recommend action when uniformed officers of the NYPD are accused of using excessive force, abusing their authority, being discourteous, or using offensive language. In the course of a CCRB investigation, the agency issues subpoenas; requests documents from the NYPD; and interviews complainants, civilian witnesses, and NYPD subject and witness officers as needed. Every time an officer is interviewed by the CCRB, the investigator reminds the officer of the NYPD's [official policy](#), as stated in Section 203-08 of the patrol guide: "Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances."

Until recently, the CCRB did not have jurisdictional authority to substantiate allegations that an officer lied in a CCRB interview. Instead, the [agency's rules](#) provided that it must "immediately refer such possible misconduct to the

Police Department for investigation and possible prosecution by the Police Department." In 2019, the people of New York voted to modify the City Charter to give the CCRB power to make a finding that an officer made a false official statement during a CCRB interview and to [prosecute such cases administratively](#) along with other CCRB findings regarding the underlying misconduct that was alleged.

The CCRB's Standards for Recommending that an Officer Lied

The [CCRB investigative manual](#) sets forth the specific investigative actions that an investigator must undertake, as well as the types of evidence that they must gather, in order for an investigator to submit a false statement allegation to the [board](#) for a vote. The manual cautions that testimony by a single witness is not enough to prove an officer lied, and instead states that investigators need "strong corroborative evidence" which must be documented in the closing report that the investigator submits to the board.



After an investigator includes such a recommendation in the closing report, a three-member board panel must vote to refer a false statement case to the NYPD. Each of these panels includes a board member appointed by the Police Commissioner, who typically has a police background. Most board panels vote unanimously. The manual explicitly states that the board is only to make the referral when an officer makes “a specific factual claim that is knowingly false, not simply inadvertently inaccurate.”

Given these stringent standards, it is unsurprising that the CCRB refers very few false statement cases to the NYPD. From 2011 through 2019, the agency reported that it found that an officer made a false official statement only 169 times in the [14,990](#) cases in which it conducted a full investigation, or in just over one percent of those cases.

Over time, the CCRB has changed the nomenclature it uses in its closing reports, from stating that an officer made a false statement, to stating that an officer violated Section 203-08 of the patrol guide, to the currently meek “there is evidence to suggest that” an officer violated Section 203-08. Whatever language is used, this finding is made—according to the [agency’s rules](#)—when “the Board found evidence during its investigation that an officer committed misconduct not traditionally investigated by the Board, but about which the Police Department should be aware.” And the agency’s policy—requiring strong corroborative evidence and a board panel vote—has not changed.

The NYPD Rarely Disciplines Officers Whom the CCRB Has Found to Have Lied

It has long been known that the NYPD usually rejects CCRB recommendations about officers who lie to the agency. The NYPD does not report

publicly on whether or not it disciplined officers who lied to the CCRB. But documents obtained by LatinoJustice show that it only held five such officers accountable between 2010 and 2020, and in all of those it reclassified the lies as merely “misleading” statements. In defense of its inaction, the NYPD has demeaned the quality of CCRB investigations. For example, Kevin Richardson, the department’s top internal prosecutor, told reporters in 2018 that the CCRB had referred a case involving “whether the color of the clothing was green or turquoise.”

For years, it was impossible to refute the NYPD’s claims about these cases because all records of police discipline or misconduct were exempt from public disclosure under one of the most restrictive police secrecy laws in the country. But when that state law was repealed in 2020, LatinoJustice was able to obtain underlying documentation for these cases and confirm the lack of accountability for officers who lie.

