



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

March 3, 2015

Send by Hand Delivery and Electronic Mail (pdf.)

The Honorable Kenyan McDuffie
Council of the District of Columbia
Committee on the Judiciary
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Councilmember McDuffie:

I am writing on behalf of the Office of Police Complaints (OPC) in response to your letter of January 29, 2015, in which you asked that OPC submit answers to your questions and provide documents in advance of the agency's March 10, 2015, annual performance oversight hearing. Included below are responses and the requested documents.

- 1. Please provide, as an attachment to your answers, a current organizational chart for the agency with the number of vacant, frozen, and filled FTEs marked on each box. Include the names of all senior personnel, if applicable. Also include the effective date on the chart.**

Please see Attachment A

- 2. Please provide, as an attachment, a Schedule A for the agency, which identifies all employees by title/position, current salaries, fringe benefits, and program office, as of January 29, 2015. This Schedule A should also indicate any vacant or frozen positions in the agency.**

Please see Attachment B

- 3. For fiscal year 2015, please list each employee whose salary is \$110,000 or more. Provide the name, position title, and salary. Also, state the amount of any overtime and also any bonus pay for each employee on the list.**

Fiscal Year	Employee Name	Position Title	Salary	Overtime or Bonus
2015	Michael G. Tobin	Executive Director	184,780	None
2015	Christian Klossner	Deputy Director	116,483	None
2015	Forestine N. Porter	Special Assistant	116,320	670.60 - OT

4. **For fiscal year 2015 (to date), please provide a list of employee bonuses or special award pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.**

To date, no OPC employee has received bonus or special pay during fiscal year 2015.

5. **For fiscal year 2015 (to date), please list all intra-District transfers to or from the agency.**

From	To	Amount
OPC	OCTO - RTS	3,000
OPC	Office of Contracting and Procurement - Purchase Card	48,152.00
OPC	Department of Public Works - Fleet Maintenance	4,246.62

6. **For fiscal year 2015 (to date), please identify any special purpose revenue funds maintained by, used by, or available for use by your agency. For each fund identified, provide: (1) the revenue source name and code; (2) the source of funding; (3) a description of the program that generates the funds; (4) the amount of funds generated by each source or program; and (5) expenditures of funds, including the purpose of each expenditure.**

OPC neither maintains, uses, nor has available to use any special purpose revenue funding during fiscal year 2015.

7. **Please list all memoranda of understanding (MOU) entered into by your agency during fiscal year 2015 (to date). For each, indicate the date entered, and the termination date.**

To date, OPC has not entered into any MOUs during fiscal year 2015.

8. **Please provide, as an attachment, a list of all budget enhancement requests (including, but not limited to, capital improvement needs) for fiscal years 2014 and 2015 (to date). For each, include a description of the need and the amount of funding requested.**

Please see attachment C for the budget enhancements submitted in fiscal year 2014 as part of the fiscal year 2015 budget submission. There have been no budget enhancements submitted yet in fiscal year 2015.

9. **Please list in chronological order every reprogramming in fiscal year 2015 (to date) of funds into and out of the agency. Include a “bottom line” – the revised, final budget for your agency. For each reprogramming, list the date, the amount, the rationale, and the reprogramming number.**

There has been no reprogramming of funds either into or out of the agency for fiscal year 2015 to date.

10. (a) **Please list each grant or sub-grant received by your agency in fiscal year 2015 (to date). List the date, amount, and purpose of the grant or sub-grant received.**

OPC has not received any grants or sub-grants in fiscal year 2015.

(b) **How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans (if any) are in place to continue funding?**

OPC has no employees dependent on grant funding.

11. **Please provide a detailed description for each open capital project (including, but not limited to, projects within the master equipment lease and projects that are managed or overseen by another agency or entity) from fiscal year 2015, or prior. Also include the budgeted funds and the funds spent by fiscal year. Please also provide the timeline for each project.**

There have been no capital projects in fiscal years 2014 or 2015.

12. **Please list all pending lawsuits that name the agency as a party. Please identify which cases on the list are lawsuits that potentially expose the city to significant liability in terms of money and/or change in practices and their current status. For those identified, please include an explanation about the issues for each case.**

The agency has no pending lawsuits.

13. **Please list and describe any ongoing investigations, audits, or reports of your agency or any employee of your agency, or any investigations, studies, audits, or reports on your agency or any employee of your agency that were completed in fiscal year 2015 (to date).**

There are no ongoing investigations, audits, or reports on OPC or its employees that have complete in fiscal year 2015 (to date).

14. **Please list the following information in table format regarding the agency’s use of SmartPay (credit) cards for agency purchases: individuals (by name) authorized to use the cards in fiscal year 2015 to date; purchase limits (per person, per day, etc.); total spent in fiscal year 2015 to date (by person and for the agency).**

Authorized Agency Cardholders	Limits per		Purchases FY 2015 to Date
	Per Day	Per Month	
Stephanie Banks	5,000	20,000	2,348.90
Kimberly Ryan	5,000	20,000	21,185.67
Total			\$23,534.57

15. For fiscal year 2015 (to date), what was the total cost (including, but not limited to equipment and service plans), for mobile communications and devices?

Devices	FY 2015 Cost to Date (10-1/14 – 2/23/15)
Smartphones (4)	\$707.39 -3 phones for 4 months \$339.72 for new director's phone = 1,047.00
Field Mobile Phones (3)	\$65.52 x 4 months = \$262.08
VPN (4)	4 subscriptions @ 25.00 = \$ 100.00 annual
Air Card for Laptops (1)	39.99 x 4 months = \$ 159.96
Total spent to date for FY15	\$1,569.04

16. In table format, please provide the following information for fiscal year 2015 (to date) regarding your agency's authorization of employee travel: (1) individuals (by name and title/position) authorized to travel outside the District; (2) total expense for each trip (per person, per trip, etc.); and (3) justification for the travel (per person).

Employee	Position Title	Total Expense	Location/Dates	Justification
Christian Klossner	Deputy Director	\$0 (covered by donation)	Riverside, CA 1/29/15 to 2/1/15	Mr. Klossner is a member of the Board of Directors for the National Association for Civilian Oversight of Law Enforcement (NACOLE). The travel expense were incurred by the employee and reimbursed through the agency with funds donated by NACOLE

Forestine Porter	Special Assistant	\$1392.83	Austin, TX 11/12/14 thru 11/15/14	Mrs. Porter attended NACOLE/ILEAA – Accountability & Transparency in Law Enforcement Conference Training.
Christian Klossner	Acting Executive Director	\$1629.48	Seattle, WA 10/9/14 to 10/15/14	Mr. Klossner went to Seattle to speak as an invited speaker on a panel at Seattle University of Law, and conducted a best practices site visit of Seattle’s police oversight entity.

17. Please provide, as of January 30, 2015, the current number of WAE contract and term personnel within your agency. If your agency employs WAE contract, or term personnel, please provide, in table format, the name of each employee, position title, the length of their term or contract, the date on which they first started with your agency, and the date on which their term or contract expires.

