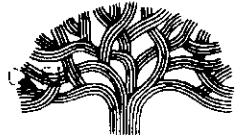


CITY OF OAKLAND



2006 OCT 12 AM 8:56

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

October 24, 2006

**PUBLIC SAFETY COMMITTEE**  
Oakland, California

Chairperson Reid and Members of the Committee:

Subject: **CITIZENS' POLICE REVIEW BOARD 2006 SEMI 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 2006 semi 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  
October 24, 2006



## Citizens' Police Review Board

Office of the City Administrator  
1 Frank Ogawa Plaza, 11th Flr.  
Oakland, CA 94612

Phone: 510-238-3159  
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Deborah Edgerly, City Administrator  
Joyce M. Hicks, Executive Director

August 23, 2006

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

On behalf of the members of the Citizens' Police Review Board (CPRB), I am pleased to present CPRB's 2006 Semi-Annual Report. In this report, you will find data showing a reduction in the total number of complaints filed with the CPRB, summaries of complaints resolved, improvement in officer compliance with CPRB investigations, and descriptions of community outreach projects.

In the first six months of 2006, the CPRB has seen a thirty six percent decrease in the total number of complaints filed from this same time last year. This reduction in the number of complaints filed is part of a continuing trend that began at the start of 2005. Specifically, there is a decrease in the number of complaints filed alleging officers using excessive force.

Also in the first six months of 2006, the Board resolved thirty two complaints, six through public evidentiary hearings and twenty six by administrative closures. Of the six hearings held, the Board forwarded disciplinary recommendations to the City Administrator from four complaints. The City Administrator has denied two, and two of the Board's recommendations are currently pending. One policy recommendation was made by the Board on landlord/tenant training. This policy recommendation was accepted with initial training occurring in officer line-ups and more formal training is being developed by the police department.

The CPRB is continuing to see improvements with officer compliance with CPRB investigations. Officers are complying with interview notices at a rate of ninety seven percent. All officers subpoenaed in the first six months of 2006 have complied with the conditions of the subpoena and have appeared before the Board.

The CPRB engaged in more extensive community outreach projects in response to the results of a citywide survey on police services and filing complaints. The CPRB attended a number of community meetings and held a Board meeting in City Council District 7 at the East Oakland Senior Center. The Board plans to continue to engage more with the community and participate in more outreach activities for the remainder of 2006.

The Board and staff thank you for your support in the investigation and resolution of citizens' complaints of police misconduct and improvement of police policies.

Sincerely,

Corey Dishmon, CPRB Chair

---

## **Board Members and Term Expiration Dates**

Corey Dishmon, Chairperson	February 15, 2008
Angela Cheung, Vice Chairperson	February 15, 2008
Cara Kopowski	February 15, 2008
Charliana Michaels	February 15, 2007
Barbara Montgomery	February 15, 2007
Jamilah Scates	February 15, 2008
Beneba Thomas	February 15, 2007
Renee Harwood, Alternate	February 15, 2008
Andrew Radlow, Alternate	February 15, 2008

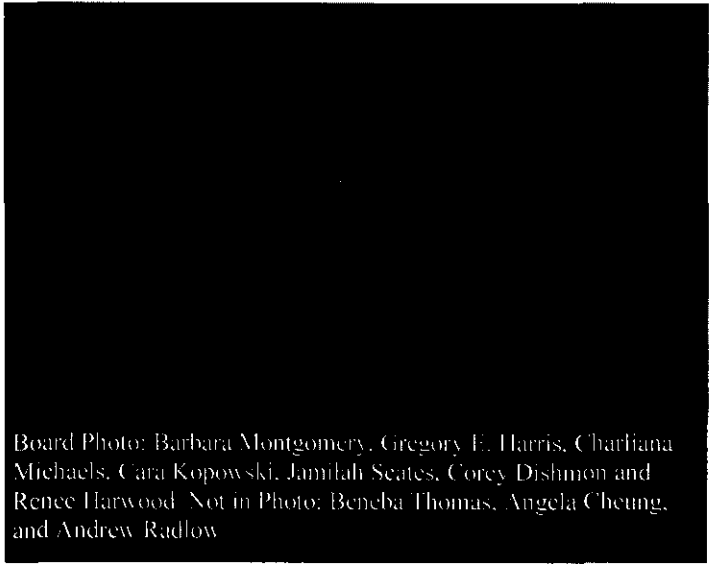
## **CPRB Staff**

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

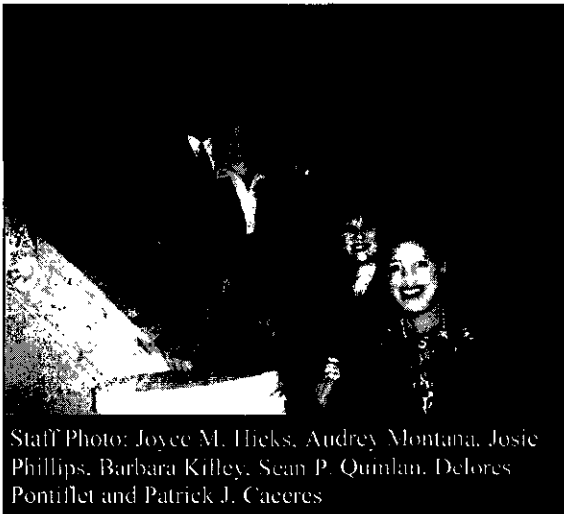
## **CPRB Independent Counsel**

Antonio Lawson	Board Counsel
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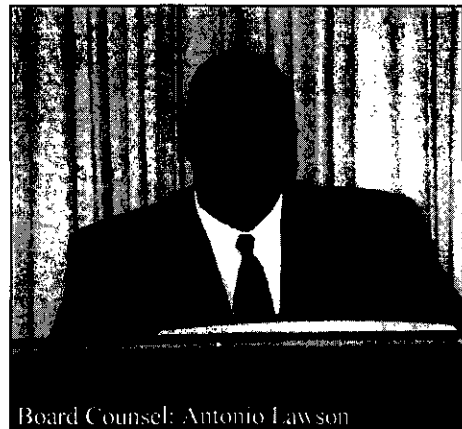
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Board Photo: Barbara Montgomery, Gregory E. Harris, Charliana Michaels, Cara Kopowski, Jamilah Seates, Corey Dishmon and Renee Harwood. Not in Photo: Beneba Thomas, Angela Cheung, and Andrew Radlow



Staff Photo: Joyce M. Hicks, Audrey Montana, Josie Phillips, Barbara Killey, Sean P. Quimlan, Delores Pontillet and Patrick J. Caceres



Board Counsel: Antonio Lawson

### **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.



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## Executive Summary

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

In the first six months of 2006, the Board received 30 complaints, filed by 31 individuals. These individuals were primarily African-Americans, between the ages of 35 and 44 years old. The number of complaints received is 36% less than the number of complaints received for this same period in 2005.

The allegations most frequently filed with the Board were: (1) officers' failure to act; (2) improper arrest; and (3) excessive use of force. The alleged incidents occurred most frequently in City Council District 3.

Also in the first half of 2006, the Board resolved 32 complaints; 6 complaints through evidentiary hearings and 26 through administrative closures. At evidentiary hearings, the Board sustained 28% of the allegations it heard and concluded that the officers were justified in their actions for 35% of the

allegations. The Board found that 14% of the allegations it heard did not occur and voted not to sustain 23% of the allegations. The most sustained allegations in the first six months of 2006 were for failures to write reports or to investigate.

