

CITY OF OAKLAND



2005 APR 13 PM 6:23

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Deborah A. Edgerly
City Administrator

(510) 238-3301
FAX (510) 238-2223
TDD (510) 238-2007

April 26, 2005

PUBLIC SAFETY COMMITTEE
Oakland, California

Chairperson Reid and Members of the Committee:

Subject: **CITIZENS' POLICE REVIEW BOARD 2004 ANNUAL REPORT**

Pursuant to City of Oakland Ordinance number 12454 C.M.S. adopted on November 12, 2002, the Citizens' Police Review Board must produce a semi-annual and annual report. The Citizens' Police Review Board submits its 2004 annual report pursuant to section 6, paragraph C, subdivision 3 of the ordinance.

Respectfully submitted,

JOYCE M. HICKS
Citizens' Police Review Board
Executive Director

FORWARDED TO THE
PUBLIC SAFETY COMMITTEE:


OFFICE OF THE CITY ADMINISTRATOR

Item: _____
Public Safety Committee
April 26, 2005

2004 ANNUAL REPORT

JANUARY 1, 2004— DECEMBER 31, 2004

CITY OF OAKLAND CITIZENS' POLICE REVIEW BOARD



OAKLAND CALIFORNIA CITY HALL
ONE FRANK H. OGAWA PLAZA, 11TH FLOOR
OFFICE# 510-238-3159 FAX# 510-238-7084

WEBSITE: www.oaklandnet.com/government/citizens/homepage.html

Board Members and Term Expiration Dates

Mario Andrews	February 15, 2006
John Batarse	February 15, 2006
Angela Cheung	February 15, 2006
Corey Dishmon	February 15, 2006
Jamilah Jefferson-Scates	February 15, 2006
Barbara Montgomery	February 15, 2005
Beneba Thomas	February 15, 2005
Roland Walker	February 15, 2005
Tim Wan	February 15, 2005
Cheryl Anderson (alternate)	February 15, 2006
Andrew Radlow (alternate)	February 15, 2006
Anthony Loveday (resigned)	February 15, 2005

CPRB Staff

Joyce M. Hicks	Executive Director
Patrick Caceres	Policy Analyst / Outreach Coordinator
Audrey Montana	Investigator
Sean Quinlan	Investigator
Victoria Urbi	Investigator
Barbara Killey	Hearing Officer (CAO)
Delores Pontiflet	Executive Assistant to the Director
Josie Phillips	Administrative Analyst (CAO)

CPRB Independent Counsel

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

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 public forum to air its concerns on policy matters and individual cases alleging police misconduct. (Adopted by the Citizens' Police Review Board, January 8, 2004).

Citizens' Police Review Board

1 Frank Ogawa Plaza, 11th Floor
Oakland, CA 94612

Phone: 510-238-3159
Fax: 510-238-7084
TTY: 510-238-3724



Deborah Edgerly, City Administrator
Joyce M. Hicks, Executive Director

Honorable Mayor, Council Members, and Fellow Oakland Residents:

On behalf of the members of the Citizens' Police Review Board (CPRB) and the CPRB staff, I am pleased to present CPRB's 2004 Annual Report. This report covers the Board's operations from January 1, 2004, through December 31, 2004.

The Board and staff held fourteen evidentiary hearings in 2004 resulting in nine decisions sustaining police misconduct allegations. All of the decisions were forwarded to the City Administrator, who upheld seven of them either in whole or in part.

In total the Board resolved 130 complaints either through hearings or administrative closures. One hundred thirty complaints were also filed in 2004. The Board succeeded in resolving the same number of complaints as were filed; keeping the Pending Case List at 83 active and pending complaints. While the Board saw a 24% increase in the number of complaints filed for 2004, the Board offset this increase with a 59% increase in the number of complaints resolved. This increase in productivity has helped to eliminate a complaint backlog for the coming year.

In 2004, CPRB held two evidentiary hearings on illegal strip searches. CPRB recognized the issue was a department-wide policy as well as an individual misconduct issue. The Board recommended that OPD revise its policy on strip searches and provide training on the revised policy. On May 27, 2004, OPD revised Training Bulletin I-O.2 to incorporate the Board's recommendations.

In addition to evidentiary hearings, the Board held a policy hearing on the Oakland Police Department's (OPD) use of CS gas after the Carijama Festival. From this policy hearing, the Board issued a detailed report of the incident and provided seven recommendations. These recommendations included a number of suggestions to help OPD revise its crowd control policies and pre-incident planning procedures. These recommendations have been forwarded to OPD command staff.

The Board held three training sessions and thanks the representatives from OPD who presented materials and information on the laws for the use of force, arrest search and seizure, and patrol functions. The Board reviews hundreds of complaints each year and the educational resources of OPD's training sessions assist the Board in understanding the events and officers' actions taken in specific circumstances.

Each year the Board looks to improve the relationship between the community and OPD. The Board is very pleased with its efforts to improve this relationship by the increase in the number of mediations held in 2004. Eight successful mediations were held compared to the one held in 2003. The Board hopes to steadily increase this number with each coming year.

Sincerely,

Beneba Thomas, CPRB Vice Chairperson

Executive Summary

The Citizens' Police Review Board ("CPRB") is authorized to "exercise jurisdiction over all citizen complaints concerning the conduct of Oakland police officers and park rangers that are filed with the Board or with the Oakland Police Department." (City of Oakland Ordinance No. 12454 C.M.S., § 5 subd. (A).) Pursuant to this authority, the Board 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 (City of Oakland Ordinance 12454 C.M.S., § 6 subd. (C)(3).)

In 2004, 141 individuals filed 130 complaints with the CPRB. These individuals were primarily African-Americans and males, many of whom were between the ages of 25-44 years old.

The top three types of allegations filed with the Board in 2004 were: (1) officers used excessive force; (2) officers engaged in improper verbal conduct (e.g., rude comments, profanity, threats); and (3) officers failed to perform their duties in some way.

The alleged incidents occurred most frequently in City Council District 3, followed by City Council Districts 6

and 7. Pages 12 and 13 of this report contain graphs of the alleged incident locations by City Council District, Police Service Area and Police Beat.

In 2004, the Board resolved 130 complaints, either through administrative closure or evidentiary hearing. The Board closed 116 complaints through administrative closure and held 14 evidentiary hearings.

In addition, the more frequent use of three-member panels for evidentiary hearings has reduced the average hearing time by one hour. The Board has reduced the number of administrative closures due to Government Code section 3304; Statue of Limitation Expired (one year expiration). Administrative closures because of the statue of limitations were reduced from 46% in 2003 to 5% in 2004.

At evidentiary hearings, the Board sustained 17% of the allegations it heard and concluded that the officers were justified in their behavior for 11% of the allegations. The Board found that 11% of the allegations it heard did not occur and voted to not sustain 61% of the allegations.

For hearings held only in 2004, the Board forwarded 21 disciplinary recommendations regarding sustained allegations from nine complaints. The City Administrator upheld 43% or 11 recommendations of the 21 recommendations forwarded.

Officer compliance with subpoenas for hearings has improved. Since our 2004 Semi-Annual Report, all officers subpoenaed for hearings have appeared. Officer compliance with CPRB interviews has also improved. However, a few officers still significantly delay the investigative process.

Also in 2004, the CPRB held a policy hearing regarding the Oakland Police Department's ("OPD") use of CS gas following the Carijama Festival in Frank Ogawa Plaza. Deputy Chief Dunbar apologized to the complainants on behalf of OPD and the Board forwarded seven recommendations regarding crowd control policies and pre-incident planning to OPD.

The CPRB's jurisdiction to conduct hearings on complaints where a tort claim had been filed was challenged by the Oakland Police Officers Association ("OPOA") on March 24, 2004. The Board's independent legal counsel opined that the CPRB could hear

complaints where a tort claim had been filed but, on July 29, 2004 OPOA countered with a request for immediate dispute resolution under their memorandum of understanding with the City of Oakland. The matter is still pending.

TABLE OF CONTENTS

I. INTRODUCTION
 Purpose of the Report2
 CPRB History.....2

II. ANALYSIS OF COMPLAINTS FILED IN 2004
 Number of Complaints Filed In 20045
 Race and Gender of Complainants6
 Age of the Complainants8
 Allegations Filed with the Board.....9
 Locations of Alleged Incidents11
 Maps of Alleged Incidents12
 Time of Alleged Incidents.....14

III. COMPLAINTS RESOLVED IN 2004
 Number of Complaints Resolved in 200416
 Evidentiary Hearings17
 Allegations Before the Board18
 Board Findings.....20
 Disciplinary Recommendations and the City Administrator’s
 Decisions.....25
 Administrative Closures.....26

IV. OFFICERS WITH COMPLAINTS
 Number of Officers with One or More Complaints29
 Officer Compliance Data31

V. 2004 POLICY RECOMMENDATIONS
 Strip Searches36
 Crowd Control Policies (Carijama Festival Hearing)36

VI. BOARD AND STAFF DEVELOPMENTS
 New Mission Statement39
 Board Training39
 Appointments to the Board39
 Task Forces and Working Groups39

 TABLE OF CONTENTS (cont'd)

OPOA Legal Challenges	41
VII. OPD ACTION ON CPRB POLICY RECOMMENDATIONS.....	43
VIII. CONCLUSION.....	49
 <u>APPENDICES</u>	
Appendix A: Allegations Filed (2003-2004).....	51
Appendix B: Board Findings by Allegation Category (2003-2004)	52
Appendix C: Officers with Multiple Complaints (2004)	53
Appendix D: Officers with Multiple Complaints (6/30/02 to 12/31/04).....	54
Appendix E: <i>OPOA v. City of Oakland and Oakland CPRB</i>	55
Appendix F: OPOA Grievance and Request for Immediate Dispute Resolution	67
Appendix G: Legal Opinion on CPRB Jurisdiction When a Tort Claim is Filed	70
Appendix H: NACOLE 2004 Conference Presentation	75
Appendix I: Board Member Attendance.....	83
Appendix J: Board Member Voting Record.....	84
Appendix K: Pending Case List (dated January 13, 2005)	92

INTRODUCTION

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) communications 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 an Oakland police officer or park ranger and expanded the Board's size from nine members to twelve members, with three of the nine 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).) Finally on November 12, 2002, the City Council further refined the amendments to the CPRB

ordinance and legislated the following: the CPRB staff may make recommendations to the City Administrator regarding cases that are in litigation, CPRB investigations may take up to 180 days from the initial date of filing as opposed to the previously legislated 60 days, and 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).)

ANALYSIS OF COMPLAINTS FILED IN 2004

Number of Complaints Filed in 2004

In 2004, the CPRB received 130 complaints, a 24% increase over the 105 complaints received in 2003. *Figure 1* shows the number of complaints filed each month in 2004.

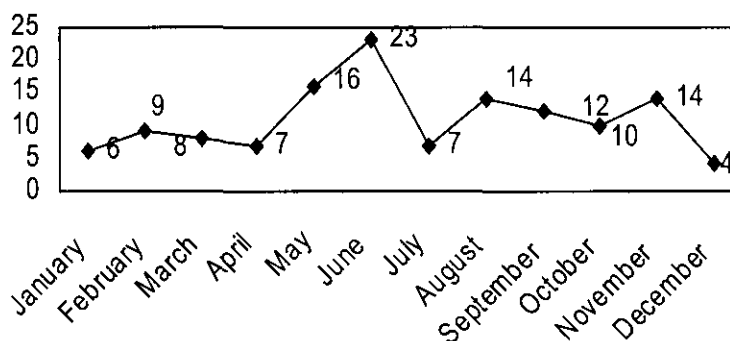


Figure 1

Number of Complaints Filed in 2001—2004

In 2004, CPRB reached a four-year high for the number of complaints filed. *Figure 2* provides the number of complaints filed in a four year period, from 2001 to 2004. *Figure 2* also shows that the 130 complaints filed in 2004 are more than three times the number filed in 2001.

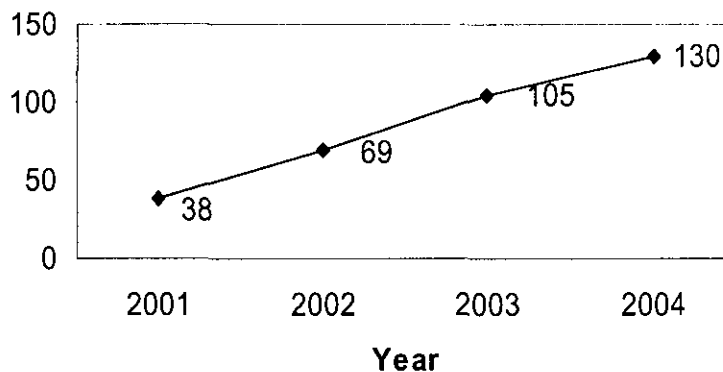


Figure 2

Many factors may have contributed to the growth in complaints. One explanation could be the increase in media coverage regarding citizens' complaints against the Oakland Police Department. Major incidents such as the *Delphine Allen v. City of Oakland* (Riders), Negotiated Settlement Agreement (2003), Riders trials (2003 & 2004), anti-war demonstrations (2003), and the use of CS gas at the Carijama Festival (2004) have increased media coverage and public attention on the Oakland Police Department over previous years. As a result, the public may have become more informed of its remedies for police misconduct complaints and is participating in the complaint process more frequently.

Race and Gender of 2004 Complainants

In 2004, 141 complainants filed the 130 complaints with the Board. Fifty-nine percent of the complainants were African-American and, when race is not considered, 58% of the complainants were male. *Figure 3*, below, provides a breakdown of the race and gender of the 2004 complainants.

Race	Gender	No. of Complainants	Percent
African-American	F	38	27%
African-American	M	42	30%
African-American	Unknown	3	2%
Asian-American	F	3	2%
Asian-American	M	2	1%
Caucasian	F	5	4%
Caucasian	M	10	7%
Hispanic-American	F	3	2%
Hispanic-American	M	13	9%
Hispanic-American	Unknown	2	1%
Other	F	2	1%
Other	M	6	4%
Unknown	F	5	4%
Unknown	M	5	4%
Unknown	Unknown	2	1%
Total		141	100%

Combined Data From 2003 and 2004

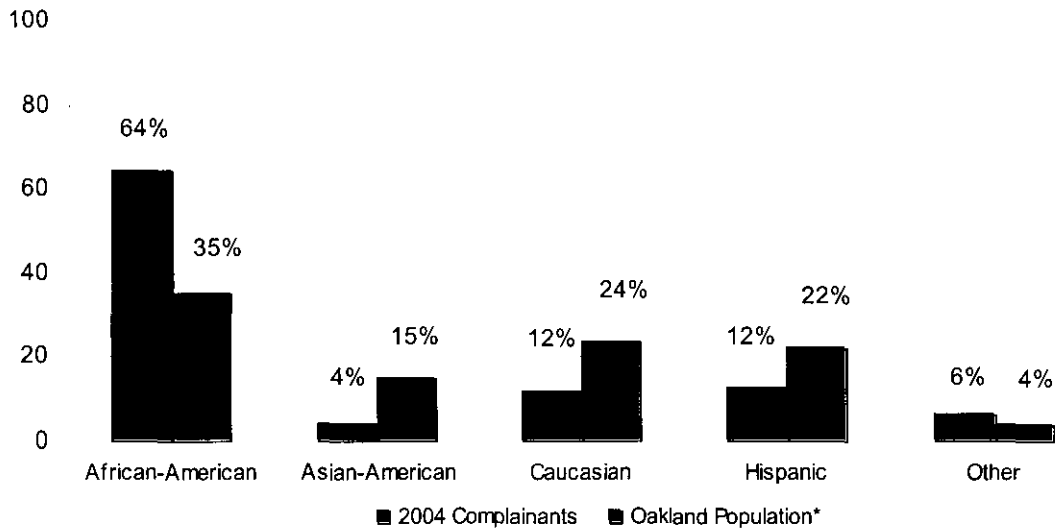
An analysis of the combined data from 2003 and 2004 shows a consistent trend: 60% of the complainants were African-American and, when race is not considered, 56% of the complainants were male.

Figure 3

Race of 2004 Complainants

When complainants of an unknown race are removed, 64% of the 2004 complainants were African-American. *Figure 4*, below, compares this percentage to the percentage of African-Americans in Oakland. According to 2000 Census data, 35% of the total population of Oakland is African-American. African-Americans are over represented in the total number of complainants when compared to their population in Oakland. All other races are under-represented, with the exception of the Other race category.

Complainant Race (as a Percentage)



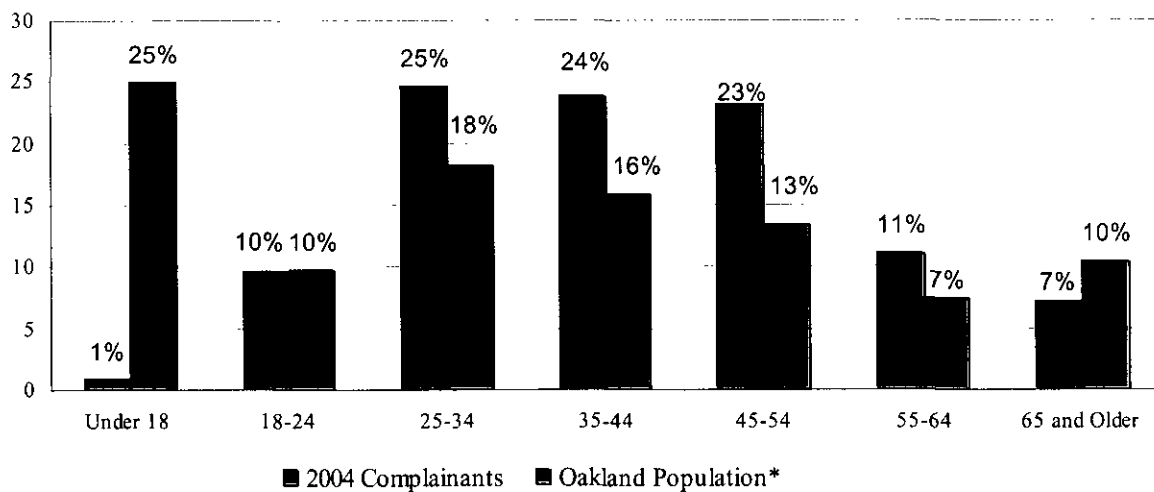
*Source: <http://www.oaklandnet.com/government/hcd/policy/docs/Census/Census1b.pdf>

Figure 4

Age of 2004 Complainants

In 2004, more than a majority of complainants were concentrated between the ages of 25-54 years old; 64% of the complainants fell within this age group. See *Figure 5*, for a comparison of the complainants' ages with the Oakland population. Based on *Figure 4*, it might be inferred that there is some underreporting of complaints by youth under eighteen. It could also be inferred that police contacts with youth under eighteen are less frequent than with older individuals.

Complainant Age (as a Percentage)



*Source: <http://www.oaklandnet.com/government/hcd/policy/docs/Census/Census1b.pdf>

Figure 5

Age of 2003 and 2004 Complainants

The combined data from 2003 and 2004 shows a similar trend: 62% of the complainants were between the ages of 25-54. However in 2004, there was a small shift in complainants with a 6% increase in the number of complaints filed by the 45-54 year old range. In 2004, the complainants on average are slightly older than the complainants in 2003.

Complainant's Age	No. of Complainants	% of Complainants
Under 18	4	2%
18-24	26	10%
25-34	54	21%
35-44	58	22%
45-54	48	19%
55-64	19	7%
65 and Older	11	4%
Unknown	38	15%
Total	258	100%

Figure 6

Allegations Filed in 2004

In 2004, the CPRB received the highest percentage of complaints in the areas of: (1) excessive force (29%), (2) improper verbal conduct (14%) and (3) failure to act (13%). The number of excessive force allegations rose dramatically in 2004; in part because of eleven complaints arising from OPD's use of CS gas at the Carijama Festival. See *Figure 7*, below, for additional details on allegations filed in 2004.

No. of Complaints for Each Type of Allegation

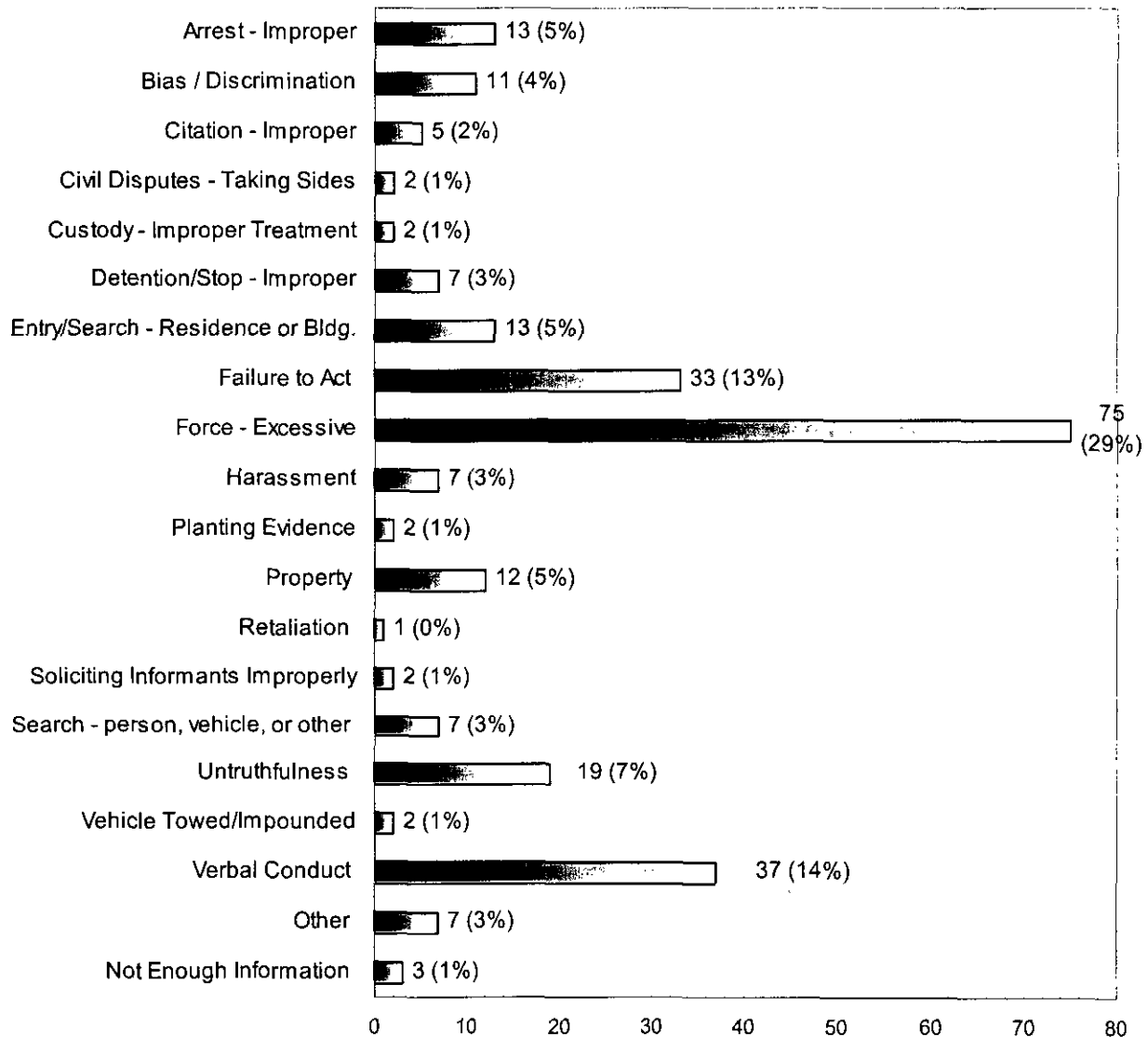


Figure 7

Appendix A provides the number of allegations filed between 2003 to 2004.

