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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anthony W. Finnell
Executive Director

SUBJECT: Citizens' Police Review Board 2016
Annual Report Supplemental

DATE: June 9, 2017

City Administrator Approval

Date:

6/9/17

RECOMMENDATION

Staff Recommends That The Public Safety Committee Receive The Attached The Supplemental Report To The Citizens' Police Review Board 2016 Annual Report.

REASON FOR SUPPLEMENTAL

At the May 23, 2017 Public Safety Committee meeting, the Public Safety Committee Chairperson Desley Brooks requested this supplemental report to address community input related to 2016 CPRB Annual Report. The CPRB's responses are included in **Attachment A**.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The Public Safety Committee Receive The Attached The Supplemental Report To The Citizens' Police Review Board 2016 Annual Report.

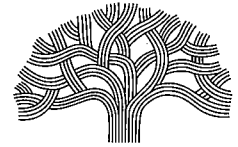
For questions regarding this report, please contact Anthony W. Finnell, Executive Director, at afinnell@oaklandnet.com or (510) 238-7401.

Respectfully submitted,

Anthony W. Finnell
Executive Director, CPRB

Attachment (A): Information on Community Input Related to the CPRB 2016 Annual Report

Item: _____
Public Safety Committee
June 13, 2017



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ATTACHMENT A

June 9, 2017

Public Safety Committee
HONORABLE CITY COUNCIL
Oakland, California

Re: Information on Community Input Related to the CPRB 2016 Annual Report

Dear Chairperson Brooks and Members of the Public Safety Committee:

I. Introduction

The CPRB Board (Board) is proud to present its 2016 Annual Report to the Council and residents of the City of Oakland. The year 2016 was a banner year for CPRB changes, including:

- Important new initiatives to improve the Board's institutional capacity to receive and investigate complaints of Officer misconduct, better interface with the Oakland community through digital media, and provide more transparency for Oakland citizens and their elected representatives;
- A significant expansion in the number of complaints resolved through independent civilian review by the CPRB's professional investigatory staff arising from changes in the scope of investigatory oversight initiated in negotiations between the CPRB and the Oakland Police Department Internal Affairs Division in 2015; and
- Several new hires which left the CPRB fully staffed at the end of the 2016 calendar year for the first time in many years.

In addition, in response to the passage of Oakland Measure LL in November 2016 enabling the creation of a new Oakland Police Commission and Community Police Review Agency (CPRA) to supersede the current CPRB structure, the Board expressed its desire to more fully document its processes and work product on behalf of the citizens of Oakland in order to facilitate the transfer of responsibilities and ensure continuity of effort and investigations during the transition period to the new civilian oversight structure.

Reflecting these internal changes and ongoing initiatives, the CPRB's 2016 Annual Report represents a ground-up overhaul and improvement of the Board's annual reporting in response

to the existing statutory requirement that “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.” (City of Oakland Ordinance No. 12102 C.M.S.) While CPRB Annual and Semi-Annual Reports in prior years have largely consisted of collections of top-line statistical reporting on broad measures of citizen complaints of officer misconduct made through the formal CPRB complaint process, the 2016 Report contains an unprecedented level disclosure of both the Board’s public and closed-session work. This includes extensive changes that provide a more granular level of detail with respect to citizen complaints, Staff investigations and Board activities, and a richer narrative structure designed to provide the public – who is not privy to the Board’s confidential closed-session work product – increased transparency into the CPRB’s important oversight role.

This Supplement to the CPRB’s 2016 Annual Report is designed to address both the Oakland City Council Public Safety Committee’s request for additional information about community complaint reporting trends, and specific community comments on the Final 2016 Annual Report draft as submitted to the Public Safety Committee on May 23, 2017.

II. Analysis of trends in OPD allegations of police misconduct

Recent changes in CPRB staffing and internal process’ have led to several important improvements in the CPRB’s ability to receive and investigate community complaints of officer misconduct. Beginning in the 2015 calendar year, Board and Staff negotiated a significant expansion in the scope of civilian review of OPD Officer conduct through an agreement with the OPD Internal Affairs Division. Beginning in 2015, the CPRB conducts concurrent investigation and review of all OPD major incident and use of force investigations – including those which do not generate citizen complaints. Additionally, the Board reviews and selectively investigates all community complaints of police misconduct, including those which are submitted directly to IAD and OPD officers and supervisors in the field, in addition to complaints received directly through the CPRB citizen complaint process. This expanded investigatory role is reflected in the record of complaints received by the CPRB between 2005-2016 as shown in Figure 1 at right (taken from the CPRB 2016 Annual Report pg. 12).

