

THIS IS WHAT TRANSPARENCY LOOKS LIKE: AN EMPIRICAL ANALYSIS OF NYPD MISCONDUCT AFTER THE REPEAL OF 50-A

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This Note presents the first empirical study of the implications of the repeal of Civil Rights Law section 50-a (50-a), which made public New York Police Department (NYPD) personnel records, including disciplinary investigations. These data demonstrate the limited potential of transparency reforms, which are lauded as an important step toward increasing police accountability but do little to impact the actual behavior of police officers. Using a version of regression discontinuity design known as interrupted time series, this Note demonstrates that the repeal of 50-a did not live up to its promise of reducing police misconduct. These findings illuminate the disconnect between the professed purpose of this legal change and its actual impact. But as this Note also demonstrates through a text-mining approach called topic modeling, journalistic coverage of NYPD misconduct did increase after the repeal. This is framed as a second-order effect of the transparency measure—not reducing police misconduct ex ante but instead publicizing it after the fact. These data show that transparency on its own cannot bring meaningful change in policing, but it can lead to a more informed public, thus playing an important argumentative role in conceiving and implementing policies that will reduce the harms of policing.

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INTRODUCTION

On May 29, 2020, a group of friends attended a Black Lives Matter protest in Brooklyn.¹ While they processed down Fifth Avenue between Bergen Street and Saint Marks Place, a lieutenant and several police officers from the 72nd and 78th Precincts of the New York Police Department (NYPD) arrived at the protest.² Immediately upon exiting from an unmarked vehicle, Lieutenant Eduardo Silva approached the protesters, yelling at them to get onto the curb and “indiscriminately pushing approximately five protesters, some of whom had their backs turned to him.”³ At least one of the people the lieutenant shoved fell to the ground; another stumbled forward, turned around to see who pushed him, and was shoved again by Lieutenant Silva.⁴ The lieutenant also (though this part is disputed) “struck another unidentified protestor with an asp.”⁵ He never turned on his body-worn camera.⁶

The police officers with Lieutenant Silva engaged in similarly—if not more—aggressive behavior. Immediately after an unidentified officer

1. The details of this story follow those described in the closing report from Civilian Complaint Review Board (CCRB) Case #202003770. The names of complainants, protesters, and unaffiliated parties are redacted in the public version of the report and thus do not appear here. The names of police officers involved in the incident are not redacted, so officers’ names are included throughout this Note.

2. CCRB Investigative Recommendation: Case #202003770, at 1 (2021), https://www.nyc.gov/assets/ccrb/downloads/pdf/closing-reports/202003770_RedactedClosingReport.pdf [<https://perma.cc/5GM8-6Z5B>] [hereinafter CCRB, Case 1].

3. *Id.* at 1–2.

4. *See id.*

5. *See id.* at 1 (using the word “allegedly” to describe Silva’s strike). “Asp” is the common term for an expandable baton, most famously manufactured by Armament Systems and Procedures, Inc. (ASP). *See, e.g.,* Batons, Armament Sys. & Procs., <https://www.asp-usa.com/collections/batons> [<https://perma.cc/U88B-KNY7>] (last visited Aug. 14, 2025). All “properly trained” NYPD officers are required to carry a baton; only “qualified” officers are given expandable batons. *See* NYPD, Administrative Guide 108–09 (2024), https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/public-adminguide1.pdf [<https://perma.cc/8RF3-4Q5P>].

6. *See* CCRB, Case 1, *supra* note 2, at 3 (“Lieutenant Silva did not activate his body-worn camera during this incident.”).

“caus[ed] [a protester] to fall into a parallel parked vehicle and then to the ground,” Officer Adib Algahiti appears on body-worn camera footage yelling at the protester, still on the ground: “Get up, stupid. Bitch ass pussy.”⁷ Nearby, Officers Luis Melendez and Krysta Cosenza arrested a woman who appears in cell phone footage seconds later in handcuffs, crying out: “I’m not okay. They smashed my face on the ground.”⁸ Other officers, according to witnesses and Lieutenant Silva, used their batons to push protesters out of the street.⁹

This incident was reported to the Civilian Complaint Review Board (CCRB) through its online portal three days after the protest.¹⁰ The CCRB reviewed cell phone and body-worn camera footage and conducted interviews with officers, witnesses, and victims.¹¹ It filed its closing report about thirteen months later, on June 30, 2021.¹² The report concluded that the majority of claims were substantiated,¹³ meaning that the investigation established that the alleged conduct both occurred and violated NYPD rules.¹⁴ The CCRB recommended a range of penalties for the various officers involved, including prosecution by the Administrative Prosecution Unit (APU).¹⁵ The APU is deployed in “serious cases” to conduct a trial

7. See *id.* at 8 (internal quotation marks omitted) (quoting Officer Algahiti). Perhaps this goes without saying, but use of such language violates NYPD rules. During a different disciplinary case, the NYPD established that “discourteous statements made with no legitimate purpose but to belittle the civilian are not permissible.” *Id.* (citing Disciplinary Case 2015-15012 (BR 53)). For the NYPD’s specific ban on disparaging remarks about gender (i.e., prohibiting use of the words “bitch” or “pussy”), see NYPD, Patrol Guide: Public Contact—Prohibited Conduct Procedure No. 203-10, at 1 (2017), <https://cao-94612.s3.us-west-2.amazonaws.com/documents/NYPD-Patrol-Guide-Procedure-203-10.pdf> [<https://perma.cc/B9V7-7DF4>].

8. CCRB, Case 1, *supra* note 2, at 11 (internal quotation marks omitted) (quoting the woman).

9. See *id.* at 8–9 (“[Redacted] described this as officers placing two hands on opposite ends of their batons and using them to push outward to move protestors around.”); *id.* at 13 (“Lieutenant Silva testified that officers, whom he could not identify, pushed protestors with their batons . . .”).

10. *Id.* at 1. Hundreds of other complaints related to the Black Lives Matter protests were also lodged that summer, comprising over 2,000 allegations against 460 identified police officers. See CCRB, CCRB 2020 Protest Data Snapshot—June 21, 2021 (2021), https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/Protest%20Data%20Snapshot%20June%202021.pdf [<https://perma.cc/D6UZ-Y2GW>].

11. See CCRB, 2020 NYC Protests 12–17 (2023), https://www.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/2020NYCProtestReport.pdf [<https://perma.cc/NZ5W-SNA9>] [hereinafter CCRB, 2020 NYC Protests] (describing the process and challenges of investigating complaints associated with the 2020 protests).

12. See CCRB, Case 1, *supra* note 2, at 16.

13. The final dataset is available on request from the *Columbia Law Review*.

14. See CCRB Conclusions, 50-a, <https://www.50-a.org/conclusions> [<https://perma.cc/4R3P-ZH2Y>] (last visited Aug. 14, 2025) (“‘Substantiated’: The conduct occurred and it violated the rules set by the NYPD in their Patrol Guide and the officer should receive some sort of discipline. The NYPD can choose to ignore CCRB recommendations and has discretion over what, if any, discipline is imposed.” (emphasis omitted)).

15. The final dataset is available on request from the *Columbia Law Review*.

that may end in a range of penalties, including termination from the police force.¹⁶ But by the end of the saga, two of the officers involved had retired and thus received no reprimand, several others received no formal NYPD penalty (against CCRB recommendations), and only one—Officer Algahiti—received any formal penalty at all.¹⁷ The CCRB recommended bringing charges against Officer Algahiti, and he eventually received command discipline and forfeited ten vacation days.¹⁸

Five years ago, relaying this story would have been impossible. Under New York law, police misconduct records were hidden from the public, and the CCRB was limited in the amount of information it could disclose. But in 2020, the New York State Legislature voted to repeal Civil Rights Law section 50-a (50-a)—commonly known as the police secrecy law—making police personnel information disclosable under New York’s Freedom of Information Law (FOIL).¹⁹ Almost immediately, a police union lawsuit attempted to stop the repeal; the Second Circuit rejected its challenge in February 2021.²⁰ Several years and multiple lawsuits later, many of these records are publicly available, though their release continues to be contentious.²¹

This Note investigates the immediate impact of 50-a’s repeal, analyzing NYPD misconduct records to explore whether officers engaged in less misconduct after their personnel records became publicly accessible. To do so, this Note uses a version of regression discontinuity design known as interrupted time series (ITS).

16. See The Administrative Prosecution Unit (APU), CCRB, <https://www.nyc.gov/site/ccrb/prosecution/administrative-prosecution-unit-apu.page> [https://perma.cc/BU4F-QTM7] (last visited Aug. 14, 2025).

17. The final dataset is available on request from the *Columbia Law Review*.

18. Interested readers can also reconstruct their own version of this data online from the Law Enforcement Lookup database, Law Enforcement Lookup, Legal Aid Soc’y, <https://legallaidnyc.org/law-enforcement-look-up/> [https://perma.cc/848J-MYZ8] [hereinafter CAP, LELU] (last visited Aug. 14, 2025), and the city’s OpenData platform, Civilian Complaint Review Board, NYC OpenData, https://data.cityofnewyork.us/browse?Dataset-Information_Agency=Civilian+Complaint+Review+Board+%28CCRB%29 [https://perma.cc/DV4Y-F9QW] (last updated Aug. 13, 2025).

19. N.Y. Civ. Rights Law § 50-a (repealed 2020).

20. See *Uniformed Fire Officers Ass’n v. De Blasio*, 846 F. App’x 25, 27, 33 (2d Cir. 2021) (affirming the district court’s decision against the police unions).

21. See, e.g., *NYCLU v. NYPD*, NYCLU (Sep. 30, 2021), <https://www.nyclu.org/court-cases/nyclu-v-nypd> [https://perma.cc/27KG-69RM] (“The New York Civil Liberties Union filed a lawsuit against the NYPD for unlawfully denying the NYCLU’s requests for the full slate of NYPD databases related to police misconduct authorized to be disclosed following the repeal of 50-a.”). Notably, the NYPD continues to fight the release of records, including by vanishing discipline records from its public officer database. See Sergio Hernández, Looking Up an NYPD Officer’s Discipline Record? Many Are There One Day, Gone the Next., ProPublica (May 9, 2024), <https://www.propublica.org/article/nypd-police-discipline-records-database-accountability-misconduct> [https://perma.cc/452K-UYB4] (“Since May 2021, at least 88% of the disciplinary cases that once appeared in the data have gone missing at some point, though some were later restored.”).

Part I includes three sections of background on NYPD misconduct and transparency. Section I.A traces the NYPD's history with misconduct and corruption, culminating in the establishment of the CCRB. Section I.B describes how 50-a became law and was incrementally expanded, and section I.C portrays the milieu within which the law was repealed—namely, the COVID-19 pandemic and Black Lives Matter protests in New York City. Part II goes on to describe existing police misconduct research, the methodology of this Note's analysis, and the results of the ITS model. This Note primarily tests whether NYPD officers were, as advocates had hoped, less likely to engage in misconduct after 50-a's repeal. Then, it investigates whether the repeal of 50-a had any second-order effects beyond changes in police behavior, manifested through public awareness of misconduct that could, in the future, contribute to more accountability for police harm.

Finally, Part III discusses the implications of these findings for transparency scholarship and policing policy. This Part focuses on the fact that transparency—though important—cannot on its own remedy the breakdown of citizen-government trust that accompanies persistent misconduct, nor can it increase police accountability solely through the fact of being technically available to the public.²² When coupled with more actionable systemic reforms, however, transparency has the potential to increase citizen participation in policing oversight, as well as ease challenges for people bringing legal cases against officers or departments. This highlights the importance of holistic, rather than piecemeal, changes to policing in New York and beyond.

I. BACKGROUND

This Part introduces the NYPD's history with misconduct, the evolution of the CCRB, and the context of 50-a's passage, expansion, and eventual repeal.

A. *NYPD Misconduct and the Evolution of the CCRB*

Versions of the NYPD have existed since the 1800s,²³ and throughout its lifespan, the department has been beset by violence, venality, and une-

22. See Cynthia Conti-Cook, Digging Out From Under Section 50-a: The Initial Impact of Public Access to Police Misconduct Records in New York State, 18 U. Saint Thomas L.J. 43, 47–48 (2022) [hereinafter Conti-Cook, 50-a] (“‘Public access’ . . . refer[s] to information that is in theory legally accessible. But what is legally accessible public information versus what information the public can reasonably and regularly access to form opinions, organize others, and launch campaigns for policy change are two entirely different matters.”).

23. The various policing departments in the city were not officially amalgamated into the “New York Police Department” until 1898, when the state legislature officially consolidated several local governments into the single entity of New York City. NYPD, The History of New York City Police Department (1993), [https://www.ojp.gov/pdffiles1/ Digitization/145539NCJRS.pdf](https://www.ojp.gov/pdffiles1/Digitization/145539NCJRS.pdf) [<https://perma.cc/XY6J-7TVT>] (“[T]he Greater City of

qual treatment of racial minorities within and beyond its ranks.²⁴ Corruption and attempts to cover up misconduct have followed the NYPD since its founding, with scandals spanning from the nineteenth century to today.²⁵ Investigations and reform committees have similarly extensive histories with the department.²⁶ By 1950, appetite for a standing NYPD investigatory committee resulted in the Permanent Coordination Committee on Police and Minority Groups, created as a reaction to police mistreat-

New York assimilated 18 smaller police agencies from various parts of Queens, Kings, Richmond, Bronx and New York Counties. The greatly-expanded force was named the 'New York Police Department.'").

24. See Matthew Guariglia, *Police and the Empire City: Race and the Origins of Modern Policing in New York* 24–27 (2023) ("Enduring accounts of the New York City police during the nineteenth century are overwhelmingly stories of brutality, graft, corruption, and state authority run amuck."); see also James Baldwin, *Fifth Avenue, Uptown, Esquire*, July 1960 ("Rare, indeed, is the Harlem citizen, from the most circum-spect church member to the most shiftless adolescent, who does not have a long tale to tell of police incompetence, injustice, or brutality. . . . The businessman and racketeers also have a story. And so do the prostitutes."). Several times throughout the twentieth century, the NYPD participated in race riots against Black civilians. See, e.g., *A Disgrace to the Police*, N.Y. Times, Aug. 17, 1900, at 6, <https://timesmachine.nytimes.com/timesmachine/1900/08/17/101064093.html?pageNumber=6> (on file with the *Columbia Law Review*) ("The record of the police in the riotous attacks on [Black residents] . . . may briefly be summed up. They stood idly by for the most part while the [residents] were being beaten except when they joined savagely in the sport . . . arresting . . . many blacks, most . . . being clubbed most unmercifully.").

25. See Jay S. Berman, *The Taming of the Tiger: The Lexow Committee Investigation of Tammany Hall and the Police Department of the City of New York*, Police Stud., Winter 1981, at 55, 58 (describing Tammany Hall's campaign to discredit and intimidate constituents investigating the police department for corruption, beginning in the nineteenth century); Sean Grennan, *Historical Perspective of Police Corruption in New York City*, in *Police Misconduct: A Reader for the 21st Century* 117, 117 (Michael J. Palmiotto ed., 2001) (detailing myriad corruption scandals throughout the NYPD's history). More recently, NYPD Chief Jeffrey Maddrey, the department's top uniformed officer, resigned in December 2024 over sexual misconduct allegations. See Giulia Heyward, *NYPD Replaces Internal Affairs Chief as Sexual Abuse Scandal Rocks Department*, Gothamist (Dec. 22, 2024), <https://gothamist.com/news/nypd-replaces-internal-affairs-chief-as-sexual-abuse-scandal-rocks-department> (on file with the *Columbia Law Review*) (last updated Jan. 2, 2025). His resignation was immediately followed by the removal of Chief of Internal Affairs Miguel Iglesias over the same scandal. Id; see also *infra* note 43 for another scandal involving Maddrey. And in July 2025, former NYPD commissioner Thomas Donlon sued top NYPD officials, alongside Mayor Eric Adams, accusing them of coordinated criminal activity. See Eric Umansky, *Former NYPD Commissioner Accuses Mayor Adams of Running "Criminal Enterprise" and Cites ProPublica Investigation*, ProPublica (July 17, 2025), <https://www.propublica.org/article/lawsuit-nyc-mayor-eric-adams-community-response-team-thomas-donlon> (on file with the *Columbia Law Review*) ("Former New York Police Department Commissioner Thomas Donlon sued Mayor Eric Adams and other top police officials on Wednesday, accusing Adams of running the force as a 'criminal enterprise' that the mayor used to 'consolidate power, obstruct justice and punish dissent.'").

