



Cleveland



Preliminary Review of O.P.S. Operating and Procedural Manual Compliance

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Review

Work Product #20003-O

December 2020



DIVISION OF POLICE

DATE: January 15, 2021

TO: Chief of Police Calvin D. Williams

FROM: Inspector General Christopher Paul Viland, Esq., CIG®, #3700

SUBJECT: Preliminary Review of Office of Professional Standards Operating and Procedural Manual Compliance

Sir.

The following preliminary review of operational manual compliance is presented for your use and consideration in assisting the Office of Professional Standards in their mission to improve public confidence in policing in the City of Cleveland by upholding the highest standards in civilian review of police matters. It is presumed that this information will be shared, as applicable, with the Department of Public Safety and Office of Professional Standards staff.

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SECTION A – INTRODUCTION; EXECUTIVE SUMMARY

In 2015, the City of Cleveland, Ohio and the United States Department of Justice mutually negotiated, agreed to and formally entered into a court monitored Settlement Agreement (the Agreement) regarding various police and public safety related City operationsⁱ. In part, the Agreement delineated the basic functions and operations of both a civilian Office of Professional Standards (OPS)ⁱⁱ incorporated into the structure of the Department of Public Safety; as well as a police Inspector General (IG)ⁱⁱⁱ reporting directly to the Chief of the Cleveland Division of Police (the Division, CDP).

In order to fully comply with provisions in the Agreement regarding the operations of the civilian OPS, an Operating Manual and Procedures (the Manual) was drafted by stakeholders and filed with the Federal Court in 2017^{iv}. This Manual encompasses all the various enumerated requirements in the Agreement by which the OPS is to operate and fulfill its intended mission. It is a detailed procedural document itemizing all of the various tasks, timelines, and processes expected to be followed by OPS staff in the intake, investigation, and reporting of civilian complaints against the CDP.

As you know, the Division's Office of the Inspector General (OIG), has been tasked, in the Agreement with the DOJ with some specific responsibilities, including, but not limited to: "[to] analyze investigations conducted by OPS to determine whether they are timely, complete, thorough, and whether recommended dispositions are supported by the preponderance of the evidence..." The IG does consider that a review of OPS compliance with the Agreement as encapsulated in the OPS Operating Manual falls within this authority; and does perceive that an unbiased preliminary review of internal Manual compliance will serve as a constructive feedback tool for the OPS in support of their consistent and continuous improvement, adherence to the terms of the Agreement, and provision of high levels of service to citizens, complainants, officers, and all stakeholders involved in civilian oversight of complaints against the Division moving into the 2020's.

Additionally, it must be noted, that the independent Cleveland Police Monitoring Team, installed as part of the Agreement process, is also required to audit or review the workings of the OPS as part of its overall assessment and compliance practice. In fact, during the last quarter of 2020, the Monitoring Team has begun just that type of assessment. The IG has participated in discussions with the Monitoring Team to ensure that there would be no duplication of effort or known possible conflict. The Monitoring Team's review plan is to assess only those investigations that are presented in full to the Cleveland Civilian Police Review Board (CPRB) which result in sustained findings, including the operations and actions of the CPRB in those matters, all occurring during a different set of time parameters than that being reviewed in this memorandum. Since the OIG's review is strictly relegated to Manual compliance and not case sufficiency, it does not appear that there is substantial conflict in either subject matter or time with the below assessment. In fact, even if there ends up an overlap with some certain individual OPS case investigations, this assessment / review should be seen as more of a gap-filling exercise as opposed to a competing document. The Monitoring Team will be looking in detail at the substantiation of allegations, meeting the burdens of proof, and whether hearing results meet the philosophical requirements of the Agreement including the operations of the CPRB; whereas this IG review is focused completely on OPS operational compliance with the published Manual and recommendations for adherence and process improvement in that regard.

The OIG has completed the below multi-part preliminary review of current OPS operational compliance with their own internal guiding document. This review assesses OPS compliance with identified specific requirements in their Federal Court authorized Manual. This review additionally attempts to provide objective third party suggestions for improvement in compliance whether through operational changes or Manual amendment. And, finally, this

review provides generalized statistical findings in the form of illustrative charts or graphs. Findings and recommendations resulting from this review are presented, in detail, in following sections of this memorandum.

There are some predominant aspects of the review that the IG has identified for inclusion in this introduction, in summary, as follows:

Just as it is expected and has been observed that the OPS holds Division members rightly accountable to the strictest standards of written General Police Orders, Divisional Notices, Manuals and policies, the OIG analogously has completed this preliminary review to the same pedantic degree. The primary reason for this strategy, along with general equity, is to winnow out as many places as possible where improvements can be made to the Manual and then to support the OPS in the update or amendment process.

As is more thoroughly detailed in the below compliance sections, there appear to be current OPS procedures that are accepted and practical and yet do not meet the letter of the Manual as drafted. This signals to the OIG that a fair number of compliance solutions will come from update or amendment to that Manual. In fact, this review identified certain such conflicts that rise to a level requiring some direct remediation, such as:

- Obligations in Section 303 regarding case review and assignment, and Section 604 regarding case conclusion, which have been placed on the OPS Administrator individually and that have been pragmatically delegated outside the scope of these Manual provisions, indicate a need for amendment.
- A Section 403 requirement that case investigators make in-person field contact with complainants at the last known address in certain circumstances that is not currently being undertaken or documented indicates a need to review proper resource allocation and possible removal of the provision.
- A consistent inability to meet Manual timelines or upload and document written extensions with regard to Section 501 indicates a need for a thorough re-assessment of established Manual deadlines, categorizations and documentation.
- The prevalent usage of the ‘Administrative Closure’, outside any formalized processes provided in the Manual, indicates a need, at least partially, to review and expand the delineated Section 703 Administrative Dismissal categories and practices; along with a strengthening of prohibitions on disposition of cases outside of court approved formalized processes.
- A lack of evidence in files of required investigative plans and reviews detailed in Section 405 indicates a need to reassess the necessity or propriety of creating and maintaining those documents.

- The requirement to notify identified and involved CDP personnel of case findings or CPRB hearing information pursuant to Section 606, which is apparently not currently occurring, indicates the necessity to consider whether this clause should remain in the Manual.

Additionally, OPS files are bereft of evidence indicating compliance with certain sections of the Operating Manual in ways that it appears only reinforcement training or awareness combined with stricter accountability or records management processes will result in long term compliance improvement confirmation. These sections include, but are not limited to some of the following:

- Section 302(f) requirements to continuously update the Investigative Complaint Checklist.
- Section 204 referral and recordkeeping issues.
- Section 307 case assignment timelines.
- Section 308 and Section 606 notice to complainant issues.
- Section 403 complainant contact timelines.
- Formal assessments of conflict of interest issues.
- General electronic records maintenance and uploading.

It is the opinion of OPS Administrator Smith, supported in principal by the OIG and as exemplified in some of the issues identified above, that the current Manual contains *dicta* that is not useful to an end user and which in fact may complicate some procedural or process requirements. It is fair to say that a complete streamlining of the Manual to comport more to strict process and procedure is a desired result in the near future. Such streamlining to include authority of the Administrator to delegate, as appropriate, within the current command structure of the OPS.

The remainder of this memorandum discusses methodology, details specific compliance review results, generates and documents statistical data points collected during the process of review, and discusses variance between actual practice and current policy. This information is presented so as to assist the Division, the OPS, and the Department of Public Safety with meeting the goals of the current Settlement Agreement, especially as regards to objective and fair management oversight of formal civilian complaint processes affecting the Division and Division personnel.

SECTION B – METHODOLOGY

The OIG reviewed the following foundational policy related guiding documents:

1. The Settlement Agreement between the United States Department of Justice and the City of Cleveland filed June 12, 2015.
2. The Office of Professional Standards Operating Manual and Procedures, filed February 8, 2017.

NOTE: The pool for data collection in this review consisted of all of the OPS investigative cases formally assigned in the calendar year 2019. Since the Manual was placed into effect in early 2017, almost two years of operations and experience under its guidelines should have allowed for the OPS to have previously worked out most procedural or operational issues prior to this sample pool time frame. Additionally at the time of this review, presumably and according to Manual timelines, enough time had passed since calendar year 2019 that the majority of investigative case files set for review would have been satisfactorily closed after full and complete investigation, thus giving the OIG a fair insight into full work product conducted by the OPS. As a result, the OIG reviewed as the sample pool set the following individual OPS investigative case files and attachments:

1. OPS file numbers 2019-0001 through 2019-0035 – in person, hard copy review.
2. OPS file numbers 2019-0001 through 2019-0220 – review of electronic case files and attachments as available in the IPro® software database.

Prior to the commencement of this review, the OIG inquired with and or was provided training and context from various members of the Division currently assigned to administration of the software package utilized to track investigations involving the Division: IPro®, as well as the OPS's own internal research analyst. The OIG has been in attendance, as available, at Division disciplinary hearings involving OPS investigated cases as well as at CPRB hearings where OPS case investigations were presented. And importantly, the OIG conducted an individual interview with the Administrator of the OPS regarding these topics and issues^{vi}.

Sampling

The OIG initially did an in-person hard copy review of the first thirty five (35) sequential paper files and determined that the content of the paper files was substantially the same as the electronic files. Due to concerns and social distancing issues resulting from the ongoing viral pandemic nationwide and locally, the remainder of the review was done only of electronic case files, remotely. This review was structured, based upon available manpower constraints, so that the OIG inspected every individual electronically maintained OPS case investigation file, at either of two levels of complexity. Data collection was done at either a preliminary or full file scale.

In order to maintain consistency in statistical reporting, and for purposes of this file review, the OIG selected October 15, 2020 as the date that OPS records would be inspected for. On that date, according to IPro®, there had been two hundred and twenty (220) case investigations assigned to OPS personnel in 2019. Using commonly available sample size calculators, with a confidence level of 95% and a margin of error of 5%, at that population, the OIG determined that 141 individual investigative files would be inspected for all collectible data points. The remaining 79 files would receive a more concise, or preliminary, review only.

Utilizing a random integer generation tool^{vii}, and utilizing the sequentially assigned OPS case numbers, 141 random numbers were selected, leading to the selection of the 141

investigative files for complete review. A hard copy of the random integer selection is maintained in the files of the OIG¹.

Collectible data points were drawn directly from specific time frames, tasks, or assignments identified in the OPS Manual. It must be noted that as the review process progressed and patterns emerged, the OIG identified certain collectible data points that were either unavailable or not apparent in a substantially reviewable way due to procedural or organizational departure from review plan expectations or Manual provisions. [See, for example, Section C, Part 3, Number 5 below.] Any such departures are explained in individual sections presented below.

Collected data is preserved in the files of the OIG in a separate Microsoft Access® database.

All of the above referenced materials and information were assessed to determine the OPS's current compliance with the enumerated provisions of their Operating Manual and Procedures. The work encompassed in this review was done in accordance with the Quality Standards for Inspections, Evaluations and Reviews by Offices of Inspector General^{viii}, as applicable.

SECTION C – PRELIMINARY REVIEW RESULTS

Separate sections of compliance review findings and recommendations are presented below, as follows:

- Part 1 – Specific File Data Reviewed
- Part 2 – Contextual Statistical Data
- Part 3 – Specific Compliance Assessments
- Part 4 – Process Improvement Issues and Recommendations

Part 1

Specific File Data Reviewed

The assessment tool used for data collection (subject to the methodology as presented above) is attached to this memorandum as *Appendix A*. For each 2019 OPS assigned investigative case file, header information was collected including case identifying number, complainant's last name, status of the case, identification of the reviewer and the date of review.

All 2019 OPS investigative case files received an initial preliminary review of data points regarding the following Manual provisions:

- Section 301 – information was collected about the intake of the initial complaint, how it was received, and whether and when the designated Complaint Form (Manual, Appendix C) was employed.

¹ OPS Cases 2019-0015 and 2019-0016 were switched in this randomization process due to filing errors not discovered until post review.

- Section 202 – data was gathered on usage of the designated Intake Reporting Form (Manual, Appendix B).
- Section 205 – data was reviewed on referrals made based on this Manual section.
- Section 302(f) – data was examined on the usage of the Investigation Complaint Checklist (Manual, Appendix G).
- Section 303 – data was reviewed on the notice to the OPS Administrator required in this section.
- Section 304 – data was assessed regarding allegations of criminal conduct and referrals to Division IA pursuant to indicated timelines.
- Section 305 – data was reviewed with regard to possible investigations parallel to those conducted by the CDP and deferral documentation requirements.
- Section 307 – information was studied on the timelines of case assignment.
- Section 308 – information was gathered on requirements to provide complainants with written acknowledgement of complaint and required timelines.
- Section 403 – information was assessed regarding requirements and timelines for investigators to contact complainants.
- Section 501 – data was gathered regarding required investigative timelines and file extensions.
- Sections 701-3 – information was reviewed regarding the usage of the Administrative Dismissal and required form.

Pursuant to the random statistical selection process recounted in the Methodology section above, one hundred and forty one (141) 2019 OPS case investigative files had additional data point reviews regarding the following Manual provisions:

- Section 301 – data was examined regarding the requirement to upload the complaint form to the electronic database.
- Section 302(d) – information was reviewed regarding case categorization: standard v. complex, and according to identified criteria.
- Sections 103(a)(4) and 103(b)(iii) – information was appraised regarding conflict of interest documentations.
- Section 302(e) – information was assessed regarding collection of basic investigative materials.
- Section 309 – information was evaluated regarding required notices to CDP personnel.
- Section 404 – information was reviewed regarding preliminary process timeliness.
- Section 405 – files were examined for required written investigative plans.
- Section 407 – files were examined for inclusion of interview recordings.
- Section 411 – investigative summary reports were reviewed for content and inclusion in the electronic database.
- Section 606 – information was assessed regarding notifications of findings.
- Section 607 – information was reviewed regarding the timing of forwarding of OPS findings to the CPRB.
- Section 604 – case files were reviewed for categorizations of sustained findings.

