

CITY OF OAKLAND
CITIZENS' POLICE
REVIEW BOARD
2010 ANNUAL REPORT

January 1, 2010 - December 31, 2010



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Citizens' Police Review Board

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Deanna Santana, City Administrator
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June 9, 2011

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 2010 Annual Report. In 2010, members of the public filed eighty-three complaints with the Board. This is a 14% decrease in the number of complaints filed compared to 2009 but still higher than the average number of complaints filed from 2005-2008.

The Board resolved a total of one hundred and five complaints—five through evidentiary hearings, three by staff recommendation and ninety-seven by administrative closures. The total of resolved cases is greater than the last four years due largely to increases in staffing. In 2010, there was one more hearing and thirty three more administrative closures compared to 2009. The Board received 99% officer compliance with interview notices and 100% officer compliance with hearing subpoenas. The Board forwarded disciplinary recommendations to the City Administrator for six complaints. In addition, the Board proposed policy recommendations including an OPD Training Bulletin on Language Access for limited English speaking persons, police handling of investigation of juvenile sexual assault victims and limiting OPD initiated vehicle pursuits.

In 2010, the CPRB received funding from the Federal Justice Assistance Grant (JAG) to hire two additional Complaint Investigators. The two positions were filled and as a result, we have a designated bilingual Spanish speaking investigator and we are able to conduct more timely investigations. Also during 2010, the CPRB filled all Board vacancies. One youth position became vacant during the writing of this report and will be filled.

For 2010, the CPRB has focused on Board training and community outreach. As representatives of the community, our goal is to improve police services by increasing understanding between community members and police officers. To that end, we held a successful Bias-Based Policing Symposium to discuss the impact bias-based policing has on communities of color and to discuss strategies to educate the police officers and public on this matter.

For 2011, the Board plans to engage more with Oakland's youth in an effort to help them become more aware of our services and opportunities to serve on the Board. We also hope to increase mediations of cases and present more cases at hearings. 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

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: Risha Jamison, Thomas Cameron, , Tina Allen, Susan Shawl, Donna Duhe, Ann Wyman, Paula White
Not in Photo: Carl Swanson, Sarah Cohen, Howard Tevelson, Elizabeth Diaz



Staff Photo: Patrick J. Caceres, Carolyn Poe, Eartha Walker, Karen Tom, Marisol G. Lopez, Joan Saupe and Audrey Montana



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 2010, the Board received 83 complaints. This represents a 14% decrease from 2009 but above average with number of complaints filed from 2005-2008. The largest group of complainants were African-Americans representing 58% of complaints filed. The percentage of complaints filed by Hispanics in 2010 doubled. A total of six more complaints were filed by complainants of Hispanic descent compared to 2009.

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

The Board resolved 105 complaints; 5 through evidentiary hearings, 3 by staff recommendation and 97 by administrative closures. This is the most complaints resolved since 2005.

The most allegations sustained for complaints were for improper deten-

tions. The Board sustained 7% of all allegations, 26% were not sustained, 33% were unfounded and 34% were exonerated. The Board forwarded disciplinary recommendations to the City Administrator arising from six complaints, and three were upheld in full, two in part and one not accepted. For the two recommendations upheld in part, the City Administrator recommended policy changes and/or direct officer counseling for the complaint.

99% of officers complied with CPRB interview notices, 100% of officers subpoenaed appeared at evidentiary hearings. No officer received three or more citizen complaints during a thirty month period.

Also in 2010, the CPRB held a city-wide Bias-Based Policing Symposium which focused on the impacts of bias-based policing in communities of color and future training. By the fall of 2011, the CPRB will put forth policy recommendations to City Council on bias-based policing. The CPRB also participated in various community events and forums.

Lastly, the CPRB obtained funds through the Federal Justice Assistance Grant (JAG) and hired two Complaint Investigators who helped process more complaints in 2010.

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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).)

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, *Copley Press v. Superior Court* (2006) 39 Cal4th 1272 to ensure officer personnel related matters are kept confidential.

Number of Complaints Filed

In 2010, the CPRB received 83 complaints filed by 84 individuals. *Figure 1* displays the number of complaints that were filed for each month. More complaints were filed in June than in any other month.

