

GOVERNMENT OF THE DISTRICT OF COLUMBIA

**POLICE COMPLAINTS BOARD
OFFICE OF POLICE COMPLAINTS**



**ANNUAL REPORT
FISCAL YEAR 2009**

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GOVERNMENT OF THE DISTRICT OF COLUMBIA POLICE COMPLAINTS BOARD OFFICE OF POLICE COMPLAINTS

July 16, 2010

Dear Mayor Fenty, Members of the District of Columbia Council,
Chief Lanier, and Chief Pittman:

We are pleased to submit the 2009 Annual Report for the Office of Police Complaints (OPC) and its governing body, the Police Complaints Board (PCB). This report covers the agency's operations during the District of Columbia Government's fiscal year from October 1, 2008, through September 30, 2009.

Fiscal year 2009 has been another year of progress in several areas of the agency's work of investigating, mediating, and adjudicating citizen complaints of police misconduct, making recommendations for police reform, and conducting outreach to underserved communities. Of the total number of investigations completed by the agency, 74.8% were concluded within six months. The agency also conducted 41 mediation sessions, the highest ever. The resulting 33 successful mediations accounted for 9.9% of the 333 complaints resolved by OPC through conviction, adjudication, dismissal, or successful mediation, the highest percentage since the agency's inception.

The agency also issued a record number of five policy recommendations in fiscal year 2009. An important feature of the District's police oversight model allows the agency to issue recommendations for police reform that stem from the review of patterns and trends in the citizen complaints investigated by OPC. Among the policy review reports issued over the course of the year, the agency recommended that the Metropolitan Police Department (MPD) improve services to people with limited English proficiency and that the Department improve how the police respond to reports of hate crimes through better training and joint reporting efforts by OPC and MPD.

The volume of complaints received this year (550) was slightly less than in fiscal year 2008 (600); however, the agency experienced a 36.4% surge in the number of complaints received in 2008 and this year's total number of received complaints reestablishes the steadier pattern of growth that the agency experienced before the unusual surge in 2008.

The following is an overview of the agency's work during the year:

- Over 1,000 people contacted OPC to inquire about filing a complaint. The agency received 550 complaints. In total, since the agency opened in January 2001, it had over 7,300 contacts and handled more than 3,600 complaints.

- OPC closed 500 complaints this fiscal year. The surge in the number of complaints received in 2008 largely accounts for the 13% increase in the number of open complaints at the end of the year.
- For the first time, the annual report not only specifies the allegations sustained in complaint examination decisions, but also provides information regarding the type of discipline imposed on the subject officer.
- As part of the investigations of these complaints, OPC's investigators conducted over 800 interviews, which included more than 484 police officer and 381 citizen interviews, and the agency prepared 300 investigative reports.
- OPC conducted 41 mediation sessions, 33 of which were successful and led to an agreement between the complainant and subject officer that resolved the complaint. Since opening, OPC has mediated 249 complaints, with an overall success rate of 75%.
- PCB issued five reports and sets of recommendations to the Mayor, the Council, and the Chiefs of Police of MPD and the Office of Public Safety (OPS), the agency assigned to furnish security for public housing facilities, bringing PCB's total number of policy recommendations to 23.
 - In July 2009, PCB issued a report urging MPD to improve police services for people with limited proficiency in reading, writing, speaking, and understanding English. PCB recommended that MPD establish a written policy setting forth the Department's commitment to providing language assistance and ensure that all officers know about federal and local laws in this area. PCB also proposed that MPD provide clear guidance to sworn and non-sworn staff explaining how and when, particularly during field encounters, language assistance should be furnished.
 - In August 2009, PCB issued a report urging better training for MPD officers on the proper enforcement of the city's prohibition on drinking or possessing an open container of alcohol in public places, which includes streets, alleys, parks, sidewalks, and areas that directly abut private property. PCB noted that inadequate training and the absence of relevant MPD directives on the District's public drinking law, commonly known as the Possession of an Open Container of Alcohol (POCA), has led to confusion among MPD officers about when POCA arrests on residential property are permissible. PCB proposed that the District Council consider amending and clarifying the city's public drinking law accordingly.
 - MPD has joint authority with the District of Columbia Taxicab Commission (DCTC) to enforce the District's taxicab regulations. Although many complaints filed with OPC reveal a lack of understanding by the taxicab drivers of applicable DCTC regulations, these complaints also establish that MPD officers lack clarity regarding certain DCTC regulations, and that some MPD officers may have engaged in overzealous enforcement. In response, PCB issued a report in September 2009 proposing that DCTC establish annual taxicab driver refresher

training and clarify some rules and regulations for clarity and accuracy. PCB also recommended that MPD update its in-house taxi enforcement training to correct any errors regarding taxi driver obligations and coordinate with DCTC to establish joint taxicab enforcement training sessions. In addition, PCB recommended that DCTC and MPD establish a system for tracking and reviewing taxicab citations issued by both agencies to identify problematic patterns or trends.

- PCB issued a report in September 2009 concerning MPD's handling of the April 25, 2009, protest event at the Washington D.C., headquarters of the International Monetary Fund (IMF) and World Bank. The First Amendment Rights and Police Standards Act of 2004 establishes, among other things, specific standards of conduct for MPD officers in handling First Amendment demonstrations. Various federal law enforcement agencies usually assist in policing these protests and at times have handled demonstrators in a manner inconsistent with District law. As a result, PCB recommended that the District seek to obtain federal law enforcement agencies' voluntary compliance with the assemblies law when assisting MPD with protests on District-controlled public space.
- PCB issued a report in September 2009 recommending that MPD and OPC collaborate to develop a system for identifying and tracking complaints that allege sub-par police service in response to reports of hate crime. A rash of hate crimes affecting the city's gay, lesbian, bisexual, and transgender communities had occurred within the previous year. PCB also urged the Mayor's Office to begin complying with its legal obligation under the D.C. Bias-Related Crime Act to collect, compile, and publish data on the incidence of hate crime in the District and to report on its findings to the District Council. PCB further proposed that MPD use its involvement with already established community advisory boards to develop ways to correct possible underreporting of hate crimes across all constituencies covered by the city's hate crimes statute.

One of the advantages of effective and independent police review is the institutional capacity to follow up and report on the implementation of recommendations for police reform. Overall, we have been pleased with the steps taken by MPD and the city to implement the proposals made by PCB. In a significant development, and after a years-long effort by our agency, MPD has adopted recommendations by PCB to improve interactions between officers and people with mental illness by implementing a version of the "crisis intervention training" model. Under MPD's program, specially trained patrol officers will be dispatched when a service call involves a mentally ill citizen. The D.C. Department of Mental Health (DMH), along with community organizations, has collaborated in the development and implementation of the training program. Since January 2009, approximately 130 officers have completed crisis intervention training. On other fronts, MPD has adopted specific PCB recommendations to provide better services to people with limited English-speaking ability, and the Department is currently reviewing its training materials for officers who enforce the city's public drinking law. More information about these and other efforts by MPD to implement PCB recommendations can be found in Appendix A of this annual report.

While these are positive developments in the relationship between the two agencies, OPC continues to face some challenges to its authority to investigate complaints of police misconduct.

For example, we are concerned that MPD still provides little or no explanation for its handling of officers determined by OPC to have failed or refused to cooperate with OPC proceedings, in contravention of the District's statute governing OPC. In fiscal year 2009, MPD exonerated 25.4% of such officers, down only slightly from the previous year's 32.1% figure. And even when MPD provides explanations, those responses are sometimes incomplete and raise serious concerns about whether the Department is holding all officers accountable when they do not cooperate with OPC in its investigation, adjudication, and mediation of cases. Confidence in the District's police accountability system is undermined when OPC, and hence, the public, cannot confirm that uncooperative officers are being appropriately disciplined.

In the coming fiscal year, we are looking forward to building on our accomplishments and setting the stage for continued progress in the years ahead. In an era of continued cost-cutting by the District, we will be vigilant in making the case to ensure that our agency has adequate resources to investigate and resolve complaints, in addition to our other duties.

We are also looking forward to implementing changes that we think will improve the police accountability system in Washington, D.C. This year, the agency continues to provide detailed data that breaks down the six broad categories of citizen allegations of police misconduct into approximately 65 subcategories. In addition, the agency continues to await District Council action on proposed legislation that would allow our agency to monitor and publicly report on the volume, types, and dispositions of citizen complaints resolved by MPD, in the same way that our annual reports have consistently and publically furnished this information regarding the complaints handled by OPC. Over time, both the enhanced tracking of allegations and the monitoring legislation, if enacted, can be expected to lead to more targeted proposals for police reform.

In the world of police accountability, our agency already performs a wider range of functions than most other offices – from investigating, mediating, and adjudicating individual complaints, to conducting community outreach, making policy recommendations, monitoring the police department's handling of protests, and publicly reporting on our operations and MPD – but we will continue to enhance and expand these functions to better serve the District and promote greater confidence in its police.

Respectfully submitted,



Kurt Vorndran
Chair
Police Complaints Board



Philip K. Eure
Executive Director
Office of Police Complaints

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I. AGENCY INFORMATION

A. Agency Structure and Complaint Process

Information about the structure and operation of the Police Complaints Board (PCB) and the Office of Police Complaints (OPC), the agency's history, and the complaint process can be found on OPC's website, www.policecomplaints.dc.gov. This information was also included in the agency's annual reports issued for fiscal years 2001 through 2005.

B. Police Complaints Board Members

The current members of the Board are as follows:

Kurt Vorndran, the Chair of the Board, is a legislative representative for the National Treasury Employees Union (NTEU). Prior to his work at NTEU, Mr. Vorndran served as a lobbyist for a variety of labor-oriented organizations including the International Union of Electronic Workers, AFL-CIO (IUE), and the National Council of Senior Citizens. Mr. Vorndran served as the president of the Gertrude Stein Democratic Club from 2000 to 2003 and an elected ANC Commissioner from 2001 to 2004. He received his undergraduate degree from the American University's School of Government and Public Administration and has taken graduate courses at American and the University of the District of Columbia. Mr. Vorndran was confirmed by the District Council on December 6, 2005, and sworn in as the second chair of the Board on January 12, 2006. His first term expired on January 12, 2008, and he continues to serve until he is reappointed or a successor has been appointed.

Assistant Chief Patrick A. Burke has over 20 years of service with the Metropolitan Police Department and currently serves as the Assistant Chief of MPD's Homeland Security Bureau. During his career with MPD, Assistant Chief Burke has served in four of the seven police districts, the Special Operations Division, the Operations Command, and the Field and Tactical Support Unit. He received his undergraduate degree in criminal justice from the State University of New York College at Buffalo, a master's degree in management from the Johns Hopkins University, a master's degree in Homeland Security Studies from the Naval Post Graduate School's Center for Homeland Defense and Security, and a certificate in public management from the George Washington University. He is also a graduate of the Federal Bureau of Investigation's National Academy in Quantico, Virginia, and the Senior Management Institute for Police (SMIP) in Boston, Massachusetts. He has also attended counter-terrorism training in Israel.

Assistant Chief Burke has received a variety of MPD awards and commendations, including the Achievement Medal, the Meritorious Service Medal, the Police Medal and the Lifesaving Medal. He has also received the Cafritz Foundation Award for Distinguished District of Columbia Government Employees, the Center for Homeland Defense and Security's Straub Award for Academic Excellence and Leadership, and the National Highway Traffic Safety Administration Award for Public Service. He has served as the Metropolitan Police Department's principal coordinator and incident commander for myriad major events, including the 2008 visit by Pope Benedict XVI, the 2008 G-20 Summit, and the 56th Presidential Inaugural in 2009. In addition to the Police Complaints Board, Chief Burke sits on numerous boards,

including the D.C. Police Foundation and the Washington Regional Alcohol Program. He also serves as the Chairman of MPD's Use of Force Review Board. Chief Burke is an active coach for youth sports and is a member of numerous community and volunteer organizations within the District of Columbia, where he resides with his wife and four children. Assistant Chief Burke was confirmed by the District Council as the second MPD member of the Board on January 3, 2006, and sworn in on January 12, 2006. His first term expired on January 12, 2009, and he continues to serve until he is reappointed or a successor has been appointed.

Karl M. Fraser is an associate director who oversees clinical oncology research at a pharmaceutical company in Rockville, Maryland. Mr. Fraser received his undergraduate degree in biology from Howard University, a master's degree in biotechnology from Johns Hopkins University, and a certificate in Project Management from Georgetown University. He has been active in his community, including serving as an elected ANC Commissioner. Mr. Fraser was confirmed by the District Council on December 6, 2005, and sworn in on January 12, 2006. His first term expired on January 12, 2008, and he continues to serve until he is reappointed or a successor has been appointed.

Victor I. Prince is Director of CapStat, the performance accountability program in the Office of the City Administrator for the District of Columbia. Prior to his appointment to this position in 2008, he was a marketing executive in the internet and financial services industries. He received his undergraduate degree from American University and a master's degree in business administration from the Wharton School of the University of Pennsylvania. Mr. Prince was confirmed by the District Council on March 6, 2007, and was sworn in on March 20, 2007. His first term expired on January 12, 2009, and he continues to serve until he is reappointed or a successor has been appointed.

Margaret A. Moore, PhD is a leader in the field of corrections. She has more than 25 years of experience in the administration of both state and municipal prison and jail systems. She is the former Director of the District of Columbia Department of Corrections.

As Director of Corrections, Dr. Moore had executive oversight for a complex prison and jail system with more than 10,000 inmates, approximately 4,000 employees, and an annual operating budget of over \$225 million dollars. Prior to coming to the District of Columbia, she was Deputy Secretary of the Pennsylvania Department of Corrections where she provided executive direction for prison operations within the central region of the Commonwealth of Pennsylvania. She is known for her track record of promoting women and African Americans into correctional leadership positions, and continuously advocating for their advancement and representation at all levels of the corrections profession.

Dr. Moore is currently a full-time Visiting Professor at the University of the District of Columbia in the Department of Urban Affairs, Social Sciences and Social Work, Administration of Justice program. Ms. Moore received her undergraduate and graduate degrees from the University of Pittsburgh in Child Development and Social Work, respectively. She was confirmed by the District Council on June 5, 2007, and sworn in on June 27, 2007. Her first term expired on January 12, 2010, and she continues to serve until she is reappointed or a successor has been appointed.

C. Office of Police Complaints Staff

OPC has a talented and diverse staff of 21 that includes six employees, or 28.6%, with graduate or law degrees, and three attorneys. The diversity of the office has generally mirrored the District's population. Taking into account all employees hired since the agency opened in 2001, the racial and ethnic composition of the workforce has been as follows: 46.9% African-American, 34.3% Caucasian, 12.5% Latino, 1.6% Asian, and 4.7% biracial. In addition, since it opened in 2001, OPC has administered an internship program that has attracted many outstanding students from schools in the Washington area and beyond. As of May 2010, 60 college students and 29 law students have participated in the program.