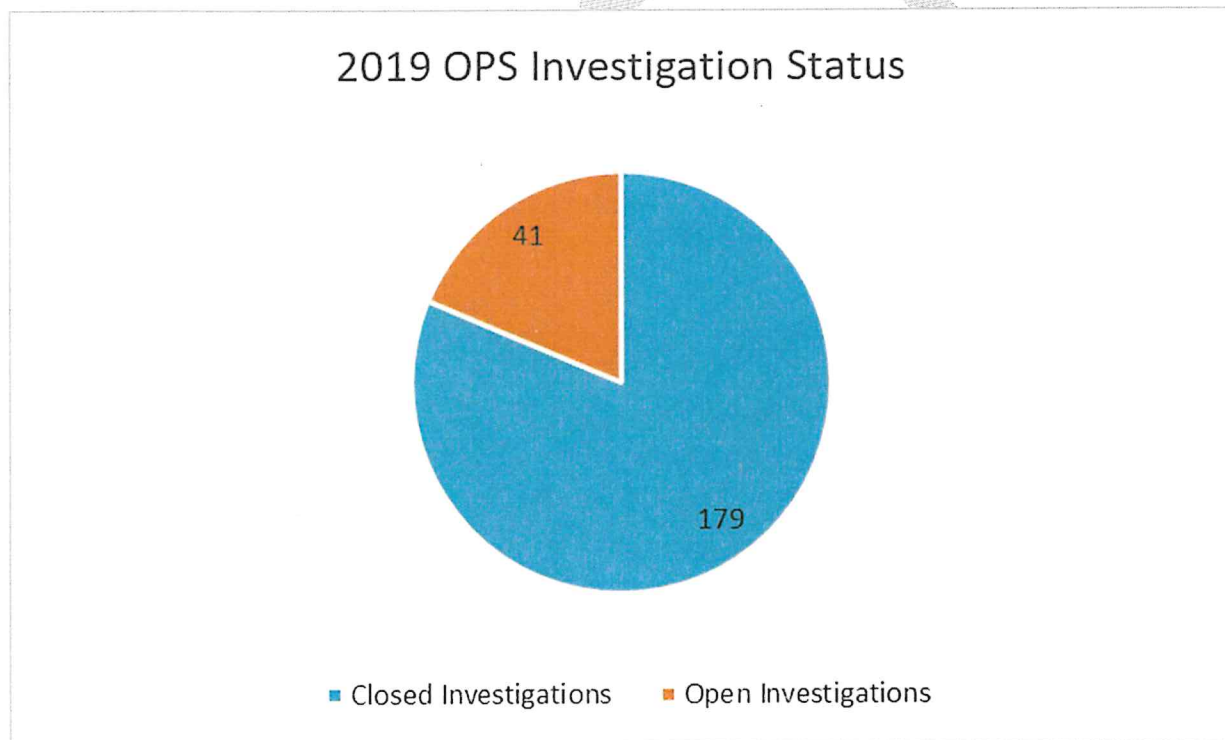
At both levels of review, narrative comments were collected regarding unique circumstances discovered during assessment of the individual case files.

Part 2

Contextual Statistical Data

The OIG provides the information in this section, collected during file reviews, solely for general context and awareness.

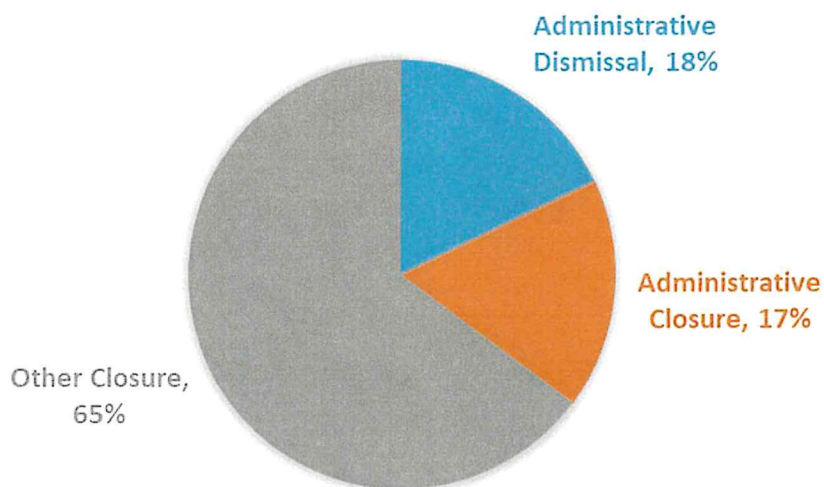
As of the October 15, 2020 review date, of the two hundred twenty (220) total 2019 OPS assigned cases, one hundred and seventy nine (179) were closed and forty one (41)² remained open. The closed cases included cases closed by Administrative Dismissal, Administrative Closure, Closure pending hearing, Closure pending discipline, and those cases Closed with a fully completed investigative and hearing process conclusion.



Of the one hundred seventy nine (179) closed 2019 investigations noted above, thirty one (31) were closed by Administrative Closure and thirty two (32) were closed by Administrative Dismissal. That indicates that sixty three (63) case investigations, or thirty five percent (35%) of all closed investigations were closed prior to and without presentation to the Civilian Police Review Board for administrative reasons. A discussion of the Administrative Closure process is in below Section C, Part 4.

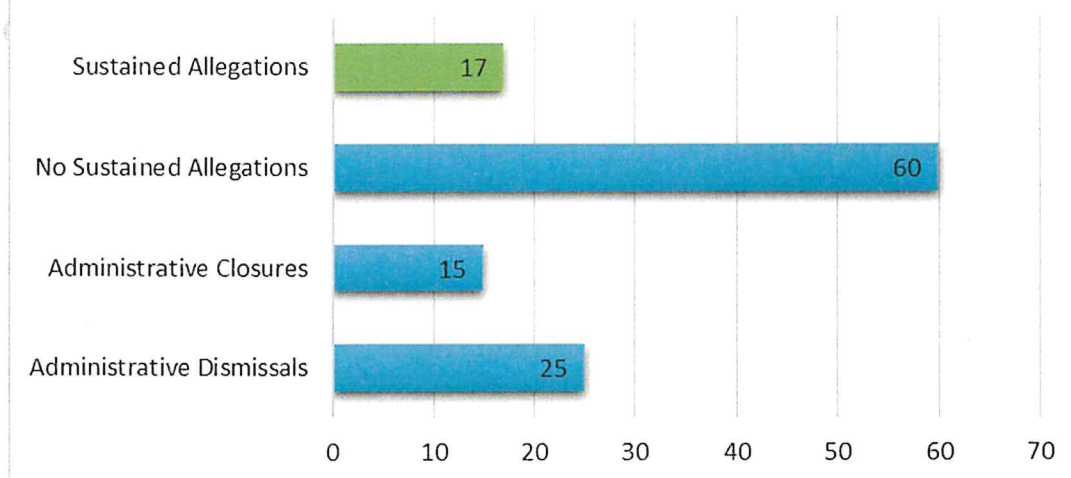
² Of the forty one cases remaining open, two (2) of those include Administrative Dismissals still carried in the electronic database as open for unknown reason.

2019 OPS CLOSED INVESTIGATIONS



As stated above, one hundred and forty one (141) of the total two hundred twenty (220) 2019 investigative cases were subject to more thorough review, which included dispositional information where provided. Of the one hundred and forty (141) case investigations subject to this level of review, one hundred and seventeen (117) have been closed with dispositions. These case closures break down according to the following chart:

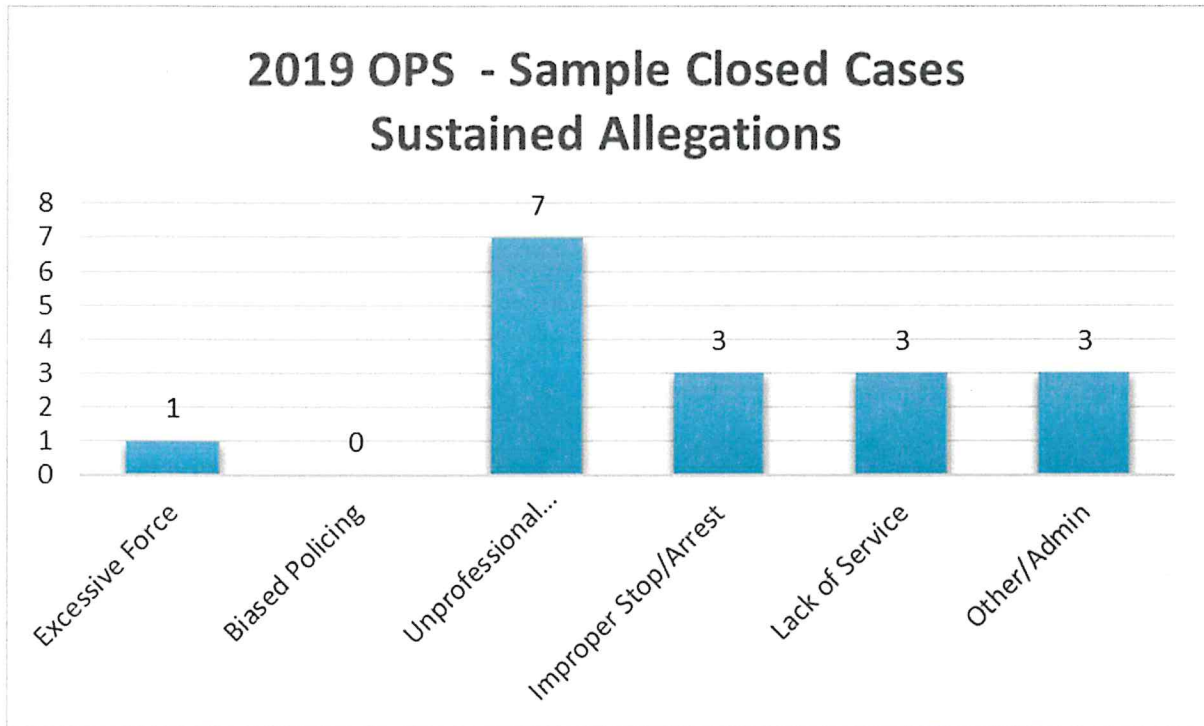
2019 Selected OPS Case Investigation Dispositions



These numbers comport with the prior chart in that of these selected closed investigations, approximately thirty five percent (35%) of them were closed through administrative means. Selected investigative cases with dispositional data show that roughly

sixteen percent (16%) of them are closed with complainant’s allegations being sustained or with the investigation uncovering additional allegations which are sustained (i.e. a Wearable Camera System - WCS violation).

Allegations sustained in this statistically randomized sample of seventeen (17) were primarily due to the unprofessional behavior or unprofessional conduct of the officer. Dispositions from collected data listed below:



Part 3

Specific Compliance Assessments

This section details the various Manual requirements reviewed, and the findings of the OIG in their regard, with recommendations as appropriate. **It must be noted here with some emphasis that any findings of non-compliance are not indicative of misfeasance, malfeasance or nonfeasance on the part of the OPS.** In any newly organized and implemented system, there should be expected to be places where pragmatism in operations has outpaced documentation in policy, for example. It is equally as possible that ‘lack of compliance’ issues are artifacts of Manual drafting without complete functional experience as that they are purely failure to comply with policy. Therefore, these recommendations are made with the sole purpose of improving OPS operations, whether that be through changes in daily operations or in making amendments to the Manual.

All 2019 Investigative Cases

The following Manual sections were reviewed in each of the two hundred twenty 2019 OPS investigative cases:

1. Manual Section 301

File information was reviewed regarding the format of complaints and their acceptance pursuant to Manual Section 301. The primary thrust of this Manual section requires complaints to be accepted through “any electronic or written format regardless of how the complaint is received or otherwise transmitted^{ix}”. And, almost by definition, every case that was reviewed was a complaint that was in fact accepted. No methodology was developed or utilized in the context of this review to attempt to determine if there were complaints that should have been accepted but were not.

The only data of significance gathered in this portion of the review were the date of the complaint (used as a baseline to assess timelines in other sections) and general statistical information as follows. Of the 220 cases, 199 of them (90.5%) involved the use of the designated OPS Complaint Form (Manual, Appendix C). Forty eight of the 220 complaints were completed/presented by someone other than the complainant (21.8%), whether that was by someone taking a complaint over the phone or whether the form was completed by another party on behalf of the complainant.

Finding: There are no specific findings or recommendations made regarding this Manual section at this time.

2. Manual Section 202

Section 202 of the Manual requires that an Intake Reporting Form (Manual, Appendix B) be completed for all constituent or community member contacts regardless of whether they result in a complaint or have to do with a previously made complaint^x. Case investigative files were reviewed for evidence of compliance with this section, however, there is no mandate in the Manual that this form be incorporated into paper or electronic investigative files. The review showed that only 2 of the 220 files reviewed contained a copy of this form.

Finding: Generally, the required Intake Reporting Form is currently not being captured or memorialized in complaint investigative files, either paper or electronic. Therefore no assessment can be made as to whether the form is being used pursuant to Manual Section 202.

Recommendation:

Recommendation 1.1 – It is recommended that the OPS Administrative staff, on its own, or with the assistance of the OIG or City Internal Audit, plan and complete a future

audit of the use and filing of the Intake Reporting Form required under the current Manual for a compliance determination and future specific recommendations.

Alternatively – It is recommended that the OPS initiate an internal practice requirement that Intake Reporting Forms that result in the assignment of an investigative case be copied and maintained in the paper and electronic files of the individual investigative cases.

3. Manual Section 205

Section 205 of the Manual details the procedures to be used when an intake contact does not state a claim sufficient for initiation of an OPS investigation, but that should be referred to another entity. These types of referrals are to be done utilizing the Intake Reporting Form from Section 202 (discussed above), with the consent of the complainant and made within three days of the complainant's approval^{xi}. In cases where the complainant does not consent, the Manual requires documentation of this circumstance in IAPro®^{xii}.

The language in this section seems to indicate that these types of referrals are to be done prior to, or outside, the complaint investigative process; and, yet be documented in the IAPro® complaint database. The OIG was unable to find records, during this review, in the IAPro® database, of referrals prior to case assignment documented there. And Administrator Smith noted that referral records are not being kept currently in the database^{xiii}. It does not appear as if the IAPro® database will allow documentation absent an assigned case number. There were, however, a small number of individual investigative case files³ that made referrals as seemed to be required under this section without mention of complainant's consent or lack thereof.

Finding: Generally as written, the required referral procedure indicated in Section 205 of the Manual is to take place outside the complaint investigative process. Therefore, this review of case investigative files is not a suitable venue for determining compliance with regard to this section. That being said, some referrals do seem to be taking place as part of case investigations, without full consideration of complainant consent issues detailed in this section. There exists the strong possibility that wording in the manual requiring documentation in IAPro® without an official investigative complaint file has led to confusion in practice.

Recommendation:

Recommendation 1.2 – It is recommended that the OPS, along with involved stakeholders, review Section 205 of the Manual and determine whether the electronic database operates in such a manner as to allow maintenance of a referral record without an assigned case being created. If so, OPS staff should receive additional focused

³ OPS Cases 2019-0003, 2019-0043, 2019-0122, 2019-0129.

instruction on the application of Section 205 and the requirements for referral, consent and maintenance of records. If not, Section 205 of the Manual will need redrafting to address pragmatic operations issues and to appropriately guide staff in expected referrals processes.

Additionally, the OIG can envision circumstances where a referral should be made regardless of complainant's consent (i.e. felonious criminal activity, complaints that indicate an imminent threat of danger to any person, and complaints that exhibit the complainant may be in some sort of crisis and a danger to themselves or others) and this Section of the Manual should be redrafted to allow for forwarding of such complaint to the appropriate entity, even if that is under the guise of an anonymous complainant.

