

Review of the Internal Affairs Bureau of the Columbus Division of Police

Final Report

November 2016

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INTRODUCTION

In 2015, the City of Columbus commissioned an independent audit of the operations of the Internal Affairs Bureau (IAB) of the Columbus Division of Police (CDP). The Police Executive Research Forum (PERF) was selected to conduct this audit, which was comprised of three key elements:

1. To determine whether the CDP is providing adequate information and access to the public about how they can make complaints against officers and employees of the CDP.
2. To determine whether there is an appropriate level of transparency to the public concerning IAB investigations of citizen-initiated complaints.
3. To determine whether there are additional accountability measures that should be implemented in IAB to better ensure appropriate case outcomes and to demonstrate transparency and build trust with the community.

To assist with the audit, PERF retained Greenwood and Streicher, LLC, a Cincinnati-based consulting firm specializing in policing and government accountability issues.

It is important to note that certain operations of the IAB are governed in part by the city's contract with the Fraternal Order of Police (FOP). Recommendations that will require the input and approval of the FOP in Columbus prior to implementation are noted where applicable and discussed in detail in the section on "Contractual Issues."

Scope of Services

To address the three elements listed above, PERF conducted a review of the CDP's policies, procedures, and processes governing the investigation of citizen-initiated complaints, and conducted extensive on-site interviews and observations. PERF collected and analyzed case data for 2014 and 2015 and reviewed a sample of calls from the CDP's complaint line and completed investigations. A sample of complainants on closed cases was contacted via telephone to determine their level of satisfaction or dissatisfaction with their case outcomes.

Specifically, PERF's review was designed to examine the quality of CDP's complaint investigation process across nine measures:

1. Are IAB investigations of citizen-initiated complaints accurate, comprehensive, impartial, fair, and thorough?
2. Are IAB investigations initiated and concluded in a timely fashion?
3. Are IAB findings supported, justified, and consistent?

4. Are current standard operating procedures in line with progressive practices, and are the policies currently in place being followed?
5. Are progressive practices for investigative techniques, interview skills, and technologies currently being utilized?
6. Are appropriate and adequate training and equipment currently provided to IAB personnel to ensure success?
7. Are investigations of citizen-initiated complaints independent of the chain of command of the officer who is the subject of the investigation?
8. Considering the contractual agreement the City has in place with the FOP, are there provisions that significantly hamper IAB from being able to follow recognized best practices?
9. Are IAB policies of communication and follow-up upon the resolution of a complaint clear, effective, and compassionate?

Methodology

Three primary methodologies were used for this study: 1) policy and data collection, review, and analysis; 2) internal and external stakeholder interviews; and 3) personal on-site observations. PERF's analysis of information was both quantitative and qualitative. PERF identified current conditions and business practices within the CDP and compared them to progressive practices in policing based on current research. Interviews conducted with stakeholders examined current agency practices, agency policy, and community views and expectations.

Documents provided by the CDP, and reviewed by PERF, included the following:

- Written directives
 - Directive 1-01: Rules of Conduct
 - Directive 1-02: City of Columbus Central Work Rules
 - Directive 9-01: Employee Development Programs
 - Directive 9.06: Compliments
 - Directive 9.07: Complaints
 - Directive 9:08: Discipline/Corrective Action
 - Directive 9.09: Grievance Coordination, Control, and Analysis
- The CDP's organizational chart
- The CDP's 2014 and 2015 Annual Reports
- Internal Affairs Bureau Annual Reports for 2012-2015
- Employee Action Review System Standard Operating Procedures manual
- All applicable union collective bargaining agreements

About the Columbus Division of Police

Law enforcement services are provided by the CDP, which is part of the city's Department of Public Safety. The CDP is composed of approximately 1,846 sworn officers and 416 civilians.¹ Organizationally, the CDP is divided into six "subdivisions": Administrative, Investigative, Support Services, Homeland Security, and two for Patrol (North and South). Each subdivision is led by a deputy chief. Subdivisions are broken down into bureaus or zones (led by commanders), and further into sections or watches (commanded by either a lieutenant or civilian supervisor). Sections and watches are broken down into precincts, units, squads, or teams, commanded by a sergeant or civilian.

¹ Columbus Division of Police 2015 Annual Report.

SECTION I. ABOUT THE INTERNAL AFFAIRS BUREAU

The Internal Affairs Bureau (IAB) of the Columbus Division of Police (CDP) is headed by a commander who is appointed by, and reports directly to, the Chief of Police. The commander is the only IAB staff member directly appointed by the Chief and serves at the Chief's discretion. The commander oversees two lieutenants, 20 investigative sergeants, four desk duty sergeants, and two civilian staff members.² The IAB operates from 6 a.m. to 10 p.m. seven days a week. Investigators are assigned to one of two shifts.

Internal Affairs Bureau Progressive Practices

The CDP uses a number of progressive practices with regard to the operation of the IAB. For example, the IAB accepts complaints in any manner, including phone calls, letters, emails or in-person, which gives complainants a variety of options. Additionally, the CDP's IAB is located offsite, which is considered less intimidating for complainants than visiting regular police facilities. The offsite location was also carefully chosen so that it is accessible by public transportation and in an area of the city that, according to those interviewed, has a high level of police activity. The IAB accepts and investigates anonymous complaints. The IAB also investigates complaints that are withdrawn by the complainant, in order to determine whether the alleged activity occurred, regardless of whether the complainant wishes to withdraw the accusation. This can safeguard against the possibility of a complainant withdrawing a complaint due to harassment or intimidation by the subject of the complaint or other persons.

PERF also identified several practices that demonstrate a commitment to accountability by CDP, including the publication of an IAB Annual Report and a CDP policy to prevent Bias-Based Profiling. The CDP currently requires that sworn personnel be annually trained in bias-based policing and related legal issues. This is a positive practice and is to be commended.

The CDP also has a comprehensive and well-written policy on "Inspections," which involves supervisors conducting line inspections to ensure that employees' actions are consistent with agency policy and training. Inspections represent an essential agency process that provides the Chief and her command staff, along with supervisors at all levels, with a means of reviewing and assessing agency efficiency and effectiveness.

Responsibilities of IAB Personnel

The responsibilities of IAB personnel are as follows:

² From IAB's 2015 Annual Report.

Commander: Oversees the day-to-day functions of the IAB and reports directly to the Chief of Police.

Lieutenants: Review and determine the level of investigation for cases to be handled on each investigative shift. Assist in developing an investigative plan, monitor the progress and timeline of investigations, review all completed investigations, and ensure cases are investigated in a fair and impartial manner.

Sergeants (Investigators): Coordinate efforts with other agencies, investigators, and division personnel to conduct investigations in a fair and impartial manner. Ensure that FOP contractual timelines are maintained and that internal investigations are completed within identified timeframes. Attend disciplinary hearings and court proceedings as required.

The use of sergeants, the CDP's first-line supervisors, to conduct all IAB investigations is a progressive policing practice. In many agencies, internal affairs investigations are conducted by officer-level personnel, due to resource challenges, a practice which is not optimal because it results in peers investigating peers.

Sergeants (Desk Duty): Receive and process citizen complaints professionally and promptly. Resolve concerns, make necessary referrals, and answer questions regarding police conduct on the citizen complaint telephone line and in person. Write informational summaries and research various sources of information in support of operations.

Administrative Support Personnel (non-sworn): Complete database entry of reports and investigations, type transcriptions of investigative interviews, receive and process internal and external requests for records, and manage physical storage of files.

No changes are recommended for the stated responsibilities of IAB personnel.

IAB Investigative Responsibilities

According to CDP Directive 9.07 "Complaints," the IAB is responsible for conducting the following types of investigations:

1. Citizen complaint investigations, except those which are forwarded to other bureaus for investigation at the direction of the IAB Commander.
2. Internal investigations, involving either administrative or criminal allegations, when requested by a deputy chief or designee.
3. Administrative investigations with other agencies.

4. Sexual harassment and discrimination complaints.
5. Equal Employment Opportunity (EEO) complaint investigations.
6. Citizen complaint investigations involving allegations of a criminal offense (The actual criminal investigation may be assigned to a specialized unit within the CDP; for example, the CDP unit responsible for investigating robberies would investigate robbery allegations brought against an officer.)
7. Investigations at the direction of the Chief of Police.

Selection of IAB Personnel

Assignment to the IAB is voluntary and is based on seniority, per the CDP's Fraternal Order of Police, Capital City Lodge #9 contract. All IAB investigators must have the rank of sergeant, must not have departmental charges within the last four years, and cannot be under an investigation that could result in departmental charges. When a vacancy in IAB occurs, the most senior eligible applicant is assigned to the IAB, as long as that candidate has served six months in grade as a sergeant. IAB lieutenants are also assigned to the Bureau based on seniority. Although the Chief of Police has the ability to deny investigator selections if there are serious issues with regard to a candidate, PERF's review found that this does not occur often. The chief also has the authority to remove IAB personnel that engage in actions that result in departmental charges.

There is no requirement for candidates to have investigative experience prior to joining IAB. PERF interviews with IAB staff members revealed that traditionally, IAB has found it challenging to attract candidates with deep investigative experience, because they prefer other investigatory assignments. However, patrol sergeant applicants typically have some measure of investigative experience, as they are responsible for conducting use-of-force investigations and reports. The CDP conducts a Detective Bureau school, which is a weeklong class for new investigators, and sends new IAB investigators there if they have not attended previously in another assignment. There is no official requirement that new IAB investigators receive formal internal affairs-specific training prior to assuming their duties.

New IAB investigators "shadow" senior investigators for three to six months, and then are assigned their own investigations. At that point, their training investigator remains available to answer questions, sit in on interviews, and act as an overall resource for the new investigator.

As indicated above, assignment to the IAB is based solely on seniority with the exception of the Commander, who is appointed by the Chief of Police. Staff turnover is infrequent, and some investigators have been with IAB for almost 10 years.

Of CDP's six current deputy chiefs, one spent seven months in IAB in 2001, but none have substantive experience in the unit. However, the Chief of Police served as Commander of IAB earlier in her career.

Interviews with IAB personnel indicated that they were particularly attracted to the IAB's flexible work hours and days off.

PERF's review of the selection of IAB personnel identified several opportunities for improvement. The internal affairs function of a law enforcement agency is mission-critical. Accordingly, assignment to internal affairs in any agency should not be made contingent upon seniority alone. Ideally, the position should be staffed with who have prior investigative experience, who view IAB as an important assignment to the agency and their assignment to IAB as a positive step in their career, and who have excellent skills, judgment, and professional ethics.

The U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office) states in its report *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice* that "Prior investigative experience or a strong investigative background should either serve as a requirement or a significant qualification for Internal Affairs service."³

Recommendation: *PERF understands that assignment to IAB is based on the current union contract and is seniority-driven, but the CDP should negotiate future contracts so that assignment to IAB is based on merit.* Given the critical importance of the internal affairs function, seniority alone cannot be a sufficient criterion for selection. Ideally, candidates should have either prior investigative experience or a strong investigative background in order to be assigned to IAB. The Chief of Police should be responsible for making the final selection of all IAB personnel based on merit, including skills, judgment, and professional ethics, not seniority. The CDP should always ensure that the IAB is comprised of personnel who reflect the values and diversity of the community they serve.

³ "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice." DOJ Office of Community Oriented Policing Services. <http://ric-zai-inc.com/Publications/cops-p164-pub.pdf> . Page 59.

Recommendation: *Assignment to IAB should be fixed to a rotation of no more than 3-5 years. This should also include lieutenants and the IAB Commander.* The COPS Office guide to Internal Affairs (cited above) states: “There are at least several reasons for limiting the tour of service. Too long a stay in Internal Affairs may, in some cases, create investigators who become biased. The development of such an attitude—or any other bias—is not helpful to the employee or the investigations. In some cases, investigators become emotionally drained or even bored after extended stays in Internal Affairs. It is a uniquely difficult assignment and its psychological effects are important in determining whether a tour limit should apply and how long it might be.”⁴

IAB Investigator Training

PERF interviews revealed there is little formal training available for IAB investigators. PERF learned that part of the reason for this is the low level of investigator turnover within the Bureau, which means that the unit seldom has more than one or two new investigators. The COPS Office publication on Internal Affairs states that “After being selected, the agency should provide as much ongoing training or professional development in investigation and Internal Affairs investigation as possible, including training in effective interview techniques, development of case strategy, laws that apply to Internal Affairs investigations, and other subjects relevant to fulfilling the investigative mission.”⁵

All new supervisors in the CDP (not just in IAB) receive training on investigations at the CDP’s training program for new sergeants. Part of this training is an overview of internal affairs processes and practices. IAB investigators are also sent to the CDP’s course for new investigators if they did not receive training as part of their previous assignments. These are both positive practices; however, new IAB personnel should receive extensive training as soon as feasible after assignment to IAB that is specific to handling internal affairs investigations. And refresher trainings should be offered to experienced investigators. These can include both internal and third-party trainings.

Recommendation: *The IAB should ensure that all newly-assigned investigators are sent to a specialized, reputable internal affairs school or program within their first three months of assignment.* The IAB must budget adequate funding to send new investigators to internal affairs-specific trainings offered by reputable contractors and other law enforcement agencies across the United States. The CDP also has strong training assets of

⁴ Ibid., page 60.

⁵ Ibid., page 60.

its own, and may consider hosting internal affairs-specific trainings for its own personnel as well as other law enforcement agencies both regionally and nationally.

IAB Facilities Assessment

PERF conducted a facilities assessment as part of its overall review of the IAB. In Columbus, IAB is housed in an off-site location. This is a recommended practice, as an off-site facility (such as in a mixed-use office building) can be less intimidating for complainants than visiting regular police facilities. Furthermore, for officers who visit internal affairs to be questioned by investigators, the use of an off-site location serves to enhance officer privacy, as there is less likelihood that their coworkers will see them enter a location not attached to police headquarters.

The IAB's current location is in an office complex, located along a major bus route, and in an area of Columbus that has generated police complaints in the past. Access to IAB facilities is controlled. The first floor of IAB is accessed via the intake area/waiting room. This door is electronically locked at all times. Access is granted either via a keyless electronic door pass or by the desk sergeant, and civilians/complainants must have an IAB escort to access any locations beyond the waiting room. An elevator to the second floor (where there are IAB staff offices) is similarly protected by an electronic lock. Sufficient space exists for multiple interview rooms as well as staff meeting rooms and individual investigator offices.

Based on PERF's observations, IAB's facilities are more than adequate to conduct its business, and PERF makes no recommendations for any change in this regard.

Section II. A REVIEW OF CITIZEN COMPLAINT INVESTIGATIONS IN 2014 AND 2015

This section of the report provides an overall review of the Internal Affairs Bureau (IAB) complaint investigations. **It examines the thoroughness and completeness of citizen complaint investigations, with the goal of ensuring that IAB citizen complaint investigations are comprehensive, fair, and consistent.** To provide context for this examination, PERF reviewed IAB Annual Reports and thoroughly examined a sample of IAB citizen complaint cases from 2014 and 2015. Additionally, PERF conducted a quantitative analysis of all completed IAB citizen complaint investigations from 2014 and 2015. Methods and results are discussed below and in Appendix A.

