



Review of EEOD Compliance with Applicable
Department EEO Policies, Procedures and
Industry Standards for the Period
October 1, 2017 to October 31, 2020

By: EPT Legal, LLC



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FROM: EPT Legal LLC

DATE: May 29, 2026

RE: Review of EEOD compliance with applicable department EEO policies, procedures and industry standards for the period October 1, 2017 through October 31, 2020

I. Executive Summary

The Equal Employment Opportunity Division (“EEOD” or the “Division”) of the New York City Police Department (“NYPD” or the “Department”) is responsible for investigating internal complaints of discrimination, harassment, and retaliation (“EEO Violations”) brought by NYPD employees. The Department, its employees, and the public rely upon the EEOD to conduct fair, impartial, and effective investigations of EEO violations affecting NYPD personnel.

In 2020, the Department determined that the then-commanding officer of the EEOD, Deputy Inspector James Kobel, had made numerous racist, misogynistic, antisemitic, and homophobic comments in an online forum for law enforcement officers called the “Law Enforcement Rant,” posting under the pseudonym “Clouseau.” In February 2021, following an investigation by the NYPD’s Internal Affairs Bureau (“IAB”), the NYPD terminated Kobel’s employment, finding him guilty of six separate disciplinary charges, including lying to investigators, impeding an investigation, posting inappropriate and discriminatory remarks, wrongfully divulging NYPD information, and improperly using NYPD equipment.

On April 25, 2021, in response to the findings regarding Kobel, the New York City Counsel enacted Local Law 2021/47, which required the NYPD to “engage[] an external consultant to perform a review of certain past work done by the equal employment opportunity division of the police department” during Kobel’s tenure as head of the EEOD. Specifically, the Local Law provides that the external consultant is to:

perform an independent, full and complete review of all, or a statistically significant sampling of, work performed and cases handled by the [EEOD] between October 1, 2017 and October 31, 2020,¹ inclusive, to determine whether such work performed and cases handled by such division were done in accordance with the purpose, mission and protocols of such division as described by the police department in any policies of the police department and any publicly published materials.

As directed by Local Law 2021/47, the NYPD issued a request for proposals for an experienced workplace investigations consultant to conduct a two-part review consisting of: (1) a review and assessment of the Department's internal investigative policies and procedures in effect during the Relevant Time Period, as applicable to reported EEO Violations; and (2) a review of the EEOD's files to assess whether complaints were actually handled in compliance with existing investigatory policies and procedures, and industry standards, during the Relevant Time Period.

On January 8, 2025, following an open bidding and proposal process, the NYPD engaged EPT Legal LLC ("EPT," "we," or "us") to perform the review. EPT is licensed by New York State as a Private Investigator and is a New York State Certified Woman-Owned business founded in 2015. EPT centers its practice on resolving workplace conflict, conducting complex and nuanced investigations into misconduct, teaching other investigators about standard practices in the industry, serving as expert witnesses, and reviewing, drafting, advising on, and implementing EEO policies. The team of attorney-investigators consists of Association of Workplace Investigators Certificate Holders (AWI-CH), former management-side employment attorneys, a former prosecutor from the Manhattan District Attorney's office, and a former NYPD detective who has been practicing law for over twenty years.

On January 15, 2025, EPT commenced the first part of its review, which consisted of a review and assessment of the NYPD's EEO investigation policies, processes, and procedures in effect during the Relevant Time Period. On July 15, 2025, EPT issued its final report on its policy review and assessment. (*See Exhibit A: Task 1 Report.*)

Our findings on our review of NYPD policies and procedures are detailed in the Task 1 Report. Overall, we found that the NYPD's investigative policies and procedures in effect during the Relevant Time Period complied with the requirements of the New York City Department of Citywide Administrative Services ("DCAS") EEO Policy, which the NYPD follows. However, it was our assessment that: (i) in certain instances, the DCAS EEO policy itself does not align with industry standards; and (ii) certain additional investigative policies and procedures followed by the NYPD also do not align with industry standards because they create potential procedural or structural impediments to raising or resolving EEO concerns. For example, we proposed removing

¹ Referred to hereinafter as the "Relevant Time Period."

references to statutes of limitation, allowing supervisory employees to make anonymous complaints, allowing paid time off for participation in investigations, issuing clear guidance on conflicts of interest, removing the requirement for advance notice to respondents, clarifying the evidentiary standards used by the EEOD in its investigations, clarifying procedures pertaining to the continued investigation of “withdrawn” complaints, and implementing deadlines and benchmarks during the investigative process.

Upon completion of EPT’s policy assessment summarized above, we commenced work on part two of our review, which consisted of a detailed review and analysis of a statistically significant sample of actual EEOD case files within the Relevant Time Period. In this review, we sought to determine whether EEOD investigators handled complaints in a manner consistent with both then-existing NYPD investigative policies and procedures and industry best practices. More specifically, we were tasked with: (i) analyzing the process actually used by the EEOD to investigate violations of EEO policies; (ii) evaluating the effectiveness and efficiency of the EEOD’s investigative policy and practices; (iii) evaluating what, if any, structural or procedural biases might exist in the EEOD’s investigative policies and procedures; and (iv) making recommendations as necessary.

The Department also asked EPT to determine whether, during the Relevant Time Period, EEOD investigations as a whole were infected with intentional bias either by, at the direction of, or under the influence of Kobel, *i.e.*, whether Kobel’s “fingerprints” were on any case files in which apparently meritorious complaints were dismissed or insufficiently investigated. Our review found that most of the issues we identified in the investigation process were not necessarily due to “Kobel interference” directly; rather, most of our audit findings are based on the processes and procedures EEOD oversaw and implemented. Personnel records show that during the relevant time period, Kobel was Captain and Executive Officer (essentially, second-in-command) of EEOD until May 2020, when he was promoted to Deputy Inspector, and he was promoted to EEOD’s commanding officer in June 2020, a position he held until his removal from office in November 2020. We found that Kobel was in a position to hide his involvement should he have wished to interfere with or influence an investigation. For example, one case file indicated that Kobel accessed and edited the file, but we were unable to identify what those specific edits were or how they influenced the outcome. In another case, we found that Kobel attended a respondent’s (a Captain’s) interview, which was not typical. In that case, the respondent’s interview lasted only 10 minutes, and it appeared that certain allegations should have been referred promptly to IAB but were not sent to IAB until over a year later. In yet another case, a complainant alleged that they applied for a job in Kobel’s department (EEOD), but that the respondent called the EEOD and prevented them from getting the role. Even though Kobel was the person who made the decision not to hire the complainant, asserting that there were better candidates, the EEOD did not officially interview Kobel; rather, they accepted Kobel’s statement -- that respondent did not call the EEOD about the complainant or interfere with complainant’s hiring -- at face value. We also found that, under

Kobel, EEOD investigators evaluated allegations using standards that may have been detrimental to complainants and advantageous to respondents, including: (i) EEOD investigators did not consider a party's past history of EEO issues (particularly a respondent's) when evaluating a current complaint; (ii) dismissing or downplaying alleged discriminatory or harassing conduct that occurred "off-duty," even when it impacted the workplace and occurred among co-workers; and (iii) applying the federal "severe or pervasive" legal standard in their investigations, as opposed to enforcing their own policies, in contravention of New York City Law, resulting in the administrative dismissal of complaints even where the alleged conduct was substantiated (*i.e.*, EEOD found that the conduct occurred as alleged).

That being said, although Kobel did have the power to sway and influence the EEOD's work, most of the questionable outcomes or deficiencies in investigations we found seemed to be mostly due to procedural, technical, or structural issues within the EEOD investigative process itself under Kobel's leadership and were without ill motive.

II. Methodology

In the course of this review, EPT was provided unfettered access to all EEOD case files for complaints filed within the Relevant Time Period, which consisted of a total of 951 files. Of those files, EPT selected 256 for review, using a random sampling process designed to ensure representation across different disposition categories and types of EEO allegations. This sample represented approximately 27% of the matters EEOD investigated during the Relevant Time Period. We reviewed the files for compliance with Department policy and industry standards, to determine the efficacy and efficiency of the EEOD's investigation, and to determine how structural or procedural deficiencies might have affected the investigations. For each file, EPT conducted the following specific analysis and assessment:

1. **Initial Assessment of Complaint Category:** What was the nature of the complaint and did it trigger the EEO policy?
2. **Relatedness to Another Investigation:** Was the complaint related to another investigation (*e.g.*, in cases of retaliation), and did the investigator consider the matter holistically in light of previously-file/related complaints?
3. **Scope of Investigation:** What was the scope of the investigation as compared to the allegations? Was the scope appropriate for and commensurate with the allegations being made?
4. **Admonitions:** What admonitions were given to each witness, complainant, and subject about the protocol, right to representation, and protections against retaliation?

5. **Dates of Initial Contact/Opening of File/Start of Investigation/Closing of Investigation:** How promptly was the investigation commenced, conducted, and closed, considering the nature and complexity of the allegations?
6. **Subject(s):** Was the subject of the investigation (*i.e.*, the person being accused) informed of the allegations and allowed to respond?
7. **Interim Measures Pending Investigation:** Were interim measures explored? Requested? Put in place? If not, would interim measures have been advisable or appropriate?
8. **Policies Implicated:** What policies or other work rules were implicated by the allegations, and were they fairly applied?
9. **Witnesses:** Did the EEOD interview all witnesses identified by the complainant and subject? If not, how did the EEOD decide which witnesses to interview? Were interviews conducted so that the identity of individuals involved in the investigation was not revealed unnecessarily? Was the questioning style conducive to the sharing of information, and did the investigator conduct the questioning in a neutral, unbiased manner?
10. **Documents/Evidence Collection:** Were documents/evidence identified, requested, procured, and analyzed? How was evidence collected and requested?
11. **Conclusions:** Were the EEOD's conclusions supported by a preponderance of the evidence? What evidentiary standard did the Investigator use in coming to a conclusion? Did the conclusions adequately address the allegations and initial assessment of the complaint category? Did the Investigator use corroborating evidence? How did the Investigator resolve questions of credibility?
12. **EEO Officer Sign-Off:** Did the EEO Officer sign off on the investigation report? Did the EEO officer conduct a substantive review or appear to give pro forma approval?
13. **Adequacy of Recommendations:** What recommendations, if any, were made based on the investigator's conclusions? Were the recommendations free of retaliation, and did they adequately address the complaint? Were any recommendations made with an eye toward improving/protecting (if necessary) the work environment as per legal/NYC requirements and relevant policy?

The results of these file reviews were then compiled and analyzed by EPT's workplace attorney-investigators to formulate conclusions and recommendations applicable to the overall EEOD investigative processes and policies, which are set forth below.