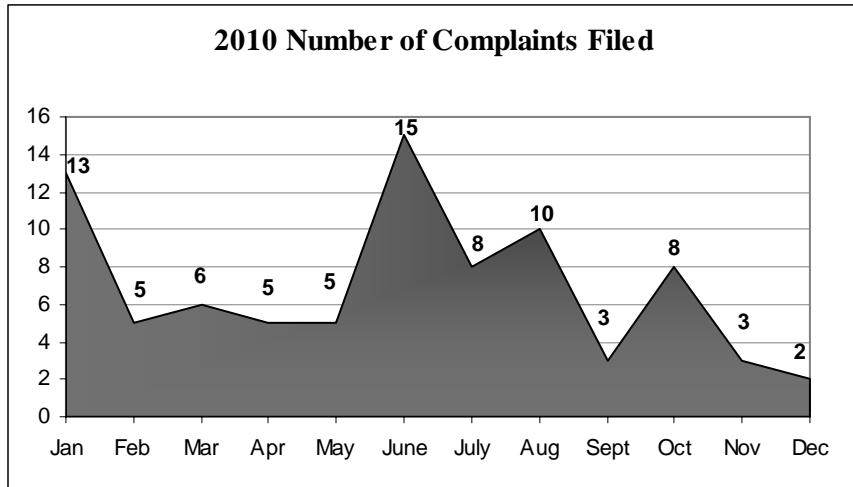


Figure 1

Number of Complaints Filed Con't

Figure 2 shows the number of complaints filed per year from 2000 to 2010. A total of thirteen fewer complaints were filed in 2010 compared to last year. However, the 83 complaints filed are still more than the average total number of complaints filed between 2005-2008.

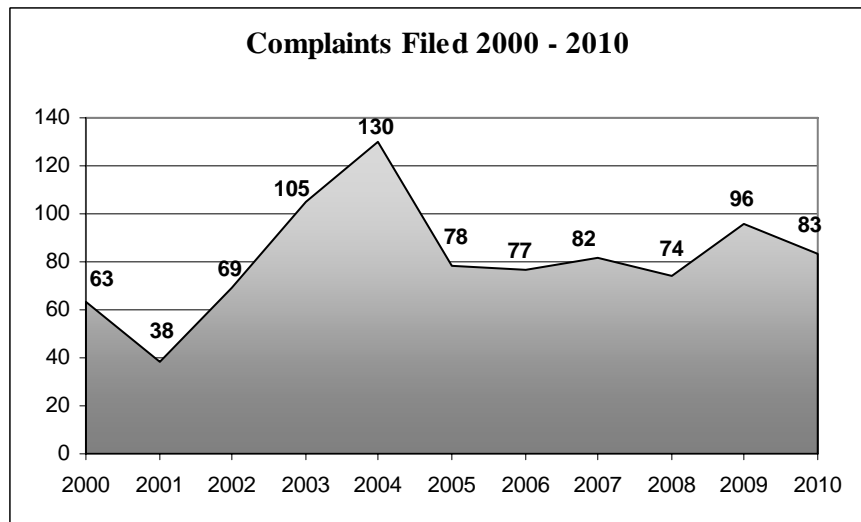


Figure 2

Race and Gender of Complainants

Among the complainants who provided information about their race, 56% were African-American. More specifically, 32% of the complainants were African-American males. Asians comprised 4% of complainants, Caucasians 11% and Hispanics 19%. The percentage of Hispanics filing complaints was up from 9% in 2009.

Race	Gender	No. of Complainants	Percent
African-American	F	20	24%
African-American	M	27	32%
Asian	F	3	4%
Asian	M	0	0%
Caucasian	F	6	7%
Caucasian	M	3	4%
Hispanic	F	5	6%
Hispanic	M	11	13%
Other	F	2	2%
Other	M	1	1%
Not Listed	F	4	5%
Not Listed	M	2	2%

Figure 3

Age of 2010 Complainants

Among the complainants who provided information about their age, the greatest number of complainants fell within the age category of 35-44 years old. See Figure 4 for a comparison of the complainants' ages to the Oakland population.

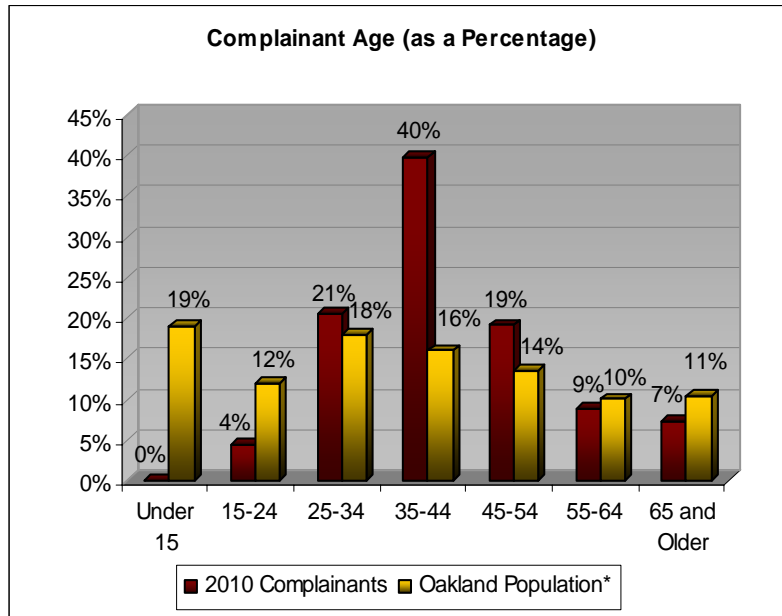


Figure 4

*Source: 2005-2009 American Community Survey 5-Year Estimates.

Allegations Filed in 2010

The allegations most filed by category were: (1) excessive use of force; (2) failure to act; and (3) verbal misconduct.

