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2017 OCT 12 PM 3:45

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anthony W. Finnell
Executive Director

SUBJECT: Citizens' Police Review Board 2017
Annual Report

DATE: September 25, 2017

City Administrator Approval

Date:

10/12/17

RECOMMENDATION

Staff Recommends That The Public Safety Committee Receive The Citizens' Police Review Board 2017 Semi-Annual Report.

EXECUTIVE SUMMARY

This informational report fulfills the mandates required by Ordinance No. 12454 C.M.S. and discloses, for the public record, the work and actions taken by the Citizens' Police Review Board (CPRB) for the reporting period of January 1, 2017 through June 30, 2017.

BACKGROUND / LEGISLATIVE HISTORY

The Citizens' Police Review Board (CPRB) was originally created by Ordinance No. 9916 C.M.S. on April 15, 1980 for the purpose of reviewing certain complaints of conduct by police officers, conducting fact-finding investigations of these complaints, and thereafter making advisory reports to the City Administrator on the facts of these complaints. Ordinance No. 12454 C.M.S. amended prior CPRB governing legislation on November 12, 2002, by re-enacting the provisions of the Ordinance with amendments that:

- Require five affirmative votes of the Board for findings other than not sustained;
- Require that officers provide supplemental statements to CPRB Investigators in certain circumstances;
- Authorize additional complaint resolution processes;
- Authorize CPRB staff to investigate complaints that are subject to litigation and make recommendations directly to the City Administrator; and
- Provide that three-member panels' recommendations/findings will be placed on the full Board's agenda as consent calendar items and may be pulled from the consent calendar agenda for discussion or hearing only upon passing a motion by five or more affirmative votes

Item: _____
Public Safety Committee
October 24, 2017

ANALYSIS AND POLICY ALTERNATIVES

The analysis of the complaints filed with the CPRB from January 1, 2017 through June 30, 2017 is contained in the attached "CPRB 2017 Semi-Annual Report" (***Attachment A***).

FISCAL IMPACT

There are no costs associated with this report.

PUBLIC OUTREACH / INTEREST

A draft version of the "CPRB 2017 Semi-Annual Report" was presented and discussed during the July 27, 2017 CPRB meeting. The presentation and discussion of the report was open to the public for comment and discussion.

COORDINATION

Coordination of the investigations contained in the attached report occurred with the Oakland Police Department and Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: There are no identifiable economic opportunities with this report.

Environmental: There are no identifiable environmental opportunities with this report.

Social Equity: There are no identifiable social equity opportunities with this report.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the Public Safety Committee receive the attached Citizens' Police Review Board 2017 Semi-Annual Report.

For questions regarding this report, please contact Anthony W. Finnell, Executive Director, at afinnell@oaklandnet.com or (510) 238-7401.

Respectfully submitted,



Anthony W. Finnell
Executive Director, CPRB

Reviewed by:
Juanito Rus
Policy Analyst, CPRB

Prepared by:
Anthony W. Finnell, Executive Director
Citizens' Police Review Board (CPRB)

Attachment (A): CPRB 2017 Semi-Annual Report

City of Oakland Citizens' Police Review Board

2017

Semi-Annual Report

JANUARY 1, 2017– JUNE 30, 2017



CITY ADMINISTRATOR'S OFFICE

250 FRANK H. OGAWA PLAZA, SUITE 6302, OAKLAND, CA 94612

OFFICE (510) 238-3159 FAX (510) 238-6834

WEBSITE: [HTTP://WWW2.OAKLANDNET.COM/GOV/CPRB](http://www2.oaklandnet.com/gov/cprb)

CPRB Mission Statement

The Citizens' Police Review Board strives to provide the community with a public forum to voice its concerns on police matters and individual cases alleging police misconduct, through a mechanism of independent, impartial, fair, and transparent civilian oversight.

