

Citizens' Police Review Board

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Deanna Santana, City Administrator

October 13, 2011

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

On behalf of the members of the Citizens' Police Review Board (CPRB), I am pleased to present the 2011 Semi-Annual Report.

As a part of the FY 2011-13 budget, City Council added 10 positions to CPRB staff to complete the transition of the intake of all citizen complaints solely to the CPRB. This change will save the city money, free sworn officers to go back on the street, and simplify the complaint process for members of the public. This is an exciting transition for the CPRB, and the new structure is scheduled to be in place by July 1, 2012.

This year's outreach activities have included NCPC presentations and the Asian Community Safety and Awareness Fair. CPRB staff have recently drafted a community engagement plan to help get the word out about CPRB's services, particularly in limited English-proficient communities. This plan will bolster our effectiveness in outreach and increase our number of citizen-generated complaints.

We welcomed Derrick Muhammad to our Board this year and have filled all but one vacancy in our Board. Our members are excited to work on increased outreach efforts and Board changes in the next year. We also welcomed Ryan Hunter as Policy Analyst on the CPRB staff. In addition to his work on policy, Ryan will be coordinating outreach for the Board.

Our Board has resolved 42 complaints through June 30, 2011: 38 by administrative closure, three by evidentiary hearing, and one by staff recommendation to the City Administrator. In three cases, we recommended discipline against officers: one who failed to make an arrest, two who made an improper search, and two who failed to properly conduct and report on an investigation. Those disciplinary recommendations were brought to the City Administrator; the City Administrator upheld one recommendation in full, upheld a second in part, and did not uphold the third.

In May, we hosted the second installment of our series on Bias-Based Policing: Solutions for Communities of Color. OPD command staff and local policy leaders discussed practical training for officers to mitigate the influence their natural biases have on their work. After the third installment of the series, the Board will recommend new OPD policies on bias-based policing.

Several of our complaints resulted in policy recommendations, ranging from the proper treatment of arrestees' bicycles to officer use of canines in populated areas. CPRB staff will be working with OPD to examine how the Board's recommendations could shape OPD policy and practice.

As always, our goal remains to help improve relations between Oakland's citizens and its police force by ensuring police accountability for misconduct. Thank you for your continued support in the investigation and resolution of citizen complaints. 2011 will be a great year.

Sincerely,

Tina Allen

Chair, Citizens' Police Review Board

City of Oakland
**Citizens' Police
Review Board**
2011 Semi-Annual
Report

JANUARY 1– JUNE 30, 2011



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Executive Summary

This June, the City Council passed a FY 2011-13 budget providing for the **consolidation of intake** for all citizen complaints to the Citizens' Police Review Board (CPRB). Moving intake from Internal Affairs Division (IAD) to CPRB will ultimately result in financial savings to the City of Oakland, put more officers on the street, and simplify the complaint process for members of the public filing complaints.

In May, the CPRB held its second event on **Bias-Based Policing: Solutions for Communities of Color**. Command staff from the Oakland Police Department joined local policy experts in discussing practical training that can reduce the influence of our inevitable biases on our behavior. The Bias-Based Policing series will culminate in a set of policy recommendations later this year on officer training and data analysis.

The CPRB is excited about our new **Community Engagement Plan**, including

- Outreach to every Council District,
- Events serving limited-English proficient communities and youth.

The CPRB received **33 new complaints**. This is **the lowest number of complaints filed in the first six months in recent years**, one-third fewer than the 49 complaints received at the same time in 2010. The implementation of the new Community Engagement Plan and the consolidation of intake will increase the complaint volume in the near future.

The Board **resolved 42 complaints comprising 164 separate allegations**.

Three complaints were resolved through evidentiary hearing, 38 through administrative closures, and one by staff recom-

mendation. The Board **sustained six allegations** (4% of the total) and **recommended discipline against five subject officers** for failure to make an arrest, failure to properly obtain a search warrant, and for failure to properly conduct a follow-up investigation and complete a report. The City Administrator rendered decisions on these three cases. One recommendation was upheld in full, one in part, and one not upheld.

The allegations most frequently filed with the Board were:

1. excessive use of force (14);
2. improper arrest (7); and
3. improper verbal conduct (5).

Two allegations were sustained for the use of force against an animal; discipline in that case had previously been imposed by Internal Affairs.

All officers have complied with interview notices and hearing subpoenas so far in 2011. In one instance, two officers were noticed by CPRB for an interview but later instructed by IAD to give their interview to IAD investigators before CPRB. This was a violation of policy and resulted in a delay of the investigation. This matter has been resolved and clarified going forward.

New Board policy recommendations include changes to the custody process for arrestees' bicycles and proper announcements when officers deploy canines.

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About the CPRB

Current Board Members and Term Expiration Dates

Tina Allen, Chair	February 15, 2011
Howard Tevelson, Vice Chair (alternate)	February 15, 2012
Donna Duhe	February 15, 2011
Derrick Muhammad	February 15, 2013
Thomas Cameron	February 15, 2012
Ann Wyman	February 15, 2012
Risha Jamison	February 15, 2012
Paula White	February 15, 2012
Sarah Cohen	February 15, 2012
Vacant (youth, 18-25 years)	February 15, 2013
Susan Shawl (alternate)	February 15, 2012
Elizabeth Diaz (youth, 18-25 years) (alternate)	February 15, 2013

Antonio Lawson Independent Counsel

CPRB Staff

Patrick Caceres	Assistant to the City Administrator
Audrey Montana	Complaint Investigator
Joan Saupé	Complaint Investigator (Certified Spanish-speaking)
Karen Tom	Complaint Investigator
Ryan Hunter	Policy Analyst / Community Outreach Coordinator
Carolyn Poe	ASSESTS Senior Intern



Board Members, from left: Derrick Muhammad, Paula White, Sarah Cohen, Chair Tina Allen, Vice Chair Howard Tevelson, Susan Shawl, Ann Wyman, Elizabeth Diaz, Thomas Cameron. Not pictured: Donna Duhe and Risha Jamison.



CPRB staff, clockwise from left: Assistant to the City Administrator Patrick Caceres, Policy Analyst Ryan Hunter, Investigator Karen Tom, Investigator Audrey Montana, ASSETS Senior Intern Carolyn Poe, Investigator Joan Saupé.



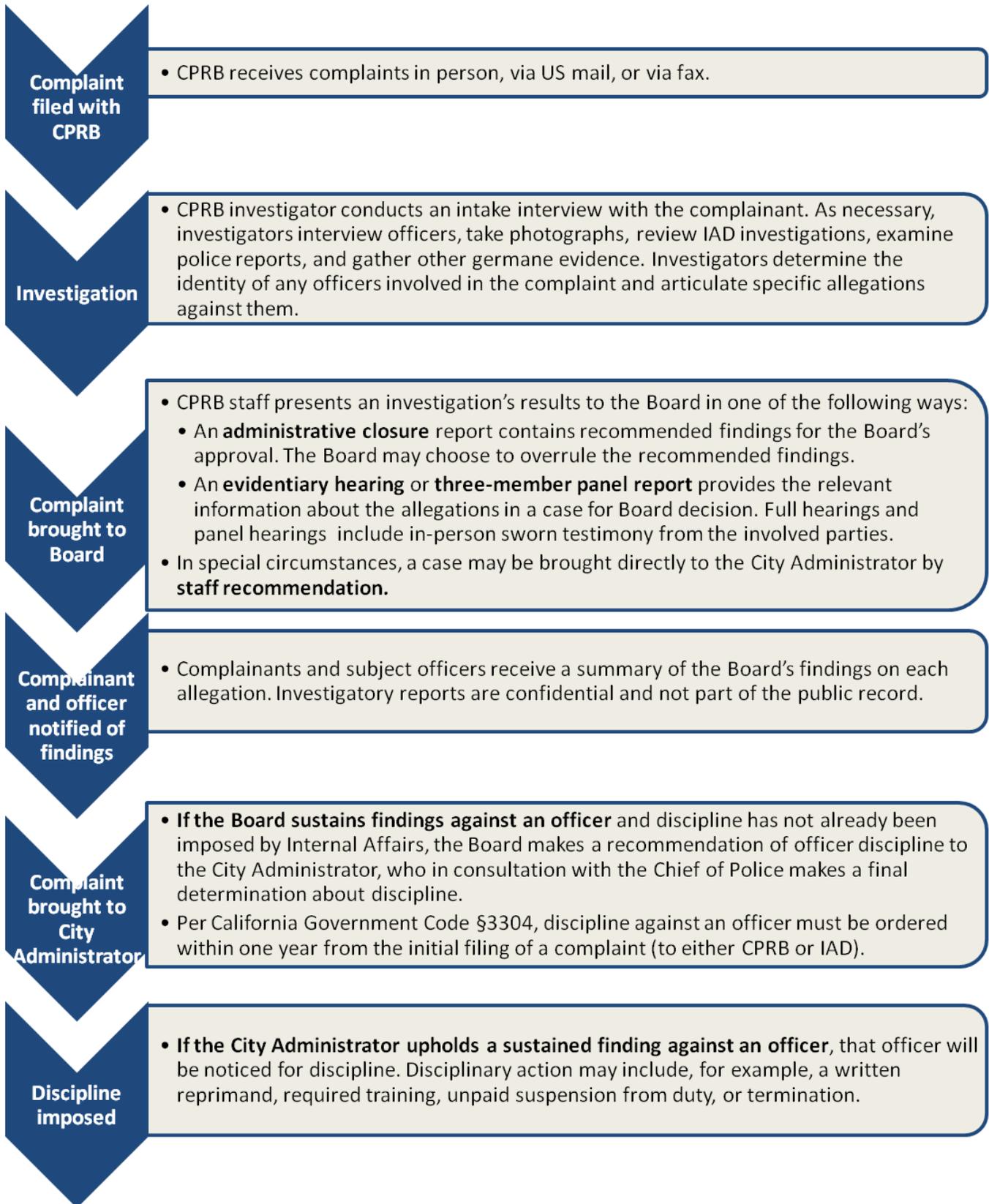
Independent Counsel Antonio Lawson

Citizens' Police Review Board

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 public forum to air its concerns on policy matters and individual cases alleging police misconduct.