Types of Allegations Filed	Distribution	%
Arrest - Improper	8	7.5%
Bias / Discrimination	3	2.8%
Citation - Improper	2	1.9%
Civil Disputes - Taking Sides	1	0.9%
Custody - Improper Treatment	1	0.9%
Detention/Stop - Improper	1	0.9%
Failure to Act		
Failure to Act - To Provide Identification	1	0.9%
Failure to Act - To Investigate	9	8.4%
Failure to Act - To Write A Report	4	3.7%
Failure to Act - To Properly Obtain Search Warrant	1	0.9%
Failure to Act - Other	5	4.7%
Force		
Force - After Handcuffed	2	1.9%
Force - Choke	1	0.9%
Force - Grab/Push/Shove/Trip	4	3.7%
Force - Handcuffs Too Tight	1	0.9%
Force - Kicked	1	0.9%
Force - Pointing Firearm	2	1.9%
Force - Shooting Gun at Person or Animal	5	4.7%
Force - Strike with Hand or Unknown Object	1	0.9%
Force - Strike with Weapon	1	0.9%
Force- Handcuffs Unwarranted	1	0.9%
Force- Animal Killed by Police Canine	1	0.9%
Force - Other	1	0.9%
Force - Specifics Unknown	2	1.9%
Harassment	7	6.5%
Property - Damaged/Missing/Seized	4	3.7%
Interfering with an Investigation	2	1.9%
Search		0.0%
Search - Person	1	0.9%
Entry/Search - Residence or Bldg.	4	3.7%
Search - Unknown	1	0.9%
Sexual Misconduct	1	0.9%
Truthfulness - Reporting/Verbal Statements	8	7.5%
Vehicle Towed/Impounded - Improper	2	1.9%
Verbal Conduct		
Verbal Conduct - Profanity/Rude Statements	10	9.3%
Verbal Conduct - Threats	1	0.9%
Verbal Conduct - Other	3	2.8%
Other	4	3.7%
Total Allegations Filed	107	100%

Figure 5

2010 Alleged Incidents by City Council District

In 2010, the greatest number of alleged incidents occurred in City Council Districts 3 (23%) and 6 (22%). *Figure 6*, provides the percentage of alleged incidents that occurred in each City Council Districts for 2010.

Council District	No. of Complaints	% of Complaints
1 Jane Brunner	7	9%
2 Pat Kernighan	10	12%
3 Nancy Nadel	19	23%
4 Libby Schaaf	4	5%
5 Ignacio De La Fuente	8	10%
6 Desley Brooks	18	22%
7 Larry Reid	12	15%
Unknown Address	4	5%
Total	95	100%

Figure 6

2010 Resolved Complaints

As *Figure 7* below shows, in 2010 the Board resolved one hundred five complaints. This is the most complaints resolved in one year since 2005. This increase in the number of complaints resolved helped to reduce investigator caseload and allowed more time per investigation. 2010 is also the first year since 2008 the CPRB resolved more complaints than were filed. This increase in productivity is the result of improved investigative procedures in noticing complainants and the additional staff added this fiscal year.