The current members of OPC's staff are as follows:

Philip K. Eure became the agency's first executive director in July 2000 after working as a senior attorney in the Civil Rights Division at the United States Department of Justice, where he litigated on behalf of victims of employment discrimination. While at the Department, Mr. Eure was detailed in 1997-1998 to Port-au-Prince as an adviser to the Government of Haiti on a project aimed at reforming the criminal justice system. Currently, Mr. Eure also serves as president of the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization that seeks to reduce police misconduct throughout the nation by working with communities and individuals to establish or improve independent police review mechanisms. Mr. Eure has spoken at various forums in the District, around the country, and outside the United States on a wide range of police accountability issues. He received his undergraduate degree from Stanford University and his law degree from Harvard Law School.

Kesha Taylor, the chief investigator, was hired in July 2002 as OPC's assistant chief investigator and promoted to chief investigator in February 2007. Prior to joining the agency, Ms. Taylor worked with the Investigations Division of the Public Defender Service for the District of Columbia for seven years. While there, Ms. Taylor served most recently as a staff investigator and as the coordinator of the internship program. Ms. Taylor obtained her undergraduate degree in political science and English from the University of Vermont. She also received a master's degree in higher education from Cornell University.

Nicole Porter, the agency's special assistant, joined OPC in August 2006. Ms. Porter came to the office from the United States Department of Justice's Civil Rights Division, where she worked on police misconduct, disability, and housing discrimination issues. Prior to her tenure with the Justice Department, she served as an attorney with the American Civil Liberties Union of Maryland. Ms. Porter received her bachelor's degree from Tennessee State University and her law degree from the University of Tennessee.

As of the issuance of this report, OPC's other staff members are as follows:

Mona Andrews	Supervisory Investigator
Natasha Bryan	Supervisory Investigator
Anthony Lawrence	Senior Investigator
Rebecca Beyer	Investigator
Sharee Brooks	Investigator
John R. Brunza	Investigator
KateLyn Claffey	Investigator
Stephanie Clifford	Investigator

Kevin Harris	Investigator
Emanuel Ryan	Investigator
Andrew Schwartz	Investigator
Takima Davis	Paralegal Specialist
Devon Pina	Intake Clerk
Nykisha T. Cleveland	Public Affairs Specialist
Stephanie Banks	Administrative Officer
Sonja Wingfield	Staff Assistant
Nydia Figueroa-Smith	Receptionist

II. THE YEAR IN REVIEW

A. Introduction

In fiscal year 2009, OPC experienced a slight decline in the number of complaints received from fiscal year 2008 (from 600 to 550); however, the agency had experienced a 36.4% surge in the number of complaints received in 2008, a record-breaking year. Therefore, the decline reflects a return to a more normal complaint volume level.

In addition, OPC closed 74.9% of complaints received within six months. OPC also mediated 41 complaints, the most complaints ever. The parties reached an agreement in 33 of the 41 mediation sessions, or 80.5%, and these agreements accounted for 9.9% of the 333 complaints resolved by OPC through conviction, adjudication, dismissal, or successful mediation. Successful mediations and sustained complaints comprise 11.4% of the complaints resolved by the agency.

During the year, PCB issued five detailed reports and sets of recommendations for police reform, the most ever in a single year, to the Mayor, the Council, and the two law enforcement agencies. The policy recommendations address the following:

- improving MPD services for individuals with limited proficiency in English
- enhancing training for MPD officers on the proper enforcement of the District's public drinking law
- adopting measures aimed at improving enforcement by MPD and the District of Columbia Taxicab Commission (DCTC) regulations applicable to D.C. taxicab drivers
- improving police response to reports of hate crimes through better training and joint reporting efforts by OPC and MPD
- obtaining voluntary compliance by federal law enforcement agencies with the First Amendment Assemblies Act when assisting MPD officers with protests on District-controlled public space.

These developments and others are discussed in more detail below, along with statistics regarding complaints received and closed by OPC in fiscal year 2009.

B. Complaint Examination

In fiscal year 2009, OPC continued the operation of its complaint examination program. The agency's pool of 13 complaint examiners, all of whom are distinguished attorneys living in the District of Columbia, includes individuals with backgrounds in private practice, government, non-profit organizations and academia, as well as a variety of other experiences.

If a complaint examiner determines that an evidentiary hearing is necessary to resolve a complaint, OPC takes steps to ensure that complainants have counsel available to assist them at no cost during these hearings. In general, because officers are represented by attorneys or representatives provided to them by the police union, the Fraternal Order of Police (FOP), OPC has had an arrangement since 2003 with a Washington-based law firm, Howrey LLP, a transnational law firm, to provide free counsel to complainants whose cases have been set for a hearing before a complaint examiner.

1. Decisions

As the decisions issued by OPC suggest, the complaint examination process is an important forum where members of the public can raise concerns about possible abuse or misuse of police powers and seek protection of their rights when they may not have that opportunity to do so elsewhere. The features of the District's police accountability system offer complainants a relatively unique opportunity to have complaints investigated and resolved by an independent government agency with its own investigative staff and adjudicators. In general, other forums available – principally criminal and civil court – provide few opportunities to raise these issues or have barriers to entry that keep or inhibit people from pursuing them.

To illustrate the issues addressed by the complaint examination process this year, a complaint examiner sustained an allegation of harassment against an MPD officer for arresting an individual for disorderly conduct without a valid basis. Another complaint examiner sustained an inappropriate language and conduct allegation made by a District government employee against an MPD officer. These two decisions are discussed in more detail below.

Table 1: Complaint Examiner Decisions (FY09)

	Harassment	Excessive Force	Language or Conduct	Discriminatory Treatment	Retaliation	Discipline Determination
06-0364	Sustained	Unfounded	Sustained			Discipline not imposed due to statutory prohibition to commence an adverse action 90 days after notice of the violation.
08-0178	Exonerated		Sustained			MPD discipline determination to issue a PD 750 was reversed on appeal; no discipline imposed
06-0053	Sustained		Sustained			Pending
08-0043/44 Subject Officer #1	Exonerated	Unfounded	Sustained			Pending.
08-0043/44 Subject Officer #2	Exonerated	Unfounded	Sustained			
08-0043/44 Subject Officer #3	Sustained					

Each law enforcement agency must inform OPC of the discipline imposed for sustained allegations in each citizen complaint. Table 1, above, lists each of the resolved complaints in the order in which they were resolved, identifies the allegations in each complaint, and states the decision reached by the complaint examiner for each allegation.¹ The full text of each decision is available on OPC's website, www.policecomplaints.dc.gov, and through the online legal databases maintained by LexisNexis and Westlaw.

Table 1 now correlates the discipline determination by the law enforcement agency with each OPC complaint. In reporting discipline information, OPC attempts to obtain the final disposition of each matter, and to keep abreast of any developments that may affect the final disposition. Since the discipline process is reasonably complex and can go on for quite some time, there are subsequent reviews that occur even after the Department has taken its final action. However, OPC will continue to track discipline imposed by the two chiefs of police so that the agency is informed about how MPD and OPS handle the decisions referred by OPC.

For fiscal year 2009, Table 1 shows that MPD reported that the agency issued a PD Form 750 disciplinary action in a complaint examination decision that sustained an allegation of inappropriate language and conduct, and that this determination was overturned in MPD's disciplinary process. A PD Form 750 is "used as a record of derelict performance in matters that have not reached a serious level of concern or impact, but which need to be brought to the attention of the member so that conduct can be modified to avoid future problems."² The Form 750 describes the specific violation and identifies measures that must be taken to correct deficiencies. A Form 750 may be considered in a performance evaluation and in determining penalties for subsequent incidents of misconduct.³ Table 1 also shows that MPD reported that it

did not impose discipline in connection with another sustained complaint, 06-0364, due to MPD not imposing discipline within the statutorily prescribed timeframe. OPC will follow up with MPD regarding the circumstances of the Department's non-imposition of discipline. The discipline imposed for misconduct in the remaining OPC complaints is listed as "pending," because either the discipline was imposed in fiscal year 2010, MPD has not yet furnished any information, or the Department has provided incomplete or unclear responses. OPC will continue to track complete information regarding discipline outcomes.

Table 2 summarizes the decisions reached by complaint examiners for the past five fiscal years, identifying the frequency of the different outcomes. The table reflects the overall outcome for each complaint.

Table 2: Complaint Examiner Decisions (FY05 to FY09)

	FY05 Complaints		FY06 Complaints		FY07 Complaints		FY08 Complaints		FY09 Complaints	
Sustained	13	76.5%	13	68.4%	19	86.4%	9	81.8%	5	100.0%
Exonerated	1	5.9%	--	--	2	9.1%	1	9.1%	--	--
Insufficient Facts	1	5.9%	--	--	--	--	1	9.1%	--	--
Unfounded	--	--	2	10.5%	1	4.5%	--	--	--	--
Withdrawn	2	11.8%	4	21.1%	--	--	--	--	--	--
Total	17		19		22		11		5	

Looking at the resolutions reached by complaint examiners, all of the five complaints had at least one sustained allegation.⁴ Please note that the sustain rate of 100% does not reflect all complaints resolved by OPC. Rather, this percentage reflects the number of complaints forwarded to the complaint examiner that were also sustained. Thus, this rate does not include complaints that resulted in a criminal conviction, were successfully mediated, were dismissed because they lacked merit, or were dismissed because the complainant would not cooperate with OPC's process.

2. Final Review Panel

The statute governing OPC allows for one type of appeal of a complaint examiner decision that may be exercised by the Chief of Police. If the Chief determines that, to the extent a decision sustains any allegations, the decision "clearly misapprehends the record before the complaint examiner and is not supported by substantial, reliable, and probative evidence in that record,"⁵ the Chief may return the decision for review by a final review panel composed of three different complaint examiners. The final review panel then determines whether the original decision should be upheld using the same standard. There is one appeal in OPC case number 06-0053 that is pending a determination by the final review panel.

3. Complaint Examination Examples

To illustrate the types of complaints that were resolved by complaint examiners in fiscal year 2009, the following are examples of complaints and the resulting decisions:

a. Example #1

Two citizens alleged that while one of them, a relative, and his friend were standing outside a relative's house talking during a family birthday celebration, two MPD officers arrived at the location with their guns drawn and shouted, "Put your motherfucking hands in the air!" While the three individuals attempted to ask the officers why they were being detained, the officers responded by saying, "Shut the fuck up before we fuck ya'll up." One of the subject officers then allegedly pushed the complainant's relative against a family member's car and handcuffed him. When the second complainant, along with other family members, came outside to determine why the group of individuals were being detained, the two subject officers reportedly yelled, "Get the fuck back in the house!" and "Get your asses back in the house!"

Although the subject officers eventually released the three individuals, they never revealed the reason for the detention to the group. However, the complainants believed that an off-duty officer who lived across the street had initiated the stop because the officer recently had been threatened by two of the complainants' family members. According to the complainants, this third subject officer mistakenly believed that the family members who had threatened her were the individuals standing outside the relative's house.

The complainants alleged that the three subject officers harassed the individuals standing outside the house by detaining them or causing their detention without adequate justification. The complainants also alleged that the two subject officers who actively participated in the stop used unnecessary or excessive force by drawing their weapons and pushing the family member against a car. Finally, the complainants alleged that the two subject officers participating in the stop used language or engaged in conduct towards them, their friend, and their relatives that was insulting, demeaning, or humiliating by repeatedly using profanity in addressing them. Following the completion of its investigation, OPC referred the matter to a complaint examiner.

The complaint examiner issued a decision without holding an evidentiary hearing after determining that she had all of the evidence necessary to resolve the complaint. The complaint examiner sustained the harassment allegation against the subject officer who lived across the street, finding that the officer, who acknowledged that she used her police radio to call for on-duty officers to move the group along for being "disorderly," had no basis for contacting MPD and asserting that the family members and friend were engaging in unlawful activity. The complaint examiner recognized that two of the complainants' family members had been convicted of making criminal threats against the subject officer. However, because the subject officer had no interaction with the complainants' family members on the day of the incident, the complaint examiner determined that the subject officer did not have a legitimate basis to call the police.

The complaint examiner exonerated the remaining two subject officers of harassment, finding that the subject officers acted reasonably in relying on an MPD dispatch that was based on the off-duty officer's call. The complaint examiner further determined that the two subject officers' drawing of their guns did not constitute unnecessary or excessive force. Finally, the complaint examiner concluded that the unnecessary or excessive force allegations against one of the subject officers were unfounded, due to the lack of evidence supporting the complainant's allegation that the officer pushed the family member.

b. Example #2

A citizen alleged that the subject officer harassed her, used unnecessary or excessive force against her, and used language or engaged in conduct that was inappropriate toward her. Specifically, the complainant alleged that the subject officer became very angry with her when she came into the police station and requested a visitor's parking permit, which are issued free of cost. The subject officer refused to issue the permit, telling the complainant, who was temporarily residing in the District, that she was trying to avoid paying for a reciprocity permit, which is typically issued to non-District residents for a fee. The complainant left the police station but came back a short while later in an attempt to obtain the visitor's parking permit and speak with an official regarding the subject officer's behavior. When the subject officer saw the complainant in the station the second time, he allegedly yanked the complainant out of the chair she was sitting in and arrested her for disorderly conduct.

While in the police station's holding cell, the complainant, who has epilepsy, told the subject officer that she needed to go to the hospital to get her anti-seizure medication. The subject officer reportedly remarked, "I knew you were on something," and walked away without providing the complainant medical treatment. Following the completion of its investigation, OPC referred the matter to a complaint examiner. The complaint examiner issued a decision without holding an evidentiary hearing after determining that he had all of the evidence necessary to resolve the complaint.

The complaint examiner sustained the harassment allegations against the subject officer, finding that there was no credible evidence in the record to substantiate the claim that the complainant was acting disorderly prior to her arrest, and that the subject officer failed to provide the complainant with medical care as required by MPD general orders. In light of the officer's acknowledgment to OPC that he told the complainant, "I knew you were on something," the complaint examiner also sustained the inappropriate language and conduct allegations against the subject officer. The complaint examiner found that the subject officer's remark was insulting, demeaning, and humiliating and that the subject officer failed to exercise patience in his interactions with the complainant. Finally, the complaint examiner concluded that the complainant's excessive or unnecessary force allegation against the subject officer was unfounded since the complainant could not recall how she specifically received her injuries and her account that the subject officer used force was not corroborated by any other witness.

c. Example #3

The citizen, a criminal investigator with a District government agency, was on his way to the D.C. Superior Court to carry out duties related to his job responsibilities. Although the complainant was not an MPD sworn officer, he parked his vehicle in a space under a sign that said, "No Parking Except for Police Department Vehicles Only." When the complainant began to exit his vehicle, the subject officer approached him and allegedly hollered, "Are you police? Are you police?" The complainant showed the subject officer his agency-issued investigator badge. The complainant also pointed to the MPD official business placard and a red emergency beacon light, commonly known as a "bubble light," on his dashboard. The subject officer then stated that the complainant was not a police officer, and instructed the complainant to move his car or be arrested.

While the subject officer continued to yell that the complainant would be arrested if he did not move his car, the complainant took out his cell phone and called a relative to discuss the matter. The relative, an MPD officer, advised the complainant to allow the subject officer to arrest him because it would be a false arrest. Instead, the complainant ultimately decided to move his car to a different parking space because the subject officer's behavior was causing a crowd to gather at the scene and the complainant needed to complete his assigned duty at the D.C. Superior Court.

