

CATEGORIZATION OF CITIZEN COMPLAINT ALLEGATIONS



REPORT AND RECOMMENDATIONS OF THE POLICE COMPLAINTS BOARD

TO

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THE COUNCIL OF THE DISTRICT OF COLUMBIA,
CHIEF OF POLICE CATHY L. LANIER, AND
CHIEF OF POLICE WILLIAM L. PITTMAN**

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I. INTRODUCTION AND OVERVIEW

On October 1, 2007, the Office of Police Complaints (OPC) introduced the use of detailed subcategories to track the allegations contained in the complaints received by the office. This change implemented at the beginning of fiscal year 2008 expanded the six statutorily-defined categories to include approximately 65 subcategories. The use of the subcategories is intended to capture more detail about the types of complaints that people make so that OPC can better track, analyze, and report on trends that occur in complaints. The additional detail also helps OPC in conducting its investigations by focusing on and specifically identifying all relevant aspects of an allegation made by a citizen. Overall, the Police Complaints Board (PCB) believes that this change will enhance and improve many aspects of the work done by OPC.

In examining the change made by OPC, PCB also considered the fact that residents of and visitors to Washington have more than one option available to them as to where they can file a complaint against a Metropolitan Police Department (MPD) or D.C. Housing Authority Police Department (DCHAPD) officer. The law allows a citizen to file a complaint directly with MPD or DCHAPD that will be investigated by the department, or to file a complaint with OPC that will be investigated and resolved by OPC, which has its own investigative staff and is independent of both MPD and DCHAPD. The existence of multiple forums is a key feature of the District's police accountability system and allows individuals to raise concerns about encounters with the police in the place where they feel most comfortable. Even though each of the forums available to citizens is different in some respects, they are each part of a larger system aimed at increasing public confidence in the police and promoting positive community-police interactions. As a result, PCB believes that a measure of uniformity is appropriate across the various complaint mechanisms that will help advance the larger purpose of the entire system.

To this end, PCB recommends that MPD and DCHAPD adopt the use of the same general citizen complaint categories, as well as the use of the same or similar detailed subcategories.¹ The Board believes that the use of this method of categorizing complaints will offer each department the same benefits that OPC anticipates. More importantly, though, the use of the same categories and subcategories by MPD and DCHAPD would create a commonality among the forums that would allow for better identification and analysis of trends that could be proactively addressed by the departments to improve operations and reduce the risk of liability for the city and individual officers. In addition, the uniform method of capturing allegations would allow for comprehensive reporting about citizen complaints filed by the public so that this universe of issues could be considered and examined as the whole that it is, and not as unrelated or disjointed parts.

¹ PCB is making these recommendations pursuant to D.C. Official Code § 5-1104(d), which authorizes the Board to recommend changes to the Mayor, the Council of the District of Columbia, and MPD's and DCHAPD's Chief of Police if the reforms may reduce the incidence of police misconduct. PCB is grateful for the assistance of OPC's staff in preparing this report and accompanying recommendations. OPC's executive director, Philip K. Eure, and deputy director, Thomas E. Sharp, supervised the project. Other OPC staff members who assisted in drafting the report include the agency's special assistant, Nicole Porter.

II. OPC'S GENERAL CITIZEN COMPLAINT ALLEGATION CATEGORIES

Under District law, OPC has the authority to investigate complaints alleging the “abuse or misuse of police powers” by MPD or DCHAPD officers.² The relevant statute then breaks this general statement of OPC’s jurisdiction down into six broad categories:

- (1) Harassment;
- (2) Use of unnecessary or excessive force;
- (3) Use of language or conduct that is insulting, demeaning, or humiliating;
- (4) Discriminatory treatment;
- (5) Retaliation against a person for filing a complaint with OPC; 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.

OPC also tracks other types of allegations that fall outside the agency’s jurisdiction.

While these general categories are useful in setting forth the overall parameters of OPC’s jurisdiction, and they include most types of things that citizens complain about in their interactions with the police, they do not begin to describe the variety of incidents that lead to the filing of a complaint. The interactions between citizens and police officers are many and varied, and the allegations, which range from the very serious to the relatively minor, can have many parts to them. The specific details of an incident are captured by OPC in a narrative summary of the complaint and ultimately in the statements and evidence gathered during an investigation. But over time, the staff at OPC has recognized that these two extremes of information – the general nature of a complaint described by one of the six statutory categories and the minute detail that comes from reviewing the records gathered as part of an investigation – do not advance the agency’s ability to track, analyze, and report on the types of complaints received by OPC.

