

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



**ANNUAL REPORT  
FISCAL YEAR 2005**

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# GOVERNMENT OF THE DISTRICT OF COLUMBIA

## POLICE COMPLAINTS BOARD

### OFFICE OF POLICE COMPLAINTS

January 23, 2006

Dear Mayor Williams, Members of the District of Columbia Council,  
Chief Ramsey, and Chief Pittman:

We are pleased to submit the 2005 Annual Report for the Office of Police Complaints (OPC) and its governing body, the Police Complaints Board (PCB). This report covers the agency's operation during the District of Columbia Government's fiscal year from October 1, 2004, through September 30, 2005.

Fiscal year 2005 was the agency's fifth year of operation and a period of many significant developments for the agency. The year began with a name change for the office and the board from the Office of Citizen Complaint Review (OCCR) and the Citizen Complaint Review Board (CCRB) to OPC and PCB. In April 2005, the District of Columbia enacted a new law that expanded PCB's authority, allowing it to monitor and evaluate the Metropolitan Police Department's (MPD) handling of First Amendment assemblies held in the District. In addition, the law expanded OPC's jurisdiction, allowing it to investigate and resolve complaints alleging that officers failed to wear or display required identification or identify themselves by name and badge number when requested to do so by a member of the public. Over the course of the year, the agency planned for its relocation to new office space, which was finally completed on December 31, 2005. And as fiscal year 2006 began, the Mayor appointed three new PCB members to succeed three of the original members of the board. All of these developments led up to the fifth anniversary of the agency's opening to the public in January 2006.

In addition to the significant developments, the agency achieved several notable accomplishments over the course of the year, which included the following:

- Six hundred seventy-four people contacted OPC to inquire about filing a complaint. The agency received 326 complaints, which was a 24% increase over fiscal year 2004. This was a volume of complaints that was more in keeping with the number received in earlier years.
- OPC closed 368 complaints, which was an 18% increase over fiscal year 2004, making fiscal year 2005 the second year in a row that the agency closed more complaints than it received. The increase in the number of closed complaints was driven by a 27% increase (to 239) in the number of complaints resolved by OPC through adjudication, dismissal, or successful mediation. Seventeen of these complaints were adjudicated and 13 of the complaints had allegations that were sustained. All of these sustained decisions were forwarded to MPD, and MPD has taken steps to impose discipline for each one, continuing OPC's unbroken record of not having the Chief of Police return any of the decisions for reconsideration.

- OPC's number of open complaints was lower at the end of the year for the second year in a row, decreasing by an additional 13%. The decrease occurred despite the fact that the agency received 64 more complaints in fiscal year 2005, and was driven by OPC's greater efficiency and productivity and the effect of the new investigators added to OPC's staff.
- OPC conducted 19 mediation sessions, 13 of which were successful. Since opening, OPC has mediated 96 complaints, with an overall success rate of 76%.
- PCB issued four detailed reports and sets of recommendations to the Mayor, the Council, and MPD's Chief of Police over the course of the year addressing the handling of minors in the care of arrested persons, publication of MPD orders on the Internet, pretextual stops of bicyclists, and property damage caused by District of Columbia police action. The reports discussed PCB's examination of these issues and the recommendations included changes designed to reduce the occurrence of police misconduct in the future.
- Under the First Amendment Rights and Police Standards Act of 2004, which granted PCB the authority to monitor and evaluate MPD's handling of First Amendment assemblies held in the District of Columbia, OPC monitored MPD's handling of the antiwar and anti-globalization protests that occurred in Washington in September 2005. PCB issued its report on the monitoring effort on December 20, 2005.
- OPC expanded, reorganized, and implemented new procedures for its investigative unit. The agency added four new line investigators, bringing the total to ten, along with a paralegal specialist. OPC also reorganized its investigative staff into two teams, each headed by a lead investigator.
- OPC implemented its Community Outreach Strategic Plan for 2005. The plan continued many of OPC's successful programs and added a public education and awareness program, which included the production of a public service announcement (PSA) about the agency that is being aired regularly on City Cable Channel 16.

The developments and accomplishments described above, in addition to progress made in earlier years, have put the agency in a better position to carry out its mission as the agency passes its fifth anniversary. The agency name change gave the office and the board names that more clearly convey the agency's mission, while the relocation of the agency puts it in new office space that is easily accessible to the public, can accommodate the size of OPC's staff, and is better equipped for the agency to do its work. The expansion of PCB's authority and OPC's jurisdiction empowered the agency to play a role in monitoring and investigating some of the public's new and different concerns about its interactions with the police. And the addition of four new investigators to OPC's staff provided the agency with much-needed assistance in reducing the time it takes to complete investigations and decreasing the number of open complaints. The new investigators also further enhanced OPC's talented and diverse staff.

Even with the positive changes that occurred and the additional resources that were provided to the agency in fiscal year 2005, PCB and OPC will continue to monitor the agency's

overall needs. The agency is becoming more widely known each day as a result of its efforts and those made by MPD, which contributed to a 24% increase in complaints this year. The recent changes discussed above have added the responsibility for the Board to monitor MPD's handling of protests and demonstrations, which is labor-intensive work, and expanded the types of complaints that can be filed with OPC. These new duties require resources above and beyond what the agency has to continue its regular work of investigating, mediating, and adjudicating complaints in a timely manner, expanding its capacity to receive and resolve complaints, increasing community outreach, developing additional policy recommendations, and responding to Freedom of Information Act (FOIA) requests, which increased noticeably in the last year. Having funding and staffing for all of these needs is important to allowing the agency to adequately perform its various functions.

As we begin our sixth year of operation, we look forward to building on the work that PCB and OPC have done and particularly the work of the departing PCB members, Maria-Cristina "Mai" Fernández, the former chair of the Board, Inspector Stanly Wigenton, the former MPD member of the Board, and Michael Sainte-Andress, who established the agency and helped it develop and advance to this point. We thank them for their enormous contributions and dedication to achieving effective and responsible police oversight in Washington, D.C.

We also look forward to continuing to work with the Mayor, the Council, MPD, and D.C. Housing Authority Police Department (DCHAPD) to ensure that the agency has the resources it needs to carry out its mission. Over the past five years, we believe that the agency has become an important forum where members of the public can raise concerns about their interactions with the police and seek protection of their rights when they may not have that opportunity to do so elsewhere. The agency also has brought about police reform by detecting and examining patterns and trends in the complaints filed with the agency and issuing detailed policy recommendations based on this work. In the year ahead, we plan to enhance and expand these roles to do our part to improve policing and ensure the public's confidence in the District's police force.

Respectfully submitted,



Kurt Vorndran  
Chair  
Police Complaints Board



Philip K. Eure  
Executive Director  
Office of Police Complaints

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## **I. AGENCY OVERVIEW**

### **A. Introduction**

The Office of Citizen Complaint Review (OCCR) and its governing body, the Citizen Complaint Review Board (CCRB), were created by statute in 1999,<sup>1</sup> and OCCR opened to the public on January 8, 2001. The agency is independent of the Metropolitan Police Department (MPD), the District of Columbia's 3,800-member police force, and the D.C. Housing Authority Police Department (DCHAPD), the Housing Authority's 75-member police force, and its mission is to receive, investigate, and resolve police misconduct complaints filed by the public against MPD and DCHAPD officers. The agency was created by the District to fill the void left by the 1995 abolition of the Civilian Complaint Review Board, which was plagued by inadequate funding and staff, resulting in lengthy delays in the processing and resolution of complaints. The District's new police oversight office was the product of extensive research and careful thought by District officials and advocacy groups. The result was an agency with board members and staff who seek to employ the best practices of citizen oversight of law enforcement, and whose ultimate goal is to provide the public with an independent and impartial forum for the investigation and timely resolution of police misconduct complaints.

### **B. Agency Name Change**

In 2004, the Mayor and the District Council passed the "Omnibus Public Safety Agency Reform Amendment Act of 2004,"<sup>2</sup> which included provisions renaming OCCR and CCRB. The law, which took effect on September 30, 2004, renamed the office and the board to the Office of Police Complaints (OPC) and the Police Complaints Board (PCB). The Mayor and the Council renamed the agency in order to more clearly convey its mission. Beginning on January 1, 2005, OCCR and CCRB began to be known as OPC and PCB.

### **C. Agency Relocation**

During fiscal year 2005, OPC planned for the relocation of the agency to new office space. The planning process involved preserving the positive features of OPC's original offices on 11th Street, NW – being easily accessible to the public, but located away from MPD and DCHAPD buildings and stations and other government offices to provide the public with a less intimidating environment in which to file a complaint – while finding new offices that would accommodate the size of OPC's staff and be better equipped for the agency to do its work. OPC found larger office space that met its needs at 1400 I Street, NW, Suite 700. The new office space consolidated OPC's staff onto one floor and provided the agency with a larger waiting area, more interview rooms, larger conference rooms, a room to conduct training, space to properly house and protect IT and telephone equipment, and additional space to accommodate any future growth.

The agency's relocation to its new offices was finally completed on December 31, 2005.

#### **D. Police Complaints Board**

According to its enabling statute, PCB is composed of five members, one of whom must be a member of MPD, while the other four must have no current affiliation with any law enforcement agency. All Board members must be residents of the District of Columbia, and they serve staggered three-year terms without compensation. The Mayor nominates members to the Board, who must then be confirmed by the Council. The current members of the Board are as follows:

***Kurt Vorndran***, the Chair of the Board, is a legislative liaison 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 is currently the vice president of the Woodley Park Community Association and 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 new chair of the Board on January 12, 2006. His term expires on January 12, 2008.

***Inspector Patrick A. Burke*** is a 16-year veteran of the Metropolitan Police Department and the commander of the Third District Substation. During his MPD career, Inspector Burke has served in four of the seven police districts, the Special Operations Division, 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 certificate of public management from the George Washington University, and a master's degree in management from the Johns Hopkins University. He is also a graduate of the Federal Bureau of Investigation's National Academy in Quantico, Virginia, and has received a variety of awards and commendations, including MPD's Achievement and Lifesaving Medals, the Cafritz Foundation Award for Distinguished District of Columbia Government Employees, and the National Highway Traffic Safety Administration Award for Public Service. Inspector Burke is an active member of numerous community and volunteer organizations in the District of Columbia, where he resides with his wife and four children. Inspector 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 term expires on January 12, 2009.

***Dr. Patricia Fisher***, who has served as a PCB member since the Board was created in January 2000, is a licensed counseling and clinical psychologist with over 30 years of experience in the mental health and substance abuse fields. She has worked in and served as a consultant to a variety of governmental, private, and public organizations. Dr. Fisher, a native Washingtonian, has maintained a private practice in Washington for over 20 years and has been involved in several professional and community organizations. She received her undergraduate and master's degrees from Howard University, and she earned her doctorate in counseling psychology from the University of Minnesota. Dr. Fisher's term expires on January 12, 2007.

**Karl M. Fraser** is a toxicologist who performs biotechnological research at a genomic company in Gaithersburg, Maryland. Mr. Fraser received his undergraduate degree in biology from Howard University and a master's degree in biotechnology from the Johns Hopkins 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 term expires on January 12, 2008.

**Marc Schindler** is the general counsel for the Department of Youth Rehabilitation Services (DYRS), the District of Columbia's cabinet-level juvenile justice agency. As general counsel, Mr. Schindler is responsible for all legal matters related to the agency and leading the execution of legislative strategies to support DYRS's goals. Prior to joining DYRS, he served as a staff attorney with the Youth Law Center (YLC) from 1997 to 2005. YLC is a non-profit public interest law firm dedicated to protecting the rights of young people in juvenile justice and foster care systems nationwide. While at YLC, Mr. Schindler was involved with training, technical assistance, law reform litigation, and legislative and administrative advocacy on legal issues related to children, with particular emphasis on improving the conditions of confinement for institutionalized children and addressing racial disparities in the justice system. As an attorney with YLC, he was involved in extensive advocacy on behalf of children in juvenile justice systems in Maryland, Virginia, Florida, Kentucky, Illinois, South Dakota, Ohio, and the District of Columbia. Mr. Schindler also served as co-chair of the national Juvenile Justice & Delinquency Prevention Coalition in Washington, D.C., taught children's rights at American University's Washington College of Law, and currently is a member of the ABA's Juvenile Justice Committee. He previously worked as an assistant public defender in Baltimore's juvenile court representing children in delinquency proceedings, where he was the recipient of the Cahill Award for outstanding commitment to service and chaired the Juvenile Law Committee of the Baltimore City Bar Association. Mr. Schindler is a graduate of Yale University and the University of Maryland School of Law. His term expired on January 12, 2006, but he continues to serve until reappointed or until a successor is appointed.

The Board meets on the first Monday evening of every other month. At these meetings, OPC management updates Board members about various issues, including developments in office infrastructure, outreach, and personnel matters. In addition, the Board is provided with a report of the complaints received by OPC, along with the disposition of these complaints. The Board takes an active role in the work of OPC, offering guidance on many issues affecting the operation of the office. The Board also is charged with reviewing the executive director's determinations regarding the dismissal of complaints, making recommendations to the Mayor, the Council, MPD, and DCHAPD, where appropriate, regarding changes in policy that may decrease the level of police misconduct, and monitoring and evaluating MPD's handling of First Amendment assemblies held in the District of Columbia.

Over the last year, three of the original Board members, who served since the Board was created in January 2000, completed their service. Maria-Cristina "Mai" Fernández, the former chair of the Board, and Michael Sainte-Andress ended their tenure on January 12, 2006, when Mr. Vorndran and Mr. Fraser were sworn in. Inspector Stanly Wigenton, the former MPD member of the Board, left PCB when he retired from the Department on December 11, 2004. Ms. Fernández, Mr. Sainte-Andress, and Inspector Wigenton, along with Dr. Fisher and Michael Selmi, a George Washington University Law School professor, formed the original Board and

hired OPC's first executive director, bringing the agency into existence. Over the years that followed, they devoted a considerable amount of their personal time and energy to the development and continued operation of the agency. Their hard work has helped Washington develop a police oversight agency that is regarded as one of the leading agencies in the United States, and the new PCB members and OPC staff salute them for their service to the agency and the District of Columbia.

#### **E. Office of Police Complaints**

OPC operates under the supervision of its executive director, who is appointed by the Board. The executive director is assisted with the management of OPC by a deputy director, chief investigator, assistant chief investigator, and special assistant. The office has its own investigative staff, which currently consists of two lead investigators, two senior investigators, six investigators, and a paralegal specialist. The management team and investigative staff are assisted by an administrative officer, public affairs specialist, staff assistant, and investigative clerk/receptionist. In addition, OPC has developed an internship program that brings in college and law students year-round to assist the staff with its regular duties and special projects. Overall, the agency has worked to recruit a very talented and racially and ethnically diverse staff. OPC's staff includes ten employees, or 50%, with graduate or law degrees, and six attorneys. The diversity of the office generally mirrors the District's population, and includes a staff that is 60% African-American, 25% white, 10% Latino, and 5% multiracial.

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 U.S. 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 to reform the criminal justice system. He also serves on the board of directors of the National Association for Civilian Oversight of Law Enforcement and has spoken at various forums in the District and around the country on a wide variety of police accountability issues. Mr. Eure received his undergraduate degree from Stanford University and his law degree from Harvard Law School.

***Thomas E. Sharp***, the deputy director, joined the agency in October 2002 from the law firm of Wilmer, Cutler & Pickering, where he was an associate in the firm's securities enforcement and regulatory practice. Prior to joining the firm, he served as staff counsel to Newark, New Jersey, City Councilman Cory Booker and as a law clerk to U.S. District Judge Myron H. Thompson in Montgomery, Alabama. Mr. Sharp has a bachelor's degree from the State University of New York at Buffalo and a law degree from Yale Law School.

***Clifford C. Stoddard, Jr.***, the chief investigator, was appointed to his position in June 2003. Mr. Stoddard is a retired Special Agent from the U.S. Air Force Office of Special Investigations and former Assistant State's Attorney and Chief of the White-Collar and Computer Crime Division of the Anne Arundel County State's Attorney's Office in Annapolis, Maryland. He was an adjunct faculty member at the National Advocacy Center and has taught nationally for the National District Attorney's Association and the American Prosecutor's

Research Institute on white-collar and computer crime subjects. Mr. Stoddard has a bachelor's degree from Southern Illinois University, Carbondale, and a law degree from the Georgetown University Law Center.

