

CITY OF OAKLAND
CITIZENS' POLICE
REVIEW BOARD
2009 ANNUAL REPORT

January 1, 2009 - December 31, 2009



Office of The City Administrator
One Frank H. Ogawa Plaza, 11th Floor
Office (510) 238-3159 FAX (510) 238-7084
Website: www.oaklandnet.com/cprb.html

Citizens' Police Review Board

Office of the City Administrator Phone: 510-238-3159
1 Frank Ogawa Plaza, 11th Flr. Fax: 510-238-7084
Oakland, CA 94612 TTY: 510-238-3724



Dan Lindheim, City Administrator
Patrick J. Caceres, Acting Manager

May 6, 2010

Honorable Mayor, Council Members of the City of Oakland, and Fellow Oakland Residents:

On behalf of the members of the Citizens' Police Review Board (CPRB), I am pleased to present the CPRB's 2009 Annual Report. In 2009, members of the public filed ninety-six complaints with the Board. This is the most number of complaints filed in the last five years and a 23% increase from the previous year.

The Board resolved a total of seventy-four complaints — four through evidentiary hearings, three by staff recommendation and sixty-four by administrative closures. The Board received 100% officer compliance with interview notices and hearing subpoenas. The Board forwarded disciplinary recommendations to the City Administrator for five complaints. In addition, the Board made a policy recommendation for increasing the availability of less-lethal weapons as a result of an officer-involved shooting death.

The CPRB has obtained funding from the Federal Justice Assistance Grant (JAG) for two additional Complaint Investigator positions; one position has been filled and the other position is scheduled to be filled by July of 2010. These new positions will temporarily assist the current staff with the ever-increasing workload and possible transition of the Internal Affairs intake process of citizen complaints to the CPRB. It is our hope that the City of Oakland will fund additional, permanent investigator positions, as funding permits.

Additionally, the CPRB filled all of its vacancies by welcoming six new members. Unfortunately, we must say farewell to two exceptional members of the Board, Cara Karpowski and Brian Thompson. Thus, there are two vacancies remaining on the Board.

The CPRB has and will continue to focus on Board training, adult and youth town hall meetings and community outreach programs, like the successful interactive presentation and discussion with the students at Laney College. The CPRB thanks you for your continued support in the investigation of complaints of police misconduct and in the improvement of police community relations.

Sincerely,

Tina Allen, CPRB Chair

Board Members and Term Expiration Dates

| | |
|-----------------------------|-------------------|
| Cara Kopowski, Chair | February 15, 2010 |
| Tina Allen, Vice Chair | February 15, 2011 |
| Matthew Hudson | February 15, 2010 |
| Donna Duhe | February 15, 2011 |
| Risha Jamison | February 15, 2010 |
| Thomas Cameron | February 15, 2010 |
| Bryan Thompson | February 15, 2011 |
| Ann Wyman | February 15, 2011 |
| Carl Swanson | February 15, 2010 |
| Susan Shawl (alternate) | February 15, 2010 |
| Howard Tevelson (alternate) | February 15, 2011 |
| Elizabeth Diaz (alternate) | February 15, 2011 |

CPRB Independent Counsel

| | |
|----------------|---------------|
| Antonio Lawson | Board Counsel |
|----------------|---------------|

CPRB Staff

| | |
|--------------------|----------------|
| Patrick J. Caceres | Acting Manager |
| Audrey Montana | Investigator |
| Karen Tom | Investigator |
| Eartha Walker | CPRB Intern |



CPRB Mission Statement

The Citizens' Police Review Board is committed to ensuring that Oakland has a professional police department whose members behave with integrity and justice. As representatives of the community, our goal is to improve police services to the community by increasing understanding between community members and police officers. To ensure police accountability, we provide the community with a forum to air its concerns on policy matters and individual cases alleging police misconduct.



Board Photo: Donna Duhe, Risha Jamison, Thomas Cameron, Cara Kopowski, Bryan Thompson, Ann Wyman, Howard Tevelson Not in Photo: Matthew Hudson, Tina Allen, Susan Shawl, Elizabeth Diaz and Carl Swanson



Staff Photo: Patrick J. Caceres, Eartha Walker, Audrey Montana and Karen Tom



Independent Counsel: Antonio Lawson



Executive Summary

The Citizens' Police Review Board (CPRB) is required to submit a statistical report to the Public Safety Committee "regarding complaints filed with the Board, the processing of these complaints and their dispositions" at least twice a year.

(Ordinance No. 12454 C.M.S., section 6(C)(3).) This report is submitted pursuant to that requirement.

In 2009, the Board received 96 complaints. This is the largest number of complaints filed in the last five years and represents a 23% increase from the previous year. The largest group of complainants were African-American males, between the ages of 45-54 years old.

The allegations most frequently filed were: (1) excessive use of force; (2) improper search; and (3) improper detention. The alleged incidents occurred most frequently in City Council Districts 3 and 6.

The Board resolved 71 complaints; 4 through evidentiary hearings, 3 by staff recommendation and 64 by administrative closures.

The most allegations sustained for a complaint were for untruthfulness relating to an improper search. The Board sustained 7% of the allegations, 19% were voted not to sustain,

54% were unfounded and 20% were exonerated. The Board forwarded five disciplinary recommendations to the City Administrator, and one was upheld in full, two recommendations in part included policy changes.

All officers complied with CPRB investigations and appeared at evidentiary hearings. One officer received three or more citizen complaints during a thirty month period. However, no officer had more than one complaint sustained against them during this span of time.

In 2009, the CPRB focused outreach on the youth of Oakland. One event was held at Laney College in cooperation with the Associated Student Body and Black Student Union. The CPRB also gave an award for Outstanding Academic Achievement for a short story written by an Oakland high school student on community and police relations. The CPRB also supported two high school interns as they learned important professional skills and conducted research.

Lastly, the CPRB obtained funds through the Federal Justice Assistance Grant (JAG) to hire two Complaint Investigator positions which will help process the recent increase in the number of complaints filed.

TABLE OF CONTENTS

| | | |
|-------------|---|-----------|
| I. | INTRODUCTION | |
| | Purpose of the Report | 1 |
| | CPRB History..... | 1 |
| II. | ANALYSIS OF COMPLAINTS FILED IN 2009 | |
| | Number of Complaints Filed | 3 |
| | Race and Gender of Complainants | 4 |
| | Age of Complainants..... | 5 |
| | Allegations Filed | 6 |
| | Alleged Incidents by City Council District | 7 |
| III. | RESOLVED COMPLAINTS IN 2009 | |
| | Resolved Complaints | 8 |
| | Board Findings at Evidentiary Hearings | 11 |
| | Staff Disciplinary Recommendations | 12 |
| | Administrative Closures..... | 13 |
| | Disciplinary Recommendations and the City Administrator’s Decisions..... | 15 |
| | Board Findings by Allegation Category | 16 |
| | Map: 2000-2009 Location of Sustained Complaints by Council District | 18 |
| IV. | OFFICER INFORMATION | |
| | Officer Compliance with CPRB Investigations | 19 |
| | Number of Officers with One or More Complaints in 2009..... | 21 |
| | Number of Officers with One or More Complaints between June 30, 2007 and December 31, 2009 | 22 |
| V. | BOARD AND STAFF UPDATES..... | 23 |
| VII. | 2009 POLICY RECOMMENDATIONS | 26 |
| VII. | CONCLUSION..... | 27 |
| | APPENDICES | |
| | Appendix A: Board Member Attendance at Board Hearings..... | 28 |
| | Appendix B: Past CPRB Policy Recommendations..... | 29 |

Purpose of this Report

Oakland City Council Ordinance No. 12454 C.M.S., section 6, subdivision C, paragraph 3 requires the Citizens' Police Review Board (CPRB) to "issue a detailed statistical report to the Public Safety Committee regarding complaints filed with the Board, the processing of these complaints and their dispositions" at least twice a year. This report is submitted pursuant to that requirement.

CPRB History

The Oakland City Council established the Citizens' Police Review Board on April 15, 1980, to review certain complaints of misconduct by police officers or park rangers, conduct fact-finding investigations, and make advisory reports to the City Administrator. On July 30, 1996, the City Council expanded the Board's original jurisdiction to include complaints involving: (1) the excessive use of force; or (2) communication of bias based upon an individual's legally protected status (race, gender, national origin, religion, sexual orientation or disability). (City of Oakland Ordinance #11905 C.M.S., § 5 subd. (A)(1).)