CPRB Complaint Process



Board Activities and Information

News

Transfer of intake process to CPRB

Beginning next fiscal year, all citizen complaints against an officer will come first to the CPRB. At its June 30th budget meeting, the City Council allocated nearly \$1.5 million to the CPRB to transfer the intake of all complaints handled by Internal Affairs. OPD officers currently in Internal Affairs can be re-assigned, while these functions can be completed by civilian personnel at a lower cost to the city.

Taking over the intake process will increase CPRB's caseload by an estimated factor of ten, and therefore city staff will be meeting extensively with Internal Affairs and other departments to ensure an orderly transition. Over the coming months, CPRB will be preparing to fill approximately eight additional investigator positions and two administrative positions to process the intake of complaints. The additional staff allow CPRB to expand language access to investigative services.

Online complaint form

CPRB is in the process of setting up an online complaint form. Currently, citizens filing complaints must either fill out a form in person at the CPRB office or mail or fax in a hard copy of the form. Online reporting will ease the complaint process for citizens and eliminate unnecessary paper waste. The online form will also load complaint information directly into the CPRB database, reducing staff time in data entry.

Database updates

Over the coming months, the CPRB will be migrating its complaint data from Microsoft Access into a new Oracle database. Because most city departments operate using Oracle,

the migration will allow CPRB to more easily receive technical support from the Information Technology department and interface with other departments' data. The IT department is also working to develop user-friendly forms for investigators' data entry — an important component of the smooth transition of the intake process to CPRB. To the extent possible, CPRB data will be aligned with officer and complaint data from IAD and OPD.

Mediations

Due to staffing shortages, the CPRB has recently been unable to facilitate mediations. In the coming months, staff will be identifying cases that may make good candidates for mediation, in an effort to reintroduce the use of this option to resolve complaints.

Appointments to the Board

Three new Board members have joined the CPRB: Paula White, Sarah Cohen, and Derrick Muhammad. As of the publication of this report, the Board has one unfilled youth vacancy.

CPRB staff additions

The City Administrator's Office reclassified Acting Manager Patrick J. Caceres to the position of Assistant to the City Administrator. CPRB also hired a new Policy Analyst: Ryan Hunter is a graduate of the Goldman School of Public Policy at UC Berkeley and holds a previous MA in sociology from Stanford University.

Bias-Based Policing: Solutions for Communities of Color



At its May meeting, the Board hosted the second of a three-part series of events on Bias-Based Policing: Solutions for Communities of Color. As a follow-up from the December 2010 Bias-based Policing Symposium, this event focused on how OPD currently addresses racial profiling and what future recommendations might be appropriate for officer training.

Deputy Chief Jeff Israel shared OPD's current training on racial profiling. Deputy Chief Israel helped create the department's system to track officer stop data. After presenting a summary of racial profiling training given to officers, he answered questions from the Board.

Professor Jack Glaser from UC Berkeley's Goldman School of Public Policy presented his research on bias in policing. He emphasized that bias and stereotyping is inherent in human nature and that most bias is implicit (or unconscious) and difficult for officers to control even if they are aware of it. He shared information from many studies. For example, some research shows that in many municipalities minority groups that are stopped by officers have a lower "hit rate" (rate of actual arrest) than whites. That is, officers

seem to be stopping minority groups possibly based on a lower standard of suspicion.

Saying, "while bias is normal and pervasive, it is not inevitable," Prof. Glaser offered several research-based categories of possible interventions: increasing officer contact with minority groups, holding officers accountable, making categories of bias explicit, reducing officer discretion, and extinction training (repeated demonstration of the bias' incorrectness over time).

Captain Paul Figueroa, commander of the Internal Affairs Division, was also present to address the questions of the Board.

Video highlights from this meeting, a packet of research, and information from the first part of the series are available on the CPRB website at www.oaklandnet.com/cprb.html.

The third part of the series will take place in neighborhood forums to get the perspective of local leaders and community members. At the conclusion of the bias-based policing series, CPRB will formulate policy recommendations to be brought to the Public Safety Committee.

Community Outreach

Community Engagement Plan

Community outreach is important to reducing officer misconduct and improving community policing. In early 2011, CPRB staff drafted a Community Engagement Plan, available on the CPRB website, outlining CPRB's outreach objectives for the coming fiscal year, including:

- Outreach efforts in every Council District,
- Events serving LEP communities, and
- The third part of the Bias-Based Policing series, to be held in a community setting.

CPRB staff work to inform the community about the availability of CPRB's services through large CPRB-sponsored outreach events and shorter presentations of our work. In particular, CPRB seeks to be a resource to the limited English-proficient (LEP) communities in Oakland, including Spanish- and Chinese-language populations. Our outreach will include community events in Chinatown and Fruitvale in the next year.

National Night Out

CPRB staff attended Oakland's National Night Out on August 2,

2011. CPRB Manager Patrick Caceres attended several community block parties and shared information and materials about the services of the CPRB.

NCPC meetings

As part of the CPRB's Community Engage-

ment Plan, our office began attending Neighborhood Crime Prevention Council meetings (NCPCs) throughout the city, starting with a Beat 34X meeting at Eastmont Substation in June. Staff will attend additional meetings in other beats in the coming months.

Board Member outreach

CPRB is currently forming an ad hoc committee to help plan and implement community outreach. Leveraging the networks, languages, cultural competencies, and ingenuity of our Board members will allow CPRB to do more effective outreach in more places in the months to come.

Oakland Asian Community Safety and Awareness Fair

CPRB staff and Board Members Allen, Shawl, and White all attended the Oakland Asian Community Safety and Awareness Fair in April. CPRB hosted a table to share information about services with members of the Chinatown community.



From left: CPRB Manager Patrick Caceres, Mayor Jean Quan, and Board Member Susan Shawl at Chinatown's safety fair.

New Policy Recommendations

The Board has made several policy recommendations during the first six months of 2011. The following recommendations arose from the investigation of four complaints and are offered as additions to current Oakland Police Department policies. **The status of the following 2011 policy recommendations is currently pending.**

Custody of bicycles

Current OPD policy requires officers who arrest an individual riding a bicycle to either release the bicycle to a responsible party or take it into custody. Because the officers do not have to document information about who the bicycle is released to, any dispute comes down to the word of the officer versus that of the arrested individual.

Therefore OPD Departmental General Order J-1, section B, should be revised to include the following new language, underlined below:

“B. If an arrested person has possession of a bicycle that is not connected with the offense, the arresting officer shall attempt to get the arrestee’s permission to release it to a responsible person and get the name and address by some identifying document of the person to whom the bicycle was released. and include this information in the police report. If such arrangements cannot be made, the officer shall take the bicycle in for safekeeping, note that information on the arrest and offense reports, and order an extra copy of the report package for the Bicycle Unit.”

Use of canines

The Board recommended the following two changes to improve General Order K-9 when officers make an announcement to release a dog to perform a search:

1. Make the announcement at each residence location as the canine begins searching that area, allowing people and children to enter their homes and to retrieve their pets safely.
2. Make the announcement loud enough so that people in proximity to the canine can reasonably hear it. Use the PA system in patrol cars when available.

Obsolete brochure

The CPRB recommends that officers should stop distributing the pamphlet on Conciliation Forums of Oakland, as the organization no longer exists and the phone number has been disconnected. Officers should obtain updated information from SEEDS Community Resolution Center and distribute its brochure in cases of neighbor disputes.

Hate crimes

The CPRB identified that some OPD officers displayed a lack of understanding of department policy about what constitutes a hate crime and recommended that additional training and information about the policy be distributed to the department.

New Policy Recommendations (continued)

Clarity and accuracy in reporting

Due to insufficiencies in officer reporting on a CPRB case, the Board approved policy recommendations to clarify reporting guidelines.

1. Police officers should not write “no witnesses” in a report unless they are certain of that fact. An officer should list all witnesses in her report. If the officer does not know whether there were witnesses, she should either refrain from commenting on the presence of witnesses or write “no known witnesses.”
2. When an officer or evidence technician is tasked with photographing an individual, they should ensure that the photographs capture any injuries that individual sustained. For example, the photographer
3. Use of Force reporting should contain specific information about not only what kind of force was used, but also how that force was employed and why it was necessary.

should remove spit masks covering an individual’s face, if doing so does not violate privacy or create safety risks.

Complaints Filed in 2011

Number of Complaints

Between January 1 and June 30, 2011, the CPRB received 33 complaints filed by 35 individuals. Over the same period in 2010, the CPRB received 49 complaints; the first two quarters of 2011 represent a **33% decrease**. *Figure 1* shows that the monthly trend was generally decreasing since February.

If present trends continue, the CPRB is on track to handle approximately 66 complaints in 2011, as shown in *Figure 2*. This projection would be slightly lower than average for the past several years.

One possible explanation for the decrease in the number of filed complaints is due to decreases in OPD staffing. Fewer officers on the street may mean fewer interactions with the public and correspondingly fewer projected complaints.