The CPRB filled several open positions in 2016 leaving it fully staffed and compliant with the City’s Equal Access Ordinance for the first time in many years (CPRB 2016 Annual Report pg. 8). Changes in both the CPRB’s investigatory role and staffing allowed the Board to resolve more complaints in the 2016 calendar year than in any year since 2005 as shown in Figure 2 below (taken from the 2016 CPRB Annual Report pg. 18).

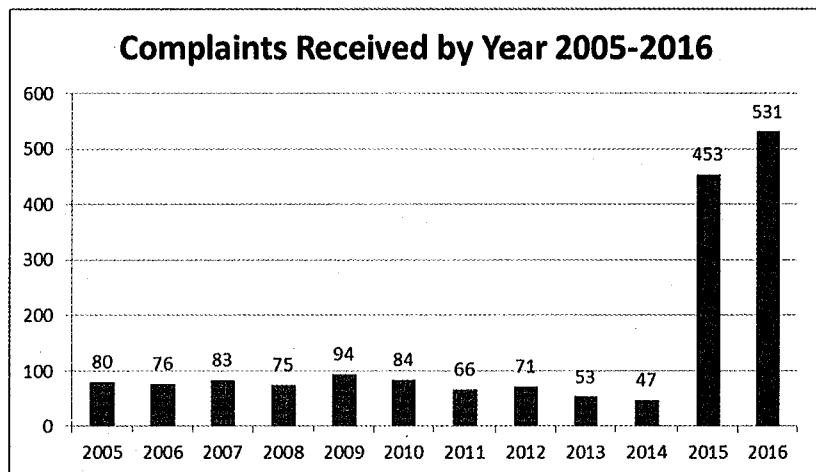
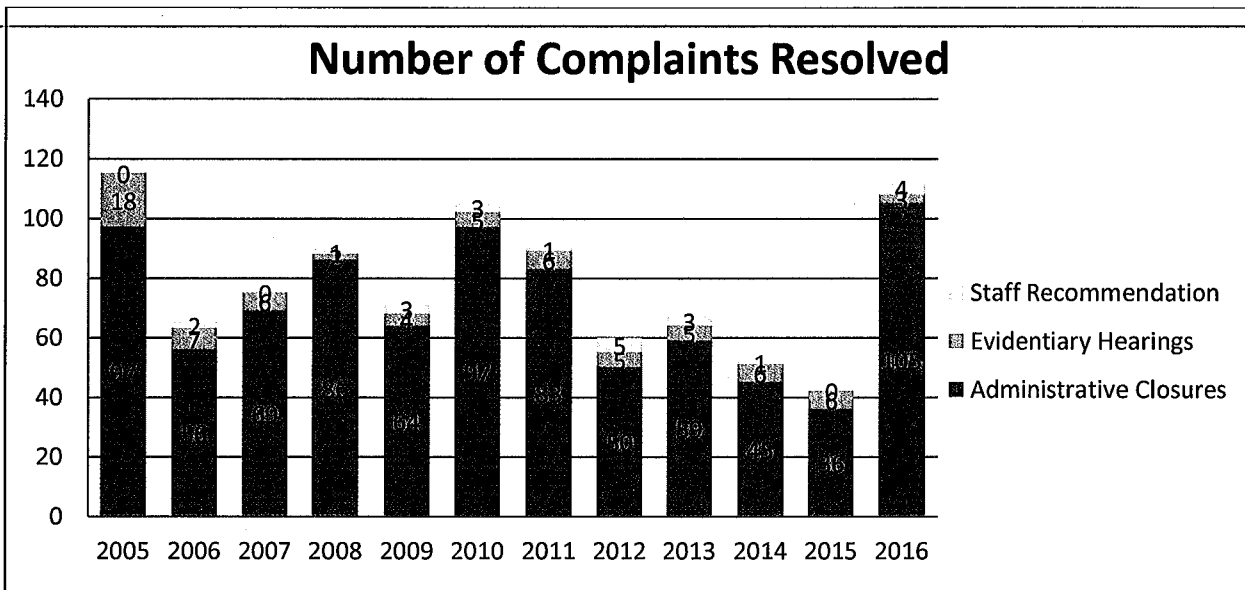