CPRB 2017 SEMI-ANNUAL REPORT

CPRB SEMI-ANNUAL REPORT

January-June 2017

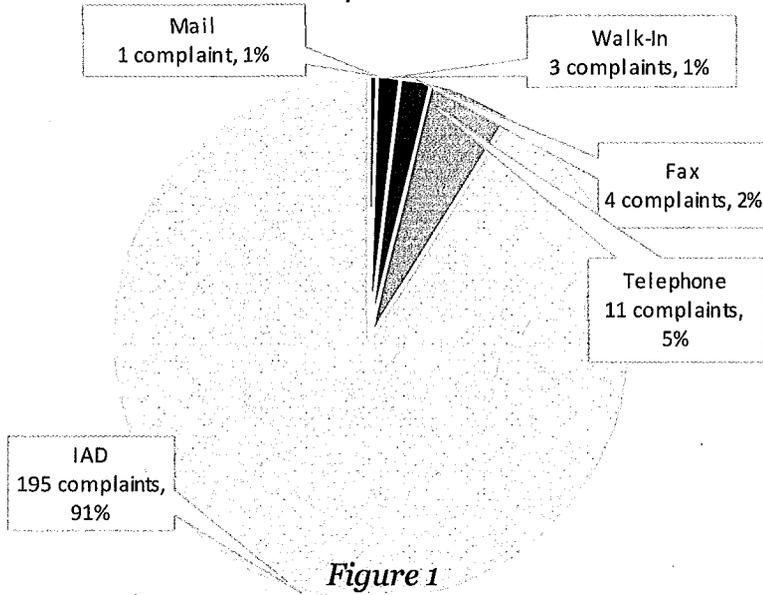
This report has been prepared in accordance with CPRB Enabling Ordinance No. 12102 C.M.S. (December 15, 1998) Section 6C 3 which specifies “No less than twice each year the Board shall issue a detailed statistical report to the Public Safety Committee regarding complaints filed with the Board, the processing of these complaints and their dispositions.”

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Number of Complaints Filed with the CPRB

Complaints Filed by Intake Method
January-June 2017



In the first half of 2017, the CPRB received 214 complaints. *Figure 1* shows a breakdown of the methods by which 2017 complaints were filed.

Figure 2 shows the number of complaints filed by month in 2017. In every month except January, the CPRB received fewer complaints in the first half of 2017 than during the comparable period in 2016.

Complaints Received by Month January-June 2017
(with 2016 comparison data)

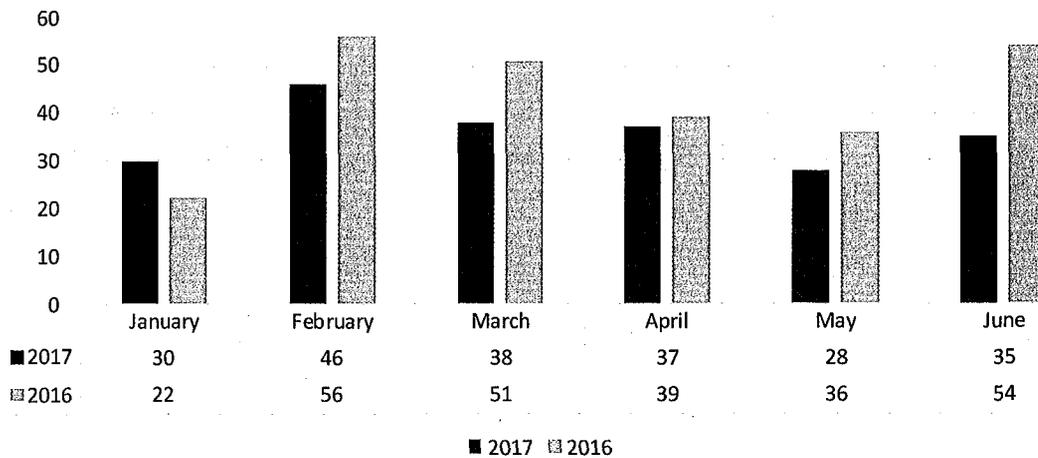


Figure 2

Complaint Incident Location

Complaints received by the CPRB include address information about the location of the incident that generated the complaint. *Figure 3* (below) is a map of this location information for complaints filed in the first 6 months of 2017.