Employee Name	Position	Contract Length	Start Date	End Date
Michael G. Tobin	Executive Director	3 years	11/03/2014	11/03/2017

18. Please provide your anticipated spending pressures for fiscal year 2015. Include a description of the pressure, the estimated amount, and any proposed solutions.

OPC does not anticipate any spending pressure for fiscal year 2015.

19. Please provide, as an attachment, a copy of your agency’s fiscal year 2015 performance plan as submitted to the Office of the City Administrator, and indicate whether you are on track to meet those measures.

Please see attachment D. OPC is on track to meet the measures in the plan, but is reviewing the plan to ensure it matches the goals of the agency’s new executive director.

20. What are your top five priorities for the agency? Please provide a detailed explanation for how the agency expects to achieve or work toward these priorities in fiscal years 2014 and 2015.

Please see Attachment D, the agency’s draft 2015 performance plan, which was submitted prior to the selection of the agency’s current executive director. The plan

addresses the priorities of the agency prior to the arrival of the current executive director, and contains three objectives and eight initiatives to accomplish those objectives. This plan is currently subject to revision to reflect a new focus on the five priorities below:

- 1) Increase the speed of investigation – The agency is reexamining each aspect of the investigative process to identify and remove barriers to more rapid completion.
- 2) Decrease the number of older cases - The agency is focusing additional staffing resources and attention to close the oldest cases.
- 3) Expand the agency’s policy recommendation work – The agency will continue to analyze trends and patterns in complaints, but will also issue recommendations based on teachable moments in individual cases, and increase the number of recommendations made annually.
- 4) Establish a Community Partnership program – The agency will establish partnerships throughout the District with community groups that act as safe places or as service providers, with the goal of equipping those entities with the ability to help those they serve to file a complaint.
- 5) Improve Customer Service – The agency will reorient itself as a customer service organization and strive to provide additional information to complainants and the community to promote a better understanding of the policies and laws governing policing.

21. Is the agency working on any new policy recommendations? If so, please provide a detailed explanation of how the agency plans to accomplish these policy recommendations and what coordinating agencies will likely be integral to that effort.

To date, for FY15, the agency issued the report “OPC Monitoring of the National Action Network's ‘Justice for All’ March December 13, 2014.” See Attachment E. A policy recommendation concerning the service of arrest warrants and a recommendation concerning identification of MPD officers are currently under review by the PCB. A policy recommendation concerning the investigation of a use of force and death in custody is also in the drafting stage. All of these recommendations will require the full cooperation of MPD, the community, and the District Council.

22. In fiscal years 2013, 2014, and 2015, to date, how many people contacted OPC to inquire about filing a complaint? How many complaints were received? How many complaints were closed?

	FY 2013	FY 2014	FY 2015 (as of 2/23/15)
Total Contacts	1046	1095	664
Complaints Received	440	389	156
Complaints Closed	450	442	107

23. In fiscal years 2013, 2014, and 2015, to date, how many full investigative reports were completed? How many were adjudicated? How many were successfully mediated?

	FY13	FY14	FY15 as of 2/24/15
Investigative Reports	294	279	120
Adjudicated	21	8	0 ¹
Successfully Mediated Complaints	20	24, and 5 conciliations	11

24. In fiscal years 2013, 2014, and 2015, to date, how many cases were referred to an independent hearing examiner? How many of those cases resulted in a hearing? How many complainants were represented by counsel in those hearings?

	FY13	FY14	FY15, as of 2/27/15
Referred to independent hearing examiner	15	4	1
Resulted in a hearing	2	1	0
Complainants were represented by counsel	2	1	0

¹ Although there have been no adjudications to date, there is currently one case pending review by an independent hearing examiner (shown in the following chart) and another three cases are currently awaiting the subject officers' response prior to be sent to the examiners for adjudication.

25. (a) In fiscal years 2013, 2014, and 2015, to date, how many decisions sustaining police misconduct allegations were forwarded to MPD?

FY13	FY14	FY15, to date
13	6	0

(b) What were the outcome of cases referred to MPD in fiscal years 2013, 2014, and 2015, to date? How many cases were upheld by a final review panel?

Fiscal Year 2103

Complaint Number	Discipline Determination
09-0388	Official Reprimand
10-0119	Official Reprimand
11-0093/11-0094/11-0095	18 Day Suspension
10-0257	15 Day Suspension
11-0130	Official Reprimand
10-0427	2 Day Suspension
10-0049	Officer retired prior to discipline being imposed
10-0272	2 Day Suspension
11-0304 Officer #1	Official Reprimand
11-0304 Officer #2	Official Reprimand
11-0136	FRP requested, request denied for insufficient basis for request, MPD exonerated subject officer
09-0454	10 Day Suspension
12-0156	FRP requested
11-0324	Letter of Prejudice

Fiscal Year 2104

Complaint Number	Discipline Determination
12-0090	Official Reprimand
11-0014	Official Reprimand
10-0003	Letter of Prejudice
11-0316	Letter of Prejudice
11-0507	Letter of Prejudice
11-0548 Subject Officer #1	No discipline issued
12-0146	PD 750
12-0156 FINAL REVIEW PANEL	Upheld by FRP, PD 750
12-0385 Subject Officer #1	PD 750
12-0385 Subject Officer #2	PD 750

Fiscal Year 2015

No decisions to date

26. What is OPC’s current average caseload for investigators? Please include actual cases investigated rather than all cases OPC intakes but does not investigate or refers elsewhere. What should the ideal caseload be?

OPC currently has ten investigator positions, and 226 open cases. This results in an average caseload of 22.6. The ideal investigator caseload for OPC is 15, but any caseload higher than 20 should be expected to cause delays in the resolution of investigations.

27. If a citizen disagrees with the dismissal of his or her complaint, what recourse, if any, does he or she have with OPC?

While dismissals are considered a final resolution pursuant to D.C. Code § 5-1113, complainants may contact OPC to discuss the agency's findings or to present any extraordinary circumstances for reconsideration.

28. Please list each report published by your office in fiscal years 2013, 2014, and 2015, to date.

FY 2015

-OPC Monitoring of the National Action Network's "Justice for All" March on December 13, 2014, published December 19, 2014

FY 2014

-Enhancing Police Accountability through An Effective On-body Camera Program for MPD Officers, published May 8, 2014

-Annual Report, Fiscal Year 2013, published March 3, 2014

-MPD Enforcement of the District's Window Tint Law, published November 21, 2013

FY 2013

-Bicycle Safety and MPD Enforcement of the District's Biking Laws, published September 12, 2013

-Warrantless Entries into Private Homes by MPD Officers, published June 12, 2013

-Annual Report, Fiscal Year 2012, published February 25, 2013

29. Has OPC followed up with MPD about obtaining direct computerized access to basic police reports? If so, what is the current status of that request, and has there been a timeline established to facilitate that access?