A. Findings of EEO Process, Procedure, and Investigatory Practices Under Kobel

1. The EEO did not investigate any complaints that were outside the statute of limitations period

As we identified in our Task 1 report, NYPD Policies and Procedures provide varying “statutes of limitations” for internal complaints. In that report, we recommend removing these limitations, even though they are also in DCAS’s EEO Policy. For the majority of the Relevant Time Period, Department policy (specifically P.G. No. 205-36 and the NYPD’s EEO Policies for 2017, 2018, and 2019) provided for an internal one-year statute of limitations for all EEO complaints.² However, on August 12, 2020, the NYPD issued an updated version of P.G. No. 205-36 that provides for the one-year statute of limitations but also references a “three-year statute of limitations (for complaints of sexual harassment only).” Also, beginning in 2020, the NYPD EEO Policy provides: “A person may file a complaint of discrimination with the Equal Employment Opportunity Division within three (3) years of the date of the last occurrence of a discriminatory action.”³ While Department personnel informed us that EEO does in fact investigate complaints outside of the limitations period in the case of “continuing violations” (i.e., some conduct occurred recently, before the statute of limitations expired, and “related” conduct occurred outside the statute of limitations period) we did not review any such cases. In any event, there is no reason to use a draconian cut off where the policy violation a complainant alleges is serious, implicates important NYPD’s policies and affects the environment at the Department.

We recommend removing any references to a limitations period for internal complaints, as it may deter members from filing complaints based on events that occurred outside that period. Although there are statutes of limitation for harassment and discrimination claims brought in a legal forum, an internal investigation should address issues arising in the work environment and should not be limited only to claims that are timely and viable if brought in court or before an agency. In addition, some circumstances may allow aggrieved individuals to file claims beyond a statute of limitations period, such as in cases of continuing violations, and the Department’s internal time limits for making internal complaints might confuse employees.

Also, simply because alleged misconduct falls outside the applicable statute of limitation period (meaning that, in most cases, due to collective bargaining protections, a member of service cannot be disciplined for it) does not mean the EEO should not investigate and determine what occurred. In many cases, we found that an investigation resulted in “instruction” (i.e., training) of the respondent, which is not considered disciplinary and would therefore be permissible. There is

² P.G. No. 205-36. We reviewed six versions of P.G. No. 205-36. When we cite to any Patrol Guide or Administrative Guide section, we are citing collectively to all versions in effect during the Relevant Time Period. We also note that some Patrol Guide provisions have since been moved to the Administrative Guide.

³ 2017 NYPD EEO Policy, 2018 NYPD EEO Policy, 2019 NYPD EEO Policy, 2020 NYPD EEO Policy.

nothing preventing the EEOD from investigating otherwise “stale” complaints to impart education to a misguided respondent, or even to assist in identifying patterns of misconduct should non-time-barred complaints later be made against that respondent. Also, the Department might wish to transfer or take other permissible action against a respondent found to have engaged in misconduct, even if formal discipline is barred by the applicable statute of limitations. This will help the EEOD address and improve culture at the Department, even if there are no legal remedies available to a complainant for misconduct that occurred outside the relevant limitations period.

Investigations are not solely about punishing a wrongdoer. They are also about righting a wrong someone experienced, and creating a healthy culture of accountability. Simply because the statute of limitations prevents a respondent from being disciplined, does not mean that NYPD is barred from correcting a wrong (for example, from removing discipline a respondent in appropriately imposed in violation of the Department’s anti-retaliation from a MOS’s file, promoting someone overlooked for a promotion due to animus in violation of policy, issuing an apology to a complainant, sending a respondent to training... etc.)—these corrective actions are not barred by the statute of limitations, and therefore the lapse of the period during which punishment is permissible should not prohibit an investigation. There is still an opportunity, even outside a limitations period, to make things right.

2. The EEOD’s Disposition Categories Were Used Inconsistently and Sometimes Incorrectly, and There Was No Clear Guidance on When Each Category Should Be Used:

Our file review revealed that the EEOD’s case disposition categories were used inconsistently and sometimes incorrectly. Generally, the EEOD almost always preferred to dispose of cases under administrative closure categories than make determinations on whether a complaint was “substantiated” or “unsubstantiated.” During the Relevant Time Period, the EEOD utilized the following “administrative” closure designations:

“**Admin A:** Complainant Interviewed – No case of employment discrimination/retaliation articulated or revealed. Full investigation not required. Matter referred to [Commanding Officer] concerned for corrective action.”

“**Admin B:** Complainant Interviewed – No case of employment discrimination/retaliation articulated or revealed. Full investigation not required.”

“**Admin C:** Documents/Department records reviewed - No case of employment discrimination/retaliation articulated or revealed. Full investigation not required.”

“**Admin D:** Violation of Patrol Guide procedure 205-36 [display of offensive sexual, ethnic, racial, religious, or other discriminatory material in the workplace.] matter referred to CO concerned for corrective action.”

“**Admin E:** Information and Intelligence – Referred to Other Investigative Unit/File. Respondent Instructed.”

“**Admin F:** Withdrawal.”

“**Admin G:** Uncooperative Complainant.”

“**Admin H:** Matter is under the jurisdiction of DC, Trials [When a complaint has Charges and Specifications pending, or when the same complaint has been filed with an external agency such as the EEOC.]”

Based on our review, the EEOD overwhelmingly chose to close cases using one of the above administrative categories, without making a definitive determination on the merits. In fact, in only a handful of the 256 files in our sample did the EEOD make a determination of “substantiated” or “unsubstantiated,” even when the investigation would have supported such a finding.

The most frequently misused/misapplied administrative closure categories were “Admin A” and “Admin B.” It is our understanding that those categories were intended to apply to cases where the complainant’s allegations, even if true, did not raise an EEO issue or constitute a claim of employment discrimination or retaliation, and, therefore, no EEOD investigation was required. For example, where a complaint alleged general unfairness without any allegation that it was connected to the employee’s protected class, an Admin A or B designation would be appropriate. However, the EEOD consistently used these categories even where the complaint, on its face, *did* articulate a claim of employment discrimination/retaliation. In practice, the EEOD most frequently used the Admin A and Admin B designations as a substitute for finding an EEO complaint “unsubstantiated.” Thus, even in cases where a partial (or even full) investigation determined that the complaint was without merit or could not be substantiated, the EEOD would nevertheless issue an Admin A or B dismissal (“No case of employment discrimination/retaliation articulated or revealed”) rather than finding the complaint “unsubstantiated.” Indeed, during the Relevant Time Period, the EEOD marked only one case as “unsubstantiated,” while 866 cases were closed using various administrative designations. There were several cases closed as Admin A when the finding could have easily been “unsubstantiated,” which would have vindicated officers and other respondents accused of misconduct. In some of these cases, a full or substantial investigation was conducted and no discrimination or retaliation was found. Closing such cases under Admin A rather than as unsubstantiated does a disservice to the accused by not providing a definitive dismissal of the claim on the merits.

Our review also revealed several cases where, rather than finding a complaint “substantiated,” an “Admin A” designation was used to refer the matter to the CO for corrective action, even though

the complaint *did* articulate a claim of discrimination or retaliation, and even though the alleged conduct could have been deemed “substantiated” because it was admitted by the respondent or otherwise supported by the facts. The administrative designation in this regard appeared to be used by some EEOD investigators who found the respondent did, in fact, commit the misconduct alleged by the complainant, but did not believe it was serious enough to warrant discipline.

We do not actually know the reasons behind the EEOD’s apparent reluctance to find complaints “substantiated” or “unsubstantiated.” There might have been internal policies or practices that made such findings particularly consequential for a complainant or respondent, or other structural reasons for issuing administrative closures. It is possible that the Admin closure designation was used in some cases to obfuscate a substantiated finding of misconduct that the EEOD found not to be egregious.

3. As a Matter of Practice, the EEOD Required In-Person Complaints and Witness Interviews:

According to DCAS EEO policy, which the NYPD follows, employees have multiple avenues for bringing an EEO complaint, including verbally, in writing, or anonymously by phone. NYPD policy also provides that employees can elect to meet with EEOD investigators at discreet off-site locations (of the employee’s choice) either before, during, or after working hours, to protect confidentiality. However, our file review revealed that the EEOD did not follow these policies in practice during the Relevant Time Period. In almost all cases we reviewed, the EEOD required the complainant to physically appear at the EEOD office to “fill out the paperwork” (*i.e.*, file a written complaint). Employees were not given the option of making a verbal complaint by phone (or otherwise), and the requirement to come to the EEOD office precluded anonymous complaints. Further, in not a single case we reviewed was the employee offered the option of an off-site meeting. The exception to this practice seemed to come into play only during COVID, when in-person meetings were impeded by the pandemic.

The EEOD’s practice of requiring in-person, written complaints might have inhibited employees from raising EEO concerns. For example, as mentioned, employees who did not wish to reveal their identity might have been reluctant to be seen at the EEOD office or fill out a written complaint. Also, the NYPD’s workforce is geographically dispersed throughout the five boroughs, and the EEOD’s downtown Manhattan office is often very far from employees’ homes or base precincts. In fact, because intake calls were recorded, we often heard how logistics would serve as an obstacle to a prompt meeting with the EEOD. For example, if a complainant works in the Bronx on a night tour, coming to downtown Manhattan at 9:00 a.m. is not practical. Industry standards recommend that employees be provided multiple avenues of complaint, that the complaint filing process be readily accessible, and that there not be unnecessary obstacles to raising EEO concerns. The EEOD’s *de facto* practice of requiring in-person written complaints did not comport with these

standards.⁴ Although there was a slight deviation from this in-person practice during the pandemic, for the most part, it was the standard.

Similarly, the EEOD, in practice, generally also required witness interviews (whether with the complainant, the respondent, or other fact witnesses) to be conducted in-person at the EEOD office, even though there is no policy requiring in-person interviews and it is possible to conduct such interviews by remote means (*i.e.*, phone or videoconference) or off-site. This practice potentially had a two-fold effect. First, it might have contributed to delays in the investigation process, given that it is more difficult to schedule in-person interviews in light of witnesses' work schedules and requirement to travel to the EEOD office. Second, it potentially limited the number of witnesses the EEOD was able or willing to interview, given that in-person interviews at the EEOD office were logistically more difficult to arrange. Our file review revealed that, in a few instances, telephonic interviews were conducted successfully by the EEOD, which confirms it is possible to conduct effective witness interviews remotely. We find that the EEOD's practice of requiring in-person interviews in most circumstances created unnecessary obstacles to conducting speedy and thorough investigations, and, therefore, did not comport with industry standards.

4. There Were General Inefficiencies With EEOD's Investigative Process:

Our file review revealed several inefficiencies in the EEOD's standard investigative process that might have contributed to longer case processing times and/or unnecessary expenditure of resources. For example, the EEOD typically assigned two investigators to each case, including having two investigators present at every party or witness interview. While it can be useful to have two interviewers in an interview, most matters we reviewed could have been handled by one properly trained investigator, leaving the second investigator free to address other cases. Also, investigators frequently prepared a typed summary of each party/witness interview, even though the interviews were recorded. Although the options were more limited in 2017, there was audio transcription software available at the time, and it would have been more efficient and effective to have an audio transcription program prepare an automated transcript of each interview. (Certainly, in light of current technology allowing for fast and easy AI or voice recognition transcriptions, the EEOD should utilize these methods in lieu of preparing hand-typed summaries, if that practice is still in place.) This would have had the additional benefit of ensuring that there is a complete and accurate description of each interview, rather than relying on the investigator's notes and memory, and would also have minimized any potential implicit biases or subjective views of the investigator when preparing a "summary" of the interview. We also observed that, during the Relevant Time

⁴ The Department's policy on anonymous complaints provides numerous options for bringing confidential EEO complaints, including "by telephoning or writing," or by "fax, relay service for the deaf, or other alternative means." This confirms that it is possible to take complaints and conduct interviews telephonically or by other means, and that it was not necessary to require in-person appearance at the EEOD.