4. Section 302(f)

Section 302(f) of the Manual requires the creation of an Investigation Complaint Checklist (Manual, Appendix G), and the continuous updating of that checklist with investigative material requests and status updates^{xiv}.

During the OIG in person review of paper case investigative files, a pattern was quickly seen that the Investigation Complaint Checklist was always prepared by administrative staff at the time of assignment and included in the paper file. But, that checklist did not appear to be updated in any way from the time of initial creation in any of those files (35 files out of 35). Nor was the checklist uploaded to the electronic IPro® database. That is not to say that the information required to be maintained pursuant to this section was ignored; some case investigators kept some materials requests, notes and updates in tabs (specifically the Summary tab or the Tasks tab) in the IPro® software.

Findings: There is no evidence that the Investigation Complaint Checklist required in Section 302(f) of the Manual, while created, is consistently updated with investigative report/material requests and status updates in the reviewed case files. The OPS is therefore not in current compliance with this section.

Recommendation:

Recommendation 1.3 – It is recommended that the OPS investigative staff be instructed on the use of the Investigative Complaint Checklist required in Section 302(f) of the Manual and instructed to maintain the information required on it for all investigative files both paper and electronic.

Alternatively – It is recommended that the Manual be updated or amended to allow for capturing investigative report/material requests and status updates in a consistently applied section of the electronic investigative file database in a pre-designed template created for just that purpose.

5. Section 303

Section 303 of the Manual preliminarily requires that all complaints be forwarded to the OPS Administrator within three business days of receipt for review, assessment and assignment^{xv}. Case file review revealed that, as documented in the electronic case database in IAPro®, this function, in all files reviewed, appeared to be being completed consistently by the OPS Assistant Administrator or the OPS Senior Investigator as opposed to the OPS Administrator. As current practice did not match general Manual expectations, no data regarding actual meeting of the timelines in this section was collected.

Administrator Smith is in complete agreement with the OIG that overall, the Manual language should include authority to delegate under the current organizational structure so as to not bottleneck processes at the top administrator's position. Delegation should be acceptable management practice in this section as well as others identified in this review^{xvi}.

Finding: The OPS is generally not in compliance with the requirement that files be initially reviewed by the OPS Administrator for assignment, assessment and review within three business days of receipt.

Recommendation:

Recommendation 1.4 – It is recommended that the Manual be updated or amended to allow for delegation of this duty by the OPS Administrator to meet current actual apparent processes. Recommended wording changes for Section 303: "... shall forward the file to the OPS Administrator or their designee..." and "... It will be the responsibility of the Administrator or their designee to ensure that ..."

Alternatively – It is recommended that these initial assignment, assessment and review duties be reinstated as the primary responsibility of the OPS Administrator.

6. Section 304

Section 304 of the Manual details, in part, the processes and timelines for referral of complaints including allegations of criminal misconduct from the OPS to the Division's Internal Affairs (IA) Unit^{xvii}. This section requires the OPS Administrator to make a determination within 24 hours of complaint, or within 24 hours of being notified by an investigator of additional information, whether the circumstances alleged in the complaint may be violations of criminal law^{xviii}. Inability to make such a determination within 24 hours is to be documented in a memorandum to the case file detailing the circumstances which prevented the determination^{xix}.

Of the 220 files reviewed, twelve (12) were referred to (IA) as a result of possible criminal conduct (0.5%). Of those twelve, only one was referred within the required 24

hour time period. None of the reviewed referrals had an explanatory memorandum regarding the inability to make a determination within 24 hours when that was required. It is not known, and cannot be determined from simple file review, how much this process is impacted by current OPS practice of having an administrator other than the OPS Administrator do the initial case assignment and review (*See Section 303 discussion above*).

Additionally, it must be noted that the review of the case files regarding this Manual section did not include any assessment of the appropriateness of OPS's determinations either in referral or lack thereof. It was presumed for this preliminary review that OPS's determinations were appropriately made and substantiated. To restate, the twelve IA referrals were presumed to be correctly referred; and the remaining 208 files were presumed to correctly not have been referred.

Finding: Current OPS processes do not result in meeting certain of the timelines required in Section 304 of the Manual, specifically, the requirement that a determination be made whether a complaint contains allegations that may rise to the level of criminal conduct, within 24 hours of receipt of the complaint, or within 24 hours of notification by an investigator of new facts or circumstances indicating criminal conduct. Memoranda required by Section 304 of the Manual to be included in the case file if the 24 hour time limitation is not met were not found in the related case files in the IAPro® electronic database. Therefore, the OPS is generally not in compliance with this section.

Recommendation:

Recommendation 1.5 – It is recommended that the OPS renew a commitment to review of complaints for circumstances which may rise to the level of criminal conduct and ensure that these cases are referred to Division IA in a more timely manner than current practice. This may involve creation of a new delegation of authority in Section 303 from the OPS Administrator to supervisory staff, it may also involve analysis and possible amendment of Manual Section 205 where referrals are to be made prior to case initiation but require records be maintained in an investigative file (see discussion in Part 3, Number 3 above).

7. Section 305

Section 305 of the Manual provides direction with regard to situations where the OPS receives a complaint that it determines is already being investigated by the Division^{xx}. As this review found only one of the 220 case investigative files fell into this category, no significant statistical analysis or assessment conclusions can be drawn.

Finding: There was not a significant enough data sample regarding Section 305 of the Manual to make any compliance findings at this time. There are no specific findings or recommendations made, therefore.

8. Section 307

Section 307 of the Manual details the deadlines for assignment of new investigative cases to investigators^{xxi}. Cases are to be assigned within 24 hours of receipt or the close of the next business day, with a note to the investigative file and IPro® if not so assigned^{xxii}.

The OIG's review found that determining the date of complaint receipt was at times difficult and therefore no true compliance assessment could be completed with consistency. The following information is presented for contextualization only: the date on the face of the complaint was compared with the date the case was assigned in the IPro® database. Seventy five (75) of the two hundred twenty (220) investigative cases in 2019 had an assignment date that was five days or more from the date on the complaint (34%).

In no case file reviewed was any note found regarding any delay in assigning the investigation to an investigator.

Finding: Evidence seems to indicate the OPS did not consistently meet the required timeline to assign new cases to investigators pursuant to Manual Section 307, nor was evidence discovered that when the timeline was not met that notes were made to or maintained in the investigative file or IPro®.

Recommendation:

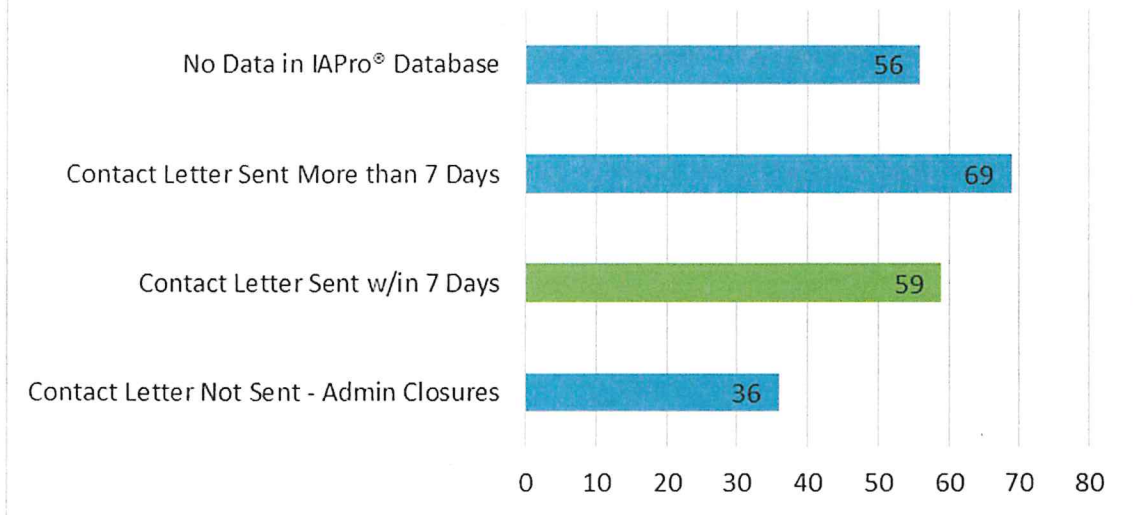
Recommendation 1.6 – It is recommended that all OPS staff be reinstructed on the specific timelines required in the receipt, intake and assignment of cases so as to meet the strict requirements of Section 307 of the Manual, especially in assigning new cases to investigators. Staff should additionally be instructed on appropriately documenting reasons that assignment may have been delayed, if applicable, also pursuant to this Section.

9. Section 308

The Manual details the processes expected to be used in providing written acknowledgement of receipt of a complaint to the complaining party in Section 308, including specifically, the requirement that notification letters be sent no later than seven days after OPS's receipt of the complaint^{xxiii}. These tasks are supposed to be completed by the Intake Coordinator and tracked on the Investigation Complaint Checklist^{xxiv}.

Review of all 220 2019 OPS case investigative files shows 59 cases (26.8%) where acknowledgement letters were sent in accordance with Manual timelines (See below chart). In 105 cases (47.7%), letters were either not sent at all (due to administrative action to close cases) or did not meet the required timeline. Of the letters that were sent beyond the seven day requirement that data was available for, the average length of time to send was approximately 35 days. In 56 cases (25.5%) there were no case notes, tasks listed, or letter uploaded in the IPro® electronic database to determine compliance.

2019 OPS Case - Written Acknowledgments Manual Section 308



Additionally, it must be noted that the Manual assigns this task to be completed by the Intake Coordinator at the time of case assignment and tracked on the Investigation Complaint Checklist^{xxv}. During file review, it appeared that this function was in actuality being completed, in general, by the case investigators themselves. And, as stated in Part 3, Number 4 above, there is no evidence that the Investigation Complaint Checklist is currently being utilized as required in the Manual.

Finding: The OPS staff is generally not in compliance with the Section 308 requirements in the Manual that complaint acknowledgement letters be sent by the Intake Coordinator, tracked on the Investigation Complaint Checklist, and are sent no later than seven days after complaint.

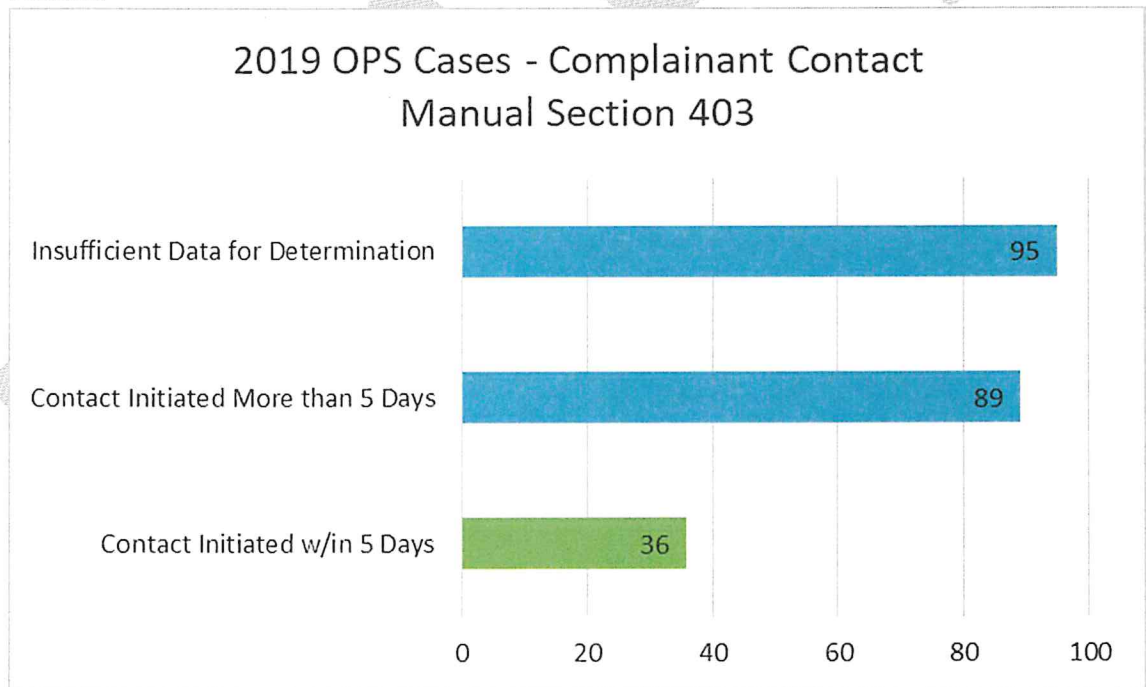
Recommendation:

Recommendation 1.7 – It is recommended that the OPS Administrative staff be provided instruction on Section 308 requirements, including specifically that a letter be prepared and mailed to a complainant, acknowledging receipt of the complaint, and containing required information, no later than seven days from receipt of the complaint. The OIG further recommends that this task be re-affirmed to be done by the Intake Coordinator at the time of case assignment to relieve some administrative burden from investigative staff; and that a copy of this letter be uploaded to the IPro® electronic database. It is additionally recommended that this letter be sent on all investigative cases, including those which are eventually closed by some administrative means. And finally, the OIG adopts and includes all provisions of Recommendation 1.3 regarding the Investigation Complaint Checklist herein as well.

10. Section 403

Manual Section 403 provides OPS investigators with the recommended procedures for contacting and/or interviewing the complainant in the investigation^{xxvi}. These procedures include the requirement that investigators make attempts to contact the complainant within five days of receiving the case, that all contacts and attempts to contact are recorded in the investigative file and the IAPro® database, and that after three unsuccessful attempts to make contact the investigator should go in person to the complainant’s last known address to attempt contact^{xxvii}.

File review of all two hundred twenty 2019 OPS Case investigative files revealed that 36 of those files (16.4%) contained sufficient information to determine that initial contact with the complainant was attempted within five days of case assignment. There was also information to indicate that in 89 of the files (40.5%) initial contact was not initiated within the timeline set by Section 403. The remaining 95 case files (43.1%) did not provide sufficient information for a fair inference regarding attempts at complainant contact, however, do indicate failure to document or track information as required in this section.



Additionally, it must be noted that while the Manual indicates that investigators should attempt to contact complainants by personally going to the last known address after three unsuccessful attempts by other means, there is no indication in any case file indicating that such field contact attempt has been documented. Narrative comments collected during the review specifically identified twelve (12) case files where documented contact was never made with the complainant and there is no documentation in the database case file that attempts were made to personally visit the complainant’s last known address.