The Board forwarded four disciplinary recommendations for sustained allegations to the City Administrator. She has denied two of the Board's recommendations, and two recommendations are currently pending.

Officer compliance with interview notices and hearing subpoenas continues to improve. Ninety-seven percent of officers replied to interview notices in a timely manner, and all officers subpoenaed for hearings have appeared.

In the first six months of 2006, the Board made one policy recommendation to OPD on landlord/tenant training, which has been accepted. Regarding past policy recommendations, the CPRB has seen no complaints for crowd control matters and only one complaint regarding the safety of drivers and passengers after having their vehicles towed. The CPRB is beginning to see the results of board policy recommendations implemented by OPD in 2005.

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**Purpose of this Report**

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

**CPRB History**

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

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

In 2002, the Oakland City Council further expanded the Board's jurisdiction and powers. On July 30, 2002, the City Council granted the Board original jurisdiction over all complaints filed against Oakland police officers or park rangers and expanded the Board's size from nine members to twelve members, with three of the 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).)



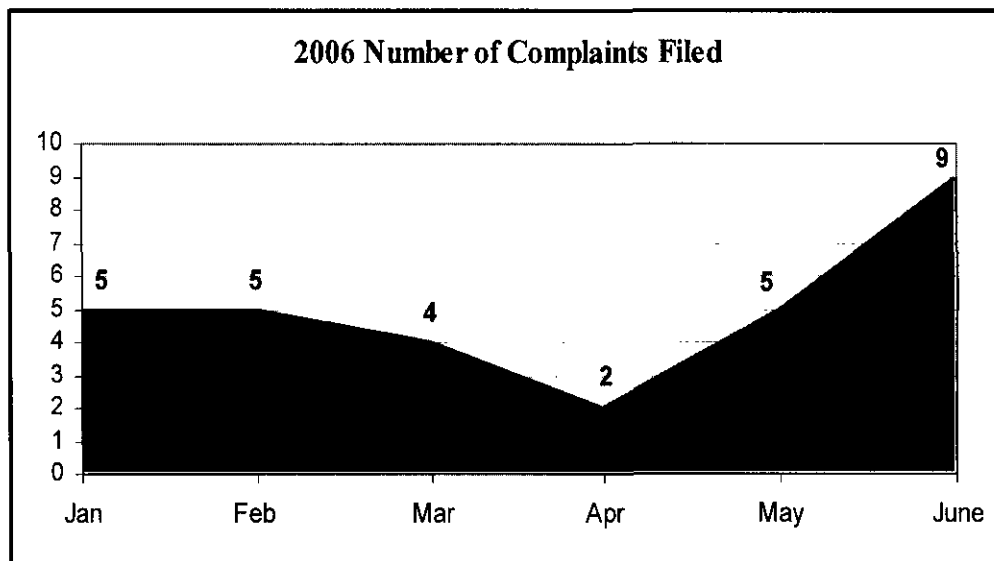
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Also, on July 30, 2002, the City Council added a policy analyst to the Board's staff and required the Board to make complaint forms available to members of the public at libraries, resource centers, and recreation centers. (City of Oakland Ordinance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

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

### Number of Complaints Filed

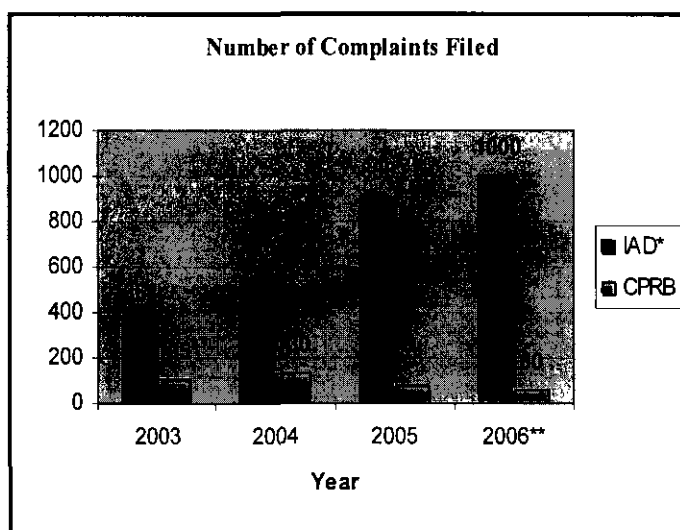
Between January 1 and June 30, 2006, the CPRB received 30 complaints filed by 31 individuals. *Figure 1* displays the number of complaints that were filed for each month. The number of complaints received for this same time last year is 36% less than in 2005.



*Figure 1*

## Number of Complaints Filed

One possible explanation for the decrease in the number of complaints filed with the CPRB might be due to the Negotiated Settlement Agreement court mandated improvements made by the Oakland Police Department's Internal Affairs Division, including comprehensive training in internal investigations and increasing awareness of the complaint process. *Figure 2* graphs a comparison of the number of complaints filed with the Oakland Police Department's Internal Affairs Division and the Citizens' Police Review Board per year from 2003 through 2006. *Figure 2.1* shows that the percentage of total complaints filed with the CPRB are significantly less beginning in 2005 with 9% and estimated at 6% by the end of 2006.



*Figure 2*

	IAD*	CPRB	CPRB %
2003	364	105	29%
2004	538	130	24%
2005	899	78	9%
2006**	1000	60	6%

*Figure 2.1*

\* Source: Internal Affairs April 20th, 2006 Progress Report  
 \*\* Projected Estimates

Another explanation for a small percentage of the decrease in the CPRB complaints is attributed to reclassifying implausible complaints as matters for tracking as opposed to numbered complaints.

### Race and Gender of Complainants

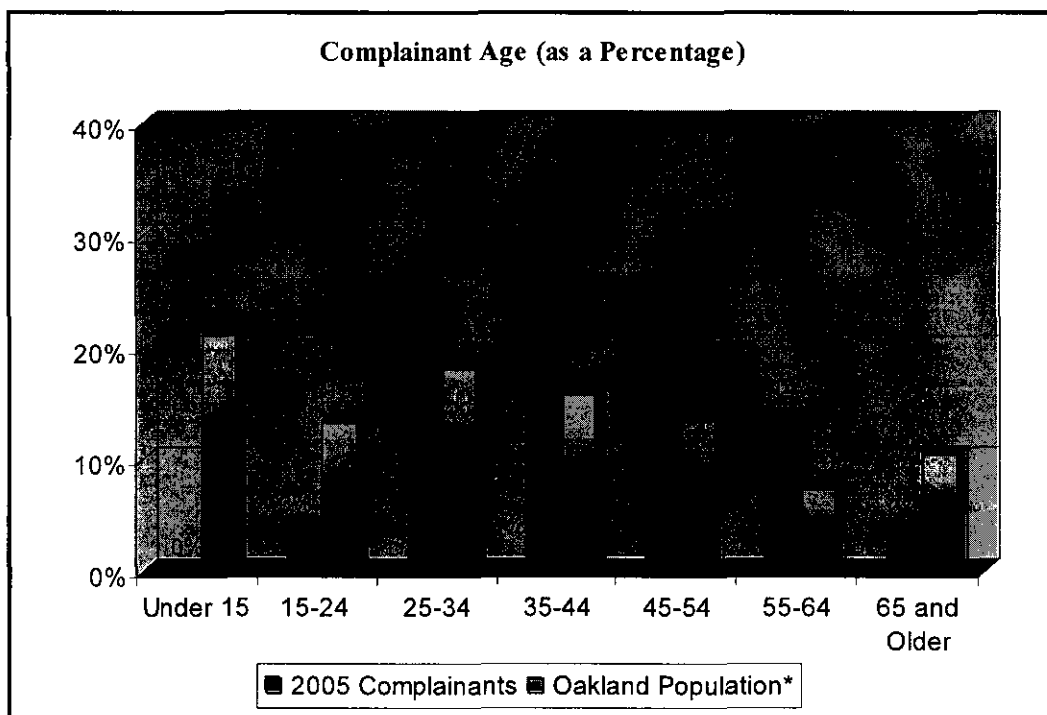
Among the complainants who provided information about their race, 78% of the 2006 complainants were African-American, and 52% of the complainants were African-American males. Asian-Americans comprised 4%, Caucasians 8% and Hispanic-Americans 4%.