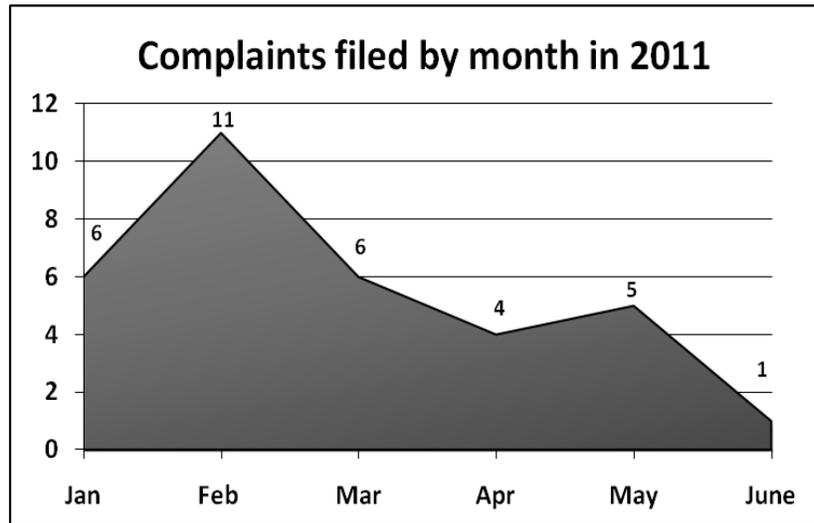
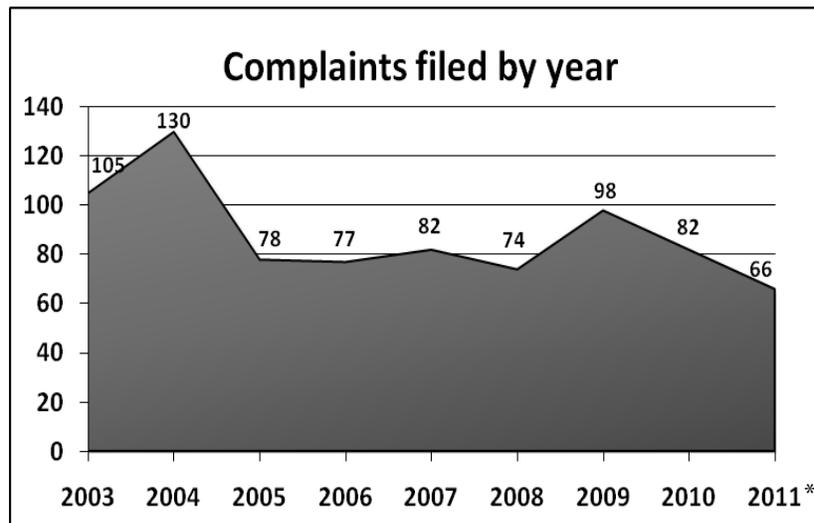


Figure 1



* 2011 projection

Figure 2

Race and Gender of Complainants

In 29 cases, complainants supplied information about their race. *Figure 3* gives the racial breakdown of complaints from January 1st through June 30th for the previous five years. **The majority of complainants continue to be African-Americans**, though this proportion is lower than in recent years. This year has the highest proportion of Hispanic complainants in the previous five years, but also no Asian-American complainants.

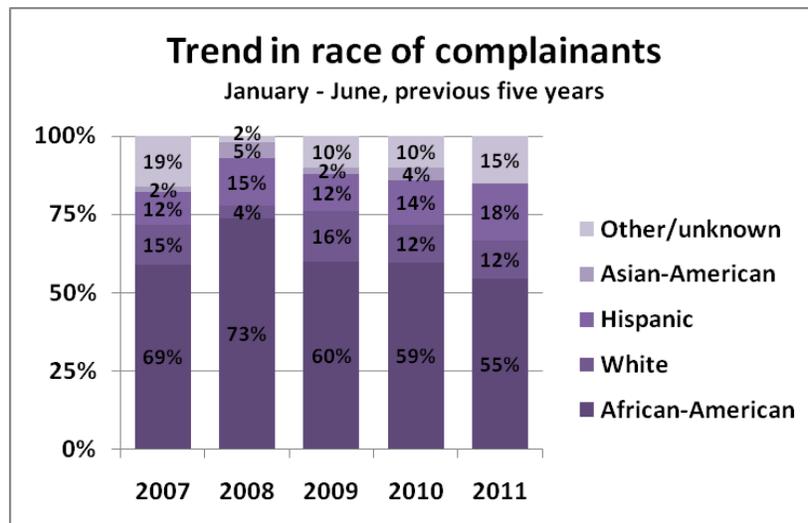


Figure 3

Males continue to constitute a clear majority of complainants. The gender balance is not substantially different from that of the previous few years for the same time period.

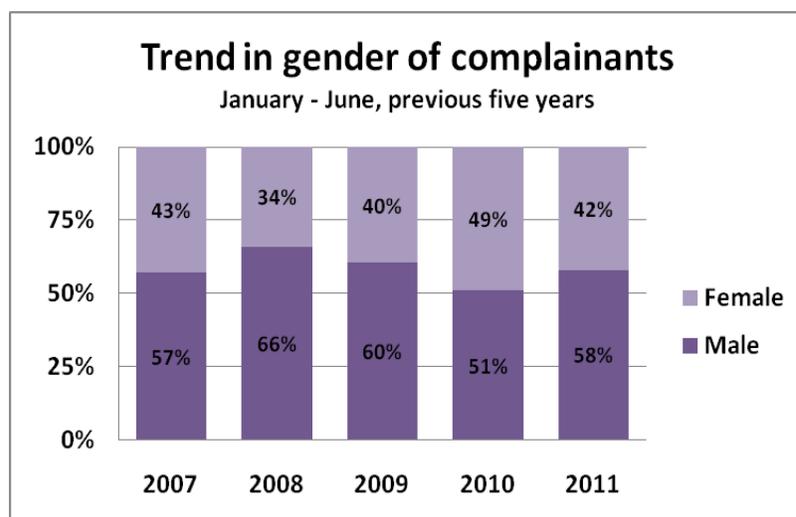


Figure 4

Age of Complainants

Of the 32 complainants for whom age data was available, **nearly a third fell between the ages of 55 and 64**; complainants in this age group are represented at a rate about 2.5 times greater than their share of the Oakland population would suggest.

Youth and the elderly are underrepresented in CPRB complaints, relative to their share of Oakland's population. In the first six months of 2011, no minors under the age of 15 filed complaints, one citizen under the age of 25 filed a complaint, and one citizen over the age of 64 filed a complaint.

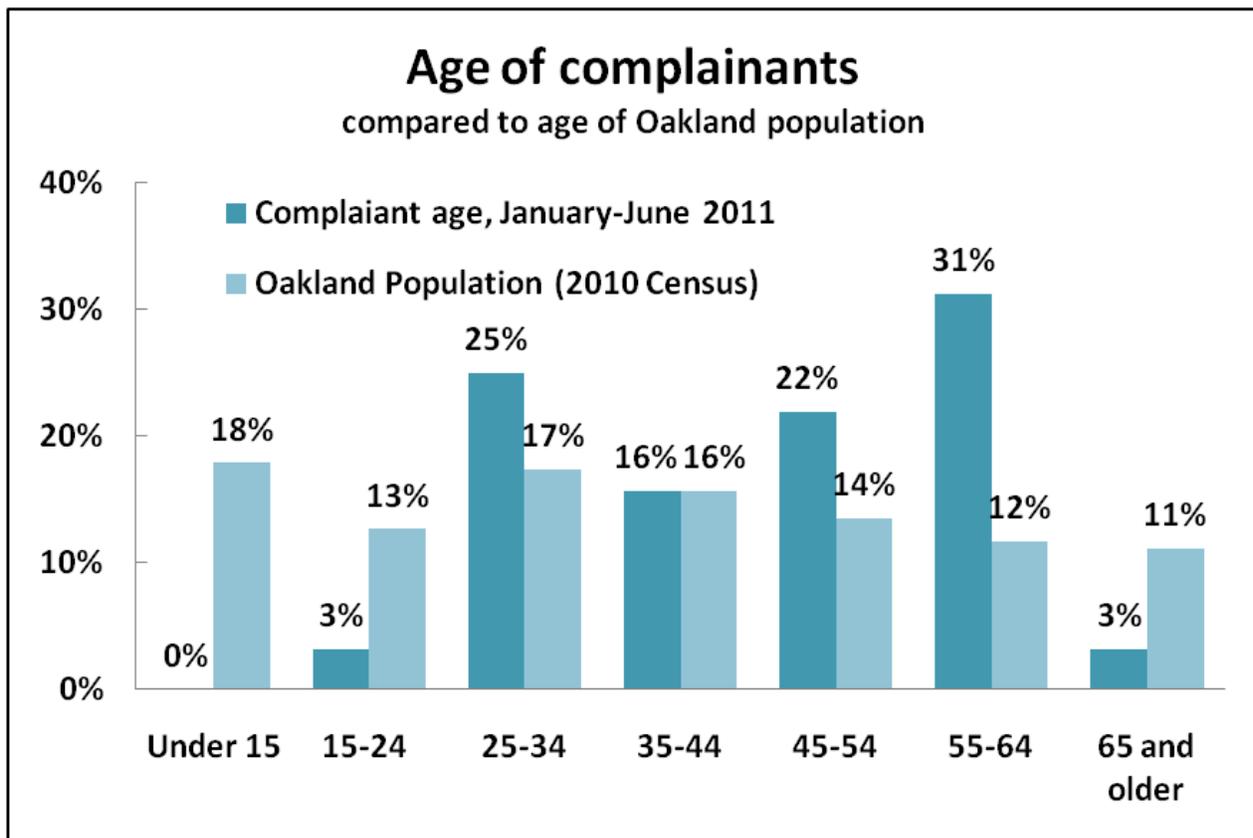


Figure 5

Filed Allegations, by Category

Comparing the first half of 2010 with 2011, the CPRB has seen a jump in improper arrest allegations and a relative lull in allegations of failure to act. In the first half of 2010, the top three allegations filed were excessive force, failure to act, and verbal conduct.