According to Administrator Smith, investigators are in many instances physically going into the field to check with complainants at the last known place of residence, especially in those cases where the initial complaint seems to require further clarification and/or additional information. This happens despite his preference that it not be required in all instances. He did state that it is his belief that this section in the Manual should be more flexible in allowing the Administrator discretion in determining proper resource allocation without such strict requirement so that proper follow up can be continued even in cases where contact with a complainant has been completely lost^{xxviii}.

Nonetheless, the number of electronic case files that were inconclusive about required contact attempts points out the lack of documentation as required in the Manual.

Finding: The OPS staff is generally not in compliance with the Section 403 requirements in the Manual that investigators attempt to directly contact a complainant within five days, document those attempts in the IAPro® database, and attempt to contact the complainant in person at their last known address as a last resort.

Recommendation:

Recommendation 1.8 – It is recommended that OPS investigative staff be provided instruction on Section 403 requirements, including specifically that attempts to contact the complainant must occur within five days of receiving the investigation and must be fully documented in the electronic IAPro® database. In order to facilitate this, the OIG recommends that a specific standardized format, template, or file location be created and identified for investigator use in documentation under this section by OPS administrative staff.

Recommendation 1.9 – The Manual’s direction to do in-person field work by visiting complainants’ last known addresses must be reviewed by the OPS administration for a determination whether that is an appropriate use or exposure of available manpower. If a policy decision is made that such investigative activity is not appropriate, the Manual Section 403(d) must be amended to remove that guidance.

11. Section 501

The Manual provides direction to OPS staff in Section 501 regarding timeliness of investigations as timeliness contributes to public confidence and measures efficiency^{xxix}. This section requires that any investigation categorized as ‘standard’ be completed within forty five (45) days, and any investigation categorized as ‘complex’ be completed within seventy five (75) days^{xxx}. In cases that can’t meet these resolution requirements investigators are required to file written extension requests and made part of the investigative file^{xxxi} as well as giving notice to the complainant in the case.

As indicated above in the Contextual Statistical Data section, of the total sample, there were a total of one hundred seventy nine (179) closed cases from 2019 as of the date of review. One hundred seventy seven (177) of the closed cases were categorized as 'standard' and two (2) were categorized as 'complex'. Closure of the 'standard' cases within the required forty five days was at a 39% rate (69 out of 177). Closure of the 'complex' cases within the required seventy five days was at a 50% rate (1 out of 2). [Note: open cases from 2019 may also have exceeded timeliness requirements but in the interest of standardization of data, these cases were not identified/tracked.]

It must be additionally noted that of the 'standard' cases with closures occurring within the approved forty five day time limitation, at least two thirds of them (44 out of 69 / 63.8%) were closed through administrative means; either Administrative Closure or Administrative Dismissal. (This does not include the Administrative Dismissals or Closures that took longer than forty five days to resolve). To restate, closed cases that meet required timelines and that result in a full investigation and presentation of recommendations to the CPRB are happening at rates somewhere between 10 and 15% of the time.

The one hundred eight cases (108) categorized as 'standard' that were not resolved in forty five days but were eventually closed, took an approximate average of 170 days until closure. This is unfortunately almost four times longer than the time period contemplated in the Manual for the majority of cases closed in 2019. Additionally, no evidence of written extension requests nor notice to complainants as required in this Manual section was found in any of these specific closed electronic case files.

It was the opinion of Administrator Smith, during interview, that the bifurcation of investigations into two, and only two categories is an oversimplification of the case review process and could possibly lead to an assembly line like approach leading to investigations that are not completely thorough. These base categorizations miss some nuances, for example the total number of videos that require access, retention and review in what would otherwise be a standard matter for example, or cases that add continued amounts of complexity as additional facts continue to be uncovered. There is a recognition by the OPS that timelines are required to ensure transparency and effectiveness, but that Administrator Smith believes it to require more subtle differentiation and management tracking than that currently presented in the Manual. At his suggestion, case management should require presentation of investigations to the CPRB in a reasonably pre-determined length of time, or a formal memorandum documenting reasons for extension be provided in the file^{xxxii}.

Finding: The OPS is generally not in compliance with the Section 501 requirements in the Manual that investigations categorized as 'standard' be resolved in forty five days and investigations categorized as 'complex' be resolved in seventy five days. File review uncovered no evidence of compliance with requirements in the same section regarding

documentation of written extension requests and notice to complainants in those cases that did not meet the above timelines.

Recommendation:

Recommendation 1.10 – It is recommended that the OPS comply with Manual Section 501 requirements that investigators file written extension requests for cases that will not be resolved within the stated time lines and maintain those requests in the electronic IPro® database. This documentation should be analyzed by OPS administrative staff and used to determine patterns and causes for inability to meet those dates. It is recommended that OPS investigators be instructed on the time frame requirements in this Section and that it be stressed that efficiency in time adds to their credibility with the public and the Division as well as that appropriate documentation of inability to meet timelines can result in administrative changes in manpower, process, resources and support.

Alternatively – It is recommended that the OPS and involved stakeholders review the timelines provided in Section 501 of the Manual and reassess the reasonableness and achievability based on past and current case historical data and current OPS staffing plans. If it is determined that changes are required, the Manual should be updated to reflect the agreed to new standards.

12. Sections 701, 702, and 703

The OPS Operating Manual details a process for those limited instances where the court has authorized the OPS to administratively dismiss a matter prior to its presentation to the Civilian Police Review Board^{xxxiii}. Such Administrative Dismissals are to be done utilizing a specific form (Manual, Appendix H), and only when the facts as alleged fit into one of five specific categories: Non-CDP Employee, Unidentifiable Officer, Uniform Traffic Ticket or Parking Infraction Notice without Additional Misconduct, Unavoidable Workload Delay, and most Off-duty Civil Conduct^{xxxiv}.

As indicated in the Contextual Statistical Data section above, of the 2019 OPS case investigations, thirty two (32) were closed using the Administrative Dismissal procedures in Manual sections 701-3. During file review of those thirty two Administrative Dismissals, four (12.5%) did not have evidence of the required form uploaded to the electronic IPro® database. The remainder were reviewed and observed to have evidence that the cases were categorized and included evidence and facts of the incident to support such categorization and dismissal. NOTE: No commentary or review was made of the sufficiency of the rationale used in such dismissals.

There is an additional administrative closure methodology, the Administrative Closure, which is not contemplated in these or other Manual sections. This action is more thoroughly discussed in Part 4 below. There may be situations currently being addressed

through Administrative Closure that would more appropriately be incorporated into the Administrative Dismissal sections of the Manual through update and / or amendment.

Finding: In cases of administrative closure where the Administrative Dismissal process is formally utilized, the OPS is generally compliant with the processes and strictures enumerated in Sections 701 through 703 of the Manual in documenting the categorizations and evidence and facts necessary in support. There does exist a subcategory of cases where there is an administrative type of closure outside the formal processes in the Manual.

Recommendation:

Recommendation 1.11 – It is recommended that OPS staff ensure inclusion of final Administrative Dismissal reports in the IPro® electronic database more consistently, perhaps as a condition of final approval, to achieve as close to 100% upload rate as possible.

Additionally, and in comport with discussion of Administrative Closures in Part 4 below, the OPS administrative staff along with all involved stakeholders should meet and discuss the possibility of adding or modifying certain categories in Section 703 of the Manual to include some of the situations being closed outside the processes currently approved. For example: sections in the Manual could be rationally expanded to include additional categories such as: subject CDP employee separated from service, actual duplicate complaint, or complaints between current City employees that do not involve the provision of police services. See Part 4, Administrative Closures, below.

Cases from the Randomly Generated 2019 Sample Set

The following Manual sections were reviewed in only the one hundred forty one (141) randomly selected 2019 OPS investigative cases identified as the sample data set (selected data pool) in the Methodology / Sampling section above so as to provide data at a 95% confidence rate with a 5% margin of error:

13. Section 301

Manual Section 301 details all of the information and procedures surrounding the accessibility, content and processing of the OPS complaint form^{xxxv}. Complaints are expected to be received and processed regardless of source and may be initiated using the OPS Complaint Form^{xxxvi}. The OIG surveyed the sample set of 2019 investigative cases for evidence that the complaint form or information utilized to initiate the complaint was collected and uploaded to the electronic IPro® database as required.

In all of the one hundred forty one investigative cases in the sample set (**100%**), the complaint form or document utilized to initiate the complaint was uploaded and stored in the related electronic IPro® database file.

Finding: This review found evidence that the OPS is maintaining and uploading complaint initiating documents, including the complaint form if utilized, in every investigative case file at a full compliance rate (100%). There are no specific recommendations resulting from this finding.

14. Section 302(d)

Section 302(d) of the Manual requires that complaints be categorized as standard or complex as well as categorized under one of nine recommended categories (Biased Policing, Unlawful Investigatory Stop, Unlawful Search, Unlawful Arrest, Excessive and/or Improper Force, Harassment, Service Complaints, Property Complaints, and Improper Procedure) at the time of intake and based solely on the complaint^{xxxvii}. The OIG's review of Manual Section 302(d) data is therefore multi-part:

Preliminarily, investigative files were reviewed to determine whether the complaint was categorized as either 'standard' or 'complex', pursuant to the requirement in Section 302(d) by the Intake Coordinator. In each of the one hundred forty one IAPro® database files (100%), the case was categorized as such in the software package using provided settings.

One hundred thirty nine (139) of those cases were categorized as 'standard' and two (2) were categorized as 'complex'. However, no documentation was discovered in those files to substantiate or justify the categorizations in any of these cases, making it impossible to determine with the tools in this review, how the OPS staff makes these categorization determinations. Taking this information in combination with the fact that 61% of closed 'standard' cases did not meet the timelines required in Section 501 (see above assessment), averaging approximately 170 days to close, this raises a concern that categorization as 'standard' may be by some default in the OPS categorization process, possibly even to their own detriment. [For example, the percentage of 2019 closed 'standard' cases that did not meet timelines could have been reduced almost by 10% if they would have been otherwise categorized as 'complex', if appropriate.]

Secondarily, while the Manual requires categorization pursuant to the list of preferred categories above at the time of intake, other than those closed cases that had a completed investigative summary report attached there was no evidence discovered in electronic case files to indicate what the original categorization of the case was. Therefore, only those closed case reports could be reviewed.

Seventy seven (77) investigative cases were closed where categorizations were provided either as sustained or not sustained. Seventy four (74) or 96% of those closed cases listed categorizations as part of the final investigative summary report. The OIG did observe that terminology was not always consistent in use or reporting, see for example the categories listed in Manual Section 302(d) versus the categories listed in the investigative

summary report template^{xxxviii}. Or the terms Improper Frisk⁴ or Improper Detention⁵ that appear neither in the Manual nor in the report template. Or even the term Improper Citation that appears in the report template while not appearing as a Manual category for allegations.

And, while the overlap or equivalency of this vocabulary is apparent, there exists at least the chance that inconsistent usage of terminology could lead to confusion or improper interpretation on the part of staff in categorization and the determination whether there is OPS jurisdiction over a complaint. Clarity and efficiency in government writing are driven by consistency in terminology^{xxxix}.

Finding: All investigative case files in the IAPro® electronic database were categorized as either standard or complex pursuant to Manual Section 302(d) resulting in a finding of full compliance. Of the investigative case files with data available, allegations were categorized pursuant to Manual Section 302(d) at a rate of 96% resulting in substantive compliance.

Recommendation:

Recommendation 2.1 – It is recommended that the OPS review the process of categorization of cases as either standard or complex pursuant to Manual Section 302(d) and identify the rationales involved in making the distinction so as to benefit their own time constraints under the Manual. Further, it is recommended that some documentation of that rationale be included in the case file in some manner, for all cases, in a standardized way.

Recommendation 2.2 – It is recommended that OPS staff review the categorizations of allegations recommended in Manual Section 302(d) and then be instructed to strictly utilize the terminology provided, including methods to consider how various complaint scenarios may fit directly into those recommended categories rather than through changes in language or terminology.

Recommendation 2.3 – It is recommended that initial categorization of allegations pursuant to Manual Section 302(d) be documented in all cases at the time of intake as required, in the IAPro® electronic database.

15. Sections 103(a)(4) and 103(b)(iii)

Sections 103(a)(4) and 103(b)(iii) in the Manual describe the expectations of the OPS with regard to actual or apparent conflicts of interest^{xl}. These expectations include

⁴ OPS Case 2019-0184.

⁵ OPS Case 2019-0085.

immediate recusal of investigators and reporting to OPS supervisory staff when a conflict is discovered^{xli}.

In only one of the one hundred forty one investigative cases in the sample set was there any evidence that a conflict of interest situation existed or was addressed, in the electronic case files⁶. In that case, there is a single line saved in the software routings folder as a response to the initial case assignment as follows: “Routing response: Returned due to conflict of interest.” There are no additional descriptions or explanations in the file. Without evidence to the contrary, it is presumed that this single self-identified case is the only case where a conflict of interest was acted on; and the case was reassigned pursuant to the Manual.

Finding: Based upon the electronic case files reviewed, in the single instance where a conflict of interest was self-identified, the investigator recused and the case was reassigned pursuant to the manual, thus resulting in OPS compliance with these Manual sections although a single instance is not statistically significant.

Recommendation:

Recommendation 2.4 – It is recommended that in the current well-developed OPS investigative report templates that are being used, some indication be included in every written report regarding identification of conflicts of interest or lack thereof and resultant action; and, that OPS investigative staff be instructed in proper documentation methods.

As examples, a single line similar to the following: “No potential, actual, or apparent conflicts of interest were identified by this investigator with regard to the parties or the subject matter in this investigation”, or “The original investigator assigned in this matter recused due to prior personal affiliation with a party involved in this investigation, supervisory staff was notified and this matter was reassigned to this investigator”.

16. Section 302(e)

Manual Section 302(e) delineates the process for acquisition of basic investigative materials by the Intake Coordinator or designee^{xliii}, including copies of reports, documents, audio or video recordings, and historical data from all parties at the time of initial review of the complaint.

This review found no evidence in the electronic case files that this was the process currently being followed. Investigative cases generally contained notes, tasks, or other indications that investigative materials were requested or gathered by assigned investigators themselves subsequent to case assignment.

⁶ OPS Case 2019-0075.

Finding: It does not appear from the evidence reviewable in the IAPro® electronic database, that initial basic investigative materials are being gathered or requested by the Intake Coordinator or designee at the time of initial complaint review. Therefore, the OPS is not in current compliance with this section of the Manual.