OPC was granted limited direct access to basic police reports, but there have been persistent technical problems that have made the access unusable. Specifically, On June 10, 2014, OPC managers met with MPD IT staff members and received training for the direct access system. After using the system for two months, OPC staff were unable to access police reports consistently. OPC reported these problems to MPD in August 2014 and was informed that MPD would look into the issues. OPC followed up with MPD in October and December 2014, and again in February 2015. MPD has responded that it is looking into the matter, but has not reported to OPC any substantive progress made to resolving the issues. MPD has not communicated to OPC a timeline to facilitate full access to these reports.

In the meantime, OPC has improved both its internal system used to track requests as well as communication and reporting to MPD. More robust OPC data analysis has pinpointed opportunities to streamline the document fulfillment process within MPD, and additional training by MPD has resulted in more accurate requests. These efforts have

reduced the number of outstanding document requests pending resolution of the issues concerning direct computer access to the records.

30. Has the relationship between OPC and the Office of Unified Communications strengthened in the past year? Is there currently a backlog of outstanding records requests?

OPC now uses an online program to submit requests to OUC electronically. This system, combined with increased mutual communication and intra-agency training, has resulted in a shorter turnaround time to fulfill requests and a significant reduction of backlogged requests for OUC documents. As of February 27, 2015, there were 12 requests pending with OUC, 2 of which were made within the previous 10 days.

31. Has OPC followed up with the Office of the Attorney General to discuss the legal advice provided to MPD in their January 22, 2014, letter? Specifically, has OPC followed up to address what factors should be considered for refusal to discipline an officer in a sustained OPC case?

OPC has not had further discussion with OAG on this matter since the letter was received.

32. (a) Please list all current members of the Police Complaints Board. For each member, include their appointment date, term status, a brief description of their credentials, and if the position is vacant, include the date the position became vacant.

Board Member	Appt. Date	Term status
Kurt Vorndran, Chairperson	1/12/06	Term ended 1/12/14, serving until reappointed or seat filled
Asst. Chief Patrick Burke	1/12/06	Term ends 1/12/15, serving until reappointed
Paul Ashton	1/20/15	Terms ends 1/12/16
Vacant		Vacant as of July 30, 2014
Vacant		Vacant as of January 22, 2015

Please see attachment F for a description of board member credentials.

(b) Additionally, please list the dates the Board met in FY 2014.

During Fiscal Year 2014, the Board met on: November 4, 2013; April 3, 2014; May 5, 2014, and September 8, 2014.

33. How does the OPC process for police oversight compare to that of other jurisdictions?

The process used by the Office of Police Complaints (OPC), which is governed by the Police Complaints Board (PCB), compares relatively favorably to other agencies that primarily utilize an investigative model to carryout police oversight.

When comparing how police oversight operates around the country, it is helpful to view such offices along a continuum. On one end of the continuum are “investigative” models. These agencies are primarily staffed by non-police investigators handling citizen complaints of police misconduct. On the other end of the spectrum are “auditor” or “monitor” models. These agencies tend to review cases being investigated by the internal affairs unit of a police department, and such offices often are empowered to select which cases they will review. Depending on available resources and staffing, auditors/monitors are sometimes able to examine systemic problems within a police department and issue policy recommendations proposing reforms. The majority of police oversight agencies in the United States can be described as hybrid, operating toward the middle of these various models and incorporating different aspects of the continuum.

While OPC has been perceived as an investigative model agency (with 15 of its 22 staff members working in the investigative unit), OPC is actually a hybrid model in that the agency, under the statutory authority conferred to it by the District Council, also issues policy recommendations, mediates some cases, performs community outreach, and monitors first amendment assemblies.

There are agencies in the United States that have been authorized greater statutory authority than OPC, and other agencies that have more restrictive enabling legislation. Over the past year, a trend has developed nationally that favors greater civilian oversight over local police departments. While beyond the scope of the question, it should be realized that police oversight is an evolving process subject to local community needs and perception, and may periodically require revitalization and increased authority in an effort to improve police accountability and community trust.

Sincerely,



Michael G. Tobin
Executive Director
Office of Police Complaints

ATTACHMENT

A

ATTACHMENT

B

OFFICE OF POLICE COMPLAINTS
FY 2015 SCHEDULE A

Agency Code	Fiscal Year	Program Code	Activity Code	Vacancy Status	Posn Number	Posn Title	FY 2015 Grade	FY 2015 Step	FY 2015 Salary	FY 2015 Fringe Benefits	FTE	Series	Reg/Term/Temp	Funded Yes/No
FH0	15	1000	1085	F	00069594	Clerical Assistant	06	06	39,020.00	19,395.00	1.00	DS-0301	Reg	Yes
FH0	15	1000	1090	F	00021018	Executive Assistant	12	07	78,654.00	15,573.00	1.00	DS-301	Reg	Yes
FH0	15	1000	1090	F	00024773	Staff Assistant	11	03	57,031.00	19,395.00	1.00	DS-301	Reg	Yes
FH0	15	1000	1090	F	00073080	Deputy Director	10	00	116,783.00	23,064.00	1.00	XS-301	Reg	Yes
FH0	15	1000	1090	F	00000195	Executive Director	11	00	184,780.00	42,022.18	1.00	XS-301	Term	Yes
FH0	15	2000	2010	V	00001219	Program Analyst	11	04	58,754.00	10,575.72	1.00	DS-0301	Reg	Yes
FH0	15	2000	2010	F	00000295	Investigator	11	05	60,477.00	10,885.86	1.00	DS-1810	Reg	Yes
FH0	15	2000	2010	F	00003480	Investigator	12	08	80,712.00	15,648.28	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00013878	Supervisory Investigator	12	00	100,603.00	19,119.43	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00075267	Investigator	12	04	70,422.00	13,943.58	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00042322	Investigator	12	04	72,480.00	14,252.81	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00048812	Supervisory Investigator	13	00	89,023.00	17,626.53	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00048814	Supervisory Investigator	13	00	88,585.00	17,539.86	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00069541	Investigator	11	03	57,031.00	10,265.58	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	V	00071978	Investigator	11	01	53,565.00	9,645.30	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00070898	Investigator	11	02	55,308.00	9,955.44	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00034841	Investigator	11	01	53,565.00	11,854.18	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00082621	Investigator	11	02	55,308.00	4,250.00	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00070987	Investigator	11	04	57,413.48	10,334.43	1.00	DS-810	Reg	Yes
FH0	15	2000	2010	F	00070918	Clerical Assistant	07	05	41,937.00	8,303.62	1.00	DS-0301	Reg	Yes
FH0	15	2000	2010	V	00004941	Clerical Assistant	05	01	7,498.00	0.00	0.25	DS-0301	Temp	Yes
FH0	15	2000	2010	V	00002513	Clerical Assistant	05	01	7,498.00	0.00	0.25	DS-0301	Temp	Yes
FH0	15	3000	3010	F	00012551	Public Affairs Specialist	11	08	65,646.00	13,818.48	1.00	DS-1035	Reg	Yes
FH0	15	3000	3010	V	00071944	Public Affairs Special	09	01	11,119.11	0.00	0.25	DS-1035	Reg	Yes
FH0	15	4000	4010	F	00036669	Special Assistant	14	10	116,320.00	23,031.56	1.00	DS-0301	Reg	Yes
FH0	15	4000	4010	V	00001858	Paralegal Specialist	09	01	11,120.00	0.00	0.25	DS-0950	Temp	Yes
FH0	15	4000	4010	V	00034881	Paralegal Specialist	09	01	11,120.00	0.00	0.25	DS-0950	Temp	Yes
									1,701,812.59	340,499.84	23.25			