Figure 8 lists the number of 2004 complaints for each allegation category. The chart breaks down the general categories into more specific categories. For example, the general category of “verbal conduct — improper,” found in Figure 7, has been broken down into the two more specific categories of (1) “profanity/rude statements,” and (2) “threats” in Figure 8.

2004 Allegations	No. of Allegations	% of Allegations
Arrest - Improper	13	5%
Bias / Discrimination	11	4%
Citation - Improper	5	2%
Civil Disputes - Taking Sides	2	1%
Custody - Improper Treatment	2	1%
Detention/Stop - Improper	7	3%
Entry/Search - Residence or Bldg.	13	5%
Failure to Act	33	13%
During Car Chase	(2)	(1%)
To Write A Report	(4)	(2%)
To Enforce Restraining Order	(2)	(1%)
To Investigate	(8)	(3%)
To Provide Identification	(3)	(1%)
Other	(14)	(5%)
Force	75	29%
After Handcuffed	(6)	(2%)
Choke	(5)	(2%)
Grab/Push/Shove/Trip	(12)	(5%)
Handcuffs Too Tight	(1)	(0%)
Handcuffs Unwarranted	(3)	(1%)
Kick	(2)	(1%)
Kneed	(1)	(0%)
Use of Patrol Vehicle	(2)	(1%)
Shooting Gun at Person or Animal	(1)	(0%)
Specifics Unknown	(5)	(2%)
Strike w Hand or Unknown Object	(5)	(2%)
Strike w Weapon	(5)	(2%)
Use of Chemical(s)	(13)	(5%)
Use of Gun to Threaten	(6)	(2%)
Other	(8)	(3%)
Harassment	7	3%
Not Enough Information	3	1%
Other	7	3%
Planting Evidence	2	1%
Property - Damaged/Missing/Seized	12	5%
Retaliation	1	0%
Search	7	3%
Vehicle	(3)	(1%)
Person	(3)	(1%)
Other	(1)	(0%)
Soliciting Informants Improperly	2	1%
Untruthfulness	19	7%
Reporting	(13)	(5%)
Verbal Statements	(6)	(2%)
Vehicle Towed/Impounded - Improper	2	1%
Verbal Conduct	37	14%
Profanity/Rude Statements	(24)	(9%)
Threats	(13)	(5%)
Total	260	1

Figure 8

Location of Alleged Incidents in 2004

In 2004, the largest number of alleged incidents occurred in City Council Districts 3 (33%), 6 (16%), and 7 (13%). See *Figure 9* for the number and percentage of alleged incidents that occurred in the other City Council Districts.

City Council District	No. of Complaints	% of Complaints
1	13	10%
2	6	5%
3	44	34%
4	12	9%
5	13	10%
6	20	15%
7	17	13%
Insufficient Information	5	4%
Total	130	100%

Figure 9

Locations of Alleged Incidents in 2003 and 2004

In 2004, the number of complaints alleged in City Council District 6 increased by 67% (from 12 complaints in 2003, to 20 complaints in 2004). This increase has moved City Council District 6 from the fourth, to the second district, with the most complaints for the year.

Figure 10 maps alleged incident locations from 2003 and 2004 complaints. This map depicts within each City Council District the areas of concentration where the alleged incidents occurred. The map shows that a large cluster of complaints occurred in the eastern part of City Council District 3 along such streets as San Pablo Avenue and Martin Luther King Drive.

Figure 11 on page 12, depicts the same information according to Police Service Area and Police Beats. The same area of concentration in City Council District 3 correlates with parts of Police Service Area 1 (PSA 1) and the Metro beat.

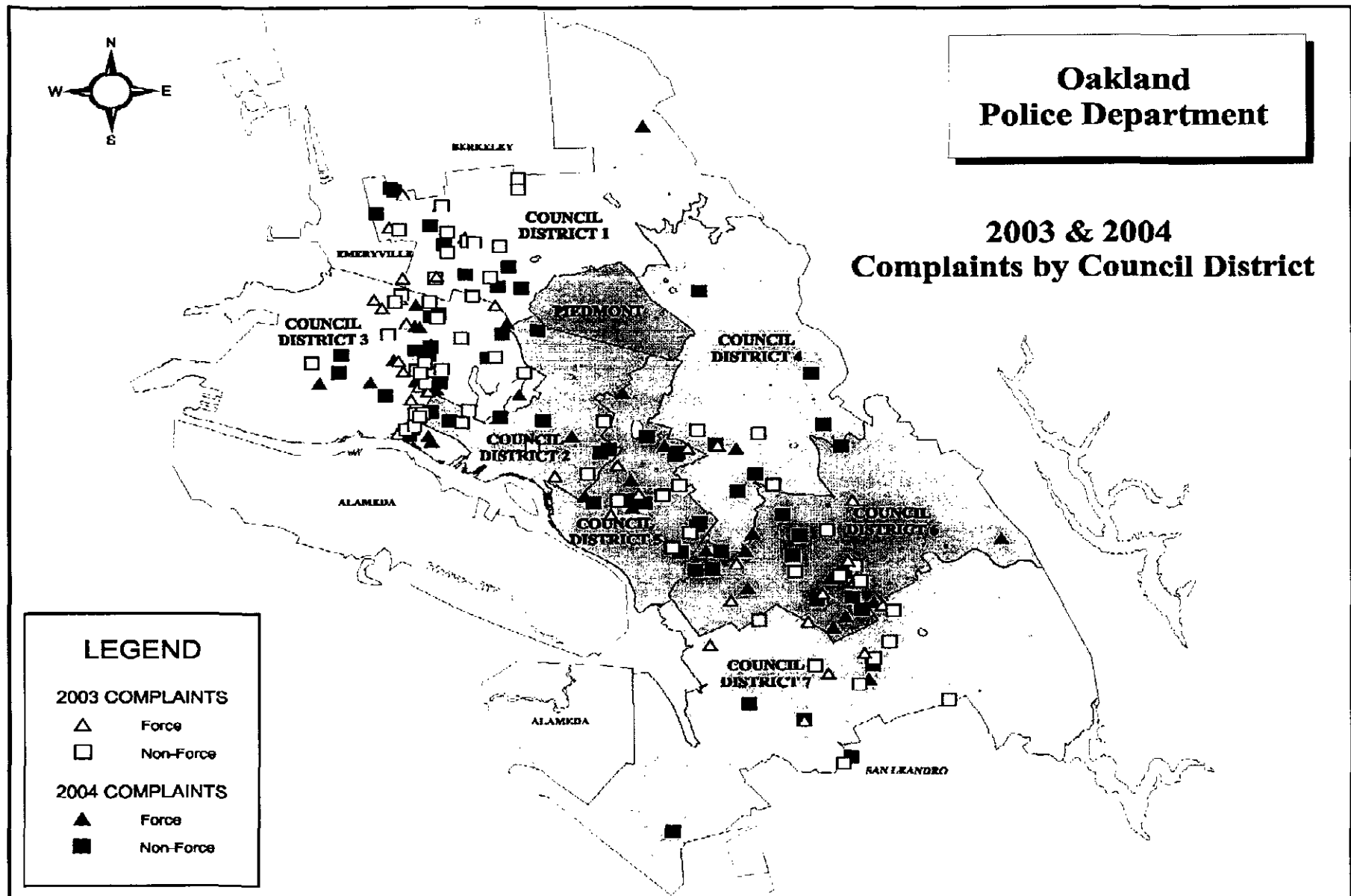


Figure 10

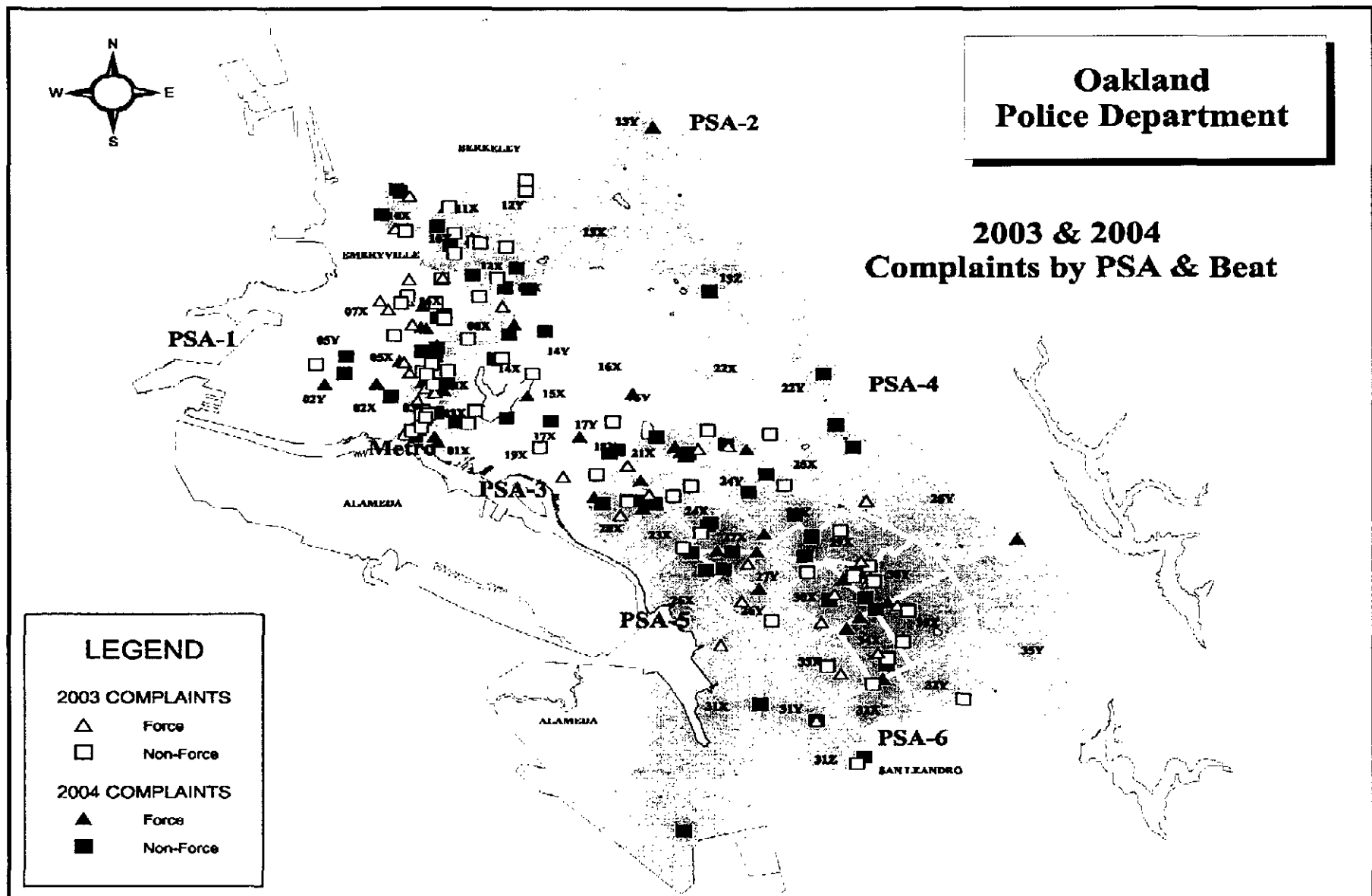


Figure 11

Time of Alleged Incidents in 2004

Figure 12, below, shows the time periods the alleged incidents occurred. The graph shows that the greatest number of incidents occurred between 6 p.m. and 8 p.m. The next peak period occurred between 2 p.m. and 4 p.m. In addition, approximately 19% (25) of the complaints filed in 2004 did not report the time of the incident, reducing some of the sample size.

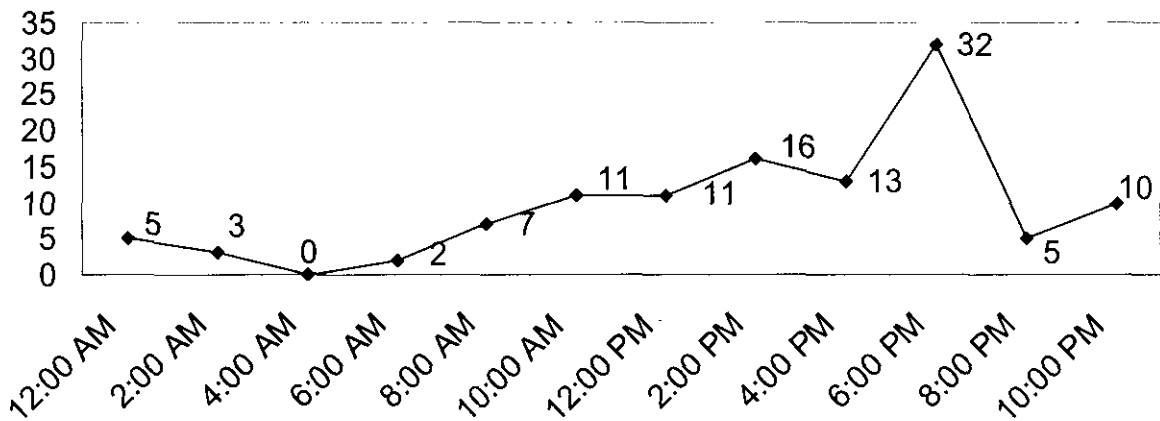


Figure 12

Time of Alleged Incidents in 2002 — 2004

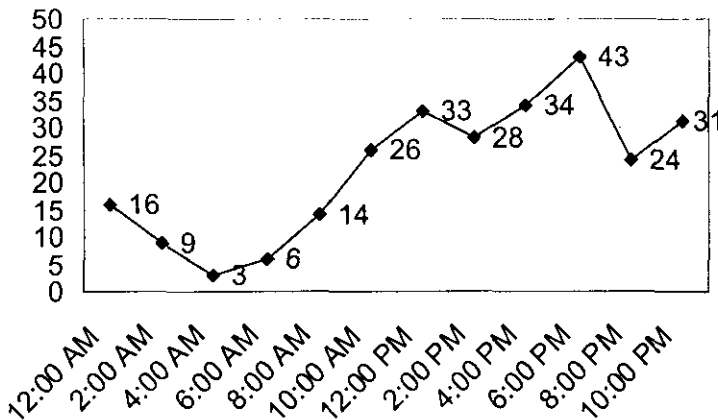


Figure 13

Figure 13 reflects time of alleged incident data with information from 2002 through 2004. Figure 13 shows a clustering of complaints filed in the afternoon and a peak in the evening between 6 p.m. and 8 p.m. This graph shows similar results to the data found in Figure 12.

COMPLAINTS RESOLVED IN 2004

Number of Complaints Resolved in 2004

In 2004, the Board resolved 130 complaints. The Board heard six complaints at full-Board hearings and eight complaints at 3-member panel hearings. In addition, 116 complaints were administratively closed. *Figure 14* provides the number of complaints resolved each calendar quarter.

The Board also scheduled an additional four evidentiary hearings in 2004. However, the hearings were cancelled because of complainant conduct: the first hearing, scheduled for March 11, 2004, was cancelled the day before the hearing because the complainant had a pending criminal proceeding related to his complaint and cancelled the hearing on advice of complainant's counsel. At a second hearing, scheduled for March 25, 2004, all officers walked out during the hearing on advice from their legal representatives because a tort claim had been filed. The complainant's attorney had filed a civil complaint in advance of the hearing, but had not informed the CPRB so regardless of the officers' conduct the hearing should not have gone forward because of pending litigation. The third hearing, scheduled for November 11, 2004, was cancelled after the

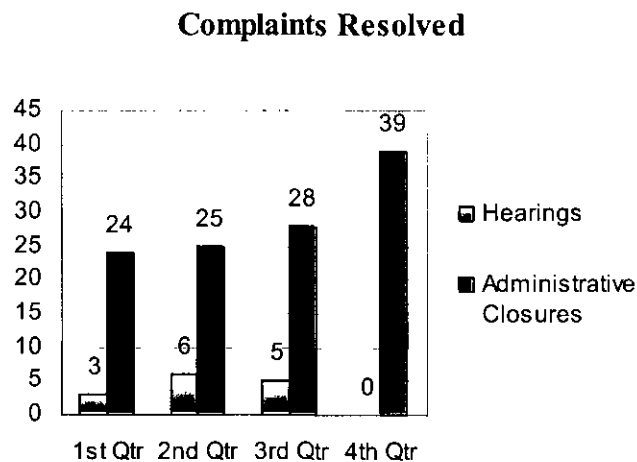


Figure 14

hearing was scheduled because the son of the complainant had a criminal proceeding related to the complaint. On advice of complainant's counsel the hearing was cancelled. The fourth hearing, scheduled for December 9, 2004, was cancelled on advice of complainant's counsel a few days before the scheduled date because the complainant had a criminal proceeding.

In three of the complaints where a criminal matter was pending the complainants and their counsel had assured staff up until days before the hearing that in spite of the criminal proceedings they would proceed. Unfortunately complainants, chose not to participate. In the fourth complaint, the criminal proceeding with the complainant's son was imposed after the hearing was scheduled.

Number of Complaints Resolved in 2001—2004

In 2004, the Board increased productivity from 2003 by resolving 59% more complaints. This increase is due largely to the growth in the number of administrative closures and is reflected in *Figure 15* (see page 26 for additional details on administrative closures). Each year, CPRB has managed to increase the number of complaints closed through administrative closures, helping to reduce the time to process complaints.

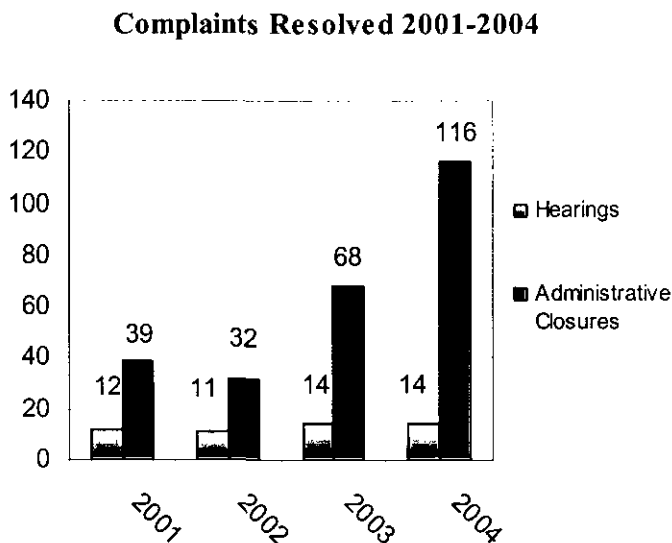


Figure 15

Evidentiary Hearings

Evidentiary hearings are an important part of the Board’s work. They allow the Board to identify the areas of officer misconduct and to identify officers who may need discipline for their behavior. Additionally, in identifying areas in which officers may better serve the public, the Board may identify policies that it would like to see changed or improved. If this is the case, the Board and its staff will hold a policy hearing and work with members of the police department to bring about the desired changes.

Three Member Panels

To increase the number and reduce the length of hearings, the Board offers 3-member panel hearings in addition to its full-Board hearings. Board members are assigned to the 3-member panels through a lottery system. The findings of the 3-member panel must be ratified by the full Board to become final. The Board began holding 3-member-panel hearings in November 2003.

Allegations Before the Board at Evidentiary Hearings

In 2004, the Board heard 14 complaints at evidentiary hearings. *Figure 15*, below, lists the types of allegations heard at each hearing.

Meeting Date	Complaint	No. of Allegations and Types of Allegations
01/22/2004	Craig Morgan (03-130)	1 Force - After Handcuffed; 5 Force - Other; 4 Force - Kick; 1 Harassment; 4 Failure to Act - To Write a Report; 4 Failure to Act - Other (Administer Sobriety Test & issue DMV forms)
01/29/2004	Jason Ward (03-043)	1 Force - Shooting Gun at Dog; 1 Failure to Act - Other (Fail to give a verbal command or warning to the dog)
02/05/2004	Lisa Dodson (03-103)	2 Force - Shooting Gun at Dog; 1 Entry/Search - Residence or Bldg.; 3 Failure to Act - To Provide Identification; 1 Failure to Act - Other (Fail to give complainant police report or incident number)
04/08/2004	Veronique Perry (03-238)	1 Failure to Act - To Investigate; 3 Failure to Act - Other (Provide assistance in property retrieval, provide police report & telephone number); 1 Failure to Act - To Provide Identification
04/15/2004	Erika Ralston and Leslie May (03-106)	3 Failure to Act - Other (To make an arrest); 1 Failure to Act - To Write a Report; 1 Property - Damaged/Missing/Seized
04/22/2004	Freddie Davis (03-236)	1 Search - Person; 1 Verbal Conduct - Threats; 1 Verbal Conduct - Profanity/Rude Statements; 1 Harassment
05/20/2004	Yancie Young (03-263)	1 Search - Person; 1 Failure to Act - Other (Proper investigation); 1 Verbal Conduct - Profanity/Rude Statements
06/17/2004	Esma Bolden and Alonzo Evans (03-316)	1 Failure to Act - To Investigate; 7 Interfering with CPRB Investigation
06/24/2004	Jovan Johnson (03-201)	6 Verbal Conduct - Sexual Misconduct; 2 Other (Conducting private business while on duty)
07/22/2004	Ronald Muhammad (03-191)	1 Arrest - Improper; 1 Detention/Stop - Improper; 1 Force - After Handcuffed; 1 Force - Choke; 4 Force - Grab/Push/Shove/Trip; 3 Force - Kick; 4 Force - Kneed; 4 Force - Strike with Hand or Unknown Object; 1 Force - Strike with Weapon; 5 Truthfulness - Reporting

Figure 16

Allegations Before the Board at Evidentiary Hearings (cont'd)

Meeting Date	Complaint	No. of Allegations and Types of Allegation
07/29/2004	Sami Shamieh (04-149)	1 Bias/Discrimination; 1 Force - Grab/Push/Shove/Trip; 1 Force - Other (Twisted arm and wrist behind back); 1 Property - Damaged/Missing/Seized; 2 Verbal Conduct - Profanity/Rude Statements; 2 Verbal Conduct - Threats
08/12/2004	Oneta Dotson and Donte Hooker (04-015)	1 Entry/Search - Residence or Bldg; 2 Failure to Act - Other (Medical clearance and notifying supervisor of the use of force); 1 Force - Strike with Hand or Unknown Object; 1 Verbal Conduct - Threats
09/16/2004	Elisa Zuniga (04-060)	1 Arrest - Improper; 1 Failure to Act - To Provide Identification; 2 Force - Grab/Push/Shove/Trip; 2 Force - Other (Pulling and twisting of hair); 1 Truthfulness - Reporting; 5 Verbal Conduct - Profanity/Rude Statements
09/23/2004	Maxemiliano Montes (04-134)	1 Bias/Discrimination; 1 Force - After Handcuffed; 2 Force - Choke; 1 Force - Kneed; 1 Force - Other (Twisted arm and wrist behind back); 1 Force - Strike with Weapon; 1 Truthfulness - Reporting; 2 Verbal Conduct - Profanity/Rude Statements

Figure 16 (cont'd)

Definitions for Board Findings

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

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

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

Unfounded: At least five Board members concluded that 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 on Allegations and Disciplinary Recommendations at Evidentiary Hearings

Figure 17, on pages 21-22, provides a detailed list of Board findings on allegations and disciplinary recommendations at evidentiary hearings in 2004. Column one lists the name of the complaint and complaint number. Columns two and three list the sustained allegations and the Board’s recommended disciplinary action for the sustained allegations, respectively. Columns four and five, show allegations not sustained and unfounded or exonerated.

