

Law Enforcement Oversight

CPD's Internal Investigations Section (IIS)

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Cincinnati's Citizen Complaint Authority (CCA)

Executive Director Kim Neal

Presentation to CPD's Citizens Police Academy

October 16, 2017

Complaints About CPD

- ▶ Citizen complaint is an allegation from any source of any action or inaction by CPD that the person (“complainant”) believes is contrary to law, policy, procedure, training or in some manner prejudicial.
- ▶ If the only complaint is innocence of a charge without any allegation of CPD misconduct, judicial redress should be sought.
- ▶ It is a violation of Ohio law to file a false complaint against a police officer.

CCA's Mission

To investigate serious interventions by police officers including, but not limited to, discharging of firearms; deaths in custody; excessive use of force; improper pointing of firearms; improper entries, searches and seizures; discrimination and to resolve all citizen complaints in a fair and efficient manner. It is essential that the CCA uniformly be perceived as fair and impartial, and not a vehicle for any individuals or groups to promote their own agendas.

CCA Historical Timeline

- ▶ A series of civil disorders took place in and around the Over-the-Rhine neighborhood from April 9 to 13, 2001. Riots were the largest urban disturbance in the US since the 1992 Los Angeles riots.

Cincinnati, April 2001

- ▶ An ACLU class action lawsuit led to the Collaborative Agreement in 2002 that required CPD to adopt community-oriented policing.
 - Established mutual accountability and responsibility for evaluation of its implementation.
 - Use of force complaint process and compliance with the MOU.
 - Collaboration to ensure fair, equitable and courteous treatment for all.
 - Creation of CCA.

CCA Historical Timeline

- ▶ MOU between DOJ, the City and CPD executed on April 12, 2002 to improve police service to minority communities, revise use of force practices, including ways uses of force were recorded and tracked, and form a community policing initiatives committee.
- ▶ U.S. District Court appointed a Federal Monitor to review, assist and report on CPD's implementation of the MOU.
- ▶ MOU expired April 12, 2007; City and CPD still held accountable.
- ▶ Creation of CCA codified as Cincinnati Administrative Code Article XXVIII (Ordinance # 0108-2002).
 - ▶ Established as an independent, impartial and investigative forum for the investigation of excessive misconduct complaints against CPD.
 - ▶ Strengthened the public confidence by ensuring claims were taken seriously, attaining the standards of integrity, professionalism and accountability in CPD.

Citizen Complaints Received by CPD

CPD's Citizen Complaint Resolution Process (CCRP)

- ▶ Discourtesy or Unprofessional Attitude
- ▶ Lack of Proper Service
- ▶ Improper Procedure

Complaints Investigated by IIS

- ▶ Discrimination
- ▶ Improper Search and Seizure
- ▶ Criminal Misconduct
- ▶ Sexual Misconduct
- ▶ Excessive Use of Force
- ▶ Unnecessary Pointing of Firearms
- ▶ As directed by Police Chief, Acting Chief, Admin Bureau Commander

Citizen Complaints Received by CCA

Complaints Investigated by CCA

- ▶ Discrimination
- ▶ Improper Entry, Search and Seizure
- ▶ Excessive Use of Force
- ▶ Improper Pointing of Firearm
- ▶ Discharge of Firearm
- ▶ Death in custody

Secondary Causes of Action Investigated by CCA

- ▶ Discourtesy or Unprofessional Attitude
- ▶ Lack of Proper Service
- ▶ Improper Procedure
- ▶ Harassment
- ▶ Abuse of Authority

IIS and CCA are Independent of Each Other, Collaboration Necessary

- ▶ Complaints received thru each organization by:
 - Walk-in
 - Telephone
 - Email
 - Facsimile
 - Internet Complaint Form
 - Media/Social Media
 - Anonymous
- ▶ Complaints also shared with each other.
- ▶ While CCA maintains its own independent database, investigated complaints (CPD, CCRP, CCA) are entered by CPD in its Employee Tracking System (ETS).
- ▶ CCA has access to portions of ETS.

