



Office of Professional Standards Civilian Police Review Board



2018 Annual Report



CITY OF CLEVELAND

Mayor Frank G. Jackson

Michael M. McGrath, Director
Department of Public Safety

Roger Smith, Administrator
Office of Professional Standards

Roslyn Quarto, Chairwoman
Civilian Police Review Board
Cleveland Department of Public Safety

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Director of Public Safety



The Cleveland Department of Public Safety, the Office of Professional Standards and the Civilian Police Review Board remain steadfast in their commitment to providing superior service and strengthening their partnership with the community through effective, transparent, and timely investigation of citizen complaints made against employees of the Division of Police.

This past year, in order to streamline and further optimize the Office of Professional Standards' operations, two key positions were filled –those of OPS Administrator and a new supervisory position, Senior Investigator. Also, to significantly enhance the timely and thorough investigation of complaints, the Office of Professional Standards added two full-time investigators.

In 2018, we saw a further reduction in the number of complaints filed against employees of the Division of Police. While this is encouraging, we understand that the reduction only represents positive news if it is accompanied by increased public confidence in the citizen complaint process. To gain this confidence, OPS will emphasize community outreach along with its focus on timely and effective investigations.

The Civilian Police Review Board, working with the Office of Professional Standards, has focused on moving through cases efficiently without compromising the public's opportunity to have its complaints heard and understood. Together, the Office of Professional Standards and the Civilian Review Board seek continuous improvement of the investigation and resolution of complaints, thus ensuring increased accountability, substantive reform and advancement of law enforcement and community goals.

On behalf of Mayor Frank G. Jackson and the Cleveland Department of Public Safety, I wish to express my continuing appreciation to the Department of Justice and the Federal Monitoring Team for their ongoing guidance and technical assistance. The 2018 Annual Report represents an informative snapshot of our city's two civilian oversight agencies, the progress they've made in the past year, and the work that remains to create a permanent, effective civilian oversight process in Cleveland.

Sincerely,

A handwritten signature in blue ink that reads "Michael M. McGrath". The signature is fluid and cursive.

Michael M. McGrath, Director
Department of Public Safety

Message from the OPS Administrator

It has been nearly one year since I began work as the Administrator of the Office of Professional Standards. Learning about the ways that Cleveland residents interact with the Cleveland Division of Police, via community engagement as well as citizen complaints, has given me greater insight into ways to build better OPS practices.

Progress has been steady. Regular communication with OPS complainants during investigations and prompt communication of results has been established. Restructured closing reports have made it easier to access necessary information and discern the explanations for our findings. Continuous work is being done to improve interviews and other investigative work so that evidence needed for reliable conclusions is consistently identified and obtained.

While 2018 was a year of progress, it also highlighted areas where more growth is needed. At the conclusion of the year, the goals of hiring a community engagement coordinator and implementing a community engagement plan remained unachieved. Similarly, although investigations in 2018 were completed in a much more timely manner than in previous years, additional improvements are needed to eliminate all unnecessary delays.

At this early stage in our journey to becoming the cornerstone agency needed to establish effective civilian oversight for Cleveland residents, I take a moment to express gratitude to the investigators, community members and city workers who have contributed to the beginning of our transformation. We welcome the continued participation of all interested Clevelanders as we move toward greater progress.

Sincerely,

Roger Smith

Roger Smith, Administrator
Office of Professional Standards

Message from the CPRB Chair

The Civilian Police Review Board's vital work of reviewing OPS investigations and recommending findings to the Cleveland Division of Police continued throughout the past year. In 2018, the CPRB reviewed and evaluated 221 misconduct complaints made against the Cleveland Department of Police, resulting in disciplinary recommendations against 50 officers, along with eight recommendations for policy changes and three commendations.

In 2018, the CPRB welcomed two new members - Ms. Ashley Mostella and Mr. Kenneth J. Mountcastle - whose diverse life experiences have greatly enriched our Board. These two new members have already made an invaluable contribution to the Board's deliberations and review of complaints.

While the CPRB has made considerable progress in moving cases forward and making suitable recommendations to the CDP, how those recommendations are received by the CDP reveals cause for concern. Recently, there have been a string of departures by the Chief from CPRB disciplinary recommendations. Some disagreement on difficult issues can be expected. However, when those disagreements occur, the CPRB will consistently pursue appeals to ensure that the reasons for its decisions are clearly expressed and publicly documented.

The CPRB remains committed to its central purpose of enhancing the relationship between the community and the Cleveland Department of Police by promoting greater transparency in CDP policy and accountability of CDP members. I am proud to be part of a process that enables citizens to be openly heard and to have their complaints seriously considered and understood.

Sincerely,

Roslyn Quarto

Roslyn Quarto, Chair
Civilian Police Review Board

OPS and CPRB Overview

PURPOSE

To ensure constitutional, lawful, accountable, effective, and respectful policing and to promote public safety, there must be trust between police and the community they serve. For that reason, the City established the Office of Professional Standards (“OPS”) via Charter Amendment, Sections 115-1 through 115-4, effective August 8, 2008.

OPS is an independent agency within the City of Cleveland Department of Public Safety. It has the responsibility of receiving and investigating non-criminal complaints filed by members of the public against sworn and non-sworn Cleveland Division of Police employees. OPS is also empowered to make findings and recommend action to the Civilian Police Review Board (“CPRB”) regarding those complaints.

The CPRB reviews misconduct complaints investigated by OPS and makes recommendations for resolution to the Chief of Police. Prior to recommending discipline or determining that a complaint warrants no action, the CPRB may hold a public hearing. Upon making its decision, the CPRB submits its findings and recommendations to the Chief of Police and notifies the complainant of the disposition.

MISSION

The mission of OPS and CPRB is to increase accountability and improve public confidence in the police by receiving and fairly, thoroughly, objectively, and timely investigating and resolving misconduct complaints against Cleveland Division of Police employees. As part of its mission, OPS is also empowered to make policy recommendations that will improve the citizen complaint process, increase understanding between the public and CDP employees, reduce the incidence of misconduct and reduce the risk of the use of force by CDP officers. OPS and CPRB are committed to providing the community with an accessible and safe environment in which to file complaints and have their complaints heard.

VISION

Through effective community engagement and informational outreach, OPS seeks to grow civilian oversight’s permanent presence within the Cleveland community and in the ongoing citywide conversation.

Our Guiding Principles

The responsibility entrusted by the people of the City of Cleveland to OPS and CPRB is a sacred public trust

The mission of the Office of Professional Standards is to investigate complaints against Cleveland Division of Police personnel in a complete, fair and impartial manner, and present completed investigations to the Civilian Police Review Board for a hearing and disposition

1

We treat all people with courtesy, consideration, dignity, and respect.



2

We strive to maintain good working relationships with the community and with other agencies without compromising our independence.



3

We work to complete investigations without undue delay.



4

We strive to be fair and consistent, explaining our decisions clearly with plain language.



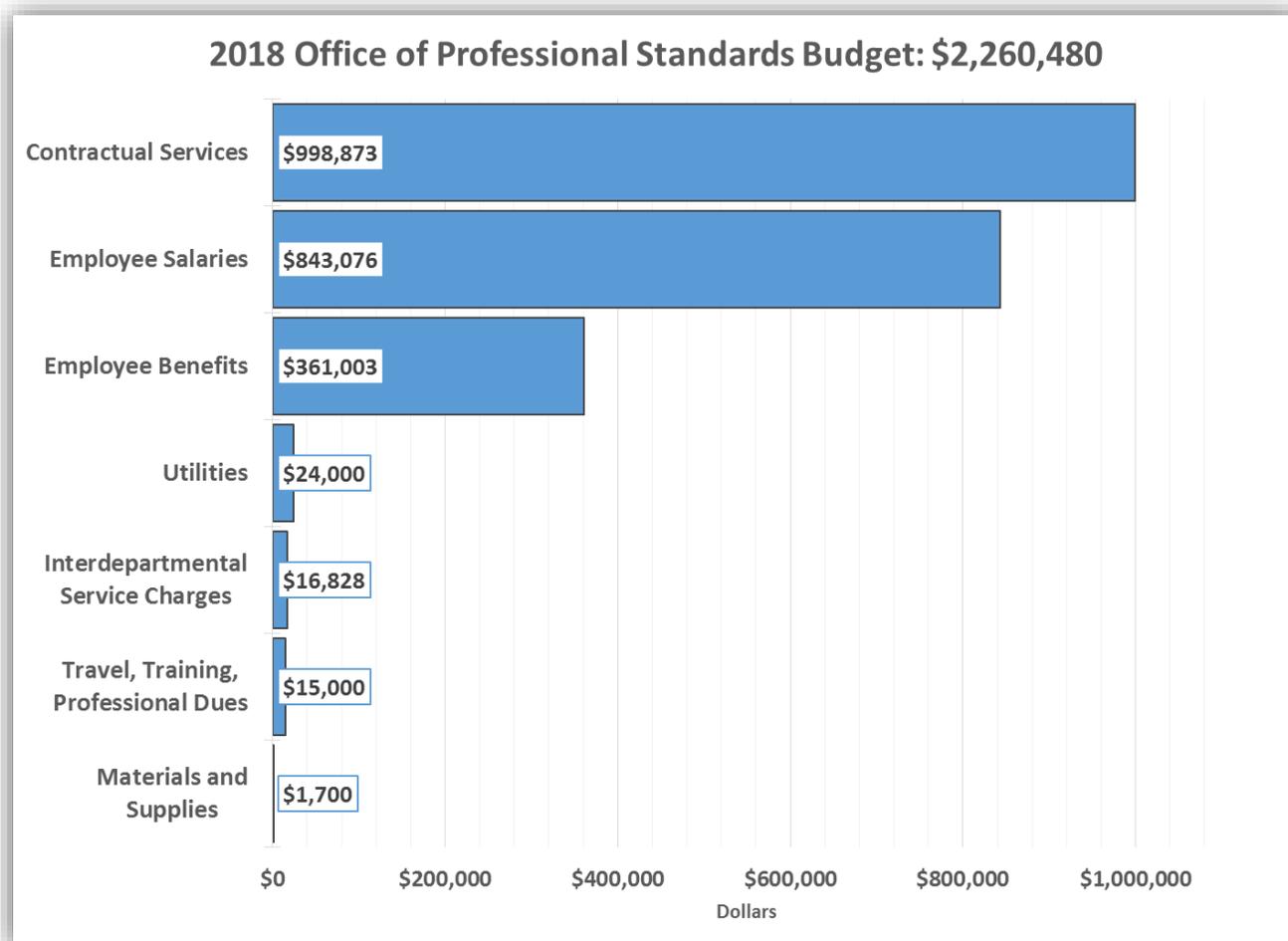
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We remain committed to our mission and maintain our dedication to these guiding principles despite any challenges that may arise.



OPS: Budget and Staff

The 2018 budget for the Office of Professional Standards (OPS) was \$2,260,480¹. Funds were allocated as follows:

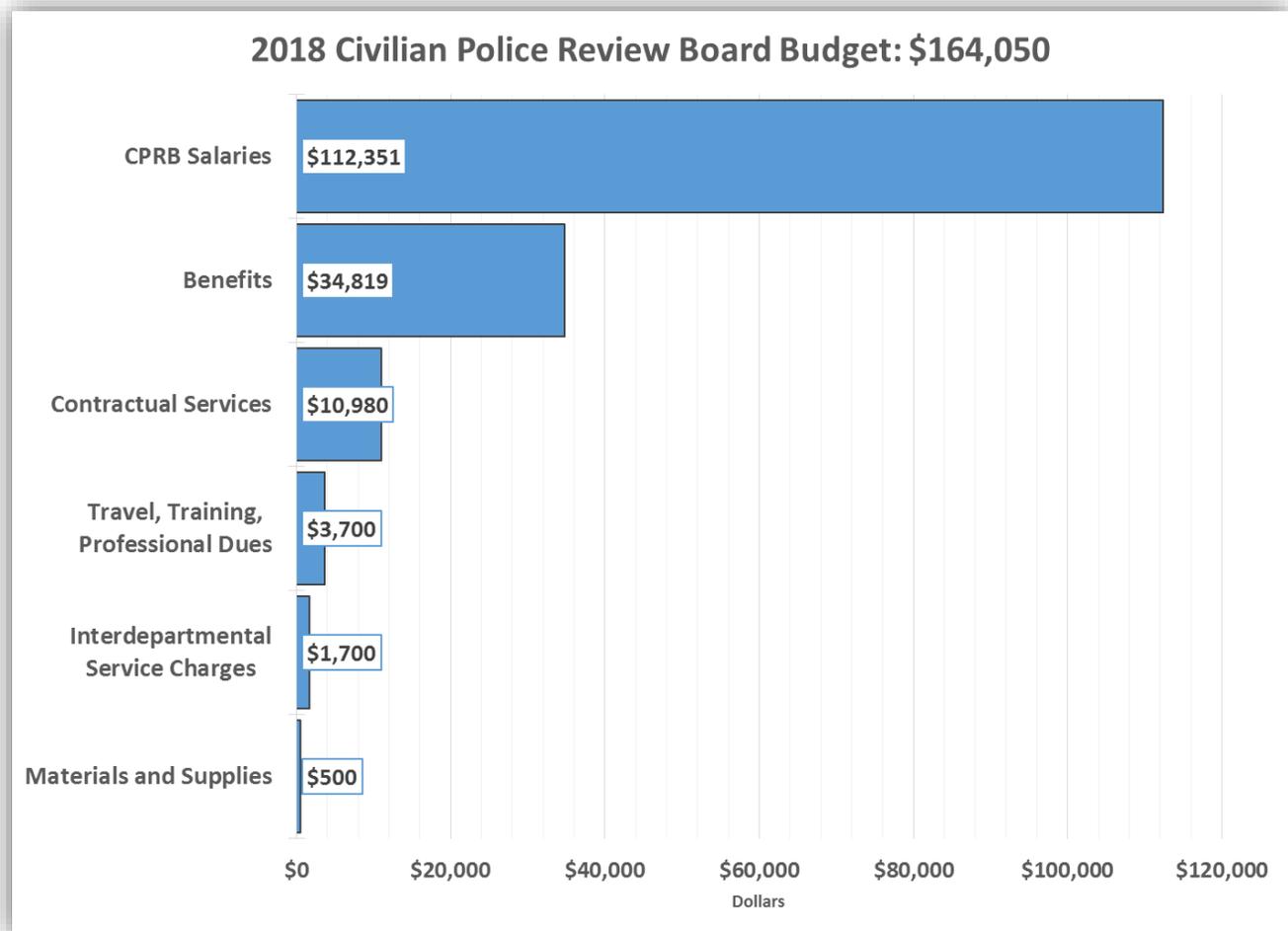


At the beginning of 2018, OPS staff included a General Manager, a Data Analyst/Intake Coordinator, 6 full-time Investigators, 6 temporary Investigators, and a Private Secretary. Over the course of the year, the positions of OPS Administrator and Supervisory Investigator were filled, the positions of the General Manager and Data Analyst/Intake Coordinator went vacant, and two more full-time Investigators were hired, while the positions of 5 temporary Investigators were vacated.