The allegations below involve cases which are still under investigation, and the nature and number of allegations in a complaint sometimes changes over the course of investigating a case. Most complaints contain several allegations.

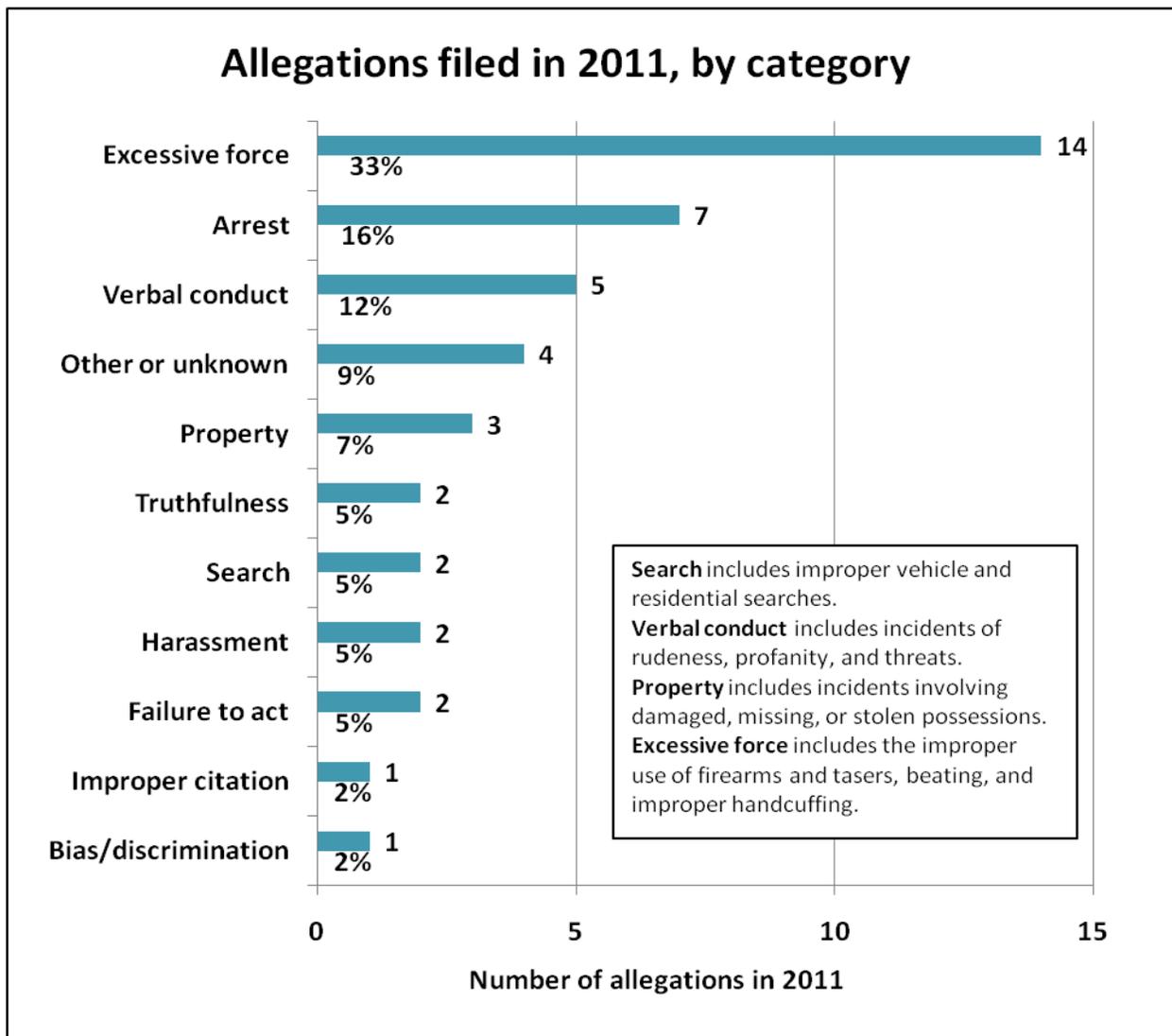


Figure 6

Filed Allegations, by Category (continued)

Figure 7 and Table 1 below show trends in five common allegations over the past six years. Because some years have more allegations than others, allegation categories are given as percentages.

In most years, excessive force is the most frequently alleged form of police misconduct; in the first half of 2011, force comprised a third of all allegations. **Both failure to act and search allegations are proportionally low in 2011 compared to previous years.** The percentage of allegations for improper arrest has increased.

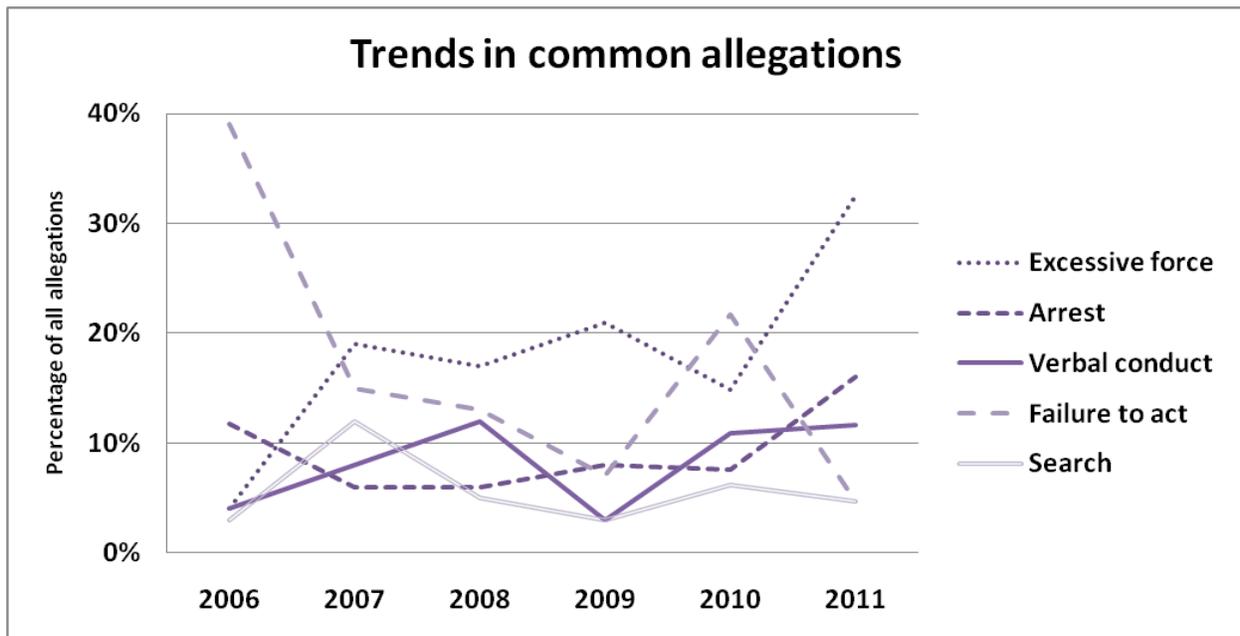


Figure 7

	2006	2007	2008	2009	2010	2011
Excessive force	4%	19%	17%	21%	15%	33%
Arrest	12%	6%	6%	8%	8%	16%
Verbal conduct	4%	8%	12%	3%	11%	12%
Failure to act	39%	15%	13%	7%	22%	5%
Search	3%	12%	5%	3%	6%	5%

Table 1

Complaints by City Council District

Thirty-one of the complainants in the first half of 2011 provided address information about the location of the incident. District 3, the home of the Police Administration Building, the CPRB office, and the IAD office, had the most complaints with nine, representing a third of all incidents that took place within the Oakland city limits.

<i>District</i>	<i>Councilperson</i>	<i>Complaints January– June 2011</i>	<i>Percent of total</i>
1	Jane Brunner	2	6%
2	Patricia Kernighan	4	13%
3	Nancy Nadel	9	29%
4	Libby Schaaf	2	6%
5	Ignacio De La Fuente	5	16%
6	Desley Brooks	4	13%
7	Larry Reid	1	3%
Not in Oakland	N/A	4	13%
Total		31	100%

Table 2

Complaints by City Council District (continued)

Figure 8 below shows the proportion of complaints filed for each council district in the first six months for the past six years, excluding incidents without a clear location or that occurred outside of Oakland.

So far this year, **District 5 complaints have been unusually high and District 7 complaints have been unusually low** compared to recent years.