**Kesha Taylor**, the assistant chief investigator, was hired in July 2002. 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.

**Angela M. Kiper**, the agency's special assistant, was hired by OPC in June 2005. Prior to joining OPC, Ms. Kiper served for three years as an appellate staff attorney at the U.S. Court of Appeals for the District of Columbia Circuit, and for six years as a public defender at the Public Defender Service for the District of Columbia. She received her undergraduate degree from Xavier University and her law degree from Yale Law School.

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

Natasha Bryan	Lead Investigator
Mona Andrews	Lead Investigator
Anthony Lawrence	Senior Investigator
Megan Rowan	Senior Investigator
Andrea Del Pinal	Investigator
Felicia M. Day	Investigator
David A. Curcio	Investigator
Alpha Griffin	Investigator
Alan Peyrouton	Investigator
Kevin T. Smith	Investigator
Takima Davis	Paralegal Specialist
Sherry Meshesha	Investigative Clerk/Receptionist
Melanie Deggins	Public Affairs Specialist
Stephanie Banks	Administrative Officer
Sonja Wingfield	Staff Assistant

OPC staff development and training are a high priority for the agency. All employees go through a training program that instructs them on the goals and purpose of the office, as well as the specific functions related to their jobs. Investigators attend training provided by MPD's Institute of Police Science, John E. Reid and Associates, and the Institute of Police Technology and Management at the University of North Florida in Jacksonville, Florida. In addition, all staff members are eligible for, and encouraged to attend, training programs and courses offered through the District Government's Center for Workforce Development, as well as other specialized training given by private entities and other District or federal agencies. The specific training described above is supplemented by bi-weekly staff meetings and weekly investigator meetings where the staff discusses different issues that arise in carrying out OPC's work.

## **F. Interns and Law Clerks at OPC**

In the summer of 2001, the agency established a year-round internship program for both college and law school students. College interns assist with investigations, community outreach, and other projects in the office, while law school interns perform legal research on various policy issues. Interns volunteer their time and receive academic credit for their work during the academic year. Over the summer, budget permitting, interns receive a salary for full-time work. OPC's internship program has been an excellent way for the agency to stretch its limited budget by engaging talented students in the agency's work, while giving them valuable practical experience in exchange. The program has also been a valuable recruitment tool for the agency, with two former interns currently employed by the agency as investigators.

Since the internship program began, the agency has attracted many outstanding students. Through the fall of 2005, 39 college students and 12 law students have participated in the program. The college students have come from a variety of schools, including American, Frostburg State, George Mason, George Washington, Harvard, Howard, Niagara, Santa Clara, and Southern Methodist universities, the University of the District of Columbia, the University of Maryland, the John Jay College of Criminal Justice, and St. Mary's College of Maryland. The law students have come from American University's Washington College of Law, Catholic University of America's Columbus School of Law, the Georgetown University Law Center, the George Washington University Law School, the Howard University School of Law, and the University of the District of Columbia's David A. Clarke School of Law. The internship program has provided substantial benefits to OPC and the District, and the office plans to continue hiring interns during each semester and the summer.

## **G. Complaint Process**

OPC's work centers on the complaint process, which is set forth in the statute and regulations governing the agency. The public initiates the complaint process, so it begins only after a person has filed a written, signed complaint form with the agency. OPC has the authority to investigate complaints that are received within 45 days of the alleged misconduct and that allege abuse or misuse of police powers by MPD or DCHAPD officers, including:

- (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 for filing a complaint with OPC; or
- (6) Failure to wear or display required identification or to identify oneself by name and badge number when requested to do so by a member of the public.

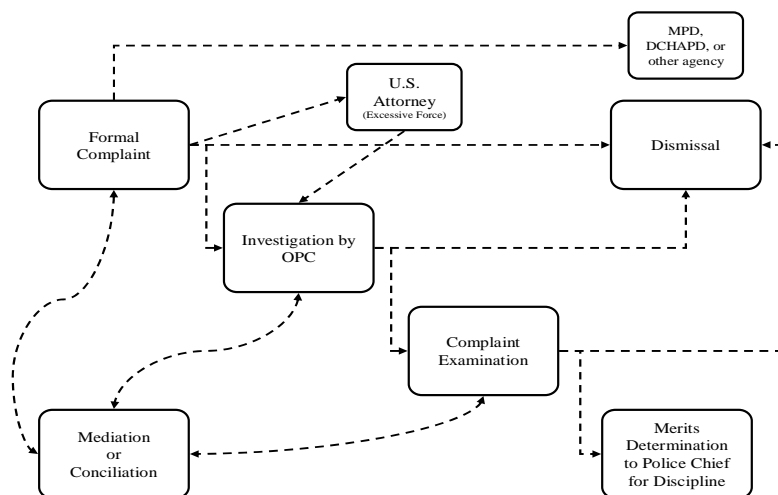
To ensure ease of access to its process, OPC has taken steps to facilitate the filing of a complaint. First, OPC's office is physically located away from MPD and DCHAPD buildings and stations and other government offices to provide the public with a less intimidating environment in which to file a complaint. Second, to make it as convenient as possible to file a complaint, complainants may file in person at OPC's office or at any MPD district station, or

they may initiate a complaint by mail, telephone, fax, or e-mail. Third, to ensure that non-English-speaking residents of and visitors to the District are able to get information about the agency and file complaints, OPC's information sheet and complaint form have been translated into 13 foreign languages.<sup>3</sup> Finally, an investigator is always on duty when the agency is open to assist the public with filing complaints, and to interview them in English or Spanish about the allegations in their complaints.

After a complaint is received, the executive director reviews it to confirm that it is in OPC's jurisdiction, and to determine how to proceed with the processing of the complaint. If a complaint is outside OPC's jurisdiction, the executive director refers it to MPD's Office of Professional Responsibility, DCHAPD, or the appropriate agency for investigation. Also, if the complaint alleges conduct by an officer that may be criminal in nature, the executive director refers the complaint to the U.S. Attorney for the District of Columbia for possible criminal prosecution of the officer. For the remaining complaints, the executive director determines whether they should be investigated or mediated.

When a complaint is sent for investigation, it is assigned to one of OPC's staff investigators. The investigator interviews the complainant, subject officer, and any witnesses the complainant identifies, in addition to attempting to locate and interview any other police or non-police witnesses who may be able to provide relevant information. The investigator also collects and reviews other evidence, including MPD documents, hospital records, materials from other sources, the scene of the incident, and any other relevant information. When the investigation is complete, the investigator drafts an investigative report, which, along with all the evidence gathered in the investigation, is reviewed by a supervisor. The executive director then reviews the report of the findings of the investigation, and determines if the complaint should be dismissed, which requires the concurrence of one PCB member, or referred to a complaint examiner for review and a decision on the merits of the complaint. A flow chart depicting the complaint process is included in Graphic A. In addition, OPC's three principal methods of resolving complaints – dismissal, mediation, and complaint examination – are discussed in more detail below.

**Graphic A: OPC Complaint Process**



### ***1. Dismissal***

The statute and regulations governing OPC allow for the dismissal of complaints under three sets of circumstances: (1) the complaint is deemed to lack merit; (2) the complainant refuses to cooperate with the investigation; or (3) if, after the executive director refers a complaint for mediation, the complainant willfully fails to participate in good faith in the mediation process. Based on information gathered during OPC’s investigation of a complaint, and with the concurrence of one PCB member, the executive director may dismiss a complaint when these circumstances arise. The dismissal process allows OPC to conserve resources and more efficiently handle complaints.

### ***2. Mediation***

OPC’s complaint process includes mediation as a method for resolving complaints and, because OPC firmly believes in the benefits of mediation, appropriate complaints are forwarded to mediation on a regular basis. Mediation allows the complainant and the subject officer to meet face-to-face to attempt to resolve the issues raised in a complaint. The goal of OPC’s mediation program is to give both parties a chance to work together to achieve a mutual understanding of what happened during their interaction and work out their differences without the stress and expense of a formal investigation and hearing.

A mediation service, the Community Dispute Resolution Center (CDRC), administers OPC’s mediation program, assigning complaints to be mediated by a pool of well-trained, experienced, and diverse mediators. There is no cost to the complainant or the subject officer to participate in mediation, but both parties must sign a confidentiality agreement that provides that



anything said by either party during the mediation session will not be disclosed outside of the session. The confidentiality agreement is required to encourage parties to be honest and open while attempting to resolve the dispute.

The decision to refer a complaint to mediation is made by the executive director and not by the parties. If the executive director refers a complaint to mediation, both the complainant and the subject officer are required to participate in the mediation process in good faith. Failure to participate in good faith constitutes cause for discipline of the subject officer and grounds for dismissal of the complaint. However, even though participation of the parties is required, the outcome of the mediation is completely voluntary because neither the complainant nor the officer is required to reach an agreement or settle the dispute during mediation.

There are some restrictions as to which complaints may be referred to mediation. OPC will not refer complaints involving allegations of the use of unnecessary or excessive force that results in physical injury. In addition, an officer may not mediate a complaint if he or she has mediated a complaint alleging similar misconduct or has had a complaint sustained by OPC for similar misconduct in the preceding twelve months.

### **3. *Complaint Examination***

The complaint examination process is used to resolve complaints where the executive director determines that there is “reasonable cause to believe” that police misconduct occurred. When the executive director reaches this determination, the complaint is referred to a complaint examiner who reviews it, along with OPC’s investigative report, and issues a written decision regarding the merits of the complaint. The complaint examiner may resolve the complaint based on OPC’s investigative report alone, or, if necessary, may conduct an evidentiary hearing to further develop the factual record. In practice, complaints that are neither dismissed nor successfully mediated are resolved through complaint examination, which is the only means by which OPC can issue a decision sustaining a complaint against an officer, although not all complaints that are referred to complaint examination are necessarily sustained.

If a complaint examiner sustains any allegation in a complaint, the executive director forwards the complaint examiner’s decision to the Chief of Police for review and imposition of discipline. Under certain limited circumstances, the Chief may send a decision back to OPC for further review, but, otherwise, the Chief is bound by the decision and must impose discipline on the officer as a result of the decision. If the complaint examiner does not sustain any allegation in a complaint, the executive director dismisses the complaint based on the decision.

The complaint examination process is administered by ADR Partners, LLC, an outside alternative dispute resolution service. ADR works directly with the members of the complaint examiner pool, who are responsible for rendering final decisions on the complaints referred to them by OPC. To carry out this important function, PCB and OPC assembled a pool of distinguished attorneys who live in the District of Columbia. In addition to having a reputation for competence, impartiality, and integrity, and not being a current or former employee of MPD, the complaint examiners must be members of the District of Columbia Bar, have practiced for five years or more, and have litigation or arbitration experience. At the end of fiscal year 2005, OPC’s complaint examiner pool had 18 members. The pool includes attorneys who work in

private practice, government, non-profit organizations, and academia, and have a variety of other experiences.

Based on its experience with the operation of the complaint examination process, OPC fine-tunes and modifies the process to ensure that it operates smoothly and provides adequate protections to officers and complainants. One change OPC implemented early in the process was an opportunity for officers to submit written objections to the complaint examiner about OPC's investigative report so the objections can be considered with the report. The objections ensure that the subject officer has an opportunity to raise any issues regarding the investigation before the complaint examiner takes any action. In addition, if a complaint examiner determines that an evidentiary hearing is necessary to resolve a complaint, OPC has taken steps to ensure that complainants have counsel available to assist them at no cost during hearings. In general, because officers are represented by attorneys or union representatives provided to them by the police union, the Fraternal Order of Police (FOP), OPC made arrangements with a Washington-based law firm, Howrey LLP, to provide free counsel for complainants. Howrey is an international law firm that is based in Washington, D.C. The firm has over 600 attorneys worldwide and more than 250 in Washington.

## **II. THE YEAR IN REVIEW**

### **A. Introduction**

Fiscal year 2005 was a productive and successful year for OPC, and the agency achieved several notable accomplishments. Fiscal year 2005 was the second year in a row that the agency closed more complaints than it received, with significant increases in the overall number of complaints closed and the number of complaints for which full investigative reports were completed. OPC also adjudicated 17 complaints, 13 of which had allegations that were sustained. All of this work contributed to the agency lowering its number of open complaints at the end of the year by an additional 13%.

PCB issued four detailed reports and sets of recommendations to the Mayor, the Council, and MPD's Chief of Police over the course of the year addressing minors in the care of arrested persons, publication of MPD orders on the Internet, pretextual stops of bicyclists, and property damage caused by District of Columbia police action. The reports discussed PCB's examination of these issues and the recommendations included changes designed to reduce the occurrence of police misconduct complaints in the future. The agency also monitored MPD's handling of antiwar and anti-globalization protests under PCB's new authority to monitor and evaluate MPD's handling of First Amendment demonstrations held in the District. In addition, OPC implemented its Community Outreach Strategic Plan for 2005, continuing several successful programs, and adding a public education and awareness program, which included the production of a public service announcement (PSA) about the agency that is being aired regularly on City Cable Channel 16.

These developments and others are discussed in more detail below, along with statistics regarding complaints received and closed by OPC in fiscal year 2005. These statistics show significant progress by the agency, but also indicate that there are still challenges ahead.

## B. Complaint Examination

In fiscal year 2005, OPC continued the operation of its complaint examination process. As the decisions issued by OPC suggest, the complaint examination process has become 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. In general, the 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. OPC referred an additional 13 complaints into the process over the course of the year, and 17 complaints were resolved. Two of the complaints were withdrawn midway through the process, and the remaining 15 were resolved in 11 different decisions. Table 1 lists each of the resolved complaints and identifies the allegations in the complaint and the decision reached by the complaint examiner for each allegation.

**Table 1: Complaint Examiner Decisions**

	<b>Harassment</b>	<b>Excessive Force</b>	<b>Language / Conduct</b>	<b>Discriminatory Treatment</b>	<b>Retaliation</b>
<b>03-0181</b>	Sustained / Exonerated	Sustained / Exonerated	Sustained / Exonerated	--	--
<b>03-0182</b>	Sustained / Exonerated	Sustained / Exonerated	Sustained / Exonerated	--	--
<b>03-0188</b>	Sustained / Exonerated	Sustained / Exonerated	Sustained / Exonerated	--	--
<b>03-0199</b>	Sustained / Exonerated	Sustained / Exonerated	Sustained / Exonerated	--	--
<b>03-0200</b>	Sustained / Exonerated	Sustained / Exonerated	Sustained / Exonerated	--	--
<b>03-0380</b>	--	--	Sustained	--	--
<b>02-0031</b>	--	Sustained	Sustained	--	--
<b>03-0457</b>	Sustained	--	Sustained	--	--
<b>02-0467</b>	Sustained	--	Sustained	--	--
<b>04-0099</b>	Insufficient Facts	Insufficient Facts	Insufficient Facts	--	--
<b>02-0392</b>	Sustained	Insufficient Facts	--	--	--
<b>02-0393</b>	Withdrawn	Withdrawn	--	--	--
<b>02-0464</b>	Sustained / Insufficient Facts	--	Insufficient Facts / Unfounded	--	--
<b>05-0037</b>	Withdrawn	--	Withdrawn	--	--
<b>03-0243</b>	Sustained	--	--	--	--
<b>03-0459</b>	Exonerated	--	Insufficient Facts	--	--
<b>05-0103</b>	--	Sustained in Part	Insufficient Facts	--	--

The full text of each decision is available on OPC's website, [www.policecomplaints.dc.gov](http://www.policecomplaints.dc.gov), and through the online legal databases maintained by LexisNexis and Westlaw. LexisNexis began carrying OPC's decisions online in December 2005 while Westlaw will start including the decisions in the spring of 2006. As Table 1 indicates, complaint examiners resolved 38 allegations contained in the 17 complaints. To this point, the decisions have reflected all possible outcomes.<sup>4</sup>

Table 2 summarizes the decisions reached by the complaint examiners, identifying the frequency of the different outcomes. The table reflects the overall outcome for each complaint.<sup>5</sup>

**Table 2: Complaint Examiner Decisions**

	FY03		FY04		FY05	
	Complaints		Complaints		Complaints	
<b>Sustained</b>	15	78.9%	9	56.3%	13	76.5%
<b>Exonerated</b>	2	10.5%	2	12.5%	1	5.9%
<b>Insufficient Facts</b>	--	--	3	18.8%	1	5.9%
<b>Unfounded</b>	1	5.3%	1	6.2%	--	--
<b>Withdrawn</b>	1	5.3%	1	6.2%	2	11.8%
<b>Total</b>	19		16		17	

Looking at the resolutions reached by complaint examiners, 13 of the 17 complaints, or 77%, had at least one allegation that was sustained. There were two complaints, or 12%, where the officer was completely exonerated or the complaint examiner concluded that there were insufficient facts to resolve the underlying allegations. Although the rate of sustained complaints may appear to be high – approximately 77% – it must be recalled that this is not 77% of all complaints resolved by OPC, but 77% of the 17 complaints resolved in the complaint examination process. The complaints referred to this process are a carefully selected group that excludes complaints that were successfully mediated and those that were dismissed because they lacked merit or because the complainant would not cooperate with OPC’s process. In all of the complaints referred to complaint examination, the executive director has already found that there is “reasonable cause to believe” that police misconduct occurred, so one would anticipate a relatively high sustain rate for this specific group.