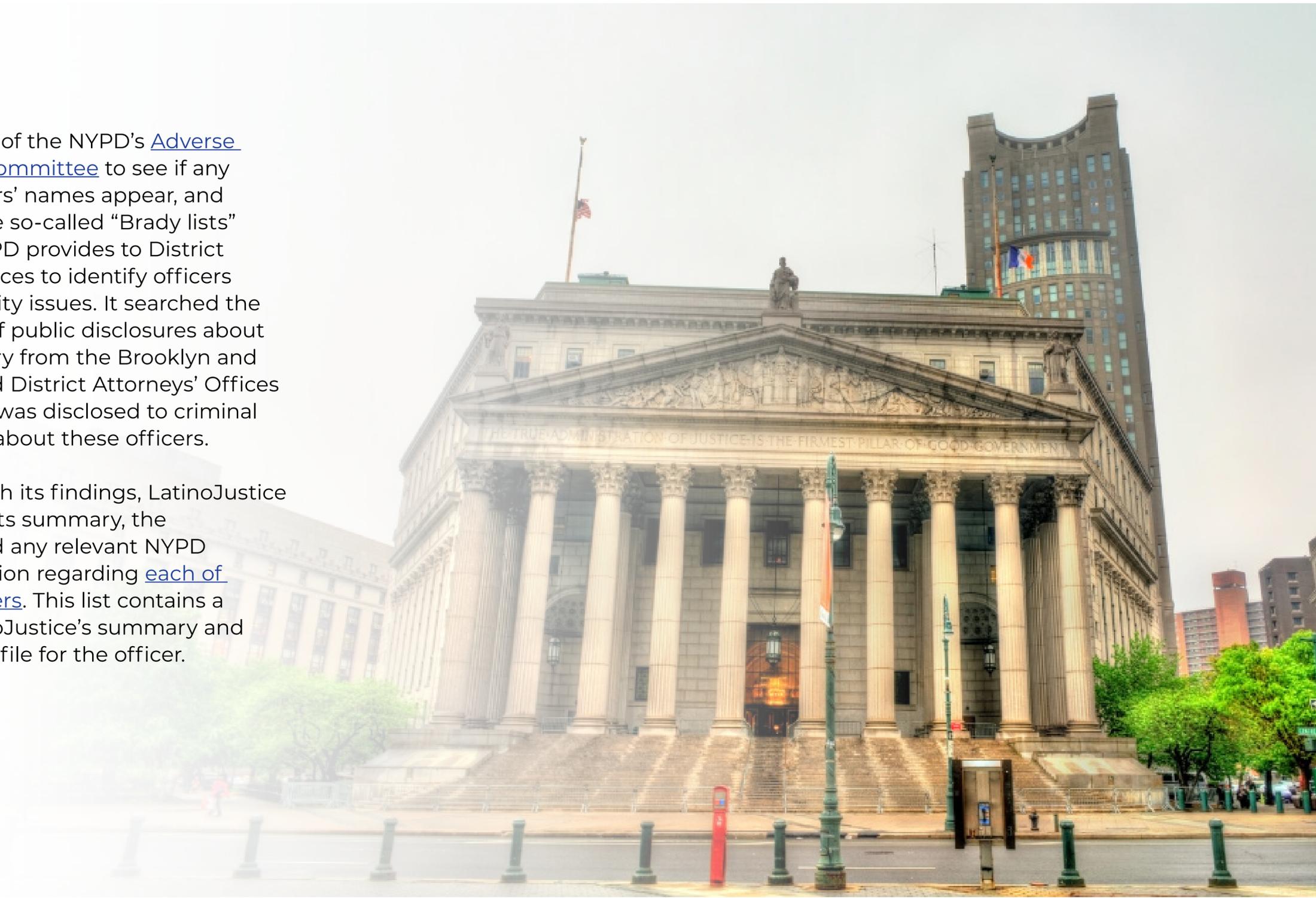
Methodology

In June 2020, immediately after Civil Rights Law 50-a was repealed, LatinoJustice sent a Freedom of Information Act (FOIL) request to the CCRB seeking the full investigative case file in any case in which the CCRB had ever recommended to the NYPD that an officer made a false official statement in a CCRB interview. LatinoJustice eventually received interview statements and casefiles for 144 cases involving 181 officers.

LatinoJustice reviewed and summarized each of these cases. It then searched all available resources to determine what actions, if any, the NYPD took. LatinoJustice reviewed each officer's disciplinary history in the NYPD's public database, reviewed

the findings of the NYPD's [Adverse Credibility Committee](#) to see if any of the officers' names appear, and reviewed the so-called "Brady lists" that the NYPD provides to District Attorney offices to identify officers with credibility issues. It searched the thousands of public disclosures about officer history from the Brooklyn and Staten Island District Attorneys' Offices to see what was disclosed to criminal defendants about these officers.

Along with its findings, LatinoJustice is releasing its summary, the case file, and any relevant NYPD documentation regarding [each of the 181 officers](#). This list contains a link to LatinoJustice's summary and the full case file for the officer.