Figure 17 also shows that the Board recommended five oral reprimands, seven referrals for training, three written reprimands, three referrals for counseling, one one-day suspension, one two-day suspension and one four-day suspension. These recommendations come from the 21 sustained allegations heard at evidentiary hearings. The Board also dismissed 83% of the allegations it heard at evidentiary hearings by either not sustaining, determining the allegation was unfounded or exonerating the officers.

Board Findings on Allegations and Disciplinary Recommendations at Evidentiary Hearings

Complaint	Sustained	Board Recommendation	Not Sustained	Unfounded or Exonerated	Total Allegations
Craig Morgan (03-130)			19		19
Jason Ward (03-043)			1	1 Exonerated -- Failure to give a verbal command to the dog before shooting it.	2
Lisa Dodson (03-103)			4	3 Exonerated -- Failure to Act: To Provide Identification	7
Veronique Perry (03-238)			3	1 Exonerated -- Failure to Provide Identification 1 Exonerated -- Failure to Provide Contact Information	5
Leslie May and Erkia Raulston (03-106)			5		5
Freddie Davis (03-236)	1 -- Improper Search	Officer Koster should receive training and an oral reprimand for conducting an illegal strip search on Mr. Davis.	2	1 Unfounded -- Verbal Conduct: Profanity/Rude Statements	4
Yancie Young (03-263)	1 -- Improper Search	Officer Bergeron should receive training and an oral reprimand for an illegal strip search on Mr. Young's underclothing.	2		3
Esma Bolden & Alonzo Evans (03-316)	1 -- Failure to Investigate 2 -- Interfering w/ CPRB Investigation	Officer Padilla should receive training for failing to detect and arrest the assaulter of Ms. Bolden. Lt. Tracey should receive training for improperly telling Ms. Bolden that she must drop her CPRB complaint. Lt. Tracey should receive training for improperly telling Ms. Bolden that she was being "coached."	5		8
Donte Johnson and Jovan Johnson (03-201)	3 -- Verbal Sexual Misconduct	Sgt. Del Rosario should receive training, counseling and an oral reprimand for making several inappropriate remarks to Ms. Johnson.	5		8

Figure 17

Board Findings (cont'd)

Complaint	Sustained	Board Recommendation	Not Sustained	Unfounded or Exonerated	Total Allegations
Ronald Muhammed (03-191)	1 -- Improper Detention/Stop 2 -- Truthfulness-Reporting 1 -- Improper Arrest	Officer Chavez should receive a written reprimand for improperly detaining Mr. Muhammed. Officer Chavez should receive training for improperly alleging that Mr. Muhammed had violated provisions of the California Vehicle Code. Officer Chavez should receive training on police reporting for filing a false police report on Mr. Muhammed. Officer Chavez should receive a written reprimand for the improper arrest of Mr. Muhammed. Officer Chavez should receive counseling regarding this case.	4	1 Unfounded -- Force: Choke 2 Unfounded -- Force: Strike w/ Weapon 2 Unfounded -- Force: Kick 3 Unfounded -- Force: Knead 1 Unfounded -- Force: After Hand-cuffed 3 Unfounded -- Truthfulness: Reporting 4 Exonerated -- Force: Grab/Push/Shove/Trip 1 Exonerated -- Force: Strike w/ Hand or Unknown Object	25
Sami Shamieh (04-149)	1 -- Bias/Discrimination 1 -- Profanity/Rude Statement	Officer Reese should receive a written reprimand for calling Mr. Shamieh a "fuckin' terrorist." Officer Koch should receive an oral reprimand for telling Mr. Shamieh, "shut up and sit down" and "fuck you, I don't care if you're a lawyer."	6		8
Oneta Dotson & Donte Hooker (04-015)	1 -- Force: Strike w/ Hand 1 -- Failure to Act: Other	Officer Caldwell should receive a four-day suspension for his use of excessive force on Mr. Hooker. Officer Caldwell should receive training on medically clearing persons for booking on felony arrests.	3		5
Elisa Zuniga (04-060)	1 -- Force: Other 2 -- Profanity/Rude Statement	Officer Hoppenhauer should receive a one-day suspension and training on the use of force for pulling and twisting Ms. Zuniga's hair during the detention. Officer Hoppenhauer should receive counseling for telling Ms. Zuniga that she was acting like a fifteen year old for having sex in a car. Officer Hoppenhauer should receive counseling for telling Ms. Zuniga, "you have a big mouth" and "now you're not so tough anymore!"	8	1 Exonerated -- Force: Grab/Push/Shove/Trip	12
Maximiliano Montes (04-134)	1 -- Force: Knead 1 -- Profanity/Rude Statement	Officer Nichelini should receive an oral reprimand for using his knees to hit the back of Mr. Montes' head against the pavement. Officer Nichelini should receive a two-day suspension for telling Mr. Montes, "get the fuck out of the truck."	7	1 Unfounded -- Bias/Discrimination	10
Total	21 (17%)		74 (61%)	26 (22%)	121 (100%)

Figure 17 con't

Board Findings by Allegation Category

Figure 18 on the following page, shows Board findings by allegation category, instead of by complainant. The largest percentage, 33%, of sustained allegations were for types of verbal misconduct. Verbal misconduct is often one of many allegations made in a complaint. Often verbal misconduct can escalate encounters to more serious allegations such as excessive force.

Another common allegation made in complaints at hearings involves failure to act. Yet of the various allegations heard before the Board in 2004, failure to act allegations have the lowest sustained rate at 6%; while other allegations such as verbal misconduct have a sustained rate at 30% and excessive force at 8%.

Board Findings by Allegation Category

Allegation Categories	Sustained	Not Sustained	Unfounded	Exonerated	Total
Arrest - Improper	1	1			2
Bias / Discrimination	1		1		2
Detention / Stop - Improper	1				1
Entry/Search - Residence or Bldg.		2			2
Failure to Act - To Investigate	1	1			2
Failure to Act - To Provide Identification		1		4	5
Failure to Act - To Write a Report		5			5
Failure to Act - Other	1	18		2	21
Force - After Handcuffed		2	1		3
Force - Choke		2	1		3
Force - Grab/Push/Shove/Trip		2		5	7
Force - Kick		5	2		7
Force - Kneed	1	1	3		5
Force - Shooting Gun		3			3
Force - Strike w/ Hand or Unknown Object	1	2	1	1	5
Force - Strike w/ Weapon		1	1		2
Force - Other	1	2			3
Harassment		2			2
Interfering w/ CPRB Investigation	2	5			7
Property - Damaged/Missing/Seized		2			2
Search - Person	2				2
Truthfulness - In Reporting	2	2	3		7
Verbal Conduct - Profanity/Rude Statements	4	6	1		11
Verbal Conduct - Sexual Misconduct	3	5			8
Verbal Conduct - Threats		4			4
Other					
Total	21 (17%)	74 (61%)	14 (12%)	12 (10%)	121 (100%)

Figure 18

Disciplinary Recommendations and the City Administrator's Decisions

At evidentiary hearings the Board considers comprehensive written reports of investigation from board staff, listens to the details of complaints and allows both complainants, officers, and witnesses the opportunity to testify through cross examination. The hearings provide members of the public with a forum to air their complaints. If the Board sustains an allegation against an officer and recommends discipline, staff forwards the recommendation to the City Administrator for her action on the recommendation.

In 2004, the Board forwarded 23 disciplinary recommendations regarding sustained allegations from eleven complaints. Two of the recommendations forwarded in 2004 were from hearings held in 2003. The City Administrator agreed in full or in part with 48% of the 23 recommendations forwarded. She upheld thirteen of the Board's recommendations for eight complaints, either in full or in part.

For hearings held only in 2004, the Board forwarded 21 disciplinary recommendations regarding sustained allegations from nine complaints. The City Administrator agreed in full or in part with 43% of the 21 recommendations forwarded. She upheld eleven of the Board's recommendations for six complaints, either in full or in part.

Administrative Closures

A complaint is administratively closed after an investigation documented by a written administrative closure report is considered by the Board and the Board finds that no further action is necessary. In 2004, the Board closed 116 complaints through administrative closures. *Figure 19*, below, provides the reasons for those closures.

Reasons for Administrative Closures

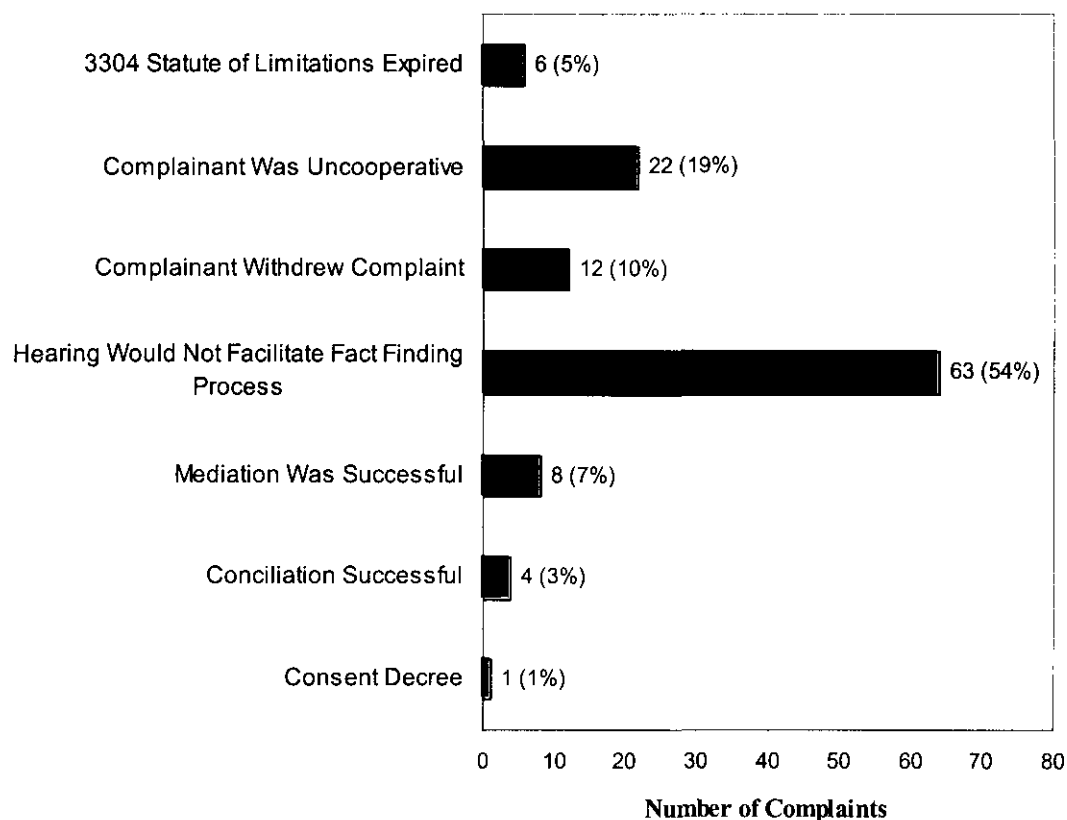


Figure 19

3304 Statute of Limitations Expired

Five percent of administratively closed complaints were closed because the one-year statute of limitations for bringing disciplinary action against a peace officer had expired (Government Code section 3304.)

The Board has reduced statute of limitations administrative closures from 46% in 2003, to 5% in 2004.

Mediation Was Successful

CPRB staff conducted eight mediations in 2004 compared to the one held in 2003. Increasing the number of successful mediations between officers and complainants is a goal for 2005.

Complainant was Uncooperative

In 22 complaints the complainant failed to respond to an investigator's requests for an interview or failed to contact the investigator again after the complainant filed a complaint. In these instances, the complaint was administratively closed because of the complainant's failure to cooperate with the investigation.

A Hearing Would not Facilitate the Fact-Finding Process

The Board determined that a hearing was unnecessary in 63 complaints. The complaints that fell under this category include those in which:

- (a) the investigator is unable to find corroborating evidence of the allegations;
- (b) the investigation fails to uncover which officers were involved; or
- (c) the allegations are obviously implausible.

Conciliation Successful

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

Consent Decree

One complaint, closed in 2004, was closed because of an agreement between the complainant and a park ranger. The complainant agreed to close the complaint if the park ranger received training on interacting with individuals with mental disabilities. The agreement was entered into in 2002 and the officer completed his training in 2004.

OFFICERS WITH COMPLAINTS

Number of Officers with One or More Complaints in 2004

The CPRB attempts to prevent future misconduct by tracking the number of complaints against each officer. *Figure 20*, below, lists the number of officers with one or more complaints against them in 2004.

	No. of Officers	% of Officers with Complaints
Officers with Four Complaints	1	1%
Officers with Three Complaints	4	3%
Officers with Two Complaints	23	15%
Officers with One Complaint	125	82%
Total	153	100%

* chart revised on March 17, 2005

Figure 20

CPRB notes that 82% of officers who receive a complaint, receive one the entire year. Equally important to highlight are the statistical outliers to find out why certain officers receive three or more complaints a year.

When such incidents occur the Board's staff takes special note and passes information regarding such officers to the City Administrator and the Police Chief.

Data on sustained allegations and complaint status for these complaints can be found in *Appendix C*.

Number of Officers with One or More Complaints between June 30, 2002 and December 31, 2004

In 2003, the Oakland Police Department (OPD) entered into a settlement agreement in the federal court 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)).

Figure 21, below, provides the number of officers who have had multiple CPRB complaints filed against them between June 30, 2002 and December 31, 2004.

Thirty officers or 10.8% of the officers with complaints fall into this category for PIMS intervention.

Data on sustained allegations for these complaints can be found in *Appendix D*.

	No. of Officers	% of Officers with Complaints
Officers with Eight Complaints	1	0.4%
Officers with Seven Complaints	1	0.4%
Officers with Six Complaints	0	0.0%
Officers with Five Complaints	3	1%
Officers with Four Complaints	6	2%
Officers with Three Complaints	19	7%
Officers with Two Complaints	48	18%
Officers with One Complaint	185	70%
Total	263	100%

* chart revised on March 17, 2005

Figure 21

Officer Compliance

Officer compliance is essential for the integrity of the investigative process. Officer compliance with CPRB requests is also an indication of the relationship that CPRB has with OPD. Particular delays in the process for non-cooperation can also lead to the cancellation of hearings, wasted resources, the public being denied due process and issues of importance not being heard in a timely and relevant way.

On March 25, 2004, the issue of officer compliance was raised at an Oakland City Council Public Safety Committee meeting, during which City Council Committee members asked that future reports monitor and track non-cooperation issues.

Officer Interviews

From this data, CPRB has learned approximately 90% of the officers contacted for interviews complied with the investigative process. This means that the officers were served with interview notices, released statements, and scheduled CPRB interviews in a timely manner without causing an undue delay in the investigative process.

However, those officers who did not comply with the investigative process took on average nine weeks to respond to interview notices and to schedule interviews.

Examples of the most lengthy delays are included on *pages 32-33*.

Three types of delays are shown with this data: 1) officers delay interview process by trying to choose Internal Affairs Division to interview them; 2) officers come to interviews without Legal Defense Fund (LDF) representatives or fail to contact them; and 3) officers fail to come to scheduled interviews.

As CPRB staff continues to collect and examine this data in more detail, staff is better able to pinpoint the delays in the process. Staff has learned in recent months that the majority of delays come from the time it takes officers to be served with interview notices.

Investigators had contacted officers who stated they had not been served with interview notices. They then learned that the supervisor had the notice but had not delivered it. The delay is not always the fault of the officer to be interviewed. Additional delays also occur when an officer receives the notice, but fails to respond. In these cases, the officer is failing to comply with OPD General Order M-3 which states in part:

“All Department personnel who are subpoenaed by the CPRB shall cooperate by complying with all of the orders described on the subpoena and by appearing as directed unless excused by the issuing authority.”

CPRB staff is currently looking into potential solutions to help improve the time it takes to get officers served with interview notices. One recommendation is to obtain complaint tracking software to better record non-compliance more efficiently. Such software would produce complaint logs and create electronic notices for delays.

Hearing Subpoenas

Since the CPRB 2004 Semi-Annual

report there has been significant improvement in officer compliance with hearing subpoenas. Since our last report, all officers subpoenaed have appeared at scheduled hearings and no unnecessary delays or excuses were given. However, the issue of officers attending hearings when a tort claim has been filed is still unresolved and officers refuse to appear at a hearing where a tort claim has been filed.

Substantial Officer Non-Compliance

Michael Cardoza
04-257

Serial No. 8367

Police Officer

Complainant: Uganda Knapps
Interview Request Sent: 11/16/04
Interview Date: 12/28/04

Comments: Officer Cardoza incorrectly advised the CPRB investigator by stating that he had already given an interview to the Internal Affairs Division (IAD). No interview was taken by IAD. CPRB advised Officer Cardoza to obtain a representative for his interview. Officer Cardoza then failed to appear with his legal representative. Officer Cardoza stated he would prefer to give his statement to IAD. Officers cannot decide who to give an interview to. Although the CPRB interview was completed four weeks from the day the interview request was sent, several attempts were made to contact Officer Cardoza and schedule the interview.

Kevin Kaney, Daniel Salcido
04-319

Serial No. 8213, 8235

Police Officers

Complainant: Michael Robillard
Interview Request Sent: 11/03/04
IAD Statement Received: 12/27/04

Comments: Both Officer Kaney and Officer Salcido called CPRB on November 10, 2004 Both stated that they wished to give their statements to IAD, instead of

Javier Roca
04-157

Serial No. 8093

Police Officer

Complainant: Yolanda Montesinos

Interview Request Sent: 5/25/04

Interview Date: 11/24/04

No. of Attempts by Investigator to Schedule Interview: 7

Comments: Officer J. Roca failed to appear for a scheduled interview twenty weeks after the interview request was sent. Three days later, Officer J. Roca came to the interview without his legal representative and wanted to postpone the interview. Officer Roca said he would call CPRB after obtaining a representative but failed to do so. CPRB called Patrol Desk to find another officer and inadvertently was reconnected with Officer Roca. On November 16, 2004, Officer J. Roca failed to show for another CPRB interview. Lt. Poulson intervened and Officer J. Roca appeared for an interview twenty four weeks from the date the interview request was sent.

William Christopher Petersen Serial No. 8203
04-150

Police Officer

Complainant: Monzell Harding

Interview Request Sent: 6/29/04

IAD Statement Received: 1/24/05

Comments: Officer Petersen upon initial contact refused to give a statement and was uncooperative with CPRB investigators. An intervention with the City Attorney and CPRB's Executive Director was necessary for compliance. CPRB received a signed release almost twenty eight weeks from the date that the interview request was sent.

2004 POLICY RECOMMENDATIONS

Strip Searches

Background

Between 2000 and 2003, the Board received six complaints alleging unlawful strip searches; three of the complaints were filed in 2003. The Board held hearings on two of the three complaints. On the third complaint, the complainant, a minor, chose not to go forward with the hearing. On the two complaints heard by the Board, it sustained against the officers for illegal strip searches but recognized the issue was a department-wide policy issue as well as an individual misconduct issue.

Board Recommendations

The Board recommended that OPD revise its policy on what constitutes a strip search and when it is appropriate to perform a strip search. Additionally, the Board recommended that OPD provide training on the revised policy. On May 27, 2004, OPD revised Training Bulletin I-O.2 to incorporate the Board's recommendations.

Carijama Festival Hearing

Background

On October 28, 2004, the Board heard testimony from members of the public regarding the use of Or-

thochlorobenzalmalononitrile (CS) gas to disperse the crowd and stop a fight immediately following the conclusion of the Carijama Festival in Oakland's Frank Ogawa Plaza. Eleven citizen complaints were filed by persons affected by the Oakland Police Department's use of CS gas at Wendy's Restaurant on May 31, 2004. These individuals were patrons inside Wendy's and not individuals involved in the altercation.

At the policy hearing, the Board invited Lt. David Kozicki, Operations Commander for the Carijama Festival, to inform the Board of OPD's decision to use CS gas. Deputy Chief Peter Dunbar also attended and apologized to the complainants affected by the gas.

Board Recommendations

At the conclusion of the meeting, the Board made seven recommendations.

1. At the Pre-incident planning meetings, include the Fire Department and ambulance personnel to support OPD's efforts to manage large crowds.
2. Utilize "First Aid Stations fixed and/or mobile and/or ambulances" in the event chemical agents must be deployed: plan for disabled, elderly and children,

-
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.
 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.
 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.
 6. As standard procedure, consider the use of multiple arrests before deploying chemical agents.
 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 also obtain a better public address system and repeat their dispersal orders every city block.
- These recommendations were submitted to the Police Department for review.

BOARD AND STAFF DEVELOPMENTS

New Mission Statement

On January 8, 2004, the Board created and adopted its official mission statement. The mission statement is meant to ensure that current and future Boards have unity of purpose.

Board Training

In 2004, the Board held three training sessions to educate the Board and the public on some of the rules and procedures of OPD. The first of these sessions was held on March 6, 2004, at a Saturday training session conducted by Captain Jeff Israel and Captain Howard Jordan. The Board received training regarding the laws of arrest and search and seizure. Additionally, the Board learned how the various divisions at the Oakland Police Department are organized. The second session was held on May 13, 2004 and was conducted by Officer Anthony Oerlemans on OPD's use of force policy. The third session was held on October 14, 2004 and was conducted by Sergeant Patrick Garrahan on OPD patrol functions.

Appointments to the Board

In 2004, the Board welcomed four new Board members, Corey Dishmon, Barbara Montgomery, Jamilah Jefferson-Scates and Tim Wan to replace outgoing Board members William Hubartt, Susan Raffanti, Monsour Salahu-Din and Anthony Love-day respectively. Additionally the

Board welcomed two alternates to fill two of the three alternate Board member positions. The alternate Board members are Andrew Radlow and Cheryl Anderson. The Board also elected its chair, Roland Walker, and Vice-Chair, Beneba Thomas.

Task Forces and Working Groups

Executive Director, Joyce Hicks and former Policy Analyst, Wendy Jan, sat on numerous task forces and working groups involving improving police services and reducing police misconduct.

Citywide Survey

Ms. Hicks and Ms. Jan sat on a task force whose purpose was to develop a citywide survey regarding customer satisfaction with police services and the reporting of complaints. OPD anticipates the release of the survey in April 2005.

Consistency of Discipline

Ms. Hicks and Ms. Jan also participated on the consistency of discipline working group with representatives of the Oakland Police Department and City Attorney's Office. The working group proposed a discipline matrix to ensure consistency of discipline imposed by OPD.

Racial Profiling

This task force, which consisted of representatives from OPD,

Oakland Police Officers' Association (OPOA) the community, advocacy groups, the CPRB, and researchers from RAND Corporation, met for over two years to produce: (1) OPD's racial profiling policy; (2) an analysis of whether OPD engages in racial profiling, and (3) a technical guide instructing other police departments how to engage in a similar process.