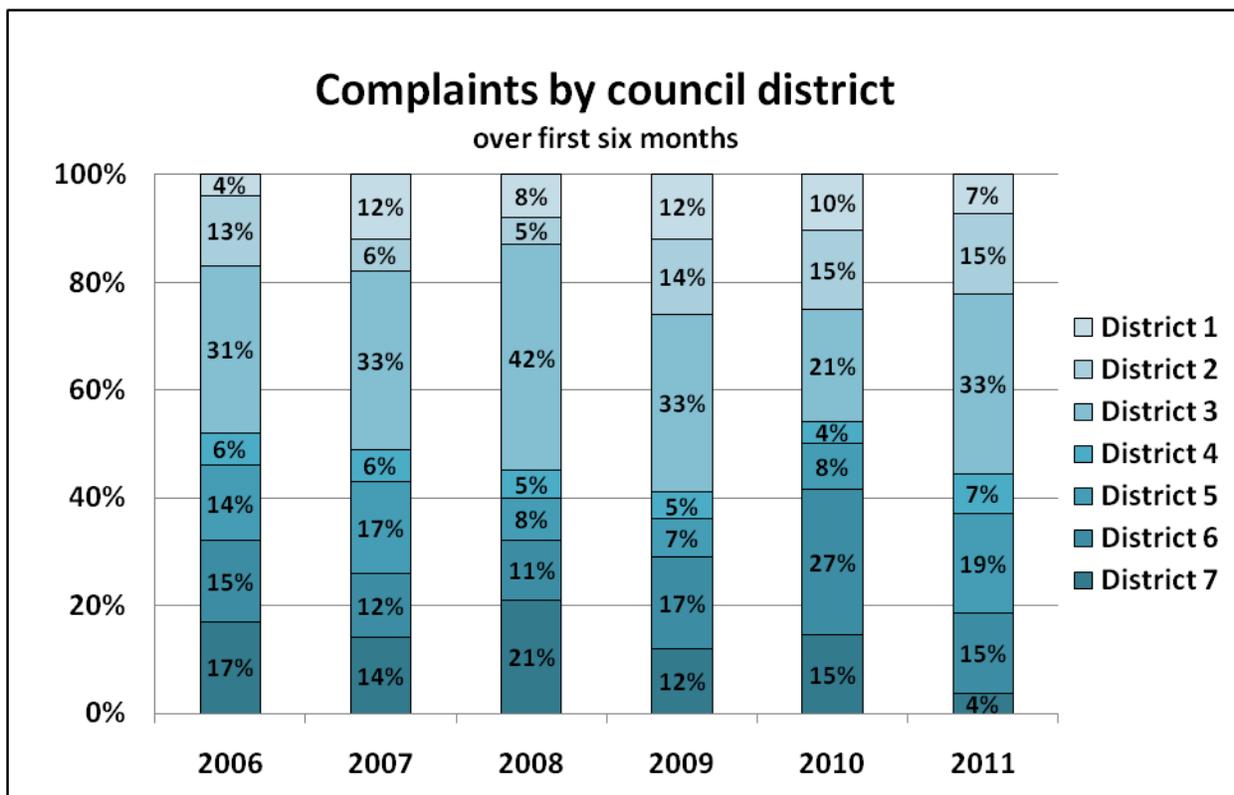


Figure 8

Time of Alleged Incidents

Figure 9 shows the distribution of incidents by time of day. The bars give incidents for the first six months of 2011, while the overlaid line shows the average number of complaints in each hour over the first six months of the previous five years. This year's incidents are mostly in line with the average. Small gaps and spikes are not unusual, as the distribution of incident times varies greatly from year to year.

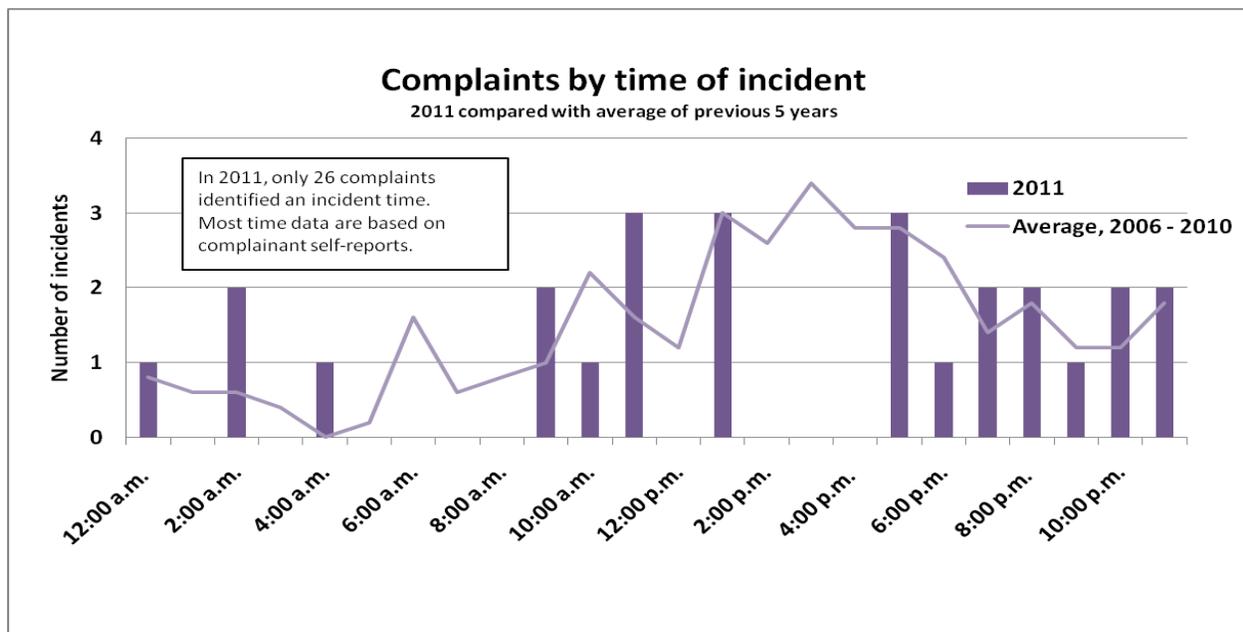


Figure 9

Resolved complaints in 2011

In the first six months of 2011, the CPRB has resolved 42 separate complaints, 38 by administrative closure, three by full board hearing, and one by staff recommendation. The staff recommendation was officially closed by the Board after June 30 and is not counted as resolved in other graphs.

The number of resolved complaints in a given year is highly related to the number of complaints filed in the year before.

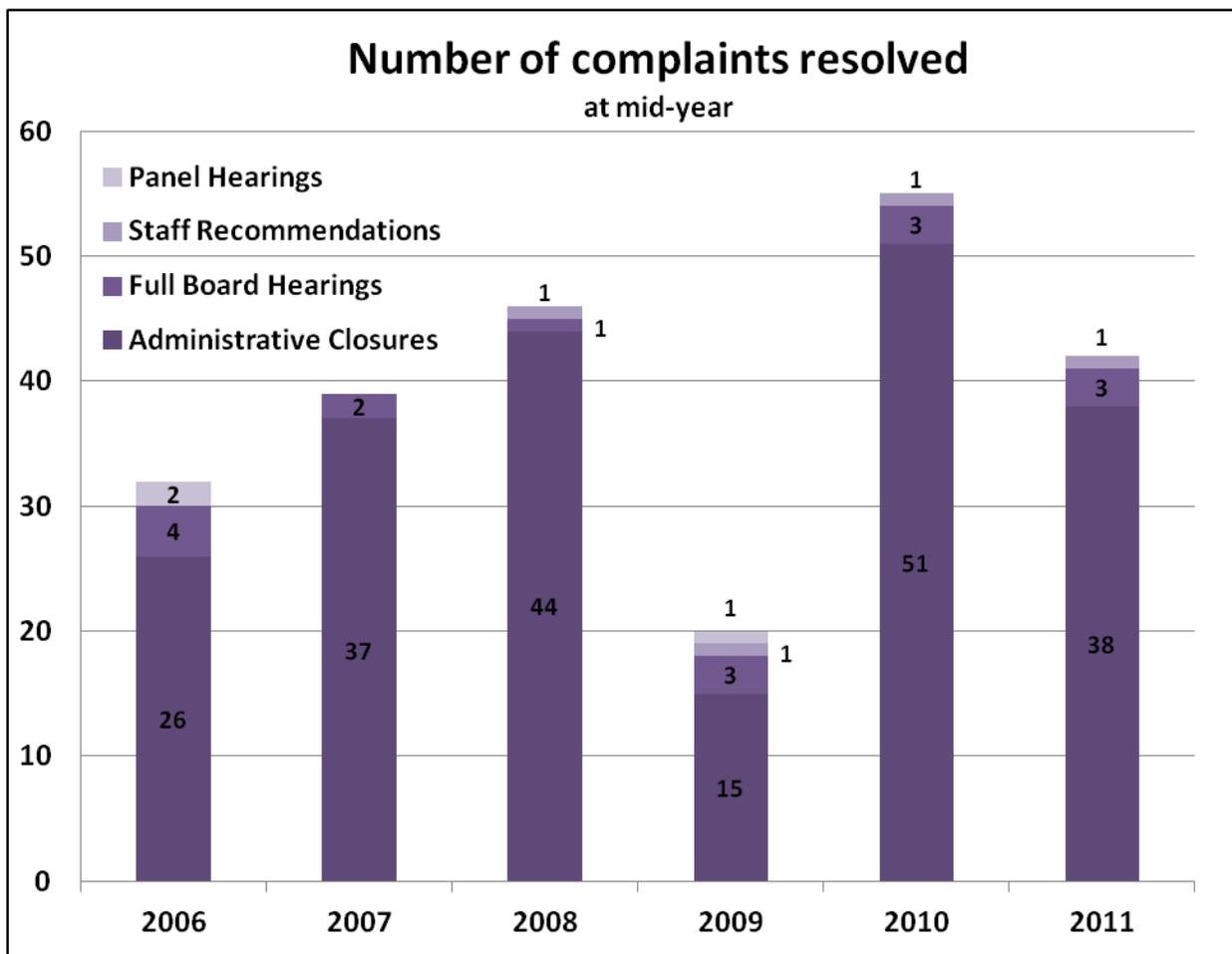


Figure 10

Board Findings at Evidentiary Hearings

The Board findings at evidentiary hearings are based on investigative reports prepared by CPRB investigators containing 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 hears testimony from officers, complainants, and witnesses. The Board then deliberates on the evidence presented at the hearings and rules on each allegation. 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.

The Board has held three evidentiary hearings in the first six months of 2011. The table below summarizes the Board’s findings and disciplinary recommendations. Definitions for findings are given on the next page.