Period, the EEOD utilized paper case files and did not have an electronic filing or case management system. Documents had to be typed, printed or copied, hole-punched, and inserted into each case file manually by an EEOD investigator, and all individual case files were kept in separate file folders. Not only did this take unnecessary additional time and resources, but it also made it more difficult to update and track cases in real time, cross-reference related cases, and identify potential patterns of misconduct. We were informed that the failure to convert to an electronic case management system was primarily a cost issue; however, it would have been a worthwhile expenditure because keeping paper files is costly itself, and there were adequate case management software systems available at the time that would have resulted in efficient case management.⁵

5. The EEOD Unduly Pressured Parties to Mediate and/or Unilaterally Imposed Mediation:

NYPD policy provides that the Department's Office of the Deputy Commissioner Equal Employment Opportunity ("DCEEO") will assist complainants to determine whether the issue raised is appropriate for resolution through the EEO complaint process. The DCEEO's counseling includes offering the complainant an opportunity to resolve the issue through voluntary, non-adversarial mediation before a neutral mediator and at a neutral location. Mediation is not mandatory, and is strictly voluntary on the part of both the complaining employee and the accused party. Nevertheless, our review revealed that, in several instances, the EEOD either unilaterally imposed mediation on the parties, or unduly pressured reluctant parties to mediate. For example, one case file indicated that a complaint was sent to mediation even though no party requested it. In another instance, a complainant was told that the EEOD would close the investigative file unless the complainant agreed to have the case sent to mediation. The unilateral imposition of mediation, or unduly influencing parties to accept mediation, is inconsistent with the voluntary nature of the mediation process and was not in compliance with Department policy and industry standard. In addition, when cases are "resolved" in mediation, there is nothing in the file indicating what the resolution was, and the EEOD did not make any finding as to the merits of the underlying complainant. Mediated case files simply contain a form stating that the case was "successfully" resolved in mediation, with no details of what that resolution entailed for the parties.

⁵ Although it was not an internal EEOD inefficiency, we also note here that there were apparent inefficiencies in the Charges and Specifications process in cases the EEOD found substantiated. Specifically, our review revealed that in such cases multiple, overlapping reports were prepared by different offices, including, for example, the Commissioner, EEO, and the DAO. It is unclear why this was done, but there would seem to be limited utility to having multiple reviews and reports issued by different departments in Charges and Specifications cases, not to mention potential confusion as to which report should be relied upon as the "official" report, and also to the extent the overlapping reports contained substantive inconsistencies.

6. The EEOC's Investigatory Practices Were Frequently Not in Compliance With Industry and Regulatory Standards:

As detailed in Part One of our review, there are accepted industry standards, as well as robust regulatory guidance from federal and state agencies, setting forth recommended investigatory policies and procedures for handling EEO complaints.⁶ These include, in relevant part for purposes of these findings, the following:

- Upon receipt of a complaint, conduct an immediate review of the allegations and take any interim actions (*e.g.*, instructing the respondent to refrain from communications with the complainant, separating the parties, holding adverse employment actions in abeyance, etc.), as appropriate. If the complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If they refuse, prepare a Complaint Form based on the verbal reporting.
- Assess whether a detailed fact-finding investigation is necessary. When detailed fact-finding is necessary, the investigator should interview the complainant, the accused, and third parties who reasonably could be expected to have relevant information.
- An investigation is adequate if it is sufficiently thorough to "arrive at a reasonably fair estimate of truth." The investigation need not entail a trial-type investigation, but should be conducted by an impartial party and seek information from all parties involved.
- If there are conflicting versions of relevant events, the investigator may need to make credibility assessments to determine whether the alleged conduct occurred.

⁶ These include, *inter alia*: (i) the Association of Workplace Investigators ("AWI") "Guiding Principles for Conducting Workplace Investigations," available at <https://cdn.ymaws.com/www.awi.org/resource/resmgr/files/publications/AWI-Guiding-Principles-Broch.pdf>; (ii) EEOC "Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors," section entitled "Effective Investigative Process" (June 18, 1999) available at: <https://www.eeoc.gov/laws/guidance/enforcement-guidance-vicarious-liability-unlawful-harassment-supervisors>

(last accessed March 11, 2026); (iii) EEOC "Enforcement Guidance on Harassment in the Workplace," section entitled "Prompt and Adequate Investigation" (April 29, 2024) (Although the EEOC guidance cited here was recently rescinded, the provisions regarding investigations remain pertinent.); (iv) EEOC "Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace," available at: <https://www.eeoc.gov/select-task-force-study-harassment-workplace> (last accessed March 11, 2026); (v) New York State Department of Labor's model "Sexual Harassment Policy for All Employers in New York State (10/19 version)", available at: <https://www.ny.gov/sites/default/files/atoms/files/SexualHarassmentPreventionModelPolicy.pdf> (last accessed March 11 2026).

- Create written documentation of the investigation (such as a letter, memo, or email), which should contain the following: (a) a list of all documents reviewed, along with a detailed summary of relevant documents; (b) a list of names of those interviewed, along with a detailed summary of their statements; (c) a timeline of events; (d) a summary of prior relevant incidents, reported or unreported; and (e) the basis for the decision and final resolution of the complaint, together with any corrective action(s).

Our file review revealed numerous instances in which the EEOD's investigatory practices failed to adequately comply with the above standards. Overall, it was our impression that the EEOD under Kobel seemed more focused on closing matters out than thoroughly addressing complaints, and that many complaints should have been investigated more rigorously. Specifically, we found:

a) The EEOD Typically Did Not Continue to Investigate Complaints That Were "Withdrawn" or Otherwise Abandoned:

Employers may have a legal obligation to investigate and address alleged EEO violations of which they have notice, even if the reporting party does not want an investigation to take place, declines to participate in the investigation, or decides to "withdraw" the complaint. At a minimum, industry standards recommend that facially plausible EEO complaints be thoroughly investigated notwithstanding the preference of the reporting party, and even if the allegations do not affect other employees. Here, our file review revealed that, in many cases, the EEOD did not continue to investigate (or did not investigate at all) complaints that were: (a) withdrawn by the complainant; (b) sent to mediation and resolved through the mediation process; or (c) effectively abandoned by the complainant, e.g., by declining to participate in the investigation or otherwise being uncooperative. Frequently, in such cases, the EEOD did not interview the accused party and fact witnesses, did not review documents, and did not make any findings. In many of these cases, the EEOD had sufficient information to warrant an investigation (for example, the identity of the respondent and a general understanding of the allegations), even where the complainant "withdrew" the complaint or declined to participate. Nevertheless, the EEOD administratively closed the cases with no or limited investigation. As a result, potential EEO violations went unaddressed and unrectified, raising the possibility of future issues between the complainant and respondent, or between the respondent and other employees. This practice certainly affects the working environment and culture of the Department.

b) The EEOD Generally Did Not Conduct a Robust Credibility Analysis:

Assessing credibility is a vital tool for EEO investigators, because in many instances there are conflicting versions of events and no corroborating witnesses. An investigator's ability to listen to the complainant and the accused party, spot inconsistencies, and critically analyze the credibility

and plausibility of each party's description of events, is critical for evaluating the merits of claims under the "preponderance of the evidence" standard required by DCAS EEO policy. Here, only a handful of EEO files we reviewed indicated that the investigator conducted a robust credibility analysis. In the vast majority of cases, investigators merely determined if a particular allegation was either "corroborated" or "uncorroborated" by other witnesses or documentation, and the investigators did not probe to determine if the alleged corroboration or lack thereof was trustworthy. It does not appear that the EEO made any significant credibility analysis or findings where there was no corroborating evidence. Therefore, effectively, the EEO deemed any complaints that involved "he said, she said" uncorroborated. As a result, the EEO dismissed potentially meritorious claims as "uncorroborated" and they were left unaddressed.

c) The EEO Rarely Issued Reports of its Investigation Findings:

Industry standards as well as the DCAS EEO Policy require that investigators make detailed findings supported by a preponderance of the evidence and documented in a report. The overwhelming majority of files we reviewed did not contain such a report,⁷ or any detailed findings at all analyzing the evidence or applying the preponderance of evidence standard. For example, in cases where there was a finding of "no discrimination revealed" or "no retaliation revealed," there was no written analysis of how or why the EEO reached that conclusion. Rather, the finding was simply stated in conclusory fashion. In fact, in almost all cases, cases were closed and/or dismissed on "administrative" grounds without any investigative finding or report, even where some form of investigation had been conducted that could have supported a finding of "substantiated" or "unsubstantiated." (The misapplication of the EEO's administrative dismissal categories is discussed more fully above.) Overall, our review revealed that the EEO prepared detailed investigative reports with findings only in substantiated cases where the Department brought Charges and Specifications⁸ (which accounted for slightly less than that 10% of the files in our sample).

⁷ Although many files contained a document entitled "Investigating Officer's Report" with a subject "Case Recommendation," this report simply listed the allegations, summarized what the witnesses said, and provided a general "finding" without any analysis.

⁸ Where the EEO substantiated a complaint of discrimination or retaliation, the Department typically issued what were referred to as "Charges and Specifications" against the offending party, *i.e.*, formal written charges setting forth the findings and describing the respondent's violations of law and/or Department policies. The matter would then be referred to the Department Advocate's Office ("DAO"), which is the prosecutorial/disciplinary arm of the NYPD, for prosecution, meaning that the respondent would be subject to a full, adversarial evidentiary "trial" at which final findings would be made, unless they accept the Commissioner's penalty.

d) The EEOD Generally Viewed Complaints Too Narrowly in Scope:

Industry standards require that the scope of an investigation be appropriate for and commensurate with the allegations being made, taking into account that a complainant might not have sufficient knowledge or expertise to specifically identify all potential EEO issues and violations implicated by the facts. Therefore, investigators should evaluate a complainant's allegations liberally, identify the EEO concerns being raised (whether knowingly or unknowingly by the complainant), and ensure that the scope of the investigation is reasonably broad enough to address any significant issues. In too many cases, however, EEOD investigators took an overly narrow view of the complainant's allegations, sought to limit the scope of the investigation, and failed to acknowledge or address additional EEO issues that were either directly alleged by the complainant or implicated by the allegations.