The complainant alleged that the subject officer harassed him and used language or engaged in conduct that was insulting, demeaning, or humiliating when he ordered the complainant to move his car and threatened to arrest him. Following the completion of its investigation, OPC referred the matter to a complaint examiner. The complainant examiner conducted an evidentiary hearing, and found that the subject officer did not engage in harassment because it was not clear whether the complainant could park in the MPD parking space. However, the complaint examiner sustained the language and conduct allegation, finding that the subject officer did not display courteous or respectful behavior during the incident.

C. Criminal Convictions and Discipline

1. Criminal Convictions

The statute governing OPC requires that the agency refer complaints alleging criminal conduct by police officers to the United States Attorney for the District of Columbia for possible criminal prosecution of the officers. OPC makes these referrals on a regular basis after conducting preliminary investigative work, such as interviewing complainants and non-police witnesses, obtaining medical records, police reports, and other documents, and gathering other information requested by the federal prosecutors who review these matters. The agency refers approximately 15 percent of its complaints each year to the United States Attorney's Office. During fiscal year 2009, OPC did not close any complaints that resulted from criminal convictions.

2. Complaint Examiner Decisions

For purposes of imposing discipline, OPC forwards to the chiefs of police of MPD and OPS all OPC decisions that sustain at least one allegation of misconduct. As illustrated in Table 1, OPC issued four complaint examiner decisions involving five citizen complaints in fiscal year 2009. All four decisions sustained at least one misconduct allegation. OPC sent two decisions, 06-0364 and 08-0178, to MPD in fiscal year 2009 in order for the Department to impose discipline on the subject officers. OPC sent the third decision, 06-0053, to OPS, which disagreed with the decision and, as provided under the statute, requested that a review panel of three different complaint examiners be convened. In fiscal year 2010, the final review panel issued a decision upholding the complaint examiner's original decision, and so OPC again sent the case to OPS for the imposition of discipline, which is currently pending. The remaining complaint examination decision, 08-0043/44, although issued towards the end of fiscal year 2009, was sent to MPD in fiscal year 2010 for the purposes of imposing discipline. Disciplinary information regarding 06-0053 and 08-0043/44 will be produced in next year's annual report since no discipline was imposed in these two cases as of the end of fiscal year 2009. A summary of the disciplinary actions taken from fiscal year 2003 through fiscal year 2009 is included in Table 3.

Table 3: Discipline for Sustained Complaints (FY03-FY09)

Discipline or Action Taken⁶	Total
Terminated	1
Resigned⁷	3
Demoted	1
20-Day Suspension⁸	6
15-Day Suspension	6
11-Day Suspension	1
10-Day Suspension	12
5-Day Suspension	6
3-Day Suspension	8
2-Day Suspension	1
Official Reprimand	14
Letter of Prejudice	2
Derelection Report	2
Formal Counseling	14
Total	77

In addition to the subject officers included in the table above, three additional subject officers had allegations sustained against them. They were not included in the table because one had retired and another had resigned from MPD before the disciplinary process was initiated, and MPD had already pursued discipline against a third for the same incident based on an investigation conducted by the department.

3. *Failure to Cooperate by MPD Officers*

By statute, MPD and OPS employees must cooperate fully during investigations and adjudications of OPC complaints.⁹ When OPC refers complaints to mediation, officers also must participate in good faith in the mediation process.¹⁰ Each time an officer fails to cooperate in the investigation or mediation process, OPC issues a discipline notification, which in accordance with the statutory mandate, should result in the imposition of discipline by the relevant law enforcement agency. The chart below compares data provided by MPD for fiscal years 2008 and 2009.

	FY 2008	FY 2009
Officer Exonerated (no reason provided)	17	15
Officer Exonerated, other individual disciplined	1	5
Officer Exonerated, lack of notification	-	11
Unfounded	-	4
Sustained, letter of prejudice	4	1
Sustained, Form 750	16	14
Sustained, "Official Reprimand"	3	1
Notice of Deficiency, Form 62E	2	2
No action, Officer no longer employed	2	-
Not reported or information incomplete	7	5
Withdrawn by OPC	-	1
Total OPC Notifications Issued	53	59

The data show that OPC issued six more discipline notifications in fiscal year 2009 than in the previous year. Of greater concern is the total number of exonerations for which MPD provided little or no explanation (15 of 59), reflecting 25.4% of all notifications issued by OPC. Thus, although there was a slight decrease from fiscal year 2008 in the percentage of notifications for which no rationale was provided for an officer's exoneration, 25.4% as compared to 32%, the current percentage remains unacceptably high.

Due to the already high percentage of exonerations, OPC has engaged in discussions with MPD concerning this matter as well as other issues. Recently, OPC has worked with MPD to improve the scheduling and notification procedures for both agencies in order to ensure that timely notice is provided to all officers and, therefore, reduce the number of failures to appear at OPC scheduled interviews, mediations, and complaint examination proceedings. Unfortunately, MPD has not agreed to OPC's request to be afforded the opportunity, prior to a final MPD determination to exonerate an officer for lack of cooperation, to rebut or otherwise respond to information upon which the determination to exonerate is made.

The persistently large number of disciplinary exonerations raises questions as to whether MPD officials are aware that the failure to cooperate with OPC processes is a violation, in and of itself, of District law requiring the imposition of discipline.¹¹ Absent clear evidence that the violation did not occur, some form of discipline must be imposed when an MPD officer has failed to cooperate with OPC. By failing to consistently impose discipline that is mandated by statute, MPD risks giving the impression that a member's failure to cooperate with OPC will not be viewed as a serious matter. This could have a detrimental effect on the District's police accountability system. Further, by generally not making the explanations for these exonerations available to OPC, confidence in MPD's disciplinary process is undermined.

Apart from the high number of exonerations, OPC remains concerned about the lack of specificity in MPD's reports to OPC regarding both the discipline notifications and the discipline determinations in sustained complaint examination decisions. Despite repeated requests by OPC, the MPD reports still contain vague or incomplete information concerning penalty determinations that should stem from OPC's discipline notifications. For example, some entries indicate that a failure to cooperate notification was "sustained," but do not indicate whether discipline was imposed or, if so, the type of discipline imposed. It appears, however, that MPD has made some effort to act on OPC's concerns by identifying those cases in which an officer was exonerated but a supervisor or other official was disciplined instead for having a role in the officer's failure to cooperate with OPC's processes. These entries suggest that the higher-ranking officer failed to notify a subject or witness officer of a scheduled OPC interview, mediation, or complaint examination. There is one entry that indicates that an officer is grieving an MPD discipline determination, but the report does not identify the Department's discipline determination.

OPC has a standing request that MPD provide the written discipline decision for each sustained OPC complaint as well as inform OPC when a subject officer appeals or grieves a discipline determination. OPC has also requested to be informed of the discipline actually imposed. OPC plans to work with MPD to ensure that all of this information is reported to our agency on a regular basis.

D. Mediation

1. Operation of the Program

In fiscal year 2009, OPC, through its mediation service, the Community Dispute Resolution Center (CDRC), mediated 41 complaints, bringing the grand total to 249 complaints mediated since the inception of the agency's mediation program in 2001. During fiscal year 2009, the parties reached an agreement in 33 of the 41 mediation sessions, or 80.5%, and these agreements accounted for 9.9% of the 333 complaints resolved by OPC through conviction, adjudication, dismissal, or successful mediation. Experts in the field have used these three measures – “the total number of complaints referred for mediation, the percentage of those cases that were successfully mediated, and the percentage of all complaints that were successfully mediated”¹² – to survey and compare the operation of mediation programs used by different police oversight agencies.¹³ With 9.9% of its complaints resolved through mediation in fiscal year 2009, OPC's performance continues to place it at or near the top when compared to other mediation programs in the United States.

Since the program began in 2001, 249 cases have been referred to mediation and, of those, 189 mediation sessions, or 75.9%, have been successful and resulted in an agreement between the parties that resolved the complaint. The remaining 60 mediation sessions, or 24.1%, did not result in an agreement and the underlying complaints were referred back to the executive director for appropriate action. To date, mediators have helped resolve complaints that allege harassment, the use of language or conduct that is insulting, demeaning, or humiliating, discrimination, the use of unnecessary or excessive force not resulting in injury, failure to provide identification, retaliation, or a combination of the six. OPC is pleased that it has achieved and maintained an increased number of complaints referred to mediation, a significant percentage of successful mediations, and a noteworthy percentage of all cases resolved through mediation agreements.

In addition to the statistical success rate, a survey of individuals who participated in mediation during fiscal year 2009 indicated that 98.5% of complainants and subject officers who responded found the mediator to be helpful or very helpful, 88.1% found the mediation session to be satisfactory or very satisfactory, and 97.0% found the resulting agreement to be fair or very fair. With the aim of the program being to enhance community-police relations, it is important that such a high proportion of participants come away with a positive view of the mediator and the process, as well as the agreement that both sides worked toward reaching. For fiscal year 2008, 52.2% of the respondents left their mediation session with more positive feelings about the other party, while only 1.5% had more negative feelings, and 46.3% indicated no change in their feelings. Finally, OPC is proactively taking steps to protect the integrity of the mediation process by dismissing complaints and pursuing discipline of officers when one of the parties fails to appear for mediation or refuses to participate in the mediation process in good faith.

2. Mediation Examples

The following examples illustrate the types of complaints that OPC referred to mediation in fiscal year 2009:

a. Example #1

An employee of a District government vehicle maintenance facility filed a complaint against an MPD officer concerning the officer's language and behavior at the facility. According to the complainant, the officer became angry when, after arriving at the facility, he learned that the car wash was closed. The conversation between the officer and the complainant escalated to an argument. The exchange culminated in the officer demanding the names of the complainant and her supervisor. In turn, the complainant asked for the officer's name and badge number.

At the onset of mediation, the complainant stated that she wanted an apology and she also expected the officer to apologize to her supervisor and co-workers. The officer was angry at having to participate in mediation and stated that he did not believe mediation would be useful. He also stated that he would not apologize for his conduct.

However, the mediators were able to facilitate a conversation between the parties, which led to a better understanding by the participants of the events leading to the argument. They learned that there were misunderstandings about the facility's hours of operation and the use of the facility by MPD officers. Both agreed that each individual had contributed to the escalation of the discourse and that this would not have occurred had each possessed better information. They both stated that, in the future, each would make an effort to be respectful to one another.

b. Example #2

The complainant was returning home one evening and saw that MPD officers were questioning several men in front of his apartment building. As he approached, he was surprised when an officer pulled him over and instructed him to line up with the other men for questioning. The complainant explained to the officer that he lived in the building. He expected to be released after the officer ran a computer check, but the complainant was made to wait an additional 45 minutes. During that time, he repeatedly asked to be released, but he was not allowed to leave. The complainant believed that the officer spoke to him in a demeaning and humiliating manner.

At mediation, the officer explained that they were responding to reports of drug sales at the location where the complainant had been stopped. He said it is a high-crime area and that they had received numerous calls and complaints from neighbors. He explained further that in managing the situation, MPD's procedure is to release people stopped for questioning only after all are cleared, not after each individual is cleared. He apologized to the complainant for making him feel harassed and disrespected.

The complainant agreed that it is a dangerous neighborhood and that he himself occasionally had called the police to report suspicious behavior. He expressed appreciation for those officers who work hard to keep the area safe and for their success in reducing crime. The complainant accepted the officer's apology. The parties then shook hands and agreed to put the incident behind them.

E. Investigations

OPC's investigative unit continued its critical work collecting the facts about and analyzing the allegations contained in the police misconduct complaints received by the agency. By statute, OPC has the independence and authority needed to conduct its investigations. For

example, while OPC is a District government agency, it is independent of MPD and OPS and is not under the direct control of the Mayor, to whom the Chief of Police reports. The agency also has its own non-police staff to investigate complaints, and the law vests OPC with subpoena power to gather necessary evidence and requires that the relevant police department cooperate with its investigations. A considerable amount of work goes into investigating each complaint, even when a complaint is ultimately dismissed, and OPC's investigators are responsible for getting this work done.

OPC conducts extensive and thorough investigations of all allegations made by complainants. OPC tracks allegations under six broad categories of misconduct: (1) harassment; (2) use of unnecessary or excessive force; (3) use of language or conduct that is insulting, demeaning, or humiliating; (4) discriminatory treatment; (5) retaliation against a person for filing a complaint with OPC; and (6) failure of an officer to wear or display required identification or to provide a name and badge number when requested to do so by a member of the public.

These general categories are useful in providing a broad picture of the types of issues that arise between citizens and police officers. However, such interactions are factually varied, and the allegations, which range from the very serious to the relatively minor, can have many parts to them. In order to capture more detail about the nature and severity of the general allegations made by complainants, OPC also tracks 65 subcategories of allegations. For example, under the general category of unnecessary or excessive force, there are 21 subcategories that cover the myriad of ways that officers use force, including striking an individual with the hand, forcefully pushing an individual to the ground, and directing a police dog to attack an individual. Thus, this enhanced classification system, implemented in 2008, allows OPC to do a better job in tracking, analyzing, and reporting trends that occur in complaints. The additional detail also helps OPC in conducting its investigations by focusing on and specifically identifying all relevant aspects of an allegation made by a citizen.

During fiscal year 2009, OPC received 550 complaints. OPC investigators conducted over 800 interviews, which included more than 484 police officer and 381 citizen interviews. Most notably, of the 333 complaints that were investigated and for which reports were written during fiscal year 2009, 249, or 74.8%, were closed within six months.

OPC investigations can be extremely complex due to the number of witnesses who must be interviewed, as well as the amount of data and other evidence that must be gathered and analyzed.

The following is an example of the investigative work involved in a complaint that led to a dismissal:

1. Dismissal Example

The citizen, a 36-year-old African American man, filed a complaint alleging that four subject officers used unnecessary or excessive force against him, harassed him, and discriminated against him based on his race. The complainant further alleged that two of the subject officers used language or engaged in conduct toward him that was insulting, demeaning, or humiliating,

According to the male complainant, at approximately 12:30 a.m. on the morning of the incident, he was at his friend's apartment drinking alcohol with his fiancé and others. The complainant and another guest began "horse playing," and a lamp was broken. Believing that a fight was in progress, the complainant's friend called 911. According to the complainant, when the two subject officers arrived, the friend explained to the officers that he mistakenly thought that his guests were fighting. The subject officers informed the complainant's friend that they still needed to enter the apartment to make sure that everything was fine. The complainant attempted to interject, but a subject officer allegedly told the complainant to "shut up." The subject officer reportedly added that if the complainant did not shut up, he would be arrested for unlawful entry and interfering with a police investigation. Once inside the apartment, the subject officers asked the complainant to leave the apartment. After speaking with the officers at length about the reason for their request, the complainant left and returned to his own apartment, which was in the same building.

The complainant waited for the officers to leave and then went back to his friend's apartment. Shortly thereafter, there was a knock at the door. The complainant's friend answered the door and the two subject officers, along with several other officers, stood at the door. One of the officers said to the complainant, "Didn't I tell you to leave?" The complainant told the officers that he was never told he could not return. The complainant added that he was not breaking any laws by being in the tenant's apartment. The officer then told the complainant that he was being arrested for unlawful entry.