IIS Structure

- ▶ (1) Captain
- ▶ (1) Lieutenant
- ▶ (6) Sergeants
- ▶ (1) Police Specialist
- ▶ (1) Police Officer
- ▶ (1) Non-Sworn Civilian

How an Investigation Works

- ▶ Gather information – Statements, Video, Forensics, Criminalistics
- ▶ Seek Corroboration to Establish Fact – Do statements match video, forensics match, criminalistics, etc.?
- ▶ Apply to a set of standards – CPD Rules and Regulation, Ohio Revised Code
- ▶ Take Action – Administrative, Criminal or both

IIS Investigations

- ▶ IIS conducts Criminal and Administrative Investigations involving city employees.
- ▶ IIS Investigators recommend findings and submit to Chief for approval.

CCRP Investigations

- ▶ Referred to the unit where employee is assigned.
- ▶ Investigation conducted by the immediate supervisor of the employee involved.
- ▶ Citizen is offered an opportunity to meet with the investigating supervisor and employee.
- ▶ Closure recommendations made by Unit Commander and forwarded to Bureau Commander for final review.

IIS and CCRP Cases

Internal Investigations Section Case Totals		Citizen Complaint Resolution Process Case Totals	
2017 (YTD)	134	2017 (YTD)	100
2016	209	2016	133
2015	134	2015	178
2014	125	2014	191
2013	118	2013	169

Criminal vs. Administrative Investigations

Criminal

- ▶ Treated similarly to a criminal investigation of a non employee
- ▶ Read Miranda Rights
- ▶ Given an opportunity to speak to a lawyer prior to answering questions
- ▶ Employee under criminal investigation does not have to answer questions

Administrative

- ▶ Required to answer questions under *Garrity v. New Jersey*
- ▶ Nothing said during interview can be used criminally against that employee
- ▶ Administrative discipline only

Miranda Rights

- ▶ You have the right to remain silent and refuse to answer questions. Do you understand?
- ▶ Anything you do say may be used against you in a court of law. Do you understand?
- ▶ You have the right to consult an attorney before speaking to the police and to have an attorney present during questioning now or in the future. Do you understand?
- ▶ If you cannot afford an attorney, one will be appointed for you before any questioning if you wish. Do you understand?
- ▶ If you decide to answer questions now without an attorney present, you will still have the right to stop answering at any time until you talk to an attorney. Do you understand?
- ▶ Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?

Rule 2.26 (Garrity Warning)

A member must, upon direction of the Police Chief or his designated representative, respond completely and truthfully to all questions that are specifically, directly and narrowly related to his performance as a police officer. Since the member is required by rule and case law to answer, and has no right against self incrimination, the response to such questions may be used only in the application of administrative justice. The member is immune in any subsequent related criminal proceeding from the uses of his answers or fruits thereof.

Should the member fail or refuse to respond completely and truthfully to all questions of this nature directed to him as a member of the Police Department, he will be given a direct order to do so. Refusal or failure to then respond will result in the pursuit of disciplinary action against the member for failure to obey the order. That disciplinary action may result in administrative sanction against the member which may include dismissal from his employment as a member of the Police Department.

Case Closures

- ▶ **Sustained** – Officer violated policy; they did it.
- ▶ **Not Sustained** – Can not determine whether the allegation occurred or not. Accusation/Denial
- ▶ **Exonerated** – They did it, but they were in compliance.
- ▶ **Unfounded** – Never happened.
- ▶ **Sustained-Other** – Guilty of something else

Types of CPD Corrective Action

- ▶ Referral to Public Employees Assistance Program (PEAP)
- ▶ Verbal Warning
- ▶ Verbal Warning with Evaluation Supplement Log (ESL) documentation
- ▶ Administrative Insight Process
- ▶ Training

Types of CPD Discipline

- ▶ Written Reprimand
- ▶ Suspension
- ▶ Demotion
- ▶ Dismissal

CCA Structure

- ▶ Director, Investigators and Administrative Professionals
- ▶ Board of up to 7 citizens appointed by the Mayor and approved by City Council
- ▶ Pursuant to the Director's recommendation (if necessary):
 - ▶ CCA's Board has authority to issue subpoenas for documents, photographs and other tangible items.
 - ▶ The Board has authority to issue subpoenas to compel testimony by witnesses.