26. Grennan, *supra* note 25, at 117 (identifying six major scandals, or approximately one every twenty years, related to serious corruption since the NYPD's inception in 1844).

ment of Puerto Rican and Black New Yorkers.²⁷ By 1953, the CCRB was formally established as a partial response to the committee's demands; however, this iteration of the CCRB was staffed only by three deputy police commissioners.²⁸

In 1966—the same year that even the Supreme Court took notice of the NYPD's brutality against civilians²⁹—Mayor John Lindsay moved to appoint public citizens to the oversight board after a report he commissioned suggested that civilian representation on the board would “instill public confidence that investigations of civilian complaints would be handled impartially.”³⁰ In response, the president of the Patrolmen's Benevolent Association (PBA), John Cassese, expressed his unequivocal opposition to such appointments: “I'm sick and tired of giving in to minority groups with their whims and their gripes and shouting.”³¹ Mayor Lindsay appointed civilians anyway, and by November of the same year, the PBA had lobbied for a municipal referendum to abolish the reconstituted board.³² The referendum passed, with Manhattan being the only borough voting to retain the civilian appointments.³³ As a result, CCRB membership returned to NYPD-affiliated members only.³⁴ It would not regain civilian membership until 1987 and did not reach its current, all-civilian makeup until 1993.³⁵

The modern CCRB is “empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints against New

27. History, CCRB, <https://www.nyc.gov/site/ccrb/about/history.page> [<https://perma.cc/L2FA-CX9W>] (last visited Aug. 14, 2025) (describing the origins of the CCRB).

28. See *id.*

29. See *Miranda v. Arizona*, 384 U.S. 436, 446 (1966) (“Only recently in Kings County, New York, the police brutally beat, kicked and placed lighted cigarette butts on the back of a potential witness under interrogation for the purpose of securing a statement incriminating a third party.” (citing *People v. Portelli*, 205 N.E.2d 857 (N.Y. 1965))).

30. History, *supra* note 27.

31. *Id.* (internal quotation marks omitted) (quoting John Cassese, President, Patrolmen's Benevolent Ass'n).

32. See Michael W. Flamm, “Law and Order” at Large: The New York Civilian Review Board Referendum of 1966 and the Crisis of Liberalism, 64 *The Historian* 643, 643 (2002) (describing the PBA's campaign to convince voters that “[t]he Civilian Review Board must be stopped!” (internal quotation marks omitted) (quoting the PBA's campaign poster)).

33. *Id.* at 644 (“[B]uoyed by a near-record turnout—over two million voters cast ballots, more than in the 1964 presidential race—the referendum passed by an almost two-to-one margin. Of the five boroughs, only Manhattan narrowly voted to retain the board.”).

34. See *id.* at 663 (describing the review board after the referendum as a five-member panel, consisting entirely of “police officers or NYPD-affiliated civilians”).

35. History, *supra* note 27 (“In 1987 . . . the board was restructured to include a combination of private citizens alongside non-uniformed police officers. . . . In 1993, after extensive debate and public comment, Mayor David Dinkins and the New York City Council created the Civilian Complaint Review Board in its current, all-civilian form.”). Note, however, that this “all-civilian form” includes several former NYPD officers. See *infra* note 202.

York City police officers” as investigated entirely by its civilian employees.³⁶ The agency only investigates complaints made by the public that involve “allegations of use of force, abuse of authority, discourtesy, and offensive language (known as ‘FADO’).”³⁷ Once a complaint is determined to fall within the CCRB’s jurisdiction, investigations begin with an in-person statement from the complainant, followed by an evidence gathering process led by a CCRB investigator, the preparation of a closing report, and finally a vote by the Board.³⁸ The Board reviews the findings of its investigators, issues a report of its conclusions, and recommends disciplinary action to the police commissioner.³⁹ The key to understanding this dynamic is that the CCRB does not have formal disciplinary power.⁴⁰ The Board can only provide suggestions informed by its investigations; the commissioner decides punishment.⁴¹

In some cases, the CCRB recommends command discipline,⁴² explicitly placing misconduct under the internal punishment structure.⁴³ But

36. About the CCRB, CCRB, <https://www.nyc.gov/site/ccrb/about/about.page> [https://perma.cc/S9RA-FH87] (last visited Aug. 14, 2025).

37. Mary Jo White, Robert L. Capers & Barbara S. Jones, The Report of the Independent Panel on the Disciplinary System of the New York City Police Department 9 (2019) (on file with the *Columbia Law Review*).

38. See Complaint Process, CCRB, <https://www.nyc.gov/site/ccrb/complaints/complaint-process/complaint-process.page> [https://perma.cc/VLW6-DU64] (last visited Aug. 14, 2025).

39. See N.Y.C., N.Y. Charter § 440(c)(1) (2025) (“The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner.”).

40. See About the CCRB, *supra* note 36 (outlining how the CCRB can only “recommend action” to the NYPD, then “forward[] its findings to the police commissioner”).

41. See NYPD & CCRB, Memorandum of Understanding Concerning the NYPD Discipline Matrix 1–2 (2021) (on file with the *Columbia Law Review*) (“Section 434 of the New York City Charter gives the Police Commissioner cognizance and control over the disposition and discipline of the police department and police force; and . . . Section 14-115 of the New York City Administrative Code gives the Police Commissioner discretionary power to discipline members of the NYPD . . .”).

42. NYPD, Disciplinary System Penalty Guidelines 51 (2021), https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/disciplinary-system-penalty-guidelines-effective-01-15-2021-compete-.pdf [https://perma.cc/83NA-NCCL].

43. The line between internal and external misconduct and punishment recently came to a head when an administrative trial judge recommended dismissing a disciplinary case against Chief Maddrey. In March 2023, the CCRB recommended discipline after finding that Maddrey had improperly interfered with the arrest of a retired officer; Maddrey fought the charges in a department trial after then-commissioner Keechant Sewell proposed discipline of a loss of ten vacation days. See Maria Cramer & Chelsia Rose Marcus, Police Commissioner Proposes Discipline for Top N.Y.P.D. Chief, N.Y. Times (May 24, 2023), <https://www.nytimes.com/2023/05/24/nyregion/nypd-police-commissioner-sewell-maddrey.html> (on file with the *Columbia Law Review*). The administrative trial judge ruled that the CCRB did not have jurisdiction over the case because its authority only extends to direct interactions between an NYPD officer and a member of the public—not, as in this case, an NYPD officer interfering with the work of other officers regarding a public citizen (the retired officer). Yoav Gonen, Judge Nixes Disciplinary Case Against Jeffrey Maddrey,

most of the time, the NYPD imposes its own penalty (or no penalty) regardless of CCRB recommendation, and the agency has no power to stop the department from deviating in this way—CCRB recommendations are “regularly ignored” by the NYPD.⁴⁴ Even without those departures, very few CCRB investigations result in recommendations for serious penalties.⁴⁵ And if the CCRB does opt to file charges, the police commissioner can intervene to avoid disciplinary trials entirely.⁴⁶

Deviating from a CCRB recommendation is not the only way that the department evades external oversight. Police officers can—and according to CCRB memos, do—also disrupt and stonewall investigations as they are unfolding.⁴⁷ The NYPD is required by city law to cooperate with CCRB investigations, and the agency has subpoena power.⁴⁸ Formally, NYPD officers must participate in interviews and truthfully respond to CCRB questions; in practice, the department engages in “systematic obstruction” of CCRB investigations.⁴⁹ Administrative delays and refusal to cooperate

NYPD’s Top Uniformed Cop, *The City* (July 23, 2024), <https://www.thecity.nyc/2024/07/23/nypd-jeffrey-maddrey-voids-trial/> [https://perma.cc/6TMX-E637].

44. Between 2014 and 2020, the department reduced or rejected agency recommendations in over 70% of serious misconduct charges. See Ashley Southall, Ali Watkins & Blacki Migliozi, *A Watchdog Accused Officers of Serious Misconduct. Few Were Punished.*, *N.Y. Times* (Nov. 15, 2020), <https://www.nytimes.com/2020/11/15/nyregion/ccrb-nyc-police-misconduct.html> (on file with the *Columbia Law Review*). In 2022, over half of discipline recommendations were rejected. Maria Cramer, *N.Y.P.D. Rejected Over Half of Review Board’s Discipline Recommendations*, *N.Y. Times* (Mar. 16, 2023), <https://www.nytimes.com/2023/03/16/nyregion/nypd-discipline-recommendations.html> (on file with the *Columbia Law Review*).

45. See Maggie Hadley, Note, *Behind the Blue Wall of Silence: Racial Disparities in NYPD Discipline*, 53 *Colum. Hum. Rts. L. Rev.* 663, 688 tbl. 2 (2022) (showing that the CCRB recommended charges for less than 4% of complaints in 2018 and 2019, and less than 18% in the five years prior).

46. See Eric Umansky, *How the N.Y.P.D. Quietly Shuts Down Discipline Cases Against Officers*, *N.Y. Times* (June 27, 2024), <https://www.nytimes.com/2024/06/27/nyregion/how-the-nypd-quietly-shuts-down-discipline-cases-against-officers.html> (on file with the *Columbia Law Review*) (investigating then-commissioner Edward Caban’s history of intervening through retention authority to order “no discipline” for officers). It is worth noting that Caban also resigned from his post amid controversy and was temporarily replaced by the same commissioner Donlon discussed above in note 25. See Rachel Dobkin, *NYPD Commissioner Edward Caban Resigns Amid Federal Probe*, *Newsweek* (Sep. 12, 2024), <https://www.newsweek.com/nypd-commissioner-edward-caban-resigns-amid-federal-probe-1952916> (on file with the *Columbia Law Review*) (“New York City Police Commissioner Edward Caban, 57, resigned on Thursday amid a federal investigation in which multiple city officials, including Caban’s, phones were seized.”).

47. See Eric Umansky & Mollie Simon, *The NYPD Is Withholding Evidence From Investigations Into Police Abuse*, *ProPublica* (Aug. 17, 2020), <https://www.propublica.org/article/the-nypd-is-withholding-evidence-from-investigations-into-police-abuse> [https://perma.cc/RXT4-VQ9C] (“Despite its legal obligations, the NYPD has been withholding significant evidence and undermining investigations of alleged abuse. . . . An internal CCRB memo obtained by ProPublica enumerates roughly a dozen kinds of records withheld or redacted across the board . . .”).

48. N.Y.C., N.Y. Charter § 440(c) (2025).

49. Hadley, *supra* note 45, at 677 (citing Umansky & Simon, *supra* note 47).

are not immaterial, as cases have an eighteen-month statute of limitations during which penalties can be imposed.⁵⁰ This becomes a cyclical process: CCRB investigations are slow, in part because of NYPD delays; then the NYPD claims that it receives recommendations from the CCRB too late to implement its own disciplinary process within the statute of limitations; this in turn feeds CCRB discontent with the NYPD and disincentivizes internal procedural changes.⁵¹ At every stage in this cycle, civilians are the ones losing out, deprived of an opportunity to hold officers who have harmed them accountable for those actions.

B. *Police Secrecy via Civil Rights Law 50-a*

In 1976, a new policy further insulated the police from external oversight.⁵² The legislation, Civil Rights Law section 50-a, was pitched as protection against personnel file disclosures, an attempt to “prevent criminal defense lawyers from using such records in cross examination of police witnesses during criminal prosecutions.”⁵³ It also protected firefighters, paramedics, and correctional officers.⁵⁴ Supporters of the bill claimed that attorneys were making excessive requests for files to harass individual officers—an assertion never substantiated by any officers actually claiming harassment.⁵⁵ It has been argued that the legislation was instead written as a revanchist retaliation by a “newly organized constituency of resentful

50. See Letter from Joseph Gillooly, Audit Manager, N.Y. State Comptroller, to Jonathan Darche, Exec. Dir., CCRB 2 (Sep. 5, 2024), <https://www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2024-24f8.pdf> [<https://perma.cc/V5DG-22EV>] (reporting on the CCRB’s implementation of recommendations from an initial audit report in 2020).

51. See *id.* (“While CCRB officials attributed long investigation times in part to NYPD delays . . . they did not create effective ways to monitor causes of delays (whether internal or external) . . .”); see also Matt Troutman, NYPD’s Top Cop Brushed Off 100s of Cop Misconduct Penalties: Advocates, Patch (Mar. 16, 2023), <https://patch.com/new-york/new-york-city/nypds-top-cop-brushed-100s-cop-misconduct-penalties-advocates> [<https://perma.cc/S7Y6-RGVY>] (describing the NYPD’s claim that the “NYPD only received the cases with a ‘severely protracted timeframe’ to evaluate them” before the statute of limitations expired (quoting an NYPD spokesperson)).

52. N.Y. Civ. Rights Law § 50-a(1) (repealed 2020) (declaring that police personnel records “shall be considered confidential and not subject to inspection or review” without permission from the relevant officer or a court order).

53. Memorandum in Support of Legislation A09332, N.Y. State Assemb. (2020), https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A09332&term=2015&Memo=Y [<https://perma.cc/9UC5-E69U>].

54. See N.Y. Civ. Rights Law § 50-a(1) (listing personnel records of police officers, sheriffs, correction officers, firefighters, paramedics, probation officers, and peace officers as presumptively confidential).

55. Nick Pinto, How New York’s Law Shielding Cops From Scrutiny Became One of the Toughest in the Country, Gothamist (Mar. 10, 2020), <https://gothamist.com/news/ny-police-nypd-50a-cops-crime> (on file with *the Columbia Law Review*) [hereinafter Pinto, New York’s Law Shielding Cops] (“[N]owhere in the legislative record or any of the preserved lobbying materials is any evidence that police officers were actually suffering any harassment or violation of their civil rights.”).

police” pushing back against the Civil Rights Movement.⁵⁶ The bill took multiple attempts to become law, as then-Governor Hugh Carey was repeatedly encouraged to veto it by staff who felt “very strongly” that 50-a ran against his pledges to end the “intolerable cancer” of corruption in law enforcement.⁵⁷

In the years after its passage, New York courts drastically expanded 50-a’s scope. At first, courts read the statute narrowly, finding that 50-a was “only intended to prevent a litigant in a civil or criminal action from obtaining documents in a police officer’s file that are not directly related to that action.”⁵⁸ Yet just two years later, the New York Court of Appeals changed course, deciding that the “legislative purpose” of 50-a “would be served by granting the statutory protection before as well as after commencement of an action.”⁵⁹ Thus, even without pending litigation, the court decided that personnel records were protected from disclosure.⁶⁰ By 1999, the court of appeals had decided that personnel records were protected not only from courtroom disclosure for hypothetical future litigation but also from release to the public or press.⁶¹ This left open the possibility that personnel records could be made public if redacted enough to “preclude use in personal attacks”;⁶² this thin window was closed after 2014.⁶³ In 2018, the courts even blocked the public release of

56. *Id.* (“[50-a] was passed into law over the objections of legislators, civil liberties groups, and law enforcement officials who accurately predicted the kind of unaccountability for police violence and corruption the law would foster.”).

57. *Id.* (internal quotation marks omitted) (quoting Maurice Nadjari, Deputy Att’y Gen., Off. of the N.Y. State Att’y Gen.). Another member of the Attorney General’s Office, Special Deputy Attorney General Joseph Hoey, wrote in his opposition: “The public should feel it has the opportunity to review the justification for continuing the employment of members of the criminal justice system.” *Id.* (internal quotation marks omitted) (quoting Joseph Hoey, Special Deputy Att’y Gen., Off. of the N.Y. State Att’y Gen.).

58. *Cap. Newspapers Div. of the Hearst Corp. v. Burns*, 496 N.E.2d 665, 667 (N.Y. 1986).