Figure 1

Figure 2



Taken together, these changes in both the intake methods for CPRB complaint investigations, and the raw number of complaints investigated and resolved by the Board, make direct comparisons to previous years' complaint data both technically difficult and hard to interpret. For example, a direct comparison of the number of complaints investigated by misconduct category would show large increases in both 2015 and 2016 in investigations of OPD Officers involving incidents of use of force. However, these increases do not reflect changes in either OPD conduct or relations with the Oakland community, but rather the simple fact that beginning in 2015 the CPRB assumed responsibility for investigating all such incidents regardless of whether they generated formal community complaints. Likewise, trends in other complaint categories which are differentially reported through the formal CPRB complaint process and the OPD's collection of community input at the beat officer and supervisor level could – without significant additional statistical interpretation – appear to indicate changes in community concerns and patterns of officer misconduct. In fact, any such analysis would represent statistical artifacts reflecting changes in CPRB intake procedures and scope of investigatory authority and say nothing about the underlying dynamics of OPD-community relations.

In addition to the difficulties in isolating trends in officer conduct and citizen complaints from statistical artifacts introduced by changes in CPRB procedure noted above, the CPRB faces a significant additional barrier to its ability to present high-quality analyses of trends in complaint reporting and officer conduct arising from deficiencies and discontinuities in its existing database and case management systems. CPRB Staff does not currently have a unified case-management system, and information about complaints, investigations, and Board imposed disciplinary recommendations currently reside in a set of separate Microsoft ACCESS databases and Excel spreadsheets that contain inconsistent reporting across years and functions thereby further confounding comparative and trend analyses.

The Board believe in the power of high quality data-analysis as a tool for improving OPD police practice, responsiveness to community concerns, and the transparency of disciplinary decisions.

Therefore, resolving these technical problems and improving engagement with the Oakland community and individual complainants have been identified as top-priority goals by the Board's Transparency and Legislation Committee. Board and Staff have engaged in a lengthy process to modernize both internal technical capacity and external reporting by working with other City Departments including the Information Technology and Communications Departments to contract the construction of a new database and case-management system with Microsoft and to redesign and improve the CPRB's website and digital presence. When fully implemented (currently scheduled for late 2017), this new system will allow for a much richer interface for complainants and community members to initiate and track investigations into allegations of officer misconduct and to submit video and other evidence in support of such claims directly to the CPRB through a dedicated app and web portal. More importantly for the purposes of this addendum, it will provide a cohesive internal data system enabling the CPRB and any successor agency to provide more complex statistical analyses of trends and relationships relating to complaints of officer misconduct within the OPD. The Oakland City Council approved CPRB expenditures to contract these services with Microsoft and implement these important structural improvements to the Board's database and case-management systems through Resolution 86489 passed November 11, 2016.

From the Agenda Report submitted to the Oakland City Council with Resolution No 86489 CMS (11/29/16) "[A]uthorizing the City Administrator or designee to enter into a contract with Microsoft Corporation for the purchase of professional services, software and license, to build the Citizens' Police Review Board Database and Case Management System modeled after the Oakland Police Department's Second Generation Early Warning System and Technology Platform ('IPAS2') System...":

"[T]he current database system used by the Citizens' Police Review Board (CPRB) was deemed to be inadequate, and the case management system non-existent, which resulted in the development of a new database and case management system (System). Phase 1 of the development project began on January 17, 2016 with the hiring of a Business Analyst to review the CPRB's business requirements. Phase 1 concluded on March 31, 2016 with the Business Analyst delivering a detailed report which outlined the complete business solution needed by the CPRB in order to report on complaint statistics and demographics, warehouse the data, interface with Oakland Police Department (OPD) Internal Affairs Division (IAD), and to provide overall case management for CPRB investigators and supervisors...