¹ This budget includes the \$998,173 the City of Cleveland paid to hire Hillard Heintze to address the backlog of cases filed between 2014 and 2017. After subtracting the Hillard Heintze contractual services, the OPS budget for 2018 was \$1,262,307.

CPRB: Budget and Membership

The 2018 budget for the Civilian Police Review Board (CPRB) was \$164,050. Funds were allocated as follows:



The CPRB is comprised of 9 members. The Mayor appoints five members and the City Council appoints the remaining four members. In an effort to be representative of all of Cleveland’s diverse communities, each of the police districts is represented by at least one member who resides in that district. Additionally, at least one member of the Board is between the ages of 18 and 30 at the time of appointment. As required by the Charter of Cleveland, no member of the Board is employed currently as a law enforcement officer and no member is a current or former employee of the Cleveland Division of Police. The CPRB has a full-time employee, a Private Secretary, to handle the administrative duties of the Board.

Biographies of Board Members:

CPRB Chair Roslyn A. Quarto was born and raised in New York and moved to Cleveland in the fall of 2012 and became the Executive Director of Empowering and Strengthening Ohio's People (ESOP) in April of 2013. Ms. Quarto holds a BA from Pennsylvania State University and a JD from St. John's University. She brings a diverse perspective through her experience as a non-profit, government and corporate executive and lawyer. In addition to participating on the CPRB, Ms. Quarto also serves on the Ohio Attorney General's Elder Justice Commission, and on the Board of Directors for the Hebrew Free Loan Association and the Ohio CDC Organization. Ms. Quarto resides in the Second District. Appointed by Mayor Frank Jackson, her term commenced on February 1, 2016 and expires on February 1, 2020.

CPRB Vice-Chair Stephanie B. Scalise has her own law practice specializing in criminal defense and appeals, juvenile law, and family law. Prior to that she was an assistant Cuyahoga County prosecutor and served as the legal counsel to the Cuyahoga County Division of Children and Family Services. She also previously served as a city prosecutor for the City of Cleveland Department of Law. Ms. Scalise was appointed by Cleveland City Council. Ms. Scalise resides in the Fifth District. Her term commenced on February 7, 2017 and expires on February 7, 2021.

Mary Clark has spent more than thirty years working in banking and finance. She graduated from high school in Lexington, Mississippi and has since worked in Cleveland at Huntington Bank, the UPS Store, and KeyCorp. Ms. Clark resides in the Fourth Police District. A mayoral appointee who began her term on June 21, 2011, Ms. Clark was reappointed following the CPRB's December 2017 meeting. Her term expires on June 21, 2021.

Michael P. Hess, Jr., was appointed to fill the board seat set aside for an 18 to 30-year old. A recent graduate of Case Western Reserve School of Law, Mr. Hess is currently studying for the bar exam. Mr. Hess has worked on political campaigns, and has been a legal intern and a legal assistant at several firms including the Cuyahoga County Department of Law. Mr. Hess was appointed by the Council to fill an unfilled position that opened on August 8, 2016. He resides in the Second Police District. His term expires on August 8, 2020.

Michael P. Graham is owner and partner of Cleveland-based Strategy Design Partners, LLC, which is a strategy and communications consulting firm that works with non-profits, public agencies, and businesses. Mr. Graham is also a former assistant Cuyahoga County prosecutor. He still practices law. Mr. Graham was appointed by Cleveland City Council. Mr. Graham resides in the Second Police District. His term expires on February 7, 2021.

Ashley Mostella was born and raised in the 7th Ward on Cleveland's east side. She was introduced at a very young age to community and volunteer service by her father, Benny Mostella, a manager for many years with the Cleveland Department of Parks and Recreation. Ms. Mostella has volunteered for numerous community initiatives such as the Cleveland Food Bank, Karamus House (painting murals), school supply drives, and community awareness marches. Ms. Mostella has worked in banking, the insurance industry, and as a certified medical sales representative. Ms. Mostella attended the University of Akron. Her term expires on August 8, 2022.

Kenneth J. Mountcastle was born and raised in Brookpark, Ohio and now resides in Cleveland's third district. In 1975, he graduated from Berea High School and enlisted in the US Navy. He served the country proudly for twenty years and retired honorably in 1995 with the rank of Chief Petty Officer. Since 1995, he's held engineering and managerial positions at several companies, including Boeing, Lockheed Martin, Northrup Grumman, Computer Science, and BCT. For two years, he led his own consulting firm, Mountcastle Consulting. Mr. Mountcastle has a Master's Degree in Technical Management from John Hopkins University and a degree in Business Management from the University of Maryland, University College. His term expires on August 8, 2022.

Ernest G. Turner retired from the Cleveland Municipal School District in 2009 with more than 30 years' experience in teaching elementary and secondary education. Mr. Turner also served as a basketball, football and track coach during that time. He received his Bachelors of Arts Degree from Central State University in Comprehensive Social Studies and his Master's Degree from Cleveland State University, with a concentration in Diagnosis & Remediation of Reading Disorders. Mr. Turner has also served as a community advocate in his roles as a Precinct Committeeman for Ward 6, a member of the Buckeye Minsters in Mission Alliance, and the Acting President of the Hulda Avenue Street Club, to name but a few. Mr. Turner was appointed by the Cleveland City Council and resides in the Fourth Police District. His term expires on August 8, 2021.

The Civilian Police Review Board reviews completed OPS investigations and makes recommended findings regarding conduct and discipline and provides an opportunity for citizens who believe they were treated unfairly to voice their concerns.

Settlement Agreement / Consent Decree

Following a two-year investigation that concluded in 2014, the U.S. Department of Justice (“DOJ”) notified the City in a December 4, 2014 letter (“findings letter”) that there was “reasonable cause to believe that there was a pattern and practice of excessive force in Cleveland that violated the U.S. Constitution and federal law.”²

As it pertained to OPS, the DOJ determined that “civilian complaints of officer misconduct were not being adequately investigated.”³ The DOJ findings letter stated that deficiencies in the OPS complaint process included “impossibly high caseloads for investigators, the inappropriate and premature rejection of civilians’ complaints, substandard investigations, significant delays in completing investigations, and the failure to document and track outcomes.”⁴

In response to the DOJ’s findings, the City of Cleveland and DOJ entered into a court-enforceable Settlement Agreement that requires the City to make a number of fundamental changes to its police and civilian oversight policies, practices, procedures, training, use of data, and more. On June 12, 2015, the Settlement Agreement, also known as the “Consent Decree,” was approved and signed by the Chief Judge of the U.S. Northern District, Judge Solomon Oliver, Jr.⁵ On October 1, 2015, the Cleveland Monitoring Team was appointed to oversee the City’s implementation of the Settlement Agreement.

Over the course of the 2018 calendar year, the OPS and the CPRB, with the assistance of the Cleveland Monitoring Team and the Department of Justice, have continued working to improve OPS practices and comply with the terms of the Settlement Agreement. Notable improvements include, the hiring of needed additional full-time staff, the continued training of the OPS and CPRB staff members, the updating of procedures as well as the introduction of new protocols designed to create close adherence to the OPS Manual.

² Department of Justice Findings Letter, “Investigation of the Cleveland Division of Police”, pg. 2,

<https://www.justice.gov/file/180576/download>

³ Findings Letter, pg. 38

⁴ Findings Letter, Pg. 39

⁵ <http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/PublicSafety/Police/PoliceSettlementAgreement>

For a fuller description of the City’s progress (and challenges) in implementing the terms of the Settlement Agreement as it pertains to OPS and CPRB, please view the Monitor’s Semiannual reports, which can be found at: <http://www.clevelandpolicemonitor.net/resources-reports>.

OPS Jurisdiction and Complaint Process

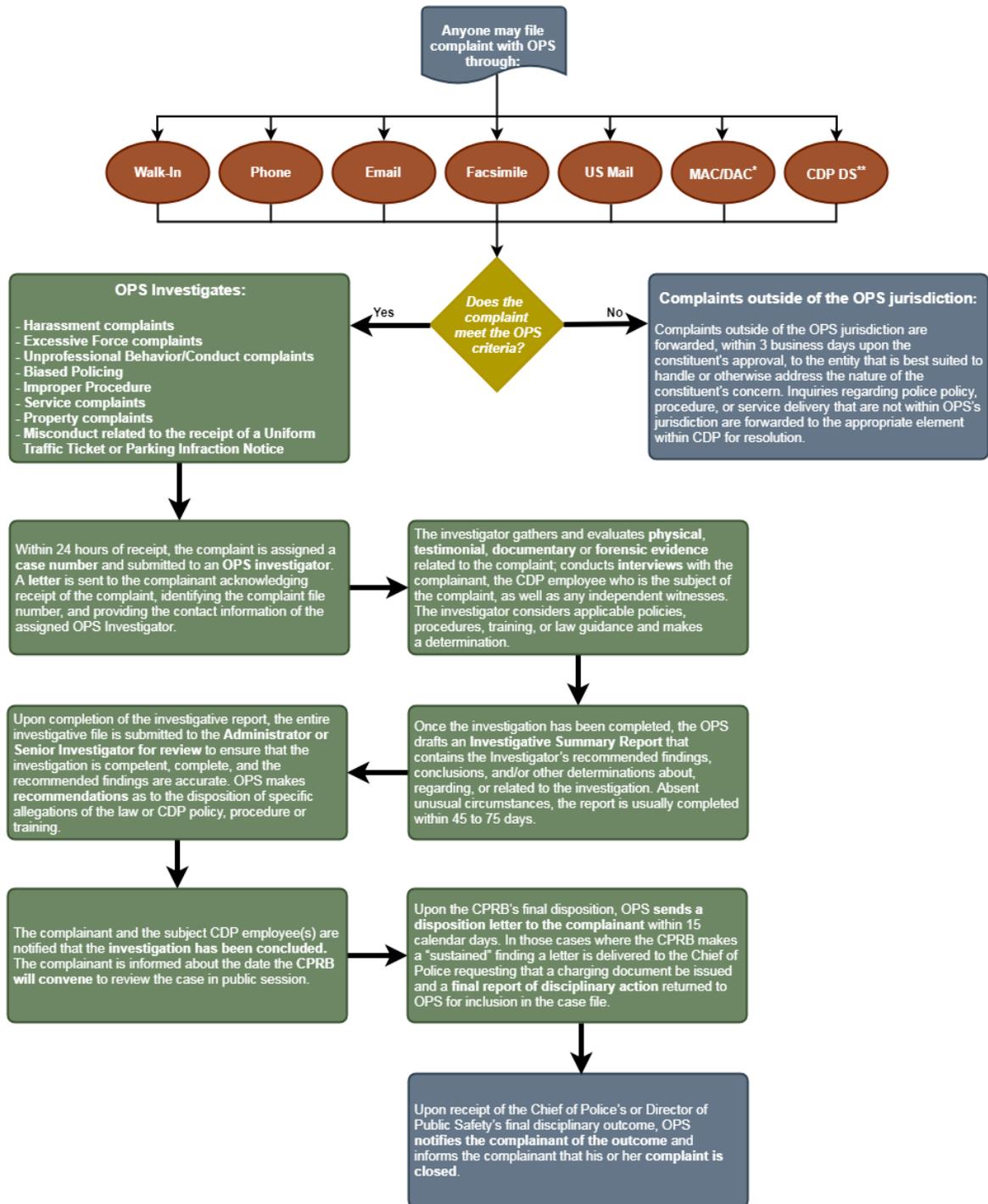
OPS has jurisdiction over the following types of misconduct complaints made against personnel of the Cleveland Division of Police:

1. **Harassment** complaints: to include those alleging bias policing, discrimination, and profiling;
2. **Excessive Force** complaints;
3. **Unprofessional Behavior/Conduct** complaints;
4. **Improper Procedure** complaints, including:
 - a. Improper Arrest
 - b. Improper Citations
 - c. Improper Search
 - d. Improper Stop
 - e. Improper Tow
5. **Service** complaints, including:
 - a. Insufficient CDP employee service
 - b. No CDP service;
6. **Property** complaints, including
 - a. missing property
 - b. damage to property; and,
7. **Misconduct** related to the receipt of a Uniform Traffic Ticket (UTT) or Parking Infraction Notice (PIN) if the Parking Infraction Notice was issued by CDP personnel.

Cases that fall outside of these parameters, and do not allege criminal conduct, are administratively dismissed and referred to the proper agency with the authority to address that matter, whenever possible. Citizen complaints alleging criminal conduct (i.e. theft, assault) are referred by the OPS Administrator to the CDP Internal Affairs Unit that has the responsibility for investigation of alleged criminal acts by CDP personnel.

As can be seen from the following flowchart, citizen complaints may be filed in person at the Office of Professionals Standards (OPS), or by U.S. mail, email, or facsimile to OPS. Citizen complaints may also be filed at the Cleveland Division of Police (CDP) Headquarters, any of the five (5) CDP District Stations, the Mayor's Action Center (MAC), or Director of Public Safety's Action Center (DAC). All citizen complaints are identified by an OPS file tracking number and then assigned to a civilian Investigator.