Race	Gender	No. of Complainants	Percent
African-American	F	7	26%
African-American	M	14	52%
Asian-American	F	1	4%
Asian-American	M	0	0%
Caucasian	F	1	4%
Caucasian	M	1	4%
Hispanic-American	F	1	4%
Hispanic-American	M	1	0%
Other	F	0	0%
Other	M	1	4%

*Figure 3*

### Age of 2006 Complainants

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



\*Source: U.S. Census Bureau, Census 2000.

*Figure 4*

### Allegations Filed in 2006

In first six months of 2006, complainants most frequently alleged: (1) failure to act; (2) improper arrest; and (3) excessive use of force. The “failure to act” category includes six sub-categories. See *page 8* for a more detailed list of “failure to act” allegations.

The percentage of excessive use of force allegations has decreased from 19% in 2005 to 8% in the first six months of 2006. Beginning in 2005, the CPRB has seen a steady decline in the number of complaints alleging that officers used excessive force.

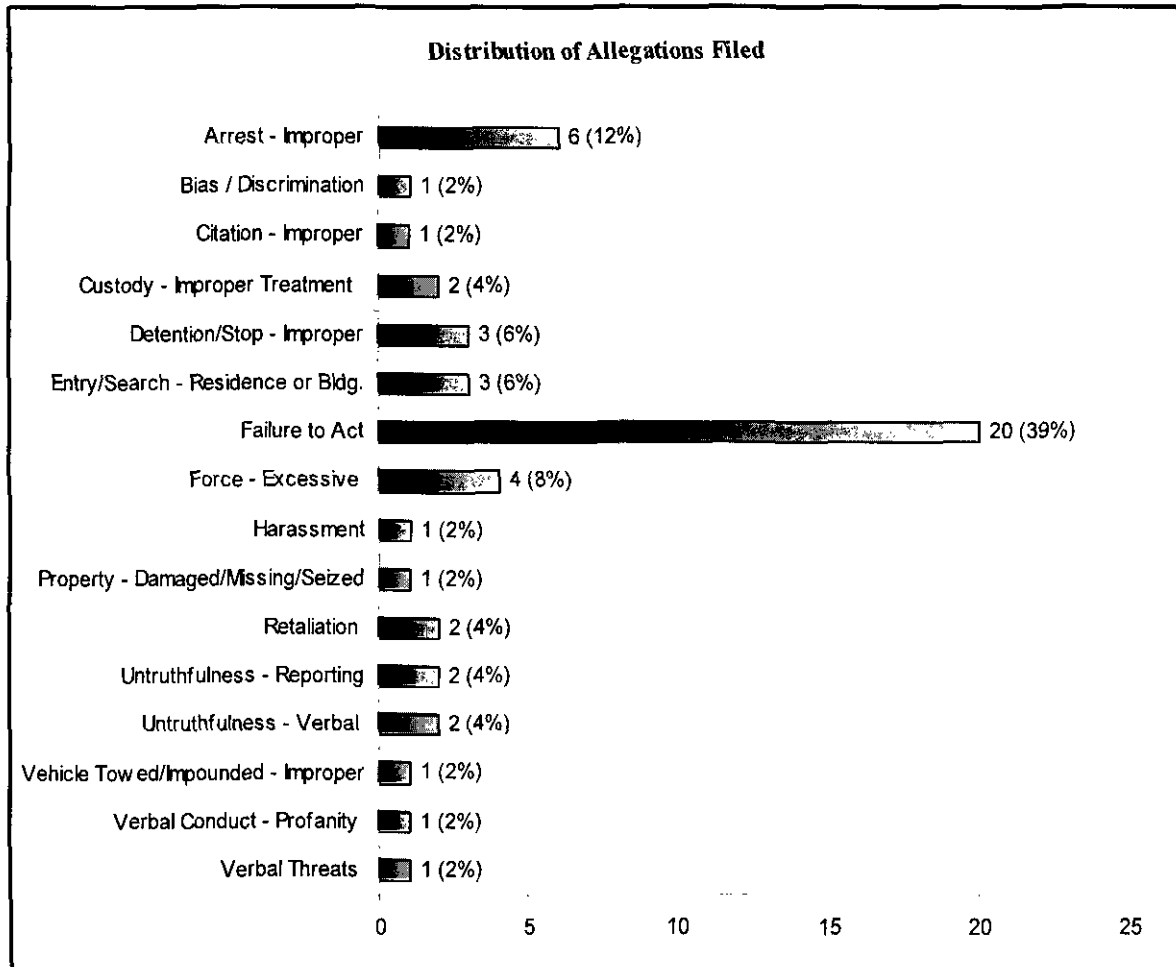


Figure 5

### Allegations Filed in 2006

Figure 6, below, lists the number of complaints for each allegation into more specific categories. A failure to act allegation was the allegation most filed in 2006, specifically for improperly enforcing restraining orders and failures to report property damages and personal injuries allegedly caused by officers.

Types of Allegations Filed	Distribution	%
Arrest - Improper	6	12%
Blas / Discrimination	1	2%
Citation - Improper	1	2%
Custody - Improper Treatment	2	4%
Detention/Stop - Improper	3	6%
Entry/Search - Residence or Bldg	3	6%
Failure to Act		
Failure to Act - To Enforce Restraining Order	3	6%
Failure to Act - To Ensure Safety After Vehicle Tow	1	2%
Failure to Act - To Investigate	5	10%
Failure to Act - To Provide Identification	0	0%
Failure to Act - To Write A Report	8	16%
Failure to Act - Other (Explanation for Citizens' Arrest)	3	6%
Force		
Force - Choke	0	0%
Force - Grab/Push/Shove/Trip	3	4%
Force - Use of Chemical	1	2%
Force - Use of Patrol Vehicle	0	0%
Force - Other	0	2%
Harassment	1	2%
Property - Damaged/Missing/Seized	1	2%
Retaliation	2	4%
Truthfulness - Reporting	2	4%
Truthfulness - Verbal Statement	2	4%
Vehicle Towed/Impounded - Improper	1	2%
Verbal Conduct - Profanity/Rude Statements	1	2%
Verbal Conduct - Threats	1	2%
<b>Total Allegations Filed</b>	<b>51</b>	<b>100%</b>

Figure 6

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### **Alleged Incidents by City Council District**

In the first six months of 2006, the greatest number of alleged incidents occurred in City Council District 3 (37%). *Figure 7* provides the percentage of alleged incidents that occurred in all City Council Districts in 2006.