The results from the RAND Corporation report on racial profiling found:

1. OPD needs regular audits of reporting compliance because there appears to be evidence of substantial underreporting of stops;
2. It is inconclusive whether or not the ability to identify race has an effect on the driver being stopped;
3. There is little evidence that officers cite black drivers at substantially different rates than other similarly situated drivers;
4. Black drivers were more likely to have stops lasting more than 10 minutes;
5. Black drivers were more likely to be pat searched for weapons than non-black drivers;
6. There were no statistically significant differences in the rates of consent searches;
7. Similarly situated non-black drivers and similarly situated white drivers were involved in probable cause searches at less than half the black driver rate.

Emiliano Zapata Street Academy

As part of CPRB's outreach activities,

CPRB responded to a request by the Emiliano Zapata Street Academy to provide a presentation to students of the Street Law class. The Policy Analyst, Patrick Caceres, explained to the students the services CPRB provides. In addition, the Policy Analyst advised the students how to conduct themselves when stopped by an officer.

NACOLE Presentation

In October 2004, Joyce Hicks attended the National Association for Civilian Oversight of Law Enforcement annual conference in Chicago, Illinois where she participated on a panel and presented a paper on "Preparing Civilian Oversight Boards for the Challenges of the Twenty-First Century" (see *Appendix H*).

Goldman School of Public Policy

In 2004, the CPRB and Oakland Police Department partnered with the Goldman School and received two written reports. One was from Michelle Angier, Alison Little, Merrick Pascual and Denise Shepard on "Effectively Averting Police Misconduct in Oakland Using the Personnel Information Management System" and another was from Rebecca Benassini, Anne McDonough-Hughes and Sele Nadel-Hughes on "Policy Recommendations for In-Car Video Usage in Oakland."

Boalt Hall Police Review Advocates

A group of students at the University of California, Berkeley, Boalt Hall School of Law organized training sessions for law students who volunteered to represent complainants before Oakland's and Berkeley's police review boards. Staff and Board representatives from the Oakland CPRB have provided training to the Police Review Advocates.

OPOA Legal Challenges to Board's Jurisdiction

The Oakland Police Officers' Association (OPOA) legal representatives advised the Board that officers would no longer attend hearings where a tort claim had been filed. The Board's Legal Counsel advised that officers were required to attend hearings if a tort claim had been filed so long as a lawsuit had not been filed. Former Police Chief Richard Word ordered officers to attend hearings if a tort claim was filed but no lawsuit had been filed. The OPOA filed a request for Immediate Dispute Resolution under its Memorandum of Understanding (MOU) with the City of Oakland. The matter was unresolved as of December 31, 2004 (see *Appendix F & G*).

OPOA Legal Challenges to CPRB's Public Hearings and Public Reports

The Oakland Police Officers Association (OPOA) filed a petition for writ of mandate and complaint for declaratory relief against the City of Oakland and the Citizens' Police Review Board in Alameda County Superior Court on July 21, 2004. The petition and complaint allege in part that the Citizens' Police Review Board violates the Public Safety Officers Procedural Bill of Rights by holding public hearings and providing certain information regarding alleged police misconduct. The litigation was still pending as of December 31, 2004 (see *Appendix E*).

OPD ACTION ON CPRB
POLICY
RECOMMENDATIONS

The charts on the following pages list the status of the recommendations made by the Board between 2001 and 2004. The Police Department implemented two recommendations that were resolved this year. The first recommendation implemented involved the revision of OPD's policy on what constitutes a strip search. The second recommendation implemented involved training to determine whether a person meets the criteria of section 5150.

Additionally, eight prior recommendations are still awaiting action from OPD.

The recommendations that are marked as having been "implemented" or "implemented in part" will not appear in future annual reports. However, those that are marked "pending action by OPD" or "to be followed up on in the future" will continue to be tracked in future reports.

OPD ACTION ON CPRB POLICY RECOMMENDATIONS

2004	Background	Board Recommendation	OPD Response	Status of Recommendation
	#1: Between 2000-2003, the Board received six complaints alleging unlawful strip searches; three of the complaints were filed in 2003. The Board held evidentiary hearings on two complaints in 2004 and sustained against the subject officers for illegal strip searches in the field.	OPD should revise its policy on what constitutes a strip search, when it is appropriate to perform a strip search; and provide training on the revised policy.	On May 27, 2004, OPD revised Training Bulletin I-O.2 to incorporate the Board's recommendations.	Implemented
	#2: Eleven complaints were filed regarding Oakland Police Department's use of CS gas at Wendy's Restaurant on May 31, 2004 following the conclusion of the Carijama Festival.	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.	(1/25/05) Final revisions and formatting are complete on OPD's crowd control policy.	Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy
	#3 (see above)	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.		Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy
	#4 (see above)	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.		Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy
	#5 (see above)	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.		Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy
	#6 (see above)	In the pre-incident planning conduct a risk analysis of the event to determine the sufficient number of law enforcement and public safety personnel.		Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy
	#7 (see above)	As standard procedure consider the use of multiple arrests before deploying chemical agents.		Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy
	#8 (see above)	Dispersal orders need to be given in a manner reasonably believed to be heard and understood by the intended audience including: documentation of the orders at time given and clear instructions on where people are to disperse when public transit is unavailable. Also included in the recommendation is the Oakland Police Department should obtain a better public address system and repeat their dispersal orders every city block.		Pending OPD Action. The Board is Awaiting the Release of OPD's Crowd Control Policy

OPD ACTION ON CPRB POLICY RECOMMENDATIONS

2003	Background	Board Recommendation	OPD Response	Status of Recommendation
	#1: On April 7, 2003, war demonstrators alleged they were injured as a result of OPD's crowd control efforts.	The Police Department should eliminate its use of wooden dowels.	(1/25/05) Final revisions and formatting are complete on OPD's crowd control policy.	Pending OPD Action. The Board is awaiting the release of the Crowd Control Policy by OPD's Training Division.
	#2: (see above)	The Police Department should end its practice of using the sting grenade.		Pending OPD Action
	#3: (see above)	The CPRB Executive Director and the Chief of Police should collaborate with community representatives to further work on revising OPD's crowd control policy.		Pending OPD Action
	#4: In 2003, the Board heard three complaints alleging that pedestrians were left stranded in the street after dark when OPD officers had the complainants' cars towed.	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.	(2/26/04) A draft policy has been written.	Pending OPD Action

OPD ACTION ON CPRB POLICY RECOMMENDATIONS

2002	Background	Board Recommendation	OPD Response	Status of Recommendation
#1:	California Welfare and Institutions Code, section 5150, permits officers to detain individuals who exhibit signs of mental illness and who appear to pose a danger to themselves or to others. In 2002, the CPRB received complaints alleging that police officers were improperly using section 5150 to detain individuals who did not meet the statute's specific criteria. In February, 2002, the Board held a policy hearing on this issue and made numerous recommendations to the Oakland Police Department.	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.	The Department is unable to provide all officers with cellular phones at this time because of budget constraints. However, persons have the options for self committal to Sausal Creek.	Implemented in Part
#2:	(see above)	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.	Data collection has started.	Pending OPD Action. CPRB staff is awaiting data to be forward to the policy analyst, so that the Board can report back to the City Council Public Safety Committee.
#3:	(see above)	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.	The Police Department is currently researching the issue. Presently OPD uses Peace Officer Standards and Training (POST) training materials created at the state level and works frequently with John George Hospital.	To be followed up on in the future.
#4:	(see above)	The Police Department should expand its officer training on mental illness and 5150 detentions to 40 hours. The 40-hour training program should occur post-Academy and should include training on distinguishing mental illness from mental retardation, which is not a ground for a 5150 detention.	The Department does not have the funds to provide its officers with 40 hours of training on 5150 issues. However, in reviewing the curriculum for the 2003-2004 Advanced Officer School, the Chief will consider adding four hours of training to the Mentally Disordered Person module. All supervisors and sergeants have completed 5150 training in the Advanced Officers School and now the rest of the officers are scheduled to receive this training.	Pending OPD Action. CPRB has not determined if the additional four hours of 5150 training was added Advanced Officer School.

OPD ACTION ON CPRB POLICY RECOMMENDATIONS

2002	Background	Board Recommendation	OPD Response	Status of Recommendation
	#5: In 2001, the Board received a complaint that officers had entered a complainant's home while the complainant was away. When the complainant returned to her home, she learned about the police search of her home because her neighbor told her about it.	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 Legal Aspects of Searching Residences, for the purpose of implementing this recommendation.	The Police Department agreed to adopt this recommendation and implement it by mid-November, 2003.	Pending Action by OPD. No further action has been taken to implement this recommendation.

2001	Background	Board Recommendation	OPD Response	Status of Recommendation
	#1: In 2001, five Board hearings were cancelled, three because of last minute officer unavailability.	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.	As part of the Negotiated Settlement Agreement OPD has drafted General Order M-3-2 which will govern officer compliance with CPRB investigations and attendance at hearings.	Pending Action by OPD. CPRB is awaiting the formal release of this document.

CONCLUSION

Conclusion

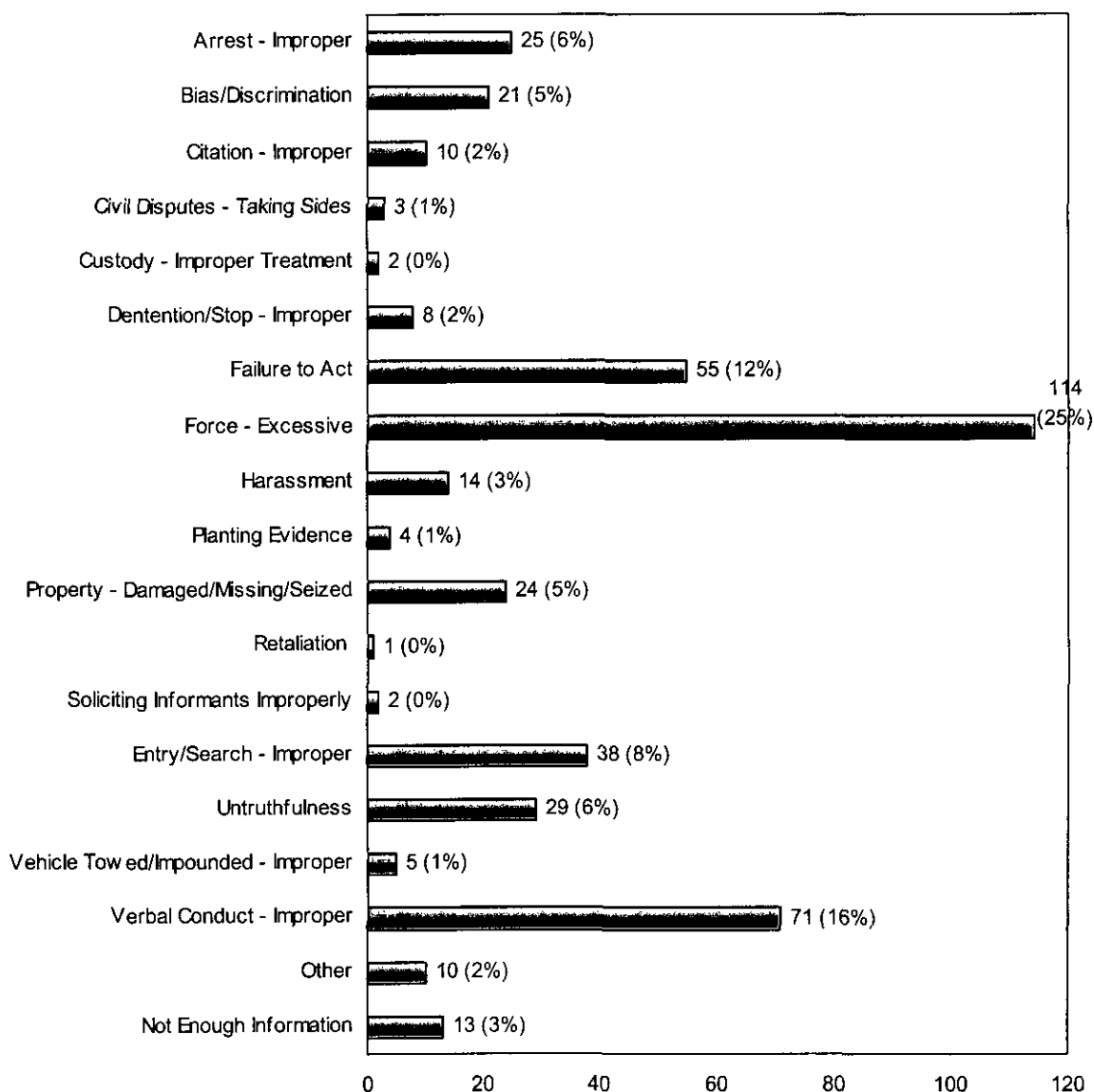
In 2004, the Board and its staff were faced with the significant challenge of a complaint inventory that increased by twenty-four percent over a 12-month period. The Board and staff endeavored to meet and succeeded in meeting their challenge of serving the CPRB stakeholders by:

- Increasing the number of mediated complaints from one in 2003 to eight in 2004.
- Recommending training and policy revisions to eliminate unconstitutional strip searches in the field.
- Administratively closing cases after an investigation and prior to the one year statute of limitations imposed by Government Code section 3304.
- Consolidating use of force complaints resulting from the use of CS gas at the Carijama Festival, hearing those complaints at a policy hearing and recommending crowd control policies to the Oakland Police Department.
- Reducing the length of hearings by scheduling more hearings for 3-member panel hearings instead of full Board hearings.

APPENDICES

Allegations Filed Between 2003 and 2004

Between 2003 and 2004, excessive force complaints comprised the largest category. The next largest category of complaints alleged improper verbal conduct. And the third largest category of complaints alleged a failure to act. These results are consistent with the results obtained when analyzing the 2004 data alone.



Board Findings by Allegation Category (2003-2004)

Allegation Categories	Sustained	Not Sustained	Unfounded	Exonerated	Total
Arrest - Improper	2	2			4
Bias / Discrimination	2	7	2		11
Detention / Stop - Improper	3	17			20
Entry/Search - Residence or Bldg.	9	13			22
Failure to Act - To Investigate	1	3			4
Failure to Act - To Provide Identification	3	2		4	9
Failure to Act - To Write a Report		7			7
Failure to Act - Other	2	31		3	36
Force - After Handcuffed		10	1		11
Force - Choke		4	1		5
Force - Grab/Push/Shove/Trip		20		5	25
Force - Kick	2	19	2		23
Force - Kneed	1	1	3		5
Force - Shooting Gun		4			4
Force - Strike w/ Hand or Unknown Object	5	11	3	2	21
Force - Strike w/ Weapon	1	8	1		10
Force - Other	1	22			23
Harassment		3			3
Interfering w/ CPRB Investigation	2	5			7
Property - Damaged/Missing/Seized		8			8
Search - Person	2				2
Truthfulness - In Reporting	9	17	3		29
Verbal Conduct - Profanity/Rude Statements	8	35	1		44
Verbal Conduct - Sexual Misconduct	3	5			8
Verbal Conduct - Threats		13			13
Other	4	10	4	1	19
Total	60(16%)	277(74%)	21(6%)	15(4%)	373 (100%)

The Status of Complaints for Officers with Multiple Complaints in 2004

Officer	Sustained Complaints	Investigation Pending	Mediation Pending	Administrative Closure	Scheduled Hearing	Tolled	Total
Michael Nichelini	1	1		1	1		4
Michael Cardoza				2		1	3
Christopher Crabtree				2		1	3
Michael Iqualdo		3					3
Jamie Kim		1		2			3
Victor Arvizu				1	1		2
Bradley Baker		2					2
William Bergeron		1		1			2
Frank Bonifacio				2			2
Chad Borjesson				2			2
Bryan Clifford		1		1			2
Brett Estrada		1		1			2
Patrick Garrahan		1		1			2
Steve Glover				1		1	2
Henry Hunter		1		1			2
Ersie Joyner III		2					2
Michael Leite		1		1			2
Gregory Loud	1			1			2
Matthew McGiffert		1		1			2
Randy Pope		1		1			2
Javier Roca				2			2
Francisco Rojas		1				1	2
Ouseng Saeparn		1			1		2
Daniel Salcido		1		1			2
Sophal Sem		1				1	2
Thomas Sotto		1	1				2
Brian Tran				1		1	2
Michael Valladon		1		1			2
Totals	2	23	1	27	3	6	62

* chart revised on March 17, 2005

**The Status of Complaints for Officers with Three or More
Complaints from June 30, 2002 to December 31, 2004**

Officer	At Least One Allegation Sustained	No Allegations Sustained or Exonerated/Unfounded	Investigation Pending	Administrative Closure	Hearing Scheduled	Tolled	Total Complaints
Brett Estrada	1	1	1	4		1	8
Samuel Francis	2	1		3		1	7
Marcus Moreno	1			3		1	5
Michael Cardoza			1	3		1	5
Jamie Kim			1	4			5
William Bergeron	1		1	2			4
Ryan Gill			1	2		1	4
Sean Hall	1	1		2			4
Matthew McGiffert		1	1	2			4
Alfred Mestas		2		2			4
Michael Nichelini	1		1	1	1		4
Victor Arvizu				2	1		3
Frank Bonifacio				3			3
Christopher Crabtree				2		1	3
Sean Festag		1		2			3
Roland Holmgren	1	1		1			3
Michael Igueldo			3				3
Nishant Joshi				3			3
Ersie Joyner III			2	1			3
James Kelly				3			3
John Koster	1	1		1			3
Gregory Loud	1	1		1			3
Gerado Melero		1		2			3
Noah Montgomery				3			3
John Muschi				3			3
Steven Nowak		1		2			3
Michael Reilly	1	1	1				3
Javier Roca				2		1	3
Ouseng Saeparn			1	1	1		3
Daniel Salcido	1		1	1			3
Totals	12	13	15	61	3	7	111

* chart revised on March 17, 2005

ATTACHMENT 4

1 Alison Berry Wilkinson, SBN 135890
2 RAINS, LUCIA & WILKINSON LLP
2300 Contra Costa Blvd., Suite 230
3 Pleasant Hill, CA 94523
Telephone: (925) 609-1699
4 Facsimile: (925) 609-1690

ENDORSED
FILED
ALAMEDA COUNTY
JUL 21 2004

5 Attorneys for Petitioner/Plaintiff
OAKLAND POLICE OFFICERS ASSOCIATION

CLERK OF THE SUPERIOR COURT
By Geneva D. Hill, Deputy

7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF ALAMEDA

9 OAKLAND POLICE OFFICERS ASSOCIATION,

No. **7 GO 4166653**

10 Petitioner/Plaintiff,

VERIFIED PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR DECLARATORY RELIEF
[CODE CIV. PROC. §§ 1085, 1085, 1060]

11 vs.

12 CITY OF OAKLAND and CITY OF OAKLAND
13 CITIZEN'S POLICE REVIEW BOARD,

14 Respondents/Defendants.

15
16 Petitioner/Plaintiff alleges:

17 1. Petitioner and Plaintiff OAKLAND POLICE OFFICERS ASSOCIATION
18 (hereinafter "OPOA") is, and at all times herein relevant was, the duly recognized employee
19 organization, as that term is defined in the Meyers-Milias-Brown Act, Gov. Code §§ 3500 *et seq.*
20 As such, the OPOA is entitled to represent employees of the City of Oakland Police Department in
21 connection with the terms and conditions of their employment with the CITY. The OPOA is
22 authorized to and does bring this action on behalf of itself and its members. *Long Beach City*
23 *Employees Assn. v. City of Long Beach*, 41 Cal.3d 937, 941 n. 3 (1986).

24 2. Respondent and Defendant CITY OF OAKLAND (hereinafter "CITY") is, and at
25 all times herein relevant was, a municipal corporation existing by virtue of and operating under the
26 City Charter of the City of Oakland and the Constitution and laws of the State of California.

27 3. Respondent and Defendant CITY OF OAKLAND CITIZEN'S POLICE REVIEW
28 BOARD (hereinafter "CPRB") is, and at all times herein relevant was, a commission of the CITY

1 existing by virtue of and operating under CITY Charter and Ordinances.

2 4. The OPOA represents sworn police officer employees of the CITY's Police
3 Department. Such sworn employees are peace officers pursuant to Penal Code § 830.1 and, as
4 such, are entitled to the rights and protections pursuant to the Public Safety Officers Procedural
5 Bill of Rights Act, Gov. Code §§ 3300 *et seq.* (hereinafter "the Bill of Rights Act").

6 5. The Bill of Rights Act defines "punitive action" as "any action that *may* lead to
7 dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of
8 punishment." Gov. Code § 3303. See also, *Caloca v. County of San Diego*, 72 Cal.App.4th 1209
9 (1999).

10 6. The Bill of Rights Act grants to peace officers a series of rights with respect to the
11 investigation and interrogation of the peace officer which could lead to punitive action, including
12 *inter alia* the following:

- 13 a. The right to have the interrogation conducted at a reasonable hour (Gov.
14 Code § 3303(a));
- 15 b. The right to be informed prior to the interrogation of the rank, name and
16 command of the person in charge of the interrogation, the interrogating
17 officers and all other persons to be present during the interrogation (Gov. Code §
18 3303(b));
- 19 c. The right to have all questions asked during the interrogation asked by and
20 through no more than two interrogators at one time (Gov. Code § 3303(b));
- 21 d. The right of the officer under interrogation not to be subjected to visits by
22 the press or news media without the officer's express consent (Gov. Code §
23 3303(e));
- 24 e. The right to have an investigation related to allegations of misconduct
25 completed within one year (Gov. Code § 3304);
- 26 e. The right to an administrative appeal of any punitive action. Gov. Code §
27 3304(b).

28 7. Sworn peace officer employees of the CITY are also entitled to the rights and
protections pursuant to Penal Code §§ 832.7, which provides that peace officer personnel records
are confidential and shall not to be disclosed except in certain, limited circumstances.

8. Penal Code § 832.8 defines "personnel records" to include, *inter alia*, complaints
or investigations of complaints concerning an event or transaction in which a peace officer

APPENDIX E

1 participated or which the peace officer perceived, and pertaining to the manner in which the peace
2 officer performed his or her duties.

3 9. The CPRB was created by CITY Ordinance No. 12454, pursuant to section 601 of
4 the Charter of the City of Oakland, to investigate and review certain complaints regarding the
5 conduct of Oakland police officers and deliver reports to the City Manager, including
6 recommended dispositions on the cases. The CPRB also can provide policy review functions and
7 present policy recommendations to the CITY. A copy of CITY Ordinance No. 12454 is attached
8 hereto as Exhibit "A" and incorporated herein by reference as though fully set forth.

9 10. Pursuant to the authority vested in the CPRB by CITY Ordinance No. 12454, the
10 CPRB has established rules and procedures for the conduct of its business. A copy of rules and
11 procedures are attached hereto as Exhibit "B" and incorporated herein.

12 11. The CPRB can also exercise jurisdiction over all citizen complaints concerning the
13 conduct of Oakland Police Officers and Park Rangers that are filed with the Board or with the
14 Oakland Police Department. CITY Ordinance No. 12454 at Section 5(A).

15 12. The CPRB then conducts an investigation of the citizen complaint over which it has
16 jurisdiction, and refers the complaint to a hearing at which evidence is taken and testimony is
17 provided.

18 13. All CPRB Hearings are open to the public.

19 14. Oakland police officers who are members of the OPOA are required to provide
20 public testimony to the CPRB regarding the allegations of misconduct filed against them.