Demographics

The City of Columbus is the capital of Ohio and is the state's largest city. The city is 217 square miles and as of 2014 had a population of 835,957.⁶ In 2010 (the most recent year detailed Census data are available), 61.5% of the city's residents were white, 28.0% were African American, 4.1% were Asian-American, and 3.3% were two or more races. In terms of ethnicity, as of the 2010 Census, 5.6% identified as Hispanic or Latino.⁷

In 2014, the City of Columbus Division of Police (CDP) was comprised of 87% white officers and 11% black officers, while the remaining 2% of officers were of other racial or ethnic groups. Males comprised the majority of officers at 89%, and female officers comprised 11%.⁸

Case Review Methodology

PERF collected data from citizen-initiated external complaint cases from 2014 and 2015.⁹ In addition to the basic counts of citizen complaints and allegations, PERF collected a range of data, including allegation type, complainant and officer demographics, investigative closure time, and disposition type. A greater variety of data elements were available in 2015, which is reflective of a change in CPD's complaint records management and the implementation of

⁶ <http://www.census.gov/quickfacts/table/PST045215/3918000>

⁷ Ibid.

⁸ "Columbus Police 2014 Annual Report."

<http://www.columbuspolice.org/AboutCPD/AnnualReports/2014%20CPD%20Annual%20Report.pdf>

⁹ The analysis and results discussed in this report are based on data collected from completed 2014 and 2015 external complaint investigations as of March 2016. Pending cases are excluded from the analysis.

Premier One in late 2014. The previous system, IAB 2000, did not capture the same depth of information for cases occurring in 2014 or earlier. As no direct comparisons could be made across years due to these vast differences in data collection, PERF limited its review to cases from 2014 and 2015. Though no direct comparisons can be made across years, two years of data were collected as a minimum threshold to assess a snapshot of citizen complaint investigations.

The way that data were captured and recorded improved in 2015, when the CDP changed its complaint records management system from the IAB 2000 to the Premier One platform. Due to this change in complaint records management systems, it was not possible for PERF to make direct comparisons between many elements of the 2014 and 2015 data. The change in records management systems resulted in different data collection methods, which affected the availability of certain data elements across years. **Therefore, although this report presents data for both 2014 and 2015, changes in certain details of the data between years should be interpreted with caution.**

PERF found that most incidents that led to a complaint involved more than one allegation. For example, in 2014 the average incident contained 2.3 allegations, and in 2015 there were an average of 2.5 allegations per incident. To ensure the most accurate results, PERF conducted its analysis at the allegation-level, rather than the incident-level. Using allegations incorporates all available data, which is important given that an average incident has more than one allegation and allegations can be resolved differently within the same incident. For example, a single incident could have one use of force and one rudeness allegation, and it is possible the use of force could be not sustained while the rudeness allegation was sustained. Reducing these data into single incidents would be confusing and would lose key details to assess how specific allegation types are resolved. More information about this methodology can be found in Appendix A.

It should be noted that the numbers presented in this report may differ from those presented in the official 2014 and 2015 IAB Annual Reports. This is because investigation data fluctuates over time as cases are continuously updated, and PERF's report presents more up-to-date data than those reported at the time of the publication of the Annual Reports. It would be useful for the CDP IAB Annual Reports to include an explanation of how investigations data fluctuates over time, and the Annual Reports should note the date when reported data were extracted and/or received.

Recommendation: *The IAB Annual Reports should explain that complaint investigations data can fluctuate over time as cases are continuously updated. When*

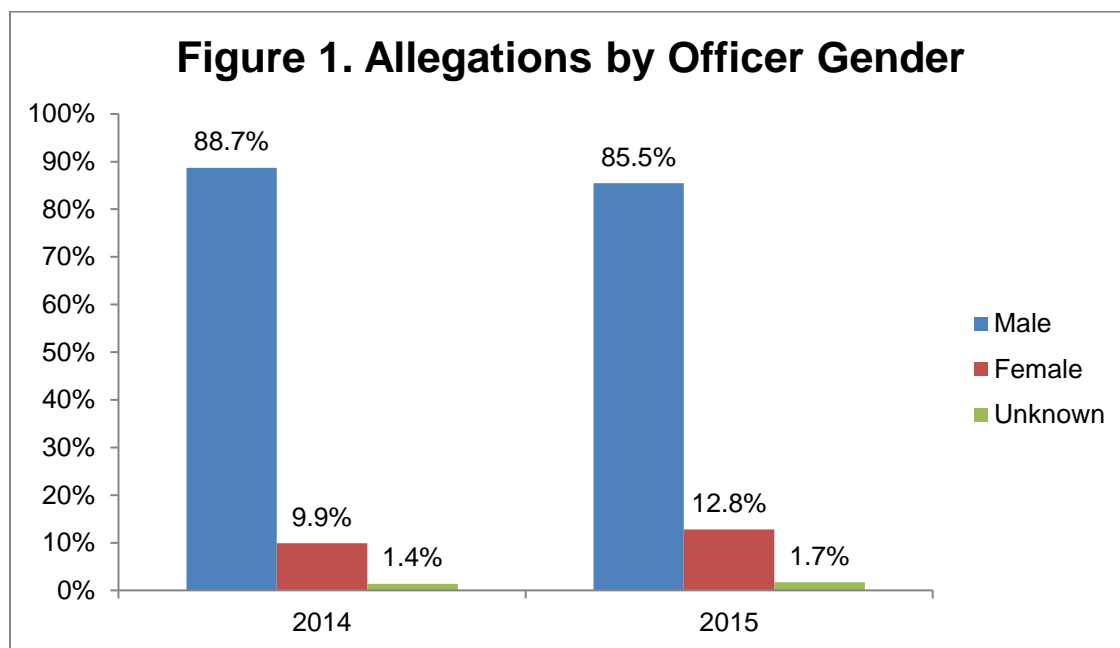
presenting data about complaint investigations, the IAB Annual Reports should clearly state the date when data were extracted for analysis.

Results of PERF's Case Review

Overall, the annual number of completed citizen complaint investigations increased from 2014 to 2015, with 196 completed citizen complaint investigations in 2014, compared to 278 in 2015.¹⁰ The total number of allegations in completed investigations also increased, from 443 in 2014 to 695 in 2015. More than 85% of allegations in 2014 and 2015 were against sworn officers who were on-duty.

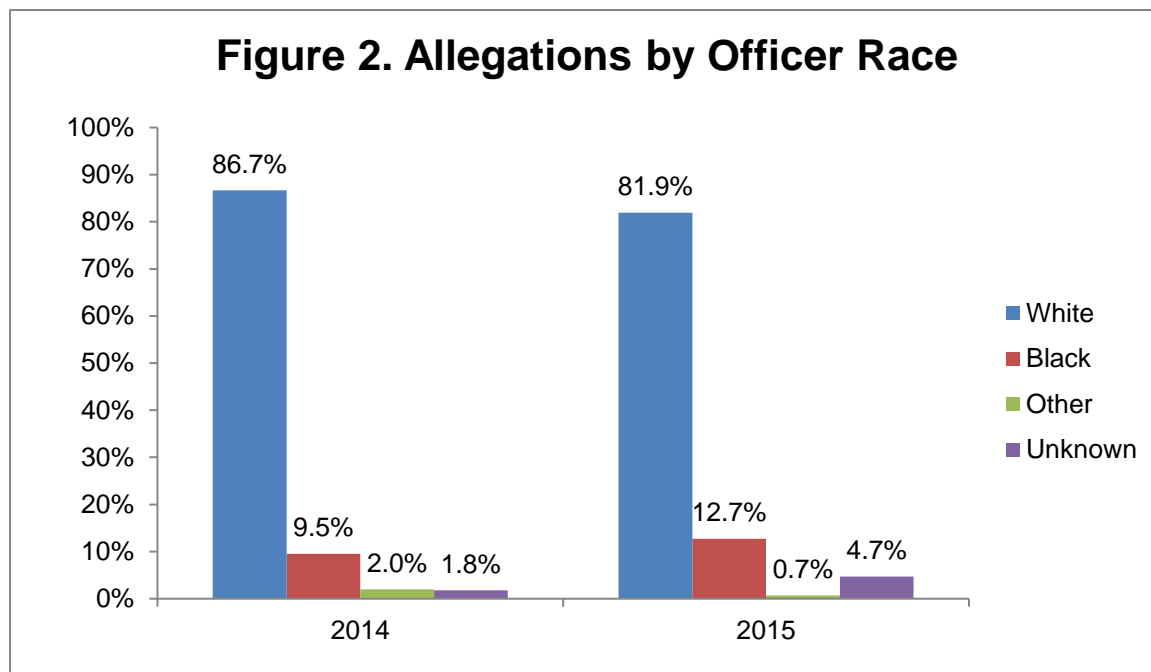
Allegations by Officer Demographics

Figure 1 shows the percentage of allegations filed against male officers, versus those filed against female officers. As Figure 1 illustrates, more than 88% of allegations in 2014, and more than 85% of allegations in 2015, were filed against a male police officer. The distribution is reflective of the gender breakdown among officers, as approximately 89% of CDP officers are males.



¹⁰ Results presented in this report are based on a sample of completed investigations of allegations from 2014 and 2015. The sample reflects a snapshot of completed investigations that were available as of March 2016, which included the majority of 2014 and 2015 cases.

Figure 2 shows the percentage of allegations broken down by the race of the officer against whom the allegation was filed. Racial breakdowns remained similar between 2014 and 2015.

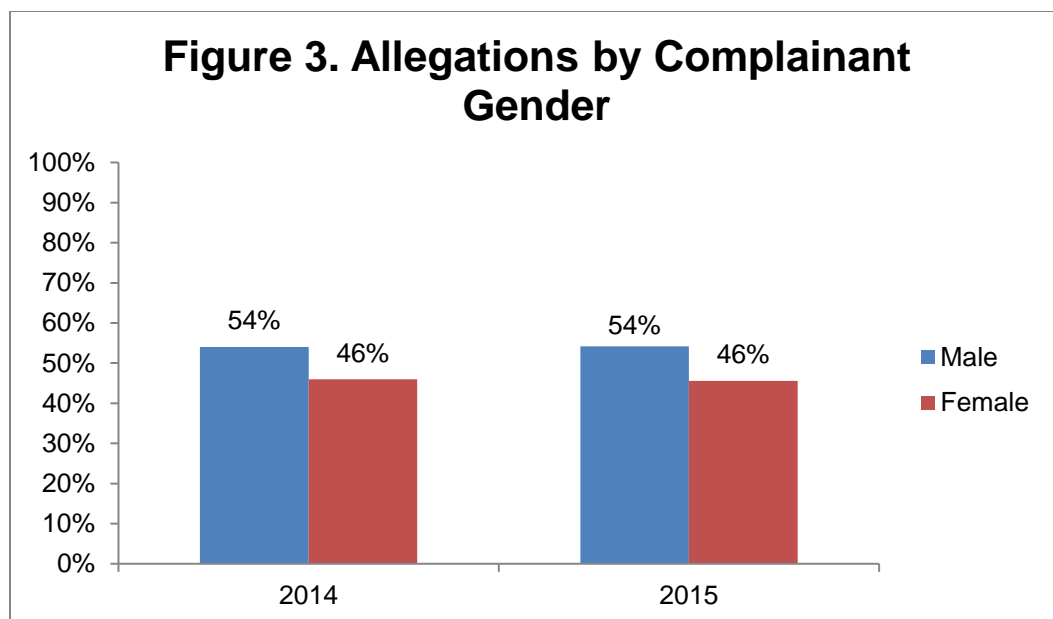


The percentages of complaints made against white officers and black officers generally are similar to the racial composition of the CDP, which has 87% white officers and 11% black officers.

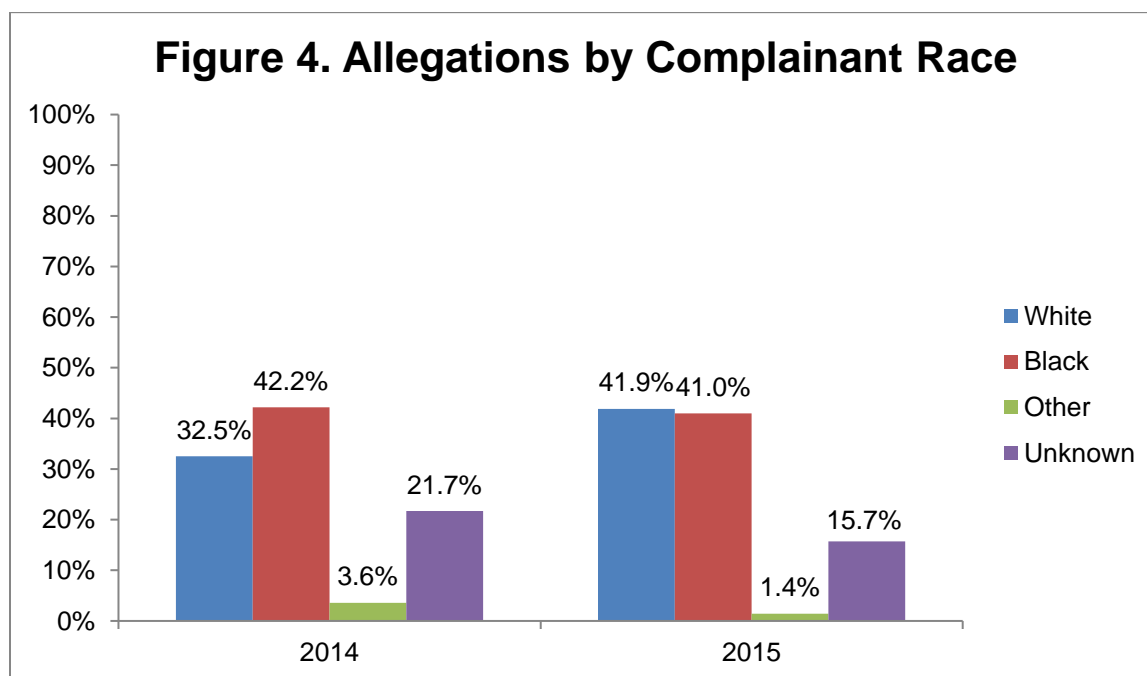
Allegations by Complainant Demographics

Figures 3 and 4 illustrate the percentage of allegations broken down by the gender and race of the complainant.

Slightly more than half of the allegations from completed complaint investigations in 2014 and 2015 were received from male complainants, while slightly less than half were received from females.



In Figure 4, data show approximately 40% of allegations in both 2014 and 2015 were filed by black complainants. In 2014, white complainants filed 32.5% of allegations; in 2015, they filed 41.9%.¹¹ In both years, fewer than 4% of all completed allegations were filed by individuals of other racial or ethnic groups.



¹¹ As previously noted, drawing any substantive conclusions by comparing data across years should be done with caution given the change in data systems used by CDP.