According to the complainant, the subject officers then rushed toward him, lifted the complainant off the couch, and threw him onto the floor. After being handcuffed and shackled, the complainant was allegedly shoved back onto the couch. The force of the shove reportedly made the complainant hit the back of his head on the wall behind the couch. The complainant was then carried to the transport wagon, where the complainant said he was shoved inside and repeatedly hit in the chest by an officer. The complainant was ultimately charged with four counts of assaulting a police officer, in addition to the unlawful entry charge.

The complainant alleged that the incident was racially motivated. He believed that the officers expected to find illegal activity inside his friend's apartment because his friend and all of his guests were African American. When the officers did not find any illegal activity, they became upset and arrested the complainant.

During its investigation, OPC interviewed the complainant, his friend, and the complainant's fiancée. OPC also reviewed a very detailed record that included the arrest, incident, and use of force reports completed by the police, witness statements given to MPD by the subject officers, other police officers, complainant, and his fiancée, communication records from MPD, and the complainant's medical treatment records.

After reviewing the considerable evidence gathered during this investigation, OPC concluded that the complainant's allegations lacked merit and should be dismissed. Although the complainant maintained in his OPC interview that his friend did not want him to leave the apartment, the complainant's friend stated that he told the subject officers twice that he wanted all of his guests to leave. OPC also did not credit the complainant's assertion that he did not know that he could not return to his friend's apartment, given that a reasonable person would not have interpreted the subject officers' request to mean that he or she could return as soon as the officers left.

OPC also did not credit the complainant's allegation that an officer told him to "shut up," due to several factors: (1) the complainant's and his fiancée's conflicting accounts of what was said; (2) the complainant's admission that he had been drinking prior to his encounter with the officers; and (3) the complainant's inability to identify which officer allegedly made the remark. Although the complainant alleged that the officers used unnecessary or excessive force against him, after interviewing the complainant, his fiancée, and his friend, as well as reviewing officer statements and use-of-force reports, OPC found that the complainant not only banged his own head against the wall, but physically resisted being handcuffed and struggled with the officers, thereby warranting the officers' use of a small degree of force in order to handcuff the complainant. Furthermore, according to the subject officers, the complainant kicked all of the officers escorting him to the transport wagon. OPC found the officers to be credible.

Finally, although the complainant alleged that the officers arrested him because of his race, after reviewing the evidence, OPC could find no evidence to support the complainant's allegation that the incident was racially motivated. Therefore, OPC determined that the officers did not engage in any misconduct during their interactions with the complainant.

F. Statistics

In an effort to describe the work performed by OPC, the nature and location of the complaints that the office received, and the characteristics of the complainants and subject officers, OPC has collected the statistics included in this section. In addition, as a result of the implementation of the 2008 PCB policy recommendation to provide more detail about complaint allegations investigated by OPC, this section includes tables depicting data collected on the subcategories of complaint allegations that correspond to the six broad categories of complaint allegations.

As in prior reports, this year's report has less text in and around the charts and tables to streamline and simplify the presentation of the statistics. Nevertheless, some of the information contained below regarding fiscal year 2009 that warrants highlighting includes the following:

- The agency mediated 41 complaints, the most ever, and of these, participants successfully reached a resolution in 33 complaints, or 80.5% of the total complaints mediated.
- Although the number of individuals who contacted OPC declined by 17.4% from the prior year (1,316 to 1,087), the number of complaints received did not similarly decline, at 8.3% (600 to 550). Despite the slight decrease in the number of complaints received during this fiscal year, each investigator maintained an active caseload of approximately 20 complaints at any given time, partially due to the 36.4% surge in the number of complaints received in fiscal year 2008.
- The agency received 71 complaints in August 2009, the largest number of complaints ever received in a single month.
- The number of open complaints at the end of fiscal year 2009 reflects a 13.8% increase from the prior year (239 to 272). This percentage increase is not as dramatic

as the 26.5% increase experienced by the agency at the end of fiscal year 2008, due to the inordinately large surge in the number of complaints received,

- and indicates progress in reducing the number of open complaints.
- The agency's tracking system accumulates data for both the six general categories of misconduct allegations as well as the 65 subcategories of allegations. In fiscal year 2009, there was a 19.4% increase in the number of force allegations from the prior year (294 to 351) and a 17.8% decrease in the number of inappropriate language and conduct allegations (539 to 443).
- As in the prior fiscal year, allegations of harassment are proportionally much higher than the other five general categories, comprising 45.6% of the total number of allegations for all six general categories (650 of 1,423). There were only two allegations of retaliation in fiscal year 2009.
- The expanded subcategories provide more detailed information regarding misconduct allegations. For example, there are 21 excessive force allegation subcategories. As in the prior year, two subcategories comprised a substantial percentage, 42.2%, of the total 351 allegations: push or pull with impact (93) and push or pull without impact (55).
- The age and years of service data continue to show that younger and less experienced officers make up a larger proportion of subject officers than their representation in the entire police force, and older and more experienced officers make up a smaller proportion. While this is a noticeable pattern in the data, it could be attributable to a variety of factors that correlate with age and years of experience, including rank, training, assignment, tour of duty, amount of contact and experience working with citizens, and other reasons, and these factors are more likely to affect the likelihood of being a subject officer in a complaint.

In this section, it should be noted that data regarding complainant and subject officer characteristics generally reflect the information for each complaint, not eliminating duplicates of complainants who filed multiple complaints or officers who were the subject of multiple complaints. In some tables, OPC was able to include information regarding the number of "unique complainants," meaning that OPC eliminated duplicate complainants. In some tables, OPC was able to include information regarding the number of "unique officers," meaning that OPC eliminated duplicate officers.

For reference purposes, a map indicating the location of the seven police districts used by MPD is included in Appendix B and a map indicating the location of the District of Columbia's eight wards is included in Appendix C. To help give a better sense of where complaint incidents occurred around the city, both maps also indicate these locations.

1. *Contacts and Complaints Received*

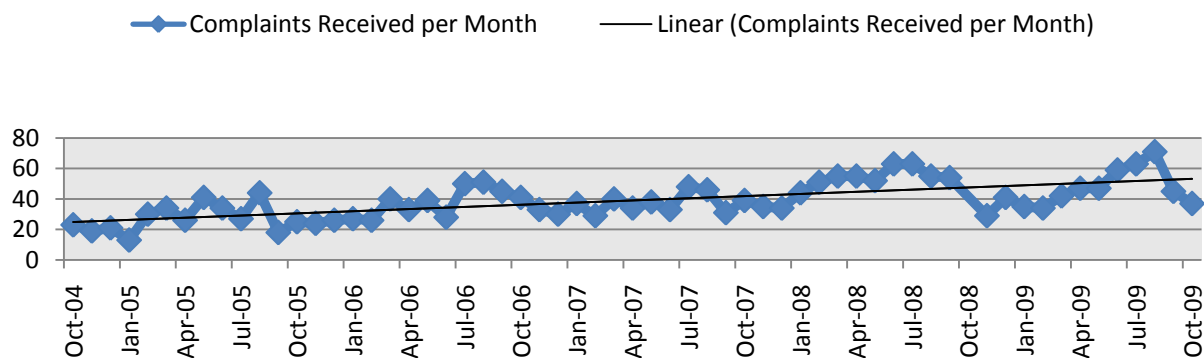
Table 4: Contacts and Complaints Received

	FY05	FY06	FY07	FY08	FY09
Total Contacts	674	889	1,050	1,316	1,087
Closed – Outside Agency Jurisdiction, Etc.	184	232	352	366	251
Closed – No Complaint Submitted	164	243	258	350	286
Total Complaints Received	326	414	440	600	550

Table 5: Complaints Received per Month

	FY05	FY06	FY07	FY08	FY09
October	23	25	41	39	37
November	19	24	33	35	29
December	21	26	30	34	41
January	13	27	37	44	35
February	30	26	29	51	34
March	34	40	40	55	42
April	26	33	34	55	47
May	41	39	38	52	47
June	34	28	33	63	59
July	27	50	48	63	63
August	44	51	46	55	71
September	18	45	31	54	45

Chart 5: Complaints Received per Month



2. *Disposition of Complaints*

Table 6: Disposition of Complaints

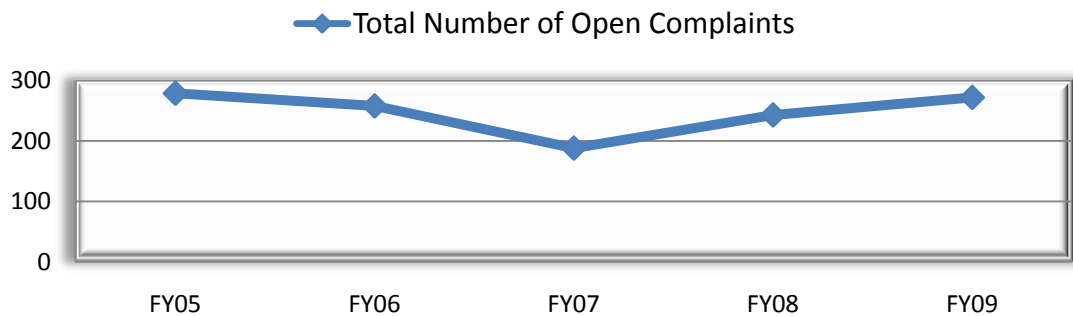
	FY05	FY06	FY07	FY08	FY09
Criminal Convictions	--	--	2	--	--
Adjudicated	17	19	22	11	5
Dismissed	211	232	326	327	295
Successfully Mediated Complaints	13	21	26	29	33
Withdrawn by Complainant	25	24	24	34	29
Referred to MPD	65	93	74	135	100
Referred to Other Police Agencies	3	3	6	8	6
Administrative Closures	34	43	30	35	32
Closed Formal Complaints	368	435	510	579 ¹⁴	500
Total Formal Complaints	326	414	440	600	550

3. *Status of Pending Complaints at the End of Each Fiscal Year*

Table 7: Status of Pending Complaints at the End of Each Fiscal Year

	FY05	FY06	FY07	FY08	FY09
Assigned to Complaint Examiner	5	4	6	2	5
Referred for Mediation	18	12	8	14	10
Referred to U.S. Attorney's Office	25	30	23	33	44
Referred to PCB Member	14	12	12	7	5
Awaiting Subject Officer Objections	2	2	1	1	2
Under Investigation by OPC	157	163	122	153	151
Under Investigation / Report Drafted	58	35	16	29	55
Total Number of Open Complaints	279	258	188	239¹⁵	272

Chart 7: Number of Open Complaints at the End of Each Fiscal Year

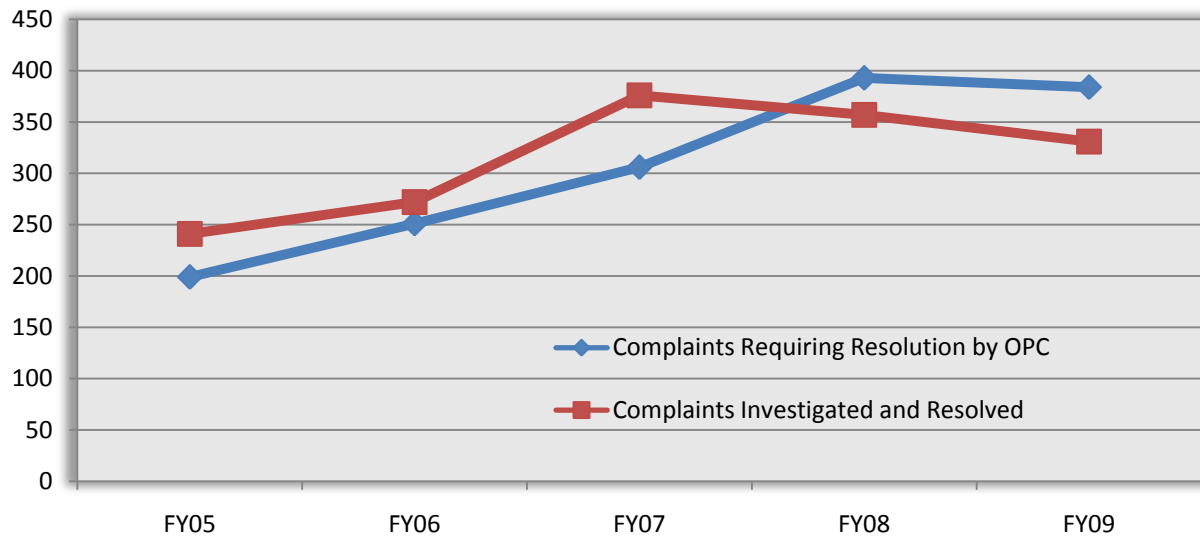


4. *OPC Workload*

Table 8: OPC Workload

	FY05	FY06	FY07	FY08	FY09
Total Complaints	326	414	440	600	550
Referred to MPD or Other Agency for Investigation	68	96	80	143	106
Complaints in OPC's Jurisdiction	258	318	360	457	444
Withdrawn or Administratively Closed	59	67	54	64	61
Complaints Requiring Resolution by OPC	199	251	306	393	383
Complaints Investigated and Resolved (Conviction, Adjudication, Dismissal, and Successful Mediation)	241	272	376	357	333
Increase / Decrease in Number of Open Complaints	-42	-21	-70	36¹⁶	50

Chart 8: OPC Workload



5. *Allegations in Complaints and Time of Incidents*

Table 9: General Categories of Allegations in Complaints

General Allegation Category	FY08	FY09
Force	129	245
Language and Conduct	322	372
Harassment	381	650
Discrimination	81	105
Failure to Provide Identification	41	49
Retaliation	6	2
Total	960	1,423