ATTACHMENT

C

FY 2015 PROGRAM ENHANCEMENT - FORM B
Agency Program Enhancement Request Details

Agency Code: FH0

Agency Title: OFFICE OF POLICE COMPLAINTS

Enhancement Title: Restoration of Non-Personnel Service Funds to match FY 2014 approved levels

Date: December 13, 2013

Total Amount of Local Funds: \$48,817.18

FTEs: 0.00

Is this Enhancement a one-time cost? On-going

Agency point of contact: Deputy Director Christian J. Klossner

Problem Statement

The FY 2015 MARC did not sufficiently cover the PS costs. While the MARC included funding to address the 3% COLAs in FY 2014 and FY 2015, it did not include step increases, the 3% COLA for MSS employees, career-ladder increases that occurred in FY 2013, or a contractually-required raise for the agency's executive director.

In order to ensure that all salaries are fully covered while keeping overall spending within the MARC, \$48,817.18 was removed from the NPS budget. This represents a 29% decrease from FY 2014 levels. The reductions were made in several core areas of the agency's operations, and will either reduce or eliminate the agency's ability to provide key services.

Funding for both mediation and complaint adjudication have been cut by more than half. This money is used by the agency to pay the per-case fees for the mediation services and the complaint examiners, and the more than 50% reduction in each line will directly result in more than 50% fewer cases being resolved through these processes. For adjudications, that means that once the allotment for this budget item is depleted, cases where OPC has determined that misconduct has occurred will be put on hold until funding is restored in a future fiscal year, increasing the backlog of cases and thereby postponing discipline for officers and potentially creating civil liability for the District. For mediations, the funding decrease will mean that cases will have to be investigated instead. Because mediation is a more efficient (and typically more cost-effective) process than investigation, and often more satisfying for the parties involved, a reduction in the number of mediation sessions conducted will actually increase the agency's cost of handling complaints, lengthen the average time taken to resolve cases, and likely cause the agency to fail to meet target levels in one of its key performance indicators.

Funding has been eliminated for printing of the agency's annual report, which OPC is

statutorily required to publish. The report is a key piece of the outreach work of the agency, and this function is a key component of independent police review. This will force the agency to publish its report electronically, thereby ensuring that it is available only to those residents and other interested stakeholders of the District with computer access.

Lastly, funding for a temporary legal assistant contractor has been eliminated. This contractor funding has been essential to ensuring that the agency can perform the critical work of issuing policy reports and recommendations for police reform. These reports allow the District to address policing issues on a large scale, instead of only investigating individual complaints on a case-by-case basis. They also point out ways in which current policing practices may be constitutionally deficient, thereby allowing the District to make adjustments and avoid expensive civil litigation.

The 29% NPS reduction required under the MARC is especially hard-hitting, as it comes on the heels of an over 20% reduction in the agency's NPS budget from FY 2013 to FY 2014. This will result in an overall 57% reduction in NPS funds from FY 2013 to FY 2015. OPC sacrificed much of its equipment, travel, and training budget to meet last year's MARC, and so is forced this year to make major cuts to the core programs of the agency.

Proposed Solution

Restore the \$48,817.18.

Cost-Benefit Analysis

Other Benefits

Legislative Analysis

There are no required amendments to the D.C. Code or any other regulatory requirement as a result of this proposal.

OBP ASSESSMENT

FY 2015 PROGRAM ENHANCEMENT - FORM B
Agency Program Enhancement Request Details

Agency Code: FH0

Agency Title: OFFICE OF POLICE COMPLAINTS

Enhancement Title: Restoration of Non-Personnel Service Fund reductions from FY 2013 to FY 2014

Date: December 13, 2013

Total Amount of Local Funds: \$44,628

FTEs: 0.00

Is this Enhancement a one-time cost? On-going

Agency point of contact: Deputy Director Christian J. Klossner

Problem Statement

During last year's budget formulation process, OPC submitted the attached enhancement request. The enhancement was not included in the budget proposal nor restored during the legislative process.

The expected impact described in the attached memorandum was largely realized. OPC's FY 2014 budget lacks the funding to meet the agency's needs for updated technology, adequate training, and technical expertise from outside contractors. The continued absence of these funds in the FY 2015 budget and beyond would cause long-term damage to the agency's operational readiness and effectiveness.

Proposed Solution

Restore the \$44,628.

Cost-Benefit Analysis

Other Benefits

Legislative Analysis

There are no required amendments to the D.C. Code or any other regulatory requirement as a result of this proposal.

OBP ASSESSMENT



GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF POLICE COMPLAINTS

MEMORANDUM

TO: Paul Quander, Deputy Mayor for Public Safety and Justice
Eric Goulet, Director, Mayor's Office of Budget and Finance, Deputy Chief of Staff

FROM: Philip K. Eure, Executive Director *PKE*
Office of Police Complaints

DATE: January 7, 2013

RE: Request for FY 2014 Budget Enhancement To Restore Cuts

OPC requests a budget enhancement to restore \$44,628 of the NPS funding cuts that were made in order to meet the Mayor's MARC. This restoration of the agency's FY14 budget to a level closer to the approved FY13 budget is critical to protect the operation of several of the agency's core functions, including complaint determination, mediation, and the issuance of policy recommendations to improve policing and reduce police misconduct.

OPC requests these funds in accordance with the instructions contained in the December 13, 2012, memo from Director Eric Goulet regarding the FY14 budget process. Our request is also made in accordance with D.C. Official Code § 5-1102, which requires the District to establish "an effective, efficient, and fair system of independent review of citizen complaints against police officers in the District of Columbia, which will . . . investigate promptly and thoroughly claims of police misconduct, encourage the mutually agreeable resolution of complaints through conciliation and mediation . . . and provide fair and speedy determination of cases."

A sustained increase in the number of complaints received by OPC over the past several years has increased the volume of investigative reports that require review by agency attorneys. Due to these increases, it now takes longer for cases to be reviewed and finalized by the agency, affecting the agency's ability to meet its key performance indicator relating to the speed of resolution of complaints. The agency employs an attorney as its special assistant, and this person is tasked with the review of approximately one-third of all investigatory reports, including all of the reports where the agency is finding reasonable cause that police misconduct has occurred. The incumbent is also responsible for all of the research and writing of policy recommendation reports. OPC has in the past hired contract attorneys to aid the special assistant in the completion of these duties, allowing the agency to perform much of the critical work in these areas without seeking additional staff resources. As a result, we request restoration of \$22,759 in critical funding to allow this supplementation to continue.