Figure 3

Complaints Not Assigned for Investigation

Of the 214 complaints received in the first half of 2017, 29 were assigned to CPRB investigators for further investigation, and 42 remained unassigned at the end of June. Therefore, fourteen percent (14%) of all complaints were assigned for complete investigation. The other 143 complaints received were declined for a number of reasons. These included complaints in which clear evidence existed that the complaint was unfounded because the incident did not occur, complaints that did not constitute violations of the OPD Manual of Rules (MOR), officers who were exonerated because the incident generating the complaint was found to have occurred but the officer’s actions were lawful and necessary, lack of cooperation by complainants, instances in which specific officers were not identified, and issues of jurisdiction. *Figure 4* shows the breakdown of all declined complaints by the reason that they were declined. Cases listed as Other were most likely to have been resolved through informal complaint resolution between officer and complainant prior to investigation, and include instances of officer conduct which did not rise to the level of a MOR violation.

**Complaints Received ^{But Not} Assigned for Investigation
by Reason for Declination
January-June 2017**

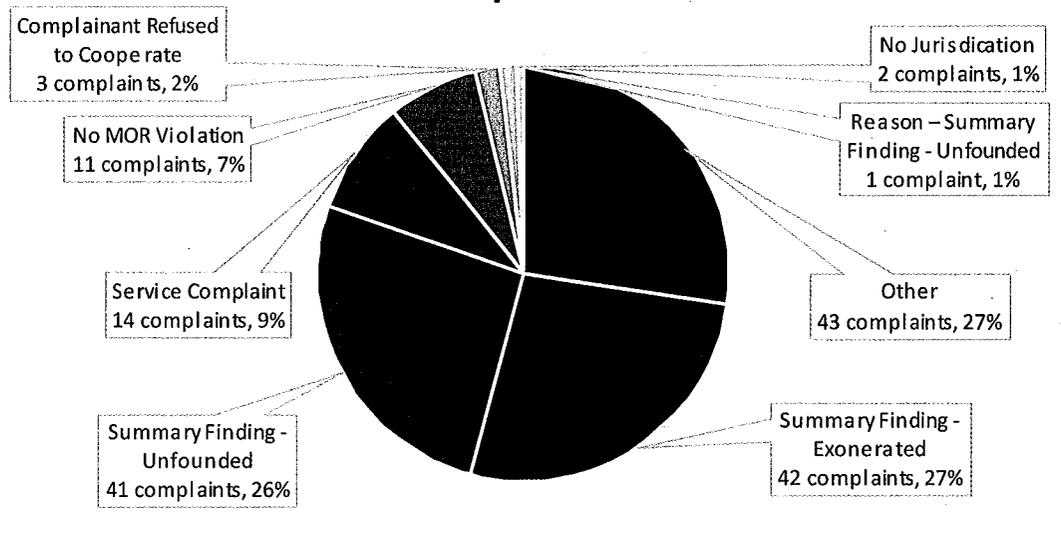


Figure 4

Cases Assigned for Investigation

Complaints that involve use of force, profiling, in which the CPRB legitimately believes that there is a basis for a positive finding of a MOR violation, or that the Director deems appropriate for further investigation are assigned to the professional investigative staff of the CPRB. Individual investigations include a review of all police documents and reports, camera footage (where available), and interviews with complainants, witnesses and officers named. Each complaint may generate numerous allegations of misconduct involving one or many officers, and each allegation is thoroughly investigated to determine whether the incident took place and whether it complied with existing OPD policy and training. Individual complaints therefore vary in their complexity depending on the number of allegations and available evidence, from relatively simple complaints involving single complainants and officers and a limited number of allegations to major incidents which may involve dozens of witnesses and officers and hundreds of hours of video evidence. Complaints are categorized based on their complexity at intake and assigned to investigators according to their availability.

Twenty-nine (29) complaints were assigned for further investigation in the first half of 2017.

Cases Assigned for Investigation January-June 2017	
1 - Involving use of force/bodily injury; Sexual Misconduct; Discrimination; Minors; Racial Profiling	14
2 Average complexity	6
3 Most complex	8
2 - Improper detention (profiling); Im-	7
2 Average complexity	7
3 - Service/Response/Reporting; Other	8
1 Minimal effort to complete	3
2 Average complexity	5
Grand Total	29

Resolved Complaints

The CPRB resolved 40 separate complaints in the first half of 2017; thirty-three (33) by Administrative Closure, five (5) by Evidentiary Hearing, and two (2) by Staff Recommendation brought directly to the City Administrator. Staff Recommendation is another method to bring findings to the City Administrator when a hearing cannot be held, for example, because of pending litigation or unavailability of parties or when the board is unable to hear an Administrative Closure due to schedule conflicts.