For example, the EEOD: (i) would often focus on one particular type of discrimination (*e.g.*, race) even though the complainant also raised other kinds of disparate treatment (*e.g.*, sex, national origin, disability), or retaliation; (ii) generally did not expand the scope of the investigation after initial complaint intake, even where subsequent interviews with the complainant and/or witnesses revealed additional facts and allegations worthy of investigation; (iii) rarely, if ever, amended or revised its categorization or labeling of the claims after initial intake, even when subsequent interviews/facts revealed additional types of discrimination, or retaliation, being alleged; (iv) tended to focus on discrimination allegations and minimize or ignore related facts suggesting retaliation; (v) tended to focus witness interviews on certain limited allegations rather than taking a broad and holistic approach to its fact-gathering; and (vi) was reluctant to expand the scope of an investigation beyond the specific complaining party, even when the allegations suggested that other employees might also have been affected or subjected to similar mistreatment. Thus, it was not uncommon to see significant issues raised by a complainant go completely unacknowledged and uninvestigated by the EEOD, in favor of a narrow focus on certain allegations. The EEOD under Kobel did not review complaints broadly in scope, and should have spent more time and effort to thoroughly investigate all significant aspects of each complaint.

e) The EEOD Did Not Conduct Robust and Searching Interviews of Parties and Witnesses:

In many cases, the EEOD closed or dismissed cases without ever having interviewed the respondent or any witnesses. Even where the EEOD did conduct such interviews, however, they were generally brief, superficial, and overly focused only on certain narrow issues raised in the complaint. Most interviews lasted less than 15 minutes, and industry standard interviewing techniques were generally not utilized. For example, EEOD investigators typically did not ask open-ended questions designed to elicit maximum information, did not ask follow-up questions where the witnesses' answers warranted further exploration, and did not challenge witnesses when their answers seemed inconsistent, implausible, or not credible. Instead, most interviews consisted

of a by-the-numbers recitation of the complaint's allegations, with the witness being asked if they "saw" or "heard" what was being alleged, or whether the allegation "happened." Even when a witness suggested there were other potential witnesses or documentation relating to the claims, EEOD investigators often failed to ask follow-up questions to obtain the identity or location of the witnesses and documents, and no effort was made to interview the additional witnesses or obtain the relevant documents. Overall, interviews were not conducted in a manner consistent with a thorough and searching fact-finding mission. It does not appear that, during the Relevant Time Period, EEOD investigators received sufficient training on effective interviewing techniques.

f) The EEOD Rarely Sought to Obtain or Review Documents:

Relatedly, our file review revealed that the EEOD very infrequently sought to obtain and review potential documentation relating to a complainant's allegations. As an initial matter, and as referenced above, investigators rarely questioned witnesses as to whether documentation existed that might support or refute the complaint; therefore, potential avenues of evidence went unexplored. Generally, the EEOD did not request supporting documentation, identify it, or consider it unless it was volunteered by the complainant or respondent. The EEOD did not ask parties and witnesses whether they were in possession of any communications (such as text messages, emails, voicemails, or photos) relevant to the case. Nor did the EEOD ask respondents or commanding officers in the complainant's unit to provide documentation supporting an employment action being challenged by the complainant. In a few cases, EEOD investigators actively sought out and/or reviewed relevant policies or command discipline documents relating to a case, but this was not the rule. Industry standards recommend that EEO investigations include a review of all relevant documents, and that the investigative file include a list of all documents reviewed, along with a detailed summary of those documents. It does not appear that the EEOD adhered to these standards, certainly not on a consistent basis.

g) The EEOD Rarely Took or Considered Interim Measures:

According to industry standards, an investigator should consider whether interim measures are advisable or appropriate while the investigation is being conducted. In appropriate cases, interim measures may be imposed to prevent further harm to a complainant while the outcome of the investigation is pending. For example, in cases where a complainant is allegedly being exposed to sexual harassment or sexually inappropriate behavior by a supervisor or co-worker, steps can be taken to temporarily separate the two employees while the matter is being investigated. Or, in cases involving a planned disciplinary action or other adverse employment action against the complainant, the action can be held in abeyance until the EEOD can determine whether the action is appropriate or discriminatory/retaliatory. Here, our file review revealed that the EEOD rarely took, or even considered taking, interim measures, even in cases where such measures would have

been advisable. One measure the EEOD regularly and frequently did implement was “instructing” a respondent on policy. However, it was not clear from our review what these “instructions” consisted of in every case, although the EEOD did provide us with certain training presentations that might have been rolled out to respondents as part of the instruction, and we observed that, in some instances, COs sent respondents to attend “Professional Conduct in the Workplace” training at the Police Academy.

h) The EEOD Noted, But Did Not Seem to Consider, History of Past EEO Complaints:

In considering issues such as credibility, plausibility of the complaint, pattern of behavior, and severity of recommended corrective action, industry practice recommends that EEO investigators should review and consider the accused party’s history of EEO issues. For example, has the accused party been accused of engaging in similar discriminatory or retaliatory conduct in the past? If so, what was the outcome? Has the accused party received prior warnings or counseling about their behavior? Is there anything in their history that would make the current allegations more or less likely?

We spoke to EEOD staff, and they indicated that they receive training on investigations which instructs them to not consider previous complaints (“We don’t consider a respondent’s or complainant’s eeo history to determine the findings of a current investigation, in order to avoid possible biasness. If it’s a continuous course of conduct, we can, but I think we are taught by Cornell, don’t ever use somebody’s history as a basis for determining the outcome of a case.” We find that this is a very restrictive (and unnecessarily limiting) view of investigatory practices. Although past EEO issues (or other issues in general) are not necessarily conclusive or dispositive of whether a current complaint has merit, they may be relevant enough to be considered during an EEO investigation and should not be dismissed out of hand as irrelevant or too prejudicial for consideration. We did not find any cases where relevant history was reviewed and analyzed in the context of the facts—each case was siloed and not reviewed against possibly relevant history to investigate whether there was a “continuous course of conduct” or a pattern of problematic behavior. We recommend a change in this “siloed” approach.

In fact, the EEOC and the Association of Workplace Investigators both teach that an investigator should consider previous allegations of the same type of misconduct for the purpose of making credibility findings, discovering patterns, and determining severity or if there is a cumulative effect of the conduct.⁹ Our file review revealed that, in every case, it was EEOD’s standard practice to obtain a report of all prior EEO complaints that involved either the complainant or the respondent,

⁹ See, e.g., EEOC “Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors,” section entitled “Effective Investigative Process” (June 18, 1999) available at: <https://www.eeoc.gov/laws/guidance/enforcement-guidance-vicarious-liability-unlawful-harassment-supervisors> (last accessed March 11, 2026).

which report was made part of each investigation file. However, beyond noting the EEO history and making it part of the file, investigators did not typically analyze or consider a respondent's prior EEO issues as they might have related to the complaint being investigated, or as a factor in assessing credibility or plausibility. For example, there were instances where the respondent had previously been accused of engaging in similar discriminatory, harassing, or retaliatory conduct, but it did not seem to play a part in the investigator's assessment of the case and was not the subject of any serious analysis or consideration.

i) The EEOD Sometimes Discouraged Claimants from Pursuing a Complaint:

NYPD and DCES EEO policies support the reporting and investigation of EEO issues, and encourage employees to come forward with such concerns. Unfortunately, the demeanor of some EEOD investigators was not always consistent with those policies. Our file review, which included listening to recordings of intake calls and interviews with complainants, revealed several instances where investigators seemed to discourage employees from pursuing a complaint. For example, one investigator stated, "So, you do not want to make a complaint?," even though the complainant had never said that and was still considering how to proceed. At times, the intake investigator suggested that the employee first try to resolve the matter directly with the accused party or through the commanding officer, rather than bring a formal EEOD complaint. On other occasions, investigators made skeptical comments during intake or otherwise indicated doubt as to whether a claim should be pursued, *e.g.*, asking repeatedly "is what you were experiencing 'because of' your race or gender?," a question to which complainants rarely have a definitive response and that is, in the end, the ultimate question the investigator is responsible for answering after investigation. This would naturally raise concerns to a potential complainant regarding whether their claim would be adequately investigated or addressed by the EEOD if the employee decided to move forward. At a minimum, the EEOD in many cases did not provide support and encouragement to potential complainants. That, combined with the investigator's general tone and demeanor, might have discouraged employees from filing and pursuing formal EEO complaints.

j) The EEOD Was Inconsistent in Communicating Admonishments, Particularly for Non-Retaliation:

Industry standards recommend that all witnesses, including complainants, respondents, and fact witnesses, be specifically advised and admonished about the investigation protocol (*e.g.*, confidentiality), right to representation, and protections/prohibitions against retaliation. Our file review revealed that EEOD investigators were inconsistent in making the required admonishments, that in many cases the admonishments were rushed through very quickly, and that some admonishments were not explicitly stated, but rather the witness was simply directed to review a policy (with no assurance that they actually did so). Most significantly, accused parties

who had supervisory authority over the complainant were not always expressly admonished against retaliation when interviewed or at any time while the investigation was ongoing. Frequently, the EEOD did not make an express anti-retaliation admonishment until the case was closed and disposition letters issued, which might have been too late to prevent or discourage retaliation from occurring during the pendency of the investigation. Investigators should have had a set, required script of admonishments that they were required to read -- clearly, completely, and in a manner that can be understood -- during every witness interaction. Finally, the EEOD should have advised complainants at the intake stage regarding their rights against retaliation, rather than waiting until the “formal interview.”

k) The EEOD’s Processing of Complaints Took Too Long, Even in Non-Complex or Withdrawn Cases:

Industry standards and legal/regulatory requirements dictate that investigations should be commenced immediately after a complaint is received, and should be conducted promptly to ensure that any discriminatory, harassing, or retaliatory conduct is addressed and rectified in a timely manner. The Department’s own standards provide that the EEOD should aim to complete investigations within 90 days of complaint intake. However, our file review revealed that a substantial number of EEOD complaints took significantly longer than 90 days to process -- including cases that were relatively straightforward. Numerous cases that did not require significant investigation, or that could have been deemed substantiated or unsubstantiated without extensive fact-finding or analysis, nevertheless took many months (and in some instances *more than one year*) for the EEOD to process and issue a determination. In some of these cases, witness interviews did not even take place for several months after the complaint was filed. The reasons for these delays were generally not apparent from the file, nor were they noted in the file in most cases (with the exception of COVID-related delays).

We did uncover in our investigation that EEOD investigators, who included both civilians and uniformed Members of Service, also had other obligations. For example, during the Relevant Time Period, the Department assigned EEOD investigators to street duty for several weeks to assist in policing protests and riots. In addition, the EEOD not only investigated complaints but also was in charge of reviewing and addressing thousands of accommodation requests during the COVID pandemic, including requests for changes in duty or relief from vaccination requirements. This detracted from the EEOD’s ability to expeditiously address complaints.

The EEOD’s ability to process complaints in a timely way was potentially affected by several factors, including: (i) lack of resources/manpower in comparison to the number of complaints filed; (ii) the EEOD’s requirement that witnesses appear at EEOD’s offices in person for interviews, which caused scheduling issues for busy Department personnel; (iii) the COVID pandemic and related strains on EEOD resources stemming from processing increased disability

accommodation requests and the diversion of EEO investigators to other units; and (iv) delays in obtaining multi-level review and approval of complaint dispositions.