Council District	No. of Complainants	% of Complainants
1	2	7%
2	1	3%
3	11	37%
4	2	7%
5	5	17%
6	2	7%
7	5	17%
Outside Council Districts	2	7%
<b>Total</b>	<b>30</b>	<b>100%</b>

*Figure 7*



### Time of Alleged Incidents

Figure 8 shows the time the alleged incidents occurred for complaints filed in 2006. The number of incidents reported is relatively constant beginning at 10am through 10pm. Only two complaints occurred outside this time frame and they occurred in the early morning.

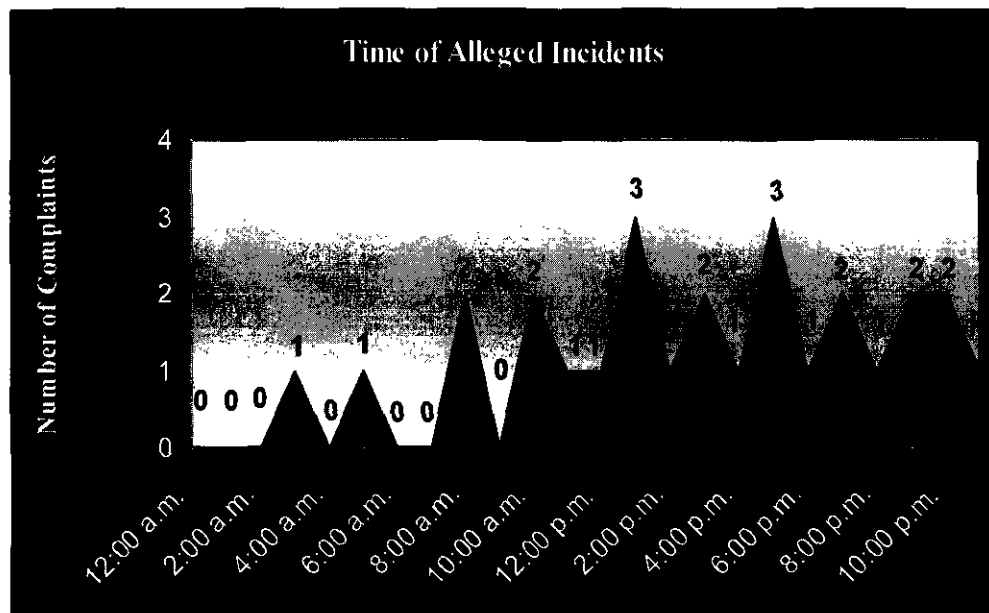


Figure 8

#### Police Watches

First Watch starts at 9pm and 10pm and ends at 7am and 8am.

Second Watch starts at 6:30am and 7:30am and ends at 4:30pm and 5:30pm.

Third Watch starts at 3pm and ends at 1:30am.

A comparison of the time of alleged incidents with police watches show that the most complaints, 15, arose from incidents during the Third Watch, 13 complaints arose during the Second Watch and 7 complaints arose during the First Watch.

### 2006 Resolved Complaints

One way the Board strives to promote justice and police accountability is to provide complainants with public evidentiary hearings. These hearings provide complainants with the opportunity to have the Board publicly hear their complaints, make findings of facts and make disciplinary recommendations for officers' actions.

In the first half of 2006, the Board resolved 32 complaints. The Board heard 6 complaints by evidentiary hearings and closed 26 complaints through administrative closures. *Figure 9* shows the number of com-

plaints resolved per calendar quarter.

*Figure 10* shows that 13% of all complaints resolved in the first six months of 2006 were heard by a full Board hearing. *Figure 10* also shows that 6% of complaints resolved in 2006 were by panel hearings. Board members are assigned to 3-member-panels through a lottery system. The findings of the 3-member-panels must be ratified by the full Board to become final. At least one in five complaints resolved in the first six months of 2006 was resolved by a public hearing.

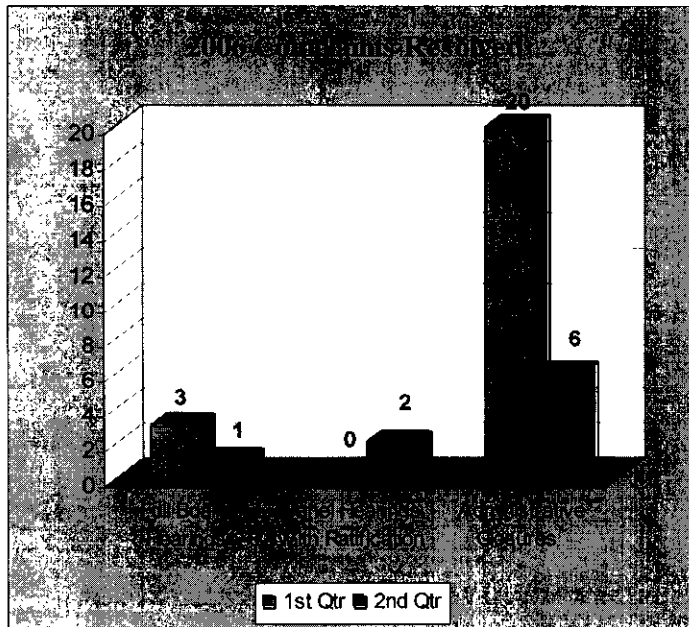


Figure 9

Full Board Hearings	13%
Panel Hearings with Ratifications	6%
Administrative Closures	81%

Figure 10

### Allegations Before the Board at Evidentiary Hearings

Figure 11 lists the types of allegations heard at each of the Board's hearings in the first six months of 2006.

Hearing Date	Complaint (#)	Number and Type of Allegation Heard
2/23/06	#05-620	1 Verbal Conduct - Profanity/Rude Statements 1 Verbal Conduct - Profanity/Rude Statements
3/9/06	#05-621	1 Failure to Act - To Enforce Restraining Order 1 Failure to Act - Explanation for Citizens' Arrest
3/23/06	#05-178	4 Failure to Act - To Write A Report 8 Failure to Act - To Enforce Restraining Order 1 Property - Damaged/Missing/Seized
4/6/06	#06-030	2 Failure to Act - To Write A Report 1 Force - Push 1 Entry/Search - Residence or Bldg.
5/11/06	#06-209	1 Bias/Discrimination - Race 1 Failure to Act - To Write A Report 1 Failure to Act - To Write A Report 1 Failure to Act - To Write A Report 1 Failure to Act - To Write A Report 1 Force - Grab/Push/Shove/Trip
6/29/06	#06-083	6 Failure to Act - To Write A Report 1 Verbal Conduct - Profanity/Rude Statements 3 Failure to Act - To Investigate 3 Failure to Act - Explanation for Citizen's Arrest 3 Failure to Act - To Enforce Restraining Order

Figure 11

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## Board Findings at Evidentiary Hearings

The Board findings at evidentiary hearings are based on investigative reports prepared by CPRB investigators which contain officer and witness interview summaries, a list of allegations, disputed and undisputed facts and relevant police policies and laws. At the evidentiary hearings, the Board hears testimony from the officers, complainants and witnesses. The Board then deliberates on the evidence presented at the hearings and rules on each allegation. Sustained allegations by the Board include disciplinary recommendations. See the chart on *page 14* for the Board findings for the complaints heard in the first six months of 2006.