...The current Citizens' Police Review Board's database system consists of a series of Microsoft ACCESS databases, separate from one another, and each containing inconsistent data making it extremely difficult to compare one year's data with another in a meaningful manner. The CPRB does not have a case management system in place. And, implementing a new database and case management system will allow the CPRB to implement a single scalable technology that consolidates many silos of information with advanced search

capabilities and better collaboration and information sharing with stakeholders within the City of Oakland.

The plan is to create the CPRB System largely by copying PRIME and customizing it to fit CPRB-specific requirements – and to also write new software to exchange certain, select information between the Oakland Police Department Internal Affairs Division (IAD) part of PRIME and the CPRB System. While City Information Technology Department (ITD) developers will do the computer programming necessary to adapt PRIME to meet the needs of the CPRB System, they will need consulting from Microsoft to help them learn the PRIME system enough to modify it and to build the new modules needed.”

The Board believes that the 2016 Annual Report as currently constituted reflects the best available overview and analysis of the Board's exercise of civilian oversight of officer discipline, training and policy within Oakland Police Department. At the same time, the Board continues to evolve procedures and capacities in accord with current best practice in order provide the highest possible quality of work, the best possible data analysis, and continuing responsiveness to all Oaklanders and their elected representatives.

III. Answers to Specific Community Comments

1. “Preliminary: Number of investigations that were not done timely and resulted in #3304 violation need to be reported”

The Board assumes that this “preliminary” recommendation refers to CPRB investigations which were not closed within the §3304 Statute of Limitations. Per California Law, a one-year statute of limitations applies to bringing disciplinary action against a public safety officer after the formal initiation of a complaint of misconduct (CA Government Code §3304). Therefore, CPRB investigations of officer misconduct that generate Sustained findings which would lead to officer discipline must be concluded within 1 calendar year of the initiation of the complaint process or no discipline related to these Sustained findings may be imposed upon the subject officer.

*The Board considered this suggestion, and Board members concurred that information relating to the number of investigations which exceeded the §3304 Statute of Limitations during the 2016 calendar year was an important community concern and that it should therefore be included in the Board's Annual Report. In response to this Board request, CPRB Staff reviewed every case closed during 2016 and found that due to exigent circumstances the statutory §3304 date had been exceeded in one instance, but that this did not constitute a §3304 violation because there was no effect on OPD officer discipline as the Administrative Closure of that complaint contained no Sustained findings of officer misconduct. **This information was incorporated into the final version of the CPRB Board's Annual Report on page 22 – 3304 Violation.***

2. “Page 11 – present data in chart/matrix form rather than narrative in paragraphs”

The Board considered this recommendation. However, the paragraphs on page 11 were written not to report on the work product of the CPRB or complaint investigations, but rather to provide a

narrative description of the workload of the Board and a window into the confidential and closed-session processes of the Board's ongoing efforts on behalf of the Citizens of Oakland. This is the first time this additional process-oriented information has ever been compiled, and it was incorporated into the 2016 Annual Report's introduction to the Board's work to increase transparency and improve the Oakland Community's understanding of the work which takes place behind the scenes. The Board therefore determined that this information was rightly presented within the narrative description introducing the non-public process of complaint resolution rather than as a separate set of charts devoid of context. Furthermore, **all data regarding Citizen Complaints, CPRB Investigations, Board Findings, and Recommendations regarding Disciplinary Outcomes – including significant improvements and expansions of data and details which have never been included within any previous CPRB Annual Report – are presented in charts within the body of the report as required by the CPRB's Authorizing Ordinance and requested by the Board.**

3. "Page 13 – note that IAD referrals lack demographic profiles of complainants"

Complaints of officer misconduct arrive at the CPRB through a variety of channels including complaints which are filed directly with the CPRB either as walk-ins or via telephone, and complaints which are lodged with the OPD through the Internal Affairs Division's formal complaint submission process or verbally to officers and supervisors in the field. The CPRB 2016 Annual Report provides information on the demographic profile of complainants who self-report such information (page 13 of the Annual Report), usually by checking the appropriate boxes on the applicable complaint forms. The CPRB can only report demographic information as it is self-reported however. Therefore, where complainants fail to self-report on their demographic backgrounds, or where their complaints are submitted through verbal communications with officers in the field, no reportable data exists. This is not an issue of differential treatment of complainants between IAD and the CPRB, but rather to variations in self-reporting and the fact that complainants who make claims of police misconduct through verbal reports to officers in the field do not necessarily fill out complaint forms themselves, and so are unable to self-report their demographic details. As the CPRB moves forward with the implementation of new case management and electronic complaint and evidence submission systems, it is likely that the quality and extent of self-reporting will improve. Until such time, more extensive demographic data simply does not exist.