The need for a better method of tracking allegations has become more obvious as the agency has researched and prepared more and more of its policy recommendations. These reports often rely on patterns and trends identified in the complaints received by OPC. At times, the process of locating and examining complaints as part of this work has been very cumbersome. OPC’s efforts have been driven in significant measure by the staff’s collective ability to search for and find complaints. More importantly, though, there may have been many more opportunities to identify additional trends if OPC had a more detailed system for tracking citizen complaint allegations. The need for a better tracking system has also been apparent when the agency has gotten requests for information where the substance of the complaint is relevant to fulfilling the request and this information is not easily accessible. While the general allegation categories have fulfilled an important function during OPC’s formative years, the need for enhancements to the current system became increasingly necessary.

² See D.C. Official Code § 5-1107(a).

III. PRACTICES IN OTHER JURISDICTIONS

For guidance as to how other agencies categorize their citizen complaints, and to get a sense of the practices used around the county, OPC surveyed the reports issued by other police oversight agencies. Practices vary noticeably in terms of the detail provided regarding complaint allegations in reports published by different agencies. And the detail in published reports is not necessarily indicative of the detail with which complaints and allegations are tracked internally, or the number of categories that are available to be used if those types of complaints are filed. OPC found the reports that provide more detail in general, but specifically detail the types of allegations being received and investigated by the agency, to be the most useful and informative in understanding the issues about which citizens are complaining. Overall, the categories used by different agencies are significantly influenced by the jurisdiction of the agency. The other agencies also tend to put an emphasis on force complaints, given the potential seriousness of these complaints, and otherwise appear to differ based on local concerns or issues.

Of the reports reviewed, OPC found those issued by the New York City Civilian Complaint Review Board (CCRB)³ and the Oakland Citizens' Police Review Board (CPRB)⁴ to be the most instructive. The New York CCRB report illustrates the wealth of information that can be conveyed with detailed allegation subcategories. Although CCRB is in a league of its own due to the number of officers under its jurisdiction, the number of complaints it receives, and the size of its staff, among other things, it has many similarities to OPC that are helpful as part of this examination. At the general level, CCRB has four broad allegation categories – force, abuse of authority, discourtesy, and offensive language – that are set forth in Tables 1A and 1B of the report.⁵ But these categories alone provide little information about the more than 25,000 allegations received by CCRB in 2006 alone. Consequently, the agency's overall summary of the allegations in its very detailed report is followed by Tables 2, 3, 4, 5A, and 5B, which break down the general allegations into more than 55 subcategories.⁶

For example, looking at Table 2, which contains force allegations, the reader can see that only 30 of the 7,718 force allegations, or approximately 0.4%, reported in 2006 involved the firing of a service weapon. And these 30 allegations amount to only 0.1% of the 25,452 total allegations. This seems like a significant fact that readers would want to know, being as the improper firing of a service weapon is arguably the most serious allegation a citizen could make, and it, or any other detail about the allegations, is not obvious at all by the title of the general allegation category, "force."⁷ Beyond presenting the allegations received, CCRB's report also

³ CCRB's most recent Status Report for the period from January to December 2006 is available on the agency's website at <http://www.nyc.gov/html/ccrb/pdf/ccrbann2006.pdf>.

⁴ CPRB's 2006 Annual Report is available on the agency's website at <http://www.oaklandnet.com/government/citizens/2006AnnualReportFinalDraft.pdf>.

⁵ See New York CCRB report at 51.

⁶ See *id.* at 52-55.

⁷ Even though the subcategories in CCRB's report are helpful, CCRB's reporting might still benefit from further breaking down its current "physical force" subcategory, which includes being dragged, pulled, pushed, shoved, thrown, punched, kicked, kneed, slapped, and bit. This subcategory accounts for 5,448 of the 7,718 force allegations, or 70.6%, and is rather inaccessible as currently presented.

contains considerable additional information that allows the reader to follow the allegations through to their disposition, as well as the specific result in each case.⁸

The Oakland CPRB report also helpfully illustrates the advantage of detailed subcategories. In its reporting on allegations, Figure 5 in the report actually contains quite a bit of detail about the allegations made by citizens because CPRB uses at least 17 different general categories.⁹ Even with 17 categories, though, two dominate the others – failure to act and excessive force – accounting for 42% of the allegations reported. Figure 6 in the report breaks those two categories down into 16 subcategories that give the reader a much better sense of the issues being raised.¹⁰ Looking at the excessive force allegations, the detail reveals that only one of the 26 allegations relates to the discharge of a service weapon at a person or an animal, which is a fact that is not obvious by the general title of “excessive force.” The remaining 25, which vary in seriousness from unwarranted handcuffing (1) and grab/push/shove/trip (10) to use of a taser (1) and use of a chemical (2), while not insignificant at all, generally appear to be non-life-threatening and infrequent.