59. *Prisoners’ Legal Servs. of N.Y. v. N.Y. State Dep’t of Corr. Servs.*, 535 N.E.2d 243, 244 (N.Y. 1988) (emphasis omitted) (citing *Prisoners’ Legal Servs. of N.Y. v. N.Y. State Dep’t of Corr. Servs.*, 526 N.Y.S.2d 526, 528 (N.Y. App. Div. 1988), *aff’d*, 535 N.E.2d 243).

60. *Id.* at 247 (Titone, J., dissenting) (“I am even more troubled by the majority’s conclusion that this statutory exception to the general rule of disclosure is operative even where there is no pending litigation.”).

61. See *Daily Gazette Co. v. City of Schenectady*, 710 N.E.2d 1072, 1075–76 (N.Y. 1999) (affirming that disclosing officer records to the press would lead to unlawful harassment; in this case, the records sought were identifications of which officers had been disciplined after a charter bus bachelor party known to be full of Schenectady police officers pelted civilians with raw eggs); see also Pinto, *New York’s Law Shielding Cops*, *supra* note 55 (describing the evolution of 50-a jurisprudence).

62. *Schenectady*, 710 N.E.2d at 1078.

63. See Pinto, *New York’s Law Shielding Cops*, *supra* note 55 (detailing public defender Cynthia Conti-Cook’s and the NYCLU’s ultimately unsuccessful efforts to access NYPD records of the outcome of disciplinary proceedings against Officer Daniel Pantaleo, the policeman who killed Eric Garner).

written decisions resulting from completed disciplinary investigations.⁶⁴ Section I.C explains how, after decades of this expansion and entrenchment, 50-a was eventually repealed.

C. *The Movement to Repeal 50-a*

In the years after 50-a's inception, movements for police transparency were relatively consistent. Survivors and family members of people who experienced police violence long advocated for the release of police records, hoping for information as a tool for justice.⁶⁵ The push to repeal 50-a in particular became most prominent after the death of Eric Garner, who was killed by NYPD Officer Daniel Pantaleo in 2014.⁶⁶ While he lay dying, Officer Pantaleo's chokehold muffling his words, Garner repeated—eleven times, over and over: “I can’t breathe.”⁶⁷ Those words have since become an infamous, integral part of Black Lives Matter and racial justice movements,⁶⁸ yet the NYPD successfully prevented Officer Pantaleo's extensive record of CCRB complaints from being released under 50-a when Garner's family tried to access them.⁶⁹

64. See *NYCLU v. N.Y. Police Dep't*, 118 N.E.3d 847, 849 (N.Y. 2018) (holding that the outcomes of disciplinary investigations are themselves covered by 50-a's protection against disclosure).

65. See Conti-Cook, 50-a, *supra* note 22, at 51 (noting the “harm secrecy caused[] to families fighting for information” and those seeking justice).

66. Much has been written about Eric Garner and the City's response to his murder. For an overview of the story of his killing and the NYPD's subsequent targeting of Garner's friend Ramsey Orta, who filmed and initially publicized the incident, see Chloé Cooper Jones, *Fearing for His Life*, *The Verge* (Mar. 13, 2019), <https://www.theverge.com/2019/3/13/18253848/eric-garner-footage-ramsey-orta-police-brutality-killing-safety> (on file with the *Columbia Law Review*).

67. See, e.g., Johanna Miller, *Four Years After Eric Garner's Death, We're Still Waiting for Justice*, *NYCLU* (July 17, 2018), <https://www.nyclu.org/commentary/four-years-after-eric-garner-death-were-still-waiting-justice> [<https://perma.cc/JE98-RSKH>] (internal quotation marks omitted) (quoting Garner) (“[Garner's] last words, ‘I can’t breathe’—repeated 11 times while half a dozen officers did nothing to intervene—helped fuel a movement for police accountability that continues today.” (quoting Garner)). For a detailed recounting of the incident and Garner's life, see generally Matt Taibbi, *I Can't Breathe: A Killing on Bay Street* (2017). This author does not recommend watching the video of Garner's death, which won't be directly cited here. See Margo Snipe & Christina Carrega, *The Tyre Nichols Video Is Coming Out. You Don't Have to Watch.*, *Cap. B* (Jan. 27, 2023), <https://capitalbnews.org/tyre-nichols-memphis-video/> [<https://perma.cc/ZJ69-FPYN>] (describing how powerful footage can force the American public to reckon with racism; however, these images and videos “risk traumatizing viewers,” particularly Black viewers, and also contribute to “desensitizing the public to the loss of human life at the hands of [police]”).

68. See Keeanga-Yamahtta Taylor, *From #BlackLivesMatter to Black Liberation* 10 (2016) (describing the mobilization to “demand an end to rampant police brutality and murder against African Americans,” inspired in part by Eric Garner's words).

69. See Sonia Moghe, *Disciplinary Record of Ex-Officer Who Held Eric Garner in Chokehold Is Finally Released*, *CNN*, <https://www.cnn.com/2020/06/23/us/eric-garner-officer-misconduct-complaints/index.html> [<https://perma.cc/M4ZC-2AVF>] (last updated June 23, 2020) (describing how Officer Pantaleo's misconduct record was not released until 2020, after the repeal of 50-a). Officer Pantaleo's record was, however, leaked to the press

At that point, even portions of the state government agreed that 50-a had gone too far: Soon after Garner's death, the New York State Committee on Open Government called for changes to the police secrecy law.⁷⁰ By 2016, then-Mayor Bill de Blasio came out in favor of altering the law.⁷¹ Eventually, the police commissioner partially relented, indicating support in 2019 for legislation that would make public very limited portions of misconduct records: "[N]ames, charges, documents and outcomes."⁷² The gradual turning of the political tide might give the impression that the NYPD was preparing for years for the law to be repealed. But instead, this oversaturation made each additional call for its repeal less potent—especially after the backlash against New York's bail reform⁷³—and high-

before the repeal. See Carimah Townes & Jack Jenkins, Exclusive Documents: The Disturbing Secret History of the NYPD Officer Who Killed Eric Garner, ThinkProgress (Mar. 21, 2017), <https://archive.thinkprogress.org/daniel-pantaleo-records-75833e6168f3/> [<https://perma.cc/4RCS-FRM6>] ("Now, documents obtained exclusively by ThinkProgress indicate that Pantaleo, who is still employed by the NYPD, had a history of breaking the rules. These records are the subject of an ongoing lawsuit, and the city refuses to release them.").

70. Comm. on Open Gov't, N.Y. Dep't of State, Annual Report to the Governor and State Legislature, S. 200-1, 2d Sess., at 4 (2014), <https://opengovernment.ny.gov/system/files/documents/2021/12/2014-annual-report.pdf> (on file with the *Columbia Law Review*) ("The interactions between the public and the police can be filled with tension, more so than any other public agency. . . . It is time to correct this regrettable situation and require the same level of public disclosure for police departments as is required from other public agencies.").

71. Rick Rojas & J. David Goodman, De Blasio Calls for Change in Law that Blocks Release of Police Disciplinary Actions, N.Y. Times (Oct. 14, 2016), <https://www.nytimes.com/2016/10/15/nyregion/de-blasio-calls-for-change-in-law-that-blocks-release-of-police-disciplinary-actions.html> (on file with the *Columbia Law Review*) ("Without significant changes to [50-a], the city remains barred from providing New Yorkers with the transparency we deserve,' the mayor said. 'We hope advocates for greater transparency will join us in the effort to reform this state law.'" (quoting then-Mayor Bill de Blasio)).

72. Ali Watkins & Ali Winston, After Critical Report, Police Commissioner Pushes for More Sunlight on Disciplinary Files, N.Y. Times (Feb. 1, 2019), <https://www.nytimes.com/2019/02/01/nyregion/nypd-discipline-transparency.html> (on file with the *Columbia Law Review*) (internal quotation marks omitted) (quoting James P. O'Neill, Police Comm'r, NYPD). This acquiescence reflects a widespread police tendency to support reforms that give the appearance of public legitimacy without ceding control over discipline to nonpolice actors. See Tony Cheng, The Policing Machine: Enforcement, Endorsements, and the Illusion of Public Input 11 (2024) ("Indeed, police support for the various reforms proposed after the murder of Michael Brown differed based on whether individual departments retained decision-making over reform implementation . . . or became subject to changes imposed by external decision-makers . . .").

73. See Nick Pinto, New York's Thin Blue Line Is Protected by a Thick Black Curtain, Gothamist (Mar. 3, 2020), <https://gothamist.com/news/new-yorks-thin-blue-line-protected-thick-black-curtain> (on file with the *Columbia Law Review*) [hereinafter Pinto, Thick Black Curtain] ("The coming 2020 election will put the Senate majority up for grabs again The vehemence of this backlash [against bail reform] hasn't surprised reform advocates, but the degree to which their nominal allies in elected office have appeared to cave to it has.").

profile missed opportunities to gain momentum gave the impression that 50-a was here to stay.⁷⁴

It was not until George Floyd's murder in Minneapolis, as calls for increased police transparency and accountability ricocheted across the country,⁷⁵ that the status quo in New York became untenable. After Floyd's death, at least ten states introduced new legislation to mandate that public databases publish police misconduct records, and additional states have since opted for laws that require police misconduct and decertification records to be made publicly available upon request.⁷⁶ In New York, the state legislature voted to repeal 50-a, explicitly specifying "law enforcement disciplinary records" as a category of public records eligible to be newly disclosable under FOIL.⁷⁷ No longer would police misconduct records be hidden from public view.

The change came swiftly. The repeal was introduced to the legislature on June 5, 2020, passed the state senate and assembly on June 9, and was signed by the governor by June 12.⁷⁸ The changes to the FOIL process immediately went into effect.⁷⁹ This kind of speed is notable, as bills are often debated for months, and New York, in particular, has not been known for its legislative haste.⁸⁰ The quickness with which the legislature

74. For example, in then-Governor Andrew Cuomo's 2020 State of the State speech and accompanying report, the section dedicated to improving "[r]espect and trust" between police and communities after several high-profile incidents made no mention of repealing the law. See Andrew M. Cuomo, Making Progress Happen: 2020 State of the State 228 (2020), <https://www.governor.ny.gov/sites/default/files/atoms/files/2020StateoftheStateBook.pdf> [<https://perma.cc/WW59-5R38>]. Even attempts to repeal or restrict 50-a in the 2019 to 2020 legislative session seemed doomed for the "late-season languishing and opaque budget-season horse-trading that often kills legislation in Albany." Pinto, *Thick Black Curtain*, *supra* note 73.

75. See, e.g., Ram Subramanian & Leily Arzy, *State Policing Reforms Since George Floyd's Murder*, Brennan Ctr. Just. (May 21, 2021), <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder> [<https://perma.cc/G2XU-VB92>] ("The police killing of George Floyd ignited a mass movement centered on persistent police violence against Black Americans and intensified calls for systemic change in American policing.").

76. *Id.*

77. Freedom of Information Law, N.Y. Pub. Off. Law §§ 86–90 (McKinney 2025). Less relevant to this Note, but still worth mentioning, is the fact that the repeal of 50-a also made personnel records of firefighters and corrections officers FOIL-able. *Id.* Other public employee disciplinary records remain available through FOIL. *Id.*

78. See Assembly Bill A10611, N.Y. St. Senate, <https://www.nysenate.gov/legislation/bills/2019/A10611> [<https://perma.cc/39VK-EYHV>] (last visited Aug. 15, 2025) (detailing the process through which the bill became New York law).

79. *Id.*

80. See, e.g., Gerald Benjamin, *Reform in New York: The Budget, the Legislature, and the Governance Process*, 67 *Alb. L. Rev.* 1021, 1024 (2004) ("Frustrations with the performance of the peak political institutions of state government in New York are not limited to the fiscal arena. . . . [O]bservers again remarked upon the dearth of legislative productivity . . ."); Pinto, *Thick Black Curtain*, *supra* note 73 (describing the general difficulty of getting legislation passed in New York).

introduced, passed, and implemented the repeal of 50-a makes it a prime candidate for ITS analysis.⁸¹ Importantly for constituents, though, it took years of FOIL requests and litigation for many of the affected records to actually become public.⁸²

The professionals working to publicize the NYPD misconduct data, whose lawsuits were argued for years before this data came to light, present transparency as “crucial information needed to help achieve meaningful accountability.”⁸³ This framing is noteworthy because it highlights the conflict between the aspirations of transparency movements and the reforms’ impact once implemented. In the case of repealing 50-a, the hope was that police officers would be less likely to engage in misconduct once their personnel records could become public.⁸⁴ If their actions could be made public, then officers’ careers could suffer, and that might make them less likely to engage in misconduct. Leaders of the campaign against 50-a asserted that repealing the law would “*prevent* such abuses and injustices from happening.”⁸⁵

This argument was paired with the expectation that repealing 50-a would bring accountability *after* police violence.⁸⁶ Transparency about misconduct investigations was presented as a way to remove “barriers to justice” after the fact, forcing the NYPD to address officer harm once it

81. See *infra* section II.A.2.

82. See CAP, LELU, *supra* note 18 (providing law enforcement misconduct data in a public database and describing the process of suing for those records).

83. *Id.*

84. See, e.g., Press Release, Cmty. United for Police Reform, Police Accountability Groups & Elected Officials Urge the New York State Legislature to Pass the #SaferNYAct and Repeal NY’s Police Secrecy Law (Feb. 5, 2020), <https://www.changethenypd.org/releases/police-accountability-groups-elected-officials-urge-new-york-state-legislature-pass> (on file with the *Columbia Law Review*) (“It’s time for legislators to repeal the police secrecy law 50a . . . to help protect New Yorkers from abusive policing.” (internal quotation marks omitted) (quoting Quadira Coles, Spokesperson, Cmty. United for Police Reform)); Press Release, NYCLU, NYCLU Statement on Passage of 50-A Repeal (June 10, 2020), <https://www.nyclu.org/press-release/nyclu-statement-passage-50-repeal> [<https://perma.cc/ZEY7-645H>] [hereinafter NYCLU, Statement on 50-a Repeal] (portraying the repeal as “mak[ing] it harder for police departments to cover up abuse and to look the other way,” as well as a “powerful message that the old system of police violence” will no longer be tolerated (internal quotation marks omitted) (quoting Donna Lieberman, Exec. Dir., NYCLU)).

85. Help Repeal 50-A to Stop Hiding Police Disciplinary Records From the Public, Innocence Project, <https://innocenceproject.org/petitions/repeal-50-A-to-stop-hiding-police-disciplinary-records-from-the-public/> [<https://perma.cc/V47V-7L44>] (last visited Aug. 16, 2025) (emphasis added).

86. See, e.g., Cop Accountability Project, Legal Aid Soc’y, <https://legalaidnyc.org/programs-projects-units/the-cop-accountability-project/> [<https://perma.cc/MM9Y-3NGN>] (last visited Aug. 16, 2025) (describing how 50-a shielded “the NYPD’s long-standing failure to take [official] misconduct seriously”); #Repeal50A and End Police Secrecy in New York, NAACP Brooklyn Branch, <https://www.brooklynnaacp.org/repeal50a> [<https://perma.cc/9DG3-LDYE>] (last visited Aug. 16, 2025) (“A repeal of 50-a would . . . help address the systemic lack of accountability for officers who engage in misconduct.”).

happened.⁸⁷ For years, activists, survivors, and family members of those killed or injured by police had been “routinely rebuffed” when trying to gain access to information about consequences for officers.⁸⁸ They felt rebuked by their government and were also practically limited in fighting back against misconduct.⁸⁹ But did this legal change they pushed for accomplish either goal, of preventing misconduct or forcing accountability after the fact?

Transparency studies theorists have previously hypothesized about the impact of transparency measures,⁹⁰ but after a new policy is introduced, researchers are often forced to rely on self-reported behavioral changes.⁹¹ Interviews and self-reports are useful for context, but less so for measuring decisionmaking as it happens. Reporting the way people feel about what they did, or reflecting on their thought development afterward, involves a process of meaning-making and is thus somewhat inherently unreliable if a researcher’s aim is to prove a causal relationship between stimulus and action.⁹² In contrast, by analyzing contemporaneous data on misconduct investigations during the period of change, this Note is a unique contribution to the field of transparency studies because it measures behavior as it occurred.