The true potential impact of the complainant's race is difficult to determine for multiple reasons. First, as Figure 4 illustrates, the race of the complainant was unknown in more than 21% of allegations in 2014 and nearly 16% of allegations in 2015. PERF's review was not able to identify why this demographic information was missing. It is difficult to understand how the current breakdown of allegations by race might change if the race of complainants were known in more cases.

Next, comparing the racial distribution of allegations to the racial demographics of Columbus has limited meaning. The more pertinent comparison would be to the racial demographics of people who have encounters with police officers that could end with a complaint. According to the U.S. Census, 61.7% of citizens in Columbus are white and 27.8% are black. However, the police often have higher call volumes in disproportionately minority areas, and police also interact with non-resident visitors of an unknown race.

To address these challenges, the CDP should take steps to improve data collection, reduce the number of allegations for which the complainant's race is unknown, utilize an independent auditor to review individual cases, examine the impact of race on a case-by-case basis, and continue to monitor ongoing outcomes and trends. PERF's recommendations for implementing these strategies are discussed in more detail in the "Use of Force Allegations" section below.

Allegations by Officer Experience

Officer experience, measured by the number of years officers have served with CDP, was examined for 2015. (This data was not available for 2014 because of the limitations in the CDP's earlier records management system.) Officers' years of service with CDP were grouped into five categories for the analysis. For information on categorical groupings, see Appendix B.

It is important to note that "years of service" data were missing for 46 (6.6%) out of the 695 allegations. Occasionally the identity of an officer is not determined throughout an investigation, in which case it is expected that some officer-level data (such as years of service) may be unavailable.

Table 1 presents the count and percentage of allegations across different levels of officer experience.

Table 1. Allegations and Officer Experience, 2015

Years of Officer Experience	Number of Allegations Against Officers	Percentage of Total Allegations Against Officers	Count of <u>Sustained</u> Allegations Against Officers	Proportion of Total Allegations That Were Sustained
0-5 years	285	43.8%	53	18.6%
6-10 years	102	13.3%	6	5.9%
11-15 years	95	12.7%	16	16.8%
16-20 years	75	12.0%	10	13.3%
21 or more years	92	12.2%	13	14.1%
Missing	46	6.6%	1	2.2%
Total ¹²	695	100.0%	99	14.2%

Officers with the least experience (0-5 years) received more than 40% of the total allegations brought against officers. This finding may result in part from the fact that officers with fewer years of experience are more likely to be in patrol, and thus more likely to have many contacts with the public. It should also be noted that allegations brought against the least-experienced officers were slightly more likely to be sustained than allegations brought against officers with more experience. This difference was most apparent in comparing the first two experience groups; 18.6% of the allegations brought against officers with 0-5 years of experience were Sustained, while 5.9% of the allegations brought against officers with 6-10 years of experience were Sustained.

PERF's finding that 43.8% of allegations are brought against officers with 0-5 years of experience suggests that inexperienced officers may need additional support and monitoring from superiors in the first few years on the job.

The CDP may be able to reduce complaints by educating sergeants on these findings and by encouraging them to allocate time to mentor particularly the most inexperienced officers, which should help reinforce their formal training.

¹² Percentages may not add to 100% due to rounding.

Interviews with sergeants indicated that their span of control sometimes stretched thinly to as many as 22 subordinate officers, which makes close and effective supervision and mentoring difficult to achieve successfully. This ratio of sergeants to officers is too low to allow for adequate supervision and mentoring.

Recommendation: *Sergeants should be encouraged to mentor and guide their most inexperienced officers and help them acclimate during the first few years on the job.* Informal mentoring practices should reinforce and emphasize ideas expressed in training. The CDP should also consider conducting a staffing study to determine the optimal span of control for first-line supervisors. PERF has historically recommended having approximately eight officers per supervisor, especially in a patrol setting. This allows patrol sergeants to not only handle their administrative responsibilities, but also to ensure they have time in the field to observe and mentor the officers under their supervision. One sergeant overseeing 22 officers, as sometimes occurs in the CDP, does not provide sergeants with the ability to adequately observe and guide officer performance. This is especially true during the evening shift, when workload is typically at its peak.

Disposition Type

In Columbus, complaint investigations can result in 10 different types of outcomes, or dispositions:¹³

1. **Sustained:** The allegation is a Rule of Conduct Violation and is supported by a preponderance of the evidence.
2. **Not Sustained:** The allegation could not be supported or refuted by a preponderance of the evidence.
3. **Unfounded:** The allegation is refuted by a preponderance of the evidence.
4. **Exonerated:** The evidence indicates the alleged conduct occurred, but the actions taken by the employee(s) were lawful and no misconduct was substantiated.
5. **Policy/Procedure:** The alleged conduct occurred, but involved either the proper and non-discretionary use of an approved Division policy or procedure, or was the result of the employee following an explicit and lawful order from a supervisor.
6. **Cancelled for Cause:**

¹³ Internal Affairs Bureau 2015 Annual Report.

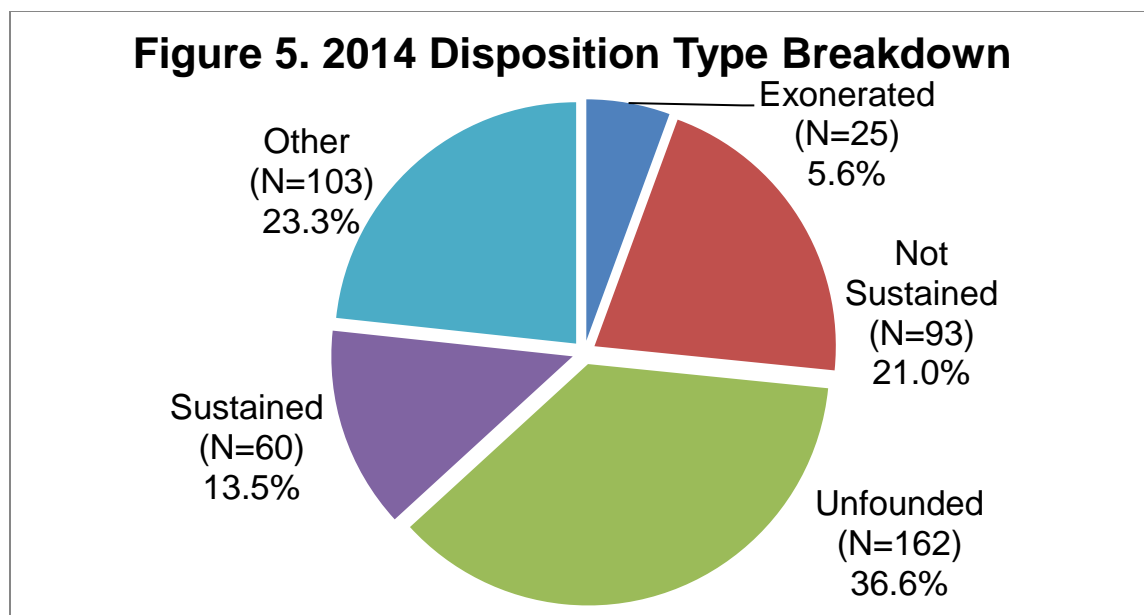
- a. The alleged misconduct could not have possibly occurred, e.g., Division employee was not working at the time of the alleged incident.
 - b. The complainant is deemed a “Vexatious Complainant.”¹⁴
- 7. **Withdrawn:** Complainant retracted the allegation(s) through either a verbal or written statement.
- 8. **Unable to Resolve:**
 - a. The investigation could not be properly investigated due to the complainant’s or a critical witnesses’ lack of cooperation in providing necessary or specific information.
 - b. The investigation could not be completed because the involved employee was unavailable for a necessary interview.
- 9. **Information only:** The complaint does not fit the definition of a complaint or the circumstances described do not merit an Internal Affairs investigation.
- 10. **Not Investigated per Article 8.12:** The complaint is not received or reduced to writing within 60 days of the alleged incident or an anonymous complaint does not contain corroborative evidence (or easily found corroborative evidence).

For the purpose of this analysis, PERF consolidated these 10 disposition types into five categories: Exonerated, Not Sustained, Unfounded, Sustained, and Other (which includes the disposition categories Policy/Procedure, Cancelled for Cause, Withdrawn, Unable to Resolve, Information Only, and Not Investigated per Article 8.12). The CDP does not use standardized or fixed categories for dispositions when it codes its data, which resulted in low counts across various categories that were functionally the same. When multiple categories have extremely low counts, the comparisons are generally not valid. Thus, PERF consolidated the categories in order to draw more meaningful conclusions from the data. Appendix B presents the full list of categories and PERF’s recoding methodology.¹⁵

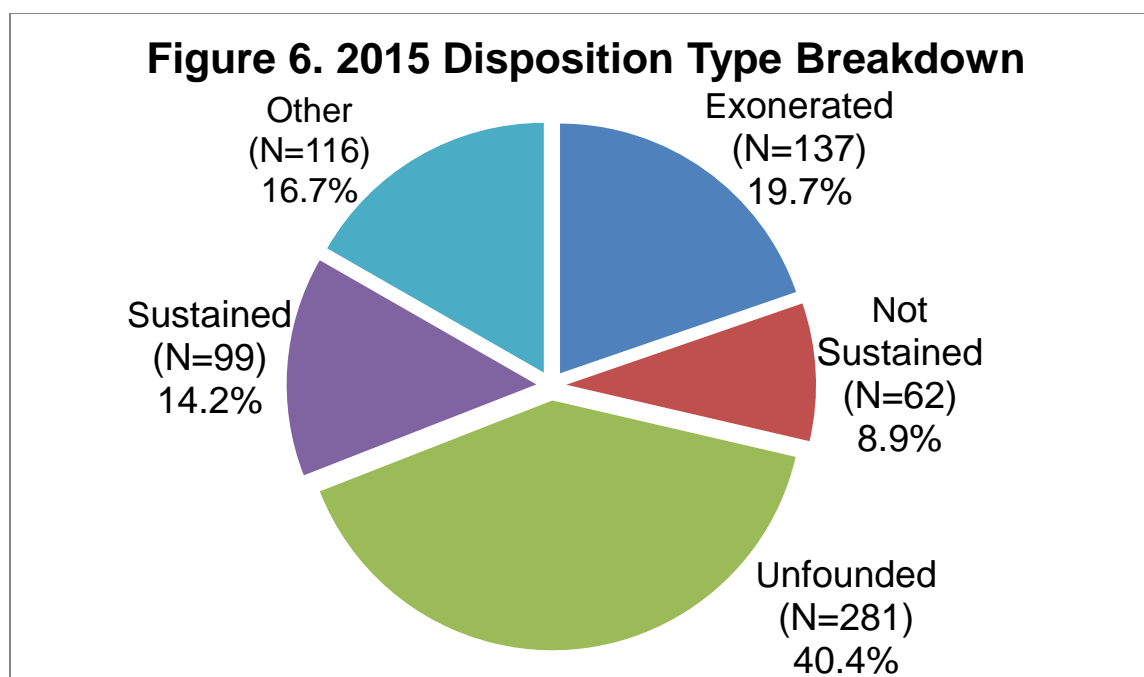
Disposition types for completed citizen complaint investigations are broken down for 2014 and 2015 in Figures 5 and 6. The term “*N*” represents the number of allegations within each disposition category, with the percentage of allegations receiving that disposition also included.

¹⁴ “Vexatious complainant” is defined as “The complainant is identified as a chronic complainer or appears to have a mental deficiency and fails to provide any credible or plausible evidence of misconduct warranting further investigation.”

¹⁵ Section III of this report, “Current Citizen Complaint Process,” includes a more detailed discussion of the disposition categories, along with PERF’s recommendations for redefining these categories.



In 2014, the most common disposition was Unfounded, which involved more than one-third of total allegations. Exonerations were uncommon, accounting for only 5.6% of total allegations.



In 2015, the most common disposition was Unfounded, accounting for more than 40% of total allegations. Not Sustained findings were the least common, involving 8.9% of the total allegations.

Results indicate that a substantial number of cases were being closed as Unfounded in both 2014 and 2015.

This is atypical compared to other agencies that PERF has reviewed, and is most likely due to the current definition of “Unfounded” used in Columbus, which is that the allegation is refuted by a mere “preponderance of the evidence.”

As defined by CDP, preponderance of the evidence is “The greater weight of the convincing evidence outweighs or overbalances in your mind the evidence opposed to it. Simply put, more likely than not.”

This definition is at odds with the definitions of the “Unfounded” disposition in use by most police agencies and offices of police complaints, including those similar in makeup to the CDP. In these other police departments, “unfounded” is defined in ways that require more conclusive proof that the allegation is false.

In the “Current Citizen Complaint Process” section of this report, PERF discusses the implications of the CDP’s definition of “Unfounded,” gives examples of how “Unfounded” is defined in other police agencies, and provides recommendations for revising the complaint disposition definitions.

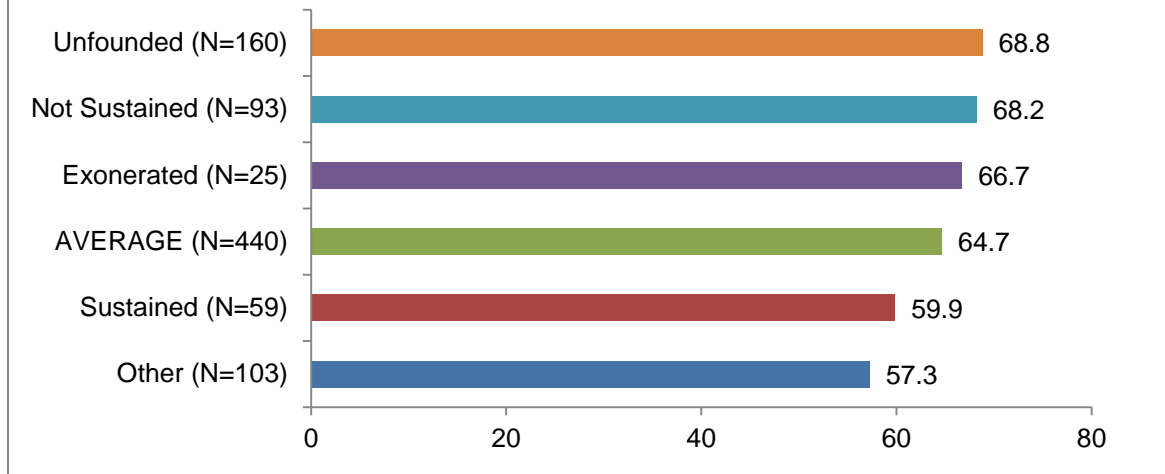
Investigative Closure Time

Figures 7 and 8 present the average number of days it took to close a complaint investigation in 2014 and 2015. The cases are divided into categories based on the outcome,¹⁶ or disposition, of the case. The term “*N*” represents the number of allegations within each disposition category. So, for example, according to Figure 5, in 2014 there were 160 allegations that were determined to be Unfounded, and the average time that it took to investigate and close the cases involving Unfounded allegations was 68.8 days.¹⁷

¹⁶ Please refer to the Case Outcomes section further in this report for a description of the various case dispositions used by CPD.