Chart 9: Allegations in Complaints

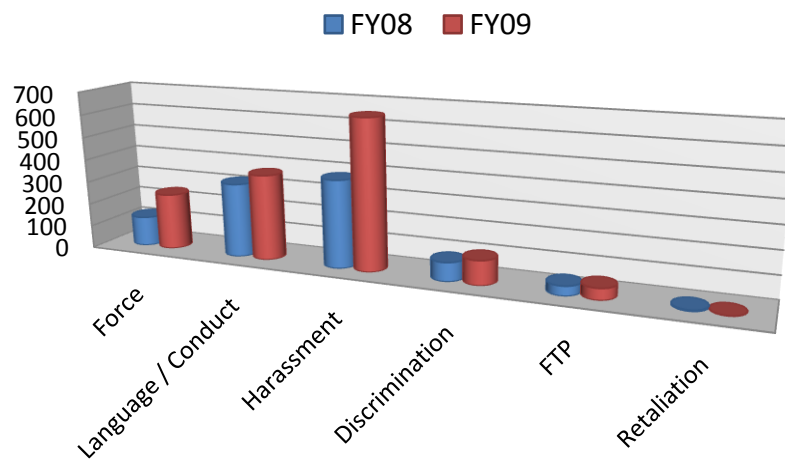


Chart 9a: Specific Allegations of Force

Force Subcategories	FY08		FY09	
ASP: all types (displayed, poked, struck, etc.)	7	2.4%	7	2.0%
Canine	1	0.3%	0	0.0%
Chokehold	8	2.7%	9	2.6%
Foot on back	1	0.3%	0	0.0%
Forceful frisk	1	0.3%	0	0.0%
Forcible handcuffing	10	3.4%	32	9.1%
Gun: drawn, but not pointed at person	6	2.0%	2	0.6%
Gun: Fired	0	0.0%	1	0.3%
Gun: pointed at person	47	16.0%	24	6.8%
Handcuffs too tight	22	7.5%	39	11.1%
OC spray	4	1.4%	1	0.3%
Push or pull with impact (slam to ground, into car, etc.)	76	25.9%	93	26.5%
Push or pull without impact (hand controls, drag, shove, throw, etc. without hitting anything)	56	19.0%	55	15.7%
Kick	4	1.4%	11	3.1%
Strike: with officer's body (hand, arm, foot, leg, head; except punch or kick)	9	3.1%	16	4.6%
Strike: punch	28	9.5%	41	11.7%
Strike: with object	2	0.7%	4	1.1%
Strike: while handcuffed	6	2.0%	4	1.1%
Vehicle	1	0.3%	2	0.6%
Unnecessary or Excessive Force	1	0.3%	1	0.3%
Other	4	1.4%	9	2.6%
Total Force Allegations	294		351	

Chart 9b: Specific Allegations of Harassment

Harassment Subcategories	FY08		FY09	
Bad ticket	85	9.9%	100	11.5%
Contact	19	2.2%	37	4.3%
Entry (no search)	14	1.6%	35	4.0%
Frisk	27	3.1%	1	0.1%
Gun: touch holstered weapon	7	0.8%	4	0.5%
Intimidation	83	9.6%	23	2.7%
Mishandling property	15	1.7%	47	5.4%
Move along order	21	2.4%	19	2.2%
Prolonged detention	25	2.9%	18	2.1%
Property damage	25	2.9%	12	1.4%
Refusing medical treatment	3	0.3%	16	1.8%
Search: belongings	10	1.2%	6	0.7%
Search: car	37	4.3%	44	5.1%
Search: home	48	5.6%	36	4.2%
Search: person	30	3.5%	18	2.1%
Search: Strip (invasive)	3	0.3%	5	0.6%
Stop: bicycle	2	0.2%	0	0.0%
Stop: pedestrian	54	6.3%	56	6.5%
Stop: vehicle/traffic	68	7.9%	89	10.3%
Threat	87	10.1%	87	10.0%
Unlawful arrest	138	16.0%	158	18.2%
Other	55	6.4%	53	6.1%
Other: abuse of power	1	0.1%	1	0.1%
Other: children (CPS notified)	1	0.1%	0	0.0%
Other: coercion	1	0.1%	0	0.0%
Other: deny bathroom access	2	0.2%	0	0.0%
Other: false accusation	1	0.1%	0	0.0%
Other: follow	0	0.0%	1	0.1%
Other: landlord-tenant	1	0.1%	0	0.0%
Other: not providing explanation	1	0.1%	0	0.0%
Other: sobriety test	0	0.0%	1	0.1%
Other: took money (after arrest)	1	0.1%	0	0.0%
Other: traffic order	1	0.1%	0	0.0%
Total Harassment Allegations	861		867	

Chart 9c: Specific Allegations of Discrimination

Discrimination Subcategories	FY08		FY09	
Age	6	4.8%	10	7.9%
Color	1	0.8%	3	2.4%
Disability	2	1.6%	1	0.8%
National Origin	4	3.2%	12	9.5%
Personal Appearance	5	4.0%	11	8.7%
Physical Handicap	0	0.0%	3	2.4%
Place of Residence or Business	11	8.9%	4	3.2%
Race	70	56.5%	54	42.9%
Religion	3	2.4%	6	4.8%
Sex	7	5.6%	8	6.3%
Sexual Orientation	7	5/6%	5	4.0%
Source of Income	8	6.5%	9	7.1%
Total Discrimination Allegations	124		126	

Chart 9d: Specific Allegations of Failure to Identify

Failure to Identify Subcategories	FY08		FY09	
Display name and badge	9	15.0%	17	26.2%
Provide name and badge	48	80.0%	48	73.8%
Other	3	5.0%	0	0.0%
Total Allegations	60		65	

Chart 9e: Specific Allegations of Language and Conduct

Language and Conduct Subcategories	FY08		FY09	
Demeanor or tone	263	48.8%	198	44.7%
Gesture or action	64	11.9%	38	8.6%
Profanity	93	17.3%	96	21.7%
Racial/Ethnic slur	21	3.9%	15	3.4%
Other language	89	16.5%	70	15.8%
Other	9	1.7%	26	5.9%
Total Language / Conduct Allegations	539		443	

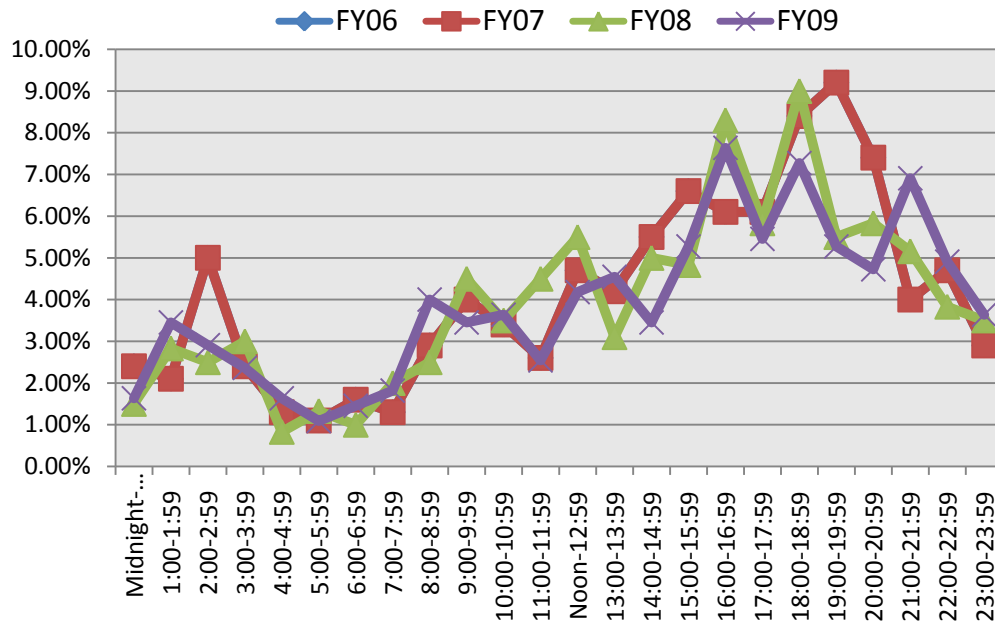
Chart 9f: Specific Allegations of Retaliation

Retaliation	FY08	FY09
Retaliation	7	2

Table 10: Time of Incidents Leading to Complaints

	FY06		FY07		FY08		FY09	
Midnight-00:59	9	2.4%	13	3.1%	9	1.5%	9	1.6%
1:00-1:59	8	2.1%	13	3.1%	17	2.8%	19	3.4%
2:00-2:59	19	5.0%	10	2.4%	15	2.5%	16	2.9%
3:00-3:59	9	2.4%	8	1.9%	18	3.0%	13	2.3%
4:00-4:59	5	1.3%	6	1.4%	5	0.8%	9	1.6%
5:00-5:59	4	1.1%	5	1.2%	8	1.3%	6	1.1%
6:00-6:59	6	1.6%	9	2.2%	6	1.0%	8	1.4%
7:00-7:59	5	1.3%	8	1.9%	12	2.0%	10	1.8%
8:00-8:59	11	2.9%	10	2.4%	15	2.5%	22	4.0%
9:00-9:59	15	4.0%	17	4.1%	27	4.5%	19	3.4%
10:00-10:59	13	3.4%	13	3.1%	21	3.5%	20	3.6%
11:00-11:59	10	2.6%	16	3.8%	27	4.5%	14	2.5%
Noon-12:59	18	4.7%	16	3.8%	33	5.5%	23	4.2%
13:00-13:59	16	4.2%	20	4.8%	19	3.1%	25	4.5%
14:00-14:59	21	5.5%	21	5.0%	30	5.0%	19	3.4%
15:00-15:59	25	6.6%	23	5.5%	29	4.8%	29	5.3%
16:00-16:59	23	6.1%	25	6.0%	50	8.3%	42	7.6%
17:00-17:59	23	6.1%	27	6.5%	35	5.8%	30	5.4%
18:00-18:59	32	8.4%	32	7.7%	54	9.0%	40	7.3%
19:00-19:59	35	9.2%	25	6.0%	33	5.5%	29	5.3%
20:00-20:59	28	7.4%	34	8.1%	35	5.8%	26	4.7%
21:00-21:59	15	4.0%	24	5.7%	31	5.1%	38	6.9%
22:00-22:59	18	4.7%	22	5.3%	23	3.8%	27	4.9%
23:00-23:59	11	2.9%	21	5.0%	21	3.5%	20	3.6%
Unknown	35	8.4%	22	5.0%	27	4.5%	37	6.7%
Total	414		440		600		550	

Chart 10: Time of Incidents Leading to Complaints (as a Percentage)



6. *Complainant Characteristics*¹⁷

Table 11: Complainant Race or National Origin

	FY05		FY06		FY07		FY08		FY09		District Population
African-American	241	73.9%	287	69.3%	327	74.3%	443	73.8%	392	71.3%	54.4%
White	43	13.2%	73	17.6%	62	14.7%	75	12.5%	49	8.9%	36.1%
Latino	9	2.8%	17	4.1%	12	2.7%	19	3.2%	24	4.4%	8.5%
Asian	2	0.6%	6	1.4%	3	0.7%	7	1.2%	9	1.6%	3.2%
Middle Eastern	3	0.9%	2	0.5%	4	0.9%	4	0.7%	9	1.6%	0.0%
Native American	1	0.3%	1	0.2%	7	1.6%	1	0.2%	0	0.0%	0.3%
Multiracial / Other	10	3.1%	7	1.7%	8	1.8%	2	0.3%	6	1.1%	1.7%
Unreported	17	5.2%	21	5.1%	17	3.9%	49	8.2%	60	10.9%	
Total	326		414		440		600		550		

Chart 11: Complainant Race or National Origin (as a Percentage)

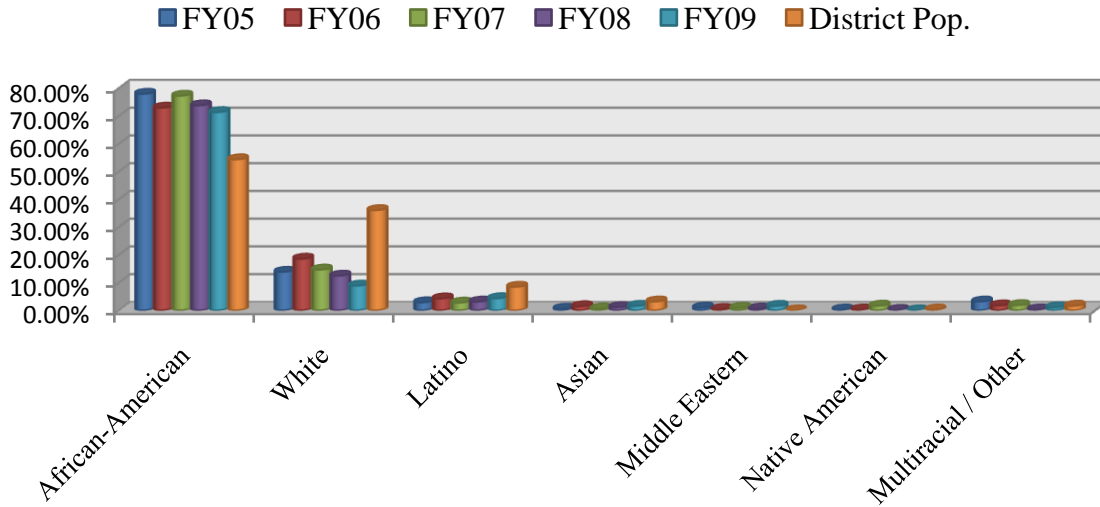


Table 12: Complainant Gender

	FY05		FY06		FY07		FY08		FY09		District Population
Male	176	54.0%	222	53.6%	251	57.0%	277	46.2%	293	53.3%	47.2%
Female	150	46.0%	192	46.4%	189	43.0%	323	53.8%	257	46.7%	52.8%
Total	326		414		440		600		550		

Chart 12: Complainant Gender (as a Percentage)

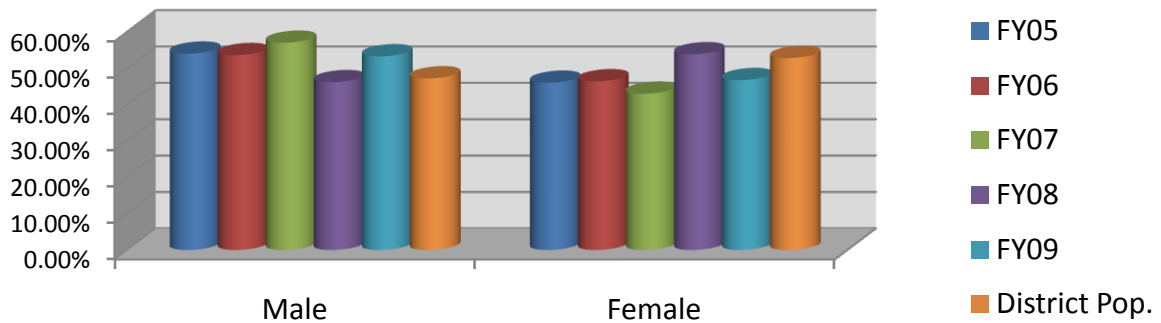


Table 13: Complainant Age

	FY05		FY06		FY07		FY08		FY09		District Population
Under 15	--	--	1	0.3%	1	0.2%	1	0.2%	--		16.0%
15-24	57	17.9%	39	10.0%	46	10.7%	60	10.4%	52	10.4%	15.9%
25-34	82	25.8%	109	27.9%	113	26.4%	154	26.7%	129	25.7%	18.2%
35-44	78	24.5%	110	28.1%	101	23.6%	138	23.9%	124	24.7%	14.5%
45-54	72	22.6%	86	22.0%	99	23.1%	146	25.3%	126	25.0%	13.1%
55-64	21	6.6%	30	7.7%	54	12.6%	57	9.9%	51	10.2%	10.6%
65 and Older	8	2.5%	16	4.10%	14	3.3%	20	3.5%	20	4.0%	11.9%
Total	318		391		428		576		502		

Chart 13: Complainant Age (as a Percentage)