4. "Page 14 – represent the incident locations by Council districts"

Historically, CPRB Annual Reports have provided very limited information about the location of the incidents which lead to complaints of police misconduct. Indeed, the only such location information provided was a count of the number complaints filed in each City Council District. This presentation of the information was problematic on many levels. Because many complaints relate to officer misconduct in or near police stations and other areas in which officers are likely to be found, Council Districts such as District 3 (encompassing Downtown Oakland including the OPD headquarters building at 7th and Broadway) have always had a larger count of complaints than other areas of the City of Oakland. This does not mean that police conduct in District 3 is demonstrably worse than in other areas of the City, but rather is an artifact of factors that have

little to do with either police conduct or patterns of misbehavior. Likewise, reporting location information only through a simple count by Council District provides little insight into the density of such complaints City-wide, or the distribution of problems of officer misconduct within the City. For the CPRB 2016 Annual report, the Board decided to report the location of incidents generating complaints of police misconduct using a much richer format – namely, by showing the location of every complaint received during the calendar year on a map of Oakland (included on Page 14). Oakland residents and their representatives on the City Council are therefore provided with far more information about the geographic distribution of reports of police misconduct than has ever been made publicly available by the CPRB, while also avoiding the problems inherent in the simplistic presentation of complaint counts by Council District available in previous years' reports.

5. "Page 15 – reference the 151 complaints that could have been referred to mediation had the proposal not be stymied by prolonged MOU discussions."

This recommendation was considered by the Board. However, as stated, the recommendation does not accurately reflect either ongoing internal negotiations over the introduction of a mediation and/or other informal dispute resolution process or the proper role of the CPRB Annual report and the Board's statutory authority. The Annual Report is a record of citizen complaints of police misconduct and CPRB accomplishments during the 2016 calendar year as required by the Board's enabling ordinance, not of every initiative currently being pursued by the Board. There are several important initiatives that are currently underway, and that consumed many hours of Board and Staff time during the calendar year, which were not included in the 2016 Annual Report. Among other initiatives, these include an important upgrade of the CPRB database and case management system which will, when fully implemented, both improve and expand the Board's IT systems and allow the CPRB to receive complaints and evidence of misconduct electronically, and the introduction of Mediation and alternative complaint resolution process' mentioned in this recommendation. Fully implementing any of these ongoing initiatives is both time-consuming and complex however, and they require cooperation and work across City Departments. When these initiatives are fully implemented, information about them will be released to the public and they will be included in the Annual report corresponding to the year of their introduction. Until that time, public reporting on these initiatives is premature.

Furthermore, and quite aside from the fact that the implementation of mediation and other informal complaint resolution mechanisms are not in fact being "stymied by MOU discussions," it would be highly inappropriate for the Board to comment on negotiations between the City of Oakland and public employee bargaining units as requested here. Any discussion of "MOU discussions" – to which the CPRB is not a negotiating party – much less a comment including highly prejudicial language such as "stymied" as presented in this comment, would not only exceed the Board's statutory authority but would likely constitute a violation of public sector ethical standards which could subject the Board to disciplinary review by the City's Public Ethics Commission.

6. "Page 17 - provide information about whether discipline was imposed for MOR non-compliance and, if so, what was the discipline."

The Board assumes this recommendation refers to officers who violate OPD General Order M-3.2 requiring compliance with CPRB Administrative Subpoenas to Appear for interviews and

Board Hearings related to investigations of officer misconduct. The CPRB reports all data it collects on officer compliance with CPRB interview requests and administrative subpoenas on page 17 of the 2016 Annual Report. However, while the CPRB does forward information about non-compliance to the Oakland Chief of Police and the City Administrator's Office for disciplinary review, the imposition of discipline for such violations is determined by the Chief and City Administrator. Therefore, this request calls for information outside of the statutory authority of the Board and this information is not included in the Board's Annual Report. Any such request is properly directed towards the OPD.