II. EMPIRICAL ANALYSIS OF POLICE MISCONDUCT AFTER THE REPEAL OF 50-A

Using ITS analysis, this Part tests whether the repeal of 50-a impacted misconduct patterns by NYPD officers. Analysis shows that the repeal did not render officers less likely to engage in misconduct, as advocates had hoped. Nevertheless, there exists some evidence for second-order effects of the repeal, indicated by an increase in investigative journalistic pieces about NYPD misconduct in the years since the repeal.

87. NYCLU, Statement on 50-a Repeal, *supra* note 84.

88. *Id.*

89. Conti-Cook, 50-a, *supra* note 22, at 55–58 (describing the circumstances and rise of the 50-a repeal coalition).

90. See, e.g., Ian Adams & Sharon Mastracci, Visibility Is a Trap: The Ethics of Police Body-Worn Cameras and Control, 39 Admin. Theory & Praxis 313, 314 (2017) (complicating pro-transparency perspectives “through a theoretical critique of the *surveillant* technology” in use by police); Jonathan Fox, The Uncertain Relationship Between Transparency and Accountability, 17 Dev. Prac. 663, 664 (2007) (“[T]he actual evidence on transparency’s impacts on accountability is not as strong as one might expect.”); Kate Levine, Discipline and Policing, 68 Duke L.J. 839, 849–58 (2019) (critiquing the “transparency cure” framing of the release of police disciplinary records).

91. See, e.g., Rachel Moran & Jessica Hodge, Law Enforcement Perspectives on Public Access to Misconduct Records, 42 Cardozo L. Rev. 1237, 1252–58 (2021) (describing the process of asking law enforcement administrators about misconduct record release procedures and the impact of changes).

92. For an in-depth discussion of the challenges of assessing self-reported motivated action, see Mario L. Small & Jenna M. Cook, Using Interviews to Understand Why: Challenges and Strategies in the Study of Motivated Action, 52 Socio. Methods & Rsch. 1591, 1592 (2023).

A. *Researching Police Misconduct*

Any study of police misconduct relies on an understanding of what the label “misconduct” implies in this context; however, defining the term is not such an easy feat.⁹³ Police engage in normal occupational misconduct, such as corruption and departmental rule-breaking; police-specific misconduct, such as physical brutality or other civilian abuse; and regular crimes, which may or may not be aided by their position as officers of the law.⁹⁴ These categories are not mutually exclusive, and they overlap, making scholarly consistency difficult.⁹⁵ As a threshold matter, this Note delineates between “external” misconduct, related to an abuse of authority, and “internal” misconduct, which falls more along the lines of occupational deviance.⁹⁶ In the NYPD, responses to misconduct are determined by their categorization, as misconduct is investigated and overseen by several different agencies.⁹⁷ The analysis in this Note focuses on the CCRB and civilian-reported misconduct.

Studies of external police misconduct have found consensus in several key areas. It is clear that male officers are more likely to commit misconduct than female officers.⁹⁸ Officers exposed to peers engaging in misconduct are more likely to engage it in themselves,⁹⁹ as are less

93. See, e.g., James J. Fyfe & Robert Kane, *Bad Cops: A Study of Career-Ending Misconduct Among New York City Police Officers* 8 (2005), <https://www.ojp.gov/pdffiles1/nij/grants/215795.pdf> [<https://perma.cc/T3U9-K5LD>] (“When we began our examination of the data, however, it became apparent that this distinction [of what constitutes police misconduct] was not nearly as clearcut as we all had believed.”).

94. See Maurice Punch, *Police Corruption and Its Prevention*, 8 *Eur. J. on Crim. Pol’y & Rsch.* 301, 302–03 (2000) (differentiating between types of police deviance).

95. See Louise E. Porter, *Police Misconduct*, in *Critical Issues in Policing: Contemporary Readings* 261, 262–63 (Roger G. Dunham, Geoffrey P. Alpert & Kyle D. McLean eds., 8th ed. 2021) (“A lack of consistent definitions [across studies of police misconduct] can also hinder scholarship by limiting the comparability of findings, therefore limiting understanding.”).

96. See Thomas Barker & David L. Carter, *A Typology of Police Deviance*, in *Police Deviance* 3, 6–9 (Thomas Barker & David L. Carter eds., 2d ed. 1991) (defining police deviance in a two-point typology of abuse of authority and occupational deviance).

97. See James Yates, *Report to the Court on Police Misconduct and Discipline* 28–31 (2024), <https://www.nypdmonitor.org/wp-content/uploads/2024/09/Discipline-Report.pdf> [<https://perma.cc/93VK-6Q2G>] (describing the various ways in which NYPD misconduct is reported and investigated).

98. See, e.g., Timothy I.C. Cubitt, Janne E. Gaub & Kristy Holtfreter, *Gender Differences in Serious Police Misconduct: A Machine-Learning Analysis of the New York Police Department (NYPD)*, 82 *J. Crim. Just.*, Sep.–Oct. 2022, at 1, 6 (“Across each misconduct type, the rate of complaints accrued by male officers exceeded that of female officers.”).

99. See Marie Ouellet, Sadaf Hashimi, Jason Gravel & Andrew V. Papachristos, *Network Exposure and Excessive Use of Force: Investigating the Social Transmission of Police Misconduct*, 18 *Criminology & Pub. Pol’y* 675, 690 (2019) (“Officers who were embedded in networks with a greater proportion of colleagues previously named in use of force complaints were more likely to be named in subsequent use of force complaints.”); see also Punch, *supra* note 94, at 304 (“Police officers have to be initiated into these

educated officers.¹⁰⁰ And leadership attitudes—particularly department cultures aligned with a “blue code of silence” or a “bad apples” approach to misconduct—are also associated with higher volumes of misconduct complaints;¹⁰¹ a full-time internal affairs unit and specific department training are negatively associated with police misconduct.¹⁰²

Race is a noticeably less concrete predictor.¹⁰³ Statistically, race is difficult to separate from confounding variables such as rank or assignment, which impact officer engagement with the public and relative dominance within a department.¹⁰⁴ Black officers, for example, are more likely to be assigned to high-contact beats, and they are less likely to hold positions of power within a department.¹⁰⁵ This means that Black officers, on average, interact more with the public in contentious ways and are less likely to have the sway needed to get rid of complaints. After misconduct occurs, however, race plays a clear role during the complaint investigation process. When Black and white officers receive equal numbers of complaints, those lodged against Black officers are more likely—and complaints lodged by Black civilians less likely—to be sustained as compared to those against

practices, rationalisations have to be produced to accept them, supervisors have to collude or turn a blind eye, justifications have to be sought to continue them, and organisations have either in some way to condone or encourage these activities . . .”).

100. Robert J. Kane & Michael D. White, *Bad Cops: A Study of Career-Ending Misconduct Among New York City Police Officers*, 8 *Criminology & Pub. Pol’y* 737, 763 (2009) (describing the inverse relationship between college education and misconduct).

101. See William Terrill & Jason R. Ingram, *Citizen Complaints Against the Police: An Eight City Examination*, 19 *Police Q.* 150, 171 (2016) (describing how internal misconduct review procedures significantly reduce the odds of sustained allegations as compared to external citizen oversight review systems); George Wood, Daria Roithmayr & Andrew V. Papachristos, *The Network Structure of Police Misconduct*, *Socius*, Oct. 10, 2019, at 1, 3, 15 <https://journals-sagepub-com.ezproxy.cul.columbia.edu/doi/10.1177/2378023119879798> (on file with the *Columbia Law Review*) (internal quotation marks omitted) (“[O]fficer networks appear to play an important role in the emergence and possibly even persistence of misconduct.”).

102. David Eitle, Stewart J. D’Alessio & Lisa Stolzenberg, *The Effect of Organizational and Environmental Factors on Police Misconduct*, 17 *Police Q.* 103, 115 tbl. 2 (2014).

103. Andrea M. Headley & Kwan-Lamar Blount-Hill, *Race and Police Misconduct Cases*, *Oxford Rsch. Encyc. Criminology & Crim. Just.*, May 26, 2021, at 1, 6 (“[T]urning to the race of the officer, the current research is mixed regarding whether racial or ethnic demographics correlate with the frequency of complaints that officers receive.”).

104. Kane & White, *supra* note 100, at 742 (“[T]he link between race and misconduct has been confounded by both patterns of differential rule enforcement and assignments.”).

105. See James J. Fyfe, Robert J. Kane, George A. Grasso & Michael Ansbro, *Gender, Race, and Discipline in the New York City Police Department 10–11* (1998), https://dc.lib.jjay.cuny.edu/index.php/Detail/Object/Show/object_id/7148 [<https://perma.cc/U74V-EAU5>] (“16.5 percent of white officers held supervisory rank, as compared to 4.6 percent and 6.3 percent for [B]lack and Hispanic officers, respectively. . . . [Lower-level] NYPD officers’ work consists largely of contacts with citizens in the emotional situations that give rise to complaints.”).

white officers and by white complainants.¹⁰⁶ The process of sustaining an allegation is itself biased in favor of in-group members, especially when investigations are handled within a department.¹⁰⁷ For the NYPD, this means not that the department “targets and over-punishes” nonwhite officers but instead that nonwhite officers receive a “less flagrant degree of leniency” as compared to white officers, and that “patterns of racial bias by the NYPD against civilians are replicated internally by the department.”¹⁰⁸

Body-worn cameras add another layer of information to misconduct investigations. In 2013, a federal judge ordered the NYPD to pilot its first body-worn camera (BWC) program under supervision of a court-appointed monitor.¹⁰⁹ Though it was not fully operational until 2019,¹¹⁰ the NYPD’s BWC program raised concerns even before it began, including over the decisions to not automatically release footage, to give officers a chance to review footage before giving their statements to investigators, and to not require that all investigative encounters be recorded.¹¹¹ Even

106. See Bryan K. Stroube, *Using Allegations to Understand Selection Bias in Organizations: Misconduct in the Chicago Police Department*, 166 *Organizational Behav. & Hum. Decision Processes* 149, 157–59 (2021).

107. See Rachel Moran, *In Police We Trust*, 62 *Vill. L. Rev.* 953, 957 (2017) (“[M]ost complaint review systems are so deferential to the police that officers are very rarely held accountable in any meaningful way for their misconduct.”).

108. Hadley, *supra* note 45, at 700.

109. *Floyd v. City of New York*, 959 F. Supp. 2d 668, 685 (S.D.N.Y. 2013) (introducing the BWC program to help determine “the effectiveness of body-worn cameras in reducing unconstitutional stops and frisks”). For more context on the *Floyd* case, see *infra* note 148 and accompanying text.

110. See Press Release, NYPD, *NYPD Completes Rollout of Body-Worn Cameras to All Officers on Patrol* (Mar. 6, 2019), <https://www.nyc.gov/site/nypd/news/pr0306/nypd-completes-rollout-body-worn-cameras-all-officers-patrol> [<https://perma.cc/236F-CDJX>] (“[A]ll uniform patrol officers in New York City—including Police Officers, Sergeants and Lieutenants assigned to every precinct, transit district and Police Service Area—are now equipped with body-worn cameras.”).

111. See Ian Head & Darius Charney, *Opinion, Don’t Let the N.Y.P.D. Co-Opt Body Cameras*, *N.Y. Times* (Apr. 27, 2017), <https://www.nytimes.com/2017/04/27/opinion/dont-let-the-nypd-co-opt-body-cameras.html> (on file with the *Columbia Law Review*) (“[T]he department policy that governs how the cameras will be used is so flawed that the pilot program may do little to protect New Yorkers’ civil rights. Instead, it might shield police officers from accountability when they engage in misconduct.”); Press Release, NYCLU, *NYPD Body Camera Policy Ignores Community Demands for Police Accountability* (Apr. 7, 2017), <https://www.nyclu.org/press-release/nypd-body-camera-policy-ignores-community-demands-police-accountability> [<https://perma.cc/QG7C-4ZDG>] (explaining issues raised during the public comment period for the NYPD’s draft BWC policy, as well as continuing issues with the final policy). Unease about the program was not limited to advocacy groups. See, e.g., Mark G. Peters & Philip K. Eure, *Off. of the Inspector Gen. for the NYPD, Body-Worn Cameras in NYC: An Assessment of NYPD’s Pilot Program and Recommendations to Promote Accountability* 27–28 (2015), <https://www.nyc.gov/html/oignypd/assets/downloads/pdf/nypd-body-camera-report.pdf> [<https://perma.cc/QFS2-2R7E>] (detailing the Office of the Inspector General’s concerns about officers’ ability to review BWC footage before giving their statements).

with the broad leeway granted to officers, the department has repeatedly broken its own BWC policies.¹¹² Since their deployment across the force, BWCs have “largely functioned as evidence-gathering devices,”¹¹³ rather than accountability tools, and community perception of the NYPD has not changed.¹¹⁴ But BWCs do produce new information by recording police interactions, evidence of which would not otherwise exist. This has enabled the CCRB to corroborate some additional complaints against NYPD officers.¹¹⁵ In contrast, releasing police misconduct records merely changes who can access existing information, rather than creating new data about police behavior. Policymakers have raised both policies—increasing transparency through records releases and BWC usage—as steps toward police accountability.¹¹⁶ But research about the impact of BWCs is inconclusive,¹¹⁷ and there is little existing evidence about the impact of

112. See CCRB, *Strengthening Accountability: The Impact of the NYPD’s Body-Worn Camera Program on CCRB Investigations* 9 (2020), https://a860-gpp.nyc.gov/concern/parent/pc289k69r/file_sets/0v8382339 (on file with the *Columbia Law Review*) [hereinafter CCRB, *Strengthening Accountability*] (“During its review of BWC footage, the CCRB found that officers often failed to properly use their cameras by turning on the BWC late, turning the BWC off early, or not turning the BWC on at all, in violation of PG § 212.123.”); Eric Umansky & Umar Farooq, *How Police Have Undermined the Promise of Body Cameras*, ProPublica (Dec. 14, 2023), <https://www.propublica.org/article/how-police-undermined-promise-body-cameras> [<https://perma.cc/9CFJ-FYTF>] (“[A]fter George Floyd’s killing . . . the New York Police Department said it would publish footage of so-called critical incidents ‘within 30 days.’ There have been 380 such incidents since then. The department has released footage within a month just twice. And the department often does not release video at all.”).

113. Ángel Díaz, Brennan Ctr. for Just., *New York City Police Department Surveillance Technology* 12 (2019), https://www.brennancenter.org/sites/default/files/2019-10/2019_10_LNS_%28NYPD%29Surveillance_Final.pdf [<https://perma.cc/DEK2-7H53>].

114. Anthony A. Braga, John M. MacDonald & Lisa M. Barao, *Do Body-Worn Cameras Improve Community Perceptions of the Police? Results From a Controlled Experimental Evaluation*, 19 J. Experimental Criminology 279, 301 (2023) (finding “no genuine statistically significant differences in citizen perceptions of the NYPD generated by the deployment of BWCs on NYPD officers in the treatment relative to control precincts”).

115. See CCRB, *Strengthening Accountability*, supra note 112, at 7 (“BWC footage allows the [CCRB] to substantiate a greater proportion of Discourtesy and Offensive Language allegations.” (emphasis omitted)).

116. See, e.g., *id.* at 4 (“BWCs have significantly increased the probability that a complaint will be closed on the merits . . .”); Memorandum in Support of Legislation A09332, supra note 53 (supporting the repeal of 50-a for the purpose of “positively affect[ing] public trust in law enforcement”).

117. See, e.g., Cynthia Lum, Christopher S. Koper, David B. Wilson, Megan Stoltz, Michael Goodier, Elizabeth Eggins, Angela Higginson & Lorraine Mazerolle, *Body-Worn Cameras’ Effects on Police Officers and Citizen Behavior: A Systematic Review*, Campbell Systematic Revs., Sep. 2020, at 1, 2 (“[T]he way BWCs are currently being used may not substantially affect most officer or citizen behaviors. The use of BWCs does not have consistent or significant effects on officers’ use of force, arrest activities, proactive or self-initiated activities, or other measured behaviors.”); Research on Body-Worn Cameras and Law Enforcement, Nat’l Inst. Just. (Jan. 7, 2022), <https://nij.ojp.gov/topics/articles/research-body-worn-cameras-and-law-enforcement> [<https://perma.cc/6DUL-ZZEN>] (“Despite

releasing records on misconduct behavior. The repeal of 50-a presents an opportunity to study whether the release of misconduct records has a similarly negligible effect on officer behavior.