Taking too long to investigate EEO complaints can have numerous deleterious effects. For the complainant and the accused party, having allegations pending for a long time without resolution can be harmful to their state of mind, reputation, and career, and affect their ability to function on a day-to-day basis. Thus, the old adage, “Justice delayed, is justice denied.” However, in the investigation world, it is also about culture. If an immediate EEO issue or concern takes months or even years to investigate, the point of an investigation is defeated. All involved, including those accused and those raising issues, lose heart and suffer from low morale. Straightforward allegations need to be addressed quickly, and the investigative structure must be able to address complaints expeditiously – *i.e.*, within days – in non-complex cases. In short, EEO concerns need to be addressed in real time. Significant delays render an investigation pointless in many cases, and essentially send the message “nothing is going to change.” The failure to promptly address workplace culture issues, EEO misconduct, or policy violations makes it more likely that the conduct will continue or worsen due to a perceived lack of repercussions.

1) The EEO Did Not Clearly Describe Steps Taken to Address the Complaint:

In cases where it was determined that some action would be taken in response to a complaint, the EEO did not clearly describe in the file, or advise the complaining party, the remedial measures that were implemented. This occurred most frequently in cases where the EEO noted that the respondent had been “instructed,” that the matter had been referred to the commanding officer for “corrective action,” or that the complaint had been referred to the IAB. In most cases, the EEO did not provide specifics on the substance or timing of any instruction or training provided to the respondent, or what particular steps had been taken by the command to address the complaint, even when there were Charges and Specifications issued. Further, if a complaint came in that was the subject of a pending lawsuit or administrative agency charge, the EEO automatically sent it to the NYPD’s Law Department, and there is no insight into what investigation, if any, the Department did. Industry standards recommend, and New York State law requires, that a detailed description of remedial measures be prepared, and that the complainant be advised of those measures when possible. This provides a record that the measures taken were appropriate, reasonably designed to address the alleged conduct, and commensurate with the alleged offense. While we understand that EEO has an obligation to protect the confidentiality of personnel matters, more robust communication and transparency, if possible, would help ensure that the complainant is aware of how their complaint has been addressed, which makes the complainant (and other employees) have more confidence that the issues were taken seriously and concrete measures have been taken.

7. There Did Not Seem to Be Clear Guidelines on What Claims Fall Under EEOD Jurisdiction:

Our review indicated possible confusion or lack of guidance regarding what kinds of claims fell under the EEOD's jurisdiction, or when the EEOD was required to refer claims to the IAB. This resulted in some allegations that clearly involved EEO issues being referred to the IAB. For example, some investigators apparently believed that any allegations concerning internal policy violations, physical threats, fighting, violence, or retaliation must be handled by the IAB, not the EEOD. However, in many cases, the complainant was alleging that the actions were discriminatory (*i.e.*, based on the complainant's protected EEO classification) and/or in retaliation for the complainant raising EEO issues, and it would have been important to evaluate the allegations in the context of the EEO complaint. Therefore, the actions should (or at least could) have been included within the scope of the EEOD investigation, rather than completely severed from the investigation and sent to the IAB. Even where issues were appropriately referred to the IAB, the EEOD could have continued to investigate the issues on a parallel basis in the context of the EEO complaint. It would have been beneficial to have had clear written guidance and protocols for EEOD investigators with respect to what claims fall within EEOD jurisdiction, and how to handle referrals to the IAB. We note that, in many cases, where claims were referred to the IAB, there was no follow up or indication in the EEOD file on the outcome of the IAB investigation or what action, if any, was taken by the IAB to address the complaint.

8. The EEOD Findings Referenced Whether Violation of Law Occurred, But Typically Did Not Address Whether Violation of Department Policy Occurred:

Industry standards recommend that investigations of EEO complaints focus on whether the employer's internal policies have been violated, rather than making legal determinations on whether the alleged conduct constituted a statutory violation. However, the EEOD's typical determination letter to complainants stated only that the "investigation of your complaint did not reveal evidence of employment discrimination under Title VII of the Civil Rights Act of 1964, or applicable state or local laws." The EEOD typically did not make a determination regarding whether the conduct violated internal Department policies relating to EEO or otherwise. This suggests that EEOD investigators might have been overly focused on whether alleged conduct was "unlawful" under the anti-discrimination laws, rather than whether the Department's internal policies were violated. As a consequence, behavior that might have been contrary to Department policy, but did not rise to the level of a statutory violation, could have gone unaddressed.

Our review indicated this might have been the case in several matters. For example, we were advised by EEOD personnel that the "severe or pervasive" standard under Title VII was used by the EEOD under Kobel to evaluate complaints of sexual or other harassment. The "severe or pervasive" standard was applied notwithstanding that, during the Relevant Time Period, the law

was clear that harassing conduct did not need to be severe or pervasive to constitute unlawful harassment under New York City law (the New York City Human Rights Law), which applied to the Department; a complainant merely had to show that they were “treated less well” than others because of their sex, race, or other protected characteristic. Likewise, under the Department’s own anti-harassment policy, the harassing conduct did not have to be “severe or pervasive” to be found in violation of policy. The EEOD’s use of the federal “severe or pervasive” standard, rather than the less-demanding standards of the New York City Human Rights Law and the Department’s internal policy, resulted in certain cases being dismissed or downplayed because the EEOD determined that the alleged conduct, even though it occurred, was not severe or pervasive enough to constitute a violation of Title VII. In such cases, the EEOD would close the case using an Admin A or Admin B designation (*i.e.*, no discrimination revealed), with the accused harasser receiving only “instruction” on Department EEO policy and nothing more. Whereas, if the appropriate standards were used, the complaint would have been deemed “substantiated” and more severe discipline imposed.

The implications of this practice on the Department’s culture cannot be underestimated. If a Captain can call women “sexy” for 19 years; if a CO can yell and scream at a plain clothes cop to show his badge because he was leaning on a patrol car; if a member of the Department can disrespectfully shout at a much-higher-ranked female member to the point that her male subordinate reports it as sexism, yet she cannot even get an apology from the antagonist -- all without significant repercussion -- then it fosters an environment where certain employees feel emboldened to push the envelope of acceptable workplace conduct.

9. The Department Rarely Imposed Significant Discipline Even in Substantiated Cases:

Our file review indicated that, even where a complaint was substantiated after investigation, and Charges and Specifications were issued, the Department rarely imposed significant discipline on the respondent. Typically, where the EEOD substantiated a complaint of discrimination or retaliation, the Department issued “Charges and Specifications” against the offending party, meaning that the respondent would be subject to a full, adversarial evidentiary “trial” at which final findings would be made, unless they accept the Commissioner’s penalty. In almost all cases, the respondent would accept the discipline being imposed and waive his or her right to a hearing. However, regardless of the severity of the conduct, the discipline imposed typically consisted of only the following: (i) the respondent would be required to attend training at Police Headquarters; (ii) the respondent would receive “instruction” on relevant Department policies; and/or (iii) the respondent would forfeit a particular number of vacation days. More severe discipline, such as suspension, demotion, or termination, was rarely recommended. Therefore, in many cases, the discipline the Department imposed was not commensurate with the nature of the substantiated conduct set forth in the Charges and Specifications.

10. The EEOD Struggled With Addressing Off-Duty Conduct:

In several cases we reviewed, the EEOD seemed to minimize, or at least view less harshly, alleged conduct that occurred while employees were “off-duty,” such as, for example, alleged harassing or discriminatory conduct that occurred on social media, at a bar or other off-premises establishment during non-working hours, or in private text messages, phone calls, or emails sent on personal devices among co-workers. EEOD investigators seemed to make significant distinctions between so-called “on-duty” and “off-duty” conduct for purposes of investigation and remedial action. This was the case even where the off-duty conduct impacted the workplace and was in violation of Department EEO policies. It is not clear why the EEOD apparently was reluctant to address off-duty conduct. Perhaps the EEOD felt constrained by federal law, which provides certain First Amendment protections to public employees. However, because those protections apply only to private speech that relates to social, political, or community issues (*i.e.*, matters of public concern), and not to other kinds of speech or conduct that disrupts the workplace or hinders co-worker relationships, the EEOD might have placed too much emphasis on whether the alleged discriminatory conduct occurred “off-duty.” This may have been informed by Kobel’s limited view of what actually constitutes the “workplace,” as evidenced by his own conduct—posting under a pseudonym on social media.

11. The EEOD’s Practice For Addressing “Offensive Displays” Could have Been More Robust:

In addressing complaints of “offensive displays” (*i.e.*, something offensive is written or posted in the workplace), the EEOD’s standard protocol was: (i) send a representative to the location to ensure that the offensive display had been removed and that there were no other such displays on the premises; (ii) ensure that all required EEO and policy postings were displayed at the location as required; and (iii) have the command instruct the employees at the location, as a group, regarding Department policy on offensive displays. Typically, there was no further investigation or effort to determine who was responsible for the offensive display. This was the case even where it might have been possible for the EEOD to identify the offending party, or potential suspects, by interviewing witnesses, determining who was present or on-duty when the display first appeared, analyzing handwriting, and, in more serious cases, taking fingerprints and employing other investigative techniques. Because offensive, discriminatory displays in the workplace (*e.g.*, racial epithets) are harmful and can have a significant impact on an individual at whom the display is directed, the EEOD could have made more robust efforts to identify and discipline the person who made the display, so that the conduct was less likely to be repeated.

12. Our file review raised several questions regarding the EEOD's review process::

The EEOD review process for investigative actions calls for review and sign-off by the Investigating Officer's (IO) Supervisor, the EEOD's Executive Officer, the EEOD's Commanding Officer (during the Relevant Time Period Kobel was Executive Officer and then Commanding Officer), and the Deputy Commissioner, EEO. Each EEOD investigation file folder contains spaces on the file label for the signature of each of those officials, along with an indication of concurrence with or revision of the recommended action on the complaint.

Our file review raised several questions regarding the EEOD's review process. First, apart from the reviewing official's signature, there is nothing in the file describing what specifically was actually reviewed by the reviewing official, or explaining why the reviewing official concurred or disagreed with the initial recommendation. Therefore, there is no way to determine whether an actual substantive review was conducted at each step of the review process, as opposed to a pro forma sign-off. Second, in a number of cases, Kobel or another reviewing official (but mostly Kobel) signed their name on multiple levels of the review process for the same file, even though each level was supposed to be conducted by a separate official. Although Kobel (for example) might have been given authorization to review and sign the file on behalf of someone else in the chain of review, there is no proof of that in the file, and it is unclear whether that would even be permitted under EEOD or Department policy. Indeed, it would seem to undermine the purpose of the multi-level review process to have the same official conduct multiple levels of the review.

III. Illustrative Cases

The following is a non-exhaustive sampling of cases we reviewed that are illustrative of many of the above deficient, questionable, or below-standard investigative processes and practices of the EEOD during the Relevant Time Period.