The increased volume of complaints has also resulted in increased caseloads for OPC investigators. The agency has found that in order to maximize the efficiency of the limited

investigative staffing resources, it is important to provide training and updated equipment. Investigators are sent for training provided by the National Association of Civilian Oversight of Law Enforcement, where they can obtain certification as trained oversight practitioners, and are also sent to training provided by nationally-recognized John E. Reid and Associates, where investigators develop advanced interviewing and interrogation skills. These kinds of training allow for the agency to more rapidly resolve complaints by honing the ability of investigators to efficiently gather facts and avoid unnecessary delay. The agency asks for the restoration of \$13,677 for training. OPC investigative staff members rely on efficient computers in their work, which involves having multiple programs and documents running at the same time. As a result, OPC regularly replaces computers that come off warranty or as recommended by OCTO when District-wide software updates require more advanced hardware, thereby ensuring technology-based delays are minimized. The agency also asks that \$3,192 be restored for equipment purchasing. The restoration of a total of \$16,869 in funding for these two areas is necessary to preserve the efficiency of an already understaffed investigative unit.

Lastly, OPC requests that \$5000 be restored to its budget for mediation. One of the agency's key performance indicators, and the one that reflects standards in the field of independent police review, relates to the percentage of complaints resolved through mediation. This particular restoration is necessary to ensure that OPC has the capacity to attain this percentage, while also anticipating a small increase in the per-case rate that the agency currently pays for each mediation. We note that this is not a full restoration of the \$13,000 of cuts to funding in this particular area, but the requested amount of \$5000 should provide enough money for the agency to mediate a sufficient number of cases to meet or come close to the agency's performance goals.

With the restoration of these cuts, OPC expects that it will be able to resolve cases more quickly, mediate a sufficient number of cases, and issue more policy recommendations, thereby more effectively promoting police accountability and coming closer to meeting its performance goals.

FY 2015 PROGRAM ENHANCEMENT - FORM B
Agency Program Enhancement Request Details

Agency Code: FH0
Agency Title: OFFICE OF POLICE COMPLAINTS
Enhancement Title: Providing Adequate Staffing Levels
Date: December 13, 2013

Total Amount of Local Funds: \$159,642.47

FTEs: 2.00

Is this Enhancement a one-time cost? On-going

Agency point of contact: Deputy Director Christian J. Klossner

Problem Statement

During last year's budget formulation process, OPC submitted the attached enhancement request. The enhancement was not included in the budget proposal nor added during the legislative process.

OPC continues to need additional staffing in its investigative unit to handle the number of complaints the agency receives, and so renews the attached request for FY 2015. The attached memorandum is based on salary rates from that year's salary schedules, and the updated amounts based on the 2015 salary scale is \$159,642.47 - \$50,162.03 salary and \$9781.59 fringe for an additional investigator and \$83,430 salary and \$16,268.85 fringe for a supervisory investigator.

Proposed Solution

Add \$159,642.47 to the PS budget and authorize two additional FTEs.

Cost-Benefit Analysis

Other Benefits

Legislative Analysis

There are no required amendments to the D.C. Code or any other regulatory requirement as a result of this proposal.

OBP ASSESSMENT



GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF POLICE COMPLAINTS

MEMORANDUM

TO: Paul Quander, Deputy Mayor for Public Safety and Justice
Eric Goulet, Director, Mayor's Office of Budget and Finance, Deputy Chief of Staff

FROM: Philip K. Eure, Executive Director
Office of Police Complaints

DATE: January 7, 2013

RE: Request for FY 2014 Budget Enhancement for Additional Staff

OPC requests \$155,685 in personal services funding to hire an additional investigator and an additional investigative supervisor. While the FY 2014 budget continues the same baseline funding for the current agency FTE level, rising complaint levels and investigator caseloads warrant preventative steps to ensure the agency continues investigating and preparing reports in the most timely, efficient, and professional manner possible.

OPC requests these funds in accordance with D.C. Official Code § 5-1102, which requires the District to establish "an effective, efficient, and fair system of independent review of citizen complaints against police officers in the District of Columbia, which will . . . investigate promptly and thoroughly claims of police misconduct."

The program enhancement request directly supports the mayor's focus on continuing to improve public safety in the District. OPC currently fosters better police-community relations by, among other things, instilling greater public confidence in the integrity of the city's police accountability system. By providing OPC with funds to hire an adequate number of investigators to resolve complaints filed by the public, complaints will be handled in a more timely and efficient manner. This, in turn, will lead to improved police-community relations and better policing.

The cost for two more employees in the investigative unit would total approximately \$155,685. This figure is broken down into \$98,302, which would fund the salary and benefits for a supervisory investigator (\$81,000 salary plus \$17,301 benefits), and \$57,383, which would fund the salary and benefits for an entry-level OPC investigator (\$47,283 salary plus \$10,100 benefits). It would also increase to 14 the number of full-time staff investigators in the agency's investigative unit. By hiring an additional supervisory investigator and a line investigator, OPC will be better able to keep up with the workload of the investigative unit. The agency will also be more prepared to handle the sustained increase in the number of complaints that the agency has experienced over the last several years, and better able to meet key performance indicators relating to the speed of complaint resolution.

As documented in the agency's annual reports, the number of complaints filed with OPC increased dramatically from 440 in FY 2007 to 600 in FY 2008. This increased complaint volume has been sustained, with 550, 582, 557, and 574 complaints filed in FY 2009, FY 2010, FY 2011, and FY 2012, respectively.

OPC, on average, is required to investigate approximately 65% of the cases it receives, and completes approximately 30 investigations per year per budgeted investigator. These figures mean that if OPC receives more than 555 complaints in FY 2013, there is a strong likelihood it will end the year with more open cases than it began the year with, causing additional backlog. The agency therefore requests funds in order to keep pace with the volume of complaints and to reduce the number of cases open at the end of each fiscal year.

If the agency does not receive these funds, its ability to do the work expected of OPC could be negatively impacted. OPC's investigative unit is already understaffed when compared to similar "investigator model" oversight agencies in other cities. Two other police oversight agencies servicing large police departments are San Francisco's Office of Citizen Complaints (OCC) and New York City's Civilian Complaint Review Board (CCRB). When compared to these offices, OPC's investigator caseload is higher by 26% and 59%, respectively. The chart below reflects the relevant statistics:¹

	District of Columbia	New York City	San Francisco
Open cases	309	2301	307
Investigators	12	113	19
Total Caseload per investigator	25.8	20.4	16.2

High caseloads lengthen the amount of time it takes to investigate a complaint, which can affect the public's confidence in a city's citizen oversight mechanism, as well as sap the morale of officers who have to contend with unresolved complaints pending against them. More importantly, however, it undermines the overall effectiveness of the agency.

Another measure of adequate staff resources is the ratio of investigators to sworn officers. According to Professor Samuel Walker, a prominent expert in the police oversight field, a high ratio significantly impedes the ability of the oversight agency to root out police misconduct and police corruption, thereby undermining the overall effectiveness of a police oversight agency (Samuel Walker, *Police Accountability: The Role of Citizen Oversight*, 77, 78 (2001)).

¹ These data were obtained from representatives of CCRB and OCC on January 4, 2013, and January 3, 2013, respectively. The data from OCC were current on the date obtained, whereas those from CCRB are from immediately prior to Hurricane Sandy, which caused CCRB's offices to close.