OPS Complaint Process



* Mayor's Action Center (MAC) / Director of Public Safety's Action Center (DAC)

** Cleveland Division of Police District Stations (CDP DS)

Once a file tracking number is designated and the complaint is assigned to a civilian Investigator, a preliminary review is conducted. If during the preliminary review it is determined that potential criminal conduct or activity may have occurred, then OPS refers the complaint to the Internal Affairs Unit of CDP. If there is no alleged criminal conduct or activity, then OPS will conduct the investigation. During the course of the investigation, the complainant and any potential witnesses are interviewed, and the assignment and duty reports of the Officer(s) involved, as well as all relevant documentation, are reviewed. The Officer(s) involved is required to respond to the allegations contained in the complaint.

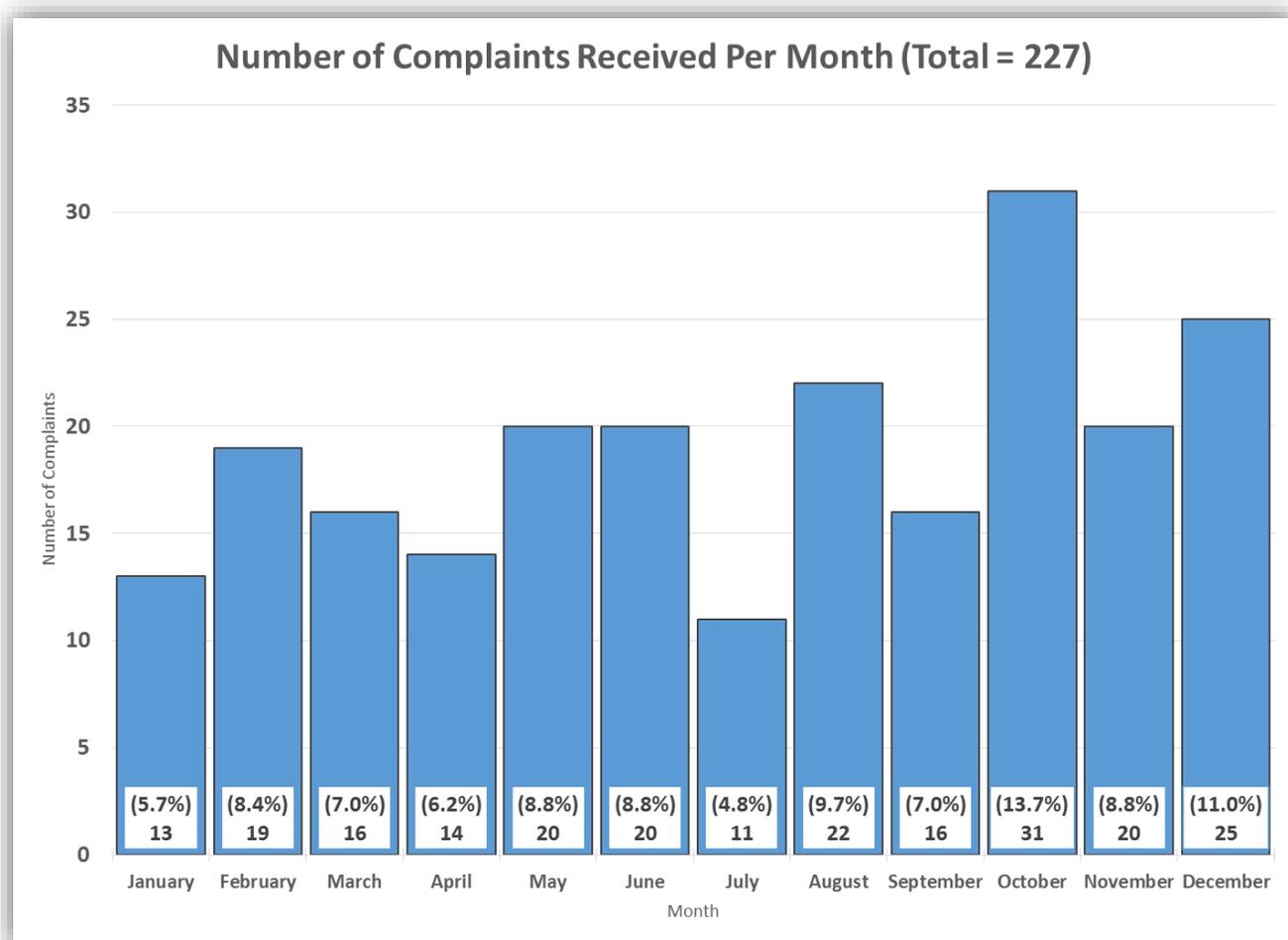
At the conclusion of the investigation, it is reviewed and approved by the OPS Administrator, who then forwards it to the Civilian Police Review Board (CPRB). The CPRB reviews all completed investigations conducted by OPS, deliberates, and then determines if a civil violation of policy, training, or rules and regulations occurred. If the CPRB determines that a violation did occur, then it sustains the complaint and accordingly recommends the appropriate discipline to either the Chief of Police or the Director of Public Safety.

When the CPRB recommends discipline, a pre-disciplinary hearing is conducted in which OPS presents its investigation to either the Chief of Police or the Director of Public Safety, or his designated hearing officer. The Officer(s) involved, who is present along with his/her union representative(s), has the opportunity to respond to the charges filed against him/her. The Chief of Police or the Director of Public Safety makes the final decision whether or not to impose discipline against the Officer(s) who was the subject of the citizen complaint.

How complaints are received and investigations are conducted, the process in which the CPRB presides over cases and the results of the CPRB's findings are further outlined in the OPS and CPRB manuals located on the City of Cleveland's OPS website.

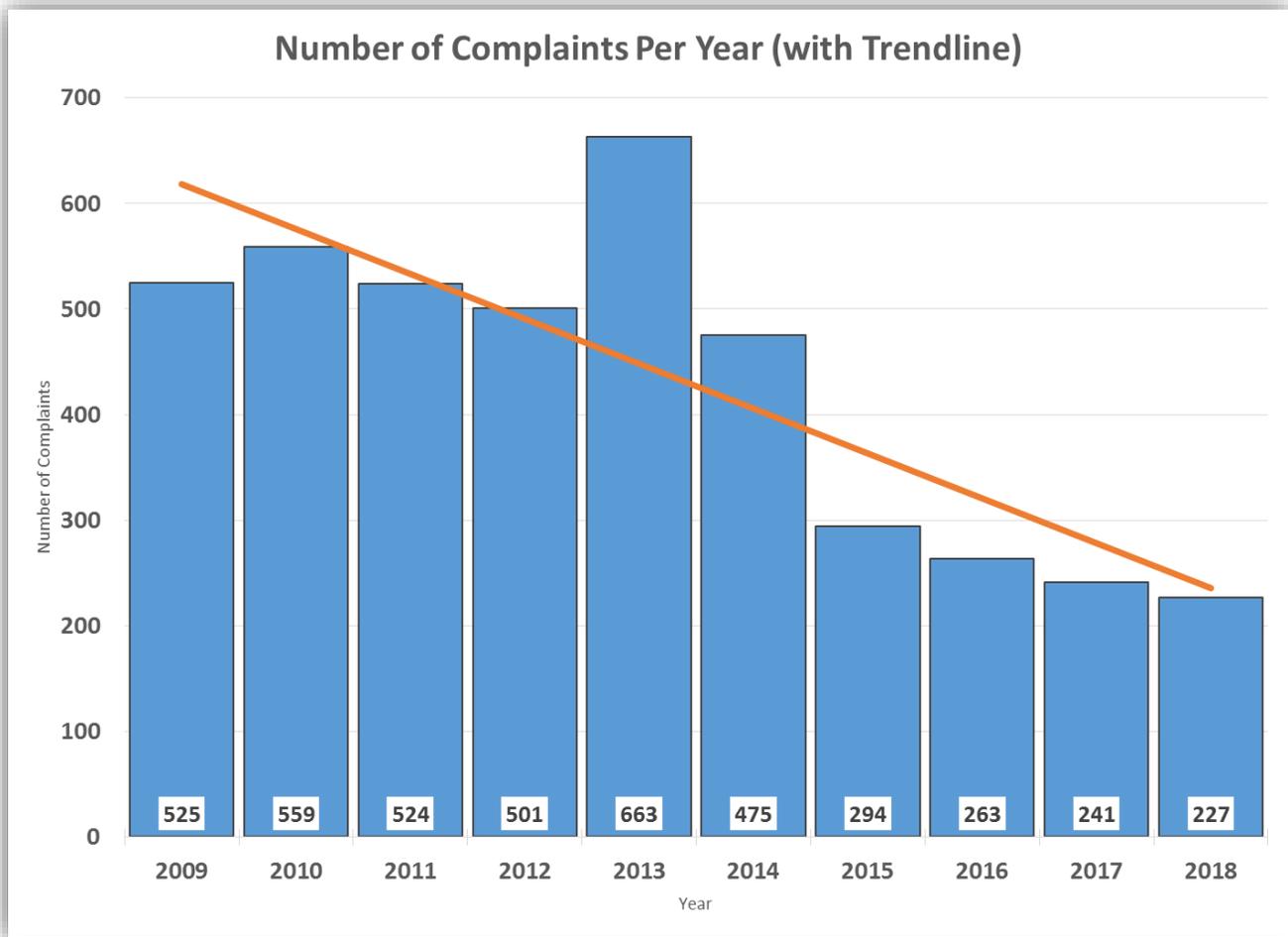
OPS Complaints Filed in 2018

Anyone may file a complaint with OPS, including subjects of police incidents, recipients of police services, a witness to a police incident, a third party, a legal representative, an anonymous person, the OPS Administrator, or a member of the CPRB.



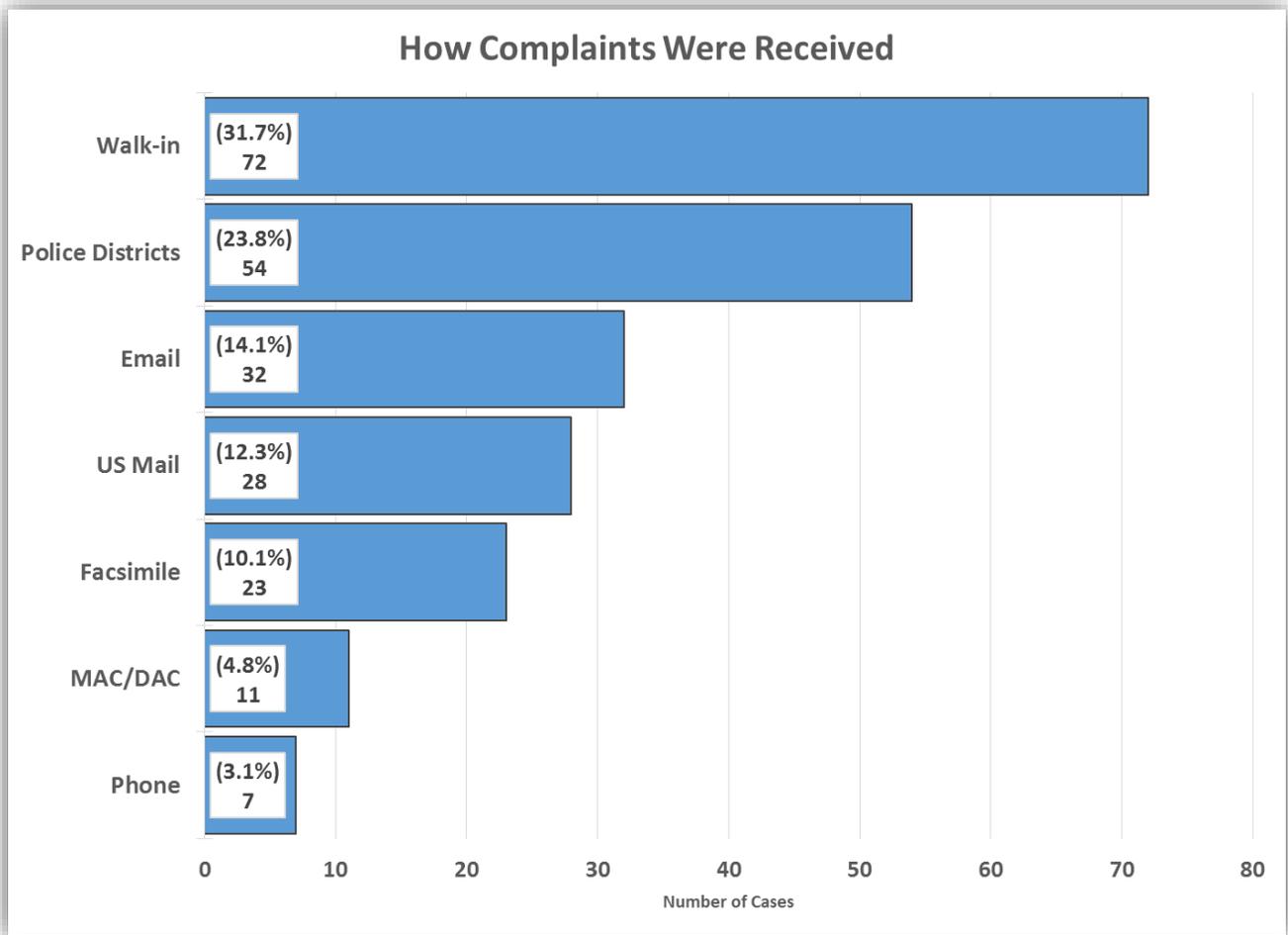
The chart above details the 227 complains OPS received in 2018, a reduction of 6 percent from the 241 complaints received in 2017, and a reduction of 14 percent from the 263 received in 2016, making 2018 the 5th consecutive year that the number of complaints has declined (see also chart on next page)⁶.