1. Respondent admitted sending inappropriate text messages to Complainant, including: (i) "Make some time and step out so I can see you a squeeze on you a little"; (ii) "I could always send a bang bus to bring you to me"; and (iii) "all my spots for friends are full but there is room for friends with benefits." Also, when Complainant reported that unknown males were harassing her, Respondent told her, "You're attractive, these things happen! You can't blame the guy for this happening." Even though Respondent admitted sending inappropriate texts, the EEOD took almost 9 months to process the case and issue a "substantiated" finding. There is no explanation in the file or any apparent reason why the investigation should have taken this long. Further, although Charges and Specifications were eventually issued against Respondent, there is nothing in the file to indicate what the result was or what remedial or disciplinary measures (if any) were implemented.

2. Multiple complainants alleged that a high-level Respondent made inappropriate sexual comments to female subordinates, including: (i) “hey sexy”; (ii) “hey beautiful”; (iii) asking a woman what she was wearing, and when she said pajamas, asking “are they sexy? I bet they are sexy because anything you wear is sexy”; (iv) “I know I told you that you could wear this type of clothes, but I didn’t realize you would be giving me whiplash because I watch everybody when you walk by and you’re giving everybody whiplash”; (v) “sexy ass”; (vi) “sexy”; (vii) asking a woman to text him a picture of what she was wearing; (viii) “You’re absolutely beautiful”; (ix) “hey sexy come in here”; (x) telling a woman that her eyes “sparkled” and he would like to watch her walk away; (xi) asking members of the anti-crime team “which one of them should I fuck?”

Respondent admitted using the word “sexy,” and some of his other comments were corroborated by witnesses. At some point during the investigation, all of the complainants asked for a withdrawal, and EEOD closed the case using the category “Closed Admin E I&I. There is no explanation in the file as to why was this case was closed under Admin E I&I. Usually this designation is used for an IAB referral, but there was no indication the matter was referred to the IAB or, if it was, what happened after it was referred. Nor was there any evidence that Respondent was “instructed,” or, if he was, what the instructions were. Finally, this file was not signed by Kobel or any other reviewing official at all. The lines where reviewing officials were supposed to sign are completely blank.

3. Respondents texted pictures of a nude woman to each other and to Complainant, asking if it was she and whether it was her “off duty employment.” A full investigation was conducted. However, Department Advocate’s Office (“DAO”), the office that represents the Department in disciplinary hearings against Members of Service, found that the incident did not fall within the scope of the Patrol Guide’s prohibition on offensive displays because it occurred off-duty, stating “PG 205-37 intimates that the banned displays must occur at a Department location or within a Department ‘work environment’.... Guided by these definitions, it would be difficult to assert that the instant Allegations fell under the coverage of Patrol Guide 205-37.” Nevertheless, Charges and Specifications were recommended, but the Commissioner recommended imposing Schedule C Discipline instead.
4. Respondent allegedly referred to Complainant as “Mother fucking nig—r.” Two witnesses corroborated the statement, and Respondent admitted it. Yet the EEOD closed the case using the designation “Admin A, R instructed [No case of employment discrimination/retaliation articulated or revealed. Full investigation

not required. Matter referred to [Commanding Officer] concerned for corrective action].” There is no explanation of why the EEOD found “No employment discrimination articulated or revealed,” which would seem an incorrect conclusion under these circumstances. Nor is there any indication of what, if any, corrective action was taken, or how, when, or what the Respondent was instructed.

5. Respondent allegedly commented on several occasions that Complainant, who has Lupus, “smells.” Complainant also alleged that she had reported Respondent previously to a Lieutenant because he was “playing with himself,” and was told it would be taken care of. (There is a reference to an IAB file IAB log 2020-21901.) Despite the prior complaint made by Complainant against Respondent, the scope of the investigation was not expanded to include possible retaliation, and it does not appear that retaliation was even considered by the EEOD. This matter was closed using the “Admin E” designation (“Information and Intelligence – Referred to Other Investigative Unit/File. Respondent Instructed.”), but there is no indication in the file where the matter was referred, what happened, or whether and how Respondent was “instructed.”
6. Respondent allegedly sent a group text message with a photo of George Floyd dead on the ground with his spirit leaving his body, with the caption “Holy shit I’m finally white,” as well as a photo of Derek Chauvin’s knee on Floyd’s neck with the caption “You’re welcome.” Respondent also sent a group text message saying “Fuck Black Lives Matter” and “Fuck Looting Hoodrats,” and allegedly changed a Black officer to a less desirable schedule because of his race.

After investigation, the allegations were found to be “Substantiated,” and EEOD recommended Charges and Specifications. This was a rare case where significant discipline was imposed and indicated in the case file: Respondent was placed on modified assignment as an interim measure; his shield was removed and firearms taken; he was demoted to the Civil Service title of Police Officer; and he was required to attend the Tactical Communication Course held at the Police Academy. We noted that the DAO’s Memo cited federal case law, finding there was “no individual liability under Title VII.” It is unclear why the DAO would not cite and consider NYS and NYC local anti-discrimination laws, which are more protective than Title VII and do impose individual liability under some circumstances.

7. The Complainant alleged that Respondent retaliated against her for a previous EEO complaint by denying her a promotion, removing staff that reported to her, and removing her from her Division. Complainant also alleged that Respondent approached her after she had a job interview with the EEOD and stated, “I heard

you were going to EEO, well I made an unofficial phone call there, so good luck!” Complainant did not get the position with the EEOD. The matter was initially reported to the IAB, which transferred it to the EEOD, notwithstanding the potential conflict of interest in the EEOD investigating a retaliation complaint involving itself.

The EEOD investigator’s Report states that “[o]n October 20, 2020, a conferral was conducted with DI James Kobel (Commanding Officer of EEOD). Kobel stated that [Complainant] did well on the interview, but a more qualified candidate was chosen for EEO. Furthermore, [Respondent] never contacted EEO related to [Complainant’s] transfer to EEO.” There is no indication in the file that the EEOD ever sought to investigate or substantiate Kobel’s assertions. Nor is there any indication that the EEOD made any effort to corroborate Respondent’s version of events; rather, it appears that they simply took Respondent’s word at face value. The only witnesses listed and interviewed were Complainant and Respondent.

8. An anonymous letter alleged that Respondent “is a racist who is constantly spewing hate throughout the precinct. He continuously makes remarks that this city is ruined when they started favoring these nig--s and fags. He states he cannot wait to retire so he no longer deals with nig--s. He also states the job was ruined when he started to allow blacks and women. He also states he is a white supremacist who wants to rid this country of these undesirables. We here in the ... pct cannot tolerate him anymore with this negative behavior. We have reported him numerous times to CO&ICO but to no avail. We hope that someone downtown can talk to this man and get him to stop.”

For unexplained reasons, the EEOD closed the case with an “Admin B” designation (“No case of employment discrimination/retaliation articulated or revealed. Full investigation not required.”), which would not be appropriate given that the complaint clearly alleged statements that would implicate EEO policies if they occurred. The EEOD informed Respondent of the closure but did not interview Respondent. Although the EEOD interviewed 2 witnesses from the precinct, there is no indication of how those witnesses were identified or chosen. Nor is there any indication that the EEOD interviewed the CO and ICO regarding the allegations. Although there is a withdrawal sheet from one of the witnesses, the actual witness interviews are not in the file and there is no inventory sheet in the file indicating that the witness interviews were ever there.

9. Respondent was observed via Body Worn Camera (“BWC”) footage poking a female officer on her buttocks with his department radio antenna. The report came

in from the CO, who stated that Respondent “was observed on a [BWC] video while at a call for an emotionally disturbed person in the 67th Precinct. At the beginning of the video, [Respondent] was observed committing inappropriate physical contact toward [the female officer].” The BWC footage was not in file, and there was no indication that the EEOD actually viewed the footage or that it was ever even received by the EEOD.

The EEOD dealt with this matter by closing it with an “Admin A” designation and referring it to the CO for discipline because it “confirmed this allegation.” Given that the EEOD confirmed the allegations after investigation, it would have been more appropriate to make a finding of “Substantiated” rather than closing it as “Admin A.”

The EEO Office Inspector stated in a letter to the CO, “After reviewing this matter, it was determined that the complaint did not require a full investigation pursuant to Title VII of the Civil Rights Act of 1964, or other applicable state or local employment discrimination laws. However, the conduct is inappropriate for the workplace and inconsistent with Department Policy. At the request of the complainant this matter is being referred to you for your appropriate attention and corrective action to prevent a reoccurrence. As the Commanding Officer of the subject of this investigation, you are responsible to ensure that this action is carried out in a timely manner. Therefore you are directed to prepare a report on Typed Letterhead, that reports when the above corrective action was completed and describes any further action(s) taken by you in response to this matter. Please forward this report to the Acting Commanding Officer, Equal Employment Opportunity Division (DIRECT) within thirty (30) calendar days of the date of this letter.” The recipient of the conduct “withdrew the complaint.”

The CO subsequently stated to the EEOD that “[t]he following action was taken to prevent a reoccurrence: A Command Discipline was issued [to Respondent] by the Assistant Integrity Control Officer ... for making inappropriate physical contact with another officer and making comments that are not consistent with Department Policy. Additionally [Respondent] was spoken to about his actions and re-instructed on PG Procedure 205-36 Employment Discrimination focusing on the Sexual Harassment Section. It was asserted that this behavior will not be tolerated and any future incidents will be addressed with severe penalties.”

10. An anonymous complaint alleged that Respondent assigns female UMO’s preferred assignments for “touches and feels,” that Respondent “touches and feels” female UMOS to allow them days off and OT, and that Respondent made comments about the anonymous complainant, *i.e.*, “complimented her on her butt, how he can taste

me, referencing his large penis size.” The complainant provided a photo of Respondent touching the breast of a female officer and further alleged that Respondent gave undesirable assignments to members of the service who are female, “Oriental,” Black or Jewish.

The file indicated that Respondent had been involved in 6 previous EEO matters, one of them from 2005 in which he was also accused of sexual harassment. However, there is no note in the file of how that prior case was resolved. This latest complaint was made on March 2020 and served on Respondent on that date. Respondent retired soon thereafter.

After Respondent retired, in July 2020, the EEOD interviewed the female officer who was pictured having her breast grabbed by Respondent, but she could not remember the date or the circumstances of the picture. However, according to the EEOD, she “did not” corroborate the “touches and feels” allegation against Respondent. She also “withdrew” the complaint to the extent it was filed on her behalf. The EEOD investigator’s “Case Recommendation” stated “All witnesses did not corroborate the allegations,” even though the female officer who had her breast groped corroborated that the photo was real. The EEOD closed the case using an “Admin E” designation (“Information and Intelligence – Referred to Other Investigative Unit/File. Respondent Instructed”), but there was no explanation as to why this designation was used as opposed to substantiated or partially substantiated, not is there any indication in the file as to where the matter was referred or what happened. Finally, we note that Kobel signed two lines of the multi-level review checklist -- for Commanding Officer and Assistant Deputy Commissioner, OEI.