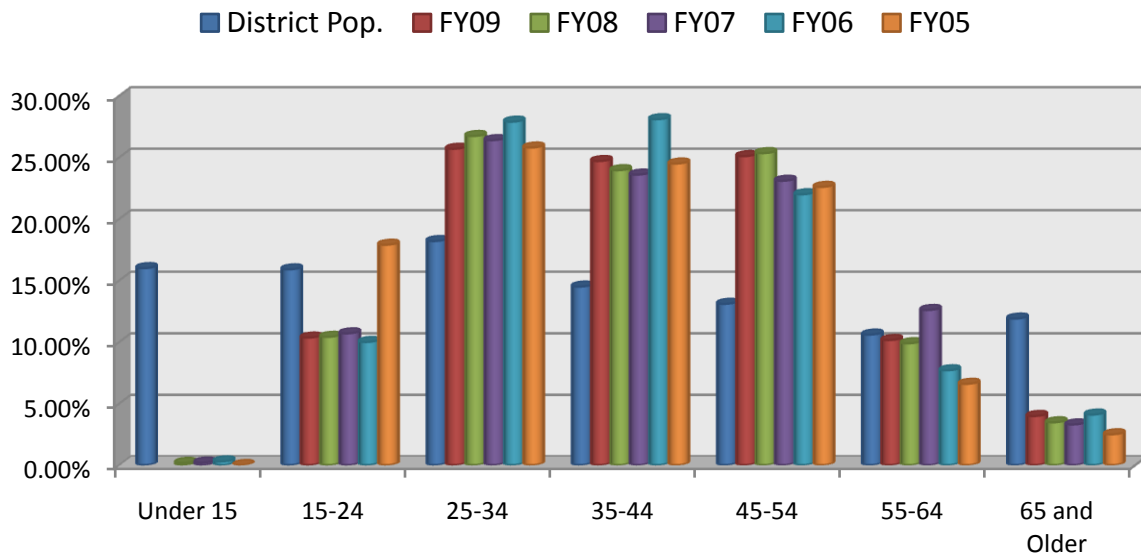


Table 14: Number of Complainants Who Filed Multiple Complaints

	FY06	FY07	FY08	FY09
2 Complaints	12	14	17	12
3 Complaints	--	--	1	3
4 Complaints	--	--	--	1
5 Complaints	--	1	1	--
6 Complaints	--	--	--	1
21 Complaints	--	--	1	--

Table 15: Complainant Race or National Origin with “Unique Complainant” Information

	FY05	FY05 Unique Comp.	FY06	FY06 Unique Comp.	FY07	FY07 Unique Comp.	FY08	FY08 Unique Comp.	FY09	FY09 Unique Comp.
African-American	241	225	287	280	327	315	443	401	393	374
White	43	43	73	71	62	60	75	75	49	49
Latino	9	9	17	17	12	12	19	18	24	25
Asian	2	2	6	6	3	3	7	7	9	9
Middle Eastern	3	3	2	2	4	4	4	4	9	9
Native American	1	1	1	1	7	3	1	1	0	0
Multiracial / Other	10	10	7	5	8	8	2	2	6	4
Unreported	17	17	21	20	17	17	49	49	60	60
Total	326	310	414	402	440	422	600	557	550	530

Table 16: Complainant Gender with “Unique Complainant” Information

	FY05	FY05 Unique Comp.	FY06	FY06 Unique Comp.	FY07	FY07 Unique Comp.	FY08	FY08 Unique Comp.	FY09	FY09 Unique Comp.
Male	176	168	222	218	251	238	277	288	297	286
Female	150	142	192	184	189	184	323	269	263	248
Unreported	--	--	--	--	--	--	--	--	--	--
Total	326	310	414	402	440	422	600	557	560	534

7. Subject Officer Characteristics¹⁸

Table 17: Subject Officer Race or National Origin

	FY05		FY06		FY07		FY08		FY09		Entire MPD Force
African American	219	46.7%	270	45.2%	316	47.44%	350	40.7%	453	41.9%	61.0%
White	135	28.8%	161	27.0%	190	28.5%	234	27.2%	332	30.7%	30.2%
Latino	25	5.3%	31	5.2%	27	4.1%	45	5.2%	60	5.7%	6.9%
Asian	9	1.9%	15	2.5%	7	1.1%	23	2.7%	22	2.1%	2.4%
Other	8	1.7%	7	1.2%	4	0.6%	1	0.1%	2	0.1%	0.2%
Unidentified	72	15.4%	113	18.9%	122	18.3%	206	24.0%	211	19.5	
Total	468		597		666		859		1080		

Chart 17: Subject Officer Race or National Origin (as a Percentage)

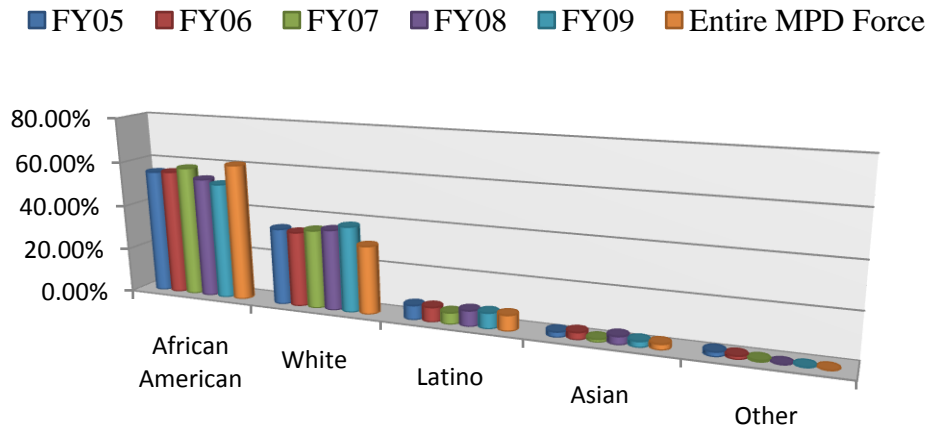


Table 18: Subject Officer Gender

	FY05		FY06		FY07		FY08		FY09		Entire MPD Police Force
Male	330	83.3%	396	81.8%	463	84.8%	564	85.7%	770	87.1%	77.0%
Female	66	16.7%	88	18.2%	83	15.2%	94	14.3%	114	12.9%	23.0%
Unidentified	72		113		120		201		196		
Total	468		597		666		859		1080		

Chart 18: Subject Officer Gender (as a Percentage)

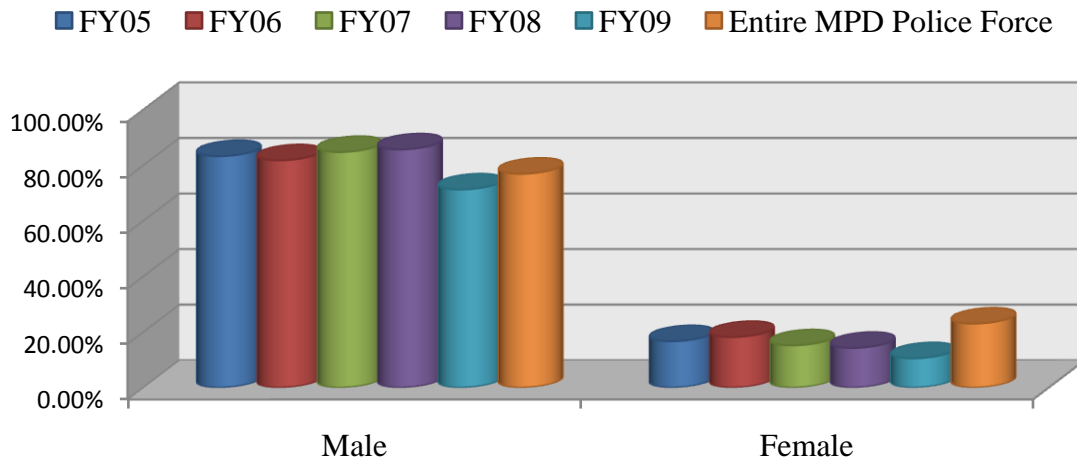


Table 19: Subject Officer Assignment¹⁹

	FY05		FY06		FY07		FY08		FY09	
First District	67	14.3%	93	15.6%	116	17.4%	100	11.6%	142	13.1%
Second District	27	5.8%	35	5.9%	49	7.4%	68	7.9%	76	7.0%
Third District	82	17.5%	128	21.4%	119	17.9%	92	10.7%	98	9.1%
Fourth District	84	17.9%	87	14.6%	76	11.4%	58	6.8%	77	7.1%
Fifth District	50	10.7%	55	9.2%	80	12.0%	53	6.2%	72	6.7%
Sixth District	56	12.0%	54	9.0%	112	16.8%	97	11.3%	189	17.5%
Seventh District	69	14.7%	57	9.5%	66	9.9%	111	12.9%	129	11.9%
Other	14	3.0%	47	7.9%	29	4.4%	64	7.5%	73	6.8%
OPS	5	1.1%	4	0.7%	13	2.0%	15	1.7%	13	1.2%
Unidentified	14	3.0%	37	6.2%	6	0.9%	201	23.4%	211	19.5%
Total	468		597		666		859		1080	

Chart 19: Subject Officer Assignment (as a Percentage)

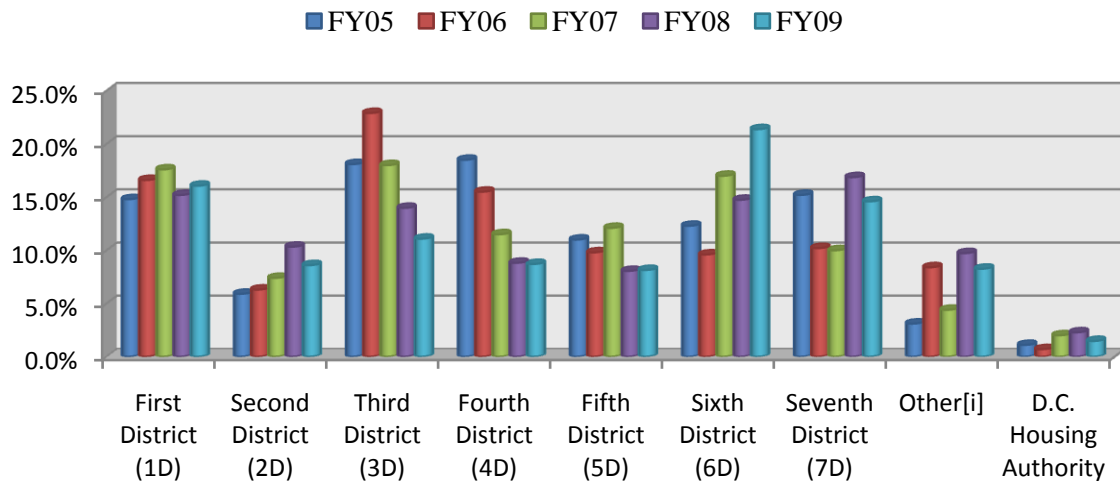


Table 20: Subject Officer Age

	FY06		FY07		FY08		FY09		Entire Police Force	
23 and Under	6	1.0%	6	0.9%	11	1.3%	2	0.2%	34	0.8%
24-26	44	7.4%	52	7.8%	66	7.7%	74	6.9%	264	6.5%
27-29	49	8.2%	63	9.5%	93	10.8%	114	10.6%	325	8.0%
30-32	60	10.1%	62	9.3%	76	8.8%	107	9.9%	293	7.2%
33-35	70	11.7%	71	10.7%	73	8.5%	101	9.4%	320	7.9%
36-38	70	11.7%	67	10.1%	82	9.5%	102	9.4%	387	9.6%
39-41	59	9.9%	65	9.8%	85	9.9%	97	9.0%	552	13.6%
42-44	56	9.4%	63	9.5%	65	7.6%	91	8.4%	626	15.5%
45-47	33	5.5%	40	6.0%	45	5.2%	73	6.8%	574	14.2%
48-50	19	3.2%	31	4.7%	38	4.4%	60	5.6%	371	9.2%
51-53	7	1.2%	15	2.3%	17	2.0%	27	2.5%	167	4.1%
Over 53	9	1.5%	9	1.4%	2	0.2%	14	1.3%	132	3.3%
Unknown	115	19.3%	122	18.3%	206	24.0%	218	20.2%		
Total	597		666		859		1080			

Chart 20: Subject Officer Age (as a Percentage)

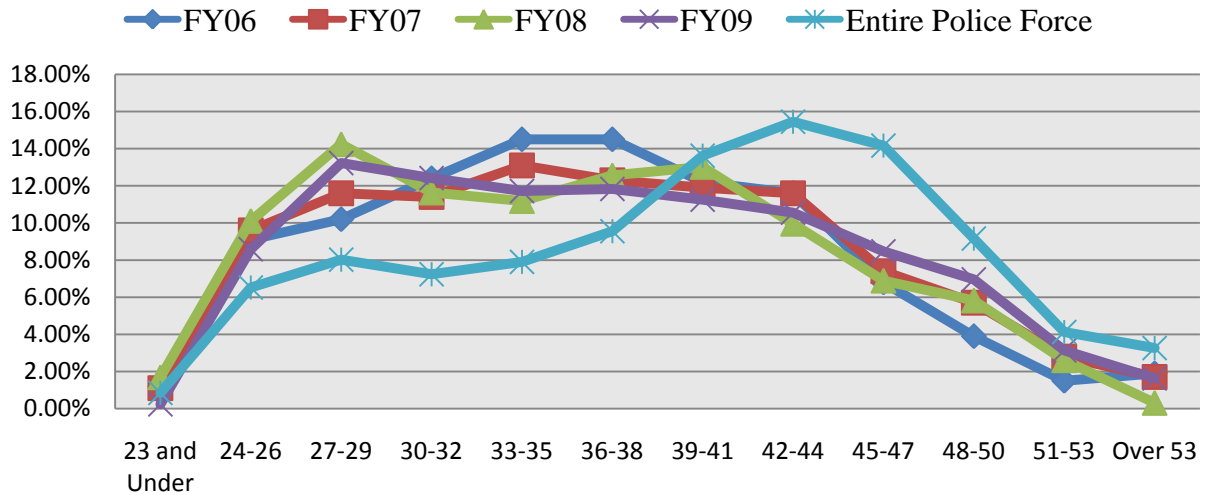


Table 21: Subject Officer Years of Service

	FY06		FY07		FY08		FY09		Entire MPD Force	
Under 3 Years	74	12.4%	63	9.5%	84	9.8%	71	6.6%	487	12.0%
3-5 Years	126	21.1%	146	21.9%	151	17.6%	245	22.7%	536	13.2%
6-8 Years	72	12.1%	103	15.5%	136	15.8%	149	13.8%	435	10.7%
9-11 Years	39	6.5%	51	7.7%	58	6.8%	101	9.4%	346	8.5%
12-14 Years	33	5.5%	28	4.2%	41	4.8%	32	3.0%	230	5.7%
15-17 Years	75	12.6%	68	10.2%	83	9.7%	52	4.8%	290	7.2%
18-20 Years	26	4.4%	51	7.7%	57	6.6%	98	9.1%	920	22.7%
21-23 Years	18	3.0%	19	2.9%	29	3.4%	52	4.8%	429	10.6%
24-26 Years	14	2.3%	12	1.8%	15	1.7%	27	2.5%	214	5.3%
27 or More Years	7	1.2%	4	0.6%	1	0.1%	15	1.4%	164	4.0%
Unknown	113	18.9%	121	18.2%	204	23.7%	238	22.0%		
Total	597		666		859		1080			