Both complaints received and closures are slightly lower in the first half of 2017 than the comparable period of 2016, however more closures went to full Board Hearing (5) than in the entirety of the previous year.

The number of resolved complaints in a given year is related to both the number of complaints filed that year and the number of complaints filed in the previous year. *Figure 5* (below) shows the number of resolved complaints in each year since 2005.

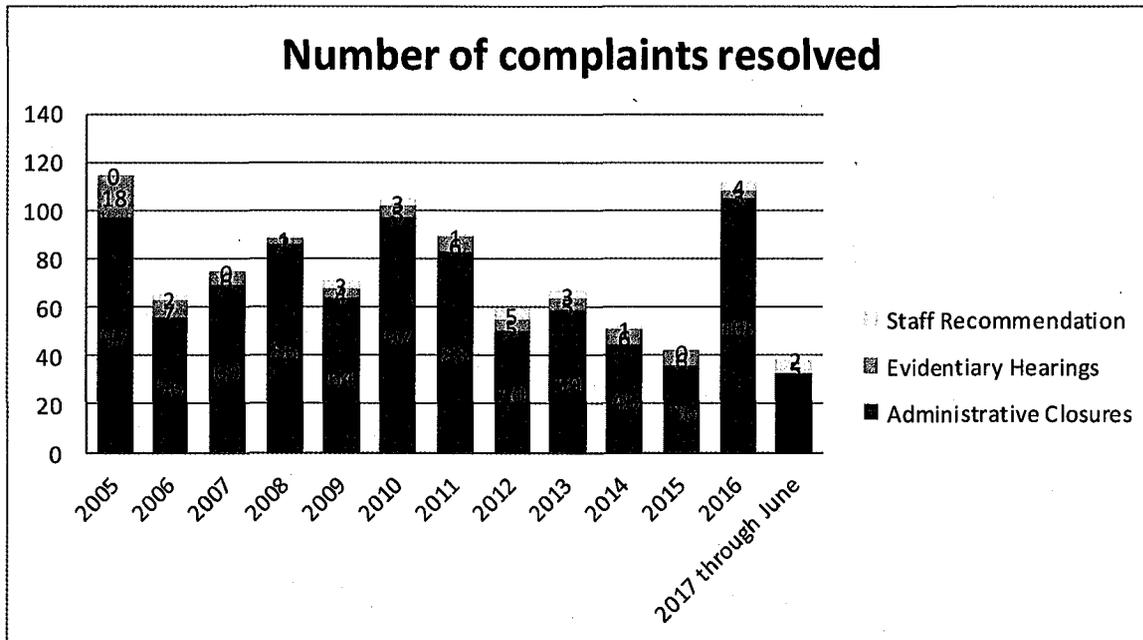


Figure 5

Board Findings for Resolved Allegations

In the first half of 2017, the CPRB was able to determine findings in 161 of the allegations underlying complaints that were investigated. In ten percent (10%) of those allegations, CPRB investigators were unable to reveal sufficient evidence to affirm whether an officer's actions were either appropriate or inappropriate resulting in a finding of Not Sustained. Seventeen (17) allegations (11%) resulted in no finding because complainants and/or witnesses did not provide sufficient information for the CPRB to complete its investigation. In the remaining 79% of these allegations, CPRB investigations revealed sufficient evidence for positive findings regarding incidents that were subject to citizen complaint. Twenty (20) allegations (12%) were sustained and generated disciplinary recommendations (Recommendations shown on page 13).