B. *Current Study*

This Note utilizes interrupted time series (ITS) analysis to isolate the moment of 50-a's repeal, investigating whether police misconduct patterns changed after officers learned their records would become publicly available.

1. *ITS Analysis.* — ITS analysis uses repeated observations of a variable before and after an intervention to test for a change in that variable after the intervention was introduced.¹¹⁸ Because the legislature signed the repeal into law so quickly after it was introduced,¹¹⁹ and thus the usual challenge of defining the pre- and postintervention periods is less applicable, the repeal presents a rare opportunity to apply the statistical power of ITS to evaluate a new transparency law in real time. And because misconduct is a short-term outcome, recorded daily (reflecting both a potential for rapid adaptation to intervention and a sequential measure of data), this CCRB data is well-suited for ITS design.¹²⁰ Finally, a quasi-experimental design¹²¹ such as ITS is apposite because it can statistically approximate the effect of an exogenous shock without exposing the public to randomly assigned police violence.¹²²

As a general matter, statistical adequacy of ITS models increases when the number of time points increase.¹²³ Because the pandemic greatly

their widespread and growing adoption, the current evidence regarding the effectiveness of body-worn cameras is mixed.”).

118. In this case, the variable being tracked is police misconduct, measured through substantiated CCRB complaints. The intervention in question was the repeal of 50-a.

119. See *supra* note 78 and accompanying text.

120. See James Lopez Bernal, Steven Cummins & Antonio Gasparrini, Interrupted Time Series Regression for the Evaluation of Public Health Interventions: A Tutorial, 46 *Int'l J. Epidemiology* 348, 349–50 (2017) (describing the types of interventions that are well-suited for ITS designs).

121. Quasi-experimental designs do not randomly assign treatment and control groups, as would a true experiment. Instead, a quasi-experiment identifies a comparison group that shares as many baseline characteristics with the treatment group as possible. This approximates experimental conditions for research conditions under which a true experiment is not feasible. See Donald T. Campbell & Julian C. Stanley, *Experimental and Quasi-Experimental Designs for Research* 34 (1963) (introducing the concept of a quasi-experimental design).

122. See Marin L. Schweizer, Barbara I. Braun & Aaron M. Milstone, Research Methods in Healthcare Epidemiology and Antimicrobial Stewardship—Quasi-Experimental Designs, 37 *Infection Control & Hosp. Epidemiology* 1135, 1135–36 (2016) (describing the advantages of quasi-experimental studies, including their propriety for situations in which randomization would be unethical).

123. See, e.g., Fang Zhang, Anita K. Wagner & Dennis Ross-Degnan, Simulation-Based Power Calculation for Designing Interrupted Time Series Analyses of Health Policy Interventions, 64 *J. Clinical Epidemiology* 1252, 1259 (2011) (“As anticipated, power

disrupted the functioning of social and police activity, this Note begins its selection period on March 11, 2020, the day that COVID-19 was declared a pandemic, ninety-three days before the repeal.¹²⁴ The study period ends the same number of days after the repeal was passed, on September 14, 2020, for a total study period of 187 days.¹²⁵ To account for variation in public activity and police contact between these two disparate points in the pandemic, the ITS model presented in Table 1 introduces a control for total daily police arrests.¹²⁶

2. *ITS Methodology.* — The CCRB now publishes its complaint data online, accessible through the city's OpenData portal or the agency's website.¹²⁷ This Note analyzes substantiated complaints against police officers, which include only fully investigated instances of misconduct.¹²⁸ This likely results in a conservative estimate of police misconduct, as substantiation is only possible with considerable evidence,¹²⁹ and undercounts incidents

increased when the number of time points included in the time series analysis increased . . .").

124. See Tedros Adhanom Ghebreyesus, Dir.-Gen., WHO, Opening Remarks at Media Briefing on COVID-19 (Mar. 11, 2020), <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19—11-march-2020> [https://perma.cc/2ZKK-8S5N].

125. In narrowing results to the pandemic, there is a potential temporal mismatch between the time marker, the date of the incident, and the substantiation process, which occurred in the months after each incident. This runs the risk of some contamination of the post-treatment period; however, given the unprecedented nature of the global pandemic and the uniqueness of the summer protests, the substantive benefit of focusing in on these months outweighs the potential increase in statistical power of extending the study period. To underscore the strength of the model, this Note compared the results of the study period analysis to the same ITS model run between January 1, 2018, and December 31, 2022. This significantly decreased the standard error, indicating a more accurate model fit. But this expansion did not change the statistical significance of the results detailed below in Table 1, and it showed an even lesser effect of the repeal on police misconduct (-0.91).

126. See *infra* Table 1.

127. Civilian Complaint Review Board: Allegations Against Police Officers, NYC OpenData, https://data.cityofnewyork.us/Public-Safety/Civilian-Complaint-Review-Board-Allegations-Against-Police-Officers/about_data [https://perma.cc/8JTE-R7JH] (last updated Oct. 25, 2025) ("This database is inclusive of prior datasets held on Open Data . . . but includes information and records made public by the June 2020 repeal of New York Civil Rights law 50-a, which precipitated a full revision of what CCRB data could be considered public."); Data Transparency Initiative, CCRB, <https://www.nyc.gov/site/ccrb/policy/data-transparency-initiative.page> [https://perma.cc/479W-VSRR] (last visited Aug. 14, 2025) ("The Data Transparency Initiative presents descriptive data on four key areas of the [CCRB]'s work: a) complaints, b) allegations, c) victims and alleged victims, and d) members of service.").

128. The final dataset is available on request from the *Columbia Law Review*.

129. See, e.g., Data Transparency Initiative: Allegations, CCRB, <https://www.nyc.gov/site/ccrb/policy/data-transparency-initiative-allegations.page#disposition> [https://perma.cc/9ZX7-QQPP] (last visited Aug. 15, 2025) ("An allegation is substantiated if misconduct is found to be improper based on a preponderance of the evidence.").

that occurred without such evidence or were not reported.¹³⁰ The original dataset includes over 130,000 complaints, dating back to 2000.¹³¹ This Note includes all closed complaints within the study period, a total of 2,033 records.¹³² Each complaint is recorded by a unique case identification number, and some complaints involve multiple allegations against multiple officers. The final ITS dataset groups these by incident date, with a variable indicating the total number of incidents on that day. Each day in the study period becomes one row of data.

In a study that focuses on the impact of a particular legislative change, it is also imperative to consider other relevant changes occurring within the study period. On the same day as signing the 50-a repeal, the governor signed three additional law enforcement-related bills: (1) establishing the Office of Special Investigation, which now investigates any deaths involving a police officer;¹³³ (2) establishing a new crime of police “aggravated strangulation;”¹³⁴ and (3) amending Civil Rights Law section 79 to permit civil action against people who call the police based on profiling.¹³⁵ A week after the repeal, the city council also passed a package of six bills aimed at reforming police activity, including a ban on chokeholds, a visible badge number requirement, and new oversight of NYPD surveillance technology.¹³⁶

130. See, e.g., Yoav Gonen, CCRB Police Misconduct Investigations Now Take, on Average, More Than 19 Months to Close, *New Data Show*, *The City* (Oct. 6, 2022), <https://www.thecity.nyc/2022/10/06/ccrb-police-misconduct-investigations-state-comptroller> [<https://perma.cc/8QYK-MQL2>] [hereinafter Gonen, CCRB Investigations] (describing how the CCRB substantiated findings in more than two-thirds of cases closed in a particular month that included BWC footage, but only one-sixth of cases without BWC footage).

131. Civilian Complaint Review Board: Complaints Against Police Officers, NYC OpenData, https://data.cityofnewyork.us/Public-Safety/Civilian-Complaint-Review-Board-Complaints-Against/2mby-ccnw/about_data [<https://perma.cc/B6TU-E7UK>] (last updated Oct. 25, 2025) (“The dataset is part of a database of all public police misconduct records the Civilian Complaint Review Board (CCRB) maintains on complaints against New York Police Department uniformed members of service received in CCRB’s jurisdiction since the year 2000 . . .”).

132. *Id.*

133. This office was not established until April 2021, so it is not actually that relevant for this study period. N.Y. Exec. Law § 70-b (McKinney 2025).

134. This law, just like the repeal of 50-a, went into effect immediately. N.Y. Penal Law § 121.13-a (McKinney 2025). Despite the law, officers continue to use chokeholds on a somewhat regular basis—disregarding the total ban—and face few consequences for doing so. “As long as police know there isn’t going to be consistent and significant punishment for chokeholds, they will continue to do them . . . ‘Why do the police do this? Because they can without consequence.’” Topher Sanders & Yoav Gonen, *Still Can’t Breathe*, *ProPublica* (Jan. 21, 2021), <https://www.propublica.org/article/chokeholds-nypd-videos> [<https://perma.cc/4MYL-E8UZ>] (quoting Paul Butler, Professor, Georgetown Univ. L. Ctr.).

135. N.Y. Civ. Rights Law § 79-n(2) (McKinney 2025).

136. Sonia Moghe, *New York City Council Passes Sweeping Police Reform Bills*, *CNN* (June 18, 2020), <https://www.cnn.com/2020/06/18/us/new-york-city-passes-police-reform-bills/index.html> [<https://perma.cc/D2RH-9857>].

This second batch of reforms is controlled for in the final model as a time-variant confounder.¹³⁷

This Note relies on a segmented regression model, which includes a time trend (T), in this data measured by days; a dummy variable¹³⁸ that here indicates the pre- and postintervention periods (X_t); and the outcome for each time T (Y_t). For this Note, the expected impact model is a level change with no lag.¹³⁹ This base model is represented as: $Y_t = \beta_0 + \beta_1 T + \beta_2 X_t + \beta_3 T X_t$.¹⁴⁰ To accommodate the time-variant confounders described above, this Note additionally includes controls for large protest days and the passage of the subsequent police bills.¹⁴¹

C. *Results of ITS Analysis*

Figure 1 shows the distribution of complaints across all days in this dataset. The CCRB recorded hundreds of protest-related complaints in 2020, the majority of which stemmed from incidents that fell within a nine-day period between May 29 and June 6.¹⁴² There is a clear connection between large protest days and sustained CCRB complaints, as demonstrated by this figure; however, the relationship between misconduct incidents and 50-a's repeal is less evident. The ITS analysis will better elucidate this relationship—if one exists—by controlling for large protest days in tracking misconduct incidents before and after the repeal.

137. ITS models must account for time-variant confounders, which are “other events that occur around the same time as the intervention and that potentially influence the outcome”; however, ITS models avoid many of the other confounding variables typical in statistical models because those tend to change more slowly and “are normally taken into account when modelling the underlying long-term trend.” Bernal et al., *supra* note 120, at 353.

138. A dummy variable can be only two possible values: 0, indicating the absence of a factor, or 1, indicating its presence. Christopher Dougherty, *Introduction to Econometrics* 263 (1992).

139. A level change with no lag means that right after the repeal, a somewhat immediate change in the volume of police misconduct is expected if there is to be a change at all.

140. Bernal et al., *supra* note 120, at 351.

141. See CCRB, 2020 NYC Protests, *supra* note 11, at 4 (“The streets of New York City flooded with protesters demanding reform [after George Floyd’s murder]. At the height of these protests, peaceful protesters were kettled, pepper sprayed, assaulted, and arrested. As a result, the CCRB received over 750 complaints, 300 of which were filed in just 48 hours.”).

142. The agency received over 750 complaints stemming from the protests, 321 of which were determined to fall within its jurisdiction. See *id.* at 4–6 (summarizing the 2020 protests and related CCRB complaints).

FIGURE 1. INCIDENTS OF MISCONDUCT

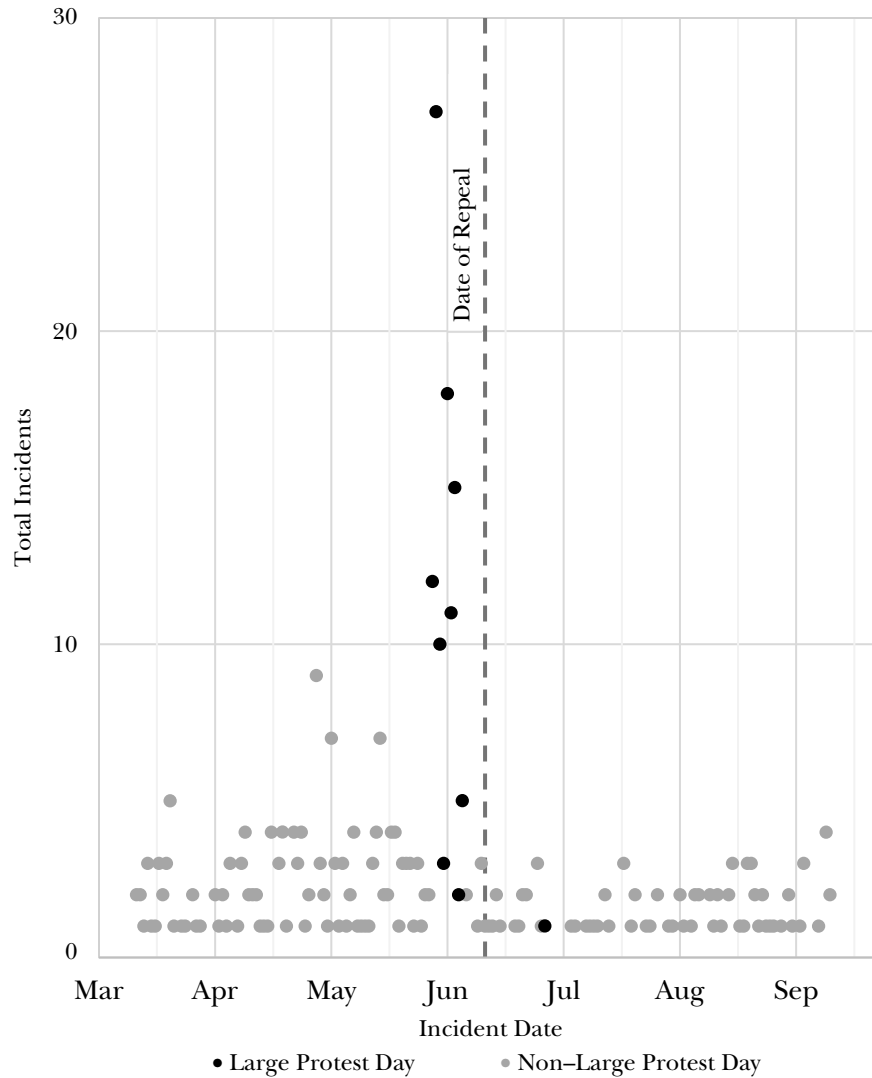


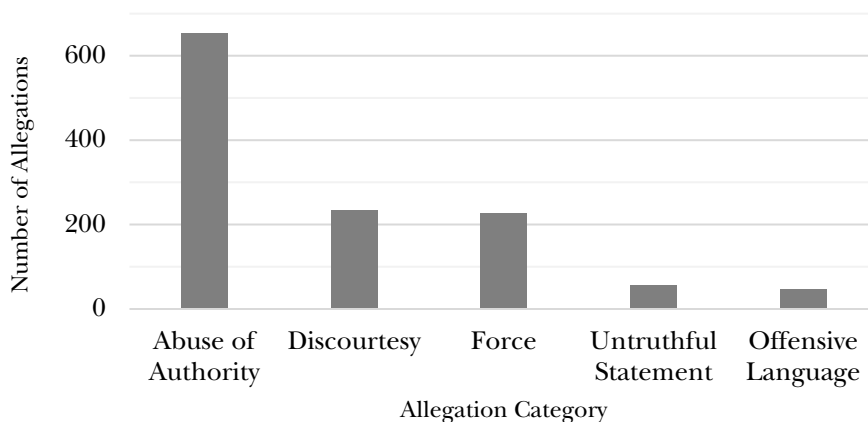
Figure 2 shows the distribution of allegations by category.¹⁴³ These categories are determined by the CCRB in line with its grant of authority to investigate only FADO allegations,¹⁴⁴ and each allegation is labeled accordingly in the publicly available data. Untruthful statements made by police are only investigated when coupled with at least one FADO

143. The total number of substantiated allegations is 13,844, as most complaints contain multiple allegations—either against the same officer, for different acts, or against multiple officers. The final dataset is available on request from the *Columbia Law Review*.