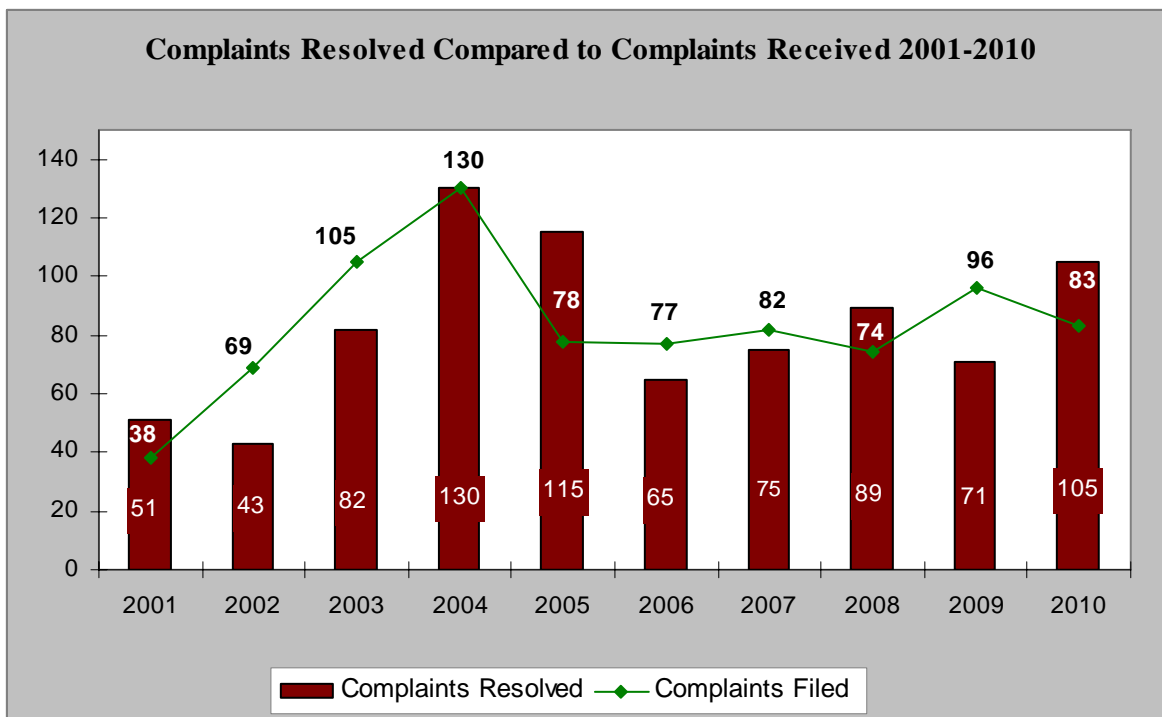


Figure 7

2010 Resolved Complaints Con't

In 2010, the Board resolved 105 complaints. The Board heard five complaints in evidentiary hearings, 97 complaints were closed through administrative closures, and three complaints were brought directly to the City Administrator as Staff Recommendations. A total of 92% of all complaints were resolved through the administrative closure process, and 8% were resolved either through evidentiary hearings or staff recommendations.

year since 2001 by evidentiary hearing, administrative closure and staff recommendation. 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 added additional steps to the preparation of the investigative reports for hearings. The CPRB in 2006 also changed the meeting schedule to once a month, instead of twice a month.

Figure 8 shows a comparison of number of complaints resolved each

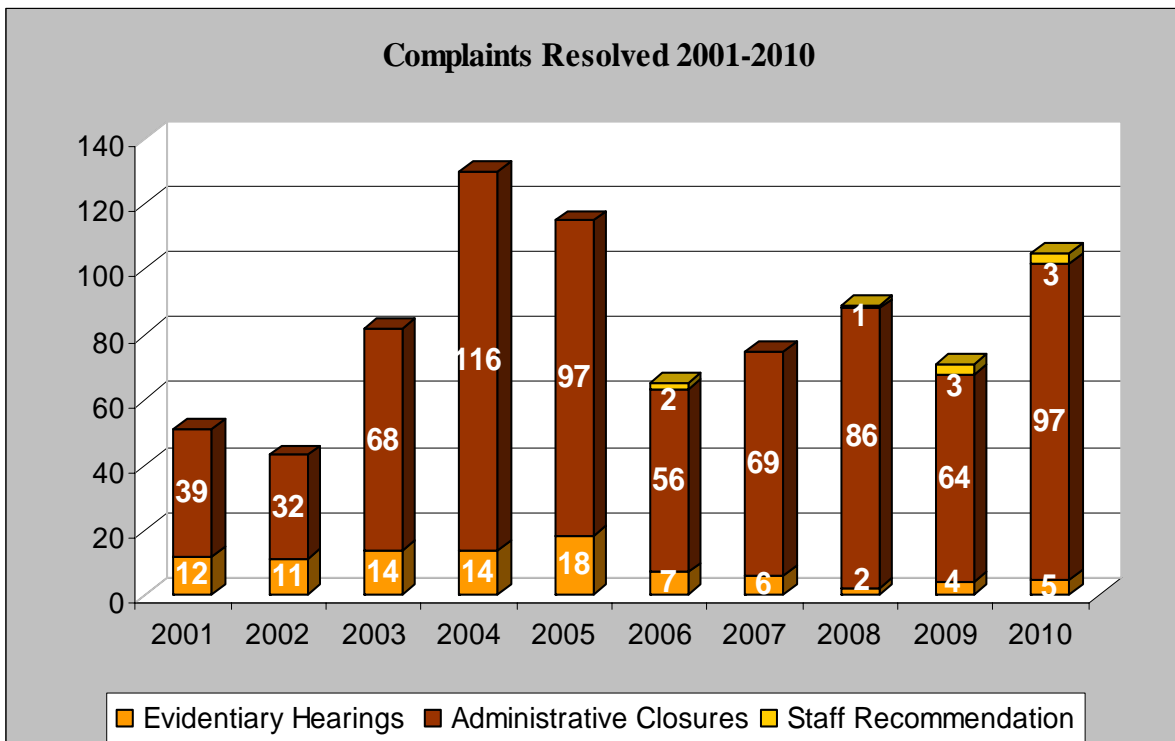


Figure 8

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 10 for the Board findings for the complaints heard in 2010.

Definitions for Board Findings

This key provides definitions for the four types of findings. 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 Con't

The results of the five evidentiary hearings held can be found in *Figure 9*. The Board's recommendations for officer discipline were forwarded to the City Administrator.