⁶ As noted in the Monitor's Fifth Semiannual Report (pp. 89-91), it is hard to know for sure why the numbers of complaints are going down at this time. There are any number of plausible explanations advanced in the Monitor's Report: 1) It could be that new policies and training are, in fact, leading CDP officers to perform less often in ways that lead civilians to make complaints about misconduct or poor performance. 2) It could also be that the Division's implementation of body-worn cameras is leading to better performance by CDP officers. 3) It is possible that fewer people are filing complaints because they lack confidence that doing so will actually matter. 4) Residents may be sufficiently



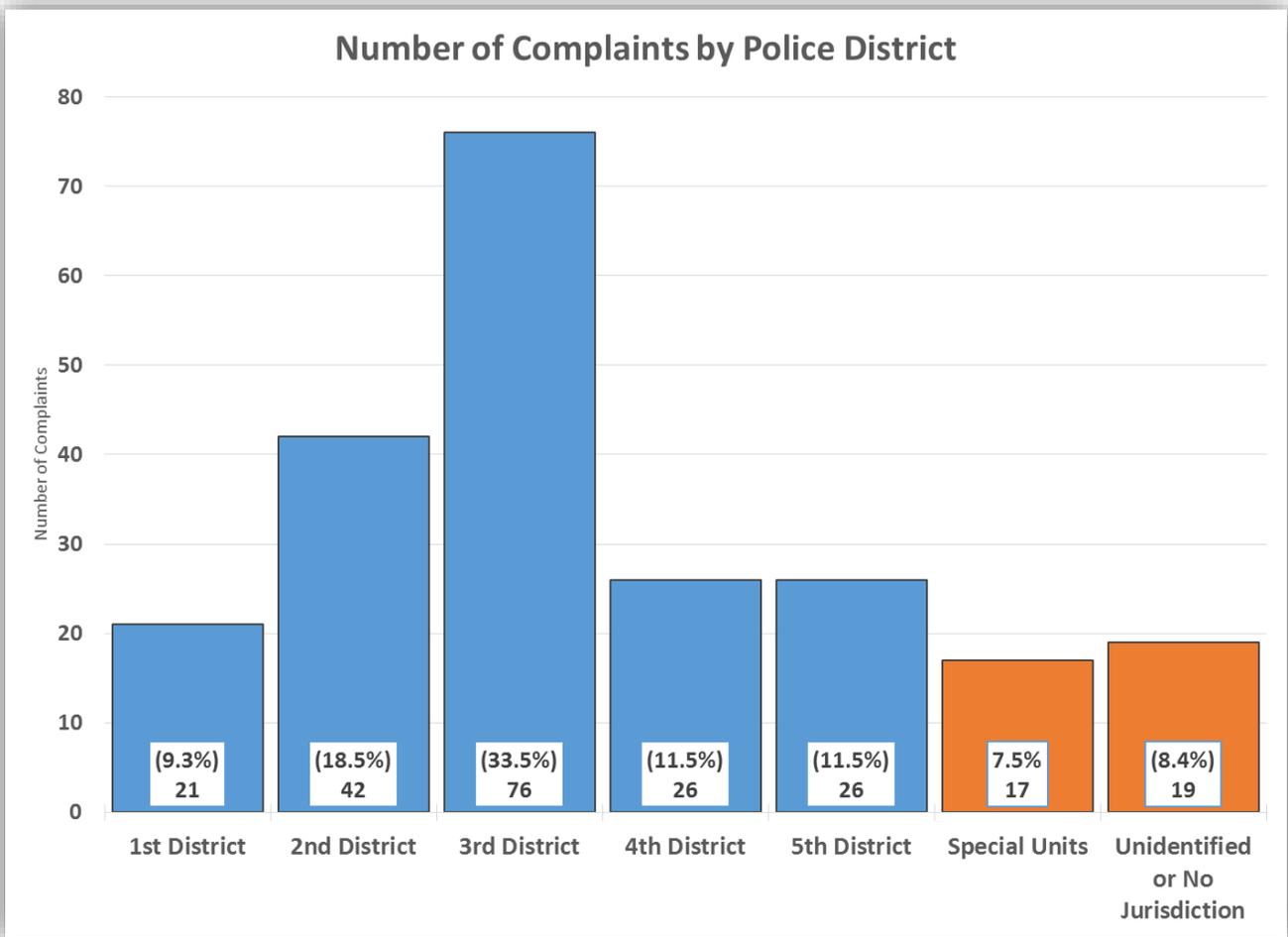
The chart below depicts how OPS received the 227 complains that were filed with the Office in 2018. Specifically, 72 complaints (or 31.7 percent) were filed by people who walked in the OPS offices in 205 West St. Clair Ave. Another 54 complaints (or 23.8 percent) were filed through the five Police Districts, 32 complaints (or 14.1 percent) were filed via email, and 28 complaints (or 12.3 percent) were files via the US Postal Service. Complaints were also filed via facsimile (23 complaints or 10.1 percent), the Mayor's or Director of Public Safety's Action Centers (11 or 4.8 percent), and via the phone (7 or 3.1 percent).

skeptical or distrustful of the Division's discipline system that they assume that, even if a timely and comprehensive investigation affirmed their allegations, the Division may not take sufficient corrective action. For more details, see <http://www.clevelandpolicemonitor.net/news/2018/8/21/fifth-semiannual-report>

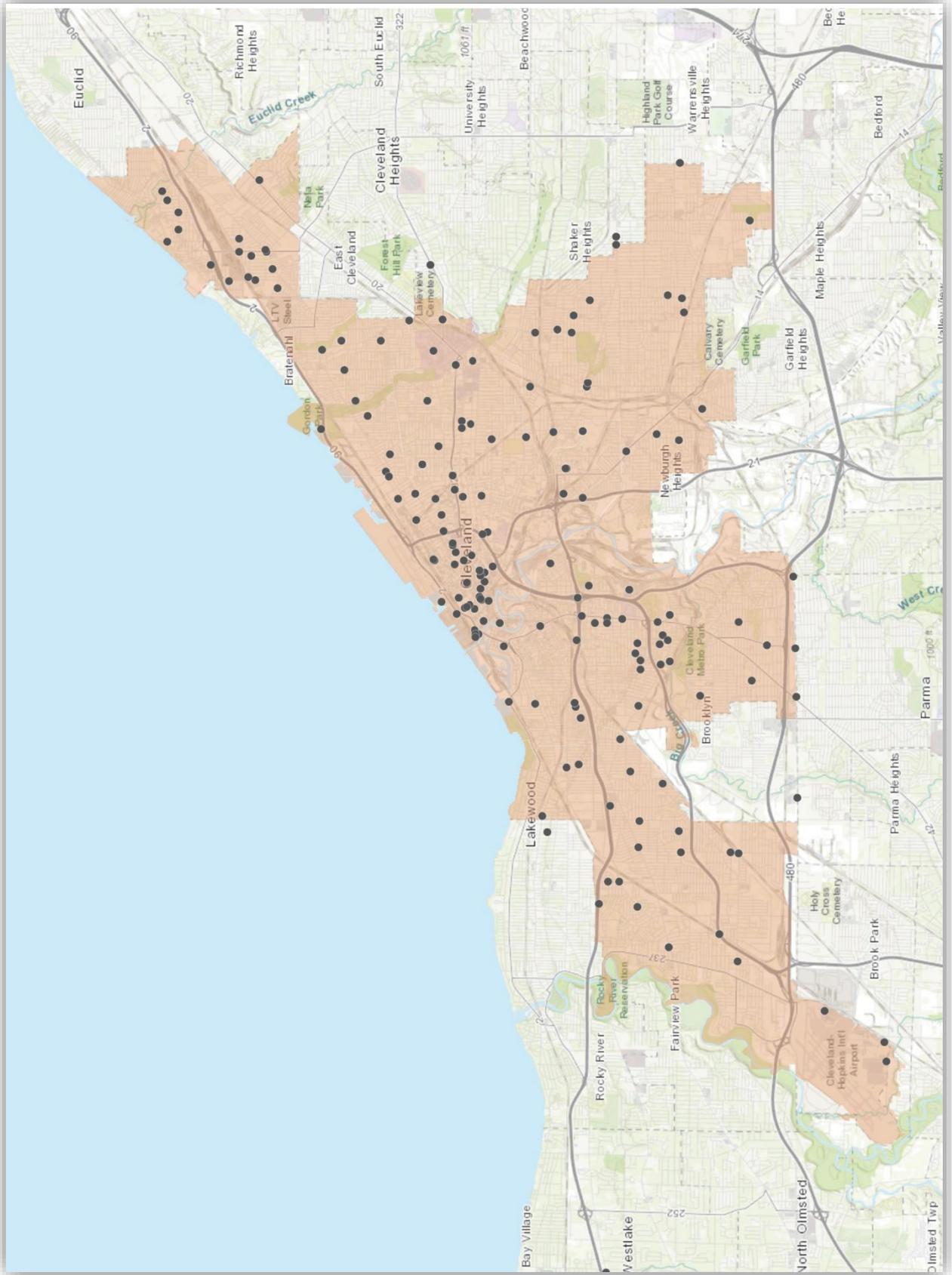


A breakdown of the 227 complaints by CDP district is depicted in the chart that follows on next page. The 3rd Police District, which includes all of Downtown Cleveland, had the highest number of complaints (76) in 2018, followed by the 2nd Police District (42). The 4th and 5th Police Districts were tied with 26 complaints, whereas the 1st Police District had 21 complaints.

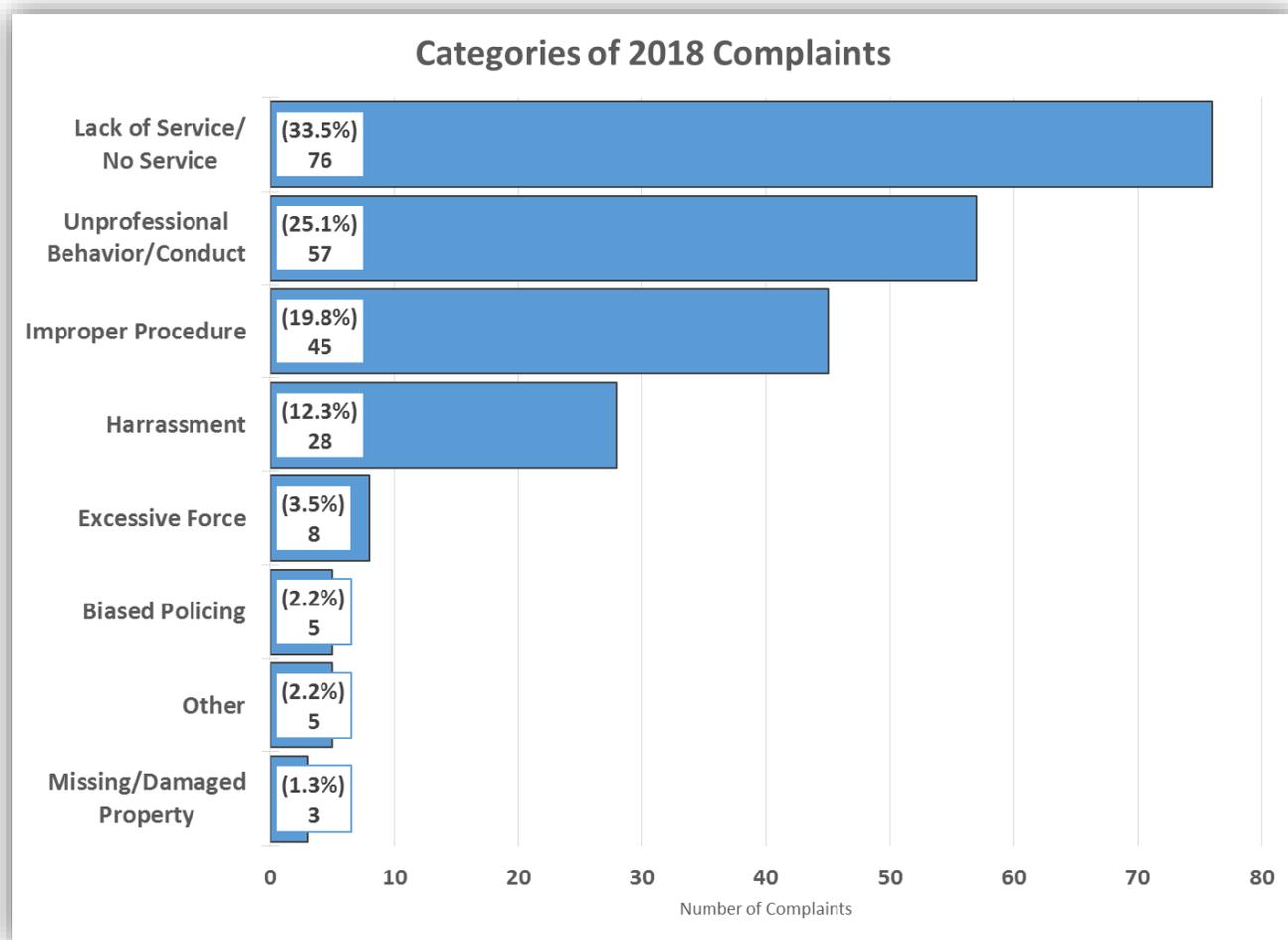
As far as Special Units are concerned, the Financial Crimes Unit had 4 complaints, the Sex Crimes/Child Abuse Unit had 2 complaints, the Bureau of Traffic had 2 complaints, the Narcotics had 2 complaints, the Homicide Unit had 1 complaint, the Communications Control Section had 1 complaint, the Property Section had 1 complaint, CDP Academy had 1 complaint, the Internal Affairs Unit had 1 complaint, the Airport Unit had 1 complaint, and the Canine Unit had 1 complaint.



The following map depicts the distribution of citizen complaint incidents within the limits of the city of Cleveland. Of note is the fact that a number of complaints were received from addresses outside of the city limits (involving, for instance, off-duty officers), and that many complaints received by OPS were not tied to a specific physical location (because, for instance, the alleged harrasment took place over the phone) and thus cannot be depicted on the map.



Each complaint received by OPS may include multiple allegations, and each allegation is investigated. The following chart shows the breakdown of the primary allegation⁷ that was made in the 227 complaints. “Lack of Service/No Service” is the primary allegation in the highest number of cases (76), followed by “Unprofessional Behavior/Conduct” (57), “Improper Procedure” (45), and “Harassment” (28).