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## Definitions for Board Findings

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

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

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

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

**Not Sustained:** A majority of the Board members present concluded there was not enough evidence to either prove or disprove the acts alleged by the complainant.

**Board Findings at Evidentiary Hearings**

Complainant's Hearing Date	Board Findings	Allegation Category	Board Disciplinary Recommendations
02/27/2006	2 Sustained 1 Sustained Sustained 1 Exonerated	Force - Push Force - Push/Hand Force - Push/Hand Verbal Conduct - Profanity/Rude Statements	The Board recommends the subject officer receive a written reprimand for the illegal use of force and excessive force on the complainant.
03/09/2006	Exonerated Exonerated	Failure to Act - To Enforce Restraining Order Failure to Act - Explanation for Citizens' Arrest	None - No sustained allegations
03/23/2006	3 Sustained 2 Sustained Not Sustained Not Sustained 1 Exonerated 1 Exonerated 2 No Motion Made	Failure to Act - To Write A Report Failure to Act - To Investigate Failure to Act - To Investigate Failure to Act - To Write A Report Force - Push Failure to Act - To Investigate Failure to Act - To Investigate	The Board recommends the subject officers receive a written reprimand for failing to investigate a crime report.
04/06/2006	2 Sustained Not Sustained Exonerated	Failure to Act - To Write A Report Force - Push Entry/Search - Residence or Bldg.	The Board recommends the subject officer receives a written reprimand for failing to document property damage and an injury to the complainant in his report.
05/11/2006	Unfounded Unfounded Unfounded Exonerated Exonerated Exonerated	Bias/Discrimination Truthfulness - Verbal Statements Custody - Improper Treatment Property - Damage/Misuse/Seizure Force - Push/Hand/Grab Custody - Improper Treatment	None - No sustained allegations
06/29/2006	Sustained Not Sustained 3 Not Sustained 2 Exonerated 3 Exonerated 3 Exonerated 3 No Motion Made	Failure to Act - To Write A Report Verbal Conduct - Profanity/Rude Statements Failure to Act - To Investigate Failure to Act - To Write A Report Failure to Act - Explanation for Citizens' Arrest Failure to Act - To Enforce Restraining Order Subsumed into other allegations	The Board recommends the subject officer receives a written reprimand for not writing a crime report for the incident involving the complainant's restraining order.

Figure 12

### Board Findings by Allegation Category

Figure 13 shows the Board's findings by allegation category. In the first six months of 2006, the Board sustained 28% of the allegations it heard, and either ruled not to sustain, unfound or exonerate 72% of the allegations it heard. The most sustained allegations were for two complaints where the Board found officers used excessive force in the arrest of Mr. Morgan. Another complaint resulted in five failure to act allegations sustained against officers in the handling of Ms. Nelson's landlord/tenant dispute.

Allegation Category	Not			Total
	Sustained	Sustained	Unfounded Exonerated	
Arrest - Improper	1			1
Bias / Discrimination			1	1
Citation - Improper				0
Custody - Improper Treatment			1	1
Detention/Stop - Improper				0
Entry/Search - Residence or Bldg.				1
Failure to Act - Other				4
Failure to Act - To Enforce Restraining Order				4
Failure to Act - To Investigate	2	6		9
Failure to Act - To Write A Report	6	1		9
Force - Choke	2			2
Force - Grab/Push/Shove/Trip		1		1
Force - Handcuffs Too Tight				0
Force - Kick			1	1
Force - Other				0
Force - Strike w Hand	1	1		2
Force - Strike w Weapon				0
Force - Use of Chemical(s)				0
Force - Use of Patrol Vehicle				0
Property - Damaged/Missing/Seized			1	1
Search - Person				0
Search - Vehicle				0
Truthfulness - Reporting				0
Truthfulness - Verbal Statements			1	1
Vehicle Towed/Impounded - Improper				0
Verbal Conduct - Profanity/Rude Statements		1	1	2
Verbal Conduct - Threats				0
<b>Totals</b>	<b>12 (28%)</b>	<b>10 (23%)</b>	<b>6 (14%)</b>	<b>15 (35%)</b>

Figure 13

### Affirmative Findings by the Board

The number of sustained allegations as a percentage of the total disposition of allegations rose from 23% in the first six months of 2005 to 28% in the first six months of 2006. The number of allegations not sustained has steadily decreased from 74% in 2003 to 23% in first six months of 2006.

“The rate at which an agency comes to an affirmative finding in the investigation of complaints of misconduct is an output measure of agency thoroughness. An affirmative finding refers to the agency, in accordance with its set standard of proof, being able to conclude that alleged misconduct either occurred or did not occur in a

given case. Affirmative findings include: sustained allegations, exonerated allegations and unfounded allegations. Non-affirmative findings include findings in which the agency was unable to collect enough evidence or perform sufficient legal analysis to determine whether or not misconduct occurred.”<sup>1</sup>

Each year since 2003, the CPRB has improved the percentage of their affirmative findings with each investigation, demonstrating the increasing thoroughness done by the CPRB investigators in their investigation of complaints brought to hearings.

January 1, 2006 - June 30, 2006 Disposition of Allegations	
Sustained	28%
Not Sustained	23%
Unfounded	14%
Exonerated	35%

Figure 14

<sup>1</sup> Springer, Avi. Measuring Performance in Police Oversight Agencies. Berkeley, CA: University of California (Spring 2006): 20.