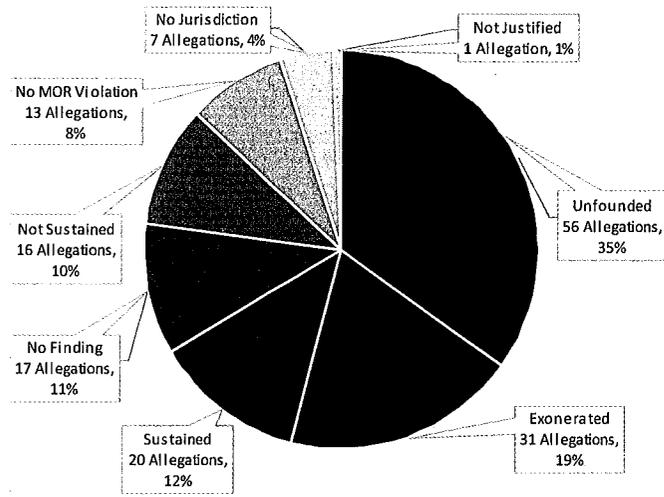


Figure 6

Explanation of Board Findings

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

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

A finding of Sustained affirms that the officer acted inappropriately, and findings of Exonerated or Unfounded affirm that the officer acted appropriately. These findings require the vote of five Board members. A Not Sustained finding makes no judgment about the behavior of the officer; a majority of Board members present may reach a finding of Not Sustained.

Allegation Categories and MOR Violations

Each complaint consists of allegations of misconduct against specific officers. Misconduct is defined as a violation of the Oakland Police Department Manual of Rules (MOR), and is characterized by both the category of violation and the specific rule that the officer is alleged to have violated. The nature and number of allegations in a complaint sometimes change over the course of investigating a case. Each complaint may name multiple officers and each officer may be the subject of multiple allegations. In the first half of 2017, complaints ranged from 1-24 allegations and the average complaint consisted of 4.025 allegations.

Allegations by MOR Violation	Count	Sustained	
234.00-2 Commanding Officers - Authority and Responsibilities	5	1	20.0%
285.00-1 Supervisors - Authority and Responsibilities - Gross dereliction of duty	1		
285.00-2 Supervisors - Authority and Responsibilities	6	2	33.3%
314.03-2 General Conduct	3		
314.04-1 Conduct Toward Others - Harassment and Discrimination	8		
314.07-2 Conduct Toward Others - Demeanor	18	4	22.2%
314.08-2 Conduct Toward Others - Relationships	1		
314.39-1 Performance of Duty - Miranda Violation	1	1	100.0%
314.39-2 Performance of Duty - Care of Property	4		
314.39-2 Performance of Duty - General	24	7	29.2%
314.39-2 Performance of Duty - Personal Digital Recording Device (PDRD)	3	2	66.7%
314.39-2 Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	16	2	12.5%
314.42-1 Obedience to Laws - Felony/Serious Misdemeanor	2		
314.42-2 Obedience to Laws - Misdemeanor/Infraction	1		
314.48-1 Reporting Violations - Failure to Report Misconduct When Required	1		
314.69-1 Gifts, Gratuities - Soliciting or Accepting	2		
370.27-1 Use of Physical Force - Level 1-4	41		
370.81-1 Assisting Criminals	1		
398.76-1 Refusal to Accept or Refer a Complaint (Intentional)	2		
398.76-2 Failure to Accept or Refer a Complaint (Unintentional)	3	1	33.3%
398.77-1 Refusal to Provide Name or Serial Number	1		
398.80-1 Truthfulness	3		
No Duty/No MOR Violation	14		
Grand Total	161	20	12.4%

Allegations by Category	Count	Sustained	
Bias/Discrimination	2		
Excessive Force - Bodily Injury	3		
Excessive Force - Choking	1		
Excessive Force - Grab/push/shove/trip	7		
Excessive Force - Handcuffs too tight	3		
Excessive Force - Kicked or kneed	7		
Excessive Force - Other	8		
Excessive Force - Pointing of firearm	3		
Excessive Force - Strike w hand or unknown object	6		
Excessive Force - Strike w weapon	1		
Excessive Force - Taser	2		
Excessive Force - Use of patrol vehicle	2		
Failure to Act - Failure to accept or refer a complaint	4		
Failure to Act - Failure to activate PDRD	3	2	66.7%
Failure to Act - Failure to identify self	1		
Failure to Act - Failure to investigate	3	1	33.3%
Failure to Act - Failure to properly supervise	5	2	40.0%
Failure to Act - Failure to report misconduct	2		
Failure to Act - Failure to write a report	6	2	33.3%
Failure to Act - Other	15	4	26.7%
Harassment	2		
Improper Supervision	6	1	16.7%
Improper/Unlawful Arrest	2		
Improper/Unlawful Detention/Stop	10	1	10.0%
Improper/Unlawful Search - Person	3		
Improper/Unlawful Search - Vehicle	2	1	50.0%
Minors	1		
Other	15	1	6.7%
Property - Damaged/missing/seized	3		
Property Stolen	2		
Racial/Identity Profiling - Race	3		
Service/Response/Reporting	4	1	25.0%
Sexual Misconduct	1		
Untruthfulness - Reports or booking	2		
Untruthfulness - Verbal statements	1		
Verbal Misconduct - Other	4		
Verbal Misconduct - Profanity	2	2	100.0%
Verbal Misconduct - Rudeness	12	2	16.7%
Verbal Misconduct - Threats	2		
Grand Total	161	20	12.4%