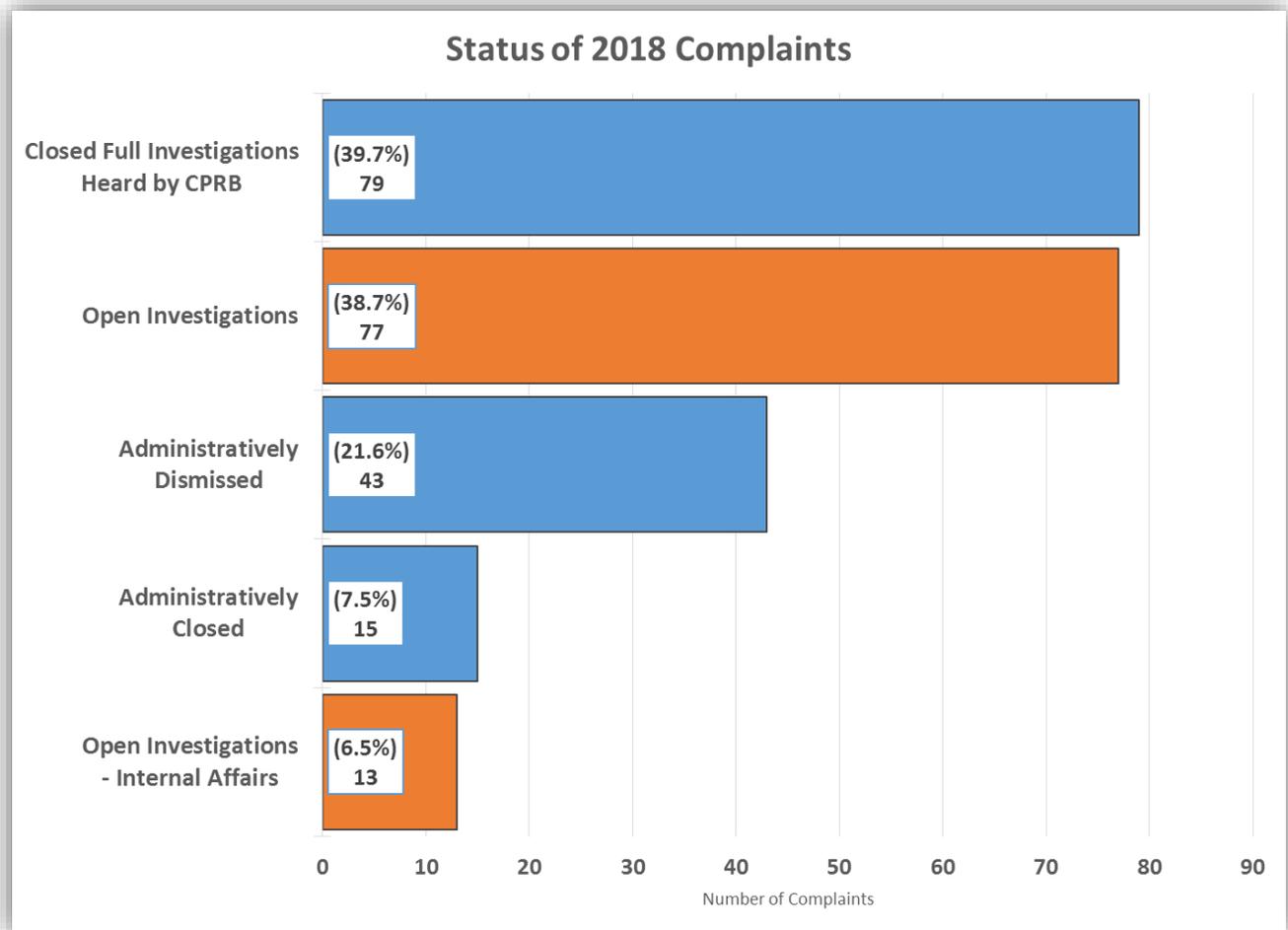


The chart that follows shows the status of the 227 complaints originating in 2018. Of the 227 complaints, 137 have been closed and 90 remain active. Of those cases that were closed, 79 received full investigation and were heard by the CPRB. The number of cases that were Administratively Dismissed was 43 and those Administratively Closed was 15⁸.

⁷ The primary allegation is identified from the narrative the complainants provides in the complaint form or during the interview with the Investigator.

⁸ For a discussion of the difference between “Administratively Dismissed” and “Administratively Closed” cases, see page 24 of this report.

Of those remaining active, in 13 cases criminal conduct was alleged and thus a copy of the file was forwarded to the Internal Affairs Unit.



OPS Internal Affairs Referrals

If at any time during an OPS investigation complaints allege criminal conduct, a copy of the file is forwarded to IA so that the unit can conduct a thorough investigation. Regardless of the IA investigatory results, the case is returned to OPS to conclude its separate investigation pertaining to the alleged non-criminal conduct or administrative violations.

Fourteen (14) of the OPS complaints originating in 2018 were referred to IA and one (1) was referred to the Integrity Control, Compliance, and Employee Accountability Office. Of the 14 cases, 13 are still being investigated and 1 has concluded. The one case that was referred to the Office of Integrity Control, Compliance, and Employee Accountability Office has also concluded. None of the two completed investigations resulted in charges being filed against the officers.

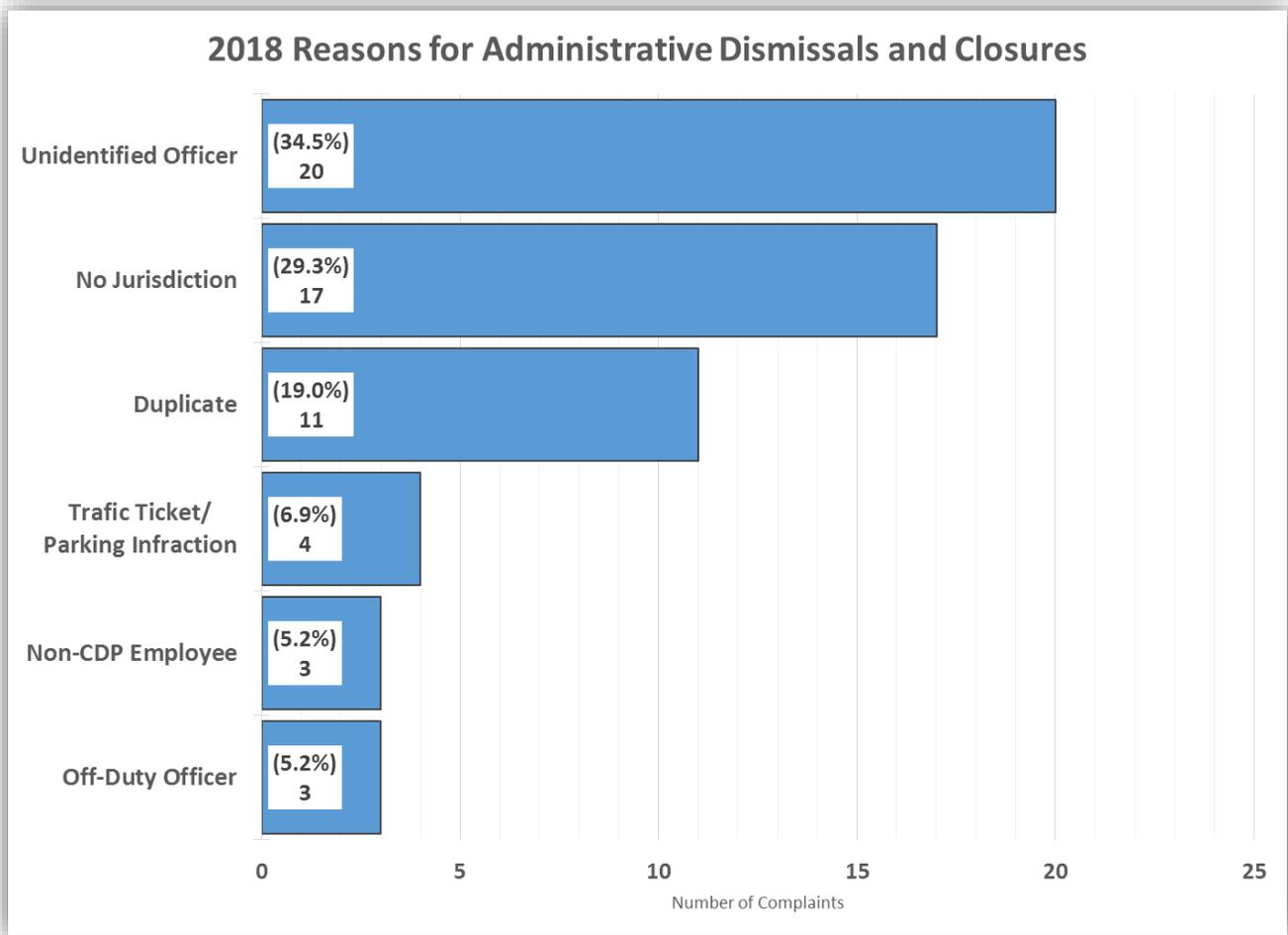
OPS Administrative Dismissals and Closures

The following chart presents a breakdown of the complaints that were Administratively Dismissed or Closed in 2018.

As explained in Section 701 of the OPS Policy Manual, complaints may be administratively dismissed when one of the following criteria applies:

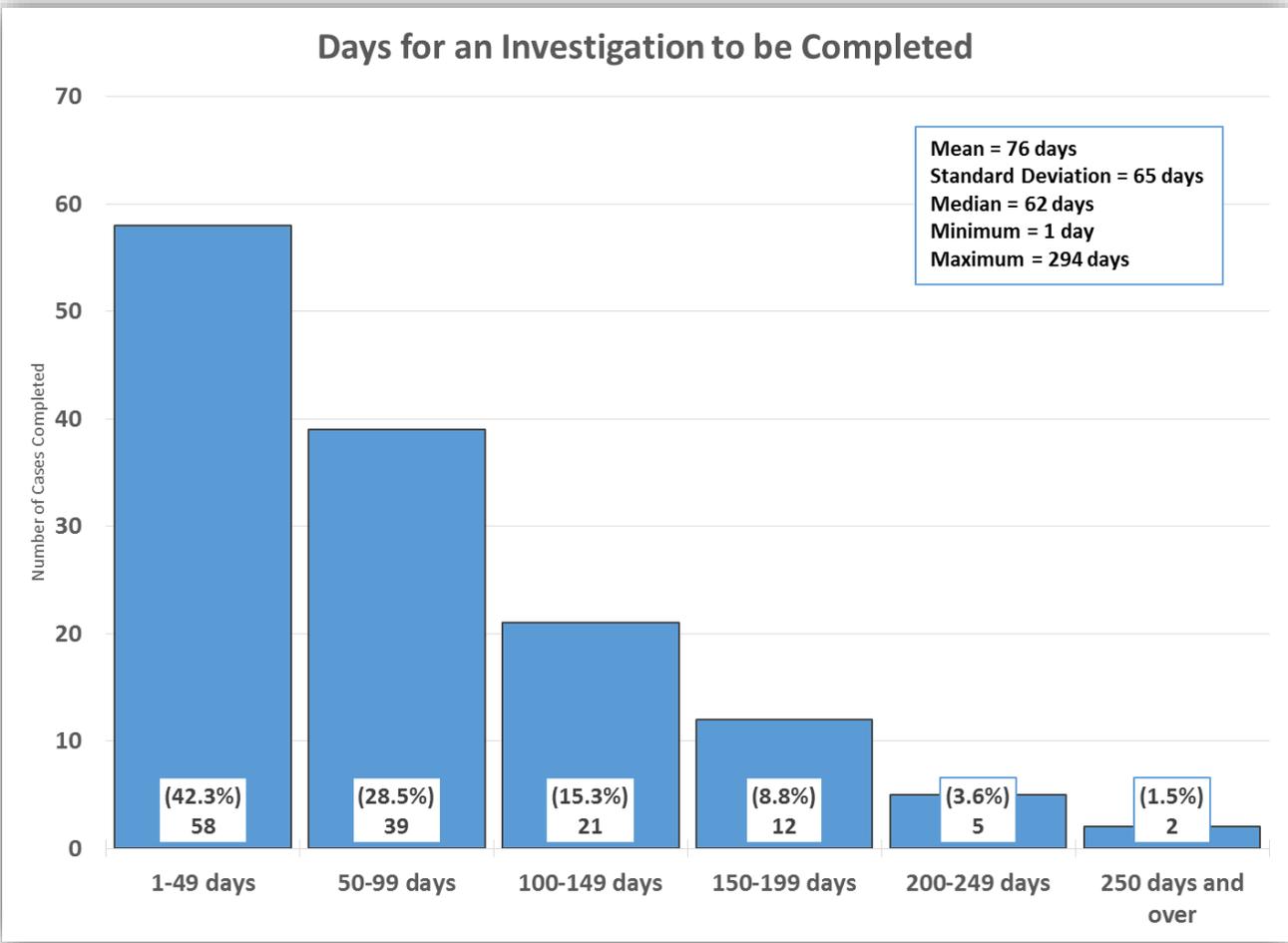
1. The individual complained of is not a CDP employee;
2. The employee referenced in the complaint cannot be identified despite the best efforts of the agency;
3. The preliminary investigation reveals that the delay in police services was due to workload or otherwise unavoidable;
4. The complaint involves off-duty conduct of a civil nature (unless the alleged conduct, or its effects, constitute misconduct or have a substantial nexus to the officer's City employment);
5. The complaint concerns the receipt of a uniform traffic ticket and/or parking infraction notice without any additional claims of racial profiling, illegal search, excessive force, or other allegations within OPS's jurisdiction.

In addition to the Administrative Dismissal process, cases may also be Administratively Closed. An Administrative Closure is a rarely used mechanism in which cases may be closed in order to merge or consolidate multiple related cases, when OPS has received duplicate complaints or when a case is opened in error. Cases are merged and consolidated when multiple complaints are received raising the same facts or arising from the same occurrence such that a collective investigation of both complaints would be most effective under the circumstances.