### **Disciplinary Recommendations and the City Administrator's Decisions**

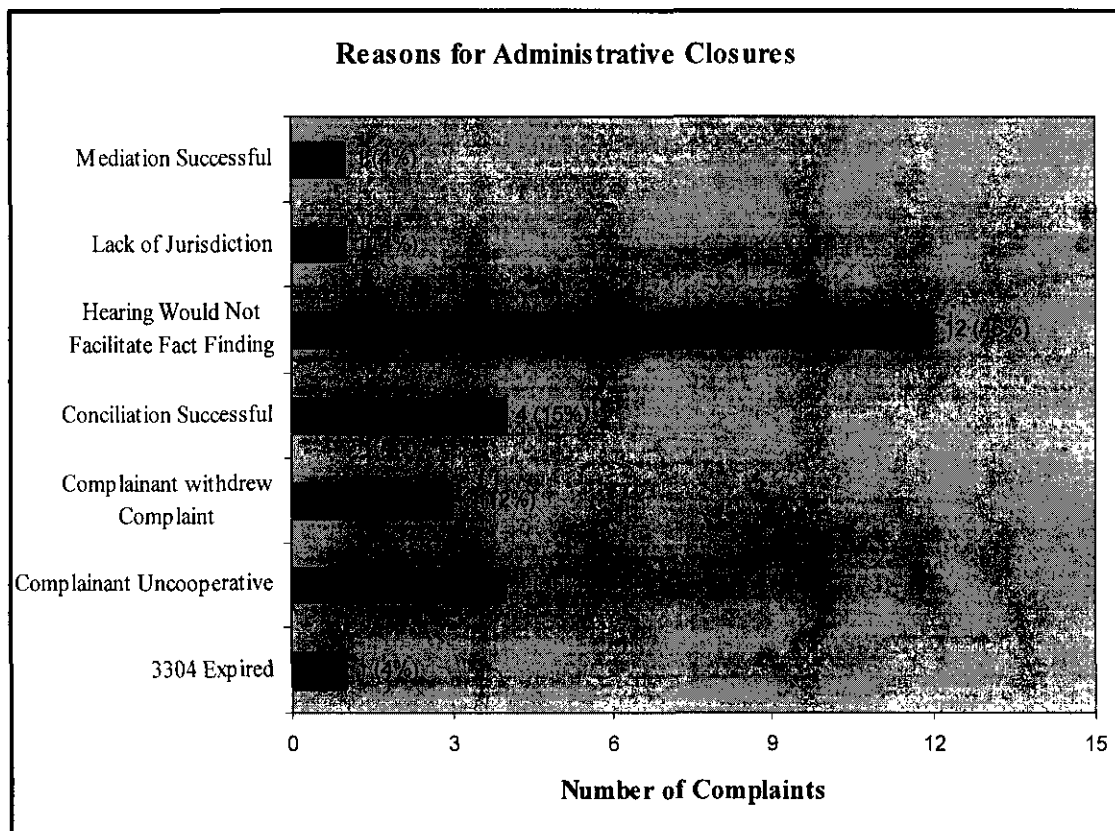
If the Board determines officer misconduct has occurred, the Board will forward recommendations to the City Administrator who, with the Chief of Police makes the final decision regarding officer discipline. In the first six months of 2006, the

Board forwarded disciplinary recommendations arising from four complaints. The City Administrator denied two of the Board's recommendations and two other recommendations are currently pending.



### Administrative Closures

A complaint is administratively closed after an investigation documented by a written administrative closure report is considered by the Board, and the Board finds no further action is necessary. In the first half of 2006, the Board administratively closed twenty-six complaints. *Figure 15*, below, provides the reasons for the administrative closures.



*Figure 15*

**Mediation Was Successful**

CPRB staff conducted one successful mediation in the first six months of 2006.

**Lack of Jurisdiction**

One complaint was administratively closed because the complaint was against a civilian employee and the CPRB does not have jurisdiction over non-sworn OPD personnel.

**Hearing Would Not Facilitate Fact-Finding Process**

The Board determined that a hearing was unnecessary in twelve complaints. The complaints that fall 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 an Oakland Police Department representative, without CPRB staff involvement.

**Complainant Withdrew Complaint**

Three complaints were withdrawn by request of the complainants. One complainant moved from the area in question and did not wish to pursue further action. Another complainant was satisfied with City inspection of his lodging and did not wish to pursue further action. The third complaint was withdrawn by the complainant because she and her husband no longer wished to pursue their complaint.

**Complainant was Uncooperative**

In four 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.

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## **Officer Compliance with CPRB Investigations**

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

### **Interview Notices**

Officer compliance data is specific to compliance with interview notices and scheduling interviews. Officers are responsible for returning their interview notices to the court liaison within their next three on-duty days. Officers failing to complete the requirements to call and schedule interviews or release Internal Affairs Division statements are non-compliant with the CPRB interview process. Non-compliance is in violation of Oakland Police Department General Order M-3.2 which was revised and updated in 2005.

### **Appearances at Hearings**

In previous years, due to the failure of officers to attend evidentiary hearings, the CPRB has cancelled hearings or held them without the officers present. Officers who fail to appear at CPRB hearings and who do not make special arrangements for their absence are non-compliant with the CPRB hearing process. Non-compliance in attending hearings is also in violation of Oakland Police Department General Order M-3.2.

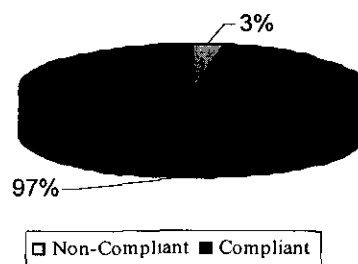
## Officer Compliance Data

Officer compliance data was collected on fifty-five complaints investigated in first six months of 2006. Officer compliance for interviews and hearing subpoenas for complaints tend to continue with minimal delays.

### Interview Notices

Number of Complaints: 55  
 Number of Officers Identified: 39  
 Number of Interview Notices Sent: 39  
 Scheduled Interviews: 11  
 Outstanding Notices: 8  
 Number of Officers Non-Compliant: 1

Officer Compliance with Interview Notices



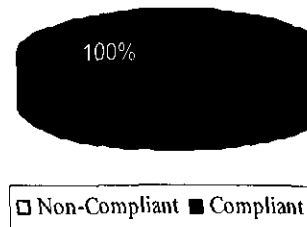
### Interview Summary

In the first six months of 2006, 97% of officers replied to interview notices in a timely manner. The current 3% who have not replied is represented by an individual officer who did not sign and return her interview request form to the CPRB investigator.

### Hearing Subpoenas

Number of Hearings: 6  
 Number of Officer Hearing Subpoenas: 19  
 Number of Officers Attended: 17  
 Number of Officers Excused: 2  
 Number of Officers Non-Compliant: 0

Officer Compliance with Hearing Subpoenas



### Hearing Summary

In the first six months 2006, 100% of the officers subpoenaed complied with the conditions of the subpoena. Seventeen of nineteen officers subpoenaed attended hearings, while two officers who did not attend were excused because both were on medical leave at the time of the hearing.

**Number of Officers with One or More Complaints  
from January 1, 2006 to June 30, 2006**

The CPRB tracks the number of complaints against each officer. *Figure 16* lists the number of officers with one or more complaints in the first six months of 2006. Each year, a small number of officers receives multiple complaints in this short period of time. CPRB tracks this data to be aware of potential recurring problems with specific officers. This year only one officer has two separate complaints in six months. However, these complaints are only allegations of misconduct and are still under investigation.

	No. of Officers	% of Officers with Complaints
Officers with Two Complaints	1	2%
Officers with One Complaint	41	98%
Total	42	100%

*Figure 16*

**Number of Officers with Three or More Complaints  
between January 1, 2004 and June 30, 2006**

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

“Notwithstanding any other provisions of the PIMS policy to be developed, the policy shall include, at a minimum, a

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

(Section VII (B)(6)).

In keeping with the spirit of this policy, *Figure 17*, below, provides the number of officers who have had one or more CPRB complaints filed against them between January 1, 2004 and June 31, 2006.

	No. of Officers	% of Officers with Complaints
Officers with Five Complaints	3	1%
Officers with Four Complaints	7	3%
Officers with Three Complaints	12	5%
Officers with Two Complaints		
Officers with One Complaint		
Total	270	100%

*Figure 17*

## Board and Staff Updates

### Appointments to the Board

In the first six months of 2006, the Board welcomed two new Board members, Renee Harwood and Cara Koposki, to replace outgoing members Cheryl Anderson and Mario Andrews, respectively. The Board also elected its chair, Corey Dishmon, and Vice-Chair, Angela Cheung.