21 15. Witnesses, including any police officers who are the subject of the complaint of
22 misconduct, are subject to questioning by any or all members of the CPRB Board of Inquiry and
23 the parties or their representative. Indeed, Steps 14 through 18 of the CPRB Administrative
24 Hearing Procedures provide:

25 Step 14: One Subject Officer is called forward and sworn in by the Hearing
Officer.

26 Step 15: The Hearing Officer may ask questions of the Officer.

27 Step 16: The Complainant or his/her representative may ask questions of the
28 Officer.

1 perform the duty mentioned above. Notwithstanding such ability and despite the OPOA's demand
2 for the performance of the duty, Respondents and Defendants fail and refuse, and continue to fail
3 and refuse to perform such duty.

4 34. The OPOA has no plain, speedy and adequate remedy in the ordinary course of law,
5 other than the relief sought in this petition, in that money damages are inadequate to compensate
6 the OPOA and the employees represented by the OPOA for the loss of their rights under the Bill of
7 Rights Act.

8 THIRD CAUSE OF ACTION

9 PETITION FOR WRIT OF MANDATE 10 (Code of Civil Procedure § 1085)

11 35. Petitioner and Plaintiff realleges and hereby incorporates by reference Paragraphs 1
12 through 34, inclusive, as though fully set forth at length in this cause of action.

13 36. Pursuant to Penal Code § 832.7, Respondents and Defendants have a clear, present
14 and ministerial duty not to disclose personnel records of peace officers absent compliance with
15 Evid. Code §§ 1043-1047.

16 37. Pursuant to Penal Code § 832.8, confidential personnel records include
17 "Complaints or investigations of complaints, concerning an event or transaction in which [the
18 peace officer] perceived, and pertaining to the manner in which he or she performed his or her
19 duties."

20 38. Notwithstanding the obligations of Penal Code § 832.7 and § 832.8, the CITY
21 holds public hearings on allegations of misconduct, and also makes public the complaints,
22 investigations, findings, dispositions and recommended disciplines related to complaints of
23 misconduct filed against OPOA members who are sworn officers of the CITY police department.
24 See, *Davis v. City of San Diego*, 106 Cal. App. 4th 893 (2003). See also Exhibit C at pages 3-4.

25 39. Penal Code § 832.7(c) also prohibits the dissemination of data "regarding the
26 number, type, or disposition of complaints (sustained, not sustained, exonerated or unfounded)"
27 when such data is in a form which identifies the individual officer(s) involved.

28 40. Notwithstanding the mandates of Penal Code § 832.7(c), the CPRB publishes an

1 Annual Report that identifies the number, type and disposition of complaints against individual
2 peace officers employed by the CITY. A true and correct copy of the 2003 CPRB Annual Report
3 is attached hereto as Exhibit "D". Examples of improper references can be found at pages 20, a
4 47-48. See also Exhibit C at pages 3-4.

5 41. The OPOA is beneficially interested in the issuance of the writ, in that the
6 employees it represents should receive the rights to which they are entitled pursuant to Penal Code
7 § 832.7 through this action.

8 42. At all time herein mentioned, Respondents and Defendants have been able to
9 perform the duty mentioned above. Notwithstanding such ability and despite the OPOA's demand
10 for the performance of the duty, Respondents and Defendants fail and refuse, and continue to fail
11 and refuse to perform such duty.

12 43. The OPOA has no plain, speedy and adequate remedy in the ordinary course of law,
13 other than the relief sought in this petition, in that money damages are inadequate or unavailable to
14 compensate the employees represented by the OPOA for the loss of their rights under Penal Code
15 § 832.7.

16 FOURTH CAUSE OF ACTION

17 COMPLAINT FOR DECLARATORY RELIEF 18 (Code of Civil Procedure § 1060)

19 44. Petitioner and Plaintiff realleges and hereby incorporates by reference Paragraphs 1
20 through 43, inclusive, as though fully set forth at length in this cause of action.

21 45. An actual controversy has arisen and now exists between Plaintiff OPOA and
22 Defendants concerning their respective rights and duties in that the OPOA contends that its
23 members are entitled to an administrative appeal pursuant to Gov. Code § 3304(b) following the
24 filing of CPRB findings and that such a hearing is required to be a full evidentiary hearing,
25 whereas Defendants dispute these contentions and contend that no hearing is required or that any
26 such hearing, if in fact required, need not be a full evidentiary hearing.

27 46. Plaintiff OPOA desires a judicial determination of its rights and duties, and the
28 right and duties of the employees it represents, and a declaration as to whether an administrative

1 appeal is required pursuant to Gov. Code § 3304(b) following the filing of CPRB findings and that
2 such a hearing be a full evidentiary hearing.

3 47. A judicial declaration is necessary and appropriate at this time under the
4 circumstances in order that Plaintiff OPOA may ascertain its rights and duties and the rights and
5 duties of the employees it represents under Gov. Code § 3304(b).

6 48. Lack of a judicial determination as to the rights and duties of the OPOA and the
7 employees it represents has resulted in or may result in the loss of valuable rights to the OPOA and
8 to the employees it represents.

9 49. The OPOA is entitled to bring this action directly pursuant to Gov. Code § 3309.5,
10 which grants to the Superior Court initial jurisdiction over any proceeding alleging violations of
11 the Bill of Rights Act.

12 FIFTH CAUSE OF ACTION

13 COMPLAINT FOR DECLARATORY RELIEF 14 (Code of Civil Procedure § 1060)

15 50. Petitioner and Plaintiff realleges and hereby incorporates by reference Paragraphs 1
16 through 49, inclusive, as though fully set forth at length in this cause of action.

17 51. An actual controversy has arisen and now exists between Plaintiff OPOA and
18 Defendants concerning their respective rights and duties in that the OPOA contends that the CPRB
19 cannot make public its complaints, investigations, hearings, findings, or dispositions, and CITY
20 disagrees.

21 52. Plaintiff OPOA desires a judicial determination of its rights and duties, and the
22 right and duties of the employees it represents, and a declaration as to whether Penal Code section
23 832.7 compels the confidentiality fo CPRB proceedings. A judicial declaration is necessary and
24 appropriate at this time under the circumstances in order that Plaintiff OPOA may ascertain its
25 rights and duties and the rights and duties of the employees it represents under Pena Code section
26 832.7.

27 53. Lack of a judicial determination as to the rights and duties of the OPOA and the
28 employees it represents has resulted in or may result in the loss of valuable rights to the OPOA and

1 to the employees it represents.

2 **WHEREFORE,** Petitioner and Plaintiff prays:

3 1. That the court issue a peremptory writ in the first instance commanding
4 Respondents and Defendants to afford to all peace officer employees represented by the OPOA all
5 of the rights and protections afforded to such peace officers under the Bill of Rights Act, including
6 but not limited to:

- 7 a. The right to have the interrogation conducted at a reasonable hour (Gov.
8 Code § 3303(a));
- 9 b. The right to be informed prior to the interrogation of the rank, name and
10 command of the person in charge of the interrogation, the interrogating
11 officers and all other persons to be present during the interrogation (Gov.
12 Code § 3303(b));
- 13 c. The right to have all questions asked during the interrogation asked by and
14 through no more than two interrogators at one time (Gov. Code § 3303(b));
- 15 d. The right of the officer under interrogation not to be subjected to visits by
16 the press or news media without the officer's express consent (Gov. Code §
17 3303(e));
- 18 e. The right to have an investigation related to allegations of misconduct
19 completed within one year (Gov. Code §3304);
- 20 f. The right to an administrative appeal of any punitive action. Gov. Code §
21 3304(b).

22 2. That the court issue a peremptory writ in the first instance commanding
23 Respondents and Defendants to comply with the requirements of Penal Code § 832.7;

24 3. For a declaration that the peace officer employees represented by Plaintiff OPOA
25 are entitled to an administrative appeal pursuant to Gov. Code § 3304(b) of any findings by the
26 CPRB and that such hearing shall be a full evidentiary hearing and that the burden of proof is on
27 the City with respect to whether the findings are supported by clear and convincing evidence.

28 4. For a declaration that the peace officer employees represented by Plaintiff OPOA
are entitled to closed, non-public proceedings on complaints of misconduct filed by the CPRB
pursuant to Penal Code § 832.7;

5. For damages pursuant to Government Code section 3309.5;

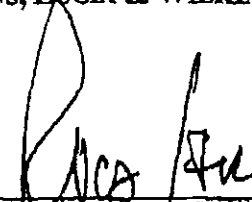
6. For reasonable attorney's fees pursuant to Code Civ. Proc. § 1021.5 or otherwise;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 7 For costs of suit incurred herein; and
- 8. For such other and further relief as the court may deem proper.

Dated: 7/19/04

Respectfully submitted,
RAINS, LUCIA & WILKINSON LLP


 By: Alison Berry Wilkinson
 Attorney for Petitioner/Plaintiff OAKLAND
 POLICE OFFICERS ASSOCIATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Robert Valladon, am the duly elected president of the Oakland Police Officers Association, petitioner and plaintiff in this proceeding. I am authorized to and do make this verification on behalf of the Oakland Police Officers Association.

I have read the foregoing petition and know its contents. The facts stated therein are true and are within my personal knowledge, except as to those matters stated on information and belief and as to those, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 7/19/08


Robert Valladon



Please respond to Pleasant Hill office

July 29, 2004

VIA FACSIMILE [510/238-2251] & U.S. MAIL.

Richard Word
Chief of Police
Oakland Police Department
455 7th Street
Oakland, CA 94607

Re: OPOA - CPRB Grievance/ Immediate Dispute Resolution

Dear Chief Word:

As you know, our client, the Oakland Police Officers' Association ("OPOA") has objected to the Citizens Police Review Board ("CPRB") conducting public hearings on matters that are the subject of litigation. In particular, the CPRB conducts hearings on cases where governmental tort claims have been filed with the City. The Department has ordered officers to appear and testify at these hearings.

The OPOA has made its position very clear to the CPRB in a public forum, as well as in communications with your office, the City Administrator's office and the CPRB Executive Director. Despite the OPOA's protestations concerning its members testifying in matters subject to litigation, you have specifically ordered sworn members of the Department to appear at the CPRB hearing set for today, July 29th. In that regard, the Department has ordered Officers Donald Koch, Emelington Reese, Albert Smith and Sgt. James Beal to testify at the hearing later today. We have also been advised that a claim has been filed on the case as well.

Despite the fact that the OPOA made overtures to have this dispute resolved through less formal means, it now appears that the City is standing by the legal opinion of the CPRB legal counsel, Tony Lawson and insisting that the filing of a tort claim does not cause a CPRB case to be the "subject of litigation."

It is my understanding that the Oakland City Attorney's office has concurred in Mr. Lawson's legal opinion and has not rendered a separate and independent legal opinion on the matter. I should also note that the OPOA, nor this office have received any formal legal opinion disputing the OPOA's position that the filing of a claim draws the matter into litigation and, therefore, precludes testimony to be offered by officers.

In light of the fact that you have issued a direct order to the aforementioned Officers, and that order contradicts Oakland City Ordinance No. 12454, in particular Section 6G.(10)(b), the OPOA challenges the validity of the underlying order.

Pleasant Hill
2300 Conew Coast Boulevard, Suite 230
Pleasant Hill, CA 94523
PH: 925.609.1699 FX: 925.609.1690

Sacramento
2485 National Park Drive, Suite 340
Sacramento, CA 95833
PH: 916.644.2860 FX: 916.646.2461

San Jose
333 West Santa Clara Street, Suite 800
San Jose, CA 95113
PH: 408.287.3803 FX: 408.286.3161

San Jose
2300 Alameda Drive, Suite 1
San Jose, CA 95108
PH: 408.678.8056 FX: 408.536.4018

ATTACHMENT
5

Richard Word
July 29, 2004
Page 2

Pursuant to the provisions of the Memorandum of Understanding between the City of Oakland and the Oakland Police Officers' Association (effective July 1, 2001 through June 30, 2006) ("MOU"), the OPOA hereby formally grieves the above-referenced order. Article IX "Grievance Procedure" Section A, defines grievance as a dispute which involves the interpretation or application of a Departmental rule or order. In this case, the order to have the Officers appear and testify is such an order.

Also be advised that pursuant to Article IX, Subsection E of the MOU, the OPOA formally invokes the "immediate dispute resolution" provision and therefore the order shall be stayed "pending discussion/review." This grievance affects the Association and a substantial number of its members. We further request that the dispute proceed to "immediate resolution discussions" with yourself and the Employee Relations Officer. Finally, the OPOA formally requests suspension of the grievance procedure identified in Section 3 of Article IX.

In furtherance of the immediate dispute resolution provisions of the MOU, we are prepared to move toward the selection of an arbitrator and secure arbitration dates. We will await the response from you, the Employee Relations Officer, or the City Attorney's office to jointly develop the selection procedure for the arbitrator.

Finally, in light of our recent discussions with your office, I would also like to confirm that the aforementioned members of OPOA shall not be ordered to appear at the CPRB hearing scheduled for later today pending resolution of this grievance.

Thank you for your attention to this matter.

Very truly yours,

RAINS, LUCIA & WILKINSON LLP



Rockne A. Lucia, Jr.

RAL:sjs

cc: Robert Valladon, President OPOA
Deborah Edgerly, Chief Administrative Officer
John Russo, City Attorney
Joyce Hicks, CPRB
Donald Koch
Emelington Reese
Albert Smith
James Beal

Memorandum of Understanding between the City of Oakland and the Oakland Police Officers Association, July 1, 2001 through June 30, 2006, Article IX, section E:

Immediate Dispute Resolution. In the event there is a dispute regarding the interpretation or application of this Agreement that imminently affects the Association or a substantial number of members represented by the Association, either the City or the Association may upon written notice request suspension of the grievance process as described in Section 3 of this Article and proceed to immediate resolution discussions with the Chief of Police and the Employee Relations Officer. Such discussions shall be concluded within forty-five (45) days of the date of the initial request for same and the action which prompted the request for immediate dispute resolution shall be stayed, pending discussion/conclusion.

Should the dispute still not be resolved, it may be submitted directly to an arbitrator selected in accordance with the procedure detailed below.

Immediately upon receipt of the written notice as specified above, the City and the OPOA agree to expedite the selection of an arbitrator and arbitration date. The OPOA and City agree to jointly develop the selection procedures to be utilized.

An arbitrator to hear such case shall be selected by the parties from a panel of four (4) professional neutral arbitrators, two (2) submitted by each party when proceeding to arbitration pursuant to this section. The first arbitrator, selected at random, available within a forty-eight (48) hour period shall be selected.

In any such case the arbitrator shall have no power to add to or to subtract from the provisions of this Agreement, the Personnel Rules, or departmental rules or orders in rendering his/her award. Pending prompt and immediate decision of the arbitrator, the stay of intended action giving rise to the dispute shall continue in effect.

It is expressly understood and agreed that the provisions of this Section shall not be invoked for actions involving individual employee disciplinary actions or grievances. In addition, the OPOA agrees to limit to five (5) in any twelve (12) month period, the number of grievances which may be filed under the Immediate Dispute Resolution.

April 29, 2004

Joyce Hicks
Executive Director
Citizens' Police Review Board
Oakland, CA 94612

Re: **Tort Claims Act/Complaint Filing**

Dear Ms. Hicks:

Pursuant to your request, I have drafted the below memorandum addressing whether the filing of a claim with the City in accordance with the Tort Claims Act constitutes the commencement of litigation.

BACKGROUND

At the March 25, 2004 CPRB hearing, counsel for the subject officers requested that the hearing be cancelled because the complainant had filed a claim with the City pursuant to the Torts Claims Act. Counsel argued that the filing a claim with the City is tantamount to the filing of litigation and therefore the CPRB was precluded from hearing the case. As Board Counsel, I responded that the filing of a claim with the City does not commence "litigation" and is merely a precursor to litigation. I further advised that the purpose of a Tort Claim filing is to put the

¹Ordinance No. 12444 C.M.S. Section 6(G)(10) states that "Cases that are (stet) subject of litigation will be investigated but not brought to hearing while the litigation is pending."

public agency on notice of possible litigation and persons filing Tort Claims do not necessarily file lawsuits.

Although she offered no legal authority for her position, Counsel for the subject officers advised her clients to walk out of the hearing and they did so.

Because of the subject officers' actions and position of its counsel, the CPRB has requested that I research whether filing of a notice pursuant to the Tort Claims Act precludes a CPRB hearing on the matter.

BRIEF SUMMARY

As discussed more fully below, the filing of a claim pursuant to the Tort Claims Act does not constitute "pending litigation." Filing a claim with the City or appropriate public entity is merely a procedural requirement precedent to the filing of a lawsuit. The purpose of the Tort Claims Act is to provide public agencies with notice of potential litigation. Early notice provides an opportunity for the agency to settle the claim before litigation or budget for possible expenses incurred in litigation.

DISCUSSION

A. City Ordinance

The authority of Oakland's Police Review Board is governed by City Ordinance No. 12444 C.M.S. which states, in part:

The Board will provide policy direction to staff for determining case priority. Using those policy guidelines, staff will assign a priority to all complaints. **Cases that are [the] subject of litigation will be investigated but not brought to hearing while the litigation is pending.**

Ordinance NO. 12444 C.M.S. Section 6 (G)(10)(emphasis added).

The crucial passage for purposes of this memorandum is the determination as to when litigation is "pending."

B. Tort Claims Act

Before 1963, there was a disorderly array of decisional law and scattered statutes concerning government tort liability. In 1963, the legislature enacted several interrelated statutory provisions effective September 20, 1963. Although these provisions were not given a 'short title' by the legislature, they have become known as the Tort Claims Act" (Cal. Government Tort Liability Practice (Cont.Ed.Bar 1992) § 2.1, pp. 69-70.)

The Tort Claims Act "was enacted in six separate legislative measures: [¶] Substantive liabilities and immunities of public entities and employees were treated principally in Stats 1963, ch 1681, which enacted Govt C §§ 810-895.8 [¶] *Procedural provisions for claims presentation, actions and judgments concerning public entities and public employees were enacted by Stats 1963, ch 1715 as Govt C §§ 900-978.8, together with conforming amendments and repeals* . These sections constitute Govt C Title 1, Div. 3.6, pts. 3-5.... [¶] Insurance coverage against tort liability of public entities and public employees was authorized by Stats 1963, ch 1682, which enacted Govt C §§ 989-991.2 and 11007.4, ... [¶] The defense of public employees in tort actions arising out of their official duties was the subject of Stats 1963, ch 1683, which enacted Govt C §§ 995-996.6 [¶] Workers' compensation benefits for persons assisting in law enforcement and fire suppression were provided by Stats 1963, ch 1684, which added Lab C §§ 3365-3366 [¶] A formal procedure for maintaining a 'Roster of Public Agencies,' applicable to local entities other than cities and counties and affecting claims presentation and service of process, was enacted by Stats 1963, ch 1805, which added Govt C §§ 945.5, 960-960.5, and 53050-53052." (Cal. Government Liability Practice, *supra* , § 2.5, pp. 73-74, italics added.)

These statutory provisions, covering a range of diverse topics, have been referred to collectively as the Tort Claims Act.

Pursuant to section 911.2, claims against local governmental entities are required to be presented to the relevant entity within six months (personal injury or property damage) or one year (other causes of action) of the date of accrual of the cause of action. "The public entity has 45 days to grant or deny the claim; if the claim is not acted upon within 45 days, it is deemed rejected. (§ 912.4.) If written notice of rejection is sent, suit must be brought within six months. (§ 945.6, subd. (a)(1).) If no written notice is given, the claimant is allowed two years from the accrual date to file the suit. (§ 945.6, subd. (a)(2).)" (*Chalmers v. County of Los Angeles* (1985) 175 Cal.App.3d 461, 464 [221 Cal.Rptr. 19].)

Section 910 directs that a claim must show (1) the name and address of the claimant, (2) the address to which notices are to be sent, (3) the date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted, (4) a general description of the indebtedness, obligation, injury, damage or loss incurred, (5) the name or names of the public employee or employees causing the injury, damage, or loss,

APPENDIX G

and (6) the amount claimed if it totals less than \$10,000. The claim should be presented to the clerk, secretary or auditor of the relevant public entity. (§ 915.)

The purpose of the claims presentation requirement is to facilitate early investigation of disputes and settlement without trial if appropriate, as well as to enable the public entity to engage in fiscal planning for potential liabilities and to avoid similar liabilities in the future. (*Phillips v. Desert Hospital Dist.* (1989) 49 Cal.3d 699, 709 [263 Cal.Rptr. 119, 780 P.2d 349]; *Loehr v. Ventura County Community College Dist.* (1983) 147 Cal.App.3d 1071, 1079 [195 Cal.Rptr. 576].)

C. The Filing of A Tort Claim Does Not Commence Litigation

The Tort Claims Act specifically states that once a public agency rejects a filed claim, “suit must be brought within six months. (§ 945.6, subd. (a)(1).)” The clear implication is that the filing of the tort claim is not itself a lawsuit. This conclusion is supported by case authority.

In *Bahten v. County of Merced* (1976) 59 Cal.App.3d 101, the Court held that “Compliance with the Tort Claims Act is a Procedural Prerequisite; {Slip Opn. Page 4} It neither creates nor is an element of a cause of action for tort against a government entity.” *Id* at p. 107. Other cases have agreed. “[C]ompliance with the tort claims prerequisites, being merely a procedural prerequisite to suit and not an element of a cause of action, need not be alleged in the complaint.” *Bell v. Tri-City Hospital Dist.* (1987) 196 Cal.App.3d 438.

Further, as noted in *Wurts v. County of Fresno* (1996) 44 Cal.App.4th 380, “the filing of a tort claim with the involved agency does not necessarily evidence an intent to sue. A potential plaintiff may for any number of reason decide not to pursue a lawsuit against the public entity after a claim has been made or denied, perhaps because of an intervening favorable settlement with another potential defendant or a more informed or revised conclusion about the likelihood of succeeding in a lawsuit against the agency. *Id* at 386.

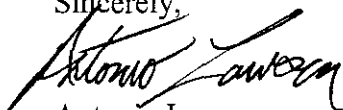
Finally, courts have dismissed lawsuits as untimely for failure to file a complaint within the time prescribed by the Tort Claims Act. In *Chase v. State of California* (1977) 67 Cal.App.3d 808, plaintiff filed a timely claim under the Tort Claims Act for damages for personal injuries alleged to have resulted from the State’s negligence. Plaintiff’s claim was rejected by the State Board of Control. The State then issued notice to plaintiff that he had six months to file a lawsuit as proscribed by the Torts Claim Act. Plaintiff filed a complaint within the six month time deadline, however, he failed to name the State as a defendant. Subsequently, plaintiff sought to amend his complaint, after the six month deadline, and add the State as a defendant. Plaintiff’s claim against the State was rejected as untimely. The Court found that plaintiff did not commence an action against the State within the six month period. *Id* at 813.

The *Chase* decision is consistent with *Bahten* and *Bell*. The filing of a tort claim does not commence litigation.

CONCLUSION

The Oakland City Ordinance empowering the CPRB restricts hearing those cases that are the subject of pending litigation. As stated by the Tort Claims Act and confirmed by interpreting cases, litigation does not commence with the filing of a tort claim. Litigation is pending only when a civil complaint is filed in Court. Therefore, as written, City Ordinance No. 12444 C.M.S. does not preclude the CPRB from hearing cases where a tort claim has been filed.