Note: All subpoenas require City Council approval.

CCA Investigations

- ▶ The Collaborative Agreement mandates the following:
 - Administrative investigations.
 - 48 hours - Complaints assigned to Investigator.
 - 90 days - Investigation completed, unless extenuating circumstances.
 - Preponderance of evidence burden of proof (does 51% of the evidence favor one side or the other?).
 - CCA & CPD maintain a shared database that will track citizen complaints (how they are addressed and their dispositions).

CCA Investigations

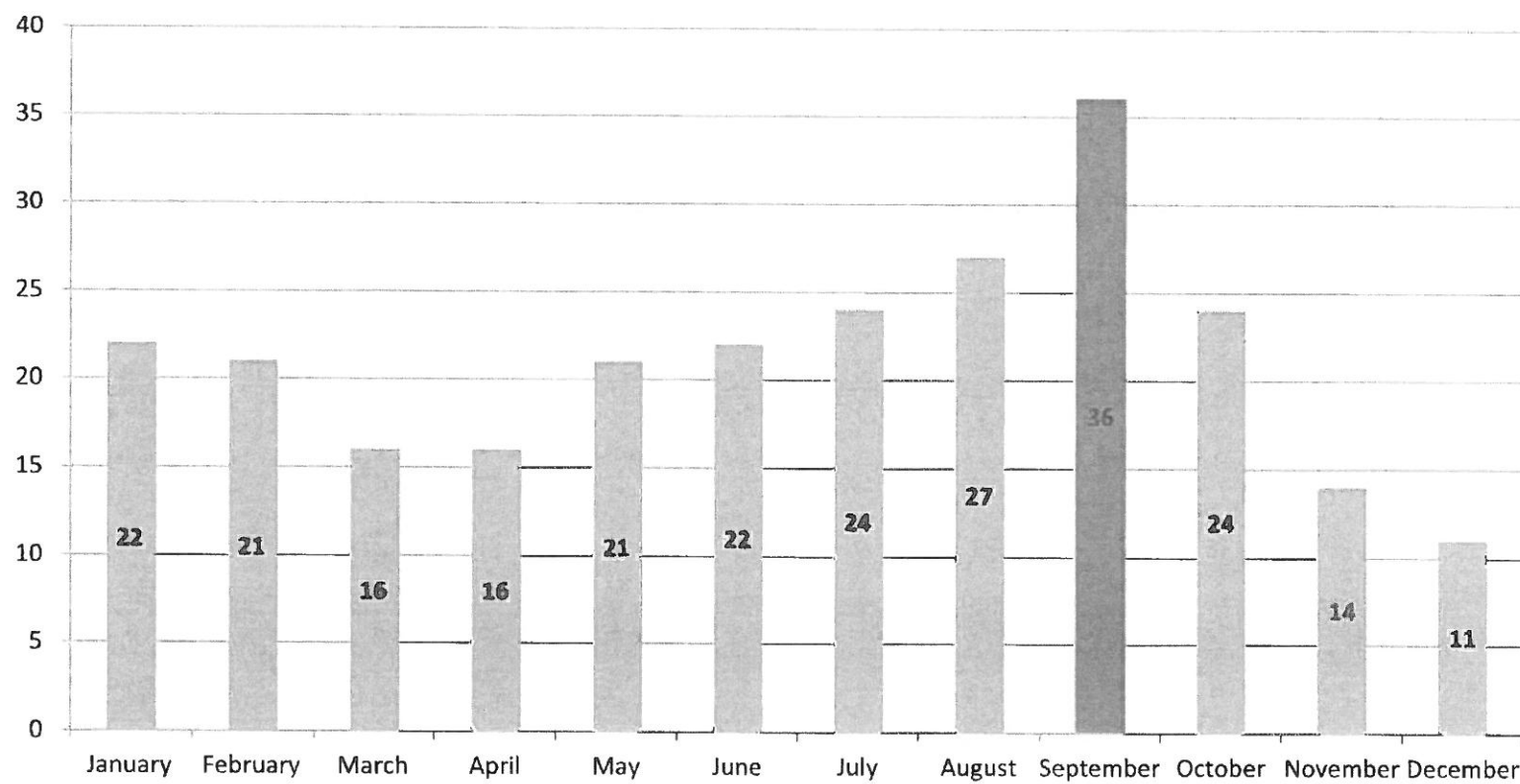
- ▶ Once the investigation is complete, the following actions occur:
 - Director makes recommended finding(s) and forwards the investigative report to the Board. Report may include recommendations and observations.
 - CCA uses similar findings to the CPD.
 - Board meets monthly to discuss investigations.
 - Board hears the case, confirms the completeness of the CCA investigation and approves or disapproves CCA's decision.
 - Report is forwarded to the City Manager, who agrees or disagrees, in whole or in part. City Manager's decision is FINAL.