When the sustained complaints are considered as part of all of the complaints resolved by OPC through adjudication, dismissal, or successful mediation, sustained complaints make up 5% of this group (or 13 of 239). As Table 2 indicates, there was an increase in the number of complaints sustained in fiscal year 2005, but the corresponding proportion of the overall complaints resolved remained basically the same. This result occurred because the proportion of the total complaints resolved that the sustained complaints comprise depends heavily on the number of complaints that were dismissed, which also increased in fiscal year 2005. The increase in dismissals continues to result from OPC’s focus on completing and closing older complaints that had been determined to be probable dismissals but that had not had a completed investigative report. In general, OPC’s overall sustain rate will fluctuate from year to year depending on a variety of factors not related directly to the complaint examination process.

All of the decisions that sustained at least one allegation were forwarded to the Chief of Police for imposition of discipline, and the Chief has not returned any of the decisions for reconsideration. One hundred percent acceptance of decisions by a chief from an independent police oversight agency is exceptional,<sup>6</sup> and is a positive reflection on the District Government’s statute creating OPC, which limits the circumstances under which a complaint may be returned for reconsideration, as well as on the quality of OPC’s investigations and decisions. As of the issuance of this report, all of the decisions forwarded to the Chief of Police resulted in the

imposition of discipline. The decisions included a total of 37 subject officers, and a summary of the discipline imposed on these officers is reflected in Table 3.

**Table 3: Discipline for Sustained Complaints**

<b>Discipline or Action Taken</b>	<b>Total</b>
<b>Terminated</b>	1
<b>Retired</b>	1
<b>20-Day Suspension</b>	2
<b>15-Day Suspension</b>	6
<b>10-Day Suspension</b>	10
<b>5-Day Suspension</b>	1
<b>3-Day Suspension</b>	4
<b>Official Reprimand</b>	7
<b>Formal Counseling</b>	5
<b>Total</b>	37

OPC will continue to track the discipline imposed by the Chief so that the agency is informed about how MPD handles the decisions referred to it by OPC.

As an illustration of the types of complaints that were resolved by complaint examiners in fiscal year 2005, the following are three examples that describe the complaint and the resulting decision:

***1. Complaint Examination Example #1***

OPC received five complaints concerning two separate incidents that occurred in the early morning hours of a day in late January.<sup>7</sup> Each incident involved the same two MPD patrol officers working together as partners, and the incidents took place minutes apart in an alley near the restaurant and bar district of the Adams Morgan neighborhood in Northwest Washington. The central allegation was that the two MPD officers abused their police powers when, after observing two men urinating in the alley in violation of District of Columbia law, the officers forced the men, under threat of arrest, to remove their coats or sweaters in below-freezing weather, mop up the urine with the clothes, then put back on the urine-soaked garments. In addition to alleging that the officers had harassed the men, the complainants alleged that during these incidents the subject officers used insulting, demeaning, and humiliating language toward the men and used unnecessary or excessive force against an individual who had accompanied one of the men. OPC consolidated the complaints and conducted an extensive investigation.

The subject officers denied having engaged in the acts alleged in the complaints. The officer who was alleged to have been the primary actor contended that the men who had urinated in the alley, although unrelated, not traveling together, and completely unaware of each other's presence in the alley, had each voluntarily removed his outerwear, mopped up the urine, and then put the clothes back on. The second officer claimed not to have seen or heard the acts alleged in the complaints.

Following completion of its investigation, OPC referred the matter to a complaint examiner. The complaint examiner issued a decision regarding the complaint without holding an evidentiary hearing after determining that she had all the evidence necessary to resolve the complaint. The complaint examiner did not believe the subject officers' statements regarding what had happened, and, instead, credited the story told by the complainants and several other witnesses. The complaint examiner sustained the allegations of harassment, use of language that was insulting, demeaning or humiliating, and use of unnecessary or excessive force against the subject officer whom the complainants had identified as the primary actor. However, the complaint examiner exonerated the second subject officer of all charges on the ground that although he was present, he had not engaged in or directed any of the key acts that were found to constitute violations of MPD's policies, procedures, and practices.

## ***2. Complaint Examination Example #2***

Two detectives from MPD's Youth and Preventive Services Division were investigating an allegation of sexual abuse against a child. Their investigation led them to the child's school in Southeast Washington, where they learned from the principal that one of the child's teachers possessed an audiotape made during class time that contained reference to the alleged abuse. Because the teacher had already left the school for the day, the officers went to the teacher's home in an effort to retrieve the tape. The officers succeeded in retrieving the tape, but the teacher filed a complaint with OPC against one of the detectives.<sup>8</sup>

The complainant alleged that the subject officer harassed her and subjected her to language that was insulting, demeaning or humiliating by coming to her home without a warrant, knocking loudly on her door, speaking to her in a loud and threatening manner, using profanity, and threatening to arrest her for obstruction of justice. The subject officer stated that he did not have a warrant because he did not intend to search the complainant's home. He also explained that he knocked loudly on the complainant's door only after his initial knocks went unanswered. He conceded that he raised his voice while talking to the complainant but stated that he did so only because the complainant was yelling during their meeting. The subject officer denied using profanity but admitted that he told the complainant she could be arrested for obstruction of justice if she refused to turn over the tape.

After reviewing the evidence gathered by OPC, the complaint examiner determined that it was not necessary to hold a hearing in order to resolve this complaint. The complaint examiner concluded that the harassment allegation hinged on whether the subject officer was authorized to obtain the audiotape without a warrant and whether he told the complainant she could be arrested for obstruction of justice in order to intimidate her. The complaint examiner determined that because the tape had been made at school and was labeled "classroom tape," it belonged to the school; therefore, the complainant did not have a right to refuse to surrender it. The complaint examiner further determined that the complainant voluntarily handed over the tape to the subject officer. The complaint examiner then concluded that because the tape was not the complainant's property and because she voluntarily relinquished it, the subject officer was authorized to take it without a warrant. After examining the language of the District of Columbia's obstruction of justice statute, the complaint examiner determined that the subject officer had a good faith basis for telling the complainant that she could be arrested for

obstruction of justice, and therefore the subject officer did not harass the complainant by informing her of that fact.

With respect to the allegation that the subject officer used language that was insulting, demeaning, or humiliating, the complaint examiner determined that there was insufficient evidence from which to conclude that the subject officer had used profanity. Accordingly, the subject officer was exonerated of both the harassment and language allegations.

### **3. *Complaint Examination Example #3***

An MPD officer was called to the complainant's home by his live-in girlfriend to investigate a report of domestic violence. The complainant alleged that the subject officer, suddenly and without any threat of physical harm, lunged at the man as he sat at his dining room table, punched the man so hard that the chair he was sitting in broke and the man fell out, and then straddled the man and continued to hit him causing injuries to his face, neck, back, and arm, before arresting the man for simple assault against his girlfriend.<sup>9</sup> The complainant further alleged that in the minutes before the subject officer physically attacked him, the subject officer had called him a profane name, had told him to shut up several times, and had invited the man to hit him in an effort to goad the man into a physical altercation. OPC's investigation of this matter was suspended for over two years while the U.S. Attorney's Office (USAO) reviewed the matter for possible criminal prosecution of the subject officer. When the USAO declined to prosecute the matter, OPC resumed its investigation. OPC's investigation resulted in referral of the complaint to a complaint examiner for resolution of the use of unnecessary or excessive force and use of language or conduct that was insulting, demeaning, or humiliating allegations.

The complaint examiner in this case determined that a hearing was needed in order to resolve conflicts between statements that had been provided to OPC, the USAO, and MPD during their respective investigations of this matter. After a full hearing on the merits at which live testimony was taken, and after comparing the live testimony to the prior written statements and other evidence in the record, the complaint examiner found that the subject officer had used unnecessary or excessive force against the complainant and had used language and engaged in conduct that was insulting, demeaning, or humiliating.

The complaint examiner made several noteworthy findings in the course of reaching his decision. One was that the subject officer had gone alone to investigate the domestic violence matter and perhaps should have waited for back up assistance, particularly if he feared the complainant might become violent. The complaint examiner also found that it was anger and frustration, rather than reasonable fear of physical attack or physical resistance, that prompted the subject officer to punch the complainant and beat him up. Specifically, the complaint examiner found that the complainant was drunk and verbally uncooperative, and the subject officer's inability to handle a non-physically threatening though verbally uncooperative intoxicated person confounded the subject officer. The complaint examiner found that if the complainant's verbal uncooperativeness was impeding the investigation, the subject officer should have verbally apprised the complainant of this fact and should have warned the complainant he would be arrested if he persisted, before resorting to the use of force.

Regarding the use of force, the complaint examiner emphasized that MPD's Use of Force General Order and its Use of Force Continuum, dictate that officers use only such force as is reasonably necessary to de-escalate an incident. The complaint examiner found that, contrary to the applicable MPD policies and procedures, the subject officer did not employ force with de-escalation in mind and as a result, he escalated the incident and traumatized the witnesses, which included the three minor sons of the complainant's girlfriend. The complaint examiner's ultimate conclusion was impacted significantly by inconsistencies between the subject officer's testimony at the hearing, in which he asserted that the complainant had assumed an aggressive posture, and prior statements in which these assertions had not been made. The complaint examiner concluded that, taking into account the subject officer's live testimony that was not credible, a clear preponderance of the evidence compelled the conclusion that the subject officer had used excessive force against the complainant and also subjected him to insulting, demeaning, or humiliating language. Accordingly, the complaint examiner sustained both allegations against the subject officer.

### **C. Mediation**

In fiscal year 2005, OPC mediated 19 complaints, bringing the total number of complaints mediated to 96. Seventy-three of the mediation sessions (or 76%) were successful and resulted in an agreement between the complainant and the subject officer. Twenty-three of the sessions (or 24%) 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, or a combination of the four.

In addition to the statistical success rate, survey results indicate that the program has been well received. A survey of the participants in mediation indicates that the overwhelming majority of complainants and subject officers who responded to the survey found the mediator to be helpful or very helpful, the mediation session to be satisfactory or very satisfactory, and the resulting agreement to be fair or very fair. In addition, 43% of the respondents left their mediation session with more positive feelings about the other party, while only 10% had more negative feelings, and 46% 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.

OPC has been very pleased with the success of the mediation program, and plans to continue to use it regularly. The agency tries to identify and refer as many complaints as possible that are suitable for mediation, and despite the decline in the number of complaints mediated in fiscal year 2005, OPC is aiming to increase that number back to the level achieved in fiscal year 2004 or higher. As part of its effort, the agency will continue to work to minimize the number of complainants who decline to participate in the mediation process altogether by ensuring that they get better information about the process and are encouraged to take part.

As an illustration of the types of complaints that were referred to mediation in fiscal year 2005, the following are three examples that describe the complaint and the mediation session:



### **1. Mediation Example #1**

A citizen filed a complaint against an officer alleging rude behavior directed at the citizen and his friend. The 75-year-old complainant was driving with his 80-year-old friend, who is nearly deaf, on Georgia Avenue, N.W. The complainant pulled over into an open space so he could go into a nearby convenience store. A sign next to the space stated, "No Loitering." While paying for his purchase at the convenience store, the complainant noticed a police officer approaching his friend as the friend smoked a cigarette outside of the car. The complainant observed the officer making excited hand gestures as he pointed at the friend and then at the car. Finally, the officer placed a hand on the man's shoulder and started pushing him toward the door of the complainant's vehicle. The complainant hurriedly walked toward the officer, yelling at him to take his hands off his friend and asking him what he thought he was doing. The officer exclaimed back in a heated tone that the friend could not stand next to the car. The complainant yelled back at the officer, to paraphrase his words, that the officer was not doing his job correctly. The officer wrote both of the men a citation for loitering.

During the mediation session, the parties shared their perspectives on the situation. The officer informed the complainant that he was trying to enforce the anti-loitering law in that section of town. However, the officer had no idea at the time the complainant's friend was nearly deaf and slightly senile. With that realization, the officer expressed his understanding that the older man was not being uncooperative because he simply did not hear and understand him clearly. Likewise, the complainant had not understood that an anti-loitering rule was in place, and that it was necessary for his friend to step back into the car. After the parties talked for over an hour, they shook hands and parted amicably.

### **2. Mediation Example #2**

A citizen filed a complaint against an officer alleging that the officer used inappropriate language and a disrespectful tone when speaking to the citizen, and harassed the citizen. The complainant, a single mother with three young children, was seeking aid and advice from an officer at the local MPD district station to help with her troubled teenage daughter. Over the past year, her daughter had become increasingly difficult to manage. She had run away, been frequently absent from school, been involved with a dangerous crowd, and was generally disrespectful and rebellious. The complainant had gone to the district station as a resource before. One officer in particular had been of great help to her and had even spent time talking with her daughter, explaining the potential consequences of her actions, and had even had her write an essay about her behavior. Because of the special attention and assistance she received, the complainant had very positive feelings about MPD officers and the officers at the district station.

In the incident that was the subject of the mediation, the complainant went to the district station seeking help after having a particularly difficult time with her daughter. When she got to the station, she explained what was happening with her daughter and asked the officer at the front desk, who was the subject of the complaint and the officer involved in the mediation, for assistance. The officer offered to refer her to Child Protective Services and gave her the phone number. The complainant explained the help she had received in the past and that she needed more immediate help. Because of the stress of the situation, the complainant and the officer

were unable to communicate effectively with one another. The officer tried to explain routine police procedure in these types of cases and the complainant tried to describe the type of help she was accustomed to receiving. Both parties left the situation feeling frustrated and the complainant felt she had been treated disrespectfully and harassed by the officer.

During the mediation session, the parties explained their recollections of the incident. Once the officer realized that the complainant thought that the assistance she had previously received was “normal police procedure,” the officer understood the source of their miscommunication and was able to explain to the complainant that she was not used to interacting with citizens on such a personal level and that her training was to make referrals to agencies specializing in caring for children. The officer apologized for her behavior and acknowledged how frustrated the complainant must have been during their interaction. The complainant was able to express that she was just seeking help and wanted to be treated in a respectful manner. Both parties were pleased with the result and agreed to treat each other with respect in any future interactions.

### **3. *Mediation Example #3***

A restaurant owner filed a complaint against two officers alleging that their routine, unannounced visits to his establishment were evidence of their intention to harass him by finding violations of the law and reporting his restaurant to the authorities.

During the mediation session, the officers explained that their visits were part of an overall effort to keep the peace in local bars and restaurants, not an attempt to cause him any harm. The complainant listened to the officers and, while initially skeptical, better understood by the end of the session their challenges in working to keep the neighborhood safe with inadequate resources. The officers assured the complainant that they had no intentions of reporting violations to cause him harm. They also indicated that the few times violations had been reported as a result of activity in or near the restaurant premises, the officers were required by law to report them.

The complainant and the officers then shifted their attention to the future, using the session to discuss their mutual concerns about managing the large crowds that descend on the area just outside the complainant’s restaurant. The officers shared information about securing extra police coverage by private contract and the possibility of pooling resources with other establishments in the neighborhood to obtain such services. They also clarified their expectations about how they would communicate in the future so as to avoid misunderstandings of the sort that brought them to mediation.