144. See *supra* note 37 and accompanying text.

allegation.¹⁴⁵ The majority—roughly 54%—of substantiated allegations involve abuse of authority claims. This category includes “bias-based policing” and racial profiling as well as improper searches, entries, seizures, and property damage; sexual misconduct; officers’ refusals to provide their names and shield numbers;¹⁴⁶ forcible removal of a civilian to a hospital; police misuse of a body-worn camera; and threats to call ICE.¹⁴⁷ Discourtesy (19%) and inappropriate use of force (18%) complaints are the next most common categories, with untruthful statements (5%) and offensive language (4%) comprising the remainder of substantiated allegations.

FIGURE 2. ALLEGATIONS BY CATEGORY



The human toll of these numbers is daunting—within the study period, there were thousands of moments during which the CCRB was

145. See Frequently Asked Questions, CCRB, <https://www.nyc.gov/site/ccrb/about/frequently-asked-questions-faq.page> [<https://perma.cc/V8KA-NBQJ>] (last visited Aug. 14, 2025) (“Due to . . . ongoing budget constraints . . . the CCRB suspended investigating . . . [u]ntruthful statements with no other allegations . . .”).

146. In 2024, the CCRB expanded the categories of complaints that it will no longer investigate unless coupled with other allegations, due to “a record-high number of complaints.” See *id.* (noting the CCRB suspended investigations of “[f]ailure to provide RTKA cards,” “[r]efusal to provide name or shield number,” “[d]iscourteous words or actions,” “[t]hreats with no action,” “[r]efusal to process a civilian complaint,” “[p]roperty seizures,” “[f]orcible removal to hospital,” “[u]ntruthful statements,” and “[a]ny complaint that has only [these] allegations”).

147. “Bias-based policing” is defined as an act that “relies on actual or perceived, creed, age, immigration or citizenship status, gender, sexual orientation, disability, or housing status as the determinative factor in initiating law enforcement action against an individual.” Rules of the City of N.Y. tit. 38-A, § 1-01 (2025); see also CCRB Jurisdiction, CCRB, <https://www.nyc.gov/site/ccrb/complaints/file-a-complaint/ccrb-jurisdiction.page> [<https://perma.cc/6S32-WFXU>] (last visited Aug. 15, 2025) (further explaining the FADO categories).

able to prove that an NYPD officer inappropriately weaponized their power against a civilian. The high proportion of abuse of authority cases may be related to the NYPD's continued use of stop-and-frisk, which—although far less common than in the Bloomberg Administration¹⁴⁸—still entangled thousands of mostly innocent, mostly Black New Yorkers throughout 2020.¹⁴⁹ Similarly staggering is the almost four thousand allegations of inappropriate use of force during the study period, which could include punching or kicking, pointing or firing a gun, deploying pepper spray, using a chokehold, or operating a baton, nightstick, or taser.¹⁵⁰ The story detailed in the introduction of this Note provides just one example of how officers deploy excessive force—that incident included multiple substantiated allegations of force, all within one complaint.¹⁵¹ The rest of this Note turns to evaluating the repeal of 50-a, which was touted as one way to prevent such officer misconduct.

Table 1 below tests the impact of the repeal on NYPD officers' engagement in misconduct. It compares misconduct patterns before the repeal (after_change = 0) to those after the repeal (after_change = 1). The model also incorporates additional variables related to the time since the repeal, each of the large protest days, the other law enforcement-related reforms passed during the study period, and the NYPD's daily arrest numbers. Each row presents the coefficients of each explanatory variable, which describe the relationship between that variable and the outcome being measured—in this instance, police misconduct. Positive coefficients indicate that the presence of this variable is positively associated with the outcome, relative to the relationship between the reference category and the dependent variables, whereas negative coefficients indicate the opposite. The "Constant" row indicates the amount of misconduct expected (via the model's calculations) per day at the beginning of the study period, in this case just over one incident—the low number makes intuitive sense, given the lack of civilian-police contact at the beginning of the pandemic. Finally, the

148. Stop-and-frisk was one of Bloomberg's signature policies, leading to a peak of 685,724 stops in 2011. Stop-and-Frisk Data, NYCLU (May 27, 2025), <https://www.nyclu.org/data/stop-and-frisk-data> [<https://perma.cc/4ZU9-7YA7>]. In 2013, a federal judge found the NYPD liable for a pattern and practice of unconstitutional stops and racial profiling, forcing the department to alter its behavior and greatly reducing—though not entirely eliminating—the stop-and-frisk program. See *Floyd v. City of New York*, 959 F. Supp. 2d 540, 658 (S.D.N.Y. 2013) (“[F]irst, plaintiffs showed that senior officials . . . at the NYPD were deliberately indifferent to officers conducting unconstitutional stops and frisks; and *second*, plaintiffs showed that practices resulting in unconstitutional stops and frisks were sufficiently widespread that they had the force of law.”).

149. In 2020, the NYPD officially recorded 9,544 stops. 5,791 of those stops (61%) did not result in any summons or arrest. 5,367 (56%) of those stopped were Black. Another 2,879 (30%) were Latinx. Stop-and-Frisk Data, *supra* note 148.

150. CCRB Jurisdiction, *supra* note 147 (listing examples of excessive or unnecessary force).

151. See *supra* notes 1–9 and accompanying text.

symbols next to each coefficient indicate the statistical significance of that measure.

TABLE 1. MISCONDUCT AFTER REPEAL

	NYPD Misconduct
Time	0.012 (0.011)
Repeal	-1.662 (1.288)
Time Since Repeal	-0.001 (0.018)
Large Protest Days	7.617*** (0.903)
After Other Reforms	-0.418 (1.334)
Daily Arrests	0.002 (0.002)
Constant	1.304 (0.819)
Note:	*p<0.1; **p<0.05; ***p<0.01

By including controls for other potential explanations for the change in misconduct, this model demonstrates that a relationship between the repeal and police behavior is not statistically meaningful.¹⁵² These data show that prior to the repeal of 50-a, the rate of misconduct was marginally increasing day by day—though this increase is not statistically significant. Immediately after the repeal of 50-a, the model shows a step change of -1.66, indicating that if the day before the repeal was introduced, there were ten misconduct incidents, the day after would expect between eight and nine misconduct incidents. At first glance, this would amount to a substantial decrease in the predicted volume of misconduct each day. But the standard error (represented in parentheses below each value in Table 1) shows the high level of uncertainty with which the model is estimating the effect of this intervention—in this case, a range of 1.29. This indicates that the model really predicts between seven and ten incidents of

152. Call: *glm(total_incidents ~ time_elapsed + after_change + since_repeal + protest + reforms2 + total_arrests, data = ccrb_dates)*. Because the model uses daily counts, there are several days with zero substantiated complaints, leading to some likelihood of autocorrelation and/or overdispersion. Future research should incorporate autoregressive models or other methods of testing the predictive strength of a change in transparency law, particularly by comparing across jurisdictions.

misconduct in the hypothetical case above. This uncertainty means that the model has not identified a clear relationship between the repeal of 50-a and police engagement in misconduct. As expected, the repeal of 50-a seems not to have made a demonstrable impact on police officers' engagement in civilian-related misconduct.¹⁵³

But this analysis does show a statistically significant relationship between large protest days and police misconduct. It reveals that on large protest days, there were nearly eight additional substantiated misconduct complaints. This could be because the protests themselves resulted in a large amount of hostile contact between police and civilians. But the data also suggest that officers, inflamed by protests against them, acted more violently across the city on those days even when interacting with civilians unconnected to the protests.¹⁵⁴ Days with large protests did have much higher complaint numbers than days without them,¹⁵⁵ but complaints deemed directly related to protests were only a fraction of those totals.¹⁵⁶ Thus, the interaction between Black Lives Matter protests and police misconduct is not solely related to the large crowds or increased contact between police and civilians at the protests themselves. This model is not well suited to delve into the details of protest complaints, however, because CCRB classification of protest-related complaints is not well represented in these data.¹⁵⁷ Overall, the ITS analysis shows that the repeal did not achieve its stated aim of decreasing misconduct.

153. To validate these results, the author also compared misconduct trends in Philadelphia, a somewhat similarly situated urban police department without a change in its record transparency law during this period. The comparison data is available on request from the *Columbia Law Review*. Though it is impossible to find a perfect control city for New York, the largest police department in the world and the then-epicenter of the COVID-19 pandemic, the results of a simple ITS analysis of Philadelphia police misconduct shows a similar spike in misconduct complaints around large summer protest days but a larger, still not statistically significant, decrease in misconduct complaints after the date of New York's repeal. Without continued investigation, this comparison cannot be tested further, but the cursory results offer some evidence for the argument that any decrease in misconduct complaints during this period could be related to social factors unrelated to the change in law.

154. Defiance theory would support this expectation, positing that if officers view citizen protests as sanctions against them as individuals or their profession, that may provoke "future *defiance*" in the form of "more frequent or more serious violations . . . to the extent that [officers] experience sanctioning conduct as illegitimate." Lawrence W. Sherman, *Defiance, Deterrence, and Irrelevance: A Theory of the Criminal Sanction*, 30 *J. Rsch. Crime & Delinq.* 445, 448 (1993).

155. See *supra* Figure 1. The black icons indicate days with large protests resulting in at least five CCRB protest-related complaints.

156. See *supra* note 142 and accompanying text.

157. Investigation of protest-related complaints was burdened by understaffing, internal disputes, and a lack of cooperation from the NYPD. See Gonen, CCRB Investigations, *supra* note 130 (detailing how the average case completion time more than doubled between January 2018 and June 2021); Yasmeen Khan, *Former Employees of Police Watchdog Agency Say They Were Fired for Flagging Problems With Investigations*, *Gothamist* (Jan. 27, 2021), <https://www.gothamist.com/news/former-employees-police->

Though it would be preferable to prevent harm from occurring, increasing awareness of misconduct is a worthwhile secondary aim to prevent the “additional effect” of concealing information about officers involved in the perpetration of harm.¹⁵⁸ Section II.D now turns to that question: Did the repeal impact the spread of information about police misconduct, its investigation, and its resulting punishment or impunity?

D. *Secondary Analysis: Journalistic Effect of 50-a Repeal*

Although publicizing misconduct does not immediately assist those who have been or will be subjected to it, one hope among advocates was that the repeal would bring the “failed police disciplinary process[]” into the public eye.¹⁵⁹ To test whether this impact was realized, this Note now turns to a descriptive analysis of investigative journalism after the repeal.

1. *Topic Modeling Methodology.* — Pulling from ProQuest TDM Studio’s database of the *New York Times*, *ProPublica*, and *New York Daily News* articles between 2014 and 2024, this Note utilizes a text-mining¹⁶⁰ approach called topic modeling¹⁶¹ to identify subjects covered in a particular dataset. This Note restricted the model to any articles that mention “Civilian Complaint Review Board” and “New York” across the ten years of data, resulting in a compilation of 894 articles.¹⁶² These articles were then passed through the modeling program and grouped into topics by the words with the highest probability per topic. For this Note, a clear topic arose from the terms “ccrb,” “complaints,” “report,” “cases,” “misconduct,” “agency,” “cops,” “discipline,” “records,” and “allegations.” This topic can then be mapped over time, calculating the probability of a

watchdog-agency-say-they-were-fired-flagging-problems-investigations (on file with the *Columbia Law Review*) (describing how four senior employees sued when they were fired after raising concerns about the CCRB’s lack of independence from the NYPD); Eric Umansky, *Over 700 Complaints About NYPD Officers Abusing Black Lives Matter Protesters, Then Silence*, *ProPublica* (Mar. 10, 2021), <https://www.propublica.org/article/over-700-complaints-about-nypd-officers-abusing-protesters-then-silence> [https://perma.cc/7DFH-XEK3] (“Internal CCRB communications . . . show progress on the investigations has been slowed in part because of the NYPD’s recurrent lack of cooperation . . . and the CCRB leadership’s own caution about confronting it.”).

158. See Conti-Cook, 50-a, *supra* note 22, at 61 (describing the immediate benefits of the release of police misconduct records for the families of those killed by police).

159. #Repeal50A and End Police Secrecy in New York, *supra* note 86 (“50-a is routinely used to shield police misconduct and failed police disciplinary processes from public view.”).

160. Text mining is a process through which a user can “extract useful information from [textual] data sources through the identification and exploration of interesting patterns.” Ronen Feldman & James Sanger, *The Text Mining Handbook: Advanced Approaches in Analyzing Unstructured Data 1* (2007).

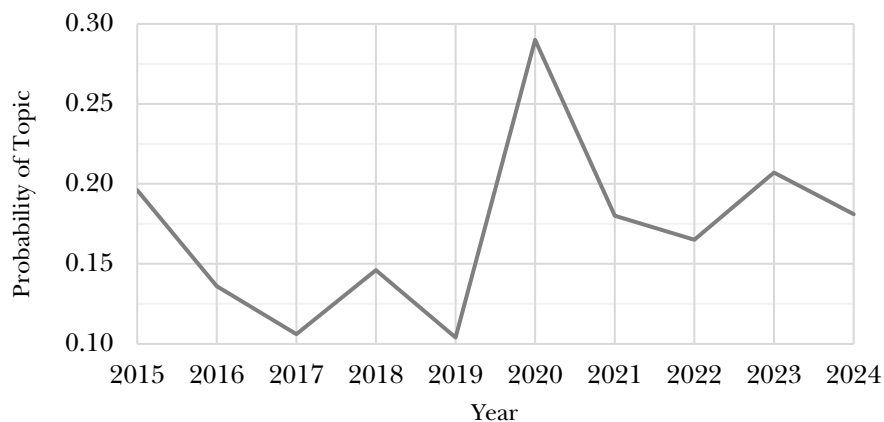
161. Topic modeling is a statistical method that analyzes “the words of the original texts to discover the themes that run through them, how those themes are connected to each other, and how they change over time.” David M. Blei, *Probabilistic Topic Models*, *Comm’n ACM*, Apr. 2012, at 77, 77–78.

162. These data are available on request from the *Columbia Law Review*.

topic occurring in the data over a specific period—in this case, highlighting the rate of news coverage of police misconduct and CCRB investigations.

2. *Findings.* — Figure 3 shows a sharp increase in news coverage of NYPD misconduct after the repeal of 50-a, with a frequency of just 0.104 in 2019 increasing to 0.290 in 2020.¹⁶³ These frequencies represent the empirical probability that one of the articles in the dataset was about police misconduct. Though this initial spike has decreased slightly in the years since (a frequency of 0.180 in 2021, 0.165 in 2022, 0.207 in 2023, and 0.181 in 2024), it has stayed more frequent than before the repeal. Across all years in these data, the average frequency before the repeal was 0.138 between 2015 and 2019 and 0.205 between 2020 and 2024. This substantial increase demonstrates that, although the repeal did not affect misconduct itself, journalists have utilized the repeal to increase their coverage of police misconduct and the CCRB.¹⁶⁴

FIGURE 3. PROBABILITY OF NYPD MISCONDUCT ARTICLES, 2015–2024



For example, a *ProPublica*-led investigation in the months after the repeal uncovered eighty-six members of NYPD leadership with “at least one credible misconduct allegation” against them; the compilation of this list was made possible through access to CCRB data, among other sources.¹⁶⁵ Although investigative journalism like this is not itself a reduc-

163. The higher frequency in 2015, as compared to 2016 to 2019, is likely due to coverage of Officer Pantaleo because the grand jury decided not to indict him in December 2014. See *supra* notes 66–69 and accompanying text.