Complainant Hearing Date	Board Findings	Allegation Category	Board Disciplinary Recommendations
Monique Thomas 02/11/2010	1 Sustained 1 Exonerated 1 Not Sustained 1 Not Sustained 4 Not Sustained	Improper Detention Improper Search--Person Improper Search--Person Verbal Conduct-Rude Statements Excessive Force-Pointing of Firearm	The Board recommended that the subject officer receives a written reprimand for the one sustained allegation for the improper detention.
Margarita Zepeda Hernandez 04/08/2010	1 Sustained 1 Not Sustained 1 Not Sustained 1 Not Sustained 1 Not Sustained 1 Exonerated 1 Exonerated	Failure to Act—Provide Translator Force-Kick Force-Push Force-Handcuffs too tight General Conduct—Demeanor Force—Pulled Force—Improperly Handcuffed	The Board recommended that the subject officer receives a written reprimand for the one sustained allegation for a failure to provide a language interpreter.
Sharon Woodard Grant 04/15/2010	1 Sustained 1 Sustained 1 Sustained 1 Sustained 1 Not Sustained 1 Not Sustained 1 Not Sustained 1 Exonerated 1 Exonerated	Improper Search—Person Excessive Force-Pointing of Firearm Unlawful Felony Car Stop Force-Improperly Handcuffed Improper Search--Vehicle Improper Search--Person Improper Search-Vehicle Excessive Force-Pointing of Firearm Unlawful Stop	The Board recommended that the subject officer receives training for the four sustained allegations relating to conducting an improper felony car stop.
Beverlyn Lee 07/29/2010	1 Not Sustained 1 Not Sustained 1 Exonerated 1 No Finding	Failure to Act--To Write a Report/ Bias Bias/ Discrimination Verbal Conduct—Rude Statements Failure to Act—Make an Arrest	The Board recommended that OPD update their policy on Citizen Arrests. The Board was unable to make a finding on one of the allegations due to a lack of quorum on the vote.
Alfredo Jimenez 11/18/2010	1 Not Sustained 1 Exonerated 1 Exonerated	Untruthfulness-Verbal Statement Failure to Act-To Write a Report Failure to Act—To Investigate	There were no sustained findings on this complaint.

Figure 9

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 2010. Below in *Figure 10* is a chart of the CPRB's staff recommendations for these three complaints.

Complainant Recommendation Date	Board Findings	Allegation Category	Staff Recommendations
Eunice Barry 5/3/2010	1 Sustained 1 Not Sustained 1 Exonerated	Failure to Act—Improper Collision Report Failure to Act—Conduct proper investigation Failure to Act - Issue Citation	The CPRB staff recommended to the City Administrator that discipline be imposed on the subject officer for the sustained allegation for writing an improper collision report.
Kathleen Windsor 8/11/2010	1 Sustained 1 Sustained 1 Sustained 1 Sustained 1 Exonerated	Failure to Act—Call Dispatch Failure to Act—Violated Foot Pursuit Policy Failure to Act—Improper Foot Pursuit Performance of Duty Excessive Force—Firearm	The CPRB staff recommended to the City Administrator that the subject officer with the four sustained allegations receive a written reprimand related to the foot pursuit.
Jerome Williams 10/1/2010	1 Sustained 1 Sustained 1 Sustained 1 Sustained 1 Not Sustained 1 Exonerated 1 Unfounded	Failure to Act—Report Subject Officer Compromised Criminal Case Failure to Act—Improper Report Failure to Act—Tampered with Evidence Failure to Act—Improper Solicitation Improper Vehicle Stop Failure to Act—Miranda Rights	The CPRB staff recommended to the City Administrator that the subject officer with the three sustained allegations related to evidence tampering be terminated and subject officer with the sustained allegation on report writing to receive training and counseling.

Figure 10

Administrative Closures

A complaint is administratively closed after an investigative report is written and presented to the Board and the Board finds no further action is necessary. In 2010, the Board administratively closed 97 complaints. *Figure 11*, below, provides the reasons for the administrative closures.