A reader of the information in the Oakland CPRB report – whether from CPRB, the Oakland Police Department, or the general public – could quickly focus in on the most common type of complaints, and ask relevant questions about any patterns or similarities among these complaints and whether they suggest any issues or problems that may need to be addressed. The reader of the report can also review other sections of the report where he or she can follow these complaints through to their resolution to find which types of allegations were sustained. With this data, proactive review can give comfort that serious issues and the same issues are not coming up over and over again in complaints filed by citizens, and can give a warning of a trend as it is developing when it can be addressed with changes in policy, updates to training, or other measures.

IV. THE DEVELOPMENT OF DETAILED SUBCATEGORIES BY OPC

After identifying the need for changes to its allegation categorization method and surveying the systems used by other jurisdictions, OPC set about developing its own subcategories. As part of its effort, OPC consulted MPD about its system for categorizing complaints and examined reports issued by MPD. As far as categorization goes, MPD has a reasonably large list of categories that it uses to track citizen complaints and other internal investigations. These categories number over 100 and vary in their specificity. In general, with respect to citizen complaints, they tend to be broader categories and do not go down to the level of detail provided by the subcategories adopted by OPC or used in some of the cities OPC examined. Based on discussions with MPD, OPC learned that although MPD’s current

⁸ See *id.* at 95-98, 136-201. This information is contained in Tables 25-29 and 48A-48E.

⁹ See CPRB report at 6.

¹⁰ See *id.* at 7. In the 2006 report, the excessive force allegations are broken down into 10 subcategories. Looking back at earlier reports reveals that there are more subcategories used by CPRB, but that there were apparently not complaints of those types in 2006.

categories may not be set up in the same way, the database tracking system used by the department is generally flexible and could likely accommodate changes like those proposed here.

Beyond MPD's database tracking system, OPC also reviewed reports issued by MPD and found that, at least with respect to uses of force, MPD does track certain types of incidents in pretty specific detail.¹¹ The department's quarterly use of force reports provide considerable detail about intentional and unintentional firearm discharges, as well as certain types of less-than-lethal uses of force, such as use of an extendable police baton, canine bites, and use of chemical spray.¹² These reports also include information on all other uses of force, but these are captured in one broad category, so this data is less useful in providing a picture of these incidents.

To develop its list, OPC reviewed the information it had gathered and used it as a starting point. Then, based on the experience of reviewing and screening complaints filed with the agency, staff refined the list. This process included eliminating subcategories that were not needed, combining or splitting subcategories that might be too narrow or too broad, and adding subcategories not identified by other sources. The staff also ensured that the subcategories would allow for effective tracking of particular types of complaints that OPC had examined in the past as part of its policy recommendation work, or expected to examine in the future. When the process was completed, and the proposed list had been fully discussed, OPC had its initial list of approximately 65 subcategories. This list attempted to balance the following considerations: creating subcategories that were informative about the universe of complaints received by OPC; creating a manageable list that was neither so large as to be unusable or so small as to not address the problems OPC had been encountering; and creating a list that was practical and easily applicable by OPC's investigators who are primarily responsible for identifying and categorizing allegations. Over time, OPC expects that it will refine the list based on experience using it.

V. TABLES SHOWING GENERAL CATEGORIES AND DETAILED SUBCATEGORIES

To illustrate the difference in the presentation of statistics for OPC with the adoption of the detailed subcategories, this section includes several tables and one chart. Table 1 and Chart 1 illustrate the information that OPC has included in each of its annual reports. This data is based on the general allegation categories, which has been the only information available to report

¹¹ Examples of MPD's quarterly use of force statistics can be found on the department's website at <http://mpdc.dc.gov/mpdc/cwp/view,A,1246,Q,555677.asp>.