Administrative Closures

After an investigation is complete, a complaint is administratively closed and documented by a written Administrative Closure Report that is considered by the Board if a hearing on the complaint would not facilitate the fact-finding process. The Board votes on each allegation included in an Administrative Closure Report, and on proposed discipline in the case of sustained allegations of officer misconduct. **In the first half of 2017, the Board administratively closed 33 complaints.** Figure 7 (below) shows the reasons for all Administrative Closures in the first half of 2017. The following page defines the reasons complaints are administratively closed. The largest number of complaints are administratively closed because a hearing would not facilitate the fact finding process based on the evidence collected by staff.

3304 Violation(s)

There were two (2) cases which the CPRB closed through a Staff Recommendation directly to the City Administrator because holiday breaks in the regular Board meeting schedule would otherwise have led to a violation of the §3304 statute of limitations during the first half of 2017. There were no §3304 violations during this period.

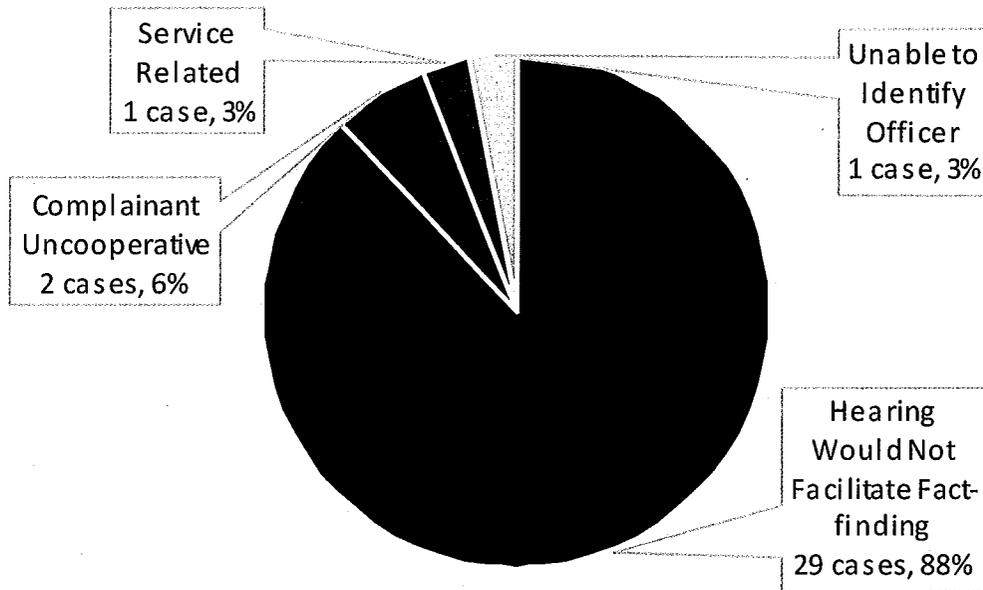


Figure 7

Reasons for Administrative Closures

Hearing would not facilitate the fact-finding process

The complaints that fall under this category include either those in which the investigator finds conclusive evidence to sustain an allegation, or those in which they are unable to find corroborating evidence of the allegations. If the investigator finds conflicting evidence, or if questions remain that would benefit from the gathering of additional sworn evidence, the case proceeds to the full Board Hearing procedure.

No MOR Violation

These complaints do not constitute a violation of OPD's Manual of Rules. Such complaints include actions lawful for officers to do in particular incidents which a complainant may be unaware of as being legal.