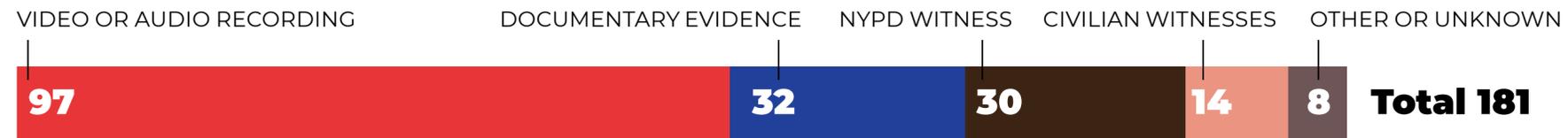


The CCRB Made Findings Based on Strong Evidence

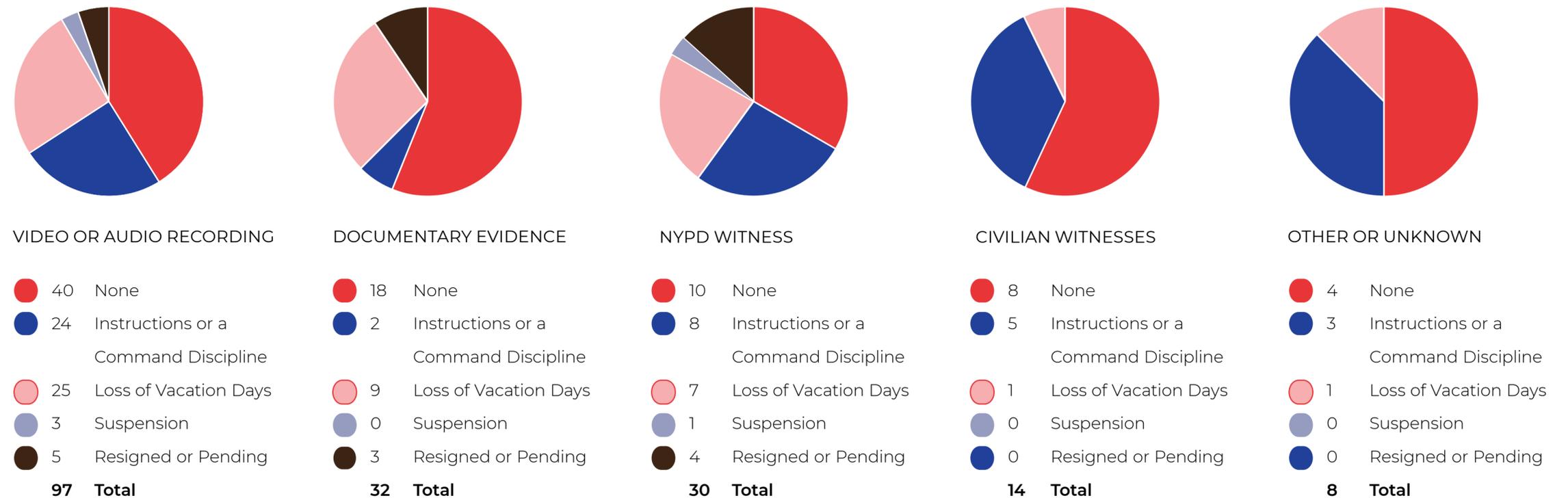


Case files obtained by LatinoJustice showed, first and foremost, that the CCRB conducted thorough investigations and adhered to the strict standards discussed above. Investigators obtained relevant evidence and, when officers lied, confronted them with it. Several officers were brought back for additional interviews specifically focused on the false statement. The CCRB only forwarded cases where an officer's material testimony was directly contradicted by independent evidence—such as a recording, photograph, or document.

CHART 1: EVIDENCE USED TO SHOW NYPD OFFICERS WERE LYING



DISCIPLINE ISSUED BY EVIDENCE THAT OFFICER LIED



Audio and Video Recordings Were the Most Commonly Used Evidence to Show Officers Lied

The most common evidence underlying a CCRB finding that an officer lied was a video or audio recording that contradicted the officer's statement. Ninety-seven of the 181 officers, or 53%, provided testimony contradicted by a recording. Most of these cases took place before NYPD officers were equipped with body worn cameras. The recordings were made by the victims or obtained by the CCRB from other sources; presumably, the officers were often not aware that they had been recorded.

MTA footage, for example, showed [PO Latoya Paradise](#) slamming a subway emergency gate onto a teenage girl, forcibly pinning her in the exit. The girl, who had left the subway platform at police direction when a fight broke out,

had been directed by another officer to use the open emergency gate to re-enter the subway. Before seeing the video, PO Paradise had said she had spoken to the girl but used no force. She testified that the girl had tried to run away, and that PO Paradise had then arrested her. When confronted with video showing her slam the gate onto the girl, PO Paradise claimed she had slipped into the gate.

The CCRB relied on an audio recording made by the victim to find that [PO Alejandro Rivas](#) lied when he denied frisking, searching, and cursing at civilians who were secretly recording him. When played the audio recording, PO Rivas stated that the voice was not his. But when asked for a shield number, the voice on the recording provided PO Rivas's number. When the CCRB reported that Rivas lied to cover up for his illegal stop, the NYPD issued him a Command

Discipline for an improper frisk and subsequently promoted him to detective.

The agency obtained private security footage from a business in Queens to prove that [Sergeant David Cussen](#), [Officer Cory Smith](#), and [Officer Daniel Song](#) lied about racially profiling a Black man and a group of Latino men. The officers claimed that the Black man had voluntarily taken his phone out of his pocket to show it to them, and that they had not searched or frisked the nearby Latino men. However, nearby security footage showed that the officers frisked the man immediately. It also showed that they frisked the nearby men and searched their backpacks. The officers were disciplined for an improper frisk. PO Song was disciplined for making a "misleading" statement but there is no evidence the NYPD disciplined either of the other officers for lying.

Officers Contradicted Documentary Evidence in Thirty-Two Cases

In those cases in which the CCRB found that an officer lied without relying on audio or video recording, it most often relied on documentation. The agency's findings that 32 (18%) of the 181 officers had lied were based on police department documents, medical records, or other documentary evidence.

The CCRB relied on command log entries to find that [PO Wael Jaber](#) lied when he denied speaking to a civilian multiple times. PO Jaber had given the woman another officer's name, refused to transfer her to a supervisor, and hung up on her. The precinct command log entries, made by Jaber's sergeant, confirmed that Jaber had been the officer answering the phone at the time. Months after the CCRB reported that PO Jaber had refused to help a civilian and had lied about it, he [declined to get out of his car](#) while responding to a call from a woman who was murdered. He was disciplined for making a "misleading" statement, but

as discussed below the NYPD appears to have imposed this discipline in part because of the later incident.

The CCRB used [PO Gary Byrd's](#) own memo book entries to confirm that he lied when he stated he had no interaction with a man who had been stabbed and who was seeking medical attention. The man stated that he had asked PO Byrd for medical attention, and that PO Byrd had notified the desk sergeant, who refused to take the man to the hospital. PO Byrd's memo book and the precinct's command log showed he was present for the incident and involved with taking the man to central booking, but PO Byrd told the CCRB he was not present at all and first saw the man when he arrived at Central Booking.

The Agency Relied on NYPD and Civilian Witnesses to Find that Officers Lied

By policy, the CCRB cannot find that an officer lied based solely on testimony of one civilian that contradicts the officer's statement. Of the 43 instances

in which the agency found that an officer lied based on contradictory witness testimony, in 29 cases that testimony came from another employee of the NYPD, and in 14 instances it was provided by multiple civilians, usually medical workers or other city employees.