Recommendation:

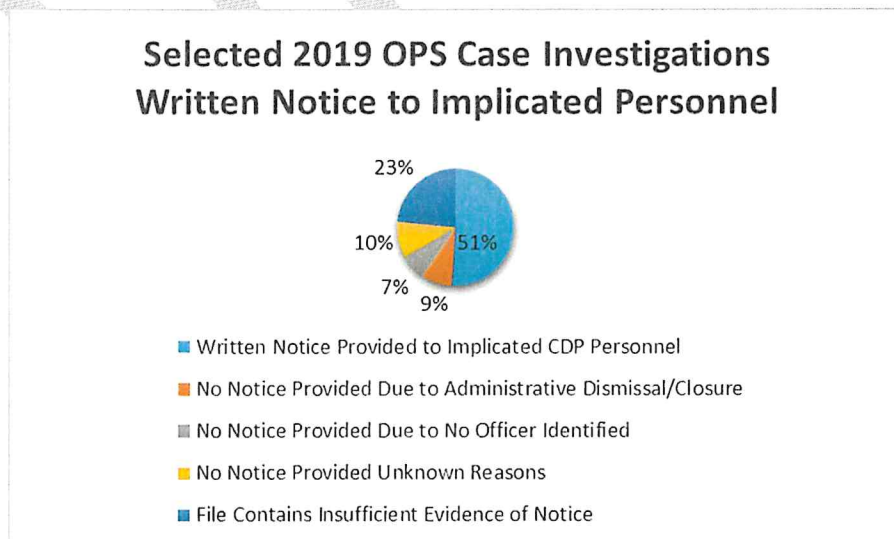
Recommendation 2.5 – It is recommended that OPS reintegrate the process outlined in the OPS Manual for collection of basic investigative materials and realign office workflow to those descriptions including instruction to staff and assignment of workload as appropriate.

Alternatively – It is recommended that the process as outlined in the OPS Manual be amended to comport with actual office practices, re-assigning responsibility for acquisition of basic investigative materials to case investigators themselves, including responsibility for appropriate documentation and updating.

17. Section 309

Section 309 of the Manual details requirements set for OPS staff revolving around notification of implicated CDP personnel of complaints made against them^{xliii}. These requirements include uploading acknowledgements of the written notifications to the IAPro® electronic database and the possibility that immediate notification can be delayed with appropriate documentation in the files^{xliv}.

Of the one hundred forty one cases in the sample set, seventy two (72) had, in some manner, evidence of written notifications being provided to implicated CDP personnel in the investigative file. Additionally, ten case files indicated that no notifications had been made due to a determination that no CDP officer was involved or identifiable. This results in a 58% apparent compliance rate with the notification provisions in the Manual. Data presented in the below chart:



That being said, of the files with evidence of appropriate written notifications, only twenty four (24) had the written acknowledgement of notice uploaded to the IPro® electronic database pursuant to Manual requirements; a 17% compliance rate.

Finding: The OPS is currently not in compliance with Operating Manual requirements that implicated CDP personnel be provided written notice of complaint involving them, acknowledgement of which is also to be uploaded to the IPro® electronic database.

Recommendation:

Recommendation 2.6 – It is recommended that OPS staff be re-instructed as to the requirements of Manual Section 309 and the importance of providing required notices and maintaining required records. Additionally, it is recommended that emphasis be placed on the importance of record keeping in regard to this section and that files be reviewed to ensure incorporation of this required documentation into the IPro® electronic database prior to supervisory approval of investigation closure.

18. Section 404

Due to a misreading of this section during the construction of the assessment tool and miscommunication with the software consultant used to accomplish finalization of that tool, the data reviewed regarding this section did not adequately address the written provisions in this section. Therefore no findings or recommendations can be made regarding this section at this time.

19. Section 405

Manual Section 405 sets out an in-depth process for the creation, presentation and approval of a written Investigative Plan for every assigned case investigation^{xlv}. This process includes requirements to create an investigative strategy, identify sources of information, and set out timelines^{xlvi}, at minimum. As part of this process, a witness list and briefing document setting out the basis for possible allegations is to be prepared and presented to the OPS Administrator^{xlvii}. The OPS Administrator or designee is tasked with review of the Investigative Plan and then creating an Investigative Plan Review Memorandum in any instance where there is a departure recommended from the investigator's plan^{xlviii}.

During review of the sample set of 2019 investigative case files, with the exception of a single electronic case file⁷ where a cursory investigative plan is contained in the "summary" section of the IPro® electronic database and where one other electronic case file⁸ mentions investigative plan review in a task list, no evidence of written Investigative Plans, their approval, or Investigative Plan Review Memoranda was discovered in the electronic case file database.

⁷ OPS Case 2019-0085.

⁸ OPS Case 2019-0143.

It is presumed by the OIG that the processes and requirements in Section 405 were created to provide transparency in the investigative process, to provide guidance to investigators prior to and during investigations, and to provide a record of methods utilized to substantiate or invalidate potential allegations of complaint. All of which are valid reasons for maintaining such requirements. Perhaps a newly created generalized template or checklist would be of service in creating or documenting plan or reviews.

OPS Administrator Smith is of the opinion that such Plans and Reviews are duplicative of the structure and templating required in the preparation of the Investigative Summary Report. His well-developed universal reporting structure does parallel an investigative plan. And it would be his preference to only require a written document to formally identify and be transparent about deviation from the template or the norm. He doesn't perceive current value added from this Manual section^{xlix}.

Finding: There is no evidence available in the IPro® electronic database that the OPS is currently in compliance with the requirements of Operating Manual Section 405 in the documentation, review and maintenance of Investigative Plans, Investigative Plan Reviews, witness lists, etc.

Recommendation:

Recommendation 2.7 – It is recommended that OPS staff be re-instructed as to the requirements of Manual Section 405 and the importance of creating and maintaining required records: Investigative Plans, Investigative Plan Reviews and affiliated documents must be created and kept. Additionally, it is recommended that emphasis be placed on the importance of record keeping in regard to this section and that files be reviewed to ensure incorporation of this required documentation into the IPro® electronic database prior to supervisory approval of investigation closure.

Alternatively – Stakeholders should convene to determine whether the provisions of Manual Section 405 continue to be appropriate standards to be met and whether the Manual section should be updated, amended, or rewritten.

20. Section 407

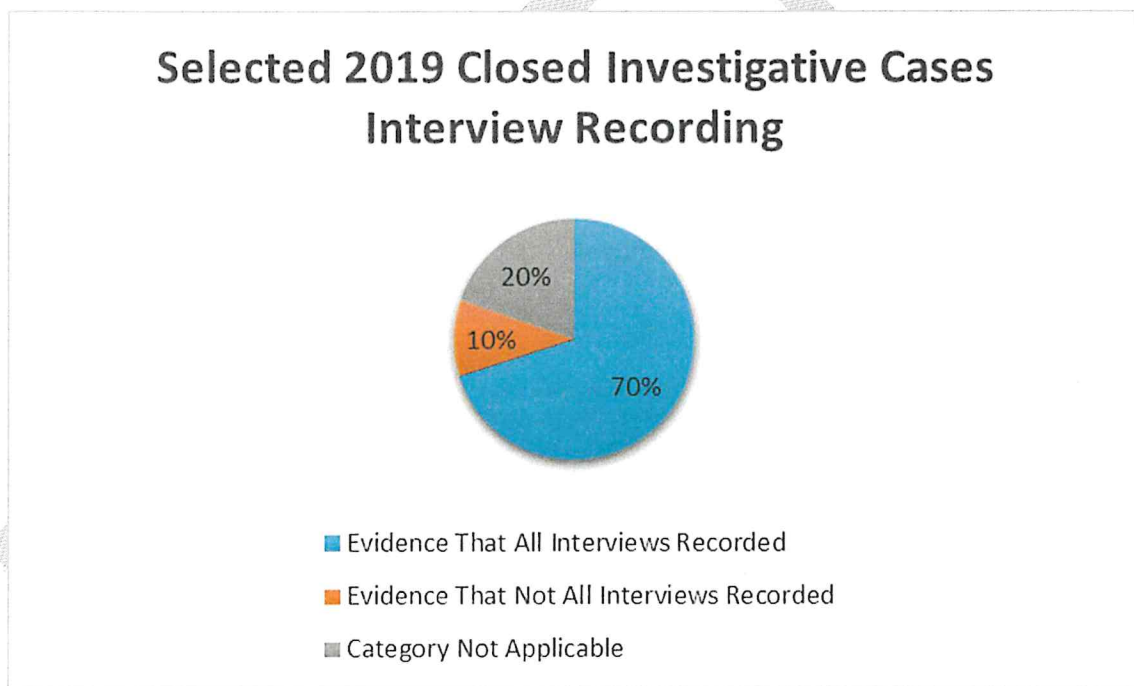
While Section 407 of the Manual lays out four pages of processes and procedures covering the topic of interviewing witnesses or involved CDP employees, the OIG's review was of a significantly more limited provision in the section. Section 407 requires that all interviews should be recorded, with limited exceptions for complainants¹, and it is only this data that was reviewed by the OIG.

The OIG reviewed the selected sample set of closed cases only [117 closed cases] as open investigations may have not have been fully documented at the time of review regarding this particular data set. Of the one hundred seventeen closed cases, eighty two (82) had evidence present in the electronic case file database that all interviews had been recorded. Twelve (12) case files indicate that not all interviews had been recorded; and

in twenty three (23) cases it was determined that interviews were not conducted. Data reflected in the below chart.

The twenty three (23) cases where it was determined that interviews were not conducted include, seven (7) cases where it was determined that no CDP employee had been identified, eleven (11) cases where no interviews were conducted as this case was closed through administrative means, and five (5) cases where interviews were not conducted due to other or unknown reasons.

The twelve (12) cases where it was determined that not all interviews were recorded include four (4) where sufficient reasons for failure to record were documented in the case file or report. Valid documented reasons include conducting an interview in a facility where recording was not allowed or failure of recording equipment.



Finding: Based on review of closed cases in the sample set, it appears that the OPS is generally, but not consistently, in compliance with Section 407 requirements for full recording of all involved interviews. This conclusion is not based on audit of actual recordings, but on evidence present in electronic IAPro® database case files documenting the recording of interviews conducted.

Recommendation:

Recommendation 2.8 – It is recommended that OPS staff be re-instructed as to the requirements of Manual Section 407 and the importance of not only recording conducted

interviews, but appropriately documenting and maintaining the interviews and recordings especially in the IPro® electronic database.

21. Section 411

Section 411 of the OPS Manual provides guidance and requirements for the preparation of an Investigative Summary Report^{li} including the form, format and features expected. There are specific prohibitions against making credibility assessments in such report, especially a prohibition against automatic preference toward CDP statements, without specific and documented objective evidence used in making such assessment^{liii}.

The OIG, again using only closed cases from the designated sample set of 2019 OPS case investigations, reviewed for the following data: Investigative Summary Report uploaded to electronic IPro® case database; Investigative Summary Report identifies allegations and their elements including evidence or lack thereof; Investigative Summary report contains assessments of credibility as follows:

Of the one hundred seventeen closed cases reviewed, one hundred and six (90.6%) were uploaded to the electronic database. Three of the missing eleven uploads were actually uploads of the incorrect summary report as opposed to missing completely.

Of the one hundred and six closed cases reviewed that had an Investigative Summary Report uploaded, one hundred and one (95.3%) provided written explanations of the allegations, the elements thereof, and discussions of the relevant evidence in the report. [NOTE: This review was for the presence of the data and not a review of the sufficiency of the data.] Thirty three (33) of these reports (31%) were in the form of an Administrative Dismissal or Administrative Closure Report. The other five cases were apparently closed through administrative means without the creation of an Investigative Summary Report.

Of the one hundred and six closed cases reviewed that had an Investigative Summary Report uploaded, only one case⁹ documented some assessment of credibility, and that only by inference. In that case, the complainant was determined to be a danger to themselves or others by involved persons and was admitted to the hospital in apparent mental health crisis. [NOTE: This review was for the presence of the data and not a review of the sufficiency of the data: although the OIG did observe several cases where a credibility assessment would have been substantiated by objective evidence, for example where video evidence directly contradicted a complainant's testimony¹⁰.]

Finding: Based on closed cases in the sample set, it appears that the OPS is generally in compliance with the mandates outlined in Section 411 as to creation and maintenance of the required Investigative Summary Report.

⁹ OPS Case 2019-0138.

¹⁰ *i.e.*, OPS Cases 2019-0060, OPS 2019-0063.

Recommendations:

Recommendation 2.9 – It is recommended that OPS staff be re-instructed as to the importance of complete and thorough recordkeeping with regard to the storage and maintenance of required documents like the Investigative Summary Report identified in Section 411 of the Manual. Strategies should be adopted to increase compliance measures to above the current 90%, perhaps through usage of OPS data staff for internal audit and maintenance of files.

Recommendation 2.10 – It is recommended that, similar to above, strategies are adopted to require and validated that a written Investigative Summary Report be completed in all matters, regardless of the method of closure.

Recommendation 2.11 – It is recommended that, when applicable, OPS staff be reminded that it is appropriate that Investigative Summary Reports include specific assessments of the credibility of parties when objective evidence is documented that reflects on credibility and is necessary in the drawing of investigative conclusions and supported in the making of those assessments.

22. Section 606

Section 606 of the Manual requires that the OPS mail a letter to both complainant and involved CDP employee advising when an investigation is concluded and information regarding the date that the matter will be heard in front of the Citizen’s Police Review Board (CPRB)^{liii}.

A review of the one hundred seventeen (117) closed case files from the 2019 sample set showed that in one hundred eight (108) of those cases (92%) written letters of notification meeting the standards set in Section 606 were sent to complainants, including thirty six (36) cases where no hearing was set due to administrative closure actions (33%). Three (3) of the remaining cases still had hearing dates yet to be set, two (2) were cases where finding letters were sent without hearing information, one (1) was a referral without notice, one (1) was simply missing from the electronic IAPro® database, and two (2) were administrative dismissals without notice.

Of that same sample set, however, the OIG was unable to find evidence of letters sent to CDP personnel in compliance with Section 606. In sixty four (64) cases, CDP employees were only notified of findings after the CPRB hearing had concluded, many times several months after the hearing. The remainder of the cases had no notice for reasons including, administrative closures without hearings, no CDP employee identified, or simple failure to notify.

Administrator Smith indicated that notifications of findings were not being forwarded to involved officers/employees after a mutual agreement with the Division, the Department of Public Safety and the City Decree Compliance Coordinator, so as to keep the officers

or employees out of a possible cross-examination circumstance for their benefit in what could end up being matters of discipline or worse. He suggests a modification to operating processes wherein CPRB agendas have individual officers and recommended findings included as a type of notice, or in the alternative that the CPRB make notifications to implicated employees when and only when there is a definitive action of the Board against the employee. He does agree, however, that current processes don't meet Manual requirements and do require amendment or updating^{liv}.

Finding: The OPS is generally compliant with Manual Section 606 requirements to notify complainants of investigation conclusion and hearing dates and processes. The OPS is not, however, in compliance with that same section regarding notification to CDP personnel.

Recommendations:

Recommendation 2.12 – It is recommended that OPS staff be re-instructed as to the importance of complete and thorough recordkeeping with regard to the storage and maintenance of required documents including the letters of notification required in Section 606 of the Manual. Strategies should be adopted to increase compliance measures to above the current 92%.