¹² At first look, the data in the MPD reports discussed here may appear to indicate that MPD has a higher number or proportion of firearm discharges, canine bites, or other types of uses of force compared to the other jurisdictions mentioned in this report. It is important to note that, under MPD's internal policies, all uses of force are reported, tracked, and investigated internally by the department without the filing of a citizen complaint. The data discussed here relating to other jurisdictions pertained to citizen complaints only, and so the universe of information being tracked is quite different. So readers should be cautioned to ensure that data sets are comparable before drawing any conclusions across the different jurisdictions.

before fiscal year 2008. Tables 2, 3, 4, 5, and 6 report data for the first and second quarters of fiscal year 2008 to show the new level of detail that will be available to OPC going forward.¹³

As an initial matter, by surveying the tables with the detailed subcategories, the reader can see the variety and types of issues about which citizens file complaints.¹⁴ As mentioned above, citizens' interactions with the police are many and varied, as are the issues they raise in complaints. Although the data set for OPC is relatively limited at this point, the richness of the information presented in Tables 2 through 6 is quite vivid compared with what is presented in Table 1. From OPC's perspective, the agency can now immediately focus in on certain categories of complaints to at least make an initial inquiry as to whether a larger number of certain types of complaints points to an issue that the agency may want to address with MPD or DCHAPD. In addition, as more time passes, and the data set grows, OPC will be able to identify possible trends and examine significant changes in the types of allegations being reported by citizens and sustained or dismissed by OPC. As demonstrated by the tables, below, the potential offered by the additional information seems to be quite significant.

¹³ There is no table of detailed subcategories for OPC's retaliation allegation category. In terms of complaints filed with OPC, "retaliation" has a specific, technical meaning that refers to retaliation against a person for filing or attempting to file an earlier complaint with OPC, or otherwise participating in any phase of OPC's complaint process. There have been very few of these allegations over the years and OPC did not think that subcategories would be necessary to capture them.

All other types of retaliation, as it is understood in common usage, are captured under OPC's harassment allegation category based on what the specific retaliation is. For example, if the "retaliation" alleged by complainants is a threat to arrest a person, this would be captured under the "threat" subcategory of harassment.

¹⁴ When tracking citizen complaint allegations, there are several different ways in which the allegations can be counted. These differences arise out of the nature of police misconduct complaints, which can allege different types of misconduct (*e.g.*, harassment and excessive force), have multiple parts to any particular allegation (*e.g.*, harassment in the form of an inappropriate stop, unjustified frisk, and unlawful arrest), and involve many different officers in the same incident. Readers should be aware of these issues and three principal methods of counting allegations so that they can have a clear understanding of what is presented in the tables in this and other reports.

The first method is to count each general allegation category only once per complaint, even if there were multiple parts to any of the allegations and multiple officers alleged to have been involved in the misconduct. This method gives a general sense of the types of allegations contained in the complaints filed by the public. The second method is to count the specific parts of each general allegation type once for each complaint, even if there were multiple subject officers. This method gives a more specific picture of the types of misconduct alleged in the complaints received by the agency. Lastly, the third method is to count each specific allegation for every officer against whom that allegation is made. This method tracks each act by each officer as a separate allegation, even if multiple acts by many different officers arose out of the same incident and same complaint.

Table 1 and Chart 1 were prepared using the first method, Tables 2 through 6 were prepared using the second method, and OPC has never used the third method. OPC has traditionally used the first method because the agency's system of categorizing complaints did not allow for tracking multiple parts of an allegation. OPC now has the opportunity to use the second method because of its introduction of the detailed allegation subcategories. The agency has never used a method, like the third method, where a general or specific allegation is counted multiple times per complaint for different subject officers because the agency believes that this approach skews the data. For example, a complaint related to one specific incident may allege harassment resulting from the execution of a search warrant in the complainant's home. This type of incident may involve ten subject officers who participated in the search, and to count this allegation ten times gives the misimpression that the alleged misconduct is more frequent and widespread than it really is.

Table 1: Fiscal Year 2007 Annual Report – Allegations in Complaints

	FY03		FY04		FY05		FY06		FY07	
Language / Conduct	197	37.2%	180	37.0%	188	34.4%	234	31.8%	241	31.3%
Harassment	136	25.7%	131	27.0%	176	32.2%	222	30.1%	276	35.8%
Excessive Force	99	18.7%	97	20.0%	101	18.5%	107	14.5%	101	13.1%
Discrimination	30	5.7%	42	8.6%	39	7.1%	71	9.6%	48	6.2%
Retaliation	6	1.1%	6	1.2%	4	0.7%	3	0.4%	5	0.6%
FTP Identification	--	--	--	--	6	1.1%	34	4.6%	30	3.9%
Other	61	11.5%	30	6.2%	33	6.0%	66	9.0%	70	9.1%
Total Allegations	529		486		547		737		771	