Chart 21: Subject Officer Years of Service (as a Percentage)

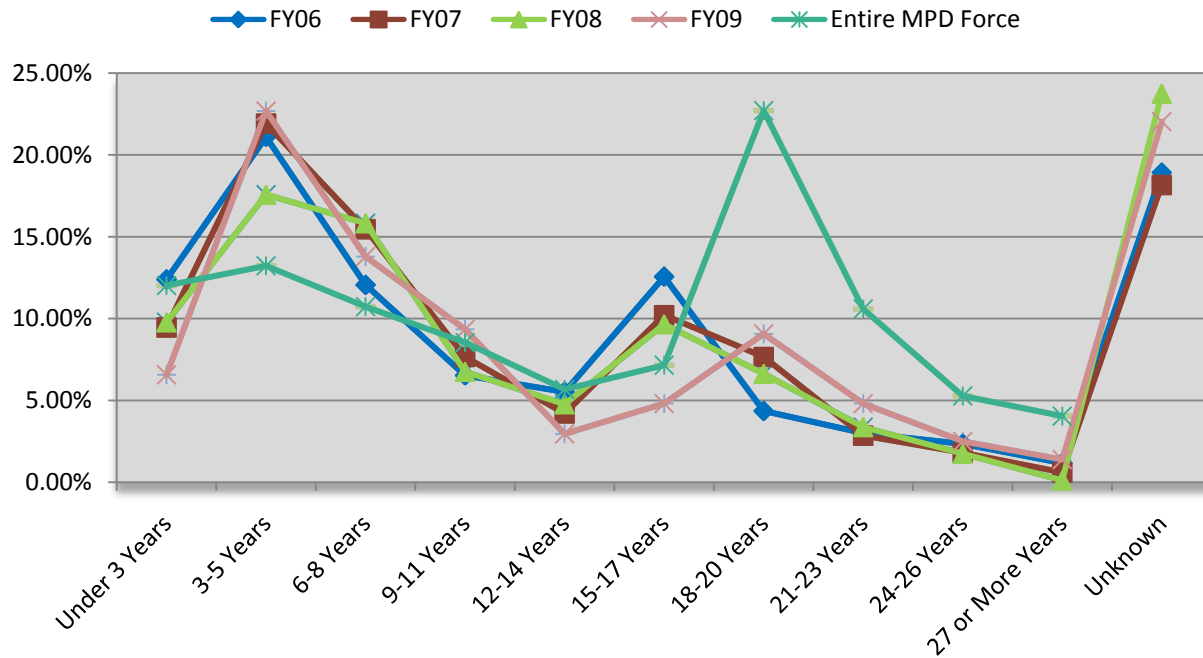


Table 22: Subject Officer Rank²⁰

	FY06		FY07		FY08		FY09		Entire Police Force	
Chief	--	--	1	0.2%	--		--		1	0.0%
Assistant Chief	1	0.2%	--	--	1	0.1%	1	0.1%	6	0.1%
Commander	--	--	2	0.3%	1	0.1%	--	--	17	0.4%
Inspector	1	0.2%	--	--	--	--	--	--	13	0.3%
Captain	--	--	1	0.2%	--	--	3	0.3%	38	0.9%
Lieutenant	6	1.0%	4	0.6%	10	1.2%	15	1.4%	146	3.6%
Sergeant	31	5.2%	49	7.4%	66	7.7%	83	7.7%	478	11.8%
Detective Grade 1	8	1.3%	3	0.5%	16	1.9%	19	1.8%	84	2.1%
Detective Grade 2	21	3.5%	23	3.5%	21	2.4%	--	--	266	6.6%
Investigator	1	0.2%	2	0.3%	--	--	7	0.6%	37	0.9%
Master Patrol Officer	13	2.2%	19	2.9%	26	3.0%	33	3.1%	89	2.2%
Other	402	67.3%	433	65.0%	514	59.8%	723	66.9%	2876	71.0%
Unidentified	113	18.9%	120	18.0%	204	23.7%	196	18.1%		
Total	597		666		859		1080			

Table 23: Number of Officers Who Were the Subject of Multiple Complaints

	FY06	FY07	FY08	FY09
2 Complaints	53	55	56	111
3 Complaints	21	18	21	29
4 Complaints	2	7	7	17
5 Complaints	3	2	4	2
6 Complaints	--	--	2	--
9 Complaints	--	--	--	1

Table 24: Subject Officer Race or National Origin with “Unique Officer” Information

	FY05	FY05 Unique Officers	FY06	FY06 Unique Officers	FY07	FY07 Unique Officers	FY08	FY08 Unique Officers	FY09	FY09 Unique Officers
African American	219	172	270	215	316	251	350	272	458	333
White	135	111	161	122	190	146	234	174	333	227
Latino	25	17	31	20	27	21	45	35	60	47
Asian	9	8	15	9	7	5	23	13	22	15
Other	8	7	7	5	4	1	1	1	2	1
Unidentified	72	72	113	113	122	122	206	206	205	205
Total	468	387	597	484	666	546	859	701	1080	828

Table 25: Subject Officer Gender with “Unique Officer” Information

	FY05	FY05 Unique Officers	FY06	FY06 Unique Officers	FY07	FY07 Unique Officers	FY08	FY08 Unique Officers	FY09	FY09 Unique Officers
Male	330	257	396	297	463	356	564	416	770	548
Female	66	58	88	74	83	70	94	84	114	94
Unidentified	72	72	113	113	120	120	201	201	196	196
Total	468	387	597	484	666	546	859	701	1080	838

Table 26: Subject Officer Assignment with “Unique Officer” Information

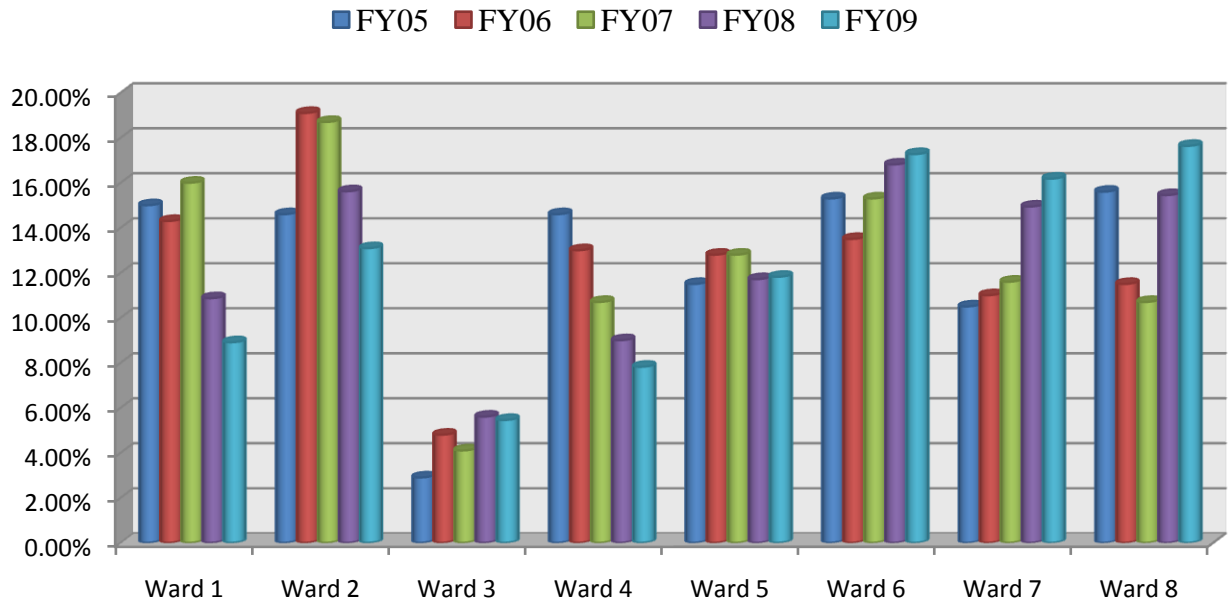
	FY05	FY05 Unique Officer s	FY06	FY06 Unique Officers	FY07	FY07 Unique Officers	FY08	FY08 Unique Officers	FY09	FY09 Unique Officers
First District	67	56	93	73	116	99	100	78	143	99
Second District	27	21	35	32	49	43	68	60	76	60
Third District	82	68	128	92	119	101	92	65	98	69
Fourth District	84	53	87	63	76	61	58	41	83	59
Fifth District	50	48	55	48	80	70	53	41	76	53
Sixth District	56	51	54	44	112	78	97	72	189	122
Seventh District	69	58	57	50	66	56	111	78	130	94
Other	14	13	47	43	29	25	64	55	76	53
OPS	5	5	4	2	13	7	15	10	13	9
Unidentified	14	14	37	37	6	6	201	201	196	209
Total	468	387	597	484	666	546	859	701	1080	827

8. City Wards

Table 27: City Wards

	FY05		FY06		FY07		FY08		FY09	
Ward 1	47	15.0%	57	14.3%	70	16.0%	64	10.9%	49	8.9%
Ward 2	46	14.6%	76	19.1%	82	18.7%	92	15.6%	72	13.1%
Ward 3	9	2.9%	19	4.8%	18	4.1%	33	5.6%	30	5.5%
Ward 4	46	14.6%	52	13.0%	47	10.7%	53	9.0%	43	7.8%
Ward 5	36	11.5%	51	12.8%	56	12.8%	69	11.7%	65	11.8%
Ward 6	48	15.3%	54	13.5%	67	15.3%	99	16.8%	95	17.3%
Ward 7	33	10.5%	44	11.0%	51	11.6%	88	14.9%	89	16.9%
Ward 8	49	15.6%	46	11.5%	47	10.7%	91	15.5%	97	17.6%
Unidentified/ Not in D.C.	12		15		2		11		10	
Total	326		414		440		600		550	

Chart 27: City Wards (as a Percentage)



G. Outreach

1. Fiscal Year 2009

In fiscal year 2009, OPC expanded its outreach program by conducting 27 events. This increase is due in part to the agency's efforts to focus outreach on the District's ethnic minority populations and residents of the District's public housing complexes. In addition, the agency continued its outreach work with several youth-based groups.

As part of its outreach plan, OPC conducted presentations to those District government agencies that have regular access and routinely provide information concerning services to ethnic minority groups. Specifically, the Office on African Affairs, the Office of Asian and Pacific Islander Affairs, the Office on Latino Affairs, and the Office of Lesbian, Gay, Bisexual and Transgender Affairs were briefed on the agency's mission and goals. OPC also distributed agency materials and provided information to individuals at various community events, including the 38th Latino Festival of Washington (Fiesta DC), which is an annual celebration of Latino culture and heritage that in September 2009 attracted more than 60,000 people.

Given the agency's handling of citizen complaints against officers of the D.C. Housing Authority's Office of Public Safety (OPS), OPC also conducted targeted outreach to residents of public housing complexes maintained by the housing authority. In addition to attending resident meetings at select public housing properties, such as Stoddert Terrace, OPC staff also briefed members of a task force comprised of public housing residents and housing authority employees designed to identify and resolve issues affecting the 56 public housing properties designated as housing for families with children.

As in previous years, OPC increased youth awareness of the agency's police oversight mission through its student interactive training program presented at several District high schools and other youth service providers, including Duke Ellington School of the Arts, Roosevelt Senior High School, Wilson Senior High School, School Without Walls, New Beginnings Youth Center, and Oak Hill Transition Center. The training program focuses on reducing the number of negative encounters between teens and the police as well as educating young people on their rights through role-playing scenarios. The agency also gave presentations explaining its mission and complaint process to case managers at the D.C. Department of Youth Rehabilitation Services.

In addition, the agency continued its outreach to recruits and sworn officers attending MPD's training academy to ensure that officers are informed about OPC's investigative and adjudicative processes.

Beyond the expansion of the agency's outreach efforts to specific groups, OPC participates in programs designed to inform the public of various aspects of the agency's work. This year, the agency sponsored a community forum on police accountability and oversight in partnership with the University of the District of Columbia's Criminal Justice Administration program.

The work of OPC continued to gain media coverage throughout the year. Most notably, the agency's September 2003 disorderly conduct report was cited in several newspapers and

online media sources, including *The Washington Post*, *The City Paper*, and *The Huffington Post*. The stories addressed the possible misapplication of the District's disorderly conduct law by MPD police officers. And a radio interview with OPC's executive director regarding the agency's August 2009 report on the District's law prohibiting open containers of alcohol in public spaces was aired during a local news segment on the Tom Joyner Morning show on MAJIC 102.3 FM, WMMJ.

2. *The Year Ahead*

In fiscal year 2010, OPC will continue its outreach in schools and with community-based organizations throughout the District. The agency also plans to conduct its outreach on high schools and community organizations focused on teenagers who live in the fourth, sixth, seventh, and eighth Wards of the District. In addition, OPC will continue to participate in community forums and events throughout the city, providing information about the agency's mission.

3. *Website*

In fiscal year 2010, the OPC will begin planning for the significant revamping of its website as part of a redesign project spearheaded by the D.C. Office of the Chief Technology. With the new changes, OPC will be able to better structure its content and display information by using icons, drop-down menus, and posting slide shows and videos. The agency's new website will be capable of incorporating social media tools such as Facebook and Twitter so that the public can easily send and receive information through these applications.

Furthermore, the agency will study how to implement the electronic filing of complaints given the new technological capabilities of the website. Electronic filing would allow people to file complaints closer in time to the date of the incident, thereby allowing OPC to start an investigation earlier.

H. *Police Oversight and Law Enforcement Organizations*

Since the agency opened, OPC staff members have played an active role in professional organizations related to citizen review of law enforcement and have learned from and contributed to the discussions and training seminars conducted by these organizations.

Every year since 2001, when the agency opened, OPC staff members have attended or participated in panel discussions at conferences sponsored by National Association for Civilian Oversight of Law Enforcement (NACOLE), the non-profit umbrella group for agencies like OPC around the country. Since December 2005, OPC's executive director, Philip K. Eure, has been on the board of directors of NACOLE. He currently serves as president of the organization.

At NACOLE's annual conference in Austin, Texas, October 31 – November 3, 2009, Mr. Eure participated as a panelist in a workshop that provided guidance on the mediation of citizen complaints against the police. In addition, Mr. Eure moderated another session focusing on the development of performance standards for oversight agencies. Additionally, OPC Chief Investigator Keshia Taylor participated as a panelist in a session entitled, "Best Practices for Investigating and Auditing Less-Lethal Force."

The agency expects that OPC representatives will continue to take part in conferences and training sessions aimed at keeping OPC staff members apprised of best practices in the field and sharing the agency's expertise with other police oversight professionals.