Simultaneously, the City Council also granted the Board supplemental jurisdiction over other non-force conduct, subpoena power over police officers and park rangers and authorization to mediate final and binding resolution of complaints (City of Oakland Ordinance #11905 C.M.S., §§ 5 subd. (B)(1), 6 subd. (G)(2) and 7.)

In 2002, the Oakland City Council further expanded the Board's jurisdiction and powers. On July 30, 2002, the City Council granted the Board original jurisdiction over all complaints filed against Oakland police officers or park rangers and expanded the Board's size from nine members to twelve members, with three of the twelve members to serve as alternates. (City of Oakland Ordinance #12444 C.M.S., §§ 5 and 3.)

Additionally, the City Council granted the Board the option of holding evidentiary hearings using three-member panels and permitted Board members to review confidential records from the Oakland Police Department in closed session. (City of Oakland Ordinance #12444 C.M.S., § 6 subds. (G)(11) and (F)(4).)

Also, on July 30, 2002, the City Council added a policy analyst to the Board's staff and required the Board to make complaint forms available to members of the public at libraries, resource centers, and recreation centers. (City of Oakland Ordinance #12444 C.M.S., §§ 6 subd. (E)(1) and 5(B).)

On November 12, 2002, the City Council further refined the amendments to the CPRB ordinance and legislated the following: (1) the CPRB staff may make recommendations to the City Administrator regarding cases that are in litigation, (2) CPRB investigations may take up to 180 days from the initial date of filing as opposed to the previously legislated 60 days, and (3) OPD's Internal Affairs Division and the CPRB will use the same complaint form with sequential numbering. (City of Oakland Ordinance #12454 C.M.S., §§ 6 subd. (G)(10)(b) and (8) and 5 subd. (B).)

Lastly, on November 9, 2006, the CPRB adopted closed hearing procedures to comply with the holding of the California Supreme Court in *Copley Press v. Superior Court* (2006) 39 Cal4th 1272 to keep officers' identities confidential.

Number of Complaints Filed

In 2009, the CPRB received 96 complaints filed by 98 individuals. *Figure 1* displays the number of complaints that were filed for each month. Most complaints were filed in June.

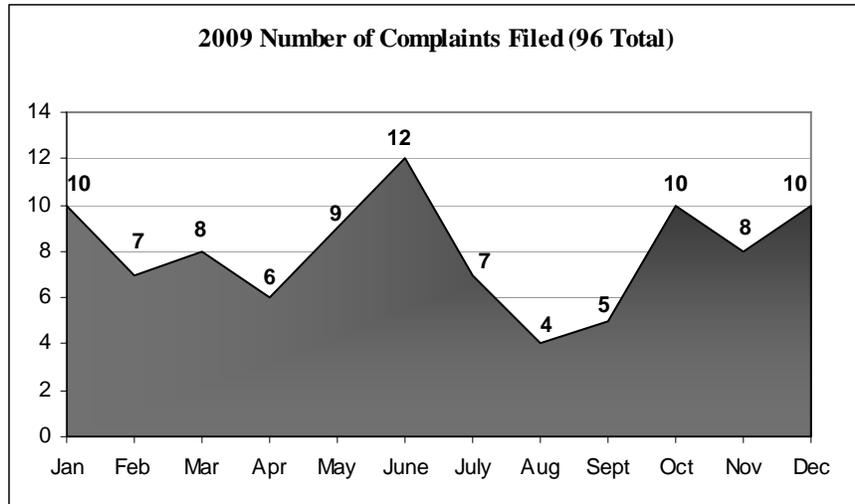


Figure 1

Number of Complaints Filed

Figure 2 shows the number of complaints filed per year from 2000 to 2009. 2009 is the first year in the last five years that we see a significant rise in the number of complaints filed. The number of complaints filed in 2009 is also the third highest filed in the last ten years.

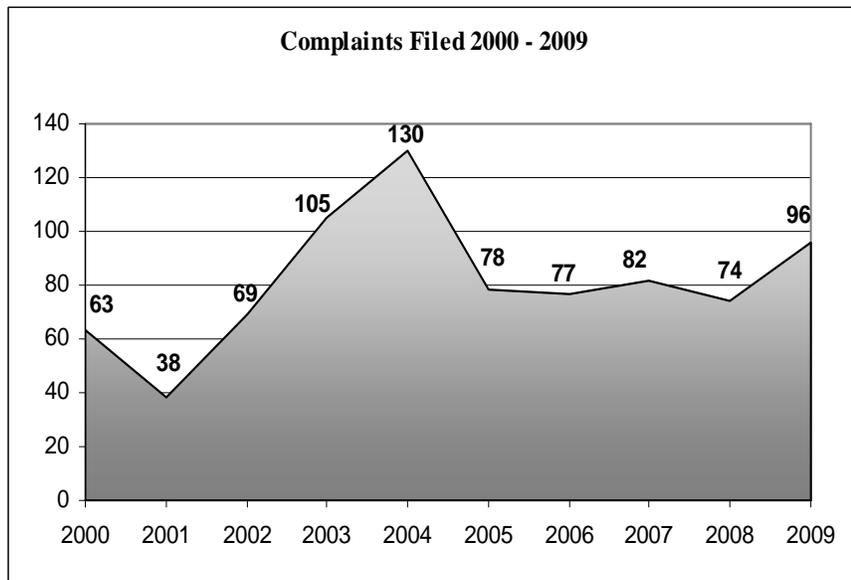


Figure 2

Number of Complaints Filed

Figure 3 shows the trend of complaints from 2000—2009 as a percent change from the previous year. The most dramatic increase occurred in 2002 when the Board expanded its jurisdiction over the type of complaints it receives. The number of complaints filed in 2009 is a 23% increase in the number of complaints filed from the previous year.

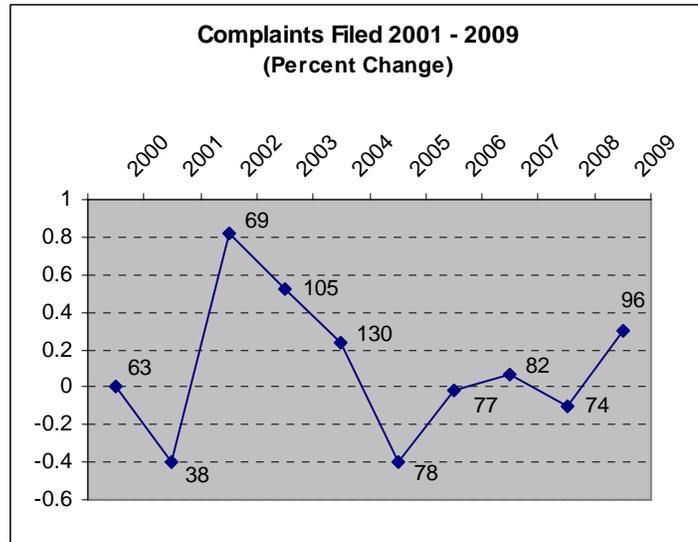


Figure 3

Race and Gender of Complainants

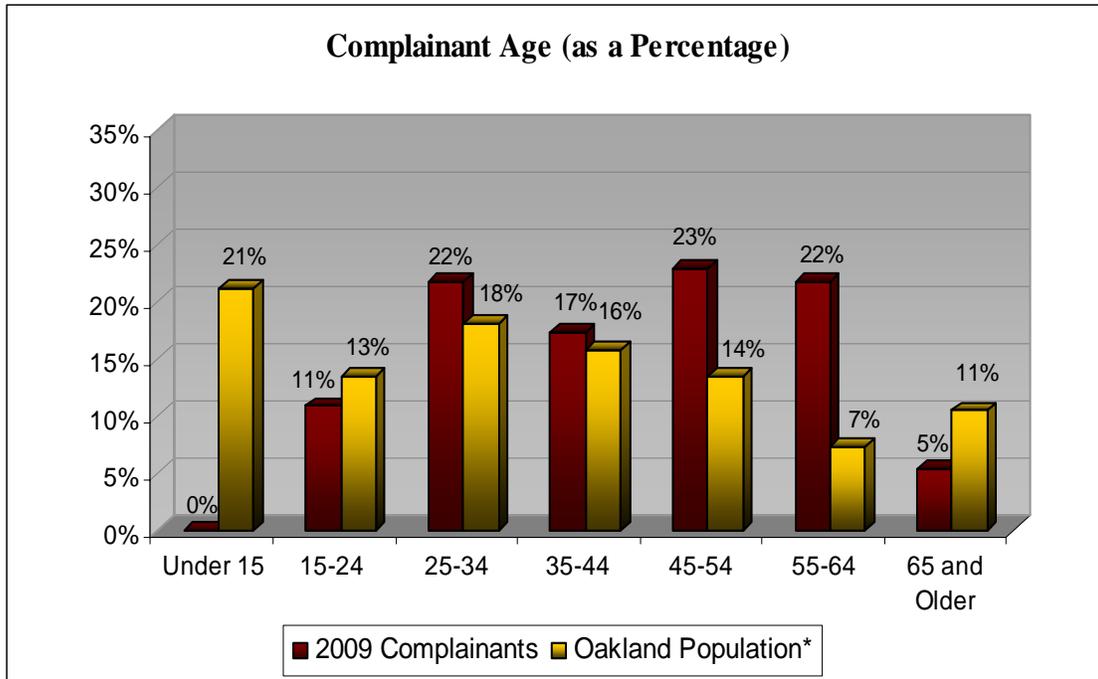
Among the complainants who provided information about their race, 69% were African-American, more specifically, 48% of the complainants were African-American males. Asian-Americans comprised 1%, Caucasians 15% and Hispanic-Americans 9%.