Chart 1: Fiscal Year 2007 Annual Report – Allegations in Complaints (as a Percentage)

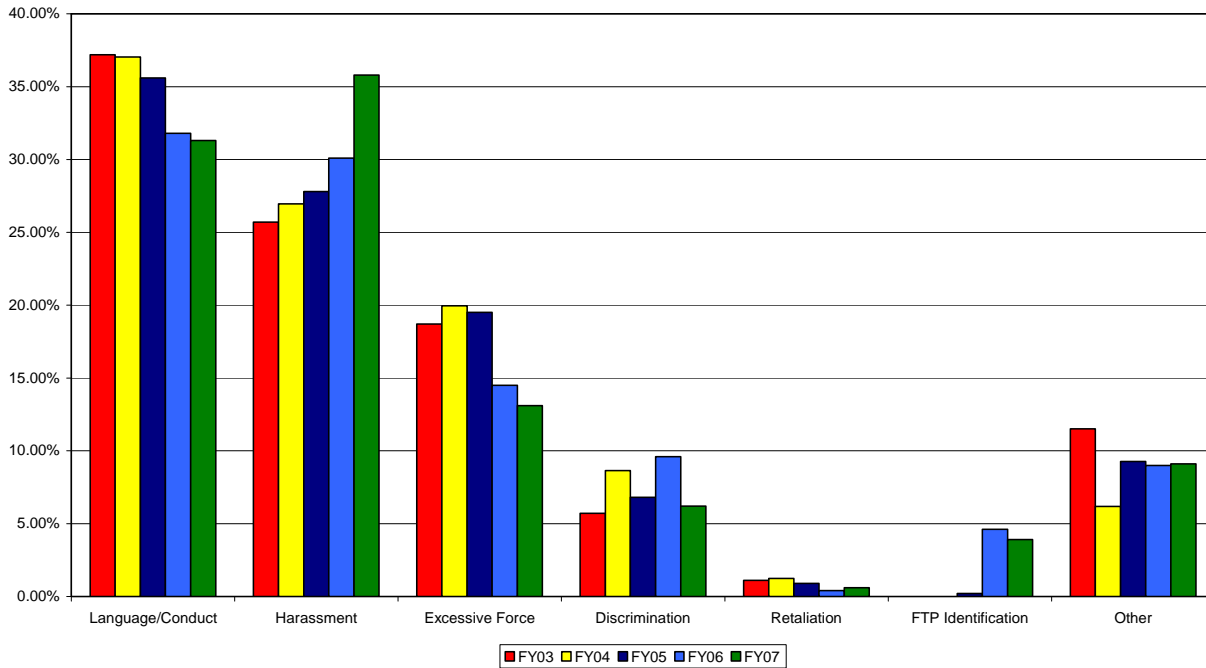


Table 2: Language or Conduct Allegations

Language or Conduct –	1Q FY08		2Q FY08	
Demeanor or tone	35	44.3%	54	47.0%
Gesture or action	14	17.7%	15	13.0%
Other language	8	10.1%	13	11.3%
Profanity	15	19.0%	20	17.4%
Racial/ethnic slur	1	1.3%	3	2.6%
Other	6	7.6%	10	8.7%
Total Language or Conduct Allegations	79		115	

Table 3: Harassment Allegations¹⁵

Harassment –	1Q FY08		2Q FY08	
	Bad ticket	9	7.2%	11
Contact	2	1.6%	3	2.0%
Entry (w/o search)	2	1.6%	4	2.7%
Frisk	2	1.6%	3	2.0%
Gun – touch holstered weapon	1	0.8%	--	--
Intimidation	7	5.6%	19	12.8%
Mishandling property	1	0.8%	2	1.4%
Move along order	4	3.2%	6	4.1%
Prolonged detention	4	3.2%	2	1.4%
Property damage	3	2.4%	2	1.4%
Search – belongings	1	0.8%	1	0.7%
Search – car	3	2.4%	6	4.1%
Search – home	5	4.0%	6	4.1%
Search – person	6	4.8%	8	5.4%
Stop – bicycle	--	--	1	0.7%
Stop – pedestrian	11	8.8%	10	6.8%
Stop – vehicle/traffic	10	8.0%	11	7.4%
Threat	18	14.4%	18	12.2%
Unlawful arrest	20	16.0%	19	12.8%
Other	16	12.8%	16	10.8%
Total Harassment Allegations	125		148	

¹⁵ In addition to the harassment subcategories listed in the table, OPC also created the following additional subcategories: refusing medical treatment and strip or invasive search.