Complaints - CCA 5 Year Statistics

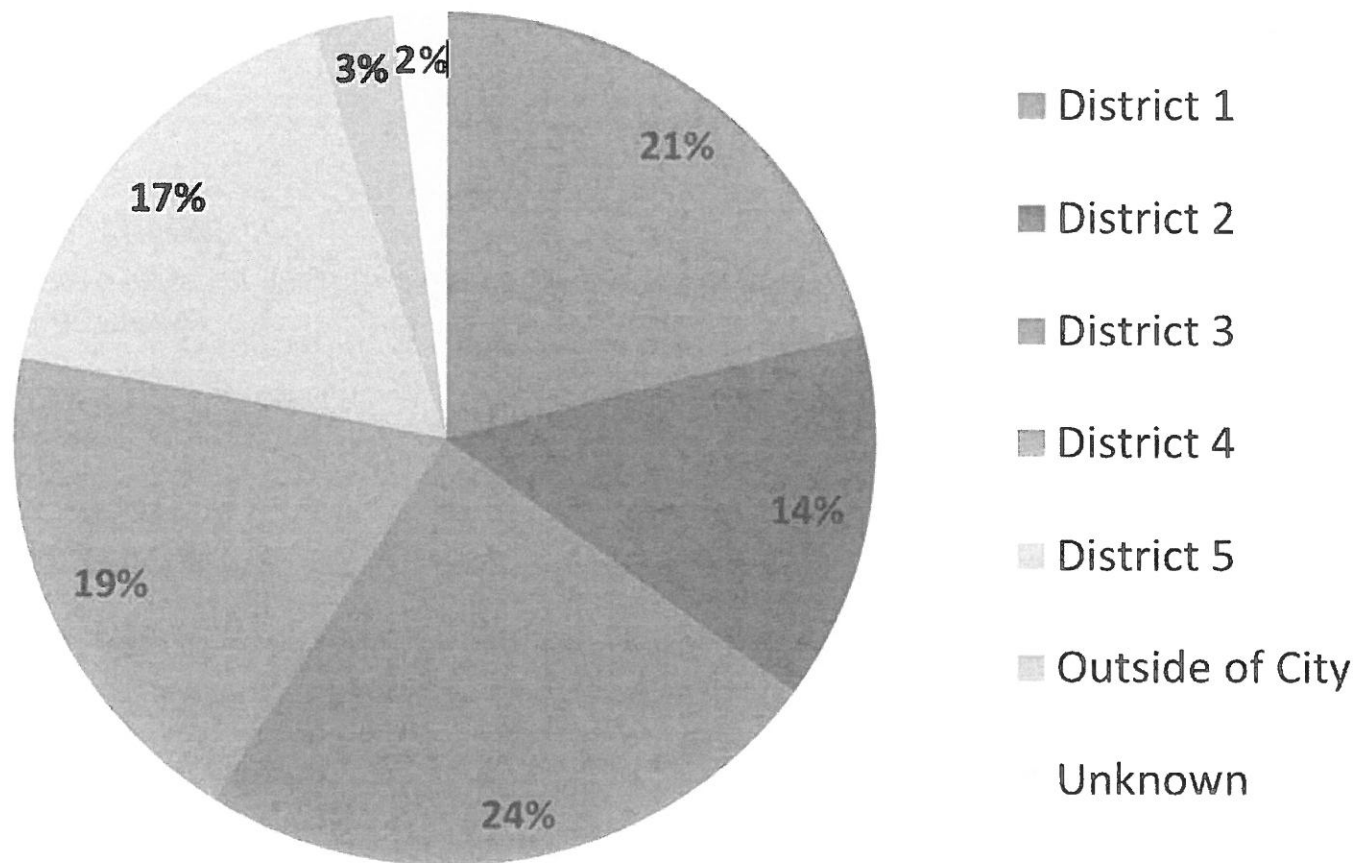
Year	Total Complaints	CCA Cases
2012	302	56
2013	287	73
2014	320	82
2015	286	71
2016	253	85
2017*	201	51