### **D. *Investigations***

During fiscal year 2005, OPC expanded, reorganized, and implemented new procedures for its investigative unit. The most significant change to the investigative unit was the addition of four new line investigators, bringing the total to ten. These much-needed investigators were added with additional funds provided by the Mayor and the Council in OPC’s fiscal year 2005 budget, and the resulting expansion of the agency’s staff has helped reduce the amount of time it takes to investigate complaints and decreased the number of open complaints. OPC also

converted one of its positions to a paralegal specialist to provide support to the investigative unit in managing and conducting its investigations. With its larger investigative staff, OPC was able to reorganize the staff into two investigative teams each composed of a lead investigator, a senior investigator, and three line investigators. Under the new team structure, the lead investigator can provide more day-to-day management and supervision of the investigations assigned to the team, and can be more directly involved in the interviewing, investigative steps, and report writing of the team members. The lead investigator can also provide ongoing training and guidance to the members of the team and manage the completion of various team tasks and responsibilities. Overall, OPC expects the new team structure to enhance significantly the quality of OPC's investigative work.

In addition to the staff changes, OPC also made changes to its investigative procedures and practices. The most notable change was that, on October 1, 2004, OPC began taking signed, certified statements from all witnesses in OPC investigations. OPC investigators interview witnesses and then assist them with preparing statements based on the information provided during the interview. As part of the process, each witness has an opportunity to review and revise the statement to be sure that it is accurate and complete, and then the witness must certify the truth of the statement. OPC instituted the statement process in an effort to enhance the accuracy and thoroughness of the information gathered during interviews of witnesses. When a witness is unwilling to certify the truth of his or her statement, OPC draws an adverse inference against the evidence provided by that witness, thereby casting doubt on its credibility. In addition, based on the failure to cooperate with OPC's process by providing a signed, certified statement, the agency has dismissed citizen complaints and sought discipline of officers. The statements replaced interview summaries that had previously been prepared by investigators after interviewing witnesses.

In fiscal year 2006, OPC will continue to consider other changes, both large and small, that will allow the agency to more thoroughly and efficiently investigate complaints.

#### **E. 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. Over the five years that OPC has been open, its method of compiling statistics has changed significantly, moving from manual collection, to using OPC's initial complaint tracking database, to using OPC's new complaint management software (CMS), which was used for the first time in fiscal year 2004. The implementation of the CMS was also accompanied by the reentry of data for all of OPC's complaints and changes in the process of receiving and recording contacts and complaints. Over the course of these several years, OPC has ensured that the data were as accurate as possible and the presentation of the statistics was as consistent as possible. With all of the changes in fiscal year 2004, however – the CMS, the reentry of data, and the different processes – OPC believes that the changes may have had an impact on some of the statistics, leading to some fluctuations that the agency cannot account for in full. For example, with the new CMS, OPC gained the ability to record additional types of citizen contacts that it could not track in earlier years. In addition, when officer information was entered into the CMS, it reflected the then current assignment of the officer, which may not have been the same as it was at the time of an earlier

incident. OPC notes the changes so that readers will be aware of them, and OPC will monitor the statistics in years ahead to try to determine if any of the unusual changes resulted from changes in the process or were signs of other trends.

At the end of OPC's fifth year of operation, the statistics collected by the agency have shown the pattern of growth of the agency, and the success that the agency has achieved in increasing its efficiency and productivity over the past couple of years. The agency has increased the number of investigations completed and complaints closed, which, for fiscal year 2005, as in fiscal year 2004, was larger than the number of complaints opened. As a consequence, OPC's number of open complaints went down by an additional 13% at the end of fiscal year 2005.

### *1. Contacts and Formal Complaints*

Under the statute and regulations governing OPC, all complaints must be reduced to writing and signed by the complainant, who must certify the truth of the statements in the complaint. Once a complaint has met these requirements, it is referred to as a "formal complaint." OPC is regularly contacted by people who inquire about filing a complaint, but who have not yet submitted a signed complaint form. Where appropriate, OPC opens a file for each one of these contacts and attempts to obtain a formal complaint by mailing a form to the person or giving him or her instructions about filing a complaint in person. If no formal complaint is received, the file related to that contact is closed. OPC also is contacted about a variety of issues that do not fall within the jurisdiction of the office. The agency collects information about each contact, enters it into the CMS, and refers the person to the appropriate agency or office. In fiscal year 2004, OPC modified its process to more clearly separate and track contacts that raise issues outside the agency's jurisdiction, which resulted in a noticeably larger number of these contacts being recorded during fiscal years 2004 and 2005.

Table 4 indicates the total number of contacts received by OPC in fiscal years 2001 through 2005,<sup>10</sup> the number of formal complaints that resulted in each year, and the disposition of each contact that did not result in a formal complaint. The table also includes a total for all five years in each category. In fiscal year 2005, OPC received a relatively consistent number of contacts, but experienced a significant increase in the number of formal complaints. The number of contacts decreased by 4% (from 699 to 674) and the number of formal complaints increased by 24% (from 262 to 326) from fiscal year 2004 to fiscal year 2005. While the increase in the number of formal complaints seems dramatic, it actually returns OPC to receiving a number of formal complaints more in keeping with the number received in fiscal years 2001, 2002, and 2003, where the agency received 310, 318, and 361 formal complaints, respectively. These numbers suggest that the decrease in the number of formal complaints in fiscal year 2004 was an outlier, and not the increase experienced in fiscal year 2005.

**Table 4: Contacts and Formal Complaints**

	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Total</b>
<b>Total Contacts</b>	477	535	613	699	674	2998
<b>Closed – Outside Agency Jurisdiction, Etc.</b>	9	36	55	297	184	581
<b>Closed – No Formal Complaint</b>	158	181	197	140	164	840
<b>Total Formal Complaints</b>	310	318	361	262	326	1577

**2. Disposition of Formal Complaints**

Each year, OPC works to resolve as many formal complaints as possible. Complaints are closed because they have been resolved by OPC, which includes being dismissed in accordance with the OPC statute, successfully mediated, or adjudicated through OPC’s complaint examination process. Complaints are also referred to MPD because they contain allegations that are not within OPC’s jurisdiction to investigate or they were filed more than 45 days after the incident occurred, and some complaints are referred to other law enforcement agencies when the complaints relate to another agency’s officers. Finally, some complaints are withdrawn by the complainant or closed for administrative reasons.

Table 5 indicates the total number of formal complaints that were closed in fiscal years 2001 through 2005, as well as the specific disposition of each complaint. The table also includes a total for all four years in each category. From fiscal year 2004 to fiscal year 2005, the number of formal complaints closed by OPC grew by approximately 18% (from 312 to 368). This is the second year in a row that OPC significantly increased the number of complaints it closed, and the increase was driven by a 28% increase in complaints resolved by OPC through adjudication, dismissal, or successful mediation.

**Table 5: Disposition of Formal Complaints**

	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Total</b>
<b>Adjudicated</b>	--	--	19	16	17	52
<b>Dismissed</b>	21	91	75	145	211	543
<b>Successfully Mediated</b>	7	13	15	25	13	73
<b>Withdrawn by Complainant</b>	11	17	9	26	25	88
<b>Referred to MPD</b>	107	88	90	62	65	412
<b>Referred to Other Police Agencies</b>	3	1	18	11	3	36
<b>Administrative Closures</b>	12	12	9	27	34	94
<b>Closed Formal Complaints</b>	161	222	235	312	368	1298

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

At the end of each fiscal year, there are a number of formal complaints that are still pending. Table 6 indicates the total number of complaints from all years that were open at the end of fiscal years 2001 through 2005. The table also indicates the general status of the open

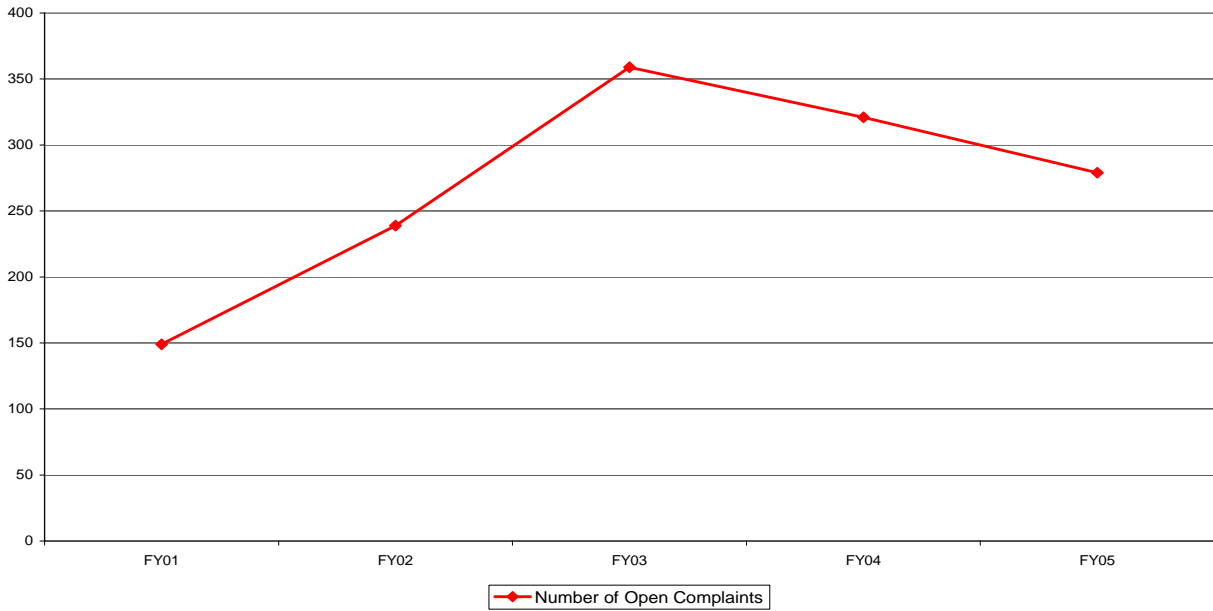
complaints, which include assigned to a complaint examiner and awaiting a decision, referred into the mediation process, referred for review by the U.S. Attorney’s Office for possible criminal prosecution of the subject officer, referred to a PCB member for review, awaiting the subject officer’s objections to the investigative report before the complaint is assigned to a complaint examiner, currently under investigation, currently under investigation with a preliminary investigative report drafted and being reviewed, or awaiting the initial executive decision about how to proceed with a new complaint. Chart 6 depicts how the total number of complaints open at the end of each fiscal year has changed over the past five years.

The most noteworthy change for fiscal year 2005 is the decrease in the number of open complaints by 13%. This is the second year in a row that OPC closed more complaints than it opened during the course of the year, and the decrease occurred despite the fact that the agency received 64 more complaints in fiscal year 2005. In addition, there was a 30% decrease in the number of complaints actively under investigation by OPC’s investigators, and a 21% decrease in the number of complaints under investigation with a preliminary investigative report drafted and being reviewed. These numbers reflect the effect of the new investigators added to OPC’s staff, as well as the increased efficiency and productivity of the agency’s investigative staff and management in conducting and reviewing investigations. The lower number of complaints in the investigation and review process also creates a more manageable workload that allows investigators and managers to devote more time to each investigation.

**Table 6: Status of Pending Formal Complaints at the End of Each Fiscal Year**

	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>
<b>Assigned to Complaint Examiner</b>	--	--	12	9	5
<b>Referred for Mediation</b>	15	10	11	5	18
<b>Referred to U.S. Attorney’s Office</b>	20	15	18	10	25
<b>Referred to PCB Member</b>	--	--	--	--	14
<b>Awaiting Subject Officer Objections</b>	--	--	--	--	2
<b>Under Investigation by OPC</b>	99	130	232	224	157
<b>Under Investigation / Report Drafted</b>	15	80	79	73	58
<b>Executive Decision</b>	--	4	7	--	--
<b>Total Number of Open Complaints</b>	149	239	359	321	279

**Chart 6: Number of Open Formal Complaints at the End of Each Fiscal Year**



#### **4. OPC Workload**

OPC closes complaints each year at one of three different points in the life of the complaint. First, complaints are closed shortly after they are received because they are referred to MPD or another police agency. These are complaints that are outside OPC’s jurisdiction. In general, the only work that OPC performs on these complaints is to conduct an initial investigation to confirm the nature of the complaint, and then prepare and send the complaint and related materials to the appropriate agency. Second, complaints are closed because the complainant withdraws the complaint or for other administrative reasons. These complaints require varying amounts of work by OPC depending on when the complainant withdraws the complaint, which may occur at any point up through a final decision, or when the event occurs that triggers administrative closure. Some of the events that trigger administrative closure, which also may occur at any time, include the resignation of an officer from MPD, or the completion of an investigation by MPD into the same allegations that results in the discipline of the officer. Finally, complaints are closed after they have been resolved by OPC. OPC resolves complaints by adjudication, dismissal, or successful mediation. These complaints generally require the most work, including a full investigation, the completion of an investigative report, and any other related adjudication, dismissal, or mediation processes.

Table 7 collects statistics from the three preceding sections of this part of the report to illustrate the proportion of complaints that are closed at the three different points in the life of a complaint. First, the table shows the number of formal complaints that OPC received in all five fiscal years. Next, the table subtracts the number of complaints referred to MPD or another police agency to arrive at the number of formal complaints that fall within OPC’s jurisdiction. After that, Table 7 subtracts the complaints that reach a point short of final resolution where they require no further action, such as those that are withdrawn or are administratively closed, to

arrive at the number of complaints that require resolution by OPC. Finally, the table subtracts the number of complaints resolved in each fiscal year. The resulting number shows either: (1) the number of complaints that require resolution by OPC but that are carried over to the next fiscal year unresolved; or (2) the number by which the total number of open complaints is reduced from one year to the next, which is indicated by parentheses. Thus, each fiscal year begins with a number of complaints already open that need to be resolved, and new complaints are received over the course of the fiscal year. For a graphical depiction, Chart 7 includes lines indicating the number of complaints that require resolution by OPC and the number of complaints resolved by OPC. The distance between the two lines on Chart 7 represents the number of complaints that are carried over to the next fiscal year unresolved or the amount by which the number of open complaints is reduced.

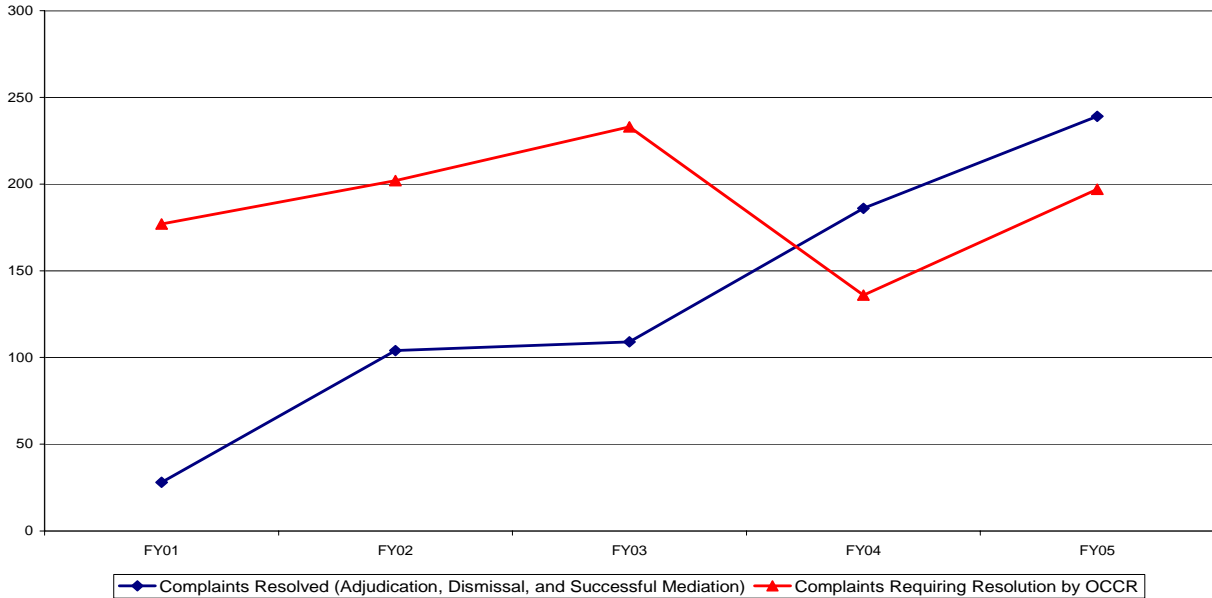
OPC’s increased efficiency and productivity are clearly displayed in both the table and the chart. In fiscal year 2004, the increased efficiency and productivity, together with a smaller number of complaints received by the agency, resulted in OPC having its first year where it closed more complaints than it opened. Further increases in efficiency and productivity are obvious in fiscal year 2005 as well, where OPC had its second year in a row where it closed more complaints than it opened. This happened despite the fact that the agency received 64 more complaints, of which 53 required resolution by the agency in fiscal year 2005. OPC is making every effort to continue to enhance its efficiency and productivity so the agency can keep up with the new complaints it receives, as well as resolve any complaints that are backlogged.