| Race | Gender | No. of Complainants | Percent |
|-------------------|--------|---------------------|---------|
| African-American | F | 21 | 21% |
| African-American | M | 47 | 48% |
| Asian-American | F | 0 | 0% |
| Asian-American | M | 1 | 1% |
| Caucasian | F | 4 | 4% |
| Caucasian | M | 11 | 11% |
| Hispanic-American | F | 6 | 6% |
| Hispanic-American | M | 3 | 3% |
| Other | F | 2 | 2% |
| Other | M | 1 | 1% |
| Not Listed | F | 0 | 0% |
| Not Listed | M | 2 | 2% |

Figure 4

Age of 2009 Complainants

Among the complainants who provided information about their age, the greatest number of complainants fell within the age category of 45-54 years old. See *Figure 5* for a comparison of the complainants' ages to the Oakland population.



*Source: U.S. Census Bureau, Census 2000. *Figure 5*

Allegations Filed in 2009

The allegations most filed by category were: (1) excessive use of force; (2) improper search; and (3) improper detention. *Figure 6* is a complete list of all the allegations filed in 2009.

| Types of Allegations Filed | Distribution | % |
|--|--------------|-------------|
| Arrest - Improper | 11 | 8.6% |
| Bias / Discrimination | 2 | 1.6% |
| Citation - Improper | 2 | 1.6% |
| Custody - Improper Treatment | 3 | 2.3% |
| Detention/Stop - Improper | 11 | 8.6% |
| Failure to Act | | |
| Failure to Act - During a Pursuit | 1 | 0.8% |
| Failure to Act - To Investigate | 4 | 3.1% |
| Failure to Act - To Write A Report | 2 | 1.6% |
| Failure to Act - To Provide Medical Assistance | 2 | 1.6% |
| Force | | |
| Force - After Handcuffed | 2 | 1.6% |
| Force - Choke | 2 | 1.6% |
| Force - Grab/Push/Shove/Trip | 11 | 8.6% |
| Force - Handcuffs Too Tight | 3 | 2.3% |
| Force - Kneed | 1 | 0.8% |
| Force - Pointing Firearm | 1 | 0.8% |
| Force - Shooting Gun at Person or Animal | 3 | 2.3% |
| Force - Strike with Hand or Unknown Object | 2 | 1.6% |
| Force - Taser | 2 | 1.6% |
| Harassment | 9 | 7.0% |
| Planting Evidence | 1 | 0.8% |
| Property - Damaged/Missing/Seized | 9 | 7.0% |
| Retaliation | 1 | 0.8% |
| Search | | |
| Search - Person | 7 | 5.5% |
| Search - Vehicle | 1 | 0.8% |
| Entry/Search - Residence or Bldg. | 11 | 8.6% |
| Search - Phone | 1 | 0.8% |
| Sexual Misconduct | 1 | 0.8% |
| Truthfulness - Reporting/Verbal Statements | 11 | 8.6% |
| Vehicle Towed/Impounded - Improper | 3 | 2.3% |
| Verbal Conduct | | |
| Verbal Conduct - Profanity/Rude Statements | 4 | 3.1% |
| Verbal Conduct - Threats | 2 | 1.6% |
| Verbal Conduct - Spitting | 2 | 1.6% |
| Total Allegations Filed | 128 | 100% |

Figure 6

2009 Alleged Incidents by City Council District

In 2009, the greatest number of alleged incidents occurred in City Council Districts 3 (23%) and 6 (23%). *Figure 7*, provides the percentage of alleged incidents that occurred in all City Council Districts for 2009.

| Council District | No. of Complaints | % of Complaints |
|------------------------|-------------------|-----------------|
| 1 Jane Brunner | 10 | 11% |
| 2 Pat Kernighan | 13 | 14% |
| 3 Nancy Nadel | 22 | 23% |
| 4 Jean Quan | 3 | 3% |
| 5 Ignacio De La Fuente | 5 | 5% |
| 6 Desley Brooks | 22 | 23% |
| 7 Larry Reid | 11 | 12% |
| Unknown Address | 9 | 9% |
| Total | 95 | 100% |

Figure 7

2009 Resolved Complaints

Figure 8 below shows, in 2009 the Board resolved seventy one complaints. The Board closed eighteen less cases than in 2008. The reduction in output is largely the result of a reduction in staffing including the elimination of a Complaint Investigator and an Executive Assistant positions.

The increase in complaints filed in 2009, coupled with the reduction in staffing creates a workload challenge for the coming year. Prospective additional staffing will significantly help in the resolution of complaints.

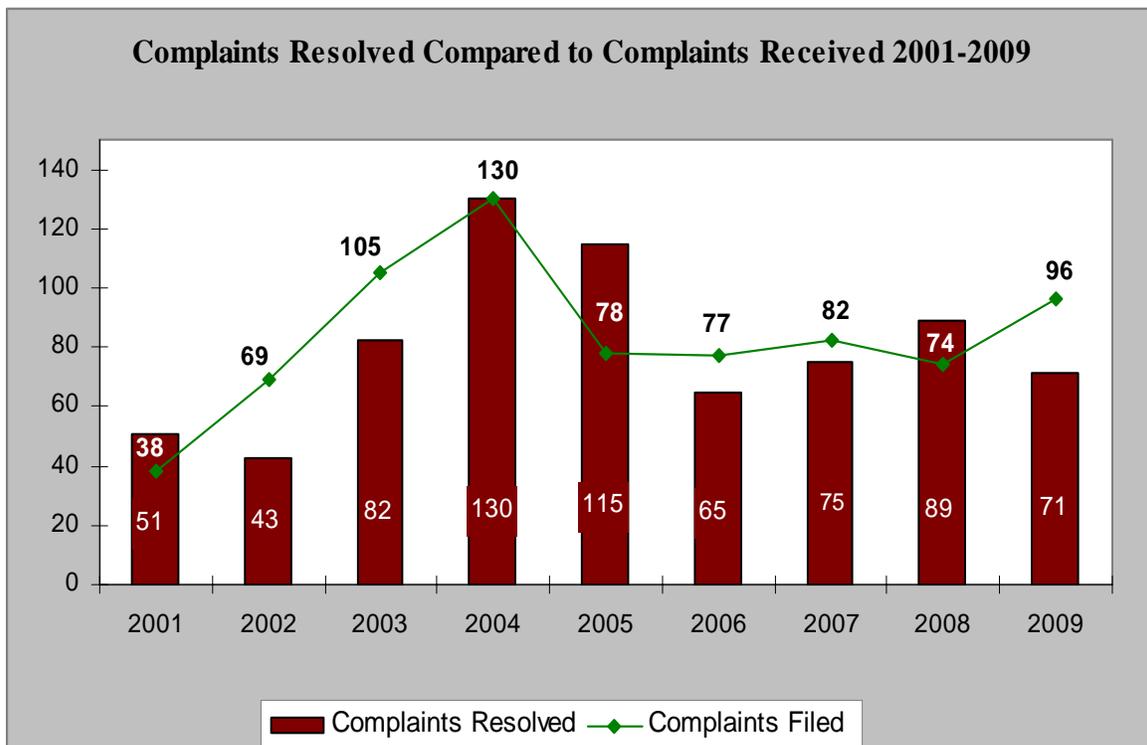


Figure 8

2009 Resolved Complaints

One of the methods the Board uses to ensure police accountability is to provide complainants with evidentiary hearings. These hearings give complainants the opportunity to have the Board hear their complaints, make findings of facts and offer officer disciplinary recommendations.