Lack of jurisdiction

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

Service related

A few complaints are filed with the CPRB which complain about the quality of service received, for example, the time it takes OPD to respond to a call for service. Such complaints are not individual acts of officer misconduct.

3304 Statute of Limitations

A one-year statute of limitations applies to bringing disciplinary action against a public safety officer (CA Government Code §3304). Therefore, investigations in which a full Board Hearing process would cause the case to exceed the statutory 3304 deadline are sometimes forwarded as Administrative Closures with an investigator recommendation in order to assure that the Board's findings and recommended discipline comport with state law.

Complaint withdrawn

If a complainant voluntarily withdraws his or her complaint, it is closed without a finding.

Complainant uncooperative

If a complainant repeatedly fails to respond to the investigator's request for an interview, the complaint is closed without a finding.

Unable to identify officer(s)

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

Evidentiary Hearings Conducted January-June 2017

Complainant(s) Hearing Date	Allegation	Allegation Category	Board Finding	Board Disciplinary Recommendation
Zerena Diaz 1/26/2017	16-0115(1)	Excessive Force - Use of patrol vehicle	Not Sustained	
	16-0115(2)	Failure to Act - Failure to write a report	Sustained	Suspension
	16-0115(3)	Other	Sustained	Suspension
	16-0115(4)	Failure to Act - Failure to properly supervise	Sustained	Suspension
	16-0115(5)	Service/Response/Reporting	Sustained	Suspension
	16-0115(6)	Untruthfulness - Reports or booking	No Finding	
Christopher Britt 2/23/2017	16-0199(1)	Improper/Unlawful Detention/Stop	Exonerated	
	16-0199(2)	Improper/Unlawful Detention/Stop	Exonerated	
	16-0199(3)	Verbal Misconduct - Profanity	Sustained	Counseling
	16-0199(4)	Verbal Misconduct - Other	Unfounded	
	16-0199(5)	Racial/Identity Profiling - Race	Unfounded	
Trudi Bryant-Williams 5/11/2017	16-0487(1)	Verbal Misconduct - Rudeness	Sustained	Written Reprimand
	16-0487(2)	Failure to Act - Failure to investigate	Sustained	Suspension
Charrika Harris 5/25/2017	16-0545(2)	Verbal Misconduct - Rudeness	Sustained	Counseling
	16-0545(5)	Verbal Misconduct - Threats	Unfounded	
	16-0545(6)	Failure to Act - Failure to activate PDRD	Unfounded	
Faheema Kayaba, et al. 3-member Hearing 6/17/2017 Full Board Review 6/22/2017	16-0669(H1)	Improper/Unlawful Detention/Stop	Sustained	Counseling
	16-0669(H2)	Improper Supervision	Unfounded	
	16-0669(H3)	Failure to Act - Failure to properly supervise	Sustained	Written Reprimand
	16-0669(H4)	Improper/Unlawful Detention/Stop	Unfounded	
	16-0669(H5)	Improper Supervision	Unfounded	
	16-0669(H6)	Improper Supervision	Not Sustained	
	16-0669(H7)	Improper/Unlawful Detention/Stop	Not Sustained	
	16-0669(H8)	Improper Supervision	Unfounded	
	16-0669(H9)	Improper Supervision	Unfounded	
	16-0669(H10)	Improper/Unlawful Search - Vehicle	Sustained	Written Reprimand
	16-0669(H11)	Failure to Act - Failure to properly supervise	Exonerated	
	16-0669(H12)	Improper Supervision	Sustained	Counseling
	16-0669(H13)	Failure to Act - Failure to properly supervise	Not Sustained	
	16-0669(H14)	Failure to Act - Other	Exonerated	
	16-0669(H15)	Failure to Act - Failure to properly supervise	Unfounded	