Sincerely,


Antonio Lawson

Joyce M. Hicks, Esq.
Executive Director
City of Oakland Citizens' Police Review Board
© Joyce M. Hicks for the City of Oakland 2004

**PREPARING CIVILIAN POLICE REVIEW BOARDS FOR CHALLENGES OF THE
21ST CENTURY – OAKLAND, CALIFORNIA'S STORY**

**I. UNDERSTANDING THE HISTORICAL CONTEXT OF A JURISDICTION'S
OVERSIGHT MODEL**

A. The Board's Creation

1. Generally, a defining moment such as an excessive use of force by law enforcement which shocks the conscience and serves as a rallying point for citizens to demand civilian oversight
2. Often a series of community meetings demanding the local legislature to enact legislation creating a board or commission to provide oversight of law enforcement
3. Social environment -Lionel Wilson – Oakland's first African American Mayor
4. Oakland's rallying point was the shooting deaths of African American men by the Oakland police in the late 70's
 - a. Charles Briscoe shooting death
 - b. Melvin Black shooting death
 - c. Burris Report
5. Oakland's first Citizens' Police Review Board (hereinafter "CPRB" or "Board") created by Oakland City Council ordinance on April 15, 1980

B. The Board's Evolution as an Evidentiary Hearing Model

1. Oakland's first review board created April 15, 1980 was temporary with a one year sunset
 - a. Purpose: Advisory
 - b. Members: 7
 - c. Meetings: At least once a month
 - d. Term: One year
 - e. Jurisdiction
 - 1) Concurrent original jurisdiction (with Police Chief) on excessive use of force complaints
 - 2) Appellate jurisdiction on all other complaints
 - f. Subpoena Power
 - 1) Over civilian witnesses
 - 2) None over police officers
 - g. City Manager to seek cooperation of police officers
 - h. Informal hearing process
 - 1) Direct examination by Board
 - 2) No cross examination

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California's Story
 © Joyce M. Hicks for the City of Oakland 2004
 Page 2 of 8

- 3) Written findings required
 - 4) Standard of Proof: preponderance of evidence
 - i. Police Department records to be made available to the Board
- 2. CPRB made permanent in 1993
 Changes implemented:
 - a. Informal hearing process
 - 1) Parties allowed direct and cross examination of witnesses
 - 2) Board chair acts as hearing officer
 - b. Police Department representative to review policies, practices and training materials with Board
 - c. City Manager to provide appropriate staff to Board
- 3. CPRB's Jurisdiction Expanded in 1996
 Changes implemented:
 - a. Members: 9
 - 1) Must attend Citizens Police Academy
 - 2) Must complete ride-along program
 - b. Term: Two-years
 - c. Jurisdiction increased to include communication of bias based upon an individual's legally protected status (race, gender, national origin, religion, sexual orientation or disability)
 - d. 120-day statute of limitations for filing complaints
 - e. Subpoena power over officers
 - f. Chief to order officers to cooperate
 - g. Authority to mediate final and binding resolution of complaints
 - h. Informal hearing process
 - 1) Direct examination eliminated
 - 2) Cross examination allowed
 - 3) Written findings required
 - 4) Board's attorney hearing officer
 - i. Police records available to Board except police officer personnel records
 - j. Existing staff identified
 - 1) At least one investigator
 - 2) An attorney representing the City Attorney to act as hearing officer
- 4. CPRB Jurisdiction Experiences Additional Expansion in 2002
 Changes implemented:
 - a. Members: 9 plus 3 alternates
 - b. Meetings: At least twice a month
 - c. Jurisdiction:
 - 1) Full jurisdiction over all complaints
 - 2) Eliminated original and appellate jurisdiction

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California’s Story
 © Joyce M. Hicks for the City of Oakland 2004
 Page 3 of 8

- d. Eliminated 120-day statute of limitations
- e. 3-member panel hearing process as an alternative
- f. Expanded staff
 - 1) One investigator per 100 police officers as budget permits
 - 2) Policy Analyst
 - 3) Non-City Attorney legal advisor to act as hearing officer
- g. Staff may independently recommend disposition of cases to City Administrator
- h. Ordinance Number 12454 C.M.S. adopted November 12, 2002 available online (see Resources, page 8)

II. INCREASED ATTENTION ON POLICE PRACTICES GENERATES INCREASED RESISTANCE TO CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

- A. *Delphine Allen v. City of Oakland* C00-4599 TEH (JL) U.S. District Court, Northern District of California (otherwise known as the Riders litigation)
 - 1. Section 1983 lawsuit alleging Oakland Police Department (hereinafter “OPD”) civil rights violations
 - a. Deliberate indifference, ratification and or encouragement of ongoing practice of misconduct by defendant officers to violate plaintiffs’ civil rights
 - b. Deliberate indifference and or negligent in hiring, training, supervision and discipline
 - 2. Negotiated settlement agreement overseen by United States District Court Judge Thelton Henderson approved on January 22, 2003
 - a. Five year term with additional 2-year extension if monitors deem necessary
 - b. Mandates significant changes in OPD practices
 - c. Implementation overseen by outside monitors
- B. *Oakland Police Officers Association v. City of Oakland and City of Oakland Citizens’ Police Review Board* #G04166653, Alameda County Superior Court – July 21, 2004
 - 1. Petition for writ of mandamus and declaratory relief seeking court’s declaration that Oakland Citizens’ Police Review Board (hereinafter “CPRB”) practices violate Public Safety Officer’s Procedural Bill of Rights (California Government Code §§ 3300 *et. seq.*)
 - 2. If successful, would change current practices by:
 - a. Terminating public hearings and requiring closed hearings
 - b. Limiting OPD information in annual reports
 - c. Limiting questioning of officers to two Board members (currently 9 Board members may question officers)

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California's Story
© Joyce M. Hicks for the City of Oakland 2004
Page 4 of 8

- d. Requiring an appeal of CPRB findings and recommendations regarding misconduct and proposed discipline
- C. Oakland Police Officers Association demand for immediate dispute resolution on July 29, 2004
 - 1. Seeking grievance remedy under OPOA Memorandum of Understanding with City of Oakland
 - 2. If successful, would preclude the Board from hearing complaints where tort claims have been filed

III. INCREASED RESISTANCE TO CIVILIAN OVERSIGHT MANDATES A WELL-TRAINED AND WELL PREPARED BOARD

- A. Role of the Mayor
 - 1. Provides citywide policy direction
 - 2. Directs City Administrator
 - 3. Directs Police Chief
 - 4. Appoints Board members subject to City Council confirmation
- B. Role of City Council
 - 1. Sets policy through adoption of ordinances and resolutions
 - 2. City Council Public Safety Committee – oversees implementation of CPRB ordinance
 - 3. Confirms Mayoral appointments to Board
- C. Role of City Administrator
 - 1. Attends selected Board meetings
 - 2. Directs CPRB Executive Director and Police Chief
 - 3. Considers and imposes discipline recommended by the Board
- D. Role of Police Chief
 - 1. Attends board hearings on major policy matters, annual and semi annual reports
 - 2. Interacts with Executive Director on an ongoing basis
 - 3. Provides access to internal task forces and working groups
 - 4. Considers and imposes discipline recommended by the Board
- E. Role of the Oakland Citizens' Police Review Board
 - 1. Resolves complaints filed with the Board
 - a. Evidentiary Hearings
 - 1) Findings on misconduct
 - 2) Recommendations on discipline
 - b. Administrative Closures
 - 2. Conducts policy hearings

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California's Story
© Joyce M. Hicks for the City of Oakland 2004
Page 5 of 8

- F. Role of CPRB Executive Director
 - 1. Manages day to day affairs of office
 - a. Supervises investigators
 - 1) Prioritizes and oversees investigations
 - 2) Finalizes Reports of Investigation
 - b. Supervises Policy Analyst who maintains database and drafts annual and semi annual reports
 - c. Creates agenda for Board hearings
 - 2. Organizes board training
 - a. Creates training opportunities at regular and special meetings
 - b. Engages in on the job training during Board deliberations
 - c. Provides orientation to Board members
 - 3. Media liaison for the Board
 - 4. Liaison with all stakeholders
 - a. Mayor
 - b. City Council
 - c. Board members
 - d. Board Counsel
 - e. City Administrator
 - f. Police Chief
 - g. Command staff
 - h. Internal Affairs Division
 - i. Community groups
 - j. Police Union
 - k. City Attorney
 - l. Independent Monitors
 - 5. Attends hearings
 - a. Provides guidance during hearings
 - 1) Open meeting laws
 - 2) Public records
 - b. Advises on recent developments
 - c. Clarifies policies and procedures during closed deliberations and advises of past board decisions
- G. Role of Board Counsel
 - 1. Hearing officer
 - a. Swears witness
 - b. Makes evidentiary rulings
 - c. Provides legal advice during closed deliberations
 - 2. Provides Legal Opinions
 - 3. Conducts training
- H. Role of CPRB Policy Analyst/Outreach Coordinator
 - 1. Drafts annual and semi annual reports
 - 2. Creates and maintains database

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California's Story
 © Joyce M. Hicks for the City of Oakland 2004
 Page 6 of 8

3. Key member of task forces and working groups
4. Analyzes Police Department policies and procedures and recommends changes thereto

I. Role of CPRB Complaint Investigators

1. Interview complainants, officers, witnesses
2. Research OPD policies and legal issues
3. Analyze testimonial, documentary and other evidence
4. Prepare for hearings and Investigation Reports
5. Summarize investigations at hearing
6. Clarify issues during closed deliberations
7. Gather and analyze case data for Policy Analyst

J. Role of Police Union

1. Represent officers at interviews and hearings
2. Ensure officers are treated fairly during the investigation process

K. Role of Community Groups

1. Provide input for complainants to all stakeholders
2. Attend Board hearings
3. Coordinate representation for unrepresented complainants

L. Role of City Attorney

1. Provides legal opinions
2. Defends City of Oakland and CPRB in litigation

IV. BASIC TOOLS

A. Orientation for new board members

1. One on one or groups of less than a quorum with Executive Director
2. Materials Review
 - a. Binder with key documents
 - 1) Enabling legislation
 - 2) Investigation reports
 - 3) Open meeting laws
 - 4) Categories of discipline
 - 5) Types of findings
 - 6) State legislation regarding officers' rights
 - 7) Laws and regulations
 - b. Annual and Semi-annual reports
 - c. Videotapes of prior meetings and hearings

B. Citizen Police Academy Conducted by OPD at Police Department facilities – Mandated by CPRB ordinance, as budget permits

C. Police Ride-along
 Mandated by CPRB ordinance

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California's Story
© Joyce M. Hicks for the City of Oakland 2004
Page 7 of 8

- D. Lectures during regular or special meetings
 - 1. Board Counsel-The art of cross-examination
 - 2. Police Department-Laws of arrest, search and seizure
 - 3. Police Department-Use of force policies
 - 4. Outside experts-Crowd control policies
 - E. On the Job Training
 - 1. Evidentiary Hearings
 - a. Live testimony
 - b. Well documented reports of investigation that include relevant laws, policies and procedures as attachments
 - c. Legal interpretation by Board counsel
 - 2. Policy Hearings
 - a. Opportunity to educate Board members on police practices
 - 1) Invite experts in the field
 - 2) Invite civilians who have been subject to policies
 - b. Provides Board an opportunity to recommend changes to police practices
 - F. Board Retreats
 - 1. Include stakeholders
 - a. Board members
 - b. Board staff
 - c. Community groups
 - d. City Administrator
 - e. Police Chief
 - f. Police Union
 - 2. Identify areas of consensus and disagreement
 - 3. Develop or revisit mission statement
 - 4. Can engender more effective working relationships
- V. **PLANNING FOR THE FUTURE**
- A. Training is key to a Board's success
 - 1. Credibility and expertise are always an issue when civilians oversee law enforcement practices
 - 2. Informed decisions are respected decisions
 - 3. Identify core competencies for your board and focus on those for training
 - B. Maintain communication with stakeholders and incorporate them into your training
 - C. Understand your jurisdiction's history
 - D. Understand your jurisdiction's politics

Preparing Civilian Police Review Boards For Challenges Of The 21st Century—Oakland, California's Story
© Joyce M. Hicks for the City of Oakland 2004
Page 8 of 8

RESOURCES

City of Oakland, Citizens' Police Review Board web site:

<http://www.oaklandnet.com/government/citizens/homepage.html>

Ordinance Number 12454 C.M.S.:

<http://www.oaklandnet.com/government/citizens/CPRBOrdinance12NOV2002.pdf>

Delphine Allen v. City of Oakland, Settlement Agreement:

<http://www.oaklandpolice.com/agree/agree.html>

CPRB Annual Reports:

<http://www.oaklandnet.com/government/citizens/reports.html>

Board Member Attendance

Meeting date	Alternate Anderson	Andrews	Batarse	Cheung	Dishmon	Hubartt	Jefferson	Loveday	Montgomery	Alternate Radlow	Raffanti	Salahu-Din	Thomas	Walker	Wan
01/08/2004		Yes	Yes	Yes		Yes		Yes			Excused	Yes	Yes	Yes	
*01/22/2004		No	No	No		Yes		No			No	Yes	No	Yes	
*01/29/2004		Yes	No	No		No		No			Yes	Yes	No	No	
02/05/2004		Yes	Yes	Excused		Yes		Yes			Yes	Excused	Yes	Yes	
02/26/2004		Yes	Yes	Yes	Excused			Excused	Yes	Yes			Yes	Yes	
03/06/2004		Yes	Yes	Yes	Yes			Yes	Yes	Yes			Yes	Excused	
03/25/2004		Excused	Yes	Yes	Yes			Yes	Yes	Yes			Yes	Excused	
*04/08/2004		No	Yes	No	Yes		No	No	Yes	No			No	No	
*04/15/2004		Yes	No	Yes	No		No	No	No	No			Yes	No	
04/22/2004	No	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes			Excused	Absent	
05/13/2004	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	No			Excused	Yes	
*05/20/2004	No	No	No	No	No		Yes	Yes	No	No			No	Yes	
*06/17/2004	No	No	No	Yes	Yes		No	Yes	No	No			No	No	
06/24/2004	Excused	Yes	Yes	Yes	Yes		Excused	Yes	Excused	Excused			Yes	Yes	
07/22/2004	Yes	Excused	Yes	Excused	Yes		Yes		Yes	Yes			Yes	Yes	
*07/29/2004	No	No	Yes	No	No		No		Yes	No			Yes	No	
08/12/2004	Yes	Yes	Excused	Yes	Yes		Yes		Excused	Yes			Yes	Absent	
08/26/2004	Excused	Yes	Yes	Yes	Yes		Yes		Yes	Excused			Yes	Yes	
*09/16/2004	Yes	Yes	No	No	Yes		No		No	No			No	No	
09/23/2004	Excused	Yes	Excused	Yes	Yes		Yes		Yes	Yes			Excused	Excused	
10/14/2004	Absent	Yes	Yes	Yes	Yes		Yes		Yes	Excused			Yes	Yes	Yes
10/28/2004	Excused	Yes	Yes	Excused	Yes		Yes		Yes	Excused			Yes	Yes	Excused
12/09/2004	Yes	Yes	Excused	Excused	Yes		Yes		Excused	Excused			Yes	Yes	Yes

Yes—Member asked to attend and was present for the hearing

No—Member not asked to attend hearing

* Three member panel hearing

Excused—Member asked to attend, but excused

Absent—Member asked to attend, did not attend and unexcused

Board Member Voting Record¹

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Anderson	Arrest - Improper	1			1	
Anderson	Detention/Stop - Improper	1				
Anderson	Entry/Search - Residence or Bldg.				1	
Anderson	Failure to Act - Other	1			1	
Anderson	Failure to Act - To Provide Identification				1	
Anderson	Force - After Handcuffed			1		
Anderson	Force - Choke			1		
Anderson	Force - Grab/Push/Shove/Trip		5		1	
Anderson	Force - Kick			2	1	
Anderson	Force - Kneed			3	1	
Anderson	Force - Other	1			1	
Anderson	Force - Strike w Hand or Unknown Object		1	1	2	1
Anderson	Force - Strike w Weapon					1
Anderson	Truthfulness - Reporting	2		3	1	
Anderson	Verbal Conduct - Profanity/Rude Statements	2			3	
Anderson	Verbal Conduct - Threats				1	
Total		8(19%)	6(14%)	11(26%)	15(36%)	2(5%)
Andrews	Arrest - Improper				2	
Andrews	Bias / Discrimination	1		1	4	
Andrews	Citation - Improper		1		1	
Andrews	Custody - Improper Treatment				3	
Andrews	Detention/Stop - Improper	2			14	
Andrews	Entry/Search - Residence or Bldg.	2			13	
Andrews	Failure to Act - During Car Chase				6	
Andrews	Failure to Act - Other		1		11	
Andrews	Failure to Act - To Enforce Restraining Order				1	
Andrews	Failure to Act - To Ensure Safety After Car Tow				1	
Andrews	Failure to Act - To Investigate				2	
Andrews	Failure to Act - To Provide Identification	3	3		1	
Andrews	Failure to Act - To Write a Report				3	
Andrews	Force - After Handcuffed				7	
Andrews	Force - Choke				3	
Andrews	Force - Grab/Push/Shove/Trip		1		16	
Andrews	Force - Handcuffs Too Tight				5	
Andrews	Force - Handcuffs Unwarranted				2	
Andrews	Force - Kick	2			6	

¹ The voting record information reflects each Board member's votes, beginning from January 2004.

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Andrews	Force - Kneed					1
Andrews	Force - Other	1				3
Andrews	Force - Shooting Gun at Person or Animal					3
Andrews	Force - Specifics Unknown					1
Andrews	Force - Strike w Hand or Unknown Object	5		3		6
Andrews	Force - Strike w Weapon	2				5
Andrews	Force - Use of Gun to Threaten					1
Andrews	Force - Use of Patrol Vehicle					3
Andrews	Harassment					2
Andrews	Other	1				7
Andrews	Planting Evidence			4		3
Andrews	Property - Damaged/Missing/Seized	1				6
Andrews	Search - Person	1				1
Andrews	Search - Vehicle					
Andrews	Truthfulness - Reporting	2				10
Andrews	Truthfulness - Verbal Statements	3				2
Andrews	Vehicle Towed/Impounded - Improper					
Andrews	Verbal Conduct - Profanity/Rude Statements	11		1		18
Andrews	Verbal Conduct - Sexual Misconduct	3				3
Andrews	Verbal Conduct - Threats					7
Total		40(17%)	6(3%)	9(4%)	183(77%)	0(0%)
Batarse	Arrest - Improper	2				1
Batarse	Bias / Discrimination	2		1		4
Batarse	Citation - Improper					1
Batarse	Custody - Improper Treatment					3
Batarse	Detention/Stop - Improper	3				12
Batarse	Entry/Search - Residence or Bldg.	4				7
Batarse	Failure to Act - During Car Chase					3
Batarse	Failure to Act - Other	2	1			5
Batarse	Failure to Act - To Enforce Restraining Order	1				
Batarse	Failure to Act - To Ensure Safety After Car Tow					
Batarse	Failure to Act - To Investigate					3
Batarse	Failure to Act - To Provide Identification	3	4			1
Batarse	Failure to Act - To Write a Report					2
Batarse	Force - After Handcuffed			1		8
Batarse	Force - Choke	1		1		
Batarse	Force - Grab/Push/Shove/Trip	6	2	1		9
Batarse	Force - Handcuffs Too Tight	2				4
Batarse	Force - Handcuffs Unwarranted	2				
Batarse	Force - Kick	3		2		10
Batarse	Force - Kneed			3		1
Batarse	Force - Other	2				
Batarse	Force - Shooting Gun at Person or Animal	2				1
Batarse	Force - Specifics Unknown					1

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Batarse	Force - Strike w Hand or Unknown Object	5		4	8	
Batarse	Force - Strike w Weapon	3		1	4	
Batarse	Force - Use of Gun to Threaten	1				
Batarse	Force - Use of Patrol Vehicle				4	
Batarse	Harassment				1	
Batarse	Other	1			6	
Batarse	Planting Evidence	3		4		
Batarse	Property - Damaged/Missing/Seized	2			1	4
Batarse	Search - Person	1			2	
Batarse	Search - Vehicle				1	
Batarse	Truthfulness - Reporting	9		3	3	
Batarse	Truthfulness - Verbal Statements	6			2	
Batarse	Vehicle Towed/Impounded - Improper					
Batarse	Verbal Conduct - Profanity/Rude Statements	6		1	19	
Batarse	Verbal Conduct - Sexual Misconduct				6	
Batarse	Verbal Conduct - Threats				11	
Total		72(29%)	7(3%)	22(9%)	144(58%)	4(2%)
Cheung	Arrest - Improper	1				
Cheung	Bias / Discrimination			2	2	
Cheung	Citation - Improper					
Cheung	Custody - Improper Treatment					1
Cheung	Detention/Stop - Improper	1			1	
Cheung	Entry/Search - Residence or Bldg.	10			4	
Cheung	Failure to Act - During Car Chase					
Cheung	Failure to Act - Other	1			4	
Cheung	Failure to Act - To Ensure Safety After Car Tow	2				
Cheung	Failure to Act - To Investigate	1				
Cheung	Failure to Act - To Provide Identification					
Cheung	Failure to Act - To Write A Report				1	
Cheung	Force - After Handcuffed					1
Cheung	Force - Choke	1				1
Cheung	Force - Grab/Push/Shove/Trip				4	
Cheung	Force - Handcuffs Too Tight				2	
Cheung	Force - Kick				2	
Cheung	Force - Kneed	1				
Cheung	Force - Other				2	
Cheung	Force - Shooting Gun at Person or Animal					
Cheung	Force - Strike w Hand or Unknown Object	1				
Cheung	Force - Strike w Weapon	1				
Cheung	Harassment	1			1	
Cheung	Interfering w CPRB Investigation	2			5	
Cheung	Other	2			1	
Cheung	Planting Evidence			4		

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Cheung	Property - Damaged/Missing/Seized				7	
Cheung	Search - Person	2				
Cheung	Truthfulness - Reporting	1			1	
Cheung	Vehicle Towed/Impounded - Improper		1		1	
Cheung	Verbal Conduct - Profanity/Rude Statements	2		1	4	1
Cheung	Verbal Conduct - Sexual Misconduct	5				1
Cheung	Verbal Conduct - Threats				4	
Total		35(37%)	1(1%)	7(7%)	46(49%)	5(5%)
Dishmon	Arrest - Improper	1			1	
Dishmon	Bias / Discrimination				1	
Dishmon	Detention/Stop - Improper	1				
Dishmon	Entry/Search - Residence or Bldg.					1
Dishmon	Failure to Act - Other	2	1		2	
Dishmon	Failure to Act - To Investigate	1				1
Dishmon	Failure to Act - To Provide Identification		1		1	
Dishmon	Force - After Handcuffed			1		1
Dishmon	Force - Choke	1		1		1
Dishmon	Force - Grab/Push/Shove/Trip		4		1	1
Dishmon	Force - Kick			2	1	
Dishmon	Force - Kneed	1		3	1	
Dishmon	Force - Other	1			1	1
Dishmon	Force - Strike w Hand or Unknown Object	1	1	1	1	1
Dishmon	Force - Strike w Weapon			1	1	
Dishmon	Harassment					1
Dishmon	Interfering w CPRB Investigation	2			5	
Dishmon	Other	2				
Dishmon	Search - Person	1				
Dishmon	Truthfulness - Reporting	2		3	1	1
Dishmon	Verbal Conduct - Profanity/Rude Statements	3		1	4	
Dishmon	Verbal Conduct - Sexual Misconduct	5				1
Dishmon	Verbal Conduct - Threats				2	
Total		24(31%)	7(9%)	13(17%)	23(30%)	10(13%)
Jefferson-Scates	Arrest - Improper	1				
Jefferson-Scates	Bias / Discrimination			1		
Jefferson-Scates	Detention/Stop - Improper	1				
Jefferson-Scates	Entry/Search - Residence or Bldg.				1	
Jefferson-Scates	Failure to Act - Other	1			2	
Jefferson-Scates	Force - After Handcuffed			1		1