In 2009, the Board resolved 71 complaints. The Board heard four complaints by evidentiary hearings, 64 complaints were closed through administrative closures, and three complaints were brought directly to the City Administrator. A total of 90% of all complaints were resolved through the administrative closure

process and 10% were resolved either through evidentiary hearings or staff recommendations.

Figure 9 shows the number of complaints resolved each year since 2001. Beginning in 2006, the number of hearings has decreased as a result of changes in the CPRB hearing process made after the *Copley Press* decision which closed the hearing process to the public and add more steps to the preparation of the investigative reports for hearings. The CPRB in 2006 also changed its meeting schedule to once a month, instead of twice a month.

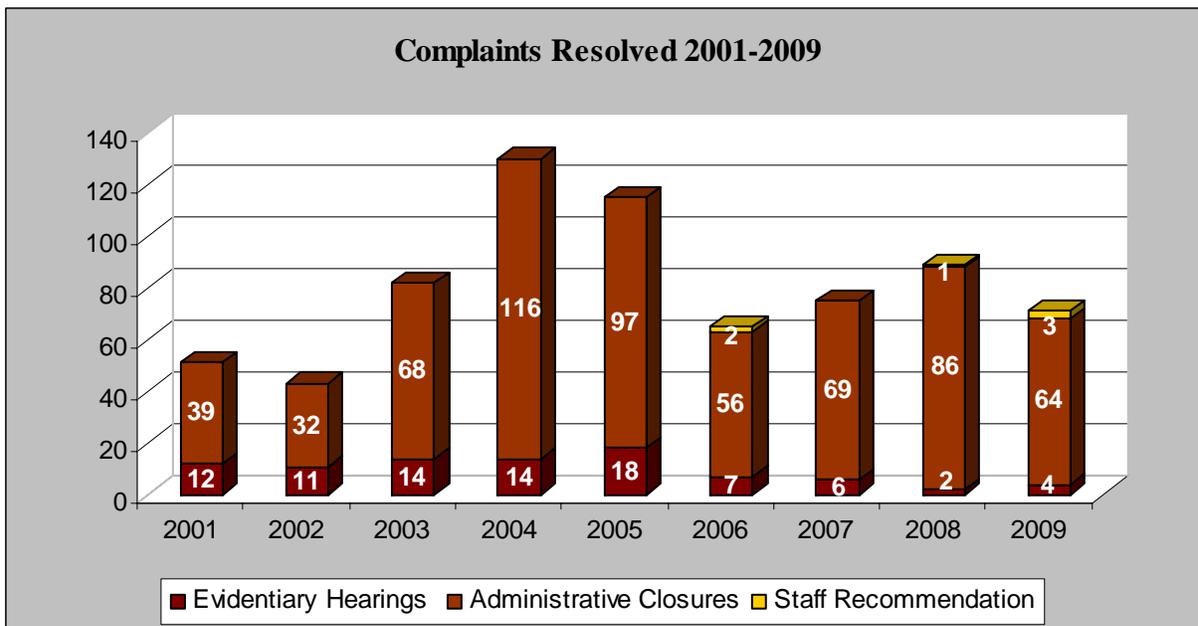


Figure 9

Board Findings at Evidentiary Hearings

The Board findings at evidentiary hearings are based on investigative reports prepared by CPRB investigators which contain officer and witness interview summaries, a list of allegations, disputed and undisputed facts and relevant police policies and laws. At the evidentiary hearings, the Board listens to testimony from the officers, complainants and witnesses. The Board then deliberates on the evidence presented at the hearings and rules on each allegation. Sustained allegations by the Board include disciplinary recommendations. See the chart on page 11 for the Board findings for the complaints heard in 2009.

Definitions for Board Findings

This key provides definitions for the four types of findings the Board makes. The Board is required to use the “preponderance of evidence standard” in weighing evidence. This standard requires the Board to determine whether it is “more likely than not” that the allegations are true.

Sustained: At least five Board members concluded the act(s) alleged by the complainant occurred.

Exonerated: At least five Board members concluded the act(s) alleged by the complainant occurred. However, the act(s) were justified, lawful or proper.

Unfounded: At least five Board members concluded the alleged act(s) did not occur.

Not Sustained: Based on the evidence provided at the hearing, the Board members were unable to determine whether the alleged act(s) occurred or not.

Board Findings at Evidentiary Hearings

In 2009, the Board held four evidentiary hearings and sustained allegations against officers in two of the four complaints. These sustained allegations include the Board's recommendations for officer discipline. The results of the four evidentiary hearings held can be found in *Figure 10*. The Board's recommendations were forwarded to the City Administrator.

| Complainant/s Hearing Date | Board Findings | Allegation Category | Board Disciplinary Recommendations |
|-------------------------------|---|---|--|
| Casper Banjo 02/05/2009 | 1 Not Sustained 2 Not Sustained | Excessive Force - Shooting a person Failure to Act - Properly supervise | The Board did not recommend officer discipline for the subject officers because there were no sustained findings. However, the Board did make a policy recommendation on the availability of less lethal weapons that can be found in the New Policy Recommendations section of this report. |
| Ronald Curry 4/23/2009 | 2 Sustained 1 Not Sustained 1 Not Sustained | Failure to Act - Conduct a proper investigation Verbal Misconduct - Profanity Property - Failure to secure during an arrest | The Board recommended both subject officers receive written reprimands for the sustained allegations for failing to conduct a proper investigation. |
| Laqueta Harper 5/21/2009 | 1 Sustained 1 Sustained 1 Unfounded 1 Unfounded 3 Unfounded 1 Unfounded 1 Exonerated 3 Unfounded 1 Unfounded 1 Not Sustained | Bias/Discrimination - Racial Profiling Improper Detention Improper Search - Person Improper Search - Vehicle Bias/Discrimination - Conduct toward others Excessive Force - Grab Excessive Force - While handcuffing Improper Detention Verbal Misconduct - Rudeness Verbal Misconduct - Rudeness | The Board recommended a fifteen day suspension for the subject officer as discipline for the sustained allegations of racial profiling and an improper detention. |
| Joyce Dawson 6/25/2009 | 2 Not Sustained 1 Unfounded 2 Unfounded 2 Not Sustained 1 Unfounded 1 Not Sustained | Failure to Act - Conduct a proper investigation Failure to Act - Conduct a proper investigation Failure to Act - Make an arrest Failure to Act - Write a proper report Failure to Act - Write a proper report Verbal Misconduct - Rudeness | The Board did not recommend officer discipline for the subject officers because there were no sustained findings. |

Figure 10

CPRB Staff Disciplinary Recommendations

City Council Ordinance 12454 Section G.10a. grants the Board the ability to bring complaint recommendations directly to the City Administrator for disposition without a hearing. The CPRB brought three complaints directly to the City Administrator in 2009. The first came as a staff recommendation because the complainant did not want to go

forward with a hearing. The second because the complainant was unavailable on the date of his scheduled hearing. The third complaint was brought as a staff recommendation because the complainant was incarcerated. Below in *Figure 11* is a chart of the CPRB's staff recommendations for these three complaints.

| Complainant/s Recommendation Date | Board Findings | Allegation Category | Staff Recommendations |
|---|--|--|---|
| Guo Huang/ Zhang Liu 05/06/2009 | 1 Sustained 1 Sustained 3 Sustained 1 Sustained 1 Sustained 1 Unfounded | Failure to Act - Conduct a proper investigation Failure to Act - Properly obtain a search warrant Failure to Act - Properly supervise search Failure to Act - Write a proper report Untruthfulness - Reporting Excessive Force - Pointing firearms and grabbing | The CPRB staff recommended to the City Administrator that discipline be imposed on the subject officers involved in the seven sustained allegations. |
| Olusegun Omowale 09/22/2009 | 1 Sustained 1 Not Sustained 1 Not Sustained 1 Not Sustained 1 Not Sustained | Improper Detention Failure to Act - Release complainant Excessive Force - Handcuffs too tight Untruthfulness - Verbal Verbal Misconduct - Rude Statement | The CPRB staff recommended to the City Administrator that the two subject officers for the one sustained allegation of an improper detention receive written reprimands. |
| James Butler 12/04/2009 | 1 Sustained 3 Not Sustained 1 Exonerated 1 Not Sustained 2 Exonerated 1 Unfounded 2 Exonerated | Untruthfulness - Report Untruthfulness - Report Improper Search Improper Search Improper Vehicle Stop Excessive Force - Pulled Improper Search - Vehicle | The CPRB staff recommended to the City Administrator that the one subject officer for the one sustained allegation of untruthfulness in reporting receives a multiple day suspension. |

Figure 11

Administrative Closures

A complaint is administratively closed after an investigation documented by a written administrative closure report is considered by the Board, and the Board finds no further action is necessary. In 2009, the Board administratively closed 64 complaints. *Figure 12*, below, provides the reasons for the administrative closures.