**Table 7: OPC Workload**

	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Total</b>
<b>Total Formal Complaints</b>	310	318	361	262	326	1577
<b>Referred to MPD or Other Agency</b>	110	89	108	73	68	448
<b>Complaints in OPC’s Jurisdiction</b>	200	229	253	189	258	1129
<b>Complaints Requiring No Further Action (Withdrawn or Administratively Closed)</b>	23	29	18	53	61	184
<b>Complaints Requiring Resolution by OPC</b>	177	202	233	136	197	945
<b>Complaints Resolved (Adjudication, Dismissal, and Successful Mediation)</b>	28	104	109	186	239	666
<b>Unresolved Complaints Each Fiscal Year</b>	149	98	124	(50)	(42)	279



**Chart 7: OPC Workload**



**5. Allegations in Formal Complaints**

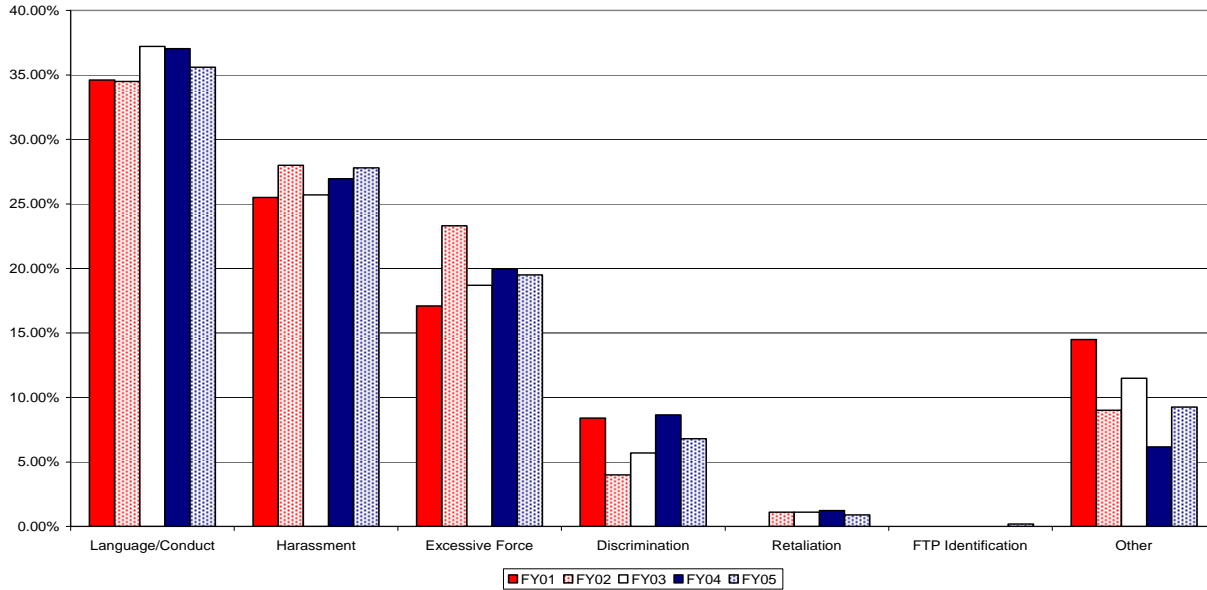
Each formal complaint may contain allegations of more than one type of misconduct, including harassment, use of unnecessary or excessive force, use of language or conduct that is insulting, demeaning, or humiliating, discriminatory treatment, retaliation for filing a complaint with OPC, or failure to wear or display required identification or to identify oneself by name and badge number when requested to do so by a member of the public. In addition, complainants often allege other conduct that does not fall within the six types of misconduct under OPC’s jurisdiction.

Table 8 indicates the total number of allegations contained in all of the formal complaints received in fiscal years 2001 through 2005, as well as the number of each type of allegation made, and a total for all five years in each category. Table 8 and Chart 8 also indicate the percentage of the total number of allegations that each type of allegation constitutes.

**Table 8: Allegations in Formal Complaints**

	FY01		FY02		FY03		FY04		FY05		Total	
<b>Language/Conduct</b>	148	34.6%	154	34.5%	197	37.2%	180	37.0%	188	34.4%	867	35.6%
<b>Harassment</b>	109	25.5%	125	28.0%	136	25.7%	131	27.0%	176	32.2%	677	27.8%
<b>Excessive Force</b>	73	17.1%	104	23.3%	99	18.7%	97	20.0%	101	18.5%	474	19.5%
<b>Discrimination</b>	36	8.4%	18	4.0%	30	5.7%	42	8.6%	39	7.1%	165	6.8%
<b>Retaliation</b>	--	--	5	1.1%	6	1.1%	6	1.2%	4	0.7%	21	0.9%
<b>FTP Identification</b>	--	--	--	--	--	--	--	--	6	1.1%	6	0.2%
<b>Other</b>	62	14.5%	40	9.0%	61	11.5%	30	6.2%	33	6.0%	226	9.26%
<b>Total Allegations</b>	428		446		529		486		547		2436	

**Chart 8: Allegations in Formal Complaints (as a Percentage)**



**6. Complainant Race or National Origin, Gender, and Age**

When a person files a complaint, the individual is asked to identify his or her race or national origin, gender, and date of birth. The following tables and charts reflect the information provided by each complainant. In general, the columns in the tables and the bars on the charts reflect the information for each complaint, not eliminating duplicates of complainants who filed multiple complaints. In some tables, OPC was able to include information regarding the number of “unique complainants,” meaning that OPC eliminated duplicates of complainants who filed multiple complaints. Some tables and charts also include U.S. Census information regarding the composition of the population of the District of Columbia as a whole.

In fiscal year 2005, there was some noticeable fluctuation in the proportion of complainants falling into the various race or national origin groups, while the proportion of complainants falling into the various gender and age groups remained relatively consistent. The race or national origin data show a 7% increase in the proportion of African-American complainants, a 6% decrease in the proportion of white complainants, and a 2% decrease in the proportion of Latino complainants. These increases were occurring at the same time that the District’s African-American population was decreasing and its white and Latino populations were increasing. In general, the race or national origin of OPC complainants has varied noticeably from the District’s population each year and the fluctuations among the proportions of OPC complainants in fiscal year 2005 and the population further increase the variation. It is worth noting that although the fiscal year 2005 race or national origin proportions have fluctuated noticeably from fiscal years 2003 and 2004, they do resemble the proportions in fiscal years 2001 and 2002. This indicates that the current proportions are not totally out of character for OPC complainants, but renews concerns about the disproportionately high number of African-American complainants when compared with the District’s population.

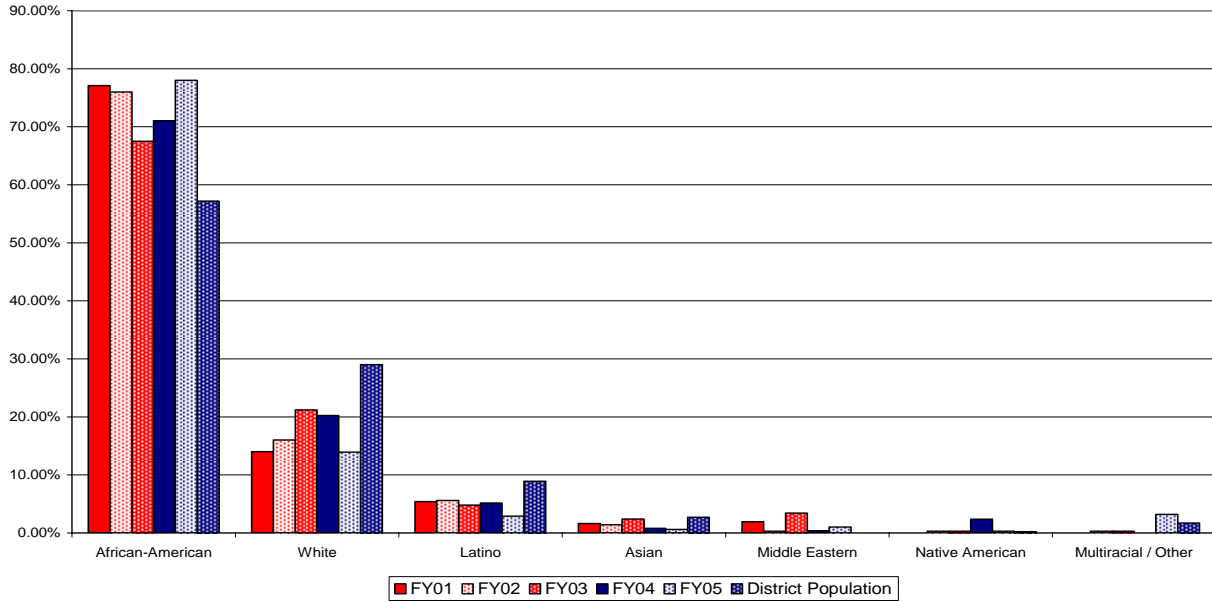
The gender data, which are relatively consistent from year to year, also continue to vary from the District population with a higher proportion of male complainants and a lower proportion of female complainants. The age data, which are also consistent from year to year, show the most significant variation from the District population, with a higher proportion of complainants in the middle age groups than the District population, and a lower proportion in the youngest and oldest age groups. To illustrate the divergence, the data from the age table is displayed on a line chart showing the proportions for each year and the District population in the different age groups.

With respect to “unique complainants,” 310 different people filed the 326 complaints received by OPC, and there were ten complainants who filed multiple complaints in fiscal year 2005. Seven people filed two complaints, two filed three complaints, and one filed six complaints.

**Table 9: Complainant Race or National Origin**

	<b>FY01</b>		<b>FY02</b>		<b>FY03</b>		<b>FY04</b>		<b>FY05</b>		<b>District Pop.<sup>11</sup></b>
<b>African-American</b>	199	77.1%	219	76.0%	197	67.5%	179	71.0%	241	78.0%	57.2%
<b>White</b>	36	14.0%	46	16.0%	62	21.2%	51	20.2%	43	13.9%	29.0%
<b>Latino</b>	14	5.4%	16	5.6%	14	4.8%	13	5.2%	9	2.9%	8.9%
<b>Asian</b>	4	1.6%	4	1.4%	7	2.4%	2	0.8%	2	0.6%	2.9%
<b>Middle Eastern</b>	5	1.9%	1	0.3%	10	3.4%	1	0.4%	3	1.0%	--
<b>Native American</b>	--	--	1	0.3%	1	0.3%	6	2.4%	1	0.3%	0.2%
<b>Multiracial / Other</b>	--	--	1	0.3%	1	0.3%	0	0.0%	10	3.2%	1.7%
<b>Unreported</b>	52		30		69		10		17		
<b>Total</b>	310		318		361		262		326		

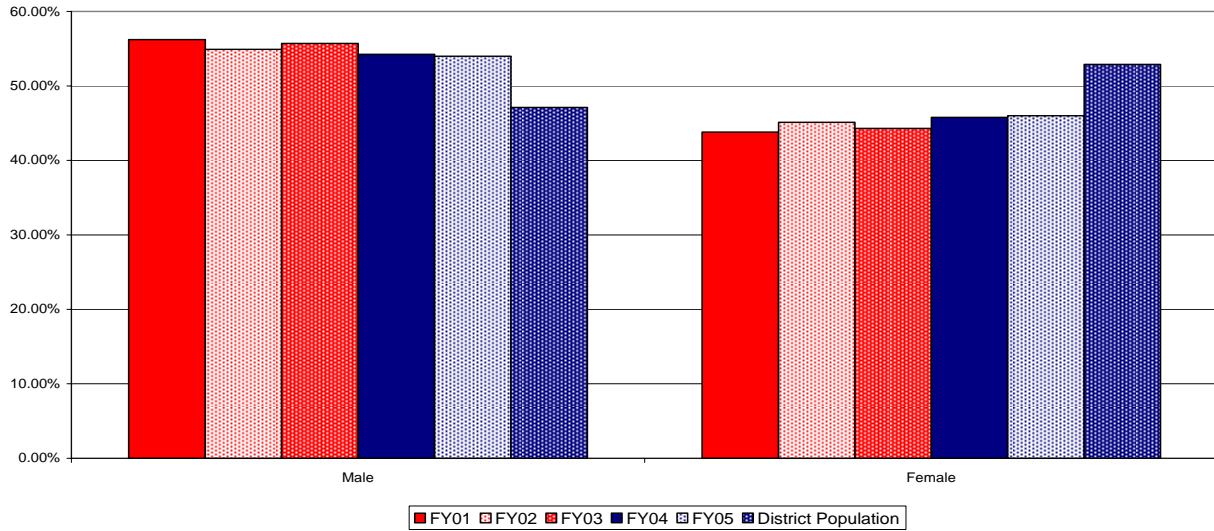
**Chart 9: Complainant Race or National Origin (as a Percentage)**



**Table 10: Complainant Gender**

	FY01		FY02		FY03		FY04		FY05		District Pop. <sup>11</sup>
<b>Male</b>	173	56.2%	174	54.9%	201	55.7%	141	54.2%	176	54.0%	47.0%
<b>Female</b>	135	43.8%	143	45.1%	160	44.3%	119	45.8%	150	46.0%	53.0%
<b>Unreported</b>	2		1		--		2		--		
<b>Total</b>	310		318		361		262		326		

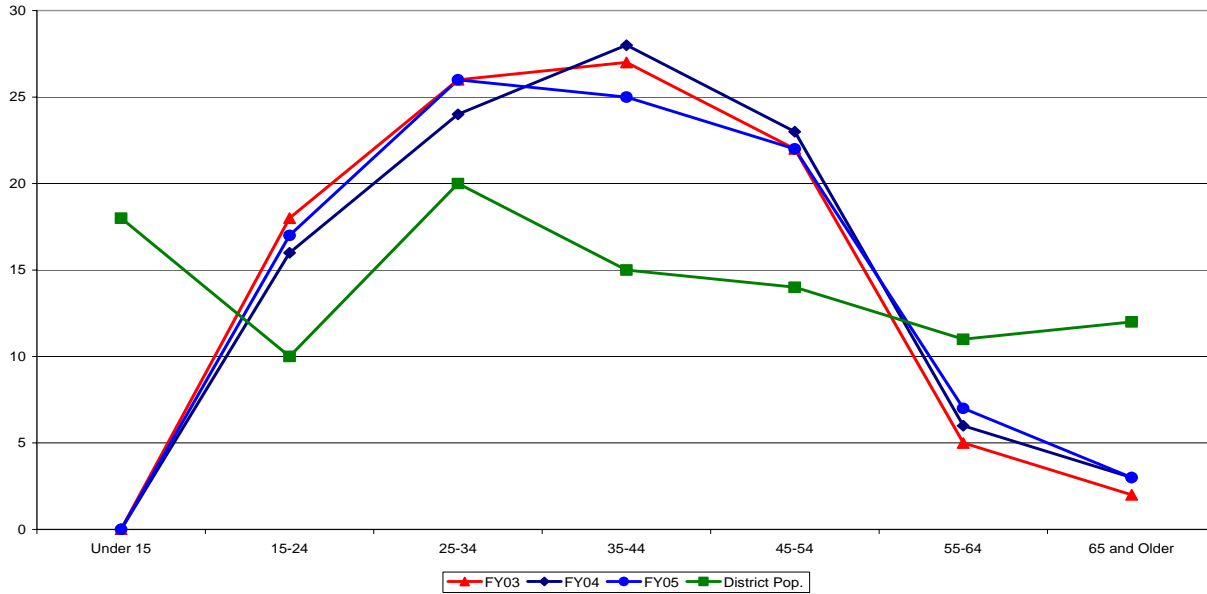
**Chart 10: Complainant Gender (as a Percentage)**