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Jefferson-Scates	Force - Choke	1		1		1
Jefferson-Scates	Force - Grab/Push/Shove/Trip		4			
Jefferson-Scates	Force - Kick			1	2	
Jefferson-Scates	Force - Kneed	1		2	2	
Jefferson-Scates	Force - Other				1	
Jefferson-Scates	Force - Strike w Hand or Unknown Object	1	1	1	2	
Jefferson-Scates	Force - Strike w Weapon	1		1		
Jefferson-Scates	Harassment	1				
Jefferson-Scates	Other					
Jefferson-Scates	Search - Person	2				
Jefferson-Scates	Truthfulness - Reporting	2		3		1
Jefferson-Scates	Verbal Conduct - Profanity/Rude Statements	1		1	2	
Jefferson-Scates	Verbal Conduct - Sexual Misconduct					
Jefferson-Scates	Verbal Conduct - Threats				2	
Total		13(28%)	5(11%)	12(26%)	14(30%)	3(6%)
Montgomery	Arrest - Improper				1	
Montgomery	Bias / Discrimination			1		1
Montgomery	Detention/Stop - Improper	1				
Montgomery	Entry/Search - Residence or Bldg.					
Montgomery	Failure to Act - Other		1		2	
Montgomery	Failure to Act - To Investigate				1	
Montgomery	Failure to Act - To Provide Identification		1			
Montgomery	Force - After Handcuffed			1	1	
Montgomery	Force - Choke			1	1	1
Montgomery	Force - Grab/Push/Shove/Trip		4		1	
Montgomery	Force - Kick			2		1
Montgomery	Force - Kneed	1		3	1	
Montgomery	Force - Other				1	1
Montgomery	Force - Strike w Hand or Unknown Object		1	1	2	
Montgomery	Force - Strike w Weapon			1	1	
Montgomery	Harassment				1	

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Montgomery	Other					
Montgomery	Property - Damaged/Missing/Seized				1	
Montgomery	Search - Person	1				
Montgomery	Truthfulness - Reporting	1		3	2	
Montgomery	Verbal Conduct - Profanity/Rude Statements	1		1	2	1
Montgomery	Verbal Conduct - Sexual Misconduct					
Montgomery	Verbal Conduct - Threats				3	
Total		5(10%)	7(13%)	14(27%)	21(40%)	5(10%)
Radlow	Arrest - Improper				1	
Radlow	Bias / Discrimination			1		
Radlow	Detention/Stop - Improper				1	
Radlow	Entry/Search - Residence or Bldg.	1				
Radlow	Failure to Act - Other	1			1	
Radlow	Force - After Handcuffed			1	1	
Radlow	Force - Choke			1	2	
Radlow	Force - Grab/Push/Shove/Trip		4			
Radlow	Force - Kick			2	1	
Radlow	Force - Kneed	1		3	1	
Radlow	Force - Other				1	
Radlow	Force - Strike w Hand or Unknown Object	1	1	2	1	
Radlow	Force - Strike w Weapon			1	1	
Radlow	Harassment				1	
Radlow	Search - Person	1				
Radlow	Truthfulness - Reporting	1		3	2	
Radlow	Verbal Conduct - Profanity/Rude Statements	1		1	1	
Radlow	Verbal Conduct - Threats				2	
Total		7(16%)	5(12%)	14(33%)	17(40%)	0(0%)
Thomas	Arrest - Improper	2			1	
Thomas	Bias / Discrimination	1		1	1	
Thomas	Citation - Improper					1
Thomas	Custody - Improper Treatment				1	
Thomas	Detention/Stop - Improper	2			1	1
Thomas	Entry/Search - Residence or Bldg.	9			6	
Thomas	Failure to Act - During Car Chase				3	
Thomas	Failure to Act - Other	1			5	1
Thomas	Failure to Act - To Ensure Safety After Car Tow	1				
Thomas	Failure to Act - To Provide Identification		3			
Thomas	Failure to Act - To Write A Report	1			1	
Thomas	Force - After Handcuffed			1	1	
Thomas	Force - Choke			1	1	
Thomas	Force - Grab/Push/Shove/Trip		2	1	9	
Thomas	Force - Handcuffs Too Tight				1	1

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Thomas	Force - Kick	1		2	5	
Thomas	Force - Kneed			2	1	
Thomas	Force - Other				2	
Thomas	Force - Shooting Gun at Person or Animal				2	
Thomas	Force - Strike w Hand or Unknown Object		1	4	4	1
Thomas	Force - Strike w Weapon					1
Thomas	Force - Use of Patrol Vehicle				1	
Thomas	Harassment					
Thomas	Other	1			2	
Thomas	Planting Evidence	3		4		
Thomas	Property - Damaged/Missing/Seized	1			3	4
Thomas	Search - Person				1	
Thomas	Truthfulness - Reporting	3		3	2	
Thomas	Vehicle Towed/Impounded - Improper		1		1	
Thomas	Verbal Conduct - Profanity/Rude Statements	2			14	1
Thomas	Verbal Conduct - Sexual Misconduct	3			2	1
Thomas	Verbal Conduct - Threats	1			2	2
Total		32(22%)	7(5%)	19(13%)	73(50%)	14(10%)
Walker	Arrest - Improper	1			1	1
Walker	Bias / Discrimination	1		1	6	
Walker	Citation - Improper		1		1	
Walker	Custody - Improper Treatment				2	
Walker	Detention/Stop - Improper	6			9	1
Walker	Entry/Search - Residence or Bldg.	8			6	
Walker	Failure to Act - During Car Chase				6	
Walker	Failure to Act - Other				11	
Walker	Failure to Act - To Enforce Restraining Order	1				
Walker	Failure to Act - To Ensure Safety After Car Tow	1			1	
Walker	Failure to Act - To Investigate					
Walker	Failure to Act - To Provide Identification	3	3		1	
Walker	Failure to Act - To Write a Report				4	
Walker	Force - After Handcuffed				5	1
Walker	Force - Choke				1	1
Walker	Force - Grab/Push/Shove/Trip	2			9	4
Walker	Force - Handcuffs Too Tight				6	
Walker	Force - Handcuffs Unwarranted				2	
Walker	Force - Kick	2			10	3
Walker	Force - Kneed					4
Walker	Force - Other				5	
Walker	Force - Shooting Gun at Person or Animal				3	
Walker	Force - Specifics Unknown				1	
Walker	Force - Strike w Hand or Unknown Object	2		3	1	4

Board Member	Allegation category	Sustain	Exonerate	Unfounded	Not Sustain	Abstain
Walker	Force - Strike w Weapon	2			3	1
Walker	Force - Use of Gun to Threaten				1	
Walker	Force - Use of Patrol Vehicle				4	
Walker	Harassment				2	
Walker	Other	4			4	
Walker	Planting Evidence				6	
Walker	Property - Damaged/Missing/Seized					
Walker	Search - Person	2			1	
Walker	Search - Vehicle				1	
Walker	Truthfulness - Reporting	4			7	5
Walker	Truthfulness - Verbal Statements	5			3	
Walker	Vehicle Towed/Impounded - Improper		1		1	
Walker	Verbal Conduct - Profanity/Rude Statements	7			12	
Walker	Verbal Conduct - Sexual Misconduct	2			4	
Walker	Verbal Conduct - Threats				6	2
Total		53(23%)	5(2%)	4(2%)	146(62%)	27(11%)

**PENDING CASES [Page 1 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
ACTIVE AND PENDING - 83 CASES								
03-249	Donella O'Guinn	SQ	1/26/2004	1/25/2005	9/8/2003	#1 Force, conduct and procedure	C alleges her husband called police and said she pulled a knife on him. C also alleges that when police arrived they used excessive force to enter her home and would not let her put on any clothing. C alleges police pointed guns at her and she was hit with a stick, punched and kicked in her vaginal and rectum and taken to the police station with only her underwear on. C further alleges after her court appearance she went to the hospital because she had bleeding in her urine and feces and had damage to her stomach and bladder. C also alleges she had a nervous breakdown and was admitted to J.G.	Will propose for administrative closure 1/27/05.
03-289	Yolanda M. McGill	SQ	10/27/2003	10/26/2004	10/5/2003	#1 Excessive Force, procedure	C alleges her son was upstairs asleep when two officers entered her home without permission or a search warrant. They entered the room where her son was sleeping, woke him up, proceeded to beat him then shot and killed him. C states that her son, Terrance Means, was unarmed and had not done anything wrong.	Will propose for administrative closure 2/10/05.
04-020	Ernestine Cayce	AM	2/11/2004	2/3/2005	2/4/2004	#3 Improper procedures and unprofessional conduct	C alleges that an officer who responded to her son's 911 call did not take their statements and instead took report from the other party, then handcuffed her son, but released him on the way to the police station. When C went to get a police report of the incident, officers were very uncooperative and rude and gave her the run around.	Investigation pending.
04-022	Elizabeth Sinclair	VU	2/11/2004	2/10/2005	1/3/2004	#1 Excessive force, bias/discrimination and unprofessional conduct	C alleges that she heard screams then saw an officer punching and yelling derogatory remarks at a black man whom she had seen earlier as being driven to the police station in a police car.	Will propose for administrative closure 1/27/05.
04-023	Richard Cuthrell	SQ	1/22/2004	1/21/2005	1/21/2004	#3 Procedure and Conduct	C alleges officers were aggressive and antagonizing and disrespectful while he was riding his bicycle. C did not know he was riding through a crime scene.	Will propose for administrative closure 1/27/05.
04-038	Cantorbeey Garcia Justo	AM	2/23/2004	2/22/2005	2/14/2004	#1 Excessive force, Improper search	C alleges that police officers knocked on his door and when he opened the door officers had their guns drawn and pointed at the C then C was handcuffed. C was told by officers that they received a call that C was abusing his wife and had a gun to her head. C states that he does not have a wife nor does he own a gun. The officers apologized and left the premises.	Investigation pending.
04-042	Flenore Taylor (Father)	AM	2/27/2004	2/26/2005	2/20/2004	#1 Excessive Force, Conduct, Procedure, Improper Search and Bias/Discrimination	C alleges his son was detained by police, grabbed, handcuffed and transported from the scene to another location. C also alleges officers made threats, used profanity and made racial slurs. C further alleges officers also used excessive force and refused to id themselves.	Investigation pending.
04-042	Ruthie McDowell-Seymore (Mother)	AM	3/1/2004	2/29/05	2/20/2004	#1 Excessive Force, Conduct, Procedure, Improper Search and Bias/Discrimination.	C alleges her son was detained by police, grabbed, handcuffed and transported from the scene to another location. C also alleges officers made threats, used profanity and made racial slurs. C further alleges officers also used excessive force and refused to id themselves.	Investigation pending.

Priority Legend: #1: Complaints involving force, sexual misconduct, discrimination, minors or racial profiling. #2: Complaints involving improper search, untruthfulness or theft. #3: All other complaints.

CITIZENS POLICE REVIEW BOARD
PENDING CASES [Page 2 of 16]
as of January 14, 2004
(Total Cases - 101)

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-042	Malaika Parker, Bay Area Police Watch	AM	4/30/2004	4/29/2005	2/20/2004	#1 Excessive Force, Conduct, Procedure, Improper Search and Bias/Discrimination	C alleges officers sexually assaulted illegally detained and threatened and used racial slurs towards young children attending an Oakland high school. C further alleges one of the officers forced a young man to expose his genitals and referred to the boys as "NIGGERS" repeatedly.	Investigation pending.
04-046	Elnora Myles	SQ	3/12/2004	3/11/2005	3/9/2004	#3 Conduct & Procedure	C alleges she called OPD to report a missing person and was harassed by an officer. C also alleges that due to the harassment she suffered a miscarriage.	Investigation pending.
04-061	Debra Marie Ambers	SQ	3/25/2004	3/24/2005	3/5/2004	#2 Failure to take action	C alleges OPD has failed to investigate her claims of identity theft/fraud and burglary.	Investigation pending.
04-088	Steven Barker	AM	4/5/2004	4/4/2005	4/2/2004	#1 Excessive force, failure to take action, improper handcuffing, profanity, truthfulness	C alleges he was manhandled and his arm was twisted by an officer while being handcuffed. C also alleges a female officer exposed her breast to him and he was arrested for solicitation.	Investigation pending.
04-089	Norene Burton	VU	4/8/2004 CPRB 4/15/04 - IAD	4/7/2005	3/25/2004	#3 Procedure and conduct	C alleges her rights were violated by police officers when they allegedly opened the door to her home and walked right in.	Proposed for administrative closure on 1/27/05.
04-099	Eva L. Wilson	SQ	CPRB 4/22/04 filed w/IAD 4/29/04	4/21/2005	3/23/2004	#3 Procedure,	C alleges her grandson was falsely arrested by police officers who said drugs found on the ground were his. C also alleges she gave her grandson \$400.00 to have his brakes fixed and police alleged it was drug money.	Investigation pending.
04-112	Katrina Renee Pickett	SQ	4/30/2004	4/29/2005	4/23/2004	#1 Force, bias, procedure & conduct	C alleges that while driving she stopped at a stop light and saw five police officers beating a young black man with their batons. C also alleges once the officers got the young man on the ground they sat on him without handcuffing him. C further states that none of the officers were of black descent.	Investigation pending.
04-135	Joan M. Smith	VU	5/5/2004	5/4/2005	2/7/2004	#2 Improper Search	C alleges two police officers entered her home when she was not there. The officers allegedly told the C son that they needed to enter the residence and after entering the officers searched the C's room and the room of her daughter and did not find anything and left.	Mediation pending.
04-136	Arlanders E. Jones	SQ	CPRB 5/12/04 filed w/IAD 5/19/04	5/11/2005	12/5/2003	#1 Excessive force	C alleges he was assaulted and detained by Cadets.	Investigation pending.
04-137	John Powell, Sr & Janice Powell	VU	5/14/2004	5/13/2005	4/26/2004	#3 Procedure	The C's alleges that the police were conducting a high speed chase in a residential area when the suspect's vehicle collided head on into the C's vehicle.	Complainants interviewed. Investigation pending.
04-152	Lois Ferrando	VU	5/20/2004	5/19/2005	1/30/2004	#2 Improper search and conduct	C alleges that eight officer entered her home without a search warrant and started handcuffing everyone inside and trashing her home. C alleges she asked what was the reason for them being there and was told that it was not her, it was the house or don't you know what goes on in your own house? C states that the end results were negative there was nothing to indicate any illegal activity or problems.	Complainant interviewed. Investigation pending.

APPENDIX K

Priority Legend: #1: Complaints involving force, sexual misconduct, discrimination, minors or racial profiling. #2: Complaints involving improper search, untruthfulness or theft. #3: All other complaints.

**CITIZENS' POLICE REVIEW BOARD
PENDING CASES [Page 4 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-215	Craig Johnson, Jr.	AM	4/22/2004	4/21/2005	1/26/2004	#Conduct	C alleges that an officer is harassing him by accusing him of selling drugs and shooting people	Investigation pending.
04-221	Bernardo Garcia-Pandavenes	AM	CPRB 7/6/2004 filed w/IAD 7/13/04	7/5/2005	6/3/2004	#1 Racial Bias	C alleges improper entry and search of residence and cars by police. C also alleges items were damaged and missing. C alleges his residence was ransacked and left in a mess resulting in uninhabitable condition. Items were taken by police improperly. C further alleges the search warrant was obtained after the search and that it was racially motivated. C states he was given an order by City inspectors to clean up his premises.	Investigation pending.
04-224	Ronald Hughes	VU	CPRB 7/15/04 filed w/IAD 7/2/04	7/1/2005	7/1/2004	#3 Procedure, Conduct and Bias	C alleges he dialed 911 about an incident with his brother. When an officer arrived he spoke with the C's brother and informed the C that he was not going to arrest the C only because his brother doesn't want to press charges. The C further alleges the officer told him that there was a restraining order against him.	Investigation pending.
04-225	Shawn H. McGee & Yolanda Holloway	VU	CPRB 7/19/04 filed w/IAD 7/21/04	7/18/2005	5/10/2004	#3 Procedure	C alleges her son was illegally taken from her home in handcuffs to the Oakland Police Dept. He was then questioned by an officer without the presence of a parent or legal counsel and charged with battery. The C further alleges the officer misled her by allegedly stating that the DA sent the officer to her home to remove her son for questioning but showed no search warrant or an arrest warrant.	Investigation pending.
04-245	Audrey Burton	SQ	7/23/2004	7/22/2005	7/13/2004	#3 Procedure, Conduct and Bias	C alleges she was talking to a friend who stopped her car in the street when a police officer drove up and rudely told the C to get out of the street. C told the officer that "y'all are doing to much just because you're the police you can't talk to people any kind of way and it takes respect to get respect." C further alleges the officer drove up very fast and said "oh you want to talk shit" and the officer threw the C against the car, handcuffed and searched her. C also alleges the officer handed her ID back and said "here is your ID Mr. Burton" and her ID clearly states that C is a woman	Proposed for administrative closure on 1/27/05.
04-246	Dehlia Williamson	SQ	8/6/2004	8/5/2005	5/21/2004	#3 Procedure	C alleges she was a victim of an auto-pedestrian collision and an officer arrived the he performed a poor investigation and showed no compassion or concern for the C. C alleges the officer failed to obtain names of witnesses and reported inaccurate information on his report sheet.	Hearing set for 2/17/05.
04-247	Edward Leigh	AM	8/2/2004	8/1/2005	5/27/2004	#3 Procedure	C alleges police took too long to respond to a call of stolen property and if they had responded earlier they may have caught perpetrators.	Investigation pending.
04-256	Terrance Thompkins	SQ	8/10/2004	8/9/2005	1/21/2004	#3 Procedure	C alleges an officer conducted an illegal search of a car, mailbox and an apartment that the C does not live in and obtain items illegally and charges were filed against the C. The C states that he had ID with his address on it.	Investigation pending.

CITIZENS POLICE REVIEW BOARD
PENDING CASES [Page 5 of 16]
as of January 14, 2004
(Total Cases - 101)

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-257	Uganda Knapps	VU	8/11/2004	8/10/2005	8/10/2004	#1 Excessive force, procedure and bias	C is a counselor at facility for developmentally disabled adults. He called 911 because a patient threatened to kill himself. The patient ran out of the facility into oncoming traffic. The C pushed the patient down to save him when OPD thought the C allegedly assaulted the patient. The Officer choked the C and twisted his arm and briefly detained then released him when the facility's supervisor arrived at the scene.	Investigation pending.
04-267	Lee Berlinsky	SQ	10/20/2004	10/19/2005	7/30/2004	#3 Procedure	C alleges officers did not thoroughly investigate his landlord tenant dispute.	Investigation pending.
04-271	Dario Campos Villar	AM	CPRB & IAD 8/11/04	8/10/2005	8/9/2004	#3 Bias and procedure	C alleges officers failed to arrest a person who he has a restraining order against.	Referred to mediation.
04-272	Clarence Brown	VU	CPRB & IAD 8/13/2004	8/12/2005	6/2/2004	#1 Excessive Force	C alleges two officers drove up to him and some friends. The C stated that he ran and the officers caught him before he could get over a fence and started beating the him with their fists. The officers put the C in handcuffs, and drove off then the officers pulled their vehicle over and took the C out of the car and took off the handcuffs. The C states that he ran but didn't get anywhere and the officers punched the him to the ground and continued to hit him in the face and in his back with a flashlight. C further alleges the officers took him to Highland and told him that he had better sign a statement and if he didn't they would take him to Santa Rita.	Investigation pending.
04-273	Maisha Lillard	VU	8/17/2004	8/16/2005	8/13/2004	#1 Excessive Force, conduct and untruthfulness	C's brother died while in police custody. C's brother was riding his bike when two officers stopped him and made him spit out a plastic bag, which the C's brother may have swallowed. C alleges her brother was choked and hit with a billy club. C also believes the officers have some responsibility for her brother's death, and are trying to cover it up.	Investigation pending.
04-274	William Leong	SQ	8/24/2004	8/23/2005	6/12/2004	#3 Procedure	C alleges he was unlawfully arrested and detained by OPD.	Investigation pending.
04-276	Melvin McHenry	AM	CPRB 8/18/04filed w/IAD 8/13/04	8/17/2005	7/12/2004	#2 Improper search	C alleges he was told by OPD that they had received two telephone calls and officers entered his home with a key without his permission. C also states that he was handcuffed and taken outside in his underwear. C further alleges his visitor was asked to leave and when she refused to leave she was escorted outside and was driven home. C was not charged with anything.	Investigation pending.
04-279	Eric Wright, Jr	SQ	CPRB & IAD 8/27/2004	8/26/2005	9/16/2002	#3 Procedure	C alleges IA failed to investigate his complaint.	Investigation pending.

APPENDIX K

**PENDING CASES [Page 6 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-280	Jan H Carlson	SQ	8/31/2004	8/30/2005	8/12/2004	#1 Force	C alleges a teenage boy was walking across the street in front of her vehicle and she saw a police vehicle that had stopped under the BART tracks. An officer jumped out of his vehicle and allegedly put both his hands around the boys neck and shook him. The boy was handcuffed and put into the officer's vehicle.	Investigation pending.
04-282	Leslie A Berry	AM	CPRB & IAD 8/20/2004	8/19/2005	8/13/2004	# 1 Force	C alleges her husband was beaten with billy clubs by officers when he went to talk to his son's mother. C's husband was taken to ACH and allegedly diagnosed as having a heart attack. After four days C's husband was transferred to Kaiser Hospital in Vallejo where he allegedly had emergency surgery on his leg due to the alleged beating by officers. C alleges husband had to have two surgeries, blood transfusion and has to undergo physical therapy and was not cited or arrested.	Hearing postponed.
04-282	Aaron Shaw	AM	10/7/2004	10/6/2005	8/13/2004	#1 Force	C alleges police officers used excessive force on Ms Berry by allegedly beating her with batons and threatening her with a taser gun.	Hearing postponed.
04-294	Cozette Rushing	SQ	9/3/2004	9/2/2005	12/13/2003	#3 Procedure	C alleges her business equipment and personal property were removed from her place of business which is also her home after officers went there to investigate a shooting. C alleges her property has continued to be withheld without just cause.	Investigation pending.
04-295	Joyce A. Girtman	VU	9/3/2004	9/2/2005	8/31/2004		C alleges officers came to her home to retrieve a fax machine. When she opened her screen door to hand over the fax machine one of the officers allegedly slammed her against the wall and injured her right arm and shouolder.	Investigation pending.
04-296	R. Anthony Lams	AM	CPRB & IAD 9/1/2004	8/31/2005	8/31/2004	#3 Conduct and Procedure	C alleges officers failed to enforce a restraining order his sister had against her neighbors who allegedly assaulted her. The officers arrested the C's sister and allegedly made threats to arrest family members and failed to arrest the assailants. The C also alleges the officers improperly entered his sister's apartment and confiscated property and also exhibited bias in that the victim and her family are African American and Muslim and the officers were White and Hispanic.	Investigation pending.
04-296	Renita Barkley	AM	9/14/2004	9/13/2005	8/31/2004	#3 Conduct and Procedure	C alleges she was attacked in her apartment by her neighbors and when the police arived they arrested her.	Investigation pending.
04-299	Martin J. Adrow	AM	CPRB 11/22/04 filed w/ IAD 8/31/04	8/30/2005	3/10/2004	#1 Force	C alleges officers entered the hotel room he was renting and conducted an illegal search. C states although he is active to Parole searches the officers had no reasonable cause to conduct the search.	Investigation pending.