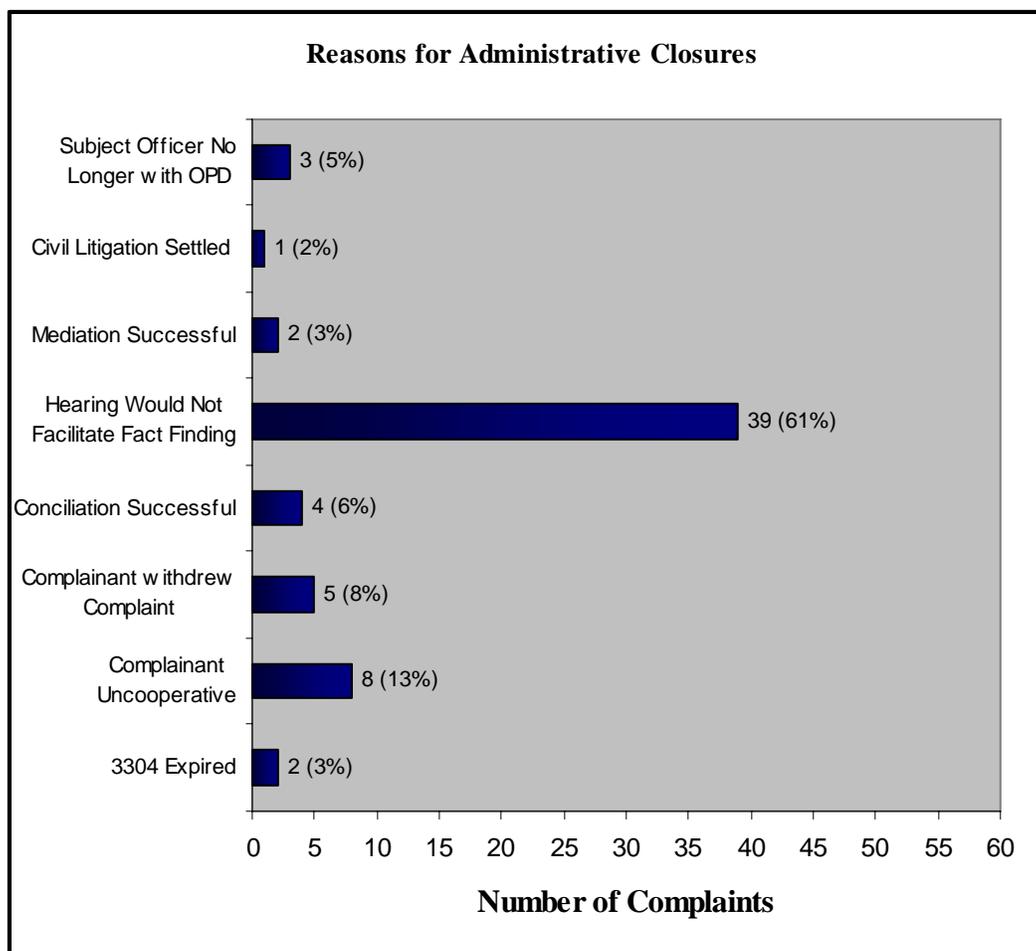


Figure 12

Administrative Closures

Mediation Was Successful

CPRB staff conducted two successful mediations in 2009.

Hearing Would Not Facilitate Fact-Finding Process

The Board determined that a hearing was unnecessary in thirty nine complaints and the staff recommended findings to the Board.

Civil Litigation

One CPRB complaint was closed in 2009 because the City of Oakland settled a lawsuit with the family of Gary King Jr. for \$1.5 million. By settling the civil action, Mr. King's family agreed to dismiss all claims regarding the allegations related to their complaint.

Conciliation Successful

Four CPRB complaints were resolved through an informal resolution between the complainant and the subject officer, without CPRB staff involvement.

Complainant Withdrew Complaint

Five complaints were withdrawn as requested by the complainants.

Complainant was Uncooperative

In eight complaints the complainant failed to respond to an investigator's requests for an interview. In these instances, the complaint was administratively closed because of the complainant's failure to cooperate with the investigation.

California Government Code Section 3304 Statute of Limitations

Two complaints were administratively closed because the one-year statute of limitations for bringing disciplinary action against a peace officer had expired. These two complaints were reassigned to an investigator who left the CPRB after the expiration of the statute of limitations date. No additional resources were used on the investigation because of limited staffing and possible disciplinary action could not be imposed on the subject officers.

Disciplinary Recommendations and the City Administrator's Decisions

If the Board determines officer misconduct occurred, the Board forwards disciplinary recommendations to the City Administrator who, with the Chief of Police, makes the final decision regarding officer discipline.

The *California Peace Officer's Bill of Rights*, limits the Citizens' Police Review Board's ability to share with the public the City Administrator's final determination of discipline for each complaint. Therefore, the CPRB reports in aggregate terms, the number of complaints that the City Administrator accepted of the Board's recommendations for officer discipline.

In 2009, the Board forwarded disciplinary recommendations arising from five complaints. The City Administrator upheld one in full and two in part of the five Board's recommendations for officer discipline. For the two recommendations upheld in part, policy recommendations to the Oakland Police Department and direct officer counseling were enforced instead of individual officer discipline.

Board Findings by Allegation Category

In 2009, the CPRB closed seventy one complaints, a total of five complaints had sustained allegations; two by evidentiary hearing, three by staff recommendation.

Figure 13 on the next page shows the percentage of findings for allegations investigated in 2009. Officers were sustained in seven percent of allegations investigated, eighteen percent of allegations were not sustained, fifty four percent were unfounded and nineteen percent were exonerated.

A particular statistic worth noting is that there were no use of excessive force allegations sustained in 2009.

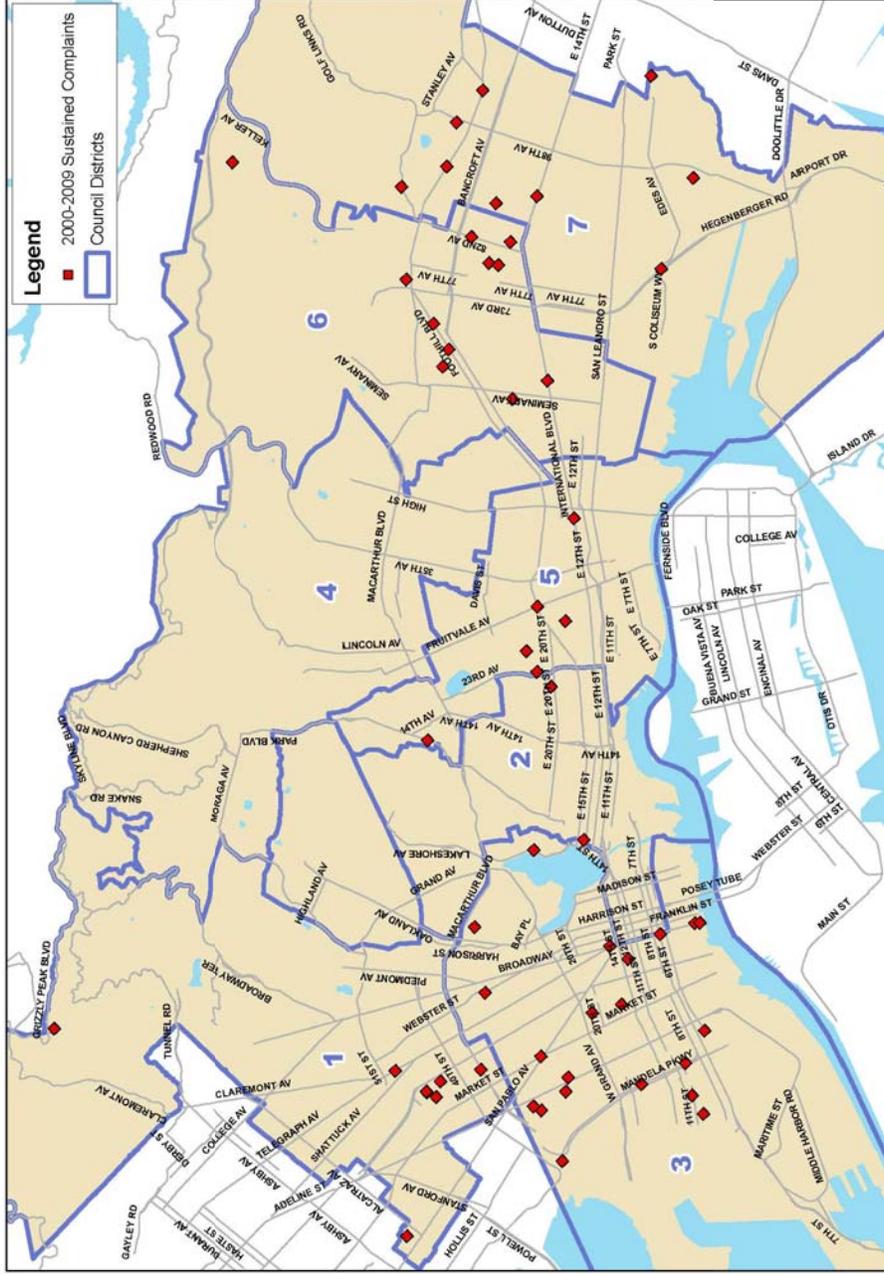
Although excessive use of force was the number one general allegation category filed in complaints in 2009.