Complainant Hearing Date	Allegation Category	Board Findings	Board Disciplinary Recommendations
Joan Edgar 2/10/2011	Force (other)	2 Exonerated	No officers were disciplined, but the Board recommended changes to OPD’s policies on the use of canines..
	Failure to act (other)	1 Exonerated	
	Failure to act (other)	1 Not Sustained	
	Failure to act (other)	2 Unfounded	
Freddie Aldana 3/10/2011	Failure to properly obtain a search warrant	2 Sustained	The Board recommended the subject officers receive counseling for failing to properly obtain a search warrant.
	Bias/Discrimination	1 Not Sustained	
	Failure to act (other)	2 Not Sustained	
	Failure to investigate	2 Not sustained	
Lorenza Avila 6/9/2011	Failure to act (other)	1 Sustained	The Board sustained allegations against a subject officer for failure to make an arrest.
	Failure to act (other)	2 Exonerated	
	Other	1 Exonerated	

Table 3

Staff Recommendations

CPRB staff brought one case directly to the City Administrator by staff recommendation in the first half of 2011. There was insufficient time to bring the case to hearing before the expiration of the 3304 statute date. The details of the case are given below.

The case was formally closed by the Board after June 30. Staff recommendations on findings do not necessarily reflect the official findings after the City Administrator's review.

Complainant	Allegation Category	Recommended Finding	Recommended Discipline
Jamie Huberman	Improper detention	1 Sustained	Staff recommended sustained findings against two officers for improper detention and for failure to conduct a proper follow-up investigation, complete an accurate report, and give a resource card to a victim.
	Failure to investigate	2 Sustained	
	Failure to file a report	2 Sustained	
	Failure to act (other)	1 Sustained	
	Force—Pointing a firearm	2 Not sustained	
	Entry/search	2 Exonerated	
	Failure to act (other)	1 Unfounded	

Table 4

Explanation of Board Findings

For a given allegation, the Board may vote for one of the following four findings.

- **Sustained:** The act(s) alleged by the complainant occurred and constitute misconduct.
- **Exonerated:** The act(s) alleged by the complainant occurred. However, the act(s) were justified, lawful or proper.
- **Unfounded:** The act(s) alleged by the complainant did not occur.
- **Not Sustained:** The available evidence can neither prove nor disprove the act(s) alleged by the complainant.

A finding of “sustained” affirms that the officer acted inappropriately, and findings of “exonerated” or “unfounded” affirm that the officer acted appropriately. These findings require the vote of five Board members. A “not sustained” finding makes no judgment about the behavior of the officer; a majority of Board members present may reach a finding of “not sustained,” even if that number is fewer than five.

The Board may also return “**no finding**” if there was not enough information to complete an investigation or in certain other circumstances.

City Administrator decisions on disciplinary recommendations

If the Board determines officer misconduct has occurred, the Board forwards disciplinary recommendations to the City Administrator who, with the Chief of Police, makes the final decision regarding officer discipline. So far this year, the Board has recommended discipline regarding three complaints: two from evidentiary hearings, as described on the previous page, and one from a staff recommendation brought directly to the City Administrator.

In one of three cases, the City Administrator did not agree with the findings of the Board and recommended no officer discipline. In a second case, the recommendations of the Board were upheld in part. In the third case, the recommendations of the Board were upheld in full.

Administrative Closures

A complaint is administratively closed after an investigation documented by a written report is considered by the Board, and the Board finds no further action is necessary. **In the first half of 2011, the Board administratively closed 38 complaints.**

The following page outlines the reasons complaints are administratively closed.

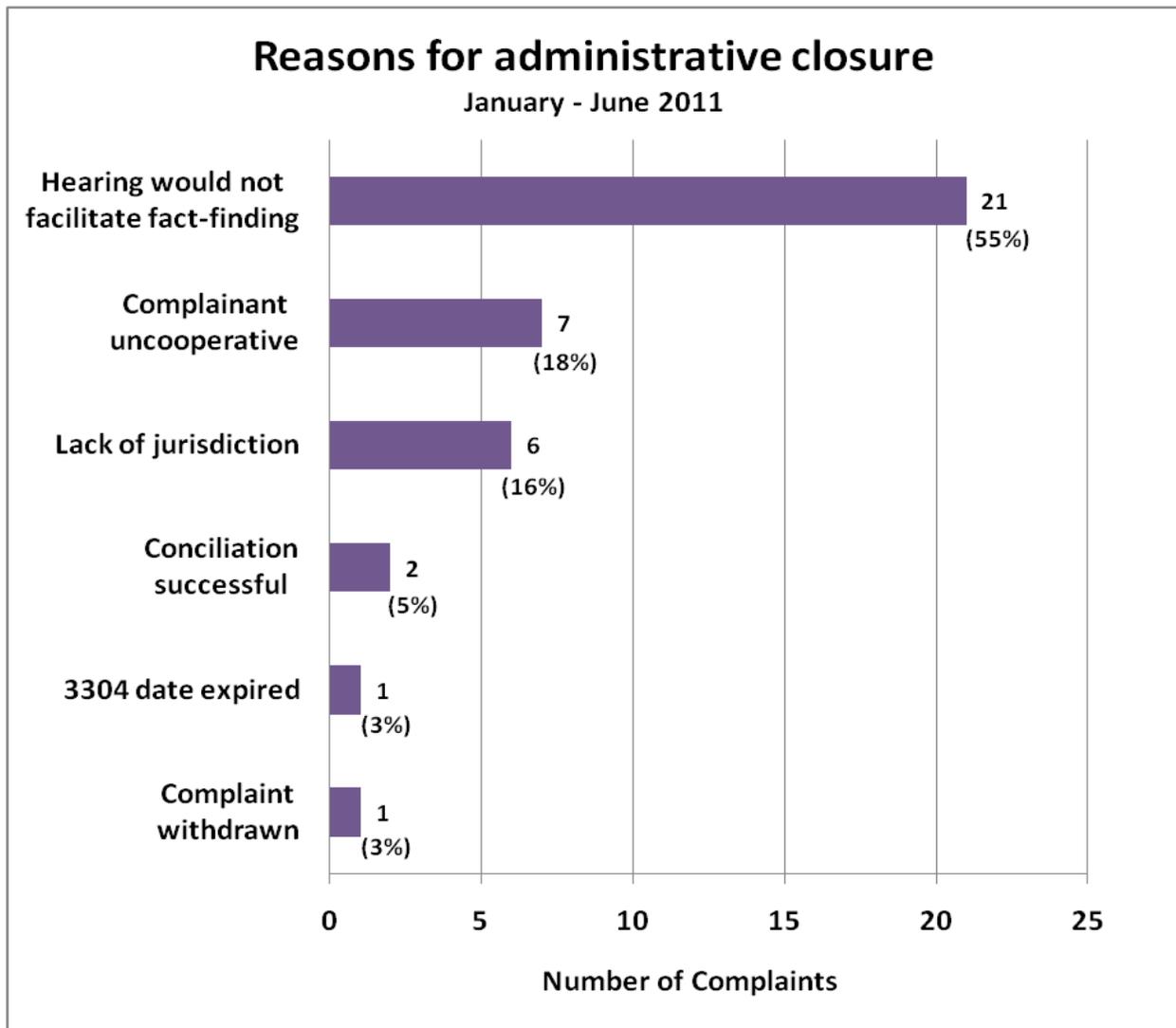


Figure 11

Reasons for Administrative Closures

Hearing would not facilitate the fact-finding process

The complaints that fall under this category include those in which the investigator is unable to find corroborating evidence of the allegations. Cases closed for this reason generally have a finding of unfounded, exonerated, or not sustained. Cases with a sustained finding may be closed in this manner if the officer has already been subjected to discipline through Internal Affairs.

Complainant uncooperative

If a complainant fails to respond to the investigator's request for an interview after three failed attempts, including the use of certified mail, the complaint is closed without findings.

Lack of jurisdiction

If the subject of an investigation is found not to be a sworn Oakland Police Officer or Park Ranger, the CPRB does not have jurisdiction to impose discipline, and the case is closed without findings.

Successful conciliation

If a complaint is resolved through IAD's Informal Complaint Resolution process to the satisfaction of the complainant, without CPRB staff involvement, the case is closed without findings.

Complaint withdrawn

If a complainant voluntarily withdraws her complaint, it is closed without findings.

3304 statute of limitations

Per California Government Code §3304, a one-year statute of limitations applies to bringing disciplinary action against a peace officer. Investigations that are not completed within one year of being opened are closed without findings.

Inability to identify officer

If an investigation cannot determine the identity of the officer involved in a complaint, it is closed without findings.

Successful mediation

If the complainant and subject officer both agree to mediation, and the mediation is successful, the complaint is closed without findings. **Due to staffing reductions, the CPRB has recently been unable to conduct mediations. However, staff are hoping to identify more cases for mediation in the near future.**

Complaint lacks merit on its face

If a complaint clearly has no evidence to support the allegations, the case is closed with a finding of exonerated or unfounded.

Board Findings for Resolved Allegations

The 41 complaints resolved in January—June 2011 by both Board hearings and administrative closures comprised 164 separate allegations. The Board returned findings in 99 of those allegations. In the 61 of those 99 allegations with a finding of exonerated, unfounded, or sustained, CPRB investigations revealed sufficient information to say affirmatively that officers acted appropriately or inappropriately.

Six allegations were sustained in the first six months of 2011. Two of these allegations, for the use of force against an animal, were sustained but administratively closed, due to previous IAD discipline in the case. Other sustained allegations—all from Board hearings— included the failure to make an arrest, the failure to properly supervise, and the failure to obtain a search warrant.