164. This finding would be more compelling if it were possible to compare the topic model to a baseline of official misconduct records that were already available to the public. Given that 50-a applied to other categories of public officials (such as firefighters and correctional officers), no such comparison group exists.

165. Joaquin Sapien, Topher Sanders & Nate Schweber, Over a Dozen Black and Latino Men Accused a Cop of Humiliating, Invasive Strip Searches. The NYPD Kept

tion of harm or an imposition of professional consequences for officers who engage in misconduct, increased publicity has the potential to make the NYPD's constituents more aware of police violence and the impunity that officers currently enjoy. This demonstrates the public knowledge that can be facilitated by an increase in transparency, which was a secondary aim of the campaign to repeal 50-a.¹⁶⁶ This finding is an initial indication that the strength of transparency-oriented reforms may come more for outside constituencies (the media, or even academic ventures such as this Note) than the people directly harmed by misconduct. Thus, this Note considers the increase in articles about NYPD misconduct a second-order effect—media coverage is not itself a reduction in police violence, but over time, it has the potential to impact future policy changes as well as create a better-informed public.

III. IMPLICATIONS AND RECOMMENDATIONS

These data provide empirical evidence for a vital question in transparency law scholarship. Part III now contextualizes these results, addresses the limitations of this study, and offers recommendations for future policy efforts.

A. *Context and Consequences*

The ITS analysis above demonstrates that the repeal of 50-a did not meaningfully influence officer engagement in misconduct. As a second-order effect, journalists dramatically increased coverage of NYPD misconduct in the period after repeal, indicating that, although the repeal did not affect officer behavior, record transparency did enable public knowledge of officer misconduct through the media. These models demonstrate the limited power of transparency measures: Without being coupled with meaningful accountability, transparency on its own does not affect official misconduct. This analysis complicates normative assumptions about transparency as an end in itself.

Calls for increased police transparency rarely interrogate the assumption that transparency is itself a normative good.¹⁶⁷ The original American open-government advocates during the Progressive Era viewed their cru-

Promoting Him., ProPublica (Sep. 10, 2020), <https://www.propublica.org/article/over-a-dozen-black-and-latino-men-accused-a-cop-of-humiliating-invasive-strip-searches-the-nypd-kept-promoting-him> [<https://perma.cc/B3CB-6LB3>] ("Using court records, newly released data and a trove of confidential documents, ProPublica has pieced together just how much top officials had to look past to promote [Assistant Chief Christopher McCormack].").

166. See *supra* notes 86–87 and accompanying text.

167. See Christopher Hood, Transparency in Historical Perspective, in *Transparency: The Key to Better Governance?* 2, 3 (Christopher Hood & David Heald eds., 2006) (framing the "quasi-religious significance" attained by transparency); Gregory Michener, Policy Evaluation via Composite Indexes: Qualitative Lessons From International Transparency Policy Indexes, 74 *World Dev.* 184, 184 (2015) (describing how "transparency has become the *sine qua non* of good governance").

sade for transparency as one “facilitating not just a government less prone to abuse, but also a more vigorous and egalitarian regulatory state capable of taming private economic interests.”¹⁶⁸ Figures such as Justice Louis Brandeis became famous, at least in part, for their crusades against corporate abuse—crusades which helped usher in an era of sunlight- and publicity-oriented legislation.¹⁶⁹ This original perception of transparency as a panacea for government failure has evolved over time through an “ideological drift” toward viewing transparency as an end in itself rather than a tool for higher purposes.¹⁷⁰ The abandoning of the instrumental vision of transparency law obfuscates the complicated relationship between transparency-minded policy and good government.¹⁷¹ Though it may be easy to conflate the two, transparency and accountability are not the same.¹⁷² Transparency allows civilians to see inside government and to observe the choices of public officials; accountability is when that government must accept responsibility and consequences for its actions.

In the context of police misconduct, accounting for harm is often considered in an individualistic sense, as if punishing an individual officer amounts to full responsibility. But this view is misguided.¹⁷³ Accountability relies on the government answering to its public; it must encompass responsibility for the state’s monopoly on violence. It is thus reliant on transparency but not guaranteed by it. A lack of transparency prevents the

168. David E. Pozen, *Transparency’s Ideological Drift*, 128 *Yale L.J.* 100, 103, 107–08 (2018) [hereinafter Pozen, *Ideological Drift*].

169. The connection between corporate and governmental transparency efforts is evidenced by the still ongoing usage of Brandeis’s famous quote that “[s]unlight is said to be the best of disinfectants.” Louis D. Brandeis, *What Publicity Can Do*, *Harper’s Wkly.*, Dec. 20, 1913, at 10, 10. Even today, freedom of information statutes across the country are known as “sunshine” laws. See, e.g., *Sunshine Law*, Mo. Att’y Gen., <https://ago.mo.gov/get-help/programs-services-from-a-z/sunshine-law/> [https://perma.cc/3E3C-66MF] (last visited Oct. 25, 2025) (“Missouri’s Sunshine Law is the embodiment of Missouri’s commitment to openness in government.”).

170. See Pozen, *Ideological Drift*, *supra* note 168, at 102–04 (arguing that progressives have “enabled this drift” by viewing transparency as a “primary virtue worth attaining for its own sake”).

171. David E. Pozen, *Seeing Transparency More Clearly*, 80 *Pub. Admin. Rev.* 326, 327–28 (2020) (detailing how transparency “deters some corrupt acts while facilitating others,” alongside its “far from self-evident” relationship to trust in government).

172. Scholars disagree, however, about the impact of transparency on accountability. Most have argued that misconduct records should be made public. See Cynthia H. Conti-Cook, *Defending the Public: Police Accountability in the Courtroom*, 46 *Seton Hall L. Rev.* 1063, 1066 (2016) (arguing for more transparency for police misconduct investigations); Rachel Moran, *Ending the Internal Affairs Farce*, 64 *Buff. L. Rev.* 837, 853–68 (2016) (arguing against internal affairs reviews of police misconduct). But cf. Levine, *supra* note 90, at 845 (“This Article aims to complicate the transparency-cure narrative so popular in police-reform circles.”).

173. See Conti-Cook, 50-a, *supra* note 22, at 50–52 (“Accountability should not only be understood as a mechanism targeting individual officers for their actions, but as a mechanism through which elected officials are held accountable for the actions of police officers.”).

public from achieving a level playing field—not only do government actors hold the power to mistreat, hurt, or even kill civilians, but they additionally do so without the public being able to uncover or address systemic failings that perpetuate the conditions in which misconduct occurs.¹⁷⁴ In contrast, if police departments exist “under the eyes of an alert public opinion,”¹⁷⁵ this transparency can help civilians understand the milieu that reform measures would change and empower the public to push for a different status quo. Insight into government is useful information and integral to progress in accountability movements.¹⁷⁶ But the information alone cannot create a better system.

In line with the ethos that transparency helps to foster accountability, the Freedom of Information Act (FOIA) provides the public with the right to request access to any federal agency records.¹⁷⁷ The Supreme Court has championed FOIA (and its state companions, of which New York’s FOIL is one) as a necessary undergirding for any “real democracy.”¹⁷⁸ But the reality is much blurrier. As a piece of legislation, FOIA is “shot through with exemptions” and has never been well-funded, resulting in slow and often incomplete responses to requests, which are sometimes entirely devoid of information.¹⁷⁹ Even when functioning, FOIA—and New York’s FOIL—are inherently *ex post* pieces of legislation. The process of requesting government documents necessarily consists of accessing preexisting records regarding past events. Additionally, these statutes “empower[] opponents of regulation, distribute[] government goods in a regressive fashion, and contribute[] to a culture of contempt surrounding the domestic policy bureaucracy while insulating the national security state from similar scrutiny.”¹⁸⁰ Principally, FOIA and FOIL are also individualistic in the same way that, as described above for police misconduct records, they cannot breed accountability because they rely upon piecemeal responses. And at the national level, the adversarial process of requesting

174. *Id.* at 51 (“Secrecy also prevents members of the public from engaging in democratic debate . . . with information that may reveal how often people in government actively participate in obstructing accountability efforts.”).

175. C.R. Comm., N.Y.C. Bar et al., Report on Legislation A.2513 & S.3695, at 1 (2020), <https://www.nycbar.org/wp-content/uploads/2023/05/2017285-50aPoliceRecordsTransparency.pdf> [<https://perma.cc/J2SR-TKFS>] (internal quotation marks omitted) (quoting *Wolf v. Colorado*, 338 U.S. 25, 31 (1949)).

176. See Conti-Cook, 50-a, *supra* note 22, at 63 (“In addition to a blossoming of community-led databases, organizations that work on police reform have been able to analyze the [newly released CCRB] data to substantiate advocacy campaigns previously driven by anecdotes and aggregate data.”).

177. Notice that FOIA does not provide the right *to access*, but instead *to request* access. See 5 U.S.C. § 552 (2018); see also What Is FOIA?, FOIA.gov, <https://www.foia.gov/about.html> [<https://perma.cc/48KH-38XH>] (last visited Aug. 14, 2025).

178. *Nat’l Archives & Recs. Admin. v. Favish*, 541 U.S. 157, 172 (2004).

179. David E. Pozen, *Freedom of Information Beyond the Freedom of Information Act*, 165 U. Pa. L. Rev. 1097, 1099 (2017) [hereinafter Pozen, *Freedom of Information*].

180. *Id.* at 1101.

records has become dominated by commercial requesters, increasing the influence of already powerful lobbies.¹⁸¹ In sum, this model of legislation fails at its introductory premise of public access and hypothetical accountability, and it tends to “degrade certain progressive features of state and society.”¹⁸² This Note provides further evidence that accountability, though eased through transparency, is not accomplished by it.

These data show that NYPD officers were not less likely to engage in misconduct in the aftermath of 50-a’s repeal. Table 1 shows that, when accounting for confounding variables, there was no significant decrease in misconduct after the repeal. Though other variables do have statistically significant impacts, this Note focuses on the effect of the repeal itself. The swiftness with which the repeal was introduced and passed presented a rare opportunity to evaluate the repeal as a transparency measure—to test the idea that transparency by itself could decrease police misconduct. These data show that the repeal on its own did not impact officer misconduct, contrary to the hopes of advocates.¹⁸³ During the push for 50-a’s repeal, transparency and accountability were often presented as the same objective;¹⁸⁴ however, publicity on its own did not hold officers accountable for their actions.¹⁸⁵

One clear, lasting benefit of the repeal of 50-a is that members of the public can now utilize NYPD personnel records in contexts outside the misconduct process, namely, civilian lawsuits and investigative journalism. While the CCRB always had access to officer misconduct records, people litigating claims against officers did not.¹⁸⁶ 50-a was, before the repeal,

181. See Margaret B. Kwoka, FOIA, Inc., 65 Duke L.J. 1361, 1376–80 (2016) (describing the rise and proliferation of commercial FOIA requests).

182. Pozen, Freedom of Information, *supra* note 179, at 1101 n.20 (describing the “reactionary” label as “warranted by the way it illuminates the link between the technical structure and the ideological valence of FOIA”).

183. See *supra* notes 84–85 and accompanying text (describing the hope that repealing 50-a would prevent misconduct).

184. See, e.g., Letter from Cmty. United for Police Reform et al. to Governor Andrew Cuomo (Jan. 6, 2020), https://www.changethenypd.org/sites/default/files/groups_letter_for_full_statewide_50a_repeal_1-6-2020b_0.pdf [<https://perma.cc/3PGK-6YQX>] (“Governor Cuomo, you have a unique opportunity [by repealing 50-a] to catch New York up to the rest of the country on the issue of police transparency and accountability.”).

185. See Letter from Corey Stoughton, Maggie Hadley & Michael Vitoroulis, Legal Aid Soc’y, to Mayor Eric Adams 1, 1–2 (Mar. 15, 2023), <https://legalaidnyc.org/wp-content/uploads/2023/03/2023-3-14-Letter-to-Mayor-re-NYPD-Discipline-Departures.pdf> [<https://perma.cc/PV4J-LF3B>] (“[O]ur review revealed a consistent tendency by the Commissioner to undermine the systems designed to hold NYPD officers accountable and protect the public from officers who have engaged in repeated misconduct.”).

186. Adding a layer of complication to this dynamic is the existence of qualified immunity, which allows law enforcement officers to escape civil liability in many cases. In 2021, New York curbed qualified immunity somewhat, which has added to the volume of civilian lawsuits in which this misconduct information is relevant. See Joanna C. Schwartz, Police Indemnification, 89 N.Y.U. L. Rev. 885, 912–13 (2014) (describing the prevalence of indemnification for police officers, on whose behalf governments pay 99.98% of the money recovered by plaintiffs in lawsuits resulting from civil rights violations by officers); Nick

working as intended in that it prevented opposing counsel from being able to access officer records, leaving litigants unable to demonstrate that an officer's actions were part of a history of misconduct.¹⁸⁷ Releasing these records allows civilians to both access information about individual officers and expose a departmental leniency toward misconduct,¹⁸⁸ strengthening members of the public's ability to engage in accountability-oriented legal action.¹⁸⁹ In the years since the repeal, payouts from claims filed against the NYPD have increased, reaching a total of \$237.2 million in 2022.¹⁹⁰

These expanded possibilities for accountability apply for journalistic contexts as well; under 50-a, it was difficult—if not impossible—to investigate misconduct within the NYPD at scale.¹⁹¹ In the years since its repeal, journalists have published myriad investigations and analyses of misconduct across the department, contributing to public knowledge about rampant misconduct that in turn helps fuel broader accountability movements.¹⁹² The analysis above demonstrates just how impactful this repeal

Sibilla, *New York City Bans Qualified Immunity for Cops Who Use Excessive Force*, *Forbes* (Apr. 29, 2021), <https://www.forbes.com/sites/nicksibilla/2021/04/29/new-york-city-limits-qualified-immunity-makes-it-easier-to-sue-cops-who-use-excessive-force/> [https://perma.cc/44JZ-4YQU] (last updated Apr. 30, 2021) (describing New York City's change in law and its two major loopholes—that it only applies to “unreasonable searches and seizures, which includes excessive force claims,” and that it only applies to the NYPD, not other government actors).

187. See *supra* notes 58–64 and accompanying text.

188. See Transparency, *Frequently Asked Questions*, Nat'l Police Accountability Project, <https://www.nlg-npap.org/ia-transparency/> [https://perma.cc/Y6GM-QPF9] (last visited Aug. 14, 2025) (“Even if their written policies are not objectionable, a department's response . . . can expose its true customs. An officer that receives little or no discipline for objectively unconstitutional conduct likely works in a department that is at the very least indifferent to harmful policing practices.”).

189. *Id.* (“Without access to disciplinary records, victims will be in the dark about whether the police agency approved of their mistreatment and should be held accountable for their suffering. Access to police records is essential to evaluate case strength and prepare pleadings that will survive a quick dismissal.”).

190. See Akela Lacy, *NYPD Paid Out \$30 Million in Misconduct Cases Before Litigation in First Nine Months of 2023*, *The Intercept* (Nov. 27, 2023), <https://theintercept.com/2023/11/27/nypd-misconduct-pre-litigation-settlements/> (on file with the *Columbia Law Review*) (“[W]hile the number of tort claims filed against the NYPD declined from 2021 to 2022, the amount of payouts increased by 14 percent, from \$208.1 million to \$237.2 million.” (citing Brad Lander, N.Y.C. Comptroller, *Annual Claims Report: Fiscal Year 2022*, at 9 (2023), <https://comptroller.nyc.gov/wp-content/uploads/documents/Annual-Claims-Report-FY2022.pdf> [https://perma.cc/ENR6-QMTD])).

191. See Erin E. Evans, *Police Secrecy Law Keeps Public in the Dark About Police Misconduct*, *NBC News* (May 19, 2019), <https://www.nbcnews.com/news/us-news/police-secrecy-law-keeps-public-dark-about-police-misconduct-n1006786> [https://perma.cc/Y85W-V2VU] (“[50-a] makes police misconduct in New York state more secretive than in any other state in the country . . .”).