For example, a civilian who had been frisked began using his phone to make an audio recording of an officer saying, "If you take a picture of my car, you're going to jail," and threatening to "put a bullet in your fucking head." When the CCRB played the audio for [Sergeant John Ferrara](#), he stated he did not remember the incident and claimed that the voice was not his. But other officers present confirmed that the voice on the recording was Sergeant Ferrara.

In another case, a man suffered a heart attack while in a holding cell of a precinct. The man complained that [Lieutenant William Harris](#), who was supervising the precinct at the time, had cursed at him when he asked for Harris' name and badge number.

While other officers confirmed that Lieutenant Harris had interacted with the man (which Harris denied), they claimed he had not been disrespectful. But the EMTs who brought the man out of the precinct to treat him for his heart attack uniformly confirmed that Harris had cursed at the man.

The CCRB relied on the testimony of a hospital administrator to find that [PO Pedro Tecu](#) lied when he was interviewed about an incident in which he demanded that a nurse take an involuntary blood draw from a person whom PO Tecu had arrested for allegedly driving while intoxicated (DWI). PO Tecu stated that the administrator had told him that the nurse was wrong, and that the hospital policy was to draw blood upon the NYPD's request. But the administrator stated that PO Tecu had threatened to arrest her when the administrator produced the hospital policy, which requires patient consent for a blood draw. The NYPD disciplined PO Tecu by making him forfeit four vacation days.

Officers Lied in a Variety of Ways

By reviewing case files, LatinoJustice was able to determine the nature of the lies in 170 of the 181 instances. Unsurprisingly, most of the time—in 116 cases—the officer simply denied what he or she had been accused of doing or denied even being at the scene. Thirty-three officers admitted what they had done but lied to create a justification for doing so. And twenty-one of the 181 officers lied simply to protect another officer, often without being accused of any misconduct themselves.

Officers Who Lied About Actions They Took

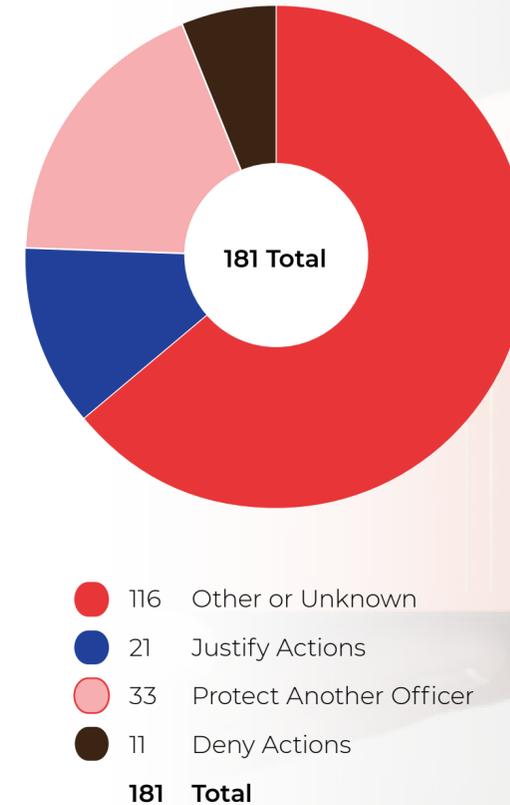
[PO Ali Cheikhali](#) was accused of striking a man with a pair of handcuffs while arresting him. PO Cheikhali admitted he had taken the man to the ground, but denied he had struck him with handcuffs, and even denied that he had his handcuffs with him on his tour. But security video showed him striking the man with his handcuffs, and PO

Cheikhali submitted an injury report after the incident claiming that his own hands had been injured by the handcuffs.

Likewise, Officers [Christopher Cianicullo](#) and [Vasyl Filchukov](#) admitted arresting a man who was crossing a street with his toddler on his shoulders, but claimed they had safely removed the child and then arrested the man. Security video showed that PO Filchukov shoved the man and boy to the ground together, resulting in the man’s head injury.

[Sergeant Anthony Egan](#) acknowledged that he had forcibly entered a backyard party and arrested someone attending the party. But he denied that he had swung his baton. The CCRB ruled that Sergeant Egan had lied because cell phone footage captured Egan striking people with his baton and using it to knock a cell phone out of someone’s hand.

CHART 2: APPARENT REASON OFFICERS LIES



Officers Denied They Were Present at the Scene

At least fifteen of the 181 officers simply denied that they were present for an encounter, even though evidence proves they were.

For example, a civilian complained that when [PO Aramis Ramos](#) was asked to move an idling police truck away from the entrance to an apartment building where exhaust was entering the lobby, PO Ramos refused to do so. When interviewed at the CCRB, PO Ramos said he had not been working that day and produced memo book entries to corroborate his statement. Upon confirming from the NYPD's duty roster that PO Ramos had been working and driving the vehicle in question that day, the CCRB recommended that he be disciplined for lying. There is no evidence that the NYPD did so.

After a man complained that officers stopped his car and searched it improperly, including opening the trunk and hood, [PO Merita Hoxha](#) said

in her CCRB interview that she had conducted the stop alone. And her partner, PO Dennis Vargas, told the CCRB that he had been elsewhere during the stop. But security camera footage revealed that both officers were present, and PO Vargas's NYPD cell phone showed that he had conducted a warrant check on the man while on the scene. The NYPD issued both officers instructions for the incident.