OPS Investigations

Complaints that are not referred to Internal Affairs or are Administratively Dismissed/Closed are fully investigated by the Office of Professional Standards (OPS). Investigators gather evidence by taking statements and/or conducting recorded interviews of complainants, CDP employees, and witnesses who may have factual information pertaining to the complaint. Statements may also be taken from persons who have specialized knowledge regarding the complaint or the circumstances related to the complaint. Additionally, investigators are expected to gather evidence such as reports, activity sheets, 911 calls, dispatch reports, crime scene materials, as well as video or audio recordings that may be related to the complaint. After the Investigator gathers all relevant evidence, the evidence is evaluated and an Investigative Summary Report is drafted. The Investigative Summary Report contains the agency’s recommended findings and conclusions about the investigation.



OPS continuously explores opportunities to streamline the investigation process. The chart above presents details about the number of days it took for the 137 completed investigations to be closed in 2018. We can see that it took on average 76 days to complete an investigation. If the calculations do not take into consideration the cases with criminal investigation-related delays (e.g., cases that were transferred to Internal Affairs Office or the Office of Integrity Control, Compliance, and Employee Accountability), then the average days for a case to be completed in 2018 drops to a mean of 68 days (*SD* = 54 days, *Mdn* = 60 days, min = 1 day, max = 208 days).

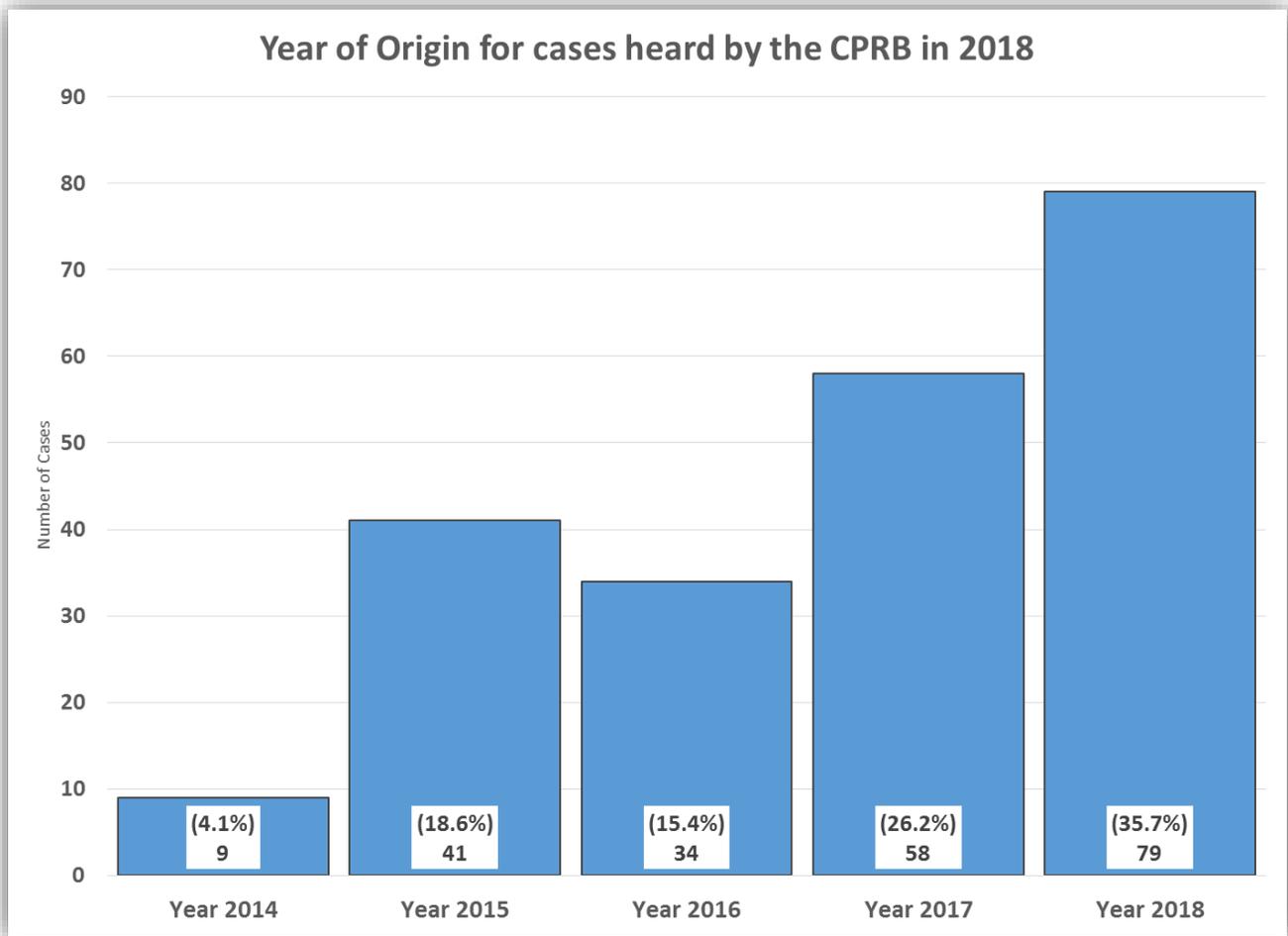
Timeliness

The timeliness of investigations is a continuing priority for the Office of Professional Standards. Timeliness depends upon several aspects, including but not limited to: the number and complexity of the complaints filed; the existence and size of case backlogs; staffing; DA holds and other procedural gaps in investigation, and; the timetable in which documents and other evidentiary requests are met by external sources. Up until 2018, the number of investigators working full-time at OPS changed significantly, and although the number of complaints declined the last five years, the backlog of cases dating from 2014 precluded any meaningful assessment of OPS timeliness objectives. After accounting for non-investigative delays, OPS expects to complete 50 percent of its 2019 investigations within 60 days.

CPRB Dispositions

Once the OPS Investigative Summary Report has been completed, the OPS Administrator submits the file to CPRB for review. The CPRB's monthly board meetings are open to the public to discuss complaints and completed investigations of alleged misconduct of CDP personnel. The complainants are notified of the date and time of the meeting in case they want to be present.

On meeting day, a quorum of the CPRB members (at least two-thirds) must be present to reach a disposition and provide recommendation on discipline for each allegation identified. The OPS Investigator who conducted the investigation presents the case to the Board by outlining the nature of the complaint, the nature of the allegations involved and the material evidence and facts established by the investigation. That Investigator also shares the OPS-recommended disposition with the board at that time. Board members will often ask questions of the Investigator and give complainants the *opportunity* to be heard at that time.



In reaching a decision, the CPRB is required to review its cases under the “Preponderance of the Evidence” standard of proof. “Preponderance of the evidence” means the greater weight of evidence; for example, based on all of the evidence it is more likely than not that a CDP employee has engaged in conduct inconsistent with CDP policy, procedure or training. For purposes of applying the “preponderance of the evidence” standard, officer performance must be evaluated against the policy, procedure, or training in effect at the time of the incident.

As can be seen in the chart above, in 2018, the CPRB adjudicated 221 complaints based on OPS investigations. Of those complaints, 9 were filed in 2014, 41 were filed in 2015, 34 were filed in 2016, 58 were filed in 2017, and 79 were filed in 2018.

Each complaint can involve one allegation or (what is more common) multiple allegations. The table that follows, on page 30, presents information about all 619 allegations introduced in the 221 complaints that were heard by the CPRB in 2018. As can be seen, in 110 of the 619 allegations (or 17.8 percent) the CPRB suggested sustained findings to the Chief of Police, whereas in 220 of the allegations (or 35.5 percent) the

Board exonerated the officer. Further, in 159 allegations (or 25.7 percent) the Board decided that the allegations were unfounded and in 108 (or 17.4 percent) decided that the evidence presented were insufficient to determine whether misconduct had occurred. Finally, in 22 allegations (or 3.6 percent) the Board refused to adjudicate⁹.

As far as type of allegation is concerned, the Board sustained 16.4 percent of “Lack of Service/No Service” allegations, 31.3 percent of the “Unprofessional Behavior/Conduct” allegations, 11.5 percent of the “Improper Procedure”, allegations, 3.3 percent of the “Harassment” allegations, 3.2 percent of the “Biased Policing” allegations, 6.9 percent of the “Missing Property” allegations, and zero percent of the “Excessive Force” allegations.

In cases involving certain allegations, such as excessive force and biased policing, low sustain rates are explained by a number of factors. Cases of excessive force which potentially arise to criminal conduct are transferred to the Internal Affairs Unit. Thus, the excessive force allegations which are most severe, and generally most provable, are not investigated by the Office of Professional Standards. Additionally, the CDP rule governing bias policing is new, and as a result, effective, consistent application of the rule is still developing¹⁰.

⁹ This happens, for instance, when the officer alleged to have conducted the misconduct was separated from the CDP by the time the case was referred to the Board.

¹⁰ Initial application of the bias policing rule has tended towards conservative outcomes, as it is evident from the fact that 38.7 percent of bias policing cases resulted in findings of insufficient evidence. Similarly, excessive force allegations have led to insufficient evidence findings 35.9 percent of the time.

2018 CPRB Dispositions

Type of Allegation	Dispositions					Total Allegations
	Sustained	Exonerated	Unfounded	Insufficient Evidence	Refused to adjudicate	
Lack of Service / No Service	22 (16.4%)	53 (39.6%)	42 (31.3%)	12 (9.0%)	5 (3.7%)	134
Unprofessional Behavior / Conduct	68 (31.3%)	34 (15.7%)	62 (28.6%)	49 (22.6%)	4 (1.8%)	217
Improper Procedure	16 (11.5%)	93 (66.9%)	12 (8.6%)	11 (7.9%)	7 (5.0%)	139
Harassment	1 (3.3%)	12 (40.0%)	8 (26.7%)	7 (23.3%)	2 (6.7%)	30
Excessive Force	0 (0.0%)	11 (28.2%)	12 (30.8%)	14 (35.9%)	2 (5.1%)	39
Biased Policing	1 (3.2%)	3 (9.7%)	13 (41.9%)	12 (38.7%)	2 (6.5%)	31
Missing Property	2 (6.9%)	14 (48.3%)	10 (34.5%)	3 (10.3%)	0 (0.0%)	29
Total	110 (17.8%)	220 (35.5%)	159 (25.7%)	108 (17.4%)	22 (3.6%)	619

Chief or Director's Pre-disciplinary Hearings

If any aspect of the investigation has been sustained by the CPRB hearing, OPS forwards a Findings Letter to the Chief of Police ("Chief") and the Director of Public Safety ("Director") within 14 days. The Findings Letter summarizes the CPRB's findings, explaining their rationale to the Chief as well as the matrix category as determined by the Disciplinary matrix that was in place at the time of the incident. Along with the Findings Letter, the complete OPS investigative report and all supporting documents are provided to the Chief of Police.

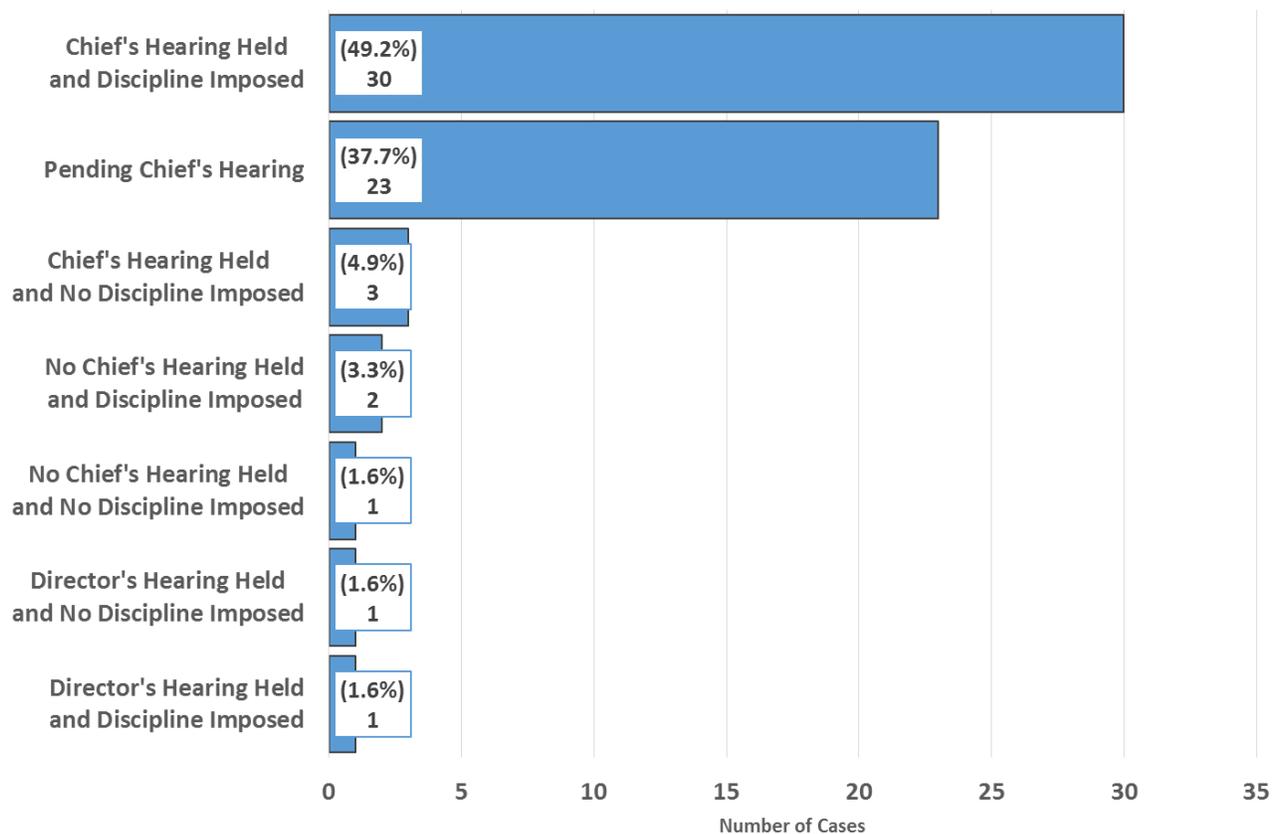
The Chief or Director subsequently holds a hearing in which the CDP member is given the opportunity to offer testimony and provide contrary or mitigating evidence. Within ten days of the hearing, the Chief or Director is required to notify the CPRB of its outcome and any discipline to be imposed. OPS is working with the Chief's Office to ensure that the Chief provides an explanation for any departures from CPRB recommendations and a protocol to ensure that the CPRB has the opportunity to appeal any decision with which it disagrees to the Public Safety Director.