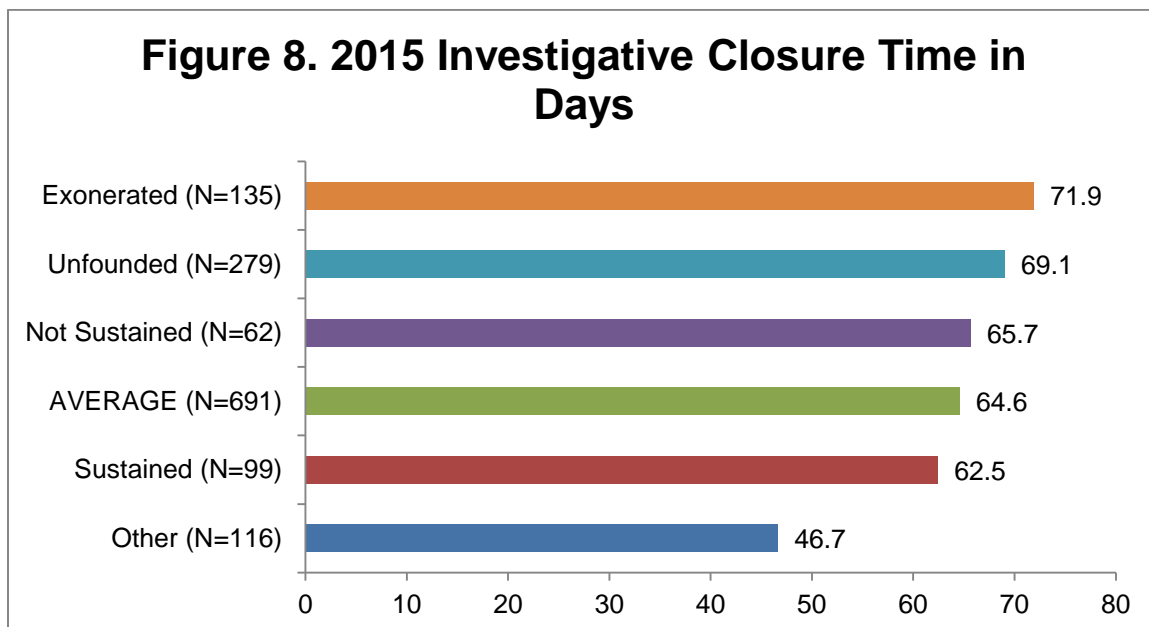
¹⁷ The disposition type variable was modified for this analysis, such that disposition groupings were consolidated from 12 to 5 categories. For more information on the categorical groupings, see Appendix B.

Figure 7. 2014 Investigative Closure Time in Days



In 2014, the average investigative closure time for citizen complaints was approximately 65 days. Investigations resulting in Unfounded, Not Sustained, or Exonerated dispositions took about 2-4 days longer than average, while investigations resulting in Sustained dispositions were resolved slightly more quickly on average, a difference of about five days.

Figure 8. 2015 Investigative Closure Time in Days



In 2015, the average investigative closure time for citizen complaints was also about 65 days. Investigations resulting in Unfounded, Not Sustained, or Exonerated dispositions took about 1-7

days longer to close than average, while investigations resulting in Sustained dispositions were resolved about two days more quickly on average.

Investigative closure time averaged approximately 65 days in 2014 and 2015. This is a fairly reasonable timeframe based on PERF's work with other agencies, and on average meets the 90-day requirement per the IAB policy and union contract.¹⁸ **Investigations resulting in Exonerated, Not Sustained, or Unfounded dispositions took a few days longer than average to close. In contrast, Sustained dispositions tend to be resolved more quickly.** There were some significant differences in investigative closure time for various allegation and disposition types; however, this was to be expected, given the variety in allegations reported.

Allegation Type

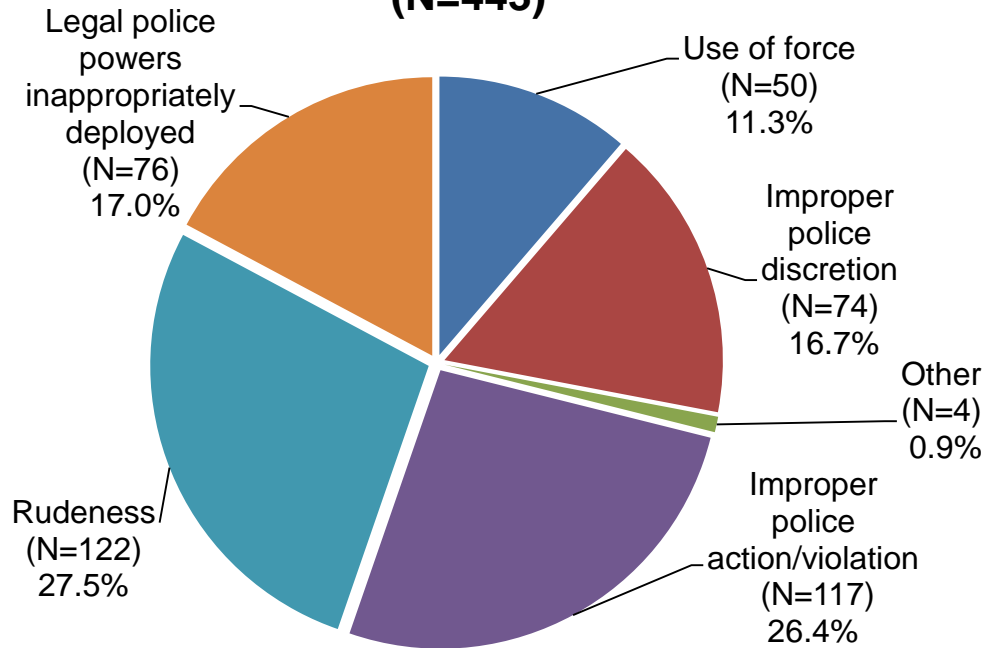
Figures 9 and 10 show the types of allegations brought against officers in completed citizen complaints for 2014 and 2015. The term “*N*” represents the number of allegations within each category.¹⁹

For the purpose of this analysis, PERF consolidated the 24 allegation types defined by the CDP into six categories: use of force, improper police discretion, improper police action/violation, rudeness, legal police powers inappropriately deployed, and other. As with the disposition categories, the CDP does not use standardized or fixed categories when it codes its data, which resulted in low counts across various categories that were functionally the same. When multiple categories have extremely low counts, the comparisons are generally not valid. Thus, PERF consolidated the categories in order to draw more meaningful conclusions from the data. Appendix B presents the full list of categories and PERF's recoding methodology.

¹⁸ However, not all allegations were closed within the 90 day time frame. In 2014, 3.6% of allegations took longer than 90 days.

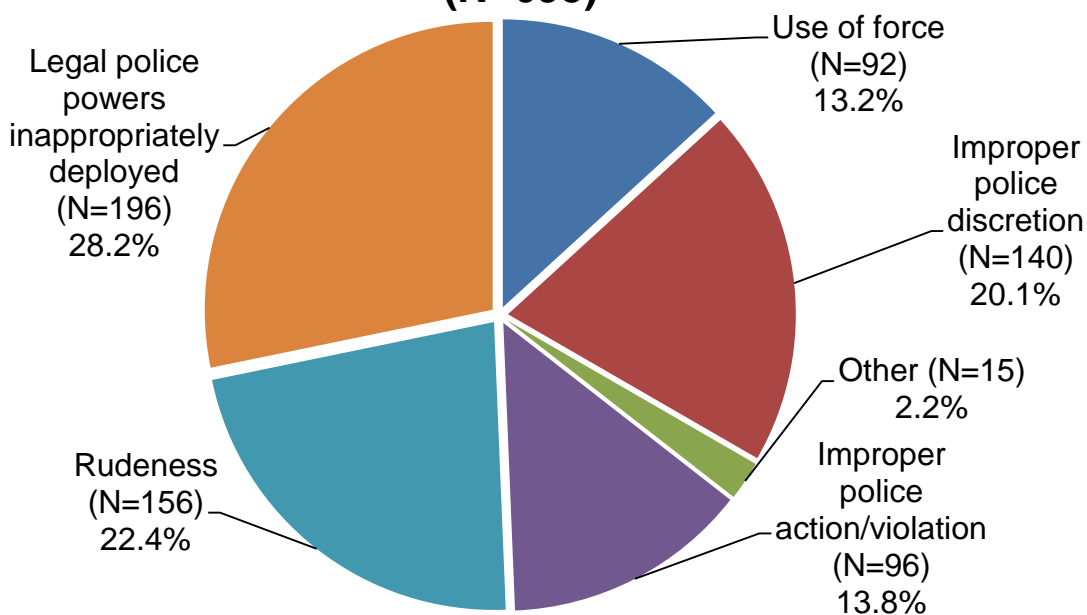
¹⁹ The allegation type variable was modified for this analysis, such that allegation type was consolidated from 24 to 6 categories. For more information on the categorical groupings, see Appendix B.

**Figure 9. 2014 Allegation Type Breakdown
(N=443)**



In 2014, allegations of rudeness or discourtesy were the most common, followed by allegations regarding improper police actions or policy violations. These categories comprised 27.5% and 26.4% of total allegations, respectively. Miscellaneous allegations (“other” category) comprised the smallest percentage of total allegations, at less than 1%.

**Figure 10. 2015 Allegation Type Breakdown
(N=695)**



In 2015, the most common allegations pertained to instances where legal police powers were inappropriately deployed,²⁰ followed by rudeness allegations. These categories included 28.2% and 22.4% of total allegations, respectively. Miscellaneous allegations (i.e. “other” category) comprised the smallest percentage of total allegations at 2.2%.

Use-of-Force Allegations

Across both years, use of force allegations represented fewer than 14% of all allegations brought against CDP officers. However, further analyses revealed two statistically significant relationships²¹ which present a more complex picture regarding use of force.

First, allegations regarding excessive use of force were more likely to be Exonerated and less likely to be Sustained than other types of allegations. Second, there tended to be a disproportionate number of black complainants alleging improper use of force in comparison to white complainants, when compared to raw population demographics.

PERF recommends that the CDP take several steps to better understand and address why use-of-force allegations were less likely to be Sustained than other types of allegations, and why there were more black complainants than white complainants per capita in the city’s population alleging improper use of force. These recommendations, which include improving data collection, using an independent auditor to conduct case reviews, and ongoing monitoring of outcomes and trends, are located at the end of this section.

Use-of-Force Allegation Data

Table 2 shows the count and percentage of Exonerated allegations for 2014 and 2015.

Table 2. Exonerated Allegations

Year	Percentage of <u>all</u> allegations that were ruled Exonerated	Percentage of Allegations involving Use of Force that were ruled Exonerated
2014	5.6%	40%
2015	19.7%	27.7%

²⁰ This category includes allegations involving arrests, handling of prisoners, handling of property, investigative actions, missing or damaged property, operation of a vehicle, response time, or search/seizure. More information about the categories of allegations can be found in Appendix B.

²¹ If a “statistically significant” relationship is found between two variables, this means they will be correlated at least 95% of the time, with a 5% maximum likelihood the correlation is due to chance (i.e. $p < .05$).

As Table 2 indicates, allegations involving use of force were more likely to be Exonerated than other types of allegations. This was especially true in 2014, when 40% of use-of-force allegations were Exonerated, while only 5.6% of all allegations were Exonerated. Given this finding, it is unsurprising that PERF also found that use-of-force allegations were Sustained at a lower rate than other types of allegations. In 2014, for example, only 2% of use-of-force allegations were ruled Sustained, while 13% of all allegations were Sustained.

This finding – that use-of-force allegations were ruled Exonerated at a higher rate than other types of allegations – is not unusual among police agencies. One reason for this is that citizens do not always understand what is considered justifiable force, and they may believe that force is excessive when in fact it is authorized by agency policy.

PERF also found that some data suggest a disproportionate number of black complainants alleging excessive use of force in comparison to white complainants, as shown in Table 3. In 2014, black complainants brought 44% of total use of force allegations, while white complainants accounted for only 34%.

Table 3. Allegations by Complainant Race, 2014

Complainant Race	Number of Allegations of All Types Made in 2014	Percentage of Total Allegations of All Types That Were Made by Members of Each Racial Group	Number of Use-of-Force Allegations Made in 2014	Percentage of Use-of-Force Allegations That Were Made by Members of Each Racial Group
Black	187	42.2%	22	44%
White	144	32.5%	17	34%
Other Race or Unknown	112	25.3%	11	22%
Total ²²	443	100%	50	100.0%

The racial breakdown of statistics on use-of-force allegations are similar to those for all types of allegations, with about one-third of allegations being made by white persons, and about 42-44% of allegations being made by black persons. More than 20% of all allegations received in 2014 were made by persons of other races or of unknown race.

²² Percentages may not add to 100% due to rounding.

Table 4 shows that in 2015, black complainants accounted for 58.7% of the total use of force allegations, while white complainants only accounted for 26.1%. This finding was statistically significant.²³

Table 4. Use of Force Allegations by Complainant Race, 2015

Complainant Race	Number of Allegations of All Types Made in 2015	Percentage of Total Allegations of All Types That Were Made by Members of Each Racial Group	Number of Use-of-Force Allegations Made in 2015	Percentage of Use-of-Force Allegations That Were Made by Members of Each Racial Group
Black	285	41.0%	54	58.7%
White	291	41.9%	24	26.1%
Other Race or Unknown	119	17.1%	11	15.2%
Total ²⁴	695	100.0%	50	100.0%

Black and white complainants comprised similar percentages of the total 2015 allegations (about 41% in each racial category). However, black complainants made up a much larger share of complaints involving allegations of improper use of force, accounting for 58.7% of all of those complaints. Again, more than 15% of the total allegations received in 2015 were made by complainants whose race was unknown.

It is possible that implementation of the new IAB data management system, Premier One, contributed to more accurate recording of information, which may be the reason why the disparity between black and white complainants alleging use of force is more apparent in 2015 than 2014. Any comparisons or perceived change between 2014 and 2015 should be interpreted with caution. Ideally, comparisons could be made across multiple years using complete data obtained from the same data warehouse. The CDP can do so for future years by treating the 2015 data as a baseline.

Use-of-Force Allegation Analysis and Limitations

Without more accurate and complete data, PERF cannot definitively conclude why use-of-force allegations were less likely to be Sustained than other types of allegations, or why there were

²³ $p < .001$

²⁴ Percentages may not add to 100% due to rounding.

more black complainants alleging improper use of force compared to white complainants. These findings are likely to be impacted by a number of factors, including some not controlled for in this analysis. The following recommendations will help the CDP address these limitations moving forward.

PERF recommends that the CDP implement strategies to ensure that all use-of-force allegations are fairly and consistently reviewed. This will help the department better understand the relationship between race and use-of-force allegations.