**Table 11: Complainant Age<sup>12</sup>**

	FY03		FY04		FY05		District Pop. <sup>11</sup>
<b>Under 15</b>	--	--	1	0.4%	--	--	18.0%
<b>15-24</b>	37	18.0%	39	15.8%	57	17.9%	10.1%
<b>25-34</b>	53	25.7%	60	24.3%	82	25.8%	20.4%
<b>35-44</b>	56	27.2%	68	27.5%	78	24.5%	15.3%
<b>45-54</b>	46	22.3%	57	23.1%	72	22.6%	13.6%
<b>55-64</b>	10	4.9%	14	5.7%	21	6.6%	10.5%
<b>65 and Older</b>	4	1.9%	8	3.2%	8	2.5%	12.1%
<b>Total</b>	206		247		318		

**Chart 11: Complainant Age (as a Percentage)**



**Table 12: Complainant Race or National Origin with “Unique Complainant” Information**

	FY02	FY02 Unique Complainants	FY03	FY03 Unique Complainants	FY04	FY04 Unique Complainants	FY05	FY05 Unique Complainants
<b>African-American</b>	219	208	197	190	179	176	241	225
<b>White</b>	46	46	62	59	51	43	43	43
<b>Latino</b>	16	16	14	14	13	13	9	9
<b>Asian</b>	4	4	7	6	2	2	2	2
<b>Middle Eastern</b>	1	1	10	6	1	1	3	3
<b>Native American</b>	1	1	1	1	6	1	1	1
<b>Multiracial / Other</b>	1	1	1	1	0	0	10	10
<b>Unreported</b>	30	30	69	68	10	10	17	17
<b>Total</b>	318	307	361	345	262	246	326	310

**Table 13: Complainant Gender with “Unique Complainant” Information**

	FY02	FY02 Unique Complainants	FY03	FY03 Unique Complainants	FY04	FY04 Unique Complainants	FY05	FY05 Unique Complainants
<b>Male</b>	174	166	201	190	141	126	176	168
<b>Female</b>	143	140	160	155	119	118	150	142
<b>Unreported</b>	1	1	--	--	2	2	--	--
<b>Total</b>	318	307	361	345	262	246	326	310

## 7. *Subject Officer Race or National Origin, Gender, and Assignment*

When a person files a complaint, OPC records the race or national origin, gender, and assignment of the subject officer in the complaint. In some instances the complainant is able to identify the subject officer, and in others, OPC determines the identity of the officer during the course of its investigation. In other instances, the complainant is not able to identify the subject officer and the identity of the officer remains unknown. The following tables and charts reflect the information for officers who could be identified or whose information was reported by the complainant. In general, the columns in the tables and the bars on the charts reflect the information for each subject officer, not eliminating duplicates of officers who were the subject of multiple complaints. In some tables, OPC was able to include information regarding the number of “unique officers,” meaning that OPC eliminated duplicates of officers who were the subject of multiple complaints. Some tables and charts also include information regarding the composition of the entire work force of MPD officers.

From year to year, the proportions of subject officers falling into the various race or national origin and gender groups have remained relatively consistent. However, over the period from fiscal year 2001 to fiscal year 2005, the race or national origin of subject officers has been on a trend that has steadily decreased the proportion of African-American subject officers from 66% to 55% of the total, and increased the proportion of white subject officers from 30% to 34% and the proportion of Latino subject officers from 4% to 6% of the total. Over this same time period, the race or national breakdown of the entire police force was changing in the same way, although not to as great a degree. Nevertheless, the entire police force still has a lower proportion of white officers and a higher proportion of African-American officers than the subject officer proportions, like it has in most years. The gender data also continue to vary from the entire police force with a noticeably higher proportion of male subject officers and noticeably lower proportion of female subject officers. The data regarding the assignments of subject officers has fluctuated from year to year. OPC cannot fully account for the variation, and the data may be somewhat skewed as a result of the reentry of data in the CMS in fiscal year 2004. When information regarding officers was reentered into the CMS, the current assignment for each officer was entered, and it may have changed from the assignment the officer had at the time of any particular complaint, so readers should use caution when attempting to draw conclusions from the year-to-year trends regarding the assignments of subject officers.

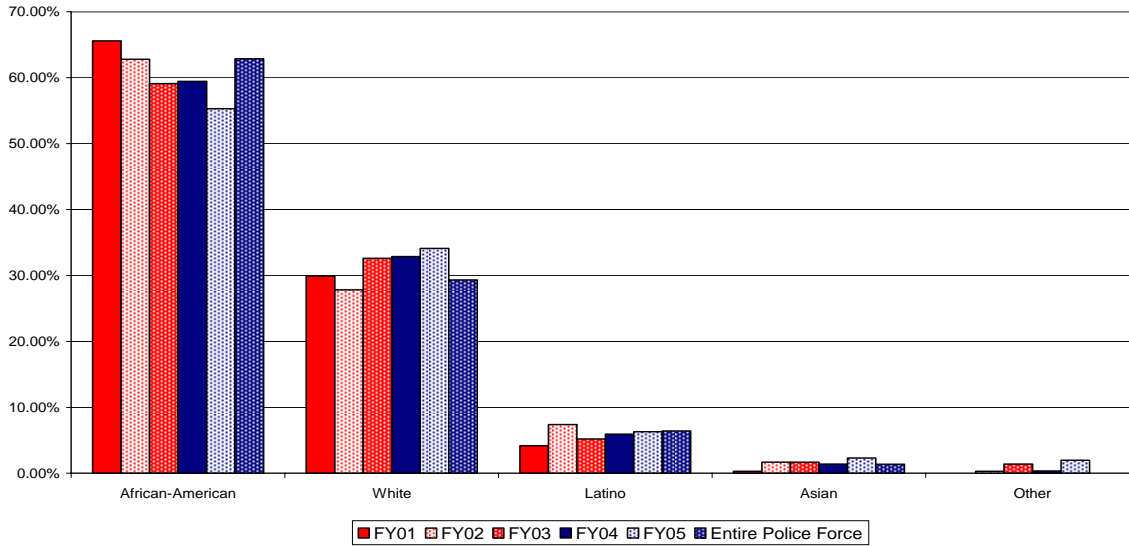
With respect to “unique officers,” 387 different officers were identified as the 468 subject officers in the complaints filed with OPC in fiscal year 2005. There were 39 officers who were identified as the subject officer in two different complaints, eight officers identified in three complaints, two officers identified in four complaints, and one officer each identified in six, seven, and ten different complaints.

For reference purposes, a map indicating the location of the seven police districts used by MPD is included in Appendix A.

**Table 14: Subject Officer Race or National Origin**

	FY01		FY02		FY03		FY04		FY05		Entire Police Force <sup>13</sup>
<b>African-American</b>	233	65.6%	221	62.8%	205	59.1%	170	59.4%	219	55.3%	62.9%
<b>White</b>	106	29.9%	98	27.8%	112	32.6%	94	32.9%	135	34.1%	29.3%
<b>Latino</b>	15	4.2%	26	7.4%	18	5.2%	17	5.9%	25	6.3%	6.4%
<b>Asian</b>	1	0.3%	6	1.7%	6	1.7%	4	1.4%	9	2.3%	1.4%
<b>Other</b>	--	--	1	0.3%	5	1.4%	1	0.4%	8	2.0%	--
<b>Unidentified</b>	52		48		71		41		72		
<b>Total</b>	407		400		417		327		468		

**Chart 14: Subject Officer Race or National Origin (as a Percentage)**

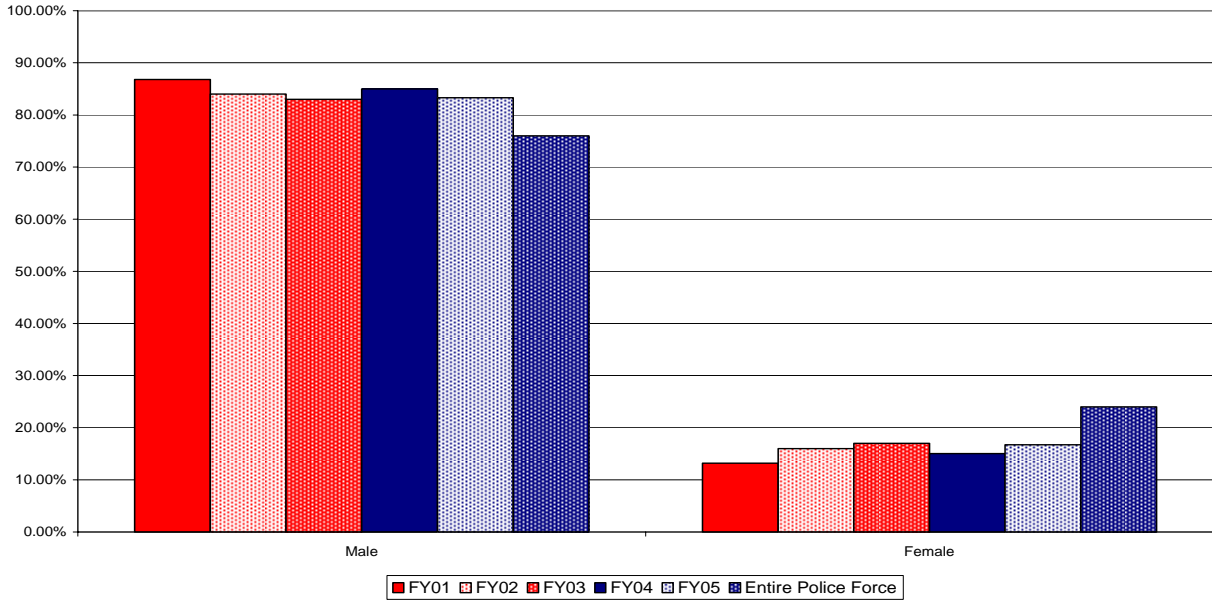


**Table 15: Subject Officer Gender**

	FY01		FY02		FY03		FY04		FY05		Entire Police Force <sup>13</sup>
<b>Male</b>	321	86.8%	300	84.0%	293	83.0%	266	85.0%	330	83.3%	76.0%
<b>Female</b>	49	13.2%	57	16.0%	60	17.0%	47	15.0%	66	16.7%	24.0%
<b>Unidentified</b>	37		43		64		14		72		
<b>Total</b>	407		400		417		327		468		



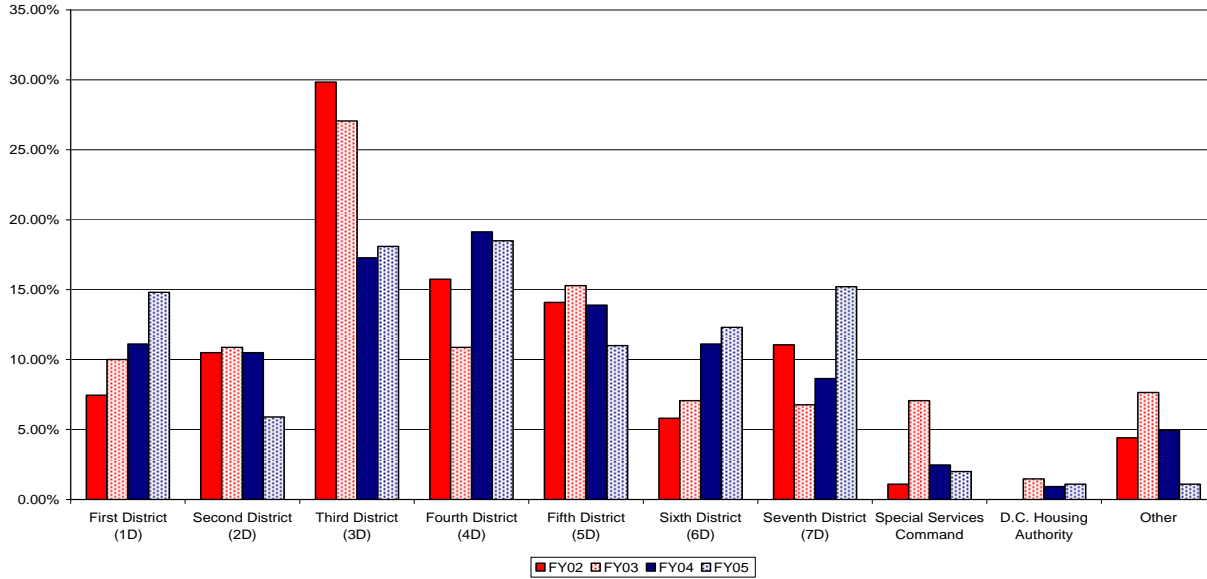
**Chart 15: Subject Officer Gender (as a Percentage)**



**Table 16: Subject Officer Assignment<sup>14</sup>**

	FY02		FY03		FY04		FY05	
<b>First District (1D)</b>	27	7.5%	34	9.7%	36	11.1%	67	14.8%
<b>Second District (2D)</b>	38	10.5%	37	10.6%	34	10.5%	27	5.9%
<b>Third District (3D)</b>	108	29.8%	92	26.4%	56	17.3%	82	18.1%
<b>Fourth District (4D)</b>	57	15.8%	37	10.6%	62	19.1%	84	18.5%
<b>Fifth District (5D)</b>	51	14.1%	52	14.9%	45	13.9%	50	11.0%
<b>Sixth District (6D)</b>	21	5.8%	24	6.9%	36	11.1%	56	12.3%
<b>Seventh District (7D)</b>	40	11.1%	23	6.6%	28	8.6%	69	15.2%
<b>Special Services Command</b>	4	1.1%	24	6.9%	8	2.5%	9	2.0%
<b>D.C. Housing Authority</b>	--	0.0%	5	1.4%	3	0.9%	5	1.1%
<b>Other<sup>15</sup></b>	16	4.4%	21	6.0%	16	4.9%	5	1.1%
<b>Unidentified</b>	38		68		3		14	
<b>Total</b>	400		417		327		468	

**Chart 16: Subject Officer Assignment (as a Percentage)**



**Table 17: Subject Officer Race or National Origin with “Unique Officer” Information**

	FY02	FY02 Unique Officers	FY03	FY03 Unique Officers	FY04	FY04 Unique Officers	FY05	FY05 Unique Officers
<b>African-American</b>	221	176	205	165	170	147	219	172
<b>White</b>	98	73	112	85	94	74	135	111
<b>Latino</b>	26	14	18	15	17	15	25	17
<b>Asian</b>	6	3	6	5	4	4	9	8
<b>Other</b>	1	1	5	3	1	1	8	7
<b>Unidentified</b>	48	48	71	71	41	41	72	72
<b>Total</b>	400	315	417	344	327	282	468	387

**Table 18: Subject Officer Gender with “Unique Officer” Information**

	FY02	FY02 Unique Officers	FY03	FY03 Unique Officers	FY04	FY04 Unique Officers	FY05	FY05 Unique Officers
<b>Male</b>	300	228	293	231	266	226	330	257
<b>Female</b>	57	44	60	49	47	42	66	58
<b>Unidentified</b>	43	43	64	64	14	14	72	72
<b>Total</b>	400	315	417	344	327	282	468	387

**Table 19: Subject Officer Assignment with “Unique Officer” Information**

	FY02	FY02 Unique Officers	FY03	FY03 Unique Officers	FY04	FY04 Unique Officers	FY05	FY05 Unique Officers
<b>First District (1D)</b>	27	24	34	29	36	33	67	56
<b>Second District (2D)</b>	38	29	37	28	34	31	27	21
<b>Third District (3D)</b>	108	73	92	61	56	52	82	68
<b>Fourth District (4D)</b>	57	45	37	29	62	45	84	53
<b>Fifth District (5D)</b>	51	41	52	40	45	40	50	48
<b>Sixth District (6D)</b>	21	21	24	23	36	29	56	51
<b>Seventh District (7D)</b>	40	28	23	22	28	26	69	58
<b>Special Services Command</b>	4	4	24	23	8	8	9	9
<b>D.C. Housing Authority</b>	--	--	5	5	3	3	5	5
<b>Other</b>	16	13	21	16	16	12	5	4
<b>Unidentified</b>	38	38	68	68	3	3	14	14
<b>Total</b>	400	316	417	344	327	282	468	387