Recommendation 2.13 – It is recommended that OPS staff ensure that notices at the conclusion of investigations including information about the date and processes for hearing before the CPRB are sent simultaneously to involved CDP personnel when sent to complainants pursuant to Section 606 of the Manual.

Alternatively – It is recommended that stakeholders participate in discussions and meet to obtain consensus regarding whether the notice provision in Section 606 of the Manual regarding specifically involved CDP personnel should be removed by amendment or update to the Manual.

23. Section 607

OPS Manual 607 requires that all investigations and conclusions be forwarded to the CPRB “in sufficient time for CPRB to consider them no later than the second regularly scheduled CPRB meeting following the completion of the investigation”^{liv}.

After consultation with the independent Cleveland Police Monitoring Team, who participated in drafting of the Manual and who will be conducting additional OPS reviews, it was determined that the data gathered by the OIG with regard to Section 607 was insufficient to provide accurate assessment. No official findings are being made with regard to this section.

The OIG does find it worth noting, however, that the CPRB's scheduling and hearing of cases is not within the purview of the OPS or its operations. If the intent of the wording

in this Manual section is to ensure timely presentation of cases by the OPS, perhaps it would be better to have had language that required ‘all completed investigations, reports and conclusions to be provided to the CPRB for hearing within five business days of the close of the investigation’, or some phrasing that does not include CPRB hearing processes or timelines over which the OPS has no direct venue or authority.

Recommendation:

Recommendation 2.14 – It is recommended that the OPS Manual be amended to remove reference to CPRB hearing processes and timelines in Section 607 of the Manual. A simple requirement that OPS refer completed cases in a set time may be clearer direction for OPS staff.

24. Section 604

Manual Section 604 details the requirements that the OPS Administrator review all recommended findings at the conclusion of an investigation and ensure that they are appropriate and substantiated in one of four categories: Sustained, Exonerated, Unfounded, or Insufficient Evidence^{lvi}.

As indicated in the above provided contextual statistical data, of the one hundred seventeen closed cases the 2019 sample set, seven (77) were closed with findings pursuant to this section as opposed to being closed in some administrative fashion. The OIG reviewed each of these closed cases with findings for the presence of allegations and written substantiation thereof. In all but two of these cases, investigators prepared reports that listed allegations and recommendations in one of the four required categories: in those two cases, the final report had not been uploaded to the IAPro® electronic database.

It is not generally the place of the OIG in this type of preliminary compliance review to assess the judgment or decision making of OPS staff in their conclusions and rationale. The OIG did not participate in the investigative process, may not have all the relevant information, and is in a poor position to substitute its judgment for those who have been specifically tasked with making those determinations. Any identified issues with regard to findings and the existence of evidentiary support that may have been discovered during the review will be addressed in the Process Improvement Recommendations section of this memorandum below.

Additionally, it appears that the tasks assigned to the OPS Administrator in this section, may in fact be pragmatically being carried out by OPS supervisory staff. In this case, a change in operations or an amendment to the Manual will have to occur to comport current practice to Manual provisions. Administrator Smith is in complete agreeance with the OIG that overall, the Manual language should include authority to delegate under the current organizational structure so as to not bottleneck processes at the top

administrator's position. Delegation should be acceptable management practice in this section as well as others identified in this review^{lvii}.

Finding: The OPS is generally compliant with Manual Section 604 requirements that investigation results and recommendations be reviewed to ensure they fall into one of four specific categories and are supported by the preponderance of the evidence. Although the person identified in the Section with this responsibility may have delegated some of these tasks without authority to do so in the Manual.

Recommendations:

Recommendation 2.15 – It is recommended that the Manual be updated or amended to allow for delegation of this duty by the OPS Administrator to meet current actual apparent processes. Recommended wording changes for Section 604: “Upon concluding that the OPS investigation is complete, the OPS Administrator or their designee...” and “... will be changed and updated as directed by supervisory staff ...” and “The Administrator or their designee will ensure...”

Alternatively – It is recommended that these review, update, and assurance duties be reinstated as the primary responsibility of the OPS Administrator in actual practice.

Recommendation 2.16 – It is further recommended that OPS staff be reminded as to the requirements of Manual Section 604 and the importance of not only completing fully supported findings and conclusions, but to ensure that these records are maintained and uploaded to the IAPro® electronic database.

Part 4

Process Improvement Issues and Recommendations

This section contains information gathered not as part of a statistical analysis of sample data sets, but as specific observations of a reviewer during the course of file review. Some issues appear as part of an apparent pattern of practice, and some were recognized in a single instance, nonetheless the OIG thought they contained enough significance to comment on. Identified possible compliance issues are listed below as findings in bullet point format:

1. **Administrative Closures**

- As indicated above in the Contextual Statistical Data section, over 17% of all reported case closures of 2019 investigative cases were done by Administrative Closure; nearly the same number that were closed by Administrative Dismissal. The OIG, however, was not able to find anywhere in the Manual to serve as authorization for such an operational disposition. In contrast, the Administrative Dismissal is created and recognized in the Manual as a restricted exception from referring an investigation to the CPRB for review in limited and specifically identified situations. And, even then only as subject to continuous audit in order to determine the propriety of its use during the pendency of the Agreement.

Putting aside any subjective assessments of whether the rationale utilized in Administrative Closures of cases was substantiated by facts and evidence, there remains the outstanding issue that these types of closures are not contemplated in the processes detailed in the Manual, nor are there provisions that would seem to allow such practice. This current process continues despite the availability of other Manual authorized dispositional process including a full investigation with exoneration, or an administrative dismissal because of the inability to identify personnel, or by appropriate referrals. In some cases for example, investigators actually did the work to show that no CDP personnel could be identified, but for unknown reason chose Administrative Closure rather than the Manual's authorized Administrative Dismissal pursuant to Section 703(b).

That being said however, it does rationally appear that the Administrative Dismissal sections in the Manual could be expanded to include some additional categories. Perhaps such as: (1) subject CDP employee separated from service, (2) actual duplicate complaint, or (3) complaints between current City employees that do not involve the provision of police services, all of which were identified in the review of this pool of administrative closures.

- In one Administrative Closure, the reason provided was that the complainant withdrew the complaint¹¹. This is not permitted pursuant to Manual Section 409 stating that investigations will not be terminated solely because the complainant wishes to withdraw the complaint^{lviii}.
- In one Administrative Closure, the reason provided was that the allegations were exonerable as a matter of law¹². It would, perhaps have been more a more objectively supported resolution if the investigation were fully completed with a recommendation of exoneration to the CPRB.
- In two Administrative Closures, the reason provided was a referral to Internal Affairs¹³. The fact that this was done using this unique closure methodology may reflect on the commentary and findings regarding referrals in Section 205 of the Manual which is discussed in Part 3, Number 3 above, especially with regard to documentation of referral pathways and how that record is to be maintained. Additionally, this is a direct conflict with Section 304 of the Manual that requires all IA referrals that are not investigated as criminal matters or where charges are not filed be returned to OPS for review, additional investigation and appropriate closure. It must be remembered that the lower standard of proof in an administrative investigation may result in disciplinary charges despite the lack of criminal proceedings.
- In certain Administrative Closures, it did not appear that the reason given for closure substantiated abrogation of full investigation with investigative results and

¹¹ OPS Case 2019-0176.

¹² OPS Case 2019-0116.

¹³ OPS Case 2019-0012 & OPS Case 2019-0161.

recommendations, whether the result would have been an Administrative Dismissal pursuant to the Manual or a hearing in front of the CPRB. For example, a complaint that certain identified officers were violating numerous traffic laws¹⁴ was closed for ‘lack of jurisdiction’ despite the fact that the investigator determined that the officers were responding to an emergency call and therefore a full investigation exonerating the officers would have been an appropriate disposition.

- While the OIG’s below recommendations would eliminate the use of the Administrative Closure, OPS Administrator Smith indicated that he would desire to retain it as he believes that the Administrative Closure is operationally different from the Administrative Dismissal. Closures being completely rule driven and Dismissals requiring some assessment of the facts of the case^{lix}. Notwithstanding, the issue of the Administrative Closure does require reconciliation with the Manual.

Recommendations:

Recommendation 3.1 – It is recommended that the Manual be updated or amended to allow for additional and reasonable categories of allowable Administrative Dismissal, to include, for example: true duplicate complaint; involved CDP employee separated from service; complaints between City employees not involving provisions of police services; and any other expansion deemed relevant and necessary by stakeholders in the process with the goal of eliminating the terminology or use of Administrative Closure as a method of disposition outside those proscribed in the Manual.

Recommendation 3.2 – It is recommended that OPS staff be reminded that pursuant to Section 409 of the Manual, a complainant’s wish to withdraw a complaint is specifically not an appropriate reason to close an investigation, that the needs of justice may require continuation to conclusion even without the cooperation or participation of a complainant.

Alternatively – It is recommended that Section 409 of the Manual be amended or updated to allow for complainant’s withdrawal of a complaint as an acceptable method of Administrative Dismissal, see Recommendation 3.1 above.

Recommendation 3.3 – It is recommended that OPS staff be re-instructed on aspects of full investigations recommending exoneration, especially in those cases where investigators are already doing the required work, rather than utilizing an administrative closure methodology.

Recommendation 3.4 – It is recommended that OPS staff be advised that referrals to IA, in and of themselves, are not case closures. Cases that IA does not handle as criminal matters, or that result in no charges being filed are supposed to be returned to

¹⁴ OPS Case 2019-0082.

OPS pursuant to Section 304 of the Manual for review, additional investigation and completion.

2. Mental Health Related Issues

- In twelve (12) of the thirty one (31) cases closed by Administrative Closure (39%) there were indications in the written complaint or other statements gathered by investigators that the complainant may have been coping with mental health related issues. These cases include: a case where the complainant ended up being hospitalized under probate court order¹⁵; six cases¹⁶ (from thirteen separate complaint forms) from a single complainant stating that her neighbor, a CDP officer, was piping an unknown substance or gas into her home causing her to be poisoned; and a case where the complainant alleged that only African-American members of the CDP were making facial gestures at him for a long period of time and that he had made the same complaint to the FBI and others¹⁷.

Similarly, fourteen (14) out of the one hundred forty one (141) cases in the full sample data set (10%) had some indication of mental health status in the complaint file.

Administrator Smith acknowledged OPS awareness of this issue and has had past meetings with the Cuyahoga County ADAMHS Board in regard to specific cases. It is his experience that very often these types of complainants are already in local, state or federal systems due to the volume and types of complaints that they file with numerous categories of recipient organizations. It is current OPS practice to treat these types of complaints as “distinctive circumstances” and administratively close them^{lx} (*see also prior administrative closure discussion*).

It must be clearly stated here that the OIG has no expectation that OPS staff or investigators be expected to recognize/diagnose symptoms of mental health illness or crisis. Further, and perhaps more importantly, it is important to reiterate that the mental health status of a complainant is only peripherally related to the validity of a complaint and obligations to investigate regardless. Nonetheless, the OPS, its stakeholders, and the Manual should anticipate that the availability of an open and welcoming civilian complaint system may invite persons in crisis, those seeking to be heard, to take advantage of the listening ear of the OPS system.

Nor does the OIG expect that it is within the purview of the OPS staff or investigators to confront these circumstances directly, or to make direct recommendations or referrals to these types of complainants directly. Those actions would be a detriment to the open

¹⁵ OPS Case 2019-0138.

¹⁶ OPS Cases 2019-0084, 2019-0110, 2019-0111, 2019-0127, 2019-0145, 2019-0179.

¹⁷ OPS Case 2019-0182.

environment that the OPS requires in garnering the trust of complainants in order to be successful in its mission.

As part of the City Department of Public Safety, though, tasked with the safety and well-being of those within the City, including those with mental health related issues whose only attempts to reach out may in fact be a complaint made to OPS (as is apparently occurring based on the data in the review), the OIG would expect that a strategy be developed and incorporated into the procedures and Manual in handling these matters, most properly possibly through referral to the Division's Crisis Intervention Teams. A party, filing thirteen separate complaint forms, resulting in six official OPS investigations, is simply not being fully or adequately served by its government representatives through filing continuous Administrative Closures for duplicate complaints without some attempt to provide, coordinate or confirm additional and probably necessary services.

And, unfortunately, it must be recognized that an officer being complained of by a person in crisis may in fact become, in the worst of cases scenario, a target for some sort of adverse action. There is some obligation on the part of the OPS to ensure that those officers are, at the very least notified of these types of complaints against them to allow some awareness or ability to minimize the liability exposure, if not for more beneficent reasons. As many of these types of cases are closed administratively, there is no evidence in the electronic database that officers are currently being provided that type of notification (findings).

Recommendations:

Recommendation 3.5 – It is recommended that stakeholders, including representatives of the Division's Crisis Intervention Team leadership and possibly mental health professionals from the Cuyahoga County ADAMHS Board convene to discuss appropriate recognition training, processes and procedures for adoption into the Manual with regard to providing services to OPS complainants that exhibit signs of needing mental health services at different levels without annulling the obligations of full and fair investigation of all complaints regardless of source.

3. Standardization Issues

- Standardization of terms and or documentary processes leads to clearer communications and more efficient operations generally. The OIG's review identified certain places where a lack of standardization exists and could be easily remedied:
 - The categorization of allegations discussed in Part 3, Number 14 above.
 - The creation and maintenance of written investigative plans pursuant to Manual Section 405.
 - Abbreviations, including for the term 'complainant', seen variously as CA, CO and CP in different files.

- Different naming conventions for documents or types of files stored in the IPro® electronic database, including the sub-folding within each investigative case and expected contents of each file.

Recommendations:

Recommendation 3.6 – It is recommended that OPS administrative staff standardize abbreviations used within the office; standardize terminology used in categorizing allegations pursuant to Manual Section 302(d); create and standardize Investigative Plan documents stored in the IPro® electronic database pursuant to Manual Section 405; standardize document and folder naming conventions for uploads and files maintained in the IPro® electronic database including minimum expected contents; and standardize any additional terminology or documentation identified by OPS staff after internal discussions and review.

4. Miscellaneous

- In at least one investigative file¹⁸, the case investigator relied on a court ruling from a non-precedential state appellate court to determine that an officer’s behavior was in violation of law and therefore substantiated disciplinary action. Caution should be utilized by OPS staff when relying on case law without adequate ability to determine whether a case has been superseded or has binding authority in the jurisdiction encompassing Cuyahoga County.

Recommendations:

Recommendation 3.7 – It is recommended that OPS staff refrain from using specific lower level case law or legal research that hasn’t been vetted for validity and precedent by OPS legal advisors.