Recommendation: *The CDP should take steps to strengthen its complaint data and reduce the number of allegations in which the demographics of the complainant, including race, are reported as unknown. Accurate recording of complainant demographics is critical to accurately and precisely monitoring of any relationships between complainant race, allegation type, and final disposition.*

Most complaints are filed over the telephone, so the CDP should ensure there is a policy in place requiring call takers to ask for demographic information during each call, and that call takers are trained on this policy. Because some complainants may feel uncomfortable reporting their race when filing a complaint, call takers should also be trained and required to assure complainants that the CDP will be using the information only to track and address any racial disparities or other issues that may be involved in police encounters with the community. If the complainant's race is not obtained during the call, IAB investigators should update the case file if the complainant's race is later determined.

Recommendation: *The CDP should utilize an ombudsman or independent auditor (e.g., a retired judge or prosecutor) to conduct periodic reviews of its use-of-force allegations. The purpose of the review should be to better understand the nature of use-of-force allegations (including the relationship between the allegations and race) and to ensure that these allegations are being fairly, consistently, and thoroughly investigated.* The U.S. Department of Justice has routinely mandated the creation of an external oversight component in consent decrees and memoranda of agreements during the past 15 years. DOJ documents detailing these agreements serve as excellent resources for the considerations that are involved in establishing an oversight mechanism. PERF also recommends that this external oversight process include an independent review of *all* types of IAB investigations, not just use-of-force allegations. PERF's recommendations

for this full review are discussed in more detail in the “Audit of Cases and Complaint Intake” section of this report.

Recommendation: *Going forward, the IAB should continuously monitor and examine the racial distribution within use-of-force complaints, using the most accurate and complete data possible.* This step, combined with improving complaint data and implementing independent case reviews, will help the CDP understand whether current findings and trends persist over time.

Officer and Complainant Race Relationships

87% of all CDP officers are white, and 11% are black.²⁵ In 2014, 82.6% of allegations received from white complainants were against white officers, and 10.4% were against black officers. Among black complainants, 90.9% of the allegations were against white officers, and 7% were against black officers.

In 2015, 79% of allegations received from white complainants were brought against white officers, and 17% were against black officers. Among black complainants, 82.1 percent of their complaints were against white officers, and 10.9 percent against black officers.

Thus, white officers were somewhat underrepresented in the allegations received from white complainants, and this finding was slightly more apparent in 2015 than 2014. In 2015, black officers were over-represented among allegations received from white complainants, a finding that was not observed in 2014.

Based on the limited data reviewed, PERF cannot draw definitive conclusions about the impact that officer race has on complaints. The CDP should be aware of this finding as it takes steps to strengthen data collection, implement independent case reviews, report ongoing trends, and continue to conduct this type of review in the months and years ahead.

²⁵ “Columbus Police 2014 Annual Report.”

<http://www.columbuspolice.org/AboutCPD/AnnualReports/2014%20CPD%20Annual%20Report.pdf>

Summary of IAB Citizen Complaint Investigations Data Analysis

Based on the data provided and collected by PERF staff, the CDP's citizen complaint investigations appear to be thorough. There were some statistically significant findings related to allegation type, disposition, race, and officer experience. Specifically, allegations of the use of excessive force were more likely to result in a finding of "Exonerated" and less likely to be sustained in comparison with other allegation types. Additionally, there tended to be more black complainants alleging excessive use of force in comparison with their white counterparts. However, it should be noted that the demographics of police interactions with residents (which can result in a complaint) likely do not match the city's overall demographic profile, as police often have higher call volumes in disproportionately minority areas. Findings also revealed that a large portion of total allegations were against officers who had relatively few years (0-5 years) of experience on the force.

The case files, however, do not consistently supply key demographic information of officers and complainants. While *racial* data is collected, the *ethnicities* of complainants and officers were unknown in the majority of cases. The agency should aim to obtain complainant and officer ethnicities for every case, whether it is collected at the time of the complaint or later on. Additionally, the agency should report ethnicity and race statistics separately in the IAB annual reports, as these categories are not mutually exclusive and should not be treated as such. It appears some progress has been made already during the transition to Premier One, as the percentages of unknown ethnicities decreased from 2014 to 2015 by nearly 13% for complainants and about 22% for officers.

The agency also should focus on obtaining accurate measures of complainant and officer demographics in addition to ethnicity (such as officer years of service, sex, race, etc). Although the unknown categories comprised a small percentage of these particular variables, CDP should always strive for accurate and consistent recording of this information. PERF recognizes that some complainants will inevitably prefer to remain anonymous, or the complainants' descriptions of officers may not be detailed enough to determine officer demographics, which could hinder data quality. However, the agency should make every effort for accurate recording of this information.

Recommendation: *The IAB should report ethnicity and race statistics separately in the IAB annual reports. Currently, reports include "Hispanic ethnicity" as one of the racial categories. Racial and ethnic categories are not mutually exclusive and should not be treated as such. For example, the U.S. Census reports the number and percent of the*

population within each racial category, and separately reports the number and percent of people of any race who identify themselves as Hispanic or Latino.

Recommendation: *The CDP should strive to record all complainant- and officer-level demographic information accurately, whether it is collected at the time the complaint is received or collected and updated later on.* Current data contained missing information in various fields, including officer years of service, officer/complainant race, officer/complainant gender, officer/complainant ethnicity, and other variables. Reducing the amount of missing data is critical for relationships between variables to be examined accurately with precision

It should be noted that the CDP has improved its data collection efforts from 2014 compared with 2015. This may or may not be due to the 2015 implementation of the Premier One database. One example is the notable finding that the reporting of whether a complainant had cooperated with an investigation improved substantially in 2015, with 80% coded as unknown in 2014, and fewer than 3% coded as unknown in 2015.

Section III. CURRENT CITIZEN COMPLAINT PROCESS

The complaint process within the Columbus Division of Police (CDP) is detailed below.

How Complaints Are Filed

A citizen may make a complaint via email, regular mail, over the phone, or in person at the Internal Affairs Bureau (IAB) facility. Citizens who wish to make a complaint with a supervisor in the field are instructed to contact IAB directly to file their complaint. If a citizen insists on filing a complaint with a supervisor in the field, the supervisor is to collect the relevant information and promptly forward it to the IAB desk sergeant on duty. Those calling a police facility to lodge a complaint are transferred to IAB. For those wishing to file a complaint between the hours of 10 p.m. and 6 a.m. (when IAB is closed), a Patrol Administrative Sergeant answers the complaint line and will take down the complainant's information and immediately forward the case to IAB staff to handle when the office is open.

All calls to the IAB's complaint line are recorded. Upon receipt of a citizen contact, the IAB duty desk sergeant opens a new entry on the electronic Complaint Line Log and fills in the necessary information. If the information reported to the desk sergeant meets the definition of a complaint, the sergeant then generates a new case report in Premier One and notes the IAB database number on the Complaint Line Log. The case is then forwarded to an IAB supervisor for assignment to a sergeant investigator. The complainant is provided a copy of the case number for his or her reference.

Citizen Complaints Should Not Be Discouraged

Many citizen contacts with IAB do not meet the definition of a complaint. For example, if a motorist is upset about getting a parking ticket, that is a matter for the courts to decide, not the police. Additionally, the IAB desk sergeants have considerable latitude in offering suggestions and advice for callers who, while they may elect to file a complaint, may be better served by another course of action. For instance, if a caller has been having trouble obtaining an accident report from the police, the desk sergeant may offer to contact the appropriate unit in order to resolve the issue, rather than merely take a complaint about it.

Desk sergeants, as the single entry point into IAB, have the ability to serve as “gatekeepers” who can discourage or even prevent complaints from proceeding. A member of the command staff stated that the IAB intake sergeants “do a good job of talking people down when they call to complain,” and other personnel indicated that “The guys who sit out there [the

desk sergeants] do a pretty good job at screening them and making sure that most don't become complaints."

Additionally, IAB complaint pamphlets contain a detailed warning that states that it is a first-degree misdemeanor to knowingly file a false complaint against a member of the agency. This language could discourage people from filing a complaint if they believe they have a legitimate complaint but are afraid they will be prosecuted if the complaint investigation is not sustained.

Discouraging people from filing complaints undermines fairness and impartiality, which are essential to ensuring the integrity of complaint investigations, trust in the process, and legitimacy in the outcomes. Removing structural or perceived impediments to the complaint process, such as overt warnings that unfounded complaints can be the subject of criminal prosecution (which some complainants might consider menacing), promotes the goals of fairness and impartiality. At the same time, the complaint process must encourage residents to register complaints or commendations about officers, while providing actual deterrence to those who make demonstrably false allegations about officers that may harm their professional reputations and keep them under a cloud during the pendency of the investigation.

Recommendation: *The CDP should remove warnings about making a false complaint from its complaint materials. And this warning should not be given to complainants over the telephone.* In addition, desk sergeants should not have the ability to serve as "gatekeepers" who can discourage or prevent complaints from proceeding.

Intentionally False Complaints

Intentionally filing a false complaint is a criminal offense. Should an alleged complaint be deemed false, the decision to pursue criminal charges is made at the deputy chief level. In both 2014 and 2015, only one criminal charge was filed against someone making a false complaint. For cases where such a criminal charge is filed, a summons is issued, not an arrest warrant. Officers who participated in focus groups told PERF that under this current practice, there is little deterrent to filing a false complaint.

The CDP should put mechanisms in place to hold accountable people who intentionally file false complaints. At the same time, the CDP must avoid discouraging people from filing valid complaints. In cases where a resident intentionally files a false report, the CDP should have the discretion to seek criminal charges via a summons or arrest warrant. This will enhance

the integrity of the process, ensure fairness to legitimate complainants and officers, and promote trust in the process.

Online Reporting

The IAB webpage is comprehensive and informative. Citizens may download a complaint brochure in English, Spanish, or Somali. Detailed information is given about the complaint process, how to file a complaint, and case dispositions. A map to the IAB facility is included, as well as complete contact information for the Bureau.

While IAB's website is very informative, there are several opportunities for improvement. Most importantly, IAB's webpage is "orphaned" in the sense that it cannot be found directly from the main CDP webpage. Instead, it can only be found by searching the internet using search terms such as "Columbus police internal affairs." IAB personnel said that the city is in the process of moving the CDP's website from a standalone site to one located on the city's website, but the process was incomplete.

Recommendation: *IAB should work with city IT personnel to ensure that IAB's webpage is linked directly to the main police webpage as soon as possible and is easily visible to citizens using the website.*

When IAB's web page is linked to the main police web page, there should be a clearly identifiable button on the home page, in English, Spanish, and Somali, that allows individuals to easily access the complaint process information booklet and the complaint form. While the complaint information booklet is in all three languages, currently the downloadable complaint form is in English only. Spanish and Somali versions should be available as well. In addition to filing complaints, residents should have the ability to submit a commendation about an officer if they wish.

Recommendation: *The IAB should add a prominent button to the home page of its website, in English, Spanish, Somali, and other languages as needed, which allows users to file a complaint against a member of the agency or submit a commendation. This link can redirect users to the IAB page, with clear and understandable instructions in English and professionally translated Spanish and Somali.*

Recommendation: *Online complaint forms should be available in English, Spanish, Somali, and other languages as needed. While the complaint information booklet is in all three languages, currently the only version of the complaint form is in English.*

The CDP must also ensure that the IAB website and complaint forms do not contain language that might inadvertently discourage members of the public from filing complaints. For example, some people may see the term “citizen complaint” and believe it to mean that only U.S. citizens are able to file complaints, which is not the case. Additionally, both the IAB website and online complaint form state: “If the accusation is serious, you may be asked to take a polygraph test.” Some people may be uncomfortable with taking a polygraph even if they are telling the truth, and thus this statement may make them hesitant to come forward.

Recommendation: *The IAB website and complaint form should include language to make it clear that members of the public do not need to be U.S. citizens or residents of Columbus in order to file a complaint. This language should be stated at the top of the IAB website and complaint form and be clearly visible to readers.*

Recommendation: *The CDP should remove the statement “If the accusation is serious, you may be asked to take a polygraph test” from the IAB website and complaint form. Though complainants may still be requested to take a polygraph test during the course of an investigation, stating this up front might discourage even people with valid complaints from coming forward.*

IAB annual reports for the last several years should be made available on IAB’s website. Currently, they are not available. As discussed elsewhere in this report, IAB’s annual reports are very thorough and contain detailed information about complaint statistics. Making these reports available on IAB’s website is a simple way to promote transparency and reinforce legitimacy within the community.

Recommendation: *To promote transparency and openness with the community, current and past IAB annual reports should be available on IAB’s web page.*

Citizen Complaint Investigation Process²⁶

IAB Investigation

²⁶ There are a number of complaints against officers that are generated internally, typically from an officer’s coworker or supervisor. Examples of this type of complaint include sexual or other harassment, physical altercations, and hostile relations. These investigations are also handled by IAB. However, PERF did not conduct an extensive review of this process, as it was not within the project scope.

Once a complaint is filed, it is assigned to an IAB investigator, who contacts the complainant and arranges for separate interviews with the complainant, the focus officer(s), and any witnesses. The investigator also reviews all available evidence. Once the investigator finishes his or her review, it is forwarded to an IAB lieutenant for review. The lieutenant will either hand the case back to the investigator if he or she believes that the case needs more work, or will pass the case along to the IAB commander for approval. If the commander approves, it is then sent to the focus officer's chain of command for review. By union contract, complaint investigations *must* be completed within 90 days. Once the case is submitted to the officer's chain of command, this timeline stops. However, if the case is remitted back to IAB, the timeline resumes.

Chain of Command Review

Once IAB has completed its investigation, the case is reviewed by the officer's chain of command. The case is first received by the involved officer's sergeant, who reviews it for accuracy and thoroughness. Upon completion of the review, the sergeant indicates his or her agreement or disagreement with each finding, and forwards the case to the officer's lieutenant. The lieutenant reviews the case in the same manner as the officer's sergeant and then forwards it to the officer's commander for review. The commander conducts his or her review, and then forwards the case to the officer's deputy chief, who reviews the case and makes a finding for each allegation, to include appropriate positive corrective or disciplinary action. Only a Commander or above may automatically send a case back to IAB for more investigation or information. A sergeant or lieutenant must first contact their commander and articulate a request to send the investigation back, and if the commander agrees, they must then contact the IAB Commander to discuss their request.

Any disagreement with IAB's findings must be articulated by the chain of command with the exception of the deputy chief, who does not have to articulate why they made a decision. The deputy chief may overrule both IAB and the officer's chain of command without any explanation.