Table 4: Force Allegations¹⁶

Force –	1Q FY08		2Q FY08	
ASP (all types – displayed, poked, struck, etc.)	2	3.8%	1	1.9%
Chokehold	4	7.7%	1	1.9%
Forcible handcuffing	4	7.7%	1	1.9%
Gun – drawn, but not pointed at person	2	3.8%	--	--
Gun – pointed at person	5	9.6%	6	11.1%
Handcuffs too tight	4	7.7%	2	3.7%
OC Spray	1	1.9%	--	--
Push or pull with impact (slam to ground, into car, etc.)	15	28.8%	13	24.1%
Push or pull without impact (hand controls, drag, shove, throw, etc. without hitting anything)	6	11.5%	15	27.8%
Strike – kick	1	1.9%	--	--
Strike – officer's body (hand, arm, foot, leg, head – except punch or kick)	3	5.8%	2	3.7%
Strike – punch	2	3.8%	7	13.0%
Strike while handcuffed	1	1.9%	2	3.7%
Strike with object (everything except ASP – gun, radio, flashlight, etc.)	--	--	2	3.7%
Vehicle (all types – car, van, motorcycle, scooter, bicycle, Segway)	--	--	1	1.9%
Other	2	3.8%	1	1.9%
Total Force Allegations	52		54	

Table 5: Discrimination Allegations¹⁷

Discrimination –	1Q FY08		2Q FY08	
Age	3	17.6%	1	5.0%
Color	1	5.9%	--	--
National Origin	--	--	1	5.0%
Personal appearance	2	11.8%	1	5.0%
Place of residence or business	1	5.9%	2	10.0%
Race	6	35.3%	12	60.0%
Religion	1	5.9%	--	--
Sex	1	5.9%	--	--
Sexual orientation	1	5.9%	2	10.0%
Source of income	1	5.9%	1	5.0%
Total Discrimination Allegations	17		20	

¹⁶ In addition to the force subcategories listed in the table, OPC also created the following additional subcategories: canine and gun – fired.

¹⁷ In addition to the discrimination subcategories listed in the table, OPC also created the following additional subcategories: disability, family responsibilities, marital status, matriculation, physical handicap, and political affiliation. These subcategories are derived from the OPC statute and regulations, as well as the District’s Human Rights Ordinance. See D.C. Official Code § 2-1401, *et seq.*

Table 6: Failure to Identify Allegations

Failure to Identify –	1Q FY08		2Q FY08	
Display name and badge	2	33.3%	2	15.4%
Provide name and badge	3	50.0%	10	76.9%
Other	1	16.7%	1	7.7%
Total Failure to Identify Allegations	6		13	

VI. CONCLUSION

The current police oversight system has existed in Washington for more than seven years now since OPC opened to the public in January 2001. It has made significant progress over this time with each of the different parts developing, changing, and advancing the goals of increasing public confidence in the police and promoting positive community-police interactions. Based on its assessment of the current state of OPC and the benefits of unifying the different parts of the oversight system, PCB believes that this is the appropriate time to take steps that will allow MPD, DCHAPD, and OPC to consolidate and share information to enhance their overall work and the operation of the mechanisms that serve the residents of and visitors to the District of Columbia. That is why PCB hopes that MPD and DCHAPD will adopt the use of the same general allegation categories and detailed subcategories for classifying citizen complaints.

VII. RECOMMENDATIONS

Based on its examination of the information and issues discussed above, PCB makes the following recommendations to the Mayor, the Council of the District of Columbia, MPD’s Chief of Police, and DCHAPD’s Chief of Police:

1. **MPD and DCHAPD should adopt and implement the use of the same general citizen complaint categories used by OPC.** The District of Columbia has a police oversight system with multiple parts. To unify the parts and allow them to work together effectively at tracking, identifying, and analyzing trends in the complaints that could enhance the operation of the police departments and reduce the risk of liability for the city and individual officers, PCB recommends that MPD and DCHAPD adopt the general allegation categories used by OPC to classify citizen complaints.

2. **Working together with OPC, MPD and DCHAPD should develop and implement mutually-agreeable, detailed subcategories to categorize citizen complaints.** The list of detailed allegation subcategories presented in this report was developed by OPC based on the types of complaints it receives, so PCB recommends that all of the agencies work together to come up with a system that will meet the unique needs of each. Although PCB believes that the final result should largely resemble the one currently in use by OPC, the Board is also sure that some changes will be needed to capture complaints filed with the two departments that are not normally received by OPC.