11. Complainant alleged that Respondent: (i) makes sexual advances on female officers, (ii) retaliates against them if they do not give in to his advances; (iii) uses racial epithets; and (iv) creates a hostile work environment. After the case was opened, an anonymous email came to the IAB alleging that Respondent was having an affair with a female officer and that they go to steakhouses together while on the job. However, the EEOD never interviewed the female officer allegedly having an affair with Respondent, nor did it include the affair allegation within the scope of its investigation. There is no explanation of why this witness was not interviewed or why the affair allegation was not deemed within the scope of the EEOD investigation. There is no indication of whether the allegation was investigated by the IAB or, if so, what happened. The EEOD closed this case with a designation of Admin B (“No case of employment discrimination/retaliation articulated or revealed. Full investigation not required”), even though the allegations, if true,

certainly raised EEO issues. In this case also, Kobel signed for two lines of the multi-level review -- for Commanding Officer and Assistant Deputy Commissioner, OEI. The case was opened in March 2020, and it took approximately 5 months for the EEOD to close the matter, which was much faster than usual.

12. A supervisor reported to the EEOD that Respondent sent a video to fellow officers depicting a police officer in another state choking a gay male black suspect. Respondent put a caption on the video stating "Look it's [Officer so-and-so]," referring to Complainant, a gay Black NYPD Officer. The EEOD did not interview Respondent. Instead, the EEOD sent the case to mediation, despite there being no record of Complainant requesting or consenting to mediation. The Mediation Resolution document is signed only by Complainant and does not indicate what resolution was reached, or whether Respondent was counseled, instructed, or disciplined in any way. According to the file, the EEOD interviewed Complainant and another witness after the mediation, but there are no copies of the interviews in the file. The file label indicates that Kobel checked the file out, made edits, and checked it back in. Kobel's notes on the file state: "Capt. Kobel: Returned for edits" and (the same day) "Capt. Kobel : Follow up review." The only documents in the file with the same date of Kobel's edits are the September 18, 2018 "close out" letters to Complainant and Respondent. Therefore, it can reasonably be concluded that Kobel was instrumental in, or at least influenced, the premature closing of this case.
13. In 2018, Kobel called a Complainant personally to inform her that someone she had made a sexual harassment complaint against in 2010 was being promoted to Captain. Kobel apologized for how the EEOD handled her original complaint in 2010. Complainant told Kobel that she appreciated the call and informed him that, since the time she complained in 2010, she has not been promoted and had been retaliated against. Kobel then opened an EEOD file on her retaliation allegations and listed NYPD as the Respondent. However, he did nothing else and immediately closed the case using the designation Admin E ("Information and Intelligence – Referred to Other Investigative Unit/File. Respondent Instructed"), noting that Complainant had made these allegations before and the EEOD previously investigated them and found them without merit. There was no explanation as to how or why Kobel could open a case and then immediately close it as "Respondent Instructed," given that no new investigation was done, no "instruction" had been given, and there was not even a specific Respondent listed who could be instructed in any event. Nor was there any analysis, explanation, or investigation as to whether the ongoing retaliation concerns raised by Complainant to Kobel were the same as what had been purportedly alleged and investigated previously.

14. Someone wrote the word “bitch” on Complainant’s locker. The EEOD originally classified this as a “gender” complaint and later added “race.” However, for unexplained reasons, the EEOD did not seek to identify or interview the potential perpetrator, even though Complainant indicated she knew who it might be.
15. Complainant alleged that Respondent was unprofessional toward her due to her gender and thought it might also be because of her race but she was uncertain. The EEOD investigator repeatedly asked Complainant if she felt the mistreatment was due to race, which was akin to asking Complainant to make a finding on the ultimate issue to be investigated. The investigator continually asked Complainant to definitively state whether the mistreatment was “because of” her race or gender, which Complainant was unable to do and ultimately discouraged her from pursuing the complaint. The Investigator more properly should have taken Complainant’s factual allegations and then investigated those allegations, without asking Complainant to make ultimate conclusions. It is the investigator’s job to investigate and reach conclusions, not the Complainant’s. Ultimately, Complainant did not move forward with her complaint because “she does not want to go through the process.” According to the file, Respondent had other gender complaints against him from other female employees only five years earlier. One of those was substantiated with Charges and Specifications issued, but Complainant would have had no way of knowing that. Thus, not only did the EEOD ignore a possible pattern of misconduct by Respondent, but it failed to provide that information to Complainant so she could make an informed decision.
16. A reporter informed the EEOD that Respondent “bullied” a woman higher in rank, telling her to “be silent” because of her sex. When Complainant, the recipient of that conduct, requested an apology, her supervisor told her “that’s not going to happen,” even though the behavior was corroborated by witnesses. (One male witness stated, “I never heard anyone speak to anyone that way. I have been with department many years, never experienced someone speaking to someone else that way.”) The EEOD referred the case to mediation without Complainant’s request or consent, and no investigation was conducted. Complainant objected and wrote in an email, “I understand EEOD is recommending mediation; however, according to the city guidelines, mediation is voluntary to the parties involved. It’s been almost seven weeks since the incident and I’ve had to deal with ongoing repercussions. Therefore, in light of the current environment, I am declining to participate in mediation.” In response, the EEOD Investigator replied: “I understand that you are no longer interested in participating in the mediation process. However, EEOD is

going to refer you to mediation because we believe it is the best way to proceed with the case at this time.”

When EEO indicated that it viewed the complaint as more of an interpersonal issue, Complainant responded, “I did locate a copy of the Patrol Guide (205-36) regarding employment discrimination. I recall you mentioning that EEO follows through mostly on claims that are more sexist in nature. In looking at item E (see attached) it specifically states the following is prohibited under Federal, State and/or City laws and the Department policy prohibiting employment discrimination. ‘Discriminatory harassment, intimidation, ridicule and insults, including, but not limited to, using discourteous, disparaging or disrespectful remarks.’” The Investigator responded, “If you don’t go to mediation you have to withdraw the complaint,” and then referred the case to Mediation against Complainant’s express wishes. Complainant continued to demand an apology, and expressed concern that mediation will result in only a “slap on the wrist” for Respondent. She also expressed concern that she will ultimately be retaliated against and transferred, which she alleged happened to her female predecessor. Ultimately, Complainant attended the mediation, and the EEOD closed the case as “Admin E: Information and intelligence.” However, there was no indication of what happened at the mediation or if Respondent received any counseling, instruction, or discipline.

17. Complainant (Black male) made an underlying EEO complaint alleging that Respondent (Hispanic male) used the word “ni--a” for about a year. The EEOD closed that case under Admin E (“Information and Intelligence – Referred to Other Investigative Unit/File. Respondent Instructed.”). Subsequently, Complainant filed another complaint alleging retaliation, claiming that: (i) Respondent stopped speaking to him; (ii) undercover members did not want to work with him because of his prior EEO complaint; (iii) Respondent played a song with the n-word in it and said “I can’t play that song because the people here might get offended by that word”; and (iv) Respondent took a case away from him. The EEOD closed the retaliation complaint under Admin F (Withdrawal) after Complainant stated that he did not want the EEOD to continue investigating his complaint, and did not want to involve his co-workers in an investigation. The EEOD referred Complainant to the Employee Assistance Unit because he was crying during this interview. However, the file stated that Complainant withdrew his complaint “freely and of his own volition,” and there was no further investigation of the alleged retaliation.
18. After a full investigation, it was found that Respondent had made offensive comments against Arabs and Muslims. However, the DAO attorney seemed to struggle with finding a violation of policy, stating that “the Patrol Guide 205-36

does not define ‘ethnicity’ as a protected class, and it is unclear whether ‘Arab’ is a race or an ethnicity as well because [Complainant] identified himself as being ‘White’ in addition to being Arab.” He also stated, “Respondent disparaged Complainants based on the mistaken belief that they were Muslim. Because of this mistaken belief, no violation of Patrol Guide 205-36 can be proven since [Complainant] was not disparaged based on their own religion. That said, since [Respondent’s] remarks were still inappropriate, Allegations (D) and (E) should still be charged as conduct prejudicial under Patrol Guide 203-10.” The DAO’s analysis was not legally sound or consistent with a reasonable interpretation of Department policy, since Arab (ethnicity) and Muslim (religion) are both protected EEO categories, and discrimination can be found based on Respondent’s intent and the effect on the work environment, even if Complainants were not actually members of those classes. Charges and Specifications were ultimately issued against Respondent.

19. Witnesses saw Respondent inappropriately touching Complainant’s breast while off duty at a bar. Nevertheless, there was confusion as to whether this conduct constituted an EEOD issue because it occurred off-duty and off-premises. Because of this, the DAO did not find a violation of Patrol Guide 205-36 (unnecessary or wanted touching, patting, or pinching), but still found Respondent’s conduct subject to discipline as “conduct prejudicial to the good order of the Department” (Patrol Guide 203-10) because it fit the definition of criminal “Harassment in the Second Degree” under Penal Law 240.26. The DAO’s memo contains a lengthy analysis of federal case law under Title VII discussing “misbehavior beyond the workplace,” but no analysis under the broader and more-protective New York State and New York City Human Rights Laws. By finding that the conduct did not constitute workplace harassment simply because it occurred off-duty and off-premises, the DAO seems to misunderstand well-established employment law.
20. Respondent was recorded on a BWC stating “These dumb n---gas really think that by unloading a gun, it’s a lesser charge.” Respondent admitted making the remark and “expressed remorse and embarrassment by his behavior as a supervisor.” The EEOD found the complaint to be substantiated. Even though this was a very straightforward case where the conduct was recorded and Respondent admitted to the conduct, it took *a full year* for Charges and Specifications to be issued against Respondent. There is a report in this case written by Kobel, but it is difficult to determine whether Kobel was responsible for or influenced the undue delay in issuing charges.

21. Complainant alleged that an officer stated, “I am tired of working with these white boys. Please put me with a person of color.” The EEOD called the person to whom this comment was allegedly made, but did not even ask about the comment. Rather, the EEOD investigator simply asked, “Do you have a complaint to make against Respondent? Are you offended by anything?” The person said “no” and “withdrew” the complaint. The EEOD then closed the case without ever asking whether Respondent made the comment, and without even speaking with the Respondent.

22. Complainant alleged that a fellow officer received sexually inappropriate text messages from an unidentified male officer in her unit. The EEOD spoke to the officer who received texts. Although the officer acknowledged receiving the texts, she told EEOD that she wanted “to withdraw the complaint made on her behalf because she fears retaliation.” The EEOD investigator assured her retaliation is prohibited, but the officer nevertheless stated that she did not want to move forward with the complaint. Therefore, the EEOD quickly closed the case after less than a week without doing any investigation. This is the type of case that could and should have been investigated regardless of the complaining party’s preference since the offending behavior was serious and there was a danger of it continuing toward this and other female officers.