Of the 221 complaints adjudicated by the CPRB in 2018, 61 (or 27.6 percent) involved recommendations for sustained findings. As of the end of 2018, 30 cases had a Chief's disciplinary hearings and some form of discipline or reinstruction was imposed (the Chief issued days of suspension in 7 cases and a letter of reprimand and/or reinstruction in 23 cases), and 3 had a Chief's disciplinary hearings and a discipline was not imposed. In 2018, it took on average 66 days (*SD* = 35 days, *Mdn* = 64 days, min = 8 days, max = 144 days) from the day the CPRB presented a Findings Letter to the Chief of Police, to the day the Chief held a disciplinary hearing.

In an additional 3 cases (2 of which resulted in discipline), the CPRB presented their findings to the Chief with him declining to hold a disciplinary hearing. Two cases (1 of which resulted in a 12-day suspension without pay) were adjudicated by the Director in conjunction with other disciplinary matters that were brought before him¹¹. As of the end of 2018, 23 cases were still pending Chief's disciplinary hearing (see the following chart and table for details).

¹¹ If the Chief recommends a penalty greater than a 10 day suspension, the Director of Public Safety will hear the disciplinary charge filed against the officer, render judgment on such charge and set the disciplinary penalty, if any.

2018 Chief and Director's Hearings (Total = 61)



Case	Complaints Sustained by CPRB	Result of Chief's or Director's Hearing	Discipline Concurrency ¹²
15-052	Unprofessional Conduct	Dismissed the Allegation	■ No Discipline
15-071	Unprofessional Conduct	Issued a 6-workday Suspension	■ Discipline Concurrency
15-103	Unprofessional Conduct	Issued a Written Reprimand	■ Discipline Concurrency

¹² Whether or not the discipline imposed was in concurrence with that recommended by the CPRB. When the Chief's or Director's discipline is of lesser severity than that recommended by the CPRB, the discipline is not in concurrence. In 2018, 65.8 percent of the time the Chief's or Director's discipline was in concurrence with the discipline recommended by the CPRB. This data is subject to review by the Federal Monitoring Team on an annual basis.

15-142	Improper Procedure	Issued a 1-day Suspension	 Discipline Difference
15-174	Unprofessional Conduct; Improper Procedure	Issued a Letter of Reinstruction	 Discipline Difference
15-251	Improper Procedure; Unprofessional Conduct	Issued a Written Reprimand	 Discipline Difference
15-256	Improper Procedure	Dismissed the Allegation	 No Discipline
16-024	Unprofessional Conduct: Failure to Activate WCS	Issued a Letter of Reinstruction	 Discipline Concurrence
16-036	Unprofessional Conduct; Improper Procedure	Director Issued a 12- workday Suspension without pay	 Discipline Concurrence
16-044	Unprofessional Conduct: Failure to Activate WCS	Issued a Letter of Reinstruction	 Discipline Concurrence
16-061	Lack of Service; Unprofessional Conduct; Improper Procedure	Issued a Written Reprimand	 Discipline Difference
16-065	Unprofessional Conduct: Failure to Appear in Court	Issued a Written Reprimand	 Discipline Concurrence
16-163	Unprofessional Conduct: Failure to Activate WCS	Issued a Letter of Reinstruction	 Discipline Concurrence
16-167	Unprofessional Conduct: Failure to Activate WCS	Issued a Letter of Reinstruction	 Discipline Concurrence
16-179	Unprofessional Conduct	Dismissed the Allegation of Unprofessional Conduct and Issued a Letter of Reinstruction	 Discipline Concurrence
16-232	Improper Tow	Chief Dismissed the Allegation and Director upheld Chief's Dismissal of the Allegation	 No Discipline
16-248	Improper Tow	Issued a Letter of Reinstruction	 Discipline Concurrence
16-256	Lack of Service	No Hearing Held; Officer retired prior to the matter being forwarded to the Chief	 No Discipline

		to conduct disciplinary hearing	
17-009	Improper procedure: Failure to Arrest/Document	Issued a Letter of Reinstruction	 Discipline Difference
17-014	Improper Tow	Dismissed the Allegation of Improper Tow and Issued a Letter of Reinstruction	 Discipline Concurrence
17-029	Unprofessional Conduct; Failure to Activate WCS; Failure to Complete Duty Report	Dismissed the Allegation of Unprofessional Conduct and Failure to Complete Duty Report and issued a Letter of Reinstruction for Failure to Activate WCS	 Discipline Concurrence
17-039	Unprofessional Conduct	No hearing held; Sgt. was verbally counseled on the policies related to conduct, speech, and acts while on or off duty	 Discipline Concurrence
17-085	Unprofessional Conduct: Failure to Activate WCS	No hearing held; P.O. was verbally counseled	 Discipline Concurrence
17-088	Unprofessional Conduct; Failure to Activate WCS;	Issued a Written Reprimand	 Discipline Concurrence
17-189	Unprofessional Conduct; Failure to Activate WCS;	Issued a Letter of Reinstruction	 Discipline Concurrence
17-216	Lack of Service – Failure to Execute a Capias	Dismissed the Allegation	 No Discipline
17-220	Unprofessional Conduct; Improper Search; Failure to activate WCS	Issued a Letter of Reinstruction; Issued a Written Reprimand	 Discipline Concurrence
17-223	Failure to Inform/Request of Language Interpretation Services; Failure to Confirm a Temporary Protection Order	Issued a Letter of Reinstruction and Re-training	 Discipline Concurrence
17-235	Lack of Service; Improper Citation; Unprofessional Conduct	Issued a Written Reprimand	 Discipline Difference
17-239	Lack of Service; Unprofessional Conduct:	Issued 2-day Suspension	 Discipline Difference

	Failure to Activate WCS; Improper Procedure		
18-031	Unprofessional Conduct	Issued a Written Reprimand	 Discipline Concurrence
18-038	Improper Search; Failure to Cooperate with Investigation	Dismissed the Allegation of Improper Search Issued a 2- day Suspension for Failure to Cooperate	 Discipline Difference
18-048	Violation of Limited English Proficiency	Issued a Letter of Reinstruction	 Discipline Concurrence
18-051	Unprofessional Conduct; Secondary Employment	Issued a Written Reprimand	 Discipline Concurrence
18-053	Unprofessional Conduct	Issued a Letter of Reinstruction	 Discipline Concurrence
18-054	Unprofessional Conduct	Issued an 8-day Suspension	 Discipline Concurrence
18-063	Unprofessional Conduct	Issued an 8-day Suspension	 Discipline Concurrence
18-064	Unprofessional Conduct	Issued an 6-day Suspension	 Discipline Concurrence

CPRB Policy Recommendations

The CPRB does not make disciplinary recommendations to the Chief of Police in every case. Depending on the results of the investigation, the CPRB may make policy recommendations to the Chief of Police. Recently, the CPRB has raised considerations with the CDP concerning¹³:

- #OPS15-103: The parking of patrol cars in handicapped spots.
- #OPS15-108: The elimination of the backlog of cases in the Financial Crime Unit.
- #OPS15-223: The clarification of any rules or procedures that pertain to protocol regarding CDP members' actions when dealing with calls pertaining to family members.
- #OPS15-294: The implementation of protocols that offer police officers more effective ways of communicating with the deaf and hearing impaired.
- #OPS17-034: The review and clarification of the language and requirements contained in General Police Order (GPO) 1 4.1.01 in order to prevent vehicles from being unnecessarily crushed due to confusion regarding notification responsibilities.
- #OPS17-068: The need for dispatchers to properly communicate their calls to CDP officers, and that dispatchers regularly check to ensure that their equipment is working properly.
- #OPS18-012: The re-evaluation and clarification of how officers handle child custody issues in the field in order to ensure that officers are enforcing proper and consistent policy when determining the custody of children.
- #OPS18-048: The review and revision of the language found in General Police Order (GPO) 1.3.38. The CPRB requested that the policy be reviewed and refined so that officers are able to be better trained and better equipped to effectively communicate with individuals of limited English proficiency.

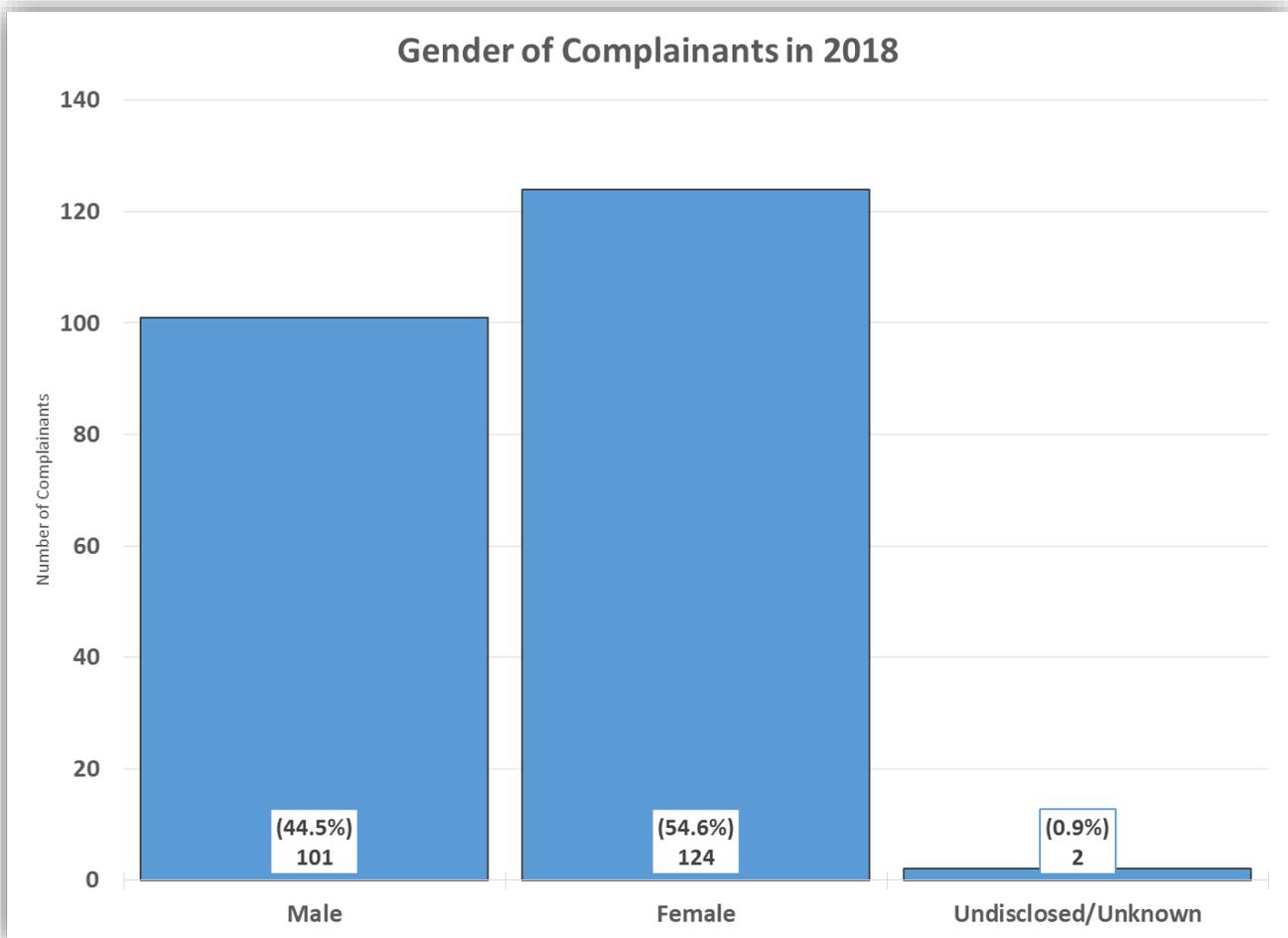
The CPRB also sends recommendations of commendation and official recognition of police officers. Recently, the CPRB has sent recommendations for:

¹³ Future quarterly OPS reports will present what action, if any, is taken by the CDP in response to each of these recommendations.