Board Findings by Allegation Category

| Allegation Category | Sustained | Not Sustained | Unfounded | Exonerated | Total |
|--|----------------|-----------------|------------------|-----------------|------------|
| Arrest - Improper | | | 7 | 3 | 10 |
| Bias / Discrimination | 1 | | 5 | | 6 |
| Citation - Improper | | | | 2 | 2 |
| Detention/Stop - Improper | 2 | 1 | 8 | 5 | 16 |
| Failure to Act - To Investigate | 3 | 3 | 6 | | 12 |
| Failure to Act - To Obtain A Search Warrant | 1 | | | | 1 |
| Failure to Act - To Properly Supervise | 3 | 2 | | | 5 |
| Failure to Act - To Provide Identification | | 1 | | | 1 |
| Failure to Act - To Provide Medical Assistance | | | 2 | | 2 |
| Failure to Act - To Write A Report | 1 | 2 | 4 | | 7 |
| Failure to Act - Other | | 1 | 2 | 1 | 4 |
| Force - After Handcuffed | | 1 | | | 1 |
| Force - Grab/Push/Shove/Trip | | 5 | 7 | 1 | 13 |
| Force - Handcuffs Too Tight | | 2 | 4 | | 6 |
| Force - Handcuffs Unwarranted | | | 2 | | 2 |
| Force - Kick | | | 2 | | 2 |
| Force - Pointing Firearm | | | 1 | 1 | 2 |
| Force - Shooting Gun at Person or Animal | | 1 | | | 1 |
| Force - Strike w Hand or Unknown Object | | | 2 | | 2 |
| Force - Other | | | 1 | | 1 |
| Harassment | | | 3 | 3 | 6 |
| Injury | | 1 | | | 1 |
| Other | | | 2 | | 2 |
| Planting Evidence | | | 3 | | 3 |
| Property - Damaged/Missing/Seized | | 4 | 1 | 5 | 10 |
| Search - Residence/Bldg. | | 1 | 7 | 10 | 18 |
| Search - Person | | 1 | 3 | 4 | 8 |
| Search - Phone | | 1 | | | 1 |
| Search - Vehicle | | | 5 | | 5 |
| Sexual Misconduct | | | 2 | | 2 |
| Truthfulness - Reporting | 1 | | 5 | | 6 |
| Truthfulness - Verbal Statements | | 1 | | | 1 |
| Vehicle Towed/Impounded - Improper | | | 1 | | 1 |
| Verbal Conduct - Profanity/Rude Statements | | 7 | 12 | | 19 |
| Verbal Conduct - Other (Spitting) | | | 2 | | 2 |
| Verbal Conduct - Threats | | | 1 | 1 | 2 |
| Totals | 12 (7%) | 35 (19%) | 100 (54%) | 36 (20%) | 183 |

Figure 13

2000-2009 Location of CPRB Sustained Complaints



2000-2009 CPRB Sustained Complaints

Map 1

For the first time, the CPRB has mapped the sustained complaints. Map 1 shows by City Council District the location of sustained complaints from 2000-2009. A number of complaints were sustained along Foothill Boulevard and in parts of West Oakland. No complaints have been sustained in City Council District 4.

Officer Compliance with CPRB Investigations

Officer compliance with investigations can be summarized into two areas: responding to interview notices and attending hearings.

Interview Notices

Officer compliance data is specific to compliance with interview notices and scheduling interviews. Officers are responsible for returning their interview notices to the court liaison within their next three on-duty days. Officers failing to complete the requirements to call and schedule interviews or release Internal Affairs statements are non-compliant with the CPRB interview process.

Appearances at Hearings

Officers who fail to appear at CPRB hearings and who do not make special arrangements for their absence are non-compliant with the CPRB hearing process. Such actions are in violation of the Oakland Police Departmental General Order M-3.2.

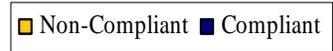
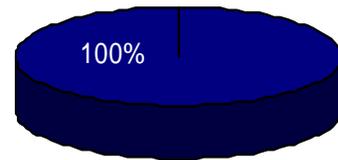
Officer Compliance Data

Officer compliance was collected on fifty-seven complaints investigated in 2009. Officer compliance for interviews and hearing subpoenas for 2009 occurred with minimal delays.

Interview Notices

Number of Complaints: 57
Number of Interview Notices Sent: 211
Scheduled Interviews: 33
Outstanding Notices: 0
Number of Officers Non-Compliant: 0

Officer Compliance with Interview Notices



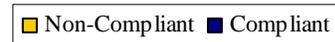
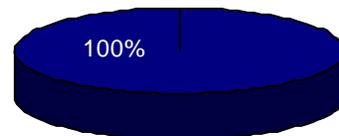
Interview Summary

In 2009, 100% of officers replied to interview notices in a timely manner. Current delays for interviews are occurring with officers' legal representatives not contacting the CPRB investigators in a timely fashion to schedule interviews. However, these delays have not impacted officer compliance.

Hearing Subpoenas

Number of Hearings: 4
Number of Officer Hearing Subpoenas: 24
Number of Officers Attended: 25
Number of Officers Excused: 0
Number of Officers Non-Compliant: 0

Officer Compliance with Hearing Subpoenas



Hearing Summary

In 2009, 100% of the officers subpoenaed complied with the conditions of the subpoena and appeared at the scheduled hearings. The Oakland Police Department continues to maintain 100% compliance in this area.

Number of Officers with One or More Complaints from January 1, 2009 to December 31, 2009

The CPRB tracks the number of complaints against each officer. *Figure 14*, below, lists the number of officers with one or more complaints made against them in 2009. Each year, a small number of officers receive multiple complaints in this short period of time. CPRB tracks this data to be aware of potential recurring problems with specific officers. This year there are two officers with multiple complaints in twelve months. However, these complaints are only allegations of misconduct at this time, and all are currently being investigated.

| No. of Officers | | % of Officers with Complaints |
|-----------------|------------------------------|----------------------------------|
| 3 | Officers with Two Complaints | 3% |
| 96 | Officers with One Complaint | 97% |
| 99 | | 100% |

Figure 14

**Number of Officers with One or More Complaints
between June 30, 2007 and December 31, 2009**

In 2003, the Oakland Police Department (OPD) entered into a settlement agreement in the case of *Delphine Allen v. City of Oakland et al.*, No. C00-4599 TEH (JL). In mandating that OPD institute a Personnel Information Management System (PIMS), the settlement agreement states:

“Notwithstanding any other provisions of the PIMS policy to be developed, the policy shall include, at a minimum, a requirement that any member or em-

ployee who receives three (3) or more citizen complaints during a 30-month period . . . shall be identified as a subject for PIMS intervention.”

(Section VII (B)(6)).

In keeping with the spirit of this policy, *Figure 15*, below, provides the number of officers who have had one or more CPRB complaints filed against them between June 30, 2007 and December 31, 2009.

| No. of Officers | | % of Officers with Complaints |
|-----------------|--------------------------------|-------------------------------|
| 1 | Officers with Three Complaints | 1% |
| 19 | Officers with Two Complaints | 13% |
| 123 | Officers with One Complaint | 86% |
| 143 | | 100% |

Figure 15

Board and Staff Updates

New Board Members

The Board welcomed six new Board members in 2009, Thomas Cameron, Bryan Thompson, Ann Wyman, Howard Tevelson, Elizabeth Diaz and Carl Swanson. 2009 is the first year the Board filled all its vacancies including the alternate youth position, reserved for an Oakland resident between the ages of 18-25.