In one particularly bizarre example, three officers—[Ryan Scannell](#), [James St. Germain](#), and [Ryan Hoffman](#)—pursued a car onto a UPS facility, exited their vehicle and chased the driver inside, then shouted at and eventually assaulted a UPS employee they had mistaken for the man they were chasing. Despite the fact that the entire incident was captured on security video at the UPS facility, and that the man they injured had taken a picture of their car as they fled, the officers denied ever driving onto the property or entering the facility. The NYPD disciplined PO Scannell by making him forfeit five vacation

days. It downgraded PO St. Germain's discipline to failing to make a memo book entry, and there is no evidence that it disciplined PO Hoffman.

Officers Lied to Justify Otherwise Unjustified Conduct

In thirty-three cases, officers admitted that they took the action they were accused of, but lied about the circumstances of the event, usually inventing a story that would have provided legal justification for the action they took.

For instance, [Officer John Ottomano](#) and [Officer Anna Garlinska](#) falsely testified to the CCRB that the driver of a car they pulled over had kicked them multiple times, thereby warranting their use of force against the driver. However, the passenger's cellphone recording of the incident showed that Officer Ottomano pushed the driver back into the car as she tried to exit, and that the driver did not kick the officers at any point. Although the CCRB found that the officers made false material

statements about the physical force used against them, the NYPD did not discipline either officer for the incident.

When [PO Timothy Burke](#) was interviewed about allegations that he had hit a teenage boy in the face with a shoe that the officer had removed from the boy's foot, he acknowledged that the shoe had made contact with the boy's face. But he said that the boy had shoved him, and that he had lost his balance after being shoved, causing the contact. When shown another officer's body-worn camera footage showing that PO Burke was in control when he struck the boy, PO Burke stated it had been a "reflex."

Officers Lied to Protect Their Fellow Officers

A full twenty-one officers lied to protect other officers, even when they were themselves not the subject of any complaint.

[PO Kenneth Farrell](#), for example, lied about whether he saw his partner, Eric Rodriguez, pick a man up in a subway station and hurl him into a subway turnstile. The MTA video shows that Farrell was standing right next to his partner, and even tried to break the man's fall after he was thrown into the turnstile. PO Farrell instead testified that he had not witnessed the incident, until he was shown the MTA video obtained by the CCRB.

[PO Scott Pariona](#) was in an elevator with PO Omar Habib when PO Habib assaulted a man and put him in a chokehold, as captured by security video. PO Pariona gave testimony wildly at odd with the video in an apparent attempt to protect a fellow officer, even though there were no allegations that PO Pariona had engaged in misconduct.

When asked whether his partner, PO Felix Acosta, had punched a man in the face during a stop, [PO Welinton Gomez](#) denied that he had, and provided the CCRB with a detailed description of the incident. When he was shown security camera footage showing his partner punching the man while he watched, PO Gomez changed his story to say he could not remember what happened despite giving a detailed description of the event earlier.

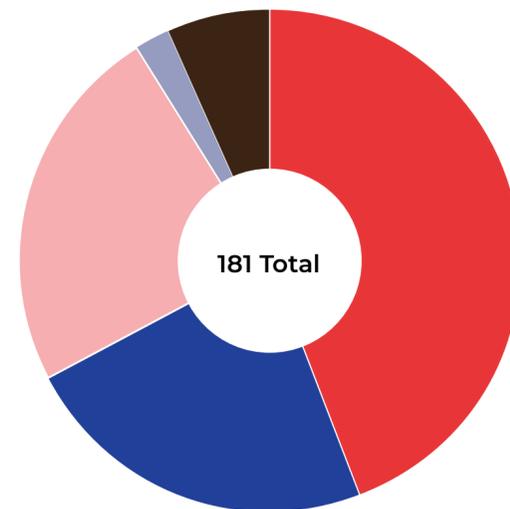


The NYPD's Failure to Discipline Officers Who Lie

When the CCRB forwards a case to the NYPD with a recommendation that there is evidence that an officer made a false official statement, the NYPD “re-investigates” the alleged false statement allegation. The NYPD does not report publicly on its conclusions nor does it report them on the database that purports to show the outcome of all CCRB cases.

Because the full disciplinary histories of some of the officers that LatinoJustice has identified have been provided by district attorneys’ offices to defense counsel (as described in the next section) we have some insight into how these cases were resolved. The information that is available shows that the NYPD rarely issues discipline in cases where officers lie, even for the underlying misconduct.

CHART 3: DISCIPLINE ISSUED TO OFFICERS IN CASES WHERE CCRB FOUND THE OFFICER LIED



- 80 None
- 42 Instructions or a Command Discipline
- 43 Loss of Vacation Days
- 4 Suspension
- 12 Resigned or Pending
- 181 Total**

The NYPD Only Substantiated Five Cases and Did Not Fire Any Officers

Of the 169 cases that had been resolved by the NYPD as of March 15, 2022 (out of the 181 cases that LatinoJustice examined), the NYPD issued no discipline at all to 80 officers, or 47%, issued instructions or a command discipline to 42 officers (25%), and caused 43 officers (26%) to forfeit vacation days. Only four officers were suspended or put on probation for cases in which the CCRB found they lied. An additional twelve cases were either pending or involved officers who left the force before the disciplinary process was complete.