Once again, when compared to OPC's two counterpart agencies, the District of Columbia is at a disadvantage, especially when compared to San Francisco.²

	District of Columbia	New York City	San Francisco
Sworn Officers	3893	34555	2146
Investigators	12	113	19
Ratio of investigators to sworn officers	1:324	1:305	1:113

In recognition of the need for oversight investigators to have manageable caseloads, San Francisco's Office of Citizen Complaints is required by city charter to have a ratio no higher than one investigator for every 150 sworn officers. It currently has one for every 113 sworn officers. New York City's ratio is currently comparable to OPC's, but it has steadily been on the rise. In 2007, it was 1:285. New York City's CCRB reports that budget cuts to staffing levels accounted for the increase, which resulted in a worsening backlog. It is worth noting that CCRB has increased staffing in the past year, causing a reduction both in the above-mentioned ratio and the complaint backlog.

Factors such as investigative delays and the lack of adequate police accountability are precisely what led to the demise of the District's Civilian Complaint Review Board in 1995. In order to avoid such problems, manageable investigator caseload and a healthy investigator-to-sworn officer ratio need to be established and maintained. Based on current data, the requested additional investigative staff would decrease OPC's investigator caseload to 22.5 cases per investigator and the investigator-to-officer ratio would improve to 1:278. These numbers would be a significant improvement, and bring OPC more into line with best practices in the field of independent police review, speeding the handling of cases in the District of Columbia.

² The data were obtained from representatives of the Metropolitan Police Department, CCRB, and OCC, and represent the most current data available.

ATTACHMENT

D



**FY 2015 PERFORMANCE PLAN
DC Office of Police Complaints**

MISSION

The mission of the Office of Police Complaints (DCOPC) is to increase public confidence in the police and promote positive community-police interactions.

SUMMARY OF SERVICES

OPC receives, investigates, adjudicates, and mediates police misconduct complaints filed by the public against Metropolitan Police Department (MPD) and D.C. Housing Authority (DCHA) police officers. In addition to these responsibilities, the agency issues policy recommendations to the Mayor, the Council of the District of Columbia, and the Chiefs of Police of MPD and DCHA’s Office of Public Safety proposing reforms that will promote greater police accountability by reducing the level of police misconduct or improving the citizen complaint process.

Measure	FY 2012 Actual	FY 2013 Actual	FY 2014 as of 9/11/14
Number of contacts from the public inquiring about filing a complaint	1241	1046	1026
Number of complaints received	574	440	373

OBJECTIVE 1: Resolve police misconduct complaints in an impartial, timely, and professional manner.

INITIATIVE 1.1: Maintain OPC’s training program for investigators.

OPC’s effectiveness is tied in significant measure to its ability to resolve fairly and promptly police misconduct complaints filed with the agency. In FY14, OPC arranged numerous “brown-bag” lunch presentations, sent all non-probationary members of the investigative unit who had not already attended to the Reid Technique of Interviewing and Interrogation workshop, had every investigator attend training at the MPD academy, and had several members of the unit become eligible for oversight practitioner credentialing by enrolling in training provided by the National Association for Civilian Oversight of Law Enforcement (NACOLE). This has increased OPC staff members’ knowledge and enthusiasm for their work, and helped decrease OPC’s staff vacancy rate while also ensuring that the investigators are as well trained as possible. OPC will continue to provide at least four in-house continuing education sessions that will teach investigators about new issues and trends in the field of police accountability and citizen review and provide updates on current legal precedent. In addition, OPC will provide advanced skills trainings in investigative techniques by identifying external training opportunities, including, but not limited to, sending new agency employees to the Reid workshop and having additional agency staff members obtain oversight practitioner



credentialing from NACOLE. Together, these sessions and the training will ensure that investigators are aware of and understand emerging issues so that they may promptly identify material facts, quickly determine the proper course of an investigation, and have the necessary skills to obtain all relevant evidence in order to resolve most citizen complaints within six months of being filed with the agency. This initiative will be achieved by September 30, 2015.

INITIATIVE 1.2: Improve access to evidence in the possession of MPD.

OPC's ability to resolve investigations promptly relies in significant part on the timely production by MPD of documents and evidence in its possession. In FY 2014, OPC worked with MPD to develop a system whereby OPC can have direct access to MPD documents that OPC is entitled by statute to receive. Initial efforts have produced some benefit, but there are many technical issues to resolve. OPC will continue to work with MPD to test the system and refine OPC's ability to obtain the documents it needs as quickly as possible. This initiative will be achieved by September 30, 2015.

INITIATIVE 1.3: Research the techniques of non-District oversight agencies.

OPC representatives have made visits to other citizen oversight agencies, namely, the Citizen Complaint Review Board of New York City and San Francisco's Office of Citizen Complaints, to learn about investigative and management techniques that could help OPC be even more effective and efficient. Areas of inquiry included, among others, training strategies, access to police documents, case management and review, data analysis, and use of technology. OPC will complement those efforts by conducting similar visits to at least one additional non-District oversight agency, and not more than two. This initiative will be achieved by September 30, 2015.

INITIATIVE 1.4: Explore the creation of a permanent conciliation program.

OPC's statute authorizes the agency to conduct conciliation, which is a form of alternative dispute resolution whereby a complainant can discuss allegations of misconduct with the officer or officers involved in the interaction. Such a program promotes better relations and understanding between complainants and officers, and allows OPC to more quickly and cost effectively resolve complaints that would otherwise require a full investigation. OPC has completed a pilot program to gauge how conciliation could work at the agency. OPC will have conduct an assessment of its effectiveness, and take steps to determine how, if at all, the agency can implement such a program permanently. Completion date: September 30, 2015.

OBJECTIVE 2: Promote positive community-police interactions through public education and awareness.

INITIATIVE 2.1: Conduct OPC outreach efforts throughout the District.

OPC provides a forum, independent of MPD and DCHA, for members of the public to address police misconduct concerns. Vital to the agency's mission is increasing the public's awareness of the agency, the services it provides, and the role it plays in community-police interactions. To accomplish this, the agency has conducted outreach



events almost since the agency opened its doors in 2001. The number of events has risen over the years, and the agency has conducted 20 or more such sessions in each fiscal year from FY08 through FY14. By September 30, 2015, OPC plans to conduct at least 24 of these events, with at least one such session in each of the District's eight wards. Due to recent reports highlighting concerns expressed by the LGBTQ community regarding policing in the District, OPC will focus its efforts on outreach to members of the LGBTQ community.

INITIATIVE 2.2: Provide training about OPC services to other District agencies.

OPC regularly invites presenters from other District agencies to explain their services and mission to OPC staff members, which in turn allows OPC to provide better service and more thorough information to people who contact the agency. In FY15, OPC will conduct at least two similar training sessions for employees of other District government entities, targeting those offices that provide direct services to the public in situations likely to involve the police. This targeted outreach will allow OPC to focus on getting information about the agency's complaint process and mission to the District's front-line service providers, resulting in more comprehensive access to OPC services by District residents. These trainings will be provided by September 30, 2015.