- In general, the OIG was unable to find evidence of certain basic investigative materials identified in Manual Section 302(e) in existence in the IPro® electronic database, to wit: “xii. Accused Officer’s Prior Complaint and Disposition History; and xiii. Complainant’s prior contacts with OPS and the nature of those contacts”^{lxii}. This information is accessible from the OPS’s own files and should be examined and noted in case investigative files and investigative summary reports.

Recommendations:

Recommendation 3.8 – It is recommended that OPS staff include information regarding involved employee prior OPS complaints and dispositions as well as complainant prior OPS contact information in electronic case files and investigative summary reports.

¹⁸ OPS Case 2019-0019.

- During review, the OIG observed that there were a number of cases where there was a seeming delay between assignment of the case and interviews with involved Division personnel. Of the closed 2019 cases in the sample data set, 30% (35 of 117) had notations in the collected data that CDP employees had not been interviewed within 60 days of case assignment. The OIG cannot currently make any determination as to any causative factors in these circumstances, in fact the delay may be purely an artifact of Division employee or union driven factors. That being said, the delays in employee interviews tend to drive the lengthening investigation times to closure and inability to meet Manual timelines.

Recommendations:

Recommendation 3.9 – It is recommended that notices to appear, or other notices attempting to create or schedule interviews with CDP personnel be sent immediately upon the identification of the involved employee. This would abrogate any current delay based on sending of notices at some later time in the investigative process.

Recommendation 3.10 – It is recommended that OPS personnel identify delays in employee interviews that are caused by employee or union circumstances and document them specifically, including in the IPro® electronic database and the Investigative Summary report, that collected data on these delays be reviewed periodically, and that patterns or issues involving the inability to adequately schedule employee interviews in a timely basis be analyzed and addressed directly with the Division or union representatives to improve efficacy of operations.

SECTION D – CONCLUSION

By all accounts and based on anecdotal information from the Department of Public Safety, the Division of Police or stakeholders like the Cleveland Police Monitoring Team and Cleveland Community Police Commission, the OIG has been informed that the Office of Professional Standards is operating at a consistently more effective level than in the past. Compliments on improvement are not rare. Therefore, the contents of this review should not be taken in any way to detract from or negate that continued forward momentum.

To reiterate: any findings of non-compliance are not indicative of misfeasance, malfeasance or nonfeasance on the part of the OPS. It is equally as possible that any ‘lack of compliance’ issues are artifacts of Manual drafting as that they are purely failure to comply with policy. Therefore, these recommendations are made with the sole purpose of improving OPS operations, whether that be through changes in daily operations or in making amendments to the Manual.

In this new modern era of policing with its rightful demands from the public that policing be transparent and subject to reform, there is an important and significant benefit to the City, the constituents and stakeholders that reside or find themselves within the City, and the Division

itself in having a top echelon civilian administrated complaint review process and organization. It is within the spirit of continued and consistent proactive, progressive process improvement that the within recommendations have been made. It is the hope of the OIG that these identified items of improvement lead to an organization that runs operationally at a higher level with the goal of constant enhancement of services and support of OPS staff.

The OIG pledges to make itself available to assist the OPS with any Manual update or amendment processes, follow up data analysis or review, or other developmental needs of their office.

Respectfully submitted,

Christopher Paul Viland, Esq., CIG®
City of Cleveland, Division of Police, Inspector General #3700
Work Product #20003-O

cc: *via email only:* Deputy Chief J. O'Neill
Hon. Gregory White

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SECTION E – SUMMARY OF RECOMMENDATIONS

Specific Compliance Assessments

Recommendations resulting from preliminary review of all two hundred twenty investigative cases assigned in 2019.

Recommendation 1.1 – It is recommended that the OPS Administrative staff, on its own, or with the assistance of the OIG or City Internal Audit, plan and complete a future audit of the use and filing of the Intake Reporting Form required under the current Manual for a compliance determination and future specific recommendations.

Alternatively – It is recommended that the OPS initiate an internal practice requirement that Intake Reporting Forms that result in the assignment of an investigative case be copied and maintained in the paper and electronic files of the individual investigative cases.

Recommendation 1.2 – It is recommended that the OPS, along with involved stakeholders, review Section 205 of the Manual and determine whether the electronic database operates in such a manner as to allow maintenance of a referral record without an assigned case being created. If so, OPS staff should receive additional focused instruction on the application of Section 205 and the requirements for referral, consent and maintenance of records. If not, Section 205 of the Manual will need redrafting to address pragmatic operations issues and to appropriately guide staff in expected referrals processes.

Additionally, the OIG can envision circumstances where a referral should be made regardless of complainant’s consent (i.e. felonious criminal activity, complaints that indicate an imminent threat of danger to any person, and complaints that exhibit the complainant may be in some sort of crisis and a danger to themselves or others) and this Section of the Manual should be redrafted to allow for forwarding of such complaint to the appropriate entity, even if that is under the guise of an anonymous complainant.

Recommendation 1.3 – It is recommended that the OPS investigative staff be instructed on the use of the Investigative Complaint Checklist required in Section 302(f) of the Manual and instructed to maintain the information required on it for all investigative files both paper and electronic.

Alternatively – It is recommended that the Manual be updated or amended to allow for capturing investigative report/material requests and status updates in a consistently applied section of the electronic investigative file database in a pre-designed template created for just that purpose.

Recommendation 1.4 – It is recommended that the Manual be updated or amended to allow for delegation of this duty by the OPS Administrator to meet current actual apparent processes. Recommended wording changes for Section 303: “... shall forward the file to the OPS Administrator or their designee...” and “... It will be the responsibility of the Administrator or their designee to ensure that ...”

Alternatively – It is recommended that these initial assignment, assessment and review duties be reinstated as the primary responsibility of the OPS Administrator.

Recommendation 1.5 – *It is recommended that the OPS renew a commitment to review of complaints for circumstances which may rise to the level of criminal conduct and ensure that these cases are referred to Division IA in a more timely manner than current practice. This may involve creation of a new delegation of authority in Section 303 from the OPS Administrator to supervisory staff, it may also involve analysis and possible amendment of Manual Section 205 where referrals are to be made prior to case initiation but require records be maintained in an investigative file (see discussion in Part 3, Number 3 above).*

Recommendation 1.6 – *It is recommended that all OPS staff be reinstructed on the specific timelines required in the receipt, intake and assignment of cases so as to meet the strict requirements of Section 307 of the Manual, especially in assigning new cases to investigators. Staff should additionally be instructed on appropriately documenting reasons that assignment may have been delayed, if applicable, also pursuant to this Section.*

Recommendation 1.7 – *It is recommended that the OPS Administrative staff be provided instruction on Section 308 requirements, including specifically that a letter be prepared and mailed to a complainant, acknowledging receipt of the complaint, and containing required information, no later than seven days from receipt of the complaint. The OIG further recommends that this task be re-affirmed to be done by the Intake Coordinator at the time of case assignment to relieve some administrative burden from investigative staff; and that a copy of this letter be uploaded to the IPro® electronic database. It is additionally recommended that this letter be sent on all investigative cases, including those which are eventually closed by some administrative means. And finally, the OIG adopts and includes all provisions of Recommendation 1.3 regarding the Investigation Complaint Checklist herein as well.*

Recommendation 1.8 – *It is recommended that OPS investigative staff be provided instruction on Section 403 requirements, including specifically that attempts to contact the complainant must occur within five days of receiving the investigation and must be fully documented in the electronic IPro® database. In order to facilitate this, the OIG recommends that a specific standardized format, template, or file location be created and identified for investigator use in documentation under this section by OPS administrative staff.*

Recommendation 1.9 – *The Manual’s direction to do in-person field work by visiting complainants’ last known addresses must be reviewed by the OPS administration for a determination whether that is an appropriate use or exposure of available manpower. If a policy decision is made that such investigative activity is not appropriate, the Manual Section 403(d) must be amended to remove that guidance.*

Recommendation 1.10 – *It is recommended that the OPS comply with Manual Section 501 requirements that investigators file written extension requests for cases that will not be resolved within the stated time lines and maintain those requests in the electronic IPro® database. This documentation should be analyzed by OPS administrative staff and used to determine patterns and causes for inability to meet those dates. It is recommended that OPS*

investigators be instructed on the time frame requirements in this Section and that it be stressed that efficiency in time adds to their credibility with the public and the Division as well as that appropriate documentation of inability to meet timelines can result in administrative changes in manpower, process, resources and support.

Alternatively – It is recommended that the OPS and involved stakeholders review the timelines provided in Section 501 of the Manual and reassess the reasonableness and achievability based on past and current case historical data and current OPS staffing plans. If it is determined that changes are required, the Manual should be updated to reflect the agreed to new standards.

Recommendation 1.11 – *It is recommended that OPS staff ensure inclusion of final Administrative Dismissal reports in the IAPro® electronic database more consistently, perhaps as a condition of final approval, to achieve as close to 100% upload rate as possible.*

Additionally, and in comport with discussion of Administrative Closures in Part 4 below, the OPS administrative staff along with all involved stakeholders should meet and discuss the possibility of adding or modifying certain categories in Section 703 of the Manual to include some of the situations being closed outside the processes currently approved. For example: sections in the Manual could be rationally expanded to include additional categories such as: subject CDP employee separated from service, actual duplicate complaint, or complaints between current City employees that do not involve the provision of police services. See Part 4, Administrative Closures, below.

Recommendations resulting from review of the selected data pool / sample data set of one hundred forty one investigative cases assigned in 2019.

Recommendation 2.1 – *It is recommended that the OPS review the process of categorization of cases as either standard or complex pursuant to Manual Section 302(d) and identify the rationales involved in making the distinction so as to benefit their own time constraints under the Manual. Further, it is recommended that some documentation of that rationale be included in the case file in some manner, for all cases, in a standardized way.*

Recommendation 2.2 – *It is recommended that OPS staff review the categorizations of allegations recommended in Manual Section 302(d) and then be instructed to strictly utilize the terminology provided, including methods to consider how various complaint scenarios may fit directly into those recommended categories rather than through changes in language or terminology.*

Recommendation 2.3 – *It is recommended that initial categorization of allegations pursuant to Manual Section 302(d) be documented in all cases at the time of intake as required, in the IAPro® electronic database.*

Recommendation 2.4 – *It is recommended that in the current well-developed OPS investigative report templates that are being used, some indication be included in every written report regarding identification of conflicts of interest or lack thereof and resultant action; and, that OPS investigative staff be instructed in proper documentation methods.*

As examples, a single line similar to the following: “No potential, actual, or apparent conflicts of interest were identified by this investigator with regard to the parties or the subject matter in this investigation”, or “The original investigator assigned in this matter recused due to prior personal affiliation with a party involved in this investigation, supervisory staff was notified and this matter was reassigned to this investigator”.

Recommendation 2.5 – *It is recommended that OPS reintegrate the process outlined in the OPS Manual for collection of basic investigative materials and realign office workflow to those descriptions including instruction to staff and assignment of workload as appropriate.*

Alternatively – It is recommended that the process as outlined in the OPS Manual be amended to comport with actual office practices, re-assigning responsibility for acquisition of basic investigative materials to case investigators themselves, including responsibility for appropriate documentation and updating.

Recommendation 2.6 – *It is recommended that OPS staff be re-instructed as to the requirements of Manual Section 309 and the importance of providing required notices and maintaining required records. Additionally, it is recommended that emphasis be placed on the importance of record keeping in regard to this section and that files be reviewed to ensure incorporation of this required documentation into the IPro® electronic database prior to supervisory approval of investigation closure.*

Recommendation 2.7 – *It is recommended that OPS staff be re-instructed as to the requirements of Manual Section 405 and the importance of creating and maintaining required records: Investigative Plans, Investigative Plan Reviews and affiliated documents must be created and kept. Additionally, it is recommended that emphasis be placed on the importance of record keeping in regard to this section and that files be reviewed to ensure incorporation of this required documentation into the IPro® electronic database prior to supervisory approval of investigation closure.*

Alternatively – Stakeholders should convene to determine whether the provisions of Manual Section 405 continue to be appropriate standards to be met and whether the Manual section should be updated, amended, or rewritten.

Recommendation 2.8 – *It is recommended that OPS staff be re-instructed as to the requirements of Manual Section 407 and the importance of not only recording conducted interviews, but appropriately documenting and maintaining the interviews and recordings especially in the IPro® electronic database.*

Recommendation 2.9 – *It is recommended that OPS staff be re-instructed as to the importance of complete and thorough recordkeeping with regard to the storage and maintenance of required documents like the Investigative Summary Report identified in Section 411 of the Manual. Strategies should be adopted to increase compliance measures to above the current 90%, perhaps through usage of OPS data staff for internal audit and maintenance of files.*

Recommendation 2.10 – It is recommended that, similar to above, strategies are adopted to require and validated that a written Investigative Summary Report be completed in all matters, regardless of the method of closure.

Recommendation 2.11 – It is recommended that, when applicable, OPS staff be reminded that it is appropriate that Investigative Summary Reports include specific assessments of the credibility of parties when objective evidence is documented that reflects on credibility and is necessary in the drawing of investigative conclusions and supported in the making of those assessments.

Recommendation 2.12 – It is recommended that OPS staff be re-instructed as to the importance of complete and thorough recordkeeping with regard to the storage and maintenance of required documents including the letters of notification required in Section 606 of the Manual. Strategies should be adopted to increase compliance measures to above the current 92%.

Recommendation 2.13 – It is recommended that OPS staff ensure that notices at the conclusion of investigations including information about the date and processes for hearing before the CPRB are sent simultaneously to involved CDP personnel when sent to complainants pursuant to Section 606 of the Manual.

Alternatively – It is recommended that stakeholders participate in discussions and meet to obtain consensus regarding whether the notice provision in Section 606 of the Manual regarding specifically involved CDP personnel should be removed by amendment or update to the Manual.

Recommendation 2.14 – It is recommended that the OPS Manual be amended to remove reference to CPRB hearing processes and timelines in Section 607 of the Manual. A simple requirement that OPS refer completed cases in a set time may be clearer direction for OPS staff.

Recommendation 2.15 – It is recommended that the Manual be updated or amended to allow for delegation of this duty by the OPS Administrator to meet current actual apparent processes. Recommended wording changes for Section 604: “Upon concluding that the OPS investigation is complete, the OPS Administrator or their designee...” and “... will be changed and updated as directed by supervisory staff ...” and “The Administrator or their designee will ensure...”

Alternatively – It is recommended that these review, update, and assurance duties be reinstated as the primary responsibility of the OPS Administrator in actual practice.

Recommendation 2.16 – It is further recommended that OPS staff be reminded as to the requirements of Manual Section 604 and the importance of not only completing fully supported findings and conclusions, but to ensure that these records are maintained and uploaded to the IAPro® electronic database.

Process Improvement Issues and Recommendations

Recommendations resulting from discovered circumstances or patterns during review identifying areas of possible process improvement.