Unlike IAB's review, there is no formal timeline for the chain of command review. If a case is sent back to IAB at any level of the chain of command review, IAB's investigative timeline begins again. For example, if an IAB investigator completes a case investigation in 30 days, the timeline stops upon submittal to the officer's sergeant. Should the case be sent back to IAB to address command staff questions, the timeline resumes. To ensure timely processing of cases, there should be a requirement that cases be completed in 180 days total, as recommended by the

COPS Office.²⁷ This should consist of a maximum of 90 days for the IAB investigation and a maximum of 90 days for the chain of command review, with no pause in the timeline when the case is sent from IAB to the chain of command). This timeline could be extended, when necessary (e.g., the case is criminal in nature) with authorization from the Commander of IAB. Additionally, after 60 days of submittal to the officer's chain of command, should the case not be returned to IAB, a reminder to that officer's chain of command should be issued. As stated by the COPS Office: "The time delay has a negative impact on the memory and availability of witnesses. It means that a cloud lingers over the employee for a long time. The longer eventual administrative discipline, retraining, or corrective action is postponed, the less effective and meaningful it will be. Moreover, a lengthy delay undermines public trust and confidence that the agency is efficient and is taking speedy action to remedy police misconduct, thereby increasing public cynicism about taking care of its own."²⁸

The chief of police should be the final reviewing authority on all citizen complaint investigations. This is considered to be a progressive policing practice and is employed by large agencies such as the Los Angeles (CA), Boston (MA), and Charlotte-Mecklenburg (NC) police departments. To provide another example, PERF recently completed an internal affairs policy review of the Palm Beach County (FL) Sheriff's Office (PBSO). At the time of the report's publication, the PBSO was composed of 1,492 sworn law enforcement deputies, 699 sworn corrections deputies and 1,750 civilian support staff. The Sheriff reviews each case brought before him by the PBSO's Internal Affairs Division to ensure consistency in case investigation.

While the review of cases by the six deputy chiefs in Columbus is a strong practice, a final review by the Chief of Police is essential to ensuring consistent case outcomes, as there may naturally be differences in how the various deputy chiefs handle cases.

Should a review of each case by the chief not be practical, at the very minimum, those cases that could potentially result in loss to the officer (forfeiture of pay, loss of accrued leave) or discipline (suspension, reduction in rank) should be reviewed by her as part of the chain of command review.

Recommendation: *To promote accountability and to ensure consistent case outcomes, the Chief of Police should be the final reviewing authority for all complaint cases. Should this not be practical, the chief should review, at a minimum, more serious cases*

²⁷ "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice." DOJ Office of Community Oriented Policing Services. <http://ric-zai-inc.com/Publications/cops-p164-pub.pdf>. Page 33.

²⁸ Ibid. Page 24.

that could result in discipline or loss to the officer. Additionally, all supervisors (sergeants and above) should undergo regular refresher training in addition to the training received in supervisor school to ensure consistency in the review and disposition of cases at all supervisory levels of the CDP.

Recommendation: *To ensure timely processing of cases, there should be a maximum time limit of 180 days to complete a case, to include both the IAB investigation as well as the chain of command review. Excessive delays in case investigation have negative impacts to the complainant, the involved officer(s), and the community. Should the case in question involve criminal activity or some other factor that may influence the case timeline, an extension can be granted by the Commander of the IAB.*

Case Outcomes

The IAB Annual Report outlines 10 classifications for investigative findings from citizen complaints:²⁹

1. **Sustained:** The allegation is a Rule of Conduct Violation and is supported by a preponderance of the evidence.
2. **Not Sustained:** The allegation could not be supported or refuted by a preponderance of the evidence.
3. **Unfounded:** The allegation is refuted by a preponderance of the evidence.
4. **Exonerated:** The evidence indicates the alleged conduct occurred, but the actions taken by the employee(s) were lawful and no misconduct was substantiated.
5. **Policy/Procedure:** The alleged conduct occurred, but involved either the proper and non-discretionary use of an approved Division policy or procedure, or was the result of the employee following an explicit and lawful order from a supervisor.
6. **Cancelled for Cause:**
 - a. The alleged misconduct could not have possibly occurred, e.g., Division employee was not working at the time of the alleged incident.
 - b. The complainant is deemed a Vexatious Complainant.
7. **Withdrawn:** Complainant retracted the allegation(s) through either a verbal or written statement.
8. **Unable to Resolve:**
 - a. The investigation could not be properly investigated due to the complainant's or a critical witness's lack of cooperation in providing necessary or specific information.

²⁹ Internal Affairs Bureau 2015 Annual Report.

- b. The investigation could not be completed because the involved employee was unavailable for a necessary interview.
9. **Information only:** The complaint does not fit the definition of a complaint or the circumstances described do not merit an Internal Affairs investigation.
10. **Not Investigated per Article 8.12:** The complaint is not received or reduced to writing within 60 days of the alleged incident or an anonymous complaint does not contain corroborative evidence (or easily found corroborative evidence).

Consistency of Definitions

PERF's review of a sample of closed IAB cases, along with a review of yearly case statistics, found that a significant number of cases were being closed as Unfounded (45% in 2015, 31% in 2014, and 24% in 2013). This is atypical among most law enforcement agencies, and in all likelihood is due to the definition of Unfounded that is used in Columbus.

In Columbus, the definition of Unfounded is: *The allegation is refuted by a preponderance of the evidence.* As defined by CDP, preponderance of the evidence is "The greater weight of the convincing evidence outweighs or overbalances in your mind the evidence opposed to it. Simply put, more likely than not."

This definition is extremely similar to the definition of Not Sustained and is at odds with the definitions of the "Unfounded" disposition in use by most police agencies and offices of police complaints, including those similar in makeup to the CDP. In these places, the finding that an allegation is refuted by a preponderance of the evidence still leads to a disposition of Not Sustained, rather than Unfounded. Under this more common definition, an allegation is deemed Unfounded when the allegation did not happen or is not true; for example, if an officer is proved to have been out of town when an alleged incident occurred.

Examples of the definitions of Unfounded used in other agencies are included below.

- Charlotte-Mecklenburg: "The allegation is false. The incident never occurred or the employee was not involved in the incident, or the investigation conclusively proved that the employee's alleged act or actions never took place."
- Fort Worth: "The complained-of act did not occur."
- Indianapolis: "If the information provided by the complainant does not coincide with the evidence obtained, the complaint will be ruled UNFOUNDED and no further action will be taken."

- Jacksonville: “The allegation is false or not factual.”
- San Jose: “The investigation conclusively proved either that the act or acts complained of did not occur, or that the Department member named in the allegation was not involved in the act or acts, which may have occurred. This means that the IA investigation concluded that the alleged misconduct never happened.”
- Tucson: “Member did not commit the alleged violation.”
- Austin: “The allegation is considered false or not factual.”
- San Francisco: “The evidence proved that the acts alleged in the complaint did not occur, or that the named member was not involved in the acts alleged.”
- LAPD: “When the investigation indicates the act complained of did not occur.”

Similarly, criminal justice researchers and government agencies use a definition of “Unfounded” that is similar to what most law enforcement agencies use:

- In Samuel Walker and Carol Archbold’s *The New World of Police Accountability, 2nd Edition*, “Unfounded” is defined as: There is no evidence that the alleged misconduct occurred.
- From the COPS Office publication, *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*, an “Unfounded” adjudication means that the allegations are not true.
- From the COPS Office publication *Building Trust between the Police and the Citizens They Serve*: Unfounded means: The allegation was false or devoid of fact.

As a result, many cases reviewed by PERF staff had a disposition of Unfounded, when they would in all likelihood be found to be Not Sustained, using the conventional definitions used by most other agencies.

Recommendation: *The CDP should modify its definition of Unfounded. Under the new definition, an allegation should be deemed Unfounded if the investigation finds that the allegation did not take place or is not true.* This definition is in line with the definition used by most police agencies and by the COPS Office. Not using the correct definitions can mislead the public on the nature of complaint outcomes. The CDP’s current definition of Not Sustained (the allegation could not be supported or refuted by a preponderance of the evidence) should remain unchanged.

PERF recognizes that this change will significantly change complaint findings going forward. All personnel involved in the internal review process must be adequately trained to understand the updated definition and requirements to appropriately close their investigations.

PERF highly recommends that this go beyond a simple policy change and needs to be part of a larger CDP-wide discussion, so that personnel understand the change and the reasons behind it. Annual reports will need to have an explanation regarding the change since Unfounded and Not Sustained numbers will shift considerably from previous years.

Recommendation: *CDP's current Classification 6, "Cancelled for Cause," should be deleted, because incidents in this category will fall under the new definition of "Unfounded" recommended above.*

Section IV. AUDIT OF CASES AND COMPLAINT INTAKE

To ensure the quality of both complaint intake and complaint investigations, the Internal Affairs Bureau (IAB) should regularly conduct an audit of completed case files and complainant calls to IAB. Interviews with IAB staff indicated that audits of cases and intake calls did not happen with any regularity. Audits of both intake calls and completed cases will assure the Columbus Division of Police (CDP) and the community that complaints are taken properly and that the agency is investigating cases in line with CDP policy.

To provide a measure of independence in the audit process, the use of an ombudsman or other highly respected professional (e.g., a retired judge or prosecutor) can be an effective tool to review an agency's internal investigations and ensure accuracy and transparency in the process. Reviews should be of random cases, and should occur on a regular basis.

Recommendation: *Similar to the recommendation that the CDP conduct an independent review of its use-of-force allegations, the CDP should utilize an ombudsman or independent auditor (e.g., a retired judge or prosecutor) to conduct periodic, random reviews of its overall internal affairs investigations.* The U.S. Department of Justice has routinely mandated the creation of an external oversight component in consent decrees and memoranda of agreement during the past 15 years. DOJ documents detailing these agreements serve as excellent resources for the considerations that are involved in establishing an oversight mechanism³⁰.

To ensure that intake calls are properly addressed and are conducted with an acceptable level of customer service, the Staff Inspections Section of the CDP should conduct a quarterly review of a random selection of intake audio files.

Recommendation: *The Staff Inspections Section of the CDP should be tasked with conducting quarterly audits of a random selection of IAB intake calls for quality assurance.* The purpose of the quarterly audits is to provide a quality assurance check on the call-taking process and to ensure that the intake office is adequately capturing the true number of complaints. The audit should aim to identify and address potential issues with

³⁰ See U.S. Department of Justice Civil Rights Division, Special Litigation Section webpage, "Cases and Matters," Law Enforcement Agencies section. <https://www.justice.gov/crt/special-litigation-section-cases-and-matters0> and <https://www.justice.gov/crt/special-litigation-section-archives-0>.

the call intake process, such as the call takers' customer service skills, call takers discouraging citizens from filing complaints, etc.

Section V. ANALYSIS OF CASES

To determine the quality and soundness of investigations conducted by the Internal Affairs Bureau (IAB), PERF reviewed a random sample of completed IAB investigations and audio phone calls to IAB. PERF also conducted callbacks to 25 random citizens who filed a complaint with IAB in 2015.

Case Review

PERF conducted an audit of several cases that had been investigated by IAB and approved through the division chain of command. The accuracy of internal investigation reports is critical to determining the level of integrity within a police agency. This is especially true where use of force – and how officers are managed and supervised during use-of-force incidents – are the subject of an internal investigation. A full administrative review of all citizen complaints is absolutely necessary to determine the appropriateness of an officer's conduct and the level at which a police agency is providing direct and effective supervision to its employees.³¹

While overall investigations were thorough, PERF did recognize some opportunities for improvement within the investigative process, particularly with respect to how evidence is analyzed and used as a basis for recommendations regarding case disposition.

PERF found several cases in which it appears that investigators tended to favor officers when analyzing the evidence and making recommendations regarding case disposition. In these cases, it appears that investigators failed to properly consider alternative explanations and evidence that may have reasonably led to a different finding. PERF found that this issue was not limited to one specific category of complaints, and that the flawed case recommendations were accepted and approved through the chain of command.

Additionally, PERF found that some investigations focused solely on assessing whether the officer's actions were legal, rather than also considering whether there was a better way for the officer to have responded to the incident that may have reduced the risk of injury to all involved. Such a review is critical to effective risk mitigation and thorough complaint

³¹ PERF, *Critical Issues in Policing Series: Civil Rights Investigations of Local Police: Lessons Learned*. (2013) http://www.policeforum.org/assets/docs/Critical_Issues_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf

“Inadequate management and supervision of officers have been issues in a number of consent decrees. Some consent decrees have included language requiring police departments to bolster the level of frontline supervision of officers and to investigate uses of force promptly... [and] respond to misconduct complaints.”

investigation. The findings from this review should be shared with the officer's chain of command and used only for the purpose of strengthening officer and agency performance. These findings should not be considered when determining case disposition.

Recommendation: *When investigating complaints, the IAB should focus not just on whether the officer's actions were legal, but should also consider whether there was a better way for the officer to have responded to the incident that might have reduced the risk of injury to all involved.* This type of review is critical to strengthening officer performance and can be beneficial to the officer, the police agency, and the community as a whole. The findings from this review should be shared with the officer's chain of command in order to strengthen officer performance. However, they should not be considered when determining case disposition.

Appendix C provides summaries of several cases that PERF reviewed, which illustrate the weaknesses in analysis that PERF found at times during its review.

Audio Review

PERF conducted an audit of several intake phone calls received by IAB desk sergeants, who are the personnel responsible for receiving and processing complaints for the bureau. Generally, these intake phone calls were professionally conducted and call takers gathered the necessary information for investigators. However, PERF's review found several opportunities for improvement.

Several audio files revealed that call takers were going beyond taking basic information from a complainant, to the point where call takers were essentially conducting mini-investigations. While it is important that call takers obtain as much information as possible to assist the caller and investigators, the call takers must understand that their role is to gather adequate information to forward to IAB investigators, stopping short of actually conducting an investigation.

PERF also found one example of a call taker who exhibited an improper demeanor when interacting with a caller. In this example, which appears to be an isolated incident, the call taker argued with the caller over a seemingly minor technicality, to the point where the caller abruptly ended the call and stated that she does not wish to pursue the matter further. The case was closed with a disposition of "Cancelled: Information Only." PERF reviewed this case with an IAB investigator to ensure that, despite the case disposition, the call was investigated. Investigating a complaint even when a caller wishes to cancel it is good practice, but in this instance, it does not excuse the investigator's demeanor.

PERF also found potential concerns with how calls were handled that involved allegations of officer misbehavior during an arrest or citation for a traffic infraction. In these cases, PERF heard in some instances that callers were informed that since they were arrested or cited, their complaints were matters for the court to decide. For example, in one instance, a woman was the subject of a traffic stop, received a citation, and subsequently filed a complaint alleging that she was the target of harassment. (The harassment allegations arose from the woman's belief that the stop and citation were retaliation for a previous complaint she had filed in connection with a vehicle tow.) During the call, the woman was advised that because she was issued a traffic citation, it was a court matter. However, PERF's understanding, based on a review of the audio files, is that the woman was not disputing the actual traffic citation. Instead, she was alleging retaliatory behavior. While it is understandable that citizens wishing to dispute a specific arrest or traffic citation are advised that such activities are court matters, allegations of misconduct should be investigated automatically, regardless of whether there was an arrest or citation. When in doubt, call takers should accept such complaints and forward them to an investigator for initial review and investigation.

The issues that PERF found with respect to how calls are handled can be addressed in several ways. New call takers should receive thorough training in customer service techniques and in the substantive and legal issues related to the complaint process. Additionally, it may be useful for call takers to be rotated out of this position every few years, rather than it being a permanent assignment. This could help reduce burnout and ensure that call takers maintain a fresh perspective on the calls they receive.