### K-3 & K-4 Use of Force Training

On April 13, 2006, Officer Pope of the Oakland Police Department provided a condensed version of the K-3, Use of Force training to the CPRB Board. The information shared during the presentation is outlined in greater detail in the OPD Use of Force Policy Handbook, which was included in the April 13, 2006, agenda packet. The Board watched a few short training videos and discussed the appropriate officer actions given the particular circumstances, as well as other topics including the increased use of OC spray as a method to provide greater officer safety.

### Citizens Police Academy

Three CPRB Commissioners and the Executive Director attended the twelve week Citizens Police Academy which is run through the Oakland Police Department to acquaint members of the community and the Board with OPD operations.

Measuring Performance in  
Police Oversight Agencies

by

Avi J. Springer  
Goldman School of Public Policy  
University of California, Berkeley

Spring 2006

### Analyzing Complaint Statistics

In an effort to improve the Citizens' Police Review Board's statistical analysis, Avi Springer, a recent graduate student of

the University of California, Berkeley's Goldman School of Public Policy researched methods on collecting and analyzing police complaint statistics. His research included a five-month study of statistics and other oversight materials that measure performance and agency productivity.

The paper was written specifically enough to provide substantive recommendations on data collection for the CPRB, but broadly enough to be applied to agencies with other models of oversight. The report suggests an analytical framework that oversight officials may use to make performance measurement decisions that best meet the needs of their agencies and communities.

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## Community Outreach

### Value of Community Outreach

Community outreach is an essential component of civilian oversight. According to the *2005 City of Oakland/PUEBLO Survey on Police Services and the Filing of Complaints* whose results were analyzed by Fairbank, Maslin, Maullin & Associates, 27% of those surveyed were unaware of the existence of the CPRB and 54% of those surveyed did not know the difference between filing a legal complaint versus filing a complaint with the CPRB or IAD. The survey further found that of the 1000 people surveyed only 11% of those who had a negative experience with the Oakland Police Department filed a complaint with the CPRB or Internal Affairs Division. The first six months of 2006 represents a ramp up in CPRB community outreach activities.

### Community Meetings

#### *Citizens' Police Review Board Meeting in District 7*

On June 15, 2006, the Board held a community forum at the East Oakland Senior center in collaboration with Councilmember Larry Reid's office. In addition to the Board introducing itself to the community participants by explaining what motivated them to apply for board membership, Councilmember Reid, Chief

Tucker and members of the CPRB staff addressed the audience. Members of OPD's Internal Affairs Division also attended the board meeting.

#### *District 1 Town Hall Meeting*

On February 4, 2006, CPRB staff attended a town hall meeting held by City Councilmember Jane Brunner on "Visions for Policing in Oakland." Staff advised the attendees on the role of the CPRB and on District 1 complaint information.

#### *PUEBLO Community Speak Out*

CPRB Chairperson Corey Dishmon and CPRB staff presented information about the CPRB to attendees at a March 4, 2006, community speak out organized by PUEBLO, People United for a Better Oakland, in City Council District 6 and moderated by PUEBLO member Gwen Hardy. The forum panelists also included Chief Tucker and Attorney John Burris. The attendees included Councilmember Desley Brooks. In addition to police misconduct complaints, there were also discussions of barriers to redeploying police officers and the changes in the Oakland Police Department as a result of the Negotiated Settlement Agreement.



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## Community Outreach Con't

### **Brochures and Complaint Forms**

Fifty-one city facilities including libraries, recreation centers, senior centers and other community resource centers throughout Oakland received copies of CPRB complaint forms. Also distributed were CPRB brochures in four languages. These materials were placed in locations visible to the public.

### **Citizens Academy**

On May 15 and May 24, 2006, staff provided information on CPRB operations to the members of the Oakland Citizen's Academy and the Oakland Cantonese Speaking Citizen's Academy, respectively. Of particular note at the May 15, 2006 presentation, were questions about patrol officers' knowledge of landlord/tenant law. CPRB staff was able to respond that this issue had come before the Board at an April 6, 2006 Board hearing and the need for training has been brought to OPD's attention.

### **Future Outreach Planning**

In the first six months of 2006, CPRB staff's outreach efforts were in broad strokes which included the distribution of brochures and attendance at community meetings. Staff is in the process of designing outreach directed at youth. This will include collaboration with Oakland high school teachers and the Oakland Police Department.

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## Policy Recommendations

### **New Recommendation - Landlord/Tenant Training**

In the first six months of 2006, the Board made one policy recommendation regarding landlord/tenant disputes. The Board heard complaint #05-178, on March 3, 2006 and discovered through CPRB investigations that Oakland police officers were not receiving adequate training on handling disputes between landlords and tenants.

The Board recommended that the two subject officers receive additional training. The Board also recommended that all Oakland police officers receive training on landlord/tenant law. The Board voted unanimously and the department-wide recommendation along with the individual officer recommendations for training were forwarded to the City Administrator and Chief of Police.

The policy recommendation for department-wide training made by the Board was adopted. Initial training on landlord/tenant disputes has occurred in officer line-ups and more formal training is being developed.

### **Policy Compliance**

In 2005, a number of outstanding Board policy recommendations were considered and implemented by the Oakland Police Department. In the first six months of 2006, training was completed and department policies were implemented for crowd control, towing and officer compliance with investigations. The following provide the status of these implemented recommendations and their effects on citizen complaints in the first six months of 2006.

### **Crowd Control**

The Board recommended a total of ten policy recommendations in 2003 and 2004 as a result of the anti-war demonstrations held at the Oakland Port and on OC gas used to disperse a crowd at the Carijama Festival at Frank Ogawa Plaza. Those ten recommendations were adopted in full or in part by the Oakland Police Department in 2005.

In the first six months of 2006, there were no citizen complaints filed with the CPRB due to tactics used by Oakland police to control large crowds. Oakland still has had demonstrations. The largest occurrences came with the immigration protests in late spring. More than two thousand residents of Oakland attended these protests and no CPRB complaints were filed against the police.

**Towing**

In 2003, the Board heard three complaints alleging police officers were towing individuals' vehicles but leaving the drivers and the passengers on the street without transportation to a safe place. Since 2003, a total of seven complaints were filed related to this practice. On December 6, 2005, the Oakland Police Department approved Special Order No. 8098 that includes the Board's recommendations ensuring drivers' safety after their vehicles are towed by OPD.

During the first six months of 2006, only one complaint was filed with the Citizens' Police Review Board regarding failure to ensure the safety of drivers or passengers after a tow.

**General Order M-3.2**

The Oakland Police Department General Order M-3.2 sets forth obligations to cooperate with CPRB investigations and hearings. Department-wide training on the revised policy is complete.

In the first six months of 2006, 97% of all officers contacted for interviews by the CPRB complied and 100% of all officers subpoenaed to appear at CPRB hearings appeared. These percentages are dramatically up from prior years. As a result, investigations are occurring more smoothly and hearings are held more frequently without delays or postponement.

See *Appendix C* for a full list of policy recommendations made by the Board between 2001 and 2005.

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## Conclusion

The Citizens' Police Review Board focused on community outreach during the first six months of 2006 by holding a board meeting in City Council District 7, participating in a PUEBLO community speak out in City Council District 6 and providing staff representation at a District 1 town hall meeting. Additionally, staff continued its participation in the Oakland Citizen's Academy and the Oakland Cantonese Speaking Citizen's Academy. Staff also provided CPRB materials to fifty-one city facilities. The decline in complaints filed with the CPRB both necessitated increased outreach efforts and enabled increased outreach efforts due to the decreasing backlog. The shrinking CPRB backlog provided for greater Board and staff availability for community outreach.