Letters from District Attorney offices confirm that the NYPD only disciplined five officers for making a false statement to the CCRB from 2010 through 2020: [PO Kevin Martin](#), [PO Todd Hansen](#), [PO Franky Joseph](#), [PO Daniel Song](#), and [PO Wael Jaber](#). The NYPD re-categorized each of these false statements as “misleading” and made each officer forfeit between

fifteen and thirty vacation days; none of the officers was fired.

At first glance, it appears unclear why these officers were disciplined and so many others were not. PO Martin, PO Hansen and PO Song were recorded conducting searches that they later lied about. But so were [PO Alejandro Rivas](#), [PO Ryan Scannell](#), and [PO Darrell Lowe](#), who were not disciplined for lying. PO Franky Joseph lied about searching a room without permission, but [Lieutenant Mauvin Bute](#) was recorded doing the same thing and only disciplined for the illegal search.

A closer examination of PO Wael Jaber’s case helps explain the NYPD’s differing actions. PO Jaber was suspended for 30 days, placed on dismissal probation, and forced to forfeit 15 vacation days for lying about whether he had hung up on a woman calling the precinct seeking to file a complaint and asking for his name and shield number. This discipline—while still less severe than the Patrol Guide

states is appropriate—is substantially more severe than discipline for similar actions. For example, [PO Robert Delaney](#) and [PO David Oyague](#) refused to take a complaint from a man who came to the precinct recording them, and forced him to leave the precinct, and [PO Thomas Leonardo](#) lied about giving a woman his name and shield number.

Why the differential treatment?

After the CCRB substantiated allegations against PO Jaber, and before the NYPD acted, he was the subject of a well-publicized incident in which he declined to get out of his car when answering a 911 call, only to discover later that the woman who made the call had been murdered. His disciplinary history states that he “failed to take police action” for this incident, but when it lists what action the NYPD took in response, the document refers to the incident where he hung up on a caller at the precinct. Thus, it appears, at least in PO Jaber’s case, that the NYPD took stronger action on the false

statement as a means of disciplining the officer for another, unrelated incident.

The NYPD Recategorized Lying as a “Technical Violation”

When the failure to discipline officers for lying was reported in 2018, the NYPD [confirmed](#) that sometimes when the CCRB found that an officer lied, the NYPD only “found the officer guilty of lesser misconduct, such as failing to properly fill out a memo book.” Examination of these cases demonstrates how the NYPD transforms false testimony into a so-called technical violation.

The CCRB, for example, found that [PO Alena Aminova](#) testified that the memo book entries she provided to investigators were her contemporaneous notes from an action she took. In fact, she had created a series of memo book entries in an entirely different memo book in preparation for her CCRB interview. Because the CCRB investigator already had her original memo book entries (which had been

obtained from the NYPD earlier) it ruled that she had lied when she represented that the new entries were accurate. The NYPD found that she “improperly recreated activity log entries” but did not discipline her for any false statement.

And multiple officers who lied about participating in stops or searches—such as [PO Steven Franzel](#), [PO Andreas Sergeant](#), and [PO James St. Germain](#)—had their conduct downgraded to a memo book violation for failing to document the stop or search. The fact that they lied about the searches they did not document does not appear to have resulted in any discipline.

The NYPD reclassified [Detective John McCrossen](#)’s lies as technical violations as well. Detective McCrossen, a warrant officer, forced his way into a Mount Vernon home (breaking a lock on the door) and refused to identify himself, and then lied to the CCRB about whether he had entered the home. The NYPD, after its “re-investigation” penalized Detective McCrossen only

because he “failed to conduct a proper computer search regarding a warrant,” and did not hold him accountable for lying about searching what was apparently the wrong residence.

The NYPD Trial Room Decisions Reflect Pro-Police Bias

Cases in which the CCRB substantiates allegations of misconduct are forwarded to the NYPD for the imposition of discipline. Minor discipline, such as instructions or a command discipline, is sometimes imposed without an administrative trial. Those cases that do go to trial are tried before NYPD employees in the NYPD’s trial room. While the CCRB now has the power to prosecute these cases, the administrative law judges who preside over the trials are police department employees.

Only a few of the officers studied in this report were administratively prosecuted in the trial room. These rulings are instructive. The NYPD employees who issued rulings regularly

discounted civilian testimony, and even video evidence, in favor of police testimony, no matter how incredible.

An example of this bias can be found in the administrative trial of [PO Numael Amador](#). PO Amador arrested a man in Maria Hernandez Park after the man started recording the officer arresting someone else. At the CCRB, PO Amador stated that he was familiar with the park rules, that the park closed at dusk, and that he only arrested the man for being in the park after dusk, not because the man was recording him. Because the park had a posted closing time of 10 pm and because PO Amador's sergeant testified that Amador had told him he handcuffed the man because he was trying to film him, the CCRB found that the stop was illegal, and that evidence suggested that PO Amador lied. But Assistant Deputy Commissioner Robert Vinal saw it differently. According to Vinal, any statement by someone who records police officers must be "closely scrutinized" because people who record officers have "preconceived notions

about police encounters." Vinal then credited the officer's statement that he was simply mistaken about when the park closed and imposed as a penalty the loss of two vacation days.