Recommendation: *Call takers should be rotated every three to five years within IAB. Call takers, as with investigators, should not have permanent assignments with IAB. Rotating call takes will ensure that employees are not in the position long enough to become "burned out."*

Recommendation: *New call takers should receive customer service training to prepare for their role.*

Callbacks

PERF staff called 25 randomly-selected community members who had filed a complaint in 2015 to determine their satisfaction with their interaction with the IAB and how their cases were resolved. Of these 25 complainants, 15 either could not be reached or did not call back. Of the 10 who did speak with PERF staff:

- All 10 confirmed that they had previously filed a complaint with the IAB.
- Five out of 10 believed that the speed in which their case was resolved was not satisfactory. Four believed it was satisfactory, and one did not express an opinion.
- Seven out of 10 stated that they had received correspondence from IAB as to the disposition of their complaint.
- Eight out of 10 did not agree with IAB's findings. Two did not know whether they agreed.
- Seven out of 10 did not believe that the process was fair.

It should be noted that if a community member does not agree with the outcome of an internal investigation, he or she may appeal the finding to the involved officer's Deputy Chief.

Recommendation: *In addition to PERF's recommendation previously in this report that the Staff Inspections Section conduct a random audit of cases, the Staff Inspections Unit should also conduct a random number of callbacks on a routine basis in order to identify quality control issues.*

Section VI. EMPLOYEE ACTION REVIEW SYSTEM (EARS)

The Columbus Division of Police (CDP) does not utilize a true early intervention (or warning) system (EIS). Although not part of the scope of this study, PERF recommends that the CDP review a number of publications regarding early intervention systems to make sure the CDP's Employee Action Review System (EARS) is in line with progressive policing practices. The current span of control makes it impossible for first-line supervisors to adequately manage and supervise all of the personnel assigned to them, as they cannot be expected to know many aspects of each individual officer's behavior, conduct, performance, and other data. This review would provide the agency with an understanding of how to enhance current EARS capabilities.

Examples of these publications include Prof. Samuel Walker's book on EIS,³² a U.S. Department of Justice Community Oriented Policing Services (COPS Office) publication on EIS,³³ a 2015 PERF/COPS Office publication that details an assessment of the San Diego Police Department's accountability systems,³⁴ and a 2006 PERF report on Justice Department investigations of local law enforcement agencies.³⁵

The CDP's EARS is the administrative tool used to review employee behavior. As defined by policy,³⁶ EARS "can be used to identify the need for positive corrective action," including:

- Officer safety issues
- Training
- Policies
- Procedures

³² Walker, Samuel, Stacy Osnick Milligan, Anna Berke. 2005. *Supervision and Intervention Within Early Intervention Systems: A Guide for Law Enforcement Chief Executives*. Washington, DC: Police Executive Research Forum. <http://ric-zai-inc.com/Publications/cops-p105-pub.pdf> Also by the same authors: *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors*. <http://ric-zai-inc.com/Publications/cops-p093-pub.pdf>

³³ Gibbs, Mike and Carolyn Kendrick. 2011. *Enhancing Cultures of Integrity -- Technical Assistance Guide: Building Law Enforcement Early Intervention Systems*. Washington, DC: Office of Community Oriented Policing Services. <http://ric-zai-inc.com/Publications/cops-p052-pub.pdf>

³⁴ Police Executive Research Forum. 2015. *Critical Response Technical Assessment Review: Police Accountability – Findings and National Implications of an Assessment of the San Diego Police Department*. Washington, DC: Office of Community Oriented Policing Services.

³⁵ Police Executive Research Forum. *Civil Rights Investigations of Local Police: Lessons Learned*. Washington, DC: 2013. http://www.policeforum.org/assets/docs/Critical_Issues_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf

³⁶ Directive 9.02: Employee Development Programs

- Supervisory involvement in employee development
- Counseling
- Informal peer discussions
- Other strategic responses

Per policy,³⁷ “EARS helps to defend the Division of Police in ‘custom and practice’ and ‘failure to train’ lawsuits and maintains high standards of performance within the Division.”

Twice per year, the EARS Committee (a committee made up of 20 CDP volunteers) reviews select incidents in the Internal Affairs Bureau’s (IAB’s) database for particular patterns of behavior by all officers during the last 12 months, specifically citizen complaints, uses of force, and uses of mace. Of these, cases that have a finding of Exonerated, Policy/Procedure, Cancelled for Cause, and Unfounded based on Article 8.12 in the current collective bargaining agreement, (unless there were 3 or more of these complaints during the 12-month review period) are excluded for review purposes.

These cases are then reviewed and EARS Committee members vote to determine if these investigations reveal emerging patterns involving:

- Allegations (clusters or incidents that are similar in nature)
- Individual or group behavior
- Verbal or nonverbal communication
- Tactics
- Levels of use of force compared with subjects’ resistance/aggression
- Race, size, gender, ethnicity, socioeconomic class, and other generally objective means of describing subjects/complainants
- Reactions to key words, actions, or circumstances
- Injuries sustained by citizens
- Personality conflicts
- Other areas of concern

The minutes of each EARS Committee meeting, including the names of all officers whose investigations were reviewed, are then forwarded to the CDP’s executive staff and the EARS Committee Chairperson. The EARS Committee Chairperson presents Committee findings.

³⁷ Ibid.

EARS Committee members do not meet with officers who are the subject of an EARS review; only the officer's chain of command does. EARS Committee members do not recommend what action, if any, is to be taken; they only identify patterns of behavior.

The consensus among the EARS Committee members interviewed by PERF indicated that they believe that the process would be enhanced if the committee reviewed each case as a group versus the current practice where the committee member receives the files for review prior to the meeting.

The most conspicuous aspect of EARS is the structure and rank of its Committee members. The majority of voting Committee members is comprised of patrol officers, a minority of voting members are lieutenants and sergeants, and the commander and training representatives are non-voting members. All Committee members serve on a voluntary basis. **PERF found that the composition of the Committee renders the process ineffective, as the majority of decision-makers have absolutely no responsibility for accountability or oversight. Instead, the process is more akin to a peer review by similarly-situated officers.**

Enhancing the EARS Process

The CDP should give consideration to adopting a commercial software package to create a formal Early Intervention System (EIS)³⁸ to actively monitor employee performance. Early Intervention Systems are considered a progressive practice by the U.S. Department of Justice; the DOJ Civil Rights Division, which has the authority to investigate local police agencies for patterns or practices of federal civil rights violations, often requires departments to develop an EIS with certain specific features as part of consent decrees designed to remediate deficiencies and ensure accountability.

An agency EIS system needs to be ongoing, and not limited to employee review twice per year. As defined by Prof. Samuel Walker:

“An EIS is a computerized database of police officer performance that allows supervisors and commanders to identify those officers with a pattern of problematic performance, such as use of force incidents, citizen complaints, or other indicators, and to then

³⁸ In the early stages of these systems' development, they were commonly referred to as Early Warning Systems (EWS). The use of the word “warning” connoted to many officers a punitive, disciplinary potential to these systems. Thus, the word “Intervention” came into use to indicate that the purpose is to assist officers and improve their performance. Some entities refer to these as Early Identification and Intervention Systems. This report uses Early Intervention Systems (EIS) as the generic term for all.

undertake an intervention designed to correct an officer's conduct. An EIS may include as few as five or as many as 25 indicators. Interventions may involve counseling, retraining, or other options. An EIS is separate from a department's formal discipline system and is designed to act early, before an officer is engaged in a serious incident, and prevent future misconduct.”³⁹

To give an example of what types of information can be tracked, the San Diego Police Department currently monitors for 14 behaviors in its EIS:⁴⁰

- Officer-involved shootings
- Use of force
- Officer activity
- High-risk crime reports
- Citizen-initiated complaints
- Internal investigations
- Criminal arrests
- Missed scheduled firearms qualification or missed court
- Vehicle collisions
- Elevated use of time off
- Overtime usage
- Work-related injuries
- Public Service Inquiries calls/complaints⁴¹
- Industrial (disability) leave

In addition to negative indicators, it is recommended that agencies adopting an EIS also capture *positive* performance indicators in its EIS. Including such factors as satisfactory performance evaluations, awards, commendations, and citizen thank you/appreciation letters provides a more complete picture of an employee.

³⁹ Walker, Samuel and Carol A. Archbold. 2014. *The New World of Police Accountability*, Second Edition. Thousand Oaks, CA: SAGE Publications, Inc.

⁴⁰ *Critical Response Technical Assessment Review: Police Accountability—Findings and National Implications of an Assessment of the San Diego Police Department*. U.S. Department of Justice, COPS Office and Police Executive Research Forum. (2015) <http://ric-zai-inc.com/Publications/cops-w0756-pub.pdf>

⁴¹ Public Service Inquiries were created by the San Diego Police Department to document and handle “informal” citizen complaints.

The Importance of an Early Intervention System

Over the past 25 years, the use of an EIS, especially for large and mid-size police agencies, has emerged as an important practice in police personnel management. The underlying concept of EIS is that serious incidents of police officer misconduct often do not erupt unexpectedly. Rather, such significant events are often preceded by a number of more minor incidents. If supervisors are aware of these precursors, and act appropriately to intervene with the officer through more intense supervision, remedial training, referrals to employee assistance programs (EAP), and other departmental resources, the officer's pattern of behavior can be modified.

Benefits of an EIS

The benefits of such a process are considerable. The erosion of public confidence in the police due to officer misconduct can be minimized. The agency gains a more productive employee. The loss of human capital arising from the resignation or discharge of a problem officer is avoided. Costs arising from civil litigation prompted by a poorly-behaving officer are avoided. The time, effort, and uncertainty associated with attempts to discharge an officer with civil service protection can be prevented. In short, a well-functioning EIS is a major aid in enhancing accountability and integrity.

EIS Tools and Technologies

There are a number of off-the-shelf EIS software packages being used by law enforcement agencies to assist them in the EIS process. Some of these technologies perform peer group analysis to identify employees who may require closer observation, and allow supervisors to easily monitor performance issues and incident counts among the people they supervise.⁴²

In addition to commercially available software packages and vendors, some police agencies reach out to other entities to assist with the establishment or improvement of their EIS. For example, the University of Chicago's Center for Data Science and Public Policy has assisted the Charlotte-Mecklenburg Police Department to enhance its existing EIS. The University of Chicago is also currently assisting the Nashville Police Department, the Los Angeles County Sheriff's Department, and the Knoxville Police Department to improve their EIS systems.⁴³

Implementing an EIS

⁴² EIPRO Early Intervention Software, <http://www.iapro.com/products/eipro/>.

⁴³ <http://dsapp.uchicago.edu/2016/02/21/early-warningintervention-systems-for-police-departments/>

An agency's EIS should not be maintained by the internal affairs function; rather, PERF recommends an agency's EIS to be located in a unit outside the investigatory system.

Because EIS is intended to intervene *before* problematic behaviors escalate to the point of misconduct, and because interventions are focused on employee development and are not punitive in nature, an agency's EIS should not be placed in the unit that actively investigates allegations of misconduct. This placement reflects the fact that the department considers EIS a benefit to the overall health and wellness of its officers. Supervision of the EIS should be at the sergeant or lieutenant level.

Implementation of a true EIS should include a multi-stage intervention system to address officers who need immediate and/or long-term attention to modify behavior.

Recommendation: *The CDP should implement a true Early Intervention System that goes beyond the current EARS system to create a proactive process for monitoring officers on an ongoing basis.* The EIS policy should focus on preventing at-risk behaviors before policy violations occur. Triggers that result in interventions should be empirically developed using standard risk assessment techniques. Because the EIS is used prior to an official complaint being filed, the system should be considered confidential to allow the agency to take proactive steps to prevent further problems, such as additional training of officer wellness measures. Supervisors should use the system when conducting evaluations and considering promotions and special assignments, and the system should be open to officers. The policy should be as detailed as possible in explaining the purpose, scope, and procedures of the EIS.

Section VII. CONTRACTUAL ISSUES

As part of PERF's overall review of the Internal Affairs Bureau (IAB), PERF staff reviewed the current Fraternal Order of Police (FOP) contract. In the Columbus Division of Police (CDP), officers, sergeants, lieutenants and commanders are all represented in the collective bargaining agreement.

PERF's review of the contract identified several areas of concern.

Section 8.13 "Access to Records" states that a member (or the member's lodge representative) charged with violating rules of conduct is to be provided access to transcripts, records, written statements, video and audio tapes, and written summaries (including opinions, if provided) of any polygraph examinations pertinent to the case. Furthermore, copies of this documentation must be provided upon request. While PERF understands this is a contractual issue, this is troubling. The COPS Office publication *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice* states that "Internal affairs investigations should be closed to the officer and the public during their pendency."

Section 10.10 (A) "Retention of Records" governs the expungement of Documented Constructive Counseling (DCC). Records of documented constructive counseling are maintained in the member's CDP master personnel file for at least one year following the date of the incident which gave rise to the DCC, as long as there is no subsequent corrective/disciplinary action during the one-year period. After one year or any extension of such one-year period caused by subsequent corrective disciplinary action, the DCC is to be removed from the employee's file.

This hinders the CDP's efforts to maintain a progressive system of discipline, as it is difficult to establish a track record regarding an employee if documentations of repeat behavior disappear if there is no subsequent corrective/disciplinary action for one year after the date of the incident. It is PERF's understanding that, by the time a complaint could work itself through the system (as there is no timeline on the chain of command review component), it is possible the DCC only remains in the officer's file for a short time before it is expunged. Consideration should be given to extending the expungement period to three years, as a limit of one year is simply too short of a timeframe to sufficiently document employee discipline over time.

A three-year expungement period is common in law enforcement agencies in the State of Ohio. Furthermore, this would bring the length of time that the DCC remains in the

officer's file to that of a Written Reprimand per Section 10.10 (B) of the FOP contract, ensuring that minor infractions do not get overlooked in the long term, as they will remain in the officer's file for a longer time. As a DCC is the first step in discipline, it should have meaning.

Recommendation: *CDP should negotiate with the FOP to modify Section 8.13 "Access to Records" to limit access to the amount of case information a member is entitled to.* While an officer should have access to the audio and video recordings and documents created *by the officer* to help refresh their memory of a particular event, transcripts, records, written statements, polygraph results, and any other such documents created *by others* should not be provided. PERF understands that such a concession may pose a significant challenge to the CDP; however, in order to conduct thorough, fair and impartial investigations, officers should not have access to witness statements prior to making their own statement. The current process could influence the officer's formal statement.

Recommendation: *The CDP should negotiate with the FOP to lengthen the amount of time a Documented Constructive Counseling (DCC) statement may remain in the employee's file before expungement.* Lengthening the amount of time from one year to three years (the same length of time as a Written Reprimand) is an important step toward progressive discipline and ensures that a series of seemingly minor infractions do not get overlooked in the long term because they were constantly removed from the employee's file before longer-term patterns of misbehavior could be identified and corrective action could take place.

CONCLUSION

The Columbus Division of Police (CDP) is committed to building stronger bonds of trust with the community it serves. To help achieve this trust, it is important to ensure that members of the community have an effective means of voicing their concerns when they believe that a wrong has been committed by the agency. One way to give community members this voice is by ensuring that the citizen complaint process is fair, transparent, and easily accessible to community members.