OBJECTIVE 3: Enhance OPC's ability to effect police reform by issuing policy recommendations to the Mayor, the District Council, MPD, and DCHA.

INITIATIVE 3.1: Review and analyze sustained complaints of police misconduct.

During Fiscal Year 2014, OPC complaint examiners sustained numerous complaints of police misconduct. In FY15, OPC staff members will review the findings of all complaints sustained during that year and look for patterns or trends that bear further review and analysis and possibly warrant the issuance of policy recommendations.

INITIATIVE 3.2: Enhance training for OPC staff working on policy recommendations.

Conducting research for policy recommendations requires the systematic review of police policies and procedures, as well as the review of hundreds of citizen complaints. OPC has identified an accreditation and training opportunity for this skill set. The agency will send an agency staff member to pursue certification as a Certified Law Enforcement Auditor (CLEA) from the International Law Enforcement Auditors' Association (ILEAA), an organization devoted to setting standards for audits and policy reviews conducted by independent police oversight entities. Such a certification will promote the quality and integrity of the agency's policy reports and recommendations. This initiative will be completed September 30, 2015.



KEY PERFORMANCE INDICATORS – D.C. Office of Police Complaints

Measure	FY 2012 Actual	FY 2013 Actual	FY 2014 Target	FY 2015 Projection	FY 2016 Projection	FY 2017 Projection
Percent of investigations completed and reports produced by the agency within six months.	60.6%	45.33%	60%	60%	60%	60%
Percent of Complaint Examiner decisions issued within 120 days.	92.9%	88.24%	80%	80%	80%	80%
Percent of complaints resolved through mediation. ¹	7.6%	6.67%	9%	9%	9%	9%
Number of outreach activities sponsored or attended by OPC.	24	28	24	24	24	24

¹ This Key Performance Indicator is also an industry measure. In assessing the effectiveness of mediation programs used by different police oversight agencies, experts in the field consider the percentage of all complaints that were successfully mediated by an oversight agency. See Samuel Walker, Carol Archbold, and Leigh Herbst, *Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders*, U.S. Department of Justice, Office of Community Oriented Policing Services at 40 (2002). OPC’s performance places it at or near the top when compared to other mediation programs in the United States.

ATTACHMENT

E

**OPC MONITORING OF THE NATIONAL ACTION
NETWORK'S "JUSTICE FOR ALL" MARCH
DECEMBER 13, 2014**



**REPORT AND RECOMMENDATIONS OF THE
POLICE COMPLAINTS BOARD**

TO

**MAYOR VINCENT C. GRAY,
THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND
CHIEF OF POLICE CATHY L. LANIER**

December 19, 2014

POLICE COMPLAINTS BOARD

**Iris Maria Chavez, Chair
Assistant Chief Patrick A. Burke
Kurt Vorndran**

Michael G. Tobin, Executive Director
Office of Police Complaints
1400 I Street, NW, Suite 700
Washington, DC 20005
(202) 727-3838

Website: www.policecomplaints.dc.gov

I. INTRODUCTION AND OVERVIEW

The Police Complaints Board (PCB), the governing body of the Office of Police Complaints (OPC), submits this report and recommendations pursuant to its statutory authority to make recommendations to the Mayor, the Council of the District of Columbia, and the Chief of the Metropolitan Police Department (MPD) that, if implemented, may lower the occurrence of police misconduct,¹ and its authority to monitor and evaluate MPD's handling of First Amendment assemblies.² The District of Columbia added the authority to monitor and evaluate MPD's handling of First Amendment assemblies to PCB's jurisdiction through the First Amendment Rights and Police Standards Act of 2004 (the Act).

The Act articulates the District of Columbia's official policy on First Amendment assemblies and, among other things, establishes specific standards of police conduct when handling protests or demonstrations. These standards prohibit MPD from employing crowd control tactics during protests that have the potential to deprive demonstrators of the right to assemble peaceably and express their views.

On Saturday, December 13, 2014, thousands of people from across the nation participated in the National Action Network's "Justice for All" protest march, an event organized by the Reverend Al Sharpton to call Congressional attention to policing issues across the country. Around 10:30 that morning, individuals participating in the protest march began assembling at Freedom Plaza, located at Pennsylvania Avenue and 14th Street, NW. At approximately 12:00 p.m., the demonstrators began marching down Pennsylvania Avenue. The march ended at Pennsylvania Avenue and 3rd Street, NW, near the U.S. Capitol. A rally featuring several speakers was then held.

OPC, pursuant to the agency's authority, deployed six members of its staff to monitor MPD's interactions with protesters throughout the day on Saturday.³ Because the demonstrations held that day took place on both federal and District of Columbia property, a number of federal law enforcement officers, including officers from the U.S. Park Police and the U.S. Department of Homeland Security, were present in addition to MPD officers. Since the Act

¹ PCB "shall, where appropriate, make recommendations to [The Mayor, the Council, and the Chief of Police] concerning those elements of management of the MPD affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers." D.C. Code § 5-1104(d) (2014).

² PCB "may, where appropriate, monitor and evaluate MPD's handling of, and response to, First Amendment assemblies ... held on District streets, sidewalks, or other public ways, or in District parks." D.C. Code § 5-1104(d-1).

³ PCB would like to acknowledge the assistance of OPC's staff in conducting the protest monitoring on December 13, 2014, and with preparing this report and recommendations. The agency's monitoring work was coordinated and supervised by OPC's executive director, Michael G. Tobin; special assistant, Nicole Porter; senior investigator, Anthony Lawrence; and investigator, Jessica Rau. In addition, the following OPC staff members served as monitors: Deputy Director Christian Klossner, Investigator Sergio Ledezma, and Investigator Stephen Fox.

applies only to the District of Columbia's police officers, OPC concentrated on observing the actions of MPD officers. This report summarizes OPC's observations and makes recommendations based on those observations.

II. THE ACT AND OPC'S MONITORING EFFORTS

The First Amendment Rights and Police Standards Act of 2004 took effect in the District on April 13, 2005. The Act established and declared the District's official policy on First Amendment protests. In the District, persons and groups have a right to engage in peaceful First Amendment demonstrations in or on public space controlled by the District – particularly places near the object of the demonstrators' protest so they can be seen and heard – subject solely to reasonable restrictions designed to protect public safety and to accommodate competing rights of non-demonstrators.⁴ The Act requires MPD to recognize and implement this official policy by adhering to specific standards of conduct in interacting with persons and organizations engaged in exercising First Amendment rights.⁵

OPC focused its monitoring on Title I of the Act. Title I, known as the First Amendment Assemblies Act of 2004, requires MPD to: 1) permit persons to engage in First Amendment demonstrations even if they have not given notice or obtained approval; 2) seek voluntary compliance with reasonable time, place, and manner restrictions; 3) limit arrest and citation to specific non-compliant demonstrators for whom there is probable cause; 4) refrain from dispersing demonstrators unless there is widespread unlawful conduct; 5) provide multiple audible warnings, a clear dispersal route, and sufficient time to disperse, when dispersal is deemed necessary; 6) refrain from using police lines to surround demonstrators unless there is widespread unlawful conduct; 7) enhance the visibility of officers' names and badge numbers; 8) refrain from using riot gear unless there is a danger of violence; 9) refrain from using chemical irritants to disperse demonstrators unless demonstrators are endangering public safety; and 10) grant the media full access to areas where demonstrations take place.⁶

OPC's overall impression is that MPD performed in a professional and commendable manner and effectively balanced the interests of public safety with the right to free expression. MPD's general interaction with the public appeared cordial, helpful, and respectful. During the march, MPD officers were alert and attentive, yet unimposing, unobtrusive, and non-confrontational. There was minimal MPD presence on the streets and sidewalks during the march, which contributed to the peaceful and cooperative nature of the event. MPD officers assisted protest organizers with major logistics and provided help to individuals with smaller issues. MPD officers also provided escorts and traffic control to demonstrators. Journalists appeared to have unfettered access to the protest activities, and OPC staff did not observe any instances of MPD officers barring members of the press from any areas in which protest activities were taking place.