Testifying about an arrest in which a man's rib was broken, [Sgt. David Zabransky](#), [Officer Henry Spengener](#), and [Officer Sean Phillips](#) each testified that when PO Phillips put his hands on the man, he did not touch the man's neck. Body worn camera footage showed that PO Phillip's hand was on the man's throat for four seconds before the man was thrown backwards, and before Phillips asked Sgt. Zebransky "assault or choke?" and Sgt. Zebransky responded, "We gotta do some paperwork to cover up for the bleeding. We caused an injury." The CCRB found that the officers lied when they said that PO Phillips never had his hand on the man's neck at all. Assistant Deputy Commissioner Nancy Ryan acknowledged that the video evidence was "not consistent with Respondent's memory," but ruled that PO Phillips did not "create[] the

degree of pressure on the throat or windpipe which may have hindered (the victim's) breathing," so the move was not a "chokehold" even though the officer's hand was on the man's neck. PO Phillips was not disciplined.

Another Assistant Deputy Commissioner, Jeff Adler, recommended that the NYPD not discipline [PO Daniel Cross](#) after the CCRB found that he had lied about throwing a man he was ejecting from a nightclub into a revolving door, an injury that required seven staples. While the security camera footage showed that Cross grabbed the man (who was in handcuffs) and threw him against the door, PO Cross testified at the CCRB that the man had slipped. At an administrative trial, ADC Adler praised PO Cross for being "detailed and consistent in his testimony on the stand" but took no note of that fact that his testimony—that he "did not deliberately thrust (the man's) head into the door, that he did not deliberately throw him to the ground, and that he did not punch him"—was inconsistent

with PO Cross's testimony to the CCRB months earlier before he had seen the video. On ADC Adler's recommendation, PO Cross was issued no discipline.



The NYPD Fails to Report Officer Histories Adequately to Criminal Defendants

Police and prosecutors are obligated to tell defendants in criminal cases about information that is relevant to the credibility of police witnesses whose testimony will be “an important issue in the case.” *Giglio v. United States*, 405 U.S. 150, 154–55 (1972); see also *Brady v. Maryland*, 373 U.S. 83, 87 (1963). In cases where the CCRB makes a finding that impacts an officer’s credibility—even when the NYPD does not agree with the CCRB’s finding—that finding is relevant to an officer’s credibility. Courts have found that when this information is not provided to defense counsel, “the CCRB records were ‘suppressed’ for the purposes of [a] Brady claim.” *Gonzalez v. United States*, 12-cv-5226, 2013 WL 4584794, at *15 (S.D.N.Y. Aug. 29, 2013).

To fulfil this obligation, some prosecutorial agencies have created so-called “Brady Lists” and the NYPD itself created an “Adverse Credibility” committee to review judicial findings and report officers whose credibility has been questioned by a court. These lists have been made public, and independent

researchers have compiled a [composite list](#) of officers who appear on them.

Because these lists rely on court rulings, rather than administrative proceedings, officers who provide false testimony to the CCRB do not typically appear on them. But the Brady lists are not the only information provided to defense counsel. In addition, District Attorneys may write letters to defense counsel disclosing information about individual officers.

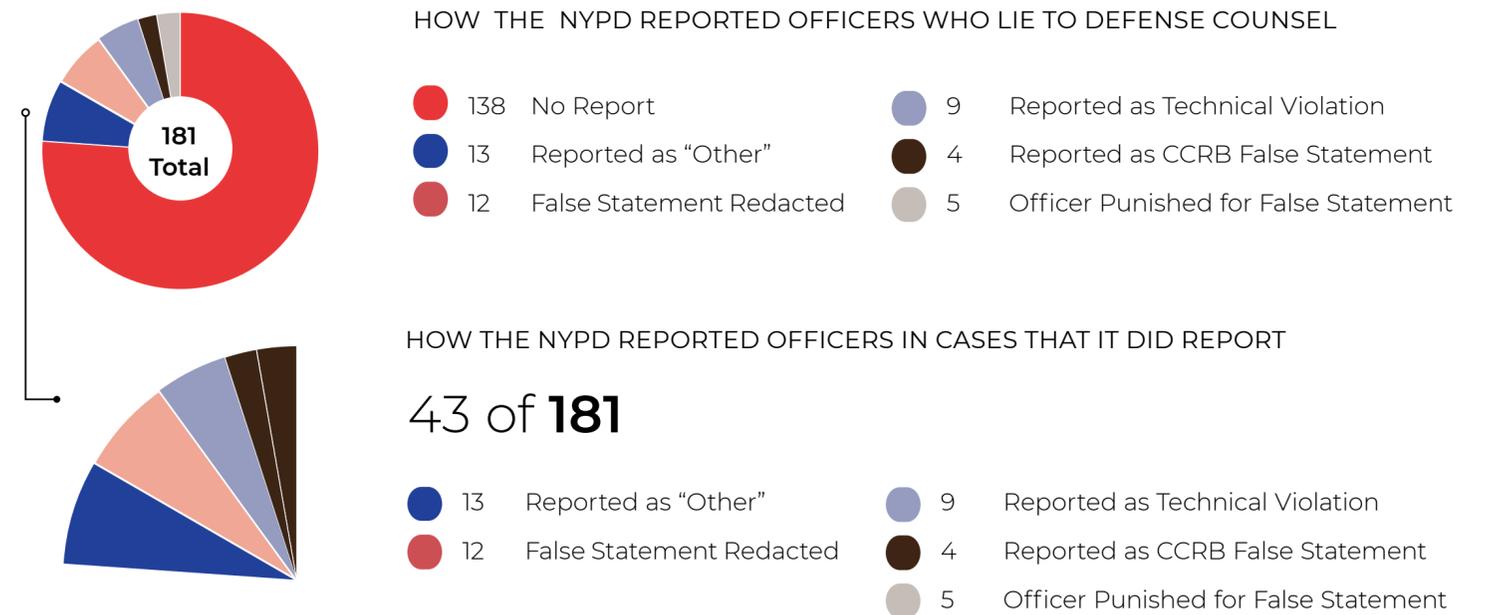
Two District Attorneys’ offices—the Brooklyn DA and the Staten Island DA—have released the letters they have provided regarding thousands of officers. LatinoJustice was therefore able to review what disclosures have been made about the 181 officers covered in this report.