Board Training

A continuing organizational goal for 2009 was to increase the Board's training on current police policies and practices. These training sessions are conducted by the Oakland Police Department and other guests to enhance the knowledge base of our Board. The CPRB holds these training sessions open to the public. The CPRB held a total of 2 training sessions covering the topics of tactical communication and OPD African American Cultural Diversity training.

CPRB Staffing Reductions

The CPRB operated most of 2009 with only two Complaint Investigators and no Executive Assistant. Administrative support is now shared between departments.

The CPRB is also currently not able to provide mediations due the retirement of the City Administrator's

hearing officer. The CPRB is seeking to revise and improve the mediation process in the future to continue to offer mediations as option to resolve complaints.

Federal Justice Assistance Grant (JAG) - Funds for Staffing

The City of Oakland applied and received funding for two Complaint Investigator II positions through the federal Justice Assistance Grant (JAG). These two positions will be added to the staff in 2010 and assist with the processing of complaints. The allocation is based on funding for two consecutive fiscal years.

Equal Access Compliance

With the federal Justice Assistance Grant (JAG), the CPRB will seek to hire at least one certified bilingual investigator. The CPRB has identified the need to provide better language access to CPRB's services through the use of qualified and experienced bilingual staff.

Technology Innovations

The CPRB is continuing to work with the City of Oakland's, Office of Information Technology in developing a more updated complaint database and an online complaint form application.

Board and Staff Updates Cont'd

Negotiated Settlement Agreement Update

At the end of the year, the *Delphine Allen vs. the City of Oakland* Settlement Agreement came to end and in its place a Memorandum of Understanding was created continuing a number of the compliance tasks associated with the Negotiated Settlement Agreement. Also, a new Independent Monitoring team was established to ensure compliance is continued for the next couple of years. The CPRB is a regular attendee of these meetings to share information with the public on the progress of these efforts.

such as Patrol or homicide investigations. Through the end of this year the Working Group has met on numerous occasions to discuss to discuss implementing a transition plan including Negotiated Settlement Agreement/Memorandum of Understanding requirements and options for securing outside funding. The results of these meetings are scheduled to be shared with the public at a future City Council Public Safety meeting.

Civilianization of the Intake of Complaints filed with Internal Affairs

On July 7, 2009, the Oakland City Council approved in principle the Civilianization Working Group's proposal to hire 10 civilian employees supervised by CPRB to intake all citizen complaints. This proposal would centralize the intake of citizen complaints by taking over this function concurrently performed by the Internal Affairs Division. Furthermore the proposal has identified some future cost savings by hiring civilians instead of using sworn officers. With this potential funding sworn officers currently in Internal Affairs performing these functions will be free up to perform other policing functions

Community Outreach

Community Outreach Efforts

The Citizens' Police Review Board in 2009 focused its efforts on outreach to Oakland's youth. These efforts were to educate youth about our services and to provide them an opportunity to civically participate in discussion and decisions about their city.



Laney College - Student Voices

On April 30, 2009, the CPRB partnered with Laney College's Black Student Union and the Associated Student Body to hold a discussion on public safety from the prospective of youth in Oakland. The audience participated in a discussion with a wide variety of questions that were answered by the panel consisting of CPRB Acting Manager, Patrick Carceres, CPRB Investigator, Audrey Montana, Public Safety Coordinator, Doralista Reed, OPD Officer, Lt. Freddie Hamilton and a representative from Councilmember Kaplan's office, Christopher Miley. Members of the audience shared their experiences with police both on and off

campus and asked Lt. Hamilton about community projects and opportunities to get involved in their neighborhoods.



CPRB Acknowledges Outstanding Student Achievement

On July 9, 2009, the CPRB presented, Ronisha Parker, an award for her outstanding student achievement in producing a short story. A copy of her story chronicling this young man's internal struggle was included in the CPRB meeting packet to highlight and acknowledge Ronisha for her talented writing, commitment to extensive research and awareness of the social issues affecting her community.

CPRB High School Interns

In addition, the CPRB hosted two high school interns in 2009, Sandra Oliveros from A.R.I.S.E. high school in the Fruitvale and recent graduate, current Laney College Student, Jeremiah Cain through the Mayor's Summer Job Program.

New Policy Recommendations

Availability of Less Lethal Weapons

On February 5, 2009, the CPRB adopted the policy statement that law enforcement's need for a variety of force options should be balanced with the public's demand that individuals are subdued with a minimal amount of force necessary to effect compliance. Therefore, bean bag rounds and the accompanying 12 gauge shotguns should be made available to and carried by all Oakland Police Department patrol sergeants and other designated personnel. The Oakland Police Department should make a concerted effort to train and equip all patrol sergeants and other designated personnel in the use of "Drag Stabilized Flexible Baton Rounds" (bean bag rounds) which are fired from a 12 gauge shotgun.

Conclusion

The increase in the number of complaints filed creates a workload challenge for the coming year. However, the CPRB will receive additional staff support through the Federal Justice Assistance Grant (JAG). The additional staff will help the CPRB meet our investigation requirements and continue to provide quality services.

2009 was a success in of efforts to outreach to the youth of Oakland. The CPRB held an important event at Laney College and received valuable feedback on how our City can improve community and police relations in the wake of the four OPD officers killed on March 21, 2009 and after the incident concerning the BART officer shooting of Oscar Grant. These efforts also led to the filling of the vacant alternate

youth position on the Board, which was filled for the first time since it was created back in 2002.

The CPRB also utilized more methods to resolved cases including bringing staff recommendations directly to the City Administrator for officer discipline. The CPRB by the end of the year resolved seven complaints by either evidentiary hearing or staff recommendation which is four more than last year. Despite budget limitations and reductions in staffing, the CPRB continues to hear the most pressing citizen complaints.

As the CPRB embarks as an organization celebrating our 30th year anniversary, our aim continues being a leader in civilian oversight of the police.

Board Member Attendance at Board Hearings

| Meeting Date | Allen | Cameron | Duhe | Hudson | Jamison | Kopowski | Swanson | Thompson | Wyman | Alternate Shawl | Alternate Tevelson | Alternate Diaz |
|--------------|---------|---------|---------|---------|---------|----------|---------|----------|-------|-----------------|--------------------|----------------|
| 1/15/09 | Yes | | Yes | Yes | Yes | Yes | | | | Yes | | |
| 2/5/09 | Yes | | Yes | Yes | Yes | Yes | | | | Yes | | |
| 3/26/09 | Yes | | Yes | Absent | Yes | Yes | | | | Yes | | |
| 4/23/09 | Yes | Yes | Yes | Yes | Yes | Yes | | | | Yes | | |
| 4/30/09* | Excused | Yes | Excused | Excused | Excused | Excused | | | | Excused | | |
| 5/14/09 | Yes | Yes | Excused | Yes | Yes | Yes | | | | Yes | | |
| 5/21/09** | Yes | | | | | Yes | | | | Yes | | |
| 6/25/09 | Yes | Yes | Yes | Yes | Excused | Yes | | | | Excused | | |
| 7/9/09 | Yes | Yes | Excused | Excused | Yes | Yes | | | | Yes | Yes | |
| 8/20/09 | Yes | Yes | Yes | Excused | Excused | Yes | | | | Yes | Yes | |
| 9/17/09 | Excused | Excused | Yes | Excused | Yes | Yes | | Yes | Yes | Excused | Yes | |
| 10/8/09 | Yes | Yes | Yes | Absent | Yes | Yes | | Yes | Yes | Yes | Yes | |
| 11/12/09 | Yes | Yes | Excused | Excused | Yes | Excused | | Yes | Yes | Yes | Yes | |
| 12/17/09 | Excused | Yes | Yes | Absent | Yes | Yes | Yes | Yes | Yes | Yes | Excused | Yes |

Excused - Member asked to attend but excused

Absent - Unexcused absence

* Community meeting

** Three member panel

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|--|---|---|--------------------|
| <p>2008 Use of Safety Belts for Prisoners</p> | <p>1. Prisoners should be seated in an upright position and wear seat belts during transportation. Seat belts help restrain the prisoner and increase the safety of the prisoner in case of an accident and decrease the likelihood of the prisoner gaining access to contraband or a weapon hidden on them.</p> | <p>The use of safety belts for prisoners was not accepted because of the safety concerns for the officer while reaching across the prisoner's body during seat belting and the cost of installing seat belts in the back seat of many OPD vehicles.</p> | <p>Not Adopted</p> |
| <p>Prisoner Positioning in a Vehicle</p> | <p>2. Proper placement of the prisoner in a vehicle is crucial for officer and prisoner safety purposes. Prisoners should be positioned in the vehicle to:</p> <ul style="list-style-type: none"> - Ensure safety and welfare of the officers and prisoners - Allow for clear observation of the prisoner - If the transporting officer does not have a partner or cover officer to assist with transport, the prisoner should be placed in the right rear passenger seat. If the transporting officer has a partner or cover officer to assist with transport, the prisoner should be placed in the left rear passenger seat. | | <p>Adopted</p> |
| <p>Observation of a Prisoner During Transport in a Vehicle</p> | <p>3. Officers must observe prisoners closely while transporting them. When transporting a prisoner:</p> <ul style="list-style-type: none"> - An officer should assume that any prisoner could do any of the following: escape, attempt to destroy concealed evidence and be a potential threat to officer safety. - If available, have a backup or cover officer in the vehicle to closely monitor the prisoner during transport. | | <p>Adopted</p> |