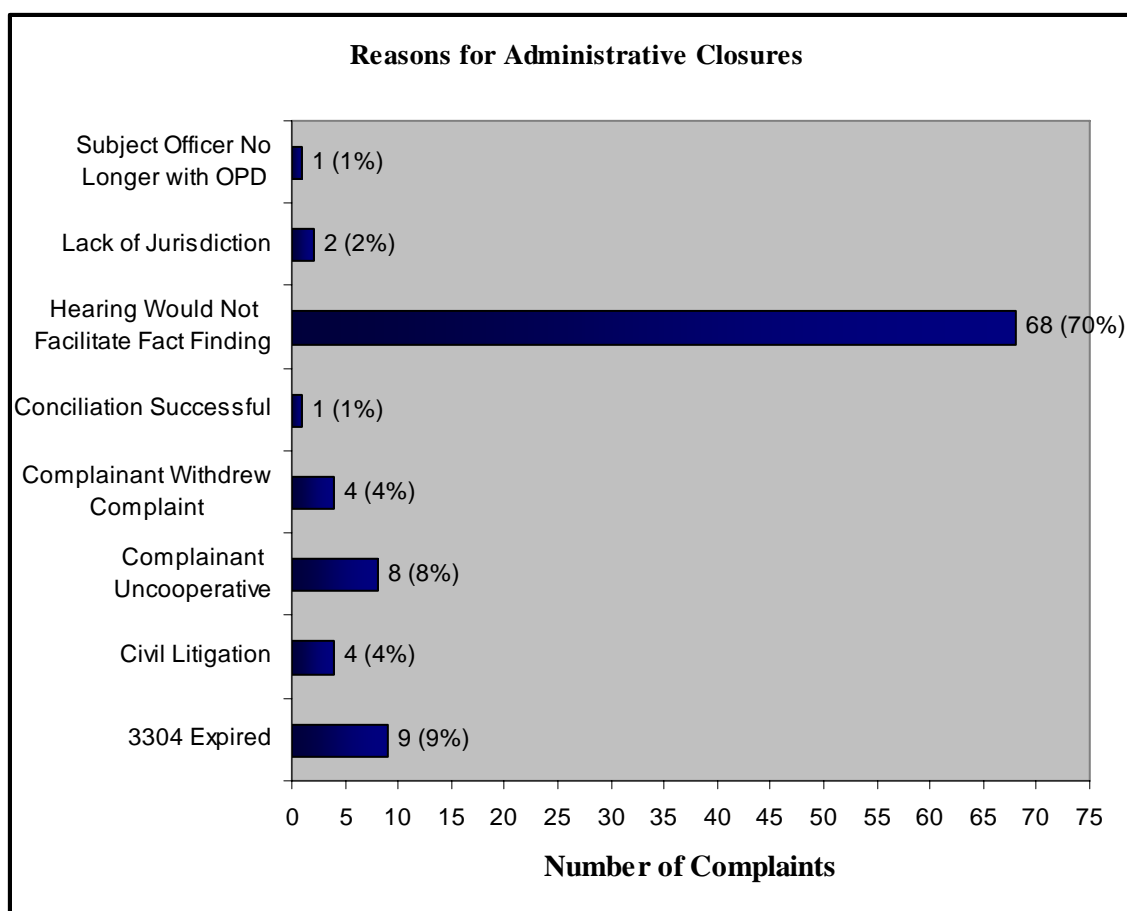


Figure 11

Administrative Closures

Hearing Would Not Facilitate Fact-Finding Process

The Board determined that a hearing was unnecessary based on the findings of the investigation in 68 complaints.

Subject Officer No Longer with Oakland Police Department

In one complaint, the investigation was closed because the officer is no longer a member of the Oakland Police Department, therefore the CPRB does not have jurisdiction over the officer for interviews.

Civil Litigation

Four CPRB complaints were closed in 2010 as a result of the terms of civil litigation.

Conciliation Successful

One CPRB complaint was resolved through an informal resolution between the complainant and the subject officer, without further CPRB staff involvement.

Lack of Jurisdiction

Two of the CPRB complaints involved law enforcement officers that were not members of the Oakland Police Department.

Complainant Withdrew their Complaint

In four complaints the complainant withdrew their complaint. In these cases the complainants no longer were interested in CPRB pursuing their investigation.

Complainant was Uncooperative

In eight complaints the complainants 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. Three notices including written certified letters are sent to the last known address requesting an interview before the complaint is closed for non-cooperation.

California Government Code Section 3304 Statute of Limitations

Nine complaints were administratively closed because the one-year statute of limitations for bringing disciplinary action against a peace officer had expired. 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 has occurred, the Board will forward disciplinary recommendations to the City Administrator. The City Administrator, in consultation 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 in which the City Administrator accepted the Board's recommendations for officer discipline.

In 2010, the Board forwarded disciplinary recommendations arising from six complaints. Of the six Board recommendations for officer discipline, the City Administrator upheld three in full and two in part. One of the Board's recommendations was not accepted. 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

Figure 12 on the next page shows the Board findings by allegation category. In 2010, the Board sustained 7%, and voted to not sustain 26%, unfound 32% and exonerate 34% of all the allegation the Board heard. The most sustained allegations were for two complaints where the Board found the subject officer performed an improper foot pursuit leading to a shooting of a dog. The second was for improper report writing and evidence tampering in a criminal investigation.