23. Complainant, a plain clothes Police Officer, alleged that Respondent, his CO, yelled at him for smoking in front of the precinct and leaning on a patrol car, and that Respondent did not know Complainant was a cop because of Complainant’s race. Respondent was also in plain clothes, did not identify himself, and started yelling at Complainant, who was leaning against a patrol car, and demanded to see Complainant’s ID. The Complainant did not know who the CO was. Respondent then wrote up Complainant for not showing ID, and other infractions related to their interaction. The EEOD agreed with the write up, and found that “no investigation [was] required.” During Complainant’s interview, Complainant mentioned that Respondent recorded him on video with Respondent’s phone, but there is no indication that the EEOD ever obtained or reviewed the video of the interaction. We question how the EEOD could have agreed with the write-up and concluded that “no investigation” was required without ever reviewing the video of the interaction. It appears that the EEOD simply reviewed the write up itself and concluded it was legitimate, without making any attempt to verify Respondent’s version of what occurred. In fact, the EEOD did not even interview Respondent. Complainant’s version of events was consistent in his statements to his supervisor, during complaint intake, and in his interview. This suggests Complainant was credible. Despite this, the EEOD never spoke with Respondent, nor did they ever

request or review the footage of the interaction, even though they were aware it existed. The EEOD was also aware that Respondent was the subject of two prior EEO complaints. Finally, we also note that the in-person interview of Complainant did not yield any more information than the intake call, showing that the cost-benefit of requiring in-person interviews was not thought out by the EEOD.

24. It was reported that an unidentified police officer made the following inappropriate comment to Complainant: "Have a seat, you can sit anywhere. You can sit on my lap." Complainant told the EEOD that she was not offended by the remark and wished to withdraw the complaint. Although the intake officer stated that a case would be opened even though Complainant withdrew complaint, nothing was done with the case, and it was ultimately dismissed the case as withdrawn, without any interviews or investigation. The EEOD made no significant effort to identify the offending party, even though behavior might have impacted others. Also, even though Complainant had raised concerns about being required to work near the men's locker room, it does not appear this was ever documented or addressed. Finally, Complainant never signed the withdrawal form.
25. Complainant alleged that Respondent did not permit him to go on patrol and assigned him to desk duty because he is White. Complainant also alleged that Hispanic officers were allowed to "steal time," an issue that would typically have been referred to the IAB but we found that the EEOD did not do this until over a year later. The EEOD interviewed Complainant, two witnesses, and Respondent. Kobel attended Respondent's interview, which was unusual, and the interview lasted only 10 minutes. Respondent was never questioned about the allegations of time theft and favoring Hispanics. The EEOD closed the case using an Admin B designation ("No case of employment discrimination/retaliation articulated or revealed. Full investigation not required"), even though the complaint had clearly alleged EEO issues.
26. There was documented evidence that Respondent sent an officer a photo of his penis. Despite the fact that this was a straightforward, irrefutable case with documentary evidence, it took 18 months from intake until Charges and Specifications were issued.
27. An anonymous Complainant alleged that Respondent supervisor favored agents of his own race (Black), sang profane and offensive rap song lyrics out loud (for example, "There's Some Hoes in this House"), engaged in sexual favoritism with certain female agents, including touching, and yelled at and humiliated an agent

because he is White. The EEOD interviewed two individuals mentioned in the letter, as well as two “random” “witnesses” from the unit. The witnesses did not corroborate any of the allegations in the letter. Therefore, the EEOD closed the case as Admin B (“No case of employment discrimination/retaliation articulated or revealed. Full investigation not required”), even though the complaint, if substantiated, clearly alleged EEO violations. If the EEOD was unable to substantiate the allegations after full investigation, it should have closed the case as “unsubstantiated.” Also, we observed that the EEOD investigator rushed through admonitions/warnings in interviews (speed reading), and that the witness interviews seemed rushed and perfunctory (less than 10 minutes each). One witness was close friends with Respondent, so the EEOD should have made an effort to interview a less biased witness. Overall, the EEOD could have made a greater effort to interview more witnesses from the Unit. There were no recordings of interviews/calls with two of the witnesses, and Respondent was never interviewed.

28. Complainant alleged that her South Asian co-workers yelled at her, told her to learn to meditate, and ignored her because she is the only Caucasian in the unit. She claimed she raised these issues with her supervisor, but they refused to help because they are also South Asian. When interviewed, Complainant also raised possible age, sex, and religious discrimination allegations. The EEOD only interviewed Complainant. None of the accused parties were interviewed, nor were any witnesses interviewed. It appears that the case was dismissed without further investigation simply because Complainant made comments in her interview about different religions and ethnicities “sticking together” or NYPD having a “quota system” for certain religions/ethnicities. It does not seem appropriate for the EEOD to have dismissed the case on that basis without actually investigating Complainant’s claim of disparate treatment by her South Asian co-workers, even if Complainant’s comments were ill-advised.
29. Complainant alleged that Respondent, her supervisor, told her “You have nice legs,” that he touched Complainant’s hand while showing her how to record on her phone, and that he would text and call her frequently regarding her whereabouts, all of which made Complainant uncomfortable. Complainant told the EEOD she did not want to go forward with the complaint, stating that she had provided enough information for the complaint to go forward without her. Although Complainant told the EEOD investigator that “other women” had complained about Respondent, and that Respondent was “causing a lot of problems,” the investigator did not ask any follow-up questions or even ask for the names of the other women. Complainant also stated that other women had issues and that Respondent was more

rude to women than men, but there was little or no follow up from the investigator about those allegations. The investigator's report states that Complainant alleged that Respondent was rude to both men and women, but does not note that Complainant also stated that Respondent treated women even worse than men. During intake, the investigator almost discouraged Complainant from making a complaint, asking her in a discouraging tone if she "wanted to come in" to file a complaint. She was not given an option of making the complaint other than coming to the EEO office in person. The EEO could have interviewed more than 3 women in the precinct regarding Respondent's behavior. Also, the investigator only wanted to focus on the two specific incidents directly involving Complainant and nothing broader. The investigator discouraged a witness from making a complaint about something she had experienced with Respondent ("You don't want to make a complaint?"). Witness interviews were brief and superficial (less than 15 minutes). The interview with Respondent was only 5-6 minutes, was superficial, and the investigator did not ask any probing questions.

30. Complainant alleged that Respondent falsely accused him of inappropriately touching his shoulder and that Respondent made offensive remarks about sexual orientation, including: (i) in reference to a TV show, that "this is how it should be, a man and a woman, not two cocks"; and (ii) "I deal with enough fags on this job, I don't have to watch it on television." The EEO determined that mandatory EEO training should be done for the Complainant's entire unit, and the case was closed without further investigation. Complainant was instructed regarding his failure to report the alleged EEO violation in a timely manner. The EEO's closure letter stated that the "investigation" did not reveal employment discrimination, but no investigation was actually done. Only Complainant was interviewed. No witnesses were interviewed, nor was the accused party. The case took over 100 days to close even though no significant investigation was done.
31. Complainant alleged that Respondent, her supervisor, retaliated against her because she had a reasonable accommodation, and that Respondent told others he was trying to "get rid" of Complainant. The EEO investigator was combative and hostile toward Complainant in the interviews, and the EEO closed the case due to an "uncooperative complainant." Although Complainant was difficult to deal with and had a strong personality, it seems that the EEO could have made a greater effort to elicit her cooperation and investigate her claims before dismissing them. The EEO could have at least interviewed Complainant's CO to ensure there were legitimate justifications for Respondent's adverse actions against Complainant. The EEO did not interview any of the people who attended a key meeting to see if

they could corroborate the claim that Respondent was bragging that he was going to get rid of Complainant, which could have been significant. The EEO investigator put the onus on Complainant to explain the EEO basis for her complaint, instead of listening to the facts neutrally and making a determination. Complainant was clear about the basis for her complaint, but the investigator pretended not to understand her. It was our assessment that the investigator was not appropriately neutral because the investigator did not like Complainant and was frustrated with her. The investigator was dismissive of her claims before doing any investigation. In addition the investigator tried to separate various retaliation issues from the scope of the complaint claiming they were not related to “this office,” even though it might have been related to retaliation for her reasonable accommodation, which would have raised an EEO issue.

32. Complainant alleged that Respondent asked him to bring his memo book for a “scratch” (review and signature by a superior) in retaliation for Complainant having made a prior EEO complaint. EEO found “no case of retaliation revealed” even though the investigator found that Respondent was not credible and had not asked to view anyone else’s memo book. Also simply because Respondent was able to articulate plausible reasons for changing Complainant’s tour, EEO took the explanations at face value and said “Without diminishing the validity of Complainant’s complaint, it can be concluded that Respondent provided a good business reason to change Complainant’s tour and take away the crime reduction overtime. Although Respondent was not credible regarding his explanation as to why he inspected C’s memo book when R was assigned as Desk officer, we cannot conclude that R inspected his Memo Book because of C’s prior complaint.”

IV. Conclusion

This review was conducted pursuant to Local Law 2021/47 and focused on evaluating whether the NYPD Equal Employment Opportunity Division’s investigative policies and practices during the Relevant Time Period were applied consistently and in a manner aligned with applicable requirements and generally accepted investigative standards. Based on a review of policies and a randomized sample of EEO case files, we identified recurring issues related to investigative scope, documentation, review procedures, and case disposition practices. We focused more on overall patterns, as opposed to questioning or challenging the findings in any single case.

Overall, the file review revealed that EEOD investigations during the Relevant Time Period were frequently affected by procedural and structural limitations rather than by case-specific challenges. In particular, the review identified the following recurring themes:

- Inconsistent use of disposition categories, with administrative closures often applied in cases where findings of “substantiated” or “unsubstantiated” could have been made, limiting clarity and transparency regarding investigative outcomes.
- Narrowly defined investigative scope, including limited expansion of investigations when additional allegations or related issues emerged during interviews or file review.
- Incomplete or inadequate investigative steps, including instances in which respondents or relevant witnesses were not interviewed, documentary evidence was not sought or reviewed, and credibility assessments were limited or not made.
- Inefficiencies in investigative practices, such as reliance on in-person interviews, duplicative staffing of interviews, and paper-based file management, which contributed to delays.
- Use of mediation practices that did not consistently reflect voluntary participation as required by relevant policies, including cases in which mediation appeared to be imposed when EEOD should have conducted an investigation.
- Limited documentation of substantive review at multiple approval levels, making it difficult to determine whether supervisory and command-level reviews involved meaningful analysis or were largely pro forma.
- Application of an incorrect federal standard by the DAO’s office, when it should have reviewed the findings against its own policies.
- Questions regarding the integrity of the multi-level review process, including instances in which the same official appeared to sign off at multiple stages of review without documentation explaining the basis or authority for doing so.

As detailed above, the findings do not suggest that investigative outcomes or issues identified in this Report were uniformly the result of individual misconduct or intentional bias in specific cases by Kobel, although that potential certainly existed. Rather, the issues observed reflect structural, procedural, and systemic features of the EEOD’s investigative process during the Relevant Time Period, including how complaints were categorized, investigated, reviewed, and closed. In several areas, these practices limited transparency, constrained substantive review, or diverged from industry standards designed to promote thoroughness, consistency, and accountability in EEO investigations.