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|----------------------------|---|--|-----------------|
| 2007 Officer Recusal | 1. An officer should consider the possible appearance of impropriety in dealing with situations where he or she may be personally involved. In civil or criminal matters, where an officer has a personal interest, the officer should consider recusing himself/herself from participating in the investigation of the case if he/she is on duty and should consider calling a sergeant or superior officer to handle the matter. When an officer is off-duty and deciding whether to become personally involved in an incident or call in which he/she has a personal interest, he/she should consider calling a sergeant or superior officer to respond to the scene to avoid the appearance of impropriety. | | Pending |
| Police Vehicle Pursuits | 1. OPD should develop a more restrictive vehicle pursuit policy to permit the pursuit of fleeing suspects for "violent felonies only" based on a standard of reasonable suspicion. An exception should be made for all misdemeanors firearm related violations. Officer can pursue under this exception based on a standard of probable cause. | Included in OPD Departmental General Order J-4 (May 30, 2007) Pursuits may be initiated when there is a reasonable suspicion that a person committed a felony or a firearms related offense, or is a dangerous driver under the influence (DUI) and when there is no immediate unreasonable threat to the public or the officer. The person must clearly exhibit intent to avoid arrest by refusing to stop. | Adopted in Part |
| | 2. OPD should increase the number of hours spent on teaching critical decision making skills. | Included in Departmental General Order J-4 | Adopted |
| | 3. OPD should review methods of officer accountability and compliance with pursuits policies. | Included in Departmental General Order J-4 | Adopted |

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|------------------------------------|---|--|-----------------|
| Police Vehicle Pursuits con't | 4. OPD should review its pursuit tactics and technology for effectiveness and identify new technologies used by other jurisdictions. | Included in Departmental General Order J-4 (helicopter support) and Training Bulletin III-B.9 (May 30, 2007) | Adopted |
| | 5. OPD should review the adequacy of its data collection and analysis regarding police pursuits. | Included in Departmental General Order J-4 | Adopted |
| | 6. CPRB proposed the creation of a Vehicle Pursuit Task Force with representatives from the CPRB, Community Police Advisory Board (CPAB), People United for a Better Oakland (PUEBLO), as well as other community participants. The Task Force was formed to consider and offer opinions on the proposed recommendations. | The Task Force met for three meetings created recommendations. | Adopted |
| 2006 Landlord/ Tenant | 1. The Board recommends OPD provide training to its officers on landlord/tenant law. | Initial training occurred in officer line-ups and more formal training is being developed. | Adopted in Part |
| 2005 Ruses | 1. The Board recommends OPD develop a policy regarding the creation, management and implementation of ruses. | Declined | Not adopted |
| 2004 Crowd Control | 1. At the Pre-incident Planning Meetings, include the Fire Department and ambulance personnel to support OPD's efforts to manage large crowds. The Board recognizes the vital role the ambulance and fire personnel play in situations of this nature | Included in OPD Training Bulletin III-G | Adopted |

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|------------------------|--|---|---------|
| Crowd Control con't | 2. Utilize "First Aid Stations fixed and/or mobile and/or ambulances" in the event that chemical agents must be deployed: plan for disabled, elderly and children, the safety of bystanders, evaluate availability of other public safety resources, and anticipate potential medical resources. | Included in OPD Training Bulletin III-G | Adopted |
| | 3. Include in the crowd control policy considerations of: occupied buildings in the area, businesses, e.g. hospitals, schools, senior centers, family restaurants, vehicular traffic, and age, health and mobility of those present. | Included in OPD Training Bulletin III-G | Adopted |
| | 4. Officers must establish a presence commencing at the start of the event by having more community centered policing (e.g. talking with crowd) and by attempting to penetrate the crowd given officer safety. Private security must be part of the Pre-incident Planning Meetings. | Included in OPD Training Bulletin III-G | Adopted |
| | 5. In the Pre-incident planning conduct a risk analysis of the event to determine the sufficient number of law enforcement and public safety personnel. | Included in OPD Training Bulletin III-G | Adopted |
| | 6. As standard procedure consider the use of multiple arrests before deploying chemical agents. | Included in OPD Training Bulletin III-G | Adopted |
| | 7. Dispersal orders need to be given in a manner reasonably believed to be heard and understood by the intended audience including: documentation of the orders at time given and clear instructions on where people are to disperse when public transit is unavailable. Also included in the recommendation is the Oakland Police Department should obtain a better public address system and repeat their dispersal orders every city block. | Included in OPD Training Bulletin III-G | Adopted |

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|--------------------------------|---|---|-----------------|
| 2003 Crowd Control | 1. The Police Department should eliminate its use of wooden dowels. | Included in OPD Training Bulletin III-G | Adopted |
| | 2. The Police Department should end its practice of using the sting grenade. | Included in OPD Training Bulletin III-G | Adopted |
| | 3. The CPRB Executive Director and the Chief of Police should collaborate with community representatives to further work on revising OPD's crowd control policy. | Included in OPD Training Bulletin III-G | Adopted |
| Towing | 1. The Police Department should draft a comprehensive training bulletin regarding procedures to be followed when vehicles have been towed -- taking into consideration the age of the individual, the location of the tow and the ability of the individual to relocate to a safe location. The training bulletin should also include the directive that an officer should offer the individual and passengers transportation to the Eastmont Substation or the Police Administration Building, whichever is closer, if leaving the individual or their passengers at the location of the tow would place them at risk of harm. | Included in Special Order No. 8098 | Adopted |
| 2002 5150 Detentions | 1. The Police Department should immediately train and inform its officers that if an officer is unsure of whether a person meets the criteria of section 5150, the officer has the option of telephoning the psychiatric emergency room at the John George Psychiatric Pavilion to obtain an expert medical opinion. All officers should be given cellular phones for this purpose. | Training complete, but unable to provide cellular phones. | Adopted in Part |

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|--------------------------|--|---|-----------------|
| 5150 Detentions con't | 2. The Police Department should begin tracking information about 5150 detentions to determine the circumstances under which such detentions are made, the locations of these detentions, and the training needed by officers to correctly use section 5150 to detain individuals. | Declined – the current training is satisfactory given limited resources. | Not adopted |
| | 3. The Police Department should work with the Alameda County Behavioral Health Department, the Alameda County Sheriff's Department, community groups, and other interested parties to develop closer working relationships, to share resources, and to develop processes and procedures to address 5150 issues. Workshops should be publicly noticed and open to the public and should commence immediately. | Training is being conducted with a member of the Alameda County Health Department / Mental Health Crisis Response Team as a co-instructor. | Adopted in Part |
| | 4. The Police Department should expand its officer training on mental illness and 5150 detentions to 40 hours. The 40-hour training program should occur post-Academy and should include training on distinguishing mental illness from mental retardation, which is not a ground for a 5150 detention. | The Sergeants training has been completed and the officers are receiving their training through Continuing Professional Training courses. | Adopted in Part |
| Searching Residences | 1. Officers should be required to fill out a "notification" form when conducting warrantless searches. The Chief of Police should issue a Special Order revising Department Training Bulletin I-O.3, which is entitled, <i>Legal Aspects of Searching Residences, for the purpose of implementing this recommendation.</i> | This recommendation will be considered in the issuing of business cards to all officers and in the future during the accreditation process. | Not Adopted |

Citizens' Police Review Board Policy Recommendations

| Date / Policy | Recommendations | OPD Responses | Status |
|-----------------------------------|--|--|---------|
| 2001 OPD Hearing Attendance | 1. The police department should revise General Order M-3 to provide clear direction to officers about their obligation to cooperate with the CPRB, including giving interviews and attending Board hearings. The General Order should specify the grounds for being relieved from compliance with the CPRB subpoena to attend a hearing, e.g., for illness or injury and the procedures that must be followed. | Included in final draft of the General Order M-3.2 | Adopted |