**8. City Wards**

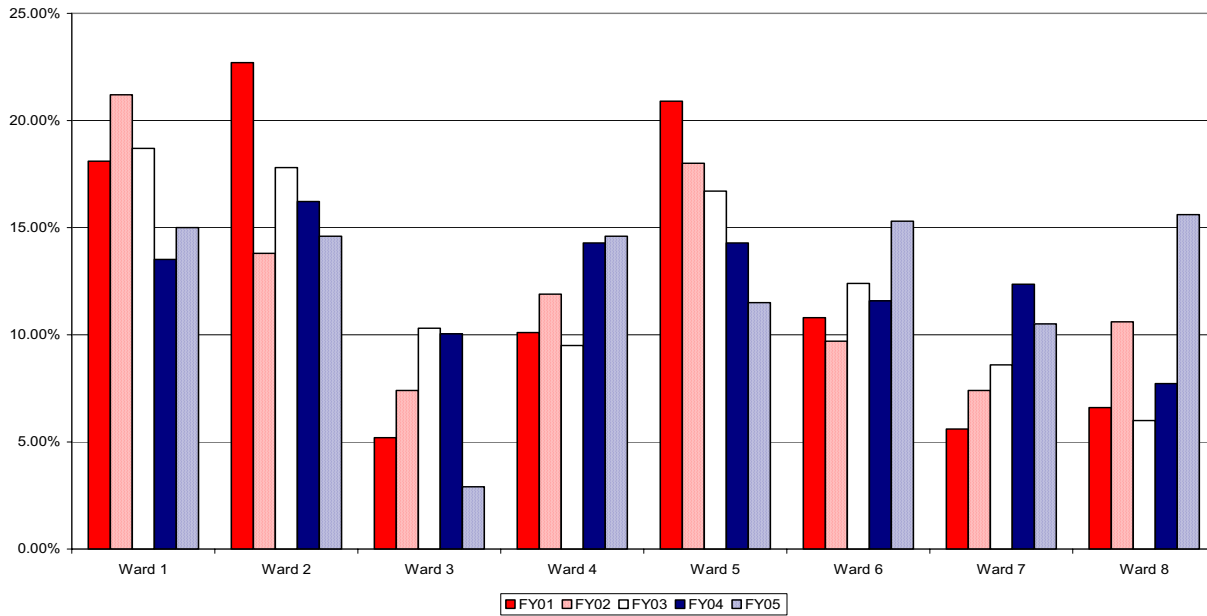
When a complaint is filed, OPC records the city ward in which the underlying incident occurred. Table 20 reflects the ward that was the site of each complaint filed in fiscal years 2001 through 2005.<sup>16</sup> Table 20 and Chart 20 also reflect the percentages of all complaints that arose in each ward. For fiscal year 2005, the data show a noticeable decrease in complaints from Ward 3 and noticeable increases in complaints from Wards 6 and 8. The data also show a noticeable overall decline in the number of complaints from Wards 2 and 5 over the course of all five years, and an overall increase in the number of complaints from Wards 7 and 8 over the same period.

For reference purposes, a map indicating the location of the District of Columbia’s eight wards is included in Appendix B.

**Table 20: City Wards**

	FY01		FY02		FY03		FY04		FY05	
<b>1</b>	52	18.1%	66	21.2%	65	18.7%	35	13.5%	47	15.0%
<b>2</b>	65	22.7%	43	13.8%	62	17.8%	42	16.2%	46	14.6%
<b>3</b>	15	5.2%	23	7.4%	36	10.3%	26	10.0%	9	2.9%
<b>4</b>	29	10.1%	37	11.9%	33	9.5%	37	14.3%	46	14.6%
<b>5</b>	60	20.9%	56	18.0%	58	16.7%	37	14.3%	36	11.5%
<b>6</b>	31	10.8%	30	9.7%	43	12.4%	30	11.6%	48	15.3%
<b>7</b>	16	5.6%	23	7.4%	30	8.6%	32	12.4%	33	10.5%
<b>8</b>	19	6.6%	33	10.6%	21	6.0%	20	7.7%	49	15.6%
<b>Unidentified / Not in D.C.</b>	21		7		13		3		12	
<b>Total</b>	308		318		361		262		326	

**Chart 20: City Wards (as a Percentage)**



**F. Outreach**

**1. Fiscal Year 2005**

Over the past year, OPC worked to carry out its goals for outreach set forth in its Community Outreach Strategic Plan for 2005. The plan not only continued to focus on building and maintaining relationships with communities that may be underrepresented in their use of the OPC process, but it added a public education and awareness program regarding police accountability. As in previous years, OPC focused its outreach efforts on the District’s youth population, Latino community, and residents who live east of the Anacostia River in Wards 7 and 8. Overall, OPC had a good year with its community outreach and was able to implement some new outreach initiatives. This is despite the fact that the agency received approximately 350 Freedom of Information Act (FOIA) requests, which, like in past years, took away from the amount of time that OPC’s community affairs specialist could devote to conducting community outreach.

This year, OPC’s public education and awareness campaign made significant progress with the production of the agency’s first public service announcement (PSA). The six-minute PSA provides the public with information about the agency and its function, and tells people how they may file a complaint and what happens to the complaint after it is filed. The PSA was filmed and produced by the District’s Office of Cable Television and Telecommunications and airs regularly on City Cable Channel 16, which is a local public access cable channel. OPC also presented its “training the providers” outreach program to several community-based organizations throughout the District. Training sessions were conducted with organizations that serve the Latino community, Asian community, and homeless population. The agency also made

presentations to community groups whose membership included residents who live in Wards 7 and 8.

OPC conducted targeted outreach to a number of youth groups throughout the District as a part of its student interactive training program. The program, which focuses on reducing the number of negative encounters between young people and police officers, uses role-play scenarios to give students the opportunity evaluate their behavior and police behavior in different situations. In fiscal year 2005, OPC conducted student interactive sessions at Woodrow Wilson High School and Bell Multicultural High School, sponsored by the George Washington University Student Voices Program, and with the Time Dollar Youth Court Program and the Facilitating Leadership in Youth (FLY) Program, sponsored by American University.

Beyond implementing the strategic plan, OPC conducted a variety of other outreach activities. This year OPC provided information to groups and government officials in the United States and from around the world to assist them with developing or improving their own police accountability systems. Representatives of the Boston Police Department, along with researchers from Northeastern University, visited OPC as a part of their effort to advise Boston's police commissioner on the establishment of a police review entity. OPC, along with other oversight agencies around the country, served as technical advisers to the group, who were looking at best practices for review boards and oversight agencies. OPC also took part in the Uzbekistan Bilateral Exchange Program sponsored by the U.S. Department of Justice. As part of the program, a group of criminal justice officials from Uzbekistan visited law enforcement and police accountability offices in the United States to gather information and learn about the role that these agencies play in other countries. Finally, OPC responded to requests from the Government of Israel and the Police Ombudsman for Northern Ireland for information about OPC's mediation program.

## **2. *Community Outreach Strategic Plan for 2006***

For 2006, OPC will continue with most of the elements of its 2005 Strategic Plan, modifying and adding new programs as the agency assesses how best to use its limited community outreach resources. Based on the success of the student interactive training and "training the providers" programs, OPC will continue to conduct these sessions. OPC will make some return visits to schools and organizations that took part in the programs throughout the past year and will pursue opportunities to work with other schools and organizations throughout the District. In addition, OPC will also continue its outreach to MPD to ensure that officers and police supervisors are informed about the agency's process.

With respect to new activities, OPC is planning to expand on its public education and awareness program regarding police accountability. OPC will kick off 2006 with an agency open house to celebrate its fifth anniversary, recap the development and accomplishments of the agency during its first five years, and publicize the agency's relocation. OPC is also pursuing the distribution of information about the agency in the District's public libraries. Although OPC has worked to disseminate information about the agency throughout the city, OPC believes there are still many people who are not fully informed about the agency and its work, and the public education and awareness program will be seeking new methods to address this issue.

### **3. Website**

Since it was created, the agency's website has served as an important community outreach tool. OPC has regularly updated its news items to keep the public informed about developments at the agency, and added links to assist the public in finding police oversight resources in the United States and around the world. In addition to this ongoing work, OPC made significant changes to the mediation information available on the website so that the public will be better informed about the agency's mediation program. In fiscal year 2006, OPC will continue to use the website as a tool to make information about the agency and police accountability available to the public.

#### **G. 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. Employees have attended and OPC representatives have addressed the annual conferences each year since 2001 of the National Association for Civilian Oversight of Law Enforcement (NACOLE). At the October 2004 conference, OPC's executive director moderated and the agency's deputy director participated in a panel entitled, "Evaluating Claims of False Arrest and Harassment."

In addition, at the August 2005 annual conference of the National Black Police Association, OPC's executive director was invited to speak at a session that addressed best practices in the field of police oversight.

OPC plans to continue its involvement with these professional organizations to learn from, and share with, other police oversight agencies and law enforcement groups around the country and the world.

#### **H. 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 investigating and resolving individual police misconduct complaints to examine systemic issues that lead to police misconduct complaints. To date, PCB has issued six detailed reports and sets of recommendations for police reform, including four during fiscal year 2005, regarding a variety of issues, all of which are available on OPC's website, [www.policecomplaints.dc.gov](http://www.policecomplaints.dc.gov). Each report and set of recommendations is discussed in more detail below.

**1. Fiscal Year 2005**

**a. Minors in the Care of Arrested Persons**

On May 24, 2005, PCB issued a report and recommendations regarding the handling of minors in the care of arrested persons. OPC's investigation of a complaint filed with the office discovered that MPD did not have a written policy concerning the handling of juveniles who, although not involved in any criminal activity, are in the care of an adult who is arrested and, as a result of the arrest, are left unattended. Although many officers employ a common sense approach of seeking to unite these juveniles with another responsible adult, PCB found that this practice was neither universally employed nor adequate to ensure the safety of children who are left unattended when a parent or guardian is arrested.

Consequently, PCB recommended that MPD create a written policy to fill the gap identified by the Board that takes into consideration the following issues: the (1) identification, (2) transportation, and (3) location of origin of minors, the (4) reluctance on the part of the arrestee to identify minors in the arrestee's care, the (5) need to verify and document the identity of the adult to which the minor is released, and (6) the role and circumstances under which child protective services should become involved. The report also recommended that MPD then train its officers on the laws and procedures governing minors who are not involved in any criminality, and regularly monitor the policy to ensure its consistent application and to evaluate its effectiveness.

On October 11, 2005, MPD indicated to OCP that it had agreed to adopt the recommendations contained in the report that MPD was in the process of drafting a special order based on PCB's recommendations, which MPD anticipated would be finalized soon.

**b. Publication of MPD Orders on the Internet**

On July 14, 2005, PCB issued a report and recommendations regarding the publication of MPD orders on the Internet. PCB recommended that MPD publish its orders and directives, along with an index, on MPD's website, thereby making this information readily available to the public at no cost. PCB issued this recommendation after considering the benefits to the public and to MPD of having MPD's orders be easily accessible. The report noted that members of the public currently can purchase a set of MPD's orders from a professional organization called LaborCops, but argued that since this information governs such a wide range of police encounters with citizens, it would be advantageous for all citizens, including those without the financial resources to purchase the orders, to be able to easily locate and educate themselves about these directives. The report also pointed out that MPD officers would benefit because it would allow them to access orders governing their conduct from desktop computers and from mobile computers while in patrol cars, thus eliminating the need to carry around bulky manuals. PCB's report emphasized that MPD would not be alone if it were to publish its orders on the Internet, as several other large cities, including Cincinnati, Denver, Minneapolis, Portland, and Seattle, publish their departmental orders online.

On August 22, 2005, OPC received a letter from Chief Charles H. Ramsey indicating that MPD is currently not in a position to post its orders on the Internet because the orders are being

updated and because MPD is in the process of making the orders available to its own officers through the Department's intranet. He indicated that MPD would consider making the orders available to the public online after they have been updated and have been made fully accessible to MPD officers. In his testimony during a November 2005 hearing before the District Council's Judiciary Committee, Chief Ramsey appeared to indicate that MPD would go forward now with the publication of some general orders on the Internet.<sup>17</sup>

*c. Pretextual Stops of Bicyclists*

On August 4, 2005, PCB issued a report and recommendations regarding pretextual stops of bicyclists made in the District of Columbia. OPC had received numerous complaints that suggested that MPD selectively enforced the District of Columbia's mandatory bicycle registration requirement and other bicycle regulations either as a pretext to investigate suspected wrongdoing or for improper purposes, including harassment and punishment of individuals. The complaints further revealed that sporadic and inconsistent enforcement of the bicycle registration requirement and other bicycle regulations had increased the perception of biased policing on the part of citizens. The report recommended that the Mayor, the Council, and MPD: (1) replace mandatory, police-based bicycle registration with voluntary registration through a national registry; (2) collect bike stop data as part of MPD's Biased Policing Project in which car and pedestrian stop data is being collected in order to assess the issue of racial profiling; (3) provide better training for officers and recruits regarding the scope of the bicycle laws; and (4) take steps to better inform bike riders of their duties under the law.

On November 1, 2005, OPC received a letter from Chief Ramsey indicating that MPD agreed with PCB's recommendation to replace mandatory bicycle registration with voluntary registration in a national registry. He indicated that adoption of this recommendation would ease the burden of bike ownership in the District of Columbia without compromising law enforcement efforts. The letter acknowledged that the District of Columbia's Department of Transportation (DDOT), which has primary responsibility for bicycle regulations, has drafted proposed legislation recommending elimination of mandatory bicycle registration and stated that MPD would support this legislation when it is forwarded to the District Council.

In response to PCB's recommendation to collect bike stop data, Chief Ramsey stated that MPD currently is collecting this data on the MPD Form PD 76, which is the same form being used to record motor vehicle stop data for the Department's racial profiling study, and that MPD intends to publish the results of its data collection, including bike stops, in the summer of 2006.

Chief Ramsey's letter also stated that MPD concurs in PCB's recommendation to enhance officer training to include key bicycle regulations and agreed with the recommendation that MPD undertake efforts, such as creating and distributing pamphlets, to inform the public about bicycle registration requirements and other bicycle regulations. MPD noted that it already collaborates extensively with DDOT to distribute information to the public about bicycle regulations and bicycle safety. The letter stated that MPD will take the further step of adding information to MPD's website regarding bicycle registration and other bicycle regulations, such as changes in the helmet laws.



***d. Property Damage Caused by District of Columbia Police Action***

On September 28, 2005, OPC issued a report and recommendations regarding property damage caused by District of Columbia police action. One of the inevitable consequences of police work is that it sometimes causes damage to homes, cars, and other property. OPC learned through a several complaints from members of the public that citizens have experienced great difficulty in trying to obtain information from MPD about whether they are entitled to any compensation for property damaged by MPD officers in the course of carrying out their official duties. Many citizens resort to filing police misconduct complaints merely because of the lack of clear information about filing property damage claims. PCB undertook a review of MPD policies that address the issue of property damaged by MPD officers and discovered that while MPD has a policy for addressing property damage caused by forcible entry, it does not have a written policy for handling other kinds of property damage.

To address these issues, PCB recommended that the Mayor, the Council, and MPD: (1) revise MPD General Order 309.03 to require that officers making forcible entries leave an MPD Form PD 240A – a form that provides contact information for the officers who conducted the entry and some limited information about property damage claims – both when a location is occupied and unoccupied at the time of an entry; (2) create an official MPD policy for responding to property damage caused by police action other than forcible entries; (3) revise the PD 240A so that it informs citizens both that MPD officers conducted a forcible entry and that citizens may file a claim for compensation to the District of Columbia’s Office of Risk Management (ORM); (4) add information about filing claims to MPD’s and the city’s websites; and (5) train MPD employees about MPD’s procedures for filing property damage claims so they can accurately respond to requests for information from the public.

On October 27, 2005, OPC received a letter from Chief Ramsey indicating that MPD agreed to adopt all of PCB’s recommendations regarding how MPD handles property damage. Specifically, MPD agreed to revise the PD 240A such that it would inform citizens that a property damage claim may be directed to ORM and would include all relevant contact information. He also indicated that General Order 309.03 would be revised to require that a PD 240A form be left at any place that is forcibly entered whether or not the premises are occupied. The letter further stated that the revision of MPD General Order 309.03 would create a policy for guiding MPD staff in responding to property damage caused by action other than forcible entries. Additionally, MPD will provide training to its staff regarding MPD’s procedures for property damage claims so that they can accurately respond to requests for information from the public. Finally, MPD will add a section to its website that explains to the public the process for filing a property damage claim, including the need to contact ORM and how that office can be reached.