Only 43 of the 181 officers appear in the database of letters released by the Brooklyn District Attorney. It is not possible to determine whether the remaining 138 do not appear in

the database because they were not part of any criminal trial, or because their records were suppressed. In any case, even the 43 documents that are available paint a troubling picture.



CHART 4: HOW THE NYPD REPORTED OFFICERS WHO LIE TO DEFENSE COUNSEL



In 2 of the 43 cases, the letter either records the false statement investigation as “other” without providing any detail, or the information about what type of finding the CCRB made was redacted. Because these documents were obtained via a FOIL request, the original letters likely disclosed some CCRB finding to defense counsel, though it is not clear what. In eight cases, only the technical violation (such as a failure to record a stop) is documented. The five cases in which the NYPD found an officer made a “misleading” statement are reported, and in four instances a CCRB finding of “false statement” is noted with no further information.

These disclosures do not give criminal defendants notice about an officer’s credibility. One typical example will explain why. [Detective James Baez and](#)

[Detective John Slavinsky](#) documented in a sworn complaint that they had recovered drugs after searching a man’s pockets. At the CCRB, aware that they had no justification to search the man, they each claimed that the man had thrown the drugs to the ground, they had recovered them, and then arrested him. While the NYPD disciplined Slavinsky for an illegal search, it did not discipline either officer for lying. Moreover, the letter from the Brooklyn District Attorney shows only that Slavinsky was disciplined for an improper search and that the CCRB found undisclosed “other” misconduct. If these officers testified about other searches in later cases, those defendants were denied a fair trial because they were not provided information about the officers’ history of manufacturing false reasons to give themselves authority to search.



Conclusion and Recommendations

The process for holding officers who lie to the CCRB accountable is broken. The CCRB conducts thorough and fair investigations and is careful to apply strict standards before recommending that evidence suggests an officer has lied. The agency only makes this finding in one percent of cases, showing that it does not issue a recommendation lightly.

But the NYPD's policy of disregarding these findings means that officers aren't held accountable, and future criminal defendants are denied fair trials when officers' history of lying is not fully disclosed.

LatinoJustice makes the following recommendations to strengthen accountability for NYPD officers who lie:

City Council and State Legislature: Remove Sole Disciplinary Authority from the NYPD Commissioner.

Under state law and New York municipal law, the NYPD Commissioner

retains sole authority to discipline NYPD officers as he sees fit. Successive police commissioners have presided over a department that did not discipline officers for lying to the CCRB, even when the evidence was clear. The state legislature and City Council must work together to remove this authority so that officers can be properly disciplined for lying.

State Legislature: Strengthen the Repeal of Section 50-a

LatinoJustice obtained documents relating to cases where the NYPD eventually (and wrongfully) decided that no discipline was appropriate. Some jurisdictions continue to allow departments to hold back disciplinary records or internal investigations when the officers were eventually cleared. This investigation shows the importance of strengthening the repeal of 50-a so that all disciplinary investigations—including those that law enforcement agencies choose to ignore—are publicly available.

NYPD and District Attorneys: Identify Trial Testimony By These Officers

Because the NYPD concealed the fact that these officers were found to have lied to the CCRB, their history of lying may not have been disclosed when they later testified at criminal trials. LatinoJustice calls upon the NYPD and the five District Attorneys' offices to identify any hearing or trial in which any of these officers testified after the CCRB forwarded their cases to the NYPD. This information can be used to identify people whose criminal trials were conducted unfairly.

NYPD: Fire Officers Who Lie

LatinoJustice calls upon the NYPD to follow its own protocol and to fire officers who lie in an official proceeding, including all of the officers identified in this report who remain on the force. While these officers all should have been fired when they originally were found to have lied, the NYPD has the opportunity to demonstrate, better late than never,

that its stated policy "Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances," is not itself simply another lie.

NYPD Inspector General: Review NYPD Procedures for Identifying and Disciplining Officers For False Statements

This investigation focused exclusively on cases in which NYPD officers lied in their CCRB interviews. LatinoJustice has no insight into how the NYPD investigates or disciplines officers who lie to NYPD investigators, to employees of the District Attorneys' offices, or in court. LatinoJustice therefore recommends that the Office of the Inspector General investigate the NYPD's handling of all allegations that officers lie to determine whether the failings identified in this report are present in other contexts.





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SHIELDED FROM ACCOUNTABILITY

How NYPD Officers Get Away with Lying to the CCRB

By Andrew Case, Meena Oberdick, and
Tayler Szabo, LatinoJustice PRLDEF

LatinoJustice.org