⁴ D.C. Code § 5-331.01, *et seq.*

⁵ D.C. Code §§ 5-331.05 through 5-331.17.

⁶ OPC staff was prepared to monitor provisions governing MPD orders to disperse, police lines, mass and individualized arrests, and the use of riot gear and chemical irritants. OPC, however, did not witness any MPD officers engage in these activities. Therefore, those provisions are not the subject of this report.

Nearly all MPD officers whom OPC staff observed displayed their nameplates and badge numbers. There were some singular instances in which MPD officers' nameplates and badges were not noticeable, despite the Act's requirement that identification be more visible. Specifically, the nameplates and badges of three MPD officers who wore yellow-green mesh vests were obscured by the vests. All other officers who were observed wearing MPD uniforms, however, had their names and badge numbers clearly visible.

Several factors appear to have contributed to the peaceful character of the demonstrations that took place on Saturday, December 13, 2014: 1) the vast majority of the demonstrators were nonviolent, peaceful protesters; 2) demonstrators were permitted to parade close to the object of their protest, in this case the U.S. Capitol; and 3) MPD's thoughtful and concerted effort to comply with the provisions of the Act.⁷

III. CONCLUSION AND RECOMMENDATIONS

Based on OPC's observations, PCB commends MPD for the manner in which it worked with groups and individuals to facilitate their exercise of First Amendment rights. PCB offers the following recommendations based on its observations:

(1) MPD should continue to emphasize compliance with the First Amendment Rights and Police Standards Act of 2004 among its officers, and ensure that officers are continuing to allow demonstrators to peacefully engage in First Amendment activities with minimal interference from police officers or other protesters. MPD's efforts resulted in a positive experience for both protesters and the police, and should serve as a model for those federal agencies in the District that routinely handle First Amendment assemblies and police departments nationwide. Such an effective approach should be continued indefinitely.

(2) MPD should remind all Department officers handling First Amendment assemblies to make sure that their names and badge numbers are visible, particularly those officers required to wear mesh vests or any other coverings.

⁷ PCB recognizes and acknowledges the assistance and cooperation of MPD Police Chief Cathy Lanier and Commander Steven Sund of MPD's Special Operations Division, for providing crucial information and assistance to OPC as it planned and carried out its monitoring effort.

ATTACHMENT

F

Kurt Vorndran

Kurt Vorndran, acting chair of the Board, is a legislative representative for the National Treasury Employees Union (NTEU). Prior to his work at NTEU, Vorndran served as a lobbyist for a variety of labor-oriented organizations, including the International Union of Electronic Workers, AFL-CIO (IUE), and the National Council of Senior Citizens. He served as the president of the Gertrude Stein Democratic Club from 2000 to 2003 and as an elected Advisory Neighborhood Committee Commissioner from 2001 to 2004. Vorndran received his undergraduate degree from the American University's School of Government and Public Administration and has taken graduate courses at American and the University of the District of Columbia. Nominated by Mayor Anthony Williams, Vorndran was confirmed by the District Council on December 6, 2005. Vorndran was sworn in on January 5, 2012.

Assistant Chief Patrick A. Burke

Assistant Chief Patrick A. Burke has over 24 years of service with the Metropolitan Police Department (MPD) and currently serves as the assistant chief of MPD's Strategic Services Bureau. He previously served as the assistant chief of the Homeland Security Bureau. During his career with the Department, Assistant Chief Burke has served in four of the seven police districts: Special Operations Division, Operations Command, and the Field and Tactical Support Unit.

Assistant Chief Burke has received a variety of MPD awards and commendations, including the Achievement Medal, the Meritorious Service Medal, the Police Medal, and the Lifesaving Medal. He has also received the Cafritz Foundation Award for Distinguished District of Columbia Government Employees, the Center for Homeland Defense and Security's Straub Award for Academic Excellence and Leadership, and the National Highway Traffic Safety Administration Award for Public Service.

He has served as MPD's principal coordinator and incident commander for myriad major events, including the Papal visit in 2008, G-20 Summit, Nuclear Security Summit, and the 56th Presidential Inaugural in 2009. Assistant Chief Burke sits on numerous boards, including the Office of Police Complaints, DC Police Foundation and the Washington Regional Alcohol Program. He is an active coach for youth sports and is a member of numerous community and volunteer organizations within the District of Columbia, where he resides with his wife and four children.

Assistant Chief Burke received his undergraduate degree in criminal justice from the State University of New York College at Buffalo, a master's degree in management from the Johns Hopkins University, a master's degree in Homeland Security Studies from the Naval Post

Graduate School's Center for Homeland Defense and Security, and a certificate in public management from the George Washington University. He is also a graduate of the Federal Bureau of Investigation's National Academy in Quantico, Virginia, and the Senior Management Institute for Police (SMIP) in Boston. He has also attended counter-terrorism training in Israel.

He was originally confirmed by the District Council as the MPD member of the Board on January 3, 2006, and sworn in on January 12, 2006. In 2011, he was renominated by Mayor Vincent C. Gray and confirmed by the District Council, and was sworn in on January 5, 2012.

Paul Ashton

Paul Ashton is the Development & Research Associate at the Justice Policy Institute (JPI), a national nonprofit organization dedicated to "justice reform and promoting policies that improve the well-being of all communities." He has written several white papers for JPI, including *Moving Toward a Public Safety Paradigm: A Roundtable Discussion on Victims and Criminal Justice Reform, Gaming the System, The Education of D.C., Rethinking the Blues,* and *Fostering Change*.

Prior to joining JPI, Ashton worked as a sexual assault victim advocate, conducting research examining intimate partner violence in the Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) community. He also served on the policy committee of the Delaware HIV Consortium. Ashton currently serves on the Board of Directors for the Rainbow Response Coalition, a grassroots organization that works to heighten awareness of intimate partner violence among LGBTQ individuals. He received his bachelor's degree in Criminology from The Ohio State University and his master's degree in Criminology from the University of Delaware.

Ashton was appointed by Mayor Vincent C. Gray and confirmed by the District Council in October 2014 and sworn in on December 22, 2014.