To this end, in 2015 the City of Columbus commissioned PERF to conduct an independent audit of the CDP's Internal Affairs Bureau (IAB) operations. The goal of this review was to ensure that the CDP's citizen complaint process operates at the highest levels of transparency and integrity. PERF's review, which included a thorough examination of the CDP's policies and practices related to internal affairs investigations, focused on three key issues:

1. Whether the CDP is providing adequate information and access to the public in regard to how they can make complaints against officers and other employees of the CDP.
2. Whether there is an appropriate level of transparency to the public concerning IAB investigations of citizen-initiated complaints.
3. Whether there are additional accountability measures that should be implemented in IAB to better ensure trust with the community.

In general, PERF found the IAB and its investigators and call takers to be professional and committed to providing the highest levels of service to the citizens of Columbus. PERF also found that the IAB utilizes a number of progressive policing practices. For example, the IAB accepts complains in any manner, including phone calls, letters, emails, or in-person. Additionally, all cases are investigated to their conclusion, even if the complainant later wishes to withdraw his or her complaint. Anonymous complaints are accepted. IAB's facilities are also located off-site, to help ensure that complainants will not find it intimidating to come to IAB to file a complaint or be interviewed by investigators. The facility was specifically located so that it accessible by public transportation and in an area of the city that has a high level of police activity. IAB also publishes a thorough and comprehensive annual report.

PERF found that there is room to improve upon these progressive practices in the CDP's citizen complaint process.

Revising the Definition of "Unfounded"

One of the key issues that PERF identified is the definition of one of the possible dispositions for complaint investigations: "Unfounded," as currently used by the CDP, is defined as "The

allegation is refuted by a preponderance of the evidence.” This definition differs from the one used by most police agencies and offices of police complaints, which is that, simply put, the allegation did not take place or is not true. As a result, many cases reviewed by PERF had a disposition of Unfounded, when they would in all likelihood be found to be Not Sustained by using the more standard definitions used by most agencies.

The CDP should modify its definition of Unfounded to reflect that such a finding means the allegation did not take place or is not true. Changing the definition of Unfounded will help the CDP properly close out cases to ensure accountability within the department and transparency to the public. In addition, CDP’s current Classification 6, “Cancelled for Cause,” should be deleted, because incidents in this category will fall under the new definition of “Unfounded” recommended above.

PERF recognizes that this will significantly change complaint findings going forward, and that all personnel involved in the internal review process must be adequately trained to understand the updated definition and requirements to appropriately close their investigations.

Improving the IAB Assignment Process

PERF also found that the CDP should negotiate future contracts with the Fraternal Order of Police (FOP) so that assignment to IAB is based on merit, not seniority. Given the critical importance of the internal affairs function to the overall integrity of the CDP, seniority alone cannot be the sole qualifying factor for this assignment. Additionally, assignment to IAB (at all ranks, for investigators and call takers) should be fixed to a rotation of three to five years. Allowing assignment to IAB to become permanent may create instances where investigators become biased in favor of officers, or simply become “burned out” over time.

Strengthening IAB Investigator Training

The CDP also should strengthen training for new IAB investigators, which is currently limited. The IAB should ensure that all newly-assigned investigators are sent to a specialized and reputable internal affairs school or program within their first three months of assignment to the bureau. The CDP must budget adequate funding to ensure that it is able to send new investigators to these trainings. In addition to formal training, IAB sergeants should be encouraged to mentor and guide their most inexperienced officers to help them acclimate themselves during the first few years on the job.

Understanding Use-of-Force Allegations

The IAB also should take steps to ensure that allegations regarding use of force are carefully and consistently reviewed. PERF recommends using an independent auditor to review use-of-force

allegations so that the CDP can better understand the potential impact that race has on these allegations. The CDP should also continuously examine the racial distribution within use of force complaints, using the most accurate and complete data possible, to understand ongoing trends. To this end, it is critical that the IAB report ethnicity and race statistics separately in its annual reports. Reducing the amount of missing data is paramount to accurately examining the relationships between these variables, so it is also critical that all information about complainants and involved officers is thoroughly collected and accurately reported by the call takers who receive complaints and the IAB investigators who are updating the complaint files.

Deterring False Complaints

The CDP must also implement measures to deter intentionally false complaints, while at the same time ensuring that valid complaints are not discouraged. In cases where a citizen intentionally files a false report, the CDP should have the discretion to seek criminal charges via a summons or arrest warrant. At the same time, the CDP should remove warnings about making false complaints from its complaint materials, and this warning should not be given to complainants over the telephone.

Improving the IAB Website

Though the IAB's webpage is generally comprehensive and informative, PERF found several areas that could be improved. Currently, IAB's webpage is not linked directly to the main CDP webpage; the CDP should work with the city's IT personnel to resolve this issue. The CDP should also add a prominent button to its home page that allows users to more directly file a complaint or submit a commendation. All instructions and complaint forms should be available in English, Spanish, and Somali.

Strengthening Accountability and Transparency

There are also several steps that the CDP could take to strengthen accountability and transparency, which are keys to an effective citizen complaint process. First, all IAB and chain-of-command investigations should go to – and end with – the Chief of Police, rather than the review process stopping with the officer's deputy chief. This will help to promote accountability and ensure consistency in remedial and disciplinary outcomes. Additionally, to ensure the quality of complaint intake and investigations, the IAB should adopt an annual external oversight mechanism such as an independent auditor, ombudsman, retired judge, or prosecutor to conduct a random review of internal affairs investigations, and the Staff Inspections Section of the CDP should conduct quarterly audits of IAB intake calls. IAB should also ensure that its current and past annual reports are on the IAB's webpage, which will help promote transparency.

Implementing an EIS

Finally, PERF found that the CDP should move beyond the current Employee Action Review System (EARS) and implement a true Early Intervention System (EIS) to create a proactive process to enable supervisors to monitor officers on an *ongoing* basis. The CDP should develop an EIS policy that focuses on identifying signs of potential problems before policy violations occur. The policy should specify the frequency with which a supervisor should be monitoring the system in addition to ongoing daily observations and mentoring.

The CDP recognizes the challenges it faces with respect to building stronger relationships with the people it serves. The agency has taken several important steps towards addressing these challenges, including strengthening its citizen complaint process. By ensuring that the complaint process is fair, transparent, consistent, and accessible, the CDP demonstrates a commitment to reform and improving its service to the community.

Appendix A: Case Review Methodology

PERF collected data from citizen-initiated external complaint cases from 2014 and 2015.⁴⁴ In addition to the basic counts of citizen complaints and allegations, PERF collected a range of data, including allegation type, complainant and officer demographics, investigative closure time, and disposition type.

Investigation data fluctuates over time as cases are continuously updated, though this may not be clearly observed in the IAB Annual Reports. As such, the numbers presented here may differ from the official CDP IAB Annual Reports since cases have been updated since the publication of 2014 and 2015 reports.

PERF conducted its analysis at the allegation-level to ensure the most thorough review possible. Results highlight characteristics of the individual allegations themselves, and therefore do not reflect incident-level characteristics. This means, to examine investigations at the incident-level would mean losing important information pertaining to the various allegation types, dispositions, and officer/complainant demographics that could be contained within one incident.⁴⁵ For example, in 2014 the average incident contained 2.26 allegations, with 114 out of 196 incidents having more than one allegation. Similarly in 2015, there were 2.5 allegations per incident on average, with 169 out of 278 cases receiving more than one allegation. Information on unique complainants and unique officers are not reported in the data provided.

No direct comparisons between 2014 and 2015 data were possible, as the IAB complaint records management system changed during this time from the IAB 2000 to the Premier One platform. This change resulted in dramatically different data collection methods, which affected the availability of certain data elements across years. Therefore, though this report presents data for both 2014 and 2015, any comparisons between years should be interpreted with caution.

⁴⁴ The analysis and results discussed in this report are based on data collected from completed 2014-2015 external complaint investigations as of March 2016. Pending cases are excluded from the analysis.

⁴⁵ Some incident-level factors (such as incident location) may remain consistent across multiple allegations, provided the allegations stemmed from the same incident. However with the possibility of having multiple allegations per incident, incident-level factors are not always consistent with allegation-level characteristics. This is most visible in incidents involving multiple complainants or multiple officers, as there can be several unique complainants or several unique officers that were all related to the same incident.

Some of the variables were modified for purposes of this analysis. Specifically, allegation type was consolidated from 24 to 6 categories, while disposition type was consolidated from 12 to 5 categories. Officers' years of service were also broken up into categories. For more information on the categorical groupings, see Appendix B. Bivariate statistical techniques were used to examine relationships among all of the variables. Specifically, Chi-square tests for independence were used to examine categorical outcomes (i.e. disposition type), while one-way ANOVA tests and t-tests were utilized with numerical outcomes (i.e. investigation time). Bivariate tests compare different categories of an independent variable in relation to an outcome measure, which determines whether certain outcomes are significantly correlated with one category more than another. If a "statistically significant" relationship is found between two variables, this means they will be correlated 95% of the time, with a 5% likelihood the correlation is due to chance.

Appendix B: Variable Recoding Table

The Columbus Division of Police (CDP) defines 10 potential dispositions, or outcomes, for complaint investigations. For the purpose of this analysis, PERF consolidated the CDP's 10 disposition types into five categories: Exonerated, Not Sustained, Unfounded, Sustained, and Other. The CDP does not use standardized or fixed categories for dispositions when it codes its data, which resulted in low counts across various categories that were functionally the same. When multiple categories have extremely low counts, the comparisons are generally not valid. Thus, PERF consolidated the categories in order to draw more meaningful conclusions from the data.

PERF also consolidated the 24 allegation types defined by the CDP into six categories: use of force, improper police discretion, improper police action/violation, rudeness, legal police powers inappropriately deployed, and other. As with the disposition categories, the CDP does not use standardized or fixed categories when it codes its data, which resulted in low counts across various categories that were functionally the same. When multiple categories have extremely low counts, the comparisons are generally not valid. Thus, PERF consolidated the categories in order to draw more meaningful conclusions from the data.

The table below presents the full list of disposition and allegation categories and PERF's recoding methodology.

Table 1. Recoded Variables

Recoded Variable	Original Categories	Recoded Categories
Officer Years of Service (2015 only)	Numeric, Ranging 0-40	0-5 years
		6-10 years
		11-15 years
		16-20 years
		21 years or more
Disposition Type	Cancel(led) for Cause	Other
	Cancelled Info Only	
	Withdrawn	

	Not Investigated (per Article 8.12)	
	Unfounded per Article 8.12	
	Unable to Resolve	
	Outside Policy	
	Policy/Procedure	
	Sustained	Sustained
	Misconduct not based on original complaint- Sustained	
	Not Sustained	Not Sustained
	Unfounded	Unfounded
	Misconduct not based on original complaint- Unfounded	
	Exonerated	Exonerated
	Pending	Excluded from analysis
Allegation Type	Display/Use of Firearms	Use of Force
	Force	
	Use of Mace	
	Actions Taken / Not Taken	Improper Police Discretion
	Inattention to Duty	
	Drinking or Intoxicated	Improper Police Action/Violation
	Threats or Harassment	
	Unbecoming Conduct	
	Use of Authority or Position	
	Violation of City Work Rules	

	Violation of Police Rules, Orders, Etc	
	Rude or Discourteous Language or Action	Rudeness
	Rude or Discourteous Profanity	
	Arrest	Legal Police Powers Inappropriately Deployed
	Handling of Prisoner	
	Handling of Property	
	Investigative Actions	
	Missing or Damage Property	
	Operation of Vehicle	
	Response Time	
	Search/Seizure	
	Discriminatory Actions	Other
	Racial Profiling	
	Other	

Appendix C: Sample of Cases Reviewed

The following are examples of IAB investigations that PERF reviewed.⁴⁶ These cases illustrate weaknesses in the analyses that PERF at times found during its case review.

Case Example 1:

- ***Topic of complaint:*** An officer was parked in the middle of a street with no lights on during the night.
- ***Case disposition:*** Unfounded
- ***Rationale given for case disposition:*** The rationale behind recommending an Unfounded closure was that the officer would have had his foot on the brake if he was stopped in the middle of the street, which would have automatically engaged the brake lights, thus negating the complainant's assertion that no lights were illuminated on the vehicle, creating a dangerous situation.
- ***PERF's analysis:*** A simple counter to the agency assumption of a foot on the brake would be to consider the car may have been out of gear and in park, thus no illumination would have been present, as alleged by the complainant. Considering this alternative explanation as part of the investigation would have created a more fair and impartial analysis of the citizen's complaint.

Case Example 2:

- ***Topic of complaint:*** Officers were alleged to have been biased and rude in their handling of an eviction.
- ***Case disposition:*** Unfounded
- ***Rationale given for case disposition:*** The IAB investigator recommended an Unfounded closure based on a statement made by the complainant in support of the officer's conduct, as well as the consistency of the officers' statements about their recollection of the incident.
- ***PERF's analysis:*** The IAB investigation into the citizen's complaint was thorough and complete; however, this was an accusation/denial and should have been closed Not Sustained, rather than Unfounded. The complainant called the police and requested assistance in resolving a pending eviction issue, so she cannot be considered an unbiased and neutral witness when she is actually a participant in the matter to be addressed by the officers. Accordingly, the officers should be expected to have somewhat consistent

⁴⁶ Eighteen cases were provided for 2014 and 17 cases for 2015.

statements about the incident as they were each involved in the entire matter. There was no independent information that would have supported either the complainant's allegations against the officers or the officers' statements about their performance. A disposition of Not Sustained would reflect that there was not enough evidence to reach a firm conclusion about the truth of the allegation.

Case Example 3:

- ***Topic of complaint:*** An officer confronted a person sitting in an automobile, whom the officer determined to be somewhat suspicious. The officer also believed the person was creating loud noise which could have been disruptive to the neighbors. At some point, a confrontation ensued between the officer and the suspect, resulting in a use of force and subsequent arrest of the individual.
- ***Case disposition:*** Cancelled: Information Only (the investigation found that no misconduct was articulated in the complaint)
- ***Rationale given for case disposition:*** The officer's actions were justified and in compliance with division standards.
- ***PERF's analysis:*** On the surface, the officer's use of force appears to have been thoroughly investigated and reviewed, resulting in a finding that the officer's actions were justified and in compliance with division standards. However, many questions remain about a full administrative review of the incident. There should be questions about how the incident deteriorated into a use of force and whether other options were available that might have prevented the need to use force. Issues such as the need for remedial training, requesting additional units to respond when the officer was met with resistive behavior, and effective field supervision are all relevant considerations; however, none of these factors was explored during the investigation or administrative review of the incident. Clearly, the investigation and review focused on the legitimacy of the use of force and did not consider whether there was a better way to respond to the incident, which may have reduced the risk of injury to all involved. Such a review is critical to effective risk mitigation in any police agency and lends itself to the continuous improvement of officer performance. Such action can be beneficial to the officer, the agency, and the community in the long run.