***2. Prior Years***

***a. Racial Profiling in Washington, D.C.***

In January 2002, PCB issued a report and recommendations regarding the identification and prevention of racial profiling by police officers in the District of Columbia. Specifically,

PCB recommended five policy changes that MPD should implement to identify and prevent racial profiling: (1) collect data on traffic stops; (2) implement a simple and inexpensive paper-based system of data collection; (3) ensure the statistical reliability of the data by including experts on data collection and analysis, chosen by community groups, civil liberties organizations, OPC, and MPD; (4) implement officer education and training on laws against racially biased policing; and (5) adopt a racial profiling policy and data collection system by June 1, 2002.

Following PCB's report and recommendations, MPD undertook its Biased Policing Project, which was designed to address issues regarding racial profiling and other forms of police bias in the District. As part of the project, and to serve in an advisory capacity, MPD formed a Community-Police Task Force, which OPC has participated in since it was created. After several years of work and some significant delays by the Department, the research organization hired by MPD to study biased policing issues, the Police Foundation, completed its report regarding the District and also recommended, among other things, that MPD implement a stop data collection program to detect any racial profiling and other forms of police bias. Through its work on the task force, and in direct advocacy to the Mayor, the Council, and Chief Ramsey, OPC strongly encouraged MPD to follow the recommendation regarding the collection of stop data. MPD announced in December 2004 that it would go forward with the stop data collection program.

On July 29, 2005, MPD convened a meeting of the task force to introduce Dr. John Lamberth, the expert retained by MPD to collect and analyze stop data. Dr. Lamberth explained that his study will assess stops of motorists and pedestrians made by the police, and that these stops will be measured against certain "benchmark data." This term refers to the control data against which stop data can be compared to determine if any racial or ethnic group is being stopped at a disproportionate rate. Dr. Lamberth explained that he would employ "observation surveys" to measure the traffic for motorists and pedestrians, broken down by race and ethnicity. OPC and other members of the task force objected when MPD indicated that the study would not include an analysis of post-stop data, such as whether citizens who were stopped were then searched or gave their consent to being searched. OPC set forth its concerns over this issue in a letter to Chief Ramsey dated August 9, 2005. Subsequently, MPD announced the inclusion of post-stop data and analysis in Dr. Lamberth's study.

The data collection and analysis project is expected to be completed by August 31, 2006, when the U.S. Department of Justice grant funding the study expires. OPC will continue to monitor closely the work performed by MPD and Dr. Lamberth on the project.

***b. Disorderly Conduct Arrests Made by MPD Officers***

In November 2003, PCB issued a report and recommendations regarding disorderly conduct arrests made by MPD officers. The report detailed a variety of information regarding disorderly conduct arrests and decisions that had been issued by OPC complaint examiners sustaining harassment allegations prompted by improper disorderly conduct arrests. Based on the report, PCB recommended that the Mayor, the Council, and MPD should: (1) modify MPD's arrest procedure to ensure that all citizens who pay \$25 to resolve their arrest are provided with written notice about the collateral forfeiture process and its consequences and that they sign an

acknowledgment of their choice to pay the \$25 collateral;<sup>18</sup> (2) immediately begin providing additional training to all MPD officers and supervisors regarding the law and procedure related to disorderly conduct arrests; (3) distribute a videotaped message from the Chief of Police reinforcing the responsibilities of all members of the Department when making disorderly conduct arrests; (4) examine a sample of the disorderly conduct arrests made by MPD officers that is significant enough to allow MPD to determine if there are any widespread problems in the entire pool of disorderly conduct arrests; and (5) review the criminal code regarding disturbances of the public peace, particularly disorderly conduct, and the rules regarding collateral forfeiture and consider whether the code or rules need to be revised, updated, or changed, and also consider specific reforms, such as decriminalizing disorderly conduct and allowing individuals 15 days to decide whether to forfeit collateral or challenge their arrest.

In January 2004, in a meeting with Chief Ramsey, he indicated to OPC that MPD would take steps to implement recommendations 1 through 4, which suggest changes that are in the control of the Department. In December 2004, MPD indicated that it had taken the following steps in response to PCB's recommendations: (1) prisoner processing procedures were revised in 2004 to incorporate "post and forfeit" information on the collateral receipt prepared to document posting or forfeiture of collateral, and the arrestee's collateral options would be printed and placed in a visible location at all facilities where arrests are processed; (2) refresher training on disorderly conduct law and procedures would be included as a topic area in the annual in-service and roll call training plans for all officers, and training tapes produced for the in-service training component on disorderly conduct would include an introduction from Chief Ramsey; and (3) consistent with Department policy, a sustained allegation that an arrest was improper would result in a recommendation for disciplinary action against the officer(s) involved.

With respect to recommendation 5, the Mayor and the Council passed a bill repealing various sections of the criminal code, including several sections that were identified by PCB in its disorderly conduct report as potentially obsolete.<sup>19</sup> In addition, the Council passed a bill in December 2004 that addressed many of the issues regarding collateral forfeiture that were raised by PCB in its report.<sup>20</sup>

OPC followed up again with MPD in December 2005 for an update on any additional steps that had been taken over the preceding year in response to the disorderly conduct report and recommendations. MPD indicated that the following steps had been taken: (1) disorderly conduct arrests were a topic in the June 2005 daily roll call training module; (2) disorderly conduct arrests will be covered as part of the D.C. Code review section of the 2006 in-service training; and (3) the last training videotape on disorderly conduct arrests is being re-made and updated, and when it is completed, it will be used in future roll call and in-service training sessions. OPC has requested and will review the lesson plans and any related materials for the roll call and upcoming in-service training sessions. OPC also will request and review a copy of the training videotape when it is completed. In addition, at the appropriate time, PCB plans to conduct another examination of OPC decisions, MPD procedures and statistics, and other information regarding disorderly conduct arrests to update its findings to cover the period since the report and recommendations were issued in November 2003.

## **I. Protest Monitoring**

Under the First Amendment Rights and Police Standards Act of 2004, which took effect in April 2005, the District of Columbia granted PCB the authority to monitor and evaluate MPD's handling of First Amendment assemblies held in the District. The Act articulates the District's official policy on First Amendment assemblies and, among other things, establishes specific standards of police conduct when handling protests or demonstrations. These standards prohibit MPD from employing crowd control tactics during protests that have the potential to deprive demonstrators of the right to assemble peaceably and express their views. Under the provisions of the Act, OPC monitored MPD's interactions with protesters during antiwar and anti-globalization demonstrations that took place in Washington in September 2005. The protests attracted an estimated 150,000 people from across the nation and were the first major events to take place in Washington following the enactment of the new law.

A total of 12 OPC employees, including many of the agency's investigators, monitored MPD's interactions with protesters throughout the day on Saturday, September 24, 2005. OPC employees monitored in teams along the protest routes, as well as in the main command center and with police officials in the field. The monitors recorded their observations, and those observations became the basis for a report and recommendations issued by PCB to the Mayor, the Council, and MPD on December 20, 2005.

PCB's report provided a detailed account of what OPC staff members saw during the protests. PCB's overall impression was that MPD performed in a professional and commendable manner and effectively balanced the interests of public safety with the right to free expression. Based on the OPC staff's observations, PCB recommended that: (1) MPD continue to emphasize compliance with the First Amendment Rights and Police Standards Act using the manner in which it handled the September 24, 2005, protests as a model for future large protests; (2) MPD devise a way to make officers' names and badge numbers more visible, ensuring that officer identification remains visible even when vests and other covering are added, and that MPD consider adding marking to its uniforms that clearly distinguishes MPD officers from other law enforcement officers; (3) MPD examine its street closing procedures to better balance the interests of demonstrators and non-demonstrators; (4) MPD ensure that all of its officers, particularly non-supervisory officers, are informed of OPC's presence and role so that OPC's monitors will not be impeded in carrying out their monitoring of protest events; and (5) MPD and the District of Columbia Council consider whether it is possible to achieve a better balance between the rights of demonstrators and the rights of non-demonstrators where arrests for illegal activity, particularly property damage, are concerned, with the goal of determining whether it is possible for MPD to interrupt illegal activity more quickly than it did during these protests without violating the Act's provisions.

Beyond evaluating MPD's interaction with protesters, OPC's participation in this event also was undertaken to develop an OPC monitoring protocol and to assess the agency's resource needs to carry out its monitoring function in the future. One of the most important lessons OPC learned from its September 2005, monitoring exercise was that without a sufficient number of OPC employees to serve as monitors, OPC cannot carry out the function effectively. Because the events that OPC is charged with monitoring occur primarily on weekends, OPC will not be able to use its employees to monitor during their normal work hours. In addition, OPC will need

adequate equipment to effectively carry out the monitoring. OPC has requested additional funding for this work in its fiscal year 2007 budget request.

### **III. THE FUTURE**

In fiscal year 2006, OPC expects to continue the progress it made this year. With its new offices and its new and reorganized staff, OPC anticipates additional gains in reducing the time it takes the agency to complete its investigations, along with a further reduction of its number of open complaints. The agency will continue to review the patterns and trends that appear in its complaints and will prepare additional proposals for police reform based on the information it gathers. And OPC will work to improve and enhance its programs and procedures to ensure the agency's continued successful operation through fiscal year 2006 and beyond.

## Endnotes

<sup>1</sup> See D.C. Official Code § 5-1101, *et seq.* PCB also promulgated regulations regarding the operation of OPC on August 30, 2002. See D.C. Municipal Regulations, Title 6A, § 2100, *et seq.*

<sup>2</sup> District of Columbia Act 15-463, 51 D.C. Reg. 9406 (2004); District of Columbia Law 15-194, 51 D.C. Reg. 9805 (2004).

<sup>3</sup> The 13 foreign languages are Arabic, Chinese Simplified Text, French, German, Haitian Creole, Italian, Japanese, Korean, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> In 2002, 2003, and 2004, the New York Police Department (NYPD) imposed discipline for 62.8%, 76.6%, and 91.1%, respectively, of the complaints sustained by New York City's Civilian Complaint Review Board (CCRB). More information about discipline imposed pursuant to sustained CCRB complaints can be found on the agency's website, <http://www.nyc.gov/html/ccrb/html/depdispln.html>. In 2000 and 2001, the chief of police in San Francisco imposed discipline for 92.7% and 96.4%, respectively, of the sustained complaints submitted for discipline by San Francisco's Office of Citizen Complaints (OCC). See OCC's 2001 Annual Report at 11, which is available at [http://web.sfgov.org/site/uploadedfiles/occ/OCC\\_2001.pdf](http://web.sfgov.org/site/uploadedfiles/occ/OCC_2001.pdf).

<sup>7</sup> OPC Complaint Nos. 03-0181, 03-0182, 03-0188, 03-0199, and 03-0200.

<sup>8</sup> OPC Complaint No. 03-0459.

<sup>9</sup> OPC Complaint No. 02-0031.

<sup>10</sup> Please note that all of the statistics for fiscal year 2001 cover only a nine-month period. OPC opened to the public on January 8, 2001, which was three months into fiscal year 2001.

<sup>11</sup> The "District Population" data included in Tables 9, 10, and 11 are included for reference purposes. It should be noted that anyone, whether a resident of the District or not, may file a complaint with OPC.

The data in Tables 9, 10, and 11 were obtained from the "General Demographic Characteristics: 2004" table for the District of Columbia that is part of the "2004 American Community Survey" data set on the U.S. Census website, [www.census.gov](http://www.census.gov). As of 2004, the District's population estimate was 553,523, but the race or national origin, gender, and age breakdowns were based on a population estimate of 518,074, which included only the household population and excluded the population living in institutions, college dormitories, and other group quarters. Readers should be aware that the race or national origin, gender, and age breakdowns of the District population have changed some over time, so these data may have less value as a comparator for the earlier fiscal years reported in the tables. In previous annual reports, OPC has included the race or national origin, gender, and age breakdowns that the Census reported for 2000. At that time, the District had a population of 572,059, and the population's race or national origin, gender, and age was broken down as follows:

	District Pop.
<b>African-American</b>	60.0%
<b>White</b>	27.8%
<b>Latino</b>	7.9%
<b>Asian</b>	2.7%
<b>Middle Eastern</b>	--
<b>Native American</b>	0.3%
<b>Multiracial / Other</b>	2.4%

	District Pop.
<b>Male</b>	47.1%
<b>Female</b>	52.9%

	District Pop.
<b>Under 15</b>	17.1%
<b>15-24</b>	15.7%
<b>25-34</b>	17.8%
<b>35-44</b>	15.3%
<b>45-54</b>	13.2%
<b>55-64</b>	8.7%
<b>65 and Older</b>	12.3%

<sup>12</sup> OPC collected date of birth information for only 57% of its complaints (206 of 361) in fiscal year 2003, but increased to collecting the information for 94% (247 of 262) in fiscal year 2004 and 98% (318 of 326) in fiscal year 2005.

<sup>13</sup> The “Entire Police Force” data included in Tables 14 and 15 were obtained from MPD on January 13, 2006. On that date, MPD had 3,764 sworn members, and the data reflect the race or national origin and gender breakdowns of those officers. Readers should be aware that the race or national origin and gender breakdowns of MPD officers has changed some over time, so these data may have less value as a comparator for the earlier fiscal years reported in the tables. In previous annual reports, OPC has included the race or national origin and gender breakdowns that MPD included in its 2000 annual report. At the end of 2000, MPD had 3,614 sworn members, and their race or national origin and gender were broken down as follows:

	Entire Police Force
<b>African-American</b>	66.5%
<b>White</b>	27.7%
<b>Latino</b>	4.9%
<b>Asian</b>	0.9%

	Entire Police Force
<b>Male</b>	75.7%
<b>Female</b>	24.3%

<sup>14</sup> The assignment data for fiscal year 2001 is not reported in this table because it was compiled using a different methodology from the other years, and cannot be used for comparison purposes.

<sup>15</sup> “Other” includes MPD Headquarters, the Office of Professional Responsibility, Major Narcotics Branch, the Major Crash Investigations unit, the Maurice T. Turner, Jr., Institute of Police Science, Emergency/Non-Emergency Communications, the Air Support Unit, the Regional Operations Command – Central, and the Juvenile Processing Center.

<sup>16</sup> In June 2001, the District of Columbia approved new ward boundaries as part of its redistricting process following the 2000 U.S. Census. The new ward boundaries took effect in January 2002. Readers should be aware that the ward recorded for each complaint reflects the ward designation as it existed at the time of the complaint, and that the ward designation for some locations may have changed following the redistricting. For specific details of how the redistricting affected the city’s wards, see Sewell Chan, *How Redistricting Plan Affects City’s 8 Wards*, Washington Post, June 28, 2001, at T9.

<sup>17</sup> Although there is some ambiguity on this point, OPC plans to follow up with MPD in the hope that Chief Ramsey has modified the Department’s position on this issue. The video of the hearing is available on the website of the District’s Office of Cable Television and Telecommunications, [www.octt.dc.gov](http://www.octt.dc.gov), on the “On Demand Video” page for City Cable Channel 13. The Judiciary Committee hearing was conducted by Councilmember Phil Mendelson on November 10, 2005, and the relevant testimony begins at approximately 2:50:00 into the video.

<sup>18</sup> “Collateral forfeiture” or “post and forfeit” involves paying a \$25 “collateral” at the police station at the time of the arrest. The collateral essentially amounts to a fine for the offense, and, after it is posted and forfeited,

ends the arrest without any obligation for the person to appear in court at a later date to answer for the underlying charge.

<sup>19</sup> See the “Elimination of Outdated Crimes Amendment Act of 2003,” District of Columbia Act 15-255, 50 D.C. Reg. 10996 (2003); District of Columbia Law 15-154, 51 D.C. Reg. 5691 (2004). Effective April 29, 2004, the District repealed the criminal code sections regarding Dueling challenges, § 22-1302, Assault for refusal to accept a challenge, § 22-1303, and Leaving the District to give or receive challenge, § 22-1304, among other sections.

<sup>20</sup> See the “First Amendment Rights and Police Standards Act of 2004,” District of Columbia Act 15-757, 52 D.C. Reg. 2296 (2005); District of Columbia Law 15-352, 52 D.C. Reg. 5417 (2005). The Act clarifies the legal status of collateral forfeiture, and requires that (1) a detailed written notice be given to anyone who elects collateral forfeiture, (2) an arrestee sign an acknowledgement of the choice to forfeit collateral, (3) the District develop standards and procedures to be used in administering the collateral forfeiture process, and (4) the Mayor submit an annual report to the Council regarding collateral forfeitures.