**PENDING CASES [Page 7 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-319	Michale J. Robillard	VU	CPRB & IAD 9/22/2004	9/21/2005	8/13/2004	#1 Bias	C states he was in a stolen car when police pulled up behind him and flashed their light for him to stop. C states he was on parole and tried to run because he was scared. C lost control of the car and crashed. C exited the car and ran through a parking lot, one officer allegedly threw his baton and hit C in the rib cage. C stated he then stopped and with his hands up in the air surrendered and was knocked to the ground and allegedly assaulted by police officers. C alleges he was kicked, a tooth was knocked out, both eyes were blackened, nose broken and his jaw was dislocated. C further alleges that one of the officers told him if he had to wait with C all day at the hospital that he would file as many charges as he could and that the C would get a bigger ass beating as well.	Investigation pending.
04-327	Clifford F. Brunk	VU	9/23/2004	9/22/2005	9/9/2004	#3 Conduct	C states he had verbally insulted a Southwest Airlines employee and two Oakland Police Officers showed up and threaten with arrest if he did not shut up.	Investigation pending.
04-328	Ronnie R. Brown	SQ	9/23/2004	9/22/2005	7/2/2004	#1 Force	C alleges that at the time of his arrest he was experiencing hypoglycemia (low blood sugar) and lying on the ground when officers approached him and began pulling and slapping him and allegedly telling him to stop faking. C further alleges he was asked for ID and could not get it out fast enough and his hands were snatched behind him and he was handcuffed.	Investigation pending.
04-329	Gary Busboom	AM	12/11/2004	12/10/2005	7/3/2004	#1 Force	C alleges he was apprehended at gun point, humiliated, searched and detained by police officers. C also states that OPD dispatchers failed to relay information given to them.	Investigation pending.
04-348	Tracey Nelson-Holmes	SQ	9/23/2004	9/22/2005	5/16/2004	#3 Conduct	C alleges a homicide investigator treated her with "disrespect" and as a suspect when she inquired into her son's death.	Investigation pending.
04-349	Tracey Christian	SQ	9/23/2004	9/22/2005	9/12/2004	#1 Procedure involving a minor	C alleges her minor son was held and interrogated for several hours without an attorney or a parent present.	Investigation pending.
04-350	Julio Corral	AM	9/27/2007	9/26/2005	9/26/2004	#1 Force and bias	While attending an Oakland Raiders Football Game C alleges that an officer improperly grabbed and twisted his arm and was aggressive in escorting C from his seat. C also alleges the officer initially refused to provide his name and badge number upon request. C was allegedly detained and made to leave the Coliseum.	Investigation pending.
04-351	Sangeet Gill	AM	9/30/2004	9/29/2005	8/4/2004	#1 Procedure, Conduct and Bias	C alleges an officer grabbed her by the arm, spoke rudely to her and made reference to her culture by allegedly stating "I guess it's a cultural thing."	Investigation pending.
04-358	Colette Valentine	VU	10/6/2004	10/5/2005	9/25/2004	#3 Procedure & conduct	C alleges an incident occurred in East Oakland and ended up in West Oakland Campbell Village. C further alleges residents were detained and restricted from leaving their apartments. C also alleges residents were not given any information from the officers and the ordeal took place during a course of seven hours.	Will propose for administrative closure 4/14/05.

04-319, 1 onand. #1. Complaints involving sexual misconduct discrimination, minors or racial profiling. #2: Complaints involving improper search, untruthfulness or theft. # 3: All other complaints.

PENDING CASES [Page 8 of 16]
as of January 14, 2004
(Total Cases - 101)

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-361	Munassar A. Obad	SQ	10/14/2004	10/13/2005	8/8/2004	#3 Procedure	C alleges a pattern of OPD failing to take action regarding his reported calls for service. Officers have either shown up hours late or failed to take action once on the scene. C wishes to mediate with a member of OPD and is concerned that OPD will not promptly respond to future calls.	Investigation pending.
04-370	Martha Spears	AM	10/12/2004	10/11/2005	7/9/2004	#1 Force	C alleges her son who is mentally ill was at the Greyhound Bus Station and was manhandled and injured by OPD and taken to John George Hospital.	Investigation pending.
04-373	Erin Wilson	VU	10/18/2004	10/17/2005	10/9/2004	#1 Force	C alleges he was a witness a man being arrested and treated with undue force and punishment by six police officers.	Investigation pending.
04-375	Alvin Decoteau	VU	CPRB & IAD 10/20/2004	10/19/2005	6/1/2004	#1 Force and untruthfulness	C states he was shot by police officers as he was trying to flee because he was scared. C alleges one officer is allegedly saying that he tried to run over the officer.	Proposed for administrative closure on 1/27/05.
04-376	Kevin Price	VU	10/15/2004	10/14/2005	2/16/2002	#3 Procedure	C alleges he was being attacked by his ex wife and called 911. Police arrived and did nothing. C also alleges he was told by police to leave his house. C further his rights were violated because he is a black male.	Investigation pending.
04-377	Kevin Price	VU	10/15/2004	10/14/2005	2/18/2004	#3 Procedure	C alleges he was attacked by his ex wife and he went to Kaiser hospital where police were called to take a report. C alleges the police officer did not include his injuries in her report and was told that no charges would be filed against his exwife.	Investigation pending.
04-378	Kevin Price	VU	10/15/2004	10/14/2005	3/25/2002	#3 Procedure	C alleges he was kicked in his back by his exwife while removing his items from their home and police did nothing.	Investigation pending.
04-383	Fannie Brown	AM	11/4/2004	11/3/2005	11/2/2004	#3 Conduct	C alleges she and her family are being harassed by police officers and she wants the harassment to stop.	Investigation pending.
04-394	Jeniel Bey	VU	CPRB 11/17/04 w/IAD 11/8/04	11/7/2005	11/7/2004	#1 Force, bias, procedure & conduct	C alleges two officers made slanderous remarks against him and he was kidnapped and also assaulted and held against his will for being intoxicated which C says he was not.	Investigation pending.
04-397	Walter Buchanan	VU	11/8/2004	11/7/2005	9/5/2004	#3 Procedure	C alleges an officer stopped him and had his vehicle impounded because he had a problem with the C logo on his vehicle. C further states that the officer told the C his music was too loud and his vehicle was being towed because on "Saturday night in Oakland your vehicle can be towed for side show activity."	Investigation pending.

Priority Legend: #1: Complaints involving force, sexual misconduct, discrimination, minors or racial profiling. #2: Complaints involving improper search, untruthfulness or theft. #3: All other complaints.

**CITIZENS' POLICE REVIEW BOARD
PENDING CASES [Page 9 of 16]
as of January 14, 2004
(Total Cases - 101)**

FOR EXTERNAL USE ONLY

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-399	Dorney Burgdorf	AM	CPRB 12/1/04 w/IAD 10/16/04	10/15/2005	4/23/2004	#1 Force	C alleges he was pulled over by an officer and was immediately pulled from his car, handcuffed and thrown in the back of the officers car. C also states he was not told why or read his rights. C states when he tried to stand up by an open door the officer ran over and kicked him in the shin. C further states he was hospitalized later that night because of severe swelling to his leg.	Investigation pending.
04-403	Carol Munene	SQ	11/17/2004	11/16/2005	11/16/2004	#3 Procedure & conduct	C alleges an officer was wrongfully engaged in a high speed pursuit in a residential neighborhood which "totaled" her parked car and caused extensive property damage to her gate and fence. C also states that the officer was rude to her when she attempted to inquire as to what had happened.	Investigation pending.
04-408	Dewin Coakley	SQ	11/16/2004	11/15/2005	11/14/2004	#1 Force	C alleges he was a passenger in a car that was pulled over by police. C alleges an officer asked him "what you got on you?" the C states he told the officer he did not have anything and was told to step out of the car. C also states he asked the officer what had he done and the officer allegedly hit him in his back with a flashlight and he was handcuffed, sprayed with mace and thrown against the car. C alleges he was in severe pain because of a shoulder injury and was taunted by police allegedly saying "what you crying for bitch."	Investigation pending.
04-409	Manuel Cabello	SQ	CPRB 11/10/2004 filed w/IAD 11/15/04	11/9/2005	4/15/2004	#3 Procedure	C alleges an officer had his vehicle towed from a legal parking space in front of his home.	Proposed for administrative closure on 1/27/05.
04-411	Jacqueline Palacios	AM	11/17/2004	11/16/2005	11/14/2004	#1 Discrimination	C alleges her son was pulled over by police officers for no reason and one officer pulled his gun and pointed it at him. C also believe that her son was racially profiled.	Investigation pending.
04-412	Frances Kinika	SQ	11/19/2004	11/18/2005	10/29/2004	#2 Untruthfulness & procedure	C alleges he was pulled over by a police officer because the brake lights were not working on the C vehicle. C states that he had a friend step on the brake peddle and the light came on. C also alleges that he was told by the officer that his drivers license was suspended. C further alleges that he went to DMV and allegedly found out that his drivers license were not suspended and the officer had lied about everything.	Investigation pending.
04-413	Danny Armstrong, Jr.	SQ	11/18/2004	11/17/2005	10/20/2004	#1 Force	C alleges he was standing on the street talking with a female friend when police showed up and asked him "where is the dope?" C states he asked the officer what was he talking about and then the officer punched him in the stomach. C states his lip was busted, he was als hit ine left side of his body, his wrist was sprang and he suffered a dislocated elbow.	Investigation pending.

**PENDING CASES [Page 10 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-414	Eloy Burdett	AM	CPRB 11/17/2004 filed w/IAD 11/22/04	11/16/2005	9/6/2004	#3 Procedure & conduct	C alleges he was stopped by officers and was told that he had no license plates and he could hear music coming from the car. C states he told the officer that the car was a new purchase and gave him the registration slip that was given to him by the dealer. C also alleges it was impossible for the music to be heard because the stereo was not turned up loud. The officer began to write the C a ticket and allegedly told the C to sign it or go to jail. The officer snatched the ticket book from the C and ran to his vehicle and in doing so his uniform utility belt scratched the C vehicle.	Investigation pending.
04-415	Darnell Levingston	VU	CPRB 11/17/2004 filed w/IAD 11/22/04	11/16/2005	9/1/2004	#1 Bias/Discrimination. Procedure and conduct	C feels he was racially profiled. C alleges that he was stopped on a traffic violation and the officers asked him "where's the crack at?" they handcuffed and detained him. After his truck was searched he was released.	Investigation pending.
04-417	Lisa A. King	VU	CPRB 11/10/2014 filed w/IAD 11/15/04	11/9/2005	10/23/2004	#1 Force	C called 911 several times stating that someone threatened to beat her down. Officer came to the residence each time the 911 call was placed and on the last call the C was taken to John George and then to Langley Porter where she alleges she was kicked out because she is a Black scientist and a genius, not a crazy N (the n word).	Investigation pending.
04-424	Brandon Perez	SQ	CPRB 11/22/04 filed w/ IAD 9/30/04	9/29/2005	2/9/2004	#3 Procedure	C alleges a police report concerning an accident he was involved in was written unprofessionally, sloppy untruthful, incorrect and misleading.	Investigation pending.
04-439	Brenda Curry	SQ	12/10/2004	12/9/2005	11/12/2004	#3 Procedure and conduct	C alleges officers refused to take a burglary report and treated the C in a demeaning and rude manner.	Investigation pending.
04-441	Rochel Hall	AM	12/22/2004	12/21/2005	12/3/2004	#3 Procedure and conduct	In Custody Death - C alleges her brother complained to officers that his stomach, head and chest were hurting. C also alleges that when asked to see a nurse or doctor officers thought her brother was joking and allegedly laughed at him. C brother was allegedly refused medical treatment and collapsed on the floor. An ambulance was called and as C brother was receiving medical attention from OPD he died. C alleges OPD failed to immediately notify the family. C states that the family was notified 24 hours later.	Investigation pending.
04-448	Berdia Brown	SQ	12/20/2004	12/19/2005	12/15/2004		C alleges she was fixing herself a drink inside the hotel where she resides when she saw an officer. The officer asked for her name and after telling the officer her name he asked the C to step outside, where he arrested her for public intoxication and having an open container of alcohol. C further alleges the officer was rude, and at the police station the officer allegedly pulled her out of the car causing her to slip and fall. C also alleges the handcuffs were so tight her wrists were swollen.	Investigation pending.

APPENDIX K

Page 101

**CITIZENS POLICE REVIEW BOARD
 PENDING CASES [Page 11 of 16]
 as of January 14, 2004
 (Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
05-001	Judy Salamon	SQ	1/3/2005	1/2/2006	4/23/2004	#3 Conduct	C alleges she was given a citation for an illegal u-turn. C further alleges she contacted the traffic division and was told that her u-turn was legal and that the officer was untruthfull in his testimony as to where and how the incident occurred.	Investigation pending.

APPENDIX K

PENDING CASES [Page 12 of 16]
as of January 14, 2004
(Total Cases - 101)

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
HEARING HELD, PENDING CLOSURE - 0 CASES								

**PENDING CASES [Page 13 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
TOLLED - 18 CASES								
00-35	Willis Wilson Jr	SQ	11/24/2000	8/24/2001 TOLLED Civil Litigation Supr. Ct. 00-98293. Litigation dismissed 3/18/04.	2/27/2000	non-priority (supplemental jurisdiction)	Car stolen	Tolling expired 3/18/04. Civil litigation.
01-11	Michael Muscadine	AM	2/27/2001	2/27/2002 (2 week Tolling for Criminal charges) Civil litigation Supr. Ct. 2002-040880 2/14/02.	11/29/2000	#2 force against a minor	C alleges officers "beat up" his son, threatened his son on two different occasions, and later was punched by an officer.	Reinstated 1/10/02. TOLLED.
01-15	Denise Carignan (deceased - William Wilkins)	SQ	4/30/2001	4/30/2002 TOLLED - Civil Litigation 4/24/01 (US D.Ct. C-01-1102 MMC. Plaintiff Kelly Wilkins) Trial 10/28/02	1/11/2001	#1 force resulting in serious injury	Officers shot and killed Officer William Wilkins.	TOLLED. Subject officer has been activated for military duty on (1/2/02).
01-27	Brian Bowman	SQ	7/18/2001	8/10/2002 TOLLED 12/5/01	6/2/2001	non-priority (force & supplemental issues)	The C alleges that he was "slammed" to the pavement and hit his elbow on the ground. C also alleges the loss of property (pager) and use of profanity and rude/demeaning language.	TOLLED.
01-34	June Allison	SQ	10/10/2001	Original 3304 date 10/9/02 but date was tolled when civil case filed 6/20/02 USD CT C02-2951 St. Case settled on 8/7/03. New 3304 date 12/26/03.	10/9/2001	#1 Excessive force	C alleges that she was thrown to the ground, kicked in the face and had her stomach stepped on. The C was also handcuffed too tightly and had the police car door "slammed" on her left foot causing injury.	Tolling expired on 8/7/03 when case settled. Will propose for administrative closure.
01-37	William Drury III	AM	11/26/2001	11/26/2002 TOLLED - Complaint filed 3/30/02. Superior Ct. 2002- 044710.	4/4/2001	#1 Excessive force (serious injury)	C alleges that his girlfriend hit him. The OPD responded and he was arrested. He alleges that the officers use excessive force to affect the arrest.	TOLLED.

APPENDIX K

Page 104

**PENDING CASES [Page 14 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
02-10	Streeter D. Lynne	AM	3/25/2002	TOLLED - Civil Litigation filed USD CT C02-3537	12/26/2001	Work in progress	C alleges that she was upset that her dog ran off her property, she was calling the dog loudly. OPD officers arrived, arrested her and used excessive force to affect the arrest.	TOLLED. City prevailed at trial. Now on appeal.
02-35	Michael Cole	SO	8/22/2002		5/7/2002	#1 Excessive force	C alleges excessive force and planting of evidence.	TOLLED. Criminal investigation pending.
02-22	Jose Ortiz	VU	5/28/2002	Tolled - Civil litigation filed, Alameda County Superior Court #RG03110253	5/28/2003	#1 Excessive force	C alleges that excessive force was used when he was taken into custody	TOLLED. Verdict reached 11/18/04.
03-009	Naiseng Saephan	AM	1/30/2003	TOLLED - Civil Litigation Case filed 7/17/03 USD CT C-03-3342-EMC	1/24/2003	#1 Excessive force	Excessive force, failure to provide medical treatment	TOLLED.
03-073	Jennifer Hanson	VU	4/11/2003	TOLLED Civil litigation filed USD CT C-03-2961 - TEH	4/7/2003	#1 Excessive Force	(Port case) C alleges she was hit in the back with a concussion grenade or a bean bag while trying to leave the Port of Oakland antiwar protest	TOLLED.
03-148	Michael Ray Henry, Jr. & Anna Wiley (mother)	VU	6/30/06 (CPRB) 6/17/03 (IAD)	TOLLED Civil litigation filed USD CT C-04-01065 - EDL	6/10/2003	#1 Excessive Force	C alleges he was intentionally chased and hit by an Oakland patrol car driven by Lt. Michael Yoell, resulting in a broken leg. C alleges he was also choked by an officer.	TOLLED.
03-148	Elliott J. Noble (Minor)	VU	7/9/2003	TOLLED Civil litigation filed USD CT C-04-01065 - EDL	6/10/2003	#1 Excessive Force	C took pictures of a friend, who was hit by a police car. C alleges officers took his camera, choked him, five officers grabbed his person, and used profanity during DEA investigation. C's mother alleges one officer shouted at her when she inquired about the arrest of her son.	TOLLED.
04-242	Safa Swaid	SQ	7/30/2004	TOLLED - Criminal case pending Alameda County Superior Court #137881 filed 1/27/00	10/1/1999	#2 Procedure, search and untruthfulness	C alleges he as arrested and an illegal search of his premises was done by police officers.	TOLLED. Investigation pending
03-209	Lavita Nell Oliver	SQ	8/18/2003	TOLLED	8/6/2003	#1 Excessive force and improper procedures	C alleges that officers used excessive force in the shooting death of her mentally disabled brother, Glenn Willis. Officers responded to a 911 call from C to do a welfare check on her brother. The contact resulted in Glenn Willis stabbing an OPD officer and the death of C's brother.	TOLLED.

**PENDING CASES [Page 15 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
03-329	Omar Alvarez	SQ	12/15/2003	TOLLED	11/30/2003	#1 Excessive force, procedure, conduct.	C alleges he was attending a Raiders game when a commotion broke out C alleges he saw police officers grabbing and throwing people to the ground. C also alleges he was standing about 10 feet away and an officer yelled "take him down" C was grabbed from behind by two officers and forced face down on the ground handcuffed and taken to jail for 5 hours and released.	TOLLED.
03-329	Ruben Ramirez, Sr.	SQ	1/6/2004	TOLLED	11/30/2003	#1 Excessive force, procedure, conduct.	C alleges he was attending a Raiders game with his sons and was told he was arrested by police officers when asked why the officer allegedly grabbed the C by the throat w/ two hands and pushed him against a wall and another officer put handcuffs on him. C further alleges that on the way to the police van the officer escorting him allegedly told the C "that it was because of Spicks, like him that the Raider games were so F---ed up." After being bailed out of jail C went to Kaiser Hospital and was allegedly told his right hand was sprained.	TOLLED.
03-329	Rueben Ramirez, Jr.	SQ	1/6/2004	TOLLED	11/30/2003	#1 Excessive force, procedure, conduct.	C attended a Raiders game with his father and brother and allegedly saw that a police officer allegedly had his hands around his fathers throat and ran towards him shouting he didn't do anything. C then alleges that he was tripped and jumped on top of with a knee to his back by police officers and his head was slammed onto the concrete, handcuffed and punched four times on the left side of his face.	TOLLED.
03-329	Ryan Ramirez	SQ	1/6/2004	TOLLED	11/30/2003	#1 Excessive force, procedure, conduct.	C attended a Raiders game with his father and brother and saw that a police officer allegedly had his hands around his fathers throat and ran towards his dad and was allegedly taken down by a blow to his head. C further states that two officers were on him with a knee to his head and back and another officer continued hitting him in his face while he was on the ground with handcuffs on.	TOLLED.
03-288	Tianna Murphy	AM	11/17/2003	TOLLED; pending US District Court, docket # C04-3062 TEH filed 7/8/04	10/23/2003	#1 Excess force, care of property demeaning, improper procedures, handcuffing	C states that her brother told her that he was sitting on the porch when police drove up and flashed a light in his face. The police got out of their car and told him to open his mouth. An officer grabbed him by the throat and choked him until he couldn't breath. The C brother further told her that he pushed the officer off of him and ran. An officer was right behind him when he was on top of a fence, the officer grab his foot and pushed him over the fence and he landed on his head. He immediately screamed that he couldn't feel his legs. The officers handcuffed and rolled him over several times and in the process of rolling him over he was being hit. Also the C brother alleges that one of the officers took \$780.00 from his pocket.	TOLLED.
03-288	Sherry Hayes Murphy (Aunt of Randy Murphy)	AM	11/12/2003	TOLLED; pending US District Court, docket # C04-3062 TEH filed 7/8/04	10/23/2003	#1 Excessive force, harassment, improper procedures and retaliation	C alleges harassment by a police officer who has conducted searches on her home and arrested her nephew. C further alleges that two officers choked her nephew and shoved him over a fence and rolled him over at least three times even though her nephew stated that he could not feel his legs. C also alleges that the officers tried to make her nephew stand up and when he couldn't they called for an ambulance.	TOLLED.

**PENDING CASES [Page 16 of 16]
as of January 14, 2004
(Total Cases - 101)**

Case #	Complainant	Inv.	Date Complaint Filed	3304	Date of Incident	Priority	Brief Description of Complaint	Notes
04-157	Yolanda Montesinos & Israel Montesinos	VU	5/28/2004	TOLLED - Criminal case pending	5/26/2004	#2 Improper search, conduct, procedure and bias	C alleges two officers entered her home w/o a search warrant and arrested her son. C alleges the officers were looking for her daughter's friend. One officer spoke rudely and unprofessional to the C and her mother.	TOLLED.
04-150	Monzell Harding	SQ	5/26/2004	5/25/2005	5/16/2004	#1 Bias, untruthfulness & procedure	C alleges his vehicle was hit by another car and when the police arrived the officer took the C statement first and then instructed the C he was free to leave and was told the report would be available in a week. C called his insurance company who had a copy of the report and it stated that the C unsafely entered traffic and collided with another vehicle. C called OPD and informed a Sgt. that several things were wrong, the direction and other things were changed in the report.	TOLLED.