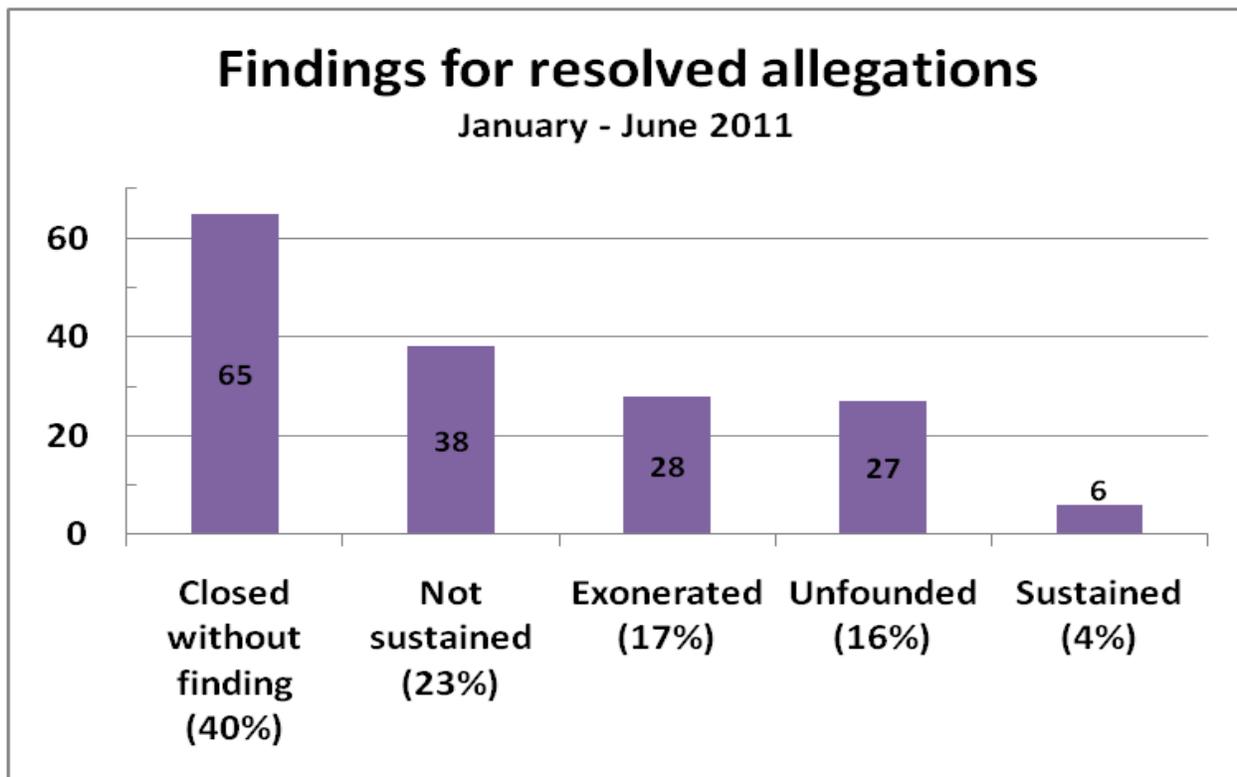


Figure 12

Resolved complaints with board findings

January—June, 2011

Allegation Category	Sustained	Not Sustained	Unfounded	Exonerated	Total
Arrest, improper		1		7	8
Bias/discrimination		1	5		6
Citation, improper		1			1
Detention/stop, improper		3		4	7
Entry/search, residence or building				1	1
Failure to obtain search warrant	2				2
Failure to investigate		2			2
Failure to properly supervise	1	1			2
Failure to Provide Identification		2			2
Failure to provide medical assistance		2			2
Failure to act, other	1	3	4	4	12
Failure to Act - To Write A Report			1		1
Force, after handcuffed		5			5
Force, grab, push, shove, or trip		2			2
Force, kick		1			1
Force, pointing firearm			2		2
Force, shooting gun at person or animal	2				2
Force, strike with hand or object		1			1
Force, Taser				1	1
Force, other				2	2
Harassment			1	1	2
Interfering with an investigation			3		3
Other			3	1	4
Planting evidence		2			2
Property, damaged, missing, or seized		5		2	7
Retaliation			1		1
Search, vehicle				2	2
Truthfulness in verbal statements			2		2
Vehicle tow or impound, improperly			3	1	4
Verbal conduct, profanity or rudeness		3	2	1	6
Verbal conduct, threats		1			1
Verbal conduct, other		2			2
Totals	6 (6%)	38 (38%)	27 (27%)	28 (28%)	99

Table 5

Officer Information in 2011

Officer Compliance with CPRB Investigations

Officers must cooperate with CPRB investigations by responding to interview requests (notices) and by appearing at hearings when subpoenaed. Non-compliance in either area is a violation of Oakland Police Department General Order M-3.2 and can result in discipline.

Interview Notices

When officers are served with an interview notice, they must return the notice to the court liaison within their next three on-duty days and either call to schedule an interview with CPRB or release an existing statement made to Internal Affairs. If an officer fails to respond to CPRB's request for an interview, he is non-compliant.

In the first six months of 2011, 100% of officers complied with CPRB interview notices in a timely manner. However, in one instance, two officers who were noticed by CPRB were later instructed by IAD staff to first give an interview to IAD investigators. This was a violation of policy and resulted in a delay of the investigation. This matter was resolved between the CPRB and Internal Affairs to prevent future delays.

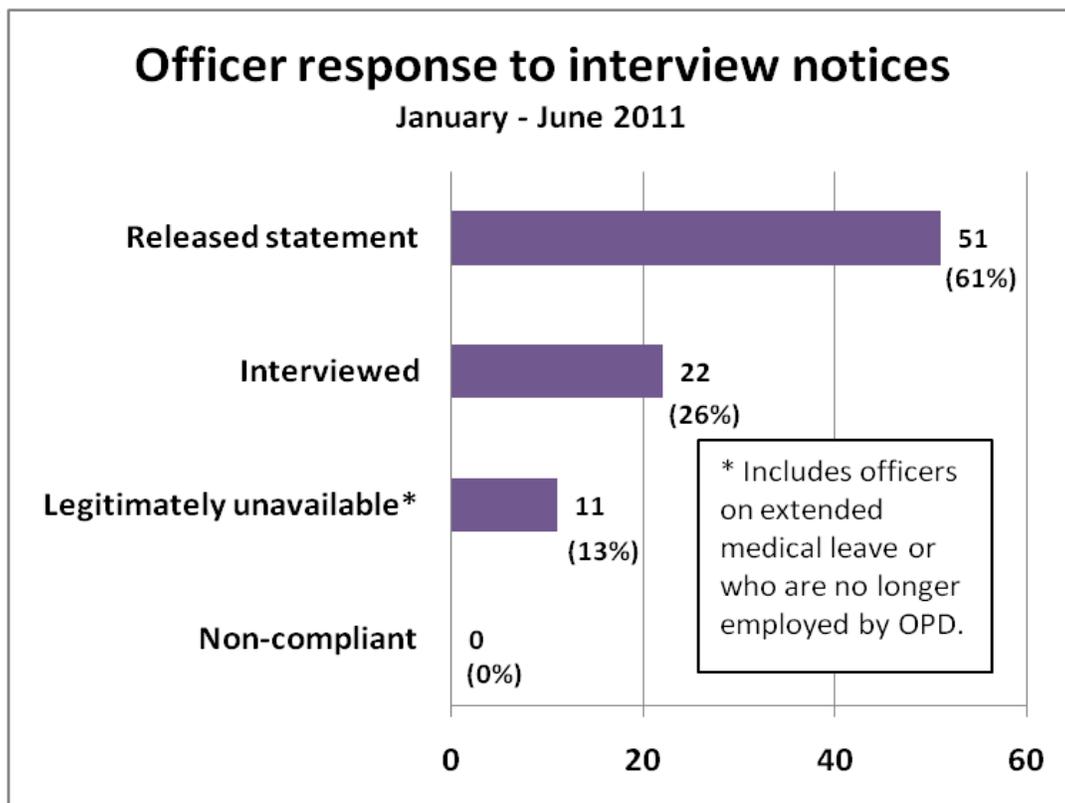


Figure 13

Appearances at hearings

When officers receive subpoena notices from the CPRB, they must attend a scheduled hearing or make special arrangements for their absence. Officers that fail to appear at CPRB hearings without making special arrangements for their absence are non-compliant with the CPRB hearing process.

In the first six months of 2011, 100% of officers complied with CPRB hearing subpoenas. Of the twelve subject, witness, and expert officers subpoenaed to appear, eleven appeared at hearing and one was excused due to a family emergency.

Hearings and subpoenas	
Hearings	3
Officer subpoenas	12
Officers attending	11
Officers excused	1
Officers non-compliant	0

Table 6

Officers with Complaints in the Past Six Months

To be aware of recurring problems with specific personnel, the CPRB tracks the number of complaints against each officer. *Table 7* shows officers named in complaints in the first half of 2011. In that period, only one officer has been named in more than one citizen complaint. Both complaints are still under investigation. Finds of those investigations will appear in the 2011 Annual Report.

Complaints	Number of officers	Proportion of all officers with complaints
Two complaints	1	3%
One complaint	34	97%
TOTAL	35	100%

Table 7

Officers with Complaints in the Past 30 Months

In the spirit of the Negotiated Settlement Agreement (*Delphine Allen v. City of Oakland*), the CPRB also tracks members of the police department who receive three or more citizen complaints during a 30-month period. *Table 8* shows officers named in complaints from January 1, 2009 to June 30, 2011. Officers with three or more complaints in this timeframe are subject to disciplinary intervention depending on the circumstances and frequency of complaints. Officers receiving multiple complaints can receive training, counseling, reprimands, suspension or termination. No officer with three or more complaints in the past 30 months has had a sustained allegation against them in this time frame.