Recommendation 3.1 – *It is recommended that the Manual be updated or amended to allow for additional and reasonable categories of allowable Administrative Dismissal, to include, for example: true duplicate complaint; involved CDP employee separated from service; complaints between City employees not involving provisions of police services; and any other expansion deemed relevant and necessary by stakeholders in the process with the goal of eliminating the terminology or use of Administrative Closure as a method of disposition outside those proscribed in the Manual.*

Recommendation 3.2 – *It is recommended that OPS staff be reminded that pursuant to Section 409 of the Manual, a complainant's wish to withdraw a complaint is specifically not an appropriate reason to close an investigation, that the needs of justice may require continuation to conclusion even without the cooperation or participation of a complainant.*

Alternatively – It is recommended that Section 409 of the Manual be amended or updated to allow for complainant's withdrawal of a complaint as an acceptable method of Administrative Dismissal, see Recommendation 3.1 above.

Recommendation 3.3 – *It is recommended that OPS staff be re-instructed on aspects of full investigations recommending exoneration, especially in those cases where investigators are already doing the required work, rather than utilizing an administrative closure methodology.*

Recommendation 3.4 – *It is recommended that OPS staff be advised that referrals to IA, in and of themselves, are not case closures. Cases that IA does not handle as criminal matters, or that result in no charges being filed are supposed to be returned to OPS pursuant to Section 304 of the Manual for review, additional investigation and completion.*

Recommendation 3.5 – *It is recommended that stakeholders, including representatives of the Division's Crisis Intervention Team leadership and possibly mental health professionals from the Cuyahoga County ADAMHS Board convene to discuss appropriate recognition training, processes and procedures for adoption into the Manual with regard to providing services to OPS complainants that exhibit signs of needing mental health services at different levels without annulling the obligations of full and fair investigation of all complaints regardless of source.*

Recommendation 3.6 – *It is recommended that OPS administrative staff standardize abbreviations used within the office; standardize terminology used in categorizing allegations pursuant to Manual Section 302(d); create and standardize Investigative Plan documents stored in the IPro® electronic database pursuant to Manual Section 405; standardize document and folder naming conventions for uploads and files maintained in the IPro® electronic database*

including minimum expected contents; and standardize any additional terminology or documentation identified by OPS staff after internal discussions and review.

Recommendation 3.7 – It is recommended that OPS staff refrain from using specific lower level case law or legal research that hasn't been vetted for validity and precedent by OPS legal advisors.

Recommendation 3.8 – It is recommended that OPS staff include information regarding involved employee prior OPS complaints and dispositions as well as complainant prior OPS contact information in electronic case files and investigative summary reports.

Recommendation 3.9 – It is recommended that notices to appear, or other notices attempting to create or schedule interviews with CDP personnel be sent immediately upon the identification of the involved employee. This would abrogate any current delay based on sending of notices at some later time in the investigative process.

Recommendation 3.10 – It is recommended that OPS personnel identify delays in employee interviews that are caused by employee or union circumstances and document them specifically, including in the IAPro® electronic database and the Investigative Summary report, that collected data on these delays be reviewed periodically, and that patterns or issues involving the inability to adequately schedule employee interviews in a timely basis be analyzed and addressed directly with the Division or union representatives to improve efficacy of operations.

ⁱ *United States of America v. City of Cleveland*, United States District Court, Northern District of Ohio, Eastern Division, 1:15 CV 01046, Settlement Agreement, June 12, 2015.

ⁱⁱ *Id.* at ¶¶ 193-229.

ⁱⁱⁱ *Id.* at ¶¶ 250-256.

^{iv} *US v. City of Cleveland*, 1:15 CV 01046, Office of Professional Standards Operating Manual and Procedures, at Doc #109-1, filed February 8, 2017.

^v Settlement Agreement, *supra* note i at ¶ 253(f).

^{vi} Telephone Interview with Roger Smith, Administrator, City of Cleveland Office of Professional Standards (December 22, 2020).

^{vii} Haahr, M., RANDOM.ORG: True Random Number Service. Retrieved from <https://www.random.org>, accessed May 20, 2020.

^{viii} Association of Inspectors General, Principals and Standards for Offices of Inspector General, Philadelphia, PA, May, 2014.

^{ix} OPS Operating Manual, *supra* note iv at Sec. 301.

^x *Id.* at Sec. 202.

^{xi} *Id.* at Sec. 205.

^{xii} *Id.*

^{xiii} Smith Interview, *supra* note vi.

^{xiv} OPS Operating Manual, *supra* note iv at Sec. 302(f).

^{xv} *Id.* at Sec. 303.

^{xvi} Smith Interview, *supra* note vi.

^{xvii} OPS Operating Manual, *supra* note iv at Sec. 304.

^{xviii} *Id.*

^{xix} *Id.*

^{xx} *Id.* at Sec. 305.

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- xxi *Id.* at Sec. 307.
 - xxii *Id.*
 - xxiii *Id.* at Sec. 308.
 - xxiv *Id.*
 - xxv *Id.*
 - xxvi *Id.* at Sec. 403.
 - xxvii *Id.* at Secs. 403, 403(e), and 403(d).
 - xxviii Smith Interview, *supra* note vi.
 - xxix OPS Operating Manual, *supra* note iv at Sec. 501.
 - xxx *Id.*
 - xxxi *Id.*
 - xxxii Smith Interview, *supra* note vi.
 - xxxiii OPS Operating Manual, *supra* note iv at Secs. 701-3.
 - xxxiv *Id.* at Sec 703.
 - xxxv *Id.* at Sec. 301.
 - xxxvi *Id.*
 - xxxvii *Id.* at Sec. 302(d).

<ul style="list-style-type: none"> xxxviii <u>Manual Section 302(d)</u> 	v.	<ul style="list-style-type: none"> <u>Investigative Summary Report</u> Excessive Force Harassment Lack of Service / No Service Missing / Damaged Property Improper Tow Improper Arrest Improper Stop Improper Search Biased Policing Unprofessional Behavior / Conduct Improper Citation Other
<ul style="list-style-type: none"> Excessive and/or Improper Force Harassment Service Complaints Property Complaints Improper Procedure Unlawful Arrest Unlawful Investigatory Stop Unlawful Search Biased Policing 		

xxxix *See, e.g.*, <https://www.plainlanguage.gov/guidelines/words/use-the-same-terms-consistently/>, downloaded 11/24/20.

- xl OPS Operating Manual, *supra* note iv at Secs. 103(a)(4) and 103(b)(iii).
- xli *Id.*
- xlii *Id.* at Sec. 302(e).
- xliii *Id.* at Sec. 309.
- xliv *Id.*
- xlv *Id.* at Sec. 405.
- xlvi *Id.*
- xlvii *Id.*
- xlviii *Id.* at Sec. 405(a).
- xl ix Smith Interview, *supra* note vi.
- l OPS Operating Manual, *supra* note iv at Sec. 407.
- li *Id.* at Sec. 411.
- lii *Id.* at Sec. 411(b).
- liii *Id.* at Sec.606.
- liv Smith Interview, *supra* note vi.
- lv OPS Operating Manual, *supra* note iv at Sec. 607.
- lvi *Id.* at Sec. 604.
- lvii Smith Interview, *supra* note vi.
- lviii OPS Operating Manual, *supra* note iv at Sec. 409.
- lix Smith Interview, *supra* note vi.

^{ix} *Id.*

^{lxi} OPS Operating Manual, *supra* note iv at Sec. 302(e)(xii-xiii).

DRAFT



City of Cleveland, Division of Police

Office of the Inspector General

Office of Professional Standards (OPS) Case Investigation Review

Assessment Tool

Date of Review: _____

Reviewer: _____ Badge Number: _____

Investigation Management Review Report

OPS Investigation Number: _____

Complainant Last Name (or anonymous): _____

Status (Open / Closed): _____

Section I - All Files (General and Timelines)

Item No.	Description
1	Complaint Form (Sec. 301) Substantially Complete <input type="checkbox"/> Yes <input type="checkbox"/> No Completed by Complainant <input type="checkbox"/> Yes <input type="checkbox"/> No Completed by Other (investigator) <input type="checkbox"/> Yes <input type="checkbox"/> No Specify: _____ Date Form Completed: _____
2	Intake Reporting Form (Sec. 202) Complete <input type="checkbox"/> Yes <input type="checkbox"/> No Date Form Completed: _____
3	Referral to Other (Sec. 205) <input type="checkbox"/> Yes <input type="checkbox"/> No Referred to: _____ Within Three (3) Days of Complaint Form Date: <input type="checkbox"/> Yes <input type="checkbox"/> No
4	Investigation Complaint Checklist (Sec. 302f) Complete <input type="checkbox"/> Yes <input type="checkbox"/> No Date Form Completed: _____
5	Complaint Submitted to Administrator (Sec. 303) Within Three (3) Days of Complaint <input type="checkbox"/> Yes <input type="checkbox"/> No Number of Days:
6	Allegation of Criminal Conduct (Sec. 304) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Submitted to IA <input type="checkbox"/> Yes <input type="checkbox"/> No Submitted Within Twenty-four (24) Hours <input type="checkbox"/> Yes <input type="checkbox"/> No Explanation in File for Delay <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
7	Parallel Investigation with CDP (Sec. 305) <input type="checkbox"/> Yes <input type="checkbox"/> No Deferred <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

8	Case Assignment (Sec. 307)	<p style="text-align: right;">Investigator: _____</p> <p style="text-align: right;">Date Assigned: _____</p> <p style="text-align: right;">Assigned Within Twenty-four (24) Hours <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Explanation in File for Delay <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
9	Complainant Notification Letter (Sec. 308)	<p style="text-align: right;">Date Sent: _____</p> <p style="text-align: right;">Within Seven (7) Days From Date of Complaint <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Number of Days: </p>
10	Complainant Contacted by Investigator (Sec. 403)	<p style="text-align: right;"><input type="checkbox"/> N/A</p> <p style="text-align: right;">Date of Contact: _____</p> <p style="text-align: right;">Within Five (5) Days From Date of Complaint <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Number of Days: </p>
11	Investigation Timeliness (Sec. 501)	<p style="text-align: right;">Standard Investigation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Completed Within 45 days <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Written Extension Filed <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p style="text-align: right;">Number of Days: </p> <p style="text-align: right;">Complex Investigation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Completed Within 75 Days <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Written Extension Filed <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p style="text-align: right;">Number of Days: </p>
12	Comments / Explanations:	
13	Administrative Dismissal (Sec. 701-3)	<p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p style="text-align: right;">Dismissal Form Completed <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p style="text-align: right;">Categorized and Facts in Support <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>
14	Initials of reviewer and date:	

PROCEED TO NEXT PAGE ONLY FOR DETAILED SELECTED CASE ANALYSIS

Section II - Selected Files (Complete, Thorough, Preponderance of Evidence)

15	<p>Complaint Form (Sec. 301)</p> <p style="text-align: right;">Scanned and Uploaded to Database <input type="checkbox"/> Yes <input type="checkbox"/> No</p>																																																
16	<p>Initial Categorization (Sec. 302d)</p> <p style="text-align: right;">Categorized as Standard v. Complex? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Rationale:</p> <p>_____</p> <p style="text-align: right;">Categorized According to 302d Selections? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Category:</p> <p>_____</p> <p>Comments:</p> <p>_____</p> <p>_____</p> <p>_____</p>																																																
17	<p>Conflict of Interest (Secs. 103a4 & 103biii)</p> <p style="text-align: right;">Statement of Conflict or Lack Thereof <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Comments:</p> <p>_____</p> <p>_____</p>																																																
18	<p>Investigative Materials Gathered and Included in File (Sec. 302e)</p> <p style="text-align: center;">Intake Coordinator or Designee:</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 40px;"><i>Incident Reports</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>CDP Investigations; IA Investigations; FIT Reports</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Arrest Reports</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>UTT / PIN copies</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Daily Activity Reports</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Daily Duty Assignment Reports</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Body Worn Camera download</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Other video download</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>911 or CCS audio downloads</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>CAD Report</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Officer's prior history and status</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td style="padding-left: 40px;"><i>Complainant's prior history</i></td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> </table> <p>Comments:</p> <p>_____</p> <p>_____</p> <p>_____</p>	<i>Incident Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>CDP Investigations; IA Investigations; FIT Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Arrest Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>UTT / PIN copies</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Daily Activity Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Daily Duty Assignment Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Body Worn Camera download</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Other video download</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>911 or CCS audio downloads</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>CAD Report</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Officer's prior history and status</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	<i>Complainant's prior history</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<i>Incident Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																																														
<i>CDP Investigations; IA Investigations; FIT Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																																														
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<i>Daily Duty Assignment Reports</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																																														
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<i>CAD Report</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																																														
<i>Officer's prior history and status</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																																														
<i>Complainant's prior history</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																																														
19	<p>Notice to CDP Personnel (Sec. 309)</p> <p style="text-align: right;">Written Notice Provided <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Signed Acknowledgement Received <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Scanned and Uploaded to Database <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Comments:</p> <p>_____</p> <p>_____</p>																																																

20	<p>Preliminary Process Timeliness (Sec. 403)</p> <p>File Indicates Preliminary Investigation Complete in 30 Days <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p>
21	<p>Investigative Plan and Review (Sec. 405)</p> <p>Written Investigative Plan Created <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Allegations and Classifications: _____</p> <p>_____</p> <p>_____</p> <p>Substantiated with Facts/Circumstances: _____</p> <p>_____</p> <p>_____</p> <p>Investigative Plan Review Memorandum Created <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Reason for Departure: _____</p> <p>_____</p> <p>_____</p>
22	<p>Interview Recording (Sec. 407)</p> <p>All Interviews Recorded <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Written Explanation for Interviews Not Recorded <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p>
23	<p>Investigative Summary Report (Sec. 411)</p> <p>Report Complete <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Elements and Evidence Specifically Identified <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Assessments of Credibility <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Scanned and Uploaded to Database <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p> <p>Identify Credibility Issue: _____</p> <p>_____</p> <p>_____</p>
24	<p>Notification of Findings (Sec. 606)</p> <p>Written Notification of Findings to Complainant <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Scanned and Uploaded to Database <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>CPRB Hearing Info Provided <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Written Notification to CDP Personnel <input type="checkbox"/> Yes <input type="checkbox"/> No</p>

OIG Log #: _____

Case #: _____

Scanned and Uploaded to Database Yes No

CPRB Hearing Info Provided Yes No

Comments:

25

Findings to CPRB (Sec. 607)

Date Findings Sent to CPRB: _____

Date of Second Regular Meeting after Investigation Complete: _____

Number of Days _____

Sufficient Notice (use 21 days) Yes No



26

Preponderance of Evidence Standard (Sec. 604)

Review each Finding to Ensure Appropriateness and Defensibility:

Issues Discovered:

27

Reviewer Signature: _____