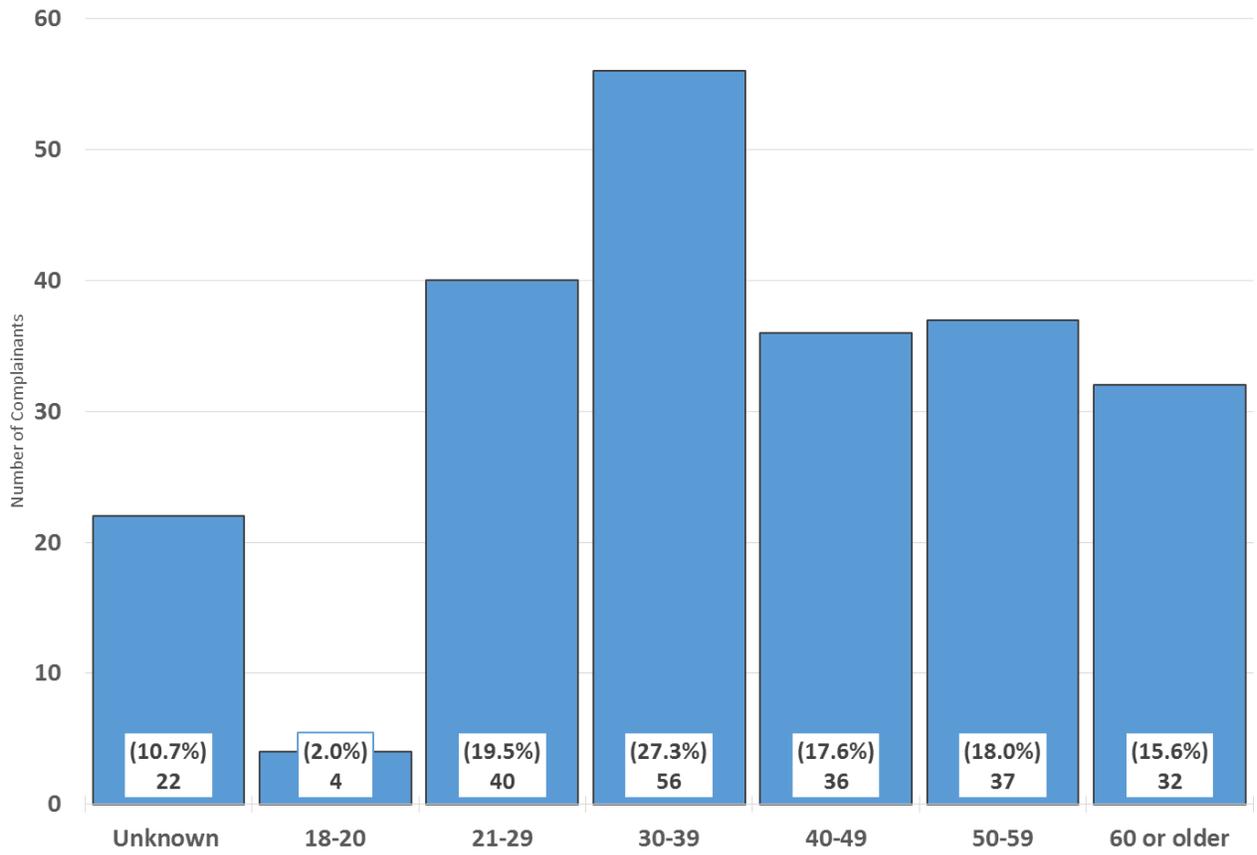
- #OPS16-169: The recognition of the diligence and patience that officers exhibited in their service to the community.
- #OPS16-202: The commendation of officers for their praise-worthy efforts to save a life.
- #OPS18-019: The recognition of the dedicated service and calm demeanor one CDP member exhibited while dealing with a citizen.

Demographic Characteristics of 2018 Complainants

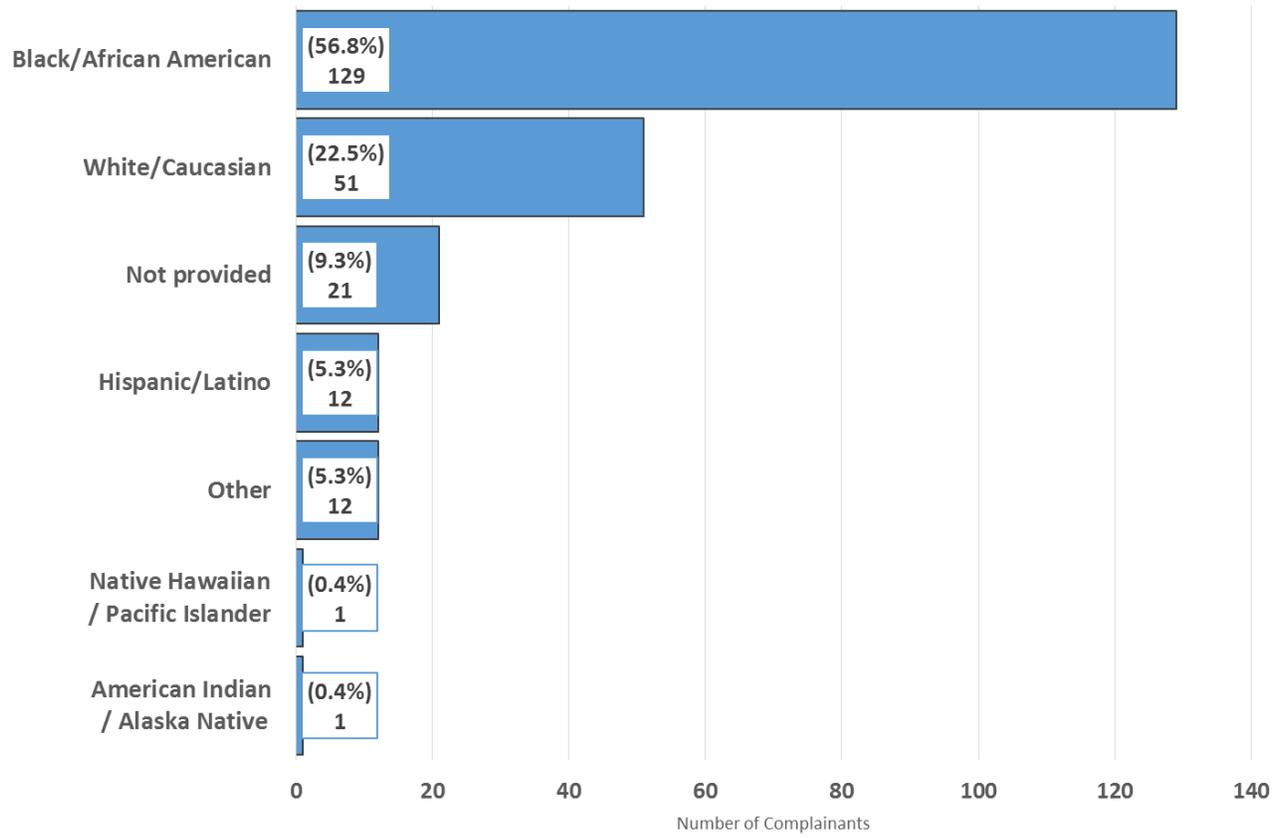
The demographic characteristics of complainants are presented in the charts that follow. Females filed 54.6 percent of the complaints in 2018 and males 44.5 percent. The mean age of complainants was 42 years of age (*SD* = 14 years). The majority of those who filed a complaint with OPS were Black/African American (129 or 56.8 percent), followed by White/Caucasian (51 or 22.5 percent).



Age of Complainants in 2018



Race of Complainants in 2018



OPS 2018 Year in Review

OPS Staffing:

OPS Administrator

In June 2018, the City of Cleveland hired Attorney Roger C. Smith to head the Office of Professional Standards (OPS). Most recently, Mr. Smith worked as a hearing officer with the Office of Administrative Trials and Hearings in New York City adjudicating summonses issued by various city agencies including the NYPD, Fire Department, the Department of Buildings and the Department of Sanitation. Prior to this, Smith worked for nine years as Executive Agency Counsel at the New York City Civilian Complaint Review Board (NYC CCRB), where he served as the Director of Training (2011-2015), and provided advice to the Board, agency executives and investigators on FOIL, labor relations and criminal procedure law. He participated, alongside other agency executives, in the hiring of new attorneys, all staff promotions and employee discipline. For several years, Smith served as the agency's Records Access Appeals Officer, reviewing every FOIA (Freedom of Information Act) appeal filed with the agency. He also assisted in numerous disciplinary trials of police officers from 2010-2012, and handled disciplinary conferences regarding CCRB employees both internally and at the Office of Administrative Trials and Hearings.

Prior to his work with the CCRB, Smith worked as an agency attorney at the New York City Department of Correction, managing disciplinary trials regarding correction employee misconduct. He began his legal career as an Assistant District Attorney with the New York County District Attorney's Office prosecuting cases ranging from drug possession and sale to robberies and assaults involving serious physical injury. Mr. Smith received his undergraduate and graduate degrees from the University of Maryland, College Park. He also earned the Juris Doctor Degree from the University of Southern California Law School.

Supervising Investigator (Full-time position):

Henry E. Roney began his tenure as the Senior Investigator for the Office of Professional Standards on May 7, 2018. Prior to assuming his current position, Mr. Roney served 25 years as a Special Agent with the Naval Criminal Investigative Service (NCIS) where he retired as the Inspector General. During his NCIS career, Mr. Roney investigated criminal, fraud and counterintelligence offenses. He held supervisory and senior leadership positions to include, Supervisory Special Agent, Assistant Special Agent in Charge, Special Agent in Charge and Assistant Director. Prior to his NCIS career, Mr. Roney was a commissioned officer in the United States

Marine Corps where he served as a combat intelligence officer during Desert Shield/Storm. Mr. Roney is a 1983 graduate of Prairie View A&M University, Texas, where he studied criminal justice and political science.

OPS Investigators (Two full-time positions):

Two additional permanent investigator positions were filled in 2018. These positions were essential to ensuring adequate staffing for 2018 in order to avoid any future backlogs of case investigations.

Research Analyst and Community Engagement Coordinator positions

As of December 31, 2018, the hiring of a Research Analyst and a Community Engagement Coordinator had not yet being completed.

Reduction of the number of 9-month-old open cases by 75 percent

In 2018, OPS ensured that all cases remaining on the docket were closed in a timely and efficient manner. As a result, OPS managed to reduce the number of 9-month-old open cases by more than 75 percent.

OPS Staff Training:

In 2018, OPS investigators accrued over 200 hours through continuing professional training and education, such as, but not limited to, Public Records Request Process, Business Writing Skills, Investigative Procedure and Police Practice, Electronic Evidence, Use of Force, and Updates in IAPro Data Management Software.

Subject Matter	Training Source	Date
Public Records Request Process	City of Cleveland	1/4/2018
Use of Force Training	City of Cleveland	1/9/2018
Interview Training	Cuyahoga Community College	2/22/2018 – 2/23/2018
Business Writing Skills	City of Cleveland (Ease@Work)	4/12/2018
Business Writing Skills	City of Cleveland (Ease@Work)	4/19/2018
Notes from Qualitative Review of Sustained Cases	Laura Palinkas	4/25/2018
IAPro Manual Training	Brittanie Dial	4/25/2018

4 elements of a Reasonable IA/OPS Investigation	PATC webinar	4/26/2018
Business Writing Skills	City of Cleveland (Ease@Work)	5/3/2018
Business Writing Skills	City of Cleveland (Ease@Work)	5/17/2018
How Electronic Evidence is Changing Internal Affairs Investigations	PATC webinar	6/5/2018
In-house training on Interviewing, Closing Report Writing	Roger Smith	6/15, 6/29, 7/13/2018 Weekly from 7/27/2018
Omnibus Training in Investigative Procedure and Police Practice	OPS, City of Cleveland et. al	12/10/2018-12/14/2018
NACOLE Conference	Civilian Oversight Practitioners	9/30/2018-10/4/2018
CDP Academy Class Training	CDP Members	10/10/2018
CDP Academy Class Training	CDP Members	10/11/2018
CDP Academy Class Training	CDP Members	10/15/2018
CDP Academy Class Training	CDP Members	10/16/2018
CDP Academy Class Training	CDP Members	10/17/2018
CDP Academy Class Training	CDP Members	10/18/2018
CDP Academy Class Training	CDP Members	10/22/2018
NACOLE Conference	Civilian Oversight Practitioners	11/30/2018
General Training	ADAMHS Board Member, Department of Children and Family Services, Legal Aid, and CSU Prof. Ronnie Dunn	12/3/18-12/6/2018
In-house training	Roger Smith	Weekly on Fridays

CPRB Members Training:

In 2018, consistent with the Consent Decree and the CPRB Manual, CPRB continued receiving training on topics including, use of force policies and control techniques, de-escalation techniques and policing individuals in crisis, and CDP policies and investigative procedures. The CPRB training, conducted at the CPRB meetings, has been provided by the Police Academy as well as members of the Cleveland Division of Police. The training's attended are depicted below:

Subject Matter	Training Source	Date
Introduction to Use of Force policies	Police Academy	1/17/2018
Use of Force policies	Police Academy	2/21/2018
Use of Force policies	Police Academy	3/21/2018
New CPRB Member On-boarding	General Manager and CPRB Private Secretary	4/10/2018
Use of Force policies	Police Academy	4/18/2018
Use of Force policies (control techniques)	Police Academy	5/16/2018
Training in CDP Policy and Investigative Procedure	CDP, City of Cleveland, OPS	12/19/2018

Status of achievement of 2018 Goals:

As of December 31, 2018, all the case management and training objectives have been achieved. Specifically, there was a reduction of the number of 9-month-old open cases by 75 percent, and both OPS and CPRB members received continuing professional training and education on topics related to their responsibilities. As far as the staffing of the OPS is concerned, the hiring of a Research Analyst and a Community Engagement Coordinator remained a work in progress.

Goals For 2019

OPS and the CPRB have identified the following goals for 2019:

OPS Staffing:

General Manager

To assist in monitoring the administration of personnel, overseeing the budget, and managing staff training, OPS will hire a General Manager in 2019. The position will also manage the process of revising and maintaining the Operations, Policy, and Procedural Manual and manage the response process for Public Records Requests.

Research Analyst

To facilitate the composition of research, the availability and accessibility of OPS data, and the establishment of policy recommendation protocols responsive to OPS and CPRB's case experience, OPS will hire a full-time research analyst in 2019.

Community Engagement Coordinator and Community Outreach Plan

Spreading awareness of OPS and the CPRB throughout Cleveland is central to our oversight mission. Thus, in 2019, OPS will hire a full-time community engagement coordinator who shall, in consultation with the Administrator, prepare and begin to implement a community outreach plan encompassing all areas of the city.

OPS Operations:

OPS will further revise Operations, Policy and Procedure Manuals to ensure consistency and competency in all OPS Operations.

Public Records Requests:

OPS will create a formal protocol to ensure the timely handling of Public Records Requests.

Community Outreach:

With the hiring of a full-time community outreach coordinator, OPS will prepare and begin to implement a community outreach plan consistent with the requirements of the Consent Decree.

Reports:

With the hiring of a full-time research analyst, OPS will prepare and submit its annual report during the first quarter of the following year (i.e., for 2019, the report will be submitted by March 31, 2020). OPS will also create quarterly reports to provide for more timely public reporting of OPS related trends and issues of concern.

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