Complaints	Number of officers	Proportion of all officers with complaints
Four complaints	1	<1%
Three complaints	8	4%
Two complaints	31	14%
One complaint	182	82%
TOTAL	222	100%

Table 8

Looking ahead

In the remaining months of 2011, the CPRB will plan the consolidation of intake from IAD. Our initial priority has been on updating CPRB infrastructure, particularly our database, to efficiently handle the increased complaint volume. Large focus will be on our Community Engagement Plan and on producing strong policy recommendations on bias-based policing.

We plan to hold large outreach events over the next 12 months in both Spanish-speaking and Chinese-speaking communities in Oakland. Our department is excited to increase the level of service to these communities that have traditionally faced linguistic or cultural barriers to reporting police misconduct.

Part of our outreach events will solicit input from community members on their perception of bias in policing. CPRB staff will incorporate lessons from all three Bias-Based Policing events to make policy recommendations to OPD in early 2012.

Finally, the CPRB hopes to increase the use of mediation to resolve complaints. When the complainant accepts it as an option, a mediation can give a valuable sense of resolution about a complaint. Mediation is an important option for both the community and police, and we hope to designate staff resources that will allow us to increase its use.

We at the Citizens' Police Review Board strive to be national leaders in civilian police oversight. In our investigations and research, we aim to provide a fair resolution for citizen complaints and to improve community relations with the police.

Board Member Attendance

Meeting Date	Allen	Cameron	Diaz	Duhe	Jamison	Shawl	Swanson	Tevelson	White	Wyman
1/13/2011	Ex	*	Ex	*	Ex	*	*	*		*
2/10/2011	*	*	Ex	*	*	*	Ex	*		*
3/10/2011	*	*	*	Ex	*	*	*	*	*	*
4/14/2011	*	*	Ab	*	*	*	Ab	Ex	*	*
5/19/2011	*	*	Ab	Ex	Ex	*	Ab	Ex	*	*
6/9/2011	*	*	Ab	*	Ex	*		*	Ex	Ex

* —present; Ab—Absent; Ex—Excused (absent with permission)

Table 9

Past CPRB Policy Recommendations

Date / Policy	Recommendations	OPD Responses	Status
2010 Language access to OPD services	OPD should provide language access services when encountering a limited English proficient (LEP) person consistent with federal, state and local laws.	Included in Training Bulletin VIII-R.	Adopted
Police response to sexual assaults on minors	<ol style="list-style-type: none"> 1. If parents themselves are suspects, they should not be present during the child's interview. 2. If parents are overly emotional and frighten the child, they should not be present during the child's interview. 3. Officers should never conduct the interview alone. 	In the majority of cases, officers obtain a probable cause statement from the victim. An in depth interview is left for the child-abuse investigator who coordinates with the victim, the victim's family, Child Protective Services, and the Child Abuse Listening and Interviewing Coordinator Center. Interviews are recorded.	Pending
Covert recordings	There should be no covert recordings when a complainant specifically requests that an interview is not to be recorded.	The Negotiated Settlement Agreement mandates that OPD's Internal Affairs Division record interviews as part of their investigations.	Not adopted
Vehicle pursuits	Vehicle pursuits should only be initiated for violent felonies and violent firearm offenses.	OPD adopted a new vehicle pursuit policy in January 2011 which does not include CPRB's recommendation.	Not adopted

Date / Policy	Recommendations	OPD Responses	Status
<p>2008 Use of safety belts for prisoners</p>	<p>Prisoners should be seated in an upright position and wear seat belts during transportation. Seat belts help restrain the prisoner, increase the safety of the prisoner, and decrease the likelihood of a prisoner gaining access to contraband 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 patrol car back seats.</p>	<p>Not adopted</p>
<p>Prisoner positioning in a vehicle</p>	<p>Prisoners should be positioned in the vehicle to</p> <ul style="list-style-type: none"> • Ensure the safety and welfare of officers and prisoners • Allow for clear observation of the prisoner. <p>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 seat. If the transporting officer does have a cover officer, the prisoner should be placed in the left rear seat.</p>		<p>Pending</p>
<p>Observation of a prisoner during transport in a vehicle</p>	<p>Officers must closely observe prisoners while transporting them. When transporting a prisoner, an officer should assume that any prisoner could do any of the following: escape, attempt to destroy concealed evidence, or threaten officer safety. If available, a backup or cover officer should be in the vehicle to closely monitor the prisoner during transport.</p>		<p>Pending</p>

Date / Policy	Recommendations	OPD Responses	Status
<u>2007</u> Officer recusal	An officer should consider the possible appearance of impropriety in dealing with situations where she may be personally involved. In civil or criminal matters where an officer has a personal interest, the officer should consider recusing herself from participating in the investigation of the case 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 she has a personal interest, she should consider calling a sergeant or superior officer to respond to the scene to avoid the appearance of impropriety.		Pending
Vehicle pursuits	OPD should adopt 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 misdemeanor firearm-related violations. Under this exception, an officer can pursue 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 reasonable suspicion that a person committed a felony or a firearm-related offense or is a dangerous driver under the influence and when there is no immediate unreasonable threat to the public or officer. The person must clearly exhibit intent to avoid arrest by refusing to stop.	Adopted in part

Date / Policy	Recommendations	OPD Responses	Status
<u>2007</u> Vehicle pursuits	OPD should increase the number of hours spent on teaching critical decision-making skills.	Included in Departmental General Order J-4.	Adopted
Vehicle pursuits	OPD should review methods of officer accountability and compliance with pursuit policies.	Included in Departmental General Order J-4.	Adopted
Vehicle pursuits	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
Vehicle pursuits	OPD should review the adequacy of its data collection and analysis regarding vehicle pursuits.	Included in Departmental General Order J-4.	Adopted
Vehicle pursuits	CPRB proposed the creation of a Vehicle Pursuit Task Force with representatives from the CPRB, Community Policing Advisory Board, People United for a Better Oakland, and other community participants.	The task force was formed, met three times, and proposed recommendations.	Adopted
<u>2006</u> Landlord-tenant law	OPD should provide training to its officers on landlord-tenant law.	Initial training occurred in officer line-ups and more formal training has yet to be developed.	Adopted in part
<u>2005</u> Ruses	OPD should develop a policy on the creation, management, and implementation of ruses.	Declined.	Not adopted

Date / Policy	Recommendations	OPD Responses	Status
2004 Crowd control	At Pre-Incident Planning Meetings, include Fire Department and ambulance personnel to support OPD's efforts to manage large crowds.	Included in OPD Training Bulletin III-G.	Adopted
Crowd control	Use fixed or mobile First Aid Stations or ambulances in the event that chemical agents must be deployed. Plan for disabled, children, and the elderly. Plan for the safety of bystanders. Evaluate the availability of other public safety resources. Anticipate potential medical resources.	Included in OPD Training Bulletin III-G.	Adopted
Crowd control	Include considerations of occupied buildings in the area, e.g. businesses, hospitals, schools, senior centers, and family restaurants. Consider vehicular traffic. Consider the age, health, and mobility of those present.	Included in OPD Training Bulletin III-G.	Adopted
Crowd control	Officers must establish a presence at the start of the event by having more community-centered policing (e.g., talking with the crowd) and by attempting to penetrate the crowd, if safe. Private security must be part of the Pre-Incident Planning Meetings.	Included in OPD Training Bulletin III-G.	Adopted
Crowd control	In the Pre-Incident Planning Meetings, 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
Crowd control	As standard procedure, consider the use of multiple arrests before deploying chemical agents.	Included in OPD Training Bulletin III-G.	Adopted

Date / Policy	Recommendations	OPD Responses	Status
2004 Crowd control	Dispersal orders must be given in a manner reasonably believed to be heard and understood by the intended audience, including clear instructions on where people are to disperse when public transit is unavailable. Dispersal orders must be documented when they are given. OPD should obtain a better public address system and repeat dispersal orders every city block.	Included in OPD Training Bulletin III-G.	Adopted
2003 Crowd control	OPD should eliminate its use of wooden dowels.	Included in OPD Training Bulletin III-G.	Adopted
Crowd control	OPD should end its practice of using the sting grenade.	Included in OPD Training Bulletin III-G.	Adopted
Crowd control	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	OPD should draft a comprehensive training bulletin on procedures for when vehicles have been towed, taking into consideration the age of the individual involved, the location of the tow, and the ability of the individual to relocate to a safe location. The bulletin should 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 tow location would place them at risk of harm.	Included in Special Order No. 8098.	Adopted

Date / Policy	Recommendations	OPD Responses	Status
2002 5150 Detentions	OPD officers should be trained that if they are unsure whether a person meets the criteria of section 5150, the officer has the option of calling the psychiatric emergency room at 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
5150 Detentions	OPD 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 necessary for officers to correctly use section 5150 detentions.	Declined. The current training is satisfactory, given limited resources.	Not adopted
5150 Detentions	OPD 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 open, publicly noticed, and commence immediately.	Training conducted with a member of Alameda County Health Department's Mental Health Crisis Response Team as a co-instructor.	Adopted in part
5150 Detentions	OPD 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 grounds for a 5150 detention.	Sergeants' training completed. In 2011, OPD began requiring all officers to complete a 38-hour course on dealing with the mentally ill.	Adopted

Date / Policy	Recommendations	OPD Responses	Status
2002 Searching residences	Officers should be required to fill out a notification when conducting warrantless searches. The Chief of Police should issue a Special Order revising Training Bulletin I-O.3, entitled <i>Legal Aspects of Searching Residences</i> , for the purpose of implementing this recommendation.	This recommendation will be considered in the issuing of business cards to all officers and in the future during the accreditation process.	Not adopted