I. Policy Recommendations

The statute creating PCB authorizes the Board to, "where appropriate, make recommendations" to the Mayor, District Council, and Chief of Police "concerning those elements of management of the MPD affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers." This authority allows the agency to go beyond its day-to-day work of investigating and resolving individual police misconduct complaints to examine systemic issues that lead to the abuse or misuse of police powers. This year, PCB issued five reports and sets of recommendations, the most ever in a single year. To date, PCB has issued 23 detailed reports and sets of recommendations for police reform, and overall, the Board has been satisfied with the steps taken by MPD and the city to implement the proposals made by the Board. Some sets of recommendations have already been fully adopted and most others are in the process of being adopted or are being actively considered. All of the policy recommendations are available on OPC's website, www.policecomplaints.dc.gov.

1. Fiscal Year 2009

The reports and recommendations issued this year are discussed in more detail below.

a. MPD Provision of Police Services to Persons with Limited English Proficiency

On July 16, 2009, PCB issued a report recommending that MPD improve police services for people with limited English ability. Individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English are considered persons with limited English proficiency (LEP). In recent years, OPC received complaints from individuals alleging they were mistreated or ignored by MPD officers, as well as denied access to MPD resources and services as a result of their limited ability to speak English.

MPD is obligated, pursuant to the District's Language Access Act of 2004 and Title VI of the Civil Rights Act of 1964, to provide people with limited English proficiency meaningful access to all of its services, programs and activities. Although MPD has taken many steps to provide greater access to police services for individuals who are not fluent in English, in light of the complaints received by OPC, PCB believed that the Department should implement further measures in order to comply with the applicable laws.

Accordingly, PCB recommended that (1) MPD develop a written policy setting forth MPD's commitment to providing language assistance to LEP individuals and include the policy statement in MPD's language access plan and related materials; (2) remind officers of the federal and local statutory requirements to provide language assistance to LEP persons; (3) develop clearer guidance and protocols for MPD officers and civilian staff detailing how and when, particularly during field encounters with LEP individuals, to employ the various language assistance services available; and (4) improve MPD's current LEP training by refining the mandatory online LEP training course and including in MPD's cultural competency and diversity

training a segment that provides a step-by-step review of how to identify and provide language assistance to LEP individuals.

b. Public Drinking Arrests by MPD Officers on Residential Property

On August 17, 2009, PCB issued a report and set of recommendations urging better training for MPD officers on the proper enforcement of the District's public drinking law. The District's public drinking law, commonly known as the Possession of an Open Container of Alcohol (POCA) law, prohibits drinking or possessing an open container of alcohol in public places, which include streets, alleys, parks, sidewalks, and "parking." Unique to the District, "parking" is a public property that is allowed to be used as private property. Most of the District's "parking" is used as front yard or front driveway space of private residences.

Inadequate training and the absence of relevant MPD directives on the District's POCA law have led to confusion among MPD officers about when POCA arrests on residential property are permissible. Some MPD officers erroneously believed all residential yard space or all backyard space in the District is public property subject to the POCA law. In reviewing citizen complaints alleging that MPD officers were making improper POCA arrests, OPC staff found that a dozen people had been arrested by MPD officers for consuming alcohol while on private, residential property.

To eliminate improper enforcement of POCA, PCB recommended that MPD develop a new POCA general order and in-service training for all officers, with special emphasis on how to legally enforce POCA on residential property. PCB further recommended that the District Council consider amending the District's POCA statute to exempt "parking" that is used as private, single-family, residential property from the list of public places subject to POCA.

c. Taxicab Drivers and MPD Enforcement of the District's Taxicab Regulations

On September 8, 2009, PCB issued a report and set of recommendations proposing that the District of Columbia Taxicab Commission (DCTC) and MPD adopt measures aimed at improving enforcement of regulations applicable to D.C. taxicab drivers. OPC received dozens of complaints from D.C. taxicab drivers alleging that MPD officers, who have joint authority with DCTC to enforce the District's taxicab regulations, improperly cited them for violations of taxicab regulations. Some of the complaints further alleged that MPD officers, in issuing the citations, unlawfully discriminated on the basis of race or national origin.

A review of OPC complaints revealed that many of the challenged citations in fact were validly issued and resulted from taxicab drivers' lack of understanding of applicable DCTC regulations. However, information contained in the complaints further revealed that MPD officers lack clarity regarding certain DCTC regulations, and that some MPD officers may engage in overzealous enforcement.

In order to promote fairer and more informed enforcement of the District's taxicab regulations, PCB recommended that DCTC improve pre-license taxi driver training; establish annual taxicab driver refresher training; and revise its DCTC rules and regulations, where necessary, for clarity and accuracy. PCB also recommended that MPD update its in-house taxi

enforcement training to correct any errors regarding taxi driver obligations and coordinate with DCTC to establish joint taxicab enforcement training sessions. Finally, PCB recommended that DCTC and MPD establish a system for tracking and reviewing taxicab citations issued by both agencies to identify problematic patterns or trends.

d. Monitoring of April 2009 IMF/World Bank Protest

PCB issued a report and set of recommendations on September 24, 2009, concerning MPD's handling of an April 2009 protest event. On Saturday, April 25, 2009, PCB deployed 12 OPC staff members to the Washington D.C. headquarters of the International Monetary Fund (IMF) and World Bank to monitor MPD's interactions with an estimated 100 to 200 anti-globalization protesters. The demonstrations were timed to coincide with the IMF/WB annual Spring meetings. This was PCB's third monitoring effort since enactment of the First Amendment Rights and Police Standards Act of 2004, which articulates the District's official policy on First Amendment Assemblies, establishes specific standards of conduct for MPD officers in handling First Amendment demonstrations, and authorizes PCB to monitor and evaluate MPD's compliance with the Act.

PCB's overall impression was that MPD substantially complied with the Act and remained committed to implementing the law's objective of facilitating First Amendment expression. PCB was concerned, however, about action taken by federal law enforcement officers who assisted MPD. Because the Act does not apply to federal law enforcement agencies, federal officers handle demonstrations differently from MPD, even when assisting with protests on District-controlled public space. PCB believes this double standard has the potential to undermine accomplishment of the goals of the First Amendment Assemblies Act.

Accordingly, PCB recommended in its report that the District, through the combined efforts of the Mayor, the D.C. Council and the MPD Chief, seek to obtain federal law enforcement agencies' voluntary compliance with the First Amendment Assemblies Act when assisting MPD officers with protests on District-controlled public space.

e. Monitoring Citizen Complaints That Involve Police Response to Reports of Hate Crime

In December 2008, the D.C. Council's Committee on Public Safety and the Judiciary held a hearing to listen to concerns about a recent rash of hate crimes affecting the city's gay, lesbian, bisexual and transgender community. As a follow-up to some of the issues raised at the hearing, on September 30, 2009, PCB issued a report recommending that the District undertake certain measures to address the reporting of hate crimes.

OPC investigates police misconduct complaints filed by members of the public against MPD officers but does not handle complaints of citizen-on-citizen hate crime. However, the agency often receives complaints that MPD officers failed to take action in response to reports of crime, including reports of hate crime. OPC refers these "failure to provide police service" complaints to MPD because OPC lacks authority to investigate them.

To improve police response, PCB recommended that MPD and OPC collaborate to develop a system for identifying and tracking complaints that allege sub-par police service in response to reports of hate crime. PCB also urged the Mayor's Office to begin complying with its legal obligation under the D.C. Bias-Related Crime Act to collect, compile, and publish data on the incidence of hate crime in the District and to report on its findings to the D.C. Council. Finally, PCB proposed that MPD utilize its involvement with community advisory boards such as the Fair and Inclusive Policing Task Force and the D.C. Bias Crimes Task Force to develop ways to correct possible underreporting of hate crimes across all constituencies covered by the District's hate crimes statute.

2. *Status Update for Policy Recommendations*

In this year's report, details about any steps taken in response to PCB's specific recommendations are included in Appendix A. The appendix has a table for each report that lists the specific recommendations made by the Board and the status of the implementation of those recommendations. The full reports and any updates that were included in earlier annual reports are available on OPC's website, www.policecomplaints.dc.gov.

III. THE FUTURE

If the bill to amend OPC's monitoring authority is enacted into law, OPC will need to focus on how best to use existing resources to monitor the citizen complaint processes of both MPD and OPS while maintaining OPC's own citizen complaint process. Meeting this new challenge may be complicated by static or reduced funding levels in fiscal year 2010, due to the economic difficulties faced nationally and by the District government. If the agency experiences a marked increase in the number of complaints in fiscal year 2010, as it has since 2005, any budget reductions would place a severe strain on OPC operational capabilities. However, OPC will work with the Executive Office of the Mayor and the District Council to ensure that the agency has adequate resources to fulfill its obligations to the public.

The agency will continue to analyze best practices to pursue changes designed to improve the police accountability system in the District of Columbia. With this objective in mind, PCB plans to issue a number of policy recommendations in fiscal year 2010. One set of recommendations will encourage MPD to develop policies and directives that will encourage better recording and supervisory review of traffic and pedestrian stops. Another set of recommendations will discuss the District's law regulating the ownership and use of motorized scooters, and propose that the District increase public awareness of the law's requirements.

Endnotes

¹ The four possible outcomes that a complaint examiner may reach are:

Sustained – where the complainant's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;

Exonerated – where a preponderance of the evidence shows that the alleged conduct did occur but did not violate MPD policies, procedures, or training;

Insufficient Facts – where there are insufficient facts to decide whether the alleged misconduct occurred; or

Unfounded – where the investigation determined no facts to support that the incident complained of actually occurred.

² Metropolitan Police Department General Order 120.21, *Disciplinary Procedures and Processes* (April 13, 2006).

³ *Id.*

⁴ When counting the overall outcome for a complaint, a complaint that has at least one sustained allegation is counted as a sustained complaint. The number of sustained complaints is determined by this method because if a complaint has at least one sustained allegation, it must be forwarded to the Chief of Police for imposition of discipline, even if the other allegations are not sustained. The only time that a complaint is not forwarded to the Chief of Police for discipline is when no allegations are sustained. In these cases, the complaint is dismissed after the complaint examiner issues his or her decision.

⁵ See D.C. Official Code § 5-1112 (2001 ed.)

⁶ As of the date of issuance of this report, disciplinary determinations regarding two officers are still pending.

⁷ The three resignations reported in this table include two that resulted from the criminal convictions discussed in Section II.C.1 of the Police Complaints Board Annual Report for fiscal year 2007, available at http://policecomplaints.dc.gov/occr/frames.asp?doc=/occr/lib/occr/pdf/opc_fy07_annual_report.pdf. Resigning from MPD was part of the plea agreements entered into by both subject officers.

⁸ MPD imposed 20-day suspensions on four officers resulting from complaint examination decisions that were sustained in fiscal year 2008. One officer's suspension was rescinded because MPD did not reach a final determination on the matter within the 90-day period, as required by District law. See D.C. Official Code §5-1031(a). In addition, MPD held ten days of a 20-day suspension in abeyance for one officer and the full 20 days for another officer for a period of one year. If these two officers do not engage in further misconduct within the one-year period, they will not have to serve the portions of the suspension held in abeyance.

⁹ See D.C. Official Code § 5-1111(d).

¹⁰ See D.C. Official Code § 5-1110(k).

¹¹ In accordance with D.C. Official Code §5-1111(d), OPC issues discipline notifications to MPD when it finds that officers have failed to cooperate with OPC's investigative, adjudicative, or mediation processes. The statute also provides that, upon receiving a notification that an officer has failed to cooperate, "the Police Chief shall cause appropriate disciplinary action to be instituted against the employee, and shall notify the Executive Director of the outcome of such action."

¹² Samuel Walker, Carol Archbold, and Leigh Herbst, *Mediating Citizen Complaints Against Police Officers: A Guide For Police and Community Leaders*, U.S. Department of Justice, Office of Community Oriented Policing Services, at 40 (2002), available at <http://www.cops.usdoj.gov/files/ric/Publications/e04021486.pdf>.

¹³ Given the complexity of comparing the work of independent police review agencies, the care used by Professors Walker, Archbold, and Herbst in developing their measures is significant. Each agency has different authority and responsibility, which affects the universe of complaints it can consider and resolve, the types of allegations it investigates, and the resolutions it can reach, all of which add to the challenge of finding suitable methods of comparison. Consequently, readers should use caution when attempting to compare agencies and carefully scrutinize measures and what they purport to show.

¹⁴ In fiscal year 2008, “in Table 6: Disposition of Complaints,” OPC incorrectly reported that there were 569 closed formal complaints. In fiscal year 2008, there were 579 closed formal complaints. The 2008 data have been corrected in Table 6 of the fiscal year 2009 annual report.

¹⁵ In fiscal year 2008, in “Table 7: Status of Pending Complaints at the End of Each Fiscal Year,” OPC incorrectly reported that there were 238 open complaints at the end of the fiscal year. There were 239 open complaints at the end of fiscal year 2008. The 2008 data have been corrected in Table 7 of the fiscal year 2009 annual report.

¹⁶ In fiscal year 2008, in “Table 8: OPC Workload,” OPC incorrectly reported that there was an increase of 50 open complaints relative to the end of fiscal year 2007. There was an increase of 36 open complaints in fiscal year 2008. The 2008 data have been corrected in Table 8 of the fiscal year 2009 annual report.

¹⁷ The “District Population” data in Tables 11, 12, and 13 are included for reference purposes, and reflect the most current data available. It should be noted that anyone, whether a resident of the District or not, may file a complaint with OPC. Readers should also use caution when making comparisons between the population data and the complaint data for any particular fiscal year. The breakdown of the District population has changed some over time, so the value of these data as a comparator may vary as the difference in the age of the data sets increases.

The data in Tables 11 and 12 was obtained from the American Community Survey Demographic and Housing Estimates: 2006-2008, U.S. Census Bureau, which can be found at <http://factfinder.census.gov>. Please note that for race or national origin, the District population data add up to more than 100%. The 2007 data set considers Latino identification as an ethnic group that can include individuals who identify as members of different races, and the data set does not adjust the other categories (such as white or African-American) to separate out people who identify as both Latino and one of the other categories.

The data in Table 13 was obtained from the “Profile of General Demographic Characteristics: 2000” for the District of Columbia on the United States Census website, www.census.gov.

¹⁸ The “Entire Police Force” data included in Tables 17, 18, 19, 20, 21, and 22 were obtained from information provided by MPD on November 9, 2009. On that date, MPD had 4051 sworn members, and the data reflect the breakdown of those officers. Readers should note that the police force data do not include information about OPS officers.

Caution should be used when making comparisons between the police force data and the complaint data for any particular fiscal year. The breakdown of the police force has changed some over time, so the value of these data as a comparator may vary as the difference in the age of the data sets increases.

¹⁹ The data regarding the assignments of subject officers have fluctuated from year to year, as they did again this year. The data may be somewhat skewed as a result of the reentry of data regarding all complaints in fiscal year 2004 or the accuracy of the assignment data available to OPC at any given time. Another factor that may be relevant is the reorganization of the Department’s Police Service Areas (PSAs) in May 2004 and the transfer of PSA 306 to the Second District in September 2007. At the time of the transfer, the PSA was renamed to “PSA 208.” In any event, readers should use caution when attempting to draw conclusions from the year-to-year trends regarding the assignments of subject officers.

²⁰ The police force data for the “officer” category includes 37 senior police officers and 194 police recruits. The police force data for the “sergeant” category includes 10 desk sergeants.