*2017 statistics represent 1/1/17 through 10/06/17 only

CY 2016 Complaints by Month



All Districts Compared – CY 2016



Findings – CCA 5 Year Statistics

Findings Category	2012	2013	2014	2015	2016
Exonerated	23	35	34	45	70
Not Sustained	53	54	86	42	53
Sustained	16	10	11	21	16
Unfounded	22	12	13	19	37
Pending	0	0	0	50	125
TOTAL	114	111	144	177	301

CCA Annual Report

- ▶ The Collaborative Agreement mandates an annual report summarizing activities for the previous year and an annual patterns review of officers and citizens with an excessive number of complaints.
- ▶ The patterns criteria represented includes:
 - Repeat officers - Officers with complaints from 10 or more complainants in past 3 years.
 - Repeat citizens - Citizens that have filed more than 3 complaints in 3 years.
 - Repeat circumstances.

Patterns Report – CCA 5 Year Statistics

Year	# of Officers	# of Citizens
2012	9	5
2013	11	4
2014	4	5
2015	3	10
2016	3	11

Patterns and Recommendations - CY 2016

- ▶ CCA noted the top 5 circumstances that formed the bases of complaints against the CPD:
 - Criminal Offense
 - Traffic Stop
 - Accident
 - Domestic
 - Call for Service
- ▶ CCA completed the investigation of 85 complaints. Of those completed investigations, CCA made 12 recommendations and 8 observations. Note: Recommendations and/or observations may be duplicative, noting a potential pattern that CPD should further review.

Summary of CCA Statistics - CY 2016

- ▶ Complaints reviewed by CCA decreased by 11.5% (from 286 in 2015 to 253).
- ▶ Allegations investigated by CCA increased by 70.1% (from 177 in 2015 to 301).
- ▶ Use of force/excessive force represented 24.3% of allegations investigated by CCA.
- ▶ Four discharge of firearms cases resulted in the death of the subject. Three were African American males, and one was a Caucasian male.
- ▶ The City Manager agreed with 99% of CCA's findings and recommendations.

Summary of CCA Statistics - CY 2016

► Complainant demographics:

- 51% male
- 65.6% African American
- 23.1% between the ages of 25-34
- 24.1% of all complaints originated in District 3

► Other statistics:

- 39.8% of CCA findings were exonerated.
- CCA issued 12 recommendations and 8 observations.

Collaborative Agreement Refresh Initiative

- ▶ In June 2017, the City announced that it would undertake an initiative to “Refresh” the Collaborative Agreement.
 - Review its goals and mandates
 - Evaluate the City’s progress
 - Develop a practical, sustainable action plan
- ▶ The steps of the “Refresh:”
 - Evaluation
 - Community Engagement
 - Independent Review
 - Action Steps Development (Recommendations)
- ▶ The City asks all citizens to become engaged in the “Refresh.” Attend and participate the community engagement forums.
- ▶ Website: www.cincinnati-oh.gov/refresh

Community Engagement Forums

November 14, 2017

6 PM

Community Action Agency
Cincinnati-Hamilton County
1740 Langdon Farm Road
Cincinnati, Ohio 45237

January 11, 2018

6 PM

Cincinnati Christian University
2700 Glenway Avenue
Cincinnati, Ohio 45204

Questions/Comments?

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