Evidentiary Hearings

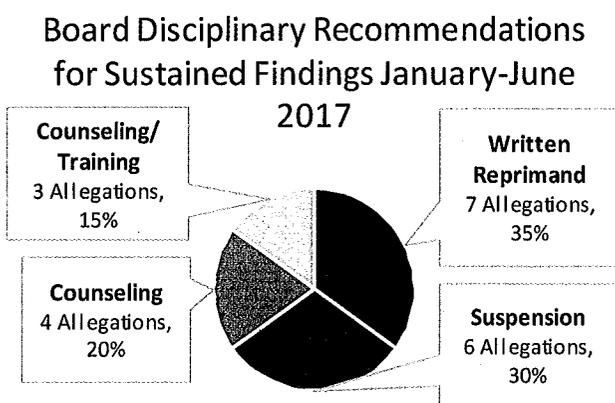
The Board uses several methods to review a complaint to determine the findings and appropriate discipline for the subject officers. In certain cases, complaints reviewed by CPRB investigators contain conflicting evidence, turn up issues that were not sufficiently addressed by the investigative documentation provided by the OPD Internal Affairs Division and investigator interviews, or for some other reason are determined to require the collection of sworn testimony during a formal evidentiary hearing process before the full board.

Prior to an Evidentiary Hearing, the board generally assigns two (2) members as Examiners. These board members meet prior to the full board hearing to review all existing available evidence and design questions meant to address specific board concerns. During the Evidentiary Hearing itself, Board Counsel describes the process for witnesses and their legal counsel (if applicable); swears in all witnesses and subject officers who are to provide testimony; and serves as court officer, after which the assigned board examiners engage directly with called witnesses. After the hearing, the Board convenes in Closed Session to discuss the evidence in the case and any testimony provided during the hearing, and to make a determination as to their finding for each allegation contained in the complaint based on these discussions.

In case #16-0669, Faheema Kayaba, et al., the board turned to an alternate method in which a Three-Member Panel selected from the Board was designated to conduct a Hearing according to the rules established by the CPRB enabling Ordinance 12454, Sections 6.10 and 6.11. After the 3-Member Hearing, the entire board considered the recommendations generated by the Panel and voted on the disposition of the case based on these recommendations.

The table at left lists the complaints and allegations decided by the Board after an Evidentiary Hearing in the first half of 2017.

Board Disciplinary Recommendations for Sustained Findings



The Board recommended discipline in response to 20 individual allegations closed through Board Hearings and Administrative Closure Reports in 2017. Disciplinary recommendations ranged from counseling to suspension. *Figure 8* shows all recommendations made by the Board in the first half of 2017.

Figure 8

Administrative Closures by Board Meeting

Board Meeting	Case Number	Complainant
1/12/2017	16-0065	Leonard Ambrose
	16-0073	Dane Smith
	16-0146	Saleem Bey
	16-0161	Andrew King
	16-0176	Victor Xavier Pamiroyan
1/26/2017	16-0184	Kira Janai Secrease
	16-0329	Dunta Jackson
2/9/2017	16-0141	Sarrita Adams
	16-0606	Ben McBride
	16-0662	Ben McBride
	16-0663	Ben McBride
	16-0309	Delvon D. Wash
	16-0158	Lavert Maxie
	16-0147	Virginia Sorgi
2/23/2017	15-0883	Mary King
	16-0477	Kim Eschenmann
3/9/2017	16-0220	Alphonso Corro Rojas
	16-0337	Erica Cloird
	16-0365	Ebony Van Pelt
	16-0778	Steven Lamont Day, Jr.
3/23/2017	16-0667	Gabriel Ortiz
4/13/2017	16-0389	Jaton Horatio Hurt
4/27/2017	16-0386	Arnold Glaubitt
	16-0387	Jimmy Walker
	16-0475(1)	Alton Long, Leon Williams, Jimmy Watkins
	16-0870	Ashanti Renee Payne
5/11/2017	16-0534	Tamala Denise Tisdale/Meya Dean
5/25/2017	16-0724	Yolanda Davis-Rodgers
	16-0475(2)	Alton Long, Leon Williams, Jimmy Watkins
	16-0669(AC)	Faheemah Kayaba, et al
6/8/2017	16-0545(AC)	Charrika Harris
	16-0870	Ashanti Renee Payne
	16-0757	Jolie Brown
	16-0589	Latrell Parker
6/22/2017	16-0634	Sarai Smith-Mazariegos, Nola Brantley
	16-0776	Bernell Williams
	16-0876	Robert Campbell, Amy Carozza

Closures by Staff Recommendation by Board Meeting

Board Meeting	Case Number	Complainant
1/12/2017	16-0015	Alicia Hurtado
2/9/2017	16-0142	Caitlin Miller