During this six month period, officer compliance has increased which could be attributable to the Negotiated Settlement Agreement mandated training which includes a revised General Order M-3 and specifically General Order M-3.2, which mandates compliance with CPRB investigations.

The number of officers with multiple complaints has decreased and there has been a decrease in excessive use of force complaints.

The CPRB continues to prompt policy changes by identifying OPD practices and policies that require revision and department-wide training. One such change is in the area of landlord/tenant training and officers' knowledge of tenants' rights during an unlawful eviction. As a result of a hearing conducted for a tenant who complained about an unlawful eviction and the police response, the CPRB made a recommendation that OPD provide training to its officers on landlord/tenant law. OPD has embarked on a training program in this area.

Finally, complaints arising from demonstrations and vehicle tows have decreased dramatically which we believe is attributable to policy strengthening and training by OPD in these areas.

The Citizens' Police Review Board will continue its enhanced outreach efforts, conduct hearings on individual complaints and identify policy issues over the next six months.

**Board Member Attendance at Board Hearings**

Meeting Date	Andrews	Batarse	Cheung	Dishmon	Harris	Scates	Michaels	Montgomery	Thomas	Alford Hammond	Almate Radlow
1/12/06	Yes	Excused	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
2/9/06	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes
2/23/06	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Excused		
3/9/06	Yes	Excused	Excused	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3/23/06	Yes	Excused	Yes	Excused	Yes	Yes	Excused	Yes	Yes	Yes	Yes
4/6/06*	Yes					Yes	Yes				
4/13/06	Yes	Yes	Yes	Yes	Excused	Excused	Yes	Yes	Yes		Yes
5/11/06	Yes	Excused	Excused	Excused	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6/15/06**	Yes	Yes	Excused	Yes	Excused	Excused	Excused	Absent	Yes	Yes	Yes
6/29/06*				Yes	Yes			Yes			

\* Three-member panel hearing  
Excused - Member asked to attend but excused

\*\* Special Community Meeting  
Absent - Unexcused absence

## Citizens' Police Review Board Policy Recommendations

Date / Incident	Recommendations	OPD Responses	Status
2005 Ruses	1. The Board recommends OPD develop a policy regarding the creation, management and implementation of ruses.	Declined	Not adopted
2004 Carijama Festival	1. At the Pre-incident Planning Meetings, include the Fire Department and ambulance personnel to support OPD's efforts to manage large crowds. The Board recognizes the vital role the ambulance and fire personnel play in situations of this nature.	Included in OPD Training Bulletin III-G	Adopted
	2. Utilize "First Aid Stations fixed and/or mobile and/or ambulances" in the event that chemical agents must be deployed: plan for disabled, elderly and children, the safety of bystanders, evaluate availability of other public safety resources, and anticipate potential medical resources.	Included in OPD Training Bulletin III-G	Adopted
	3. Include in the crowd control policy considerations of: occupied buildings in the area, businesses, e.g. hospitals, schools, senior centers, family restaurants, vehicular traffic, and age, health and mobility of those present.	Included in OPD Training Bulletin III-G	Adopted
	4. Officers must establish a presence commencing at the start of the event by having more community-centered policing (e.g. talking with crowd) and by attempting to penetrate the crowd given officer safety. Private security must be part of the Pre-incident Planning Meetings.	Included in OPD Training Bulletin III-G	Adopted
	5. In the Pre-incident planning conduct a risk analysis of the event to determine the sufficient number of law enforcement and public safety personnel.	Included in OPD Training Bulletin III-G	Adopted
	6. As standard procedure consider the use of multiple arrests before deploying chemical agents.	Included in OPD Training Bulletin III-G	Adopted
	7. Dispersal orders need to be given in a manner reasonably believed to be heard and understood by the intended audience including: documentation of the orders at time given and clear instructions on where people are to disperse when public transit is unavailable. The Oakland Police Department should also obtain a better public address system and repeat their dispersal orders every city block.	Included in OPD Training Bulletin III-G	Adopted

### Citizens' Police Review Board Policy Recommendations

Date / Incident	Recommendations	OPD Responses	Status
2003 Anti-War Demon- strations	1. The Police Department should eliminate its use of wooden dowels.	Included in OPD Training Bulletin III-G	Adopted
	2. The Police Department should end its practice of using the sting grenade.	Included in OPD Training Bulletin III-G	Adopted
	3. The CPRB Executive Director and the Chief of Police should collaborate with community representatives to further work on revising OPD's crowd control policy.	Included in OPD Training Bulletin III-G	Adopted
Towing	1. The Police Department should draft a comprehensive training bulletin regarding procedures to be followed when vehicles have been towed -- taking into consideration the age of the individual, the location of the tow and the ability of the individual to relocate to a safe location. The training bulletin should also include the directive that an officer should offer the individual and passengers transportation to the Eastmont Substation or the Police Administration Building, whichever is closer, if leaving the individual or their passengers at the location of the tow would place them at risk of harm.	Included in Special Order No. 8098	Adopted
2002 5150 Policies	1. The Police Department should immediately train and inform its officers that if an officer is unsure of whether a person meets the criteria of section 5150, the officer has the option of telephoning the psychiatric emergency room at the John George Psychiatric Pavilion to obtain an expert medical opinion. All officers should be given cellular phones for this purpose.	Training complete, but unable to provide cellular phones.	Implemented in Part
	2. The Police Department should begin tracking information about 5150 detentions to determine the circumstances under which such detentions are made, the locations of these detentions, and the training needed by officers to correctly use section 5150 to detain individuals.	Declined – the current training is satisfactory given limited resources.	Not adopted

## Citizens' Police Review Board Policy Recommendations

Date / Incident	Recommendations	OPD Responses	Status
	3. The Police Department should work with the Alameda County Behavioral Health Department, the Alameda County Sheriff's Department, community groups, and other interested parties to develop closer working relationships, to share resources, and to develop processes and procedures to address 5150 issues. Workshops should be publicly noticed and open to the public and should commence immediately.	Training is being conducted with a member of the Alameda County Crisis Response Team as a co-instructor.	Implemented in Part
	4. The Police Department should expand its officer training on mental illness and 5150 detentions to 40 hours. The 40-hour training program should occur post-Academy and should include training on distinguishing mental illness from mental retardation, which is not a ground for a 5150 detention.	The Sergeants training has been completed and the officers are receiving their training through Continuing Professional Training courses.	Implemented in Part
Searching Residences	1. Officers should be required to fill out a "notification" form when conducting warrantless searches. The Chief of Police should issue a Special Order revising Department Training Bulletin I-O.3, which is entitled, <i>Legal Aspects of Searching Residences</i> , for the purpose of implementing this recommendation.	This recommendation will be considered in the issuing of business cards to all officers and in the future during the accreditation process.	Not Adopted
2001 OPD Hearing Attendance	1. The police department should revise General Order M-3.2 to provide clear direction to officers about their obligation to cooperate with the CPRB, including giving interviews and attending Board hearings. The General Order should specify the grounds for being relieved from compliance with the CPRB subpoena to attend a hearing, e.g., for illness or injury and the procedures that must be followed.	Included in final draft of the General Order M-3.2	Adopted