Board Findings by Allegation Category

Allegation Category	Sustained	Not Sustained	Unfounded	Exonerated	Total
Arrest - Improper		3	1	15	19
Bias / Discrimination		3	6	1	10
Citation - Improper			1	1	2
Detention/Stop - Improper	2	2	2	11	17
Failure to Act					
Failure to Act - To Investigate		2	2	2	6
Failure to Act - To Obtain A Search Warrant		1		1	2
Failure to Act - To Provide Medical Assistance		1	1		2
Failure to Act - To Provide Identification		1	2		3
Failure to Act - During Car Chase				1	1
Failure to Act - To Write A Report	2	1		1	4
Failure to Act - Other (Evidence Tampering/Foot Pursuit)	6		7	2	15
Force					
Force - After Handcuffed			2	1	3
Force - Grab/Push/Shove/Trip		4	10	4	18
Force - Handcuffs Too Tight		1	1		2
Force - Handcuffs Unwarranted	1	1		1	3
Force - Kick/Kneel/Choke		5	1	2	8
Force - Pointing Firearm	1	6	6	2	15
Force - Shooting Gun at Person or Animal		1		3	4
Force - Strike w Hand or Unknown Object			1		1
Force - Other		2	2	1	5
Harassment			4	1	5
Civil Disputes--Taking Sides		2			2
Other (Improperly Soliciting Informants)			1	1	2
Interfering with an Investigation	2				2
Property - Damaged/Missing/Seized		9	7	6	22
Search					
Search - Residence/Bldg.		4	1	7	12
Search - Person	1		1	7	9
Search - Vehicle			1		1
Custody--Improper Treatment	1				1
Sexual Misconduct			1	2	3
Truthfulness					
Truthfulness - Reporting	1	3	6	2	12
Truthfulness - Verbal Statements		1	1		2
Vehicle Towed/Impounded - Improper			1	3	4
Verbal Conduct					
Verbal Conduct - Profanity/Rude Statements		5	5	2	12
Verbal Conduct - Other		2	1	1	4
Verbal Conduct - Threats		2	4	1	7
Totals	17 (7%)	62 (26%)	79 (32%)	82 (34%)	240

Figure 12

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.

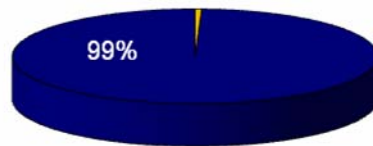
Officer Compliance Data

Officer compliance was collected on fifty-four complaints investigated in 2010. Officer compliance for interviews and hearing subpoenas in 2010 occurred with minimal delays.

Interview Notices

- Number of Complaints: 54
- Number of Interview Notices Sent: 189
- Scheduled Interviews: 30
- Outstanding Notices: 0
- Number of Officers Non-Compliant: 1

Officer Compliance with Interview Notices



■ Non-Compliant ■ Compliant

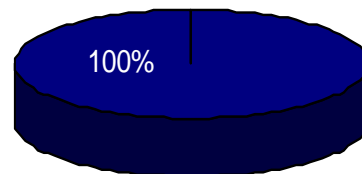
Interview Summary

In 2010, 99% of officers replied to interview notices in a timely manner. In one incidence of 189 notices sent, one officer was non-complaint. However, this officer’s interview did not affect the disposition of the investigation of the complaint.

Hearing Subpoenas

- Number of Hearings: 5
- Number of Officer Hearing Subpoenas: 13
- Number of Officers Attended: 13
- Number of Officers Excused: 0
- Number of Officers Non-Compliant: 0

Officer Compliance with Hearing Subpoenas



■ Non-Compliant ■ Compliant

Hearing Summary

In 2010, 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 since 2002.

Number of Officers with One or More Complaints from January 1, 2010 to December 31, 2010

The CPRB tracks the number of complaints against each officer. *Figure 13*, below, lists the number of officers with one or more complaints made against them in 2010. 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. In 2010 there were three officers with multiple complaints in twelve months.

No. of Officers		% of Officers with Complaints
3	Officers with Two Complaints	4%
75	Officers with One Complaint	96%
78		100%

Figure 13

**Number of Officers with One or More Complaints
between June 30, 2008 and December 31, 2010**

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 employee 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 14* below provides the number of officers who have had one or more CPRB complaints filed against them between June 30, 2008 and December 31, 2010. Two officers meet this threshold.

No. of Officers		% of Officers with Complaints
2	Officers with Three Complaints	3%
5	Officers with Two Complaints	4%
114	Officers with One Complaint	94%
121		100%

Figure 14

Board and Staff Updates

Board Members

The Board welcomed two new Board members in 2010, Paula White and Sarah Cohen. For the second straight year the Board filled all its vacancies during the year. Since this report was written, one youth position, reserved for an Oakland resident between the ages of 18-25, has become vacant.

Board Training

A continuing organizational goal for 2010 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 training by a member of OPD on Laws of Arrest and discussed OPD training updates on Racial Profiling in 2010.

Mediations

Due to prior staff reductions the CPRB has been unable to conduct mediations. The CPRB is currently revising the mediation process to continue to offer this option to complainants.

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 were filled 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 hired 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.

Community Outreach

Biased-Based Policing Symposium



The Citizens' Police Review Board on December 9, 2010 hosted a policy symposium on bias-based policing focusing on the impact that bias-based policing has on communities of color in Oakland. A panelist of experts including Captain Paul Figueroa of OPD, Chief Ron Davis of East Palo Alto's Police Department, Jim Chanin Esq. and Professor Jack Glaser of the UC Berkeley's Goldman School of Public Policy shared their perspectives and experience related to this issue. The symposium was conducted as an effort to educate community members and to provide them with an opportunity to participate in a discussion about their city as it relates to this topic. An edited video recording of the event is uploaded and can be found on the CPRB website at www.oaklandnet.com/cprb.html.