192. Many of these investigations have already been referenced in this Note, though there are certainly more. See, e.g., CCRB, *Gothamist*, <https://gothamist.com/tags/ccrb> [https://perma.cc/35QE-TKZS] (last visited Aug. 14, 2025) (presenting *Gothamist's* coverage of the CCRB and its data); Civilian Complaint Review Board, *The City*, <https://www.thecity.nyc/category/civilian-complaint-review-board/> [https://perma.cc/

has been on journalistic coverage of police misconduct. FOIA, FOIL, and related open records requests are invaluable to “investigations into many types of breakdowns” in government action, the type of scrutiny that “will hold local political institutions accountable.”¹⁹³ Though imperfect, transparency has indeed been a step both toward greater awareness of NYPD misconduct and collective power to respond to it.¹⁹⁴ Additionally, publicizing findings that demonstrate the lack of effect of a particular reform can help build a case for instead pushing for more impactful changes.¹⁹⁵

B. *Limitations and Future Study*

This study is limited by the fact that even after the repeal of 50-a, much of the CCRB and NYPD’s processes remain impenetrable to the public. The data on which these analyses rely are published by the government, or by independent organizations attempting to surveil government activity, and thus are limited by the legislature and various agencies’ willingness to release information. But even if the agency data released thus far was complete—which it clearly is not—these data encompass only a part of the CCRB and NYPD’s work to investigate, substantiate, and discipline officers. Given the many hurdles of recording and maintaining accurate police data, research into officer behavior has a limited ability to portray a com-

J49X-DPAJ] (last visited Aug. 14, 2025) (anthologizing the *City*’s reporting on the agency); *The NYPD Files: Investigating America’s Largest Police Force*, ProPublica, <https://www.propublica.org/series/the-nypd-files> [<https://perma.cc/3LT2-D6W3>] (last visited Aug. 14, 2025) (compiling *ProPublica*’s investigations of “abuse and impunity” within the NYPD).

193. James T. Hamilton, *Democracy’s Detectives: The Economics of Investigative Journalism* 168, 177 (2016).

194. It is worth noting again that this data did not become public easily, even after the repeal. See, e.g., Press Release, NYCLU, *NYCLU Sues the NYPD for Withholding Departmental Disciplinary Databases* (Sep. 29, 2021), <https://www.nyclu.org/press-release/nyclu-sues-nypd-withholding-departmental-disciplinary-databases> [<https://perma.cc/VY6A-XNQZ>] (summarizing NYCLU’s lawsuit against the NYPD for “unlawfully denying the NYCLU’s requests for the full slate of NYPD databases related to police misconduct authorized to be disclosed following the repeal of 50-a”). But fighting for records release has opened a long-shut door. “Families may hit new brick walls, certainly, but a statutory privacy law that prioritizes police officers’ reputations will not be one of them.” Conti-Cook, 50-a, *supra* note 22, at 61.

195. See Megan T. Stevenson, *Cause, Effect, and the Structure of the Social World*, 103 B.U. L. Rev. 2001, 2005 (2023) (“Recognizing that the world doesn’t operate in this fashion opens new doors for thinking about social change.”). There tends to be a bias against publishing null findings, for it is presumed that null results are less interesting than statistically significant ones; however, ignoring these results does little to advance knowledge about the world and may result in duplicative research—wasting scholars’ energy and resources without furthering an understanding of the empirical world. See, e.g., Annie Franco, Neil Malhotra & Gabor Simonovits, *Publication Bias in the Social Sciences: Unlocking the File Drawer*, 345 *Science* 1502, 1504 (2014) (describing the anticipated rejection of papers with null findings and a lack of interest in these “unsuccessful” research projects and concluding that the failure to publish null results may be wasting researchers’ effort and resources (internal quotation marks omitted)).

plete picture of misconduct activity and its discipline.¹⁹⁶ This continues to be true after the repeal.

Future empirical work should conduct more detailed investigations into the complaint process, turning to complainants and investigators for more thorough accountings of the experience of misconduct. Even if projects continue to find few demonstrable impacts of particular policies or changes in procedure, publicizing these results helps future policy changes avoid the same mistakes.¹⁹⁷ Calling attention to ineffective reform measures forces policymakers and the public to reckon with the problems at policing's root rather than making tweaks at the edges.¹⁹⁸ Additionally, future projects should make attempts to engage civilians who experienced police misconduct but did not lodge complaints with misconduct investigators, or those who reported misconduct but whose allegations were never substantiated. Only by incorporating the stories of those experiencing harm, not just the stories of the agencies investigating that harm, can the true cost and scope of this form of police violence be understood. And finally, further empirical work should focus more explicitly on the secondary effect of civilian lawsuits against the police, investigating whether the repeal of 50-a has aided individual members of the public in seeking redress after being harmed by police officers.

C. *Recommendations for Accountability*

This Note finds that the repeal of 50-a was an incomplete step toward increasing police accountability through transparency. Considering this empirical evidence, advocates for police reform can better prioritize measures that decrease NYPD misconduct and, ultimately, reduce police power. These findings provide evidence for the expectation that transparency measures cannot, on their own, alter police behavior. This claim is not itself unique, but this Note marks the first attempt to use empirical evidence to demonstrate the lack of impact transparency measures have on police activity. Transparency is a low-hanging fruit for which legislators and advocates settle in lieu of more transformative measures.¹⁹⁹ These

196. See Robert J. Kane & Michael D. White, *Jammed Up: Bad Cops, Police Misconduct, and the New York City Police Department* 36 (2013) (“We have no reasonable estimate of how often misconduct occurs. . . . [D]ata which would allow researchers to assess the prevalence of misconduct are very hard to come by.”).

197. See, e.g., Stevenson, *supra* note 195, at 2006, 2011–12 (describing how most policy research is “biased toward showing that the intervention evaluated was more successful than it actually was” and how “false causal claims” are rarely overturned by subsequent research).

198. See Mariame Kaba & Andrea J. Ritchie, *Why We Don't Say “Reform the Police”*, *The Nation* (Sep. 2, 2022), <https://www.thenation.com/article/society/no-more-police-excerpt/> [<https://perma.cc/MV83-FRPR>] (“Reforms that leave policing’s core functions in place will not prevent state violence” (emphasis omitted)).

199. See, e.g., Bianca Flowers & Stephanie Kelly, *Four Years After George Floyd Killing, Police Reform Slow to Follow*, *Reuters* (May 25, 2024), <https://www.reuters.com/world/us/four-years-after-george-floyd-killing-police-reform-slow-follow-2024-05-25/> (on file with the *Columbia Law Review*) (“After Congress failed to pass the George Floyd legislation, Biden

measures are, although perhaps controversial in police circles, not particularly controversial for lawmakers anymore.²⁰⁰ To settle only for transparency measures has thus become a centrist response to calls for more transformative change. Moving forward, transparency should be the default presumption, not a reform that needs to be fought over.²⁰¹

Transparency must be coupled with meaningful accountability measures to change the systems about which it informs. Processes such as fully external oversight boards *with enforcement power* and mandatory department responses for officers who commit misconduct would be a start. For the CCRB, this would mean removing both NYPD control over discipline and the police commissioner's appointees from the Board.²⁰² To eliminate the NYPD's policing of itself, the Board would need to seize final authority over disciplinary decisions, strengthen and make binding the existing disciplinary matrix, and relocate police misconduct cases within the same office that handles all other disciplinary trials for city employees.²⁰³ The process of verifying CCRB complaints should also be improved, eliminating officers' ability to stymie investigations by stonewalling,²⁰⁴

signed an executive order in May 2022 that in part created a new national police misconduct database . . .").

200. See *supra* section I.C.

201. See Hamilton, *supra* note 193, at 281 ("FOIA reform at the federal level would include new legislation to codify a presumption that documents and data are open At the state level, reforms would include expanding parts of government covered by FOI laws, speeding up reply times, and reducing fees placed on journalists requesting information.").

202. Although Board members are not allowed to be current public employees, the Police Commissioner is allowed to designate three members of the Board, who may be former law enforcement officers. See The Board, CCRB, <https://www.nyc.gov/site/ccrb/about/the-board.page> [<https://perma.cc/Y7LP-ZK4M>] (last visited Aug. 14, 2025). Currently, all three of the Police Commissioner's designees—Charlane Brown, Frank Dwyer, and Joe Fox—spent decades as members of the NYPD. See Charlane Brown, Esq., CCRB, <https://www.nyc.gov/site/ccrb/about/board/charlane-brown.page> [<https://perma.cc/SA6Q-Y475>] (last visited Sep. 5, 2025); Frank Dwyer, CCRB, <https://www.nyc.gov/site/ccrb/about/board/frank-dwyer.page> [<https://perma.cc/HVJ4-JARV>] (last visited Sep. 5, 2025); Joe Fox, CCRB, <https://www.nyc.gov/site/ccrb/about/board/joe-fox.page> [<https://perma.cc/AW2G-F65M>] (last visited Sep. 5, 2025); Meet the Board, CCRB, <https://www.nyc.gov/site/ccrb/about/board/members.page> [<https://perma.cc/2GE4-B8F6>] (last visited Aug. 14, 2025).

203. See Jesse Barber & Simon McCormack, NYCLU, Cop Out: Analyzing 20 Years of Records Proving Impunity 18–19 (2021), <https://www.nyclu.org/uploads/2021/12/nyclu-2021-ccrbdata-report.pdf> [<https://perma.cc/SV72-LEPL>] (recommending improvements to the CCRB disciplinary process).

204. See Eileen Grench & Reuven Blau, Police Say They'll Refuse to Submit to Video Interviews for Misconduct Investigations, The City (June 11, 2020), <https://www.thecity.nyc/2020/06/11/police-say-theyll-refuse-to-submit-to-video-interviews-for-ccrb-investigations/> [<https://perma.cc/KE4Z-AKCX>] ("A year after the CCRB first flagged the video delays, more than 40% of the CCRB's requests have been waiting over three months for the NYPD's response."); Michael Sisitzky & Simon McCormack, Complaints of NYPD Abuse Are Way Up Under Mayor Adams, NYCLU (Feb. 9, 2024), <https://www.nyclu.org/commentary/complaints-nypd-abuse-are-way-under-mayor-adams> [<https://perma.cc/JJ6M-ZUC2>] ("The NYPD has always made it very difficult for the CCRB

more closely adhering to investigator findings,²⁰⁵ and providing more clarity for complainants.²⁰⁶

The CCRB could also be far more transparent about its process, implementing steps such as releasing currently redacted information in closing reports, disclosing to the public the Board's process of substantiation, and proactively releasing more information without FOIL requests.²⁰⁷ Finally, the CCRB should not be forced to operate in a silo. Recognizing that most of the complainants coming before the Board are nonwhite,²⁰⁸ that many of them are children,²⁰⁹ and that many of them are facing criminal charges of some sort,²¹⁰ the Board should be able to work more holistically to aid survivors of police misconduct—at the very least, incorporating partnerships with other city agencies to provide supportive services.²¹¹ These steps, though themselves incomplete, would force the

to substantiate complaints against officers. The department is notorious for withholding body camera footage or failing to make officers available to be interviewed.”).

205. See Letter from Joseph Gillooly to Jonathan Darche, *supra* note 50, at 1 (describing how CCRB investigators make substantiation recommendations but the Board can opt not to follow those recommendations and instead “decide[] the disposition of each allegation based on the majority vote of a panel of three Board members”).

206. See Eric Umansky, *New Yorkers Were Choked, Beaten and Tased by NYPD Officers. The Commissioner Buried Their Cases.*, ProPublica (June 27, 2024), <https://www.propublica.org/article/nypd-commissioner-edward-caban-police-discipline-retention-eric-adams> [<https://perma.cc/X6B3-CLKM>] (detailing how complainants do not receive updates until the CCRB concludes its investigation and are “not told” if the NYPD ends their cases or alters the discipline recommended).

207. See Conti-Cook, 50-a, *supra* note 22, at 75–77 (“The introduction of official police misconduct databases made public by government agencies like the NYPD and the CCRB do not fill the shoes of an independent misconduct database that can challenge the government to broaden the scope of data they make available and analyze the data through collaborative partnerships.”); *supra* note 47 and accompanying text (describing redacted information in closing reports); cf. Levine, *supra* note 90, at 846 (“[W]ithout a more thoughtful publication regime, there is little reason to think that public knowledge about individual officer misconduct will do much for citizens exposed to police violence.”).

208. See Barber & McCormack, *supra* note 203, at 5 (“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.”).

209. *Id.* at 15 fig. 12 (identifying at least 11,152 CCRB complaints from children during the study period, 93% of which came from children of color).

210. See, e.g., Charles Lane & Samantha Max, *NYPD Misconduct Complaints Surge, but Many Cases Dismissed*, Watchdog Report Finds, *Gothamist* (Feb. 10, 2025), <https://gothamist.com/news/nypd-misconduct-complaints-surge-but-many-cases-dismissed-watchdog-report-finds> (on file with the *Columbia Law Review*) (“The jump in [CCRB] complaints comes amid Mayor Eric Adams’ and the NYPD’s aggressive approach to policing both violence and lower-level crimes, such as fare evasion and unlicensed street vending.”); Monica Potts, *What Policing Looks Like to a Former Investigator of Misconduct*, NPR: Code Switch (Aug. 13, 2014), <https://www.npr.org/sections/codeswitch/2014/08/13/340076968/what-policing-looks-like-to-a-former-investigator-of-misconduct> [<https://perma.cc/X4C3-RNDY>] (describing the “familiar constellation of charges: disorderly conduct, resisting arrest and assault on an officer” faced by most CCRB complainants).

211. Police departments across the country have partnered with mental health experts to provide crisis response to 911 calls, with varying levels of success. Compare Caroline

CCRB and NYPD to engage in meaningful accountability efforts and better respond to the needs of civilians who have experienced misconduct.

CONCLUSION

Improving the misconduct investigation process is just one step toward eliminating police impunity. Though a stronger CCRB may be part of deterring and punishing individual officers,²¹² this discrete approach would not cure the “propensity for chronic racialized violence” endemic to policing.²¹³ In a policing system built on, and perpetuated by, being unaccountable to the masses, fundamental changes are required to achieve justice.²¹⁴ While solving the problem of policing is beyond the scope of this Note, this study provides evidence that transparency itself does not meaningfully impact misconduct, thus bolstering the case for more transformative change. Though transparency can play a role in broader accountability movements, it cannot bring about accountability on its own.

Foreback, Anne Arundel Crisis Intervention Team Awarded Highest Certification for Response Efforts, CBS News, <https://www.cbsnews.com/baltimore/news/anne-arundel-crisis-intervention-platinum-certification-response-cit/> [<https://perma.cc/M69E-Q894>] (last updated Nov. 25, 2024) (describing the crisis response program in Anne Arundel County, Maryland, that operates both co-responder and entirely nonpolice intervention teams), with Alyce McFadden, New York City’s Mental Health Crisis Response Falls Short, Audit Finds, N.Y. Times (May 23, 2025), <https://www.nytimes.com/2025/05/23/nyregion/nyc-mental-health-911.html> (on file with the *Columbia Law Review*) (describing how New York City’s Behavioral Health Emergency Assistance Response Division pilot program has failed to respond to about 35% of eligible calls). A similar partnership could exist between the CCRB and organizations that support criminalized survivors of violence, housing support, social safety net referrals, and other nonlegal response options.

212. See, e.g., Zamir Ben-Dan, Reimagining Justice: *People v. Charles* and the Myth of Justice Without Police Accountability in New York City, 45 N.Y.U. Rev. L. & Soc. Change 509, 565–72 (2022) (proposing a series of simultaneous reforms that could “reduce case-related police misconduct”).

213. Tiffany Yang, “Send Freedom House!”: A Study in Police Abolition, 96 Wash. L. Rev. 1067, 1074 (2021) (describing policing’s systemic and pervasive harms, especially its ubiquitous violence).

214. See, e.g., Brandon Hasbrouck, Reimagining Public Safety, 117 Nw. U. L. Rev. 685, 687 (2022) (“Violence and coercion cannot cure violence and coercion.”); Meghan G. McDowell & Luis A. Fernandez, ‘Disband, Disempower, and Disarm’: Amplifying the Theory and Practice of Police Abolition, 26 Critical Criminology 373, 375 (2018) (arguing for “a more radical turn” that challenges the police’s “very right to exist”).