This policy symposium is the first of a three part effort by the CPRB to learn more about training and the affects of bias-based policing for law enforcement and members of the

community. The second part, to be held in 2011, focuses specifically on officer training. The last part will be community forums held in local neighborhoods with community leaders. At the conclusion of these events, the CPRB will present policy recommendations for members of the Public Safety Committee and Oakland Police Department .

Cantonese Speaking Municipal Services Academy



In May 2010, the CPRB partnered with the Cantonese Speaking Municipal Services Academy to conduct outreach and inform constituents about CPRB's services. Investigator Karen Tom presented to members of the community in City Hall with the assistance of a Cantonese-speaking translator.

New Policy Recommendations

Language Access to OPD Services

In February 2010, the CPRB adopted the policy statement that the Oakland Police Department needs to provide language access services when encountering limited English proficient (LEP) persons consistent with federal, state, and local laws. The CPRB in conjunction with the Equal Access Office and OPD formulated and drafted OPD Training Bulletin VIII-R titled, *Language Access*. This Training Bulletin identifies for members of OPD resources and instructions when encountering situations with limited English proficient persons. Those resources include other bilingual sworn members, bilingual dispatchers and use of the language translation line.

Police Response to Sexual Assaults

On March 11, 2010, the CPRB recommended changes to the existing OPD Sexual Assaults policy as it pertains to minors. The Board recommended the following:

(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.

These policy changes have been recommended to the OPD's Office of Inspector General for consideration and training.

No Covert Recordings

On June 10, 2010, the CPRB recommended to OPD that there should be no covert recordings when a complainant specifically requests that their interview not to be recorded.

Vehicle Pursuits

On September 16, 2010, the CPRB adopted the policy statement that vehicle pursuits should only be initiated for violent felonies and firearm related offenses. OPD adopted a new vehicle pursuit policy in January 2011 but did not include CPRB's recommendations.

Conclusion

2010 was a significant year for CPRB. We increased our staffing which dramatically improved the number of complaints the Board was able to resolve in the year. The additional staff improves the City's customer service and reduces the time it takes to resolve investigations. We also added a certified bilingual Spanish speaking investigator to assist with our Spanish-speaking complainants.

The CPRB also investigated a number of serious complaints including a complaint recommending an officer's termination for tampering with evidence. Even beyond individual officer discipline recommendations, the CPRB provided policy recommendations and changes to improve police and community relations in Language Access and Racial Profiling.

The CPRB established with OPD and the Equal Access Office the first OPD Training Bulletin to guide and assist officers with providing services to Limited English persons. The CPRB is also working on an ongoing effort to collect and provide policy recommendations to OPD on bias-based policing training and interactions with the community.

Looking forward to 2011, the CPRB plans to improve our mediation program to continue to offer this option to complainants to resolve their complaints. Additionally, CPRB plans to increase outreach to the youth in the schools and through community events.

Board Member Attendance at Board Hearings

Meeting Date	Allen	Cameron	Duhe	Jamison	Kopowski	Swanson	Thompson	Wyman	Alternate Shawl	Alternate Tevelson	Alternate Diaz
1/14/10	Yes	Yes	Yes	Yes	Excused	Yes	Yes	Yes	Yes	Yes	Excused
2/11/10	Yes	Yes	Excused	Yes	Yes	Yes	Yes	Yes	Yes	Excused	Yes
3/11/10	Yes	Excused	Yes	Excused	Yes	Absent	Yes	Yes	Yes	Yes	Excused
4/8/10	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Excused	Yes	Yes
4/15/10	Yes	Yes	Excused	Yes	Excused	Excused		Yes	Yes	Yes	Excused
5/13/10	Yes	Yes	Yes	Excused	Yes	Yes		Yes	Excused	Yes	Absent
6/10/10	Yes	Yes	Excused	Excused	Yes	Yes		Yes	Excused	Yes	Excused
7/29/10	Excused	Excused	Yes	Yes	Yes	Excused		Yes	Yes	Yes	Excused
9/16/10	Yes	Yes	Excused	Yes	Yes	Yes		Yes	Yes	Yes	Excused
10/14/10	Yes	Yes	Yes	Yes		Absent		Excused	Yes	Yes	Excused
11/18/10	Yes	Yes	Yes	Yes		Excused		Excused	Yes	Yes	Excused
12/16/10	Excused	Yes	Excused	Yes		Yes		Yes	Excused	Yes	Excused

Excused - Member asked to attend but excused

Absent - Unexcused absence

Citizens' Police Review Board Policy Recommendations

Date / Policy	Recommendations	OPD Responses	Status
2010 Language Access to OPD Services	OPD to 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— 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 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 taped and recorded.	Pending
No 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 the Internal Affairs Division of OPD record interviews.	Not Adopted
Vehicle Pursuits	Vehicle pursuits should only be initiated for violent felonies and violent firearm offenses.	OPD adopted a new vehicle pursuit policy on January 2011 which does not include CPRB's recommendation.	Not Adopted

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, 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.		Adopted
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. 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 grounds 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